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PROCEEDINGS AND DEBATES OF THE *105th* CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, July 21, 1997*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mrs. EMERSON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 21, 1997.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using words from Psalm 90:

Lord, thou hast been our dwelling place in all generations. Before the mountains were brought forth, or ever thou hadst formed the earth and the world, from everlasting to everlasting thou art God.

For a thousand years in thy sight are but as yesterday when it is past, or as a watch in the night.

So teach us to number our days that we may get a heart of wisdom. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Louisiana [Mr. LIVINGSTON] come forward and lead the House in the Pledge of Allegiance.

Mr. LIVINGSTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPORT ON H.R. 2203, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

Mr. LIVINGSTON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 105–190) on the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

53D ANNIVERSARY OF THE LIBERATION OF GUAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Madam Speaker, today is July 21, 1997, and it represents the 53d anniversary of the liberation of Guam, the landing of American marines and soldiers which occurred on this day some 53 years ago. On that day a number of the Third Marine Division landed and the First Marine Provisional Brigade landed on the beaches of Asan and Agat, and the 77th Infantry, also playing a supportive role, landed on the beach of Agat, and therefore followed the battle for Guam in which over approximately 15,000 Japanese were killed, some 1,500 Americans were killed, and the island was finally declared secure on August 10, 1944.

As we take time in this special order and on this particular day, which is very special for the people of Guam and by far the largest holiday in our annual calendar, I want to draw attention to a couple of issues. One, of course, is to pay the highest tribute and the highest honor to the men in American uniforms, the heroic marines and the heroic sailors and soldiers who worked hard and who suffered tremendous deprivations and who risked their lives and many of whom paid the supreme sacrifice to liberate the people of Guam from Japanese occupation.

I also want to draw attention to the experience of the Chamorro people, the Guamanians of Guam, who endured roughly 32 months of Japanese occupation, and during this time period themselves suffered many deprivations as they tried to keep their families together, and, in the final total, we will never know how many actually died in the process as a result of hostile action or who were executed by the Japanese or, in many instances, suffered and died simply as a result of starvation, malnutrition, and disease. But we must also take time to honor these people.

In Guam right now it is already July 22, so the celebration is long over, and I am sure that the celebration gave the appropriate honor. It always has a long parade attached to it, and, of course, the marines are always given the highest level of applause as they march by.

The reason why we should draw attention to this is not simply that it was a momentous occasion during World War II, but there are a couple of unique things about this. Guam is the only U.S. territory to be occupied by a foreign enemy during World War II. It was the only U.S. territory with U.S. nationals on it to be occupied since the War of 1812. So what Guam has as a unique contribution to the American experience during the Pacific theater was that they were the only Americans to be occupied and the people of Guam had the only American territory that endured all these deprivations.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Madam Speaker, yet despite all of the unique circumstances of this, there still remains the issue of meritorious claims that have been submitted by the people of Guam and have been ignored by Congress. Just to give a little background, most U.S. citizens and U.S. nationals were taken care of by two pieces of legislation, one in 1948 and one in 1962. Neither of those mentioned the people of Guam. Every other U.S. citizen, every other U.S. national, received their war restitution as a result of those pieces of legislation.

Madam Speaker, that is why I have introduced H.R. 2200, which will make the people of Guam whole, which will bring honor to this experience, and which will fully restitute the people of Guam from their horrible experience. I understand that Senator INOUYE in the other body will be introducing a companion measure in the Senate sometime this week, and I hope that the Members of this body will support this legislation. It not only brings honor to the people of Guam, it brings honor to that most fundamental experience, an expression of patriotism which the people of Guam gave to this country as a result of their experience during World War II.

REPORT CONCERNING EMIGRATION LAWS AND POLICIES OF MONGOLIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 105–108)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

On September 4, 1996, I determined and reported to the Congress that Mongolia is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Mongolia and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of Mongolia. You will find that the report indicates continued Mongolian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *July 18, 1997.*

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. UNDERWOOD) and to include extraneous matter:)

Mr. BONIOR.

(The following Member (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. SOLOMON.

ADJOURNMENT

Mr. UNDERWOOD. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 22, 1997, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4229. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Onions Grown in South Texas; Amendment of Sunday Packing and Loading Prohibitions [Docket No. FV97–959–1 FIR] received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4230. A letter from the Mayor, District of Columbia, transmitting the District of Columbia Government's report on Anti-Deficiency Act violations for the period covering October 1, 1995 through September 30, 1996, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4231. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plan, Florida: Approval of Revisions to the Florida SIP [FL–72–1–9720a: FRL–5858–2] received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4232. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN68–3; FRL–5852–7] received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4233. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Virginia: Approval of Group III SIP and Coke Oven Rules for Particulate Matter [VA040–5017 & VA009–5017; FRL–5846–5] received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4234. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Richmond, Virginia—NO_X Exemption Petition [SIPTRAX No. VA062–5019; FRL–5861–2] received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4235. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Annual Financial Surety Update Requirements for Uranium Recovery Licensees [NRC Generic Letter 97–03] received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4236. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Sweden (Transmittal No. DTC–11–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4237. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Brazil (Transmittal No. DTC–10–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4238. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Australia (Transmittal No. DTC–67–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4239. A letter from the General Counsel, Arms Control and Disarmament Agency, transmitting copies of the English and Russian texts of the agreement and twelve joint statements negotiated by the Joint Compliance and Inspection Commission and concluded during JCIC–XV; to the Committee on International Relations.

4240. A letter from the Secretary of Agriculture, transmitting the Management Report for the period October 1, 1996 through March 31, 1997, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

4241. A letter from the Secretary of Transportation, transmitting the semiannual report of the Inspector General for the period ending March 31, 1997 and Management Report, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

4242. A letter from the District of Columbia Auditor, transmitting a copy of a report entitled "District of Columbia General Hospital's Sole Source Contract Award to Medical Services Group, Inc. Violated D.C. Laws and Regulations," pursuant to D.C. Code section 47–117(d); to the Committee on Government Reform and Oversight.

4243. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

4244. A letter from the Acting Deputy Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Southwestern Willow Flycatcher (Fish and Wildlife Service) (RIN: 1018–AB97) received July 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4245. A letter from the Acting Deputy Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Rule to Designate the Whooping Cranes of the Rocky Mountains as Experimental Nonessential and to Remove Whooping Crane Critical Habitat Designations from Four Locations (Fish and Wildlife Service) (RIN: 1018–AD45) received July 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4246. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Final Rule to Extend Endangered Status for the Jaguar in the United States (RIN: 1018–AC61) received July 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4247. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Endangered and Threatened Species; Interim Rule Governing Take of the Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) of Coho Salmon [Docket No. 970424096–7155–02; I.D. 042597A] (RIN: 0648–AG56) received July 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4248. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 071197A] received July 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4249. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska, Offshore Pelagic Shelf Rockfish in the Central Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 071597B] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4250. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska, Pelagic Shelf Rockfish in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 071597A] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4251. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions of Eligibility [INS No. 1676–94] (RIN: 1115–AD83) received July 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4252. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Improvements to Hazardous Materials Identification Systems; Corrections and Responses to Petitions for Reconsideration (Research and Special Programs Administration) [Docket No. HM–206] (RIN: 2137–AB75) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4253. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Revenue Ruling 97–30] received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McDADE: Committee on Appropriations. H.R. 2203. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–190). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1127. A bill to amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres; with amendments (Rept. 105–191). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1663. A bill to clarify the intent of the Congress in Public Law 93–632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that public law; with an amendment (Rept. 105–192). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1944. A bill to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon (Rept. 105–193). Referred to the Committee of the Whole House on the State of the Union.

Mr. COBLE: Committee on the Judiciary. H.R. 1661. A bill to implement the provisions of the Trademark Law Treaty; with an amendment (Rept. 105–194). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following occurred on July 18, 1997]

H.R. 1778. Referral to the Committees on Commerce, Transportation and Infrastructure, and Government Reform and Oversight extended for a period ending not later than September 30, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. GILCHREST, and Mr. CLEMENT):

H.R. 2204. A bill to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. METCALF (for himself, Ms. DUNN of Washington, Mr. DICKS, Mr. HASTINGS of Washington, Mr. NETHERCUTT, Mrs. LINDA SMITH of Washington, Mr. ADAM SMITH of Washington, Mr. WHITE, Mr. McDERMOTT, Ms. MILLENDER-McDONALD, Mr. DREIER, Ms. HARMAN, Mr. YOUNG of Alaska, Mr. MATSUI, Mr. HORN, and Mr. LEWIS of California):

H. Res. 191. Resolution expressing the sense of the House of Representatives regarding the interference of the European Commission in the merger of the Boeing Company and McDonnell Douglas; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 335: Mr. TIAHRT and Mr. CUNNINGHAM.

H.R. 1880: Mr. MALONEY of Connecticut.

H.R. 2009: Ms. LOFGREN, Mr. GONZALEZ, Mr. WELDON of Pennsylvania, Ms. SLAUGHTER, and Mr. NADLER.

H.R. 2116: Mr. FRANKS of New Jersey, Mr. BONIOR, Mr. ANDREWS, Mr. ALLEN, Mr. ABERCROMBIE, Mr. OLVER, Mr. PAYNE, Mr. ROEMER, Mr. PAPPAS, Mr. SPENCE, and Mr. HALL of Ohio.

H.R. 2143: Mr. GUTIERREZ.

H. Con. Res. 71: Mr. McGOVERN.

H. Res. 139: Mr. BARTON of Texas.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2160

OFFERED BY: MR. WYNN

AMENDMENT NO. 19: Insert before the short title the following new section:

SEC. . (a) The amount otherwise provided by this Act for the Department of Agriculture (consisting of an additional $1,500,000 for "DEPARTMENTAL ADMINISTRATION") is hereby increased; and each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced; by $1,500,000 and .01 percent, respectively.

(b) Of the amount under the heading "DEPARTMENTAL ADMINISTRATION" in title I, $13,300,000 is for civil rights enforcement at the Department of Agriculture.

H.R. 2160

OFFERED BY: MR. WYNN

AMENDMENT NO. 20: Insert before the short title the following new section:

SEC. . The amount otherwise provided by this Act for the Department of Agriculture (consisting of an additional $1,500,000 for "DEPARTMENTAL ADMINISTRATION") is hereby increased; and each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced; by $1,500,000 and .01 percent, respectively.

SENATE—*Monday, July 21, 1997*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer.

Lord, when we get all wrapped up in ourselves, we are a very small package. Unwrap us so that we can focus our attention on You, on our calling to be leaders, and on the people around us. Meet our inner needs so we can meet the needs of others. Replenish our own energies so we can give ourselves unreservedly to the challenges of this new week. Give us gusto to confront problems and work to apply Your solutions. Replace our fears with vibrant faith. Most important of all, give us such a clear assurance of Your guidance that we will have the courage of our convictions.

Bless the women and men of this Senate with a personal experience of Your grace, an infilling of Your spirit of wisdom, and a vision of Your will in all that must be decided this week. In the Name of our Saviour and Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, today the Senate will be in a period of morning business until the hour of 3 p.m. Following morning business, the Senate will begin consideration of the VA–HUD appropriations bill. We made great progress on appropriations bills last week and I hope that will continue. As a matter of fact, we completed action on four bills and completed everything on the fifth appropriations bill except for a vote on an amendment or amendments and final passage. So I ask all Members' cooperation in working with the chairmen of the remaining appropriations bills to enable us to finish each of these measures in a timely manner. We are hoping that we can complete the bill that we brought over last week, the Treasury, Postal Service, with votes this afternoon. As I said, we will begin the VA–HUD and will consider agriculture, military construction, and even State, Justice, Commerce this week.

So I remind all Senators that at 5:15 today we will temporarily set aside the VA–HUD appropriations bill and resume consideration for final passage and, I believe, one amendment we have pending on the Treasury, Postal Service appropriations bill. Senators can expect, at 5:15, a series of rollcall votes on or in relation to those amendments on Treasury, Postal Service, and then final passage. Following those votes, I encourage Members who have amendments to the VA–HUD appropriations bill to remain and offer their amendments this evening so we can make progress also on that measure.

There are 2 weeks remaining for business prior to the August recess period. There are a number of appropriations bills now available, and the committee will be reporting additional bills tomorrow. It is my hope that the Senate will be able to finish action on many, if not all, of these. Obviously, the chairman of the Appropriations Committee, the Senator from Alaska, Senator STEVENS, and his ranking member, Senator BYRD, are doing an excellent job in getting these bills through the subcommittees of appropriations and through the full committee. So we can perhaps also have conference reports available soon, in September, on appropriations bills, and we will have, hopefully in short order, conference reports agreed to which accompany the Tax Fairness Act and the balanced budget amendment, and they will be available later on this week, or certainly early next week. Prior to the recess, we will conclude action on those conference reports.

Some have suggested that we may not be able to do that, but I think we have made good progress. There has been a lot of work even over the weekend, Senators and Congressmen meeting on both sides of the aisle on Friday, Saturday, and Sunday and also with administration officials. I think good progress has been made. Obviously, there are some very important decisions yet to be worked out. But I think we will be ready to be doing that today and tomorrow and maybe even Wednesday if it has to go over to that day.

I previously announced that S. 39, the tuna-dolphin bill, and the FDA reform bill could be considered this week, and probably at least one will be brought up. On the tuna-dolphin bill, we will begin the process on Wednesday to move toward a cloture vote on Friday, if some other agreement is not worked out. I believe the interested parties can work out a compromise that is acceptable to all sides. I know the administration is very interested in getting this legislation considered. I have been called by the President to urge that we schedule this legislation and we come to an agreement. This is an international agreement with regard to tuna and dolphin that has been laboriously worked out by 12 or 13 countries. We should not leave for the August recess without acting on it. We intend to do that. Although I say to one and all, we cannot tie up the Senate for an extended period of time on either one of these issues, FDA reform or the tuna-dolphin bill.

Needless to say, the remaining sessions during the legislative period will be busy, and Members should expect rollcall votes occurring throughout each day and into the evening if necessary. Senators should be cautious with their scheduling during the next 2-week period as we will attempt to complete these items just mentioned. They should expect votes, obviously, on this Monday and on this Friday. There is even a possibility that we will have to go over in session to Saturday to resolve the State, Justice, Commerce appropriations bill and/or the tuna-dolphin bill. Then we will have votes the following Monday and we will have votes, if necessary, on Friday of next week, so that we can complete action on these two very critical conference reports. But I feel very good about the prospects of doing that. There are those who are concerned right now, can we complete that work. I think the way to do it is just redouble our efforts and develop the attitude that we are going to complete action. I know the President and his administration wants us to get this done before we leave for the August district and State work periods.

Mr. President, with that, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

TRIBUTE TO DAN GABLE, UNIVERSITY OF IOWA WRESTLING COACH

Mr. GRASSLEY. Mr. President, too many times in our world today we settle for mediocrity, we settle for just enough to get by. But today, I rise to pay tribute to an Iowan who has never settled for anything less than excellence. I am referring to Dan Gable, head wrestling coach at the University of Iowa. Dan recently announced that he will be taking a year off and turning his coaching duties to others. I think this is the right time to look at the impressive record of Dan Gable.

Many of you may recognize Dan's name because of his legendary accomplishments in the sport of wrestling. Dan reached the very pinnacle of this sport in the late 1960's and has stayed there ever since. As a competitor, Dan compiled a nearly flawless record of 182–1 in his prep and college career. Dan was a three time all-American and three time Big Eight Champion.

After college, Dan went on to win titles at the Pan American Games and world championships. Dan also demonstrated his superiority in wrestling when he won a gold medal at the 1972 Olympics.

His accomplishments as a coach are no less stellar. Teams coached by Dan have an amazing 355–21–5 record. He has coached 152 all-Americans, 45 national champions, 106 Big Ten champions, and 10 Olympians, including four gold medalists. To say Dan is a living legend in his chosen field is not an overstatement.

But even more admirable is how Dan has handled being at the top of his field for nearly 30 years. We regularly hear about athletes involved in scandal after scandal—so much that we hardly raise an eyebrow when the newest controversy makes headlines. But Dan has always conducted himself with dignity and a refreshing lack of arrogance. Dan has imparted in the wrestlers he has coached an appreciation of hard work, perseverance, graciousness, and calm under pressure. If you believe there are no more role models, then you must not know about Dan Gable. I hope my statement might help correct that misbelief. Dan Gable exemplifies the notion that to be a true winner is not just about scoring the most points; it means carrying the title of winner with integrity and character. Dan Gable has certainly done that.

I thank him for the credit he has brought to his family, his community, his sport, and the State of Iowa, and wish him the very best in all his future plans. I know he will continue to approach whatever he does with the same commitment and hard work he always has in the past.

SETTING THE RECORD STRAIGHT

Mr. GRASSLEY. Mr. President, I come to the floor today to set the record straight.

Defense Week reports that I made inaccurate statements during the recent debate on the Boxer-Grassley-Harkin amendment on executive compensation.

The article was written by Mr. Tony Capaccio and appears in the July 14 issue of his publication.

Mr. President, I ask unanimous consent to have that portion of the Defense Week article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE REJECTS MAVERICK MEASURE

In endorsing the committee proposal, the Senate in a 83–16 vote rejected an amendment by Sens. Barbara Boxer (D–Calif.), Charles Grassley (R–Iowa) and his Democrat counterpart Tom Harkin.

Their amendment would have made permanent a $200,000 cap applicable to all government contractors and not just the top five in a headquarters or division.

In their floor debate, Boxer and Grassley singled out as an example of the 1995 law's problems the compensation packages of five top McDonnell Douglas Corp. corporate officers, examined by a July 8 report GAO report.

The MDC executives, labeled Nos. 1 through 5, earned a total of $14.8 million in 1995, according to information contained in a March 31 DCAA report and repeated by GAO. Boxer and Grassley said the GAO indicated that based on the huge compensation packages, the 1995 cap was riddled with loopholes.

Grassley declined to name the executives, saying their identities were "proprietary." Defense Week learned that the unnamed executives, followed by their 1995 compensation packages, are: CEO Harry Stoneciper, $4 million; Chairman of the Board John F. McDonnell, $3.9 million; then-McDonnell Douglas Aerospace Co. Executive Vice President & President John Capellupo, $2.3 million; MDA Deputy President Herbert Lanese, $2.3 million; and, then-Douglas Aircraft Co. president Robert H. Hood, $2.2 million.

Grassley was inaccurate when he said during the floor debate that the Pentagon picked up $9.2 million of the compensation.

That was the amount corporate MDC allocated to the overhead pools of divisions that had DOD contracts, according to government officials. That overhead would then be divided between commercial, general government and defense contracts.

It was not possible to trace how much actually the Pentagon reimbursed.

Mr. GRASSLEY. I think there is a misunderstanding, and I would like to clear it up.

Mr. President, I pride myself on always doing my homework and sticking to the facts.

So when someone accuses me of straying from the facts, I like to address the criticism head on.

I would like to resolve the issue one way or the other.

To do that, I went back to the place where I got the information in the first place.

That's the General Accounting Office [GAO] in St. Louis, MO—near McDonnell Douglas headquarters.

The man with the knowledge there is Mr. Robert D. Spence.

I went back to Mr. Spence to check and recheck the facts to be certain my statements were consistent with the facts.

The disputed information pertains to the amount of money the Department of Defense [DOD] pays out to senior executives at the McDonnell Douglas Corp.

I presented those facts during the debate over executive compensation on July 10.

The facts that Defense Week questions appear on page S7172 of the CONGRESSIONAL RECORD.

This is what I said.

The DOD paid the top five executives at McDonnell Douglas a total of $9,273,382.00.

I said the top executive got $2,713,308.

To back up that statement, I will place a table in the RECORD.

This table was prepared by the GAO but the information came straight from the horse's mouth—the Defense Contract Audit Agency or DCAA.

The table shows how much each of the five top executives at McDonnell Douglas was paid by the Pentagon.

Now, Mr. Capaccio says that information is inaccurate.

He says the top five executives were not paid $9,273,382.00 by DOD.

He says that is the amount allocated to the overhead pools of the company's many components or subdivisions.

He said that money would then have to be divided between commercial, general government, and defense contracts.

Mr. President, I hate to say it, but Defense Week is flat wrong.

As I said, Mr. President, I went back to the GAO and Mr. Spence to check and recheck my information.

It checks out OK.

My information comes directly from the DCAA.

First, to get the DOD pay figures for the top five executives, DCAA had to query the field offices at each McDonnel Douglas subdivision.

This was done to establish the split between DOD, non-DOD government, and commerical contracts.

This was done to isolate the amounts charged to DOD contracts.

That's what the GAO table does.

It isolates the $9,273,382.00 as the amount allocated to components with DOD contracts.

DOD contracts—that's the key.

My numbers have absolutely nothing to do with general government or commercial contracts.

So that's a bogus argument.

Second, the dollar totals on the GAO table are not 100-percent accurate.

I will be the first to admit that.

They were not audited in every case.

But they are considered reasonably accurate. They're in the ballpark.

If the GAO and DCAA numbers aren't accurate enough, then Defense Week should produce a better set.

And it admits it can't do that.

Third, Mr. President, I need to clarify one point.

The Pentagon, for example, did not send McDonnell Douglas' top executive a paycheck for $2,713,308.00.

That's not how it really works.

There are no individual DOD paychecks that go to executives; $2,713,308.00 is the amount McDonnell Douglas is allowed to bill the taxpayers on DOD contracts for that individual's salary.

That is the amount set aside in DOD contracts for that individual's compensation package.

Once the amount is approved by DCAA, it is then apportioned across hundreds of contract payments.

It's doled out piecemeal in thousands of U.S Treasury checks.

But it's there in those checks.

McDonnell Douglas got the money.

The money came from DOD.

The money was for executive compensation.

Just because it was a small part of a big payment doesn't make the money any less real.

It doesn't make it play money.

In the end, Mr. President, no matter how you slice it, DOD paid McDonnell Douglas' top five executives $9.3 million.

I ask unanimous consent that the table I referred to earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MDC ALLOCATION OF COMPENSATION TO COMPONENTS—TOP 5 EXECUTIVES

Executive	Total compensation for application of compensation cap	Total compensation $250,000	Amounts allocated to components with DOD contracts
1	$4,012,833	$3,762,833	$2,713,308
2	3,920,559	3,670,559	2,646,773
3	2,383,974	2,133,974	2,046,481
4	2,303,713	2,053,713	1,833,604
5	2,238,966	1,988,966	33,216
Total	14,860,045	13,610,045	9,273,382

ACCESSING KIDS

Mr. GRASSLEY. Mr. President, last year, many of my colleagues in the Senate had a great deal to say about the drug use problem in this country. This year, half way through the first term of the 105th Congress, not much has been said. I will not dwell on the reasons. But we need to recall that the reasons for being concerned about drug use in this country have not changed. In fact, all the indicators continue to point to a growing problem.

Just recently, the administration released drug use data in the Pulse Check, a twice-yearly publication on drug use trends and markets.

The information contained in the report is alarming. It confirms the continuing trend we noted last year of growing drug use particularly among young people. I want to share with my colleagues some of the information the Pulse Check shows.

Heroin use in most markets is up or stable, and availability is high.

There appears to be a trend of increased use among younger users, primarily in inner cities.

Cocaine use is stable, but availability remains high.

Marijuana use is growing rapidly and the onset of use is occurring at earlier ages.

Polydrug use, the use of more than one drug in combination, is on the rise. Methamphetamine use is growing and the quality is improving.

Anyone familiar with this country's last drug epidemic, a problem that we are still coping with, should be alarmed at what this information tells us. When you put these facts together with information from other surveys on use, hospital admissions, and trends, the picture is grim. Let me summarize briefly what we are seeing.

More kids at younger ages are starting to use drugs. In our last drug epidemic, use began typically with 16-year-olds. Today's trend is for drug use onset to begin with 12- and 13-year olds. Along with this, more and more kids are seeing less danger in using drugs. This fact, of course, leads to more experimentation.

Parents are not talking to their kids about drugs. Many believe that their kids do not listen to them. Many believe that TV and peers have more influence. Further, many of today's parents used drugs when they were young. They now feel ambivalent about talking to their kids about drugs. These parents don't want their kids using drugs, mind you, they just don't know how to talk to their kids. We know, however, that the most important source for kids on how to behave, to judge right and wrong, comes from parents. Not from TV, not from their peers, but from parents. But parents are not speaking up.

Public messages and national leadership on drug use have declined in the past 5 years. As we noted last year, the bully pulpit is empty. In addition, discussion of legalization in one form or another is on the rise. What this means is that kids no longer hear a no-use message. Instead, they hear mixed messages from government leaders and others. They see efforts to legalize marijuana under a thinly disguised claim of medical need. They see increasing normalization of drug use in movies, music, and on TV.

Is it little wonder, then, that we are seeing growing use of drugs among kids? This increase comes after almost a decade of decline. The decline of use among kids in the late 1980's and early 1990's was not an accident.

It came as a result of commitment by this country—by parents, schools, community leaders, politicians, and others—to protect our young people and their future from drugs. In those years, we undertook efforts to discourage drug use. To make it harder to get drugs. To roll back the notion that drug use was simply a lifestyle choice that caused no harm, except maybe occasionally to a user. It worked. But we are now in the process of squandering those gains.

We need to remember something about how we got into our last drug fix. The 1960's and 1970's was a period of collective forgetfulness about the harm that drug use does. It was not our first drug epidemic, it was our worst. It also did not happen by accident.

Neglect of our public responsibility played a part. Glorification of drug use by the popular culture contributed. A collective public amnesia about our experiences of earlier epidemics added to the mix. It was a period of exploring the limits of personal freedom. Unfortunately, it was also a period that abandoned notions of personal responsibility. Combined with an active lobby that pushed for drug legalization, those years laid the foundations for an explosion of drug use. Most of the burden of that use fell upon young people. Most of our addicts today, who burden our welfare and health systems, are the casualties of that period. They are paying the personal price but the rest of us are footing the bill. It is also no coincidence that our major crime wave began during the same years and is linked directly to growing drug use.

It was the double whammy of kids on drugs and crime on our streets that led to public demands for a speedy and effective response. It led to "Just Say No" and a concerted effort to reverse the trend and save a generation of young people. It worked. But now we are in danger of forgetting once again what we once knew: That drug use is not a victimless crime. That it is not harmless. That it is simply a matter of personal choice with no social consequences.

In the last several years, we have seen teenage drug use increase at an alarming rate. We have seen drug use messages re-emerge in the popular culture. We have seen major public figures and leading members of government equivocate on drugs or openly advocate legalization.

We have seen major financial figures pour money into pushing drugs-are-good-for-you themes. We have also seen the birth of MTV and the Internet. These media, aimed at kids, purvey in the most direct way drug use themes to kids of all ages. Today, access to kids by people who want to exploit them is unprecedented. Whether we are talking drugs or pornography, there is an open highway into almost every home in the country. Any household that is home to a TV or computer access to the worldwide web is accessible. You cannot lock your doors.

Currently, drug information sources on the Internet are dominated by drug legalizers. Their websites are easily accessed. They specialize in trendy formats and cartoon helpers. We hear a lot about Joe Camel.

Well, take a look at what those who specialize in drug legalization use. As a recent piece in the New York Times shows, drug messages aimed at kids are up to date, stylish, and accessible. High Times, which is one of the major drug legalization publications in the country, operates a site on the net. Their web page is available with only a few clicks from the main page. It is filled with lots of helpful tips. You can learn, for example, how to grow marijuana at home. It offers advice on how to evade or distort drug tests. You can find details on where to find the best drugs. Of course, to access these helpful hints, you have to certify that you are not a minor. But there is no way to check on this, so the certification is meaningless. There are many more, similar sites.

When you link this access to re-emerging drug themes in the music most listened to by young people, it is not hard to understand that more kids are using. It is not hard to see why more kids believe that drugs are not dangerous.

These messages come at a time of another wave of ambivalence about drugs. They come at a time when leadership is lacking. They come at a time when many parents do not seem to know how to talk to their kids.

Close to 25 percent of the population of this country is under the age of 18. Forty-five million are under the age of 12. It is this population that is most susceptible to drug use messages. It is this audience that is most targeted with those messages.

We have all the ingredients for another drug epidemic. This one, however, will come when we are still coping with the walking wounded for our last fling with drugs. We are also seeing much younger kids starting to use. If we fail to respond, seriously and soberly, then our new drug epidemic will be worse than our last. It will also be the result of a colossal act of irresponsibility.

The PRESIDING OFFICER. The Senator from New Mexico.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. I ask unanimous consent that a fellow in my office, Dan Alpert, be permitted floor privileges during the pendency of the Treasury, Postal appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for up to 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 937 TO S. 1023

Mr. BINGAMAN. Mr. President, the amendment Senator MURKOWSKI and I have offered strikes section 630 of the bill. If enacted, section 630 would foreclose all Federal agencies from taking advantage of energy conservation programs offered by their local utility company. I believe section 630 would needlessly restrict an option that helps the Federal Government, the Nation's largest energy user, implement cost-effective energy-savings programs at Federal facilities.

Mr. President, the Energy Policy Act of 1992 set a goal of reducing by 20 percent the average energy consumed by the Federal Government. Federal facilities were given various approaches for reducing energy consumption. For example, an agency can sign an energy savings performance contract with an energy service company, or it can work with the local utility company to take advantage of utility-sponsored energy conservation measures. Under current law, Federal agencies may select the option that is best for their situation.

It is important to have this flexibility because working with the private sector to reduce a facility's energy use is not an ordinary procurement. Purchasing energy efficiency isn't like buying paper clips or furniture. The Federal Energy Management Program has made substantial progress in streamlining the contracting process for energy management services at Federal facilities. If an agency chooses to work with the local utility company, it may go directly to the utility on a sole-source basis to obtain the energy efficiency and management services that are available to all utility customers. In most cases, the utility teams with energy service companies to maximize cost-effective energy savings for the Government.

Section 630 would eliminate the option of working with the local utility. If section 630 remains in the bill, Federal agencies will not be able to take advantage of the financial incentives, goods, or services generally available to all other customers of the utility. This could represent literally millions of dollars lost to the taxpayers. Section 630 could also prevent payments on existing energy management contracts between Federal agencies and utilities.

Over the years, I have spoken frequently here on the critical need for Federal agencies to make better efforts to reduce their energy use. According to a recent GAO report, the taxpayers' electric bill for Federal facilities is more than $3.5 billion a year. There is no question we could be saving a substantial portion of this amount through cost-effective energy measures that frequently have payback times less than 10 years. I am pleased to see the substantial progress now being made.

For example, the Government's largest single energy user is the Department of Defense, which accounts for half of all Federal electricity consumption. The Department is now on a track to save up to $1 billion per year in total energy spending by the year 2005. The Department of Defense believes section 630 would significantly reduce its authority and opportunity to take advantage of private sector energy conservation expertise and capital, and would, in fact, seriously reduce the amount of work offered to all sectors of the energy community.

Mr. President, I ask unanimous consent that a copy of this letter from Millard Carr of the Department of Defense be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Earlier, I described the options available to Federal agencies to secure energy management services. If I could Mr. President, I'd like to take a moment to give two examples demonstrating that the program is on the right track and illustrating the risks of hasty and ill-considered changes.

The first example is the New Mexico initiative from my home State. The General Services Administration has a contract with a local utility, Public Service Co. of New Mexico, that covers the Federal facilities in PNM's service territory. Under the terms of this agreement, PNM partners with energy service companies on a competitive basis to implement the actual energy-saving measures. This initiative is expected to result in $60 million in new investments in conservation and energy efficiency technologies. The initial pilot project is at the White Sands Missile Range, where I understand that substantial reductions of energy and water use have been achieved. This successful program would be terminated if section 630 were enacted.

The other option available to Federal agencies is to contract with energy service companies. I understand there may be concerns that these companies are left out of the Federal Energy Management Program when the agencies choose to work with their local utilities. Mr. President, I don't believe this is the case. An article from the May 22, 1997, New York Times describes the Department of Energy's awarding of five competitive contracts worth up to $750 million dollars. These contracts cover Federal buildings in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington. The winning companies include energy service companies such as Honeywell, Inc., and

Johnson Controls. Five more awards are planned over the next 2 years for a total contract value of $5 billion. It seems to me that all commercial players are helping Uncle Sam reduce his energy bill. Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BINGAMAN. Mr. President, these are but two examples from the Federal Energy Management Program. The Energy Policy Act of 1992 simplified the contracting procedures Federal agencies may use to implement energy conservation measures. The last thing we should be doing is eliminating options. We should be striving for maximum flexibility and not hamstringing the agencies as they strive for substantial progress.

Mr. President, last week the distinguished chairman of the Appropriations Committee stated that section 630 "reflects no change in the law" and that the section "directs federal agencies to abide by the law." I must respectfully disagree with the chairman. Section 630 would make very substantial changes in energy-management measures enacted as part of the Energy Policy Act of 1992, which Senator MURKOWSKI and I, and the other members of the Energy Committee, worked to pass.

Last week, in speaking on section 630, the chairman of the Appropriations Committee listed what he stated were the provisions that are, in his view, relevant to Federal agency contracting programs for energy services. However, with all due respect Mr. President, the distinguished Chairman omitted the sections of the existing law that section 630 would overturn. In particular, section 152 of the Energy Policy Act of 1992 describes the implementation options available to agencies. If I may, I'd like to read the exact text: Each agency shall "take maximum advantage of contracts authorized under subchapter VII of this chapter, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs of Government * * *."

Section 630 would effectively eliminate the option for Federal agencies to work with utilities, receive any available financial incentives, or take advantage of attractive forms of financing. This would be a bad deal for the taxpayer.

Another part of section 152 of the Energy Policy Act that section 630 would repeal specifically describes utility incentive programs:

(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

(2) Each agency may accept any financial incentive, goods or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

Congress placed very similar requirements on the Department of Defense in the Defense Authorization Act for fiscal year 1993. Mr. President, I will not read any more of the existing energy or defense authorizations that would be wiped out by section 630. Instead, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks all the relevant provisions that allow local utility participation in Federal energy management programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. BINGAMAN. Mr. President, I have heard no arguments here as to why these good provisions should now be repealed. In addition, the Appropriations Committee's report offers no explanation of the need for section 630.

Let me also observe that section 630 attempts to make these controversial changes in energy legislation through an appropriations bill. As far as I can tell, no formal notification to or consultation with the Energy Committee has taken place. I doubt that such a far-reaching change would be considered by the Energy and Natural Resources Committee without at least a hearing.

The proponents of section 630 should have their views heard in the appropriate forum. I am recommending to the chairman of the Energy Committee that hearings be held so that we can get all the issues out on the table and, if changes are needed, come to a reasonable solution.

In the meantime, I urge my colleagues to support this amendment and strike section 630.

EXHIBIT 1

OFFICE OF THE UNDER SECRETARY OF
DEFENSE, DEFENSE PENTAGON,
Washington, DC, July 18, 1997.

To: Mr. Dan Alpert, Office of Senator Bingaman.

Subject: Section 630 Senate Treasury and Postal Service Appropriations bill.

This is in response to your phone request for a Defense position on the proposed Section 630 to the Senate Treasury and Postal Appropriation bill which would preclude any Federal agency from obtaining energy conservation services on a sole source basis.

I understand the intent of the section is to assure best value to the government through competition. I cannot comment on the jurisdictional issues, but I believe very strongly that the language as written would significantly reduce the authority and opportunity this Department has to take advantage of private sector energy conservation expertise and capital. I can only assume that the sponsor of this section has been seriously misled as to its implications.

The Department of Defense is the single largest energy user in the country and as such we have been and continue, to be committed to achieving the energy efficiency improvement goals of the Energy Policy Act and President Clinton's Executive Order 12902. If those goals are achieved, we will realize a billion dollar reduction in our annual energy bill by 2005 and implement the most cost effective environmental improvement result possible through pollution prevention. With the reduction in available appropriated funds and technical personnel to achieve the buildings and energy systems improvements necessary to meet program goals, we are turning to the private sector for those resources.

The Military Departments and this office have worked for over a year to develop a memorandum of agreement with the Edison Electric Institute to expedite participation in existing energy conservation programs offered by many of their member companies to all customers. There is no question that Department of Defense installations, and all Federal agencies, should have the same ability to access those programs provided to other similar customers. The agreement, based on authority in the Energy Policy Act, includes direction that a competitive procurement process be used to select the most cost effective and competent private sector firm capable of doing the specific technical work. It is our belief that this utility "prime contract" process will lead to a significant increase in the actual work done by the energy savings performance contractor and Architect/Engineer communities.

The intent of the DoD/EEI agreement was simply to expedite the contracting process through which Defense installations could access private sector energy conservation experts and resources. Passage of Section 630 would in fact seriously reduce the amount of work offered to all sectors of the energy community.

I urge you to work to convince the Congress to strike Section 630.

MILLARD E. CARR, P.E.,
Director, Energy and Engineering.

EXHIBIT 2

[From the New York Times, May 22, 1997]

UNITED STATES TO RENOVATE FEDERAL BUILDINGS TO CUT ENERGY BILLS BY 25 PERCENT

(By Matthew L. Wald)

WASHINGTON.—The Federal Government, the Nation's largest landlord, will undertake a $5 billion renovation of its buildings to cut energy bills by about one quarter, and all the money will come from private companies, the Energy Secretary, Federico F. Peña, announced today.

Mr. Peña named five corporate teams that will do the first $750 million of work. When all the Government's 500,000 buildings are renovated, he said, energy costs will be cut by $1 billion a year from the current $4 billion.

"That is real money, even by Washington standards," Mr. Peña said.

An aide said the improvements, including better lamps, motors, air conditioning systems and heating equipment, were expected to save the Government $22 billion over their lifetime.

The Energy Department has tried the approach before, on its headquarters on Independence Avenue here and in other buildings, but has found it cumbersome, as contracts are bid building by building, officials said. Now the Government has a standard contract and a list of vendors and hopes to complete all Federal buildings by 2005.

The Government will invite an outside contractor to perform an "energy audit" and suggest improvements, stating a price for which it will do the work. If the Government accepts the bid, the contractor installs the new equipment at the contractor's expense, an approach taken by many private building owners.

The Government will pay the contractor part of the money that it saves on electric and fuel bills. The payments will continue for a fixed period, usually five years. For the contracts announced today, the maximum payments will be $750 million.

John Archibald, the deputy director of the Federal Energy Management Program at the department, said he believed that the contractors would invest about $500 million directly. In addition, officials said, the contractors' burdens include being paid back over several years, and the risk that the savings would not justify their improvements.

The buildings to be improved range "from military posts to post offices, and from Federal monuments to memorials," Mr. Peña said. Most are office buildings, officials said. The contracts announced today cover all Federal buildings in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon and Washington. Electricity prices in Washington and Oregon are among the lowest in the nation, making savings more difficult.

The work will be done by Honeywell, Inc., of Minneapolis, which helped devise the concept of contractor-financed energy improvements, Johnson Controls, of Walnut Creek, Calif., ERI Services Inc., of Brideport, Conn., and two corporate teams. One team comprises The Bently Company/BMP Team, of Walnut Creek, Calif., Puget Sound Energy, of Bellevue, Wash., and Macdonald Miller Company, of Seattle. The other team is Enova, which is the parent company of San Diego Electric and Gas, and Pacific Enterprises, also of San Diego.

EXHIBIT 3

EXCERPTS FROM THE ENERGY POLICY ACT OF 1992

SECTION 152(C)(2) (42 U.S.C. 8253(D)(1)(C))

Each agency shall take maximum advantage of contracts authorized under subchapter VII of this chapter, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government.

SECTION 152(F)(4) (42 U.S.C. 8256)

Utility incentive programs

(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

(2) Each agency may accept any financial incentive, goods or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

EXCERPTS FROM THE DEPARTMENT OF DEFENSE AUTHORIZATION, PUBLIC LAW 102–484 (10 U.S.C. 2865(D))

Energy saving activities

(1) The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by any gas or electric utility for the management of electricity demand or for energy conservation.

(2) The Secretary of Defense may authorize any military installation to accept any financial incentive, goods, or services generally available from a gas or electric utility, to adopt technologies and practices that the Secretary determines are cost-effective for the Federal Government.

(3) Subject to paragraph (4), the Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design cost effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation.

(4)(A) If an agreement under paragraph (3) provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repayed by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

(B) Subject to the availability of appropriations, repayment of costs advanced under paragraph (A) shall be made from funds available to a military department for the purchase of utility services.

(C) An agreement under paragraph (3) shall provide that title to any energy savings device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

Mr. BINGAMAN. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent that I be allowed to speak for 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAST-TRACK TRADING AUTHORITY

Mr. DORGAN. Mr. President, I want to visit today on the floor of the Senate about something that will come to the Senate, according to what I read in all the journals and newspaper articles, in the month of September. This will be a request from the Clinton administration to the Congress to give them something called fast-track trade authority.

This poster behind me will tell my colleagues of course how I feel about fast track. There will not be any great suspense by those who look at this poster to understand that I think fast-track trade authority is the wrong track for this country. I want to spend a little time talking about what fast track is. I expect most people in the country are unfamiliar with the term. What is fast-track trading authority? And why are we debating it?

Just the words "fast track" tell a story. We all come from towns that have understood what the word "fast" means. We have all had some folks come through our town with the modern-day equivalent of the old covered wagon and the fellow wearing silk pants and a silk shirt and a top hat, selling some sort of bottled medicine that cures everything from hiccups to the gout—the fast talker, fast-buck artist. We know about fast food and fast lanes.

This is fast track. What does fast track mean? Congress under the U.S. Constitution has the authority on trade issues. I will put up a chart which shows that authority in the Constitution. Fast track means that Congress will take its authority and essentially subjugate its authority to a process by which an administration will go out and negotiate a trade agreement and then bring it back to Congress with an understanding that there shall not be any amendments on the agreement. Fast track means that every Member of Congress will be prevented from offering an amendment to the trade agreement.

The Constitution of the United States in article 1, section 8 says, "The Congress shall have the power . . . to regulate commerce with foreign nations." Interpreted, it means that the responsibility for the issue of trade resides here in the Congress. We also have an executive branch and a President and an office of Trade Ambassador and others who go out and negotiate trade agreement with other countries.

Of course, it is a different world now than it was. We have much more commerce, back and forth across the oceans, country to country, and across national borders. So then the question is, who wins and who loses in this trade? Some would have us believe that everyone wins in every circumstance.

I was on an interview show last Thursday in downtown Washington, DC, with Jack Kemp. Jack Kemp has a view about trade, and he is a good friend of mine. I like Jack Kemp a lot, but his view of trade is, "All trade is just fine, because everybody wins. Open it up and expand it and everybody wins."

However, that is not the case in international trade. There are winners and there are losers. Yes, expanded, freer, and more open trade is good for the world. There is no question about that. But trade rules that are fair are required in order that one country is not winning at the expense of the other country that is losing. I want to talk a little about that today and how that fits with my concern about the issue of fast track.

Now, there are a lot of things that are right in this country at the moment. We have a country that tends almost inevitably to insist on talking about what is wrong. But, there are a lot of things right in this country. Our economy is growing. It has been growing for some long while. Unemployment is down, way down. Inflation is down, way down, 5 years in a row, and is almost nonexistent. The Federal budget deficit is down, and has been for 5 years in a row.

The fact is, there is some good economic news in this country. People feel better about the future. Our economy rests on a cushion of confidence. When people are confident about the future, they make decisions that reflect that confidence. They will buy a car. They will buy a house, buy a washing machine, or buy a television set. If they are not confident about the future, they make the opposite choice. They decide not to purchase that washing machine or that car or that house. So our economy rests on a notion of confidence.

Do people have confidence about the future? At this point they do have more confidence about the future than they had in the past. It is because most of the fundamentals about our economy are moving in the right direction with one exception, and that is the area of international trade.

People look to this country and say, well, gee, in international trade, America is remarkably successful. It is not. Two centuries ago, this country was known as a country of shrewd Yankee traders. We could outtrade anybody anywhere any time, the shrewd Yankee traders from that new United States of America. What happened?

What happened was that in the last half century, following the Second World War, our trade policy inevitably became our foreign policy. We did not have a trade policy; we had a foreign policy with other countries. That foreign policy drove all of the trade decisions we made—with Japan, with Europe, with all of our trading partners.

Our trade policy was driven by our foreign policy. At the time, of course, we were bigger, stronger, and had greater capability of dealing in international trade. We could whip almost any of these countries with one arm tied behind our back. That is how strong our economy was compared to a Japanese economy that was wrecked by World War II, a European economy that was wrecked by World War II and in tatters and trying to rebuild. We could compete easily. We could provide concessions to every one of those countries, even giant concessions at that, and we did. Despite the fact that we did that, in the first 25 years after the Second World War, we saw continual wage gains in this country up and up and up, and we did very, very well.

But then what happened was Japan and the Western European economies were rebuilt and became very strong. And, they became shrewd, tough, international competitors. Meanwhile, our trade policy with them was still driven by our foreign policy.

With Japan, we began to become accustomed to deficits in international trade relations every single year. In recent years these have amounted to $40 to $50 billion, and even $60 billion a year trade deficits with Japan, every single year. The same has been true with some of our other trading partner relationships.

Now in recent times we have had a series of trade negotiations, some of them under what is called the fast-track procedure. After every trade negotiation we have had days of feasting and rejoicing by those who negotiated them. They talked about how wonderful the agreements were for America, but at the conclusion of it our trade deficit kept growing and growing and growing.

There has been angst in this Chamber, an enormous amount of discussion about the other deficit, the fiscal policy budget deficit, and it is a very serious problem. Fortunately, we have made significant progress in dealing with it.

Yet, the deficit called the trade deficit does not provoke one utterance in this Chamber. No one talks about it, no one thinks much about it, and no one appears willing to lift a finger to do anything about it. I will show my colleagues and those watching these proceedings what has happened to the trade deficit. The merchandise trade deficit, that is, the imbalance or the deficit between what we ship into this country versus what we ship out, is this year 21 years old. We have had 21 straight years of trade deficits growing worse and worse every year. It is now of legal age, since we have had 21 years of trade deficits.

Last year, we had the largest merchandise trade deficit in this country's history. Does it matter? Some say it does not. Some say it just does not matter at all. It means that we are importing cheap goods from around the world and so someone else has the American dollars that we paid for those goods.

What will they do with these dollars? They will invest them in America. That is what they say. I suppose that suggests it does not matter who owns the productive facilities of our country or the real estate of our country or who owns much of the assets of our country. I don't happen to believe that, but I suppose some probably say it does not matter. There are those who believe it is an international economy, let the chips fall where they may, and if you cannot compete, you cannot compete.

The dilemma is this: The U.S. producer and the U.S. employer can compete with anyone in this world as long as the competition is fair. But no U.S. worker and no U.S. employer ought to be required to compete against someone who works 14 hours a day, is 14 years old, and makes 14 cents an hour. Yet this goes on all across the world, as I speak.

Is that fair competition? Should we expect someone in Toledo, Fargo, Denver, or Los Angeles to have to compete against 14-cent-an-hour wages? I don't think so. I don't think anyone actually believes that represents fair trade.

Should we be expected to compete against a country that insists on shipping its goods in wholesale quantity to our country but keeps its market closed to the goods produced by American workers? I don't think so. That is not fair trade.

Now, as a result of a number of those considerations, and others, we have a trade deficit that continues to grow. Fast track is a process that started back a couple of decades ago of negotiating trade agreements under a procedure called fast track so that no one could amend the trade agreement when it came back to Congress.

Look what has happened under fast track. There is nothing but a sea of red ink. Is it because of fast track? I don't know. All I know is that within trade agreements there are serious problems. For example, the one we have with Canada results in a massive, massive problem with a flood of Canadian grain coming into our country unfairly and we cannot do a thing about it. We seem powerless to deal with it.

I voted against the United States-Canada Free Trade Agreement because I thought it was negotiated in a way that was fundamentally unfair to our country. I thought the negotiators effectively sold out the interests of American agriculture in negotiating that trade agreement. Now, we find ourselves now with a growing trade deficit with Canada, and an avalanche of Canadian grain flooding into our country, undercutting the price that farmers in our country received from an already weak grain market. Is that fair? I don't think it is fair.

Let's take a look at NAFTA, the United States-Canada Free Trade

Agreement, the Uruguay round of GATT talks, the Tokyo round, all under fast track. What happens under fast track is that we negotiate a Tokyo round, bring it to Congress, shove it through the Congress, and say you have no right in Congress to amend it.

Now, Congress decided that it should have no right to amend it. That is what fast track is all about. There was fast track with the United States-Canada Free Trade Agreement. Shove it through Congress, with no right to amend it. None. Then there was NAFTA, the North American Free Trade Agreement, which includes Mexico—Congress had no right to amend it. I led the fight against fast track on this particular agreement when I was in the House of Representatives. We lost by about 30 or 40 votes. Then the Uruguay round comes to Congress. There was no right to amend it because fast track means that whatever they negotiate you have to accept up or down, with no amendments.

The bars on this chart represent the merchandise trade deficits that we have had since these trade agreements were adopted through the use of fast track. Can anyone in this country who has not had a fifth of Wild Turkey take a look at these and say that this is success? You have to be dead drunk to believe this is a success. This is an abysmal failure. Part of it, in my judgment, comes from fast track. This is a process that says to negotiators, go out and negotiate and do what you want to do and bring it back, and then we will have a procedure in place that prevents any Member of Congress from correcting a mistake you might have made. This is not success. This ocean of red ink represents failure.

Let me take a closer look at one of them in particular, the NAFTA agreement. The NAFTA agreement is a trade agreement that we negotiated with Canada and Mexico together. We already had the United States-Canada Free Trade Agreement. We rolled that into a broader agreement which included Mexico with NAFTA. Just prior to the time the NAFTA trade agreement was implemented, we had an $11 billion merchandise trade deficit with Canada and a $2 billion merchandise trade surplus with Mexico.

Look at what has happened to this country since this agreement was phased in: The deficit with Canada has gone from $11 billion to $14 billion to $18 billion to $23 billion. Success? You would have to be dead drunk to call that a success. That is not a success. That is a failure.

With Mexico, we had a $1 billion surplus in the first year of the trade agreement under NAFTA. The next year, we had a $15 billion deficit. The next year, it was a $16 billion deficit. In other words, we now have a nearly $40 billion combined trade deficit with both of our neighbors.

So what does it matter, some say. "So what? Things are going fine. So what?" What it means is that in the past 21 years, we have accumulated close to a $2 trillion account deficit that will have to be repaid with a lower standard of living in this country at some point in the future. So what? So it means that we are inevitably weakening the production and the manufacturing sectors of this country. No country will long remain a world-class economy unless it has a world-class manufacturing sector. If it does not have a strong manufacturing base, it will not retain a strong world-class economy. You cannot have a strong economy just selling hamburgers and insurance and so on, back and forth to one another; you must have a strong manufacturing base.

Now, let me describe a bit about what has happened with the free trade agreement. We were told that if the Congress passed something called NAFTA with Canada and Mexico that we would receive products that came from low-skilled jobs from Mexico. We were told that as a result of NAFTA, we would have more American jobs because of the trade agreement. Do you know that now, after a few years of NAFTA, we have more automobiles shipped into this country, produced in Mexico, than are shipped from America to the rest of the world?

Let me say that again because I bet most people don't believe that to be the case. Now that we have opened these borders and we have allowed the largest enterprises in this country to go find the cheapest labor they can find, we now import more automobiles from Mexico than the United States exports to the rest of the world combined.

Think about that. Why does all this matter? It matters because the manufacturing sector in this country is critical to an economy that is based on good jobs with good incomes. If we are going to produce shoes, pencils, automobiles, electronics products, and we are going to do that in Mexico, in Bangladesh, in Sri Lanka, in Indonesia, because we can hire a worker in those areas at a fraction of the cost of what it would require us to pay to hire a worker in the United States, what does that mean? It means production moves offshore. Our production moves overseas. What does that mean to the core of the economy in this country? It is weakened.

The central question I ask about these trade relationships is whether it is fair trade? Is it fair trade for a company to be able to just pole vault over all of the problems in this country that they have in producing? For example, the problem of having to overcome a prohibition against hiring kids. We say in this country that you can't go hire a 12-year-old kid and work him 12 hours a day. That violates the Child Labor Act in this country. We say, you can't produce a product and dump chemicals into the air and throw chemicals into the water because we have environmental laws that prevent you from doing that. So that company can say, fine, if you say we can't hire kids, we can't dump chemicals and sewage into the water and air, we will go to a country where we can. We will produce it there and ship it back to Fargo and to Buffalo and we will ship it to Dallas and put it on the shelves of the stores to compete with products made in the United States, where you have had to pay higher wages and you have had to obey child labor laws and you have had to obey environmental laws.

I question, is that fair trade? I don't think so. Yet, that is exactly what we are facing. Yes, we face it even close to our border, but especially in many other places around the world.

We have a trade deficit in which 92 percent of the merchandise trade deficit is with six countries: Japan, with nearly $50 billion; China, $40 billion; Canada and Mexico with another $40 billion; and Germany.

I was in China last November and met with the President of China and talked about our trade relationship. I have no idea whether I made any impact. He was a wonderful person. China has a terrific deal with this country. We talk a lot about most-favored-nation status here in this Chamber. We had a vote on it last week. I didn't think we should vote on that within an appropriations bill without any significant debate, so I voted against that amendment. But I specifically indicated that that wasn't a vote for me on the substance of the MFN issue. I think we ought to have a vote and a significant debate on most-favored-nation status for China.

But let me say this. We talk a lot about most-favored-nation status and about human rights. Certainly human rights is very important. The week I was in China, a fellow—I believe his name was Wang Dan—was sentenced to 9 years in prison for criticizing the government. Those human rights are important.

At the same there is something else that is also important. What about a country that is exponentially increasing its trade surplus with this country? We have become a cash cow for the hard currency needs of China. Again, it weakens us and strengthens them. They ship us their goods. In fact, almost half the Chinese exports come to the United States of America, and yet, we get so few goods into China.

We ought to say to China, to Japan, to Canada, and to others, that we expect and demand reciprocal and fair trade treatment, and if you don't give it to us, the United States marketplace is not open to you. The U.S. marketplace is open to you if you treat us fairly. Yes, we are willing to compete. We should be required to compete. But the competition ought to be fair. If it is not, then we ought to have the nerve and the will to stand up to these countries and say it is not fair to this country. And, it is not fair to American workers and to American producers either.

In September, when we have a debate on fast track, I am going to be on the floor fighting as hard as I know how to fight to prevent us from granting fast-track authority for new trade talks. Do I support the trade officials? Yes, I want them to succeed. I want them to negotiate something that they can win for a change. I am really tired of us losing in international trade talks.

Let me give you some specifics. Last Saturday morning, in Minot, ND, I met with a group of grain producers. These are family farmers, who raise Durum and spring wheat. They have one problem. On the horizon of trade problems, is this big or significant? Probably not, on the whole horizon. But to them it is it big. You bet. In many cases, it is a question of whether they survive and do they make it.

Here is their problem. We had a fellow named Clayton Yeutter go to Canada and negotiate a trade agreement with the Canadians. I didn't vote for that. I said at the time that I thought it was a terribly flawed agreement. At that time, I didn't know of the side deal that had not been made public. That side deal that had been made with the Canadians was about how to compute whether or not there was a subsidy for grains. When that was made public, it just destroyed my faith in these kinds of negotiations.

So now we find ourselves down the road some years from the United States-Canadian Free Trade Agreement and here's what we have. We have a Northern border with wonderful people. They are good neighbors of ours. We share a lot and we have a lot of commerce back and forth.

However, in the area of grain, we have had a flood of grain coming across, especially Durum, since this agreement. For those who don't know what that is, let me explain. Durum is the wheat you grind into something called semolina flour and that is what you use to make macaroni and other pasta. Eighty percent of the Durum produced in America is produced in North Dakota. So if you are buying some noodles or elbow macaroni or spaghetti, you are likely buying something, if it is sourced in this country, that was raised somewhere in a field, or grew somewhere in a field in North Dakota. The Durum market is a very important market to our farmers.

Well, we passed the United States-Canada Free Trade Agreement and all of a sudden, a flood of Canadian Durum came into our country, a literal flood of Canadian Durum and, following it, other wheat and barley. But you can't get much grain into Canada. I have told my colleagues before about the time that I got in a little orange truck with Earl Jensen, and we took Earl's orange truck up to the Canadian border with 200 bushels of North Dakota Durum to try to get it into Canada. They said, "No, you can't go across the border here."

We had a woman from Bowman, ND, who lived in Canada. She married a Canadian and went home to Bowman for Thanksgiving, and she had a desire to bake some whole wheat bread. So she took a sack of hard red spring wheat—good for baking bread—and she couldn't take that back to Canada. This was at a time when over 50 million bushels of Canadian wheat was coming into our country. Truckload after truckload that were clogging our roads. This lady got to the border and wanted to take in one grocery sack full of wheat in order to make whole wheat bread. Guess where it ended up? Dumped on the ground because you can't take one grocery sack of wheat into Canada these days.

Are our farmers angry about this? You're darn right. Do they have a right to be angry? Absolutely. They have a right to be furious about a trade relationship that is fundamentally unfair to our side. Now, can we get someone to fix it? We are trying. Mickey Kantor, a former Trade Ambassador, took the first step. The fact is that it got better for a time. But once again, this flood of wheat is exceeding the limits we had agreed to with Canada.

I use that illustration only to say that this example is just but one of the examples of problems we have with trade issues that you can't solve anymore, because we pass trade agreements with something called fast track. Under fast track you can't fix them when they are here. You either have to vote yes or no, up or down, and the result is that these flawed agreements then become law. Those treaties or agreements are then wedded into American law and it prevents us from providing remedies for the trade problems that exist—yes, with Japan, with China, with Canada, with Mexico, and others.

I think it is time for us to decide to put a stop to it. I think it is time for us to say to negotiators in trade that you go negotiate just as all of the other negotiators do. When we send someone abroad to negotiate arms agreements, they don't do so under fast track. We didn't have fast-track authority to prevent any amendments on the floor of the House or Senate on the nuclear arms reduction treaties that we had. There was no fast track there. Why on earth, if we don't need fast track on arms control agreements, do we need it on trade agreements? Are our trade negotiators so weak, so inept that somehow they need fast track when others don't?

Last Friday, the Commerce Department released the statistics that describe what happened to our trade numbers for the month of May. It indicated that our trade deficit in goods, the merchandise trade deficit for the month of May, was $17 billion, just for the month of may. That is up from $15.5 billion in the month of April. The big news was that China's trade deficit exceeded Japan's trade deficit for the month, for the third time in history.

These monthly statistics demonstrate another failure in trade. Unfortunately, it is greeted with a series of yawns here in the Congress and in this town. Were someone to try to put an op-ed piece in, for example, the Washington Post about this issue, they would say, no, thank you, they don't do those kinds of pieces. You can't have a debate about trade issues in this town, because too many believe there are only two sides of this issue. On one side there are those who say we are for free trade, free, expanded, and open trade, and that is good for the world. And they say everyone who doesn't subscribe to that is somehow an uninformed xenophobic stooge who wants to put walls around America. Those are the two camps that you are put into. You are either for free trade, period, or you are some sort of xenophobic, isolationist stooge. That is just a thoughtless way to deal with what I think is a significant problem for this country.

This country needs to understand that our trade policy ought to disconnect from our foreign policy. Our trade policy in dealing with trade competitors who are savvy, tough, and shrewd, ought to be a policy that cares about the well-being of this country. I believe in open and expanded and more trade. I also demand that it be fair. If it is not fair, we ought to say to other countries, you either get it fair and allow entry to our products on a fair basis, or we are not going to continue this one-way relationship.

This is not going back to some Smoot-Hawley notion of how we should trade. It is not calling for higher tariffs; nothing of the sort. It is demanding of other countries that we stop being mistreated. It is demanding of other countries that those who believe they can continue to access our marketplace must understand that their marketplace will have to be open as a consequence of that, and the failure to open it means that we will impose reciprocal trade treatment on our trading partners.

Now, we are going to have a meeting in the next day or two with the United States Trade Ambassador and the Secretary of Agriculture to talk about the issues of United States-Canada grain. That is but one issue among these larger sets of issues, but nevertheless it is important. I hope that this issue doesn't continue to fester. I hope that this side, that this Government and this country, will say to the Canadians on the grain issue: You can't do that. We are not going to allow you to do that.

But my experience has been, regrettably, over many years, that standing up for this country's interests has been the exception rather than the rule in trade issues. All too often our country backs away and says, well, we don't want to ruffle any feathers here. I am just a little tired of that.

When China wants to buy airplanes, guess what? China is a huge market with 1.2 billion or so people, and they need to buy airplanes. So I am told that China comes to our country and says to us, "Well, we need to buy some airplanes, and we don't manufacture airplanes. But instead of buying it from you, what we want you to do is bring your technology and produce it in China."

I don't understand that either. This country ought not be interested in that. When we have a country with a $40 billion trade surplus with us, or we a deficit with them, and they need something we have, then they ought to buy it from us off the shelf. China ought to buy more wheat from us. They ought to buy airplanes from us produced in this country with U.S. employees and from U.S. companies.

We ought not to continue to allow our trading relationships to be foreign policy relationships. They ought to be economic relationships with tough, shrewd negotiators working out relationships where the rules are fair, where our employees and our producers can expect fair treatment and fair ability to compete.

So, in September when the President brings to this Congress a request for fast-track trading authority, I intend to be on the floor of the Senate saying no. I have no idea how many of my colleagues will join me. I know for sure as I stand here today that those of us who do say no will be branded as some sort of isolationists. Those who do that are wrong and thoughtless, but they will do it.

But I will insist that finally this country have the nerve and the will to stand up for itself and its interests. I believe that my children will inherit, just as they inherit the budget deficit, a trade deficit that means we will have a lower standard of living in this country unless we take action to deal with it and deal with it effectively.

Let me conclude where I began. This country can compete on any terms anywhere in this world as long as the rules are fair. But we have not been able to satisfactorily conclude trade negotiations in recent decades in any reasonable way that gives us the feeling—or at least gives me the feeling—that we have succeeded.

Time after time after time our trade negotiators celebrate after they have lost. They don't understand they have lost. I am not even sure they do when they see the red ink pile up and the growing, record merchandise trade deficit that now exists in this country.

I hope that one day we can have a thoughtful and interesting debate about trade policy. It should not be between camps who think trade is good or bad. Everyone ought to believe that expanded world trade, provided the circumstances and rules of trade are fair, is good for this world. But everyone also ought to believe that when this country is taken advantage of with markets that are closed, rules that are unfair, and countries that employ child labor and pollute this Earth's environment, that is not fair trade and is not something we ever ought to have to subscribe to.

Mr. President, once again, I expect September will be an interesting month and a challenging month on the issue of trade largely because of the debate on fast track. I intend to be back often to discuss this subject.

Mr. President, I yield the floor and make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered. The Senator has 10 minutes under morning business.

Mr. SHELBY. I thank the Chair.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 1040 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, July 18, 1997, the Federal debt stood at $5,363,155,572,034.79. (Five trillion, three hundred sixty-three billion, one hundred fifty-five million, five hundred seventy-two thousand, thirty-four dollars and seventy-nine cents)

One year ago, July 18, 1996, the Federal debt stood at $5,168,794,000,000 (Five trillion, one hundred sixty-eight billion, seven hundred ninety-four million).

Twenty-five years ago, July 18, 1972, the Federal debt stood at $432,236,000,000 (Four hundred thirty-two billion, two hundred thirty-six million) which reflects a debt increase of nearly $5 trillion—$4,930,919,572,034.79 (Four trillion, nine hundred thirty billion, nine hundred nineteen million, five hundred seventy-two thousand, thirty-four dollars and seventy-nine cents) during the past 25 years.

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will now proceed to the consideration of Senate bill 1034, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1034) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for fiscal year ending September 30, 1998, and for other purposes.

The Senate proceeded to consider the bill.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I thank the Chair.

Madam President, with my distinguished ranking member, I am pleased to present to the Senate the fiscal year 1998 VA–HUD and independent agencies appropriations bill. This bill is not perfect, as is usually the case with the measures that we present, and not everyone is fully satisfied, but, nevertheless, every attempt was made to achieve a balanced, fair bill which meets our highest priority.

While I am very grateful for the support of the appropriations chairman in the allocation process, it should be recognized that the allocation is slightly above the amount assumed in the budget agreement. Our job was made extremely difficult once again this year by an extraordinarily tight initial 602(b) allocation. I might add that we are awaiting final Budget Committee action, which I expect will be forthcoming shortly, to achieve the final allocation numbers.

The allocation represents a reduction of about $1.4 billion below the President's request in outlays. Clearly, fulfilling the President's request in many areas has been impossible under these numbers.

The bill totals approximately $69.4 billion in discretionary budget authority, plus an additional $21.5 billion in mandatory spending.

Our highest priority was adequately funding VA medical programs, which in the budget agreement took a $300 million cut. Protecting VA medical care meant that fulfilling the President's full request for EPA, for which a 12 percent or $850 million increase was requested, simply was not possible.

In addition, the subcommittee did not apply cuts totaling $230 million to the National Aeronautics and Space Administration or the National Science Foundation which were assumed in the budget agreement.

Finally, the budget agreement suggested that public housing, community development block grants, the HOME Program for local governments to assist in housing, and the McKinney Homeless programs all be cut. Clearly, those cuts were unacceptable, and we did not include them.

For the Veterans Administration the committee recommendation totals $18.7 billion in discretionary funding, an increase of $92 million above the President's request and almost $400 million above the amount assumed in the budget agreement. Increases were provided to VA medical care, research, and the State home construction grant program, the latter of which demand far exceeds available Federal matching funds.

The recommendation for VA is predicated on enactment of reconciliation legislation giving VA authority to retain collections from third-party payers and copayments. Such collections are estimated to total $600 million next year, and together with the medical care appropriation will result in an increase over fiscal year 1997 of $617 million in available discretionary funding for VA medical care. The amount recommended will enable VA fully to continue on the path of improving the quality of health care services, increase the number of veterans served, and increase the provision of care in ambulatory and community-based settings.

The bill would also require VA to begin implementation of a number of preliminary recommendations of the National Academy of Public Administration report regarding the Veterans Benefits Administration. These recommendations are intended to improve and expedite the processing of veterans' claims for benefits. Addressing this problem is long overdue.

For the Department of Housing and Urban Development, the committee recommends $25.4 billion, including flat funding for most programs such as CDBG, HOME, public housing, and homeless assistance. The budget agreement assumes cuts in each of these programs. And as I indicated, the committee did not accept that budget agreement recommendation.

In addition, the mark restores the President's budget cut of $365 million to elderly and disabled housing, with a total of $839 million included in the recommendation for this program.

Furthermore, the bill provides $9.2 billion to fund section 8 contract renewals fully for which the budget resolution included a special reserve account.

For the Environmental Protection Agency, the committee recommendation totals almost $7 billion, an increase of $180 million over the fiscal year 1997 level. While this recommendation is $680 million less than the President's request, the reduction is attributable primarily to the decision not to fund a requested 50 percent increase for Superfund.

Given that the Superfund Program is sorely in need of reform and reauthorization, with the General Accounting Office designating it as a high-risk program subject to fraud, waste and abuse, coupled with our budget constraints previously described, a $700 million increase simply could not be justified. Senators CHAFEE and SMITH, chairman of the authorizing committee and subcommittee respectively, have indicated their opposition to a large boost in Superfund appropriations prior to reauthorization and reform badly needed in that program. Finally, there are serious questions as to whether EPA could even spend the full amount being requested.

In terms of operating programs, which are up almost $100 million over last year, the largest reduction—$122 million—below the request was taken from a laboratory construction project in Research Triangle Park, NC. Sufficient funds remain available to continue progress on the new building at this time.

In addition, all major operating program accounts in the Environmental Protection Agency will receive increases. Again, this year the committee made as its highest priority EPA funding for States for implementation of environmental requirements. A significant increase is recommended for State revolving funds.

The committee recommendation restores the President's proposed $275 million cut to clean water State revolving funds and fully funds the $175 million increase for drinking water State revolving funds, for a total of $2.075 billion. These funds are vitally needed, Madam President, with the EPA's estimate of drinking water and clean water infrastructure requirements nationally exceeding $200 billion. I believe every Member of this body, when she or he returns to their State, will find that these priority needs are there. They are critical and they are absolutely essential to maintaining the health of our populace as well as the quality of our environment.

In addition, the committee recommends a $50 million boost to State environmental assistance grants, in part for additional responsibilities in the area of air quality standards, for a total of $725 million. The leaking underground storage tank grants are increased $5 million, for a total of $65 million. This program is vital in protecting ground water resources.

To minimize controversy and expedite consideration of this bill, there are no EPA legislative provisions included in the committee recommendation. If Members wish to offer such amendments, we ask that you bring them forward. We will deal with those in the full body. We did not deal with them in committee.

For the National Aeronautics and Space Administration, the committee recommends $13.5 billion for NASA, the same as the President's request. The past few weeks in the news have exemplified NASA's situation, from the heady excitement of seeing the American robot Sojourner cruising the surface of Mars to the continued concerns over the safety of our American astronaut and his Russian companions on the Mir space station. We have supplied NASA with the President's request and will work with the agency to allow them the flexibility to continue their exciting research and development missions while at the same time working to control their costs.

For the National Science Foundation, the recommendation includes $3.377 billion for the National Science Foundation, $10 million above the President's request and $60 million above the budget agreement assumptions. This subcommittee believes that research and development is essential to our Nation's future and wants to give the NSF the necessary resources.

Included in the mark for NSF funding is the provision for a new plant genome initiative. An interagency working group convened by the President's science adviser has recently reported on the exciting prospects in genome research. Their report recommends expanding current studies of plant genomes to economically important crop species, including corn. We have supplied NSF with the resources to jump-start that effort and applaud the agency's interest and support in exploring the broader applications of the research they fund.

For the Federal Emergency Management Agency, the recommendation totals the President's request of $788 million exactly, including $320 million for disaster relief. A prohibition on spending is included in the recommendation, consistent with legislation FEMA recently proposed to reform the disaster relief account. This is an area I have long been interested in addressing, as the costs of this program are completely out of control. The limitation on spending included in this measure as recommended by FEMA would prohibit disaster relief funds from being spent on such projects as golf courses, stadiums, parks, and recreational facilities, trees and shrubs. While the limitation on spending is modest, it is at least a first step, long overdue, and an important one that we should take.

I anticipate the authorizing committee will expedite its consideration of FEMA's proposed Stafford Act amendments in September.

Also in FEMA, the newly authorized dam safety program is fully funded at $2.9 million and State and local assistance grants are increased $3 million.

I might add that, as mentioned earlier, we are waiting final action from the Budget Committee to revise the 602(a) allocation, which is anticipated shortly, after which the subcommittee 602(b) allocation will be revised so that we may be in conformance with that allocation. The action is necessary owing to the budget resolution's special treatment of the HUD section 8 contract renewal accounts.

PRIVILEGE OF THE FLOOR

Mr. BOND. Madam President, I ask unanimous consent that Sarah Horrigan, who has worked on space and science issues on this bill, be allowed the privilege of the floor during consideration on S. 1034, the VA–HUD appropriations bill and any votes therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, it is now my pleasure to yield to my partner in this effort, the distinguished Senator from Maryland.

I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, thank you very much.

PRIVILEGE OF THE FLOOR

Ms. MIKULSKI. Madam President, I now ask unanimous consent that during the consideration of S. 1034, the VA–HUD appropriations bill for fiscal year 1998, Ms. Stacy Closson, a detailee from DOD serving with the VA–HUD Subcommittee be provided floor privileges during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Thank you, very much, Madam President.

Today, I rise to join my distinguished colleague, the Senator from Missouri, to offer for floor debate and the consideration of the Senate the fiscal year 1998 appropriations bill for VA–HUD and independent agencies.

This is an extraordinary bill because it deals with 7 Cabinet-level Government agencies and 18 other agencies that are important to the United States of America. These agencies range from Veterans, Housing, the Environmental Protection Agency, the National Space Agency, the National Science Foundation, Federal Emergency Management Agency, as well as the National Corporation for Volunteer Services, and we go on to Selective Service.

People would be surprised to know that Arlington Cemetery is also funded in this bill. We stand sentry for consumers through the consumer product safety legislation. Those little pamphlets that taxpayers send for from Pueblo, CO, a big chunk of their funding comes out of this bill. So when we say veterans, housing, and independent agencies, this is probably, along with defense and the Labor-HHS bill, the most complex bill. Therefore, when we bring it to the Senate, sometimes our funding sounds like it is significant in terms of its dollar amount, but we really have worked very hard to get a dollar's worth of services for a dollar of taxes.

The bill before the Senate is a $90 billion bill that includes $21.5 billion in mandatory spending which is primarily directed at veterans, and appropriates a total of $69.4 billion in discretionary budget authority. This is almost equal to the House in total funding, and more than $90 million below what President Clinton requested. However, the allocation for the Senate, which is the total amount given to us to spend, was almost $800 million below that of the House.

Given the tight allocation, the chairman and I did the best we could to balance the needs of diverse groups of agencies funded within this subcommittee. With a better allocation, we could have funded all the agencies in this bill at higher levels. But we were ready to make tough choices and set priorities.

On the majority of the aspects of the bill, I want to say unequivocally I support Senator BOND, the chairman of the committee, the Republican, on his priorities. There are some yellow flashing lights related to President Clinton's agenda that I will address in my remarks, but we are very much in sync and in alignment with what we want to do. I am particularly grateful for Chairman BOND's efforts reflected in this bill to continue many of the initiatives voted by the subcommittee over the past several years when I chaired it.

As I said, I wholeheartedly agree with Chairman BOND's attempt also to avoid controversial riders this year and to keep out significant new legislative provisions not dealt with by this subcommittee. We have essentially said to Democrats and Republicans alike, don't play pin the tail on the donkey with this bill, adding controversial riders, and also, if you have new ideas for new initiatives, hey, why not try the authorizing committee for a change and see if we can move legislation that way.

There are several things, though, that I really approve of in this bill. Both Chairman BOND and myself consider veterans to be a very high priority and veterans medical programs to be of special priority. This bill restores $300 million worth of cuts assumed in the budget agreement and puts them in veterans medical care and also in veterans medical research. Veterans funding remains a key concern of mine, and I will continue to fight to ensure that promises made are promises kept. I will also stand sentry to make sure that the Veterans Administration meets its projections in third-party insurance collections that are designed to help increase medical care spending.

This bill also restores several cuts made to key programs at the Department of Housing and Urban Development. This was restored as the community development block grant funds so important to mayors and local communities, the project HOME, public housing and homeless assistance.

Also, something I am particularly pleased to work with Chairman BOND on is we restored the cuts in elderly and disabled housing. When the budget agreement was first proposed, there was a suggestion that this particular area of funding receive $400 million. Senator BOND and I agreed we should fully fund it at last year's level and have $839 million that will go to being able to build housing for the elderly and for the disabled.

The Senate bill has also added a modest increase to the Hope 6 revitalization program. This is a program that is very important because, hopefully, it ends public housing in the way we know it and says that public housing should not be a way of life, but be a way to a better life. Always where there is compelling need there is often sometimes sloppy administration. I concur with the report language offered by Senator BOND directing the Government Accounting Office to continue its analysis of Hope 6 to make sure that the effectiveness of the program is being monitored to ensure that for those receiving Hope 6 benefits in public housing, which was designed to community build and have work force readiness, the GAO will make sure that the work force readiness aspect is really doing what it should.

Then we move on to our very important science programs as well as Federal Emergency Management. Thanks to the efforts of this subcommittee, the national space agency, the National Science Foundation, and Federal Emergency Management are all funded at the President's request level. We, on this side of the aisle, say thank you, thank you to Chairman BOND for working with us to make sure that core science programs are funded and Federal Emergency Management continues to be fit for duty should other people around the United States have to dial 911. I think all of us who watched Hurricane Danny were glad it was downgraded to a tropical storm, but when it hits Alabama with over 25 inches of rain in a very short time and you see people carrying out their children and their most precious possessions, we know why FEMA exists.

Despite the tight allocation, I am pleased we were able to meet the President's request for these key agencies while protecting the funding in veterans medical care, disaster relief, critical science and space. I think America has to be incredibly thrilled with the breakthroughs NASA has made as Sojourner continues to roll across Mars. Scientific developments, such as the Sojourner, the Hubble telescope, Mission to Planet Earth, are truly special American projects, and show that we are No. 1 in space. FEMA is another agency that is doing a very good job, and this critical agency has shown steady improvement in recent years in responding to America's natural disasters.

Madam President, I also want to call to your attention the fact that the administration does have some serious concerns with the reductions in this bill. I call these yellow flashing lights. Given the tight allocation, I understand that not all the programs could be funded at the President's request. Measures had to be taken, protective measures, for several key programs. That meant that other important initiatives could not be adequately addressed. So, in looking out for veterans' medical care, that meant fulfilling the President's full request for an $850 million increase to the EPA budget simply was not possible. As a result, the request for a 50-percent increase in the Superfund was not yet met.

As you know, the President is a strong advocate of the Superfund. This will be a key issue to resolve during the upcoming weeks while the House and Senate are in conference on this bill. I really encourage the authorizers, while we are in conference, to try to pass the authorizing bill so that the authorizing bill could match, perhaps, what we were able to do in conference.

Another yellow flashing light is the $146 million reduction to the President's request for the Corporation for National and Community Service. This request was to be used for the President's program called the America Reads Challenge. It is to be a national literacy campaign to ensure that every child can read, and read well and independently, by the third grade. The budget agreement called for funding in this program. However, it was not funded in either the House or the Senate bill.

Illiteracy in this country is of great concern for all, and all ages, but, really, if we could make sure every child was immunized by the time they were 2, could read by the time they were in third grade, had access and knew how to use a computer by the time they were 12, we would do a lot about empowering our children. I support the restoration of that funding.

A third flashing light to the administration is the elimination of funding for the community development financial institutions, something called CDFI, another program that was protected in the budget agreement, which helps to spur business activity and traditionally underserved communities, and is particularly focused on microenterprise endeavors that enable women of modest means to be able to move in terms of economic development in business. The House bill funded this at $125 million, and we hope this will be a restoration where there is some type of agreement. This is a high priority of mine during the conference.

It will be my intent to offer an amendment or perhaps work with Senator BOND as we go through the other amendments to see if we could not address the issues of empowerment zones, America Reads, and Federal emergency mitigation efforts to see if we could find some funds to be able to have a placemarker in this budget going to conference for these very important programs.

I do appreciate Chairman BOND's willingness to fund the EPA brownfields request and the inclusion of the report language allowing the HUD–CDBG money to be used for brownfield activities. A concern for the administration is the absence of the request of increase for the HUD brownfields program. The brownfields initiative can play a critical role in restoring urban areas. In my own home State of Maryland, in the Baltimore metropolitan area alone, we estimate that there are over 3,000 acres of brownfields in and around our port area which, if we could clean them up, would offer kind of a second version of an empowerment zoning.

Madam President, given these concerns, I will be offering an amendment, as I said, that will restore funding, some funding, modest funding, for the America Reads Program under the Corporation for National Service, empowerment zoning in the HUD budget and predisaster mitigation for FEMA. I will in no way make an effort to restore full funding for those programs, because it just is not fair. But I will be looking to see what we could do to have a placemarker to go to conference.

Madam President, there is mixed news in this bill for the administration. Like you, I am interested in producing a final bill that is agreeable and signable. I believe the bill that we have produced is a very good start. In fact, it is an excellent start to ensuring funding for many of this Nation's vital programs. I will work with my colleagues now on the floor to see how we could accommodate them. I will work with my chairman during conference and continue to try to address the administration's concern.

In closing, I want to thank Senator BOND again for his hard work and his willingness to listen to my side of the aisle's concerns and to honor many of the requests made by President Bill Clinton. I am pleased, when it came to funding like NASA, like the National Science Foundation, the funding for Federal Emergency Management, it knew no party, because when we are up there on Sojourner, when we might have to be part of the rescue operation for Mir, when we are doing so many very important things at the National Science Foundation and helping rescue Americans who have been hit by national disasters, this is not about party. I commend the cooperative nature in which this bill has been crafted. I believe we have produced a bill that can be signed into law with some of the appropriate amendments in conference consideration.

Madam President, before I yield the floor, I say to all of my colleagues from my side of the aisle, if you have amendments, please let us know them. We know that between now and 5:15 when we start voting on Treasury, Post Office, it would be enormously useful to Senator BOND and myself to know what any amendments are so that we could either work with you to accommodate you or be able to set the stage on how we can proceed with this bill. I believe it is Senator BOND's intention, and I will do my best to cooperate with him, that we will conclude this bill tomorrow at the earliest possible time.

Having said that, I look forward to the debate, as always, on this bill and, as always, have enjoyed working with my colleague, Senator BOND. I yield the floor.

Mr. BOND. Madam President, when major measures like this are considered on the floor, it is usually boilerplate for each side to say nice things about the counterpart. In the case of the VA–HUD bill—this is a very difficult bill—I say without reservation, and not as a matter of mere formality, that one of the great benefits I have in working through a very, very difficult bill is that I have the distinguished Senator from Maryland as my ranking member. She has helped me a great deal learn and understand many of the great challenges in this bill from her position as having chaired this committee. She has presented to us, in very workable fashion, a number of the concerns we have been able to meet in this bill, and I really could not be here with this difficult a bill in as good a shape as I believe it is without her support. It has been absolutely invaluable to me to have her assistance and that of her able staff.

She mentioned a modest amendment that I look forward to working with her to include.

I guess my whole concern over this bill—it was with a slight tear in my eye that I read the statement of administration policy from Budget Director Raines. He said some nice things about working with the committee. On the first page of his letter, he said, "We urge the committee to reduce funding for lower priority programs or for programs that would be adequately funded at the requested level and to redirect funding of programs of higher priority."

Unfortunately, we have looked at the programs. We have not funded the lower priority programs to the best of our ability. The priority funding that we have included in this bill does reflect the priorities of what I hope will be a bipartisan majority of this body. We do have the option when we go to conference, we hope, of increasing the overall allocation, so that there will be more funds available, and that we will be able to put some more money in the higher priority programs. But given the nature of the allocation and the many pressing needs, as my ranking member has outlined and as I have outlined, there are not low-priority programs funded in this bill.

I note that on the America Reads Program, it has not been authorized. We don't really have any details on it yet. So we were reluctant to go forward with the President's full request. When I first heard about it, I thought it would be a program that would be funded in Labor-HHS if it is a reading program. But I am certainly willing to work with my minority colleagues in trying to make some accommodation of the President's interests there.

With respect to the brownfields HUD program, I have said on this floor many times that HUD is a very troubled agency that is having a great deal of difficulty running the programs it is supposed to run. That is why I am reluctant to give it a new responsibility in the environmental area. EPA is handling that program. We have included money for the EPA for the brownfields program. We made brownfields clean up an eligible activity for the community development block grants, so that communities without an undue benefit, Federal bureaucratic interference, might be able to clean up some of them themselves. So we feel that the brownfields program is not one that ought to be added to HUD's already too-full plate.

After speaking briefly with my ranking member, I join with her in urging our colleagues to bring forward the amendments. We hope to know by 10 o'clock tomorrow what amendments are pending. We want to be accommodating. We want to accommodate our colleagues if they do have amendments and, if possible, we would try to accommodate them. If we simply do not see the resources available, we would like to move expeditiously to a vote on it, if that is required. I am most encouraged by the optimistic thought that we could finish this very important bill by not too late tomorrow. I am from Missouri and it is the "show me" State. I will believe it when we have final passage. But I commit to working with the ranking member and all of my colleagues.

In the past, we have been swamped at the end with a large number of colloquies and senses of the Senate. I have found, through very painful experiences, that I need to read those and make sure that we have time to consider them fully on both sides. So if colloquies or other noncontroversial items are to be inserted, it would be of great help to me and I would appreciate it, as my ranking member would, if we could see those colloquies as soon as possible, so we will be able to give them full consideration.

Now, Madam President, I had hopes that one of our very distinguished colleagues would be able to be over this afternoon. We heard that Senator GLENN might wish to come and talk about the space station. We are open and we are ready to do business. We will be more than happy to entertain any measures. If any colleagues have an amendment that may need to go to a voice vote, we would like very much to lay it down today. We have both the time from now until 5:15 and then after the votes to do it. It is the request, I believe, of the leaders that we move forward. If there is an amendment that we can debate and set for a vote tomorrow morning, we would like very much to do so.

Madam President, I yield the floor.

Ms. MIKULSKI. Madam President, I, too, am looking forward to the statement on the space program of our distinguished colleague from Ohio. I have been advised by his staff that the distinguished Senator from Ohio is in a meeting and hopes to join us perhaps around 4. In the meantime, if any other Senators have statements they wish to make, they could do that, and this might be a good time to offer an amendment.

Madam President, I yield the floor.

Mr. BOND. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. GLENN. Mr. President, if there is anything that sets this country apart from other nations around the world, it seems to me it would be our, almost our innate curiosity, our questing spirit that led people not only to explore geographically, but led them to explore in the laboratories of our Nation and express our curiosity in learning new things. That is at the heart of science, learning the new and putting it to use. We could run through a whole gamut of things in history. We could talk all night tonight about different things that have revolutionized our way of doing things on Earth.

The Wright brothers were curious about whether we could fly or not, whether you could get the air to react enough off an airfoil so you could fly—and they were ridiculed for it. Some people said, "If God wanted us to fly, why, he would have made feathers on us so we could fly." Their curiosity led to airplanes and the aviation industry and changed the nature of the whole world. You can say the same thing about curiosity about the internal combustion engine and automobiles and communications and how we transmit sounds from one place to another—the telephone, the Bells—computers and plastics and TV and nuclear energy and agricultural research.

We never think of agriculture in this country as being such an example of basic research, yet, just in my own lifetime, the corn production in Ohio has gone from about 48 bushels per acre to something like 137 on the average and, in some places, going close to 240 bushels an acre in certain selected spots. That is just enormous. That did not occur because people are working three or four times as hard. It occurred because of basic, fundamental research, people curious about soil and about fertilizer and seeds and hybrids and so on. We can go on with antibiotics and anatomy and physiology and all the things we know in medicine these days. We could talk for many hours about where this questing, curious nature that we have in this country has led us.

Part of the bill before us here involves the NASA budget. An area where we, as a nation, are expressing our curious, questing nature, is in the area of space and space research. Every year we are asked why do we invest billions of taxpayer dollars for space exploration and research. There is one very short answer to it. In my view, we do it is to benefit people right here on Earth. This has been true for the whole program. It was true ever since I was involved in the space program many years ago, during Project Mercury and our first orbital flights. There are a number of examples of research connected just with the space program, and particularly with the space shuttle experiments, that I think everyone can relate to.

We will have applied science and scientific research going on through the years with the international space station project. Every year we debate this on the floor. Fortunately, to my way of thinking, we have continued to fund the space station. It is one of the greatest scientific engineering cooperative efforts in the history of this world. We have a number of things that are being looked into now on the shuttle that could be done better and longer term on the international space station when it comes along. Parts of it will start being put up at the end of next year. But a lot of things that have come out of the shuttle program so far are of very, very practical use right here on Earth.

One experiment that I find most intriguing is protein crystal growth. It is fascinating. It brings a whole new input to medicine, to the thousands of different proteins and combinations that make up our bodies and literally stands to transform the way medicine looks at itself and the way we treat disease and what we can do with regard to immunities.

Let me give just one example. We have a chart here I would like to have put up that shows what is going on with treating flu. A flu remedy is being developed with space-grown crystals, where you can better find out how the flu bug itself reacts. The loss of productivity due to flu is staggering. Its costs range as much as $20 billion a year. There are high-mutation rates of the flu virus. New data from the protein crystals grown in space and on Earth have unlocked the secret of the flu bug and revealed its Achilles heel. The secret lies in a small molecule which is attached to the host cell's surface and each flu virus, no matter what strain, must remove this small molecule to escape the host cell to spread infection.

But using data from space and Earth-grown crystals, researchers from the Center of Macromolecular Crystallography are designing drugs to bind with this protein's active site, in other words, the lock on this site. This lock-and-key reduces the spread of flu in the body by blocking its escape route.

In collaboration with its corporate partner, the CMC, the Center of Macromolecular Crystallography, has refined drug structure in preparation for clinical trials, and those clinical trials are starting. When tested and approved, relief is expected from flu epidemics by the year 2004. I give some detail on that because I think it is an example of the kinds of things that are underway that we can directly relate to the space program. We have some 20 to 40 million people every year that get the flu, and it causes some 20,000 deaths a year in the United States alone. This new data of space-grown crystals has helped unlock a secret to let us treat flu in a different way. That is just one example.

Another example that can benefit from these same kinds of space-grown crystals is trauma from open-heart surgery, which often may lead to complications due to massive inflammation of heart tissue. Factor D is a protein which plays a key role in the biological steps that activate this immune response. Being able to block factor D's effects could enable heart surgery patients to recover more rapidly, and data from space-grown crystals allowed researchers to develop inhibitors which specifically block factor D. This drug is being readied for clinical trials.

We have a new antiparasite drug from space-grown crystals. It is estimated that over 1 billion people in this world are infected with a round worm known as ascarids. It is a tiny parasite that infects the intestinal tract of vertebrates and is often fatal. Ascarids are dependent on a substance called malic enzyme to function properly. A new drug, developed in part by Upjohn, with the benefit of crystals grown on the USML–1 Spacelab mission, should interfere with normal functioning of malic enzyme and, thus, prove deadly to ascarids.

Another example: Space crystals and the fight on AIDS. A new combination of drugs, which include protease inhibitors, have proven immensely successful in treating AIDS. In an ongoing experiment with DuPont Merck, NASA has crystallized HIV protease enzyme with an inhibitor to support structure-based drug design research, and the resulting drugs could represent the second generation of this successful approach to treating this disease.

This chart shows some of the details. I don't know whether the cameras will pick this up well enough to show the interaction. This is something that gives real hope in the treatment of AIDS in the future.

Another example on a different chart here indicates how diabetes patients may benefit from NASA's bioreactor research. The bioreactor is a tissue culturing instrument which allows microgravity researchers to grow tissues which are larger and more complex than other tissue culturing techniques. The bioreactor has the potential for changing disease treatment through tissue transplants.

Forthcoming experiments plan to grow human pancreatic islet cells in the bioreactor for possible transplantation into diabetic patients. Trial runs with this technique have proven successful. If the upcoming experiments are successful, diabetic patients will not need to rely as heavily on insulin injections and will have less complications from their disease.

Another chart: Modeling colon cancer with bioreactor. Mr. President, 166,000 cases of colon cancer are diagnosed each year in the United States, and it is a leading cause of death. Colon cancer tissue grown in a bioreactor develops remarkably similar to tumors extracted from humans. Studying these tissues outside the human body may allow researchers to understand how cancer spreads, as well as identifying new therapies which may prevent it.

This bioreactor is a fascinating thing. It lets tissues be cultured in the same way they occur in the human body. If you go into a laboratory and try to do experiments there, quite often the experiment becomes far more two-dimensional because it wants to settle to the bottom of the petri dish. A bioreactor in space, with all the right fluids that simulate the body, allows growth in a 3–D situation. They can be studied better so possible antidotes for them or possible treatments can be put into a culture there that is very similar to what is in the human body. It is not just something that is flattened out in the bottom of an experimental glass in the laboratory.

Growing cartilage with the bioreactor is another potential application. An application of the bioreactor is culturing cartilage tissue for replacement and transplantation. Experiments with the bioreactor and space indicates it can successfully culture cartilage tissue that is quite similar to human cartilage.

I use these few examples today just to illustrate that they are very, very practical and very, very useful for our future on Earth. The international space station will make it possible to continue some of the same experiments for longer periods of time. I know that every year when we have the budget battles on the floor, we have attempts made to cut out some of the money for the international space station, which would cut out some of the scientific inquiry that we otherwise would be able to perform. Let me talk about it very briefly.

NASA has already had some 1,000 or more proposals per year for ground-based and flight investigations involving the international space station project. Selection of principal investigators and commercial developers is beginning this year for flights starting in 1999, and this population will increase from 650 to 850 principal investigators and from 100 to 200 industrial affiliates by the time the station assembly is complete.

About 650 life and microgravity sciences principal investigators are now participating at over 100 institutions of higher learning around the country, and the number of investigators is expected to grow to over 850 before assembly is completed. These researchers, in turn, employ about 1,400 graduate students at present, with that number expected to grow.

What are they looking into? Well, a number of different areas, and I won't be able to go into all of them today. Biotechnology with an x ray diffraction system, for instance. Microgravity allows researchers to produce superior protein crystals, which I mentioned a moment ago, for drug development and to grow three-dimensional tissues, including cancer tumors, for research and cartilage for possible transplant.

The long-term benefits: to provide information to design a new class of drugs to target specific proteins and cure specific diseases; to culture tissue for use in cancer research and surgery in bone and cartilage injury.

Another area that can be looked into on the international space station also is in the area of materials science. Researchers use low gravity to advance our understanding of the relationships among the structure, the processing and the properties of physical materials.

The long-term benefits: We advance the understanding of processes for manufacturing semiconductors, metals, ceramics, polymers, and other materials. We also determine fundamental physical properties of molten metal, semiconductors, and other materials with precision impossible on Earth.

There are a number of people involved in this, people from the State University of New York, Rensselaer Polytechnic Institute, and MIT up in Boston. Researchers indicate great progress from this new research tool in having projects in space in microgravity.

Another area being looked into, and this one is a fascinating one, is combustion science, fluids and combustion facility, glove-box experiments, as they are called. Scientists are using low gravity to simplify the study of complex combustion processes, burning processes. Since combustion is used to produce 85 percent of Earth's energy, even small improvements in efficiency will have large environmental and economic benefits.

The long-term benefits: Improved control of combustion emissions and pollutants reduce risk from incineration of hazardous wastes and enhance efficiency of combustion processes.

These are only highlights of some of the prestation research that have already occurred. Dr. Robert Cheng and Dr. Larry Kostiuk, combustion science researchers at Lawrence Berkeley National Laboratory under contract to NASA, were awarded a patent for a ring flame stabilizer, which significantly reduces pollution from natural gas burners. Fitted into an off-the-shelf home heating surface, the device reduces nitrogen oxide emissions by a factor of 10 by increasing efficiency by 2 percent, and the device can be readily sized to industrial scales. That kind of experiment will continue on the space station.

"Almost every chapter in the combustion textbooks will be rewritten as a result of the microgravity work," said Prof. Howard Palmer, professor emeritus at Penn State University. And other statements by other scientists say the same thing.

Furthermore, the international space station will continue research into fundamental physics. Scientists use low gravity to test fundamental theories of physics with degrees of accuracy that far exceed the capacity of earthbound science. Physics and low gravity expand our understanding of changes in the state of matter, including those changes responsible for high-temperature superconductivity.

The long-term benefits will challenge and expand our theories of how matter organizes as it changes state, and that is especially important in understanding superconductivity and its advantages. We can also test the theory of relativity with precision beyond the capacity of earthbound science.

Scientists will study gravity's influence on the development, the growth and the internal processes of plants and animals, and their results expand fundamental knowledge to benefit medical, agricultural, and other industries.

The long-term benefits will improve the overall health of people of all ages. It can improve plants for agriculture and for forestry, and we will gain an advanced understanding of cell behavior.

Biomedical research in space will provide unique insights into such things as how the heart and lungs function, the growth and maintenance of muscle and bone, perception cognition, and balance, the whole area of neuroscience, and the regulation of the body's many systems, called regulatory physiology.

The long-term benefits will assist in developing methods to keep humans healthy in low-gravity environments for long, long periods of time; advance new fields of research in the treatment of diseases; enhance medical understanding of the role of force on bone in disease processes, including osteoporosis; advance fundamental understanding of the brain and nervous system and help develop new methods to prevent and treat various neurological disorders. These are the long-term benefits.

I quote a friend and one of the most respected surgeons in this country—as a matter of fact, in the world—Dr. Michael DeBakey, chancellor and chairman of the department of surgery, Baylor College of Medicine, who said:

> The space station is not a luxury any more than a medical research center at Baylor College of Medicine is a luxury. Present technology on the shuttle allows for stays in space of only about 2 weeks. We do not limit medical researchers to only few hours in the laboratory and expect cures for cancer. We need much longer missions in space—in months to years—to obtain research results that may lead to the development of new knowledge and breakthroughs.

We also can either look out into space or, from an observation point in space aboard a spacecraft, the international space station, look back toward Earth. That is planned with the Earth Observation and Space Science, the Alpha Magnetic Spectrometer, and SAGE to be deployed in 2001.

The space station will be a unique platform with multiple exterior attach points from which to observe the Earth and the universe.

Conceptualized by Nobel prize-winning scientist Dr. Sam Ting, of MIT, the alpha magnetic spectrometer experiment will search the universe for antimatter and "dark" matter in an attempt to prove cosmological theory with direct evidence.

Also, the stratospheric aerosol and gas experiment, SAGE–III, will also be delivered. It will obtain global profiles of aerosols, ozone, water vapor, and oxides in order to determine their role in climatological processes. It will allow cross-correlation of observations from SAGE's I and II at different latitudes and different time periods.

I cite these examples to briefly indicate what a wide variety of scientific effort will go on with the international space station.

Now, let me address these next remarks to two sets of people who may be watching or listening here today. How many of you are over 60 years of age? If you are not over 60 years of age I know that each of you hopes to live to be 60 or older. What I am about to say I believe is very relevant to you.

For several years now NASA and the National Institute on Aging, which is part of the National Institutes of Health, have been working on some projects looking at what happens to astronauts in space.

I became intrigued with this, and I have long been interested in issues associated with our aging population. In fact, when I first came to the Senate—I was sworn in in January 1975—I asked to be assigned to the Special Committee on Aging because I thought there was so much work needed to be done.

Today, we find an aging population sometimes referred to as the graying of nations. I conducted hearings years ago on the graying of nations, and then had additional Governmental Affairs Committee hearings in New York called the Graying of Nations II. Dr. Robert Butler assisted in putting together those hearings. He was the first Director of the National Institute on Aging and did a superb job in getting that whole agency started.

Nearly 45 million Americans today are 60 years of age or older. The demographic experts tell us that that is projected to grow to about 100 million over the next 50 years, by the year 2050. NASA has begun to formally explore the similarities between the aging process and what happens to astronauts in microgravity. There are physical changes that occur in space and the National Institute on Aging has been very interested in and has worked with NASA to review these changes. They are in the process now of coming up with very specific proposals as specific experiments.

But there is a great similarity between what happens to astronauts in the short term—it starts 3 to 5 days after they have been up there on current missions—and what happens to the elderly right here on Earth by the normal process of aging. This is fascinating because of the similarities in osteoporosis, for instance, changes in bone density, changes in orthostatic intolerance—in other words, the ability of the body to keep blood in the upper part of the body so you do not just black out—the vestibular and balance problems, sleep disturbances, decrease in muscle strength, the decrease in immune response, and similar changes in cardiac activity and blood glucose.

Now, these changes occur in the younger astronauts in space right when they go up today. They occur during the first 3 to 5 days, or are noticeable, as I understand them, in the tests that have been run. At the end of the flight when they come back to Earth, the younger astronauts return to normal, their bodies recover, their bone structure is basically reformed again. They recover from it.

Now, in the elderly here on Earth there is not that same kind of recovery. But what the National Institute on Aging and NIH is looking into with NASA is to propose experiments to see what happens if you did put an older person into space. What would happen? Would the changes that happen to the younger astronauts be additive to the older astronaut or would that person be semi-immune from those same changes?

Would the change be to the same degree? What happens when you come back to Earth again? With these changes, would the older astronaut recover as fast as the younger ones? If not, why not? In other words, the questions being asked are basically what triggers these different systems and why do they change? Why do they change in microgravity? Why do they change in orbit? Would they change the same for an older person as they do for the younger people? I think this is a fascinating field. I am very hopeful that NASA and NIA will formalize this program primarily for the potentially enormous benefit that may come from it for hundreds of millions of people, not just people in this country, but people literally all over the world, and also because I can think of no more powerful and essentially untapped constituency for human research in space than the elderly.

I will say a few words about the importance of international cooperation in space research, also.

If you had told me some 35 years ago when I made my flight back in 1962 that in June 1997, a U.S. astronaut would be beginning the 16th month of continuous U.S. presence on a Russian space station, I certainly would not have believed it.

As a veteran of the cold war and the space race, I guess I could not be more pleased to see this kind of progress. Obviously, there is tremendous symbolic value when former enemies work together cooperatively. But symbolism isn't the most important reason we cooperate. Again, it gets back to basic research. The quality of research is going to improve if we have the best and the brightest from 15 nations working on a project.

The shuttle-Mir program, also called phase I of the international space station, is a perfect example of the benefits of such cooperation. As many of you know, this program consists of nine shuttle-Mir docking missions. The program is helping both the United States and Russia learn countless valuable lessons which will be put to use on the international space station.

Now, obviously, the Mir space station has been having problems. We are aware of those from the daily news. Some problems are due to aging components of the station; some may have been due to crew or ground control errors. We will see what NASA and the Russian space agency leadership will recommend.

Usually, for both the Russians and the Americans, space operations have been nearly flawless. For example, just a few days ago, the crew of STS–89 returned from a 16-day science mission which appears to have exceeded all expectations for scientific data.

I would like to remind people of two things. First, space travel and research is still a risky and technologically complex undertaking. Things do not always go right. We are dealing with new fields of power and speed. There are going to be times when things do not always go right. So it would be completely inappropriate for us at the first sign of serious trouble to cut and run.

Second, NASA emphasizes safety above all else. No one has ever intentionally put our astronauts in unsafe or hazardous conditions. Quite the opposite. I know from firsthand experience our astronauts are trained to handle emergencies of all sorts that can be foreseen.

Some have suggested that before we send another astronaut to Mir, NASA must certify to Congress that it has done everything possible to make it safe. I find that an insult to NASA, because that has been their primary objective all the way through the whole program. For Congress to require that NASA had to certify it has done everything possible to make it safe before we would have another astronaut sent to Mir was about as unnecessary as anything I have seen since I have been around here. I think such a certification would be an insult to the men and women who work on this program every day. No one at NASA intentionally ever takes risks with people's lives. But space flight is risky, and we have to accept that.

I do not know whether people realize the speeds involved up there. I meet with school groups quite often. I find them amazed when you say, well, we have to travel nearly 18,000 miles an hour just to stay in orbit up there. That is true. But that is such a large number, it does not mean much until you ask the same students, "What is 5 miles from your school? Is the mall 5 miles from your home?" It seems the mall has an attraction for a lot of the young people these days. To make that 5 miles trip in a spacecraft would take just 1 second. To stay in orbit you are traveling about 4.8 miles per second—per second. And when you come back in and start hitting the atmosphere again with the spacecraft, there is tremendous heat buildup just from the friction of the atmosphere, ionized layers out ahead that get up around 9,000 or 10,000 degrees Fahrenheit, and surface temperatures of, say, somewhere around 3,000 degrees Fahrenheit.

We confront many challenges we have come to take for granted almost that we can meet the challenge successfully. We have done it amazingly successfully throughout the history of the space program. It has not been perfect. So to think that it is going to be perfect is just a wish.

Even if we were forced to curtail the Mir activity, we have already learned a tremendous amount from the seven shuttle flights that have been made to that station.

Let me just enumerate a few of the accomplishments.

Most importantly, we have conducted countless joint science experiments in a variety of disciplines.

American astronauts have maintained a continuous presence in space for nearly 470 days.

We have successfully conducted six shuttle-Mir docking missions, with three more missions for the future.

Russian and American engineers, astronauts and cosmonauts, in performing joint operations, have developed mutual understanding in originally dissimilar design philosophies and established close rapport between counterparts of the two different cultures. That is important for the future.

We have learned to plan and execute a typical shuttle mission to a space station.

We have verified and developed rendezvous and docking procedures.

We have conducted joint ground and mission control operations.

We have learned to transport and exchange supplies.

We have developed joint extra-vehicular activities.

We are testing schedules for long-duration Mir and short-duration shuttle crew work rest cycles during the docked and undocked phases of missions.

We are jointly resolving safety and acceptance testing differences.

And we are developing in-flight training protocols.

Most importantly, we are working together on joint research projects.

These accomplishments place us in an excellent position for initiating and conducting the assembly and subsequent operation of the international space station with reduced risk, with greater confidence and reduced learning curve expenditures in time and costs. The only other way to gain this experience would be to wait until assembly of the ISS and then learn, and that is a little late.

Now all of this is leading up to construction and operation of the international space station. Let me show just a couple of charts here. This effort will be the largest peacetime international science collaboration in the history of this world. These international partners will include Canada, Japan, Russia, Britain, Italy, France, Germany, Belgium, the Netherlands, Norway, Denmark, Spain, Sweden, and Switzerland.

On-orbit weight will be 470 tons, and almost 20 percent of that, over 85 tons, of hardware has already been built.

This is an example of one piece of hardware now, one of the modules right here. When built it will have some 43,000 cubic feet of pressurized volume, which is the equivalent of a 747.

When you think about the number of scientific breakthroughs that can come from such an orbiting laboratory as this, it is sort of mind boggling.

I want to remind everyone of the critical importance of spreading the word about the benefits of human space flight. I hope staffs listening in the offices as well as Senators may go back to our communities in our States and find new outlets or organizations which may not have considered the significant impact which space research has had and could have and will have on their lives. If we can just invigorate and sustain such an effort I am very confident that the shuttle Mir and the international space station will merely be steppingstones to a much greater future.

I have asked NASA to put together, if they can, a compilation of the of the scientific research projects that have gone on on each one of those shuttle flights. I hope I can get that this evening so we can put that in the RECORD tomorrow because I think it will show the diverse nature of the scientific experiments, some of the breakthroughs that have occurred because of those experiments, and I think that is the best way to show what has happened in the shuttle program and the potential that gives for the international space station.

We have some other pictures of the space station that is already put together and is being worked on. This shows a technician working on this particular hatch. This shows two of the modules here that are already built, already tested out, and we have one unit that is undergoing tests down at the cape right now.

This shows another view of what is being done. This is not something that is theoretical into the future. It is being done right now.

This is a picture of some of the testing area where the hardware is being checked out. The hardware is roughly, as I said, almost 20 percent complete right now. Now, that 470 tons will be the final size of the vehicle once it is up there.

I see this as an extension of the best that our country has to offer in the way of science and research and the questing nature of our people that have given us a standard of civilization beyond anything the world has ever seen. We have been a Nation that did not just say we will live on the Atlantic shore on the coastal plain. We moved beyond that to the Ohio River, to the Mississippi and on to the Plains.

I read into the RECORD last year, and I may bring it to the floor again tomorrow, the statement by Daniel Webster, who for all his other brilliance was a skeptic, sometimes, and had a rather myopic vision. When they were considering buying lands west of the Mississippi from Spain or Mexico, Daniel Webster was against it and he rose and said words to the effect of "What use can this area west of the Mississippi be, this area of cactus and prairie dogs, of blowing sand, of mountains with snow, impenetrable snow, to their base? Mr. President, I will not vote 1 cent from the public Treasury to move the Pacific coast 1 inch nearer Boston than it now is."

That may show somewhat of a myopic view of even such a learned person as Daniel Webster, but it does. And that is repeated somewhat today by people who say, "What is the possible value of this?" The possible value is clear in just a few of the things I have mentioned here today. We have whole catalogs that have come out, things that have benefited science, research, medicine, and engineering in this country, and they are continuing. That is what this is about.

For the first time we will have some 15 nations involved in an international space station, working together instead of preparing to fight each other, working together using the best brains out of each of those countries to do research that is of benefit to people all over this Earth. That is the importance of it.

Some years ago when people would rise on this floor and say what possible benefit can it be, we now have a good story to tell them. It is a success story that every single American can be very, very proud of.

I am happy to be supporting the station. I presume we will have some amendments proposed on the floor that will change some of the program and the way it is outlined. I hope we will not approve those. I think the program has been revamped now. It is very well thought out. It is being done at about the cheapest we can possibly do it and still keep safety paramount, which is No. 1.

Mr. President, I ask unanimous consent to insert into the RECORD a paper, "Microgravity Research and Exploration" provided by the NASA Office of Life and Microgravity Sciences and Applications.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MICROGRAVITY RESEARCH AND EXPLORATION

In the mid-20th Century human ventures into space have ushered in a new era of exploration and defined a new field of research using gravity as a variable. In turn, this research has led to exciting discoveries on how profoundly gravity affects all elements of life on this planet and beyond. Over the years unexpected connections have been made between the findings in microgravity and the many physical, chemical and biological processes here on Earth, opening new vistas for understanding ourselves and our world. These findings have wide-ranging applications from medicine to understanding weather patterns, contributing to economic growth and vitality here on Earth.

These findings also serve as a sound foundation for future human and robotic exploration and for settling new worlds in the 21st Century. The International Space Station is the first truly multinational effort by the people on Earth to conduct a final rehearsal in low Earth orbit before spreading into space on a new and exciting quest for the origins of life.

Gravity is a force that has profoundly shaped the evolution of all living things. Gravity and its effects drive or constrain the fundamental physical, chemical, and biological processes that surround us. It is the basic force against which every living organism on Earth must work. Gravity gives us our sense of balance, guides the development of our bones and muscles, and challenges our hearts to pump blood against its constant downward pull. Space flight gives humankind the ability to control gravity as an experimental variable for the first time in the history of science. With the control of gravity, we gain a whole new perspective on the physical world and on the world of living things.

HISTORICAL PERSPECTIVES

The human crew member has been an integral element of the U.S. and Russian space programs since their inception. The harsh environment of space has posed a number of critical challenges for the protection of humans, planning for missions, and the execution of experiments.[1,2,3] The role of the human has grown as space missions and programs have increased in duration and complexity. Initially, the goal was to demonstrate man's ability to survive in space. During the 1960s astronauts served mainly as observers and backup operators to ground control personnel. The Gemini and Vostok missions built on the achievements of Mercury and Voskhod, and provided a technical and biomedical foundation for the Apollo lunar landing and Salyut space station programs. The Apollo missions required a broad biomedical support program, including provisions for in-flight illness. Like Gemini, the Apollo millions yielded significant findings on human physiology in space, but few insights into the effects of the space environment on physical and chemical processes.

In the early 1970s Skylab provided the first opportunity to study human adaption to microgravity over extended periods of time,

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Endnotes at end of article.

allowing researchers to identify those physiological changes that are self-limiting. For the first time in the history of space flight modest microgravity experiments were conducted—the role of astronaut was expanded to that of scientist/investigator. It is worth noting that during the 1970s many more experiments were executed in drop towers, parabolic aircraft and suborbital robotic missions.

Since 1981 the reusable Space Shuttle has provided routine access to Earth orbit, expanded the space program to include investigators from industry and academia, and for the first time in the history of experimentation provided an exceptional platform for microgravity research. In 1994 an agreement between NASA and the Russian Space Agency allowed for the deployment of US research hardware on the Russian MIR space station for experimentation by NASA astronauts. Similar experiments to Space Shuttle missions are conducted on this platform but in a more constrained fashion.

RESULTS TO DATE

Since 1981 an unprecedented amount of scientific data has been accumulated from space research that has revolutionized our understanding of the nature and action of gravity on physical and biological processes. To date the Space Shuttle has flown approximately 720 days in space, of which 120 days were dedicated to microgravity research. NASA astronauts have flown 970 days on MIR with a total of 160 days dedicated to microgravity experiments.

RESEARCH WITH BENEFITS TO INDUSTRIAL PROCESSES AND EARTH APPLICATIONS

Despite the relatively brief duration of actual research in the life and physical sciences on orbit to date, numerous applications have already been identified and acted on by the private sector. These have been based on both scientific findings as well as technological advances. Today, a significant fraction of NASA's microgravity research program is already conducted with substantial financial support from other agencies and from industry, and we expect that contribution to grow.

Scientists have successfully used the low gravity environment of space to understand and control gravity's influence on the formation of materials including metals, semiconductors, polymers and glasses. For example, space research has produced cadmium zinc telluride (CdZnTe) crystals that have 50 times lower levels of a key defect than the best commercially available crystals. These experiments help researchers to verify mathematical models for semiconductor crystal growth to improve semiconductor fabrication on Earth. There have been many theories and mathematical models developed to predict the formation and development of dendrites, the tree-like structures that are the building blocks of most metal products. On Earth, gravity's effects limit the power of experiments to validate these fundamental theories. The Isothermal Dendritic Growth Experiment flown aboard the Space Shuttle has become the scientific benchmark for testing our theoretical understanding of metal formation.[4]

Another field in which microgravity research continues to make major contributions is combustion science. Combustion is a highly complex process involving many factors, such as: the physical flow of fuel and oxygen; the chemical conversion of fuel and oxygen into heat and chemical products and the transfer of heat. In many cases, combustion processes are so complex that scientists have difficulty developing accurate, complete models for them. By significantly reducing gravity's effects, scientists are studying subtle aspects of combustion that are often hidden. Research to date has demonstrated that gravity has a profound effect on combustion phenomena, with microgravity conditions leading to behaviors never before observed. Because combustion is so widely used for energy production and transportation, our growing knowledge of gravity's role in combustion phenomena holds the promise of improving the efficiency of a wide range of everyday technology, with potentially far reaching economic effects. For example, a patented ring flame stabilizer device has been developed by Lawrence Berkeley National Laboratory based on the results of microgravity combustion research. This device—applicable to residential furnaces and water heaters—reduces emissions of nitrous oxides by a factor of five over existing devices, while increasing overall efficiency by 2%.

Closely related to combustion science is fluid physics, a field in which researchers study the behavior of liquids, gases and mixtures. In microgravity, scientists observe aspects of fluid behavior that are difficult or impossible to understand in normal gravity. Microgravity enables scientists to create physical models of important processes and make observations that would be impossible on Earth. For example, results from microgravity research have provided the only controlled experimental observations of the convective motions in physical models of planetary and stellar atmospheres, laying a foundation for scientific understanding of the nonlinear dynamics of planetary and stellar flows, and giving us new insights into the dynamics of the sun and gaseous planets.[5] A new technique for stereo imaging velocimetry to measure fluid flows in space experiments developed by Lewis Research Center has found application in the US industry, where it is being used to quantify fluid flows in the steel casting process.

Use of the microgravity environment has allowed researchers to design experiments that achieve a measurement accuracy not possible in the gravity environment of Earth. Areas of investigation include research on general relativity, critical phenomena, laser cooling for ultra-precise measurement of atomic electronic properties, as well as other thermophysical measurements of interest in condensed-matter physics. For example, space flight research has been used to confirm with unprecedented accuracy the validity of a Nobel prize-winning theory describing the conditions under which matter will change between different states, such as from liquid to gas or from conductor to superconductor.[6]

RESEARCH WITH BENEFITS TO HEALTH

Microgravity provides researchers with new tools to address two fundamental issues in biotechnology: the growth of high-quality crystals for X-ray diffraction studies of large proteins, and the growth of three-dimensional tissue samples in laboratory cultures. Gravity plays central roles in each of these processes and NASA research is providing access to new data and techniques to the broader biotechnology community.

NASA's bioreactor, developed to simulate low gravity, has proven dramatically successful as an advanced cell culturing technology. This success has led to an extensive collaboration with the National Institutes of Health (NIH). Work with NASA bioreactors at the NIH has already produced advanced cultures of lymph tissue for studying the infectivity of HIV. Other areas of outstanding success include cultures of cancer tumors and cartilage.[7] Initial results of tissue culture research on the MIR space station are very positive and suggest the possibility of major advances in tissue culturing once the International Space Station becomes available.

Biotechnology researchers also use microgravity to produce protein crystals for drug research that are superior to crystals that can be grown on Earth. Already researchers have produced crystal samples of proteins important to the study of AIDS, emphysema, influenza, diabetes and other diseases.[8] Recently, researchers using space grown crystals determined the highest resolution structure for insulin published to date. By studying the structure and function of insulin, scientists hope to produce improved drugs for diabetics.

Life is, of course, dependent on many of the same physical processes I have already discussed. Convection, sedimentation, and buoyancy are features of complex, living systems as well as nonliving systems. But life possesses additional properties—such as adaptation to maintain homeostasis, and evolutionary development in response to environmental factors—that are also affected by gravity.

We are now demonstrating that microgravity can be used as a model to study some aspects of the aging process here on Earth. Indeed, astronauts experience bone and muscle loss, inability to maintain balance, posture, gait, and blood pressure, and changes in the general metabolism that mimic some of the symptoms of aging. Thus, microgravity research offers an unusual opportunity for us to study in a laboratory setting this natural phenomena of the life cycle. The symptoms caused by space flight reverse themselves on return to normal gravity, presenting additional opportunities for insight into the aging process.

The accumulated data from experiments in the physical sciences has formed the basis for a multidisciplinary investigation of biological phenomena using the findings from fluid physics research. As a result, we are obtaining explanations for complex biological behavior at the cellular and molecular levels. We are able to formulate a new set of hypotheses regarding the behavior of complex ecological systems in relation to multigenerational adaptive responses to the pervasive effects of gravity.

We have found that even the tiny single-celled organisms suspended in water are equipped to respond to gravity. We have used the low gravity environment of space to research and establish the mechanisms individual cells use to translate physical force, like acceleration due to gravity, into chemical signals that drive adaptation and response. We have begun work to explore the process by which plants respond to gravity to produce lignin, the primary component of wood. We look forward to exploring the role that gravity has played on Earth, and possibly in other places, in the genesis and evolution of life. If a planetary gravitational environment necessary for the creation or continued existence of life, how would living systems evolve in a different gravitational environment?

RESEARCH WITH BENEFITS FOR SPACE FLIGHT

Research into the effects of gravity on fundamental physical, chemical, and biological processes is increasingly serving as the underpinning for our understanding of how to live and work in space. Space flight induces changes in virtually all body systems. Most appear to be benign adaptations to weightlessness, but if unchecked some physiological changes could become life threatening. It seems today that exposure to the low gravity environment produces a disassociation between the chronological and physiological ages. Thus, our task is to bridge this time gap by developing countermeasures such as exercise and pharmacokinetics.

The time course and extent of physiological changes in astronauts must be characterized, and appropriate countermeasures (compatible with the spacecraft design) developed for long-duration orbital and interplanetary space missions. This research promises to improve our general understanding of human physiology and a number of medical conditions. Similarly, the countermeasures that we devise may benefit health care on Earth.

To illustrate the breadth of the challenges we face, consider the digestive system. Relatively little work has been done on the effects of low gravity on the digestion, absorption and transport of drugs and nutrients in space. You might think that in a confined space like the human bowel there would be little role for gravity to play. But keep in mind that it is gravity that causes bubbles of gas to rise to the surface of a liquid and dispersed particles to settle out. We know that astronauts do not suffer from malnutrition, but how are digestion and pharmacokinetics affected?

Challenged by the need to monitor the health status and deliver health care services to astronauts in ever more remote and hostile environments, NASA is at the cutting edge of medical technology requiring autonomy. Space programs have pioneered the use of telecommunications, computer, and microelectronic and nanoelectronic technologies in health care. While critical for space flight and exploration, these technologies also yield considerable benefit for medical care here on Earth. The highly successful Spacebridge to Russia program—a joint effort between NASA and the Russian Space Agency—is an Internet-based telemedicine testbed that links academic and clinical sites in the US and Russia for clinical consultations and medical education. A predecessor project—Spacebridge to Armenia—was used to provide medical consultation services during the recovery from the Armenian earthquake in 1988. Pilot projects in telemedicine technology have also supported health care delivery in a wide variety of remote locations.

NASA has developed a range of technologies in medical informatics, sensors, diagnostic techniques, decision support systems, image compression, and advanced training to support health care delivery in space. These technologies include compact, solid state sensors that permit non-invasive monitoring of crew health and the spacecraft environment. NASA's Ames Research Center is adapting technology, originally developed for space-related scientific visualization, to stimulate complex surgery. This application enables surgeons to reconstruct a patient's face and skull from computerized tomographic (CT) scans, allowing doctors to virtually manipulate the bone tissue and visualize possible surgical procedures. Marshall Space Flight Center has worked cooperatively with industry to develop a Sensing and Force-Reflection Exoskeleton (SAFiRE) that senses hand and finger motion as human operator input and provides force-reflective feedback to the operator for both telerobotic and virtual environment applications. The SAFiRE project's technology base could be used to develop a biomechanically sound resistance exercise system.

FUTURE RESEARCH

Recent discoveries of life's adaptation to very extreme environments and the potential for past or even present existence of life on Mars or elsewhere in the Universe have raised a range of compelling questions. Life's complex processes are ubiquitous on Earth. Are they present on other worlds as well? What role has gravity itself played in the genesis and subsequent evolution of life on this planet and elsewhere? Humanity's fascination with life and the physical world propels our interest in the exploration of space.

As demonstrated by the success of the Mars Pathfinder mission, NASA has embarked on a promising path of technological innovation that is creating a "virtual" human presence on other worlds. Future missions of exploration will require crew members to live and work productively for extended periods in space and on planetary surfaces. As in the past, key biomedical, life support and human factors questions must be answered to ensure crew health, well-being, and productivity. To address these challenges, NASA will apply innovative technology to the challenges of robotic and human space exploration, ranging from advances in telemedicine, telepresence, and life support to in situ materials utilization, nanotechnology, and bionics. In the coming decades, fundamental and applied research in gravity's effects will lay the foundation for humans to develop and use space, and to expand outward on missions of exploration.

PROTECTING CREW HEALTH

Our first priority is ensuring the health and safety of our crews. Long duration flights have demonstrated that it is possible to survive extended term exposure to low gravity. Yet, as I have described above, we must not forget that adjusting to microgravity and then back to normal gravity is a traumatic experience for the body. Many of our intuitive theories for explaining these processes have already failed in the light of hard data. Even some of our long-held theories about the gravity dependence of physiological processes for humans on Earth have been proven false by space research. We must remain cautious in drawing general conclusions from the small sample sizes currently available and we must develop a rigorous understanding of the mechanisms behind adaptation to microgravity as well as the dose-response relationship. If we do a thorough scientific job of understanding the mechanisms and dose-response relationships of adaptation of low gravity we will create a new storehouse of knowledge with innumerable applications to Earth-based medical care.

TELESCIENCE AND TELEMEDICINE

In the next few years, the International Space Station will serve as a platform for developing and testing systems that will permit future space explorers to respond autonomously to a wide variety of ongoing and emergency health care issues. Medical monitoring will take advantage of noninvasive microminiaturized sensors and advanced wireless communications technology as well as next generation systems for displaying and integrating the data stream. Emphasis on portability and noninvasiveness of medical monitoring will also pay large dividends by reducing the need for storage and transportation of specimens.

ADVANCED LIFE SUPPORT TECHNOLOGY

Future exploration missions will rely on advanced, lightweight, closed-loop life support systems to sustain life in the hostile space environment. Research on advanced life support systems include both ground based and flight components. We have already begun a series of closed tests using crews of up to four people in ground based facilities at the Johnson Space Center. Flight testing and validation for life support systems will take place on the International Space Station. Our goal is to demonstrate advanced life support system on ISS that would be suitable for a Mars transit vehicle by 2004, and validate system performance by 2008. Space Station environmental monitoring systems will incorporate new miniaturized sensor technology requiring greatly reduced resources to operate.

PHYSICAL SCIENCES

We cannot overlook the vital role that fundamental research in the physical sciences will play in the future of exploration. Materials science research will explore advanced radiation shielding materials vital to long-duration space missions. Research in the behavior of fluids in low gravity will help the designers of future space systems to move from an empirical approach to approaches based on valid mathematical models for such vital systems as thermal control, fuel storage, and delivery, and life support systems. Research on combustion phenomena will contribute to improved technology for detecting and extinguishing fires in spacecraft.

Fundamental physical research is also required to lay the foundation for efficient and safe operations on the surfaces of other bodies in the solar system. We must understand the behavior of materials in the novel environments found on other solar system bodies if we are to design efficient systems for in situ resource utilization for fuel, life support, radiation protection, fire detection, and construction. Microgravity researchers are now participating in planning for robotic missions to Mars in 2001 and 2003 that will include experiments designed to explore these issues.

The quest for understanding in space is a voyage into the unknown. We cannot accurately predict what we will find, or what we will produce. But if we are to control the risks of human space flight and extract the benefits of space development for future generations, we must continue our efforts to reduce our ignorance. We must focus our research both in the life sciences and the physical sciences, using robotic missions in parallel with crewed missions to reduce the risks of human space flight. As a result, we will extend human virtual and physical presence further into the solar system, paving the way for broad commercial and scientific development in space. Ultimately, we will learn to send astronauts on long duration missions of exploration. Their work will serve to extend our research to new worlds, and possibly to new forms of life.

ENDNOTES

[1] Nicogossian, Huntoon, and Pool, *Space Physiology and Medicine, 3rd Edition*, Lea and Febiger Publishing, 1994.

[2] Nicogossian, Mohler, Gazenko, Grigoryev, *Foundations of Space Biology and Medicine, Volume II: Life Support and Habitation*, American Institute of Aeronautics and Astronautics, 1993.

[3] Dehart, *Fundamentals of Space Medicine, 2nd Edition*, Williams and Wilkins Publishing, 1996.

[4] Glicksman, *et. al.*, *Physical Review Letters*, Vol. 73, No. 4, 1993.

[5] Hart, *et. al.*, *Science*, Volume 234, No., 61, 1986.

[6] Lipa, *et. al.*, *Physical Review Letters*, Vol. 76, No. 6, 1996.

[7] The May 1997 journal published by The Society for *In Vitro* Biology contains over a dozen original research papers using the NASA bioreactor.

Ms. MIKULSKI. Mr. President, as the ranking member of the VA-HUD Committee, of which NASA is one of our key agencies, I thank the Senator from Ohio for his detailed speech about what NASA is doing, not only today, but what it will do tomorrow. I believe the Senator, by talking about the exciting projects that we have, many of which have originated from the work at the Johnson space station, in the Presiding Officer's home State, the work in the area of health care. I visited these programs, know the merit they have, particularly in cancer research, tumor research, the issues outlined by the Senator from Ohio.

Also, in 1992, NASA and NIH signed a joint memorandum of agreement on how they can work together to maximize the research being done by the space agency, along with NIH, on issues related particularly to cancer and to issues related to women's health. Issues like osteoporosis, the same kinds of problems that the astronauts face being in orbit, are what many face, particularly we women on Earth. We lose bone density.

There has been a lot of joint effort and a lot of joint agreement. I think the Senator made a very valuable contribution and I thank him for his remarks.

Sometimes for those of us who seek funding for NASA, it sounds self-serving, that we would tout, pull out an item or two. But when Senator JOHN GLENN, an astronaut-Senator, speaks to it, I think the whole world listens.

We thank him for his comments and his contribution to the Senate and to the American space program.

I yield the floor.

Mr. BOND. I join my distinguished colleague from Maryland in thanking our friend from Ohio. No one in this body speaks with more knowledge and expertise on space issues than Senator JOHN GLENN. To hear him talk about the exciting things that are happening in space, science and medical advances, it truly is remarkable. It gives one a sense of what we can accomplish with the investments we make.

This is extremely helpful, as we go into the debate, because these are very tight budget times. We have taken a step of assuring that money is available for space, for investment in our future by the exploration not just of space but of the scientific discoveries that can come from utilizing the space station.

I thank him first as one who is interested in science. I envy his background and his knowledge. I appreciate very much his description of the exciting things that can come from space exploration, not just for those of us who are worrying about the funny-named rocks on Mars but those who want to see concrete and specific medical advances here today.

Mr. GLENN. We have in room S. 211, for the information of Senators or their staffs, a panoramic view that has been put together by NASA of Mars as taken from the Pathfinder. A full-sized model is out there for people to look at. It is intriguing. It is so tiny you cannot believe it is sending all this information back to us on Earth.

We invite staffs or Senators when they come over for a vote which starts at 5:15 to stop in and look at it. It is very worthwhile and gives a different concept than just seeing the pictures on TV.

I yield the floor.

Mr. BOND. I had my picture taken with the Sojourner. I thought it was quite coincidental that the Sojourner model showed up today. Timing is everything.

I urge my colleagues who are interested in this space exploration to look at the panoramic view to see how the Sojourner operates.

I see my colleague from Texas is anxious to speak. I yield the floor.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to say it was a pleasure for me to hear the Senator from Ohio talk about this very important subject. I am proud the Senator from Ohio was once my constituent when he made the historic trip into space—that was really the beginning of our space program—and made us all so proud that we really could conquer space. What we have learned and what we have done for quality of life and for health research since his first foray into space has been, perhaps, more than even he could have dreamed would happen.

I am very proud he is a supporter of the space station and the NASA Program and knows that what he did in the beginning is certainly not the end and certainly, I hope, we can continue the legacy that he has left for us.

Mr. BOND. Mr. President, I believe the leader is going to be here shortly to discuss the voting schedule for tonight. I know votes were scheduled to begin at 5:15, but pending the arrival of the majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1998

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1023, the Treasury-Postal Service bill.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1023) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

Pending:

Campbell (for DeWine) amendment No. 936, to prohibit the use of funds to pay for an abortion or pay for the administrative expenses in connection with certain health plans that provide coverage for abortions.

Kohl (for Bingaman) amendment No. 937, to strike provisions prohibiting the use of appropriated funds for the sole source procurement of energy conservation measures.

Campbell (for Coverdell-Feinstein) amendment No. 940, to provide that Federal employees convicted of certain bribery and drug-related crimes shall be separated from service.

Campbell (for Coverdell) amendment No. 941, to require a plan for the coordination and consolidation of the counterdrug intelligence centers and activities of the United States.

Campbell (for Hatch) amendment No. 942, to provide for a national media campaign focused on preventing youth drug abuse.

Hutchison amendment No. 943, to establish parity among the countries that are parties to the North American Free Trade Agreement with respect to the personal allowance for duty-free merchandise purchased abroad by returning residents.

UNANIMOUS CONSENT-AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the rollcalls not take place as ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. For the information of all Senators, a number of votes were scheduled to occur beginning at 5:15 today. Over the weekend, and most of today, the managers of the Treasury appropriations bill have been working to resolve those outstanding amendments, and it now appears that the Campbell amendment offered on behalf of Senator DEWINE regarding abortion funds and passage are the only remaining votes that need to occur with respect to the Treasury appropriations bill. There may also be a Bingaman amendment, but we are not clear about that yet.

As many Members are aware, the U.S.S. *Constitution* made its maiden voyage as a refurbished symbol of America's proud past today on the waters off Massachusetts. However, the ceremonies surrounding this event were delayed. Consequently, several of our Members will not be returning in time for the vote.

Therefore, on behalf of the majority leader, I ask unanimous consent that the rollcall votes scheduled to occur today now be postponed to begin at 10 a.m. on Tuesday, July 22. Obviously, needless to say, there will be no rollcall votes that will occur in today's session, but there will be some further matters.

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[8] McPherson, "Macromolecular Crystal Growth in Microgravity" in *Crystallography Reviews*, Vol. 6, No. 2, 1996, 157-308).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield the floor.

DATA ACCESS

Mr. NICKLES. Mr. President, before this body passes the Treasury and general government appropriation bill for fiscal year 1998, I would like to raise an important issue concerning how the Government develops policies and regulations. The issue is the public's right to have access to the data that is produced from Government funded studies and used to support regulatory rulemakings. As you may know, the Federal Government does not have a standardized process for making research data available for independent review. Often the public is forced to comply with costly regulations without the assurance that the data underlying the rules has been made available for independent scientific evaluation. If the Government is going to force the public to comply with its rules, the public must have confidence that the rules are based on sound science. Similarly, if the Government is going to provide funding for research, the public should be able to access the data that is produced from such research. Unfortunately, the Government does not have a disclosure policy on research data. I believe this undermines the scientific basis of our rulemaking and erodes the public's confidence in the Government's regulatory development process. I would like to ask my colleague from Colorado, the chairman of the Treasury and General Government Appropriations Subcommittee, if he would be willing to work with me to correct this problem.

Mr. CAMPBELL. I thank my colleague from Oklahoma for raising this important issue. The fact that this data is not now made available only adds to the public's mistrust of Government. I look forward to working with you to develop an appropriate solution.

Mr. NICKLES. I thank the Senator for his support on this issue.

NEWPORT, IRS HIRING WAIVER

Mr. LEAHY. Mr. President, I would like to seek clarification on report language which the subcommittee was good enough to include in the Treasury and general government appropriations bill. That report language urges the Internal Revenue Service to approve a waiver from internal hiring requirements for the Newport IRS office if a planned reduction in force [RIF] does not result in those positions being filled.

The Newport IRS office is one of two national centers that process SS 8 forms and has earned a high reputation for efficiency and excellence. To handle its increased responsibilities, the office has been trying to fill a number of lower level positions ranging from GS 3–5. Current IRS regulations require that these positions be filled internally. While Newport is a beautiful Vermont town, it is also extremely remote, and the office has been unable to fill such low-level positions from within the existing IRS personnel. These new personnel are needed to continue Newport's exemplary record in processing SS 8 forms.

The committee report also includes a provision, which I strongly support, directing the IRS to continue to delay its planned field reduction in force until it submits another report to Congress with a detailed plan on how the IRS will ensure adequate taxpayer service in the future, especially in rural areas. I share the concerns outlined in the committee report about how taxpayer service will be affected by the planned reorganization, especially in rural areas like Vermont. As a result of this language, the RIF which IRS had planned for July 7 will not be going forward. My understanding is that in the absence of this RIF, the committee intends for IRS to move forward immediately with its approval for the Newport hiring waiver. Is that correct?

Mr. CAMPBELL. Mr. President, the Senator from Vermont is correct. The Senate report clearly states that if the July RIF did not address the employment shortage at the Newport IRS office, that the Service should move forward with the waiver. Because that RIF will be delayed for some time, IRS should move forward immediately with the Newport hiring waiver.

Mr. LEAHY. I thank the Senator from Colorado, and I appreciate his clarification of this language.

AMENDMENT NO. 943

Mrs. HUTCHISON. Mr. President, I ask that Senators KYL, MCCAIN, GRAMM, BINGAMAN, and BOXER be added as cosponsors to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I am pleased that I was able to work with Secretary Rubin and Ambassador Barshefsky's staff on this amendment. I am confident that they will use this directive from Congress to make progress—in the spirit of NAFTA—to correct the personal duty-free allowance inequity. I hope that it can be passed by unanimous consent when it is brought to the floor.

Mr. President, my amendment addresses the disparities that exist in the personal duty-free exemption's of the United States, Mexico, and Canada. The United States provides each United States resident who is returning from Mexico and Canada with a personal exemption from duty on merchandise valued at up to $400 once every 30 days. This is the same duty exemption every U.S. citizen is afforded when they return to the United States from any country. Mexico, however, has a two-tiered duty-free allowance structure. If you are a Mexican resident and live within 25 kilometers of the border, when you return to Mexico at a land border crossing, you may only return with $50 in duty-free merchandise. This has become known as the $50 rule, and it is crippling businesses on the U.S. side of the border in Texas, California, New Mexico, and Arizona. If you are a Mexican resident bringing more than $50 in merchandise, you must pay a 22.8-percent duty rate.

This rule, Mr. President, makes it prohibitively expensive for a Mexican resident to purchase a washing machine, refrigerator, electronics, furniture, or any item costing more than $50 in the United States. In U.S. border communities, countless small businesses have closed their doors and thousands of American jobs have been lost. Our larger retailers are also suffering, as Mexicans who used to travel across the border for goods are now limited to purchasing them on their side of the border.

Mr. President, my amendment is very simple. It directs the United States Trade Representative and Secretary of the Treasury to begin discussions with their counterparts in Mexico and Canada to achieve parity in the duty-free allowance structure of the three NAFTA countries. These officials will report to Congress within 90 days on the progress they are making to correct these disparities. If the situation remains unchanged, in 6 months these officials will propose appropriate legislation and action to bring the United States duty-free allowance into conformance with the allowance levels established by Mexico and Canada.

Mr. President, this is an important issue for my constituents, and I look forward to this amendment's adoption.

Mr. DOMENICI. Mr. President, I rise in strong support of S. 1023, the Treasury and general Government appropriations bill for fiscal year 1998.

This bill provides new budget authority of $25.2 billion and new outlays of $22.3 billion to finance operations of the Department of the Treasury, including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and the Financial Management Service; as well as the Executive Office of the President, the Office of Personnel Management, the General Services Administration, and other agencies that perform central Government functions.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 602(b) allocation and generally consistent with the bipartisan balanced budget agreement. I also commend the chairman for his strong support for law enforcement, including the Federal Law Enforcement Training Center.

When outlays from prior-year BA and other adjustments are taken into account, the bill totals $25.3 billion in BA and $25.1 billion in outlays. The total bill is below the Senate subcommittee's 602(b) nondefense discretionary allocation for budget authority by $4 million and at its allocation for outlays. The subcommittee is also at its violent crime reduction trust fund allocation for BA and under its allocation for outlays by $15 million.

Mr. President, I ask unanimous consent to have printed in the RECORD a table displaying the Budget Committee scoring of S. 1023, as reported by the Senate.

I urge Members to support the bill and to refrain from offering amendments that would cause the subcommittee to exceed its 602(b) allocation. Mr. President, I rise in strong support of S. 1023, the Treasury, Postal Service, and general Government appropriations bill for fiscal year 1998.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

S. 1023, TREASURY-POSTAL APPROPRIATIONS, 1998—SPENDING COMPARISONS, SENATE-REPORTED BILL

[Fiscal year 1998, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	—	12,464	131	12,713	25,308
Outlays	—	12,269	112	12,712	25,093
Senate 602(b) allocation:					
Budget authority	—	12,468	131	12,713	25,312
Outlays	—	12,269	127	12,712	25,108
President's request:					
Budget authority	—	12,848	118	12,713	25,679
Outlays	—	12,388	105	12,712	25,205
House-passed bill:					
Budget authority	—	—	—	—	—
Outlays	—	—	—	—	—
Senate-Reported Bill Compared To					
Senate 602(b) allocation:					
Budget authority	—	(4)	—	—	(4)
Outlays	—	—	(15)	—	(15)
President's request:					
Budget authority	—	(384)	13	—	(371)
Outlays	—	(119)	7	—	(112)
House-passed bill:					
Budget authority	—	12,464	131	12,713	25,308
Outlays	—	12,269	112	12,712	25,093

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Colorado.

MODIFICATION TO AMENDMENT NO. 921

Mr. CAMPBELL. Madam President, I ask unanimous consent that amendment No. 921, adopted previously, be modified and I send that modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The modification is as follows:

At the conclusion of line 1 on page 1, insert Amendment 922; and

On page 1, strike lines 2 and all that follows through line 21 on page 3 and insert the following in its place.

SEC. . SENSE OF THE SENATE REGARDING IMPORTS OF FISH TAKEN OR RETAINED IN A MANNER INCONSISTENT WITH RECOMMENDATIONS OF THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS.

It is the Sense of the Senate that the United States, as a signatory to the International Convention for the Conservation of Atlantic Tunas, should implement as fully as possible the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

It is the Sense of the Senate that fish taken and retained in a manner and under circumstances that are inconsistent with the recommendations of the ICCAT made pursuant to article VIII of the Convention and adopted by the Secretary of Commerce should be prohibited entry into the United States.

AMENDMENTS NOS. 942 AND 943, AS MODIFIED

Mr. CAMPBELL. Madam President, I ask unanimous consent that amendments Nos. 942 and 943 be modified, and I send those modifications to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendments (Nos. 942 and 943), as modified, are as follows:

AMENDMENT NO. 942, AS MODIFIED

At page 47, starting at line 18, strike all to page 48, line 1 at "*Provided*".

In lieu thereof, insert "trol Policy, submits a strategy to the Committees on Appropriations and Judiciary of the House of Representatives and the Senate that includes (1) a certification, and guidelines to ensure that funds will supplement and not supplant current anti-drug community based coalitions; (2) a certification, and guidelines to ensure that none of the funds will be used for partisan political purposes; (3) a certification, and guidelines to ensure that no media campaigns to be funded pursuant to this campaign shall feature any elected officials, persons seeking elected office, cabinet-level officials, or other Federal officials employed pursuant to Schedule C of 5 Code of Federal Regulations, Section 213, absent notice to the Chairmen and ranking members of the House and Senate Committees on Appropriations and Judiciary; (4) a detailed implementation plan to be submitted to the Chairmen and ranking members of the Committees on Appropriations and Judiciary for securing private sector contributions including but not limited to in kind contributions; (5) a detailed implementation plan to be submitted to the Chairmen and ranking members of the Committees on Appropriations and Judiciary of the qualifications necessary for any organization, entity, or individual to receive funding for or otherwise provided broadcast media time.

AMENDMENT NO. 943, AS MODIFIED

At the appropriate place, insert the following new section:

SEC. . PERSONAL ALLOWANCE PARITY AMONG NAFTA PARTIES.

(A) IN GENERAL.—The United States Trade Representative and the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall initiate discussions with officials of the Governments of Mexico and Canada to achieve parity in the duty-free personal allowance structure of the United States, Mexico, and Canada.

(b) REPORT.—The United States Trade Representative and the Secretary of the Treasury shall report to Congress within 90 days after the date of enactment of this Act on the progress that is being made to correct any disparity between the United States, Mexico, and Canada with respect to duty-free personal allowances.

(c) RECOMMENDATIONS.—If parity with respect to duty-free personal allowances between the United States, Mexico, and Canada is not achieved within 180 days after the date of enactment of this Act, the United States Trade Representative and the Secretary of the Treasury shall submit recommendations to Congress for appropriate legislation and action.

AMENDMENTS NOS. 940; 941; 942, AS MODIFIED; AND 943, AS MODIFIED

Mr. CAMPBELL. Madam President, I ask unanimous consent that amendments Nos. 940, 941, 942, as modified and 943, as modified, be adopted, en bloc, and that the motion to reconsider the vote on the adoption of those amendments be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 940 and 941) and (Nos. 942 and 943), as modified, were agreed to, en bloc.

AMENDMENT NO. 940

Mr. KOHL. Madam President, we have accepted amendment No. 940, but I do want to mention that we may need to fine-tune it in conference. The reason is that, as currently drafted, the proposal is somewhat ambiguous. And for that reason, the Justice Department has told us that it has serious concerns about the amendment.

Now, I read the language to apply prospectively; that is, to people who are subsequently convicted of a crime—but not to those employees who were convicted years ago—or at any time prior to when this proposal becomes law. And I also believe that parts (a)(1) and (a)(2) should be read conjunctively; that is, to apply to government employees who are convicted of drug-related bribery—but not to employees who are convicted of either bribery or drug-related crimes alone.

We have talked to Senator COVERDELL's staff and they are willing to work on the language of the amendment to make this clear and I am optimistic that we can write it to everybody's satisfaction in conference.

Mr. CAMPBELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF VETERANS' AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. BOND. Madam President, we are now back on the VA-HUD bill.

I see my colleague from Minnesota has come in. I understand he wants to speak on another measure. But I ask my colleagues, if they have any business, if they wish to do anything, please be here before 6 o'clock. We are willing, ready, and able to do business and move forward on VA-HUD. But we do not need to hold personnel here if nobody is going to come forward.

With that invitation, or request, that all of our colleagues who may have either amendments or colloquies advise the ranking member or myself by 10 o'clock tomorrow that we will be here for votes, it will be a good opportunity for us to determine what measures are going to come before the body so we can schedule the work on this very important bill and move forward.

I thank my colleagues for their cooperation. I hope they will let us know what amendments they have.

Ms. MIKULSKI. Madam President, I have discussed the floor situation with the Democratic leadership. They are currently doing a hotline asking that all Democrat Senators who have amendments to please apprise us of them this evening so that we will be able to report to the chairman tomorrow and to our leadership what those amendments are.

Upon the completion tomorrow on Treasury, postal, it would be my hope that anyone who must offer amendments on NASA—and some amendments have been traditionally offered on NASA—that they be on the floor so we can do this before the party conference. I know there are many Senators who have given a great deal of thought on how to improve these programs. We will be anxious to hear about their amendments.

So, Madam President, we are doing our best to make progress on this particular bill, and moving this bill forward. We will be able to report to you tomorrow morning.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. GRAMS].

Madam President, I ask unanimous consent to be able to speak as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Thank you very much, Madam President.

IS THERE NO SHAME IN WASHINGTON?

Mr. GRAMS. Madam President, I would like to speak a little bit tonight about taxes and the big controversy over tax cuts—and not only over tax cuts themselves but who qualifies for these tax cuts—what is fair, what is not fair. And really the basic bottom line is there is not enough money in the pot for the tax cuts that Americans need.

Madam President, as negotiators from the House and Senate meet with administration officials to hammer out a tax package, I rise today to be the voice for the millions of Americans who no longer seem to be heard here in Washington: the Nation's hard-working, overtaxed, middle-class families.

And I want to ask my colleagues, is there no shame in Washington?

Madam President, I read the comments made by the minority leader this morning, arguing that the $77 billion tax cut bill "is not fair."

I have to say that I agree with the Senator from South Dakota. Any bill that cuts taxes by just $77 billion is not only unfair—it's an outrage.

Let me remind my colleagues what happened in 1993.

In 1993, after campaigning on middle-class tax relief, President Clinton turned around and raised taxes on working Americans by $263 billion—making his the largest tax increase in the history of this Nation. Everybody paid more, including: $114.8 billion in new income taxes, $24 billion in additional gas taxes, $34.9 billion in business taxes, $29 billion in payroll taxes, and $24.6 billion in new Social Security taxes.

In other words, if you worked, were retired, drove a car, owned a business, or paid income taxes, you paid for the President's 1993 tax increase.

Although it was billed as nothing more than a tax increase only on the rich, but using this funny calculation called FEI—or family economic income—the President was able to say only those who worked were rich and, therefore, needed to pay more in taxes.

So today President Clinton—again, the same President who in 1993 raised taxes on the American people by $263 billion, and also, by the way, Madam President, vetoed two Republican bills to cut taxes for Americans—now considers himself to be a champion of the middle class because he now wants to cut taxes by a measly $77 billion, and only allowing the majority of those tax reductions if Americans—this is like your children—if Americans, the people who get up every day, go to work to earn this money, now, if they only will do what they are told. And that is to "be seen, not heard." That seems to be the philosophy that we use out of Washington today. And, what is worse, both the House and the Senate are ready to go along with it.

Again, the question has to be: Is there no shame in Washington?

It doesn't take a math wizard to calculate that if the taxpayers had their taxes hiked by $263 billion 4 years ago, and will only get back $77 billion in so-called "tax relief" under the plan being crafted as we speak—the American taxpayers are still $186 billion in the hole to the Federal Government in new taxes in just the last 4 years.

And the men and women—the working families who have paid dearly for that tax increase every day since—are supposed to thank Congress and the President for this mere pittance of a tax cut?

Is there no shame in Washington?

Madam President, since the last meaningful tax cuts were signed into law by President Reagan in 1981, Washington has raised taxes on 10 occasions—10 different times tax increases have been imposed on Americans, and always with the caveat if we can only raise taxes again one more time we are going to be able to get our budget under control.

Every time the Washington politicians have wanted to spend more money, so they could brag to the folks back home, Look what I did for you. But I need to raise your taxes in order for you to pat me on the back for all those projects that I am going to do for you back home. But they have raised taxes on working families 10 times. They have done that.

You hear this complaint on the floor many times, "Oh, that tax cut that we had back in 1981 led to all these deficits that we have today." If you put that in real technical economic terms, you could say that is a bunch of hooey. It has not raised the deficit. It has been Congress not controlling the spending that has raised the deficit.

The $77 billion now slated for tax relief amounts to barely one-tenth of the amount that taxes were raised in the great tax hikes of 1990 and 1993.

You know, this little tax cut that we are talking about—$77 billion over 5 years in a $7-plus trillion annual economy in this country—this little tax cut would actually be like a car dealer taking one penny off the price of a new car and bragging to the buyer that, Boy, I am giving you a great deal. That is what Congress is doing. They are saying, We are going to knock a penny off the price of this new car for you, and you had better come out to Washington and thank us for allowing you to keep some of the money that you have worked for.

With a track record like that, I am afraid the Congress and the President have a long way to go before they can claim true victory on behalf of the American taxpayer.

Again, they said that the 1981 tax cut led to all of these deficits. If that was the problem, wouldn't you think that the 10 tax increases over the last 16 years would have solved that problem? No. No, that hasn't done it.

I have seen enough of the way Washington works to know that if we eliminated the tax cuts from this budget entirely—if we could take the advice of some on the floor here and say, We don't need any tax cuts at all, we can't afford any tax cuts, we have to save this $77 billion, we can't let Americans keep any more of the money they make—that $77 billion would never be dedicated to deficit reduction. The politicians would spend it faster than you can say reelection, and they would spend it on more Government programs and more pork. It certainly would not go toward reducing the deficit and giving our children and grandchildren a debt-free future. If you want evidence, you can just ask yourself: What happened to that $225 billion that was miraculously found just before the budget deal was put together a couple of months ago? It all went to spending. Nothing went to tax relief. Nothing went to deficit reduction.

So to say that if we could give up this tax package now of tax relief that somehow it would go to deficit reduction, the record doesn't show that. I guarantee you that the more we allow Washington to keep, the more Washington will spend. And that is what makes the entire debate over what is fair and what is equitable in this tax relief package so ridiculous. Washington is not willing to give up dollars, and it is not willing to give up the power that those dollars represent to the taxpayers. Therefore, a $77 billion tax cut will never be fair, and it will never be equitable because the pie can never be cut into enough pieces to give a fair slice to everyone. The pie is just simply too small. And once it is divvied up, working families will be left with little more than crumbs.

Clearly, Madam President, there is no shame in Washington. It is absurd to expect the American taxpayers to fall on their knees to Washington in thanks for a tax relief plan that offers them dollars that were rightfully theirs to begin with.

Again, giving $10 and getting $1 back I do not think is fair. It is not equity. If my colleagues want to talk about tax fairness, we can do it. Let us repeal the 1993 tax increase on our senior citizens—$24.6 billion. If my colleagues want to talk about tax fairness, repeal the 1993 tax increase on motorists—that is $25 billion. If my colleagues want to talk about tax fairness, repeal the 1993 tax increase on working families. If we could do even a part of that, only then will this Congress and this President have the credibility to discuss meaningful tax relief for America's working families. Until then, Madam President, it has been just a lot of empty talk.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BOND. Madam President, I now ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE CONTINUATION OF MOST-FAVORED-NATION STATUS FOR MONGOLIA—MESSAGE FROM THE PRESIDENT—PM 54

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

On September 4, 1996, I determined and reported to the Congress that Mongolia is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Mongolia and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of Mongolia. You will find that the report indicates continued Mongolian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 18, 1997*.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 18, 1997 he had presented to the President of the United States, the following enrolled bill:

S. 768. An act for the relief of Michel Christopher Meili, Guiseppina Meili, Mirjam Naomi Meili, and Davide Meili.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2525. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules including a rule entitled "National Ambient Air Quality Standards for Ozone" (FRL#5725–3) (FRL#5725–2) (FRL#5725–6), received on July 17, 1997; to the Committee on Environment and Public Works.

EC–2526. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule relative to Air Quality Implementation Plans (FRL#5856–8), received on July 11, 1997; to the Committee on Environment and Public Works.

EC–2527. A communication from the Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to Consolidated Guidance About Materials Licenses; to the Committee on Environment and Public Works.

EC–2528. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules including one relative to Tebufenzoide Pesticide Tolerances (FRL#5719–9), received on July 1, 1997; to the Committee on Environment and Public Works.

EC–2529. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule relative to the State Implementation Plan for Indiana (FRL#5860–4), received on July 15, 1997; to the Committee on Environment and Public Works.

EC–2530. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection

Agency, transmitting, pursuant to law, fourteen rules including one relative to Air Quality Implementation Plans for Richmond, Virginia, received on July 16, 1997; to the Committee on Environment and Public Works.

EC–2531. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, nine rules including one relative to the California State Implementation Plan (FRL#5850–4), received on July 9, 1997; to the Committee on Environment and Public Works.

EC–2532. A communication from the Acting Director, Fish and Wildlife Service, U.S. Department of the Interior, transmitting, pursuant to law, a rule relative to Endangered Status for the Jaguar (RIN:1018–AC61), received on July 17, 1997; to the Committee on Environment and Public Works.

EC–2533. A communication from the Acting Deputy, Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior, transmitting, pursuant to law, a rule relative to Whooping Cranes (RIN:1018–AD45), received on July 17, 1997; to the Committee on Environment and Public Works.

EC–2534. A communication from the Acting Deputy, Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior, transmitting, pursuant to law, a rule relative to Southwestern Willow Flycatcher (RIN:1018–AB97), received on July 17, 1997; to the Committee on Environment and Public Works.

EC–2535. A communication from the Director, Federal Emergency Management Agency, transmitting, a draft of proposed legislation relative to Stafford Act Amendments; to the Committee on Environment and Public Works.

EC–2536. A communication from the Co-Chair, Committee on Environment and Natural Resources, the Under Secretary for Oceans and Atmosphere, U.S. Department of Commerce, transmitting, a notification relative to the delay of the National Acid Precipitation Assessment Program 1996 Report to Congress; to the Commmittee on Environment and Public Works.

EC–2537. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to capitalization of State Infrastructure Banks; to the Committee on Environment and Public Works.

EC–2538. A communication from the Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report relative to the second biennial Report to Congress on Deposition of Air Pollutants to Great Waters under the Clean Air Act for calendar year 1997; to the Committee on Environment and Public Works.

EC–2539. A communication from the Secretary, Judicial Conference of the United States, transmitting, a draft of proposed legislation entitled "Federal Courts Improvement Act of 1997"; to the Committee on the Judiciary.

EC–2540. A communication from the Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice, transmitting, a draft of proposed legislation entitled "Technical Immigration and Naturalization Amendments of 1997"; to the Committee on the Judiciary.

EC–2541. A communication from the Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice, transmitting, a draft of proposed legislation relative to amending the Privacy Protection Act of 1980; to the Committee on the Judiciary.

EC–2542. A communication from the Acting Associate Attorney General, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–2543. A communication from the Clerk, U.S. Court of Federal Claims, transmitting, pursuant to law, a report relative to the Review Panel; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 98. A resolution expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change (Rept. No. 105–54).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMS (for himself and Ms. Moseley-Braun):

S. 1038. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI:

S. 1039. A bill to designate a commercial zone within which the transporation of certain passengers or property in commerce is exempt from certain provisions of chapter 135, of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. SHELBY (for himself, Mr. Craig, and Mr. Helms):

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

By Mr. KERRY:

S. 1041. A bill to amend section 5314 of title 49, United States Code, to assist compliance with the transit provisions of the Americans with Disabilities Act of 1990; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRAIG (for himself, Mr. Graham, and Mr. Johnson):

S. 1042. A bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID (for himself and Mr. Bryan):

S. 1043. A bill to designate the United States courthouse under construction at the corner of Las Vegas Boulevard and Clark Avenue in Las Vegas, Nevada, as the "Lloyd D. George United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself and Mr. Kyl):

S. 1044. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringment provisions, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mrs. Murray, Mr. Murkowski, Mr. Kempthorne, Mr. Wyden, Mr. Gorton, and Mr. Smith of Oregon):

S.J. Res. 35. A joint resolution granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS (for himself and Ms. Moseley-Braun):

S. 1038. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE EFFICIENT CURRENCY ACT OF 1997

Mr. GRAMS. Mr. President, today Senator MOSELEY-BRAUN and I are introducing the Efficient Currency Act of 1997. The bill calls for a newly designated, golden-colored $1 coin to replace the Susan B. Anthony dollar coin.

The argument for a $1 coin is simple: it saves money. According to estimates of the General Accounting Office and the Federal Reserve, replacing the $1 bill with a coin saves the Government $2.28 billion during the first 5 years it circulates. As we consider plans to balance the budget and eliminate Government waste, I believe that carrying a $1 coin along with $2 bills is a relatively painless option compared to the alternatives of raising taxes or cutting important programs.

A public opinion poll conducted in May 1997 reveals that 58 percent of the American public favors replacing the $1 bill with a coin when informed that such a change would save the Government $456 million annually.

I want to stress that the Efficiency Currency Act of 1997 does not call for a phase out of the $1 bill until 1 billion $1 coins authorized under this legislation are in circulation. If the public rejects the new coin, the phase-out will not occur.

Unless this legislation is approved in the near future, the U.S. Mint will begin the process of minting more of the unpopular Susan B. Anthony coins by 1999. The supply of Anthony coins in Government inventories fell by a total of 137 million coins in 1995 and 1996. Only 146 million remains as of May 30. The inventory has been falling at the rate of about 5 million per month, because Anthony dollars are used at hundreds of vending locations, by more than a dozen major transit systems, and by the U.S. Postal Service. Contrary to reports by opponents of the dollar coin, the U.S. Postal Service has no plans to discontinue the use of the Anthony dollar in their self-service operations. The timeframe for a decision by Congress is short, because the U.S. Mint has stated that it needs 30 months to design and fabricate a new $1 coin.

I think one of the most compelling reasons to replace a $1 bill with a $1 coin is the cost savings. First, the Treasury Department will save money. A $1 coin lasts about 30 years while costing about 8 cents. A $1 bill is significantly more expensive, as it lasts only 1 year and 1 month at a cost of 4 cents per bill.

Second, the private sector will save money. A $1 coin is easier to process than a $1 bill. Paper money received on buses must be hand-straightened at a cost of over $20 per 1,000, or about 2 cents for each dollar. Coins can be processed for less than one-tenth of the cost. The change to a $1 coin is estimated to save the mass transit industry $124 million annually.

Furthermore, vending operators could avoid placing dollar bill acceptors, which cost between $300 and $400 each, on each vending machine. The additional cost of these machines eventually must be passed on to customers. In addition, bill acceptors frequently do not work and are more expensive to maintain than coin mechanisms.

Another benefit is that many consumers will actually have less, not more, change in their pocket. Instead of having to use 4, 8, or 12 quarters to pay for mass transit, parking meters, phone calls, and car washes, they will use dollar coins weighing a fraction the weight of many quarters.

The visually impaired support the introduction of a $1 coin because the $1 bill can be confused with bills of higher denominations. A useable $2 coin will permit them to complete small transactions without ever having to use paper money.

This legislation is called the Efficiency Currency Act because passage would bring efficiencies to the private sector as well as to Government. This commonsense approach to modernizing our currency is not an original idea. In fact, the United States is the only major industrialized country that does not have high denomination coins.

Mr. President, I ask unanimous consent that both a copy of the Efficient Currency Act of 1997 and a summary of its contents be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Efficient Currency Act of 1997".

SEC. 2. ONE DOLLAR COINS.

(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the first sentence, by striking "dollar,"; and

(2) by inserting after the fourth sentence, the following: "The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernible, be minted and fabricated in the United States, and have similar metallic, anticounterfeiting properties as United States clad coinage in circulation on the date of enactment of the Efficient Currency Act of 1997.".

(b) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended—

(1) in the third sentence, by striking "the dollar, half dollar," and inserting "half dollar"; and

(2) by striking "The eagle" and all that follows through "Anthony." and inserting the following: "The Secretary of the Treasury, in consultation with Congress, shall select appropriate designs for the reverse and obverse sides of the dollar coin.".

(c) EFFECTIVE DATE.—Before the date on which the Government inventory of Susan B. Anthony $1 coins is depleted, the Secretary of the Treasury shall place into circulation $1 coins authorized under section 5112(a)(1) of title 31, United States Code, that comply with the requirements of subsections (b) and (d)(1) of that section 5112 (as amended by this section). The Secretary may include such coins in any numismatic set produced by the United States Mint before the date on which the coins are placed in circulation.

(d) INCREASE CAPACITY.—The Secretary of the Treasury shall increase capacity at United States Mint facilities to a level that would permit the replacement of $1 Federal Reserve notes with $1 coins minted in accordance with section 5112 of title 31, United States Code, as amended by this Act.

SEC. 3. CEASING ISSUANCE OF ONE DOLLAR NOTES.

(a) IN GENERAL.—Federal Reserve banks may continue to place into circulation $1 Federal Reserve notes in accordance with section 5115 of title 31, United States Code, until Susan B. Anthony coins and coins minted in accordance with this Act and the amendments made by this Act total 1,000,000,000 coins in circulation, at which time no Federal Reserve bank may order or place into circulation any $1 Federal Reserve note.

(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary of the Treasury shall produce only such number of $1 Federal Reserve notes as the Board of Governors of the Federal Reserve System orders from time to time to meet the needs of collectors of that denomination. Such notes shall be issued by 1 or more Federal Reserve banks in accordance with section 16 of the Federal Reserve Act and sold by the Secretary, in whole or in part, under procedures prescribed by the Secretary.

SEC. 4. REGULATORY AUTHORITY.

The Secretary of the Treasury shall issue appropriate rules and regulations to carry out this Act and the amendments made by this Act.

SUMMARY OF THE EFFICIENT CURRENCY ACT OF 1997

New and Unique Coin: Section 2(a) of the bill authorizes production of a new dollar coin that (1) is golden in color, (2) has a distinctive edge, (3) has tactile and visual features that make the denomination of the coin readily discernible, and (4) has similar metallic anti-counterfeiting properties of U.S. clad coinage. This will make the dollar coin easily distinguishable from a quarter.

Images on the Coin: Section 2(b) authorizes the Treasury Department to select new designs, in consultation with Congress, for the obverse and reverse sides of the dollar coin.

Timetable for Circulation: It is expected that the mint will have to issue new Susan B. Anthony coins by September 1999. Section 2(c) of the bill requires that the Treasury Department must replace the Susan B. Anthony dollar coin with a new (and more usable) dollar coin before the mint's inventory of Susan B. Anthony coins are depleted.

Termination of $1 Bill: The Efficient Currency Act effectively lets the public decide whether the Treasury Department should retain or terminate the dollar bill. Section 3(a) states that if the use of the new dollar coins dramatically increases so that there are at least one billion coins in circulation, then the dollar bill shall be terminated.

By Mr. DOMENICI:

S. 1039. A bill to designate a commercial zone within which the transportation of certain passengers or property in commerce is exempt from certain provisions of chapter 135, of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

THE NEW MEXICO COMMERCIAL ZONE ACT

Mr. DOMENICI. Mr. President, today I rise to introduce the New Mexico Commercial Zone Act of 1997. This legislation will establish a much needed zone in New Mexico to facilitate the trade and transportation of raw materials and merchandise across our border with Mexico.

Mr. President, now that America is witnessing the economic benefits of the North American Free Trade Agreement [NAFTA] and trade with Mexico is growing at a record pace, it has become clear to New Mexico that we must establish a commercial zone to take full advantage of the economic possibilities available to border States.

Mr. President, this legislation has the support of New Mexico's Governor, Gary Johnson, the State Economic Development Department, the New Mexico Border Authority, the United States-Mexico Chamber of Commerce, the New Mexico food processing industry, the New Mexico Motor Carriers Association, and the Cities of Las Cruces and Deming.

In the past, commercial zones were created by the Interstate Commerce Commission in numerous States to facilitate local border trade and transportation activities. They also serve to control movement and uphold American vehicle safety requirements for foreign vehicles operating within the United States.

It is within the limits of these zones that commercial vehicles of either Mexican or Canadian registry are authorized to deliver products from their country to a United States distribution point or warehousing facility. In addition to permitting these vehicles to pick up loads of products which are destined for export into their respective countries.

Mr. President, commercial zones similar to the one I propose today have been established in the States of: New York, South Carolina, West Virginia, Louisiana, Pennsylvania, Washington, Illinois, Colorado, Kentucky, Minnesota, California, Texas, Arizona, and the District of Columbia.

Since the passage of NAFTA, these zones have been very important to border States because they are serving as the transition boundaries for all Mexican commercial traffic.

Mr. President, it is clear that if we do not establish a commercial zone in New Mexico, my State will remain at a tremendous disadvantage to other border States. We will continue to be one step behind in attracting NAFTA-related businesses and building upon our current trade relationship with Mexico.

Despite the fact that New Mexico does not yet have a commercial zone, we are taking steps to increase trade with our neighbors. We have began to put the necessary border infrastructure in place and are laying the foundation for a winning partnership with Mexico.

We have moved to develop a state-of-the-art Port of Entry at Santa Teresa which will facilitate efficient border crossings and will soon begin construction on a intermodal transportation center. This center will help expedite international cargo transfers not only for New Mexico, but for the rest of the country once its construction has been completed.

Since the passage of NAFTA, New Mexico has witnessed its exports to Mexico increase by over 1,000 percent—a percentage which represents one of the largest explosions in exports by any State in the Nation.

Unfortunately, New Mexico still lags behind 35 other States in the amount of exports being sent to Mexico. It is becoming increasingly clear to the people of New Mexico that one component is still missing. The establishment of a New Mexico commercial zone.

Mr. President, this dilemma will not be more apparent than late this summer when the Mexican chili crops are ready for harvest. Because without a commercial zone, these farmers will not be able to process their chili crops in the many food processors located in southern New Mexico.

For a Mexican farmer to sell chili to our food processors, that farmer must transport the chili crop to the border station, unload the cargo, and then reload it onto an American carrier to travel the remaining 30 miles to the processing plant.

Mr. President, this is clearly not an economic incentive for conducting business with New Mexico food processors.

Mr. President, we passed NAFTA to begin creating new jobs and business opportunities for American businesses.

Unfortunately, what we are seeing in New Mexico, is one of the first opportunities for new business, just slip through our finger tips—because we do not have a commercial zone.

Mr. President, this issue will not only affect the owners of these processors, but also the 3,000 New Mexicans who work at these plants and rely on that income to survive.

The apprehension among these workers is growing everyday because if Congress does not resolve this issue, there will not be enough work to go around this summer in southern New Mexico.

Mr. President, I believe that by establishing this commercial zone we will not only be helping New Mexico but also the American consumer. Because as trade with Mexico continues to increase, so will the demand for more efficient border crossings. And if you have ever traveled to any of the busier border crossings, you would quickly notice the long lines of commercial trucks sitting idle and waiting for hours to cross into the United States.

By establishing this commercial zone in New Mexico, we can help alleviate some of this traffic and make the process more efficient.

Mr. President, this is the economic reality we are facing in New Mexico unless this legislation is passed. I believe New Mexico has laid the foundation for developing a winning trade partnership with Mexico.

Simply put, this legislation puts New Mexico on a level playing field with other border States so that we can continue our efforts to make a brighter future for New Mexico residents.

In closing, I have three letters supporting this legislation, and I would ask unanimous consent to submit for the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

M.A. & SONS,
CHILE PRODUCTS,
Derry, NM, June 9, 1997.

Senator PETE DOMENICI,
Building D, Suite 1,
Las Cruces, NM.

DEAR SENATOR DOMENICI: We are writing to thank you for your leadership in working to resolve the D.O.T. enforcement of the "Commercial Zone" at the Port of Columbus, New Mexico. Your sponsorship of legislation to address this problem is very much appreciated and will ensure that the Port of Columbus will remain a viable Port of Entry for New Mexico.

We, as importers of red chile from Mexico for processing, need the Port of Columbus "Commercial Zone" to be expanded as your legislation is proposing in order to remain competitive and continue to employ people in the State of New Mexico at our chile processing plant. We have found the Port of Entry at Columbus to be efficient and able to provide the service that we need. We want to continue to use this Port instead of other Ports of Entry that are located further away from the origin of the chile in Mexico. Using other Ports of Entry would add time and money to the product and this can be avoided by using the Port of Columbus.

Thank you again for your leadership in this issue that is important to us and the State of New Mexico. If you need any additional information please feel free to contact me.

Sincerely,

MARY ALICE GARAY,
Owner.

STATE OF NEW MEXICO,
ECONOMIC DEVELOPMENT DEPARTMENT,
Santa Fe, NM, June 18, 1997.

Senator PETE V. DOMENICI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR: The New Mexico Economic Development Department and the New Mexico Border Authority wish to express their support for a Southern New Mexico Border Commercial Zone.

The establishment of a commercial zone to cover portions of two counties (Dona Ana and Luna) will encourage warehouses and manufacturing plants in New Mexico's border areas. The historical means of establishing Commercial Zones has been to use a population formula which does not work for sparsely populated Southern New Mexico. New Mexico is poised for industrial and commercial growth in the border area, and needs a Commercial Zone to avoid being at a competitive disadvantage with other border states. Of particular and immediate interest is the use of a Commercial Zone for produce from Mexico moving to food processing plants in New Mexico.

We strongly applaud your efforts to establish a New Mexico Commecial Zone.

Sincerely,

GARY D. BRATCHER,
Cabinet Secretary.

UNITED STATES-MEXICO CHAMBER OF
COMMERCE, CAMARA DE COMERCIO
MEXICO-ESTADOS UNIDOS,
Washington, DC, July 9, 1997.

Hon. PETE DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: The United States-Mexico Chamber of Commerce is happy to hear of your sponsorship of the New Mexico Commercial Zone Act of 1997. The legislation will certainly benefit the economic development of your state while supporting jobs on both sides of the border. Regional prosperity is crucial to an economically and environmentally stable border region.

Until NAFTA's cross-border trucking provisions take effect, the extension of commercial zones at the state level is both commercially and politically viable. In the case of New Mexico, it is especially crucial because it does not have the same "twin city" arrangements as other border states and, therefore, cannot take advantage of existing commercial zones. Economic development and jobs in Las Cruces and Deming are left vulnerable to transportation inefficiency.

As NAFTA continues to benefit its three signatory nations, it would be unfortunate to keep regions, states or cities from enjoying its full benefits. Current trucking provisions amount to non-tariff barriers. The Chamber supports removal of those barriers and we support your initiative.

Sincerely,

ALBERT C. ZAPANTA,
President.

By Mr. SHELBY (for himself, Mr. CRAIG, and Mr. HELMS):

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

THE FREEDOM AND FAIRNESS RESTORATION ACT OF 1997

Mr. SHELBY. Mr. President, although the tax reconciliation bill promises to cut taxes by approximately $76 billion over 5 years and $238 billion over 10 years, it should be viewed as only a small step forward in providing tax relief to the American people.

I remind my colleagues this afternoon that we must not forsake our broader agenda to seek comprehensive reform of our tax system. Piecemeal tax cuts are not, and I want to say it again, are not a substitute for broad-based tax reform. Therefore, I rise today to offer the Freedom and Fairness Restoration Act which will scrap the entire Income Tax Code as we know it and replace it with a system that taxes all income once and only once at one low, flat rate of 17 percent.

A flat tax, I believe, will correct the vast and pervasive problems of the current system. As illustrated before here, the complexity of Federal tax laws costs taxpayers approximately 5.3 billion hours to comply with the current Internal Revenue Code. The Tax Code is so complicated that even the IRS doesn't understand it.

In 1993, the IRS gave 8.5 million wrong answers to taxpayers seeking assistance, and the IRS sent out 5 million correction notices which turned out to be wrong.

In 1996, this past year, taxpayers spent a staggering $225 billion trying to comply with the Tax Code. Think about it—$225 billion in America spent by the taxpayers trying to comply with the Tax Code. This is a deadweight loss to the economy that is, as the Presiding Officer knows as a member of the Armed Services Committee, about equal to our national defense budget.

We live in a society that accepts the notion that some level of taxation is necessary to finance the cost of Government, but it is important that it does no more harm than is necessary to achieve the stated goal. The current Tax Code is the product of a 40-year experiment with social engineering that has hampered the effort of the American people to be free, bear the fruit of their labor and ultimately live the American dream.

Recently, the bipartisan national commission on restructuring the IRS came out with a report laying out their vision for a new and improved IRS. One of the key recommendations of this commission that was made was that simplification of the tax law is necessary to reduce taxpayer burden and to facilitate improved tax administration.

We need to address significant tax policy changes that will not only provide taxpayers with relief, but will simplify and equalize the tax collection in this country. Taxation is bad enough without administering that tax through the inefficient, inequitable, and oppressive tax system that we have today.

Rather than wading through stacks of complicated IRS forms and instruction manuals, under a flat tax taxpayers would file a simple, postcard-size return. When fully phased in, the family allowance would be $11,600 for a single person, $23,200 for a married couple filing jointly and $5,300 for each dependent child.

These allowances will be indexed to inflation under our bill. For a family of four, this will mean that their first $33,800 of income would be exempt from taxation by the Federal Government, which will assure a progressive average rate for low-income households.

The flat tax, I believe, will restore fairness to tax laws by treating everyone alike, regardless of what business they are in, whether or not they have a lobbyist in Washington or how much money they make. If you earn more, under the flat rate tax, you would pay more. Under the current system, one taxpayer may pay little or no taxes because they have paid an accountant or tax attorney to figure out the Tax Code for them. At the same time, another person with the same exact income but who does not have the professional assistance may pay much more in taxes. I say that is not fair.

Under a flat tax, this would end. People would not have to hire an accountant or tax attorney simply to comply with the law. Everyone would fill out the same simple, postcard-size return. Everyone will be taxed at the same rate. And, yes, everyone will pay their fair share.

Furthermore, the flat tax will eliminate the double taxation of savings and promote jobs and higher wages in this country. Because the flat tax applies a single low rate to all Americans, I feel it is the best replacement of the current system. I do not think that Americans should have to jump through hoops just to keep the money they have earned through their hard work. The current Tax Code basically says you can keep your money only if you do what we think you should do. This is not freedom; it is serfdom. The flat tax does away with Government micromanagement of people's personal lives and allows them to spend their hard-earned money as they see fit.

But perhaps the most important virtue of the flat tax is that it supports the basic value of work, savings, and individual liberty. It has been a commitment to these principles that has made America the most successful economy in the world. In recent years, we have watched as the private sector has streamlined itself. I think it is now time for us to streamline the Tax Code.

By Mr. KERRY:

S. 1041. A bill to amend section 5314 of title 49, United States Code, to assist compliance with the transit provisions of the Americans with Disabilities Act of 1990; to the Committee on Banking, Housing, and Urban Affairs.

THE ACCESSIBLE TRANSPORTATION ACTION ACT OF 1997

Mr. KERRY. Mr. President, today I am introducing the Accessible Transportation Act of 1997. This legislation will continue the progress we have made improving access to transportation services for individuals with disabilities.

There are 25 million Americans with disabilities who are transit dependent. Access to transportation for these Americans is the critical factor that determines whether they can pursue opportunities in employment, education, housing, and recreation. I believe that assuring access to transportation is critical to promoting maximum independence and achieving meaningful integration for persons with disabilities.

In 1987, Congress created Project Action to promote transportation accessibility and to enhance cooperation between transit providers and the disability community.

In 1990, Congress passed the Americans With Disabilities Act [ADA] to ensure that every American has access to transportation, buildings and other necessary locations, services, and activities which are essential to lead an active life. The ADA guarantees equality of accessibility for all Americans regardless of the challenges that their disabilities present.

In order to facilitate the implementation of the transportation provisions included in ADA, I sponsored the Accessible Transportation Action Act of 1991 which was included in the Intermodal Surface Transportation Efficiency Act of 1991. This legislation authorized funding of $2 million each year for the Easter Seals Society to undertake a national program of research, demonstrations, and technical assistance to provide new solutions to the problems of providing transportation for persons with disabilities. Project Action has become the Nation's foremost resource for information and guidance on implementing the transportation provisions of ADA.

The National Easter Seals Society has administered Project Action and has assisted in building strong working relationships between transit operators, disability organizations, and the U.S. Department of Transportation in order to find cost-effective ways to promote transportation accessibility.

Project Action has developed an impressive resource center of informational materials for a wide variety of transit and disability community audiences on the nature and progress of ADA implementation. It has initiated consumer campaigns to insure that people with disabilities are aware of their rights.

The positive effects that have developed from Project Action activities have been impressive. Nationwide bus fleet accessibility has grown. Rail station access has increased. Paratransit services have improved and expanded. And the disability and transit communities have learned how to work together to promote accessible transportation.

However, there are a number of challenges which remain in order to assure that the disabled have full access to transportation services. The chief concern is how to insure the implementation of ADA in the most cost-effective manner. Paratransit costs are high and resources are limited. At the same time, overall Federal assistance for transportation and mass transit has been limited. America needs Project Action to continue to find innovative ways to allow every disabled person to gain equal access to our Nation's public transportation systems.

Therefore, I am today introducing legislation which will continue the Project Action for the next 5 fiscal years to continue the vital process of implementing the transportation facets of the Americans with Disabilities Act.

By Mr. CRAIG (for himself, Mr. GRAHAM and Mr. JOHNSON):

S. 1042. A bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

THE IMPORTED PRODUCE LABELING ACT

Mr. CRAIG. Mr. President, I rise today with my colleague, Senator GRAHAM, to introduce the Imported Produce Labeling Act of 1997.

For the past 67 years, since Congress passed the Tariff Act of 1930, almost everything imported from abroad has been labeled as to its country of origin. Guidelines now exist for products of virtually every kind—from clothing and toys to prepared food. Pick up almost anything in your local supermarket or department store and you're likely to see its country of origin clearly displayed.

This is sound trade policy, which has served our Nation well. It is now time, Mr. President, to extend these same labeling requirements to imported produce.

Currently, containers carrying imported produce from abroad are required, by the same Tariff Act of 1930, to be labeled as to where that produce was grown and packed. This information makes it possible for American importers, shippers, and retailers to know the produce's country of origin. However, that information is never revealed to the consumer.

What this legislation would require, Mr. President, is for this important information, already in the hands of our retailers and shippers, be passed on to those who ultimately purchase and consume the imported produce. We're asking, quite simply, for retailers to let the American consumer know what they're eating and where it was produced.

The United States imports approximately 1.7 billion dollars' worth of fruit and vegetables every year. Almost all of this produce is purchased and consumed by unsuspecting shoppers who have no idea where, or under what conditions, it was grown.

While some might claim these new labeling requirements are unfair or burdensome, these claims are simply not true, and aim to distract the real issue: the consumer's right to know.

I would point out to these critics, Mr. President, that most of our international trading partners already require such labeling. While I won't take the time to read the names of all these nations now, I would like to draw your attention to two of those with the strictest labeling requirements, Canada and Mexico—our two closest trading partners.

Mr. President, I ask unanimous consent that a list of countries which currently require country of origin labeling for produce to be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRODUCE LABELING REQUIREMENTS ABROAD

(From the National Food and Agriculture Policy Project/Arizona State University)

Countries which require country of origin labeling on all produce, including bulk produce: Bulgaria, Canada, Costa Rica, Egypt, Germany, Greece, India, Ireland, Malaysia, Mexico, Romania, Spain, Tunisia, and the United Kingdom.

Countries which require country of origin labeling only on prepackaged products: Austria, Brazil, Ecuador, Hong Kong, Israel, Iraq, Portugal, South Africa, Switzerland, and Venezuela.

Countries where country of origin labeling is an industry practice, though not required: Denmark, Finland, Italy, Japan, New Zealand, Singapore, and Sweden.

Mr. CRAIG. Mr. President, it is about time we start giving American consumers the same information granted in these other nations.

Likewise, this legislation is not overly burdensome. The bill provides for a wide variety of labeling options, any number of which might be easily employed by American retailers to display information they already know.

Mr. President, I ask my colleagues to consider this legislation seriously. It is time to close the gap of knowledge that currently exists relative to where imported produce is grown. American consumers have the right to know where their food came from and, given the opportunity, will use that information to protect and provide for their families.

Mr. GRAHAM. Mr. President, I rise today to introduce legislation that will both support our national agricultural industries and bolster the abilities of American consumers to make educated choices about the fruits and vegetables that they purchase for their families: the Imported Produce Labeling Act of 1997.

This important legislation extends our current country-of-origin labeling laws—enacted as part of the Tariff Act of 1930—to require country-of-origin labeling of imported produce at the final point of sale, which for most Americans is the grocery store. It would bolster food safety, give consumers more information, and allow American growers to achieve some benefit from the heavy investment they make in complying with health, labor, and environmental laws.

Mr. President, country-of-origin labeling is not a new idea. For decades, European nations, Japan, and Canada have informed consumers about the origins of the produce available for purchase.

One need only to walk through a supermarket in Paris to notice the international nature of the produce sold. Shoppers can purchase apples from the United States, tomatoes from Holland, grapes from Spain, pears from France, peaches from Italy, and oranges from Israel.

Our American supermarkets also carry agricultural products from a wide range of exporting nations. Why, then, do our consumers lack the advantage that their French, Japanese, and Canadian counterparts enjoy: the ability to make informed choices about the food they feed to their families?

It doesn't have to be that way. For 18 years, Florida grocery store customers have enjoyed the benefits of a law very similar to what I am proposing today.

In 1979, during my first term as Governor, the Florida State Legislature enacted the Produce Labeling Act, a law that is now administered by the Florida Department of Agriculture and Consumer Services.

The law has been implemented with almost no additional regulation and at extremely small cost to Florida taxpayers.

Extra supermarket inspections are not required. Department of Agriculture inspectors verify compliance with the law as a part of their already planned, routine inspections of all retail food stores in the State.

Florida's policy also expends limited time and money. A standard inspection takes approximately 15 minutes, the time needed to review displays and document discrepancies. And enforcement costs are estimated to be less than $40,000 annually for the department's inspection of over 23,000 retail food establishments.

While costs are low, the benefits that Floridians have enjoyed as a result of this policy are significant.

Most importantly, consumers are armed with important information about the products upon which they spend their hard-earned paycheck. Here's what that means:

The "Made In The USA" label can draw more customers to domestic produce, thus supporting American farmers and the U.S. economy as a whole.

Consumers have the ability to seek out foreign produce that is known for its high quality.

Shoppers have the information needed to boycott products from countries that exploit workers with low pay, poor working conditions, or child labor.

American families can protect their own health from products subjected to unsafe or unsanitary produce-handling practices.

The Florida Department of Agriculture reports that the State's labeling law has been both well-received and cost-effective. It costs a store only $5 to $10 per week to implement, and the estimated industry compliance costs statewide are less than $200,000 annually.

In plain terms, this means that for less than $200,000, consumers in a State that has 14 million residents and each year welcomes over 30 million visitors have the basic information regarding the origins of the produce on their supermarket shelves. That's a small price to pay for the ability to make educated choices in the marketplace.

It is my goal—and that of my cosponsors, Senator CRAIG of Idaho and Senator JOHNSON of South Dakota—to ensure that all American consumers are armed with the same ability to make informed choices as their counterparts in Florida, Europe, and Japan.

We are introducing this legislation because the changing nature of the agriculture market demands changes in our Nation's trade policy.

Sixty-seven years ago, when the Tariff Act of 1930 was enacted, fresh fruits and vegetables were exempt from labeling laws.

The Tariff Act dictates that items are required to be labeled with their country of origin only on their outermost container. In the case of fresh fruit and vegetables, the outermost container is the shipping container, from which produce is removed long before it ever reaches the consumer.

Obviously, the consumer market has changed dramatically since 1930. Whereas imported produce was once almost nonexistent in the United States, it now constitutes a $1.7 billion industry. In fact, 60 percent of our winter fruits and vegetables come from Mexico alone.

As imports have become a fixture in the domestic marketplace, our growers and their associations have argued for country of origin labeling. But this is an issue that unites producers and consumers. Research has shown that an overwhelming number of American consumers would like to know where their produce is grown—and they want that information made readily available.

Our bill is not cumbersome. It simply says that a retailer of a perishable agricultural product imported into the United States shall inform consumers as to the national origins of that product.

Nor is it designed to give American products an unfair advantage in the marketplace. In fact, foreign growers who believe that they grow a superior product to ours see this legislation as a prime opportunity to sell more of their goods in American supermarkets.

And finally, this bill does not suppress free trade or the free market system. It simply seeks to level the regulatory playing field. Shoppers in the European Union and Canada benefit from a county-of-origin labeling requirement. American consumers should have access to the same kind of information.

The Imported Produce Labeling Act constitutes one of the most important agriculture trade initiatives that will come before us during this Congress. It is a vital part of efforts to bolster one of the most critical elements of our free-enterprise system: informed choice. I urge its speedy passage.

By Mr. LEAHY (for himself and Mr. KYL):

S. 1044. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes; to the Committee on the Judiciary.

THE CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1997

Mr. LEAHY. Mr. President, I am pleased to introduce on behalf of Senator KYL and myself, the Criminal Copyright Improvement Act of 1997. This bill would close a significant loophole in our copyright law and remove a significant hurdle in the Government's ability to bring criminal charges in certain cases of willful copyright infringement. By insuring better protection of the creative works available online, this bill will also encourage the continued growth of the Internet and our national information infrastructure.

This bill reflects the recommendations and hard work of the Department of Justice, which worked with me to introduce a version of this legislation in the 104th Congress. I want to commend the Department for recognizing the need for action on this important problem. This bill was noted with approval in the September, 1995 "Report of the Working Group on Intellectual Property Rights," chaired by Bruce Lehman, Commissioner of Patents and Trademarks, and has been cited by the Business Software Alliance as one of its major legislative priorities.

For a criminal prosecution under current copyright law a defendant's willful copyright infringement must be "for purposes of commercial advantage or private financial gain." Not-for-profit or noncommercial copyright infringement is not subject to criminal law enforcement, no matter how egregious the infringement or how great the loss to the copyright holder. This presents an enormous loophole in criminal liability for willful infringers who can use digital technology to make exact copies of copyrighted software and other digitally encoded works, and then use computer networks for quick, inexpensive and mass distribution of pirated, infringing works. This bill would close this loophole.

United States v. *LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994), is an example of the problem this criminal copyright bill would fix. In that case, an MIT student set up computer bulletin board systems on the Internet. Users posted and downloaded copyrighted software programs. This resulted in an estimated loss to the copyright holders of over $1 million over a 6-week period. Since the student apparently did not profit from the software piracy, the Government could not prosecute him under criminal copyright law and instead charged him with wire fraud. The district court described the student's conduct "at best * * * as irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values."

Nevertheless, the Court dismissed the indictment in LaMacchia because it viewed copyright law as the exclusive remedy for protecting intellectual property rights. The Court expressly invited Congress to revisit the copyright law and make any necessary adjustments, stating:

> Criminal as well as civil penalties should probably attach to willful, multiple infringements of copyrighted software even absent a commercial motive on the part of the infringer. One can envision ways that the copyright law could be modified to permit such prosecution. But, "[i]t is the legislature, not the Court which is to define a crime, and ordain its punishment."

This bill would ensure redress in the future for flagrant, willful copyright infringements in the following ways: First, serious acts of willful copyright infringement that result in multiple copies over a limited time period and cause significant loss to the copyright holders, would be subject to criminal prosecution.

The bill would add a new offense prohibiting willful copyright infringement by reproduction or distributing, including by electronic means, during a 180-day period of 10 or more copies of 1 or more copyrighted works when the total retail value of the copyrighted work or the total retail value of the copies of such work is $5,000 or more. The bill makes clear that to meet the monetary threshold either the infringing copies or the copyrighted works must have a total retail value of $5,000 or more. The penalty would be a misdemeanor if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and up to 3 years' imprisonment if the total retail value is $10,000 or more.

By contrast, the penalties proposed for for-profit infringement are much stiffer. Specifically, under the existing 17 U.S.C. section 506(a)(1), for-profit infringements in which the retail value of the infringing works is less than $2,500, would constitute a misdemeanor; and, if the retail value of the infringing works is $2,500 or more, the penalty is up to 5 years' imprisonment. As discussed below, this bill would change the monetary threshold amount for felony liability under section 506(a)(1) from $2,500 to $5,000.

The monetary, time period and number of copies thresholds for the new offense, under 17 U.S.C. section 506(a)(2), for not-for-profit infringements, combined with the scienter requirement, would insure that criminal charges would only apply to willful infringements, not merely casual or careless conduct, that result in a significant level of harm to the copyright holder's rights. De minimis, not-for-profit violations, including making a single pirated copy or distributing pirated copies of works worth less than a total of $5,000, would not be subject to criminal prosecution.

This bill would require that at least 10 or more copies of the infringed work be made, which is a quantity requirement that was not present for the new not-for-profit infringement offense in the version of the bill introduced in the 104th Congress. Thus, it would not be a crime under the bill to make a single copy of a copyrighted work, even if that work were very valuable and worth over $10,000. Such valuable intellectual property, whether or not copyrighted, that is stolen could be protected under the Economic Espionage Act of 1996, if it is a trade secret, or under the National Information Infrastructure Protection Act of 1996, which Senator Kyl and I sponsored, if the means used to complete the theft involved unauthorized computer access.

Second, the bill would increase the monetary threshold for the existing criminal copyright offense, which makes it a misdemeanor to commit any willful infringement for commercial advantage or private financial gain, and a felony if 10 or more copies of works with a retail value of over $2,500 are made during a 180-day period. The bill would increase the monetary threshold in this offense from $2,500 to $5,000 for felony liability.

Third, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony criminal copyright offense. Under existing law, repeat offenders who commit a second or subsequent offense of copyright infringement for commercial advantage or private financial gain are subject to imprisonment for up to 10 years. The bill would also double the term of imprisonment from 3 years to 6 years for a repeat offense for noncommercial copyright infringement. Such a calibration of penalties takes an important step in ensuring adequate deterrence of repeated willful copyright infringements.

Fourth, the bill would extend the statute of limitations for criminal copyright infringement actions from 3 to 5 years, which is the norm for violations of criminal laws under title 18, including those protecting intellectual property.

Finally, the bill would strengthen victims' rights by giving victimized copyright holders the opportunity to provide a victim impact statement to the sentencing court. In addition, the bill would direct the Sentencing Commission to set sufficiently stringent sentencing guideline ranges for defendants convicted of intellectual property offenses to deter these crimes.

Technological developments and the emergence of the national information infrastructure in this country and the global information infrastructure worldwide hold enormous promise and present significant challenges for protecting creative works. Increasing accessibility and affordability of information and entertainment services are important goals that oftentimes require prudent balancing of public and private interests. In the area of creative rights, that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public availability.

The Copyright Act is grounded in the copyright clause of the Constitution and assures that "contributors to the store of knowledge [receive] a fair return for their labors." Harper & Row "The Nation Enterprises", 471 U.S. 539, 546 (1985). I am mindful, however, that when we exercise our power to make criminal certain forms of copyright infringement, we should act with "exceeding caution" to protect the public's first amendment interest in the dissemination of ideas. *Dowling* v. *United States*, 473 U.S. 207, 221 (1985). I look forward to continuing to work with interested parties to make any necessary refinements to this bill to insure that we have struck the appropriate balance.

I ask unanimous consent that my full statement be placed in the Record together with the bill and a sectional summary.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 1044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Copyright Improvement Act of 1997".

SEC. 2. CRIMINAL INFRINGEMENT OF COPYRIGHTS.

(a) Definition of Financial Gain.—Section 101 of title 17, United States Code, is amended by inserting after the undesignated paragraph relating to the term "display", the following new paragraph:

"The term 'financial gain' includes receipt of anything of value, including the receipt of other copyrighted works.".

(b) Criminal Offenses.—Section 506(a) of title 17, United States Code, is amended to read as follows:

"(a) Criminal Infringement.—Any person who infringes a copyright willfully either—

"(1) for purposes of commercial advantage or private financial gain; or

"(2) by the reproduction or distribution, including by electronic means, during any 180-day period, of 10 or more copies, of 1 or more copyrighted works, and the total retail value of the copyrighted work or the total retail value of the copies of such work is $5,000 or more,

shall be punished as provided under section 2319 of title 18.".

(c) Limitation on Criminal Proceedings.—Section 507(a) of title 17, United States Code, is amended by striking "three" and inserting "five".

(d) Criminal Infringement of a Copyright.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "subsection (a) of this section" and inserting "section 506(a)(1) of title 17";

(B) in paragraph (1)—

(i) by inserting "including by electronic means," after "if the offense consists of the reproduction or distribution,"; and

(ii) by striking "with a retail value of more than $2,500" and inserting "which have a total retail value of more than $5,000"; and

(C) in paragraph (3) by inserting before the semicolon "under this subsection"; and

(2) by redesignating subsection (c) as subsection (e) and inserting after subsection (b) the following:

"(c) Any person who commits an offense under section 506(a)(2) of title 17—

"(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of 10 or more copies of 1 or more copyrighted works, and the total retail value of the copyrighted work or the total retail value of the copies of such work is $10,000 or more;

"(2) shall be imprisoned not more than 1 year or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means during any 180-day period, of 10 or more copies of 1 or more copyrighted works, and the total retail value of the copyrighted works or the total retail value of the copies of such works is $5,000 or more; and

"(3) shall be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent felony offense under paragraph (1).

"(d)(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) Persons permitted to submit victim impact statements shall include—

"(A) producers and sellers of legitimate works affected by conduct involved in the offense;

"(B) holders of intellectual property rights in such works; and

"(C) the legal representatives of such producers, sellers, and holders.".

(e) Unauthorized Fixation and Trafficking of Live Musical Performances.—Section 2319A of title 18, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d) Victim Impact Statement.—(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) Persons permitted to submit victim impact statements shall include—

"(A) producers and sellers of legitimate works affected by conduct involved in the offense;

"(B) holders of intellectual property rights in such works; and

"(C) the legal representatives of such producers, sellers, and holders.".

(f) Trafficking in Counterfeit Goods or Services.—Section 2320 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (f) and transferring such subsection to the end of the section;

(2) by redesignating subsection (e) as subsection (d); and

(3) by inserting after subsection (d) (as redesignated by paragraph (2) of this subsection) the following:

"(e)(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) Persons permitted to submit victim impact statements shall include—

"(A) producers and sellers of legitimate goods or services affected by conduct involved in the offense;

"(B) holders of intellectual property rights in such goods or services; and

"(C) the legal representatives of such producers, sellers, and holders.".

(g) Directive to Sentencing Commission.—

(1) In general.—Under the authority of the Sentencing Reform Act of 1984 (Public Law 98-473; 98 Stat. 1987) and section 21 of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271; 18 U.S.C. 994 note) (including the authority to amend the sentencing guidelines and policy statements), the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime against intellectual property (including offenses set forth at section 506(a) of title 17, United States Code, and sections 2319, 2319A and 2320 of title 18, United States Code)—

(A) is sufficiently stringent to deter such a crime;

(B) adequately reflects the additional considerations set forth in paragraph (2) of this subsection; and

(C) takes into account more than minimal planning and other aggravating factors.

(2) Implementation.—In implementing paragraph (1), the Sentencing Commission shall ensure that the guidelines provide for consideration of the retail value of the legitimate items that are infringed upon and the quantity of items so infringed.

CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1997—SUMMARY

Sec. 1. Short Title. The Act may be cited as the "Criminal Copyright Improvement Act of 1997."

Sec. 2. Criminal Infringement of Copyrights. As outlined below, the bill adds a new definition for "financial gain" to 17 U.S.C. § 101, and amends the criminal copyright infringement provisions in titles 17 and 18. The bill also ensures that victims of criminal copyright infringement have an opportunity to provide victim impact statements to the court about the impact of the offense. Finally, the bill directs the Sentencing Commission to ensure that guideline ranges are sufficiently stringent to deter criminal infringement of intellectual property rights, and provide for consideration of the retail value and quantity of the legitimate, infringed-upon items and other aggravating factors.

(a) Definition of Financial Gain. Current copyright law provides criminal penalties when a copyright is willfully infringed for purposes of "commercial advantage or private financial gain." The bill would add a definition of "financial gain" to the copyright law, 17 U.S.C. § 101, and clarify that this term means the "receipt of anything of value, including the receipt of other copyrighted works." This definition would make clear that "financial gain" includes bartering for, and the trading of, pirated software.

(b) Criminal Offenses. The requirement in criminal copyright infringement actions under 17 U.S.C. § 506(a) that the defendant's willful copyright infringement be "for purposes of commercial advantage or private financial gain," has allowed serious incidents of copyright infringement to escape successful criminal prosecution.

For example, in *United States* v. *LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994), the defendant allegedly solicited users of a computer bulletin board system on the Internet to submit copies of copyrighted software programs for posting on the system, and then encouraged users to download copies of the illegally copied programs, resulting in an estimated loss of revenue to the copyright holders of over one million dollars over a six week period. Absent evidence of "commercial advantage or private financial gain," the defendant was charged with conspiracy to violate the wire fraud statute, 18 U.S.C. § 1343. The district court described the defendant's conduct as "heedlessly irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values," but nevertheless dismissed the indictment on the grounds that acts of copyright infringement may not be prosecuted under the wire fraud statute.

The bill would add a new criminal copyright violation to close this loophole in circumstances where no commercial advantage or private financial gain may be shown. New section 17 U.S.C. § 506(a)(2) would prohibit willfully infringing a copyright by reproducing or distributing, including by electronic means, during any 180-day period, 10 or more copies of 1 or more copyrighted works when the total retail value of the copyrighted works or of the copies of such works is $5,000 or more. The penalty would be a misdemeanor if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and up to 3 years' imprisonment if the total retail value is $10,000 or more.

Not-for-profit willful infringement would thus be subject to similar threshold requirements as for a felony offense of willful infringement for commercial advantage or private financial gain under 17 U.S.C. § 506(a)(1), which requires that 10 or more copies of copyrighted works with a total retail value of more than $5000 be made during a 180-day period. The penalties applicable to an offense under 17 U.S.C. § 506(a)(1) are more stringent than for the new offense under 17 U.S.C. § 506(a)(2). Specifically, under 17 U.S.C. § 506(a)(1), if the retail value of the infringing works is less than $5,000, the penalty is a misdemeanor; and, if the retail value of the infringing works is $5,000 or more, the penalty is up to 5 years' imprisonment.

The monetary, timing, and number of copies prerequisites for the new offense under 17 U.S.C. § 506(a)(2), combined with the scienter requirement, insure that merely casual or careless conduct resulting in distribution of only a few infringing copies would not be subject to criminal prosecution. In other words, criminal charges would only apply to not-for-profit willful infringements of 10 or more copies during a limited time period resulting in a significant level of harm of over $5,000 to the copyright holder's rights. De minimis violations would not be subject to criminal prosecution.

The offenses under § 506(a)(1) and (a)(2) would overlap. For example, someone selling 10 or more copies of a copyrighted work during a 180-day period may violate both provisions if the value of those copyrighted works is $5,000 or more. The key, however, is that the new provision in § 506(a)(2) requires that the infringement involve, at a minimum, harm in the amount of $5,000. By contrast, any offense, regardless of value, involving private financial gain or commercial advantage constitutes at least a misdemeanor, and the crime reaches felony level under the bill once the retail value of the copyrighted or infringing material exceeds $5,000.

The new crime would also require that at least 10 or more copies of the infringed work be made. It would not be a crime under the bill to make a single copy of a copyrighted work, even if it were very valuable and worth over $10,000. Such valuable intellectual property, whether or not copyrighted, that is stolen could be protected under the Economic Espionage Act of 1996 (if it is a trade secret), or under the National Information Infrastructure Protection Act of 1996, if the means used to complete the theft involved unauthorized computer access.

(c) Limitation on Criminal Procedures. The bill would amend 17 U.S.C. § 507(a) to extend the statute of limitations for criminal copyright infringement actions from three to five years. A five year statute of limitations is the norm for violations of criminal laws under Title 18, including those that relate to protecting intellectual property. See, e.g., 18 U.S.C. § 2319A (Unauthorized fixation of and Trafficking in sound recordings) and § 2320 (Trafficking in counterfeit goods or services).

(d) Criminal Infringement of a Copyright. The bill would amend the penalty provisions in 18 U.S.C. § 2319 to comport with the proposed amendments to 17 U.S.C. § 506(a), and would also add a new subsection providing for a victim impact statement.

First, under current law, willful copyright infringement for commercial advantage or private financial gain is a felony punishable by up to five years' imprisonment only when the offense consists of the reproduction or distribution during a 180-day period of ten or more copies with a retail value of over $2500. Willful infringements for commercial advantage, which do not satisfy the monetary threshold or quantity requirement during the statutory time period, are misdemeanor offenses. The bill would modify the felony penalty provision for willful copyright infringement for commercial advantage or private financial gain to cover reproductions or distributions "including by electronic means". The bill would also change the monetary threshold from $2,500 to $5,000.

Second, the bill would provide a new penalty in 18 U.S.C. § 2319(c) for the new offense in 17 U.S.C. § 506(a)(2) of willfully infringing a copyright by reproduction or distribution, including by electronic means, during a 180-day period of 10 or more copies of copyright works when the total retail value of the copyrighted work or of the copies of such work is $5,000 or more. Violations would be punishable by up to 1 year imprisonment and fine if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and by up to 3 years' imprisonment and a fine if the total retail value is $10,000 or more.

The penalty structure under the bill is as follows:

Infringed work values—	Under $5,000	$5,000 to $10,000	Over $10,000
Willful infringement for commercial advantage/private financial gain [17 U.S.C. § 506(a)(1)].	Misdemeanor	FELONY (up to 5 years), if 10 or more copies within 180-day period.	FELONY (up to 5 years), if 10 or more copies within 180-day period.
Willful infringement by reproduction or distribution of works with value over $10,000 for any reason [17 U.S.C. § 506(a)(2)].	No criminal liability	Misdemeanor, if 10 or more copies within 180-day period	FELONY (up to 3 years), if 10 or more copies within 180-day period.

Third, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony offense under new 18 U.S.C. 2319(c), which refers to new 17 U.S.C. § 506(a)(2). Under existing law, 18 U.S.C. 2319(b)(2), recidivists are subject to up to ten years' imprisonment and a fine for a second felony offense for willful copyright infringement for commercial advantage or private financial gain. The bill would double the penalty to up to six years' imprisonment and a fine for a second felony offense under new 17 U.S.C. § 506(a)(2) for not-for-profit willful copyright infringement.

Finally, the bill would add new subsection § 2319(d), requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(e) Unauthorized Fixation and Trafficking of Live Musical Performances. The bill would add new subsection 18 U.S.C. § 2319A(d) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(f) Trafficking in Counterfeit Goods or Services. The bill would add new subsection 18 U.S.C. § 2320(e) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(g) Directive to Sentencing Commission. The Sentencing Commission currently takes the view that criminal copyright infringement and trademark counterfeiting are analogous to fraud-related offenses, and that appropriate sentences are to be calculated according to the retail value of the infringing items, rather than of the legitimate copyrighted items which are infringed. This may understate the harm. The bill would direct the Sentencing Commission to ensure that applicable guideline ranges for criminal copyright infringement and violations of 18 U.S.C. §§ 2319, 2319A and 2320 are sufficiently stringent to deter such crimes, provide for consideration of the retail value and quantity of the legitimate, infringed-upon items, and take into account more than minimal planning and other aggravating factors.

By Mr. CRAIG (for himself, Mrs. MURRAY, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. WYDEN, and Mr. GORTON):

S.J. Res. 35. A joint resolution granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement; to the Committee on the Judiciary.

THE PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

Mr. CRAIG. Mr. President, I rise today to introduce legislation to grant congressional consent to the Pacific Northwest Emergency Management Arrangement entered into between the States of Alaska, Idaho, Oregon, and Washington and the Provinces of British Columbia and the Yukon Territory.

Mr. President, I am pleased that so many of my colleagues from the Pacific Northwest have joined me in cosponsoring this important legislation.

This agreement, negotiated and signed by the Governors of the four Pacific Northwest States and their colleagues in Canada, would significantly improve multi-State and binational cooperation during the response phase of natural disasters in the Northwest. In addition, it would provide for regionwide civil defense coordination and guarantee residents of each State emergency services. The agreement does this while protecting the individual sovereignty of each State and Province.

Mr. President, given the impact of recent natural disasters across the Pacific Northwest, my colleagues can easily understand why this measure is so important. I hope the Senate will act quickly in seeing this measure approved without delay.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 35

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled.

SECTION 1. CONGRESSIONAL CONSENT.

Congress consents to the Pacific Northwest Emergency Management Arrangement entered into between the State of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory. The arrangement is substantially as follows:

"PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

"Whereas, Pacific Northwest emergency management arrangement between the government of the States of Alaska, the government of the State of Idaho, the government of the State of Oregon, the government of the State of Washington, the government of the State of the Providence of British Columbia, and the government of Yukon Territory hereinafter referred to collectively as the 'Signatories' and separately as a 'Signatory';

"Whereas, the Signatories recognize the importance of comprehensive and coordinated civil emergency preparedness, response and recovery measures for natural and technological emergencies or disasters, and for declared or undeclared hostilities including enemy attack;

"Whereas, the Signatories further recognize the benefits of coordinating their separate emergency preparedness, response and recovery measures with that of contiguous jurisdictions for those emergencies, disasters, or hostilities affecting or potentially affecting any one or more of the Signatories in the Pacific Northwest; and

"Whereas, the Signatories further recognize that regionally based emergency preparedness, response and recovery measures will benefit all jurisdictions within the Pacific Northwest, and best serve their respective national interests in cooperative and coordinated emergency preparedness as facilitated by the Consultative Group on Comprehensive Civil Emergency and Management established in the Agreement Between the government of the United States of America and the government of Canada on Cooperation and Comprehensive Civil Emergency Planning and Management signed at Ottawa, Ontario, Canada on April 28, 1986:

Now, therefore, be it is hereby agreed by and between each and all of the Signatories hereto as follows:

"ADVISORY COMMITTEE

"(1) An advisory committee named the Western Regional Emergency Management Advisory Committee (W-REMAC) shall be established which will include one member appointed by each Signatory.

"(2) The W-REMAC will be guided by the agreed-upon Terms of Reference-Annex A.

"PRINCIPLES OF COOPERATION

"(3) Subject to the laws of each Signatory, the following cooperative principles are to be used as a guide by the Signatories in civil emergency matters which may affect more than one Signatory:

"(A) The authorities of each Signatory may seek the advice, cooperation, or assistance of any other Signatory in any civil emergency matter.

"(B) Nothing in the arrangement shall derogate from the applicable laws within the jurisdiction of any Signatory. However, the authorities of any Signatory may request from the authorities of any other signatory appropriate alleviation of such laws if their normal application might lead to delay or difficulty in the rapid execution of necessary civil emergency measures.

"(C) Each Signatory will use its best efforts to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment or other resources into or across its territory, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating Signatories.

"(D) In times of emergency, each Signatory will use its best efforts to ensure that the citizens or residents of any other Signatory present in its territory are provided emergency health services and emergency social services in a manner no less favorable than that provided to its own citizens.

"(E) Each Signatory will use discretionary power as far as possible to avoid levy of any tax, tariff, business license, or user fees on the services, equipment, and supplies of any other Signatory which is engaged in civil emergency activities in the territory of another Signatory, and will use its best efforts to encourage local governments or other jurisdictions within its territory to do likewise.

"(F) When civil emergency personnel, contracted firms or personnel, vehicles, equipment, or other services from any Signatory are made available to or are employed to assist any other Signatory, all providing Signatories will use best efforts to ensure that charges, levies, or costs for such use or assistance will not exceed those paid for similar use of such resources within their own territory.

"(G) Each Signatory will exchange contact lists, warning and notification plans, and selected emergency plans and will call to the attention of their respective local governments and other jurisdictional authorities in areas adjacent to intersignatory boundaries, the desirability of compatibility of civil emergency plans and the exchange of contact lists, warning and notification plans, and selected emergency plans.

"(H) The authority of any Signatory conducting an exercise will ensure that all other signatories are provided an opportunity to observe, and/or participate in such exercises.

"COMPREHENSIVE NATURE

"(4) This document is a comprehensive arrangement on civil emergency planning and management. To this end and from time to time as necessary, all Signatories shall—

"(A) review and exchange their respective contact lists, warning and notification plans, and selected emergency plans; and

"(B) as appropriate, provide such plans and procedures to local governments, and other emergency agencies within their respective territories.

"ARRANGEMENT NOT EXCLUSIVE

"(5) This is not an exclusive arrangement and shall not prevent or limit other civil emergency arrangements of any nature between Signatories to this arrangement. In the event of any conflicts between the provisions of this arrangement and any other arrangement regarding emergency service entered into by two or more States of the United States who are Signatories to this arrangement, the provisions of that other arrangement shall apply, with respect to the obligations of those States to each other, and not the conflicting provisions of this arrangement.

"AMENDMENTS

"(6) This Arrangement and the Annex may be amended (and additional Annexes may be added) by arrangement of the Signatories.

"CANCELLATION OR SUBSTITUTION

"(7) Any Signatory to this Arrangement may withdraw from or cancel their participation in this Arrangement by giving sixty days, written notice in advance of this effective date to all other Signatories.

"AUTHORITY

"(8) All Signatories to this Arrangement warrant they have the power and capacity to accept, execute, and deliver this Arrangement.

"EFFECTIVE DATE

"(9) Notwithstanding any dates noted elsewhere, this Arrangement shall commence April 1, 1996.".

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this Act is hereby expressly reserved.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. MOYNIHAN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 22, a bill to establish a bipartisan national commission to address the year 2000 computer problem.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 194

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 428

At the request of Mr. KOHL, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 484

At the request of Mr. DEWINE, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Washington [Mrs. MURRAY], the Senator from Wyoming [Mr. ENZI], the Senator from Florida [Mr. MACK], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 484, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 493

At the request of Mr. KYL, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 766

At the request of Ms. SNOWE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 781

At the request of Mr. HATCH, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 781, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 810

At the request of Mr. ABRAHAM, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 810, a bill to impose certain sanctions on the People's Republic of China, and for other purposes.

S. 980

At the request of Mr. DURBIN, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 980, a bill to require the Secretary of the Army to close the

United States Army School of the Americas.

S. 1020

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 1020, a bill to amend the National Foundation on the Arts and Humanities Act of 1965 and the Art and Artifacts Indemnity Act to improve and extend the acts, and for other purposes.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

AMENDMENT NO. 943

At the request of Mrs. HUTCHISON, the names of the Senator from Arizona [Mr. KYL], the Senator from Arizona [Mr. MCCAIN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from California [Mrs. BOXER], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of amendment No. 943 proposed to S. 1023, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that an Executive Session of the Senate Committee on Labor and Human Resources will be held on Wednesday, July 23, 1997, 9:30 a.m., in SD-430 of the Senate Dirksen Building. The following are on the agenda to be considered: S. 1020, Arts and Humanities Amendments of 1997; the National Science Foundation Authorization of 1997; the Workforce Investment Partnership Act; and Presidential nominations. For further information, please call the committee, 202/224-5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, July 24, 1997, 10:00 a.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is Higher Education Act Reauthorization; Title IV. For further information, please call the committee, 202/224-5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources Subcommittee on Public Health and Safety will be held on Thursday, July 24, 1997, 2:00 p.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is National Institutes of Health Reauthorization. For further information, please call the committee, 202/224-5375.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. BOND. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Monday, July 21, 1997, at 2:30 p.m. for a hearing on "The Compliance Review Process and Missile Defense."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO BARON GEORG VON TRAPP

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to an American and Austrian hero, Baron Georg von Trapp, on the 50th anniversary of his death. During his lifetime, Baron von Trapp stood for honor and courage. He held a deep devotion for both his country and his family. Baron von Trapp was remembered on the week-end of July 11, in a celebration at the Trapp Family Lodge in Stowe, VT. I regret that I was unable to attend, however I would like to take this opportunity to remember the significance of his life, made famous by the 1965 movie, "The Sound of Music."

It is a reflection of Baron von Trapp's spirit that he is not only an American legend, but he is also considered a hero in Austria, the homeland that he fled 60 years ago. It is a tribute to his excellence that the 89 members of the 1997 graduating class of the Theresianum Military Academy, the Austrian equivalent to West Point, voted Baron von Trapp their class hero, someone whom they all wished to emulate.

Baron von Trapp was a celebrated military commander. He was honored with two medals for courage in battle, including the Maria Theresian Ritter Medal, Austria's highest, for sinking a French submarine in 1915. He was also influential in the development of submarine warfare and torpedoes. However, his love and devotion for his country never underscored the importance of his family. He made an intense connection with his children through music. Out of this connection came the famous Trapp Family Singers. When the Nazis invaded and were pressuring Baron von Trapp to join Hitler's ranks, he asked his family if they wanted to leave for America, saying that if anyone wanted to stay, they would all stay. Everyone wanted to leave.

Although nothing could replace the love he had for his homeland, Baron von Trapp did grow to love his new home in Vermont. He found new passions in maple sugaring and farming. Because they spent most of the year touring, they rented out rooms in their lodge to skiers, starting what would eventually become a landmark in Vermont, the Trapp Family Lodge.

Once again, I would like to express my admiration for Baron von Trapp and his entire family on the anniversary of his death.•

USDA REORGANIZATION

• Mr. KERREY. Mr. President, I rise today to talk briefly about the recent consolidation of administrative functions at the U.S. Department of Agriculture, recently announced by Secretary Dan Glickman.

In my contact with Secretary Glickman he has said that the changes are being aimed at the national headquarters and State offices, but that there will be no additional field office closings or cut in services as a result of this directive.

Secretary Glickman has also informed me that an outside study is being commissioned to assess the workload of parts of the agency, in light of current and anticipated program activity, and will report on recommendations on the county delivery systems.

The recent administrative convergence by the Secretary is an effort to make the USDA a more efficient and cost-effective agency. No doubt, to streamline the agency and improve efficiency, there is a need to eliminate any duplication of administrative services. However, there is also a need to maintain a vital local field staff with the necessary resources available to them so that they can deliver services to our producers.

As the USDA continues to make adjustments to its operations, I will continue to work with the Secretary and solicit feedback from our local Nebraska offices.

The Freedom to Farm Act of 1996, for better or worse, has brought us into a new era of our farm program. To some extent producers, Members of Congress, and USDA staff are entering uncharted waters. I will be diligent in my efforts in making sure the USDA, and Congress, is up to the navigational task.•

TRIBUTE TO ROLAND AND CLAIRE JUTRAS, NATIONAL 1997 PARENTS OF THE YEAR

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Roland and Claire Jutras of Peterborough, NH, the National 1997 Parents of the Year. The National Parents' Day Foundation bestowed the honor on the Jutrases after searching the Nation for the parents of the year.

Roland Jutras came to town in 1972 to run the town of Peterborough's Recreation Department. His 25 years of service to the town's children has earned him much praise and esteem from the community around. Roland met Claire playing at the co-ed evening volleyball league in 1972. They were later married in 1975.

Roland and Claire are active members of their community. Roland received the Peterborough Rotary Club Paul Harris Award in 1989, Peterborough Citizen of the Year in 1987, and he was VFW Man of the Year in 1981. Roland also served on the ConVal District School Board for 2 years and he taught at St. Peter's Church. Claire is involved in many community activities as well. She has been a Brownie leader for 3 years, a St. Peter's religious education teacher for 4 years, preschool teacher, recreation volunteer, and a member of a local sorority organization. Claire is also a full-time special education aide at Peterborough Elementary School and is known for her warm smile and generous heart to all of those people she has touched.

Roland and Claire have strengthened their family with pride, dedication, and love, always first. The Jutras' four daughters have earned as much community recognition as their parents. Christine and Michelle are seniors at Norwich University, Veronica will be a sophomore at Holy Cross in Worcester, MA, in the fall, while Natalie will be a junior at St. Anselem College in Manchester, NH.

The National Parents' Day Foundation was founded in 1994 after President Bill Clinton signed into law the creation of National Parents Day on the fourth Sunday of July each year. Every year the foundation looks for parents who are intact married couples with children, people of good reputation, couples who mirror in their lives behavior the ideals we want to see replicated, and people with strong religiously based moral values.

Roland and Claire will join 13 other U.S. couples who were finalists for the award this week in a reception here on Capitol Hill. Mr. President, on Wednesday evening, I look forward to meeting the Jutrases here in a reception to honor this wonderful Granite State couple.

Roland and Claire represent the very best in parenting and embody the finest in sacrificial and caring love for children. New Hampshire is fortunate to be blessed by their leadership and dedication. I applaud Roland and Claire Jutras for their outstanding and caring spirit for their community and family. I am proud to represent them in the U.S. Senate. Congratulations Roland and Claire.•

HANLEY JAMES NORMENT

• Mr. HOLLINGS. Mr. President, I rise today to salute Mr. Hanley Norment, a great civil rights leader and dedicated family man who died Thursday, July 10, 1997.

In 1966, Hanley James Norment came to Washington and a year later, he became a civil rights officer with the U.S. Commission on Civil Rights. About that time, he started volunteering on the local level, rising from director of media relations to president of the Montgomery County branch of the NAACP. Mr. Norment's political and professional successes were a direct measure of his character. He was an unselfish man, one who put aside the personal for the common good. As his son, Julian, commented, Regardless of philosophical differences, he got along with you, he respected your opinions.

Throughout the course of his career as a civil rights leader, Hanley Norment relentlessly championed educational causes, pushing for higher standards and equal opportunities for all children, regardless of race. He knew firsthand the value of a good education. Born in Marianna, AR on January 16, 1932, to Ruby and Samuel Norment, Hanley received his early education in the Arkansas public school system in the Jim Crow era. Undaunted by the circumstances of time and place, Norment earned two B.A. degrees and nearly finished a doctoral degree in political science at the University of Michigan. He used his talents and knowledge generously. For more than 20 years, he tutored individual students through various organizations such as the Alpha Phi Alpha fraternity and the NAACP.

Mr. Norment was extremely proud of the contributions of his wife, Christa, former principal of Montgomery Knolls Elementary School in Silver Spring, MD, to the field of education. Their children, Camille and Julian, continue the family tradition of academic achievement and public service. Camille is pursuing her second master's degree at New York University and I am proud to have Julian working on my Washington staff. The fruit does not fall far from the tree.

Mr. Norment retired in September as director of the Office of Civil Rights at the U.S. Department of Transportation. At the time of his tragic death, he was president of the Maryland State Conference NAACP branches. Hanley James Norment fought the good fight, finished the course, and kept the faith. We all feel his loss.•

SUBMITTING CHANGES TO THE BUDGET RESOLUTION DISCRETIONARY SPENDING LIMITS, APPROPRIATE BUDGETARY AGGREGATES, AND APPROPRIATIONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Section 203 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, allows the chairman of the Senate Budget Committee to adjust the Appropriations Committee's allocation contained in the most recently adopted budget resolution—in this case, House Concurrent Resolution 84—to reflect an appropriation for the renewal of expiring contracts for tenant- and project-based housing assistance under section 8 of the U.S. Housing Act of 1937.

Section 206 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates and the Appropriations Committee's allocation contained in the most recently adopted budget resolution—in this case, House Concurrent Resolution 84—to reflect additional new budget authority and outlays for an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks.

I hereby submit revisions to the nondefense discretionary spending limits for fiscal year 1998 contained in section 201 of House Concurrent Resolution 84 in the following amounts:

Budget Authority	*1998*
Current nondefense discretionary spending limit ...	$261,598,000,000
Adjustment	100,000,000
Revised nondefense discretionary spending limit ...	261,698,000,000

Outlays	*1998*
Current nondefense discretionary spending limit ...	$286,458,000,000
Adjustment	98,000,000
Revised nondefense discretionary spending limit ...	286,556,000,000

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1998 contained in section 101 of House Concurrent Resolution 84 in the following amounts:

Budget Authority	*1998*
Current aggregate	$1,390,441,000,000
Adjustment	100,000,000
Revised aggregate	1,390,541,000,000

Outlays	*1998*
Current aggregate	$1,372,013,000,000
Adjustment	98,000,000
Revised aggregate	1,372,111,000,000

Deficit	*1998*
Current aggregate	$173,013,000,000
Adjustment	98,000,000
Revised aggregate	173,111,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

Budget Authority	*1998*
Current Appropriations Committee allocation	$792,510,000,000
Adjustment	3,766,000,000
Revised Appropriations Committee allocation	796,276,000,000
Outlays	*1998*
Current Appropriations Committee allocation	$824,678,000,000
Adjustment	3,505,000,000
Revised Appropriations Committee allocation	828,183,000,000●

THE CLOSING OF WOOLWORTH'S

● Mr. MOYNIHAN. Mr. President, I noted in Friday's New York Times the demise of Woolworth's, one of the Nation's best known retailers and one with its origins in upstate New York. The Times article quotes Hofstra professor Robert Sobel; "Woolworth was 100 years ago what Walmart is today." Perhaps in a century Walmart will similarly be remembered as an icon of a by-gone era, but the mercantile comparison is apt. With over 8,000 stores worldwide, and with an emphasis on volume purchases and discount prices, Woolworth's was a retailing giant.

The early efforts of Frank Winfield Woolworth did not portend such success. Born on a farm in Jefferson County in 1852, his favorite boyhood game was playing store but initially he was not very good at it. At 19 he began working in a village grocery store at no pay, and did so for 2 years. After a similar 3-month internship at Moore & Smith in Watertown, he finally secured gainful employment as a store clerk at $3.50 a week.

Dollar stores might seem to be a late 20th century development, but in 1875 there was a profitable 99 cent store in Watertown. Mr. A. Bushnell hired Woolworth as a $10-dollar-a-week clerk in a 99 cent store he was opening in Port Huron, MI. Woolworth's lack of salesmanship led to a $1.50 cut in his salary. Still, he saw the possibilities of a store with all merchandise priced the same. In 1877 Woolworth returned to Moore & Smith. The next year he persuaded his employers to try a counter at a county fair on which all items sold for five cents. It was a great success.

Woolworth persuaded Mr. Moore to back him with $300 for a five cent store on Bleeker Street in Utica, but it failed after 3 months. Woolworth realized that he had not had enough variety in his stock so in 1879 he opened a new store in Lancaster, PA with a line of 10-cent items as well. This one succeeded. Woolworth soon perfected the combination of inexpensive items you occasionally needed with inexpensive items you occasionally wanted. He opened his second store in Reading in 1884 and continued to expand. By 1909 Woolworth was in a position to commission the tallest building in the world, which the Woolworth Building was when it was completed in 1913.

Woolworth's early partners had opened their own chains of five and tens. In 1912 they all were absorbed by the F.W. Woolworth Co., giving Woolworth control over 596 stores. He constantly strived to expand his line of five and ten cent merchandise, and was able to keep costs down by having goods manufactured especially for his chain, sometimes buying an entire year's output from a factory.

Frank Woolworth died in 1919. His empire continued to grow. By 1954, 75 years after his first sale, Woolworth's had 2,850 stores and $700 million in annual sales. Six years later sales topped $1 billion. But changes on the American landscape and in the retail world were underway, and they would eventually lead to Friday's announcement. The emigration to the suburbs and competition from drug stores, specialty stores, malls, and large retailers along the highways finally wore down one of the pillars of Main Street.

Woolworth's will be fondly remembered by millions of its customers who dined at the lunch counter and purchased some of life's little necessities there. The company also stands as a testament to the possibilities when one person has one good idea and endless determination.●

TRIBUTE TO THE VERMONT STATE POLICE FOR 50 YEARS OF EXEMPLARY SERVICE

● Mr. JEFFORDS. Mr. President, it gives me great pleasure to extend my heartfelt congratulations to the Vermont State Police on the occasion of their 50th anniversary.

It all started on July 1, 1947, when the Department of Public Safety, home of the Vermont State Police, was established by the Vermont General Assembly. Although Vermont was one of the last in the Nation to create a State police force, it is widely regarded as one of the country's best. At its inception, it was comprised of 55 State troopers and 7 civilians.

During the department's 50 years of service, Vermont's population has increased by over 50 percent. As Vermont changed, so did the department. Today, it also includes a larger civilian force to assist with laboratory procedures and other non-law enforcement related work. Technological advances such as the introduction of radar as a speed enforcement tool, the purchase of the first polygraph instrument, and the creation of a mobile crime lab unit all increased the department's ability to deal with the rising challenges facing law enforcement today.

The changing societal and family dynamics have greatly impacted our police force. Today, our troopers must be trained differently to meet these challenges. What remains the same, however, is the dedication, professionalism, and exemplary service we have been accustomed to—in spite of the ever present dangers of the job. On any given day, a trooper's job might range from assisting a stranded motorist on Interstate 89 to a homicide call in the northeast kingdom.

For 50 years the department has helped improve our communities and given our citizens a sense of security. On behalf of all Vermonters I would like to thank the Department of Public Safety, and wish them continued success.●

MONTANA WORLD TRADE CENTER

● Mr. BAUCUS. Mr. President, in today's world, trade doesn't stop at the borders. Whatever business you're in, and whether you operate a Fortune 500 company or a small family farm, every day you have more opportunities and more competitors overseas.

That's why an organization like the Montana World Trade Center is so valuable to our State. We are a small business State. We have small timber mills, environmental technology firms, Indian manufacturing companies, and family farms.

And, Mr. President, our Fortune 500 companies may well have all the information and all the connections they need to succeed in world trade. More power to them. But a small Montana farmer, or a specialized high-techology business, simply doesn't have the money and manpower to keep up with overseas opportunities.

Even at the most basic logistical level, the paperwork and customs forms associated with imports and exports can be too much for a small business to handle. Additional burdens include finding foreign partners in faraway countries—and while Canada makes up about half our exports, other Montana markets range around the world, from Kuwait to the Philippines to Bangladesh.

So our Montana farms, ranches, and businesses can gain a lot from the world marketplace. But they often need expert assistance in finding likely markets and partners abroad. And they need early warning when foreign competitors try to take advantage of them—as one firm found a Chinese company pirating its hunting decoy designs and advertising them in sportsmens' magazines.

That is what the Montana World Trade Center provides. And the $2.5 million grant included in this bill will help the center meet that goal. It will help Montanans compete in the world marketplace and export more effectively. That is critical to our State's economic future. So this grant is a good investment that will pay off in new exports and more jobs.

I hope the Senate will approve it.●

FRANK AND MARION HAWKINS' 50TH WEDDING ANNIVERSARY

● Mr. CHAFEE. Mr. President, I rise today to offer my hearty congratulations to Frank and Marion Hawkins on their 50th wedding anniversary. Frank and Marion took their vows at St. Raymond's Church in Providence, RI, in 1947. So, on October 2, they will have spent 50 years together, living their dreams, raising their family, and sharing their successes and setbacks.

The Hawkins are blessed with four children: Robert, Charles, Mary-Ellen, and Stephen. They are also the proud grandparents of five grandchildren.

After graduating from Providence College in 1942, Frank served in the Army Air Force during World War II. Marion graduated from Edgewood Secretarial School. Frank retired in 1986 after working for the Carey & Celotex Corp.

I am pleased to announce that the family will gather on July 27, 1997, for a mass and festive meal to celebrate the Hawkins' 50th wedding anniversary. In closing, Mr. President, I want to extend my best wishes to the entire Hawkins family as they come together to celebrate this wonderful event.●

TRIBUTE TO GEOFFEREY WARD

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Geofferey Ward, a Portsmouth High School senior, for attending the 50th annual American Legion Boys Nation. Geofferey was chosen to represent the Granite State at the national program. He was also one of several boys to attend American Legion Boys State at the New Hampshire Technical Institute in Concord this summer. These are certainly accomplishments of which he should be very proud, and I applaud him for his achievements.

Boys State and Boys Nation are week-long programs that aim to teach young men to be responsible citizens by teaching them how the Government works. The students set up a legislature where they introduce and debate bills in order to learn the complexities of democracy. While learning about the ins and outs of the Government, he will also learn interpersonal skills and the importance of listening, understanding and working together.

Geofferey enjoys politics and may pursue a career in a related field. I congratulate Geofferey on his outstanding accomplishments. I commend his hard work and perseverance and wish him luck at Boys Nation.●

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. BOND. I ask unanimous consent that the Chair lay before the Senate a message from the House of Represenatives on S. 858 entitled, "An Act to Authorize Appropriations for Fiscal Year 1998 for Intelligence and Intelligence-related Activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes."

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 858) entitled "An Act to authorize appropriations for fiscal year 1998 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes", do pass with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1998".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1998 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(11) The National Reconnaissance Office.

(12) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1998, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 1775 of the 105th Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1998 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1998 the sum of $147,588,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Intelligence and Applications Program shall remain available until September 30, 1999.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized a total of 313 full-time personnel as of September 30, 1998. Such personnel may be permanent employees of the Community Management Account elements or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—In addition to amounts authorized to be appropriated by subsection (a) and the personnel authorized by subsection (b)—

(1) there is authorized to be appropriated for fiscal year 1998 such amounts, and

(2) there is authorized such personnel as of September 30, 1998,

for the Community Management Account, as are specified in the classified Schedule of Authorizations referred to in section 102(a).

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (as added by section 304 of this Act), during fiscal year 1998 any officer or employee of the United States or member of the Armed Forces who is detailed to an element of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis; except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), the amount of $27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and engineering purposes shall remain available until September 30, 1999, and funds provided for procurement purposes shall remain available until September 30, 2000.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the Center.

(3) LIMITATION.—Amounts available for the Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the Center.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1998 the sum of $196,900,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. ADMINISTRATION OF THE OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

Subsection (e) of section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended by adding at the end the following new paragraph:

"(4) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency.".

SEC. 304. DETAIL OF INTELLIGENCE COMMUNITY PERSONNEL—INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"DETAIL OF INTELLIGENCE COMMUNITY PERSONNEL—INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM

"SEC. 113. (a) DETAIL.—(1) Notwithstanding any other provision of law, the head of a department with an element in the intelligence community or the head of an intelligence community agency or element may detail any employee within that department, agency, or element to serve in any position in the Intelligence Community Assignment Program on a reimbursable or a nonreimbursable basis.

"(2) Nonreimbursable details may be for such periods as are agreed to between the heads of the parent and host agencies, up to a maximum of three years, except that such details may be extended for a period not to exceed 1 year when the heads of the parent and host agencies determine that such extension is in the public interest.

"(b) BENEFITS, ALLOWANCES, TRAVEL, INCENTIVES.—An employee detailed under subsection (a) may be authorized any benefit, allowance, travel, or incentive otherwise provided to enhance staffing by the organization from which they are being detailed.

"(c) ANNUAL REPORT.—(1) Not later than March 1 of each year, the Director of the Central Intelligence Agency shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the detail of intelligence community personnel pursuant to subsection (a) for the previous 12-month period, including the number of employees detailed, the identity of parent and host agencies or elements, and an analysis of the benefits of the program.

"(2) The Director shall submit the first of such reports not later than March 1, 1999.

"(d) TERMINATION.—The authority to make details under this section terminates on September 30, 2002.".

(b) TECHNICAL AMENDMENT.—Sections 120, 121, and 110 of the National Security Act of 1947 are hereby redesignated as sections 110, 111, and 112, respectively.

(c) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by striking the items relating to sections 120, 121, and 110 and inserting the following:

"Sec. 110. National mission of National Imagery and Mapping Agency.
"Sec. 111. Collection tasking authority.
"Sec. 112. Restrictions on intelligence sharing with the United Nations.
"Sec. 113. Detail of intelligence community personnel—intelligence community assignment program.".

(d) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply to an employee on detail on or after January 1, 1997.

SEC. 305. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking "1998" and inserting "1999".

SEC. 306. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 307. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of the appropriate element of the Intelligence Community shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 308. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a fraudulent label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that was not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 309. REPORT ON INTELLIGENCE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act and annually thereafter, the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, jointly, in consultation with the heads of other appropriate Federal agencies, including the National Security Agency, and the Departments of Defense, Justice, Treasury, and State, shall prepare and transmit to the Congress a report on intelligence activities of the People's Republic of China, directed against or affecting the interests of the United States.

(b) DELIVERY OF REPORT.—The Director of Central Intelligence and the Director of the Federal Bureau of Investigation, jointly, shall transmit classified and unclassified versions of the report to the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, the Chairman and Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives, and the Chairman and Vice-Chairman of the Select Committee on Intelligence of the Senate.

(c) CONTENTS OF REPORT.—Each report under subsection (a) shall include information concerning the following:

(1) Political, military, and economic espionage.

(2) Intelligence activities designed to gain political influence, including activities undertaken or coordinated by the United Front Works Department of the Chinese Communist Party.

(3) Efforts to gain direct or indirect influence through commercial or noncommercial intermediaries subject to control by the People's Republic of China, including enterprises controlled by the People's Liberation Army.

(4) Disinformation and press manipulation by the People's Republic of China with respect to the United States, including activities undertaken or coordinated by the United Front Works Department of the Chinese Communist Party.

SEC. 310. REVIEW OF THE PRESENCE OF CHEMICAL WEAPONS IN THE PERSIAN GULF THEATER.

The Inspector General of the Central Intelligence Agency shall conduct a review to determine what knowledge the Central Intelligence Agency had about the presence or use of chemical weapons in the Persian Gulf Theater during the course of the Persian Gulf War. The Inspector General shall submit a report of his findings to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, no later than August 15, 1998 in both classified and unclassified form. The unclassified form shall also be made available to the public.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. MULTIYEAR LEASING AUTHORITY.

(a) IN GENERAL.—Section 5 of the Central Intelligence Agency Act of 1949 is amended—

(1) by redesignating paragraphs (a) through (f) as paragraphs (1) through (6), respectively;

(2) by inserting "(a)" after "SEC. 5.";

(3) by striking "and" at the end of paragraph (5), as so redesignated;

(4) by striking the period at the end of paragraph (6), as so redesignated, and inserting "; and";

(5) by inserting after paragraph (6) the following new paragraph:

"(7) Notwithstanding section 1341(a)(1) of title 31, United States Code, enter into multiyear leases for up to 15 years that are not otherwise authorized pursuant to section 8 of this Act."; and

(6) by inserting at the end the following new subsection:

"(b)(1) The authority to enter into a multiyear lease under subsection (a)(7) shall be subject to appropriations provided in advance for (A) the entire lease, or (B) the first 12 months of the lease and the Government's estimated termination liability.

"(2) In the case of any such lease entered into under clause (B) of paragraph (1)—

"(A) such lease shall include a clause that provides that the contract shall be terminated if budget authority (as defined by section 3(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(2))) is not provided specifically for that project in an appropriations Act in advance of an obligation of funds in respect thereto;

"(B) notwithstanding section 1552 of title 31, United States Code, amounts obligated for paying termination costs in respect of such lease shall remain available until the costs associated with termination of such lease are paid;

"(C) funds available for termination liability shall remain available to satisfy rental obligations in respect of such lease in subsequent fiscal years in the event such lease is not terminated early, but only to the extent those funds

are in excess of the amount of termination liability in that subsequent year; and

"(D) annual funds made available in any fiscal year may be used to make payments on such lease for a maximum of 12 months beginning any time during the fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to multiyear leases entered into pursuant to section 5 of the Central Intelligence Agency Act of 1949, as amended by subsection (a), on or after October 1, 1997.

SEC. 402. CIA CENTRAL SERVICES PROGRAM.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

"CENTRAL SERVICES PROGRAM

"SEC. 21. (a) ESTABLISHMENT.—The Director may—

"(1) establish a program to provide the central services described in subsection (b)(2); and

"(2) make transfers to and expenditures from the working capital fund established under subsection (b)(1).

"(b) ESTABLISHMENT AND PURPOSES OF CENTRAL SERVICES WORKING CAPITAL FUND.—(1) There is established a central services working capital fund. The Fund shall be available until expended for the purposes described in paragraph (2), subject to subsection (j).

"(2) The purposes of the Fund are to pay for equipment, salaries, maintenance, operation and other expenses for such services as the Director, subject to paragraph (3), determines to be central services that are appropriate and advantageous to provide to the Agency or to other Federal agencies on a reimbursable basis.

"(3) The determination and provision of central services by the Director of Central Intelligence under paragraph (2) shall be subject to the prior approval of the Director of the Office of Management and Budget.

"(c) ASSETS IN FUND.—The Fund shall consist of money and assets, as follows:

"(1) Amounts appropriated to the Fund for its initial monetary capitalization.

"(2) Appropriations available to the Agency under law for the purpose of supplementing the Fund.

"(3) Such inventories, equipment, and other assets, including inventories and equipment on order, pertaining to the services to be carried on by the central services program.

"(4) Such other funds as the Director is authorized to transfer to the Fund.

"(d) LIMITATIONS.—(1) The total value of orders for services described in subsection (b)(2) from the central services program at any time shall not exceed an annual amount approved in advance by the Director of the Office of Management and Budget.

"(2) No goods or services may be provided to any non-Federal entity by the central services program.

"(e) REIMBURSEMENTS TO FUND.—Notwithstanding any other provision of law, the Fund shall be—

"(1) reimbursed, or credited with advance payments, from applicable appropriations and funds of the Agency, other Intelligence Community agencies, or other Federal agencies, for the central services performed by the central services program, at rates that will recover the full cost of operations paid for from the Fund, including accrual of annual leave, workers' compensation, depreciation of capitalized plant and equipment, and amortization of automated data processing software; and

"(2) if applicable credited with the receipts from sale or exchange of property, including any real property, or in payment for loss or damage to property, held by the central services program as assets of the Fund.

"(f) RETENTION OF PORTION OF FUND INCOME.—(1) The Director may impose a fee for central services provided from the Fund. The fee for any item or service provided under the central services program may not exceed four percent of the cost of such item or service.

"(2) As needed for the continued self-sustaining operation of the Fund, an amount not to exceed four percent of the net receipts of the Fund in fiscal year 1998 and each fiscal year thereafter may be retained, subject to subsection (j), for the acquisition of capital equipment and for the improvement and implementation of the Agency's information management systems (including financial management, payroll, and personnel information systems). Any proposed use of the retained income in fiscal years 1998, 1999, and 2000, shall only be made with the approval of the Director of the Office of Management and Budget and after notification to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) Not later than 30 days after the close of each fiscal year, amounts in excess of the amount retained under paragraph (2) shall be transferred to the United States Treasury.

"(g) AUDIT.—(1) The Inspector General of the Central Intelligence Agency shall conduct and complete an audit of the Fund within three months after the close of each fiscal year. The Director of the Office of Management and Budget shall determine the form and content of the audit, which shall include at least an itemized accounting of the central services provided, the cost of each service, the total receipts received, the agencies or departments serviced, and the amount returned to the United States Treasury.

"(2) Not later than 30 days after the completion of the audit, the Inspector General shall submit a copy of the audit to the Director of the Office of Management and Budget, the Director of Central Intelligence, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(h) DEFINITIONS.—For purposes of this section—

"(1) the term 'central services program' means the program established under subsection (a); and

"(2) the term 'Fund' means the central services working capital fund established under subsection (b)(1).

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $5,000,000 for the purposes specified in subsection (b)(2).

"(j) TERMINATION.—(1) The Fund shall terminate on March 31, 2000, unless otherwise reauthorized by an Act of Congress prior to that date.

"(2) Subject to paragraph (1) and after providing notice to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the Director of Central Intelligence and the Director of the Office of Management and Budget—

"(A) may terminate the central services program and the Fund at any time; and

"(B) upon any such termination, shall provide for dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such Fund, as may be necessary.".

SEC. 403. PROTECTION OF CIA FACILITIES.

Subsection (a) of section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "powers only within Agency installations," and all that follows through the end, and inserting the following: "powers—

"(A) within the Agency Headquarters Compound and the property controlled and occupied by the Federal Highway Administration located immediately adjacent to such Compound and in the streets, sidewalks, and the open areas within the zone beginning at the outside boundary of such Compound and property and extending outward 500 feet; and

"(B) within any other Agency installation and in the streets, sidewalks, and open areas within the zone beginning at the outside boundary of any such installation and extending outward 500 feet."; and

(3) by adding at the end the following new paragraphs:

"(2) The performance of functions and exercise of powers under paragraph (1) shall be limited to those circumstances where such personnel can identify specific and articulable facts giving such personnel reason to believe that their performance of such functions and exercise of such powers is reasonable to protect against physical attack or threats of attack upon the Agency installations, property, or employees.

"(3) Nothing in this subsection shall be construed to preclude, or limit in any way, the authority of any Federal, State, or local law enforcement agency or of any other Federal police or Federal protective service.

"(4) The rules and regulations enforced by such personnel shall be the rules and regulations promulgated by the Director and shall only be applicable to the areas referred to in paragraph (1).

"(5) On December 1, 1998, and annually thereafter, the Director shall submit a report to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate that describes in detail the exercise of the authority granted by this subsection, and the underlying facts supporting the exercise of such authority, during the preceding fiscal year. The Director shall make such report available to the Inspector General of the Agency.".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. AUTHORITY TO AWARD ACADEMIC DEGREE OF BACHELOR OF SCIENCE IN INTELLIGENCE.

(a) AUTHORITY FOR NEW BACHELOR'S DEGREE.—Section 2161 of title 10, United States Code, is amended to read as follows:

"§2161. Joint Military Intelligence College: academic degrees

"Under regulations prescribed by the Secretary of Defense, the president of the Joint Military Intelligence College may, upon recommendation by the faculty of the college, confer upon a graduate of the college who has fulfilled the requirements for the degree the following:

"(1) The degree of Master of Science of Strategic Intelligence (MSSI).

"(2) The degree of Bachelor of Science in Intelligence (BSI).".

(b) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

"2161. Joint Military Intelligence College: academic degrees.".

SEC. 502. UNAUTHORIZED USE OF NAME, INITIALS, OR SEAL OF NATIONAL RECONNAISSANCE OFFICE.

(a) EXTENSION, REORGANIZATION, AND CONSOLIDATION OF AUTHORITIES.—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new section:

“§425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies

“(a) Prohibition.—Except with the written permission of the Secretary of Defense, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense, any of the following (or any colorable imitation thereof):

“(1) The words ‘Defense Intelligence Agency’, the initials ‘DIA’, or the seal of the Defense Intelligence Agency.

“(2) The words ‘National Reconnaissance Office’, the initials ‘NRO’, or the seal of the National Reconnaissance Office.

“(3) The words ‘National Imagery and Mapping Agency’, the initials ‘NIMA’, or the seal of the National Imagery and Mapping Agency.

“(4) The words ‘Defense Mapping Agency’, the initials ‘DMA’, or the seal of the Defense Mapping Agency.”.

(b) Transfer of Enforcement Authority.—Subsection (b) of section 202 of title 10, United States Code, is transferred to the end of section 425 of such title, as added by subsection (a), and is amended by inserting “Authority To Enjoin Violations.—” after “(b)”.

(c) Repeal of Reorganized Provisions.—Sections 202 and 445 of title 10, United States Code, are repealed.

(d) Clerical Amendments.—

(1) The table of sections at the beginning of subchapter II of chapter 8 of title 10, United States Code, is amended by striking out the item relating to section 202.

(2) The table of sections at the beginning of subchapter I of chapter 21 of title 10, United States Code, is amended by striking out the items relating to sections 424 and 425 and inserting in lieu thereof the following:

“424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency.
“425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies.”.

(3) The table of sections at the beginning of subchapter I of chapter 22 of title 10, United States Code, is amended by striking out the item relating to section 445.

SEC. 503. EXTENSION OF AUTHORITY FOR ENHANCEMENT OF CAPABILITIES OF CERTAIN ARMY FACILITIES.

Effective October 1, 1997, section 506(b) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974) is amended by striking out “fiscal years 1996 and 1997” and inserting in lieu thereof “fiscal years 1998 and 1999”.

TITLE VI—MISCELLANEOUS COMMUNITY PROGRAM ADJUSTMENTS

SEC. 601. COORDINATION OF ARMED FORCES INFORMATION SECURITY PROGRAMS.

(a) Program Execution Coordination.—The Secretary of a military department or the head of a defense agency may not obligate or expend funds for any information security program of that military department without the concurrence of the Director of the National Security Agency.

(b) Effective Date.—This section takes effect on October 1, 1997.

SEC. 602. AUTHORITY OF EXECUTIVE AGENT OF INTEGRATED BROADCAST SERVICE.

All amounts appropriated for any fiscal year for intelligence information data broadcast systems may be obligated or expended by an intelligence element of the Department of Defense only with the concurrence of the official in the Department of Defense designated as the executive agent of the Integrated Broadcast Service.

SEC. 603. PREDATOR UNMANNED AERIAL VEHICLE.

(a) Transfer of Functions.—Effective October 1, 1997, the functions described in subsection (b) with respect to the Predator Unmanned Aerial Vehicle are transferred to the Secretary of the Air Force.

(b) Functions To Be Transferred.—Subsection (a) applies to those functions performed as of June 1, 1997, by the organization within the Department of Defense known as the Unmanned Aerial Joint Program Office with respect to the Predator Unmanned Aerial Vehicle.

(c) Transfer of Funds.—Effective October 1, 1997, all unexpended funds appropriated for the Predator Unmanned Aerial Vehicle that are within the Defense-Wide Program Element number 0305205D are transferred to Air Force Program Element number 0305154F.

SEC. 604. U–2 SENSOR PROGRAM.

(a) Requirement for Minimum Number of Aircraft.—The Secretary of Defense shall ensure—

(1) that not less than 11 U–2 reconnaissance aircraft are equipped with RAS–1 sensor suites; and

(2) that each such aircraft that is so equipped is maintained in a manner necessary to counter available threat technologies until the aircraft is retired or until a successor sensor suite is developed and fielded.

(b) Effective Date.—Subsection (a) takes effect on October 1, 1997.

SEC. 605. REQUIREMENTS RELATING TO CONGRESSIONAL BUDGET JUSTIFICATION BOOKS.

(a) In General.—The congressional budget justification books for any element of the intelligence community submitted to Congress in support of the budget of the President for any fiscal year shall include, at a minimum, the following:

(1) For each program for which appropriations are requested for that element of the intelligence community in that budget—

(A) specification of the program, including the program element number for the program;

(B) the specific dollar amount requested for the program;

(C) the appropriation account within which funding for the program is placed;

(D) the budget line item that applies to the program;

(E) specification of whether the program is a research and development program or otherwise involves research and development;

(F) identification of the total cost for the program; and

(G) information relating to all direct and associated costs in each appropriations account for the program.

(2) A detailed accounting of all reprogramming or reallocation actions and the status of those actions at the time of submission of those materials.

(3) Information relating to any unallocated cuts or taxes.

(b) Definitions.—For purposes of this section:

(1) The term “intelligence community” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(2) The term “congressional budget justification books” means the budget justification materials submitted to Congress for any fiscal year in support of the budget for that fiscal year for any element of the intelligence community (as contained in the budget of the President submitted to Congress for that fiscal year pursuant to section 1105 of title 31, United States Code).

(c) Effective Date.—Subsection (a) shall take effect with respect to fiscal year 1999.

SEC. 606. COORDINATION OF AIR FORCE JOINT SIGINT PROGRAM OFFICE ACTIVITIES WITH OTHER MILITARY DEPARTMENTS.

(a) Contracts.—The Secretary of the Air Force, acting through the Air Force Joint Airborne Signals Intelligence Program Office, may not modify, amend, or alter a JSAF program contract without coordinating with the Secretary of any other military department that would be affected by the modification, amendment, or alteration.

(b) New Developments Affecting Operational Military Requirements.—(1) The Secretary of the Air Force, acting through the Air Force Joint Airborne Signals Intelligence Program Office, may not enter into a contract described in paragraph (2) without coordinating with the Secretary of the military department concerned.

(2) Paragraph (1) applies to a contract for development relating to a JSAF program that may directly affect the operational requirements of one of the Armed Forces (other than the Air Force) for the satisfaction of intelligence requirements.

(c) JSAF Program Defined.—For purposes of this section, the term “JSAF program” means a program within the Joint Signals Intelligence Avionics Family of programs administered by the Air Force Joint Airborne Signals Intelligence Program Office.

(d) Effective Date.—This section takes effect on October 1, 1997.

SEC. 607. DISCONTINUATION OF THE DEFENSE SPACE RECONNAISSANCE PROGRAM.

Not later than October 1, 1999, the Secretary of Defense shall—

(1) discontinue the Defense Space Reconnaissance Program (a program within the Joint Military Intelligence Program); and

(2) close the organization within the Department of Defense known as the Defense Space Program Office (the management office for that program).

SEC. 608. TERMINATION OF DEFENSE AIRBORNE RECONNAISSANCE OFFICE.

(a) Termination of Office.—The organization within the Department of Defense known as the Defense Airborne Reconnaissance Office is terminated. No funds available for the Department of Defense may be used for the operation of that Office after the date specified in subsection (d).

(b) Transfer of Functions.—(1) Subject to paragraphs (3) and (4), the Secretary of Defense shall transfer to the Defense Intelligence Agency those functions performed on the day before the date of the enactment this Act by the Defense Airborne Reconnaissance Office that are specified in paragraph (2).

(2) The functions transferred by the Secretary to the Defense Intelligence Agency under paragraph (1) shall include functions of the Defense Airborne Reconnaissance Office relating to its responsibilities for management oversight and coordination of defense airborne reconnaissance capabilities (other than any responsibilities for acquisition of systems).

(3) The Secretary shall determine which specific functions are appropriate for transfer under paragraph (1). In making that determination, the Secretary shall ensure that responsibility for individual airborne reconnaissance programs with respect to program management, for research, development, test, and evaluation, for acquisition, and for operations and related line management remain with the respective Secretaries of the military departments.

(4) Any function transferred to the Defense Intelligence Agency under this subsection is subject to the authority, direction, and control of the Secretary of Defense.

(c) Report.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees

named in paragraph (2) a report containing the Secretary's plan for terminating the Defense Airborne Reconnaissance Office and transferring the functions of that office.

(2) The committees referred to in paragraph (1) are—

(A) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on National Security of the House of Representatives.

(d) EFFECTIVE DATE.—Subsection (a) shall take effect at the end of the 120-day period beginning on the date of the enactment of this Act.

Mr. BOND. Madam President, I ask unanimous consent that the Senate disagree with the amendment of the House, agree to the request for a conference, and, further, that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mrs. HUTCHISON) appointed Mr. SHELBY, Mr. CHAFEE, Mr. LUGAR, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. ALLARD, Mr. COATS, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. ROBB, Mr. LAUTENBERG, and Mr. LEVIN; and from the Committee on Armed Services, Mr. THURMOND, conferees on the part of the Senate.

ORDERS FOR TUESDAY, JULY 22, 1997

Mr. BOND. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. on Tuesday, July 22. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning business hour be granted, and at 9:50 a.m. the Senate resume consideration of S. 1023, the Treasury, general governmental appropriations bill with 10 minutes of debate equally divided in the usual form between Senator CAMPBELL and Senator KOHL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I also ask unanimous consent that from 12:30 p.m. to 2:15 p.m. the Senate recess for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BOND. Madam President, for the information of all Members, tomorrow the Senate will resume consideration of S. 1023, the Treasury, general governmental appropriations bill with 10 minutes of debate, and at 10 a.m. a series of votes, possibly three, will occur on the remaining pending amendments to the Treasury, general government appropriations bill, including a vote on final passage of S. 1023. Following disposition of S. 1023, the Senate will resume consideration of the VA-HUD appropriations bill. Therefore, additional votes will occur during Tuesday's session of the Senate.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. BOND. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:53 p.m., adjourned until Tuesday, July 22, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 21, 1997:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT H. FOGLESONG, 8617.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN M. PICKLER, 5130.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL J. BYRON, 1295.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. CHARLES E. WILHELM, 4063.

DEPARTMENT OF JUSTICE

RAYMOND C. FISHER, OF CALIFORNIA, TO BE ASSOCIATE ATTORNEY GENERAL, VICE JOHN R. SCHMIDT, RESIGNED.

BILL LANN LEE, OF CALIFORNIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE DEVAL L. PATRICK, RESIGNED.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

HAROLD C. PACHIOS, OF MAINE, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1999. (REAPPOINTMENT)

EXTENSIONS OF REMARKS

GOVERNMENT OFFICIALS AWARENESS DAY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1997

Mr. BONIOR. Mr. Speaker, in the Tenth Congressional District of Michigan, which I have the privilege to represent, the personnel at Selfridge Air National Guard Base have served in the defense of the United States for over 80 years.

Selfridge is one of the Nation's oldest and most historic military installations. It is named after Lt. Thomas Etholen Selfridge. Lieutenant Selfridge was the first military officer to pilot a heavier-than-air, engine-driven aircraft. While flying with Orville Wright on September 17, 1908, Lieutenant Selfridge, unfortunately, became the first officer to meet his death in powered flight. Wright survived only after a lengthy stay in the hospital.

Pilots began training at Selfridge Field only 2 weeks after it was activated as a military installation in 1917. This was just 3 months after the United States entered World War I. In 1947, when the Air Force became a separate service, Selfridge Field became Selfridge Air Force Base. It had grown from a 640-acre leased parcel of land to a permanent 3,600-acre base.

In 1971 the base was transferred to the Michigan Air National Guard and received its current name. It is the home of many diversified units. Team Selfridge takes pride in being the only Reserve forces base to have permanently assigned units from all five of the uniformed services: Air Force (Air National Guard & Air Force Reserve), Army, Navy, Marine Corps, and Coast Guard.

The Team Selfridge community paid tribute to the Government officials who support Selfridge Air National Guard base. Selfridge had depended on the flexibility and support of Government officials since 1917.

Reserve forces comprise more than half of our Nation's defense capability and are essential to national security. These citizen-soldiers train vigorously and stand shoulder-to-shoulder with their active duty counterparts in order to be ready to meet the Nation's call at a moments notice.

Our Reserve forces will play an even greater and more diverse role in the times ahead. It is through the vital support of America's Government officials that the Reserves will be able to bolster the Nation's security.

August 8, 1997, should be remembered as Michigan Government Officials Day. I urge my colleagues to continue their support and express their gratitude to the men and women of our Michigan Reserve forces.

A TRIBUTE TO CAROLYN SHERMAN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1997

Mr. SOLOMON. Mr. Speaker, every now and then in my position as a Congressman, I have the privilege of honoring those people out there whose performance day in and day out improves the quality of life for an entire neighborhood or school or community. I call these people our "silent heroes." That's because they do their job without remiss and all too often without the accolades they deserve.

Mr. Speaker, I'd like to bring your attention to one such hero today, Mrs. Carolyn Sherman of Nassau, NY, in my congressional district. She has been a faithful employee of the Nassau Free Library for 40 years now and has done more than her share in making the Nassau area of New York a great place to live and raise a family.

I say that because what could be more critical to any community and especially its young people, than a library. And there's something even more special about a public library that just seems so American. It embodies the free exchange of ideas and intellectual freedom that has allowed this country to thrive and has been the beacon drawing millions from distant lands throughout our history.

Now, how does Mrs. Sherman fit into all this? Easy. For 40 years now, she has played an active role in helping others to expand their minds, be it a child forming his or her sentences, or a business owner researching the latest trends and technologies that might allow their business to expand and put someone else to work.

During her tenure, Carolyn has guided the library through many changes. She expanded the hours from 12 to the present 22 hours per week. She founded the book selection committee, a version of which remains today for the selection of children's books. She instituted Children's Story Hour in 1959, soon followed by a special children's corner of the library. In 1961, under her leadership, the library joined the Upper Hudson Library System, a State-sponsored service for small libraries which allows for interlibrary loans and a variety of other services. Carolyn founded the Friends of the Library, a volunteer auxiliary group which supports library events including fund raising activities.

In the 1970's, after several years of planning and labor, Carolyn coordinated the expansion of the physical facility. Through outstanding community support, the project was completed without encumbering debt.

In 1982, Carolyn received the Marian Mosher Award for Library of the Year in New York State. This award is given to an outstanding small community librarian. As you know, Mr. Speaker, organizing and directing such a rapid and enormous change can be both exhilarating and frustrating. But she had a vision of a facility that would better serve all aspects of her community and the persistence to carry it through. Now that's what it takes to get the job done.

Mr. Speaker, I have always been one to judge people based on what they return to their community. By that measure, Carolyn Sherman is a truly great American. I ask you Mr. Speaker, and all Members of the House to rise with me now in tribute to her and her outstanding record of public service. She has certainly earned it.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 22, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 23

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nominations of Catherine E. Woteki, of the District of Columbia, to be Under Secretary of Agriculture for Food Safety, and Shirley Robinson Watkins, of Arkansas, to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

SR–332

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business; to be followed by hearings to examine natural gas issues, focusing on the world energy supply and demand to the year 2015, the role of government in large scale gas projects in foreign countries, and emerging technologies in gas field development that are making natural gas more economical to market.

SD–366

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Labor and Human Resources

Business meeting, to mark up S. 1020, proposed Arts and Humanities Amendments of 1997, proposed National Science Foundation Authorization of 1997, proposed Workforce Improvement Partnership Act, and to consider pending nominations.

SD–430

10:00 a.m.

Appropriations

District of Columbia Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1998 for the government of the District of Columbia, focusing on the Departments of Health, Human Services, and Public Works.

SD–192

Banking, Housing, and Urban Affairs

To hold oversight hearings on the Federal Reserve's monetary policy report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978.

SD–538

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

To hold hearings on proposed legislation to authorize funds for the Office of National Drug Control Policy.

SD–226

2:00 p.m.

Judiciary

Business meeting,

To resume markup of S. 10, to reduce violent juvenile crime, promote accountability by juvenile criminals, and punish and deter violent gang crime, and to mark up S. 53, to require the general application of the antitrust laws to major league baseball.

SD–226

4:00 p.m.

Conferees on H.R. 1757, to consolidate international affairs agencies and to authorize appropriations for the Department of State and related agencies for the fiscal years 1998 and 1999. H-140, Capitol

JULY 24

9:00 a.m.

Judiciary

Business meeting, to resume markup of S. 10, to reduce violent juvenile crime, promote accountability by juvenile criminals, and punish and deter violent gang crime, and to mark up S. 53, to require the general application of the antitrust laws to major league baseball.

SD–226

9:30 a.m.

Appropriations

Business meeting, to mark up proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998.

SD–106

Armed Services

To hold hearings on the nomination of John J. Hamre, of South Dakota, to be Deputy Secretary of Defense.

SR–222

Commerce, Science, and Transportation

To hold hearings to review a General Accounting Office report relating to program efficiencies at the National Aeronautics and Space Administration (NASA) and the National Science Foundation (NSF).

SR–253

Environment and Public Works

Business meeting, to consider the nomination of Jamie Rappaport Clark, of Maryland, to be Director of the United States Fish and Wildlife Service.

SD–406

9:45 a.m.

Environment and Public Works

Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee

To hold hearings to examine ozone and particulate matter standards promulgated by the Environmental Protection Agency.

SD–406

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine securities litigation abuses.

SD–538

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 1028 and H.R. 858, bills to direct the Secretary of Agriculture to conduct a pilot project on designated lands within Plumas, Lassen, and Tahoe National Forests in California to demonstrate the effectiveness of the resource management activities proposed by the Quincy Library Group and to amend current land and resource management plans for these national forests to consider the incorporation of these resource management activities.

SD–366

Foreign Relations

To hold hearings on the nominations of David Andrews, of California, to be Legal Adviser, Bonnie R. Cohen, of the District of Columbia, to be Under Secretary for Management, Edward William Gnehm, Jr., of Georgia, to be Director General of the Foreign Service, and James P. Rubin, of New York, to be Assistant Secretary for Public Affairs, all of the Department of State.

SD–419

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Labor and Human Resources

To hold hearings on proposed legislation authorizing funds for programs of the Higher Education Act, focusing on title IV.

SD–430

11:00 a.m.

Foreign Relations

To hold hearings on the nomination of George Munoz, of Illinois, to be President of the Overseas Private Investment Corporation, United States International Development Cooperation Agency.

SD–419

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings to review the process by which the National Park Service determines the suitability and feasibility of new areas to be added to the National Park System, and to examine the criteria used to determine national significance.

SD–366

Judiciary

Antitrust, Business Rights, and Competition Subcommittee

To hold hearings to examine proposals on defense consolidation, focusing on antitrust and competitions issues.

SD–226

Labor and Human Resources

Public Health and Safety Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Institutes of Health, Department of Health and Human Services.

SD–430

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

JULY 25

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Veterans' Affairs

To hold hearings on pending legislation.

SR–418

JULY 28

1:00 p.m.

Special on Aging

To hold hearings to examine the amount of fraud in the home health care system and ways to identify and deter fraud, waste and abuse in health care.

SD–562

2:00 p.m.

Judiciary

Technology, Terrorism, and Government Information Subcommittee

To hold hearings to examine gambling on the Internet.

SD–226

JULY 29

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the effect of the Federal Agriculture Improvement and Reform Act (P.L. 104-127) on price and income volatility, and the properrole of the Federal government to manage volatility and protect the integrity of agricultural markets.

SR–332

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 967, to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and S. 1015, to provide for the exchange of lands within Admiralty Island National Monument.

SD–366

10:00 a.m.

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings on S. 268, to regulate flights over national parks.
SR–253

JULY 30

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Indian Affairs
Business meeting, to mark up S. 569, to amend the Indian Child Welfare Act of 1978 to provide for retention by an Indian tribe of exclusive jurisdiction over child custody proceedings involing Indian children and other related requirements; to be followed by an oversight hearing on the Bureau of Indian Affairs Special Trustee's strategic plan to reform the management of Indian trust funds.
SD–106

10:00 a.m.
Governmental Affairs
To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings to review the management and operations of concession programs within the National Park System.
SD–366

JULY 31

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how trade opportunities and international agricultural research can stimulate economic growth in Africa, thereby enhancing African food security and increasing U.S. exports.
SR–332

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

CANCELLATIONS

JULY 23

2:00 p.m.
Judiciary
To resume hearings to review the FBI crime laboratory.
SD–226

POSTPONEMENTS

JULY 22

10:00 a.m.
Judiciary
To hold hearings to examine federal antitrust policy in the healthcare marketplace.
SD–226

SENATE—*Tuesday, July 22, 1997*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

We can know the One who knows. Father, the very idea gives us inspiration and enthusiasm as we begin the work of this day. Our work has to do with thinking clearly about the issues before us. We feel fresh excitement about the day ahead when we contemplate the amazing fact that You who know everything and always will what is best for us, are willing to think through our thinking brains so we can discover truly creative solutions to our perplexities.

Form in our minds the mental picture of a successful agreement on the budget between the Senate, the House of Representatives, and the President. Now we thank You in advance that You will help us achieve this image of oneness and progress for Your glory.

We also are moved by the fact that You are Sovereign over the minds of people with whom we may have differed in the past. We open our minds to the possibility that You may choose to expand our understanding of issues through the insights You give them. We all are humbled by the fact that we all need knowledge from You, the One who knows and affirms our effort for oneness. We join with one another in confessing our need for You to guide our thinking and lead us to solutions that are maximum. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Colorado, is recognized.

SCHEDULE

Mr. CAMPBELL. Mr. President, on behalf of the majority leader, today the Senate will resume consideration of S. 1023, the Treasury, general Government appropriations bill, with 10 minutes of debate remaining on the bill. At 10 a.m., a series of votes, possibly three, will occur on the remaining pending amendments to the Treasury, general Government appropriations bill, including a vote on final passage of S. 1023. Following the disposition of S. 1023, the Senate will resume consideration of the VA-HUD appropriations bill. Therefore additional votes will occur during today's session of the Senate.

As a reminder, the Senate will recess from the hours of 12:30 to 2:15 today for the weekly policy luncheons to meet.

On behalf of the leader, I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the leadership time is reserved.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1023, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1023) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Campbell (for DeWine) amendment No. 936, to prohibit the use of funds to pay for an abortion or pay for the administrative expenses in connection with certain health plans that provide coverage for abortions.

Kohl (for Bingaman) amendment No. 937, to strike provisions prohibiting the use of appropriated funds for the sole source procurement of energy conservation measures.

Mr. CAMPBELL. Mr. President, I ask unanimous consent there be 2 minutes of debate equally divided prior to each of the votes in this series.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, Senator BINGAMAN and Senator STEVENS have not yet arrived at the floor so, until they do, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Sam Rikkers, who is an intern with me, be granted the privilege of the floor during today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask the floor manager, I have one amendment that is going to be voted on in about 15 or 20 minutes, I understand. Is it appropriate to speak on that at this point?

Mr. CAMPBELL. I ask the Senator, is this the Bingaman amendment he had offered, amendment No. 937.

Mr. BINGAMAN. This is the Bingaman-Murkowski amendment.

AMENDMENT NO. 937

Mr. CAMPBELL. Mr. President, I ask unanimous consent the Senate now consider amendment No. 937, offered by the Senator from New Mexico [Mr. BINGAMAN].

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just speak briefly on this amendment. We are still in morning business, as I understand it; is that correct?

The PRESIDING OFFICER. That is not correct. The Chair advises the Senator from New Mexico we are now in consideration of S. 1023.

Mr. BINGAMAN. OK. Let me speak for a few minutes about this amendment.

Mr. CAMPBELL. Mr. President, if I could ask for just a moment?

Mr. BINGAMAN. I yield to the Senator from Colorado.

Mr. CAMPBELL. Will the Chair tell us the pending business and the division of the time on this amendment?

The PRESIDING OFFICER. The Senator from Colorado has 4 minutes 39 seconds; the Senator from New Mexico 3 minutes 25 seconds.

Mr. CAMPBELL. Was there a unanimous-consent request dividing the time, 2 minutes equally divided?

The PRESIDING OFFICER. Yes, there were 10 minutes equally divided. This is the time remaining.

Mr. CAMPBELL. Yes. I thank the Chair and thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me briefly describe what the amendment is. The amendment which I am offering along with Senator MURKOWSKI, the chairman of the Energy Committee, would strike section 630 out of the Treasury-Postal appropriations bill which is pending before the Senate. The reason we are trying to strike section 630 is that it would impede Federal agencies from using energy conservation programs that are now being offered to all customers by electric utility companies. This section would override both the Energy Policy Act of 1992 and the National Defense Authorization Act of 1993. There is nothing anticompetitive about eliminating section 630. Many energy conservation measures, such as agreements to use certain amounts of energy at certain times of the day, can only be made—those types of agreements can only be made with the local utility.

We are in a period where we are moving toward a restructured electric utility industry, but we are not there yet. In most parts of this country today, customers still deal with one electric utility. So the opportunity to enter into these energy conservation measures is with that one electric utility. If there is only one source offering a particular service—in this case the providing of electricity—there is no point in outlawing a sole-source procurement, as section 630 would do.

Existing law tells Federal agencies to use energy conservation services offered by local utilities if those same services are offered to other customers in that same location. This amendment overrides section 630 of the bill, which we are dealing with here and which we are trying to eliminate. It would override these mandates and would have the following negative consequences.

First of all, there are 58 existing contracts between the General Services Administration and utilities that will be adversely affected by this provision, according to the Department of Energy. Second, the Department of Defense will be forced to scrap its model energy conservation agreement that it has with members of the utility industry.

Since the law allows sole-source contracts, and since the sole source is sometimes the only option for the Government, section 630 is not about making agencies comply with the law; it is about the Senate intervening on one side of an electric industry dispute without having all of the facts. Energy conservation law is obviously complex. We should not be trying to change this law in an appropriations bill. Before we change the law, we need to hear from all of the affected parties.

The chairman of the Energy Committee, who is cosponsoring my amendment, has agreed to hold hearings on the concerns raised by the chairman of the Appropriations Committee. Given that good-faith offer to investigate and resolve these concerns, I believe the Senate should support our amendment and take out section 630 until we have all the facts.

Mr. MURKOWSKI. Mr. President, I rise in support of the amendment from the Senator from New Mexico to strike section 630 of this legislation. Section 630 addresses substantive issues regarding the energy efficiency requirements for Federal agencies under the Energy Policy Act of 1992. That act had many provisions designed to improve the energy efficiency of Federal facilities. Two are at issue here. First, there are so-called energy savings performance contracts [ESPC's]. These are a mechanism for use of private sector funds to finance Federal energy efficiency improvements. These are competitively bid. In addition, there are utility programs. EPAct also provided for Federal participation in utility demand management programs that are authorized by the State regulators.

The ESPC's haven't been used as much as they could be. The ESPC's required new regulations, which DOE took a long time to issue. The contracting process was complicated and cumbersome. However, DOE is now entering into regional contracts for all Federal facilities, which is expected to speed up the contracting process. In the meantime, Federal agencies have been participating in utility demand management programs to reduce energy use.

The language of section 630 is very broad—it prohibits participation in all utility demand management programs. Even more troublesome, it prohibits payment under existing contracts. This, despite the fact that there may be some services that only utilities can provide—an example is a meeting system that provides real-time pricing information. But today, I do not wish to debate whether or not this is the right thing to do. This change in a law that is within the jurisdiction of the Energy Committee.

The promoters of the amendment have claimed that obtaining energy efficiency measures through sole source contracting—through utility demand management programs—is already against the law. This is not so. Section 152 of EPAct amended section 545 of National Energy Conservation Act to include the following language:

> (c) UTILITY INCENTIVE PROGRAMS.—(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.
>
> (2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electric demand.
>
> (3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

According to a letter I have received from the Department of Defense, the "Department uses a combination of contracting authorities to achieve energy efficiency. It is [the Department's belief that [the Department's] current approach provides better results for the U.S. Government than would be the case" if section 630 were enacted into law. The Department concludes that "this provision would have the effect of reducing the amount of work defense installations are able to contract to all sectors of the energy community, and therefore, significantly reducing the savings we achieve.

There are many issues raised by the Government's implementation of the provision of EPAct. However, these provisions are the jurisdiction of the Energy Committee. The concerns that the Department of Defense, and others, have raised with section 630 show that this is a complex issue that should be the subject of a hearing and deliberate legislative by the authorizing committee. An appropriations bill is not the appropriate forum to address these concerns.

I ask my colleagues support for the Bingaman amendment.

I ask unanimous consent that the text of the letter I received from Defense Deputy Under Secretary Goodman be printed in the RECORD.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE UNDER
SECRETARY OF DEFENSE,
Washington, DC.

Subject: Section 630, Senate Treasury and Postal Service appropriations bill.

Senator FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC.

This is in response to the telephone request from a member of your staff for a Defense position on the proposed section 630 to the Senate Treasury and Postal Appropriation bill. Section 630 would preclude any Federal agency from obtaining energy conservation services on a sole source basis.

The Department of Defense is concerned that this provision would have the effect of reducing the amount of work defense installations are able to contract to all sectors of the energy community, and therefore, significantly reducing the savings we achieve.

The Department of Defense is the single largest energy user in the country and is committed to achieving the energy efficiency improvement goals of the Energy Policy Act and President Clinton's Executive Order 12902. If those goals are achieved, we will realize a billion dollar reduction in our annual energy bill by 2005 and implement the most cost-effective environmental improvement result possible through pollution prevention.

The Department uses a combination of contracting authorities to achieve energy efficiency. These authorities allow us either competitively to contract or sole-source for the technical and capital resources we need. There are two important cases in which the Department may want to contract sole-source for energy conservation services, both in the interest of achieving best value for the United States Government. In the first case, we may contract sole source if the firm has proprietary information or a significant technological innovation—for instance, if a company has produced a new type of fuel cell or control system that is unique or proprietary. In the second case, under the recent agreement with the Edison Electric Institute, we can access a franchised utility company's energy conservation service program (which must be a sole-source contract because these are State-sanctioned sole-source programs). Under our agreement with the Edison Electric Institute, the franchise utility companies are required to subcontract competitively the actual conservation work. The Department therefore derives the benefits of competition even though the prime contract was not competitive.

It is our belief that our current approach provides better results for the United States Government than would be the case if our current authority to contract sole-source, where justified, were eliminated. Our current system allows more work to be done by the energy savings performance contractor and Architect/Engineer communities. Because this system allows us to take advantage of situations where the greatest savings derive from a sole source provider, it also increases our ability to undertake energy conservation efforts and therefore achieve greater savings.

We recommend that section 630 be deleted from the Treasury and Postal Service Appropriation Bill.

We have not had an opportunity to have the Office of Management and Budget review this to make sure that it comports with Administration policy.

JOHN B. GOODMAN,
Deputy Under Secretary of Defense.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. BINGAMAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CAMPBELL. Mr. President, my colleague is not yet here, so I suggest the absence of a quorum and ask unanimous consent that no time be charged against Senator STEVENS during that quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the provision in this bill requires compliance with existing law. Our information is that the cost of modernization of these facilities to the Federal Government is approximately $4 billion. Unless existing law is complied with, it will cost us $1 billion more than it would if we had true competition. The figures show it would cost $3 billion if they complied with the law; it would cost $4 billion if they continue to flout and ignore the law.

The Bingaman amendment would take out of the bill the requirement no funds can be spent except in compliance with existing law. I do not understand a refusal to accept the fact that that is the law. If the committee of jurisdiction doesn't like the law, they should come to the floor with suggestions to amend it. But we should, supporting expenditures of Federal funds, require compliance with the law that mandates competition in this area.

I move to table the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask, is there additional time preserved?

The PRESIDING OFFICER. All time of the Senator from New Mexico has expired.

Mr. BINGAMAN. Was there 2 minutes before each vote that was provided for in the unanimous-consent agreement?

The PRESIDING OFFICER. The Chair advises the Senator from New Mexico that there was. However, we have already had 10 minutes on this debate, so the Chair declares the time has expired.

Mr. BINGAMAN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 35, nays 64, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—35

Abraham
Allard
Bennett
Campbell
Chafee
Cleland
Coats
Collins
Coverdell
D'Amato
Feingold
Frist
Glenn
Gorton
Gramm
Grassley
Gregg
Hutchison
Kohl
Kyl
Lautenberg
Lieberman
Mack
McCain
McConnell
Murray
Roberts
Roth
Santorum
Sessions
Shelby
Snowe
Stevens
Thompson
Wellstone

NAYS—64

Akaka
Ashcroft
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Cochran
Conrad
Craig
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feinstein
Ford
Graham
Grams
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Landrieu
Leahy
Levin
Lott
Lugar
Mikulski
Moseley-Braun
Moynihan
Murkowski
Nickles
Reed
Reid
Robb
Sarbanes
Smith (NH)
Smith (OR)
Specter
Thomas
Thurmond
Torricelli
Warner
Wyden

NOT VOTING—1

Rockefeller

The motion to lay on the table the amendment (No. 937) was rejected.

Mr. STEVENS. Mr. President, I ask unanimous consent that the yeas and nays on the Bingaman amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Bingaman amendment.

The amendment (No. 937) was agreed to.

Mr. BINGAMAN. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 936

The PRESIDING OFFICER. The question occurs now on amendment No. 936.

The Senator from Ohio has 1 minute.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, let me take just 1 minute to explain this amendment.

This amendment is a very simple one. A "yes" vote means that we continue the current law. A "yes" vote on the amendment would continue in force the current prohibition on the taxpayer subsidy of abortions for Federal workers. It would permit Federal employee health plans to cover abortion only in the cases of rape, incest and threats to the life of the mother.

This has been the law for most of the last 14 years, from 1984 to 1993, and from 1995 until the present. A "yes" vote continues current law.

Mr. President, in 1996 the Federal Government paid an average of 74 percent of the cost of a Federal employee's health premium. That is taxpayer money. And the Senate has twice voted to be sure tax dollars were not used to fund abortions.

In 1995, this body endorsed this policy by a vote of 50 to 44. In 1996, we approved it again by a vote of 53 to 45. It is good policy. It ought to remain in force, consistent with the well-being of the American people.

I urge a "yes" vote.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

I rise in opposition to the amendment which is aimed at curbing the legal rights of women who work for the

Federal Government to obtain abortion services through their health insurance. I strongly urge my colleagues to vote against this amendment offered by Senator DEWINE.

Who is impacted by the DeWine amendment? There are 1.2 million women of reproductive age who rely on the Federal Employees Health Benefits Program for their medical coverage. They will be stopped from using their own insurance to exercise their right to obtain a perfectly legal abortion.

Women who are employed by the Federal Government work hard. They personally pay for their health premiums out of their own pockets. And, when it comes to health care coverage, they deserve the same health benefits as women who work in the private sector.

To me the question is clear: Should women Federal employees or their dependents be treated the same as other women in the work force or should they be singled out, punished, have their rights taken away from them and be treated differently?

In 1993, a majority of the Senate voted to restore the coverage of abortion services, and Federal employees were once again given equality with other women. Unfortunately, this Republican Congress overturned those rights. The Senate Appropriations Committee bill now before us provides funding for the Federal Employees Health Benefits Program. We should ensure that this funding remains in the bill.

Anti-choice forces are chipping away at the right of women in this country to obtain safe, legal abortions by making a women's ability to exercise that choice dependent upon the amount of her paycheck and the employer who signs it.

If there were an amendment to stop a man who happens to work for the Federal Government from getting a perfectly legal medical procedure, one that might protect his health, there would be an uproar on this floor. People would say, how dare you do that to the men of this country? Why not treat the men who work for the Federal Government the same way we treat men who work in the private sector?

The bottom line is—this is a tough personal, private matter, and I really think it is time we trusted women to make that choice. Who are we to say that a woman who happens to work for the Federal Government or her dependents should not have this right?

Let's ensure that all Federal employees have the rights, the protections, and the health care coverage they deserve.

The DeWine amendment singles out female Federal employees and denies them a medical benefit available to all other working women. It is wrong.

I yield the remainder of my time to Senator MURRAY.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise in strong opposition to the DeWine amendment (No. 936) to the Treasury, Postal Service appropriations bill for fiscal year 1998. This amendment is nothing more than another attempt to attack basic reproductive health services for Federal employees and their dependents. This has become an annual tradition during consideration of appropriations bills.

What always surprises me about this amendment is the arguments used in defense of denying Federal employees access to the same reproductive health and choices afforded most private sector employees. We are told that this is a matter of not allowing for the use of Federal funds for abortion related services. But, this is not argument does not make sense when one considers that most Federal employees contribute to their own health insurance through premiums, deductibles, and copayments. In addition, health insurance benefits are a form of compensation for services rendered. They are not viewed as a direct Federal payment, but rather a cost of labor. If we believe that Federal health insurance benefits are not a form of compensation, but rather a direct Federal payment to employees, then we should be looking to refund women who selected health insurance based on the reproductive services provided. If it was a direct Federal payment, why would the insurance companies be reluctant to reimburse all female Federal employees the cost of these services?

If one were to take this argument to the next level, then supporters of this amendment should be looking to forbid any Federal employee from using their salary to pay for abortion related services. Maybe we should have whole list of things that Federal employees cannot use their own salaries to support. But, we know that offering this type of amendment would expose the true motivation behind this continued attack on a woman's right to a safe and legal abortion.

That is what we should be discussing; the continued erosion of access to safe and legal abortion services. Instead of these piecemeal attempts, perhaps we should have a full and open debate on banning a woman's right to chose. That is what this amendment is all about. It is not Federal funding, but rather another attempt to further restrict and control access to safe reproductive health services. Using Federal funding simply allows those who oppose a woman's right to chose the chance to hide behind a baseless argument.

I feel confident that few Members in the U.S. Senate would be comfortable telling all women that they are no longer protected and can no longer be guaranteed access to a safe, affordable abortion regardless of the circumstances. Few Senators would want to tell their constituents that the issue is not for them to decide, but rather the decision has been made by the U.S. Senate. So instead, the strategy is to hide behind issues like the use of Federal funds, or Federal facilities.

Putting aside the issue of abortion for a moment, as guardians of the FEHBP and Federal employees, we must ask if it is right to deny a Federal employee access to a safe and affordable abortion. Currently, there are approximately 1.2 million women of reproductive age who rely on the FEHBP for their medical care. These women, by simply choosing a career in public service, agree to be discriminated against every day when it comes to health insurance coverage.

Approximately, two thirds of private fee-for-service plans and 70 percent of HMO's provide abortion coverage. Many of these same plans participate in the FEHBP and must offer a different level of benefits for Federal employees. They are legally allowed to discriminate against women who are also Federal employees. In no other situation would Congress stand for this form of discrimination within a plan that participates in the FEHBP. But, today we are voting to do just that.

I am always surprised by the lack of understanding of the real problems facing real people, shown by some of my colleagues. Supporters of this amendment state that a woman can still get an abortion, but she simply cannot receive health insurance coverage for this care. This may sound reasonable until one considers that costs for this type of care can be anywhere from $400 to several thousand dollars depending upon the severity of the problem. For many female Federal employees, who are in most cases the lowest paid, this is a lot of money. It might as well be $10,000. In addition, what guarantee is there that the care will be adequate and meet the standard of care for all FEHBP participants? Unfortunately, there are no guarantees.

This could also create additional costs and problems for insurance plans. We all know that an unsafe abortion can be life threatening. We can also assume that there is followup care required to ensure the overall health of the woman. Who is responsible for this care? Who is financially responsible for the effects of unsafe abortion or in a situation where the woman could not afford the followup care required? Some of my colleagues seem to think that an abortion is a decision made with little or no thought, they must also assume that the procedure is done with little or no thought. I can assure you, no woman makes this decision lightly and like all surgical procedures there is always some risk.

I strongly oppose this discriminatory attempt to deny 1.2 million Federal employees and their dependents access to safe, affordable health care coverage and urge my colleagues to think very carefully about voting to continue this discrimination.

This is not about the use of Federal funds. We all know that not one Federal employee received a refund when Congress acted to eliminate this coverage. For most insurance plans, abortion related services are a part of a package of reproductive health benefits—they do not single out abortion. This amendment is simply about denying some women access to safe, affordable and comprehensive reproductive health care benefits.

Mr. President, time and again, Members come to the floor to talk about how they support women's health. Once again, we are going to take reproductive health of women away from women.

This is about the health of women. It is denying Federal employees the ability to make choices about their own reproductive health.

I urge you to vote "no" on the DeWine amendment.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Very briefly, this is a gratuitous slap at women's citizen rights. We are equal citizens. We should not be singled out for this kind of treatment.

I urge a "no" vote.

Mr. NICKLES. Mr. President, from 1984 through 1993, language was included as part of the Treasury/Postal Service appropriations bills which prohibited taxpayer money from going to fund abortions through Federal employee health benefits plans. In 1993, President Clinton pushed a change in that policy through Congress. For 2 years, people who were unalterably opposed to abortion were forced to pay for an estimated 17,000 abortions each year for any reason. In 1995, Congress restored the policy of restricting abortion funding and has continued to maintain that policy. The narrow question before us today is whether Americans who stand in defense of life should be forced to pay for its destruction with their taxes. I do not believe they should and thus strongly support my colleague from Ohio's amendment.

Whether they choose to call themselves pro-choice or pro-life, the American people overwhelmingly reject public financing of abortion. A CBS/New York Times poll conducted in April 1993, about health care reform issues asked adults what should be included in a basic, Government-subsidized health care plan. Only 23 percent thought abortion should be covered. Some 72 percent said abortion should not be included a benefit in a Government-sponsored health plan.

A Wirthlin poll conducted in May 1992, found that 55 percent of Americans opposed using tax dollars to pay for abortions for women who cannot afford to pay for them. I would speculated that the number would be even higher if the question reflected the issue we are considering here, which is Government-subsidized abortions for women who can afford them.

Employers determine the benefits employees get. Taxpayers are the employers of Federal employees and a large majority of taxpayers do not want their tax dollars to pay for abortions. In 1995 the Federal Government contributed, on average, 72 percent of the money toward the purchase of health insurance for its employees. Thus, taxpayers provided a majority share of the funds to purchase health insurance for the Federal civilian work force.

The abortion funding restriction in this amendment addresses the same core issue as the Hyde amendments: Should the Federal Government be in the business of funding abortion? Should taxpayers be forced to underwrite the cost of abortions for Federal employees?

This amendment does not in any way hinder an individual's free exercise of their choice in regard to abortion services. What it does do is prevent such an individual's choice from being subsidized by funds taken from taxpayers who object to an unfettered exercise of the choice to abort an unborn child.

No matter what private arrangements individuals wish to make regarding abortion and insurance. Most American do not wish to see abortion services included among a federally guaranteed package of health care benefits. Despite its articulation of a constitutional right to privacy regarding abortion, the Supreme Court ruled in 1980 that abortion funding restrictions are constitutionally permissible. There is a clear distinction between supporting the private choice of abortion and requiring citizens through their tax dollars or federally mandated health premiums, to pay for such a service.

I hope that this overwhelming evidence will lead my colleagues to understand the imperative nature of this issue, and I urge them to vote in favor of this necessary amendment.

Ms. MIKULSKI. Mr. President, I rise in strong opposition to the amendment offered by Senator DEWINE.

The bill reported by the Senate Appropriations Committee would enable Federal employees, whose health insurance is provided under the Federal Employees Health Benefits Plan, to receive coverage for abortion services.

The DeWine amendment would prohibit coverage for abortion, except in cases of life endangerment, rape, or incest. It would continue a ban which has prevented Federal employees from receiving a health care service which is widely available for private sector employees.

I oppose this amendment for two reasons. First of all, it is it is an assault on the earned benefits of Federal employees. Second, it is part of a continuing assault on women's reproductive rights and would endanger women's health.

In the 104th Congress we saw vote after vote designed to roll back the clock on women's reproductive rights. In the last Congress, there were 53 votes in both the House and Senate on abortion-related issues. It's clear that this unprecedented assault on a woman's right to decide for herself whether or not to have a child is continuing in this Congress.

Well, I support the right to choose. And I support Federal employees. And that is why I strenuously oppose this amendment.

Let me speak first about our Federal employees. Some 280,000 Federal employees live in the State of Maryland. I am proud to represent them. They are the people who make sure that the Social Security checks go out on time. They make sure that our Nation's veterans receive their disability checks. At NIH, they are doing vital research on finding cures and better treatments for diseases like cancer, Parkinson's and Alzheimers. There is no American whose life is not touched in some way by the hard work of a Federal employee. They deserve our thanks and our support.

Instead, Federal employees have suffered one assault after another in the last year or two. They have faced tremendous employment insecurity, as Government has downsized, and eliminated over 200,000 Federal jobs. Their COLA's and their retirement benefits have been threatened. They have faced the indignity and economic hardship of three Government shutdowns. Federal employees have been vilified as what is wrong with Government, when they should be thanked and valued for the tremendous service they provide to our country and to all Americans.

I view this amendment as yet another assault on these faithful public servants. It goes directly after the earned benefits of Federal employees. Health insurance is part of the compensation package to which all Federal employees are entitled. The costs of insurance coverage are shared by the Federal Government and the employee.

I know that proponents of continuing the ban on abortion coverage for Federal employees say that they are only trying to prevent taxpayer funding of abortion. But that is not what this debate is about.

This is about prohibiting the compensation package of Federal employees from being used for a legal and sometimes vital medical service. Health insurance is part of the Federal employees pay.

If we were to extend the logic of the argument of those who favor the ban, we would prohibit Federal employees from obtaining abortions using their own paychecks. After all, those funds also come from the taxpayers.

But no one is seriously suggesting that Federal employees ought not to have the right to do whatever they want with their own paychecks. And we should not be placing unfair restrictions on the type of health insurance Federal employees can purchase under the Federal Employee Health Benefit Plan.

About 1.2 million women of reproductive age depend on the FEHBP for their medical care. We know that access to reproductive health services is essential to women's health. We know that restrictions that make it more difficult for women to obtain early abortions increase the likelihood that women will put their health at risk by being forced to continue a high-risk pregnancy.

If we continue the ban on abortion services, and provide exemptions only in cases of life endangerment, rape, or incest, the 1.2 million women of reproductive health age who depend on the FEHBP will not have access to abortion even when their health is seriously threatened. We will be replacing the informed judgment of medical care givers with that of politicians.

Decisions on abortion should be made by the woman in close consultation with her physician. These decisions should be made on the basis of medical judgment, not on the basis of political judgments. Only a woman and her physician can weigh her unique circumstances and make the decision that is right for that particular woman's life and health.

It is wrong for the Congress to try to issue a blanket prohibition on insuring a legal medical procedure with no allowance for the particular set of circumstances that an individual woman may face. I deeply believe that women's health will suffer if we do so.

I believe it is time to quit attacking Federal employees and their benefits. I believe we need to quit treating Federal employees as second class citizens. I believe Federal employees should be able to receive the same quality and range of health care services as their private sector counterparts.

Because I believe in the right to choose and because I support Federal employees, I urge my colleagues to join me in defeating the DeWine amendment.

The PRESIDING OFFICER. All time has expired.

The question occurs on agreeing to amendment No. 936. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—54

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Breaux
Brownback
Burns
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Domenici
Dorgan
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Reid
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Thomas
Thompson
Thurmond
Warner

NAYS—45

Akaka
Baucus
Bingaman
Boxer
Bryan
Bumpers
Byrd
Campbell
Chafee
Cleland
Collins
Daschle
Dodd
Durbin
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Robb
Sarbanes
Snowe
Specter
Stevens
Torricelli
Wellstone
Wyden

NOT VOTING—1

Rockefeller

The amendment (No. 936) was agreed to.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote.

Mr. KOHL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IRS MODERNIZATION

Mr. BYRD. As my colleagues will recall, the IRS has a large computer facility in my home State, in the city of Martinsburg. This facility should be an integral part of future IRS modernization efforts. Therefore, I have a question for the distinguished chairman of the subcommittee about this matter.

In its report, the committee supported the IRS' modernization blueprint. With respect to private sector involvement, the committee said:

> In 1997, Congress directed the IRS to turn over a majority of its tax systems modernization work to the private sector. The committee is pleased that the IRS is planning to develop and implement the modernization plan through new partnerships with the private sector.

Having said this, however, the committee included no funds in the bill for this purpose. My question is this: does the subcommittee chairman intend to recommend funding for the modernization program when a contract is let?

Mr. CAMPBELL. I thank the distinguished Senator from West Virginia for his interest in this important program. While the committee chose not to fund modernization for fiscal year 1998, I support appropriation of funds at that time in the future when the contract is awarded. I am pleased to put this on the record. Otherwise, those in the private sector spending extensive funds helping develop the concept of performance—based contracts, reviewing the "Request for Comment," and lending their expertise to the IRS so that the "Request for Proposal," when issued, is in the best possible shape, may stop doing so because of uncertainties about Congress' commitment to fund the procurement.

Mr. BYRD. Mr. President, I rise in support of S. 1023, the fiscal year 1998 Treasury and general Government appropriation bill, and commend the chairman and ranking member of the subcommittee, Senator CAMPBELL and Senator KOHL, for their very fine efforts in managing this bill. This is the first year that these distinguished Members have had an opportunity to manage this important bill which provides over $25 billion for the operation of the Department of Treasury and general Government activities.

The bill is $456 million less than the amount requested in the President's budget. The Members are to be commended for their efforts to keep a tight rein on funding and trim back wherever possible. The bill is consistent with the 602(b) allocations for both budget authority and outlays for the subcommittee.

Again, I congratulate Senators CAMPBELL and KOHL for their effective work. I also commend the work of the subcommittee staff: Barbara Retzlaff and Liz Blevins for the minority and Pat Raymond, Tammy Perrin, Lula Edwards for the majority.

AMENDMENT NO. 930

Mr. KOHL. Mr. President, last Thursday Senator HATCH and myself, along with Senators LEAHY and DURBIN, offered an amendment to the Treasury-Postal appropriations bill that would delink Federal judicial pay raises from those of the Congress and senior level executive branch officials. Our amendment, which was accepted without objection, will allow judges' salaries to be adjusted automatically on an annual basis. I am pleased that it is part of the measure that will pass the Senate today.

For too many years, Congress has refused to take the political heat for accepting pay raises, and held judicial salaries hostage in the process. This congressional scheme of hiding behind judicial robes has created a tremendous financial gulf between Federal judges and the lawyers who come before them. The likelihood that this salary gap will only get worse is driving some of our best jurists from the Federal bench and making it increasingly difficult to attract top-quality replacements. Such a talent drain threatens the quality of American justice at a time when our already overburdened courts need our best and most experienced legal minds.

The numbers offer their own warning. Between 1960 and 1970, only three

Federal judges resigned. But since 1980 more than 50 judges have left the bench early, many citing inadequate compensation as the reason. Indeed, a study several years ago by the American Bar Association estimated that more than one-fourth of the Nation's Federal judges may quit their jobs.

While this exodus grows, it is becoming increasingly difficult to attract the best and the brightest to Federal judicial service. Judicial candidates can clearly see the ink fading on their checkbooks. Many say they want to serve the public, but they just can't afford it.

The solution to this problem is simple, and by delinking judicial pay raises, the Senate today takes an important step toward ensuring that this situation will not be repeated. I am hopeful and optimistic that we can retain this provision when we conference the measure with the House.

Mr. President, we in Congress have taken the opportunity to show our commitment to fairness. We have recognized the mistake Congress made 20 years ago when it tied its own salary increases to those of Federal judges. This backdoor way of securing congressional pay raises hasn't worked. But by this amendment we have freed the hostages, the Nation's Federal judges, and helped to ensure the continued high quality of America's judicial system.

Mr. CAMPBELL. Mr. President, are there any further amendments to S. 1023?

The PRESIDING OFFICER. The Chair advises the Senator from Colorado that there are no further amendments.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that S. 1023 not be engrossed and that it remain at the desk pending receipt of the House companion measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The bill will be read the third time.

The bill was read the third time.

Mr. CAMPBELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, the staff and Senator KOHL have worked very hard on this bill. We have tried to accommodate all of the Members' suggestions. It is probably not a perfect bill, but we think it is a good bill. We ask that Senators support its passage.

The PRESIDING OFFICER. The question is on passage of the bill. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Rockefeller

The bill (S. 1023), as amended, was passed, as follows:

S. 1023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; $114,794,000: *Provided*, That section 113(2) of the Fiscal Year 1997 Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, Public Law 104-208 (110 Stat. 3009-22) is amended by striking "12 months" and inserting in lieu thereof "2 years": *Provided further*, That the Office of Foreign Assets Control shall be funded at no less than $6,745,000: *Provided further*, That chapter 9 of the fiscal year 1997 Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, including those in Bosnia, Public Law 105-18 (111 Stat. 195-96) is amended by inserting after the "County of Denver" in each instance "the County of Arapahoe".

OFFICE OF PROFESSIONAL RESPONSIBILITY

SALARIES AND EXPENSES

For necessary expenses of the Office of Professional Responsibility, including purchase and hire of passenger motor vehicles, $1,250,000.

AUTOMATION ENHANCEMENT

(INCLUDING TRANSFER OF FUNDS)

For the development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $29,389,000, of which $15,000,000 shall be available to the United States Customs Service for the Automated Commercial Environment project, of which $5,600,000 shall be available to Departmental Offices for the International Trade Data System, and of which $8,789,000 shall be available to Departmental Offices to modernize its information technology infrastructure and for business solution software: *Provided*, That these funds shall remain available until September 30, 1999: *Provided further*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds shall be used to support or supplement Internal Revenue Service appropriations for Information Systems: *Provided further*, That of the $27,000,000 provided under this heading in Public Law 104-208, $12,000,000 shall remain available until September 30, 1999: *Provided further*, That none of the funds for the International Trade Data System may be obligated until the Department has submitted a report on their system development plan to the Committees on Appropriations: *Provided further*, That the funds appropriated for the Automated Commercial Environment project may not be obligated prior to September 1, 1998: *Provided further*, That the funds appropriated for the Automated Commercial Environment project may not be obligated until the Commissioner of Customs has submitted, and the Committees on Appropriations of the House and Senate have approved, a systems architecture plan and a milestone schedule for the development and implementation of all projects included in the systems architecture plan.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed $2,000,000 for official travel expenses; including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; $29,719,000, of which $16,695 shall be transferred to the "Departmental Offices" appropriation for the reimbursement of Secret Service personnel in accordance with section 116 of this Act.

Treasury Building and Annex Repair and Restoration

(INCLUDING TRANSFER OF FUNDS)

For the repair, alteration, and improvement of the Treasury Building and Annex, $10,484,000, to remain available until September 30, 1999.

Financial Crimes Enforcement Network

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement; $22,835,000: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

Violent Crime Reduction Programs

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 103–322, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as follows:

(a) As authorized by section 190001(e), $119,995,000; of which $24,023,000 shall be available to the Bureau of Alcohol, Tobacco and Firearms, including $3,000,000 for administering the Gang Resistance Education and Training program, $6,000,000 for firearms trafficking initiatives (including the Youth Crime Gun Initiative, Project LEAD, and the National Tracing Center), $5,200,000 for CEASEFIRE/IBIS, $8,215,000 for vehicles, and $1,608,000 for collection of information on arson and explosives; of which $18,619,000 shall be available for the Federal Law Enforcement Training Center for construction of additional facilities; of which $3,000,000 shall be available to the Financial Crimes Enforcement Network, including $2,000,000 for the money laundering threat initiative and $1,000,000 for the Secure Outreach/Encrypted Transmission Program; of which $21,178,000 shall be available to the United States Secret Service, including $15,664,000 for expenses related to White House Security, $3,000,000 for investigations of counterfeiting, and $2,514,000 for forensic and related support of investigations of missing and exploited children; of which $44,635,000 shall be available for the United States Customs Service, including $15,000,000 for high energy container x-ray systems and automated targeting systems, $5,735,000 for laboratory modernization, $10,000,000 for vehicle replacement, $7,800,000 for automated license plate readers, $1,100,000 for construction of canopies for inspection of outbound vehicles along the Southwest border, and $5,000,000 to acquire vehicle and container inspection systems; and of which $8,500,000 shall be available to funds appropriated to the President, including $5,500,000 to the Counterdrug Technology Assessment Center for a program to transfer technology to State and local law enforcement agencies, and $3,000,000 for the Rocky Mountain HIDTA;

(b) As authorized by section 32401, $10,000,000 to the Bureau of Alcohol, Tobacco and Firearms for disbursement through grants, cooperative agreements, or contracts to local governments for Gang Resistance Education and Training: *Provided*, That notwithstanding sections 32401 and 310001, such funds shall be allocated to State and local law enforcement and prevention organizations;

(c) As authorized by section 180103, $1,000,000 to the Federal Law Enforcement Training Center for specialized training for rural law enforcement officers.

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $9,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109; $64,663,000, of which $2,819,000 shall be available for fiber optics replacement; of which up to $13,034,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2000: *Provided*, That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further*, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available, at the discretion of the Director, for: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training at the Center: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training at the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide short term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for ongoing maintenance, facility improvements, and related expenses, $13,930,000, to remain available until expended.

Interagency Law Enforcement

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For expenses necessary for the detection and investigation of individuals involved in organized crime drug trafficking, including cooperative efforts with State and local law enforcement, $73,794,000, of which $7,827,000 shall remain available until expended.

Financial Management Service

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $202,490,000, of which not to exceed $13,235,000 shall remain available until September 30, 2000 for information systems modernization initiatives. Beginning in fiscal year 1998 and thereafter, there are appropriated such sums as may be necessary to reimburse Federal Reserve Banks in their capacity as depositaries and fiscal agents for the United States for all services required or directed by the Secretary of the Treasury to be performed by such banks on behalf of the Treasury or other Federal agencies.

Bureau of Alcohol, Tobacco and Firearms

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed 650 vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $12,500 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and provision of laboratory assistance to State and local agencies, with or without reimbursement; $473,490,000; of which $1,000,000 may be used for the Youth Gun Crime Initiative; of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in the fiscal year ending on September 30, 1998: *Provided further*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the

United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority who has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government: *Provided further*, That prior to implementation of separation plans as authorized by section 663 of Public Law 104–863, approval will be sought from the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs: *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

LABORATORY FACILITIES

For necessary expenses for construction of a new facility or facilities to house the Bureau of Alcohol, Tobacco and Firearms National Laboratory Center and the Fire Investigation Research and Development Center, not to exceed 185,000 occupiable square feet, $55,022,000 to remain available until expended: *Provided*, That these funds shall not be available until an authorized prospectus for the Laboratory Facilities is approved by the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,050 motor vehicles of which 985 are for replacement only and of which 1,030 are for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed $30,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,551,028,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000 shall be available until expended for research, not to exceed $1,500,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081, and up to $6,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That prior to implementation of separation plans as authorized by section 663 of Public Law 104–863, approval will be sought from the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs: *Provided further*, That $2,500,000 shall be available to fund the Globe Trade and Research Program at the Montana World Trade Center: *Provided further*, That notwithstanding any other provision of law, the fiscal year aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000.

OPERATIONS, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts; $92,758,000, which shall remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury, during fiscal year 1998 without the prior approval of the House and Senate Committees on Appropriations.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary pursuant to section 236 of Public Law 98–573 for each of these airports or other facilities when authorized by law and designated by the Secretary, and to remain available until expended.

HARBOR MAINTENANCE FEE COLLECTION

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, $3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs "Salaries and Expenses" account for such purposes.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, $173,826,000, of which not to exceed $2,500 shall be available for official reception and representation expenses, and of which $2,000,000 shall remain available until September 30, 2000 for information systems modernization initiatives: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 1998 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at $169,426,000, and in addition, $20,000, to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 102 of Public Law 101–380: *Provided further*, That notwithstanding any other provisions of law, effective upon enactment, the Bureau of the Public Debt shall be fully and directly reimbursed by the funds described in Public Law 101–136, title I, section 104, 103 Stat. 789 for costs and services performed by the Bureau in the administration of such funds.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; providing tax law and account assistance to taxpayers by telephone and correspondence; matching information returns and tax returns; management services; rent and utilities; and inspection; including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $2,943,174,000, of which up to $3,700,000 shall be for the Tax Counseling for the Elderly Program, and of which not to exceed $25,000 shall be for official reception and representation expenses.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; statistics of income and compliance research; the purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,153,722,000. Of the funds appropriated under this heading in Public Law 104–208, $26,000,000 and in addition, $6,000,000 in Public Law 104–52 are available in fiscal year 1998 for the Year 2000 Century Date Change.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,272,487,000, which shall be available until September 30, 1999: *Provided*, That under the heading "Information Systems" in Public Law 104–208 (110 Stat. 3009), the following is deleted: "of which no less than $130,075,000 shall be available for Tax Systems Modernization (TSM) development and deployment": *Provided further*, That the IRS will submit a reprogramming request, of which no less than $102,500,000 is available for Year 2000 conversion.

INFORMATION TECHNOLOGY INVESTMENTS

For necessary expenses for the capital asset acquisition of information technology systems as they relate to the century date change and data center consolidation; $325,000,000, which shall remain available until September 30, 2000: *Provided*, That none of the funds are available for obligation until September 1, 1998: *Provided further*, That the systems acquired are in compliance with acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SEC. 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 103. The funds provided in this Act for the Internal Revenue Service shall be used to provide, as a minimum, the fiscal year 1995 level of service, staffing, and funding for Taxpayer Services.

SEC. 104. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1986 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection, including any private sector employees under contract to the Internal Revenue Service, complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692.)

SEC. 105. The Internal Revenue Service shall institute and enforce policies and procedures which will safeguard the confidentiality of taxpayer information.

SEC. 106. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective 1-800 help line for taxpayers. The Commissioner shall continue to make the improvement of the IRS 1-800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the IRS 1-800 help line service.

SEC. 107. Hereafter, no field support reorganization of the Internal Revenue Service shall be undertaken in Aberdeen, South Dakota until the Internal Revenue Service toll-free help phone line assistance program reaches at least an 80 percent service level. The Commissioner shall submit to Congress a report and the GAO shall certify to Congress that the 80 percent service level has been met.

SEC. 108. Notwithstanding any other provision of law, no reorganization of the field office structure of the Internal Revenue Service Criminal Investigation division will result in a reduction of criminal investigators in Wisconsin from the 1996 level.

SEC. 109. None of the funds appropriated under this Act or any Act hereinafter enacted may be used by the Secretary of the Treasury to collect a tax liability by levy upon a limited entry commercial fishing permit issued by a State unless the Secretary first determines in writing and by clear and convincing evidence that such levy will facilitate the full collection of such tax liability.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed 705 vehicles for police-type use, of which 675 shall be for replacement only), and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $20,000 for official reception and representation expenses; for sponsorship of a conference for the Women in Federal Law Enforcement, to be held during fiscal year 1998; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; not to exceed $6,568,000 for continued White House security enhancements; not to exceed $1,623,000 for fixed site and security maintenance; not to exceed $2,830,000 for LAN replacement; not to exceed $1,000,000 for year 2000 date conversion; not to exceed $6,100,000 for FLEWUG/SNET which shall remain available until expended; not to exceed $6,700,000 for vehicle replacement; and not to exceed $1,460,000 to provide technical assistance and to assess the effectiveness of new technology intended to combat identity-based crimes; $570,809,000.

ACQUISITION, CONSTRUCTION, IMPROVEMENT, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, $9,176,000, to remain available until expended for the Secret Service's Headquarters Building and the James J. Rowley Training Center.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 111. Any obligation or expenditure by the Secretary in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 1998, shall be made in compliance with the reprogramming guidelines contained in the Senate report accompanying this Act.

SEC. 112. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 113. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 1998 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

SEC. 114. Not to exceed 2 percent of any appropriations in this Act made available to the Federal Law Enforcement Training Center, Financial Crimes Enforcement Network, Bureau of Alcohol, Tobacco and Firearms, U.S. Customs Service, and U.S. Secret Service may be transferred between such appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent and notice of any such transfer shall be approved by the Committees on Appropriations of the House and Senate.

SEC. 115. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices, Office of Inspector General, Financial Management Service, and Bureau of the Public Debt, may be transferred between such appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent and notice of any such transfer shall be transmitted in advance to the Committees on Appropriations of the House and Senate.

SEC. 116. The Secretary of the Treasury shall pay from amounts transferred to the "Departmental Offices" appropriation, up to $16,695 to reimburse Secret Service personnel for any attorney fees and costs they incurred with respect to investigation by the Department of the Treasury Inspector General concerning testimony provided to Congress: *Provided*, That the Secretary of the Treasury shall pay an individual in full upon submission by the individual of documentation verifying the attorney fees and costs: *Provided further*, That the liability of the United States shall not be inferred from enactment of or payment under this provision: *Provided further*, That the Secretary of the Treasury shall not pay any claim filed under this section that is filed later than 120 days after the date of enactment of this Act: *Provided further*, That payment under this provision, when accepted, shall be in full satisfaction of all claims of, or on behalf of, the individual Secret Service agent who was the subject of said investigation.

SEC. 117. (a)(1) Effective beginning on the date determined under paragraph (2), the compensation and other emoluments attached to the Office of Secretary of the Treasury shall be those that would then apply if Public Law 103-2 (107 Stat. 4; 31 U.S.C. 301 note) had never been enacted.

(2) Paragraph (1) shall become effective on the later of—

(A) the day after the date on which the individual holding the Office of Secretary of the Treasury on January 1, 1997, ceases to hold that office; or

(B) the date of the enactment of this Act.

(3) Nothing in this subsection shall be considered to affect the compensation or emoluments due to any individual in connection with any period preceding the date determined under paragraph (2).

(b) Subsection (b) of the first section of the public law referred to in subsection (a)(1) of this section shall not apply in the case of any appointment the consent of the Senate to which occurs on or after the date of the enactment of this Act.

(c) This section shall not be limited (for purposes of determining whether a provision of this section applies or continues to apply) to fiscal year 1998.

RATES OF BASIC PAY FOR THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION.

SEC. 118. (a) NEW RATES OF BASIC PAY.—Section 501 of the District of Columbia Police and Firemen's Salary Act of 1958, (District of Columbia Code, section 4-416), is amended—

(1) in subsection (b)(1), by striking "Interior" and all that follows through "Treasury," and inserting "Interior";

(2) by redesignating subsection (c) as subsection (b)(3);

(3) in subsection (b)(3) (as redesignated)—

(A) by striking "or to officers and members of the United States Secret Service Uniformed Division"; and

(B) by striking "subsection (b) of this section" and inserting "this subsection"; and

(4) by adding after subsection (b) the following new subsection:

"(c)(1) The annual rates of basic compensation of officers and members of the United States Secret Service Uniformed Division, serving in classes corresponding or similar to those in the salary schedule in section 101 (District of Columbia Code, section 4-406), shall be fixed in accordance with the following schedule of rates:

"SALARY SCHEDULE

Salary class and title	Service steps								
	1	2	3	4	5	6	7	8	9
Class 1: Private	29,215	30,088	31,559	33,009	35,331	37,681	39,128	40,593	42,052
Class 4: Sergeant	39,769	41,747	43,728	45,718	47,715	49,713			
Class 5: Lieutenant	45,148	47,411	49,663	51,924	54,180				
Class 7: Captain	52,523	55,155	57,788	60,388					
Class 8: Inspector	60,886	63,918	66,977	70,029					
Class 9: Deputy Chief	71,433	76,260	81,113	85,950					
Class 10: Assistant Chief	84,694	90,324	95,967						
Class 11: Chief of the United States Secret Service Uniformed Division	98,383	104,923							

"(2) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of title 5, United States Code (or any subsequent similar provision of law), in the rates of pay under the General Schedule (or any pay system that may supersede such schedule), the annual rates of basic compensation of officers and members of the United States Secret Service Uniformed Division shall be adjusted by the Secretary of the Treasury by an amount equal to the percentage of such annual rate of pay which corresponds to the overall percentage of the adjustment made in the rates of pay under the General Schedule.

"(3) Locality-based comparability payments authorized under section 5304 of title 5, United States Code, shall be applicable to the basic pay under this section, except locality-based comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the officer or member, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

"(4) Pay may not be paid, by reason of any provision of this subsection (disregarding any comparability payment payable under Federal law), at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code.

"(5) Any reference in any law to the salary schedule in section 101 (District of Columbia Code, section 4-406) with respect to officers and members of the United States Secret Service Uniformed Division shall be considered to be a reference to the salary schedule in paragraph (1) of this subsection as adjusted in accordance with this subsection.

"(6)(A) Except as otherwise permitted by or under law, no allowance, differential, bonus, award, or other similar cash payment under this title or under title 5, United States Code, may be paid to an officer or member of the United States Secret Service Uniformed Division in a calendar year if, or to the extent that, when added to the total basic pay paid or payable to such officer or member for service performed in such calendar year as an officer or member, such payment would cause the total to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year.

"(B) This paragraph shall not apply to any payment under the following provisions of title 5, United States Code:

"(i) Subchapter III or VII of chapter 55, or section 5596.

"(ii) Chapter 57 (other than section 5753, 5754, or 5755).

"(iii) Chapter 59 (other than section 5928).

"(7)(A) Any amount which is not paid to an officer or member of the United States Secret Service Uniformed Division in a calendar year because of the limitation under paragraph (6) shall be paid to such officer or member in a lump sum at the beginning of the following calendar year.

"(B) Any amount paid under this paragraph in a calendar year shall be taken into account for purposes of applying the limitations under paragraph (6) with respect to such calendar year.

"(8) The Office of Personnel Management shall prescribe regulations as may be necessary (consistent with section 5582 of title 5, United States Code) concerning how a lump-sum payment under paragraph (7) shall be made with respect to any employee who dies before an amount payable to such employee under paragraph (7) is made.".

(b) CONVERSION TO NEW SALARY SCHEDULE.—

(1)(A) Effective on the first day of the first pay period beginning after the date of enactment of this section, the Secretary of the Treasury shall fix the rates of basic pay for members of the United States Secret Service Uniformed Division in accordance with this paragraph.

(B) Subject to subparagraph (C), each officer and member receiving basic compensation, immediately prior to the effective date of this section, at one of the scheduled rates in the salary schedule in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958, as adjusted by law and as in effect prior to the effective date of this section, shall be placed in and receive basic compensation at the corresponding scheduled service step of the salary schedule under subsection (a)(4).

(C)(i) The Assistant Chief and the Chief of the United States Secret Service Uniformed Division shall be placed in and receive basic compensation in salary class 10 and salary class 11, respectively, in the appropriate service step in the new salary class in accordance with section 304 of the District of Columbia Police and Firemen's Salary Act 1958 (District of Columbia Code, section 4-413).

(ii) Each member whose position is to be converted to the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-416(c)) as amended by this section, in accordance with subsection (a) of this section, and who, prior to the effective date of this section has earned, but has not been credited with, an increase in his or her rate of pay shall be afforded that increase before such member is placed in the corresponding service step in the salary schedule under section 501(c).

(2) Except in the cases of the Assistant Chief and the Chief of the United States Secret Service Uniformed Division, the conversion of positions and individuals to appropriate classes of the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-416(c)) as amended by this section, and the initial adjustments of rates of basic pay of those positions and individuals, in accordance with paragraph (1) of this subsection, shall not be considered to be transfers or promotions within the meaning of section 304 of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-413).

(3) Each member whose position is converted to the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (District of Columbia Code, section 4-416(c)) as amended by this section, in accordance with subsection (a) of this section, shall be granted credit for purposes of such member's first service step adjustment under the salary schedule in such section 510(c) for all satisfactory service performed by the member since the member's last increase in basic pay prior to the adjustment under that section.

(c) LIMITATION ON PAY PERIOD EARNINGS.—The Act of August 15, 1950 (64 Stat. 477), (District of Columbia Code, section 4-1104), is amended—

(1) in subsection (h), by striking "any officer or member" each place it appears and inserting "an officer or member of the Metropolitan Police force, of the Fire Department

of the District of Columbia, or of the United States Park Police";

(2) by redesignating subsection (h)(3) as subsection (i); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) no premium pay provided by this section shall be paid to, and no compensatory time is authorized for, any officer or member of the United States Secret Service Uniformed Division whose rate of basic pay, combined with any applicable locality-based comparability payment, equals or exceeds the lesser of—

"(i) 150 percent of the minimum rate payable for grade GS–15 of the General Schedule (including any applicable locality-based comparability payment under section 5304 of title 5, United States Code or any similar provision of law, and any applicable special rate of pay under section 5305 of title 5, United States Code or any similar provision of law); or

"(ii) the rate payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code.

"(B) In the case of any officer or member of the United States Secret Service Uniformed Division whose rate of basic pay, combined with any applicable locality-based comparability payment, is less than the lesser of—

"(i) 150 percent of the minimum rate payable for grade GS–15 of the General Schedule (including any applicable locality-based comparability payment under section 5304 of title 5, United States Code or any similar provision of law, and any applicable special rate of pay under section 5305 of title 5, United States Code or any similar provision of law); or

"(ii) the rate payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code,

such premium pay may be paid only to the extent that such payment would not cause such officer or member's aggregate rate of compensation to exceed such lesser amount with respect to any pay period.".

(d) SAVINGS PROVISION.—On the effective date of this section, any existing special salary rates authorized for members of the United States Secret Service Uniformed Division under section 5305 of title 5, United States Code (or any previous similar provision of law) and any special rates of pay or special pay adjustments under section 403, 404, or 405 of the Federal Law Enforcement Pay Reform Act of 1990 applicable to members of the United States Secret Service Uniformed Division shall be rendered inapplicable.

(e) CONFORMING AMENDMENT.—The Federal Law Enforcement Pay Reform Act of 1990 (104 Stat. 1466) is amended by striking subsections (b)(1) and (c)(1) of section 405.

(f) EFFECTIVE DATE.—The provisions of this section shall become effective on the first day of the first pay period beginning after the date of enactment of this Act.

SEC. 119. Section 117 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104–208) is hereby repealed.

SEC. 120. Notwithstanding any other provision of law, the Secretary of the Treasury shall establish the port of Kodiak, Alaska as a port of entry and United States Customs Service personnel in Anchorage, Alaska shall serve such port of entry. There are authorized to be appropriated such sums as necessary to cover the costs associated with the performance of customs functions using such United States Customs Service personnel.

SEC. 121. None of the funds made available by this Act may be used by the Inspector General to contract for advisory and assistance services that has the meaning given such term in section 1105(g) of title 31, United States Code.

TITLE II—POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE FUND

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $86,274,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1998.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 United States Code 2004, $34,850,000.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $51,199,000: *Provided*, That $873,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a systems architecture plan, a milestone schedule for the development and implementation of all projects included in the systems architecture plan, and an estimate of the funds required to support the fiscal year 1998 capital investments associated with that plan: *Provided further*, That $9,800,000 of the funds appropriated shall be available for reimbursements to the White House Communications Agency in accordance with Public Law 104–201.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $8,045,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, $200,000, to remain available until expended for renovation and relocation of the White House laundry, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $3,378,000: *Provided*, That $69,800 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a systems architecture plan, a milestone schedule for the development and implementation of all projects included in the systems architecture plan, and an estimate of the funds required to support the fiscal year 1998 capital investments associated with that plan.

OPERATING EXPENSES

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $334,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,542,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,903,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $6,648,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles $28,883,000, of which $2,000,000 shall remain available until expended for a capital investment plan which provides for the modernization of the information technology infrastructure: *Provided*, That $2,000,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a systems architecture plan, a milestone schedule for the development and implementation of all projects included in the system architecture plan, and an estimate of the funds required to support the fiscal year 1998 capital investments associated with that plan.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, $57,240,000, of which not to exceed $5,000,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the House and Senate Committees on Appropriations or the House and Senate Committees on Veterans' Affairs or their subcommittees.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $36,016,000, of which $18,000,000 shall remain available until expended, consisting of $1,000,000 for policy research and evaluation and $17,000,000 for the Counter-Drug Technology Assessment Center for counternarcotics research and development projects of which $1,000,000 shall be obligated for state conferences on model State drug laws: *Provided*, That the $17,000,000 for the Counter-Drug Technology Assessment Center shall be available for transfer to other Federal departments or agencies: *Provided further*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $140,207,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than $71,000,000 shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of enactment of this Act and up to $69,207,000 may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided*, That funding shall be provided for existing High Intensity Drug Trafficking Areas at no less than the fiscal year 1997 level.

SPECIAL FORFEITURE FUND

For activities to support a national media campaign for youth, and other purposes, authorized by Public Law 100–690, as amended, $145,300,000, to remain available until expended: *Provided*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the amount provided, $110,000,000 shall be to support a national media campaign, to reduce and prevent drug use among young Americans: *Provided further*, That none of the funds provided for the national media campaign may be obligated until the Director, Office of National Drug Control Policy, submits a strategy to the Committees on Appropriations and the Judiciary of the House of Representatives and the Senate that includes (1) a certification, and guidelines to ensure that funds will supplement and not supplant current anti-drug community based coalitions; (2) a certification, and guidelines to ensure that none of the funds will be used for partisan political purposes; (3) a certification, and guidelines to ensure that no media campaigns to be funded pursuant to this campaign shall feature any elected officials, persons seeking elected office, cabinet-level officials, or other Federal officials employed pursuant to Schedule C of title 5, Code of Federal Regulations, section 213, absent notice to the Chairmen and Ranking Members of the House and Senate Committees on Appropriations and the Judiciary; (4) a detailed implementation plan to be submitted to the Chairmen and Ranking Members of the Committees on Appropriations and the Judiciary for securing private sector contributions including but not limited to in-kind contributions; (5) a detailed implementation plan to be submitted to the Chairmen and Ranking Members of the Committees on Appropriations and the Judiciary of the qualifications necessary for any organization, entity, or individual to receive funding for or otherwise provided broadcast media time: *Provided further*, That the Director shall (1) report to Congress quarterly on the obligation of funds as well as the specific parameters of the national media campaign and (2) report to Congress within two years on the effectiveness of the national media campaign based upon the measurable outcomes provided to Congress previously: *Provided further*, That of the amount provided, $10,000,000 shall be to initiate a program of matching grants to drug-free communities, as authorized in the Drug-Free Communities Act of 1997: *Provided further*, That of the amount provided, $10,000,000 shall be used to continue and expand the methamphetamine reduction efforts: *Provided further*, That of the amount provided, $6,000,000 shall be used to establish a Federal Drug-Free Prison demonstration project: *Provided further*, That of the amount provided $9,300,000 shall be used to continue the reduction of drug use program for those involved in the criminal justice system.

TITLE IV—INDEPENDENT AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28, $1,940,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $29,000,000, of which no less than $2,500,000 shall be available for internal automated data processing systems, and of which not to exceed $5,000 shall be available for reception and representation expenses: *Provided*, That the General Accounting Office shall conduct a management review, and technology and performance audit, of the Federal Election Commission.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $22,039,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

To carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), the revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $4,885,934,000, of which (1) $350,000,000 shall remain available until expended, for repairs and alterations which includes associated design and construction services:

Repairs and alterations;

Chlorofluorocarbons Program, $50,000,000; and

Basic Repairs and Alterations, $300,000,000: *Provided*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That the amounts provided in this or any prior Act for Repairs and Alterations may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That funds made available in this Act or any previous Act for Repairs and Alterations shall, for prospectus projects, be limited to the amount originally made available, except each project may be increased by an amount not to exceed 10 percent when advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2000 and remain in the Federal Building Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects; (2) $142,542,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (3) $2,275,340,000 for rental of space which shall remain available until expended; (4) $1,331,789,000 for building operations which shall remain available until expended; and (5) $680,543,000 which shall remain available until expended for projects and activities previously approved under this heading in prior fiscal years: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 1998, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $4,885,934,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

POLICY AND OPERATIONS

For expenses authorized by law, not otherwise provided for, for Government-wide policy and oversight activities associated with asset management activities; utilization and donation of surplus personal property; transportation; procurement and supply; Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related technology activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses; $104,487,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $33,870,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $2,208,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 1998 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 1999 request for United States Courthouse construction that (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 1999 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency which does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 406. Section 10 of the General Services Administration General Provisions, Public Law 100–440, is hereby repealed.

SEC. 407. Funds provided to other Government agencies by the Information Technology Fund, GSA, under 40 U.S.C. 757 and sections 5124(b) and 5128 of Public Law 104–106, Information Technology Management Reform Act of 1996, for performance of pilot information technology projects which have potential for Government-wide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 408. The Administrator of the General Services is directed to ensure that the materials used for the facade on the United States Courthouse Annex, Savannah, Georgia project are compatible with the existing Savannah Federal Building-U.S. Courthouse facade, in order to ensure compatibility of this new facility with the Savannah historic district and to ensure that the Annex will not endanger the National Landmark status of the Savannah historic district.

SEC. 409. (a) The Act approved August 25, 1958, as amended (Public Law 85–745; 3 U.S.C. 102 note), is amended by striking section 2.

(b) Section 3214 of title 39, United States Code, is amended—

(1) in subsection (a) by striking "(a) Subject to subsection (b), a" and inserting "A"; and

(2) by striking subsection (b).

SEC. 410. Section 201(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481) as amended to read as follows:

"(b) The Administrator shall as far as practicable provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed ownership corporation (as defined in chapter 91 of title 31, United States Code), or the District of Columbia, upon its request.".

JOHN F. KENNEDY ASSASSINATION RECORDS REVIEW BOARD

For the necessary expenses to carry out the John F. Kennedy Assassination Records

Collection Act of 1992, $1,600,000: *Provided*, That $100,000 shall be available only for the purposes of the prompt and orderly termination of the John F. Kennedy Assassination Records Review Board, to be concluded no later than September 30, 1998.

Merit Systems Protection Board

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $24,810,000, together with not to exceed $2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

National Archives and Records Administration

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $206,479,000: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings.

ARCHIVES FACILITIES AND PRESIDENTIAL LIBRARIES REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities and presidential libraries, and to provide adequate storage for holdings, $13,650,000, to remain available until expended, of which $4,000,000 is for repairs and restoration of the Truman Library in Independence, Missouri, and of which $3,000,000 is for internal repairs to the Lyndon Baines Johnson Presidential Library located at the University of Texas at Austin.

National Historical Publications and Records Commission

GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $5,000,000, to remain available until expended.

Office of Government Ethics

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100–598, and the Ethics Reform Act of 1989, Public Law 101–194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $8,265,000.

Office of Personnel Management

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty; $85,350,000; and in addition $91,236,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials for the retirement and insurance programs: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, United States Code: *Provided further*, That, except as may be consistent with 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a-7–1320a-7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1998, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $960,000; and in addition, not to exceed $8,645,000 for administrative expenses to audit the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

Office of Special Counsel

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), the Whistleblower Protection Act of 1989 (Public Law 101–12), Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $8,450,000.

United States Tax Court

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $34,293,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

TITLE V—GENERAL PROVISIONS

This Act

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 504. None of the funds made available by this Act shall be available in fiscal year 1998, for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Treasury Department.

SEC. 505. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United

States not heretofore authorized by the Congress.

SEC. 506. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the United States Postal Service of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 507. The Office of Personnel Management may, during the fiscal year ending September 30, 1998, and hereafter, accept donations of supplies, services, land, and equipment for the Federal Executive Institute and Management Development Centers to assist in enhancing the quality of Federal management.

SEC. 508. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 509. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 510. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 511. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 512. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 1998 from appropriations made available for salaries and expenses for fiscal year 1998 in this Act, shall remain available through September 30, 1999, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the House and Senate Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with the reprogramming guidelines contained in the House and Senate reports accompanying this Act.

SEC. 513. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 514. Section 1 under the subheading "General Provision" under the heading "Office of Personnel Management" under title IV of the Treasury, Postal Service and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 861; 5 U.S.C. 5941 note), as amended by section 532 of the Treasury, Postal Service and General Government Appropriations Act, 1995 (Public Law 103–329; 108 Stat. 2413), and by section 5 under the heading "General Provisions—Office of Personnel Management" under title IV of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 490), is further amended by striking "1998" both places it appears and inserting "2000".

SEC. 515. Notwithstanding any provision of chapter 89 of title 5, United States Code, the Office of Personnel Management shall enter into a contract with the National Association of Postmasters of the United States (hereafter referred to as the "Association") under section 8902 of such title, if—

(1) the Association fulfills all terms and conditions (not related to such withdrawal from participation) of a qualified carrier under such chapter;

(2) the plan offered by the Association fulfills all terms and conditions (not related to such withdrawal from participation) of an approved health benefits plan;

(3) prior to May 31, 1998, the Association submits a plan to the Office of Personnel Management for approval as an approved health benefits plan; and

(4) the Association enters into an agreement with an underwriting subcontractor licensed to issue group health insurance.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1998 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding 31 U.S.C. 1345, any agency, department, or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences, or other meetings in connection with the provision of such services: *Provided*, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 604. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided*, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 605. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

SEC. 606. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence, (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975, or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 607. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 608. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order 12873 (October 20, 1993), including any such programs adopted prior to the effective date of the Executive Order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 612. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 613. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 614. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal year ending on September 30, 1998, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by section 616 of the Treasury, Postal Service and General Government Appropriations Act, 1997, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 1998, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 616; and

(2) during the period consisting of the remainder of fiscal year 1998, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 1998 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 1998 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 1997 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 1997, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1997, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 1997.

(f) For the purpose of administering any provision of law (including section 8431 of title 5, United States Code, and any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate. For the purposes of this section, the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 616. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 617. Notwithstanding section 1346 of title 31, United States Code, or section 611 of this Act, funds made available for fiscal year 1998 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 618. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 619. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1998 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 620. No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, not directly responsible for the discharge of official governmental tasks and duties: *Provided*, That this restriction shall not apply to the family of the President, Members of Congress or their spouses, Heads of State of a foreign country or their designees, persons providing assistance to the President for official purposes, or other individuals so designated by the President.

SEC. 621. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing.

SEC. 622. (a) None of the funds made available in this Act or any other Act may be obligated or expended for any employee training when it is made known to the Federal official having authority to obligate or expend such funds that such employee training—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988;

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or

(6) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 623. No funds appropriated in this or any other Act for fiscal year 1998 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.": *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 624. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 625. (a) IN GENERAL.—No later than September 30, 1998, the Director of the Office of Management and Budget shall submit to the Congress a report that provides—

(1) estimates of the total annual costs and benefits of Federal regulatory programs, including quantitative and nonquantitative measures of regulatory costs and benefits;

(2) estimates of the costs and benefits (including quantitative and nonquantitative measures) of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs;

(3) an assessment of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government; and

(4) recommendations from the Director and a description of significant public comments to reform or eliminate any Federal regulatory program or program element that is inefficient, ineffective, or is not a sound use of the Nation's resources.

(b) NOTICE.—The Director shall provide public notice and an opportunity to comment on the report under subsection (a) before the report is issued in final form.

SEC. 626. None of the funds appropriated by this Act or any other Act, may be used by an agency to provide a Federal employee's home address to any labor organization except when it is made known to the Federal official having authority to obligate or expend such funds that the employee has authorized such disclosure or that such disclosure has been ordered by a court of competent jurisdiction.

SEC. 627. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the House and Senate Committees on Appropriations.

SEC. 628. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 629. None of the funds appropriated in this or any other Act shall be used to acquire information technologies which do not comply with part 39.106 (Year 2000 compliance) of the Federal Acquisition Regulation, unless an agency's Chief Information Officer determines that non-compliance with part 39.106 is necessary to the function and operation of the requesting agency or the acquisition is required by a signed contract with the agency in effect before the date of enactment of this Act. Any waiver granted by the Chief Information Officer shall be reported to the Office of Management and Budget, and copies shall be provided to Congress.

SEC. 630. Section 5118(d)(2) of title 31, United States Code, is amended by striking "This paragraph shall" and all that follows through the end of the paragraph.

SEC. 631. The Director of the Office of Management and Budget shall create and implement no later than October 1, 1997 a budget object classification which shall record obligations for the expenses of employee relocation. All obligations incident to an employee's relocation authorized under either chapter 57 of title 5, United States Code, or section 901, title I, Public Law 96-465, as amended, shall be classified to such object classification.

Sec. 632. Notwithstanding any other provision of law, no part of any appropriation contained in this Act for any fiscal year shall be available for paying Sunday premium pay to any employee unless such employee actually performed work during the time corresponding to such premium pay.

Sec. 633. (a) Special Postage Stamps.—In order to afford the public a convenient way to contribute to funding for breast-cancer research, the United States Postal Service shall establish a special rate of postage for first-class mail under this section.

(b) Higher Rate.—The rate of postage established under this section—

(1) shall be 1 cent higher than the rate that would otherwise apply;

(2) may be established without regard to any procedures under chapter 36 of title 39, United States Code, and notwithstanding any other provision of law; and

(3) shall be offered as an alternative to the rate that would otherwise apply.

The use of the rate of postage established under this section shall be voluntary on the part of postal patrons.

(c) Use of Funds.—

(1) In general.—

(A) Payments.—The amounts attributable to the 1-cent differential established under this section shall be paid by the United States Postal Service to the Department of Health and Human Services.

(B) Use.—Amounts paid under subparagraph (A) shall be used for breast-cancer research and related activities to carry out the purposes of this section.

(C) Frequency of payments.—Payments under subparagraph (A) shall be paid to the Department of Health and Human Services no less than twice in each calendar year.

(2) Amounts attributable to the 1-cent differential.—For purposes of this subsection, the term "amounts attributable to the 1-cent differential established under this section" means, as determined by the United States Postal Service under regulations that it shall prescribe—

(A) the total amount of revenues received by the United States Postal Service that it would not have received but for the enactment of this section, reduced by

(B) an amount sufficient to cover reasonable administrative and other costs of the United States Postal Service attributable to carrying out this section.

(d) Special Postage Stamps.—The United States Postal Service may provide for the design and sale of special postage stamps to carry out this section.

(e) Sense of Congress.—It is the sense of the Congress that—

(1) nothing in this section should directly or indirectly cause a net decrease in total funds received by the Department of Health and Human Services or any other agency or instrumentality of the Government (or any component or other aspect thereof) below the level that would otherwise have been anticipated absent this section; and

(2) nothing in this section should affect regular first-class rates or any other regular rate of postage.

(f) Annual Reports.—The Postmaster General shall include in each annual report rendered under section 2402 of title 39, United States Code, information concerning the operation of this section.

Sec. 634. Judicial Salaries. (a) Judicial Cost-of-Living Adjustments.—Section 461(a) of title 28, United States Code, is amended to read as follows:

"(a) Effective on the same date that the rates of basic pay under the General Schedule are adjusted pursuant to section 5303 of title 5, each salary rate which is subject to adjustment under this section shall be adjusted by the same percentage amount as provided for under section 5303 of title 5, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100).".

(b) Automatic Adjustments Without Congressional Action.—Section 140 of the resolution entitled "A Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes.", approved December 15, 1981 (Public Law 97-92; 95 Stat. 1200; 28 U.S.C. 461 note) is repealed.

Sec. 635. Limitation on the Use of Funds to Provide for Federal Agencies to Furnish Commercially Available Property or Services to Other Federal Agencies. (a) Except as provided in subsection (b), none of the funds appropriated by this or any other Act may be used by the Office of Management and Budget, or any other agency, to publish, promulgate, or enforce any policy, regulation, or circular, or any rule or authority in any other form, that would permit any Federal agency to provide a commercially available property or service to any other department or agency of Government unless the policy, regulation, circular, or other rule or authority meets the requirements prescribed under subsection (b).

(b)(1) Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe regulations applicable to any policy regulation, circular, or other rule or authority referred to in subsection (a).

(2) the requirements prescribed under paragraph (1) shall include the following—

(A) a requirement for a comparison between the cost of providing the property or service concerned through the agency concerned and the cost of providing such property or service through the private sector;

(B) a requirement for cost and performance benchmarks relating to the property or service provided relative to comparable services provided by other Government agencies and contractors in order to permit effective oversight of the cost and provision of such property or service by the agency concerned or the Office of Management and Budget;

(C) the regulation would not apply to contingency operations associated with national security or a national emergency; and

(D) the regulation would not apply if the goods are to be produced or services are to be performed by a private sector source at a Government-owned facility that is operated by the private sector source.

Sec. 636. Section 302(g)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)(1)) is amended—

(1) by striking "and" after "Senator,"; and

(2) by inserting after "candidate," the following: "and by the Republican and Democratic Senatorial Campaign Committees".

Sec. 637. Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost-of-living adjustments for Members of Congress) during fiscal year 1998.

Sec. 638. Sense of the Senate Regarding Imports of Fish Taken or Retained in a Manner Inconsistent with Recommendations of the International Commission for the Conservation of Atlantic Tunas. (a) It is the sense of the Senate that the United States, as a signatory to the International Convention for the Conservation of Atlantic Tunas, should implement as fully as possible the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

(b) It is the sense of the Senate that fish taken and retained in a manner and under circumstances that are inconsistent with the recommendations of the ICCAT made pursuant to article VIII of the Convention and adopted by the Secretary of Commerce should be prohibited entry into the United States.

Sec. 639. Prohibition of Computer Game Programs.—

(1) Definitions.—In this section, "agency" means agency as defined under section 105 of title 5, United States Code.

(2) Removal of existing computer game programs.—Not later 180 days after the date of enactment of this Act, the head of each agency shall take such actions as necessary to remove any computer game program not required for the official business of the agency from any agency computer equipment.

(3) Prohibition of installation of computer game programs.—The head of each agency shall prohibit the installation of any computer game program not required for the official business of the agency into any agency computer equipment.

(4) Prohibition of agency acceptance of computer equipment with computer game programs.—

(A) Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end the following:

"SEC. 317. RESTRICTIONS ON CERTAIN INFORMATION TECHNOLOGY.

"(a) Definition.—In this section the term 'information technology' has the meaning given such term under section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

"(b) In General.—The head of an executive agency may not accept delivery of information technology that is loaded with game programs not required for an official purpose under the terms of the contract under which information technology is delivered.

"(c) Waiver.—The head of an executive agency may waive the application of this section with respect to any particular procurement of information technology, if the head of the agency—

"(1) conducts a cost-benefit analysis and determines that the costs of compliance with this section outweighs the benefits of compliance; and

"(2) submits a certification of such determination, with supporting documentation to the Congress.".

(B) The table of contents in section 2(b) of the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 316 the following:

"Sec. 317. Restrictions on certain information technology.".

(C) The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

Sec. 640. (a) The congressional ethics committees shall provide for voluntary reporting by Members of Congress on the financial disclosure reports filed under title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) on such Members' participation in—

(1) the Civil Service Retirement System under chapter 83 of title 5, United States Code; and

(2) the Federal Employees Retirement System under chapter 84 of title 5, United States Code.

(b) In this section, the terms "congressional ethics committees" and "Members of Congress" have the meanings given such terms under section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(c) This section shall apply to fiscal year 1998 and each fiscal year thereafter.

SEC. 641. (a) A Federal employee shall be separated from service and barred from reemployment in the Federal service, if—

(1) the employee is convicted of a violation or attempted violation of section 201 of title 18, United States Code; and

(2) such violation or attempted violation related to conduct prohibited under section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)).

(b) This section shall apply during fiscal year 1998 and each fiscal year thereafter.

SEC. 642. (a) COORDINATION OF COUNTERDRUG INTELLIGENCE CENTERS AND ACTIVITIES.—(1) Not later than 120 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy shall submit to the appropriate congressional committees a plan to improve coordination, and eliminate unnecessary duplication, among the counterdrug intelligence centers and counterdrug activities of the Federal Government, including the centers and activities of the following departments and agencies:

(A) The Department of Defense, including the Defense Intelligence Agency.

(B) The Department of the Treasury, including the United States Customs Service.

(C) The Central Intelligence Agency.

(D) The Coast Guard.

(E) The Drug Enforcement Administration.

(F) The Federal Bureau of Investigation.

(2) The purpose of the plan under paragraph (1) is to maximize the effectiveness of the centers and activities referred to in that paragraph in achieving the objectives of the national drug control strategy. In order to maximize such effectiveness, the plan shall—

(A) articulate clear and specific mission statements for each counterdrug intelligence center and activity, including the manner in which responsibility for counterdrug intelligence activities will be allocated among the counterdrug intelligence centers;

(B) specify the relationship between such centers;

(C) specify the means by which proper oversight of such centers will be assured;

(D) specify the means by which counterdrug intelligence will be forwarded effectively to all levels of officials responsible for United States counterdrug policy; and

(E) specify mechanisms to ensure that State and local law enforcement agencies are apprised of counterdrug intelligence in a manner which—

(i) facilitates effective counterdrug activities by such agencies; and

(ii) provides such agencies with the information necessary to ensure the safety of officials of such agencies in their counterdrug activities.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the following:

(1) The Committee on Foreign Relations, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate.

(2) The Committee on International Relations, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 643. PERSONAL ALLOWANCE PARITY AMONG NAFTA PARTIES. (a) IN GENERAL.—The United States Trade Representative and the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall initiate discussions with officials of the Governments of Mexico and Canada to achieve parity in the duty-free personal allowance structure of the United States, Mexico, and Canada.

(b) REPORT.—The United States Trade Representative and the Secretary of the Treasury shall report to Congress within 90 days after the date of enactment of this Act on the progress that is being made to correct any disparity between the United States, Mexico, and Canada with respect to duty-free personal allowances.

(c) RECOMMENDATIONS.—If parity with respect to duty-free personal allowances between the United States, Mexico, and Canada is not achieved within 180 days after the date of enactment of this Act, the United States Trade Representative and the Secretary of the Treasury shall submit recommendations to Congress for appropriate legislation and action.

SEC. 644. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 645. The provision of section 644 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

This Act may be cited as the "Treasury and General Government Appropriations Act, 1998".

Mr. CAMPBELL. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CAMPBELL. Mr. President, before yielding the floor, I wanted to thank our hard working staff: Barbara Retzlaff, Tammy Perrin, Lula Edwards, Frank Larkin, and Pat Raymond. And in particular I wanted to thank our ranking member, Senator KOHL, for his advice and his leadership on this bill.

With that, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

Mr. BOND. What is the pending business?

The PRESIDING OFFICER. The pending business currently is S. 1034.

Mr. BOND. This is the Veterans Affairs, HUD, independent agencies appropriations measure?

The PRESIDING OFFICER. It is making appropriations for the Departments of Veterans Affairs, Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices.

The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1034) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BOND. I thank the Chair.

Mr. President, I see that our colleague from Arkansas is present. He has a very important amendment. I invite the attention of all Members. We are planning on moving on this bill. There are a number of amendments, and we look forward to dealing with them expeditiously today. So we are open and ready to do business. We appreciate having the matters brought to our attention. As I said yesterday, we hope, if there are amendments or proposed colloquies, they will be brought to the ranking member and me so that we can give them our personal attention and continue the progress that this body has been making on the appropriations measures.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 944

(Purpose: To reduce the appropriation for the implementation of the space station program for the purpose of terminating the program)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. KOHL, Mr. WYDEN, Mr. BRYAN, Mr. DURBIN, Mr. LEAHY, Mr. WELLSTONE, and Mr. FEINGOLD proposes an amendment numbered 944.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 70, strike lines 17 through 18, and insert in lieu thereof the following: "sion and administrative aircraft, $3,826,500,000, to remain available until September 30, 1999. Provided, that of the funds made available in this bill, no funds shall be expended on the space station program, except for termination costs."

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, this is the sixth year that I have stood at this desk and lamented the fact that we have become inured to projects which have massive cost overruns if it means a few jobs in our State or if it means you can cast a cheap vote and not pay a price for it back home.

Now, I have been here for 22½ years, and I have watched this body time and time again proceed continuously to vote for such things as the space station whereas if it were a secret ballot it would not get 25 votes. The facts and the evidence are absolutely overwhelming against going forward with the space station, and yet because of the issue of jobs back home, it is very seldom that anyone casts a vote against it.

Also, there is no political price to pay, even if you do not have jobs back home, hinging on going forward with the space station. There is no political price to be exacted against you for voting for something that people know very little about and have never honed in on.

My wife, Betty Bumpers, a woman I admire very much for her courage, started a peace organization in 1981, and I said, "What you have done is just assured your husband's defeat in the next election." She said, "Yes, and you men are going to get my children killed." And so I had to dance around that issue until I ran the next time fully expecting to be confronted by my opponent about my wife's activities in the peace movement.

Now, isn't it a strange dichotomy in America, that one has to be defensive about being for all the things that would promote peace. That is how strange this place is at times.

Of course, Betty has been active in childhood immunizations all of her life, and all of my political life—she had started a program in 1972 to immunize all the children in my State, which had one of the lowest immunization levels of any State in the country. We immunized 300,000 children one Saturday. She was known then and is still known as the one of the foremost leaders in immunization programs in this country. I remember one day in 1973 some smart reporter said, "Senator, do you think your wife's activities"—he was referring to peace, of course—"Do you think your wife's activities are going to be a big detriment to you in your campaign?" I said, "Well, it will be among all those people who favor war and not immunizing children." And I never got asked another question about it.

I do not mean to sound arrogant about being willing to stand up occasionally for something I strongly believe in, but occasionally I chastise some of my colleagues who could save the taxpayers billions of dollars and hasten the day we balance the budget, but who refuse to do it because there is no political accounting for voting for the space station, particularly now when the rover is roving around on Mars. As a matter of fact, I know this is pure coincidence, but if you want to go over to the Dirksen Building, it just so happens that, at the same time we are considering the space station and the entire space budget in the Chamber, NASA has a thrilling show in the Dirksen Building for all the Senators to see of the rover roving around on Mars sniffing rocks.

Let me say—and I have said this for 6 straight years—I favor the space program. I have never once lamented the fact that we have a shuttle program and that we have the ability to place all kinds of scientific and communications satellites in orbit. And in sending the rover to Mars, NASA is doing exactly what it should do, because that proves another point. We do not need a manned mission to do science on Mars.

Mr. President, almost all the scientists in the country, virtually every Nobel physicist, virtually every scientific group in America, opposes the space station. Unfortunately, they don't have enough political clout to fill a thimble. I admire them, I respect them, but the truth of the matter is, they have very little impact on this body or the House of Representatives on what they favor or don't favor.

One day on this floor, I said even Carl Sagan was opposed to the space station. Carl Sagan, whom I had known for several years—we weren't close friends, but I had been thrown in contact with him a few times—called to say that I had misstated what he believed. What he said was, "I believe the space station is a legitimate thing, a highly desirable thing, as a way station to get to Mars. But," he said, to follow that up, something that I have always strongly believed, "it is not—it is not a wise expenditure of money if you are talking about scientific experiments to be conducted on the space station." That is one of the reasons the American Physical Society and so many other groups oppose the space station.

People around here are sometimes influenced by how somebody feels about it. I will tell you who strongly opposes going forward with the space station: The Concord Coalition, which was headed up by our now deceased, highly respected colleague, Paul Tsongas and by Warren Rudman, also our former colleague from New Hampshire. The Concord Coalition, Citizens Against Government Waste, the Cato Institute, the Progressive Policy Institute, the National Taxpayers' Union, and Citizens for a Sound Economy.

Then, in the scientific community, listen to this: the American Physiological Society, the American Society for Biochemistry and Molecular Biology, the American Society for Pharmacology and Experimental Therapeutics, the American Society for Investigative Pathology, the American Institute of Nutrition, American Association of Immunologists, American Society of Cell Biology, the Biophysical Society, the American Association of Anatomists.

Who comprises the American Physical Society? It is 41,000 physicists. Dr. Robert Park, a professor of physics at the University of Maryland at College Park, has testified time and again here about the folly of justifying the space station by alluding to the kind of scientific experiments they are going to do on it.

Mr. President, my amendment says we will terminate the space station at a cost of $600 million and we will save $1.5 billion to put on the deficit. Sometimes my staff presents me with some alternatives. "Why don't we say we are going to put this $1.5 billion in savings into some other popular program?" I said, "I have been there and done that." I remember when I first got into trying to torpedo the space station, I would have transferred the money over to Veterans Affairs. That is usually an item that causes Senators to jump under their desks. If you are going to give it to the veterans, most people around here will look very cautiously before they vote no. But I didn't get any more votes than I have been getting since.

We have become so inured to cost overruns, we just simply cannot stop a big project once it is started. Only two things that come to mind that we finally did stop. One was the Clinch River breeder reactor, which incidentally was also my amendment. Howard Baker was majority leader. Maybe you think that wasn't an uphill battle. But the American scientific community began to rise up in arms, and the environmentalists threw a fit. So, finally we decided that we did not want to follow the breeder reactor method of generating electricity in this country and we finally killed it after I spent 4 years standing at this desk, talking about the folly of that project. We had already started digging ground down in Clinch River to build it.

The other thing we terminated was the super collider. That's another one of my amendments. I guess the reason they happen to come to mind is that I happen to be the architect of killing both of them. The super collider, this massive hole in the ground in Texas, nobody really talked much about the science of the super collider. All they talked about was all the jobs it was going to create in Texas, which indeed it would have.

Let me just, while I am on the subject of jobs, point something out. The space station—if you want to make it a jobs program go home and tell the chamber of commerce that it costs $140,000 for every job it creates. Take the same proposition to General Motors or anybody else: You come into our community and we will give you $140,000 for every job you create. They will be standing on line from here to

New York to try to take you up on that offer.

You think about the fact it costs $10,000 to $12,000 a pound for every pound of material we send to the space station. And now there is an estimate, if you have four astronauts on board, they can only devote 4 hours a day each to research-related activities. So, if you have four American astronauts, that's 16 hours a day that they could put into science. Do you want to know how expensive that is? Well, NASA says it will cost $1,300,000,000 a year to operate the station. So, it will only cost the taxpayers $230,000 for each hour the astronauts put in actually working on scientific experiments on the space station. Do you want to hear one better than that? The space station is to have a 10-year life and it will cost all-told about $100 billion. Figure that one out: $25 million a day is going to be the cost of keeping the space station up there.

Do you have any idea, when we sit in the Agriculture Committee talking about research, how we have to grovel and fight and scratch and claw for every dime we get for research? Do you have any idea what $25 million will do? Do you know the National Institutes of Health can only fund one out of every four good scientific projects that are brought to them? And we are talking about honest to God research. Research on cancer, on AIDS, on arthritis—every conceivable kind of disease that afflicts mankind is handled through the National Institutes of Health, to which we give about $13 to $14 billion a year. And they can only fund one out of every four experiments. That is real science. You can book it. Do you know what real medical research could be done if we simply gave them the cost of one space shuttle flight? They could fund one out of every three proposals.

Last week I conducted a hearing on immunizations. There is going to be a big to-do over at the White House tomorrow on the remarkable success we have had on immunizations. In a hearing last week it was revealed by some pharmaceutical companies, and the Centers for Disease Control in Atlanta, that we now face the possibility of eliminating measles worldwide, as we are about to eradicate polio worldwide. We now have new vaccines, even for children's earaches; even for dysentery. Last year we had 50,000 hospitalizations last year of children with dysentery, and 20 children died—but worldwide those figures are nothing. Worldwide, dysentery kills so many children—but not as many as measles. Does that shock you? Measles is still the biggest killer of children in the world; 1 million children a year die of measles.

At the hearing they told us about all these new vaccines. For example, for infants—put a little something in each nostril of the nose and they will never get flu. You can also use that in combination with another vaccine which, as I say, will keep them from getting dysentery.

I'll tell you what I'll do, I'll stand on my head on the top of this Capitol if you ever get anything even remotely close to those kinds of advances after you spend $100 billion. For 6 years I have listened to Senators come over here, they are my friends and colleagues and I don't denigrate their feelings about it, but when you start asking, "What are the scientific experiments we are going to conduct?" "Well, we don't know. We have to get up there and find out what we are looking for."

It was Dr. Nicolaas Bloembergen, of Harvard, who made the best statement I ever heard about research on the space station. Incidentally, he is adamantly opposed to it. I'll come back to that. I'm going to take about 20 minutes just reading quotes from the top physicists, medical doctors, you name it, about the space station, before I sit down. Do you know what he said about microgravity research, which is the big thing everybody talks about; that is research you do in weightlessness? He said, "microgravity is of microimportance." That says it all. Why else would we be sending a station up there to do scientific experiments except it is a weightless situation?

Another great physicist whom I will quote in a moment said, "It is the worst place to do microgravity research with men on board or women on board." That is because, if you are looking for an experiment that requires weightlessness and you have people tromping around in the station and vibrating it, you lose the benefit. You would expect a 6-year-old to understand that.

Mr. President, let me just bring you up to date. In 1996, the General Accounting Office to do a report on the space station. It was not the most devastating report I ever read in my life, and of course I was looking for something that I might hang my hat on that just might jar this place into action. But there were really no bombs in the 1996 GAO report, except they predicted that unless certain things happened certain other very undesirable things were going to happen, namely unless the Russians came through with their part of this project the cost was going to skyrocket.

One Senator came to me in 1994 and said: "DALE, I think this cooperation with Russia is a tremendous idea. We can keep their space scientists busy and they won't be off in Iraq and Iran, building missiles for some of the rogue nations." And he said, "You know, we have to help the Russians all we can. They have big problems."

I said: "That's right. But if we are going to send them $200 million for openers, just to say they will be a part of the international space station, I say send it to them in economic aid or food. That is what they need. They do not need to be participating in one of the biggest boondoggles ever conceived. What they need is something to help their people with their infrastructure, build industry, feed their people."

So what has happened, as predictable as night following day, is Russia has reneged. We gave them close to $200 million for openers to build the first section of the work they were supposed to do. We gave them that money.

They were supposed to build the service module. There are nine modules on this space station. They were supposed to build the third one, but a very important one, called the service module, and they have not been able to come up with all the money, nor are they likely to. I will return in a moment to some of the consequences of that.

But back to the GAO report. Congressman DINGELL and I asked the GAO to update their 1996 report. Here is the update, which we received last night and which anybody else who wants it can get this morning. Here is what the GAO update says. If there is anything people around here detest, it is somebody going around telling them, "I told you so," so I won't say it.

Listen to this:

> The prime contractor's—

That is Boeing's——

> cost and schedule performance on the space station, which showed signs of deterioration last year, has continued to decline virtually unabated. Since April 1996, the cost overrun has more than tripled.

Let me repeat that:

> Since April 1996—

A little over a year ago—

> the cost overrun has more than tripled and the schedule slippage has increased by almost 50 percent.

Does it not take nerve to come in here asking us to go forward with a $100 billion project in the light of that?

> Financial reserves are dwindling with up to 6 years remaining until on-orbit assembly of the space station is completed.

That is what we are looking at now. We still have 6 years to go before we even get that sucker assembled in space:

> . . . with up to 6 years remaining until on-orbit assembly of the space station is completed. NASA has already identified actual and potential resource demands that exceed the station's remaining financial reserves.

As the French say, here comes the piece de resistance:

> NASA transferred $462 million from its science budget to the space station development budget in fiscal years 1996 through 1998.

Why did NASA transfer $462 million from its science account to the manufacturing of the space station? To cover the cost overruns. And the $462 million comes out of the science budget. Either you are going to reduce the scientific experiments on this thing by

$462 million, or NASA is going to come back to Congress and say we need $462 million more. Which do you think that is going to be? We all know what it is going to be, and this is just the beginning:

> It is also planning to transfer another $70 million in fiscal 1999 from the science fund to the station development budget.

Mr. President, NASA says that to assemble and build the space station, the cost will be $17.4 billion, and within that are these scientific funds. They are taking money from Peter to pay Paul, but they are taking money out of the account that they say is absolutely essential to justify the space station, namely, the science that we are going to get. You can't have it both ways, or you can, too, in the U.S. Senate.

Congress approved the transfer of $200 million this year. We approved a $200 million transfer from the space shuttle. I just told you that they have transferred $462 million from their science account over to the space station account. Now we are giving them authority to transfer money from the shuttle account, the manned space program that most people around here applaud, and are putting it into the space station. Why? To cover the cost overruns on the space station. It is the most traditional, time-honored shell game that any of us know anything about, and that is to cover the cost incurred because the Russians have been so late in coming up with their money.

There is another $100 million pending in Congress for the year 1998. That is in the House bill; that is not in the Senate bill. But, in addition to allowing them to take $200 million out of the shuttle fund and put it into the space station, now the House has said, "We will give you another $100 million to transfer to the space station." This is actually outside the $17.4 billion. The $462 million in science funds is inside the $17.4 billion and can only be classified as a whopping cost overrun.

This is one of the most interesting things that the GAO report said:

> When NASA redesigned the space station in 1993. . . .

You remember, President Clinton looked at a whole list of them and finally came up with what was finally called International Space Station Alpha:

> When NASA redesigned the station in 1993, it estimated that Russia, as a partner, would reduce program costs by $1.6 billion because the station's assembly would be completed sooner.

It would be finished in June 2002 instead of September 2003, the proposition being that if the Russians came through, we would build it faster and, therefore, save $1.6 billion.

Mr. President, those are not my figures, those are NASA's figures, those are NASA's statements. And this is what GAO said about it:

> NASA has recently acknowledged that completion of the station's assembly would indeed slip to 2003. . . .

Fifteen months later than we have been told since time immemorial this thing would be finished.

While NASA has not acknowledged the 2003 date, they have yet to tell us what the new milestone will be. And the GAO says:

> Consequently, most, if not all, of the reduced costs claimed by accelerating the schedule by 15 months would be lost by slipping the schedule by a similar amount.

In short, now we are back to the old time schedule, and the $1.6 billion that NASA said they would save by bringing Russia into the program and, therefore, building it 15 months sooner than we would otherwise have built won't be saved.

NASA has not told us yet precisely when they expect to have this thing finished, nor precisely what a 15-month slippage at this point is going to cost, though I can tell you, based on the conversations I had with people who know more about this program than anybody else, it is $2 billion.

Mr. President, I tried to torpedo the space station since the memory of man runneth not. I have tried in almost more times than there have been design changes, new partners, and new promises by NASA, and until this very moment, NASA is trying to con the Senate by showing this magnificent film about Mars over in the Dirksen Building and still smoothly promising that everything is running on target, on schedule, and the only reason we know that isn't true is because GAO has done two studies that contradict NASA 180 degrees.

We don't need a space station. The Mir is the seventh Russian space station. The Mir has been in orbit, how long? Eleven years. The Mir has been up there 11 years, and now it is in big trouble. I am not saying that is predictable. I will say this, and this is not to bash Russia—I believe in doing everything we can to help their economy and keep them viable—but their space program is not as sophisticated as ours. While I understand all the arguments for bringing Russia into this, I am not sure scientifically and from a safety standpoint it is good to do it.

But the point I wanted to make is, again, I have stood on this floor for 6 long years and said show me, tell me what are the scientific achievements Russia has achieved in 20 years of having a space station in orbit. And I have been met by a deafening roar of silence. There are none. The only justification for a space station is as a way station to Mars.

Mr. President, look at this chart, and I will say that in 1984, Ronald Reagan, I think it was in a State of the Union Address, said we were going to build a space station—that was in 1984; that has now been 13-plus years—we were going to build a space station for $8 billion and deploy it and operate it. That was the initial promise of the President. At that time, here were the justifications. Look at them.

It was going to be a staging base, presumably to go to Mars.

It was going to be a manufacturing facility. We were going to manufacture a new kind of sophisticated crystal in a microgravity atmosphere.

It was going to be a space-based observatory.

It was going to be a transportation node.

It was going to be a servicing facility, presumably for people on their way to Mars.

It was going to be an assembly facility, again, to assemble the parts of a space station to go to Mars.

It was going to be a storage facility.

And, finally, it was going to be a research laboratory.

You can see from my chart how many of those exist today. Seven of them have been torpedoed, and only one remains standing.

Go back to the original $8 billion that President Reagan said it was going to cost. Here is an update on that. I tell you, I cannot keep the grin off my face as I go through these things. You just cannot believe it, you cannot believe it, and yet Senators will come in here and vote for this thing.

The President said $8 billion. Here is what we spent on the Reagan plan—$11.2 billion. That is gone. What we got out of that is so infinitesimal you might as well have thrown the money off the Washington Monument. It would have helped a few poor people.

So when Bill Clinton became President, he said this thing is out of control, we have to have another look at it. So we have a big design—a design-off I guess you would call it. And they look at dozens of plans over at the White House about what kind of a space station it ought to be.

Obviously, the first one was much too grandiose, going to be much too costly. So they come up with the International Space Station Alpha. And we are going to participate with Europe and Canada and Japan, and now of course Russia.

And here is what the construction cost was going to be between 1994 and 2002—$17.4 billion. I have alluded to that figure several times already.

Now, anybody who believes that the construction and development of the international space station is going to be $17.4 billion, you go ahead and vote for it. You have my permission. You certainly will not lose my friendship, if you actually believe that. But if you actually believe that, you haven't got enough you-know-what to be a Member of Congress. But if you believe that, go ahead and vote for it.

The GAO had just gotten through issuing a report this morning saying that is nonsense. And here is the operating costs for 10 years, $13 billion.

Mr. President, do you know the cost of this program and the cost of all the 83 shuttles it is going to take to get it up there and supply it? The cost is going to be staggering. You know, the cost of gold is $325 an ounce today. That is peanuts compared to what a pound of water will cost to supply these astronauts, just peanuts. It is like 33 times more to send a pound of water. Maybe not that much. I do not want to exaggerate too far. So here is your operating cost, $13 billion.

Here are the shuttle flights needed to launch, service and use the station in space—$50.5 billion. Mr. President, let me tell you something about that. At present, that is 83 launches that are going to be necessary to deploy it and supply it for 10 years after it is deployed—$50.5 billion. That is calculated I think on the basis of the space shuttle, the flights running around $475 million each.

I can remember when I used to get teary-eyed seeing that shuttle take off when they first developed it. Such a magnificent thing to see. One day somebody told me each launch cost almost $500 million, and my eyes dried up almost immediately.

Here are just the related costs of the space station—$1.9 billion on these shuttle flights. Let me tell you, if you believe that 83 shuttles will leave within a 5 to 7 minute launch window without a hitch over the next 15, 16 years, you vote for it, if you believe that every shuttle is going to go up without a hitch, rendezvous with the space station without a hitch, take the needed supplies to the astronauts, all of that, and every launch launched within a 5 to 7 minute timeframe, which is absolutely necessary. And if you do not make it within that 5 to 7 minute envelope, you delay the launch and the costs soar.

I have a chart here, Mr. President, about the cost of gold. I guess we can all relate to gold. Here it is. The present cost of the space station is estimated by GAO—incidentally, this is not DALE BUMPERS; this is GAO—$94 billion. That is 25 times its weight in gold. And, as I said earlier, that is $25 million per day of operation.

It is a jobs program. I said 140,000 jobs. Each job costs $147,000. Three States—California, Texas, and Alabama—they get about 78 percent of all the money. The other 22 to 24 percent goes to virtually every other State. There are only a handful of States that do not have a little piece of the action. NASA is not stupid. They took a leaf out of the Pentagon's book. And they put those contracts into almost every State. I think there is a little $50,000 contract in Arkansas on the space station. That is just not quite enough to influence me. It provides no commercial value. And it costs $12,880 to transport one pound of material to the station.

Mr. President, let me now go to what some of the scientists say about this project.

Before I do that, here is another little overrun. You cannot compute the cost on this—this is manhours—but I want you to think about this. In 1993, NASA said that the assembling of the space station would require about 311 hours of EVA—extravehicular activity. It is space walking. In 1993, they said it would take 311 hours of space walks to assemble it. Then they decided they miscalculated, and they moved it up to 434 hours. And then they decided they miscalculated it again, and in 1996 they said, "We miscalculated, and it's going to take 1,104 hours of space walking to assemble the station." And now, just very recently, believe it or not, 1 year from the time the first launch is supposed to occur, they say it is going to take 1,519 hours. NASA has only miscalculated by 500 percent the number of hours it will take to assemble the space station. And their calculations on everything else are running pretty close.

Mr. President, let me tell you what people who know a lot more about the science than I do are saying.

Incidentally, I watched Senator GLENN yesterday. He is not just one of my very dearest friends, he came to the Senate with me in 1975. He is one of the finest men—I think just the finest, most decent man I have ever known. We do not disagree very often, but we disagree strongly on this. We battle back and forth in the cloakroom about it.

He has circulated a brochure that ties the space station to research on aging. God knows, I ought to be interested in that. Well, ironically one space shuttle flight to the space station will cost almost as much as the entire $454 million budget of the National Institute on Aging. One space shuttle flight would finance the National Institute on Aging for 1 year.

Now, you ask yourself, do you think you are really going to get anything about aging out of the space shuttle? What you are going to get is an expensive $450 million, and you are going to get nothing. If you gave it to the National Institute on Aging, you at least have an outside chance of something happening.

Here are the editors of Discovery Magazine from May 1997, 2 months ago. Listen to this:

> There is no use belaboring the point. Only the naive or the vested still maintain that there is any good pragmatic reason to spend the tens of billions of dollars it will take to complete what started out in the early 1980s as Freedom and now endures as the International Space Station. . . . Is it possible to imagine a technological undertaking so enormous that could garner less respect from the scientific community?

That says it all, but I am not going to quit.

Here is what Marsha Smith, who was interviewed in Aerospace America in June 1995, said I visited with her in my office yesterday. She is the brightest person in this country on this subject. She does not try to tint it one way or another. She just calls it like it is. She is not unalterably opposed to the space station, for that matter. But I say this simply to demonstrate publicly my intense and high regard for her.

> I don't know of any breakthroughs that have come out of [Russian] space station programs in terms of new or cheaper-to-produce materials or scientific discoveries . . . . Mostly they have learned how to operate a space station for long periods of time.

Now, Mr. President, I again issue the call. What have the Russians got for 20 years of having the space station in orbit that is worthy of the name "scientific"?

Listen to what Tim Beardsley of Scientific American said in June 1996, a little over 1 year ago.

> The value of biological and health research in orbit has been challenged by Elliott C. Levinthal, a former program director of the Defense Advanced Research Projects Agency [that is called DARPA over at the Defense Department] . . . Levinthal, who has been a professor of genetics and mechanical engineering at Stanford University, asserts that no neutral committee handing out funds for basic research in biology would support microgravity studies.

And that is all the scientific justification you can find for the space station—microgravity research. Anything else obviously you can do here on Earth. As a matter of fact, you can do this in the shuttle. You can even do it in unmanned flights.

James Ferris of Rensselaer Polytechnic Institute, in Scientific American:

> Nothing has come out of microgravity research to convince me that a material can be fabricated in orbit that is going to be better than what you can make on Earth.

Why do we want to spend $100 billion to manufacture something we can do just as well on Earth, and for a fraction of the cost?

Here is what the German Physical Society said. And incidentally, Germany is involved in paying for some of the costs.

> Except for investigations carried out on humans themselves, all experiments in this area of research can be carried out unmanned, without loss of precision. This also applies to microgravity. Therefore it is improper [it is improper] to use microgravity as an effective argument in favor of manned spaceflight.

That statement was endorsed by the European Physical Society, all the physicists in Europe, the Physical Society of Japan—our physicists' counterpart in Japan—the Canadian Association of Physicists and the American Physical Society.

So, Mr. President, there you have it. International space station *Freedom*, partly being paid for by the Japanese, by the European Space Agency, by Canada—forget Russia for the time being. And how do their physicists feel about it? There is the European Physical Society, the Japanese Physical Society, the Canadian Physical Society and the American Physical Society, and that takes just about every physicist in America, who says this is improbable nonsense. It reminds me of going to a doctor and saying, "Doctor, I have this hurting in my chest," and he x-rays me and says, "It looks to me like you have cancer." And I say, "Well, it may be, but I will go find a Senator to validate this. I'm not taking your word for it; I want to take the word of the U.S. Senate and see if I have cancer of the lung." That is not far off. The scientists all oppose the space station. Yet, as I said in my opening remarks, it is so impossible to convince the Senate.

Incidentally, when it comes to the American Physical Society, its spokesman in the past, as I said a moment ago, has been Dr. Park. Dr. Park said, in July 1993:

> It is the view of the American Physical Society that scientific justification is lacking for a permanently manned space station in Earth orbit. We are concerned that the potential contribution of a manned space station to the physical scientist has been greatly overstated and that many of the scientific objectives currently planned for the space station can be accomplished more effectively and at a much lower cost on Earth.

Unmanned robotic platforms or on the shuttle. All he represents is 41,000 physicists in this country. He goes on to say, quoting Professor Nicolaas Bloembergen of Harvard—and I said earlier I thought he was a Nobel laureate, and he is, in physics—Dr. Bloembergen of Harvard, a Nobel laureate and physicist, summed it up bluntly in testimony before a Senate committee 2 years ago: "Microgravity is of microimportance."

How is it we know so much more here? After all, we are throwing $2.1 billion of the taxpayers' money at this project every year, and you saw the figures and where we are headed— $94 billion today, Lord knows how many billions ultimately.

I think there is an assumption, says one physicist, that any program that spends $15 billion per year is bound to produce something that society can use, but few of NASA's claims stand up. Indeed, an interim NASA study of technology transfer which became public in January acknowledged that NASA spinoff claims were exaggerated. That is an in-house memo that NASA's claims were exaggerated, including such famous examples as Velcro, Tang, and Teflon. Contrary to popular belief, the study found NASA created none of these. They merely publicized them.

Here is what Carl Sagan said: "A space station is far from an optimum platform for doing science." And the Space Sciences Board said it "sees no scientific need for this space station during the next 20 years," and went ahead to say, "Continued development of Space Station Freedom . . . cannot be supported on scientific grounds."

Mr. President, I have two or three other scientists I will quote and then I will turn it back to the managers of the bill. Incidentally, I listened yesterday and I listened again today to all these gigantic, frankly, highly specious, spurious claims about how we will find a cure for this and a cure for that. If the doctors in the scientific community say that is hogwash, who are we to question them? Somebody to keep a few jobs in our State.

Here is what Dr. Rosenthal said on cancer research:

> Statements have been made and published to the effect that vital cancer research would be done in space, and that is cited as a reason for supporting space station funding. We cannot find valid scientific justification for these claims and believe it is unrealistic to base a decision on funding the space station on that information . . . Based on the information we have seen thus far, we do not agree that a strong case has been made for choosing to do cancer research in space over critically needed cancer research here on earth.

That was David Rosenthal, Harvard Medical School, testifying on behalf of the American Cancer Society.

Dr. Shaun Ruddy, on behalf of the Arthritis Foundation:

> Space station proponents have indicated that the Space Station . . . will provide a "first class" laboratory . . . We used to have "first class" laboratories in universities and medical schools across the country . . . Reports by the National Institutes of Health and National Science Foundation have indicated that over 51 percent of the biological laboratory research is deemed inadequate for the conduct of research . . . Furthermore, the National Science Foundation report estimated that the capital construction backlog is approximately $12 billion . . . Should our priorities now be a "first class" laboratory in space, or correction of a longstanding deficiency in laboratories throughout this Nation?

Ms. MIKULSKI. Will the Senator yield?

Mr. BUMPERS. I am happy to yield to the Senator.

Ms. MIKULSKI. I bring to the Senator's attention that it is 12:10.

Mr. BUMPERS. I appreciate the Senator.

Ms. MIKULSKI. My question is, does the Senator wish to continue before we adjourn at 12:30?

Mr. BUMPERS. I apologize for going longer than I intended. I was having such a good time. As I told the Senator earlier, I do have a little thing I need to tend to during the noon hour. Let me just suggest I be permitted to leave while people on your side speak on the other side of this issue, and then perhaps we can rejoin the issue around 2:30 after the caucuses.

However, I understand there may be something else coming up.

Ms. MIKULSKI. I bring to the Senator's attention that at 2:15, the Senate will go to consideration of military construction. Upon completion of that, we will return to the bill.

Perhaps before the Senator leaves for his other Senate commitment, you and I can talk about that.

Mr. BUMPERS. I am delighted to do that. I am sure we can reach an agreement on a time certain to vote and even a wrap-up time for each side, if that is possible.

Ms. MIKULSKI. We would like very much to be able to do that for the Senator. We go to MilCon at 2:15 for 30 minutes, and from there we will first have a vote on MilCon. Then we resume consideration of the bill. At such time, I believe Senator WELLSTONE wishes to talk about compelling needs of veterans, and you have to be in an agricultural markup. We wonder if then around 4 o'clock, you could go to wrap-up and we could have a vote?

Mr. BUMPERS. Let me suggest we agree on this without getting a formal agreement. That we start on this again at 4 o'clock, and I promise, say, 15 minutes would do me to wrap it up, maybe 15 minutes on your side, and we could vote at 4:30.

Mr. BOND. If my colleagues will yield, first, let me enter into the RECORD a unanimous consent to go to the MilCon measure, so we will get that, and we can have that taken care of, and then I will speak with the proponent of the amendment, my ranking member, and I hope we can work out an accommodation acceptable to him.

UNANIMOUS CONSENT AGREEMENT—H.R. 2016

Mr. BOND. Mr. President, I ask unanimous consent that at 2:15 today the Senate proceed to the consideration of Calendar 117, H.R. 2016, the military construction appropriations bill. I further ask unanimous consent that the committee amendments and the manager's amendment be agreed to, no other amendments be in order to the bill, there be 20 minutes for debate equally divided in the usual form, with an additional 10 minutes under the control of Senator MCCAIN. I finally ask unanimous consent that at the expiration or yielding back of time, the bill be read the third time, and the Senate proceed to a vote on passage of H.R. 2016.

I further ask unanimous consent that immediately following passage, the Senate then insist on its amendment and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BOND. I further ask unanimous consent that Floyd DesChamps, a detailee from the Department of Energy, with the Commerce, Science, and Transportation Committee, be given access to the floor during the Senate discussions on the VA-HUD-independent agencies appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 944

Mr. BOND. Mr. President, if the ranking member will accommodate me, I will make just a few remarks in opposition to the amendment and then we will attempt to establish a timeframe for further proceedings on this bill.

Mr. President, we have had a very eloquent statement by the Senator from Arkansas about questions that have been raised about the international space station. Needless to say, this question has been addressed time and time again on this floor. There are those scientists who have questions and objections. Nevertheless, the vast body, I think, of scientific knowledge and scientific expertise indicates that the space station is a tremendous opportunity for us to expand our knowledge not only about space but to develop new processes, new pharmaceuticals, medical advancements, and items that can be of tremendous benefit for us here on Earth.

Yesterday, for example, I note that the distinguished Senator from Ohio, our only space astronaut-Senator, talked at some length about the tremendous number of advances in scientific knowledge that have come from exploration in space. The bioreactor produces artificial human tissue potentially useful in treating colon and prostate cancer, production of kidney tissue and the cartilage tissue for implants. Fluid physics, which can be observed in space, help us understand the processes on Earth, such as how the soil behaves during earthquakes. There is research in microgravity to develop new pharmaceuticals and neurological research, important to patients with multiple sclerosis. The list goes on and on, and I will not go into that here because there are a number of other Senators who have expertise in this area who wish to be heard on the measure.

Let me say that the international space station will be a world-class scientific laboratory, with the unique feature of a near-zero gravity environment. While it is impossible for us to know in advance, all of the results of this scientific research, I think the vast body of scientific expertise believes that microgravity research will lead to new and pure pharmaceuticals, medical advancements, and the production of new materials for use here on Earth.

With the imminent demise of Russia's Mir space station, the international space station will be the only facility where these types of research can be permitted.

The international space station will also provide operational experience necessary for operating lunar outposts on Mars bases if and when the Nation should decide to proceed with such bold plans.

Moreover, Mr. President, the international space station is a hallmark of international cooperation between the United States and other countries. Europe, Japan, and Canada have been involved with the program since its inception, and the addition of Russia in 1993 enhanced the international participation. There is no greater symbol of the end of the cold war than the United States and Russia—arch rivals in space for decades—working together to build a space station for the 21st century.

Despite the challenges the program has had to overcome in the past year—particularly the schedule delays resulting from Russia's failure to complete the service module on time—the space station partnership remains intact.

Russia has faced great financial troubles and uncertainties, and it is impossible to say that all these troubles are in the past. But this spring the Russian Government, though strapped financially, fulfilled its promise to provide 800 billion rubles, and NASA reports that work is progressing on the service module.

American taxpayers have invested significantly—$19 billion—in the space station. We are now within a year of the first launch, which will provide the benefits and the scientific advancements into that research. Certainly, this is no time to give up on an experiment that offers such potential.

The shuttle-Mir program, the first phase of the international space station, is successfully underway. The experiments have led to improvements in the design of the international space station, and we have trained the crews. We are ready for tremendous scientific leaps, and I trust that a significant majority of our colleagues, on a bipartisan basis, will agree that the money we have invested has been a wise investment, not only for science, technology, and the exploration of the universe now, but for the developments in the scientific advances that will come tomorrow for our children and our grandchildren, who are fascinated by the opportunities of space. The exploration of this frontier can deliver tremendous benefits. This is not the time to abort the mission and say that we have gone nineteen-twentieths, or 95 percent, of the way toward the discovery of a new world and we are going to turn back now.

Mr. President, I hope that my colleagues will once again overwhelmingly support the continuation of the space station.

I yield the floor.

Ms. MIKULSKI. Mr. President, this is, once again, a bipartisan agreement that we should continue to fund the space station *Freedom*. This dazzling scientific endeavor was created under the Reagan administration, sustained under the Bush administration, and maintained under the Clinton administration.

Now, why have three Presidents of the United States all supported space station *Freedom*? They have done it for several reasons. One, because it accomplished significant science in space. Second, it is a model for what the new world order will look like in which no one nation dominates space, but each nation is best at what it best can do. The United States of America, Canada, Japan, Europe, and now the Russian involvement does show what the space program of the future will be. It will be multilateral, multinational cooperation for multiple gains.

Mr. President, I would like to speak more on why I support the space station *Freedom*, but I note that on the floor is the Senator from Arizona. It had been our agreement to let him speak before the conference.

I want to say, before we break for the party conferences, that there is no break in bipartisan support for the space station. We are going to ensure that the space station does produce sound science, have maximum international cooperation and, once again, make both our Nation and the world proud of what we do. I will have more to say about the space station and why I am an enthusiastic, unabashed, and unrelenting sponsor of this later on this afternoon.

In the meantime, as a courtesy and collegiality to move our bill, I yield the floor now and look forward to resuming my comments on the space station later this afternoon.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, the Senate is making unprecedented progress in considering the appropriations bills for fiscal year 1998. We have completed action on five spending bills, with the expectation that we will finish at least five more prior to the August recess. I must congratulate Chairman STEVENS and Senator INOUYE, as well as the subcommittee managers of the bills, on their efficient management of these measures on the floor. On this bill, I want to congratulate my colleagues from Missouri and Maryland, Senators BOND and MIKULSKI, for the outstanding job they have done on this legislation.

I don't intend to unduly delay the Senate in completing consideration of the pending appropriations measures. But I want to ensure that, in our haste to act on these important spending bills, my colleagues are fully aware of the funding recommendations that are contained in this bill.

I don't enjoy returning to the Senate floor for the sixth time in a little over a week to talk about the wasteful spending in these bills.

Mr. President, this is a very important measure. It provides $40 billion to fund programs for our Nation's veterans, who have served their country and need and deserve our respect and attention. It contains $25 billion for our Nation's housing needs, including low-income housing programs, housing assistance for native Americans, low-cost mortgage assistance, housing for the elderly, and much more. It provides funding for our space program, programs to protect and restore the health of the environment, disaster assistance, and the activities of many other agencies. This bill totals over $90 billion.

Yet, at the same time we are struggling to balance the budget and adequately fund necessary Federal programs, I find it somewhat disheartening that the committee spent so much time and effort to identify and protect Members' special interest items.

Mr. President, I have here a nine-page list of earmarks in this bill and the accompanying report—nine pages of set-asides for specific institutes, centers, projects, and even museums. These projects have not been considered in the normal process of prioritizing among competing requirements. They have simply been earmarked to receive funds because a Member of this body wanted to bring it home.

I ask unanimous consent that at this time this nine-page document of objectionable provisions in the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Objectionable Provisions in S. 1034, the Fiscal Year 1998 VA–HUD Appropriations Bill

BILL LANGUAGE

$10 million of HUD funds earmarked for housing demolition and replacement at Heritage House in Kansas City, Missouri.

Earmark of HUD funds for an economic development test program, including at least one Native American area in Alaska.

$40 million earmarked for the Economic Development Initiative within HUD, "to finance a variety of efforts, including those identified in the Senate committee report", namely:

$2.5 million for enlarging Scarborough Library at Shepherd College in West Virginia.

$2 million for brownfield activities in Baltimore, Maryland.

$2 million for economic redevelopment of Ogden, Utah.

$2 million to renovate Albright-Knox Art Gallery in Buffalo, New York.

$400,000 for a regional landfill in Charles Mix County, South Dakota.

$2.5 million for a construction project related to Bushnell Theater in Hartford, Connecticut.

$2.5 million for exhibit and program development at Discovery Place in Charlotte, North Carolina.

$600,000 for the West Maui Community Resource Center in Hawaii.

$1.5 million for renovation of Paramount Theater in Rutland, Vermont.

$1 million for Lake Champlain Science Center in Burlington, Vermont.

$2 million for renovation of Tapley Street Operations Center in Springfield, Massachusetts.

$2 million to develop abandoned industrial sites in Perth Amboy, New Jersey.

$2.5 million for New Mexico Hispanic Cultural Center.

$400,000 for Riverbend Research and Training Park in Post Falls, Idaho.

$2.5 million for University of Missouri for a plant genetics research unit and the Delta Research Telecommunications Resource Center.

$2 million for Cleveland Avenue YMCA in Montgomery, Alabama, to build a cultural arts center.

$1 million for Covenant House in Anchorage, Alaska.

$7.1 million of HUD funds previously earmarked for an industrial park at 18th and Indiana in Kansas City, is instead earmarked for rehabilitation and infrastructure development associated with the Negro Leagues Baseball Museum and the Jazz Museum at 18th & Vine.

$150 million of EPA funds earmarked for construction of high priority water and wastewater facilities in the area of the U.S.-Mexico Border, including $50 million for grants to Texas for improving wastewater treatment for colonias.

$15 million of EPA funds for grants to Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages.

$82 million of EPA funds earmarked for grants to construct wastewater and water treatment facilities and groundwater protection infrastructure as specified in the report, namely:

$7 million for Burlington, Iowa.

$7.15 million for Lake Tahoe, California.

$5 million for Richmond and Lynchburg, Virginia.

$7 million for Ashley Valley, Utah.

$1 million for Ogden, Utah.

$4 million for Jackson County, Mississippi.

$50,000 for Kinloch, Missouri.

$1.2 million for Las Cruces, New Mexico.

$5 million for Virgin Valley Water District, Nevada.

$2 million for Epping, New Hampshire.

$4.3 million for Queen Annes County, Maryland and Pocomoke River, Maryland.

$6 million for Bingham County, Rupert, and Rosell and Homedale, Idaho.

$5 million for Missoula, Montana.

$1.7 million for Essex County, Massachusetts.

$3 million for Milton, Vermont.

$5 million for Fayette and Fallowfield Township, Pennsylvania.

$6.3 million for Pulaski County and Kingdom City, Missouri.

$8 million for Abbeville, McCormick, and Edgefield Counties, South Carolina.

$3.3 million for Jackson, Washington, and Cleburen Counties, Alabama.

REPORT LANGUAGE

Veterans' Administration:

Earmarks and directive language:

$12.4 million add-on for a patient privacy/environmental renovation project in Pittsburgh, Pennsylvania.

$900,000 add-on for the National Veterans Cemetery in Oklahoma City, Oklahoma.

Directs the VA to proceed expeditiously with the expansion of the Jefferson Barracks National Cemetery in St. Louis, Missouri.

Directs the VA to move expeditiously to complete the third floor of the Jackson, Mississippi regional VA office. Sufficient funds are included in this appropriation for the completion of the third floor should the VA be ready to proceed in fiscal year 1998.

Directs VA to give priority consideration to construct a new dietary complex and boilerplant at Southeastern Veterans Center in Spring City, Pennsylvania.

Words of encouragement and support:

Urges or encourages the Veterans' Administration to consider establishing or expanding Community Based Outpatient Clinics in Vermont, West Virginia, Pennsylvania, and southern and western Maryland.

Urges additional funding to start up and test the coal-fired incinerator at the Lebanon, Pennsylvania VAMC.

Urges VA to consider procuring a mobile clinic to be operated from the Wilkes-Barre, Pennsylvania VAMC.

Language supporting a joint VA–DOD effort through the Joslin Diabetes Center in Boston, Massachusetts to apply methods to improve detection capability for those prone to diabetes.

Encourages the VA to continue the VA–DOD Distance Learning Pilot Program to transition clinical nurse specialists to the role of nurse practitioners, which is established at the Uniformed Services University of the Health Sciences at Bethesda, Maryland.

Urges the VA to continue the demonstration project involving the Clarksburg, West Virginia VAMC and the Ruby Memorial Hospital at West Virginia University, with funding up to $2 million.

Urges VA to provide adequate support for seven-site National Center for Post Traumatic Stress Disorder.

Language expressing continuing support for the establishment of a partnership with a private, not-for-profit research and treatment center that could deliver new cancer therapy to veterans; directs the VA to expedite efforts to establish such a partnership, and mentions that Garden State Cancer Center in New Jersey is internationally recognized in this field.

Urges the VA to provide support for a cooperative program with the Diabetes Institute of Norfolk, Virginia to develop protocols for the diagnosis and treatment of diabetic neuropathy.

Language noting the need for expanding the columbarium at the National Memorial Cemetery of the Pacific in Hawaii, and urges the VA to allocate necessary funds, estimated at $1.5 million for this project.

Urges favorable and expeditious review of the construction applications for State veteran homes in Cameron and Warrensburg, Missouri, which would require $13.2 million and $13.6 million in federal funds.

Requests the VA to thoroughly and expeditiously consider applications for cemetery sites for Springfield and Higginsville, Missouri, which would require almost $4 million in federal funds.

Housing and Urban Development:

Set-asides from Community Development Block Grant funds for a variety of projects and activities in various locations:

$2 million for revitalization of Los Angeles, California.

$1 million for science and mathematics programs at Morgan State University in Baltimore, Maryland.

$2 million for expansions of the Business Development Center at Hofstra University in New York.

$1 million for St. Louis University for community development program in LaClede Town, Missouri.

$1 million for University of Colorado Health Sciences Center.

Environmental Protection Agency:

Earmarks for a myriad of add-ons:

$8 million to establish up to five university-based research centers to address the most pressing unanswered questions involved in the air particulates field.

$2 million for Water Environment Research Foundation cooperative research program.

$3 million for American Water Works Association Research Foundation.

$1.75 million for National Jewish Medical and Research Center for research on the relationship between indoor and outdoor pollution.

$2 million for Lovelace Respiratory Institute to establish a National Environmental Respiratory Center coordinate research on airborne particulates.

$1 million for Center for Air Toxic Metals at Energy and Environmental Research Center.

$1 million for Texas Regional Institute for Environmental Studies.

$1 million for Institute for Environmental and Industrial Science.

$1.5 million for Johns Hopkins University School of Hygiene and Public Health to establish a National Center for Environmental Toxicology and Epidemiology to study the effect of urban toxics on human health.

$1 million to establish the Center for Estuarine and Coastal Ocean Environmental Research at the University of South Alabama.

$1.5 million for Integrated Petroleum Environmental Consortium.

$3 million to continue a demonstration project involving leaking fuel tanks in rural Alaskan villages.

$250,000 for the Nature Conservancy of Alaska for protection of the Kenai River watershed.

$3 million for the Southwest Center for Environmental Research and Policy.

$1 million for the Sacramento River Toxic Pollutant Control Program.

$500,000 for continuing of the small water system cooperative initiative at Montana State University.

$500,000 for a small public water system technology center at Western Kentucky University.

$2 million for the New York City watershed protection program.

$750,000 for the Chespeake Bay program to initiate a small watershed grants program to implement the cooperative tributary basic strategies.

$1 million to continue the sediment decontamination technology project in the New York-New Jersey harbor.

$500,000 for the Treasure Valley, Idaho, hydrologic project.

$2.5 million for King County, Washington, for a molten carbonate fuel cell demonstration project at the Renton wastewater treatment plant.

$800,000 for the National Center for Vehicle Emissions Control and Safety to establish an On-Board Diagnostic Research Center.

$500,000 to continue the Small Business Pollution Prevention Center at University of Northern Iowa.

$500,000 to continue the Compliance Assistance Center for Painting and Coating Technology.

$200,000 to complete cleanup of Five Island Lake.

$500,000 for the Ala Wai Canal watershed improvement project.

$400,000 to continue the Maui algal bloom project.

$100,000 for the Design for the Environment for Farmers Program to address the need to develop and adopt sustainable agricultural practices for the fragile tropical ecosystems of the American Pacific.

$1.5 million for the Lake Champlain management plan.

$600,000 to complete the solar aquatic wastewater treatment demonstration in Burlington, Vermont although the report language goes on to state that "The Committee does not intend to recommend funding for additional solar aquatic wastewater treatment demonstrations in view of EPA's assessment that this technology does not appear to offer any economic advantages over conventional technologies."

$1 million for the Alabama Department of Environmental Management to coordinate a model water/wastewater operations training program.

$150,000 to establish a regional training center at the Kentucky Onsite Wastewater Center.

$550,000 for the Idaho water initiative.

$1 million for Lake Weequahic cleanup.

$1.75 million for the Three Rivers watershed protection demonstration project in Allegheny County, Pennsylvania.

$1.25 million to design an innovative granular activated carbon water treatment project in Oahu.

$500,000 for a small public water system technology center at the University of Missouri-Columbia.

$2 million for a Missouri Watershed initiative at the Food and Agricultural Policy Research Institute.

$500,000 for a study of dioxin levels in the Ohio River basin.

$300,000 for the California Urban Environmental Research and Education Center.

$1 million to continue a wetlands-based potable water reuse program for the city of West Palm Beach.

$700,000 for the Long Island Sound office.

$2 million for the University of Missouri Agroforestry Center to support a floodplain initiative.

$300,000 for the Northeast States for coordinated air use management.

Directive language:

Language directing EPA to consider testing ground water remediation technology developed by the International Research Center for Groundwater Research.

Language directing EPA to fund the water quality testing program along the New Jersey and New York shorelines at no less than current levels.

Language directing EPA to conduct a feasibility study for a potential pilot project to demonstrate innovative alternatives to the existing haul-water drinking water and honey bucket human waste disposal systems in the Northwest Arctic Borough.

Language directing EPA to assess whether the Edison Laboratory should be replaced and, if appropriate, to include funding in the FY 1999 budget submission.

Words of encouragement and support:

Language urging EPA to give strong consideration to funding a proposal by the Hawaii Institute of Tropical Agriculture and Human Resources to further the commercialization of agriculturally based environmental remediation technologies.

Urges EPA to give priority to soil aquifer treatment research program for indirect potable reuse of highly treated domestic wastewater being conducted in California and Arizona.

Encourages EPA to undertake a demonstration project at North Dakota State University comparing satellite data to field-gathered data on farming practices in the Oakes irrigation test area in southeast North Dakota.

Urges EPA to support the Houston Air Excellence and Leadership program which seeks to identify ways in which air pollution control policy can be targeted toward the most dangerous pollutants.

Directs EPA to strongly consider funding a proposal by Fort Scott, Kansas for additional tertiary wastewater treatment via a constructed wetland which will improve the Marmaton River.

Urges EPA to give careful consideration to the establishment of a Small Public Water Systems Technology Assistance Center at West Virginia State University and the University of New Hampshire.

Urges EPA to look at the sister lake partnership between Lake Champlain Basin and Lake Orchid in the former Soviet Union as a model for its own program.

Language stating that funding within the National Estuary Program should be provided to Sarasota Bay, Buzzards Bay, and Massachusetts Bay.

Urges EPA to provide support to exploring new ways to control zebra mussels in Lake Champlain.

Urges EPA to provide assistance to the city of Gainesville, Florida, for an innovative stormwater management project to protect the Floridian aquifer from stormwater runoff.

Urges EPA to support the Sokaogon Chippewa community's efforts to assess the environmental impacts of a proposed sulfide mine project.

Language stating the Committee would entertain a future budget request by EPA to construct a solid oxide fuel cell/gas turbine power system demonstration plant at EPA's Fort Meade research facility.

Language stating that EPA should provide adequate funds to continue the Dover Township, New Jersey, cancer cluster studies.

Urges EPA to provide $3 million from the border infrastructure fund to El Paso for use in its Rio Grande environmental monitoring program and $2 million for the federal share for construction of the Jonathan Rogers plant.

Federal Emergency Management Agency:

Words of encouragement and support:

Recommends FEMA consider using the State of Maryland's western Maryland flood task force as a model for work in other states in identifying disaster mitigation opportunities, and states that FEMA should work with the State of Maryland to fund mitigation measures identified by the task force.

Urges FEMA to continue efforts, in cooperation with the National Institute of Building Sciences and the University of South Alabama, to establish a universal methodology capable of predicting damages and loss of life caused by natural hazards.

Urges FEMA to support the Pittsford, Vermont, Fire Academy effort to expand training to rail and toxic material accidents, as recommended by the Committee in prior years.

Encourages FEMA to support the Coastal Region Development Center's efforts to develop a new model plan for southeast Georgia and other coastal states for hurricane evacuation mitigation preparedness.

National Aeronautics and Space Administration:

Earmarks and directive language:

Earmarks an additional $10 million for Origins ATD for additional astronomy test beds that contain significant investment by U.S. institutions; directs that, in selecting the new sites, one site permit search from the southern hemisphere for candidate stars which show clear evidence of planetary systems, and a second site use a large ground-based interferometer that demonstrates new

> adaptive optics and nulling interferometry technologies essential for the direct detection of Earth-like planets of other stars.
>
> Directs NASA to use $15 million to fund up to five consortia to develop specific regional applications with the use of EOS data; each consortium much include academic institutions and end users as partners and demonstrate a value-added application of EOS data to a regional problem of significant consequence.
>
> $20 million increase earmarked for the bantam flight demonstrator.
>
> $1.5 million earmarked for MSE-Technology Applications, Western Environmental Technology Office.
>
> $2.5 million for a science learning center in Kenai, Alaska.
>
> $500,000 for the Discovery Science Center, Santa Ana, California.
>
> $2 million earmarked for continuing development of a national prototype space education curriculum by the Center for Space Education at the Bishop Museum, Honolulu, Hawaii.
>
> $5 million for facilities enhancements at the Stennis Space Center.
>
> Words of encouragement and support:
>
> Commends the efforts to the Stennis Space Center in commercial remote sensing and encourages that these activities continue.
>
> Urges NASA to use a portion of the $10 million earmarked for the next generation internet initiative to develop new internet technologies to improve interconnection to areas such as Alaska and Hawaii; also recommends Montana as an appropriate participant area in the next generation internet initiative.
>
> National Science Foundation:
>
> Earmarks and directive language:
>
> $40 million to support a competitive, merit-based initiative, which may include one or more university-based research center, to enable the development of a U.S.-led public/private research initiative supporting research into plant genomes.
>
> $25 million earmarked for an incoherent scatter radar, which the Committee directs be used only to construct the radar collocated with the Department of Defense ionospheric research site (i.e., the HAARP project in Alaska).

Mr. McCAIN. Mr. President, what concerns me most is the growing practice of earmarking funds for a myriad of projects in the report language but then incorporating that report language by reference in the bill itself. For example, on pages 32 and 33, the bill language states:

> Of the amounts made available under this heading, $40 million for the Economic Development Initiative (EDI) to finance a variety of efforts, including those identified in the Senate committee report, that promote economic revitalization that links people to jobs and supportive services.

The report identifies 17 separate projects, in specific amounts and at specific locations, totaling nearly $30 million. The effect of this bill language is to require HUD to spend three-fourths of this economic development money for these particular projects without any assessment of the relative needs of the communities which would benefit from these projects compared with many other American communities. This is a very bad practice, Mr. President. It is one of the worst that I have seen in a long time.

Another section of the bill incorporates a similar list of earmarks into the bill language. On page 62, the bill reads:

> . . . $82 million for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the report accompanying this Act. . . .

It just so happens that the only terms and conditions contained in the report are earmarks for particular projects for the entire $82 million set aside in the bill. Again, this is back-door earmarking and it's the worst form of pork barrel spending that I have seen in a long time.

As I have said, this bill also contains earmarks for museums, particularly, $7.1 million for the Jazz Museum and the Negro Leagues Baseball Museum in Kansas City, MO.

The bill also earmarks $150 million for water and waterwaste facilities along the United States-Mexico border. While this earmark could conceivably benefit my own State of Arizona, I cannot understand why we cannot, instead, provide funding based on need and established criteria, rather than setting aside millions of dollars for certain States or areas of the country.

The report is replete with earmarks. One of the most interesting reads as follows:

> $600,000 for the final year of funding for the solar aquatic wastewater treatment demonstration in Burlington, VT, to be cost-shared by the participants.

Get this, Mr. President:

> The Committee does not intend to recommend funding for additional solar aquatic wastewater treatment demonstrations in view of EPA's assessment that this technology does not appear to offer any economic advantages over conventional technologies.

So we are going to spend $600,000 more on a project where, in EPA's assessment, the technology doesn't offer any economic advantages over conventional technologies. It seems a little bit ridiculous to me.

Mr. President, I won't go through the nine-page list I mentioned, but there are some fascinating earmarks in here. I will tell you, it's really interesting. Here is $1 million for renovation of the Paramount Theater in Vermont. It urges or encourages the Veterans' Administration to consider establishing or expanding community-based outpatient clinics in Vermont, West Virginia, Pennsylvania, and southern and western Maryland. You are going to have to help me out here, Mr. President. Why not in Maine, California, or Texas? Instead, it is encouraging the VA to establish expanding community-based outpatient clinics in Vermont, West Virginia, Pennsylvania, southern and western Maryland. The only thing I can say is in common there is that they are low-growth States. Why would we not want to establish or expand outpatient clinics in high-growth States—Nevada, California, Texas, or Arizona? I don't know. I don't understand.

Mr. President, we don't want to do these things. I think, as I have said on many different occasions, it doesn't help us with the American people, and we waste millions of taxpayer dollars on projects that serve our own narrow interests rather than those of the Nation at large. It makes it harder for us to whittle away at the $5.3 trillion debt.

I yield the floor.

Mr. BOND. Mr. President, I know the order was for the Senate to adjourn at 12:30. I now ask unanimous consent that there be a period for morning business, in which Senator ASHCROFT be permitted to speak for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business until the completion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RIGHTS OF MAN

Mr. ASHCROFT. Mr. President, last week, my friend TIM HUTCHINSON, the Senator from Arkansas, took the floor to lend his voice to a growing chorus of disapproval over the state of United States-China relations. I commend him for his actions. While his efforts to pass a sense of the Senate resolution against most favored nation status for China were unsuccessful, his actions were the very essence of what it means to be a leader. He set out to achieve noble aspirations, and then dedicated his energies to achieve those objectives. Leadership is ascertaining noble objectives and working hard, intently and sacrificially. Such efforts push us toward our highest and best. The highest and best to which Senator HUTCHINSON called us is an end to which we must all aspire.

Teddy Roosevelt said it this way:

> Far better is it to dare mighty things, to win glorious triumphs, even though checkered by failure, than to take rank with those poor spirits who neither enjoy much nor suffer much because they live in the gray twilight that knows neither victory nor defeat.

Twenty-two Members of the Senate had the courage to say that the tainted flow of Western currency into China must end, not because the exchange of goods between sovereign nations is injurious, but because we have in China today a ruthless regime that does not deserve unfettered access to United States markets, a regime whose brutal repression at home betrays its intentions abroad.

America is a place that has cared always for what Thomas Paine called the "rights of man." The United States has always been a country that gave no quarter to tyranny or tyrants. Teddy Roosevelt put it a bit differently, cautioning that America must not become "an assemblage of well-to-do hucksters who care nothing for what happens beyond."

But, Mr. President, does not the vote on the Hutchinson amendment suggest that Teddy Roosevelt's worst fears are being realized? For the message being sent from China today is as unmistakable as it is disturbing. Beijing believes that life is cheap and cheaper still when that life opposes the authoritarian rule of the Communist Party.

The State Department, in its most recent human rights report, states that "all public dissent against the party and government was effectively silenced" in China. "No dissidents were known to be active at year's end." Beijing has used imprisonment, exile, and summary execution to quiet the voices of those who cry for freedom.

China's 1982 Constitution guarantees the freedom of speech, the press, and religious belief. And yet, the hollowness of that document becomes more apparent with every passing day. Chinese authorities routinely resort to torture, the denial of due process, forced confessions, prison labor, and extrajudicial killings to crush Chinese citizens who stand up for liberty and defy Beijing.

As Nina Shea notes in "The Lion's Den," China has more Christians in prison because of religious activities than any other nation. This morning's New York Times detailed a State Department report due to be issued today—and I have a copy of it here—which is sharply critical of Beijing's efforts to suppress religious worship. The report, which is entitled, "U.S. Policy in Support of Religious Freedom," says, "The Government of China has sought to restrict all actual religious practice to government-subsidized religious organizations and registered places of worship."

The report goes on to detail the story of four underground Roman Catholic bishops who have been imprisoned or detained. They are not alone. Many other Catholic priests, the Times notes, "have been searched by government agents and their religious articles have been seized."

Consider the case of Bishop Su. Hung from the ceiling by his wrists, Su was battered time and again about the head until all but unconscious. He was then placed in a cell filled with water where he was left for days unable to sit or to sleep. His high crime? His treason? A fidelity to God and a desire to exercise that devotion.

It is true that the official Catholic Church in China is registered with the Government and claims as many as 4 million members. However, the official church does not recognize the authority of the Pope, so all Vatican-affiliated Catholics are viewed by Beijing as unregistered. Moreover, as the State Department report suggests, "Communist Party officials state that party membership and religious belief are incompatible," placing a serious limitation on believers.

And who, Mr. President, will denounce the mounting persecutions of Christians in China? The administration has not made a sound. Well, I would respectfully remind them that to sin by silence when one should protest makes cowards out of all men.

America must not trade civil liberty for the false idol of foreign commerce. We must be willing not just to sound historic, but we must pursue policies which are historically sound. We must be willing to condemn religious persecution both in China and around the world.

The disturbing trends revealed in the State Department report due today are not without precedent. In June 1996, the Far Eastern Economic Review reported that "Chinese police had destroyed at least 15,000 unregistered temples, churches and tombs" in the Zheijang province alone in just 5 months. Those church leaders who dared to resist were tortured, beaten, and killed.

Is it any wonder then that the future of Hong Kong has been the subject of great concern. At the beginning of this month, all eyes were turned toward the British colony as it reverted to Chinese control. I sincerely hope that our eyes will remain focused there, for constant vigilance is the key to exposing and resisting Chinese encroachment on freedom in the former colony.

Although China wants Hong Kong to remain a vibrant financial center and serve as an example for unification with Taiwan, Beijing has not hesitated to undermine Hong Kong's political autonomy in spite of its pledge in the 1984 joint declaration to honor one country, two systems.

China has declared the elected Hong Kong Legislature invalid and has appointed a hand-picked provisional legislative body. China's appointed chief executive of Hong Kong, Tung Cheehwa, promises that new elections will be held in 1998 but has drawn the electoral districts to limit the influence of Martin Lee's Democratic Party.

Mr. Tung has recently unveiled new measures to restrict civil liberties in Hong Kong. Public protests will have to receive prior approval and could be banned to protect so-called "national security." Political organizations will be required to register with the government and prohibited from seeking or receiving funds from overseas sources. Under Tung's definition, international organizations that expose China's human rights abuses will also be banned from receiving foreign funds.

Unfortunately, the administration's Hong Kong policy has been about self-preservation rather than promoting self-government. Political activist Martin Lee got a hero's welcome on Capitol Hill, but the administration met only reluctantly with Lee. Vice President GORE conveniently forgot Hong Kong on his recent trip to China, and much to the dismay of Martin Lee and other Hong Kong Democrats, Consul General Richard Boucher attended the inaugural ceremony of China's hand-picked legislature—the legislature which replaced the freely elected body that Martin Lee had worked so hard to preserve.

Mr. President, the preservation of liberty for the 6.3 million people in Hong Kong is about more than the immediate fate of its residents. The battle for civil liberty in Hong Kong could very well be the battle for civil liberty in China. As George Will has written, China has just swallowed "a radioactive isotope" of Western culture in taking over Hong Kong. Hong Kong serves as a shining example of democracy and free market economics, and the effective removal of that model would set back the march of freedom in China.

In a world that is increasingly open and free, there still exist totalitarian governments which cling to political repression and deny their people the inalienable rights of life, liberty, and property. Beijing claims that the Chinese people are more concerned about social cohesion and domestic order than the growth of civil liberty—that Western democracy is a Western phenomenon and not necessarily applicable to China, that it is somehow foreign to Far Eastern culture.

But what does Beijing think about the growth of democracy in Taiwan, Japan, and South Korea? How do China's leaders explain away the deaths of perhaps thousands of students who were willing to risk everything for liberty in Tiananmen Square? How does Beijing respond to heroes like Wei Jingsheng and Harry Wu who continue to fight against oppression in spite of intimidation, imprisonment, and torture? Troublingly, Beijing cannot answer these questions. Tragically, these are questions that the West is often afraid to ask.

Mr. President, I look forward to a U.S. foreign policy that calls the community of nations to their highest and best. America for her part must be willing to stand for freedom as she has since her first days. When the Chinese people eventually rid themselves of Beijing's tyrannical leadership and embrace democracy, just as South Korea, Japan, and Taiwan have done before them, let it be said that America stood with them, stood with them and for them in their cause for freedom.

Despite the troubling revelations of the State Department report and the defeat of the Hutchinson amendment last week, I believe that we must continue to press on. Teddy Roosevelt was right; it is hard to fail but it is worse never to have tried to succeed. The right of man to strive, to seek, to find and not to yield is at the core of what individual liberty and dignity means, and it is at the core of the values we regard highly in America. It is a message of hope and calls this country to its highest and best. It is a message that America must proclaim if the coming century is to be defined by the growth of liberty and not surrendered to those who would stifle freedom.

China has been abusive to its own citizens and signals an ominous cloud over the Far East, a cloud whose poison could spread well beyond its own borders and taint the opportunity for freedom around the world. China's total disregard for religious liberty, China's contempt for the liberty of individuals in the political system, and China's willingness to require the registration of religious groups whose members would worship God freely without subservience to the government, signals to us the need for America to stand up clearly—not as an enemy to the Chinese but as a friend of those people who seek liberty from tyrants.

I believe the Chinese people seek liberty and will respond constructively to freedom just as people around the world have wherever the grace of freedom has been made available to them. The United States can no longer suggest that we might cease to be the city on a hill whose light is a beacon for freedom. We have a responsibility to maintain the commitment to freedom that those who began this Nation had, and I submit that it is time for us to signal our commitment to freedom clearly and unmistakably to those who would enter the community of nations. China seeks and wants to enter that community, and the United States must speak clearly to China about the rights of man we have always defended. I think it is time for the United States to have its voice heard and to be a contributor to the cause of liberty and freedom around the globe.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:43 p.m. recessed until 2:14 p.m.; whereupon, the Senate was called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, due to a time commitment made by one of the speakers on the military construction bill, I ask unanimous consent at this time to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRICTION BETWEEN THE UNITED STATES AND CANADA

Mr. BURNS. Mr. President, I watched the news last night with a great deal of distress. Our Nation is in a situation that is intolerable with our long and faithful friend to our North. I don't quite understand the crux of the situation but I will become familiar with it and the history that has brought us to this inexcusable and terrible confrontation, that now exists on the west coast of British Columbia.

I have been occupied with the death of my mother and have been somewhat out of the loop of events and the deterioration of the relationship on our west coast. I knew there were circumstances which was causing friction among the fishing fleets of both the United States and Canada. The salmon runs have been of historic proportions in our Alaskan waters but as one works to the south toward the coast of Canada and the lower west coast of the United States, the runs are not as good.

A year ago, when the American-Canadian Inner-Parliamentary Meeting was held on the Alaskan coast while traveling from Prince Rupert, British Columbia, to Skagway, Alaska, there were discussions of the situation but there was no resolution. Both the Members of the Canadian Parliament and the Members of the American Congress were reluctant to dig deeper into the situation. Now we have a full-fledged crisis on our hands and it is separated from this Nation or Canada by an ocean. It is here and it is serious.

Canadian subjects held an American flag ship by barricading it. That is a vessel that sails a regular schedule from Seattle to the coastal ports of Canada and Alaska. It was held along with all passengers, cargo, and United States mail aboard. I am outraged any action of this kind was allowed to exist in this hemisphere. If it were any other place on this planet, this Government and all Americans would have been outraged. No other place would this Nation allow this kind of action to happen.

I was outraged when I saw the American flag burned by one, I assume, barricading the vessel. I, for one in this body, demand the Government of Canada deal with this situation and with those who would have a complete disrespect for the flag of this Nation. It is the single most powerful symbol of the free world. I would hope no citizen in this country would ever do any repulsive act to the national colors of our friends in Canada. We should not nor shall not retaliate in such fashion. We should, however, focus on this situation and get it settled as honorable nations do.

I cannot believe this administration has not taken action earlier to defuse this confrontation. I live in Montana and the relationship between Alberta and Montana has been one of great respect and friendship. Yes, that relationship is strained from time to time. But, that is to be expected among neighbors. But, never has our respect for each other ever been reduced to the actions now being displayed at Port Rupert, British Columbia, as we speak.

I plead with the President to get personally involved with the leaders of Canada and work it out and not let this wound fester and become uncontrollable. Our long and deep friendship with Canada is at stake and it is serious.

I plan to appeal to the Foreign Relations Committee of the United States Senate to look into this and would hope there is resolve within this body to deal with it and find a solution acceptable to Canada and the United States.

I appeal to both the Foreign Relations Committee and the President. Please do not stand idly by while someone burns my flag and barricades my ship. I do not plan to take this lightly and I also appeal strongly to the leaders of Canada to take actions that would defuse the confrontation and deal harshly with those who show no respect for either their own country or the United States of America.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2016) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in

Chief, [$721,027,000] *$652,046,000*, to remain available until September 30, 2002: *Provided*, That of this amount, not to exceed [$71,577,000] *$77,646,000* shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, [$685,306,000] *$605,756,000*, to remain available until September 30, 2002: *Provided*, That of this amount, not to exceed [$46,659,000] *$46,489,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, [$662,305,000] *$662,305,000*, to remain available until September 30, 2002: *Provided*, That of this amount, not to exceed [$45,880,000] *$48,880,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, [$613,333,000] *$690,889,000*, to remain available until September 30, 2002: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed [$34,350,000] *$52,450,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$45,098,000] *$234,614,000*, to remain available until September 30, 2002.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$137,275,000] *$185,115,000*, to remain available until September 30, 2002.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$77,731,000] *$96,079,000*, to remain available until September 30, 2002.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$40,561,000] *$21,111,000*, to remain available until September 30, 2002.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$27,143,000] *$31,830,000*, to remain available until September 30, 2002.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction authorization Acts and section 2806 of title 10, United States Code, [$166,300,000] *$152,600,000*, to remain available until expended.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$202,131,000] *$167,100,000*, to remain available until September 30, 2002; for Operation and Maintenance, and for debt payment, [$1,148,937,000] *$1,149,937,000*; in all [$1,351,068,000] *$1,317,037,000*.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$409,178,000] *$362,619,000*, to remain available until September 30, 2002; for Operation and Maintenance, and for debt payment, $976,504,000; in all [$1,385,682,000] *$1,339,123,000*.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$341,409,000] *$296,633,000*, to remain available until September 30, 2002; for Operation and Maintenance, and for debt payment, $830,234,000; in all [$1,171,643,000] *$1,126,867,000*.

FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $4,950,000, to remain available until September 30, 2002; for Operation and Maintenance, $32,724,000; in all $37,674,000.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $116,754,000, to remain available until expended: *Provided*, That not more than $105,224,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $768,702,000, to remain available until expended: *Provided*, That not more than $398,499,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $1,175,398,000, to remain available until expended: *Provided*, That not more than $353,604,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor: *Provided*, That the foregoing shall not apply in the case of contracts for environmental restoration at an installation that is being closed or realigned where payments are made from a Base Realignment and Closure Account.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (1) where there is a determination of value by a Federal court, or (2) purchases negotiated by the Attorney General or his designee, or (3) where the estimated value is less than $25,000, or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate Committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

(TRANSFER OF FUNDS)

SEC. 118. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

[SEC. 121. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

[SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

[(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

[(TRANSFER OF FUNDS)

[SEC. 123. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.]

SEC. 124. Notwithstanding any other provision of law, appropriations made available to the Department of Defense Family Housing Improvement Fund shall be the sole source of funds available for planning, administrative, and oversight costs incurred by the Department of Defense relating to military family housing initiatives and military unaccompanied housing initiatives undertaken pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 125. (a) In addition to any reductions required by this Act, the following funds are hereby reduced from the following accounts in this Act in the specified amounts—

"Military Construction, Army", $2,000,000;

"Military Construction, Navy", $3,000,000;

"Military Construction, Air Force", $4,000,000;

"Military Construction, Defense-wide", $5,000,000;

"NATO Security Investment Program", $1,000,000;

"Base Realignment and Closure Account, Part III", $8,000,000;

"Base Realignment and Closure Account, Part IV", $8,000,000.

(b) The reductions taken pursuant to subsection (a) shall be applied on a pro-rata basis by project and activity.

SEC. 126. Notwithstanding any other provision of law, from the funds appropriated in this Act for Military Construction, Army, the Secretary of the Army is directed to complete, using an Unspecified Minor Construction project, the Special Forces (Diver) Training Facility at Key West Naval Air Station, Florida, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189).

SEC. 127. (a) LEASE OF PROPERTY AUTHORIZED.—(1) Notwithstanding any other provision of law, the Secretary of the Navy (hereinafter referred to as the "Secretary") may lease, without monetary consideration, to the city and county of Honolulu (hereinafter referred to as the "city") a parcel of land consisting of approximately 300 acres on Waipio Peninsula, Honolulu, Hawaii (hereinafter referred to as the "parcel").

(b) RELATED EASEMENT.—The Secretary may also grant, without monetary consideration, an easement on, over, under and across that certain real property known as Waipio Point Access Road for access to and operation of the parcel.

(c) TERM.—The term of the lease and easement authorized under this section shall be fifty (50) years.

(d) CONDITION OF USE.—The lease and easement authorized under subsections (a) and (b) shall be subject to the following conditions:

(1) The city shall use the parcel for development and operation of a public soccer park and related recreational facilities, and for other civic and public purposes as may be approved by the Secretary.

(2) Facilities developed on the parcel shall be for public use and benefit; however, usage fees may be charged to defray facility operating and maintenance costs.

(3) The city shall comply with all explosive safety criteria affecting the city's use of the lease and easement areas, as established by the Secretary in connection with the explosive safety areas supporting the ordinance handling wharves located at West Loch Branch, Naval Magazine, Lualualei, Hawaii.

(4) The city shall, at its own cost and to the satisfaction of the Secretary, make any and all improvements to Waipio Point Access Road which the city determines are necessary to provide onstreet parking along said road, and adequate access to the parcel, including, but not limited to, any necessary appurtenant utility and drainage improvements. During the term of said easement, the cost of maintenance, repair and replacement of said road and improvements shall be borne by the city.

(5) The city shall install a non-potable irrigation water delivery system to service the parcel, and in doing so, the city shall size transmission lines capable of delivering approximately 2.5 million additional gallons of irrigation water per day to agricultural lands on Waipio Peninsula under the control of the Secretary.

(e) TERMINATION.—If the Secretary determines at any time that the parcel is not being used for a purpose specified in subsection (d)(1), the lease and easement authorized under subsections (a) and (b) may be terminated, and all right, title, and interest in and to such real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(f) EFFECT OF EXPIRATION OF LEASE.—Unless otherwise specifically provided for in this section, at the end of the lease and easement term, the city shall either convey, without reimbursement, to the United States, all right, title, and interest of the city in and to the improvements subject to said lease and easement, or restore, to the extent practicable, the lease and easement areas to the satisfaction of the Secretary.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property subject to this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the city.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease and easement to be granted under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 128. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing or military unaccompanied housing, the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term "congressional defense committees" means the following:

(1) The Committee on Armed Services and the Defense Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on National Security and The National Security Subcommittee, Committee on Appropriations of the House of Representatives.

This Act may be cited as the "Military Construction Appropriations Act, 1998".

The PRESIDING OFFICER. Under the previous order, each manager will have control of 10 minutes for debate time followed by a rollcall vote.

The Senator from Montana.

PRIVILEGE OF THE FLOOR

Mr. BURNS. Mr. President, I ask unanimous consent that Kelly Hartline, an Appropriations Committee staff member, be granted the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BURNS. Mr. President, I am pleased to bring before the Senate the military construction appropriation bill and report for fiscal year 1998. This bill reflects the bipartisan approach that the ranking member, Senator MURRAY of Washington, and I have tried to maintain regarding military construction and this subcommittee. It has been a pleasure to work with Senator MURRAY, her staff, and the members of the subcommittee throughout this process. I very much appreciate all of their support.

Mr. President, this bill was reported out of the full Appropriations Committee last Thursday by a unanimous vote of 28 to 0. The bill recommended by the full Committee on Appropriations is for $9,182,900,000. This is $799 million over the budget request and almost equal to the corresponding House bill. The bill provides $610 million less than what was appropriated last year—a reduction of 6 percent in overall spending authority for the committee from fiscal year 1997. Further, the bill reflects a reduction of 21 percent since fiscal year 1996—almost $2 billion less from just 2 years ago.

We have sought to recommend a balanced bill to the Senate, and we believe it addresses key, military construction requirements for readiness, family housing, barracks, quality of life and the Guard and Reserve components. This bill honors the commitment we have to our Armed Forces. It helps ensure that the housing and infrastructure needs of the military are given proper recognition. Also, I am pleased to report to the Senate that the bill is within the committee's 602(b) budget allocation for both budget authority and outlays.

Mr. President, this bill has some points I want to mention. We added $152 million to provide better and more modern family housing for our service personnel and their families. On another quality of life measure, we have added substantially to the budget request for medical and hospital facilities, increasing the request by almost 50 percent. We have provided $660 million for barracks construction to provide single service members a more favorable living environment. The committee also fully funds the budget request of $104 million for funding 24 class I violation environmental projects.

We also addressed the shortfalls that continue to plaque our Reserve components. The Department continues to walk away from the total force concept. Recognizing this, we have again lent support by adding $395 million to the Guard and Reserve accounts. In each case, the funds will help satisfy essential mission, quality of life or readiness requirements.

Mr. President, 22 percent of the bill, or $2.1 billion, is for downsizing defense infrastructure, or better known as the Base Realignment and Closure Program. This includes funding for the last three rounds of BRAC. Almost a quarter of all military construction dollars goes toward the base closure and realignment process.

All of the projects that we have recommended are included in either the Senate- or House-passed versions of the defense authorization bills. We will work very closely with the Armed Services Committee, as we put together a conference package for military construction.

We have tried to accommodate the sizable administration request for overseas projects in such places as Korea, Germany, and the Middle East. Mr. President, 24 percent of the administration's budget request for military construction projects is for overseas areas. This seems out of proportion when only about 16 percent of our total force is actually stationed overseas. We have funded only the essential of those projects.

We are also concerned about the recent decision made at Madrid to expand NATO and the additional costs required to implement that decision. With future defense spending constrained, this expansion has the potential to degrade the U.S. military construction and defense program seriously. I have requested a detailed report that lays out the additional funding requirements associated with the expansion, including logistical, communications, construction and other needs anticipated for the NATO infrastructure account. This will help us understand the potential costs to the U.S. taxpayer of NATO expansion.

There are many other issues that I could speak about at this time. I urge the Members of the Senate to support this bill and move it forward expeditiously.

I would say, also, we are finding in the BRAC, or base closures, that we are spending dollars that were unexpected just in environmental cleanup. The environmental cost of cleanup of these bases so they could be moved into either contract hands or private hands has been very, very high.

So I appreciate my ranking member, the work she has done, and now I yield to my ranking member, Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I am pleased to recommend this bill to the Senate. The recommended amount, $9.18 billion, is within the 602(b) allocation for the Military Construction Subcommittee and is frugal, some $600 million, or 6 percent below last year's appropriated level.

Nevertheless, we have added nearly $800 million to the amount requested by the administration, primarily to correct serious shortfalls in the budget request for National Guard and Reserve forces, and for quality-of-life initiatives in housing and medical care for U.S. military personnel.

In order to keep our Guard and Reserve forces healthy, we have again, as in the past, had to add substantial sums, some $392 million, to an inadequate request.

As for housing, we have added approximately $152 million for family housing, and despite this increase, we are still about $301 million below last year's level. The added funds, however, are in the new area of housing initiatives known as privatization, whereby the money acts as seed capital which is multiplied over some three or four times with infusions of private developer funds, so the funds we have added carry an added punch.

On another quality-of-life measure, we have added substantially to the request for medical and hospital facilities, increasing the request by nearly 50 percent, for a total of $208 million.

These initiatives have been put together in a truly bipartisan fashion, in close cooperation with the distinguished chairman, Senator BURNS and his staff. It is a good product, worthy of strong Senate support. I appreciate the courtesies that have been extended to me by the chairman and his staff, and believe this close working relationship has created a product which is balanced and fair to all Senators.

We appropriated money for nearly all the projects authorized by the Senate Armed Services Committee, and have attempted to evaluate and satisfy the requests of all members fairly, and fund worthy projects, through design or minor construction if they have not been authorized. We have made every effort to include report language that members have suggested to us.

We fully funded the BRAC request, some 22 percent of the bill, fully funded environmental projects, and we have tried to accommodate the sizable construction request for overseas projects, such as barracks in Europe and Korea. Overseas construction constitutes 24 percent of the overall construction request.

The committee is concerned over the amounts that will be needed for additional costs of NATO expansion, based on the decisions at the Madrid summit, and for the funds requested for Southwest Asia propositioning of equipment in the nation of Qatar. We have asked for a report on NATO expansion costs by mid-October, hopefully in time for the Senate debate on this matter.

We have also asked the administration to execute a burdensharing agreement with the Government of Qatar, whose population of 550,000 people enjoy a $21,000 per capita income and has, in fact, offered to help defray our expenses in our prepositioning program.

This legislation is extremely important to our military personnel for many reasons. One of the most important for me is the messages we are able to send our active duty personnel serving abroad separated from family. We are providing for families—housing, day care, community support facilities—providing for families so our active duty personnel can focus on the task at hand when serving a tour on the U.S.S. *Lincoln* or patrolling near the DMZ in Korea.

I am particularly pleased the committee was able to fund several authorized projects in Washington State. At Fairchild Air Force Base, we were able to meet the base's priority need for alterations to the fire station and provide moneys for an education center and a library. The committee was able to provide moneys for barracks replacement and a medical/dental clinic at Fort Lewis, and important C–17 facilities at McChord Air Force Base. I do appreciate the committee's willingness to be responsive to the needs of Washington State.

I, again, thank the chairman for his help in making this a truly bipartisan bill, and I commend staff on both sides of the aisle for their outstanding professional work on this legislation. I join Chairman BURNS in recommending that the Senate adopt this legislation with strong bipartisan support.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 946

(Purpose: To clarify the availability of funds for activities under the lease of building No. 1, Lexington, Blue Grass Station, Lexington, KY)

Mr. BURNS. Mr. President, I send an amendment to the desk on behalf of Senators FORD and MCCONNELL.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BURNS], for Mr. FORD, for himself and Mr. MCCONNELL, proposes an amendment numbered 946.

Mr. BURNS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 303(e) of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (Public Law 105–18; 111 Stat. 168) is amended to read as follows:

"(e) AVAILABILITY OF FUNDS.—The Secretary may use funds available in the Defense Working Capital Fund for the payment of the costs of utilities, maintenance and repair, and improvements entered into under the lease under this section.".

Mr. BURNS. Mr. President, this amendment will clarify the availability of what specific funding sources are available for activities under the lease of facilities at Lexington, Blue

Grass Station, KY. I believe this amendment has been cleared.

Mrs. MURRAY. Yes, it has.

Mr. McCAIN. Mr. President, I do not believe I have seen the amendment. I ask that action on it be suspended until such time as I, or my staff, have had a chance to examine the amendment.

Mr. BURNS. Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. McCAIN. Mr. President, I ask unanimous consent that Ron Moranville, a fellow on my staff, be granted the privilege of the floor during the remainder of debate on H.R. 2016.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, for 3 straight years now, the Clinton administration has inadequately funded the national security interests of this Nation. In response, Congress added slightly more than $20 billion to the defense budget for fiscal years 1996 to 1998, arguing that future readiness would be put at risk if we did not increase funding for military modernization.

We did add significant funds to the procurement and R&D accounts to ensure that our forces would maintain their current technological edge over potential adversaries well into the future. At the same time, however, we managed to set aside more than 10 percent of the total defense budget add-on over these 3 years, about $2.3 billion for unrequested low-priority military construction projects.

This year, we added only $2.6 billion to the defense budget, much less than in each of the previous years, but then the Appropriations Committee earmarked $800 million of that increase for military construction add-ons. Almost one-third of the total defense budget increase this year is unrequested and unnecessary.

This military construction bill before the Senate today contains funding for unrequested low-priority projects totaling more than $799 million. These projects were added because Members of this body asked for them. The services did not ask for them. The Department of Defense did not ask for them. But Members wanted funding for these projects in their States, and the Appropriations Committee gave it to them.

I note that the bill sets aside almost $400 million of the overall increase for construction projects for the National Guard and Reserves. The bill includes over $111 million for the construction of 13 readiness and Reserve centers for the Guard and Reserve, at a time when Guard and Reserve end strength is being cut by over 54,000 personnel.

I wonder what decisionmaking process was used to determine that the priorities of the Guard and Reserve for military construction so greatly outweigh the priorities of the active duty military. This bill gives the Army National Guard a 500-percent increase in project funding, or $189.5 million in unrequested projects. This decision was made by the committee despite the fact that the Army and the Army Guard agreed that the Guard's military construction requirements needed about $50 million. I wonder what criteria were used to determine that $50 million was not enough for the Guard and Reserve and how the add-on of $189.5 million was determined.

I understand that last year the Appropriations Committee directed the Army to budget $75 million from Army Guard military construction in fiscal year 1998. I also understand that the Army failed to follow the committee's direction and request only $45 million for the Army Guard military construction budget. Does this then justify a 500-percent increase in Army Guard construction funding?

In addition to the excessive amount of add-ons in this bill, the report contains earmarks for the following projects: $1.4 million to provide refrigeration equipment and improvements at the Fort Wainwright, AK, skating facility; $300,000 for the design of a centralized vehicle wash facility at Fort Wainwright, AK; $2 million for the design of the Saddle Road improvement in Hawaii; $550,000 for a library and adult education center at Seymour Johnson Air Force Base, NC; $3.1 million for planning and design of an intelligence center in Charlottesville, VA; $470,000 for design of a warfighting center at the Stennis Space Center in Mississippi.

I find it startling that Members are no longer content with earmarking actual construction projects. We now have begun the unfortunate process of earmarking portions of the planning and design money which has traditionally been provided in a lump sum to be used at the discretion and prioritization of the services.

Where will this earmarking stop? I note, without further comment, the five States receiving the largest share of these construction add-ons: Mississippi, $58.4 million; Virginia, $48.1 million; Alabama, $37 million; Kentucky, $33.1 million; and New Mexico, $32.3 million. This bill even includes an add-on for Arizona.

Finally, I point out that this bill, like many others that have come before the Senate in the past week, contains restrictive Buy America provisions which limit awards of contracts to U.S. companies only. These two sections, 111 and 112, of the bill are anticompetitive and will ensure that U.S. taxpayers do not get the best price, in many instances, because foreign firms will not be able to compete with U.S. companies.

Mr. President, I ask unanimous consent that the Senate add-ons in the military construction bill list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SENATE ADD-ONS TO THE MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1998

State and installation	Project title	Budget request	In millions	
			Change	Appropriated
Alabama:				
Redstone Arsenal	Missile ENG Annex	0	$27.0	$27.0
Dannelly Field	Munitions Complex	0	4.8	4.8
Maxwell AFB	Aircfaft Maint Facility	0	5.2	5.2
Alaska:				
Elmendorf AFB	Electrical System Upgrade	0	6.1	6.1
Eielson AFB	Potable Water Storage	0	6.0	6.0
Bethel[1,2]	OPS Facility	0	4.6	4.6
Arizona: Papago Military Res[1]	Support Maint Shop	0	11.0	11.0
Arkansas: Little Rock	Control Tower	0	3.4	3.4
California: Pasadena[1]	Marine Corps Reserve Center	0	6.7	6.7
Colorado:				
Fort Carson	Mates Expansion	0	2.9	2.9
Greeley	Mobile Ground Maint Complex	0	4.7	4.7
Connecticut:				
New London	Child Development Center	0	3.7	3.7
New London	Fire Protection System	0	1.6	1.6
Delaware: New Castle Airport[1]	Squadron OPS Facility	0	7.0	7.0
Florida:				
Eglin AFB Aux Field	Assault Strip Runway	0	5.1	5.1
Ellyson Field[1]	Readines Center	0	3.8	3.8
Eglin AFB Aux Field[1]	Renovate Visiting Quarters	0	7.3	7.3
Georgia: Moody AFB	HH60 Rescue OPS Facility	0	6.8	6.8
Hawaii:				

SENATE ADD-ONS TO THE MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1998—Continued

State and installation	Project title	Budget request	In millions	
			Change	Appro-priated
Fort Derussey	Asian Pacific Center	0	9.5	9.5
Pearl Harbor	Seal Delivey System Facility	0	7.4	7.4
Hickman AFB[1]	Maint Complex	0	4.5	4.5
Bellows AFB[1][2]	Training Facility	0	5.2	5.2
Idaho:				
Mt Home AFB	B–1B Avionics Building	0	9.2	9.2
Mt Home AFB	F–15 Squadron OPS Facility	0	3.8	3.8
Gowen Field[1]	Aviation Readiness Center	0	3.7	3.7
Boise Airport[1]	C–130 Squadron OPS	0	8.8	8.8
Indiana:				
Hulman Reg Airport[1]	Fire Station	0	5.4	5.4
Fort Wayne IAP[1]	Medical Trng Facility	0	5.9	5.9
Kansas:				
McConnell AFB	KC–135 Squadron OPS	0	9.7	9.7
McConnell AFB	Transportation Complex	0	2.9	2.9
McConnell AFB[1]	Maint Shop	0	2.0	2.0
Kentucky:				
Fort Knox	Training Range	0	7.2	7.2
Greenville[1]	Training Range	0	9.3	9.3
Fort Campbell[2]	Equipment Shop	0	9.9	9.9
Fort Campbell	Education Center	0	6.7	6.7
Louisiana: Camp Beauregard[1]	Machine Gun Range	0	1.3	1.3
Maine: Bangor IAP[1]	Upgrade Base Facilities	0	6.5	6.5
Maryland: Annapolis[1]	Readiness Center	0	2.9	2.9
Massachusetts: Barnes ANGB[1]	Dining Hall/Fitness Center	0	3.0	3.0
Michigan:				
Augusta[1]	Readiness Center	0	6.4	6.4
Selfridge AGB[1]	Vehicle Maint/Comm Complex	0	9.0	9.0
Walker[1]	Readiness Center	0	9.4	9.4
Mississippi:				
Gulfport NCBC Base	Bachelor Enlisted Qrts	0	22.4	22.4
Miss Army Ammun Plt	OPS and Maint Facility	0	9.9	9.9
Senatobia[1]	Readiness Center	0	4.4	4.4
Key Field[1]	KC–135 SIM Training Center	0	2.0	2.0
Key Field[1]	Dining Hall	0	3.2	3.2
Nas Meridian	Bachelor Enlisted Quarters	0	7.0	7.0
Gulfport-Biloxi[1]	Training Quarters	0	9.5	9.5
Missouri: Macon[1]	Armory	0	3.2	3.2
Montana:				
Malstrom AFB	Dining Facility	0	4.5	4.5
Billings[1]	Reserve Center	0	14.6	14.6
Nevada:				
Nellis AFB	Land Acquisition	0	5.9	5.9
Reno/Tahoe IAP[1]	C–130 Training Facility	0	2.9	2.9
Nebraska: Offutt AFB	Dormitories	0	6.9	6.9
New Mexico:				
Kirtland AFB	Simulation Training Facility	0	14.0	14.0
Kirtland AFB	Bridge	0	6.3	6.3
Cannon AFB	F–16 Missile Maint Shop	0	2.9	2.9
Taos[1]	Readiness Center	0	3.2	3.2
Kirtland AFB[1]	Squadron OPS Facility	0	2.8	2.8
Kirtland AFB[1]	Composite Support Facility	0	3.1	3.1
New York:				
Grabeski Airport[1]	Vehicle Maint Complex	0	4.3	4.3
Niagara Falls IAP[1]	Training Facility	0	2.1	2.1
North Carolina:				
Fort Bragg	Mout Training Complex	0	7.7	7.7
Fort Bragg	Medical Training Barracks	0	8.3	8.3
North Dakota: Minot AFB	Fire/Crash Rescue Station	0	5.2	5.2
Ohio:				
Wright-Patterson	Management Complex	0	22.0	22.0
Rickenbacker ANGB[1]	Fuel/Corrosion Control Facility	0	5.7	5.7
Springfield-Beckley Map[1]	Base Supply Complex	0	4.4	4.4
Oklahoma:				
Altus AFB	Land Purchase	0	11.0	11.0
Vance AFB	Base Engineering Complex	0	7.7	7.7
Will Rogers Airpot[1]	Aeromedical Training Facility	0	3.1	3.1
Fort Sill	Barracks Renewal	0	8.0	8.0
Oregon: Salem[1]	Reserve Center	0	11.8	11.8
Pennsylvania: Oakdale[1]	Reserve Center	0	24.9	24.9
South Carolina:				
Leesburg Training Site[1]	Simultation Center	0	3.8	3.8
McEntire AGS[1]	Fuel/Corrosion Control Facility	0	7.0	7.0
South Dakota:				
Ellsworth AFB	Fire/Crash Rescue Station	0	6.6	6.6
Rapid City[1]	Aviation Support Facility	0	5.2	5.2
Texas:				
Dyess AFB	B–1B Squadron OPS	0	10.0	10.0
Rapid City[1]	Aviation Support Facility	0	12.8	12.8
Utah: Fort Douglas[1]	USARC & OMS	0	12.7	12.7
Vermont: Camp Johnson[1]	Maint Shop	0	6.7	6.7
Virginia:				
Norfolk NS	Berthing Pier	0	13.5	13.5
Portsmouth Hospital	Hospital Replacement	0	34.6	34.6
Washington:				
Fairchild AFB	Fire Station	0	4.8	4.8
Fairchild AFB	Education Center	0	8.2	8.2
Fairchild AFB	Training Academy	0	3.7	3.7
Fort Lewis	Medical Clinic	0	5.0	5.0
West Virginia: Camp Dawson[1]	Readiness Center	0	6.8	6.8
Wisconsin: Mitchel ARS[1]	Aerial Training Facility	0	4.2	4.2
Wyoming: Camp Guernsey[1]	Vehicle Maint Shop	0	13.9	13.9
42 Unrequested Active Duty Milcon Add-Ons Totaling		....	382.9	....
50 Unrequested Reserve/Guard Milcon Add-Ons Totaling		....	299.5	....
92 Unrequested U.S. Based Milcon Add-Ons Totaling		....	681.7	....

[1] Denotes Reserve/National Guard Construction Projects.
[2] Denotes Projects No Included on Senate or House Authorization Bills.

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1998 FAMILY HOUSING ADD-ONS

State and installation	Project title	Budget request	Change	Authorization
Alaska.				
Fort Richardson	Neighborhood Revitalization	0	$9.6	$9.6
Fort Wainwright	Neighborhood Revitalization	0	8.3	8.3
Georgia.				
Robins AFB	Family Housing	0	5.2	5.2
Hawaii.				
Pearl Harbor	Family Housing	0	17.9	17.9
Kentucky.				
Fort Campbell	Family Housing Improvements	0	8.5	8.5
Montana.				
Malmstrom AFB	Military Housing	0	16.6	16.6
North Carolina.				
Camp Lejeune	Renovate Family Housing	0	2.9	2.9
South Carolina.				
Charleston AFB	Improve Family Housing	0	14.3	14.3
Texas:				
NAS Corpus Christi	Replace Family Housing	0	6.5	6.5
Lackland AFB	Replace Family Housing	0	7.4	7.4
Washington:				
NAS Whidbey Island	Replace Family Housing	0	32.3	32.3
Bangor	Replace Family Housing	0	15.7	15.7
Total family housing add-ons		0	145.2	145.2

Mr. McCAIN. Mr. President, in closing, let me say I am sure there are many good projects on this list. Many projects will serve to improve the quality of life of our military personnel and will provide facilities improvements that will enhance mission readiness, but the real reason these projects are funded in this bill is that they provide economic benefit to certain States. Even with the congressionally mandated increases in the defense budget, military training exercises continue to be cut, backlogs in aircraft and ship maintenance are growing, flying-hours shortfalls still exists, military health care is underfunded by $600 million and 11,787 service members are reportedly on food stamps and many more are eligible for food stamps, Mr. President. We simply have higher priorities for defense spending and pork-barrel construction projects.

There are many stories that are illustrative of our need for spending on priority items, and this kind of earmarking is really harming the men and women in the military. Over the weekend, there was a story in the Washington Post about enlisted sailors who are stationed in San Diego who now live in Mexico. They have to drive to Mexico because there is not affordable housing or base housing for them in San Diego, yet, we will fund these projects that are on this list. At the same time, there are 11,787 service members who are on food stamps and thousands more eligible, and we will instead fund these kinds of projects.

Mr. President, it is not an admirable practice that we are seeing continued and even increase over the years. I intend very strongly to urge the President of the United States to exercise the line-item veto on some of these projects because there is no more compelling reason for the line-item veto than some of the projects that I have talked about today. I will be engaged in urging him to do so.

I yield the floor, but before I yield the floor, I would like to take a look at the amendment and any other amendments that will be proposed at this time on the bill. Mr. President, I yield the floor.

Mr. BURNS. Mr. President, in response to Senator McCAIN, there are over 891,000 men and women in uniform who serve in one of the six Reserve organizations. They represent 38 percent of the total force.

For these Reserve forces, the President's budget request contained a total of $173 million—less than 2 percent of the total military construction bill allocated to the Reserve components.

More specifically, the National Guard military construction program supports over 474,673 soldiers and airmen in communities throughout the Nation. They constitute approximately 20 percent of our total Armed Forces and represent all 50 States and 4 territories.

The units and the missions of the Reserve components have changed significantly in the last 30 to 40 years. The mission and the equipment is much more complex and requires larger working bays and parking areas. The increased lethality and range of modern weapons restrict indirect firing ranges and training areas and creates new requirements necessary to ensure safety.

The Army Guard alone has more than 23,360 facilities, with a current plant replacement value of $17.3 billion. Over 50 percent of these facilities are inadequate by current Army criteria. There is a construction backlog of $2.3 billion, which as a direct impact on modernization and readiness.

The Pentagon requested only $45 million for the Army National Guard for military construction in the fiscal year 1998 budget. There are 367,000 soldiers in the Army National Guard—$45 million does not go very far in meeting their mission and quality of life requirements.

If the Congress did not act to provide additional military construction funding to the Reserve components each year, these forces would be severely handicapped as far as their ability to achieve full operational capability and their objective readiness level. Just because a project is for the Guard or Reserve does not mean it is not meritorious, it signifies that the Pentagon has decided to let the Congress foot the bill for building and maintaining the Reserve components' infrastructure.

The PRESIDING OFFICER. Under a previous agreement, the Senator from Arizona has 2 minutes, 15 seconds remaining.

Mr. McCAIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has yielded back his time.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 946

Mr. BURNS. Mr. President, the amendment that is now under consideration has been cleared on the Democratic side, and I ask that it be accepted at this time.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 946.

The amendment (No. 946) was agreed to.

Mr. BURNS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I ask for third reading of the bill. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been requested on final passage.

Mr. BURNS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I wonder if the Chairman of the Military Construction Subcommittee, Senator BURNS, would yield for a question.

Mr. BURNS. Certainly.

Mr. D'AMATO. I appreciate all that the chairman has done to accommodate the specific needs of military installations in New York. As you know, New York has been devastated by its losses from the last two BRAC rounds. However, the one positive effect of this paring down is that the remaining bases in New York are among the most efficient and effective in the world. That is why these military construction dollars are so important to New York State.

One military base of particular concern to both Senator MOYNIHAN and myself is Fort Drum in Watertown, NY. Fort Drum is home to the 10th Mountain Division. The mission of the 10th Mountain Division is to deploy rapidly anywhere in the world and be prepared to fight and win upon arrival.

The 10th Mountain Division stands ready to depart Fort Drum and conduct operations anywhere in the world with minimal notice. The cornerstone to Fort Drum's preparedness is its high state of mission readiness. This readiness is sustained through intensive training and the most up-to-date, modern facilities.

America continually asks our soldiers around the world to respond and they are always there for us. The 10th Mountain Division is the most frequently deployed division in the Army. It is only fair that Congress appropriate the necessary dollars to ensure that our troops remain the best in the world.

Fort Drum has requested two very important projects that would greatly enhance readiness on the base and contribute to the 10th Mountain Division's extremely high response time. The first is an aerial gunnery range, funded at $17.5 million in the House. The proposed range will be an adequately sized and properly configured aerial gunnery range for Army rotary wing and Air National Guard fixed wing joint mission requirements. The facility and range area will enable the Air National Guard and Fort Drum range division to employ operations under the joint air attack team concept [JAAT] as well as consolidate existing operations to the northeast side of Fort Drum property for safe operations. Currently, rotary wing and fixed wing operations are conducted on separate sites across the Fort Drum installation.

The second project is a military training and education center, funded at $6.9 million, to replace a number of widely scattered temporary 50-year old, inefficient and marginal World War II wood facilities.

The center would make a valuable contribution to improving quality of life for soldiers, dependents and civilians at Fort Drum. Without the center, the condition of aging facilities will become less able to support the function and eventually continuing education opportunities for the population of Fort Drum will be negatively impacted. Last year, the Senate included this project in its version of the fiscal year 1997 defense authorization bill.

I would hope that the House—Senate Conference Committee would include both of these important projects in the final conference report for fiscal year 1998.

Mr. MOYNIHAN. Mr. President, my friend and colleague, Senator D'AMATO, has clearly set out the reasons why Fort Drum needs these two projects. They are essential to the training and readiness we and the Army have come to expect from the 10th Mountain Division. It seems whenever there has been a deployment in recent years, the 10th has been part of it. I simply add my support and my hope that the gunnery range and the training and education center will be included when the Senator from Montana and his conferees reach an agreement on military construction projects.

Mr. BURNS. I can assure both Senators from New York that both projects will be given every due consideration when the conferees meet.

PROTECTING THE FUTURE OF PICATINNY ARSENAL

Mr. TORRICELLI. Mr. President, I rise today in strong support of the Fiscal Year 1998 military construction appropriations bill, and would like to take this opportunity to thank Chairman BURNS and Ranking Member MURRAY for all of their leadership and hard work on this legislation. I am especially pleased by two items which were included in this bill. First, the $1.3 million which will be spent on the design of a new software engineering center at Picatinny Arsenal in my home State of New Jersey, and second, language in the bill which urges the Army to place the construction of the center on its priority list for fiscal year 1999. I am hopeful that the Army will heed the advice of the Senate, and make this project a priority for next year.

Throughout our Nation's history, Picatinny Arsenal has provided our men and women with the high-technology weapons that have helped achieve our military victories. Most recently, during Desert Storm our forces unleashed millions of M-77 submunitions on the Iraqi Army with devastating results. This grenade-like weapon uses a precision guidance system and a mini-computer to locate its target as it descends on a parachute-like device, before it attacks and destroys it. The Iraqis were so terrified of this weapons, that they dubbed it Steel Rain. I am proud to say that this weapon was developed by some of this Nation's finest scientists and engineers at Picatinny Arsenal.

As some of my colleagues may know, Picatinny Arsenal is home to the Army Armament Research, Development and Engineering Center [ARDEC]. Virtually every piece of weaponry and ammunition in the hands of our soldiers is developed at Picatinny. In fact, Picatinny is responsible for 90 percent of the Army's lethality.

Currently, the Fire Support Armaments Center [FSAC], which conducts the research, development, and engineering for weapons systems such as artillery, mortars, and the technology behind the fire control for the entire U.S. Army, has its functions dispersed at several facilities throughout the base. While our Armed Forces in general, and the Army in particular, have been subject to drastic downsizing in the post-cold-war era, the Fire Support Armaments Center workload has increased as our modern army relies increasingly on "smart" weapon technology. However, while the Center is responsible for a critical area of expertise in our national security plan, its economic and productive effectiveness is severely limited because its operations are dispersed throughout the base. This, combined with the limited space available, makes work on the larger vehicles like tanks and armored personnel carriers impossible in all but the best of weather conditions and makes coordination on the many different components of any given project nearly impossible.

To remedy this, a new software engineering center has been proposed which would consolidate many of the Arsenal's operations, thus allowing work on these vehicles to proceed year round and enhancing Picatinny's capability to test and upgrade "smart" weapons. The proposed Software Engineering Center would also provide the Army with the ability to upgrade-technologically existing weapons systems, respond rapidly to problems encountered in the field, and save the Pentagon money. The Army estimates that this consolidation will also save $5 million a year, allowing the project to pay for itself in 3 years. I am pleased by the Senate's support of the center, and look forward to working with the subcommittee and the Army to ensure that this state-of-the-art facility becomes a reality.

Mr. DOMENICI. Mr. President, the pending military construction appropriations bill provides $9.183 billion in new budget authority and $3.064 in new outlays for military construction and family housing programs for the Department of Defense for fiscal year 1998.

When outlays from prior-year budget authority and other completed actions are taken into account, the outlays for the 1998 program total $9.902 billion.

This legislation provides for construction by the Department of Defense for U.S. military facilities throughout the world, and it provides for family housing for the active forces of each of the U.S. military services.

Accordingly, it provides for important readiness and quality of life programs for our service men and women.

The bill falls within the revised section 602(b) allocation for the Military Construction Subcommittee. I commend the distinguished subcommittee chairman, the Senator from Montana, for bringing this bill to the floor within the subcommittee's revised allocation.

The bill provides important increases over the President's request for 1998, and I urge the adoption of the conference report.

Mr. President, I ask unanimous consent that a table showing the relationship of the conference report to the subcommittee's section 602(b) allocation be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 2016, MILITARY CONSTRUCTION APPROPRIATIONS, 1998

[Spending Totals—Senate-Reported Bill; fiscal year 1998, in millions of dollars]

Category	Defense	Non-defense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	9,183				9,183
Outlays	9,902				9,902
Senate 602(b) allocation:					
Budget authority	9,183				9,183
Outlays	9,920				9,920
President's request:					
Budget authority	8,384				8,384
Outlays	9,839				9,839
House-passed bill:					
Budget authority	9,183				9,183
Outlays	9,909				9,909
SENATE-REPORTED BILL COMPARED TO					
Senate 602(b) allocation:					
Budget authority					
Outlays	(18)				(18)
President's request:					
Budget authority	799				799
Outlays	63				63
House-passed bill:					
Budget authority					
Outlays	(7)				(7)

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. MCCONNELL. Mr. President, I rise today to discuss the military construction appropriation bill before us today. Senator BURNS and Senator MURRAY are to be congratulated on crafting a measure that adequately meets our military needs while at the same time addressing the pressing concerns of our soldiers.

Mr. President, at a time when our services are having difficulty meeting their recruiting goals and retention is suffering, it is more important than ever that the military address quality of life issues. Unfortunately, the administration has chosen to ignore the reality and not budget the appropriate resources for this goal.

The budget for all military construction contained in the Senate bill totals just over $9 billion, almost $800,000 above what the administration requested. As anyone who has visited some of our installations can tell you, this money is desperately needed.

I salute the work of Senators BURNS and MURRAY as well as their staffs. Their ability to prioritize within the declining budget is crucial to improving the everyday lives of our soldiers and their families. Mr. President, if we are going to continue to ask more from our military around the world, the very least we can do is to provide them with adequate housing and facilities. In addition, it should be pointed out that the committee worked with both the House and Senate authorizing committees and did not appropriate funds for any project that was not authorized.

I hope all of my colleagues will join me in supporting this excellent bill.

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for several New Jersey projects included in the Senate's version of the fiscal year 1998 military construction appropriations, as well as several New Jersey projects included in the House version of this legislation. As a member of the Appropriations Committee, I hope all of these projects will be included in the final version of the bill.

I appreciate the willingness of the chairman and ranking member to include $1.3 million in design funding for a new software engineering facility at Picatinny Arsenal. This funding will allow the Picatinny to consolidate the design, development, testing, configuration control, field release and maintenance of weapon systems, simulators, and trainers. It will result in reduced cost for the Army and will improve efficiency in the software engineering process.

I also appreciate the willingness of the Senate subcommittee to provide funding for two important projects at McGuire Air Force Base. The Senate's bill includes $9.954 million for an air mobility operations group warehouse, which will increase the efficiency of the base's mobility operations. Additionally, it includes $35.217 million for an ambulatory health care center replacement. This new facility will house a full-service outpatient operation and provide adequate space for clinics, ambulatory surgery, ancillary services, storage, offices, and administration. It will improve the quality of care provided to our military personnel.

In addition, the House version of this bill provides $9.03 million for an ammunition supply point at Fort Dix, $8.8 million for a fire station at McGuire Air Force Base, $2.05 million for a fire station at Fort Monmouth, and $7.3 million to build 35 units of family housing at Picatinny Arsenal. These are meritorious projects that deserve the support of the conferees. I hope the conferees to this bill will agree to include these projects to improve the quality of life and to support the missions at New Jersey's military installations in the final version of this legislation.

These projects are vital to New Jersey's defense infrastructure, and to those who work on these bases. I hope the chairman and ranking member will support these important New Jersey projects in the conference agreement to the fiscal year 1998 military construction bill.

The PRESIDING OFFICER. Under the previous order, the committee amendments are considered and agreed to en bloc.

The committee amendments were agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill was read the third time.

The PRESIDING OFFICER. The Chair informs the Senator from Washington that she has 5 minutes, 29 seconds remaining on her time. Does she wish to use it or yield it back?

Mrs. MURRAY. I yield my time back.

Mr. BURNS. I yield my time back.

The PRESIDING OFFICER. The question is, Shall the bill, H.R. 2016, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 98, nays 2, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—2

Kyl
McCain

The bill (H.R. 2016), as amended, was passed.

Mr. BURNS. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Under a previous order, the Senate insists on its amendments, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer appointed Mr. BURNS, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. CRAIG, Mr. STEVENS, Mrs. MURRAY, Mr. REID, Mr. INOUYE, and Mr. BYRD, conferees on the part of the Senate.

Mr. BURNS. I thank Senator MURRAY's staff, Dick D'Amato, Emelie East, and also on my staff Sid Ashworth, Kelly Hartline, and Jennifer Chartrand. I also thank Ben McMakin and Mazie Mattson. It was a pleasure working with these folks. They did the majority of the work.

I yield the floor.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under a previous order, the clerk will report Senate bill 1034, the VA-HUD appropriations bill.

The assistant legislative clerk read as follows:

> A bill (S. 1034) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for fiscal year ending September 30, 1998, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Thank you, Mr. President.

GOVERNMENTAL AFFAIRS COMMITTEE HEARINGS

Mr. TORRICELLI. Mr. President, with the first phase of the hearings of the Senate Governmental Affairs Committee into the abuses of the electoral process through campaign fundraising having just concluded, and the second phase about to begin, it is perhaps an appropriate time to reflect on those things that we have learned in these first few weeks and those questions that remain.

It is, I think, important to note that despite some incentive for partisanship, a tendency by the media to sometimes reach conclusions before the facts, and a persistent failure of some witnesses to cooperate, the committee has begun its work, I think, in the best traditions of the Senate. Democrats and Republicans are working together. We do have a common objective, and I think we are doing service to the institution.

These things, however, have already been learned. First, it is a result of insufficient management and poor decisionmaking and the continuing upward spiral of pressure to raise campaign funds, the Democratic National Committee made a series of bad decisions during the last election that clearly resulted in some violations of Federal law and were a disservice both to the President and the Democratic Party. Among these were the inadequacy of any process of checking the names or backgrounds of contributors or the sources of their funds. The good work of some members of the Democratic National Committee and its staff was compromised, unfortunately, by the addition of some inexperienced people who were not properly supervised or trained for their positions. John Huang was clearly among them, and it is now clear from testimony before the committee that there is a substantial chance that the result was a violation of Federal law.

Second, it is also becoming clear that the Chinese Government, the People's Republic of China, as a result or in reaction to the visit of President Li of Taiwan to the United States, planned and potentially embarked upon a plan to influence the 1996 Federal election. It is clear from the evidence provided to date that this plan targeted neither political party in particular, but probably both in general. It seems to have been primarily designed to influence the U.S. Congress. It is unclear to date the extent of those designs on the Presidential election. It is also clear that that plan involved both legal and potentially illegal means to accomplish its goal. The extent of its success, to what extent it was achieved, is not at this point known. The fact that it existed and there were any intentions implemented is disturbing enough to warrant the committee's investigation.

Third, it is established, I believe, at this point, to at least some degree of satisfaction, that the illegal activities that may have been embarked upon by John Huang or others to seek and receive foreign contributions or otherwise violate Federal Election Commission regulations and the laws of the United States with regard to fundraising were not either known or encouraged by senior personnel at the Democratic National Committee. Richard Sullivan, who was the direct superior of Mr. Huang, denied under oath that there was any plan by the Democratic National Committee to solicit Chinese or other foreign contributions. It is, however, clear Mr. Huang's activities were not sufficiently monitored or known as should have been the case in an organization of the importance of the Democratic National Committee.

Fourth, John Huang's own activities raise substantial suspicion. It is not enough for the committee to conclude that it was not properly supervised or to take any comfort in the fact that his superiors or other people in either the White House or Democratic National Committee did not have knowledge of his efforts to raise foreign contributions. Nor is it enough to simply dismiss his activities as a poor judgment to hire him because he was inexperienced or unqualified to be vice chairman of finance of the Democratic National Committee.

His activities while at the Commerce Department in operating out of the Stevens Corp., where he both received and made telephone calls, received and sent faxes and perhaps, most suspiciously, received packages, raised continued questions. In the coming weeks, the committee will want to explore as to the nature of his activities, not simply while at the Democratic National Committee, but in the months preceding it while a Federal employee. The committee is also left with the unanswered question as to why he continued to receive briefings by the intelligence community and of what use he made of that information.

The committee is also left with questions regarding the alleged Chinese plan. While it is comforting that there is no evidence to date that policy was impacted, it is also not enough for us to rest in a comfort that it was bipartisan and not apparently solicited by either political party, based on information known to date. The question remains of whether policy was ever changed as a result of these contributions, whether the plan was actually fully implemented, and whether or not it continues. This naturally is a first priority of the committee and remains of overwhelming importance.

And questions, finally, remain with regard to John Huang. Of what use did he make of this information for corporate purposes of the Lippo Group or any other foreign interest? Were these questions both continuing before the committee and some of these preliminary issues answered?

The committee next turns its work to the National Policy Forum, its relationship with the Republican National Committee and its chairman, Haley Barbour. The committee in the coming days will receive testimony, I believe, that will indicate that Mr. Barbour, while chairman of the Republican National Committee, designed a plan, which was implemented with his participation, to solicit and eventually did receive foreign contributions in excess of $2 million, which helped, through a series of transactions, to fund the 1994 Republican campaign to take control of the U.S. Congress. Evidence will be presented that this was an active plan, fully implemented.

After a week of testimony, therefore, we will know the extent of involvement of the Democratic and Republican National Committees in these efforts to receive foreign contributions and their impact on the 1994 and 1996 elections.

With those two phases of the committee's work completed, what we will not have done is get any closer to the question of genuine and complete campaign finance reform. Several weeks have now passed since President Clinton's deadline was passed for the July 4, 1996, consideration of campaign finance reform. No campaign finance reform bill has been considered or released by any subcommittee of this Senate. No date has been set for the Senate to even begin discussion of any such genuine reform.

Indeed, there are some who would argue that the Governmental Affairs Committee deliberations are an excuse to wait until next year to even begin consideration of any campaign finance reform legislation. Using the deadline of the end of 1996 to begin consideration will assure that the 1998 Federal elections are conducted under the same campaign finance laws that bred the very problems now being discussed by the Governmental Affairs Committee. And it begs the question that, for all the important things that this Senate can learn from these hearings, all the unfortunate revelations the Senate is now experiencing, the tragic lessons the American people are now learning about this system, which Senator does not already know enough that we are raising too much money, spending too much money, and inviting both these abuses and violations of the law every day that we do not reform this system?

I know that there is a perception in our country that this failure to initiate campaign finance reform is a genuinely bipartisan problem. The American people can be forgiven for believing this because both parties have abused the system, and our hearings are resulting in learning that both the Democratic and Republican National Committees have not only violated the vested policy but clearly violated the law in this downward spiral of campaign fundraising.

It is, however, becoming less and less of a bipartisan issue when it comes to the question of reaching solutions. Last weekend, Jim Nicholson, the new chairman of the Republican National Committee, announced his opposition to banning soft money, his opposition to any limit on campaign expenditures, his opposition to controlling the costs of television. In essence, the Republican chairman of their national committee announced his opposition to any campaign finance reform.

Indeed, that mirrors our experience in the House and in the Senate. The overwhelming majority of the caucus of the Democratic Party in this Senate is prepared to vote for campaign finance reform now. It has been endorsed by our leadership. President Clinton has indicated that he would sign such legislation. Yet, only three members of the Republican caucus are prepared to even vote for campaign finance reform, and no committee chairman has been willing to bring it to consideration.

Mr. President, as our committee continues its work, we will continue to be saddened by revelations that both political parties have not challenged the best within us in raising funds for conducting these campaigns. Our only comfort is that the political leadership of this institution will at some point see the need to wait no longer and begin initiating real change. There is no room in this debate for anyone to take comfort in their actions to date.

Not only have the political committees of both parties not conducted themselves in our best traditions, not only have both possibly violated the laws, but other institutions have equal fault. While the media each day reminds us of the problems of campaign financing, the cost of television advertising continues to spiral upward. The overwhelming costs of these campaigns is a result of the rising cost of television. While every night the media rails against the system, complains against the abuses, their lobbyists roam the Halls of Congress fighting efforts to control the cost of television advertising.

So, in neither party, nor in the private institutions of the media, nor in the institutions of the political parties is there any reason for pride. Only this, that there are still people in this institution in both parties who continue the investigations, Members of the Senate who are prepared to vote to change the system, people not simply who have not succeeded in the system, but Members who have succeeded, who have raised the funds, conducted successful campaigns, but still recognize that even though individuals can succeed, it does not serve the national interests.

Mr. President, the first phase of our investigation by the Governmental Affairs Committee has now concluded. We begin two more important weeks of our work. I believe we are conducting ourselves, pursuing our objective as this Senate has commanded us to do. Much has been learned. There remains much to be done. I hope every Senator will continue to follow our work, but, mostly, join us in the commitment to change this system, find those who have abused it in the past, ensure that the law is enforced, and then give the American people a political system financed by means in which they can take real pride.

Mr. President, I yield the floor.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. BOND. Mr. President, I am very disappointed that we cannot stay on the bill. We have a number of Senators wishing to present amendments, so I am going to propose a unanimous-consent request. I would note that the discussions we just heard are most appropriately made in the Governmental Affairs Committee which is doing business at this time, and I am not going to answer some of what I think were partisan charges because those would best be handled by members of the Governmental Affairs Committee. It is appropriate that we do the committee work and then move to the floor where we can have these full debates. Right now the measure before us is the VA-HUD appropriations bill, and there are serious amendments.

I now ask unanimous consent that the Senator from Minnesota be recognized to present two amendments; on the disposition of those amendments, the Senator from Colorado be recognized to offer an amendment.

Ms. MIKULSKI. Is the Senator from Colorado going to speak extensively on this amendment because the Senator from Florida had an amendment. You might recall, I say to the Senator, the Senator from Florida had spoken to us this morning.

Mr. BOND. Let me withdraw that unanimous-consent request. I ask the Senator from Colorado how long he needs on his amendment.

Mr. ALLARD. I thank the Senator from Missouri for yielding. I suspect we could move on my amendment in 10 minutes.

Mr. BOND. And the Senator from Minnesota would need?

Ms. MIKULSKI. The Senator from Minnesota I believe will be speaking for 45 minutes.

Mr. WELLSTONE. I say to my colleague, I think I can do the first amendment in about 5 minutes and I think I can do the second in about a half an hour.

Mr. BOND. All right. I ask unanimous consent that the Senator from Minnesota be recognized for 35 minutes to present two amendments. Following those amendments, which at this point I do not believe will necessitate a rollcall vote, then I would ask that the Senator from Colorado be recognized for 10 minutes. I do not believe there will be a rollcall vote.

Mr. ALLARD. I am not going to ask for a rollcall.

Mr. BOND. And following that I would ask that the Senator from Florida be recognized, for what length of time?

Mr. GRAHAM. Mr. President, I would only ask for 2 minutes equally divided. I have a sense of the Senate which I believe has been agreed to, and I am not going to ask for a recorded vote on that sense of the Senate.

Mr. BOND. Mr. President, might I amend that unanimous-consent request to ask that, if the Senators would not mind, we do the 2 minutes equally divided for the Senator from Florida.

Mr. WELLSTONE. Mr. President, I would say, of course not, and moreover

I would say to my colleague from Colorado, since I am going to be taking close to 40 or 35 minutes, if he would like to go second since he only has 10 minutes, I will follow my colleagues.

Ms. MIKULSKI. In other words, the Senator from Minnesota yields to the Senator from Florida and then the Senator from Colorado.

I must say we really do thank the Senator from Minnesota for his cooperation in advocating veterans and advocating us finishing the bill.

Does the Senator want to withdraw his unanimous-consent request?

Mr. BOND. I will withdraw the unanimous consent.

Ms. MIKULSKI. Start over.

Mr. BOND. I ask that the Senator from Florida be recognized for——

Mr. GRAHAM. Two minutes equally divided.

Mr. BOND. Two minutes equally divided, followed by the Senator from Colorado to be recognized for 10 minutes, followed by the Senator from Minnesota for 40 minutes.

Mr. ALLARD. I thank my colleague.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent that a fellow in our office, Mary O'Brien, be given floor privileges for the pendency of this sense of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair.

AMENDMENT NO. 948

(Purpose: To express the sense of the Senate that Congress should consider legislation concerning catastrophic natural disasters)

Mr. GRAHAM. Mr. President, I rise today to offer a simple, straightforward sense-of-the-Senate resolution regarding natural disasters.

The rising cost of natural disasters is a ticking time bomb that we, in Congress, are doing little to address. Since 1989 the cost to taxpayers has been nearly $40 billion.

Just this past weekend Hurricane Danny hit portions of Alabama, Mississippi, Louisiana, and my State of Florida. Although Hurricane Danny was a relatively small storm, just imagine if Hurricane Danny had been of the magnitude of a Hurricane Hugo or Andrew. The damages would be exponentially larger.

Hurricane Danny serves as a stark reminder of the ticking time bomb. We should keep in mind that we are only very early in what is expected to be an extremely active hurricane season. The time to act is sooner rather than later.

My resolution would state that it is the sense of the Senate that Congress consider legislation to deal with the rising cost of natural disaster head on—before another megadisaster occurs.

What will it take for Congress to focus on this ticking time bomb? Another Northridge earthquake that comes with a sticker price of $8.6 billion? Another Hurricane Andrew or Hugo to cost the Federal Government $6.2 and $3 billion, respectively?

Helping our Nation better prepare for natural disasters will require Federal, State, and local efforts as well as initiatives from the private sector. My resolution states that Congress should consider Federal legislation embracing the following principles:

First, people living in areas that are prone to natural disasters should assume a practical level of responsibility by acquiring private property insurance.

The problem is that in some areas, especially in my home State of Florida, it is very difficult for individuals to get adequate private property insurance. This leads us to the second principle.

Second, the insurance industry, in partnership with the Federal Government, should develop a new mechanism to spread the risk of natural disasters minimizing the cost of these disasters for the Federal Government. The goal of spreading the risk is to make private insurance available and affordable for everyone.

Third, a partnership should be forged between the private sector and governments at all levels to encourage better disaster preparedness and response.

No one is expecting to find a magic solution to natural disasters. The National Weather Service cannot play like the FBI's bomb squad and snip a few strategically placed wires to disarm future hurricanes. Nor can the National Science Foundation invent a way to stop the movement of tectonic plates and ensure that there will be no more earthquakes. But the Federal Government can at least begin discussing creative ways to assist States in preparing for and responding to natural disasters.

That is the intent of my resolution—to begin the discussion. We cannot continue to fund natural disaster after the fact.

We must take steps to make sure that every person in disaster prone areas has available, affordable property and casualty insurance.

We must work with the private sector to find creative ways of shifting the responsibility for the risk of disasters to the private sector and reduce the cost to the Federal Government.

We must encourage States to better prepare themselves for disasters and to have a clear game plan to respond when hit by a natural catastrophe.

In the next few days I will circulate a letter that I encourage all my colleagues to join me in signing. The letter will be sent to the U.S. Department of the Treasury asking for their assistance and guidance in developing such an initiative.

Mr. President, our Nation has been beset by an unusual series of natural disasters, some of which have occurred as recently as the past few days in Mississippi, Alabama, and my State of Florida and others earlier this year in the upper Midwest. This sense of the Senate asks that the Senate at an appropriate future time consider legislation that embodies the following principles: That persons who live in areas of risk of natural disaster should assume a practical level of personal responsibility for the risks through private insurance; second, that the insurance industry in partnership with the Federal Government and other private sector entities should establish new mechanisms for spreading the risks of catastrophes that minimize the involvement and liability of the Federal Government; and third, a partnership should be formed between the private sector and Government at all levels to encourage better disaster preparation and respond quickly to the fiscal and financial impacts of catastrophic natural disasters.

Mr. President, the purpose of this sense of the Senate is to encourage those entities that have been working over the last 2 years to try to embody these principles into legislation that could be presented to the Congress, that in light of what has recently occurred they redouble their efforts to present to the Nation an appropriate partnership framework that would both mitigate and respond to natural disasters.

Mr. President, I send to the desk the sense-of-the-Senate resolution.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 948.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, between lines 18 and 19, insert the following:

SEC. 423. SENSE OF THE SENATE CONCERNING CATASTROPHIC NATURAL DISASTERS.

(a) FINDINGS.—The Senate finds that—

(1) catastrophic natural disasters are occurring with great frequency, a trend that is likely to continue for several decades according to prominent scientists:

(2) estimated damage to homes, buildings, and other structures from catastrophic natural disasters has totaled well over $100,000,000,000 during the last decade, not including the indirect costs of the disasters such as lost productivity and economic decline;

(3) the lack of adequate planning for catastrophic natural disasters, coupled with inadequate private insurance, has led to increasing reliance on the Federal Government to provide disaster relief, including the appropriation of $40,000,000,000 in supplemental funding since 1989;

(4) in the foreseeable future, a strong likelihood exists that the United States will experience a megacatastrophe, the impact of

which would cause widespread economic disruption for homeowners and businesses and enormous cost to the Federal Government; and

(5) the Federal Government has failed to anticipate catastrophic natural disasters and take comprehensive action to reduce their impact.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider legislation that embodies the following principles:

(1) Persons who live in areas at risk of natural disaster should assume a practical level of personal responsibility for the risks through private insurance.

(2) The insurance industry, in partnership with the Federal Government and other private sector entities, should establish new mechanisms for the spreading of the risk of catastrophes that minimize the involvement and liability of the Federal Government.

(3) A partnership should be formed between the private sector and government at all levels to encourage better disaster preparation and respond quickly to the physical and financial impacts of catastrophic natural disasters.

The PRESIDING OFFICER. Is there further debate on amendment No. 948 offered by the Senator from Florida?

Mr. BOND. No objection.

Ms. MIKULSKI. No objection.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 948.

The amendment (No. 948) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I wish to extend my appreciation to the managers of the bill and to my colleagues for allowing expedited consideration of this matter.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. I thank the Chair.

We do not have a pending amendment in the Chamber, do we?

Ms. MIKULSKI. Mr. President, actually, I believe we do, which is the Bumpers amendment. So I ask unanimous consent that the Bumpers amendment be laid aside until the conclusion of the debate on the Wellstone amendments, and at such time as we take up the ongoing debate on the Bumpers amendment on the space station.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 947

(Purpose: To make an amendment relating to the use of public housing operating funds to provide tenant-based assistance)

Mr. ALLARD. I thank the Chair. I have an amendment at the desk numbered 947. I request that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 947.

Mr. ALLARD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 16, insert before the period at the end the following: ": *Provided further*, That of the total amount made available under this heading, $290,000,000 shall be made available for tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937".

Mr. ALLARD. I thank the Chair.

Mr. President, today I file an amendment to provide for more public housing vouchers.

The original intent of the Federal housing assistance program was to provide temporary housing to poor individuals and families. Since its inception, the Federal housing program has grown to become a $25 billion entity.

In my view, the section 8 voucher program is the best means for low-income families to find secure, affordable rental housing. The section 8 certificate or voucher program first began in 1974 and has grown to serve over 1.5 million low-income families today. These families are empowered with the choice of where they want to live and are given the freedom to determine what surroundings they desire. Section 8 housing is the preferable means of providing affordable housing to low-income individuals. Vouchers enjoy wide support including past Republican and Democrat administrations alike. In fact, the current Secretary of HUD, Secretary Andrew Cuomo, supports an expanded voucher program.

Vouchers are very popular, which is demonstrated by the 1.5 million families who are currently using vouchers or certificates. Vouchers empower individuals and promote competition within the public housing authority and within the community, thereby lowering costs and improving conditions for the residents. Vouchers or other alternatives can be less expensive than the current public housing program. They can save the Government money and improve conditions for the tenants.

Studies have indicated that project-based housing assistance costs more on average than the voucher housing program for each family that is assisted. In fact, the findings of the June 1995 GAO report indicated that the cost of housing vouchers is 10 percent less than the cost of public housing. This study clearly demonstrated that on a national average, the section 8 tenant-based housing is cheaper than the public-unit housing program. In fact, one can say that the savings from the movement to vouchers could lead to an annual savings of $640 million per year and could be applied to over 100,000 low-income families for housing assistance.

I am a member of the Housing Subcommittee which is currently putting the final touches on authorization language for a new public housing bill. I have proposed that this approach be included in that bill. Under my proposal, 10 percent of public housing operating funds that are distributed to each public housing authority would be made available for those who want vouchers. Nothing would be required or mandated. It is simply a choice given to the resident. In fact, we make clear that any unexpended amounts set aside for vouchers would be used by the public housing authorities for normal operating funds.

Quite frankly, I really do not know how anyone could oppose this provision unless they are just opposed to giving people a choice and an opportunity. The language that I have proposed in committee also would establish a preference for crime victims. It states that a voucher would be made available to any resident of public housing who is the victim of a crime of violence that has been reported to law enforcement. People should have the option of vouchers when their housing is unsafe.

My objective here today is to alert the appropriators to my interest in this matter and in my strong belief that we should increase the pace at which we move ahead with the conversion of housing from the old central planning and concentrated public housing model to one of choice and opportunities through vouchers.

My view is that, whenever practical, programs should be properly authorized before funds are appropriated. Therefore, I am not going to push forward here today on this issue. I will continue my work on the authorizing committee to get this choice added to the law and my efforts will be devoted to getting this done in the next several months through the public housing reform bill.

I thank you, Mr. President, and I now withdraw my amendment.

Mr. BOND. Mr. President, let me express my appreciation to— I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Senator from Colorado for withdrawing the amendment. He has described some of the very difficult challenges which face both this committee and the housing subcommittee. We have a difficulty of ensuring that those people who are in public housing and do not have an option or some place to go with a section 8 certificate do not have their services cut. So we have people who are in significant numbers in public housing. We have to care for them as we look for better ways. We have worked on public housing reform and look forward to working with the Senator from Colorado on these reforms and other measures. I thank him for raising the question with us.

Mr. ALLARD. If the Senator will yield, I thank the chairman for his efforts. I know he has a tough job, and I respect his responsibilities in that regard.

Mr. BOND. I thank the Senator.

Ms. MIKULSKI. Mr. President, first of all, I thank the Senator from Colorado for not pressing for a vote on this amendment, how to use the taxpayer's dollar to really create not only opportunity in public housing but also how we can end the cycle of poverty, the culture of poverty, and for public housing to be a way to a better life. I am glad the authorizers are going to consider the bill. I look forward to listening to the recommendations. I know the senior Senator from Maryland is the ranking member and we will have many spirited discussions. So how best to provide for the poor, particularly also the working poor, is, indeed, a great challenge. We do not want to repeat mistakes in the future, but we also do not want to create new mistakes in the future. So the authorizing bill is a great way to do it.

I thank the Senator from Colorado for his spirited advocacy and also for withdrawing the amendment. I yield the floor.

The amendment (No. 947) was withdrawn.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

AMENDMENT NO. 949

(Purpose: To state the sense of the Senate regarding the appropriations for discretionary activities of the Department of Veterans Affairs in fiscal years 1999 through 2002)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Ms. MIKULSKI, proposes an amendment numbered 949.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, between lines 18 and 19, insert the following:

SEC. 423. it is the sense of the Senate that Congress should appropriate for the Department of Veterans Affairs for discretionary activities in each of fiscal years 1999 through 2002 an amount equal to the amount required by the Department in such fiscal year for such activities.

Mr. WELLSTONE. Mr. President, I offer this amendment on behalf of myself and Senator MIKULSKI.

First of all, I rise on the floor of the Senate to commend the Senate Appropriations Subcommittee on VA-HUD and Independent Agencies for restoring $273 million in cuts in veterans discretionary programs, and to include health care for fiscal year 1998.

Above and beyond this, let me also commend the committee for adding an additional $92.9 million above the President's budget request. This is a victory for veterans and their families, and it is a step in the right direction.

We have been fighting to restore these cuts for 1998. When we first found out that in the budget resolution there were proposed cuts over the next 5 years, we held a forum out in Minnesota and, really, the veterans community was unanimous in denouncing these cuts. We circulated a letter, signed by colleagues, to the appropriations subcommittee. We have some appropriators here who are clearly strong advocates for veterans, and I thank them.

We offered an amendment to the DOD authorization to transfer excess funding from the Pentagon to VA health care. We did not win on that amendment, but I thank the PVA, Paralyzed Veterans of America, the DAV, Disabled Veterans of America, and, in addition, I would also like to thank the Vietnam Veterans of America for their support.

Now, what we have in this appropriations bill is a restoration of the $273 million, and adding another $92 million. That is good news for veterans and their families. Again, I commend my colleagues, and I thank DAV and PVA and Vietnam Vets and the other organizations for helping me and helping other Senators in restoring this funding.

However, I remain deeply concerned about cuts in funding for veterans discretionary programs, health care programs, in the outyears, 1999 through 2002, which were agreed to in the bipartisan budget deal. So what this amendment essentially says to veterans is: Don't worry, because we go on record that your health care will be secure going into the next century.

This amendment is a sense-of-the-Senate amendment which says that the Senate ensures its promises for veterans. It promises veterans that over the next 4 years, 1999 to 2002, the veterans' medical system will receive the resources it requires—I put that in bold letters—to deliver quality health care to our Nation's veterans. As I think about this budget deal, if we do not at least have a sense-of-the-Senate amendment, then we are talking about, in the outyears, cuts of about $2 billion from the President's request; or, another way of looking at it, it would be close to $3 billion from 1997 funding levels.

It is wrong. We know it. This amendment I have introduced for myself and Senator MIKULSKI puts the Senate on record as saying these cuts are wrong and making it clear we go on record that we will provide the VA health care system with the resources it needs to provide as good care as possible—quality care, we hope and pray—for veterans, going into the 21st century.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment by the Senator from Minnesota.

The amendment (No. 949) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 950

Mr. WELLSTONE. Mr. President, I am now about to send to the desk a second amendment, which really has two provisions. The first is that within 30 days after enactment of this act, we get a CBO study that would provide to the Senate Committee on Veterans' Affairs and the Senate Appropriations Committee an estimate of the cost of the provision in this amendment. The second part is that not later than 60 days after enactment of this bill, the Senate Committee on Veterans' Affairs shall hold one or more hearings to consider legislation that would add the following diseases, which would now be presumptive, from the point of view of coverage: lung cancer, bone cancer, skin cancer, colon cancer, kidney cancer, posterior subcapsular cataracts, nonmalignant thyroid nodular disease, ovarian cancer, parathyroid adenoma, tumors of the brain and central nervous system, and rectal cancer.

I send this amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 950.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

(A) Not later than 60 days after enactment of this act, the Senate Committee on Veterans' Affairs shall hold hearings to consider legislation which would add the following diseases at the end of Section 1112(c)(2) of title 38, United States Code.

Lung cancer, bone cancer, skin cancer, colon cancer, kidney cancer, posterior subcapsular cataracts, non-malignant thyroid nodular disease, ovarian cancer, parathyroid adenoma, tumors of the brain and central nervous system, and rectal cancer.

(B) No later than 30 days after enactment of this act, the Congressional Budget Office shall provide to the Senate Committee on Veterans' Affairs and the Senate Appropriations Committee an estimate of the cost of the provision contained in (A).

Mr. WELLSTONE. Mr. President, today I am offering an amendment that will aid atomic veterans—veterans who were exposed to ionizing radiation while serving on active duty. Atomic veterans who may well be America's most neglected veterans. They have been seeking justice for as long as 50 years and I am determined to help them, and I think my colleagues are determined to help them.

Mr. President, I want to dedicate this amendment to the brave and patriotic Minnesotans who served in the U.S. Army's 216th Chemical Service Company, participating in Operation Tumbler Snapper—a series of eight nuclear weapons tests that took place in the Nevada desert in 1952. In particular, I want to pay tribute to two former members of the Forgotten 216th, Smoky Parrish and Gene Toronto, patriotic Americans who have been my mentors and have fought hard to fair and just treatment for all atomic veterans.

I want to say to them and their families and to other families's of atomic veterans that I will do all in my power as a U.S. Senator to ensure the Forgotten 216th and other veterans like them are never forgotten again.

Before I discuss the substance of my amendment I would like to tell my colleagues more about the Forgotten 216th because their problems typify the problems of atomic veterans nationwide. When they participated in Operation Tumbler Snapper, they believed their Government's assurances that it would protect them against any harm, but have since become convinced they were used as guinea pigs without any concern for their safety. My colleague from Maryland said to me earlier, and I hope it's OK to repeat this, in a sense it was like the Tuskegee experiment.

Immediately after a nuclear bomb blast, many were sent to measure fallout at or near ground zero, exposing them to so much radiation that their Geiger counters went off the scale while they inhaled and ingested radioactive particles. Members of the 216th were given minimal protection, sometimes even lacking film badges to measure radiation exposure and provided with no information on the perils they faced. Furthermore, they were sworn to secrecy about their participation in nuclear tests, sometimes denied access to their own service medical records, and provided no medical followup to ensure they'd suffered no ill effects as a result of their exposure to radiation. This happened in our country. Sadly, many members of the 216th have already died, often of cancer. Is it any wonder that these men now refer to themselves as the Forgotten 216th?

Mr. President, my amendment is intended to address some of the recommendations of the "Final Report of the President's Advisory Committee on Human Radiation Experiments" issued in October 1995. I had an opportunity to testify before this committee about the atomic vets.

The report's recommendations mirrored the concerns atomic veterans have had for many years: the list of presumptive diseases contained in law is incomplete and inadequate; the standard of proof for those without presumptive disease is impossible to meet; and these statutes are limited and inequitable in their coverage.

The VA now maintains two lists of radiogenic diseases, a presumptive list established under Public Law 101–321 as amended by Public Law 102–578 and now consisting of 15 radiogenic diseases, and a nonpresmuptive list established under Public Law 98–542 which includes 11 diseases not on the presumptive list. My amendment would add these 11 diseases to the presumptive list, would result in the elimination of the nonpresumptive list, and the creation of a single presumptive list of radiogenic diseases. The radiogeneic diseases that would be added to the presumptive list are: lung cancer, bone cancer, skin cancer, colon cancer, kidney cancer, posterior subcapsular cataracts, non-malignant thyroid nodular disease, ovarian cancer, parathyroid adenoma, tumors of the brain and central nervous system, and rectal cancer. These veterans were exposed to this radiation. They went to ground zero. They were put in harm's way by our Government. They were never told that anything terrible would happen to them. But so many of them have had cancer, so many of their children and grandchildren have been born with a variety of different disorders and problems, the least we can do, the least we can do is make sure that they receive good care and adequate compensation.

Why the need for these changes? To begin with veterans must jump through hoops to demonstrate they are eligible for compensation for nonpresumptive diseases and, after they have done so the chances that the VA will approve their claims are minuscule.

Mr. President, to illustrate what I mean, permit me to cite some VA statistics. As of April 1, 1996, out of the hundreds of thousands of atomic veterans there have been a total of 18,515 radiation claim cases, with service-connection granted in 1,886 cases. According to VA statistics current as of December 1, 1995, only 463 involve the granting of presumptive service-connection. Thus, if we were to exclude the 463 veterans who were granted presumptive service-connection, atomic veterans had an incredibly low claims approval rate of less than 8 percent. Moreover, of this low percentage, an indeterminate percentage may have had their claims granted for diseases unrelated to radiation exposure.

Why the abysmally low percentage of claims approvals? One key reason is that VA regulations are overly stringent for service-connection for nonpresumptive radiogenic diseases. Dose requirements pose a particularly difficult, if not insuperable hurdle. While it is almost impossible to come up with accurate dose reconstructions because decades have elapsed since the nuclear detonations and adequate records don't exist, veterans are frequently denied compensation because their radiation exposure levels are allegedly too low. In this connection, let me quote from the findings of the President's Advisory Committee on Human Radiation Experiments: "The Government did not create or maintain adequate records regarding the exposure of all participants in [nuclear weapons tests and] the identify and test locales of all participants." This finding obviously calls into question the capability of the Government to come up with accurate dose reconstructions on which approval of claims for VA compensation for atomic veterans frequently depend. My amendment essentially says two things. First of all, what we are saying now is that we call on CBO to do this study and provide us with an estimate of the costs of this provision, and that is done within 30 days. And then, not later than 60 days after enactment of this act, the Senate Committee on Veterans' Affairs is to hold one or more hearings to consider this legislation.

Mr. President, my amendment will ensure that the VA fulfills its responsibility to give atomic veterans the benefit of the doubt in considering their claims for compensation. This is especially important because after more than 50 years there is still much about the effects of low-level radiation that is the subject of scientific controversy.

As a member of the Veterans' Affairs Committee, I've fought hard to enable Persian Gulf veterans to receive compensation for diseases that may be linked to their service in the Persian Gulf, at least until scientists reach a definitive conclusion about the etiology of their illnesses. I've also strongly and consistently supported former Secretary Jesse Brown's efforts to ensure that Vietnam veterans are compensated for disabilities linked to their exposure to agent orange, even though science is still unable to determine the extent of their exposure. There is no question in my mind that both Persian Gulf and Vietnam veterans deserve such compensation. At the same time, I believe that the U.S. Government must give atomic veterans the same benefit of the doubt. Unfortunately, right now, this is not the case.

Let me give one example of the discriminatory treatment of atomic veterans concerns, and that is the VA's 1993 decision to grant VA benefits based on presumptive service connection to veterans exposed to agent orange who have contracted lung cancer, a decision which I fully back, but for atomic veterans, the VA still treats lung cancer as a nonpresumptive illness.

Mr. President, I say to my colleagues, we know what happened to them. They went to ground zero. They had no protective gear. They were exposed to this radiation. Why in the world has it taken us so long—they are still waiting after 40 and 45 years —to make sure they get the care they deserve and make sure they get the compensation they deserve?

Mr. President, we just have to do better. Let me reiterate, I fully supported the decision of the Secretary of Veterans' Affairs to recommend to the President that lung cancer be treated presumptively as a service-connected condition for agent orange. I wish Secretary Jesse Brown was still with us. He probably was my best friend in the administration, in Government. He was a strong advocate for veterans. I am simply pointing out that we are not giving the atomic veterans the same treatment, and it is patently unfair.

Since January 1994, I have had a lot of meetings with members of the Forgotten 216th. I have met with their families. I met with their children. I met with their grandchildren. Let me just be very honest about this. Many of them are up there in age now. They are elderly. They may not have that many more years to live. But it is incredible to me that we have let this shameful episode in the history of our country go on by never fully acknowledging what we did to them and never providing these veterans and their families with the compassion and care that they deserve.

I don't think it is too strong for me to say that our Government lied to them. I don't think it is unfair for me to say that for 45 years, or thereabouts, we still have not given them a fair shake. Justice delayed is justice denied. The atomic veterans are not the strongest veterans organization in our country. They don't have that much clout. Many of my friends who were atomic veterans right now have cancer. Many of them are not in good health. Many of them have already died.

They are not, in short, a strong lobby. But, Mr. President, I am telling you, I had a chance to talk to some of the atomic vets before coming out on the floor of the Senate. I had a chance to talk with my colleague from Maryland, and she really helped me with this amendment. She said to me, "Senator WELLSTONE, if you think about it in steps, it makes more sense. First, we get the CBO study, and we make it clear we want that study, we want to know what it costs, so we are not just putting veterans in parentheses, out of sight out of mind. And then have some closure and make it clear that within 60 days the Committee on Veterans' Affairs will hold hearings and consider legislation that moves this forward."

For some colleagues, and in a way for myself because I am always so impatient, who say, "Well, but it doesn't guarantee the result," that is true, but these atomic veterans have been so out of sight and so out of mind for so long that I really think this would be a really good, positive step that the U.S. Senate would be taking.

I don't know whether there will be opposition or not to the amendment. I hope there will be strong support for it. I really think this is the right thing to do. I am convinced that if every single Senator on the floor of the Senate, Republican and Democrat alike, had full knowledge of this history and full knowledge of what these veterans have gone through and full knowledge of the terrible illnesses in their families—it is really awful. This amendment doesn't even cover, I say to my colleague from Maryland, some of the pattern of disabilities and illnesses of children and grandchildren, which is frightening to me.

I just don't know, I am not prepared to say what has happened genetically within families. I don't know. I am not a doctor, and I am sure there is probably disagreement about it. But what there shouldn't be disagreement about is that these veterans deserve better. These atomic veterans are veterans. These atomic veterans deserve better from our Government, they deserve better from our country, and it is time that we take action that would be a first major step toward providing them with the compensation and care which they truly deserve.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Pennsylvania.

Mr. BOND. Mr. President, I thank our distinguished colleague from Minnesota for bringing the plight of this group of veterans before us. He has made a very compelling case for the difficulties they have faced.

I believe that the approach he has worked out with the ranking member is a responsible approach. The version I have before me directs the CBO to present the study to the Committee on Veterans Affairs within 30 days and directs the Committee on Veterans Affairs to hold hearings within 60 days. I think that is an appropriate means of moving forward on this issue.

I thank him for bringing it to our attention, and we have no objection to accepting the amendment on this side.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, what a moving story, what a moving story to hear about the Forgotten 216th. I am sure that this has been a considerable heartbreak for every member of that unit who went to ground zero. I am sure they went with good faith in themselves and in their Government, and yet over the last 45 years, they have endured terrible blows from their Government—one, the blow of exposing them to intense radiation with no protective gear; the second, that for 45 years, the very validity of their concerns about what happened to them and their need for medical treatment were, again, rejected by their U.S. Government.

I thank the Senator for this type of amendment, because I will tell you today, I didn't want to, because of a budget situation, have to vote to reject them one more time. I think just as you have heard now from the chairman of the committee, we are going to take your amendment. We like your amendment, and I will tell you why we like your amendment. One, we are going to get to the facts about what this will cost, because too often, as the Senator from Minnesota knows, compelling human need gets all entangled over cost. This way we will know the cost. But then by asking the Veterans Affairs Committee to hold hearings within 60 days, it is a bit of a hammer, if you will, to ensure that there will be, as in our democracy, a public hearing on this.

I say to my colleague from Minnesota that it has been my observation in 20 years—10 in the House and now over 10 in the Senate—that the VA, when it came to compensation for what our veterans were exposed to, never acted on their own. They only acted because Congress pushed for the facts.

I thank the Senator from Minnesota for pushing for the facts in terms of this situation, the facts on cost, the facts on what happened to them, and the facts on the consequences to these veterans and how we need to address them.

I say to my colleagues in the VA, not the committee, but in the Veterans' Administration, if you are listening to the debate, don't see this as a problem; see this as an opportunity, because here we can have one of the most unique longitudinal studies of what happened to men who were fit for duty when they walked at ground zero, and then what were their health consequences to both themselves and to their beloved wives, as well as to their children and their grandchildren.

What a unique opportunity for both veterans, the Centers for Disease Control, and even NIH to welcome these men, to embrace these men as we try to redress the grievance that happened to them, and the lessons learned so that we then know what radiation did to people and offer insights that could help other people who have been exposed to radiation. So I thank the Senator for his amendment. I thank the Senator for his advocacy in this area. I look forward to accepting the amendment, and I look forward to hearing the CBO and the VA Committee's report.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank both my colleagues. I think 30 days CBO and in 60 days Veterans' Committee hearings in considering legislation moves us forward in a significant way. I thank both of my colleagues for their support. I thank the Senator from Maryland especially for some of her assistance in working on this amendment. I hope both my colleagues will please help us keep this in conference. I don't want this to be one of those things that it happens on the floor and then, goodbye, it is gone. I don't want to do that to these veterans. I think we will have strong support from both of our colleagues.

Mr. President, I yield back my time.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 950) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague from Minnesota, who completed his amendments more quickly than we thought. We have colleagues coming to the floor who are sequenced to follow the Senator from Minnesota. Since Senator BUMPERS has not yet reached the floor, I ask unanimous consent that Senator MIKULSKI be recognized to offer an amendment on her behalf and mine and on behalf of the minority leader. I think that amendment should take less than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maryland.

AMENDMENT NO. 951

Ms. MIKULSKI. Mr. President, I rise to offer an amendment on behalf of myself and Senator DASCHLE. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, Mr. DASCHLE, and Mr. BOND, proposes an amendment numbered 951.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 21, strike "$10,693,000,000" and insert in lieu thereof "$10,653,000,000."

On page 17, line 7, strike "$1,150,000,000" and insert in lieu thereof "$1,110,000,000."

On page 33, after line 23, insert the following new heading:

"EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"For grants to Empowerment Zones and Enterprise Communities, to be designated by the Secretary of Housing and Urban Development, to continue efforts to stimulate economic opportunity in America's distressed communities, $25,000,000, to remain available until expended."

On page 53 line 22, strike "$400,500,000" and insert in lieu thereof "$420,500,000."

On page 55, line 14, insert after the colon the following: ": Provided further, That $20,000,000 shall be available for the America Reads Initiative."

On page 67, line 9, strike "$202,146,000" and insert in lieu thereof "$207,146,000."

On page 67, line 9, insert the following before the period: ": Provided further, That for purposes of pre-disaster mitigation pursuant to 42 U.S.C. 5131 (b) and (c) and 42 U.S.C. 5196 (e) and (i), $5,000,000 of the funds made available under this heading shall be available until expended for project grants for State and local governments."

On page 72, line 1, strike "$2,513,200,000" and insert in lieu thereof "$2,503,200,000."

Ms. MIKULSKI. Mr. President, I wish to bring to my colleagues' attention that this amendment is Mikulski-Daschle-Bond amendment. It is being offered in concurrence with the chairman of the committee.

What this does is provide funding for empowerment zones, the "America Reads" initiative and FEMA disaster mitigation.

I want to note that the money that we provide is indeed a modest fund, but it, indeed, enables us to state that these are three priorities we wanted to consider in the appropriations, that we would have normally had a larger funding had the budget agreement not given us such a skimpy allocation.

What does this amendment do?

It provides $25 million to HUD for a new round of empowerment zones and enterprise communities.

It also provides $20 million for the America Reads initiative at the Corporation for National Service.

And it provides $5 million for FEMA's predisaster mitigation program.

Mr. President, while this amendment provides funding for these three separate programs, we must remember that each of these three programs have in common, namely, that they really do directly assist the residents of our Nation with their day-to-day needs.

First, Mr. President, this amendment, in providing $25 million for a second round of empowerment zones and enterprise communities, would promote job creation and economic development in economically distressed urban and rural areas.

I am sure that we would all agree this is a critical need. Unfortunately, probably every Senator here has an area in their State that is economically distressed—urban, rural, or both.

The first round of the program covered American communities of which 72 urban and 23 rural communities were either designated empowerment zones or enterprise communities.

Mr. President, what this money actually goes for, though, is job creation, economic development, job training, and empowerment of local residents. The empowerment zone is not a quick fix, but it does offer opportunity and hope.

In the area of America Reads, this amendment also provides $20 million for the America Reads initiative. This money would support 1,300 additional Corporation members who would serve as tutor coordinators. These tutor coordinators would provide direct tutoring and help mobilize and coordinate thousands of tutors to work with young children across the country.

What is the purpose of the America Reads initiative? It is to help with local school systems to make sure that every child in the United States can read by the time they are in the third grade.

It is the administration's policy, and I know supported on a bipartisan basis, that we want to see every child in the United States of America immunized by the time they are 2, screened and school-ready by the time they are 6, can read by the time they are in the third grade, and know how to use and have access to a computer by the time they are 12. That would enable our children to be ready for the 21st century.

But let us be clear. It is not the Federal Government's job to supplant local school systems. What the America Reads initiative does is mobilize volunteer efforts, provide the infrastructure to be able to greatly utilize volunteers and, in addition to local school efforts, to help our kids read. In no way will it supplant local school efforts nor local school board policies. So it will be one of the better of the Federal and local partnerships.

Mr. President, also, let us turn to Federal predisaster mitigation. I note that the Presiding Officer is from Pennsylvania. We have sure lived through a lot of floods the last 2 years. And it has been wonderful when FEMA has been able to respond "911" to our States. I know what Missouri endured, what our colleagues in the Dakotas and 12 other States did.

But, you know, some Federal funds used wisely could actually prevent damage to either personal property or small business if we did some infrastructure planning. What this amendment does is provide $5 million for predisaster mitigation activities at FEMA.

Last year, we provided $2 million for a pilot program identifying communities that could benefit from the money and build on it. Mr. President, this is a modest amount of money, but I believe will help tremendously in the future.

In California, if we insist that earthquake standards are met, it then saves money when an earthquake hits.

In Dade County, the officials there have a mitigation program to protect structures against hurricane force winds.

And in my own State of Maryland, we had a unique partnership between the Governor of the State of Maryland and the Corps of Engineers to do a flood mitigation task force up in western Maryland where Pennsylvania and West Virginia coincide, and, in the area of the great floods, collided.

So, Mr. President, this modest amount of money would really go a long way in helping us assess what we need to do to protect small business and personal property. An ounce of prevention is worth a pound of cure, and I believe a dollar's worth of prevention will ultimately help us save $100 in disaster relief.

Mr. President, as I stated, this amendment provides funding for three important programs:

First, the amendment provides $25 million to HUD for a new round of empowerment zones and enterprise communities.

The amendment also provides $20 million for America Reads Initiative activities at the Corporation for National Service.

And the amendment provides $5 million for FEMA's predisaster mitigation program.

Mr. President, while this amendment provides funding for three separate programs, we must remember what each of these programs have in common, namely, they all aim to directly assist residents of our great Nation.

First Mr. President, this amendment would provide $25 million for a new round of empowerment zones and enterprise communities administered by the Department of Housing and Urban Development.

The first round of empowerment zones were awarded in December 1994. The goal is to promote job creation and economic development in economically distressed urban and rural areas.

I am sure we would all agree this is a critical need. Unfortunately, probably every Senator in here has an area in their State that is an economically distressed area—urban, rural, or both.

The first round of the program covered a wide range of American communities. Seventy-two urban areas and 33 rural communities were designated empowerment zones or enterprise communities.

There are currently eight urban empowerment zones and three rural empowerment zones. There are also 4 enhanced enterprise communities and 93 enterprise communities.

Each empowerment zone received $100 million—Los Angeles received $125 million. Cleveland $90 million—each enhanced enterprise community received $25 million, and the 93 enterprise communities received $3 million.

This money can be used for job creation and economic development activities—such as building renovations and infrastructure improvements. The money can also be used to provide services such as child care, job training and transportation for residents in the zones.

In addition to the grant money, in each empowerment zone and enterprise community, employers are eligible for wage tax credits worth $3,000 for every employee hired who lives in the empowerment zone. The program is not just about moving employees from one location to another, it is also about providing employers incentives to help unemployed and underemployed zone residents.

We are talking about a hand up, not a hand out. The tax credit provision is designed to provide an opportunity structure, a chance to work hard and earn a decent living.

Empowerment zones and enterprise communities are also eligible for various other benefits including tax-exempt bond financing and tax writeoffs for depreciating personal property.

Mr. President, the empowerment zone program is not a quick fix. Many of the communities are ones that have suffered for years from high unemployment, high crime, and other problems. The program is a 10-year effort that required partnerships between community residents, local and State governments, and local businesses.

A recent GAO report noted that the zones have made some progress. The report notes that there is still work to be done, but the effort is progressing. The key is that the program is making progress and its deficiencies are ones that can be addressed.

In its own assessment of the empowerment zones and enterprise communities, HUD notified five communities that they were not making sufficient progress. These communities risk having future funding withdrawn. The point is that this is not some HUD program run wild. There are standards and expectations that are being measured.

Mr. President, the empowerment zone program is a good mix of Republican and Democratic ideas—tax incentives to leverage private dollars and community involvement in decision-making.

Mr. President, this amendment also provides $20 million for the America Reads Initiative at the Corporation for National Service. This money would support approximately 1,300 additional corporation members who would serve as tutor coordinators.

These tutor coordinators would provide direct tutoring and help to mobilize and coordinate thousands of tutors to work with young children across the country.

The America Reads initiative is an administration effort that is truly worthy of bipartisan support. The goal is simple—every child in the Nation should be able to read independently and read well by the third grade. A simple, yet key goal in the effort to ensure that every child is equipped with the basic tools needed to compete in the 21st century.

Mr. President, in 1994, 40 percent of fourth graders failed to attain the basic level of reading on the National Assessment of Educational Progress. This is a fact that we can't ignore and must address.

Let me be clear, the reading deficiencies of our Nation's children won't be erased with volunteer tutors. There are issues of education funding and the delivery of education that need to be addressed. I am under no illusion that the America Reads initiative is the only answer.

But Mr. President, I don't want us to make the perfect enemy of the good. The America Reads initiative is part of the answer. A Cohen, Kulik and Kulik analysis of 65 published studies showed that quality tutoring programs produced positive, though modest effects. Other studies done in Florida and England have found similar results.

Mr. President, modest is in the eye of the beholder. If I am rich and only see a modest return on my stock investment, I may be disappointed. But if I am a child who can't read like I should be able to, and someone helps me improve my reading modestly so that I can understand words on a page, I am probably very happy with my modest gains.

Mr. President, there have been many debates about the corporation for National Service. This amendment moves beyond that debate. The program will be funded and will continue to operate. This amendment seeks to provide some additional funding to support corporation activities that I am sure we all agree are worthwhile.

Finally Mr. President, this amendment also provides $5 million for predisaster mitigation activities at FEMA.

Mr. President, I don't know if there is a clearer example of "an ounce of prevention is worth a pound of cure." To put it in appropriations terms one might say that "a dime of prevention is worth a dollar of cure."

Currently, FEMA provides postdisaster mitigation money to communities—up to 15 percent of the amount they received for disaster recovery efforts. This money is important and necessary, but its' flaw is that it comes after a disaster has struck.

Last year, the VA-HUD bill provides FEMA $2 million to begin a pilot program identifying communities that could benefit from predisaster mitigation money. This amendment seeks to provide money that would expand on that effort.

Unfortunately, every Senators' State has likely placed a "911" call to FEMA. Many times, there is nothing that we can do to escape nature's fury. However, all to often, there are things that we can do to reduce the risk to life and property. From making sure buildings meet proper standards to moving structures out of high-risk areas, there are things we can do.

Retrofitting a bridge in California to meet earthquake standards costs about $31 a square foot. Replacing a bridge that didn't meet standards would cost about $135 per square foot.

In Dade County, FL, officials have a mitigation program designed to protect structures from hurricane force winds. A cost-benefit analysis showed that for every $1 dollar in mitigation money invested to protect an emergency housing center, $5 in future damage relief costs are likely saved.

Mr. President, there are other examples I could site. The point is that the predisaster mitigation program is ultimately about saving lives, saving communities, and saving taxpayers' money.

Mr. President, I urge my colleagues on both sides of the aisle to support this amendment. It is designed to help provide opportunity structures and economic development for our Nation's distressed urban and rural communities through the empowerment zone and enterprise communities program.

The amendment also provides support for the critical America Read initiative—designed to help ensure that all of the Nation's children can read properly by the fourth grade.

Finally, the amendment provides support to a predisaster mitigation program designed to save lives, save communities and save taxpayers' money.

Mr. President, I believe this amendment addresses concerns that transcend party lines. It is designed to support programs that directly impact the citizens of our Nation.

I want to especially thank Senator DASCHLE for his support, and Senator BOND for his willingness to work with me on this important effort. I urge my colleagues to support this amendment.

Mr. President, I hope that we can move expeditiously and adopt this amendment and make a great step forward in giving empowerment and help to our local communities.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I am delighted to be able to rise in support of the amendment and be a cosponsor with the Senator from Maryland and the Senator from South Dakota.

As indicated, it has a modest amount of funding, $25 million, for HUD empowerment zones, $20 million for America Reads and $5 million for FEMA disaster mitigation. The funding is offset with budget authority from section 8 contract amendments, and the outlays are off set from the NASA mission support account, if anybody cares, but it is offset. And we particularly thank Senators MIKULSKI and DASCHLE for working together to make this a good bipartisan bill.

While the funding for this amendment is modest, I emphasize that it covers a number of important issues, from child literacy to disaster mitigation to the economic development of distressed communities through empowerment zones. While I have some concerns about how programs are set up and authorized, this, I think, is a very constructive way to move the bill forward.

Let me address the question of America Reads. We do not yet know the full outlines of the program the President is considering. I hope he will send forth authorizing legislation. That is the best way to do it, I think, is to get legislation establishing the parameters of the program. But let me say how important the objective is. The objective is to get people to read to small children, parents to read to their children. Officials in schools are engaged in teaching reading, but caregivers in day care centers and elsewhere must read to children.

As one who has spent a lot of time working on early childhood development—and I have to say that our national award-winning and recognized Missouri Parents as Teachers Program has demonstrated how effective this can be—I believe that reading to children from the youngest age gets their interest, their attention, and their enthusiasm in the written word, and puts them on to a lifetime of reading, which will open up opportunities, knowledge, information, and great joy for their entire lifetime.

If there is one thing that is the thread that seems to hold together all of the successful programs of getting children off to a good start, it is reading to them. It is communicating to them from the written word and attracting their attention to the written word as a means of communication.

Were we not in the middle of a very, very important process to pass this appropriations measure, I could talk a lot longer about the importance of reading to very young children. Let me just say that reading to young children—there is no finer objective. The money we have appropriated here is a symbol of the importance that we place on this activity.

The VA-HUD appropriations bill is a very tight allocation. We have had to have difficult funding choices. I hope that we made good consensus choices for what most Members consider the primary needs and concerns facing the VA-HUD are. I hope, however, that this amendment will keep the dialog moving on a path to enactment.

With that, Mr. President, I do not see any other Senators wishing to speak on this amendment, certainly not in opposition to it.

Mrs. MURRAY. Mr. President, I'd like to congratulate Senator MIKULSKI on her amendment providing $20 million for America Reads under the VA-HUD Appropriations Act.

There is no more important skill we can give young people in this country than the ability to read. If a child can read quickly and accurately early in her school career, all other challenges will be much easier for them in school and in life.

I have been working for some time to bring literacy issues before the Senate, from the amendment Senator Simon and I offered to last year's welfare bill, to my work on the Appropriations Committee, to the educational briefings I host for congressional staff.

Recently, these briefings have included information from Dr. Reid Lyon from the National Institute of Child Health and Human Development. We now know from the research that the process of reading involves several steps. A student must acquire skills in a logical progression, and in a timely manner, in order to be able to read quickly and effectively enough to make sense of what she reads. Once this process has occurred, reading becomes a tool for learning. If this process does not occur, the prospect of helping her learn to read becomes much more difficult.

This and other evidence from research must inform what we do with regard to children's literacy. We must assure that we take advantage of the political will to improve children's literacy, by putting into place a national effort that reflects what we know. It must reflect what we know about how children learn, how important family literacy is to the literacy of the child, and what we know about how volunteer efforts work in our communities, among other things.

In order to build a successful volunteer effort, which must be part of what we do for children's literacy, we need to look at all the aspects of the effort. In what capacity will volunteers be working with students? How will the primary reading teacher be involved? What about reading specialists? How will research inform what happens in the classroom, or in afterschool or summer programs using volunteers? Where will we find volunteers in communities already taxed for help? How will they be trained in providing literacy assistance, in recruiting volunteers, or in coordinating community programs?

By simply including AmeriCorps in our efforts to improve children's literacy, we don't answer all of these questions, but we do answer some. We do call on experience already in our communities—in training, recruiting, and coordinating volunteers, in providing programs that help people learn to read, and to gain success in other areas of their lives. We do call on an incredible resource for improving people's engagement in their communities, and for improving their skills.

Literacy AmeriCorps has been very successful in my home State of Washington, in doing things like setting up talk times for people with limited English proficiency to talk with one another in English, and practice what they are learning with other people, on topics that interest them. Community support is there—and that gives us a great base to expand on as we look to improve children's literacy.

AmeriCorps has demonstrated success in many areas across the country; now it is time to enlist AmeriCorps in our efforts to help children learn to read. AmeriCorps is a much-needed ally in a complicated, difficult, and crucial endeavor.

Again, I want to congratulate Senator MIKULSKI on her amendment, and encourage all of the Members of the Senate to work with us to improve children's literacy this year.

Ms. MIKULSKI. Let us move for its adoption.

Mr. BOND. I think we are prepared to move to its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 951) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 944

Mr. BOND. Mr. President, I think the time has come for us to move on to the Bumpers amendment.

I will propose a unanimous-consent request that would set the vote for 5:30. We would ask for Senator BUMPERS to be allocated 15 minutes in support of his amendment. We would ask for 45 minutes in opposition to the amendment. The ranking member and I have had numerous requests, and we would try to parcel out that 45 minutes as best we can.

Ms. MIKULSKI. Reserving the right to object, I have just been advised that the full Committee on Appropriations is running late, and Senator BUMPERS is running a bit late. While we are checking when he thinks he will come to the floor, I ask the chairman to withdraw the UC.

I have been waiting to speak on the space station. By the time I conclude my remarks, we should know when Senator BUMPERS will be here. The delay is only because of the full committee markup.

Is that OK?

Mr. BOND. If the ranking member will yield, I was going to ask if she would speak. I was hoping that we could charge that time off of the hour. In other words, if we start now on the debate, the Senator from Maryland can speak as long as she wishes until somebody else wants to come.

Are we prepared to do a unanimous-consent?

Ms. MIKULSKI. The answer is no, not for the 5:30 vote.

Mr. BOND. Well, then, Mr. President, I will withdraw all pending unanimous-consent requests and advise my colleague that I will start my watch now, and when we get people here for a unanimous-consent, I will subtract from 1 hour the number of minutes that we have used in discussion not under the unanimous consent request.

I look forward to hearing the comments by my ranking member in support of the space station.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

I think that is a prudent course in which to proceed. The full committee markup was delayed because the committee was late going into session because of our moving ahead on military construction.

I do want to speak about the space station and began my remarks at the conclusion of the Senator from Arkansas's proposal.

But, Mr. President, before I give my remarks, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the Bumpers amendment No. 944.

Ms. MIKULSKI. Thank you very much, Mr. President. We laid it aside. I did not know if we had come back to it.

Mr. President, I rise again this year in support of America's space program and in opposition to the Bumpers amendment, which would strike funding for the space station.

I have said this before, and I will say it again: This amendment is a choice between the future and the past. The question is, what kind of country will the United States of America be in the 21st century? Will we be one that uses technology to help people with their day-to-day lives and keep America employed in the field of manufacturing? Then, if the answer to that is yes, we must embrace science, we must embrace technology, and we must be willing to take bold risks in scientific endeavors. That is what the space station is all about.

We need to ask ourselves, will we use American ingenuity and know-how through the unique environment of space to tackle our understanding of disease or develop new technologies that can be used here at home.

Yesterday, probably one of the most distinguished Americans and one of the most distinguished U.S. Senators, Senator JOHN GLENN of Ohio, spoke eloquently about America's space program from not only the time he rocketed around the Earth making world history but talking about the kind of scientific breakthroughs that are coming out of our space program. Right this very moment, little Sojourner is moving around Mars, gathering important information. We have done it in a way that is faster, cheaper and quicker than any other space project that we have done with such a big bang in terms of scientific information. Why are we able now to be able to move with such speed? It is because we have made such significant investments in projects like the space shuttle and the space station.

Some will argue that science carried out on the space station can really be accomplished more cost-effectively on the planet Earth. This simply is not true. The science proposed for the station cannot be accomplished on Earth at any price or at any time. Space station science requires sustained access to something called low levels of gravitational force. It is technologically impossible to create a low-gravity environment for this type of research without getting out there and being in orbit. What are these types of research? One is microgravity. The benefits of microgravity research may be numerous, including new and more pure pharmaceuticals, medical advancements, the production of new materials to use on Earth, new fire-resistant materials, new fire retardation. Just think, we might come up with a whole new concept for building supplies that can make our homes, schools, hospitals and nursing homes safe for fire.

Others will say, why not do this science on the shuttle? Why do you need to go in orbit and stay out there in orbit? I want to bring this point to their attention. The shuttle can stay up in orbit, max, about 2 weeks. We do not limit cancer researchers to 2 weeks in a lab at NIH to find a cure for a devastating disease. Why should we limit the life sciences to only 2 weeks in space? Much of the proposed research will take months, if not years, to complete.

Now, even though the astronauts might come back, the space science can continue to stay up in those racks on the space station. Remember what the space station is—it is not a station, it is a laboratory. It is not a station like a gas station, like a subway station. It is, literally, a laboratory in the sky that will have modules run by different countries. Japan, Canada, the European Space Agency, we are now in cooperation with the Russians—they will be planning part of the evacuation vehicle, and primarily the control of the station will be in the hands of an American astronaut. It is truly international and it will be truly profound.

While working on this issue, we wanted to be sure that we had adequate, maximum, robust participation from the NIH with the National Space Agency. We encouraged and then literally brought about a joint agreement between the National Institutes of Health and NASA.

Just a few years ago, Mr. Dan Goldin, the Administrator at NASA, Dr. Bernadine Healy, who was appointed by President Bush to be head of NIH at the Space Museum, signed a memorandum of understanding making sure that NIH and NASA are collaborating on life science research and also that we get maximum benefits from the space station.

One of the arguments that we hear every year is about cost. Sure, the space station does cost money. We have heard that GAO estimated that the station would cost $90 billion. That is what the Senator from Arkansas had in his info chart this morning. However, I want to say to my colleagues and to those who have been following this all day, that number is misleading. When calculating the total cost, the GAO included a large portion of the NASA human space flight budget in its analysis. The fact is that $51 billion of the $94 billion is for shuttle missions that will fly, regardless of whether we have the station or not. Those shuttles have missions to do and they are going to go anyway. So that figure is misleading. The real cost of the station, which includes final development and construction over a 10-year period is about $30 billion. No small change, but it is not $94 billion. The remaining balance of the erroneous $94 billion estimate is life science and microgravity research. This research will continue, in less effective form on the shuttle, with or without the space station.

Now, what is the cost to America if we do not do the station? We hear about the cost to maintain it, to build it. Well, the United States of America has already invested $9 billion in the redesign of the space station. What does that mean? The actual work on the space station means there are 15,000 highly skilled engineering and production contract jobs directly supporting the space station. There are 35,000 contract workers and 5,000 civil servants who work on the shuttle whose major customer for the foreseeable future is the space station. And 2,000 pounds of hardware have already been built for the U.S. portion of the station.

As mentioned earlier, long-duration microgravity research and cell and developmental biology, human physiology, biotech, fluid physics, combustion science, materials science, benchmark physics, as well as an understanding of Earth-based diseases are the core of what is the research. Biotech, combustion science, material science, and then, indeed, one of the most basic of all sciences, increased knowledge of physics. There will be practical applications of what we do. We cannot list every single one of those right this minute but we do know that we will be well on our way for materials research and life science research.

Mr. President, what else do we lose? U.S. credibility with our international partners. Russia, Japan, Europe, and Canada have already invested more than half of the $9 billion they have committed to the space station. This is a great symbol of the post-cold war era in which former arch rivals in space are now working together to build a space station for the 21st century.

U.S. competitiveness can only be maintained by continuing the long-term, cutting edge, high risk R&D that is an essential part to the space station development. The momentum gained with the June delivery of something called Node 1 to the Kennedy Space Center marking the beginning of a stream of flight elements that will continue for the next 5 years.

And finally, we lose all of the hard work that has gone into this project since the 1980's and the opportunity to see it culminate on the first launch, now less than a year away.

Mr. President, we could argue these points all night but I will not put my friends through this discussion. The bill is already taking a substantial amount of debate time. We will soon vote on the Bumpers amendment, and I am asking every Senator to think long and hard about what this amendment means. I really urge my colleagues to reject the Bumpers amendment.

At the same time, I want to acknowledge the effort made by the Senator from Arkansas. Over the last few years when he has pushed for eliminating the space station from the budget, it has forced us to do several things, including taking a good, long hard look at the cost and making sure we were getting our money's worth, to take a good long hard research look at the research to make sure we could not do it someplace else faster, quicker and cheaper. The answer, though, is no, we must do this research if we are going to do it at all in space.

I believe the Senator from Arkansas has made, indeed, a national contribution by forcing us to relook at the space station and to justify why we do need the space station. So we thank him for his national leadership on that.

Mr. President, I really do believe that to vote to remove the space station now will really be a terrible blow to America's space station. Mr. President, I am going to urge the defeat of the Bumpers amendment and to once again be able to stay the course, complete the space station and move this country and the space station into the 21st century.

I yield the floor.

Mr. BOND. Mr. President, in order to sequence these amendments, we had advised the Senator from New York that we could accommodate him. I believe he needs 5 minutes and I need 1 minute, and then we would return to the Senator from Arkansas for his comments and then proceed to a vote after 15 minutes, if we would reserve 30 minutes for this side. With that understanding let me try again on a unanimous consent.

Mr. President, I ask unanimous consent the Bumpers amendment be set aside, that the Senator from New York be recognized to offer an amendment for 5 minutes, that I be recognized for 1 minute; that on the disposition of the amendment offered by the Senator from New York, that there be 15 minutes of debate under the control of Senator BUMPERS and 30 minutes of debate under the control of myself or Senator MIKULSKI, and that no amendments be in order to the amendment offered by Senator BUMPERS. I further ask that following the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the Bumpers amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

AMENDMENT NO. 952

(Purpose: To require reports by the Comptroller General on the allocation of health care resources of the Department of Veterans Affairs under the Veterans Integrated Service Network system and the Veterans Equitable Resource Allocation system)

Mr. D'AMATO. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. MOYNIHAN, and Mr. TORRICELLI, proposes an amendment numbered 952.

Mr. D'AMATO. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, between lines 8 and 9, insert the following:

SEC. 108. (a) Not later than 4 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the allocation of health care resources by the Secretary of Veterans Affairs under the Veterans Integrated Service Network system and the Veterans Equitable Resource Allocation System. The report shall address the following:

(1) The manner in which health care resources (including personnel and funds) are allocated under the Veterans Integrated Service Network system and the Veterans Equitable Resource Allocation system.

(2) Whether or not the allocation of health care resources under the systems takes into account the disproportionate number of veterans with special needs who reside in the northeastern United States.

(3) The effect of the allocation of health care resources under the systems on the quality of health care services provided by the Secretary to veterans who reside in the northeastern United States.

(4) The effect of the allocation of health care resources under the systems on the access to health care services provided by the

Secretary to veterans who reside in the northeastern United States.

(b) Not later than 4 months after the date of enactment of this Act, the Comptroller General shall also submit to Congress a report on the effect of the reform of the eligibility of veterans for health care services under title I of Public Law 104-262 (110 Stat. 3178), and the amendments made by that title, on the quality of and access to health care provided by the Secretary to veterans who reside in the northeastern United States.

Mr. D'AMATO. First, I thank Chairman BOND and the ranking minority member, Senator MIKULSKI, for their tremendous leadership in developing this appropriations bill. I fully recognize the fiscal restraints under which the subcommittee must work to achieve our budgetary goals, and I commend them for effectively weighing our national priorities with those constraints.

I file this amendment on behalf of my colleagues, Senator MOYNIHAN, Senator LAUTENBERG, and Senator TORRICELLI, because we have in the New York-New Jersey region a very difficult pressing problem.

I rise today on behalf of New York's 1.7 million veterans, in particular, to address the expected loss of $180 million in veterans' health care funding over the next 3 years. What this amendment does is seek to ensure that the funding reallocation for the Veterans Equitable Resource Allocation System, known as VERA, is distributed in a fair and reasonable manner. I want to respond to specific concerns with the data used by the VA to determine the allocation of health care resources to our Nation's veterans.

This amendment would require the General Accounting Office to conduct a 4-month study, examining the factors relied upon by VERA and the Veterans Integrated Service Network to distribute health care funds.

The study will focus on the following characteristics which are significant to New York, New Jersey, and to our veterans in the Northeast: First, the high number of special needs veterans residing in the Northeast States; second, the impact of eligibility reform on veterans; and third, the quality and accessibility of health care in the northeast region.

In addition, the amendment would direct the Veterans Administration to fund all VISN's at their fiscal year 1996 level until the GAO study is received by the VA-HUD appropriations subcommittee.

Mr. President, it is absolutely crucial for our veterans in New York that the factors I have just listed be considered by the VA as the VERA system continues to be implemented.

It is imperative that the results of any GAO assessment of this VERA system being incorporated as soon as it is practicable because, without such consideration, the New York VA medical system could continue to suffer grievously. The effects of such a substantial funding cut—$180 million over 3 years—are something that we are very concerned about. For instance, a loss of VA services seems likely to have resulted in reduced levels of care. Two of New York's VA facilities, Montrose and Castlepoint, as well as others throughout the region, have suffered repeatedly. There are examples of poor care due to their ongoing merger under this system. Montrose and Castlepoint, two of the hospitals located in the Hudson Valley, have experienced skyrocketing mortality rates in both institutions. In addition, extremely poor health care and neglectful sanitary conditions have also been reported at both facilities, including: misdiagnosed infections and heart attacks; moldy suction tubes; patients lying for hours at a time in their own waste; and, in one report, a man dying for lack of a doctor as physicians conduct a meeting without their beepers.

Question: Is this as a result of a lack of proper care? We have to find out the truth and be sure that the massive restructuring and relocation of resources is done fairly but safely.

Mr. President, we are extremely concerned with concerned the effects of the VERA system on veterans health care in our Northeastern States. That is why I offer this amendment.

Mr. MOYNIHAN. Mr. President, I join my friend and colleague from New York as a cosponsor of this amendment out of deep concern about the effects of the VERA initiative. Not only were the two biggest cuts in the Nation taken from the two VA service networks in New York, but New York was selected to go first, to be the guinea pig for the new program. The results are alarming. Since the merger of the hospitals at Castle Point and Montrose in the Hudson Valley, 200 jobs have been eliminated and the mortality rate is up 80 percent. The acting director of the hospitals said this increase is not significant, that there are always ups and downs in the mortality rate. That may be, but when there is so dramatic an increase during so dramatic a staff cut, we have to stop what is going on and take a careful look. This is not an isolated example. I have similar reports from Canandaigua and other VA facilities around the State.

One of the Veterans Health Administration's guiding principles with VERA is that "the decrease in overall costs shall not compromise the care given to its veteran population." In New York we have empirical evidence that this principle has been trampled underfoot. I join my colleagues in asking that the General Accounting Office begin an investigation immediately into the quality of care being given to veterans under the constraints of the VERA formula, with particular attention being given to the two New York service networks. I hope the Senators from Missouri and Maryland will support this request.

Mr. LAUTENBERG. Mr. President, I support this amendment and am pleased to be an original cosponsor of this effort to require the General Accounting Office [GAO] to report to Congress on the effects of the VA's veterans equitable resource allocation [VERA] system. I support the effort to fund all veterans health care networks at least at the fiscal year 1996 level until this report is complete.

As a member of the VA-HUD Appropriations Subcommittee, I voted against the implementation of VERA because I believe it would unfairly shift veterans health care resources away from New Jersey at a time when our aging veterans population has an increasing need for VA health care services. New Jersey's veterans fought hard for our country and they deserve direct access to quality medical care. I share the concern of many of my Northeastern colleagues that the VERA system may disproportionally affect our veterans access to quality health care services.

This amendment makes sense. It requires the GAO to report to Congress on the effects of VERA. It allows for a pause in the shifting of resources, which began in April, until Congress is certain that VERA will not hurt veterans in the Northeast. If the study shows that VERA will disrupt health care services to veterans in New Jersey and other Northeastern States, Congress will have the information necessary to ensure that these services are not compromised. Until Congress has this information, services should be provided at the pre-VERA levels. We should pause and assess the impact before moving forward with VERA. I hope the chairman and ranking member will include this provision, or one similar to it, in the final version of this bill.

VETERANS EQUITABLE RESOURCE ALLOCATION PROGRAM

Mr. TORRICELLI. Mr. President, I rise today in strong support of the amendment offered by Senator D'AMATO, which would protect funding levels for veterans' health care in New York and New Jersey. I understand that the amendment has been withdrawn, however, I appreciate the assurances given by Senators BOND and MIKULSKI that the subcommittee will give this request the serious consideration it deserves when this issue is raised in conference.

I, and my colleagues from New Jersey and New York, are very concerned about a Department of Veterans' Affairs [VA] initiative which would change the way the agency distributes health care funds to veterans' hospitals. During the next 3 years, the Veterans Equitable Resource Allocation [VERA] Program is projected to divert as much as $148 million away from our region and send it to Sun Belt States in the South and West, whose veteran populations are increasing.

I have heard from many of the 760,000 veterans in New Jersey, all of whom have legitimate fears that this funding shift will reduce the quality and availability of veterans' services in our State. Many of these individuals, who have courageously served our Nation overseas in combat, now fear becoming victims of the VA's restructuring and broken promises.

The impact of this proposal would be devastating in countless communities across New Jersey. I believe that limiting access to the VA health care system may jeopardize the well-being and the lives of many veterans. This must not be allowed to happen.

The House of Representatives has taken a strong stand against the VERA plan by including a provision in their VA spending bill which would delay the proposed funding shift for 4 months, while the General Accounting Office [GAO] examines the impact of this action on the quality of care for veterans in the Northeast. Until the GAO study is completed, the VA would fund our region's health services at 1996 levels, which are $12 million higher than the 1997 levels.

I strongly support this course of action, and encourage my colleagues on the subcommittee to adopt this proposal. We simply need to ensure that while the VA is providing much needed resources to certain facilities, it is not doing so at the expense of veterans in other regions. There is no harm in the GAO doing a 4 month study on whether the VA's new funding scheme is equitable. I assure New Jersey's veterans that I will continue to monitor the progress of this provision as it is debated in the conference committee, and will work to ensure that our veterans receive the health care and services that they deserve.

Again, I would like to thank Senators BOND and MIKULSKI for their consideration of this request and look forward to working with them on this and other issues of importance to the veterans' community.

Mr. BOND. Mr. President, both Senators from New York have raised some important concerns regarding veterans health care in their State. Clearly, the new resource allocation system has forced some tough decisions in some networks. I believe this system is a vast improvement over previous allocation methodologies, and there are some encouraging signs that more veterans are being served in an appropriate manner. It may require some fine-tuning. That is why this committee has asked the General Accounting Office to undertake a review of the new allocation system, as I think the Senators from New York want, including what aspects of VERA may need improvement to accomplish equity and efficiency goals while maintaining quality.

The GAO report is due to be completed, I tell the Senator from New York, by September 30. As of today, they seem to be on track toward that deadline. We will work to ensure that they meet it. I think the Veterans Administration should take GAO's analysis and recommendations into consideration in making its allocations in fiscal year 1998.

In addition, a subsequent GAO report has been requested, which would look at quality of care in specific networks, including New York. Upon completion of this review, VA should incorporate any recommendations into the allocation methodology.

Mr. D'AMATO. Mr. President, I want to thank Senator BOND for his response. I thank him on behalf of the veterans of New York, New Jersey and, indeed, the whole Northeast region. I think we are appreciative of his efforts, and he recognizes the importance of these concerns.

In particular, I am appreciative of the Senator's willingness to join me in ensuring that the GAO conducts a study which will specifically focus on the impact to the Northeast region.

I understand that the Senator will join me in urging the Veterans' Administration to adopt GAO recommendations into its VERA system immediately. And because of the Senator's willingness to ensure that the New York and New Jersey VA health care needs are recognized and that the reallocation system will be fair and equitable, on behalf of myself and my colleagues, I will withdraw this amendment at this time. I thank the Senator, and I look forward to continuing to work with him on our veterans needs.

So, Mr. President, I withdraw the amendment, and I thank my colleague, Senator BOND. I look forward to working with him, and I thank him for his responsiveness to this need.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 952) was withdrawn.

Mr. BOND. Mr. President, I thank the Senator from New York. I assure him that we will work with him. We are now on the time allotted——

Mr. D'AMATO. Mr. President, if I might ask my colleague to indulge me for one more moment.

I ask unanimous consent that Senator LAUTENBERG's name be added also as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 944

Mr. BOND. Mr. President, we are now on the time allotted for debate on the Bumpers amendment on the space station. We have invited those Members who wish to speak in opposition to come forward.

I see the Senator from Arkansas on the floor. I ask if he wishes to utilize some of his time.

Mr. BUMPERS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. BUMPERS. Mr. President, this morning, in my comments I quoted Prof. Elliott Levinthal, professor emeritus of the Stanford School of Engineering. This afternoon he faxed me some material which I would like to share with you. "NASA's present strategic plan is based on the future human operation of Mars and its eventual colonization, with projected costs of at least many tens of billions, or perhaps more realistically, hundreds of billions." I want to thank Professor Levinthal for sending that to me because I could not agree with him more.

As I said this morning, Carl Sagan corrected me the year before last when I said he was opposed to the space station. I stood corrected. What he said was that the space station had some merit as a weigh station to go to Mars, but to justify the space station on the grounds of medical experimentation was shaky indeed. Now, I have the utmost respect for Carl Sagan. He was a much revered person around here. But I disagree with him about going to Mars.

It is not necessary to have a manned mission to Mars in order to explore Mars. We have already discovered that. I complimented NASA this morning on sending the Mars Pathfinder rover to Mars, which is doing a tremendous amount of research that may or may not be beneficial to us. Some of we laymen who are not astronomers have a very difficult time understanding some of this. But in any event, I don't believe we ought to spend the hundreds of billions that it will take to get to Mars with a manned exploration, and I don't think the space station ought to be launched with any—what shall I say—problematical assertions that it will cure cancer, or arthritis, or heart disease, or AIDS, or anything else. Almost every thoughtful person in this country who is in the medical or physics field thinks it is an absurdity to justify this on the basis of medical research.

Professor Levinthal goes on to say: "Leaving aside colonization"—that is, of Mars—"do not be deluded by the thought that the space station is a useful step for the human scientific exploration of Mars. It is a poor investment. Exploration of Mars is a worthwhile and exciting goal, but it can be achieved most cost effectively with automated space craft."

He goes on to say: "I have been involved in consideration of the purpose of human missions since the start of the shuttle program. Committee after committee sought to find scientific, technical, military, educational, and industrial goals that could be cost-justified. None could be found . . .''

I repeat, in all of the feverish search for a justification for the space station, whether scientific, technical, military, educational, or industrial, none of them could be justified by the tremendous cost, which I said this morning will almost certainly exceed $100 billion.

Dr. Levinthal goes on to say: "The pressures the space station are putting on Russian investment is decimating Russian support of science."

Now, Mr. President, let me review this chart one more time about the cost of the space station. Do not be deceived. Do not be deluded by the way NASA chops its figures up. They chop it up into development costs; they chop it up into launch costs; they chop it up into operations costs. Don't worry about that. Just look at this figure right here—

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Mr. BUMPERS. Mr. President, I yield myself 2 additional minutes.

This figure counts. It is $94 billion and soaring. We have finally reached the point where the General Accounting Office, this morning, says that cost overruns have begun and show no sign of slackening.

What does it take in this body to get somebody's attention? This is not our money. I hear all these lamentations on the floor of the Senate about the poor taxpayer out there and trying to send his children to school and trying to make car payments and make his house payment and how we are going to provide this magnificent $135 billion tax cut for the poor, suffering taxpayer, while, at the same time, adding $94 billion to his tax bill to build a space station from which we will get no benefit.

If that were just DALE BUMPERS talking, you need pay no attention. But it is every physical society of every nation who has a dime in it—the Japanese Physical Society, the Canadian Physical Society, the European Physical Society, and the American Physical Society. That is virtually 99 percent of all the physicists in the world who oppose this thing and say we ought to be spending the money on legitimate medical research. You are not going to get a cure for warts out of the space station.

Every year the National Institutes of Health send billions out in research grants.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I yield the floor.

Mr. BOND. I yield 5 minutes to the distinguished Senator from Montana.

Mr. BURNS. Mr. President, I rise today to oppose the Bumpers amendment. As previous chairman and present member of the Subcommittee on Science, Technology and Space that provides the authorization for NASA, I would like to state my support for the space station program and the Senate appropriations bill, S. 1034. The Bumpers amendment is not new. This is an annual event here in the Senate like the first day of summer in Montana. We always know it is coming but it just never happens.

Let me start by saying that I support the missions performed by NASA. Just like the pioneers that came to Montana and settled the West, exploration in unchartered territories of space is a way to achieve our dreams of new beginnings, and visions of a better life. This is clearly illustrated by the excitement generated around the world by the Mars Pathfinder and its Sojourner rover. Every day Americans wake up to learn more information about the Mars' rocks named Scooby-Doo, Yogi, and Barnacle Bill. Record numbers of hits on the NASA website have been registered. Why? Because the Mars Pathfinder opens the door to our imagination and a new period of exploration.

This is not the only accomplishment by NASA within the past year. A rock has been found in Antarctica which excited the world with the possibility of life on the planet of Mars. The Galileo spacecraft has beamed back the intriguing photos of existence of seas on Jupiter's moon, Europa, again raising speculations of life-related chemicals. Technology is developing, like the X-33 prototype for a new generation of reusable launch vehicles, which will increase reliability and lower the costs of putting payloads in space. These endeavors inspire and expand the horizons of the pioneer spirit of all Americans and the space station is part of that endeavor.

NASA was created by the National Aeronautics and Space Act of 1958 to undertake civilian research, development, and flight activities in aeronautics and space. Since its creation, NASA has undertaken a wide variety of successful programs and projects. The idea of a space station is not new. In the 1970's, Skylab provided a station to carry out experiments in astronomy, space physics, materials processing, and biomedical research.

After its success, NASA began its plans to develop a permanent orbiting laboratory for conducting life science and microgravity research and to conduct human exploration of space.

Since its original authorization in 1984, the program continues to evolve to achieve its admirable goals. Today, it is a partnership between Canada, Japan, 10 European nations, as well as Russia.

I cannot stand here before you today and say that the space station is not without problems. We are all aware of these problems and I have personally addressed them over the past several years during oversight hearings. We are aware of the risks and problems resulting from the Russian participation, the increased costs, and the technical challenges in the space station design. And we will continue to have hearings to address these issues and hold NASA accountable.

NASA is also aware of these problems and are actively seeking solutions. Mr. Goldin and NASA have been successful in streamlining and restructuring NASA's operations and facilities without compromising safety, productivity, or the goals and missions of the space program. Mr. Goldin and NASA have been successful in reducing costs, increasing efficiency, and living up to his motto of a faster, better, cheaper agency. Today, NASA is doing more for less.

So today, Mr. President, we again hear the arguments for the elimination of the space station. These are arguments to eliminate our dreams. Let's retire these arguments once and for all and begin working together to overcome these difficulties to ensure our future presence in space.

Mr. President, again, I thank my friend from Missouri. Mr. President, this is an annual thing. It kind of comes like Christmas and every other holiday that comes around. We hear from those folks who really think probably this is a great waste of money. We have all stood and marveled at the expedition to Mars. It came in under budget and was done in less time. But that is 300 million miles from where we stand today. When America does not dream, or fails to reach out, then we become a stagnant people.

Right now, as we speak, there is a reenactment of the Mormon Trail that was blazed from Omaha, NE, to the great Salt Lake Valley. Using the same mentality, we would still be driving the same vehicles now that carried those folks westbound across Nebraska and Wyoming and into Utah.

Let me start off by saying that I support the missions performed by NASA. I am from Montana, so I don't have a big stake in what NASA does, from the standpoint of my home State of Montana. But I will tell you that when we reach out and explore the unknown—where we are going now is a little more than just a wagon train from Omaha to Salt Lake City. We have seen it clearly illustrated this week and the excitement generated around the world by the Mars Pathfinder and its Sojourner recovery. Every day Americans wake up to learn more information about the Mars rocks named "Scooby-Doo" and "Yogi" and "Barnacle Bill."

More than anything else, when we talk about NASA, there is another little program that catches the eye and support of the American people called Mission Planet Earth. With our new technologies in sensoring, we know more about this piece of mud that we are whipping through space on called

Earth. We have done it because somebody dared to dream and somebody dared to do it.

I do not think the American people, this society should back off from the challenges of exploring space. And, yes, the space station is a part of that.

Now, I chaired the authorizing committee on science, technology and space—NASA. We changed this a little bit differently. We went out to seek partnerships, and we got some commitments, but maybe it is kind of like the chicken and the egg. Maybe we are also put to the test. Can we do it? Can we captain it? I think we can. It is American know-how, it is American technology that has put us where we are. And we do not know what the benefits are. I would guess there are probably a lot of digital wristwatches around here on a lot of people's arms that were the result of the space program—new composites. We know more about Earth. We know a lot more about everything that is not written up in newspapers every day because newspapers would rather print those negative kinds of things, I guess.

We changed the way we were going to complete the challenge of a space station because we have a lot of things to learn before we go the extra step—not back to the Moon but before we go into deeper space, and so that is why we have a little rover up there on Mars telling us a lot about that planet, the red planet.

We changed our tactics because we had one primary contractor, and now we have the hardware that is ready to go to start building this so that we may take the next step into space.

So I tell my colleagues on this floor that we have changed the whole mission of NASA, and, yes, we have brought the costs down at NASA almost a third just in the time that I have been in this Senate, so we are getting there quicker, under budget and using less money and collecting more knowledge and technology as we move along.

Dan Goldin, who is the Administrator of NASA, has done a wonderful job in repairing——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BURNS. A bureaucracy that was almost without a mission. Now we have a mission. I strongly oppose the Bumpers amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BOND. Mr. President, I know we have had a somewhat confused schedule and there are a number of Senators who have sought recognition and would like to speak on this. I hope that their schedules will permit them to be here. In the meantime, I thought it would be helpful since we have heard various scientists quoted to give just an idea of a few of the benefits of space research.

First, in biotechnology, microgravity allows researchers to produce superior protein crystals for drug development and to grow three-dimensional tissues including cancer tumors for research and cartilage for possible transplant, and as a result people like Nobel laureate Herbert Hauptman addressed the biomedical research caucus of Congress on the value of orbital research for biomedicine and said, "I strongly support space research and the development of the space station."

Dr. T.L. Nagabhushan, Ph.D., vice president of biotechnology and development for Schering-Plough Research Institute, said,

> I view the space shuttle program as a stepping stone to the ultimate program that will guarantee prolonged efforts in microgravity. Ultimately, our hope is to be able to crystallize proteins in microgravity, conduct all x ray data collection experiments in space and transmit the data to Earth for processing. This can only be done in a space station.

Dr. Jeanne L. Becker, assistant professor, department of obstetrics and gynecology at the University of South Florida, said,

> The application of microgravity technology toward the development of tissue models has far-reaching potential for advancing cancer research. Like many of the new and innovative technologies, including gene therapy and immune-based treatment, space-based research must be continued and expanded in order to apply the benefits of this technology to the rapidly advancing area of health sciences.

Dr. Milburn Jessup, Deaconess Hospital, Harvard Medical School, said,

> The space program offers a chance to improve our models of cancer and to develop new drugs and treatment as well as to gain knowledge about how cancer spreads. The space program has provided a breakthrough in tools for cancer research. We feel this is the tip of the iceberg of scientific discovery for us and the beginning of a new era in the care of the cancer patient.

Mr. President, I could go on and on. We have stacks and stacks of testimony from scientists, scientific organizations, physicians, medical researchers, health care researchers, people who do research in many areas of microgravity and physics and other related areas of science. We could bring all of those statements in.

I cite these just as a few specific examples of why the scientific community, and the vast majority of the scientific community, believes that the space station and space research is vitally important.

I conclude by referring to biomedical research, saying space research provides unique insights into how the heart and lungs function; the growth and maintenance of muscle and bone; perception cognition, and balance, and the regulation of the body's many systems in the field of regulatory physiology.

That is why the American Medical Association has adopted a resolution in support of the international space station.

> The AMA supports the continuation of NASA and other programs for conducting medical research and other research with potential health care benefits on manned space flights, including the continued development and subsequent operation of the international space station.

I thought I would conclude my remarks, Madam President, with a quote from Dr. Michael DeBakey, chancellor and chairman of the department of surgery, Baylor College of Medicine, who said,

> The space station is not a luxury any more than a medical research center at Baylor College of Medicine is a luxury.

He said also,

> Present technology on the shuttle allows for stays in space of only about 2 weeks. We do not limit medical researchers to only a few hours in the laboratory and expect cures for cancer. We need much longer missions in space, in months to years, to obtain research results that may lead to the development of new knowledge and breakthroughs.

Mr. President, these are just a few of the comments that the scientific community has made in support of the space station.

Mr. President, I reserve the remainder of my time.

I yield the floor.

Mr. BUMPERS. Madam President, how much time is remaining for each side?

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Arkansas has 8 minutes and the Senator from Missouri has 25 minutes.

Mr. BUMPERS. Will the Senator from Missouri entertain the idea of possibly yielding back some time and I will, too, and maybe we can expedite this? Does the Senator have any other opponents?

Mr. BOND. Madam President, we have had a number of Senators who were most anxious to speak on this. We could not get them in time. I know that Senator HUTCHISON, Senator GRAMM, Senator SESSIONS, Senator DODD, and Senator GLENN had all expressed an interest. We have tried to send out appeals to them. We hope that, if they are anxious to speak, they will be here before 5:30. But I say at 5:30 I will be prepared to yield back any time remaining on our side if the Senators have been unable to change their schedules.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I wish to advise the Senator from Missouri that Senator GLENN, because of other responsibilities, will not be speaking. His statement yesterday was so eloquent he would like it to stand there as a rebuttal to the amendment of the Senator from Arkansas. We are checking now to see if the Senator from Connecticut wishes to speak and will so advise the chairman.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I yield myself 5 minutes.

At this stage of the debate on these things it is always largely repetitious but some things are worth repeating. It does not change any votes sometimes, but it is therapeutic to me to say things more than once and then people who ignore it in my opinion do so at their own risk. But as I said this morning, it is a tragedy that the space station is what we call a freebie. You can go ahead and vote for this $100 billion boondoggle which will never provide any cures for any disease, will probably never even be used as a way station to Mars, that is opposed by every physicist in the world and not because it is totally worthless but because the money could be so much more effectively spent on other things.

I pointed out this morning, and it is worth pointing out again, the cost of one launch of the space shuttle could pay to allow the National Institutes of Health to approve one out of every three applications for medical research instead of one out of four, just one launch, and there are 83 such launches to support the space station program. And every one of them is calculated to occur within a 5-minute window without a hitch.

It is going to cost $94 billion in today's dollars and you assume that every one of those 83 to 90 launches is going to be split perfect. You think about it. Think about the enormity of such a promise.

Dan Goldin testified before the Subcommittee of Commerce on Science and Technology:

> It is certain that the program does not have adequate reserves built into the total development estimate to address Russian contingencies, which I will address later. There is also the issue of the impact the Russian delay has had in pushing completion of the assembly sequence beyond 2002.

You bet, October 2003 to be precise, a $2 billion cost overrun because Russia cannot come up with the money to build a service module.

And he goes on to say,

> Clearly, the drawn out timeframe for development/assembly will increase program costs. The exact extent of this cost is being worked.

Here is how they have worked it. Here is the way NASA has worked it. Here are the promises that have been made.

Here is what NASA said on February 17, 1994:

> Russian participation reduces cost by $2 billion and allows science utilization significantly earlier than with the alpha station.

Broken promise.

Another promise. NASA said the first element launch would be launched in November 1997 instead of September, 1998.

The reality. The first element launch is now scheduled for June, 1998. Broken promise No. 2.

The space station laboratory will be available in February 1998. Reality: May, 1999. Broken promise No. 3.

Promise. The space station will be completed in June, 2002. Reality: Now October, 2003. Broken promise No. 4.

Russia's participation will save the United States taxpayers $2 billion. Now we are going to have to come up with $2 billion. Broken promise No. 5.

Promise: Extravehicular activity, space walking, will be, in 1993, 350 hours they said; in 1994 it had gone up to 434 hours; in 1996 it went up to 1,104 hours; in 1997, 1,519 hours—a 500 percent increase. Broken promise No. 6.

Those are the promises we have gotten from NASA, and the cost is just now beginning to soar. They have just taken $400 million out of the science program. There won't be any money left to do a scientific experiment. They took $400 million out of science to make up some of the shortfalls.

They took $200 million out of the shuttle program and put it into the space program. The cost overruns are soaring, and GAO said this morning, in a report released this morning: No letup in sight.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I am pleased to yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas has 5 minutes.

Mrs. HUTCHISON. Madam President, I thank the chairman and ranking member of this important subcommittee, because they have seen, early on, the importance and the benefits, for our present society and our future children and grandchildren, of space research continuing to move forward to find how we can live better through experimentation in space. That is going to help all of us now and in the future. They have seen this and I am so pleased that the Senate has continued to ratify its faith in space.

I cannot imagine that anyone in the past few weeks who has seen the Pathfinder exploring Mars, the pictures that are being taken by Pathfinder on Mars that show it to look about like Arizona—I cannot imagine that anyone would not be so excited about what we are going to be able to learn from this kind of continued exploration. So I think now, of all times, people who are big thinkers, who have a vision for our country, would not want to stop our efforts to explore in space.

We have talked about the importance of the health benefits that we have in the microgravity conditions in the space station before. Senator MIKULSKI and I have worked on osteoporosis and breast cancer, trying to increase the funding. You cannot, no matter what you do, no matter how much technology you have—you cannot reproduce the gravity conditions that are in space, on Earth. You cannot do it. Yet we know that those microgravity conditions will allow us to watch the development of breast cancer cells and of osteoporosis in this weightlessness and perhaps find the cure for breast cancer. We can learn how to combat osteoporosis in the older, especially women, but also men. In fact, NASA research already has led to these developments in health.

The cool suit for Apollo missions now helps improve the quality of life of patients with multiple sclerosis. NASA technology has produced a pacemaker that can be programmed from outside the body. NASA has developed instruments to measure bone loss and bone density without penetrating the skin. NASA research has led to an implant for diabetes that is only 3 inches across. It provides more precise control of blood sugar levels and frees diabetics from the burden of daily insulin injections.

I was reading about Professor James Langer's discoveries. He is from the University of California at Santa Barbara. He wrote in Physics Today that, "Metallurgists have long sought to predict and control alloy microstructures." This may seem a little off the wall, but in fact it is very important when they are trying to find the very best substance with which to make products. He found that this is best done in the microgravity conditions because gravity affects the way things can solidify.

So you take all these scientific things and boil them down to: How does it make my life better? In fact, it does make our life better. It does make our health better. It does give patients who have multiple sclerosis or osteoporosis a better chance to have a good quality of life. I reject the idea that we would walk away from the possibilities for the future for better health and better quality of life, but also the products that will be formed from the scientific developments that we make with the space station. Once we have the research, then we take that technology and we make the products. And that is what has kept our economy burgeoning and growing and able to accept the new, young people who come into it after they graduate from high school and college; accept the new people who come to our country, looking for the American dream.

Part of the American dream is the commitment to research. It is the commitment to the future. An important part of that is space and the space station. That is why it is so important that we keep this commitment to space research, to NASA, to the space station. And the Senate has done that. In the 4 years that I have been in the U.S. Senate, I have been very proud of the big thinkers and their ability to see the difference between shutting off our future and our possibilities and saying we can save a small amount here, not thinking that for every $1 we invest we get a $2 return in our productivity and in our gross national product.

I respect the Senator from Arkansas. I know he believes sincerely that this is a waste of taxpayer dollars. I wish, before he leaves the Senate, that he would come around to seeing the benefits of space research so maybe in his last year here he would say: You know what? I think there is a future, it is worth keeping, that it will make life better for our children, that it will provide scientific jobs for our children, that it will keep the technology and the research and the innovations in America, along with our international partners. Because this is not just people who write in Physics Today. This is quality of life for elderly people who have osteoporosis. This is for the prevention of breast cancer. This is for the scientific base that has made America what it is today.

To walk away from that would be un-American and it would be unthinkable. So I hope our colleagues will give us the resounding vote that we have had in the past. I hope they will resolutely stand for the future, for our children and our grandchildren, and for a great America for years to come.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I thank the distinguished Senator from Texas. She has long been, not only an advocate, but very knowledgeable and a strong supporter of the space station. She has given us many good reasons why we should support the space station.

I am pleased, now, to yield 3 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, we are all going to miss the Senator from Arkansas. He is a good friend, and I use that in the honest term, rather than the kind of puffery that often goes on around here. He takes the floor twice a year to espouse things with which I disagree. First, he wants to do things to the mining law that I don't want to do. And then he wants to kill the space station in a way that I don't want it killed. So I vote against him on both of these occasions, but I look forward to these because he keeps us honest with his concerns. He has not yet convinced me to back away from my commitment to the space station, but I pay tribute to his tenacity and to his integrity.

I have answered at some length in previous debates. I will not take the time to do that now. I simply repeat, again, my commitment to the idea of venturing into the unknown even when it seems expensive and sometimes foolish, because we are never quite sure what we are going to find. But, almost always, it comes back to benefit us.

As I stand here I am reminded of the quote, I can't give it to you exactly, of the historian who said: History is a chancy thing. America was discovered by someone who was heading for somewhere else, thought he had arrived someplace other than he had, and was named after a man who never came here.

History is like that, chancy. We are never quite sure what is going to happen to us, but great things happen to us when we explore. We are launched on this exploration now. We are far enough along that it makes sense for us to continue. Who knows what we will find? I will not pretend to know that we will find the cure for cancer or anything else when we get out there. We will surprise ourselves. It will be chancy. But that has been our history; that has been our destiny. I, for one, want to continue it in this program.

I yield the floor.

Mr. BOND. Madam President, I thank the distinguished Senator from Utah. To the notes he added from history, we might add that he, Christopher Columbus, was a very modern traveler. He did it all with borrowed money. I think that is one element that should be added.

We are awaiting the arrival of Senator GRAMM of Texas, who is, I think, going to be the last speaker on this side. For the information of my colleagues, how many minutes are remaining for debate on this measure?

The PRESIDING OFFICER. The Senator has 12 minutes and 12 seconds, and the Senator from Arkansas has 3 minutes.

Mr. BOND. I expect perhaps within 10 minutes we would be ready, or as soon as Senator GRAMM has had the opportunity to speak, we would be ready to yield back the remainder of our time.

I so inform the Senate.

Mr. BENNETT. Madam President, if I might before the Senator from Texas comes up, I have another historical allusion I would like to share.

Mr. BOND. I am delighted to yield 3 minutes for historical allusions from the Senator from Utah.

Mr. BENNETT. I thank the Senator from Missouri.

It has been pointed out to me in the study of history that the nation that was the most powerful, the most progressive, that had, in modern terms, superpower status some centuries ago, was the nation of China. One of the things the Chinese did was send their explorers around the world. There were Chinese ships that were exploring as far away as the coast of Africa, I am told.

Then the Chinese Government decided that that was too expensive, that it was too chancy, that there would be no guarantee that they would learn anything or find anything or profit in any way and, as a cost-cutting measure, the Chinese cut back on their exploration and virtually left the field open to the Europeans. There was very little contact, of course, between the Europeans and the Chinese in that period, but the field was left open in a way that we can look back on in history and say: What might have happened if the Chinese had maintained their exploring activities and maintained their willingness to go into the future? What might have happened, had they not taken those cost-cutting measures? The history of the world would be very, very different.

It was the Europeans who went out on their exploration after the Chinese cut back. I don't want to see the Americans cut back on their adventure and their exploration, and then have someone else step into the breach. Because I am convinced that if we cut back on our exploration of space, someone else will step up to it. Who knows what the implications could be, hundreds of years from now?

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I am pleased to yield 3 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I thank our distinguished chairman for yielding. I thank him for the leadership in this very difficult job. Having served on this subcommittee, I know how difficult it is, how many important issues are under his jurisdiction, and how difficult politically they are. So I want to begin by saying thank you to Senator BOND for the great job he has done.

Senator BUMPERS, every year, proposes that we kill the space station and every year we have a protracted debate on it. I think, now, Members understand the issue enough that the lines are pretty well drawn.

So, today, I am not going to go into a lengthy speech. I know Senator BUMPERS and I know the quality of his work, so I know he has made the best case he can make for his position.

I would just like to remind my colleagues that in 1965, we were investing 5.7 cents out of every dollar spent by the Federal Government in science and technology in the future. We were investing 5.7 cents out of every dollar we spent in Washington by investing in the next generation, in investing in the science and the technology to build the scientific base of the country to give us the ability to construct new tools that were more effective and sharper than tools used by people in other parts of the world. We were able to develop new technology and new products that have made us the envy of the world and have allowed us to maintain the highest living standards on Earth.

Whereas we were investing 5.7 cents out of every dollar in the Federal budget in nondefense R&D in 1965, we are now investing roughly 1.9 cents out of every dollar spent by the Federal Government in science and technology in the future. We have dramatically reduced the investment we are making in the future, and, basically, what we have done is succumbed to the siren song of investing more and more money in the next election, in programs that have a big political constituency, in programs that yield a return before the voter goes to vote in even numbered years on the first Tuesday after the first Monday in November, and we have systematically, since 1965, reduced the investment that we are making in the future, investment that we are making in the next generation.

This ultimately comes down to a debate between investing in the next election and investing in the next generation. While I believe we have to run the space program efficiently, we have had dramatic reductions in its growth. I think when science investment is down to 1.9 percent of the nondefense R&D Federal budget, down from 5.7 percent in 1965, that we need to be alarmed about it.

I have introduced legislation to set up a program within our existing budget to double expenditures on science and technology, to set out a 10-year goal of doubling the budget of the National Institutes of Health, doubling the budget for science and technology, because I believe that it is critical to the country's future.

Let me also say that I take a back seat to no one in controlling spending, but this is about priorities. What programs do we spend the money we spend on? I say invest it in the next generation, not in the next election, and defeat the Bumpers amendment as we have done in the past. I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. BOND. Madam President, we are about to yield back time. I turn to the distinguished sponsor of the amendment.

Mr. BUMPERS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes, and the Senator from Missouri has 5 minutes.

Mr. BOND. I will be happy to accommodate the Senator from Arkansas.

Mr. BUMPERS. Madam President, I will use my 3 minutes, and we will get this show on the road.

Let me just say, in the 6 years I have stood at this position saying we ought to cancel the space station, for all the reasons I enumerated all day long, one of the opponents' arguments consistently has been that we are going to cure breast cancer, prostate cancer, cervical cancer, warts, ingrown toenails, psoriasis, you name it. It reminds me of that old Huey Long story about the medicine doctor coming through Louisiana. He was selling Low Poplarhirum and High Poplarlorum.

"What's the difference?" someone asked him.

He said,"Well, the High Poplarlorum will cure anything from the waist up, and Low Poplarhirum will cure anything from the waist down."

They said, "Where do you get it?"

He said, "We get it from the Poplar tree."

"How do you get a medicine out of one tree that cures everything from the waist up and the waist down?"

He says, "Well, we take sap from the bottom half of the tree, that is Low Poplarhirum, and we take sap from the top of the tree, and that is High Poplarlorum, and that's the way it works."

Low Poplarhirum and High Poplarlorum reminds me of the debate going on about the space station today. It is going to cure everything under the shining Sun and it isn't going to cure anything. I will eat my hat—and I wish I was going to be in the Senate to do it—if it ever cures anything. That claim is not anything in the world but a hoax designed to perpetuate a $100 billion expenditure that if it were put into real research to cure breast cancer, to cure cervical cancer, to cure prostate cancer, it might get you something. It is going to get you nothing by putting $100 million into the space station.

Read the GAO report I received this morning. I am not talking about the grandiose promise Ronald Reagan made in 1984 about how we are going to do it all for $8 billion. We have already thrown $11 billion away on the first space station before we abandoned it, and now we are headed for another $80 billion, $85 billion, and we are not going to cure anything. This project has no purpose in the world but to keep people working, to keep the aerospace and defense contractors all over the country working, and to explore what?

The Russians have been up there 20 years. I, again, invite anybody in this body to tell me what the Russians have cured, what they have developed in 20 years of having space stations. They have had seven space stations; there is nothing new about that. A space station is a mechanical thing; it is not scientific. The Russians have been up there 20 years. I challenge anybody to tell me one single thing from a medical standpoint that they have gotten out of it. I can tell you the answer is nothing.

We are going to continue pouring money down this just like we did the Clinch River breeder reactor, just like we did the super collider, until we finally woke up. The GAO issued a wake-up call this morning. For God's sakes, I say to Senators, why don't you listen to it?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOND. Madam President, I am sorry to hear the time has expired, because I was really getting into listening to my colleague from Arkansas. He makes me feel like I used to feel when the summer carnival came to town and I went in and I listened to people who were smooth talkers from Arkansas and elsewhere. I wound up giving them the 20, 30 cents I had saved all summer long. They are very, very compelling.

In this instance, it is not my position, it is the position of the distinguished scientists, such as the ones whose comments and quotes I have read into the RECORD that outline specifically what the benefits of the space station and space exploration have been and will be.

While we respect the very powerful arguments made by the Senator from Arkansas, I now move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Arkansas. The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 69, nays 31, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—69

Akaka
Allard
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Campbell
Cleland
Coats
Cochran
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Inouye
Kempthorne
Kerrey
Kerry
Kyl
Landrieu
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thompson
Thurmond
Torricelli

NAYS—31

Abraham
Ashcroft
Baucus
Bryan
Bumpers
Byrd
Chafee
Collins
Conrad
Dorgan
Durbin
Feingold
Harkin
Hollings
Hutchinson
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lugar
Moynihan
Reed
Snowe
Specter
Thomas
Warner
Wellstone
Wyden

The motion to lay on the table the amendment (No. 944) was agreed to.

Mr. BOND. Madam President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. With the concurrence of the majority leader and the minority leader, I think we are prepared to have one more vote on an amendment to be offered by Senator BUMPERS. I believe other amendments pending can be resolved without a vote, so we hope to be able to have the vote on the amendment and start the vote for final passage prior to 7 o'clock.

I ask unanimous consent the debate on an amendment to be offered by the Senator from Arkansas be 20 minutes, equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 953

(Purpose: To cap the cost of the Space Station)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and I ask unanimous consent that no second-degree amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 953.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new sections.

SEC. XXX. ANNUAL REPORT ON LIFE CYCLE COSTS AND SPACE LAUNCH REQUIREMENTS.

(a) For each of the fiscal years 1999 through 2013, the Administrator, along with the President's submission to the Congress of the annual budget request for the National Aeronautics and Space Administration, shall submit a report that contains,

(1) a life cycle capital development and operations plan with a year-by-estimate of the United States' share of the projected expenses for development, construction, operation, enhancement, and decommissioning and disassembly of the Space Station;

(2) an updated space launch manifest for the Space Station program and the estimated marginal and average launch costs for the Space Station program for the fiscal year involved and all succeeding fiscal years.

SEC. XXX. FUNDING CAPS.

(a) The President's cumulative budget submissions for Space Station capital development and operations for the fiscal year 1994 through the fiscal year during which the Space Station achieves full operational capability may not exceed $17,400,000,000, exclusive of launch costs.

(b) After achieving full operational capability and continuing through its decommissioning, the President's annual budget submission to Congress for the National Aeronautics and Space Administration shall contain an amount for the operation of, and any enhancement to, the Space Station which shall in no case exceed $1,300,000,000 for that fiscal year, exclusive of launch costs.

(c) DEFINITIONS.—For purposes of this section

(1) the capital development program of the Space Station includes, but is not limited to, the research and development activities associated with the space and ground systems and collateral equipment of the Space Station, and all direct expenses for space flight, control, data communications, assembly and operations planning, construction of facilities, training, development of science equipment and payloads, and research and program management activities associated with the construction and operations of the Space Station and its supporting elements and services until the facility is equipped and powered as planned, and declared fully operational.

(2) operation of the Space Station includes, but is not limited to, all direct research and development; space flight, control and data communications; construction of facilities; training; development of science equipment and payloads; scientific experiments; and research and program management activities associated with the operations of the Space Station; and the U.S.-Russia cooperative MIR program.

(3) enhancement of the Space Station includes all direct research and development; space flight, control and data communications; construction of facilities; and research and program management activities associated with the acquisition of additional Space Station elements and ground support facilities.

(4) direct expenses include, but are not limited to, the marginal costs of transportation and tracking and data services, launch facilities, payload processing facilities, simulator facilities, and all other enabling facilities including their collateral equipment, and all laboratory and technical services provided by NASA Centers to support space station development and scientific research.

(5) full operation capability means the facility is fully assembled on-orbit with the power, configuration and capabilities described in the system design review of March 24, 1994.

Mr. BUMPERS. Mr. President, I will make this brief. I know everyone wants to get out of here, and I want to accommodate the membership.

Last week, the Armed Services Committee accepted an amendment that capped the costs on the F-22 fighter plane. They, I think, correctly decided that the costs of the F-22 could very well go way beyond anything intended by the Congress. So, Mr. President, they accepted a cap on the F-22 fighter plane.

All I am trying to do on this is do the same thing on the space station. I am using NASA's figures. These are not my figures. These are the figures that NASA says they can build the space station for and operate it. The amendment, as I say, is right where they say it is, but here is the reason I am doing this. The General Accounting Office says that since last year, the risk to the space station's costs in schedule have, in fact, increased. GAO goes on to say the station's financial reserves have also deteriorated significantly.

Now, I think the people in this body who strongly favor the space station in good conscience and as a duty to their constituents and their own conscience ought to support saying at some point there ought to be some kind of a limit on how much we are willing to spend. I am using the figures that NASA has themselves put out: $17.4 billion to build it, $1.3 billion a year to operate it. The cap does not extend to a launch cost, only to the building and deployment and to the operating of it.

That seems like a simple, straightforward amendment to me, Mr. President.

Mr. BOND. Mr. President, I yield myself 2 minutes.

I just appreciate the effort the Senator from Arkansas is making to ensure that the spending on this widely supported and strongly endorsed program is kept under control, but the space station is already operating under administrative caps. I understand the authorizing committee is examining the potential for legislated caps. I think this is an issue appropriately to be referred to the authorizers. It deserves careful consideration, not brought forward here in the last moment on an appropriations bill debate.

I just say, Mr. President, space station is a research and development project. It has a lot of uncertainties but tremendous promise. It is rocket science. We are dealing with rocket science. We should not lock NASA in stone with caps that are pulled out of thin air here at the last minute in the appropriations process.

I urge my colleagues to join me in opposing the Bumpers amendment.

Ms. MIKULSKI. Mr. President, I, too, rise in opposition to the Bumpers amendment. Though well-intentioned, it is not necessary and could inadvertently, by placing a cap, lead to real concern in the area of safety.

First, we do not want to tie the hands of the NASA administrator. Second, since fiscal year 1994, the station has been subject to funding limitations, a $2.1 billion annual funding and a $17.4 billion overall funding through the completion of the assembly. Yes, these limitations are not legislatively mandated; they have been administratively carried out.

There are many references to these specific limitations to the space station budget and congressional proceedings. For example, the $17.4 billion total cap through the completion of the assembly. Recent reports indicate that NASA is expected to build the station within these limits. We should not legislate a cap. In good faith, NASA continues to meet these goals. Any additional money sought is for unforeseen problems either associated with the Russian service module or where we might now identify a certain series of safety concerns. We are learning lessons from Mir.

I don't want to tie the hands of NASA or threaten the lives of astronauts. I really encourage our colleagues to vote no on Bumpers and await the wise counsel of the authorizing committee on this issue.

I yield the floor.

Mr. BUMPERS. I hardly know what else to say about this. The figures I am using are the figures that NASA says they can build and operate it for. Now, it is obvious from the GAO report that came out this morning that these costs are beginning to get out of control. There is a shifting from one account to another. There is even shifting from nonspace station programs to space station programs.

All I am trying to do is to say, let's get it under control. There is not anything, frankly, written in stone about a cost cap amendment. Next year, if NASA comes in and says we are down $1 billion, we will certainly give it to them, if I am any judge of what is going to happen around here in the future with the space station.

But here is what the GAO report said this morning, Mr. President:

> NASA's actions to reinforce its financial reserves and keep the program within its funding limitations has in some cases involved redefining a portion of the program subject to the limitations. Such actions make the value of the current limitations as a funding control mechanism questionable. Therefore, we proposed that the NASA administrator, with the concurrence of the Office of Management and Budget, direct the space station to discontinue the use of the current funding limitations.

And they go ahead to say at the end of the review:

> Assuming that Congress decides to continue the space station program and wants to replace the current funding limitations, it should consider, after consultation with NASA, reestablishment in light of the current circumstances.

Now, the truth of the matter is, this program is heading headlong out of control. There are very few people in this body that do not know that, that do not understand that, and I am offering this amendment simply because I am saying, if you are going to build a space station, for Pete's sake let's put some kind of a limitation on it.

Mr. President, the Senator from Arizona, Mr. McCAIN, who chairs the Commerce Committee, tells me that he is working with NASA and he wants to work with me on putting a cap on this. One of the problems I have and worry about is, are we simply going to put some language in—and I think Senator McCAIN shares my concern about the cost of this program. I certainly would welcome the opportunity to work with him, but I don't want a cap, and I know Senator McCAIN doesn't want a cap that has all kinds of escape mechanisms in it so the costs can continue to skyrocket and we can continue building this big boondoggle. My whole purpose is to say to my colleagues who believe in the space station—which I do not—that I know they share my concern about these costs that GAO says are sliding out of control.

Mr. President, I withdraw my amendment.

The amendment (No. 953) was withdrawn.

Mr. BOND. Mr. President, it is with deep gratitude that I express my appreciation to the Senator from Arkansas. I believe he has another amendment and I now feel a wonderful sense that we will be willing to accept it if he wishes to proceed with that.

Ms. MIKULSKI. If the Senator from Arkansas would just allow a kudos comment. I thank the Senator for withdrawing his amendment, though I know that he is in no way retreating from his position. We acknowledge that position and we look forward to hearing both from him and the distinguished chairman of the Commerce Committee on his advice in this matter. Thanks again.

Mr. McCAIN. Mr. President, I rise to oppose the Bumpers amendment to place a cap on the space station. I oppose the idea of a price cap at this time given the recent changes to the space station program surrounding the prime contractor's performance and the instability of Russian participation.

I have asked the General Accounting Office [GAO] to update their previous life-cycle cost estimate on the space station. Once this cost estimate is completed, I intend to introduce a price cap on the station. It is my hope that a price cap at that time will reflect a more accurate assessment of the space station total life-cycle costs.

I am pleased that my colleague from Arkansas has withdrawn his amendment.

I look forward to investigating these issues further after the GAO study I requested is completed and after the Commerce, Science, and Transportation Committee holds hearings and further consultation with interested parties including NASA.

AMENDMENT NO. 954

(Purpose: To earmark funds for a National Research Council report on the Space Station program)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 954.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the bill, add the following new section:
>
> SEC. . Of the funds provided to the National Aeronautics and Space Administration in this bill, the Administrator shall by November 1, 1998, make available no less than $400,000 for a study by the National Research Council, with an interim report to be completed by June 1, 1998, that evaluates, in terms of the potential impact on the Space Station's assembly schedule, budget, and capabilities, the engineering challenges posed by extravehicular activity (EVA) requirements, U.S. and non-U.S. space launch requirements, the potential need to upgrade or replace equipment and components after assembly complete, and the requirement to decommission and disassemble the facility.

Mr. BUMPERS. Mr. President, this simply requires NASA to spend up to $400,000 of its unobligated funds for the National Research Council to do a study between now and the summer of 1998 on any engineering problems that may seem insurmountable in building and deploying the space station.

I think both floor managers have looked this over and have agreed to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 954) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, have the floor managers had an opportunity to look over the visa waiver for Veterans' Administration doctors?

Mr. BOND. Mr. President, we have had conversation with the authorizing committees and, from our standpoint, I have found no objection from the committees of jurisdiction. This one is well outside the scope of our normal activities. So I am awaiting any expression of concern. We have not had any concern from the committees who have jurisdiction over immigration.

The PRESIDING OFFICER. Who seeks recognition?

Ms. MIKULSKI. Mr. President, I know that the VA often has very special circumstances where doctors, perhaps from other countries, or graduates from international medical schools, are present in our VA hospitals to help with either special assignments or special chores.

From what I can understand, there was an error in last year's immigration bill that really shackled VA from the flexibility it had in this area. From what I understand, the Bumpers amendment is a benign amendment. It does not create a new classification. It does not create a new entitlement to either come to this country or stay in this country. It just reaffirms kind of what was once a usual and customary practice by the VA. So I don't anticipate an objection.

Mr. BUMPERS. Mr. President, let me just thank the Senator from Maryland and the Senator from Missouri. Let me add this caveat which might help them sleep better. A veterans' hospital in Little Rock told me they have five doctors they are going to lose. I am really offering this on their behalf. This is sort of a critical situation where these doctors are going to be forced to leave and go home.

All this amendment says is that, in the future, the VA—not the doctor—could request a waiver of the visa requirement that they return home for 2 years before they can come back. That seems like a fairly laudable thing when you consider the medical shortages most VA hospitals experience. If you find when you get to the conference committee somebody objects because it may be a turf fight of some kind, I will understand that. I hope that doesn't happen. But I appreciate the accommodation you have given.

AMENDMENT NO. 955

(Purpose: To restore the authority of the Veterans' Administration to request waivers of the home residency requirement for doctors employed at VA hospitals on J-1 visas)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 955.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section: SEC. . Section 214(*l*)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(*l*)(1)(D)) (as added by section 220 of the Immigration and Nationality Technical Corrections Act of 1994 and redesignated as subsection (*l*) by section 671(a)(3)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) is amended by inserting before the period at the end the following: ", except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 955) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BOND. Mr. President, I ask unanimous consent that at 6:40 p.m. the Senate proceed to H.R. 2158, the House companion bill, all after the enacting clause be stricken, the text of S. 1034 be inserted, H.R. 2158 be read for the third time, and a vote occur on passage, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 956 THROUGH 960, EN BLOC

Mr. BOND. Mr. President, I send a group of amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes amendments numbered 956 through 960, en bloc.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 956

(Purpose: To enable the State of Florida to use prior EPA Title II funds for a grant for wastewater treatment, and for other purposes)

On page 63, lines 4 and 5, strike "allocated to the purposes of the Safe Drinking Water Act" and insert "allocated for the purposes of the Safe Drinking Water Act and title VI of the Federal Water Pollution Control Act, respectively,"

On page 63, line 18, before the period, add the following proviso: ": *Provided further*, That, notwithstanding any other provision of law, the Administrator is authorized to make a grant of $4,326,000 under Title II of the Federal Water Pollution Control Act, as amended, from funds appropriated in prior years under section 205 of the Act for the State of Florida and available due to deobligation, to the appropriate instrumentality for wastewater treatment works in Monroe County, Florida"

On page 64, line 18, before the period, add the following proviso: "*Provided*, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading, shall be used for or by the Council on Environmental Quality and Office of Environmental Quality".

On page 65, line 13, after the semi-colon, insert "or", and on line 17 strike "; or beaches".

AMENDMENT NO. 957

(Purpose: To limit the use of locality pay differential that would provide a pay increase to an employee transferred as a result of sexual harassment)

At the appropriate place, insert:

None of the funds made available by Title 1 of this Act may be used to provide a locality payment differential which would have the effect of causing a pay increase to any employee that was removed as a Director of a VA Hospital and transferred to another hospital as a result of the Inspector General's conclusion that the employee engaged in verbal sexual harassment and abusive behavior toward female employees.

Mr. FAIRCLOTH. Mr. President, I am pleased to offer this amendment that calls for a halt to all locality pay increases for all employees of the Department of Veterans Affairs that have been transferred due to their perpetration of sexual harassment. Let me explain why this amendment is necessary.

Over a year ago to date, the Veterans Department undertook an investigation into the allegations of sexual harassment, misconduct, and unprofessional behavior on the part of Jerome Calhoun, who was Director of the VA Medical Center in Fayetteville, NC.

In September 1996, the Office of the Inspector General of the Veterans Department issued a report confirming the allegations of sexual harassment, as well as a pattern of inappropriate and abusive behavior toward Department employees.

In most organizations today this kind of behavior would not be tolerated. Jerome Calhoun would have been fired. Unfortunately, this is not the way things work at the Veterans Department. At the Veterans Department this kind of deplorable behavior gets you a comfortable settlement.

Here are the facts: For his intolerable behavior, Mr. Calhoun was given a pay raise, bringing his already generous salary to $106,000. He was transferred to sunny Bay Pines, FL, a locale of his own choosing, and he was given the position of special assistant which is standard Government lingo for having no specific responsibilities. Quite frankly, I look at this settlement and I ask myself, where is the punishment? In the private sector this would be considered a promotion.

Mr. President, on behalf of the 200,000 employees of the Veterans Department, I ask this body to do what Department officials have neglected. Jerome Calhoun must not be allowed make such an incredible mockery of the system.

AMENDMENT NO. 958

On page 51 after line 11, insert the following new section:

SEC. 216. INDIAN HOUSING REFORM.

Upon a finding by the Secretary that any person has substantially, significantly, or materially violated the requirements of any activity under the Native American Housing Block Grants Program under title I of the Native American Self-Determination Act of 1996 or any associated activity under the jurisdiction of the Department of Housing and Urban Development, the Secretary shall bar that person from any such participation in programs under that title thereafter and shall require reimbursement for any losses or costs associated with these violations.

Mr. GORTON. Mr. President, I am offering an amendment today to correct an egregious problem at the Department of Housing and Urban Development and on tribal lands across the Nation that came to light last December.

As many of my colleagues know, the Seattle Times broke an unbelievable story of greed, deception, and mismanagement in the tribal housing program shortly before the 105th Congress convened.

The Seattle Times reported that funding intended to build housing for low-income native Americans on the Tulalip Reservation in my State, went instead to construct a 5,300 square foot $400,000 home. The recipients of this taxpayer-funded home were not low-income, but instead earned a combined yearly income of $92,319 as executive director of the tribe's housing authority and contracting officer for the authority. I am confident my colleagues will agree that this abuse of HUD funding is outrageous and should be punished severely.

Unfortunately, the Tulalip house was not the only problem Seattle Times reporters found in their 6-month investigation of tribal housing programs. Instead, they turned up numerous and repeated examples of cheating, abuse, and mismanagement in native American housing programs across the United States.

In Red Rock, OK, Troy Warrior and his family of the Otoe-Missouria Indian tribe were excited at the prospect of moving into a new home. They would finally be able to afford their own home with help from HUD financing. Only a few days before the family was scheduled to move into the modest home, they were told that leaders of the tribal housing authority would get the house instead. Twenty other low-income families in the tribe faced the same dilemma. The tribal housing leaders eliminated the requirement that recipients of the homes pay for them, in effect giving themselves free houses at the expense of American taxpayers while those truly in need of the housing were left to fend for themselves.

Jimmy Viarrial, chairman of the Pojoaque Tribe housing authority in Santa Fe, NM, makes over $40,000 a year, twice the State average. But when HUD gave the housing authority $1 million for home repairs, it spent the first $45,000 on Viarrial's own five-bedroom home. Most of the rest went to remodel the homes of friends and relatives of Viarrial and the housing authority director.

Mr. President, these are just a few of the many abuses found by Seattle Times reporters last year, and I can say with confidence that there are most likely many more such abuses that have not been discovered. The American taxpayers deserve better than this. When we in the U.S. Senate tell them that their money is going to worthwhile programs to provide housing for the poorest native Americans, it is our duty to ensure that it is.

As many of you know, two officials at the Department of Housing and Urban Development were removed from their positions in the Office of Native American Programs as a result of this scandal. Furthermore, the HUD inspector general has issued a report confirming that the Seattle Times allegations are in fact true and recommending that the Native American Housing and Self-Determination Act of 1996 be amended to ensure better oversight of Indian housing authorities at HUD. These are positive developments that should be applauded. But no actions have been taken against the tribes responsible for the abuse of taxpayer money.

That is why I am offering an amendment today intended to send notice that the misuse and misallocation of taxpayer dollars will no longer be tolerated. It will be punished and punished severely. Anyone involved will be permanently barred from participating in the program, and must reimburse that program. I would have preferred to go further, but this amendment is the strongest that can be accepted and passed. It is a simple amendment that should have been law a long time ago.

I urge my colleagues to join me in my effort to inject fairness and accountability into a program rife with abuse and mismanagement. It is the least we can do for the millions of American taxpayers who expect their hard-earned money to be used wisely.

AMENDMENT NO. 959

(Purpose: To make available $1,000,000 for the Neutral Buoyancy Simulator program of NASA)

On page 70, line 18, strike out "1999." and insert in lieu thereof "1999: *Provided*, That of the amount appropriated or otherwise made available by this heading, $1,000,000 may be available for the Neutral Buoyancy Simulator program.".

AMENDMENT NO. 960

On page 16, line 21, strike $10,693,000,000" and insert in lieu thereof "10,159,000".

On page 16, line 23, strike "$9,200,000" and insert "8,666,000".

On page 23, line 6, insert "and contract expertise" after "technical assistance".

On page 23, line 24, strike "and 1995" and insert in lieu thereof "1995, and 1997".

On page 27, line 17, insert "for" after "charge".

On page 27, line 22, insert "or moderate income family" after "family".

On page 27, line 24, strike "payment" and insert "'prepayment".

On page 28, line 1, insert "of" after the first "the".

On page 28, line 8, insert "if" after "and".

On page 28, line 13, insert "from" after "move".

On page 28, line 14, strike "of" and insert "or".

On page 28, line 22, strike "223" and insert "220".

On page 35, line 10, insert before the period, the following: ": *Provided further*, That any unobligated balances available or recaptures in, or which become available in the Emergency Shelter Grants Program account, Supportive Housing Program account, Supplemental Assistance for Facilities to Assist the Homeless account, Shelter Plus Care account, Innovative Homeless Initiatives Demonstration Program account and Section 8 Moderate Rehabilitation (SRO) account, shall be transferred to and merged with the amounts in this account and shall be used for purposes under this account".

On page 45, after line 18, insert the following:

"(d) Public and Assisted Housing Rents, Income Adjustments and Preferences.

"(1) Section 402(a) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal year 1997" and insert in lieu thereof "fiscal year 1998.

"(2) Section 402(f) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal years 1996 and 1997" and inserting in lieu thereof "fiscal years 1997 and 1998".

On page 47, beginning on line 24, strike out "Account Transition" and all that follows through line 7 on page 48, and redesignate the sections accordingly.

On page 51, line 11, insert before the period "or demolition".

"HOME PROGRAM FORMULA

"SEC. 217. The first sentence of section 217(b)(3) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation" and inserting in lieu thereof the following: "jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation".

Mr. BOND. Mr. President, I think this should take care of the amendments for tonight. In the managers' amendment, the first item is a technical correction to EPA language related to cross-collateralization of State revolving funds. The language has been requested by the Environment and Public Works Committee.

The second item, requested by Senators MACK and GRAHAM, is to enable the State of Florida to use funds obligated and available to the State of Florida under title II of the Clean Water Act to make a grant to Monroe County, FL. This is budget neutral, and similar to other amendments on VA-HUD bills.

Third, this would ensure that the Council on Environmental Quality use only those resources provided to its direct appropriations to support its activity.

The fourth item deletes the prohibition on FEMA disaster relief expenditures relative to beaches. It is expected that the authorizing committee will be addressing this shortly.

There is another amendment, a very important amendment, on page 16, which readjusts the section 8 contract renewal account from $9.2 billion to $8.666 billion, as provided by the Budget Committee, to put the bill in compliance with the budget resolution and the 602(b) allocation.

The sixth amendment limits locality pay increases for VA employees found guilty of sexual harassment.

The seventh amendment makes $1 million available in transition funds for the Neutral Buoyancy Simulator Program.

The eighth amendment authorizes HUD to bar persons violating the Indian block grant housing program from participating in the program in the future.

The other eight amendments are truly technical amendments. The HOPE Six account, the preservation account, McKinney homeless account, PHA account, account structure, demolition grants as part of HUD multifamily disposition authority, and grandfathering all existing home jurisdictions for home funding allocations.

Mr. President, I ask my ranking member if there are any further items that she has.

Ms. MIKULSKI. Mr. President, this side of the aisle has no additional amendments to add to the managers' amendment.

Mr. BOND. Mr. President, I gather we are ready to move to adoption of the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 956 through 960) were agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEMA

Mr. GREGG. Would the Senator from Missouri yield for a question?

Mr. BOND. I would be glad to yield.

Mr. GREGG. Would the chairman of the Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development and Independent Agencies agree that the Federal Emergency Management Agency should act in a swift manner to settle its account with the Rockingham County jail in Brentwood, NH? As the Senator from Missouri may know, the county jail sustained flooding of more than 3 feet of water during a storm this past October. The county has been looking to FEMA for reimbursement of 75 percent of the damage it usually covers when there is a disaster.

Mr. BOND. Has FEMA settled any of this?

Mr. GREGG. Yes, the county has received roughly $150,000 from FEMA, but there is still about $178,000 outstanding. Most of the money paid to Rockingham County came only after a meeting this past March 3, which I hosted in my office with officials from FEMA and Rockingham County Commissioner Tom Battles. At that meeting, we were encouraged by FEMA that the outstanding balance would be settled within the next few months after some more flood mapping was conducted. With adequate time having passed and a new fiscal year on the way, it is only fair to Rockingham County and the State of New Hampshire that this issue be settled as budgets have to be structured.

Mr. Bond. I would say that I do agree that FEMA should work very quickly on this.

PARTICULATE MATTER RESEARCH

Mr. BROWNBACK. Mr. President, the VA-HUD-Independent Agencies appropriations bill for fiscal year 1998 that we are considering today allocates $35 million in the administration's budget request for research on the public health effects of airborne particulate matter. I have an amendment that simply states that these studies employ some basic sound scientific methods. This is an extremely important provision, but I would withdraw my amendment, if we could engage in a colloquy to assure that the issue will be addressed in conference.

This language will be an important part of assuring that we protect public health. Last week, the EPA finalized its rule on particulate matter. Many have questioned the science behind this rule and a great deal of uncertainty exists over the effect of particulate matter on public health. As we reach this juncture, we must remember the reason for this standard: to enhance public health. The only way we can be sure that the standard will, in fact, provide the desired benefits is through sound science. Lacking sound science, we may end up with standards that don't provide any benefit, but cost the public dearly. While we often hear about costs on industry, we must remember that those costs are passed down to individuals in the form of higher prices and higher State and local taxes. When individuals truly gain significant benefits from a standard, they are indeed better off. However, if we raise their costs for nothing or little in return, we simply make them poorer and less able to pay for basic necessities, such as health care. Last week you may recall, one District of Columbia woman died in her apartment because of the heat and the fact that she could not afford air conditioning. Such stories remind us that poverty represents one of the greatest risk to public health. Hence, we should make sure that new regulations do not simply make people poorer. If we don't pursue sound science, we may impose regulations that actually decrease public health. By demanding that particulate matter research relies on the best available scientific methods, we can gain better knowledge over the impacts of the regulations and reform them to assure that we are actually enhancing overall public health.

Mr. BOND. I thank my colleague from Kansas for his comments. In a memorandum from the President to the Administrator of the Environmental Protection Agency that accompanied this rule, the President committed that no new controls on businesses would be imposed until the science behind this rulemaking is reviewed 5 years from now. The results of this research will help in that decision. This is why the bill almost doubles funding for particulate matter research over last year's level.

Mr. BROWNBACK. I thank the Senator from Missouri for recognizing the importance of these studies and my recommendation. Given the significance of this research and overall limitations on funding, I think it is important that we are assured that the research will include those studies that will help us determine whether a cause-effect relationship exists between exposure to particulate matter and adverse health impacts. These include: First, controlled inhalation studies that will allow us to determine the effects of exposure to particulate matter at different concentration levels and the mechanism by which particulate matter could affect health; second, prospective epidemiology studies based on individual exposure measurements that will allow us to better examine the role of possible alternative causes of the measured increase in risk; and third, the relationship of outdoor, indoor, and personal exposures to particulate matter. Without these types of studies, we may not be any further along in resolving the scientific uncertainties associated with this rulemaking. I further believe that the results of this research should be made available for independent scientific review.

Mr. SHELBY. If my colleagues would yield for a moment, I would like to endorse the well-reasoned recommendations made by the Senator for Kansas. The recently issued particulate matter rule is troubling given the scientific uncertainties and the significant costs that will be imposed on the government, citizens, and businesses in Alabama—and in the rest of the Nation—that are already struggling to meet the air quality standards required by the Clean Air Act Amendments of 1990. The cost of implementing the new particulate matter standards is staggering, especially considering the questions that remain about the actual public health benefit. Further scientific examination of the matter is necessary prior to placing additional economic burdens on the American public. Premature implementation of the standards could be far more damaging to the Nation and I strongly recommend taking the time to fully review the scientific basis of the rulemaking.

Mr. BOND. My colleagues from Kansas and Alabama are correct. these studies are critical to determining whether the EPA's rulemaking is appropriate. I concur with the Senators in the importance of this research and ensuring that the particular research projects funded address the most critical questions associated with particulate matter exposure.

Mr. BROWNBACK. I also believe it is important that the research program include funding for the reanalysis of the American Cancer Society study on particulate matter that was used as the basis for EPA's risk estimate. My understanding is that the Health Effects Institute, an independent research organization that is already reviewing some of the epidemiology data, is willing to undertake this reanalysis and has received permission from the American Cancer Society, but currently lacks adequate funding to do a complete reanalysis.

Mr. BOND. I thank my colleagues for their recommendations. This will be an important issue to address when we go to conference with the House.

LYONS VA MEDICAL CENTER

Mr. LAUTENBERG. Mr. President, I would like to express my support for a provision in the House version of the fiscal year 1998 VA–HUD appropriations bill to provide $21.1 million in funding for the construction of an ambulatory care addition at the Lyons, NJ, VA Medical Center. This facility is sorely needed by the veterans in New Jersey, and I hope the Senate will recede to the House on this issue during the conference.

The Lyons VA Medical Center serves nearly 75 percent of New Jersey's veterans, and this funding will provide vital medical care for veterans who receive care on an outpatient basis. It will provide for necessary construction and renovations to enhance Lyons' clinics, diagnostic and treatment services, emergency department, and support functions. The funding will make a significant contribution to improving the access to quality medical care by New Jersey's veterans.

At a time when New Jersey's aging veteran population has an increasing need for VA health care services, we have an obligation to ensure that their health care needs are met. As a member of the VA–HUD Appropriations Subcommittee, I urge my colleagues on the committee to include this funding in the conference agreement.

Mr. BOND. As the Senator from New Jersey is aware, the outcome of the conference cannot be forecast. However, I will give strong consideration to the funding for the Lyons VA Medical Center ambulatory care addition in conference.

Ms. MIKULSKI. I, too, appreciate the Senator's support for the ambulatory care addition at the Lyons VA Medical Center, and I will join Senator BOND in doing all I can to support this funding during the conference.

PLANT GENOME INITIATIVE

Mr. BOND. Mr. President, I bring to the attention of my colleagues a provision in this measure which directs $40 million to begin the new plant genome initiative to help keep U.S. agriculture on top in the 21st century. The United States currently has a robust Federal investment in biotechnology in the human health field. While this remains a national priority, I think it is critical that we begin building on the common foundation in basic science to bring the power of biotechnology to bear in agriculture. We cannot sit idly and expect to remain the world's leader in agriculture production. U.S. agriculture currently exports a record $60 billion in agricultural products with a net trade surplus of $30 billion. This is about the long-term sustainability and competitiveness of U.S. agriculture which means that it is about meeting the world's growing nutritional needs, protecting U.S. jobs, and preserving the environment.

The future of corn and other plant species is written in the genetic code and genome mapping will give us the precise locations of genes that control important traits that can be manipulated to make corn and other vital commodities more drought tolerant; freeze tolerant; tolerant to certain chemicals, weeds, or bugs; disease resistant; less toxic and more digestible which is critical because it could lower phosphorous and nitrogen levels in animal waste.

This action incorporates the initial recommendations of the interagency working group on plant genomes [IWG] which was formed recently at my request to develop a scientific and administrative consensus on how best to accomplish this ambitious new effort to address the needs of 21st century. The world population wants more food, less expensive food, more nutritious food, and they want it produced on less land in a more environment-friendly way. In this half century, we have seen U.S. agriculture double production by utilizing new technologies. Biotechnology will be the key in the next century to meet the needs of a world population which is expected to double in the next 30 years while protecting the world's natural resources.

According to scientists, today, biotechnology makes it possible to enter the genetic world of plants to gain a greater degree of control over the selection of genes than was possible with traditional breeding. It is now possible to locate the genes for certain traits, cut them from one organism, and paste them into another, even if the target organism is of another species. In order to accomplish a genetic transfer between organisms using biotechnology, scientists have to be able to find the location of the genes that control a given characteristic, such as size, color, or resistance to disease. This new initiative seeks to provide a map of these locations so that scientists and producers can capitalize on this vast potential to benefit humankind and the environment.

The original idea was introduced to me by the Missouri Corngrowers Association who presented a comprehensive business plan to map the corn genome devised by the National Corngrowers Association working in conjunction with private and public scientific experts. With this additional money provided in this legislation the initiative can be expanded beyond corn to include other economically significant crops such as rice, soybeans, and wheat. After consulting with a number of scientists in Missouri and elsewhere, I have concluded that this is the kind of research that will unlock the information which holds the promise of addressing dramatically the challenges facing the world in the coming century. My hat is off to those who argued convincingly that this blockbuster initiative is vital to address the economic, nutritional, and environmental needs of the next century and worthy of blockbuster support from the Federal Government. I also applaud the administration's IWG for their strong support in beginning to formate the most scientifically and administratively feasible way to proceed so that we can maximize the return on the taxpayers' investment.

The IWG on plant genomes which was empaneled at my request to make recommendations on the plant genome initiative, consists of representatives from the Department of Agriculture, National Science Foundation, National Institutes of Health, Department of Energy, Office of Science and Technology Policy and the Office of Management and Budget. In its recently-released report, while funding sources were not identified, the value of this initiative was validated and recommendations were advanced to provide for international cooperation, private-public partnerships, and open public access to all the information discovered. The money awarded under this act will be done so by the National Science Foundation on a competitive basis with peer review.

Finally, I note that it is imperative that work continue to be done to integrate this initiative into the interagency effort that the IWG recommends. This means that the U.S. Department of Agriculture will have to work with us on coordinating their efforts with NSF and other agencies and they will have to provide recommendations on additional sources of funds for the effort within their budget.

PLANT GENOME RESEARCH

Mr. GRASSLEY. Mr. President, I commend my colleague from Missouri, the chairman of the VA/HUD Appropriations Subcommittee, for his foresight in providing funding through the National Science Foundation for plant genome research. This is a critical program for American agriculture involving a meaningful amount of money—$40 million—to advance work on plant genome projects for farm crops that contribute significantly to our economy. It has been my pleasure to work with Senator BOND for some time on the plant genome mapping effort.

Iowa is a national leader in the production of corn and soybeans. These two crops are mainstays of the Iowa economy. In order to remain competitive in the world market, we need to understand in increasing detail what the genetic mechanisms of these crops are and how they work. Researchers in many fields can use the results of the genome mapping effort to enhance these crops. The genome mapping research results will help us to understand new and better ways to increase crop yields, discover new uses and products, better the health of the plant by reducing risks to disease and pests, and to help protect the environment. This bodes well for the corn grower and soybean producer by increasing the value of the crop and, thus, increasing farm income.

I will continue to work with Senator Bond to see that this effort receives proper funding both through the NSF and the Department of Agriculture. An interagency effort, along with a strong, effective, meaningful public/private partnership is key to the ultimate success of the plant genome mapping project. We must also be aware of international genome mapping efforts. Where possible it is necessary to cooperate with those efforts.

Mr. KERREY. Mr. President, I rise today to support the National Science Foundation plant genome initiative that is funded in the VA/HUD, Independent Agencies appropriations bill. I want to commend Senator Bond, chairman of the appropriations subcommittee, for his leadership in developing this initiative. This project will be funded with new money and will not affect current NSF programs.

The plant genome initiative, as included in the bill, is an expansion of the current, NSF Arabidopsis genome project to map and sequence the Arabidopsis genome. The plant genome initiative will advance the current Arabidopsis project and will move us beyond the current programs to more economically significant crops, such as corn, soybeans, wheat, and rice.

To compete in the global market, U.S. agriculture must continually strive to efficiently and economically improve production capabilities—such as combating serious threats from disease, pests, and climate changes—without harming the environment. The plant genome initiative will provide us the information necessary to significantly improve the environment and reduce crop and livestock production costs at the same time. It is a win-win project for producers, for consumers, and for the environment.

This project will give us the basic, fundamental knowledge necessary to ensure that our consumers continue to receive an abundant supply of high quality, wholesome food at reasonable prices. To meet the growing demand for U.S. agricultural products, we will need to increase production approximately three-fold in the next 50 years. The plant genome initiative will set us on the right path toward meeting that goal without harming the environment.

The plant genome initiative will have other far-reaching benefits, as well. It may lead to significant reductions in crop losses while also reducing our reliance on pesticides. It will allow us to improve animal nutrition to increase meat productivity. It will, also, allow us to meet consumer demands for higher quality food at reasonable prices. These are just a few of the benefits that are possible with the plant genome initiative.

I, again, want to commend Senator Bond for his foresight in providing funding for the building of a foundation that will allow us to meet the challenges of the 21st century. Mr. President, this initiative is critically important to U.S. consumers and to U.S. agriculture. I urge my colleagues to support the NSF plant genome initiative as included in the VA/HUD appropriations bill.

MARK-TO-MARKET

Mr. MACK. I would like to commend Senator Bond for addressing the section 8 contract expiration issue by including S. 513, the Multifamily Assisted Housing Reform and Affordability Act of 1997 in the VA/HUD appropriations bill. This legislation, which is cosponsored by my colleague from Missouri and Senators D'Amato, Bennett, Domenici, Faircloth, Grams, and Chafee, is a national priority for reforming the Department of Housing and Urban Development's [HUD] multifamily housing programs and reducing the escalating costs of project-based section 8 renewals. According to preliminary estimates by the Congressional Budget Office, this legislation will save the American taxpayer about $4.6 billion in section 8 funds over the next 10 years. This legislation not only saves scarce Federal resources, it also protects the Federal investment in affordable housing by screening out distressed properties and noncompliant owners from the Federal programs and addresses HUD's management problems with this portfolio by utilizing capable public and private third parties.

It is critical to enact this legislation into law this year. The Banking Committee unanimously approved S. 513 as part of its budget reconciliation package this June. Unfortunately, the Senate and House subconferees were unable to come to an agreement on this legislation and subsequently, it was dropped out of the reconciliation package. Accordingly, I will continue to push this legislation and strongly support Senator Bond's effort in passing S. 513 as part of the appropriations bill.

When Secretary Cuomo testified before the Banking Committee on S. 513, he raised several concerns about the restructuring process outlined in the bill. But he also indicated his willingness to address those concerns through negotiations with the Senate. I want to point out that significant progress has been made to address the administration's concerns with the bill. Two major areas where agreement was reached relate to the use of third parties or participating administrative entities [PAE] and the use of tenant-based assistance. On the use of PAE's, HUD has agreed to maintain the Senate's priority for State and local housing finance agencies to serve as restructuring entities. However, the Senate has agreed to provide additional flexibility to the Secretary in selecting qualified PAE's while protecting the public purpose. Also, the Senate and administration have agreed to provide discretion to PAE's in determining whether tenant-based or project-based assistance will be provided for qualified properties after restructuring.

I would like to ask Senator Bond for his assurance that, as this process moves forward, he will endeavor to assure that the agreements made with the administration are incorporated into the bill.

Mr. BOND. I congratulate Senator Mack for his work in developing a workable solution to the section 8 contract renewal problem, and also Secretary Cuomo for his willingness to work with the Senate. Needless to say, it is my hope that this issue still can be resolved in budget reconciliation or through the regular authorization process. However, if it becomes necessary, we will pursue this issue through the appropriations process. I look forward to working with the Banking Committee as we move forward and I will endeavor to include any changes that are based on agreements between your committee and HUD. It is likely that those agreements would be incorporated during the conference with the House.

As a member of the Banking Committee during the last Congress and as a cosponsor of the bill, I appreciate the work that the authorizing committee has done on this legislation. Multifamily portfolio restructuring is an urgent priority. I look forward to continuing our work together in resolving the contract renewal crisis.

Mr. MACK. I thank the Senator very much for his work and dedication to this issue. I look forward to our continued cooperative effort in resolving this critical issue.

Ms. SNOWE. Mr. President, I would like to take a moment to address my colleagues on a matter of critical importance to veterans in the Northeast. First, I would like to express my appreciation to the Appropriations Committee and the VA–HUD Subcommittee for their hard work on this bill.

This package contains over $40 billion for the VA, including an increase in funding for VA medical care and research. The committee's recommendation for the VA represents an increase of almost $93 million above the President's budget request. The committee rejected the budget agreement recommendation to reduce VA discretionary funding by $273 million below the President's fiscal year 1998 request, arguing that such a reduction would result in fewer eligible veterans receiving comprehensive medical care, reductions to basic maintenance and repair of medical facilities, and additional delays in the processing of benefits claims. The committee stated that the outcome of such budget reductions would be completely unacceptable. I strongly agree with this sentiment, and I would like to congratulate my colleagues on their efforts.

In this spirit, I would also like to comment on changes in the VA health care system affecting a number of veterans health care facilities in the Northeast and elsewhere.

Under the new regional allocation formula being implemented by the VA, the New England network could be cut by as much as 6.36 percent from its fiscal year 1996 funding level. I realize that the New England region cut may actually be lower than the 6.36 percent over 3 years originally projected, and the numbers will be reevaluated every year. However, under the new allocation plan, many States will lose funding while others will receive considerable increases.

The VA says there will be no reduction in services to veterans in facilities experiencing cuts and that cost-savings achieved through consolidation of operations and greater efficiencies in the system will make up for the shortfalls. However, it is not clear whether this will, in fact, be the case. I appreciate the fact that the committee is waiting for the results of a General Accounting Office study, due in September, on the allocation formula. I think it is very important that we ensure that funding under this new system is fair and equitable.

Maine has a very large veterans population—152,000—dispersed throughout the State. Togus is the only veterans community hospital in my State to serve this population. Currently, Togus provides services almost exclusively to mandatory—category A—veterans. In fact, less than 1 percent of Togus' services go to nonmandatory veterans. Togus cannot be viewed as overfunded compared to other VA medical facilities. And yet, this facility, which has already made great strides in increasing efficiency and rooting out waste, may experience a reduction in funding under the new allocation formula.

I believe there is a limit to the kind of restructuring that some of these facilities can be expected to absorb without undermining the quality of care and the availability of basic services. Moreover, I am concerned that a redistribution of funds away from New England presents a potential danger that the programs under the draft strategic plan could be underfunded.

I would remind my colleagues once again that the Senate Appropriations Committee rejected the budget agreement recommendation to reduce VA discretionary funding by $273 million below the President's fiscal year 1998 request because such a reduction would result in fewer eligible veterans receiving comprehensive medical care

I strongly believe that each veteran must be treated with the dignity and respect he or she deserves by virtue of having worn our Nation's uniform, and we have a commitment to ensure that all veterans receive the benefits they deserve.

A fair allocation of VA resources must take into account the regional impact of all of the regional networks. As such, I look forward to working with my colleagues in the Senate and in the House to ensure that the bill we send to the President provides a fair and equitable allocation of funding for VA hospitals.

COMMUNITY OUTREACH PARTNERSHIP CENTERS PROGRAM

Mr. D'AMATO. Mr. President, I rise today in support of my friend, Senator KIT BOND and his efforts to include funding for important community development programs within the VA-HUD Appropriations Act for fiscal year 1998. In particular, I would like to highlight the provision of $12 million for the Community Outreach Partnerships Centers [COPC] program. I commend the subcommittee for its diligence in funding this program at this level.

The COPC program provides assistance to public or private nonprofit institutions of higher education for a wide range of community outreach activities. These colleges and universities may utilize COPC funds to address a variety of local needs, including housing, economic development, neighborhood revitalization, job training, and crime prevention. The program thus utilizes and leverages the enormous resources of our institutions of higher learning to establish partnerships with local neighborhoods and communities to solve their common problems.

Mr. President, I would like to applaud the outstanding community outreach efforts of Long Island University [LIU] located in my home State of New York and bring these efforts to the attention of the Subcommittee on VA-HUD Appropriations. Long Island University, founded in 1886, has a current enrollment of 24,000 students and conducts a variety of community oriented programs at each of its six New York campuses.

LIU's various community outreach programs at its Brooklyn campus are particularly successful and well suited to the COPC program. For instance, the university operates a number of educational programs for senior citizens and New York City school students, including underprivileged and minority students. In addition, the university operates a small business development institute, a speech and pathology clinic which serves needy persons with disabilities free of charge, and a collaborative career development and cooperative education initiative.

Mr. President, Long Island University has an outstanding track record of community involvement. It has formed successful partnerships with State and local governments, including the New York City Board of Education, as well as community and business groups. It has successfully leveraged additional funding from a wide variety of sources. I believe that its activities are a successful example of positive and constructive change within the community.

I thank Senator BOND for his efforts and I commend the community outreach activities of Long Island University as a model for funding under the COPC program.

Mr. BOND. Mr. President, I appreciate my friend Senator D'AMATO's kind words in support of the VA-HUD appropriations bill. The subcommittee is aware of the extensive community oriented programs of Long Island university. The university is to be commended to HUD as a model for successful involvement within the surrounding community and is worthy of consideration for funding under the Community Outreach Partnerships Center Program.

Mr. GRAHAM. Mr. President, I am pleased that once again the Senate has chosen to continue our Nation's commitment to the future through the exploration and study of space. Especially as we stand here today knowing that the Sojourner Rover continues its unprecedented exploration of the surface of Mars. NASA is now turning its attention to the many new missions scheduled for future, including the construction of the international space station. Mr. President, we must continue to invest in this pursuit of knowledge.

No one can predict the outcome of our investment in the space program, but one thing is certain, and that is generations to come will benefit from the knowledge and experience gained from the investment we have made, and continued exploration of space will present many more opportunities to learn.

First, the space program will provide significant contributions not only to Americans, but people all around the world. We have already seen results of space-related research in life science. Recently I learned of a NASA technology which is now being used to help diagnose vision problems in our children. This coming school year, the

State of Florida will be using this technology to screen all students in kindergarten. By discovering vision problems at such an early age, we will prevent many of these children from falling behind because of undetected impairments. This type of commercial application of NASA born technology is virtually limitless.

Second, our Nation's leadership role in high technology research and development must be maintained and enhanced. The aerospace industry is a significant area of America's international competitiveness.

Third, projects such as the international space station help to continue and expand cooperation among the world's nations. Our collaborative efforts with the Europeans, Japanese, and Russians only serve to strengthen our relations in a global community. Our space program enables us to exchange exciting ideas with the world, and accelerate the pace of our own technology and space exploration.

Mr. President I believe that these are very compelling reasons for continued support of our space program. NASA deserves our support. Congress and the administration should provide the appropriate resources needed for NASA to successfully manage and enhance our space program. We must invest in our future, and invest in ourselves.

PILOT PROGRAM FOR AFFORDABLE DRUGS FOR THE TERMINALLY ILL

Mr. KOHL. Mr. President, I rise to address a critical need in our society, the need for affordable health care for the terminally ill. Today, in the fiscal year 1998 Treasury and general government appropriations bill, a bill which I otherwise supported, I believe we did a disservice to those suffering from the HIV virus, cancer, and other terminal diseases. We failed to authorize a pilot program which might have severely reduced the cost of essential, and at this time very expensive, drugs which significantly prolong patients' lives and enhance their quality of life.

The Treasury and general government appropriations bill includes a repeal of section 1555 of the Federal Acquisition Streamlining Act of 1994. This so-called cooperative purchasing provision would have allowed local governments to purchase items from the schedule of prices established by the Government Services Administration [GSA] for the Federal Government. On the face of it, this provision had some appeal, as a measure that might save money for local governments. However, many argued that section 1555 would bankrupt small businesses, increase all prices in the long term, and undermine the reliability and safety provided by a local manufacturing and distribution network. The concern about section 1555 was widespread and profound and, therefore, I supported a repeal of the provision. However, I favored one exception, which would address a critical need and give us a chance to observe the effects of section 1555. I favored the authorization of a carefully defined pilot program in cooperative purchasing of drugs for terminally ill patients.

Public hospitals in cities and counties throughout the United States are desperate to reduce the cost of health care for the terminally ill. Last year, the Nation's largest city, county, and State hospitals lost an average of $86 million per year by providing care to uninsured an underinsured patients. To avoid closure or bankruptcy, many of these institutions have to limit their more expensive services, such as the new generation of life-prolonging AIDS drugs. At the same time, many AIDS patients are deprived of adequate care because they cannot afford $15,000 per year for AIDS drug therapy. State and local programs must purchase these drugs for them.

The Department of Health and Human Services has agreed to coordinate a pilot program which would enable State and local governments to benefit from Federal Government rates when they purchase drugs for life-threatening conditions. Recent studies suggest that this could save public hospitals more than 25 percent of their current expenditures on these essential drugs. These savings would, in turn, make it possible for hospitals to help more Americans battling against terminal illness.

I think we all agree that the terminally ill and those who serve them deserve our support in making their medical care more affordable and available. At the same time, I am acutely aware of the concern of veterans' groups and others that this kind of program could eventually result in higher health care costs for all. Therefore, this pilot program would be narrowly focused and of finite length. I encourage concerned groups to contribute suggestions as we define those program constraints. Furthermore, I acknowledge that this pilot program may fail. If so, we will have learned from our error. If the program works, however, if it truly brings down the costs of life-prolonging and potentially life-saving drugs, could we live with ourselves if we refused to give it a chance?

DRUG ELIMINATION GRANT PROGRAM

Mr. D'AMATO. Mr. President, I would like to state my strong support for the VA-HUD Subcommittee's efforts to support funding in this legislation to combat the twin scourges of drugs and crime in low-income housing throughout the Nation. I am greatly encouraged by the subcommittee's action in maintaining $290 million in funding for the Drug Elimination Grant Program.

Under this important program, the Department of Housing and Urban Development [HUD] makes funds available to local housing authorities for the purpose of combating and preventing crime, including drug-related crime. Housing authorities have great flexibility in determining how best to use these funds to address local needs. Many authorities have used drug elimination funding to create and expand community policing efforts, to make capital improvements to improve security, to fund drug awareness, prevention, and treatment programs and to organize tenant patrols and neighborhood watch programs.

I am also fully aware of the subcommittee's inclusion of $30 million for the New Approach antidrug program and I strongly support this provision. This funding will be available to help combat drugs and crime in non-federally assisted low-income housing which is too often overlooked in the traditional public housing programs.

However, I would like to state my concern with one aspect of the structure of the account which provides funding for the Drug Elimination Program. This troubling aspect is the expansion of a set-aside for the Operation Safe Home initiative, administered by the HUD Office of Inspector General, within that account. Let me be clear, I do not question the effectiveness or usefulness of the Operation Safe Home initiative. This initiative has had gratifying success in confiscating guns and drugs from public housing.

However, I am concerned with the source of funding for this initiative. By reducing the amount of funding available for drug elimination grants, we are effectively cutting into local efforts to combat crime and drugs. As chairman of the Senate Banking Committee, the committee with authorizing jurisdiction over the multitude of HUD programs, I was pleased to cosponsor S. 462, the Public Housing Reform and Responsibility Act of 1997. This legislation, which was passed out of the Banking Committee on May 8, 1997 by a unanimous 18 to 0 vote, contains an important provision which would allow funding for the Operation Safe Home initiative to be provided from the HUD headquarters' reserve fund. I am convinced that this is a far more appropriate funding vehicle for this initiative.

Like many other important HUD programs, such as public housing operating assistance and housing for the elderly and disabled, the administration requested a cut in the Drug Elimination Grant Program. This proposed $20 million cut would occur as a result of a set-aside within the program to fund the HUD inspector general's Operation Safe Home initiative.

Mr. President, I am grateful that the VA-HUD Subcommittee did not follow the approach adopted in the House, and instead reduced the administration's recommended cut of $20 million to a $15 million cut. However, I believe that even this reduced cut in antidrug funding is too much and the full amount should be restored to the program.

I express my wish to continue to work with the VA-HUD Subcommittee as we move toward conference with the House of Representatives on this important legislation. I am confident that attempts to increase this set-aside at conference will be unsuccessful and I am hopeful that together the Banking and Appropriations Committees can agree upon a more appropriate source of funding for the Operation Safe Home initiative.

Mr. President, in conclusion, let me once again thank my good friend Senator BOND for his leadership and diligence in crafting a VA-HUD appropriations bill which makes tough choices with the limited amount of funds available. I look forward to working together as the process continues.

SELF-HELP HOUSING

Mr. D'AMATO. Mr. President, I would like to express my appreciation to Senator KIT BOND for his efforts to provide funding within the VA-HUD Appropriations bill to expand homeownership activities through the Department of Housing and Urban Development [HUD]. In this regard, I note with particular appreciation the provision of $30 million in funding for the Capacity Building for Community Development and Affordable Housing program.

This program was expanded and reauthorized by the Housing Opportunity Program Extension Act [HOPE Act], which I was pleased to sponsor. It provides an unparalleled opportunity to support local housing and homeownership initiatives. Specifically, the HOPE Act provided for the support of housing organizations which utilize a self-help approach to homeownership opportunities.

Mr. President, I would like to commend and bring to the attention of the VA-HUD Appropriations Subcommittee the outstanding efforts of one particular self-help housing provider located in my home State of New York. The Riverhead Revitalization and Preservation Corp. [Riverhead Corp.], under the guidance and leadership of Ms. Patricia Stark, utilizes donated labor from volunteers and potential homeowners to develop and rehabilitate homes on Long Island, NY.

The Riverhead Corp. is helping to reverse the decline of neighborhoods by renovating blighted homes and providing a stake in the community for first-time homeowners. In addition, the Riverhead Corp. employs a revolving loan-fund strategy which reinvests proceeds from home sales in the further development of housing opportunities. Thus, the Riverhead Corp. helps to stimulate community revitalization, promotes job and business creation, and provides housing for deserving low- and moderate-income working families.

I commend the efforts of the Riverhead Corp. to the Subcommittee and to HUD as a model of success which would be worthy of support under the self-help homeownership auspices of the Capacity Building program funded by this legislation. Once again, I would like to thank Senator KIT BOND for his efforts to support increased homeownership throughout the Nation.

Mr. BOND. I thank Senator ALFONSE D'AMATO for his support of this VA-HUD Appropriations legislation and for our joint efforts to bring the benefits of homeownership to as many American families as possible. The subcommittee recognizes the local efforts of the Riverhead Corp. Revitalization and Preservation to increase access to homeownership on Long Island, where I know housing and development costs can often be prohibitive. I urge the Department of Housing and Urban Development to seriously consider any application for assistance on the part of the Riverhead Corp. under the Capacity Building program initiative. I too commend the Riverhead Corp. for its successful and innovative efforts to improve communities and enhance homeownership opportunities.

VETERANS PROGRAMS

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans Affairs, I am pleased to express my support for S. 1034, the fiscal year 1998 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies appropriation bill, and most particularly for title I, the part of the bill dealing with VA.

I realize that this has again been a very difficult year for funding issues, with a reduced 602(b) allocation, agency spending being cut by reconciliation measures, and increased competition for what limited funding remained available. The Chair of the VA-HUD Subcommittee, Senator BOND, the ranking member, Senator MIKULSKI, and the other members of the subcommittee deserve credit for their remarkable efforts with regard to veterans' needs, as evident in this bill.

Mr. President, I remind my colleagues that the budget resolution included proposed reductions in VA spending below the current fiscal year 1997 level, and below what is generally considered the current services level. At the time that the Senate passed the balanced budget resolution, I took strong exception to the proposal funding for veterans. In my view, the budget resolution asked veterans to carry a disproportionate share of the burden to balance the Federal budget. Realizing, too, that slashing discretionary spending—especially for health care—was inappropriate, the Committee on Appropriations [Committee] saw fit to alter the spending priorities for veterans. Instead, the committee was able to increase funding for VA medical care, research, and the State Veterans Home Program. This is a tremendous achievement. While I would always want to increase support for veterans programs further, I am enormously pleased with the result of their efforts, and would like to highlight several accomplishments in particular.

For health care, the committee recommended $17.02 billion for VA medical care, an increase of $68 million over the President's request. The committee also recognized that VA is to retain, under new authorizing legislation which is part of the budget agreement, the so-called medical care cost recovery [MCCR] collections estimated to reach $604 million in fiscal year 1998. Because collections of these third-party receipts has grown from $267 million in fiscal year 1991 to over $557 million in fiscal year 1996, I am encouraged by VA's ability to generate non-appropriated revenue. I note with caution however, that VA's outpatient billing remains problematic. Along with my colleague, Senator MIKULSKI, I intend to be attentive to VA's collection activities.

When combined, the committee's recommendation and the authorization for the retention of insurance moneys bring total discretionary resources for medical care to $17.6 billion. As we proceed with Senate approval of the VA appropriations bill, it is important to note that this amount constitutes an increase of $617 million over current spending.

I am also particular gratified by the committee's report language on the need for a community-based outpatient clinic [CBOC] in Charleston, the capital of my home State of West Virginia. Indeed, the committee noted that a Charleston CBOC would improve service to more than 27,000 veterans in Kanawha and surrounding counties, including Boone, Putnam, Lincoln, and Logan. Thousands of these veterans reside in rural areas, many miles from the nearest VA medical center. Many of them live in areas with no public transportation, where just a trip to the doctor can take several hours of driving time on winding, mountainous roads. A VA outpatient clinic in this part of West Virginia is long overdue.

Throughout my tenure on the Committee on Veteran's Affairs, I have witnessed the direct benefits of a strong research program, such as higher quality clinicians and discoveries in prosthetics, cancer, AIDS, and aging. These discoveries directly affect the everyday activities of veterans. After several years of flat funding, I believe that the time has come to increase the VA research appropriation. The Appropriations Committee agreed and included an increase in the VA medical and prosthetic research account. Although the increase—$5 million—is modest, it sends an important signal to the VA research community that we value their work and the direct impact it has on our veterans.

The increase in research funding will help support important work on the health problems of atomic veterans, Vietnam-era veterans, and gulf war veterans. Over the years, we have witnessed the emergence of special health problems associated with each war. In response, VA researchers have made important gains in the understanding of each of these populations and their clinical needs. Their challenges continue, and we must make sure that their research efforts are well supported.

I also express my strong support for the committee's action to fully fund the Court of Veterans Appeal's Pro Bono Representation Program. This program is of utmost importance to our Nation's veterans. At a time when the court is experiencing a dramatic increase in the number of appeals filed, it would be devastating to cut the funding of a program that matches up pro bono attorneys with indigent veterans. It is a small program, but it's impact is great. In fact, the Pro Bono Program will be assigning its one thousandth case to a pro bono attorney on July 24, 1997.

Mr. President, although I am pleased with the overall outcome of this bill, I have concerns about the effect of the bill's appropriation for VA's general operating expenses account. The bill provides for $786 million, which is $41 million below the current budget and $60 million below the budget request. This is a significant cut for VA to absorb, especially at a time when it is still taking VA an average of 135 days to process an original compensation claim. However, as we strive toward deficit reduction, Congress cannot continue to throw money at problems in the absence of effective leadership at agencies to bring about the change that is needed. Sadly, that absence has been profound at the Veterans Benefit Administration in recent years. It is time for VA to manage the benefits process, not just administer it. It is past time for VA to change, in major ways, beginning with the implementation of many of the recommendations contained in the recent reports of the Veterans' Claims Adjudication Commission and the National Academy of Public Administration.

Mr. President, there is no doubt that this is a very exciting time. VA has the potential for meaningful change. Whether it is in the area of a medical care or benefits administration, I believe that, on balance, the Committee on Appropriations has given VA the resources it needs to move forward with much needed reforms. I applaud the leadership of all the members of the Appropriations Committee, and especially those members on the VA-HUD Subcommittee.

Mr. President, in closing, I express my deepest gratitude to my esteemed colleague, Senator MIKULSKI, the ranking Democrat on the Senate VA-HUD Subcommittee, for her continued efforts with respect to veterans' programs. This year, as she does every year, Senator MIKULSKI has shown her unwavering support for veterans. I am pleased to call her my colleague and friend.

CSOC

Mrs. HUTCHISON. I would like to engage the Senator from Maryland in a colloquy regarding the intent of report language included on her behalf in the Senate Report accompanying S. 1034, the fiscal year 1998 VA-HUD and Independent Agencies appropriations bill concerning NASA's Consolidated Space Operations Contract.

Ms. MIKULSKI. I would be pleased to engage in a colloquy concerning CSOC.

Mrs. HUTCHISON. Would the Senator agree that it is not the intent of her report language to expand the CSOC procurement to include elements of the Space Flight Operations Contract not presently envisioned to be part of the SCOC contract, as stipulated in the pending request for proposals.

Ms. MIKULSKI. The Senator is correct. The intent of the report language is simply to ensure that NASA include all appropriate common support functions at all NASA centers under CSOC, as defined in the request for proposals.

DON'T UNDERFUND CRITICAL TOXIC CLEANUP

Mr. LAUTENBERG. Mr. President, the VA-HUD and Independent Agencies appropriations bill presents an all too common dilemma—inadequate funds and very deserving programs—and the choices we must make are very difficult indeed.

I appreciate the difficult job the chairman and ranking member had in dealing with an insufficient Section 602(b) allocation.

However, as a strong advocate for our environment, and as ranking on the Budget Committee, I am very disappointed at the level of funding for the Environmental Protection Agency's operating budget. The mark for EPA's operation is $200 million below the President's request and the budget agreement.

I am specifically concerned that we are continuing to add duties to EPA without the accompanying resources. This budget does not provide the funding needed to meet Congress's demands that EPA carry out more cost-benefit analysis in its regulations, for additional outreach to small businesses, and for fuller consideration of stakeholders in the regulatory process.

Nor does it provide adequate funding to combat global warming. Indeed, at a recent Environment and Public Works Committee hearing the only issue on which all the witnesses agreed was the need for more funding for critical climate change research.

I am also disappointed that the mark does not include any funding increase for superfund. I understand the chairman believes that superfund must be reauthorized before that money is appropriated. I disagree with that assessment. However, I am working closely with Senators SMITH, BAUCUS, and CHAFEE and I expect we soon will have a bipartisan bill.

If that bill comes after this appropriations cycle, I will urge my colleagues to support a supplemental that funds hazardous waste clean up to the level in the budget agreement. The millions of people living near superfund sites deserve our efforts to fully fund this program.

I am also disappointed that the chairman's mark zeros-out Community Development Financial Institutions, or CDFI. One hundred twenty-five million dollars was included in the budget agreement. I understand the House included full funding for this important program and I look forward for a better outcome during the conference.

Mr. President, I am very pleased the Appropriations Committee, the members unanimously agreed to my amendment to transfer money for investigations of chemical accidents from EPA and OSHA to the Chemical Safety Board.

An independent Chemical Safety Board, with its expertise and objectivity, is the proper body to investigate and identify steps needed to prevent future accidents. In 1990, Congress established the independent Chemical Safety and Hazard Investigation Board to do just that. The board was modeled on the respected and influential National Transportation Safety Board. As part of its reinventing government program, the administration cut funding for the chemical board and tried to transfer its authority to EPA and OSHA. Subsequent events, including an investigation in New Jersey, show that this reorganization was ill-advised.

By reviving the board, Congress is reasserting its authority and protecting the workers and communities around chemical industrial sites.

I want to thank those who helped revive this board. First, I want to acknowledge the help of Senator BOND and MIKULSKI. I also want to thank the public interest groups, the oil, chemical, and atomic workers, and the companies that have publicly recognized the advantage of having this board. I want to single out for acknowledgment Marathon Oil and the Rohm & Haas Corp. in that regard.

Mr. President, I ask that a letter signed by 19 public interest groups in support of the Lautenberg amendment to fund the Chemical Safety Board be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LAUTENBERG. Finally, I want to thank the Chairman of the Committee for including report language assuring the citizens of Toms River, N.J. that the study of the cancer cluster will be completely carried out. The language in the report underscores the Federal commitment to pursuing the cause of the cancer cluster and making sure this research is completed.

Mr. President, as I close my statement, I want to once again acknowledge Senator BOND and MIKULSKI for the difficult job they did in face of inadequate resources.

EXHIBIT 1

July 17, 1997.

Hon. TED STEVENS,
Committee on Appropriations,
Capitol, Washington, DC.

DEAR CHAIRMAN STEVENS: As members of social justice, environmental, religious, and labor organizations we are writing to express our full support for a $6 million appropriation to fund the Chemical Safety and Hazard Investigation Board. We request your support and that of others on your committee in passing the Lautenberg amendment which would provide this funding.

Modelled after the respected and influential National Transportation Safety Board (NTSB), the Chemical Safety and Hazard Investigation Board (CSHIB) was established by the 1990 Clean Air Act to independently investigate the root causes of chemical accidents and offer recommendations on ways to prevent accidents in the future. However, seven years after its authorization and several years after the confirmation of three of its members, the board is still without funding.

In 1994, the Administration decided that the Board was redundant in light of efforts to reinvent government. Thus, the Board's duties were subsequently passed to two regulatory agencies, EPA and OSHA. To date these two agencies have done an abominable job in investigating chemical accidents. For example, 27 months following a major accident at Napp Technologies in Lodi, N.J., which claimed the lives of five workers, an accident investigation report has yet to be released. This is not the fault of the dedicated compliance personnel in the field. OSHA and EPA are primarily concerned with determining violations of specific standards, not with the kind of comprehensive investigations needed to determine the root causes of major chemical accidents. Further, questions have been raised about the legal jurisdiction of those agencies. For example, following an accident at a Tosco oil refinery in Martinez, Calif., EPA was barred from entering the facility to investigate the accident because the agency could not provide proof of their authority to enter. Finally, jurisdictional problems have plagued the attempt to delegate authority to investigate the causes of chemical accidents within two separate agencies

The Chemical Safety Board, on the other hand, is an independent, non-regulatory body, and the Board's findings, conclusions, and recommendations cannot be admitted as evidence or used in litigation. In both this case and the case of transport accidents, Congress wisely chose to separate the regulatory agencies from those charged with investigations. Thus, the Board can investigate the root causes of industrial accidents, conduct research, oversee the performance of chemical safety standards, and recommend improvements in chemical manufacturing, processing, transport and storage free from political and industrial interference. Federal agencies, such as EPA and OSHA, are required to respond to, but are not bound to adopt, the high-profile recommendations issued by the Board. As is the case with recommendations made by the highly regarded NTSB, we would hope that those made by the Chemical Safety Board would be quickly and efficiently adhered to by industry.

Chemical accidents continue to occur on average 21 times a day in the United States, costing human lives, causing untold damage to property and the environment, and increasing health care and environmental clean-up costs. Recent chemical disasters clearly illustrate the need for this independent board and its work to refine, coordinate, direct, and improve federal chemical safety activities. Proper oversight could have prevented many of these tragedies, such as an accident last month at a fertilizer factor in Helena, Ark., which claimed the lives of several firefighters. This accident parallels a similar accident three years ago at another fertilizer factory near Sioux City, Iowa, which claimed the lives of three individuals.

We strongly support an appropriation of $6 million to fund and finally make operational the Chemical Safety and Hazard Investigation Board for the health and safety of our workers, communities, and environment. Thank you for your favorable consideration.

Sincerely,

RABBI DANIEL SWARTZ,
Coalition on the Environment and Jewish Life;
PHIL CLAPP,
Environmental Information Center;
RICK HIND,
Greenpeace;
DENNY LARSON,
National Oil Refinery Action Network, Communities for a Better environment California;
RICK ENGLER,
New Jersey Work Environment Council, New Jersey Right to Know and Act Coalition;
CAROLYN RAFFENSPERGER,
Science and Environmental Health Network;
CAROLYN HARTMANN,
U.S. Public Interest Research Group;
MICHAEL J. WRIGHT,
United Steelworkers of America;
JOANNE ROSSI,
Community/Labor Refinery Tracking Committee, Philadelphia;
JOEL A. TICKNER,
Work Environment Program, University of Massachusetts Lowell, Clean Production Action;
CAROL ANDRESS,
Environmental Defense Fund;
SANFORD LEWIS,
Good Neighbor Project for Sustainable Industries;
HILLEL GRAY,
National Environmental Law Center;
DR. DAVID WALLINGA,
Natural Resources Defense Council;
RICHARD MILLER,
Oil, Chemical, and Atomic Workers International Union;
DEBBIE SEASE,
Sierra Club;
DR. THOM WHITE WOLF FASSETT,
General Board of Church and Society of the United Methodist Church;
SUSAN GOBRESKI,
Clean Water Action Pennsylvania; and
DR. NEIL CARMAN,
Sierra Club, Lone Star Chapter;

LOW-INCOME HOUSING PRESERVATION FUNDING

Mr. D'AMATO. Mr. President, I would like to commend Senator BOND and Ranking Minority Member MIKULSKI for their steadfast recognition of the need to preserve our Nation's dwindling supply of affordable rental housing units. The Low-Income Housing Preservation and Resident Homeownership Act of 1990 [LIHPRHA] is an important tool for maintaining this scarce resource. I appreciate your bill's provision of a structure for continuing a modified capital grant-capital loan program for housing preservation activities under the existing LIHPRHA program.

As you are aware, there are almost 30,000 low-income rental units in 37 States that have been approved by HUD and are awaiting funding through this program. This represents a critical need for preservation of the existing stock, particularly in tight rental markets. In low vacancy rate areas, tenant-based rental assistance is often ineffective in meeting the housing needs of deserving low-income Americans. In New York City, for example, housing development and land acquisition costs are high and production of new affordable housing is very limited. Therefore, retaining the current housing stock is a cost-efficient and desirable means of meeting shelter needs.

Mr. BOND. Thank you for your remarks. It is my full intention to work with you to improve the LIHPRHA program. It is this subcommittee's desire to ensure that a cost-effective approach to preserving our much needed housing is adequately funded. I am especially concerned about the detrimental effects of the loss of stock on areas of the country with low vacancy rates.

Mr. D'AMATO. I thank you for your consideration and your continued commitment. I appreciate your willingness to continue this dialog and look forward to working with you throughout conference committee action to resolve this significant housing crisis in a fair and equitable manner.

Mr. DEWINE. Mr. President, I would like to take a moment to discuss several other projects that currently are funded in the House version. I am hopeful these will get full consideration by the conference committee, and be included in the final bill.

Mr. President, I believe that it is our responsibility to ensure that Federal research and its subsequent data is shared, whenever possible, with the taxpayers who fund these research programs. To this end, I would like to state my support for the $5.8 million provided in the House bill to the National Aeronautics and Space Administration's [NASA] Commercial Technology Program. These funds would be used to support existing successful program goals, as well as new initiatives to link businesses from distressed communities to NASA commercial technologies.

It is critical to the competitiveness of our economy that we promote the shared use of research material between Federal agencies such as NASA and the private sector. Support for this program is an important step in that direction. The program will allow highly successful outreach efforts such as the NASA Lewis Business and Industry Summit to be carried forward and will help to ensure NASA Lewis' long-term viability as an economic force in northeastern Ohio.

Mr. President, I also believe it is our responsibility to use the success of Federal investments in technology to improve, whenever feasible, our education system. Therefore I hope the conferees will agree with the House Appropriation Committee's decision to increase NASA's Science, Engineering, Mathematics, and Aerospace Academy [SEMAA] and Mobile Aeronautics Education Laboratory [MAEL] programs $3.3 million. This increase would enable the NASA Lewis Research Center and Cuyahoga Community College to expand their already successful programs to the Cuyahoga Community College's western campus. In addition, the workstations included in the Mobile Aeronautics Education Laboratory can be replicated in Cleveland area schools.

Mr. President, as we are all too well aware, flooding disasters tragically struck the Midwest this past spring. While there is little we can do to prevent natural disasters, we must take every step possible to respond to these disasters in order to minimize potential loss of life and property. I sincerely hope the conferees will agree with the House Appropriations Committee's decision to provide $5 million to support the replacement and upgrading of outdated Federal Emergency Management Agency [FEMA] emergency response equipment. Upgraded, functional equipment is critical to protecting our citizens from unfortunate natural disasters and I strongly believe safety issues such as the support of this equipment should be a priority in our budget discussions. I specifically believe the mobile emergency response support and mobile air transportable telecommunications deserve particular attention.

Mr. President, I note the presence on the floor of my good friend from Missouri, Senator BOND, chairman of the Appropriations Subcommittee on VA-HUD. I would hope that he, and the Senator from Maryland, Senator MIKULSKI, will give serious consideration to the programs I described.

Mr. BOND. I thank the Senator from Ohio for his statement. I have listened very carefully to his remarks and I recognize his concern for the two programs he mentioned. As the Senator is aware, the VA-HUD Appropriations Subcommittee had to respond to a vast number of requests with a limited pool of resources to do it. The Senator from Ohio has raised very compelling arguments and I will carefully consider his request during the conference committee deliberations.

Mr. DEWINE. I thank my distinguished friend, and I yield the floor.

YOUTHBUILD

Mr. D'AMATO. Mr. President, I would like to commend my friend, Senator KIT BOND for his efforts as chairman of the VA-HUD Subcommittee to include $35 million in funding for the Youthbuild program. This innovative and successful program allows disadvantaged and at-risk youth to acquire educational and job skills and develop leadership abilities within their communities. In the process, the program helps to develop and rehabilitate physically distressed housing in order to provide decent, safe and affordable housing opportunities to low and moderate-income families.

I also note that the subcommittee has instructed HUD to provide a priority in funding for program applicants that demonstrate an ability to leverage private and nonprofit funding. In this era of limited Federal funding, it is essential that our program dollars are stretched to the maximum extent possible. I fully support this important provision and believe it will result in a greater benefit for each Federal dollar provided and a greater amount of local community coordination and decision-making.

I would like to bring one particular organization to the attention of the chairman and the ranking member, Senator MIKULSKI. The Bedford-Stuyvesant Restoration Corp. [Restoration] located in central Brooklyn has a 30-year legacy of economic development, job creation, and community building. Restoration currently operates an education and job training initiative, known as Career Path, which assists economically disadvantaged young adults, ages 16–24, to become productive members of the community by providing education and developing employment, citizenship, and leadership skills.

I note that the Restoration Corp. has an outstanding record of successfully leveraging local, State, and private funding through private charities, foundation support, corporate sponsorship, and a variety of private fundraising efforts. One such effort recently resulted in Restoration receiving a 5 year $1.75 million grant from Cablevision, Inc. I believe Restoration's Career Path initiative represents a successful model which leverages private funding, invests in our youth and helps to revitalize the stock of affordable housing.

By helping to fund Restoration's Career Path initiative, HUD can help to restore economic viability to the neighborhoods of central Brooklyn and assist at-risk young adults to become active and productive members of the community. Once again, I would express my appreciation and support for Senator BOND's continuing efforts to support successful housing and economic development initiatives.

Mr. BOND. Mr. President, I thank my friend Senator ALFONSE D'AMATO for his support of our efforts to fund and improve the operation of existing HUD programs. The subcommittee is fully aware of the Bedford-Stuyvesant Restoration Corp. and its 30-year legacy of economic and cultural development in New York. I am confident that the Career Path initiative will receive a full and fair consideration from HUD in any future competition under the Youthbuild program.

ECONOMIC DEVELOPMENT INITIATIVE

Mr. DEWINE. Mr. President, I see my friend from Missouri, the chairman of the VA-HUD Appropriations Subcommittee, on the floor and would like to call to his attention an important project in Ohio that I believe is deserving of funding under the Community Development Block Grant [CDBG] Program. Specifically, I am interested in the economic development initiative funding for various community development projects. A number were listed by the committee in its report on the bill. I am very interested in a community-wide effort in Lorain, OH, to convert a soon-to-be-closed hospital into a community resource center. This is an area that is economically depressed, and in addition to the economic losses associated with the closure of the hospital, the community recently discovered that the local Ford production plant will soon be closing its doors. Would the Senator from Missouri agree that an initiative which attempted to convert the hospital space into a community resource and training center be a worthy candidate for funding under the committee's EDI provision?

Mr. BOND. Mr. President, I appreciate the Senator from Ohio raising this issue. I agree with him that the project he has described in Lorain would appear to be well-suited for the EDI program.

Mr. DEWINE. Mr. President, I thank the chairman of the subcommittee for his comments. Were it not for the fact that the hospital is scheduled to close at the end of the year, I would be content to seek funding for this project through traditional funding channels. However, the hospital is set to close in just a few months. Therefore, I have little choice but to request that the chairman of the subcommittee take a very close look at this project as he proceeds to conference with the House on the final version of this appropriations bill. Specifically, what I am seeking is consideration for support of funds to allow for renovation and conversion of this space. What I am trying to avoid is seeing this hospital close and having this wonderful facility stand empty. Should this happen, I am concerned that it stands vulnerable to deterioration, and even vandalism, to a point that the only option left for the community is to tear down the structure.

Mr. BOND. Mr. President, I understand the Senator from Ohio's concerns, and commend him for his efforts to seek a positive solution. As I am sure he well knows, this has been a difficult year for community development projects, such as the one he has discussed. All the same, I am impressed by the overall project, ranging from job training to child care to community service activities. I will give the Senator's request all due consideration as we go to conference on this bill. Is that satisfactory to the Senator?

Mr. DEWINE. Mr. President, that is satisfactory and I thank the distinguished chairman for his willingness to work with me and the members of the Ohio congressional delegation, as well as the community of Lorain to turn the closure of the hospital into a new, positive beginning for the people of Lorain.

Mrs. BOXER. Mr. President, the Subcommittee on VA, HUD, and Independent Agencies has included funding for economic development initiatives in S. 1034. I am pleased that the committee report mentions a worthy project at the University of San Francisco that will provide important economic development in international business opportunities for this campus.

In the weeks ahead, I will be working with my colleagues in the Senate and House, as well as with Secretary Cuomo and his staff at HUD, to secure funds for the Center for International Business Education at the University of San Francisco, a model program for training and international commerce, environmental management and business ethics. The EDI funds would play an important role in promoting economic vitality in northern California. The center will provide jobs at home and abroad, while enhancing America's international economic competitiveness. EDI funding will assist in renovation of critical facilities and completion of a distance learning facility, while adding new programs for an important program initiative.

I thank Chairman BOND and Senator MIKULSKI for recognizing this worthy project.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

Mr. LEAHY. Mr. President, I rise today to express my concern that funding for the Community Development Financial Institutions [CDFI] Fund has not been included in the VA/HUD appropriations bill for fiscal year 1998.

The CDFI Fund is an economic development initiative that was adopted with overwhelming bipartisan support several years ago. The program is an important investment tool for economically distressed communities. Overall, Senator BOND and Senator MIKULSKI have done an excellent job of producing a bill which makes the most of the limited funding available. However, by not funding CDFI, I believe the committee has missed the opportunity to make a substantial and cost-effective investment in our distressed communities.

CDFI leverages private investment to stretch every Federal dollar. The VA/HUD appropriations bill reported by the House Appropriations Committee includes the $125 million requested by the President for this valuable program. Senator MIKULSKI has discussed her intention to revisit the issue of CDFI funding in conference. I too believe the CDFI Program deserves the opportunity to demonstrate its effectiveness in bringing economic development resources to distressed communities. I look forward to working with Senator MIKULSKI and Senator BOND during conference to restore funding for this program.

Mr. DOMENICI. Mr. President, I rise in support of S. 1034, the Departments of Veterans Affairs and Housing and Urban Development and independent agencies appropriations bill for 1998.

This bill provides new budget authority of $91.5 billion and new outlays of $52.6 billion to finance the programs of the Departments of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, NASA, and other independent agencies.

I congratulate the chairman and ranking member for producing a bill that, with adoption of the manager's amendment, is within the subcommittee's revised 602(b) allocation. This is one of the most difficult bills to manage with its varied programs and challenging allocation, but I think the bill meets most of the demands made of it while staying under budget and is a strong candidate for enactment, so I commend my friend the chairman for his efforts and leadership.

When outlays from prior-year budget authority [BA] and other adjustments are taken into account, the bill totals $90.7 billion in BA and $99.8 billion in outlays. The total bill is at the Senate subcommittee's 602(b) nondefense allocation for budget authority and outlays. The subcommittee is also under its defense allocation by $1 million in BA.

I ask members of the Senate to refrain from offering amendments which would cause the subcommittee to exceed its budget allocation and urge the speedy adoption of this bill.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1034, VA–HUD APPROPRIATIONS, 1998—SPENDING COMPARISONS, SENATE-REPORTED BILL [Fiscal year 1998, In millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	128	69,263	....	21,332	90,723
Outlays	128	79,561	....	20,061	99,750
Senate 602(b) allocation:					
Budget authority	129	60,065	....	21,332	81,526
Outlays	128	76,154	....	20,061	96,343
President's request:					
Budget authority	129	76,965	....	21,332	98,426
Outlays	128	80,313	....	20,061	100,502
House-passed bill:					
Budget authority	128	69,823	....	21,332	91,283
Outlays	128	80,403	....	20,061	100,592
SENATE-REPORTED BILL COMPARED TO:					
Senate 602(b) allocation:					
Budget authority	(1)	9,198	....	....	9,197
Outlays	....	3,407	....	....	3,407
President's request:					
Budget authority	(1)	(7,702)	....	....	(7,703)
Outlays	....	(752)	....	....	(752)
House-passed bill:					
Budget authority	....	(560)	....	....	(560)

S. 1034, VA–HUD APPROPRIATIONS, 1998—SPENDING COMPARISONS, SENATE-REPORTED BILL [Fiscal year 1998, In millions of dollars]—Continued

	Defense	Nondefense	Crime	Mandatory	Total
Outlays		(842)			(842)

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. SARBANES. Mr. President, I rise to support the VA-HUD appropriations bill. Chairman BOND, a former colleague of mine on the Banking Committee, and Senator MIKULSKI, the ranking member and my good friend from Maryland, both have a deep understanding of the importance of housing programs that are so crucial to creating safe, decent, and affordable housing for the American people. I want to thank them for their hard work.

The committee did a good job of juggling many competing needs and interests that go far beyond housing programs. I want to recognize their good work in both appropriating enough funds to renew expiring section 8 contracts and in adopting the mark-to-market legislation passed as part of the reconciliation bill but unfortunately dropped in conference. This legislation, sponsored by Senators MACK, D'AMATO, BOND, and others addresses what Secretary Cuomo calls the biggest crisis facing HUD in a way that saves money and ensures the long-term preservation of the section 8 housing stock.

We have worked very hard on a bipartisan basis in a short period of time to iron out differences with HUD on the section 8 legislation. It is my hope that, as the appropriations bill moves forward, the committee will adopt the agreements we reached with HUD which will make the program easier to implement and generally more efficient. Solving this problem will rank as one of our best accomplishments for this Congress and I again want to thank the chairman and ranking member for their interest and dedication in putting the section 8 housing program on a sound financial and management footing.

Unfortunately, while these efforts on the section 8 portfolio should bear real fruit, the committee has been forced to try to squeeze too many high-priority programs into too small a box. There is simply not enough money in this bill to address the overall housing needs we face in this country.

For example, consider the public housing funding. While public housing has become a much-maligned program, this view is unwarranted. The vast majority of public housing is in good shape. Fewer than 100 of more than 3,300 public housing authorities [PHA's] are troubled. Public housing serves hundreds of thousands of elderly households and nearly 1½ million children. In many neighborhoods, public housing is indistinguishable from the privately owned housing that may be next door.

As in everything, problems do exist. There are bad housing projects and bad housing authorities. However, the Banking Committee is working on legislation that will require the Secretary to react quickly to put the bad PHA's in receivership and to demolish bad projects. We are also reforming the program to create more mixed-income communities and help make it possible for additional working families to get access to public and assisted housing. In fact, public housing represents about one-third of the housing stock affordable to minimum wage workers in ths country. It is for this reason, among others, that Secretary Cuomo called public housing a precious resource.

While these reforms will contribute greatly to the overall health of the public housing program, in order to succeed, public housing needs more funding. The bill before us provides $2.9 billion for public housing operating subsidies, the same as this year. Operating subsidies are needed to cover the shortfall between what public housing authorities can collect in rent and what it costs to run the projects. I am pleased that the committee preserved this funding at current levels.

Even with the committee's best efforts, however, the $2.9 billion covers only about 85 percent of what the PHA's need to pay for their day-to-day operations. We have put public housing authorities in a bind. They are asked to serve the poor, but not given the funding necessary to ensure that they can house the poor adequately. To close the gap, PHAs are forced to put off routine maintenance and small capital projects. In effect, the housing stock faces slow deterioration just so the housing authorities can pay the heating bill.

The capital account in this bill also stays steady at $2.5 billion. These are much-needed funds, and again, I welcome the committee's effort to protect this crucial spending. But the fact is, the National Commission on Severely Distressed Public Housing said that PHA's need $4.5 billion per year for 10 years to take care of backlogged capital needs, in addition to keeping up with routine maintenance, which, by itself, costs $1.7 billion annually.

This combination of low operating subsidies and inadequate capital funding means that we are slowly bleeding our public housing stock to death. All the hard work and good intentions of the committee cannot make up for the fact that the chairman and ranking member were simply not given the allocation necessary to fund these crucial housing programs at necessary levels.

Similarly, homeless funding remains level in this bill, although homelessness, despite good progress, continues to be a serious problem. While economic growth is strong, it has not reached down to the people who live on the bottom rung of society's ladder. In fact, the Conference of Mayors estimates that homelessness increased by 5 percent last year. Moreover, as we try to make public and assisted housing more available to the working poor, a worthy goal that I support, we reduce the number of assisted housing units available to the very worst off in our country. In the end, this will mean more homelessness. In my view, Congress ought to recognize that truth and expand the homeless program.

One casualty of the fiscal constraints that the committee labored within is the Low Income Housing Preservation and Homeownership Act [LIHPRH], better known as the Preservation Program. This program has preserved over 80,000 units of affordable housing permanently. Another 30,000 units await funding. I urge the committee to work in conference to find some funding for this critical program. I know of the chairman's interest in accomplishing this goal, along with appropriate reforms to the program.

Mr. President, I thank my colleagues for all their hard work. I support this bill and urge my colleagues to do so, as well. I will continue to work for additional funding for housing programs, and look forward to the day when we are able to adequately address the many existing demands.

Mr. BYRD. Mr. President, I wish to commend the managers of the Fiscal Year 1998 VA-HUD and Independent Agencies Appropriation Bill, Chairman BOND and Senator MIKULSKI, for their hard work in fashioning this measure, and for bringing it to the Floor in a timely manner. The bill appropriates $90,901,535,000 for programs in Fiscal Year 1998, is within its 602(b) allocations, and is below the amount requested by the administration by about $70,903,000.

Mr. President, I specifically commend the chairman and ranking member for taking an extremely tight 602(b) allocation and spreading it across the twenty-one agencies. There were also additional constraints posed by the budget agreement resolved to accomplish a unified Federal budget in fiscal year 2002.

This bill funds a diversity of agencies and programs. It is a challenge every year to develop a passable bill that addresses a variety of concerns from all Members of the Senate, the Federal agencies, and the American people.

Mr. President, this bill matches the President's request for Veterans Affairs, the Federal Emergency Management Agency, the National Aeronautics and Space Administration, and the National Science Foundation. The managers also protected several key programs in the Department of Housing and Urban Development, namely CDBG, HOME, and the McKinney Homeless programs. In addition, many cuts made in the proposed budget were restored. The highest priority was to adequately fund Veteran's medical programs, despite the proposed cut in the budget agreement. This bill matches the President's request for Veterans Medical Care, and restores the $27 million cut in Veterans Medical Research.

Mr. President, I congratulate the chairman and ranking member of the subcommittee, as well as their dedicated, hardworking staff: Andy Givens and Liz Blevins for the minority and John Kamarck, Carrie Apostolou, and Lashawnda Leftwich for the majority.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, in a few minutes we will vote on the VA-HUD appropriations bill for fiscal year 1998. I want to take this opportunity to thank the chairman, Senator BOND, and his staff for working with those of us on this side of the aisle in such a collegial way. I think the fact that we were able to finish this bill tonight says a lot about the bipartisan cooperation that we have received, or has occurred between both Senator BOND, myself, and the other Members of the U.S. Senate.

Today, I note that we had robust discussions on important policy matters. But if one would note, the whole tone was one of civility, consideration, and collegiality. I am very proud of the way this bill has moved.

I am also very proud of the substance in this bill. We have met compelling human need with veterans and the poor. We have stood sentry over the important issues related to the environment, protected consumers, and ensured that Arlington Cemetery would be as fit for duty as the brave people were who lie therein. And we have, at the same time, had a very serious issue addressed in the area of science and technology funding.

So veterans' health research that will be looking at issues related to both women's health and prostate cancer, to our important space program that shows it is the best in the world, to the National Science Foundation which is looking at how we can ensure that brilliant young investigators are going to be able to have the new ideas for the 21st century that are going to lead to new products says a lot about what this bill does.

I enjoy very much serving as the ranking member and my job is made easier, more delightful, and gives me pride because of the cooperation of the majority, both its chairman and staff.

I would also like to take this opportunity to thank my own staff because it takes a lot of reviewing of a lot of line items when you have seven Cabinet-level agencies and 25 other independent agencies. I would like to thank Andy Givens, my chief clerk; David Bowers for his hard work, and our excellent detailee, Stacy Closson.

So as we move on to the rollcall vote, I again look forward to working with my very able chair in the conference and bringing a great conference report back to the Senate where we can continue the pride we feel as we vote on this bill tonight.

Mr. President, I yield the floor.

Mr. BOND. Mr. President, let me very briefly express my sincere appreciation to my ranking member for her great cooperation. The expeditious way in which this measure was handled is something that is rather unusual for the VA-HUD bill. When she indicated she thought we could wrap this up today, I said I am a skeptic; I am from Missouri; I have to be shown. And thanks to the cooperation of all Senators we have been able to do it.

I really appreciate the cooperation of Senators on both sides. Senator MIKULSKI has been very effective. I would like to add my thanks to Andy Givens, to Stacy Closson and David Bowers, and particular thanks to my staff. This is the first time that Jon Kamarck has gone through this as the chief clerk. It is quite an experience. We appreciate the work he has done. We are delighted to have the steady hand of Carrie Apostolou guiding us on EPA, veterans, FEMA matters with great skill, and Sarah Horrigan has been a great addition on the NASA and science accounts, and I very much appreciate all of that assistance.

Mr. President, since I think many Members are anxious to get started on the vote, and I do not expect anyone will be disadvantaged, I will now ask unanimous consent that we begin the vote and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the House bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, the text of S. 1034 is inserted, and the bill is deemed read a third time.

The yeas and nays are requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. ALLARD). The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—1

Kyl

The bill (H.R. 2158), as amended, was passed.

[The text of H.R. 2158 will be printed in a future edition of the RECORD.]

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I now ask unanimous consent that the Senate insist on its amendment and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, and S. 1034 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Chair appointed Mr. BOND, Mr. BURNS, Mr. STEVENS, Mr. SHELBY, Mr. CAMPBELL, Mr. CRAIG, Mr. COCHRAN, Ms. MIKULSKI, Mr. LEAHY, Mr. LAUTENBERG, Mr. HARKIN, Mrs. BOXER, and Mr. BYRD conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have already expressed appreciation to my staff, and particularly my ranking member. I want to make a special mention of my chief of staff, Julie Dammann, whose second child was due today and she stayed with us throughout the whole proceedings and wanted to see the VA-HUD bill delivered first. She has been an invaluable help in all legislative activities and helped us shepherd this through. So, a very special thank you, and best wishes to Julie, to Rolf and their other daughter, Monica. Again, I express my appreciation.

Ms. MIKULSKI. I would also echo the comments to Julie and her husband. I hope that she can go home, rest easy, put her feet up and we are looking forward to being the proud Godparents of Bond-Mikulski. Maybe we will name something after her in conference.

Mr. BOND. Mr. President, I thank the Chair. I don't know whether Mikulski-Dammann would be a good name for her, maybe, but it is one we can always offer, to show a little diversity.

MORNING BUSINESS

Mr. BOND. Mr. President, I now ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF MARK LACOVARA

Mr. LOTT. Mr. President, I want to take a few moments to recognize the work of Mr. Mark Lacovara, who has retired after more than 27 years' employment in the Senate.

Mark came to the Senate in 1969 as a reference assistant in the Senate Library and has since served in various capacities with the Official Reporters of Debates, the Sergeant at Arms, the Secretary of the Senate, and administrative services. The position from which he leaves us is that of assistant Journal clerk.

To those of us who are a part of the Senate, Mark's regard for this institution is well-known and highly valued. Such dedication is no doubt rooted in his early years. Mark grew up in the Washington, DC, area and observed his father, the late John Lacovara, in service as the Senate's Republican Deputy Sergeant at Arms. Mark began employment with the Senate as a young man of 18. As he worked, he also earned a college degree and served in the U.S. Air Force Reserve.

Mark has been committed to the best interests of the Senate and to the United States throughout his career. This is evident in both the quality of his work and his enthusiasm for it.

I want to thank Mark for his outstanding service in the U.S. Senate; we will miss him. I'm certain my colleagues join me in expressing appreciation and in wishing him well.

THE RETIREMENT OF JOHN "MARK" LACOVARA

Mr. DASCHLE. Mr. President, an individual with over 27 years of dedicated service to the U.S. Senate has retired. This conscientious and hard working individual is John "Mark" Lacovara, the assistant Journal clerk of the Senate.

Mark, a native-born Washingtonian, has served in numerous capacities in the Senate over the past 27 years. During those years of service, Mark completed his college education and earned a degree from the University of Maryland.

In March, 1969, Mark began his Senate service as a reference assistant in the Senate Library. Shortly thereafter, he moved to a doorkeeper position at the pass desk under the auspices of the Senate Sergeant at Arms. From the doorkeeper's position, Mark had the opportunity to return to work for the Secretary of the Senate as a clerk in the Senate stationery room.

In 1974, Mark was appointed clerk of enrolled bills on the legislative staff of the Secretary. In 1979, Mark was named second assistant Journal clerk, and by 1984 was working as editor of morning business for the CONGRESSIONAL RECORD.

In his capacity as morning business editor, Mark had the responsibility of producing, compiling, and formatting copy for the Morning Business section of the CONGRESSIONAL RECORD. This section includes Presidential messages, House messages, Executive communications, petitions and memorials, committee reports, the introduction of legislation, as well as additional statements. Anyone who takes a look at the RECORD will get a notion of the responsibility of the morning business editor.

As I mentioned earlier, Mark once served as second assistant Journal clerk. In 1993, Mark returned to that office in the capacity of assistant Journal clerk, where he remained until his retirement.

Often referred to as the "bible" of the Senate, the Journal reflects the official legal record of Senate proceedings. An individual with the responsibility of making the entries plays a critical role in the history of the Senate. Mark served in exemplary fashion as assistant Journal clerk, and took great pride in his work.

Mark loved the Senate. He served here with distinction. He believed in the Senate as a great institution and throughout his long service demonstrated his loyalty and dedication.

Mr. President, I say to Mark, thank you for your long and distinguished service. You will be missed.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 21, 1997, the Federal debt stood at $5,363,682,543,589.87. (Five trillion, three hundred sixty-three billion, six hundred eighty-two million, five hundred forty-three thousand, five hundred eighty-nine dollars and eighty-seven cents)

Five years ago, July 21, 1992, the Federal debt stood at $3,982,450,000,000. (Three trillion, nine hundred eighty-two billion, four hundred fifty million)

Ten years ago, July 21, 1987, the Federal debt stood at $2,314,700,000,000. (Two trillion, three hundred fourteen billion, seven hundred million)

Fifteen years ago, July 21, 1982, the Federal debt stood at $1,084,261,000,000. (One trillion, eighty-four billion, two hundred sixty-one million)

Twenty-five years ago, July 21, 1972, the Federal debt stood at $434,462,000,000 (Four hundred thirty-four billion, four hundred sixty-two million) which reflects a debt increase of nearly $5 trillion—$4,929,220,543,589.87 (Four trillion, nine hundred twenty-nine billion, two hundred twenty million, five hundred forty-three thousand, five hundred eighty-nine dollars and eighty-seven cents) during the past 25 years.

TRIBUTE TO THE LATE JOANNE RAINSFORD

Mr. THURMOND. Mr. President, throughout the Nation, whenever a community leader passes, his or her death is noticed and mourned by many. In small towns, however, the impact of such a loss is always magnified, for in such places, the deceased is more than a well known, but distant figure, he or she is a neighbor, a member of the local church, and more often than not, a friend. Such was the case on June 29 when Edgefield, SC suffered a tremendous loss with the passing of my friend, Joanne Tisdale Rainsford.

Mrs. Rainsford first came to Edgefield to work as a teacher, and it was not long before she became a well known and liked figure around town. Her civic mindedness led her to become involved in a multitude of organizations and causes, and though not originally from Edgefield, she worked hard on behalf of her new hometown. Among other groups, the Edgefield United Way, the Olde Edgefield Trade Association, and the Edgefield Community Development Association all benefited from the efforts of this tireless, devoted, and enthusiastic woman.

One of the cornerstones of a small town is the community newspaper, and Joanne Rainsford played an important role in helping produce the local paper, the Citizen News. In the mid-1980's, she spent about a year and a half as the managing editor of that publication, and she later became the president of Edgefield County Communications, the parent company of the Citizen News.

Though Mrs. Rainsford enjoyed many pursuits, she was particularly interested in history, and she worked hard to save and showcase the unique and rich history of Edgefield County. In recognition of her service as their president, and her leadership in any number of preservation projects, the Edgefield County Historical Society just this past June voted to rename its museum the Joanne T. Rainsford Heritage Center. This was an honor of which I know she was especially proud and the action of the society is all the more meaningful as they approved this recognition shortly before Mrs. Rainsford's death.

Whether it was through her work as a teacher, in her role as a newspaper executive, or as a civic booster, Joanne Rainsford worked hard to promote Edgefield, to build the local economy, and to make her hometown an even more prosperous and desirable place to live. She was an articulate proponent of the heritage corridor, a unique project that blends history and tourism together over a 14-county region in our State stretching from the coast to the mountains. I was so impressed by her desire to bolster tourism, the No. 1 industry in the Palmetto State, that I appointed her as a delegate from South Carolina to the White House Conference on Tourism.

Mr. President, many people in Edgefield and throughout South Carolina mourned the passing of Mrs. Joanne T. Rainsford, as she was a woman who was liked and admired by all those who knew her. She was also a woman who approached life with great enthusiasm and who sought to leave her mark on the world through projects that benefited others. I can say without reservation that the work of the late Mrs. Rainsford had a positive effect on Edgefield County and that her work strengthened that community in many different ways. I ask unanimous consent that a copy of an article from the Citizen News be included in the RECORD following my remarks, it very nicely captures Mrs. Rainsford's accomplishments and her spirit. Her husband, Ben Rainsford; her stepchildren, Neely and Todd; her two sisters, Nancy and Mary; and all her friends and relatives, have my deepest condolences on this terribly sad event. We shall all miss Joanne Rainsford.

TRIBUTE TO THE LATE JULIA RAVENEL DOUGHERTY

Mr. THURMOND. Mr. President, I am saddened to report the passing of a longtime friend, a great supporter, and one of the stalwart members of the South Carolina Republican Party, Mrs. Julia Ravenel Dougherty.

In the not so distant past, South Carolina was what was known as a one party State, where a victory in a primary election was all one needed to secure office, and where a significant segment of the population had no outlet for its views, opinions, and politics. All of that began to change in the 1960's when a cadre of forward looking politicians and interested citizens began to fight to create a true Republican Party in South Carolina.

One of the pioneers in that effort was Mrs. Dougherty, who is roundly recognized as having been a woman of great humor, strong organizational skills, and inexhaustible energy, as well as someone who was a tremendous motivator. From the Charleston County Republican Party to the gubernatorial races, and from my own Senate campaigns to the bids of GOP candidates for the White House, Julia Dougherty was always eager to roll up her sleeves and to lend her considerable talents to an election effort. Her loyalty to the party, and activism on its behalf, earned her not only the thanks and admiration of countless people, but also an appointment as a delegate to the 1964 and 1968 Republican Conventions. Her loyalty and efforts were further recognized when in 1968, she was a member of the electoral college, and cast her vote for Richard M. Nixon.

In addition to her partisan political work, Mrs. Dougherty had a strong commitment to public service, and over the years, she made many contributions to building South Carolina into an even better, safer, and more prosperous State for all its citizens. She was the first female to ever serve on the South Carolina Highway Commission, and in that role, she was a forceful advocate for the modernization of the highway patrol, as well as the increased professionalization of that force. She later served as the State chairwoman of President Carter's friendship force, and during the Reagan administration, she served on an advisory committee to the Department of Transportation. Truly an impressive record, and one of which I know Julia was justifiably proud.

Despite her great love for politics and her commitment to public service, Mrs. Dougherty never sought elected office herself. This is truly a shame for I believe she would have made even more contributions to the Palmetto State as an elected official, and she certainly would have set a high standard for ability, integrity, and dedication for others to follow.

The death of Julia Ravenel Dougherty leaves a tremendous void in South Carolina politics and life in the lowcountry. Her family, which includes her cousin and my good friend, State Senator Arthur Ravenel; husband Francis; son Park; daughters Renee and Frances; and four grandchildren, all have my deepest sympathies. Their wife, mother, grandmother, and cousin will be missed by all those who knew this most remarkable woman.

LOUISIANA SENATE ELECTION CONTEST

Mr. FORD. Mr. President, nearly 3 months ago, the Senate Committee on Rules and Administration voted to begin a preliminary investigation to determine the factual basis, if any, for a contest of the 1996 Senate election in Louisiana. I want to take a few minutes today to review where the committee stands in this matter, how we got there, and why I believe it is past the time to bring an end to this investigation and to dismiss the petition of Louis "Woody" Jenkins contesting the November 1996 Senate election in Louisiana.

The Rules Committee is currently faced with a decision: whether or not to allow an election contest to proceed, under the Senate's authority and duty under the Constitution, without any evidence of fraud or irregularities affecting the outcome.

This is not the first such decision the committee has faced in this matter. Senators will recall that the initial bipartisan report of the committee's outside counsel found no evidence to support the claims in the petition, and suggested only the most limited review to determine whether or not Mr. Jenkins' more sensational claims of paid multiple voting had any merit. My colleagues will also recall that the committee, on a party-line vote, rejected that recommendation and moved forward with a substantially broader investigation at dramatically increased costs. Subject to a protocol negotiated by outside counsel for the majority and the minority, committee Democrats agreed to participate in a joint investigation.

Two teams of attorneys, accompanied by active duty and retired FBI agents, were dispatched to New Orleans, while here in Washington a pair of highly skilled Government Accounting Office [GAO] detailees reviewed tens of thousands of documents subpoenaed from state and local election officials in Louisiana. In addition, committee staff spent countless hours conferring with counsel, establishing procedures for the investigation, assisting GAO with its review, and managing the day-to-day operations in New Orleans.

In the course of the joint investigation, over 130 subpoenas were issued; key witnesses were interviewed, in some instances more than once; voters were contacted in an effort to validate their election day sign-in at the polls; numerous election officials were interviewed; and hundreds of documents were produced by both Mr. Jenkins' and Senator LANDRIEU's campaign organizations.

What has the committee learned as a result of all this effort, which has cost the taxpayers well in excess of the $250,000 originally budgeted, Mr. President?

We have learned that there is no evidence—I repeat, no evidence, Mr. President—of any fraud or irregularity on election day in Louisiana that would have affected the outcome of this election.

We have learned that key witnesses to alleged vote buying and multiple voting were paid and schooled in fabricating their stories—none of which were confirmed by other records—and may have even been threatened once they revealed the truth about the attempt to mislead this committee. Those allegations of witness tampering which occurred after the election have been referred to the proper law enforcement officials for review.

We have learned that virtually none of the thousands of so-called "phantom votes" identified by Mr. Jenkins exist, nor are they corroborated by the mounds of election documents subpoenaed.

We have learned that numerous other so-called irregularities in the election are not violations of the Louisiana Election Code, but are simply technical violations or are so insignificant that Louisiana State law would not recognize them as a valid basis for overturning an election.

Some have suggested that the committee suspend the investigation until such time as the law enforcement authorities conclude their separate investigations into allegations of witness tampering. I believe such sentiment—which I would like to believe is the product of caution and not partisanship—is misguided.

Investigations of criminal tampering with committee witnesses are not designed to turn up evidence that is relevant to, let alone sufficient for, a finding by the Senate that but for fraud or irregularity, the 1996 Louisiana Senate election would have been decided differently. Specifically, evidence that witnesses were paid after the election to lie about illegal activities that did not occur, did not affect the outcome of the election itself, and would not be a basis for overturning the election.

I would like to respond to the allegation, made by Mr. Jenkins, at least one of my Republican colleagues on the committee, and Mr. Jenkins' attorney that the Democrats on the committee are hostile to this investigation and have decided to kill it for partisan reasons. In response, let me remind my colleagues and everyone else present about the time line in this case:

After his defeat on November 5, 1996, Mr. Jenkins claimed that his loss was due to massive voting by dead or incompetent voters. He also alleged that certain African-American precincts in New Orleans had turned out at greater than 90 percent—in one case at more than 100 percent—and in support of Senator LANDRIEU. Both allegations proved false after petitioner sought a court order for death and incompetency records—which yielded nothing—and after an Orleans Parish official revealed that no precinct had turned out at more than 82 percent and that 8 of the top 10 precincts had been majority-white and supported Jenkins in the election.

On November 14, 1996, Jenkins then brought a State law election challenge, making no mention of dead or incompetent voters or abnormally high turnouts. Instead, he alleged that so-called precinct audits prepared by volunteers from election records—which themselves were produced under court order—yielded thousands of phantom votes and mismatched signatures on election documents, plus evidence of improper assistance by poll workers. Jenkins dismissed his own suit, citing an inability to gather sufficient evidence—despite the judge's offer to extend the statutory deadline for filing an amended complaint.

On December 5, 1996, Jenkins filed a contest petition with the Senate—which he then amended on December 17—in which he restated his allegations of phantom voting and mismatched signatures, adding a serious of sensational allegations of vote buying, multiple voting, fraudulent voter registration and other election fraud, as well as a laundry list of other complaints including vote hauling, malfunctioning voting machines, failure of poll workers to identify voters, and campaign finance violations. After Senator LANDRIEU responded on January 17, 1997, Mr. Jenkins filed a response on February 7, 1997, reiterating his earlier allegations and presenting more supporting material to the committee. Eventually, Mr. Jenkins' submissions to this committee totaled over 9,000 pages. Key portions of this material were blacked out by Jenkins to obscure the names of individuals claiming to have participated in or having witnessed fraud on election day.

In response to these extensive submissions, the Rules Committee retained two outside counsels to wade through the material and make a recommendation to the committee regarding the sufficiency of the petition. On April 8, 1997, counsel presented the committee with a report recommending dismissal of the bulk of Jenkins' allegations, with counsel to conduct a limited investigation into the most sensational allegations of vote buying, multiple voting, and fraudulent voter registration. On April 15, 1997, Mr. Jenkins testified against the bipartisan report, claiming that it would result in the committee overlooking or ignoring serious evidence of fraud and irregularity in the November 1996 election.

On April 17, the Rules Committee—on a party-line vote—rejected the counsels' report and instead initiated a wide-ranging investigation. Although the committee Democrats disagreed strenuously with the decision to open up the scope of the investigation, we agreed to continue to participate in a bipartisan investigation.

Beginning the next week, our outside counsel met with the majority's choice of outside counsel, and together they drafted a protocol not only to guide our investigation but to serve as a basis for the detail of FBI agents and GAO personnel to the committee on a nonpartisan basis. The agents were especially important, because Mr. Jenkins refused to turn over his documents to the committee or our outside counsel—including the crucial names of his fraud witnesses—until he was assured that they would be delivered to FBI agents detailed to the committee.

On May 12, the majority and minority chief counsels traveled to New Orleans to select space in the Federal building to serve as temporary committee office space. Chairman WARNER subsequently requested a 60-day lease of the space which expires on July 31.

On May 13, committee staff were joined in Louisiana by members of both the majority and minority outside counsel teams. The group conducted interviews with the Governor, the leadership of the Louisiana Legislature, the secretary of state, the commissioner of elections, and the State district attorney for East Baton Rouge. It was during these interviews that the then-lead attorney, Richard Cullen, advised that the 45-day investigative period began that day.

During the week of May 19, with the concurrence of committee Democrats, Chairman WARNER issued over 130 subpoenas to Louisiana election officials. The vast majority of the subpoenas were answered in a timely manner.

On May 30, 1997, again with concurrence of committee Democrats, Chairman WARNER issued subpoenas to political committees affiliated with both Senator LANDRIEU and Mr. Jenkins. Senator LANDRIEU delivered her documents on June 3, the deadline for delivery in New Orleans, but Mr. Jenkins—despite having months to prepare documents in support of a case brought at his behest—sought and received an extension until Monday, June 9.

Meanwhile, GAO evaluators detailed to the committee had begun work on June 2, 1997, reviewing petitioner's allegations of the existence of more than 7,400 so-called phantom votes in the November 1996 Louisiana Senate election. Included in the materials Mr. Jenkins submitted on June 9 was a substantial revision of the phantom vote totals downward to just over 5,700 votes—less than the margin of difference in the November election. Nevertheless, Mr. Jenkins continued to express the belief that upon further scrutiny, the election records would yield enough phantom votes to more than make up the difference. As has been widely reported, we now know from the

GAO evaluators detailed to the committee that this is not true. In fact, GAO detailees have concluded that further investigation of the allegations they have reviewed to date would be unwarranted.

Back in New Orleans, investigators were interviewing individuals named in the unredacted materials finally provided to the committee by Mr. Jenkins on June 9. Within a week, a disturbing pattern emerged. Not only were the allegations of fraud untrue, the witnesses revealed that they had been paid by agents of the petitioner to tell their stories.

Subsequently, on June 20, committee investigators discovered that at least one of these witnesses had been threatened, by agents of Mr. Jenkins, and told to reaffirm their original stories of fraud. For his part, Mr. Jenkins denies paying any witness and claims no knowledge of any payments by his agents for testimony.

Once I learned that the only evidence of election fraud in this matter was clearly false and purchased by agents of Mr. Jenkins, I decided that I could not, in good conscience, continue Democratic participation in the joint investigation. On June 23 I advised Chairman WARNER of my concerns. On June 25, the committee Democrats announced our withdrawal from the investigation.

On that same day, June 25, I asked the U.S. Department of Justice to investigate whether the witnesses were threatened in violation of Federal law, 18 U.S.C. § 1505, which prohibits obstruction of a Senate investigation.

It is my understanding that Chairman WARNER subsequently made a similar referral to the Republican district attorney for East Baton Rouge Parish, Mr. Doug Moreau, who has scheduled interviews with both the witnesses and the agents of Mr. Jenkins who allegedly paid them to lie. According to press reports, Mr. Moreau and his staff are also currently reviewing allegations that poll workers may not have followed the Louisiana Election Code to the letter. Mr. Jenkins has said that he supports these parallel investigations, but believes that the Rules Committee should continue its probe as well.

I should add that when committee staff and the two teams of outside counsel met with Mr. Moreau on May 13, he advised them that his office had neither the resources nor the expertise to conduct a full-scale investigation of alleged election fraud that may have occurred in the 1996 Senate election fraud that may have occurred in the 1996 Senate election. Mr. Moreau was also reluctant to state unequivocally that his office, located in Baton Rouge, had jurisdiction over alleged criminal activity in New Orleans Parish. And yet, that is exactly what Chairman WARNER has requested Mr. Moreau to investigate.

Based upon the review of evidence to date, it is unfair for petitioner or anyone else to claim that Democrats want to kill this probe prematurely. This case has consumed over 7 months, hundreds of thousands of dollars—not to mention hundreds of thousands more in the parties' legal fees, a portion of which they are customarily reimbursed by the Senate—and countless hours of staff time. After all this expenditure, the investigation has produced no evidence—none at all—that would support continued investigation, let alone action by the Senate to overturn the election.

Finally, in the interest of fairness I believe we should remember our colleague Senator LANDRIEU, who has faithfully continued serving the people of Louisiana while patiently enduring countless allegations and months of uncertainty in order for the Rules Committee to pursue each and every one of Mr. Jenkins' charges—none of which have produced a shred of credible evidence.

As has been widely reported, I am currently involved in negotiations with Chairman WARNER and other members of his caucus regarding the appropriate way to close this investigation in an orderly fashion. Whatever resolution we reach on this issue should, in my opinion, first, acknowledge that the investigation to date has produced no evidence of any fraud, error, or irregularity in the 1996 Louisiana Senate election, and second, set a fixed, firm date on which the Rules Committee will meet to vote on whether to terminate the investigation and dismiss the petition of Mr. Jenkins.

I join my entire Caucus in expressing our full and complete support for our colleague, Senator MARY LANDRIEU, and call on Chairman WARNER and members of the majority to end this investigation and remove the unjustified cloud of doubt overshadowing Senator LANDRIEU and the elected officials and good people of Louisiana.

THE OMNIBUS PATENT ACT OF 1997

Mr. LEAHY. Mr. President, I am delighted that the report is finally available for S. 507, The Omnibus Patent Act of 1997. The Senate Judiciary Committee voted 17 to 1 in favor of a Hatch-Leahy substitute to this bill on May 22. I urge all Members to take the time to learn about this legislation, which is designed to assist American innovation.

The Omnibus Patent Act would reform the U.S. patent system in important ways. The bill would:

Reduce legal fees that are paid by inventors and companies;

Slash redtape in the Patent and Trademark Office;

Increase the value of patents to inventors and companies; and

Facilitate U.S. inventors and companies' research, development, and commercialization of inventions.

In Vermont, we have a wide variety of independent inventors and small companies. It is especially important to me that this bill help them as well as larger, more specialized firms. I have spoken with independent inventors and representatives of smaller companies to learn what reforms they recommended. I have tried to ensure that their recommendations were incorporated into the Hatch-Leahy substitute amendment that was reported by the Judiciary Committee.

I am especially gratified that the Hatch-Leahy substitute responds to the concerns of independent inventors and small businesses concerning the matter of 18-month publication. These concerns were articulated at the Senate Judiciary Committee hearing by the president of the Vermont Inventors Association, Bill Parker. Mr. Parker suggested giving applicants who only file in the United States a choice whether or not to publish early. He also recommended that we enhance the protections granted to those who choose 18-month publication if we wish to encourage them to take that course.

The substitute does both of these things. In particular, it allows any applicant to avoid publication before the granting of the patent simply by making such a request upon filing the application and by certifying that the application has not—and will not—be published abroad. The substitute also provides for the issuance of patents on individual claims in published applications as they are approved, rather than waiting for the disposition of all claims contained in such an application, as now occurs. This allows applicants to gain full patent protection—including reasonable royalties, damages, and attorneys fees when appropriate—for some of their component inventions earlier than they would have under the original draft of the bill.

I was also concerned that, as introduced, the bill did not adequately protect an applicant who is diligently prosecuting a patent but whose application takes more than 3 years to process. The ability to have a full 17 years of patent protection is important to small and large patent applicants alike. The Hatch-Leahy substitute makes clear than a applicant who diligently prosecutes a patent application before the PTO should receive a full 17 years of patent protection.

Another matter of special importance to me is the section I suggested be added in the Hatch-Leahy substitute to enhance access to patent information. I have long thought that electronic access should be more widespread, and I want to work with the Patent and Trademark Office to ensure the effective implementation of statewide electronic accessibility of patent information in rural Sates and eventually in all areas to make it easier for inventors to study prior art and make further advances. This should be of particular benefit to Vermont, which is only now getting a patent and trademark depository library.

Although the goal of the reexamination provisions—reducing legal bills for patent applicants—was laudable, I was concerned that the legislation protect again harassment by third parties. The Hatch-Leahy substitute enhances protection against harassment by strengthening the estoppel provisions, to prevent a party from raising an issue that was raised or could have been raised in one forum from raising it in some other forum thereafter. In this way, the reexamination provision in the Hatch-Leahy substitute will provide an alternative to the current costly and time-consuming process of Federal litigation and, at the same time, protect patent applicants against undue harassment.

I am also glad that the substitute amendment clarifies that it is not the Senate Judiciary Committee's intent to undercut the Copyright Office in any way. The Copyright Office has served this country well for over a hundred years, and it should continue in that role.

Vermont has a great tradition of "Yankee ingenuity." In fact, the very first U.S. patent was granted to Samuel Hopkins, a native of Pittsford, VT, who discovered a process for making potash. Today's inventors can be much like the inventors of Thomas Jefferson's day—individuals in a shop, garage, or home lab. They can also be teams of scientists working in our largest corporations or at our colleges and universities. Our Nation's patent laws should be fair to American innovators of all kinds—independent inventors, small businesses, venture capitalists, and larger corporations. To maintain America's preeminence in the realm of technology, which dates back to the birth of this republic, we need to modernize our patent system and patent office. Our inventors know this and that is why they support this legislation.

I am delighted that our Democratic leader, Senator DASCHLE, has joined as a cosponsor of this important legislation. I urge the Republican leadership to proceed to Senate consideration of S. 507 without delay.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 748. An act to amend the prohibition of title 18, United States Code, against financial transactions with terrorists.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2544. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to prescribed rates for tax purposes, received on July 17, 1997; to the Committee on Finance.

EC–2545. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report relative to finances under the Treasury Forfeiture Act of 1992 for fiscal year 1996; to the Committee on Finance.

EC–2546. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to extraordinary dividends (RIN1545–AU16), received on July 15, 1997; to the Committee on Finance.

EC–2547. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Child Support Enforcement 20th Annual Report to Congress under the Social Security Act; to the Committee on Finance.

EC–2548. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to electronic funds transfer (RIN1545–AS79), received on July 11, 1997; to the Committee on Finance.

EC–2549. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to the electronic remittance processing system, received on July 11, 1997; to the Committee on Finance.

EC–2550. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report of a rule relative to guidance relating to waiver of penalties, received on July 11, 1997; to the Committee on Finance.

EC–2551. A communication from the Director, Regulations Policy Management Staff, Office of Policy Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a report of a rule relative to medical devices (RIN0910–AA09), received on July 21, 1997; to the Committee on Labor and Human Resources.

EC–2552. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a violation of the Anitdeficiency Act; to the Committee on Appropriations.

EC–2553. A communication from the Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule relative to radiological criteria, received on July 21, 1997; to the Committee on Environment and Public Works.

EC–2554. A communication from the Acting Executive Director, U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, a report of a rule relative to use of electronic media by commodity pool operators, received on July 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2555. A communication from the Acting General Counsel, Department of Energy, transmitting, pursuant to law, two rules including one relative to contract reform initiative (RIN1991–AB28), received on July 21, 1997; to the Committee on Energy and Natural Resources.

EC–2556. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to the Wild and Scenic Rivers Act; to the Committee on Energy and Natural Resources.

EC–2557. A communication from the Secretary, U.S. Department of Housing and Urban Development, transmitting, pursuant to law, a report relative to Gateway Housing Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–2558. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, a report of a rule entitled "Procedure For Imposing Assessments on the FHLBanks" (RIN3069–AA51), received on July 21, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–2559. A communication from the Secretary of Defense, transmitting, pursuant to law, a notice of authorization of a contract for the H-60 program; to the Committee on Armed Services.

EC–2560. A communication from the Secretary of Defense, transmitting, notice of retirement; to the Committee on Armed Services.

EC–2561. A communication from the Assistant Secretary of the Navy, Department of the Navy, transmitting, a notification of a study for private contractors; to the Committee on Armed Services.

EC–2562. A communication from the Secretary of Defense, transmitting, a notice of retirement; to the Committee on Armed Services.

EC–2563. A communication from the Secretary of Defense, transmitting, a notice of retirement; to the Committee on Armed Services.

EC–2564. A communication from the Secretary of Defense, transmitting, a notice of retirement; to the Committee on Armed Services.

EC–2565. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to dual use technology for fiscal year 1997; to the Committee on Armed Services.

EC–2566. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, certification of a license for the export of defense equipment under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2567. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, certification of a Manufacturing License Agreement relative to aerial target systems under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–2568. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, certification of a license for export of defense services to Brazil under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-2569. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, certification of a license for export of defense equipment to Sweden under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-2570. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to Contract with America Advancement Act of 1996; to the Committee on Commerce, Science, and Transportation.

EC-2571. A communication from the AMD-Performance Evaluation and Records Management, Office of Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to Regulatory Flexibility Analysis; to the Committee on Commerce, Science, and Transportation.

EC-2572. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for FM broadcast stations; to the Committee on Commerce, Science, and Transportation.

EC-2573. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments; to the Committee on Commerce, Science, and Transportation.

EC-2574. A communication from the AMD-Performance Evaluation and Records Mangement, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments in California; to the Committee on Commerce, Science, and Transportation.

EC-2575. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments in Idaho; to the Committee on Commerce, Science, and Transportation.

EC-2576. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Weston, Idaho; to the Committee on Commerce, Science, and Transportation.

EC-2577. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Mendota, California; to the Committee on Commerce, Science, and Transportation.

EC-2578. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Mahnomen, Minnesota; to the Committee on Commerce, Science, and Transportation.

EC-2579. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, purusant to law, a report relative to allotments for Portsmouth, Ohio; to the Committee on Commerce, Science, and Transportation.

EC-2580. A communication from the AMD-Performance and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Cooperstown, Pennsylvania to the Committee on Commerce, Science, and Transportation.

EC-2581. A communication from the AMD-Performance Evaluation and Records Management, Federal Communciations Commission, transmitting, pursuant to law, a report relative to allotments for Superior, Montana; to the Committee on Commerce, Science, and Transportation.

EC-2582. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Gillette, Wyoming; to the Committee on Commerce, Science, and Transportation.

EC-2583. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Kingfisher, Oklahoma; to the Committee on Commerce, Science, and Transportation.

EC-2584. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Greenwood, Arkansas; to the Committee on Commerce, Science, and Transportation.

EC-2585. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Lexington, Illinois; to the Committee on Commerce, Science, and Transportation.

EC-2586. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Steamboat Springs, Colorado; to the Committee on Commerce, Science, and Transportation.

EC-2587. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Randolph, Utah; to the Committee on Commerce, Science, and Transportation.

EC-2588. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Huntsville, Utah; to the Committee on Commerce, Science, and Transportation.

EC-2589. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Manistique, Michigan; to the Committee on Commerce, Science, and Transportation.

EC-2590. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, a report relative to allotments for Durango and Dolores, Colorado; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SHELBY, from the Committee on Appropriations, without amendment:

S. 1048. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105-55).

By Mr. GORTON, from the Committee on Appropriations, with amendments:

H.R. 2107. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105-56).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 1045. A bill to prohibit discrimination in employment on the basis of genetic information, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. FRIST, and Ms. COLLINS):

S. 1046. A bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 1047. A bill to settle certain Miccosukee Indian land takings claims within the State of Florida; to the Committee on Indian Affairs.

By Mr. SHELBY:

S. 1048. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. SMITH of Oregon:

S. 1049. A bill to require the Secretary of Agriculture to make a minor adjustment in the exterior boundary of the Hells Canyon Wilderness in the States of Oregon and Idaho to exclude an established Forest Service road inadvertently included in the wilderness; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mrs. MURRAY, and Ms. SNOW):

S. 1050. A bill to assist in implementing the Plan of Action adopted by the World Summit for Children; to the Committee on Foreign Relations.

By Mr. CAMPBELL:

S. 1051. A bill to amend the Communications Act of 1934 to enhance protections against unauthorized changes of telephone service subscribers from one telecommunications carrier to another, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 1052. A bill to amend the Andean Trade Preference Act to prohibit the provision of duty-free treatment for live plants and fresh cut flowers described in chapter 6 of the Harmonized Tariff Schedule of the United States; to the Committee on Finance.

By Mr. BIDEN:

S. 1053. A bill to reauthorize the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 1045. A bill to prohibit discrimination in employment on the basis of genetic information, and for other purposes; to the Committee on Labor and Human Resources.

THE GENETIC JUSTICE ACT

Mr. DASCHLE. Mr. President, the advent of testing for genes that may indicate a predisposition to disease has presented us with a new series of opportunities and challenges. While prior awareness of susceptibility to disease offers millions the chance to take preventive measures that will help them live healthier and longer lives, there also exists the possibility that genetic information will be misused. It is for that reason that I am introducing S. 1045, The Genetic Justice Act. This legislation will ensure that employees will not suffer adverse employment consequences as a result of improper use of genetic information and that employee privacy is protected.

Scientific advances now make it possible to identify genes that may indicate a predisposition to disease. For example, tests for genes associated with hereditary breast cancer will soon be commercially available. Genetic information may prove highly beneficial in areas related to prevention, treatment, diet, or lifestyle. While this is profoundly good news for patients, it also raises fears regarding how genetic information will be used in the workplace. Advances in genetic testing and screening, accelerated by the National Institutes of Health Human Genome Initiative, increase physicians' ability to detect and monitor chromosomal differences. These technologies and their resulting genomic data will enhance medical science, but may also lead to discrimination.

Regrettably, many employers may not hire individuals whom they believe will require time off or medical treatment at some point in the future due to a genetically transmitted disease. This discrimination could result despite the fact that genetic testing only indicates that an individual may be predisposed to a disease—not whether that disease will develop.

Anecdotal evidence suggests that fear of discrimination already has inhibited people who may be susceptible to disease from getting genetic testing. In some cases, this means that gene carriers will miss out on early diagnosis, treatment or even prevention. If consumers avoid taking advantage of available diagnostic tests out of fear of discrimination, they may suffer much more serious—and more expensive—health problems in the long run.

We will pay the price in more than increased health care costs if we allow genetic information to be used in a discriminatory manner. Discrimination based on genetic factors can be as unjust as that based on race, national origin, religion, sex, or disability. In each case, people are treated inequitably, not because of their inherent abilities, but solely because of irrelevant characteristics. Genetic discrimination that excludes qualified individuals from employment robs the marketplace of skills, energy, and imagination. Finally, genetic discrimination undercuts the Human Genome Initiative's fundamental purpose of promoting public health. Investing resources in the Genome Initiative is justified by the benefits of identifying, preventing, and developing effective treatments for disease. But if fear of discrimination deters people from genetic diagnosis or from confiding in physicians and genetic counselors, and makes them more concerned with job loss than with care and treatment, our understanding of the humane genome will be for naught.

Because genetic information could be used unfairly, Congress must expand the scope of employment discrimination law to include a ban on genetic discrimination. Our bill forbids employers from discriminating in hiring or in the terms and conditions of employment, and limits their ability to acquire genetic information. In order to acquire such information, an employer must show that the information is job-related and that the employee has consented to the disclosure.

Now, before the use of genetic information becomes widespread, we must make sure that dramatic scientific advances do not have negative consequences for the public. We have an historic opportunity to preempt this problem.

Mr. President, I ask unanimous consent that the bill text be printed in the RECORD and hope my colleagues will join me in supporting this important legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Genetic Justice Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—The terms "employee", "employer", "employment agency", and "labor organization" have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e). The terms "employee" and "member" include an applicant for employment and an applicant for membership in a labor organization, respectively.

(2) GENETIC INFORMATION.—The term "genetic information", used with respect to an individual, means information (including information regarding carrier status and information derived from a laboratory test that identifies mutations in specific genes or chromosomes, a physical medical examination, a family history, and a direct analysis of genes or chromosomes) about a gene, gene product, or inherited characteristic that derives from the individual or a family member of the individual.

(3) GENETIC SERVICES.—The term "genetic services" means genetic evaluation, genetic testing, genetic counseling, and related services.

SEC. 3. EMPLOYER PRACTICES.

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of genetic information with respect to the individual, including an inquiry by the individual regarding genetic services;

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual, including an inquiry by the individual regarding genetic services; or

(3) to request or require the collection for the employer or disclosure to the employer of genetic information with respect to an individual unless the employer shows that—

(A) the employer made the request or requirement after making an offer of employment to the individual;

(B) the information is job-related for the position in question and consistent with business necessity; and

(C) the knowing and voluntary written consent of the individual has been obtained for the request or requirement, and the collection or disclosure.

SEC. 4. EMPLOYMENT AGENCY PRACTICES.

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual, including an inquiry by the individual regarding genetic services.

SEC. 5. LABOR ORGANIZATION PRACTICES.

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any individual because of genetic information with respect to the individual, including an inquiry by the individual regarding genetic services;

(2) to limit, segregate, or classify the members of the organization, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual, including an inquiry by the individual regarding genetic services; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

SEC. 6. TRAINING PROGRAMS.

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of genetic information with respect to the individual, including an inquiry by the individual regarding genetic services, in admission to, or employment in, any program established to provide apprenticeship or other training or retraining.

SEC. 7. CONFIDENTIALITY.

If an employer, labor organization, or employment agency possesses genetic information about an employee, the employer, labor organization, or employment agency—

(1) shall maintain the information on separate forms and in separate medical files, and treat the information as a confidential medical record, except that, if the employee provides knowing and voluntary written consent—

(A) the employer may inform a supervisor or manager of the employee regarding a necessary restriction on the work or duties of, or a necessary accommodation for, the employee;

(B) the employer may inform first aid and safety personnel (when appropriate, within the meaning of section 102(d)(3)(B)(ii) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112(d)(3)(B)(ii))); and

(C) the employer shall provide relevant information to a government official investigating compliance with this Act, on request;

(2) shall disclose the information to the employee at the request of the employee; and

(3) shall not otherwise disclose the information.

SEC. 8. CIVIL ACTION.

(a) IN GENERAL.—An employee or member of a labor organization may bring an action in a Federal or State court of competent jurisdiction against an employer, employment agency, labor organization, or joint labor-management committee who violates this Act.

(b) CLASS ACTIONS.—The employee or member may bring the action for and in behalf of—

(1) the employee or member; or

(2) the employee or member, and other employees or members of the labor organization who are similarly situated.

(c) REMEDY.—The court in which the action is brought may award any appropriate legal or equitable relief.

SEC. 9. CONSTRUCTION.

Nothing in this Act shall be construed to limit the rights or protections of an employee or member of a labor organization under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. FRIST, and Ms. COLLINS):

S. 1046. A bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1997

Mr. JEFFORDS. Mr. President, I rise to introduce, with my colleagues Senators KENNEDY, FRIST, and COLLINS, the National Science Foundation Authorization Act of 1997. Our legislation authorizes the National Science Foundation [NSF] for fiscal years 1998 and 1999 and is similar to the legislation that was approved by the House of Representatives by voice vote on April 24, 1997.

The strong bipartisan support which NSF enjoys is a product of its historic contribution to American security and competitiveness. The prominent role of science in the American war effort during World War II left Americans with a new appreciation of the importance of research in establishing and preserving economic and military security. Federally funded research provided the American war effort with radar, sonar, the proximity fuse, blood plasma, sulfanilamide, penicillin, and the atomic bomb. In 1944, President Roosevelt charged Vannevar Bush, his chief science adviser, with evaluating the most effective way to harness this technological infrastructure in peacetime. The Bush report—Science—The Endless Frontier—established a strategy and rationale for Federal support of basic research. The report argued that "a nation which depends upon others for its new basic scientific knowledge will be slow in its industrial progress and weak in its competitive position in world trade regardless of its mechanical skill." This report provided the blueprint for creation of the National Science Foundation.

NSF was established in 1950 to "develop and encourage the pursuit of a national policy for the promotion of basic research and education in the sciences." Eight years later, following the 1957 Soviet launch of the Sputnik satellite, this mission was expanded to provide greater support for science education and literacy. Over the next three decades, NSF became the primary Federal sponsor of basic scientific research in mathematics, physical sciences, computer science, engineering, and environmental science at colleges and universities. Equally important to the future of our Nation, NSF has become a primary catalyst for math and science education reform.

NSF'S ROLE IN FEDERAL RESEARCH AND DEVELOPMENT

The legislation which I am introducing with my colleagues authorizes $3.5 billion for the National Science Foundation in fiscal year 1998 and $3.6 billion in fiscal year 1999. Although the National Science Foundation's budget accounts for only 4 percent of Federal research and development funding, NSF provides 25 percent of Federal support to academic institutions for research. NSF's contribution is even greater in some disciplines—NSF provides nearly 50 percent of all Federal support for basic research in certain fields of science, including math, computer science, and environmental science. This funding supports approximately 19,000 research and education projects at more than 2,000 colleges, universities, primary, elementary, and secondary schools, businesses, and other research institutions. Competition for these grants is fierce. NSF funds only about one-third of the 30,000 proposals it reviews annually.

The importance of this investment cannot be exaggerated. Over the past decade, private sector investment in research and development has eclipsed Federal investment in public science. However, the Federal investment in basic science plays a preeminent role in industrial innovation in the United States. A recent review of American industrial patent applications revealed that the Government or nonprofit foundations supported 75 percent of the main papers cited as the foundation for the new industrial innovation. The remaining 25 percent were funded by industry.

NSF'S ROLE IN SCIENCE EDUCATION AND TECHNOLOGY LITERACY

This bill authorizes $645 million for the education and human resources directorate [EHRD] in fiscal year 1998. EHRD has primary responsibility for NSF's education and training activities. In contrast with the programs of the Department of Education, NSF science and math education programs are experiments which link learning and discovery. Proposals are selected by outside peer review panels on the basis of their potential to provide long-lasting and broad impact. NSF has made notable contributions in the areas of curriculum and instructional material development, professional development, and improved the participation in science research and science education of women, minorities, and individuals with disabilities. This legislation strengthens and enhances these efforts.

And finally, I would be remiss if I did not speak about the partnership which has been forged between the State of Vermont and the National Science Foundation. Last year, NSF grants were provided to the Barre Town Elementary School, Mountshire Museum of Science, Cabot School, Charlestown Elementary School, St. Michael's College, Johnson State College, and the University of Vermont. In 1992, the Vermont Institute for Science, Math, and Technology received a 5-year award of $7.9 million to establish a collaborative statewide education reform effort linking business, higher education, government, and community sectors.

Our bill builds upon partnerships like that forged with the State of Vermont and offers a credible bipartisan response to the research and science education challenges facing our Nation. I urge the support of all my colleagues in the Senate for this worthwhile legislation.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator JEFFORDS and Senator FRIST as a sponsor of the National Science Foundation Authorization Act of 1997. This bipartisan legislation looks to the future by strengthening our national commitment to research and development. It also ensures the continued success of NSF's teacher training and professional development programs. In addition, it will improve science and math education from kindergarten to graduate school, and maintain America's competitive edge into the 21st century.

Few Federal agencies deliver as much bang for the buck as the National Science Foundation. The NSF funds 19,000 peer-reviewed science and education projects at more than 2,000 colleges, universities, schools, businesses, and research facilities in the United States.

NSF accounts for only 4 percent of total Federal research and development funding, yet it provides 25 percent of basic research support at academic institutions, and as much as half of all Federal funding for research in fields such as mathematics, computer science, environmental science, and the social sciences.

The NSF also plays an important role in training teachers and developing math and science curricula to prepare students for tomorrow's challenges. It has promoted innovative education programs in partnership with colleges, universities, elementary and secondary schools, science museums, and state and local governments. These programs encourage the discovery of new knowledge and its application to real-world problems.

NSF support for basic research and science education has played an important role in encouraging economic growth over the last 50 years. According to a recent study, each dollar that the Federal Government has spent on basic research has contributed 50 cents or more to the national output. These economic benefits are spread throughout the economy, enhancing the productivity of the Nation's work force and improving the quality of life of all Americans.

At the Massachusetts Institute of Technology, for example, NSF funds have encouraged scientists to explore the commercial applications of their research. Technology developed at MIT had a role in the launching of 13 companies in 1995. They manufacture products ranging from computer chips to communication networks. These enterprises have bolstered the State and local economies, and provided jobs and opportunities for many citizens.

In Massachusetts, the National Science Foundation is funding a wide range of projects on the cutting edge of research. NSF grants have been instrumental in building the State's biotechnology industry, mapping the oceans at the Woods Hole Oceanographic Institute, developing new superconductors at Harvard University's Material Research Science and Education Center, and fostering cooperative partnerships with schools, parents, businesses, and community organizations to strengthen math and science education programs.

Nationwide, NSF grants also cover a broad range of projects from health care to crime-fighting to protecting the environment. Specific grants are improving the treatment of arrythmia, facilitating the accurate identification of crime suspects, developing new biotechnology techniques to clean hazardous waste sites, and analyzing an Antarctic meteorite to determine whether or not life existed on Mars.

NSF funds benefit the humanities as well. The Next Generation Internet project will give researchers access to information from the world's libraries and museums at rates that are 100 to 1,000 times faster than today's Internet.

Recent budget projections by the American Association for the Advancement of Science paint a bleak picture for future funding of research and development. Discretionary spending, which funds all R&D programs including NSF grant support, is expected to shrink from one-sixth to one-seventh of the Federal budget by the year 2000. As a result, funds for NSF research and development will likely face reductions of 18 percent. At the same time, Germany, Japan, and France are projected to begin to overtake the United States in R&D expenditures. These developments will jeopardize America's leadership in science and technology as the 21st century approaches.

The impact of these cuts will be felt heavily in Massachusetts, which ranks third among States in NSF funding. Nearly 1,400 projects at over 140 sites in Massachusetts are funded at more than $224 million annually, and an 18-percent decrease in grant support would adversely affect students, scientists, researchers, and citizens in all 50 States.

The National Science Foundation Authorization Act of 1997 that we are sponsoring will place research and development on a more secure footing over the next 2 years. It will increase NSF funding by 7.2 percent in fiscal year 1998 and 3.7 percent in fiscal year 1999. The legislation also strengthens efforts to improve science, mathematics, engineering, and technology training for teachers and students, and will enable NSF to continue to play an important role in developing a faster and more powerful Internet. In addition, it authorizes the Office of Science and Technology Policy to prepare a report analyzing indirect costs, which play a vital but poorly understood part of Federal R&D spending.

The National Science Foundation is doing an outstanding job of fulfilling their missions, and I urge all of my colleagues to support this important legislation.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 1047. A bill to settle certain Miccosukee Indian land takings claims within the State of Florida; to the Committee on Indian Affairs.

MICCOSUKEE SETTLEMENT ACT OF 1997

Mr. MACK. Mr. President, I rise today with my colleague from Florida, Senator GRAHAM, to introduce legislation approving an agreement between the Miccosukee Tribe of Indians of Florida, and the State of Florida. This agreement arose from disputes surrounding the construction of Interstate 75 through the Miccosukee Reservation in Florida.

By way of background, Mr. President, when the interstate was built from Naples across to Fort Lauderdale, the Florida Department of Transportation dredged fill dirt off the northern Miccosukee Indian Reservation and used it to construct the roadbed. The Miccosukees subsequently sued in Federal District Court on the basis of an unlawful taking of property.

The State and the Miccosukees subsequently worked out a settlement whereby Florida would keep the fill-dirt and the Indians would get several parcels of State land. One parcel is adjacent to the tribe's permit lands on Tamiami Trail and another is near the Krome Detention Center in Miami. This agreement has been signed by the Miccosukees and the Department of Interior and was endorsed unanimously by the Governor and Cabinet of Florida.

The bill we are introducing today will direct the Secretary of the Interior—as the Federal trustee of the Miccosukees—to:

First, aid and assist in the fulfillment of the settlement agreement in a reasonable manner; second, upon finding that the agreement is legally sufficient, the Secretary should sign the agreement on behalf of the United States; third, facilitate the transfer of Miccosukee land—the fill-dirt—to the Florida Department of Transportation under the terms of the agreement, and; fourth, receive in Federal trust—on behalf of the Miccosukees—the land put up by the State for the swap—adjacent to Permit Area and Krome.

Mr. President, this legislation has also been introduced by Representative DIAZ-BALART in the House of Representatives. The enactment of this legislation is very important to the Miccosukee Tribe and I urge my colleagues to join us in this effort.

Thank you, Mr. President.

By Mr. SMITH of Oregon:

S. 1049. A bill to require the Secretary of Agriculture to make a minor adjustment in the exterior boundary of the Hells Canyon Wilderness in the States of Oregon and Idaho to exclude an established Forest Service road inadvertently included in the wilderness; to the Committee on Energy and Natural Resources.

HELLS CANYON NATIONAL RECREATION AREA LEGISLATION

Mr. SMITH of Oregon. Mr. President, today I introduce a bill that corrects a Forest Service mapping error on the border of the Hells Canyon National Recreation Area [HCNRA], in northeast Oregon, that has led to the closure of an important access road. The bill will restore public access to Hells Canyon, while preserving additional wilderness acreage for the enjoyment of generations to come.

In 1975, Congress created the Hells Canyon National Recreation Area which includes the Wilderness Area and overlooks the Snake River and the Oregon-Idaho border. Along the western rim of Hells Canyon lies Forest Service Road 3965. The 1975 act directed the development of a comprehensive management plan for the HCNRA and specifically addressed the need to analyze road access on the western rim of the canyon. The 1982 Comprehensive Management Plan, developed with extensive public participation, provided for continued motor vehicle use of Road 3965 for recreation and fire prevention purposes. The road existed prior to the HCNRA designation, but upon the discovery that the road crossed into the designated wilderness area, the road was closed.

The Forest Service inadvertently erred in its location of the wilderness boundary in question. This legislation will, therefore, adjust the wilderness boundary to bring it in line with what Congress intended when the wilderness was established. This correction will actually increase wilderness acreage.

For decades, Oregon residents have traveled this service road to experience the natural beauty of Hells Canyon. The recreation area is an important part of our heritage, and public access to it is vital. I look forward to the Forest Service managing the road with continued sensitivity to all cultural, environmental, and economic impacts.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY ADJUSTMENT, HELLS CANYON WILDERNESS, HELLS CANYON NATIONAL RECREATION AREA.

The Secretary of Agriculture shall revise the map and detailed boundary description of the Hells Canyon Wilderness designated by section 2 of Public Law 94–199 (16 U.S.C. 460gg–1) to exclude Forest Service Road 3965 from the wilderness area so that the road may continue to be used by motorized vehicles to its historical terminus at Squirrel Prairie, as was the original intent of the Congress. The road shall continue to be included in the Hells Canyon National Recreation Area also established by such Act.

By Mr. JEFFORDS (for himself, Mrs. MURRAY, and Ms. SNOWE):

S. 1050. A bill to assist in implementing the plan of action adopted by the World Summit for Children; to the Committee on Foreign Relations.

THE JAMES P. GRANT WORLD SUMMIT FOR CHILDREN IMPLEMENTATION ACT

Mr. JEFFORDS. Mr. President, I rise today, on behalf of myself, Senator MURRAY, and Senator SNOWE, to introduce the James P. Grant World Summit for Children Implementation Act of 1997.

At the 1990 World Summit for Children, the United States and 158 other nations made a promise to the world's children. In signing the summit declaration and plan of action, they pledged, by the year 2000, to reduce child mortality rates by at least one-third, to reduce maternal deaths and child malnutrition by one-half, to provide all children access to basic education, and to provide all families access to clean water, safe sanitation and family planning information, and services. In the declaration they stated, "We are prepared to make available the resources to meet these commitments."

We have, in fact, made some progress over the last several years in meeting these admittedly ambitious objectives. Child mortality rates have fallen. Over 80 percent of the world's children are now immunized, saving 3 million lives annually. Nonetheless, millions of children are still dying every year for want of a vaccine costing just a few dollars or a Vitamin A capsule costing a few cents. It is estimated that 12 million children still die each year from preventable diseases and malnutrition.

The objective of the legislation Senators MURRAY and SNOWE and I are introducing today is to keep the United States focused on the commitments it made at the World Summit on Children. The bill would shift funds within the existing foreign assistance budget to meet the needs of children—without increasing overall foreign assistance. Specifically, it calls for increased allocations of funds for child survival, basic education, Vitamin A and other micronutrients, UNICEF, AIDS prevention and care, refugee assistance, family planning, and tuberculosis prevention and treatment.

This is not just a foreign assistance bill. We can and must do more in our own country to improve the health and welfare of children at risk. Therefore, this legislation also calls for increased funding of domestic programs which touch the lives of children, namely Head Start and the Special Supplemental Food Program for Women, Infants, and Children, also known as WIC. Both of these programs have proven track records of improving the lives and prospects of children from low-income families.

Mr. President, I appreciate that Congress is in the midst of serious fiscal belt tightening in order to meet our balanced budget objectives. This means that we must focus on our highest priorities. I would maintain, though, that we have no higher priority than our children and providing for their future. The programs cited in this bill, if properly funded, will improve the quality of life of children, here and abroad, and help them grow into healthy, productive adults. Moreover, it will do so without increasing our overall foreign assistance and with only a modest increase in the two domestic programs cited.

Mr. President, this bill is good for children, good for their families, and good for our future. I urge my colleagues to support it.

Mrs. MURRAY. Mr. President, I am delighted to once again join my colleague from Vermont, Senator JAMES JEFFORDS, in introducing the James P. Grant World Summit for Children Implementation Act. I particularly want to pay tribute to Senator JEFFORDS for his continuing leadership in the effort to aid all children.

The World Summit for Children Implementation Act is our effort to ensure that the United States implements the plan of action adopted at the 1990 United Nations World Summit for Children. Our legislation proposes a series of life-saving, cost-effective programs to protect the health and well-being of children worldwide. Importantly, while this legislation proposes several increases in individual foreign assistance programs, it does not call for an increase in overall foreign aid levels.

Specifically, the Jeffords-Murray bill increases funding allocations for child survival, basic education, vitamin A and other micronutrients, UNICEF, AIDS prevention and care, refugee assistance, and family planning. Our bill also calls for an increase in funding for two important domestic programs: WIC and Head Start.

The world's children have a right to adequate nutrition, full immunization, a decent education, and health care. The United States has traditionally led the way in promoting the well-being of children. Because the nations of the world are more interdependent than ever before, the well-being of children around the globe affects us here in the United States. Children are not just the foundation of our society and our future; they are truly the foundation of the future of the world.

According to UNICEF, more than 33,000 children die each and every day; most from easily preventable diseases. The under 5 mortality rate for children in the least developed countries is 20 times greater than that of the United States and other industrialized nations.

More than 2 million children under age 5 die each year from vaccine preventable diseases like diphtheria, measles, pertussis, polio, tuberculosis, and tetanus. Diarrhoeal diseases, often caused by a total lack of clean sanitation facilities and clean water, kill an additional 3 million children per year. And for every child that dies, several more live on with stunted growth, ill health, and diminished potential.

The world's political leadership can ill-afford to ignore these statistics. These are just the mortality statistics for young children. Equally disturbing figures are available regarding access to education, the treatment of young girls, nutrition, and child labor. Clearly, our work on behalf of children is far from completed. While we have much to celebrate, we have much more to do. And I am delighted to be joining Senator JEFFORDS to unequivocally state our belief that the United States must continue to champion the future health, education, and economic well-being of children everywhere.

Importantly, to reach children, we must reach out to the world's women including young mothers, family providers, and elders. Women are often overlooked in tradition development programs. Fortunately, the World Summit for Children recognized to improve the lot of children, the status of women also had to improve.

For example, recognizing the important link between child survival and family planning, the World Summit for Children called for universal access to family planning education and services by the end of this decade.

Family planning saves the lives of both women and children. We know that babies born in quick succession to a mother whose body has not yet recovered from a previous birth are the least likely to survive. Increasing funds in this area has been a top priority for me in my work in the Senate, and is addressed positively in the legislation we are introducing today.

Basic education is another important component of this legislation. Of the 143 million children in the developing world not attending school, 56 percent are girls. Of the world's 900 million illiterate adults, nearly two thirds are women. World Bank studies have estimated that each additional year of education for a young girl results in a 10-percent decrease in birth rates and child death rates, and a 10 to 20 percent increase in wages earned.

Foreign aid is never a popular item. I applaud Secretary of State Madeleine Albright for her advocacy work in support of foreign aid and U.S. assistance abroad. And I am pleased that the both bodies of the Congress have voted to provide additional moneys for foreign assistance in fiscal year 1998. In my view, our foreign aid dollars are best spent when we are investing in programs that strengthen families around the globe, and give a special hand to women and children.

That is exactly what Senator JEFFORDS and I propose to do with the James P. Grant World's Summit for Children Implementation Act. I urge my colleagues to review and support this important legislation.

By Mr. CAMPBELL:

S. 1051. A bill to amend the Communications Act of 1934 to enhance protections against unauthorized changes of telephone service subscribers from one telecommunications carrier to another, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERSTATE SLAMMING PREVENTION ACT OF 1997

Mr. CAMPBELL. Mr. President, today I am introducing legislation that will address a significant consumer issue—the unauthorized change of telecommunications subscribers from one carrier to another, otherwise known as slamming.

Consumers have the right to choose their primary long distance company and to change companies whenever they wish. Sometimes a consumer's telecommunications company is changed without the consumer's knowledge or consent, a practice known as slamming. As competition among telecommunications carriers has increased, so has the number of complaints arising from unauthorized or unknowingly authorized changes of consumers' telecommunications carriers.

To give an idea of the scope of the problem, the Federal Communications Commission [FCC] reports that it received over 1,700 complaints during fiscal year 1993. By 1995, that number had escalated to over 38,000 consumer telephone complaints and over 25,000 written complaints. In fact, the FCC says slamming complaints are their fastest growing category of consumer complaint, and my home State of Colorado ranks among the top five States in 1996 slamming complaints per million customers.

The FCC reports that a slammed consumer may lose important service features, get lower quality service, or be charged higher rates for his or her telephone calls. Slamming also distorts the telecommunications competitive market by rewarding companies that engage in deceptive and misleading marketing prices. The Telecommunications Act of 1996 includes provisions designed to reduce slamming, and it charges the FCC to adopt rules to implement these provisions.

The bill I am introducing today will give teeth to the Commission's efforts to curb slamming. I firmly believe that enforcement, streamlined processing of slamming complaints, and consumer education will help stem the tide of unauthorized carrier changes.

My bill, the Interstate Slamming Prevention Act of 1997, imposes a deadline of April 30, 1998 for the completion of the FCC's rulemaking on slamming.

Currently, the Telecommunications Act does not define a deadline for action, and one is needed to ensure that consumers are protected as soon as possible from companies that engage in deceptive marketing practices. Nine months is sufficient time for the FCC to build a full record, solicit input from all interested parties, and put forth new antislamming rules.

My legislation directs the FCC, in its rulemaking, to develop rules and regulations regarding penalties and liabilities—including substantial fines or forfeitures under section 503 of the Communications Act—for the unauthorized switching of a customer's preferred telecommunications carrier.

It also directs the FCC to consider whether telecommunications carriers should be required to set up toll-free numbers dedicated to reporting unauthorized long distance carrier switches, with the obligation for a customer service representative to answer incoming calls within 2 minutes.

I support such a toll-free number with call answering standards. Requiring consumers to pay for a call to report a slamming incident or having them endure a long wait before speaking to a customer service representative, would pose real barriers to accurate reporting.

My legislation further directs the Commission to consider a process that would secure facts and statistical data from telecommunications carriers related to the number of consumer complaints they receive regarding slamming.

By October 31, 1998, the bill directs the FCC to report to Congress the identities of those telecommunications carriers that represent the 10 top slammers for 1997—based on the ratio of annual customer complaints regarding unauthorized carrier changes to the total number of customers served by such carriers.

It is my hope that such a list will serve as an effective deterrent to companies contemplating deceptive marketing campaigns. Negative publicity could be the best defense in the fight against slamming.

This report also should identify whether telecommunications carriers have been assessed fines or forfeitures by the Commission—including the amount of the fine or forfeiture, and whether the assessment was the result of a full prosecution or pursuant to a consent decree.

After the first report in October 1998, the bill requires an annual report be submitted by the FCC to Congress each April 30.

Before Congress takes more dramatic action in this regard, my bill would look to the FCC for its recommendations on the following issues: Whether consumers should be provided a private cause of action, with minimum statutory penalties, relating to unauthorized slamming; whether the FCC's current fine and forfeiture authority is sufficient to meaningfully address and curb actions of telecommunications carriers that engage in slamming; and what penalties should be applied to telecommunications carriers which switch a customer's preferred telecommunications carrier without a customer's authorization either willfully and knowingly or by means of a forged document?

It is simply unfair for unsuspecting consumers, especially senior citizens, who in good faith select a long distance carrier only to have their long distance phone service changed without their knowledge. Slamming is unfair and against the law. My bill will help protect consumers from this unfair practice.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

Mr. President, I urge my colleagues to support this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Slamming Prevention Act of 1997".

SEC. 2. ENHANCEMENT OF PROTECTIONS.

(a) LIABILITY FOR ADDITIONAL CHARGES.—Subsection (b) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended—

(1) by striking "(b) LIABILITY FOR CHARGES.—Any telecommunications carrier" in the first sentence and inserting the following:

"(b) LIABILITY FOR CHARGES.—

"(1) CHARGES COLLECTED AFTER VIOLATION.—Any telecommunications carrier"; and

(2) by striking the second sentence and inserting the following:

"(2) FEES FOR CHANGING BACK.—Any telecommunications carrier described in paragraph (1) shall also be liable to the carrier previously selected by the subscriber concerned for any fees associated with changing the subscriber back to the carrier previously selected, in accordance with such procedures as the Commission may prescribe.

"(3) RELATION TO OTHER AUTHORITY.—The remedies provided by this subsection are in addition to any other remedies available by law.".

(b) ADDITIONAL PENALTIES.—Such section 258 is further amended by adding at the end the following:

"(c) ADDITIONAL PENALTIES.—Any telecommunications carrier that violates the verification procedures described in subsection (a) shall be subject to such additional fines and penalties, including a forfeiture penalty under section 503(b)(1)(B) of this Act, as the Commission shall prescribe.".

(c) ADDITIONAL PROTECTIONS.—Such section 258 is further amended by adding at the end the following:

"(d) ADDITIONAL PROTECTIONS.—In order to provide subscribers with additional protections against changes in providers of telephone exchange service or telephone toll service in violation of the verification procedures described in subsection (a), the Commission may prescribe the following:

"(1) A requirement that telecommunications carriers establish toll-free telephone numbers in order to permit subscribers to register complaints regarding the execution of such changes in service, including the requirement that calls to such numbers be answered in not more than two minutes.

"(2) A requirement that telecommunications carriers provide the Commission such information relating to the complaints made to such carriers regarding such changes in service as the Commission considers appropriate.".

(d) DEADLINE FOR RULEMAKING.—The Federal Communications Commission shall prescribe the regulations required by section 258 of the Communications Act of 1934, as amended by this section, not later than April 30, 1998.

(e) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—Not later than October 31, 1998, the Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service. The report shall include the following:

(A) A list of the ten telecommunications carriers that, during the one-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers.

(B) The telecommunications carriers, if any, assessed fines or penalties under section 258(c) of the Communications Act of 1934, as added by subsection (c) of this section, during that period, including the amount of each fine or penalty, and whether the fine or penalty was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

(C) Whether or not subscribers should be authorized to bring a private cause of action against telecommunications carriers that change subscriber selections of providers of telephone exchange service or telephone toll service in violation of the procedures prescribed under section 258(a) of the Communications Act of 1934 and, if so, the advisability of establishing minimum statutory penalties for violations addressed by such causes of action.

(D) Whether or not the fines and penalties imposed by the Commission under section 258(c) of the Communications Act of 1934, as so added, are sufficient to deter telecommunications carriers from changing subscriber selections of providers of telephone exchange service or telephone toll service in violation of such procedures.

(2) UPDATE.—Not later than one year after the date on which the Commission submits the report required by paragraph (1), and each year thereafter, the Commission shall submit to Congress an update of the previous report under this subsection which sets forth the information specified in subparagraphs (A) and (B) of that paragraph for one-year period preceding the date of the report concerned.

By Mrs. BOXER:

S. 1052. A bill to amend the Andean Trade Preference Act to prohibit the provision of duty-free treatment for live plants and fresh cut flowers described in chapter 6 of the Harmonized Tariff Schedule of the United States; to the Committee on Finance

THE ANDEAN TRADE PREFERENCE ACT FLOWER EXEMPTION AMENDMENT ACT OF 1997

Mrs. BOXER. Mr. President, in 1991 Congress enacted the Andean Trade Preference Act which provided for duty-free treatment, or reduced duties, on many products, including fresh-cut flowers, imported from the four South American Andean countries of Bolivia, Colombia, Ecuador, and Peru. This legislation was proposed as a means of promoting alternatives to coca cultivation and production by offering broader access to U.S. markets for legal products.

However, the impact of the ATPA on our domestic flower industry, particularly in my home State of California, has been devastating. Colombian fresh-cut flowers have been the greatest beneficiary of the ATPA. In 1992, Colombia exported $87.7 million worth of fresh cut flowers to the United States. By 1995, Colombian exports increased to over $374.4 million. This represents a 427-percent increase over that 3-year period.

Domestic growers of roses and carnations have been particularly hard-hit. In 1996, Colombia exported approximately 1.7 billion roses and carnations to the United States. Colombia now controls more than 50 percent of the United States market for roses and 80 percent of the carnation market. Overall, Colombian flowers account for about 65 percent of the United States fresh-cut flower market.

The preferential treatment accorded Colombian fresh-cut flowers under the ATPA has had a direct and dire impact on the United States flower industry—approximately 58 percent of which is located in California. This preferential treatment, however, does not appear to be serving its intended purpose.

In 1996, an International Trade Commission report found that the "ATPA had little effect on drug crop eradication in the Andean region * * *." In fact, quite the opposite has happened. The number of hectares devoted to coca cultivation in Colombia increased from 37,500 in 1991 to more than 50,000 in 1995. The ITC report also found that "[the] ATPA had a small and indirect * * * effect on crop substitution during 1995 * * *." Thus, the intended goal of reducing drug crop cultivation by providing market access for alternative crops has not been achieved.

Mr. President, I applaud and support the goals of the Andean Trade Preference Act. We must do all we can to encourage Colombia to seek alternatives to drug production. The impact of the ATPA on our domestic flower industry, however, has been far too great to justify the continued inclusion of fresh-cut flowers. It is imperative, therefore, that we exempt fresh-cut flowers from the ATPA.

In enacting the ATPA, Congress specifically exempted certain products, that is textiles and apparel, watches and watch parts, and petroleum products, which were considered particularly sensitive to import competition. Fresh-cut flowers should be considered a similarly sensitive domestic product, and thus also exempted from the ATPA. Thank you, Mr. President.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON PROVISION OF DUTY-FREE TREATMENT FOR LIVE PLANTS AND FRESH CUT FLOWERS UNDER THE ANDEAN TRADE PREFERENCES ACT.

(a) IN GENERAL.—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended—

(1) in subsection (b)—

(A) in paragraph (7), by striking "or" at the end;

(B) in paragraph (8), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(9) live plants and fresh cut flowers described in chapter 6 of the HTS."; and

(2) in subsection (e)(5)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraph (B) through (D) as subparagraphs (A) through (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

By Mr. BIDEN:

S. 1053. A bill to reauthorize the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

REAUTHORIZATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY

Mr. BIDEN. Mr. President, since I released my first annual drug strategy in 1990, I have argued that it was imperative that we needed to act, instead of just talk, in order to confront the problem of drug abuse and drug related crime. This means focusing quickly on the risks confronting our youth, identifying practical steps our communities can take to reduce these risks, and committing ourselves to the hard work and resources needed to steer young people to productive lives instead of wasted lives.

The administration's 1998 national drug strategy provides significant steps toward these goals. Under the leadership of General McCaffrey, the administration's 1998 drug strategy calls for a 10-year antidrug plan and a 1998 budget request that includes full funding for drug control efforts that have proven to work.

The administration's budget request includes: $8.4 billion for domestic drug enforcement; $3.3 billion for drug treatment; $2.2 billion for drug education and prevention—including $680 million for Safe and Drug-Free Schools; and $2.1 billion for interdiction and international antidrug efforts—including broad, across-the-board increases for law enforcement agencies like the FBI, DEA, INS, and U.S. Attorneys.

In addition to funding these existing programs, the budget request establishes a national media campaign of prime-time antidrug television advertisements to stop kids from trying drugs in the first place—funded by $175 million from Federal Government and $175 million from private industry.

These are all positive steps which I urge my colleagues to pass into law.

What is more, these positive steps illustrate just how vital the office of the Drug Director truly is. Because, if we did not have an office—a single, responsible office charged with overseeing the Federal antidrug policy we could not even debate whether General McCaffrey's drug strategy makes sense. I believe it does. But, there may be others who do not. My key point is that without a Drug Director, we would have lost even the chance to have an informed debate over a specific proposal.

I remind my colleagues what we faced on the drug policy front when I first began calling for a drug office in 1980: it was pretty simple, there was no drug office, there were more than 50 Federal departments, agencies, and offices putting together a hodge-podge of antidrug efforts with no coherant plan.

Contrast this to what we have today, General McCaffrey has submitted a strategy and a budget—and we can now all debate what a majority of us favor and what a majority of us oppose.

This is the fundamental reason why I am today introducing legislation to reauthorize the Office of National Drug Control Policy. I know that the administration, led by General McCaffrey, has worked hard to craft this legislation, and I believe that it deserves speedy consideration—and the votes—of my colleagues.

One of the important refinements offered in this legislation is to build in some long-term planning while at the same time adding some greater accountability for the drug strategy and all its component parts.

This legislation does so by calling on the Drug Director to develop a 10-year plan, a 5-year budget coupled with a detailed annual status report assessing the progress on the strategy, as well as a detailed, program-by-program, annual budget.

In other words, this legislation would keep the Drug Director's key power to develop, define, and submit to Congress a detailed annual drug budget. A process which holds unique powers to focus congressional debate on the topic of drug policy, and which is the strongest institutional power of the Office of National Drug Control Policy within the executive branch.

In addition, this legislation will enhance a function which too often is ignored—that function: accountability. Here, the Drug Director has called for long- and short-term measureable objectives. In fact, as part of General McCaffrey's on-going efforts at the Drug Office, the General has already identified more than 54 performance targets and another nearly 80 measures of program effectiveness.

The legislation I am introducing today will help formalize this process. Let me also add, that calling on the Drug Director to provide a 10-year plan will not prevent any future administration—nor even this administration—from changing or refining that plan. It is simply to recognize that we are at a stage in our effort against drugs where we must focus on implementation and results. And, this is exactly what the legislation I offer today is all about.

I urge my colleagues to support the legislation I offer today.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 394

At the request of Mr. HATCH, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 397

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 412

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 537

At the request of Ms. MIKULSKI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 537, a bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program.

S. 599

At the request of Mrs. BOXER, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 599, a bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes.

S. 608

At the request of Mr. FEINGOLD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 608, a bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment.

S. 755

At the request of Mr. CAMPBELL, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 852

At the request of Mr. LOTT, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 943

At the request of Mr. SPECTER, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 943, a bill to amend title 49, United States Code, to clarify the application of the act popularly known as the "Death on the High Seas Act" to aviation accidents.

S. 969

At the request of Mr. D'AMATO, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 969, a bill ordering the preparation of a Government report detailing injustices suffered by Italian-Americans during World War II, and a formal acknowledgement of such injustices by the President.

S. 982

At the request of Mr. MCCONNELL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 982, a bill to provide for the protection of the flag of the United States and free speech, and for other purposes.

S. 1002

At the request of Mr. ABRAHAM, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 1002, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE RESOLUTION 98

At the request of Mr. HAGEL, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Resolution 98, a resolution expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change.

AMENDMENTS SUBMITTED

THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

BUMPERS AMENDMENT NO. 944

Mr. BUMPERS proposed an amendment to the bill (S. 1034) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 70, strike lines 17 through 18, and insert in lieu thereof the following: "sion and administrative aircraft, $3,826,500,000, to remain available until September 30, 1999. *Provided*, That of the funds made available in this bill, no funds shall be expended on the space station program, except for termination costs."

D'AMATO AMENDMENT NO. 945

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill, S. 1034, supra; as follows:

On page 16, between lines 8 and 9, insert the following:

SEC. 108. (a) Not later than 4 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the allocation of health care resources by the Secretary of Veterans Affairs under the Veterans Integrated Service Network system and the Veterans Equitable Resource Allocation System. The report shall address the following:

(1) The manner in which health care resources (including personnel and funds) are allocated under the Veterans Integrated Service Network system and the Veterans Equitable Resource Allocation system.

(2) Whether or not the allocation of health care resources under the systems takes into account the disproportionate number of veterans with special needs who reside in the northeastern United States.

(3) The effect of the allocation of health care resources under the systems on the quality of health care services provided by the Secretary to veterans who reside in the northeastern United States.

(4) The effect of the allocation of health care resources under the systems on the access to health care services provided by the Secretary to veterans who reside in the northeastern United States.

(b) Not later than 4 months after the date of enactment of this Act, the Comptroller General shall also submit to Congress a report on the effect of the reform of the eligibility of veterans for health care services under title I of Public Law 104-262 (110 Stat. 3178), and the amendments made by that title, on the quality of and access to health care provided by the Secretary to veterans who reside in the northeastern United States.

THE MILITARY CONSTRUCTION APPROPRIATION, 1998

FORD (AND MCCONNELL) AMENDMENT NO. 946

Mr. BURNS (for Mr. FORD, for himself and Mr. MCCONNELL) proposed an amendment to the bill (H.R. 2016) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 303(e) of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (Public Law 105-18; 111 Stat. 168) is amended to read as follows:

"(e) AVAILABILITY OF FUNDS.—The Secretary may use funds available in the Defense Working Capital Fund for the payment of the costs of utilities, maintenance and repair, and improvements entered into under the lease under this section.".

THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1988

ALLARD AMENDMENT NO. 947

Mr. ALLARD proposed an amendment to the bill, S. 1034, supra; as follows:

On page 21, line 16, insert before the period at the end the following: ": *Provided further*, That of the total amount made available under this heading, $290,000,000 shall be made available for tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937".

GRAHAM AMENDMENT NO. 948

Mr. GRAHAM proposed an amendment to the bill, S. 1034, supra; as follows:

On page 85, between lines 18 and 19, insert the following:

SEC. 423. SENSE OF THE SENATE CONCERNING CATASTROPHIC NATURAL DISASTERS.

(a) FINDINGS.—The Senate finds that—

(1) catastrophic natural disasters are occurring with great frequency, a trend that is likely to continue for several decades according to prominent scientists:

(2) estimated damage to homes, buildings, and other structures from catastrophic natural disasters has totaled well over $100,000,000,000 during the last decade, not including the indirect costs of the disasters such as lost productivity and economic decline;

(3) the lack of adequate planning for catastrophic natural disasters, coupled with inadequate private insurance, has led to increasing reliance on the Federal Government to provide disaster relief, including the appropriation of $40,000,000,000 in supplemental funding since 1989;

(4) in the foreseeable future, a strong likelihood exists that the United States will experience a megacatastrophe, the impact of which would cause widespread economic disruption for homeowners and businesses and enormous cost to the Federal Government; and

(5) the Federal Government has failed to anticipate catastrophic natural disasters and take comprehensive action to reduce their impact.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider legislation that embodies the following principles;

(1) Persons who live in areas at risk of natural disaster should assume a practical level of personal responsibility for the risks through private insurance.

(2) The insurance industry, in partnership with the Federal Government and other private sector entities, should establish new mechanisms for the spreading of the risk of catastrophes that minimize the involvement and liability of the Federal Government.

(3) A partnership should be formed between the private sector and government at all levels to encourage better disaster preparation and respond quickly to the physical and financial impacts of catastrophic natural disasters.

WELLSTONE (AND MIKULSKI) AMENDMENT NO. 949

Mr. WELLSTONE (for himself and Ms. MIKULSKI) proposed an amendment to the bill, S. 1034, supra; as follows:

On page 85, between lines 18 and 19, insert the following:

SEC. 423. It is the sense of the Senate that Congress should appropriate for the Department of Veterans Affairs for discretionary activities in each of fiscal years 1999 through 2002 an amount equal to the amount required by the Department in such fiscal year for such activities.

WELLSTONE AMENDMENT NO 950

Mr. WELLSTONE proposed an amendment to the bill, S. 1034, supra; as follows:

At the appropriate place, insert the following:

(A) Not later than 60 days after enactment of this act, the Senate Committee on Veterans Affairs shall hold one or more hearings to consider legislation which would add the following diseases at the end of Section 1112(c)(2) of title 38, United States Code: Lung cancer, bone cancer, skin cancer, colon cancer, kidney cancer, posterior subcapsular cataracts, non-malignant thyroid nodular disease, ovarian cancer, parathyroid adenome, tumors of the brain and central nervous system, and rectal cancer.

(B) Not later than 30 days after enactment of this act, the Congressional Budget Office shall provide to the Senate Committee on Veterans' Affairs and the Senate Appropriations Committee an estimate of the cost of the provision contained in (A).

MIKULSKI (AND OTHERS) AMENDMENT NO. 951

Ms. MIKULSKI (for herself, Mr. DASCHLE, and Mr. BOND) proposed an amendment to the bill, S. 1034, supra; as follows:

On page 16, line 21, strike "$10,693,000,000" and insert in lieu thereof "$10,653,000,000."

On page 17, line 7, strike "$1,150,000,000" and insert in lieu thereof "$1,110,000,000".

On page 33, after line 23, insert the following new heading:

"EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"For grants to Empowerment Zones and Enterprise Communities, to be designated by the Secretary of Housing and Urban Development, to continue efforts to simulate economic opportunity in America's distressed communities, $25,000,000, to remain available until expended.".

On page 53 line 22, strike "$400,500,000" and insert in lieu thereof "$420,500,000".

On page 55, line 14, insert after the colon the following: ":*Provided further*, That $20,000,000 shall be available for the America Reads Initiative".

On page 67, line 9, strike "$202,146,000" and insert in lieu thereof "$207,146,000".

On page 67, line 9, insert the following before the period: ":*Provided further*, That for purposes of pre-disaster mitigation pursuant to 42 U.S.C. 5131 (b) and (c) and 42 U.S.C. 5196 (e) and (i), $5,000,000 of the funds made available under this heading shall be available until expended for project grants for State and local governments".

On page 72, line 1, strike "$2,513,200,000" and insert in lieu thereof "$2,503,200,000."

D'AMATO (AND OTHERS) AMENDMENT NO. 952

Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. TORRICELLI, and Mr. LAUTENBERG) proposed an amendment to the bill, S. 1034, supra; as follows:

On page 16, between lines 8 and 9, insert the following:

SEC. 108. (a) Not later than 4 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the allocation of health care resources by the Secretary of Veterans Affairs under the Veterans Integrated Service Network system and the Veterans Equitable Resource Allocation System. The report shall address the following:

(1) The manner in which health care resources (including personnel and funds) are allocated under the Veterans Integrated Service Network system and the Veterans Equitable Resource Allocation system.

(2) Whether or not the allocation of health care resources under the systems takes into account the disproportionate number of veterans with special needs who reside in the northeastern United States.

(3) The effect of the allocation of health care resources under the systems on the quality of health care services provided by the Secretary to veterans who reside in the northeastern United States.

(4) The effect of the allocation of health care resources under the systems on the access of health care services provided by the Secretary to veterans who reside in the northeastern United States.

(b) Not later than 4 months after the date of enactment of this Act, the Comptroller General shall also submit to Congress a report on the effect of the reform of the eligibility of veterans for health care services under title I of Public Law 104–262 (110 Stat. 3178), and the amendments made by that title, on the quality of and access to health care provided by the Secretary to veterans who reside in the northeastern United States.

BUMPERS AMENDMENTS NOS. 953–955

Mr. BUMPERS proposed three amendments to the bill, S. 1034, supra; as follows:

AMENDMENT NO. 953

At the appropriate place in the bill, insert the following new sections:

SEC. . ANNUAL REPORT ON LIFE CYCLE COSTS AND SPACE LAUNCH REQUIREMENTS.

(a) For each of the fiscal years 1999 through 2013, the Administrator, along with the President's submission to the Congress of the annual budget request for the National Aeronautics and Space Administration, shall submit a report that contains—

(1) a life cycle capital development and operations plan with a year-by-estimate of the United States' share of the projected expenses for development, construction, operation, enhancement, and decommissioning and disassembly of the Space Station; and

(2) an updated space launch manifest for the Space Station program and the estimated marginal and average launch costs for the Space Station program for the fiscal year involved and all succeeding fiscal years.

SEC. . FUNDING CAPS.

(a) The President's cumulative budget submissions for Space Station capitol development and operations for the fiscal year 1994 through the fiscal year during which the Space Station achieves full operational capability may not exceed $17,400,000,000, exclusive of launch costs.

(b) After achieving full operational capability and continuing through its decommissioning, the President's annual budget submission to Congress for the National Aeronautics and Space Administration shall contain an amount for the operation of, and any enhancement to, the Space Station which shall in no case exceed $1,300,000,000 for that fiscal year, exclusive of launch costs.

(c) DEFINITIONS.—For purposes of this section—

(a) the capitol development program of the Space Station includes, but is not limited to, the research and development activities associated with the space and ground systems and collateral equipment of the Space Station, and all direct expenses for space flight, control, data communications, assembly and operations planning, construction of facilities, training, development of science equipment and payloads, and research and program management activities associated with the construction and operations of the Space Station and its supporting elements and services until the facility is equipped and powered as planned, and declared fully operational;

(2) operation of the Space Station includes, but is not limited to, all direct research and development; space flight, control and data communications; construction of facilities; training; development of science equipment and payloads, scientific experiments; and research and program management activities associated with the operations of the Space Station; and the U.S.-Russia cooperative MIR program;

(3) enhancement of the Space Station includes all direct research and development; space flight, control and data communications; construction of facilities; and research and program management activities associated with the acquisition of additional Space Station elements and ground support facilities;

(4) direct expenses include, but are not limited to, the marginal costs of transportation and tracking and data services, launch facilities, payload processing facilities, simulator facilities, and all other enabling facilities including their collateral equipment, and all laboratory and technical services provided by NASA Centers to support space station development and scientific research; and

(5) full operation capability means the facility is fully assembled on-orbit with the power, configuration and capabilities described in the system design review of March 24, 1994.

AMENDMENT NO. 954

At the appropriate place in the bill, add the following new section:

SEC. XXX. Of the funds provided to the National Aeronautics and Space Administration in this bill, the Administrator shall by November 1, 1998, make available no less than $400,000 for a study by the National Research Council, with an interim report to be completed by June 1, 1998, that evaluates, in terms of the potential impact on the Space Station's assembly schedule, budget, and capabilities, the engineering challenges posed by extravehicular activity (EVA) requirements, U.S. and non-U.S. space launch requirements, the potential need to upgrade or replace equipment and components after assembly complete, and the requirement to decommission and disassemble the facility.

AMENDMENT NO. 955

At the appropriate place, add the following new section:

SEC. . Section 214(*l*)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(*l*)(1)(D)) (as added by section 220 of the Immigration and Nationality Technical Corrections Act of 1994 and redesignated as subsection (*l*) by section 671(a)(3)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) is amended by inserting before the period at the end the following: ", except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary."

BOND AMENDMENT NO. 956

Mr. BOND proposed an amendment to the bill, S. 1034, supra; as follows:

On page 63, lines 4 and 5, strike "allocated to the purposes of the Safe Drinking Water Act" and insert "allocated for the purposes of the Safe Drinking Water Act and title VI of the Federal Water Pollution Control Act, respectively,".

On page 63, line 18, before the period, add the following proviso: ": *Provided further*, That, notwithstanding any other provision of law, the Administrator is authorized to make a grant of $4,326,000 under Title II of the Federal Water Pollution Control Act, as amended, from funds appropriated in prior years under section 205 of the Act for the State of Florida and available due to deobligation, to the appropriate instrumentality for wastewater treatment works in Monroe County, Florida".

On page 64, line 18, before the period, add the following proviso: ": *Provided*, That notwithstanding any other provision of law, no funds other than those appropriated under this heading, shall be used for or by the Council on Environmental Quality and Office of Environmental Quality".

On page 65, line 13, after the semicolon, insert "or", and on line 17, strike "; or beaches".

FAIRCLOTH AMENDMENT NO. 957

Mr. BOND (for Mr. FAIRCLOTH) proposed an amendment to the bill, S. 1034, supra; as follows:

At the appropriate place, insert:

None of the funds made available by Title I of this Act may be used to provide a locality payment differential which would have the effect of causing a pay increase to any employee that was removed as a Director of a VA Hospital and transferred to another hospital as a result of the Inspector General's conclusion that the employee engaged in verbal sexual harassment and abusive behavior toward female employees.

GORTON AMENDMENT NO. 958

Mr. BOND (for Mr. GORTON) proposed an amendment to the bill, S. 1034, supra; as follows:

On page 51 after line 11, insert the following:

SEC. 216. INDIAN HOUSING REFORM.

Upon a finding by the Secretary that any person has substantially, significantly, or materially violated the requirements of any activity under the Native American Housing Block Grants Program under title I of the Native American Self-Determination Act of 1996 or any associated activity under the jurisdiction of the Department of Housing and Urban Development, the Secretary shall bar that person from any such participation in programs under that title thereafter and shall require reimbursement for any losses or costs associated with these violations.

SHELBY AMENDMENT NO. 959

Mr. BOND (for Mr. SHELBY) proposed an amendment to the bill, S. 1034, supra; as follows:

On page 70, line 18, strike out "1999." and insert in lieu thereof "1999: *Provided*, That of the amount appropriated or otherwise made available by this heading, $1,000,000 may be available for the Neutral Buoyancy Simulator program.".

BOND (AND MUKULSKI) AMENDMENT NO. 960

Mr. BOND (for himself and Ms. MIKULSKI) proposed an amendment to the bill, S. 1034, supra; as follows:

On page 16, line 21, strike $10,693,000,000" and insert in lieu thereof "$10,159,000".

On page 16, line 23, strike "$9,200,000" and insert "$8,666,000".

On page 23, line 6, insert "and contract expertise" after "technical assistance".

On page 23, line 24, strike "and 1995" and insert in lieu thereof "1995, and 1997".

On page 27, line 17, insert "for" after "charge".

On page 27, line 22, insert "or moderate income family" after "family".

On page 27, line 24, strike "payment" and insert "prepayment".

On page 28, line 1, insert "of" after the first "the".

On page 28, line 8, insert "if" after "and".

On page 28, line 13, insert "from" after "move".

On page 28, line 14, strike "of" and insert "or".

On page 28, line 22, strike "223" and insert "220".

On page 35, line 10, insert before the period, the following: ": *Provided further*, That any unobligated balances available or recaptures in, or which become available in the Emergency Shelter Grants Program account, Supportive Housing Program account, Supplemental Assistance for Facilities to Assist the Homeless account, Shelter Plus Care account, Innovative Homeless Initiatives Demonstration Program account and Section 8 Moderate Rehabilitation (SRO) account, shall be transferred to and merged with the amounts in this account and shall be used for purposes under this account".

On page 45, after line 18, insert the following:

"(d) Public and Assisted Housing Rents, Income Adjustments and Preferences.

"(1) Section 402(a) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal year 1997" and insert in lieu thereof "fiscal year 1998".

"(2) Section 402(f) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal years 1996 and 1997" and inserting in lieu thereof "fiscal years 1997 and 1998".

On page 47, beginning on line 24, strike out "Account Transition" and all that follows through line 7 on page 48, and redesignate the sections accordingly.

On page 51, line 11, insert before the period "or demolition".

"HOME PROGRAM FORMULA

"SEC. 217. The first sentence of section 217(b)(3) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation" and inserting in lieu thereof the following: "jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, July 22, 1997, at 9:30 a.m., in SR–328A to receive testimony regarding the Environmental Protection Agency's clean air regulations and agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 22, 1997, to conduct a hearing on the Federal Mass Transit Program and the reauthorization of ISTEA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 22, for purposes of conducting a full committee hearing which is scheduled to begin at 9 a.m. The purpose of this hearing is to review the Department of Interior's handling of the Ward Valley land conveyance, the findings of a new General Accounting Office report on the issue, and to receive testimony on S. 964, The Ward Valley Land Transfer Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 22, 1997, at 10:45 a.m. and 2 p.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ASHCROFT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee special investigation to meet on Tuesday, July 22, at 10 a.m., for a business meeting on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, July 22, 1997, at 2 p.m., in room 226 of the Senate Dirksen Office Building, to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Labor Human Resources be authorized to meet for a hearing on women's health during the session of the Senate on Tuesday, July 22, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROTECTION OF AIRBUS INDUSTRIE

• Mr. GORTON. Mr. President, the European Community is engaged in the blatant misuse of its authority to review United States mergers shamelessly to protect Airbus Industrie. It has decided that it will use its authority to block the merger of Boeing and McDonnell Douglas. Its rationale is that the combined commercial aircraft company poses too great a risk to Airbus Industrie.

For the past 25 years, America has watched the Europeans pour billions of dollars of subsidies into Airbus Industrie to create what is now without question a highly competitive aircraft company. Airbus Industrie today boasts more than 30 percent of the global market for large jet transports. Its goal is to have 50 percent of the market and it is aggressively pursuing that goal. Many of us were shocked with French President Chirac's shameless pursuit of aircraft orders in China in exchange for the French's Government's commitment to defeat a U.N. human rights resolution.

Airbus Industrie has already destroyed the viability of the Douglas Aircraft Co. Airbus' market share has come largely at the expense of McDonnell Douglas, which last year had only 4 percent of the market. Now the Europeans, in a final blow to Douglas, want the Boeing Co. to divest itself of Douglas Aircraft Co. and put the 14,000 remaining Douglas employees out on the street.

While most Americans will find it inconceivable, the Europeans do in fact have the legal authority to block this American merger. This is true even though neither Boeing nor McDonnell Douglas have significant operations in Europe and despite the fact that our own Government has thoroughly reviewed the merger and approved it without conditions.

The Europeans have disregarded our own exhaustive review process in the United States.

The Boeing Co. has engaged in a good-faith effort to try to address the concerns raised by the European Commission about the merger—but to no avail. Nevertheless, the EC plans to block the merger. This means that Boeing aircraft may well be prevented from being sold in Europe.

From the very beginning, the European merger review proceedings have been dominated by the political considerations of the Airbus member sales. I warned the President about this in a May letter on this subject. My colleagues in the Senate supported my sense-of-the-Senate resolution on the subject last week.

The United States can no longer stand aside and allow Europe blatantly to protect Airbus at the expense of our own civil aircraft industry and our own American employees. The administration should send a clear signal that it will not allow this type of protectionism to continue and that we will retaliate decisively if the Europeans block the merger.

The European Commission's indifference to appropriate antitrust considerations and its undisguised protectionism was expressed candidly by the EC's Karl Van Miert on Tuesday, July 15 on Belgian radio: "The EC does not want a competitive market, it wants a guaranteed market."

THE 25TH ANNIVERSARY OF THE RESTORATION OF THE PERMANENT DIACONATE IN PATERSON

• Mr. LAUTENBERG. Mr. President, I rise to mark a special anniversary. This year is the 25th anniversary of the restoration of the Permanent Diaconate in the Roman Catholic Diocese of Paterson, NJ. In the Catholic faith, a deacon is a clergyman who willingly gives his time, talent and treasure to help not only his own church community but, through his work, the entire community. His is a life of service.

Mr. President, I deeply admire the commitment of these men to serve others. They bring to mind the words of the great humanitarian, Albert Schweitzer, "The greatest gift we can give to another, is the gift of ourselves."

The work done by the 146 deacons of Paterson's Diocese also reminds me of the long tradition of service which communities of faith have in America. Whether Christian, Jewish, Muslim, or other religion, these communities not only minister to individuals' spiritual needs, but to all of their needs. They may provide tangible support like food and shelter, or simply compassion, counseling, and concern.

Mr. President, I offer my congratulations to the Diaconate of the Diocese of Paterson, and to Msgr. Ken Lasch who, 25 years ago, laid the cornerstone upon which the Diaconate's success has been built. As a native of Paterson, I am pleased that we have these dedicated men in our midst who are serving both their church and our community.•

CELEBRATING THE HISTORY OF OUR NATION

• Mr. ENZI. Mr. President, many of us returned home to our States to celebrate the Fourth of July and the birth of this great Nation. All across this country, in both urban and rural communities, we joined as one to honor our Founding Fathers and their commitment to freedom as reflected in the Declaration of Independence and the Constitution. Together these two documents form the foundation of our Nation.

It seems most fitting and appropriate to take a moment after we have returned from our Fourth of July activities to take note of two groups of Wyoming students that came to our Nation's Capital recently as part of programs celebrating the history of our Nation and its place in the world.

To celebrate the Constitution, and its effect on our lives as citizens, a team from Central High School in Cheyenne traveled to Washington to participate in a competition entitled "We the People * * * The Citizen and the Constitution." In that event, students from across the United States competed against each other as they demonstrated their remarkable understanding of and sensitivity to the fundamental principles upon which this Nation was founded. They proved that the values that are embodied in our Nation's Constitution still resonate with meaning and importance in our lives today as they serve to fire our children's imaginations and interest in our past.

In the process of preparing for this event, those students learned a lot about the Constitution. I would imagine many of them were surprised to learn that it is truly a living document. Through the years it has been changed and amended to address the problems of a growing democracy. It has weathered every storm, including a Civil War and countless crisis faced by our Nation's leaders. Through it all, it has continued to provide the guideposts we have followed to ensure that our Nation remains strong and free.

It was very gratifying personally to see such attention focused on our Nation's Constitution. That document holds a great deal of meaning to me personally.

I have always drawn inspiration from the words our Founding Fathers used as they drafted the U.S. Constitution. In fact, when I served as the mayor of Gillette, WY, I always had a copy in my coat pocket. I gave copies to the members of the council each year on Constitution Day and every other year we read it as part of our proceedings.

Now that I have been elected to the Senate, I have to say it has new meaning for me. It refers to me. It is my job description. It is not just the basic rules for someone way off in Washington. It speaks directly to me and the purpose I serve as a Member of the Senate, a representative of the dreams, hopes, and ambitions of the people of my home State of Wyoming.

Just a few weeks ago another group came to Washington as part of a program to promote and encourage our children's interest in and enthusiasm for history. We are all familiar with the famous quote of George Santayana, "Those who cannot remember the past are condemned to repeat it."

That is why it is so important that we continue to encourage our children to study the past and learn about the mistakes that were made, and the triumphs, too, that have made this Nation what it is today.

Looking over the list of subjects that those who participated in Wyoming History Day had worked on, I was quite impressed by the many different areas of history that had drawn their attention. I am certain they were all amazed by how much they had learned by examining the events they had chosen in detail as they prepared for the competition.

Like those young students, I also enjoyed studying our Nation's history when I was in school. I was fascinated by the stories of our past, and I took a special interest in the history of Wyoming and the days of the Old West. I read everything I could get my hands on that had to do with the early days of the West and our State's first settlers. They were brave pioneers and together they faced a great many hardships and trials as they worked to make it out West. They were remarkable people blessed with special skills and strengths. The heritage they passed down to their children is still reflected in the faces of those who have a long history with and strong ties to the land they love and rely on for their lifeblood. Our grandfathers and great grandfathers passed down their great love of independence and freedom to us, and their lifestyles helped shape our character and made Wyoming what it is today: fiercely proud, independent, and strongly self-reliant.

These programs are the kind of projects we should continue to encourage our children to pursue as a regular part of their education. By studying and reading about the history of our Nation and the world, we will not only learn how to avoid the mistakes of the past, but we will also learn how to properly plan and prepare for our future. Studying about the Constitution and the Declaration of Independence and the work our Founding Fathers put into this great Nation at its conception is a good place to begin. What better time to take up this subject than now, so close to our Fourth of July celebration. That is what Independence Day is really all about. We take great pride in our history. We celebrate the lives and work of that relatively small group of individuals, banded together by their commitment to freedom, and the dream of democracy; and who saw the reality and reassurance of a new republic. On that day in July in 1776 they began a series of events that have served to change the face of the world forever.

I am very proud of these and all our students who are studying the world's history, and our place in it. As the father of a schoolteacher, I know the commitment that is necessary to provide our children with a good education. For that process to be successful, we must all do our part—teachers, students, and parents. We should all continue to encourage our children to participate fully and actively in the programs and projects offered by their schools. The resulting challenges they will face and the rewards they will receive will have a dramatic effect on their lives. Congratulations to all those who won awards in these programs, and to those who gave their best efforts as participants. We are very proud of each one of you—and counting on you for the future.•

TRIBUTE TO JOHN J. SULLIVAN

• Mr. DODD. Mr. President, earlier this month, the American flag was flown proudly throughout Connecticut and across this great land, as we celebrated our Independence Day. But the previous Friday, Old Glory was flying at half-staff in the town of Fairfield, CT, as the town mourned the passing of its longest serving first selectman—John J. Sullivan.

John Sullivan came to Fairfield from Salem, MA, in the 1930's, and for more than 20 years, he was known throughout town as the owner and operator of Sullivan's Flower Shop on the Post Road. But in 1959, John Sullivan ran for public office for the first time in his life, and he was elected as the town's first selectman. His election was particularly significant, because it broke a 51-year Republican hold on Fairfield's top job. Although John Sullivan was a Democrat in a town dominated by Republicans, he was reelected 11 times, and his 24-year tenure stands as the longest in the town's history.

I think that a large reason John Sullivan was so successful in reaching across party lines to be an effective leader is because his first concern was people, not politics. When describing his management style as the head of the board of selectmen, John Sullivan said, "I don't tell them how to vote * * * I tell them it's good for the community."

One of the most notable battles of his political career came in 1965, when John won reelection over a popular young challenger named Stewart B. McKinney. After this defeat, Mr. McKinney went on to serve seven terms in the U.S. House of Representatives, and John Sullivan often joked that if it weren't for him, McKinney would have never been a Congressman. The two of them went on to form a close political friendship. In fact, the only building in Fairfield which bears John Sullivan's name is the Sullivan-McKinney senior housing complex.

During his tenure as first selectman, the population of Fairfield increased by 25 percent and the town's annual budget increased fourfold. But while John Sullivan oversaw the growth and development of Fairfield, the greatest sign of his legacy is the 1,200 acres of land that he had set aside as open space. Under John Sullivan's leadership, the town of Fairfield was able to secure Federal funds to purchase open space land and beach-front property. John Sullivan fought to maintain the small-town character of Fairfield, and there are now parks and woodland areas in Fairfield that serve as a peaceful refuge in this area of rapid urbanization.

John Sullivan remained active in the community long after his political career ended. He worked on behalf of many charitable organizations, in particular St. Vincent's Medical Center Foundation in Bridgeport where he served as associate executive director. A devout Roman Catholic, John was a longtime member and trustee of St. Thomas Aquinas Church. He went to Mass every day, and in 1984, John was appointed a Knight of St. Gregory by Pope John Paul II.

I think that the one quote that best illustrates what kind of person John Sullivan was came in 1983 when he retired from public office. John said, "I am the richest man in the world. I ask for nothing. I want to give as much as I can."

I attended John Sullivan's funeral, and having known him personally, I was not surprised to see how many people came out to pay tribute to this wonderful man. John Sullivan was a true patriot, and he will be dearly missed by all who knew him.

John was the husband of the late Mary B. Cahill Sullivan. He is survived by his brother Edwin Sullivan, his daughter Mary Donahue, and his seven grandsons, John, James, Brian, Robert, Paul, William, and Patrick. I offer my most heartfelt condolences to all of them.●

ROBERT C. WEAVER

● Mr. MOYNIHAN. Mr. President, Dr. Robert C. Weaver, adviser to three Presidents, director of the NAACP, and the first African-American Cabinet Secretary, passed away last week at his home in New York City. Dr. Weaver spent his entire life broadening opportunities for minorities in America. I rise today to pay tribute to this great man.

Dr. Weaver began his career in government service as part of President Franklin D. Roosevelt's "Black Cabinet," an informal advisory group promoting job and educational opportunities for blacks. The Washington Post called this work his greatest legacy, the dismantling of a deeply entrenched system of racial segregation in America.

In 1960 he became the president of the NAACP, and would become a key adviser to President Kennedy on civil rights. Dr. Weaver was appointed in 1961 to the Housing and Home Finance Agency, an organization that later became the Department of Housing and Urban Development. In 1966, when President Johnson elevated the agency to Cabinet rank, Dr. Weaver was, in Johnson's phrase, "the man for the job." He thus became its first Secretary, and the first African-American to head a Cabinet agency.

Following his government service, Weaver was, among various other academic pursuits, a professor at Hunter College, a member of the School of Urban and Public Affairs at Carnegie-Mellon, and the president of Baruch College in Manhattan. Dr. Weaver earned undergraduate, master's and doctoral degrees in economics from Harvard, wrote four books on urban affairs, and was one of the original directors of the Municipal Assistance Corp. designed to rescue financially strapped New York City in the 1970's.

America, and Washington in particular, has lost one of its innovators, one of its creators and one of its true leaders—for Robert Weaver, like so few of leaders today, led not only with his words but more importantly with his deeds.

I ask that an editorial in Monday's Washington Post and an obituary from Saturday's New York Times be printed in the RECORD.

The material follows:

[From the Washington Post, July 21, 1997]

ROBERT C. WEAVER

Native Washingtonian Robert C. Weaver, who died on Thursday in New York City at age 89, had a life of many firsts. Dr. Weaver served as a college president, Cabinet secretary, presidential adviser, chairman of the National Association for the Advancement of Colored People and as a director of the Municipal Assistance Corp., which helped save New York City from financial catastrophe. But his greatest legacy may be the work he did, largely out of public view, to dismantle a deeply entrenched system of racial segregation in America.

Before the landmark decade of civil rights advances in the 1960s, Dr. Weaver was one of a small group of African American officials in the New Deal era who, as part of the "Black Cabinet" pressured President Franklin D. Roosevelt to strike down racial barriers in government employment, housing and education. It was a long way to come for the Dunbar High School graduate who ran into racial discrimination in the 1920s when he tried to join a union fresh out of high school. Embittered by that experience, Bob Weaver went on to Harvard (in the footsteps of his grandfather, the first African American Harvard graduate in dentistry) to earn his bachelor's, master's and doctorate in economics. At another time in America, his university degrees might have led to another career path. For Bob Weaver in 1932, however, those credentials—and his earlier job as a college professor—made him an "associate advisor on Negro affairs" in the U.S. Department of the Interior.

Subsequent work as an educator, economist and national housing expert—and behind-the-scenes recruitment of scores of African Americans for public service—led to his appointment as New York State rent administrator, making him the first African American with state cabinet rank. President John F. Kennedy appointed him to the highest federal post ever occupied by an African American—the Housing and Home Finance Agency. Despite the president's support, however, the HHFA never made it to Cabinet status, because Dr. Weaver was its administrator and southern legislators rebelled at the thought of a black secretary. Years later President Lyndon Johnson pushed through the Department of Housing and Urban Development and named Robert Weaver to the presidential Cabinet.

For the nation, and Robert Weaver, the appointment was another important first. For many other African Americans who found lower barriers and increased opportunity in the last third of the 20th century, Robert Weaver's legacy is lasting.

[From the New York Times, July 19, 1997]

ROBERT C. WEAVER, 90, FIRST BLACK CABINET MEMBER, DIES

(By James Barron)

Dr. Robert C. Weaver, the first Secretary of Housing and Urban Development and the first black person appointed to the Cabinet, died on Thursday at his home in Manhattan. He was 90.

Dr. Weaver was also one of the original directors of the Municipal Assistance Corporation, which was formed to rescue New York City from financial crisis in the 1970's.

"He was a catalyst with the Kennedys and then with Johnson, forging new initiatives in housing and education," said Walter E. Washington, the first elected Mayor of the nation's capital.

A portly, pedagogical man who wrote four books on urban affairs, Dr. Weaver had made a name for himself in the 1930's and 1940's as an expert behind-the-scenes strategist in the civil rights movement. "Fight hard and legally," he said, "and don't blow your top."

As a part of the "Black Cabinet" in the administration of President Franklin D. Roosevelt, Dr. Weaver was one of a group of blacks who specialized in housing, education and employment. After being hired as race relations advisers in various Federal agencies, they pressured and persuaded the White House to provide more jobs, better educational opportunities and equal rights.

Dr. Weaver began in 1933 as an aide to Interior Secretary Harold L. Ickes. He later served as a special assistant in the housing division of the Works Progress Administration, the National Defense Advisory Commission, the War Production Board and the War Manpower Commission.

A BEHIND-THE-SCENES CIVIL RIGHTS STRATEGIST DURING THE 1930'S AND 1940'S

Shortly before the 1940 election, he devised a strategy that defused anger among blacks about Stephen T. Early, President Roosevelt's press secretary. Arriving at Pennsylvania Station in New York, Early lost his temper when a line of police officers blocked his way. Early knocked one of the officers, who happened to be black, to the ground. As word of the incident spread, a White House adviser put through a telephone call to Dr. Weaver in Washington.

The aide, worried that the incident would cost Roosevelt the black vote, told Dr. Weaver to find the other black advisers and prepare a speech that would appeal to blacks for the President to deliver the following week.

Dr. Weaver said he doubted that he could find anyone in the middle of the night, even though most of the others in the "Black Cabinet" had been playing poker in his basement when the phone rang. "And anyway," he said, "I don't think a mere speech will do it. What we need right now is something so dramatic that it will make the Negro voters forget all about Steve Early and the Negro cop too."

Within 48 hours, Benjamin O. Davis Sr. was the first black general in the Army; William H. Hastie was the first black civilian aide to the Secretary of War, and Campbell C. Johnson was the first high-ranking black aide to the head of the Selective Service.

Robert Clifton Weaver was born on Dec. 29, 1907, in Washington. His father was a postal worker and his mother—who he said influenced his intellectual development—was the daughter of the first black person to graduate from Harvard with a degree in dentistry. When Dr. Weaver joined the Kennedy Administration, whose Harvard connections extended to the occupant of the Oval Office, he held more Harvard degrees—three, including a doctorate in economics—than anyone else in the administration's upper ranks.

In 1960, after serving as the New York State Rent Commissioner, Dr. Weaver became the national chairman of the National Association for the Advancement of Colored People, and President Kennedy sought Dr. Weaver's advice on civil rights. The following year, the President appointed him administrator of the House and Home Finance Agency, a loose combination of agencies that included the bureaucratic components of what would eventually become H.U.D., including the Federal Housing Administration to spur construction, the Urban Renewal Administration to oversee slum clearance and the Federal National Mortgage Association to line up money for new housing.

President Kennedy tried to have the agency raised to Cabinet rank, but Congress balked. Southerners led an attack against the appointment of a black to the Cabinet, and there were charges that Dr. Weaver was an extremist. Kennedy abandoned the idea of creating an urban affairs department. Five years later, when President Johnson revived the idea and pushed it through Congress, Senators who had voted against Dr. Weaver the first time around voted for him.

Past Federal housing programs had largely dealt with bricks-and-mortar policies. Dr. Weaver said Washington needed to take a more philosophical approach. "Creative federalism stresses local initiative, local solutions to local problems," he said.

But, he added, "where the obvious needs for action to meet an urban problem are not being fulfilled, the Federal Government has a responsibility at least to generate a thorough awareness of the problem."

Dr. Weaver, who said that "you cannot have physical renewal without human renewal," pushed for better-looking public housing by offering awards for design. He also increased the amount of money for small businesses displaced by urban renewal and revived the long-dormant idea of Federal rent subsidies for the elderly.

Later in his life, he was a professor of urban affairs at Hunter College, was a member of the Visiting Committee at the School of Urban and Public Affairs at Carnegie-Mellon University and held visiting professorships at Columbia Teachers' College and the New York University School of Education. He also served as a consultant to the Ford Foundation and was the president of Baruch College in Manhattan in 1969. His wife, Ella, died in 1991. Their son, Robert Jr., died in 1962.●

CREATING IMPROVED DELIVERY OF CHILD CARE: AFFORDABLE, RELIABLE, AND EDUCATIONAL ACT OF 1997 (CIDCARE)

● Mr. ENZI. Mr. President, I rise today to voice my strong support for S. 1037, the Creating Improved Delivery of Child Care: Affordable, Reliable, and Educational Act of 1997—better known as the CIDCARE Act. I want to commend my colleague from Vermont, Senator JEFFORDS, for his steady work on this important measure and for his commitment to enhancing the quality of child care throughout the Nation. I firmly believe that Senator JEFFORDS has crafted a measure that would stimulate the demand for higher quality child care and I am proud to join Senator DODD as an original cosponsor of this bill.

Our society has braved a storm of changes during the last five decades. Our Nation's work environment has changed, too, with the introduction of personal computers, high-speed modems, cellular phones, pagers, and fax machines. American suburbanization has created a need for audio and video conferencing, satellite offices, and most importantly, telecommuting. In addition, there has been an influx of women into our nation's work force. According to the Bureau of Labor Statistics, 76 percent of mothers now work. Moreover, 63 percent of two parent households now see both parents working outside of the home. While the number of working women in our country continues to rise, so has the number of children enrolled in child care. Unfortunately, the quality of this care has not risen to match the rapid increase in enrollment. That is why we must modernize the way we provide child care assistance by allocating our scarce resources more efficiently. By doing so, our children will benefit. That is clearly an investment in our Nation's future. Congress must legislate with the times to provide opportunities for our Nation's parents and child care providers to make that investment.

It is often the case with a lot of families that one parent works to pay the bills while the other one works to pay the taxes. A lot of people are working two jobs just to make ends meet, and often, both parents are working two jobs. The resulting increase in the number of employed women in the work force has dramatically expanded the number of child care providers. This expansion is truly beneficial to parents who need available child care, but the ratio of children to providers and the ensuing reduction in the quality of that care when staff and resources are stretched is still troubling. A recent nationwide study indicates that 40 percent of the child care provided to infants poses a potential risk of injury. Moreover, 15 percent of the care at center-based providers is so deficient that a child's health and safety are threatened.

In Wyoming, the quality of the care provided to our children is taken very seriously. Child care providers licensed by the State of Wyoming must have 12 credit hours in education, CPR training, meet fire marshal standards, and have a minimum amount of floor space for the children entrusted to their care. The State ensures that all licensed providers comply with these requirements and would continue to do so if this bill is passed—but they would do so much more effectively. This legislation would provide a $260 million competitive grant program to assist States in improving the quality of care we provide our children. States must use at least 30 percent of the grant funds awarded to establish a subsidy program to provide salary increases to licensed child care providers. The remainder of the grant funds awarded could be channeled toward establishing a scholarship program to help child care providers meet the costs of education and training; expanding State-based child care training and technical assistance activities; improving consumer education efforts including the expansion of resource and referral services and child care complaint systems; providing increased rates of reimbursement provided under Federal or State child care assistance for children with special-needs; or even for purchasing special supplies, equipment, or meeting other expenses necessary for the care of special-needs children. Moreover, this legislation would further expand the Community Development Block Grant to States to help renovate existing child care facilities.

Equitable distribution of resources based on the percentage of income a family uses to meet child care expenses must be represented in any change to the current system. This legislation reduces, but does not eliminate, the dependent care tax credit for upper income taxpayers by changing the way the Child and Dependent Care Tax Credit is administered. The income level for the receipt of the highest percentage of employment-related child care costs would be increased from $10,000 to $20,000. The percentage would be decreased at a rate of 1 percent for each additional $2,500 in adjusted gross income and a minimum percentage of 10 percent would be set for incomes of $70,000 and above. Employers would be allowed to contribute more to a dependent care assistance plan account.

Moreover, families who qualify for the earned income tax credit [EITC] would receive a refund of the child care tax credit on a quarterly basis. The EITC was originally geared to assist families with dependent children—not couples without any kids at all. Clearly, changes are in order.

Small businesses are fighting an uphill battle in meeting the child care needs of their employees. Having played the small business owner role for over 25 years, I can appreciate the need for giving such employers a break. This legislation creates a tax credit for employers providing, or otherwise supporting, child care arrangements for their employees. Fifty percent of the expenses incurred by a business to meet the child care needs of employees would be credited toward the business' Federal tax liability. Included in this provision are startup costs, renovations to meet accreditation standards, professional development for child care providers, general operating expenses, and subsidized child care for lower paid employees. Small businesses need incentives in order to be more involved in meeting the child care needs of employees. After all, Congress is placing more parents into the work force following last year's welfare reform legislation. We should provide some tax incentives to employers who are providing those jobs.

This legislation would also authorize $50 million a year to establish and operate a technology-based training infrastructure to enable child care providers nationwide to receive the training, education, and support they need to improve the quality of care they provide. We must reap the benefits of the Internet to enhance the quality of child care. We spend a lot of time talking about how the Internet can be harmful to children. Here's a chance to show how it can dramatically help them. By creating a child care training and education interactive network, child care credentialing and accreditation entities for training, skills testing, and other activities needed to maintain child care credentials would be greatly enhanced. Moreover, a no-interest revolving loan fund will be established to enable child care providers to purchase computers, satellite dishes, and other equipment which would enable them to participate in the child care training provided by this technological infrastructure.

The current system for funding child care in our nation yearns for improvement. This legislation does not reinvent the wheel, it changes the tires. States must continue to receive assistance in order to achieve a higher quality of care for our children. This legislation simply provides more efficient and pragmatic methods for administering that assistance. I believe that this legislation provides the proper incentives for enhancing the quality of care we provide our children. Our society's work force is driven by changing trends. I can comfortably argue that our society is one of the most trendy in the world—a fact that has kept America on the leading edge of technological innovation. I hope that before people begin making up their minds on this bill they will take a close look at the language and what it really calls for—better care for our kids. Our Nation's work force is calling for this much-needed change. I urge my colleagues to support S. 1037, the CIDCARE bill.●

MILWAUKEE VET CENTER

● Mr. KOHL. Mr. President, I rise today to praise the people of the Milwaukee Vet Center. For 17 years now these Wisconsinites have counseled and assisted veterans during the difficult period of readjustment from frontline to homefront.

Fighting a war is a terrible experience, inflicting physical and psychological wounds which few veterans can fully heal on their own. The Milwaukee Vet Center has helped over 8,800 veterans of American missions in their attempts to overcome these psychological battle scars. Originally established for Vietnam veterans, its doors are now open to veterans of every major American engagement since World War II.

This center stands as a prime example of success in our Nation's social services. A division of the Department of Veterans Affairs, it provides comprehensive and personalized counseling, not only to male and female veterans but also to their spouses and children. Although the center's responsibilities include 91,513 eligible veterans in 13 eastern Wisconsin counties, its workers strive to make personal contact with as many veterans as possible. Its outreach programs engage veterans in the context of their communities, granting a fuller knowledge of where each individual stands geographically, psychologically and socially. Working with other specialized organizations, the center provides individualized services for native American and African-American veterans, among others.

Those who enter the Milwaukee Vet Center seeking help know they are dealing with some of America's most experienced social workers. Collectively, the center's employees possess decades of experience in the fields of drug and alcohol abuse, mental health problems, vocational rehabilitation, women's health treatment, and psychiatric treatment. They have worked in the public and private sectors, schools, hospitals, even disaster areas.

The Vet Center provides hands-on field experience for students in local colleges and universities such as the University of Wisconsin at Milwaukee, the Milwaukee Area Technical College, and the Stratton Business Institute. By sharing their wealth of experience, the Vet Center's professionals enrich these students' education and more importantly guide them on the path to a fulfilling career in public service.

I commend the heroic efforts of these public servants, and personally thank them for playing an important part in making Wisconsin great.●

MFN FOR CHINA

● Mr. DORGAN. Mr President, I rise to comment briefly on an action taken by the Senate last week. We voted on an amendment offered by the Senator from Arkansas, Senator HUTCHINSON, expressing the sense of the Senate that China should not receive most-favored-nation tariff treatment.

I voted against the Hutchinson amendment, but not because I necessarily support the further extension of most-favored-nation status to China. I opposed the amendment because I believe this kind of amendment should not have been offered to a must-pass appropriations bill, especially when the Senate had limited time to debate it.

At the appropriate time, we do need to have an extensive debate concerning our trade relationship with China. That debate is long overdue and greatly needed, and that debate should cover a range of issues. One of the issues that we should debate is the geometric growth in our trade deficit with China. In the past dozen years, our merchandise trade deficit with China has grown from $10 million to the staggering total of $40 billion.

Mr. President, trade is only beneficial if it is a two-way street. And right now there is no way that we can characterize our trading relationship with China in that way. We do not have reciprocal, free, and open access to China's markets.

Yes, our exports to China may have grown threefold and more since 1980, from $3.6 to $12 billion. However, Chinese exports to America during the same period grew almost fiftyfold, from $1.1 to $51.5 billion.

China is a critical part of the overall trade crisis that we face right now. We have the largest merchandise trade deficit in our history. Our second highest trade deficit is with China. China is rapidly working to build its manufacturing base and export trade. It is following in the footsteps of Japan, which has consistently been the country with which we have had our largest individual trade deficit.

We need to be concerned because trade statistics released last week indicated that for the third time in history, our monthly trade deficit with China exceeded our monthly trade deficit with Japan. That should give us cause to take a second look in considering what the future may bring in our trade relationship with China.

So I am very concerned about our trading relationship with China. But we ought to have a substantial debate on this issue. We ought not offer an MFN amendment to an unrelated appropriations bill, have a quick little debate, and then vote.

At the proper time, let us have a real debate about our trade relationship with China. Let us talk about trade deficits, market access, and reciprocity. Let us talk about selling more American wheat, oilseeds, beef, pork, and other agricultural commodities to China. Let us talk about China's tariff and nontariff trade barriers, content rules, and labor systems. Let us debate most-favored-nation status for China and the MFN law itself. And, most certainly, let us debate the issues of religious freedom and human rights in China, since these should have a bearing too on whether we grant MFN status to China.

These are important issues that deserve full and thoughtful consideration by this body and our entire Nation. I look forward to contributing to that debate, and hope that it can be done in a way that is productive and useful for the people of this country.•

MARVIN SONOSKY

• Mr. BAUCUS. Mr. President, I rise today to pay tribute to a man who spent his life and career working on behalf of Indian tribal governments and ensuring that the United States fulfilled its trust responsibility to Indian people, Marvin Sonosky of Alexandria, VA. On July 16, Mr. Sonosky died of heart failure. He was 66 years old. I join his many friends in mourning the loss of one of Indian country's greatest advocates. I would like to convey my sympathy to his wife, Shirley Freimuth Sonosky, and his daughters Judith Kreisberg, Joann Hirsch, and Karen Hecker, and his seven grandchildren and one great grandchild.

Mr. Sonosky was born in Duluth, MN, and received his undergraduate and law degrees from the University of Minnesota. After 4 years of private practice, Mr. Sonosky came to Washington in 1937 and joined the Lands Division of the Department of Justice where he served for 17 years. As a special assistant to the Attorney General he frequently argued before the U.S. Supreme Court.

In 1951, Mr. Sonosky returned to private practice. In 1976, he formed the firm of Sonosky, Chambers & Sachse, where he practiced until his death. He remained active in the trial practice of the firm through the last week of his life.

Mr. Sonosky was a unique individual in this city in that he was one of the best advocates in his field yet he never sought the accolades or tributes that so many seek. Instead his tribute came from knowing that every day that he worked he had the potential to improve perhaps just one Indian person's life.

I would like to share with this body some of the many legislative initiatives involving Indian tribes that were the brainchild of Mr. Sonosky. These are but one measure of the impact that he had in improving the lives and opportunities of Indian tribal governments and their people and ensured that the United States stands behinds its trust obligations to them.

Following devastating losses of Indian reservation land and its resulting poverty, Mr. Sonosky worked with Congress to secure the enactment of Federal statutes that returned over 1 million acres of undisposed surplus lands within those reservations to the tribes—the resources from these lands have been vital to the economies of many of these Indian communities.

Mr. Sonosky also brought to the attention of Congress the need to amend Federal law authorizing Indian tribes to recover just compensation for lands taken by the United States so that the damages awarded would not be unfairly diminished by the value of food and rations that the United States had promised in exchange for the lands it acquired. When Government officials unlawfully offset welfare claims against trust funds of individual Indians, Mr. Sonosky successfully challenged the practice in Federal court. He subsequently worked with Congress to ensure that all individual Indians who had been harmed by this practice were properly reimbursed.

While much of Mr. Sonosky's congressional efforts focused on righting past wrongs, an equal part of his work resulted in legislation that will protect Indian rights for generations to come.

Through his efforts Federal law that had previously allowed States to assume jurisdiction over certain matters on Indian reservations was amended to expressly require tribal consent prior to application of State jurisdiction. And, most significantly, when limitations contained in the statutes governing Federal court jurisdiction effectively barred Indian tribes from invoking that forum to vindicate federally protected rights, Mr. Sonosky successfully developed and advocated for a Federal law that today vests Federal courts with jurisdiction to adjudicate any claim brought by an Indian tribe.

The honor of the Nation with regard to our obligations to Indian people has indeed been well served by Mr. Sonosky. We will miss him dearly.•

MEASURE READ THE FIRST TIME—H.R. 748

Mr. BOND. Mr. President, I understand that H.R. 748 has arrived from the House.

I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> A bill (H.R. 748) to amend the prohibition of title 18, United States Code, against financial transactions with terrorists.

Mr. BOND. I now ask for its second reading and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk and have its second reading on the next legislative day.

ORDERS FOR WEDNESDAY, JULY 23, 1997

Mr. BOND. Mr. President, I do not see any other Members seeking recognition. Therefore, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Wednesday, July 23. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted, the Senate proceed to a period of morning business until the hour of 11 a.m. with Senators permitted to speak for up to 5 minutes with the following exceptions: Senator DASCHLE or his designee, 60 minutes from 9 to 10 a.m., Senator COVERDELL or his designee, 30 minutes from 10 to 10:30 a.m., Senator THOMAS or Senator MACK, 30 minutes from 10:30 to 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I also ask consent that at 11 a.m. the Senate begin consideration of S. 1033, the Agriculture appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BOND. For the information of all Senators, tomorrow the Senate will be in a period of morning business until the hour of 11 a.m. By consent, at 11 a.m. the Senate will begin consideration of S. 1033, the Agriculture appropriations bill. It is our hope the Senate will be able to complete action on the Agriculture appropriations bill during tomorrow's session of the Senate. Therefore, Members can anticipate rollcall votes throughout Wednesday's session of the Senate. However, no votes will occur prior to the hour of 4 p.m. Therefore, the next vote should occur after 4 p.m. on Wednesday.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BOND. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:59 p.m. adjourned until Wednesday, July 23, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1997:

DEPARTMENT OF STATE

PHILIP LADER, OF SOUTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

HOUSE OF REPRESENTATIVES—*Tuesday, July 22, 1997*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mrs. EMERSON].

DESIGNATION OF SPEAKER PRO TEMPORE

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 22, 1997.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 858) "an act to authorize appropriations for fiscal year 1998 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints from the Select Committee on Intelligence: Mr. SHELBY, Mr. CHAFEE, Mr. LUGAR, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. ALLARD, Mr. COATS, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. ROBB, Mr. LAUTENBERG, and Mr. LEVIN, and from the Committee on Armed Services: Mr. THURMOND, to be the conferees on the part of the Senate.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KUCINICH] for 5 minutes.

IMPACT ON INDEPENDENT CONTRACTORS IN REVENUE RECONCILIATION ACT

Mr. KUCINICH. Madam Speaker, the independent contractor provision in the Revenue Reconciliation Act will do great damage to employer relations in our country. Millions of Americans would lose health care coverage and pension benefits.

Working women would suffer the most. For women, being an independent contractor means much lower wages than male employees in similar jobs. What about health care and pensions? Only 2 percent of women independent contractors have health care and pensions paid by their employers. Women also would lose critical employment protections.

Independent contractors are not covered by equal employment opportunity laws. They do not receive family and medical leave. Some employers have misclassified janitors and garment workers to evade minimum wage and overtime laws affecting many low-wage workers who are women.

Working women have fought hard to win equal employment opportunity, fair wages, and economic security. The independent contractor provision would be a disaster for them and their families. That is why a coalition of 130 women's organizations is against this measure.

Finally, Madam Speaker, the bipartisan budget bill is the wrong vehicle to carry this issue. As my colleague from Connecticut, [Mrs. JOHNSON] pointed out in a letter to the Speaker of the House, Congress needs to protect working women and to delete this clause from the budget bill.

THE TRUTH IS IN THE NUMBERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Madam Speaker, I will bet most Americans would be surprised to realize that they are rich. To accomplish this amazing feat, the Clinton administration has formulated a new exercise in wordspeak that simply defines a significant portion of all Americans as rich. But, frankly, most Americans probably do not feel rich. Most probably rely on two incomes, have a couple of children, a lot of bills to pay and, in fact, feel very far from being rich.

But, more than anything else, Madam Speaker, they deserve a tax break today. Well, why should the White House have any interest in inventing a new measurement of wealth? Well, it is actually quite simple. In order for the administration to score political points at the expense of hard-working middle-class Americans, they must create millions of wealthy taxpayers where none exist.

For decades, American taxpayers have paid taxes based upon the adjusted gross income, the AGI. The AGI is a rather simple and straightforward calculation of earnings. It is at the bottom of the first page of everyone's tax return.

Perhaps the AGI is too simple for the White House, for they have worked diligently over the recent past to prejudice the AGI and with it the tax package that the President initiated. They have done everything in their power to modify and create a new formula to calculate the supposed wealth of American taxpayers today.

Here is how it works. Instead of using the adjusted gross income in tax computations, the administration uses a complicated formula known as the Family Economic Income, or FEI, which adds to one's income the fringe benefits they receive every year: Keogh deductions, most nontaxable cash transfer payments, the buildup of the IRA, your pension.

Here is the real catch. The FEI even adds something known as imputed rental income, or what a family would earn if they were to rent out their home. What? Yes. If you had to rent out your home, that is part of your family income.

To say the least, this is an unusual and rather inaccurate definition of a family's income. To say the most, the administration is engaging in political gamesmanship, designed solely to demagog an issue that otherwise only serves to assist middle-income Americans.

Madam Speaker, put simply, by employing the imputed income calculation, the administration is able to considerably overstate income levels for most households today, making middle-class taxpayers appear to be much richer than they themselves would ever, ever recognize.

For example, employing the administration's new income formula, 1.7 million union members, 2.4 million teachers, 8.1 million government workers, and 4.2 million mechanics, repairmen, and construction workers are now considered rich by the administration and therefore are undeserving of a tax break.

The problem is that the Clinton administration chooses to employ this odd income calculation to change the

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

idea of who is wealthy. They are working hard to mislead the public and turn a positive situation into a negative political game.

The bottom line is this: The Republican tax plan accurately targets America's middle-income class. In fact, 76 percent of the relief provided in the Republican plan will go to those Americans who make less than $75,000 a year. Although the President has worked hard to distort this fact, it remains difficult for anyone to argue that these Americans are rich and that they are undeserving of a tax break.

Madam Speaker, the Republican Congress has passed real tax relief for all middle-class taxpayers at every stage of their lives, from child tax credits to estate tax reform. We are doing the right thing.

Meanwhile, the President is trying to change the debate with this new "imputed rental income formula." But the truth is in the numbers; and no amount of imagined, imputed income will turn hard-working middle-class Americans into what the President calls the evil rich.

Middle-class Americans deserve a tax break today. The Republican Congress wants to give that to them. For the millions of Americans who do not consider themselves rich, for the two-earner families who struggle to provide a nice home and a good education for their children, for all the middle-class Americans, I implore the President today to put politics aside, stop the distortions, join the Republican Congress in providing some much-needed and much-deserved tax relief to middle-class Americans.

TAX BILL MUST PASS CLEAR TESTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. MILLER] is recognized during morning hour debates for 5 minutes.

Mr. MILLER of California. Madam Speaker, as the press now starts to report and to analyze the Republican tax cut legislation, the reviews are coming in from across the country and from independent journalists. What we now see is a recognition that what the Republican bill does is provide for a forced feeding of tax cuts to the wealthiest people in this country.

As Time magazine's journalist Jonathan Alter noted, the Republican bill showers millions of dollars on the richest 1 percent of Americans.

As the Wall Street Journal noted, it allows the IRA provisions to create opportunities primarily for upper income Americans to shift large chunks of their assets into tax-free accounts, where they would be beyond the reach of Uncle Sam forever.

The Washington Post notes that the Republican tax bill is heavily tilted toward the better off, and the Democrats are right for calling the Republicans on this.

They go on to note that the plain facts are that the bill would not only benefit the better off but would cost the Government revenues it cannot afford.

Yesterday, the Post quoted a number of economists supporting different political parties which reached agreement that the Republicans are relying on numbers that mask the extent of the size of the Republican tax proposals favoring high-income households which would mushroom over the years to come.

What we now see as the conventional economic analysis suggests that the permanent benefits of the tax cut will favor high-income individuals, and it will do so by denying the $500 tax credit to families who pay thousands of dollars in payroll taxes but the Republicans have determined somehow are welfare families and not entitled to the $500 tax credit. Unfortunately, for thousands of working families in America today, they pay more in payroll taxes than they pay in income taxes; and yet the Republican proposal would not share the child care tax credit with them.

What we now see is someone like Gary Bauer, the conservative head of the Family Research Council, saying, "The family tax credit ought to go to any working families that pay income or payroll taxes. That is not welfare."

Gary Bauer has it right. The Republicans have it wrong. These families are entitled to share this. But why can't they share in the tax cuts, the family child credit tax cut? They cannot share in that because the Republicans are so busy providing capital gains tax cuts to the wealthiest people in this country, the vast majority of which goes to the top 2, 3, 4 percent of the taxpayers in the United States.

These are not the people who need relief from taxes. The people who need relief from taxes are people who are trying to raise their children, educate their children, provide shelter for their children and are doing it on a few thousand dollars a year. Yet the Republicans say they cannot do that. They cannot do that because they want to get rid of the alternative minimum tax that suggests that corporations ought to pay something for the privilege of doing business in America.

When they get done with all of their deductions, where they can eliminate their obligation to pay taxes, there ought to be something they pay in this country. By giving away capital gains tax, by doing estate tax relief for the wealthiest people in this country, there is no money left. There is no money left for hard-working families in this country that, unfortunately, earn between $15,000 and $30,000 a year; and the Republicans are going to deny them a tax cut.

The bill should be changed in conference, it should be fair, and it should take care of working families. It does not do that now.

A BLOODY SHIRT ON TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. DREIER] is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Madam Speaker, I have taken this time to continue with the debate that my very good friend from Martinez, CA, Mr. MILLER, was engaged in; but I have a completely different view. Actually, it was put forward very well by a former adviser to President Clinton.

Yes, he served also in Republican administrations; but he most recently in his public service was an adviser to President Clinton. I am referring to the editor-at-large of U.S. News & World Report, who in this week's U.S. News & World Report on the back page has an editorial, which I would commend to all of my colleagues on both sides of the aisle as this debate proceeds.

The editorial is entitled "A Bloody Shirt on Taxes: It's time for the left to stop twisting the truth about tax relief."

Now, the gentleman from California [Mr. MILLER] was referring to many people who have said that this package that we have put forward is nothing but a sop for the rich. But if we look at the facts, I am very happy to say that many Democrats in this House know full well that this tax package is, in fact, very, very helpful to middle and lower income wage earners in this country.

There are a few points that Mr. Gergen makes in this piece which I would like to share with my colleagues. He says, the central liberal charge is that the bills adopted by the GOP-led Senate and House would give as much tax relief to the top 1 percent as to the bottom 60 percent combined. Sounds horrific, doesn't it? What they ignore, as Jim Glassman of U.S. News & World Report noted, is the top 1 percent also pay more in taxes than the bottom 60 percent combined, a lot more. IRS records show that the top 1 percent shoulder 29 percent of the Nation's total tax bill, while the bottom 60 percent pay some 9 percent.

Recognize that we singled out the top 1 percent for tax hikes in that 1993 bill that the President moved through. It also would not be terribly unfair to include them in at least a modicum of tax relief today.

He goes on to talk about this issue of funny money, which my friend from Florida, [Mr. STEARNS] mentioned earlier, this imputed income whereby if someone paid off their mortgage, they in fact have what would be the rental income included as income to them, and it is actually obviously money they would never see.

Mr. Gergen writes that stripping away the funny money, the Census Bureau shows that the top 20 percent really starts with households earning $65,124 a year. That means that the criticism that has come from the left, Madam Speaker, is they are pretending that families that make $65,124 are categorized as rich.

Then a very important item that needs to be mentioned, one that I have been working on since the opening day of this Congress and, frankly, for a number of years, is this issue of capital gains.

When I mention how Democrats have joined with me in cosponsoring very important legislation, H.R. 14, to bring about an across-the-board reduction in capital gains, it is because they know that the average family of four would see an increase of $1,500 per year over a 7-year period in their take-home pay.

Mr. Gergen says another shell game on the left involves proposed reductions in capital gains and estate taxes. Liberals say it is selfish for people who invest in stocks or save for their children to receive tax relief. But they ignore the fact that these funds have already been taxed, when they were first earned. To tax earnings a second time at rates as high as 55 percent, which is the case with inheritance taxes, borders on confiscation.

Now, Madam Speaker, we know full well that we are in this together, and I think Gergen's closing paragraph is a very telling one.

> This country does face serious challenges in addressing the growing income gap between those who are affluent and everyone else. Clearly, we should be working harder to ensure that children of poor and middle-class families have an equal chance at the starting line of life. Just as clearly, those who have the most should give the most back. But the way the left is trying to twist this tax debate, bullyragging successful Americans as a way to score political points trivializes the real issues and divides us as a people. We don't need another bloody shirt.

Madam Speaker, I encourage my colleagues to read this editorial, and I will send it around to everyone.

THEODORE ROOSEVELT MEDAL OF HONOR

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Pennsylvania [Mr. MCHALE] is recognized during morning hour debates for 5 minutes.

Mr. MCHALE. Madam Speaker, for the last 2 nights I have joined millions of Americans in watching the Rough Riders on Turner Broadcasting. When Teddy Roosevelt served as Assistant Secretary of the Navy, he argued vigorously that the United States should intervene in Cuba and be prepared for possible war with Spain. In what was for Teddy Roosevelt characteristic language, he said, "I had deeply felt it was our duty to free Cuba, and I publicly expressed this feeling; and when a man takes such a position, he ought to be willing to make his words good by his deeds. He should pay with his body."

So, in that spirit, Teddy Roosevelt resigned his office and offered to serve as a lieutenant colonel with the First U.S. Volunteer Cavalry, what history now calls the Rough Riders.

On July 1, 1898, in what Roosevelt would call his crowded hour, he placed his body on the line. He backed up his words with his courage. Leading two vicious bloody assaults on Kettle Hill and the San Juan Heights, Teddy Roosevelt made history and led his men with extraordinary valor.

The fighting was brutal. Four hundred ninety Rough Riders went into battle that day; 89 were killed or wounded, the heaviest loss suffered by any regiment in the cavalry division.

From the beginning to the very end, Theodore Roosevelt was at the forefront of battle, leading by example, encouraging his men, oblivious to danger, firing his revolver at point-blank range and killing the enemy with his own hand, this future president of the United States displayed extraordinary valor under the most difficult of combat conditions.

Gen. Leonard Wood, Roosevelt's commanding officer, recommended Roosevelt for the Medal of Honor with the following citation: Colonel Roosevelt led a very desperate and extremely gallant charge on San Juan Hill, thereby setting a splendid example to the troops and encouraging them to pass over the open country. In leading this charge, he started off first. He then returned and gathered a few men and led them in the charge, an extremely gallant one, and the example set a most inspiring one to the troops in that part of the line.

Madam Speaker, by universal consensus among the officers and men who witnessed Roosevelt's bravery, he had earned our Nation's highest military decoration. But he never received it.

During the weeks after the battle for San Juan Heights, Roosevelt watched with mounting frustration as his men suffered and died from tropical disease. Angered by Roosevelt's public statements that the Rough Riders should be brought home as quickly as possible, Secretary of War Alger refused to sign Roosevelt's Medal of Honor citation.

As a result, Col. Theodore Roosevelt was denied the recognition he had earned in battle. Edith Roosevelt, after Teddy's death, said that the failure to receive the Medal of Honor was one of the most bitter disappointments of his life.

Madam Speaker, I am pleased to tell you that it is not too late to correct that injustice. Later this week I will be introducing legislation with my friend and colleague, the gentleman from California [Mr. CUNNINGHAM], authorizing the Medal of Honor for Col. Theodore Roosevelt, First United States Volunteer Cavalry, for extraordinary bravery under enemy fire. Members wishing to be original cosponsors should contact my office.

A century of political retribution and injustice can now be corrected by the posthumous recognition of Teddy Roosevelt's courage.

AMERICA'S SPACE PROGRAM: A SOURCE OF PRIDE AND INSPIRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. WELDON] is recognized during morning hour debates for 5 minutes.

Mr. WELDON of Florida. Madam Speaker, let me begin by saying that I would like to be a cosponsor of the legislation being submitted by the gentleman from Pennsylvania [Mr. MCHALE], and I very much endorse his very eloquent comments. I know Teddy Roosevelt has been an inspiration for me, not so much in my political career, but as well as a young man growing up and seeing how somebody like him could overcome adversity and take the risks that he did. So I congratulate the gentleman and the gentleman from California [Mr. CUNNINGHAM], on your endeavor, and I would like to support you in that.

Madam Speaker, I rise this afternoon to talk about our Nation's space program. As all Americans know, our Nation's success in the arena of space has been a source of great pride and inspiration for many Americans, particularly our Nation's youth. Of course, it all got started by the people who were willing to take risks.

There is probably nobody who has taken more of a risk than John Kennedy when he made the commitment to go to the Moon, and he said we go to the Moon not because it is easy, but because it is hard. The way to the Moon was paved by those many men and women who worked on the programs Mercury and Gemini, and then ultimately the successful Apollo program.

Of course, following that we had the tremendous success of our shuttle program. The shuttle has proven its durability and its tremendous versatility, a vehicle that can go up and come back, a vehicle that can go up, retrieve satellites, bring them back to Earth and then launch them again.

Of course, we recently all across the world were spellbound by the tremendous success of the unmanned program to Mars, the Mars Pathfinder, and the rover Sojourner and how that fascinated not only all Americans, but particularly our Nation's youth.

Now we are getting very close to the point where we will be launching and assembling our Nation's space station, a tremendous international cooperative event involving people not only here in the United States, but as well people in Europe and in Japan.

I have with me on my left a diagram of what the orbiting space station would look like. In this particular diagram, you can see the shuttle in the background there docked to the space station, and it is delivering another element.

This will be hopefully becoming a reality in the next 12 to 18 months. We have some ongoing serious problems that we need to work through with the Russians and their failure to fund their components of the space station, but if we are really going to have an ongoing, growing space program, one of the things we need to overcome is the problem of the high cost of getting payloads into orbit.

One of the ways we are hoping to do that is with this vehicle shown here in this poster, the X-33, the next reusable launch vehicle. This a vehicle that is being developed right now by Lockheed-Martin out in California, and this vehicle hopefully will dramatically reduce the cost of getting payloads into orbit.

The goal or desire is to reduce the cost by a factor of 10, because that is one of the most expensive things about us going into space, is the actual cost of getting a pound from the surface up into orbit. This vehicle will be very similar to the shuttle, in that it will go up and come back and go up and come back, but will be using new modern technology that we all hope, all of us here in the House of Representatives, but as well all of those men and women that work in our space program at places like Kennedy Space Center and Johnson Space Center, at the Jet Propulsion Center in Pasadena, CA, we hope it will dramatically lower the cost so we can do more. What do we want to do? What are our hopes and dreams in terms of the future of going up into space, and what would we like to be able to accomplish?

Well, this next poster I have here shows something that I think has some real potential. It shows men and women working on the surface of the moon and doing what? Well, one of the proposals that has been put forward is that we may be able to collect solar energy on the Moon and actually send it by microwave beams. The technology on this has all been worked out. It is not new technology. Send it to the Earth in a way that we could get electricity so we would not have to use nuclear powerplants and use fossil fuels. You are talking about a completely clean way to generate abundant forms of electrical power. If we can develop cheaper, more inexpensive ways to get payloads into orbit, it may be possible for us to reduce the cost of electricity to as little as 3 cents per kilowatt.

Madam Speaker, I encourage all our colleagues to support the Nation's space program and the tremendous promise that it holds.

SUPPORT CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION AMENDMENTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas [Mr. REYES] is recognized during morning hour debates for 5 minutes.

Mr. REYES. Madam Speaker, today we will continue consideration of the Carl D. Perkins vocational education amendments. I rise this afternoon to support vocational education because of its importance to this country and to my district of El Paso, TX. Carl Perkins provides Federal funding to improve the quality of vocational education and to provide access to quality vocational education to special populations which include disadvantaged students.

My home in El Paso is one of the poorest districts in this country. Many students there cannot afford to attend college. Vocational education, especially as funded through Carl Perkins, provides these students the skills that they need to move immediately into higher paying jobs, and upon graduation for some it provides the skills developed that will set them for a career path in life. For others, vocational education provides job opportunities which will allow individuals to work and to save for college in their future.

Schools in my district are using this funding to teach our kids in innovative ways and to prepare them for the working world or to continue their education and college if they so choose.

I was very disappointed to learn that the bill excludes a requirement to spend vocational education funds for programs for single parents and pregnant women. The Ysleta School System in my district has developed a very important program which could make use of such funds.

This program at Ysleta Academy of Science and Technology helps teenage parents through its Teen Parenting Academy and the Teen Parenting Program, which takes pregnant students out of the regular classroom and provides them academic and vocational education.

The Teen Parenting Academy uses State funds for academics and Carl Perkins funds for vocational education. Within 6 weeks of the child's birth, other schools would send the student back to regular classes. This program, however, allows students to complete their academic career at the Teen Parenting Academy.

Normally teenage parents, male and female, have a very high dropout rate, especially soon after their babies are born. In this program, however, students stay in school, complete their academic education and learn a vocation. The dropout rate for single parents in the Teen Parenting Academy is well below the national and local dropout average.

Continued vocational education funding for single pregnant women and single parents would help this school continue to provide these kids opportunities that they might otherwise miss, and it helps to keep these kids from falling into the vicious cycle of poverty.

The support a bipartisan amendment offered by the gentlewoman from Hawaii [Mrs. MINK], the gentlewoman from Maryland [Mrs. MORELLA], the gentlewoman from California [Ms. SANCHEZ], and others, which will restore this requirement.

I believe that quality education is the key to helping children and adults in communities like mine to raise their standard of living. We must, therefore, continue to provide Federal support for important educational programs like Carl D. Perkins. The way to make this country a better, more productive society is to increase the educational level of all its residents.

A TRIBUTE TO HENRY SALVATORI

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. ROHRABACHER] is recognized during morning hour debates for 5 minutes.

Mr. ROHRABACHER. Madam Speaker, one of the great opportunities of this job of being a Member of Congress is to officially bid farewell to great people. One such great American recently passed away. He was a teacher, a patriot, and a friend. His name was Henry Salvatori.

Many Americans have no idea who Henry Salvatori was, but to many of us who are politically active and followed behind the scenes what has happened in America and some of the great developments in the oil industry and some of the great philanthropic works in California, we know very well who Henry Salvatori was. He was a great American, and it is an honor today for us to say a few nice words about him and to recall him for the American people, because he added so much to our way of life.

Henry Salvatori died over the Fourth of July weekend at age 96. That date was fitting, because Henry was a man whose life epitomized what being an American is all about.

He was, like many American patriots, a man who came to the United States from another country. Henry came to us from Italy. He came here when he was 5 years old, and during his lifetime, he enthusiastically embraced the ideals that are at the foundation of our country. Thus, he epitomized what being an American is all about, because we have always said that these American values are not just for the people of the United States and people born here, but being an American means those things that our Founding Fathers fought for and sought after.

Mr. DREIER. Madam Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from California.

Mr. DREIER. Madam Speaker, I thank my friend for yielding, and I would first like to congratulate him for taking out this time to talk about a great American hero, Henry Salvatori.

I think the last point that my friend has made is really right on target here, because many have said that the very best citizens in this country are those who become American citizens by choice. Henry Salvatori really epitomized that, having been a member of Ronald Reagan's Kitchen Cabinet and having played such a key role in the conservative movement. He established at my alma mater the Salvatori Center, which has done a great deal of research.

So, rather than simply being involved in politics, not a lot of attention has been focused on his tremendous philanthropic involvement and his support of education. He has provided to my friend and to me and many others tremendous inspiration, and a great deal of advice and counsel and support.

I would simply like to join my friend and say Henry Salvatori will be sorely missed by so many of us. It is a great loss for the United States of America.

Madam Speaker, I thank my friend for yielding.

Mr. ROHRABACHER. Madam Speaker, we will be benefiting from his not only generosity, but the standards that he set for us. Henry Salvatori was a man who believed in free enterprise and free speech. He believed in honor, in truth, in decency and hard work and responsibility, and he took these principles to heart and into his hands. With them he built a very successful life, and this success Henry shared with everyone.

Henry Salvatori's motto was "whoever crosses my path, I will leave them at least as well off, or, if possible, better off than he was before." Henry's life is an inspiration, and he tried to follow that formula, not through one career, but through three careers. In each one of those he tried to better people's lives.

Henry's first career was in the oil business, when as a young man he pioneered a new oil exploration technology of charting geological structures by sending shock waves through the ground. Inspired by the spirit of enterprise that he found in America, Henry invested all of his assets into a company based on the seismic method and the company, Western Geophysical, grew into a multibillion dollar corporation and he became its leader. The business remains a leader today even as Henry passes on.

Henry's second career was that of an philanthropist. He believed that the best way to help others is not with Government entitlements, but through the private sector, through caring individuals who are taking the responsibility to help others. In this, he lent a hand to so many people to try to help them get the basics, but at no time trying to make any individual dependent on the Government or someone else's largess.

He demonstrated this belief time and again by bestowing gifts on universities and colleges, hospitals, children's clubs, community groups, and the arts. He also supported civic education organizations which put forth ideas of limited Government and expanded individual opportunity, ideas that guide our society today.

In particular, Henry supported the youth organizations like the Young Americans for Freedom and the Young Republicans and others. This helped a whole generation of young people meet the responsibility of picking up the torch and caring the torch of American freedom as it was passed from one generation to another. I am a beneficiary of that largess, as was Ronald Reagan and many others, as Henry Salvatori engaged himself in the political process in the United States he loved so much, and it was a tribute to all Americans at all times.

It was during his third career—his career in politics—that I was fortunate enough to come to know Henry. He never sought, won or held elected office, but Henry served his fellow Americans honorably by effectively using one of the most powerful rights that the U.S. Constitution bestows upon its citizens: free speech. He engaged in debate on State and national issues, and financially supported candidates who shared his beliefs in freedom. In hindsight, Henry spoke out for some of America's greatest leaders.

Henry became a respected and trusted advisor to Barry Goldwater, Gerald Ford, and Richard Nixon. But he was best known for launching the career of the man who has ignited the political spirit of the modern generation: Ronald Reagan.

Henry enticed Reagan to enter politics with two simple promises that to this day resonate with courage and integrity. He promised to take care of the campaign funding and promised to take nothing in return: no favor, no office, no appointment. Henry supported Reagan from the Governor's Mansion to the White House, and today the history books show he kept both promises.

He remained close to President Reagan as part of a so-called Kitchen Cabinet. Though Reagan entertained all ideas, in the end the President made the decisions. Of course, it was through the support and dedication of patriotic Americans like Henry Salvatori that Ronald Reagan ever had a chance to lead.

Henry did himself, his neighbors and this country many great services. He expanded access to our national energy supply. He funded charities that help people in need. He supported political ideas and candidates who brought our country closer to freedom, and expanded the opportunities available to average people.

In doing so Henry Salvatori crossed all our paths. And rest assured, we are much better off.

As we close this today, I would hope all people on the next Fourth of July will remember the great contributions this man made to our country.

CONGRESS NOT BEING KIND TO SMALL FAMILY FARMERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning hour debates for 5 minutes.

Mrs. CLAYTON. Madam Speaker, this Congress has not been very kind to small family farmers this year as the Agriculture appropriation bill cuts funding by $3.7 billion over last year's bill. That cut is on top of a $10.3 billion cut last year, and an additional $5.8 billion less than the year before.

In addition, we will face an amendment later that, if it passes, small tobacco farmers could be the sole category of farmers effectively barred from obtaining Federal crop insurance, even though the purchase of crop insurance is mandatory for all farmers through the passage of the Federal Crop Insurance Reform Act of 1994.

Later today, we will also face an amendment that targets peanut farmers. That amendment will help large corporations with moneys earned at the expense of small family farmers.

But inattention to a situation that has plagued small family farmers for more than four decades is one of the biggest acts of omission of this Congress. The farmers and ranchers of America, including minority and limited resource farmers, through their labor and hard work sustain each and every one of us and maintain the lifeblood of our Nation and the world. These people do not discriminate; their products are for all of us. Therefore, it is important that we do all within our powers to ensure that each and every producer is able to farm without the additional burden of institutional racism rearing its ugly head.

Madam Speaker, it has greatly concerned me that in my home State of North Carolina, there has been a 64-percent decline in minority farmers just over the last 15 years, from 6,696 farmers in 1978 to 2,498 farmers in 1992.

There are several reasons as to why the number of minority and limited resource farmers are declining so rapidly, but the one that has been documented time and time again is the discriminatory environment present in the Department of Agriculture, which was the very agency established by the U.S. Government to accommodate and assist the special needs of all farmers and ranchers.

On February 28, 1997, the Civil Rights Action Team [CRAT] report was issued, a report entitled "Civil Rights at the United States Department of Agriculture." It was done by the Civil Rights Implementation Team at USDA under the direction of Secretary Don Glickman, which documents the decades of discrimination against minorities and women within the Department. Ninety-two recommendations for change were made in the report, 13 of which required legislative action.

I have introduced a bill which seeks to implement most of the legislative recommendations within the CRAT report. This is a beginning, not complete.

My bill achieves this goal by first, changing the structure of county committees; second, changing the status of county employees from non-Federal to Federal; third, making sure that socially disadvantaged farmers can obtain credit and other assistance to maintain their farms as other farmers are able to do; and, fourth, making sure USDA has sufficient funds to carry out its loans, technical assistance, and outreach programs. The bill is H.R. 2185 and is entitled the USDA Accountability and Equity Act of 1997. I urge all of my colleagues to join in support of this bill.

Farmers and ranchers are an invaluable resource to all of us. American producers, who now represent less than 3 percent of the population, provide more than enough food and fiber to meet the needs of our Nation and most nations overseas. Twenty-two million Americans are employed in the processing, selling, trading of our national foods and fiber. Seventy-five million Americans are recipients of USDA benefits. Crops are produced, the soil and water are cared for, and the most available, highest quality and the least expensive food supply in the world is provided through agriculture and related programs.

The Food Stamp Program, the School Breakfast and Lunch Program, meat and poultry inspections and the world's greatest quantity of agricultural exports as well as the world's largest donations of foreign food aid also result from agriculture programs.

In rural communities, agriculture programs dispense loans and grants for housing, utilities, and economic development. Forest protection and preservation is another important product of such programs.

And so, Madam Speaker, I would ask my colleagues that, as we consider the Agriculture appropriations bill, think of small farmers, their families, and the communities they serve.

As debate continues on peanuts and tobacco, bear in mind the burden small farmers have carried in recent years in budget matters.

When we vote on the tobacco amendments and peanut amendment, do not be blind to who we are helping and who we are hurting.

And, finally, I urge each of my colleagues to consider cosponsoring H.R. 2185, the USDA Accountability and Equity Act of 1997.

Small family farmers, particularly socially disadvantaged and minority farmers deserve a chance.

This bill, H.R. 2185 begins to give them that chance.

Madam Speaker, I would urge my colleagues to support H.R. 2185, the USDA an accountability act, and remember that all of our farmers, minority and disadvantaged farmers, deserve the protection of the U.S. Constitution and of this Congress.

A FRESH LOOK AT THE ANTI-TOBACCO CAMPAIGN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Massachusetts [Mr. McGovern] is recognized during morning hour debates for 5 minutes.

Mr. McGOVERN. Madam Speaker, I rise to welcome my friends and constituents from the Greater Fall River-Fresh Air Kids Program to Washington, DC and to the U.S. Congress. This community youth group has put the phrase, Think Globally/Act Locally, into action with their efforts to combat environmental tobacco smoke. I continue to support the thousands of youthful volunteers whom the Fresh Air Kids have recruited as they use direct action to combat the tobacco industry's advertising campaign against the young people in America.

Within 25 years, tobacco-related illnesses are expected to overtake infectious disease as the leading threat to human health worldwide. In spite of this fact, tobacco companies continue to produce cigarettes at the rate of 5.5 trillion a year. That is nearly 1,000 cigarettes for every person on the planet, including our young children.

Every day, over 3,000 kids become regular smokers, despite laws in every State that prohibit tobacco use by minors. Every year, 1 million young children start using tobacco, with the average teenage smoker starting at 13 and becoming a daily smoker by 14½.

An estimated 419,000 Americans die each year from diseases caused by smoking. That number is more than die from AIDS, alcohol, illegal drugs, fires, car crashes, suicides, and murder combined. Tobacco use is the No. 1 cause of preventable disease and death in my State of Massachusetts, taking 10,000 lives every year.

Ninety percent of all adult smokers begin smoking before the age of 18. In my own family, I watched my mother-in-law, a lifetime smoker, recently become one of the hundreds of thousands of Americans to die annually from lung cancer. My grandfather continues to suffer daily from emphysema, the product of years of smoking.

In light of these sad but very real statistics, the Fresh Air Kids have made remarkable progress in the 2 years since their organization was founded by Maureen Glisson of Citizens for Citizens of Fall River, Joseph Borges of the Fall River Tobacco Control Program, and Jacqueline Goyette of the Swansea/Somerset Board of Health Tobacco Control Program.

With the encouragement and support of parent groups, educators, community leaders, and members of the media, some 3,000 volunteer youth have fueled the local movement against tobacco in their community.

The Fresh Air Kids have spoken to Massachusetts, and their voices have been heard loud and clear. In a community where 34 percent of residents smoke, these youngsters have pledged never to start, and to work to keep others tobacco-free.

Last October, I had the privilege of joining with the Fresh Air Kids in a march that celebrated their successful campaign to create the first smoke-free mall in southeastern Massachusetts. The kids marched to the mall with placards and petitions from their many supporters in the community. They obtained permission to set up a store front to display signs and collect signatures of support.

At the end of the victory march, I watched with pride as the mall manager stood up and declared this mall is smoke free due to the efforts of the Fresh Air Kids.

Currently the Fresh Air Kids are conducting a billboard campaign encouraging local businesses to buy back billboards which feature tobacco advertising like Joe Camel signs, replacing them with pro-health messages of the Fresh Air Kids. We hope these efforts will encourage Congress to address other such harmful advertising practices, such as tobacco product placement in movies.

The Fresh Air Kids understand and have articulated what I believe is the very foundation of an effective democracy, that informed and active citizens, willing to stand up for causes they care about, really can make a difference.

Here in the U.S. Congress we can try to pass laws that we hope will keep our children healthy, but it is up to the efforts and actions of grass-roots groups in every community across America to take up the fight in keeping our children safe and healthy.

The Fresh Air Kids are a shining example of what citizen action and grassroots community effort can accomplish. That is one reason why they have been selected as a National Pilot Program by the Campaign for Tobacco Free Kids, a national antismoking group that has set the standard for keeping our kids healthy.

I thank the Fresh Air Kids, their parents, their educators, the local media, the local elected officials, and fresh air boosters everywhere for making southeastern Massachusetts a better place to live and a safer place to breathe.

I look forward to many, many years of working with them and, once again, to the Fresh Air Kids, I say welcome to Washington, and I am very proud of you.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 17 minutes p.m.), the House stood in recess until 2 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SNOWBARGER) at 2 o'clock p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know, O gracious God, that the pace of living is brisk, and we know too that we need to have time to meditate on Your good gifts to us and to reflect on how we can interpret these gifts in our daily lives.

May we use the gift of faith so our lives develop meaning and purpose; may we use the gift of hope so we can anticipate a new and brighter day; may we use the gift of love so that we know others with trust and affection and share with them our feelings and experiences. May Your gifts of faith and hope and love, O God, that have nourished us along the way be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas [Mr. LAMPSON] come forward and lead the House in the Pledge of Allegiance.

Mr. LAMPSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

LET US GIVE THE PEOPLE OF THIS COUNTRY THE TAX RELIEF THEY DESERVE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, our liberal colleagues have used every trick in the book to avoid giving the American people a tax break. After failed attempts at scaring welfare recipients and working taxpayers, now they are trying the same on senior citizens. Well, the truth is the Republican Taxpayer Relief Act will greatly benefit seniors in their retirement years because we believe that those who have worked hard, played by the rules, and saved for retirement should be rewarded, not threatened and not penalized.

Opponents of the capital gains tax relief say, "You're rich if you put money into mutual funds or contributed to a company retirement plan or built a small business with your own sweat and labor." But more than half of all taxpayers claiming capital gains have incomes less than $50,000, and many are seniors who are able live a better life by converting their lifelong investments. In fact nearly 80 percent of assets other than homes are owned by the elderly and seniors.

No more excuses, my colleagues on the left. For the first time in 16 years, let us give the people of this country a tax break they deserve.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2003

Mr. BERRY. Mr. Speaker, I ask unanimous consent to remove my name from cosponsorship of H.R. 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

WORKING FAMILIES NEED A BREAK

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, as my colleagues know, in Congress we are working on giving Americans an $85 billion tax cut. The question is who should reap the greatest benefits from these tax cuts? Should it be the wealthiest corporations and the wealthiest Americans? Well, that is what I believe my Republican colleagues suggest. Or should it be the middle-class families who are struggling to obtain their dreams and could greatly benefit from these tax cuts?

The Republican tax plan gives tax breaks to America's most profitable corporations and wealthiest individuals while leaving middle-class families with little help. According to a Treasury Department analysis, 63 percent of the Republican tax cuts will go to the top 20 percent of the wealthiest Americans.

The Democrats' tax plan provides for middle-income families by giving a break to those families making less than $75,000 a year. It also provides a $500-per-child tax credit to middle- and low-income working families.

The Republican plan denies millions of these families such tax breaks. I believe that is wrong. Working families need a break.

PINOCCHI-NOMICS

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, I feel like we are surrounded by a bunch of Pinocchios. It appears we have two different groups of Pinocchios. On the one hand we have got some liberals who are calling millions of middle-class families rich by using something called family economic income. Family economic income is a magic formula that some ingenious bureaucrat at the Treasury Department dreamed up that means your income is actually 50 percent or more higher than people think it is. On the other hand we have got some liberals who want, now listen to this one, who want to reduce the income tax burden on people whose income tax burden is already zero. Their ideas of a tax cut is to, and now I am not making this up, is to increase the tax burden on the actual taxpayers to give tax decreases to those who pay no taxes. It is hard to know which group is growing the longest noses.

I do not know how to decide which arguments are more absurd, the family economic income liberals or the tax cut to the welfare crowd. Mr. Speaker, this is Pinocchi-nomics.

NEW DEFINITION OF INDEPENDENT CONTRACTOR IS GOP EXTREMISM AT ITS ABSOLUTE WORST

(Mr. PALLONE asked and was given permission to address the House for 1 minute.

Mr. PALLONE. Mr. Speaker, if there is any doubt about the Republicans' dedication to helping the rich at the expense of the average working American, one need only look at the new definition of independent contractor in the GOP's tax agenda. The definition has been drastically broadened to allow employers to reclassify longtime employees as independent contractors. By so doing, employers would no longer be obligated to provide health and pension coverage as well as a host of other labor protections to millions, and I repeat millions, of Americans who are now entitled to such benefits; and to add insult to injury, individuals reclassified as independent contractors will be hit with a tax increase. They will be forced to pick up the Medicare and Social Security taxes that employers were formerly responsible for paying.

On top of all this, Mr. Speaker, there are reports that Speaker GINGRICH, in an effort to placate the conservative forces that almost brought him down, may once again be gearing up to shut down the Government in the name of tax breaks for the rich.

Mr. Speaker, the GOP just does not get it. The American people are not interested in tax breaks for the rich and Government shutdowns. They are interested in job security and health care. The GOP should let honest people make an honest living and leave the definition of independent contractor alone.

TOO MUCH POWER IN THE HANDS OF GOVERNMENT

(Mr. RYUN asked and was given permission to address the House for 1 minute.)

Mr. RYUN. Mr. Speaker, when our Founding Fathers were debating the Constitution in Philadelphia in 1787, one of the most important subjects they discussed was concerning our freedoms. Some thought too much governmental power was the threat to freedom. Others thought too much power in the hands of the majority would be a threat to the freedom of minorities. Yet others thought that too much power in the hands of factions or what we call today special interest groups was the greatest threat to the general public. Men such as Thomas Jefferson and James Madison wrote extensively about these threats to freedom. Thomas Jefferson and James Madison were right about all three of these threats to freedom.

Today I would like to call special interests or special attention to the threat to freedom that Thomas Jefferson feared the most: Too much power in the hands of Government. When the Government takes between one-fourth and one-half of everyone's income, that is too much power in the hands of Government. Let us heed the words of Thomas Jefferson and reduce the power of Government by passing the first tax package in 16 years, one that guarantees a $500-per-child tax credit, allowing families to keep more of what they earn.

TWO HUANGS DO NOT MAKE A RIGHT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, John Huang says he never broke the law, he never raised campaign money for the Democrats while he worked for the Commerce Department. The gutless wonder now says, "My wife did it." That is right. John Huang says that Jane Huang was the one that raised the half million dollars from the Indonesian landscaper that ended up having to be returned because the landscaper never filed his taxes. In addition, Jane Huang raised $12,000 from John Huang's old boss at Lippo.

And after all this, John Huang says, "Hey, behind every good man is a good woman. I did nothing wrong."

Jane Huang says, "I did nothing wrong."

Tell it like it is. Two Huangs do not make a right. If there is any consolation, my colleagues, John Huang could have blamed Jane Doe, not Jane Huang.

I yield back the balance of this Communist intrusion into our political process.

THE TIP OF THE EGG ROLL

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I think it is important to talk about Chinagate figure John Huang because he had a real tough job. As the president of his holding company, Hip Hing, a subsidiary of Lippo Group, he had to work many, many long hours. See, when one's only asset is a vacant parking lot, we would not believe the pressures they are under. Nevertheless he had the time to get deeply involved in Democrat politics, and when he donated $50,000, no one raised an eye about how a vacant parking lot attendant could afford such largess. Of course they did not know he was reimbursed by his parent company, the one-half Chinese Communist government owned Lippo Group, but now even Democrats admit this was an illegal donation and apparently only the tip of the egg roll.

PROVIDE TAX RELIEF TO THE FAMILIES WHO NEED IT THE MOST

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, we need to pass a tax relief package that works for working Americans. By the way, the method of calculating income by the Treasury Department was indeed devised by the Reagan administration.

The tax reconciliation bill denies tax relief to millions of working families who pay Federal taxes but who earn less than $30,000 a year. These folks would be unable to claim the $500-per-child tax credit even though they pay Federal taxes.

Mr. Speaker, we are talking about nurses, teachers, junior police officers who are trying to raise their families on limited incomes. We are talking about small business owners, family farmers, hourly wage earners. We are talking about people who put a significant percentage of their salaries toward paying Federal payroll taxes. We are talking about people who need tax relief. We are talking about people who get nothing under this tax plan.

Let us not pass up this golden opportunity to provide tax relief to families that need it most. It is time to restore the full $500-per-child credit to working families.

THE WHITE HOUSE BLAMES IT ON THE SYSTEM

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, if compromise of our national security and corruption of the electoral process itself were not involved, I would find great humor in the attempts to change the subject by the other side. Everyone knows how absolutely brilliant children can be at changing the subject, how inventive our kids can be at shifting responsibility and finding excuses for their behavior.

It is like a child playing with a dog in a way that he is not supposed to, pulling his tail or poking the dog where he hates to be poked, and then when the dog reacts by barking or biting, the child indignantly blames the dog.

Well, Mr. Speaker, what we have is the White House in clear violation of the law and then turning around and blaming the system for making them break the law. The system somehow required the Democrat National Committee to take foreign money. The system somehow required the White House to turn the White House into the mother of all fundraising operations. The system somehow required the DNC to accept drug money from drug traffickers.

Great example for our kids, Mr. Speaker; break the law then blame it all on the system.

BILLIONS OF DOLLARS IN TAX BREAKS FOR MILLIONAIRES AND NOTHING FOR DANIEL

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, Republicans continue to try to sell their huge tax break for the rich by promising tax relief for middle-class Americans. But under the Republican plan millions of working Americans get no tax cuts, they only get empty promises. Let us take an example:

Daniel is a police officer. He works hard and supports his wife and four children on his $26,000 salary. He pays thousands of dollars in taxes. What does Daniel get from the Republican tax bill? Nothing, zero, zip. Democrats want to give Daniel and millions of other working families a tax cut.

What do Republicans say about Daniel? Daniel, the police officer? They said Daniel is on welfare. Billions of dollars in tax breaks for millionaires, nothing for Daniel, nothing for millions of hardworking families. That is the Republican tax bill, that is the Republican tax plan.

□ 1415

PHILOSOPHICAL DIFFERENCES ON TAX RELIEF

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, there is a great philosophical divide between we Republicans and the Democrats when it comes to the issue of tax cuts. For the 40 years that the Democrats controlled this Chamber, they ended their regin by giving America the highest tax increase in American history. For 2 years the Republicans have controlled this Chamber, and in each Congress we have offered a tax cut for middle class families. Democrats consistently oppose these tax cuts because the less money that gets to come back to Washington by way of the IRS means there is less money available for them to spend on their favorite projects.

We Republicans believe that those people who go to work each day ought to be able to keep more of their hard-earned money to spend for their families. The choice is simply this: If American taxpayers really believe that they do not have enough common sense to spend the money they earn for their families, then they should support the liberal rhetoric that supports high taxes. If, on the other hand, families believe that they ought to be able to make spending decisions for their families, they should support the Republican plan to cut taxes for the middle class.

THE CHOICE IS CLEAR

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, this week Democratic and Republican negotiators will decide what sort of tax bill to send to President Clinton. I think the choice is very clear. We can give them the Republican bill, with handouts for the rich, or the Democratic bill, with help for the rest.

As far as I am concerned parents working full time and making $30,000 a year or less need a lot more help than corporate frequent flyers who use company jets for personal use and then want a tax exemption for it.

The Democratic bill, Mr. Speaker, helps hospitals and will send 214,000 more Massachusetts students to college, and it is a far better bill than the Republican bill, that will cut $70,000,000 from Massachusetts hospitals and do very little to help students.

The Republican bill skimps on tax breaks for students. It shortchanges lower income working families, it gives enormous tax breaks to the very rich, and it gives handouts to the people who need a leg up, and for people making less than $93,000. It is a bad idea, Mr. Speaker. I urge my colleagues to reject it.

TUITION CREDIT ASPECTS OF TAX PROPOSALS

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, while the Republican tax bill is loaded with benefits for the rich, it offers little to make higher education affordable for the rest of us. The Democratic tax cut, in contrast, provides a credit of up to $1,500 in tuition for 2 years of community college.

For example, if you go to a college where the tuition is $1,500 you will get a full $1,500 tax credit. Compare that to the Republican plan, where you get only 50 percent of tuition costs up to $3,000. The $1,500 tuition bill will get you only a $750 credit, or half as much.

The Democratic plan would allow employers to continue to deduct tuition expenses. Therefore, millions of workers who are hitting the books to improve their skills through employer-paid plans would be allowed to continue. The Republicans would end the deduction, and put an end to many of those programs.

That is why the Republicans are getting an F for their education plan from student and business groups nationwide. Building opportunity for more Americans by making education affordable is one of the building blocks of the Democratic tax cut. We urge the President to continue to fight for this provision as the negotiations continue.

IN OPPOSITION TO TRADE BARRIERS BETWEEN STATES

(Mr. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAPPS. Mr. Speaker, this past weekend the Los Angeles Times ran an insightful article about the cooperative spirit of the California delegation. In the spirit of this bipartisanship, I along with my Republican colleague, the gentleman from California, Mr. FRANK RIGGS, and the California delegation have urged the Governor of Florida to repeal an egregious law which unfairly targets small wineries.

Under this law, if a Florida resident orders a bottle of wine from another State, the vintner, the delivery person, and the unsuspecting consumer are all guilty of felonies, punishable by up to 5 years in prison and a $5,000 fine.

Mr. Speaker, none of us wants trade wars. Florida's own attorney general is against this questionable legislation. Our small wineries are critical to the economy of my district and to the entire State of California. They should not be subject to unfair and extreme trade barriers within this great Nation. Mr. Speaker, we must support the rights of small businesses and interstate commerce.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SNOWBARGER). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today

SHACKLEFORD BANKS WILD HORSES PROTECTION ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 765) to ensure maintenance of a herd of wild horses in Cape Lookout National Seashore.

The Clerk read as follows:

H.R. 765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shackleford Banks Wild Horses Protection Act".

SEC. 2. MAINTENANCE OF WILD HORSES IN CAPE LOOKOUT NATIONAL SEASHORE.

Section 5 of the Act entitled "An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes", approved March 10, 1966 (16 U.S.C. 459g–4), is amended by inserting "(a)" after "SEC. 5.", and by adding at the end the following new subsection:

"(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of free roaming horses in the seashore.

"(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackleford Horses (a nonprofit corporation established under the laws of the State of North Carolina) to provide for management of free roaming horses in the seashore. The agreement shall—

"(A) provide for cost-effective management of the horses; and

"(B) allow the Foundation to adopt any of those horses that the Secretary removes from the seashore.

"(3)(A) The Secretary shall accommodate the historic population level of the free roaming horse herd in the seashore, which shall be considered to be not less than 100 horses and not more than 110 horses.

“(B) The Secretary may not remove, or assist in or permit the removal of, any free roaming horses from Federal lands within the boundaries of the seashore unless—

“(i) the number of free roaming horses in the seashore exceeds 110;

“(ii) there is an emergency or a need to protect public health and safety, as defined in the agreement under paragraph (2); or

“(iii) there is concern for the persistence and viability of the horse population that is cited in the most recent findings of annual monitoring of the horses under paragraph (4).

“(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population structure and health of the free roaming horses in the national seashore.

“(5) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 765 was introduced by the gentleman from North Carolina [Mr. JONES] to ensure the maintenance of a herd of wild horses in Cape Lookout National Seashore, North Carolina. This bill is entitled “The Shackleford Banks Wild Horses Protection Act.” H.R. 765 would amend section 5 of the establishment act for Cape Lookout National Seashore to require the Secretary of the Interior to manage a herd of free-roaming wild horses on the island under agreement with the Foundation for Shackleford Horses, a nonprofit corporation established under the laws of North Carolina.

Specifically, Mr. Speaker, the bill mandates that the National Park Service maintain a population of 100 to 110 wild horses at the seashore. The National Park Service has an inconsistent policy in managing wild horses. This bill assures that a healthy survivable herd will remain at the seashore, which has historically existed at a 100-horse level. These wild horses have been on the Outer Banks of North Carolina for over 300 years, but the National Park Service will not recognize their cultural value.

Mr. Speaker, I wish to compliment my colleague, the gentleman from North Carolina [Mr. JONES], for his diligence in moving H.R. 765 to the House floor. He was persuasive in the Subcommittee on National Parks and Public Lands, and also in the full Committee on Resources to express the concerns his North Carolina constituents have for the wild horses of the Shackleford Banks.

These wild roaming horses truly are a cultural resource that is important not only to North Carolina but to the entire Nation. H.R. 765 protects the wild roaming horses in Cape Lookout National Seashore. I strongly urge my colleagues in the House to support this worthwhile legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 765 introduced by my colleague, the gentleman from North Carolina [Mr. JONES], requires the National Park Service to maintain a herd of wild horses on Shackleford Banks in Cape Lookout National Seashore. I recognize and appreciate my good friend's deep personal interest in this matter, as well as the concern this issue has generated in the local community. As such, I am supporting the bill in the House today. I must note for the record that the administration has strong concerns and objections to the bill which are also shared by the National Parks and Conservation Association, a park advocacy group.

Mr. Speaker, H.R. 765 has been very specific in management directives for the National Park Service, right down to specifying that the number of wild horses that must be maintained at the National Seashore be no less than 100 and no more than 110. That detailed a number may well cause some significant management problems, I am sure. We do not know the genetic diversity of this herd, nor the carrying capacity of the small barrier island on which they live. In fact, a report on the genetic diversity of the horses is due by sometime next month. We would do well to have better scientific information as we consider this legislation.

Part of the problem here, Mr. Speaker, is that the National Park Service waited for years to develop a management plan to deal with these horses. The National Park Service's handling of this matter has also raised concerns within the local community. I understand that the Foundation for Shackleford Horses, a local group, is currently reviewing a draft memorandum of understanding between the National Park Service and the foundation that will address many of the issues that H.R. 765 now involves. This I hope will be a positive step.

It seems to me that a great deal of time and effort has been spent by the National Park Service and others in this matter. Perhaps from these efforts scientific and management processes could be made to work cooperatively, and before this bill is sent to the President we would have a product that all parties could support. This legislation also has the full support of the Governor of North Carolina.

Mr. Speaker, I support the legislation of the gentleman from North Carolina, with the hope that we will try to iron out some of the difficulties or provisions of the bill before it is sent to the White House.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, it is a pleasure for me to yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], the chief sponsor of this piece of legislation, who has done such an outstanding job on it.

Mr. JONES. Mr. Speaker, I would like to thank the chairman and ranking member of the subcommittee for their time and support in helping to secure passage of H.R. 765, the Shackleford Banks Wild Horses Protection Act.

As the chairman mentioned, H.R. 765 simply requires the National Park Service to maintain a representative herd of wild horses on Shackleford Banks, a part of the Cape Lookout National Seashore. These horses have been roaming free for over 300 years, much like their descendents, the Spanish mustangs which swam ashore after Spanish galleons wrecked off the North Carolina coast centuries ago.

As one can imagine, these horses have become a permanent part of North Carolina's heritage. Generation after generation of schoolchildren have been taught about these horses and their unique story. Some time ago the Park Service ignored the cultural importance of these horses and began initiating a management plan to reduce the size of the herd. I was amazed at the arrogance of the Park Service in its inability to work with local citizens for the best interests of the community and the region.

After witnessing the behavior and track record of the Park Service, I introduced H.R. 765 out of a concern for the health and the future of the Shackleford Banks wild horses. This legislation requires the Park Service to maintain a herd of not less than 100 horses and not more than 110 horses, a number determined by sound science, not unelected bureaucrats.

The numbers were reached in consultation with Dr. Dan Rubenstein, a professor of biology at Princeton University who has been studying these horses for more than 14 years. Also, a genetic scientist working in consultation with the Park Service also believes the herd should consist of at least 100 horses. The numbers are consistent with the number of horses that were on the island when the Park Service assumed ownership of the land back in the 1970's.

This legislation, as mentioned before, is strongly supported by North Carolina's Democratic Governor, Jim Hunt, our Democratic secretary of cultural resources, Betty McCain, and numerous local elected officials. I have even received petitions signed by schoolchildren across the State of North Carolina encouraging passage of this legislation.

After being part of the effort to save these horses, I believe this legislation is the only line of protection between the Park Service's intent to manage the vegetation instead of this national treasure.

□ 1430

I strongly encourage my colleagues to support passage of this legislation and the continuation of this historical rich herd, which is so important to the State of North Carolina.

Mr. FALEOMAVAEGA. Mr. Speaker, will the gentleman yield?

Mr. JONES. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I think it is interesting to note that in the hearings process, maybe the gentleman will for the record, it is my understanding that this issue has been going on now for over 10 years and that very much the National Park Service was properly informed; but yet they sat on this issue for all this time until the gentleman practically was forced to have to introduce legislation to get them moving. Is that correct?

Mr. JONES. Mr. Speaker, yes, sir, I appreciate the gentleman's question. I tried before this legislation was introduced to reach some common ground with the Park Service, and quite frankly I saw no sincere interest on their part, I use the word sincere, until I introduced the bill.

Mr. FALEOMAVAEGA. Mr. Speaker, so now they are more sincere than ever.

Mr. JONES. Yes, sir.

Mr. FALEOMAVAEGA. I thank the gentleman.

Mr. JONES. Mr. Speaker, I thank the gentleman for his help, too.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I too appreciate the gentleman from North Carolina for introducing this bill. I think it is very important that we recognize that maybe these horses are not indigenous to the island but they do add and enhance the beauty and the preservation of it. I represent coastal Georgia, and we have Cumberland Island there where there is a herd of wild horses. These horses are also of Spanish descent.

The interesting thing about Cumberland Island is that the environmental community wants to eliminate the horses. Their reasoning is that it is not indigenous. Not all environmentalists feel this way, but many of them do. They come up with very specious reasons for doing so. We were told last year that the Cumberland horse population had been going up 15 percent a year for the last 10 years. Upon researching it within our office we found that the horse population on Cumberland Island had in fact been in the 250 to 260 range for about 10 years, and there was not an increase in the horse population.

We further found this year after another census was done that the horse population had in fact declined. So I think it is very important that we recognize that on wild horse populations, many times we are arguing not necessarily based on science but based on political correctness.

I believe that the gentleman from North Carolina is doing the right thing. Let the folks down there decide. Let them work with the biologists, get the emotion of the Park Service who sometimes gets involved in the politics on the politically correct politics, which says that nonindigenous animals have to go.

I think that this is a great piece of legislation, and I enthusiastically support it. I hope the day does not come when we have to have similar legislation to protect the wild horses on Cumberland Island. Right now they are being protected, but it does take a nudge to the Park Service.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. SNOWBARGER]. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 765.

The question was taken.

Mr. FALEOMAVAEGA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent all Members may have 5 legislative days to revise and extend their remarks on H.R. 765, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

WARNER CANYON SKI HILL LAND EXCHANGE ACT OF 1997

Mrs. CHENOWETH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1944) to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon.

The Clerk read as follows:

H.R. 1944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Warner Canyon Ski Hill Land Exchange Act of 1977".

SEC. 2. LAND EXCHANGE INVOLVING WARNER CANYON SKI AREA AND OTHER LAND IN OREGON.

(a) AUTHORIZATION OF EXCHANGE.—If title acceptable to the Secretary for non-Federal land described in subsection (b) is conveyed to the United States, the Secretary of Agriculture shall convey to Lake County, Oregon, subject to valid existing rights of record, all right, title, and interest of the United States in and to a parcel of Federal land consisting of approximately 295 acres within the Warner Canyon Ski Area of the Freemont National Forest, as generally depicted on the map entitled "Warner Canyon Ski Hill Land Exchange", dated June 1997.

(b) NON-FEDERAL LAND.—The non-Federal land referred to in subsection (a) consists of—

(1) approximately 320 acres within the Hart Mountain National Wildlife Refuge, as generally depicted on the map referred to in subsection (a); and

(2) such other parcels of land owned by Lake County, Oregon, within the Refuge as are necessary to ensure that the values of the Federal land and non-Federal land to be exchanged under this section are approximately equal in value, as determined by appraisals.

(c) ACCEPTABLE TITLE.—Title to the non-Federal land conveyed to the United States under subsection (a) shall be such title as is acceptable to the Secretary of the Interior, in conformance with title approval standards applicable to Federal land acquisitions.

(d) VALID EXISTING RIGHTS.—The conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary of the Interior.

(e) APPLICABILITY OF OTHER LAWS.—Except as otherwise provided in this section, the Secretary of the Interior shall process the land exchange authorized by this section in the manner provided in subpart 2200 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(f) MAP.—The map referred to in subsection (a) shall be on file and available for inspection in 1 or more local offices of the Department of the Interior and the Department of Agriculture.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Interior or the Secretary of Agriculture may require such additional terms and conditions in connection with the conveyances under this section as either Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Idaho [Mrs. CHENOWETH] and the gentleman from American Samoa [Mr. FALEOMAVAEGA], each will control 20 minutes.

The Chair recognizes gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1944, introduced by the gentleman from Oregon [Mr. SMITH], provides for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon. I commend

Chairman BOB SMITH for bringing this bill before us today.

H.R. 1944 deeds approximately 290 acres of Forest Service land comprising the Warner Canyon Ski Hill to Lake County, Oregon. In exchange, Lake County will deed approximately 320 acres of land that is currently owned by Lake County within the Hart Mountain National Antelope Refuge to the U.S. Fish and Wildlife Service. The specific acreage offered by Lake County will be dependent upon an appraisal of all the lands to determine what amounts to an equal value trade in this exchange.

The Warner Canyon Ski Hill has been operated by the nonprofit group, the Fremont Highlanders Ski Club, since 1938. It is one of America's last nonprofit ski hills, the kind I learned to ski on, and I love them. The Warner Canyon Ski Hill anticipates many benefits by the trade including the reduction in the cost of liability insurance as well as better management of the ski area. The Forest Service will benefit by reducing the cost of managing this recreational property.

H.R. 1944 is noncontroversial and supported by all interested parties. This legislation is good for national taxpayers as well as the local taxpayers in Oregon. I would urge support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the legislation introduced by the gentleman from Oregon [Mr. SMITH]. H.R. 1944 directs the Forest Service to convey about 295 acres of Federal land within the Warner Canyon Ski Area of Fremont National Forest to Lake County, Oregon. In exchange, the county would convey to the U.S. Fish and Wildlife Service about 320 acres of inholdings within the Hart Mountain National Wildlife Refuge. Significantly, the bill provides that this exchange would be of equal value, subject to appraisals, and under terms acceptable to both the Secretary of Agriculture and the Secretary of the Interior.

The administration has support and testified in support of this legislation. The Forest Service property contains a small ski area that costs the Federal Government about $10,000 per year to administer but generates only $400 in ski fees to the U.S. Treasury. The proposed exchange appears to be a good deal, Mr. Speaker, both for the Lake County, which wants the ski area to continue to operate for the benefit of community residents, and for the Federal Government, which would receive additional lands for the wildlife refuge.

Mr. Speaker, I do compliment the gentleman from Oregon on his legislation and urge Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHENOWETH. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentlewoman for yielding me the time and my dear friend, the gentleman from American Samoa, for his support. This is, as has been identified, a very small land exchange which can assist in a time of need, a very small county in the southern part of the State of Oregon in the southeast suffering from what we have suffered from in the West in many areas, the problem with the lack of timber receipts because we cannot harvest timber any longer for various reasons, including the spotted owl and other Federal management objections.

Just to give an example, this little county received about $6.5 million in 1993 from forest receipts. Now it is receiving about $1.2 million from forest receipts. And with 75 percent of the county owned by the Federal Government, we can see the pinch that results in how in the world these people can provide for their infrastructure. One opportunity is with a little more tourism. One of those opportunities is with this land exchange, which could in fact expand the ski area.

I thank both of my friends for helping in this effort for a very good group of people and a very small county in America.

Mr. Speaker, I would like to thank you for allowing this bipartisan, noncontroversial bill to come to the floor today. H.R. 1944 is supported by Oregon Senators RON WYDEN and GORDON SMITH, the Forest Service, and the good people of Lake County, OR. Hopefully, with your assistance, we can move this bill in an expeditious manner so that Lake County will enjoy its benefits when the ski season begins again in the fall.

H.R. 1944 deeds approximately 290 acres of Fremont National Forest land from the U.S. Forest Service, comprising the Warner Canyon Ski Hill, to Lake County. In exchange, the county will deed roughly 320 acres of land within the Hart Mountain National Antelope Refuge to the Federal Government. The specific acreage offered by the county will be determined upon appraisal of all lands in order to facilitate an equal trade.

Lake County has been devastated over the last 4 years by this administration's policy of drastically reducing the amount of available timber in the Northwest. In 1993, there was $6.5 million brought into the Lake County treasury from timber receipts. By last year that figure had dropped to $1.2 million. This has had an extremely negative effect on local schools, law enforcement and county services. In addition, mills have been closed and hundreds of good, hard-working people have been forced to relocate and find new jobs causing further erosion of the tax base. This bill will provide a shot in the arm to the local economy by increasing seasonal employment and boosting tourism.

The Warner Canyon Ski Hill has been operated by the nonprofit Fremont Highlanders Ski Club since 1938. It is one of America's last nonprofit ski hills and has 780 vertical feet of skiing and one lift—a T-bar. The ski area is about 5 miles from the town of Lakeview, which has a population of roughly 2,500.

The benefits of transferring this small parcel of Federal land to the county are numerous. First, the Fremont National Forest will save about $2,600 per year. The cost of administering the ski area permit for Warner Canyon is about $3,000 per year, while the revenues generated by the ski area average about $400 annually. The U.S. Treasury is forced to absorb that additional cost. Second, the Fremont Highlanders Ski Club is currently responsible for providing liability insurance for Warner Canyon Ski Hill. Unfortunately, because it is Forest Service land, the Federal Government is forced to be coinsured on the property. This raises the cost of annual liability insurance to about $8,000. If the land were deeded to Lake County, which already has a liability insurance policy, this cost would be negated.

In short, H.R. 1944 is a "win-win" proposal that will benefit the U.S. Treasury, Lake County, and the recreationists who have been enjoying Warner Canyon Ski Hill for decades. I urge my colleagues in the House to support the bill.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CHENOWETH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Idaho [Mrs. CHENOWETH] that the House suspend the rules and pass the bill, H.R. 1944.

The question was taken.

Mr. FALEOMAVAEGA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR MAINTENANCE OF DAMS IN EMIGRANT WILDERNESS

Mrs. CHENOWETH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1663) to clarify the intent of the Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that Public Law, as amended.

The Clerk read as follows:

H.R. 1663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OPERATION AND MAINTENANCE OF EXISTING DAMS AND WEIRS, EMIGRANT WILDERNESS, STANISLAUS NATIONAL FOREST, CALIFORNIA.

The Secretary of Agriculture shall enter into an agreement with a non-Federal entity, under which the entity will retain, maintain, and operate at private expense the 18 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, as designated by section 2(b) of Public Law 93-632 (88 Stat. 2154; 16 U.S.C. 1132 note). The Secretary shall require the entity to operate and maintain the dams and weirs at the level of operation and maintenance that applied to such dams and weirs before the date of the enactment of such Act, January 3, 1975.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Idaho [Mrs. CHENOWETH] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1663, introduced by the gentleman from California [Mr. DOOLITTLE], clarifies the intent of Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete and rock impoundment facilities. These structures were located in the Emigrant Wilderness area at the time the wilderness area was designated as wilderness in that public law, and they need to be properly maintained.

Additionally, it should be noted for the record that the maintenance of the dams and weirs will be done in accordance with the Wilderness Act of 1964. It is not the intention of the author nor of the committee to allow for motorized vehicles to be used to maintain these structures.

I would like to commend the gentleman from California [Mr. DOOLITTLE] for his work on bringing this measure to the House. This is a good bill. It protects the interests of the constituents of the gentleman from California [Mr. DOOLITTLE] while at the same time it preserves the intent of the original law that created the Emigrant Wilderness area. I urge Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation sponsored by the gentleman from California [Mr. DOOLITTLE].

While the concept of dams in the wilderness area may raise concerns, this bill addresses some very unique circumstances. The 18 small dams and weirs at issue were in existence in 1975 at the time Congress designated the Emigrant Wilderness within the Stanislaus National Forest in California. The Forest Service has released a draft management plan that would provide for the continued maintenance of 7 of the 18 structures. The bill, however, directs that all 18 structures be repaired and maintained.

Initially, Mr. Speaker, the Forest Service opposed this legislation primarily because they were concerned about the added costs of repairing and maintaining of these facilities. In response to their testimony, the committee adopted a substitute to clarify that the maintenance and operation of these facilities shall be at private expense.

It is important to note, Mr. Speaker, that we are grandfathering preexisting uses and not providing a blanket exemption from the Wilderness Act in this legislation. This bill is about people with backpacks, not bulldozers, who will be involved in the repair and maintenance of these small structures. The legislation does not contemplate that motorized vehicles of any kind will be allowed in the wilderness area.

The small lakes created by these dams receive heavy use by recreationists, including fishermen. A positive aspect of this bill is that the recreational uses are more widely dispersed, rather than concentrated in fewer areas as would be the case if the dams were allowed to deteriorate.

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Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHENOWETH. Mr. Speaker, I want to thank the gentleman from American Samoa [Mr. FALEOMAVAEGA] for his comments. My colleague is indeed right; the maintenance chores will not be done by bulldozers but rather individuals with backpacks.

Mr. Speaker, I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). The question is on the motion offered by the gentlewoman from Idaho [Mrs. CHENOWETH] that the House suspend the rules and pass the bill, H.R. 1663, as amended.

The question was taken.

Mr. FALEOMAVAEGA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mrs. CHENOWETH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bills just considered, H.R. 1663 and H.R. 1944.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Idaho?

There was no objection.

TRADEMARK LAW TREATY IMPLEMENTATION ACT

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1661) to implement the provisions of the Trademark Law Treaty, as amended.

The Clerk read as follows:

H.R. 1661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trademark Law Treaty Implementation Act".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

For purposes of this Act, the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.), shall be referred to as the "Trademark Act of 1946".

SEC. 3. APPLICATION FOR REGISTRATION; VERIFICATION.

(a) APPLICATION FOR USE OF TRADEMARK.—Section 1(a) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) is amended to read as follows:

"SECTION 1. (a)(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner, and such number of specimens or facsimiles of the mark as used as may be required by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the date of the applicant's first use of the mark, the date of the applicant's first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify that—

"(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

"(B) to the best of the verifier's knowledge and belief, the facts recited in the application are accurate;

"(C) the mark is in use in commerce; and

"(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

"(i) state exceptions to the claim of exclusive use; and "(ii) shall specify, to the extent of the verifier's knowledge—

"(I) any concurrent use by others;

"(II) the goods on or in connection with which and the areas in which each concurrent use exists;

"(III) the periods of each use; and

"(IV) the goods and area for which the applicant desires registration.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(b) APPLICATION FOR BONA FIDE INTENTION TO USE TRADEMARK.—Subsection (b) of section 1 of the Trademark Act of 1946 (15 U.S.C. 1051(b)) is amended to read as follows:

"(b)(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify—

"(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

"(B) the applicant's bona fide intention to use the mark in commerce;

"(C) that, to the best of the verifier's knowledge and belief, the facts recited in the application are accurate; and

"(D) that, to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(c) CONSEQUENCE OF DELAYS.—Paragraph (4) of section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)(4)) is amended to read as follows:

"(4) The failure to timely file a verified statement of use under paragraph (1) or an extension request under paragraph (2) shall result in abandonment of the application, unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unintentional, in which case the time for filing may be extended, but for a period not to exceed the period specified in paragraphs (1) and (2) for filing a statement of use.".

SEC. 4. REVIVAL OF ABANDONED APPLICATION.

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) is amended in the last sentence by striking "unavoidable" and by inserting "unintentional".

SEC. 5. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION.

Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

"DURATION

"SEC. 8. (a) Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Commissioner for failure to comply with the provisions of subsection (b) of this section, upon the expiration of the following time periods, as applicable:

"(1) For registrations issued pursuant to the provisions of this Act, at the end of 6 years following the date of registration.

"(2) For registrations published under the provisions of section 12(c), at the end of 6 years following the date of publication under such section.

"(3) For all registrations, at the end of each successive 10-year period following the date of registration.

"(b) During the 1-year period immediately preceding the end of the applicable time period set forth in subsection (a), the owner of the registration shall pay the prescribed fee and file in the Patent and Trademark Office—

"(1) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and such number of specimens or facsimiles showing current use of the mark as may be required by the Commissioner; or

"(2) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce and showing that any such nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

"(c) The owner of the registration may make the submissions required by this section, or correct any deficiency in a timely filed submission, within a grace period of 6 months after the end of the applicable time period set forth in subsection (a). Such submission must be accompanied by a surcharge prescribed therefor. If any submission required by this section filed during the grace period is deficient, the deficiency may be corrected within the time prescribed after notification of the deficiency. Such submission must be accompanied by a surcharge prescribed therefor.

"(d) Special notice of the requirement for affidavits under this section shall be attached to each certificate of registration and notice of publication under section 12(c).

"(e) The Commissioner shall notify any owner who files 1 of the affidavits required by this section of the Commissioner's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

"(f) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 6. RENEWAL OF REGISTRATION.

Section 9 of the Trademark Act of 1946 (15 U.S.C. 1059) is amended to read as follows:

"RENEWAL OF REGISTRATION

"SEC. 9. (a) Subject to the provisions of section 8, each registration may be renewed for periods of 10 years at the end of each successive 10-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the Commissioner. Such application may be made at any time within 1 year before the end of each successive 10-year period for which the registration was issued or renewed, or it may be made within a grace period of 6 months after the end of each successive 10-year period, upon payment of a fee and surcharge prescribed therefor. If any application filed during the grace period is deficient, the deficiency may be corrected within the time prescribed after notification of the deficiency, upon payment of a surcharge prescribed therefor.

"(b) If the Commissioner refuses to renew the registration, the Commissioner shall notify the registrant of the Commissioner's refusal and the reasons therefor.

"(c) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 7. RECORDING ASSIGNMENT OF MARK.

Section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) is amended to read as follows:

"ASSIGNMENT

"SEC. 10. (a) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted. Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the Patent and Trademark Office, the record shall be prima facie evidence of execution. An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the Patent and Trademark Office within 3 months after the date of the subsequent purchase or prior to the subsequent purchase. The Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

"(b) An assignee not domiciled in the United States shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 8. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION.

Section 44 of the Trademark Act of 1946 (15 U.S.C. 1126) is amended—

(1) in subsection (d)—

(A) by striking "23, or 44(e) of this Act" and inserting "or 23 of this Act or under subsection (e) of this section"; and

(B) in paragraphs (3) and (4), by striking "this subsection (d)" and inserting "this subsection"; and

(2) in subsection (e), by striking the second sentence and inserting the following: "Such applicant shall submit, within such time period as may be prescribed by the Commissioner, a certification or a certified copy of the registration in the country of origin of the applicant.".

SEC. 9. MISCELLANEOUS AMENDMENTS.

(a) CANCELLATION OF FUNCTIONAL MARKS.—Section 14(3) of the Trademark Act of 1946 (15 U.S.C. 1064(3)) is amended by inserting "or is functional," before "or has been abandoned".

(b) INCONTESTABILITY DEFENSES.—Section 33(b) of the Trademark Act of 1946 (15 U.S.C. 1115(b)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) That the mark is functional; or".

(c) REMEDIES IN CASES OF DILUTION OF FAMOUS MARKS.—

(1) INJUNCTIONS.—(A) Section 34(a) of the Trademark Act of 1946 (15 U.S.C. 1116(a)) is amended in the first sentence by striking "section 43(a)" and inserting "subsection (a) or (c) of section 43".

(B) Section 43(c)(2) of the Trademark Act of 1946 (15 U.S.C. 1125(c)(2)) is amended in the first sentence by inserting "as set forth in section 34" after "relief".

(2) DAMAGES.—Section 35(a) of the Trademark Act of 1946 (15 U.S.C. 1117(a)) is amended in the first sentence by striking "or a violation under section 43(a)," and inserting "a violation under section 43(a), or a willful violation under section 43(c),".

(3) DESTRUCTION OF ARTICLES.—Section 36 of the Trademark Act of 1946 (15 U.S.C. 1118) is amended in the first sentence—

(A) by striking "or a violation under section 43(a)," and inserting "a violation under section 43(a), or a willful violation under section 43(c),"; and

(B) by inserting after "in the case of a violation of section 43(a)" the following: "or a willful violation under section 43(c)".

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect—

(1) on the date that is 1 year after the date of the enactment of this Act, or

(2) upon the entry into force of the Trademark Law Treaty with respect to the United States,

whichever occurs first.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. COBLE] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] will each control 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1661, the Trademark Law Treaty Implementation Act. The Trademark Law Treaty Implementation Act, popularly known as TLT, sets a ceiling on certain filing and renewal requirements which its member nations may not exceed. Here in the United States, it removes some of the procedural hurdles to processing trademark applications and renewals thereby streamlining the process for the users.

Additionally, the bill we are considering today contains a minor housekeeping amendment which seeks to harmonize the remedy provisions passed last year as part of the trademark dilution statute, with the other remedy provisions of the Latham Act. There is no opposition to the bill as amended, and it is supported by the International Trademark Association and the American Intellectual Property Law Association.

I urge my colleagues to vote in favor of this bipartisan bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise on behalf of the gentleman from New York [Mr. NADLER] and include his statement for the RECORD.

Mr. NADLER. Mr. Speaker, I rise in strong support of H.R. 1661, the Trademark Law Treaty Implementation Act, a measure recently passed out of the House Judiciary Committee with unanimous support.

This act, a long awaited implementation of a treaty entered into previously, is supported without objection. The import of this measure is that it would put the United States squarely behind the important goal of international uniformity of trademark registration requirements, a goal which, when achieved, will redound to the overwhelming benefit of Americans, who are by far lead producers of trademarks in the world.

I and the other Democrats on the Judiciary Committee strongly support this measure. I commend Chairman COBLE, ranking member BARNEY FRANK, and the other members and staff of the Intellectual Property Subcommittee for moving this legislation forward, and I urge its adoption today under suspension of the rules.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I thank my friend from American Samoa [Mr. FALEOMAVAEGA], and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. COBLE] that the House suspend the rules and pass the bill, H.R. 1661, as amended.

The question was taken.

Mr. FALEOMAVAEGA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CALLING FOR UNITED STATES INITIATIVE SEEKING JUST AND PEACEFUL RESOLUTION OF SITUATION ON CYPRUS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 81) calling for a United States initiative seeking a just and peaceful resolution of the situation on Cyprus, as amended.

The Clerk read as follows:

H. CON. RES. 81

Whereas the Republic of Cyprus has been divided and occupied by foreign forces since 1974 in violation of United Nations resolutions;

Whereas the international community, the Congress, and United States administrations have called for an end to the status quo on Cyprus, considering that it perpetuates an unacceptable violation of international law and fundamental human rights affecting all the people of Cyprus, and undermines significant United States interests in the Eastern Mediterranean region;

Whereas the international community and the United States Government have repeatedly called for the speedy withdrawal of all foreign forces from the territory of Cyprus;

Whereas there are internationally acceptable means, including the demilitarization of Cyprus and the establishment of a multinational force, to ensure the security of both communities in Cyprus;

Whereas the House of Representatives has endorsed the objective of the total demilitarization of Cyprus;

Whereas during the past year tensions on Cyprus have dramatically increased, with violent incidents occurring along ceasefire lines at a level not reached since 1974;

Whereas recent events in Cyprus have heightened the potential for armed conflict in the region involving two North Atlantic Treaty Organization (NATO) allies, Greece and Turkey, which would threaten vital United States interests in the already volatile Eastern Mediterranean area and beyond;

Whereas a peaceful, just, and lasting solution to the Cyprus problem would greatly benefit the security, and the political, economic, and social well-being of all Cypriots, as well as contribute to improved relations between Greece and Turkey;

Whereas a lasting solution to the Cyprus problem would also strengthen peace and stability in the Eastern Mediterranean and serve important interests of the United States;

Whereas the United Nations has repeatedly stated the parameters for such a solution, most recently in United Nations Security Council Resolution 1092, adopted on December 23, 1996, with United States support;

Whereas the prospect of the accession by Cyprus to the European Union, which the United States has actively supported, could serve as a catalyst for a solution to the Cyprus problem:

Whereas President Bill Clinton has pledged that in 1997 the United States will "play a heightened role in promoting a resolution in Cyprus"; and

Whereas united States leadership will be a crucial factor in achieving a solution to the Cyprus problem, and increased United States involvement in the search for this solution will contribute to a reduction of tensions on Cyprus; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) reaffirms its view that the status quo on Cyprus is unacceptable and detrimental to the interests of the United States in the Eastern Mediterranean and beyond;

(2) considers lasting peace and stability on Cyprus could be best secured by a process of complete demilitarization leading to the withdrawal of all foreign occupation forces, the cessation of foreign arms transfer to Cyprus, and providing for alternative internationally acceptable and effective security arrangements as negotiated by the parties;

(3) welcomes and supports the commitment by President Clinton to give increased attention to Cyprus and make the search for a solution a priority of United States foreign policy;

(4) encourages the President to launch an early substantive initiative, in close coordination with the United Nations, the European Union, and interested governments to promote a speedy resolution of the Cyprus problem on the basis of international law, the provisions of relevant United Nations Security Council resolutions, democratic principles, including respect for human rights, and in accordance with the norms and requirements for accession to the European Union;

(5) calls upon the parties to lend their full support and cooperation to such an initiative; and

(6) requests the President to report actions taken to give effect to the objectives set forth in paragraph (4) in the bimonthly report on Cyprus transmitted to the Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this past Sunday, we marked the 23d anniversary of the invasion and occupation of Cyprus. The Cyprus problem is a situation that cries out for just redress and an end to the occupation of Cyprus by foreign troops. Although the world has dramatically changed for the better during this decade, Cyprus remains as a pressing international problem. Indeed, Cyprus has almost become a code word for intractability in the realm of diplomacy.

I have been encouraged, nevertheless, by recent statements from high-level officials of the Clinton administration, including the President himself, that indicate that there may be new willingness on the part of our Government to exert its leadership in promoting a solution to the Cyprus problem.

Indeed, the President's appointment of Ambassador Richard Holbrooke as special envoy for Cyprus is a sign of a renewed commitment to finding a solution on the part of the administration. I strongly believe that our Government should invest some of our prestige in such an effort, because Americans have always supported justice and because we have significant interests that can be affected by instability in Cyprus. It is for these reasons that I introduced this resolution that is now before the House.

Over the past year, there have been a number of events and incidents that have increased tensions in Cyprus and in the eastern Mediterranean region. There is a distressing trend of increased militarization of the island, already one of the most highly militarized parts of the globe.

There are, however, also positive developments that could have the ability to catalyze a peaceful and just solution. One of these is the pending negotiation on Cyprus' accession to the European Union that may begin by the end of the year.

The Foreign Ministers in Greece and Turkey recently agreed on resolving disputes between them through peaceful means. There has been increased diplomatic activity in Europe and in the United Nations to bring the two sides together. In short, the risks of inaction far outweigh those of taking the initiative on Cyprus now.

This resolution points out the interests and developments regarding the Cyprus situation and urges the President to keep his pledge to give increased attention to Cyprus. I am pleased to be joined by a group of distinguished cosponsors, including the gentleman from Indiana [Mr. HAMILTON], our ranking minority member, the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Illinois [Mr. PORTER], the gentleman from New York [Mr. RANGEL], and the gentlewoman from New York [Mrs. MALONEY], and in excess of 50 other distinguished Members of the House who have shared an interest in Cyprus and their concern over what may arise from a continued stalemate on the island.

It is our hope that this resolution will help spur the resolve of the Clinton administration to indeed make 1997 the year of Cyprus. Accordingly, I urge my colleagues to help us send a signal of our commitment to resolving the Cyprus problem by adopting House Concurrent Resolution 81.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 81, calling for a United States initiative in seeking a just and peaceful resolution of the situation in Cyprus.

I am pleased to announce that the ranking Democratic member of the full Committee on International Relations is an original cosponsor of this important and timely resolution. I congratulate the gentleman from New York [Mr. GILMAN], our distinguished chairman, for his foresight and leadership in moving this legislation forward.

Earlier this year, Mr. Speaker, the Clinton administration announced that it intends to give high priority this year to move a settlement of Cyprus forward, easing Greek-Turkish relations. I agree with the administration that now is the time to try to move the peace process in Cyprus forward. That is why the gentleman from Indiana [Mr. HAMILTON] and the chairman are original cosponsors of House Concurrent Resolution 81, which puts the Congress firmly behind an energetic United States leadership role in seeking a realistic solution to the Cyprus situation.

In fact, Mr. Speaker, the emphasis in the resolutions is on the key role for United States' leadership on Cyprus and calls for an early substantive initiative by the administration to promote a Cyprus settlement. This tracks with longstanding congressional concerns that have been expressed to a series of administrations.

The violence in Cyprus last summer, and the problems this year as a result of arms acquisitions, have underscored the long-held view of the gentleman from Indiana [Mr. HAMILTON] that progress in Cyprus is long overdue and should be a high United States priority. It remains our hope and expectation that a firm, fair, and lasting settlement of the Cyprus dispute can be reached in the coming months.

I also want to applaud the Clinton administration's recent appointment of Richard Holbrooke as United States special envoy for Cyprus. His appointment is the best signal yet that the Clinton administration intends to give high priority this year to a settlement on Cyprus and moving Greek-Turkish relations forward.

It has always been my firm belief, Mr. Speaker, that only high level sustained United States attention will convince all parties, and particularly the people of Turkey, to resolve the Cyprus issue. Substantively, Mr. Speaker, the outlines of a settlement have been on the table for some time, with the United Nations plan for a bicommunal, bizonal federation.

The floor consideration of this resolution, Mr. Speaker, is coming at a time of positive developments in the eastern Mediterranean region in Cyprus. Earlier this month, direct talks between Cyprus President Clerides and Turkish Cypriot leader Denktash, under the auspices of the U.N. Secretary General Annan, were held in New York. These were the first face-to-face talks in more than 2 years. A followup round of talks will hopefully be held in Geneva next month.

In addition, Mr. Speaker, in a recent NATO summit in Madrid, the Greek and Turkish Foreign Ministers at a meeting with Secretary of State Madeleine Albright undertook an explicit commitment to settle disputes by peaceful means without further use of force. Turkey remains the key to further progress, Mr. Speaker. Only Turkey can push Turkish Cypriot leader Denktash toward a settlement.

We must hope that a new government in Turkey under Prime Minister Yilmaz will be prepared to play a pivotal role in the process that other Turkish leaders have promised in the past. In the final analysis, it is in U.S. interests, as well as for the people in the region, that we find a just and lasting solution to treat these problems.

I believe, Mr. Speaker, that House Concurrent Resolution 81 will make a helpful contribution to this process. I urge my colleagues, Mr. Speaker, to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I thank my colleague from New York, Mr. GILMAN, for yielding to me. And of course I also wanted to commend the chairman, the gentleman from New York, Mr. GILMAN, for all the work that he has done on this important issue for many, many years. Mr. Speaker, we live in a world where regional conflicts of one sort or another are still prevalent. However, time and time again, we have seen the concepts of freedom and democracy triumph over tyranny and oppression.

Nowhere was this more profoundly demonstrated than with the change of the Berlin Wall in late 1989 and with the withering of communism that followed. A divided city was reunited, families separated for decades enjoyed emotional unions. In the West, we congratulated ourselves because our persistence and way of life had finally prevailed. But Berlin was not the only divided city in the world, nor was Germany the only divided country. It is our sad duty to once again bring the plight of Cyprus to the attention of the American people.

□ 1500

In 1974, Turkey invaded the Island of Cyprus. Some 6,000 Turkish troops and over 100 tanks forcibly seized approximately 40 percent of the island, including half of the capital city, Nicosia. In the process, they displaced and divided thousands of Greek Cypriot families. To this day 1,619 people are still missing, including five U.S. citizens.

Today I rise in support of House Concurrent Resolution 81, which calls for a United States initiative seeking a just and peaceful resolution of the situation in Cyprus. For 23 years, the United Nations has stationed troops on the island to prevent the spread of violence, and yet the violence has not abated. Therefore, I do not believe that a lasting peace settlement can be negotiated without U.S. leadership.

Some wonder why we should involve ourselves in the problems of nations as distant as Cyprus. To them I would point out Cyprus is a vital strategic and economic importance to the United States. During the Persian Gulf war, Cyprus served as a major staging point for our military operations. In peacetime it serves as a critical listening post in the Middle East.

Cyprus is also close to the shipping lanes of the Aegean Sea and the Suez Canal, which is the gateway for oil and other materials. These shipping lanes are essential to the stability of the entire region and the rest of the world.

In the national archives here in Washington, DC, there is a piece of the Berlin Wall on display which was sent to former President Ronald Reagan by a young American. It is my sincere hope that someday in the near future we might be able to display a peace of the wall that marks the green line which divides Cyprus.

Mr. Speaker, I urge my colleagues to join me and the gentleman from New York, Chairman GILMAN, in demonstrating our intentions with regards to Cyprus by unequivocally supporting this concurrent resolution. We must send a signal to the world that the division of a nation and the suppression of fundamental human rights are not to be tolerated. A just and peaceful resolution to the issue is a real possibility, but only with the leadership of the United States.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Florida [Mr. BILIRAKIS] for his support and his remarks. He has been a longtime proponent of Cyprus and bringing peace to the region.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise in support of this concurrent resolution. I want to thank the gentleman from New York [Mr. GILMAN], the chairman of the committee, and also the gentleman from Indiana [Mr. HAMILTON], the ranking member, as well as the gentleman from Florida [Mr. BILIRAKIS], and others, the gentlewoman from New York [Mrs. MALONEY], other Members of the Congressional Caucus on Helenic Issues that have been keeping this issue in the spotlight.

For almost a quarter of a century now the people of Cyprus have lived on a divided, militarized, and occupied island. On July 9 of this year high level negotiations between some of the key principals involved once again got underway, and we are very happy with that development. At the invitation of the Secretary General of the United Nations, the President of Cyprus and the Turkish Cypriot leader met face to face for the first time in 3 years. This is certainly a very positive development, as was the joint statement released by Greece and Turkey the day before the talks in New York began, in which the two countries vowed to "settle their disputes by peaceful means, based on mutual consent and without use of force or threat of force."

As everyone is aware by now, I know it has been mentioned that President Clinton recently signaled his commitment to resolving the problem in Cyprus by appointing Ambassador Richard Holbrooke, the architect of the Dayton peace accords, as the Special Emissary to Cyprus, and I want to congratulate the President for signaling his serious interest in the Cyprus issue through the appointment of Ambassador Holbrooke.

Because the Cyprus problem is clearly one of illegal invasion and occupation, there are a number of conditions I have mentioned before, and I want to stress again, that I believe the United States must pressure the Turkish Government to accept. The first of these concerns the issue of sovereignty. Any solution reached must be consistent with U.N. Resolution 750 of 1992, which states,

> A Cyprus settlement must be based on a State of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded.

To facilitate the goal of a State of Cyprus with a single sovereignty, I believe the United States should push for the establishment of a federation, with two federated states, one Greek Cypriot and one Turkish Cypriot, administered by a federal government. This would be much like the constitutional democracy of the United States, where the States receive their powers from a federal government. What I am saying is a rotating Presidency and/or separate sovereignties for the Greek and Turkish communities should be viewed as completely unacceptable proposals.

Second, Mr. Speaker, any solution to the Cyprus problem must be based on internationally accepted standards of human rights. Simply stated, all Cypriots must be guaranteed three basic freedoms, freedom of movement, property and settlement.

Third, all foreign troops should be withdrawn from the island. In 1994, President Clerides proposed the demilitarization of the island as a precursor to meaningful negotiations. In 1995, this House went on record in support of this peaceful gesture when it passed the Cyprus Demilitarization Act.

The United States must use its influence with the Turkish government to facilitate the removal of the Turkish occupying force and the introduction of NATO or U.N. peacekeeping forces, if necessary, so negotiations can begin in earnest.

Last, I wanted to say, Mr. Speaker, that other matters, such as Cypriot accession to the European Union, must also be pursued. I know some of my colleagues have mentioned this. Integrating Cyprus into the framework of the European Union would demonstrate unequivocally to Turkey that its only real option is to accept a sovereign, independent Cyprus.

Mr. Speaker, the United States should embrace the opportunity to make progress, but we must not reach an agreement just for the sake of reaching an agreement. It is tragic that Cyprus has been divided for 23 years now. We will, however, wait as long as we must to bring true and lasting freedom to the Cypriot people.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. WEYGAND].

Mr. WEYGAND. Mr. Speaker, I want to echo the comments of my fellow colleague, the gentleman from New Jersey [Mr. PALLONE], who spoke so eloquently about the situation.

Mr. Speaker, in July 1974 Turkish troops advanced into the Republic of Cyprus, and since then Cyprus has been divided. Over the past 23 years, there have been several instances where actions have led to increased tensions resulting in little progress toward resolving the conflict over Cyprus.

Cyprus remains divided today, at a time when we have seen significant progress in the proliferation of democracy throughout this great world. In the last 10 years we have seen the fall of the Berlin Wall, the lifting of the Iron Curtain, the advancement of the peace process in the Middle East, yet, as has been mentioned just recently, the green line still remains across the Island of Cyprus.

It is my hope that the green line will soon be erased and Cyprus will be added to the list of places where the conflict has been resolved and democracy flourishes. In light of the anticipated accession of Cyprus into the European Union, the appointment of Richard Holbrooke as special envoy and renewed peace talks, I think the opportunity for progress has presented itself clearly before us now.

It is my hope that both sides will realize the economic and political importance of resolving their differences. With the cooperation of Ambassador Holbrooke, the United Nations and our President, I believe that the peace talks can reunify the Island of Cyprus. However, the agreement must abide by applicable international law, should include provisions for strengthening democracy, should protect human rights, and take into account the relevant United Nations security resolutions.

A unified Cyprus will result in economic and political stability. In the Middle East we have seen that kind of work be very fruitful. Here in Cyprus we want it to be the same.

Mr. Speaker, I thank my colleagues and applaud this resolution.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, I thank the chairman of the Committee on International Relations for yielding me this time, and I rise in strong support of this resolution and urge its passage.

Twenty-three years ago Turkish troops invaded Cyprus and divided a nation and community. Today, 1,619 people remain missing, including 5 Americans. A barbed-wire fence divides the northern part of Cyprus from its southern portion, separating communities and families that had lived together in peace and harmony for generations. The longer the world waits, the harder it will be to reconcile these communities in the future. The time to act is now, the status quo is simply unacceptable.

In order to make progress, we will need to have willingness on all sides of this issue. The Republic of Cyprus has announced its willingness to delay the purchase of defensive missile systems pending advances in negotiations. I am hopeful that Turkey will also act in this manner and can begin by withdrawing its troops and by stopping the unhealthy rhetoric by its leaders toward Cyprus.

There are many players in the complicated issue of Cyprus. I am hopeful that this resolution being debated today will put pressure on all parties to roll up their sleeves and return stability to that part of the world.

The recent decision of the European Union to admit Cyprus to its ranks demonstrates the strength of its economy and democratic form of government and should be used to show Turkey that its occupation of the northern part of Cyprus is simply counterproductive to its own stated goal of joining the European Union. As such, the European Union, NATO, the United States, Cyprus, Turkey, Greece, and the United Nations all must actively search for common ground and create ways to restore the proud communities of Cyprus, to possibly demilitarize the island, and take down the last wall in the world.

I believe the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON], the ranking member, are to be commended for their efforts for years to raise awareness of this issue, and I urge support and I urge a strong United States role in justly resolving the issue with Cyprus and our NATO partners, Turkey and Greece. Through this resolution and through this debate we are able to show the world that America still stands against armed aggression and supports peaceful resolutions of dispute.

As a new Member of Congress, it has been my honor to work with these gentlemen, the gentleman from Florida [Mr. BILIRAKIS], the gentlewoman from New York [Mrs. MALONEY], and many others on issues relating to southeastern Europe. As a freshman, I am optimistic that we can produce results now if the rest of the world community joins with this Congress in insisting on a just and peaceful resolution for the people of the Republic of Cyprus.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I rise in strong support of this resolution.

Twenty-three years of an armed occupation of Cyprus is too long. This should have been ended long ago. This resolution is reaffirmation that the status quo in Cyprus is unacceptable, that it is detrimental to the security interests of the United States, and it emphasizes that we can only get a true and just and lasting peace and stability in Cyprus through a process of demilitarization.

In view of the recent beginning of talks between Turkey and Greece, and in view of the administration's initiative, this is a good time to reemphasize these points and to encourage the President to launch the kind of initiative that has met with some success in other parts of the Middle East.

So I commend the sponsor of this resolution and I urge its strong support. And, Mr. Speaker, I wish to join as a sponsor of this resolution also.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ROTHMAN].

Mr. ROTHMAN. Mr. Speaker, I would like to add my voice to those of my colleagues who have today so eloquently spoken in support of House Concurrent Resolution 81.

For Cyprus, this proud island nation, the cause of peace, the cause of freedom, the pursuit of unity is more than sloganeering. For the people of Cyprus and the Cypriot Americans I am proud and honored to represent in Congress, when we talk about freedom, we talk about an important element of that nation's identity that was robbed from them in 1974. For the people of Cyprus and the Cypriot Americans in my district, when we talk about justice, we talk about an ideal unseen since the de facto partition of that island nation in

1974. For the people of Cyprus and all those in America who believe in and cherish the value of peace, when we talk about Cyprus, we talk of an island where peace has been absent for 23 years. And that has been, in my estimation, 23 years too long.

So today I stand here as a Member of Congress, as a member of the House Committee on International Relations, as a cosponsor of House Concurrent Resolution 81 to say that I believe strongly in the following: I believe in freedom for Cyprus, I believe in a united Cyprus, and I believe that we must support the efforts of the parties to negotiate and secure a long-lasting and genuine peace for Cyprus.

As my colleagues know, in 1974 Cyprus was invaded by Turkey. It was an illegal invasion, illegal and against all international norms recognized then or now. And most important, we must recognize that this invasion cannot stand, just as we took that same position with regard to the invasion of Kuwait.

Some might argue that freedom for Cyprus might not be in the national interest of the United States. I wholeheartedly and emphatically disagree. Part of our makeup, part of our national history is founded on the simple belief that we are a people who believe in justice.

□ 1515

Mr. Speaker, the little nation of Cyprus has a big dream, to be free. It is a dream I support, it is a dream I will continue to fight for, and I am proud to be a cosponsor of House Concurrent Resolution 81.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time. First, I would like to commend the gentleman from New York [Mr. GILMAN] for his leadership for peace and justice on Cyprus. This weekend we remembered the 23d anniversary of the illegal invasion of Cyprus and the horrible complications that have cost lives and stolen freedoms.

When one thinks of a people or a country as a whole, it is easy to gloss over the real tragedies. So I would like to remember two people who lost their lives 1 year ago this August. A 24-year-old protester, Tassos Isaac, was savagely beaten to death on August 11, 1996, by Turks, using rocks and iron poles. Three days later a group of mourners, people who were not even armed, became the targets of Turkish troop gunfire. The 26-year-old cousin of Tassos was gunned down, 11 others were injured.

Additionally, just 2 months after that, 58-year-old Petros Kakoullis was out snail gathering with his son-in-law when he was gunned down as he assumed a position of surrender. Petros' only mistake was that he had wandered across the green line into the occupied area.

Our country must take an active role in stopping these abuses. The illegal occupation of Cyprus must end. The island must be demilitarized. Turkish troops must be forced off the island. The island must be unified, justice must be served, and the President of the United States must make it a foreign policy priority. I urge a vote in support of this resolution and in support of this island in crisis.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I want to express my strong support as cosponsor for this resolution and commend the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] for their leadership in bringing it before the House.

On Sunday we commemorated the unhappy anniversary and tragic circumstances of 23 years of division on the island of Cyprus, which has been artificially divided following an invasion by Turkish troops on July 20, 1974. On that date, over 200,000 Greek Cypriots became refugees in their own country and to this date are denied return to their homes. Today, a full 37 percent of the island remains under occupation by Turkish troops which in defiance of United Nations resolutions, now number 35,000, making Cyprus one of the most militarized places in the world.

After 23 years, the people of Cyprus in both communities deserve a solution which will reunite the island, its communities, and its people. As Secretary of State Albright recently pointed out, "U.S.-Cyprus relations extend far beyond the so-called Cyprus problem. * * * Cyprus is a valued partner against new global threats." A resolution would strengthen peace and stability in the volatile eastern Mediterranean and significantly advance U.S. national security interests in the region and beyond.

I recently sent a letter to President Clinton with 67 of my colleagues in the House. The letter outlines what we believe should be the parameters of any Cyprus solution. They are that Cyprus should be reunited with a strong federal government in which the federated states derive their powers from the federal constitution, a democratic constitution which would ensure the rights of all of its citizens and communities and which would guarantee the right to private property and free travel to all parts of the country. If Turkey is serious about its commitment to a permanent solution, then it must bring its views into conformity with the United Nations framework on issues of sovereignty and political equality which they have refused to do.

Cyprus should not be a prisoner to Turkey's objections or threats. This is an opportunity for us to make a difference and the swift passage of this resolution sends a message of Congress' deep desire to see a settlement and the reunification of Cyprus for all of its people.

Mr. PORTER. Mr. Speaker, I rise today as an original cosponsor of House Concurrent Resolution 81 to express my strong support for this resolution and to thank my friend from New York, the chairman of the International Relations Committee, for his leadership in bringing this important issue before the House.

For too long, the beautiful Mediterranean country of Cyprus has been politically and physically divided. Last week, a number of my colleagues, led by my good friend Mr. BILIRAKIS, marked the 23d anniversary of the division of Cyprus with a special order. The remarks which were delivered last Thursday clearly showed the commitment and interest that this body has in bringing an end to this deplorable situation. While we welcome the recent efforts undertaken by the Clinton administration, including the appointment of Richard Holbrooke as special envoy, we hope that this will not be just the latest in a long line of failed efforts which lacked the political will to find a just solution to the Cyprus problem. Over the past 20 years, there have been almost continual efforts by the United States and the international community, none of which has achieved the result we hope for.

In our efforts to resolve this problem, we must not forget the history of this issue and the strong feelings that it evokes. By the same token, we must realize that the world has changed dramatically in the past 23 years and the situation that created this division simply no longer exists. The legitimate Government of Cyprus is a thriving democracy with a robust economy and growing international prestige. Cyprus is a candidate to join the European Union in the near future.

Yet this prosperous, democratic country remains, in the north, occupied by 35,000 Turkish troops and divided by U.N. peacekeepers. In the past year, there have been tragic episodes of violence along the Green Line that divides Cyprus, resulting in needless loss of life and heightening of tensions. As you walk the streets of Nicosia, just steps from the pleasant pedestrian square filled with quaint shops and happy tourists you are confronted with U.N. peacekeepers, and beyond them, the forlorn-looking abandoned section of the city located in the buffer zone. This situation seems absurd on its face, and this should be the year that it ends. I hope that this resolution and the attention of the House to the matter will prompt a complete and far-reaching effort by the United States and the international community to demilitarize Cyprus and bring peace to this island once again.

Mr. ENGEL. Mr. Speaker, I rise to express my support for House Concurrent Resolution 81, a resolution calling for an early initiative to resolve the longstanding conflict on Cyprus.

Twenty-two years ago, Turkey invaded the sovereign Republic of Cyprus, capturing almost 40 percent of the island and driving more than 200,000 Cypriots from their land. Today, in one of the most heavily armed areas on

Earth, more than 30,000 Turkish troops continue to occupy the northern part of the island.

Congress, further, still awaits a report by the President on the fate of 5 Americans and more than 1,500 others missing in the wake of the Turkish invasion. The Presidential investigation and upcoming report are being prepared pursuant to a bill I authored in the 103d Congress. Clearly, the status quo on Cyprus is unacceptable.

In 1995, the House of Representatives took an important step in the effort to promote a resolution of the long-standing Cypriot conflict. By passing a resolution which I sponsored calling for the demilitarization of Cyprus, Congress presented an option which would reduce tensions and help remove the oppressive Turkish troops.

Today, Congress is again taking a leading role. In the important resolution now under consideration, Congress urges the President to launch an initiative, in coordination with the United Nations, the European Union, and interested governments to promote a speedy resolution of the Cyprus problem.

President Clinton has already taken the first steps in this regard. By appointing former Assistant Secretary of State Richard Holbrooke, who negotiated the Dayton Accord on Bosnia, to the post of Special Envoy for Cyprus, the President has selected one of the most able negotiators to handle one of the world's most difficult disputes. With the hopeful entry of Cyprus into the European Union and the recent meeting in New York between Republic of Cyprus President Glafcos Clerides and Turkish Cypriot leader Rauf Denktash, it is my hope that a new, sustained effort to solve the Cyprus dispute will now help to bring this sad conflict to a just resolution.

I commend Chairman BEN GILMAN and Ranking Minority Member LEE HAMILTON of the International Relations Committee for their fine work on House Concurrent Resolution 81 and urge my colleagues to support the resolution.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER) The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 81, as amended.

The question was taken.

Mr. FALEOMAVAEGA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONGRATULATING EL SALVADOR ON SUCCESSFUL ELECTIONS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 88) congratulating the Government and the people of the Republic of El Salvador on successfully completing free and democratic elections on March 16, 1997.

The Clerk read as follows:

H. CON. RES. 88

Whereas on March 16, 1997, the Republic of El Salvador successfully completed democratic, multiparty elections for 84 national legislative assembly seats and 262 mayoral and municipal council posts;

Whereas the elections were deemed by international and domestic observers to be free and fair and a legitimate non-violent expression of the will of the people of the Republic of El Salvador;

Whereas the United States has consistently supported the efforts of the people of El Salvador to consolidate their democracy and to implement the provisions of the 1992 peace accords;

Whereas these elections demonstrate the strength and diversity of El Salvador's democratic expression and promotes confidence that all political parties can work cooperatively in the new assembly and at the municipal level; and

Whereas these open, fair, and democratic elections of the new assembly and at the municipal level should be broadly commended: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the Government and the people of the Republic of El Salvador for the successful completion of democratic, multiparty elections held on March 16, 1997, for 84 national legislative assembly seats and 262 mayoral and municipal council posts;

(2) congratulates El Salvadoran President Armando Calderón Sol for his personal commitment to democracy, which has helped in the building of national unity in the Republic of El Salvador;

(3) commends all Salvadorans for their efforts to work together to take risks for democracy and to willfully pursue national reconciliation in order to cement a lasting peace and democratic traditions in El Salvador;

(4) supports Salvadoran attempts to continue their cooperation in order to ensure democracy, national reconciliation, and economic prosperity; and

(5) reaffirms that the United States is unequivocally committed to encouraging democracy and peaceful development throughout Central America.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Minnesota [Mr. LUTHER] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from North Carolina [Mr. BALLENGER] for this bipartisan resolution commending the people of El Salvador. The gentleman from North Carolina [Mr. BALLENGER] is a senior member of our Committee on International Relations and we consider him our leading expert on events in Central America. His long-term commitment to that important region gives him unique insight that is a valuable resource to our committee's work.

Mr. Speaker, House Concurrent Resolution 88 congratulates the people and the Government of El Salvador for taking yet another step on the path to democracy. As a result of the peaceful and fair elections of March 1997, a broader cross section of Salvadoran society has a voice in local government and the national assembly. Because of the March 1997 elections, people who may have felt shut out of the democratic process now have a stake in making democratic government work for them. That is the essence of democracy, which the American people have supported for decades in El Salvador.

Some observers may be disappointed that participation in these elections was down sharply from the 1994 elections, around 37 percent, down from 54 percent 3 years ago. We hope that the more vigorous policy debates taking place today in the more pluralistic national assembly will restore the interest of more Salvadorans in the democratic process.

I would like to especially commend all of the political leaders across the political spectrum who took part in these elections and who have respected the results. We also congratulate President Armando Calderon and all of the officials of his government who conducted these transparent and honest elections.

Mr. Speaker, our Government has supported the cause of representative democracy for several decades in El Salvador. I am pleased to stand with my colleagues today to applaud the people of that great country for showing the world that democracy does work. Once again, I thank the gentleman from North Carolina [Mr. BALLENGER] for bringing this bipartisan resolution before us. I urge my colleagues to support House Concurrent Resolution 88.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the concurrent resolution.

Mr. Speaker, I first want to commend the gentleman from North Carolina [Mr. BALLENGER] for introducing this resolution and also the gentleman from New York [Mr. GILMAN], chairman of the committee, for pursuing this resolution.

As all of us know, Central America has come a long way in the last several years. Until recently, the region was beset by civil wars and insurgencies. The peace accords were signed just 5 years ago in El Salvador after a very bloody civil war. Today we are commending that country for an election wherein the opposition party, the FMLN, freely and fairly won the second most powerful position in the country, the mayorship of San Salvador.

All sides in El Salvador can now see that change occurs most effectively through the ballot box. That is a clear triumph for democracy, and it is also a remarkable transformation for El Salvador. I am pleased that the U.S. Congress through this resolution is now congratulating the Salvadoran people for making such a transformation.

Yet Central America has a long way to go. The region still struggles with devastating poverty, corruption, common crime, and weak educational institutions. I think, therefore, it is highly appropriate for the United States through this resolution to also pledge our continued commitment to help El Salvador overcome those challenges. I therefore urge adoption of the resolution.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY] who, as we all know, has a long-standing and very distinguished history of involvement on this and other Central America issues.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Minnesota for his kind words.

Mr. Speaker, today I am very proud to rise in support of this resolution to recognize El Salvador for its fair and free elections. The people and the leaders of that nation have made a commitment toward peace and justice that just a few years ago seemed impossible. On behalf of the people in this country who feel a great affinity for El Salvador, I rise to thank and also to congratulate them.

As many Members know, I have been in El Salvador many times. Unfortunately, it was not always under the best set of circumstances. The gentleman from Massachusetts [Mr. MCGOVERN] and I went down to try to solve the murders of the six Jesuit priests, their housekeeper, and her daughter. During those times we met Salvadorans from all walks of life. We met the military leaders, guerrillas, and the everyday working people. I have looked into the scared and often sad faces of the Salvadoran people during their brutal civil war. But I have also seen them since. I have been to El Salvador during peacetime and seen their fear replaced by hope.

Over the last few years, I have developed a great fondness and a great respect for the Salvadoran people, and their most recent democratic election is cause for great celebration.

Mr. Speaker, the results of the March 16 elections literally changed the face of the government in El Salvador. In this very historic election, the Salvadoran people went out and voted without fear of persecution. That may not sound like much here but, believe me, in El Salvador, that is a big, big change.

After the Salvadorans voted, their votes were collected and calculated without widespread claims of fraud, and the once-feared military did not play any role in the elections. In fact, the military is now doing its job of protecting the people, and that, Mr. Speaker, is great cause for hope.

The results of these elections have created the pluralism in El Salvador that we have never seen before. Several opposition parties now control many of the municipal governments, including several of the most populous municipalities. Opposition party candidates also have made many gains in the assembly. Now the challenge is in the hands of the various parties to work together, build coalitions, and do what is best for all of the people of El Salvador.

Mr. Speaker, they have their work cut out for them. As the country takes on the tremendous challenges of a struggling economy, horrible poverty, a frighteningly high crime rate, and the need for widespread judicial reform, we have to encourage Salvadoran leaders to continue to work together for what is best for all of its citizens. The difference is that today there is hope and political room for positive change.

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Mr. Speaker, it was a pleasure getting to know the people of El Salvador, and I am very honored to have been given that opportunity, and I want to congratulate my friends for their tremendous accomplishment. Today's democratic elections means tomorrow's prosperity.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER], the sponsor of this resolution.

Mr. BALLENGER. Mr. Speaker, in 1962, 35 years ago, my wife and I went to El Salvador to help in developing their economy. It was peaceful and quiet then, the war had not started, and we have been working ever since to continue that growth and the growth in the democracy.

On June 25, 1997, the Committee on International Relations unanimously passed a resolution that I introduced, House Concurrent Resolution 88, congratulating the government and the people of the Republic of El Salvador on successfully completing free and democratic elections for the fourth time. On March 16, 1997, El Salvador held free and fair elections for 84 national legislative assembly seats, 262 mayoral and municipal council posts. This was yet another milestone in the normalization of the democratic process in El Salvador, and I wish to commend that nation for its efforts.

El Salvador has come a long way since the 1980's when the nation was in the midst of a terrible civil war. Many of my colleagues will recall that that war cost the lives of tens of thousands of El Salvadorans and left the country in shambles. Now the Salvadorans have replaced bullets with ballots. It was a strong leadership and guidance coupled with the courage demonstrated by former President Alfredo Cristiani that rescued the country and paved the way for El Savador's future. He continued to seek peace in spite of the fact that the war continued. His successor, the new President Armando Calderon Sol, elected in a free and fair contest, had the same commitment to democracy and will strive to keep this nation moving forward in the next century. The stark contrast between war-torn El Salvador and the El Salvador of today is a tribute to its people and its leaders.

In addition to holding successful elections, we see the Salvadoran Government's effort to foster free-market enterprise and privatization of certain industries as part of its move toward a free and fair society. Most importantly, we continue to witness the successful implementation of the 1992 peace accords. I believe the Americans must continue to show support for our Salvadoran neighbors through this long and fragile process, and I hope my colleagues will join me and congratulate El Salvador in this latest and most remarkable accomplishment.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume.

Again I want to commend the gentleman from North Carolina [Mr. BALLENGER] for his outstanding leadership on this issue and certainly want to thank him on behalf of the minority caucus for his outstanding leadership and for his understanding of the speakers here today.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I am pleased to have had the opportunity to work with my colleague, the gentleman from North Carolina [Mr. BALLENGER], to introduce this resolution. El Salvador means "the Savior" in Spanish, and I believe that El Salvador represents hope and salvation for all of Central America.

During the civil war in the 1980's, about 75,000 Salvadorans lost their lives in this country, a small country of 5 million people, but they have managed to find peace, democracy, and a market economy, and today El Salvador leads the region economically with an average annual growth rate of 6 percent in this decade.

This resolution is an expression of good will toward the people of El Salvador and toward President Armando Calderon del Sol who was just recently here, and we have had discussions with him and as he faces the challenges that are still present before El Salvador. But we are confident that El Salvador, as has been mentioned here, will continue to progress, building democratic institutions and improving the lives of the Salvadoran people.

We can do our part by making sure that the seeds of democracy which are taking root in El Salvador are fully cemented, and that is why I want to hail the Attorney General's decision not to deport, not to deport Salvadorans who came to the United States, fleeing from civil war, as a result of our foreign policy in part, and now would have made a dramatic economic impact on El Salvador if, in fact, they were massively deported. These are people who I believe had rights under the law which were eviscerated under the Immigration Reform Act of last year, and whose rights retroactively should never have been abolished in that manner. In essence, by preserving their opportunity to go ahead and make their case before the Immigration Court of Appeals, this provides an opportunity for El Salvador also to flourish in the process.

So I want to commend all of those and also the Congressional Hispanic Caucus who worked very hard on this with the administration. For our part we want to make sure that the United States Congress and administration provide El Salvador with the necessary resources and the type of policy that continues stability and growth, stability which is clearly in the national interests of the United States in a region that is so close to our borders.

Mr. LUTHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 88.

The question was taken.

Mr. LUTHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

RESOLUTION REGARDING THE CONGO

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 175) expressing concern over the outbreak of violence in the Republic of Congo and the resulting threat to scheduled elections and constitutional government in that country, as amended.

The Clerk read as follows:

H. RES. 175

Whereas President Pascal Lissouba defeated former President Denis Sassou-Nguesso in a 1992 election that was determined to be free and fair;

Whereas losing candidates raised questions concerning the results of the 1993 legislative election and used those concerns to cast doubt on the entire democratic process in the Republic of Congo and as the rationale for creating private militias;

Whereas thousands of citizens of the Republic of Congo have been killed in intermittent fighting between Government soldiers and private militiamen since 1993;

Whereas there are concerns about the unfinished census and resulting electoral list to be used in the scheduled July 27 election;

Whereas the recent fighting resulted from the Government's attempt to disarm former President Sassou-Nguesso's "Cobra" militia in advance of the scheduled July 27 election;

Whereas the fighting and uneasy peace has caused serious loss of life and diminished ability to care for those who are without access to adequate medical care or food and water;

Whereas the fighting between Government troops and militiamen have forced the evacuation from the country of foreign nationals and endangered refugees from both Rwanda and the former Zaire; and

Whereas African governments have attempted to bring about a negotiated settlement to the current crisis: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the current fighting and urges the warring parties to reach a lasting ceasefire that will allow for humanitarian needs to be addressed as soon as possible;

(2) calls on all private militia to disarm and disband immediately to end the continuing threat to peace and stability in the Republic of Congo;

(3) commends African leaders from Gabon, Equatorial Guinea, Cameroon, Benin, Central African Republic, Senegal, and Chad for their efforts to negotiate a peaceful settlement and encourages their continuing efforts to find a sustainable political settlement in this matter;

(4) supports the deployment of an African peacekeeping force to the Republic of Congo if deemed necessary;

(5) urges the Government of the Republic of Congo, in cooperation with all legal political parties, to resolve in a transparent manner questions concerning the scheduled elections and to prepare for open and transparent elections at the earliest feasible time; and

(6) encourages the United States government to provide technical assistance on election related matters if requested by the Government of the Republic of Congo.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Minnesota [Mr. LUTHER] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us was introduced by the gentleman from California [Mr. ROYCE] the distinguished chairman of our Subcommittee on Africa. This resolution expresses our grave concern about the violence and chaos that have taken hold in the Republic of Congo. This is Congo Brazzaville, Mr. Speaker, not the Democratic Republic of Congo which was formerly known as Zaire.

The Republic of Congo is a small nation with only 2½ million people, but over the past few years it has been a beacon of hope in a troubled region. Congo held democratic elections in 1992. Recent oil discoveries have given hope for a better life for the Congolese people. Although Congo has always been troubled by ethnic difficulties, many people believe that there was a new opportunity for reconciliation and democracy. Regrettably, those hopes have now been dashed by the recent violence in Congo which has taken thousands of lives in the capital of Brazzaville and other areas.

Mr. Speaker, there are no good guys in this latest violence. Neither the elected government nor its opponents have demonstrated an ability to restrain their worst impulses. This resolution firmly puts the Congress on the side of the Congolese people, urging an end to the fighting and supporting the work of those who seek reconciliation between the warring factions.

Accordingly I urge the House to adopt this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. MENENDEZ] the ranking member of the Subcommittee on Africa.

Mr. MENENDEZ. Mr. Speaker, as the ranking member of the Subcommittee on Africa, I and a cosponsor of this resolution, and I want to thank the chairman of the committee for his diligence in putting it forth and for working with us on its language; we are very concerned about the ongoing violence in the Republic of Congo, and although a truce was called between President Lissouba and former President Denis Sassou Nguesso on June 17, reports of gunfire and shellings still continue to this date, and it has been estimated that between 1,000 and 3,000 people have died as a result of the fighting.

President Lissouba won his seat in 1992 in an election that was determined to be free and fair and, as in Sierra Leone, we cannot tolerate violence as a format for change. The Congo was scheduled to hold elections on July 27. Elections are the appropriate format for change, if so decided by the people of the Congo. It is crucial that the two parties come together to negotiate a real truce and to reschedule elections, and certainly it is not too late to get things back on track.

The draft declaration issued by the Foreign Ministers of the West African Economic and Monetary Union in which they stated that they are prepared to join a peacekeeping force to restore peace in the Congo is demonstrative of a growing consensus among

African nations for a proactive and African response to the outbreak of violence on the continent, and I think we should welcome their declaration.

Again I want to thank the gentleman from California [Mr. ROYCE] for responding quickly in drafting the resolution. It is important that the Congress clearly condemn the fighting, place its support behind democracy, negotiation, elections, peace, and ultimately behind the will of the people of the Republic of the Congo.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. ROYCE], our chairman of the Subcommittee on Africa.

Mr. ROYCE. Mr. Speaker, since violence in the Congo escalated several weeks ago, an estimated 3,000 lives have been lost. What started as an effort by Congo President Pascal Lissouba to safeguard the upcoming election by neutralizing the so-called cobra militia which is operated by a political rival, this situation has degenerated into ethnic cleansing and into political wrangling.

All this has developed beneath the media's radar. As the world watched the unraveling of the Mobutu regime in the neighboring country then known as Zaire, now the Congo, the Congo itself was seen as a safe haven for refugees from the collapsing nation. Western nations sent military forces to Congo to evacuate their citizens from Zaire. So it was shocking to find several weeks later that foreign nationals had to be evacuated from Congo Brazzaville and that refugees from that nation were running for safety to what is now sometimes called Congo-Kinshasa.

Today nearly a quarter of the population of the capital city of Brazzaville has left town to avoid being caught in the fighting. Unfortunately, these refugees have found themselves stopped along the way, and if they belong to the wrong ethnic group, militia men do what is called there making them travel, and to make someone travel means being taken away and killed. More than 2,500 Congolese were killed in ethnic fighting after the disputed 1993 election, and now ethnic tensions in the central African nation has dramatically worsened.

It is too late for elections to be held as planned on July 27. A dispute between President Lissouba and former President Denis Sassou Nguesso on the elections now threatens the future of Congo's developing democracy. President Lissouba has called for a 3-month postponement of elections and for his ruling mandate which expires next month. However, Mr. Sassou Nguesso wants the President to leave office next month and be replaced by a transitional government for 2 years. This resolution is a reinforcement of our Government's commitment to the democratic process in Congo-Brazzaville.

The threat to elected government and rule of law in Congo must be dealt with now, and a lasting solution to this ethnic and political crisis must be found. African nations and African leaders have been trying to broker a peace. There have been several cease-fires since the fighting began in June, but none of them have held longer than a few days. We are in the midst of yet another cease-fire as we speak. Meanwhile, a peacekeeping force is being gathered, but it will not be deployed until both factions agree to stand down. U.S. encouragement of the ongoing peace process as expressed in this resolution would bolster the peace process at this point.

This resolution I am offering calls for a halt to the fighting and a lasting peace that will allow for considerable humanitarian needs of the Congolese people to be met and for the holding of elections at the earliest agreeable time.

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Moreover, we call for the disarming and disbandment of the private militias, which are a continuing threat to peace and stability. And, finally, we call upon the parties involved in the elections to address and resolve questions concerning the election process so that there can be fair and free elections in the Congo.

Over the past several years nations caught in seemingly intractable conflict have managed to successfully complete a democratic transition: South Africa, Malawi, and Mozambique are but three examples of this process, and Liberia, we will see if that will be a new example.

There is no reason to expect any less from the Congo. Although these developments are halfway around the world, they matter. America has a great deal to gain from a healthy democratic Africa, and a stable Congo is a part of that. We have discussed this measure with the administration, which supports the approach taken on the resolution to the current crisis in the Congo. I urge the House to approve this resolution and to address the worsening crisis in the Republic of Congo.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution because I believe this draws attention to an explosive situation in Central Africa. I commend the gentleman from California, the chairman of the Subcommittee on Africa, for introducing it and for working with the chairman of the committee to move it forward.

By reflecting the views of the U.S. Congress on this important issue, I hope this resolution will encourage the parties to maintain the question and reach a political solution in their ongoing talks. I urge adoption of the resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I had the privilege, along with Chairman ARCHER of the Committee on Ways and Means, to travel to Brazzaville and then to the Ndoke Forest in the Republic of Congo. While there we spent considerable time with President Lissouba and got to know him quite well, as well as his daughter, who is a medical doctor.

President Lissouba by background is a college professor. He is a very gentle man who believes in the democratic process, and believes deeply in the future of his country, and believes deeply in the welfare of the people that he serves.

The Republic of Congo is an emerging country in Africa that does have a number of important natural resources. The American investors are finding a friendly reception in Brazzaville as they are investing not only in the oil but also in many of the other assets and resources in the Republic of Congo.

I am very concerned, as I am sure other Members are, of the virus of revolution which seems to be spreading across Africa. It is important that we show our resolve to put forth and help enforce and hold in place democratic principles. The election that was scheduled for just next week has been postponed, not because of any fault of the present administration under President Lissouba but because of the revolt that is going on in that country today. Never did I think when we were there just a few months ago that the democratic process would be interfered with as it is today.

I would like to speak briefly of another interest that the United States has in the Republic of Congo. The Republic of Congo has been very cooperative with us in looking at and supporting a United States AID project in the Ndoke Forest which goes toward the preservation not only of the rain forest but also of the rain forest elephants that are present there, as well as the rain forest gorillas. These are species that are very much endangered. We have found great cooperation from the Republic of Congo in cooperating with the United States' interest in the preservation of these wonderful creatures.

We have also found the need and concern that we have to do more for the preservation of the rain forest, and the great concern that we have as to some of the logging operations which are not only devastating these rain forests, but also because of the use of the gorillas and other wildlife in the area, using them as camp meat.

The rain forest does have a very definite effect on our weather. Being from

Florida, this is right in the area where hurricanes are created. We do have a very, very large stake in seeing that there is a friendly government that we can work with for the preservation of these great natural resources.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Florida [Mr. SHAW] for his supporting comments.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). The question is on the motion offered by the gentleman from California [Mr. ROYCE] that the House suspend the rules and agree to the resolution, House Resolution 175, as amended.

The question was taken.

Mr. LUTHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

EXPRESSING CONCERN OVER RECENT EVENTS IN SIERRA LEONE IN WAKE OF RECENT MILITARY COUP D'ETAT

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 99) expressing concern over recent events in the Republic of Sierra Leone in the wake of the recent military coup d'etat of that country's first democratically elected president.

The Clerk read as follows:

H. CON. RES. 99

Whereas for the first time in almost 30 years, the Republic of Sierra Leone held their first truly democratic multiparty elections to elect a president and parliament and put an end to military rule;

Whereas the elections held on February 26, 1996, and the subsequent runoff election held on March 15, 1996, were deemed by international and domestic observers to be free and fair and legitimate expressions of the will of the people of the Republic of Sierra Leone;

Whereas on May 25, 1997, a military coup d'etat against the democratically elected Government of the Republic of Sierra Leone, including President Ahmed Tejan Kabbah, took place;

Whereas the coup d'etat, led by Major Johnny Paul Koroma and the Armed Forces Ruling Council (AFRC) on May 25, 1997, signifies a giant step backward for freedom and democracy in the Republic of Sierra Leone;

Whereas there has been fighting, killing, looting and a disruption of relief supplies in the Republic of Sierra Leone since the coup d'etat; and

Whereas the best solution to this crisis would be a peaceful solution: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns the leaders and members of the rebellious Armed Forces Ruling Council (AFRC) for ousting the democratically elected Government of the Republic of Sierra Leone, including President Ahmed Tejan Kabbah;

(2) urges an immediate end to all violence in the Republic of Sierra Leone;

(3) encourages the members of the AFRC to negotiate a hand-over of power back to the democratically elected Government of the Republic of Sierra Leone in order to restore order and democracy in the country;

(4) encourages all citizens of the Republic of Sierra Leone to work together to bring about a peaceful solution to the current conflict;

(5) reaffirms the United States support of the democratically elected Government of the Republic of Sierra Leone led by President Ahmed Tejan Kabbah;

(6) urges the members of the AFRC and all armed elements involved in the conflict to ensure the protection and safety of international aid agencies and personnel serving in the country, and allow them unobstructed access to affected areas to deliver emergency humanitarian relief to people in need; and

(7) commends the Organization of African Unity for calling on all African countries, and the international community at large, to refrain from recognizing the new regime or lending support in any form whatsoever to the perpetrators of the coup d'etat, the AFRC.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Minnesota [Mr. LUTHER] will each control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us expresses the grave concerns of the Congress over the recent coup in Sierra Leone. This resolution was introduced by the gentleman from New York [Mr. HOUGHTON] and the gentleman from Florida [Mr. HASTINGS], who have followed the crisis in Sierra Leone very closely over the years.

Like the Republic of Congo which we considered earlier, Sierra Leone has had a period of hope dashed by renewed violence and chaos. Last year democratic elections were held, bringing to a close years of instability and fighting between the government and rebel forces. Regrettably, the peace did not hold, and a combination of government forces and rebel soldiers overthrew the elected government of President Kabbah.

Mr. Speaker, the situation in Sierra Leone is so desperate that the best hope for the restoration of democratic rule lies with the hundreds of Nigerian troops who have blockaded the capital and are supporting the reinstatement of Kabbah's administration. Mr. Speaker, this resolution will put the Congress firmly on the side of democracy in Sierra Leone, and accordingly, I urge the House to adopt this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the resolution, Mr. Speaker.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. MENENDEZ], the ranking member of the Subcommittee on Africa.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased to be an original cosponsor of House Concurrent Resolution 99, which condemns the recent military coup d'etat in Sierra Leone staged by Johnny Paul Koromah and the Armed Forces Ruling Council. I want to thank my colleague, the gentleman from New York [Mr. HOUGHTON], for introducing the resolution, which passed both our Subcommittee on Africa and the Committee on International Relations unanimously.

In 1996 Sierra Leone held free, fair, and democratic elections. Those elections and the people's choice of President Ahmad Tejan Kabbah to lead Sierra Leone were not dissolved by the coup d'etat. They cannot be erased or suspended by undemocratic or violate means.

While the coup is certainly disturbing, as we continue to see some of these actions in other places, I think what is encouraging is that many African nations and the Organization of African Unity were swift in their condemnation and asking that governments refrain from recognizing or supporting the new regime.

With this resolution, the United States Congress joins the chorus of voices which have spoken out against the coup, and calls upon Mr. Koromah and the AFRC to return power to the true and democratically-elected government, the government that was chosen by the people of Sierra Leone.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York [Mr. HOUGHTON], the sponsor of this resolution, who is a member of our Committee on International Relations.

Mr. HOUGHTON. Mr. Speaker, I am delighted to be able to speak on behalf of House Concurrent Resolution 99.

I also would like to, before I begin my brief remarks, thank very much the original cosponsors, the gentleman from Florida, [Mr. ALCEE HASTINGS], and the gentleman from Ohio, [Mr. TONY HALL], and also I want to thank the chairman of the Subcommittee on Africa, the gentleman from California, [Mr. ED ROYCE] and the entire membership of that committee; also the former head of that committee, the gentlewoman from Florida, [Ms. ILEANA ROS-LEHTINEN], and our chairman, the gentleman from New York, [Mr. BEN GILMAN].

Mr. Speaker, this is a sad resolution in a way because it was barely a year ago that we stood here and talked about the great strides toward a free and democratic government which the people of Sierra Leone had made. This really was the first time in over 30 years that they had had any elections. But now the whole world has changed, and they have been taken over by a band of thugs. It is sad. It happened this year on May 25.

What we are trying to do is to sponsor a resolution which really signifies not only to the people of Sierra Leone but the other nations around the world who believe in the great strides they have made prior to May, that it is important to end violence, to restore the democratically-elected government led by President Kabbah, and also make sure the protection and safety of international aid workers are ensured.

Mr. Speaker, I thank the gentleman for yielding to me, and I thank the chairman of the committee, the gentleman from New York [Mr. GILMAN], and members on the other side. I want to also put in a special word of appreciation to Ambassador John Hirsch and Ambassador George Moose.

Mr. LUTHER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida, [Mr. ALCEE HASTINGS], who is an original cosponsor of this resolution.

Mr. HASTINGS of Florida. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from New York [Mr. HOUGHTON], which I find very poignant. In addition thereto, I appreciate him so very much for originally being a cosponsor of this effort. Assuredly, I thank the chair of the Committee on International Relations, the gentleman from New York, [Mr. BEN GILMAN], the subcommittee chair, the gentleman from California, [Mr. ED ROYCE], and the ranking member, the gentleman from New Jersey, [Mr. ROBERT MENENDEZ], who have produced not only in this instance but in several a plethora of activity dealing with the continent of Africa in a very positive way.

Mr. Speaker, today I rise to express my continued support for this resolution that was offered by the gentleman from New York [Mr. HOUGHTON] and myself to condemn the coup d'etat in Sierra Leone. We certainly must stop the violence in Sierra Leone now.

I urge my colleagues to vote for this necessary and timely legislation which, first, condemns the Armed Forces Ruling Council members for ousting the democratically-elected government of the Republic of Sierra Leone, and second, orders an immediate cessation to the violence in this nation, and encourages the AFRC to negotiate a return to power of the elected leadership.

The military coup led by Johnny Paul Koromah in Sierra Leone on May 25, 1997, was a savage assault on an emerging democracy in this African nation. Just 15 months prior to the coup democratic elections were held and President Kabbah was chosen to lead his country into a new era, one which promised liberty and constitutional order for Sierra Leonians.

International election observers were there and the citizenry declared this election to be free and fair. The people of Sierra Leone signified their determination to vote, even if it cost them their lives, and they were successful. But this country's march towards democratic government was suddenly stopped by those who wanted to end its forward strides by undertaking violence. With their coup came chaos marked by fighting, and killing, and looting.

We must speak out forcefully with one voice against the travesty and tragedy being played out in Sierra Leone. If we do not, we are sanctioning the blatant robbery of the freedoms of the people of Sierra Leone.

This legislation is especially timely. In response to events in Sierra Leone, ECOMOG has imposed an air, land, and sea blockade in response to an ECOWAS decision to impose economic sanctions on this military junta.

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These interventions have given way to negotiations. According to the Embassy of Sierra Leone in Washington, negotiations between four foreign ministers of ECOWAS and representatives of the AFRC are now taking place in Abidjan, Cote d'Ivoire. A strong message by the U.S. Congress at this point then could be helpful in restoring power to the democratically elected government. I urge adoption of House Concurrent Resolution 99.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROYCE], the distinguished chairman of the Subcommittee on Africa.

Mr. ROYCE. Mr. Speaker, I rise in strong support of this resolution.

I want to commend the gentleman from New York [Mr. HOUGHTON] and also the gentleman from Florida [Mr. HASTINGS], coauthors of this resolution, as well as members of the Subcommittee on Africa for their support. They unanimously endorsed this resolution.

When democratic government was restored through elections in Sierra Leone last year, as the gentleman from Florida [Mr. HASTINGS] reminded us, it was counted as a great achievement for the people of west African nations. This country had suffered two coups and 4 years of military rule. It was the scene of a ferocious civil war as we have heard today. The military tried its best to extend its rule, but the people were so eager for democracy that they demanded that elections be delayed no longer, despite threats of reprisal. I remember the gentleman from Florida [Mr. HASTINGS] telling me that some had their hands cut off in reprisal for casting ballots by rebels trying to frustrate a democratic transition in this country. Yet, they had the bravery to go to the polls and cast those votes.

Imagine now how the citizens of Sierra Leone must feel when on May 24 a group of military officers staged another coup. That coup, of course, sent the President into exile. Since then, this group of thugs in uniform have looted the country, virtually holding the nation hostage to their shifting demands.

The long-suffering citizens of Sierra Leone have responded by resisting the coup leaders. They have staged strikes. Labor unions, professional associations, and civic groups have opposed the coup. The Kabbah government is broadcasting to the nation on a secret transmitter to bolster the people's resolve to resist this illegal power grab.

There is a positive trend in Africa today toward political and economic reform. The transition in Sierra Leone often was cited as part of that positive trend. Their very worthy efforts are made meaningless if we accept the undoing of reform in a nation in which the people have supported the democratic process. In many cases they supported it with their lives.

Let us join the Organization of African Unity in supporting a west African diplomatic and military initiative to free Sierra Leone from its unelected leaders. I urge passage of this resolution.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. SNYDER], an outstanding new Member of Congress.

Mr. SNYDER. Mr. Speaker, Sierra Leone is a small country. My guess is that many Members of Congress and many folks in America would not be able to find it on a map. I can say that, being from Arkansas, I know that many people cannot find Arkansas on a map. And it was my pleasure to have lived and worked at a mission hospital in Sierra Leone for 6 months a number of years ago.

At that time it was a dictatorship. It was corrupt. We would actually have to bribe the postman to get the mail. Life expectancy was 42 years old. As one of those folks who had lived there, like many Members here would have been overseas, one follows a country closely after that.

I was very excited a year ago when these elections occurred. I have been in that town of Bo where those people had their hands cut off trying to vote. We went there in search of the elusive American cheeseburger when we were trying to find recreation. I know how much that democracy would have meant to those people. It is a terrible tragedy what happened during those elections, but it shows democracy does not come cheap in certain parts of the world. Some of us who have worked in

Africa, and I have been there a couple of times to work, were concerned that perhaps with the end of the cold war that we would ignore Africa with our trade policy, with our failure to support an adequate foreign operations budget for Africa, with our failure to support an adequate military to military relationship with Africa, student exchanges. That is our responsibility, to do what we can to nourish democracy. But the responsibility for this coup is those folks in Sierra Leone that did this bloody and brutal act. It is wrong. This body knows who is responsible for it. I commend the folks that put this resolution together and ask every Member to support it.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely want to conclude by commending the gentleman from New York [Mr. HOUGHTON], also the gentleman from Florida [Mr. HASTINGS] for their sponsorship of the resolution. I certainly want to commend the gentleman from Arkansas [Mr. SNYDER] for bringing his personal experiences to bear on this particular issue. I think it is just outstanding for him to provide us with that kind of insight on this issue.

The Congress by this resolution should send a clear message that this coup against the democratically elected President must not stand and that the United States will work with the international community to restore the legitimate democratic government in Sierra Leone to power. This resolution supports that policy and I am pleased that the President of the United States supports this resolution. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SNOWBARGER). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 99.

The question was taken.

Mr. LUTHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

REGARDING INTERFERENCE OF EUROPEAN COMMISSION IN MERGER OF BOEING CO. AND McDONNELL DOUGLAS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 191) expressing the sense of the House of Representatives regarding the interference of the European Commission in the merger of the Boeing Co. and McDonnell Douglas.

The Clerk read as follows:

H. RES. 191

Whereas the Boeing Company and McDonnell Douglas have announced their merger;

Whereas the Department of Defense has approved the merger as consistent with the national security of the United States;

Whereas the Federal Trade Commission has found that the merger does not violate the antitrust laws of the United States;

Whereas the European Commission has been highly critical of the merger in its consideration of the facts;

Whereas the European Commission is apparently determined to disapprove the merger to gain an unfair competitive advantage for Airbus Industries, a government-owned aircraft manufacturer; and

Whereas this dispute could threaten to disrupt the overall relationship between the European Union and the United States which had a two-way trade in goods and services of approximately $366,000,000,000 in 1996: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) any disapproval by the European Commission of the merger of the Boeing Company and McDonnell Douglas would constitute an unwarranted and unprecedented interference in a United States business transaction that would directly threaten thousands of American aerospace jobs and potentially put many more jobs at risk on both sides of the Atlantic; and

(2) the President should take such actions as he considers to be appropriate to protect United States interests in connection with this matter.

The SPEAKER pro tempore. Pursuant to the rule gentleman from New York [Mr. GILMAN] and gentleman from Minnesota [Mr. LUTHER] each will control on 20 minutes.

The Chair recognizes gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding time to the sponsor of this resolution, the gentleman from Washington [Mr. METCALF], I want to commend him for introducing this resolution and working for its early consideration on the floor and in a very timely manner as the European Union is meeting on this same matter.

I strongly support this resolution. It is the height of irony for the European Union, which has hounded our Nation unmercifully for so-called extraterritorial legislation such as the Helms-Burton Act or the Iran-Libya Sanctions Act, which are not extraterritorial and which were drafted to avoid any extraterritoriality, to attack a merger between two United States-headquartered corporations which do not manufacture in Europe.

It is true that the welfare of the flying public, the price the airlines have to pay for the aircraft and the need for competition in aircraft manufacturing, ought to be considered as mergers are judged by antitrust authorities.

But who is better equipped than the independent U.S. Federal Trade Commission to make that determination? Obviously the United States flying public is most directly affected by this than any other because Boeing and the combined Boeing-McDonnell Douglas Corp. will be so strong in the domestic marketplace.

The European Commission's attitude gives rise to a strong belief, set out in this resolution, that the commission is primarily motivated by questions of industrial policy, the welfare of Airbus Industries, rather than consumer welfare. In other words, the European Commission is apparently using its competition policy hat to threaten to impose barriers to U.S. competition. That is obviously wrong.

I am also concerned that the Commission of the European Union may be taking action at this time in an attempt to establish certain political credentials or make political points in intra-EU disputes. That could be disastrous.

Mr. Speaker, I am known as a friend of warm relations between our Nation and the European Union. The United States and the European Union are one another's largest trading partners. Moreover, we are very close allies on a large range of political, security and other global issues. I am frankly concerned that the EU is going to take an ill-considered step that could lead to a trade war. Too much is at stake for this to occur. I appeal for cooler heads to prevail before the European Commission takes an irrevocable step.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. METCALF], sponsor of this resolution.

Mr. METCALF. Mr. Speaker, I would like to thank the gentleman from New York [Mr. GILMAN], the chairman, and the gentleman from Indiana [Mr. HAMILTON], the ranking member, for their support in allowing this legislation to come up under suspension. I am pleased that they agree that this is an urgent issue facing Congress and requires immediate action. Their indulgence in allowing a vote today without a markup is appreciated.

Mr. Speaker, tomorrow the European Commission is scheduled to vote on the merger of the Boeing Co. and McDonnell Douglas. It is anticipated that they will vote to disapprove the merger.

Mr. Speaker, any disapproval by the European Commission would constitute an unwarranted and unprecedented interference in a U.S. business transaction. The review by the European Commission has been dominated by Airbus Industries from the outset. It is unfortunate that the European Union would allow their process to be dominated by a government owned and subsidized company.

Mr. Speaker, I want to make sure that my colleagues understand that this is a merger between two wholly owned U.S. defense contractors, consistent with DOD directives issued to downsize our military-industrial complex in the post-cold war era, and it was ratified by the Federal Trade Commission. Any attempt to block this is nothing short of a foreign government trying to dictate America's vital national security policy. As such, it is an assault on our national sovereignty.

The objections raised by the European Commission revolve around the signing of sole provider contracts by Boeing. However, Airbus was an eligible competitor for these contracts. In fact, Airbus signed the first long-term contract with a U.S. carrier. That action started these exclusive type agreements. Throughout the entire bidding process, neither Airbus nor the European Commission raised any objections whatsoever to the bidding on exclusive agreements until they lost out to Boeing.

Another argument used by the European Commission is that the merged company will dominate the commercial airline business. Quite frankly, Boeing's share of the commercial aviation market has remained relatively stable at 60 percent or so for the last decade. It is the heavily subsidized Airbus that has taken market share from McDonnell Douglas. The only antitrust violation in the commercial aviation industry is by Airbus and its European government partners.

While we all agree that more companies in the market would be optimal, the truth is that there are only two viable companies today, even before the merger. Last year, McDonnell Douglas was responsible for less than 5 percent of the total orders in the world.

The Europeans are using this opportunity to obtain a competitive advantage against an American company, which could cost over 14,000 jobs in the near term and many more in the long term. It is vital that the House take this opportunity to send a clear message to the Europeans that this act will not be tolerated.

My legislation provides the President with leverage if it becomes necessary to intervene. He can be confident that he has the support of both the Senate, which passed a similar resolution last week, and the House of Representatives.

The European Community believes that it should have veto authority over U.S. business decisions. The Europeans have stated that they may fine the merged company over $4.5 billion and potentially seize aircraft built by American workers here in the United States.

Mr. Speaker, this is truly an issue of national significance. We must draw a clear line in the sand now to prevent any further infringements by foreign governments on U.S. business decisions.

□ 1615

I urge my colleagues to support this legislation, and I thank the chairman and ranking member again for their support.

Mr. LUTHER. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Washington, [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I want to thank my friend from Minnesota for yielding me this time, and I want to thank the gentleman from New York [Mr. GILMAN] and the gentleman from Washington [Mr. METCALF] for their outstanding effort on this resolution which I rise in strong support of.

I am pleased, Mr. Speaker, to be able to tell the House that there may have been a breakthrough today between the parties. We were very concerned, my colleagues and I from Washington State, about what would happen if the European Commission turned down the Boeing, McDonnell-Douglas merger. We are hopeful now that, after further negotiating between the Boeing Company and the European Commission, that there may be a prospect for a favorable outcome.

I think all of us have learned a lesson here, and that is I think both sides have to be careful in reviewing agreements, especially when we have two U.S. corporations that have no manufacturing facilities at all in Europe. The idea that the European Commission can exert jurisdiction and say that these two companies cannot merge, especially after this has been approved by the Department of Defense, it has been approved by the Federal Trade Commission, and under our process here in the United States, is wrong.

The Federal Trade Commission does not go out and look and see what the impact is going to be on Airbus. It goes out and looks at the airlines and says will this merger, in fact, have an anticompetitive impact. What they found was that it would not; that, in fact, McDonnell-Douglas today is declining in terms of its ability to produce and manufacture commercial aircraft. They just do not have the orders.

The real competition out there is between Boeing and Airbus, and it is a healthy competition that will continue into the future. This is what the airlines in Europe should be concerned about; this is what the airlines in the United States should be concerned about.

So what we have here is a situation in which the European Commission used this opportunity to leverage Boeing, to try to realign the competitive field to the benefit of Airbus, not to look at this in terms of anti-competitive behavior but to try to get things from Boeing to help Airbus in its ongoing competition. I think that is wrong.

I am saddened to hear that there may have had to have been some compromise reached. I am always for compromise, but I think in this case forcing Boeing to give up on what we call exclusive, although it is not really exclusive, but exclusion agreements with American, Delta and Continental, after they were competed for, after Airbus and Boeing competed and Boeing won, and now in this process they are making Boeing give those exclusives back, I do not think that is fair. I think that goes beyond what this process should be about.

I hope American companies in the future will be a little more cautious about agreeing in the first instance that the European Commission should have a right to review these mergers, especially when there are no facilities in Europe.

As someone who has served on defense appropriations for 19 years, I would also like to point out that another area of attack came on the question of whether there is indirect subsidy because Boeing or McDonnell-Douglas have contracts with the Defense Department. Well, we have these aerospace companies go out and they bid and compete to do the C–17, the F–18, the F–22, the Joint Strike fighter. And, yes, they may learn some things from that about how to build better airplanes and, in fact, they may even bring their commercial experience to the defense arena and help bring down the cost of our defense products. But to assert that there is somehow an indirect subsidy here is really almost laughable.

So, I think that area of concern is one also that should have been dismissed. I think we have shown that there is no indirect subsidy. Of course, the companies over there, the four companies that comprise Airbus, also receive defense contracts from their various countries, and there has been a record, a historic record of subsidy up to 1992 for Airbus.

So I am glad that the House and my colleague, the gentleman from Washington [Mr. METCALF], have worked together on this. We have taken the floor and made our speeches. I think because of that and because of the good work of this administration, and I want to compliment President Clinton, Stuart Eizenstat, Dan Turallo, the people in the administration who have been working on this for the last several weeks. They stayed with it, they talked to the top officials in the governments of the various countries.

And I am glad to see today in the newspaper, in the press accounts, that Reuters says that the British now see this would have been a mistake and the Germans see that this would have been a mistake. The bottom line is that they recognize, and I am just pleased that the administration said that there will be a major trade problem controversy with the United States if we do not reach agreement, and that has, I think, helped us break the ice here.

So it has been a good combination of congressional support and support from the administration, and again I want to thank the chairman for bringing this out promptly and giving us his help and support, and my colleagues on the Democratic side for cooperating on this. This means a lot.

It is not just in Washington State. If this had gone down, the jobs that would have been lost first are in Long Beach, CA. Fifteen thousand jobs at McDonnell-Douglas in Long Beach, CA would have been on the line. So it is not just Washington State and St. Louis, it is California that have a real stake in this decision.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. LINDA SMITH].

Mrs. LINDA SMITH of Washington. Mr. Speaker, a special thanks to the chairman, the gentleman from New York [Mr. GILMAN].

This is very, very important because it says something more than is before us today. It does not just talk about another country intervening in American politics, it talks about them dictating how we deal in commerce.

Boeing and McDonnell-Douglas are both American corporations. They are not international corporations, they are not other countries. We do not even manufacture in the European market or the Community, and yet they had decided that they are going to protect one of their own, who is already subsidized, and try to change competition.

Well, we believe in competition in America but we also believe in sovereignty. So if this is to go through, and if the President were to roll on this one, as someone said earlier, then we would set a precedent for the future, and that would be a precedent of other countries deciding to direct how we deal with our business in America.

McDonnell-Douglas and Boeing have come together in an honest merger that has been OK in America, is fair, honest and competitive. We should not have another country come in and tell us to do something different.

I think it has been said that this particular merger not going through would jeopardize jobs in California, but I think that it would jeopardize other American jobs, again as we see other countries, including this European Community, making a decision to do this in the future.

Again I want to commend the sponsor of this, he has taken the time to bring it forward, and the committee chair, who has given us this time to make this statement but also to reaffirm the sovereignty of America.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. NETHERCUTT].

Mr. NETHERCUTT. Mr. Speaker, I thank the chairman for yielding me this time, for the opportunity to speak on this very important issue not only to our State but to our entire country.

I support the resolution offered by the gentleman from Everett, WA [Mr. METCALF]. Tomorrow, as we know, the European Commission will rule on the merger of Boeing and McDonnell-Douglas. Several news stories today have noted that the President has spoken with a number of European leaders about the Wednesday decision but, according to Reuters, "There was virtually no chance that Boeing could produce an offer acceptable to the Commission by then."

Unfortunately, I think this has characterized the European bargaining position to date. Each time Boeing nears agreement, the Commission escalates its demands, claiming the merger would hurt fair competition in Europe.

The current hang-up involves the so-called exclusive agreements between Boeing and three American carriers. These agreements are wholly unrelated to the merger, and the Federal Trade Commission definitively ruled that no basis exists to challenge them under U.S. law. Yet the European Commission is holding the merger hostage to extort concessions from Boeing on this issue.

The German Economics Minister is reported to have said that current concessions offered by Boeing were clearly not enough, while last week President Chirac of France simply noted the merger could be extremely dangerous to Europeans.

I had the opportunity to visit the Boeing facility in Everett just this last weekend, and I can report to my colleagues that this company represents the best in what the U.S. economy can expect from free trade. It has gained a global reputation by building the best airplanes in the world. The Europeans are not seeking to block the merger because of honest concerns about free trade. In my judgment, they are doing so because they fear their state-subsidized firm cannot hope to compete.

I urge my colleagues to join in disapproving this potentially unprecedented interference by the European Commission and passing this resolution.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I rise in strong support of this resolution. It is vitally important for this body to express our outrage at the European Union's interference in an issue already settled by our Federal Trade Commission. I commend the strong support and actions taken by President Clinton and his staff to protect American jobs by resisting this European pressure.

The approved merger of McDonnell-Douglas and Boeing will provide thousands of solid, high-paying, high-skilled jobs throughout the United States. This new company will not threaten the European Union or Airbus, a company largely subsidized by that consortium's member nations. The Federal Trade Commission has heard the arguments; it has approved the merger.

In its attack upon the merger, the European Union has explicitly targeted more than 11,000 workers at Douglas Aircraft, which is headquartered in the district I have the honor to represent. The European Union is attempting to blackmail the United States into accepting its position. I do not believe we can allow our aviation industry to be shaped by our competitors overseas.

To his credit, the President has stood firm. We all want him to remain so. No one wants a trade war with Europe, but we should not be afraid of that risk if that is what is needed to guarantee American control of our key industries and to protect American jobs.

Mr. LUTHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I want to compliment the gentleman from California for his statement. He recognizes, as I recognize, that the problem we have here is that this merger is absolutely essential for the commercial part of the McDonnell-Douglas Company which exists down in the gentleman's district, and to protect those jobs there is absolutely crucial. That would be the first casualty if somehow this agreement could not go forward.

I think the gentleman from Washington pointed out one of the things I did not realize, that the European Commission claims it could fine Boeing $4.5 billion if they went ahead with this merger, if the EC turned it down. So this takes on very serious implications. Also, that they can seize Boeing aircraft in Europe and demand payment from the various airlines in Europe. So, hopefully, we can avoid this.

And I appreciate the gentleman's comments regarding the administration, because we have been working with them. We have been talking to Stuart Eizenstat at the State Department and Dan Turallo at the White House and with the President and his immediate staff. They have been there working hard on this, and I think quietly and diplomatically, and we have taken a little higher profile up here in the Congress. But I think together it has worked effectively, and I appreciate the gentleman's comments.

Mr. HORN. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. HORN. Mr. Speaker, I thank the gentleman. It is good we are on the same team from now on. It is sort of sad that the European Community is talking about fines when their countries have subsidized Airbus to the tune of $34 billion or more dollars over the last decade.

Mr. DICKS. Mr. Speaker, reclaiming my time, the gentleman is absolutely correct. Let us hope now, maybe, that they are coming to an agreement and then, after that, the two companies can come together, and the stockholders can meet and approve this merger here in the United States.

Mr. HORN. Mr. Speaker, if the gentleman will continue to yield, I believe it absolutely will be good for the country and good for Washington and California.

Mr. DICKS. And a few other States, too.

Mr. LUTHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. ADAM SMITH], another outstanding new Member of Congress.

□ 1630

Mr. ADAM SMITH of Washington. Mr. Speaker, I too rise in support of this resolution and in opposition to European interference with the Boeing-McDonnell Douglas merger.

What this should be about is competition. I think to the extent we move toward global competition rewarding the best competitor, the most efficient participator in a given market, then that is good and we are moving forward.

The problem that the European Union and Airbus seem to have is that that best competitor right now has been Boeing for the last several years. They have consistently won the better contracts through fair and efficient competition. And we should reward that, not punish it.

If the European Union raised an argument that Boeing was doing something improper, unfair competition on some levels, they would have a point and it would be appropriate. But they do not, and it is not. The type of things that they are raising is basic competition. It is almost like Airbus is negotiating this deal, not the European Union, and that is totally inappropriate.

Airbus should compete on the economic field, in the marketplace with Boeing, not through the use of their government, as has been mentioned. Airbus is subsidized itself. Their complaints in this ring very, very hollow.

The last point that I want to make is that our Government and our country must stand strong on behalf of Boeing, McDonnell Douglas and the entire country and not let the European Union unfairly use trade agreements to push us around and stop our economic advancement. It is in the best interest of the whole marketplace of the world in addition to the United States, and we must do it.

I strongly urge the President to stand strong and stand behind Boeing for fairness, and I support this resolution.

Mr. HASTINGS of Washington. Mr. Speaker, I rise in strong support of the resolution offered by Mr. METCALF. This resolution simply expresses the view that the merger of two American companies should be the concern of regulatory agencies of the U.S. Government, not the European Union. Despite the approval of the Federal Trade Commission, bureaucrats in Brussels have threatened to impose fines on Boeing and McDonnell-Douglas, or even seize their planes in Europe, in order to protect a government-subsidized European manufacturer.

Mr. Speaker, the American people have recognized the actions of the European Union as unjustified and based on obvious self interest. I strongly encourage my colleagues to support this resolution, and protect these American companies and their employees from Europe's efforts to prevent fair competition.

Ms. DUNN. Mr. Speaker, recently, the European Union objected to the merger of McDonnell Douglas and the Boeing Co. I find this decision extremely troubling and rise in strong support of House Resolution 191 as introduced by my colleague from Washington State, Mr. METCALF. These two wholly owned American companies should be allowed to merge without fear of reprisal from a foreign government. The sole reason for the European Union criticism and imminent disapproval of the merger is to gain an unfair competitive advantage for Airbus, a government-owned aircraft manufacturer. It is ridiculous to allow a foreign government to block this merger because they cannot compete with our workers in a fair market.

European Union's opposition to this merger is unacceptable for several reasons. First, there are sovereignty concerns about foreign intervention in an American merger. Second, the parties involved are both wholly owned U.S. companies with an international customer base. Third, this merger between two U.S. companies has already been approved by our Government. Fourth, the objections raised by the European Union regarding the abandonment of exclusive contracts awarded to Boeing is inappropriate. The Boeing Co. should not be punished because it obtains more contracts than Airbus Industries in a competitive market. Airbus has never objected to carrier requests to make the contracts exclusive in return for reduced prices. In fact, the European Commission objected only after the agreements were concluded. It is both irresponsible and inappropriate to risk U.S. jobs because the free market worked its will. Contracts that establish fixed purchase prices are directly related to the number of aircraft the customer agrees to purchase. Any abdication of these contracts is contrary to good commercial practices.

The proposal by the European Union to require Boeing to divest their interest in McDonnell Douglas commercial aircraft business is unacceptable as well. After the U.S. Federal Trade Commission [FTC] conducted a thorough review of the proposed merger, the FTC concluded that McDonnell Douglas is no longer able to sell enough aircraft to raise significant concerns about the loss of its competitive ability. Last year, McDonnell Douglas was responsible for only 4 percent of the international commercial aircraft business. The divestiture by Boeing of the McDonnell Douglas commercial aircraft business would have severe ramifications worldwide. First, it threatens American jobs that are tied into the continued support of McDonnell Douglas aircraft by the Boeing Co. Further, McDonnell Douglas' commercial aviation division cannot maintain itself as an independent company and previous efforts to sell the commercial aviation division have been unsuccessful. Therefore, any divestiture would threaten the safety of McDonnell Douglas commercial aircraft already in service if the commercial division were to close.

Finally, it is vital to the health of the United States to downsize, through mergers, the military industrial base as we celebrate the end of the cold war period and adjust military budgets accordingly. Due to the large defense business that will be conducted by the Boeing Co., any action by the European Community is an infringement on the sovereign rights of the United States to provide for U.S. national security.

Mr. Speaker, this is not a trend we as Americans should allow to continue. We declared our independence from European rule in 1776 and should not revert to those days in conducting the business of today.

I urge my colleagues to support House Resolution 191 and call upon the President to take all necessary steps to protect American sovereignty and the jobs of hard working Americans.

Mr. PACKARD. Mr. Speaker, I rise today in support of House Resolution 191 because the prospect of the European Union ruling against this merger and effectively cutting an American corporation out of an entire market greatly disturbs me. I am absolutely appalled that leaders of other nations feel bold enough to tell America how to run.

The EU will vote on the $14 billion merger Wednesday morning and comments by leaders from across the Atlantic strongly suggest that a vote of disapproval is imminent. I believe that disapproval would be an unmistakable shot across the bow of American business interests. We know our products can compete and succeed in a fair market. But if the EU would rather play hardball, I won't hesitate to say that we can too. We are heading toward a situation that is bad for American workers, and potentially devastating for States like California that depend on a strong American interest in this industry.

Mr. Speaker, critics of the EU stance on the merger have pointed to the sagging performance of Europe's Airbus, a key competitor to American aerospace interests, as the true cause for EU opposition. European officials insist that the merger would simply create an unfair playing field for all interested parties. This is nothing more than a red herring to mask the fact that these nations have pumped over $26 billion in government subsidies into Airbus and they still don't have a competitive product. They are literally holding this merger hostage for a sweeter deal which allows more government subsidies to keep Airbus afloat. They are not fooling anyone.

The bottom line is, the Federal Trade Commission reviewed over 5 million documents in their approval of this merger and they found no cause for concern. This has nothing to do with fair global markets. It is all about gaining an unfair competitive advantage for a government-owned aircraft manufacturer. We simply cannot afford to let that happen. I encourage all of my colleagues to support House Resolution 191.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 191.

The question was taken.

Mr. HORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

STAMP OUT BREAST CANCER ACT

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1585) to allow postal patrons to contribute to funding for breast-cancer research through the voluntary purchase of certain specially issued U.S. postage stamps, as amended.

The Clerk read as follows:

H.R. 1585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stamp Out Breast Cancer Act".

SEC. 2. SPECIAL POSTAGE STAMPS.

(a) IN GENERAL.—Chapter 4 of title 39, United States Code, is amended by adding at the end the following:

"§ 414. Special postage stamps

"(a) In order to afford the public a convenient way to contribute to funding for breast cancer research, the Postal Service shall establish a special rate of postage for first-class mail under this section.

"(b) The rate of postage established under this section—

"(1) shall be equal to the regular first-class rate of postage, plus a differential of not to exceed 25 percent;

"(2) shall be set by the Governors in accordance with such procedures as the Governors shall by regulations prescribe (in lieu of the procedures under chapter 36); and

"(3) shall be offered as an alternative to the regular first-class rate of postage.

The use of the special rate of postage established under this section shall be voluntary on the part of postal patrons.

"(c)(1) Of the amounts becoming available for breast cancer research pursuant to this section, the Postal Service shall pay—

"(A) 70 percent to the National Institutes of Health, and

"(B) the remainder to the Department of Defense.

Payments under this paragraph to an agency shall be made under such arrangements as the Postal Service shall by mutual agreement with such agency establish in order to carry out the purposes of this section, except that, under those arrangements, payments to such agency shall be made at least twice a year.

"(2) For purposes of this section, the term 'amounts becoming available for breast cancer research pursuant to this section' means—

"(A) the total amounts received by the Postal Service that it would not have received but for the enactment of this section, reduced by

"(B) an amount sufficient to cover reasonable costs incurred by the Postal Service in carrying out this section, including those attributable to the printing, sale, and distribution of stamps under this section,

as determined by the Postal Service under regulations that it shall prescribe.

"(d) It is the sense of the Congress that nothing in this section should—

"(1) directly or indirectly cause a net decrease in total funds received by the National Institutes of Health, the Department of Defense, or any other agency of the Government (or any component or program thereof) below the level that would otherwise have been received but for the enactment of this section; or

"(2) affect regular first-class rates of postage or any other regular rates of postage.

"(e) Special postage stamps under this section shall be made available to the public beginning on such date as the Postal Service shall by regulation prescribe, but in no event later than 12 months after the date of the enactment of this section.

"(f) The Postmaster General shall include in each report rendered under section 2402 with respect to any period during any portion of which this section is in effect information concerning the operation of this section, except that, at a minimum, each shall include—

"(1) the total amount described in subsection (c)(2)(A) which was received by the Postal Service during the period covered by such report; and

"(2) of the amount under paragraph (1), how much (in the aggregate and by category) was required for the purposes described in subsection (c)(2)(B).

"(g) This section shall cease to be effective at the end of the 2-year period beginning on the date on which special postage stamps under this section are first made available to the public.".

(b) REPORT BY THE COMPTROLLER GENERAL OF THE UNITED STATES.—No later than 3 months (but no earlier than 6 months) before the end of the 2-year period referred to in section 414(g) of title 39, United States Code (as amended by subsection (a)), the Comptroller General of the United States shall submit to the Congress a report on the operation of such section. Such report shall include—

(1) an evaluation of the effectiveness and the appropriateness of the authority provided by such section as a means of fundraising; and

(2) a description of the monetary and other resources required of the Postal Service in carrying out such section.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

"414. Special postage stamps.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentleman from California [Mr. LANTOS] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1585 was introduced by the gentlewoman from New York [Ms. MOLINARI], our distinguished colleague, on May 13. She was joined at that time by the gentleman from California [Mr. FAZIO] and the gentleman from Georgia [Mr. NORWOOD] in cosponsoring the bill at introduction.

I would like, Mr. Speaker, to recognize the work done by these Members in promoting the need for the additional funds hopefully provided under this bill for breast cancer research and for bringing the measure to the floor. I think they have all done a very, very admirable piece of legislating.

Mr. Speaker, I would, however, also like to particularly sing loud the efforts of the gentlewoman from New York [Ms. MOLINARI], whose efforts here in this session of Congress I really think generated the support amongst the leadership that was necessary to bring this measure to the floor at this time, and also the gentleman from California [Mr. FAZIO] for his early work in helping develop a former bill.

Also, Mr. Speaker, a tip of the hat to the gentleman from Indiana [Mr. BURTON], chairman of the full committee, for his leadership in assisting us through the subcommittee and to the floor, and of course to the entire House leadership for their understanding.

Mr. Speaker, H.R. 1585, the Stamp Out Breast Cancer Act, as introduced, allows postal patrons, for the first time in this country, to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued U.S. postal stamps.

Mr. Speaker, I believe this bill represents an innovative way to generate money for breast cancer research and is similar to a measure that was passed in the other body as an amendment to this year's Treasury appropriations bill.

Mr. Speaker, we are aware that some concerns regarding the bill as originally written have been expressed. Therefore, the manager's amendment at the desk, I believe, will improve the legislation even further and, hopefully, will address many of those concerns.

The idea of this kind of postage stamp, semipostal, as it is known in the industry, is indeed innovative in the United States. As I mentioned, Mr. Speaker, I believe this is the first time this approach has been taken here in America, but the concept is not new. Semipostals have been discussed and the proposals for such have been floated over the years for various causes, but they have not had in the past the support that this proposal has garnered.

It may interest the body to know, Mr. Speaker, that Canada, the largest geographic nation in our hemisphere, but with less population and less mail than the mail stream in the United States, has been issuing these kinds of postal stamps since 1990. Canada Post Corporation adopted a literacy awareness as its cause of choice in 1989 and has been issuing these kinds of stamps without governmental and parliamentary intervention ever since.

Mr. Speaker, these special postage stamps will be made available to the public no later than 1 year after the date of enactment. The amount designated for breast cancer research due to this bill will be the total amount of revenue received by the Postal Service because of the enactment minus the reasonable cost incurred by the Postal Service attributed to the printing, sale, and distribution of these stamps.

Under this legislation, Mr. Speaker, the Postmaster General would be required to include this program in the annual report of the Postal Service and transmit its findings to the Congress. At a minimum, the report would include the amount of funds received as a result of this legislation and the reasonable cost claimed to be incurred in establishing the volunteer program.

Finally, Mr. Speaker, the Comptroller of the United States, through the offices of the GAO, will be required to complete an evaluation to judge the effectiveness and the appropriateness of the authority to raise funds in this manner in a description of the cost to the Postal Service incurred for the administration of the program.

Mr. Speaker, I firmly believe that a good deal of thought has gone into this base bill, a great deal of additional work on the part of all the cosponsors has gone into the compromise that is entailed in the amended version in the manager's amendment. But most importantly, Mr. Speaker, I know this proposal represents a necessary, thoughtful, and ultimately productive way to assist this Nation's scientific community in the vitally important quest for a cure of this deadly killer.

Sadly, Mr. Speaker, most people in the United States have in some way been impacted by this terrible disease. Today, through the adoption of this bill, the House has its opportunity to make a stand against this disease, and in the process, give every woman and including those who know, love, and care for them, new hope.

Again, I thank the sponsors of this legislation for their hard work and concerns, and as a final note again, to particularly the gentlewoman from New York [Ms. MOLINARI] for once again being the conscience of this House.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise today in support of H.R. 1585, the Stamp Out Breast Cancer Act, which will allow postal patrons to continue funding for breast cancer research through the voluntary purchase of newly created specially issued U.S. postage stamps.

As a cosponsor of a similar bill, H.R. 407, introduced in the Congress by the gentleman from California [Mr. FAZIO], my friend, I am pleased to join the gentleman from New York [Mr. MCHUGH], the chairman, in bringing this piece of legislation to the floor of the House.

The idea of creating a breast cancer research stamp originally surfaced in the 104th Congress, when the gentleman from California [Mr. FAZIO], at the suggestion of his constituent, Dr. Ernie Bodai, introduced this legislation.

H.R. 3401 will provide additional funding for breast cancer research through the sale of a semipostal stamp. The term "semipostal" means stamps with a surtax on the regular postal rate with the extra revenue earmarked for a designated charity.

An identical measure was introduced by Senator DIANNE FEINSTEIN in the other body. At the opening of this session of Congress, Senator FEINSTEIN joined the gentleman from California [Mr. FAZIO], following his leadership, and reintroduced her breast cancer research stamp bill, S. 726, in the Senate. In May, the gentlewoman from New York [Ms. MOLINARI] adopted the idea by introducing her version of the special breast cancer postage stamp.

The incidence of breast cancer continues to far outstrip available resources and funds, and the statistics are as sobering as they are rising. Breast cancer kills almost 50,000 women every year. Every 12 minutes an American woman succumbs to breast cancer. It is the leading cause of death for women between the ages of 35 and 62, and it is the second leading cause of death for all women.

More than 1.8 million women in America have been diagnosed with breast cancer, and an additional million more are unaware that they have breast cancer. It affects our wives, our sisters, our mothers, our daughters, all American women.

The financial resources to fight breast cancer are just not enough. That is why the Stamp Out Breast Cancer Act is before us today. It provides a vehicle for those of us who are concerned about breast cancer research and the funding to buy a semipostal stamp.

The language of this legislation has now been changed. The price of the semipostal breast cancer stamp can be anywhere from 1 to 8 cents more than the regular postage stamp. And we have an opportunity of funneling significant funds to the National Institutes of Health for breast cancer research. The program is entirely voluntary. It does not affect the regular rate of the postal stamp. It will allow the U.S. Postal Service to cover its administrative costs prior to directing the funds to cancer research. And, of course, this experiment will run only 2 years, after which it will be evaluated.

Last week, Mr. Speaker, the other body overwhelmingly adopted by a vote of 83 to 17 this same legislation. I strongly urge all of my colleagues, on a bipartisan basis, to join us in approving this legislation. I want to commend the gentlewoman from New York [Ms. MOLINARI], my friend, for her leadership on this matter.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. FAZIO], the original author of this legislation.

Mr. FAZIO of California. Mr. Speaker, I thank the gentleman from California [Mr. LANTOS] for yielding me the time.

Mr. Speaker, I rise today in strong support of H.R. 1585, sponsored by the gentlewoman from New York [Ms. MOLINARI] and myself.

We come to the floor today with the idea of an experiment whereby the American people would contribute to public health causes through the voluntary purchase of a U.S. postage stamp, or a semipostal, as it is known around the world.

As the gentleman from California [Mr. LANTOS] said, in May 1996, Dr. Ernie Bodai, one of my constituents and chief of surgery at the Kaiser Permanente Medical Center in Sacramento, CA, came to my office with what I thought was an innovative proposal. Dr. Bodai's idea involved a bill to establish a special first class postage stamp priced at 1 cent above normal first class postage, with the additional penny going toward breast cancer research.

As a result of Dr. Bodai's unflagging personal effort, I was pleased to introduce the Breast Cancer Research Stamp Act in the 104th Congress. That piece of legislation gained the support of 86 Members of the House of Representatives and thousands and thousands of people across the country who strongly advocated its cosponsorship.

This year, I reintroduced this bill in the 105th Congress, and H.R. 407 has now the support of 125 of my colleagues.

□ 1645

Thanks to some energetic and tireless efforts by several compassionate groups within the breast cancer advocacy community and a special thank you to the gentlewoman from New York [Ms. MOLINARI], we are considering today H.R. 1585, the Stamp Out Breast Cancer Act of 1997.

H.R. 1585 remains true to the idea of the American public participating in the search for a cure for breast cancer. It also ensures that money raised by the breast cancer research stamp will not replace current Federal funding levels at NIH or the Department of Defense. It will only add to it. It provides a workable and realistic framework for a cooperative effort between the Postal Service and the American public to take place.

I know questions have been raised, how much money could be raised by the sale of a stamp priced above the normal first class postage rate and how much would such an endeavor cost the Postal Service to administer. This bill, H.R. 1585, sets up a demonstration project to answer those and other questions. After 2 years, the General Accounting Office will provide an evaluation of the effectiveness of this project and after 2 years perhaps there will be additional money from the stamp going toward breast cancer research at both NIH and at the very innovative programs at DOD.

I want to thank the gentleman from New York [Mr. MCHUGH], chairman of the Subcommittee on Postal Service for working out the details of this bill so that we may finally put this project into place, and the gentleman from Indiana [Mr. BURTON], chairman of the full committee, for helping to assure this bill could come to the floor. I particularly want to thank again the gentlewoman from New York [Ms. MOLINARI] for her effort and commitment to seeing that this bill and this cause moves forward in the House of Representatives. I am so pleased it could be accomplished at least in this House while she remains a Member.

We have made tremendous progress in raising money, in raising awareness, and in raising the spirits of so many in the battle against a disease that has devastated the lives of millions of loved ones, but we all know we still have a long way to go. I know that we will get there through the support of legislators in Congress and the grassroots support throughout our communities.

By passing H.R. 1585, we will be enabling the people of the United States to demonstrate a spirit of volunteerism to advance our successes in finding a cure for breast cancer. I think now the ball is passed to those people who have made it so important that this Congress consider this legislation. They will be able to prove the degree to which their voluntary spirit and community commitment can produce the results we all seek.

I urge my colleagues to vote to suspend the rules and to pass this important piece of legislation and then find a way to take the legislation that is somewhat different, that has passed the Senate by an overwhelming margin, meld them together and produce a piece of legislation that will cause this experiment to take life.

Mr. MCHUGH. Mr. Speaker, I thank the gentleman from California again for his work and for his kind comments.

Mr. Speaker, I yield 4 minutes to the gentlewoman from New York [Ms. MOLINARI], whose important efforts on this bill have already been amply described.

Ms. MOLINARI. Mr. Speaker, I rise today to express my unequivocal support for the Stamp Out Breast Cancer Act. I would also like to take this opportunity to thank from the bottom of my heart the gentleman from New York [Mr. MCHUGH] and the gentleman from Indiana [Mr. BURTON] for their support, their guidance, their attention and all their important contributions in developing this stronger bill. Finally, I would like to thank and salute the gentleman from California [Mr. FAZIO] for his assistance in leading the fight to craft a bipartisan bill on an issue so close to all of us.

For the first time in our Nation's history, the Stamp Out Breast Cancer Act will give Americans, every American, the opportunity to become more personally involved in funding breast cancer research. This legislation will allow all of us to contribute to the effort to put an end to what is now an incurable disease by giving us all the option of purchasing a specifically issued first class stamp.

That is one of the beauties of this bill. It is a completely voluntary method of raising money for a worthwhile cause. I envision if we do this right an opportunity for people when it comes time for Christmas shopping, when it comes time for birthday presents, alongside with the little gift, you buy them a roll of stamps so that that individual knows that you might have spent an extra $5 or $10 to give your friend a present that also went toward reducing the risk of dying from breast cancer in this country. I envision companies having the impact of their employees coming to them purchasing stamps that have the stamp out breast cancer insignia on it, companies having contests amongst each other. I believe the American people will rise to the challenge of saying if we make it easy for you, if we make it an opportunity in your daily life of completing chores to donate to breast cancer, they will all absolutely rise to that challenge and help us conquer this disease.

I also believe that it will take us all a little less pain when we pay our bills if we know that while we are paying those bills, sending off those credit card company payments that we may also be contributing to finding a cure for cancer. Husbands, daughters, brothers and sisters will all have an opportunity to buy a stamp toward saving a life.

As has been said, the voluntary purchase of this stamp will direct funds to the noble research efforts led by the National Institutes of Health and the Department of Defense.

Over 9 years ago I lost my best friend to breast cancer. My grandmother, Susan, battled breast cancer and was not the only life forever shattered by this terrible disease. In fact, my husband's mother too has fought a breast cancer fight for years. It is now my hope that my daughter, Susan Paxon, named after my grandmother, will never have to know the fear that I go through every year, the sweaty palms the night before a mammography, the inability to concentrate until you hear from the doctor that says it is all clear again for the next year. I want to make sure that her generation of young women will not know the fright that our generation has known because we have lost an entire generation of women to breast cancer way too early. I, like so many other women and men, would appreciate knowing that I helped make a difference in the fight against breast cancer just by spending a few extra pennies for a stamp I needed anyway.

Mr. Speaker, let me just close by saying that if the Postal Service can issue a stamp in honor of Bugs Bunny or Elvis Presley, surely we can ensure that the lives and legacies of women who have suffered the ravaging effects of breast cancer will not go unnoticed. In closing, let me thank Dr. Ernest Bodai for developing this mechanism, my staff assistant Jennifer Prazmark for believing so clearly, and my colleagues the gentleman from California [Mr. FAZIO], the gentleman from Indiana [Mr. BURTON] and the gentleman from New York [Mr. MCHUGH] for giving me an opportunity to leave this Congress with my head held extremely high, believing that we may have passed a very, if not one of the most important pieces of legislation in a bipartisan fashion that may save some women's lives sooner than we thought, hoped and prayed.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON], who has been a champion of all issues relating to women.

Ms. NORTON. Mr. Speaker, I thank the gentleman for his kind words and for yielding me this time. I thank the gentleman from New York [Mr. MCHUGH] and the gentleman from California [Mr. LANTOS] for their leadership on the floor on this bill, and I particularly thank the gentlewoman from New York [Ms. MOLINARI] and the gentleman from California [Mr. FAZIO] for their overall leadership in this important bill. I know I speak for the Women's Caucus, which I cochair, when I embrace this bill in their behalf.

The Stamp Out Breast Cancer Act has two purposes as far as I am concerned. The very fact of the stamp will help to raise the consciousness of women to go for a mammogram, and the voluntary funding mechanism is most important. We have already gotten some considerable distance on breast cancer simply by raising the consciousness of women to go and get a mammogram. We now see rates falling, including rates for African-American women which were rising steadily before.

But, Mr. Speaker, we have got to move on to the next important plateaus, and those are prevention and research. We have a whole set of notions about how we may go at prevention, but none of them has been proven. We are told about lifestyle and environmental factors. We are told to do aerobics. We are told that diet has an effect, that alcohol consumption, that obesity, that chemical hazards and radiation have an effect, but nobody knows because the research is yet to be done. With this research at the National Institutes of Health and in the Department of Defense, we would look to such areas as the contribution to breast cancer made by the environment, by hormones, by genes. We would look at areas still to be uncovered, such as the role of accessibility and delivery of medical care to underserved populations. We would look at gene therapy and vaccines and chemotherapeutics. We would look at the susceptibility of various groups of women and why. Until we do that, we will not be able to conquer this disease. We have gone very far with cervical cancer because of research. We need to go the rest of the distance, and this stamp will make that possible.

Mr. MCHUGH. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], the chairman of the full committee and, as we have heard here today, one of the instrumental players in this victory here today.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from New York [Mr. MCHUGH] for yielding me this time. I want to congratulate the gentleman from California [Mr. FAZIO], the gentleman from New York [Mr. MCHUGH], the gentleman from California [Mr. LANTOS] and the gentlewoman from New York [Ms. MOLINARI], especially for their leadership in getting this bill to the floor and passed.

I have had a personal experience in my family with breast cancer, and I do not think people realize the impact that it has until they see somebody that they care about lose their hair. They come home one day and there are tears and they say my hair is falling out because they are under chemotherapy. Then they have to cut the hair off and buy a wig. Then they go through the problems of sickness because of chemotherapy and the radiation. It is something that people cannot imagine unless they have had it happen in their own family or to somebody that they care about.

That is why it is so important for us in this body and across this country to do everything we can to wipe out the last vestiges of cancer, all kinds of cancer, but especially breast cancer. One in eight women are going to get breast cancer in their lifetime. That is a statistic that we just simply cannot live with. The mammograms that we talk about women getting annually when they get above 40 years old many times misses the cancer, and so sometimes women carry that cancer in their body for 4 or 5 years before it manifests itself and many times it is too late for them to be saved. So anything that we can do, anything we can do to help bring about an end to breast cancer is something that this body ought to be working very hard to accomplish.

So, Mr. Speaker, I want to add my support for this bill. It may not raise a lot of money but if it does not raise lot of money, at least it will raise a lot of awareness and people will realize that we have to make this a No. 1 priority in this country. I hope that one day everybody in this body who is sponsoring this bill and everybody who is supporting it will live to see cancer eradicated once and for all and women not having to wake up every day of their lives fearing a lump in their breast may be the end of their lives.

I rise in support of H.R. 1585, the Stamp Out Breast Cancer Act.

I would like to commend the gentlewoman from New York, Representative MOLINARI, and the chairman of the Subcommittee on Postal Service, Representative MCHUGH, for the good work they have done on this important piece of legislation.

Breast cancer is the most common type of cancer in women. In 1996, an estimated 184,000 women were diagnosed with breast cancer and 46,000 died of the disease. Women continue to face a one in eight chance of developing breast cancer during their lifetime. Breast cancer is the leading cause of cancer death for all women aged 35–44.

Congress has made much progress in the past few years in providing funding for breast cancer research. During the 104th Congress we increased breast cancer research by increasing funding to the National Institutes of Health and the Department of Defense's Peer-Reviewed Breast Cancer Research Program by 25 percent

For fiscal year 1998, the House Appropriations Committee has approved a 9-percent funding increase to the NIH—$704 million over last year's appropriation.

However, in spite of the significant research advances that have been made in regard to breast cancer, there is still much more to be done. We still do not know what causes breast cancer, how to prevent it, or how to cure it.

We must continue to remain committed to investment in breast cancer research until we find out these answers. The more we invest in breast cancer research, the more we will be able to offer hope to women and their families.

For these reasons, I would like to voice my strong support for the Stamp Out Breast Cancer Act. This bill would provide another funding stream for breast cancer research.

I would like to point out that this is an experimental program that seeks to determine whether or not this is an effective way to raise money for breast cancer research. Under this bill, the program will sunset after 2 years and GAO is required to do a study to evaluate the effectiveness and appropriateness of this type of fundraising.

I urge my colleagues to vote in favor of this bill. Hopefully, through passage of this bill, the funding raised from this stamp will help bring us closer to eradicating breast cancer once and for all.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], who in the very short time that she has been with us has made a remarkable impact on the work of this body.

Ms. JACKSON-LEE of Texas. I thank the gentleman from California both for his words and also for the commitment that he has made to so many causes improving the quality of life for humankind.

Mr. Speaker, let me say that this is the best of the U.S. Congress. This act today, this exhibition of unity is really what this Congress is all about. Might I add my applause and congratulations to the gentleman from Indiana [Mr. BURTON] and the gentleman from New York [Mr. MCHUGH], certainly the gentleman from California [Mr. FAZIO], and the gentlewoman from New York [Ms. MOLINARI], and certainly the words of the gentleman from California [Mr. LANTOS]. This is a coming together in a recognition that we need to fight a problem and pay tribute at the same time.

I would like to offer a tribute to all of the women who have lived with and maybe later died because of breast cancer, to all of the survivors and fighters day after day after day. I would like to further say to them that we are going to join this race with them, we are going to do it by passing this legislation, H.R. 1585, the Stamp Out Breast Cancer Act, which would direct the U.S. Postal Service to establish a special postage rate for first class mail.

Breast cancer is the most common form of cancer in American women; 2.6 million women in the United States are living with breast cancer, 1.6 million who have been diagnosed and an estimated 1 million who do not yet know they have the disease. That is the most frightening part of this disease, as was noted earlier. It is a disease that can be in the body of women over a period of time without their knowing it: young women, women with children, women with promise, women with a future in front of them, women who are dynamic and yes, day-to-day women who are nurturers and workers every day keeping this country going.

In 1997, approximately 184,300 new cases of breast cancer will be diagnosed and 44,300 women will die from this disease. Thirty-eight percent of African-American women with breast cancer will not live more than 5 years. Of course this disease affects our families, mothers, daughters, neighbors, sisters. It is a disease that all of us want to put on our boxing gloves and fight fair, but we want to win this victory.

□ 1700

It is important to know that it impacts women who have not had a child before the age of 30. Most breast cancer, over 70 percent, however, occurs in women who have no identifiable risk factors, maybe other than knowing that women and their families have likewise had breast cancer.

And so we see this is a hidden disease, this is a frightening disease, this is a disease that is sometimes whispered around family members when they hear that Aunt Mary or Cousin

Susan or their mom has breast cancer. We want to stamp out breast cancer, and we want to pay tribute to those who work so hard.

As someone who has participated year after year in the Susan Coleman Race for the Cure, so many people around the country have shown themselves proud by every fall coming together in sisterhood, along with our brothers, to fight against breast cancer. Let me say that this stamp to help us stamp out breast cancer, Mr. Speaker, is the right way for this Congress to go. Thanks to all of those who had the fortitude to do this, and I hope my colleagues will join me in supporting and passing this legislation.

Mr. Speaker, I rise today, to express my support for H.R. 1585, the Stamp Out Breast Cancer Act. This bill would direct the U.S. Postal Service to establish a special postage designation for first-class mail that will contribute a set amount to breast cancer research and education. This plan allows patrons to voluntarily choose to contribute to this funding effort. The effort cannot be minimized in any way, the crisis of breast cancer for women in the United States is claiming hundreds of thousands of lives. Experts estimate that over 2.6 million women in the U.S. are living with breast cancer, 1.6 million women who have been diagnosed, and another 1 million women who do not yet know that they have the disease. The best hope that these women have who have not yet been diagnosed is the continuing education of the public about the importance of regular examinations for the early detection of a malignancy and tireless cancer research in search for a cure. The frightening numbers go on and on, 1 out of 8 women in the United States will develop breast cancer in her lifetime. this year, a new case of breast cancer will be diagnosed every 3 minutes, and we lose a women to breast cancer in this country, every 12 minutes.

The scientific community apparently has no new answers; we know no more about breast cancer and how to cure it in 1997 as we did in 1937. The same basic treatment methods from three score ago, are unfortunately still being used today, surgery, chemotherapy, and radiation. We must find the answers, we must resolve among ourselves today, to make the difference. For too long, the diagnosis of breast cancer for America's women has been a likely death sentence, particularly for African-American women. In all, 38 percent of African-American women with breast cancer live no more than 5 years after diagnosis and 25 percent of White American women. Both of these figures are entirely too high, too many of our grandmothers, mothers, aunts, sisters, daughters, and friends have fallen to this cruel disease.

Every woman is at risk to develop breast cancer, a likelihood that increases as a women ages. Unbelievably, over 70 percent of breast cancer cases occur in women who have had no identifiable risk factors. But only 40 percent of women follow the recommended guidelines for screening mammography. It is so easy for us to think that it will never be us, it will always be someone else, but who among us is really willing to take that chance? We would say none of us, but millions of American women do so everyday. I hope that the Stamp Our Breast Cancer Act can start its efforts by educating American women that they are the most effective weapon that we have to combat the encroaching effects of breast cancer. The importance of this effort cannot be minimized because most irregularities that are found to be malignant are actually found by aware and educated women as to the obvious dangers of breast cancer.

In closing, I urge my colleagues to vote in favor of H.R. 1585, because if this option to give to the effort to end this unfortunate crisis saves one life, it has done more than enough. For our families, for our daughters and granddaughters, we must act now, so that their world is a much safer and better place than our own.

Mr. MCHUGH. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland [Mrs. MORELLA] a woman who has always been at the forefront of health issues, and particularly women's health issues, and an original cosponsor of the first Fazio bill on this initiative.

Mrs. MORELLA. Mr. Speaker, I certainly want to thank the gentleman, the chairman of the subcommittee that had this legislation, not only for yielding the time, but for the work and leadership that he has provided.

Mr. Speaker, I rise in very strong support of H.R. 1585, the Stamp Out Breast Cancer Act. It enhances the quality of life, it enhances and keeps families together.

This bill, which was sponsored by the gentlewoman from New York [Ms. MOLINARI] and the gentleman from California [Mr. FAZIO] is built on legislation offered in this Congress and in the laws by the gentleman from California [Mr. FAZIO]. I am a cosponsor of both bills, and I am really pleased that my two colleagues have worked with the gentleman from New York [Mr. MCHUGH] to develop a bill that we hope will open up a new avenue for biomedical research funding. I also want to thank the gentleman from California [Mr. LANTOS] and the gentleman from Indiana [Mr. BURTON] for their cooperation in bringing this bill to the floor.

H.R. 1585 authorizes a 2-year demonstration program establishing a special postal rate for first class mail for those who wish to contribute to breast cancer research. After administrative expenses have been covered, 70 percent of the funds raised will go to the National Institutes for Health for breast cancer research, 30 percent will go to the Department of Defense for its peer-reviewed breast cancer research program. At the end of the 2-year demonstration, the General Accounting Office will be required to report to Congress on the effectiveness of this fund-raising strategy. The bill includes provisions to ensure adequate oversight and payment for administrative costs incurred by the postal service; in other words, a very well-crafted bill.

Mr. Speaker, this bill provides a potential source of additional funding for breast cancer and other public health priorities. Despite the progress that has been made, we still know very little about breast cancer treatment and prevention. Last year approximately 182,000 women were diagnosed with breast cancer, and 46,000 died from the disease. Women have a 1 in 8 chance of breast cancer during their lifetimes. Establishing a new source of research dollars is particularly important at a time when Federal resources are being squeezed as a result of our efforts to balance the budget. We must be more creative in our efforts to increase our investment in biomedical research, and this bill does it.

Again I commend the gentlewoman from New York [Ms. MOLINARI] the gentleman from California [Mr. FAZIO] the gentleman from New York [Mr. MCHUGH] the gentleman from California [Mr. LANTOS] and the gentleman from Indiana [Mr. BURTON] for their work on this innovative approach. I urge my colleagues to vote for this bill.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too have no further requests for time. Let me just briefly, in closing, again thank all of those who have been involved in this initiative.

I want to pay, too, a tribute to the gentleman from California [Mr. LANTOS], my colleague, for his leadership here today. I think it very clearly emphasizes the bipartisan nature of this bill and certainly recognizes the bipartisan tragedy that this disease can bring, and I urge all my colleagues to support this initiative.

Mr. FORBES. Mr. Speaker, I rise today in support of H.R. 1585, the Stamp Out Breast Cancer Act.

Over the past 3 years, I have had the honor of leading many Members of this House in the fight to promote breast cancer awareness. Last year my efforts culminated in the creation of the breast cancer stamp. The stamp is a tribute to those who have survived breast cancer and those who have not. More likely than not, each one of us, if we haven't already, will come face to face with the tragedy of breast cancer—through a mother, daughter, wife, grandmother, niece, aunt, or neighbor. Every time a book of stamps is purchased at the post office, people will be reminded of the urgency for early detection of breast cancer in order to save millions of women's lives.

Unfortunately, increasing public awareness and educating women about the importance of early detection and diagnosis is not enough. We must do more.

According to the National Cancer Institute, Nassau and Suffolk Counties rank first and fourth respectively, in breast cancer mortality rates among the 116 largest counties in the United States. Research is a valuable and indispensable instrument in trying to understand this devastating disease. Right now on Long

Island, the National Cancer Institute is conducting a $15 million study examining the environmental effects that may be factors in breast cancer in Nassau and Suffolk Counties. Yet, we must do more.

H.R. 1585 builds upon the success of the Breast Cancer Awareness Stamp, by authorizing a 2-year demonstration project to offer the public a new way to fund research for breast cancer by raising money through specially designed U.S. postage stamps. The stamps will be offered for purchase as an alternative to regular first-class postage. Seventy percent of the funds raised by this bill will be directed to the National Institute of Health and the remainder to the Department of Defense solely for the purpose of breast cancer research. Mr. Speaker, too many of our mothers, daughters, and sisters have been afflicted with this destructive disease. We must do more, and I urge my colleagues to vote today to stamp out breast cancer forever.

Mr. RODRIGUEZ. Mr. Speaker, I rise to join in supporting H.R. 1585, the Stamp Out Breast Cancer Act. Breast cancer is an especially horrific disease that attacks one out of eight women in the United States. With these numbers, almost no family in the United States is immune from this disease that kills thousands each year. Too many of our mothers, sisters, and daughters each year suffer from the ravages of this disease. Nearly 45,000 women will die this year from breast cancer alone, with more than 180,000 new cases diagnosed. In Texas, 2,800 women will die, and we will add 11,500 new breast cancer cases to the rolls.

We have made progress in recent years, in early detection, diagnosis, and treatment. But we are too far from adequate treatment and too far from a cure. We need to make cancer research, and breast cancer research in particular, a priority.

This bill would provide an innovative, new source of badly needed funding for breast cancer research for a 2-year demonstration period. The Postal Service would create a new postage rate for first-class mail as an alternative to the regular rate, and customers would have the choice of buying either. The Postal Service would distribute 70 percent of the revenues raised to the National Institutes of Health and 30 percent to the Department of Defense breast cancer research program. These moneys will not displace any other funding.

I support this effort and urge passage of the Stamp Out Breast Cancer Act. My hometown of San Antonio is a growing cancer research center, where doctors and researchers work with brave, valiant women to improve treatment and further our understanding of breast cancer. I am confident that with perseverance and proper funding, we will find ways to conquer breast cancer. This legislation is a step in the right direction.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Snowbarger). The question is on the motion offered by the gentleman from New York (Mr. McHugh) that the House suspend the rules and pass the bill, H.R. 1585, as amended.

The question was taken.

Mr. LANTOS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1585, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

POSTPONING VOTES DURING CONSIDERATION OF H.R. 1853, CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS OF 1997

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 1853, pursuant to House Resolution 187, the Chairman of the Committee of the Whole may, first, postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment, and, second, reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the time for electronic voting on the first in any series of questions shall be 15 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CLAY. Reserving the right to object, Mr. Speaker, there is no agreement to rolling the vote on this side after five. Who did the gentleman from Pennsylvania negotiate that with?

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 187 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1853.

□ 1707

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act, with Mr. Ewing in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, July 17, 1997, pending was the amendment by the gentlewoman from Hawaii [Mrs. MINK] and the bill was open for amendment at any point.

Pursuant to the order of the House of today, the Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Is there further debate on the amendment?

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do that so that I can call to the attention of the Members and anyone who may be watching the proceeding exactly what legislation we are dealing with today. My colleagues will hear more emotional comments made, but in many instances not too relevant to what we are doing.

H.R. 1853 authorizes funding for vocational-technical education. I repeat: H.R. 1853 authorizes funding for vocational-technical education. For the first time in this legislation we deal with access to excellence instead of access to mediocrity. The most difficult thing to do around here over the years, has been to get people to think beyond access, because in so many instances it was access to mediocrity.

But here we are talking about authorizing funding for vocational-technical education in 43 of the 50 States, that funding goes primarily to vocational-technical education at the secondary level, vocational-technical education at the secondary level, area vocational-technical schools at the secondary level. That is primarily what we are talking about in this legislation.

Now if we have a one-size-fits-all, and we decide this one-size-fits-all set-aside is good, then we have to keep in mind that the money must come from somewhere. And under this proposal we would take it from the secondary education programs for which 43 of the States use the money that we are talking about today. So it is extremely important that we understand what we are doing today. We are talking primarily about secondary vocational-technical education.

Now, I do not take a back seat to anybody when we talk about the importance of special populations. And so, I remind my colleagues again, that in this legislation section 114 on the State application asks the State to describe, (A) how to provide vocational technical education programs that lead to high-skill, high-wage careers for members of special populations, including displaced homemakers, single parents, single pregnant women, and (B) ensure that members of special populations meet State benchmarks, because again we are talking about excellence now, not access to mediocrity.

In section 115, on accountability, each State that receives an allotment under section 102 shall annually prepare and submit to the Secretary a report on how the State is performing on State benchmarks that relate to vocational-technical education programs. In preparing the report, the State may include information about technical education benchmarks that the State may establish; and (B), Special Populations—the report submitted by the State in accordance with subparagraph (A) shall include a description of how special populations, displaced homemakers, single parents and single pregnant women have performed on meeting these benchmarks established by the State.

Then we talk in section 201 about State uses of funds, and again we talk about special populations, and the State must tell in an assessment how the needs of special populations are being met.

So I want to make very sure that everyone understands that we have one, two, three, four, five, six different statements, six different sections dealing with special populations. But more importantly when we talk about special populations, as I indicated, here we are talking primarily about taking money away from secondary vocational education programs in 43 of those States.

But we have other programs, one that just came from our Committee back in May. We passed the Employment Training and Literacy Enhancement Act that significantly expands services, for displaced homemakers. The bill includes displaced homemakers in the definition of dislocated workers, making them eligible for $1.3 billion in employment and training services. In addition, displaced homemakers are eligible to receive services under the Disadvantaged Adult Employment Training Program, another billion dollars, and then another $3 billion for welfare-to-work in the Balanced Budget Act.

So we have not done anything other than increase the opportunity for special populations, not just to get access, but to get access to quality.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the past 10 years, the Perkins Act has contained strong provisions to address the needs of displaced homemakers and to encourage advancement of women in nontraditional employment. Unfortunately, this bill repeals the act's emphasis on gender equity, and I think that is a shame, Mr. Chairman.

□ 1715

I think that the amendment of the gentlewoman from Hawaii [Mrs. MINK] will put that back into the bill, and I rise in support of that.

Mr. Chairman, I yield to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the ranking member of the Committee on Education and the Workforce for yielding to me.

Mr. Chairman, I would like to remind the House that we cut off debate and consideration of this amendment on Thursday last, and we were not able to bring it to a vote. There was a very large number of Members who were here on the floor to speak about the amendment, but just to refresh our memories on the pending amendment, what it seeks to do is simply to say, hold harmless the amounts of monies and numbers of programs that are in existence today specifically to deal with vocational education and training for displaced homemakers, single parents, pregnant women, and to particularly allocate funding for a gender equity coordinator for this program. The reason for the amendment is that the bill we are considering eliminates the targeted program that has been in place and established for over 13 years.

If it were simply a matter of eliminating this set-aside of funding, and the program directives and direction and so forth are the same, perhaps this is an overly sensitive concern. But bear in mind that this program has been totally rewritten, overhauled. We have a new approach which has been now set down by the majority. If we do not hold harmless this program, I fear that the program will just simply be lost in the confusion.

We saw how difficult it was for the States to accommodate to the new rules under welfare. They had to completely revamp their programs, and in the process there was much confusion, and many of the people were left out in the process. This group of individuals, the single parents and displaced homemakers, is too critical a group of individuals to cause this confusion because we are rewriting this legislation.

It seems to me absolutely critical that we hold harmless this program. We are not adding any more money. We are not even keeping the 10 percent set-aside. We are simply saying that those programs that exist now should continue to exist, and the program emphasis, to deal with the special problems of displaced homemakers and single parents, ought to have the consideration of this Congress.

In view of the fact that the welfare legislation has now put a very high premium on jobs for those on welfare, the single parents we are so concerned about, that they find work and get off of welfare and become self-sufficient, in the language of the bill we have specifically said that work activity includes vocational education and training and they may have this benefit for 12 months. So the Congress has recognized the importance of vocational education and training and directed work activity as including the definition of vocational education.

So with that as a mandate by this Congress in the welfare reform act, it seems extremely urgent that we continue this program in order that these individuals now, under the demand of the Congress that they find work, not find empty spaces, nonexistent programs, when they are looking for vocational training in order to better their skills and get employment that can put them into the position of supporting their families and being self-sufficient. That is what this Congress said: Get out and work, get trained if you do not have the skills, support your own families, and become part of the contributing part of our society.

So it seems to me absolutely parallel that we support this amendment, continue the vocational education programs, and target this program to this special needs community. So I urge this House to support this amendment and continue the program with a hold harmless provision.

Mr. BONIOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full 5 minutes, but I just want to echo the comments of my friend, the gentlewoman from Hawaii [Mrs. MINK], and support this amendment. What we are talking about here is a program that has worked, that has a proven track record of improving the lives of women and girls.

Let me just say that if Members are in doubt of that, all they need to do is look at the 1996 GAO study entitled "Employment Training: Successful Projects, Shared and Common Strategy." The single parent displaced homemaker program funded through the Florida set-aside was cited as one of the most successful training programs. Most of the 1,300 single parent displaced homemakers programs that we have follow this Florida model.

A study of Oregon's displaced homemaker, single parent program documented the long-term success of this program in increased employment rates from 28 to 71 percent of the participants, 28 to 71 percent; increased median wage rates from $6 an hour to $7.45 an hour, and a reduction of the AFDC dependency from 29 percent to 15 percent.

In Arizona, participants in these programs averaged higher median wages and worked more hours than they did prior to their participation. Women in nontraditional jobs have increased in Arizona from 7 to 17 percent. And in Georgia, participant salaries increased from an average of $11,000 prior to participation to about $16,500.

So these programs are important. They are important to women, they are important to girls, they are important to raising the standard of living of people who are in a situation who are trying to move from work. They are terribly important to our society.

Here we have a program with a proven track record. It has had bipartisan support. As I understand it, this was Senator HATCH's idea in the Senate. It has had great support here in Republicans and Democrats in the past. I hope that we will continue with this program. It is a set-aside of a reasonable percent. It is not a huge percent. It is a reasonable percent of programs that work. If we are trying to move people from welfare to work, we ought to stick with this program that has had a proven track record.

I commend my colleagues, the gentleman from Missouri [Mr. CLAY], the gentlewoman from Hawaii [Mrs. MINK], the gentlewoman from Maryland [Mrs. MORELLA], and all those who are working in support of this program.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support the Mink amendment because the distinction the amendment makes is vital. It is a distinction that this body makes all the time in favor of the most vulnerable and the least likely to take advantage of Federal fund opportunities. These are the women who are most likely to have been tracked into low-wage jobs. We can untrack them and undo that discrimination by allotting a very small portion of these funds for them.

Why go to that trouble? Why not use what is already in the bill? The reason is that there is no question but that these funds, like most Federal funds, are likely to go disproportionately to the best-educated and the most conscious; those who understand their rights and the availability of funds. Those happen not to be displaced homemakers, single pregnant women, or single parents.

This body has a vested interest in the Mink amendment because these are the women most likely to cost the government the most, because these are the women most likely to be dependent and the women least armed with education and experience. We make distinctions of this kind all the time, and ought to continue to make them.

Constantly, Mr. Chairman, I see Federal opportunities getting to people who would get them anyway. We need to make it impossible to spend a certain amount of this money, this small amount, except for the most vulnerable. Nothing guarantees that except the Mink amendment. What it means is that the funders, the States and cities, are going to have to do outreach rather than simply report to us that they tried to do outreach.

The Mink amendment encompasses a long, bipartisan tradition. This is not the year to break that tradition. I thank the gentlewoman for indeed striving to continue this important tradition.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Mink amendment. Mr. Chairman, the Congress has a duty to provide political leadership in our Nation. We hear a lot of talk these days about States' rights. I was a State Senator in Ohio, and I know about the importance of State government action. But I also know that State officials look very carefully at the policies put forward by the Federal Government. We shirk our duties if we do not convey to the States the issues and the approaches which Congress considers to be important for the unity and economic security of our Nation.

Mr. Chairman, the Mink amendment provides an excellent example of the importance of Federal leadership. I have watched the progress of the vocational education bill carefully. I have seen my colleagues insert a special set-aside for rural areas, a provision that has been expanded to rural and urban areas. At the same time, I have seen a set-aside for gender equity programs eliminated from the bill.

Need I point out the inconsistency here? Are people somehow more important because they live in a particular rural or urban area? What about the importance of women and girls having the opportunity to enter any and all occupations so they can make the maximum contribution to our economy?

Mr. Chairman, for 13 years the Congress has felt that programs for displaced homemakers, for single parents, gender equity programs, were so important in vocational education that we required States to spend a certain percentage of the Federal funds that they received. Is the Congress now saying that this policy was wrong?

Mr. Chairman, the Mink amendment is a reasonable and moderate measure to continue Federal Government policy. It would restore the vocational education equity coordinator. It would require that localities that now have gender equity programs continue those programs.

If this amendment is defeated, it will send a clear signal to the States. It will signal that the rights of women and girls are not important when it comes to vocational education programs. It will lead to the elimination of dozens of very successful programs that have helped thousands of single parents and displaced homemakers. It will harm the ability of women to move into nontraditional jobs, the sort of high skill-high wage jobs that allow them to move out of the pink collar ghetto.

I commend my colleagues who have exercised the commitment and determination to keep these programs alive for the benefit of all students, and I ask my colleagues to join with me in supporting the Mink amendment.

Mr. Chairman, I yield to my colleague, the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman for yielding to me.

Let me remind Members that training women for a livable wage for jobs that are nontraditional, for the same jobs their counterparts trained for, the men that earn a livable wage, by training these women for those jobs, we prevent welfare. In fact, we get people off of welfare.

With welfare reform in our face, we now have the challenge to help women support their families, to help women who have children move from welfare to work. We must help these women by supporting them through vocational education programs that will get them into jobs that pay a livable wage, the same jobs the males in their lives have that can and will support a family.

Mr. Chairman, if we do not train women for nontraditional jobs we are saying to those women, women, stay behind the typewriter, stay as a service worker, stay as a nurse's aide, but do not compete with the men, because the men have the jobs that pay a livable wage. We want to prevent welfare. We want to get families off of welfare. We must, we must, and we must give women a chance by supporting them in vocational education. Please support the Mink amendment.

□ 1730

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words, and I yield to the very distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I thank the chairman of the Committee on Rules for yielding to me, the gentleman from New York.

I say that because I know that the gentleman from New York [Mr. SOLOMON] has been concerned about questions of set-aside programs and certainly special populations, and most explicitly I know of his extraordinary interest in vocational education per se. I want to explain not only to the gentleman from New York [Mr. SOLOMON] but to others here, because there is a misperception, particularly a misperception of the last speaker based on his own experience in the State legislature that somehow we are leaving the special populations, particularly women, out there in this legislation without any protection that the Federal Government or this legislation is going to have some sort of control or monitoring of the State programs.

I wanted to tell my colleagues that that is a wrong understanding of what we are trying to do here. The Mink amendment would set up a set-aside, and some would even say quotas, actually, but precise set-aside for only those populations. However, the bill is reformed to provide grants to the States for all special populations and to have, and I must stress this, to have enforcement mechanisms in there to ensure that the States do their jobs. That is why I wanted to address this.

For example, the concerns of the special populations under this bill are accommodated under page 29, which I specifically referenced the other day when we were talking about this and debating this. This statement on page 29 refers to how the State has to take certain actions in accordance with the legislation that include all populations in specifically displaced homemakers, single parents and pregnant women.

Further, the legislation does include the necessary enforcement mechanisms and penalties. If the State application fails to show where the State will ensure that the special populations meet or exceed the benchmarks, then the Secretary can disapprove the State application; that is, the Secretary of Education. In addition, the Secretary and the Department could also sanction the State by withholding all or part of the grant.

I think also we must turn to section 115 on accountability, which mentions in section B, and I am reading now, quoting from the legislation, B, special populations, the report submitted by the State in accordance with paragraph (a) shall include, not may, shall include a description of how special populations, displaced homemakers, single parents and single pregnant women participating in vocational technical programs have performed in meeting the vocational technical education benchmarks established by the State.

Then it goes on to tell how they are required in terms of the funding to comply with the requirement.

I appreciate the gentleman from New York yielding to me. I hope this satisfies his questions on the subject.

Mr. SOLOMON. Mr. Chairman, it most certainly does. I thank the gentlewoman for a wonderful explanation.

Mr. ETHERIDGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the Mink-Morella-Sanchez amendment to ensure gender equity in vocational technical education. I urge my colleagues to support this important amendment.

Mr. Chairman, immediately prior to my election to this body, I served for 8 years, or two terms, as the elected State superintendent of the schools of the State of North Carolina. As a former State school chief, I know firsthand how important gender equity is in vocational education. According to the 1990 census data, there were more than 15.6 million homemakers in this Nation that were displaced, and a half a million of those homemakers live in North Carolina. In North Carolina single mothers care for more than 130,000 children. In my State an estimated 128,000 families with children live in poverty, and 81,000 or 63.6 percent of those families are headed by women. We must empower these women to succeed in today's economy.

Mr. Chairman, gender equity has produced significant and positive results in female enrollment and work force development in North Carolina. In 1986, there were 140,000 women enrolled in vocational education. Today in North Carolina that number is 190,000. These students have a 98 percent completion rate; 84 percent go on to post-high school education or training at our technical schools or in the job market.

Female participation in the apprenticeships have an 87 percent completion rate in their efforts to prepare workers for the work force.

Finally, in North Carolina our gender equity is linked, or maybe I should say partnered, with our local community groups and with business groups to match their skills when they come out of the public school. This arrangement provides for effective use of our resources and effectively and efficiently expands opportunities.

This amendment would protect efforts serving these displaced homemakers, single parents and pregnant women. The amendment would simply require that localities maintain funding at the same level as they did in 1997 and restore current law with respect to the vocational education equity coordinators that oversee, coordinate and make sure that equity is there.

Mr. Chairman, public education is the great equalizer in our society. By equipping people with the tools they need to make the most of their God-given talents, we must empower them to achieve the American dream and to succeed. Every American citizen deserves no less.

Not a guaranteed result, but a guaranteed opportunity. That is what this Congress ought to do. Sadly, without gender equity, women and girls will be shortchanged. If we are going to keep raising the bar, we better make sure that people can jump.

Equity access to education initiatives help women become self-sufficient and stay off welfare. Gender equity helps women attain higher skills, higher technical training that is necessary to land the best jobs in today's economy and will be essential to America's economic prospects in the 21st century. Without this amendment to H.R. 1853, it would fundamentally change our vocational education policy and threaten to roll back the clock against gains women have made in the workplace.

The effect of this change would be to reward localities that have lagged behind the effort to expand educational opportunity to girls and women. It would send a signal that this Congress no longer believes that efforts for girls and women, for displaced homemakers and single parents should be a priority. That is exactly the wrong signal that we should be sending in 1997.

Under H.R. 1853, a State can serve no displaced homemakers, no single parents, no single pregnant women and no individual training for nontraditional employment and under this bill it would be OK. That is wrong.

Mr. Chairman, during the previous Congress, Members of this House launched an all-out attack on public education that was devastating to the morale of the people who worked in the public schools. I stood with them shoulder to shoulder. I am here to tell my colleagues today, that is not going to happen in 1997. We need to stand up for girls and women and pass this amendment.

Mr. ROEMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Mink-Morella amendment. I do so for the following reasons: First of all, in this body we all tend to talk in bumper sticker solutions. We all say, families first agenda. We all say, fix welfare now.

Well, this Mink-Morella amendment is the vehicle that these bumper stickers are attached to because this is the car that actually solves some of these problems. The solution does not fit on a bumper sticker. It is much more complicated than that. It is about getting education and fairness and equity to some of the people that have the most difficult time in America getting that education and equity and justice and fairness.

The Mink-Morella legislation would restore the 10.5 percent set-aside and also make sure that we have the equity coordinator. We have heard some speakers get up and say, well, there is no reason for this legislation. There is no reason to do this.

Prior to the Perkins law in 1984, less than 1 percent, less than 1 percent of all basic State grant money was spent for displaced homemakers, and only 0.2 percent of all State and local matching funds went for these activities. So if we just assume that these problems are going to be fixed by leaving it up to some magic wand theory or bumper sticker, then they are not going to get fixed.

Previous speakers have also said that 63 percent of those welfare families are headed by females. This program is completely oriented toward helping those people get off of welfare and not tracking them into low wage, low pay jobs but giving them some of the necessary skills so that they can work up the ladder and get higher skills and higher pay down the ladder.

I know that a lot of Members in this body, particularly on the other side, are concerned about costs. What about costs? Well, I am a strong advocate of balancing the budget, and costs are certainly one of the most compelling reasons to vote for the Mink-Morella legislation.

In 1996, sex equity reserves were documented in several States to reduce welfare expenditures. Let me say that again. In 1996, sex equity reserves were documented in several States to reduce the welfare expenditure costs. So making sure that we spend money on education and training and equity reduces the costs later on on welfare expenditures.

In States like Missouri, they have saved more than $1.4 million in welfare payments. In Georgia's New Connections to Work Program, they saved $13 million over 10 years.

Mr. Chairman, if Members want to help some of the most vulnerable people in America, if they truly want to put families first, if they want to help us fix welfare and not just put bumper sticker solutions out there, if we want to do real things to help people, to help single parents, to help pregnant women, to help displaced homemakers, then they will vote for the Mink-Morella amendment. They will help put a vehicle, a car, fueled with gas, with answers, with strength, with solutions to propel that bumper sticker slogan that wants to put families first, to fix welfare, they will vote for that vehicle that will help us solve some of these problems in America.

Vote for the displaced homeworker. Vote for the single parent. Vote for the pregnant woman. Vote to fix welfare and put our families first. Vote for the Mink-Morella amendment.

□ 1745

Mrs. CLAYTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to speak in support of the Mink-Morella amendment to the Carl D. Perkins Vocational-Technical Education Act. This amendment is essential in preserving an existing program that effectively serves the needs of girls and women in our vocational education system.

This amendment provides the programs serving displaced homemakers, single parents, pregnant women and those that promote gender equity in vocational education should be held harmless. The whole notion of set-aside is the same way of saying we hold harmless at the same rates that we had already, 10.5 percent for these programs.

These programs have proven themselves effective. For instance, in 1996, there was a GAO study entitled "Employment Training: Successful Projects Share Common Strategy," stating that these programs are very effective indeed in moving people from welfare to work. Again, a similar program evaluated in the State of Oregon showed their displaced homemaker, single parent program, documenting its long-term success in increasing the number of people who were earning beyond the minimum wage, from $6.00 per hour to $7.45.

Mr. Chairman, this program indeed is effective. It has indeed proven what other programs promise to do, and for that reason I am delighted indeed to support this program.

Mrs. MINK of Hawaii. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentlewoman from Hawaii.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentlewoman for yielding to me.

Much has been said about the effect of provisions in the legislation that we are considering today that call for benchmarks and for the preparation of a State plan which include language for consideration for displaced homemakers, single parents and pregnant women. I acknowledged that in the earlier debate last week. But what we are concerned about is that once submitting a State plan, once acceding to the idea that there would be benchmarks, there is no enforcement mechanism.

Under the provisions of this bill, the State could serve not a single displaced homemaker because there is no way in which there can be any sort of enforcement, and that is the consequence that we fear.

Most people on both sides of the aisle acknowledge that the funding that was created 13 years ago, setting aside 10 percent of this program for the displaced homemaker, for the single parents, was an extremely worthwhile program. Why create a bill now that is totally different in its mechanism and risk the chance that some of these programs will fall by the wayside at the very time when we are enforcing the welfare reform bill and saying that people on welfare or single parents must find work activity?

Work activity is vocational training, and they need to have a place that can give them special attention, recognizing the fact that they are on welfare and want to make the 12 months that they are entitled to have of vocational training produce the kind of skills that can guarantee them a job which can support their family.

That is the whole idea of this, to get women into a position where they can qualify for nontraditional jobs, make enough money so that they can support their families.

In the brief time I have left, I wanted to also note that in the debate on Thursday there was mention that no one has come forth discussing the needs of this special program for the single parents, for the pregnant women, displaced homemakers, and for the sex equity coordinator. Fortunately, Mr. Chairman, many of the people who wrote to the committee also sent copies to the minority side and we have here a whole pile of letters that came in.

They are dated early June, mid-June, June 6, June 12, June 8, and so forth, from people all across the country addressing their concerns to the chairman, the gentleman from Pennsylvania [Mr. GOODLING], to the gentleman from California [Mr. RIGGS], who is the chair of the subcommittee. And I am sure that if the staff will look in their files, they will find many of these letters.

Not only that, there was a witness that testified in the subcommittee that brought forth the importance of this program and urged the subcommittee continue the funding of this special emphasis program. So I am startled that there was reference to the fact that there were no letters.

At an appropriate time I will ask the House to allow me to insert these letters in the RECORD for the benefit of the House.

Ms. DUNN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today I rise not just as a woman, but also as a single parent in opposition to the Mink amendment.

H.R. 1853 authorizes funding for vocational-technical education. This bill benefits women already because it directs funds to local vo-tech programs giving women the opportunity to receive a quality education.

The bill also requires States to establish benchmarks and show how these vo-tech programs prepare special students groups: Specifically, displaced homemakers, single parents, and single pregnant women for postsecondary education or entry into high-skilled, high-wage jobs. In this way, Mr. Chairman, this bill actually protects the funds going into programs for women.

The Mink amendment, however, would mandate that States set aside funds for local areas to maintain gender-based programs even where they might not be needed. For example, Washington State is due to receive more than $19 million for vocational educational spending under title II and title III of the Carl D. Perkins Act, 90 percent of which will go directly to the local level.

Under the Mink amendment, more than $2 million of the $19 million would be reserved, set aside, for gender-based programs that are already adequately addressed and protected in H.R. 1853.

I, therefore, urge my colleagues to oppose the Mink amendment and support the thoughtful, pro-woman bill reported by the committee.

Mr. PETERSON of Pennsylvania. Mr. Chairman, will the gentlewoman yield?

Ms. DUNN. I yield to the gentleman from Pennsylvania.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentlewoman for yielding to me. This has been an interesting debate to listen to. I support the goals of the Mink amendment, I support the gentleman from Indiana and what his goals are, and the gentleman from Cleveland and the gentlewomen from the different parts of this country. But what we are really doing with the Mink amendment is we are going to be putting a lot more money in bureaucracy and less money in the classroom. It is a bureaucracy builder.

Historically, we set aside at the State level. The Mink amendment says that each and every school district must spend no less than it did in the previous year. That means we have to have a Federal bureaucracy and a State bureaucracy that will monitor every district in this country, every vocational school in this country to make sure that they spend the exact dollar amount that they spent last year. Do we need this kind of oversight from the Federal Government?

My colleagues keep talking about the welfare-to-work bill. I helped write Pennsylvania's welfare bill. Every State is targeting the population of displaced homemakers, single pregnant women and sex equity program because that is the majority of the welfare population. They are using Federal and State welfare-to-work moneys to do that. We have expanded the ability to use the job training moneys in a bill we recently passed. Many States have promoted and expanded their homemaker training programs. And any State that wants to meet the Federal mandate is going to target this population.

The bill, in four different areas, talks about this population, that it must be part of the plan, it must be a benchmark, we must meet those goals or they do not get the money. To put a mandate on every vocational training program in America, that they must spend the exact same amount as last year, does nothing but create a bureaucracy that will waste millions of dollars that will train nobody.

I think the Mink amendment, Mr. Chairman, has laudable goals, but I think it misses the mark. What the gentlewoman is talking about is happening. Any State that is not making it happen is not going to be able to implement the welfare reform bill.

It is an unneeded amendment, it is an amendment that will waste dollars in bureaucracy at the national and at the State level. It will force every State to hire a $60,000 sex equity coordinator, whether needed or not. Let us leave that up to the States.

Every State has a built-in incentive to make this happen. This amendment will only put money into the hands of bureaucrats and not train displaced homemakers, single pregnant women, or bring sex equity.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the last dialog indicates that we really do need a mandate to affirmatively ensure that there is a reality in this bill, and that is that we do have vocational training for women, and as well that we remedy the equity disparity that comes across in many instances.

A 1993 CRS report on the educational status of women confirms that public high school girls participating in vocational educational programs tend to be clustered in traditionally female occupations and, as well, an analysis reported in an American Association of University Women Report, "How Schools Shortchange Girls" concluded that the problem of sex segregation in vocational education programs continues to exist both at the secondary and postsecondary level.

This particular amendment, does not add amount of moneys for women vocational programs, homemakers, single parents, pregnant women but rather it requires States to maintain fiscal year 1997 funding as well as it provides for an equity gender specialist for each State to make sure women are treated fairly in vocational training programs.

Let me just simply say, Why do we not have women airplane mechanics, and there may be some; why are there not more computer technicians, and there may be some; why are there not more women specializing in the building trades, and there may be some? The reason is because we need someone who oversees the programs in the State who says, "I do not want to give an incentive, I want to see the job done."

We want the job done. This is a good amendment to get the job done, to ensure that women have equal access along with men in training in unusual vocational trades that traditionally are geared toward men.

In this time when Republicans are pushing welfare to work—let us give women, single parents, displaced homemakers, pregnant, a fighting chance to get good high-paying jobs with the right kind of vocational training.

I clearly think we must pass this amendment, the Mink-Morella-Sanchez-Woolsey-Millender-McDonald amendment that fairly says to women, "You, too, can do it."

Mr. Chairman, I rise today in support of this amendment and thank Congresswomen MINK, MORELLA, SANCHEZ, and WOOLSEY for their leadership in protecting vocational and educational programs for women and girls.

This amendment to H.R. 1853 will preserve existing programs serving the needs of girls and women in our vocational education system. The amendment will accomplish this by requiring that local recipients of vocational education funds spend at least as much as they spent in fiscal year 1997 on programs for displaced homemakers, single parents, single pregnant women, and programs which promote gender equity.

This amendment is critical to remedy the cuts that have been made in H.R. 1853. The vocational education reauthorization bill in its current form eliminates a 10.5-percent set-aside of State moneys required under current law for these programs. The bill also eliminates the equity coordinator required in every State to oversee, coordinate, and evaluate equity initiatives in vocational education.

My colleagues, it is critical that we pass this amendment for while we have made significant progress in the area of educational equity, to end our emphasis on these areas now would result in serious setbacks as illustrated by a 1993 CRS report on the educational status of women. This study confirms that public high school girls participating in vocational educational programs tend to be clustered in traditionally female occupations. Additionally, analysis reported in the American Association of University Women report, "How Schools Shortchange Girls," concluded that the problem of sex segregation in vocational education programs continues to exist at both the secondary and postsecondary level.

For these reasons I urge my colleagues to join me in voting to pass this important amendment and in so doing to protect these important programs. Thank you.

Ms. MILLENDER-McDONALD. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentlewoman from California, who happens to be a cosponsor of this very good and positive legislation.

Ms. MILLENDER-McDONALD. Mr. Chairman, I thank the gentlewoman for yielding to me, the gracious gentlewoman from Texas.

Mr. Chairman, we have heard the old adage, I have been there, done that. As the former director of a gender equity program, I can tell my colleagues firsthand how successful these programs are. It is not by happenstance, it is because there was a gender equity coordinator at the State level that ensured that we followed an accountability trail of these programs.

I cannot imagine that we are trying to argue with success or even challenge it. These are successful programs that were done by this person, who was the director of gender equity programs for the second largest unified school district in America, the Los Angeles one, and we simply ensured that those women who were most vulnerable received the type of access to the vocational programs that gender equity ensured.

What is missing here is the whole notion that one thinks that we can put this money in vocational programs and those vulnerable groups would be serviced. Let me just say that these are women who need not only the vocational training and the skills, but they need the self-esteem, the self-worth. That is what comes when the gender equity coordinator at the helm, at the State level, ensures that those of us directors throughout the Nation and throughout the States provide for these women.

This amendment, our amendment, is a hold harmless amendment which does not restore the set-aside that has been articulated numerous times, much to my chagrin. The main purpose of the Perkins Act is to improve the quality of vocational education and to provide access to quality vocational education for special populations.

I have seen 80 percent of the participants with children, 80 percent of participants on some form of public assistance be enhanced and enriched by this Perkins equity program. I say to my colleagues that those who do not see the need to service those who are most vulnerable, those who are moving from welfare to work to get gender equity programs, I feel are short-sighted.

□ 1800

So I say to my colleague, a person who has been there and done that, do know the success of this program, gender equity programs, Mr. Chairman, do work for those women, those pregnant women, the displaced homemakers, and those who are in need of this program.

I would say to all of my colleagues to support the Mink, et al. amendment, of which I am one of the cosponsors.

The amendment: This is a hold-harmless amendment which does not restore the 10.5 percent set-aside, at the State level but rather, assures that these valuable services to an often overlooked population continue. The Mink-Morella-Woolsey-Sanchez-Millender-McDonald amendment would require that localities currently funding such programs continue to provide funding for these purposes at, at least, the same level as fiscal year 1997. This amendment would also restore the requirement that a vocational education equity coordinator exist in every State.

The main purpose of the Perkins Act is to improve the quality of vocational education and to provide access to quality vocational education for special populations such as women who are single mothers and displaced homemakers. We need this amendment to ensure that we continue to meet this purpose.

In the Los Angeles Unified School District, where I served as the director of gender equity programs, the preliminary statistics for the 1996–97 year: 1,642 adult women completed programs offered through the Perkins grants—several more attended classes but did not complete the courses; 2,600 teen mothers benefiting from these programs—5,000 total teen mothers in Los Angeles city school district, 10,000 in Los Angeles country; ages range from 14 to 62, median age is 30's; 80 percent of participants have children; 80 percent of participants on some form of public assistance; 68 percent of participants are Hispanic; 14–16 percent of participants are African-American; and 4–6 percent of participants are Asian-Americans.

Results of the Los Angeles Unified School District's gender equity programs: 50 percent of participants are employed after completing these programs which directly results in reducing the number of people receiving public assistance.

State of California—98 percent of the Perkins Act funding in 1996 was distributed to local districts in the State of California

These programs help over 1,000 school districts and 107 community colleges in California regardless of whether they receive the Perkins funding

Throughout the country the long-term success rate of these single and displaced homemaker programs is very impressive. in the neighboring State of Oregon in 1996: Employment rates soared from 28 to 71 percent; median wage rates increased from $6 per hour to $7.45 per hour; and dependence on AFDC of the program participants fell from 29 to 15 percent.

In Arizona, women in nontraditional jobs have increased from 7 to 17 percent.

In Georgia, participants' annual salaries increased from an average of $11,000 prior to participation to an average of $16,500, and the New Connections to Work Program saved the State $13 million in welfare savings over 10 years.

In Pennsylvania, these programs saved the State $2.3 million in welfare savings in the 1994 program year.

MR. RIGGS. Mr. Speaker, I move to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mrs. MINK of Hawaii. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. RIGGS. Mr. Chairman, did you hear objection when previous speakers who spoke on this subject at some length in earlier days sought to address the House?

Mr. CLAY. Mr. Chairman, no one on this side has spoken more than once. We have yielded to everybody who spoke. Someone has yielded, Mr. Chairman.

The CHAIRMAN. Members who spoke on this amendment last week, have been allowed to speak again this week with unanimous consent.

Mr. CLAY. Mr. Chairman, we have not had a single speaker today who spoke on his or her own time last week. The ones who spoke last week were yielded time by other speakers. My colleague cannot name one person who has spoken twice.

Mr. JONES. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman from North Carolina [Mr. JONES] for his courtesy in yielding and would just note to him, I must marvel at our colleagues' selective memory in terms of how this debate has unfolded on the floor.

But my point in seeking to be recognized, Mr. Chairman, is to let our colleagues know that our bill, as reported out of committee, is a vast improvement upon current law. It reduces bureaucracy at the Federal and State government levels, it caps State administrative expenses so that more dollars can actually reach students, and it decreases mandates on States and local school districts so that they may create vocational programs that reflect their own needs and priorities.

The Mink amendment would undercut each of the improvements I have just mentioned. Rather than allowing States and localities to set their own priorities based on their own local vocational needs, and I know that is a radical thought to our friends on the Democratic side of the aisle, sex equity programs would be mandated. And we have heard several speakers on this side of the aisle refer to it as just what it is, and that is a mandate.

All we are doing in this amendment is talking about transferring a State set-aside down to the local level so a State set-aside becomes a local set-aside, and we replace a State mandate with a local mandate. I would love to hear any speaker on the other side of the aisle stand up and deny that as the case.

This does not make sense. The gentlewoman from Hawaii [Mrs. MINK] made reference to testimony before the subcommittee. May I remind her that Paul Cole, the vice president of the American Federation of Teachers, testified in front our Subcommittee on Early Childhood, Youth and Families in support of eliminating set-asides. My colleagues heard me correct. Paul Cole, vice president of the American Federation of Teachers.

In fact, I quote from his testimony now. "Federal legislation should eliminate set-asides at State and local levels. Funding formulas for special populations are harmful when they provide an incentive for schools to retain students in these categories because funding depends on it."

Mr. Cole is not alone. He was simply referencing the National Assessment of Vocational Education, Final Report to Congress, Volume 1, prepared by the Office of Educational Research and Improvement at the U.S. Department of Education. I quoted from this report last week, and I quote again.

> There are two major risks in broad-brush efforts to include more and more special population students in vocational educational, including the special populations that are intended to be served by this 10½ percent set-aside, 10½ percent of the funding that is taken right off the top. The first is that factors other than the student's best interest will become more prominent in placement decisions. For example, recruiting special needs students in order to keep vocational enrollments up and thus maintain staff positions is a familiar practice, and it often complements a desire in comprehensive schools to get hard-to-educate students out of regular classes. In situations such as this, some students will benefit for participation in vocational programs, but others will not.
>
> The second risk with this practice is that vocational programs, especially those in regional schools, will increasingly become special needs programs, separated from the

> mainstream of secondary education, an outcome that is opposite to the very intent, the original intent behind the Perkins Act.

This is clearly dumping. It is a problem. I go on to quote from the report.

> Special population students are an ever-increasing proportion of all vocational students, and the Perkins emphasis on recruiting special population students to vocational education may be among the factors contributing to this tendency.

We have tried to rectify that. We have come up with, I think, a good compromise. We have said in our bill that States and local communities should be allowed to continue to fund these programs at their choice. That is perfectly in keeping with the longstanding American tradition of local control and decentralized decisionmaking in public education.

Our bill already includes, but it does not mandate, and there is the difference, support for displaced homemakers, single pregnant women, and single parents at all levels of State and local vocational educational programs. We have to take a firm stand against more mandates on local schools. It is time to practice what you preach if in fact you do believe that decisionmaking should be vested at the local level.

So I urge my colleagues to vote against the Mink amendment and to say no to more mandates for local schools.

Mr. BILIRAKIS. Mr. Chairman, as a longtime supporter of programs designed to assist displaced homemakers, I support the intent of the Mink amendment. However, I do have some concerns about the mandate it would impose upon States.

Since coming to Congress, I have supported transferring more authority to State and local governments. Too many times, we have adopted a one size fits all approach when we are establishing new programs or policies. In many instances, the very people that we are trying to assist could have been better served if States had been given the flexibility to create programs designed to address their specific needs.

While I believe that displaced homemakers should have access to vocational training, I want to make sure that we are serving their needs in the most effective way. I believe one way that we can assist displaced homemakers is by providing a tax credit to employers who hire and train these individuals. For over 10 years, I have sponsored such tax credit legislation, and in the 105th Congress, I have reintroduced this legislation as H.R. 402.

Displaced homemakers are primarily women who have been full-time homemakers for a number of years, but who have lost their source of economic support due to divorce, separation, abandonment, or the death or disability of a spouse. Many displaced homemakers are living at or near the poverty level, are younger than 35 and have children.

One of every six American women is a displaced homemaker. In 1990, there were 17.8 million displaced homemakers in the United States. In my own State of Florida, there were over 1.1 million displaced homemakers in 1990—a 55-percent increase since 1980.

My bill, H.R. 402, would allow employers a tax credit for hiring displaced homemakers by establishing them as a targeted group under the Work Opportunity Tax Credit [WOTC] Program. The WOTC Program is intended to combat and lessen the problem of structural unemployment among certain hard-to-employ individuals.

My bill would extend the WOTC to include displaced homemakers. Under the proposal, employers could apply for a tax credit if they hire these individuals who are having difficulty reentering the job market.

I see this approach as cost-effective. By providing prospective employers with the incentive to hire displaced homemakers, we avoid the much more costly alternative of publicly supporting these homemakers and their families.

Mr. Chairman, these are people who are in financial need and want to work. I encourage my colleagues to cosponsor H.R. 402.

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of the Mink amendment.

I often say the 104th Congress was the most antiwoman Congress I can remember.

Well, the 105th is catching up.

For 13 years the Perkins Vocational Technical Education Act has provided funds to ensure that America's women do not miss out on opportunities to better their lives.

For 13 years these programs have worked.

Displaced home-makers, single parents, pregnant women, and some girls in vocational schools have been able to count on help from their government, not to bail them out, but to help them bail themselves out.

It's a fact that vocational education keeps women off welfare.

In Oregon, a recent study documented its long-term success in increasing employment rates from 28 to 71 percent. Wages increased. Fourteen percent of the women on welfare got off.

In Arizona, not only did wages increase, but the number of women in nontraditional jobs increased from 7 to 17 percent.

In Georgia, women benefited from the programs by increasing their salaries from $11,000 to $16,500.

Now, it's not as if the government handed those people $1,500 raises. What it did was allow them to earn those raises in the private sector themselves.

Isn't this why we're here?

Are we not in the business of helping people help themselves?

Is that not what we're trying to do in reforming the Nation's welfare program?

Many States are reporting that higher wages—achieved through the vocational program—are keeping women off welfare.

In Pennsylvania, in 1994, the setaside program saved the State $2.3 million in welfare payments.

In Missouri, $1.4 million in welfare payments were recovered.

If this Congress is truly working to get women and children off welfare, why would it cut a program that helps them do just that?

As my colleagues, Representatives MINK, MORELLA, SANCHEZ, and WOOLSEY point out, this amendment does not ask for an increase.

It only asks that the 10-percent setaside be preserved.

It restores the vocational education equity coordinator position.

And it keeps the Federal policy on track and consistent.

It shows that our effort to achieve gender equity and to help at-risk groups such as displaced homemakers and single parents stay off welfare, get an education, and keep well-paying jobs a priority.

The original intent of this legislation was to make the United States more competitive by developing more fully the academic and occupational skills of our citizens.

Our citizens who most need that help are on the verge of being cut out of the deal.

I urge a vote in support of the Mink amendment.

Ms. VELÁZQUEZ. Mr. Chairman, I rise in strong support of the Mink amendment. This proposal will encourage young and middle-aged women to receive valuable skills training in occupations that have traditionally been filled by men. It will allow them to get jobs with better pay and better benefits, and make it easier for women to support their families. I urge my colleagues to vote yes on this important amendment.

The Mink amendment will do all this by protecting the funds that States currently use for programs that ensure gender equity in vocational education. Make no mistake—without this protection, these programs will disappear. The evidence is clear—before 1984, when State grants were reserved for gender equity programs, only 1 percent of these grants were actually used for gender equity.

Last year, Republicans passed a bill based on a twisted premise—that if you push people off the boat, they will somehow learn to swim. The Republican bill assumed that by shredding the vital social safety net, jobs would magically appear for people. This strategy is not only cruel, it is wrong—without help in learning to swim, many people will drown.

If Congress is really serious about encouraging women to achieve financial independence, then Congress should make sure all women have the opportunity to obtain the tools they need to find a good job and support their families. The Mink amendment would provide these opportunities. I urge all of you to vote yes on the Mink amendment.

Mr. JONES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

The question was taken; and the Chair announced that the noes appeared to have it.

Mrs. MINK of Hawaii. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentlewoman from Hawaii [Mrs. MINK] will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 3 OFFERED BY MR. KLINK

Mr. KLINK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. KLINK: PAGE 30 STRIKE LINES 5 THROUGH 9, AND INSERT THE FOLLOWING:

"(2) INFORMATION DISSEMINATION.—

"(A) STATE REQUIREMENTS.—Each State shall make the information contained in reports described under paragraph (1) available to the general public through publication and other appropriate methods which may include electronic communication.

"(B) SECRETARY REQUIREMENTS.—The Secretary shall make the information contained in such reports available to the general public through publication and other appropriate methods which may include electronic communication.

Mr. KLINK. Mr. Chairman, I will not take all the 5 minutes. My understanding is that the majority has agreed to accept this amendment. I am pleased that we are here today to work on this bill reauthorizing the Perkins Vocational Technical Education Act.

The gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from California [Mr. RIGGS], the chairmen, and the gentleman from Missouri [Mr. CLAY], the ranking member, and the gentleman from California [Mr. MARTINEZ] are to be commended for maintaining our country's commitment to vocational education.

This amendment is really quite simple. It will require each State to make the report required in the accountability section of this bill available to the public. The bill requires the Secretary of Education to make these reports available to the public. Local grant recipients are required to make the performance information available to the public.

My amendment would ensure that each State will make its report to the Secretary available in that State in the same manner that this legislation requires the Secretary to make these reports available on a national basis. What we are talking about is a bipartisan strive toward openness. That way, information about vocational-technical education program performance will be disseminated in the widest manner possible.

This amendment will provide for further accountability in vocational education. I would urge my colleagues to support it.

Mr. GOODLING. Mr. Chairman, I accept the amendment. The amendment would require States to make the information contained in their report on how the State is performing in regard to their State benchmarks available to the public. This is consistent with the provisions of the bill which require the Secretary and local districts to make the information available to the public. We do accept the amendment.

Mr. CLAY. Mr. Chairman, I move to strike the last word. We have no objection to the amendment, and we accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KLINK].

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KENNEDY of Massachusetts:

Page 52, after line 15, insert the following (and redesignate any subsequent paragraphs accordingly):

"(8) providing an on-site workforce development coordinator who will coordinate activities described in this section with an emphasis on developing additional curricula in cooperation with local area businesses;".

Mr. KENNEDY of Massachusetts. Mr. Chairman, I think this amendment really gets to the heart of whether or not we are serious about reforming our voc education and really the general practice of whether or not we are going to be encouraging our young people in this country to go on and continue their education.

We hear statistics across America today that tell us if we are really interested in the education of our young people, we ought to recognize that we ought to look at them in terms of the 25 percentile. The top 25 percent of all American children go on to college or even higher education beyond college. They do very very well for themselves.

The next 25 percent struggles to get through high school but gets some sort of additional education. The third 25 percent in fact struggles to just get through high school. And the bottom 25 percent never even finishes high school.

The truth of the matter is, if we are serious about encouraging that bottom 50 percent to do anything more than they are currently doing, and as I just came from a hearing in the Committee on Banking, where chairman Alan Greenspan condemned all of the efforts dealing with job training in this country, it seems to me that it is critically important that we, in fact, take a look at what is really working around America.

What we find is, and I think even the chairman of the committee would agree, that there are a number of innovative and creative programs. For instance, the BIC in the city of Boston that works hand in glove with the local business community to help assist to develop a curriculum with the high schools to make certain that—in fact where I come from, the city of Boston, we have an important high-technology industry—that going to a high school where you are learning reading, arithmetic, and basic languages might be helpful but it might be very discouraging for a poor child from the inner city who does not know what in fact those courses are going to actually have to do with their ability to be able to handle or deal with the real crises and the real issues that they face in their day-to-day lives.

What we found is that by getting a coordinator who actually works with the business community and the high schools to begin to set a curriculum where in fact the high school student knows that if he completes a set of courses outside of the curriculum that the high school itself would set working with the school committee, but works on additional courses that are set by the business community, the business community then agrees to in fact provide after-school opportunities, summer youth jobs, that in fact the kids have an enormously high success rate. We have been able to see children move directly from high schools into jobs after high school and from those particular instances their rate of actually going back and continuing their education, going on to community college and in many instances 4-year schools, have been much, much higher than the population in general.

What this amendment would do is allow for the use of a coordinator, a work force coordinator to work with the business community at the level across our country, using voc educational funds to work with that business community to help set a curriculum with the high schools and through that curriculum to then ask our business community to then provide after-school programs and summer youth jobs for our kids.

It, in fact, is a program that works. And I am surprised that there would be any opposition to the simple use of a coordinator to work with the business communities and the local high schools in order to accomplish what seems to me to be a fairly reasonable and easy goal to deal with.

However, in negotiations with the other side of the aisle, it has come out that in fact the use of the word coordinator somehow gets a yellow flag on the field of the Congress of the United States. If you use anything involving the word coordinator, somehow or another there is a group of people in this country that are going to scream that we are somehow setting the agenda of our high school students and somehow we are going to be teaching them about sex or some other thing that has absolutely nothing do with what this amendment is all about.

What we are trying to accomplish here is dealing with the real needs of real people, the young people of America that are the future of this country. This is not about any kind of ideology. This is just straightforward talk about what works in America today. If we want to stand here and pass a voc-ed bill that continues programs that will not work, we just heard them talking and yacking about the fact that there are going to be mandates.

□ 1815

We mandate that we are not going to hurt women, but we do not do anything to make certain that women, young girls, are going to be encouraged to continue and get better jobs.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. KENNEDY] has expired.

(By unanimous consent, Mr. KENNEDY of Massachusetts was allowed to proceed for 1 additional minute.)

Mr. KENNEDY of Massachusetts. Mr. Chairman, the truth of the matter is that what we are trying to accomplish here is a straightforward approach to actually getting our young people of this country educated in the kinds of jobs, not just the kind of jobs that would be good in Boston but the kind of jobs that would be good in Missouri, the kind of jobs that would be good in Pennsylvania, the kind of jobs that would be good in California or Hawaii or Virginia or any other State. Let the local people decide exactly what kind of jobs that is appropriate for their local high schools to set up. But encourage those young people. If one goes into high schools today and tells all those kids in high schools in the inner city that they can go on to a 4-year college or to community college and then ask them whether or not they intend to go, what they will find is 50 percent or more of the kids say they have no intention of going to college. Ask them why, and they say they do not think they can afford it, they do not think they can attain college. What this program will do is set up a track where these kids will get the kind of job training, get the kind of encouragement from the local business community that I think will make them a success in life.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have to make sure that we understand that this amendment would add support for a work force development coordinator at schools as an allowable use of funds under this bill. As the gentleman from Massachusetts recalled, we had a discussion regarding this issue during the debate on the job training bill earlier this year, at which time I said I would be happy to work with the gentleman when we considered the vocational education bill, and I think that our bill accommodates his concerns without specifically allowing for funding of a work force coordinator.

I understand the gentleman's concern that he is trying to get at it through his amendment, but our bill does not currently list support for any specific staff. The Federal Government should not outline what staff may or may not be hired by a school. However, what this bill does is list a number of activities as allowable uses of funds for vocational technical education programs at the local level that allow for the types of activities that I believe his amendment is trying to achieve.

Under this bill, local school districts and postsecondary institutions may use funds for involving parents, businesses, and representatives of employers in the design and implementation of vocational technical education programs. That is already an allowable use of funds. Allowable use of funds, providing guidance and counseling. Allowable use of funds, providing work-related experience, and business and education partnerships. All of this is in the present bill.

I believe that coordination activities with employers are implicitly included in these allowable activities, but again without specifically mentioning any support personnel that would be employed at local schools. In fact, this legislation does not specifically spell out support for any staff, not teachers, administrators, counselors, or coordinators.

If the gentleman had had the experience, as many of us had, during the last 3 years trying to put together a job training bill, he would understand how those 2 words in a piece of legislation, would as a matter of fact take, I would imagine, 80 votes from his side and 150 votes from my side. We carefully made sure that we did not get caught in the trap that we were caught in for a couple of years on the job training bill and had to work our way through it. If we say that we will have a work force coordinator, that just raises all sorts of problems for both sides of the aisle. I would hope that the gentleman would either withdraw the amendment or I would hope we could defeat the amendment because if we do not, in my estimation we cannot pass the bill.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. I appreciate the gentleman yielding.

Mr. Chairman, in the gentleman's opinion a few minutes ago, I thought the number was we were going to lose 40 Democrats, and now I understand the gentleman feels we would lose 80 Democrats, but setting that aside, if we were not going to lose any Democrats, does the gentleman feel substantively that this is the proper way of handling this particular piece of legislation?

Mr. GOODLING. I believe in this legislation we now do much of what the gentleman is trying to do without specifically authorizing a work force development coordinator in a high school or a secondary tech school.

Mr. KENNEDY of Massachusetts. I just would point out that while I recognize and I think that the gentleman has attempted to cover many of the activities that the coordinator would in fact be responsible for, I think that the gentleman has also voiced great concern over mandates without providing the resources that are necessary in order to fulfill those mandates. So by standing there and saying or suggesting that we are going to ask these schools to accomplish all of these goals but then not giving them any staff to actually be able to follow through on those promises, I am very concerned that we end up with simply a hollow bill, and I think that the gentleman and others on his side would voice the same concern, that we are simply sending out signals but we are doing nothing to actually follow through and give people the tools that are necessary to fulfill those goals.

Mr. GOODLING. Again, let me repeat, that when the gentleman mentions a work force development coordinator at schools, the gentleman is asking for the bill, in my estimation, to be defeated. I can only tell the gentleman from 3 years' experience trying to put together a job training bill, it is this kind of language and that will get us in trouble again.

Mr. MORAN of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me first say that I appreciate the comments of the chairman of the committee making it clear that he does not have substantive opposition to what this amendment intends to do. He does have concerns apparently with semantics and with the politics of certain code words and all, and I appreciate that. I am not surprised, though, to see him behind what such an important amendment attempts to do.

Maybe we can call it something other than a work force coordinator, but that is exactly what our schools need. I appreciate the gentleman from Massachusetts [Mr. KENNEDY] offering the amendment, because it is time we stopped just talking and started doing something about this issue.

In the Washington metropolitan area, we have 19,000 jobs related to computers that we cannot fill. The average salary is $47,000. Thousands of these jobs do not require any kind of college education. And what are we doing? We are going to India, we are going to Pakistan, we are going to Ireland—some people might not object to that—but nevertheless we are going every place we can find to find people to fill these jobs at very low wages. Yet they do not require any skills that our high school graduates cannot acquire, it is just that our high school graduates have not acquired those skills because they did not have the benefit of a vocational education curriculum.

We have thousands of young people in this Washington area who are desperate to find jobs. What a disservice that we have done to them. They get out of high school and they have virtually nothing to take with them when they go looking for a job. No skills, minimal education, little work preparation. Why? Because our schools are not geared up in many ways to create a match between the jobs that are available and the kids that can fill them. What a crying shame to have thousands of kids desperate for jobs, desperate for employment, desperate to find a way to support their family and yet also to have thousands of jobs unfilled.

That is what this amendment is all about. It is about trying to get someone who is going to make that match, who is going to work for the kids by working between the schools and the businesses, to consult with businesses, bring them in, tell the kids what jobs are available, what they pay, and then to help put together the kind of curricula that is going to be relevant for the jobs that are available. Unfortunately, what has happened is that many of our vocational education schools have become a dumping ground. In many ways voc ed means a dumping ground, primarily for disruptive students. This is the attitude that this amendment can help change.

In the District of Columbia we have a voc ed school, and it could have become a good one. What happened was that the other schools started putting their most disruptive students in that school, and now it is virtually a reform school. They are not going to like me to say that, so I will not give the specific name of the school. But it is not serving their needs. What a crying shame. Yet if we had this kind of liaison between the business community and the school system, we could serve a lot of their needs. We desperately need their talents and their skills. We need to develop vocational education as an immediate step to getting a good job, to being able to go to an employer with the kind of skills and basic education and attitude that they are looking for.

So our school system is disserving these kids. Are we really going to pass this kind of bill, the Perkins bill here without addressing this most critical need? I would hope not. I would hope that we would pass this amendment, that we would underscore the need to bring the business community in for its own self-interest, in influencing the curricula, in giving the real opportunity, the real access to the jobs that are available to these kids who desperately need them.

This is an important amendment. I would urge my colleagues' strong support for it. I appreciate the support of the chairman of the committee. I know that the ranking member of the full committee from Missouri is very strongly in support of vocational education. I thank the gentleman from Massachusetts [Mr. KENNEDY] for introducing it. I would certainly expect and hope that this body would pass it overwhelmingly.

Mr. RIGGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to point out to the gentleman from Virginia that we had a field hearing just across the Potomac River at Thomas Jefferson High School, which I believe is close to his congressional district, in fact he was good enough to stop in at the hearing briefly. And we saw that at Thomas Jefferson High School—which is one of the most outstanding academic high schools in the country with a long record of national merit semifinalists and a tremendous history of sending kids to the top 4-year colleges and universities in the country—they are doing this already. They are working closely with the private sector. They have extensive private sector involvement in the design of their curriculum. They have the private sector involved in any number of internships, job shadowing opportunities, and mentoring types of activities. This is all done without the need for an on-site work force development coordinator—which is a classic example of how we micromanage Federal legislation.

I do not quarrel that the gentleman is well-intentioned. But I do point out that his amendment does represent micromanagement. It is in fact not necessary because under the bill, if we look at the section of the bill dealing with permissible activities, we will see that we allow and encourage local school districts and postsecondary institutions to use funding for involving parents, businesses and representatives of employers in the design and implementation of vocational-technical education programs, to provide career guidance and academic counseling, to provide work-related experience, as I just mentioned, and to help form business-education partnerships in the local communities.

□ 1830

So the Kennedy amendment is a classic example of overkill and micromanagement.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Did the gentleman say that the outstanding Thomas Jefferson School near our colleague from Virginia's district, is already doing all of these things and the Federal Government did not have to mandate it and did not tell them they had to do that?

Mr. RIGGS. Reclaiming my time, the distinguished gentleman from Pennsylvania [Mr. GOODLING] is so right. In fact we learned from the example of Thomas Jefferson High School. We acted upon the testimony that we heard at our hearing. In our bill, we have said under the section dealing with the permissible uses of funds, that the funding can be used by local institutions—a high school or regional vocational school—to provide, and I quote now from the bill, work-related experience such as internships, cooperative education, school-based enterprises—like we also saw up in Delaware where the kids are running a bank at Wilmington High School—entrepreneurship and job shadowing. They are all related to vocational-technical education programs.

What we do *not* do again is attempt to micromanage, we do not dictate, we do not spell out that local schools should use any of the funding to pay for the salaries and benefits of local personnel. We do not, anywhere in the legislation, talk about support for any staff; not teachers, administrators, counselors, or coordinators.

So I join the gentleman from Pennsylvania [Mr. GOODLING] in urging the gentleman to withdraw his amendment with the understanding that the type of coordination activities that he wants to see, that we all want to see take place between local secondary schools and local employers, are already allowed under our bill for vocational-technical education programs.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Massachusetts [Mr. KENNEDY], my friend and colleague.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I just want to deal with a couple of the arguments that have been made. As my colleagues know, the idea that there are not innovative and creative vocational educational programs, that there are not young people that are attending those schools that are not going on to do tremendous things has nothing to do with what we are trying to suggest in this amendment. Of course there are, and we should recognize and encourage those activities, and where they are accomplished without the assistance of a coordinator is terrific.

But the vast majority of the kids that we are designing programs to help and assist are the kids that are falling through the cracks. We do not need to have programs for kids that are A students and are doing terrifically. The reason why we are having these programs is to make certain that the kids that are currently not achieving everything they can in this country can have an opportunity to go out and become all they can be.

That is what this is about, and it is trying to suggest that we give them opportunity, if we get them to work with their local businesses and get the businesses to recognize that the young people that are in their communities have all the future of this country in front of them.

As my colleagues know, the fact of the matter is I come from the State of Massachusetts. The State of Massachusetts has more college graduates per capita than any other State in the Nation. That is something we are extremely proud of. I have 60 colleges in my own congressional district, more than 26 other States in one congressional district.

The fact of the matter is that we have a first-rate education system, but within that there are still so many of the kids that end up falling through the cracks. In my district I have some of the poorest Hispanic kids in the United States. I have the minority influence district. Go into the poorer high schools and find out whether they think they can go to Harvard University or whether they can go to MIT. They do not think they can. None of those kids feel that they are going to be participants in the so-called greatness of America's education.

These are the kids that we need to reach out to. They can; in fact 50 percent, despite the fact that Massachusetts is No. 1 in terms of higher education, 50 percent of all the adults in the State of Massachusetts have nothing more than a high school education. Fifty percent of them. We still have dropout rates of 25, 35, and 40 percent in many of our major cities and urban areas of our country. Those are the kids that we need to reach out to. They are not bad kids. We need to reach out and let them know that they count and that they are important and that our businesses will value them because those businesses will one day be employing them. And if we can establish that relationship early on in their lives and make certain that they know that those companies, those high-technology companies, the gentleman from Virginia [Mr. MORAN] talked about 19,000 here in the Washington area.

The fact is that there are HVAC companies, there are diesel engine companies, there are all sorts of technical skills that our young people are simply not learning, and the companies do not have the access to those local high schools to know and be able to set the kind of curriculum that is going to allow them to learn those skills. Let them have that opportunity. Do not deny them because there is a few Members of either party that are sitting there saying that this is going to be sex education. Do not do that. Do not buckle to that.

Mr. Speaker, my colleagues should stand up and say what is right. What is right is that we provide that coordinator. Let them in fact. Do not buckle to some right wing or left wing or anybody else's wing. Stand up for the kids; that is what this bill is supposed to be about. Stand up for the kids, pass this amendment.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I just wanted to make sure that we think this the whole way through. Where do we stop if we want every child to reach their potential? Would it not be a good idea to mandate that we have a military coordinator in every school? It seems to me there is great potential by joining the armed services, even to get a college degree, but certainly to get all sorts of training. So where do we stop? Where do we decide that the Federal Government no longer should mandate?

And I think we make a big mistake when we go down the line of determining for local school districts who it is they should hire.

The program is working well at the present time with the coordination that is available. The activity is allowable in the legislation but we do not mandate any personnel. It does not matter whether it is an administrator or a teacher—we do not mandate personnel. We allow the local level to make that decision.

Again, we need to remember that when we start down this slippery slope, I can see all sorts of wonderful things that a military coordinator could do to help young people reach their potential, but I certainly would not mandate it.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, I have to tell my colleagues I am now perplexed a little bit about the Kennedy amendment because I am looking at the gentleman's Dear Colleague, and I quote:

> This person, referring to the work force development coordinator, would help develop courses in addition to the core curriculum, and I always thought that the design of that curriculum, that local curriculum, was the responsibility of the locally elected school board. That is certainly in keeping with the longstanding American tradition.
>
> And second, the gentleman talks about this individual again helping familiarize young people with college opportunities or college possibilities and maybe encouraging them to set their sights high and to apply to attend a 4-year institution.

Yet again I read from his Dear Colleague. He says:

> This person would educate our students about career possibilities in their own hometown and help students obtain jobs in the local economy. This acts as a local job placement service run at a local high school, and that is contrary to the idea of encouraging more young people to go to college.

Mr. KENNEDY of Massachusetts. Mr. Chairman, would the gentleman from Wisconsin [Mr. PETRI] yield?

Mr. PETRI. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. First of all, as my colleagues know, we have heard a lot of talk about mandates. I just like to point out that all this is is a permissible activity. There is no mandate. I mean I think it should be a mandate, but I did not write it because I did not think we could get enough votes if we wrote it as an absolute mandate. So it is just a permissible activity.

And I would just say to the gentleman, through the gentleman from Wisconsin to the gentleman from California, that all we are trying to suggest here is that of course the core curriculum is going to be set by the local school committee. We want to involve the local school committee and everyone else in this activity. But unless we provide them a coordinator who can work with the business community in order to accomplish this, you will get our top tier, the top 10 or 20 or 30 percent that will take care of this anyway. We are talking about the kind of high schools that maybe do not exist in my colleague's district but certainly exist in mine, the kind of high schools that are really struggling, that are having a very hard time. Go to those high schools' principals and ask them whether or not they would like to have a coordinator that can work with the local community and work with their businesses.

Mr. PETRI. Reclaiming my time, I yield to the gentleman from California [Mr. RIGGS]

Mr. RIGGS. Mr. Chairman, colleagues, let us apply the commonsense test here for a moment. Will one work force development coordinator, paid through Federal taxpayer funds, be able to do what the locally elected school board cannot?

Mr. KENNEDY of Massachusetts. It can help.

Mr. RIGGS. And a locally elected school board, it seems to me, is accountable to and responsive, we hope responsive, to the local community, not a federally funded work force development coordinator who is not an elected official and therefore really not accountable to the community at all.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find this debate interesting. I would like to ask the Members here today how many of them would like to have a partner in their business that provides 7 percent of the capital and wants to run the business? We provide about 7 percent of the money in this country for vocational education, and here we sit in Washington and we want to say how it is best to do it in all 50 States, and we provide 7 percent.

We ought to be ashamed of ourselves. If there is one message that I have received from educators as a local leader, as a State house member and a State senator, was get Washington out of our school districts. We get a little bit of money from them, and most of our people are spending the bulk of their time trying to deal with Federal bureaucracies and Federal rules.

And then we get down to this issue, and on page 52 of the bill it says providing career guidance counseling, almost providing work-related experience such as internships, cooperative education, school-based enterprises, entrepreneurship, job shadowing that are related to vocational technical education programs, programs for single parents, displaced homemakers, single pregnant women, local education and business partnerships, vocational student organizations, mentoring and support services.

Now we do not tell them who they have to hire. We just gave some guidelines of directions that the programs ought to cover, and that is all we should do. At the Federal level, we are wrong when we provide. If we were doing 70 percent of the money, I might agree with my colleague. Seven percent of the money, and we want to run the voc-tech schools, and that is wrong.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. RIGGS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] will be postponed.

The point of no quorum is considered withdrawn.

Mr. BOSWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I have reviewed the goings on here, I first want to compliment the chairman and the ranking member for the things that they have done to try to bring some sense to it and some of the amendments; I appreciate that.

Some of my colleagues may not know, but I come from a State that has a lot of diverse situations. I have got some rural area and some urban area, got some rural area that is very sparse, very poor, and I am very concerned about does this really cover the things that are needed, does this really provide those much-needed things?

Some of my colleagues may not be familiar with what we term as the farm crisis that took place in the 1980's, but I can tell my colleagues that a lot of the small schools are very poor but are trying to offer equal opportunity in a State that is known for its education, particularly the K–12. In fact, all of its education.

And so I have some concerns that we look out for these folks. So I have offered an amendment that would in fact add some resources to the process we are doing here today.

□ 1845

But I am told after I have dropped it that maybe this is all being taken care of. I understand that the 10 percent has been divided 5 and 5. What I was trying to do, Mr. Chairman, was to say in a permissive manner that the States could add another 5 percent if they chose to do so. I am informed that this is provided for in the process.

I wonder if I could engage the honorable gentleman from California [Mr. RIGGS] in a short, wing-it colloquy, if I could.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. BOSWELL. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, as opposed to our normally very carefully scripted colloquies, I would be happy to engage in a colloquy with the gentleman.

First of all, let me point out to him that under the chairman's manager's amendment we were able to reach a bipartisan agreement on probably the most sensitive and delicate issue of all, and that is the intrastate or substate funding formula change.

Under that amendment, States will be allowed to reserve up to 5 percent of their allotment for a rural reserve and up to 5 percent additional for grants to urban areas, or an urban reserve. I have to tell the gentleman that the amendment he intended to offer was perfectly consistent with the creation of the 10-percent reserve under the bill and under the manager's amendment of both a 5-percent rural reserve and a 5-percent urban reserve.

Furthermore, I want to point out to the gentleman that under the bill, the Secretary of Education may grant a waiver to States that can demonstrate they have a better way of distributing funds. In other words, the Secretary can grant a waiver to any State, and I quote now from the bill, "* * *that demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty." That is virtually verbatim language to the gentleman's amendment, using the definition of poverty as defined by the Office of Management and Budget and revised annually in accordance with section 673, subparagraph 2 of the Community Services Block Grant Act.

So I am glad I have an opportunity to engage in a colloquy with the gentleman, to thank him on his well-intentioned amendment, but also to point out because of the changes that already are incorporated in the bill, I feel that his amendment is not necessary. I hope this colloquy does in fact strengthen those sections of the bill that are compatible with the gentleman's amendment.

Mr. BOSWELL. I think it has. Mr. Chairman, I just want to want the gentleman, by nodding or even commenting, to assure me that the flexibility is there in what is being offered for the States to do the very thing that I was suggesting in this amendment that is in place, and if they choose to have need to put more into it, they can go through this process the gentleman has outlined and have that opportunity.

Mr. RIGGS. That is correct. If the gentleman will continue to yield, the language in the bill allows, and again, I believe encourages, the States to use up to 10 percent of the money to drive those funds to the areas of greatest economic need and highest poverty, and again, that is very consistent with what the gentleman is proposing.

Mr. BOSWELL. They can add to that, the vehicle that is in place, they can add to that if they go through the process the gentleman has described.

Mr. RIGGS. Under the alternative secondary formula, they can drive all of their money to areas of greatest economic need and high poverty areas, if in fact they can demonstrate that the formula will do just that to the satisfaction of the Secretary of Education.

Mr. BOSWELL. I thank the gentleman very much.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. BOSWELL] has expired.

(By unanimous consent, Mr. BOSWELL was allowed to proceed for 2 additional minutes.)

Mr. MARTINEZ. Mr. Chairman, will the gentleman yield?

Mr. BOSWELL. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, the last comment made by the chairman of the committee, the alternative formula, the gentleman understands that in a State like his, where his State can prove that the formula difference they come up with is targeted to a higher poverty area than the original formula, in other words, that they are really addressing the population with the greatest need, then that waiver will be given. So the percentage, rather than 5 or 10, or it could be 15, 20, whatever the State would determine its greatest need is.

Mr. BOSWELL. I thank both gentlemen from California for their hard, conscientious work. I think they have met my concern. Therefore, I will not offer the amendment. I thank them for this exchange.

Mr. RIGGS. If the gentleman will continue to yield, Mr. Chairman, just so I can reinforce the point just made by my good friend and the ranking member of the subcommittee, he is absolutely correct that we have provided in the bill for a waiver in that situation, where the State demonstrates that, and again I quote from the bill, now, "A proposed alternative formula more effectively targets funds on the basis of poverty."

So again, the language that is already in the bill would seem to do pretty much what the gentleman would like to do with his amendment. Therefore his amendment, I believe, is unnecessary, but hopefully this colloquy will now not only underscore the gentleman's concerns, but strengthen the intent of the language already included in the bill.

Mr. BOSWELL. Mr. Chairman, I thank both Members for their response. I feel reassured, and I will not offer the amendment. I look forward to us pressing on.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. If there are no other amendments, pursuant to the order of the House of today, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 5 offered by the gentlewoman from Hawaii [Mrs. MINK]; and amendment No. 2 offered by the gentleman from Massachusetts [Mr. KENNEDY].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 5 OFFERED BY MRS. MINK OF HAWAII

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Hawaii [Mrs. MINK] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mrs. MINK of Hawaii:

Page 21, line 4, strike "(b)" and insert "(c)".

Page 21, line 6, strike "(b)" and insert "(c)".

Page 21, line 10, strike the periods and end quotation marks and insert a semicolon.

Page 21, after line 10, insert the following:

(5) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) by striking "section 221" and inserting "paragraph (3) of section 201(c)"; and

(ii) by striking "section 222" and inserting "paragraph (4) of section 201(c)"; and

(B) by striking subparagraph (J).

Page 33, after line 12, insert the following (and redesignate the subsequent paragraphs accordingly):

"(4) sex equity programs;".

Page 34, after line 5, insert the following:

"(e) HOLD HARMLESS.—Notwithstanding the provisions of this part or section 102(a), to carry out programs described in paragraphs (3) and (4) of subsection (c), each eligible recipient shall reserve from funds allocated under section 102(a)(1), an amount that is not less than the amount such eligible recipient received in fiscal year 1997 for carrying out programs under sections 221 and 222 of this Act as such sections were in effect on the day before the date of the enactment of the Carl D. Perkins Vocational-Technical Education Act Amendments of 1997".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 207, noes 214, not voting 13, as follows:

[Roll No. 286]

AYES—207

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gilman
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watkins
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—214

Aderholt
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—13

Archer
Dingell
Fattah
Frost
Gonzalez
Kennedy (RI)
McDade
McIntyre
Mollohan
Ney
Schiff
Stabenow
Young (AK)

□ 1911

Mr. GANSKE changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the order of the House of today, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 2 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY], on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 189, noes 230, not voting 15, as follows:

[Roll No. 287]

AYES—189

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Furse
Gejdenson
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Nadler
Neal
Ney
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—230

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—15

Cox
Frost
Gephardt
Jefferson
Kennedy (RI)
Maloney (CT)
McDade
Mollohan
Oberstar
Oxley
Parker
Schiff
Stabenow
Thomas
Young (AK)

☐ 1921

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. STABENOW. Mr. Chairman, on rollcall Nos. 286, and 287, had I been present, I would have voted "yes" on recorded vote 286, the Mink amendment and "no" on recorded vote 287, the Kennedy amendment.

Mr. PAUL. Mr. Chairman, over the past 35 years, Congress has constructed a centralized system of vocational education, wasting millions of taxpayer dollars on a system that all-too-often serves more as a "dumping ground" for special-needs students than as an effective means of providing noncollege bound students with the knowledge and skills they need to become productive citizens.

Congress is considering prolonging the life of large parts of this system by reauthorizing the Carl Perkins Vocational Education and Applied Technology Act (H.R. 1853). While 1853 does eliminate several Federal programs and State mandates contained in current law, if further legitimizes the unconstitutional notion that the Federal Government has a legitimate role to play in education.

Furthermore, certain language in H.R. 1853 suggests that the purpose of education is to train students to serve the larger needs of society, as determined by Government and business, not to serve the individual.

During the discussion of this bill, the case has been made that constitutionalists should support H.R. 1853 because it reduces the number of Federal mandates on the States; however the 10th amendment does not quantify the extent to which the Federal Government can interfere in areas such as education. Instead, the 10th amendment forbids any and all Federal interference in education, no matter how much flexibility the programs provide the States.

H.R. 1853 represents mandate federalism, where the Federal Government allows States limited flexibility as to the means of complying with Congress mandates. Under this bill, States must submit a vocational education plan to the Department of Education for approval. States must then demonstrate yearly compliance with benchmarks that measure a series of federally set goals. The Secretary of Education has the authority to sanction the States for failure to reach those benchmarks, as if the States were the disobedient children of the Federal Government, not entities whose sovereignty must be constitutionally respected.

Congress has, so far, resisted pressure from the administration to give the Department of Education explicit statutory authority to create model benchmarks, which would then be adopted by every State. However, certain provisions of H.R. 1853 may provide the Department of Education with the opportunity to impose a uniform system of vocational education on every State in the Nation.

Particularly troublesome in this regard is the provision requiring every State to submit their vocational education plan to the Secretary for approval. The Secretary may withhold approval if the application is in violation of the provisions of this act. Ambitious bureaucrats may stretch this language to mean that the Department can reject a State plan if the Department does not feel the plan will be effective in meeting the goals of the bill. For example, a Department of Education official may feel that a State's plan does not adequately prepare vocational-technical education students for opportunities in postsecondary education or entry into high skill, high wage jobs, because the plan fails to adopt the specifications favored by the Education Department. The State plan may thus be rejected unless the State adopts the academic provisions favored by the administration.

H.R. 1853 further opens the door for the establishment of national standards for vocational education through provisions allowing the Secretary to develop a single plan for evaluation and assessment, with regard to the vocational-technical education and provide for an independent evaluation, of vocational-technical education programs, including examining how States and localities have developed, implemented, or improved State and local vocational-technical education programs. Education bureaucrats could very easily use the results of the studies to establish de facto model benchmarks that States would have to follow.

Mr. Chairman, the Department of Education may impose national standards on State vocational education programs by requiring that States improve the academic component of vocational education. Integrating academics with vocational education is a noble goal, but Federal education bureaucrats may use this requirement to force vocational education programs to adopt national academic standards, upon pain of having their State plans denied as inconsistent with the provisions of the act mandating instead that States integrate academics into their vocational education programs.

States are also required to distribute their Federal funds according to a predetermined formula that dictates the percentage of funds States must spend on certain federally approved activities without regard for differences between the States. For example, H.R. 1853 singles out certain populations, such as displaced homemakers and single parents, and requires the States to certify to the Federal Government that their programs are serving these groups. These provisions stem from the offensive idea that without orders from the Federal Government, States will systematically deny certain segments of the population access to job training services.

Another Federal mandate contained in this so-called decentralization plan, is one requiring States to spend a certain percentage on updating the technology used in vocational education programs. Technological training can be a useful and necessary part of vocational education, however, under the Constitution it is not the business of the Federal Government to ensure vocational education students receive up-to-date technological training.

The States and the people are quite capable of ensuring that vocational education students receive up-to-date technological training—if the Federal Government stops usurping their legitimate authority to run vocational education programs and if the Government stops draining taxpayers of the resources necessary to run those programs.

H.R. 1853 provides businesses with taxpayer-provided labor in the form of vocational education students engaging in cooperative education. Since businesses benefit by having a trained work force, they should not burden the taxpayers with the costs of training their future employees. Furthermore, the provision allowing students to spend alternating weeks at work rather than in the classroom seems inconsistent with the bill's goals of strengthening the academic component of vocational education.

Work experience can be valuable for students, especially when that experience involves an occupation the student may choose as a future career. However, there is no reason for taxpayers to subsidize the job training of another. Furthermore, if it wasn't for Federal minimum wage and other laws that make hiring inexperienced workers cost prohibitive, many businesses would gladly provide work apprenticeships to young people out of their own pockets instead of forcing the costs onto the U.S. taxpayer.

Today, employers can be assessed huge fines if they allow their part-time adolescent employees to work, with pay, for 15 minutes beyond the Department of Labor regulations. Yet, those same businesses can receive free, full-time labor from those same adolescents as part of a cooperative education program. Clearly, common sense has been tossed out the window and replaced by the arbitrary and conflicting whims of a Congress attempting to do good.

Further evidence of catering to well-established businesses can be found within the provision of H.R. 1853 wherein teachers are instructed not to meet the needs and expectations of students, but rather the needs, expectations, and methods of industry. All education, including vocational education, should explicitly be tailored to the wishes of the parent or those already funding the costs of education.

Mr. Chairman, H.R. 1853 continues the Federal education policy of dragooning parents into education as partners in the education process. Parents should control the education process, but they should never be placed in a subordinate role and made to help carry out the agenda of Government bureaucrats.

Concerns have been raised that vocational education programs may be used as a means to force all students into a career track not of their own choosing, and thus change the American education system into one of preparation for a career determined for the students by the Government. Such a system more closely resembles something depicted in a George Orwell novel than the type of education system compatible with a free society. H.R. 1853 attempts to assuage those fears through a section forbidding the use of Federal funds to force an individual into a career path that the individual would not otherwise choose or require any individual to obtain so-called skilled certificates.

However, States and localities that violate this portion of the act are not subject to any loss of Federal funds. Of course, even if the act did contain sanctions for violating an individual's freedom to determine their own career path, those sanctions would have to rely on the willingness of the very Federal bureaucracy which helped originate many of the education reforms which diminish student freedom to enforce this statutory provision.

Mr. Chairman, the Carl D. Perkins Act reauthorization may appear to provide for greater State and individual control over vocational education. However, H.R. 1853 is really another example of mandate federalism, where States, localities, and individuals are given limited autonomy in how they fulfill Federal mandates. As H.R. 1853 places mandates on the States and individuals to perform certain functions in the area of education, an area where Congress has no constitutional authority. It is also in violation of the ninth and tenth amendments to the U.S. Constitution.

Furthermore, H.R. 1853 forces Federal taxpayers to underwrite the wages of students working part-time in the name of cooperative education, another form of corporate welfare. Businesses who benefit from the labor of students should not have the costs of that labor subsidized by the taxpayers.

Certain language in H.R. 1853 suggests that parent's authority to raise their children as they see fit may be undermined by the Government in order to make parents partners in training their children according to Government specifications.

Congress should, therefore, reject H.R. 1853 and instead eliminate all Federal vocational education programs in order to restore authority for those programs to the States, localities, and individual citizens.

Mr. ADAM SMITH of Washington. Mr. Chairman, I want to express my strong support for the Carl D. Perkins Vocational-Technical Education Act. The Perkins program provides much-needed vocational and technical education to students around the country.

Federal investment in vocational-technical education is vital for assuring a well-trained work force for the upcoming century. The Perkins Act distributes vocational education funds to the local level to ensure that our students are taught the necessary skills to be productive citizens. Investing more in education and training our work force to better compete is a sensible and farsighted way to spend our Federal funds.

Just last month, I visited Chief Leschi School in Puyallup, WA. My office helped them apply for their first Perkins grant. They won the grant, and they will receive over $370,000 to put toward vocational and technology programs. The grant money will fund computers and equipment for the vocational department, such as the auto, wood, and print shops and the photography lab. When I toured Chief Leschi, I saw how important these grants could be. I met motivated administrators, high-quality teachers and students who were eager to learn. It's critical to provide them with the equipment and facilities they need to be successful, and because of the Perkins Vocational-Technical Education Act, Chief Leschi will soon have even stronger vocational and technical programs.

Again, I urge my colleagues' support to reauthorize the Carl D. Perkins Vocational-Technical Education Act. The Perkins grant has made an important difference in the quality to our Nation's vocational and technical education, and we should reauthorize the program to ensure it is maintained for the students of tomorrow.

The CHAIRMAN. If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. QUINN) having assumed the chair, Mr. EWING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act, pursuant to

House Resolution 187, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. MINK OF HAWAII

Mrs. MINK of Hawaii. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. MINK of Hawaii. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. MINK of Hawaii moves to recommit the bill (H.R. 1853) to the Committee on Education and the Workforce, with instructions to report the bill back to the House forthwith, with the following amendments:

Page 21, line 4, strike "(b)" and insert "(c)".

Page 21, line 6, strike "(b)" and insert "(c)".

Page 21, line 10, strike the periods and end quotation marks and insert a semicolon.

Page 21, after line 10, insert the following:

(5) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) by striking "section 221" and inserting "paragraph (3) of section 201(c); and

(ii) by striking "section 222" and inserting "paragraph (4) of section 201(c)"; and

(B) by striking subparagraph (J).

Page 33, after line 12, insert the following (and redesignate the subsequent paragraphs accordingly):

"(4) sex equity programs;".

Page 34, after line 5, insert the following:

"(e) HOLD HARMLESS.—Notwithstanding the provisions of this part or section 102(a), to carry out programs described in paragraphs (3) and (4) of subsection (c), each eligible recipient shall reserve from funds allocated under section 102(a)(1), an amount that is not less than the amount such eligible recipient received in fiscal year 1997 for carrying out programs under sections 221 and 222 of this Act as such sections were in effect on the day before the date of the enactment of the Carl D. Perkins Vocational-Technical Education Act Amendments of 1997.

Mr. GOODLING. Mr. Speaker, I reserve all points of order against the motion.

The SPEAKER pro tempore. The gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, I take this extraordinary measure in order to emphasize the importance of the amendment that was just defeated.

My effort in offering the amendment was simply to hold harmless, to continue a vital program that has been in existence for the past 13 years because Congress recognizes that unless we set aside 10 percent of the funding in the vocational education program, that these individuals, the displaced homemakers, the single parents, the pregnant women, others in that category would simply not be provided for under the traditional vocational education concepts.

☐ 1930

And, so, the Congress agreed and put forth a 10-percent set-aside for these individuals. I understand that the new majority has a new way of looking at funding these education programs. They prefer to allocate the monies to the States, and through guidance called in the bill as benchmarks, attempt to try to suggest that these programs ought to be continued.

My amendment would say dismiss the 10-percent set-aside, we are at a new point, all right, let us dismiss that, forget the targeting; but let us not forget the program. And, so, all I do, under my amendment, is to hold harmless the current programs that are in existence at the current level of funding. That is all that we do. We do not ask for an extra dollar to be allocated to this program, nor do we set aside any particular mandates for new programs. And the reason why this is so important, my colleagues of the House, is that just a year ago, just a few months ago, in August of last year, we passed the welfare reform bill; and in it we mandate that all of the women, single parents be required to go to work as soon as 2 months after getting on welfare.

The justification for this requirement to work was that there would be abundant funds and abundant programs in existence to help these individuals get job training, get an education in order to get a decent job. It was not intended that they should just get a job and earn minimum wage, which we all know is insufficient to sustain a family.

So education is the key. Everyone who got up to speak for the welfare reform bill made reference to education and training. This is our one opportunity to link the two together, the welfare reform, go back to work, get education, together with the job training programs that are implicit in the vocational education concept.

So I ask my colleagues, especially those who voted for the Welfare Reform Act, do not destroy a program that is in existence today that is providing probably the only single effort that this Nation makes to recognize the hardships of single parents. It is very difficult for them. We cannot throw them to the masses.

Before this Congress earmarked 10 percent, let me tell my colleagues that only 0.2 percent of the program money under vocational education went to this target group. And, so, it is extremely important today that we not cut this off. There will be, of course, turmoil in the restructuring of the vocational education program as it is. We do not disagree with the changes that are being made. But we say, at the same time that the changes are made, do not create a turmoil in this program that is so essential, not just for the particular women that are in it, but in order to have a transition into the welfare reform program, which is saying to all single mothers under welfare that they must work and if they must work they need training, because in order to get a good skilled job, in order to earn a decent living, they recognize that they have to have further education. So I plead to this House to accept my motion to recommit.

The SPEAKER pro tempore (Mr. QUINN). Does the gentleman from Pennsylvania [Mr. GOODLING] insist on his point of order?

Mr. GOODLING. Mr. Speaker, no, I do not insist on my point of order. I rise in opposition.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 5 minutes.

Mr. GOODLING. Mr. Speaker, I want to make sure that everybody understands that H.R. 1853 authorizes funding for vocational technical education. It is not a welfare program. It is an education bill. And in this bill, anytime we set aside money for something else, we are taking that money from our local school, our secondary school, their vocational program; we are taking it from the vocational technical school in our area, the secondary vocational technical school.

Now this is a different time. My colleague is talking about ancient history. Why is it different? It is different because we passed several pieces of legislation that take care of special populations. We provide over $2 billion in our Federal job training program that may be used to serve displaced homemakers and other special populations. Most of these programs are geared toward special populations. We have over $3 billion in our welfare-to-work program, again geared to special populations. It is a different time we are talking about. Do not mandate things to local school districts. Let them determine what is in the best interest of their local area.

Mr. Speaker, I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA] to say what we do in this legislation already, to protect special populations, over and over and over again. We protect them without mandating anything.

Mrs. ROUKEMA. Mr. Speaker, I thank the chairman and must say that I know my colleagues are saying that it is not often that the gentlewoman from New Jersey [Mrs. ROUKEMA] stands up on something that is a woman's issue and says a no vote.

But I have got to say that we have put every enforcement mechanism here in this legislation. This is plain and simply a set-aside proposal that the gentlewoman from Hawaii [Mrs. MINK] has advanced. It goes contradictory to the whole reform effort that we had on a bipartisan basis in the committee, the reform effort, which was to give authority back to the local schools so that they can make their decision based on the local population needs.

I want to assure my colleagues who are as concerned as I am about the special needs of populations such as displaced homemakers, single parents, and single pregnant women that the enforcement mechanisms are here. They are very explicit throughout the legislation and put the authority on both the Department of Education and Health and Human Services to monitor and require compliance.

I do not have time to go through all of this, but page 29 and the accountability standards of section 115 and section 201 amply protect those special populations. I would simply urge that we not take 10 steps backward when we are trying to reform this most essential program.

Mr. GOODLING. Mr. Speaker, reclaiming my time, I would like to close by merely saying do not take money from your local school districts, do not take money from your area vocational technical school, do not take money for your vocational programs in your secondary schools in your district in order to feed a State bureaucracy and a Federal bureaucracy. Let them make those decisions at the local level.

All the special populations are well protected in this legislation. And as I indicated in other legislation that we passed this year, we have emphasized those special populations, particularly displaced homemakers, in programs where it should be done. This is an education bill that we are dealing with today.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MINK of Hawaii. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces he may reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 207, noes 220, not voting 8, as follows:

[Roll No. 288]

AYES—207

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watkins
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—220

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—8

Frost
Gephardt
Kennedy (RI)
McDade
Mollohan
Parker
Schiff
Young (AK)

☐ 1957

Mr. CAMP changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. QUINN). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 12, not voting 8, as follows:

[Roll No. 289]

YEAS—414

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—12

Bonior
Campbell
Dickey
McDermott
Mink
Olver
Owens
Paul
Rohrabacher
Royce
Sensenbrenner
Stark

NOT VOTING—8

Frost
Gephardt
Kennedy (RI)
McDade
Mollohan
Parker
Schiff
Young (AK)

□ 2006

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1853.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1853, CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS OF 1997

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1853, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2003, BALANCED BUDGET ENFORCEMENT ACT OF 1997

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–195) on the resolution (H. Res. 192) providing for consideration of the bill (H.R. 2003) to reform the budget process and enforce the bipartisan balanced budget agreement of 1997, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN). Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 765, de novo;, H.R. 1944, do novo; H.R. 1663, de novo; H.R. 1661, de novo; House Concurrent Resolution 81, de novo; House Concurrent Resolution 88, de novo; House Resolution 175, de novo; House Concurrent Resolution 99, de novo; House Resolution 191, by the yeas and nays; and H.R. 1585, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

SHACKLEFORD BANKS WILD HORSES PROTECTION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 765.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 765.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 416, noes 6, not voting 12, as follows:

[Roll No. 290]

AYES—416

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer

Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOES—6

Campbell
Carson
Paul
Sanford
Scarborough
Sensenbrenner

NOT VOTING—12

Cubin
Frost
Gephardt
John
Kennedy (RI)
McDade
Mollohan
Parker
Schiff
Thornberry
Yates
Young (AK)

☐ 2027

Mr. SCARBOROUGH changed his vote from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. CUBIN. Mr. Speaker, on rollcall No. 290, I was unavoidably detained.

Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. KENNEDY of Rhode Island. Mr. Speaker, I was unavoidably detained in my home State of Rhode Island today and missed the following votes:

On rollcall No. 286, the Mink amendment to H.R. 1853 Vocational-Technical Education Act, I would have voted "yea"; on rollcall No. 287, the Kennedy of Massachusetts amendment, I would have voted "yea"; on rollcall No. 288, Mrs. MINK's motion to recommit H.R. 1853 with instructions, I would have voted "yea"; on rollcall No. 289, final passage on H.R. 1853, I would have voted "yea"; and on rollcall No. 290, H.R. 765 the Shakelford Banks Wild Horses Protection Act, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

WARNER CANYON SKI HILL LAND EXCHANGE ACT OF 1997

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and passing the bill, H.R. 1944.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Idaho [Mrs. CHENOWETH] that the House suspend the rules and pass the bill, H.R. 1944.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 423, noes 0, not voting 11, as follows:

[Roll No. 291]

AYES—423

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett

Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOT VOTING—11

Foglietta
Frost
Gephardt
McDade
McKinney
Mollohan
Parker
Rush
Schiff
Yates
Young (AK)

□ 2036

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON H.R. 2209, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1998

Mr. WALSH, from the Committee on Appropriations, submitted a privileged report (Rept. No. 105–196) on the bill (H.R. 2209) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

PROVIDING FOR MAINTENANCE OF DAMS IN EMIGRANT WILDERNESS

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and passing the bill, H.R. 1663, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Idaho [Mrs. CHENOWETH] that the House suspend the rules and pass the bill, H.R. 1633, as amended.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 424, noes 2, not voting 8, as follows:

[Roll No. 292]

AYES—424

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman

Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOES—2

Paul
Stump

NOT VOTING—8

Foglietta
Gephardt
McDade
Mollohan
Parker
Schiff
Yates
Young (AK)

☐ 2045

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TRADEMARK LAW TREATY IMPLEMENTATION ACT

The SPEAKER pro tempore (Mr. QUINN). The pending business is the question of suspending the rules and passing the bill, H.R. 1661, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. COBLE] that the House suspend the rules and pass the bill, H.R. 1661, as amended.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 425, noes 0, not voting 9, as follows:

[Roll No. 293]

AYES—425

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOT VOTING—9

Foglietta
Gephardt
Johnson (WI)
McDade
Mollohan
Parker
Schiff
Yates
Young (AK)

☐ 2054

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CALLING FOR UNITED STATES INITIATIVE SEEKING JUST AND PEACEFUL RESOLUTION OF SITUATION ON CYPRUS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 81, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 81, as amended.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 417, noes 4, not voting 13, as follows:

[Roll No. 294]

AYES—417

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOES—4

Barr
Collins
Deal
Paul

NOT VOTING—13

Emerson
Foglietta
Gephardt
Goodling
Hutchinson
McDade
Mollohan
Parker
Schiff
Waters
Waxman
Yates
Young (AK)

☐ 2102

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

CONGRATULATING EL SALVADOR ON SUCCESSFUL ELECTIONS

The SPEAKER pro tempore (Mr. QUINN). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 88.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 88.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 419, noes 3, not voting 12, as follows:

[Roll No. 295]

AYES—419

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara

Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOES—3

Bryant
Kucinich
Paul

NOT VOTING—12

Foglietta
Hutchinson
Johnson, Sam
McCollum
McDade
Mollohan
Parker
Roukema
Schiff
Waters
Yates
Young (AK)

☐ 2111

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

PERSONAL EXPLANATION

Mr. McCOLLUM. Mr. Speaker, on rollcall No. 295, I strongly supported the resolution praising El Salvador, but inadvertantly missed the vote. There is no country in Central America more representative of democracy and an inspiration to others than El Salvador. Had I been present, I would have voted "yes."

RESOLUTION REGARDING THE CONGO

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 175, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 175, as amended.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 279, noes 147, not voting 8, as follows:

[Roll No. 296]

AYES—279

Abercrombie
Ackerman
Allen
Andrews
Archer
Armey
Baesler
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Bliley
Blumenauer
Boehner
Bonior
Bono
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Calvert
Campbell
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dunn
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thomas
Thompson
Thune
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wise
Wolf
Woolsey
Wynn

NOES—147

Aderholt
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bilbray
Bilirakis
Blunt
Boehlert
Bonilla
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Dreier
Duncan
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gibbons
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
King (NY)
Kolbe
LaHood
Latham
Lewis (KY)
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McKeon
Moran (KS)
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Paul
Paxon
Pease
Pickering
Ramstad
Redmond
Rogers
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Shadegg
Shuster
Skeen
Smith (MI)
Smith (TX)
Snowbarger
Souder
Spence
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Young (FL)

NOT VOTING—8

Foglietta
McDade
Mollohan
Parker
Roukema
Schiff
Yates
Young (AK)

☐ 2128

Messrs. GUTKNECHT, SALMON, HILLEARY, GOODLING, BURTON of

Indiana, SHUSTER, BUYER, COBURN, GRAHAM, LAHOOD, PICKERING, and DUNCAN, Mrs. EMERSON, and Messrs. TIAHRT, ENGLISH of Pennsylvania, PEASE, JONES, HERGER, PAXON, TAYLOR of North Carolina, WICKER, CAMP, BACHUS, LIVINGSTON, LATHAM, LOBIONDO, ISTOOK, DICKEY, WELLER, McCOLLUM, McKEON, WAMP, PAPPAS, RYUN, MORAN of Kansas, KOLBE, GREENWOOD, FOX of Pennsylvania, and WELDON of Florida, Mrs. KELLY, Mr. GOSS, Ms. GRANGER, and Messrs. GANSKE, CUNNINGHAM, ADERHOLT, NUSSLE, KASICH, WATKINS, and GALLEGLY changed their vote from "aye" to "no."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 2130

EXPRESSING CONCERN OVER RECENT EVENTS IN SIERRA LEONE IN WAKE OF RECENT MILITARY COUP D'ETAT

The SPEAKER pro tempore (Mr. QUINN). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 99.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 99.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 418, noes 1, answered "present" 1, not voting 14, as follows:

[Roll No. 297]

AYES—418

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOES—1

Paul

ANSWERED "PRESENT"—1

Barr

NOT VOTING—14

Armey
Berman
Foglietta
Hefner
McDade
Mollohan
Parker
Roukema
Royce
Schiff
Slaughter
Solomon
Yates
Young (AK)

□ 2136

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REGARDING INTERFERENCE OF EUROPEAN COMMISSION IN MERGER OF BOEING CO. AND McDONNELL DOUGLAS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 191.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 191, on which the yeas and nays are ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 2, not voting 16, as follows:

[Roll No. 298]

YEAS—416

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd

Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NAYS—2

Oberstar
Stark

NOT VOTING—16

Ballenger
Berman
Foglietta
Hefner
Hunter
McDade
Mollohan
Nethercutt
Parker
Portman
Roukema
Royce
Schiff
Weldon (PA)
Yates
Young (AK)

□ 2144

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STAMP OUT BREAST CANCER ACT

The SPEAKER pro tempore (Mr. QUINN). The pending business is the question de novo of suspending the rules and passing the bill, H.R. 1585, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 1585, as amended.

The question was taken.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 422, noes 3, not voting 9, as follows:

[Roll No. 299]

AYES—422

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering

Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOES—3

Paul
Sanford
Sensenbrenner

NOT VOTING—9

Ballenger
Berman
Foglietta
McDade
Mollohan
Royce
Schiff
Yates
Young (AK)

□ 2200

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued United States postage stamps, and for other purposes.".

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2003

Mrs. KENNELLY of Connecticut. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the further consideration of the bill, H.R. 2160, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. SKEEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2160), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. Skeen).

The motion was agreed to.

□ 2202

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2160, with Mr. PEASE, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Thursday, July 17, 1997, the amendment offered by the gentleman from Alabama [Mr. CALLAHAN] had been disposed of and the bill had been read through page 13, line 24.

The Clerk will read.

The Clerk read as follows:

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For establishment of a Native American institutions endowment fund, as authorized by Public Law 103–382 (7 U.S.C. 301 note), $4,600,000.

EXTENSION ACTIVITIES

Payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $268,493,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $2,000,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,695,000; payments for the pest management program under section 3(d) of the Act, $10,783,000; payments for the farm safety program under section 3(d) of the Act, $2,855,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,214,000; payments to upgrade 1890 land-grant college research, extension, and teaching facilities as authorized by section 1447 of Public Law 95–113, as amended (7 U.S.C. 3222b), $7,549,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $908,000; payments for a groundwater quality program under section 3(d) of the Act, $9,061,000; payments for youth-at-risk programs under section 3(d) of the Act, $9,554,000; payments for a food safety program under section 3(d) of the Act, $2,365,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,192,000; payments for Indian reservation agents under section 3(d) of the Act, $1,672,000; payments for sustainable agriculture programs under section 3(d) of the Act, $3,309,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $25,090,000; and for Federal administration and coordination including administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $6,370,000; in all, $415,110,000: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, $618,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $424,244,000, of which $4,443,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C.

2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 1998 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 1998, $88,000,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $3,200,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $45,592,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $59,521,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,690,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,200,000.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $23,928,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $43,092,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Appropriations Committees.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $446,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, the Poultry Products Inspection Act, as amended, and the Egg Products Inspection Act, as amended, $589,263,000, of which $5,000,000 shall be available for obligation only after a final rule to implement the provisions of subsection (e) of section 5 of the Egg Products Inspection Act (21 U.S.C. 1034(e)), as amended, is implemented, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided*, That this appropriation shall not be available for shell egg surveillance under section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $572,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $702,203,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $2,000,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $350,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $430,828,000 of which $400,000,000 shall be for guaranteed loans; operating loans, $2,341,701,000 of which $1,700,000,000 shall be for unsubsidized guaranteed loans and $191,701,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $500,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $34,653,000; and for credit sales of acquired property, $19,432,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $19,460,000 of which $15,440,000 shall be for guaranteed loans; operating loans, $67,255,000 of which $19,210,000 shall be for unsubsidized guaranteed loans and $18,480,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $66,000; for emergency insured loans, $6,008,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $500,000; and for credit sales of acquired property, $2,530,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $218,446,000 of which $208,446,000 shall be transferred to and merged with the "Farm Service Agency, Salaries and Expenses" account.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), $65,000,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i). In addition, for sales commissions of agents, as authorized by section 516 (7 U.S.C. 1516) $188,571,000.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

On page 27, line 23, strike "$188,571,000" and insert "$152,571,000".

On page 48, line 11, strike "$3,924,000,000" insert "(increased by $23;700,000").

The CHAIRMAN pro tempore. Does any Member raise a point of order under clause 2(f) of rule XXI against provisions of the bill addressed by the amendment but not yet reached in the reading (to wit: page 48, line 6, through page 49, line 18)?

The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Chairman, 2 years ago this Congress had a major fight because the majority wanted to cut school lunches. Last year the majority tried to cut the WIC program, which is a nutrition program for infants and young mothers. In this bill they are again falling some $30 million short in the WIC Program of what would be required to maintain our existing case load.

What happens in this bill is that the committee is attempting to bring the carryover funds down to around 3 percent or less. That creates a problem because this program needs a certain amount of carryover funds in order to pay the reimbursements that come in after the end of the fiscal year.

OMB and USDA both estimate that without this amendment that I am offering tonight that we run the risk of seeing 55,000 women, children, and infants bounced out of the WIC Program. Basically what we do is to restore that funding and pay for it by reducing the increase in this bill, which the committee provided above the administration request for commissions for crop insurance.

Before anybody has a heart attack and says, oh, do not hurt our farmers, I want to make quite clear, this amendment will in no way hurt farmers. The GAO reported that under the crop insurance program we had a number of fiscal failures. The General Accounting Office said that they found in the crop insurance program expenses for above average commissions paid to agents by one large company, corporate aircraft and excessive automobile charges, country club memberships and various entertainment activities for agents and employees such as skybox rentals at professional sporting events. The GAO went on to indicate that the problem could best be addressed by reducing the commission that is provided to insurance agents under the program.

Now, we have some scare tactics being followed by some people who would like to see this amendment not passed. Members are being told, for instance, in a letter circulated by the American Association of Crop Insurers that this is going to hurt farmers. That is absolutely not true. There are four separate assertions in this letter which are dead wrong.

First of all, they say that the cuts that I am proposing will occur in addition to the Meehan amendment. That is in fact wrong. If my amendment is passed, the Meehan amendment cannot even be offered on the House floor.

Second, they say that a 10.5-percent commission is insufficient and would cause cancellation of policies. We are not talking about a 10-percent commission. We are talking about limiting these commissions to 24.5 percent rather than the 28 percent in the bill.

Third, they claim that the Obey amendment is an attack on farmers. That is absolute nonsense. What is an attack on farmers is the ridiculous farm policy that we have had under both Democratic and Republican administrations for the past 12 years which have driven prices down and driven many farmers off the farm. This proposal or this assertion that this cut in insurance rates or insurance commissions will hurt farmers is, as Mo Udall used to say, straight gumwah, absolute gumwah. All this does is to say that we want farmers and taxpayers to get the best possible deal for the money. This proposal does absolutely nothing to change the crop insurance program. It does absolutely nothing to raise the cost of this program for farmers. What it does do is to stop the rip-off that this program has had to endure from some of the people who have been trying to sell this insurance to farmers, and so it is a simple choice. If you want to continue to support the kind of rip-offs that some of these agents had provided, then you vote against the amendment.

If you want to, on the other hand, ensure that we do not knock 55,000 to 60,000 women and infants and children off the WIC Program, then vote for the amendment. That is the sound thing to do.

Mr. SKEEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the gentleman's amendment. Mr. Chairman, this bill is a fair and balanced bill. It takes care of the needs of farmers and ranchers, research related to agriculture, nutrition and food safety, rural development and housing for low-income people, the safety of our food, drugs, and medical devices, and the stoppage of gumwah. We have worked very hard to present the House with a well-balanced bill. The bill includes $3.924 billion for WIC, an increase of $118 million above last year, so no one is taking anybody off of WIC. I ask to defeat this amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Obey amendment. As I recall what happened in the committee, when we were working through this issue, it was quite well discussed in the committee; the administration had asked for $154 million for the actual sales commissions. This is money, $154 million, that goes to agents who are brokering crop insurance in our country and their commissions.

□ 2215

It is $154 million. It is not an insignificant amount of money. And, in fact, at that level we estimated every sales agent would receive a 24.5 percent commission. Now, that is a pretty healthy commission, even at 24.5 percent.

What happened once the bill came out of the subcommittee and moved to the full committee, at that point in the manager's amendment the proposal was to increase the sales commissions to $188 million, which would raise the amount of commission back to the level of about 27 percent. So we are really talking about whether somebody who is selling insurance out there is making a 27-percent commission or if they are making a 24.5-percent commission.

And if the GAO study had not been so clear on abuses in the program, I think that people who hold my opinion on this would not feel so strongly. We really do not believe, and we have taken the advice of the Department of Agriculture on this, we do not believe this is going to in any way diminish the amount of crop insurance available to farmers but, in fact, will put in the kind of regimen that we need in that program to make sure we counter abuses.

Mr. Chairman, I do not really know why the proponents of the higher level of commission were able to prevail at the full committee level, but it seems to me we are being responsible in this amendment. We are trying to cut back on the abuses that the GAO identified.

Mr. EWING. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Illinois.

Mr. EWING. Mr. Chairman, the gentlewoman talked about a 27.5-percent commission, and I think in all due fairness to the insurance agents, the average commission for Federal crop insurance is about 10 percent to the agent. The other money goes to cover the administrative costs of running this program through the private sector.

Now, if we do not pay those costs and all of that falls back on the Government, we will spend a lot more than that in beefing up our personnel at all the farm service agencies to handle this thing. We should be fair with the insurance agent. They are not getting 24.5 percent, they are not getting 27.5 percent. The average is about 10 percent.

Ms. KAPTUR. Mr. Chairman, if I might reclaim my time, I think the GAO was very clear in the analysis that they did on an objective basis, and there are serious questions about who is making money.

I think the taxpayers of our country would be pretty upset if they knew that they were paying for commissions to the private sector. That is not quite the way they think it is supposed to work. They do not understand a lot of the details about what crop insurance is all about, but the point is that it is not a program that has a terrific reputation and, therefore, we were trying to be fair.

We did meet the requirements of the Department of Agriculture. They asked for $154 million. We passed that at the subcommittee level. When it went to the full committee, all of a sudden some of the powers that be, the ones that like making those bigger commissions, made their weight felt.

I think the gentleman from Wisconsin has a responsible amendment. He represents a very agricultural State, as do I. We have seen abuses in this program, and this is a way of sending a very strong message that we are not going to overly reward those who are performing this service.

Mr. EWING. Mr. Chairman, if the gentlewoman will continue to yield, she mentioned two things: No. 1 that they are getting this large commission, which is not the case; and, No. 2, the public does not think that people who sell Federal crop insurance earn a commission? That is what I understood the gentlewoman to say. I would think that they would not do it for nothing.

Ms. KAPTUR. Reclaiming my time, I think the gentleman understands my point that the taxpayers, if they really understood this, would be outraged that they are paying commissions to private sector insurance agents to sell this insurance.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment by the gentleman from Wisconsin. It is understandable that he would attempt to move money to the WIC Program, but I want to point out to my colleagues why this is irresponsible to do it at this point and at this time.

As has been mentioned, the WIC Program is already a $3.9 billion program. It has been increased this year $118 million, and this is an attempt to put $23 million, a dribble compared to the total, by decimating the crop insurance program in this country. The $23 million transfer amounts to a 20-percent reduction in crop insurance.

Now, if we want to debate the question of crop insurance and should those insurers receive 24.5 percent or 27 percent, or 34 percent which they received last year, down to 28 percent, the bill funds it at 27 percent, why do we not follow what is going on right now?

The Department of Agriculture, as we speak, is negotiating with the crop insurers to determine at what level crop insurance will be funded. Now, if we eliminate the opportunity for crop insurance insurers to negotiate with the Department of Agriculture by passing this bill, we have already ended the negotiation. Now, that is foolishness. That is irresponsible.

We are trusting the Secretary of Agriculture and the crop insurers to enter into a negotiation, which has always been the case. They will determine at what level crop insurers will be paid for. I am sure the Secretary of Agriculture will protect the taxpayers, as he has in the past, when they have negotiated.

I add again, in the past crop insurers have received 34 percent. We are now down, if the gentleman's amendment is passed, down to 24 percent. That is to cover 54 agricultural programs in America. I suggest there will not be crop insurance available for 54 commodities across the United States.

And for someone to say this does not hurt farmers is preposterous. For someone to say this does not change crop insurance is preposterous. Of course it affects farmers, because it eliminates crop insurance. If we do not want to eliminate crop insurance, defeat this amendment and allow the Secretary to negotiate properly.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I would just take a second to point out that we are taking the Secretary's advice in the original mark of the committee, which was at $154 million, and we agree that there should be negotiations. In fact, the proposal was the administration's Department of Agriculture's request. So I do not think we need to add to it.

Mr. SMITH of Oregon. Reclaiming my time, Mr. Chairman, that was the Secretary's offer. That was before the negotiation ever started. The negotiation has not been completed or culminated. The Secretary makes an offer, the crop insurers make an offer. That is the way negotiations are supposed to be conducted.

So again I say to my colleagues, this hurts farmers across the country. Defeat this amendment.

Ms. DELAURO. Mr. Chairman, I move to strike the requisite number of words.

Let me just say, Mr. Chairman, that this does not reduce crop insurance but it reduces crop insurance commissions. Let us be clear about that.

I rise in strong support of the Obey amendment to increase funding for the Women, Infants, and Children Program, a program which provides nutrition assistance to pregnant women and to young children. Last year the congressional majority went after the school lunch program; earlier this year it was the milk and cereal for women and infants.

If my colleagues recall, it was not long ago this year that the Congress debated the merits of the WIC Program during the disaster relief bill. Threats of reduction in the program. It was wrong then and it is wrong now.

These reductions in the WIC Program, I might add, were met with an outcry across the country and, in fact, in a number of places we already saw people who were being thrown off of the program, women and children who were being let go from the program. But I will say that Congress rightly responded by providing the dollars that WIC needed to continue helping to provide nutritious food to women who are expecting children, to infants, and to young children.

Fact is, is that our experience with the WIC Program shows that it is a wise investment. Each dollar invested in WIC saves more than $3 in other Government spending on programs such as Medicaid. It is a wise investment in the health and development of our youngest children, and each day we learn more and more about the critical elements of early childhood development. So supporting WIC helps kids get off on the right foot.

For years we have been steadily progressing toward the goal of providing nutrition assistance to 7.5 million people through the WIC Program. At the very least, we need to hold the line and continue helping 7.4 million women and children as WIC now does.

The funding level in this bill threatens to backtrack on WIC, help fewer people who depend on it. It includes unrealistic assumptions that could end up costing our kids plenty. It is important to note that WIC is funded at $180 million below what the President's request is.

The Obey amendment will address the danger that women and children who need help will be left without healthy food. The Obey amendment will add $23.7 million, enough to provide WIC benefits for 45,000 people, and the amendment prevents knocking off the 55,000 people off of the WIC Program.

The Obey amendment offsets this amount by reducing the $36 million in excessive payments to crop insurance agents contained in the bill. One more time: It is crop insurance commissions and not crop insurance. The Secretary of Agriculture said the insurance agents do not need this extra money.

The GAO has revealed that the taxpayer money is used for outrageous, unreasonable expenses, such as sky boxes at athletic events, country club membership fees, and corporate aircraft. This does not hurt farmers.

The choice before us is to fund efforts to provide healthy food to pregnant women, to young children; or to pay insurance agents to buy sky boxes and to join country clubs. I urge my colleagues, really, to make the choice that is right; to deal with our values and priorities in this country. Let us help those who need the funds, women, infants, and children, and I urge my colleagues to support the Obey amendment.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Ms. DeLAURO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I want to point out that we are not even asking that we meet the administration's request for funding level for WIC. This bill funds WIC at $184 million below the President's request. We are adding only a tiny portion back. That is hardly excessive.

Mr. LATHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not quite sure where to start here, because I think everyone should be informed, I guess, in their statements. And the fact of the matter is, on the WIC Program the administration says we need about a 2½ percent carryover. The bill, with the current funding, has over 3 percent carryover funds. There is more than enough money in the WIC Program to take care of any needs, any emergencies at all.

I think the real debate here is what we are doing to farmers. And I can tell my colleagues, as a farmer myself, that the idea of tying the hands of farmers trying to protect their risk, and agriculture is probably the most volatile business one can be in. A farmer takes more risk than any other business on a year-to-year basis, and they are at the mercy of Mother Nature for hail, wind, rain. We flooded out at home this year.

But the idea of taking away this tool from farmers, insurance, and under the farm bill last year, Mr. Chairman, we made a commitment to farmers out there. We said that they would have the freedom to make choices themselves but they would have with that freedom the responsibility to take care of the risks they have in agriculture. We assured them that there would be insurance available for them; that there would be revenue insurance plans, new innovative plans out there.

Farmers are in the middle of a transition today, of going from the old 60 years of Government control, which has caused the demise of the small family farmer, now to the opportunity to finally make decisions for themselves, to insure their own risk, to create opportunities, to keep their family farms together.

□ 2230

This gutting amendment to crop insurance cuts at the heart of opportunity for farmers and anyone involved in agriculture today.

We are not asking for much. We are asking for the opportunity to work inside the system. And a reduction like that, a 6, almost 7 percent reduction in the current bill from what insurance was last year, is harmful enough, let alone to take it down to a level where we are going to have insurance companies no longer offering crop insurance to real farmers out there.

I am surprised that people who are from farm States would be offering this type of amendment, which is going to decimate the insurance business, going to hurt farmers out there, take away the opportunities to protect their own risk.

Apparently, what we want to do is go back to a system where the Government comes in and helps out with disaster payments. And if we want to look at the trend in agriculture in farm bills, 10 years ago we were spending about $26 billion a year directly to farmers. This year it is about $5 billion. We are at 20 percent where we were 10 years ago support for agriculture and for farmers. And I think it is really a low blow to anyone who cares about agriculture.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LATHAM. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Agriculture, for 7 of the last 11 years, has taken the biggest hit on reductions. I would like to convince my colleagues over on the left that we have now stopped and are phasing out subsidies for agriculture. I helped write the risk management language in the farm bill. They now have to pay for this insurance. No more disaster relief for agriculture.

If we cannot phase in this kind of risk management insurance for farmers, we are going to be very hard-pressed. As we phase out the subsidy programs and do not pay the farmers that direct payment anymore, now we are simply saying farmers have to dig into their own pocket to start covering their risk, no more disaster insurance, no more subsidy payments. I think it is very important that we not cut way down on the phasing in of this risk management and insurance.

Mr. LATHAM. Mr. Chairman, reclaiming my time, let me say in closing, anyone who likes to eat, who likes to eat food, good quality food, at a reasonable price, produced by family farms who care about agriculture should oppose this amendment, understanding there is way more money than necessary in the WIC program already, but you are cutting the heart out of the family farmers when you do this, and anyone who votes for this amendment is cutting out the family farmer; and let them all remember that.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words.

For those of my colleagues who are prolife, as I am, I urge them to vote yes on the Obey amendment. This is one of the most positive prolife votes my colleagues will be called upon to cast. This program, we all know, and the gentleman from Illinois [Mr. HYDE] knows, and the gentleman votes for WIC, this program helps pregnant women and nursing women and their children, their children both born and unborn.

If one is truly prolife, it is not enough to be only anti-abortion. Prolife is a very positive position and not just a negative position. I am anti-abortion, but I am prolife. And there is a fundamental distinction in that.

Many of my colleagues were elected to this Congress on a prolife platform. They campaigned on a prolife platform. They asked the National Right to Life for their endorsement. They asked their own State Right to Life for endorsement. They ran on a prolife platform, and many of them got elected because they ran on that prolife platform.

I do not think any of them ran on a crop insurance commission platform. Now this is a chance for them to stand on that prolife platform. This is an essential vote for prolife. Be positive. Be for life. Vote for this amendment. My colleagues talk about food, feeding people. Pregnant women are hungry. Remember those words uttered about 2,000 years ago: "I was hungry, and you gave me to eat." Prolife, vote for this amendment.

Mr. KINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Speaker, I am prolife, and I certainly agree with the gentleman from Michigan [Mr. KILDEE] that one of the strongest things one can do as a Member of the Congress who is prolife is to support people who are hungry. And that is why I am going to vote against the WIC bureaucrat increase and vote for the farmers.

The farmers are the ones who produce foods, not Washington bureaucrats. It appears that our well-intended friends on the other side of the aisle are once again feeding bureaucrats, and this time they are taking the food away from the families by hitting the farmers right between the eyes on it.

Mr. Speaker, the agriculture bill is always kind of a convoluted maze of price supports, import-export quotas, allotments, all kinds of different jargon that is unique to the ag committees and ag laws. But the results of it are spectacular. Two percent of the American population feeds 100 percent of the population plus millions of people throughout the world.

Americans, on an average, pay 11 cents on a dollar earned for food. That is less than what they pay for recreation, on an average. That is why we have so many of these farm programs. Some of them are very hard to explain. But the results, when you are paying 11 cents on the dollar for food and 2 percent of the population is feeding 100 percent, it works.

In this bill of $49 billion, $37 billion goes to food and nutrition programs. Just in May, 2 months ago, we increased WIC $76 million. And I quote from the gentlewoman from Connecticut [Ms. DELAURO], my friend, May 1, 1997, "the $76 million figure is based on numbers submitted from the States to the U.S. Department of Agriculture in early April of this year. These numbers are, in fact, only a few weeks old."

We increased in response to that $76 million. Now we have increased it again a mere 2 months later $118 million. Now, it is always nice to say, hey, we have got starving women. But according to the numbers of our colleagues on the left, that $76 million increase was full funded. Now we are going another 118. According to our figures, USDA figures, this is full participation of WIC at 7.4 million people.

Mr. Speaker, it is also important to note that WIC, as we speak, has a $200 million carry-over. That is a surplus in the WIC fund. We are not talking about children versus commission agents. We are talking about farmers versus bureaucrats. I know there are a lot of people who like bureaucrats and a lot of people who want to see government grow. But as for me, I am going to go with the farmers. Because it is the farmers who grow the food, it is the farmers who feed the children, it is the farmers who feed the families, it is the farmers who feed the babies. It is not Washington bureaucrats. The only thing that this thing does is take money away from farmers and give it to the bureaucrats. I urge my colleagues to vote against the amendment.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I think that what happens is we are taking the taxpayers' money and giving the sales commissions to the insurance agents. That is who is getting the money.

Mr. KINGSTON. Reclaiming my time, it would be great if we were privately funding the whole bill. But, unfortunately, the taxpayers are paying all $49 billion of this bill; $37 billion of it is going into food and nutrition programs for children, but that is not enough.

What appears to be happening is that some folks want to take more away from the farmers and give more to Washington bureaucrats. The farmers are the ones feeding the families.

Ms. KAPTUR. Mr. Chairman, if the gentleman would yield further, I agree with the gentleman. We had a freedom to farm bill and we said to the farmers of America, compete in the global marketplace. Why do we not say the same to the insurance agents?

Mr. KINGSTON. Reclaiming my time, I know there are a lot of people who do not like the private sector, and I know the private sector is anathema to many Members on my colleague's side. But the fact is the private sector is delivering the insurance program cheaper than some of his friends over at USDA. It is saving taxpayer dollars. It is shrinking the size of Government. And it is more efficiently penetrating the marketplace so we do not have to have these disaster relief bills that are a big government expenditure year after year.

I think, finally, the USDA has moved in a very smart, efficient, commonsense direction. But now again, Mr. Speaker, people want to take money away from the farmers and give it to the bureaucrats. Their amendment is bureaucrat and it is anti-food and anti-farmers. I urge my colleagues to vote against it.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

I would like to get a little more direct in the conversation and try to have a little less demagoguery back and forth on either side here. Frankly, this is no way the type of bill it can be construed to be, the farmers versus the bureaucrats. We are talking about commissions here.

Farmers, as far as I know, do not make insurance commissions. But we are talking about a WIC program that is generally perceived to be probably one of the most successful programs we have had in the social programs of this country. We are talking about a program that deals with low birth weights, deals with infant mortality, deals with child anemia, saves money in Medicaid in the future, and reduces the number of infants that need costly medical care in the future.

Basically, what we are trying to do, as I think the Members on that side of the aisle well know, is make sure that we forward fund enough so that there is not a lapse going from one year to the next year and that we do not leave some 45 to 55 thousand women, infants, and children without the kind of nutritional work and without the kind of food that they need to be sustained in this successful program. And we are pitting that against, I guess you would say, the insurance people, the ones that are earning that commission, not against the farmers.

Certainly, nobody has the intention of harming the farmers here. And few people in my district or many other districts, I would suggest, are going to believe that this is a thing against farmers and bureaucrats. It is commissions being earned by insurance people, and it is people that are women, children, and infants receiving nutrition that they need to make sure that they do not fall between the cracks as we go from one year to another.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. TIERNEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. TIERNEY] for yielding.

I simply want to say that I find a couple of the last statements bordering on jokes. Just because one repeats a mistake 50 times does not make it a fact. And the fact is that this does not do anything to cut crop insurance. It cuts crop insurance commissions.

Now when they passed a freedom to farm act, I would say to our friends on the other side of the aisle, they did not pass a freedom to milk the farmers act. And neither did they pass a bill that allowed salesmen to milk the taxpayers.

What we are trying to do is to simply meet our primary responsibility to farmers to see to it that programs which we have on the books for their assistance are defensible so that demagogs do not rip them up. And the fact is that when insurance agents are going around charging skyboxes at baseball and football stadiums to the taxpayer, that discredits the entire program. And that kind of nonsense has to stop, and that is what we are attempting to do.

It so happens to be that the USDA and the OMB, the Office of Management and Budget, and the Agriculture Department both agree with the Obey amendment because they know that in the long run nothing protects farmers more than protecting the integrity of programs that are supposed to serve farmers. When we have insurance agents ripping this program off, it does not do diddly for farmers, despite the propaganda mantra that is being repeated this evening, and it certainly does not do diddly for the taxpayers.

If my colleagues are on the side of farmers and not on the side of women and infants and children who need WIC funding, they support this amendment; they do not listen to the propaganda of the insurance agents who are ripping off the country in this case.

Mr. TIERNEY. Mr. Chairman, reclaiming my time, I obviously associate myself with the remarks of the gentleman from Wisconsin [Mr. OBEY], and I close by saying that we have to take a chance, Mr. Chairman. I do not want to take a chance that 45 to 55 thousand women, infants, and children are going to be at risk at the end of this year. I will take the chance that some insurance agency does not make all of the commission that they might otherwise be entitled to under this bill.

Mr. Chairman, I yield back the balance of my time.

☐ 2245

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 40 minutes and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. OBEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the gentleman when he says let us not demagog this. Let us be perfectly up front of what is happening. We did away with subsidies for farmers in the freedom to farm bill last year. Risk management is a new type of insurance. It is insurance that not only is sunshine insurance on the weather, but it is also insurance on what happens to those crop prices in the new revolution of world trade where other countries can affect now the price as much as production in this country.

So we are moving into a new area of insurance called risk management insurance. The amount of money that we call commissions is a subsidy to farmers, because if that commission is not paid by taxpayers in this transition to this new type of insurance program, then it is going to be paid by the farmers. That money is going to be charged to somebody.

Right now the Secretary of Agriculture is negotiating to the best of his ability to get those commissions as low as possible. So I would suggest with great respect for the people that made this amendment's feeling of need for the WIC Program is that it is not a good policy judgment to take it out of a new risk management program as we try to move farmers into their decisionmaking of deciding how much of what crop to plant instead of Government doing it, as we put the burden on farmers for the risk of disaster and the risk of their success in farming, as we take away the deficiency programs that taxpayers have paid to farmers for the last 50 years.

So in an effort to make this transition, I think it is very important that we move farmers into reaching into their own pocket, which they are doing with this insurance program, and satisfying their risk management needs. But it is a new area. Let us not cut down or cut back on the transition to this new era where agriculture and farmers and ranchers are moving into the private sector and the real marketplace.

Mr. WEYGAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Obey amendment. I would like to address it from two basic areas. One is the credibility and the importance of the WIC Program. The second will be about the difference between our argument over here about insurance commissions versus the good will and the kind of product that we get out of the WIC Program.

Members will hear me on this floor talk many times about early childhood development. Let me give my colleagues some statistics about what early childhood development really means to us as taxpayers on both sides of the aisle.

It is estimated by national nonpartisan groups that we as taxpayers pay approximately $800,000 per child where we have to pay for nutrition programs, remedial education, sometimes incarceration and all kinds of other social programs later on in life. We pay that. Instead of investing merely 10 percent of that money early on, we can prevent those kinds of problems. In the age group 0 to 6, which is where the WIC Program really focuses its effort, if we put our money into that area, we will save taxpayers on both sides of the aisle a great deal of money.

In my State of Rhode Island just recently, a pregnant woman on the WIC Program gave birth to a daughter, Mindy, but after only 27 weeks of pregnancy. When Mindy was born, she was merely 1 pound 5 ounces, with her head barely the size of a small peach. But thanks to special formula and the follow-up visits because of the WIC Program we have put into place, nutritionists helped Mindy and her mother, and now after a year and a half she is as active as any toddler that we would know.

Mindy's mom could never have afforded her continual visits and the nutrition she received as a result of WIC. The assistance WIC has given to her is exactly how we can save taxpayers money later on. Medical research has found that WIC reduces infant mortality, improves diet and has been linked to improving development among children. For every dollar that we put into the WIC Program, we save $3.50 later on in Medicaid and other costs.

The validity and the importance of WIC is undeniable. So the real question is why would we take $23.7 million out of the crop insurance fund for this? Let me tell my colleagues, if they were on this side and arguing this, they would say any program that has overhead and commission of 27 percent should be looked at and changed. They would say privatization is the cure to that. And if any company was operating on an overhead and a commission of 27 percent, they should be looked into as a part of the Government. We are saying, quite frankly, that overhead and commission is far too much. To knock it down to 24.5 percent is barely reasonable, to knock it down even more than that is more than reasonable for the taxpayers. What we are saying is do not hurt the farmers, but do not hurt the women, infants and children. Realize that there should be a reduction in this overhead and this commission and it should go to helping women, infants and children.

If Members are for insurance rates and are for paying that outrageous fee for overhead and commission, do not vote for the Obey amendment. But if Members truly are concerned about saving taxpayers money and helping women, infants and children, vote for the Obey amendment.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to express my support for the Obey amendment to the Agriculture appropriations bill. This amendment, as my colleagues have heard, is going to add $23.7 million for the special supplemental food program for women, infants and children. Under that amendment, $23.7 million would be taken from funding for crop insurance sales commissions. The Committee on Appropriations raised the funding for crop insurance sales commissions above the level that was approved by the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations. The Department of Agriculture has indicated that the level approved by the subcommittee is sufficient for the crop insurance sales commissions. The offset appears to be appropriate and reasonable.

The Committee on Appropriations funding level for WIC is $30 million short of what is needed to maintain the current caseload in fiscal year 1998, and it would result in a reduction in participation of 55,000 to 60,000 women, infants and children next year.

Mr. Chairman, WIC is an effective prevention program that saves on future health care costs. WIC provides food, education, and child care to poor women, infants and children. It is estimated that 1 in 5 children in our country is living in poverty and 5 million children under the age of 12 go to bed hungry each month. No child in our country should go to bed hungry. Only well-nourished children reach their potential and become productive contributing members of society.

Fortunately, Mr. Chairman, the pain and violence of hunger can be reduced by appropriating additional money to the WIC Program. This increase would provide supplemental food and nutrition education for at least 45,000 women, infants and children per month in the coming fiscal year. Without this additional money, these eligible participants will be part of the growing childhood hunger epidemic that plagues us.

Mr. Chairman, I urge a yes vote on the amendment.

Mrs. CLAYTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had an amendment that I was going to offer, but I am going to withdraw that amendment and rise in support of the Obey amendment. The one difference in my amendment and his amendment is he is asking for $23 million and I was asking for $184 million for the 1998 fiscal year. Actually I was asking to bring WIC up to the request that the President had asked for. Again, another difference is rather than take it from the crop insurance, I had asked for a cut across the board which would represent 37 percent of all discretionary accounts in that program.

The choice between whether we ask for the crop insurance or ask for WIC, that is a hard issue obviously. But in the final analysis, it is really not a hard issue if we are going to raise children. If the difference is between having kids to eat, having kids to be healthy, that is no question at all. My preference is that we do not take it from the crop insurance, because I personally know the crop insurance is needed.

Mr. SMITH of Michigan. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, I will vote for that amendment if she puts it in, but let us not take it out of crop insurance that farmers are going to suffer from.

Mrs. CLAYTON. The gentleman will vote for $184 million for WIC?

Mr. SMITH of Michigan. If the gentlewoman takes it out as a pro rata reduction across the board. But do not take it out of crop insurance that is so important in the transition of the Freedom to Farm bill.

Mrs. CLAYTON. The gentleman has concurrence on his side that he will vote for the $185 million?

Mr. SMITH of Michigan. I will vote for it.

Mrs. CLAYTON. Did the gentleman from Wisconsin [Mr. OBEY] hear the gentleman from Michigan [Mr. SMITH] say that he would be willing to move from $23 million to $184 million that I had offered? I was just wondering and that seemed like a bargain to me, but I do not know if he has concurrence on his side of the aisle.

Mr. OBEY. If the gentlewoman will yield, with all due respect, I think we have the proper amendment before us. The gentleman is suggesting that he would add what?

Mrs. CLAYTON. That he would raise it from $23 million to $184 million.

Mr. OBEY. Where does the money come from?

Mrs. CLAYTON. My amendment would have it coming from across the board.

Mr. OBEY. I understand the gentlewoman's would, but where is he suggesting?

Mrs. CLAYTON. Mr. Chairman, where is the gentleman from Michigan suggesting?

Mr. SMITH of Michigan. Pro rata across the board like she is suggesting.

Mr. OBEY. I do not think that is the proper way to do business.

Mrs. CLAYTON. Mr. Chairman, the point is that trying to raise the level of children to be healthy indeed is not a hard decision.

I think the preferable way would be across the board. That is what my amendment would do. But if we are not going to raise it $23 million, I can ill expect that we are going to raise it $184 million, what the President asked for.

We have a bill before Congress called Hunger Has a Cure. It simply means that those of us who care about children and care about starving people or care about their health, we feel it ought to be raised to an issue. I personally have a preference that it should come across the board. But if I am not going to get that opportunity, I am going to withdraw that amendment. If the Obey amendment goes down, maybe I will offer it, but if it does not go down, we will indeed be supportive of it.

Mr. EWING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think there has been a healthy debate here. I certainly have not agreed with all of the theories put out, particularly on the other side, but I think there are some points that need to be made.

No. 1, the Federal crop insurance program costs are being reduced. It is a fact that if we expect USDA to carry this program all on their own without the private sector, the Government would cost 147 percent more than the private sector. So it is not a good investment for us to be cutting a program that is cost effective.

There has been a lot of talk over here about skyboxes. But let me tell my colleagues that the Federal Crop Insurance Program makes a contract with the insurers and at a set rate reimburses them. If an insurance company or anyone else chooses to have a skybox, that is something else and it is not charged to the Federal Government. They enter into a contract, the Federal Government, with the crop insurance agency.

Let me also say that farmers will suffer because of the Obey amendment. Under this amendment, service will be cut, farmers will have to wait longer for an adjuster to come, they will wait longer to get a claim settled, and the range of products which are offered to America's farmers will very likely change.

□ 2300

So it does have a detrimental effect.

Finally, all the criticism about the Federal crop insurance program and how it operates and all the talk about WIC. Well, while WIC is a fine program, I am sure, there are many who claim that there is waste and fraud in the WIC Program, and I believe that is substantiated by GAO, and yet we hear nothing about that as if there were no problems in that. There are problems in probably every Federal program, so throwing more money at it is certainly not the answer.

Mr. KINGSTON. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Chairman, I am on the Agriculture Appropriations Subcommittee, and the gentleman is on the Specialty Commodities Committee. Now on these programs, to make sure, is WIC fully funded?

Mr. EWING. Mr. Chairman, it is my understanding.

Mr. KINGSTON. According to our calculations it is funded at 7.4 million participants and that it is fully funded.

Now does WIC have any leftover money, or are they scraping the bottom right now?

Mr. EWING. Mr. Chairman, I think they had $200 million, was it left in their account?

Mr. KINGSTON. They have a $200 million carryover, and so the discussion of saying that there are children starving and because of this we have got to give the benefit of the doubt is totally specious, totally emotional, total demagoguery. The children are not starving. The only thing we are going to do here is increase the bureaucracy on the backs of the American farmer. That is what we are talking about.

Mr. EWING. Did we not just increase WIC funding a couple months ago?

Mr. KINGSTON. We increased it in May by $76 million. We increase it in this bill $118 million.

Mr. EWING. That is almost $200 million.

Mr. KINGSTON. Exactly. And 2 months ago we were told the $76 million increase would bring us up to the full participation level, and we did not have a dialog or a debate about this in committee. It was everybody was happy.

Mr. EWING. In the appropriation process, has the gentleman found that just large expenditures and new money make a program better?

Mr. KINGSTON. No; I have not.

That is a very good point because there seems to be something here that WIC is good, pay more money into it. It can be good at adequately funded levels right now, and I am not sure why people are trying to run away from that. It is possible that the program is good as is. I think, and the gentleman has already suggested, we should try to increase the efficiency of it. I think that there is some waste in it. Twenty-five percent of the money goes to administration. I think we could do a better job and feed more children from that, and less bureaucrats. But to add money to a program that has a $200 million carryover, a $200 million surplus, if the gentleman will, and a program that is already completely fully funded is ridiculous, and to take it away from American farmers is even worse.

Mr. EWING. Reclaiming the balance of my time, I appreciate the comments of the gentleman from Georgia, I appreciate the hard work he has done on this bill, and I think we should defeat this amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to express my very strong support for the Obey amendment. We all experienced the debate that we had to restore the $76 million just a few months ago when there was reported to be a shortfall that would severely impact on all of our districts, and so here again we are now confronted by a committee deliberation, which, as I understand it, will be shortfalling again a full funding as recommended by the Department of Agriculture, some $30 million short. The Obey amendment will provide $23.7 million of this shortfall.

The issue is we have to base our funding upon reliable statistics from either OMB or the Department of Agriculture. It makes no sense for us to discuss what the estimated number of participants will be in this program. We have to trust the estimates provided us by the Department, and by their statistics and their analysis there will be some 50,000 individuals left out if this additional money were not provided.

So I support that. It seems to me that if we could support this program with a sense that if there are eligible people that meet the criteria that we have set by our legislation, then they ought not to be left without support under the program. It should be as simple as that. If my colleagues do not like the eligibility standards or because they think too many people are being allowed in, then change the standards. But as long as we have the standards there that say 185 percent of poverty, they qualify; if they have children younger than 1 year of age and so forth, if they meet these qualifications, it seems to me it is perfectly right that the Government appropriate the moneys necessary to meet this obligation. I consider this an obligation.

The program has provided tremendous benefits to all of us, not only the children and the mothers involved, but because with the early support and the early nutritional information and the foods that are supplied, we have been able to cut down the costs of Medicaid and other health benefits which they might have an entitlement to receive. So it is a very, very cost-benefit, cost-efficient program.

So it seems to me that it is very logical that if my colleagues support the women, infants children program, that they would do everything they can to fully fund it to make sure that every child that is eligible, every expectant mother who is eligible would have the necessary program support.

Now we have heard tonight about this $200 million, moneys that have not been called for. I had the opportunity to attend a WIC conference in San Francisco not too long ago, and there was a discussion there as to why this additional moneys seem to have a carryover at the end of the year. The reason is simple. All of us run our offices. We incur obligations, we pay bills, we send our vouchers to the finance office here for payment. But the payments are not forthcoming. It may take a month, it may take 2 months to have our bills paid. But that does not mean because we have these funds on reserve in our committee account that they are not obligated. That $200 million is obligated.

The people who I talked to from the WIC Program tell me these are unpaid vouchers that have been submitted but have not been paid to that. This is not extra money that we can use to balance the budget or reduce the deficit. These are moneys that have been committed to the program up to the end of the fiscal year. They have been vouchers submitted to the Government but not paid. Let us not steal from this money just because it seems to be a carryover balance. These are moneys that are committed.

If we are going to budget for the next fiscal year, let us be real, let us count the number of families, number of women and children that we believe are going to be eligible, estimate what the costs are going to be; costs are rising, the price of the commodities is going up; and let us appropriate sufficient amounts of money so that we do not have to come here in the spring next year and worry about a supplemental allocation. It seems to me that that is the least we can do to support this program which so many people say is so beneficial to our families.

We all run on a family first kind of agenda. This is truly a family first amendment, and I urge my colleagues to support it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am delighted that the gentlewoman from Hawaii [Mrs. MINK] answered the very important question about any suggestions of a $200 million slush fund for the WIC Program. It is very obvious accounting principles that those are attributable to unpaid invoices that have to be paid.

But, Mr. Chairman, I think the real question to my colleagues on the other side of the aisle is whether or not they will opt for luxury skyboxes or whether or not they will opt to feed women, infants and children. I think it is appalling that even though we are $184 million short, we cannot find enough humanity to allow a mere $23 million increase.

I join the honorable gentlewoman from North Carolina [Mrs. CLAYTON] in supporting the $184 million increase. Recognizing that the amendment on the floor is the amendment by the ranking member, the gentleman from Wisconsin [Mr. OBEY], I support the $23 million because I want to ensure that we get some relief for the 55,000 women who would not be covered but for this amendment.

It just, if my colleagues will, causes me great consternation that the Republicans cannot see the logic in this particular amendment. No one is talking about crop insurance per se as much as they are talking about the commissions attributable to such.

Let me give my colleagues just a few statistics. One, it is interesting that this country, one of the most developed and sophisticated countries in the world, has a high infant mortality rate. We can go to any place in this Nation, urban centers, rural communities, and find a high infant mortality rate. In fact, we will go to various WIC centers around the Nation and find that at the certification process some 43 percent of the women who come in that are pregnant have three or more nutrition risk factors. That means that women who come into the WIC centers to secure the kind of nutritious treatment that they should get in order to ensure that they have a long-term pregnancy, they go to full term, that they do not have premature birth, those women, if they were not in the program, would suffer through three nutrition risks, and that means they would be subject to the very tragic potential of infant mortality, sometimes a premature birth, low birth rate in their babies.

It seems to be without any sort of real thinking that one would have to dwell on whether I choose luxury skyboxes or whether I choose the program that feeds women, infants and children.

Interestingly enough, if we just take the statistics in my own community in Harris County, we will find that there are at least 12,000 women who are on the WIC Program during the month. There are more that need to be on the program. Five thousand breast-feeding women receive WIC services per month. There are more that need to be on the program. Nine thousand postpartum women receive WIC services per month. More need to be on the program. Twenty-nine thousand infants benefited from WIC services per month. More need to be on the program. And 51,000 preschool children benefited by the WIC Program. More need to be on the program.

This $23 million, a mere drop in the bucket, will help 55,000 women across this Nation, women, infants and children to be served as they should be served. The question is what are the services? Well, it is what we take for granted. How many of us in this Congress take for granted eggs, peanut butter, cheese, juices, beans? And how many of us take for granted that those that we know, our family members and friends, have a ready access to infant formula? Do my colleagues realize there are Americans in this country, there are people living in this Nation, that do not have access to eggs and peanut butter, cheese, juices, infant formula? It seems incredulous, but it seems incredulous to me again that we can stand on this floor and talk about skyboxes and talk about golfing trips and various other substitutes while $23 million that would help the children, would help the women and would help the infants.

Again it is interesting. As my colleagues stood on the floor, I am delighted that this is a combination of those of us who have come together who believe in the quality of life. I heard my colleague mentioning his pro-life posture. He rises. I happen to believe in another aspect of choice. I rise. It would seem that if we can come together around this very important issue, I do not see why this is not a bipartisan amendment, I do not see why there are not more voices rising and saying that we can support a $23 million addition that will help children, will help women, and will help our infants and decrease infant mortality in this Nation.

I support the Obey amendment.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Obey amendment because it increases funding for the WIC Program by $23.7 million.

I have been told that we measure the humaneness of a society by how well it treats its young, how well it treats its old, and how well it treats those who cannot take care of themselves, and so when we increase funding for this program, we are looking out for those who have the most difficulty in looking out for themselves. And even the $23.7 million is still less than the $30 million that is really needed.

Now I have heard those argue that we really do not need the additional money because there may be some shortfall that can be overcome by surpluses. The reality is that when we look at those projections, we are taking a gamble. I do not want to gamble with the lives of 45 to 50,000 women and children who could, in fact, benefit for certain.

□ 2315

There has been a great deal of talk about family values, about the development of people. Yet, when there is an opportunity to put our monies where the conversations are, we find that providing insurance protection, providing commissions is more important than providing milk and butter and eggs and cheese.

Mr. Chairman, I would hope that the little bit of money we are talking about right now for WIC, in my area in Chicago and Cook County there are well over 100,000 women and children who benefit from this program. As a matter of fact, many of the large urban centers throughout the country could have solved the 45,000 to 50,000 alone, by themselves; when we really go into the crevices and cracks of our society, we find those who are untouchable and unreachable.

I thank the gentleman from Wisconsin [Mr. OBEY] for giving this House an opportunity to demonstrate its humaneness. I urge support for the Obey amendment.

Mr. BOSWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will try to be brief. I think it is safe to say I have a long history in support of the women and children program, that program and others of that nature, in my other life, in another place.

I also would like to take the Members for a little walk, if I could, about some of the things I think we ought to be thinking about. I wonder if we have forgotten that in many places of the world, in the modern world, that nearly all of disposable income is spent for the food and fiber we subsist on. In this Nation we enjoy like 14 percent or 15 percent of our disposable income being used for that purpose.

I have no quarrel with the WIC program. I support it. But I do suggest to the Members that to take it from this area is wrong. The spin on that is not something that we would anticipate. We do not want to do this. Yes, a bill was passed before I got here, the Family Farm Act. I would have supported it if I had been here. I think the time had come. But for that to work we have to have the opportunity for them to have some coverage, some insurance to stay in business.

I come from a farm community. That is what I do. I have been known to have had a lot of dirt under my fingernails, as some of the other Members. But I can tell the Members, why, I know of nobody, I never been invited to any sky box, and I do not know anybody who has. I do not think that is the issue. I think that horse has been ridden to death this evening.

I think it is OK to try to increase the WIC program, but not from this source. I would guess in this great House of Representatives here, that if we really care about those things that have been talked about, that we can bring our minds together and do something to enhance that. I say to the gentleman from Wisconsin [Mr. OBEY], I do not think this is the place to get it.

I regret to have to go against the gentleman on this, but I must do that, because I feel that at least I come from the sense that we have to work together if we are going to produce the food and fiber that this country needs, and not be dependent on it from somewhere else. So I oppose it, and I hope that we can find some other source to address this problem.

Mr. MEEHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will yield to my colleague, the gentleman from Wisconsin [Mr. OBEY].

Mr. Chairman, I would like to ask the gentleman, we are hearing limits on debates on this matter and other matters. I was wondering if the ranking member of the Committee on Appropriations could shed some light on this.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MEEHAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding to me, Mr. Chairman. Let me simply say that as the gentleman knows, trying to figure out what is happening at any point in this House on any subject, the way it is being run these days, is extremely difficult, to say the least.

Let me simply say that for the last 2 days this House has been at a procedural impasse because the majority party in the Committee on Rules arrogantly disregarded the rights of minority managers of the bills. It arbitrarily denied the gentlewoman from California [Ms. PELOSI] the right to offer a major amendment on the foreign operations bill, a bill which she is supposed to manage on this side of the aisle. It did the same thing to the gentlewoman from Ohio [Ms. KAPTUR] several weeks ago on a previous bill. It did the same thing to the gentleman from Illinois [Mr. YATES] on the Interior appropriations bill.

The majority party determined to bring the agriculture bill to the floor without a rule. The procedural protest which this side has been engaging in on the other problems is apparently now being responded to by attempts to go to the Committee on Rules and draft what we understand is going to be a draconian rule which will allow virtually a meaningless 5 minutes of debate on serious amendments, which will apparently eliminate the right to strike items in this bill, which goes to the heart of the congressional prerogative to protect the power of the purse.

I would simply say that if that is indeed the case, then it makes the debate which we are having on this amendment at this point tonight useless, because it apparently is simply a time-filler until the majority party responds in exactly the wrong way to our concerns.

Mr. Chairman, this is exactly opposite the actions which would be taken by a party that wanted to promote bipartisanship, that wanted to promote collegiality. And in my view, if they do intend to proceed down that road, it will certainly lead to more acrimonious days on the floor of the House.

It apparently is not enough that they are cannibalizing themselves in their own caucus. Apparently the legislative process itself is to be cannibalized. I would simply urge the majority party, if they are planning to do that, that they think about it overnight, because that would be a most destructive way to proceed. It would not be a fair outcome. It would be a total misreading of their responsibilities, given the already acrimonious feelings in this House. I would hope that in their own interests, as well as the interests of this House, they would reconsider their apparent plans.

Mr. MEEHAN. Reclaiming my time, Mr. Chairman, what is of concern to me is not only the discussion that we have had tonight that would basically be a discussion that would be wasted, but I have an amendment that is a fundamentally important amendment to the future of this country regarding tobacco use in America and protecting America's children from tobacco.

What I am hearing is we are going to have a rule that is going to limit debate on that amendment to a mere 5 minutes per side, which I find an absolute outrage. At 11:25 in the evening, I am getting word that a bill that fundamentally affects the ability of this country to regulate tobacco use among children is going to be limited to 5 minutes, an absolute outrage. If that is what is going on at the Committee on Rules right now, I would suggest that the Members of the majority party get their act together.

Because if we have a 5-minute debate on a rule that would limit debate on amendments that affect tobacco use specifically, an amendment that I have that would allow the FDA to enforce rules and regulations that are on the books all over this country, if we are going to limit debate after waiting all day for this amendment to be offered, then I think the majority party better think and act very, very cautiously. Because I as one Member would be outraged if we get a rule and this Congress is asked to pass that rule tomorrow and limit debate on fundamentally important issues of tobacco use.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to join my colleagues in strongly protesting the proposed rule, and I have not seen the rule as yet, but I would hope that this misguided rule is just a rumor, and not reality.

I have an amendment with the gentlewoman from Colorado [Ms. DEGETTE] and the gentleman from Utah [Mr. HANSEN] and the gentleman from California [Mr. RIGGS], and many other Members join us in support of this amendment, that would also deal with the tobacco subsidy and would try to bring some consistency to this policy, to make sure that our health policy is consistent with our subsidy policy. It just does not make any sense at all.

And to think that we are going to limit this debate on this very important issue to 15 minutes a side, and we hear about this at 11:25 at night when we have been waiting all day and all night to debate this issue, this just does not make any sense at all.

I would appeal to my colleagues, our distinguished chairman on the other side of the aisle, to protest this rule, because limiting this important discussion to either 5 minutes a side on the amendment of the gentleman from Massachusetts [Mr. MEEHAN] or 15 minutes a side on our amendment just does not make any sense at all.

Ms. DEGETTE. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentlewoman from Colorado.

Ms. DEGETTE. Mr. Chairman, I would also add to the words of my colleague, the gentlewoman from New York, to point out that our tobacco policy in this country is inconsistent. Last year we spent nearly $200 million to prevent tobacco use, and we spent $80 million on tobacco crop insurance subsidies. That is why the Lowey-DeGette-Hansen-Meehan amendment enjoys broad bipartisan support on both sides of the aisle. That is why it would be a real crime if we limited the debate on this issue to just a few minutes per side.

There are many voices on both sides of the aisle that have a lot to say about the tobacco policy in this country, about a policy that is killing millions of Americans and causing millions of young people to begin smoking every year. That is why I would hope that this rule would not be limited, and I would also join my colleagues in urging the Committee on Rules to rethink any such proposed rule.

Mr. MEEHAN. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. What is really concerning about this, Mr. Chairman, is if we look at the fact that 44 attorneys general from all across America have spent months and months negotiating on this issue of tobacco and FDA regulations, when we look at the fact that there have been literally millions of pages of newspapers all across America debating the issue of tobacco in America and what we are going to do about it, to think that we are going to limit, in the people's House, we are going to limit the debate on this major, fundamentally important issue to 5 minutes here or 15 minutes here is an outrage. America is waiting for a discussion about how we are going to protect the next generation of Americans from the leading preventable cause of death in America.

We are saying that we do not want to debate this, we are going to limit debate, because it is 11:30 at night and some Members may be tired. It makes us wonder how the tobacco companies really work and when they are working and where they are working.

We ought to have a substantive discussion, it seems to me, about tobacco in this country, and it seems that the majority has been running away from this discussion. Let us have this discussion and have a rule, maintain the rule, and let us get up and debate this. I just want to say that I, too, am outraged that they, the majority party, could even contemplate such a ridiculous move.

Mrs. LOWEY. Reclaiming my time, Mr. Chairman, consistent with the arguments of my colleague, it just does not make sense at all to know that we are spending $200 million to prevent our youngsters from using tobacco, and yet we are going to limit our debate to make our policy on crop insurance consistent with our health policy to 15 minutes a side.

And we are not talking about the billions of dollars that are being spent in Medicaid and Medicare. Many of my colleagues have a lot to say on this issue. Tobacco is on the minds of thousands and thousands of our constituents.

I would ask my colleagues, and I know I am joined by colleagues on both sides of the aisle, to reconsider any rule that would limit the discussion to 10 minutes on either side, or even 15 minutes on either side. This is an important issue and we should give it fair time.

□ 2330

Mr. WALSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I cannot believe what I am hearing, honestly. We worked in a bipartisan way on this agriculture bill. We brought it to the floor without a rule so that we could have unlimited debate on these issues. And what we find when we come to the floor is everybody wants to talk about everything but agriculture.

And the fact is, when we brought this bill up last week, the dilatory tactics that were undertaken by the minority precluded any substantive debate on agriculture. It was all about, we got one after another after another, motion to rise, motion to rise, motion to rise.

We could have been debating the gentleman from Massachusetts's amendment. We could have been debating the gentlewoman from Ohio's amendment and the gentlewoman from New York's and the gentleman from Wisconsin's, but we could not get a vote. We could not have any debate because of the dilatory tactics.

Now we come in today. We are prepared to debate the agriculture bill again, and we have a series of suspension votes, which normally means that we just voice vote them because everyone basically agrees to them. We are forced to vote on every single issue, rollcall votes that tie everybody up in knots, that preclude us from doing our committee work, that preclude us from having a substantive debate on agriculture. And now we propose, if we cannot have a substantive debate, we will have to limit the rule so that we can get back to the issues at hand and the minority complains.

You reap what you sow on the agriculture bill and every other bill. If we cannot work in a bipartisan way, then we have to have a rule.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Mr. Chairman, I will not yield to the gentleman. He has had all night.

Mr. UNDERWOOD. Mr. Chairman, I am grateful that the Appropriations Committee has reported continued funding for the Agricultural Development in the American Pacific [ADAP] project and the Tropical and Subtropical Agricultural Research Programs, both conducted by the Cooperative State Research, Education and Extension Service within the USDA.

With committee provisions reporting ADAP funding at $564,000, as in previous years, the American Government demonstrates its continuing commitment to provide funds and grants to its communities in the Asia-Pacific region. These include not only Guam, but also Hawaii, the Northern Marianas Islands, American Samoa, the Federated States of Micronesia, and the Freely Associated States.

ADAP funds a number of activities for the Asia-Pacific communities. These include financing research of regional agricultural problems common to members of the five land-grant institutions in the American-affiliated Pacific, strengthening market information systems, producing instructional materials development and distribution, and providing scholarships for land-grant faculty and staff.

I commend the committee's continued support for ADAP, however, I am disappointed with the decreased funding it has reported for the Tropical and Subtropical Agricultural Research Programs. Not only does this program impact Guam, it also affects Hawaii, Florida, Puerto Rico, and the Virgin Islands. For the people of Guam, the Tropical and Subtropical Research Programs fund numerous activities. These include financing research contributing to the establishment of energy and labor efficient irrigation and fertigator systems, watermelon disease control, modeling crop production systems, market surveys, and the biological control of pests in order to increase productivity.

Although I have stressed the benefits Guam receives from these programs, I also point to the implications the Tropical and Subtropical Research Programs have on the neighboring regions. Knowledge and expertise culled from these studies not only improve Guam's local agricultural industry, they are disseminated throughout Micronesia, Asia, and Africa.

American tropical and subtropical regions face agricultural needs unique to other areas. Continued support for the Tropical and Subtropical Research Programs are necessary steps to improving not only the livelihood of the people of Guam, but also other tropical regions of the world.

I will continue to actively support funding for ADAP and the Tropical and Subtropical Agricultural Research Programs. These programs are fundamental vehicles for improving standards of living not only on Guam, but also other tropical regions of the United States.

Mr. WALSH. Mr. Chairman, I yield to the distinguished gentleman from New Mexico [Mr. SKEEN], chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

Mr. SKEEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes, had come to no resolution thereon.

A DOUBLE STANDARD

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, there has been a lot of talk recently in Washington about the influence of foreign money on Members of Congress and on the administration. The most recent media reports indicate that there may have been complicity between the government of the People's Republic of China and Mr. John Huang to influence our elections and certain Federal officials of our Government.

Mr. Speaker, my colleagues may have missed a recent report in The Hill newspaper which reported that as much as $86 million was spent by foreign governments to lobby and conduct public relations with both private and public officials of our Government. It is ironic, Mr. Speaker, that it is perfectly legal for foreign governments to spend over $86 million to lobby the Congress and the White House, but no one ever questions the ethical aspects of the process.

So while we are pointing fingers at China for alleged misconduct to lobby and influence our policymakers, there appears to be a standard that is confusing to me and I am sure to the American people. I call it a double standard.

[From The Hill, June 25, 1997]

FOREIGN STATES SPENT $86 M TO LOBBY U.S.

(By Robert Schlesinger)

Foreign governments, led by Japan, reported spending in excess of $86 million on activities including lobbying and public relations in the United States during the first six months of 1996, according to filings made to the Department of Justice under the Foreign Agents Registration Act (FARA).

Overall, foreign interests, working through more than 330 separate registered entities, reported $430,867,734 in activities reportable under the FARA in the first half of last year, according to an analysis by The Hill of the attorney general's report to Congress on FARA filings.

Individuals or groups must register as foreign agents if they perform certain activities, ranging from lobbying to trade promotion, on behalf of a foreign entity, such as a government or corporation.

"The U.S. is definitely uniquely open and user friendly to official foreign lobbyists from all over the world," said Alan Tonelson of the U.S. Business and Industrial Council Educational Foundation (USBICEF). "This situation is not even close to being reciprocated anywhere."

The government of Japan, mostly through entities like the Japan External Trade Organization (JETRO), reported spending at least $17,840,878—more than twice as much as any other government.

JETRO reported $14,117,208 during the first six months of 1996. Their activities are typically along the lines of "research in matters concerning foreign trade between Japan and the U.S.," as a filing for JETRO states.

Other countries spent their resources on lobbying or "monitoring and analysis" of issues of interest to them. Mexico, the sixth-largest spending government at $3,576,368, paid Burson-Marsteller $563,000 for public relations on the North American Free Trade Agreement (NAFTA), which will be up for expansion in the near future. Mexico, which has been wracked recently by charges of corruption and narcotics problems, also spent a great deal of money on broader PR efforts to burnish its suffering image.

Burson, which made slightly over $1.2 million over all from foreign entities, ranked only 11th in line in the 13 law/lobby/PR firms to gross more than $1 million from foreign clients.

Most of the other top-spending governments devoted at least some of their expenditures to tourism-related activities. For example, the Bahamas and the Cayman Islands, the second and third largest spending governments at roughly $8 million each, spent virtually all of their money promoting tourism, as did Ireland, the number four country.

New York City-based advertising agency DDB Needham Worldwide pulled in more than $18 million, most of it from the National Federation of Coffee Growers of Colombia, which paid them $13,965,723.68.

New York ad firms O'Leary Clarke & Partners and FCB/Leber Katz Partners Inc. were second and third respectively, making slightly over $5 million each from the Cayman Islands (O'Leary) and Jamaica and the British Virgin Islands (FCB).

Washington law/lobbying firms also fared well. Patton Boggs, home of super lobbyist and name-partner Hale "Tommy" Boggs, pulled in more than $3.5 million from such clients as Oman, Qatar, the Philippines and Pakistan. Other Patton Boggs clients who did not pay them during the six month time period include Hong Kong, Italy, the United Arab Emirates, France, Germany and Taiwan.

Other law/lobby/PR firms grossing over $1 million with numerous active foreign clients were Fleishman-Hillard (including clients from Canada, France, Angola, Turkey, Northern Ireland and Japan), Cassidy & Associates (France, Australia, Japan, Saudi Arabia and Taiwan), the Bozell Sawyer Miller Group (Canada, the Bahamas, Bolivia, Japan and Indonesia), Arnold & Porter (Canada, Israel, Panama, Turkey and Venezuela), Burson-Marsteller (Hong Kong, Great Britain, Indonesia, Mexico, Pakistan, Turkey and Portugal), Washington & Christian (Antigua & Barbuda, Gabon, Guinea and Nigeria) and Hogan & Hartson (Canada, France, Panama, Russia, the Bahamas, Haiti, Japan, Great Britain and Taiwan).

Registerable activities include engaging in lobbying, "political activities," or public relations in the United States. A foreign agent must also register if he or she "solicits, collects, disburses or dispenses contributions, loans, money or other things of value . . ." This includes the promotion of trade and tourism.

Furthermore, ostensibly domestic entities don't have to register with the Department of Justice.

USBICEF's Tonelson noted that many domestic companies have become almost proxy foreign agents. "The China trade debate is a perfect example . . . "said Tonelson.

He added that, "the positions that they're lobbying for hard have become almost indistinguishable from the Chinese government, and in fact they've become the most effective voice for the Chinese government."

So, for example, while the Chinese Embassy paid a paltry $18,750 to the law and lobbying firm of Jones, Day, Reavis & Pogue for keeping up on issues like Most-Favored-Nation (MFN) trade status, groups like the U.S.-China Business Council and large multinational corporations lobby the U.S. government in favor of the MFN renewal.

As of June 30, 1996, 595 active registrants (totaling 2,825 individuals) were registered to represent 871 foreign principals.

Lobbying, law and P.R. firms grossing over $1 million from foreign clients

DDB Needham Worldwide	$18,343,333
O'Leary & Clarke & Partners	5,139,405
FCB/Leber Katz Partners	5,131,928
International Registries Inc	4,709,640
Merkley Newman Harty	3,670,489
Patton Boggs	3,574,939
Fleishman-Hillard Inc	2,619,152
Cassidy & Associates	2,060,465
Bozell Sawyer Miller Group	1,786,831
Arnold & Porter	1,614,937

Foreign governments spending over $1 million

Japan	$17,840,878.31
Bahamas	8,722,043.54
Cayman Islands	8,212,662.99
Ireland	5,546,970.00
Marshall Islands	4,376,538.87
Mexico	3,576,368.31
Canada	2,716,742.50
Hong Kong	2,569,187.99
Bermuda	2,473,473.71
India	2,273,449.09

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CHAOS IN MAJORITY AFFECTS FLOOR SCHEDULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, I would simply like to take this time to correct the impression left by the previous speaker, the gentleman from New York, about what happened on the House floor tonight.

The fact is, the votes on suspensions which occurred tonight, to which the gentleman from New York objected, occurred at the insistence of the majority party, not at our insistence. In fact, we suggested five different propositions which would have enabled the Republican leadership of this House to close debate on measures in an orderly manner and at a reasonable hour tonight, and all five of those suggestions were rejected by the majority party leadership.

We, in fact, specifically asked and our party leadership specifically asked that the majority party consider not having the votes on suspension until tomorrow, and that was also turned down by the majority party leadership.

So lest the gentleman from New York be under the impression that this protracted session tonight occurred at the wish of the minority party in the House, that is specifically not the case. My staff tried. The staff of the gentleman from Missouri [Mr. GEPHARDT] tried. The staff of the gentleman from Michigan [Mr. BONIOR] tried suggestions which would have avoided this meaningless extension of debate tonight. All of them were turned down by the majority party leadership.

I regret the chaos which has afflicted the House on the latter part of this day. It seems to be simply an extension of the chaos which is occurring within the majority party caucus.

I would note that I find it strange indeed that the Committee on Appropriations seems to be able to do its work in committee on an almost totally bipartisan basis on bill after bill after bill. But then when those bills come to the House floor, they are in fact first taken to the Committee on Rules and the Committee on Rules establishes a set of rules under which the bills can be debated which systematically denies to the minority member who has the responsibility for carrying the bill the right to participate in any meaningful way in the debate on the House floor.

As the gentlewoman from California said the other night in discussing this, almost without exception the amendments that were allowed the minority party by the Committee on Rules on appropriation bill after appropriation bill are only those amendments which everyone understands will lose. Any time there appears to be an amendment that we want to offer that has a chance of winning, the Committee on Rules rules it out. That is what has caused the problems around here.

I would suggest if you want the House to work, the majority party and the Committee on Rules needs to work out the same kind of working relationship with the minority that we have been able to work out on the Committee on Appropriations between the majority and minority.

We manage within our committee to get our work done. And then every time it is frustrated by the overt and undue partisanship that permeates the way the Committee on Rules handles its business. That is the reason why I was told by a member of the majority party in the Committee on Appropriations that the reason the agriculture appropriation subcommittee came to the floor without a rule was to avoid the chaos in the Committee on Rules.

I would suggest we have a fundamental problem with the leadership of the majority party in this House which is apparently in chaos. That chaos is spilling over into an incredible exhibition of arrogance on the part of the majority party in the Committee on Rules. Until that chaos is eliminated, until that arrogance is eliminated, we are not going to be able to proceed apparently in any orderly fashion to deal with the House's business. I regret that, but that is in fact the case.

Mr. Speaker, I yield to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding to me.

As ranking member on the agriculture subcommittee, I have to say what a true tragedy it is that a subcommittee that has labored hard to bring a bill to the floor that can pass has now been handcuffed under this rule, and tomorrow it is almost laughable that key amendments will be limited to 5 minutes on each side, not even enough time to explain to our colleagues what the content of these amendments are and to fully appreciate the debate on both sides.

Whether we are talking about crop insurance, peanuts, whether we are talking about the WIC Program, our Members will be handcuffed and it is wrong. It is wrong for the Committee on Rules to do this to the Committee on Appropriations.

FAIRNESS TO DAIRY FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. JOHNSON] is recognized for 5 minutes.

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to also address an issue of agriculture, one that I think is of utmost importance to dairy farmers not only in northeast Wisconsin where I come from but all across this country, an agriculture issue that we are familiar with from some innovative television and prints ads that promote milk and dairy products, not only from Wisconsin but across this great land of ours.

One ad campaign asks, Got milk? Well, we have got milk in Wisconsin. And the question is, have we got fairness? It is another issue.

Right now the dairy farmers in northeast Wisconsin, indeed across the country, every one of them hard working farm families, pay 15 cents for every 100 pounds of milk that they sell. It goes into a fund. It promotes and advertises milk and dairy products. All of these ads are a great boost for dairy products in general. The program is helping dairy farmers everywhere, everywhere sell their milk.

However, there are some dairy producers who benefit from these ads but they do not pay into this promotion fund. They are not farmers from my home district in Wisconsin. They are not farmers in the Northeast or in California.

They are foreign dairy producers, places like Australia and New Zealand, and they in fact reap the rewards of dairy promotion. I think dairy farmers think it is time we shared the cost with all dairy farmers.

I have introduced a bill, Mr. Speaker, as a matter of fact, my first bill to try and level the playing field between American dairy farmers and foreign dairy producers when it comes to promotion, which benefits everybody who looks to advertise their product. It is the Dairy Promotion Fairness Act. I urge my colleagues to sign onto the measure and support it in this Congress.

I think this issue of fairness goes beyond the fact that dairy importers are not paying the same fees as dairy farmers. The importers of other commodities, beef, pork, and cotton, are currently paying into their respective promotion programs, yet dairy importers in America do not.

Also our dairy farmers are required to pay into dairy promotion programs in other countries where we do sell our milk. We are exporters. But those agreements unfortunately at this point are not reciprocal.

This past weekend I had a chance to meet with Reuel Robertson, a dairy producer from Oneida, Wisconsin. He pays as much as $450 a month from his monthly dairy check into a dairy promotion fund to help the industry sell, in effect, milk, cheese, ice cream and other products to Americans. It is for Reuel Robertson and for farmers everywhere, not just in northeast Wisconsin, but everywhere in this land that I am working to require foreign dairy producers to pay for dairy promotion. We will not be establishing a new program. We are already marketing milk.

□ 2345

We will be sharing the cost with every producer that sells dairy products in this country. Assessing importers, we will add approximately $10 million to the resources that pay for milk promotion. That is $10 million that promotes dairy products all across the country. It is no added extra revenue to dairy farmers in this country, and yet it is added revenue to help promote a product that we do best. Dairy products.

Mr. Speaker, when we ask the question, got milk? The answer should be yes. Got fairness? Unfortunately, for now, the answer is no, but I hope we can change that.

THE TOBACCO LOBBY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington, [Mrs. LINDA SMITH] is recognized for 5 minutes.

Mrs. LINDA SMITH of Washington. Mr. Speaker, I feel like I am running a rerun. Three years in a row, this is my third year in Congress, I have come to the floor and discussed what seems to be a subsidy that makes no sense.

At first, when I saw that we were subsidizing insurance for tobacco, I thought it was a mistake, because I had arrived with a group of people saying they were going to balance the budget and get rid of things that were not important, not only were not important but unnecessary, and that we were going to clean house.

So I was assured that when we brought that amendment to the floor, a bipartisan group from the oldest Members to the newest Members, that surely it would be gone by the end of the day. The bill was stalled, took a while, seemed to take a few days. I thought it would be one day and it moved to the next. Lost by 13 votes. It seemed a little intriguing until the next year we found the tobacco lobby had cut 165 checks within 48 hours of that vote. Unfortunately, some of them had been passed out here, very close to the vote, very close to where we were voting.

The next year, I thought, well, surely people with the disgust at what the tobacco industry is doing, marketing to our children, we will win this vote on a crop subsidy, targeted to children, intended to harm. But no, lost by two votes, just two votes, as even people did not vote, walking from the floor.

Why is that happening? I could not quite understand it. And I still do not understand it. But today, actually now later in the day, or I guess tomorrow now, we will have the vote again and some will say, as we are voting, well, the small tobacco companies need it, or the farmers. The reality is they are not the ones passing out checks here to keep that. It is the large tobacco companies wanting to keep a hold on what they believe is their position here in Congress, making sure that they still have their insurance subsidized.

I heard the argument that, well, it is only right, they are a crop. Then I realized that we have thousands of crops. Only a few dozen have subsidies, and only a few are insured by the Federal Government. Now, I can understand sugar, although I do not understand why we are subsidizing that. I could maybe understand peanuts, because like sugar, at least it feeds children. But tobacco? Subsidizing the insurance? Charging it to those same children that it is aimed to harm?

No, tomorrow I think this Congress is going to have a chance to show whether we believe in balancing the budget and whether we believe in going to those things that are unnecessary first, and also it will show a little bit about what happens here when money flows from large corporations to campaigns and to parties.

Earlier today it was disclosed that hundreds of thousands of dollars in the last few days had been given to both parties from the tobacco industry in what is called soft money, the soft money being given to the party because, see, if that was given to a candidate or used against a candidate in a TV ad, how would taxpayers feel about seeing that R.J. Reynolds paid for this ad at the bottom of the ad, which is the law. They have to show who pays for the ad, so, instead, they give it to the parties. They launder it through and it comes out as paid for by the Republican or Democratic Party. Soft money.

See, the tobacco companies are smart. They know they are not popular, but they still want to control. So they give their money, as one of the most lucrative groups in the Nation, to keep their control, to keep their hands around our political system by giving it to the two major parties. The same soft money system that funneled the money that went through the White House to the Democrat Party from mainland China.

Tonight we can surmise, or I will surmise two things: Tomorrow we will see just how much power money has over American politics. Even that power that has to be hidden. And tomorrow we will see whether or not we can say no to those that give the hundreds of thousands, no, actually the millions of dollars to this political system, for something that costs billions. The American people only get 30 minutes because we do not want them to watch law, but they can see tomorrow.

CONGRATULATIONS ON PASSAGE OF STAMP OUT BREAST CANCER ACT; AND ANNOUNCEMENT OF FORMATION OF WASHINGTON WASTE WATCH CAUCUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to address my colleagues on two subjects. First, to congratulate the bipartisan fashion the passage of H.R. 1585, the Stamp Out Breast Cancer Act, which will authorize a 2-year demonstration project to offer the public a new way to fund research for breast cancer by raising money through especially designed U.S. postage stamps.

This is an idea whose time has certainly arrived, Mr. Speaker. With the increased funding needs at NIH, and working with the important breast cancer groups across this country, we need all we can put together when it comes to detection, treatment, and cure for breast cancer in this country. I congratulate all the groups that were a part of moving this legislation forward. I know that the Senate is also moving forward on the bill and I look forward to the President's signature.

I also want to announce a formation of the Washington Waste Watch Caucus, one that will zero in on the waste, fraud and abuse here in the Federal Government. I worked today with Thomas Schatz, the president of the Citizens Against Government Waste, which is an outgrowth of the Grace Commission, and together with Tom and other taxpayers groups and chamber groups we will work in a bipartisan fashion here in the House and in the Senate to make sure we identify those kinds of projects which are wasteful, which duplicate what States already do or local governments already do, and that cost too much for the Federal Government and costing, more importantly, too much for the taxpayers.

We want to make sure the taxpayers get their moneys worth, and that is why I am pleased to be working with those who want to see the sugar and peanut subsidies eliminated. Artificially inflated prices for our consumers is not the right way to move America forward.

Certainly as the gentlewoman from Washington [Mrs. LINDA SMITH] just discussed, to move forward with again adding a tobacco subsidy when in this country we already have a policy that says the surgeon general has determined that smoking can be dangerous to our health, causes lung cancer, emphysema, we should certainly not have the same government saying from a health care point of view that we should though be smoking yet we have tobacco subsidies. Certainly this is the kind of project when it comes to the Washington Waste Watch we will be looking forward to seeing some positive changes in.

We also have legislation calling for sunset review of Federal agencies, to make sure that where we should privatize, downsize, consolidate or eliminate, we will be looking at each agency over a time period to make sure we report back to Congress with our findings.

So for my colleagues who are here tonight and those who may be looking from their offices, at their monitor, I would ask that they get in touch with me through the Washington Waste Watch Caucus, 435 Cannon Building, Washington, DC, with their suggestions, or call me at 202-225-6111.

I am looking forward to making sure that we make the government more responsive and that Congress leads the way working with the American people to make sure that we save money, spend wisely and make sure we look to the future in a fiscally responsible manner.

☐ 2355

THE BIPARTISAN BUDGET CONTROL ACT OF 1997

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentleman from Texas [Mr. BARTON] is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, tomorrow we are going to have before the floor of the House of Representatives an historic piece of legislation, H.R. 2003, which is the Bipartisan Budget Enforcement Act of 1997. This piece of legislation is dedicated to the premise that whatever the budget agreement ultimately turns out to be, it has to have enforcement to actually result in a balanced budget by the year 2002.

If we look back 25 years ago to 1975, we can see that the blue area in this pie chart shows that well over 55 percent of the Federal budget was discretionary. That means that it was controlled by the Congress on an annual basis by the appropriators in both the House and Senate. We had about 7 percent interest on the debt, which was the red part of this pie chart. And then mandatory or entitlement spending was the balance, which was about 38 percent.

If we fast forward to the year that we are in now, fiscal year 1997, we can see that 51 percent is entitlement spending, we have 15 percent that is interest on the debt, and the discretionary part of the budget is now down to around 34 percent. If we go to the last year of the budget agreement, which is 5 years from now, fiscal year 2002, the picture is even worse. The interest on the debt is up to 14 percent. Entitlement spending is at 58 percent. So we are at 74 percent uncontrollable spending.

We cannot have a budget agreement that actually results in a balanced budget if three-fourths of the budget is uncontrollable. So what we have done on a bipartisan basis is come up with a piece of legislation that says let us take the numbers that are agreed to by the President and the Congress and enforce them on the spending.

On the spending side, every program would have a cap. Under current law, only discretionary spending has a cap. So we apply the caps to the entitlement portion of the budget. On the revenue side, we take the revenue numbers that are in the budget for tax revenues and make those goals. After the first year of the agreement, in fiscal year 1998, if the revenue numbers are not up to what they are supposed to be, under the agreement we would delay on a contingent basis next year's tax cut.

If spending goes beyond caps, we give the President and Congress three options. They can vote to waive the cap. They can vote to change the program so that it actually comes within the cap. Or if they vote to do nothing; instead of the deficit going up, there is sequestration by program that brings the spending back under control.

If you look at the ratio in the current budget agreement, entitlement spending, which is the blue bar, versus the tax cuts in the bill, which is the red bar, it is a ratio of about 50-to-1. About $900 billion in entitlement spending the first year of the agreement, and we have about $10 billion in tax cuts. We can see each year the tax cuts get marginally larger, $12 million, $15 billion, $20 billion. But the entitlement spending continues to go up. So it is over a trillion dollars fiscal year 2001.

So by putting $85 billion over 5 years on a net basis in tax cuts on the table, we get entitlement caps on $5 trillion of entitlement spending. That is a 50-to-1 trade-off. We think that is a tremendous agreement. If we look at what the entitlement programs are, these are the top 11 entitlement programs, they have grown at an average of over 9 percent in the last 6 years. Some of them, like the Medicaid program, has grown 16 percent. In the budget agreement, they grow at an average of over 7 percent. Medicaid continues to grow at over 9 percent.

So we are letting the entitlement programs grow. We are talking the numbers that the President and congressional leadership have agreed but we simply say those are caps and you cannot go over those numbers unless the Congress votes to waive the cap.

So I would hope that tomorrow, on a bipartisan basis, with the gentleman from Minnesota [Mr. MINGE] and the gentleman from Texas [Mr. STENHOLM] and the gentleman from Tennessee [Mr. TANNER] on the Democratic side leading the effort, myself, the gentleman from Washington [Mr. METCALF] and the gentleman from Tennessee [Mr. WAMP] on the Republican side, that we would vote to include enforcement in the budget agreement that is pending before the House and the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 1 minute a.m.), the House stood in recess subject to the call of the Chair.

□ 0021

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. SOLOMON] at 12 o'clock and 21 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–197) on the resolution (H. Res. 193) providing for further consideration of the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous material:)

Mr. JOHNSON of Wisconsin, for 5 minutes, today.

Mr. JEFFERSON, for 5 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Mr. OBEY, for 5 minutes, today.

(The following Members (at the request of Mr. THUNE) to revise and extend their remarks and to include extraneous material:)

Mr. METCALF, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, on July 23.

Mr. SMITH of Michigan, for 5 minutes each day, on July 23 and 24.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THUNE) and to include extraneous matter:)

Mr. GILMAN.
Mr. BARR of Georgia.
Mr. MANZULLO.
Mr. OXLEY, in two instances.
Mrs. KELLY.
Mr. COBLE.
Mr. GALLEGLY.
Ms. DUNN.
Mr. SOLOMON.
Mr. HANSEN.
Mr. FOX of Pennsylvania.
Mr. SMITH of New Jersey.
Mr. RADANOVICH.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. PASCRELL.
Mr. MILLER of California.
Mr. HAMILTON.
Mr. DELLUMS.
Mr. GEJDENSON.
Mr. MCDERMOTT.
Mr. HASTINGS of Florida.
Mr. VISCLOSKY.
Mr. SHERMAN.
Mr. LANTOS.
Mr. STOKES.
Mr. MANTON.
Mr. ETHERIDGE.
Mr. BLAGOJEVICH.
Ms. HARMAN.
Mr. ROMERO-BARCELÓ.
Mr. MCGOVERN.
Mr. KENNEDY of Rhode Island.

ADJOURNMENT

Mr. HASTINGS of Washington. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 22 minutes a.m.), the House adjourned until today, Wednesday, July 23, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4254. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Limited Ports; Dayton, OH [Docket No. 96–094–2] received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4255. A communication from the President of the United States, transmitting amendments to the FY 1998 appropriations requests for the Department of Labor, the Department of State, and the Arms Control and Disarmament Agency, pursuant to 31 U.S.C. 1106(b); (H. Doc. No. 105–109); to the Committee on Appropriations and ordered to be printed.

4256. A letter from the Director, Operational Test and Evaluation, Department of Defense, transmitting a report entitled "Alternative Live Fire Test and Evaluation Plan for the F/A–18E/F Aircraft"; to the Committee on National Security.

4257. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Certification of Requests for Equitable Adjustment [DFARS Case 97–D302] received July 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

4258. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Designation of Hong Kong [DFARS Case 97–D023] received July 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

4259. A letter from the Acting Comptroller General, General Accounting Office, transmitting a report entitled, "FINANCIAL AUDIT: Federal Family Education Loan Program's Financial Statements for Fiscal Years 1996 and 1995" (GAO/AIMD–97–111), pursuant to Public Law 101–576, section 305 (104 Stat. 2853); to the Committee on Banking and Financial Services.

4260. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend the National Flood Insurance Act of 1968 to extend the Act, authorize appropriations, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

4261. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Disclosure of Premium-Related Information (RIN: 1212–AA66) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4262. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers [CC Docket No. 94–129] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4263. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Thorndale, Texas) [MM Docket No. 97–5, RM–8954] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4264. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Midwest, Wyoming) [MM Docket No. 97–24, RM–8973] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4265. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Cordele, Dawson, Montezuma, Nashville, Hawkinsville, Cusseta, Cuthbert, and Leary, Georgia) [MM Docket No. 93–270, RM–8323, RM–8339, RM–8428, RM–8429, RM–8430] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4266. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Beatty, Nevada) [MM Docket No. 97–6, RM–8944] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4267. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Riley, Kansas) [MM Docket No. 97–108, RM–9024] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4268. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Hope, North Dakota) [MM Docket No. 97–57, RM–9016] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4269. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Hardinsburg, Indiana) [MM Docket No. 97–93, RM–9013] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4270. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Mendota, California) [MM Docket No. 97–36, RM–8991] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4271. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Weston, Idaho) [MM Docket No. 97–38, RM–8971] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4272. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Orofino, Idaho) [MM Docket No. 97–62, RM–9008] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4273. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Williams, California) [MM Docket No. 97–19, RM–8978] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4274. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Snow Hill, Maryland, and Chincoteague, Virginia) [MM Docket No. 97–73, RM–9012, RM–9063] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4275. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Portsmouth, Ohio) [MM Docket No. 96–216, RM–8895] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4276. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Bend, Oregon) [MM Docket No. 97–3, RM–8945] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4277. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Durango and Dolores, Colorado) [MM Docket No. 97–18, RM–8943, RM–9053] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4278. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Glendo, Wyoming) [MM Docket No. 97–23, RM–8972] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4279. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Manistique, Michigan) [MM Docket No. 97–89, RM–9029] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4280. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Huntsville, Utah) [MM Docket No. 97–4, RM–8923] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4281. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Randolph, Utah) [MM Docket No. 97–58, RM–8998] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4282. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Steamboat Springs, Colorado) [MM Docket No. 97–17, RM–8942] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4283. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Lexington, Illinois) [MM Docket No. 97–64, RM–9001] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4284. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Greenwood, Arkansas) [MM Docket No. 97–63, RM–9000] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4285. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Kingfisher, Oklahoma) [MM Docket No. 96–251, RM–8956] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4286. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Gillette, Wyoming) [MM Docket No. 96–252, RM–8959] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4287. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Superior, Montana) [MM Docket No. 97–61, RM–9010] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4288. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Cooperstown, Pennsylvania) [MM Docket No. 97–49, RM–8993] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4289. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Mahnomen, Minnesota) [MM Docket No. 97–101, RM–9051] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4290. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Humanitarian Use Devices; Lift of Stay of Effective Date [Docket No. 91N–0404] (RIN: 0910–AA09) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4291. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Portable Gauge Licenses [NUREG–1556, Vol. 1] received July 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4292. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Saudi Arabia for defense articles and services (Transmittal No. 97–25), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4293. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Saudi Arabia for defense articles and services (Transmittal No. 97–27), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4294. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC–96–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4295. A letter from the District of Columbia Auditor, transmitting a copy of a report entitled "Certification of the Fiscal Year 1997 Revised General Fund Revenue Estimates in Support of the District of Columbia General Obligation Bonds (Series 1997A)," pursuant to D.C. Code section 47–117(d); to the Committee on Government Reform and Oversight.

4296. A letter from the District of Columbia Auditor, transmitting a copy of a report entitled "Certification of the Water and Sewer Authority's Fiscal Year 1997 Revenue Estimate in Support of a $25,000,000 Revolving Line of Credit," pursuant to D.C. Code section 47–117(d); to the Committee on Government Reform and Oversight.

4297. A letter from the Secretary of the Treasury, transmitting the Department's fiscal year 1996 financial report on the Treasury Forfeiture Fund, pursuant to Public Law 102–393, section 638(b)(1) (106 Stat. 1783); to the Committee on Government Reform and Oversight.

4298. A letter from the Acting Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in June 1997, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

4299. A letter from the Secretary of the Treasury, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1996, through March 31, 1997, and the Secretary's semiannual report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

4300. A letter from the Congressional Affairs Officer, Federal Election Commission, transmitting a copy of the report entitled, "Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1995–1996," pursuant to 42 U.S.C. 1973gg–7; to the Committee on House Oversight.

4301. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a report on the hurricane and storm damage reduction, and environmental restoration project for the Santa Monica Pier, Santa Monica, California; to the Committee on Transportation and Infrastructure.

4302. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revisions to Digital Flight Data Recorder Rules (Federal Aviation Administration) [Docket No. 28109; Amdt. No. 121–266, 125–30, 129–27, 135–69] (RIN: 2120–AF76) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4303. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–122–AD; Amdt. 39–10083; AD 97–15–09] (RIN: 2120–AA64) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4304. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–136–AD; Amdt. 39–10082; AD 97–14–11] (RIN: 2120–AA64) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4305. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Air Tractor Incorporated Models AT–301, AT–302, AT–400, AT–400A, AT–401, AT–402, AT–501, and AT–502 Airplanes (Federal Aviation Administration) [Docket No. 96–CE–47–AD; Amdt. 39–10063; AD 97–14–05] (RIN: 2120–AA64) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4306. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737, 747, 757, and 767 Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–123–AD; Amdt. 39–10079; AD 97–15–06] (RIN: 2120–AA64) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4307. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B, 214B–1, and 214ST Helicopters (Federal Aviation Administration) [Docket No. 94–SW–26–AD; Amdt. 39–10077; AD 97–15–04] (RIN: 2120–AA64) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4308. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes (Federal Aviation Administration) [Docket No. 97–NM–131–AD; Amdt. 39–10078; AD 97–15–05] (RIN: 2120–AA64) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4309. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–84–AD; Amdt 39–10075, AD 97–15–02] (RIN: 2120–AA64) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4310. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of the Legal Description of the Dallas/Fort Worth Class B Airspace Area; TX (Federal Aviation Administration) [Airspace Docket No. 97–ASW–11] (RIN: 2120–AA66) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4311. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Brinkley, AR (Federal Aviation Administration) [Airspace Docket No. 96–ASW–25] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4312. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Longview, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–26] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4313. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Athens, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–27] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4314. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Chesapeake Bay Offshore Powerboat Challenge, Chesapeake Bay, Kent Island, Maryland (Coast Guard) [CGD 05–97–055] (RIN: 2115–AE46) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4315. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulation; Elliott Bay, Seattle, WA (Coast Guard) [CGD13–97–015] (RIN: 2115–AA97) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4316. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Isle of Wight, Bay Ocean City, Maryland (Coast Guard) [CGD05–97–013] (RIN: 2115–AE47) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4317. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Seattle Seafair Unlimited Hydroplane Race, Lake Washington, Seattle, WA (Coast Guard) [CGD13–97–016] (RIN: 2115–AE46) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4318. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone: Delaware Bay, Delaware River (Coast Guard) [CGD 05–97–058] (RIN: 2115–AA97) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4319. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; St. Andrew Bay, Panama City Florida, Hathaway Landing Marina (Coast Guard) [COTP Mobile, AL 97–16] (RIN: 2115–AA97) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4320. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [TD 8725] (RIN: 1545–AU64) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:.

Mr. GOSS: Committee on Rules. House Resolution 192. Resolution providing for consideration of the bill (H.R. 2003) to reform the budget process and enforce the bipartisan balanced budget agreement of 1997 (Rept. 105–195). Referred to the House Calendar.

Mr. WALSH: Committee on Appropriations. H.R. 2209. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–196). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 193. Resolution providing for further consideration of the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes. (Rept. 105–197). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. OBERSTAR (for himself and Mr. Wise):

H.R. 2205. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. STEARNS (for himself and Mr. Gutierrez):

H.R. 2206. A bill to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for homeless veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROMERO-BARCELO (for himself and Mr. Young of Alaska):

H.R. 2207. A bill to amend the Federal Water Pollution Control Act concerning a proposal to construct a deep ocean outfall off the coast of Mayaguez, Puerto Rico; to the Committee on Transportation and Infrastructure.

By Mr. UPTON (for himself, Mr. Towns, Mr. Frost, and Mr. Rush):

H.R. 2208. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize food claims which relate a nutrient to a disease or health-related condition; to the Committee on Commerce.

By Mr. WALSH:

H.R. 2209. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1998, and for other purposes.

By Ms. VELÁZQUEZ:

H.R. 2210. A bill for the relief of certain aliens residing at 37–54 93d Street, Jackson Heights, NY and 104–15 34th Avenue, Corona, NY; to the Committee on the Judiciary.

By Mr. BONIOR (for himself, Mr. Gephardt, Mr. Lewis of Georgia, Mr. Hinchey, Mr. Becerra, and Mr. Olver):

H.R. 2211. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Education and the Workforce.

By Mr. CUMMINGS (for himself and Ms. Pelosi):

H.R. 2212. A bill to require the Secretary of Health and Human Services to carry out a program regarding sterile hypodermic needles in order to reduce the incidence of the transmission of HIV; to the Committee on Commerce.

By Mr. GILMAN (for himself, Mr. Deutsch, and Mrs. Kelly):

H.R. 2213. A bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearinghouses and electronic networks for the distribution of child care information, to improve the quality of child care provided through Federal facilities and programs, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Government Reform and Oversight, House Oversight, the Judiciary, Education and the Workforce, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUTCHINSON (for himself and Mr. Scott):

H.R. 2214. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to ensure that certain information regarding prisoners is reported to the Attorney General; to the Committee on the Judiciary.

By Mr. KENNEDY of Massachusetts:

H.R. 2215. A bill to amend the Fair Labor Standards Act of 1938 to restrict employers in obtaining, disclosing, and using of genetic information; to the Committee on Education and the Workforce.

H.R. 2216. A bill to establish limitation with respect to the disclosure and use of genetic information by life and disability insurers, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McINNIS:

H.R. 2217. A bill to extend the deadline under the Federal Power Act applicable to the construction of FERC Project No. 9248 in the State of Colorado, and for other purposes; to the Committee on Commerce.

By Mr. NORWOOD:

H.R. 2218. A bill to redesignate the Navy and Marine Corps Reserve Center located in Augusta, GA, as the A. James Dyess Navy and Marine Corps Reserve Center; to the Committee on National Security.

By Mr. SANDLIN:

H.R. 2219. A bill to prevent Members of Congress from receiving the 1998 pay adjustment; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself and Mr. Hutchinson):

H.R. 2220. A bill to amend title 38, United States Code, to reinstate eligibility for dependency and indemnity compensation for certain surviving spouses of veterans; to the Committee on Veterans' Affairs.

By Mr. STEARNS (for himself and Mr. Smith of New Jersey):

H.R. 2221. A bill to require the Secretary of Health and Human Services to take no further action on a proposed regulation relating to the use of chlorofluorocarbons in metered-dose inhalers; to the Committee on Commerce.

By Ms. HARMAN:

H. Con. Res. 118. Concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

154. The SPEAKER presented a memorial of the Senate of the State of Illinois, relative to Senate Joint Resolution No. 34 urging Congress to ensure that the core principles outlined in the resolution are implemented in any restructuring of workforce programs, whether through legislation or regulatory and administrative modifications; to the Committee on Education and the Workforce.

155. Also, a memorial of the Senate of the State of Indiana, relative to Senate Concurrent Resolution 30 urging the President of the United States and the Administrator of the Environmental Protection Agency to evaluate both the potential incremental health effects and economic consequences of the proposed revisions to the National Ambient Air Quality Standards; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 15: Mr. LaTourette.

H.R. 23: Mrs. Maloney of New York and Mr. Towns.

H.R. 51: Ms. Hooley of Oregon and Mrs. Thurman.

H.R. 96: Mr. Ackerman and Mr. Porter.

H.R. 146: Mr. Lazio of New York.

H.R. 192: Mr. Torres and Mr. Rodriguez.

H.R. 198: Mr. Blunt.

H.R. 228: Mr. Ackerman.

H.R. 230: Mr. Ackerman.

H.R. 301: Mr. Meehan.

H.R. 306: Mr. Sherman, Mr. Edwards, Ms. Kaptur, Ms. Velázquez, Mr. Hoyer, Mr. Sandlin, Mr. Cook, Mr. Berry, Mr. Brown of Ohio, Mr. Moakley, Mr. Bentsen, and Mr. Farr of California.

H.R. 414: Mr. Torres and Mr. Rodriguez.

H.R. 521: Mr. Dooley of California.

H.R. 553: Ms. Kaptur and Mr. Lewis of Georgia.

H.R. 611: Mr. Goode.

H.R. 633: Mr. Markey.

H.R. 695: Mr. Knollenberg and Mr. Talent.

H.R. 712: Mr. Ackerman.

H.R. 754: Mr. Baesler and Mr. Rush.

H.R. 755: Mr. Vento and Mr. Brown of California.

H.R. 789: Mr. Turner and Mr. Redmond.

H.R. 815: Mr. Minge and Mrs. Chenoweth.

H.R. 925: Ms. Furse.

H.R. 952: Mr. Neal of Massachusetts.

H.R. 961: Mr. Stearns, Mr. Duncan, Mr. Skaggs, and Mr. Ewing.

H.R. 979: Mr. Maloney of Connecticut, Mr. Snyder, and Mr. Kennedy of Rhode Island.

H.R. 983: Mr. McGovern.

H.R. 1026: Mr. Smith of New Jersey, Mr. Frost, Mrs. Morella, and Mr. Fox of Pennsylvania.

H.R. 1051: Mr. Redmond.

H.R. 1114: Mr. Sabo and Mr. Costello.

H.R. 1126: Mr. Allen, Mr. Stark, Mrs. Cubin, Mr. Martinez, and Mr. Olver.

H.R. 1147: Mrs. Cubin.

H.R. 1156: Mr. Fox of Pennsylvania.

H.R. 1159: Mr. Rush.

H.R. 1173: Mr. Luther, Mr. Vento, Mr. Diaz-Balart, Mr. Minge, Mr. Farr of California, Ms. DeGette, Mr. Ackerman, and Mr. Pascrell.

H.R. 1178: Mr. Dellums.

H.R. 1189: Mr. Hayworth and Mr. Gibbons.

H.R. 1194: Ms. DeGette.

H.R. 1195: Ms. DeGette.

H.R. 1232: Mr. Sanders and Mr. Stump.

H.R. 1260: Mr. Gephardt, Mr. Rogan, Mr. Whitfield, Mr. Jefferson, Mr. Gordon, Mr. Burr of North Carolina, Mr. Coburn, Mr. Sherman, Mr. Sessions, and Mr. Fattah.

H.R. 1300: Ms. Furse.

H.R. 1323: Mr. Luther.

H.R. 1371: Mr. Edwards and Mr. Sessions.

H.R. 1382: Mr. Lewis of Georgia, Ms. Hooley of Oregon, and Mr. Rush.

H.R. 1398: Mr. Barton of Texas.

H.R. 1401: Ms. Woolsey.

H.R. 1415: Mr. Blunt, Mr. Berry, Mr. Rush, Mr. Dicks, Mr. McGovern, and Mr. Crapo.

H.R. 1426: Mr. Wamp.

H.R. 1450: Mr. Ackerman.

H.R. 1456: Mr. Fox of Pennsylvania, Ms. Granger, and Mr. Rodriguez.

H.R. 1492: Mr. Wicker.

H.R. 1519: Ms. Kilpatrick, Mr. Rush, Mr. Dellums, and Mr. Watt of North Carolina.

H.R. 1521: Mr. Metcalf, Mr. McKeon, Mr. Saxton, and Mr. Martinez.

H.R. 1534: Mr. Goodlatte, Mr. Pascrell, Mr. Lewis of California, Mr. Solomon, Mr. Condit, Mr. Dreier, Mr. Fazio of California, Mr. Hutchinson, Mr. Shimkus, Mr. Ensign, Mr. Calvert, Mr. Doolittle, Mr. Kolbe, Mr. Cox of California, Mr. McCollum, Mr. Cannon, Mr. Hall of Texas, and Mr. Chenoweth.

H.R. 1542: Mr. Bliley.

H.R. 1585: Mr. Weller, Mr. Saxton, Mr. Ackerman, Mrs. Morella, Mr. McHale, Mr. Coburn, Mrs. Kelly, and Ms. Millender-McDonald.

H.R. 1670: Mr. Gutierrez.

H.R. 1679: Mr. McCollum and Ms. Slaughter.

H.R. 1689: Mr. Holden.

H.R. 1712: Mr. Rohrabacher and Mrs. Emerson.

H.R. 1719: Mr. Holden, Mr. Lewis of California, and Mr. Ney.

H.R. 1733: Ms. Rivers and Mr. Stabenow.

H.R. 1748: Mr. Capps, Mr. Cramer, and Mr. Watts of Oklahoma.

H.R. 1788: Mr. Hinchey and Mr. Gordon.

H.R. 1839: Mrs. Cubin, Mr. Bachus, Mr. Pallone, Mr. LaTourette, Mr. Goode, and Mr. Coburn.

H.R. 1843: Mr. Crapo.

H.R. 1846: Mr. Sam Johnson and Mr. Rahall.

H.R. 1861: Mr. Brown of California, Mr. Conyers, Mr. Dellums, Mr. Evans, Mr. Frost, Mr. Nadler, Mr. Sanders, Mr. Stark, Mr. Vento, and Mr. Yates.

H.R. 1864: Ms. Furse.

H.R. 1883: Mr. Abercrombie.

H.R. 1912: Mr. Rogan.

H.R. 1968: Mr. Towns, Mrs. Morella, and Mr. Weller.

H.R. 1991: Mr. Thornberry and Mr. Dickey.

H.R. 2001: Mrs. Chenoweth.

H.R. 2003: Mr. Cook, Mrs. Thurman, Mr. Dickey, Mr. Sessions, Mr. Davis of Florida, Mr. Spence, Mr. Schiff, Mr. Taylor of Mississippi, and Mr. Horn.

H.R. 2004: Mrs. Emerson and Mr. Hilliard.

H.R. 2005: Mr. Frelinghuysen, Mr. Costello, and Mr. Pickering.

H.R. 2006: Mr. Baldacci, Ms. Velázquez, Ms. Woolsey, and Mr. Hefner.

H.R. 2064: Mr. Dicks and Mr. Wexler.

H.R. 2120: Mr. Hamilton.

H.R. 2121: Mr. Frost, Mr. Deutsch, Ms. Molinari, Mr. Bonior, Ms. Woolsey, and Mr. Evans.

H.R. 2122: Mr. Pascrell.

H.R. 2139: Mr. Peterson of Minnesota, Mr. Obey, and Mr. Petri.

H.R. 2143: Mr. Filner and Mr. Underwood.

H.R. 2163: Mr. Bob Schaffer.

H.R. 2196: Mr. Smith of New Jersey, Mr. Sam Johnson, and Mr. Royce.

H.R. 2198: Mr. Luther and Mrs. Meek of Florida.

H.R. 2200: Mr. Frost, Ms. Furse, and Mr. Gilman.

H. Con. Res. 80: Mr. Filner, Mr. Lewis of Georgia, Mr. Adam Smith of Washington, Mr. Frost, Mr. Davis of Illinois, Mr. Cardin, Mr. Gillmor, Mr. Brown of California, and Mr. Collins.

H. Con. Res. 81: Mr. Goode, Mr. Meehan, Mr. Talent, Mr. Yates, Mr. Duncan, Mr. Levin, Mrs. Roukema, Mr. Foley, Mr. Stark, Mr. Sensenbrenner, Mr. Dingell, Mr. Franks of New Jersey, Mr. Hinchey, Mr. Weygand, and Mr. Nadler.

H. Con. Res. 91: Mr. McGovern and Mr. Lewis of Georgia.

H. Con. Res. 97: Mr. Lewis of Georgia.

H. Con. Res. 99: Mr. Kennedy of Massachusetts.

H. Con. Res. 100: Mr. Wexler, Mr. Dingell, and Mr. Smith of New Jersey.

H. Res. 166: Mr. Yates.

H. Res. 173: Mr. Lewis of Georgia, Ms. Harman, Ms. Jackson-Lee, Mr. Berman, Mr. Ackerman, and Ms. McCarthy of Missouri.

H. Res. 191: Mr. Herger, Mr. Snowbarger, Mr. Lampson, Mr. Cunningham, Mr. Watts of Oklahoma, and Mr. Hulshof.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2003: Mr. Berry and Mrs. Kennelly of Connecticut.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2003

Offered By: Mr. Barton of Texas

(Amendment in the Nature of a Substitute)

Amendment No. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Balanced Budget Assurance Act of 1997".

(b) Table of Contents.—

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

Title I—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

Sec. 101. Timetable.
Sec. 102. Procedures to avoid sequestration or delay of new revenue reductions.
Sec. 103. Effect on Presidents' budget submissions; point of order.
Sec. 104. Deficit and revenue targets.
Sec. 105. Direct spending caps.
Sec. 106. Economic assumptions.
Sec. 107. Revisions to deficit and revenue targets and to the caps for entitlements and other mandatory spending.

Title II—Enforcement Provisions

Sec. 201. Reporting excess spending.
Sec. 202. Enforcing direct spending caps.

Sec. 203. Sequestration rules.
Sec. 204. Enforcing revenue targets.
Sec. 205. Exempt programs and activities.
Sec. 206. Special rules.
Sec. 207. The current law baseline.
Sec. 208. Limitations on emergency spending.
Title III—Use of Budget Surplus to Preserve Social Security Trust Fund
Sec. 301. Ending use of receipts of Social Security Trust Fund for other programs and activities.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) ELIGIBLE POPULATION.—The term "eligible population" shall mean those individuals to whom the United States is obligated to make a payment under the provisions of a law creating entitlement authority. Such term shall not include States, localities, corporations or other nonliving entities.

(2) SEQUESTER AND SEQUESTRATION.—The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) BREACH.—The term "breach" means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct spending cap for that year.

(4) BASELINE.—The term "baseline" means the projection (described in section 207) of current levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(5) BUDGETARY RESOURCES.—The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(6) DISCRETIONARY APPROPRIATIONS.—The term "discretionary appropriations" means budgetary resources (except to fund direct spending programs) provided in appropriation Acts. If an appropriation Act alters the level of direct spending or offsetting collections, that effect shall be treated as direct spending. Classifications of new accounts or activities and changes in classifications shall be made in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and with CBO and OMB.

(7) DIRECT SPENDING.—The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts, including entitlement authority;

(B) entitlement authority; and

(C) the food stamp program.

If a law other than an appropriation Act alters the level of discretionary appropriations or offsetting collections, that effect shall be treated as direct spending.

(8) ENTITLEMENT AUTHORITY.—The term "entitlement authority" means authority (whether temporary or permanent) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

(9) CURRENT.—The term "current" means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31 U.S.C., the estimates consistent with the economic and technical assumptions underlying that budget.

(10) ACCOUNT.—The term "account" means an item for which there is a designated budget account designation number in the President's budget.

(11) BUDGET YEAR.—The term "budget year" means the fiscal year of the Government that starts on the next October 1.

(12) CURRENT YEAR.—The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(13) OUTYEAR.—The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year.

(14) OMB.—The term "OMB" means the Director of the Office of Management and Budget.

(15) CBO.—The term "CBO" means the Director of the Congressional Budget Office.

(16) BUDGET OUTLAYS AND OUTLAYS.—The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during such year.

(17) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—The terms "budget authority" and "new budget authority" have the meanings given to them in section 3 of the Congressional Budget and Impoundment Control Act of 1974.

(18) APPROPRIATION ACT.—The term "appropriation Act" means an Act referred to in section 105 of title 1 of the United States Code.

(19) CONSOLIDATED DEFICIT.—The term "consolidated deficit" means, with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year.

(20) SURPLUS.—The term "surplus" means, with respect to a fiscal year, the amount by which total receipts exceed total outlays during that year.

(21) DIRECT SPENDING CAPS.—The term "direct spending caps" means the nominal dollar limits for entitlements and other mandatory spending pursuant to section 105 (as modified by any revisions provided for in this Act).

TITLE I—ENSURE THAT THE BIPARTISAN BALANCED BUDGET AGREEMENT OF 1997 ACHIEVES ITS GOAL

SEC. 101. TIMETABLE.

On or before:	Action to be completed:
January 15	CBO economic and budget update.
First Monday in February.	President's budget update based on new assumptions.
August 1	CBO and OMB updates.
August 15	Preview report.
Not later than November 1 (and as soon as practical after the end of the fiscal).	OMB and CBO Analyses of Deficits, Revenues and Spending Levels and Projections for the Upcoming Year.
November 1–December 15	Congressional action to avoid sequestration.
December 15	OMB issues final (look back) report for prior year and preview for current year.
December 15	Presidential sequester order or order delaying new/additional revenues reductions scheduled to take effect pursuant to reconciliation legislation enacted in calendar year 1997.

SEC. 102. PROCEDURES TO AVOID SEQUESTRATION OR DELAY OF NEW REVENUE REDUCTIONS.

(a) SPECIAL MESSAGE.—If the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year indicates that—

(1) deficits in the most recently completed fiscal year exceeded, or the deficits in the budget year are projected to exceed, the deficit targets in section 104, as adjusted pursuant to section 107;

(2) revenues in the most recently completed fiscal year were less than, or revenues in the current year are projected to be less than, the revenue targets in section 104, as adjusted pursuant to section 107; or

(3) outlays in the most recently completed fiscal year exceeded, or outlays in the current year are projected to exceed, the caps in section 104, as adjusted pursuant to section 107;

the President shall submit to Congress with the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year a special message that includes proposed legislative changes to—

(A) offset all or part of net deficit or outlay excess;

(B) offset all or part of any revenue shortfall; or

(C) revise the deficit or revenue targets or the outlay caps contained in this Act;

through any combination of—

(i) reductions in outlays;

(ii) increases in revenues; or

(iii) increases in the deficit targets or expenditure caps, or reductions in the revenue targets, if the President submits a written determination that, because of economic or programmatic reasons, less than the entire amount of the variances from the balanced budget plan should be offset.

(b) INTRODUCTION OF THE PRESIDENT'S PACKAGE.—Not later than November 15, the message from the President required pursuant to subsection (a) shall be introduced as a joint resolution in the House of Representatives or the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after November 15, the joint resolution may be introduced by any Member of that House of Congress and shall be referred to the Committee on the Budget of that House.

(c) HOUSE COMMITTEE ACTION.—The Committee on the Budget, in consultation with the committees of jurisdiction, or, in the case of revenue shortfalls, the Committee on Ways and Means of the House of Representatives shall, by November 15, report a joint resolution containing—

(1) the recommendations in the President's message, or different policies and proposed legislative changes than those contained in the message of the President, to ameliorate or eliminate any excess deficits or expenditures or any revenue shortfalls, or

(2) any changes to the deficit or revenue targets or expenditure caps contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(d) PROCEDURE IF THE APPROPRIATE COMMITTEE OF THE HOUSE OF REPRESENTATIVES FAILS TO REPORT REQUIRED RESOLUTION.—

(1) AUTOMATIC DISCHARGE OF COMMITTEES ON THE BUDGET OF THE HOUSE.—If the Committee on the Budget of the House of Representatives fails, by November 20, to report a resolution meeting the requirements of subsection (c), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a), and the joint resolution shall be placed on the appropriate calendar.

(2) CONSIDERATION OF DISCHARGE RESOLUTION IN THE HOUSE.—If the Committee has been discharged under paragraph (1) above, any Member may move that the House of Representatives consider the resolution.

Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(e) CONSIDERATION OF JOINT RESOLUTIONS IN THE HOUSE.—Consideration of resolutions reported pursuant to subsection (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d). Notwithstanding subsection (d) and any other rule or order of the House of Representatives or the Senate, it shall be in order to consider amendments to ameliorate any excess spending or revenue shortfalls through different policies and proposed legislation and which do not change the net deficit impact of the resolution.

(f) TRANSMITTAL TO SENATE.—If a joint resolution passes the House of Representatives pursuant to subsection (e), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within 1 calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

(g) REQUIREMENTS FOR SPECIAL JOINT RESOLUTION IN THE SENATE.—The Committee on the Budget, in consultation with the committees of jurisdiction, or, in the case of revenue shortfalls, the Committee on Finance of the Senate shall report not later than December 1—

(1) a joint resolution reflecting the message of the President; or

(2) the joint resolution passed by the House of Representatives, with or without amendment; or

(3) a joint resolution containing different policies and proposed legislative changes than those contained in either the message of the President or the resolution passed by the House of Representatives, to eliminate all or part of any excess deficits or expenditures or any revenue shortfalls, or

(4) any changes to the deficit or revenue targets, or to the expenditure caps, contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(h) PROCEDURE IF THE APPROPRIATE COMMITTEE OF THE SENATE FAILS TO REPORT REQUIRED RESOLUTION.—(1) In the event that the Committee on the Budget of the Senate fails, by December 1, to report a resolution meeting the requirements of subsection (g), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a) and of the resolution passed by the House of Representatives, and both joint resolutions shall be placed on the appropriate calendar.

(2) Any member may move that the Senate consider the resolution passed by the House of Representatives or the resolution introduced pursuant to subsection (b).

(i) CONSIDERATION OF JOINT RESOLUTION IN THE SENATE.—Consideration of resolutions reported pursuant to subsections (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(j) PROCEDURE IF JOINT RESOLUTION DOES NOT ELIMINATE DEFICIT EXCESS.—If the joint resolution reported by the Committee on the Budget, Way and Means, or Finance pursuant to subsection (c) or (g) or a joint resolution discharged in the House of Representatives or the Senate pursuant to subsection (d)(1) or (h) would eliminate less than—

(1) the entire amount by which actual or projected deficits exceed, or revenues fall short of, the targets in this Act; or

(2) the entire amount by which actual or projected outlays exceed the caps contained in this Act;

then the Committee on the Budget of the Senate shall report a joint resolution, raising the deficit targets or outlay caps, or reducing the revenue targets for any year in which actual or projected spending, revenues or deficits would not conform to the deficit and revenue targets or expenditure caps in this Act.

(k) CONFERENCE REPORTS SHALL FULLY ADDRESS DEFICIT EXCESS.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution to eliminate all or part of any excess deficits or outlays or to eliminate all or part of any revenue shortfall compared to the deficit and revenue targets and the expenditure caps contained in this Act, unless—

(1) the joint resolution offsets the entire amount of any overage or shortfall; or

(2) the House of Representatives and Senate both pass the joint resolution reported pursuant to subsection (j)(2).

The vote on any resolution reported pursuant to subsection (j)(2) shall be solely on the subject of changing the deficit or revenue targets or the expenditure limits in this Act.

SEC. 103. EFFECT ON PRESIDENTS' BUDGET SUBMISSIONS; POINT OF ORDER.

(a) BUDGET SUBMISSION.—Any budget submitted by the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 1998 through 2002 shall be consistent with the spending, revenue, and deficit levels established in sections 104 and 105, as adjusted pursuant to section 107, or it shall recommend changes to those levels

(b) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget unless it is consistent with the spending, revenue, and deficit levels established in sections 104 and 105, as adjusted pursuant to section 107.

SEC. 104. DEFICIT AND REVENUE TARGETS.

(a) CONSOLIDATED DEFICIT (OR SURPLUS) TARGETS.—For purposes of sections 102 and 107, the consolidated deficit targets shall be—

(1) for fiscal year 1998, $90,500,000,000;

(2) for fiscal year 1999, $89,700,000,000;

(3) for fiscal year 2000, $83,000,000,000;

(4) for fiscal year 2001, $53,300,000,000; and

(5) for fiscal year 2002, there shall be a surplus of not less than $1,400,000,000.

(b) CONSOLIDATED REVENUE TARGETS.—For purposes of sections 102, 107, 201, and 204, the consolidated revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 105. DIRECT SPENDING CAPS.

(a) IN GENERAL.—Effective upon submission of the report by OMB pursuant to subsection (c), direct spending caps shall apply to all entitlement authority except for undistributed offsetting receipts and net interest outlays, subject to adjustments for changes in eligible populations and inflation pursuant to section 107. For purposes of enforcing direct spending caps under this Act, each separate program shown in the table set forth in subsection (d) shall be deemed to be a category.

(b) BUDGET COMMITTEE REPORTS.—Within 30 days after enactment of this Act, the Budget Committees of the House of Representatives and the Senate shall file with their respective Houses identical reports containing account numbers and spending levels for each specific category.

(c) REPORT BY OMB.—Within 30 days after enactment of this Act, OMB shall submit to the President and each House of Congress a report containing account numbers and spending limits for each specific category.

(d) CONTENTS OF REPORTS.—All direct spending accounts not included in these reports under separate categories shall be included under the heading "Other Entitlements and Mandatory Spending". These reports may include adjustments among the caps set forth in this Act as required below, however the aggregate amount available under the "Total Entitlements and Other Mandatory Spending" cap shall be identical in each such report and in this Act and shall be deemed to have been adopted as part of this Act. Each such report shall include the actual amounts of the caps for each year of fiscal years 1998 through 2002 consistent with the concurrent resolution on the budget for FY 1998 for each of the following categories:

Earned Income Tax Credit,
Family Support,
Civilian and other Federal retirement:
Military retirement,
Food stamps,
Medicaid,
Medicare,
Social security,
Supplemental security income,
Unemployment compensation,
Veterans' benefits,
Other entitlements and mandatory spending, and
Aggregate entitlements and other mandatory spending.

(e) ADDITIONAL SPENDING LIMITS.—Legislation enacted subsequent to this Act may include additional caps to limit spending for specific programs, activities, or accounts with these categories. Those additional caps (if any) shall be enforced in the same manner as the limits set forth in such joint explanatory statement.

SEC. 106. ECONOMIC ASSUMPTIONS.

Subject to periodic reestimation based on changed economic conditions or changes in eligible population, determinations of the direct spending caps under section 105, any breaches of such caps, and actions necessary to remedy such breaches shall be based upon the economic assumptions set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 (House Concurrent Resolution 84, 105th Congress). At the same time as the submission of the report by OMB pursuant to section 104(c), OMB shall submit to the President and Congress a report setting forth the economic assumptions in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 and the assumptions regarding eligible populations used in preparing the report submitted pursuant to section 104(c).

SEC. 107. REVISIONS TO DEFICIT AND REVENUE TARGETS AND TO THE CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.

(a) AUTOMATIC ADJUSTMENTS TO DEFICIT AND REVENUE TARGETS AND TO CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.—When the President submits the budget under section 1105(a) of title 31, United States Code, and upon submission of the

OMB report pursuant to section 201(a) for any year, OMB shall calculate (in the order set forth below), and the budget and reports shall include, adjustments to the deficit and revenue targets, and to the direct spending caps (and those limits as cumulatively adjusted) for the current year, the budget year, and each outyear, to reflect the following:

(1) CHANGES TO REVENUE TARGETS.—

(A) CHANGES IN GROWTH.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, growth adjustment factors shall equal the ratio between the level of year-over-year Gross Domestic Product, as adjusted by the chain-weighted GDP deflator measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 106.

(B) CHANGES IN INFLATION.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year change in the Consumer Price Index measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 106.

(2) ADJUSTMENTS TO DIRECT SPENDING CAPS.—

(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, and Government Reform and Oversight and Governmental Affairs of the House of Representatives and the Senate.

(B) CHANGES IN NET OUTLAYS.—Changes in net outlays for all programs and activities exempt from sequestration under section 204.

(C) CHANGES IN INFLATION.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year change in the Consumer Price Index measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 106 (relating to economic assumptions). For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps (for changes in economic conditions including inflation, nor for changes in numbers of eligible beneficiaries) unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 105 based on those projections.

(D) CHANGES IN ELIGIBLE POPULATIONS.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, the direct spending caps shall be adjusted to reflect changes in eligible populations, based on the assumptions set forth in the OMB report submitted pursuant to section 106. In making such adjustments, OMB shall estimate the changes in spending resulting from the change in eligible populations. For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps for changes in numbers of eligible beneficiaries unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 105 based on those projections.

(E) INTRA-BUDGETARY PAYMENTS.—From discretionary accounts to mandatory accounts. The baseline and the discretionary spending caps shall be adjusted to reflect those changes.

(b) CHANGES TO DEFICIT TARGETS.—The deficit targets in section 104 shall be adjusted to reflect changes to the revenue targets or changes to the caps for entitlements and other mandatory spending pursuant to subsection (a).

(c) PERMISSIBLE REVISIONS TO DEFICIT AND REVENUE TARGETS AND DIRECT SPENDING CAPS.—Deficit and revenue targets and direct spending caps as enacted pursuant to sections 104 and 105 may be revised as follows: Except as required pursuant to subsection (a) and (b), deficit, revenue, and direct spending caps may only be adjusted by recorded vote. It shall be a matter of highest privilege in the House of Representatives and the Senate for a Member of the House of Representatives or the Senate to insist on a recorded vote solely on the question of amending such caps. It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution waiving the provisions of this subsection. This subsection may be waived in the Senate only by an affirmative vote of three-fifths of the Members duly chosen and sworn.

TITLE II—ENFORCEMENT PROVISIONS

SEC. 201. REPORTING EXCESS SPENDING.

(a) ANALYSIS OF ACTUAL DEFICIT, REVENUE, AND SPENDING LEVELS.—As soon as practicable after any fiscal year, OMB shall compile a statement of actual and projected deficits, revenues, and direct spending for that year and the current fiscal year. The statement shall identify such spending by categories contained in section 105.

(b) ESTIMATE OF NECESSARY SPENDING REDUCTION.—Based on the statement provided under subsection (a), the OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected deficits, revenues, or spending in the current or immediately preceding fiscal years in violation of the revenue targets or direct spending caps in section 104 or 105, as adjusted pursuant to section 107, by more than one-tenth of one percent of the applicable total revenues or direct spending for such year. The report shall include:

(1) The amount, if any, that total direct spending exceeded, or is projected to exceed, the aggregate direct spending cap in section 105, as adjusted pursuant to section 107.

(2) All instances in which actual direct spending has exceeded the applicable direct spending cap.

(3) The difference between the amount of spending available under the direct spending caps for the current year and estimated actual spending for the categories associated with such caps.

(4) The amounts by which direct spending shall be reduced in the current fiscal year to offset the net amount that actual direct spending in the preceding fiscal year and projected direct spending in the current fiscal year exceeds the amounts available for each cap category.

SEC. 202. ENFORCING DIRECT SPENDING CAPS.

(a) PURPOSE.—This subtitle provides enforcement of the direct spending caps on categories of spending established pursuant to section 105. This section shall apply for any fiscal year in which the statement provided under section 201 identifies actual direct spending in the preceding fiscal year or projected direct spending in the current year in excess of the aggregate direct spending cap, as adjusted pursuant to section 107.

(b) GENERAL RULES.—

(1) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(2) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects and activities within a budget account.

(3) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

(4) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an trust, special or revolving fund shall revert to the Treasury and be permanently canceled.

(5) IMPLEMENTING REGULATIONS.—Notwithstanding any other provision of law, administrative rules or similar actions implementing any sequestration shall take effect within 30 days after that sequestration.

SEC. 203. SEQUESTRATION RULES.

(a) GENERAL RULES.—For programs subject to direct spending caps:

(1) TRIGGERING OF SEQUESTRATION.—Sequestration is triggered if total direct spending subject to the caps in the preceding fiscal year and projected direct spending subject to the caps in the current fiscal year exceeds the total of aggregate caps for direct spending for the current and immediately preceding fiscal year.

(2) CALCULATION OF REDUCTIONS.—The amount to be sequestered from direct spending programs under each separate cap shall be determined by multiplying the total amount that direct spending in that category exceeded or is projected to exceed the direct spending cap for that category by—

(A) the net amount that total direct spending exceeded, or is projected to exceed, the aggregate spending caps, as identified pursuant to paragraph 201(b)(1); multiplied by

(B) the net amount that direct spending by which the category exceeded and is projected to exceed the direct spending cap for that category, divided by the net amount that total spending exceeded and is projected to exceed the applicable direct spending cap for all categories in which spending exceeds the applicable direct spending caps.

(3) UNIFORM PERCENTAGES.—In calculating the uniform percentage applicable to the sequestration of all spending programs or activities within each category, or the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities, the sequestrable base for direct spending programs and activities is the total level of outlays for the fiscal year for those

programs or activities in the current law baseline.

(4) Permanent sequestration of direct spending.—Obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first direct spending sequestration, any later sequestration shall reduce direct spending by an amount in addition to, rather than in lieu of, the reduction in direct spending in place under the existing sequestration or sequestrations.

(5) Special rule.—For any direct spending program in which—

(A) outlays pay for entitlement benefits;

(B) a current-year sequestration takes effect after the 1st day of the budget year;

(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget; and

(D) the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased due to the delay;

then the uniform percentage shall revert to the uniform percentage calculated under paragraph (3) when the budget year is completed.

(6) Indexed benefit payments.—If, under any entitlement program—

(A) benefit payments are made to persons or governments more frequently than once a year; and

(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index (commonly called "cost of living adjustments");

sequestration shall first be applied to the cost of living adjustment before reductions are made to the base benefit. For the first fiscal year to which a sequestration applies, the benefit payment reductions in such programs accomplished by the order shall take effect starting with the payment made at the beginning of January following a final sequester. For the purposes of this subsection, veterans' compensation shall be considered a program that meets the conditions of the preceding sentence.

(7) Loan programs.—For all loans made, extended, or otherwise modified on or after any sequestration under loan programs subject to direct spending caps—

(A) the sequestrable base shall be total fees associated with all loans made extended or otherwise modified on or after the date of sequestration; and

(B) the fees paid by borrowers shall be increased by a uniform percentage sufficient to produce the dollar savings in such loan programs for the fiscal year or years of the sequestrations required by this section.

Notwithstanding any other provision of law, in any year in which a sequestration is in effect, all subsequent fees shall be increased by the uniform percentage and all proceeds from such fees shall be paid into the general fund of the Treasury.

(8) Insurance programs.—Any sequestration of a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' Life insurance programs) shall be accomplished by increasing premiums on contracts entered into extended or otherwise modified, after the date a sequestration order takes effect by the uniform sequestration percentage. Notwithstanding any other provision of law, for any year in which a sequestration affecting such programs is in effect, subsequent premiums shall be increased by the uniform percentage and all proceeds from the premium increase shall be paid from the insurance fund or account to the general fund of the Treasury.

(9) State grant formulas.—For all State grant programs subject to direct spending caps—

(A) the total amount of funds available for all States shall be reduced by the amount required to be sequestered; and

(B) if States are projected to receive increased funding in the budget year compared to the immediately preceding fiscal year, sequestration shall first be applied to the estimated increases before reductions are made compared to actual payments to States in the previous year—

(i) the reductions shall be applied first to the total estimated increases for all States; then

(ii) the uniform reduction shall be made from each State's grant; and

(iii) the uniform reduction shall apply to the base funding levels available to states in the immediately preceding fiscal year only to the extent necessary to eliminate any remaining excess over the applicable direct spending cap.

(10) Special rule for certain programs.—Except matters exempted under section 205 and programs subject to special rules set forth under section 206 and notwithstanding any other provisions of law, any sequestration required under this Act shall reduce benefit levels by an amount sufficient to eliminate all excess spending identified in the report issued pursuant to section 201, while maintaining the same uniform percentage reduction in the monetary value of benefits subject to reduction under this subsection.

(b) Within-Session Sequester.—If a bill or resolution providing direct spending for the current year is enacted before July 1 of that fiscal year and causes a breach within any direct spending cap for that fiscal year, 15 days later there shall be a sequestration to eliminate that breach within that cap.

SEC. 204. ENFORCING REVENUE TARGETS.

(a) Purpose.—This section enforces the revenue targets established pursuant to section 104. This section shall apply for any year in which actual revenues in the preceding fiscal year or projected revenues in the current year are less than the applicable revenue target, as adjusted pursuant to section 107.

(b) Estimate of Necessity To Suspend New Revenue Reductions.—Based on the statement provided under section 201(a), OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable revenue target in section 104, as adjusted pursuant to section 107, by more than 0.1 percent of the applicable total revenue target for such year. The report shall include—

(1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(c) No Credits, Deductions, Exclusions, Preferential Rate of Tax, Etc.—(1) If any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997 establishing or increasing any credit, deduction, exclusion, or eligibility limit or reducing any rate would (but for this section) first take effect in a tax benefit suspension year, and would reduce revenues over the 5-year period beginning with the tax benefit suspension year, such provision shall not take effect until the first calendar year which is not a tax benefit suspension year.

(2) Suspension of Indexation.—No new adjustment for inflation shall be made to any credit, deduction, or exclusion enacted as part of the Revenue Reconciliation Act of 1997 in a tax benefit suspension year.

(d) End of Session.—If the OMB report issued under subsection (a) indicates that the total revenues projected in the current year and actual revenues in the immediately preceding year will equal or exceed the applicable targets, the President shall sign an order ending the delayed phase-in of new tax cuts effective January 1. Such order shall provide that the new tax cuts and adjustments for inflation shall take effect as if the provisions of this section had not taken effect.

(e) Suspension of New Benefits Being Phased In.—If, under any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997, there is an increase in any benefit which would (but for this section) take effect with respect to a tax benefit suspension year, in lieu of applying subsection (c)—

(1) any increase in the benefit under such section with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of benefit under such section with respect to the prior calendar year shall apply to such tax benefit suspension year.

(f) Percentage Suspension Where Full Suspension Unnecessary To Achieve Revenue Target.—If the application of subsections (c), (d), and (e) to any tax benefit suspension year would result in total revenues in the current year to equal or exceed the targets described in section 104 such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by OMB, and the same percentage shall apply to such benefits.

(g) Tax Benefit Suspension Year.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under subsection (b) during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable revenue target in section 104, as adjusted pursuant to section 106, for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable revenue target in section 104, as adjusted pursuant to section 106, for such fiscal year by more than 0.1 percent of such target.

SEC. 205. EXEMPT PROGRAMS AND ACTIVITIES.

The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) offsetting receipts and collections;

(4) all payments from one Federal direct spending budget account to another Federal budget account;

(5) all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

(7) nonbudgetary activities, including but not limited to—

(A) credit liquidating and financing accounts;

(B) the Pension Benefit Guarantee Corporation Trust Funds;

(C) the Thrift Savings Fund;

(D) the Federal Reserve System; and

(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense;

Claims, judgments and relief act (20–1895–0–1–806);

Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14–0415–0–1–806);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

Eastern Indian land claims settlement fund (14–2202–0–1–806);

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payments to copyright owners (03–5175–0–2–376);

Salaries of Article III judges (not including cost of living adjustments);

Soldier's and Airman's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401);

(10) the following noncredit special, revolving, or trust-revolving funds—

Exchange Stabilization Fund (20–4444–0–3–155); and

Foreign Military Sales trust fund (11–82232–0–7–155).

SEC. 206. SPECIAL RULES.

(a) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(b) COMMODITY CREDIT CORPORATION.—

(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

(2) DAIRY PROGRAM.—

(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk in the United States and marketed by producers for commercial use.

(B) That price reduction (measured in cents per hundred-weight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

(3) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in international trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its realized losses.

(c) EARNED INCOME TAX CREDIT.—

(1) The sequestrable base for earned income tax credit program is the dollar value of all current year benefits to the entire eligible population.

(2) In the event sequestration is triggered to reduce earned income tax credits, all earned income tax credits shall be reduced, whether or not such credits otherwise would result in cash payments to beneficiaries, by a uniform percentage sufficient to produce the dollar savings required by the sequestration.

(d) REGULAR AND EXTENDED UNEMPLOYMENT COMPENSATION.—

(1) A State may reduce each weekly benefit payment made under the regular and extended unemployment benefit programs for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

(e) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.— For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. The sequestrable base for the Fund is the current-year level of gross outlays resulting from claims paid after the sequestration order takes effect.

(f) FEDERAL HOUSING FINANCE BOARD.—Any sequestration of the Federal Housing Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

(g) FEDERAL PAY.—

(1) IN GENERAL.—New budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 203(c)(3), as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system as increased by any amount payable under section 5304 of title 5, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1109 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code;

term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code;

(ii) allowances provided members of the uniformed services under sections 403(a) and 405 of such title; and

(iii) cadet pay and midshipman pay under section 203(c) of such title; and

(C) the term "uniformed services" shall have the same meaning given that term in section 101(3) of title 37, United States Code.

(h) MEDICARE.—

(1) IN GENERAL.—Any sequestration shall accomplish 90 percent of the required reduction by reductions in payments for services under title XVIII of the Social Security Act and 10 percent of the required reduction through increases in beneficiary premiums under part B of title XVIII of the Social Security Act.

(2) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.— In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the

Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(4) PART B PREMIUMS.—In computing the amount and method, part B premiums shall be increased by a percentage to be determined by dividing 10 percent of the amount that medicare spending exceeds the applicable cap by the total amount of all premium collections. All beneficiary premiums shall be increased by the percentage calculated pursuant to the preceding sentence, except that no increase in the premium shall result in a reduction in social security benefit payments to any beneficiary.

(5) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(i) POSTAL SERVICE FUND.—Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States and shall have the duty to make those payments during the first fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

(1) the uniform sequestration percentage, times

(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue forgone that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and shall follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

(j) POWER MARKETING ADMINISTRATIONS AND T.V.A.—Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each payment by a fund shall be—

(1) the direct spending uniform sequestration percentage, times

(2) the estimated gross obligations of the fund in that year other than those obligations financed from discretionary appropriations for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the pre-sequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in tax rates, or by any combination, but may not be financed by a lower fund surplus, a higher fund deficit, additional borrowing, delay in repayment of principal on outstanding debt and shall follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified in this subsection in order to make the annual payments to the Treasury.

(k) BUSINESS-LIKE TRANSACTIONS.—Notwithstanding any other provision of law, for programs which provide a business-like service in exchange for a fee, sequestration shall be accomplished through a uniform increase in fees (sufficient to produce the dollar savings in such programs for the fiscal year of the sequestration required by section 201(a)(2), all subsequent fees shall be increased by the same percentage, and all proceeds from such fees shall be paid into the general fund of the Treasury, in any year for which a sequester affecting such programs are in effect.

SEC. 207. THE CURRENT LAW BASELINE.

(a) SUBMISSION OF REPORTS.—CBO and OMB shall submit to the President and the Congress reports setting forth the budget baselines for the budget year and the next nine fiscal years. The CBO report shall be submitted on or before January 15. The OMB report shall accompany the President's budget.

(b) DETERMINATION OF THE BUDGET BASELINE.—(1) The budget baseline shall be based on the common economic assumptions set forth in section 106, adjusted to reflect revisions pursuant to subsection (c).

(2) The budget baseline shall consist of a projection of current year levels of budget authority, outlays, revenues and the surplus or deficit into the budget year and the relevant outyears based on current enacted laws as of the date of the projection.

(3) For discretionary spending items, the baseline shall be the spending caps in effect pursuant to section 601(a)(2) of the Congressional Budget Act of 1974. For years for which there are no caps, the baseline for discretionary spending shall be the same as the last year for which there were statutory caps.

(4) For all other expenditures and for revenues, the baseline shall be adjusted by comparing unemployment, inflation, interest rates, growth and eligible population for the most recent period for which actual data are available, compared to the assumptions contained in section 107.

(c) REVISIONS TO THE BASELINE.—The baseline shall be adjusted for up-to-date economic assumptions for all reports issued pursuant to section 107 of this Act and section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 208. LIMITATIONS ON EMERGENCY SPENDING.

(a) IN GENERAL.—(1) Within the discretionary caps for each fiscal year contained in this Act, an amount shall be withheld from allocation to the appropriate committees of the House of Representatives and of the Senate and reserved for natural disasters and other emergency purposes.

(2) Such amount for each such fiscal year shall not be less than 1 percent of total budget authority and outlays available within those caps for that fiscal year.

(3) No adjustments shall be made to the discretionary spending limits under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 unless the amount appropriated for discretionary accounts that have been designated as emergency requirements exceed the amount reserved pursuant to paragraph (1). Any adjustment shall be limited to the amount that total appropriations designated as emergency requirements for the fiscal year exceeds the amount reserved pursuant to paragraph (1).

(4) The amounts reserved pursuant to this subsection shall be made available for allocation to such committees only if—

(A) the President has made a request for such disaster funds;

(B) the programs to be funded are included in such request; and

(C) the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year.

(5) Notwithstanding any other provision of law—

(A) States and localities shall be required to maintain effort and ensure that Federal assistance payments do not replace, subvert or otherwise have the effect of reducing regularly budgeted State and local expenditures for law enforcement, firefighting, road construction and maintenance, building construction and maintenance or any other category of regular government expenditure (to ensure that Federal disaster payments are made only for incremental costs directly attributable to unforeseen disasters, and do not replace or reduce regular State and local expenditures for the same purposes);

(B) the President may not take administrative action to waive any requirement for States or localities to make minimum matching payments as a condition or receiving Federal disaster assistance or take administrative action to waive all or part of any repayment of Federal loans for the State or local matching share required as a condition of receiving Federal disaster assistance. This clause shall apply to all matching share requirements and loans to meet matching share requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any other Acts pursuant to which the President may declare a disaster or disasters and States and localities otherwise qualify for Federal disaster assistance; and

(C) a two-thirds vote in each House of Congress shall be required for each emergency to reduce or waive the State matching requirement or to forgive all or part of loans for the State matching share as required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(b) EFFECT BUDGET RESOLUTIONS.—(1) All concurrent resolutions on the budget (including revisions) shall specify the amount of new budget authority and outlays within the discretionary spending cap that shall be withheld from allocation to the committees and reserved for natural disasters, and a procedure for releasing such funds for allocation to the appropriate committee. The amount withheld shall be equal to 1 percent of the total discretionary spending cap for fiscal year covered by the resolution, unless additional amounts are specified.

(2) The procedure for allocation of the amounts pursuant to paragraph (1) shall ensure that the funds are released for allocation only pursuant to the conditions contained in subsection (a)(3)(A) through (C).

(c) Restriction on Use of Funds.—Notwithstanding any other provision of law, the amount reserved pursuant to subsection (a) shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(d) New Point of Order.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"Sec. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 208 of the Budget Enforcement Act of 1997 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

TITLE III—USE OF BUDGET SURPLUS TO PRESERVE SOCIAL SECURITY TRUST FUND

SEC. 301. ENDING USE OF RECEIPTS OF SOCIAL SECURITY TRUST FUND FOR OTHER PROGRAMS AND ACTIVITIES

(a) If, in any year, revenues are higher than the targets in section 104, as adjusted pursuant to section 107, or spending is lower than the caps in section 105, as adjusted, and the deficits are lower than the targets in section 105, as adjusted pursuant to section 107, those amounts shall be applied pursuant to subsection (b).

(b) All funds described in subsection (a) up to $100 billion shall be used to reduce the consolidated budget deficit and, to the extent that funds are available to eliminate the consolidated budget deficit, to retire the outstanding debt of the United States Government held by the public.

(c) Any use of funds described in subsection (a) for any purpose other than provided in subsection (b) shall be subject to the requirements of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and any reduction in the amounts described in subsection (a) shall be considered as an increase in the deficit.

(d) When the President submits the budget under section 1105(a) of title 31, United States Code, for any year, OMB shall adjust the Social Security Trust Fund surpluses for each year under this section, based on the most recent estimates of such surpluses to be provided to OMB by the Secretary of the Treasury.

H.R. 2003

Offered By: Mr. Evans

Amendment No. 2: Page 17, strike line 2.

Page 36, after line 15, insert the following (and redesignate the succeeding paragraph accordingly):

(10) payments and expenses under programs, benefits, and activities of the Department of Veterans Affairs and, insofar as they relate to veterans, of the Department of Labor;

H.R. 2159

Offered By: Mr. Burton of Indiana

Amendment No. 37: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE IN INDIA

Sec. 572. Not more than $51,180,000 of the funds appropriated or otherwise made available in this Act under the heading "Development Assistance" may be made available for assistance in India.

H.R. 2159

Offered By: Mr. Burton of Indiana

Amendment No. 38: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE IN INDIA

Sec. 572. Not more than $41,775,000 of the funds appropriated or otherwise made available in this Act under the heading "Development Assistance" may be made available for assistance in India.

H.R. 2159

Offered By: Mr. Burton of Indiana

Amendment No. 39: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE FOR INDIA

Sec. 572. None of the funds appropriated or otherwise made available in this Act under the heading "Development Assistance" may be made available for assistance to the Government of India.

H.R. 2159

Offered By: Mr. Burton of Indiana

Amendment No. 40: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE FOR INDIA

Sec. 572. None of the funds appropriated or otherwise made available in this Act under the heading "Development Assistance" may be made available for assistance in India unless such funds are provided to nongovernmental organizations.

H.R. 2159

Offered By: Mr. Fox of Pennsylvania

Amendment No. 41: Page 94, after line 3, insert the following:

Sec. 572. None of the funds made available under the heading "DEVELOPMENT ASSISTANCE" may be used to directly support or promote trophy hunting or the international commercial trade in elephant ivory, elephant hides, or rhinoceros horns.

H.R. 2159

Offered By: Ms. Harman

Amendment No. 42: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SENSE OF THE CONGRESS REGARDING PROLIFERATION OF MISSILE TECHNOLOGY FROM RUSSIA TO IRAN

Sec. 572. (a) Findings.—The Congress find the following:

(1) There is substantial evidence that missile technology and technical advice have been provided from Russia to Iran, in violation of the Missile Technology Control Regime.

(2) These violations include providing assistance to Iran in developing ballistic missiles, including the transfer of wind tunnel and rocket engine testing equipment.

(3) These technologies give Iran the capability to deploy a missile of sufficient range to threaten United States military installation in the Middle East and Persian Gulf, as well as the territory of Israel, and our North Atlantic Treaty Organization ally Turkey.

(4) President Clinton has raised with Russian President Boris Yeltsin United States concerns about these activities and the Russian response has to date been inadequate.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the President should demand that the Government of Russia take concrete actions to stop governmental and nongovernmental entities in the Russian Federation from providing missile technology and technical advice to Iran, in violation of the Missile Technology Control Regime;

(2) if the Russian response is inadequate, the United States should impose sanctions on the responsible Russian entities in accordance with Executive Order 12938 on the Proliferation of Weapons of Mass Destruction, and reassess cooperative activities with Russia;

(3) the threshold under current law allowing for the waiver of the prohibition on the release of foreign assistance to Russia should be raised; and

(4) our European allies should be encouraged to take steps in accordance with their own laws to stop such proliferation.

H.R. 2159

Offered By: Mr. Lazio

Amendment No. 43: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE FOR EGYPT

Sec. 572. Of the funds appropriated or otherwise made available in this Act under the heading "ECONOMIC SUPPORT FUND" not more than $615,000,000 may be made available for Egypt.

H.R. 2159

Offered By: Mr. Menendez

Amendment No. 44: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 572. None of the funds appropriated or otherwise made available by this Act under the heading "INTERNATIONAL ORGANIZATIONS AND PROGRAMS" that are made available for the International Atomic Energy Agency shall be made available for programs or projects of such Agency in Cuba.

H.R. 2159

Offered By: Mr. Mica

Amendment No. 45: Page 6, line 3, after "$650,000,000" insert "(increased by $19,400,000)".

Page 12, line 9, after "$468,750,000" insert "(decreased by $19,400,000)".

H.R. 2159

Offered By: Mr. Saxton

Amendment No. 46: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE TO THE P.L.O., THE PALESTINIAN AUTHORITY, AND RELATED OR SUCCESSOR ENTITIES

Sec. 572. None of the funds appropriated or otherwise made available by this Act may be provided directly to the Palestine Liberation Organization (P.L.O.), the Palestinian Authority, or related or successor entities.

H.R. 2159

OFFERED BY: MR. SAXTON

AMENDMENT NO. 47: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE TO THE P.L.O. OR THE PALESTINIAN AUTHORITY

SEC. 572. None of the funds appropriated or otherwise made available by this Act may be provided directly to the Palestine Liberation Organization (P.L.O.), or the Palestinian Authority.

H.R. 2159,

OFFERED BY: MR. TAYLOR OF NORTH CAROLINA

AMENDMENT NO. 48: Page 22, after line 10, add the following:

(o) Funds appropriated under this heading may be made available to establish and carry out a pilot program to provide affordable housing in the Russian Federation. Provided, that none of the funds appropriated may be used for the purposes of providing Russian military housing.

H.R. 2159,

OFFERED BY: MR. YATES

AMENDMENT NO. 49: At the end of the bill, insert the following after the last section (preceding the short title):

LIMITATION ON ASSISTANCE TO THE GOVERNMENT OF CROATIA

SEC. 572. (a) LIMITATION.—None of the funds appropriated or otherwise made available by Title II of this Act may be made available to the Government of Croatia if that government relocates the remains of Croatian Ustashe soldiers, who participated during the Holocaust in the mass murder of Jews, Serbs, and Gypsies, at the site of the World War II concentration camp at Jasenovac, Croatia.

(b) NATIONAL INTEREST EXCEPTION.—Assisatnce restricted by subsection (a) may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) REPORT TO CONGRESS.—Whenever the President makes a determination under subsection (b), the President shall submit to the appropriate congressional committees a report with respect to the furnishing of assistance pursuant to the determination. Any such report shall include a detailed explanation of the assistance and how it furthers United States national interests.

H.R. 2159,

OFFERED BY: MR. YATES

AMENDMENT NO. 50: At the end of the bill, insert the following after the last section (preceding the short title):

LIMITATION ON ASSISTANCE TO THE GOVERNMENT OF CROATIA

SEC. 572. (a) LIMITATION.—None of the funds appropriated or otherwise made available by Title II of this Act may be made available to the Government of Croatia if that government relocates the remains of Croatian Ustashe soldiers, who participated during the Holocaust in the mass murder of Jews, Serbs, and Gypsies, at the site of the World War II concentration camp at Jasenovac, Croatia.

(b) TERMINATION OF PROHIBITION.—The prohibition under subsection (a) with respect to the Government of Croatia shall terminate after the Government of Croatia provides the Secretary of State with compelling proof that the historical symbolism of Jasenovac, and the remains of those who were murdered by the Nazis and their collaborators, will remain undisturbed and that no other remains will ever be added to the remains of the victims of Nazi tyranny buried at Jasenovac, Croatia.

(d) DEFINITIONS.—For purposes of this section, the term "appropriate congressional committees" means the Committees on Appropriations of the House of Representatives and Senate.

H.R. 2159

OFFERED BY: MR. YATES

AMENDMENT NO. 51: At the end of the bill, insert the following after the last section (preceding the short title):

LIMITATION OF ASSISTANCE TO THE GOVERNMENT OF CROATIA

SEC. 572. None of the funds appropriated or otherwise made available by title II of this Act may be made available to the Government of Croatia if that government relocates the remains of Croatian Ustashe soldiers, who participated during the Holocaust in the mass murder of Jews, Serbs, and Gypsies, at the site of the World War II concentration camp at Jasenovac, Croatia.

H.R. 2159

OFFERED BY: MR. YATES

AMENDMENT NO. 52: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 572. Of the funds appropriated or otherwise made available by this Act under the heading "DEVELOPMENT ASSISTANCE", not more than $2,900,000 may be made available to the Administrator of the United States Agency for International Development for the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) in Zimbabwe: *Provided*, That none of the funds appropriated or otherwise made available by this Act to such Agency under the heading "DEVELOPMENT ASSISTANCE" may be used to directly finance the trophy hunting of elephants or other endangered species as defined in the Convention on International Trade in Endangered Species of Flora and Fauna (CITES) or the Endangered Species Act: *Provided further*, That funds appropriated or otherwise made available by this Act to such Agency under the heading "DEVELOPMENT ASSISTANCE" that are provided under the CAMPFIRE program may not be used for activities with the express intent to lobby or otherwise influence international conventions or treaties, or United States government decisionmakers: *Provided further*, That funds appropriated or otherwise made available by this Act to such Agency under the heading "DEVELOPMENT ASSISTANCE" that are made available for the CAMPFIRE program may be used only in Zimbabwe for the purpose of maximizing benefits to rural people while strengthening natural resources management institutions: *Provided further*, That not later than March 1, 1998, the Administrator of the United States Agency for International Development shall submit to the appropriate congressional committees a report describing the steps taken to implement the CAMPFIRE program, the impact of the program on the people and wildlife of CAMPFIRE districts, alternatives to trophy hunting as a means of generating income for CAMPFIRE districts, and a description of how funds made available for CAMPFIRE in fiscal year 1998 are to be used.

H.R. 2160

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 21: Insert before the short title the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act to the Department of Agriculture shall be used to pay the salaries and expenses of personnel who issue, under section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272), any nonrecourse loans to sugar beet or sugar cane processors.

H.R. 2160

OFFERED BY: MR. CHABOT

AMENDMENT NO. 22: Insert before the short title the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used to carry out section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) or to pay the salaries and expenses of personnel who carry out a market program under such section.

H.R. 2160

OFFERED BY: MR. POMBO

AMENDMENT NO. 23: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 728. None of the funds made available in title III of this Act may be used to provide any assistance (other than the servicing of loans made on or before September 30, 1997) under any program under title V of the Housing Act of 1949 relating to any housing or project located, or to be located, in the City of Galt, California.

H.R. 2160

OFFERED BY: MR. OBEY

AMENDMENT NO. 24: Page 54, after line 13, insert the following:

In addition, for the Food for Progress Act of 1985 (7 U.S.C. 1736o), in addition to the amounts and commodities made available in fiscal year 1997 under subsections (f)(3), (g), and (l)(1) of that Act, $50,000,000 shall be available to furnish dairy products on a grant basis, to be derived by transfer from fiscal year 1997 unexpended balances for the Dairy Export Incentive Program. Products furnished under this provision shall not be subject to the existing commodity ceiling and funds made available under this provision shall not be subject to the caps under subsections (f)(3) and (l)(1).

H.R. 2160

OFFERED BY: MR. OBEY

AMENDMENT NO. 25: On page 67, line 6, after the dollar amount insert: "(reduced by $155,000,000)".

H.R. 2160

OFFERED BY: MR. OBEY

AMENDMENT NO. 26: On page 67, line 6, after the dollar amount insert: "(reduced by $105,000,000)".

H.R. 2160

OFFERED BY: MR. OBEY

AMENDMENT NO. 27: On page 67, line 6, after the dollar amount insert: "(reduced by $80,000,000)".

H.R. 2160

OFFERED BY: MR. OBEY

AMENDMENT NO. 28: On page 67, line 6, after the dollar amount insert: "(reduced by $55,000,000)".

H.R. 2160

OFFERED BY: MR. OBEY

AMENDMENT NO. 29: On page 67, line 6, after the dollar amount insert: "(reduced by $30,000,000)".

H.R. 2160

OFFERED BY: MR. OBEY

AMENDMENT NO. 30: On page 67, line 6, after the dollar amount insert: "(reduced by $5,000,000)".

H.R. 2160

OFFERED BY MR. OBEY

AMENDMENT NO. 31: On page 67, strike lines 7 through 13.

H.R. 2160

OFFERED BY MR. OBEY

AMENDMENT NO. 32: On page 67, strike lines 14 through 19.

H.R. 2160

OFFERED BY MR. OBEY

AMENDMENT NO. 33: On page 67, strike lines 20 through 24.

H.R. 2160

OFFERED BY MR. OBEY

AMENDMENT NO. 34: On page 68, strike lines 8 through 11.

H.R. 2160

OFFERED BY MR. WYNN

AMENDMENT NO. 35: On page 68, after line 16, add the following new section:

"SEC. For an additional amount for the purposes provided for under the heading 'Departmental Administration' in Title I of this Act, $1,500,000, and the amount provided under 'National Agricultural Statistics Service' is hereby reduced by $1,500,000.'"

H.R. 2203

OFFERED BY MR. SOLOMON

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 502. None of the funds made available in this Act may be provided by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education, or subelement thereof, that is currently ineligible for contracts and grants pursuant to section 514 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (as contained in section 101(e) of division A of Public Law 104-208; 110 Stat. 3009-270).

EXTENSIONS OF REMARKS

A SALUTE TO SMYRNA, GA

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. BARR of Georgia. Mr. Speaker, whenever I am introduced by anyone, I am most proud to be introduced as "the Congressman from Smyrna, GA."

I am especially proud to call Smyrna, GA my home as we celebrate the 125th anniversary of its incorporation. Pioneer settlers moved here in 1832 and Smyrna was incorporated in 1872.

The Smyrna of 1997—a thriving community approaching a population of 40,000, voted recently by Atlanta magazine as one of the best communities in the area in which to live—is far different from the small Methodist campground that existed here before the War Between the States. It is a community with a nearly perfect balance between urban amenities and small-town atmosphere. It has excellent parks, government services, small businesses, and a history in which we can all take great pride. Smyrna citizens live in a community that is widely recognized as a clean and beautiful community, and has received appropriate recognition for its work in this area.

While our small frontier village became a thriving community in the mid-1800's, it was sadly reduced to ashes during the Battle of Smyrna on July 4, 1864. Yet, true to its deeply rooted spirit of enterprise, Smyrna rebuilt itself and incorporated formally 125 years ago. The city of Smyrna—The Jonquil City—is now reaping the rewards of sound fiscal policies, enlightened city management and citizen involvement, and has developed a quality of life that is the envy of the southeastern United States.

As we celebrate Smyrna's 125th birthday, I proudly salute Mayor Max Bacon and city council members Charlene Capilouto, Ron Newcomb, Bill Scoggins, Jim Hawkins, Jack Cramer, Wade Lnenicka, and Pete Woods, for their leadership of this great city. I am also proud to honor the citizens of Smyrna, with full confidence that the Smyrna of tomorrow, as the Smyrna of yesterday and today, will continue to be a place of beauty, tranquility and prosperity; a community people flock to because it is a wonderful and beautiful place in which to raise families, conduct business, and build the American dream.

TRIBUTE TO KATHY LIM KO

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. DELLUMS. Mr. Speaker, on July 17, 1997, Kathy Lim Ko was honored by Asian Health Services, Inc., Oakland, for her commitment and dedication to providing culturally competent health care to the Asian community of the East Bay.

Kathy Lim Ko was born in Cleveland, OH in 1958, the first of four children born to immigrant parents, Dr. Wen Hsiung Ko and Christina Ko. Kathy currently resides in Oakland with her husband, Maurice Lim Miller, and their two children, Alicia and Nicholas.

Kathy received her bachelor's degree at Stanford University and went on to receive a masters degree in health policy and management at Harvard University. Kathy chose to bring her extensive educational training from these prestigious universities and her knowledge and expertise in health care issues back to the community to advocate for accessible and affordable health care services for the underserved immigrant population of Alameda County.

Kathy has worked with Asian Health Services since 1984, first as the operations director, then as the program, planning and development officer, and finally as the associate director. Having served on the executive management staff for the past 13 years, Kathy has been personally involved with the growth and development of Asian Health Services from $600,000 to $6.5 million annual budget, from 6,000 to 40,000 patient visits per year, and from 30 to 120 staff members. Kathy also directed the $9 million building project, including acquisition, financing, design, construction, and the raising of $2.5 million for the capital campaign.

Through Asian Health Services, Kathy has furthered the work of community health centers nationally, specifically in providing culturally competent medical care to underserved communities. Kathy has contributed in developing the operating systems for the clinic, accessing financial markets to expand services, designing and having built the expanded facility, and developing preventive programs which lead the Nation and receive international attention. Kathy attributed the success of Asian Health Services to the strong team of dedicated, talented, and creative peers with whom she has worked.

Kathy's dedication to the community reaches beyond the boundaries of the workplace as she continually contributes her time, efforts, and insights to various community groups. Kathy has taken leadership roles within many of these organizations, serving on the board of directors of the Oakland Chinatown Chamber of Commerce, the Bay Area Asian Health Alliance, and the Asian Women's Shelter. Kathy is also a member of the Arts Magnet School Parent Teacher Association and the American Public Health Association. Most recently, Kathy has been involved with the Lao Iu Mien Cultural Association, helping them to establish an organizational development plan. Kathy continues to work with this new immigrant community group to assist them in creating their own means of self sufficiency as well as retaining their cultural identity.

Kathy plans to continue her work within the community. Her professional goals include working to secure resources to further develop the community, increasing the community's understanding of its rights, creating community institutions, and strengthening the economic base from which to further develop. Kathy will continue to provide the vision and motivation which are critical to reaching her goals; to improve social conditions, empower the community, and incite social change.

TRIBUTE TO EDDIE MOSER AND KENT JAMES

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. COBLE. Mr. Speaker, I would like to take this opportunity to honor two firefighters from the Sixth District of North Carolina, Eddie Moser and Kent James of Burlington, NC. While enjoying time off from work at a nearby lake, they rescued four people from a boat that had capsized and brought them to shore. Three survived, but unfortunately, they were unable to save the fourth victim.

Just minutes earlier, the four were getting into the boat at a pier while the two firefighters were waiting to remove their own boat and load it onto a trailer. The four motored out into the lake, when excessive weight in the forward portion of the boat caused water to seep in. Panicking, the four boaters started screaming as the boat began to sink. Moser and James heard the cries for help and jumped into their own boat and quickly motored out. By the time the firefighters got to them, the boat was overturned and only one of the passengers was swimming. Moser and James put two of the struggling passengers safely into a third boat operated by a passerby and swam the remaining passengers to shore. The firefighters gave CPR to one of them, a 44-year-old Gibsonville man who had been caught under the boat and could not swim. Unfortunately, the efforts were too late and Earl M. Smith, Jr., passed away.

During the first 10 to 12 minutes of the rescue, the firefighters had no lifesaving equipment other than their own manpower. It was in those minutes that their water safety and lifesaving skills as firefighters saved the lives of Melvin Murray, Nellie Murray, and Jill Marley. Jill Marley, the only passenger who could swim, says that Moser and James not only saved her life, but the lives of her boyfriend and her boyfriend's mother. The firefighters utilized their training in CPR, EMT, and water rescue to make this heroic rescue.

Burlington Fire Chief Frank Andrews has honored both men with a distinguished Life

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Saver Award. He said he would ask the Burlington City Council to give the two an accommodation honoring their actions. However, the two firefighters said they are humbled by all the attention. They felt they were just trying to help those in need and were not seeking any recognition. They said they did what any other trained person would have done. Burlington Fire Operation Chief Tommy Belton feels that they did something out of the ordinary and he is very proud of them.

Moser has been with the Burlington Fire Department for 9 years and James has been with the department for 6 years. These brave men should be recognized and commended for their outstanding act of public service. On behalf of the citizens of the Sixth District of North Carolina, it is my honor to recognize those who risked their own lives to save others. We are all grateful for their selfless act.

CELEBRATION OF McCOMB SESQUICENTENNIAL

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. OXLEY. Mr. Speaker, today I rise to highlight an especially important milestone for the State of Ohio. From August 15 to the 17, the village of McComb will be celebrating its sesquicentennial birthday. Festivities include opening ceremonies, village tours, and a parade. I would like to recognize this profound civic event. As the Member of Congress, beholden to the constituents of McComb, I appreciate all their hard work which continues to make McComb a vibrant community. Their spirit of family and responsibility serves as a model for other towns to follow. I commend all the villagers of McComb as they celebrate their birthday, and I look forward to many more to come.

IN RECOGNITION OF KRISTEN DiLORENZO—NEW YORK'S 19TH CONGRESSIONAL DISTRICT REPRESENTATIVE TO THE 1997 GIRLS NATION

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mrs. KELLY. Mr. Speaker, thank you for allowing me the opportunity to commend this year's participants to Girls Nation, an annual program which brings high school girls from across the country to our Nation's capitol. I am especially pleased to recognize a talented young constituent, Ms. Kristen DiLorenzo of Newburgh, NY, who was chosen to represent our great State.

Girls State is the first step before going on to Girls Nation, where leaders from across the State gather to learn about city, county and State level government. It was at this summit that Kristen was elected by her peers. With this honor, she became one of only 96 high school girls, representing 48 States, chosen to come to Washington, DC, to get a hands-on lesson in civics and politics. These young women were selected because of their extraordinary display of leadership qualities.

Sponsored by the American Legion, Girls Nation has been bringing future leaders to Washington, DC, since 1947. The aim of this nonpartisan program is threefold: To teach the workings of the Federal Government; to further cultivate an interest in the civil and political realm; and to inculcate a value of good citizenship in these young women who have already shown an aptitude in civics.

Mr. Speaker, I am delighted to recognize this outstanding program, and I am proud to have such an extraordinary young woman like Kristen in my district, representing the great Empire State.

CIDCARE ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. GILMAN. Mr. Speaker, today I am introducing CIDCARE, in an effort to effectively stimulate the demand for higher quality care for our Nation's children while simultaneously removing barriers and providing resources to improve the quality of child care in the United States.

Child care continues to be a worry for most families as stories continue to surface about the lack of quality child care. Moreover, research has clearly demonstrated that a high-quality child care program is one that makes the healthy development and education of children its first objective and strives to stimulate the learning process of all children through developmentally appropriate activities that foster social, emotional, and intellectual growth. In addition, families in today's society are increasingly required to have both parents enter the work force. Accordingly, the demand for quality child care is increasing as is the need for credentialed and accredited child care providers.

Accordingly, CIDCARE will stimulate the demand for higher quality child care for our Nation's children while simultaneously removing barriers and providing resources to improve the quality of child care in the United States.

Many of my colleagues may have read about the tragic circumstances surrounding the Fiedelhotz family in Florida. The Fiedelhotz' son Jeremy died after only 2 hours at a day care facility. Though this tragedy should have never happened, it is an unfortunate example of what can and may continue to happen unless we encourage and inform all parents about the need for accredited and credentialed child care providers and facilities.

CIDCARE through the Tax Code will encourage the demand for accredited or credentialed child care. This will be accomplished in the following manner: First, by increasing the amount which an employee can contribute to a dependent care assistance plan if a child is in accredited or credentialed child care; second, changing the dependent care tax credit to allow parents to receive a higher and more equitable dependent day care credit; third, providing tax benefits for employers which provide quality child care; fourth, extending eligibility for businesses to take a qualified charitable deduction for the donation of educational equipment and materials to public schools, accredited or credentialed nonprofit child care providers; fifth, establishing a $260 million competitive grant program to assist States in improving the quality of child care; sixth, expanding public information and technical assistance services to identify and disseminate to the public what is important for child development in child care; seventh, providing $50 million to create and operate a technology-based training infrastructure to enable child care providers nationwide to receive the training, education, and support they need to improve the quality of child care; eighth, creating a child care training revolving fund to enable child care providers and child care support entities to purchase computers, satellite dishes, and other technological equipment which enable them to participate in the child care training provided on the national infrastructure; ninth, requiring that all Federal child care centers will have to meet all State and local licensing and other regulatory requirements related to the provision of child care, within 6 months of the passage of this legislation; and tenth, extending the Perkins and Stafford Loan Forgiveness Program to include child care workers who are employed full time providing child care services and have a degree in early childhood education or development or receive professional child care credentials.

I want to urge all of my colleagues to review this bill and to cosponsor this important bill. Our children are our future and we must insist that they receive the best care possible, especially during their early development years.

I urge your support

WHO'S MANAGING THE MONEY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. STOKES. Mr. Speaker, the Summer 1997 edition of the Cleveland Branch NAACP Update contained an interesting article about the role of African-Americans in the money management industry. In the article, entitled, "Who's Managing The Money," Kevin A. Carter and Tony Chapelle take a closer look at the number of minorities in investment guidance positions.

Carter and Chapelle's article provides data concerning an apparent lack of African-American money managers, as well as figures showing that the bulk of African-American dollars are spent outside of the black community. Because of these realities, Carter and Chapelle stress the importance of African-Americans being employed "in money jobs" and knowing how to "leverage their purchasing power."

Mr. Speaker, I found this article to be very informative. "Who's Managing The Money" reminds us of the hurdles still standing in the way of African-Americans achieving economic freedom and financial independence. I commend Mr. Carter and Mr. Chapelle for writing such an excellent article, and I wish to share it with my colleagues and the Nation.

WHO'S MANAGING THE MONEY

(By Kevin A. Carter and Tony Chapelle)

After viewing the movie Jerry McGuire, and the Academy Awards Ceremony, most African Americans are familiar with the Cuba Gooding, Jr. quote "show me the money." As an African American athlete, Gooding's character (Rod Tidwell) has remained as Tom Cruise's (Jerry McGuire) only client after Jerry is fired from Sports Management Incorporated. Rod wants Jerry to "show him the money," or negotiate a long-term contract with the Arizona Cardinals. While the movie illustrates several valuable lessons about life, it also highlights one disturbing reality of African American existence—African Americans do not "manage the money"—even when they are the principal product or service.

In the movie, Jerry is a white American, and no African American sports agent is identified at any segment in the movie. This inequity is reflected in real life. While African American athletes amass billions in wealth, less than 10% have African American agents. This inequity is also reflected in your daily life! By the year 2000, African Americans will earn $500 billion a year in income. Unfortunately, Black consumers typically spend 93% of their money with non-Black companies. Our current $400 billion dollars in purchasing power is only being channeled into approximately $30 billion in revenues for Black owned businesses!

This inequity of "who's managing the money" is reflected throughout the financial markets.

African Americans represent less than 2% of all the investment consultants in the country. Importance: Where will you obtain your investment guidance?

There are only 37 Black investment managers with discretion over portfolios at majority-owned institutions (either asset management firms, or major pension funds). Importance: Blacks at white firms usually have access to more resources—more frequent and larger trading commissions for minority brokers, bigger donations for community organizations and more chances to bring in Black interns.

In 1996 only 5% of the money management firms hired by institutional money managers were minorities. Of that amount, African American money managers only managed $1.045 billion, or one-and-a-quarter percent (0.025%) of the money invested by these institutional money managers. Importance: Growth in investment accounts is not paralleled by a growth in business for African American securities companies.

Of the over 7,000 mutual funds, seven African American-owned companies now offer a total of twelve mutual funds to consumers. Six of the twelve funds were started within the last 12 months. Importance: As stockholders, pension fund managers have an important voice in the hiring, purchasing and operations of American corporations. A voice that could be used to better conditions for African American, and other minority, workers.

According to the most recent statistics available from the U.S. Equal Employment Opportunity Commission, African Americans comprise only 8.8% of the securities and commodities brokerages and exchanges and 11.7% of the insurance agency and brokerage industry. Importance: Growth in the financial services industry is not reflected in growing employment opportunities for African Americans.

Why should African Americans focus on who's managing money? Because savings and the accumulation of wealth are the engines which drive industrial production and economic growth in this country. In America, savings are redirected into business equity and debt that creates new plants, products and jobs. The economic strength of a community (and a country) is determined by what it produces in goods and services, not by what it consumes! If African Americans are not employed in the "money" jobs, or leverage their purchasing power, the capital markets will not be used to address African American concerns and issues.

So don't always assert "show me the money," ask "who's managing the money!"

TRIBUTE TO THE LAKE COUNTY FOP

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate the Fraternal Order of Police [FOP], Lake County Anton Lodge No. 125. Yesterday, the Lake County FOP began hosting the annual Indiana State Fraternal Order of Police Golf Tournament at Broadmoor Country Club in Merrillville, IN and Summertree Golf Club in Crown Point, IN. Specifically, I would like to congratulate Lake County FOP chairman, Patrick Tracy, and co-chairmen, Robert Porras and Tony Ramirez, on the leadership they have displayed in organizing this event. The Lake County Anton Lodge is expecting the 2-day event to attract over 400 golfers throughout the State of Indiana. Several executive officers of the Indiana Fraternal Order of Police will be in attendance at this tournament, including State president, Mike Cook, State vice-president and Anton Lodge No. 125 president, Tim Downs, national trustee, Robert Imborek, and former national president of the Fraternal Order of Police, R. Pat Stark.

The largest and most commanding voice on behalf of our Nation's law enforcement officers, the FOP was founded in 1915 in Pittsburgh, PA, with the intent of improving the working conditions of police who were assigned long and tedious shifts 365 days of the year. Since 1915, the organization's membership has grown to nearly 2,000 local lodges, with almost 270,000 members nationwide. The FOP has, over the years, successfully served as a unifying voice for the men and women protecting our communities by providing its members with the latest developments in labor and employee relations through both an aggressive schedule of seminars and several prominent publications. Due to the dissemination of information pertaining to bargaining, employee relations, and representation, more labor contracts are negotiated by FOP lodges than by any other professional police association. The FOP proudly attributes its success to the foundation of its organization, which is best described in the phrase "Police Representing Police."

The Fraternal Order of Police has also effectively represented the interests of its members through the pursuit of an aggressive national legislative agenda, advancing issues important to rank-and-file law enforcement officers. The National Legislative Program of the FOP, the most active and comprehensive of any law enforcement organization in Washington, is committed to legislation which will support better living and working conditions for law enforcement officers, improve safety for officers on the job, and continue to increase the level of efficiency and professionalism of law enforcement.

Through its local lodges, the Fraternal Order of Police plays a crucial role in bettering the relationship between law enforcement and local communities. Local FOP lodges have been active in such programs as youth sports, drug and crime awareness programs, and other community activities which have served to integrate the efforts of police forces and individual citizens in combating crime. It is through the support of events, like the annual golf tournament, that the FOP can continue its fine work in strengthening our communities.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending the Fraternal Order of Police, Anton Lodge No. 125, as it hosts the Annual Indiana State Golf Tournament. The work the Lake County Fraternal Order of Police has done for our communities has undoubtedly improved the quality of life in Indiana's First Congressional District.

DENIAL OF PAY ADJUSTMENT FOR MEMBERS OF CONGRESS

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation that exempts Members of Congress from receiving the cost of living pay increase for fiscal year 1998. It is irresponsible for us to increase our own pay at a time when we have not met our obligation to the American people to balance the Federal budget. We are at a critical point in our Federal spending priorities. We are making decisions to cut spending that will impact all Americans.

At a time when some in Government are seriously considering cutting Medicare benefits to our seniors in order to balance the budget, how can we justify giving ourselves a pay raise? Our parents worked a lifetime for those benefits. We cannot in good conscience increase our pay while breaking our commitment to them. These are some of the most vulnerable in our society and their health care needs must come first.

At a time when unfairly cutting veterans' benefits is under consideration, how can we justify giving ourselves a pay raise? Our veterans laid down their lives for our country. Our world dominance today is due in large part to the men and women who have served our country in harm's way throughout history. We have an obligation to them not to turn our backs on their health care needs.

At a time when we are struggling to give every student an opportunity for a college education, how can we justify giving ourselves a pay raise? Our students represent the future of our country. By providing them the opportunity to further their education, we advance the American ideals of social progress and equality. We must do everything within our power to make post secondary education more affordable for everyone who wants to attend.

At a time when we cannot adequately fund transportation and infrastructure repairs and improvements, how can we justify giving ourselves a pay raise? The strength of America's economy was built on the foundation of a world class infrastructure. We cannot continue to increase our productivity and expand our economy without improvements to our infrastructure.

We have just begun to work toward easing the tax burden on the American people. How can we justify giving ourselves a pay raise before that task is complete? The Taxpayer Relief Act that recently passed the House raised the estate tax exemption from $600,000 to $1,000,000 by the year 2007. Many families in my district in east Texas who own farms or small businesses could lose significant portions of their family property waiting for this provision to be implemented. The exemption should be $1 million now, not 10 years from now.

As one of my constituent's wrote, Congress is here to take care of people. Congress must get to work on the people's business. I hope my fellow Members will join me in opposing a congressional pay raise until we have taken care of the people.

"END THE DEATH TAX NOW!"

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. MANZULLO. Mr. Speaker, as the chairman of the Small business Subcommittee on Taxes, Business Opportunities and Exports, and as a private individual, there is nothing more inconsistent and unfair than estate taxes, better known as death taxes. This is the last opportunity the Government has to say thanks for a job well done. What you have accumulated at death is after a lifetime of paying electricity, sewer, water, gasoline, sales, real estate, mortgage, and deed filing, capital gains, excise, State and Federal income, and in some cases, death taxes when one or both of your parents die.

ARE WE THERE YET?

My kids made up a game to play when we drive back and forth to Washington. It's called, Name That Tax. Have you ever tried to entertain three little kids in a mini van? It beats, Are we there yet? What happens when you get married, you get—that's right—a marriage tax. This is not the cost of the wedding, which is not about a ticket tax? Got that. What about a toll tax? Yes, we have that also. What about gas tax? Yes, President Clinton raised that by 4.3 cents to pay for more welfare spending—he calls it deficit reduction—the Government gets fatter while you get slimmer. And what happens when you make a phone call? Yes, the long-distance tax, the short-distance tax. If you put a string between two tin cans for primitive communications, you have to pay tax on string. If you stop at a grocery and make sandwiches, most States have a lower sales tax on grocery items, but if you are in a hurry you pay a travelers's tax at the local McDonalds. But you dare not phone ahead to another cell area, because you'll get hit with a roving tax.

The death tax is the Federal Government's last chance at leveling your income and spreading the wealth—socialism. As an attorney, before I was elected, I had to tell a farm family that half their land had to be sold to pay for death taxes: that's a tough sell when it takes $1 million worth of assets to make $30,000 a year. And it had to be paid within 9 months.

SOME RELIEF COMING

Each year I have been a Member of Congress I have cosponsored legislation to outlaw this tax. Now, under Republican leadership in this tax by nearly doubling the exemption to $1.2 million, even more for farms and small businesses. If we had a Republican President, perhaps the entire estate tax could be eliminated.

Writing in the June 30, 1997, edition of "FarmWeek," Ross Korves, an economist for the American Farm Bureau Federation, cites some very interesting facts. In spite of the annual $17 billion in death tax revenues, this drive to collect 1 percent of the annual taxes paid to the Federal Government comes from a general dislike for people who have wealth. And, he states, "a tax on savings and investing will quite logically result in less saving and investing. Less saving and investing leads to a slower growing economy, fewer increases in productivity, and a slower rise in the growth of the standard of living." A Tax Foundation report compared the disincentive effects of the estate tax and of the income tax. The foundation calculated how high the top income tax rate would have to be to have the same disincentive effect as the current estate tax system. Get this: the study showed the estate tax has roughly the same effect on entrepreneurial incentives as a doubling of the income tax.

And in 1993, Fiscal Associates, Inc., estimated that if the estate tax had ended in 1993, by the year 2000 the effects of ending the estate tax would be reflected in economic output with an economy about $79 billion larger, an increase of 228,000 jobs, and a total capital in the economy of about $640 billion larger. Korves quotes B. Douglas Bernheim of Stanford University, who wrote 10 years ago in a publication called, "Does the Estate Tax Raise Revenue?" Bernheim says no. Korves agrees:

> Stronger economic growth would help offset the loss of direct revenue resulting from repealing the estate tax. The increased revenue from economic growth and the revenue losses from estate tax avoidance outlined by Bernheim are definitely larger than the current direct revenue from the estate tax. Eliminating the estate tax is likely to result in more revenue to the federal government than the current tax system.

Hey, what about fairness? I visited a farm family a few weeks ago. The wife had inherited the farm from her parents. When her dad died 20 years ago, the family had to pay death taxes. The mother died a few months ago, and death taxes again have to be paid. The goal is to pass the farm on to the three children, each of whom works full time on the farm and has a full time job in the city.

I read an article by a university professor on why she thought death taxes were appropriate. After her various spread the wealth and social responsibility arguments, I concluded that we should impose death taxes only on those people who think death taxes are appropriate. What's more annoying is we pay taxes for higher education and use our precious after-tax dollars to send our kids to college so they can hear this professor. Then they become Congressmen who believe taking everybody's money is real justice, and that is the reason the death tax is not repealed.

IN LOVING MEMORY OF JAMES ARTHUR HUGHES

HON. BILL PASCRELL, JR.

OF NEW JERSEY

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. PASCRELL. Mr. Speaker, my colleague Mr. FATTAH, and I would like to call to your attention James Arthur Hughes of Philadelphia, PA, who recently passed away.

James, known to those affectionately as "Jim," was born on October 21, 1925, in Whitetown, NC, to Willie Arthur and Carrie Alice Coles Hughes. A man of deep and quiet faith, Jim spent his early years in the fellowship of Smith Chapel Baptist Church.

After serving his country in the service of the U.S. Navy during World War II, Jim worked and resided in Harrisburg, PA, where he directed a vocational school for tailors and seamstresses. After moving to Philadelphia, Jim became a lifelong member of Calvary Episcopal Church where he was confirmed in the faith in 1955.

Jim believed that education was the key to the future and to success. He continued his post-high-school education at Pioneer Business School and Temple University where he specialized in finance and mortgage lending. His talents for banking and finance were put to good use as Jim became vice president of the Carver Loan and Investment Co. He subsequently joined Berean Federal Saving Bank, the oldest African-American owned savings and loan institution in the country, where he became vice president and managing officer.

Although he officially retired in 1992, Jim continued to work with Berean as a consultant. Further, Jim also served as the president and CEO of the Eden Cemetery and was special assistant to the controller of the city of Philadelphia.

Jim was a man of extraordinary vision and energy. He was a founding member and first African-American to serve on the board of governors of the State System of Higher Education in Pennsylvania, serving for more than 13 years. His love for education was further evidenced in his work as a member of the council of trustees for Cheyney University for the last 14 years. Jim was also a member of the Penndelphia Scholarship Foundation, a college scholarship fund for the disadvantaged.

Jim's service and love for his community was also evident through his work as a member of the NAACP, the West Indian Benevolent Association, and the Philadelphia Urban League. He also served as president of the South Saint Bernard Street Improvement Association.

Jim was known and highly respected for his financial acumen, but his true passion was golf. He was an initial investor and fervently served as a board member and past president of the Greater Philadelphia Golf and Country Club, the first African-American owned 18 hole championship golf course in the country. Jim was past president and club champion of the Del-Vay Golf Club, an officer with the Freeway Golf Club, member of the Just Golfer Golf Club, and a former member of the Philadelphia Chapter of the National Negro Golf Association. Jim also co-founded and was vice president of the Hughes, Jones, Oglesby Golf Foundation, which was founded to instill the love of golf in other young African-Americans.

Jim was the loving husband of Ann E. Adams Hughes, the proud father of the Honorable Vincent Hughes, State Senator of Pennsylvania and his stepdaughter Veda Diallo, the proud father-in-law of the Honorable Renee Cardwell-Hughes, as well as the proud grandfather of Ariell and Alek Hughes.

Mr. Speaker, we ask that you join us, our colleagues, Jim's family and friends, and the State of Pennsylvania in remembering James Arthur Hughes' outstanding and invaluable contributions to the community.

TIME TO CHANGE A STATIC CUBA POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. HAMILTON. Mr. Speaker, I commend to my colleagues' attention an editorial that appeared earlier this month in the Miami Herald. The editorial concludes, based on a recent poll by Florida International University's Institute of Public Opinion Research, that among the Cuban American community in Dade County, there is a wide and healthy plurality of views on a number of issues, including current United States policy toward Cuba.

Such a diversity of opinions and an active debate on Cuba policy are in the national interest, and I look forward to renewing that debate in this body. It is time to explore this diversity of opinion and reexamine the static assumptions underlying our 39-year-old policy toward Cuba.

The editorial follows:

[From the Miami Herald, July 1, 1997]

YEAR 39 AND COUNTING

Frustration is a powerful, if maddening, force. And it runs through the results of the most recent poll of Dade County residents of Cuban heritage. Such, and other, deeper emotions may well explain some of the survey's findings, as well as some of its apparent contradictions.

Since 1959 Cubans have migrated to Greater Miami seeking haven from Fidel Castro's revolution. After 38 years, many still anxiously await Castro's demise, await the end of his totalitarian regime, await a free Cuba. People inevitably tire of waiting.

The poll by Florida International University's Institute of Public Opinion Research, funded by The Herald, suggests a growing pessimism, unlike in the heady days after the Iron Curtain came crashing down. Then, Christmas toasts in Miami were made to the next *Nochebuena* in Havana. FIU's similar poll in 1991 found that 77 percent of those questioned expected major political change in Cuba within five years.

This latest poll, though, shows that only 36 percent believe that such change is likely, with another 38 percent responding that change likely never will come or that they don't know when it may. Perhaps this is to be expected now, 16 months after Castro's MiGs shot down two unarmed Brothers to the Rescue planes, killing four civilians. That barbarous act froze the possibility of rapprochement with the United States that had existed for a time then.

Today Castro remains, if not the world's wiliest dictator, certainly the longest-lasting. He has consistently manipulated to his own favor events that could potentially damage his power; witness the 1980 Mariel boatlift and the 1984 exodus of rafters. His cunning leaves not only Washington but Cuban exiles at a loss for strategy. Perhaps that's why 73 percent of those polled said that the U.S. embargo has not worked well. And yet, absent anything better, 72 percent favored continuing it.

Moreover, the survey reflected something that few outside of South Florida often recognize: Not all Cubans here think the same. In fact, the poll reflects a wide and healthy plurality of views on a number of issues. Consider the 48 percent for and 45 percent against establishing a national dialogue with Cuba; the 60 percent for and 38 percent against U.S. companies doing business with Cuba; the 43 percent in agreement and 49 in disagreement with a Miami radio station that stopped broadcasting Cuban music by artists living on the island.

The influence of young Cuban Americans and of the more-recent arrivals from Cuba also made its mark, diversifying and moderating views. Yet on the question of whether exiles might return to Cuba, painful nostalgia clearly mixes with pragmatism. Poll respondents who arrived after 1990 appeared most willing to entertain thoughts of returning, perhaps because of their closer island ties.

Yet more important is to note the few, some 20 to 30 percent overall, who might return under questionable economic or political circumstances. While nearing four decades of diaspora, Cubans here, citizens and noncitizens alike, know not when those circumstances may change. But this poll shows anew that the diversity of Cubans' views in South Florida is anything but static, and stereotypes are inaccurate.

SHARPSBURG'S FALLEN HERO

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. ETHERIDGE. Mr. Speaker, I rise today to pay tribute to a fallen hero in Sharpsburg, NC, in my congressional district. Wayne Hathaway, Sharpsburg's chief of police, was brutally slain in the line of duty last Thursday.

Chief Hathaway served 25 years, more than half his entire life, enforcing the law and keeping the peace in Sharpsburg. Last week, the chief made the ultimate sacrifice while responding to a call about a domestic dispute. The accused killer did not end his crime with the chief but turned his gun on his own wife and tragically took her life as well.

Mr. Speaker, on Sunday, I joined 1,200 mourners in Sharpsburg to pay tribute to Chief Hathaway's quarter century of service, leadership, and friendship. Law enforcement officers serve each and every day across this country in the battle against the criminal element to keep our streets and communities safe. We in Congress must give our police the support they need so that the service and sacrifice of Wayne Hathaway and all the dedicated officers like him are not made in vain.

Nothing is more important to our people than safe streets and communities in which they can life, work, and raise a family. Wayne Hathaway provided that public safety to Sharpsburg for 25 years, and we are in his debt.

Jesus teaches us "Greater love has no one than this, that he lay down his life for his friends." (John 15:13).

Mr. Speaker, on Sunday Sharpsburg buried a fallen hero who laid down his life for his friends and neighbors. Our thoughts and prayers are with the family and friends of Wayne Hathaway.

TRIBUTE TO MARVIN J. SONOSKY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to a man who spent his life and career working on behalf of Indian tribes and people to ensure that the United States lived up to its trust responsibility to them, Marvin Sonosky, of Alexandria, VA. On July 16, Mr. Sonosky died of heart failure. He was 88 years old. I join the many friends of Mr. Sonosky in mourning the loss of one of Indian country's greatest advocates. I would like to convey my personal sympathies to his wife, Shirley Freimuth Sonosky, his three daughters, Judith Kreisberg, Joann Hirsch, and Karen Hecker, and to his seven grandchildren and to his one great grandchild.

Mr. Sonosky was born in Duluth, MN. He graduated from college and law school at the University of Minnesota. After four years of private practice in Duluth, Mr. Sonosky came to Washington in 1937 and joined the Lands Division of the Department of Justice, where he served for 17 years. He was named a special assistant to the Attorney General and frequently argued before the U.S. Supreme Court. In 1951, Mr. Sonosky returned to private practice, first in association with two Washington law firms and later as a sole practitioner. In 1976, he founded the law firm of Sonosky, Chambers & Sachse, where he practiced until his death. Through the last week of his life, he remained active in the trial practice of the firm.

Mr. Sonosky was a unique individual in this city, in that he was one of the best advocates in his field, yet he never sought the accolades or tributes that so many seek to obtain. Instead, his tribute came from knowing that every day that he worked he had the potential of improving perhaps just one Indian person's life. I would like to share with my colleagues some of the many legislative initiatives involving Indian tribes that were the brainchild of Mr. Sonosky. These are but one measure of the impact that Mr. Sonosky had in improving the lives and opportunities of Indian tribal governments and their people, and which has done much to ensure that the United States stands behind its trust obligation to them.

Following devastating losses of Indian reservation land, and its resulting poverty, Mr. Sonosky worked with Congress to secure the enactment of Federal statutes that returned over 1 million acres of undisposed of surplus lands within those reservations to the tribes—the resources from which have been vital to the economies of many Indian communities. Mr. Sonosky also brought to the attention of Congress the need for legislation authorizing Indian tribes to recover just compensation for lands taken by the United States, so that the damages awarded would not be unfairly diminished by the value of food and rations that the United States had otherwise promised in exchange for the lands acquired. And when government officials unlawfully offset welfare claims against trust funds of individual Indians, Mr. Sonosky successfully challenged that practice in Federal court, after which he worked with Congress to ensure that all individual Indians who had been harmed by the practice were properly reimbursed.

While much of Mr. Sonosky's work with Congress focused on righting past wrongs, an equal part of his work has resulted in legislation that will protect Indian rights for generations to come. Through his efforts, Federal law that had previously allowed States to assume jurisdiction over certain matters on Indian reservations were amended to expressly require tribal consent prior to application of State jurisdiction. And most significantly, when limitations contained in the statutes governing Federal court jurisdiction effectively barred Indian tribes from invoking that forum to vindicate federally protected rights, Mr. Sonosky successfully pushed for legislation that today vests the Federal courts with jurisdiction to adjudicate any claim brought by an Indian tribe.

The honor of the Nation with regard to our obligations to Indian people has been well served by Mr. Sonosky. We will miss him dearly.

THE CONNECTING LINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. SOLOMON. Mr. Speaker, those who think the investigation into the scandals surrounding the Clinton White House are sadly mistaken if they dismiss it as a merely partisan attack.

The New York Times has never been known as a mouthpiece for the Republican Party, and could not be accused of aiding or abetting such partisanship. All the more significant, then, is the Tuesday column by A.M. Rosenthal, entitled "The Connecting Line."

The "connecting" is done to the bewildering and seemingly unconnected scandals, and establishes a common theme.

That common theme, Mr. Speaker, is the manipulation of the United States by the People's Republic of China, and the extent to which the actions of the Clinton administration made that manipulation possible. The column is a must-read for anyone who still thinks, and dares to claim, that this scandal is only about campaign finance reform.

Mr. Speaker, there is no reason why preparation should not be made for the consideration of impeachment of the President, a suggestion I do not make lightly.

I place the Rosenthal column in today's RECORD.

[From the New York Times, July 22, 1997]

THE CONNECTING LINE

(By A.M. Rosenthal)

In just one day last week three stories were reported that told of the stunning successes the Chinese Politburo has achieved in manipulating America and diminishing it as a credible political player in the Far East.

Americans can find similar stories almost every day in their press. But American journalism, like American diplomacy and politics, has failed to show the clear line that connects the stories. And historically—meaning from tomorrow deep into the next century—that failure can be the Politburo's biggest triumph of all.

One story dealt with China's plan to influence the American Presidential race and how President Clinton insisted that the agent of Beijing's chief overseas economic commercial partner be given a role in the campaign.

This agent, John Huang, received regular C.I.A. briefings. If the White House does not understand that anything interesting the C.I.A. told him found its way through his Indonesian masters to their Beijing partners, it would be obscene self-delusion amounting to dereliction of duty.

Another story was about the growing worry in Congress that U.S. intelligence has not kept track of how China's increasing military and political power affect America. The house has called for a report within a year. It appropriated $5 million to hire academics to help our multi-billion-dollar intelligence machinery.

The third story told of how the dissident movement has been crushed in China. The Communists got a free hand when the Clinton Administration dropped human rights as a goal of its foreign policy. The Communist then had no worry about economic penalty for the torture and murder of Chinese guilt of trying to express themselves. So they set to work.

Just another human rights story. But the connecting line among all the successes of China is human rights. The line begins with President Clinton's decision in 1994 to renege on promises he had made to use economic pressure to help imprisoned Chinese and Tibetan dissidents.

Human rights for Chinese—the right to speak, write and worship as they choose—should be important in themselves to Americans. They should make us cherish and protect our own, inspire us to give a hand to those who have none.

The apologists for China sneer at all that. What are we, missionaries? They say Americans supporting human rights thirst for enemies after the Soviet breakup and select China for the role.

This is a knowing falsehood. The opposite is true. Like other police-state rulers, Chinese Communists live in fear of their people's desire for liberties. They see American democracy as the danger to the Communist Party, the inevitable enemy. They search out other dictatorships for help in damaging America.

That is why China sells nuclear technology to the likes of Iran. To weaken America—that is the connecting line in Politburo policy.

For Mr. Clinton, the decision to betray Chinese human rights was the beginning of the line to the other accommodations and appeasements that flowed from it. Could he have brought into his campaign a man useful only because of his links with China, direct or indirect, if he were still standing up to what the Communists were doing to dissidents?

The President's men, and women, walk the line with him. For career reasons, they pretended to believe his cynical fantasy that deserting human rights would somehow make the Communists improve human rights. They said straight-faced that it would also persuade the Politburo to safeguard America's security interests—no more sales of cruise missiles and nuclear technology to the Irans of the world.

So when American intelligence did report those sales, the Administration whined a bit but accepted Beijing's insulting answer that it knew nothing about the sales. They expected Americans to believe even pistols could be exported from China without Beijing's approval.

Only one thing prevents Beijing from fully relishing its double victory over Chinese human rights and American's claims to international moral leadership.

Beijing has not yet stamped out one human rights struggle—the passion for freedom of worship. Yesterday the U.S. again acknowledged the persecution of Christians in China. America's Government will try to remain detached. Amerca's people may not.

HONORING COL. ROBERT J. COUGHLIN'S RETIREMENT FROM THE U.S. ARMY

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. HANSEN. Mr. Speaker, I would like to take this opportunity to honor Col. Robert J. Coughlin, who is retiring in November from the U.S. Army, after may years of devoted service. Col. Robert J. Coughlin will officially retire on November 1, 1997, after 28 years of active service to the U.S. Army. He began his Army career shortly after graduating from Northeastern University, with a B.S. degree in chemical engineering, and marrying Kathy, his wife of over 28 years. In 1969, he was promoted to 1st Lt. and served as a chemical engineer and company commander at Pine Bluff Arsenal in Arkansas. In 1971, he was assigned to Fort Carson, CO, and was promoted to the rank of captain. In January 1973, the Coughlins moved to New Orleans where Captain Coughlin graduated from Tulane University with a masters degree in chemical engineering. After serving a tour in Germany, Major Coughlin attended the Naval Command and Staff College in Newport, RI, and went on to serve as a chemistry instructor at the U.S. Naval Academy. After serving as one of the best chemistry instructors in the armed services, Major Coughlin was sent to Fort McClellan, and promoted to the rank of Lt. Col. After his tour at McClellan, he and his family again moved to Germany, this time to the 1st Armored Division Headquarters located in Ansbach. During his second tour in Germany, he was selected to serve as the battalion commander at Fort McClellan in 1990. While serving at Fort McClellan, he was promoted to the rank of colonel, and selected to attend the Air War College in Montgomery, AL. He then served as the director of training at Fort McClellan before assuming his current command at the Deseret Chemical Depot, in Tooele, UT.

Colonel Coughlin commanded the Deseret Chemical Depot through a very difficult period and was personally responsible for its successful standup as a separate Army installation with an annual operating budget of over $25 million. Through his hard work and dedication he earned an unprecedented high level of trust from local citizens, as well as State and local officials, overcoming great opposition to the start up of the first full-scale chemical demilitarization facility within CONUS. Under Colonel Coughlin's command the Tooele Chemical Demilitarization Facility has safely destroyed thousands of obsolete chemical weapons and over 1,000,000 pounds of chemical agent. His leadership was critical to ensuring high levels of emergency preparedness and the maximum safety of depot workers and the public from the risks associated with the chemical stockpile stored at the Deseret Chemical Depot.

Throughout his Army career, Colonel Coughlin has displayed unique abilities to manage and lead. Colonel Coughlin's leadership consistently earns the untiring trust of the work force under his command, and helps them to produce at levels far above of expectations. He has always gained the respect, loyalty, and dedicated service of the managers and employees that have had the good fortune to work with or for him. When he retires on November 1, 1997, the Army will lose the service of a good man and a dedicated public servant. His contributions have been many, and the positive effect he has had throughout his career on those that he has worked with will long be appreciated. Colonel Coughlin has been an invaluable asset to the U.S. Army and the United States of America. I personally wish to take this time to thank Colonel Coughlin, his wife Kathy, and their two daughters, Karyn and Kelli, for the many sacrifices they have undoubtedly made in the service of our Nation. I wish them all the best of luck in the future.

CARL MAXEY: A CHAMPION OF JUSTICE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. McDERMOTT Mr. Speaker, our country has lost a true champion of justice. Carl Maxey, of Spokane, WA, died last week, on Thursday, July 16, 1997. An accomplished attorney, Mr. Maxey was a widely known, and deeply respected, civil rights advocate whose activism spanned his lifetime. Despite a difficult childhood that included placement in an orphanage and early years on an Idaho Indian reservation, Carl Maxey rose to prominence through his hard work and unwavering commitment to justice and fair treatment for all. Mr. Maxey was a longtime resident of Spokane, where he graduated from the School of Law at Gonzaga University. He then became the first African-American from eastern Washington to pass the Washington State Bar examination, and began a successful law practice that included defense representation in a number of well-known Washington State criminal cases.

A blossoming legal career did not deter Carl Maxey from lifelong civil rights activism. As the civil rights movement emerged in the South, he dedicated himself to its goals, working zealously for more than 40 years to realize them. His efforts included legal services to rights workers, political organizing and candidacy, and pro bono representation of poor, and often minority, clients.

A mentor and inspiration to many African-Americans, Carl Maxey long will remain a model for all Americans. His leadership sprang from a rare combination of undeniable personal magnetism, unswerving conviction, and unyielding determination. His loss is deeply felt because Carl Maxey enriched all whom his good work touched. We are profoundly saddened by his death, and extend our deepest sympathies to his family.

TRIBUTE TO LT. COL. BILL SIMMONS

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to honor Lt. Col. Bill Simmons for his extraordinary dedication to the defense of our Nation and our community.

Bill has moved throughout the ranks of the Marine Corps in a short period of time. In 1976 he was commissioned as a second lieutenant following graduation from the Naval ROTC Program at Iowa State University. Because of his distinguished and exceptional service he was soon promoted to company commander.

The words "promoted because of exceptional service" have followed Bill throughout his career. Therefore, today I call upon my distinguished colleagues to join me in honoring Bill for his exceptional service and congratulate him on his promotion to the Marine Corps Office of Legislative Affairs.

Bill is not honored here today solely for his service to the Marine Corps. He is also a distinguished community servant and a loving family man. Bill had developed, organized and implemented a drug intervention program in our community schools. This program sponsors dialogue between both students and their mentors truly convincing these students not to use drugs. Bill has also organized more than 200 Color Guards, the 1996 Taste of Encino Race and sponsored the Toys for Tots Program. All the while, Bill was tending to his duties as a battalion officer, father, and husband.

If I had to choose one phrase to describe Bill I would say he "can do". He has served to maintain relations between the people of our community and has served organizations such as the Encino Chamber of Commerce and the Van Nuys Police Department. His ability to ensure that everyone's interests and ideas are properly represented has enabled him to move throughout the ranks of the military and serve those in our community.

I join the family and friends of Lt. Col. Bill Simmons and citizens of Encino in honoring Bill today for his distinguished service to our community.

RECOGNIZING INDIA'S 50TH ANNIVERSARY OF INDEPENDENCE

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I rise today regarding United States foreign involvement with India. Last December I visited India and spoke with some of the country's business leaders, and I discovered that businesses in India are entrepreneurial, active, and growing. Due to India's undying spirit to be a participant in the world's economy, Indo-United States relations and bilateral trade have grown during the past year. The United States is now India's largest trading partner and foremost foreign investor. Many U.S. companies are looking for opportunities for further expansion. Both the Indian market and government are working to secure a place for United States business in India. The economy, markets, and infrastructure are being reformed and liberalized. India needs foreign investment and technological development. Foreign aid from the United States is instrumental in implementing programs that help solve problems in the areas of health, family welfare, and education.

In light of India's current reforms, its strong democracy, and its devotion to the welfare of its people, it is clear that India has and will continue to put United States aid to good use. On August 15, India will be celebrating its 50th anniversary of independence and democracy. It is imperative that the United States recognize India's achievement at this time and renew its commitment to the country. I recently received a letter from the Ambassador from India, Naresh Chandra, who explained in detail India's past achievements and current goals. I have included the Ambassador's letter with my statement, and I encourage my colleagues to read it.

India is growing and expanding, and now it is time for the United States to participate in that expansion.

AMBASSADOR OF INDIA,
Washington, DC, July 11, 1997.

Hon. ALCEE HASTINGS,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HASTINGS, Almost a year ago when I had just about started my assignment as Ambassador to this great country, I had occasion to write to you on an amendment moved by Congressman Dan Burton on the Foreign Operations Bill. This amendment was not approved by a vote of 296 to 127. It now appears that the House would be moved to consider a similar amendment to the Foreign Operations Bill for FY 1998.

First, I would like to say that my year in Washington has been a most interesting and rewarding experience, the highlight of which has been the encouragement and support that I have received from Members of Congress, like yourself. We have witnessed during this period a further upswing in Indo-US relations and in the growth of bilateral trade making US our largest trading partner as well as the foremost foreign investor in India.

US trade with India which was a mere $500 million in 1991 is now around $9.5 billion. Many US companies are considering further expansion of their operations in India. Enron which had to cross many hurdles to commence the $1.2 billion Dabhol power project is so interested in the opportunities emerging in the Indian market that it has plans to invest an additional $10 billion over the next decade. Many processed foods with American brand names have become very popular in the Indian market. Automobiles of US design are increasing their presence on Indian roads. Banks and financial institutions too are taking advantage of recently created business opportunities. In the insurance sector also, the door has been opened for starting joint ventures in the field of health insurance.

The coalition of parties ruling at the Centre have not only continued with economic reforms but expanded it into many more areas. Custom duties and other taxes have been further liberalized to encourage foreign investment in infrastructure and other areas of the economy. The US Administration has included India among the 10 most important emerging markets and this is borne out by the number of major US companies operating in India. A list of these companies is enclosed.

There is now in India much greater understanding and acceptance of the need for foreign investment and technology collaboration for meeting the vast needs of India's developing economy. All sections are agreed that this is necessary to maintain and increase the growth rate of around 7 per cent that we have been achieving in recent years.

While US aid funds are relatively much smaller than the inflow of capital into business and industry, they do serve the purpose of enabling very important programmes to be implemented in backward areas for the benefit of the disadvantaged in the field of health, family welfare and education. These programmes involving interacting of American experts and officials with NGOs and Indian volunteers is of great help in enhancing people to people understanding between the two countries.

In a month from now we would be celebrating the 50th anniversary of India's independence and democracy. While we have achieved much during this period by way of consolidation of the nation state, providing adequate food security for the people, and setting the base for economic development, there are still many challenges that we have to face and overcome for providing the desirable level of living to large sections of our people. At this time of review and introspection, we are conscious of the benefits that we have derived by way of bilateral cooperation with the US in the important areas of agriculture, education, science and technology. At this time when we are looking for much greater cooperation in these areas, it is unfortunate that we might have to tackle something of a negative nature in the House.

It was gratifying to see in the debate on the House floor that took place in June last year on a similar amendment, that several Congressmen very ably put forth the following points:

(i) India has made a success of its democracy and established powerful institutions like an independent judiciary, a free press and vigorous political parties providing for consultation and participation in Government in accordance with the rule of law.

(ii) India, which like the US has a multi-religious and multi-ethnic society, has resolved conflict situations in a lawful, democratic manner and taken concrete steps to further improve the human rights situation, including the setting up of an effective National Human Rights Commission.

(iii) Indo-US business and trade relations have improved considerably with the US companies taking good advantage of the opportunities emerging in the Indian market, as borne out by the large number of US companies operating successfully in India.

(iv) The situation in Punjab had been resolved and the situation in Jammu & Kashmir has improved.

All the above points continue to be not only valid, but have acquired even greater force. Investment approvals pertaining to US companies are now for the order of $8.5 billion. The opportunities existing for US companies in infrastructure sectors like telecom, roads, ports and power have a potential for fruitful investment of over $20 billion per year.

The US Administration has acknowledged the improved situation with regard to human rights and also cited the problems created by the trans-border support for terrorist activities in India; the most recent example of which was the explosion caused in a train in Punjab which killed thirty-four civilian passengers on July 8th with serious injuries to many more. This highlights the need for not doing anything to encourage front organizations created for the sold purpose of mobilizing support and funds for essentially terrorist outfits.

Since last year there have been general elections to the State Assemblies in Punjab with a voter turn-out of over 69% and which brought the Sikh-dominated party, the Akali Dal to power in association with another party, namely, the Bhartiya Janata Party. There could not have been a clearer rejection of the separatist movement in the State of Punjab.

In Jammu & Kashmir too, general elections recorded a good voter turn-out of around 55% and resulted in Dr. Farooq Abdullah gaining majority not only in the Kashmir valley, but also in the regions of Jammu and Ladakh. This democratically-elected State Government has revitalized the Government machinery despite the strains created by terrorist gangs on the law and order machinery with the help of agencies across the border.

Initiatives taken by Prime Minister I K Gujral from the time he was the Minister for External Affairs have greatly helped in improving bilateral relations between India and its neighbors. As part of this policy, special steps have been taken to initiate discussions with Pakistan to tackle all outstanding issues. Agreement has been reached in the talks held so far to set up Working Groups for seeking solution to specific problems including the State of Jammu & Kashmir and terrorism. The House was good enough to applaud these efforts. It is our hope that progress at these talks would help create a better climate for tackling terrorist activity.

This letter has become much longer than I intended, but the subject being very important and your consideration and support of great value to us, I had to put the relevant facts before you. I am confident that with your goodwill and encouragement we shall build upon the strong foundation that has been laid in recent years in our bilateral relations. As always, I and my staff at the Embassy are available to assist you in any way possible. Please do not hesitate to contact me if you have any questions.

Yours sincerely,

NARESH CHANDRA.

IN TRIBUTE TO REAR ADM. ROBERT ELLIS FRICK

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. GEJDENSON. Mr. Speaker, I rise to pay special tribute to Rear Adm. Robert Ellis Frick, the U.S. Navy's Program Executive Officer for Submarines. I ask that you and the other Members of this distinguished body join me in acknowledging his extraordinary service to our Nation.

Bob Frick leads some of our Nation's most important and complex weapons acquisition programs—design and construction of Seawolf submarines, design of the new attack submarine, and design and development of all submarine combat systems. His contributions to the Navy have spanned an active duty career of almost 36 years.

Mr. Speaker, Bob Frick epitomizes the best in a modern naval officer. The high regard in which he is held marks Bob as one of our most effective and respected Navy leaders. Known for his technical expertise and insightful leadership, Bob has inspired and mentored many naval officers and civilian leaders. Decorated with numerous awards, Bob has been honored with the Defense Superior Service Medal, the Legion of Merit, and the Meritorious Service Medal (with 4 Gold Stars), and the Navy Commendation Medal (with 2 Gold Stars).

A native of Erie, PA, Bob Frick enlisted as a seaman in the U.S. Navy in 1961. After completing basic training, he was assigned to U.S.S. *Sabalc* (SS 302) in Pearl Harbor, HI, where he earned his silver dolphins for completing his initial qualification in submarines. Bob was then selected for and completed enlisted nuclear propulsion training in 1964. His performance resulted in his selection to attend Purdue University under the Navy Enlisted Scientific Education Program. Bob graduated from Purdue University in 1969 with both bachelor and master of science degrees in mechanical engineering.

Commissioned as an ensign in June 1969, Bob completed Nuclear Propulsion Officer Training and reported as a division officer aboard U.S.S. *Will Rogers* (SSBN 659), earning his gold dolphins in December 1971. His assignment included non-nuclear systems coordinator during an 18-month conversion and refueling overhaul at Portsmouth Naval Shipyard. Bob next served as engineer officer on U.S.S. *Haddock* (SSN 621) through a 15-month refueling and combat systems conversion overhaul at Mare Island Naval Shipyard. He then served as executive officer first on U.S.S. *Drum* (SSN 677) and then on U.S.S. *Kamehameha* (SSBN 642) during a strategic weapons conversion overhaul at Portsmouth Naval Shipyard.

From April 1984 until October 1987, Bob served as commanding officer, U.S.S. *Birmingham* (SSN 695), an assignment which included the ship's first major overhaul at Pearl Harbor Naval Shipyard. Following command, he served as the deputy commander for Submarine Squadron One in Pearl Harbor and as senior member of the CINCPACFLT Nuclear Propulsion Examining Board. In 1990 Bob elected transition to the Material Professional Program with assignment as the assistant program manager for attack submarines responsible for all SSN 688 class submarine new construction efforts. In July 1992, he was assigned as the Senior Military Assistant to the Under Secretary of Defense for Acquisition and Technology. In August 1993 Bob reported to Naval Sea Systems Command and assumed the duties as the deputy commander for submarines.

Mr. Speaker, during the course of his career, Bob Frick has faced tremendous challenges. His leadership and personal fortitude have been central to the operational effectiveness and reliability of submarines, and to our national security strategy which they enable and support. The successful completion and commissioning of U.S.S. *Seawolf*, the most advanced submarine in the world and the first new class of attack submarines to enter the fleet in over 21 years, is but the latest example of Bob Frick's tremendous leadership. Although he will be sorely missed in the Navy, Bob's vision, leadership, and personal style will continue to have a great impact on our Navy and our Nation for years to come.

Mr. Speaker, on behalf of my colleagues and the citizens of this great country, I am proud to have the opportunity to honor Rear Adm. Robert Ellis Frick with "Bravo Zulu" for a job well done. I ask that you and my distinguished colleagues join me to wish Bob and his wife Susan, and children Jennifer, Sarah, and Kevin, "Fair Winds and Following Seas" as they begin their next voyage.

NEW ENGLISH LANGUAGE PROVISIONS IN THE UNITED STATES-PUERTO RICO POLITICAL STATUS ACT

HON. ELTON GALLEGLY

OF CALIFORIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. GALLEGLY. Mr. Speaker, I am an original cosponsor of United States-Puerto Rico Political Status Act, chairman of the subcommittee which had original jurisdiction over this legislation, and an advocate of English as the official language of the United States. In this capacity I want to clarify statements which are being circulated outside of and within Congress based on incorrect and outdated information that contradicts the English language provisions of the legislation as recently amended.

This remarkable bill sponsored by Resources Committee Chairman DON YOUNG, Speaker, NEWT GINGRICH, Resident Commissioner CARLOS ROMERO-BARCELÓ of Puerto Rico, and some 90 others, provides a three-stage self-determination process to resolve the United States century-old political status problem with Puerto Rico by the year 2010. The United States citizens of Puerto Rico and all U.S. taxpayers deserve no less.

Since the United States-Puerto Rico Political Status Act was first introduced in the 104th Congress, extensive English language provisions and requirements have been added to build upon the 100-year tradition of English as an official language of Puerto Rico. The new and amended English language provisions are directed at the existing status of the Commonwealth of Puerto Rico as a territory under United States sovereignty, and alternatively, the transition of Puerto Rico to a State, depending on the outcome of the legislation's congressionally authorized referenda.

Thus, the United States-Puerto Rico Political Status Act, H.R. 856, provides an informed self-determination process for the United States citizens of Puerto Rico and clearly addresses the language issue from several vantage points, without violating constitutional limits affecting the people and State government. The language provisions of the bill as amended and approved with virtual unanimity by the Committee on Resources on May 21, 1997, follows:

ENGLISH LANGUAGE PROVISIONS IN H.R. 856, THE UNITED STATES-PUERTO RICO POLITICAL STATUS ACT

Language Policy [Section 3(b)]—

"English shall be the common language of mutual understanding in the United States, and shall apply in all of the States duly and freely admitted to the Union."

"The Congress recognizes that at the present time, Spanish and English are the joint official languages of Puerto Rico, and have been for nearly 100 years."

"English is the official language of Federal courts in Puerto Rico."

"The ability to speak English is a requirement for Federal jury service."

"Congress has the authority to expand existing English language requirements in the Commonwealth of Puerto Rico."

"In the event that the referenda held under this Act result in approval of sovereignty leading to Statehood, English language requirements of the Federal Government shall apply in Puerto Rico to the same extent as Federal law requires throughout the United States."

Statehood Ballot Definition [Section 4(a)(C)(7)]—

"English is the official language of business and communication in Federal courts and Federal agencies as made applicable by Federal law to every other State, and

"Puerto Rico is enabled to expand and build upon existing law establishing English as an official language of the State government, courts, and agencies."

Transition Plan [Section 4(b)(C)(1)]—

"In the event of a vote in favor of Statehood, the president shall include in the transition plan proposals and incentives to:

"Increase the opportunities of the people of Puerto Rico to learn to speak, read, write, and understand English fully, including but not limited to, the teaching of English in public schools, fellowships, and scholarships."

"The transition plan should promote the usage of English by the United States citizens of Puerto Rico, in order to best allow for—

"The enhancement of the century old practice of English as an official language of Puerto Rico,

"The use of language skills necessary to contribute most effectively to the Nation in all aspects, including but not limited to Hemispheric trade,

"The promotion of efficiency and fairness to all people in the conduct of the Federal and State government's official business; and

"The ability of all citizens to take full advantage of the economical, educational, and occupational opportunities through full integration with the United States."

MAKING AIRLINE TAXES PALATABLE

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. LATOURETTE. Mr. Speaker, I call to my colleagues' attention the attached editorial that appeared in the Cleveland Plain Dealer on Thursday, July 17, 1997. As the editorial accurately states, under H.R. 2014, "fees for using the tax-supported airways would be more evenly distributed among the airlines, whatever their size. And the airline's (Continental) numbers support this contention."

Than you, Mr. Speaker for allowing me this opportunity to raise this important issue which will significantly impact consumers and our Nation's airline industry.

[From the Cleveland Plain Dealer, July 17, 1997]

MAKING AIRLINE TAXES PALATABLE

U.S. airline passengers can expect to be squeezed to help pay for a range of congressional tax cuts.

New taxes on air travel are inevitable, whether a Senate or House version of a revenue-raising measure is adopted. But the latter offers fliers a better and fairer deal.

The country's major airlines say they are not opposed to such taxes in principle. After all, they should be intended primarily to guarantee a reliable funding source for the Federal Aviation Administration, which operates the national air traffic control system and other support services.

But the big carriers have lobbied vigorously against the Senate's proposal to retain the existing 10 percent excise tax on most domestic tickets—reduced to 7.5 percent on some rural segments—and place a similar charge on the domestic portion of an international flight.

Instead, they have embraced a plan by House Ways and Means Committee Chairman Bill Archer for a 7.5 percent domestic tax with an additional $2 charge for each segment of a flight.

Both bills call for increased taxes on international travel. The House version is steeper, but is expected to be modified in conference.

Texas Republican Archer's bill is favored by Continental Airlines, the largest operator at Cleveland Hopkins International Airport, among comparable carriers that charge a variety of fares on most of their routes. But Southwest Airlines and other discount carriers prefer the Senate plan.

Continental rightly argues that under the Archer plan, fees for using the tax-supported airways would be more evenly distributed among the airlines, whatever their size. And the airline's numbers support this contention.

Continental also complains that imposing a tax on the domestic portion of a one-stop international flight, as in the Senate version, would put U.S. flag carriers at a disadvantage against foreign airlines that operate nonstop from U.S. gateway cities. Cleveland's case for adding a London flight could be damaged if such a tax is introduced, Continental says.

Airline excise taxes have been around since 1941, when a 5 percent levy was imposed on most means of travel. Before 1978, the government set ticket prices. But with deregulation's variations in ticket prices, different passengers on the same flight can pay different amounts in taxes for the same use of the air traffic control system.

Continental and the other major airlines argue that the Archer plan beings the tax system closer in concept to a user fee, which they believe the public would support. But its bigger appeal, for now, is that it would not make such a dent in the pocketbook.

CONSUMERS' NUTRITION AND HEALTH INFORMATION ACT

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. UPTON. Mr. Speaker, I rise today to introduce H.R. 2208—the Consumers' Nutrition and Health Information Act. I am pleased that my colleagues Representatives ED TOWNS, MARTIN FROST, and BOBBY RUSH are joining me in supporting this legislation as original cosponsors.

The Consumers Nutrition and Health Information Act is designed to increase consumers' access to timely, accurate information about the health benefits of foods and nutrients. It is very similar to the language on health claims contained in the Food and Drug Administration [FDA] reform bill reported with bipartisan support by the Senate Labor and Human Resources Committee last month.

The bill would permit manufacturers to make health claims on food labels without having to go through the long, complex FDA preapproval process when claims were based on authoritative statements published by the National Institutes of Health, the Centers for Disease Control and Prevention, and other Federal scientific organizations with official responsibility for public health protection or research relating directly to human nutrition. The manufacturer would be required to notify the FDA of the proposed claim 120 days before its introduction to the market and would have to provide the FDA with an explanation of the basis for the claim.

The need for this legislation is perhaps best demonstrated by history of the health claim for the nutrient folic acid. In 1992, the Public Health Service reported that about half the 2,500 neural tube birth defects such as those that result in spina bifida that occur in the United States each year are preventable with sufficient folic acid consumption among women of childbearing age. One of the most effective means of getting this information out to women would have been on food labels. But the FDA did not approve this claim for food labels until 1996, a 4-year lag.

By giving a presumption of approvability to health claims for foods based on official, authoritative statements by Federal agencies such as the National Institutes of Health and the Centers for Disease Control and Prevention, this legislation will better ensure the public's timely access to this important information. And by retaining the FDA's right to review such claims for 120 days before they are made, the legislation protects against false or misleading claims going to market.

I encourage my colleagues to join Representatives TOWNS, FROST, RUSH and me in cosponsoring this bill. Your support will highlight the importance of this reform and ensure that it is a key element of any broader FDA reform effort that may be undertaken in this Congress.

TRIBUTE IN HONOR OF TEXAS SENATOR FRANK MADLA

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. RODRIGUEZ. Mr. Speaker, in my hometown of San Antonio, TX, tomorrow, a close friend and colleague in the Texas Legislature will be honored for 25 years of extraordinary public service to our community and State. Texas State Senator Frank Madla started life on a family ranch in the small town of Helotes, TX. His career stands as a testament to his values: helping others, dedication to family, and hard work. I am proud to know him, his wife, Helen Cruz Madla, and his children Frank III and Marci Morgan.

First elected to the Texas House of Representatives in 1972, Frank Madla has distinguished himself as an advocate for improving our education system, protecting the public health, preserving our environmental resources, helping others with the ravages of alcoholism and drug abuse, and relieving the challenges of mental retardation. After 20 years of service in the Texas House, he moved to the Texas Senate in 1993. His accomplishments include authoring legislation to increase health care access in rural areas and for indigent women and children, facilitate the delivery of services to persons with disabilities, create a gifted and talented program for Texas schools, find solutions to avert a water crisis in central Texas, and strengthen the child abuse reporting system. These are but examples of his many endeavors to increase public safety, streamline the delivery of essential services, and bring health care to those without it.

Unlike the Federal legislature, service in the Texas Legislature requires outside employment. Senator Madla prepared himself well by securing a strong education. He graduated from my alma mater of St. Mary's University in San Antonio with a bachelor and masters of arts degrees in government. From Our Lady of the Lake University, another of my alma mater's, he received certification in public school administration. Senator Madla is a teacher. His first job out of college was teaching history and civics at Escobar Junior High School. Senator Madla, since the beginning of his legislative career, has shared his academic and practical knowledge as an instructor in government and political science at Incarnate Word College and St. Mary's University. Beyond the classroom, he has been a teacher to his friends and colleagues, instructing us in the positive values he embodies.

I am not the only one who thinks highly of Senators Madla. His list of honors is too long for me to recount here. But the variety of groups that has recognized his accomplishments speaks volumes. Organizations representing education, the medical community, law enforcement, and public employees have honored Senator Madla with Legislator of the Year and other outstanding accolades. As someone who served with him, I can state with confidence that these awards are well deserved and hard earned. Senator Madla has dedicated his life to public service, to helping those who cannot always help themselves, to create opportunities for diverse communities. A quarter century of service is in itself a worthy accomplishment, but when done with such dedication and commitment, it is an outstanding achievement.

PERSONAL EXPLANATION

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. WEYGAND. Mr. Speaker, on July 16, 1997, I was unavoidably detained and was not, therefore, able to vote on rollcall votes 279 and 280. Had I been able to vote, I would have voted "yea" on both votes.

During that time, I was hosting an interactive cable TV show with Secretary of the U.S. Department of Health and Human Services, Donna Shalala, and the vice president for government relations for the National Committee to Preserve Social Security and Medicare, Max Richtman. Secretary Shalala and Mr. Richtman joined me to discuss and take phone calls from my constituents on the current congressional and Presidential proposals aimed at repairing the ailing Medicare System.

Many of the programs contained in H.R. 2158, the Veterans Affairs and Housing and Urban Development appropriations bill are of great interest to me. A great amount of the HUD housing in my district is section 202 and section 811 housing for elderly and the disabled. I am pleased therefore, that the bill passed by the House provides $839 million for these programs.

I am also pleased that the legislation included $30 million for the YouthBuild program. YouthBuild is a HUD-funded program that provides academic and skills training to at-risk young men and women. Several weeks ago, I visited the YouthBuild program in Providence, RI. On that visit, I met 18 of the 20 YouthBuild trainees on their first day in the program. I was pleased to learn yesterday that only one of the students I met with has since left the program. The rest are now spending half their time in the classroom, many preparing for their GED's, and the rest of their time learning important job skills as they rehabilitate a previously abandoned three-story home. At the end of their work, the students will have learned valuable skills and provided housing for a worthy family.

The legislation also provides $7.23 billion for the Environmental Protection Agency and its important programs such as the Brownfields Program are also of great concern to my district.

Finally, Mr. Speaker, the bill provides money for a wide range of programs that support science and space exploration. The National Science Foundation, which funds a wide variety of research projects at Rhode Island's universities, received more money than last fiscal year and more than requested in the President's budget. In addition, several NASA programs survived budget cutting. We have been reminded over the last few weeks of just how valuable NASA's work is to our Nation and the world. The drama associated with the difficult conditions faced by two Russians and an American on Mir has attracted worldwide concern. Farther away, the triumphs of a balloon-encased spacecraft and its breadbox-sized companion on the surface of Mars has piqued the interest of people worldwide about huge Martian floods and the prospect that our world may not be as unique as we once thought. Remarkably, at the same time, the space shuttle lifted off from Kennedy Flight Center, conducted important yet risky experiments and returned to Earth with hardly a notice.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 11, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill H.R. 2107, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

Mr. SANDLIN. Mr. Chairman, I rise today to thank Representative SIDNEY YATES and Representative LOUISE SLAUGHTER for their efforts to save the National Endowment for the Arts [NEA] and the National Endowment for the Humanities [NEH], and for raising the awareness of the importance of both agencies to education.

The cost to fund both the NEA and the NEH is less than $1 per taxpayer per year, and the return from both agencies is immeasurable. Small grants of a few thousand dollars matched with private donations go a long way toward promoting arts education in school districts, and preserving our Nation's heritage in local communities. Through partnerships with State and local organizations, the NEA is able to integrate art into multiple educational and after school programs throughout the State of Texas. This means we are implementing new and innovative methods to help students develop problem solving and reasoning skills, hone communication ability, expand creativity, and instill self-esteem and discipline. All of these tools are important if we want our children to be successful in the 21st century.

For the past 4 years, the Dallas-based Partnership for the Arts, Culture, and Education, Inc., [PACE] conducted a study to determine the impact that arts education has on students' overall academic performance. Throughout the study they found teachers who used innovative ways to stimulate the minds of their students. One class learned the principles of physics during a trip to the symphony hall, while another class learned about the relationship of muscles to the skeleton from studying dance. The PACE study also found that the greater the exposure to the arts, the greater the student performance on standardized test scores.

In my district, the Texas Council of Humanities [TCH] in partnership with the NEH has taken an active role in advancement of humanities education through history, literature, religion, languages, and other fields related to culture and society in elementary, secondary, and postsecondary education. One grant recipient of TCH is Wiley College and Zeta Phi Beta Sorority, who received a $2,000 award for a symposium examining the roles of black women. In addition, TCH awarded a grant to Paris Junior College for the collection of data and a lecture series on the history and culture of the surrounding African-American community. Without the NEH, there would be no TCH or study of the history of an African-American community in a town called Paris, TX.

The NEA has continuously supported State and local organizations that bring arts to rural America. In my district, the NEA has given much needed support to organizations like the Texarkana Regional Arts and Humanities Council and the Marshall Regional Arts Council. These councils have funded various arts in education programs and touring companies throughout my district. The Texarkana Regional Arts and Humanities Council has presented talented groups, like the Amabile Piano Quartet and the Deeply Rooted Chicago Dance Theatre. In addition, the NEA has supported the Northeast Texas Communities in Schools, an organization that helps bring major performances to local schools.

The NEA also supports the Believe in Me after-school program in Austin, TX. This program uses dance to give youth, many of whom are involved in drug and gang activity, the tools they need to be successful in the community.

I cannot say that every child will turn out to be the next Einstein or Michelangelo or Maya Angelou, but we can give these children a solid foundation on which they can build their dreams. As the artistic director for the 52d Street project stated, "There is no way to fast forward and know how the kids will look back on this, but I have seen joy in their eyes and have heard it in their voices and I have watched them take a bow and come up taller."

I believe we must recognize the impact that the NEA and the NEH have on our heritage, culture, and economy, and the benefits to education. As a father of four children, I believe we have a responsibility to give our children every opportunity possible for success. And if the care and education and development of our children is not a priority role of Government, then what is?

THE 25TH ANNIVERSARY OF LANDSAT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. BROWN of California. Mr. Speaker, I would like to rise to say a few words to commemorate a significant milestone in our Nation's civil space program. July 23 marks the 25th anniversary of the launch of the first of the Landsat Earth observation satellites—satellites that have vastly increased our understanding of our home planet and provided innumerable practical benefits to our citizens.

I agree with the words of the then-Administrator of the National Aeronautics and Space Administration, Dr. James Fletcher, who stated in 1976 that if he had "one space age development to save the world, it would be Landsat and its successor satellites." With a 25-year continuous record of unique and scientifically important accomplishments, Landsat has indeed saved the world—capturing in images an invaluable photographic record of the changes that have occurred on our planet.

It would be difficult to overstate the importance of what has been achieved with the Landsat program. The data from the Landsat spacecraft constitute the longest record of the Earth's landmass as seen from space. It is a record unmatched in detail, coverage, and quality. That data record has proven invaluable to the hundreds of users who observe and study the Earth, who manage and utilize its natural resources, and who monitor the changes brought on by natural processes and human activities. It has become an integral part of the U.S. Global Change Research Program and NASA's Mission to Planet Earth—critical initiatives that promise to deliver even more dramatic increases in our knowledge of the Earth in the coming decades.

The uses to which Landsat data have been put are myriad. For example, the data have been used to monitor timber losses in the Pacific Northwest, estimate soil moisture and snow cover, and forest growth. Landsat has been used to monitor strip mine reclamation, land use in urban areas, and water quality in the Nation's lakes. It has been reported that Landsat images have even been used by law firms gathering legal evidence and by fast food restaurants seeking to estimate whether population growth has been great enough in a geographical area to warrant awarding a new franchise.

Landsat was originally developed and launched by NASA in 1972 as an Earth Resources Technology Satellite [ERTS].

Landsat–1 was followed by a series of more advanced and capable spacecraft—a series that will continue with the scheduled launch of Landsat–7 in 1998. Landsat–7 will gather remotely sensed images of the Earth's land surface and its coastal regions for global change research, regional environmental change studies, national security uses, and many other civil and commercial applications.

In addition, NASA is preparing to launch a next-generation counterpart to Landsat: the Earth Orbiter–1 [EO–1]. The EO–1 mission will demonstrate advanced new detector technology that could dramatically lower the cost of acquiring Landsat-type data in the future.

What has the Landsat program achieved since that first launch 25 years ago? It has established the United States as the world leader in land remote sensing. It has contributed significantly to our understanding of the Earth. It has helped create an entire value-added industry based on the creative uses of Landsat data. It has delivered on the promise of using space technology to meet societal needs. In short, it has made our world a better place.

CONGRATULATIONS TO BROOME, NY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. SOLOMON. Mr. Speaker, the virtues that make America the greatest and freest nation this planet has ever seen can be found in their truest forms not in the giant megacities on either coast but in the small towns and villages in between. I'd like to mention one of them today, a very special one, in fact.

This year the town of Broome in Schoharie County in upstate New York is celebrating its 200th anniversary, making it nearly as old as our Nation itself.

The town of Broome was first known as Bristol when it was formed in 1797, but was changed to Broome in 1808 in honor of then Lt. Gov. John Broome.

The original town was much larger, with parts of the original town broken off to form or combine with the towns of Conesville, Gilboa, or Middleburgh. In fact, the first town meeting in 1836 was held in the house of Peter Richtmyer in the present day town of Conesville.

By 1860, Broome was a thriving community of hillside farms, businesses, and 2,182 people. Among the businesses was a quarry which supplied stones for the capital building in Albany. The changing economy and demographics of the 20th century reduced the population to 761, according to the 1980 census. But the 1990 census showed that the decline in population had been reversed, and the population increased to 926. Today, there are only seven working dairy farms left, and many of the town's 29,000 acres are occupied by summer homes and hunting camps.

What makes the town of Broome attractive for such purposes is what makes small town life so pleasant and popular in today's America.

Mr. Speaker, I was extremely pleased when that part of Schoharie County containing the town of Broome was added to our district in 1992. The same small-town virtues I mentioned, the pride, patriotism, and spirit of voluntarism, are found here in abundance.

A ceremony marking the town of Broome's 200 years of existence will be held at Firemen's Hall in the hamlet of Livingstonville on Sunday, August 10. Mr. Speaker, I ask you and all members to join me in wishing this charming community of wonderful people a happy 200th birthday, with many best wishes as it approaches its third century.

SOUTHCOAST RADIO COMES TO WASHINGTON

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. McGOVERN. Mr. Speaker, I rise to declare how proud I am to have taken part today in a truly unique radio experience. Southeastern New England residents got a step closer to their Nation's Capital today thanks to a very special radio broadcast, live from my Washington office. WSAR-SouthCoast (1480 AM) brought a beehive of politics to the ears of a great many of my constituents back home, and I want to sincerely thank the station for demonstrating their commitment to keeping our community informed about important issues before our national legislature.

Modern technology and a couple of very resourceful radio personalities linked SouthCoast Radio to a long list of special guests. I want to thank Rick Edwards and Richard Trieff for making today an interesting and captivating experience for thousands of SouthCoast residents with their probing interviews of national journalists, Federal lawmakers, and administration officials.

I also want to thank all those who stopped by 512 Cannon this afternoon to share their views and to take callers' questions and comments. Rick and Richard tapped into the insider perspectives of top-notch political journalists like Chris Black of the Boston Globe, Jonathan Salant of the Associated Press, and Ellen Ratner of Talk Radio News Service. The radio team peppered with questions national legislators such as Representative BOB RILEY of Alabama, Senator JACK REED of Rhode Island, Representative JOHN TIERNEY, and Senator JOHN KERRY of Massachusetts, and SouthCoast Representatives BARNEY FRANK and myself.

Rick and Richard got a Clinton administration perspective on local Massachusetts issues by chatting with Maria Echaveste, Assistant to the President and Director of the Office of Public Liaison. And the talk radio duo got Fall River Mayor Ed Lambert and National Campaign for Tobacco-Free Kids President Bob Novelli to discuss the remarkable efforts of the Greater Fall River Fresh Air Kids. It was certainly a lively day of political discussions for SouthCoast residents.

I commend Rick Edwards and Richard Trieff, and the entire crew at WSAR, for a day well spent on Capitol Hill. I want to thank Rick and Richard for making the trip down to our Nation's Capital, for putting together a first-rate docket of radio personalities, and for making it possible for SouthCoast residents to talk one-on-one with a number of Washington's movers and shakers. Phone lines were kept open throughout the 6-hour show, and a good number of southeastern Massachusetts and eastern Rhode Island listeners got to grill the men and women who write their laws, administer their programs, and produce their news.

Mr. Speaker, our Nation needs more civic journalism. WSAR's program today clearly illustrates how electronic journalism can grant special access to ordinary citizens, and how talk radio can connect people who are hundreds of miles apart. A functioning democracy depends upon the people's ability to express their ideas, questions, and concerns to those who represent them. Thanks to modern technology—and because of the efforts of committed civic journalists like Rick Edwards and Richard Trieff—we can continue to strengthen our democracy while keeping our local community informed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

SPEECH OF

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill, H.R. 2160:

Mr. MANTON. Mr. Chairman, I rise in opposition to the amendment offered by Messrs. SCHUMER and MILLER.

Mr. Chairman, while I understand and appreciate the proponent's interests in pursuing this amendment, I believe their concerns are misplaced and their proposed remedy misguided. I have worked closely with my friend and colleague from New York, Mr. SCHUMER, on a number of important issues over the years, and I do not question his motives; however, I regret that we are once again at odds over this emotional agricultural matter.

Mr. Chairman, only last year, the Congress enacted major, far-reaching agricultural reform legislation. In that measure, we dramatically changed our Nation's long-standing policies affecting farming and agricultural markets, including sugar production—which, I believe, is the only program crop to lose the Government guarantee of a minimum price. I supported these efforts to reform and modernize the sugar price support program and believe these changes have benefitted all segments of the industry. These reforms represented an important first step.

However, we simply have not allowed enough time to pass to ensure we achieved our goals in revising the sugar program and determine whether these changes were sufficient. I would also remind my colleagues that this House defeated a similar amendment during the farm bill debate.

Mr. Chairman, for these reasons alone, I believe it is unfair and unwise to make such a drastic change in the U.S. sugar program at this time as proposed in the amendment.

We will hear today that this is an issue of fairness and the free-market system; consumers will be pitted against farmers, producers against refiners and manufacturers. I believe these arguments are overly simplistic, picking and choosing statistics which best represent the proponents' arguments, and the distinctions they promote do an injustice to the sugar producers of our great Nation, be they farmers of sugarcane, sugarbeet, or corn.

Mr. Chairman, I do not deny that there are some very real differences between the proponents and opponents on the issue before us, and I doubt any amount of debate is likely to change the position of the amendment's authors. However, I have learned over my years in Congress, and as a New York City councilman, that no issue is one-sided, nor is there often only one all-inclusive right answer to a problem. Reasonable people can, and often do, disagree.

I believe the issue before us here today falls into that category. We differ on what the impacts of a particular program may or may not be, and how best to address these issues. But, I do not believe either side has a claim to the so-called high ground.

And, with all due respect to the amendment's proponents, I do not take a back seat to their concern for the American consumer. I represent a congressional district, a part of New York City, where the 1990 median household income was only around $30,000 a year. In the areas of Queens and the Bronx which I have the pleasure to represent, the cost of living is a very real issue with everyday impacts on the hard-working families of the 7th Congressional District of New York.

The proponents argue that their's is the only way to protect the consumer, to potentially lower the cost of sugar and products containing agricultural sweeteners by a few cents or, more likely, fractions of a cent. This is all well and good, if they can ensure the savings they propose will indeed be passed along to the American consumer. A prospect which they can not guarantee.

But, cost aside, the proponents can also not be sure their amendment, if approved, would not seriously disrupt the supply and availability of sugar throughout our country.

Mr. Chairman, my constituents do not benefit if they have the potential of saving a penny or two on a product but can no longer obtain that commodity or the product is no longer available in a sufficient and steady supply to meet their needs.

I have often commented in meetings I have had over the years that I am unaware of any farms in my urban district, except for one lone victory garden started during World War II. But, I am sure of one thing, and that is that each and every one of my constituents eats and needs a secure, steady supply of produce and food products at a reasonable price. As such, I will continue to support those programs which I believe ensure just that, and oppose those measures which I believe will not.

I will note here, also, that New York State does play a role in domestic sugar production, with numerous farms that grow corn which is utilized in sweetener production.

Mr. Chairman, my strong, historic support of agriculture programs, including sugar, and the associated refining and processing infrastructure, is based upon this—perhaps simplistic—premise: That the United States must continue to ensure all its people are provided the best, most secure, and stable source of food products possible. And, I believe this goal is best accomplished by reducing our dependence on foreign sources of agriculture products through the encouragement and promotion of a strong domestic agriculture system, and challenging unfair, anti-competitive foreign sources of food.

While we are usually on the same side of most food related issues, from time to time, I part paths with this Nation's food processors. As is the case here, I side with the producers and not the refiners and processors. I do not fault them for their support of this amendment and the desired changes they seek in the sugar program, and I know we will work together on future issues of mutual concern.

I believe the virtual elimination of this program as now proposed would place the U.S. sugar industry as a whole, and the American consumer in particular, at the mercy of the inconsistent and heavily subsidized world sugar market.

Unlike my colleagues who support the amendment, I simply do not believe the American consumer is likely to realize a significant, if any, benefit should the amendment prevail. But, I am concerned that the domestic producers of sugar could suffer from reduced prices and would be made particularly vulnerable to foreign sources of sugar.

While refiners may pass along their savings, I seriously doubt many processors are likely to reciprocate. While the cumulative amounts being bandied about today are significant, and represent real money regardless of one's social standing, the bottom-line is that we are talking about pennies or fractions of pennies on a commodity basis.

Quite frankly, I do not even know how one would calculate the savings that say a manufacturer should pass along for their finished product that now may cost them a fraction of a cent less to produce. Are we likely to see cans of soda from a machine selling for 59 cents instead of 60 cents?

At this point, Mr. Chairman, I would like to refer to some very basic statistics which I believe make clear the short-sightedness of the amendment.

The current sugar program operates at no cost to the Federal Government, and a special marketing tax on sugar farmers is earmarked for deficit reduction;

U.S. consumers pay an average of 25–28 cents less for sugar than do shoppers in other developed countries;

From 1990 to 1995, the retail price of sugar actually decreased approximately 7 percent;

U.S. retail sugar prices are approximately 32 percent below the average of other developed countries and the third lowest in the developed world;

New York consumers pay 5 percent less for sugar than the average consumer worldwide;

Close to a billion dollars are generated each year by the U.S. sugar industry in the State of New York alone; and, finally,

More than 5,690 jobs in New York State rely on the sugar industry.

Mr. Chairman, I urge my colleagues to reject this amendment, and cast a vote in favor of a strong, fair and balanced domestic sugar program, and to protect the American farmer.

A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. ROMERO-BARCELÓ. Mr. Speaker, today, as the sole representative of the 3.8 million disenfranchised U.S. citizens living in Puerto Rico, I am introducing a bill to amend section 301(h) of the Federal Water Pollution Control Act that would allow the Puerto Rico Aqueduct and Sewer Authority [PRASA] to apply for a waiver from certain wastewater treatment requirements affecting its Mayaguez facility.

Under existing law the Environmental Protection Agency [EPA] is not allowed to accept new applications for waivers from secondary treatment requirements. The proposal does not alter the rigorous criteria for issuing a waiver nor does it override the judgment of EPA. Our proposal reflects the goal of both Congress and the administration to find innovative, alternative and less-costly ways to apply existing statutes without compromising the environmental objectives underlying existing law.

Many scientists and experts agree that plans to construct deep ocean outfalls at locations can provide the best environmental and economic alternative for wastewater treatment. The plans would not only preserve but would even improve the coastal environments where these discharges occur.

PRASA proposes the construction of a deep ocean outfall that would release primary treated wastewater miles from shore at a depth and location that will have no adverse impact on human and marine life.

This alternative would improve the coral environment where the current outfall discharges and would also save the Government of Puerto Rico about $65 million over 20 years that can be spent to address other water supply and infrastructure problems affecting the island.

EPA and the Department of Justice have agreed to enter into a consent order with PRASA that provides for deep water ocean outfall alternative to a secondary treatment plant. However, this alternative cannot even be considered without this legislation; and under the terms of the consent order, this alternative can only be considered if this legislation is enacted by August 1, 1998.

PRASA is currently conducting an Environmental Impact Statement review to assess relative benefits of the two treatment alternatives. This EIS will be completed before August 1, 1998 and will help EPA determine which alternative is preferable. If this legislation is enacted, EPA will have this choice; if it is not enacted, there will be no choice, regardless of the environmental or economic consequences. This is what this proposal will accomplish. It is a sound approach to environmental regulations.

It is imperative to stress the fact that this is only a limited and technical amendment that allows PRASA to refile under section 301(h). PRASA would be required by EPA to meet the same stringent legal and scientific tests, conduct the same environmental studies and implement the same monitoring program applicable to existing recipients of section 301(h) waivers. This amendment would not assure that a waiver would be granted; that decision would remain entirely within EPA's discretion.

EPA will be the ultimate decisionmaker, and will determine if PRASA's proposed alternative is feasible and environmentally beneficial. If after the review, that alternative is acceptable, then PRASA will immediately begin construction on the facility, with discharge location approved by the EPA. If EPA finds the alternative unacceptable, then PRASA will proceed with construction of the secondary treatment plant.

Puerto Rico is not asking for preferential treatment. Rather, we are only requesting that EPA balance the cost of constructing a secondary treatment facility against the environmental, economic, and social benefits of constructing an outfall at a deep water location.

There are precedents for such limited amendment to section 301(h), recently for San Diego during the 105th Congress. In the instance of San Diego, legislation was enacted to permit EPA to consider a section 301(h) waiver application proposing a similar alternative to secondary treatment. I believe we deserve the same opportunity to implement alternatives and seek a section 301(h) waiver.

My environmental record speaks for itself. I would not support any measure that I believe compromises our resources or the environment of the island. I urge my colleagues to consider this proposal and its commonsense approach. The proposal is limited and targeted, provides for an efficient process, does not modify existing standards and would be implemented by EPA only if environmental and economic objectives are accomplished. I am hopeful that it will receive favorable congressional action at an early date.

PERSONAL EXPLANATION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. LAFALCE. Mr. Speaker, last week I missed a series of postponed votes because my pager did not function. Had I been present, I would have voted "no" on Rollcall No. 270, "no" on Rollcall No. 271, "no" on Rollcall No. 272, and "no" on Rollcall No. 273.

A TRIBUTE TO LEWIS H. VAN DUSEN, JR.

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. FOX of Pennsylvania. Mr. Speaker, I am proud to tell you that Lewis Harlow Van Dusen, Jr., of Pennsylvania is this year's winner of the American Bar Association's Michael Franck Professional Responsibility Award. This important award is given annually by the American Bar Association to a lawyer for outstanding contribution to the field of professional responsibility. The award is to be formally presented to Mr. Van Dusen by N. Lee Cooper, the president of the ABA, on Friday, August 1 in San Francisco, CA, in connection with the American Bar Association's annual meeting.

Mr. Van Dusen received his undergraduate degree from Princeton University and his bachelor of civil law from Oxford University in England. He served with distinction on the American Bar Association's Standing Committee on Ethics and Professional Responsibility longer than any lawyer in the history of the ABA except his own partner, Henry S. Drinker—from 1953 to 1956 and then again from 1962 to 1974, chairing the committee for the last 3 years. During his tenure the ABA adopted the model code of professional responsibility which is still the current ethics code in a dozen jurisdictions. The committee, under Van Dusen's leadership, tackled some of the most difficult ethics issues confronting the modern bar and his entire career has been dedicated to maintaining and improving the ethics of his chosen profession.

Mr. Van Dusen led the esteemed firm of Drinker Biddle & Reath for 35 years, beginning his law career at Drinker in 1935. He is currently counsel to the firm. His areas of concentration have included litigation, labor, transportation, estate planning, environmental and international law.

Mr. Van Dusen was chancellor of the Philadelphia Bar Association in 1968 and president of the Pennsylvania Bar Association in 1974 and 1975. In addition, Mr. Van Dusen is also a member of the International Bar Association.

Mr. Van Dusen served with distinction in the U.S. Army from 1942 to 1945 ultimately as lieutenant colonel. Mr. Van Dusen was honored for his service when awarded the Bronze Star Medal, Decorated Purple Heart, Legion of Merit of the United States, and Legion of Honor, Croix de Guerre of France.

Mr. Van Dusen was one of the founders of the North Atlantic Treaty Organization [NATO]. In addition, he has been active in the American Philosophical Society, the American Judicature Society, the American Law Institute, the American Bar Foundation and the American College of Trial Lawyers. He also serves as a permanent member of the Judicial Conference for the Third Circuit and from 1980 to 1982, he served on the Committee to Study Pennsylvania's Unified Judicial System.

Mr. Van Dusen is the consummate Philadelphia lawyer. I am proud to bring this well deserved honor to the attention of my colleagues in the House of Representatives.

TRIBUTE TO THE FIRST ARMENIAN PRESBYTERIAN CHURCH OF FRESNO

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. RADANOVICH. Mr. Speaker, I rise today to honor the First Armenian Presbyterian Church of Fresno, CA, which is celebrating its 100th anniversary this year. The Armenian commitment to religion is symbolized by the birth and expansion of this church.

The First Armenian Presbyterian Church of Fresno was the first Armenian church organized in the State of California. It began on July 25, 1897 when 40 men and women met in a hall in Fresno. The church was duly received and enrolled in the fellowship of Presbyterian churches by the Presbytery of Stockton at a meeting in Oakland, CA, on October 20, 1897. The first session was formed and the Reverend Avedis Vartanian, Khachig Michaelian, and Hagop Azhderian were elected as the first ruling elders.

The church had its origins in the Armenian Ladies' Patriotic Society established in Fresno on May 1, 1892. The declared purpose of the society was to support orphans, ministers, and evangelists in Armenia. In 1913, the society changed its name to the Women's Benevolent Society of the First Armenian Presbyterian Church and is now commonly known as the Ladies' Aid Society.

The Reverend L.T. Burbank preached the first sermon of the church in the Armenian language and was invited and unanimously elected as the first pastor of the church. Following the ministry of Rev. Burbank came the construction of a church building at the corner of Santa Clara and Fulton Streets. This steepled, octagon sanctuary was recognized most notably through the writings of the late William Soroyan, who—as a boy—attended the church and wrote about his experiences.

The communicant membership of the church has grown from 40 charter members to 450. The Sunday school and four Bible study groups are providing Christian education to believers of every age. Fellowship groups minister to the needs of the young, the old, the married, the single, and the Armenian-speaking. Additionally, a building committee has completed the construction of a social hall, the final phase of a 25-year expansion program.

Mr. Speaker, it is with great respect that I honor the First Amenian Presbyterian Church of Fresno, CA. The focus and religious excellence of the church serves as a model for religious establishments all over the world. I ask my colleagues to join me in wishing the First Armenian Presbyterian Church continued success and inspirational religious teachings.

DEPENDENCY AND INDEMNITY COMPENSATION RESTORATION ACT OF 1997

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. SMITH of New Jersey. Mr. Speaker, today I have introduced legislation that will begin to address an inherent unfairness under present law that affects the surviving widows of our Nation's veterans. As you know, many of these veterans gave their lives for our country, yet their surviving spouses are now being denied benefits that were promised to them.

In 1970, Congress enacted legislation that guaranteed widows of military veterans who died from service-connected disability that their dependency and indemnity compensation [DIC] benefits would be reinstated upon the termination of the widow's subsequent marriage(s) by death or divorce.

The apparent rationale behind this reinstatement policy was twofold: first, to encourage DIC widows to remarry, thereby removing them from the DIC rolls and saving the Federal Government money; and second, bring veterans' benefits statutes in line with other Federal survivor programs, e.g. Federal Civil Service employees, Social Security annuitants, which granted reinstatement rights in this instance.

However, in 1990, Congress passed the Omnibus Budget Reconciliation Act of 1990 which abruptly terminated DIC reinstatement rights for widows who lost these benefits upon remarriage. To make matters worse, the Department of Veterans Affairs never formally notified DIC widows of their loss of reinstatement rights, thereby relegating notice to be disseminated by word-of-mouth or by notices in publications of military and retiree organizations.

As you would suspect, many widows continued to apply to the VA for reinstatement of their benefits, only to learn for the first time that their benefits were being denied. Imagine the shock and surprise of these widows who were never notified of the change in the law, many making financial planning decisions under the mistaken assumption that they would be eligible for reinstatement if their subsequent marriage ended by death or divorce.

Mr. Speaker, my bill will reinstate DIC eligibility for widows who were remarried before November 1, 1990 and whose second or subsequent marriage is terminated by death or divorce. Recognizing the budget restraints under which Congress must operate, I initially have set the compensation rate at 50 percent of the current DIC rate. The bill would also require the Department of Veterans Affairs to notify all current and previously eligible DIC widows of the change.

I urge all of my colleagues to please consider supporting this bill.

TRIBUTE TO CHESTERFIELD SMITH

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Ms. HARMAN. Mr. Speaker, this weekend is the 80th birthday of a U.S. institution, Chesterfield Smith. A celebration to take place in Tampa, FL will no doubt include most of the luminaries of the bar over the past half century. Most luminous among them will be the birthday boy.

Chesterfield Smith is truly America's lawyer. Few can imagine—let alone accomplish—many of the things he has. He was one of the first to conceptualize the national law firm. He built one, Holland and Knight, which is a Florida-based powerhouse.

He was also the first to conceptualize an activist agenda for the American Bar Association which he served as president in 1973, and for many years before and since. Then he accomplished it, and that institution was forever changed.

His challenge to his, and my, profession has been to provide quality, affordable legal services for all persons in need. He has fought for funding for the Legal Services Corporation, but also for personal responsibility by individuals and law firms to fill in where Government funding has been lacking. He has always been a role model.

Mr. Speaker, Chesterfield will tell you in his best Southern twang that he's "just a country lawyer." He certainly is. And he's a lot of other things. Probably more than anyone else, Chesterfield Smith has changed the way law is practiced and the way the world's largest law advocacy organization operates. Not bad.

And, Mr. Speaker, let's not speak in the past tense. As one who has collaborated with Chesterfield for more than a quarter century, I know how much he still can do. The next generation of lawyers needs him to conceptualize ever new forms of practice and advocacy.

As one of Chesterfield's many, many fortunate friends and self-appointed leader of his congressional fan club, I send warmest wishes to him, Jacqueline and his partners and colleagues on this very special milestone.

TOWARD A FREE AND PEACEFUL CYPRUS

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. BLAGOJEVICH. Mr. Speaker, I rise today to reflect on Cyprus' troubled history. For years, the people of Cyprus have suffered under the yoke of Turkish aggression. But I also rise to look with hope toward the future. For recent events have left the people of Cyprus with the best hopes for peace they have had in decades.

Cyprus is a unique nation, one which has always served as a bridge between the cultures of East and West. The mix of cultures of the Cypriot people was for generations a blessing rather than a curse. Almost four decades ago, when Cyprus was granted independence from Britain, it appeared that for the first time in centuries the Cypriot people would be able to determine their destiny. But that opportunity was torn from their grasp by the threat of outside aggression. In 1974, that threat was realized when the Turkish military invaded Cyprus, dividing the island and causing immeasurable pain and suffering. While the idea of ethnic cleansing was not invented on Cyprus, it was carried out with brutal efficiency. Thousands were forced out of their homes, never to return. Families were torn apart, separated only by an artificial line drawn by aggression. Cyrpus' natural beauty was forever scarred by outside invaders.

As Americans, it is vital that we support the peace process in Cyprus while the opportunity remains. The United States is uniquely situated to play an important and constructive role in the effort to build peace in Cyprus. The President's recent appointment of Richard Holbrooke as his special representative to Cyprus is especially welcome. Ambassador Holbrooke has ably demonstrated his skill as a peacemaker and a diplomat. His role in the process only serves to reassure optimists that the opportunity for peace is real, and that the United States is deeply committed to the effort for peace in Cyprus. We cannot let this opportunity slip out of our grasp. We must stand with the people of Cyprus as they work to throw off the yoke of Turkish oppression.

IMPLICATIONS OF THE HAND OVER OF HONG KONG ON TAIWAN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. MANTON. Mr. Speaker, on June 30th of this year, British rule over Hong Kong ended and the former British colony was returned to China. I was honored to be a member of the congressional delegation to observe the reversion of Hong Kong to PRC control. On that same day, as the celebration was taking place in Hong Kong, Taiwan's President Lee Teng-hui, authored an article which was published in USA Today discussing the implications of the hand over of Hong Kong for the future relations between the 21 million people living in a democratic society in Taiwan and the more than one billion people who have yet to experience freedom and democracy on the Chinese mainland. As President Lee correctly notes in his article, The Republic of China has undergone a dramatic transformation from a country operating under martial law to a full fledged democracy with a vibrant market economy.

President Lee is justifiably proud of the achievements his country has made in the past decade, much of which has taken place while President Lee has been Taiwan's leader. President Lee states in this article that he hopes the government on the Chinese mainland will undergo a similar democratic transformation in the next decade but properly notes that, to date, there has been little progress on the mainland toward achieving the twin goals of freedom and justice. President Lee believes when this transformation occurs on the mainland, reunification across the Straits of Taiwan will become a reality.

Mr. Speaker, having seen Taiwan make the dramatic change to market-oriented democracy, President Lee believes Hong Kong should be able to maintain its democratic status and the Chinese mainland ought to embrace democracy in the first decade of the 21st century. This is a lofty goal, but one that I know all of my colleagues hope will occur. In the meantime, we must look toward the island of Taiwan as a beacon of democracy in a very complex and rapidly changing area of Southeast Asia. In the light of the recent events in Hong Kong, I urge my colleagues to read the article I included with my statement.

TAIWAN YIELDS MODEL FOR A FREE HONG KONG

(By Lee Teng-hui)

Today, the era of colonial rule will come to an end in Hong Kong. This is a proud event for all Chinese wherever they are, and offers a new opportunity for creating a democratic Chinese nation. We earnestly hope that the Beijing authorities will be able to maintain the prosperity and stability of Hong Kong, and will ensure that the people of Hong Kong continue to enjoy freedom, democracy and basic human rights. This is the only way to act in accord with the joint values and trends of mankind today, regional peace and development, and the common dignity and interests of all Chinese people.

Taiwan's experience offers reason for optimism.

A little more than one year ago, the Republic of China successfully held a direct presidential election on Taiwan, completing a crucial objective of our political reform. At the time, the concept of constitutional government stressed by Americans over two-hundred years ago kept coming to my mind: ". . . all Men are created equal, . . . they are endowed by their Creator with certain unalienable Rights, . . . among these are Life, Liberty and the Pursuit of Happiness . . . to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Government."

Indeed, with the joint effort of the entire populace and their government, the Republic of China has upheld the principle of popular sovereignty on Taiwan, and has succeeded in lifting martial law, liberalizing the formation of political parties, realizing the practice of free speech, re-electing all national parliamentarians who had been in office for a long time, and carrying out a direct presidential election. Through these endeavors, the Republic of China has undergone profound change, and has become a full-fledged democracy.

However, we cannot overlook the fact that still over 20 percent of the world's population, most of whom live on the Chinese mainland, have no way to enjoy these rights. The Chinese on both sides of the Taiwan Strait share the same cultural and racial heritage. Thus, there is no reason why we cannot jointly build a system of democracy and freedom, and fully exercise our God-given rights.

In 1979, before martial law was lifted in Taiwan, a number of protesters demonstrating against government censorship of their magazine were arrested and jailed in what became known as the Kaohsiung Incident. At the same time, the Chinese communists authorities arrested the human rights activist Wei Jingsheng. Today, many of those involved in the Kaohsiung Incident have redeemed themselves through the ballot box and have become important elected political leaders on Taiwan. However, Mr. Wei remains in jail. The marked differences in systems and values between the two sides are the fundamental reason why each of the two parts of the China we all want to see reunified one day still remain separate political entities.

Democracy has become a world trend, and is without doubt the greatest achievement of mankind this century. One reason civilization continues to progress is that we have the courage to realize our dreams, and we have the heart to care about each other and provide mutual support. We must continue to uphold this spirit and sentiment, so that democracy ultimately becomes the common way of life of all humanity. May people living in every corner of the global village enjoy democracy!

Thus, we cherish the young buds of democracy on the Chinese mainland. Certain forms of election in rural townships and villages have spread on the mainland in recent years. We are happy to see it succeed and call on the Chinese mainland authorities to show the courage and determination to boldly take the grand route to democracy. Join with us and bring democracy to all of Chinese society, seeking everlasting well-being and peace for the Chinese people!

Unquestionably, if Taiwan can achieve democracy, then Hong Kong should be able to maintain democracy, and there is no reason why the Chinese mainland can not do everything possible to head in that direction. This is the true way to solve the China problem.

In the 21st century, Mankind will certainly prove that "All roads lead to Democracy!"

SANCTIONS ON RUSSIAN ENTITIES

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Ms. HARMAN. Mr. Speaker, today I am introducing bipartisan legislation to express congressional sentiment that the proliferation of missile technology to Iran from any source in Russia be stopped.

There is substantial evidence in support of allegations that Russian entities have provided assistance to Iran's missile program. According to February 1997 reports by the Los Angeles Times and the Washington Times, Russia has transferred SS–4 guidance components to Iran. In May, the Washington Times further reported that two Russian companies, the Central Aerohydrodynamic Institute and Inor, had contracted with Iran to supply missile parts and technology, including a wind tunnel for missile design, missile design software, and laser equipment. In a recent unclassified report, the CIA said that Russia has been a primary source of missile-related goods to Iran.

The transfer of this technology is serious. Missiles modeled on the Russian SS–4 would have a reach of 2000 km—enough to threaten United States installations in the Middle East and Persian Gulf, Israel, and our NATO ally Turkey. Ironically such capabilities also threaten the territory of Russia itself.

Let's not forget the lessons of the Persian Gulf war, when Iran targeted Israel with SCUD missiles: rogue countries that have these capabilities will not be deterred. Next time they may choose to add chemical or biological warheads.

I have expressed these concerns regarding Russian assistance to Iran to Vice President Gore, National Security Advisor Sandy Berger, and the Secretary of State Madeleine Albright. They assured me that the Administration would address this issue and subsequently, it did raise it with the highest levels of the Russian Government.

In several meetings, I have also expressed my strong concern to Russian Ambassador Yuliy Vorontsov. The Ambassador told me that the Russian Government shares our concern about the threat of proliferation. He said it is investigating seriously these allegations to determine responsibility. Yet, we have not seen any tangible efforts so far that Russia has tried to punish those entities responsible for exporting missile technology to Iran.

Mr. Speaker, this resolution expresses the sense of Congress that the Russian Government take all appropriate steps to cease the cooperation between Russian entities and Iran. The Russian Government has the legislative and regulatory tools at its disposal to stop unauthorized transactions of missile technology. We are asking that they use them.

If we do not see clear evidence that Russia has taken practical steps to stop missile assistance to Iran, the resolution calls on the United States to enact the sanctions provided for in Presidential Executive Order 12938 on the Proliferation of Weapons of Mass Destruction. This means freezing the assets and seizing the property of those entities responsible for proliferation.

The resolution also calls for tougher standards for providing United States aid to Russia.

Lastly, the resolution urges our European allies to join us in taking action against those Russian organizations and individuals responsible for exports that violate international agreements.

Mr. Speaker, we are aware of the special constraints on the Russian Federation as it seeks to improve its export control system—not the least of which are the economic conditions of that country. But stopping missile technology proliferation to Iran is in everyone's interest. It is time for Russia to act.

I urge my colleagues to support this bipartisan concurring resolution

HOUSE OF REPRESENTATIVES—*Wednesday, July 23, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. LATOURETTE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 23, 1997.

I hereby designate the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we pray to You, O God, to reveal the high purposes of life, we also remind ourselves that You have given to us the responsibility to use our minds and hearts and hands to accomplish those high purposes. You have commanded that we follow the road to peace, so may we use our minds to discover those roads; You have told us to feed the hungry, so may we use our hands to till the soil and plant the crops; You have told us to be compassionate to all people, so may our hearts compel us to help heal the broken and strengthen our communities. We thank You, O God, for giving us the heavenly vision and we pray that we will realize that vision in our daily lives. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Colorado, Mr. BOB SCHAFFER, come forward and lead the House in the Pledge of Allegiance.

Mr. BOB SCHAFFER of Colorado led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2016. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2016) "An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BURNS, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. CRAIG, Mr. STEVENS, Mrs. MURRAY, Mr. REID, Mr. INOUYE, and Mr. BYRD, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minute speeches from each side.

PRESENTATION OF FREEDOM WORKS AWARD TO THE INDIANAPOLIS LEGAL AID SOCIETY

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I am excited today to present the Freedom Works Award to the Indianapolis Legal Aid Society for their fine work in providing legal representation to the poor of central Indiana. I established the Freedom Works Award to celebrate freedom by recognizing individuals and groups who take personal and private initiative instead of promoting reliance on the Government. Today I am honoring the Indianapolis Legal Aid Society which is the largest organization in Indiana devoted solely to the nonideological, nonpartisan provision of legal assistance to people who cannot afford to hire a lawyer.

Mr. Speaker, the Society employs four full-time and three part-time lawyers who, with a small group of volunteer lawyers, personally assisted more than 7,000 clients in 1996. In fact, last year the Society received inquiries from more than 15,000 people seeking legal assistance in such matters as family law, custody disputes, and landlord-tenant rights.

Despite operating on a limited budget and not receiving raises for 4 years, the Society's committed staff continues to assist the poor in central Indiana in a compassionate and efficient manner, providing hope for citizens who have nowhere else to turn. This group reminds us of the thousands of lawyers across the Nation who provide free legal assistance to low-income Americans through their own generosity. In fact, pro bono attorneys contribute over five times the number of hours worked annually by the staff attorneys in the Legal Service Corp's network, and Mr. Speaker, this fine group has achieved this success without receiving a single penny of government funding. Instead they have relied on the generosity of private groups and individuals who are committed to the principle of equal justice under the law for all citizens.

Mr. Speaker, access to the legal system by all our citizens is a cornerstone of American democracy. The Indianapolis Legal Aid Society is setting an example for us by recognizing the need and taking private initiative to address it effectively and efficiently. I am very proud today to honor them for their fine achievements.

INDEPENDENT CONTRACTOR CLAUSE WILL MOVE OUR ECONOMY IN THE WRONG DIRECTION

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, Federal Government policy has a major impact in the way that employers treat their workers. It is important that Federal policy encourage workers to take the high-skill, high-wage road. For the good of our Nation, employers need to invest in the training benefits and long-term productivity of their workers.

But, Mr. Speaker, the independent contractor provision would move our economy in the wrong direction. It would encourage employers to abandon their commitment to their workers by moving them off the payroll. It would strip them of their health care and pension benefits. Employers who abandon their workers would obtain a competitive advantage over socially responsible companies. This is very unfair to

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the companies that respect their workers and invest in their skills and benefits.

That is why business organizations such as the Information Technology Association of America oppose the independent contractor clause. With its 11,000 member companies the ITAA says the independent contractor provision will harm legitimate businesses and result in the growth of businesses with no employee benefits.

Mr. Speaker, that is the wrong direction for America. The independent contractor clause needs to be deleted from the final budget bill.

LIBERALS ARE UNWILLING TO GIVE THE MIDDLE CLASS A BREAK

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, the liberals are simply unwilling to give the middle class a break. They are playing the class warfare card again. They seem to do it all the time; it is happening again. Thanks to the wonders of something called the family economic income, middle-class families are defined as rich, and then of course the government should have the right to take away half of what one earns because the politicians should be allowed to spend that money instead of us.

Mr. Speaker, I think we ought to let the American people keep the money in their own pockets, decide how they want to spend it, not the politicians up here in Washington, and all of this is in the interest of fairness, so to speak. But if the family economic income argument is not working, then the liberals turn to their other rhetorical shenanigans. They want to turn a tax cut into a program, and get this:

They want to give a check to people who are not paying any income taxes.

This tax cut is supposed to be a cut for people who actually pay taxes. It is supposed to help particularly the middle class.

The American people in this country are overtaxed, particularly the middle class. Let us give them a break, and let us do it now.

REPUBLICAN SHIP OF STATE SPINNING OUT OF CONTROL

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, I read some alarming news lately about a ship spinning wildly out of control. Power was mysteriously cut but nobody could say who pulled the plug. The ship's commander was suffering from nervous palpitations. Rumors spread that he could not fulfill his duties or that his whole crew might have to abandon ship.

People said, "They've been up there too long, it's time to bring them down."

Were these the reports of the Russian spaceship *Mir* floating high above? No, it was the Republican "ship of state" right here on Capitol Hill spinning out of control, losing power, a nervous captain at the helm. Like the cosmonauts in outer space, the Republicans are far removed from people here on the ground.

How else can we explain the GOP tax bill, a bill with tax cuts for the wealthiest but nothing, zero, for parents working full time to stay above the poverty level? There is only one explanation for tax cuts that are upside down. They must have been written in the weightless atmosphere of outer space.

In the last Congress, the Republicans had a Contract With America. Today they have lost contact with Earth.

REPUBLICAN TAXPAYER RELIEF ACT FOSTERS THE AMERICAN DREAM

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, every parent wants to leave their children better off than they were. But as our Government makes it more and more difficult for people to leave the product of their hard work to their loved ones, this American dream is becoming almost impossible.

As hard-working men and women reach retirement, they are forced to sell their farms or small businesses because they cannot afford the death tax. Our Taxpayer Relief Act fosters the American dream by lowering this tax and other tax burdens on the shoulders of working men and women.

Clearly the best thing we can do for future generations is to help strengthen our economy, and we can do this by giving every homeowner, every inventor, every farmer and small businessman incentives to invest in America's neighborhoods and workplaces.

The Republican Taxpayer Relief Act is good for American families, and I urge my colleagues and the liberal Democrats on the other side to stop the distortions, stop the rhetoric, and start supporting real tax relief for the American people.

TAX FAIRNESS FOR WORKING AMERICANS

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, the Democrats have made it clear that they want to offer tax relief to working families. The President has made it clear that he wants to offer tax relief to working families. The American people have made it clear that they know the Republican tax plan favors the wealthy.

Now the chairman of the Committee on Ways and Means tell us that he will not offer a $500-per-child tax credit to all working families, but he wants huge tax breaks for the wealthy.

Mr. Speaker, the Republicans just do not get it. When they signed the Contract With America, they promised a $500-per-child tax credit to working families. Now they are breaking their promise to millions of working Americans. Police officers, nurses, teachers, firefighters, they pay taxes.

Mr. Speaker, the American people need to know are the Republicans going to make good on the contract they signed or is this just another case of promises made, promises broken?

REPUBLICAN AGENDA IS THE ANSWER TO AMERICANS' YEARNINGS FOR FREEDOM FROM GOVERNMENT

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, if we look across the sweep of history, we will notice that the human struggle has been a continuous struggle for greater freedom. From the Magna Carta to the Constitution of the United States, the struggle for greater freedom has been an unending battle against governments in power who fail to resist the temptation to abuse their power. People struggling against government tyranny is a theme that resonates throughout history and across the globe. Political freedom, economic freedom, and religious freedom; the focus of the struggle changes, but the direction of the goal and the inspiration for the cause have always remained the same.

The human soul desires freedom from government oppression, freedom to control one's destiny, and freedom to worship one's God. The Republican agenda is an answer to those yearnings for more freedom, lower taxes, smaller government, and the right to express our faith in the public square.

This is the direction to more freedom for all Americans.

ALL WORKING FAMILIES DESERVE RELIEF FROM TAXES

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SNYDER. Mr. Speaker, yesterday President Clinton expressed his firm commitment to stand for children of all working families, not just the ones covered by the Republican tax bill. It is wrong, Mr. Speaker, to ignore millions of taxpaying working families, including thousands of children in Arkansas. It is not class warfare to point out that payroll taxes deducted every 2 weeks out of checks are taxes, and all working families deserve relief from whatever taxes they pay, payroll or income.

CRACK THE CHAMPAGNE AND CALL ROBIN LEACH

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, guess what? My colleagues have heard this before, but if someone makes $54,000, they are now the rich. They just do not know it yet. Or at least that is what the Clinton administration has figured with their calculations on who should get a tax cut. With the stroke of a calculator they have created funny money. They have moved millions of Americans from the middle class to Beverly Hills, from Main Street to Rodeo Drive, from the minivan to the limo.

This new wealth in America includes a lot of people. Who are they?

Some 1.7 million union members are rich; 8.1 million government workers are rolling in dough; 2.4 million teachers better crack the champagne and call Robin Leach.

They are all rich according to the President and they just do not need a tax cut.

We should get serious. We have not had a tax cut in more than 16 years, and now we have a real chance to provide relief to our families. It is time for the left to stop twisting the truth about tax relief.

□ 1015

BASIC FAIRNESS IN THE MINIMUM WAGE

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, yesterday I introduced a bill to raise the minimum wage to $7.25 an hour by the year 2002. We raised the minimum wage a year ago and a lot of Republicans were dead set against it. They predicted it would ruin the economy. What did it do? It boosted wages for 4 million working families, unemployment dropped, inflation has been low, the economy has been moving, but despite this good news, many of my Republican colleagues will oppose another increase in the minimum wage.

I might say, these are the same folks that want to give a tax break to the wealthiest individuals in this country, the same Republicans whose tax bill gives nearly 60 percent of the tax breaks to people making a quarter of a million dollars a year or more, the same Republicans whose tax bill includes an all-out assault on the minimum wage with language about independent contractors that actually encourages employers to pay some workers less than the minimum wage.

If a person works hard in this country day in and day out, they do a good job, they should get a paycheck that is big enough to support their family. They need a tax break that favors them and not the very wealthiest in this country. We are not talking about buying BMWs here, we are talking about being able to have people to afford to buy a used Chevy. That is basic fairness. That is what this minimum wage bill is about. That is what the Democratic tax bill is about.

HOW TO GET RICH QUICK

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, over the weekend I saw this entertainer, Ed McMahon, on television. He was talking about how many of the viewers may be rich already and not even know it. I thought how similar that claim was to the ones we are hearing from Democrats today, that the American people, the average hardworking families earning between $20,000 a year and $75,000 a year, are somehow rich and may not even know it.

We do not have to watch the mail in order to find out whether we are wealthy. Under the Democrats' manipulation of income, we can just call the Treasury Department now and find out whether we are rich. In fact, it is the dirty little secret of the White House and the Democrat Party: Get rich quick, call the U.S. Treasury now, find out how they have taken your $45,000 income, and now they call you a millionaire on the House floor and suggest that you do not deserve a tax cut.

Call the number of the Treasury Department and find out about their dirty little manipulation of your income; 202–622–0120, 202–622–0120, the Treasury operators are standing by.

TWO CHOICES IN TAX CUT PLANS

(Ms. STABENOW asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. STABENOW. Mr. Speaker, I rise today on behalf of the hardworking people in middle Michigan who want very much to receive the benefits of the tax cuts that are being proposed here and discussed in the House of Representatives. We have two choices: We have individuals who now lead the House, who were the ones that proposed in the 1980's tax breaks for the wealthy, hoping that they would trickle down to our middle-class families and each of us who have been working hard every day; or tax breaks that go directly into the pockets of hardworking middle-class people.

The tax cut that I am supporting, that was put forward by the Democrats and the President, is advocating making sure that if a person has a home and they want to sell it, and that is where most of us put our savings, they get a tax break. If they have children, they get a tax break. If they are trying to send their children to college, they get a tax break. If they have a small business and they have worked hard and put all their sweat equity into their business over the years, they get a tax break. If they have a family-owned farm, they get a tax break.

What we do not do is focus the tax breaks on the top 2 percent. I urge we adopt this program.

LOOK AT THE RECORD ON TAX CUT PROPOSALS

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, those who are following this debate on taxes may have a hard time trying to figure out which party is being candid on their respective tax-cutting claims. My suggestion is that they simply look at the record. When we do, we see our friends on the Democrat side consistently opposing tax cuts.

Their argument is that middle-class tax cuts are giving a tax break to the wealthy. But the record shows that the so-called wealthy they are talking about are people earning about $50,000 a year. On the other hand, when they talk about giving a tax cut to working families, they really mean giving a tax cut to people who do not pay any Federal income taxes.

The choice is simply this: We can support the Republican proposal that affirms the right of working families who pay taxes to keep more of the money they earn. Or, we can support our friends on the Democrat side, who tell those same families they are wealthy, and want to give tax money to people who do not pay taxes.

LONG-TERM EFFECTS OF REPUBLICAN TAX PROPOSALS

(Mr. KIND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, I, too, want to rise today to express some concern that I have about the tax cut. We have heard a lot of discussion about who is going to benefit from the tax cut. I want to give a different perspective. That is the perspective of my son, Jonathan, who is approaching his first birthday, and what this tax cut is going to mean to him.

The Treasury Department and even the Congressional Research Service, the independent investigatory research arm of this Congress, have both indicated that sure, although the tax cuts might be able to reach a balanced budget within the first 5 years, it is 10 years from now, 15 years from now the backloaded provisions of these tax cuts are due to explode the deficit again, at exactly the time when my son Johnny and many, many children throughout this country are going to enter the work force.

What kind of message are we going to be sending to them in order to score a short-term political gain right now, by offering these huge tax cuts so they are going to explode the deficit early next century, without identifying the corresponding spending reductions to pay for it?

I did not come to Congress to vote for the type of tax measure that is going to jeopardize my son's future and the future of the children in this country.

GOOD NEWS FOR AMERICANS OBSCURED BY PARTISAN RHETORIC

(Mr. NEUMANN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUMANN. Mr. Speaker, first I would respond to my colleague, the gentleman from Wisconsin [Mr. KIND], and invite him to join us in the National Debt Repayment Act for the good of the future and his young child, because that would force us not only to balance the budget, but after we reach that, pay off the Federal debt, so his child may inherit a nation debt free, and they would not have to make interest payments.

But I also rise today to call attention to what is happening in Washington. When we listen to these 1-minutes back and forth, it is so partisan that people are forgetting what good is happening here for America and how much it means to our citizens.

We are on the verge of balancing the budget probably by 1999, 2 or 3 years ahead of schedule. Taxes are coming down for the first time in 16 years, the $500-per-child tax credit, capital gains is coming down, the death tax is coming down, college tuition tax credit, all good news for America. Medicare is restored, so our senior citizens can again rest assured Medicare will be there for them in the future.

I hear all this hysterical rhetoric about who is rich and who is not, but I can tell the Members this much, the folks I see on Sunday that are sitting there with three kids and the two parents next to them, one off in college and two kids still home, they understand a tax cut means they get to keep $2,500 more of their own money next year.

TAX RELIEF FOR AMERICA'S WORKING FAMILIES IS COMMON SENSE AND JUSTICE, NOT WELFARE

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, the American people are probably confused. Part of the confusion may come from the fact that we have so many millionaires serving in this House and in the Senate that I think the two bodies oftentimes lose touch with average Americans.

The average family in my district earns $22,000 a year. Under the Republican plan, most of those families would receive nothing from the $500-per-child tax credit. If they earned $60,000 they would receive benefits, but those who earn $20,000 would receive nothing.

Even Gary Bower, head of the Conservative Family Research Council, has criticized the Republican plan for denying tax relief to these working families who make less than $30,000 a year. He has said, "The family tax credit ought to go to any working family that pays income or payroll taxes."

When we provide tax relief to America's working families, it is not welfare, it is common sense and justice.

DEMOCRAT HOSTILITY TOWARD TAX RELIEF FOR THE MIDDLE CLASS

(Mr. PAPPAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAPPAS. Mr. Speaker, some things change, some things do not. It seems that the liberals fall into the second category. The truth is, the liberal view of tax relief is about as out of date as Barry Manilow.

Let us be clear. I have not thrown away all of my Barry Manilow cassettes, but I must say I do not listen to them much anymore. The problems with the liberal Democratic ideas are much more serious. They are much more serious because how they view taxes is much more than a matter of taste. It is a question of what is fair and what is not.

Tax policy has a critical effect on how many jobs are created, what kind of jobs are created, and of course, how much money we get to take home with us from working in those jobs. We would never know it from listening to the liberal Democrats. In fact, I cannot even recall the last time when they have even mentioned the importance of economic growth for the middle class, or how the tax proposal would affect economic growth.

So they are still singing the same old song about their hostility toward tax relief for the middle class; oops, I am sorry, I mean, in their eyes, the rich.

A SIMPLE DEBATE: MORE GOVERNMENT OR MORE FREEDOM

(Mr. RYUN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN. Mr. Speaker, what we are debating today is very simple: Do we believe, on the one hand, in more government, or, on the other hand, in more freedom?

Throughout recorded history, from the Magna Carta to the Constitution of the United States, the struggle has been the same: freedom from government tyranny. Political freedom, economic freedom, religious freedom, the focus of the struggle changes, but the direction and the goal of the inspiration for the cause have always remained the same: The human soul desires freedom from government oppression, freedom for control of one's destiny, and freedom to worship one's God.

The Republican agenda is an answer to that yearning. Mr. Speaker, we will meet one of those yearnings if we pass, when we pass, the Taxpayer Relief Act of 1997. The hard-working people of my district, the Second District of Kansas, are yearning to keep more of what they earn. After 16 years of wasteful government spending, it is high time that we grant them this freedom.

THE REPUBLICAN BUDGET PLAN IS NEITHER BALANCED NOR FAIR

(Mr. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS. Mr. Speaker, I believe there should be two goals that drive any budget plan in this Congress. One is balancing the budget in the short-term and in the long-term, and second is fairness.

I believe that anyone that looks at the Republican proposal as of today would conclude that their plan fails on both parts. It unbalances the budget, and it is unfair. In fact, the Republican tax plan should be called the Unbalanced Budget Act, because like the mistakes of 1981, when Congress exploded the deficit with specified tax cuts and unspecified spending cuts, this plan would provide huge tax cuts not balanced by any spending cuts. This would be the Unbalanced budget Act.

On the issue of fairness, I would simply say that trickle-down economics was unfair in the 1980's, and trickle-down economics is unfair in the 1990's.

The fact is that the gap between working low-income and middle-class American families and the wealthiest Americans has increased. The Republican tax plan would make that situation even more unfair.

□ 1030

ANNIVERSARY OF THE PASSING OF HON. HAMILTON FISH

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, today is the first anniversary of the untimely death of one of our outstanding colleagues, Congressman Hamilton Fish.

As ranking member on the Committee on the Judiciary, Congressman Fish was known as a champion of civil rights and as a Representative of New York's Hudson Valley for 24 years, he was known as a compassionate and effective spokesperson for the interests of his district.

Our crime bill of 1992 included Ham's initiatives to grapple with the challenge of providing safe and secure environments for our young people. It is expected that our Committee on Appropriations will approve continued funding for the institute now named in Ham's memory which seeks solutions for juvenile violence in our Nation's schools.

Congressman Hamilton Fish continued to work with this institute until a week before his passing. It is a fitting and living memorial to a remarkable legislator and to a good friend.

TAX RELIEF

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me really tell you how to spell relief: a tax plan for teachers, police officers, firefighters, nurses, waiters, waitresses, bus drivers, a tax plan for working people. There is something that is very curious about the Republican statistics and analysis of why they want to give 67 percent of their tax plan to the wealthy. They reject the Treasury Department's independent analysis, the Treasury Department that serviced Presidents Bush, Nixon, and President Reagan, which says that categorically the Republican plan has a fairness problem.

America, listen to this debate. It is not frivolous. It is real. If you want a tax plan that addresses a child tax credit for working people who they say do not pay taxes, but yet when you take someone who works every day, they might be working for the janitorial service but they are working every day paying payroll taxes or FICA taxes, you know what we mean. They do not get a child tax credit. Spell relief with a Democratic tax plan for nurses, working people all over America.

TRUTH AND THE TAX PACKAGE

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, sometimes you have to wonder if those on the other side who are talking about the tax package are misinformed or simply uninformed. Maybe they have not read the bill. Maybe they are so uncomfortable with the idea of tax cuts that they are attacking the bill out of habit more than conviction.

Whatever the case, it seems that the rhetoric I am hearing has no connection to reality. If a person were to call me and say, hello, I make $500,000 a year, how would your tax proposal affect me, I would have to give him bad news. Would he be eligible for $500 per child tax credit? No. Would he be eligible for the education tax credit? No.

That is interesting. I thought that those were the two biggest provisions that were included in this tax package. They are. Not a penny of it goes to high income people. Just from this fact alone, we can see that the charges that this tax cut package goes primarily to the rich are false.

A FAIR TAX PLAN

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of Wisconsin. Mr. Speaker, if Americans are looking for a fair tax plan, they should be looking to the Democratic tax plan and not the Republican tax plan. The Republican tax plan in the second 5 years explodes the deficit.

We just saw the figures from the Treasury which shows that in the last 5 years, there is a second 5 years, over 50 percent of the benefits go to people who are high income earners in this country. That is not a fair tax plan. What we have to do is deliver a tax plan that is fair to all Americans, that means people who are working as well.

I also want to compliment President Clinton because yesterday he recognized and supported the notion of some sort of means testing for Medicare. I thought that this was a brave, bold move because we have to recognize that it is inevitable that in the years to come we are going to have to make some changes to Medicare. We should not have the hamburger flippers at McDonald's subsidizing those who have done very well. I think that this is a change that is going to come and it is best to be done through the IRS. It is best to be done in a worthwhile fair manner.

TAX CUTS AND EXCUSES

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, the liberal Democrats, the ones that gave us the largest tax increase in the history of this Nation in 1993, go through more excuses why they are opposed to tax cuts than Victor Newman on "The Young and the Restless" goes through wives.

Another striking parallel is that these liberal Democrats change excuses with as little shame as Victor has when he changes wives. One excuse is as good as another, it seems. It kind of makes you wonder if these liberal Democrats can be trusted to honor their agreement to tax cuts. After all, sooner or later they will come up with a new excuse why the middle class should be denied a long overdue tax cut.

The excuse does not even have to be a good one, as long as they can act like they are morally outraged. Sure, we can make up new definitions of who the rich are so that millions of middle-class families can kiss their tax cuts goodbye. Or we can falsely claim that letting people keep more of their own money is some kind of lucky tax giveaway. Or we can complain that people with no taxes to cut are not going to get a tax cut. Excuses, excuses.

AMERICANS WERE PROMISED TAX RELIEF

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, talk about little shame or no shame, I rise today to remind my Republican colleagues including the last speaker and others this morning of a promise that they made to the American people just a few short years ago; do they remember? The Contract With America, item No. 5 of that contract promised a $500 per child credit to all, all of America's families who work and who pay taxes.

Now my Republican colleagues want to deny the child tax credit to millions of families who earn less than $30,000 a year. These parents are carpenters, dental assistants, rookie police officers, kindergarten teachers, but the Republicans call them welfare recipients.

These are working parents. They are not on welfare. They work hard every single day and they pay taxes, usually more in payroll taxes than in income taxes, and more in payroll taxes, I would imagine, than the wealthiest one 1 or 2 percent that our Republican colleagues would like to reward.

Democrats believe these are the parents who deserve the tax relief. Remember, my friends, the contract that you signed.

SUPPORT THE REPUBLICAN TAX CUT PROPOSAL

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, 2 million low- and middle-income Americans are waiting to see if this Congress will eliminate their tax burden. That is right, Mr. Speaker. According to the nonpartisan Joint Committee on Taxation, 2 million Americans will no longer pay income taxes at all if the Republican House-passed tax cut proposal becomes law; not 2 million rich Americans, as my Democrat friends from the other side of the aisle would have us believe, but 2 million struggling low- and middle-income Americans who barely make enough to support their families but still are forced to pay income taxes. Our tax cuts help 2 million Americans that most need it by taking them off the income tax rolls completely.

Mr. Speaker, I encourage my colleagues to support the Republican House tax cut proposal that will truly benefit all Americans.

OUR QUEST FOR TAX RELIEF

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I feel like our quest for tax relief is like a few lines from the song by the Lord of La Mancha: To dream the impossible dream, to right the unrightable wrong, to bear with unbearable sorrow.

It has been 16 years since we have had tax relief, and still we hear so many reasons why we have to vote against the tax relief plan.

When you do not want to do something like vote for tax relief, any excuse is a good excuse: too much for the rich, even though the rich are considered a family of four where each parent is making $32,000 a year; not enough income tax relief for those who are considered poor, even though they pay no income tax.

There will be only one tax relief package to vote for, it will be the agreement between the Congress, the President, and the American people. There will be no excuse for voting against tax relief.

Mr. Speaker, let us dream the impossible dream. Let us give tax relief to working Americans.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2003

Mr. EDWARDS. Mr. Speaker, I ask unanimous consent that I be removed as a cosponsor of H.R. 2003.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2003

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BUDGET ENFORCEMENT ACT OF 1997

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 192 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 192

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2003) to reform the budget process and enforce the bipartisan balanced budget agreement of 1997. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by Representative Barton of Texas or his designee and a Member opposed to the bill; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], my colleague and friend, pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, this rule and today's debate reflect the essence of an agreement reached on June 25 as the House moved to pass legislation implementing the historic budget agreement. That agreement was to allow an up or down vote prior to July 24 on H.R. 2003, which had been offered as an amendment to reconciliation by the gentleman from Texas [Mr. BARTON], the gentleman from Minnesota [Mr. MINGE], and some of our other colleagues. This rule fulfills that agreement. Promises made; promises kept.

Today this House will vote on H.R. 2003, a budget process reform proposal advocated by a bipartisan group of Members. This rule is limited just to provide for the agreement and it does not allow amendment. Not only is this customary for legislation that deals with entitlement and tax legislation within the jurisdiction of the Committee on Ways and Means, but it also captures the moment at which the actual agreement was made to bring this forward to allow the House to consider H.R. 2003 as presented on June 25.

The rule provides for 1 hour of debate in the House to be equally divided by the gentleman from Texas [Mr. BARTON] and an opponent. We have discussed in the Committee on Rules that the time will be divided in such a way as to accommodate Members from both sides of the aisle on both sides of the issue and for all of the committees with an interest. Managers will yield floor time appropriately. In addition the rule provides for the customary motion to recommit.

Mr. Speaker, as I have outlined, Members understand that we have gone through an unusual process here to get to this point. All three of the primary committees with jurisdiction over this legislation, that is, the Committee on the Budget, the Committee on Ways and Means, and the Committee on Rules, have agreed to waive their right to weigh in on this proposal in the interest of granting H.R. 2003 its unfettered vote as promised.

For something of this magnitude and complexity, that in itself is rather extraordinary under Republican leadership. In addition, in doing this Members should be aware of a process that has been under way for some time in the Committee on the Budget, the Committee on Rules, in the policy committee and among various groups of individual Members to reach deliberative and consensus solutions on how best to reform our budget process. In other words, we are focusing on this anyway, and we are now taking this extra step because of this arrangement with the gentleman from Texas [Mr. BARTON] and the gentleman from Minnesota [Mr. MINGE].

I think we all agree that there is a very real need for review and reform of the process of our budget. But that effort should be done, in my view, in a deliberate and inclusive way that takes full advantage of the expertise that can be found within our committee system which has served this institution and this country so well over the years. I have always argued that changing the budget process must lead to an improvement in the process, not just a different, equally flawed approach. Change for change's sake is not going to get us anywhere.

As chairman of the Subcommittee on Legislative and Budget Process, I am a little bit familiar with the problems of our current budget framework. Not only is it complicated and hard to understand, but it frankly does not work very well and it does not hold elected officials accountable enough, of course. Moreover, I agree with the proponents of the legislation before us today that our current budget process does not adequately confront the challenge of imposing discipline on entitlement spending, which is a very tough subject.

In the Committee on Rules we held three hearings in the last Congress on the subject of budget reform. We have been working closely with the Committee on the Budget this year to develop proposals for reform. The gentleman from New York [Mr. SOLOMON] and the gentleman from Ohio [Mr. KASICH] have committed to developing a comprehensive budget process reform package in this Congress. So we are on our way to doing this anyway.

In the short-term I have been very pleased with the cooperative effort we have had with the Committee on the Budget on a bipartisan basis vetting what I will call cleanup provisions in reconciliation to streamline existing procedures. This is an important first step in budget process reform but obviously it is not comprehensive or complete.

The bill before us today has a different parentage. It is not the business as usual approach of the committee system. It is a product of an evolution from Member to Member, and outside group to outside group over several years. It has not been properly vetted through the committee system, and its authors have admitted as much by saying that further changes are needed.

In the Committee on Rules last night we heard discussion of the need for "technical amendments and revisions in this bill."

☐ 1045

So it is not quite right even yet.

In my view, the problems with this bill go beyond drafting errors into substance. For instance, I do not think we will be improving the transparency and the credibility of our budget process by grafting 15 new very complicated sections onto the already complicated Budget Act.

In addition, I am troubled by the authority this bill cedes to the President to define the parameters of budget enforcement.

I also have concerns that this bill represents a first step down the very dangerous road toward automatic tax increases. That is what I said. Automatic tax increases. I do not think we are ready for that yet. It threatens to undo all the agreements and commitments that have been made to provide genuine tax relief to America's taxpayers.

I cannot support an approach that gives the President the authority to set in motion indefinite delay in the child tax credit that we are working so hard for, or delay of the capital gains tax we are working so hard for, or delay of the estate tax reduction we are working so hard for, or a host of the indexing provisions we are talking about.

Our budget problems are not the result of too little revenue. They are the problem of too much spending and too much government and we all know it. In this regard, this bill operates under a basic flawed assumption.

With respect to entitlements, this bill is also troubling. I served on the Kerrey Commission on entitlement and tax reform, and I learned a great deal in the process. I well understand the problem we have with entitlements. We are on an unsustainable trend and we have to make some tough decisions, but this bill raises almost as many questions as it answers in terms of the process by which the very important decisions about handling entitlement spending would be made. It puts Social Security COLA's at risk of automatic spending cuts.

Now, I cannot imagine anybody who really would stand up for that proposition to say we are going to put Social Security COLA's into an automatic spending cut process. That is not going to hack it with the people that we represent and it should not.

Also, this approach that we are going to consider today provides for the possibility of automatic increases in Medicare premiums. Again, I do not think the constituency we represent, certainly not mine in southwest Florida, is going to jump up and applaud very loudly automatic increases in Medicare premiums.

Mr. Speaker, the proponents of this legislation are sincere in their effort and I congratulate them on it. They are striving to get enforcement teeth into the budget process, and we need it and I agree. It is just a question of how and when, and I do not think their approach today is how or when.

I admire their persistence in getting today's debate. It shows good leadership and good commitment, and I welcome them into our process through the committee process of budget reform, particularly focusing on enforcement with teeth.

I find the product we are working with today seriously flawed. I hope the House will defeat it so we can get back to work in developing the budget process reform that we have been working on.

Mr. Speaker, I submit for the RECORD the following section-by-section summary of H.R. 2003 and several letters concerning this issue:

SECTION-BY-SECTION SUMMARY OF H.R. 2003, THE "BUDGET ENFORCEMENT ACT OF 1997" PREPARED BY THE MAJORITY STAFF OF THE COMMITTEE ON RULES, JULY 22, 1997

GENERAL SUMMARY

H.R. 2003 establishes a new set of budget enforcement procedures specifically for the purpose of enforcing the direct spending levels and the deficit and revenue targets assumed in the Bipartisan Balanced Budget Agreement of 1997. This Act would be a free-standing set of procedures, another layer of budget rules and requirements laid over top of the existing Budget Act. The President and Congress would now be required to follow the rules and procedures of three different, yet comprehensive statutes (the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985 and the Budget Enforcement Act of 1997), all designed to dictate the actions of the budget process.

This Act contains two titles. The first outlines how the goals of the budget agreement will be measured and monitored and what the distinct roles of the President and the Congress would be in this monitoring process. The second title provides the methods by which the spending levels and the revenue and deficit targets will be enforced through sequestration and/or a delay of tax reductions.

Section 1: Short Title and Table of Contents

This section grants this Act the title of the "Budget Enforcement Act of 1997". This section also lays out the table of contents for the Act's 15 new free standing budget process provisions.

Section 2: Definitions

This section provides the definitions for various budgetary terms as they are to be understood in implementing the provisions of this Act including the following: "eligible population," "sequester and sequestration," "breach," "baseline," "budgetary resources," "discretionary appropriations," "direct spending," "entitlement authority," "current," "account," "budget year," "current year," "outyear," "OMB," "CBO," "budget outlays and outlays," "budget authority and new budget authority," "appropriation act," "consolidated deficit," "surplus," and "direct spending caps."

Many of these terms and definitions are similar to those currently used and defined in the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 (the Gramm-Rudman-Hollings Act). However, there are some new terms and some old terms with new definitions. For example, the definition of "sequester and sequestration" is the same as that used in Gramm-Rudman-Hollings while the definition of what constitutes a "breach" is different than that contained in current law. Under current law "the term 'breach' means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be."[1] Under H.R. 2003 "the term 'breach' means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct sending cap for that fiscal year." For the purposes of this Act a "breach" is defined as first only applying to direct spending and secondly as only applying to budget outlays as opposed to budget authority or outlays. Since the Act does not repeal any of the current Budget Act, this bill adds a second definition to what constitutes a "breach". Other new terms include "direct spending caps" and "consolidated deficit". Other older terms with new definitions include "discretionary appropriations" and "baseline".

Title I—Ensure that the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

Section 101: Timetable

This section establishes a new timetable for completion of the new requirements placed on the President and Congress under this Act. This timetable would be an addition to the current timetable relating to the submission of the President's budget, congressional consideration of a budget resolution and any required reconciliation legislation and any sequestration or budget reports required of OMB or CBO.[2]

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*Footnotes at end of article.

Due to the fact that these new procedures would be an addition to the current rules, certain difficulties and complications arise. For example, the Congressional Budget Office would now be required to submit two reports to Congress, one by January 15[3] and another by February 15.[4] There is no explanation as to who the two required reports differ or are similar. They are simply required.

Also, under current law, the President is required to submit his budget proposal by the first Monday in February. H.R. 2003 also requires the President to submit a "budget update based on new assumptions" by this same deadline. What this actually requires is unclear. Would this require the President to submit two budget proposals based on two different assumptions? Section 103 of the Act actually establishes a new point of order against Congressional consideration of any budget proposal that is not based on the "new assumptions" or that is consistent with the levels of this Act. Furthermore, having two timetables for the budget process, each with different requirements for both the President and Congress, in two different statues, further complicates the budget process.

Section 102: Procedures to Avoid Sequestration or Delay of New Revenue Reductions

Under this section the President is required to submit to Congress a legislative remedy if the required report by November 1 (and as soon as practical after the end of the fiscal year) of the Office of Management and Budget indicates any of the following:

1. deficits in the most recently completed year exceeded or in the budget year are projected to exceed the deficit targets established in this Act; or
2. revenues in the most recently completed year were less than or in the budget year are projected to be less than the revenue targets in this Act; or
3. outlays in the most recently completed fiscal year exceeded or in the budget year are projected to exceed the spending caps established in this Act.

The President's legislative remedy may take any one or a combination of three forms:

1. a reduction in outlays;
2. an increase in revenues, or
3. an increase in the deficit targets or spending caps or a reduction in the revenue targets.

However, the Act is unclear whether the President may propose a remedy that seeks to adjust the caps or targets for only a part of the breach or violation or whether the President must adjust the caps or targets to cover the entire breach. While one subsection of the bill lists it as an option for the President's package that same subsection also contains language preventing the President from using such an option. The President may also submit in writing, that because of economic or programmatic reasons none of the variances from the balanced budget plan should be offset. There is no definition as to what constitutes a programmatic reason for not offsetting the variance.[5]

Upon receipt of this report, with its proposed legislative remedy, Congress is required by November 15 to introduce the President's package as a joint resolution by the Chairmen of the Budget Committees of the House and the Senate. If the chairmen do not introduce the bill, any Member of the House or Senate may introduce the joint resolution after November 15. Also, by November 15, the Budget Committees are required to report the joint resolution with or without amendment. The timeline set out these expedited procedures is inconsistent as both the introduction and committee action must be completed by the same date.

Specifically, the Committee may either recommend the President's proposal or may recommend changes similar to those recommended by the President. However, if the President had recommended to adjust the caps or targets, the Committees could not recommend doing so by any amount greater than that originally recommended by the President. In this way the President solely determines the scope of the actions permissible by Congress.

If the Committees do not report by November 20, the committee is automatically discharged from consideration of the joint resolution reflecting the President's recommendation. (There is no explanation as to why the committee has until November 15 to report the joint resolution when the committee is not automatically discharged from further consideration until November 20.) Furthermore, the Act sets up that, upon this discharge, any Member may move to consider the resolution. There is no notice or time layover requirement stated. (Although, the next subsection says that the joint resolution would be considered pursuant to Section 305 of the Budget Act, which states that it is not in order to consider a resolution and its report—at which this point there would not be one—that has not laid over for five days.[6]) The joint resolution would be considered under the same procedures as that required for consideration of a concurrent resolution on the budget. Special procedures for consideration by the Senate and a conference are established. Most notable is the automatic discharge of the Committee on the Budget of the Senate by December 1 of any joint resolution passed by the House and transmitted to the House after a one day layover. Also, the Senate may initially consider a joint resolution which may propose to offset all or part of any reported breach. However, when the joint resolution reaches the stage of a conference, the conference committee may only report a resolution that proposes to offset the entire breach. The most glaring error of these procedures is that they fail to take into consideration the possibility that Congress may have adjourned sine die prior to this report having even been received by Congress. This may actually necessitate Congress coming into a special session after an election. In non-election years, Congress may actually be forced to stay in session until November 1 when the OMB report is due. These procedures are fatally flawed in many areas.

Section 103: Effect on President's Budget Submissions; Point of Order

The President is prohibited by this section from submitting a budget pursuant to Title 31 of the United States Code that is inconsistent with the spending, revenue and deficit levels established by this Act unless it recommends changes to those levels. This section also establishes a new point of order against the consideration of any concurrent resolution on the budget that is inconsistent with the levels established in this Act.

First of all, while the President is able to get around the prohibition placed on the Administration's budget submission by proposing to change the levels, Congress is not granted any exception to the point of order against consideration of a budget resolution that is different. In other words, in order for Congress to consider a budget resolution that calls for changes in the levels, it would have to waive the provisions of this section in order to even consider the President's recommendations. Congress is prohibited from considering the President's recommended changes. Furthermore, the actual legislative vehicle for consideration of changes in caps and/or targets is a reconciliation bill rather than a budget resolution since the latter is not signed into law.

Secondly, while the requirements of the President apply only to the budget submissions for fiscal years 1998 through 2002, the point of order in the House and Senate is indefinite.

Section 104: Deficit and Revenue Targets

This Act places in law the actual dollar levels of the Consolidated Deficit (or Surplus) targets called for in the Bipartisan Budget Agreement for fiscal years 1998 through 2002. It also establishes the consolidated revenue targets assumed in the Agreement for fiscal years 1998 through 2002.

Section 1 of H.R. 2003 defines the "consolidated deficit target" to mean "with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year." The term "consolidated revenue target" is not defined.

Section 105: Direct Spending Caps

This section establishes direct spending caps on the following major entitlements: the Earned Income Tax Credit, Family Support programs, Federal Retirement (Civilian and Military), Medicaid, Medicare, Social Security, Supplemental Security Income, Unemployment Compensation, and Veterans' Benefits. All other entitlements and mandatory spending programs not included in these major categories are to be lumped together under one account. Furthermore, one overall aggregate cap is to be placed over all of these individual direct spending caps.

Within thirty days of the enactment of this Act, the House and Senate Budget Committees are required to file identical reports containing the account numbers and spending levels for each specific category. Also, within thirty days of the enactment of this Act, OMB is required to submit to the President and Congress a report containing account numbers and spending levels for each category. The specific amounts for each category contained in these reports is deemed to have been adopted as part of H.R. 2003.

While the specific category spending limits established under this section are to be used for the purposes of measurement, monitoring and eventually enforcement, certain complications could arise. First, the reports filed by the House and Senate Budget Committees are nothing more than a statement of the priorities of these committees. The levels in the OMB report are the levels that actually are utilized. While the House and the Senate reports are required to be identical, there is nothing requiring the OMB report to be similar to that issued by these committees. The sole responsibility for determining these individual direct spending caps rests with the executive branch. Consequently, OMB will most probably use their account numbers and category spending limits for the reports they must file. Furthermore, the CBO has no role in these determinations.

Section 106: Economic Assumptions

The entire budget process established under this Act is to be monitored under common economic assumptions as set forth in the joint explanatory statement of managers accompanying H.Con.Res. 84, the budget resolution for fiscal year 1998. Any changes to the caps or targets must be computed using these same assumptions. There is no explanation as to who will be the final arbiter between the CBO and the OMB if any disagreements over economic assumptions arise over the next five fiscal years.

Section 107: Revisions to Deficit and Revenue Targets and to the Caps for Entitlements and Other Mandatory Spending

This section establishes procedures for the implementation and consideration and/or consultation by Congress of any changes to the spending caps or revenue and deficit targets. Upon the submission of the President's budget proposal in February, the OMB is required to include adjustments to the revenue levels for changes in revenue growth and inflation; adjustments to the direct spending caps for changes in concepts and definitions, net outlays, inflation, eligible populations and intra-budgetary payments; and adjustments to deficit targets as necessitated by adjustments in the other levels. These adjustments would be automatic and would not necessarily need Congressional approval. This type of adjustment is somewhat consistent with current law as applied to the discretionary spending limits.[7]

However, the Act establishes various obstacles in the path of adjusting the caps for any other reason. First, to amend the direct spending caps would require a recorded vote in the House and the Senate. It is also deemed to be a "matter of highest privilege" for any Member to insist on a recorded vote. This is required even though Congress did not originally have a recorded vote on establishing each direct spending cap in the first place. Also, there is no current understanding as to what a matter of "highest privilege" is. Presumably, such a motion as intended by the sponsors would preclude a motion to rise if in the Committee of the Whole or to adjourn if in the House.

Finally, this section places an unprecedented prohibition on the ability of the Rules Committee to waive any of the provisions of this subsection. (However, the Senate can do so by a three-fifth vote). The rules and procedures relating to the congressional budget process are exclusively within the jurisdiction of the Rules Committee and every legislative initiative enacted with respect to the budget process is done within the Constitutional rule-making authority of the House of Representatives. The Rules Committee still could waive the provisions of this section because it would merely have to report a resolution, which waives this section with respect to another resolution that "violates" this section. This is the so called two-step rule.

Title II: Enforcement Provisions

Section 201: Reporting Excess Spending

At the end of each fiscal year, OMB is required to compile a statement of actual deficits, revenues and direct spending for the fiscal year just completed. Specifically, the direct spending levels would be identified by the categories contained in section 105.

Based on this statement, OMB is required to issue a report to the President and Congress by December 15 for any year in which there is a breach, by more than 1% of the applicable total revenues or direct spending, of the targets or caps establish under this Act. The report will include the following:

1. each instance in which a direct spending cap has been breached;
2. the difference between the amount of spending under the direct spending caps for the current year and the estimated actual spending for the categories associated with such caps;
3. the amounts by which direct spending would need to be reduced so that the total amount of direct spending, both actual and estimated, for all of the categories would not exceed the amounts available under the direct caps for the applicable fiscal years; and,
4. the amount of excess spending attributable to changes in inflation or eligible populations.

This report is triggered only if the total violation of the revenue targets or spending caps exceeds 1% of the applicable total revenues or direct spending for that year. A lower percentage violation is deemed to be all right.

Section 202: Enforcing Direct Spending Caps

In any year in which direct spending exceeds the applicable direct spending cap—the individual or the aggregate—the breach would be eliminated pursuant to a sequester. This sequester would apply a uniform percentage reduction to all non-exempt accounts within that category in which the breach occurred. Sequestration in accounts for which obligations are indefinite would occur in a manner to ensure that obligations in the fiscal year in which the sequester occurred and succeeding fiscal years, are reduced. Furthermore, any "budgetary resources" sequestered from an account are permanently canceled. This sequester mechanism is similar in many respects to that under current law.[8]

Section 203: Sequestration Rules

In applying the sequester mechanism to the direct spending caps, this section establishes certain general rules to apply to all categories and certain special rules to apply to some categories. In general, a sequester is triggered if total direct spending subject to the caps exceeds or is projected to exceed the aggregate cap for the current or immediately preceding fiscal year. Also, a sequester will reduce spending under each separate direct spending cap by the proportion of the amounts each category breached its applicable spending cap.

Special rules are included with respect to the application of a sequester to certain entitlements involving indexed benefit payments, loan programs, insurance programs, and programs with state grant formulas.

Section 203 also provides that if a law is enacted prior to July 1 of a fiscal year that provides direct spending that would result in a breach of any direct spending cap during the current year, a within-session sequester should occur to eliminate the breach. Again this is similar to the within-session sequester under current law with respect to the enforcement of the discretionary spending limits.[9]

Section 204: Enforcing Revenue Targets

In any fiscal year in which actual revenues are less than the applicable revenue target in the preceding fiscal year or projected to be less than the applicable revenue target in the current year, the mechanism in this section takes effect. Based upon the statement of OMB pursuant to section 201(a), OMB shall issue a report to the President and the Congress by December 15 of any year in which revenues were less than the revenue target established under this Act for the preceding fiscal year or are projected to be less than the revenue target established for the current fiscal year if such a violation is more than 1 percent of the applicable total revenue target for such year. This report shall include the following:

1. all existing laws and policies enacted as part of any reconciliation legislation in calendar year 1997 which would cause revenues to decline in the calendar year which begins January 1, compared to those laws and policies in effect as of December 15 (i.e. any tax cuts scheduled to be phased in during the upcoming fiscal year under current law);
2. the amounts by which revenues would be reduced by the provisions of this section compared to policies in effect on December 15; and,
3. whether delaying the implementation of the provisions called for under current law would cause the total revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the applicable targets.

If a revenue target was not met in the preceding fiscal year or is not projected to be met in the current fiscal year, this section requires that no provision of the Revenue Reconciliation Act of 1997 establishing or increasing any credit, deduction, exclusion, or eligibility limit or reducing any rate shall take effect. It also requires the suspension of any new adjustments for inflation scheduled to be made to any credit, deduction or exclusion.

In the event a revenue target is not met this section would require that any remaining tax reductions already enacted into law be suspended indefinitely. There is no provision allowing these scheduled tax cuts to be reinstated should a projection be inaccurate or for Congress to substitute further spending reductions for the loss in revenue. If fact, the various procedural obstacles contained in section 102, section 103, and section 107 of this Act virtually assure that the only option available to remedy the target violation will be a suspension of the tax relief. The President is required to remedy the violation unless Congress and the President can write a new law between November 1 and December 15 of the applicable calendar year resolving the issue in another manner. Allowing the process to proceed by itself will result in an automatic tax increase with respect to current law. Furthermore, there is no discretion given to the President to delay some while implementing others. In any affected year all of the scheduled tax relief for that fiscal year must be suspended permanently.

Section 205: Exempt Programs and Activities

This section outlines those programs which would be exempt from the sequestration mechanism established under this Act. As compared to current law,[10] this section removes from the list of exempted programs the following major programs: Social Security and Tier I Railroad Retirement Benefits, Veterans programs, the Earned Income Tax Credit, Child Nutrition, the Food Stamp Program, Medicaid, Supplemental Security Income, and Women, Infants and Children. The Act retains the current law optional exemption of military personnel from the uniform percentage reductions taken under this Act.[11]

It should be noted that these modifications to the list of programs exempt from sequestration only apply to the implementation of the sequester mechanism established under this Act and not to that under current law. Different rules apply to the application of the two sequester mechanisms.

Section 206: Special Rules

Section 206 establishes further special rules for the application of the sequester mechanism to certain programs such as the Child Support Enforcement Program, the Commodity Credit Corporation, the Dairy Program, the Earned Income Tax Credit, Unemployment Compensation, the Federal Employees Health Benefits Fund, the Federal

Housing Finance Board, Federal Pay, Medicare, the Postal Service Fund, Power Marketing Administrations and the T.V.A. and to business-like transactions of the Federal government.

However, each of these special rules do not provide exemptions for these programs but rather spell out in advance how a sequester is to be applied in each respective case. For example, under any program that provides a business-like service in exchange for a fee, sequestration would be accomplished through a uniform increase in the fees paid for the service whatever it may be. In the case of Medicare, sequestration would be instituted under complex procedures which would result in, among other things, increases in Part B premiums for beneficiaries.

Furthermore, in each of the cases, this budget process reform bill establishes how programmatic changes would occur in each of these direct spending programs in order to produce the required levels of savings in the applicable program. In many of these cases, the proposed method of programmatic change actually conflicts with the stated intent of the underlying policy of the Bipartisan Balanced Budget Agreement which this entire Act is supposed to enforce.

Section 207: The Current Law Baseline

By January 15 of each year, OMB and CBO are required to submit to Congress and the President reports which set forth the budget baselines for the budget year and the next nine fiscal years. These budget baselines are to be based on the common economic assumptions set forth in section 106 of this Act.[12] This new budget baseline would apply to the budget projections of revenues, deficits and spending into the budget year and the relevant outyears based on current enacted laws as of the date of the projection. The baseline for discretionary spending items would remain those for the discretionary spending caps in effect under current law at the time.[13] Revisions to the baseline would occur through adjustments for economic assumptions when CBO issues its Economic and Budget Update and when OMB submits its budget update. Further adjustments could occur as needed by August 1 of each year when CBO and OMB submit their midyear reviews.

The dilemma facing this construct of the budget baseline is the assumption that the baseline and any revisions thereto will remain common economic assumptions throughout the period of FY 1998 through 2002. There is no explanation as to what must occur if CBO and OMB cannot agree on common economic assumptions pursuant to section 106 of this Act.

Section 208: Limitations on Emergency Spending

In an attempt to enable Congress to respond more effectively to natural disasters and other emergencies, this section requires that 1 percent of the total budget authority and outlays available to be allocated, be withheld from allocation to the appropriate committees as reserves to pay for disasters and emergencies. These reserved amounts may be made available for allocation to committees only if three things occur:

1. the President has made a request for these funds,
2. the programs to be funded are included in such a request, and
3. "the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year."

This grants the President an enormous advantage over the congressional prerogative to allocate and spend the reserved amounts. Congress cannot allocate these funds without the prior approval of the President. Therefore, it cannot, without violating these provisions, act unilaterally to respond to any emergency prior to a Presidential declaration of one.

This Act also prohibits states or localities from using any disaster reserve funds to offset state or locality matching requirements. Furthermore, it forbids the President from taking administrative action to waive these matching requirements. Waiving these matching requirements via legislation would require a two-thirds vote of both Houses. These prohibitions seem to go beyond the stated intent of this section.

Furthermore, there seems to be different types of disasters and emergencies (including natural disasters and national security emergencies) referred to in various subsections of this section. It is not clear whether the prohibitions on the availability of these funds would be applicable to both. Some subsections appear to allow its use while others do not.

This final section is the only section of H.R. 2003 that actually amends the Congressional Budget Act of 1974. Section 208 would add a new point of order under Title IV of the Budget Act to prevent the consideration in the House and Senate of any bill, joint resolution or amendment thereto or conference report thereon that is designated as an emergency, if it also contains a non-emergency appropriation or direct spending provision.[14] This is similar to the House rule XXI(2)(e) adopted at the beginning of the 104th Congress. The language is almost identical to that contained in the House rule. The effect of amending the Budget Act would apply the provisions of this rule to both the House and the Senate.

FOOTNOTES

[1] Section 250(c)(3) of the Deficit Control Act of 1985.

[2] Section 300 of the Congressional Budget Act of 1974.

[3] Section 101 of H.R. 2003, as introduced by Rep. Barton on June 20, 1997.

[4] Section 300 of the Congressional Budget Act of 1974.

[5] Section 102(a)(3)(C)(iii) of H.R. 2003 as introduced by Rep. Barton on June 20, 1997.

[6] Section 305(a)(1) of the Congressional Budget Act of 1974.

[7] Section 251(b) of the Deficit Control Act of 1985.

[8] Section 251 and Section 254 of the Deficit Control Act of 1985.

[9] Section 251(a)(6) of the Deficit Control Act of 1985.

[10] Section 255 of the Deficit Control Act of 1985.

[11] Section 255(h) of the Deficit Control Act of 1985. Note the correct cite should be designated as subsection (j).

[12] This is summarized in the joint explanatory statement of managers accompanying H. Con. Res. 84, the budget resolution for fiscal year 1998.

[13] Section 601(a)(2) of the Congressional Budget Act of 1974.

[14] Emergency designations are made pursuant to section 251(b)(2)(D) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 208 of the Balanced Budget Enforcement Act of 1997. The bill actually refers to the latter Act as section 207 of the Balanced Budget Assurance Act of 1997. The correct cite is section 208 of the Balanced Budget Enforcement Act of 1997.

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, July 18, 1997.

Hon. NEWT GINGRICH,
The Speaker, The Capitol,
Washington, DC.

DEAR MR. SPEAKER: I am writing regarding consideration of H.R. 2003, the "Budget Enforcement Act of 1997," which was introduced on June 20, 1997, by Representative Joe Barton, et. al. The bill, as introduced, was referred to the Committee on Budget, and in addition, to the Committees on Ways and Means and Rules.

Among other things, the bill would separate direct spending caps of the Earned Income Tax Credit, Family Support, Medicare, Social Security, SSI, and Unemployment Compensation programs which are within the jurisdiction of the Committee on Ways and Means. The caps would be enforced through targeted sequestrations of these programs. This could include automatic delays in cost of living adjustments and premium increases. In addition, the bill would provide, if certain revenue targets are not met, for the suspension of the phase-in of any tax reductions provided in the 1997 Taxpayer Relief Act, and suspension of inflation-based adjustments to any credit, deduction, or exclusion enacted as part of the tax bill.

During the recent floor debate on the reconciliation legislation, Representative Barton stated his understanding that the Leadership and the committees of jurisdiction would work in an expeditious fashion to allow H.R. 2003 to receive floor consideration prior to July 24. I now understand that the bill may be scheduled for floor action as early as the week of July 21.

Therefore, in order to expedite consideration of this legislation by the full House, the Committee on Ways and Means will not be marking up H.R. 2003. However, this is only with the understanding that it does not in any way prejudice the Committee's jurisdictional prerogatives in the future with respect to this measure or any similar legislation, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee on Ways and Means in the future.

Thank you for consideration of this matter. With best personal regards.

Sincerely,
BILL ARCHER, *Chairman.*

COMMITTEE ON RULES,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, July 21, 1997.

Hon. NEWT GINGRICH,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: I respectfully ask that the Committee on Rules be discharged from the further consideration of H.R. 2003, the Budget Enforcement Act of 1997.

H.R. 2003 was introduced on June 20, 1997 by Representatives Barton and Minge, and others, and was referred to the Committees on the Budget, Rules, and Ways and Means. During the consideration of a rule for H.R. 2015, the Balanced Budget Act and H.R. 2014, the Taxpayer Relief Act, Representatives Barton and Minge filed an amendment with the Committee on Rules relating to budget enforcement procedures and consisting of the text of H.R. 2003.

In the furtherance of an agreement reached between Representative Barton and the Republican Leadership on June 25, 1997, the Committee on Rules has agreed to waive its original jurisdiction over H.R. 2003 and allow it to be considered by the House of Representatives without committee action. However, I believe the legislation is seriously flawed and I intend to oppose it.

To facilitate the orderly consideration of H.R. 2003 and to uphold the terms of the agreement, it is my intention to report a closed rule for this measure this week.

Sincerely,
GERALD B. SOLOMON, *Chairman.*

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET
Washington, DC, July 22, 1997.
Hon. NEWT GINGRICH,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: I respectfully request that the Committee on the Budget be discharged from the further consideration of H.R. 2003, the Budget Enforcement Act of 1997.

Consistent with an agreement reached between Representative Barton and the Republican Leadership on June 25, 1997, the Committee on the Budget has agreed to waive its original jurisdiction over H.R. 2003 and allow it to be considered by the House without committee action. Nevertheless, this legislation is seriously flawed and I will oppose this bill. Among various other problems, this bill would jeopardize the tax relief we have worked so hard to secure for America's families.

H.R. 2003 was introduced on June 20, 1997 by Representatives Barton, Minge, and others, and was referred to the Committees on the Budget, Rules, and Ways and Means. During the consideration of the rule for H.R. 2015, the Balanced Budget Act, and H.R. 2014, the Taxpayer Relief Act, Representatives Barton and Minge filed an amendment with the Committee on Rules relating to budget enforcement procedures and consisting of the text of H.R. 2003. It was at this point that the sponsors agreed to drop their proposed amendment to H.R. 2014, and the Committee on the Budget agreed, in return, to waive its jurisdiction.

Sincerely,
JOHN R. KASICH, *Chairman.*

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the Committee on Rules met in June to consider a rule for the reconciliation bill, our colleagues, the gentleman from Texas [Mr. BARTON] and the gentleman from Minnesota [Mr. MINGE], appealed to the committee to make in order as an amendment to the reconciliation package the text of their bill, H.R. 2003. At that time the gentleman from New York [Mr. SOLOMON] opposed including H.R. 2003 as an amendment in the rule, but he did assure supporters of H.R. 2003 that the rule would have an opportunity to consider budget process reform legislation during the 105th Congress.

The next day, during the debate on the rule on reconciliation, the gentleman from Texas [Mr. BARTON], announced that he had reached an understanding with the gentleman from New York [Mr. SOLOMON] that H.R. 2003 or an amended version of the bill would be brought to the floor for an up or down vote no later than July 24. It is because of that agreement, Mr. Speaker, that we are here today considering the rule.

I should point out that the gentleman from New York, in acknowledging that agreement, said that the consideration of H.R. 2003 in no way prejudices the ability of those committees with jurisdiction over the budget process to consider other budget reform proposals at a later date.

As the ranking minority member of the Subcommittee on Legislative and Budget Process of the Committee on Rules, I would like to appeal to the Republican majority to take advantage of the committee process if the House is to consider significant changes in the congressional budget process. I would hope that in the future that significant proposals such as H.R. 2003 would be considered under regular order.

That being said, Mr. Speaker, the sponsors of H.R. 2003 were guaranteed a vote on their proposal, and I am happy to see that the commitment is being fulfilled. I do have a reservation about the rule reported from the Committee on Rules, since it is a closed rule providing only for an up or down vote on H.R. 2003 as introduced and not in the improved form that its supporters proposed to bring to the floor.

The gentleman from Texas and the other Members of the group pushing this legislation have had an opportunity to review and make changes to their bill since June, and I think, at the very least, if the House is to consider significant changes to the way our budget process works, the House might at least have the opportunity to consider the best work product possible.

It seems that the Committee on Rules is now embarking on making in order bills and amendments which are not what the authors of their proposals bring to the committee, and I would caution my Republican colleagues that to continue to operate in this manner might prove disruptive to the regular order of the House.

Finally, Mr. Speaker, the rule divides the general debate time between the gentleman from Texas [Mr. BARTON] and an opponent of H.R. 2003. I want to make clear the understanding that the Democratic members of the Committee on Rules have about the division of the time, and if this is not what is intended. I would greatly appreciate my colleague, the gentleman from Florida [Mr. GOSS], clarifying that understanding.

I am given to understand that the gentleman from Texas intends to yield one-half of his time to the gentleman from Minnesota [Mr. MINGE].

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I have given the gentleman from Minnesota, DAVID MINGE, and the gentleman from Massachusetts, Mr. MOAKLEY, my word that half of the time that I will control, that I will ask unanimous consent to yield it to the gentleman from Minnesota so that he may control that time as he sees fit.

Mr. FROST. Mr. Speaker, reclaiming my time, I appreciate the assurance of the gentleman.

It is also my understanding that the manager of the opposition to the bill will be the gentleman from Ohio, the chairman of the Committee on the Budget [Mr. KASICH], who will yield half of his allotted time to the ranking minority member, the gentleman from South Carolina [Mr. SPRATT].

I think such a division of time is equitable to all sides and I would ask my colleague, the gentleman from Florida [Mr. GOSS], if that division of the debate time regarding the time in opposition is indeed what will happen once we get to general debate?

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, my understanding permits me to answer in the affirmative, and that these arrangements have been made and the gentleman from Iowa [Mr. NUSSLE], has also assured me that the potential person who will rise in opposition, that he is prepared to yield 7½ minutes to that side also.

Mr. FROST. Mr. Speaker, once again reclaiming my time, I thank the gentleman for that assurance and for his clarification.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, NY [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say to my good friend from Texas that if it were not for a special agreement that was made with the sponsors of this legislation, we would, without question, be following regular order. And let me say that when this is over, we will go back to regular order and our committees will reclaim our jurisdiction with the help of the gentleman from Texas.

Mr. Speaker, I want to speak to three aspects of the debate: the rule, the budget process reform efforts in the House, and the bill itself.

First, the rule before the House today represents the fulfillment of a commitment of the House Republican leadership. Earlier this year, on June 25, during the consideration of this rule on the two reconciliation bills for fiscal year 1998, a public commitment was made by the Republican leadership to the gentleman from Texas [Mr. BARTON], the gentleman from Delaware [Mr. CASTLE], the gentleman from Tennessee [Mr. WAMP], the gentleman from Minnesota [Mr. MINGE], and others to consider H.R. 2003 on the House floor before July 24. Today is July 23 and we are doing just that.

Furthermore, as part of the agreement, the three committees of jurisdiction over this bill, namely the Committee on the Budget, the Committee on Rules, and the Committee on Ways and Means, agreed to be discharged from further consideration of the bill as introduced on June 20 by Mr. BARTON and others.

Now, in response to those Members who have claimed that the rule did not allow the sponsors of the bill to make further substantive changes to the bill, I would make five observations:

First, the agreement between the Republican leadership, the chairmen of the committees of jurisdiction, and the gentlemen from Texas and Delaware involved the bill as pending before the Committee on Rules as an amendment to the budget reconciliation bill.

Second, the text of that amendment was identical to that introduced on June 20 by the gentleman from Texas [Mr. BARTON].

Three, each of the three committees of jurisdiction; namely, the Committee on the Budget, the Committee on Ways and Means, and the Committee on Rules, all agreed as part of those discussions to be discharged from further consideration of the bill, with the expectation that that version of the bill would be the version considered on this House floor.

Fourth, at the point at which the agreement was made, the only text before the Members was that of H.R. 2003, as introduced; and any additional changes, whether technical or substantive, are outside the scope of this agreement. Think about that.

Finally, no other Member of the House, whether Republican or Democrat, and no committees of jurisdiction are able to offer amendments or make changes to this bill.

The Committee on Rules' action was fair to all Members of the House and it was consistent with the original agreement, which went outside regular order, which I objected to in the very beginning.

The second important aspect of this debate involves the overall budget process. During the 104th Congress, the Committee on Rules held three original jurisdictional hearings under the leadership of our colleague, the gentleman from Florida [Mr. GOSS] over here on budget process reform. During these hearings we heard testimony from dozens of witnesses on the need for further budget process reform, which we all agree is needed badly.

Also, during the 104th Congress the Committee on the Budget held a hearing on budget process reform. Both committees have been proactive in the drive to determine just how we can best reform the budget process.

It also must be recognized that there are over a dozen different budget process reform bills that have been introduced during this Congress that are now pending before both the Committee on Rules and the Committee on the Budget. Some have many sponsors, some only a few. Many of the ideas that have been proposed I agree with and many I do not agree with.

H.R. 2003, the bill before us today, is not the only option pending before this House. The gentleman from California [Mr. COX] has introduced a comprehensive bill and has been working on this for 11 years now. The gentleman from Indiana [Mr. VISCLOSKY] also has a complex package.

The point is that we have a committee system through which to comprehensively consider this issue and all the bills seeking to reform it, and we do not need piecemeal legislation on this floor superseding the regular committee process. In addition, we already have the two chairmen of the committees of jurisdiction publicly committed to working with Members on both sides of the aisle and with other interested committees, including the Republican Policy Committee, to devise a budget process reform bill that strengthens those parts of the Budget Act that work and reform those parts that do not work.

The committees have, over the last 2 years, compiled research on which they have begun to work with all interested Members in building reform.

Mr. Speaker, finally, while all three chairmen of the committees of jurisdiction applaud the efforts of our good friends who have worked on this bill, the gentleman from Ohio [Mr. KASICH], myself, the gentleman from Texas [Mr. ARCHER], all stated our opposition to this bill, strong opposition.

It is unfortunate that we have to take this position, but H.R. 2003 is a seriously flawed bill. The substantive flaws of this bill can be summed up under three headings, and I think Members back in their offices had better listen because this affects them politically and it affects the operations and the workings of this House.

No. 1, an increase in procedural complexity; No. 2, a diminishment of Congress' role in the budget process; and No. 3, an incentive toward increased taxes. And that will happen over my dead body.

First, H.R. 2003 greatly increases the complexity of the budget process. Without any hearings at all, the bill adds 15 new sections of law to the budget process. The President and Congress would now be required to follow the rules and procedures of three different, yet comprehensive statutes, the Congressional Budget Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and now the Budget Enforcement Act of 1997, all designed to dictate the budget process.

Not one section of the current budget rules are repealed or reformed in this legislation before us, despite the fact that many of the bill's new provisions actually conflict with or further complicate the understanding of how the whole process works.

Furthermore, the bill creates a series of new points of order designed to address serious concerns, but they may actually hinder the ability of this House to effectively govern this institution. The bill places unconstitutional prohibitions on the ability of the Committee on Rules to craft rules by actually prohibiting the Committee on Rules from ever waiving certain provisions of this act.

□ 1100

In addition, the timetable established in the expedited procedures created to provide for consideration of any needed legislation to remedy a breach of the direct spending caps are unworkable, confusing, and do not meet their stated objectives.

The bill also diminishes the role of Congress in the budget process. And my colleagues ought to listen to this back in their offices: The executive branch's authority in the process is greatly enhanced at the expense of this Congress, by an expansion of the role and authority of Office of Management and Budget and the Congressional Budget Office. Is that what Members want; by a permanent reliance on common economic assumptions, whatever that might be, for the creation of budget baselines; by a delegation to OMB of the responsibility to determine the actual dollar amounts for each direct spending cap; by granting the President the authority to adjust the direct spending caps, but actually prohibiting we, the Congress, from considering his recommendations; and by establishing a requirement that only the President can determine what constitutes an emergency spending item?

Finally, and my colleagues better listen to this, perhaps the most fatal flaw of this bill is its impact on the ability of this representative body to provide tax relief to the American people.

Since Ronald Reagan delivered the historic tax relief package on the floor of this Congress in 1981, the American people have demanded further tax relief from Washington, because they are taxed too much. Sixteen years later, this Congress now stands on the threshold of delivering America's families and businesses a long-awaited second tax relief package. That is what we are doing here this week.

However, this bill will jeopardize the ability of those families to actually receive this tax relief by allowing the implementation of these tax cuts to be permanently suspended if revenue projections do not hold true. Think about that. Under this bill, if revenues fall below estimated levels, then any tax cut that we might enact this week not fully phased in, such as the capital gains tax cut, the child tax credit and estate tax relief provisions, would be suspended indefinitely.

In other words, planned tax cuts already enacted into current law could be withheld, listen to this, if the President and the Office of Management and Budget say that Washington is not receiving what it is projected to receive in tax revenues. There goes the tax cuts out the window. Not only would this mechanism suspend tax relief if the previous year's revenue levels fall short, but it also would revoke, listen to this, it would revoke these tax cuts if the next fiscal year's revenue levels are projected to fall short. In other words, without any action by this Congress, the tax cuts are null and void.

Furthermore, under this bill there are no provisions for the scheduled tax cuts to be reinstated should a budget projection be inaccurate, or for Congress to substitute further spending reductions for the loss in revenues so that we can keep those taxes in place. In fact, the various procedural obstacles contained in this bill virtually assure that the only option available to remedy a revenue target violation will be a suspension of the tax relief. That is what we are going to be voting on here today.

I would like to just close my remarks with a brief story that back in the Middle Ages, in medieval England, a debate raged between the Parliament and the King of England over who possessed the power to tax the people to raise the funds needed to defend the country. Both sides claimed an exclusive right to this power. Out of that 13th century struggle emerged the Cornwall rebellion in my ancestral home of Scotland, which settled the debate. The people were the final judges over taxation, and their opinions could not be ignored. This historical struggle is partly credited as genesis of the concept we now refer to as parliamentary government, which is what we have here today, which in turn the American colonies transformed into our representative Government.

The debate and bargain over taxes between the king and Parliament and now between the President and Congress lies at the very essence of our political system. No enforcement policy or budget process should take away the ability of the American people to express their opinions on the level of their taxes through their representative Government.

Mr. Speaker, this bill's automatic revocation of enacted tax relief, if Washington spends more than they raise, chips away at the very heart of this representative process. Again, I am disappointed that I have to oppose this legislation.

Finally, let me just say, if any of the sponsors of this bill, and that includes the gentleman from Texas [Mr. BARTON], the gentleman from Delaware [Mr. CASTLE], and the gentleman from Tennessee [Mr. WAMP] that are Republicans, or the gentleman from Minnesota [Mr. MINGE] or the gentleman from Texas [Mr. STENHOLM] or the gentlewoman from California [Mrs. TAUSCHER] decide to vote against this rule, for whatever reason, then I would argue that we all ought to vote against this rule. But if they are going to come here and vote for the rule, then I am going to urge support for that rule to bring the agreement we made with these sponsors to bring this bill to the floor so that we can have an up-or-down vote, and then I would urge the defeat of the bill.

I appreciate the gentleman yielding me the time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, this morning we are debating both the rule and, shortly, legislation that deals with the process that this institution feels would be the correct process for this Nation to follow in attempting to ensure that we actually keep our commitment to balance the budget.

Many may say "process" and yawn. "What is its significance?" "Where does it take us?" The fact of the matter is that if we attempt to actually follow through and balance the budget as we have promised, we must make sure that we have discipline to do that; and if we are to have the discipline to do that, we must have a process to impose that discipline. That is what this bill is about.

The debate that we are having at this moment centers around what is the best way to ensure that this process will be workable. One of the tragedies of the rule that has been presented for the consideration of the legislation is that we have been denied the opportunity to improve the legislation, to improve that process.

To be sure, the gentleman from Texas [Mr. BARTON], my cosponsor, and I are pleased that the legislation is up for consideration. But we would like to have it be the best legislation. We have worked to improve that legislation. We appeared before the Committee on Rules last night with a substitute bill. It is a common occurrence that the proponents of legislation, the chairs of committees, say at the point of consideration in the Committee on Rules that this proposal ought to be adjusted, it ought to be improved. And as a routine matter of courtesy, the Committee on Rules allows the chairman of the committee, the proponent of the legislation, to improve that bill.

We were denied that opportunity. I submit we were denied that opportunity because the leadership in this institution wanted to see the weakest possible bill before the body for a vote, hoping that this bill could be defeated.

What we need to do, I submit, is all of us stand tall and say to the leadership in this institution and of the Committee on Rules, we demand fair treatment for legislation when it comes to the floor. We will not accept second-class treatment of legislation.

If we do not have the opportunity to vote on the best possible bill, then, unfortunately, we have to count on the conference committee or the Senate to improve the product. And altogether too often, that is what happens in this institution, as well.

I urge my colleagues to join with me in supporting this legislation today to bring it to a successful conclusion.

Mr. GOSS. Mr. Speaker, may I have a status report on the time, please?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida [Mr. GOSS] has 10 minutes remaining. The gentleman from Texas [Mr. FROST] has 22½ minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. BARTON], the distinguished sponsor of the bill.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS], the distinguished subcommittee chairman of the Committee on Rules for yielding me the time.

Mr. Speaker, I rise in support of the rule to bring H.R. 2003 to the House floor as one of the chief sponsors, along with the gentleman from Delaware [Mr. CASTLE] and the gentleman from Tennessee [Mr. WAMP]. I think it is long overdue that we attempt to enforce the budget agreement that we are currently negotiating with the President and with the Senate of the United States of America.

If we go back to 1975 or 1972, my colleagues will see that most of the spending in the Federal budget at that time was discretionary spending. We could control it so that the Congress could work its will. In the budget year that we are in now, we can see that that has been reversed. Fifty-two percent of the budget is entitlement spending. It is uncontrollable. And if we combine that with the red part of the pie chart, which is interest on the debt, two-thirds of the total Federal budget is off budget, it is uncontrollable. That is a problem. We need to do something about it.

The budget agreement that is before us, in general, by the year 2002, which is the last year of the budget agreement, 58 percent of the budget agreement is going to be entitlements. Another 14 or 15 percent is going to be interest on the debt. That is, three-fourths of the total Federal budget is uncontrollable.

My colleagues, if we do not do something to really enforce this agreement, we are not going to have a balanced budget in the year 2002. If we look at the components of entitlement spending, these are the top 11. The Federal budget, in their annual rate of growth by program over the last several years, we can see that the Medicaid Program has been growing at 16 percent a year. That is unsustainable over time.

The budget agreement that is currently in negotiations with the President reins in the overall rate of growth in entitlement spending to approximately 7 percent on an annual basis.

But there are higher rates of growth for Medicare and Medicaid and lower rates of growth for some of the others.

What we have done, in a bipartisan fashion, with the gentleman from Minnesota [Mr. MINGE], the gentleman from Texas [Mr. STENHOLM], the gentleman from Tennessee [Mr. TANNER], and others on the Democratic side is come up with a simple concept: If we are going to enforce the budget agreement, we have got to enforce everything. What makes up an agreement? Spending and revenues.

So we take on the revenue side and say that $85 billion tax cut package over 5 years is on the table. On the spending side, we say all spending, including entitlement spending, is on the table. This chart right here shows entitlement spending, first year of the budget agreement, $900 billion; tax cuts about $5 billion. Over the life of the agreement, $85 billion in tax cuts, $5 trillion in entitlement spending. That is 50-to-1 spending versus revenue.

How does our enforcement mechanism work? If any target is broached on the revenue side, the President and the Congress can vote to change the package so that the targets are met. The President and the Congress can vote to waive the cap, saying we are not going to force that part of the agreement this year. But if the Congress and the President consciously decide to do nothing, the deficit does not go up. The deficit does not go up. If the Congress and the President decide to do nothing, there is an automatic enforcement that reins in the tax cuts that have not yet been put into place until the revenues are met.

The same thing happens on the spending side. Every program has a cap. Every program that spends $20 billion or more has its own cap. If a program is within its budget, nothing happens. If the program goes over the budget, the President and the Congress can fix that program, they can decide to waive the cap on that program. But if they do nothing, a procedure called sequestration goes into effect that brings that program back under the cap.

My colleagues, we need to pass this amendment. Vote for the rule. Vote for the bill.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I come to the floor in opposition to a rule that is a tremendous disappointment to those of us who are serious about budget enforcement. This rule does not provide the type of debate that an issue of this importance deserves. We want the legislative process to work to produce the best possible bill. This rule does not let the legislative process work. We wanted the committee process to work.

We were greatly disappointed when the committees of jurisdiction failed to consider this bill. It is disingenuous for committees to now criticize the process that has brought this bill to the floor and argue that the committee process has been thwarted because they chose not to consider the bill. We have listened to the criticisms that have been raised by the Committee on Ways and Means and the Committee on the Budget and Members on both sides of the bill, both sides of the aisle, as well as the administration, an outside organization.

□ 1115

The bill's sponsors have agreed to several technical changes and other improvements to the bill in response to those concerns that were raised. This rule does not allow us to make those improvements. We wanted this bill to be considered under an open rule so that Members who had additional concerns or criticisms could offer constructive improvements to the bill. We wanted Members who have different ideas on budget process reform to have an opportunity to raise those ideas. This rule prevents the House from working its will on this issue.

Mr. Speaker, I was very disturbed by the threat from the chairman of the Committee on Rules a moment ago to people like me if we have the audacity to oppose this rule, he might just take this bill down and not in fact consider it. It should not be any surprise, ladies and gentlemen. That is what this House has been doing for the last week. Now we have got a threat of a gag rule on the agricultural appropriation bill later today. Why? Not because the ag appropriation bill is any problem, but because this same committee that has been gagging the House from allowing Members to have their ideas voted in a responsible way have refused to allow that to happen.

The gentleman from Texas [Mr. FROST] stated a moment ago that if rules like this one continue, the House might find itself disrupted from its regular order of business. I suggest that we are going to have that to happen. It would be extremely unfair for Members to support a rule that prevents us from making improvements to the bill and then criticize this bill for technical improvements, bringing up Social Security as was heard a moment ago. The gentleman who made that knows there is no possible way Social Security is going to be affected by this bill. But he raises that in order to raise the temperature around here. And Congress being taken out of the process? They have not even read the bill. Listen to what the gentleman from Texas [Mr. BARTON] said a moment ago. Look at the bill before criticizing it. All Members who care about the integrity of the legislative process and believe that we should strive to pass the best possible legislation should vote against this rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to this rule. Last night I testified before the Committee on Rules on behalf of an amendment I would like to offer to H.R. 2003, the Budget Enforcement Act of 1997. The Committee on Rules did not choose to make in order my amendment, and our Nation's veterans and their families may suffer as a result. If entitlement program costs are underestimated or if revenue collections fail to meet projected targets, enactment of the Budget Enforcement Act could be no less than catastrophic for many of our Nation's veterans and their dependents. That is why I am asking Members to vote against the proposed rule. By voting no on the rule, Members have the chance to say yes to our Nation's veterans and their families. My amendment exempts veterans benefits and programs from potentially devastating effects of this legislation if cost savings and revenue projections are miscalculated. If enacted without amendment, the Budget Enforcement Act would continue the Congress on a troubling path of neglect toward our Nation's veterans. Adoption of my amendment would be one important way to show that we in Congress are not willing to abandon the obligations we have to the men and women who have faithfully served our country. I urge my colleagues to vote no on the rule and vote yes for our Nation's veterans.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I rise in strong opposition to the rule, also. Like the gentleman from Texas [Mr. STENHOLM], I believe that this rule prevents real debate on the real issues. The gentleman from Illinois [Mr. EVANS] who just spoke offered an amendment last night that would protect the benefits earned by America's veterans from permanent reduction. Remarkably, this amendment was defeated on a party line vote by the Committee on Rules last night. As written, H.R. 2003 would decimate the benefit programs our grateful Nation has provided for America's heroes, our veterans. It does not protect them. It does not protect service-disabled veterans. It does not protect those who suffered in the Persian Gulf War and who are now sick as a result of that service. I urge my colleagues to defeat the rule so that we can all have the opportunity to vote on the important amendment of the gentleman from Illinois [Mr. EVANS] and tell our veterans that we support them.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman very much for yielding me this time.

Mr. Speaker, I rise today to ask for opposition to this rule. I rise in particular as someone who supported the initial budget agreement in a bipartisan manner to emphasize that we can work on the effort of deficit reduction and treating people fairly together. But I would call this rule the hatchet job on the most vulnerable rule. The hatchet job on the most vulnerable. For without any notice whatsoever, this rule would kick in an absolute cut, an automatic cut on those needing Social Security, Medicare, Medicaid, veterans benefits.

I applaud the work of the gentleman from Texas [Mr. STENHOLM] and others who worked to ensure that we might have a protected budget agreement. But this is not the agreement. This is not even the discussion. This is simply a rule that says those who cannot speak for themselves, those who are outside the circle of power, we will make sure that if there is any problem with this budget down the road, we will make sure that we take from those most vulnerable. It ensures that we will take from those who need food stamps, from those who are on SSI. Particularly Medicaid when we are trying now to establish health care for our children, we would cut Medicaid that treats the most vulnerable in this community, those who are most poor and our children.

Mr. Speaker, this is not a fair enforcement rule. This is an enforcement act that takes the enforcement part of it to the very extreme. I would ask my colleagues to recognize, let us not do a hatchet job on those in particular who have given to this Nation, our senior citizens who have worked hard all of their lives and our veterans who have given very much their service to this Nation to protect our freedoms. I would argue that it is important now to stand up for those who count, those who have already taken a measure of hit from this budget who have come to the table and wanted a fair budget. This is a bad rule. I ask everyone to vote against it.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, there are a number of rules that people say apply here in Washington that we do not think a lot of down in Texas. The first of these is that in Washington apparently a promise is never a guarantee. We have the promise of a balanced budget, but those who have taken the grandstand the greatest portion of the time to talk about how wonderful this balanced budget agreement is, they are unwilling to give us the guarantee of a balanced budget, and that is why this piece of legislation is necessary.

A second rule said to apply here in Washington is that the fact that it did not work the first time does not mean we will not try it again. This is not the first time we have had the promise of a balanced budget. It has happened over and over again. We keep trying the same old thing without having a real guarantee, an enforcement mechanism to be sure we in fact get a balanced budget. There is one gimmick after another in this proposed agreement, as proposed by both sides. If we are to achieve a true balanced budget, it will take an enforcement mechanism like this.

I would suggest that there is a third rule that applies here in Washington, that we are seeing worked out here on the floor today. It is that treachery knows no limits. We saw during this balanced budget agreement a Member stand here on the floor, one Republican promising to another that if we would all just vote for this balanced budget agreement that they would in a matter of weeks have an enforcement mechanism here on the floor. They have honored their agreement in word, but certainly not in spirit, because they have come before us today and they have presented a proposal in a way that they are sure it will be defeated. If they had any confidence in the notion that we will really get a balanced budget by 2002, indeed we could really have it next year. If we would effectively enforce this agreement, they would be here cheering us on and working to develop this agreement.

Mr. Speaker, I am not for this bill in the form that it is here this morning. I am not sure I am for it as it is proposed to be changed. But I know we have to have an enforcement mechanism, and this is the only way to get it.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. TAUSCHER].

Mrs. TAUSCHER. Mr. Speaker, I rise today to support this rule because I frankly have no other choice. As a strong advocate of a balanced budget and a supporter of the balanced budget agreement agreed to by Congress and the President, I am very pleased that we are on the path toward eliminating the deficit. But without strong enforcement language in the reconciliation bills, there is no guarantee that the goal will be met.

When the House considered the budget reconciliation spending and revenue bills, a bipartisan group of Members, including myself, attempted to offer enforcement language as an amendment. The House leadership back in June refused to make our amendment in order and instead promised that our amendment would be brought to the floor as a freestanding bill. What were we thinking about a month ago when we allowed that promise to be given with no guarantee that we would ever see this bill on the floor?

In the intervening 3 weeks, we have responded to some of the criticisms of the bill and made changes to improve it. The Committee on Rules, however, last night decided not to allow us to bring forward that amended bill and has reported a rule that forbids any amendments. This is in direct violation of an agreement by the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, reported in the CONGRESSIONAL RECORD of June 25 to make in order an amended version of our bill by no later than July 24.

Mr. Speaker, this is one more example of the duplicitous manner in which the House leadership treats its Members. I am forced to vote for this rule, and I encourage my colleagues to do the same, because it is the only way we can consider budget enforcement legislation. But this is not the way the House business should be done.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, I, too, would like to echo what the gentlewoman from California [Mrs. TAUSCHER] said about this. This is unfortunate. It is sad. We are here and elected by our constituencies to come and try to do the best job we can regardless of party affiliation.

Three weeks ago we were told that if certain things happened in relation to a rule vote at that time, we would be allowed the opportunity to offer a budget enforcement mechanism before July 24. It was pointed out, and there may be some disagreement, but regardless of that, this is the vehicle that translates the idea of financial integrity in this country and in the Nation's books being balanced from an idea to reality for all of these young children that are here today and around the country. And for the Committee on Rules to not allow that to happen last night is just simply sad. I have been here 9 years and I will be the first to vote and did vote against my leadership when they abused the Committee on Rules and did not allow things to come forward for the will of the House to work itself. I would ask the Republican rank and file to do the same today, because without regard of who said what and when, this is a better piece of legislation that we were denied the opportunity to vote on today.

Mr. Speaker, I have been here 9 years. If there was ever a day that Members ought to put their country ahead of their political party, the time is now on this budget enforcement bill. I just hope that the rank and file Members of both sides of the aisle will do that today.

Mr. GOSS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I am very disappointed that we are not going to engage in real, hard debate having aggressive committee consideration of this kind of bill. I have introduced a budget reform bill for the last 4 years. I would like that debate on a budget reform bill include consideration of provisions I think are important. I have also introduced a different budget enforcement bill, H.R. 2037, that was made part of the budget reconciliation language. The bill before us needs more consideration and debate than simply the brief 1 hour debate on the floor. I am disappointed that the rule does not have the options for amendments and debate. I am disappointed that this bill is before us today without being considered by committee or at the very least, requiring a two-third majority like any other suspension bill that has not gone through the committee process.

□ 1130

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I take the well to protest the unfair rule before us. Legislation is a work in progress. We all know that. No one gets it perfect the first time. And so there is give and take as we listen to concerns and move to change the bill to address those concerns.

Mr. Speaker, that is precisely what has been taking place with this enforcement act.

Now I do not think the act is there yet. I think there are still some changes that need to be made, and I am going to oppose it. But for this rule to bar from consideration the improvements that have been negotiated over the last several days I just think is unconscionable.

Why in the world would they give this House only the flawed first version to consider? It is, I think, really a diabolical, empty gesture to say, "Okay, you've got your vote, now leave us alone," when indeed they owed them much more than that. They owed them a straight-up vote on the best budget enforcement package that the sponsors care to offer, and it is a pity the rule did not allow that.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KIND].

Mr. KIND. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise today in strong opposition to the rule today, and as a new Member of Congress, we soon realize that a good piece of legislation is not drafted, is not submitted and drafted with just one crack at it. This has been an ongoing process. There have been concerns raised about the Budget Enforcement Act, considerations that have been taken and drafted into the recent piece of legislation. But we are not going to have an opportunity to present the best piece of policy, the best piece of legislation that we can offer to the American people, because of the way that the rule has been set up.

Now I am not familiar with the politics of the Committee on Rules, but I am learning some lessons awfully fast here, and it is disappointing that our best piece of legislation to enforce a budget agreement is not going to be given a fair consideration or hearing or debate on the House floor today, and that is unfortunate.

But I do not understand what is going on here. What is the message we are seeing? What is everyone so concerned about in regard to the Budget Enforcement Act? All this says is that if the targets are not reached, if they are not able to practice fiscal responsibility year after year after year, then it is time to go back and change some policies.

That is all that we are asking here.

Is it any wonder that over 80 percent of the American people in a recent poll have no confidence at all that this institution is capable of balancing the books?

I mean sure, if my colleagues worship at the idol of tax cuts and tax relief or if they worship at the idol of more spending and unrestrained spending growths, then, yes, oppose the Balanced Budget Enforcement Act. But that does not make any sense.

I have a son who is almost 1 year old, and I want to be able to go home every day after work, look him in the eyes and tell him that I am working in his best interests, that I am working in the best interests of all the children in this country and future generations, and that if we do pull up short, if the economy does slow down, we do not have the projected revenue growth or the corresponding spending reductions to meet our balanced budget guidelines, that we as an institution have a capability of addressing it again; but if we do not, that there is a hammer held over our heads, this Budget Enforcement Act, which will do the job that we should have the courage to do on our own.

Mr. GOSS. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, the previous speaker wants to know what the problem is. Let me tell him what the problem is, my colleagues. We pass tax cuts here in this body today, and then next week, next month, next year this Congress fails to bite the bullet, they fail to vote for the cuts on the bills that come on this floor every day, and this happens time and time again, and the Tax Code cuts go out the window.

That is the problem, my colleagues. The American people are overtaxed. We are going to cut their taxes. That is why we need to defeat this bill today. Think about that, my colleagues.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BOYD].

Mr. BOYD. Mr. Speaker, I want to tell my colleagues that this is not about whether the tax cuts will be enforced or not. All this means, this relates to the tax side. It just means that one will meet those projections, revenue projections, that are in place.

Mr. Speaker, as my colleagues know, we learn a lot about a body after we are in it after a short period of time, and there are 71 other freshman Members along with myself in this body, and we learn something about how that body operates.

Now we read every day about the problems the leadership is having in this body, and it is no wonder after what has happened here the last couple of days in reference to this Budget Enforcement Act.

There has been a brilliant strategy move pull by the leadership of this House in getting people who support a budget enforcement and have been working on that for months and months and month, even years, together now are up here speaking for, some for the rule and some against the rule. It is a brilliant strategy move, and it is going to mean that this piece of legislation will go down.

But I must tell my colleagues, just think about that when they read about the problems that exist in the leadership of this House, and there will be more as a result of this particular piece of legislation. The people who support this legislation have been tricked just like the people of the United States of America have been tricked in the previous balanced budget agreements in 1981, 1985, and 1990 when they were told there was going to be a balanced budget, and we did not have one.

Do my colleagues know why? Because we did not have enforcement in place. So, my colleagues, we will get enforcement at some period of time, but I think we have a little ways to go, and the American people have to understand a little bit more about what is happening here in this U.S. House of Representatives.

Mr. GOSS. Mr. Speaker, I am delighted to hear that we have a brilliant strategy over here.

I yield 2 minutes to the distinguished gentleman from Delaware [Mr. CASTLE], my friend, who has been a sponsor and has a strong commitment to this particular piece of legislation.

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding this time to me, and I do not have any brilliant strategy to come forward with, but I feel very strongly about this piece of legislation, and I, too, would have liked to have seen it amended, and I, too, am concerned that the rules process did not allow that to happen. I have heard the explanations.

But having said that, I regretfully support the rule, regretfully because I think there could have been changes to improve this legislation, and that is what we should have done in the best interests of the American people. But we did not do that.

However having said that, I think we also need to move forward with the legislation; and to not support it I think would be a great mistake.

Why should we move forward with this legislation?

I heard some of the reservations, and I have tremendous support for the Hall of Fame Members of this Congress who have united in opposition to this; but we, the foot soldiers, I think, need to be heard on this as well. And in my judgment, this piece of legislation is a vital cog to the balancing of the budget of the United States in the future. We are going to pass a 5-year balanced budget plan this year, but we are not going to have enforcement mechanisms.

And everybody can cite back over 20 years when we have done something similar to that in Congress and we have not been able to balance the budget out in the different years that come up in the 5-year period, and I am afraid it is going to happen again this year.

There is a great deal of flexibility in this plan. It is not afraid to address any parts of the budget, be they discretionary or entitlements or the tax cuts. But it basically says that somehow the revenue picture changes or spending number changes, we are going to go back and look at it.

And that is all the Congress is requested to do; we have to look at it, and we should do that. That is an absolute responsibility.

How can we vote for a balanced budget amendment, how can we vote for a balanced budget but not be willing to enforce it? And that is what Alan Greenspan essentially agrees, it is what Tim Penny and Bill Frenzel have written today in the Washington Post, it is what almost all budget economic experts across this country have stated, and this is not something that a few of us can come up with in a back room. This was something that was put together by experts who believe in this as well.

Support this outstanding legislation.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding this time to me.

Mr. Speaker, there is some brilliant strategy at work here. This legislation which I strongly support has managed to perform the miracle of bringing all different kinds of people together. People who love to see the Government spend more money oppose this legislation because it would stop the spending from going on. People who love to pay for tax cuts by borrowing money and increasing the deficit oppose this legislation because they hold the tax cuts sacrosanct. Those who worship the committee process do not like this legislation because it did not pass through their portals. I with some sorrow predict that we will not get many votes for this legislation when it comes to the floor because all the interests are offended by it.

People who like this legislation are those that are in the huge majority of taxpaying Americans who really want to see us do what we purport to be doing here, which is to adopt a balanced budget plan and make it work year in and year out, whether the revenues fall or drop, whether the entitlements rise or fall.

This is an idea which will in all likelihood not succeed today, but we will succeed in bringing it back to the floor and succeed in enacting it in the future.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. TURNER].

Mr. TURNER. Mr. Speaker, I rise today in opposition to the rule because I am greatly disturbed that the most important element of the balanced budget, the budget enforcement provisions, have been compromised by failure of the Committee on Rules to allow full amendments that were brought before the committee.

As my colleagues know, we passed a budget resolution here in this Congress a few weeks ago. The problem is a budget resolution is a whole lot like a New Years resolution. It is easy to make but hard to keep. This Congress has been in a long courtship with the balanced budget. We finally got to the point where we adopted a budget resolution, we have made great steps toward achieving the goal of a balanced budget, and yet we are not able to assure the American people that the courtship that we have had and the marriage that will take place when we pass the reconciliation bill is to carry out this budget agreement. We cannot assure the American people that this marriage will last.

I think that we have made a terrible mistake not dealing with the budget enforcement provisions in a serious manner in the Committee on Rules, and for that reason I will oppose the rule.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding this time to me.

First of all, I do not question anybody. There has been some question about motivation for why people have done what they have done here today, and I do not question the motivation of any Member up here who has spoken in favor or against this particular piece of legislation. In fact, if my colleagues just look around the Chamber at the people who have spoken here today, these are the Hall of Famers. I would say to my friend from Delaware, these are the Hall of Famers in balancing the budget and making sure that we enforce it, and I would start with that.

We have enforcement mechanisms within this budget, within the budget process currently. Are they perfect? No. We all agree that we want to improve the current budget process.

Now the question that we are posed with here today is, is this the time and is this the bill? This is not the time because we are currently in the middle of the negotiations. We are currently in the middle of the process to get to a balanced budget. We do not change the rules in the middle of the game. As much as I would love to at different times during legislation, we do not make that kind of judgment right now during the heat of the battle. We have tried that in the past. Those mechanisms have never worked.

This is also not the bill, and in fact it is interesting to hear all of these folks come forward and say, "Boy, I love this bill. It isn't quite perfect, and I'd love to see this amendment or that amendment," or "Hey, I know, I've got an idea. Hey, I know, let's put this amendment in. Let's put this mechanism in. Hey, I know."

We should not legislate by "Hey, I know."

Mr. FROST. Mr. Speaker, we have no further speakers at this time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I think we are going to have a multiple choice test for Members after the conclusion of this debate to see if anybody understands what actually has been discussed.

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As the gentlewoman from Texas alleged, this is a rule that cuts something. This rule does not cut anything. Rules do not cut anything. Anybody who believes that has not quite read the rule.

Mr. Speaker, we have had a lot of comment about somehow or other this was a perfect product back on June 25 when it was offered, but somehow or other it is not a perfect product now, and somehow or other the Committee on Rules has failed to do its job on that. We need more deliberations, the gentleman from Texas [Mr. STENHOLM] says. Others say no, we need to pass this right away.

The point is we have a committee system here that works. We have had commitments to proceed with a budget reform process and budget enforcement. That is going to happen. We today are looking at an up-or-down vote that was promised in a deal with the leadership on a 25 of June package to have that vote before July 24. Promises made, promises kept. That is what is going on here today.

Some have said the Committee on Rules did not do its job, did not consider waivers or exceptions last night.

That is a little disingenuous. We heard the gentleman from Illinois [Mr. EVANS] speak today about a request for exemptions for one class of people. If we opened this up to exemptions to the enforcement of budget, everybody will come forward with an exemption, and we will have a hollow process of enforcement. We all know that. That is why we promised an up-or-down vote.

This is an up-or-down vote on the package of June 25, put together by the gentleman from Texas [Mr. BARTON] and the gentleman from Minnesota [Mr. MINGE]. That is what we promised. That is what is on the floor.

Mr. Speaker, I move the previous question on resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CASTLE. Mr. Speaker, pursuant to the rule, I call up the bill (H.R. 2003) to reform the budget process and enforce the bipartisan balanced budget agreement of 1997, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. LATOURETTE). Is the gentleman from Delaware [Mr. CASTLE] the designee of the gentleman from Texas [Mr. BARTON]?

Mr. CASTLE. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the title of the bill.

The Clerk read the title of the bill.

The text of H.R. 2003 is as follows:

H.R. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Budet Enforcement Act of 1997".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—ENSURE THAT THE BIPARTISAN BALANCED BUDGET AGREEMENT OF 1997 ACHIEVES ITS GOAL

Sec. 101. Timetable.
Sec. 102. Procedures to avoid sequestration or delay of new revenue reductions.
Sec. 103. Effect on Presidents' budget submissions; point of order.
Sec. 104. Deficit and revenue targets.
Sec. 105. Direct spending caps.
Sec. 106. Economic assumptions.
Sec. 107. Revisions to the caps for entitlements and other spending and to the revenue and deficit targets in this Act.

TITLE II—ENFORCEMENT PROVISIONS

Sec. 201. Reporting excess spending.
Sec. 202. Enforcing direct spending caps.
Sec. 203. Sequestration rules.
Sec. 204. Revenue enforcement.
Sec. 205. Exempt programs and activities.
Sec. 206. Special rules.
Sec. 207. The current law baseline.
Sec. 208. Limitations on emergency spending.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) ELIGIBLE POPULATION.—The term "eligible population" shall mean those individuals to whom the United States is obligated to make a payment under the provisions of a law creating entitlement authority. Such term shall not include States, localities, corporations or other nonliving entities.

(2) SEQUESTER AND SEQUESTRATION.—The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) BREACH.—The term "breach" means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct spending cap for that year.

(4) BASELINE.—The term "baseline" means the projection (described in section 207) of current levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(5) BUDGETARY RESOURCES.—The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(6) DISCRETIONARY APPROPRIATIONS.—The term "discretionary appropriations" means budgetary resources (except to fund direct spending programs) provided in appropriation Acts. If an appropriation Act alters the level of direct spending or offsetting collections, that effect shall be treated as direct spending. Classifications of new accounts or activities and changes in classifications shall be made in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and with CBO and OMB.

(7) DIRECT SPENDING.—The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts, including entitlement authority;

(B) entitlement authority; and

(C) the food stamp program.

If a law other than an appropriation Act alters the level of discretionary appropriations or offsetting collections, that effect shall be treated as direct spending.

(8) ENTITLEMENT AUTHORITY.—The term "entitlement authority" means authority (whether temporary or permanent) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

(9) CURRENT.—The term "current" means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31 U.S.C., the estimates consistent with the economic and technical assumptions underlying that budget.

(10) ACCOUNT.—The term "account" means an item for which there is a designated budget account designation number in the President's budget.

(11) BUDGET YEAR.—The term "budget year" means the fiscal year of the Government that starts on the next October 1.

(12) CURRENT YEAR.—The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(13) OUTYEAR.—The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year.

(14) OMB.—The term "OMB" means the Director of the Office of Management and Budget.

(15) CBO.—The term "CBO" means the Director of the Congressional Budget Office.

(16) BUDGET OUTLAYS AND OUTLAYS.—The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during such year.

(17) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—The terms "budget authority" and "new budget authority" have the meanings given to them in section 3 of the Congressional Budget and Impoundment Control Act of 1974.

(18) APPROPRIATION ACT.—The term "appropriation Act" means an Act referred to in section 105 of title 1 of the United States Code.

(19) CONSOLIDATED DEFICIT.—The term "consolidated deficit" means, with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year.

(20) SURPLUS.—The term "surplus" means, with respect to a fiscal year, the amount by which total receipts exceed total outlays during that year.

(21) DIRECT SPENDING CAPS.—The term "direct spending caps" means the nominal dollar limits for entitlements and other mandatory spending pursuant to section 105 (as modified by any revisions provided for in this Act).

TITLE I—ENSURE THAT THE BIPARTISAN BALANCED BUDGET AGREEMENT OF 1997 ACHIEVES ITS GOAL

SEC. 101. TIMETABLE.

On or before:	Action to be completed:
January 15	CBO economic and budget update.
First Monday in February.	President's budget update based on new assumptions.
August 1	CBO and OMB updates.
August 15	Preview report.
Not later than November 1 (and as soon as practical after the end of the fiscal).	OMB and CBO Analyses of Deficits, Revenues and Spending Levels and Projections for the Upcoming Year.
November 1–December 15	Congressional action to avoid sequestration.
December 15	OMB issues final (look back) report for prior year and preview for current year.
December 15	Presidential sequester order or order delaying new/additional revenues reductions scheduled to take effect pursuant to reconciliation legislation enacted in calendar year 1997.

SEC. 102. PROCEDURES TO AVOID SEQUESTRATION OR DELAY OF NEW REVENUE REDUCTIONS.

(a) SPECIAL MESSAGE.—If the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year indicates that—

(1) deficits in the most recently completed fiscal year exceeded, or the deficits in the budget year are projected to exceed, the deficit targets in section 104;

(2) revenues in the most recently completed fiscal year were less than, or revenues in the current year are projected to be less than, the revenue targets in section 104; or

(3) outlays in the most recently completed fiscal year exceeded, or outlays in the current year are projected to exceed, the caps in section 104;

the President shall submit to Congress with the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year a special message that includes proposed legislative changes to—

(A) offset the net deficit or outlay excess;

(B) offset any revenue shortfall; or

(C) revise the deficit or revenue targets or the outlay caps contained in this Act;

through any combination of—

(i) reductions in outlays;

(ii) increases in revenues; or

(iii) increases in the deficit targets or expenditure caps, or reductions in the revenue targets, if the President submits a written determination that, because of economic or programmatic reasons, none of the variances from the balanced budget plan should be offset.

(b) Introduction of the President's Package.—Not later than November 15, the message from the President required pursuant to subsection (a) shall be introduced as a joint resolution in the House of Representatives or the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after November 15, the joint resolution may be introduced by any Member of that House of Congress and shall be referred to the Committee on the Budget of that House.

(c) House Budget Committee Action.—The Committee on the Budget of the House of Representatives shall, by November 15, report a joint resolution containing—

(1) the recommendations in the President's message, or different policies and proposed legislative changes than those contained in the message of the President, to ameliorate or eliminate any excess deficits or expenditures or any revenue shortfalls, or

(2) any changes to the deficit or revenue targets or expenditure caps contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(d) Procedure if the Committees on the Budget of the House of Representatives or Senate Fails To Report Required Resolution.—

(1) Automatic discharge of committees on the budget of the house.—If the Committee on the Budget of the House of Representatives fails, by November 20, to report a resolution meeting the requirements of subsection (c), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a), and the joint resolution shall be placed on the appropriate calendar.

(2) Consideration of discharge resolution in the house.—If the Committee has been discharged under paragraph (1) above, any Member may move that the House of Representatives consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(e) Consideration of Joint Resolution in the House.—Consideration of resolution reported pursuant to subsection (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(f) Transmittal to Senate.—If a joint resolution passes the House of Representatives pursuant to subsection (e), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within 1 calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

(g) Requirements for Special Joint Resolution in the Senate.—The Committee on the Budget of the Senate shall report not later than December 1—

(1) a joint resolution reflecting the message of the President; or

(2) the joint resolution passed by the House of Representatives, with or without amendment; or

(3) a joint resolution containing different policies and proposed legislative changes than those contained in either the message of the President or the resolution passed by the House of Representatives, to eliminate all or part of any excess deficits or expenditures or any revenue shortfalls, or

(4) any changes to the deficit or revenue targets, or to the expenditure caps, contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(h) Procedure if the Senate Budget Committee Fails To Report Required Resolution.—

(1) Automatic discharge of senate budget committee.—In the event that the Committee on the Budget of the Senate fails, by December 1, to report a resolution meeting the requirements of subsection (g), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a) and of the resolution passed by the House of Representatives, and both joint resolutions shall be placed on the appropriate calendar.

(2) Consideration of discharge resolution in the senate.—(A) If the Committee has been discharged under paragraph (1), any member may move that the Senate consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(B) Consideration of resolutions reported pursuant to subsections (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(C) If the joint resolution reported by the Committees on the Budget pursuant to subsection (c) or (g) or a joint resolution discharged in the House of Representatives or the Senate pursuant to subsection (d)(1) or (h)(1) would eliminate less than—

(i) the entire amount by which actual or projected deficits exceed, or revenues fall short of, the targets in this Act; or

(ii) the entire amount by which actual or projected outlays exceed the caps contained in this Act;

then the Committee on the Budget of the Senate shall report a joint resolution, raising the deficit targets or outlay caps, or reducing the revenue targets for any year in which actual or projected spending, revenues or deficits would not conform to the deficit and revenue targets or expenditure caps in this Act.

(k) Conference Reports Shall Fully Address Deficit Excess.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution to eliminate all or part of any excess deficits or outlays or to eliminate all or part of any revenue shortfall compared to the deficit and revenue targets and the expenditure caps contained in this Act, unless—

(1) the joint resolution offsets the entire amount of any overage or shortfall; or

(2) the House of Representatives and Senate both pass the joint resolution reported pursuant to subsection (j)(2).

The vote on any resolution reported pursuant to subsection (j)(2) shall be solely on the subject of changing the deficit or revenue targets or the expenditure limits in this Act.

SEC. 103. EFFECT ON PRESIDENTS' BUDGET SUBMISSIONS; POINT OF ORDER.

(a) Budget Submission.—Any budget submitted by the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 1998 through 2007 shall be consistent with the spending, revenue, and deficit levels established in sections 104 and 105 or it shall recommend changes to those levels.

(b) Point of Order.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget unless it is consistent with the spending, revenue, and deficit levels established in sections 104 and 105.

SEC. 104. DEFICIT AND REVENUE TARGETS.

(a) Consolidated Deficit (or Surplus) Targets.—For purposes of sections 102 and 107, the consolidated deficit targets shall be—

(1) for fiscal year 1998, $90,500,000,000;

(2) for fiscal year 1999, $89,700,000,000;

(3) for fiscal year 2000, $83,000,000,000;

(4) for fiscal year 2001, $53,300,000,000; and

(5) for fiscal year 2002, there shall be a surplus of not less than $1,400,000,000.

(b) Consolidated Revenue Targets.—For purposes of sections 102, 107, 201, and 204, the consolidated revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;

(2) for fiscal year 1999, $1,664,200,000,000;

(3) for fiscal year 2000, $1,728,100,000,000;

(4) for fiscal year 2001, $1,805,100,000,000; and

(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 105. DIRECT SPENDING CAPS.

(a) In General.—Effective upon submission of the report by OMB pursuant to subsection (c), direct spending caps shall apply to all entitlement authority except for undistributed offsetting receipts and net interest outlays. For purposes of enforcing direct spending caps under this Act, each separate program shown in the table set forth in subsection (d) shall be deemed to be a category.

(b) Budget Committee Reports.—Within 30 days after enactment of this Act, the Budget Committees of the House of Representatives and the Senate shall file with their respective Houses identical reports containing account numbers and spending levels for each specific category.

(c) Report by OMB.—Within 30 days after enactment of this Act, OMB shall submit to the President and each House of Congress a report containing account numbers and spending limits for each specific category.

(d) Contents of Reports.—All direct spending accounts not included in these reports under separate categories shall be included under the heading "Other Entitlements and Mandatory Spending". These reports may include adjustments among the caps set forth in this Act as required below, however the aggregate amount available under the "Total Entitlements and Other Mandatory Spending" cap shall be identical in each such report and in this Act and shall be deemed to have been adopted as part of this Act. Each such report shall include the actual amounts of the caps for each year of fiscal years 1998 through 2002 consistent with the concurrent resolution on the budget for FY 1998 for each of the following categories:

Earned Income Tax Credit,
Family Support,
Federal retirement:

Civilian/other,
Military,
Medicaid,
Medicare,
Social security,
Supplemental security income,
Unemployment compensation,
Veterans' benefits,
Medicare,
Other entitlements and mandatory spending, and
Aggregate entitlements and other mandatory spending.

(e) Additional Spending Limits.—Legislation enacted subsequent to this Act may include additional caps to limit spending for specific programs, activities, or accounts with these categories. Those additional caps (if any) shall be enforced in the same manner as the limits set forth in such joint explanatory statement.

SEC. 106. ECONOMIC ASSUMPTIONS.

Subject to periodic reestimation based on changed economic conditions or changes in eligible population, determinations of the direct spending caps under section 105, any breaches of such caps, and actions necessary to remedy such breaches shall be based upon the economic assumptions set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 (House Concurrent Resolution 84, 105th Congress).

SEC. 107. REVISIONS TO DEFICIT AND REVENUE TARGETS AND TO THE CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.

(a) Automatic Adjustments to Deficit and Revenue Targets and to Caps for Entitlements and Other Mandatory Spending.—When the President submits the budget under section 1105(a) of title 31, United States Code, for any year, OMB shall calculate (in the order set forth below), and the budget and reports shall include, adjustments to the deficit and revenue targets, and to the direct spending caps (and those limits as cumulatively adjusted) for the current year, the budget year, and each outyear, to reflect the following:

(1) Changes to revenue targets.—

(A) Changes in growth.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, growth adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 105.

(B) Changes in inflation.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year growth measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 105.

(2) Adjustments to direct spending caps.—

(A) Changes in concepts and definitions.—The adjustments produced by changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, and Government Reform and Oversight and Governmental Affairs of the House of Representatives and the Senate.

(B) Changes in net outlays.—Changes in net outlays for all programs and activities exempt from sequestration under section 204.

(C) Changes in inflation.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that years as described in section 105 (relating to economic assumptions). For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps (for changes in economic conditions including inflation, nor for changes in numbers of eligible beneficiaries) unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 105 based on those projections.

(D) Changes in eligible populations.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, the basis for adjustments under this section shall be the same as the projections underlying Table A–4, CBO Baseline Projections of Mandatory Spending, Including Deposit Insurance (by fiscal year, in billions of dollars), published in An Analysis of the President's Budgetary Proposals for Fiscal Year 1998, March 1997, page 53. For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps for changes in numbers of eligible beneficiaries unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 105 based on those projections.

(E) Intra-budgetary payments.—From discretionary accounts to mandatory accounts. The baseline and the discretionary spending caps shall be adjusted to reflect those changes.

(c) Changes to Deficit Targets.—The deficit targets in section 104 shall be adjusted to reflect changes to the revenue targets or changes to the caps for entitlements and other mandatory spending pursuant to subsection (a).

(d) Permissible Revisions to Deficit and Revenue Targets and Direct Spending Caps.—Deficit and revenue targets and direct spending caps as enacted pursuant to sections 104 and 105 may be revised as follows: Except as required pursuant to section 105(a), direct spending caps may only be amended by recorded vote. It shall be a matter of highest privilege in the House of Representatives and the Senate for a Member of the House of Representatives or the Senate to insist on a recorded vote solely on the question of amending such caps. It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution waiving the provisions of this subsection. This subsection may be waived in the Senate only by an affirmative vote of three-fifths of the Members duly chosen and sworn.

TITLE II—ENFORCEMENT PROVISIONS

SEC. 201. REPORTING EXCESS SPENDING.

(a) Analysis of Actual Deficit, Revenue, and Spending Levels.—As soon as practicable after any fiscal year, OMB shall compile a statement of actual deficits, revenues, and direct spending for that year. The statement shall identify such spending by categories contained in section 105.

(b) Estimate of Necessary Spending Reduction.—Based on the statement provided under subsection (a), the OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected deficits, revenues, or spending in the current or immediately preceding fiscal years in violation of the revenue targets or direct spending caps in section 104 or 105, by more than one percent of the applicable total revenues or direct spending for such year. The report shall include:

(1) All instances in which actual direct spending has exceeded the applicable direct spending cap.

(2) The difference between the amount of spending available under the direct spending caps for the current year and estimated actual spending for the categories associated with such caps.

(3) The amounts by which direct spending shall be reduced in the current fiscal year so that total actual and estimated direct spending for all cap categories for the current and immediately preceding fiscal years shall not exceed the amounts available under the direct spending caps for such fiscal years.

(4) The amount of excess spending attributable solely to changes in inflation or eligible populations.

SEC. 202. ENFORCING DIRECT SPENDING CAPS.

(a) Purpose.—This title provides enforcement of the direct spending caps on categories of spending established pursuant to section 105. This section shall apply for any fiscal year in which direct spending exceeds the applicable direct spending cap.

(b) General Rules.—

(1) Eliminating a breach.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(2) Programs, projects, or activities.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects and activities within a budget account.

(3) Indefinite authority.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

(4) Cancellation of budgetary resources.—Budgetary resources sequestered from any account other than an trust, special or revolving fund shall revert to the Treasury and be permanently canceled.

(5) Implementing regulations.—Notwithstanding any other provision of law, administrative rules or similar actions implementing any sequestration shall take effect within 30 days after that sequestration.

SEC. 203. SEQUESTRATION RULES.

(a) General Rules.—For programs subject to direct spending caps:

(1) Triggering of sequestration.—Sequestration is triggered if total direct spending

subject to the caps exceeds or is projected to exceed the aggregate cap for direct spending for the current or immediately preceding fiscal year.

(2) CALCULATION OF REDUCTIONS.—Sequestration shall reduce spending under each separate direct spending cap in proportion to the amounts each category of direct spending exceeded the applicable cap.

(3) UNIFORM PERCENTAGES.—In calculating the uniform percentage applicable to the sequestration of all spending programs or activities within each category, or the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities, the sequestrable base for direct spending programs and activities is the total level of outlays for the fiscal year for those programs or activities in the current law baseline.

(4) PERMANENT SEQUESTRATION OF DIRECT SPENDING.—Obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first direct spending sequestration, any later sequestration shall reduce direct spending by an amount in addition to, rather than in lieu of, the reduction in direct spending in place under the existing sequestration or sequestrations.

(5) SPECIAL RULE.—For any direct spending program in which—

(A) outlays pay for entitlement benefits;

(B) a current-year sequestration takes effect after the 1st day of the budget year;

(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget; and

(D) the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased due to the delay;

then the uniform percentage shall revert to the uniform percentage calculated under paragraph (3) when the budget year is completed.

(6) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

(A) benefit payments are made to persons or governments more frequently than once a year; and

(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index (commonly called "cost of living adjustments");

sequestration shall first be applied to the cost of living adjustment before reductions are made to the base benefit. For the first fiscal year to which a sequestration applies, the benefit payment reductions in such programs accomplished by the order shall take effect starting with the payment made at the beginning of January following a final sequester. For the purposes of this subsection, veterans' compensation shall be considered a program that meets the conditions of the preceding sentence.

(7) LOAN PROGRAMS.—For all loans made, extended, or otherwise modified on or after any sequestration under loan programs subject to direct spending caps—

(A) the sequestrable base shall be total fees associated with all loans made extended or otherwise modified on or after the date of sequestration; and

(B) the fees paid by borrowers shall be increased by a uniform percentage sufficient to produce the dollar savings in such loan programs for the fiscal year or years of the sequestrations required by this section.

Notwithstanding any other provision of law, in any year in which a sequestration is in effect, all subsequent fees shall be increased by the uniform percentage and all proceeds from such fees shall be paid into the general fund of the Treasury.

(8) INSURANCE PROGRAMS.—Any sequestration of a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' Life insurance programs) shall be accomplished by increasing premiums on contracts entered into extended or otherwise modified, after the date a sequestration order takes effect by the uniform sequestration percentage. Notwithstanding any other provision of law, for any year in which a sequestration affecting such programs is in effect, subsequent premiums shall be increased by the uniform percentage and all proceeds from the premium increase shall be paid from the insurance fund or account to the general fund of the Treasury.

(9) STATE GRANT FORMULAS.—For all State grant programs subject to direct spending caps—

(A) the total amount of funds available for all States shall be reduced by the amount required to be sequestered; and

(B) if States are projected to receive increased funding in the budget year compared to the immediately preceding fiscal year, sequestration shall first be applied to the estimated increases before reductions are made compared to actual payments to States in the previous year—

(i) the reductions shall be applied first to the total estimated increases for all States; then

(ii) the uniform reduction shall be made from each State's grant; and

(iii) the uniform reduction shall apply to the base funding levels available to states in the immediately preceding fiscal year only to the extent necessary to eliminate any remaining excess over the applicable direct spending cap.

(10) SPECIAL RULE FOR CERTAIN PROGRAMS.—Except matters exempted under section 204 and programs subject to special rules set forth under section 205 and notwithstanding any other provisions of law, any sequestration required under this Act shall reduce benefit levels by an amount sufficient to eliminate all excess spending identified in the report issued pursuant to section 201, while maintaining the same uniform percentage reduction in the monetary value of benefits subject to reduction under this subsection.

(b) WITHIN-SESSION SEQUESTER.—If a bill or resolution providing direct spending for the current year is enacted before July 1 of that fiscal year and causes a breach within any direct spending cap for that fiscal year, 15 days later there shall be a sequestration to eliminate that breach within that cap.

SEC. 204. ENFORCING REVENUE TARGETS.

(a) PURPOSE.—This section enforces the revenue targets established pursuant to section 104. This section shall apply for any year in which actual revenues were less than the applicable revenue target in the preceding fiscal year or are projected to be less than the applicable revenue target in the current year.

(b) ESTIMATE OF NECESSITY TO SUSPEND NEW REVENUE REDUCTIONS.—Based on the statement provided under section 201(a), OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable revenue target in section 104, as adjusted pursuant to section 106, by more than 1 percent of the applicable total revenue target for such year. The report shall include—

(1) all existing laws and policies enacted as part of any reconciliation legislation in calendar 1997 which would cause revenues to decline in the calendar year which begins January 1, compared to laws and policies in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(c) GENERAL RULES.—

(1) DELAYED PHASE-IN OF NEW TAX CUTS.—No provision of the Revenue Reconciliation Act of 1997—

(A) establishing or increasing any credit, deduction, exclusion or eligibility limit; or

(B) reducing any rate

shall first take effect in the calendar year following a year in which actual revenues were less than the applicable revenue target or revenues in the current year are projected to be less than the applicable target.

(2) SUSPENSION OF INDEXATION.—No new adjustment for inflation shall be made to any credit, deduction, or exclusion enacted as part of the Revenue Reconciliation Act of 1997 if revenues in the preceding year were below the applicable revenue target or revenues in the current year are projected to be less than the applicable target.

(d) SPECIAL RULES.—(1) All provisions of law included in the report pursuant to subsection (b)(1) shall be suspended until such time as the total of projected revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year is equal to or greater than the relevant revenue targets in section 104; and

(2) If subsection (c) would cause the total of projected revenues in the current year and actual revenues in the preceding fiscal year to exceed the relevant revenue targets in section 104, new policies to reduce revenues shall be modified sufficiently to raise revenues to the level of the targets for the relevant years.

SEC. 205. EXEMPT PROGRAMS AND ACTIVITIES.

The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) offsetting receipts and collections;

(4) all payments from one Federal direct spending budget account to another Federal budget account;

(5) all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

(7) nonbudgetary activities, including but not limited to—

(A) credit liquidating and financing accounts;

(B) the Pension Benefit Guarantee Corporation Trust Funds;

(C) the Thrift Savings Fund;

(D) the Federal Reserve System; and

(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense;

Claims, judgments and relief act (20–1895–0–1–806);

Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

Eastern Indian land claims settlement fund (14–2202–0–1–806);

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153):

Payments to copyright owners (03–5175–0–2–376);

Salaries of Article III judges (not including cost of living adjustments);

Soldier's and Airman's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401);

(10) the following noncredit special, revolving, or trust-revolving funds—

Exchange Stabilization Fund (20–4444–0–3–155); and

Foreign Military Sales trust fund (11–82232–0–7–155).

(j) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction that would otherwise apply.

(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

SEC. 206. SPECIAL RULES.

(a) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(b) COMMODITY CREDIT CORPORATION.—

(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

(2) DAIRY PROGRAM.—

(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk in the United States and marketed by producers for commercial use.

(B) That price reduction (measured in cents per hundred-weight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

(3) EFFECT OF DELAY.—For purposes of subsection (b)(1), the sequestrable base for Commodity Credit Corporation is the current-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2).

(4) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its realized losses.

(c) EARNED INCOME TAX CREDIT.—

(1) The sequestrable base for earned income tax credit program is the dollar value of all current year benefits to the entire eligible population.

(2) In the event sequestration is triggered to reduce earned income tax credits, all earned income tax credits shall be reduced, whether or not such credits otherwise would result in cash payments to beneficiaries, by a uniform percentage sufficient to produce the dollar savings required by the sequestration.

(d) REGULAR AND EXTENDED UNEMPLOYMENT COMPENSATION.—

(1) A State may reduce each weekly benefit payment made under the regular and extended unemployment benefit programs for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

(e) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.— For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. The sequestrable base for the Fund is the current-year level of gross outlays resulting from claims paid after the sequestration order takes effect.

(f) FEDERAL HOUSING FINANCE BOARD.— Any sequestration of the Federal Housing Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

(g) FEDERAL PAY.—

(1) IN GENERAL.— New budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 203(c)(3), as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1109 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code;

(B) the term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code;

(ii) allowances provided members of the uniformed services under sections 403(a) and 405 of such title; and

(iii) cadet pay and midshipman pay under section 203(c) of such title; and

(C) the term "uniformed services" shall have the same meaning given that term in section 101(3) of title 37, United States Code.

(h) MEDICARE.—

(1) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.— In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(3) PART B PREMIUMS.—In computing the amount and method of sequestration from part B of title XVIII of the Social Security Act—

(A) the amount of sequestration shall be calculated by multiplying the total amount by which Medicare spending exceeds the appropriate spending cap by a percentage that reflects the ratio of total spending under Part B to total Medicare spending; and

(B) sequestration in the Part B program shall be accomplished by increasing premiums to beneficiaries.

(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(i) POSTAL SERVICE FUND.— Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States and shall have the duty to make those payments during the first fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

(1) the uniform sequestration percentage, times

(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue forgone that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and shall follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

(j) POWER MARKETING ADMINISTRATIONS AND T.V.A.— Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each payment by a fund shall be—

(1) the direct spending uniform sequestration percentage, times

(2) the estimated gross obligations of the fund in that year other than those obligations financed from discretionary appropriations for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the pre-sequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in tax rates, or by any combination, but may not be financed by a lower fund surplus, a higher fund deficit, additional borrowing, delay in repayment of principal on outstanding debt and shall follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified in this subsection in order to make the annual payments to the Treasury.

(k) BUSINESS-LIKE TRANSACTIONS.—Notwithstanding any other provision of law, for programs which provide a business-like service in exchange for a fee, sequestration shall be accomplished through a uniform increase in fees (sufficient to produce the dollar savings in such programs for the fiscal year of the sequestration required by section 201(a)(2), all subsequent fees shall be increased by the same percentage, and all proceeds from such fees shall be paid into the general fund of the Treasury, in any year for which a sequester affecting such programs are in effect.

SEC. 207. THE CURRENT LAW BASELINE.

(a) SUBMISSION OF REPORTS.—CBO and OMB shall submit to the President and the Congress reports setting forth the budget baselines for the budget year and the next nine fiscal years. The CBO report shall be submitted on or before January 15. The OMB report shall accompany the President's budget.

(b) DETERMINATION OF THE BUDGET BASELINE.—(1) The budget baseline shall be based on the common economic assumptions set forth in section 106, adjusted to reflect revisions pursuant to subsection (c).

(2) The budget baseline shall consist of a projection of current year levels of budget authority, outlays, revenues and the surplus or deficit into the budget year and the relevant outyears based on current enacted laws as of the date of the projection.

(3) For discretionary spending items, the baseline shall be the spending caps in effect pursuant to section 601(a)(2) of the Congressional Budget Act of 1974. For years for which there are no caps, the baseline for discretionary spending shall be the same as the last year for which there were statutory caps.

(4) For all other expenditures and for revenues, the baseline shall be adjusted by comparing unemployment, inflation, interest rates, growth and other economic indicators-and changes ineligible population-for the most recent period for which actual data are available, compared to the assumptions contained in section 106.

(c) REVISIONS TO THE BASELINE.—The baseline shall be adjusted for up-to-date economic assumptions when CBO submits its Economic and Budget Update and when OMB submits its budget update, and by August 1 each year, when CBO and OBM submit their midyear reviews.

SEC. 208. LIMITATIONS ON EMERGENCY SPENDING.

(a) IN GENERAL.—(1) Within the discretionary caps for each fiscal year contained in this Act, an amount shall be withheld from allocation to the appropriate committees of the House of Representatives and of the Senate and reserved for natural disasters and other emergency purposes.

(2) Such amount for each such fiscal year shall not be less than 1 percent of total budget authority and outlays available within those caps for that fiscal year.

(3) The amounts reserved pursuant to this subsection shall be made available for allocation to such committees only if—

(A) the President has made a request for such disaster funds;

(B) the programs to be funded are included in such request; and

(C) the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year.

(4) Notwithstanding any other provision of law—

(A) States and localities shall be required to maintain effort and ensure that Federal assistance payments do not replace, subvert or otherwise have the effect of reducing regularly budgeted State and local expenditures for law enforcement, refighting, road construction and maintenance, building construction and maintenance or any other category of regular government expenditure (to ensure that Federal disaster payments are made only for incremental costs directly attributable to unforeseen disasters, and do not replace or reduce regular State and local expenditures for the same purposes);

(B) the President may not take administrative action to waive any requirement for States or localities to make minimum matching payments as a condition or receiving Federal disaster assistance and prohibit the President from taking administrative action to waive all or part of any repayment of Federal loans for the State or local matching share required as a condition of receiving Federal disaster assistance, and this clause shall apply to all matching share requirements and loans to meet matching share requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any other Acts pursuant to which the President may declare a disaster or disasters and States and localities otherwise qualify for Federal disaster assistance; and

(C) a two-thirds vote in each House of Congress shall be required for each emergency to reduce or waive the State matching requirement of to forgive all or part of loans for the State matching share as required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(b) EFFECT BUDGET RESOLUTIONS.—(1) All concurrent resolutions on the budget (including revisions) shall specify the amount of new budget authority and outlays within the discretionary spending cap that shall be withheld from allocation to the committees and reserved for natural disasters, and a procedure for releasing such funds for allocation to the appropriate committee. The amount withheld shall be equal to 1 percent of the total discretionary spending cap for fiscal year covered by the resolution, unless additional amounts are specified.

(2) The procedure for allocation of the amounts pursuant to paragraph (1) shall ensure that the funds are released for allocation only pursuant to the conditions contained in subsection (a)(3)(A) through (C).

(c) RESTRICTION ON USE OF FUNDS.—Notwithstanding any other provision of law, the amount reserved pursuant to subsection (a) shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(d) NEW POINT OF ORDER.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 207 of the Balanced Budget Assurance Act of 1997 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

The SPEAKER pro tempore. Pursuant to House Resolution 192, the gentleman from Delaware [Mr. CASTLE] and a Member opposed each will control 30 minutes.

Is there a Member opposed to the bill?

Mr. NUSSLE. Mr. Speaker, I am opposed to the bill, and request the time in opposition.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. NUSSLE] will be recognized for 30 minutes.

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that 15 minutes of the time in opposition be shared with the distinguished gentleman from South Carolina [Mr. SPRATT].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that 15 minutes of the time in support of the legislation be yielded to the gentleman from Minnesota [Mr. MINGE].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have had some discussion of this legislation already in the rule discussion, and we will have additional discussion here. But there are those of us in this Congress, and I hope it is a large majority of the Congress, who feel very strongly that if we are indeed ever going to balance the budget of the United States of America, we have to do more than just pass something which is going to balance the budget in 5 years. Remember, there will be two elections to Congress in the interim period, as well as an election of the President of the United States during that time. There will have been changes, economic variables that will come into play. It is very possible we will never get to a balanced budget.

We believe strongly that we should have a budget enforcement mechanism. We have worked extremely hard in order to put together a piece of legislation which would do that. I should say this is not something that was drafted by those of us who will speak to it today. This was worked on and drafted by budget experts across the United States of America. It has been reviewed by a lot of people.

It simply has several provisions in it which we will be expanding on, but it says that we have to look forward and look back each year to ascertain where we are with respect to the different aspects of the budget itself, the different components that make up our budget in mandatory and discretionary spending, as well as in the tax cuts which are going into place. And if indeed they fall out of line and do not add up to the numbers, as in the budget reconciliation which we will have this year, then we, the Congress, can either do nothing, in which case there will be self-enacting mechanisms to bring it back into line, or we can step forward and act.

I think the stepping forward and acting is a more likely consequence of this, and it is a reason that those who might say this could impact future tax cuts or Social Security in my judgment just completely overlook the fact that Congress is not going to allow that to happen. The bottom line is that this would be, I think, the ultimate way it would be worked out. We would come back as a Congress and look at it.

We simply have to do this. We have to have a method. We have to have a mechanism. It is like buying a car. We need a guarantee or warranty on that car. It is what we expect in this day and age. What is going to happen to the engine and the tires and the body of the car, down the line? We feel the same way about the budget.

This is bipartisan. It has been worked on by Members who care a great deal about it. In my judgment, anyone who believes in a balanced budget in this body, of the 435 Members of us, those of us who voted for those balanced budgets in the past, those who voted for constitutional guarantees of a balanced budget, should be supportive of this legislation.

So it is for all of these reasons that I would encourage each and every one of us to follow this argument carefully, to not go for the scare tactics that may be put forward, and to make sure we cast an affirmative vote when it is all said and done.

Mr. Speaker, I reserve the balance of my time.

Mr. NUSSLE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. SMITH], a member of the Committee on the Budget.

Mr. SMITH of Michigan. Mr. Speaker, I think part of the problem is that we have not debated this bill. There are a lot of good things in this budget enforcement proposal before us. However, we do have enforcement within the reconciliation bill that is going to be put before this body in the next few weeks.

My bill, H.R. 2037, included the enforcement provision that is going to be in reconciliation. It says, put caps and limits on discretionary spending, have sequesters, maintain the pay-go provisions for entitlement and tax changes.

So the question before us is; are we prepared to pass this kind of legislation implementing dramatic budget reform and the budget process without undergoing more through examination and consideration of the Committee on the Budget? Legislation such as this, should also be considered by the Committee on Ways and Means and other committees, to bring a studied bill before this body rather then a mostly unread and unconsidered bill with no chance of amendments.

I introduced for the last 4 years budget reform legislation. I am convinced that some of those items that are not in this bill should be considered by this House when we finally pass a budget bill that is going to dramatically change the way this Congress does budget business.

Mr. MINGE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. DOYLE].

Mr. DOYLE. Mr. Speaker, I rise in support of the Budget Enforcement Act of 1997. If history is any kind of lesson, it is obvious that the strong targeted enforcement mechanisms provided by this bill are needed to ensure the budget is balanced by 2002.

Some 229 Members of this House cosponsored the balanced budget amendment. I cannot understand why any of these Members would not support H.R. 2003. However, we are now hearing from Members who cosponsored the BBA, voted for the budget agreement and voted for both reconciliation bills, that the most serious problem with the Budget Enforcement Act is the fact that it may postpone tax cuts for their supporters.

In a sense, they are right. If we enact this bill, tax cuts will indeed be delayed if the country is short of the money needed to balance the budget. But once we are on track, cuts can be enacted. I see nothing wrong with this approach. If we can afford certain tax cuts, let them go through. If we cannot, then we are just going to have to wait. In fact, if Members think it is more important to eliminate the deficit than it is to give away tax breaks that we cannot afford, this should be an easy vote.

Let me close by saying I am disappointed that the Committee on Rules has decided to play politics with this issue, rather than debate it on its merits. The sponsors of this bill have discovered some needed changes. However, the Committee on Rules would not allow these corrections to be added to the bill, and it is my understanding they may be included in a motion to recommit. Consequently, anyone who is serious about deficit reduction should support the motion to recommit.

In addition, even if this motion is not agreed to, I believe it is still crucial we enact this bill. The underlying principles are too important to ignore, and modification can always be made in conference. I urge my colleagues to vote for responsibility. Support the motion to recommit and support the underlying bill.

Mr. Speaker, I rise in support of the Budget Enforcement Act of 1997. If history is any kind of lesson, it is obvious that the strong, targeted enforcement mechanisms provided by this bill are needed to ensure the budget is balanced in 2002.

During the 1980's and early 1990's, public officials said time and time again that the budget would be balanced in a number of years. But, time and time again, the Government lacked the discipline to follow through on these promises.

Attempts were made to hold lawmakers to their word. No one should forget the noble failures of Gramm-Rudman. Unfortunately, these well-intentioned efforts contained a number of loopholes and shortcomings which allowed past Congresses and administrations to tear through the paper ceilings they established. Clearly, something stronger is needed.

A balanced budget amendment would be a strong device, but it is obviously not available at this time. While we did not even have the opportunity to vote on a balanced budget amendment this year, we do have the chance to enact the next best thing—the bipartisan Budget Enforcement Act.

Some 229 Members of this House cosponsored the balanced budget amendment, and I cannot understand why any of these Members would not support H.R. 2003. However, we are now hearing from Members who cosponsored the BBA, voted for the budget agreement, and voted for both reconciliation bills that the most serious problem with the Budget Enforcement Act is that fact that it may postpone tax cuts for their supporters. In a sense, they are right. If we enact this bill, tax cuts will, indeed, be delayed if the country is short of the money needed to balance the budget. But, once we are on tract, cuts can be enacted. I see nothing wrong with this approach. If we can afford certain tax cuts, let them go through. If not, we may just have to wait. In fact, if you think it is more important to eliminate the deficit than it is to give away tax breaks we cannot afford, this should be an easy vote.

I know there are those concerned that H.R. 2003 will lead to reductions in important programs. I would like to ease these concerns by pointing out that this bill does not demand cuts. Instead, it demands that we adhere to our objectives. Congress and the President will be provided with ample time to avert automatic corrections. Similarly, reductions will not be triggered by extra spending that results from inflation or some increased demand for services. To avoid cuts, Congress and the President will have to put more careful consideration into crafting budgets. We will have to work within responsible guidelines, adopt a more long-term outlook, and employ highly accurate economic forecasts. Mr. Speaker, we should have been working this way all along.

Now, thanks to a thriving economy and a handful of tough votes, a balanced budget is within our grasp. This time we cannot allow it to slip away. If all parties involved can show more discipline and tenacity than they have in the past, we will achieve this elusive goal. The bipartisan Budget Enforcement Act will provide the incentives to ensure that we do.

Let me close by saying I am disappointed that the Rules Committee has decided to play politics with this issue, rather than debate it on its merits. The sponsors of this bill have discovered some needed technical changes. However, because the Rules Committee would not allow these corrections to be added to the bill, they have been included in the motion to recommit. Consequently, anyone who is serious about deficit reduction should support the motion to recommit. In addition, even if this motion is not agreed to, I believe it is still crucial that we enact this bill. The underlying principles are too important to ignore, and modifications can always be made in conference. I urge my colleagues to vote for responsibility—support the motion to recommit and support the underlying bill.

Mr. SPRATT. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, this debate is not about ends, it is about means, because I emphatically share the same ends as the sponsor of this bill, which is to balance the budget and balance it for good by no later than 2002.

I will be the first to admit that their bill springs from a valid concern. It is concern that the budget we may soon pass could fall short of its goal. That concerns us because it has happened before. It happened with Gramm-Rudman-Hollings in 1986, for which I voted, and it happened with the budget summit in 1990. In each case the spending cuts we passed did not cut spending in fact by as much as we figured. As a result, the deficit did not drop as much as we hoped.

This bill is to ensure that that will not happen again. That is a valid concern, but for one very basic fact: We have a solution. It is in place and it is working. When we adopted the Deficit Reduction Act back in 1993, we carried forth the discretionary spending caps and the pay-as-you-go rules that were first adopted in the Budget Enforcement Act of 1990. In a word, they work. Since 1993, discretionary spending has been held at or below the statutory caps and new entitlement spending has been checked by the pay-as-you-go rule.

In addition, we included in that Deficit Reduction Act back in 1993 an enforcement procedure which I recall well because it was my amendment. That procedure was dropped from the bill in the other body because of the Byrd rule, but the President imposed it by Executive order and the House has adopted it as a rule of procedure.

Basically, this rule says that whenever entitlement spending exceeds a given year's baseline, the President with his budget has to report that variance to the Congress, and also recommend to the Congress how the overrun should be rectified. Congress has to take a record vote on the President's recommended action or our alternative before we can take the first step in the budget process. We can vote to do nothing, but we have to vote. We cannot duck the problem. That is a rule of the House. That is an Executive order of the Government.

This procedure has never been invoked because it has never been needed. That is the irony of our situation today. This bill deals with a problem that has not presented itself for the last 5 years, because unlike Gramm-Rudman in 1986 and the budget summit in 1990, the deficit since 1993 has followed the downward, declining path that was plotted in the 1993 budget. In fact, it is running well below that path and headed to a deficit this year of less than $40 billion. So all of this concern about the need for enforcement because we may not attain our balanced budget flies in the face of the facts of the last 5 years.

What is more, what this bill offers is a solution or solutions that are unwieldy and extremely cumbersome and extremely complex. Let me give a few of the problems that I have with the complex processes that this bill would impose.

First of all, it does not address what in my opinion is the largest problem. The largest problem of risk, looking down the next 5 to 10 years, if we adopt the budget bill and the tax reconciliation bill that we have under consideration, is exploding outyear revenues.

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While this bill comes down hard on spending, it says, as to tax cuts, we will defer or postpone only those that have not been implemented for 1 year. There is a disparity of treatment here that means that we will come down a lot harder on spending than on tax cuts, and it leaves an imbalance in this bill.

I will return to this subject again as the debate goes on and deal with other practical problems that I have with this bill. It is well-intentioned but we do not need it at this particular time.

The SPEAKER pro tempore (Mr. BONILLA). Does the gentleman from Texas [Mr. BARTON] seek to control the time originally designated to the gentleman from Delaware [Mr. CASTLE]?

Mr. BARTON of Texas. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BARTON] is recognized to yield time.

Mr. BARTON of Texas. Mr. Speaker, could I inquire as to how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BARTON] has 12 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, I thank my good friend from Texas, Mr. BARTON, and the gentleman from Delaware, Mr. CASTLE, as well for their fine work to get this bill on the floor today for a vote.

For my colleagues I have to say that this bill is much along the lines of the Castle-Upton-Martini approach that was adopted in the last Congress and was supported in fact by the chairman of the Committee on the Budget as well as the chairman of the Committee on Ways and Means. I am proud to be labeled as the deficit hawk because I know that deficits are harmful to our economic growth and our future prosperity. All of us in this body are heartened by the recent news that the deficit in fact is coming down. Who would have guessed the deficit this year could have been as low perhaps as $50 billion?

I once worked at the Office of Management and Budget. I watched a Congress that back in the 1980's promised to cut taxes and cut spending. They only did one: cut taxes, did not cut spending. We saw the deficit balloon by trillions of dollars, of which we are paying almost some $300 billion in interest just this year.

Our country has always been based on checks and balances. That is what this bill does. If we do not hit the deficit target, we will not see the tax cuts come into play. We need this. We need this measure as some version of an accountability so that we can reach a balanced budget. We will not see our deficits increasing the debt. I would urge all of my colleagues to vote for this.

Mr. NUSSLE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kentucky [Mrs. NORTHUP].

Mrs. NORTHUP. Mr. Speaker, I would like to speak against the Budget Enforcement Act. I really have great appreciation for what the authors are trying to achieve. I believe it is important that we focus on achieving those goals. However, I do not think this is the way to go about it.

I want to emphasize the importance of creative solutions. I believe in 1994 that there was a revolution. It was not just a revolution of who served. It was not just a revolution about where we were trying to go. It was a revolution of we are going to start to think out of the box. We are going to stop doing things that we have always done and get what we have always gotten.

So Congress and the people that were involved in public policy began to think of new ways to fashion new solutions. It is very important that we deal with each one of our spending challenges and each one of our challenges that we face and look for creative solutions. Think about 20 years ago when so many of us were concerned in this country that we would never be internationally competitive. We wondered if our ability to trade competitively, as we saw other countries buying up American industries, would ever return. It was the creative solutions of business, it was the ability to find new ways of doing things, a new way to handle inventory, a new way to downsize businesses that gave us back our competitive edge and made us so internationally competitive. That is true with government.

As we look at Medicaid, as we look at Medicare, as we look at Social Security, I am absolutely convinced that we can make those programs strong. We can make them solvent. We can keep them from absorbing all of our children's income in creative ways instead of putting this government on automatic pilot and letting it happen for us in ways that we do not believe are the best.

Mr. MINGE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of the bipartisan Budget Enforcement Act, and I want to thank my colleagues, the gentleman from Texas [Mr. BARTON] and the gentleman from Minnesota [Mr. MINGE] for their hard work in bringing this bill to a vote today.

The lessons of the previous budget plans are that agreeing to balance the budget is not going to provide a solution. For example, in 1982 the budget resolution called for a balanced budget by 1984. We did not. In 1985, under Gramm-Rudman I, we were told we were going to balance the budget by 1991; we did not. In 1987, under Gramm-Rudman II, we were told that the budget would be balanced by 1993; and it was not. During the 1990 budget agreement, we were told that finally the budget would be balanced. It was not.

There was a common thread in all of these agreements. There were no enforcement provisions included.

Critics today have said that the proposal before us is not perfect. I would respond that neither is the budget agreement we are attempting to enforce. We should not let the perfect be the enemy of the good we want to do today.

Critics have charged that our enforcement provisions are unpalatable. I could not agree more. I remind our colleagues that this is an enforcement bill. It should not feel good if we do not keep our agreement with the American people.

Critics charge that the legislation is too soft on the revenue side. Guilty. But look at the letter that the Republican leadership has sent out. I am convinced that what started out as a budget agreement to balance the budget this year is simply a facade to hide a tax cut. Please support this imperfect legislation. It is an imperfect world but we want to do good today. We do want to enforce an agreement to balance the budget by the year 2002. I congratulate my colleagues, the gentleman from Minnesota [Mr. MINGE] and the gentleman from Texas [Mr. BARTON] and all of the Members who have participated in a bipartisan fashion in this endeavor.

Mr. Speaker, I rise in strong support of the Bipartisan Budget Enforcement Act, and I want to thank my colleagues, JOE BARTON and DAVID MINGE, for their hard work in bringing this bill to a vote today.

There is hardly a Member of this institution who does not believe that balancing the Federal budget is important to the future of this country. For 35 years, the U.S. Government has failed to balance its budget, running deficits of up to $290 billion per year. Since 1980, runaway deficit spending has caused the national debt to more than quintuple in size. The debt is now more than $5.3 trillion, or about 70 percent of the country's gross domestic product [GDP]. Compare this figure to 1979, when the national debt stood at $829 billion, or 33 percent of GDP.

The size and scope of the current Federal debt have a terrible negative impact on the lives of working American families. By consuming nearly 15 percent of all Federal spending, interest on the debt acts to crowd out funding for programs that could be used to invest in our country's infrastructure, hire more police officers, and sustain a healthy economy. The debt also contributes to higher interest rates for everyday expenses, such as home mortgages and car loans. In the end, balancing the budget will reduce interest rates, spur economic growth, and put more money in the pockets of American families.

The failure of past efforts to balance the Federal budget shows how important it is to enforce balanced budget plans like the one Congress and the President agreed to in June.

The lessons of previous budget plans prove that agreeing to balance the budget does not guarantee that the budget will actually be balanced. No fewer than four times over the past 15 years, Congress has approved agreements that were supposed to get us to a balanced budget, but failed to actually do so.

For example, in 1982, the budget resolution called for a balanced budget in 1984. Yet, the budget was not balanced by that date. In 1985, under Gramm-Rudman I, we were told that the budget would be balanced in 1991. It was not.

In 1987, under Gramm-Rudman II, we were told that the budget would be balanced in

1993, but it was not. During the 1990 budget agreement, we were told that, finally, the budget would be balanced in 1994. Again, it was not.

The common thread in each of these failed attempts to balance the budget was the lack of a meaningful enforcement mechanism.

Over the years, many of us have come to realize that the only way to achieve a balanced budget is to pass legislation that would add meaningful enforcement procedures to the budget process. That is why for the past two Congresses, I, along with Congressman STENHOLM and Congressman MINGE, have introduced the Balanced Budget Enforcement Act. Originally sponsored by then-chairman of the Budget Committee Leon Panetta and, after that, our former colleague from Minnesota, Tim Penny, this legislation was one of the first comprehensive efforts to address the issue of budget enforcement.

The Budget Enforcement Act before us today is the next logical step in the fight to enact meaningful enforcement legislation.

Forged by a bipartisan group of Members from across the ideological spectrum, this legislation takes a commonsense approach to enforcing the budget process. It acknowledges that our best hope of actually balancing the budget is to put every section of the budget on the table—accountable for actually balancing the budget by the year 2002.

Put in simple terms, this bill puts in place critical enforcement procedures by establishing caps on the mandatory spending and a floor on revenue at the levels set by this year's budget resolution. If spending goes above the targets, or the tax cuts explode beyond what is projected, comprehensive enforcement procedures will be triggered to make sure that the budget remains on track to balance and the deficit stays under control.

I would like to warn Members against complacency. Though the economy is doing well now and the deficit has been reduced over the past several years, there is no guarantee that these rosy economic times will continue. One of the major failings of past balanced budget agreements is that they failed to anticipate downturns in the economy, and were thrown off track by these changes. Passing this enforcement legislation is the best way to ensure that the balanced budget stays on track, even in the event of an economic downturn.

In many ways, the vote on this bill will be a measure of the Congress's willingness to make the tough decisions needed to balance the budget—this vote is a test of our resolve.

Critics have said that its not perfect. I would respond that neither is the budget agreement we are attempting to enforce, and we should not let the perfect by the enemy of the good we can do today.

Critics charge that our enforcement provisions are unpalatable. I couldn't agree more. I remind my colleagues that this is an "enforcement" bill. It's not supposed to feel good if you fail to keep your promise.

Critics charge that the legislation is too soft on the revenue side. Well, given the letter that the Republican leadership has sent out in opposition to this bill, it's clear to me that they are using the balanced budget agreement as a facade for a tax cut and this was the strongest provision we were going to be allowed in a bipartisan measure.

We have tried many times to reach a balanced budget, but failed in each case because the Congress lacked the political will to follow through on its promises. Passage of this legislation will ensure that the Congress does not walk away from the promise it has made to the American people to balance the budget by 2002. It will restore the faith of the American people that the Congress has the will to balance the budget, and show that we are not afraid of making the difficult choices needed to get us there.

Mr. Speaker, I urge my colleagues to vote in favor of the Bipartisan Budget Enforcement Act.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO], distinguished former chairman of the Committee on the Budget.

Mr. SABO. Mr. Speaker, I thank the ranking member for yielding me the time.

Sometimes I think we keep fighting old fights. We are fighting the problems of Gramm-Rudman. That is long passed. The reality is that the budget enforcement mechanisms of 1990, extended to 1993 and extended this year, work. Discretionary spending caps, with some flexibility for emergencies, worked. The pay-as-you-go provisions that are current law as they relate to new entitlements have worked.

What cannot work under our current law unfortunately and is not solved by the Minge-Barton bill are the structures of tax cuts that explode beyond the 5-year limit. Those games are being played with backloaded IRA's and capital gains that explode in the outyears. Current provisions cannot prevent it. Unfortunately the current proposal before us solves none of that problem.

The only way we can deal with that problem, where we have backloaded tax cuts that explode in the future, is to say no to those kinds of proposals when they come before the House. The proposed bill does not solve that problem because it is a 5-year bill. And if we extend it beyond 5 years, we then have new baselines from which we are operating.

I urge defeat of this bill. Do not undo a system that is working with ration and reason today.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. WAMP], the father of Weston Wamp, one of the chief sponsors of our legislation.

Mr. WAMP. Mr. Speaker, I thank the gentleman for yielding me the time.

I quit using the word revolution because it implies bloodshed, maybe even chaos. Started using the word correction where all of us, Democrats, Republicans, Independents could follow through on our word, just be consistent, clean this place up together.

I do not want to start on a negative here but, if we lose this bill and lose this vote, it will be basically for three reasons: First, it is a true bipartisan effort. Unfortunately, that is not the way things are done in this city. Actually, we have got Members from all over the place here. We have got Liberals, Conservatives, Democrats, Republicans, we cannot tell who is controlling the time from which side of the aisle because it is a true bipartisan effort and some folks do not like that.

Second, fear is an easy mechanism to use. We are going to hear all kinds of fears. I have heard caps. I have heard delays. I have heard even the word cuts used here today in Social Security, Medicare, that the tax cuts would be delayed or postponed. That is all a what-if scenario.

Theoretically, if Congress and the administration absolutely do nothing, heck, if we did not come back here between now and October 1, the Government would shut down again, but the Congress is not going to let that happen. We should not let this decision be driven by fear of what if. We are responsible Members. We will do what is right for the American folks and they know it.

The third thing is a technicality. There are a couple of technical flaws in this bill that we tried to get corrected, and the Committee on Rules said no. I think that is unfortunate. The Committee on Rules should allow us to improve the bill, and I understand that there was an agreement reached, and in the letter of the law we were going to submit the bill that was on the floor a month ago; but we tried to improve the bill, and we can still improve this bill, and it is not a reason to vote against it.

I am down here in support of this effort because from 1965 to now, the portion of the Federal budget that the Congress actually appropriates has gone from two-thirds of the total budget to one-third. Entitlements are on automatic pilot, and they are running away with the American taxpayers' dollars, and we must rein it in, not cut anybody's benefits, not reduce anybody's benefits, just slow down the growth and be responsible.

As a member of the Committee on Appropriations, I can tell my colleagues that, if the economy hiccups or belches a few times along the road in the next 5 years, all of the offsets, all of the reductions are going to have to come from the Committee on Appropriations. That is going to put pressure on student loans, on cancer research, on the investment dollars in the next generation. We cannot let that happen.

We are going to hear folks from one side of the aisle say, whoa to tax cuts, tax cuts are ok if we are still meeting the discipline and the fiscal restraint on the other side of the ledger. You are going to hear Members on one side of the aisle say, you cannot slow down entitlements.

We must come together and do it all and be serious with the American people. That is what this is about. All of my colleagues should vote "yes."

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. MINGE. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. TAUSCHER].

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, four times in the last 15 years Congress and the President have told the American people that they had reached an agreement to balance the budget. In each case however, the deficit continued to grow. We now have the opportunity once again to make good on our word. Congress and the President have agreed on the outlines of a deficit reduction plan that will restore fiscal responsibility to our Nation's budget.

Unfortunately the success of this effort hinges on key enforcement provisions that are not yet part of this agreement. The bipartisan Budget Enforcement Act would put in place a mechanism to force Congress and the President to actively address spending that is higher than expected or where revenues have fallen short of expectations. Instead of ignoring excessive spending or revenue shortfalls, we would be forced to confront the causes of the problem and make adjustments accordingly.

We have made historic steps toward placing our economy on a sound footing for the first time in a generation. But without a strong budget enforcement mechanism, there is no guarantee that we will reach the goal of eliminating the deficit and living up to our agreement. I encourage my colleagues to support the motion to recommit on H.R. 2003.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL], ranking member of the Committee on Ways and Means.

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Mr. RANGEL. Mr. Speaker, I rise in opposition to H.R. 2003. Although I agree with the principles in which we should have some way of enforcing the budget agreement and reducing the deficit, the way this does that, it actually shatters the integrity of the entire House system as we know it, and it jeopardizes the jurisdiction of the authorizing committees as well as the appropriating committees.

Those of us that serve on committee, we take great pride, at least we did before the contract violated that, in the ability that allowed us to legislate, allowed us to get the bills passed to the House, and allowed the conferees to decide what to do.

In this, we will have some separate body outside of the ordinary legislative process making decisions, so that even if we found that the Medicare provisions were out of whack with what we had perceived, the first thing that is attacked is not the cost that the doctors would cause us, but we go straight to the premiums. Some of us would like to believe that there might be a more equitable way to do it.

The same thing applies to Social Security, if that falls short. Instead of trying to see whether we can make it even to enforce the budget, the first thing we go after is the cost-of-living increases and not really trying to see whether we can do something to resolve it.

It requires more cuts in the individual entitlement programs, even if overall there is a surplus in the entitlement programs. Of course, if one were to suspect that entitlement programs is the subject or the target to wipe out, then I would suggest this is the way to do it. But knowing that we are merely trying to enforce the budget agreement, it would seem to me that entitlement programs and spending generally should be what we are looking at and not just waiting for one program to fall behind.

This bill also would require spending cuts, but the tax increases would not be subjected to this even if the deficit is on the right track. So I really think that it hurts the House of Representatives as well as the Senate in years to come.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of H.R. 2003, the bipartisan Budget Enforcement Act.

Without this legislation, the balanced budget agreement will be devoid of any enforcement mechanism, and it runs the danger of joining the many past well-intentioned and long since forgotten efforts to balance the budget.

The truth is that once a balanced budget agreement is approved, history has demonstrated that it unravels as time passes and economic conditions change. Budget enforcement provisions are necessary to avoid this outcome and to ensure that we will follow-through on this agreement.

The bill has been drafted to prevent problems that developed with past budget enforcement proposals. It is important to remember that we are proposing enforcement of an already existing budget agreement. We are not trying to bypass difficult future decisions.

The act also applies evenly to all parts of the budget agreement, both spending and revenue provisions. And the bill provides flexibility in the case of changing economic circumstances.

Mr. Speaker, these enforcement provisions should serve as a deterrent for any failure to meet the provisions of the balanced budget agreement. Let us translate the rhetoric into action.

Mr. Speaker, these enforcement provisions should serve as a deterrent for any failure to meet the provisions of the balanced budget agreement. Because every program is included, there will be strong pressure to adhere to the decisions made in the agreement—advocates for every Federal program and advocates for tax cuts will have an equal stake in reaching a balanced budget. Let me repeat: these enforcement provisions are intended to ensure that we keep to our agreement. It is interesting to note that so many Members seem to assume that we will be unable to do so. It is precisely because of this fear that H.R. 2003 is so critical.

Mr. Speaker, a number of Members who oppose this enforcement bill cite their concerns for the potential impact on various elements of the budget agreement—but that is exactly why this legislation is so effective and important. It treats both spending and revenues alike. If revenue projections fall short of the budget agreement, then further tax cuts would be delayed until revenues meet the targets. If entitlement programs grow beyond projected rates, corrective action would be necessary to avoid sequestration. Congress would have the power and adequate time to make alternative policy changes if they are necessary.

Why do some Members find this threatening? I strongly believe that we should delay tax cuts if we find that revenues are inadequate in the later years of the agreement. I also believe that we must control the growth of our entitlement programs—which are still allowed to grow under this bipartisan budget agreement, but which must be reined in if we are to maintain their future stability.

If we say we are committed to a balanced budget and agree that we must avoid the failures of the past, then there is no choice but to vote for H.R. 2003.

Mr. NUSSLE. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. BUNNING], a true Hall of Famer.

We have been talking about Hall of Famers today, but we have a true Hall of Famer, the very distinguished chairman of the Subcommittee on Social Security from the Committee on Ways and Means.

Mr. BUNNING. Mr. Speaker, ever since I came to Congress in 1987, I have worked hard for a balanced budget. A balanced budget is the finest guarantee that Government will be able to honor its commitments, and I believe we will keep our promise to balance the budget.

As chairman of the Subcommittee on Social Security under the Committee on Ways and Means, I have made it my job to protect Social Security and make sure benefits will be there for our senior citizens.

Over 43 million people, 43 million, receive Social Security benefits overall. Social Security makes up 40 percent of all the retirement income in this country—40 percent. We cannot desert the people who have worked for 20, 30, 40, 50 years and will soon retire. We must keep our promises. We must not jeopardize their benefits.

That is why I am not going to vote for the Budget Enforcement Act. The fact is the bill caps entitlements, including Social Security. If the Social Security cap is breached, the bill specifies that any cost-of-living adjustment be reduced or eliminated as a first step toward eliminating that breach. This just is not right and it is not fair.

As we all know, Social Security has the largest, best organized, most vocal constituency of any program. Americans are not looking for any nifty fixes to ensure the future of Social Security. Americans want real reform based on informed, thorough, and deliberative debate.

Such a debate is happening now in the Subcommittee on Social Security through an ongoing hearing series on the future of Social Security for this generation and the next. We have already held five hearings.

Social Security must not be the subject of an arbitrary cap. We must step up to the challenge and to our responsibility to protect the future of all Americans through real Social Security reform.

Mr. Speaker, I urge my colleagues to vote "no" on this Budget Enforcement Act.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I think we need to address directly what the gentleman from Kentucky [Mr. BUNNING] has just talked about.

First of all, he is absolutely correct that Social Security is a very important program and a very special program. I want to point out that it is a Federal entitlement program. It is an earned entitlement program, but it is a Federal program, so it should be a part of any comprehensive enforcement mechanism.

I would also point out that the caps on Social Security in our bill are not arbitrary caps. They are the estimates of spending on Social Security over the next 5 years that have been put into the bill by the President and the congressional leadership. There is nothing arbitrary about them at all. They are based on the very best estimates of a very well run program.

I would also point out that under our procedure on Social Security, the President and the Congress have three options: They can vote to waive the cap on Social Security, if they want to; they can vote to make some programmatic changes in Social Security, if they want to; and only as a last resort would sequestration go into effect.

Last, I would point out that because of the special nature of the Social Security Program, and the concerns that the gentleman from Kentucky and others have raised, we did offer to the Committee on Rules an amendment yesterday that would have taken the first $100 billion of any budget surpluses and put that towards the Social Security trust fund, to actually put real dollars in the trust fund. The Committee on Rules decided not to make that in order.

So I ask my colleagues not to be scared off by a diatribe or at least an attack on our overall bill because of Social Security. It is a Federal program. We know it is a special Federal program. We want to protect it. We have a lot of flexibilities in our bill to protect Social Security. But we cannot assume that just because it is Social Security, that it should be totally off limits.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Texas [Mr. STENHOLM] seek to control the time previously controlled by the gentleman from Minnesota [Mr. MINGE]?

Mr. STENHOLM. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Texas [Mr. STENHOLM] is recognized.

Mr. STENHOLM. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. BOYD].

Mr. BOYD. Mr. Speaker, I rise today in very strong support of the bipartisan Budget Enforcement Act. I want to thank the gentleman from Texas [Mr. BARTON], the gentleman from Delaware [Mr. CASTLE], and the gentleman from Tennessee [Mr. WAMP] for their work; and also the gentleman from Minnesota [Mr. MINGE] and the gentleman from Texas [Mr. STENHOLM] for getting us to this point where we can now address this issue on the floor.

I have heard Members who claim they support the balanced budget agreement and they support the balanced budget resolution; yet if asked to set their promises into law and make them enforceable, according to many of them, then every program will be cut and tax cuts will not take place.

Either we believe the economic assumptions are correct and the budget will be balanced in 2002 or we do not. Many of my colleagues are trying to have it both ways. They voted for H.R. 2014 and H.R. 2015 and sent out press releases trumpeting their support for a balanced budget agreement. Yet when they are asked to place these promises into law and make them enforceable, they talk about how programs will exceed the caps and revenue will not equal the projections.

This is incredible to me, because it becomes painfully obvious that they do not think the balanced budget agreement will truly balance the budget.

While I am new to Congress, this issue is not new. In 1982 we had a balanced budget agreement. In 1985 we had another balanced budget agreement, followed by another one in 1987, and yet another agreement in 1990. None of them succeeded because they were not enforced.

One of the things that is supposed to define intelligence is the ability to learn from our mistakes, and we must learn from those mistakes that we made previously. I ask my colleagues to support the Balanced Budget Enforcement Act.

The SPEAKER pro tempore. The Chair would advise Members that the gentleman from Texas [Mr. BARTON] has 5 minutes remaining; the gentleman from Iowa [Mr. NUSSLE] has 9½ minutes remaining; the gentleman from South Carolina [Mr. SPRATT] has 7½ minutes; and the gentleman from Texas [Mr. STENHOLM] has 8½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, who has the right to close debate?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BARTON] has the right to close.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, while in concept adding budget safeguards that ensure we stay on track to balance the budget makes all the sense in the world, the measure before us fails to advance that goal in an acceptable fashion.

Now, we all know that the devil is in the details, and the shortcomings in the details before us are very significant. They are much too significant to overlook or to brush aside because we like the notion of budget enforcement.

I want to focus on three of the most glaring deficiencies.

Looking at the budget deal presently being negotiated, this historic effort to balance the budget, I believe that the most significant threats are exploding tax cuts, specifically indexing capital gains, or backloaded IRA's, these that have very dynamic revenue losses in the outyears but not in the early years.

Those tax cuts would not in any way be touched by this measure. This measure is a toothless tiger relative to addressing exploding tax cuts.

Second, it places an exceptionally convoluted process in place that totally tips on its head the standing jurisdictions of this House. Between November and December 15 the Committee on the Budget is given sole discretion over reconciling the accounts. That means jurisdiction over all standing authorizing committees, over the Committee on Appropriations, and over the Committee on Ways and Means. It is as though those committees have no expertise whatsoever. The Committee on the Budget is the where-all and the end-all of the decision-making if this bill would kick in.

Finally, if Congress would not act, it would just be the automatic sequester blade coming down and cutting, and that would include cuts on Social Security, Medicare, Medicaid, veterans' benefits, military retirement.

My goodness, these programs are much too vital to put on automatic pilot heading on down the slicing machine. We can do better than that. We must do better than that.

Budget enforcement, yes, but not this budget enforcement. Vote "no."

Mr. NUSSLE. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, we heard earlier someone say something close to this. I will put it a little differently: "If you always do what you always did, you will always get what you always got." And that is pretty much what we have always learned here in the U.S. Congress.

Whenever we try to come in here in a rush to try to change the rules in the middle of the game in order to affect a particular outcome, what invariably happens is that we have an outcome which is not exactly what we intended. In fact, we heard here earlier about the deals and enforcements of 1984 and 1988 and 1989 and 1990 and all sorts of other enforcement provisions in the past. And the question was asked, well, was there a single thread? And the thread was, yes, it was done in a rush.

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I would suggest to my colleagues that that is the thread that runs through much of this, is that we try to craft a little gimmick at the end in order to get the job done and get the ball over the goal line to score what we all want to do. And that is make sure that we have a balanced budget that it is enforceable, that we give to the American people tax relief, that we provide for spending reductions, and we do this in a way that we can all be proud of. And, so, we try to figure out little ways to do that.

But what we have done here, I believe, is a rush job, which I do not question as far as motivation, but I do question as far as whether or not it has been thought out to enough of a degree that it will, in fact, work. In fact, I believe this is much akin to "hey, I know" kind of legislation. We rush in here and we say, "hey, I know; I have got an idea."

In fact, we are going to hear a "hey, I know" idea at the very end of this on the motion to recommit. Someone is going to run in here and say, "hey, I know; I know there is a problem with Social Security. Let us exempt that from this particular enforcement mechanism," or say, "hey, I know; the veterans have a problem with it. Let us exempt them from this motion to recommit," or, "hey, I know; we want to protect these tax cuts, so let us exempt that," or, "hey, I know; let us come up with something else to make sure that we do not do damage to one particular constituency or allay the concerns of one particular part of the membership so that we can get this bill passed."

We should not legislate by "hey, I know." We should send this to committee. We should go through the process which has been promised by the chairman of Committee on Rules, the chairman of the Committee on the Budget, the chairman of the Committee on Ways and Means so that we can bring back to the floor before the end of the Congress, which has been the goal and commitment of both sides of the aisle, an enforcement mechanism within an overall process reform for this budget. We should do it under the auspices of the committee system with hearings which are ongoing. We should not do it when we know, in fact, that there are problems with this bill.

The chairman of the Subcommittee on Social Security was just down in the well explaining exactly how this might, in fact, affect Social Security. I am not suggesting that it does. We do not know. Part of this whole debate here today is the lack of clarity.

So what I would suggest to Members that are unsure about their vote on this particular bill, because I rise in opposition even though I want an enforcement mechanism, I want budget process reform; and so I know the angst that Members are going through right now saying, "Gosh, I wish this was the one. It is really imperfect. It does not quite meet the standards of budget process reform. But I just want to do something."

I would ask my colleagues to consider this: If they are crystal clear about what this is going to do to Social Security, come down here and vote yes. If they are not quite sure, though, they better consider voting no. If they are clear about what this will do to tax increases in the future, come down here and vote yes. But if they think this could, in fact, raise taxes, they better come down here and vote no.

Mr. MINGE. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. SANCHEZ].

Ms. SANCHEZ. Mr. Speaker, today we are opening the doors of Congress to the public. Twenty years ago, sunshine laws brought the light of public scrutiny to the once-secret committee rooms, but those laws did nothing to stop the secret dealings in smoke-filled rooms when it came time to write our Nation's budget.

The public wants a true balanced budget. They want an end to the trillion-dollar debt. They want real middle-class tax relief. Well, my friends, the only way the public is going to get what they want is to know that we have truly kept our promises, and that is through the Budget Enforcement Act.

This bill locks into law the goals of the balanced budget agreement. If Congress and the President want to change the terms of the deal, then they must pass a law to do so. This means that public hearings must be held and Congress can no longer rig the books in the dead of the night.

I am a businesswoman, and in business the marketplace is a gun to the head of any CEO to produce a bottom line and to make a profit. In government, that gun is the balanced budget. We must open up Congress to the public.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS], the ranking member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I thank the gentleman from South Carolina [Mr. SPRATT] for yielding me the time.

I oppose the Budget Enforcement Act because I believe our Nation's veterans and their families may suffer if this bill is passed. If sequestration procedures were triggered, the Budget Enforcement Act could permanently reduce VA compensation benefits for more than 2.5 million service-connected disabled veterans and their surviving spouses next year. At the same time, needs-based pension programs for 710,000 low-income wartime veterans could be reduced, insurance premiums for more than 1.5 million veterans could be increased, and 30,000 veterans could be denied health care from the VA in 1998.

The Budget Enforcement Act would continue Congress' role in neglect toward our Nation's veterans. According to a recent Congressional Research Service report on Federal social spending, veterans benefits programs are the only Federal social programs in the recently adopted budget to suffer a real reduction in purchasing power over the next 5 fiscal years.

We in Congress are not willing to abandon our obligations to men and women who have served in this country. I urge my colleagues to defeat this bill and protect our Nation's veterans.

Mr. MINGE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, listening to this debate, I am reminded of the wisdom of Will Rogers when he observed, "It ain't people's ignorance that bothers me so much. It's them knowing so much that ain't so which is the problem."

This bill does not cut Social Security, does not cut veterans' benefits, does not raise taxes, does not put the Government on autopilot. It takes us off autopilot. It simply requires the Congress to act if we do not meet our promise to the people of 2002.

Last fall, many of us ran on a platform of fiscal responsibility. They made countless speeches about balancing the budget, and that plank helped in their election to the House. In March, after voting for the successful balanced budget constitutional amendment, they sent out the press release claiming their portion of that success. In May, my colleagues joined in the press conference hailing the balanced budget agreement between the President and Congress, and they endorsed the plan by voting for the

House-passed reconciliation bills in June.

In every townhall meeting this year, my colleagues have insisted to skeptical constituents that, at long last, Congress can be trusted to balance the budget. Just like the national polls say, about four out of every five of their constituents say they do not think the Government can really do that. But my colleagues reassure them, after years of broken promises, this time we really are going to balance the Federal budget and keep it balanced.

That scenario really does not require much imagination, does it? For the vast majority of this body, it is our story. Now imagine this: It is the first week of August and you are addressing the first of two dozen townhall meetings that you will face over the next month. The first person up to the microphone, the one your opponent always plants in these meetings, asks, "Congressman, how are you going to keep your promises to us? How did you vote on that bill which makes sure we really get a balanced budget, the one that enforces the spending and revenue targets laid out in the budget?"

I do not know about my colleagues, but there is only one answer I can imagine giving to that question: Seal that answer today. Vote "yes" on the bipartisan enforcement bill. Take us off autopilot. And force the Congress to act if we do not do that which we say we are doing.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I thank the gentleman from South Carolina [Mr. SPRATT] for yielding me the time.

Mr. Speaker, I rise in strong opposition to the so-called Budget Enforcement Act. H.R. 2003 will lead to permanent reductions in veterans' benefits. Although its supporters describe this bill as a neutral and benign enforcement mechanism, in reality it would decimate the benefit programs our grateful Nation has provided for America's heroes, our veterans.

If this bill passes, education benefits for veterans would be cut. More than 345,000 men and women who served in our Nation's Armed Forces would be affected. Compensation provided for the men and women disabled as a result of their military service would be permanently reduced. More than 2.5 million veterans and their widows would be affected. The safety net we provide for our aging war veterans would be torn. More than 700,000 old and sick wartime veterans would be affected.

Let us not support a bill that would endanger the benefits earned by America's veterans. Let us tell our veterans that we support them. Vote "no" on H.R. 2003.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CASTLE], the chief cosponsor and former Governor of Delaware.

Mr. CASTLE. Mr. Speaker, we have heard the scare tactics they talked about earlier. We heard about Social Security and maybe there will not be increases in Social Security. We heard about possible cuts in the veterans' programs. We heard that tax reductions will not go into place.

What has happened because of what Congress has done over many decades now? We have had this tremendous deficit adding to the debt of the United States. About 16 percent of the cost of the budget goes to pay the interest on the debt of the United States of America. We have had tax increases because of that.

We have to make changes. We need the budget enforcement. The budget enforcement bill provides that if there is a problem in terms of getting to where we need to be over those 5 years that we, the Congress, can waive the caps, that we, the Congress, can make programmatic changes, all of which we would do to protect Social Security or the veterans or the tax reductions; or we could do nothing and by sequestration it would be resolved.

I do not think that is going to happen. I think these are scare tactics. I believe that, if we believe that we should balance the budget of the United States of America, that we have to do more than just say that, we have to have a budget enforcement mechanism; and that is what this legislation is. Vote "yes" today.

Mr. NUSSLE. Mr. Speaker, I yield myself 3 minutes to ask a question of the distinguished gentleman from Delaware [Mr. CASTLE].

He mentioned that there has been some scare tactics today. I do not think there has been scare tactics as much as there has been uncertainty. And that is really what I was trying to bring out. Is the gentleman from Delaware [Mr. CASTLE] clear on the fact that Social Security, under his provision, would never be cut or veterans' benefits?

That is what we are suggesting, is that we are unclear. I think Members that are coming here to vote are not necessarily persuaded that there are definite sequestrations because they did build into this some mechanisms. But the concern is that it is unclear, and that is what I think raises so much concern from those of us that oppose this particular enforcement mechanism.

Mr. CASTLE. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Iowa [Mr. NUSSLE] for yielding. I am clear that if we pass the budget enforcement mechanisms here that we are going to have better protection of the programs, such as Social Security, than if we do not. We are facing crises in Social Security sometime in the near future. In this way, we can look at it and we can make corrections if the money is not there.

I think this is an improved mechanism in terms of dealing with not just Social Security but all of the entitlement programs, the concerns that have been expressed here today.

Mr. NUSSLE. Mr. Speaker, reclaiming my time, my concern, however, is this: It is easy to suggest that my colleagues are clear about this, but then my understanding is that what we are hearing is that there is going to be a motion to recommit that is going to be rushed in here that says, "because we are real concerned about Social Security, and since my colleagues seem to be so concerned about Social Security, we will exempt it," or veterans, "we will exempt that," or tax cuts, "we will exempt that." Something is going to be exempted because of all of this concern.

So either we are concerned and unclear or we are clear and not concerned. And that is why I think Members out there, while they want to support reform and enforcement, are concerned that this may not be the exact bill that we want to support to get that job done.

I yield to the gentleman.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Iowa [Mr. NUSSLE] for yielding.

With respect to Social Security, it will not be exempted in the bill that we actually presented to the Committee on Rules yesterday. I do not know if it will be in the motion to recommit or if there will be one here today. What it will do, essentially, is start to deal with the debt of Social Security, which is something I think we need to do. We are building a deficit there. We are having a problem not having the trust fund. That is why we are going to have economic problems with Social Security in the future.

This will be a great mechanism if we could add it to our bill. We probably will not be able to, but I would love to do that. But it does not exempt it per se.

Mr. NUSSLE. Mr. Speaker, reclaiming my time further, I understand that there may be some certainty on the part of the authors based on their careful work on their particular provision. But the rest of us have not had an opportunity to have the hearings, to think through the legislation, to consider all of its ramifications within a total process reform measure. And that is what concerns us.

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I think the proof will be in the motion to recommit. If in fact we think this is such a good bill, the motion to recommit will be just some easy motion to recommit. But my feeling is that there is going to be a motion to recommit that comes down here that is going to say, "Hey, wait a minute, we've got problems. We better move to recommit this and exempt Social Security." Or move to recommit this and exempt veterans. Or all of them.

I would suggest to my colleagues on both sides of the aisle that in fact if we believe this is such good legislation and if we believe the enforcement in this legislation is so perfect, then why do we on the one hand say it is not tough enough to take care of Social Security and on the other hand rush in here with a motion to recommit to try and fix it? We need to perfect this legislation in committee.

Mr. MINGE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Speaker, I rise in strong support of the bipartisan Budget Enforcement Act. For the vast majority of Republicans and Democrats who stood up and voted for the balanced budget agreement, we were in fact making a promise, a commitment to the American people that we are ensuring that we will balance our budget while protecting the priorities of our American families and also by providing a responsible level of tax reduction.

What this bipartisan Budget Enforcement Act does is it basically provides the American people with an insurance policy, to ensure that Congress will not renege on the promises that are a part of the balanced budget agreement. It is a responsible measure that has the protections for entitlement programs in times of recession. For those people who contend that it is going to cut veterans benefits, it is going to cut Social Security, that it is going to cut entitlement programs, that will only happen if Congress and the President fail to live up to their elected responsibilities of providing some leadership to address some of the problems that emerge when we find that our spending is no longer in line with our revenues, by coming forth to the American people and telling them that we have to make some modifications in order to ensure that we can continue to provide the veterans with the benefits that they need.

Also, it gives us the opportunity to tell the American people that we do not have the ability. This is the enforcement mechanism for us to provide the leadership that the American people deserve.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. I thank the gentleman for yielding me this time.

Mr. Speaker, I oppose the Budget Enforcement Act because it would widen the divide between the wealthy and the poor in America. The legislation enforces spending and revenue targets agreed to in the budget agreement by a combination of entitlement caps and deferred tax breaks. But the bill treats entitlements that benefit the poor differently from tax cuts that benefit the wealthy. This act would permanently cut entitlement spending if it exceeds its cap while it places only a temporary delay on tax cuts if revenues fall short. The bill protects the capital gains cuts for the wealthy, but leaves basic assistance to families, children and the elderly on the chopping block.

Mr. Speaker, this Congress does not need another scheme to widen the gap between the rich and families struggling to get by. I urge that we vote against the Budget Enforcement Act today.

Mr. MINGE. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding me this time and commend him above all others in this body for his perseverance on behalf of this important issue. I am pleased to cosponsor this legislation, but also urge support for the motion to recommit, which contains an even more perfected version of it.

As the mother of the deficit lock box, I have seen that mechanism work to reduce the deficit. Some of us insisted as a condition to supporting the 1993 budget agreement that the lock box be attached in Executive order. The result has been unprecedented growth.

Similarly, for those who support the balanced budget agreement, we need an enforcement mechanism, and this is the best we can come up with on a bipartisan basis. If we are going to lengths to balance the budget, why are we not going to lengths to enforce that budget?

I urge support for the motion to recommit. Failing that, I urge support for the legislation. A cut must be a cut and a balanced budget must be enforced.

Mr. MINGE. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. I thank the gentleman for yielding me this time.

Mr. Speaker, over the last number of years, we have all heard the voices of alarm that we are hearing again today. Those voices are wrong. As the gentleman from Delaware [Mr. CASTLE] said earlier, this bill will not cut Social Security. It will not cut veterans benefits. It will not take well-earned tax reductions away from taxpayers. If Members choose to listen to those voices, I assume that they will have a short-term political gain because they will not be criticized for voting for those things. But we have done enough around here for the last 30 years of making short-term political gains at the expense of the long-term health of the economy of this country.

If my colleagues believe in the terms of the balanced budget agreement, then put it into the law. If my colleagues believe it can and will work the way it has been planned by the President and the congressional leadership, then make sure it works by putting it into the law. Our motto around here for the last 30 years has been, "The check is in the mail." Let us do something real this time. Let us make this agreement enforceable and real for the American people. Vote "yes" on this legislation.

Mr. NUSSLE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, if it does not cut Social Security and if it does not cut veterans benefits and if it does not cut Medicare and if it does not affect the taxes and if it does not affect any other sacred cow in the Federal Government, how is it an enforcement mechanism? Everybody is rushing down here and we are going to get a motion to recommit saying, "Oh, don't worry about Social Security; don't worry about veterans benefits; don't worry about this. This really isn't as tough as everybody out there is saying it is." Then what does this do?

I have been patient about this and I am not going to question anybody's motive. But if in fact this does not do any of those things which it is advertised to do, then we better send this back and find out what it does do, because if it does not do all of those things, then it does not work. And if it does not work, why are we passing it here today in a big rush to say, "Yeah, we're tough on budgets and, yeah, we're going to balance it and, yeah, we're going to put some teeth into this process"?

Come on. It is either going to be tough or it is not going to be tough. The groups out there that have studied this say it is pretty tough. Let us advertise it that way.

Mr. MINGE. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, this bill is tough because it requires us in Congress to be responsible. That is something that is tough news for all of us, and I hope that we can accept it.

Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, the gentleman from Minnesota [Mr. MINGE] is right. It requires Congress to act. That is why it is tough and that is why it is so necessary.

Mr. Speaker, a nation that is bankrupt is a nation that is vulnerable. It is no more complicated than that. By 2003 if we do not do anything, over 70 percent of the money that comes to Washington will be obligated. We will be on a collision course with debt and deficit. We got here together, Democrats and Republicans, equally responsible for the situation we find ourselves in. We are going to solve it together. This is a bipartisan bill from the rank and file Members of this House. This, make no mistake about it, is the only vehicle to translate the idea of balancing our Nation's budget today from an idea to reality. There is nothing else on the floor that will do it. Today is the time, and I hope that people in this House will have the opportunity to put their country ahead of partisan politics for once. Today is the day to do it.

Mr. MINGE. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. BOSWELL].

Mr. BOSWELL. Mr. Speaker, I have some difficulties with the bill.

Mr. MINGE. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Minnesota is recognized for 1¼ minutes.

Mr. MINGE. Mr. Speaker, we have been journeying on a noble course here. It is a bipartisan course. It is a rank and file course. The leadership on both sides of the aisle has been either lukewarm or opposed to what we are doing. The White House has declined to provide us with any support. But instead Members of this body from around the country, from both parties, from all ends of the political spectrum, have seen that if we are not willing to stand up and take responsibility for what we do, hold ourselves accountable, introduce some discipline to the budget process, that we do not deserve to serve in this institution.

We feel that strong bipartisan budget enforcement is long overdue. It should not just apply to discretionary spending. It should apply to the entitlement programs. We ought to hold our tax cuts to the same standards. For those on my side of the aisle, indeed I would have written this bill differently if I had the opportunity to do it just for myself. I am sure that on the other side of the aisle, the feeling is mutual. But we attempted to come together and craft a bill that would have bipartisan support. It is ironic that the Democrats feel it does not deal harshly enough with the tax cuts. The Republicans feel it deals too harshly. Let us come together and get the job done.

Mr. SPRATT. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from South Carolina is recognized for 2 minutes.

Mr. SPRATT. Mr. Speaker, as we close this debate, I think it is well to remember that deficits have come down. The promises we made in 1993 have been kept. We adopted that budget in a year when the deficit the prior year had been $290 billion. The Bush administration projected the deficit that year would be $332 billion. It was not. It was $255 billion. The next year it was $203 billion. In 1995, it was $164 billion. In 1996, last year, it was $107.8, and this year in a few weeks we will find that it is less than $40 billion.

So in the face of those facts, we are now looking at a hugely complex process to deal with a problem that has not presented itself for the last 5 years. We are imposing enormous complexity on the process. Let me give just one practical problem. This bill dictates that the President and OMB within 30 days of the close of the fiscal year, when the numbers are just coming in, must analyze every entitlement program and propose spending cuts that will not only rectify any past year overrun but also eliminate any excess in the year to come. Then it requires Congress to act on this hastily submitted proposal within less than 45 days, and that 45 days falls in a period when Congress is rarely in session. Indeed, every other year the House will be in a lame duck session.

So the Congress can act within this tight time frame, this bill dispenses with the jurisdiction of the authorizing committees and the appropriations committees and vests extraordinary jurisdiction in the Committee on the Budget. When the Committee on the Budget bring its bill to the floor, it dispenses with the Committee on Rules and allows any Member under the 5-minute rule to present any amendment that is germane to tax or spending measures in the bill before us.

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Added to these extraordinary procedures is something else buried in the bill, one other example which deals with disaster relief. It sets up a reserve fund for disaster relief each year and pulls $5.5 billion out of discretionary spending.

Now in the budget agreement, we have cut discretionary spending to the bone. This would take it down another $27 billion over the next 5 years.

It is too much, it is not needed, it is well intentioned, but it should not be passed and is not required.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Iowa [Mr. NUSSLE] is recognized for his remaining 1½ minutes.

Mr. NUSSLE. Mr. Speaker, look, there is nobody who really wants to come down here and oppose reform because, quite honestly, I think there is major bipartisan support for reform. In fact, we have seen it here today. I commend, even though I have some concerns with this bill and I oppose it, I commend my friends and colleagues on the committee on which I serve and the conference in which I am proud to be a member and the Congress of which I enjoy the kind of bipartisanship on this particular issue and others. I commend them for the work that they have done.

We have bipartisan opposition, however, as well. I mean I want my colleagues to understand that, yes, there is bipartisan support, but that also means there is bipartisan opposition, and quite strong I would suggest. The committee chairs, the ranking members of the different committees of jurisdiction who want to move forward with legislation and reform are all standing foursquare in opposition to this here today.

I am worried about the advertising, quite honestly. And I do not question the motives of the Members that have written this particular bill, but I am worried about the advertising. This is either advertised as tough enforcement with teeth that is going to do the job once and for all, that is going to hold our feet to the fire, that is going to be automatic, that is going to have tough caps, or it is not. It either is going to go after some of these programs that we have been concerned about on the floor here today by various Members, such as Social Security, Medicare, veterans, all assorted programs that have obvious constituencies within the House and the country, or it does not.

We are not sure, and I think the proof is in the uncertainty. Send us back to committee. Vote against the bill and the motion to recommit.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. NEUMANN], one of the most passionate balanced budgeters in the Congress.

Mr. NEUMANN. Mr. Speaker, I would like to specifically address my good friend from Iowa [Mr. NUSSLE] and his most recent comments about Social Security. This bill is very important. It does not go after Social Security in any way, shape, or form. In fact, the people in Washington, DC, are already going after Social Security because Social Security collects more money than it pays back out to our senior citizens in benefits every year.

That money is supposed to be sitting out here in Washington in a savings account. There is no savings account. Washington puts that money in the general fund, it spends all the money out of the general fund and then some; that is the deficit, and there is no money left to put in the Social Security trust fund so they simply put IOU's in there.

Let me finish; I only got 1 minute. To my good friend, I would normally be happy to yield. The bottom line is this: that money that is supposed to be in the Social Security trust fund is not there, and what we had proposed last night in amendment to this bill is that we take the first money from surpluses, the first hundred billion dollars, and set it aside to start preserving Social Security for our senior citizens. By the year 2012 not 2029, 2012, there is not enough money coming into the Social Security system to make good on our promises to seniors.

This bill does not go after Social Security. As a matter of fact it does not go far enough on stopping the people in Washington from going after Social Security.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of the time.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 3 minutes.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield for a question very briefly?

Mr. BARTON of Texas. If it does not come out of my time.

The SPEAKER pro tempore. It does come out of the time of the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I will yield to the gentleman very briefly.

Mr. NUSSLE. Mr. Speaker, why is there a cap if this does not affect Social Security?

Mr. BARTON of Texas. Mr. Speaker, last Saturday I took my daughter Kristin and my wife Janet to Philadelphia, the birthplace of freedom in this Nation. I stood in the room where Thomas Jefferson wrote the Declaration of Independence. In the beginning of that declaration it says:

> We hold these truths to be self-evident, that all men are created equal, they are endowed by their Creator with certain unalienable rights, and among those rights are the right to life, liberty, and the pursuit of happiness.

Those are very famous words that continue to echo down through the centuries.

I stand on the floor of the House of Representatives today to issue the following declaration of budget accountability: We hold these truths to be self-evident, that all items in the budget should be on the table, that enforcement mechanisms are necessary and that to implement those mechanisms we should have a bipartisan approach to budget enforcement.

The bill before us today does that.

I would like to point out that the caps and the targets in our bill are not something that the gentleman from Minnesota [Mr. MINGE] and the gentleman from Texas [Mr. BARTON] and the gentleman from Delaware [Mr. CASTLE] and the gentleman from Tennessee [Mr. WAMP] and the gentleman from Texas [Mr. STENHOLM] came up with, they are numbers that President Clinton and the gentleman from Ohio [Mr. KASICH] and the gentleman from Georgia [Mr. GINGRICH] and the gentleman from Missouri [Mr. GEPHARDT] and Mr. DASCHLE and Mr. LOTT came up with. They are not our numbers; they are the agreed-upon numbers.

I would point out that this is a budget accountability bill. It forces us to address the problems.

When the gentleman from Iowa [Mr. NUSSLE] asked is it hard or is it soft, the truth is that as a last resort it is a hard enforcement bill. But the first resort is to give the President and the Congress the opportunity to waive any part of the cap or any part of the revenue target that we consciously vote on the floor to do so. The second option is to reform any program or any contingent tax cut that we consciously vote to do so, but as a last resort.

If we stick our head in the sand and do nothing, under this bill the deficit is not going to go up, it is going to stay within the caps. That is what sequestration is all about or the delayed tax cut is all about.

I would like to point out what the options are. If the spending does not come within the cap, Congress and the President can vote to waive the cap, Congress and the President can change the program, and as a last resort we can do this sequestration.

Everything in our budget under our bill is on the table. Everything. It has to be, my colleagues. Look at this chart. If we do nothing, the uncontrollable part of the budget with interest on the debt is going to be 70 percent in the year 2002, 70 percent. That is a complete reversal of what it was 25 years ago.

Our opponents have said we have to have budget enforcement; they just do not want to do it today or they do not want to do it like this.

I will urge my colleagues to vote for the bill. Let us do the right thing and let us do it now.

Mr. BOSWELL. Mr. Speaker, during the initial stages of the drafting of the Budget Enforcement Act I was supportive of the concept. Unfortunately, today I cannot support the final version of the act. I do however continue my strong support to the concept of enforcing the parameters agreed to in the budget reconciliation. I regret that I cannot support this legislation I had signed as a cosponsor. Sometimes in the legislative process the devil is in the details. Careful examination of the bill's language revealed the potential of severe reductions to vital programs for Iowans. Tax reductions and spending cuts to programs such as veterans benefits, Social Security, Medicare, and Medicaid could be mandated without the matter being brought to a vote in Congress. In this case as the details of the bill came to the surface and were not allowed to be corrected, it became apparent I could not support this legislation in its final form.

The people of Iowa sent me here to Washington to bring our Nation's fiscal house in order and I am working toward that end everyday. One of my first acts in Congress was to cosponsor the balanced budget amendment. I have also supported the reconciliation bill and both the spending and tax reduction bills. However I cannot support today's enforcement bill.

The Rules Committee passed a rule baring any amendments to the bill, forcing a vote on a bill which even many of its supporters including myself desired to amend when we discovered the need to improve the bill. Under the current version of the bill, if spending reduction and tax revenue targets are not met, any necessary revisions would be either mandatorily and arbitrarily imposed without a vote by Congress, or the Budget Committee would have jurisdiction over legislation designed to make any corrections to reach these targets. Neither of these processes are appropriate.

Months of hearings were held by the appropriate committees in an effort to fine tune the intricate details of the spending and taxation provisions of the budget. To throw out the knowledge and expertise of these committee members and place the entire burden on the Budget Committee or arbitrary across the board cuts is an abrogation of our legislative responsibility and squanders this knowledge base. The House's committee system exists for a purpose, to allow for thoughtful debate over policy considerations by members who know the most about that particular area. To subrogate these policy decision to the rushed, politically charged judgment of one committee is a misguided approach.

Additionally, the final version of the bill lacked sufficient incentives to force Congress to make the appropriate charges if spending and revenue targets are not met. The targets could be adjusted by a simple majority vote and therefore avoid the difficult decisions required to reach the end result of a balance budget in 2002.

Although I strongly support efforts to help ensure we do reach a balanced budget in 2002, I cannot support this enforcement bill in its current form.

Mr. STUMP. Mr. Speaker, I rise in opposition to H.R. 2003.

The VA Committee was able to meet our reconciliation targets in the traditional manner as envisioned by the bipartisan budget agreement.

We have a long tradition of complying with reconciliation directives. However, despite our record of responsible stewardship of veterans' programs, H.R. 2003 would strip authority from the VA Committee and other authorizing committees. Its enforcement mechanism could create unfair results.

If an estimate of projected spending for Social Security or Medicaid turns out to be wrong, why should veterans pay the price?

Under H.R. 2003, that is exactly what could happen if an entitlement program exceeds its target in a given year.

In our budget process, the VA Committee relied on CBO budget estimates and then used our expertise in veterans affairs to meet our reconciliation targets.

H.R. 2003 would take away the VA Committee's ability to provide veterans benefits in an equitable manner.

For example, if the cost of veterans' disability compensation grew past its target because the department ruled that new or additional ailments were service-connected, the caps on allowable expenditures for veterans' entitlements would not be adjusted upward.

Although H.R. 2003 provides for alternatives to automatic cuts, it provides no assurance that benefits will continue to be paid as they are authorized.

Our Nation's veterans are willing to play their part in balancing the budget as long as it is done in a fair way.

The current paygo procedures have contained most increases in entitlement spending in the past and should continue to do so.

Let's move forward with the bipartisan budget agreement and the reconciliation bills and balance the budget.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to voice my opposition to

H.R. 2003, the Budget Enforcement Act. I share with the authors of this legislation commitment to a balanced Federal budget and while I respect the principle underlying this legislation, I cannot support H.R. 2003.

H.R. 2003 is often described by its proponents as a straightforward piece of legislation that is neutral with respect to benefit programs and tax cuts and seeks simply to enforce the bipartisan budget agreement. Such a cursory descriptions of H.R. 2003 fails to provide a full picture of how it would work or the effects it would have. H.R. 2003 is neither simple nor neutral in its impact on benefit programs and tax cuts. In fact, it would have disturbing consequences.

H.R. 2003 would not treat revenue shortfalls and entitlement programs which exceed their target spending figures in the same manner. Under the bill's enforcement provisions, entitlement spending excesses are permanently canceled if spending levels exceeds target levels. These cuts would be triggered, even if the Government was running a surplus. Thus, if expenditures for programs like Medicare and veterans' pensions were slightly higher than forecast, they could be subject to across-the-board cuts although the budget was running a surplus.

Tax cuts, however, are simply delayed until revenue increases to target levels. Therefore, while the bill's provisions to avert revenue shortfalls are weak, on the entitlement side they are like a blunt instrument inflicting permanent loss.

Additionally, while some of the biggest tax cuts for the well-to-do would be shielded from the revenue control mechanisms of the bill, regardless of how much these tax cuts ultimately cost, none of the entitlement programs would be, not even programs providing basic benefits to the poorest children or the elderly and disabled. As a consequence, the bill could easily cause the gaps between the wealthy and other Americans to widen further.

Finally, H.R. 2003 would have no impact whatsoever in preventing an explosion of the costs of the tax cuts after 2002.

I urge my colleagues to join me in opposing H.R. 2003 and in so doing vote to protect programs for our Nation's most vulnerable citizens.

Mr. DAVIS of Florida. Mr. Speaker, today I rise in strong support of H.R. 2003, the Budget Enforcement Act. This legislation represents a commitment by this Congress not only to pass a plan to balance the budget, but to follow up with tough enforcement to ensure that this goal is met.

During the past 5 years, the budget deficit has been reduced dramatically from an all-time high of over $290 billion in 1992, to a level estimated to be well under $50 billion this year. Among the reasons we have been able to bring the deficit down are the statutory budget enforcement provisions covering discretionary spending which were put in place in 1990 and extended in the budget agreement of 1993. This bill builds on the success of those statutory enforcement provisions and for the first time applies similar restraints, with clearly defined safeguards, to mandatory spending and revenues.

For too long, Congress and the President have promised the American people a balanced budget with the result being continued deficits and an escalating national debt. Even after passage of the historic bipartisan agreement earlier this year and strong commitments by both sides of the aisle to this important goal, the American people do not sufficiently believe that the budget will actually be balanced. This skepticism is the result of broken promises of the past and the stark reality that no matter how carefully crafted the plan there are no guarantees of a balanced budget unless strong enforcement language is included. This bill represents a commitment to the American people that we, in Congress, will follow up our rhetoric with tough actions.

Opponents of the bill have argued that the enforceable caps will cause automatic cuts in Social Security and other important entitlement programs. These caps, however, will be adjusted for inflation, economic downturns, and growths in the eligible populations. Therefore, Social Security will not be put at risk. Furthermore, the enforcement provisions simply say that if we are spending much more than we intended on any particular program, then Congress and the President will have to make changes to bring that spending in line with previous estimates. There is also the option of Congress to agree to raising the caps if no agreement can be reached on the necessary changes. Only as a last resort would automatic cuts in any programs be triggered. Unfortunately, history has proven that without an unappealing hammer such as sequestration, Congress will always favor inaction over action.

Furthermore, this legislation for the first time attempts to put some controls on the revenue side of the budget. I believe the greatest threats to maintaining balance over the course of this budget agreement are some of the proposed tax cuts, many of which could explode in the outyears. This enforcement mechanism, although not as tough as I would like, at least prevents a bad situation from getting worse by delaying the phasein of any of the tax provisions if our established deficit targets are not met.

H.R. 2003 is far from perfect and my support for it today does not mean that I am in agreement with all the provisions included in the bill. It is truly unfortunate that improvements to the bill were not made in order by the Rules Committee or that the committees of jurisdiction, including the Budget Committee on which I serve, did not consider the bill. Specifically, there remain valid questions over the timeline established for action, the impact on automatic economic stabilizers, and the effectiveness in controlling exploding tax cuts. But I do not believe that we should make the perfect the enemy of the good. This bill is a strong step in the right direction and I believe these and other questions undoubtedly will be addressed as the bill moves forward.

Mr. Chairman, I urge all of my colleagues to support this legislation and commit to backing up the balanced budget agreement with a strong enforcement mechanism, guaranteeing that the budget will, in fact, be balanced no later than 2002.

Mr. BALLENGER. Mr. Speaker, I am proud to report that I am a cosponsor of the Budget Enforcement Act, a bill to reform the Federal budget process. If enacted, this bill will establish in law the budgetary outcomes projected to result from the 1997 balanced budget agreement, as well as provide for their enforcement. In addition, it includes long-overdue changes to emergency spending rules.

I wish to commend the bipartisan group of House Members who put this bill together. They have worked hard for years to craft this enforcement mechanism. They forced the leadership to allow a floor vote and sought to address everyone's concerns over the impact of this important legislation.

While I do not believe this legislation is perfect, I believe it represents an honest, bipartisan effort to ensure spending and revenue targets, agreed to by the Congress and the President, will actually be adhered to. We are working together to achieve the best alternative to address our Nation's deficit problems and respond to our constituents' concerns over our inability to live within the budgets we adopt.

My interest in the Budget Enforcement Act was sparked, in part, by a constituent letter which I received some months ago. My constituent challenged me to explain how the 5-year budget agreement of 1997 differed from other budget balancing plans which have gone by the wayside. He remembered well the grand promises Congress made to the American people following the Gramm-Rudman-Hollings budget deal in 1985 and three subsequent efforts to balance the budget.

Despite the good intentions of the authors of these budget balancing plans, we have yet to reach balance. Perhaps most disturbing is the fact that the national debt quintupled, to $5.3 trillion, during this sustained period of deficit spending.

For the record, I favor tax cuts every bit as much as my conservative colleagues who argue that the Budget Enforcement Act will result in a suspension of the budget's tax relief—or worse, will permit new tax increases and user fees to pay for deficits. In fact, passage of the Budget Enforcement Act will not force any rollback of any tax cut that will already have taken effect. Among the respected groups making this analysis of the bill's impact on taxes is the National Taxpayers Union, which considers a "yes" vote to be a key vote for its rating of Members in the 105th Congress.

Some opponents of the Budget Enforcement Act argue that the most serious problem with this bill is that it would jeopardize the tax relief in the budget reconciliation bill. However, I do not view this as a major problem. Any unlikely delay in promised tax relief can be addressed immediately after we balance the budget and secure a budget surplus to enable us to take the Social Security trust funds off-budget.

The Budget Enforcement Act provides a separate cap for Social Security which would be adjusted for changes in numbers of beneficiaries and inflation. Since there are no other factors which can cause Social Security costs to rise, Social Security would not be affected. While the Budget Enforcement Act would not cut Social Security, we want to reassure seniors who will be the target of politically motivated distortion campaigns engineered by advocates of higher Federal spending. As such, the bill's supporters had prepared an amendment specifically to protect the Social Security trust funds.

We received a commitment from the House leadership that this amendment to reassure our Nation's seniors would be made in order during floor debate. Since the Rules Committee violated this pledge with its passage of a closed rule, I intend to vote against the rule on the Budget Enforcement Act. I strongly urge my colleagues to do the same.

Mr. PITTS. Mr. Speaker, Republicans have always maintained that fiscal restraint is the key to balancing our budget and generating economic growth. While liberals have attempted to balance the budget on the backs of taxpaying families, Republicans have continuously worked to get to balance by limiting our Government's size, scope, and spending.

I believe the only way we can balance our Federal budget is with increased tax relief and decreased Government. That is why I am introducing the Tax Relief Guarantee Act today.

The Tax Relief Guarantee Act accomplishes three important goals as we try to ensure tax relief and a balanced budget by the year 2002. First, my bill allows any Member of Congress to stop consideration of a bill which raises taxes to enforce the balanced budget agreement. Second, the Tax Relief Guarantee Act prohibits the suspension or revocation of any tax relief given over the next 5 years. And finally, this legislation requires that the budget be in balance by the year 2002.

The Tax Relief Guarantee Act essentially ensures that any revenue shortfall in the balanced budget agreement be mitigated by decreases in spending, not an increase in taxes or a suspension of tax relief. Liberal still contend that we must balance the budget through tax increases in the event of revenue shortfalls. But I think it's about time that we promise the American people that we will not take their money away if difficulties arise in balancing our budget.

Since the beginning of the 105th Congress, my top priorities have been to provide American families permanent tax relief and to balance the budget by 2002. Members of Congress must prove that we have the courage to put money back into the pockets of hard-working Americans, and take it out of the hands of the Washington bureaucrats. I believe that the Tax Relief Guarantee Act will ensure permanent tax relief, and will require Washington to scale back its frivolous spending. Mr. Speaker, I urge my colleagues to join me in supporting this bill and locking in tax relief for all Americans.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 192, the bill is considered read for amendment, and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. THURMAN

Mrs. THURMAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. THURMAN. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. THURMAN moves to recommit the bill to the Committee on the Budget with instructions to report the bill back to the House forthwith, with the following amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Balanced Budget Assurance Act of 1997".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

Title I—Ensure That the Bipartisan Balanced Budget Agreement of 1997 Achieves Its Goal

Sec. 101. Timetable.
Sec. 102. Procedures to avoid sequestration or delay of new revenue reductions.
Sec. 103. Effect on Presidents' budget submissions; point of order.
Sec. 104. Deficit and revenue targets.
Sec. 105. Direct spending caps.
Sec. 106. Economic assumptions.
Sec. 107. Revisions to deficit and revenue targets and to the caps for entitlements and other mandatory spending.

Title II—Enforcement Provisions

Sec. 201. Reporting excess spending.
Sec. 202. Enforcing direct spending caps.
Sec. 203. Sequestration rules.
Sec. 204. Enforcing revenue targets.
Sec. 205. Exempt programs and activities.
Sec. 206. Special rules.
Sec. 207. The current law baseline.
Sec. 208. Limitations on emergency spending.

Title III—Use of Budget Surplus to Preserve Social Security Trust Fund

Sec. 301. Ending Use of Receipts of Social Security Trust Fund for Other Programs and Activities.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) ELIGIBLE POPULATION.—The term "eligible population" shall mean those individuals to whom the United States is obligated to make a payment under the provisions of a law creating entitlement authority. Such term shall not include States, localities, corporations or other nonliving entities.

(2) SEQUESTER AND SEQUESTRATION.—The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) BREACH.—The term "breach" means, for any fiscal year, the amount (if any) by which outlays for that year (within a category of direct spending) is above that category's direct spending cap for that year.

(4) BASELINE.—The term "baseline" means the projection (described in section 207) of current levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(5) BUDGETARY RESOURCES.—The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(6) DISCRETIONARY APPROPRIATIONS.—The term "discretionary appropriations" means budgetary resources (except to fund direct spending programs) provided in appropriation Acts. If an appropriation Act alters the level of direct spending or offsetting collections, that effect shall be treated as direct spending. Classifications of new accounts or activities and changes in classifications shall be made in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and with CBO and OMB.

(7) DIRECT SPENDING.—The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts, including entitlement authority;

(B) entitlement authority; and

(C) the food stamp program.

If a law other than an appropriation Act alters the level of discretionary appropriations or offsetting collections, that effect shall be treated as direct spending.

(8) ENTITLEMENT AUTHORITY.—The term "entitlement authority" means authority (whether temporary or permanent) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

(9) CURRENT.—The term "current" means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31 U.S.C., the estimates consistent with the economic and technical assumptions underlying that budget.

(10) ACCOUNT.—The term "account" means an item for which there is a designated budget account designation number in the President's budget.

(11) BUDGET YEAR.—The term "budget year" means the fiscal year of the Government that starts on the next October 1.

(12) CURRENT YEAR.—The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(13) OUTYEAR.—The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year.

(14) OMB.—The term "OMB" means the Director of the Office of Management and Budget.

(15) CBO.—The term "CBO" means the Director of the Congressional Budget Office.

(16) BUDGET OUTLAYS AND OUTLAYS.—The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during such year.

(17) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—The terms "budget authority" and "new budget authority" have the meanings given to them in section 3 of the Congressional Budget and Impoundment Control Act of 1974.

(18) APPROPRIATION ACT.—The term "appropriation Act" means an Act referred to in section 105 of title 1 of the United States Code.

(19) CONSOLIDATED DEFICIT.—The term "consolidated deficit" means, with respect to a fiscal year, the amount by which total outlays exceed total receipts during that year.

(20) SURPLUS.—The term "surplus" means, with respect to a fiscal year, the amount by which total receipts exceed total outlays during that year.

(21) DIRECT SPENDING CAPS.—The term "direct spending caps" means the nominal dollar limits for entitlements and other mandatory spending pursuant to section 105 (as modified by any revisions provided for in this Act).

TITLE I—ENSURE THAT THE BIPARTISAN BALANCED BUDGET AGREEMENT OF 1997 ACHIEVES ITS GOAL

SEC. 101. TIMETABLE.

On or before:	**Action to be completed:**
January 15	CBO economic and budget update.
First Monday in February.	President's budget update based on new assumptions.
August 1	CBO and OMB updates.
August 15	Preview report.
Not later than November 1 (and as soon as practical after the end of the fiscal).	OMB and CBO Analyses of Deficits, Revenues and Spending Levels and Projections for the Upcoming Year.
November 1–December 15	Congressional action to avoid sequestration.
December 15	OMB issues final (look back) report for prior year and preview for current year.
December 15	Presidential sequester order or order delaying new/additional revenues reductions scheduled to take effect pursuant to reconciliation legislation enacted in calendar year 1997.

SEC. 102. PROCEDURES TO AVOID SEQUESTRATION OR DELAY OF NEW REVENUE REDUCTIONS.

(a) Special Message.—If the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year indicates that—

(1) deficits in the most recently completed fiscal year exceeded, or the deficits in the budget year are projected to exceed, the deficit targets in section 104, as adjusted pursuant to section 107;

(2) revenues in the most recently completed fiscal year were less than, or revenues in the current year are projected to be less than, the revenue targets in section 104, as adjusted pursuant to section 107; or

(3) outlays in the most recently completed fiscal year exceeded, or outlays in the current year are projected to exceed, the caps in section 104, as adjusted pursuant to section 107;

the President shall submit to Congress with the OMB Analysis of Actual Spending Levels and Projections for the Upcoming Year a special message that includes proposed legislative changes to—

(A) offset all or part of net deficit or outlay excess;

(B) offset all or part of any revenue shortfall; or

(C) revise the deficit or revenue targets or the outlay caps contained in this Act;

through any combination of—

(i) reductions in outlays;

(ii) increases in revenues; or

(iii) increases in the deficit targets or expenditure caps, or reductions in the revenue targets, if the President submits a written determination that, because of economic or programmatic reasons, less than the entire amount of the variances from the balanced budget plan should be offset.

(b) Introduction of the President's Package.—Not later than November 15, the message from the President required pursuant to subsection (a) shall be introduced as a joint resolution in the House of Representatives or the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after November 15, the joint resolution may be introduced by any Member of that House of Congress and shall be referred to the Committee on the Budget of that House.

(c) House Committee Action.—The Committee on the Budget, in consultation with the committees of jurisdiction, or, in the case of revenue shortfalls, the Committee on Ways and Means of the House of Representatives shall, by November 15, report a joint resolution containing—

(1) the recommendations in the President's message, or different policies and proposed legislative changes than those contained in the message of the President, to ameliorate or eliminate any excess deficits or expenditures or any revenue shortfalls, or

(2) any changes to the deficit or revenue targets or expenditure caps contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(d) Procedure if the Appropriate Committee of the House of Representatives Fails To Report Required Resolution.—

(1) Automatic discharge of committees on the budget of the house.—If the Committee on the Budget of the House of Representatives fails, by November 20, to report a resolution meeting the requirements of subsection (c), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a), and the joint resolution shall be placed on the appropriate calendar.

(2) Consideration of discharge resolution in the house.—If the Committee has been discharged under paragraph (1) above, any Member may move that the House of Representatives consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution.

(e) Consideration of Joint Resolutions in the House.—Consideration of resolutions reported pursuant to subsection (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d). Notwithstanding subsection (d) and any other rule or order of the House of Representatives or the Senate, it shall be in order to consider amendments to ameliorate any excess spending or revenue shortfalls through different policies and proposed legislation and which do not change the net deficit impact of the resolution.

(f) Transmittal to Senate.—If a joint resolution passes the House of Representatives pursuant to subsection (e), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within 1 calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

(g) Requirements for Special Joint Resolution in the Senate.—The Committee on the Budget, in consultation with the committees of jurisdiction, or, in the case of revenue shortfalls, the Committee on Finance of the Senate shall report not later than December 1—

(1) a joint resolution reflecting the message of the President; or

(2) the joint resolution passed by the House of Representatives, with or without amendment; or

(3) a joint resolution containing different policies and proposed legislative changes than those contained in either the message of the President or the resolution passed by the House of Representatives, to eliminate all or part of any excess deficits or expenditures or any revenue shortfalls, or

(4) any changes to the deficit or revenue targets, or to the expenditure caps, contained in this Act, except that any changes to the deficit or revenue targets or expenditure caps cannot be greater than the changes recommended in the message submitted by the President.

(h) Procedure if the Appropriate Committee of the Senate Fails To Report Required Resolution.—(1) In the event that the Committee on the Budget of the Senate fails, by December 1, to report a resolution meeting the requirements of subsection (g), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to subsection (a) and of the resolution passed by the House of Representatives, and both joint resolutions shall be placed on the appropriate calendar.

(2) Any member may move that the Senate consider the resolution passed by the House of Representatives or the resolution introduced pursuant to subsection (b).

(i) Consideration of Joint Resolution in the Senate.—Consideration of resolutions reported pursuant to subsections (c) or (d) shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

(j) Procedure if Joint Resolution Does Not Eliminate Deficit Excess.—If the joint resolution reported by the Committee on the Budget, Way and Means, or Finance pursuant to subsection (c) or (g) or a joint resolution discharged in the House of Representatives or the Senate pursuant to subsection (d)(1) or (h) would eliminate less than—

(1) the entire amount by which actual or projected deficits exceed, or revenues fall short of, the targets in this Act; or

(2) the entire amount by which actual or projected outlays exceed the caps contained in this Act;

then the Committee on the Budget of the Senate shall report a joint resolution, raising the deficit targets or outlay caps, or reducing the revenue targets for any year in which actual or projected spending, revenues or deficits would not conform to the deficit and revenue targets or expenditure caps in this Act.

(k) Conference Reports Shall Fully Address Deficit Excess.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution to eliminate all or part of any excess deficits or outlays or to eliminate all or part of any revenue shortfall compared to the deficit and revenue targets and the expenditure caps contained in this Act, unless—

(1) the joint resolution offsets the entire amount of any overage or shortfall; or

(2) the House of Representatives and Senate both pass the joint resolution reported pursuant to subsection (j)(2).

The vote on any resolution reported pursuant to subsection (j)(2) shall be solely on the subject of changing the deficit or revenue targets or the expenditure limits in this Act.

SEC. 103. EFFECT ON PRESIDENTS' BUDGET SUBMISSIONS; POINT OF ORDER.

(a) Budget Submission.—Any budget submitted by the President pursuant to section 1105(a) of title 31, United States Code, for each of fiscal years 1998 through 2002 shall be consistent with the spending, revenue, and deficit levels established in sections 104 and 105, as adjusted pursuant to section 107, or it shall recommend changes to those levels

(b) Point of Order.—It shall not be in order in the House of Representatives or the

Senate to consider any concurrent resolution on the budget unless it is consistent with the spending, revenue, and deficit levels established in sections 104 and 105, as adjusted pursuant to section 107.

SEC. 104. DEFICIT AND REVENUE TARGETS.

(a) Consolidated Deficit (or Surplus) Targets.—For purposes of sections 102 and 107, the consolidated deficit targets shall be—

(1) for fiscal year 1998, $90,500,000,000;
(2) for fiscal year 1999, $89,700,000,000;
(3) for fiscal year 2000, $83,000,000,000;
(4) for fiscal year 2001, $53,300,000,000; and
(5) for fiscal year 2002, there shall be a surplus of not less than $1,400,000,000.

(b) Consolidated Revenue Targets.—For purposes of sections 102, 107, 201, and 204, the consolidated revenue targets shall be—

(1) for fiscal year 1998, $1,601,800,000,000;
(2) for fiscal year 1999, $1,664,200,000,000;
(3) for fiscal year 2000, $1,728,100,000,000;
(4) for fiscal year 2001, $1,805,100,000,000; and
(5) for fiscal year 2002, $1,890,400,000,000.

SEC. 105. DIRECT SPENDING CAPS.

(a) In General.—Effective upon submission of the report by OMB pursuant to subsection (c), direct spending caps shall apply to all entitlement authority except for undistributed offsetting receipts and net interest outlays, subject to adjustments for changes in eligible populations and inflation pursuant to section 107. For purposes of enforcing direct spending caps under this Act, each separate program shown in the table set forth in subsection (d) shall be deemed to be a category.

(b) Budget Committee Reports.—Within 30 days after enactment of this Act, the Budget Committees of the House of Representatives and the Senate shall file with their respective Houses identical reports containing account numbers and spending levels for each specific category.

(c) Report by OMB.—Within 30 days after enactment of this Act, OMB shall submit to the President and each House of Congress a report containing account numbers and spending limits for each specific category.

(d) Contents of Reports.—All direct spending accounts not included in these reports under separate categories shall be included under the heading "Other Entitlements and Mandatory Spending". These reports may include adjustments among the caps set forth in this Act as required below, however the aggregate amount available under the "Total Entitlements and Other Mandatory Spending" cap shall be identical in each such report and in this Act and shall be deemed to have been adopted as part of this Act. Each such report shall include the actual amounts of the caps for each year of fiscal years 1998 through 2002 consistent with the concurrent resolution on the budget for FY 1998 for each of the following categories:

Earned Income Tax Credit,
Family Support,
Civilian and other Federal retirement:
Military retirement,
Food stamps,
Medicaid,
Medicare,
Social security,
Supplemental security income,
Unemployment compensation,
Veterans' benefits,
Other entitlements and mandatory spending, and
Aggregate entitlements and other mandatory spending.

(e) Additional Spending Limits.—Legislation enacted subsequent to this Act may include additional caps to limit spending for specific programs, activities, or accounts with these categories. Those additional caps (if any) shall be enforced in the same manner as the limits set forth in such joint explanatory statement.

SEC. 106. ECONOMIC ASSUMPTIONS.

Subject to periodic reestimation based on changed economic conditions or changes in eligible population, determinations of the direct spending caps under section 105, any breaches of such caps, and actions necessary to remedy such breaches shall be based upon the economic assumptions set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 (House Concurrent Resolution 84, 105th Congress). At the same time as the submission of the report by OMB pursuant to section 104(c), OMB shall submit to the President and Congress a report setting forth the economic assumptions in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 1998 and the assumptions regarding eligible populations used in preparing the report submitted pursuant to section 104(c).

SEC. 107. REVISIONS TO DEFICIT AND REVENUE TARGETS AND TO THE CAPS FOR ENTITLEMENTS AND OTHER MANDATORY SPENDING.

(a) Automatic Adjustments to Deficit and Revenue Targets and to Caps for Entitlements and Other Mandatory Spending.—When the President submits the budget under section 1105(a) of title 31, United States Code, and upon submission of the OMB report pursuant to section 201(a) for any year, OMB shall calculate (in the order set forth below), and the budget and reports shall include, adjustments to the deficit and revenue targets, and to the direct spending caps (and those limits as cumulatively adjusted) for the current year, the budget year, and each outyear, to reflect the following:

(1) Changes to revenue targets.—

(A) Changes in growth.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, growth adjustment factors shall equal the ratio between the level of year-over-year Gross Domestic Product, as adjusted by the chain-weighted GDP deflator measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 106.

(B) Changes in inflation.—For Federal revenues and deficits under laws and policies enacted or effective before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year change in the Consumer Price Index measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 106.

(2) Adjustments to direct spending caps.—

(A) Changes in concepts and definitions.—The adjustments produced by changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, and Government Reform and Oversight and Governmental Affairs of the House of Representatives and the Senate.

(B) Changes in net outlays.—Changes in net outlays for all programs and activities exempt from sequestration under section 204.

(C) Changes in inflation.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, inflation adjustment factors shall equal the ratio between the level of year-over-year change in the Consumer Price Index measured for the fiscal year most recently completed and the applicable estimated level for that year as described in section 106 (relating to economic assumptions). For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps (for changes in economic conditions including inflation, nor for changes in numbers of eligible beneficiaries) unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 105 based on those projections.

(D) Changes in eligible populations.—For direct spending under laws and policies enacted or effective on or before July 1, 1997, the direct spending caps shall be adjusted to reflect changes in eligible populations, based on the assumptions set forth in the OMB report submitted pursuant to section 106. In making such adjustments, OMB shall estimate the changes in spending resulting from the change in eligible populations. For direct spending under laws and policies enacted or effective after July 1, 1997, there shall be no adjustment to the direct spending caps for changes in numbers of eligible beneficiaries unless—

(i) the Act or the joint explanatory statement of managers accompanying such Act providing new direct spending includes economic projections and projections of numbers of beneficiaries; and

(ii) such Act specifically provides for automatic adjustments to the direct spending caps in section 105 based on those projections.

(E) Intra-budgetary payments.—From discretionary accounts to mandatory accounts. The baseline and the discretionary spending caps shall be adjusted to reflect those changes.

(b) Changes to Deficit Targets.—The deficit targets in section 104 shall be adjusted to reflect changes to the revenue targets or changes to the caps for entitlements and other mandatory spending pursuant to subsection (a).

(c) Permissible Revisions to Deficit and Revenue Targets and Direct Spending Caps.—Deficit and revenue targets and direct spending caps as enacted pursuant to sections 104 and 105 may be revised as follows: Except as required pursuant to subsection (a) and (b), deficit, revenue, and direct spending caps may only be adjusted by recorded vote. It shall be a matter of highest privilege in the House of Representatives and the Senate for a Member of the House of Representatives or the Senate to insist on a recorded vote solely on the question of amending such caps. It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution waiving the provisions of this subsection. This subsection may be waived in the Senate only by an affirmative vote of three-fifths of the Members duly chosen and sworn.

TITLE II—ENFORCEMENT PROVISIONS

SEC. 201. REPORTING EXCESS SPENDING.

(a) ANALYSIS OF ACTUAL DEFICIT, REVENUE, AND SPENDING LEVELS.—As soon as practicable after any fiscal year, OMB shall compile a statement of actual and projected deficits, revenues, and direct spending for that year and the current fiscal year. The statement shall identify such spending by categories contained in section 105.

(b) ESTIMATE OF NECESSARY SPENDING REDUCTION.—Based on the statement provided under subsection (a), the OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected deficits, revenues, or spending in the current or immediately preceding fiscal years in violation of the revenue targets or direct spending caps in section 104 or 105, as adjusted pursuant to section 107, by more than one-tenth of one percent of the applicable total revenues or direct spending for such year. The report shall include:

(1) The amount, if any, that total direct spending exceeded, or is projected to exceed, the aggregate direct spending cap in section 105, as adjusted pursuant to section 107.

(2) All instances in which actual direct spending has exceeded the applicable direct spending cap.

(3) The difference between the amount of spending available under the direct spending caps for the current year and estimated actual spending for the categories associated with such caps.

(4) The amounts by which direct spending shall be reduced in the current fiscal year to offset the net amount that actual direct spending in the preceding fiscal year and projected direct spending in the current fiscal year exceeds the amounts available for each cap category.

SEC. 202. ENFORCING DIRECT SPENDING CAPS.

(a) PURPOSE.—This subtitle provides enforcement of the direct spending caps on categories of spending established pursuant to section 105. This section shall apply for any fiscal year in which the statement provided under section 201 identifies actual direct spending in the preceding fiscal year or projected direct spending in the current year in excess of the aggregate direct spending cap, as adjusted pursuant to section 107.

(b) GENERAL RULES.—

(1) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(2) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects and activities within a budget account.

(3) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

(4) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an trust, special or revolving fund shall revert to the Treasury and be permanently canceled.

(5) IMPLEMENTING REGULATIONS.—Notwithstanding any other provision of law, administrative rules or similar actions implementing any sequestration shall take effect within 30 days after that sequestration.

SEC. 203. SEQUESTRATION RULES.

(a) GENERAL RULES.—For programs subject to direct spending caps:

(1) TRIGGERING OF SEQUESTRATION.—Sequestration is triggered if total direct spending subject to the caps in the preceding fiscal year and projected direct spending subject to the caps in the current fiscal year exceeds the total of aggregate caps for direct spending for the current and immediately preceding fiscal year.

(2) CALCULATION OF REDUCTIONS.—The amount to be sequestered from direct spending programs under each separate cap shall be determined by multiplying the total amount that direct spending in that category exceeded or is projected to exceed the direct spending cap for that category by—

(A) the net amount that total direct spending exceeded, or is projected to exceed, the aggregate spending caps, as identified pursuant to paragraph 201(b)(1); multiplied by

(B) the net amount that direct spending by which the category exceeded and is projected to exceed the direct spending cap for that category, divided by the net amount that total spending exceeded and is projected to exceed the applicable direct spending cap for all categories in which spending exceeds the applicable direct spending caps.

(3) UNIFORM PERCENTAGES.—In calculating the uniform percentage applicable to the sequestration of all spending programs or activities within each category, or the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities, the sequestrable base for direct spending programs and activities is the total level of outlays for the fiscal year for those programs or activities in the current law baseline.

(4) PERMANENT SEQUESTRATION OF DIRECT SPENDING.—Obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first direct spending sequestration, any later sequestration shall reduce direct spending by an amount in addition to, rather than in lieu of, the reduction in direct spending in place under the existing sequestration or sequestrations.

(5) SPECIAL RULE.—For any direct spending program in which—

(A) outlays pay for entitlement benefits;

(B) a current-year sequestration takes effect after the 1st day of the budget year;

(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget; and

(D) the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased due to the delay;

then the uniform percentage shall revert to the uniform percentage calculated under paragraph (3) when the budget year is completed.

(6) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

(A) benefit payments are made to persons or governments more frequently than once a year; and

(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index (commonly called "cost of living adjustments");

sequestration shall first be applied to the cost of living adjustment before reductions are made to the base benefit. For the first fiscal year to which a sequestration applies, the benefit payment reductions in such programs accomplished by the order shall take effect starting with the payment made at the beginning of January following a final sequester. For the purposes of this subsection, veterans' compensation shall be considered a program that meets the conditions of the preceding sentence.

(7) LOAN PROGRAMS.—For all loans made, extended, or otherwise modified on or after any sequestration under loan programs subject to direct spending caps—

(A) the sequestrable base shall be total fees associated with all loans made extended or otherwise modified on or after the date of sequestration; and

(B) the fees paid by borrowers shall be increased by a uniform percentage sufficient to produce the dollar savings in such loan programs for the fiscal year or years of the sequestrations required by this section.

Notwithstanding any other provision of law, in any year in which a sequestration is in effect, all subsequent fees shall be increased by the uniform percentage and all proceeds from such fees shall be paid into the general fund of the Treasury.

(8) INSURANCE PROGRAMS.—Any sequestration of a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' Life insurance programs) shall be accomplished by increasing premiums on contracts entered into extended or otherwise modified, after the date a sequestration order takes effect by the uniform sequestration percentage. Notwithstanding any other provision of law, for any year in which a sequestration affecting such programs is in effect, subsequent premiums shall be increased by the uniform percentage and all proceeds from the premium increase shall be paid from the insurance fund or account to the general fund of the Treasury.

(9) STATE GRANT FORMULAS.—For all State grant programs subject to direct spending caps—

(A) the total amount of funds available for all States shall be reduced by the amount required to be sequestered; and

(B) if States are projected to receive increased funding in the budget year compared to the immediately preceding fiscal year, sequestration shall first be applied to the estimated increases before reductions are made compared to actual payments to States in the previous year—

(i) the reductions shall be applied first to the total estimated increases for all States; then

(ii) the uniform reduction shall be made from each State's grant; and

(iii) the uniform reduction shall apply to the base funding levels available to states in the immediately preceding fiscal year only to the extent necessary to eliminate any remaining excess over the applicable direct spending cap.

(10) SPECIAL RULE FOR CERTAIN PROGRAMS.—Except matters exempted under section 205 and programs subject to special rules set forth under section 206 and notwithstanding any other provisions of law, any sequestration required under this Act shall reduce benefit levels by an amount sufficient to eliminate all excess spending identified in the report issued pursuant to section 201, while maintaining the same uniform percentage reduction in the monetary value of benefits subject to reduction under this subsection.

(b) WITHIN-SESSION SEQUESTER.—If a bill or resolution providing direct spending for the current year is enacted before July 1 of that fiscal year and causes a breach within any direct spending cap for that fiscal year, 15 days later there shall be a sequestration to eliminate that breach within that cap.

SEC. 204. ENFORCING REVENUE TARGETS.

(a) PURPOSE.—This section enforces the revenue targets established pursuant to section 104. This section shall apply for any year in which actual revenues in the preceding fiscal year or projected revenues in the current year are less than the applicable revenue target, as adjusted pursuant to section 107.

(b) ESTIMATE OF NECESSITY TO SUSPEND NEW REVENUE REDUCTIONS.—Based on the statement provided under section 201(a), OMB shall issue a report to the President and the Congress on December 15 of any year in which such statement identifies actual or projected revenues in the current or immediately preceding fiscal years lower than the applicable revenue target in section 104, as adjusted pursuant to section 107, by more than 0.1 percent of the applicable total revenue target for such year. The report shall include—

(1) all laws and policies described in subsection (c) which would cause revenues to decline in the calendar year which begins January 1 compared to the provisions of law in effect on December 15;

(2) the amounts by which revenues would be reduced by implementation of the provisions of law described in paragraph (1) compared to provisions of law in effect on December 15; and

(3) whether delaying implementation of the provisions of law described in paragraph (1) would cause the total for revenues in the current fiscal year and actual revenues in the immediately preceding fiscal year to equal or exceed the total of the targets for the applicable years.

(c) NO CREDITS, DEDUCTIONS, EXCLUSIONS, PREFERENTIAL RATE OF TAX, ETC.—(1) If any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997 establishing or increasing any credit, deduction, exclusion, or eligibility limit or reducing any rate would (but for this section) first take effect in a tax benefit suspension year, and would reduce revenues over the 5-year period beginning with the tax benefit suspension year, such provision shall not take effect until the first calendar year which is not a tax benefit suspension year.

(2) SUSPENSION OF INDEXATION.—No new adjustment for inflation shall be made to any credit, deduction, or exclusion enacted as part of the Revenue Reconciliation Act of 1997 in a tax benefit suspension year.

(d) END OF SESSION.—If the OMB report issued under subsection (a) indicates that the total revenues projected in the current year and actual revenues in the immediately preceding year will equal or exceed the applicable targets, the President shall sign an order ending the delayed phase-in of new tax cuts effective January 1. Such order shall provide that the new tax cuts and adjustments for inflation shall take effect as if the provisions of this section had not taken effect.

(e) SUSPENSION OF NEW BENEFITS BEING PHASED IN.—If, under any provision of the Internal Revenue Code of 1986 added by the Revenue Reconciliation Act of 1997, there is an increase in any benefit which would (but for this section) take effect with respect to a tax benefit suspension year, in lieu of applying subsection (c)—

(1) any increase in the benefit under such section with respect to such year and each subsequent calendar year shall be delayed 1 calendar year, and

(2) the level of benefit under such section with respect to the prior calendar year shall apply to such tax benefit suspension year.

(f) PERCENTAGE SUSPENSION WHERE FULL SUSPENSION UNNECESSARY TO ACHIEVE REVENUE TARGET.—If the application of subsections (c), (d), and (e) to any tax benefit suspension year would result in total revenues in the current year to equal or exceed the targets described in section 104 such that the amount of each benefit which is denied is only the percentage of such benefit which is necessary to result in revenues equal to such target. Such percentage shall be determined by OMB, and the same percentage shall apply to such benefits.

(g) TAX BENEFIT SUSPENSION YEAR.—For purposes of this section, the term "tax benefit suspension year" means any calendar year if the statement issued under subsection (b) during the preceding calendar year indicates that—

(1) for the fiscal year ending in such preceding calendar year, actual revenues were lower than the applicable revenue target in section 104, as adjusted pursuant to section 106, for such fiscal year by more than 1 percent of such target, or

(2) for the fiscal year beginning in such preceding calendar year, projected revenues (determined without regard to this section) are estimated to be lower than the applicable revenue target in section 104, as adjusted pursuant to section 106, for such fiscal year by more than 0.1 percent of such target.

SEC. 205. EXEMPT PROGRAMS AND ACTIVITIES.

The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) offsetting receipts and collections;

(4) all payments from one Federal direct spending budget account to another Federal budget account;

(5) all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

(7) nonbudgetary activities, including but not limited to—

(A) credit liquidating and financing accounts;

(B) the Pension Benefit Guarantee Corporation Trust Funds;

(C) the Thrift Savings Fund;

(D) the Federal Reserve System; and

(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense;

Claims, judgments and relief act (20-1895-0-1-806);

Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);

Compensation of the President (11-0001-0-1-802);

Customs Service, miscellaneous permanent appropriations (20-9992-0-2-852);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Farm Credit System Financial Assistance Corporation, interest payments (20-1850-0-1-351);

Internal Revenue collections of Puerto Rico (20-5737-0-2-852);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);

Payments to copyright owners (03-5175-0-2-376);

Salaries of Article III judges (not including cost of living adjustments);

Soldier's and Airman's Home, payment of claims (84-8930-0-7-705);

Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);

(10) the following noncredit special, revolving, or trust-revolving funds—

Exchange Stabilization Fund (20-4444-0-3-155); and

Foreign Military Sales trust fund (11-82232-0-7-155).

SEC. 206. SPECIAL RULES.

(a) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(b) COMMODITY CREDIT CORPORATION.—

(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

(2) DAIRY PROGRAM.—

(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk in the United States and marketed by producers for commercial use.

(B) That price reduction (measured in cents per hundred-weight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

(3) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in international trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its realized losses.

(c) EARNED INCOME TAX CREDIT.—

(1) The sequestrable base for earned income tax credit program is the dollar value of all current year benefits to the entire eligible population.

(2) In the event sequestration is triggered to reduce earned income tax credits, all earned income tax credits shall be reduced, whether or not such credits otherwise would result in cash payments to beneficiaries, by a uniform percentage sufficient to produce the dollar savings required by the sequestration.

(d) REGULAR AND EXTENDED UNEMPLOYMENT COMPENSATION.—

(1) A State may reduce each weekly benefit payment made under the regular and extended unemployment benefit programs for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

(e) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.— For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. The sequestrable base for the Fund is the current-year level of gross outlays resulting from claims paid after the sequestration order takes effect.

(f) FEDERAL HOUSING FINANCE BOARD.— Any sequestration of the Federal Housing Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

(g) FEDERAL PAY.—

(1) IN GENERAL.— New budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 203(c)(3), as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system as increased by any amount payable under section 5304 of title 5, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1109 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code;

term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code;

(ii) allowances provided members of the uniformed services under sections 403(a) and 405 of such title; and

(iii) cadet pay and midshipman pay under section 203(c) of such title; and

(C) the term "uniformed services" shall have the same meaning given that term in section 101(3) of title 37, United States Code.

(h) MEDICARE.—

(1) IN GENERAL.—Any sequestration shall accomplish 90% of the required reduction by reductions in payments for services under title XVIII of the Social Security Act and +10% of the required reduction through increases in beneficiary premiums under part B of title XVIII of the Social Security Act.

(2) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.— In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(4) PART B PREMIUMS.—In computing the amount and method, part B premiums shall be increased by a percentage to be determined by dividing 10% of the amount that medicare spending exceeds the applicable cap by the total amount of all premium collections. All beneficiary premiums shall be increased by the percentage calculated pursuant to the preceding sentence, except that no increase in the premium shall result in a reduction in social security benefit payments to any beneficiary.

(5) NO EFFECT ON COMPUTATION OF AAPCC.— In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(i) POSTAL SERVICE FUND.— Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States and shall have the duty to make those payments during the first fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

(1) the uniform sequestration percentage, times

(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue forgone that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and shall follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

(j) POWER MARKETING ADMINISTRATIONS AND T.V.A.— Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each payment by a fund shall be—

(1) the direct spending uniform sequestration percentage, times

(2) the estimated gross obligations of the fund in that year other than those obligations financed from discretionary appropriations for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the pre-sequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in tax rates, or by any combination, but may not be financed by a lower fund surplus, a higher fund deficit, additional borrowing, delay in repayment of principal on outstanding debt and shall follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified in this subsection in order to make the annual payments to the Treasury.

(k) BUSINESS-LIKE TRANSACTIONS.—Notwithstanding any other provision of law, for programs which provide a business-like service in exchange for a fee, sequestration shall be accomplished through a uniform increase in fees (sufficient to produce the dollar savings in such programs for the fiscal year of the sequestration required by section 201(a)(2), all subsequent fees shall be increased by the same percentage, and all proceeds from such fees shall be paid into the general fund of the Treasury, in any year for which a sequester affecting such programs are in effect.

SEC. 207. THE CURRENT LAW BASELINE.

(a) Submission of Reports.—CBO and OMB shall submit to the President and the Congress reports setting forth the budget baselines for the budget year and the next nine fiscal years. The CBO report shall be submitted on or before January 15. The OMB report shall accompany the President's budget.

(b) Determination of the Budget Baseline.—(1) The budget baseline shall be based on the common economic assumptions set forth in section 106, adjusted to reflect revisions pursuant to subsection (c).

(2) The budget baseline shall consist of a projection of current year levels of budget authority, outlays, revenues and the surplus or deficit into the budget year and the relevant outyears based on current enacted laws as of the date of the projection.

(3) For discretionary spending items, the baseline shall be the spending caps in effect pursuant to section 601(a)(2) of the Congressional Budget Act of 1974. For years for which there are no caps, the baseline for discretionary spending shall be the same as the last year for which there were statutory caps.

(4) For all other expenditures and for revenues, the baseline shall be adjusted by comparing unemployment, inflation, interest rates, growth and eligible population for the most recent period for which actual data are available, compared to the assumptions contained in section 107.

(c) Revisions to the Baseline.—The baseline shall be adjusted for up-to-date economic assumptions for all reports issued pursuant to section 107 of this Act and section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 208. LIMITATIONS ON EMERGENCY SPENDING.

(a) In General.—(1) Within the discretionary caps for each fiscal year contained in this Act, an amount shall be withheld from allocation to the appropriate committees of the House of Representatives and of the Senate and reserved for natural disasters and other emergency purposes.

(2) Such amount for each such fiscal year shall not be less than 1 percent of total budget authority and outlays available within those caps for that fiscal year.

(3) No adjustments shall be made to the discretionary spending limits under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 unless the amount appropriated for discretionary accounts that have been designated as emergency requirements exceed the amount reserved pursuant to paragraph (1). Any adjustment shall be limited to the amount that total appropriations designated as emergency requirements for the fiscal year exceeds the amount reserved pursuant to paragraph (1).

(4) The amounts reserved pursuant to this subsection shall be made available for allocation to such committees only if—

(A) the President has made a request for such disaster funds;

(B) the programs to be funded are included in such request; and

(C) the projected obligations for unforeseen emergency needs exceed the 10-year rolling average annual expenditures for existing programs included in the Presidential request for the applicable fiscal year.

(5) Notwithstanding any other provision of law—

(A) States and localities shall be required to maintain effort and ensure that Federal assistance payments do not replace, subvert or otherwise have the effect of reducing regularly budgeted State and local expenditures for law enforcement, firefighting, road construction and maintenance, building construction and maintenance or any other category of regular government expenditure (to ensure that Federal disaster payments are made only for incremental costs directly attributable to unforeseen disasters, and do not replace or reduce regular State and local expenditures for the same purposes);

(B) the President may not take administrative action to waive any requirement for States or localities to make minimum matching payments as a condition or receiving Federal disaster assistance or take administrative action to waive all or part of any repayment of Federal loans for the State or local matching share required as a condition of receiving Federal disaster assistance. This clause shall apply to all matching share requirements and loans to meet matching share requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any other Acts pursuant to which the President may declare a disaster or disasters and States and localities otherwise qualify for Federal disaster assistance; and

(C) a two-thirds vote in each House of Congress shall be required for each emergency to reduce or waive the State matching requirement or to forgive all or part of loans for the State matching share as required under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(b) Effect Budget Resolutions.—(1) All concurrent resolutions on the budget (including revisions) shall specify the amount of new budget authority and outlays within the discretionary spending cap that shall be withheld from allocation to the committees and reserved for natural disasters, and a procedure for releasing such funds for allocation to the appropriate committee. The amount withheld shall be equal to 1 percent of the total discretionary spending cap for fiscal year covered by the resolution, unless additional amounts are specified.

(2) The procedure for allocation of the amounts pursuant to paragraph (1) shall ensure that the funds are released for allocation only pursuant to the conditions contained in subsection (a)(3)(A) through (C).

(c) Restriction on Use of Funds.—Notwithstanding any other provision of law, the amount reserved pursuant to subsection (a) shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(d) New Point of Order.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"Sec. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 or of section 208 of the Budget Enforcement Act of 1997 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

TITLE III—USE OF BUDGET SURPLUS TO PRESERVE SOCIAL SECURITY TRUST FUND

SEC. 301. ENDING USE OF RECEIPTS OF SOCIAL SECURITY TRUST FUND FOR OTHER PROGRAMS AND ACTIVITIES.

(a) If, in any year, revenues are higher than the targets in Section 104, as adjusted pursuant to Section 107, or spending is lower than the caps in Section 105, as adjusted, and the deficits are lower than the targets in Section 105, as adjusted pursuant to Section 107, those amounts shall be applied pursuant to subsection (b).

(b) All funds described in subsection (a) up to $100 billion shall be used to reduce the consolidated budget deficit and, to the extent that funds are available to eliminate the consolidated budget deficit, to retire the outstanding debt of the United States Government held by the public.

(c) Any use of funds described in subsection (a) for any purpose other than provided in subsection (b) shall be subject to the requirements of Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and any reduction in the amounts described in subsection (a) shall be considered as an increase in the deficit.

(d) When the President submits the budget under section 1105(a) of Title 31, United States Code for any year, OMB shall adjust the Social Security Trust Fund surpluses for each year under this Section, based on the most recent estimates of such surpluses to be provided to OMB by the Secretary of the Treasury.

Mrs. THURMAN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida [Mrs. Thurman] is recognized for 5 minutes in support of her motion to recommit.

Mr. NUSSLE. Mr. Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. Nussle] reserves a point of order.

The Chair recognizes the gentlewoman from Florida [Mrs. Thurman] for 5 minutes.

Mrs. THURMAN. Mr. Speaker, after the Republican leadership promised to bring this bill to the floor, it was reviewed, as many bills are, by many experts in the various committees and outside organizations who have pointed out several problems in the bill. As a firm supporter of the concept behind this legislation, I believe it is extremely important to correct these problems. I strongly support the principle behind this legislation. We should enforce the budget agreement to ensure that this budget agreement delivers on the promise of a balanced budget.

Everyone in this body agrees that the best thing we can do for working men and women is to ensure that we actually balance the budget. If we do not add legislation enforcing the budget agreement, we could repeat the history of past failed efforts to balance the budget. Because this issue is so important, we should correct these problems so that we can pass an enforcement bill that does not have these problems.

This motion to recommit would correct the unintended problems with the bill that have been pointed out by many of its critics. This motion makes several important improvements to the bill:

First, it begins the process of restoring the integrity of the Social Security trust fund by reserving the first hundred billion dollars of any surplus to take the Social Security trust fund off budget.

Second, it protects Medicare beneficiaries by addressing the concern that Medicare beneficiaries would bear an unreasonable burden of sequestration.

Third, it protects the jurisdiction of the Committee on Ways and Means over enforcement of the revenue provisions.

Finally, it makes several other technical corrections to correct unanticipated problems with this bill.

This motion is in an effort to ensure that the legislation that the House votes on today is our best effort on this issue. We should not ever vote on legislation that we all know has problems. We should fix those problems with this legislation before we vote on it.

So I agree with the gentleman from Iowa [Mr. NUSSLE]. We should recommit this bill, we should take it back to the committees, we should look at the issues that have been raised here and issues of outside critics, and we should adopt this motion to recommit.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Speaker, first off, I would like to also commend the Republican leadership for keeping their word and bringing this bill to the floor. The most important part, in my opinion, of this motion to recommit that is being made here is that we will start to address the Social Security issue. This has gone on since 1983 that this extra money that is being taken out of the paychecks of hardworking Americans that was supposed to be set aside to preserve and protect Social Security, it is going into the general fund, and it is being spent on other Government programs instead of being put aside to preserve and protect Social Security.

This motion to recommit would instruct the committee to take the first hundred billion dollars of surplus and actually start reserving it for Social Security so that when the time comes in the year 2012 that there is not enough money to make good on the promises to our senior citizens, the money would then be available if this motion to recommit were sent back and then the bill were passed and signed into law.

So in my opinion, the most important part of this is that we would start to address a very serious problem facing this Nation, and that is that the money that is supposed to be set aside for Social Security in this savings account, it is not there. It is IOU;s. And under this movement we would force this Government to actually start setting aside money so that Social Security once again would be safe and secure for our senior citizens.

Mrs. THURMAN. Mr. Speaker, I yield to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, I would like to thank the gentlewoman for yielding this time to me.

We have had a great deal of discussion today about the inadequacy of the rule, and I am pleased to be able to report that in this motion to recommit we address the problem with the rule and the bill that was offered as a substitute is now available for a vote.

This is a bill that was revised to take into account the criticisms that came from both sides of the aisle to try to make this a better bill. The critics are saying we are looking for the perfect bill. I have heard this over and over in this institution. But let us not make the perfect enemy of the good.

At the same time, let us recognize that if we want any type of enforcement mechanism that deals with the revenue side and the entitlement programs, that we have to move this legislation through the House of Representatives to the conference committee.

This motion to recommit gives us the best shot at providing the conference committee on the reconciliation bills with our best product at this point in time. If it is important to us in the House of Representatives to see the budget balanced and kept in balance, let us move the process ahead.

The SPEAKER pro tempore. All time has expired for the gentlewoman from Florida [Mrs. THURMAN].

Does the gentleman from Iowa [Mr. NUSSLE] insist on his point of order?

Mr. NUSSLE. Mr. Speaker, I withdraw my reservation on the point of order, and I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. NUSSLE] is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I told you so. There were problems with this bill, and what happened? Here at the last minute, in a rush, without any consideration, without any light of day, without any committee process, without any disclosure to the other side, without any chance for the committees of jurisdiction to look at it, in comes the rushed motion to recommit. Just like my dad used to when as a family we used to go in and raid the refrigerator. We used to call it "oosh-cum-noosht." This is "oosh-cum-noosht"; that is what this is.

□ 1315

That is what this is. People came out and they said, hey, I know, we can fix Social Security. Let us put in this little provision. We can fix veterans. Let us put in this provision. We can fix Medicare. Let us put in this provision. It does not have enough teeth here. It has too much teeth there. Let us rush in and let us do this, because we want to make sure that in fact we are able to improve this particular piece of legislation at the last minute in a way to save the reform process.

Mr. Speaker, we do not need to save the reform process in this particular motion to recommit. The reform process has a strong foundation, laid very carefully by my good friends and colleagues that have spoken here today. That reform process will go forward. It must. If we are going to save this country from rampant deficits and national debt and bankrupt Social Security and many other problems that face this Nation, we have to go through the entire process, not a rushed bill, not a quick fix, not a quick address of the problems we heard within the debate with a motion to recommit. We have to come in and we have to go through the careful consideration and hearings and processes in order to get this job done.

First we had it down here and we heard there was too much teeth. Then the advertising changed and it was, do not worry about it, there are no teeth. Then we come in and find there are even less teeth. We find out that Social Security is not going to quite have as much teeth, Medicare will not have as much teeth, the spending sequestrations are not going to have as much teeth. Is this really reform?

Mr. Speaker, we need to have a careful process to go through in order to get this job done. This motion to recommit clearly does not even come close to that. I think the effort was admirable. The result missed the mark. This is only the first shot in an effort to reform the budget process. While it missed the mark, it will be heard throughout this Congress, throughout the committees. We will reform the budget process; not today.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I appreciate the gentleman yielding to me.

Again, it seems to me like we ought to have some kind of a multiple choice test on this thing, based on the debate today, there is so much confusion about it.

I guess what I would say is this. This was advertised as a perfect product on June 25. We were going to bring this forward and we were going to vote on it as part of the deal then. The point was that a commitment was made for an up-or-down vote on that package, the June 25 package. The deal was an up-or-down vote on that. That is what we have brought to the floor today. It is what has been discussed.

As we said at the time, it was not ready. It is not ripe. This is too complex, it is too technical, there are too many people involved in it. We need to work it out through the normal process. We have a commitment from Chairman SOLOMON, we have a commitment from Chairman ARCHER, we have a commitment from Chairman KASICH to go forward in the regular process to do this the right way.

Trying to write budget reform and budget enforcement at this point in a motion to recommit on the floor is insanity. We all know it. Let the process work. The pledges are there, the commitments are there, the homework is there, the record is there, the good will and commitment and bright ideas of all the people who have brought this forward are there.

Not only that, we have a whole bunch of people, of organizations, that have suddenly woken up to this and said this is a very poor way to do this, because they have been listening to the debate and they have been understanding that, oh, my gosh, all of a sudden there may be a need for an exemption from the enforcement.

We have the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, AMVETS, Retired Enlisted Association, Blinded Veterans Association, Noncommissioned Officers Association, Military Order of Purple Heart, Jewish War Veterans, Retired Officers, Fleet Reserve, the AARP, and a whole bunch of other people out there saying, hold on, there is a problem. This is not the way to do this.

Mr. Speaker, I would urge that we defeat the motion to recommit, we defeat H.R. 2003, and we simply go about the normal process of getting on with budget reform.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NUSSLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 148, nays 279, answered "present" 1, not voting 6, as follows:

[Roll No. 300]

YEAS—148

Abercrombie
Allen
Andrews
Baesler
Ballenger
Barcia
Barrett (WI)
Barton
Bass
Bentsen
Bilirakis
Bishop
Blumenauer
Boswell
Boyd
Brady
Brown (CA)
Brown (FL)
Camp
Campbell
Canady
Carson
Castle
Chabot
Chenoweth
Clement
Clyburn
Coburn
Combest
Condit
Cramer
Danner
Davis (FL)
Deal
DeFazio
Deutsch
Doggett
Dooley
Doyle
Duncan
Edwards
Eshoo
Etheridge
Farr
Forbes
Fox
Furse
Ganske
Gilchrest
Goode
Gordon
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Harman
Hefner
Hill
Hilliard
Hinojosa
Holden
Hooley
Horn
Houghton
Hunter
Inglis
Jefferson
John
Johnson (WI)
Kanjorski
Kaptur
Kind (WI)
Kleczka
Klug
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Luther
Maloney (CT)
Maloney (NY)
Manton
McCarthy (MO)
McCarthy (NY)
McCollum
McHale
McIntosh
McIntyre
McKinney
Meehan
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Murtha
Neumann
Ney
Norwood
Paxon
Pease
Peterson (MN)
Pickett
Porter
Portman
Ramstad
Regula
Riggs
Roemer
Ros-Lehtinen
Rush
Sanchez
Sandlin
Sanford
Schaefer, Dan
Schaffer, Bob
Scott
Sherman
Shimkus
Sisisky
Skaggs
Smith, Adam
Smith, Linda
Stabenow
Stearns
Stenholm
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thurman
Turner
Upton
Visclosky
Wamp
Weldon (PA)
Weller
Wexler
Weygand
Woolsey
Yates

NAYS—279

Ackerman
Aderholt
Archer
Armey
Bachus
Baker
Baldacci
Barr
Barrett (NE)
Bartlett
Bateman
Becerra
Bereuter
Berman
Berry
Bilbray
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Cannon
Capps
Cardin
Chambliss
Christensen
Clay
Clayton
Coble
Collins
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (IL)
Davis (VA)
DeGette
Delahunt
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Gutierrez
Hall (OH)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hostettler
Hoyer
Hulshof
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Latham
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Manzullo
Markey
Martinez
Mascara
Matsui
McCrery
McDade
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Moakley
Molinari
Mollohan
Moran (KS)
Myrick
Nadler
Neal
Nethercutt
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Reyes
Riley
Rivers
Rodriguez
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanders
Sawyer
Saxton
Scarborough
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stokes
Strickland
Stump
Sununu
Thomas
Thornberry
Thune
Tiahrt
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (FL)

ANSWERED "PRESENT"—1

Ensign

NOT VOTING—6

Gonzalez
Hutchinson
Pallone
Schiff
Stark
Young (AK)

☐ 1344

Mrs. LOWEY and Messrs. RAHALL, SMITH of Michigan, JACKSON of Illinois, NEAL of Massachusetts, OBERSTAR, GEPHARDT, KENNEDY of Massachusetts, MCNULTY, GEJDENSON, HASTINGS of Florida, KILDEE, BROWN of Ohio, WISE, BORSKI, VENTO, RODRIGUEZ, REYES, and ROTHMAN, Ms. ROYBAL-ALLARD, and Messrs. DIAZ-BALART, SCHUMER, ORTIZ, OWENS, MATSUI, TOWNS, and ENGEL, Ms. SLAUGHTER, Mr. PAYNE, Mr. HINCHEY, Ms. DEGETTE, and Messrs. RANGEL, DICKS, and ACKERMAN changed their vote from "yea" to "nay."

Ms. WOOLSEY, Ms. FURSE, Mr. RIGGS, Mrs. CHENOWETH, Ms. KAPTUR, and Messrs. WELDON of Pennsylvania, SHIMKUS, BOB SCHAFFER of Colorado, LAMPSON, and SANDLIN changed their vote from "nay" to "yea."

☐ 1345

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BONILLA). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARTON of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 81, noes 347, not voting 6, as follows:

[Roll No. 301]

AYES—81

Andrews
Ballenger
Barcia
Barrett (WI)
Barton
Bass
Bliley
Blumenauer
Blunt
Boyd
Brady
Campbell
Castle
Chambliss
Coburn
Combest
Condit
Davis (FL)
DeFazio
Deutsch
Doggett
Dooley
Doyle
Duncan
Ehlers
Fawell
Forbes
Gekas
Goode
Goodling
Graham
Gutknecht
Hall (TX)
Hamilton
Harman
Hefner
Hoekstra
Horn
Houghton
Inglis
John
Kind (WI)
Kingston
Klug
Kolbe
Largent
Livingston
Luther
McHale
McInnis
McIntyre
McKinney
Meehan
Minge
Morella
Neumann
Norwood
Peterson (MN)
Petri
Porter
Ramstad
Regula
Roemer
Rohrabacher
Royce
Sanchez
Sanford
Schaffer, Bob
Sensenbrenner
Sisisky
Smith (TX)
Stenholm
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Turner
Upton
Visclosky
Wamp

NOES—347

Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barr
Barrett (NE)
Bartlett
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Chabot
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Collins
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dreier
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kleczka
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHugh
McIntosh
McKeon
McNulty
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—6

Gonzalez
Hutchinson
Pallone
Schiff
Stark
Young (AK)

☐ 1354

Mrs. CHENOWETH, Mr. STUPAK, and Mr. CRAPO changed their vote from "aye" to "no."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2169, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 189 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 189

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI, clause 7 of rule XXI, or section 401(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: on page 4, line 1, through line 6; beginning with ", of which" on page 10, line 20, through "Fund" on line 22; on page 52, line 8, through line 15; on page 53, line 3, through page 65, line 6. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. The amendments specified in section 2 of this resolution shall be considered as adopted in the House and in the Committee of the Whole. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendments considered as adopted in the House and in the Committee of the Whole are as follows—

(1) page 31, line 24, strike "Staten Island-Midtown Ferry service project" and insert "St. George Ferry terminal project"; and

(2) page 60, strike line 13 and all that follows through page 65, line 3, and redesignate the following section accordingly.

□ 1400

The SPEAKER pro tempore (Mr. BONILLA). The gentlewoman from North Carolina [Mrs. MYRICK] is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Mrs. SLAUGHTER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

On Thursday, July 17, the Committee on Rules met and granted an open rule by voice vote for the consideration of H.R. 2169, the Transportation and Related Agencies Appropriation Act for fiscal year 1998. The rule waives clause 2(L)(6) of rule XI relating to the 3-day availability of the report, clause 7 of rule XXI relating to the 3-day availability of preprinted hearings and section 401(a) prohibiting consideration of legislation containing contract authority not previously subject to appropriation of the Congressional Budget Act against consideration of the bill.

The rule provides for 1 hour of general debate equally divided between the chairman and ranking member of the Committee on Appropriations. It waives clause 6 of rule XXI prohibiting reappropriations in an appropriations bill against provisions in the bill and clause 2 of rule XXI prohibiting unauthorized provisions in an appropriations bill against provisions in the bill, except as otherwise specified in the rule.

An amendment related to the St. George Ferry Terminal project printed in section 2 of this resolution shall be considered as adopted upon passage of this resolution.

The rule also strikes from the bill expedited procedures related to the total realignment of the Amtrak Commission because it falls under the jurisdiction of the Committee on Rules and should not be included in an appropriations bill before it has been properly considered by the Committee on Rules.

Priority recognition will be provided to those Members who have preprinted their amendments in the CONGRESSIONAL RECORD. The Chairman of the Committee of the Whole may postpone votes during consideration of the bill and reduce votes to 5 minutes on a postponed question if the vote follows a 15-minute vote. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, an effective and well-integrated transportation infrastructure has long been one of our Nation's greatest assets. It has enabled us to foster a diverse and expansive economy and made it possible for families to travel easily around the Nation and the world. Each region of the country has distinct needs with regard to transportation.

Each year, we in this House are tasked with the responsibility of guaranteeing that our vast transportation network does not slide into disrepair. I congratulate the Appropriations Subcommittee on Transportation for the fine work they have done on this bill. The gentleman from Virginia [Mr. WOLF], the chairman, and the gentleman from Minnesota [Mr. SABO], the ranking member, worked very hard to make sure that the bill fairly and effectively distributed needed funds across the Nation. They produced a good bill with bipartisan support, and I urge my colleagues to support it.

I also realize that some in this House may have different views on this important issue that they would like to express. That is why I am also happy that this bill will be considered under an open rule so that open and honest debate can be carried out.

This bill is another step toward achieving a balanced budget, but it does not sacrifice the needs and safety of the traveling public. The need for new and improved highway systems connecting our Nation's cities with emerging suburban centers and more rural areas increases every year. H.R. 2169 includes a 20-percent increase in highway funding that is desperately needed.

I am particularly aware of this problem because it is one that I faced while serving as mayor of Charlotte, NC. The growth that we are experiencing in Charlotte is typical of many emerging cities throughout the South and the Nation.

The disaster of TWA flight 800 last year focused a great deal of concern on air travel safety in the United States. Like all of my colleagues and millions of Americans, I spend a great deal of time in the air. Safe air transportation is important not only for commerce but also for a growing number of families on vacations.

Safety issues are a key component of H.R. 2169. The bill increases funding for the FAA, including the installation of airport security devices, alert systems to prevent runway collisions, and improved weather detection and forecasting systems. It also increases FAA personnel by adding 500 air traffic controllers and 326 staff members responsible for safety certification and regulation.

Unfortunately, too many Americans lose their lives on our Nation's highways each year. It seems like every news report during Christmas, Thanksgiving, and other holidays always includes stories about the number of fatalities. Of course, those stories are not limited to holidays, it happens every day.

This bill provides $333 million to programs designed to help reduce those numbers and includes a new prelicensing drug testing program and critical airbag safety initiative. To many, Amtrak is a vital link to work and family, particularly in the Northeast. H.R. 2169 increases capital appropriations to the embattled rail line by $30 million over last year. It also provides a $75 million increase for Amtrak's Northeast corridor improvement program.

The Coast Guard has long been a partner in the war on drugs. They must enforce Federal laws on the high seas and other waterways within its jurisdiction. There has been an increase in drug trafficking in the waters off the United States. The Coast Guard works diligently to put a stop to that activity. Perhaps the most important part of this bill increases funding for the Coast Guard's operating expenses to target efforts to interdict ocean drug trafficking.

I again congratulate the Committee on Appropriations on a fine bill and ask that my colleagues support its passage and the open rule under which it will be debated.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from North Carolina [Mrs. MYRICK] for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, while I do not oppose this open rule, I do have some serious concerns about the impact of the underlying bill on Amtrak. This passenger rail system is vital to the economic needs of millions of train passengers and thousands of communities across the Nation, including my own community in upstate New York.

The bill provides a total of $793 million for Amtrak in fiscal year 1998, but only $283 million of that will go for operating costs. This is the lowest operating budget in 20 years for Amtrak and represents a cut of $61 million below the administration's request for operations. A cut of this size could make Amtrak's cash problems insurmountable. According to Amtrak President Thomas Downs, Amtrak could go bankrupt within a year. Amtrak is already borrowing to go meet the payroll and may soon reach its commercial borrowing limits.

By failing to provide the necessary funding in this bill to allow Amtrak to meet its existing obligations, we are placing at risk 23,000 American jobs. Moreover, we risk losing this essential transportation and economic resource forever.

If that happens, under current law, the Federal Government would be responsible for an estimated $6 billion in costs associated with closing Amtrak. These include the costs of the unemployment benefits, the C–2 label protections, tax revenue losses, and $2.3 billion in debt to public and private investors. I am not convinced that this Congress has fully considered the ramification of dropping this potentially massive liability into the laps of the U.S. taxpayer or the economic consequences on our communities if they were to lose Amtrak.

In the past 2 years, Amtrak has increased ridership and revenues, cut costs, and made important investments to modernize its aging train fleet. While much work remains to be done, unfortunately this bill does not do enough to ensure that Amtrak has the operating resources it needs to remain an economically viable transportation option for the community it serves.

While I have that major reservation about the underlying bill, Mr. Speaker, I urge my colleagues to support this open rule.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield as much time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the gentlewoman from North Carolina [Mrs. MYRICK], a valued member of the Committee on Rules, for yielding me the time.

I rise in support of this fair and open rule. Mr. Speaker, transportation funding is obviously a very important issue to every Member and for all the States in our country, and for growth States like Florida it has a special meaning. And southwest Florida is one of the fastest growing areas in the country and one of the nicest, and it will continue to be fast growing.

In my districts, our roads and airports are stretched nearly to capacity by an ever-increasing flow of new residents and tourists. In the past, we have had some very serious concerns about the inequities in highway funding in ISTEA, our funding program. We certainly are not going to get into the fairness issue today related to the distribution of the gas tax. But I am pleased that we are going to be dividing a bigger transportation pie this year, I think that matters a lot, nearly 20 percent bigger I understand for highway spending. I think that is very good news for America.

Even with the current funding inequities, this bigger pie of $21.5 billion will mean more dollars for transportation priorities in fast-growth areas like Florida. In the short term, this will help improve safety on our roads and make long overdue improvements, which are obviously needed for those who have been using those infrastructure areas.

In the long term, we are going to be looking for a greater share. And in Florida we say our fair share is the formulas that we find in the upcoming ISTEA reauthorization process.

But today I am also pleased that the bill provides $1.7 billion for the airport improvement program. Southwest Florida International Airport is the third fastest growing airport in the country, and other airports nearby, like Naples and Immokalee, are also feeling the pressure of increased trade and traffic. Without Federal support available through the AIP to supplement local and State funding, these airports simply cannot respond to the need for capacity expansion programs for upgraded air traffic systems and for the runway improvements that we need for safety.

The committee has wisely increased funding levels for this program despite the opposition of the Clinton administration, and I am grateful to the committee.

Another issue on the minds of my constituents is the drug war, and it should be on the minds of all Americans. A major component of that struggle, the war on drugs, must be increased funding for drug interdiction efforts by the U.S. Coast Guard. We all know that. Everybody who reads the newspaper, watches television, draws a breath in this country, and opens their eyes and listens a little bit understands what a valuable role the Coast Guard has in drug interdiction.

Last week, a hearing was held in the Subcommittee on National Security, International Affairs, and Criminal Justice of the Committee on Government Reform and Oversight on the increase in narcotics traffic just through the State of Florida, a serious issue for Florida, obviously, with consequences for the whole Nation. The good news from that hearing is that the different agencies in the war on drugs are increasing coordination so that in south Florida the Drug Enforcement Agency, the Customs Service, and the Coast Guard are all working together. That may sound like a simple thing to say, but it is a hard thing to accomplish. And it is good news when it happens, and it is very effective and it has positive results; and I hope it continues to happen. This legislation ought to help in that direction.

Hopefully, the director of the ONDCP, the so-called drug czar's office, will review the Coast Guard's activities and ensure that these funds that we are providing are being used for their intended purpose of drug interdiction. The Coast Guard must be able to respond on the basis of good intelligence with the interdiction efforts necessary to fight the dangerous inflow of drugs on the high seas before they reach our shores.

I think most people know that the way we get most of these drug busts is through good intelligence, through good tips, through good information, and then we direct the Coast Guard and the other enforcement agencies to go make the bust.

The rest of the time, the random searches and checks just do not have the same kind of success record. I think it is very important that we understand the link between information and the Coast Guard and the money it takes to do enforcement.

I commend the gentleman from Virginia [Mr. WOLF], the chairman, for the work he has done on this bill, and I urge the House to support this fair rule and the bill it makes in order, and I am most thankful for the time.

Mrs. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

☐ 1415

GENERAL LEAVE

Mr. WOLF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes, and that I may be permitted to include, tables, charts, and other extraneous matter.

The SPEAKER pro tempore (Mr. BONILLA). Is there objection to the request of the gentleman from Virginia?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore. Pursuant to House Resolution 189 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2169.

☐ 1416

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes, with Mr. BEREUTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO] each will control 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume. I am pleased to present to the House today H.R. 2169, the fiscal year 1998 transportation appropriations bill.

This bill is the product of a bipartisan effort, and we have endeavored to involve the gentleman from Minnesota [Mr. SABO], the ranking member of the subcommittee. Like last year, I hope this bill will have the overwhelming support of the House today.

Again this year, the No. 1 priority in developing this bill was maintaining and improving safety. In addition, we have placed a high priority on funding for our Nation's infrastructure.

In total, the bill provides $12.48 billion in discretionary budget authority, an increase of $400 million over the 1997 level, and the bill is $10 million over the President's budget request. Outlays mostly needed for transportation infrastructure are up over 4 percent compared to last year. These increases respond to the calls of many Members of this body that sought to increase transportation and infrastructure spending. The bill is $31 million below the subcommittee's allocation for budget authority.

On the safety front, the bill raises funding for Federal Aviation Administration operations by over 8 percent, an increase of over $400 million. This level will fund the requested increase of 500 air traffic controllers and 326 additional staff in certification and regulation. The bill also includes 18 initiatives to improve air safety. These initiatives total $153 million and include additional funds for installing airport surface detection systems, automatic alerting systems to prevent runway collisions and approach lighting systems. Additional funds are provided for research into hazardous weather conditions, aircraft safety, and human factors.

In highway safety, the bill provides more funding for the National Highway Traffic Safety Administration than the President requested. In fiscal year 1998, a total of $333 million is allocated for NHTSA. This organization does critical work in research and public education to make our highways safer. Earlier advances in reducing highway fatalities in this country have flattened out in recent years, and in some States, Mr. Chairman, fatalities are going back up with the repeal of the national speed limit last year and increased alcohol use. These increases will allow the agency to aggressively work on solving the air bag problem and focus more resources on rising alcohol-related highway fatalities. In addition, the bill also includes $9 million for a new occupant protection grant program.

Recognizing the importance of investing in the Nation's infrastructure, the bill increases funding for the Federal-aid highways program to $21.5 billion. This is an increase, Mr. Chairman, of over $3.5 billion from the 1997 enacted level, or an increase of nearly 20 percent. It is a historic high and represents an increase of $1.3 billion over the assumption in the congressional budget resolution. This answers those who say that the appropriations process and the current budgetary treatment of the trust funds cannot provide increases in highway spending.

Funding for transit capital grants is increased to $2.5 billion, an increase of $350 million, or 16 percent over the 1997 level. Section 3 discretionary capital grants total $2 billion, an increase of 5 percent or $100 million over the previous year. Funding for transit operating assistance, which the administration proposed to eliminate, is reduced to $200 million but it is $200 million above what the administration had requested. Like the highway program, funding for the transit programs is at an all-time high.

Funding for the AIP program is $1.7 billion, an increase of $240 million, or 16 percent. Mr. Chairman, this is 70 percent higher than the budget request of $1 billion.

Funding for the Coast Guard totals $3.9 billion, an increase of $116 million over the 1997 enacted level and $21 million above the President's request. The bill fully funds the Coast Guard's drug interdiction program, of which $34.3 million requires the Office of National Drug Control Policy to certify that these expenditures represent the best investment relative to other possible alternatives.

Funding for Amtrak, Mr. Chairman, totals $793 million, which is $30 million more than in fiscal year 1997 and also $3.5 million above the administration's request. While the bill increases funding above last year's level for Amtrak and in doing so provides funding stability to the railroad, funding alone is not the panacea for Amtrak's financial problems. Comprehensive legislative reform, including unemployment, liability, contracting and labor reforms, must also occur if Amtrak is to address its financial and operating difficulties.

A railroad passenger system is a vital part of a balanced transportation network, and I think most Members of this body want to see Amtrak survive and prosper and thrive and have that opportunity, because with the large country that we have, I think a national rail system is fundamentally important. To that end, the bill establishes an independent commission to conduct an economic assessment of the entire Amtrak system. I regret that the rule does not protect the provisions establishing the commission, and it may be stricken on a point of order. The commission is necessary, since Amtrak's own restructuring efforts have not been as successful as planned and since Congress has mandated that Amtrak continue a number of unprofitable routes.

Modeled after the Base Closing Commission, which was set up to recommend which bases to close, this commission would make recommendations on route closings and realignments needed for the survival of a rail passenger system in the United States. Since these determinations would be made by the commission, painful route closure and realignment choices would be less politicized and the recommendations would then be considered by Congress on an expedited basis.

Finally, the bill is very clean of extraneous provisions. We have tried hard to work with the legislative committees to ensure their support for the bill. There are no major policy changes or time bombs in the bill. For the surface transportation programs authorized by ISTEA, the bill assumes current law and does not presuppose or prejudge the action of the appropriate legislative committees as they consider the reauthorization of ISTEA. In this way the bill can go forward without delay and without needless controversy.

I think it is a balanced bill, it is a bipartisan bill, it is a bill that puts emphasis on our higher responsibility of protecting and enhancing transportation safety. The bill also provides critical investments in our Nation's infrastructure which drives the Nation's economic engine.

In closing, Mr. Chairman, I would like to thank the gentleman from Minnesota [Mr. SABO] for his cooperation. I would also like to thank the following individuals who assisted in developing the fiscal year 1998 Department of Transportation and Related Agencies Appropriations Act. They include John Blazey, Rich Efford, Stephanie Gupta, Linda Muir, Ken Marx, and Cheryl Smith with the minority staff.

I wish to recognize and thank those associate staff members who supported the Members of this House in the preparation and passage of the fiscal year 1998 Transportation and Related Agencies Appropriations bill, H.R. 2169: David Whitestone of my office, Monica Vega-Kladakis of Majority Whip DELAY's office, Connie Veillette of Mr. REGULA's office, Steve Carey of Mr. ROGER's office, Eric Mondero of Mr. PACKARD's office, Todd Rich of Mr. CALLAHAN's office, Joe Cramer of Mr. TIAHRT's office, Mark Zeldon of Mr. ADERHOLT's office, Paul Cambon of Chairman LIVINGSTON's office, Marjorie Duske of Mr. SABO's office, Barbara Zylinski-Mizrahi of Mr. FOGLIETTA's office, Albert Jacquez and Nancy Alcalde of Mr. TORRES' office, David Oliveira of Mr. OLVER's office, Blake Gable of Mr. PASTOR's office, and Paul Carver of Mr. OBEY's office.

Mr. Chairman, I include the following material for the RECORD:

TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2169)

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF TRANSPORTATION					
Office of the Secretary					
Salaries and expenses	52,966,000	56,136,000	60,009,000	+7,043,000	+3,873,000
Office of civil rights	5,574,000	5,574,000	5,574,000		
Transportation planning, research, and development	3,000,000	6,008,000	4,400,000	+1,400,000	-1,608,000
Transportation Administrative Service Center	(124,812,000)		(121,800,000)	(-3,012,000)	(+121,800,000)
Payments to air carriers (Airport and Airway Trust Fund):					
(Liquidation of contract authorization)	(25,900,000)			(-25,900,000)	
(Limitation on obligations)	(25,900,000)			(-25,900,000)	
Rescission of contract authorization	(-12,700,000)	(-38,600,000)	(-38,600,000)	(-25,900,000)	
Rescission	(-1,133,000)			(+1,133,000)	
Rental payments	127,447,000	10,567,000		-127,447,000	-10,567,000
Minority business resource center program	1,900,000	1,900,000	1,900,000		
(Limitation on direct loans)	(15,000,000)	(15,000,000)	(15,000,000)		
Minority business outreach	2,900,000	2,900,000	2,900,000		
Total, Office of the Secretary	193,787,000	83,085,000	74,783,000	-119,004,000	-8,302,000
(Limitations on obligations)	(25,900,000)			(-25,900,000)	
Total budgetary resources	(219,687,000)	(83,085,000)	(74,783,000)	(-144,904,000)	(-8,302,000)
Coast Guard					
Operating expenses	2,319,725,000	2,440,000,000	2,408,000,000	+88,275,000	-32,000,000
Defense function (050)		300,000,000	300,000,000	+300,000,000	
(Transfer from DOD)	(300,000,000)			(-300,000,000)	
Supplemental (P.L. 105-18)	1,600,000			-1,600,000	
Acquisition, construction, and improvements:					
Offsetting collections		-9,000,000	-9,000,000	-9,000,000	
Vessels	216,500,000	186,900,000	191,650,000	-24,850,000	+4,750,000
Aircraft	18,040,000	26,400,000	33,900,000	+15,860,000	+7,500,000
Other equipment	41,700,000	49,700,000	47,050,000	+5,350,000	-2,650,000
Shore facilities & aids to navigation facilities	52,350,000	69,000,000	59,400,000	+7,050,000	-9,600,000
Personnel and related support	46,250,000	47,000,000	47,000,000	+750,000	
Subtotal, A C & I appropriations	374,840,000	370,000,000	370,000,000	-4,840,000	
Environmental compliance and restoration	22,000,000	21,000,000	21,000,000	-1,000,000	
Port Safety Development	5,000,000			-5,000,000	
Alteration of bridges	16,000,000		16,000,000		+16,000,000
Retired pay	608,084,000	645,696,000	645,696,000	+37,612,000	
Supplemental (P.L. 105-18)	9,200,000			-9,200,000	
Reserve training	65,890,000	65,000,000	67,000,000	+1,110,000	+2,000,000
Research, development, test, and evaluation	19,200,000	19,000,000	19,000,000	-200,000	
Boat safety (Aquatic Resources Trust Fund)	35,000,000	50,000,000	35,000,000		-15,000,000
Total, Coast Guard	3,476,539,000	3,910,696,000	3,881,696,000	+405,157,000	-29,000,000
Federal Aviation Administration					
Operations	4,925,500,000	5,036,100,000	5,300,000,000	+374,500,000	+263,900,000
Appropriation of user fees		300,000,000			-300,000,000
Offsetting Collections	-75,000,000			+75,000,000	
Emergency appropriations	(32,400,000)			(-32,400,000)	
Facilities & equipment (Airport & Airway Trust Fund)	1,793,500,000	1,875,000,000	1,875,000,000	+81,500,000	
Emergency appropriations	(144,200,000)			(-144,200,000)	
Research, engineering, and development (Airport and Airway Trust Fund)	187,412,000	200,000,000	185,000,000	-2,412,000	-15,000,000
Emergency appropriations	(21,000,000)			(-21,000,000)	
Grants-in-aid for airports (Airport and Airway Trust Fund):					
(Liquidation of contract authorization)	(1,500,000,000)	(1,500,000,000)	(1,600,000,000)	(+100,000,000)	(+100,000,000)
(Limitation on obligations)	(1,460,000,000)	(1,000,000,000)	(1,700,000,000)	(+240,000,000)	(+700,000,000)
Rescission of contract authorization	(-800,000,000)			(+800,000,000)	
Total, Federal Aviation Administration	6,831,412,000	7,411,100,000	7,360,000,000	+528,588,000	-51,100,000
(Limitations on obligations)	(1,460,000,000)	(1,000,000,000)	(1,700,000,000)	(+240,000,000)	(+700,000,000)
Total budgetary resources	(8,291,412,000)	(8,411,100,000)	(9,060,000,000)	(+768,588,000)	(+648,900,000)
Federal Highway Administration					
Limitation on general operating expenses	(521,114,000)	(494,376,000)	(510,313,000)	(-10,801,000)	(+15,937,000)
Highway-related safety grants (Highway Trust Fund):					
(Liquidation of contract authorization)	(2,049,000)	(4,000,000)		(-2,049,000)	(-4,000,000)
Rescission of contract authority	(-9,100,000)			(+9,100,000)	
Federal-aid highways (Highway Trust Fund):					
(Limitation on obligations)	(18,000,000,000)	(20,170,000,000)	(21,500,000,000)	(+3,500,000,000)	(+1,330,000,000)
Supplemental obligation authority (P.L. 105-18)	(694,810,534)			(-694,810,534)	
(Exempt obligations) (sec. 310 a-d)	(1,783,237,000)	(1,510,571,000)	(1,390,570,000)	(-392,667,000)	(-120,001,000)
(Bonus program) (sec. 310 e)	(241,173,000)		(269,656,000)	(+28,483,000)	(+269,656,000)
(Liquidation of contract authorization)	(19,800,000,000)	(19,800,000,000)	(20,800,000,000)	(+1,000,000,000)	(+1,000,000,000)
Emergency appropriations	(82,000,000)			(-82,000,000)	
Emergency relief program (P.L. 105-18)	(650,000,000)			(-650,000,000)	

TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2169)—Continued

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Motor carrier safety grants (Highway Trust Fund):					
(Liquidation of contract authorization)	(74,000,000)	(90,000,000)	(85,000,000)	(+11,000,000)	(-5,000,000)
(Limitation on obligations)	(78,225,000)	(100,000,000)	(85,325,000)	(+7,100,000)	(-14,675,000)
Rescission of contract authorization	(-12,300,000)			(+12,300,000)	
State infrastructure banks	150,000,000			-150,000,000	
State infrastructure banks (Highway Trust Fund)		150,000,000			-150,000,000
Transportation infrastructure credit program (Highway Trust Fund)		100,000,000			-100,000,000
Total, Federal Highway Administration	150,000,000	250,000,000		-150,000,000	-250,000,000
(Limitations on obligations)	(18,773,035,534)	(20,270,000,000)	(21,585,325,000)	(+2,812,289,466)	(+1,315,325,000)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(-364,184,000)	(+149,655,000)
Total budgetary resources	(20,947,445,534)	(22,030,571,000)	(23,245,551,000)	(+2,298,105,466)	(+1,214,980,000)
National Highway Traffic Safety Administration					
Operations and research	80,900,000		74,492,000	-6,408,000	+74,492,000
Operations and research (Highway Trust Fund)	51,712,000	147,500,000	72,415,000	+20,703,000	-75,085,000
Subtotal, Operations and research	132,612,000	147,500,000	146,907,000	+14,295,000	-593,000
Highway traffic safety grants (Highway Trust Fund):					
(Liquidation of contract authorization)	(168,100,000)	(185,000,000)	(186,000,000)	(+17,900,000)	(+1,000,000)
State and community highway safety grants (Sec. 402) (limitation on obligations)	(128,700,000)	(140,200,000)	(140,200,000)	(+11,500,000)	
National Driver Register (Sec. 402) (limitation on obligations)	(2,400,000)	(2,300,000)	(2,300,000)	(-100,000)	
Contract authorization (P.L. 105-18)	2,500,000			-2,500,000	
Highway safety grants (Sec. 1003(a)(7)) (limitation on obligations)	(11,500,000)			(-11,500,000)	
Occupant protection incentive grants (limitation on obligations)		(9,000,000)	(9,000,000)	(+9,000,000)	
Alcohol-impaired driving countermeasures programs (Sec. 410) (limitation on obligations)	(25,500,000)	(34,000,000)	(35,000,000)	(+9,500,000)	(+1,000,000)
Contract authorization (P.L. 105-18)	500,000			-500,000	
Rescission of contract authorization	(-24,800,000)			(+24,800,000)	
Total, National Highway Traffic Safety Admin	135,612,000	147,500,000	146,907,000	+11,295,000	-593,000
(Limitations on obligations)	(168,100,000)	(185,500,000)	(186,500,000)	(+18,400,000)	(+1,000,000)
Total budgetary resources	(303,712,000)	(333,000,000)	(333,407,000)	(+29,695,000)	(+407,000)
Federal Railroad Administration					
Office of the Administrator	16,739,000	20,559,000	19,434,000	+2,695,000	-1,125,000
Railroad safety	51,407,000	57,067,000	56,967,000	+5,560,000	-100,000
Railroad research and development	20,100,000	21,638,000	21,038,000	+938,000	-600,000
Northeast corridor improvement program	175,000,000		250,000,000	+75,000,000	+250,000,000
High-speed rail trainsets and facilities	80,000,000			-80,000,000	
Next generation high speed rail	24,757,000	19,595,000	18,395,000	-6,362,000	-1,200,000
Trust fund share of next generation high-speed rail (Highway Trust Fund): (Liquidation of contract authorization)	(2,855,000)			(-2,855,000)	
Alaska Railroad rehabilitation	10,000,000			-10,000,000	
Rhode Island Rail Development	7,000,000	10,000,000	10,000,000	+3,000,000	
Direct loan financing program	58,680,000			-58,680,000	
Direct loan financing program limitation	(400,000,000)			(-400,000,000)	
Grants to the National Railroad Passenger Corporation:					
Operations	364,500,000		283,000,000	-81,500,000	+283,000,000
Capital	223,450,000		260,000,000	+36,550,000	+260,000,000
Subtotal, Grants to Amtrak	587,950,000		543,000,000	-44,950,000	+543,000,000
Capital grants to the National Railroad Passenger Corporation (Highway Trust Fund)		445,450,000			-445,450,000
(Northeast corridor improvements)		(200,000,000)			(-200,000,000)
(Pennsylvania Station Redevelopment Project)		(23,450,000)			(-23,450,000)
Operating grants to the National Railroad Passenger Corporation (Highway Trust Fund)		344,000,000			-344,000,000
Emergency railroad rehabilitation and repair: Emergency funding (P.L. 105-18)	(18,900,000)			(-18,900,000)	
Total, Federal Railroad Administration	1,031,633,000	918,309,000	918,834,000	-112,799,000	+525,000
Federal Transit Administration					
Administrative expenses	41,497,000		45,738,000	+4,241,000	+45,738,000
Administrative expenses (Highway Trust Fund, Mass Transit Account)		47,018,000			-47,018,000
Formula grants	490,000,000		290,000,000	-200,000,000	+290,000,000
Formula grants (Highway Trust Fund):					
(Limitation on obligations)	(1,659,185,000)		(2,210,000,000)	(+550,815,000)	(+2,210,000,000)
Operating assistance grants	(400,000,000)		(200,000,000)	(-200,000,000)	(+200,000,000)
Subtotal, Formula grants	(2,149,185,000)		(2,500,000,000)	(+350,815,000)	(+2,500,000,000)

TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2169)—Continued

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Formula programs (Highway Trust Fund, Mass Transit Account):					
(Limitation on obligations)		(3,498,500,000)			(-3,498,500,000)
(Liquidation of contract authorization)		(1,500,000,000)			(-1,500,000,000)
University transportation centers	6,000,000		6,000,000		+6,000,000
Transit planning and research	85,500,000		86,000,000	+500,000	+86,000,000
Metropolitan planning	(39,500,000)		(39,500,000)		(+39,500,000)
Rural transit assistance	(4,500,000)		(4,500,000)		(+4,500,000)
Transit cooperative research	(8,250,000)		(8,250,000)		(+8,250,000)
National planning and research	(22,000,000)		(22,500,000)	(+500,000)	(+22,500,000)
State planning and research	(8,250,000)		(8,250,000)		(+8,250,000)
National transit Institute	(3,000,000)		(3,000,000)		(+3,000,000)
Subtotal, Transit planning and research	(85,500,000)		(86,000,000)	(+500,000)	(+86,000,000)
Transit planning and research (Highway Trust Fund, Mass Transit Account)		91,800,000			-91,800,000
Metropolitan planning		(39,500,000)			(-39,500,000)
Transit cooperative research		(8,250,000)			(-8,250,000)
Statewide planning		(8,250,000)			(-8,250,000)
National planning and research		(16,800,000)			(-16,800,000)
National mass transportation institute		(3,000,000)			(-3,000,000)
University transportation centers		(6,000,000)			(-6,000,000)
Advanced Technology Transit Bus		(10,000,000)			(-10,000,000)
Subtotal, Transit planning and research		(91,800,000)			(-91,800,000)
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(1,920,000,000)		(2,210,000,000)	(+290,000,000)	(+2,210,000,000)
Rescission of contract authorization	(-271,000,000)			(+271,000,000)	
Discretionary grants (Highway Trust Fund) (limitation on obligations):					
Fixed guideway modernization	(760,000,000)		(800,000,000)	(+40,000,000)	(+800,000,000)
Bus and bus-related facilities	(380,000,000)		(400,000,000)	(+20,000,000)	(+400,000,000)
New starts	(760,000,000)		(800,000,000)	(+40,000,000)	(+800,000,000)
Subtotal, Discretionary grants	(1,900,000,000)		(2,000,000,000)	(+100,000,000)	(+2,000,000,000)
Rescission of contract authorization	(-588,000,000)			(+588,000,000)	
Major capital investments (Highway Trust Fund, Mass Transit Account) (limitation on obligations)		(650,000,000)			(-650,000,000)
Mass capital investments (Highway Trust Fund, Mass Transit Account) (liquidation of contract authority)		(2,350,000,000)			(-2,350,000,000)
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(2,300,000,000)		(2,350,000,000)	(+50,000,000)	(+2,350,000,000)
Washington Metropolitan Area Transit Authority	200,000,000		200,000,000		+200,000,000
Washington Metropolitan Area Transit Authority (Highway Trust Fund, Mass Transit Account)		200,000,000			-200,000,000
Total, Federal Transit Administration	822,997,000	338,818,000	627,738,000	-195,259,000	+288,920,000
(Limitations on obligations)	(3,559,185,000)	(4,148,500,000)	(4,210,000,000)	(+650,815,000)	(+61,500,000)
Total budgetary resources	(4,382,182,000)	(4,487,318,000)	(4,837,738,000)	(+455,556,000)	(+350,420,000)
Saint Lawrence Seaway Development Corporation					
Operations and maintenance (Harbor Maintenance Trust Fund)	10,337,000		11,200,000	+863,000	+11,200,000
Research and Special Programs Administration					
Research and special programs	26,886,000	30,102,000	27,934,000	+1,048,000	-2,168,000
Hazardous materials safety	(15,472,000)		(15,024,000)	(-448,000)	(+15,024,000)
Emergency transportation	(993,000)		(993,000)		(+993,000)
Research and technology	(3,580,000)		(3,596,000)	(+16,000)	(+3,596,000)
Program and administrative support	(6,841,000)		(8,321,000)	(+1,480,000)	(+8,321,000)
Subtotal, research and special programs	(26,886,000)		(27,934,000)	(+1,048,000)	(+27,934,000)
Emergency appropriations	(3,000,000)			(-3,000,000)	
Pipeline safety (Pipeline Safety Fund)	28,460,000	30,660,000	28,186,000	-274,000	-2,474,000
Pipeline safety (Oil Spill Liability Trust Fund)	2,528,000	2,328,000	3,300,000	+772,000	+972,000
Subtotal, Pipeline safety	30,988,000	32,988,000	31,486,000	+498,000	-1,502,000
Emergency preparedness grants: Emergency preparedness fund	200,000	200,000	200,000		
Total, Research and Special Programs Admin	58,074,000	63,290,000	59,620,000	+1,546,000	-3,670,000
Office of Inspector General					
Salaries and expenses	37,900,000	40,889,000	42,000,000	+4,100,000	+1,111,000
Surface Transportation Board					
Salaries and expenses	12,344,000	14,300,000	15,853,000	+3,509,000	+1,553,000
Offsetting collections		-14,300,000	-2,000,000	-2,000,000	+12,300,000

TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2169)—Continued

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
General Provisions					
Bureau of Transportation Statistics (transfer from Federal-aid Highways)	(25,000,000)	(31,000,000)	(25,000,000)		(-6,000,000)
Transportation Administrative Service Center reduction	-10,000,000		-25,000,000	-15,000,000	-25,000,000
Railroad safety offsetting collections		-60,000,000			+60,000,000
Net total, title I, Department of Transportation	11,983,102,000	13,065,087,000	13,073,031,000	+1,089,929,000	+7,944,000
Appropriations	(12,750,635,000)	(13,103,687,000)	(13,111,631,000)	(+360,996,000)	(+7,944,000)
Rescissions	(-1,719,033,000)	(-38,600,000)	(-38,600,000)	(+1,680,433,000)	
Emergency appropriations	(951,500,000)			(-951,500,000)	
(Limitations on obligations)	(23,986,220,534)	(25,604,000,000)	(27,681,825,000)	(+3,695,604,466)	(+2,077,825,000)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(-364,184,000)	(+149,655,000)
Net total budgetary resources	(37,993,732,534)	(40,179,658,000)	(42,415,082,000)	(+4,421,349,466)	(+2,235,424,000)
TITLE II - RELATED AGENCIES					
Architectural and Transportation Barriers Compliance Board					
Salaries and expenses	3,540,000	3,640,000	3,640,000	+100,000	
National Transportation Safety Board					
Salaries and expenses	42,407,000	40,000,000	46,000,000	+3,593,000	+6,000,000
Appropriation of user fees		6,000,000			-6,000,000
Emergency appropriations	(6,000,000)			(-6,000,000)	
Emergency funding (P.L. 105-18)	(29,859,000)			(-29,859,000)	
Emergency fund		1,000,000	1,000,000	+1,000,000	
Emergency fund (emergency appropriations)	(1,000,000)			(-1,000,000)	
Total, National Transportation Safety Board	42,407,000	47,000,000	47,000,000	+4,593,000	
Total, title II, Related Agencies	82,806,000	50,640,000	50,640,000	-32,166,000	
Appropriations	(45,947,000)	(50,640,000)	(50,640,000)	(+4,693,000)	
Emergency appropriations	(36,859,000)			(-36,859,000)	
TITLE III - GENERAL PROVISIONS					
National Civil Aviation Review Commission	2,400,000			-2,400,000	
Amtrak route closure and realignment commission			1,000,000	+1,000,000	+1,000,000
Net total appropriations	12,068,308,000	13,115,727,000	13,124,671,000	+1,056,363,000	+8,944,000
Scorekeeping adjustments:					
Emergency appropriations	-289,600,000			+289,600,000	
Emergency funding (P.L. 105-18)	-698,759,000			+698,759,000	
General provision: Bonuses & awards	-513,604			+513,604	
Pipeline safety	1,000,000		1,000,000		+1,000,000
Railroad Safety	-3,000,000			+3,000,000	
Total, adjustments	-990,872,604		1,000,000	+991,872,604	+1,000,000
Net grand total	11,077,435,396	13,115,727,000	13,125,671,000	+2,048,235,604	+9,944,000
Appropriations	(12,796,468,396)	(13,154,327,000)	(13,164,271,000)	(+367,802,604)	(+9,944,000)
Rescissions	(-1,719,033,000)	(-38,600,000)	(-38,600,000)	(+1,680,433,000)	
(Limitations on obligations)	(23,986,220,534)	(25,604,000,000)	(27,681,825,000)	(+3,695,604,466)	(+2,077,825,000)
(Sec. 310 obligations)	(2,024,410,000)	(1,510,571,000)	(1,660,226,000)	(-364,184,000)	(+149,655,000)
Net grand total budgetary resources	(37,088,065,930)	(40,230,298,000)	(42,467,722,000)	(+5,379,656,070)	(+2,237,424,000)
602B SUMMARY					
Total mandatory and discretionary	11,077,435,396	13,115,727,000	13,125,671,000	+2,048,235,604	+9,944,000
Mandatory	617,284,000	645,696,000	645,696,000	+28,412,000	
Discretionary:					
General purposes:					
Defense (050)		300,000,000	300,000,000	+300,000,000	
Nondefense	10,460,151,396	12,170,031,000	12,179,975,000	+1,719,823,604	+9,944,000
Total, Discretionary	10,460,151,396	12,470,031,000	12,479,975,000	+2,019,823,604	+9,944,000

Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this bill. Let me start by saying to the gentleman from Virginia [Mr. WOLF] that he has done an outstanding job chairing this committee. I think he ran very good hearings. They were fair, they were to the point, but they were also tough. At times he pushed the administration hard on certain issues. When he did, I thought it was appropriate. He has been fair in writing this bill, and we appreciate that fairness. He has conducted his year as chairman of this subcommittee this year as a real pro. We appreciate the gentleman from Virginia [Mr. WOLF]. He has done great work. He mentioned all the staff, the majority and minority, who worked on this committee. I would share his sentiments toward them. They worked hard, they are knowledgeable, they are open and fair and worked well with each other. I simply say thank you to all of them for myself and for the minority. The majority staff has been very open and very good to work with.

Mr. Chairman, the bill itself is one I intend to vote for. It has important funding for whole hosts of transportation programs and projects throughout the country that make important investment in our country's infrastructure. I must say I have two reservations about the bill, one that I do not expect to change, one that I hope will change as we go through the legislative process.

I am concerned that we are reducing transit operating subsidies to $200 million. That is a significant reduction from the current level of funding. The level of capital assistance has been going down over a period of years. On the other hand, the bill is $200 million more than requested by the administration for operating assistance. The committee mark is significantly better than what the administration has recommended, and for that I am thankful, but I am concerned with what that reduction is going to do in very important marginal funding for many transit agencies around the country.

My one concern that I hope we can deal with before this bill comes back from conference is funding for Amtrak. In my judgment, that remains a very major problem in this bill. There is very significant funding for capital expenditures by Amtrak. That clearly will help their capacity to develop revenue and ridership in the years ahead. The problem, however, is that the level of operating assistance for Amtrak for the next year is so low that it brings into question whether Amtrak will survive the year. It is an issue and I know the chairman shares my concern that that is not what we want to have happen, and I am hopeful that before this bill comes back to the House again in conference that we can make adjustments to make sure that Amtrak survives the year and goes on. They provide very important, crucial transportation services in this country. Ridership is going up, revenues are going up. It is not a system in decline. They have had problems in part because of what Congress has decided in the past as it relates to operating assistance and requirements on route structures they maintain, particularly what we did last year where we put some mandates on them and did not provide enough money to pay for those mandates.

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But clearly our assistance to Amtrak for operations for the balance of this year, in my judgment it needs to be increased before the bill goes to the President for his signature. Other than that, I think it is a good bill and it is one that I hope the Members will vote for.

Mr. Chairman, I reserve the balance of my time.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I rise in strong support of this legislation, and I certainly want to commend the gentleman from Virginia [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO] for the job they have done here. They have been faced with some real budgetary constraints, and they have brought about a balance that I think is really very, very commendable. Indeed they have reached a historic high in the highway obligation ceiling, from 18.6 to 21.5 billion, raised the transit program, and indeed I want to assure them that as my committee proceeds with the reauthorization of ISTEA we will certainly take very seriously their actions where they have identified some transit programs subject to authorization. These new transit starts are important, and we will deal with them in a very, very serious and, I believe, positive way.

On the issue of Amtrak, I agree completely with the gentleman from Virginia [Mr. WOLF] that Amtrak is in very, very serious trouble. I believe it is on a steep curve to bankruptcy, and I want to see us save Amtrak. I disagree with him respectfully on the point on the Base Closure Commission, perhaps the most important reason being that I do not think we have time for that. Amtrak is going to be in bankruptcy in the next 6 to 12 to 10 months on the outside. But we must reform Amtrak. Our subcommittee, under the chairmanship of the gentlewoman from New York [Ms. MOLINARI] is moving ahead with this, and I expect before we leave town this month, in committee we will attempt to move reform legislation.

I say attempt. Last year I emphasized that this House passed Amtrak reform legislation by a vote of 406 to 4, overwhelming, and now I understand the same legislation that passed this House overwhelmingly on a bipartisan basis may not have the same bipartisan support that it had last year. It pains me greatly to hear that, if indeed it is accurate, because if that is the case, then we will not have reform legislation, and if we do not have reform legislation, I do not believe the votes are going to exist to get the funding so necessary to save Amtrak.

So in closing I want to congratulate the chairman and the ranking member for the outstanding job they have done, emphasize my commitment to trying to find a way to save Amtrak and look forward to the other important transportation legislation that we will be dealing with in this Congress in the weeks ahead.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, I wish to enter into a colloquy with the gentleman from Virginia [Mr. WOLF].

Mr. Chairman, in its committee report, the committee stated clearly its intention that the Coast Guard can, quote, "do more to lower its operating costs through greater energy conservation," unquote.

In 1994 the President issued Executive Order 12902, the goal of which was to encourage cost-effective uses of solar energy by all departments in the Government. Mr. Chairman, there are applications for which solar energy is the lowest-cost energy source and is a promising route towards energy savings. Would it not be consistent both with the Executive order and with the energy consciousness of this committee that the Coast Guard and the Department of Transportation and all agencies under its jurisdiction investigate the cost-effective utilization of solar technology to the maximum extent practical?

Mr. WOLF. Mr. Chairman, would the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the gentleman from Ohio [Mr. KUCINICH] is correct. The intent of the committee was to investigate energy saving possibilities, and solar technology is a promising route to saving energy. The Executive order the gentleman speaks of is relevant here. Therefore we agree that the Coast Guard and all agencies under the jurisdiction of the Department of Transportation should make every effort to uphold the letter and the spirit of Executive Order 12902 and investigate cost-saving utilization and solar technologies to the maximum extent possible.

Mr. KUCINICH. Mr. Chairman, I yield back the balance of my time.

Mr. WOLF. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Chairman, I would like to engage in a colloquy with the chairman of the Subcommittee on Transportation of the Committee on Appropriations for issues very important to the folks of Kansas.

Mr. Chairman, because of the merger between the Union Pacific and the Southern Pacific Railroads, the city of Wichita would be faced with a significant increase in trains traveling through the center of town. These trains will cause significant health, safety and traffic congestion. The Surface Transportation Board has jurisdiction over the Union Pacific-Southern Pacific merger. The board has already required the merger company, Union Pacific, to pay all baseline mitigation costs of this merger. On April 15, 1997, the board stated that the Union Pacific will have to pay the full cost of baseline mitigation resulting from a merger. However, several weeks before this decision was rendered, Union Pacific downscaled the extent of the train traffic increase to 5½ trains and increased the speed of those trains to 30 miles per hour.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. TIAHRT. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, that is my understanding too.

Mr. TIAHRT. There is justifiable fear, I believe, in my district that the Union Pacific will significantly increase the number of trains traveling through Wichita after the Surface Transportation's 5-year review period. The board has taken the Union Pacific at its word and adjusted, although not yet officially, the amount of mitigation necessary for Wichita. I am concerned that the Union Pacific will not be able to increase the speed of its trains to 30 miles per hour or will significantly increase the number of trains traveling through Wichita after the 5-year period of the Surface Transportation Board review. Increasing the speed of trains going through Wichita will be extremely difficult even under ideal conditions, and with the breakup of Conrail, train traffic going through Kansas City will probably increase. This will put further pressure on Union Pacific to route more trains through Wichita.

Mr. Chairman, the report language included in this bill is designed to give the citizens of Wichita an avenue to redress in case Union Pacific decides to significantly increase the number of trains traveling through Wichita or if the Union Pacific does not increase the speeds of its trains as they promised.

Mr. WOLF. If the gentleman would yield, that is the purpose of including the language that we have in the report.

Mr. TIAHRT. I ask the committee pay close attention to the Surface Transportation Board and its environmental mitigation study for Wichita. The report language specifies that the committee is concerned with Surface Transportation Finance Docket Number 32760. The committee is instructing the board to use as the basis for its decision verifiable and appropriate assumptions such as train speed and the number of trains. The committee is not telling the board what to base its decision on, but it is saying that the assumption it uses must be verifiable and appropriate. If there is any material change in the facts upon which the board bases its decision, then the committee expects the board to be proactive in exercising its jurisdiction by re-examining the final mitigation measures it would impose upon the Union Pacific Corp. or any of its subsidiaries.

For example, if Union Pacific decides to significantly increase the number of trains going through Wichita or fails to get their speed up to 30 miles per hour going through town, then the committee expects the board to exercise its jurisdiction and increase the mitigation necessary to remedy the situation. Of course the city of Wichita or an interested party must petition the board to reopen the docket. The board does not have to monitor the number of trains or the speed of the trains traveling through Wichita. Wichita will be monitoring this closely.

I appreciate the opportunity for this colloquy, and I want to comment on what a fine job the committee has done with the gentleman's leadership.

Mr. WOLF. If the gentleman would continue to yield, I appreciate that, and I promise the gentleman from Kansas personally, too, we will stay with him throughout this issue to make sure that it does not get out of hand. I thank the gentleman very much for bringing this to our attention.

Mr. PASTOR. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, I thank the gentleman for yielding this time to me, and, Mr. Chairman, this is a good bill, and I will be supporting it. The constraints that the committee has are well known and the attempts they have to fund infrastructure have been done under very difficult situations. I would like to comment, however, on one disappointment I have with our transportation funding, and that has to do with funding projects along the international border between the United States and Mexico.

I represent part of the city of San Diego. I represent the district which has much of the California-Mexico border. The attention that this Nation should pay to building up that infrastructure for our economic future has not been done. Federal mandates that deal with trade and immigration have placed a tremendous strain on our roads and bridges and highways and rail lines that simply cannot accommodate the increased traffic that results from Federal decisions in trade and in immigration.

It is critical, Mr. Chairman, that we find the Federal funding for these highway and rail projects without affecting California's Federal highway assistance. I have introduced legislation along with Senator BOXER in the other body to establish a $500 million border infrastructure fund to pay for these improvements to try to make sure that we realize the potential of the international trade that the passage of NAFTA and other actions have caused.

Let me just give my colleagues a couple of examples of what I am talking about. By Federal order, all of the commercial truck traffic between California and Mexico goes through what we call the Otay Mesa, a border crossing which is in my district. Something like 3,000 trucks a day now traverse across the border through the border crossing, and yet there is no highway of interstate standards that connects that highway, connects that border crossing with our interstate highway system. At first we only had a two-lane city street, it has been enlarged to four lanes and soon to six lanes, but it cannot handle the 3,000 trucks a day that NAFTA and other actions by this body have created.

It is time that the Federal Government address the infrastructure problems that have burdened the city and county of San Diego as we contribute our part to increasing international trade and growing the economy in this Nation.

Another example which I will have an amendment on later: If San Diego's port could establish a direct rail link with eastern railway systems, the whole economy of southern California would be transformed for the better. The transformation of our economy requires that we rehabilitate an old shortline railroad that was built in 1912 or so between San Diego and Arizona. It does not take a lot of money in the scheme of things to rehabilitate that railroad, and the Federal Government can contribute not through any grants, not through any loans, but through merely a loan guarantee that could leverage 20 times what we would appropriate. With the rehabilitation of that railroad, the port of San Diego becomes a working commercial port, thousands and thousands of jobs are created, San Diego finds a new way of economic growth that is not dependent on the defense budget, and southern California and all of America profits from that.

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These are the examples that I am talking about, Mr. Chairman, that hopefully in the future the Subcommittee on Transportation of the Committee on Appropriations will include in their efforts.

We need on the international border, and I speak not just for California now, but for Texas and New Mexico and Arizona, we need attention paid to the infrastructure projects along the border. They are not local pork projects, they are not just provincial kinds of requests. The infrastructure that is required benefits the whole Nation, and as I said earlier, comes from the mandates that Federal trade policy has put on us.

While understanding the constraints we have, I would argue that in the future some attention be paid to these border infrastructure projects, and we begin to really grow the economy of this country in new ways.

Mr. WOLF. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Kentucky [Mrs. NORTHUP] for a colloquy.

Mrs. NORTHUP. Mr. Chairman, I rise today to engage the gentleman from Virginia in a colloquy related to something important for Louisville, KY.

In 1994 the Federal Aviation Administration advised Congress that they would reimburse the Standiford Field in Louisville, KY, for the airport's costs of installing a category III instrument landing system on runway 35 right. It is my understanding that the FAA has provided about $700,000 out of a total estimated funding of $2.4 million for this system. That leaves approximately $1.7 million remaining to be paid. It is my understanding that those remaining funds are included in the FAA's budget request for fiscal year 1998 and that they are included in the committee's reported bill.

Is that the chairman's understanding, as well?

Mr. WOLF. Mr. Chairman, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from Virginia.

Mr. WOLF. The gentlewoman from Kentucky [Mrs. NORTHUP] is absolutely, positively correct. I have not thought of that airport for years, but I flew in there in 1962 when I went to basic training at Fort Knox, KY.

It was one of the most depressing days of my life. I remember when I landed at the airport I arrived into Fort Knox, KY, and they put me on KP right away. If I had only known the need then. But I do remember the airport well.

The FAA advises me that all the remaining funds needed to reimburse the local authorities for costs related to the ILS are included in the fiscal year 1998 budget, and the FAA intends to provide the final reimbursement by the end of that fiscal year.

I was just wondering, do they still march the men up Misery Hill the way they used to?

Mrs. NORTHUP. Mr. Chairman, they do.

I thank the gentleman for this, and I thank him on behalf of all the young men as they come through that airport and they come through a new door, an open door to a change in their lives. I thank the gentleman very much.

Mr. PASTOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. I appreciate the gentleman yielding time to me, and would appreciate being able to engage in a colloquy with the chairman of the committee.

Mr. Chairman, the transportation appropriation measure before us today contains $2 million for the Northern Indiana South Shore commuter rail line. The House report states that this funding is to be used to complete a major investment study. However, previously appropriated funds will be sufficient to complete the major investment study and it will be completed later this year.

The critical problem facing the commuter rail line is the tremendous increase in ridership over the past several years and the lack of adequate car space to meet this growth. Would the chairman agree that this $2 million could be used to allow the Northern Indiana Commuter Transportation District to acquire additional rail cars to relieve overload on the commuter rail line?

Mr. WOLF. Mr. Chairman, if the gentleman will yield, yes, I do.

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman for his willingness to work with me in accommodating northern Indiana and the Chicago metropolitan transportation needs.

Mr. PASTOR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I would like to thank Chairman WOLF for the excellent work he has done in putting this bill together. I know that he had a very difficult challenge, but he was able to balance the conflicting interests and needs in a way that everybody should be satisfied with.

I have to tell the Members, this is the first time that I have served on this appropriations subcommittee, and I have to tell the Members that I found the gentleman to be very fair and allowed us to give input, and this is why this bill is a bipartisan effort. I congratulate him and I congratulate the ranking member, the gentleman from Minnesota [Mr. SABO]. I also would like to thank the staff of the majority and of the minority for the fine work they have done.

Mr. Chairman, there are several items included in this bill that I would like to point out for special emphasis. I am pleased by the increased funding for the Airport Improvement Program. The bill increases funding by $700 million over the President's budget request. As the Nation's airports continue to see tremendous increase in traffic, this additional funding is vital to the continued success and modernization of our Nation's airports.

Mr. Chairman, I am also pleased that the committee was able to include a major increase in transit program spending. As cities and localities across the country struggle with increased automobile traffic, it is important that the Federal Government continue to devote its resources to alternative means of transportation. I believe the funding increase to the transit programs is vital to the continued improvement of our Nation's transportation systems, and I appreciate the chairman's inclusion of the additional funds.

The Federal Aviation Administration will also see an increase in funding as a result of this bill. I believe that the continued work in aviation safety, research, and continued modernization of the FAA equipment is one of the most important aspects of this bill. I am pleased with the funding that has been made available to the FAA.

Mr. Chairman, I have made the chairman and the ranking member aware of a concern that I have. This deals with the controllers that we have. As we have more and more controllers reaching the age of retirement at basically a young age, due to the stress that they undertake in doing their job, I do not think we are doing enough in terms of recruiting and providing an adequate salary to retain the younger incoming flight controllers. It is an issue that I know that the chairman and the ranking member will continue to work with.

Overall, Mr. Chairman, this is a great bill. I thank Chairman WOLF, I thank his staff, and I also thank the ranking member, the gentleman from Minnesota [Mr. SABO] for making this truly a bipartisan bill.

Mr. Chairman, I reserve the balance of my time.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman for yielding time to me this afternoon.

Mr. Chairman, I rise in strong support of this bill which makes the transportation appropriations for fiscal year 1998. It is not easy balancing funds for trains, for planes, for automobiles, for bridges, for asphalt and all the rest that goes into it, but the gentleman from Virginia [Mr. WOLF] I think has perfected this as an art form.

One area that I would like to bring to the attention of this body is in transit, specifically buses and bus facilities. For the past two appropriation cycles the Michigan delegation came to the subcommittee somewhat fragmented in their request, each, of course, wanting the largest funding they could possibly get. That is not surprising. The approach, though, became more troublesome.

During this present cycle the delegation changed its course and decided to unify behind a single funding level. As the sole member of the Michigan delegation on the Committee on Appropriations I was glad, of course, to do my part, but it took a lot of effort, of course, from the chairman and members of the committee. We were able to receive commitments from the Michigan Department of Transportation and each of our members in the delegation that this approach was best.

I want to commend each member of our delegation for their willingness to try this approach. I would hope we continue this in the years to come. It certainly was easier.

Mr. Chairman, I want to thank the Members again for their leadership and their extraordinary effort on this. I would also like to extend a huge thank you and a salute to John Blazey on the staff, who worked with my staff to bring this to a closure, and I think it all came to a good end.

With that in mind, I want to thank the gentleman again.

Mr. PASTOR. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the first thing I would like to do is to congratulate the gentleman from Virginia [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO] for again bringing a bill to the floor which is absolutely bipartisan. I think the gentleman from Virginia has demonstrated a great degree of fairness. He has tried to deal very openly with virtually every difference in judgment that we have had between the various parties and individuals on this bill.

I think it again demonstrates that within the Committee on Appropriations we are having a lot of success in producing bipartisan legislation. Unfortunately, that legislation often then winds up being blown up because of actions of the Committee on Rules which turn a bipartisan product into a partisan fight on the House floor. I am happy to say that that has not occurred on this bill. I want to congratulate both the gentleman from Minnesota [Mr. SABO] and the gentleman from Virginia [Mr. WOLF] for the fair way in which they have proceeded.

I would also like to simply take note of a couple of local projects which are important to my region of the country.

I am particularly pleased that the bill finally requires that the Coast Guard move forward on a replacement for the *Mackinaw* icebreaker on the Great Lakes. The *Mackinaw* is some 53 years old. It is going to cost a great deal to refurbish. For slightly more than the cost of refurbishing, a new icebreaker can be purchased which will last a whole lot longer, and I appreciate very much the fact that the committee has provided the $2 million to facilitate final decision-making by the Coast Guard on this issue.

It is important to the economy of the region, not just Minnesota and Wisconsin, which the gentleman from Minnesota [Mr. OBERSTAR] and I represent, which is why we pushed this item, but to a number of other States as well, including Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York.

I would also like to take note that the bill does include $970,000 within the FAA budget to continue the testing and evaluation of new infrared heating technology for deicing commercial aircraft. That technology promises to have very good environmental benefits, and it may be a more cost-effective way to deice airplanes than the existing chemical deicing methods. The additional testing will take place at the Rhinelander-Oneida Airport in Wisconsin, to demonstrate the utility of new technology in an operational environment using commercial aircraft. I again appreciate the fact that the subcommittee on its merits supported the proposal.

Mr. Chairman, I do not think that there is going to be a lot of controversy on this bill. There are some differences. As the gentleman from Minnesota [Mr. SABO] has already indicated, we have substantial concerns about the underfunding for Amtrak. I hope that can be addressed as we move towards conference, but I expect to see a good number of votes for this bill on our side of the aisle as well as the majority side of the aisle. It is good to see in the midst of all that has happened in the last week that at least on this bill, bipartisan comity has for the moment survived intact.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. COLLINS] so he and I may engage in a colloquy.

Mr. COLLINS. Mr. Chairman, I thank the gentleman for yielding time to me. Mr. Chairman, I rise for the purpose of support of this appropriation bill, and also to enter into a colloquy with the chairman.

Mr. Chairman, the committee's recommendation reduces transit operating assistance from $400 million in fiscal year 1997 to $200 million in fiscal year 1998. As a result, transit districts will need to look for ways to reduce their operating and overhead costs. Currently virtually all city and regional transit properties have excess material on hand. Maintaining the surplus is an operating cost which reduces needed resources without providing significant benefits.

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Finding material and other properties available for purchase is time-consuming and costly, lacking any centralized means of identifying the materials. I believe that electronic redistribution center to distribute spare parts from transit authorities across the country may be one such opportunity to reduce overhead costs of many of the Nation's transit operators. With a computerized system through which to identify and dispose of surplus parts and materials, transit properties would benefit by not having to maintain large surpluses, and they would also benefit by having a simple, timely, and lower cost means through which to purchase surplus materials.

This proposal seems suited either for the Department's intelligent transportation systems program or the Federal Transit Administration's national research program.

I note that the committee has provided a total of $94 million for continued research in intelligent transportation systems in which the Federal Transit Administration is involved. As for the FTA's research program, the committee's recommendation provides $22.5 million. I believe the Department should fully evaluate the potential of such a system as well as provide a cost-benefit assessment, timetable, and cost estimate of a limited pilot program of electronic redistribution center.

Earlier discussions with the Federal Transit Administration suggest the Department's enthusiasm for such a system.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I thank the gentleman for his observations and his ideas. I think it is a great idea. We never even thought of it in the committee. I will do everything I can, not only to encourage the Department to work with the various modes to further explore the potential of an electronic redistribution center but also to see if there is some way working together with the other side we can kind of bring it about, because car dealers and many other groups do that. You cannot maintain all of that inventory. And since everybody is electronically connected, you could do that and exchange with other systems. It is not just a good idea, I think it is a great idea. We will do everything we possibly can to see that that takes place, working with the gentleman from Minnesota [Mr. SABO] and the Senate.

Mr. COLLINS. Mr. Chairman, I thank the gentleman for those comments and his support and appreciate the work that he and the minority side have done on this bill.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. OLVER], a valuable member of our subcommittee.

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me the time. This is a good bipartisan bill, I support it strongly. As with the gentleman from Arizona, who was speaking as I came in a few minutes ago, this is my first year on the subcommittee. I have enjoyed very much working on the subcommittee, working with the chairman, the gentleman from Virginia [Mr. WOLF], and with the ranking member, the gentleman from Minnesota [Mr. SABO].

I want particularly to commend the chairman for his hard work, for his bipartisan work, his very fair work and work of the staff on both the majority and minority side. I want to thank the ranking member, the gentleman from Minnesota [Mr. SABO], for his help and leadership for all of us who are on the minority.

I must say that we have all benefited from the fact that the chairman worked very closely with the ranking member, the gentleman from Virginia [Mr. WOLF] and the gentleman from Minnesota [Mr. SABO], in making this a good bill. The strengths of the bill are many. Many have already been mentioned. I just want to add a couple of comments to this.

There is a strong thread of commitment, commitment of the gentleman from Virginia [Mr. WOLF] as chairman, to safety, airline safety, transportation safety in general that is reflected in this bill. I want to add my support to that commitment. Air travel is growing. In a good economy there is a great increase in air travel. I note that there is a large increase in the airport improvement fund which I think is very important. We also should shortly have a new FAA administrator, so I think there will be better days in the future for the FAA.

The bill also provides the beginning of funding that is necessary to modernize air traffic control systems in the airport management systems.

I want to thank the ranking member for eloquently stating some other needs. I would express that as a need for and a hope that we will be able to do better by the end of this cycle in operating assistance for transit in order to keep fares affordable and to keep routes available. There is also a need that I recognize for additional Amtrak operating assistance.

I do appreciate the increased funding for the capital funding of the Northeast corridor. And if we can get over the hump of operating assistance for Amtrak for the time that is necessary to get that Northeast corridor capital funding in place, then we should be able to see Amtrak's recovery. In the meantime, this bill continues our commitment to the capital needs for the electrification of the Northeast corridor, which I think is very important. I urge support for this legislation in its entirety.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Chairman, I thank the chairman for yielding me the time and for the opportunity to enter into a colloquy with him.

It is my understanding that there is in the report accompanying H.R. 2169 language relating to the Belford Ferry in Middletown Township, NJ. This language may condition the release of funds by the Secretary of Transportation for this project. The conditions set forth in the report would appear to prevent the Secretary of Transportation from releasing any funds for the Belford Ferry project until a demonstration of adequate ridership is made and the existence of a willing operator is found. Any delay in funding for the project, I believe, will have a negative impact upon my constituents who seek alternative means of travel to New York City.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. PAPPAS. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, that is correct. There is language relating to the Belford Ferry project in the report.

Mr. PAPPAS. Mr. Chairman, I would like to certainly inform my colleagues that the county of Monmouth, which is the county that is host to this proposed ferry, is, in fact, a willing operator and will subcontract for the Belford Ferry project and that a study on adequate demand and ridership has already been completed by the Monmouth County Department of Planning. Furthermore, with respect to adequate ridership, the Federal Highway Administration indicates that it will defer to the U.S. Army Corps of Engineers assessment. These conditions having been met Mr. Chairman, I see no reason why the Secretary of Transportation should withhold approval of Federal aid for the Belford Ferry project in Middletown.

Mr. WOLF. Mr. Chairman, if the gentleman will continue to yield, I would concur that these studies have been completed and we checked on them just the other day. Adequate demand for the ferry and ridership for the Belford Ferry has been established and the Federal Highway Administration considers the county of Monmouth the willing operator for the Belford Ferry project. Based on informal discussions that we have had, not in writing but discussions, I believe that the conditions in the report have been met; and if that is the case, there would be no reason for further delay of the project.

Mr. PAPPAS. Mr. Chairman, for purposes of clarification, I ask the gentleman if there is anything in the bill or report language that could further delay this project based upon the information that has been provided to the gentleman?

Mr. WOLF. Mr. Chairman, there is nothing in the bill which would require any other delays or studies.

Mr. PAPPAS. Mr. Chairman, if the gentleman believes we are in agreement that the concerns expressed in the report have been addressed, may I have his commitment to clarify this issue in the conference report?

Mr. WOLF. If the gentleman will continue to yield, before I answer, if I could defer to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. PAPPAS. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I am not totally familiar with the project myself and with what the problems are, but there has been some concern over this project by Members on our side. I would just for my own point of view want to keep the reservation open to be able to visit with Members of our side who have had concerns.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

I would want to visit with the gentleman and the chairman of the committee before conference is finalized, see if we cannot work this out to the satisfaction of everyone.

Mr. WOLF. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Chairman, I yield to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, it is my understanding, if my memory serves me, the gentleman believes that the concerns expressed in the report have been addressed and he sought my commitment to clarify this issue in the conference report. Based on talking to Mr. SABO, I can provide the gentleman my assurance, we will also talk to the gentleman from New Jersey, Mr. PALLONE, but I will work with the gentleman to resolve his concerns regarding the Belford Ferry project. I am aware of the traffic and the transportation and the need to get into New York.

The gentleman has approached me. I understand the gentleman was going to offer an amendment and that is not necessary so; yes, I will work with the gentleman with regard to that project. I appreciate him bringing it to our attention. I understand and I want to assure him after talking to the Federal Highway Administration what the gentleman said is accurate.

Mr. PAPPAS. Mr. Chairman, I spoke with my colleague from New Jersey earlier today. I certainly appreciate and understand his concerns. I happen to believe, by the information that I have received both by the county of Monmouth, the township of Middletown, the various correspondence, copies of correspondence that I have received from the various State and Federal agencies, that these specific concerns that were included in this report language have, in fact, been addressed, that there is adequate ridership that has been identified, there are in fact three or four willing, able operators that are able to fulfill this task, if given the opportunity. Harry Larrison, who is the freeholder director of Monmouth County, supports this. I thank the chairman and the ranking member for their support.

Mr. SABO. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Chairman, I do not rise for the purpose of asking for anything in this bill but simply asking for the Members to take note of what is happening here.

At a time when all of our other bills have been so partisan, contentious, destructive of the comity of this House, we have a bill that sailed through committee, that is going to sail through this floor in just the way that our subcommittee chairman and ranking member and the Chairman and ranking member of the full Committee would like every appropriations bill to go through.

So I would hope that the members of the Committee on Rules and the Members of the majority leadership would take note of what is happening today, what happens when you treat every Member with respect and evenhandedness.

This bill deserves to be passed overwhelmingly. It is a fair bill. It is respectful of every Member in this body. The results are clear.

I would hope for the sake of the chairmen of the other subcommittees that we could have more bills like this.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise today in very strong support of H.R. 2169. I want to particularly thank the gentleman from Virginia [Mr. WOLF], the chairman. He has been unfailingly kind to me, met with me. This is a wonderful project that I have in this bill. I just want to thank him for his kindness and to the gentleman from Minnesota [Mr. SABO] also.

This bill today continues the subcommittee's tradition of supporting West Side Hillsboro light rail project. I am very delighted to report to all of my colleagues that after this year only 1 year more of funding will be required to complete the West Side project. As the subcommittee is well aware, this light rail project has the greatest and the broadest support in Oregon.

Twice the voters have voted to tax themselves in order to support light rail. Voters support light rail because they are aware that it works so well there because we have these wonderful unique land use laws. Working together we have created viability and livability in this region. The West Side project is almost 75 percent complete. It is on time. It is on budget. It is thanks to this committee that it is those things.

Additionally I would very much like to thank the subcommittee for providing $146,500 in Coast Guard funds for the maritime Fire and Safety Association in Washington and Oregon. This association is an excellent example of a partnership between the private and the public sector. It brings together the people of the Columbia River into this maritime and commercial center. It provides public safety, enhances environmental protection. It enhances fire, oil and toxic spill response, training, equipment, program, administration activities.

□ 1515

And this modest sum that the bill has for this project really makes the difference.

So on behalf of the citizens of the Portland area and all the folks in Oregon who will use this project, I want to thank the gentleman from Virginia [Mr. WOLF], the gentleman from Minnesota [Mr. SABO], and the entire committee, and urge support.

Mr. SABO. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] has 4 minutes remaining, and the gentleman from Virginia [Mr. WOLF] has 3 minutes remaining.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Chairman, I would like to include my two distinguished colleagues from Michigan, Ms. STABENOW and Mr. STUPAK, as part of this colloquy with our other colleague from Michigan Mr. KNOLLENBERG, and the chairman of the Subcommittee on Transportation of the House Committee on Appropriations, the gentleman from Virginia, Mr. WOLF.

Mr. Chairman, our State of Michigan and other donor States have been quite upset at our mistreatment under the funding allocation formulas as established by the Intermodal Surface Transportation Efficiency Act, or ISTEA.

As a member of both the Michigan delegation and the Committee on Transportation and Infrastructure, I am concerned that nothing in this bill lock our committee or State into using the funding allocation formulas in current law.

Mr. KNOLLENBERG. Mr. Chairman, will the gentleman yield?

Mr. BARCIA. I yield to the gentleman from Michigan.

Mr. KNOLLENBERG. Mr. Chairman, I want to assure my colleague, the gentleman from Michigan, Mr. BARCIA, and, obviously, my other colleagues from Michigan Mr. STUPAK, and Ms. STABENOW, now that, as a member of the Michigan delegation, I share their concern for the funding equity in the upcoming reauthorization of our Nation's transportation program.

As a member of the Committee on Appropriations, I also want to assure them that nothing in this bill will prevent the Committee on Transportation and Infrastructure from addressing the issue of funding equity within the reauthorization, and I thank the gentleman for inquiring.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. BARCIA. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the gentleman from Michigan is correct, nothing in H.R. 2169 would prevent the authorizing committee from changing the funding allocation formulas for fiscal year 1998 or any year thereafter.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. BARCIA. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I agree with the chairman that this bill in no way would affect the ability of the Committee on Transportation and Infrastructure to address the funding formulas under ISTEA.

Mr. BARCIA. Mr. Chairman, reclaiming my time, I thank the gentlemen for this colloquy.

Mr. WOLF. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the chairman for yielding me this time. It has been a pleasure to serve as vice chairman with the gentleman from Virginia in crafting what I think is a responsible bill.

There are three elements I would mention. We have talked a lot about a balanced budget. A balanced budget depends on economic growth. That is the key to it. And the key to economic growth is transportation: air, highways, rail. This bill addresses those very well because they are the arteries of a nation's economic well-being.

Second is safety. We are all concerned about safety; highway safety, air transport safety. This bill has a lot of good features that impact on highway safety; innovative programs, 18 of them to be exact, for increased air safety. So I think that, too, recommends it highly to Members.

And, third, it is a people bill. We have passed a welfare reform bill which envisions people going to work. To go to work they need mass transit, and this bill recognizes that need throughout the Nation by providing funds for mass transit.

Those are all three elements that make this bill responsible. I strongly urge the Members to support this legislation.

Mr. WOLF. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. CALLAHAN], who serves on the committee.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to say that this is not a perfect bill but it is about as perfect as we can get it.

If it were perfect, it would have some of the 15 things I requested in it that I did not get. But this is a body compromise, a body trying to do what we can do with the limited amount of money that we have allocated to us.

There should be more money for the Coast Guard, there should be less money for Amtrak, there should be more money for my particular projects, there should be more money for FAA. But, nevertheless, the committee has done an outstanding job of crafting a bill that gives the best we can to all of these good agencies.

So I commend the gentleman. I still disagree with him on demonstration projects, but he is right and I am wrong. If it ever comes into being, however, I want to be first in that line to get my demonstration projects funded. I commend him and urge support of this bill.

I am extremely distressed about Amtrak. Amtrak is terminally ill and we have to recognize that. By continuing to feed the system morphine we are only prolonging the inevitable. Still, I suggest at this time that Members vote for the bill.

Mr. SABO. Mr. Chairman, I yield back the balance of my time.

Mr. WOLF. Mr. Chairman, in closing, I would just like to refer Members to page 31, where the committee said the following in the report:

> In following up on the work of the National Civil Aviation Review Commission over the coming months, and to help restore the credibility and effectiveness of the agency, the committee encourages the new administrator to establish an informal working group composed of former FAA administrators to advise her and the Secretary of Transportation regarding the future direction and the need of policies of the agency. The committee believes the views of these former executives could be invaluable in helping shape the agency's future.

Mr. Chairman, again I thank the gentleman from Minnesota [Mr. SABO] for his help and efforts, and all the committee staff.

Mr. DAVIS of Illinois. Mr. Chairman, I rise today to commend Chairman WOLF and the ranking Democrat Mr. SABO for brining a bill to the floor which will provide billions of dollars for vital transportation and infrastructure projects across the Nation. This measure will allow States and localities to begin much-needed construction and repair on highways, bridges, and mass transit systems.

Transportation has always been vital to our economic prosperity and quality of life since our Nation's founding. From colonial post roads and canals that expanded our frontiers, the railroads and interstate highways that linked a growing country to the mass transit systems that made possible the development of our great cities.

Transportation has opened new markets and enabled the quick economical movement of people and goods that has empowered our economy's growth. In fact, in my congressional district of Chicago, IL, the transportation arena has always been a vital segment of our lifestyle—with over 27 percent of one's income spent on transportation-related expenses.

Further, well-paying, much-needed jobs are created when our transportation systems are revitalized. Finally, mass transit, commuter rail, and other forms of public transportation provide a way to work for millions of Chicago residents.

So, Mr. Chairman, I must express my extreme concerns for the bill's funding levels for mass transit and the adverse effects they could have on my congressional district.

As many businesses relocate to Chicago's suburbs—taking with them well-paying jobs—it is imperative that we continue to provide adequate funding for our public transportation systems. With the recent welfare to work mandates taking effect, it is also important that sufficient transportation services are available for these individuals.

As a result of past actions by the Congress which cut transit funding by nearly 40 percent, the Chicago Transit Authority was recently forced to make draconian cutbacks in service. These service cuts affect the majority of all bus routes and significantly reduces CTA's late night owl service for both rail and bus routes. These service cuts were made in neighborhoods where many of the residents have no other transportation alternatives.

Further, as many of you know, Chicago's EL is one of the oldest public rail systems in the country and is the cornerstone of our public transportation system. As this system continues to age, it cannot afford to loose precious capital funds that will result because of this measure.

It is my hope that as this measure moves to the conference committee funding levels for mass transit will be increased thereby recognizing the transportation needs of our urban, low-income, senior, and disabled residents.

Mr. KUCINICH. Mr. Chairman, I rise today in support of the increase for noise abatement programs for communities that are adversely affected by low flying airplane traffic. Last year, the Federal Government spent approximately $143 million, and this year's proposal is to spend $239 million. As airports continue to expand and air traffic continues to increase, it is clear we need to take steps to mitigate the resulting noise problems.

Airport noise can ruin neighborhoods by destroying the peace to which people are entitled. With the programs funded in this legislation, families that reside in the busiest flight patterns can receive new doors, acoustic window, wall and ceiling modifications, insulation, air condition and ductwork, and electrical wiring. These benefits can make the difference between a daily experience of frustration and anxiety, or a higher quality of life where people can eat dinner in peace, talk on the telephone uninterrupted, and enjoy the homes for which they have worked so hard.

Six communities in my district are in the flight pattern of Cleveland Hopkins International Airport. More needs to be done, therefore, it is important for the Federal Government to continue to fund noise abatement programs adequately. I urge my colleagues to support funding for noise abatement programs, and to work with a bipartisan coalition to support the highest funding possible coming out of the House-Senate conference committee.

Mr. PORTMAN. Mr. Chairman, I rise today to share my support for the fiscal year 1998 Transportation Act and to commend Chairman WOLF and ranking Member SABO for their fine work on this important legislation.

Also, Mr. Chairman, I wish to take this opportunity to reiterate the conditions of my support for a small part of this legislation—Federal funding of the Cincinnati/Northern Kentucky I–71 Corridor project.

My support for all past, present, and future funds allocated from the Federal Transit Administration section 3 program to study, select and construct the locally preferred transportation alternative for the congested I–71 Cincinnati/Northern Kentucky corridor is based on a 50–50 match between local/State sources and the Federal Government. In light of our Federal budget crisis and the inability of the Federal Government to fund the bulk of construction costs for major transportation projects, State and local jurisdictions should cover a substantial part of the cost of any new project. Even more importantly, I believe requiring a strong level of local participation will ensure that local communities select the most cost-effective solution to the region's transportation problems. A 50–50 match ensures that the project makes sense.

Mr. Chairman, I wish to submit into the RECORD the text of a letter I received from the Ohio-Kentucky-Indiana Council of Governments [OK], our regional transportation planning agency, which codifies the agreement reached between myself and OKI and clearly describes the intention of the local authorities to match the Federal money designated for this project.

The text of the letter follows.

> On behalf of the I–71 Corridor Oversight Committee of the Ohio-Kentucky-Indiana Regional Council of Governments (OKI), and the local communities that constitute its membership, we thank you for your support of our funding requests for the Northeast Corridor Project.
>
> This letter is provided in response to your request that we address two matters in connection with the Project. First, the issue of the local funding commitment is addressed. We regret any past misunderstandings which may have contributed to some confusion on this issue. Second, this letter explains the method by which OKI's I–71 oversight Committee has arrived at the cost estimates for the Project.
>
> The pending request to the House Appropriations Subcommittee on Transportation for $500,000 in the Fiscal Year 1998 Department of Transportation Appropriations Act to reassess certain technologies in Northern Kentucky, and the projected $600 million in federal funds (half of the estimated $1.2 billion total project cost) needed for both phases of construction of the locally preferred alternative would be matched fifty percent by local funds. With respect to the Fiscal Year 1997 Transportation Appropriations Act approving $3 million for the preliminary engineering and environmental impact statement, the local governments commit to a fifty percent local match, twenty percent of which will be put up at the time our funding is drawn down and the remaining thirty percent of which would be contributed to the Project during Fiscal Year 1999 when construction gets under way. Local funds are not currently available to match the Fiscal Year 1997 funds on a 50/50 basis, which is why we are proposing to spread the

match as described. Had we understood that any of the funding for the study phase of the Project was to be a fifty, rather than twenty, percent match, we would have budgeted for that additional $2.4 million.

The second issue on which you have requested clarification concerns the manner in which cost estimates for the Project are prepared. OKI has retained a nationally acclaimed team of consultants headed by Burgess & Niple Limited and includes BRW, Inc. to provide the technical assistance on the major investment analysis, engineering, and other phases of the Project. BRW has assisted other locales where similar transportation improvement projects have been implemented, including Portland Burnside LRT Line, Portland Westside LRT Line, Houston Busway, Salt Lake City LRT South Line, University of Minnesota Busway, I–10 HOV in Phoenix, Los Angeles Blue Line LRT, Calgary LRT System, and the Newark City Subway Extension and Vehicle Base Facility. OKI relies heavily upon the expertise of our consultants in arriving at the best available cost estimates, as each phase of the Project demands. In addition, you should be aware that all of the technologies we have considered are operating in other parts of the country, and, therefore, are "Known quantities" with respect to estimating their cost. We share your desire that our estimates be as precise as possible and will continue to make every effort to ensure such precision, despite certain unavoidable ambiguities that are inherent in planning and designing a project of this magnitude.

Again, we appreciate your support and assistance, without which we would not have progressed this far. Please feel free to forward this letter to the relevant Committees for inclusion in their official record of the Project funding requests, and call us or the OKI staff if you need any additional information.

Sincerely,

LARRY CRISENBERY,
President.
BERNARD J. MOORMAN,
Chairman.

Ms. FURSE. Mr. Chairman, I rise today in strong support of H.R. 2169, fiscal year 1998 Transportation appropriations. I want to thank Mr. WOLF, Mr. SABO, and every member of the Transportation Subcommittee for their hard work in crafting an excellent bill.

I am delighted that the bill before the House today continues the subcommittee's tradition of supporting the Westside-Hillsboro Light Rail project. H.R. 2169 provides $63.4 million for this vital project, the full amount recommended by the administration in the Federal Transit Administration's 3(j) report earlier this year. I am ever more delighted to report that, after this year, only 1 year of funding will be required to complete the Westside project on time and on budget.

As the subcommittee is well aware, the Westside-Hillsboro Light Rail project continues to enjoy broad support. Voters in the metropolitan area have demonstrated their support by voting to tax themselves twice to support light rail, once in 1990 and again in 1994. In each instance, these votes occurred while voters were approving antitax ballot measures. Voters support light rail in the Portland area because they realize that it works in conjunction with Oregon's unique land-use laws and is critical to the future vitality and livability of the region. In addition, there is already more than $90 million in investment along the westside corridor as major corporations, such as INTEL, anticipate the project's opening.

The Westside project is over 75 percent complete and 10 miles of track are in place. Seven of the Nation's first low floor light rail cars are in testing and the first segment of the line is expected to open for service this year. Oregonians are clearly excited about the progress of the project, and are anxious to reap the benefits of this public investment through reduced congestion, improved air quality, economic development, and maintaining the quality of life that we treasure.

Additionally, I am also delighted that the subcommittee's bill provides $146,500 in Coast Guard funds for the Maritime Fire and Safety Association [MFSA] in Washington and Oregon. The MFSA has been an excellent example of partnership between public and private interests, bringing together all of the people who use the Columbia River as a maritime and commercial center. The MFSA facilitates maritime commerce while protecting public safety and enhancing environmental protection of the lower Columbia River. Among other initiatives, the MFSA enhances fire, oil and toxic spill response communication, training, equipment, and program administration activities. The modest funds provided to the MFSA by this bill yield enormous dividends for the entire lower Columbia basin.

On behalf of the citizens of the Portland area, I want to thank Mr. WOLF and the entire subcommittee for their support, and urge all my colleagues to support H.R. 2169.

Mr. WOLF. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the amendments specified in section 2 of House Resolution 189 are adopted and the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, and for other purposes, namely:

Mr. CARDIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to express my concern that the bill we have before us does not have adequate funding for Amtrak in the coming year.

Amtrak is in an extremely tenuous position in the short term. The railroad has invested heavily in developing high-speed rail for the Northeast corridor, and once these new trains are in place, the high-speed trains, we have to make sure that there is significant revenue in order for the system to operate efficiently.

Amtrak has borrowed heavily to make the investment in high-speed rail, and the railroad, without support from Congress over the next 2 years and an adequate amount of money, will be overwhelmed by that debt. The gentleman from Virginia [Mr. WOLF], the chairman of the Subcommittee on Transportation of the Committee on Appropriations, has recognized this bind but has left the railroad $61 million short from what the President has requested to support the program.

Let me just quote from the statement of the administration policy for the transportation appropriations bill:

> The administration is deeply concerned about the level of funding provided for Amtrak. The Federal operating subsidy supports Amtrak's day-to-day operations. Even at the funding levels proposed by the President, Amtrak will be able to remain solvent only by further increasing revenues and reducing costs. If Congress appropriates an amount for operating grants that is less than the $344 million requested by the President, it is questionable whether Amtrak would have cash reserves sufficient to meet its obligations. In light of these considerations, we strongly urge the House to provide Amtrak with operating grants of $344 million in fiscal year 1998.

Mr. Chairman, we have fallen short of this hurdle for Amtrak, and I am concerned that because of the relatively small shortfall this year, we are jeopardizing a realistically promising plan for Amtrak's self-sufficiency by the year 2002.

All this occurs at a time when Amtrak has begun to see the benefits of its reengineering and cost-cutting efforts of the past 3 years. To date, Amtrak has made nearly $400 million in bottom line improvements on an annualized basis to increase the efficiency of its rolling stock, eliminated poorly performing routes, reduced head counts, retired old equipment, reinvested in new equipment, including high-speed rail, and improved its operating ratio. This was done at a time of declining Federal support.

For fiscal year 1995, passenger related revenues were $874 million, last year they climbed to $901 million, and they are expected to be $977 million in the current year. In addition, despite operating fewer trains, ridership is moving up for the first time in several years. Travel industry projections indicate that the economy and travel expect to remain strong through 1998. This is fairly remarkable. Amtrak's ridership is up nearly 2.5 percent at a time when airline travel is up 0.2 percent to 1.2 percent for the Nation's four largest airlines. And revenue is up this year over the previous year by 9 percent.

In late 1999, Amtrak will introduce North America's first high-speed rail service, which will generate nearly $150 million in net bottom line improvements. Mr. Chairman, I could go on and on to tell my colleagues the good things that are happening with Amtrak, but it needs the Federal operating subsidies.

Next week the House Committee on Transportation and Infrastructure will mark up a sweeping Amtrak reform and reauthorization bill which should generate further cost savings for Amtrak. At a time when things seem to be turning around for Amtrak, we would be unwise to underfund their operating needs.

I would hope that we could work with the Senate to restore the funding so that Amtrak can continue to reduce its dependency on Federal support, strengthen its infrastructure, and retain a viable national route structure.

Mr. WOLF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just say to the gentleman from Maryland that I am really committed to Amtrak; I want Amtrak to do very well.

I think people should understand, so when they think about this bill, that the committee mark has provided $30 million more for Amtrak than enacted in fiscal year 1997. This bill is actually $3.5 million above what the administration requested.

The subcommittee has provided $202 million for operating expenses in fiscal year 1998, which is the same amount as requested by the administration. Funding for capital improvements is $260 million, which is $14.55 million more than requested by the administration and $36.55 million more than last year.

Also, too, the gentleman, both of us have a strong interest in the Amtrak corridor because that is, in essence, the flagship for Amtrak. By making this work very well, it will help the entire system. And the subcommittee provided $250 million for the Northeast corridor, which is $50 million more than requested and $75 million more than was in 1975.

So for Amtrak, the Northeast corridor, we are actually putting more on it. We hope to see that high-speed rail moving up and down there as quickly as possible.

I can assure the gentleman, and I know the gentleman from Minnesota [Mr. SABO], having sat through all the hearings, knows that I want to do everything we can to protect it. The problem is, though, last year the Congress provided a significant amount of money to keep open a number of routes that Amtrak wanted to close down. We lost that money because four of those six routes are now gone. They are gone.

In addition, Amtrak actually lost more money because they could have taken the train sets from those routes and use them on more productive routes. But I want the gentleman to know that many areas were actually significantly higher.

I believe the opportunity for Amtrak, with monopoles in the Northeast corridor, aggressive mail delivery, and a lot of other opportunities, that that can be the flagship. I am committed to maintaining and having a national rail system because I just think it is important for a first class country to have a first class system.

Mr. CARDIN. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, I want to thank the gentleman for his leadership in this area. I know of the gentleman's commitment to rail service in this country and the importance to the Northeast corridor as well as to other regions of our Nation.

The gentleman has provided some significant help for Amtrak, and that is appreciated. I think the area of major concern right now is the operating issue and whether there are adequate operating subsidies in this budget in order to meet the transition until the high-speed trains are on line.

As the gentleman knows, Amtrak has incurred some additional capital debt obligations through its borrowing that now must be met through Amtrak, and I hope that we can continue to work together to make sure that there are adequate resources during this transitional period.

☐ 1530

Mr. WOLF. Reclaiming my time, I hope we can. And I am sure the gentleman from Minnesota [Mr. SABO] and I will be able to work something out. I hope the gentleman will take a look at that, and I am going to ask the staff to show how retirement payments were being paid by Amtrak. And there are some problems, but I am committed to working with Amtrak and I am doubly committed to making the Northeast corridor the flagship which will help bring Amtrak a lot more money.

Mr. CARDIN. I thank the gentleman very much.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE I

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary, $60,009,000, of which not to exceed $40,000 shall be available as the Secretary may determine for allocation within the Department for official reception and representation expenses: *Provided*, That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received in user fees: *Provided further*, That no more than $606,000 shall be available for the Office of Acquisition and Grants Management, solely for department-wide grants management activities: *Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to maintain custody of airline tariffs that are already available for public and departmental access at no cost; to secure them against detection, alteration, or tampering; and open to inspection by the Department.

Office of Civil Rights

For necessary expenses of the Office of Civil Rights, $5,574,000.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, systems development, and development activities, to remain available until expended, $4,400,000.

Transportation Administrative Service Center

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $121,800,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the budgetary resources provided for "Small Community Air Service" in Public Law 101–508 for fiscal year 1998, $38,600,000 are rescinded.

POINT OF ORDER

Mr. SHUSTER. Mr. Chairman, I rise to make a point of order against the paragraph.

The CHAIRMAN. The gentleman from Pennsylvania will state his point of order.

Mr. SHUSTER. Mr. Chairman, I raise a point of order against page 4, line 1, through line 6. This provision violates clause 2 of rule XXI because it rescinds $38.6 million in airport and airway trust fund contract authority, not general fund appropriations, for small community air service.

Airport and airway trust fund contract authority, while a form of direct spending, is legislative in nature, and rescinding such authority is not within the jurisdiction of the Committee on Appropriations. This rescission constitutes legislation on an appropriations bill in violation of the House rules.

The CHAIRMAN. Does the gentleman from Virginia [Mr. WOLF] wish to be heard on the point of order?

Mr. WOLF. No, Mr. Chairman. I concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $15,000,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $2,900,000, of which $2,635,000 shall remain available until September 30, 1999: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

COAST GUARD

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,708,000,000, of which $300,000,000 shall be available for defense-related activities and $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That the number of aircraft on hand at any one time shall not exceed two hundred and twelve, exclusive of aircraft and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839: *Provided further*, That $34,300,000 of the funds provided under this heading for increased drug interdiction activities are not available for obligation until the Director, Office of National Drug Control Policy: (1) reviews the specific activities and associated costs and benefits proposed by the Coast Guard; (2) compares those activities to other drug interdiction efforts government-wide; and (3) certifies, in writing, to the House and Senate Committees on Appropriations that such expenditures represent the best investment relative to other options: *Provided further*, That should the Director, Office of National Drug Control Policy decline to make such certification, after notification in writing to the House and Senate Committees on Appropriations, the Director may transfer, at his discretion, up to $34,300,000 of funds provided herein for Coast Guard drug interdiction activities to any other entity of the Federal Government for drug interdiction activities: *Provided further*, That up to $615,000 in user fees collected pursuant to section 1111 of Public Law 104-324 shall be credited to this appropriation as offsetting collections in fiscal year 1998.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $379,000,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $191,650,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2002; $33,900,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2000; $47,050,000 shall be available for other equipment, to remain available until September 30, 2000; $59,400,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2000; and $47,000,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 1999: *Provided*, That funds received from the sale of HU-25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity: *Provided further*, That the Commandant may dispose of surplus real property by sale or lease and the proceeds shall be credited to this appropriation, of which not more than $9,000,000 shall be credited as offsetting collections to this account, to be available for the purposes of this account: *Provided further*, That the amount herein appropriated from the General Fund shall be reduced by such amount so as to result in a final fiscal year 1998 appropriation from the General Fund of $370,000,000: *Provided further*, That any proceeds from the sale or lease of Coast Guard surplus real property in excess of $9,000,000 shall be retained and remain available until expended, but shall not be available for obligation until October 1, 1998.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $21,000,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $16,000,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55); $645,696,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $67,000,000: *Provided*, That no more than $20,000,000 of funds made available under this heading may be transferred to Coast Guard "Operating expenses" or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92-75, as amended, $35,000,000, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of four passenger motor vehicles for replacement only, $5,300,000,000, of which notwithstanding 49 U.S.C. 48104(c), $3,425,000,000 shall be derived from the Airport and Airway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to plan, finalize, or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for test related thereto, or for processing major repair or alteration forms: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That none of the funds derived from the Airport and Airway Trust Fund may be used to support the operations and activities of the Associate

Administrator for Commercial Space Transportation.

POINT OF ORDER

Mr. SHUSTER. Mr. Chairman, I raise a point of order against the paragraph.

The CHAIRMAN. The gentleman from Pennsylvania will state his point of order.

Mr. SHUSTER. Mr. Chairman, I raise a point of order against page 10, line 20, beginning with "of which" through "fund" on line 22. This provision violates clause 2 of rule XXI because it alters the funding formula established under the airport improvement program by appropriating $3.425 billion out of the airport and airway fund for FAA.

The correct figure should be approximately $1.88 billion if the formula under existing law is followed. The added funding for operations has the effect of changing existing law and it, therefore, constitutes legislation on an appropriations bill in violation of the House rules.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. WOLF. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The Chair will state that the point of order can extend only to the specific part of the paragraph left unprotected and, as such, it is sustained.

AMENDMENT OFFERED BY MR. WOLF

Mr. WOLF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wolf:

On page 10, line 20 of the bill, insert the following after the sum "$5,300,000,000,": of which $1,880,000,000 shall be derived from the Airport and Airway Trust Fund.

Mr. WOLF. Mr. Chairman, the point of order just sustained by the Chair eliminates all aviation trust fund support for FAA operations. I believe it is the intent of the authorizing committee to ensure only that the legislative cap on trust fund spending for FAA operations is upheld and not to totally eliminate the trust fund contribution.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I certainly agree with the gentleman from Virginia [Mr. WOLF], the chairman of the subcommittee, and I support this amendment.

Mr. WOLF. Mr. Chairman, there is nothing more to say, then, because it is a technical amendment and is supported, I think, by the majority and minority.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. WOLF].

The amendment was agreed to.

Mr. GILCHREST. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to bring to the Members' attention on page 6, line 12, through line 18, this is an area of the appropriations bill of which I have talked to the gentleman from Virginia [Mr. WOLF], the chairman, about that I have some strong reservations on. What I would like to do is to read the three areas of the bill that I have strong reservations and then speak directly as to what they are.

No. 1, line 5, first of all, the Committee on Appropriations has taken $34 million that was directed to the Coast Guard interdiction program and has effectively given it to the drug czar to determine the best area where this money should be spent.

The authority given to the drug czar is the following, that is the director's office of the National Drug Control Policy. This is the authority given to Mr. McCaffrey. No. 1, Mr. McCaffrey will review the specific activities and associated costs and benefit proposed by the Coast Guard.

I think those reviews of those activities and the cost and benefits have already been reviewed by the authorizing committee, the Coast Guard committee and the transportation. No. 2 compares those activities to other drug interdiction efforts government-wide. This was always done with various other authorizing committees.

But within that, what I have the most disagreement with is No. 3. No. 3 certifies that the drug czar will certify in writing to the House and the Senate Committees on Appropriations, not to the authorizing committee, but to the Committee on Appropriations, that such expenditures represent the best investment relative to other options provided further that, should the director, Office of National Drug Control Policy decline to make such certification after notification in writing to the House and Senate Committees on Appropriations, the director may transfer, at his discretion, up to $34 million of funds provided to the Coast Guard to any other government entity to use this amount of money.

I have some reservations about reporting to the Committee on Appropriations, as opposed to the authorizing committees, this waiver. This part of the bill could have been struck in a point of order, but it was protected by waiver by the Committee on Rules.

Mr. McCaffrey, in a letter to the Committee on Transportation and Infrastructure to Mr. Peña wanted, this is the drug czar now, wanted $34 million sent to the Coast Guard for this interdiction part. The Coast Guard, in the whole area of the Nation's drug problem, in the last few years, in my judgment, has been engaged in a very positive way to drastically reduce the number of drugs coming into the United States.

Now, lastly, Mr. Chairman, I think when we begin to pick apart in the various levels of the appropriations process and the authorizing process an agency such as the Coast Guard, I think we lose sight of the rather large responsibility, increasing responsibility that we give to the Coast Guard every single year.

If the Members will just consider this particular fact: On any 1 day, any one point in time on any given day, every Coast Guard jet that is assigned an area, every Coast Guard helicopter, every Coast Guard cutter, every Coast Guard buoy tender, every Coast Guard boat has the following responsibilities: Drug interdiction, determining who are illegal immigrants, boarding hostile steamship lines with hostile immigrants prepared to wreak havoc, finding boats where people have had accidents, determining the difference between shad, salmon, yellowfin tuna, bluefin tuna, striped bass, when the regulations for fishing are the international standards for boaters' safety, for vessel safety, for oil pollution. Every single Coast Guard person has this and more as their responsibility.

Drug interdiction is just one of these things. And what the Coast Guard is doing now as far as drug interdiction is concerned, they are working in the international arena and they have international cooperation, and the U.S. Coast Guard is seen as a leader in this area.

So I would just request, and the gentleman from Virginia [Mr. WOLF] and myself have had some very good discussions on this prior to this statement, but I think it is important for us to realize the increasing responsibility of the Coast Guard.

Mr. WOLF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the comment of the gentleman from Maryland [Mr. GILCHREST]. I admire him about as much as I do anybody in the body. And we will talk, and if we are able to keep this language in, I will change it to make sure that the report goes to the authorizing committee too at the same time.

We just want to make sure that the money is wisely spent. I am very concerned about the drug problem coming into the country. I have very strong views about it. We have had a number of drug conferences in my district. I just want to make sure that it is really wisely and well spent.

Second, by doing this, we put a great responsibility on the drug czar and also on the Coast Guard. But I think I understand what the gentleman from Maryland [Mr. GILCHREST] says. And again, if we can, we will make sure that the report goes to the gentleman's committee and the Coast Guard.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Maryland.

Mr. GILCHREST. First, I have a great deal of respect for the gentleman from Virginia [Mr. WOLF], and I think he knows that. I do look forward to working with him on this particular issue on page 6, but I look forward to working with him on this issue in a very comprehensive way so that we can ensure a reduction in the drug problem in the United States. And all the Federal agencies are working very closely together to do a better job.

Mr. WOLF. I thank the gentleman.

Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 65, line 6, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The text of the remainder of the bill through page 65, line 6, is as follows:

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, $1,875,000,000, of which $1,655,890,000 shall remain available until September 30, 2000, and of which $219,110,000 shall remain available until September 30, 1998: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $185,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2000: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development: *Provided further*, That none of the funds in this Act may be obligated or expended for the "Flight 2000" Program.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations, $1,600,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $1,700,000,000 in fiscal year 1998 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 47117(h) of title 49, United States Code.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

None of the funds in this Act shall be available for activities under this heading during fiscal year 1998.

ADMINISTRATIVE SERVICES FRANCHISE FUND

None of the funds in this Act shall be available to establish new activities under the Administrative Services Franchise Fund during fiscal year 1998.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, including motor carrier safety program operations, and research of the Federal Highway Administration not to exceed $510,313,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That $202,226,000 of the amount provided herein shall remain available until September 30, 2000.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $21,500,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1998.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $20,800,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

None of the funds under this head are available for obligations for right-of-way acquisition during fiscal year 1998.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, $85,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $85,325,000 for "Motor Carrier Safety Grants".

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under part C of subtitle VI of title 49, United States Code, and chapter 301 of title 49, United States Code, $74,492,000, of which $40,674,000 shall remain available until September 30, 2000: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under 23 U.S.C. 403 and section 2006 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), to be derived from the Highway Trust Fund, $72,415,000, of which $49,520,000 shall remain available until September 30, 2000.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 153, 402, 408, and 410, and chapter 303 of title 49, United States Code, to remain available until expended, $186,000,000, to be derived from the Highway Trust Fund: *Provided*, That, notwithstanding subsection 2009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1998, are in excess of $186,500,000 for programs authorized under 23 U.S.C. 402, 410, and chapter 303 of title 49, U.S.C., of which $140,200,000 shall be for "State and community highway safety grants", $2,300,000 shall be for the "National Driver Register", $9,000,000 shall be for "Occupant Protection Incentive Grants", subject to authorization, and $35,000,000 shall be for section 410 "Alcohol-impaired driving counter-measures programs": *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed $5,268,000 of the funds made available for section 402 may be available for administering "State and community highway safety grants": *Provided further*, That not to exceed $150,000 of the funds made available for section 402 may be available for administering the highway safety grants authorized by section 1003(a)(7) of Public Law 102–

240: *Provided further*, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-impaired driving countermeasures programs" shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $19,434,000, of which $1,389,000 shall remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation: *Provided further*, That none of the funds for rental payments to the General Services Administration provided herein shall be used to pay the expenses of headquarters' employees outside of the Nassif building after January 1, 1998.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $56,967,000, of which $5,511,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated under this heading are available for the reimbursement of out-of-state travel and per diem costs incurred by employees of State governments directly supporting the Federal railroad safety program, including regulatory development and compliance-related activities.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $21,038,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and 49 U.S.C. 24909, $250,000,000, to remain available until September 30, 2000.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That no new loan guarantee commitments shall be made during fiscal year 1998.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for Next Generation High-Speed Rail studies, corridor planning, development, demonstration, and implementation, $18,395,000, to remain available until expended: *Provided*, That funds under this head may be made available for grants to States for high-speed rail corridor design, feasibility studies, environmental analyses, and track and signal improvements.

RHODE ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, $10,000,000, to be matched by the State of Rhode Island or its designee on a dollar for dollar basis and to remain available until expended: *Provided*, That as a condition of accepting such funds, the Providence and Worcester (P&W) Railroad shall enter into an agreement with the Secretary to reimburse Amtrak and/or the Federal Railroad Administration, on a dollar for dollar basis, up to the first $23,000,000 in damages resulting from the legal action initiated by the P&W Railroad under its existing contracts with Amtrak relating to the provision of vertical clearances between Davisville and Central Falls in excess of those required for present freight operations.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation authorized by 49 U.S.C. 24104, $543,000,000, to remain available until expended, of which $202,000,000 shall be available for operating losses, $81,000,000 shall be available for mandatory passenger rail service payments, and $260,000,000 shall be for capital improvements: *Provided*, That none of the funds herein appropriated for mandatory railroad retirement payments shall be used for payments for National Railroad Passenger Corporation employees: *Provided further*, That none of the funds in this Act may be obligated or expended for operating losses in excess of the amounts specifically provided herein: *Provided further*, That none of the funds provided for capital improvements may be transferred to operating losses to pay for debt service interest unless specifically authorized by law after the date of enactment of this Act: *Provided further*, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriations Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further*, That funding under this head for capital improvements shall not be made available before July 1, 1998: *Provided further*, That the Administrator of the Federal Railroad Administration shall submit a quarterly report to the House and Senate Committees on Appropriations detailing the financial status of, and future business forecasts for, the National Railroad Passenger Corporation as well as recommendations for reducing operating losses in the near-term and Federal financial support in the long-term: *Provided further*, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $45,738,000: *Provided*, That none of the funds in this Act shall be available for the execution of contracts under section 5327(c) of title 49, United States Code, in an aggregate amount that exceeds $15,000,000.

FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5310(a)(2), 5311, and 5336, to remain available until expended, $290,000,000: *Provided*, That no more than $2,500,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds provided under this head for formula grants, no more than $200,000,000 may be used for operating assistance under 49 U.S.C. 5336(d): *Provided further*, That the limitation on operating assistance provided under this heading shall, for urbanized areas of less than 200,000 in population, be no less than seventy-five percent of the amount of operating assistance such areas are eligible to receive under Public Law 103–331: *Provided further*, That in the distribution of the limitation provided under this heading to urbanized areas that had a population under the 1990 census of 1,000,000 or more, the Secretary shall direct each such area to give priority consideration to the impact of reductions in operating assistance on smaller transit authorities operating within the area and to consider the needs and resources of such transit authorities when the limitation is distributed among all transit authorities operating in the area.

UNIVERSITY TRANSPORTATION CENTERS

For necessary expenses for university transportation centers as authorized by 49 U.S.C. 5317(b), to remain available until expended, $6,000,000.

TRANSIT PLANNING AND RESEARCH

For necessary expenses for transit planning and research as authorized by 49 U.S.C. 5303, 5311, 5313, 5314, and 5315, to remain available until expended, $86,000,000, of which $39,500,000 shall be for activities under Metropolitan Planning (49 U.S.C. 5303); $4,500,000 for activities under Rural Transit Assistance (49 U.S.C. 5311(b)(2)); $8,250,000 for activities under State Planning and Research (49 U.S.C. 5313(b)); $22,500,000 for activities under National Planning and Research (49 U.S.C. 5314); $8,250,000 for activities under Transit Cooperative Research (49 U.S.C. 5313(a)); and $3,000,000 for National Transit Institute (49 U.S.C. 5315).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(a), $2,210,000,000, to remain available until expended and to be derived from the Highway Trust Fund: *Provided*, That $2,210,000,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $2,000,000,000 in fiscal year 1998 for grants under the contract authority in 49 U.S.C. 5338(b): *Provided*, That there shall be available for fixed guideway modernization, $800,000,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $400,000,000; and there shall be available for new fixed guideway systems $800,000,000, to be available as follows:

$44,600,000 for the Atlanta-North Springs project (subject to authorization);

$46,300,000 for the Boston Piers MOS–2 project (subject to authorization);

$2,300,000 for the Canton-Akron-Cleveland commuter rail project (subject to authorization);

$1,000,000 for the Charlotte South corridor transitway project (subject to authorization);

$500,000 for the Cincinnati Northeast/Northern Kentucky rail line project (subject to authorization);

$5,000,000 for the Clark County, Nevada fixed guideway project (subject to authorization);

$800,000 for the Cleveland Blue Line extension to Highland Hills project (subject to authorization);

$700,000 for the Cleveland Berea Red Line extension to Hopkins International Airport (subject to authorization);

$1,200,000 for the Cleveland Waterfront Line extension project (subject to authorization);

$14,000,000 for the Dallas-Fort Worth RAILTRAN project (subject to authorization);

$8,000,000 for the DART North Central light rail extension project (subject to authorization);

$1,500,000 for the DeKalb County, Georgia light rail project (subject to authorization);

$21,400,000 for the Denver Southwest Corridor project (subject to authorization);

$7,000,000 for the Florida Tri-County commuter rail project (subject to authorization);

$1,000,000 for the Galveston, Texas rail trolley system project (subject to authorization);

$1,000,000 for the Houston Advanced Regional Bus Plan project (subject to authorization);

$51,100,000 for the Houston Regional Bus project (subject to authorization);

$1,000,000 for the Indianapolis Northeast corridor project (subject to authorization);

$4,000,000 for the Jackson, Mississippi intermodal corridor project (subject to authorization);

$76,000,000 for the Los Angeles MOS–3 project (subject to authorization);

$27,000,000 for MARC commuter rail improvements (subject to authorization);

$1,000,000 for the Memphis, Tennessee regional rail project (subject to authorization);

$9,000,000 for the Metro-Dade Transit east-west corridor project (subject to authorization);

$9,000,000 for the Miami-North 27th Avenue project (subject to authorization);

$1,000,000 for the Mission Valley East corridor project (subject to authorization);

$54,800,000 for the New Jersey-Hudson-Bergen project (subject to authorization);

$27,000,000 for the New Jersey Secaucus project (subject to authorization);

$8,000,000 for the New Orleans Canal Street corridor project (subject to authorization);

$2,000,000 for the New Orleans Desire Streetcar project (subject to authorization);

$6,000,000 for the North Carolina Research Triangle Park project (subject to authorization);

$2,000,000 for the Northern Indiana South Shore commuter rail project (subject to authorization);

$5,000,000 for the Oceanside-Escondido light rail project (subject to authorization);

$1,600,000 for the Oklahoma City MAPS corridor transit project (subject to authorization);

$4,000,000 for the Orange County transitway project (subject to authorization);

$31,800,000 for the Orlando Lynx light rail project (subject to authorization);

$500,000 for the Pennsylvania Strawberry Hill/Diamond Branch rail project (subject to authorization);

$8,000,000 for the Phoenix metropolitan area transit project (subject to authorization);

$3,000,000 for the Pittsburgh airport busway project (subject to authorization);

$63,400,000 for the Portland-Westside/Hillsboro project (subject to authorization);

$20,300,000 for the Sacramento LRT project (subject to authorization);

$42,800,000 for the Salt Lake City South LRT project (subject to authorization);

$1,000,000 for the San Bernardino Metrolink project (subject to authorization);

$3,000,000 for the San Diego Mid-Coast corridor project (subject to authorization);

$54,800,000 for the San Francisco BART extension to the airport project (subject to authorization);

$25,700,000 for the San Juan Tren Urbano (subject to authorization);

$21,400,000 for the San Jose Tasman LRT project (subject to authorization);

$4,000,000 for the Seattle-Tacoma commuter rail project (subject to authorization);

$2,000,000 for the Seattle-Tacoma light rail project (subject to authorization);

$30,000,000 for the St. Louis-St. Clair LRT extension project (subject to authorization);

$5,000,000 for the St. George Ferry terminal project (subject to authorization);

$2,000,000 for the Tampa Bay regional rail project (subject to authorization);

$2,000,000 for the Tidewater, Virginia rail project (subject to authorization);

$1,000,000 for the Toledo, Ohio rail project (subject to authorization);

$20,000,000 for the Twin Cities transitways projects (subject to authorization);

$2,500,000 for the Virginia Rail Express Fredericksburg to Washington commuter rail project (subject to authorization);

$5,000,000 for the Whitehall ferry terminal project (subject to authorization); and

$5,000,000 for the Wisconsin central commuter rail project (subject to authorization).

Mass Transit Capital Fund

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $2,350,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

Washington Metropolitan Area Transit Authority

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $200,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Saint Lawrence Seaway Development Corporation

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, including the Great Lakes Pilotage functions delegated by the Secretary of Transportation, $11,200,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $27,934,000, of which $574,000 shall be derived from the Pipeline Safety Fund, and of which $4,950,000 shall remain available until September 30, 2000: *Provided*, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

Pipeline Safety

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $31,486,000, of which $3,300,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2000; and of which $28,186,000 shall be derived from the Pipeline Safety Fund, of which $14,839,000 shall remain available until September 30, 2000: *Provided*, That in addition to amounts made available for the Pipeline Safety Fund, $1,000,000 shall be available for grants to States for the development and establishment of one-call notification systems and shall be derived from amounts previously collected under section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Emergency Preparedness Grants

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2000: *Provided*, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $42,000,000: *Provided*, That none of the funds under this heading shall be for the conduct of contract audits.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $15,853,000: *Provided*, That notwithstanding any other provision of law, not to exceed $2,000,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated for the general fund shall be reduced on a dollar for dollar basis as such offsetting collections are received during fiscal year 1998, to result in a final appropriation from the general fund estimated at no more than $13,853,000: *Provided further*, That any fees received in excess of $2,000,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,640,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $46,000,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $1,000,000, to remain available until expended.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965, 20 U.S.C. 7701, et seq., for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than one hundred seven political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: *Provided*, That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1998 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1997, no State shall obligate more than 25 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 12 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State;

(2) after August 1, 1998, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 103(e)(4), 104, and 144 of title 23, United States Code, and under sections 1013(c) and 1015 of Public Law 102–240; and

(3) not distribute amounts authorized for administrative expenses and funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, the Federal lands highway program, the intelligent transportation systems program, and amounts made available under sections 1040, 1047, 1064, 6001, 6005, 6006, 6023, and 6024 of Public Law 102–240, and 49 U.S.C. 5316, 5317, and 5338: *Provided*, That amounts made available under section 6005 of Public Law 102–240 shall be subject to the obligation limitation for Federal-aid highways and highway safety construction programs under the head "Federal-Aid Highways" in this Act.

(d) During the period October 1 through December 31, 1997, the aggregate amount of obligations under section 157 of title 23, United States Code, for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97–424, sections 1061, 1103 through 1108, 4008, and 6023(b)(8) and 6023(b)(10) of Public Law 102–240, and for projects authorized by Public Law 99–500 and Public Law 100–17, shall not exceed $277,431,840.

(e) During the period August 2 through September 30, 1998, the aggregate amount which may be obligated by all States shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104 and 144 of title 23, United States Code, and 1013(c) and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code, which would not be obligated in fiscal year 1998 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(f) Paragraph (e) shall not apply to any State which on or after August 1, 1998, has the amount distributed to such State under paragraph (a) for fiscal year 1998 reduced under paragraph (c)(2).

SEC. 311. The limitation on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation under the discretionary grants program.

SEC. 312. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 313. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 314. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria.

SEC. 315. None of the funds in this Act shall be available to award a multiyear contract for production end items that (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the Government's liability or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided*, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 316. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Discretionary grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2000, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 317. Notwithstanding any other provision of law, any funds appropriated before October 1, 1993, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 318. None of the funds in this Act may be used to compensate in excess of 350 technical staff years under the federally-funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1998.

SEC. 319. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $25,000,000, which limits fiscal year 1998 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $96,800,000: *Provided*, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 320. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Limitation on General Operating Expenses" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Railroad Safety" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 321. None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations pursuant to title V of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32901, et seq.) prescribing corporate average fuel economy standards for automobiles, as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

SEC. 322. None of the funds in this Act may be used for planning, engineering, design, or construction of a sixth runway at the Denver International Airport, Denver, Colorado: *Provided*, That this provision shall not apply in any case where the Administrator of the Federal Aviation Administration determines, in writing, that safety conditions warrant obligation of such funds: *Provided further*, That funds may be used for activities related to planning or analysis of airport noise issues related to the sixth runway project.

SEC. 323. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to the provisions of section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991, may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall not be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 324. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 325. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: *Provided*, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 326. None of the funds in this Act may be used to support Federal Transit Administration's field operations and oversight of the Washington Metropolitan Area Transit Authority in any location other than from the Washington, D.C. metropolitan area.

SEC. 327. Notwithstanding any other provision of law, the Secretary may use funds appropriated under this Act, or any subsequent Act, to administer and implement the exemption provisions of 49 CFR 580.6 and to adopt or amend exemptions from the disclosure requirements of 49 CFR part 580 for any class or category of vehicles that the Secretary deems appropriate.

SEC. 328. No funds other than those appropriated to the Surface Transportation Board shall be used for conducting the activities of the Board.

SEC. 329. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF CONGRESS: REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 330. Notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.

SEC. 331. Notwithstanding 49 U.S.C. 41742, no essential air service shall be provided to communities in the forty-eight contiguous States that are located fewer than seventy highway miles from the nearest large and medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than two hundred and ten miles from the nearest large or medium hub airport.

SEC. 332. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City, New York.

SEC. 333. None of the funds in this Act shall be available to implement or enforce regulations that would result in the withdrawal of a slot from an air carrier at O'Hare International Airport under section 93.223 of title 14 of the Code of Federal Regulations in excess of the total slots withdrawn from that air carrier as of October 31, 1993 if such additional slot is to be allocated to an air carrier or foreign air carrier under section 93.217 of title 14 of the Code of Federal Regulations.

TITLE IV

AMTRAK ROUTE CLOSURE AND REALIGNMENT

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amtrak Route Closure and Realignment Act of 1997".

SEC. 2. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the "Total Realignment of Amtrak Commission" (in this Act referred to as the "Commission").

(b) APPOINTMENT.—The Commission shall be composed of eleven members as follows:

(1) Three individuals appointed by the President, including—

(A) the Secretary of Transportation;

(B) one representative of a rail labor union; and

(C) one representative of a rail management.

(2) Four individuals who collectively have expertise in rail finance, economic analysis, legal issues, and other relevant areas, of which three shall be appointed by the Majority Leader of the Senate and one shall be appointed by the Minority Leader of the Senate.

(3) Four individuals who collectively have expertise in rail finance, economic analysis, legal issues, and other relevant areas, of which three shall be appointed by the Speaker of the House of Representatives and one shall be appointed by the Minority Leader of the House of Representatives.

Appointments under this subsection shall be made within 15 days after the date of the enactment of this Act. Individuals appointed under paragraphs (2) and (3) shall not be employees of the Department of Transportation or representatives of a rail labor union or rail management.

(c) CHAIRMAN.—Within 10 days after the 15-day period described in subsection (b), or the appointment of the last member of the Commission under such subsection, whichever occurs first, a majority of the members of the Commission may elect a chairman from among its membership. If a chairman is not elected within such 10-day period, the President shall select a chairman for the Commission from among its membership.

(d) MEETINGS.—(1) Each meeting of the Commission shall be open to the public.

(2) All the proceedings, information, and deliberations of the Commission shall be open or available, upon request, to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(e) PAY AND TRAVEL EXPENSES.—(1)(A) Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) Notwithstanding subparagraphs (A) and (B), officers and employees of the Federal Government shall not be paid under this paragraph for service on the Commission.

(2) Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) DIRECTOR OF STAFF.—The Commission shall appoint a Director, who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(g) STAFF.—(1) Subject to paragraph (2), the Director, with the approval of the Commission, may appoint and fix the pay of not more than 5 additional employees.

(2) The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(h) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(i) INFORMATION.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of that department or agency shall furnish that information to the Commission to the extent otherwise permitted by law.

(j) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(k) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(l) EXPERTS OR CONSULTANTS.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(m) TERMINATION.—The Commission shall terminate 30 days after transmitting a report under section 3(e).

SEC. 3. DUTIES.

(a) ECONOMIC PERFORMANCE RANKINGS.—The Commission shall examine economic data for Amtrak's system and develop system-wide performance rankings of all routes based on long-term economic loss.

(b) IDENTIFICATION OF CANDIDATE ROUTES FOR CLOSURE OR REALIGNMENT.—(1) The Commission shall identify routes which are candidates for closure or realignment, based on the performance rankings developed under subsection (a) and on the following principles:

(A) The system which remains after closure and realignment of routes shall not be required to be a national, interconnected system.

(B) Federal operating subsidies for Amtrak shall be assumed to decline over the 4-year period to the point of zero Federal operating subsidy by the year 2002.

(C) The rail labor protection costs of Amtrak shall be calculated both—

(i) at the level required under rail labor laws as in effect when the Commission is identifying routes under this subsection; and

(ii) at the level which would be required if amendments to rail labor laws were enacted that—

(I) limit to a maximum of 6 months any wage continuation or severance benefit for an employee of Amtrak whose employment is terminated as a result of a discontinuance of intercity rail passenger service; and

(II) permit Amtrak to require any employee whose position is eliminated as a result of such a discontinuance to transfer to another part of Amtrak's system.

(2) The Commission shall specifically examine ridership forecasts and other assumptions supporting continued service on the Northeast Corridor, particularly with respect to the continuation of the electrification of the Northeast Corridor between New Haven, Connecticut, and Boston, Massachusetts.

(c) CONSIDERATION OF QUALITY OF LIFE FACTORS.—(1) Each route identified under subsection (b) as a candidate for closure or realignment shall be reviewed to determine whether there are important social, environmental, or other quality of life factors which should be considered in determining whether to close or realign the route. The commission shall also consider the effect on airport congestion and the availability of alternative modes of transportation, especially in rural areas, before recommending any closure or realignment.

(2) The Commission shall hold public hearings to obtain testimony from State and local officials, and other interested parties, with respect to factors described in paragraph (1).

(d) OPTIONAL USES FOR ABANDONED RAIL LINES.—The Commission shall also examine optional uses for abandoned rail lines.

(e) RECOMMENDATIONS.—The Commission shall, within 120 days after the election or selection of its chairman under section 2(c), transmit to the Congress and the President a report on its activities under this Act, including recommendations developed under this section for the closure and realignment of routes in Amtrak's passenger rail system.

SEC. 4. MAKING APPROPRIATIONS FOR THE COMMISSION.

There are appropriated $1,000,000 for carrying out this title.

POINTS OF ORDER

The CHAIRMAN. Are there any points of order to the remaining portions of the bill?

Mr. SHUSTER. Mr. Chairman, I raise a point of order against section 331.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SHUSTER. Mr. Chairman, I raise a point of order against section 331. This provision violates clause 2 of rule XXI because it establishes criteria involving distance from a hub and subsidy for passengers that have the effect of excluding some small communities from eligibility for subsidized air service under the essential air service program.

□ 1545

The communities excluded are those that are eligible for service under subchapter 2 of chapter 417 of title 49. Changing the eligibility rules constitutes legislation on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

If not, the Chair would rule. Section 331 of the bill explicitly waives existing law and therefore constitutes legislation in violation of clause 2(b) of rule XXI. The point of order is sustained and section 331 is stricken from the bill.

Are there further points of order?

Mr. SHUSTER. Mr. Chairman, I make a point of order against title IV.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SHUSTER. Mr. Chairman, I raise a point of order against page 53, line 3 through page 65, line 6.

This provision violates clause 2 of rule XXI because it establishes an independent commission called the Total Realignment of Amtrak Commission to renew Amtrak's route system and identify candidates for closure or realignment similar to the commission established to close military facilities. This constitutes legislation on an appropriations bill in violation of House rules.

The CHAIRMAN. Does the gentleman from Virginia wish to be heard on the point of order?

Mr. WOLF. I do, Mr. Chairman.

Mr. Chairman, I concede the point of order. I understand why the gentleman from Pennsylvania is doing it. I appreciate the concern.

I would urge the Congress to work and support the efforts of the gentleman from Pennsylvania [Mr. SHUSTER] to reform and change Amtrak, because as we are putting all of the money into Amtrak, if there is no reform and GAO and IG has looked at it, it has continued getting worse and it is, in essence, perhaps this is not an apt example, but putting money down a rathole.

I think what the gentleman from Pennsylvania [Mr. SHUSTER] is doing with regard to the restructuring is very, very important. I would have hoped that this language could have stayed in, but it is important that the Congress pass legislation, because I think we are going to see dwindling support if some restructuring is not done.

I concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order and the matter included in the bill as title IV is, in fact, entirely legislative. The point of order is sustained, and that matter is stricken from the bill.

AMENDMENT OFFERED BY MR. FILNER

Mr. FILNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FILNER: PAGE 22, LINE 1, STRIKE "LOAN GUARANTEE" AND ALL THAT FOLLOWS BEFORE THE PERIOD ON LINE 2 AND INSERT THE FOLLOWING:

loan guarantee subsidy shall be made in excess of $490,000 during fiscal year 1998.

Mr. WOLF. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Virginia reserves a point of order.

Mr. FILNER. Mr. Chairman, I rise today to introduce an amendment that is critical to the economic development not only of San Diego, my own district, but other communities throughout this Nation.

My amendment will appropriate $490,000 for the section 511 railroad loan guarantee program in order to leverage approximately $10 million in private sector loan guarantees necessary to help reestablish and rehabilitate small regional freight railroads like the San Diego & Arizona Eastern Railroad.

I repeat, this is a loan guarantee which leverages approximately 20 times that amount of private sector funding. Reestablishment of this railroad is on the top of everyone's priority list in San Diego and enjoys wide bipartisan support. Several colleagues from San Diego County on the other side of the aisle support this, as do the city of San Diego, the County Board of Supervisors, the San Diego Association of Governments, the Port of San Diego, the Greater San Diego Chamber of Commerce and the San Diego Economic Development Corporation. All agree that reestablishing this rail link is the area's highest priority for economic development.

Many of our Nation's regional and short line railroads find it difficult to obtain private financing because of high interest rates and short terms. Government assistance in the form of loan guarantees often becomes the only viable means to rehabilitate these vital links in our transportation infrastructure. I believe that the section 511 program, because it is not a grant program, it is not even a loan program but a loan guarantee to leverage private sector loans, is precisely the type of public-private partnership this Congress ought to encourage. Unfortunately, this program does not receive any funding in the bill before us.

Mr. Chairman, the economies of communities like San Diego and others would be greatly helped by rehabilitation of these small freight railroad lines, and they need help now. I hope my colleagues can support this investment in economic growth.

Mr. BACHUS. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, I rise in support of this amendment. I think it is important for all of us in Congress to understand what the loan guarantee program is and what it provides assistance to. What it provides assistance to are the short line railroads in our country.

Most of us in this Congress do not know what those short line railroads are. They have no appreciation for them. They do not know of their importance to the community. If they did, we would be providing funding for or we would be providing these loan guarantees.

In this bill, we have provided assistance for our airlines, for aviation, we have provided assistance for highways, for our motor freight carriers, we have provided assistance for our waterways and for passenger railroad. The one area that we have not addressed is our railroad system. We heavily subsidize all forms of transportation and transport except our freight railroads. Today within the freight railroads, there is definitely a segment that needs some assistance and recognition from the Federal Government. That is our short line railroads.

Mr. Chairman, I will tell my colleagues about one short line railroad in my district. A short line railroad in my district is 52 miles long. Over 4,000 employees work for small plants on that railroad. That railroad has not turned a profit for 4 years. It has had two washouts. If that short line railroad goes defunct, it will result in over 2,000 blue-collar workers being laid off in my district. That is only one of over 300 short line railroads. Most of them are minimally profitable or marginally profitable or not profitable at all.

I would simply appeal to the Committee on Appropriations and to the Transportation chairman and to this subcommittee to learn more about this important segment. These are the have-nots of the freight railroads. These companies, they are sort of the grassroots, they are the fingers and the toes.

The CHAIRMAN. The time of the gentleman from California [Mr. FILNER] has expired.

(By unanimous consent, Mr. FILNER was allowed to proceed for 5 additional minutes.)

Mr. FILNER. Mr. Chairman, I continue to yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, I want to address my remarks to the entire body and specifically about the short line railroads.

The short line railroads are the result of the Class I railroads. There used to be over 30 Class I railroads. In certain areas, the density of the track, the amount of freight over those lines was insufficient for them to operate. So what those large railroads did is they tried to abandon that track in most cases. But State and local governments came in and Federal agencies and said that you cannot abandon that track because it is necessary for the economic vitality of a certain region. These short line railroads came in and are now operating those tracks.

As I have said, people's jobs, people's welfares, communities' existence depend on these railroads. Wherever we have large agricultural areas, grain roads, the farmers depend on those roads to get their crops out. In high industrial areas, they depend on those small railroads. Those railroads may not be known, they may not be appreciated by Members of this body, but they are absolutely critical to those communities, and they are absolutely critical to the economic welfare of our country. To me it is a sad day that probably because of simply a lack of understanding, a lack of knowledge about where these railroads are, what factories they serve, what they mean to the people they serve and the fact that if we do not continue these loan guarantee programs, these railroads will go out of existence, and with them factories and jobs.

I do plan to have some conversations with members of the Committee on Appropriations. I plan to ask them, among other questions, do they know how many factories are served by short line railroads? How many of those short line railroads are profitable? How many employees work for those plants that are served by those short line railroads? And whether or not they feel that this minuscule amount of money that the Committee on Transportation and Infrastructure had authorized and urged the Committee on Appropriations to set aside, if they think that that was too much money for the livelihood of over 2 million American workers that depend on these short line railroads for a paycheck every Friday. It is something that we ought to ask ourselves. These workers are blue-collar workers, they are in industries that sometimes are competing fiercely with foreign companies, and by jerking this loan program, we will put people out of business, we will cause people to lose their jobs, we will cause some of these 16,000 small businesses, not the railroads, but the 16,000 small businesses to declare bankruptcy and go out of business to foreign competition. I am just sad that we have made this decision.

I am going to vote for the bill on the whole, and I know that this was not willfully done, I know it was not intentionally done, but when we vote through this bill and it does not have these loan guarantees in, we are putting at jeopardy over 2 million jobs, over 16,000 factories in this country.

The CHAIRMAN. Does the gentleman from Virginia continue his reservation?

Mr. WOLF. Yes, I do, Mr. Chairman.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from California. Let me take a little different tack. On a bipartisan nature, both Republicans and Democrats in the California area, when the Federal Government induces or causes a problem or at least contributes to it, then it should have that responsibility to take care of those problems.

With the advent of the border States and NAFTA, especially along the Mexican border, the infrastructure and our highway and transportation system have been beaten to death by trucks, cars, and additional travel. The gentleman's amendment would ease that problem.

Second, that the interstate transportation along a border State with a major port like San Diego actually enhances the economy of this great country with the Asian markets in which we have a current deficit, so it helps reduce that deficit. The gentleman has given a lot of thought to this amendment. We have not received the support that we think that it should receive.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, there was a lot of discussion here about the problems and the opportunities of NAFTA on this floor, but this is a situation where we need to recognize that with all the hand-wringing and the complaints about NAFTA not creating enough jobs in the United States or pulling jobs away from the American worker, here is a project that has the opportunity to make NAFTA, at least in some part, a major positive in job generation. Here is a possibility of bringing jobs into the United States by having the proper infrastructure to be able to capitalize on the opportunity of the United States to be part of the export network from Mexico into Asia. This gives the capability to creating jobs in the Southwest that would not exist without this infrastructure and without NAFTA, frankly.

I would just ask that all my colleagues who feel that NAFTA has not gotten the job done for the workers of America to recognize that though there are problems, there are also opportunities, and with those opportunities comes Federal obligations to take advantage of those opportunities and create the jobs, not just sit here in the House and say, well, the jobs just are not there, it is not working out, and complain.

□ 1600

But then look at these opportunities, as my colleague from California has pointed out, to build the infrastructure, to create the jobs, to make the opportunities so that the private sector can do what it does all too well, and that is to create the opportunities for those jobs.

And I want to point out about border control, Mr. Chairman, I do not think anyone who sat on the House floor in the last 2 years has been more vocal than I have about border control. I think those of us who want to see border control need to recognize that there are rights and responsibilities of the Federal Government along this border. We need to control the border, but we also need to encourage the good things. We need to stop the illegal activity but also encourage the legal commerce that will make the border a prosperous opportunity for America rather than the problem that we have seen for all too long.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, before I yield back the time, I mention just one more benefit from this, not only the Federal Government's responsibility for helping create jobs in NAFTA, not only in our rail but other rails, but to take a look at the environmental concerns when we put trains on and take heavy trucks and transportation off of our highways, the environmental and the pollution with EPA and so on is also benefited.

Mr. Chairman, with that I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Virginia [Mr. WOLF] wish to continue his reservation of objection?

Mr. WOLF. I do, Mr. Chairman.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to speak on this because it is clear that the committee is and the chairman of the committee is prepared to execute his reservation against any of these loans, loan guarantees for short-track rail, and therefore it is not necessary to take a vote on this, on this issue. But I do want to, since my colleagues, the gentleman from California [Mr. CUNNINGHAM] and the gentleman from California [Mr. BILBRAY] and the gentleman from California [Mr. FILNER] have spoken about the prospects for this guaranteed program with respect to a San Diego to points east rail line, I thought it was important to come out and just say a few things about that specifically.

First, there is a broken down railway between San Diego and points east that goes mainly and starts out in the district of the gentleman from California [Mr. FILNER], goes mainly through in terms of mileage, through my district going east, but I do not think that is really relevant, whose district it goes through.

I think what probably is more relevant is the commentary that was elicited recently from the gentleman from Texas [Mr. REYES] who is one of our esteemed Members of Congress, former Border Patrol chief in El Paso. And if my colleagues walk through this problem with him with respect to border control problems, that is, having a short-track rail line that actually goes into Mexico. This is the area in Mexico where we are now having fire fights between border patrolmen and smuggling elements on the other side of the border; goes into Mexico, goes through about 50, 60 miles of rugged country, comes back along a series of precarious canyons, and then comes back into the United States. The gentleman from Texas [Mr. REYES] has made a couple of statements with respect to that railroad that I think should be considered by any Member of Congress before they pass this thing.

First, he said that this railroad will be vulnerable to robberies, just like the railroad in El Paso which was robbed 600 times last year. The gentleman from Texas [Mr. REYES] himself in an interview, a television show that I did with him, mentioned he himself was in a gunfight between train robbers on the other side of the border and American Border Patrol agents on our side. In recent weeks we have had a series of fire fights, very brief fire fights, across the border where Border Patrol agents were shot at in some cases; in the first case, actually shot by drug agents on the other or by drug operatives on the other side, forced to return fire, and we have actually had more fire back and forth across the southwest border in the San Diego region than we have had in Bosnia in the same period of time. It is a very dangerous area.

I would suggest that the gentleman from Texas [Mr. REYES] should be listened to when he says, "First you should get the guarantee of the government of Mexico that they will, in fact, patrol that area on the Mexican side. Otherwise," he said, "you're not going to have control." He said we should do that before we rehabilitate that rail line.

Second, he showed several areas where in remote areas we are going to have problems. Now we had over 600 robberies in 1 year with the rail line in El Paso. We had it with the rail line that comes into Laredo, we had over 36,000 illegal aliens pulled off that rail line last year, and the President of Southern Pacific in that area asking the President of the United States for the entire increase in border patrol for the Nation. That is 500 new border patrolmen going just to protect his railroad.

Now the happy talkers in San Diego say that will never happen to us, and that is all they say. They do not offer any experience that is any better than the gentleman from Texas [Mr. REYES] who was chief of the Border Patrol for some 20 years, who was in fire fights on the border, who understands across-border crime problems. They just say it will not happen, and I would just suggest to my colleagues we have had a vote on this thing before. It was overwhelmingly defeated because we do not have that guarantee of security for Mexico, we do not have that guarantee from the Clinton administration that they have an extra thousand Border Patrol agents to put 500 in south Texas just to guard one railroad and to put another contingent similar to that in southern California.

Right now, our eyes should be on the ball. The ball is border control. We are building fences, we are building roads, we are building lights, and we are putting more border patrolmen at the border, and the last thing we need to do is complicate the security situation by weaving a railroad in between this situation on rickety tracks across precipitous canyons and inviting at least in the words of, in the opinion of probably the best expert on border control in this Congress, and that is the gentleman from Texas [Mr. REYES], at least the complexity in border patrol.

The CHAIRMAN. Does the gentleman from Virginia [Mr. WOLF] wish to continue his reservation of objection?

Mr. WOLF. I do, Mr. Chairman.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I understand that there is a point of order raised against this amendment and the amendment may be withdrawn. I would like to speak from the perspective of my congressional district in somewhat reference to the reservations of the gentleman from California [Mr. DUNCAN HUNTER] about precipitous railroad tax and dangerous canyons for the shortline railroads to run across the border to Mexico and to be used or abused, and I recognize the problems that he has in his congressional district.

In my congressional district the shortline railroads are absolutely indispensable, and I think that the Federal Government, when we subsidize the automobile industry, the airport industry, and just name it, I think if we target with these loan guarantees, and this is not a direct subsidy, it is not a direct appropriation; this is a loan guarantee program. The shortline railroads in my district haul stone for roads, they haul grain for livestock, they haul manufactured goods. They are an absolutely indispensable, very important part, a critical part of the infrastructure of the economic base of my congressional district, and I am sure that they are a critical part of a whole range of congressional districts around this country.

This is not a subsidy that we want to prop up an industry that has no value. This is an interest in an industry that is virtually, in my judgment, indispensable for the economic health of this country via those small areas, whether they be urban areas, suburban areas or rural areas, to provide the important link between the major rail systems in this country.

So I am not sure what is going to happen in the next few minutes, but I strongly urge this Congress today or tomorrow to deal very effectively with this vital link, this vital part of our infrastructure, this vital link of our economic base.

The CHAIRMAN. Does the gentleman from Virginia wish to be heard upon his reservation of objection?

Mr. WOLF. Mr. Chairman, I yield to the gentleman from California [Mr. FILNER] first.

Mr. FILNER. Mr. Chairman, I am very grateful for the support from people from both sides of the aisle and different parts of the country. I hope the chairman and the ranking member would seriously consider these aspects in coming years. I understand the pressures they are under, the debate that we see here, especially with the San Diego situation.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from California [Mr. FILNER] is withdrawn.

Are there further amendments to the bill?

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1998".

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. GILCHREST] having assumed the chair, Mr. BEREUTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 2169), making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes, pursuant to House Resolution 189, he reported the bill, as amended pursuant to that rule, back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 424, nays 5, not voting 5, as follows:

[Roll No. 302]

YEAS—424

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—5

Campbell
Dingell
Hostettler
Paul
Sanford

NOT VOTING—5

Graham
Pallone
Schiff
Stark
Young (AK)

☐ 1639

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO ADJOURN

Ms. DELAURO. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. ROGAN). The question is on the motion offered by the gentlewoman from Connecticut [Ms. DELAURO].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. DELAURO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 279, not voting 33, as follows:

[Roll No. 303]

YEAS—122

Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Berman
Berry
Bishop
Bonior
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clyburn
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Doggett
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hinchey
Hoyer
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Klink
Lampson
Levin
Lewis (GA)
Lipinski
Lowey
Maloney (NY)
Manton
Markey
Matsui
McCarthy (NY)
McGovern
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Payne
Pelosi
Pickett
Rangel
Rodriguez
Rush
Sabo
Sanders
Sandlin
Sawyer
Sisisky
Skaggs
Smith, Adam
Snyder
Spratt
Stokes
Strickland
Tauscher
Thompson
Tierney
Torres
Towns
Turner
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Yates

NAYS—279

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bilbray
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boyd
Brady
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Danner
Davis (FL)
Davis (VA)
Deal
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fattah
Fawell
Foglietta
Foley
Forbes
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham

Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Manzullo
Mascara
McCarthy (MO)
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Moran (KS)
Morella
Murtha
Nethercutt
Neumann
Ney
Northup
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stabenow
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (FL)

NOT VOTING—33

Bateman
Bliley
Buyer
Christensen
Clement
Conyers
Crane
Cunningham
DeLay
Doolittle
Ensign
Ford
Fowler
Frank (MA)
Ganske
Graham
Hilleary
Holden
Kasich
LaTourette
Leach
Martinez
McCrery
Myrick
Norwood
Oxley
Pallone
Schiff
Serrano
Slaughter
Souder
Stark
Young (AK)

☐ 1659

Ms. ROYBAL-ALLARD and Messrs. BONO, WYNN, and SCARBOROUGH changed their vote from "aye" to "no."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 193 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 193

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: page 56, line 18, through line 24; and page 68, line 12, through line 16. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. No further amendment shall be in order except amendments printed before July 22, 1997, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII, the amendments printed in the Congressional Record and numbered 21, 22, and 23 pursuant to clause 6 of rule XXIII, and the amendment by Representative Obey of Wisconsin pending when the Committee of the Whole rose on July 22, 1997. Each amendment shall be considered as read and shall be debatable for ten minutes (except as otherwise provided in section 2 of this resolution) equally divided and controlled by the proponent and an opponent. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. After a motion that the Committee rise has been rejected on a day, the Chairman of the Committee of the Whole may entertain another such motion on that day only if offered by the Chairman of the Committee on Appropriations or the majority leader or their designee. After a motion to strike out the enacting words of the bill (as described in clause 7 of rule XXIII) has been rejected, the Chairman of the Committee of the Whole may not entertain another such motion during further consideration of the bill. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The time for debate on the following amendments shall be thirty minutes:

(1) The amendment by Representative Obey of Wisconsin pending when the Committee of the Whole rose on July 22, 1997, which shall be debatable for thirty minutes notwithstanding the time consumed on the amendment on July 22, 1997;

(2) the amendment numbered 17;

(3) the amendment numbered 3; and

(4) the amendment numbered 21.

MOTION TO ADJOURN

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. ROGAN). The question is on the motion to adjourn offered by the gentlewoman from Texas [Ms. JACKSON-LEE].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. JACKSON-LEE of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 105, noes 311, not voting 18, as follows:

[Roll No. 304]

AYES—105

Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Berry
Bishop
Bonior
Boswell
Boucher
Brown (FL)
Brown (OH)
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Doggett
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hinchey
Hoyer
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Klink
Lantos
Levin
Lewis (GA)
Lowey
Maloney (NY)
Markey
Matsui
McCarthy (NY)
McGovern
McNulty
Meehan
Meek
Millender-McDonald
Miller (CA)
Mink
Moakley
Nadler
Neal
Oberstar
Obey
Olver
Owens
Payne
Rangel
Rodriguez
Rush
Sabo
Skaggs
Slaughter
Smith, Adam
Snyder
Tauscher
Thompson
Tierney
Torres
Towns
Turner
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOES—311

Aderholt
Allen
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boyd
Brady
Brown (CA)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fattah
Fawell
Foglietta
Foley
Forbes
Ford
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa

Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Manzullo
Martinez
Mascara
McCarthy (MO)
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Menendez
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (FL)

NOT VOTING—18

Archer
Bateman
Crane
DeLay
Fowler
Frank (MA)
Ganske
Leach
Manton
Norwood
Pallone
Pelosi
Sanders
Schaffer, Bob
Schiff
Snowbarger
Stark
Young (AK)

□ 1724

Mr. THUNE and Mr. HOUGHTON changed their vote from "aye" to "no."

Mr. DINGELL changed his vote from "no" to "aye."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore (Mr. Rogan). The gentleman from Washington [Mr. Hastings] is recognized for 1 hour.

Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. Hall], pending which I yield myself such time as I may consume.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Washington. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I appreciate the gentleman yielding before he begins his formal remarks, because it is a little unclear to me and to many of the Members regarding the proceedings that are about to ensue.

May I ask the gentleman a couple of questions to clarify how this rule that we will be debating differs from the rule under which we were operating last evening.

Mr. HASTINGS of Washington. Mr. Speaker, I would just advise the gentlewoman when I finish my remarks, perhaps the questions that she has will be answered. If not, then maybe we can engage in a colloquy at that time. If she allows me to finish my remarks, I will point out what is in the rule, then we can proceed from there.

Ms. KAPTUR. Will the gentleman point out how this is different from the open rule under which we were debating last evening?

Mr. HASTINGS of Washington. Mr. Speaker, if the gentlewoman will let me finish my remarks, then she can ask me, and if there is any question specifically, I will be more than happy to respond.

Ms. KAPTUR. Will the gentleman cover which Members will not be allowed to offer amendments under this rule?

Mr. HASTINGS of Washington. I think that is pointed out in the rule because in the rule all amendments that were preprinted are in order.

Ms. KAPTUR. That were preprinted. But there were several amendments where Members under the open rule would have been permitted to offer their amendments but now they cannot. Will the gentleman list which amendments those are?

Mr. HASTINGS of Washington. There are three amendments that have been made in order. Taking back my time, if the gentlewoman will let me finish my remarks, and then if she has any questions, I will be more than happy to respond.

During consideration of this resolution, Mr. Speaker, all time yielded is for the purpose of debate only.

Mr. Speaker, the Committee on Rules had no intention of reporting a rule on H.R. 2160, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies. Indeed, the Committee on Appropriations requested no rule and brought this bill to the floor as a privileged resolution, open to amendment at any point.

Regrettably the decision by certain Members of this body to engage in an extended series of delaying tactics by offering dilatory motions has required us to offer this rule governing debate on this bill in order that the House may move forward with its legislative business in a timely and responsible fashion.

Accordingly, the Committee on Rules reported last night a modified closed rule. The rule waives clause 2 of rule XXI prohibiting unauthorized and legislative provisions in an appropriations bill and clause 6 of rule XXI prohibiting reappropriations in an appropriations bill against provisions of a bill except as otherwise specified in the rule.

The rule provides that no further amendments shall be in order except those amendments printed before July 22, 1997 in the Congressional Record; the amendments printed in the Congressional Record numbered 21, 22 and 23; and the amendment by the gentleman from Wisconsin [Mr. Obey] pending when the Committee of the Whole rose on July 22, 1997.

□ 1730

The rule provides that each amendment made in order shall be considered as read and shall be debatable for 10 minutes except as otherwise specified in section 2 of the rule, equally divided and controlled by a proponent and an opponent.

The rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on any postponed question if the vote follows a 15-minute vote.

The rule also provides that after a motion that the committee rise has been rejected on a day, another such motion on that day may be entertained only if offered by the chairman of the Committee on Appropriations, or the majority leader, or their designee.

The rule provides that after a motion to strike out the enacting words of the bill has been rejected, the Chairman of the Committee of the Whole may not entertain another motion during further consideration of the bill.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, let me reiterate what I said in my opening remarks, that the Committee on Rules regrets that the rule now pending before the House is, in fact, before us. But it was necessary, and I urge its passage so that the House may move forward with the important business it must complete prior to the August recess, week after next.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague from Washington, Mr. HASTINGS, for yielding me the time. This is a modified closed rule which will allow for further consideration of H.R. 2160, which is a bill making appropriations for agriculture, rural development, Food and Drug Administration and related agencies in the fiscal year 1998. The rule was opposed by the minority during the Committee on Rules consideration because the rule denies House Members full and fair debate over the bill.

Mr. Speaker, hunger and malnutrition are a constant threat to hundreds of millions of people throughout the world, and despite the riches of our Nation, millions of Americans face hunger on a regular basis. We have made many inroads to reducing hunger and malnutrition, but we can do more. The bill provides funding for lifeline programs that feed hungry people both in the United States and abroad, and I want to commend the members of the Committee on Appropriations for crafting this bipartisan bill which supports adequate funding for many of these programs.

However, I believe this bill can be improved. Therefore I will be supporting an amendment offered by the gentlewoman from North Carolina [Mrs. CLAYTON] and the gentlewoman from Texas [Ms. JACKSON-LEE] to increase funding for the food stamp program, and I also support the amendment offered by the gentleman from Wisconsin [Mr. OBEY] which would increase funding for the WIC Program which provides nutritional food for poor mothers and their children. These two amendments are consistent with the goals of H.R. 1507 which is the Hunger Has a Cure Act of 1997, and I am among the 86 cosponsors of this bipartisan bill to reduce hunger in the United States.

Mr. Speaker, as important as this bill is, the rule we are now considering is unnecessary, it is arbitrary, and it is overly restrictive. The rule is unnecessary because the bill can be brought up without a rule, and, in fact, it was brought up last week for general debate, and the amending process is already underway.

The bill contains no extraneous or controversial riders, it complies with the rules of the House, but the rule is arbitrary because it makes in order only those amendments that were printed in the CONGRESSIONAL RECORD before July 22, with four exceptions. Members were not given the customary advanced notice that the Committee on Rules would restrict the rule. In fact, the Committee on Rules was suddenly called into session late last night, making it difficult for Members to testify about the rule.

This rule is also overly restrictive. By permitting only those amendments printed in the CONGRESSIONAL RECORD, Members may not offer new striking amendments to eliminate what they consider wasteful or unnecessary spending, and this process is an important part of almost all the appropriation bills.

And furthermore, the time limits for debate on the amendments are too restrictive. We all know about the series of events that led up to this rule, but there is another way to avoid the continued breakdown between the majority and the minority parties. I regret that by forcing the rule on the House, the majority party chose not to negotiate but escalate the confrontation. The result is more than denying House Members of both parties full and fair debate over the agriculture appropriation bill. It is a deep mistrust between the parties.

I must oppose the rule, as the Members in the minority on the Committee on Rules will do, and with this statement of opposition I make the plea for leaders of both parties to seek negotiation, not confrontation, in resolving our difficulties. I would urge colleagues to vote against the rule and against the policy to tighten debate restrictions as a response to misunderstandings between the parties.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding this time to me.

I support this rule. I think it is unfortunate we must have a rule at this time, but under the circumstances we need to have this rule. I like to think of this as a very sweet rule, and, speaking about sweet rules, one of the amendments made in order is 30 minutes of debate time on a bill, on an amendment to reform the sugar program in this country. It is only incremental change in the sugar program, but it is very important.

Last year when I tried to present a sugar repeal program, unfortunately I had a very difficult time getting a rule made in order that would allow that amendment under freedom to farm, so I am very pleased that it was made in order today. Even though I prefer more than 30 minutes, I think 30 minutes will give us enough time for both the proponents and the opponents of this program because the sugar program is a very complex program, it is a cartel-type arrangement in this country where the price of sugar is kept at twice the world price of sugar so that in Canada, Mexico, Australia, other countries that have a free market of sugar, sugar sells for half the price it does in the United States.

Mr. Speaker, it has been that way for years. It was not reformed. In the freedom to farm bill last year, there was no change in the sugar program of any significance, just minor changes, and that is unfortunate because last year's freedom to farm bill was truly historic legislation. We really did make some meaningful changes in the farm programs of this country, but because the fact sugar was not changed, we are not getting full credit for all the reforms that were put through last year.

This cartel arrangement works such that we cannot grow enough sugar to supply the demand in the United States so we must import sugar into the United States, and what the cartel is allowed to do with the Federal Government is restrict imports. By restricting the imports, we constrain the supply of sugar, thus the demand kept; demand is greater than the supply, and the price is forced up, and that is what happens with this program.

And what I am proposing in this legislation and this amendment is the incremental change which is only addressing the nonrecourse loan, only the nonrecourse loan which does not go to farmers, it goes to processors, and what it does is it gives the incentive to the Federal Government. Because the nonrecourse nature, the Federal Government does not want to repossess sugar, they want to get paid for their sugar, the sugar loans. So the idea is let us do away with the nonrecourse part of the loan.

The sugar program is a bad program for consumers, it is bad for jobs, it is bad for taxes, it is bad for the environment, and that is the reason we need to have some incremental changes, not total repeal. It is only addressing the issue of the nonrecourse loan.

The consumers get ripped off because of the cost of almost $1.4 billion a year, according to a General Accounting Office report. The jobs, because we pay such a high price for sugar, we cannot compete with companies, for example, in Canada. The classic illustration is Bob's Candy in Albany, GA, largest candy cane company in the United States, but the candy canes which use a lot of sugar can be produced a lot cheaper in Canada and a lot of other countries because we have to pay this outrageously high price for sugar.

The taxpayers get hit because of major purchases of food. It is estimated to be $90 million a year. We pay more as Federal taxpayers because of all the food purchases in the programs in the veterans area and the military and such.

And then we have the environment, environment so dear to us in Florida because of the Everglades, and the impact of the sugar program on the Everglades. What is happening is we are having to buy a lot of the land in the Everglades to help preserve the Everglades. In fact, this year's appropriation bills has $300 million for the Everglades. A lot of that is used to buy the land of the sugar companies.

And so a recent report from the administration shows we are going to spend an extra $100 million of taxpayers' money buying land because we have inflated the price, we have inflated the price of that land used for sugar, and we are growing far more sugar than this land can support down there.

I think I look forward to having a full debate on that issue, and I appreciate the opportunity, and I hope my colleagues will support this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, since last Friday, this House has been in a virtual stall on appropriations, and a lot of Members in both parties are asking why. I want to take this opportunity to try to explain why I think that is happening.

On the Committee on Appropriations on each of these bills except one, we have worked out a very effective bipartisan working relationship where we may have had very strong differences of opinion on all of those bills, but with the exception of the legislative appropriation bill, we have had tremendous bipartisan cooperation and goodwill.

The problem is that when those bills have moved out of the Committee on Appropriations, they have then gone to the Committee on Rules, and the Committee on Rules has imposed a partisan straightjacket on the debate for those bills, and it has in the process turned those bipartisan products into partisan war zones.

Now I greatly regret that, but what has happened is that, first of all, the Committee on Rules has systematically attached nongermane amendments to be offered by Republican Members of the House, and at the same time they have systematically then denied alternatives to those amendments when the request was made to put those amendments in order by the Democratic managers of each of those bills.

It happened first to the gentlewoman from Ohio [Ms. KAPTUR], then it happened to the gentleman from Illinois [Mr. YATES], then it happened to the gentlewoman from California [Ms. PELOSI].

Now that unfairness has been recognized on the majority side of the aisle. We have had two Appropriations subcommittee chairs who have told me personally that they prefer to go to the floor with an open rule rather than going to the Committee on Rules because they, in their words, "did not want the Committee on Rules to screw up bipartisan bills." And we have in the case of the Subcommittee on Foreign Operations, Export Financing and Related Programs, for instance, we have had an excellent bipartisan bill produced. We have had the Chair of that foreign operations subcommittee perfectly willing to take a bill to the floor without a rule to avoid the attachment of extremely divisive, nongermane authorization language to that bill, and he has been supported in that effort by those of us on this side of the aisle.

So there have been no differences in working relationships between members of the committee. But because the Committee on Rules has imposed a partisan grip on these bipartisan bills, we have been engaged in a protest to try to get the Committee on Rules to change its mind.

Now instead of responding to that in the way that a majority party has responsibility to respond, by trying to work out those differences, what has happened instead is that the majority leader has evidently chosen to impose an even more draconian rule on this bill. As a result, the gentleman from Massachusetts [Mr. MEEHAN] will be able to debate a major tobacco amendment for exactly 5 minutes. The gentlewoman from Oregon [Ms. FURSE], who has a legitimate amendment, would not be allowed to offer the amendment at all. And the committee will even be precluded from the traditional ability of any Member of this House to strike spending items in the bill. That is so out of line that the Taxpayers for Common Sense oppose the passage of this rule, as I understand it.

Now there is not much we, the minority, can do to persuade those in the Committee on Rules and in the majority party leadership to reconsider this rule. What I would say to each and every rank-and-file Member on both sides of the aisle is that all we are asking is that the Committee on Rules respect the bipartisan work which has been done, night and day, by virtually every subcommittee on the Appropriations Committee. Let us work our way through to common ground. That is what is being prevented by the actions of the Committee on Rules. I deeply regret it, because it turns this House into a needlessly partisan battle zone.

We all have an obligation to our parties to define differences.

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But after those differences are defined, we also have an obligation to try to overcome those differences and find a resolution on behalf of all the taxpayers we represent.

In my humble judgment, the Committee on Rules is continuing to get in the way of that obligation and that process. Until it ceases to do that, we will have this needless dragging out of the process, which does neither party any good and certainly does not serve the interest of taxpayers.

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. OBEY] may be allowed to proceed for 5 more minutes.

The SPEAKER pro tempore (Mr. ROGAN). The time is controlled by the gentleman from Ohio [Mr. HALL].

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say, a lot of us regret being here for different reasons. I would agree with the gentleman that the Committee on Appropriations has worked very closely in trying to work these things out on a bipartisan basis, but unfortunately, the reason we are here is because of tactics that were by others, starting last Friday, because on a bipartisan basis this bill was supposed to have been done last Friday. Unfortunately, it did not because there were numerous motions to rise, which slowed down the process. We had the same process yesterday.

Because the House wants to complete its business before the August recess, and I know Members on the gentleman's side of the aisle share that, as do we, we felt, regrettably, regrettably, that we had to have a rule, which is one of the responsibilities of the Committee on Rules, in order to expedite the process. But we made every amendment that was offered, that was printed, in order, plus three others.

So I regret, as does the gentleman, that this happens. We just come at it from different ways. We want to expedite the process.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank my distinguished associate, colleague, and friend, the gentleman from Washington, a member of the Committee on Rules, for yielding to me.

Mr. Speaker, I want to confirm that we do not have the unanimous-consent request approved, which would be contrary to the rules. Can the Speaker confirm that to me, that we do not have a unanimous-consent request for an additional 5 minutes?

The SPEAKER pro tempore. The gentleman is correct.

Mr. GOSS. Obviously, Mr. Speaker, I am here rising in support of this rule. I have listened very closely to what the distinguished gentleman from Wisconsin [Mr. OBEY] has to say.

This rule provides ample debate on all amendments and major issues in the bill that were pending as of yesterday. I realize that leaves a few out. But I want to make sure that Members are clear what has happened to this bill.

Simply, this bill has been hijacked because of a series of unrelated issues and agendas. I think really the underlying question seems to be, who is in the majority in the House of Representatives. I think the majority is trying to operate under bipartisanship, but I do not think the majority is prepared to let the minority hijack the majority.

The majority, in the great spirit of our former colleague, Mr. Natcher, and I should say bipartisan spirit, attempted to bring forward the fiscal year 1998 agriculture appropriations bill without a rule, actually letting Members offer amendments and conduct debate under the standing rules of the House. Some of our newer Members may not be aware of the fact, but actually it is within the regular order of the House to move appropriations bills without a rule. There was a time I guess when it was done. I commend Chairman SKEEN for his hard work in crafting a bill that could come forward under what was standard practice in this House.

Unfortunately, in this case we soon found that some Members had different plans for the proceedings on the floor, unrelated, as it seems, to the bill; that they felt it more important to use the agriculture bill to make points about a larger set of issues that in my view really have nothing to do with the issues in the agriculture spending bill. We heard as much from those Members today during 1-minute remarks on the floor, when one of our colleagues on the other side of the aisle informed us of the "bigger picture relating to the supposed rights of ranking members."

We believe very much in cooperation, goodwill, yes. That is what we are trying to do in a bipartisan way. But special rights that somehow are coming forth for ranking members? This is something that is not provided for. We do not know about that. If there was a proposal to do something like that I would suggest that an offer be made. But again, I do not believe that it is fair to say that some special rights are being denied. It seems to me that perhaps a hijacking of the bill is going on under the false flag, in this case, of bipartisanship.

I must say that I, too, am disappointed that we had to bring the agriculture bill under a rule. I would have preferred not to. It would be my hope that Members could conduct an open and unstructured debate on the substance of our national agriculture programs in a responsible way, without getting sidetracked or bogged down, allowing for the completion in an orderly manner.

We have tobacco, peanuts, sugar, and a whole bunch of other stuff out there we are all interested in and want to get to, not to say the fact that we have domestic situations and social disorders in our country that are affected by this. It is unfair to keep these people waiting, just like it was unfair to keep the flood victims waiting. Now we are being held up by what is clearly a political problem on the other side of the aisle.

We saw that this could not be the case in the environment, that we have to go forward in a bipartisan manner, so sometimes, as happens in the House, the Committee on Rules, which is provided for in the House rules, properly stepped in to restore order to the process.

Any Members who are offended by the rule must first look to their own decisions and actions over the past several days for an explanation of how we have gotten to this point. The House has work to do on the Nation's business and it is vital business. We are not going to let the deliberative process be derailed. The majority's responsibility is to proceed. Dilatory tactics are provided for in the procedures. We all know it. There are ways to trump dilatory tactics, and there are ways to expose dilatory tactics. Those are provided for as well.

I hope Members are going to support this rule. Regrettably, we had to come forward with it. But the majority is bringing forth this rule to exercise the overall priority responsibility we have not to become bogged down in nonsense by those who disagree with our politics or want to derail our responsible agenda.

Yes, there are casualties, yes, there are consequences for actions, and I would suggest that the gentlemen or the gentlewomen who are left out in the process go to those on the other side of the aisle who have caused us to take this step of restoring order to the rule in this case, because therein lies their problem.

PARLIAMENTARY INQUIRY

Ms. KAPTUR. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman may state her inquiry.

Ms. KAPTUR. When the gentleman from Washington [Mr. HASTINGS] made his opening statement, Mr. Speaker, he granted me the right to ask me a few questions. When he completed his remarks, he called on other Members. I wonder if he would be willing to answer the few questions that I have at this point. Would that be appropriate?

Mr. HASTINGS. Mr. Speaker, I would be more than happy——

The SPEAKER pro tempore. The gentleman will suspend. That is not a proper parliamentary inquiry. The gentlewoman certainly has the right to make inquiry if the gentleman would yield time when he is controlling time.

At this time, the gentleman from Ohio [Mr. HALL] is recognized.

Ms. KAPTUR. Mr. Speaker, could I ask unanimous consent that the gentleman be allowed to yield time to me or answer my questions at this point?

The SPEAKER pro tempore. The time is already controlled by both the majority and the minority. At this time the gentleman from Ohio [Mr. HALL] is recognized.

Ms. KAPTUR. Would the gentleman yield for a question?

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized.

Ms. KAPTUR. Mr. Speaker, I feel like I am being silenced, just as our amendments are being silenced here.

The SPEAKER pro tempore. The gentlewoman will suspend.

Ms. KAPTUR. Mr. Speaker, may I make a parliamentary inquiry?

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. KAPTUR] will suspend.

Ms. KAPTUR. May I make a parliamentary inquiry?

The SPEAKER pro tempore. The gentlewoman will suspend.

At this time, the gentleman from Ohio [Mr. HALL] is recognized. Following that, the gentleman from Washington [Mr. HASTINGS] will be recognized. He controls time for the majority. If the gentlewoman wishes to inquire of the gentleman from Washington [Mr. HASTINGS] when he is recognized, she may do so to see if he wishes to yield time.

With that having been said, if the gentlewoman has a legitimate parliamentary inquiry, she may state it at this time.

Ms. KAPTUR. Mr. Speaker, I want the opportunity to engage with the gentleman, and I will wait until after the gentleman from Ohio [Mr. HALL] makes his statement. Then I will ask for the opportunity for the gentleman to speak to answer my questions.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I rise in strong opposition to this unfair rule. As a member of the Committee on Rules, I am angry. The Committee on Rules passed this rule late last night with virtually no notice to the members of the Committee on Rules. In fact, I did not really know about it until this morning on my office answering machine, so I was not present, nor were the members of the committee of jurisdiction, the appropriators.

I want my colleagues to know that this is a truly extraordinary rule. Buried within it is language that limits the rights of the minority to move that the committee rise, so Members can no longer use that procedure to protest the majority's repeated failure to make in order key amendments on majority bills. I am willing to stand corrected, Mr. Speaker, but I recall no time as a majority member on the Committee on Rules when we made a rule that restricted the minority's right to procedural motions.

As the former minority leader, Robert Michel, once said, "Procedure has not simply become more important than substance; it has, through a strange alchemy, become the substance of our deliberations."

The Committee on Rules has fallen into a pattern that does not bode well for the future of the democratic process within this House. This Congress is supposed to operate under procedures that allow for full and fair debate of the legislation we consider, and that permit all sides to be heard. But instead, this committee has repeatedly refused to permit Members, not just Members but ranking members, to offer key amendments. While it may not be written in the rules that all ranking members may have amendments, it has certainly been a courtesy of this House.

This has happened in several instances in this Congress. The Committee on Rules refused to make in order an amendment to the defense authorization bill regarding the B-2 bombers that was presented by the ranking member, the gentleman from California [Mr. DELLUMS]. Indeed, they took off the name of the gentleman from California [Mr. DELLUMS] and stuck it onto another amendment, which he objected to strenuously. They relented later, as I pointed out, but they put his name on.

The gentlewoman from Ohio [Ms. KAPTUR] who is trying so hard to speak here today, the ranking member on the Committee on Appropriations, had an amendment to restore WIC funding which was taken away from her altogether and given to another Member of the House, but later reversed.

The gentleman from Illinois [Mr. YATES], an august Member of this House and a ranking member of the Subcommittee on the Interior, just recently was disallowed offering an amendment to the Interior appropriations bill, where he has served with distinction for a number of years, to restore the NEA funding. And just last week the Committee on Rules refused to make in order an amendment regarding international family planning to the foreign operations appropriations requested by the gentlewoman from California, Ms. NANCY PELOSI, the ranking member on the Subcommittee on Foreign Operations, Export Financing and Related Programs.

This is certainly more, Mr. Speaker, than a pattern. The majority's determination to subvert the right of the minority to offer these amendments is not a matter of procedural maneuvering, it is substantive. It is not merely discourteous, it is undemocratic.

I might add that the majority's actions are profoundly disrespectful to these ranking members, who have earned through their years of service in this institution the right to offer an amendment. But, in the middle of the night last night, the majority apparently decided that even cutting off the minority's ability to offer key amendments to legislation was not enough.

Now with this rule, not only are they limiting the amendments that we can offer, but our right to offer procedural motions on the floor is limited as well. In other words, not only can we not offer amendments that we need, but now we cannot even use the procedural motions to protest the procedures. We are effectively muzzled. I urge my colleagues in the strongest possible terms to defeat this rule.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama [Mr. CALLAHAN], chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, certainly I have all respect for the gentleman from Washington [Mr. HASTINGS] as well as the gentleman from Florida [Mr. GOSS], as well as all of the members of the Committee on Rules. Sometimes we get so caught up in personalities, and we get so caught up in passions, that we lose sight of where we are going.

I happen to agree with the minority. I think they should have had a different rule. I was there for most of the time during the Committee on Rules. I saw what transpired. I saw what transpired in the back when the Greenwood amendment was presented in a different fashion from the manner in which the gentlewoman from California wanted. So what? Big deal. It disappoints her. So why should she not, as the ranking member of this committee, who has worked in a bipartisan fashion to establish a bill that could be passed by this House, and this is a very difficult bill to handle under the best of circumstances. So I have no quarrel with the gentlemen, and I have no quarrel with them. I think she has a right to be heard on an issue that she is tremendously interested in.

Where are we at this point? We are at a stalemate. Now they are disappointed. They think that they should have the right to be heard. Incidentally, Mr. Speaker, we are talking about 10 minutes. We are not talking about a 3-day debate. She wanted the opportunity to present her amendment and she wanted 10 minutes to talk about it. So, big deal? We have wasted 10 hours because of the controversy.

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I have no fault with the Committee on Rules. I do not care when you bring my bill up. There is not a single person in Alabama that is going to lose a single night's sleep if we do not pass the foreign aid bill. So I do not care whether we pass one or not.

The administration has sent me a request and they have said, SONNY, why do you not give us about, they wanted $16 billion, and I crafted a bill and convinced the Democrats that we are not going to give them $16 billion. We are only going to give them $12 billion. We are going to cut last year's appropriation. We are going to be below the budget allocation. We are going to be $4 billion below the President's request. And lo and behold, I think that is a pretty good day's work. The people of Alabama would like that.

So now we are involved in a controversy that I have no jurisdiction over. I sit on the floor sometimes and I listen to the chairmen of the authorizing committees chastising the Committee on Appropriations. What is wrong with you idiots, they say. How in the world can you possibly put authorization language in your bill. Maybe they are right. We ought not be doing that.

So I tried to comply with those requests. And now here I am, faced with the proposition where the chairman of the authorizing committee is insisting that I pass authorization language. I do not want to pass authorization language. I am not an authorizer. I am an appropriator. I think we should be debating the appropriation bill.

There is nothing wrong with this ag bill. I do not know of too many Members in the House that are disappointed with the ag bill. I think it is going to pass by a pretty good vote. Why do we not bring it up and pass it? If there is that much controversy on my bill, why do we not just bring up my bill without a rule? I do not care whether I have a rule or not.

I respect what you all are doing, respect why you are doing it, but I really do not care. If you do not want to bring my bill up until September, I do not care either. I will go home and tell the people from Alabama that I have not given foreign aid any money. They are not going to throw me out of Congress for that, I will assure you. But we must work in a harmonious situation in order to resolve this dilemma that we are in.

I would suggest that rather than go through all of these dilatory tactics, rather than cause further disharmony between the two parties here in the House, that we bring up the appropriations bills, that we have general debate. There is no problem on the rule or no problem with anybody in the House that I know of on general debate.

We give every Member the opportunity to stand and talk about the bill. And when we get done with general debate we rise. What is wrong with that? I do not know anything wrong with it. I think it certainly would be a response and a favorable response from the minority side if we would do that. It would be a step in the direction of trying to create some harmony in the House.

But once again, I am a team player. I am a Republican. I am in the majority now. You all have to remember that. You have to understand that. I am going to go along with my leaders on this side.

But I am just here to say to my leaders on this side that I think there might be a smoother way to do this. If we work out a solution to this, if we can just delay all of the controversial part of the foreign operations bill, then that is the way we ought to proceed.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me just say to my good friend, you are talking about an issue that is controversial and it is very, very important before this body. It is a question of the pro-life position and the prochoice position. It is extremely important to those that carry strong feelings about it on either side. You have those on your side that feel the same.

Now, when it comes to my good friend the gentlewoman from California [Ms. PELOSI], when she came before our committee, see if I can recall exactly what she said, and I would then ask her to go upstairs, if she would care to, and examine the record, but I recall her saying specifically, If, however, the Rules Committee chooses to make legislative amendments in order, I would request that I would be allowed or someone would be allowed, listen to that now, I would be allowed or someone would be allowed to offer a perfecting amendment to the Smith amendment, in particular, again, if Mr. Smith's amendment imposes the Mexico City language.

I recall saying to her specifically, The question of abortion, however, will have to be dealt with. If it is dealt with, if CHRIS SMITH, if he has an amendment that is made in order, certainly there will be an amendment for the alternative viewpoint made in order as well.

The gentlewoman from California [Ms. PELOSI] I recall saying, Thank you, Mr. Chairman.

That is what happened.

Now, we did exactly as we were requested, trying to be as fair as we could to both sides. I have attempted to do that at all times in the Committee on Rules.

Mr. CALLAHAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. No, I will not yield right now.

Then the question arises, I happen to be over in my office for the first time all week trying to sign some mail and take care of some constituent business and I hear my good friend, the gentleman from Wisconsin [Mr. OBEY] saying this is the first time ever that the ranking members have ever been denied the ability to offer an amendment.

Well, I have had staff go back halfway through the 103d Congress, during 1993, 1994, and 1995. On the Campaign Finance Reform Act, no ranking Republican was allowed to offer his substitute. On the National Voter Registration Act, no ranking Republican, the gentleman from California [Mr. THOMAS], was allowed to offer his substitute. On the Independent Counsel Reauthorization Act, Mr. Fish, ranking member, was not allowed. And it goes on and on and on.

Mrs. LOWEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. No, I will not yield until I am through, and then the gentlewoman can get some time and I will be glad to respond.

We have made a vow in the Committee on Rules for the last 3 years that we will be at all times more fair to the minority than we were ever treated when we were in the minority. I sat there for 10 years suffering under that kind of arrogance and, believe me, nobody feels more for the minority than I do.

I am going to insist that when we have amendments filed with the Committee on Rules that we are going to make in order Republican amendments and we are going to make in order Democrat amendments and try and be as fair as we can. That is my job, even though I am criticized by some in my own party and some in your party for doing that because they want the rules closed down on both sides of the aisle. We are going to try to keep them as open and fair as we possibly can.

I would say to the gentleman, he has a right to stand up here and defend the Committee on Appropriations. But the gentleman knows that this issue on abortion cuts both ways. It is terribly important. I will assure the gentleman it is going to be dealt with in this piece of legislation or this piece of legislation is never going to see the light of day. The gentleman can count on it.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I just would like to respond briefly to my good friend and colleague from New York [Mr. SOLOMON], just following up on what the distinguished chairman of our committee has said, rather than go backward, Mr. Speaker, rather than talk about what happened and what did not happen, I think what our distinguished chairman, the gentleman from Alabama [Mr. CALLAHAN] wants to do is move forward. Our bill is ready. The appropriation bill is ready to go on the floor.

The discussions and the differences of opinion have to do with authorizing language. Our distinguished chairman is just saying, we have a bipartisan solution. Let us move it. Let us make that determination now and let us do it. Otherwise, if we do not resolve this now, we are going to be having great differences of opinion for the next week and not get our business done.

I would just respectfully suggest and request of the chairman that either we bring this bill to the floor without a rule or that the leadership has the responsibility to put a rule together.

I would say to my distinguished friend, the gentleman from Florida [Mr. GOSS], the issue is not the agriculture bill. The issue is that the Republican leadership can put together a rule in a bipartisan way to move the foreign operations bill forward.

Mr. HASTINGS of Washington. Mr. Speaker, may I inquire of the Chair how much time remains on both sides?

The SPEAKER pro tempore (Mr. ROGAN). The gentleman from Washington [Mr. HASTINGS] has 6½ minutes remaining, and the gentleman from Ohio [Mr. HALL] has 16½ minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I think it is interesting, anybody that has ever taken their first drag off a cigarette knows they can make you gag, but I never thought that the power of that cigarette would force the entire Committee on Rules to gag the House of Representatives.

It is not just tobacco that is being gagged here today. It is also the tactics that we have seen in just the last 20 minutes or so. We heard a very reasonable presentation by the gentleman from Alabama on what it seems to me is a fair and evenhanded way of handling the kind of disputes that we are elected to have out here on the floor of the House of Representatives.

There is an issue pertaining to abortion. Have it out on the House floor. Let Members talk about what is dividing them. Let us come together and vote on those issues but not have the rules of the House of Representatives turned into mush up in some back room and take away the intent of the individuals that offer amendments.

All this comes down to is not all the yakking that we are hearing on the floor of the House of Representatives. What it comes down to is the fact that the gentlewoman from California [Ms. PELOSI] had an amendment that was changed in the Committee on Rules and was told to her was the same amendment that she had initially offered. That is all that this comes down to.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY of Massachusetts. No, I will not yield.

I want to come back to what I came down on the House floor to discuss, which is the fact that we have got courageous Members of Congress like the gentleman from Massachusetts [Mr. MEEHAN] and the gentlewoman from New York [Mrs. LOWEY] who have come out here on this ag bill to try to shut down the tobacco lobby once and for all, to try to deal with the fact that there are 3,000 kids that are going to be addicted to smoking today because we are unable to defeat the tobacco lobby. We are not even able to have a discussion about the power of the tobacco lobby here in the Congress of the United States because if we did so, maybe that would be exposed and maybe we would actually take action to stop smoking in this country, at least stop subsidizing those individuals that are making money off of this product which is killing so many of our children.

It is time that we had an open debate, that we shut down smoking. Stand up for the Members that have the courage to shut down smoking in America.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I would just like to say on the record what happened in the Committee on Rules with the gentlewoman from California [Ms. PELOSI] since she is not here to speak for herself. The gentlewoman from California [Ms. PELOSI] did come to the Committee on Rules and say, if the Smith amendment was made in order she would like another amendment made in order. She did not have one of her own. I want to be clear on that. She did not offer an amendment.

However, the gentlewoman from California [Ms. PELOSI] believed that the amendment that would be offered was one put in by the gentleman from Pennsylvania [Mr. GREENWOOD]. The Greenwood amendment was then changed and another amendment was written by the gentleman from California [Mr. CAMPBELL] and I believe the gentleman from New York [Mr. GILMAN] and the gentleman from Illinois [Mr. HYDE], after the gentlewoman from California [Ms. PELOSI] had left the room.

Recognizing that this was not the amendment the gentlewoman from California [Ms. PELOSI] was talking about, I then requested that the gentlewoman from California [Ms. PELOSI] be allowed to put forth the Greenwood amendment as the ranking member and that was denied.

So I want to have the record perfectly straight on what happened in the Committee on Rules that evening.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding me the time.

I just want to say something, because I have served in this House for 15 years. I say to the gentleman from Washington [Mr. HASTINGS], I never would have done to you what you just did to me. You said to me that you would yield me time and then you did not do it, as a representative of your committee. It made me extremely angry that you said it to me twice. It is right in that record.

I am the ranking member on this committee. I have to say no to our Democrats that cannot bring amendments up because of the rule that you have filed. I have to say no to the gentlewoman from Oregon [Ms. FURSE]. I have to say no to the gentleman from Maryland [Mr. WYNN]. I have to say no to the gentleman from Ohio [Mr. HALL]. I have to say no to Members who are not going to be allowed to bring their amendments to the floor.

I have a responsibility to the Members on my side just like you have a responsibility to the Members on your side. And I am very angry. I am glad the gentleman from New York [Mr. SOLOMON] is here on the floor because I do not think you are calling the shots here. I think they are being called above your pay grade in this House by the leadership. And when I, as a ranking member, was denied the right to offer my WIC amendment and it was given to the gentleman from California [Mr. RIGGS] on your side of the aisle, he is not even on our committee, and I have the experience, I thought, well maybe I am a woman, they kind of ignored me. Then you did it to the gentleman from Illinois [Mr. YATES] ranking member on the Subcommittee on Interior and now it is being done to the gentlewoman from California [Ms. PELOSI], ranking member on the Subcommittee on Foreign Operations, Export Financing and Related Programs.

□ 1815

So it is a pattern. I can recognize a pattern. And I am embarrassed for the other side of the aisle as a party that they will not allow us to conduct decent debate on this floor. So I stand here today being sorry for them.

I have never said this, maybe three times on the floor in my 15 years have I really felt outraged, and I am sorry that I have to say this to the gentleman in public, but my feelings are hurt. I would never have done to the gentleman what he has just done to me. And it is in that RECORD.

So I want to say to my good friend the gentleman from Illinois [Mr. YATES] and to my good friend the gentlewoman from California [Ms. PELOSI] and now to myself, we are all in the same boat. I do not know whether it is the Speaker, [Mr. GINGRICH], I do not know if it is the gentleman from Texas [Mr. ARMEY], I do not know who is doing this, but we have always brought the Agriculture bill to the floor in a bipartisan way. We have agreed. It has been usually under an open rule. We have had a good debate.

Mr. HASTINGS of Washington. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I would say to the gentleman that nobody yielded to me; I refuse to yield to him, and that is the problem with the way things are operating in this House today.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 30 seconds, and I would like to respond to my friend from Ohio.

The gentlewoman asked me very respectfully if she had some questions, if I would respond, and I said, and I remember saying this because I did not want to use my time, that if she wanted to ask me a question on her time I would be more than happy to respond if my remarks, if my remarks regarding the rule did not answer all her questions.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, I rise in opposition to this rule. I have an amendment that is a very important amendment, very important not only to this House but very important to young people all across America. It is a bipartisan amendment that gives the FDA the resources it needs to effectively inform retailers of what they need to be doing; namely, carding potential consumers of tobacco.

Now, I had 24 Members who were ready, willing, and able to come up and speak on this particular amendment. And after this rule came out of the committee at 11:30 last night, I only get 5 minutes to try to discuss this very, very important and critical amendment.

We are at a critical and historic juncture in this country on tobacco. At the Federal level we have a unique opportunity to protect our children from nicotine addiction and tobacco-related disease. There is no better time to act than now.

Attorneys general from all across America have been negotiating for months an effort to try to give the FDA the regulation and the teeth they need in order to protect America's children. All across America there has been a dialog in the health care community about the effects of tobacco on children, and here we are with the unique opportunity to fund the FDA, to help them protect America's children, and we do not want to debate. We give 5 minutes to an issue of critical importance.

This particular rule is an outrage. No Member in good conscience should vote for this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to this rule which unfairly curtails debate in the House of Representatives.

I have worked hard on the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies and at the full Committee on Appropriations to make a strong case for strong measures to curb smoking amongst our children. This is about saving lives. That is what the Meehan amendment is all about.

I am disturbed that we are not going to be able to have a full and open debate about this issue in the people's House. The American people deserve to have a debate on the Meehan amendment, a debate about whether or not to back efforts to prevent our kids from using tobacco or, in fact, to provide more money and more commissions to crop insurance agents that is needed.

This is wrong. Our current system clearly is not working to keep cigarettes and chewing tobacco out of the hands of children. Selling tobacco products to minors is illegal in 50 States. Nonetheless, 13 studies showed that children can buy tobacco 67 percent of the time in this country. Three thousand young people under the age of 18 will begin to smoke each day; a third of them will die. They will join the ranks of the 400,000 people who die each year from tobacco related illnesses.

Passing the Meehan amendment, fully funding the anti-tobacco program outlined by the FDA, will ensure that the FDA can enforce laws against tobacco sales to minors, also to conduct the needed outreach and education efforts. This has got to be a priority for all of us.

I urge my colleagues to adopt the Meehan amendment, let us provide the $34 million to prevent young people from starting to smoke.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this closed rule which would severely restrict debate on several very important and complex issues.

I will be offering an amendment shortly to eliminate federally subsidized crop insurance for tobacco. It makes no sense that we spend almost $200 million each year on programs designed to prevent the terrible health effects of smoking and then we turn around and spend millions of dollars more to encourage the growth of tobacco. My amendment will simply make our tobacco policy more consistent.

Now, whether Members support my amendment or oppose it, this rule denies all of us the right to debate the issue fully.

I will be the first to admit that some of my very good colleagues on both sides of the aisle disagree with me on the issue of tobacco subsidies, and many more of my colleagues agree with me. All of us deserve to be heard on this matter, but few of us will have that opportunity.

Last year we spent more than 7 hours having a thorough debate on these issues. This year we will spend a fraction of that. There are new amendments, new facts, new Members that deserve much more than this rule gives them. I have a list of more than 25 Members that want to speak on this amendment.

Mr. Speaker, I urge all of my colleagues, no matter whether they support or oppose the amendments, to oppose this restrictive rule. These issues deserve to be heard and to get a full hearing.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I rise in opposition to this unfair rule. Before stating my reason for that let me just commend, first, the chairman, the gentleman from New Mexico [Mr. SKEEN], because this action is not a part of his doing. He has been fair and open and cooperative, and certainly he has been a friend to the farmer.

I also want to recommend and commend not only the dignity but the depth of our subcommittee's ranking minority member, the gentlewoman from Ohio [Ms. KAPTUR], for her persistence and her independence in standing up to unfairness.

Now, there are differences on the amendment that the gentlewoman from New York [Ms. LOWEY] will put, but I still think we need more time for this. Some of us know that when these amendments are considered, 15 minutes is not sufficient time to hear the pros or the cons.

I happen to believe it is unfair, unfair to take the great decision about whether children should smoke or whether that is a public policy, and address it to the American farmer. That is a cheap shot. The other side may feel good about that, but that is not the way to do public policy. We are really making the most vulnerable people in the society responsible for all the acts we should hold others responsible for.

That amendment will have nothing to do about keeping kids from smoking. It will have absolutely nothing to do about morality or mortality. The death of those 400,000 people should be addressed, but keeping insurance from small tobacco farmers simply means we remove the opportunity for them to make a decent living.

If we want to make it illegal for them to smoke, that is a different question, but my colleagues I cannot let our consciences go unchallenged. We are doing nothing to keep children from smoking. We will do nothing to end the great mortality that is caused by smoking.

So if we are to have this discussion, hopefully we will be fair. The question should be about fairness and access to opportunity.

PARLIAMENTARY INQUIRY

Mr. HEFNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. ROGAN). The gentleman may state his parliamentary inquiry.

Mr. HEFNER. Mr. Speaker, is a motion to adjourn in order at this time?

The SPEAKER pro tempore. No, there has already been one motion pending the rule.

Mr. HEFNER. Was that in this rule that we are considering now, Mr. Speaker?

The SPEAKER pro tempore. That is correct.

Mr. HEFNER. But this rule we are considering now is not passed yet.

The SPEAKER pro tempore. There was previously a motion to adjourn once this rule was brought up, so a motion to adjourn at this time is not in order.

Under clause 4 of rule XI, there may only be one motion to adjourn during the pendency of a rule. There was previously a motion made to adjourn. That motion was defeated. So a motion at this time would not be in order.

Mr. HEFNER. I thank the Chair.

Mr. HALL of Ohio. Mr. Speaker, how much time is remaining on each side?

The CHAIRMAN. The gentleman from Ohio [Mr. HALL] has 5 minutes remaining and the gentleman from Washington [Mr. HASTINGS] has 6 minutes remaining.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I rise in strong opposition to this unfair gag rule.

This rule was written in the middle of the night, midway through debate on this bill, and it blocks me and others from offering amendments that the Subcommittee of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations had known about for over a week.

The amendment I planned to offer would have saved the American taxpayer over $11 million. It would have reduced a sweetheart deal with the Western livestock industry and the animal damage control program. We were told originally that no preprinting of the amendment was required, yet this rule, which happened last night, has barred any amendment that was not preprinted on Monday or earlier. That is great. It means that as of last night at midnight, when Members first heard of this rule, they were already too late to comply with the rule.

The argument for this gag rule is that Members are merely being obstructionist in offering frivolous amendments. Let me tell my colleagues that the American people do not think it is frivolous to save $11.3 million, their dollars. What is more, it is no secret that I intended to offer this amendment. I had sent out four "dear colleagues" including one bipartisan letter signed by six Members.

The Committee on Rules has chosen to gag me and other Members. I say to my colleagues, if they do not like my amendment, so be it, they are free to vote against it. But under this rule they will not be given the opportunity, the opportunity to save the American taxpayer $11.3 million. Maybe they would have liked that opportunity.

And I say to my colleagues, if they want to vote "yes" for democracy, vote "no" for this unjust rule.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, for the 17 years that I have been a Member of Congress, abortion advocates have often let the Republican abortion advocates offer proabortion amendments. It has played well with the press, it is contrarient, 80 percent of our caucus is pro-life, and the gentleman from Pennsylvania [Mr. GREENWOOD], the gentleman from California [Mr. CAMPBELL] and the gentleman from New York [Mr. GILMAN] certainly have pro-abortion credentials. They were among 7 members of our caucus who voted against the partial-birth abortion ban.

Let me just make it very clear that when the gentlewoman from California [Ms. PELOSI] appeared before the Committee on Rules, and I listened intently to every word she said, she said that either she or someone else would be allowed to offer a perfecting amendment. That someone else is the so-called prochoice Republicans.

Their perfecting amendment, let it be very clear, absolutely guts the Smith-Hyde-Oberstar-Barcia amendment. It is a totally gutting amendment. So they get their opportunity, which makes me wonder about this whole proceeding that we are watching.

I also wanted to make the point that the gentleman from Alabama [Mr. CALLAHAN] said he does not want to deal with legislative policy language on an appropriations bill. Then do not authorize the appropriation itself. At some point there will have to be a waiver. Let there be no waiver; let the authorizing committees do both, the funding and the policy.

☐ 1830

The SPEAKER pro tempore [Mr. ROGAN]. Does the gentleman from Washington [Mr. HASTINGS] seek recognition at this time?

The gentleman reserves his time to close.

Mr. HALL of Ohio. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] has 3 minutes.

Mr. HALL of Ohio. I wanted to inquire of the gentleman from Washington [Mr. HASTINGS], there was a possibility of a change in the rule of an amendment that could be offered to the rule; and actually, that is what I have been kind of waiting for, to see if they are willing to make the change. Because I am willing to speak to the amendment and, at least from my portion, to accept on this particular amendment a change in the rule. It is very necessary. But I am waiting for them to make the motion.

Mr. HASTINGS of Washington. Mr. Speaker, we are waiting for this to be drafted. Does the gentleman have some time that maybe perhaps he would like to yield.

Mr. HALL of Ohio. Mr. Speaker, I would be glad to explain it. I yield myself such time as I may consume.

The problem with the rule and the situation that we have today, when we had the rule on the floor, originally the Agriculture appropriations bill, the gentleman from California [Mr. COX] had an amendment, and I had a perfecting amendment to his amendment. His amendment, I felt, went way too far, because what would happen is it would cut off all humanitarian aid to North Korea.

I amended that, with his support, saying that no food aid, no humanitarian aid should go to the government or to the military of North Korea but do not deny, do not deny humanitarian aid to the people, the innocent people. These are always the people that get the short end of the stick.

So, as a result of that, as a result of passing this modified closed rule, I am prohibited from offering a perfecting amendment to the amendment of the gentleman from California [Mr. COX]. Therefore, what we will have is an amendment that really does injustice and great harm to a lot of innocent people that are now facing famine. And this is the problem with the rule that we now have before us.

So what is needed is a change in the rule. It is my understanding that the gentleman from New York [Mr. SOLOMON] or the gentleman from Washington [Mr. HASTINGS] was going to offer a change in the rule that they could offer an amendment to change the rule to accept a compromise amendment from Cox-Hall, which would be acceptable to me. That is about the best explanation I can give.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say to the gentleman, he has explained exactly what we would like. We would just as soon do it by unanimous consent.

Also, the gentleman from Wisconsin [Mr. OBEY] had mentioned to me that there was a possibility of a Wynn compromise as well, and I believe that they would be willing to accept that over here, too, either with a unanimous consent request. So I just offer that to the gentleman in the spirit of comity and trying to cooperate.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, for Members that are not privy to what my colleagues are doing, that are not familiar with the Committee on Rules, what have you, is there any way that the membership watching in their offices, or wherever, might know what these amendments are going to be, what they are going to say that you are going to amend here on floor?

I have never seen this happen before, a rule amended on the floor. Could we know what is in the Cox amendment and the one so-called Wynn amendment. I do not know what they are.

Mr. HALL of Ohio. Mr. Speaker, do we have any time remaining?

The SPEAKER pro tempore. The gentleman from Ohio has 15 seconds remaining.

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent to be able to speak for 5 additional minutes on this. Can I do that?

The SPEAKER pro tempore. It would be appropriate for the gentleman to ask for both sides to have an additional 5 minutes.

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent that both sides have an additional 5 minutes.

The SPEAKER pro tempore. Does the gentleman from Washington yield for that purpose?

Mr. HASTINGS of Washington. Mr. Speaker, I yield to the gentleman from Ohio.

The SPEAKER pro tempore. Without objection, the gentleman from Washington [Mr. HASTINGS] and the gentleman from Ohio [Mr. HALL] each will be recognized for an additional 5 minutes.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I am glad to yield to the gentleman from North Carolina.

PARLIAMENTARY INQUIRY

Mr. HEFNER. Mr. Speaker, I would like to know, I have not heard what is in these amendments. This is like we are marking a bill here and somebody has offered an amendment nobody has seen. It has not been printed. I would just like to know what it entails. I am pretty sure that a lot of Members that are watching would like to know what we are doing here.

Mr. HALL of Ohio. There is an amendment that has been printed in the RECORD by the gentleman from California [Mr. COX]. That is, there is an amendment and it is amended by myself. I believe the amendment is with the Clerk at this particular time. I have explained the amendment.

What it has to do with is cutting off humanitarian aid to North Korea. That has already been printed in the RECORD Except for aid going to the military. There will be no humanitarian aid going to the military of North Korea, but humanitarian aid will not be cut off to the other people.

All I am trying to do is get that amendment in order so that we will have a chance once the bill comes up to debate it.

Mr. HEFNER. I do not know if I want to make a parliamentary inquiry or if we need more than 5 minutes here. Because if we are going to correct this rule and allow amendments that are not in the rule, why do we not have several amendments here that allow some of these and clear up some of the things the gentleman from Alabama [Mr. CALLAHAN] was talking about where we can go ahead with all of this and get it over with and not waste a lot of time here.

It seems to me we are amending a rule here and nobody knows what we are doing. I do not know what is in the amendment. Was not the amendment that the gentleman wanted to offer, was it not made in order by the rule and we are correcting that now? Is that what we are doing? Was Mr. Cox not in order?

Mr. COX of California. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from California.

Mr. COX of California. My amendment is in order under the rule.

Mr. HEFNER. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. HEFNER. The gentleman's amendment is not in order.

The SPEAKER pro tempore. The gentleman will please suspend.

The Chair reminds all Members that the gentleman from Ohio [Mr. HALL] controls time. Does the gentleman from Ohio wish to yield to the gentleman from California?

Mr. HALL of Ohio. I am glad to yield to the gentleman from California [Mr. COX].

Mr. COX of California. I thank the gentleman for yielding just to clarify a point that I think my colleague has already made, and that is that the Cox amendment is made in order by this rule unamended, but that the minority and the concerns especially represented by the gentleman from Ohio [Mr. HALL] have offered a way to improve that that the author of the amendment accepts.

And so, out of deference to the minority, I would be happy, on the grounds that it would improve the amendment that is already made in order by the rule, based on suggestions from the other side, to accept a unanimous consent request to make that improved amendment in order. If that unanimous consent request is not accepted, then I would just go ahead and offer my amendment as permitted by the rule, which, to my understanding, is less acceptable to the minority.

Mr. HEFNER. This amendment is not in order until this rule passes.

The SPEAKER pro tempore. The Chair again reminds all Members that the gentleman from Ohio [Mr. HALL] controls the time.

Mr. HALL of Ohio. I would say to the gentleman from North Carolina [Mr. HEFNER] the Cox amendment is in order. My amendment to his is not in order. The only way for my perfecting amendment to make his amendment acceptable to most of us on this side is for them to change the rule.

This is a very awkward situation. It is terribly awkward. Because what we are doing is amending the rule on the floor of the House, and the problem is if we do not amend the rule at this particular time, what my concern is is that with Mr. COX's original amendment, which is in order, cuts off all aid to North Korea, and that goes against everything that this country is all about. With Ethiopia, Angola, we never cut off humanitarian aid to innocent people. We cut off aid to the military.

So that is what our compromising amendment does. Both sides are caught in a very awkward situation. And if we do not pass this amendment, what could happen is a very odious thing, a lot of innocent people will lose out on medicines and foods.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from North Carolina.

Mr. HEFNER. Well, if you can do that with the Cox amendment, why can you not amend it to allow these other Members to offer their amendment? It does not make any sense to me. It seems that this is something that you can do, you can tie that to the Cox amendment. I just do not understand the procedure.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. HALL] has expired.

PARLIAMENTARY INQUIRIES

Mr. OBEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. OBEY. Mr. Speaker, it is my understanding that there is an effort being made or that there is an intention on the part of the chairman of the Committee on Rules to offer an amendment to the rule accommodating the amendment that the gentleman from Ohio was seeking and that there will be a rollcall on that issue followed by an effort on the part of the chairman of the committee to offer a unanimous consent request to allow the Wynn amendment to be made in order.

Could I ask, what is the proper method by which the gentleman can explain that to the House so Members know what they are voting on and we might be permitted to ask a couple questions of him about that?

The SPEAKER pro tempore. There is still debate time remaining with the gentleman from Washington [Mr. HASTINGS]. However, there is no amendment to the rule pending before the House at this time. The Chair is not privy of any negotiations between the Members and the parties.

Ms. FURSE. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Oregon will state her inquiry.

Ms. FURSE. Would the Chair tell me how I might go about getting a unanimous consent request so that I too could have my amendment made possible?

The SPEAKER pro tempore. The manager of the rule must yield for a unanimous consent.

The gentleman from Washington [Mr. HASTINGS] is recognized.

AMENDMENT OFFERED BY MR. HASTINGS OF WASHINGTON

Mr. HASTINGS of Washington. Mr. Speaker, I hope we can have closure on this. Mr. Speaker, I offer an amendment, which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. HASTINGS of Washington:

Page 2, line 17, strike "and" and all that follows through "1997" on line 19, and insert in lieu thereof: "the amendment by Representative OBEY of Wisconsin pending when the Committee of the Whole rose on July 22, 1997, and one amendment by Representative COX of California regarding assistance to the Democratic People's Republic of Korea".

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

This amendment cosponsored by the gentleman from California [Mr. COX] and the gentleman from Ohio [Mr. HALL] is intended to be a substitute for the Cox amendment published in the CONGRESSIONAL RECORD on July 15, 1997. It is a compromise fashioned by the gentleman from California [Mr. COX] and the gentleman from Ohio [Mr. HALL] to address the critical issue of food aid delivery for North Korea.

I stress that it is a bipartisan amendment, and I urge its adoption.

Mr. OBEY. Mr. Speaker, will the gentleman yield for a question?

Mr. HASTINGS of Washington. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I ask that question so that the Members might understand what is about to transpire.

Is it correct that the gentleman is offering this amendment, that this amendment will be subjected to a rollcall vote, and that after the vote on that amendment, the gentleman from New York, or the bill manager, I am not sure which, will then offer a unanimous-consent request to also place in order the Wynn amendment? Could I ask if that is the understanding of the gentleman from New York? I do not know if there is general concurrence in that or not.

Mr. HASTINGS of Washington. Mr. Speaker, I would just say to the gentleman that those negotiations are going on as we speak.

Mr. Speaker, if I may, to indulge the gentleman, since we have time, I yield 3 minutes to my friend, the gentleman from Colorado [Mr. McINNIS]. And maybe at the end of that time, we can have closure on this.

□ 1845

Mr. McINNIS. Mr. Speaker, there are a few things that I think we should clarify. I am glad to see that the floor has settled down. It seems that both sides here are attempting to negotiate. But I do think it is important to discuss what the function is of the Committee on Rules. The primary function of the Committee on Rules is to manage bills on the House floor.

In doing that, of course we did have a Committee on Rules when the Republicans were in the minority, and that was run by the Democratic Party. In fact, during that period of time when the minority, which was the Republicans, had a motion to recommit, they were not allowed at times to offer that motion to recommit with instructions. We changed that. The Republicans changed that because we wanted to see more fairness on the floor, more openness on the floor.

When we took office, what we did is we always guaranteed the minority a motion to recommit with instructions. What does that mean? That means that the minority has the right to be heard. Under the type of governmental system that we have in this country, the majority has the right to rule, but the minority has a right to be heard, and that is exactly what that motion to recommit does.

We have heard from a couple of people, frankly from the State of Massachusetts, who complained about the fact that the tobacco amendment was not going to be heard. In fact, it is going to be heard. It has got as much time or more time than any other amendment that is going to be on there. But the fact is that both of these gentlemen on a continuous basis talked about how important it is that we immediately hear the tobacco amendment, that we not be evasive, that we put this to the forefront, and then they continue to vote for motions to adjourn.

The reason we went to the Committee on Rules last night is because we in good faith, the Committee on Rules, determined not to put a rule onto this bill, go ahead, put the bill out on the floor and let it run its course. Well, what happened is we ran into delay tactic after delay tactic. I hope now that these negotiations calm the floor down, allow us to pass this rule and allow us to get on with the business of the House, which is the business of the people that we represent. This time that we are wasting is precious time that we cannot recover.

We have a lot of major issues, including the tax cut that is sitting out there, the children's tax credit, the education tax credit, the capital gains reduction, the death tax exemption, raising up the exemption. Instead of addressing issues like that, we see people up here continuing to delay and delay. I do not know how many motions we have had to adjourn or motions to rise, which of course takes a half-hour to an hour each time that is made and a vote is requested upon it.

It is important for us to remember that when that Committee on Rules met last night, it was not because it was a regularly scheduled Committee on Rules. It is because we were forced by a few individuals who wanted to do delay, delay, delay, and that is why we met, to bring some order to the floor. This Committee on Rules meeting was not held in the middle of the night, not at all. It obviously was an open meeting. The minority had their chairman up there. In fact, we sat in our chairs up there waiting for 30 or 40 minutes for the printing process to be done. So last night when our committee met, it was forced to meet.

I used to be a police officer. I would see somebody speeding. Most of the time if the speeding was not egregious, I would give a warning. Time after time after you give somebody a warning, at some point you have got to do something. In this case, you give them a ticket, and then the person that gets the ticket is complaining.

Here is what has happened in the last few days. We have warned and warned this body. The Committee on Rules has determined that the business of this House must move forward. The American people are demanding we do something, quickly, on this tax cut. We need to move on these appropriations bills. It is important for the lives of the people that we represent. And if some Members out there continue to stall and stall and stall, we will have to adjourn, we will have to go upstairs to the Committee on Rules, have an open committee hearing where the minority is represented as well as the majority, put out a rule which manages this bill, and that is exactly what happened. It is not unfair. It is certainly not unnecessary. It became necessary as the result, frankly, of abuses that we observed here on the floor.

Now, that meeting, and I want to stress this because it came up several times. I heard that somebody called it the mesh meeting. Somebody called it in a dark room in the Capitol. Somebody said it was unannounced. One member of the committee itself said, we wondered why they were not there, they said they did not get notice. They sure did get notice. Everybody on the Committee on Rules got notice. It is necessary.

Again, I want to soften my comments by saying that the comity that we are now seeing on the floor, frankly it is about time. The Republicans feel it is very important for us to move forward with this business. The Republicans feel very strongly about this tax cut that we want to deliver to the American people. In order for us to deliver a tax cut to put money back into the taxpayers' pocket, we need to get on with the House's business. I urge my colleagues to support the rule.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment.

The SPEAKER pro tempore (Mr. ROGAN). The question is on ordering the previous question on the amendment.

Does the gentleman also move the previous question on the resolution?

Mr. HASTINGS. No; just on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 160, not voting 5, as follows:

[Roll No. 305]

YEAS—269

Aderholt
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (VA)
Deal
DeGette
Delahunt
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foglietta
Foley
Forbes
Ford

Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Markey
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Velázquez
Vento
Walsh
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (FL)

NAYS—160

Abercrombie
Ackerman
Allen
Andrews
Baesler
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Danner
Davis (IL)
DeFazio
DeLauro
Deutsch
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Jefferson
John
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Neal
Oberstar
Obey
Olver
Owens
Pascrell
Payne
Pelosi
Peterson (MN)
Pickett
Poshard
Price (NC)
Rangel
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Stabenow
Stenholm
Stokes
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Visclosky
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—5

Barton
Pallone
Schiff
Stark
Young (AK)

□ 1914

Messrs. COYNE, BLUMENAUER, and DAVIS of Illinois changed their vote from "aye" to "no."

Messrs. RILEY, DELLUMS, FRANK of Massachusetts, and VENTO, Ms. JACKSON-LEE of Texas, Messrs. BOSWELL, FORD, CUMMINGS, KANJORSKI, SMITH of Texas, DELAHUNT, DICKS, HOYER, Mr. JACKSON of Illinois, and Ms. RIVERS changed their vote from "no" to "aye."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MODIFICATION TO THE AMENDMENT OFFERED BY MR. HASTINGS OF WASHINGTON

Mr. HASTINGS of Washington. Mr. Speaker, I ask unanimous consent that the amendment on which the previous question has just been ordered be modified in the form that I have placed at the desk and be considered adopted.

The SPEAKER pro tempore (Mr. ROGAN). The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as Modified, Offered by Mr. HASTINGS of Washington: Page 2, line 17, strike "and" and all that follows through "1997" on line 19, and insert in lieu thereof: "the amendment by Representative Obey of Wisconsin pending when the Committee of the Whole rose on July 22, 1997, one amendment by Representative Cox of California regarding assistance to the Democratic People's Republic of Korea, and the amendment printed in the Congressional Record and numbered 35 pursuant to clause 6 of rule XXIII".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution, as amended.

There was no objection.

The SPEAKER pro tempore. The question is the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 202, not voting 6, as follows:

[Roll No. 306]

AYES—226

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOES—202

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer

Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Barton
Pallone
Porter
Schiff
Stark
Young (AK)

☐ 1934

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2203, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–198) on the resolution (H. Res. 194) providing for consideration of the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 196) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 196

Resolved, That the following Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Banking and Financial Services: Mr. Redmond.

Committee on National Security: Mr. Redmond.

Committee on Small Business: Mr. Pitts.

Committee on Veterans' Affairs: Mr. Redmond.

The resolution was agreed to.

A motion to reconsider was laid on the table.

URGING MEMBERS TO VOTE AGAINST THE RULE ON THE AGRICULTURE APPROPRIATIONS BILL

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I rise as the ranking member on the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations, which means I am the lead Democrat, and to protest the action of the Committee on Rules last night in putting a tourniquet on the debate that was to have occurred on our bill.

Yesterday we had that bill on the floor, and generally it comes to the floor under an open rule. I might remind the membership that agriculture is America's most important industry. It provides our most positive balance-of-trade figures, and is an exceedingly important bill to our farmers, our food processors, our people involved in the fiber industry, the forestry industry, the fuel industry. This is not an unimportant bill.

Yet, because of anger for other reasons, for other reasons, because Members like the gentlewoman from California [Ms. PELOSI], the gentleman from Illinois [Mr. YATES], and myself, the gentlewoman from Ohio [Ms. KAPTUR], as ranking members of our respective committees were summarily blocked in prior weeks from bringing our amendments to the floor on other bills, we are now being punished by putting a tourniquet on the debate on the agriculture bill today.

As ranking members, we have not only been blocked from offering the amendments, but our amendments have then been given to Members of the other party. This is outrageous. In past years, I can assure you agriculture appropriations bills moved to the floor with bipartisan support. They were not the victim of "gag" rules. They were not used to send messages to the minority that they better behave or be punished.

So now, our agriculture bill is being forced to be debated under such limited time, that key provisions will be given short shrift, not even allowing time to explain their full meaning to the Members.

For example, on the important subject of youth tobacco prevention, the time allowed for debate is 10 minutes—to be divided 5 minutes on each side. On important commodity programs on which our families' livelihood depend—sugar, peanuts, tobacco—debate will be limited to 15 minutes per side. This is ludicrous.

Further, the rule retroactively denies many Members the ability to offer their amendments—for example, Representative FURSE of Oregon on Animal Damage Control; Representative WYNN of Maryland on Civil Rights Enforcement; Representative HALL of Ohio on food assistance to Korea; and Representative MEEHAN of Massachusetts is allotted 5 minutes only to discuss the important Youth Tobacco Prevention initiative.

This is not the way to legislate.

I urge my colleagues to vote "no" on the rule. It truly is unfair.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STARK (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of a family medical emergency.

Mr. BARTON of Texas (at the request of Mr. ARMEY), for today after 7 p.m. and 8:30 p.m. on July 24, on account of attending a funeral.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TIERNEY) and to include extraneous matter:)

Mrs. MALONEY of New York.
Ms. ESHOO.
Mr. PRICE.
Mr. RAHALL.
Mr. MILLER of California.
Mr. BLAGOJEVICH.
Mr. REYES.
Mr. HAMILTON.
Mr. VENTO.
Mr. DAVIS of Illinois.
Mr. LANTOS.
Mr. OBEY.
Mr. FATTAH.
Mr. STARK.
Mr. KUCINICH.
Mr. UNDERWOOD.
Mr. BERMAN.

Mr. STRICKLAND.

(The following Members (at the request of Mr. WALSH) and to include extraneous matter:)

Mr. SHAW.

Mr. BASS.

Mr. PITTS.

Mr. FAWELL.

Mr. GILMAN.

Mr. LIVINGSTON.

Mr. HOUGHTON.

Mr. BOB SCHAFFER of Colorado.

Mrs. KELLY.

Mr. LEWIS of California.

Mr. DREIER.

ADJOURNMENT

Mr. WALSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Thursday, July 24, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4321. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Brucellosis in Cattle; State and Area Classifications; Iowa [Docket No. 97–036–1] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4322. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Brazil, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

4323. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revised Requirements for Designation of Reference and Equivalent Methods for PM 2.5 and Ambient Air Quality Surveillance for Particulate Matter [AD–FRL–5725–6] (RIN: 2060–AE66) received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4324. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's "Major" final rule—National Ambient Air Quality Standards for Particulate Matter [AD–FRL–5725–2] (RIN: 2060–AE66) received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4325. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's "Major" final rule—National Ambient Air Quality Standards for Ozone [ADA–95–58; FRL–5725–3] (RIN: 2060–AE57) received July 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4326. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Nonresident Aliens and Foreign Corporations [Revenue Ruling 97–31, I.R.B. 1997–32, dated August 11, 1997] received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 194. Resolution providing for consideration of the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105–198). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DEFAZIO (for himself, Ms. FURSE, Ms. HOOLEY of Oregon, Mr. BLUMENAUER, Mr. DELLUMS, Mr. BONIOR, Mr. BROWN of California, Mrs. MALONEY of New York, Mr. BARRETT of Wisconsin, Mr. HINCHEY, and Mr. TRAFICANT):

H.R. 2222. A bill to amend the Federal Water Pollution Control Act relating to Federal facilities pollution control; to the Committee on Transportation and Infrastructure.

By Mr. HAYWORTH:

H.R. 2223. A bill to amend the Act popularly known as the Recreation and Public Purposes Act to authorize transfers of certain public lands or national forest lands to local education agencies for use for elementary or secondary schools, including public charter schools, and for other purposes; to the Committee on Resources.

By Mr. ACKERMAN:

H.R. 2224. A bill to amend title 10, United States Code, to extend commissary and exchange store privileges to veterans with a service-connected disability and to certain dependents of such veterans; to the Committee on National Security.

By Mr. ENSIGN (for himself and Mr. GIBBONS):

H.R. 2225. A bill to designate the Federal building and United States courthouse to be constructed on Las Vegas Boulevard between Bridger Avenue and Clark Avenue in Las Vegas, NV, as the "Lloyd D. George Federal Building and United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. FAWELL (for himself, Mr. PAYNE, and Mr. GOODLING):

H.R. 2226. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title; to the Committee on Education and the Workforce.

By Mr. LAZIO of New York:

H.R. 2227. A bill to amend the National Flood Insurance Act of 1968 to reauthorize the national flood insurance program, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MILLER of California (for himself, Mr. MARTINEZ, Mr. FORD, Mr. STARK, Mr. OBERSTAR, and Mr. FALEOMAVAEGA):

H.R. 2228. A bill to increase the number of qualified teachers; to the Committee on Education and the Workforce.

By Mr. PASCRELL:

H.R. 2229. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack cocaine offenses; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PITTS:

H.R. 2230. A bill to amend the Congressional Budget Act of 1974 to establish a point of order that precludes raising revenues to enforce the bipartisan budget agreement if there is a revenue shortfall in any of fiscal years 1998 through 2002; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PRYCE of Ohio (for herself, Mr. PORTMAN, Mrs. JOHNSON of Connecticut, and Mr. CHRISTENSEN):

H.R. 2231. A bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. ROYCE:

H.R. 2232. A bill to provide for increased international broadcasting activities to China; to the Committee on International Relations.

By Mr. SAXTON (for himself and Mr. ABERCROMBIE):

H.R. 2233. A bill to assist in the conservation of coral reefs; to the Committee on Resources.

By Mr. SCHUMER (for himself and Mr. GONZALEZ):

H.R. 2234. A bill to amend the Electronic Fund Transfer Act to eliminate confusion about consumer liability for unauthorized transactions involving debit cards that can be used like credit cards, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. RAHALL (for himself, Mr. MILLER of California, Mr. VENTO, Mr. ROMERO-BARCELO, Mr. KENNEDY of Rhode Island, Mr. DEFAZIO, Mr. ABERCROMBIE, Mr. PICKETT, Mr. ORTIZ, Ms. CHRISTIAN-GREEN, Mr. FALEOMAVAEGA, and Mr. HINCHEY):

H. Con. Res. 119. Concurrent resolution expressing the sense of the Congress that the health, safety and general welfare of the residents of the Nation's coalfields should continue to be enhanced by the implementation of the Surface Mining Control and Reclamation Act of 1977 by State and Federal regulatory authorities, and that Congress hereby reaffirms the goals of the Act on its 20th anniversary, August 3, 1997; to the Committee on Resources.

By Mr. GILMAN (for himself, Mr. HAMILTON, Mr. BEREUTER, Mr. PORTER, Mr. FALEOMAVAEGA, Mr. BERMAN, and Mr. LEACH):

H. Res. 195. Resolution concerning the crisis in Cambodia; to the Committee on International Relations.

By Mr. HASTINGS of Washington:

H. Res. 196. Resolution designating majority membership to certain standing committees of the House. Considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Dickey and Mr. Shays.

H.R. 45: Mrs. Lowey.

H.R. 125: Mr. Wicker.

H.R. 176: Mr. Clement, Mr. Horn, and Mr. Davis of Illinois.

H.R. 192: Mr. Lewis of Georgia.

H.R. 230: Mr. Gordon.

H.R. 339: Mr. Gibbons.

H.R. 372: Mrs. Morella, Mr. Rahall, Mr. Brown of California, Mr. Fox of Pennsylvania, Mr. Bonior, Mr. Davis of Virginia, Mr. Borski, Mr. Cummings, Mr. Frank of Massachusetts, Mr. Sandlin, Mr. Ackerman, and Mr. Fattah.

H.R. 450: Mr. Franks of New Jersey.

H.R. 551: Mr. Lewis of Georgia.

H.R. 631: Mr. Fox of Pennsylvania and Mrs. Emerson.

H.R. 687: Mr. Kind of Wisconsin, Mr. Strickland, and Mr. Evans.

H.R. 696: Mr. Rush and Ms. Woolsey.

H.R. 774: Mrs. Lowey and Mr. Davis of Illinois.

H.R. 777: Mr. Berman, Mr. Borski, Mr. Gordon, and Mr. Moran of Virginia.

H.R. 857: Mr. Hutchinson, Mr. Hall of Texas, Mr. Peterson of Minnesota, and Mr. Kim.

H.R. 859: Mr. Paul.

H.R. 875: Mr. Sandlin, Mr. Shimkus, Mr. Hinchey, and Mr. Rodriguez.

H.R. 916: Mr. Graham, Mr. Sabo, and Mr. Sherman.

H.R. 967: Mr. Gibbons, Mr. Sam Johnson, Mr. McIntosh, Mr. Spence, Mr. Royce, Mr. Hunter, and Mr. Shadegg.

H.R. 977: Mr. Boehlert.

H.R. 992: Mr. Solomon.

H.R. 1054: Mr. Kim, Mr. Burr of North Carolina, and Mr. Lewis of Georgia.

H.R. 1126: Mr. Price of North Carolina and Mr. Davis of Illinois.

H.R. 1232: Mr. Rohrabacher and Mr. Poshard.

H.R. 1285: Mr. Pastor.

H.R. 1296: Mr. Ehlers.

H.R. 1350: Mrs. Emerson and Mr. Campbell.

H.R. 1398: Mr. Hoekstra.

H.R. 1427: Ms. Kilpatrick, Mr. Coyne, Mr. Meehan, and Mr. Saxton.

H.R. 1440: Mr. Tierney.

H.R. 1493: Mr. Hunter and Mr. Traficant.

H.R. 1507: Mr. Andrews, Ms. Kilpatrick, Ms. Brown of Florida, Mr. Nadler, Mr. Sawyer, Mr. Brown of Ohio, Mr. Waxman, and Ms. Eshoo.

H.R. 1541: Mr. Shays.

H.R. 1542: Mr. Sisisky and Mr. Deal of Georgia.

H.R. 1544: Mr. Sensenbrenner, Mr. Stark, and Mr. Wicker.

H.R. 1578: Mrs. Morella.

H.R. 1579: Mrs. Morella.

H.R. 1619: Mrs. Emerson.

H.R. 1679: Mr. Deutsch.

H.R. 1680: Mr. Frost, Mr. Snyder, and Mr. Souder.

H.R. 1719: Mr. Christensen.

H.R. 1814: Mrs. Lowey and Ms. Furse.

H.R. 1839: Mr. Cox of California, Mr. Rush, Mr. Wise, and Mr. Whitfield.

H.R. 1903: Mr. Weldon of Pennsylvania and Mr. Lampson.

H.R. 1970: Mr. Rush.

H.R. 1984: Mr. Baesler, Mr. Goodlatte, Mr. Blunt, Mr. Moran of Kansas, Mr. Ryun, Mr. Souder, Mr. Barr of Georgia, Mr. Hastings of Washington, Mr. Collins, Mr. Buyer, Mr. Pitts, Mr. Stump, Mr. Goode, Mr. Turner, and Mr. Graham.

H.R. 1993: Mr. McGovern.

H.R. 2003: Mr. Roemer.

H.R. 2005: Mr. LoBiondo.

H.R. 2023: Mr. Davis of Illinois.

H.R. 2064: Mr. Brady and Mr. Sessions.

H.R. 2120: Mr. Kanjorski, Mr. Schumer, Mr. Vento, Mr. Underwood, and Mr. Stark.

H.R. 2125: Mr. Saxton.

H.R. 2129: Mr. Frank of Massachusetts, Ms. Furse, Mr. Frost, Mr. Regula, Ms. Kaptur, Mr. Johnson of Wisconsin, Mr. Lipinski, and Mr. Mascara.

H.R. 2153: Mr. LaFalce.

H.R. 2163: Mr. McIntosh.

H.R. 2185: Ms. Roybal-Allard.

H.R. 2200: Mr. Serrano and Mr. Torres.

H.R. 2202: Mr. McCollum, Mr. Stark, Mr. Cook, Mr. Sessions, Mr. Shays, Mr. Bentsen, Mr. Hobson, Mrs. Kelly, Mr. Gonzalez, Mr. Davis of Florida, Mr. Walsh, Ms. Stabenow, Mr. McDermott, Ms. Pryce of Ohio, Mr. Markey, Mr. Davis of Illinois, Mr. Cardin, Mr. Skeen, Mr. Clyburn, Mr. Bilirakis, Ms. McKinney, Mr. Gekas, and Mr. Fattah.

H. Con. Res. 13: Mr. Gutierrez and Mr. Obey.

H. Con. Res. 55: Mr. Rogan and Mr. Davis of Illinois.

H. Con. Res. 111: Mr. Boyd, Mr. Kucinich, Ms. Lofgren, Ms. Harman, Mr. Dreier, Mr. Clyburn, Mr. Levin, Mr. Etheridge, Mr. Hinchey, Mr. Canady of Florida, Mr. Scott, Mr. Gordon, Mr. Clement, Mr. Lampson, Mr. Martinez, Mr. Gilman, Ms. Stabenow, and Mr. Ehlers.

H. Con. Res. 112: Mr. Watts of Oklahoma, Mr. Kennedy of Massachusetts, Mr. Markey, Mr. King of New York, Ms. Kaptur, and Mr. McNulty.

H. Con. Res. 116: Mr. Brown of Ohio, Ms. Slaughter, Mr. Lantos, Ms. Woolsey, Mr. Cox of California, and Mr. DeFazio.

H. Res. 37: Mrs. Emerson, Mr. Gutierrez, and Mr. Barrett of Wisconsin.

H. Res. 139: Mr. Thune.

H. Res. 182: Mr. Stupak, Mr. Kennedy of Rhode Island, and Mr. Markey.

H. Res. 190: Mr. Hunter.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2003: Mr. Edwards and Mr. English of Pennsylvania.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2159

Offered By: Mr. Bereuter

Amendment No. 53: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. (a) None of the funds appropriated in this Act may be made available directly to the Government of Cambodia.

H.R. 2159

Offered By: Mr. Obey

Amendment No. 54: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SENSE OF CONGRESS ON THE PALESTINIAN AUTHORITY

Sec. 572. (a) Sense of the Congress.—It is the sense of Congress that the Palestine Liberation Organization (hereafter the "P.L.O.") and the Palestinian Authority should do far more to demonstrate an irrevocable denunciation of terrorism and to ensure a peaceful settlement of the Middle East dispute and in particular we condemn—

(1) the withdrawal of the Palestinian Authority from the joint security arrangements provided by the Oslo Peace Accords;

(2) the pursuing of the death penalty for Arabs who sell land to Jews, and;

(3) the misuse of funds by officials of the Palestinian Authority.

(b) the Congress directs the Secretary of State to prepare and submit a report to Congress within 120 days of enactment of this Act which addresses the degree of progress made in addressing the concerns expressed in subsection (a), and in addition addresses:

(1) the Palestinian Authority's cooperation with Israeli security forces;

(2) repeal of the Palestinian Covenant;

(3) steps taken to expunge from all official documents and publications of the Palestinian Authority depiction of a Palestinian state which does not acknowledge the presence of a sovereign state of Israel;

(4) the Palestinian Authority's honoring of extradition requests from the United States, Israel and other countries;

(5) the Palestinian Authority's progress toward repealing edicts imposing the death penalty on anyone who sells land to a Jew;

(6) whether senior Palestinian officials involved in any way with terrorist operations affecting the state of Israel;

(7) and, provide a detailed accounting of all U.S. assistance provided to the Palestinian Authority or its representatives, affiliates, and agents.

H.R. 2160

Offered By: Ms. Furse

Amendment No. 36: Insert before the short title the following new section:

Sec. . (a) Limitation on Use of Funds.—Not more than $1,900,000 of the funds made available in this Act for the Animal Damage Control Program may be used for livestock protection efforts in the western region of the United States.

(b) Corresponding Reduction in Funds.—The amount otherwise provided by this Act for salaries and expenses with respect to the Animal Damage Control Program under the heading "Animal and Plant Health Inspection Service" is hereby reduced by $11,300,000.

H.R. 2203

Offered By: Mr. Gibbons

Amendment No. 2: Page 19, line 11, strike the colon and all that follows through the period in line 20 and insert the following: "Of the funds appropriated under this paragraph $1,500,000 may be provided to the State of Nevada solely to conduct scientific oversight responsibility pursuant to the Nuclear Waste Policy Act of 1982 and $6,175,000 may be provided to affect local governments as defined in such Act to conduct appropriate activities pursuant to such Act.".

H.R. 2203

Offered By: Mr. Gibbons

Amendment No. 3: Page 35, insert before the short title the following:

Sec. 502. None of the funds appropriated in this Act for "Nuclear Waste Disposal Fund" may be used for interim storage of nuclear waste materials.

H.R. 2203

Offered By: Mr. Petri

Amendment No. 4: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in this Act may be used to pay the salary of any officer or employee of the Department of the Interior who plans, authorizes, or implements the acquisition of land for, or construction of, the Animas-La Plata Project, in Colorado and New Mexico, pursuant to the Act of April 11, 1956 (43 U.S.C. 620 et seq.) and the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.).

H.R. 2209

OFFERED BY: MR. ROEMER

AMENDMENT NO. 1: Page 8, insert after line 5 the following new section:

SEC. 106. Of the funds appropriated in this Act for "HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS' REPRESENTATIONAL ALLOWANCES", any amount remaining in a representational allowance of a Member of the House at the end of the session of Congress or other period for which the allowance is made available shall be returned to the Treasury, to be used for deficit reduction.

SENATE—*Wednesday, July 23, 1997*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign Father, as we begin this new day filled with responsibilities and soul-sized issues, we are irresistibly drawn into Your presence by the magnetism of Your love and our need for guidance. We come to You at Your invitation; in the quiet of intimate communion with You, the tightly wound springs of pressure and stress are released and a profound inner peace fills our hearts and minds.

We hear again the impelling cadences of the drumbeat of Your Spirit calling us to press on in the battle for truth, righteousness, and justice. Our minds snap to full attention, and our hearts salute You as Sovereign Lord. You have given us minds capable of receiving Your mind, an imagination able to envision Your plan and purpose for us, and a will ready to do Your will.

Help us to remember that no problem is too small to escape Your concern and no perplexity is too great to resist Your solutions. We know You will go before us to show us the way, behind us to press us forward, beside us to give us courage, above us to protect us, and within us to give us wisdom and discernment. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COATS, is recognized.

SCHEDULE

Mr. COATS. Mr. President, for the information of all Members, this morning the Senate will be in a period for morning business until the hour of 11 a.m. By consent, at 11 a.m., the Senate will begin consideration of S. 1033, the Agriculture appropriations bill. The majority leader has indicated that it is his hope that the Senate will be able to complete action on the Agriculture appropriations bill during today's session of the Senate. Therefore, Members can anticipate rollcall votes throughout today's session of the Senate. However, as was announced last evening, no votes will occur prior to the hour of 4 p.m. today. Also, as previously announced, the Senate may begin consideration of the Commerce, Justice, State appropriations bill upon disposition of the Agriculture appropriations bill.

I thank my colleagues for their attention. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. COATS]. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under a previous agreement, the Democratic leader, or his designee, is recognized to speak for up to 60 minutes.

TAX CUTS

Mr. DORGAN. Mr. President, a number of us this morning want to visit about the issue of tax cuts. We are having a debate—I was going to say a dispute, but it is more a debate—in Congress, between the House and the Senate and between Members of both parties, about how taxes should be cut. It is clear now from the votes in the House and the Senate that there will be a tax cut. We do have bills in conference that call for a tax cut in a number of different ways—cuts in the income tax, cuts in estate tax, cuts in capital gains and a range of other areas. But there is substantial debate about who gets what.

Mr. President, the debate is not idle, and it is not just political. I suppose there is some partisanship involved in this as well, but when you say that the Federal Government has the capability of reducing taxes for the American people, the question then is, for whom and by how much and with what purpose? The stakes are fairly large because we are talking about a fairly substantial tax reduction, and the question is how to divide that.

There has been a dispute on the floor of the Senate about what the numbers show and who puts together a chart that shows what part of the population will get how much in tax relief. There have been editorials written about that in the Washington Post, New York Times, and others and a substantial amount of analysis of these charts.

One thing to me is certain, however. There are impulses in Congress to define how we provide a tax cut in a narrow way in order that the tax cut ends up providing substantially greater benefits to those at the upper end of the economic ladder than those at the lower end of the economic ladder. I happen to come from a part of the country that largely believes that the economic engine in this country comes from work, from people who go out and work and toil all day. That represents the economic engine that keeps this country going. They earn a wage and they have a view about the future in this country.

If their view is optimistic, if their view is positive, then they make decisions with the money they have earned. They perhaps buy a washer or dryer, buy a car, buy a home, take a vacation. If their view is pessimistic or if their outlook is less than positive, they make decisions to defer those purchases. They don't buy a washer or dryer. They defer it. They don't buy a car. So our economy really rests on a cushion of confidence.

You can talk to all the economists in the world, you can talk to the best trained people in this country in the field of economics, and it doesn't matter what they say. What matters is that the American economy rides on a pillow of confidence. If it exists, the American economy does well; if it doesn't, the American economy retracts.

People in this country generally feel pretty good today. The economy is generally moving in the right direction. Unemployment is down, inflation is down, the deficit is down, way down. People feel pretty good. Economic growth is up. The result is we have more revenue coming in to the Federal coffers, and the decision by Congress is to give some back in the form of tax cuts. Then the question is, to whom?

I come from a town of about 400 people, when I left. It is now 300 people. If, in my hometown making this decision, a local community decision, we had proposed what is proposed in terms of the distribution now in Congress of this tax cut, I think it would cause some real consternation.

Let's think just a moment about my hometown of 400 people. When there is a meeting, they put a little sign in the middle of Main Street, because there is not that much traffic and the sign won't be knocked down, that says, "Meeting tonight, 8 o'clock, the Legion Hall." Then folks come to the meeting.

So they come to the Legion Hall, and 400 of them would come and we would say, "All right, now we have some money we want to distribute here, and it comes from you because you pay taxes. The question is, How shall we give it back?" And someone in the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

back of the room stands up and says, "I have an idea. Why don't we give 60 percent of this money to those four people sitting up in the front row. Out of 400, we will take 4 of them. That is 1 percent. One percent of the people, those four people we propose should get 60 percent of what we are going to give back."

Gosh, I think that would cause real trouble in that room. Let's assume they are all working now, all working, all paying taxes, but we say, "Let's have the four people up in front get 60 percent of the tax cut."

Then we say, "Let's take the bottom 20 percent, let's take 80 people who make the least money in town. They are working, but they make the least money in town, the lowest wages. They are having the toughest time. Let's take those 80 people and have them move their chair over to the left side of the building, and we are going to give them one-half of 1 percent of the tax cut." Gosh, I don't think that is a decision my hometown would make in a million years, not if they are all working.

Yet, that is what is at the root of the proposals in Congress. It is to say, if we are going to give a tax cut, let's give it back only on the basis of taxes paid, sufficient so that we say let's have a child tax credit of $500 per child, but you don't get it if you don't make enough money. It's true if you are working, in two-thirds of the cases, the American workers are paying more in payroll taxes, yes, to the Federal Government, more in payroll taxes than they are paying in taxes. But those in the bowels of this decisionmaking process say, "Payroll taxes don't count. We don't want to measure payroll taxes that you pay in terms of whether or not you should get a tax cut; it is only taxes."

The result is this family. Lashawn Buckman is from Washington, DC. She works downtown as an administrative assistant in a hospital. She is expected to earn about $25,000 this year. She has a child aged 3 and a child aged 7. She will pay about $3,250 in income and payroll taxes this year, and under the bill that was passed by the House of Representatives, despite the fact that it advertises a $500-per-child tax credit, she will get no income tax cut. She will get no tax cut at all, because she doesn't quite earn enough money. She pays a substantial amount of payroll taxes, works hard, but she is defined as ineligible.

To those of us who think she ought to be eligible, we are told by those who oppose it that we are proposing welfare. No, we are proposing giving some taxes back to someone who works who pays substantial payroll taxes.

Here is another family. Elisa Garcia lives in Fairfax County, VA, and works for a technology firm. She makes about $10 an hour, works 40 hours a week. She works hard. She expects to earn about $20,800 this year. She has three children —George, Samantha, and Liz. They are 6, 10, and 15 years of age. She pays about $2,200 in taxes and payroll taxes, and under the tax bill passed both by the House and the Senate, she will receive no tax reduction. She works hard, she pays taxes, but because of the way we have defined it, we say it doesn't count. Unless you are paying a specific amount of income tax and unless you are in a specific income category, it doesn't count, you don't count as a taxpayer and, therefore, when it comes time to provide some tax relief, you don't get any.

The reason I mention this is we have a lot of occupations in this country. This is from Parade magazine describing the incomes of people that just get left out. This would not happen in my hometown, I don't think. I think if everybody came to a meeting in that town, and 400 people said, "Let's decide how to divide up the tax cuts," they would say, "Everybody is working and paying taxes, so let's have everybody get something back from this tax cut."

Here is a store owner, $25,000. They are not going to get anything. They don't make enough money. A preschool teacher, $11,000; a medical technician, $13,000; an assistant store manager, a nurse, a policeman, they do not make enough money. They pay payroll taxes, but they do not make enough money to get a tax cut. I am sorry, that is wrong. And we have a chance to correct it.

The opportunity to correct it exists right now in that conference committee, the opportunity to say to this country that it is wrong to provide 60 percent of the tax cut to the top 1 percent of the American people.

It is right to decide that we ought not continue to decide that we should tax work and exempt investment. It is right to decide that we ought to have a fair distribution of the tax cuts so that all of the American people who are out there working are benefited by this proposed cut in taxes.

Mr. President, my colleague from New Jersey is here, and I appreciate him coming to the floor today to speak about this same subject. Let me yield the floor to him for as much time as he may consume.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to thank my colleague, the Senator from North Dakota, for his persistence on this issue and on issues of fairness altogether. His leadership on so many issues has been, frankly, the motivator for many here to take up causes that he so ably leads. And in this case, once again, he has indicated how important it is for us to be a fair society.

Mr. President, I was one of those privileged to be part of the negotiating team. I say "privileged"—some days I am not sure—because the decisions were tough ones. But as we review the tax cuts that are going to be made in the reconciliation bill, the bill to put into place the elements of the budget that we prescribed as a direction, I want to talk about the importance of ensuring that any tax cuts that we make be principally targeted to ordinary middle-class families and that we not permit an explosion of the deficit in the future as a result of tax cuts.

Mr. President, we are coming off of a really good period for America. The economy is strong. People are working, inflation is down, and we are assured by the comments yesterday of the Chairman of the Federal Reserve that inflation still looks like it is going to stay down. It is the kind of scene that almost a writer could produce in terms of what you would like to see in an ideal world.

Our deficit was $290 billion when President Clinton took over, now predicted to be $45 billion for this fiscal year ending September 30. And it is believed that in the year 1998, if things continue as they are, that we will actually be at a zero deficit or perhaps even have a surplus in the 1998 year. That is a wonderful thing to be able to think about because one of the things that we want to do is relieve the burden from our children, our grandchildren in the future to have to pay off debts and to pay the debt service that incurs with deficits.

But, Mr. President, despite all of the good news—and I come out of the corporate world. I spent 30 years of my life building a business. And I know lots of people who have been successful in business, and I still talk to them. And I have learned in my informal polling that lots of people who have been successful, corporate leaders, CEO's, chief operating officers, chief financial officers, marketing managers, they will say to me in public, "FRANK, I don't need a tax cut. What I need is an America that's going in the direction that it is going, that people can count on jobs, where people can believe that inflation and that deficit growth will not be a burden to their children." That is hardly the legacy that we want to leave.

As I heard one CEO I had occasion to meet over this weekend describe, who runs a giant, giant company, with over 30,000 employees, he said, "I don't need a capital gains tax cut and I don't need an income tax cut. We don't pay enough," he said—this is a corporate executive—"We don't pay enough in this country for the benefits we get out of this Nation of ours."

And so as we talk about our tax cut, we know where we have to direct it. It has to go to the middle-class families. It has to go to the people who find that two of them have to work in order to do what one was able to do in the past, that they pay the price in many ways for their two-job requirements. They neglect their children, not intentionally, not the kind of neglect that comes with abuse, but they just do not have the time or the energy to put into their families when mother works and dad works and they meet only as they pass through the door.

I had occasion to meet with one of the service organizations across this country that does mentoring where they tie an adult and child and make sure that child has someone to answer to, someone to converse with. And I asked them about the profile of the children that they see. A lot of them are obviously from poor families, but not all. They said to me a lot of the kids that they are seeing are kids whose families are so beset with the need to earn a living that they do not have time for them. And the kids resort to strangers' encouragement to just get a lift and to get some attention.

So as we discuss these tax cuts, I plead with my colleagues, make sure that we put them in the hands of the middle class so people can talk to their kids about their education in the future and know very well that they have a chance to get out of the economic difficulties that they may see their parents in, that they can get the education they need, they can get the skills that they need.

These families love their children. They do not see them much. And they want to plan for their future. And we can help them, Mr. President. We can help them by directing these tax cuts primarily to the middle class so that they can help their kids with their education and provide for their own retirement. These are the people who need the tax relief.

But, unfortunately, these are not the people who are going to get the bulk of the relief in the House and the Senate tax bills. Those bills provide roughly 45 percent of their tax cuts to the top 10 percent of income earners in the country. And it is just not right. There is a better way, Mr. President. And President Clinton has shown us how. His plan provides many of the same types of tax cuts that are included in the Republican plan, and the total amount of tax relief is roughly the same but the provisions in the President's plan are structured differently to give most of the benefits to ordinary hard-working Americans.

Under the President's plan, the middle 60 percent of income earners receive two-thirds of the tax cuts, the middle 60 percent get two-thirds of the tax cuts. By contrast, under the Senate and House plans, the middle-income working families receive only one-third of the benefits—one-third.

The President's plan provides a $500 tax credit for children, but unlike the Senate and the House plans, it makes the credit available for working families with little or no tax liability. In fact, the Senate and the House plans deny the child tax credit to millions of hard-working families who pay taxes and earn less than $30,000 a year, the subject that the Senator from North Dakota was addressing just moments ago.

Some in Congress are claiming that providing tax breaks to teachers and police officers, firefighters somehow amounts to welfare. It is ridiculous and it is an insult to millions of hard-working American families.

The President's plan cuts capital gains taxes. It cuts estate taxes, and it provides new incentives for savings. But the President does it in a fair way that benefits primarily the middle class. And that is the key difference. Another advantage of the President's tax plan is its costs do not explode in the outyears, the years after those that we are talking about with our budget prescription now.

The Senate and House bills include several provisions with costs that increase substantially in the future. Why should we give a tax break today and have to pay for it doubly in the 5- to 10-year period after this?

Yesterday, the Treasury Department released an analysis showing that the House's capital gains rates balloon from $35 billion in the first 10 years to almost $200 billion in the subsequent 10 years—from $35 to $200 billion. And that is an exploding tax cut if there ever was one. There is no way for us to function.

Mr. President, I have heard it argued there is no way to cut taxes without disproportionately benefiting the wealthy. Some serious people make that argument, but it is an absurd argument. Surely, if we can plan to get to Mars and do all the great things that this country has the capacity to do, we can find a way to target tax cuts to the middle class. It does not take a rocket science. It is much simpler. It does take, however, a commitment not only from the head but from the heart as well. And President Clinton's plan proves it can be done.

So, Mr. President, I want to continue working with all of my colleagues to make the tax bill as fair as possible. I would like to cut the taxes for the middle class and working Americans, the people who need it the most. And I would like to see it done in a fiscally responsible way that does not burden future generations with the exploding deficits in the future.

I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

I have come this morning to join my colleagues in talking about the issue of tax fairness that this Congress is now working toward in the conference committee between the Senate and House, working with the White House, to move us toward the final parts of the budget reconciliation and tax package.

First of all, I want to say it is really incredible to me that I stand here today in the summer of 1997 talking about a tax cut. When I came to the Senate, back in 1992, I came at a time when we had a $300 billion deficit. And I remember campaigning back in that year, when Ross Perot was running around the country showing us his charts of the exploding deficit, and for all of us who were elected in that year and since that time our No. 1 goal has been to come here to balance the budget.

As one of those people who came here in 1992, with a $300 billion deficit, I have continually told my constituents, the families that I represent, the people that I work for, that my No. 1 goal here is to get to a balanced budget, and that although I agree that tax cuts are a good thing to have, that we need to do it in a rational way and we should not do it until we get to a balanced budget.

I remember back in 1993, when we passed our first budget here, it was a budget that we all remember well, that passed by one vote here in the Senate, that began us on the road today to where we are now in the summer of 1997 able to talk about a tax cut because we made a tough decision 4 years ago to work us toward that balanced budget.

We now have a deficit that is less than $70 billion. And in fact, some predict that without Congress doing anything, we will be at a balanced budget within a year because of the tough votes that we have taken over the last 5 years. Because of the Members here who were willing to say no to many of the special interests who came to us and wanted more and more, we were able to say no. And we have worked very, very hard to get ourselves to this point.

Having said that, I am a member of the Budget Committee. I have worked very hard since the beginning of this year to put together the budget reconciliation package, to work with my fellow members on the Budget Committee, to work with the White House, to work through the conference, to get to the point of having a balanced budget to present to this country.

As part of that agreement, we do have a tax cut package. Because I have worked hard on that, because I am committed to the reconciliation package that the Budget Committee agreed to, I did vote for the tax cut package that came out of the Senate.

That tax cut is now being debated by the conference committee again between the Senate and the House and the President, the White House, and I think the most important thing we can do at this point as we work to the final negotiation of this package is make sure we do the right thing for this country.

When I fly home to my State of Washington 2,500 miles away from here, every weekend I spend time attending town hall meetings, going around to small communities in my State. Where I get the best input is when I go to the grocery store on Sunday afternoons with my family and people walk up to me and talk to me about what they are hearing about what is happening in Congress. Time and time again I have young people coming to me—a young teacher this past Sunday, a policeman, a young family—and their question is the same as every other American: What am I going to get out of the tax cut? What will I get? I hear the Members of this Senate and this body asking the same question as well: What am I going to get out of this tax cut?

I think the important question is not what am I going to get out of this tax cut, but what will this tax cut do to strengthen the America that we all worked so hard here for, and what can we do so that 10, 15, 20 years from now we are not having another Ross Perot run around the country with charts and graphs showing a deficit that is out of control.

As I talk to my constituents around my State, what I hear most often is that if we invest in our young people, invest in our children, we will do the right thing for the country's future. When I look at this tax package, those are the questions I ask. Are we doing the right thing so that young children, as they grow up and get out and start their own families, have the money they need to make sure that their children get a good education, that they have access to health care, that they are able to send their children to college. That is how we are going to make our country strong.

So when I look at this tax package that we are now debating, I see that the President's tax package will actually do the most for those young families, for that young teacher, for that young policeman, for that young law clerk, for that family that is just starting out, for those families who are earning less than $30,000 or $40,000 a year. That is why I believe so strongly that the refundable tax credit has to be part of this package.

I see my colleague on the floor, Senator LANDRIEU, who is new here, from Louisiana, who has worked very hard to ensure that the tax cut is refundable. Yet, I hear this being debated, I hear it characterized as the people who are on earned income tax credit, those who are earning less than $25,000 or $30,000 a year, if we give them a tax credit, it is giving tax credits to people who are on welfare. Nothing could be further from the truth. These are working families. They go to work every day. They are struggling to make ends meet. They are paying for day care. They are working to make sure they have nutritious food on the table. They are trying to save a few dollars for their children to go on to higher education so they can contribute to our economy. Those are the people we need to help. Those are the people that the President's tax cut really goes to, and that is what we have an obligation as a Senate and a Congress today to make sure that we take care of in the future.

We will do the wrong thing if we pass a tax cut that merely inflates the income of those at the top, that gives away tax dollars to people who are already able to send their children to college, who are already able to take vacations in exotic places, who are already able to ensure that their family has a good home and a safe neighborhood to live in. We will do the right thing if we make sure that the tax cuts we pass help those young families who are struggling today, because if we lift them up and make sure that their children are healthy and well-educated and secure and that they have a good quality of life, then this country will be stronger in the future.

I urge my colleagues to step back from this big debate about who is going to benefit and how the tax package will be put together, and say, what do I want this country to look like 10, 15, 20 years from now? Do I want to see it strong? Do I want to see a lot of young people with hope in their eyes who know they will be able to go to college? Do I want to see young families who are saying, I can save enough to buy a home and feel secure? Do I want to see a country where children have the nutrition that they need, that have the health care that they need? If that is the country we want, we will ensure that we move toward the President's tax cut, that we have a refundable tax credit in here, that we put our tax cuts where they will make the most difference.

That is why I support the President's tax cut plan and urge my colleagues to do the same. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President.

I am happy to be here this morning to join my colleague from Washington State and so many of our colleagues to talk about the issues regarding this tax package and the budget that we are debating.

I will be setting up in just a moment a picture of a family, Mr. President, from Shreveport, LA, the Meyers family. It is Lois and Scott Meyers, their son, Clayton, and Jessica, their daughter, who is 17. Their son Clayton is 5, the same age as my son Connor. This family works very hard, Mr. President. They only make, however, $17,000 a year. She, Mrs. Meyers, has a master's degree, but she works at a homeless shelter as a counselor. He has a $7-an-hour job. Of course, it is not full-time, but he also is a counselor and does not work a full 40 hours, but under contract has a flexible schedule. They are struggling hard to raise these two children.

If we do not make this change that so many of us have talked about, expanding this $500 tax credit, this family in Louisiana, the Meyers family, and so many families like them in your State, in the State of Washington, in Texas, in South Carolina, will simply be left out. I believe, as so many of our colleagues do, that everyone in America, frankly, deserves a tax break. I really believe that, and I believe there are ways for us to provide tax breaks for those at the higher end, for those at the middle end, and for those working hard and struggling to make ends meet at the lower income levels. This family is not a welfare family. They are a hard-working, lower income family.

In Louisiana, 95 percent of the people in my State—95 percent—make less than $75,000. Ninety-five percent of the households in Louisiana make less than $75,000. As their Senator, it is my job to argue that all of them, I believe, deserve some sort of tax relief. If we do not make this child credit stackable against the earned income tax credit, families like this, the Meyers family, will simply be left out. I just think that is not right. I believe they need to have tax relief.

Now, this family, at $17,000 income, is frankly not going to be able to take much advantage of the capital gains tax relief, although I support capital gains tax relief. They are not going to take advantage of the estate tax relief. Their estate is not anywhere close to $600,000 in assets. They will be able to take advantage of, hopefully, the HOPE scholarship for Jessica as she gets ready to go into college, but if they don't get the $500 tax credit, they will not be a part of this tax plan.

Now, it is true that they did only pay $200 in income tax last year because of the earned-income tax credit. They received a credit of about $1,200, but this family paid approximately $1,300 in payroll taxes, and that is what is important—for them to get this child tax credit against their payroll taxes, as well as the credit against the income tax.

The President is fighting very hard, along with many, many of the Democrats. I hope some of the Republicans will join us in saying that we want tax relief for these families.

In other States, the average schoolteacher salary, preschool and kindergarten teacher, is $18,700. The average sales occupation in America today is $24,000. Bookkeepers and accountants make on an average $20,000. Dental assistant, about $18,000. If this tax credit is not corrected in the way we believe it should be in conference, all of these families that I have mentioned—firefighters, bookkeepers, teachers, and this Meyers family—will not get the tax relief I think they deserve.

I am here this morning to speak for them. They are not able to speak on this floor. They are only able to write letters and to call in. I am here this morning, along with many of my colleagues, to speak for these families, to say, "Let's make this tax package fair."

We also need, as you know, Mr. President, and so many of our colleagues, to make sure that we move toward a balanced budget, that we do it in a fair way, by giving tax relief broadly in the ways that we can, also cutting back where we can to make sure that we are running this Government in a very fiscally responsible way that promotes growth, that promotes job development, but also promotes fairness.

When we can give a tax cut, let's give it to the families that deserve it. This is a hard-working family. They are not on welfare. They never have been on welfare, and they deserve a break today.

Another subject of the tax bill that is important to me and so many on both sides of the aisle is the provision for a tax exemption for the State-sponsored savings plans. Florida has an extensive plan: 450,000 families have been able to join the Florida prepaid tuition plan. Senator GRAHAM has been very supportive of this provision.

In Louisiana, before I was elected to the Senate, as State treasurer I helped to institute a Start Smart plan, where families of all incomes up to $100,000—which includes just about everybody in Louisiana—would be able to set aside a small amount of money, as much as they were able to, sometimes as little at $10 a week, into a savings plan, and in our State, our general fund in Louisiana matches. For every $1 that a family is able to put up—it can be a parent, a guardian, a grandparent, a corporation can set up a savings plan for a child so they could go to college—whatever amount they are able to save, the State general fund matches that savings. For those at the lower income level, as the Meyers family, $18,000 to $20,000, the State makes a greater match, but the State gives some help or match to families making up to $100,000 on a progressive scale.

The bottom line, in our conference, we have a possibility, which I understand the President supports—and I hope the American people will support this, too—to give tax-exempt status to those savings plans. We want more children, Mr. President, to be able to go to college. We want everyone to have the education they need to compete in a world very different than the world we grew up in. They need those technical skills. If they are not able to go to a 4-year college or a 2-year community college to at least get the technical training, post high school—12 years of education is no longer what is required. They need to go the extra 2 or 4 years to get the education they need to compete. Families need to be able to save.

One of the other great provisions in this tax bill, but it is not a done deal yet, another great provision, which will cost about $1 billion, but it will be the best $1 billion we will ever spend, is leveraging the great will and great hope and great aspiration that families have to be able to have their children and grandchildren do better than themselves, to enable them to set up these savings accounts. I hope we will urge the President and urge the Republicans and Democrats to support this one provision in this tax bill that will make these savings plans tax exempt, encourage more States outside of Florida and Louisiana—and only a few others have set up these programs—urge them to set them up.

This is supported by the National Treasurers Association, which has been a very strong advocate for this savings plan. This is not a handout, Mr. President. This is a hand up. This says to families, if you are willing to set aside $10 a week or $50 a month or even $100 a month, we will match that effort, we will allow that fund to grow, tax exempt, so you will have that money.

Mr. President, $500 a year, $17,000 a family would be able to save, almost $30,000 under a savings plan, even a modest savings plan, which is a good amount of money, actually a very large amount of money to be able to have that young person attend school. Also, this is for adults who set up in Louisiana this savings plan which allows them to go back to school to get the degree they need to have a higher salary and a more productive income level.

So, besides the $500 tax credit that we on this side feel so strongly about making fair, this provision that allows and actually encourages families to save and increases the savings rate of America—which any economist and any person that is involved in the financial sector will tell you, America's savings rate is too low. It is not good for our country.

So we do two things at once. We help families do the right thing by saving for their children. We also increase the savings rate for America, which helps our business to have more capital to invest. It is a win-win for everyone. I hope my colleagues will join me in supporting the change in the $500 child tax credit, as well as the provision for the statewide savings plans which would be so helpful to thousands, millions, of American families.

Mr. ROCKEFELLER. Mr. President, the next few days could make the difference between every working family getting the benefit of the child care tax credit in the budget—or the benefit of the child credit only going to families earning more than $30,000. The next few days could make the difference between whether or not more than 25,000 West Virginia families get the benefit of child tax credit or not. Nationwide we're talking about almost 5 million families who could get left out if we don't make the child credit fairer to all families. Democrats want all hard working families to get the benefit of the child credit—under the tax bills that passed the House and Senate they won't. As congress and the President try to wrap up the bipartisan budget deal and its family tax cuts, we need to improve the child tax credit so it helps American families that need it most.

The average family in West Virginia has an income of $27,500. What that means is that about 25,000 West Virginia families won't benefit from the Republican child credit plans under consideration unless we change the tax bills so that all working families share in the benefits of the child tax credit just like middle income families do. The President has a child tax credit proposal that benefits all working families.

We should adopt it as part of our tax cut package or too many West Virginians and lower-middle income families across the country will be left out.

For the average hard-working American family to get a direct, real benefit from this year's budget agreement, we need to make sure that all working families get the benefit of the $500 child tax credit.

Average American families don't have multi-million dollar estates, and they're not playing the stock market. They don't have enough money to invest in IRA's. They go to work every day, often both parents work full time, and they have a tough time paying their bills, putting food on the table, making the mortgage, and seeing to it that their kids grow up safe and healthy. Those are the families who I think this budget agreement should deliver for first and foremost—before we give the wealthy a chance to save tax-free, benefit a handful of the wealthiest Americans with big estates, or provide a capital gains tax cut.

Extending health care coverage to the children of working families who don't qualify for Medicaid is the other major benefit of this tax bill for working families.

Right now, we don't know if these families will get real health care coverage from the final agreement, with health care benefits they can count or not. That is another major issue which could be decided in the next few days. I am here to tell my colleagues and the American people that there is simply no choice but for us to stand up for hard working American families and give them the family tax credit they were promised, and the health insurance coverage their children need.

It defies common sense to allocate $85 billion in net tax cuts—as called for under the bipartisan budget agreement—and leave out the working families who need it most. The President's proposal directly benefits families who work and who pay taxes—it is not welfare—it is the helping hand they need.

These families deserve to share in the benefits of the tax cut. These families are the families of a rookie cop in West Virginia, a public school teacher, a bank teller, or a fireman. Middle class families deserve a break, so do families who are lower-middle class, and we don't have to choose between them. Working families all can benefit from the child tax credit as it is constructed in the President's child tax credit proposal. It would treat the children of all working families equally—all the families who are working hard and pulling the proverbial wagon should benefit from the child tax credit.

The Children's Commission unanimously endorsed this kind of child tax credit. This tax bill is where we can deliver.

I am here to report that in the next few days or over the next few weeks as we complete our work on this historic budget agreement, I will not stop fighting for the families in West Virginia who deserve a child tax break, who deserve health care coverage for their kids, and who deserve our help, now.

FAIR TAX RELIEF FOR WORKING AMERICANS

Mr. KENNEDY. Mr. President, as the Clinton administration and the conferees on the tax cut bill work out their differences, we need to do all we can to guarantee that fair tax relief is delivered to the American people. The last thing Congress should do is enact a tax relief bill that offers plums to the wealthy and crumbs to everyone else.

Who deserves the tax relief? Is it the average hard-working family on Main Street, or the wealthy millionaire on Wall Street? Is it the rookie policeman walking the beat? Or is it the heirs of fortunes worth millions of dollars? Is it the nurse trying to raise a family on $27,000 a year? Or is it the financier buying and selling stocks and bonds?

That is what is at stake this week and next week, nothing less. There are two key questions: will Congress target the scarce funds available for tax cuts to working Americans in blue-collar shirts or to tycoons in designer suits? Will the amount of tax relief be responsible, or will it explode in the out-years and unbalance the budget we are trying so hard to balance?

Everyone at the negotiating table now agrees that $85 billion is a realistic figure for tax relief over the next 5 years. The debate is no longer about how much tax relief we should enact for that period. Now the debate is over who should benefit from that tax relief, and how much they should benefit.

Our Republican friends want to target the vast majority of the benefits of tax relief on those who have already benefited the most from the Nation's soaring economic growth—the wealthiest individuals and corporations in our society.

Clearly, this tax bill cannot close the widening income gap in our society. But just as clearly, it should not make the gap wider.

Over the last two decades, the rich have gotten richer, and everyone else has fallen behind. During the 1950's and 1960's, all income groups in the population participated in the economy's growth. We all advanced together. But, in the 1980's and 1990's, we grew apart. The benefits of economic growth have tilted heavily toward the rich.

Instead of reducing this inequality, the Republicans would add to it. Their tax cuts are weighted heavily to the rich. According to the Treasury Department, the House Republican tax plan would give two thirds—two-thirds—of its benefits to the richest fifth of the population.

And that estimate is conservative. Citizens for Tax Justice included the estate tax cuts and corporate tax cuts in their analysis and calculates that the richest fifth would get 80 percent of the benefits.

By contrast, under the President's proposal 83 percent of the tax cuts would go to working families and the middle class, and only 10 percent would go to the wealthy.

The largest tax breaks in the Republican plan are the lower tax rate on capital gains, the indexing of capital gains for inflation, the estate tax cuts, and the expansion of IRAs and other tax-preferred savings accounts. All of these provisions benefit the wealthy, not average Americans.

In addition, the Republican proposal opens the way for more tax loopholes and other special interest tax breaks. The changes to the corporate alternative minimum tax alone will make it easier for large corporations to earn billions of dollars in profits but pay little or no taxes.

The most unbalanced giveaway in the Republican bill is the capital gains tax cut. Under the Republican bill the rich will see their capital gains tax rate cut in half. The lowest bracket taxpayers will only see a reduction of one-third.

The Republican tax break on capital gains will be worth all of $6 to the average family with median income. But it will be worth over $7,000 to those in the top 1 percent of the population.

By contrast, under the President's proposal, everyone will get the same tax break of 30 percent on their capital gains. The President's proposal ensures that the same breaks granted to the rich are also given to every taxpayer. It is simple fairness that everyone should receive the same treatment.

Another unbalanced provision in the Republican proposal is the estate tax reduction. The Republican provisions are aimed at the top 2 percent of all estates. They help those who have done extremely well in recent years. Median income taxpayers will see no tax reduction at all from these provisions.

The Republicans claim that they are helping families with the $500 children's tax credit. But most families earning under $30,000 will not be eligible to receive the full benefits of the credit under the Republican plan, and many of these hard-working, tax-paying Americans will receive no benefit from the credit at all. The President's proposal is far fairer in enabling these families to take advantage of the credit.

Furthermore, no tax bill can be considered fair if it does not address the needs of low and moderate income families for affordable health insurance coverage for their children. Ninety percent of uninsured children are members of working families. These parents work hard—40 hours a week, 52 weeks a year—but all their hard work does not buy the insurance their children need for a healthy start in life.

The Senate bill offered a downpayment on this problem by providing $24 billion to help such families purchase affordable coverage. This coverage was financed, in part, by a 20-cent-per-pack increase in the cigarette tax. Whether to include this cigarette tax increase, and the additional $8 billion in funding for child health insurance it will buy, in the final tax bill is now in dispute. In view of the immense costs that smoking inflicts on society and the critical need for children's health insurance for low and moderate income families, it would be a travesty if big tobacco prevails and eliminates these provisions from the final legislation.

Finally, the Republican proposal has serious defects in the long run that make it irresponsible and that will cause the deficit to explode in future years. According to the Center for Budget and Policy Priorities, the Republican proposal will increase the deficit by $500 billion to $600 billion in the 10 years after 2007.

We went down this deficit road once before, with the excessive Reagan tax cuts of the 1980's. We should learn from that history, not repeat it. It is a pyrrhic victory if the budget is in balance in 2002, and then grossly unbalanced in the years that follow.

Democrats are proud to stand for responsible tax relief that is fair to the American people. The Republican alternative flunks the test of fairness, and it flunks the test of responsibility. The choice is clear and the people will judge Congress by how we respond.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TAX CUT FOR PEOPLE WHO PAY TAXES

Mr. GRAMM. Mr. President, I understand our Democratic colleagues have been out today to proudly unfurl the banner proclaiming "redistribute the wealth." They have been looking at the tax cut that has passed the House and Senate, and they have discovered something that, to them, seems miraculous. I would like to take a few minutes this morning to address the issue. Our Democratic colleagues have discovered that the bottom 20 percent of all income earners in America do not get a tax cut under the tax bill that passed the U.S. Senate with 80 votes, and further that the top 20 percent of all income earners get a substantial tax cut. Our Democratic colleagues believe that this is grossly unfair and they want to do something about it.

Well, let me first set the record straight. It is true that, in our tax bill—at least the version that passed the House—the bottom 20 percent of income earners in America do not get much of a tax cut. It is also true that the top 20 percent of income earners will get a substantial tax cut.

But as Paul Harvey would say, let me tell you the rest of the story. The rest of the story is that, as a group, the bottom 20 percent of income earners in America pay no income taxes. The top 20 percent of income earners in America pay 78.9 percent of all the income taxes paid in America. So I do not understand why our Democratic colleagues are so shocked to learn that people who do not pay income taxes do not get an income tax cut when we are cutting income taxes. Nor can I understand why they are so shocked to learn that when 20 percent of the workers in America are paying 78.9 percent of all income taxes, it is that 20 percent which will benefit from a tax cut when we are talking about cutting income taxes.

Now, what our colleagues on the left would like to do, in following the President's proposal, is to take the tax cuts away from a working couple, both of them working full time, making a total of $54,000 a year, and instead give it to people who do not pay any income taxes. Their argument is, if you are a working couple in America and you make a total of $54,000 year, then you are rich and, therefore, you ought not to get a tax cut. Our colleagues on the left believe that we ought to take away your tax cut and give it to people who pay no income taxes.

I reject that. I reject it because it is not fair. It is not fair because a tax cut is for taxpayers. If you do not pay income taxes, then when we are cutting income taxes you should not expect to get a tax cut. Let me make it clear that I have voted for a lot of programs that provide benefits to people—over the past 15 years, we have substantially increased benefits to the very group that our Democratic colleagues have argued on behalf of here today. Let me just give you some figures. In 1981, the average payment that we were making to low-income workers—we actually give them money to work—was $285. Today, that figure has risen to $1,395. This is relevant because the last time we cut taxes on working families was in 1981. So our Democratic colleagues who have been out this morning talking about redistributing wealth say, look, we ought to take the tax cut away from families making $54,000 a year as a joint income, and we ought to raise this so called earned income tax credit.

My point is that the last time working families who pay taxes got a tax cut, the earned income tax credit, on average, was just $285.

Today the average beneficiary of this so-called earned income tax credit is getting $1,395. In other words, we have had almost a 500-percent increase in subsidies for low-income workers since the last penny of tax cuts was provided for people who actually pay income taxes in America. The best data we have on the refunded portion of the earned income tax credit and after-tax income of taxpaying families is the following: Since 1986, the paid out portion of what we call earned income tax credit, a direct Government subsidy to low-income workers—which, by the way, I have supported—has risen by 860 percent since 1986.

Do you know what has happened to the after-tax income of working, taxpaying families since 1986? It has fallen .2 percent—from $28,302 to $28,249. So, while this subsidy to low-income workers has exploded—the paid-out portion has risen by 860 percent in the last 11 years—we have not had a tax cut in the last 11 years for taxpaying families, and during that time the after-tax income of working families has actually gone down.

What we have heard all morning is that we should take money away from taxpayers and give more subsidies to people who are not paying income taxes.

I believe that it is not unreasonable once every 16 years to have a bill that helps people who pay income taxes. What we are trying to do is to give a modest tax cut—$85 billion in a $7 trillion economy—and we are trying to give it to people who are actually paying income taxes.

I can not think of a more reasonable proposition.

Finally, let me say that we have this game going on where the White House wants to make everybody appear richer than they are so that in the process they can claim that it is only rich people who they would deny the tax cuts. Let me tell you how it works.

According to the Joint Committee on Taxation and according to the Census Bureau, the top 20 percent of income earners have a threshold income of about $54,000 per family. But what the administration has done is they have inflated that income by over 70 percent. You think you are making $54,000 a year, but the administration says, "Now, wait a minute. Do you not live in your own home? And you know, if you did not live in your own home, you could move out, live in a tent, and rent that house out." So they take what you could rent it for, and they add that to your income. They take unrealized gains, the cash buildup of your insurance policy, the value of your retirement program, private retirement programs, and they add all of that to your income. So your paycheck says, when you add yours and your wife's, that you made $54,000. You did not feel too rich, quite frankly, making $54,000. You are working hard to make ends meet. But the administration says your income is not $54,000. They say if you moved out of your house and rented it out, and if you looked at the buildup of your life insurance policy, if you looked at the internal buildup value of your retirement program, you would have found that actually your income was over $93,000, and that you are actually rich. Then they say, because you are rich, you do not deserve a tax cut so we are going to take it away and give it to someone who does not pay taxes.

Let me make two more points because I see several of my colleagues here who want to speak.

This whole debate pains me. I do not understand why, in America, anyone would try to pit people against each other based on their income. There is nothing more un-American, in my opinion, than trying to divide people up in classes based on how much money they make. We probably provide more generously than any society in history for people who are incapable of earning a living or people who are having trouble doing it. We are not debating those issues today.

What we are debating is when we finally, for the first time in 16 years, can afford to give reductions in income taxes, should those reductions go to people who pay income taxes, or do we have to pay tribute every time we try to help working families who pay income taxes by taking part of their tax cut and giving it to people who are not paying income taxes? That is the real debate.

Final point: If you are making $54,000 a year, husband and wife working, maybe somebody at the White House thinks you are rich. Maybe there are people in Congress who think you are rich. But basically we are talking about middle-class, working Americans struggling to make a mortgage payment, struggling to pay for food and shelter, struggling to try to lead a quality life. It is just outrageous and totally unacceptable for us to be talking about taking that working families' tax cut away to give more subsidies to people who are not paying income taxes.

To me, that is what this whole issue is about. It never ceases to amaze me when we look at these polls to see that people believe that the President is right, and that, in fact, we are talking about redistributing wealth to the wealthy.

The Tax Code in America is more progressive today than it was the day Ronald Reagan was elected President. Higher income Americans are paying a larger percentage of the tax—bearing more of the burden of taxes today than they were the day Ronald Reagan became President. Lower income Americans are bearing a lower share of the tax burden.

For those who want to complain about payroll taxes, let us remember who made a proposal 3 years ago to almost double payroll taxes to pay for national health insurance. It sure was not me. I am happy to count myself among the number who killed that proposal. That proposal was made by the same President who today laments the burden of payroll taxes when in fact 3 years ago he wanted to almost double it.

I do not like engaging in these kinds of debates, I do not think they are very productive. We should be talking about creating wealth rather than redistributing it. But since some of our colleagues spent an hour this morning talking about redistributing wealth, I felt obliged to come out and join others in trying to set the record straight.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

CONGRATULATIONS TO THE FCC

Mr. KERREY. Mr. President, during the last several weeks, I have taken the floor to discuss my concerns about the approach the Department of Justice has taken on mergers among and between large telecommunications companies.

I was particularly disappointed with the decision of the Department of Justice to approve the Bell Atlantic/NYNEX merger without any conditions.

Today, I take the floor to congratulate the Federal Communications Commission for doing what the Department of Justice was unwilling to do. This weekend the FCC announced that it had concluded an 11-page letter of agreement with Bell Atlantic and NYNEX on pro-competitive conditions for its merger.

While I continue to question the underlying competitive merit of the Bell Atlantic/NYNEX combination, the efforts of the FCC certainly mitigate the decision of the Department of Justice to approve the merger. It is only unfortunate that the Department of Justice had not demonstrated the same commitment to competition.

The FCC negotiated a 4 year procompetitive agreement with Bell Atlantic and NYNEX which includes the use of forward looking costs for competitive interconnection agreements, the use of uniform interfaces for interconnection, greater reporting requirements, access for competitors to efficient operating support systems, and performance guarantees. These commitments hold the promise of giving competition a chance to take root.

The use of forward looking costs within the 13 States which make up the Bell Atlantic/NYNEX region is especially significant in light of the Friday decision of the Eighth Circuit Court of Appeals to bar the FCC from setting interconnection prices. A nation grew from 13 colonies, perhaps a telecommunications revolution can grow from 13 States.

I applaud the FCC and Chairman Hundt for showing independence and a commitment to competition. The course of action chosen by the Commission highlights the importance of the FCC's political independence. As an independent regulatory body, the Commission was able to use its authority to protect the public interest to win pro-competitive concessions from Bell Atlantic and NYNEX, notwithstanding the failure of the Department of Justice to do so.

I urge my colleagues to give this case careful study as the Congress considers telecommunications policy. In the coming weeks and months, the Congress will consider confirming four new members of the Federal Communications Commission. At stake is whether the Congressional vision of competition and universal service which brings more choice, more investment, more jobs, and lower prices to the telecommunications market is fulfilled or not.

The success or failure of the Telecommunications Act of 1996 depends almost entirely on a new team of regulators at the Department of Justice and the FCC.

To succeed, they must have an unrelenting commitment to competition and universal service. Without that commitment, the act is doomed to failure. The result will be higher prices, greater consolidation and fewer choices.

Mr. President, I applaud the FCC for its action in this case. The Congress must assure that the new members of the FCC have the same courage to exercise their independence, as this Commission has done to protect the public interest.

Thank you, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Thank you very much, Mr. President.

TAX CUTS

Mr. GRAMS. Mr. President, I come to the floor this morning after hearing some of my colleagues earlier talking and debating about the proposed tax cuts that is now in conference. The question is always: Who qualifies for the tax cut? How much is that tax cut going to be? Who is going to receive what share of that tax cut?

I would like to start out by saying that it is kind of ironic to hear some on the floor arguing about these tax cut packages because these are the same individuals who, along with President Clinton, just 4 years ago were on this floor arguing for the largest tax increase on Americans in history.

When we look at this major tax increase of just 4 years ago, I would like to relate to the comments made by the minority leader, the Senator from South Dakota, earlier this week when he argued that the $77 billion tax cut was not fair. That is what we have heard here this morning on the floor—it is not fair. While I don't believe it was fair in 1993 to raise the largest tax increase in history on Americans, they say, "Well, it was only aimed at the rich." But let me tell you.

Let me remind my colleagues what happened in 1993. After campaigning on middle-class tax relief in 1993, President Clinton turned around and then raised taxes by $263 billion, again making that the largest tax increase in history. But he said it was only for the rich. But everybody paid more, including $114 billion in new income taxes, $24 billion in new gasoline taxes, $35 billion in new business taxes, and $30 billion in new payroll taxes. Then you add on top of that nearly $25 billion more in Social Security taxes. In other words, if you work, if you are retired, if you drove a car, if you owned a business, or if you paid any kind of income tax, you paid for the 1993 income tax increase.

I heard also this morning that what we are talking about today in this tax package is that about $77 billion so far of net tax relief is "substantial" tax relief. Well, when you get back only $1 on every $4 that was raised in 1993, I don't call this "substantial." This is a meager tax package that we are talking about. The reason that it is not fair, in my opinion, is because there is not enough in this tax package to go around.

It does not take a mathematician also to calculate that if taxes raised were $263 billion 4 years ago and you get $77 billion back now, that is not a good deal. If you look at since the tax reduction that everybody blames for the deficits, and that is the Ronald Reagan tax cut in 1981, they say since that tax cut it has resulted in all these deficits: We have these deficits today because of the Ronald Reagan tax cut. In fact, we have had 10 tax increases since 1981—10, over $850 billion in new tax increases since 1981. And now we are talking about $77 billion. This is less than $1 on every $10 of tax increases over the last 10 years.

We also hear about, well, who is going to be getting these tax breaks? The top 20 percent, they say, are going to get over 60 percent of the tax cut. And as we just heard the Senator from Texas say, the top 20 percent of wage earners in this country, which is $60,000 and over—and most people do not consider making $60,000 rich, but they pay 80 percent of income taxes in this country today.

I also heard about a couple of instances—and I did not have time this morning to bring to the floor pictures of families, but let me read a couple that were mentioned here today. They showed pictures of a young family making about $25,000 a year, and they said under the Republican tax plan they were going to get no tax cut this year. But for that family making $25,000 a year, they pay total, with two children, about $3,000 in income taxes and payroll taxes, but they receive $1,100 in EITC. EITC, that is earned income tax credit, an earned income tax credit that was passed in 1986, increased in 1993. So this family making $25,000 a year does receive a tax refund, a tax refund of $1,100, not zero but $1,100.

What they want to do is to add to that. Now, I will talk about that later. They also spoke about and had the pictures of a young family making $20,000 a year, and they said, under the Republican plan, they would get no tax refunds this year. But in fact that family making $20,000 a year will pay this year about $1,800 in payroll and income taxes, but they will receive a refund under EITC of over $2,150. So that family, granted, a hard-working middle-class family, but they are receiving some tax relief under the current system.

Let us go to the family making $31,000 a year. Say the husband is making $9 an hour, the wife $6, or vice versa, they are working 40 hours a week trying to raise a family of two children, have to pay child care, et cetera. And what does this family get? They are going to pay this year about $4,300 in payroll and income taxes and they receive zero under EITC. Now, those two children will not get, under this plan, any tax relief if they are 13 or 14 years old. So who is not getting the relief here?

And when they talk about making it fair, we do want to make this fair, but we want to make sure that those families making $31,000 to $60,000 a year are also going to join and also receive some kind of tax relief today.

Now, I would like to see every family get a $500 per child tax credit refund. That would be great. But if we are going to talk about fairness what we are going to have to do is make this pie larger. The $77 billion is not enough to make sure that all families will enjoy some kind of tax relief. Now, if we want to start talking about class warfare, and that is what we hear in the Chamber all the time, that is, we are going to give it to the rich but not the poor, that is not true. We want to make sure that all families are going to get some kind of tax relief.

So along with the tax relief already in the system under the earned income credit, we also need to expand that so other working families also are going to receive some kind of tax relief this year. Everybody needs to share, not only the low income but also middle-income working families. If my colleagues are serious, let us enlarge the tax cut.

When we talk about the $77 billion that is in this package, if you want to spread that over what this economy is going to generate over the next 5 years, a $7 or $8 trillion a year economy and we are saying, well, we are going to have this substantial tax package, it would be comparable to looking for a new car and the car dealer said, well, this is the sticker price, but I am going to take a penny off from that and I am going to make you a real deal on this car.

That is exactly about what the $77 billion is equal to when you put it into context of what this economy is going to do over the next 5 years. You are going to get a penny back on the purchase of a new car. So what makes the entire debate over what is fair and equitable in this tax relief package so ridiculous is that Washington is not willing to give up more of the money.

So I just wanted to come to the floor and talk a little bit about how we do not want to make this a class warfare issue, that we want to make sure all Americans receive some kind of tax relief. And again, as I said, since 1981, American families have seen their taxes go up 10 times—$850 billion in new tax increases in the last 16 years. Now we are talking about tax relief, and we want to make sure that tax relief is fair and it is broad based, and that those families making between $30,000 and $60,000 a year will also have an opportunity to share in some reduction in their tax burden.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in part to join my colleagues' reflections on what we heard this morning from the other side of the aisle and what we have been hearing basically as a definitional exercise from the White House in their attempts to define the congressional tax relief proposal and the congressional balanced budget act proposal.

I am encouraged in that it does appear we are making very rapid progress with regard to these two historic bills—a balanced budget act, which if signed by the President will be the first time in about 30 years, and the tax relief act, which if signed by the President would be the first in over a decade and a half. And, as has been noted here this morning, that following massive tax increases over the last 10 years.

To put this in some sort of historical perspective, I have only been here a short period of time, as has the Presiding Officer, and it has been a rather dramatic 4 years. Half the time was under the congressional leadership of the other side and half the time has been under our side, 2 years each, and they make an interesting comparison.

In the first 2 years under their side, we fought and lost the largest tax increase in American history. I remember the night very vividly. The Chair of the evening was Vice President GORE, who cast the vote to secure the victory for this huge tax increase, which was characterized by the Senator from Minnesota. The following year was spent, Mr. President, defending the Nation from Government-run health care which would have been the single largest expansion of Government in the history of the world. It would have surpassed the size of Social Security in 24 months, become the largest entitlement in the history of the world.

Well, the American people prevailed and by the narrowest of margins that was defeated.

So those 2 years were filled with large tax increases, large expansion of Government, and the view that Government was the ultimate solution and resolution to all America's needs and woes.

Now we come to the last 2 years. The leadership changed, and the discussion has been about balancing our budget, lowering the economic burden on American workers and families and restraining the size and growth of the Federal Government. And we are making progress, because we now have a President who has said the era of big Government is over and he has said he wants to support a balanced budget act and a tax relief act. And we have agreed on the general premises. We are getting very close now to crossing the "t" and dotting the "i."

I hope the President will come forward in a spirit of cooperation that was exemplified by what happened on these measures in the U.S. Senate. To watch the leadership of both parties vote for a balanced budget act and a tax relief act, to watch the leadership of the committees of jurisdiction on both sides, the Finance Committee and the

Budget Committee, all vote for the balanced budget act and the tax relief act, and then, in almost unprecedented behavior, to have 73 of our 100 colleagues vote for the Balanced Budget Act and 80 join hands and vote for the Tax Relief Act—in all this debate about whether or not it is a fair form of tax relief, I would suggest the empirical evidence that it is is the fact that the leadership of both parties in the Senate and that 80 Members of the Senate could vote for this substantive piece of policy. It is just inconceivable, given that bipartisan, broad, huge majority, that the legislation could be anything less than fair. It almost demonstrates its broad nature and evenhandedness, to secure that kind of support. The President should take note of this.

The country needs to balance its budgets and American workers need relief. An average family in my State, and I would say across the country, makes in the range of $40,000, often with both parents working, and after they pay their direct taxes and their cost of Government and their share of higher interest rates because of the huge national debt, because we have not had balanced budgets, they have barely half of their paychecks left to provide for their families. If the Founding Fathers were here today and discovered that Government in America had come to the point that it was taking over half the wealth of our workers away from them, they would be stunned. And I think they would be angered.

What this boils down to is that we are taking about $8,000 a year out of every average family's checking account, and we are making it very difficult for them to provide their fundamental responsibilities, which are getting the country up in the morning and raising it and getting it ready for stewardship. They can barely get that done because of Government policy removing those resources. This legislation goes in the right direction. It does not go as far as it should, I agree with the Senator from Minnesota, but it goes in the right direction. It equates to a refund of that last tax increase of about a third of it. We tried to refund all of it last year, but the President vetoed that. So he has now agreed to refunding about a third of it, and that is good policy. I am very hopeful that the White House will not politicize, "partisanize," seek political gain and advantage over this policy for which so many on both sides of the aisle have come to agree in the Congress.

This is the right thing to do for America, and this is the time to do it.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Kentucky.

APPOINTMENT OF INDEPENDENT COUNSEL

Mr. McCONNELL. Mr. President, I have never professed to be clairvoyant, but I was able to predict 8 months ago and subsequently authored an op-ed piece to this effect: that obfuscation and diversion would be the damage control strategy of the Clinton White House and its allies in Congress. They would be engaged in that kind of activity, Mr. President, in seeking to avoid the fallout from the Clinton campaign-DNC fundraising malfeasance in the last election.

This damage control strategy was to be expected from this White House, as wave upon wave of scandal has lapped up on the White House lawn these past 4 years. President Clinton's aides have become highly skilled at putting out press fires, lest, of course, the President be singed. I had hoped for better from Democrats here in the Congress embarrassed—I should hope mortified—by the evidence and admission of illegal conduct by the Clinton campaign-DNC fundraisers.

I thought my Democratic colleagues would step up to the plate, seek the truth and let the chips fall where they may.

A disappointing spectacle it has been to witness this collusion in a disingenuous effort to blur the truth, smear the innocent and protect the guilty, by saying everyone does it, and even trying to drag innocent private citizens before the committee.

We are all victims of the system, they say. What we need, they say, is campaign finance reform. Well, in fact, Mr. President, what we need is an independent counsel. That has been clear for a number of months—an independent counsel to remove the investigation from an obviously politicized Justice Department.

Bearing in mind the Attorney General's indefensible refusal to appoint an independent counsel, and the Justice Department's outrageous conduct in the past few weeks in which it has injected itself into partisan maneuvering regarding the granting of immunity for low-level but key witnesses, the inexplicable and entirely inappropriate action by a Justice Department political appointee to distance the administration from United States intelligence agency findings that the Chinese Government plotted to influence United States elections, Mr. President, there is simply no other recourse to ascertain the truth in a nonpartisan manner but to appoint an independent counsel.

That is why this law was passed some 25 years ago, for precisely these kinds of situations, in which you had a highly political investigation affecting covered employees—for example, the President or the Vice President—where it could be suspected that the Attorney General would be reluctant to pursue alleged claims of wrongdoing.

This episode over the last few months is precisely the fact situation which brought about and argued for the passage of the independent counsel statute.

Now, Mr. President, the truth is going to come out sooner or later. No one here should want to be seen in a position of trying to keep the truth from coming to the public. So the point I would like to make this morning very briefly once again, the Attorney General would appoint an independent counsel to investigate the fundraising abuses of the 1996 election, the violations of existing law that may have occurred—contributions from foreigners, money laundering, raising money on Federal property, all violations of existing law. The Attorney General of the United States is responsible for enforcing existing law, and in situations such as this when a clear conflict of interest is apparent, there is no other logical recourse other than the appointment of an independent counsel.

I call upon the Attorney General one more time, Mr. President, to appoint an independent counsel to complete this investigation.

Mr. COVERDELL. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. The Senator from Wyoming, Senator THOMAS, has the time until 11 o'clock.

Mr. COVERDELL. Mr. President, I yield the floor in deference to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

TWO IMPORTANT ISSUES FACING CONGRESS

Mr. THOMAS. Mr. President, I intend between now and 11 to be joined by several of my colleagues to talk about, I think, two of the issues the Senator from Georgia has talked about. One of them that is most important for us, tax relief—I appreciate his comments. The other currently is the hearings that are being held with respect to the illegal contributions for campaigns. These, I think, at least at the moment, are two of the most important issues that face the Congress, two of the most important issues, obviously, that face the American people.

TAX RELIEF

First, in terms of tax relief, which has been talked about, it just seems to me that we have the opportunity for the first time in 16 years to have meaningful tax relief for Americans who are the ones who pay the taxes that support the Government. That is fairly simple. That is a fairly simple concept. And I wish, frankly, we could make it a little more simple. Obviously, in this place whenever there are issues, the technique is to make them as difficult as possible, to make them as detailed as possible, to make them kind of hard to identify. This one really isn't very hard to identify. The issue here is between having more Government and more revenue and more spending as opposed to the idea of seeking to reduce the size of Government, to reduce the spending, to reduce the burden on the taxpayers. And those things do go together.

We talk a lot, importantly, about the idea of balancing the budget. But I think we have to keep in mind you can balance the budget in a couple of ways. One of them is to have the highest tax increase in the history of the world and continue to grow in spending. The other is to seek to reduce spending, to seek to involve the States, to seek to return more government to local government and, therefore, reduce the size of government and the demands on taxpayers. Frankly, I think that is what we have tried to do in the last couple of years. I am very proud of the record of the Congress in the last 2 or 3 years, simply because we have changed the debate 180 degrees.

Three years ago we were talking about not how to reduce spending, not how to balance the budget, but simply, what new programs do we need? What do we need to do to continue spending? We were talking, then, about increasing taxes and did, in fact, increase taxes—the largest that has ever been done. Now we are talking about how do you reduce the size of Government. There is no debate about balancing the budget. It is just, how do you do it? When do you do it? That is a complete turnaround. That is a complete change. We are talking, now, more about how do you block-grant to the States so they can make the decisions as to how best spend the money that goes there. Surely, the concept of the closer to the people served that government is, the more effective it will be, is correct—is correct.

So I am very delighted that we have turned that thing around. Even though we continue to hassle, even though there will continue, always, to be debate about it, because, frankly, there is a legitimate difference of point of view. There are those who believe more Government is better. That is a legitimate point of view. It is not one that I subscribe to and I think, fortunately, not one that is subscribed to by the majority of the Members of Congress, but it is a legitimate viewpoint and it will continue to be argued—and it should be.

ILLEGAL CAMPAIGN CONTRIBUTIONS

The other thing, it seems to me, that is very important currently is the debate that goes on about illegal campaign contributions. Here again, it seems to me when you are out in Wyoming and you are listening to the TV or you listen to radio, you kind of get the notion that the whole thing is about campaign finance reform. In the broad sense, it is. But the fact is, there is a difference between reforming campaign finances on the one hand and talking about illegal contributions on the other. Those are two different things.

I think the Congress has a responsibility to have oversight hearings. The Congress has a responsibility to look into allegations of illegal contributions, and that is what the Thompson committee is primarily assigned to do. There is a difficulty in doing it, as we have seen take place here.

The idea of having the Justice Department involved makes it more difficult. Their unwillingness to give immunity to witnesses to testify so you can arrive at the facts has been a completely difficult issue. And I understand. One reason for the idea of the Congress doing this oversight is that, obviously, agencies have allegiance to the people who have appointed them and they become very edgy when you get into this whole wilderness of allegations of wrongdoing on the part of people who are affiliated to the people you work for. I understand that. That is the reason for having Congress do it. That is the reason for having independent counsels do it. As the Senator from Kentucky a few moments ago mentioned, it is clear there is a reluctance on the part of Justice to get into what they perceive to be a political kind of activity.

That is their task. The way they do it is to appoint an independent counsel. For some reason, the Attorney General has refused to do that. So what we are talking about, then, is having a hearing in which the truth about those allegations can be determined. I think that is, indeed, a responsibility of the Congress. It is something that we ought to be responsible to the American people to do, and I am delighted that it is happening. I only wish that it were less inhibited. I wish there were less constraints being imposed by the minority in this particular committee, less constraints being imposed by the Justice Department. We ought to know what the truth is, in these instances.

I happen to be chairman of the subcommittee on Asia and the Pacific rim. Yesterday, we had a hearing for the nomination of the Assistant Secretary for the Asia-Pacific area, which we need very much, and a very learned person has been nominated whom I am sure we will support. But just to give you some idea of the involvement there, with regard to this investigation, of course the activities with respect to China influencing elections, foreign policy, has been talked about. President Clinton has said:

> [I]t would be a very serious matter for the United States if any country were to attempt to funnel funds into one of our political parties for any reason whatsoever.

Likewise, the Secretary of State said that, if true, the allegations that China had launched a major effort to illegally influence United States elections "would be quite serious."

I asked that question yesterday of the Secretary: Do you agree? And, of course, he said yes. The follow-up question, then, was both Republican and Democrat members of the Governmental Affairs Committee agree that there was Chinese involvement and a plan to move money into congressional elections.

So I asked, I think quite legitimately, what is the plan, then? How does this affect our foreign policy with respect to China? And the answer was, well, we just don't know whether these are true. We don't know whether that's there. We haven't made any accommodation, which only leads me to believe that it is even more important for this committee to arrive at what the facts really are. If these allegations are true, what will it do to our policy? It ought to have some impact on policy, certainly. But, yet, the response from the administration is, well, we just don't know.

We don't know either, but we ought to find out. And that is what the system is about. That is what the hearings are about. That is why there is such concern about the obstacles placed in the way of the committee by the Justice Department, by the Attorney General, by the administration—frankly, by our friends on the other side of the aisle, as to how we come to those decisions.

So, I think we are involved in a very serious issue here. It is serious because it has to do with process. It has to do with the obligations of the Congress to determine if, in fact, in this case, there were illegal activities carried on. That's our job.

Mr. President, I now am joined on the floor by the Senator from Arizona. I am very pleased to yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank my colleague from Wyoming for obtaining time this morning to speak on this important issue.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I would like to begin by asking unanimous consent that a staff member of mine, an intern, Kristine Kirchner, be granted the privilege of the floor during my presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME TO APPOINT AN INDEPENDENT COUNSEL

Mr. KYL. Mr. President, the confidence of the American people in the American political system, in our Government here in Washington has been eroding in recent months, a subject that numerous pollsters and pundits have been writing about. One of the reasons that I believe this exists is that they believe people in high places can get away with things and they are, in effect, above the law, unlike the average American citizen, and that neither the Congress nor the administration has the ability, under that circumstance, to adequately track down perpetrators of crimes and pursue them to appropriate conclusion.

One of the aspects of this that is most troubling to me right now has to do with the Justice Department's purported investigation of people and events surrounding various contributions, allegedly illegal contributions, to the Democratic National Committee, to the Presidential and Vice Presidential campaigns. Attorney General Reno has, after numerous requests, steadfastly refused to appoint an independent counsel to look into these matters, and I had literally hundreds of requests from constituents to make the point to Attorney General Reno that they think this is wrong, or questions asked by constituents as to how this could be when there is such an obvious conflict of interest, at least to the average American citizen.

As a member of the Judiciary Committee, I joined in an effort with other members of the committee to follow a statutory procedure of writing to the Attorney General, asking her to either appoint an independent counsel or explain to us the reasons why she could not do so. She refused to make the appointment and gave her reasons. At the time, I thought they were relatively unconvincing. But since that time, irrespective of whether it has been appropriate up to now, Mr. President, a couple of events have occurred that I think has made it crystal clear that the time has come for the Attorney General to appoint an independent counsel, because the integrity of her office is literally in question as a result of actions taken in connection with the Congress' investigation of these same matters.

In June, the Senate Governmental Affairs Committee announced its intention to grant immunity to 18 witnesses. They are very low-level witnesses against whom no prosecution is believed ever to be pursued or will be pursued. They were the straw donors who contributed money to the Democratic National Committee and were reimbursed by others, including one Charlie Trie, who apparently has fled the country and is currently hiding in China. Charlie Trie is a very close friend and fundraiser for President Clinton, who appointed Trie to membership on a governmental commission on U.S. Pacific trade and investment policy.

Fifteen of these eighteen witnesses that the Governmental Affairs Committee wanted to grant immunity to were Buddhist clerics who have taken vows of poverty and yet contributed funds to the Democratic National Committee at fundraisers in substantial amounts.

One was a Buddhist fundraiser in Los Angeles attended by Vice President GORE, who, of course, is a covered person under the independent counsel law; in other words, one of the people with whom there may be a conflict of interest as a result of which the Attorney General is supposed to appoint an independent counsel.

Since June, the committee has announced its intention to immunize two additional witnesses in connection with these Buddhist fundraisers. Most of the 17 Buddhist witnesses have had immunity requests pending with the Justice Department since March of this year, and yet the Justice Department has not been able to visit with these people—most of them—or to take proffers of evidence from them or declare them for immunity for the Senate Governmental Affairs Committee.

The Justice Department's policy on this is clear. Their policy is not to prosecute low-level people such as this, low-level straw donors or conduits who merely launder campaign contributions at the requests of others. So the Justice Department should have had no problem in quickly clearing immunity for these witnesses, the 18 original witnesses and the 2 additional ones.

On Wednesday, June 11, the day before the markup at which the committee was to vote on this immunity request, both the minority and the majority counsel on the committee spoke with Justice Department officials who were conducting this probe, and these officials expressed no objection to granting immunity for 17 of the 18 witnesses. But the next morning, June 12, the New York Times had a front-page story declaring that Vice President GORE had knowledge about this temple fundraiser.

Just a little bit later that morning, at about 10:30, the Senate minority leader held a press briefing in which he said all of the minority members on the committee would oppose the granting of immunity during the markup later in the day. Of course, since it takes two-thirds of the committee to grant immunity, without some Democratic support, at least two Democrats on the committee, the Republican majority would never be able to get immunity for a witness.

Shortly after the minority leader made his statement, the committee minority counsel informed the majority counsel that he, the minority counsel, had spoken with the Justice Department and it now objected to immunizing 15 Buddhist clerics. You had a direct connection here between the minority counsel on the committee and the Justice Department as a result of which the Justice Department flip-flopped.

Mr. SANTORUM. Will the Senator from Arizona yield for a question?

Mr. KYL. I will be happy to yield.

Mr. SANTORUM. I want to make sure I understand this. What you are suggesting is, prior to this story in the New York Times that Vice President GORE knew, was involved and had knowledge, of this fundraising activity, that the Justice Department was not objecting to allowing witnesses to come and be granted immunity before the committee, and there seemed to be a recognition that these people were not the target of the investigation—they were called conduits—and, as a result, should be able to come to the committee and testify under immunity; that was the state of play before this article.

Mr. KYL. The Senator from Pennsylvania is entirely correct, Mr. President. That is the exact chain of events, according to the committee's majority counsel, whose word has never been questioned on this. It was only after the front-page story.

Mr. SANTORUM. After the front-page story that morning, the story that implicated the Vice President with respect to knowledge of the fundraising scheme, Senator DASCHLE came forward and said, "You're not going to get any support for allowing these people to testify under a grant of immunity," and then what? The Justice Department changed its mind overnight.

Mr. KYL. The Senator from Pennsylvania is correct. And there is an additional factor that makes this even more troublesome, and that is that it was the committee's minority counsel, not in conjunction with majority counsel, which is the normal way——

Mr. SANTORUM. Democratic counsel; minority counsel is the Democrats' counsel.

Mr. KYL. That is right, minority counsel represents the Democratic members of the committee; majority counsel represents Republican members of the committee. In the past, they had dealt with the Justice Department together as counsel for the committee. On this occasion, the minority counsel, the Democratic counsel, made contact with the Justice Department, immediately after which the Justice Department position was announced as having been changed——

Mr. SANTORUM. Your sense of the timing of the Democratic counsel's contact with the Justice Department was after the New York Times article——

Mr. KYL. The Senator from Pennsylvania is correct.

Mr. SANTORUM. Once they understood that the Vice President could be implicated in this testimony, he called the Justice Department, not the Justice Department called him; is that your understanding?

Mr. KYL. The minority counsel apparently made contact with the Justice Department.

Mr. SANTORUM. And the Justice Department, as a result, I assume, of this conversation changed its mind as far as allowing these witnesses to testify under a grant of immunity.

Mr. KYL. The Senator from Pennsylvania is correct, and as a direct result of that, the Democratic members of the committee denied immunity to the witnesses. Only one of the Democrats on the committee supported immunity for two of the witnesses, but none of the witnesses, the remaining witnesses, was granted immunity because of the solid vote of the Democratic members of the committee.

Mr. SANTORUM. Did the Justice Department give any other rationale for changing its mind, other than the fact that what we know is the Vice President was implicated in this, directly now implicated, with knowledge of this fundraising scheme at this Buddhist temple?

Mr. KYL. I have to say to the Senator from Pennsylvania that I am not aware of all of the conversations that members of the Justice Department may have had with people regarding the position that they have taken. Publicly, there have been a couple of different points made: One, that it takes a long time to visit with all of these people. Well——

Mr. SANTORUM. Wait a minute. The Justice Department said it was OK to give immunity. The only thing we are aware of, that has been talked about, intervening between the Justice Department saying yes to 17 of the 18 monks to be able to come up here and testify and then countermanding that was information then presented to the public that the Vice President had knowledge of what was going on at that event?

Mr. KYL. Well, Mr. President, if I can say to the Senator from Pennsylvania, there is an old Latin phrase that is used in law, "post hoc, ergo propter hoc," meaning "after this, therefore because of this."

It seems fairly obvious that if, on June 11, the Justice Department has no objection to granting of immunity, and then there is a big headline in the newspaper on the following morning, and immediately after that the minority leader announces that all of the Democrats will oppose immunity—now, there obviously had to be some kind of a meeting at which this was discussed or he could not have confidently spoken of how the minority members would react—and then a minority counsel talks to the Justice Department and announces that their position has been changed, the only conclusion that one, I think, can legitimately draw from this is that the intervening events caused the change of policy at the Justice Department. If that is true—and, of course, none of us know whether it is true—but if that is true, that clearly injects politics into this investigation in a way which makes it crystal clear that the Attorney General does not have the credibility to continue the investigation of this matter and must appoint an independent counsel. The law requires in a conflict of interest that that be done.

What I am saying here this morning is that this chain of events clearly suggests that result. There is no other explanation that has been proffered. To the Senator from Pennsylvania, I say your questions are right on the mark in trying to get to the bottom of this entire matter.

Mr. President, I know time is short. Might I ask how much of the remaining time I have?

The PRESIDING OFFICER. Five minutes.

Mr. KYL. Fine. Let me then continue with another aspect of this that is important. Again, just to summarize this, it is not at all uncommon in law enforcement in order to be able to make the case against the people who are masterminding a crime, for example, to get the little fish to talk. And the way you do that is to say, "We will not prosecute you if you will tell us under oath everything you know and that information is useful in our ability to make a case against the bigger fish." That is the way it works in law enforcement.

With respect to these Buddhist nuns and monks who have taken vows of poverty, it is clear that nobody wants to prosecute them. They were used. They were abused in this process. I don't think anybody thinks they were criminals or that they had criminal intent. But what is alleged to have occurred is that somebody brought a lot of money in and gave it to them and said, "Now, tomorrow, when the Vice President is here, we want you to write a check in this same amount to the Vice President or to his campaign." That is called laundering money.

The way you make the case against the people who were behind that is to get the people who were the conduits to talk. That is why the Governmental Affairs Committee wants to grant immunity to these people, to bring them forward so that the American people can see what has happened here, and the law enforcement people can get on with their job about getting these prosecutions completed.

So far we hear nothing from the Justice Department. Mr. President, none of us want to jeopardize prosecutions, and when the Attorney General came before the Judiciary Committee, I accepted her explanation that, in effect, she was saying, "Trust me, we have professional investigators pursuing criminal prosecutions and we will do that to the appropriate end."

I can do nothing but trust the Attorney General when she makes that kind of statement, and none of us want to jeopardize prosecutions. But what I am saying this morning is that the chain of events now appears to be raising questions that are so serious that unless they are adequately publicly answered by the Attorney General, her credibility to continue this investigation on her own without the appointment of a special counsel is called into such serious question that I believe that the Senate of the United States could not adequately continue its public investigation and the American people would rightly question whether or not the administrative branch of Government, the embodiment of the Attorney General and the Justice Department, is not improperly involved in the investigation and hearings of the Governmental Affairs Committee of the U.S. Senate. I think that conclusion is inevitable.

It would be a shame for that conclusion to be reached, and, as a result, Mr. President, to clear it all up, to get to the bottom of everything and to avoid the conclusion that the Justice Department is improperly involving politics in this matter, once again, we call upon the Attorney General of the United States to call for the appointment of an independent counsel in these fundraising matters.

Mr. SANTORUM. Will the Senator from Arizona yield for a question?

Mr. KYL. I will be happy to.

Mr. SANTORUM. It is my understanding that in addition to this apparent flip-flop on granting immunity to witnesses to testify before the committee, there was another instance where the Justice Department injected itself into the investigation in an apparent partisan move that showed very clear favoritism.

Can you explain how that occurred?

Mr. THOMAS. Mr. President, I know time has expired.

I ask unanimous consent that the Senator from Pennsylvania be given 5 minutes to continue.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. KYL. Mr. President, if I could respond then to the Senator from Pennsylvania, he is absolutely correct. There is a second event which again calls into question the objectivity of the Justice Department and I think requires us to add a second element to this request for the appointment of a special counsel.

On July 11, Assistant Attorney General Andrew Fois, who is a political appointee running the Office of Legislative Affairs, and who frankly is very unlikely to have access to the classified information, the sensitive information on which Chairman THOMPSON based his opening statement about the influence of Chinese money in American Government on, this individual, this Assistant Attorney General, sent a letter asserting that the chairman's statement did not represent the views of the executive branch.

Now, this is important for the following reason. Recall that when Chairman THOMPSON began the Governmental Affairs hearings, he announced that the committee had sensitive information implicating the Chinese Government for its efforts to involve itself illegally and improperly in American political campaigns.

Some people in the media and in the minority questioned whether Chairman THOMPSON could legitimately make that claim. His response could only be that it had been cleared with the FBI, of the Department of Justice, and the CIA. He could not go any further because information was classified and highly sensitive. So he was in effect defenseless, Mr. President, to further explain his position. But he had to rely upon people's reliance upon his statements.

Then comes this letter from the Justice Department casting doubt on Chairman THOMPSON's assertions saying, no, they had not cleared the content of his statement. That is the Department of Justice, that is supposed to be engaged in an independent investigation of these matters, clearly undercutting the chairman of the committee.

Mr. SANTORUM. When in fact the chairman has said—and I think it has come out since then, that the FBI and CIA in fact cleared that statement and in fact had made some changes, I think one change in one word, is my understanding, one change in one word to the statement that the chairman read, and that they cleared that statement, that this letter was in fact erroneous, that this letter was put forward by someone who I think you suggested probably had no knowledge of what was right or wrong.

Mr. KYL. If I could respond to that direct point by the Senator from Pennsylvania. You and I know, all our colleagues know, how long it takes to get a letter cleared downtown. It takes a long time. A legislative liaison cannot quickly get a letter out without a lot of higher-ups signing off on it. So I have no doubt in my mind that this was not a rogue act of an Assistant Secretary, but it had to have been approved at high levels of the Justice Department.

Mr. SANTORUM. Who knew otherwise, knew that the FBI—part of the Justice Department—had cleared this statement, had signed off on that statement.

Mr. KYL. Precisely. And that is confirmed.

Mr. SANTORUM. What would be the possible reason why someone at a high level of the Justice Department would sign off on a letter which they know would be untrue to basically call into question Chairman THOMPSON's assertion that the Chinese had some plot to influence American elections?

Mr. KYL. To respond to the Senator from Pennsylvania, I am not going to attribute motives to anyone, but it did cast doubt on the claims of the chairman of the committee. Yet a couple of days later, both the ranking minority leader and Senator LIEBERMAN made the point they reviewed the FBI information and they agreed that Chairman THOMPSON's allegations were entirely supported.

Mr. SANTORUM. So in the end everyone agreed that the chairman's original statement was correct, and that really the sole voice of dissent was a Justice Department letter which was intended really just to muddy the waters and cast doubt.

Mr. KYL. Again, to conclude then, and to answer the Senator from Pennsylvania, I cannot ascribe a motive to anyone, but it seems mighty coincidental that at a very critical moment in the committee's deliberations and public hearings great doubt would be cast upon the chairman by the Justice Department of the United States, which is supposed to be conducting an independent, objective——

Mr. SANTORUM. And apolitical investigation.

Mr. KYL. And apolitical investigation. And that I say is the second reason why we believe at this time events warrant the Attorney General to request the appointment of an independent counsel to investigate these matters.

I thank the Senator from Pennsylvania.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, July 22, 1997, the federal debt stood at $5,366,067,378,744.76. (Five trillion, three hundred sixty-six billion, sixty-seven million, three hundred seventy-eight thousand, seven hundred forty-four dollars and seventy-six cents)

One year ago, July 22, 1996, the federal debt stood at $5,169,929,000,000. (Five trillion, one hundred sixty-nine billion, nine hundred twenty-nine million)

Five years ago, July 22, 1992, the federal debt stood at $3,984,029,000,000. (Three trillion, nine hundred eighty-four billion, twenty-nine million)

Ten years ago, July 22, 1987, the federal debt stood at $2,314,592,000,000. (Two trillion, three hundred fourteen billion, five hundred ninety-two million)

Fifteen years ago, July 22, 1982, the federal debt stood at $1,085,930,000,000 (One trillion, eighty-five billion, nine hundred thirty million) which reflects a debt increase of more than $4 trillion—$4,280,137,378,744.76 (Four trillion, two hundred eighty billion, one hundred thirty-seven million, three hundred seventy-eight thousand, seven hundred forty-four dollars and seventy-six cents) during the past 15 years.

HONORING THE BEHRENS ON THEIR 60TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Brooks and Ray Behrens of Eldon, MO, who on August 3, 1997, will celebrate their 60th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Behrens' commitment to the principles and values of their marriage deserves to be saluted and recognized.

TRIBUTE TO DENISE BODE

Mr. NICKLES. Mr. President, the great success of our Nation is rooted in the labors of millions of Americans who work every day to make America a better place. I'd like to take a moment to recognize one such American—a fellow Oklahoman, Denise Bode, who has dedicated most of her adult life to making our Nation a better place through her work in the public and private sector. Soon she will begin a new chapter of service to the people of Oklahoma. For this reason, I am very proud to take this opportunity to recognize her contributions over the past several years.

Denise Bode became involved in Government right after she graduated from the University of Oklahoma, serving as an adviser to my former Senate colleague David Boren who was the Governor of Oklahoma. When David Boren was elected to the Senate, Denise became a member of his U.S. Senate staff and developed an expertise in energy and tax policies. Even though she was working full time, she somehow found time to take courses at night and earn both a law degree and a masters of law in taxation, and devote time to her son Sean as well as be a helpmate to her husband John Bode, who was an Assistant Secretary of Agriculture in the Reagan Administration.

For the past 6 years she has served as president of the Independent Petroleum Association of America, an organization founded in 1929 in Oklahoma and which today is the Nation's largest membership association representing America's oil and natural gas producers. She was the first and so far the only woman to head a major energy trade association.

All of us who have worked with Denise over the years in Washington, regardless of party affiliation, whether in the public or private sector, know her to be a tireless advocate for Oklahoma and always looking out for the best interest of our Nation. She is the type of person who will fight tirelessly for what she believes in. In the process, she has made a difference.

She returns to Oklahoma next month to serve, at the request of Governor Frank Keating, on the Oklahoma Corporation Commission, which oversees both the interest of the consumers in the State and key industries. Ask Denise why she's going back to her native State and she'll say it's because she wants to make a difference; she wants to make Oklahoma an even better place.

We in Washington often talk about devolution, giving more power and responsibility to the States. I certainly believe that is the proper course of action. Knowing that Denise and other extremely capable people are leading the way in the States gives me added confidence in this policy. And once again, Denise is going where her beliefs lead her.

I wish her well in this endeavor and feel very confident that she will give to this new position the same dedication and commitment she's given throughout her years of public service.

MARY FRANCES BURNS, 1909–1997

Mr. BURNS. Mr. President, on July 14, 1997 Mary Frances Burns died in Gallatin, MO. She was born there, a daughter of a farmer and stockman and a sister to four brothers and two sisters. She married Russell Burns in 1931 and they farmed just northwest of Gallatin all of their lives.

Mom was so typical of the farm women of the American prairies. She was wife, partner, mother, homemaker, field hand, and gardener. She could coach younger girls in 4H, teach a Sunday School class, attend a school board meeting, cook all three of the daily meals, keep an old gas powered Maytag wash machine going, and still have time to play an active role in Democratic Party politics.

She and her husband were married 61 years until dad died in 1992. They navigated this family through the droughts of the 1930's and the Great Depression. Yet through it all, she maintained a great sense of faith and humor. The times were hard in the Depression as anybody who lived in that era could attest. The actions and conversations of mom and dad were always of hope and optimism in the American dream, of the American system, and their dream of a better life.

It was the time when America was being tested again and again was about to cast into a great world war. They witnessed husbands, sons, brothers, and a few daughters leave for war and they were there to welcome them home. As a family, we cried and prayed with the families who lost loved ones to that terrible war and we celebrated with the ones who came home heroes. We helped them to put their lives back together again and America was whole again.

They skimped and saved and worked. Mom never had much but was never denied. She made a very happy home. Christmas was an orange, home made toy, and home made clothes. All holidays meant good cooking with a special little twist for her family and relation in times of unbelievable stress and uncertainty.

Memories will always remain of the wonderful smells and aromas emanating from mother's kitchen. It was there she cooked for harvest and hay hands over an old wood range during the hot humid days of summer. Those same smells were even better after chores on a cold winter day.

The badge of authority to the woman of the prairies and a true symbol of womanhood was the apron. It was worn everyday. It was made of anything from feed sacks to the finest cotton. There were those for everyday and those for Sunday or welcoming unexpected callers. Company was always welcome if at meal time, never left unfed.

Mom could gather the eggs, pick the garden, move baby chicks and kittens. The apron was used to haze milk cows to the barn, run wandering livestock out of her garden—along with some colorful language—wipe the tears from a crying child, dust from a husband's eye, and sweat from a working brow.

It was spotted and stained from ripe strawberries, black berries, an overly excited pup, and grease from a spark plug out of the old wash machine. It had the smells of newly picked sweet corn, fresh baked bread, lye soap, and once in a while, the light scent of perfume.

She was the center of our home and was a part of a generation that understood love, life, and death. She understood the value of honesty and openness, a healthy fear and love of God, and the core values of the American Midwest.

She was the daughter of this land. The soil that she loved and sustained her has now received her back. We are the benefactors of her qualities and teachings. We, as a nation, are what we are because of her and the millions of women like her of the American prairies. She was one of the silent builders of the United States of America.

MEASURE PLACED ON THE CALENDAR—H.R. 748

The PRESIDING OFFICER. The clerk will read for the second time H.R. 748.

The assistant legislative clerk read as follows:

A bill (H.R. 748) to amend the prohibition of title 18, United States Code, against financial transactions with terrorists.

Mr. COCHRAN. I object to any further proceeding on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration S. 1033, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1033) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

The Senate proceeded to consider the bill.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members and intern be granted floor privileges during the consideration of this bill, S. 1033: Rebecca Davies, Martha Scott Poindexter, Rachelle Graves-Bell, Galen Fountain, Carole Geagley, and Justin Brasell.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I add to that unanimous-consent request, at the suggestion of the distinguished Senator from Kentucky, to ask unanimous-consent they be granted floor privileges during the votes, if any, that may occur in relation to S. 1033.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am pleased to present for the Senate's consideration today S. 1033, the fiscal year 1998 Agriculture, rural development, Food and Drug Administration, and related agencies appropriations bill. This bill provides fiscal year 1998 funding for all programs and activities of the U.S. Department of Agriculture, with the exception of the Forest Service, the Food and Drug Administration, the Commodity Futures Trading Commission, and expenses and payments of the farm credit system.

As reported, the bill recommends total new budget authority for fiscal year 1998 of $50.7 billion. This is $3.2 billion less than the fiscal year 1997 enacted level, and $1.6 billion less than the President's fiscal year 1998 budget request.

Reductions in mandatory funding requirements account for the overall decrease below the fiscal year 1997 enacted level, principally reflecting lower Food Stamp and Child Nutrition Program costs due to the enactment of welfare reform. Even with these reductions, $38 billion, or approximately 75 percent of the total $50.7 billion recommended by this bill, will go to funding the Nation's domestic food assistance programs in fiscal year 1998. These include the Food Stamp Program; the national school lunch and elderly feeding programs; and the special supplemental nutrition program for women, infants, and children [WIC].

Including congressional budget scorekeeping adjustments and prior-year spending actions, this bill recommends total discretionary spending of $13.791 billion in budget authority and $14.039 billion in outlays for fiscal year 1998. These amounts are consistent with the subcommittee's discretionary spending allocations.

The committee continues to place priority on increasing food safety to ensure that American consumers continue to have the safest food in the world.

The bill provides $591 million for the Food Safety and Inspection Service, $17 million above the fiscal year 1997 level. This will enable the Food Safety and Inspection Service to maintain the current inspection system and to provide the needed investments required to implement the new hazard analysis and critical control point [HACCP] meat and poultry inspection system.

In addition, the bill provides the increased funds requested as part of the President's $43 million governmentwide food safety initiative. This include the full $1.1 million proposed for the Food Safety and Inspection Service, the $4 million increase proposed for Agricultural Research Service food safety research, and $24 million in addition funds for food safety initiatives of the Food and Drug Administration.

For agriculture research, the bill provides total appropriations of $1.6 billion, approximately $37 million below the fiscal year 1997 level. Included in this amount is a reduction of $62 million, reflecting termination of funding for buildings and facilities of the Corporate State Research, Education, and Extension Service; and a $27 million total increase for agriculture research and education activities.

The total amount provided for the Agricultural Research Service continues funding for most of the agency's current research activities, and approves nearly $24 million of the increased funding requested to meet priority research needs, including research focusing on human nutrition, food safety, emerging diseases, and genetics resources. This additional amount includes $5 million for the survey of food intakes by children and infants required in response to the Food Quality Protection Act of 1996.

The recommended funding for the Cooperative State Research, Education, and Extension Service includes a $2 million reduction in funding for special research grants, an increase of $1.8 million for pesticide clearance, and $100 million, a $6 million increase above the 1997 level, for the National Research Initiative competitive grants programs. Appropriations for formula programs, including the Smith-Lever and Hatch programs, are maintained at 1997 levels.

For farm credit programs, the bill funds an estimated $2.9 billion total loan program level, including $460 million for farm ownership loans and $2.4 million for farm operating loans.

Total funding of $912 million is recommended for the Farm Service Agency, $44 million less than the 1997 level. The Department has worked in 1997 to achieve program efficiencies. As a result, we are assured that the funding recommended in this bill will prevent further personnel reductions during fiscal year 1998.

The committee also has given increased attention to the need to provide affordable, safe, and decent housing for low-income individuals and families living in rural America.

Estimated rural housing loan authorizations funded by this bill total $3.5 billion, a $60 million net increase above the fiscal year 1997 appropriations level. This includes funding to support $1.0 billion in section 502 low-income housing direct loans and $129 million in section 515 rental housing loans. In addition, a total appropriations level of $541 million is recommended for the rental assistance program. This is the same as the requested level and $48 million more than the 1997 appropriation.

The budget also proposed that an additional $52 million be provided to convert Housing and Urban Development Agency [HUD] section 8 rental assistance to USDA-financed rental assistance. While this proposal may have merit and yield long-term savings, the committee was not able to afford this further increase within its discretionary spending allocation. As an alternative, we would encourage the administration to work to fund this proposed conversion through the section 8 housing program.

For USDA conservation programs, total funding of $828 million is provided, $57 million more than the 1997 level. This includes $730 million for conservation operations, and $47.7 million for the resource conservation and development program.

USDA's Foreign Agriculture Service is funded at a level of $136.7 million, and a total program level of $1.1 million is recommended for the Public Law 480 program.

The bill also provides a total level of $2.1 billion for rural economic and community development programs. Included in this amount is $644 million for the Rural Community Advancement Program authorized in the 1996 farm bill, consolidating funding for 12 existing rural housing, utilities, and business cooperative programs of the Department of Agriculture.

The bill, as recommended, also appropriates $3.9 billion for the WIC Program and provides up to $12 million for the farmers market nutrition program. The recommended WIC appropriation level is $122 million above the 1997 level and will be sufficient to maintain the current average WIC Program participation level in fiscal year 1998. Also included in the bill is a provision to ensure the continuation of infant formula WIC Program rebate savings, and to provide the authority requested by the administration to give the Secretary of Agriculture discretion in allocating WIC funds.

Further, the bill restores funding for the Pesticide Data Program, and provides the increased funds needed in fiscal year 1998 to conduct the Census of Agriculture.

It also includes the full $202 million required to pay agents' sales commissions under the crop insurance program. Under current law, this shifts these costs from the mandatory to the discretionary side of the ledger beginning in fiscal year 1998. This places an added demand on the limited discretionary dollars available to the subcommittee. We have accommodated this new requirement, in part, through a limitation on the export enhancement program. This is a short-term fix. I am hopeful that this will not become a permanent burden on discretionary spending, and that a long-term legislative solution will be found to pay for this expense.

For those independent agencies funded by the bill, the committee provides the budget request level of $60.1 million, an increase of $5.0 million above fiscal year 1997 level, for the Commodity Futures Trading Commission. It provides a $34.4 million limitation on administrative expenses of the Farm Credit Administration, as requested in the budget. And, it recommends total appropriations of $913 million for the Food and Drug Administration, $25.5 million more than the fiscal year 1997 level. This increase includes the full $24 million requested for FDA food safety initiatives and the $1.5 million increase requested for FDA buildings and facilities requirements.

Only 27 percent of the total funding recommended by this bill is discretionary, subject to the annual control of this subcommittee. As I indicated previously, this bill accommodates increased funding required for such programs as WIC, crop insurance delivery expenses, rural housing, food safety, and other pressing program needs.

Mr. President, arriving at these funding recommendations always requires a number of difficult decisions. I would like to thank the distinguished ranking member of the subcommittee, Senator BUMPERS, as well as all other members of the subcommittee for their support and cooperation in putting together this bill.

Mr. President, I believe this bill represents a balanced and responsible set of funding recommendations within the limited resources available to the subcommittee, and I hope Senators will support it.

Mr. President, for the information of Senators, this bill is consistent with the allocations under the Budget Act that have been made to this subcommittee. We have worked very hard to identify the priorities that Senators have suggested and were in hearings on the budget proposals submitted by the President during the last several months.

This has been an effort which has involved the distinguished ranking member of the subcommittee, Mr. BUMPERS, all of the members of our subcommittee, and our staffs. And all have contributed very substantively to the work that has led to the presentation of this bill today.

We have increased funding for some of the areas where we thought there was justification for doing more in discretionary spending to help improve the services provided by the Government, such as in food safety, in agriculture research to make our farms more efficient and farming more profitable. We have increased funding to maintain the current participation caseload in the WIC Program, for example. And there are other areas.

But I mention those three to illustrate that the committee has identified priority areas where we have provided increases. But overall, this bill reflects a reduction in spending from last year's level and a reduction in proposed spending for the next fiscal year below the request submitted in the President's budget.

So we are trying to do our part to reduce the deficit and to control spending and to make those hard choices that are necessary if we are to in fact balance the budget. We think that the bill reflects a fair and thoughtful balance among the various needs that are sought to be met in this appropriations bill.

We hope that Senators who do have suggested amendments will come to the floor soon during the consideration of this bill so that we can complete action on the legislation today. The leader has suggested that votes will probably not occur before 4 o'clock so that if there are amendments which require votes we are going to ask unanimous consent that those votes be stacked to occur beginning at 4 o'clock. And it is my hope that at the same time we can vote for final passage on the bill at that time or following votes on amendments.

So with that in mind, I am very happy to yield the floor for the purpose of any amendments that Senators may have or for any comments any Senator, and especially the distinguished Senator from Arkansas, the ranking member of the committee, might have.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I first want to extend my sincere thanks to my distinguished colleague, the chairman of this subcommittee, who crafted this bill. He has done a magnificent job. He has always been unfailingly polite, courteous and thoughtful in the process.

I do not want to take up the Senate's time by going into a full detailed statement of what we provided and what we did not provide. But I do want to say a few things that I have said in the committee and I have said in speeches in the last couple months regarding what I believe is a serious lack of funding for research in the area of agriculture.

We have provided well over $1 billion in this bill for agriculture research, but it pales by comparison. And in spite of that commitment, I think I have a commitment to express my concern about the comparatively small amounts we provide for agriculture research.

We live in a world with an ever-growing population. We live in a nation with an ever-increasing demand on our natural resources, including the conversion of arable land for urban growth, for highways, and shopping centers. We live in a world where our very survival is premised on our ability to produce more food with fewer inputs on fewer acres and with fewer risks to public health and the environment.

In the face of all these challenges, it is inconceivable that we would not place a much higher premium on investments in the research vital to human survival, simply put, the research of how we are going to feed ourselves.

We live in a nation that is blessed with abundant natural resources. We live in a nation blessed with a bounty of agricultural products currently capable of feeding ourselves and a good part of the rest of the world. We live in a nation that has lapsed into a complacency caused by the fact that our next meal has always been as close as the corner supermarket. It would not take many days spent in the back country villages of Latin America, the ravaged countryside of Central Africa, or the weathered, tortured steps of Mongolia to witness the lack of what we daily take for granted. I constantly admonish high school and college groups who are going out into the world to remember to count their blessings more often and their money less.

Mr. President, do not misunderstand me. I fully support the efforts of Senator COCHRAN in providing the funds contained in this bill for agriculture research, but I am constantly dismayed and perplexed at Congress' willingness to spend 30 times more on weapons research than we do on guaranteeing our future food supply. We spend twice as much every year just on the space station as we do on agriculture research.

I have often felt that truly meaningful agriculture reform is only one good famine away. But I also continue to hope that such a cataclysm will not be the event that brings us to our senses.

Senator COCHRAN has done an excellent job with this bill within the fiscal constraints that bind all of us. He has properly balanced the needs of the research community with the other demands to which we must answer. This Nation looks to Congress, and I admonish Congress that we do not have forever to come to grips with the train wreck that is on the horizon and is absolutely certain to occur. We must begin laying the groundwork for an agricultural policy that allows our producers all the scientific advances we can develop if we are to grow more with less. We know that certainly we will need more and we will have less if we don't.

One other comment I make regarding the need to bolster agricultural research. Just 1 year ago, this Congress ended most of the support programs that historically protected American farmers from the market forces that often were marshaled to their disadvantage through either the plagues of weather, the domain of foreign policy, or forces beyond their control. Now they are left with the tattered safety net that has brought prices declining, as they are now doing, and there is little break to their fall.

One of the safety net remnants in hand is our agricultural research structure. As the cost of farm inputs skyrocket, we must find ways to reduce their application. As threats to the environment increase, we must find cost-effective protections. If we expect to continue spending less on food than any other developed nation on Earth, we must find ways to make its production cost less.

More than simply a producer, there is not a better steward of the Earth than the American farmer. The farmer knows that his livelihood is directly tied to his care for the soil and water. This bill contains funding for programs designed to help the farmer continue what he practices naturally—conservation. For the first time in many years, this bill places no limitations on the mandatory conservation programs established in the farm bill. These include the Wetlands Reserve Program, the Conservation Reserve Program, the Environmental Quality Incentives Program, and many others established to help farmers protect our natural environment.

In the area of rural development, important areas of spending are protected and, in some instances, provided an increase. The Water and Sewer Grants Program, one near and dear to my heart, increased this year from the budget request of $438 million to $491 million. I want to especially thank Senator COCHRAN for engineering that. The section 502 Single-Family Housing Program was returned to a program level of $1 billion. In addition, the Appropriate Technology Transfer for Rural Areas Program, one I am happy to say is housed at the University of Arkansas, important for the sustainable agricultural prices and products, is increased to $1.5 million.

The bill provides nearly $4 billion for the WIC Program. We all know that is the program that provides a healthy diet for poor pregnant women and thereby increases the protein diet and the brain count of the fetus. This amount is an increase of nearly $200 million above the level we provided in the fiscal year 1997 bill. Noninclusive is the $76 million we put in the recent supplemental appropriations bill. Included in the fiscal year 1998 WIC appropriation is $12 million for the WIC Farmers Market Nutrition Program. That helps provide fresh produce for WIC participants. In other words, WIC participants can buy produce at the roadside vegetable stand, just as everybody else can, with their vouchers.

For the Food and Drug Administration, this bill provides an increase above last year—an increase—and includes a 1-year extension of the Prescription Drug User Fee Act and a Mammography Quality Standard Act. Fees collected from these two authorities will provide an additional $105.2 million for the FDA. These funds are vital to protect Food and Drug supplies and to ensure the safety and efficacy of our pharmaceutical and medical devices.

Mr. President, just as we too often take for granted the availability of food, we too often take for granted the safety of that food. It only takes a single outbreak of E. coli in fruit juice, or similar strains in other food products, to quickly bring us short as to how fragile our health can become in the hostile world of bacteria and microorganisms. Visit with one mother of a child who has known the horror of a food-borne illness and what it can do, and you will never take the safety of our food for granted again. The Food and Drug Administration, along with the Food Safety Inspection Service, stands as a guardian to protect our food supplies and the public health. This bill serves to help those agencies carry out those very important missions.

The bill provides $14.5 billion to complete phase 2 for the FDA's National Center for Toxicological Research. This important facility is on the frontline of helping protect the health of American consumers. Once complete, this facility will be a cornerstone of the FDA's streamlining efforts to make Government more efficient and cost effective.

There were several initiatives included in the administration's budget request, many of which included funding in this bill. The food safety initiative, vitally important to protect our food supply and help bolster consumer confidence in all meat, poultry and other products, has provided nearly full funding. The human nutrition initiative, though not completely funded, gets a substantial boost.

Mr. President, let me conclude by restating, I am again most grateful to Senator COCHRAN for his unfailing courtesy and consultations and for the fine job he and his excellent staff have done in crafting this bill. To expedite matters, let me simply say we are all grateful for his fair and open consideration of all requests. I gladly join him in bringing this bill to the Senate floor and urge the support of all Senators in its passage.

I yield the floor.

Mr. COCHRAN. Mr. President, I am very grateful for the generous comments by the distinguished Senator from Arkansas about our work together on this bill and my contributions to the effort. It has been a genuine pleasure working with him. I have considered it one of the highlights of my career in the Senate of getting to know him personally and serving with him on the Appropriations Committee, as we have for these last 18 years.

CORRECTIONS TO SENATE REPORT 105–51

Mr. President, I would like to reflect for the record the following corrections to Senate Report 105–51 accompanying S. 1033, the fiscal year 1998 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act.

The table on page 36 of the report should properly reflect that the committee recommends a $200,000 Federal administration grant to the "Center for Human Nutrition (Maryland)" rather than the "Center for Hawaiian Nutrition (Maryland)."

On page 37, the first paragraph should reflect a total recommendation of "$47,525,000" for special research grants under Public Law 89–106 rather than "$46,525,000".

In the table on pages 42–43 of the report, the committee recommended total for "Agricultural quarantine inspection" under "Pest and disease exclusion" should be "26,747" rather than "28,547", making the subtotal for agricultural quarantine inspection "126,747"; and the committee recommended total for "Biological control" under "pest and disease management programs" should be "6,090" rather than "6,290", making the subtotal for pest and disease management "96,281".

And, on page 76, delete "the University of Colorado Health Science Center telemedicine project, Colorado," from the list of rural business enterprise grants which the committee encourages the Department to consider.

Further, I would like to clarify that the $275,100 in the first paragraph on page 24 of the report for the University of Hawaii Institute of Tropical Agriculture and Human Resources for the collaboration work on developing and evaluating efficacious and nontoxic methods to control tephritid fruit flies is the net amount currently going to the location, rather than the gross amount.

Mr. COCHRAN. Mr. President, there are several amendments which have been brought to our attention that we know will be offered by Senators. We invite those Senators to come to the floor now and present their amendments for the consideration of the Senate. Some of them we expect to recommend approval; others we will have to oppose. We hope that we can begin that process soon so we can complete action on all amendments so that we can have votes on those amendments and final passage of the bill at 4 o'clock this afternoon. That is our goal. We need the cooperation and assistance of all Senators in order to achieve that goal.

Let me say, in connection with the provisions of the bill, some of which the Senator from Arkansas mentioned specifically, I am particularly pleased we were able to continue funding for a lot of the traditional programs of the Department of Agriculture, which, because they are not new, because they do not seem innovative, are often overlooked or taken for granted. One that comes to mind is the Extension Service. We have seen a lot of changes in the Extension Service over the years, and we have tried to give that service the funds they need to carry out what many consider to be services and benefits that are not often applauded or recognized.

We have seen so many new developments in technology and in modern science that we are able now to utilize in our rural communities and on our farms that have really elevated the standard of living in rural America to a point that is really quite impressive. We need a lot of things done that have not been done, but that is one of the agencies that, in my judgment, has done a great deal to help make life more livable, more enjoyable, and enrich the lives of many people every day because of the work that has been done.

Another area that seems to me important to mention is the protection of our environment, our soil and water resources. The funds for conservation programs are increased because of the growing importance of developing new technologies, new ways to deal with pests and other problems in production of agriculture in an environmentally sensitive way. All of that is reflected in this legislation—those ambitions, those goals, and the importance of protecting the safety and health of those who live in rural America.

We think the research activities done by the Agricultural Research Service also merit special mention. There are a lot of new things being undertaken by agricultural research scientists that offer great promise in terms of food safety, in reducing the necessity for using some products on our farms that many consider to have the potential for harming health and human safety. We are trying to make these changes and these improvements in agriculture possible through the development of new discoveries and new applications of science in agriculture. That is the agency that the Federal Government has charged with the responsibility of concentrating in that area.

We also are developing, in concert with the legislative committees in the House and Senate, a level of funding of over $100 million for a comprehensive research effort that is new and recently authorized in the farm bill that was passed 2 years ago. We are hopeful that this will mean a more coherent approach to research and a more effective approach. Some worry about our spending too much money for so-called basic research and not enough money for applied research. The line between those two efforts has been blurred, and, in some cases, it is hard to distinguish between one kind and another. We appreciate the input we have received from those throughout the country who have presented information and have made their views known to the committee on that subject.

This bill reflects an effort to bring together the best suggestions that we have had on that subject to have a more effective and more successful research effort for the betterment of our country.

With the hope that other Senators will come to the floor and present amendments or suggested changes or comments on this legislation, I am prepared to yield the floor.

Mr. McCONNELL. Mr. President, I want to commend Subcommittee Chairman COCHRAN for his work on the Agriculture appropriations bill for fiscal year 1998. This bill provides funding for all the activities under the jurisdiction of the Department of Agriculture, except for the U.S. Forest Service. It also funds the activities of the Food and Drug Administration, the Commodity Futures Trading Commission, and the Farm Credit System.

This has been one of the most difficult years to date and I congratulate Senator COCHRAN and his staff in working through the difficult decisions in crafting this bill.

PRIVILEGE OF THE FLOOR

Mr. FORD. Mr. President, I ask unanimous consent that Rob Mangas and Jim Low of my staff be granted the privilege of the floor during consideration of S. 1033.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDEMNING THE GOVERNMENT OF CANADA

Mr. STEVENS. Mr. President, very soon, Senator MURKOWSKI will submit for himself, for me, and for Senator GORTON and Senator HELMS, a resolution condemning the Government of Canada for its failure to protect the right of innocent passage of the Alaska ferry *Malaspina* in the Canadian territorial sea. The *Malaspina* entered the Port of Prince Rupert on Sunday morning and was blockaded by, we are told, about 200 Canadian fishing vessels and was prevented from leaving that port.

On Sunday, at the request of the State of Alaska, a Canadian court issued an injunction against the blockaders. The governments of Canada and British Columbia ignored the court's directions to enforce that injunction. The *Malaspina* was finally able to leave Prince Rupert on Monday evening, only when the Canadian fishermen agreed to end the blockade.

In my judgment, through its inaction, the Government of Canada has exhibited a disregard for its own domestic laws, for international law, and for what I would call the concept of being a good neighbor to our country, the United States.

Mr. President, over the past 3 years the Government of Canada has shown a pattern of complacency—and, in some cases, complicity—in the harassment and illegal treatment of United States vessels and our citizens.

In 1994, Canada charged an illegal transit passage fee to United States fishing vessels proceeding from the Seattle area north to Alaskan waters. Following that, at my request, Congress directed the State Department to reimburse these United States fishermen and to seek repayment from Canada for the illegal fees that were imposed upon our citizens. To date, Canada has not repaid and, as a matter of fact, has ignored the request for reimbursement to the United States for these costs.

The Government of British Columbia continues to seek to prevent use by the United States of an underwater missile testing range that is critical to NATO activities, at a place called that Nanoose Bay. I found that to be unacceptable, Mr. President. To have one NATO partner use land that has been made available under NATO for leverage on a fisheries issue is unprecedented.

The United States vessels have also periodically been harassed by the Governments of Canada and British Columbia under the guise of enforcement of Canada's customs laws. My colleague and I are here today to call on the Government of Canada to put a stop to these actions. We ask that the President of the United States now take action to ensure that harassment of our citizens comes to an end.

The measure my colleague will submit condemns the Government of Canada for its failure to protect United States citizens from these types of illegal actions and harassment while our people exercise their absolute right for innocent passage through these Canadian territorial waters. They are international waters under international law and available to our people just as our inside passage in southeast Alaska is available to and used by the Canadian people.

Our resolution calls on the President to ensure that this pattern of harassment will not continue. We ask that the President use assets of the United States to protect our citizens if necessary, and, also his authority to prohibit the importation of Canadian products into this country until Canada agrees to protect our citizens.

We also believe the President should find a way to provide financial support to those who were damaged by the blockade of the *Malaspina*.

Mr. President, there were, I am told, over 300 people on board that vessel, and many had to be removed and transported by air to Alaska. In addition to that, it is my information that the *Malaspina* carries the United States mail. It is absolutely unheard of for the Government of Canada to interfere with the delivery of United States mail.

I hope that Congress will consider favorably the resolution that my colleague will introduce, and we intend to consider other measures as well.

We have already passed a bill and sent it to conference with the House that will deny funds for the environmental cleanup of defense sites that were used by Canada and the United States during the cold war period because of the action of British Columbia authorities to try to discontinue our use of Nanoose Bay. That, Mr. President, is essential to our testing program for torpedoes. It has been a joint venture between our Canadian neighbors and our Nation in defense efforts for many years. I am really saddened by that in terms of our relationship for our mutual defense. But we believe that we should assure that Canada will protect our citizens as they exercise their right of innocent passage through Canadian waters, and we believe very sincerely that Canada or its citizens should repay those people that have been damaged by the illegal blockade of the *Malaspina*.

We also call on Canada to repay the United States the illegal transit fees that were charged to our fishing vessels in 1994. And, further, we plead with Canada and its citizens to match the good-faith efforts of the United States to continue to negotiate and renew the Pacific salmon treaty.

Mr. President, it is a time for leadership in these matters. We risk getting more and more rhetoric involved. I have tried to be restrained today. I think Alaskans share this point of view, but we are pushed to increase the stakes.

Our people are most upset. They are even more upset by the act of burning our U.S. flag. I think for a neighbor that shares such a long border to allow citizens to burn a flag of this country is really uncalled for. I don't know really how to express our deep concern about that. To my knowledge, there has been no action at all taken with regard to that. We have a flag-burning issue here in our own country. But to see it done as an act of defiance by people illegally blocking the ferry owned by our State is upsetting. That vessel is owned by the State of Alaska, and it is part of the trek for people who come from all over the world. Many take a ferry up to Canada. Then they take a Canadian ferry from Vancouver Island to Prince Rupert. They take the Alaska ferry on up into Alaska. It is a right of all vessels to have innocent passage through the waters of a neighboring country.

This blockade of our vessel on top of the harassment and seizure of our fishing vessels is too much, Mr. President.

I don't know. We are few in number in Alaska. If this happened to California, there would be 54 Members of the House talking about it. We have one. And, unfortunately, right now he is recovering from a very serious operation.

But, Mr. President, the rights of American citizens should be protected by our Federal Government. We have heard nothing really yet from our National Government in response to these measures. I think that it is high time that this Government stands up to Canada and explains once again what the role of good neighbors really must be.

I do not want to get to the point where we really have to start retaliating and raise the level of this rhetoric even further. But, clearly, those people who say, "Well, now, just let it cool off," don't understand. We cooled off after 1994 when they put our people in jail and charged them fees. Congress agreed, and we paid the fishermen back for the fees they paid to the Government of Canada. Now we see our vessel with 300 Americans on board held up for more than 2 days, denied the right to keep their schedule and go on to Alaska according to the ferry schedules.

Mr. President, I hope the Senate and the Congress will view this matter with as deep concern as we do and will assist Alaska in assuring that we have the same rights of all Americans as we try to pursue our right of innocent passage through the territorial sea of our neighboring country.

I urge the support of the measure prepared by Senator MURKOWSKI. This happens to be the part of our State that Senator MURKOWSKI came from. He knows Ketchikan very well, and he is proud about his heritage and about the area he comes from. He has transited these waters down to Seattle many times.

I sincerely believe there must be some recognition by the Government of Canada and the Government of the United States of this trespass on the rights of Alaskans and other Americans that were on board the *Malaspina*.

I yield the floor.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 962

(Purpose: To make technical corrections to the bill)

Mr. COCHRAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BUMPERS, proposes an amendment numbered 962.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, line 20, strike "1997" and insert "1998".

On page 55, line 21, strike "1997" and insert "1998".

Mr. COCHRAN. Mr. President, this is a technical amendment offered for myself and in behalf of the Senator from Arkansas [Mr. BUMPERS]. It has been cleared on both sides of the aisle.

I ask that it be approved by the Senate.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 962) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 963

(Purpose: To make an amendment relating to rural housing programs)

Mr. COCHRAN. Mr. President, I send an amendment to the desk on behalf of Senators D'AMATO and SARBANES.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. D'AMATO, for himself and Mr. SARBANES, proposes an amendment numbered 963.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . RURAL HOUSING PROGRAMS.

(a) HOUSING IN UNDERSERVED AREAS PROGRAM.—The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(b) HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.—

(1) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(2) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(3) LOAN TERM.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(A) in subsection (a)(2), by striking "up to fifty" and inserting "up to 30"; and

(B) in subsection (b)—

(i) by striking paragraph (2) and inserting the following:

"(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;";

(ii) in paragraph (5), by striking "and" at the end;

(iii) in paragraph (6), by striking the period at the end and inserting "; and "; and

(iv) by adding at the end the following:

"(7) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

"(A) the Secretary determines—

"(i) it is more cost-effective and serves the tenant base more effectively to maintain current property than to build a new property in the same location; or "(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

"(B) the Secretary determines—

"(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

"(ii) any other criteria established by the Secretary has been met.".

(c) LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.—Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p-2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

"(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amounts as may be provided in appropriation Acts for such fiscal year.";

(2) by striking subsection (t) and inserting the following:

"(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1998 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year."; and

Mr. D'AMATO. Mr. President, I rise to support the amendment relating to Department of Agriculture rural housing programs. I would like to express my appreciation to Chairman COCHRAN and Ranking Minority Member BUMPERS for their consideration of this amendment and their continued commitment to providing affordable housing for our Nation's rural Americans.

The Department of Agriculture has a number of successful housing programs under the auspices of its Rural Housing Service [RHS]. Although operated by the Department of Agriculture, rural housing programs are under the jurisdiction of the Banking Committee. As chairman of the Banking Committee, I respectfully request the consideration of this much needed amendment.

This amendment contains provisions which will permit important housing programs to continue in an uninterrupted and cost-efficient fashion. It includes 1-year extensions of housing programs which have expired or will expire in the near future. Specifically, the RHS Section 515 Rural Rental Housing Program, the RHS Section 538 Rural Rental Housing Loan Guarantee Program, and the RHS Underserved Areas Program would be extended until September 30, 1998.

Due to the uncertainty of final passage of housing reauthorization legislation this year, these short-term extensions are essential. In addition, the amendment would alter the section 515 loan term and amortization schedule. This provision would change the loan term from 50 to 30 years, but allow the borrower to have the loan amortized for a period not to exceed 50 years. This statutory change incurs no cost to the American taxpayer, and is necessary to ensure that budget authority provided will support the administration's proposed fiscal year 1998 section 515 program level.

The need for affordable housing in rural areas is severe. According to the 1990 census, over 2.7 million rural Americans live in substandard housing. In my home State of New York, 76 percent of renters are paying 30 percent or more of their income for housing. Approximately 60 percent of New York renters pay over 50 percent of their income for rent.

The section 515 and section 538 programs are some of the few resources available to respond to this serious unmet housing need. Since its inception in 1962, the section 515 rental loan program has financed the development of over 450,000 units of affordable units in over 18,000 apartment projects. The program assists elderly, disabled, and low-income rural families with an average income of $7,200. The alteration of the section 515 loan term and amortization schedule will provide over 500 additional units. The section 538 program is a relatively young loan guarantee program which has already proven to have widespread national appeal. With a proposed subsidy rate of approximately 3 cents per $1, it is an example of cost-effective leveraging of public resources.

I thank the Appropriations Committee for its recognition of the great need for these important rural housing programs and its steadfast commitment to ensuring that every Federal dollar appropriated serves the greatest number of our low-income rural Americans. I support immediate passage of this amendment. Thank you.

Mr. SARBANES. Mr. President, I rise today in support of an amendment concerning rural housing reauthorizations for the Rural Housing Service of the Department of Agriculture. I want to commend Chairman COCHRAN and Ranking Member BUMPERS for their tireless efforts and cooperation in bringing the Agriculture Appropriations Act of 1998 to the floor for Senate consideration.

Given the uncertainty of housing reauthorization legislation this year, I have joined with Banking Committee Chairman D'AMATO to request the inclusion of an amendment that would reauthorize several rural housing programs in the 1998 Agriculture appropriations bill. This amendment will allow the section 515 and section 538 rural rental housing programs to continue providing multifamily housing developers with direct loans and loan guarantees to build or rehabilitate affordable rental housing.

In addition, this amendment reauthorizes for 1 year the nonprofit setaside which reserves 10 percent of section 515 funds for nonprofit applicants, as well as the Underserved Areas Program which targets funds to the 100 most underserved rural communities. This amendment also changes the section 515 loan term from 50 to 30 years, while allowing the loan to be amortized over a 50-year period. This change permits the administration's proposed program level in the budget of $150 million to be supported by almost 15 percent less in budget authority.

Without these housing programs targeted to very-low and low-income rural residents, there exists few resources in rural America to help alleviate the shortage of affordable rental housing. Rural areas still lack adequate access to commercial credit to finance affordable multifamily housing. The direct benefits to rural communities from the section 515 and section 538 programs includes increased jobs and local taxes in addition to attracting and maintaining businesses. This is a direct and vital link to the overall health and stability for rural communities.

While the Rural Housing Service has done much to bring decent, safe, and affordable housing to rural America, many rural families are still in need of assistance. Rural renters experience housing problems such as overcrowding, cost overburdens, and substandard facilities. There are 1.6 million rural households that live in housing without adequate plumbing, heating, or kitchen facilities. Nearly 2.5 million are paying more than 50 percent of their incomes for housing costs, and another 3 million pay between 30 and 50 percent. As we encourage families to move from welfare to work, it is even more essential that we build on the vital housing programs that provide the safety net which will give the working poor an opportunity to live in affordable, decent housing.

Again, I would like to thank Chairman COCHRAN, Ranking Member BUMPERS, and the rest of my colleagues for their swift action to ensure that essential rural rental housing programs receive authorization to continue serving low-income families for another year. I urge the adoption of this amendment.

Mr. COCHRAN. Mr. President, I know of no objection to this amendment. It has been cleared. We recommend that it be approved.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New York.

The amendment (No. 963) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

AMENDMENT NO. 961

(Purpose: To withhold $4,000,000 of appropriated funds from the Risk Management Agency until the administrator of the agency issues and begins to implement a plan to reduce administrative and operating costs of approved insurance providers)

Mr. ROBERTS. Mr. President, I have an amendment numbered 961 and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 961.

Mr. ROBERTS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The amendment is as follows:

On page 28, line 19, before the period at the end of the sentence, insert the following: ": *Provided further*, That, of the amount made available under this sentence, $4,000,000 shall be available for obligation only after the Administrator of the Risk Management Agency issues and begins to implement the plan to reduce administrative and operating costs of approved insurance providers required under section 408(k)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(7))".

Mr. ROBERTS. Mr. President, prior to discussing the amendment, I want to take this opportunity to associate myself with the most pertinent remarks stated by the distinguished Senator from Mississippi, the chairman of the Agriculture Appropriations Subcommittee, and the distinguished ranking member, the Senator from Arkansas. Chairman COCHRAN and the ranking member, Senator BUMPERS, have demonstrated continued leadership and tireless efforts to make it possible for the American farmer and rancher to continue to feed this country and a troubled and hungry world.

Senator COCHRAN said in his earlier remarks that all have contributed. I would also like to extend my congratulations to the staff, both of Mr. COCHRAN and to Mr. BUMPERS, and I would point out to the American consumer, all taxpayers as well as our farmers and ranchers about what is at stake here. It is just not the eighth or ninth appropriations bill we are considering in this Chamber, albeit that is important. We are talking about the fact that the American consumer today spends only 10 cents of the disposable income dollar for that so-called market basket of food.

Every housewife in America should pay attention to the fact that that frees up 90 cents for hard-pressed families today to spend on education or housing or the other essentials. And so we want to say thank you to Senator COCHRAN and Senator BUMPERS for providing the funds to continue this vital responsibility of feeding America.

Senator BUMPERS mentioned food safety. Now, we have heard a great outcry in regard to E. coli, salmonella, and other challenges we face, but as Senator BUMPERS pointed out we have, hopefully, adequate funds to address that problem. So this bill deals with food safety. And I might point out that since we have the best quality of food at the lowest price, the American consumer today apparently cares more about convenience and the safety of their food supply rather than price. That is unequaled in regard to any country. And so this bill does address that.

I could go on about the trade aspects of the bill and our balance of payments and jobs. I could point out we all live longer as a result of the efforts of agriculture and farmers and ranchers and the investment we are making in this bill. Simply put, we do have the best quality food at the lowest price in the history of the world, and I think a lot of people do take agriculture for granted. The first obligation of any government is to provide its country an adequate food supply. Who is responsible for this? Many are, but two particular individuals, one the chairman of the committee and the other the ranking member. And I again wish to thank them.

As a matter of fact, I can recall several months ago that the chairman of the subcommittee, Senator COCHRAN, and I were privileged to join Senator STEVENS on a trip to the Russian Far East and to South Korea and to North Korea. We were the first congressional delegation allowed into North Korea. And in North Korea, the former leader of that country, if I can refer to that person as a leader, Kim Il-song, called the "Magnificent Leader," by the way, has written a veritable tome of books about that kind of government. It is a very repressive and totalitarian government. But the first book—and I read it the evening we were there—starts out with agriculture and says the first obligation of any country is to be able to feed its people.

So while we were there we were working on the four-party peace talks, and we were trying to be a positive influence, and Senator COCHRAN has a great deal of expertise in regard to disarmament. He had this other idea; he insisted in regard to Senator STEVENS, myself and others, we visit this collective farm. And the Senator made a good point. We went out and we visited it outside the capital city of Pyongyang, and we found a farm that had farming practices back in the 1930's, largely responsible, I might add, for the famine in that country.

I really think, if you stop to take a look at it, we ought to count our blessings in the fact we have outstanding individuals in the Senate such as Senator BUMPERS and Senator COCHRAN responsible for the investment in American agriculture to allow us to do the things we do. I have been through what, five or six farm bills, having had the privilege of serving in the other body. Those are the authorizing committees. I also wish to thank Senator COCHRAN in particular for the way that he has handled the obligations and responsibilities of the appropriators. It is a difficult task to try to fit together our spending priorities with the policy objectives of the authorizers, and I must say in all candor, unlike the other body, Senator COCHRAN has closely cooperated with the authorizing committee, has done so with fairness, with tolerance and with respect and comity and also understanding and effective leadership. I think we have quite a team on the appropriations subcommittee involving agriculture appropriations, and I again wish to thank them. I thank Senator BUMPERS and Senator COCHRAN on behalf of every farmer, every rancher, and every consumer in America. I think they have done an outstanding job.

Mr. President, I regret that I must offer this amendment. Quite honestly, it pains me to have to even suggest this course of action, but my responsibility to the farmers of America certainly compels me to do so. The purpose of this amendment is twofold. First, it allows this body to recognize that the Risk Management Agency—that is the outfit that administers the USDA's Federal Crop Insurance program—has failed to comply with the Federal Crop Insurance Act of 1994. That is 3 years ago.

Second, as a result of the Risk Management Agency's unwillingness to submit and implement a plan to reduce administrative and operating costs of approved insurance providers as required under the 1994 act, this amendment would withhold—I am not trying to cut, just withhold—funding of $4 million of funding from the RMA appropriation unless the plan is implemented by September 30, 1998.

Mr. President, farmers have always needed crop insurance in order to make ends meet, in order to work, but for too many years it was always either too expensive or provided too little coverage depending on what region you came from and what commodity. But we passed the 1994 Crop Insurance Act and privately developed crop insurance products surfaced as a replacement, very long needed replacement, to the old USDA-sponsored insurance programs. Now, while crop revenue coverage, or what we call CRC, is widely regarded as a revolutionary new risk management tool in farm country, we are providing farmers the capability, the tools, if you will, to manage their downside risk when prices fall. It is not like the old insurance products. The CRC protects both against price and yield risk. It is expensive, that is true, but it is worth the price for farmers who want adequate protection for their farm and their family. But, unfortunately, too often the USDA has taken an adversarial position to the development of these private crop insurance programs.

Too often the department has tried to compete with the private sector in the development and marketing of these products.

A few weeks ago, a crop insurance agent from Luray, KS, population about 500, came into my office and said: "Senator ROBERTS, I really want to continue selling crop insurance because I know the farmers in our community need it, that our town depends on the farm economy for its survival. But, Senator, all the paperwork and redtape involved has forced me to hire additional people just to push the paper around. Unless the regulatory burden subsides, I am afraid I will have to stop selling crop insurance entirely."

This amendment is all about that crop insurance agent and small town America. This amendment is all about the farmer, who tries to feed this very troubled and hungry world, who will invariably face higher crop insurance premiums as a result of USDA's intransigence. We cannot let this unfortunate situation threaten the viability of our crop insurance program and our farmers, the exciting new tools for the farmers to manage their downside risk.

I urge support for this amendment. I simply ask the risk management agency to do what the Congress and the President required of them back in 1994. We made that arrangement. We lowered the payments that went to the crop insurance companies in exchange for regulatory reform.

I don't know how many times I have asked the RMA folks, officials down there, where is the report? In 1994, no report; 1995, no report; 1996 no report; 1997—it's time. This is going to give them clear up to September 30, 1998. But this ought to at least open some eyes down at USDA that we need regulatory reform. That's what we asked for, that's what we required in the 1994 act. I ask consideration of the amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we have looked at the amendment proposed by the distinguished Senator from Kansas. I must say, it is targeted to a very narrow issue, and it seeks to withhold only $4 million of a $64 million account which is appropriated or recommended for appropriation in this bill for the administration of the Risk Management Agency that has a responsibility for administering the crop insurance program.

I am not going to oppose this amendment. I sympathize with the goal. I sympathize with the effort to get the attention of the administration to do something that was required of them in the 1994 act of Congress. I am hopeful the Senate will approve the amendment and that this will help achieve the goal of the distinguished Senator from Kansas.

Let me also say, too, I am very grateful for his generous comments about the work of our subcommittee and the efforts we have made to present a bill that reflects the needs of our country in connection with agriculture and agricultural production and all of those other activities that are funded in the legislation. He is very kind to point out that we have worked hard. He has been a big help, too, in certainly helping us understand the provisions that were contained in the last passed farm bill, which he had a great deal to do with writing as chairman of the House Agriculture Committee. We are lucky to have him in the Senate, and we appreciate his continued advice and counsel and assistance in these matters.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me echo the comments of the distinguished Senator from Mississippi, Chairman COCHRAN. I subscribe to everything he said. I also want to especially thank the distinguished Senator from Kansas for his very, very kind, laudatory comments.

Having said that, let me just say I am not going to object to the amendment either. I think, in a way, it is a little bit of a sledgehammer approach. But, by the same token, the Senator is entitled to the report he requested a very long time ago. It is a legitimate request, and the Department should have responded to it much sooner.

The Department objects to the amendment, but I am going to, on behalf of this side of the aisle, say I will accept the amendment and I strongly encourage the Department to respond, so, possibly by the time we get to conference, we can deal with this amendment. But let the Department know in advance that unless there is a very firm commitment made, the Senator's request will be honored and the amendment will wind up in the conference committee report.

So, I am going to clear this amendment for this side of the aisle.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 961) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I understand that Senators are considering offering amendments. Let me say this is a good time to come to the floor and do that. We expect amendments to be offered. We hope to wind up consideration of all amendments so we can stack votes and have those votes at 4 o'clock this afternoon, and then final passage of the bill. To do that, we need the cooperation and participation of Senators. We invite that at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I also ask unanimous consent that I may proceed as in morning business for no more than 2 minutes for the purpose of introducing a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1056 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I yield back any time remaining. I thank the chairman of the ag appropriations bill for his courtesy.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 964

(Purpose: To modify the conditions for issuance of cotton user marketing certificates)

Mr. COCHRAN. Mr. President, I send an amendment to the desk which has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BUMPERS, proposes an amendment numbered 964.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new provision:

SEC. . Effective on October 1, 1998 section 136(a) of the Agricultural Market Transition Act (7 U.S.C. 7236(a)) is amended—

(a) in paragraph (1)

(1) by striking "Subject to paragraph (4), during" and inserting "During"; and

(2) in subparagraph (B), by striking "130" and inserting "134";

(b) by striking paragraph (4); and

(c) by redesignating paragraph (5) as paragraph (4).

Mr. COCHRAN. Mr. President, I am pleased to offer this amendment on behalf of myself and Senator BUMPERS.

This amendment contains two technical changes to the competitiveness provisions of the domestic cotton program. This amendment has been scored by the Congressional Budget Office as having no cost. I am informed that the chairman of the Senate Agriculture Committee has no objection to the amendment.

The original provisions in the law were designed to ensure that U.S. cotton is competitive in both domestic and overseas markets. The program has worked well, but changes made to the program in 1991 and 1996 have had unintended consequences.

The amendment I am offering would address those problems by doing two things. First, it makes it possible for the various components of the program to work simultaneously to ensure that we do not rely too much on cotton import quotas to make domestic cotton competitive. Second, it slightly increases a ceiling that unduly restricts the availability of the step 2 certificate program. By capping loan rates in the 1996 FAIR Act, Congress unintentionally restricted the operation of the cotton competitiveness program. The amendment eases the restriction slightly, but would not affect loan rates.

Mr. President, this is an amendment that has been cleared on both sides of the aisle. I know of no objections to it. I know of no Senators who want to speak on the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 964) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARKANSAS COMMUNICATIONS PROJECT

Mr. BUMPERS. Mr. President, I would like to engage the senior Senator from Mississippi in a colloquy.

Mr. COCHRAN. I would be pleased to join the senior Senator from Arkansas in a colloquy.

Mr. BUMPERS. Mr. President, this bill includes the Rural Community Advancement Program which provides flexibility to tailor financial assistance to applicant needs. Through this program rural business enterprise grants are made available.

As you are very well aware, I have pursued funding for the Arkansas communications project since March 1992. This project will provide a statewide communications and education network that will eventually include all Arkansas publicly funded 2- and 4-year institutions of higher learning, research and extension centers, cooperative extension county offices, many rural hospitals, and State and Federal Government office buildings. The network will include compressed video, TV/video production, and data networking. When completed, the project will serve the large rural population of Arkansas as well as provide linkages and educational support to our more urban areas.

This committee first voiced its support for the project in the fiscal year 1993, and the committee has continued to note its support every year since. Unfortunately, the University of Arkansas Divisions of Agriculture, which is sponsoring this project, has endured mixed results in getting the Department of Agriculture to honor the wishes of this committee. Promises were made and broken until the project came to the attention of Under Secretary Thompson and her staff in Rural Development. She and they have offered invaluable assistance, and I am pleased to note that the division received funding for the first phase of the project earlier this year and is actively seeking funding for the second and third phases. I should also note that the division has already committed sizeable non-federal resources to the project while reducing the total cost by nearly one-third. Am I correct in noting that the committee still strongly supports completion of this project?

Mr. COCHRAN, The ranking member is correct.

Mr. BUMPERS. And am I correct in noting that the committee will continue to actively monitor the progress of the Department toward fully funding the Arkansas communications project in a timely manner?

Mr. COCHRAN. The ranking member is again correct. The committee notes its strong approval of the Department for actively working to fund this important project from existing resources. The committee reserves the right to revisit this project next year should the Department fail to continue its laudable efforts.

Mr. BUMPERS. I thank the Chairman. Let me also note that the Department of Agriculture offered to assist the division in seeking communication funds from other Departments as well. The division recently submitted a grant request to the Department of Commerce and it is my expectation that the Department of Agriculture will follow through with their offer of assistance and support.

In addition to the Arkansas communications project, the Arkansas Enterprise Group has been trying to provide assistance for rural communities and smaller companies in Arkansas so that they can join the increasingly global and international environment. However, the small companies which the Arkansas Enterprise Group is trying to help grow do not meet the criteria required to move unaided into the export market. They also fall between the cracks for other programs that aid companies to export products. Am I correct in noting that the committee supports the Arkansas Enterprise Group in their business international exporting loan fund?

Mr. COCHRAN. The ranking member is correct.

Mr. BUMPERS. Is it also the Senator from Mississippi's understanding that if State allocations are not sufficient to meet any States needs that a national reserve is available.

Mr. COCHRAN. The ranking member is correct.

Mr. BUMPERS. I thank the Chairman.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 965

(Purpose: To prohibit the use of appropriated funds to provide or pay the salaries of personnel who provide crop insurance or noninsured crop disaster assistance for tobacco for the 1998 or later crop years)

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. GREGG, and Mr. WYDEN, proposes an amendment numbered 965.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, between lines 12 and 13, insert the following:

SEC. 728. None of the funds made available in this Act may be used to provide or pay the salaries of personnel who provide crop insurance or noninsured crop disaster assistance for tobacco for the 1998 or later crop years.

Mr. DURBIN. Thank you, Mr. President.

Mr. President, one of the most common questions asked of Members of the House and Senate at town meetings or in casual conversations across America is the following: "Senator, if the Federal Government tells us that tobacco is so dangerous for Americans, why does the Federal Government continue to subsidize tobacco in America?

A variety of answers are given to that question. These answers reflect, in some ways, our wishes and, in some ways, misinformation, but the honest answer is, there is no answer. It is almost impossible to explain to America's taxpayers why we are subsidizing the growth of a product which we tell every American is dangerous when consumed.

How did we get in this predicament where we are subsidizing the growth and cultivation of tobacco in America? I would like to give a little history.

In the midst of the Great Depression in 1933, Congress responded to the plight of farmers facing declining prices by passing the Agricultural Adjustment Act of 1933. This was part of the New Deal legislation. When that legislation did not help halt the devastation spreading throughout the vast rural areas of our Nation, Congress in 1938 passed the Agricultural Adjustment Act of 1938, and in that act, tobacco price support programs were born. The legislation also created farm programs for a wide variety of other crops.

Over the years since then, we have changed and, in effect, totally overturned those supply control programs for almost every crop. Only a few crops continue to enjoy a program that looks like the 1938 bill. One of those select crops is tobacco.

The Agricultural Adjustment Act of 1938 also created the Federal Crop Insurance Corp. By 1945, tobacco and a number of other program crops enjoyed Federal crop insurance to protect farmers from unexpected crop losses. The Crop Insurance Program has gone through many changes over the years. The modern version of the program began in 1981, with a major reorganization, which I was part of, in 1994.

This year, for a farmer who has a typical crop insurance policy covering up to 65 percent of the crop's anticipated revenue, the Federal Government, the taxpayers, will pay 41.7 percent of the total premium. That is the direct subsidy to the Crop Insurance Program. In addition, the administration of the program is subsidized.

Finally, if losses exceed what is anticipated, the Federal Government is, in fact, the insurance company of last resort, paying, for most crops, the difference. This subsidy may make sense for many crops. It helps bring some stability to the production of food and fiber that Americans rely on. But this is the most important element.

Tobacco is not like any other crop in America. Tobacco is neither food nor fiber. Tobacco is the only crop grown in America with a body count. It is time we consider the health effects of tobacco in deciding whether our Federal Government should continue to subsidize insurance for this crop.

How different is tobacco? The tobacco crops that receive Federal assistance are processed into cigarettes and smokeless spit tobacco products that kill more than 400,000 Americans every year of cancer, heart disease, and a variety of other illnesses. These products also disable hundreds of thousands of other Americans with emphysema and other respiratory illnesses.

Many of my colleagues will argue, "Why do you single out tobacco? For goodness sakes, these farmers are growing crops just like other farmers." These are not crops like other crops. Tobacco is different. Every day, 3,000 children in America become regular smokers for the first time. During their lifetime, around 30 of these 3,000 kids will be murdered, around 60 will die in a car crash, and around 1,000 of these kids, one in three, will die of smoking-related diseases.

Supporters of the tobacco program will argue that cutting off Federal crop insurance isn't going to stop kids from smoking. Well, that is true, but the issue really goes beyond children and smoking. We have a product here that has no benefit to human health. None. Not even if used in moderation. Every other crop insured by the taxpayers of this Nation and subsidized by this Government offers benefits, nutrition, protein, calories, fiber, every other crop except tobacco.

We are talking here about a product that the owner of one of our Nation's cigarette companies finally admitted this week under oath is addictive. Bennett LeBow, owner of the Liggett Group, admitted—finally admitted—that smoking causes cancer, heart disease, emphysema, and smoking is addictive.

This is not a news flash for most Americans, but we all remember, with a sense of shame, the seven tobacco company executives testifying before the U.S. House of Representatives, standing under oath saying that their product was not addictive.

Well, we have come a long way. Because tobacco and the nicotine in tobacco is addictive, many tobacco users find it almost impossible to quit. They are then set on a path for life that often ends in death.

So the issue before us today is: Should the Federal Government be subsidizing this crop? Should we, with our tax dollars, subsidize tobacco?

Last year, the Government spent $97 million on a variety of taxpayer-supported tobacco subsidies. This chart illustrates the Federal tobacco subsidies. When my colleagues argue there is no Federal subsidy, they should consider the real evidence before us.

In 1993, Federal taxpayers gave $65 million of Federal tax money to the growers and cultivators of tobacco.

In 1994, the figure was $60 million.

In 1995, $51 million.

In 1996, $97 million.

And it is estimated this year that we will spend $67 million to subsidize tobacco. At a time when we are gripped in a national debate about the devastation this product causes, we continue, through our Federal Treasury, to send millions of dollars to the tobacco growers. At a time when we are cutting back on basic education and health programs in the name of balancing the budget, for some reason, we can find the wherewithal and the political strength to divert $67 million to the cultivation and growth of tobacco.

The U.S. Department of Agriculture estimates that the tobacco-related expenditures for the current fiscal year will be about $67 million. What does this consist of? Thirty-nine million dollars is for crop insurance losses; $9 million for crop insurance administration. That is a $48 million crop insurance subsidy for tobacco.

So that you understand, the tobacco growers pay premiums for crop insurance, and then when they have a bad year and they file their claims saying, "Our crops didn't come in as we expected," the premiums they pay are insufficient to cover their losses. Any other insurance company would go out of business at that point. Not the Federal Government. We step in and say, "Let's open the Treasury; let's make up the difference."

This chart tries to demonstrate specifically, when it comes to crop insurance subsidies, what we have been paying, what the net crop insurance losses have been each year, and you will see that these losses are substantial.

The administration of the program is also expensive ranging from about $5.5 million a year to over $11 million a year, money paid by taxpayers to subsidize crop insurance for tobacco.

The Congressional Budget Office has produced an official estimate that ending access to the crop insurance program and the noninsured crop disaster assistance program for tobacco would save us at least—at least—$34 million for the next year, and beyond that perhaps even more.

I am offering this amendment today with my colleague, Republican Senator JUDD GREGG of New Hampshire. Tobacco issues have always been bipartisan issues, as they should be. Our amendment will prohibit the Federal Government from providing crop insurance for tobacco.

For consistency, the amendment also prohibits payments for tobacco under the noninsured disaster assistance program, a new, surrogate risk management program created in the 1996 farm bill.

Federal taxpayers paid around $80 million in net tobacco crop insurance costs in 1996, including premium subsidies and overhead administrative costs. These costs have exceeded $29 million in every year since fiscal year 1993.

There are all the speeches given by all of the Members of Congress of both political parties protesting what the tobacco companies are doing and how tobacco is devastating the American population, notwithstanding each year we fork over millions and millions of dollars to promote the product that causes all this death and disease.

Now, who supports our effort with this amendment? It has been endorsed by a wide variety of health groups and spending watchdog groups, including the Action on Smoking and Health, the American Cancer Society, the American Heart Association, the American Lung Association, Friends of the Earth, the National Center for Tobacco-Free Kids, Public Citizen, Taxpayers for Common Sense, and the U.S. Public Interest Research Group.

The most common response from the tobacco side is, "You got it all wrong, Senator. You just don't understand. Tobacco pays its own way." The so-called no-net-cost program was for many years tobacco's defense whenever we would raise these issues. This program, the so-called no-net-cost tobacco price support program, is in fact the no-net-cost program by and large.

Our amendment does not touch the program, so this program will continue. Those farmers who can and want to participate in it will be allowed to do so, at their own expense, not at the taxpayers' expense.

In each of the last several years, the Department of Agriculture spending on tobacco-related programs has cost about $50 million.

We want to make certain that, as we get into this program, the facts are clear. There are some who will say, "Why are you picking on tobacco? We insure a lot of crops in the United States." You know, that is a fact. Here is a list, a partial list—we think there may be some more—of about 67 crops that are covered by Federal crop insurance. They run the gamut from almonds to wheat. Corn, of course, is in there, and soybeans, and so many other products which are used by Americans nationwide. We have decided, as a nation, that for these 67 crops, we will provide crop insurance.

The defenders of tobacco crop insurance will say, "Well, wait a minute. If you're going to provide crop insurance for all these crops, why don't you provide it for tobacco?" I have tried to make the public health case here that tobacco is different. But just to put in perspective the fact that there are many things grown, cultivated and raised in America in the name of agriculture and aquaculture which are not insured, I would like to offer the following charts of crops not covered by Federal crop insurance.

Forgive me if I do not read them because, honestly, we do not have the time. But as you can see in chart after chart—I am going to run out of space here if I am not careful—chart after chart, we have lists of crops grown by farmers across the United States for which there is no crop insurance.

In fact, these farmers are on their own. If they should happen to be growing seeds, as we have in this one chart here, or shrubs, for that matter, and they have a bad year, there is a drought or a flood, it is their own luck, maybe their own bad luck.

The final chart here wraps it up. Trust me. There are about 1,600 different crops ranging all the way from watermelons to sod and shrubs and so many other things that are not insured by the Federal Government. Among the more than 1,000 commodities not eligible are honey, broccoli, watermelon, cantaloupes, squash, cherries, cucumbers, snow peas, even livestock for that matter.

Our crop insurance restriction does not single out tobacco for unique treatment. It says that tobacco will not be in that special category of 67 insured crops but will be in the other category of about 1,600 crops and other things raised by America's farmers and ranchers which are not protected, and I think for good reason.

There is also a complaint that I am hurting small tobacco farmers with this amendment. Not a single farmer will lose a job because of this bill. This legislation does not affect crop insurance policies for the current crop year. The legislation does not affect the tobacco price support program or Federal extension services. Farmers will still be eligible to participate in the program at their own expense and sell tobacco to their customers.

Tobacco farming—and we will hear a lot about small tobacco farmers eking out a living—is one of the most lucrative forms of agriculture in America. Gross receipts for tobacco are around $4,000 per acre. We will be told about little mom and pop operations scraping by for grocery money raising tobacco. I am sure that can be the case, but keep in mind that people who are growing tobacco are netting per acre substantially more than any other legal crop grown in America.

For an acre of corn, you are lucky to bring out gross receipts of $300 to $400; for tobacco, $4,000. For an acre of wheat, gross receipts of $200 or less; for tobacco, $4,000 per acre. Data from the USDA indicates that net receipts from an acre of tobacco averaged between $450 and $1,100 per acre. According to one of my colleagues, farmers can get $1,844 in net profit from a net acre of tobacco compared to $100 for soybeans.

The value of the Federal crop insurance subsidy to tobacco farmers averages less than $100 per acre. So the question is, if a farmer is going to get $1,800 in profit off tobacco per acre, will he go out of business with a new additional cost of $100? I think not.

Can farmers replace this insurance? There is the private insurance market that they can turn to. It is not offered now because the Federal Government subsidizes crop insurance for tobacco. But insurance companies have never shied away from potentially lucrative new markets. We do expect, though, that farmers will have to pay their own way. Tobacco farmers will have to pay premiums which will match their losses. But this amendment, in ending the Federal subsidy for tobacco crop insurance, does not end the opportunity to buy insurance.

There has been an argument made that this will hurt minority farmers who will not be able to get loans to grow tobacco if they do not have crop insurance. This amendment will merely put these tobacco farmers in the same position as all of the farmers who currently grow crops not covered by crop insurance. The private insurance market will be expected to step in and provide this insurance.

Furthermore, in May 1997, the USDA published a study of "limited-resource farmers," which includes many minority farmers. According to this report:

> Results of the research indicate that socially disadvantaged, small, and limited-opportunity operators tend not to purchase crop insurance nor to participate in insurance-type programs operated by the USDA.

Some will argue we should not be doing this today because there is a tobacco settlement that is being debated. This settlement, I hope, is going to be enacted this year. But it may not be this year, it may be next year, it may be even longer.

As currently written, the proposed settlement does not address the crop insurance issue or any other issues related to tobacco subsidies. The farmers were not at the table—and I am sure this will be pointed out by one of my colleagues—during this negotiation for the tobacco settlement.

This amendment is outside the scope of the proposed settlement, and we can address this issue separately without getting into the complex issues raised by the proposed settlement.

Another argument is this will open the floodgates for foreign tobacco if we do not continue to provide this Federal subsidy, that the domestic tobacco market will suffer and foreigners will come in to take their place.

This amendment will not put domestic tobacco farmers out of business. It will not significantly raise the price of tobacco, which makes only a small part of the cost of a pack of cigarettes. The value of tobacco in a pack of cigarettes is estimated to be 10 cents. You know what people pay for those things? Two, three dollars and more per pack. So there is no reason to expect tobacco companies to change in any way the amount of tobacco they purchase from U.S. farmers.

Furthermore, we currently have a tariff rate quota in place for tobacco which restricts the amount of tobacco that can be imported. Previous Congresses have already prohibited USDA funding for tobacco-related research and export assistance.

This legislation takes another important step to make our agricultural policies more consistent with our health policies regarding tobacco. I called this amendment for a vote last year in the House of Representatives, and it came within two votes of passage. It is my understanding it will be offered again this year. In 1992, however, the House voted 331-82 to add an amendment to the ag appropriations bill to prohibit the use of Market Promotion Program export assistance for tobacco. This amendment was accepted by the Senate and became law.

In 1993, the ag appropriations bill extended this policy to all export assistance programs. In 1994, the same bill extended the prohibition on tobacco assistance to USDA's research program.

This legislation adds crop insurance and noninsured crop disaster assistance to the list of programs for which tobacco assistance is excluded.

Mr. President, I know that this amendment is controversial. Every tobacco issue that I have raised in the House and the Senate has been controversial. But I believe this is the right thing to do. If we make this decision today, we will be able to go back to our States and districts and in good conscience say to the voters that we got the message, that we have on the one hand said that tobacco is dangerous for Americans and we have on the other hand said our subsidy will be ended.

Putting an end to this Federal subsidy for tobacco reflects the reality of the national debate today. I believe that this amendment which Senator GREGG and I have offered is a step in the right direction to make our tax policy and our subsidy policy consistent with our public health policy.

At this point I will yield for a question to my cosponsor of the amendment, Mr. GREGG, or if he would like to seek time on his own, I will yield back the floor.

Mr. GREGG. I appreciate the Senator from Illinois yielding and congratulate him on this amendment, on which I join him.

The PRESIDING OFFICER. Does the Senator from Illinois yield the floor?

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, it is a pleasure to be joining with my colleague from Illinois today in this amendment to correct what is an obvious inconsistency, to put it in conservative terms, in American public policy.

I think there is a general consensus now in this Nation that the use of tobacco is unfortunate, that we wish to discourage its use, especially amongst young people, and that as a government we are trying desperately to inform people of the harm of tobacco to their health and the addictive nature of tobacco and the fact that there is very little positive that comes from smoking tobacco.

We have had innumerable Surgeon Generals, including the great Surgeon General Dr. Koop, point out this problem as a matter of Federal public policy. We now have a commitment by this administration, and I believe by this Congress, to try to change the manner in which tobacco is marketed in this country, especially to the young people, so that we can lessen the impact of this harmful addiction on America and especially on our young.

Yet at the same time that we are doing this, at the same time that as a matter of Federal policy, as presented by the Surgeon General, as presented by the Congress, as presented by the administration, at the same time that we are pointing out as a matter of Federal policy that the use of tobacco is harmful and bad and it has a deleterious effect on health and a very dramatically negative impact on the financial situation of this Nation because of its costs in the area of health costs, at that same time we are subsidizing the capacity of the product to be grown. It makes no sense at all.

This amendment will save $34 million, but it is hardly the money that is important here. It is the statement of public policy that is important. The fact is that, if this Government is going to subsidize the growing of tobacco at the same time it is claiming tobacco is a scourge on the health of this country, we are sending two messages which are totally inconsistent and inappropriate.

Now, the insurance program, as it is presently structured, is a program which basically puts the grower of tobacco in a unique position, the position where essentially there is a no-loss situation where the Federal Government comes in and assures that the grower, whether tobacco grows or not, whether tobacco is brought to market or not, is able to recover the value of the tobacco.

This type of a fail-safe situation makes little sense for any commodity, but it certainly does not make any sense for a commodity which has already been declared a detriment to the health of America and especially to the health of children. More importantly, it is not needed. It is not even needed.

Tobacco is a very lucrative crop. In fact, compared to other crops, tobacco is dramatically more profitable than other crops. I have a chart which reflects that fact, which I will not subject you to because this floor gets enough charts, but essentially tobacco crops as a cash crop per acre generate approximately $3,700, whereas wheat, for example, on a per acre basis generates about $134 and corn on a per acre basis represents about $322. So tobacco is generating 10 times the value of corn and many times the value of wheat.

It hardly seems a crop which is so lucrative would need to have a Federal insurance program to guarantee it, but we do have that program, and that program costs about $34 million a year. Thus, this amendment, which will put an end to that type of an insurance program, which is, first, not needed because the crop itself is viable on its own, regrettably, but it is viable on its own at such high value that it should not be protected by this type of insurance program; but, second, an insurance program which flies in the face of the public policy of the Government generally, especially public policy as stated by the Surgeon General, the President, and this administration, that that type of program should be ended.

So this amendment ends it. It is about time we did that. It is certainly consistent with the direction which this Congress is moving and this Government is moving and the American people are moving relative to the use of tobacco and the harm that it is causing in the area of health in this country.

I congratulate the Senator from Illinois for bringing forward this amendment. I am happy to join him in it, and I hope that the Members of the Senate will support it.

I yield back the balance of my time.

Mr. FORD. Mr. President, there is no time agreement on this amendment, as I understand it.

The PRESIDING OFFICER (Mr. THOMAS). That is correct.

Mr. FORD. And there will not be for a while.

Mr. President, there is a lot of tobacco bashing going on and I understand that better than anybody in this Chamber. An agreement that has been negotiated—and my good friend from Illinois, even though we disagree on this, we are friends, understands—that negotiation is continuing and we will be called upon to make the ultimate decision as to whether that negotiated package will fly, will be passed, worked out, whatever.

Many parts of that negotiated agreement take care of everything that has been said by my two colleagues, except the farmer. The farmer was never at the table. You say you will hear a lot about protecting farmers, the little farm. You are darn right; you will hear a lot about it. They were not at the table, they were not considered, and so therefore, here we come, bashing the farmer again.

You say it is a lucrative crop. Well, let's look at something here. Kentucky's average farm size is 159 acres. The average farm size of Illinois is 370—that is the difference. Kentucky's average gross income per farm is $42,000 and the net to that farm is $11,000. The Illinois average gross income per farm is $128,000, three times what Kentucky's average farm income is, and their gross profit is more than double, $25,000 net profit. That is an Illinois farm compared to a Kentucky farm.

We talk about the gross net profit from one crop which is about an acre, 1 acre, you get $1,800. But the farmer has to be considered. The package has not. I am trying to figure out a way that I can be flat so when the steamroller comes, it won't hurt. But it is another attack on the tobacco farmer, even though there is no tobacco subsidy—no tobacco subsidy, and I underscore that.

Tobacco farmers participate—and my friend from Illinois said it—participate in a price support system that is completely paid for. In fact, tobacco farmers are unique in that they actually contribute millions of dollars each year toward deficit reduction—$31 million last year. There is not another crop or another farmer that is assessed to pay money into the general fund for deficit reduction.

Last year, the tobacco farmer alone paid over $31 million. I hear your loss is only 34—maybe it is only 3, because the farmer is paying almost all of that in an assessment for every pound he sells, and that is deducted from his check before he gets it, before he goes to the bank to pay his loan. Crop insurance is not a subsidy. It is not a subsidy. It is not unique to tobacco. The Durbin amendment does not hit the tobacco companies.

We hear all about the health. This amendment will not stop one person from smoking. What it will do is ensure that tobacco farmers will slowly but surely go out of business. That is what they want. Tobacco is a culture and it will take a while.

Before we became a nation, if you want to read history, it said that Mr. Jones came for his spring planting, his seed for his spring planting, and he paid for it with some of the finest tobacco I have ever seen. Tobacco was money. Referring to the Mother State, Virginia, the pages of Virginia history are splattered with tobacco juice. So tobacco has been here for a long, long time.

Over 60 percent, Mr. President, of every acre farmed in the United States is covered by crop insurance, and the number is higher for individual crops. Corn: 85 percent of every acre is covered by crop insurance. Sugar beets: 89 percent of every acre grown is covered. Wheat: 90 percent of every acre grown is covered by crop insurance. Cotton: 94 percent is covered by crop insurance.

Farmers will tell you what tobacco farmers know—all of these farmers will. Without crop insurance, there is no farm. That is because without crop insurance, banks will not make loans to growers for their farming operations. Farmers in my State do not just borrow money to grow tobacco, they borrow money to grow other crops. Their average income is $25,000, and their net profit is $11,000. But they would not have that if they could not get the crop insurance to lay down to the banker to support the loan.

No legitimate lender—and I say that, legitimate lender—will take the risk of lending to an uninsured operation. You cannot even borrow money on a house without an insurance policy, and there will not be a private-sector substitute for crop insurance, either. Talk about private sector. One of the reasons the USDA extends crop insurance to a particular crop is because a private-sector alternative does not exist. You say, "Go out and get insurance." Well, you can't go out and get it; it doesn't exist. You can get hail insurance on tobacco at 7 percent of the loss. That is all you get from private carriers. I used to do it, I understand it.

This is what the American Association of Crop Insurers say:

> Privately, underwriting multiple peril insurance has been tried in the past and it has failed miserably. This is true for tobacco, as well. Hail, the only peril wholly privately underwritten, accounts for less than 7 percent of crop losses in tobacco-growing States. The private sector would be incapable of insuring the remaining 93 percent risk of loss on a multiple peril universal base without some form of catastrophic reinsurance from the Government, but while there is no farm without crop insurance, discriminating against tobacco farmers won't do anything to reduce tobacco use.

Won't do anything to reduce tobacco use.

Crop insurance doesn't promote increased use of tobacco any more than automobile insurance promotes an increase in car sales. The bottom line of the Durbin amendment is this: American farmers go out of business and whole communities in the South die. The big tobacco companies continue to make and sell cigarettes. While communities die, the manufacturers continue to make and sell cigarettes. If we are going to talk about making changes to the crop insurance system, it should not target the family farmer.

Before we get through, I will have a second-degree amendment to the amendment of the Senator from Illinois. My second-degree amendment would reform the crop insurance to make sure it supports family farms, not corporate farms. Let me repeat that. My second-degree amendment would reform the crop insurance to make sure it supports family farmers, not corporate farms. I'm prepared to fight this battle. If we are going to be changing crop insurance, I am prepared to offer second-degree after second-degree to make sure the changes are comprehensive and don't single out a commodity or a single type of farmer, because that is what the Durbin amendment does: It singles out one commodity grown in one part of the country by one type of farmer, a small family farmer.

Now, Mr. President, we just heard my friend from Illinois talk about the loss from tobacco insurance. Well, stand back. Here are all the losses from other crops. Wheat, since 1984, $288.7 million lost to the Federal Government—a subsidy to wheat farmers. I don't believe you would vote today to do away with crop insurance for the wheat farmer, because you say it is health. Well, everything Kentucky farmers or North Carolina, South Carolina, Georgia, or Tennessee farmers grow—even Wisconsin farmers grow tobacco—they get insurance. But they borrow money and insure other crops. Think about almonds. That was the very first one the Senator said—almonds. Almost $50 million in loss to the Federal Government. That is a lot more than tobacco. We could go down the list. Grain sorghum. I don't know where grain sorghum comes from—maybe from Illinois, maybe Wyoming, I don't know. But they lost $36.1 million. So we can get into even sunflowers lost, which is $22 million.

These are losses to other crops, and my friend would not vote to reduce the loss on wheat or almonds or barley or grain sorghum or these others, but he would on tobacco because he says tobacco is dangerous.

I am trying to help. I am trying to work out a package. I am trying to help negotiate. I have listened in every meeting. I have been to every meeting and we even had one group yesterday that the only thing they want in the negotiated agreement is some way to eliminate the addiction. That is fine. The biggest argument in the tobacco negotiated package will be what percentage of that package the trial lawyers are going to get. That will be most contentious. It is not in there. That is to be negotiated yet.

The result of this elimination of the ability to secure crop insurance will be devastating to the farmers in my area. Yet, this is not the biggest loss to agriculture crop insurance. Mr. President, I have a letter from the Department of Agriculture addressed to Senator THAD COCHRAN, chairman of the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Committee on Appropriations, and I read just a couple of items. There were 89,000 tobacco growers—89,000 tobacco growers—with crop insurance policies in 1996. Tobacco growers in three States—North Carolina, South Carolina and Virginia—received $77.8 million in indemnities for losses due to back-to-back hurricanes that hit the east coast last year. These funds helped communities recover from disaster and were paid for in part by the producers themselves.

The significance of a program that encourages producers to assess their individual risk management needs and allows them to pay part of a cost for coverage must not be lost at a time when fewer dollars—fewer dollars—are available for other types of assistance. Elimination of tobacco crop insurance would place a greater burden on other sources of relief. So when you take it away from one place, you place the burden on other sources in case of a hurricane or tornado or flood.

But if you have insurance, that lifts the burden from these other areas that hasn't been offset in your figure here yet. The $77 million paid last year in three States hasn't been offset from the $34 million. So it makes a little bit of difference, I think, when you look at it in the true light. This idea of me crying crocodile tears for the small farmer, if that's what it takes, I will give you 30 minutes to draw a crowd to stop this amendment. This amendment is absolutely no different and the speech is no different than it was in 1992 or 1993 or 1994, or whenever it was.

So, Mr. President, I hope my colleagues will understand that, yes, we grow tobacco in Kentucky, yes, we grow a little corn, a little soybeans, a little wheat. We do the things that other small farmers do. I want you to remember that the farms in Illinois are almost three times as large as my average farm, and the net income to the farmer in the State of Illinois is more than twice what my farmers' net income would be. Yet, they do grow tobacco.

So, Mr. President, I am going to yield the floor soon so my colleague from Kentucky can have some time. But I want to make one final point. The distinguished Senator from Illinois said that all these other crops are not covered. I think about 1,600, something like that. First, they haven't petitioned the Federal Government for it. They haven't asked to participate. A lot of them have private insurance. So you have to be in a position of requesting it before the Government will consider it. I don't believe they have petitioned. So it's a little bit unusual.

We don't get anything in tobacco as it relates to the farm bill—not a dime. Corn gets crop insurance, and we have lost over $288 million. Yet, they get a check every year as a subsidy. They don't even have to grow it. That is what we call back in Kentucky a mailbox job. Just go out to the mailbox and get your check. Everybody lost that. So for every acre that they have and they signed up, they get a check every year for so much per acre, whether they grow it or not. The tobacco farmer doesn't get that.

So there is a bit of fairness here, I think, that ought to be given. As we work through the problems of the tobacco industry, we need to be sure that we understand that those who grow tobacco are just as human, just as religious, just as American, just as needy, just as hard working as the farmers that grow wheat or corn or granola or whatever. They are good Americans. I can take you anywhere in my State, in any town where we have a circle with a courthouse. Usually, on that courthouse is a monument of some kind to those tobacco farmers who gave their lives for this country in World War I, World War II, Vietnam, and the Persian Gulf.

So, let's try to work through this and understand that the people I represent have no control, basically, over what we are doing here. We are after the manufacturers, but we are getting at the farmer. Somehow, some way, we ought not make a farmer in my State who will net $1,800 off of an acre, which is labor intensive, to $4,000, and about half of that is expense. There is not as much work in corn, soybeans, or others. The weather works on all of them. But my people are just as hard working, just as sincere and, I think, need to be helped and looked after just as anybody else.

This amendment, according to the Secretary of Agriculture, would have a particular detrimental effect on thousands of small farmers in tobacco-producing States, not to mention the toll it would take on the economic stability of many rural communities. Just let me read that one sentence again. This amendment would have a particularly detrimental effect on thousands of small farmers in tobacco-producing States, not to mention the toll it would take on the economic stability of many rural communities.

An overwhelming majority of crop insurance policies in this area are sold to small farmers. It seems to me, rather than to cut the cord of economic stability on the farmer to get after something else, we ought to be sure that that farmer has an opportunity, and we will get around to others.

Mr. President, I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I congratulate my friend and colleague from Kentucky, Senator FORD, for his statement on behalf of the tobacco growers of our State.

Mr. President, the Durbin amendment is not directed at the tobacco companies; it's directed at the tobacco farmer. We don't have many big farmers in my State. We have about 60,000 tobacco growers in 119 of our 120 counties. They are everywhere. And the average base in Kentucky, Mr. President, is about an acre.

The profile of a typical tobacco farm family in Kentucky:

The husband probably works in the factory, the wife probably works in a cut-and-sew plant. They tend to their 1 acre of burley tobacco, and they sell it in the November and December auction, which provides for Christmas money and, for a lot of families, a lot more than Christmas money—Christmas plus a lot of other things they need for their families during the course of the year.

Now, the Durbin amendment seeks to drive these tobacco farmers out of business, as if somehow, if you drove the tobacco farmers out of business, there would not be any more tobacco grown. Of course, it would be grown. It would just be grown by others. It would be grown in big corporate farms of hundreds of thousands of acres under contract with the companies.

So bear in mind, my colleagues, you do nothing to terminate the growth of tobacco by driving the little tobacco grower out of business. It serves no useful purpose. Tobacco is going to be grown. It is going to be grown in this country, overseas, and already is grown in virtually a great many countries in the world. It is going to be grown, and nobody is proposing to make it illegal. The only issue before us, Mr. President, is who grows it? Who grows it? The tobacco program, which the tobacco growers themselves and the companies pay for at no net cost to the Government, guarantees that the production is in a whole lot of hands. In the case of the Commonwealth of Kentucky, it is in over 60,000 hands.

Senator DURBIN's amendment prohibits tobacco farmers from obtaining Federal crop insurance, as well as disaster payments. That is clearly directed at the farmer, the grower, not at the companies. The companies are going to get their tobacco, Mr. President. They are either going to get it from large corporate farmers under contract, or they will get it overseas. But they will get their tobacco, even if the 1-acre burley grower in Kentucky that Senator FORD and I represent is out of business and a whole lot poorer.

Currently, 1,500 crops are eligible for disaster payments under the noninsured assistance program. These are crops that are already eligible for traditional crop insurance. Therefore, if Senator DURBIN's amendment passed, in a natural disaster most small tobacco farmers would simply not be able to recover their losses, putting them out of business. That is why I say—and as Senator FORD has said—this is an amendment directed at the farmer and not at the companies.

We have been plagued in Kentucky this year by natural disasters, as many other areas have as well, and with every other unpredictable element that farmers have to deal with—disease, labor, incredibly high expenses. Imagine that we would take away their only meager defense against Mother Nature just because they farm a legal commodity. It is simply unfair.

The amendment of the Senator from Illinois prevents many small- and medium-sized farmers from receiving protection against what could be catastrophic risks. Farmers may invest up to $2,800 per acre growing tobacco. Many of them do. A natural disaster—a loss of this magnitude—simply could not be overcome. So we are talking here about farmers who depend on their income from this crop.

Additionally, it is important to note that banks and lending institutions will find it difficult to approve loans for farmers who cannot obtain crop insurance. So we come down to the real issue here.

Senator DURBIN's amendment unfairly singles out tobacco farmers and tobacco-farming communities who grow a legal crop simply to try to get at the tobacco companies. Eliminating crop insurance for tobacco farmers does nothing to stop growing of tobacco or punish cigarette companies. The only individuals injured are those who can least afford it, those closest to the poverty level, and those most likely to be unable to find or afford alternative private insurance.

There is a lot of discussion about alternative private insurance. I don't think my typical grower with a 2,500-pound base is going to be able to afford to do that and still purchase that, and still grow the crop profitably. This amendment is not going to stop people from smoking. It will only hurt U.S. tobacco growers for whom tobacco pays the bills—not the big companies.

Tobacco farming, as we all know, is the starting point of over $15 billion that goes to Federal, State, and local governments in tax revenue, and contributes an additional $6 billion to the U.S. balance of trade. That is a $6 billion positive balance of trade.

By ignoring the need for disaster relief for the tobacco farmers, the precedent is being set for the elimination of crop insurance for other major commodities.

In 1994, we passed a law to end ad hoc disaster programs and have crop insurance be the primary risk management tool for farmers.

By ignoring the need for disaster relief for just one set of farmers—tobacco farmers who suffer natural disasters in the same manner that corn, wheat, soybean, and other farmers do—a precedent is being set to eliminate crop insurance for other commodities.

Mr. President, as Senator FORD has pointed out, Secretary Glickman is opposed to this amendment. The Farm Credit Council is opposed to this amendment. And the American Association of Crop Insurers is opposed as well.

Crop insurance is to protect families. That is what crop insurance is about: Helping to minimize the financial interruptions to their plans and lifestyles due to crop losses.

These are families who usually work two jobs, as I suggested earlier. In my State, these are not rich farmers. We are talking about people who cultivate about an acre of tobacco on the side, in addition to their normal sources of income. These farmers aren't in a business where they have excess amounts of money in savings. Everything is calculated, and income from tobacco is relied upon. By having crop insurance, it gives farmers, bankers, and communities peace of mind through income stability and minimizing risk.

Crop insurance also provides farm lenders with collateral that helps minimize liens on other assets, obviously avoiding or reducing a farmer's needs to rely on credit.

As I believe my colleague from Kentucky pointed out, Secretary Glickman said:

> I am determined that everyone will have access to crop insurance, large farmers and small farmers alike, especially those with limited resources—minorities and producers—in all areas of the country.

That certainly describes the 60,000 tobacco growers of Kentucky.

This amendment would have a particularly detrimental effect on thousands of small farmers in States like my own. An overwhelming majority of crop insurance policies in this area are sold to small farmers. Therefore, eliminating crop insurance for tobacco will not fulfill the Secretary's promise to poorer farmers. Rather, this amendment is squarely in opposition to the Department's stated policy of fighting discrimination against minorities and economically disadvantaged farmers.

Let me sum it up again. This amendment is directed at the farmer who is growing a legal crop. To the extent that this small farmer finds it difficult to acquire crop insurance, the potential for disaster for these small farm families is greatly enhanced.

The Durbin amendment does nothing to fight smoking. It does nothing to punish the companies. In fact, it is directed at the heart of the farming areas in the southeastern part of the United States.

I repeat: The average grower in Kentucky has about 2,500 pounds. That is about 1 acre. You push that fellow out of business, and tobacco will still be grown. It is going to be grown by big corporate farms. They are not going to be particularly concerned about this crop insurance issue. They do not have any trouble paying for it.

This amendment serves no useful purpose. If you want to fight smoking, this amendment is only directed at low- and medium-income farmers in places like the Commonwealth of Kentucky.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER [Mr. SANTORUM]. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that a letter from American Association of Crop Insurers, addressed to Chairman TED STEVENS and Ranking Member ROBERT C. BYRD, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF
CROP INSURERS,
Washington, DC, July 16, 1997.

Hon. TED STEVENS,
Chairman, Committee on Appropriations,
U.S. Senate, The Capitol, Washington, DC.

Hon. ROBERT C. BYRD,
Ranking Member, Committee on Appropriations,
U.S. Senate, The Capitol, Washington, DC.

DEAR MR. CHAIRMAN AND MR. RANKING MEMBER: It has come to our attention that an amendment may be offered to the Fiscal Year 1998 Agriculture, Rural Development, FDA, and Related Agencies Appropriations Bill that would eliminate crop insurance or any other form of government-supported disaster aid for tobacco. We are writing to express the American Association of Crop Insurers' (AACI's) opposition to such an amendment as well as to dispel a principal myth underlying the amendment.

AACI's membership consists of private insurance companies who deliver Federally reinsured multiple peril crop insurance to America's farmers as well as several thousand independent agents and adjusters affiliated with those companies. All AACI member companies are also involved in the private crop hail insurance business as well. AACI member companies and their affiliated agents collectively wrote over 80% of the Federal crop insurance sold by private companies in 1996.

Providing risk management protection to American crop producers is the sole reason that AACI member companies are in the crop insurance business. As long as data are available from which an actuarially sound insurance program can be developed, the insurance industry does not discriminate against crops that are insured nor the producers who grow those crops. If Congress were to discriminate against tobacco producers by denying them any form of Federal assistance related to their risk management needs, we believe that the economy of both the producers and the rural communities in which they live could be placed at severe risk that one disaster could substantially devastate. In addition, the economic health of several of our members who have considerable books of business in tobacco growing states would also be put at risk.

While it is true that the number of crops covered by Federal crop insurance is limited when compared with the total number of crops grown in the country, most if not all of the crops not currently insurable are covered by the noninsured disaster assistance program or NAP administered by the Farm Service Agency. However, both under existing law and under the proposed amendment, tobacco would be ineligible for such protection. This isolation among crops leaves the crop and its producers totally exposed to the uncontrollable risk of weather.

Some believe that this exposure could be covered by the private sector without assistance from the Federal Government. That is not true for several reasons. First, the main reason the Federal Government is involved in crop insurance is due to the catastrophic nature of crop disasters and the inability of the private sector to bear that magnitude of loss. Privately underwritten multiple peril insurance has been tried in the past and it failed miserably. The inability of the private sector to bear the risk of loss from multiple perils is true for tobacco as well. Hail, the principal peril wholly privately underwritten, accounts for less than 7% of crop losses in tobacco-growing states. The private sector would be incapable of insuring the remaining 93% risk of loss on a multiple-peril, universal basis without some form of catastrophic reinsurance from the government.

Second, if tobacco farmers were to bear the full cost of the current policies, that cost would escalate from approximately $54 an acre to over $125 per acre—a more than 100% increase—when administrative costs are added, risk-based premium subsidies are removed, and some reinsurance costs are included. There would be many producers who could not afford those rates, especially the over 53,000 producers holding catastrophic policies for which they paid a total of $50, not $50 per acre.

Third, even if a private multiple peril tobacco policy was developed, private companies would be unable to make it universally available. Aside from it not being affordable to a large number of producers, the catastrophic nature of the risk would prevent companies from making it available to all producers. Individual risks would have to be underwritten and some risks would be denied insurance either directly or through cost-prohibitive rates. This is unlike the Federal program where companies must accept all insureds no matter what the risk without any individual adjustment of rates since the government sets the rates.

Providing risk management products to tobacco producers and producers of other crops in tobacco growing states constitutes a considerable source of income to a number of rural crop insurance agents and crop adjusters in those states. If crop insurance for tobacco were eliminated, that may actually threaten the ability of these agents and adjusters to stay in business thereby affecting insurance availability for producers of other crops as well. This is not to mention the impact on the rural community where the agents, adjusters, and their support staff live and work.

As long as it is legal to grow a crop in this country and there are actuarially sufficient data to provide insurance, AACI members do not believe that the crop or its producers should be discriminated against. Due to the inability of the private sector to offer an affordable, universally available private multiple peril insurance product on tobacco, there remains a proper role for government involvement. We encourage you to continue that role by rejecting any amendment that may terminate that responsibility.

Sincerely,

JOHN E. SHEELEY,
Counsel.

Mr. FORD. Mr. President, I would like to put in the RECORD at this point a letter from the Secretary of Agriculture to the chairman of the Subcommittee on Agriculture, Rural Development, Senator COCHRAN, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 23, 1997.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR THAD: I am writing concerning an amendment to the fiscal year (FY) 1998 Agriculture Appropriations Act offered by Senator Richard Durbin, which would prohibit the use of funds to pay the salaries of personnel who provide crop insurance or noninsured crop disaster assistance for tobacco for the 1998 and later crop years.

The Department of Agriculture (USDA) opposes this amendment. Crop insurance and noninsured crop disaster assistance programs comprise the principal remaining "safety net" for farmers suffering crop losses from natural disasters, since the elimination of *ad hoc* disaster aid. The adoption of this amendment will effectively end our ability to provide crop insurance and noninsured assistance payments for tobacco growers.

Crop insurance is an essential part of the producer "safety net" envisioned by the Administration's agricultural policy. There were some 89,000 tobacco growers with crop insurance policies in 1996, of which 69,000 actually planted the crop for the year. More than 550,000 acres were insured with liability exceeding $1.15 billion. Tobacco producers paid more than $20 million in premiums to insure their crops in recognition of the need to provide for their own risk management at a time when the Government is providing fewer and fewer farm subsidies.

Tobacco growers in three States (North Carolina, South Carolina, and Virginia) received $77.8 million in indemnities for losses due to back-to-back hurricanes that hit the East Coast last year. These funds helped communities recover from disaster and were paid for in part by the producers themselves. The significance of a program that encourages producers to assess their individual risk management needs and allows them to pay part of the cost for coverage must not be lost at a time when fewer dollars are available for other types of assistance. Elimination of tobacco crop insurance would place a greater burden on other sources of relief when disaster strikes.

This amendment would have a particularly detrimental effect on thousands of small farmers in tobacco producing States, not to mention the toll it would take on the economic stability of many rural communities. An overwhelming majority of crop insurance policies in this area are sold to small farmers.

I urge you and your colleagues to vote against this amendment when it is considered by the Senate. Please contact me if you should need further information.

Sincerely,

DAN GLICKMAN,
Secretary.

AMENDMENT NO. 966 TO AMENDMENT NO. 965

(Purpose: To limit Federal crop insurance to family farmers)

Mr. FORD. I send an amendment in the second degree to the Durbin amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 966 to amendment numbered 965.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

LIMITATION OF CROP INSURANCE TO FAMILY FARMERS.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

"(6) CROP INSURANCE LIMITATION.—

"(A) IN GENERAL.—To qualify for coverage under a plan of insurance or reinsurance under this title, a person may not own or operate farms with more than 400 acres of cropland.

"(B) DEFINITION OF PERSON.—The Corporation shall issue regulations—

"(i) defining the term 'person' for purposes of subparagraph (A): and

"(ii) prescribing such rules as the Corporation determines necessary to ensure a fair and reasonable application of the limitation established under subparagraph (A).".

Mr. FORD. Mr. President, what I have done here, as I said earlier, is to try to make crop insurance more comprehensive. So what this does is, it says that any farm with more than 400 acres that can be farmed not be eligible for crop insurance. The idea here is to let the corporate farmers pay for themselves, and try to protect the small farmer.

So I think that this amendment will make it fairer. It protects the small farmers. The corporate farmers, then, the big farmers, those over 400 acres of land that can be farmed—by the way, this does nothing out West as far as grazing land. It doesn't touch that part of it at all. It is land that can be farmed.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, this may surprise my colleague from Kentucky. I may support his amendment.

When I was chairman of the House Appropriations Subcommittee on Agriculture, I was considered by many to be pretty tough on the Crop Insurance Program, even though, as the Senator from Kentucky has noted, I come from a corn-growing State, a State with soybeans, a State which avails itself very much to a great extent in the Crop Insurance Program. I don't disagree with anything that my colleague from Kentucky said about the Crop Insurance Program. There are indefensible subsidies in this program.

I think, if he is going to address an overall reform of crop insurance, he may be surprised to find me as an ally. I had an amendment which I offered 1 year in the appropriations subcommittee. If I recall it correctly, it said that if you have sustained losses in 7 out of the last 10 years on your crop, you would be ineligible for crop insurance. I have this basic theory that if you couldn't grow a crop for 7 out of 10 years, God was telling you something about your land, that crop, or your talent, and that Uncle Sam and the Federal Government shouldn't be talking back to God in this instance and saying we will continue to insure the crop.

There were a lot of people critical of my amendment because they had worked out a very sweet deal where they would plant crops that could never grow. It wasn't a sufficiently long growing season. But the crop was eligible. They would make their application. Lo and behold, the crop would fail again, and the Federal taxpayers would be asked to make up the difference.

So, if the Senator from Kentucky is suggesting some basic reform of the Crop Insurance Program, I think I might be his ally. And if he is talking about limiting crop insurance to smaller farms, I think he might be surprised to find that we can work on that as well. But I think, in all honesty, that this amendment might never have been offered if I had not started an amendment on tobacco crop insurance.

That is what this is about. It is not about reform of the crop insurance. It is about tobacco. And the two Senators from Kentucky, whom I respect very much, in defense of their State and its crop, have stood up and said, "Why are you picking on us? Why do you single out tobacco?" As one Senator from Kentucky said, tobacco is perfectly legal. That is true. But tobacco is also perfectly lethal. Tobacco is a killer. You have to eat an awful lot of corn and soybeans to die. But you start smoking, get addicted, the chances are 1 out of 3 that it is going to kill you.

So, to the farmers who are growing it, who, for all intents and purposes and all appearances, look like any other farmer, what they are harvesting and what they are selling is devastating. For us to turn our backs on it and to say it is just another crop is to ignore the obvious.

Tobacco is the No. 1 preventable cause of death in America today—No. 1. Sure, we are concerned about AIDS. Certainly we are concerned about highway fatalities. Of course, we are concerned about violent crime. But if you want to save American lives, the first stop is tobacco. Take a look at what it does to us.

For my colleagues to stand up and say, "It is just another farmer, it is just another agricultural product, why do you single us out," it is because it is the only crop, when used according to the manufacturer's directions, will kill you. You can't smoke in moderation. You start this addiction, and you will end up generally as a statistic.

So, when I bring this amendment to the floor to talk about crop insurance for tobacco, I can understand my colleagues from tobacco-producing States. I can understand it completely. I have represented a congressional district and a State which has its own interests, and I have try to defend those interests. I think that is part of my responsibility.

But I say to my colleagues who are viewing this debate and making up their own mind: Make no mistake, tobacco is not just another product. Crop insurance for tobacco is a blatant contradiction that we would piously pronounce through the Surgeon General's office and the Department of Health and Human Services that this crop is a killer, that these tobacco products are claiming lives—even innocent victims like these flight attendants who are now suing down in Florida who happened to be exposed to secondhand smoke. Their lives were in jeopardy, too. We know this. We concede this. We advertise this. We spend millions of dollars to police this industry because we know what they are doing. They are addicting our children, and they are killing our fellow citizens.

That is why it is totally inconsistent for us to be in a position where year after year we are plowing millions of taxpayer dollars collected from people across the United States into the subsidy—underline the word "subsidy"—of tobacco growers.

I just marvel when my colleagues get up. We can argue a lot of this on the merits. But it takes my breath away to hear these colleagues stand up and say that there is no tobacco subsidy.

Let me go back to this Federal tobacco subsidy chart.

There is this tobacco subsidy: $65 million in 1993; $60 million in 1994; $51 million in 1995. In 1996, when I first took on this issue, they estimated our losses would be about the same—$50 million. They went to $97 million, and then in 1997 the estimate was $67 million.

Mr. FORD. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. FORD. I am sure he will be able to answer this and make me look bad. But this is just on crop insurance.

Mr. DURBIN. It is on crop insurance and administering the program.

Mr. FORD. Administration of the program.

Mr. DURBIN. I think there are two or three other small, related areas.

Mr. FORD. This is just tobacco.

Mr. DURBIN. That is true.

Mr. FORD. What about the $77 million that went to the hurricanes in North and South Carolina and Virginia that was paid and helped the communities or they would have taken the money out of some other fund as it relates to disasters?

Mr. DURBIN. I don't believe that these figures include any national disaster assistance of that nature. It is strictly related to crop insurance.

Mr. FORD. Is the money in the premiums in your figures here paid by the farmer—deducted, and this is the net?

Mr. DURBIN. What this represents is the net cost to the Federal Treasury.

Mr. FORD. Just for that. And what about the overall loss from other crops?

Mr. DURBIN. Oh, it is substantial.

Mr. FORD. Substantial.

Mr. DURBIN. I can recall, 1 year it was $240 million, all crops included.

Mr. FORD. Here you are damaging the farmer that is beginning to feel the pinch anyhow and hoping that we could negotiate some kind of an agreement. He is left out. You still want to eliminate this part of his everyday life.

Mr. DURBIN. I want to eliminate crop insurance for tobacco. I will concede to my colleague that the overall subsidy for crop insurance, as I said at the outset, is an issue well worth addressing. The fact that we would spend—perhaps the Senator from Mississippi has more current figures—we would spend in the neighborhood of $200 million subsidizing crop insurance in America is an issue which I will happily join with my colleague from Kentucky and other States to address.

But lest we forget, this debate started on the issue of tobacco, and although many of my colleagues want to raise a variety of other issues, we still have to face the reality that when this debate is over, we are going to face this question time and again when we go home: Senator, what's going on here? I can't pick up a newspaper, a news magazine, turn on the radio or television and I am not being told how bad tobacco is for America. Why do you keep plowing millions of my tax dollars into the subsidy of this tobacco crop? How can you justify it?

I cannot. That is why I am offering the amendment. And I would say to my colleagues from the tobacco producing States, it is time to accept reality. And reality will tell you this. The day when the Federal Government rushed to the rescue of tobacco is over. I do not know if I will succeed with this amendment today, but tobacco's days in the U.S. Department of Agriculture are numbered. They know it, the tobacco farmers know it, and the tobacco companies know it. They know full well, as they have watched the course of events over the last 5 or 6 years, that each year we have eliminated another Federal program relative to tobacco—research, export assistance, market promotion program. We have closed those doors, and those doors have remained shut.

The tobacco growers and industry realized long ago that if they wanted an allotment program that gives them the advantage of making the kind of money we are talking about, they would have to pay for their own program. And they did it. And yet now we are in a part of this debate where they are saying we want to hang onto this last Federal subsidy.

Make no mistake; this second-degree amendment offered by my colleague, the Senator from Kentucky, does not just reform crop insurance. It strikes our prohibition before inserting his addition. So he is not adding to my amendment. He wants to get me out of the way. He wants to talk about crop insurance programs. He does not want to talk about tobacco. That is a delicate subject. But it is a delicate subject I have been talking about for 10 years.

And I want to tell you, too, I think the tide of history is on my side. I hope I am around to see that tide hit the shore. I hope I am still standing when it does. But a little over 10 years ago, I offered the first amendment in my long and checkered career on this issue to ban smoking on airplanes—10 years ago. Every leader in the House of Representatives, Democrat and Republican, opposed me, every committee chairman, and we went to the floor. They said we were meddling with tobacco, and they did not care for it, and tobacco lobbied. Folks, I want to tell you, the monsters of the midway are not the Chicago Bears. The monsters of the midway are the tobacco lobbyists in this town. They came down like a ton of bricks on this amendment. But you know what. We won. By 5 votes we won, 198 to 193, and I was the most surprised Member of Congress standing in the Chamber of the House when it happened.

What it told me then and tells me now is that we are going to win this battle—maybe not today. I hope we do. Maybe not today, but we will. And the tobacco growers and tobacco companies have to accept the reality that if their product is to remain legal, if it is to remain legal, they have to change the way they do business. They have to stop asking for this Federal subsidy. They have to stop selling tobacco to our kids.

If they do not agree to those two things, they are going to continue to face this kind of opposition year in and year out, and it will continue unabated. Those who are here in the Chamber, my colleagues, and some who are in the gallery who have taken the time to tour this beautiful building—and it is magnificent. I am very proud to be a Member of the Senate and to be able to practice my profession in this building—they will take a look around at the columns as they walk through the corridors and they will find at the top of these columns a curious leaf.

What could it be? Well, you know what. Many of these columns are adorned with tobacco leaves. It tells you something about the history of the United States of America and the history of this Congress. When the President of the United States comes for an address to the Joint Session of Congress, State of the Union Address, for example, he stands in front of a wooden podium. Carved in the side of that wooden podium are tobacco leaves. It is part of America and it is part of our history. And there are some people who do not want to give up on that piece of history. They want to hang in there one more year for tobacco: Oh, we can do it. We can survive. We can offer perfecting amendments. We are going to fight for 1 more year.

But the tide of history is not on their side. It was not that long ago, even in my lifetime, when doctors used to advertise the healthiest cigarettes to smoke. It has not been that long ago that you could have a smoking and nonsmoking section on an airplane and create the fiction you were protecting people, knowing full well that you were not.

Those days are over. And as these tobacco companies come in here ready to negotiate, not because of a guilty conscience, because of their additional efforts to make money, we can see the tide changing. And yet we hang onto this vestige of the old school, this relic of history which for 60 years has said that the Federal taxpayers will defend and subsidize tobacco. That has to come to an end, and it has to come to an end sooner rather than later.

Let us take the money we save with my amendment and use it for valuable, positive things that will help all of rural America. Let us use it for programs that are beneficial, health assistance to everyone across this Nation. The amendment that has been offered by my colleague from Kentucky is an amendment which seeks to win this battle today, put it off, at least the overall issue, for another day. But that is not good for America. It does us no good as a nation to turn our back on this reality.

I say to my colleague as well, although he may question this, I will tell him in all sincerity, I understand his concern for his farmers. I give him my word now as I have in previous debates that if he is prepared to offer an amendment as part of this tobacco agreement to help his farmers, either phaseout of tobacco growth, move in other areas, I will be there, I will help him. Tobacco companies owe a great deal to the American tobacco growers, and I don't run into too many tobacco farmers who defend them, incidentally, because they know full well these same tobacco companies haven't treated America's tobacco farmers very well. They continue to import cheaper tobacco from overseas. They turn their backs on the very farmers whose tractors and skirts they have hid behind for decades. It was not fair the tobacco growers were not at the table.

If the Senator from Kentucky or anyone on that side of the debate wants to suggest a change in this overall agreement to provide assistance to those tobacco growers so that they can phase in to a different type of production or phaseout of tobacco growth, I am happy to join him in that effort. My war is not with those farmers. My war is with what they are growing in their fields, because what they grow in those fields is deadly. It is lethal. It is something that can't be ignored or swept aside as just another agricultural issue.

I can recall during past debates on this people have stood up and said you can't single out tobacco when it comes to America's export policy, and yet we have done it. People have said you cannot single out tobacco when it comes to research. Basically, we have done it. People have said time and again that you cannot separate tobacco as a crop. But I believe the American people know the difference. They know the difference between a bushel of corn that may be used for a variety of positive things. They know the difference between a bushel of soybeans that may be used for a variety of things, positive for American families, or a bail of cotton. You cannot say the same thing about these tobacco leaves.

So, Mr. President, I oppose this amendment, not because of its underlying wisdom but because it is offered only, exclusively, solely for one reason—push the tobacco debate off for another day. I believe, and I believe my colleagues will join me in this belief, that you cannot wait another day. You have to move forward with this debate and address this issue now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this has been a very vigorous and informative debate, in my judgment. I have no parochial interest in that our State does not grow tobacco. We have no program for tobacco, for any of the producers of agricultural commodities in our State, but I am persuaded by the arguments that have been made by the Senator from Kentucky about the economic consequences of this amendment, and that is bolstered by the letter the distinguished Senator from Kentucky [Mr. FORD], mentioned that had been received by me today from the Secretary of Agriculture which points out the detrimental effect that the amendment offered by the Senator from Illinois would have on agriculture producers in the United States if it were to be passed by the Senate.

So I am constrained to oppose the amendment of the Senator from Illinois, but I am also troubled very much by the second-degree amendment that has now been offered by my good friend from Kentucky which limits the application of the crop insurance program to farmable acreage of less than 400 acres. And that is troubling because so many of our farmers in my State and elsewhere throughout the country have more than 400 acres under cultivation, and this would be discriminatory in a different kind of way. So I am troubled by that amendment and I do not want to see that passed.

So I am in a position and I think the best course of action for me as manager of the bill is to move to table the underlying amendment. If that motion to table passes, then it takes both the underlying amendment and the second-degree amendment with it as I understand it.

So at this point, knowing that debate has been occurring for a little over an hour now and with the knowledge that we will set this aside, not to vote on it now but at a time to be determined later, I now move to table the underlying amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GREGG). Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the vote on the motion to table be set aside and to occur at a time to be established later in the day.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Alaska.

CONDEMNING THE GOVERNMENT OF CANADA

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 109, which was submitted earlier today by my colleague, Senator STEVENS, as well as myself and other Members.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 109) condemning the Government of Canada for failing to accept responsibility for the illegal blockade of a U.S. vessel in Canada and calling on the President to take appropriate action.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MURKOWSKI. Mr. President, this resolution expresses the sense of the Senate that the Government of Canada failed to act responsibly to quickly restore order and the rule of law during the recent blockade of the Alaska State ferry, the motor vessel *Malaspina*. I am pleased to be joined in this measure by the senior Senator from Alaska, Senator STEVENS, the chairman of the Foreign Relations Committee, Senator HELMS, and the senior Senator from Washington, Senator GORTON.

Mr. President, the amendment responds to this illegal blockade, in which a large number of Canadian fishing vessels joined forces to prevent the *Malaspina* from departing from Prince Rupert, BC, from approximately 8 a.m. Saturday morning until approximately 9 p.m. on Monday.

The actions of these Canadian fishermen was a clear violation of international law which provides for the right of free passage, and continued Monday in violation of a Canadian court order against the blockade, issued on Sunday. Obviously, Canadian authorities had a difficult task, but the reality is that they failed to take timely action to disperse this illegal demonstration. Indeed, they delayed even serving their own Canadian court's injunction against the blockaders.

This incident caused distress, financial harm, and inconvenience to some 300 passengers, primarily American passengers, on board the vessel, and to the State of Alaska that operates the system, and to companies which had consigned freight shipments to the vessel. While the Canadian fishermen claimed their action was in response to a fishing dispute, the blockade of this vessel went far beyond any fishing dispute into a very dangerous area, and created an international incident.

There is little difference, in reality, between this blockade and the interruption of traffic on a major international highway such as New York's Route 81 to Montreal. The Alaska Marine Highway System is part of our U.S. Interstate Highway System. Operating money for the *Malaspina* and other vessels in the system receive funding through ISTEA, our national highway legislation. Any vehicles that can traverse the interstate highways of Alaska can be accommodated in the MV *Malaspina*. It carries approximately 105 cars, vans—you name it. So, it is an official part of the U.S. National Highway System. Moreover, Mr. President, this ship was also carrying the U.S. mail.

This resolution will put the Senate on record in opposition to this and future illegal attacks on the U.S. transportation network, and specifically the Alaska Marine Highway System. It calls upon the President to do whatever is necessary and whatever is appropriate to ensure that the Government of Canada takes steps to guarantee that illegal actions against American citizens will not be allowed. It also calls on the President to assist American citizens who were harmed by this illegal action to recover damages from those responsible and/or from the Canadian Government.

Yesterday I spoke with Canada's Ambassador to the United States. He apologized for the burning of the U.S. flag by one of the fishing vessels—an unfortunate incident. On the other hand, even at that time, more than 2 days after the beginning of the blockade, the Ambassador was not able to confirm to me that his government had the necessary commitment to take appropriate steps that may be necessary in such illegal actions. He indicated that he would attempt to find out what action would be considered if the vessels didn't voluntarily depart the area.

I am still awaiting the call, although the issue has since been resolved. Ultimately, it was the fishermen themselves who decided to remove that blockade, not any formal action of the Canadian Government in enforcing, if you will, the Canadian court order. Indeed, the Canadian Minister of Fisheries, who met with the fishermen yesterday, was quoted in the press as saying he would not even ask the fishermen to cease the blockade.

I know emotions run high. I very much value our relationship with our Canadian neighbors. But an unlawful act such as this, where United States commerce is affected, United States mails are affected, the orderly transportation of United States citizens is affected, and the Canadian and the British Columbian justice systems fail to take immediate action to terminate the illegalities, was very disappointing to those of us in Alaska and the United States.

I know the administration views this matter seriously. I know they have under consideration certain steps that may be necessary to protect U.S. interests. I believe the Senate should show its support for the President in this matter and that is exactly what the resolution does.

It specifically encourages using United States assets and personnel to protect United States citizens exercising their right of innocent passage through the territorial seas of Canada from such illegal actions or harassment, until such time as the President determines the Government of Canada has adopted a long-term policy that ensures such protection. That could include escort by the U.S. Coast Guard, if necessary.

Second, it says we should consider prohibiting the import of select Canadian products until such time as the President determines that Canada has adopted a long-term policy that protects United States citizens exercising the right of innocent passage through the territorial seas of Canada from illegal actions or harassment.

Third, it suggests the possibility of directing that no Canadian vessel may anchor or otherwise take shelter in United States waters off Alaska or any other State without formal clearance from United States Customs, except of course in the case of storms or other emergencies.

Fourth, it reflects that the President might find it appropriate to say that no fish or shellfish taken in sport fisheries in the Province of British Columbia may enter the United States.

Last, it suggests enforcing U.S. laws with respect to all vessels in Dixon Entrance, including the waters where jurisdiction is disputed. It is my hope these actions will not be necessary, and that we will get the necessary assurances from the Canadian Government.

Many say this is a fishing issue. Mr. President, the fishing issue is paramount but that can only be resolved through negotiations. It is fair to say of the last negotiation, that the Canadians saw fit to walk out and have not been back since. It is my hope those negotiations will resume soon, but that takes two parties to begin.

In any event, I ask my colleagues for support on the Senate resolution.

Mr. President, It is my intention, with the permission of the floor manager, to ask for the yeas and nays on the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. I assume we could, perhaps, arrange for a rollcall vote around 4 o'clock, or stacked with the other votes that are pending, if that is in agreement with my friend?

Mr. COCHRAN. If the Senator will yield, I am prepared to make a unanimous-consent request to that effect, if that is satisfactory to the Senator.

Mr. MURKOWSKI. I yield the floor and I thank the Presiding Officer and my colleague.

Mr. COCHRAN. Mr. President, I ask unanimous consent that Senate Resolution 109, the Murkowski-Stevens resolution, be temporarily set aside and a vote occur on the adoption of the resolution at 4 o'clock p.m. today, to be immediately followed by the vote on the Cochran motion to table the Durbin amendment, No. 965. I finally ask consent that there be 2 minutes, equally divided, for debate prior to the second vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate resumed consideration of the bill.

AMENDMENT NO. 963, AS MODIFIED

Mr. COCHRAN. Mr. President, I send a modification to amendment numbered 963 to the desk.

The PRESIDING OFFICER. Without objection, that amendment is modified.

The amendment (No. 963), as modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. RURAL HOUSING PROGRAMS.

(a) Housing in Underserved Areas Program.—The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(b) Housing and Related Facilities for Elderly Persons and Families and Other Low-Income Persons and Families.—

(1) Authority to make loans.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(2) Set-aside for nonprofit entities.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(3) Loan term.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(A) in subsection (a)(2), by striking "up to fifty" and inserting "up to 30"; and

(B) in subsection (b)—

(i) by striking paragraph (2) and inserting the following:

"(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;";

(ii) in paragraph (5), by striking "and" at the end;

(iii) in paragraph (6), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(7) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

"(A) the Secretary determines—

"(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

"(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

"(B) the Secretary determines—

"(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

"(ii) any other criteria established by the Secretary has been met.".

(c) Loan Guarantees for Multifamily Rental Housing in Rural Areas.—Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p–2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

"(2) Annual limitation on amount of loan guarantee.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.";

(2) by striking subsection (t) and inserting the following:

"(t) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1998 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year."; and

(3) in subsection (u), by striking "1996" and inserting "1998".

Mr. COCHRAN. For the information of Senators, this amendment modifies the amendment previously agreed to, that had been offered by me for Senators D'AMATO and SARBANES regarding rural housing.

Mr. President, we hope to continue to consider amendments of Senators so we can proceed to complete action on this bill today. We now have two votes that have been set to occur beginning at 4 o'clock this afternoon.

There are, to our knowledge, at least two more amendments that are going to be offered that will probably require rollcall votes. What we would like to do is to stack votes on those amendments immediately following the votes that have now been ordered, and then have final passage of the bill.

To do that, we need to have the cooperation of all Senators who are interested in the passage of this bill and those who have amendments to the bill. We hope they will come to the floor as soon as possible to offer their amendments.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, first I want to commend the chairman, Senator COCHRAN, and the ranking Democratic member, Senator BUMPERS, for their efforts in putting together this Agriculture appropriations measure. They have put a lot of work into crafting a bill that stays within the subcommittee's allocation while seeking to satisfy many competing demands for funding. I have appreciated very much working with them and with their staffs in the subcommittee on this bill.

AMENDMENT NO. 968

(Purpose: To provide funding for tobacco and nicotine enforcement activities of the Food and Drug Administration, with an offset)

Mr. HARKIN. Overall, I believe it is an excellent bill and one I wholeheartedly support. However, there is in this bill, I believe, a glaring shortfall relating to the level of funding provided for the Food and Drug Administration's enforcement and outreach efforts to prevent smoking by America's children.

The budget request for FDA includes $34 million for this purpose, but the reported bill provides only $4.9 million. The amendment that Senator CHAFEE and I will be offering will provide FDA the full $34 million it needs to implement a nationwide effort in all 50 States to help our kids avoid the deadly trap of tobacco. The needed funding is truly a drop in the bucket compared to the $50 billion or more our Nation spends each year on medical costs attributable to smoking.

Everyone, including even the tobacco companies, claims to be against underage smoking. But those assertions are just empty words if we fail to provide the necessary resources to carry out the FDA rules specifically designed to prevent sales of tobacco to children.

With this amendment, the rubber really meets the road. It presents this body with a clear choice whether we are really serious about attacking underage smoking.

In discussing our amendment, I hope that Members of the Senate will not lose sight of what is really at stake. Disease, suffering, and death caused by smoking and nicotine addiction is clearly at horrendous proportions in our Nation. With a death toll of more than 400,000 each year, smoking kills more Americans than AIDS, alcohol, motor vehicles, fires, homicides, illicit drugs and suicide all combined.

Here is a chart, Mr. President, that shows that in graphic detail: The comparative causes of annual deaths in the United States. Here we see 30,000 in

AIDS deaths, 105,000 from alcohol, and those from homicides, illicit drugs, suicides. Here is smoking, 418,000 per year. There are more deaths caused by smoking than all of the rest put together.

This is truly an epidemic, an epidemic that begins with underage smoking. Mr. President, 4.5 million kids aged 12 to 17 are smokers today. Almost 90 percent of adult smokers began at or before the age of 18. The average youth smoker begins at age 13 and becomes a daily smoker by the age of 14½. Thousands of our kids are drawn into smoking every day. It is no longer even an arguable point that they have been targeted for recruitment into a deadly habit. Today, just like every day, 3,000 young Americans will begin smoking and 1,000 of them will die from it. At current rates, 5 million American kids under 18 who are alive today will be killed by smoking-related disease.

The upward trend in teenage smoking is even more frightening. Smoking among high school seniors is at a 17-year high. Mr. President, again, here is a graph that shows it in detail. The smoking rates among high school seniors are at a 17-year high. These are the trends of cigarette smoking among high school seniors, 12th grade, 1980 to 1996. Look what has been happening since about 1991, 1992. This graph is going off the charts—a 17-year high.

The statistics on smoking among young women and girls are just as shocking. Smoking among eighth grade girls—yes, I said that correctly, eighth grade girls—jumped over 60 percent from 1991 to 1996, with rates of smoking now higher for 8th- and 10th-grade girls than for boys. And smoking among black children of this age nearly doubled during this time period.

Our children are our future, as we all know. But thanks to smoking, millions of American kids will not be leading long and fulfilling lives. Instead, they will be filling hospital beds and coffins long before their time.

The epidemic of teenage smoking is a crisis that is beyond partisanship. Responding to it should lift us up above everyday politics. That is why I am so proud to have the distinguished Senator from Rhode Island, Senator CHAFEE, as a cosponsor of this bipartisan amendment.

Unquestionably, Mr. President, a key factor in youth smoking is that it is far too easy for kids to buy tobacco. Not only is it far too easy, but we now know that the tobacco companies, through the use of slick advertising, through the use of Joe Camel, through the use of the Marlboro Man and Virginia Slims and all of the fancy advertising that they have done, have targeted kids with Marlboro gear, the Camel coupons you can redeem for Camel gear and for beach wear and radios and cassette players, jackets and all the things that teenagers like to accumulate. We know that the tobacco companies have targeted teenagers for smoking with their advertising.

When you combine that targeting of the advertising with the easy access for kids to buy tobacco, that is why you have teenage smoking at a 17-year high. I believe that this recent rise is due to the tremendous amount of advertising targeted to our youth and the ease with which youth can buy tobacco.

A review of numerous studies has shown that children and adolescents were able to buy tobacco products successfully 67 percent of the times that they tried. Over 60 percent of kids who smoke say they buy their own. One study showed that over 75 percent of underage high school students who had bought cigarettes in a store or a gas station in the past 30 days said they were not asked to show proof of age.

It has been demonstrated that enforcement of youth access laws can successfully reduce tobacco sales to minors and reduce youth smoking rates. That just makes good common sense and that is exactly the basis on which the FDA acted.

Let me describe the FDA initiative that our amendment funds. In August of 1996, FDA issued rules specifically designed to reduce the number of kids who start smoking. The most important of the rules set a national legal age of 18 for the purchase of tobacco products and require retailers to check photo ID's of consumers seeking to purchase tobacco who appear to be younger than 27 years of age. Those rules went into effect in February of this year.

Now, some might say, is this necessary that we have this photo ID rule with a cutoff of 27 years of age? Well, I ask you, Mr. President, and other Senators to look at this picture. Which one is age 16? Is it Melissa here on the left or is it Amy here on your right, both coming up to the counter to buy cigarettes? Can you tell which one is 16? If they walked into a store, would the clerk know which one was under age 18? Well, to eliminate the guesswork, FDA requires retailers to card anyone, to have proof of ID for anyone who appears under 27. In case you are wondering, Melissa here is 16 and Amy here is 25. That is the problem we have. And that is why FDA acted.

The public overwhelmingly supports putting a stop to illegal sales of tobacco to minors. A new poll shows that 92 percent of Americans agree that young people should be required to show a photo ID to buy tobacco products. Eighty-seven percent agree with the FDA rule setting a national minimum age of 18 for buying tobacco mandating ID checks of all tobacco purchasers appearing to be under the age of 27.

FDA needs $34 million for enforcement and outreach that will help all 50 States carry out the minimum age and photo ID rules. There is no question that the States need help in the area of enforcement. Despite the fact that it is against the law in all 50 States to sell cigarettes and smokeless tobacco to minors, our young people purchase an estimated $1.26 billion—billion—worth of tobacco each year. The FDA initiative directly addresses these enforcement problems. It will keep tobacco out of the hands of children.

Of the $34 million, $24 million will go to enforcement and evaluation, with the vast majority of that going out to the States through contracts. And $10 million of the $34 million will go to outreach efforts for educating retailers and the public about complying with the rules.

The point of the initiative is to prevent our kids from buying tobacco illegally and to help our small businesses and our retailers to come into compliance with the law. The FDA initiative is not a new, big Federal regulatory program. The bulk of the money will go directly to support State and local efforts. Without this funding, the States will not have the resources they need for their efforts against illegal tobacco sales to kids. By the end of fiscal year 1997, FDA expects to have contracted with the first 10 States. The increased funding will allow a comprehensive national enforcement effort with contracts in all 50 States.

Now, Mr. President, it is true that the tobacco industry has challenged FDA's tobacco regulation in court. Well, they went to court. They had their day in court. However, the authority of FDA to carry out the minimum age and photo ID rules was fully upheld in April by the Federal district court in Greensboro, NC. The $34 million request in FDA's budget, which our amendment would provide, would be used for activities that the Greensboro Federal court gave the green light to. That decision did not reduce the need for fully funding the FDA initiative.

Mr. President, I have a letter from Secretary of Health and Human Services Shalala supporting this point. I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 14, 1997.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you approach your subcommittee's consideration of the Fiscal Year 1998 budget request for the Food and Drug Administration, questions have been raised about FDA's ability to spend the funds for the youth smoking initiative requested by the President.

Earlier this year, the Federal District Court in Greensboro, North Carolina, upheld the FDA's assertion of jurisdiction as well as all of the access and labeling provisions of FDA's 1996 regulations. The Court kept in place the age and photo ID provisions that have been in effect since February 1997 and stayed the effective date of the remaining provisions. Finally, it overturned the advertising restrictions. FDA has appealed this portion of the ruling.

The President requested $34 million in funding to enforce the tobacco rule, which will be used to implement the provisions upheld by the Court. Indeed, this funding is vital to oversee the age and photo ID requirements already in effect. There are approximately 500,000 retailers who sell tobacco products in the United States. Each year, more than $1 billion in illegal sales to children and adolescents occur. Stopping the sale to minors is of paramount importance to protect our nation's youth.

The bulk of the $34 million will be spent on contracts with the states that want to join FDA in ensuring retailer compliance with the provisions already in place. (By the end of this fiscal year, the agency expects to have contracted with the first ten states who have joined with us to address this problem.) Without these funds, FDA will not have the credible national enforcement program required to reduce significantly young people's access to tobacco.

The remaining funds are necessary to educate retailers and the public about the new rules. An effective compliance outreach program will increase the likelihood that retailers will understand and comply with the age and photo ID provisions of the tobacco regulations. Retailers who do not know about the rules cannot possibly comply with them.

By providing the full funding requested by the agency, FDA will be able to put in place a comprehensive enforcement and outreach program. Every day, another 3,000 young people become regular smokers; of these 1,000 will die prematurely because of their smoking. If funds are provided by the Congress, the new FDA tobacco regulation will significantly help prevent another generation of young people from endangering their lives because of this deadly addiction. I appeal to you to help us assure that funding.

An identical letter is being sent to Senator Bumpers.

Sincerely,

DONNA E. SHALALA.

Mr. HARKIN. Mr. President, as the letter from Secretary Shalala makes clear, the full $34 million is needed to carry out the minimum age and photo ID rules. She states:

> Without these funds, FDA will not have the credible national enforcement program required to reduce significantly young people's access to tobacco.

Again, the pending litigation has not reduced FDA's need for or its ability to utilize the $34 million. So our amendment provides the full funding for FDA to work with the States to carry out the minimum age and photo ID rules.

Now, where do we get the money? We offset the full cost of the FDA youth smoking initiative by increasing the tobacco marketing assessment from the current 1 percent of the national price support level to 2.1 percent for the 1998 crop of flue-cured tobacco and for the 1997 crop of burley and other tobacco. The increase will apply to assessments expected to be collected in fiscal year 1998. That is because flue-cured tobacco is marketed in the summer, while burley and others are marketed almost entirely after October 1.

The full cost of the increase would be borne by purchasers of tobacco, that is, the tobacco companies. In addition, for the tobacco covered by the amendment, half of the current 1 percent assessment now paid by producers would be shifted to purchasers, thus providing assessment relief to tobacco farmers.

We have heard concerns expressed clearly and forcefully on the floor of the Senate about the consequences for our tobacco farmers of changes in tobacco policies. I am very sympathetic to the situation of any farmer, including tobacco farmers. They are just trying to make a living. I know how hard farmers work and what a struggle it is for them to make a living. So I am concerned, also, about the impacts on tobacco-farming families.

For that reason, this amendment is crafted to relieve tobacco farmers of their obligation to pay a part of the marketing assessment on the tobacco covered by the amendment. Currently, the producer of domestic tobacco—that is the farmer —pays half of the assessment. That is one-half of 1 percent of the support price, with the purchaser paying the other one-half of 1 percent. What our amendment says is that the tobacco companies will pay the whole assessment, including the increase. So this amendment provides relief for our tobacco farmers because it will relieve them of the burden they have now of paying that one-half of 1 percent of the assessment. I might add, parenthetically, Mr. President, I believe if tobacco companies have to pay the full 2.1 percent, then they are going to pass costs along to the consumers—that is, those who smoke tobacco. On the one hand, we relieve the tobacco farmers of this burden and we have made those who use tobacco pay more.

As a nation, we are in solid agreement that use of tobacco by minors must be reduced—or at least we say we are. When that happens, it also means that we eventually will have fewer adults smoking. So it is our national policy that there will be less of a market in this country for tobacco. Tobacco farmers need to recognize that change is coming. But I also know that when markets for agricultural commodities change, it is often the farmers who bear the brunt of that change. It is no different for tobacco than for corn or soybeans or hogs or wheat or cotton or any other commodity. I hope that we will find more ways to help tobacco farmers deal with this change. In the meantime, I am suggesting that at least we should require that tobacco companies pay the marketing assessment. It will ease the burden on tobacco farmers, who clearly are facing uncertainty.

Mr. President, we simply cannot continue to postpone addressing the monumental costs to society of tobacco use on the grounds that doing so may have some negative impact on farmers. There are too many lives at stake—lives of people who are children today.

Again, let me make it clear that this amendment does not give FDA any additional jurisdiction over tobacco farmers. It does not create any new authority for FDA to regulate tobacco farmers or become involved in the marketing by farmers of tobacco. The offset in the amendment involving an increase in the assessment involves only the Department of Agriculture, not the FDA.

Now, Mr. President, there is some misinformation floating around to the effect that we do not need this FDA funding because of the proposed tobacco settlement that is now under review by the Congress and the administration. Well, Mr. President, this FDA initiative against youth smoking was begun long before the tobacco settlement talks even started. The minimum age and photo ID check rules are in place and are working. But there is a pressing need for more funding to allow all 50 States to carry out enforcement efforts aimed at preventing youth smoking. There plainly is no good reason for delaying full implementation of the FDA initiative. We should not await the uncertain fate of the tobacco settlement before putting the necessary resources into FDA's enforcement and outreach efforts to stop underage smoking. As a nation, we cannot afford to continue losing our kids to tobacco at the horrendous rates that we are now experiencing. So the proposed tobacco settlement and this FDA initiative are totally separate matters—there should be no confusion on this point—and there is no inconsistency between them either.

Mr. President, I have here a letter from 33 attorneys general involved in the settlement activities, who write in support of full funding for the FDA initiative, what our amendment here provides. The 33 attorneys general who are involved in the settlement say they support full funding of this initiative. They would not have signed the letter if there were any reason to delay funding the FDA efforts pending possible legislation to carry out the settlement.

I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ATTORNEY GENERAL OF WASHINGTON,
Olympia, WA, June 20, 1997.

Hon. TED STEVENS,
Chair, Senate Appropriations Committee, Hart Senate Office Building, Washington, DC.

Hon. ROBERT BYRD,
Ranking Member, Senate Appropriations Committee, Hart Senate Office Building, Washington, DC.

Hon. THAD COCHRAN,
Chair, Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Russell Senate Office Building, Washington, DC.

Hon. DALE BUMPERS,
Ranking Member, Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS: We are writing as the attorneys general for our respective states in support of the Food and Drug Administration's (FDA) request for $34 million to implement the tobacco initiative in the Agriculture Appropriations bill. This funding is critical to our efforts to protect kids from tobacco sales.

There is no reason not to fully fund the FDA tobacco regulations. A Federal District Court recently upheld FDA's general jurisdiction over the sale of tobacco products to minors, and the American public overwhelmingly supports this initiative. The tobacco industry failed in its legal effort to derail FDA's important protections for kids. Now, local, state and federal officials must move forward and work together to implement FDA's regulations.

In 1994, attorneys general from around the country issued a report illustrating the need for comprehensive new policies to protect kids from tobacco. In the past three years, 40 attorneys general have filed suit against the tobacco industry to recover damages caused by their behavior. To stop the marketing of tobacco products to kids is a primary goal of these lawsuits against the tobacco industry.

We are prepared to work hand-in-hand with FDA to ensure that the provisions of its tobacco initiative are fully enforced. Towards this end, FDA has allocated a significant portion of the $34 million to go directly to the states to help with enforcement. This money is critical to ensuring our country's success in reducing tobacco use by youth.

We need to act without delay: cigarette smoking among high school seniors is at a 17 year high and smoking among 8th and 10th graders has increased by more than 50 percent since 1991. Tobacco use is clearly a problem that starts with children: almost 90 percent of adult smokers started using tobacco at or before age 18, and the average youth smoker begins at age 13 and becomes a daily smoker by age 14½.

While some provisions of FDA's initiative are on hold pending appeal, the court fully upheld FDA's funding that cigarettes and smokeless tobacco products are both drugs and drug delivery devices. In addition, the court provided FDA with full authority to continue implementing provisions requiring retailers to check photo identification of consumers seeking to purchase tobacco who appear to be younger than 27 years of age. Strong enforcement of this provision is key to reducing youth access to tobacco products. The $34 million requested by FDA will provide much needed funding for enforcement by state and local officials.

Currently, it is far too easy for kids to buy cigarettes and chewing tobacco through vending machines and at retail outlets. A review of thirteen studies of over-the-counter sales found that, on average, children and adolescents were able to successfully buy tobacco products 67 percent of the time. We can substantially improve on this record by providing funding for the FDA regulations.

The tobacco industry's record of targeting our kids is clear. Now is the time to stand up for America's kids and protect them from cigarettes and chewing tobacco. FDA's jurisdiction over sales to minors has been upheld in court and enjoys strong support among the people of our states. We hope you will vote for full-funding of this critical initiative.

Sincerely,

CHRISTINE O. GREGOIRE,
Attorney General.

Bruce M. Botelho, Attorney General of Alaska; Grant Woods, Attorney General of Arizona; Gale A. Norton, Attorney General of Colorado; Richard Blumenthal, Attorney General of Connecticut; A. Jane Brady, Attorney General of Delaware; Robert A. Butterworth, Attorney General of Florida; Alan G. Lance, Attorney General of Idaho; Jim Ryan, Attorney General of Illinois; Tom Miller, Attorney General of Iowa; Carla J. Stovall, Attorney General of Kansas; Richard P. Ieyoub, Attorney General of Louisiana; Andrew Ketterer, Attorney General of Maine; A. Joseph Curran, Jr., Attorney General of Maryland; Scott Harshbarger, Attorney General of Massachusetts; Hubert H. Humphrey III, Attorney General of Minnesota.

Mike Moore, Attorney General of Mississippi; Jeremiah W. Nixon, Attorney General of Missouri; Joseph P. Mazurek, Attorney General of Montana; Frankie Sue Del Papa, Attorney General of Nevada; Philip McLaughlin, Attorney General of New Hampshire; Peter Verniero, Attorney General of New Jersey; Dennis C. Vacco, Attorney General of New York; Heidi Heitkamp, Attorney General of North Dakota; Betty D. Montgomery, Attorney General of Ohio; A. A. Drew Edmondson, Attorney General of Oklahoma; Hardy Myers, Attorney General of Oregon; D. Michael Fisher, Attorney General of Pennsylvania; Jeffrey B. Pine, Attorney General of Rhode Island; Jan Graham, Attorney General of Utah; William H. Sorrell, Attorney General of Vermont; Darrell V. McGraw, Jr., Attorney General of West Virginia; James E. Doyle, Attorney General of Wisconsin.

Mr. HARKIN. Mr. President, our amendment would in no way prejudice or in any way affect the outcome of any legislation designed to implement the settlement. Mr. President, I also have two additional letters here. One is from Secretary Shalala and one is from Michael Moore, the Mississippi attorney general who has led the attorneys general in the tobacco settlement negotiations. As you know, Mississippi already reached a settlement with the tobacco companies. Michael Moore led these efforts. I just want to read an excerpt from his letter dated July 21, 1997:

Dear SENATOR HARKIN:

I am writing to express my strong support for your amendment to the Agriculture Appropriations bill to provide full funding for the Food and Drug Administration's initiative to protect kids from tobacco. This is a critical program that must be supported without delay.

Attorney General Moore of Mississippi goes on to say:

There has been some confusion regarding your amendment and whether it would interfere or conflict with the proposed settlement with the tobacco industry. Some Members of Congress have also stated that they believe funding FDA's tobacco program is unnecessary because money will be forthcoming from a settlement. No one is more anxious than I to have Congress promptly address the settlement; but let me be very clear:

Again, I am reading from Attorney General Moore's letter.

passage of your amendment is critical because we can't be certain that the tobacco settlement will be passed or implemented in time to provide the needed funds for the upcoming fiscal year. Congress should not jeopardize the current FDA tobacco initiative unless we are assured of the immediate passage of legislation regarding the settlement.

Immediate full funding for the FDA rule is appropriate because the agency's initiative is already in place and has been implemented.

Secretary Shalala, in her letter dated July 22, says:

Let me emphasize that the funding requested by the administration is separate from any funds that might be available sometime in the future as a result of any settlement. Further, I do not believe it would prejudice or predetermine in any way future congressional action regarding the settlement.

I ask unanimous consent that the letter from Secretary Shalala and the one from Attorney General Mike Moore of Mississippi be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 22, 1997.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR TOM: Thank you for your leadership in the effort to fully fund the Food and Drug Administration's fiscal year 1998 budget request for the youth smoking initiative. I understand that questions have been raised regarding the relationship of this amendment to the funds discussed in the proposed tobacco settlement.

Let me emphasize that the funding requested by the Administration is separate from any funds that might be available sometime in the future as a result of any settlement. Further, I do not believe it would prejudice or predetermine in any way future congressional action regarding the settlement.

As you know, the Department intends to use the funding requested by the President for FY 1998 to enforce the age and photo ID provisions of the tobacco regulation that are already in effect. This regulation has been upheld by the Federal District Court in Greensboro, North Carolina and has the force of law.

By contrast, the proposed tobacco settlement is still under review by the Administration. No legislation has been considered by Congress and the appropriate committees have just begun to hold hearings. For these reasons, the time frame and likelihood for final action by the White House and Congress on the proposed settlement are entirely unclear. Even under the most optimistic scenario, it is unlikely that any funds under such a settlement would be available in FY98.

I hope that this addresses the questions that have been raised. Please let me know if any additional information is necessary.

Sincerely,

DONNA E. SHALALA.

STATE OF MISSISSIPPI,
OFFICE OF THE ATTORNEY GENERAL,
Jackson, MS, July 21, 1997.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: I am writing to express my strong support for your amendment to the Agriculture Appropriations bill to provide full funding for the Food and Drug Administration's initiative to protect kids from tobacco. This is a critical program that must be supported without delay.

There has been some confusion regarding your amendment and whether it would interfere or conflict with the proposed settlement with the tobacco industry. Some Members of Congress have also stated that they believe funding FDA's tobacco program is unnecessary because money will be forthcoming from a settlement. No one is more anxious than I to have Congress promptly address the settlement; but let me be very clear; passage of your amendment is critical because we can't be certain that the tobacco settlement will be passed or implemented in time to provide the needed funds for the upcoming fiscal year. Congress should not jeopardize the current FDA tobacco initiative unless we are assured of the immediate passage of legislation regarding the settlement.

Immediate full funding for the FDA rule is appropriate because the agency's initiative is already in place and has been implemented. A Federal Court in Greensboro, North Carolina, fully upheld FDA's authority over tobacco products. I sincerely hope the settlement with the tobacco companies will be enacted into law, but in the meantime, let's immediately stop the illegal sale of tobacco to minors.

Regardless of what happens with the settlement, the FDA rule is in place and should remain a national priority. I commend you for your efforts to provide full funding for this historic program and wish you success.

Sincerely,

MIKE MOORE,
Attorney General.

Mr. HARKIN. Again, Mr. President, both letters make it clear that the tobacco settlement does not obviate the need for the FDA funding that we provide in our amendment and that providing the funding would not interfere with the settlement.

In closing, Mr. President, I want to thank Senator BYRD for his excellent addition to our amendment. Senator BYRD has been the leader in the Senate in focusing, also, on the horrendous problem of youth drinking and the need to clamp down on young people buying alcohol. Senator BYRD's addition requires that States be encouraged to coordinate their enforcement of the tobacco ID check with enforcement of laws that prohibit underage drinking.

Mr. President, this is a significant improvement to our original proposal. I commend my distinguished senior colleague from West Virginia for providing this language. As I said to Senator BYRD, if we tighten down on these ID checks, if we provide the funding so that when Melissa—Melissa is 16 and she looks older than Amy who is age 25—goes in to buy tobacco we will also attack underage drinking. A lot of times they may be buying beer or wine along with tobacco. As long as an ID check is made, it will stop underage drinking as well as smoking. So I agree with Senator BYRD that the States should coordinate their enforcement of tobacco ID checks with enforcement of laws that prohibit underage drinking.

Mr. President, again, I have an amendment here that incorporates that language from Senator BYRD. I thank my colleague, Senator CHAFEE, for his cosponsorship.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. BYRD, and Mr. REED, proposes an amendment numbered 968.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue reading the amendment.

The bill clerk read as follows:

At the end of title VII, insert the following:

SEC. . TOBACCO ASSESSMENTS.

Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended—

(1) in subsection (g)(1), by striking "Effective" and inserting "Except as provided in subsection (h), effective"; and

(2) by adding at the end the following:

"(h) MARKETING ASSESSMENT FOR CERTAIN 1997 AND 1998 CROPS.—

"(1) IN GENERAL.—Effective only for the 1997 crop of tobacco (other than Flue-cured tobacco) and the 1998 crop of Flue-cured tobacco for which price support is made available under this Act, each purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

"(A) in the case of a purchaser of domestic tobacco, 2.1 percent of the national price support level for each such crop; and

"(B) in the case of an importer of tobacco, 2.1 percent of the national support price for the same kind of tobacco;

as provided for in this section.

"(2) COLLECTION AND ENFORCEMENT.—The purchaser and importer assessments under paragraph (1) shall be—

"(A) collected in the same manner as provided for in section 106A(d)(2) or 106B(d)(3), as applicable; and

"(B) enforced in the same manner as provided in section 106A(h) or 106B(j), as applicable.

"(3) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

Notwithstanding any other provision of this Act, $964,261,000 is provided for salaries and expenses of the Food and Drug Administration. In carrying out their responsibilities under the Food and Drug Administration's youth tobacco use prevention initiative, States are encouraged to coordinate their enforcement efforts with enforcement of laws that prohibit underage drinking".

Mr. KENNEDY. Mr. President, I strongly support the Harkin amendment to the Agriculture appropriations bill. The illegal sale of tobacco products to teenagers is a serious national problem. Each year, it is estimated that a half a billion cigarettes are sold to Americans under the age of 18.

The Harkin amendment is an important test of the genuineness of the Senate's commitment to reducing teenage smoking by fully funding the enforcement of the FDA tobacco regulations. These FDA rules prohibit the sale of tobacco to minors, and require retailers to check the photo identification of consumers who purchase tobacco products if they appear to be 27 years old or younger. Of the $34 million, $24 million will go to the States for enforcement.

The Harkin amendment also represents an important test of the Senate's resolve to support FDA regulation of tobacco. Three months ago, a federal court in Greensboro, NC upheld FDA's authority to issue the youth access regulations. But rather than strengthening the FDA's hand by providing the agency with the necessary funds to enforce the rules, the current bill shamefully weakens the FDA's authority appropriating only $5 million for enforcement, or just one-seventh of the President's request for $34 million.

Some argue that the Senate should wait until the so-called global tobacco settlement is enacted into law before funding the regulations, despite the fact that serious concerns have been raised that the settlement doesn't adequately protect the public health. Even if some version of the settlement is approved, it will not be in time for the current budget cycle. In addition, 33 of the State attorneys general who negotiated the settlement support the $34 million funding level.

Each day we delay in funding the FDA regulations, 3,000 new smokers between the ages of 12 and 17 will take up smoking—or 1 million a year.

According to a spring 1996 survey conducted by the University of Michigan Institute for Social Research, the prevalence of youth tobacco use in America has been on the increase over the last 5 years. It rose by nearly 50 percent among 8th and 10th graders, and by nearly 20 percent among high school seniors between 1991 and 1996.

When children are hooked on cigarette smoking at a young age, it is especially hard for them to quit. Ninety percent of current adult smokers began to smoke before they reached the age of 18. Ninety-five percent of teenage smokers say they intend to quit in the near future—but only a quarter of them will actually do so within the first 8 years of beginning to smoke.

Tobacco companies have known this fact for years—and used it cynically to their advantage. Many experts believe that if the industry cannot persuade children to take up smoking, the industry will collapse within a generation.

That's why "Big Tobacco" targets children with billions of dollars in advertising and promotional giveaways, promising popularity, excitement, and success for those who take up smoking.

Because of these marketing practices, the Centers for Disease Control and Prevention estimate that 5 million of today's children will die prematurely from smoking-caused illnesses.

In addition, the Center on Addiction and Substance Abuse at Columbia University has found that smoking is a gateway to the use of illegal drugs. Children between the ages of 12 and 17 who smoke are 12 times more likely to use heroin and 19 times more likely to use cocaine than nonsmokers. The younger a person begins to use tobacco, the higher the likelihood of regular drug use as adults.

By providing the full $34 million that President Clinton requested to implement photo I.D. checks for the purchase of tobacco products by anyone under the age of 27, the Senate can make an important difference in reducing tobacco use among the Nation's youth.

The additional Federal funds in the Harkin amendment to enforce the FDA tobacco regulations are clearly needed, and I urge the Senate to approve the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 969 TO AMENDMENT NO. 968

(Purpose: To impose an assessment on ethanol manufacturers)

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, and Mr. FAIRCLOTH, proposes an amendment numbered 969 to amendment numbered 968.

Strike all after the first word and insert the following:

ASSESSMENT FOR ETHANOL PRODUCERS.

(a) IN GENERAL.—For fiscal year 1998, the rate of tax otherwise imposed on a gallon of ethanol under the Internal Revenue Code of 1986 shall be increased by 3 cents and such rate increase shall not be considered in any determination under section 9503(f)(3) of the Internal Revenue Code of 1986.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. TRUST FUND FOR ANTI-SMOKING ACTIVITIES.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Anti-Smoking Activities' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to section (a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, as estimated by the Secretary.

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to the Secretary of Health and Human Services for anti-smoking programs through the Substance Abuse and Mental Health Administration.".

(2) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"SEC. 9512. TRUST FUND FOR ANTI-SMOKING ACTIVITIES.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply fuel removed after September 30, 1997.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. It would take unanimous consent to have the vote on underlying amendment.

Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am pleased to cosponsor the HARKIN amendment to fund the Food and Drug Administration's youth smoking prevention initiative at $34 million for fiscal year 1998. This is a worthwhile amendment which has my support. I applaud the efforts of Mr. HARKIN to provide funding for this important initiative. Tobacco use among minors is illegal, and we should make every effort to prevent it.

I am particularly pleased that the amendment by Mr. HARKIN has been strengthened at my urging to encourage States to couple their youth smoking prevention efforts with State laws that prohibit underage drinking. These issues go hand in hand in preventing our youth from using destructive substances.

Alcohol is the drug of choice among teens as well as a lot of adults, I am sorry to say, and the consequences are devastating. According to statistics compiled by the National Center on Addiction and Substance Abuse, among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetime experimented with alcohol. In the last month, approximately 8 percent of the Nation's eighth graders have been drunk.

Think of that, eighth graders. Approximately 8 percent of the Nation's eighth graders have been drunk. What's the matter with the parents? I wonder what the parents are doing letting their children in the eighth grade drink. I wouldn't consider myself much of a parent if I let my children drink. If they do that, I blame myself. But the fact is that 8 percent of the Nation's eighth graders have been drunk. It is pretty hard to believe. That would not have happened in my day going to school.

In 1995, there were 2,206 alcohol-related fatalities of children between the ages of 15 and 20. According to the National Center on Addiction and Substance Abuse at Columbia University, 37.5 percent of the young people who have consumed alcohol have also used some illicit drug, while only 5 percent of young people who have never consumed alcohol have used some illicit drug; 26.7 percent of those who have consumed alcohol have tried marijuana, while of those who have never consumed alcohol only 1.2 percent have tried marijuana. And 5 percent of youths who have partaken of alcohol have tried cocaine, while of those who do not drink alcohol only one-tenth of 1 percent have tried cocaine.

So it is not just that alcohol is a real starter not only for more alcohol but for illicit drugs, for marijuana, for cocaine.

Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. How is it then that two out of every three teenagers who drink report that they can buy their own alcoholic beverages? Again, what is wrong with the parents? The parents are sleeping on the job. Two out of every three teenagers who drink report that they can buy their own alcoholic beverages. In my case, they would buy a good basting as well. My parents, they would not have put up with that, not with me, nor would other parents back in those days. We are living in a time, of course, when anything goes.

Our children are besieged with media messages that create the impression that alcohol can help to solve life's problems, lead to popularity, and enhance athletic skills. Do you want to be a good athlete? Drink. Drink beer. Do you want to be popular with the girls? Drink beer. Do you want to be popular with the boys? Drink beer. The media messages help to leave that impression. These messages, coupled with insufficient enforcement of laws prohibiting the consumption of alcohol by minors, give our Nation's youth the impression that it is OK for them to drink. This impression has deadly consequences. In the three leading causes of death for 15- to 24-year-olds—accidents, homicides and suicides—alcohol is a factor. Alcohol is involved in the three leading causes of death for 15- to 24-year-olds.

Efforts to curb the sale of alcohol to minors have high payoffs in helping to prevent children from drinking and driving death or injury. So I urge my colleagues to join me in support of the Harkin amendment to actively address two areas that so seriously harm the physical and mental health of our Nation's children. We have seen a great drive on in recent years by our Nation to curb the use of tobacco. All that is very well and good. I am not against that at all. But who has the nerve to raise the finger against alcohol? Who has the nerve to say, "Don't drink, period." "Don't drink, period."

I congratulate my colleague, and I thank him for allowing me to join in the support of his amendment and for allowing me to add the language of my proposal that deals with drinking.

Mr. HARKIN. Will the Senator yield?

Mr. BYRD. I will yield provided, Mr. President, I do not lose the floor. I have to do this——

Mr. HARKIN. I understand.

Mr. BYRD. Yes.

Mr. HARKIN. I just wanted to thank the Senator from West Virginia for his addition to this amendment. The Senator from West Virginia, as I mentioned earlier, is the leading voice in this Chamber about the dangers of alcohol and alcohol addiction, especially drinking under age. It has become, like tobacco, the scourge of our Nation, especially, as the Senator said, beer drinking among teenagers in college, and that is just a gateway to harder alcohol and other drugs.

The Senator from West Virginia has done us a great service because most of the data that we have seen indicate that the teenagers who illegally buy tobacco also illegally buy alcohol.

Sometimes we tend to get blinders on around here; we don't see other things, and I would admit freely and openly that I had been focusing on the teenage smoking and had not thought about the other aspects of the teenager who walks in to buy the tobacco. And you can bet your bottom dollar, I say to my friend from West Virginia, that if this girl here—as I said earlier, which one of these is underage—you really cannot tell—Melissa or Amy. This one looks the youngest. She has a pair of overalls on. This one looks older. But it turns out this one is 16 and this one is 25.

And you bet your bottom dollar, I ask the Senator from West Virginia, if this one, who is 16, walks in and is successful in buying cigarettes, then the next thing might be, well, as long as she got by with that, how about a six-pack of beer, too.

Mr. BYRD. Sure. Why not?

Mr. HARKIN. Why not? So the Senator is right on the mark. As long as you ID them, you better make sure they don't get the alcohol, too.

So I thank the Senator from West Virginia for helping us take the blinders off to see this has broader implications than just tobacco. This can help us cut down a lot on teenage drinking, and I thank my friend.

Mr. BYRD. Absolutely. And I say this not in defense of smoking, but the young lady or the young man who buys alcohol, or who buys tobacco is not likely to go out and take a smoke and wrap his car around the telephone pole killing himself or possibly some other teenagers or striking an automobile and killing a lady and her daughter who are out grocery shopping.

Mr. HARKIN. The Senator is right on the mark.

Mr. BYRD. I thank the Senator.

Mr. HARKIN. I thank the Senator.

Mr. BYRD. Mr. President, I promised the distinguished Senator from North Carolina, [Mr. HELMS], if he would have no objection in my calling off the quorum, I would ask for a quorum when I completed my statement.

Mr. CHAFEE. Mr. President, I ask the distinguished Senator from North Carolina whether——

Mr. BYRD. Mr. President, I yield for that purpose, for the purpose——

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. The Senator is asking a question of the Senator from North Carolina.

Mr. HELMS. I will if the Senator will ask for the yeas and nays on the second-degree amendment.

Mr. CHAFEE. I do not want to get involved in the second-degree amendment. I just want to deliver a few pearls of wisdom in connection——

Mr. HELMS. Mr. President, I object.

Mr. CHAFEE. With the underlying amendment.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I promised the Senator from North Carolina, the State whose motto is "To Be Rather Than To Seem," that I would suggest the absence of a quorum when I had finished. I will keep my promise. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent the following, and I believe it has been agreed to on the other side. One, that the yeas and nays be deemed to have been ordered on the second-degree amendment, the perfecting amendment; two, that the yeas and nays will be deemed to have been ordered on the underlying amendment; and then, at the appropriate time, that the vote to proceed, first on the second-degree perfecting amendment, and, if that fails, then there be an up-or-down vote on the underlying amendment—meaning that there will be rollcall votes, up or down, on both amendments.

AMENDMENT NO. 969, AS MODIFIED

First of all, I send to the desk a modification, before this is acted on.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 969), as modified, is as follows:

Strike all after the first word and insert the following:

ASSESSMENT FOR ETHANOL PRODUCERS.

(a) IN GENERAL.—For fiscal year 1998, the rate of tax otherwise imposed on a gallon of ethanol under the Internal Revenue Code of 1986 shall be increased by 3 cents and such rate increase shall not be considered in any determination under section 9503(f)(3) of the Internal Revenue Code of 1986.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. TRUST FUND FOR ANTI-SMOKING ACTIVITIES.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Anti-Smoking Activities' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to section (a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, as estimated by the Secretary.

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to the Secretary of Health and Human Services for anti-smoking programs through the Substance Abuse and Mental Health Administration.". The Secretary is directed to encourage States, in carrying out their responsibilities under the youth tobacco use prevention initiative, to coordinate their enforcement efforts with enforcement of laws that prohibit underage drinking.

(2) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9512. Trust Fund for Anti-Smoking Activities.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply fuel removed after September 30, 1997.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving right to object.

The PRESIDING OFFICER. There is an objection?

Mr. BYRD. Reserving the right to object, and I will object. I certainly have no objection to having the yeas and nays, but I prefer to do it in the constitutional route, have them ordered by one-fifth of the Senators who are present. For years we have objected to ordering the yeas and nays by unanimous consent.

Mr. HELMS. Very well.

Mr. BYRD. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. I object to the same thing, but I tried to hasten it a little bit.

I ask for the yeas and nays on the second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. The second-degree amendment, as modified, of course.

The PRESIDING OFFICER. It has already been modified.

Mr. HARKIN. We ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on the first amendment?

Mr. BYRD. No objection.

The PRESIDING OFFICER. Objection? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Parliamentary inquiry. I just want to know where we stand. We have now ordered the yeas and nays on both the underlying amendment and on the perfecting amendment, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. As I further understand——

Mr. HELMS. As modified.

Mr. HARKIN. As I understand it——

Mr. HELMS. No, I mean the second-degree perfecting amendment, as modified.

Mr. HARKIN. I understand. As I further understand, the Senator from North Carolina asked consent that we have an up-or-down vote on his amendment, his perfecting amendment, and then an up-or-down vote on the underlying amendment.

Mr. HELMS. If the perfecting amendment is defeated.

Mr. HARKIN. If the perfecting amendment is defeated. Is that correct?

The PRESIDING OFFICER. That amendment was objected to.

Mr. COCHRAN. Reserving the right to object, this is a new request, as I understand it.

Parliamentary inquiry. Would this Senator have the right, for example, when Senators have indicated that they do not care to debate the issue any further, to move to table the underlying amendment and get the yeas and nays and have a vote on the motion to table the underlying amendment?

The PRESIDING OFFICER. Not if this agreement were entered into.

Mr. COCHRAN. Further inquiring of the Chair, there have been two unanimous-consent requests granted, or there have been the yeas and nays ordered on two amendments.

The PRESIDING OFFICER. That is correct.

Mr. COCHRAN. But now there is a request pending that there be an up-or-down vote on both amendments; is that a correct understanding of the request?

The PRESIDING OFFICER. Is the Senator from Iowa making that request?

Mr. HARKIN. Mr. President, let this Senator be clear. This Senator, in good faith, just went over to my friend from North Carolina and asked if we could get past this impasse in the following manner: Could we agree to have the yeas and nays on this Senator's underlying amendment, then to let the Senator from North Carolina modify his amendment and then ask for the yeas and nays on that amendment, and further, we agreed and shook hands that we would then have a vote on his amendment up or down, and then if he failed, then we would have a vote up or down on my amendment. I believe that was what the agreement was.

Mr. HELMS. Mr. President, let me be sure I understand the Senator. The first vote would be on the perfecting amendment, is that it?

Mr. HARKIN. That is correct. It would be an up-or-down vote on the perfecting amendment.

Mr. HELMS. I have no objection to that.

Mr. COCHRAN. And that is the amendment of the Senator from North Carolina, is that correct?

Mr. HELMS. Yes, the perfecting amendment, as modified.

Mr. HARKIN. And then if that amendment failed, then there would be an up-or-down vote on the underlying amendment, and that is what we are asking the Senate to do, to carry out that agreement that we made.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Then I gather the Senator from Iowa is making the point that a motion to table the underlying amendment would not be in order.

Mr. HARKIN. That is correct.

Mr. MCCONNELL. Under this request.

Mr. HARKIN. That is correct.

Mr. MCCONNELL. That is an agreement we have already entered into?

The PRESIDING OFFICER. Not yet.

Mr. FORD. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. Senator from Kentucky.

Mr. FORD. I think I am getting to the point here where I don't like this agreement, and, I say with all respect, of what we are trying to do. One, if this agreement is accepted, then as I understand it—and I am not as good at the rules as I used to be or should be—but this precludes a tabling motion on the underlying amendment if we agree to this.

The PRESIDING OFFICER. That is correct.

Mr. FORD. And, second, if we agree to this and the second-degree amendment is defeated, then I am precluded from offering another amendment in the second degree.

The PRESIDING OFFICER. That is correct.

Mr. FORD. Then I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I suggest the absence of a quorum. We are going to be here for a long time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDEMNING THE GOVERNMENT OF CANADA

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to Senate resolution 109. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 81, nays 19, as follows:

The result was announced—yeas 81, nays 19, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—81

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bond
Boxer
Brownback

Bryan
Bumpers
Burns
Byrd
Campbell
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Domenici
Dorgan
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn

Gorton
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kohl
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski

Moseley-Braun
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—19

Biden
Bingaman
Breaux
Chafee
Dodd
Durbin
Graham

Gramm
Kennedy
Kerrey
Kerry
Kyl
Landrieu
Lautenberg

Leahy
McCain
Moynihan
Sarbanes
Wellstone

The resolution (S. Res. 109) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 109

Whereas, Canadian fishing vessels blockaded the M/V MALASPINA, a U.S. passenger vessel operated by the Alaska Marine Highway System, preventing that vessel from exercising its right to innocent passage from 8:00 a.m. on Saturday, July 19, 1997 until 9:00 p.m. Monday, July 21, 1997;

Whereas the Alaska Marine Highway System is part of the United States National Highway System and blocking this critical link between Alaska and the contiguous States is similar in impact to a blockade of a major North American highway or air-travel route;

Whereas the M/V MALASPINA was carrying over 300 passengers, mail sent through the U.S. Postal Service, quantities of fresh perishable foodstuff bound for communities without any other road connections to the contiguous States, and the official traveling exhibit of the Vietnam War Memorial;

Whereas international law, as reflected in Article 17 of the United Nations Convention on the Law of the Sea, guarantees the right of innocent passage through the territorial sea of Canada of the ships of all States;

Whereas the Government of Canada failed to enforce an injunction issued by a Canadian court requiring the M/V MALASPINA to be allowed to continue its passage, and the M/V MALASPINA departed only after the blockaders agreed to let it depart;

Whereas, during the past three years U.S. vessels have periodically been harassed or treated in ways inconsistent with international law by citizens of Canada and by the Government of Canada in an inappropriate response to concerns in Canada about the harvest of Pacific salmon in waters under the sole jurisdiction of the United States;

Whereas Canada has failed to match the good faith efforts of the United States in attempting to resolve differences under the Pacific Salmon Treaty, in particular, by rejecting continued attempts to reach agreement and withdrawing from negotiations when an agreement seemed imminent just before the Canadian national election of June, 1997;

Whereas neither the Government of Canada nor its citizens have been deterred from additional actions against vessels of the United States by the diplomatic responses of the United States to past incidents such as the imposition of an illegal transit fee on American fishing vessels in June, 1994: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) The failure of the Government of Canada to protect U.S. citizens exercising their right of innocent passage through the territorial sea of Canada from illegal actions and harassment should be condemned;

(2) The President of the United States should immediately take steps to protect the interests of the United States and should not tolerate threats to those interests from the action or inaction of a foreign government or its citizens;

(3) The President should provide assistance, including financial assistance, to States and citizens of the United States seeking damages in Canada that have resulted from illegal or harassing actions by the Government of Canada or its citizens; and

(4) The President should use all necessary and appropriate means to compel the Government of Canada to prevent any further illegal or harassing actions against the United States, its citizens or their interests, which may include—

(A) using U.S. assets and personnel to protect U.S. citizens exercising their right of innocent passage through the territorial sea of Canada from illegal actions or harassment until such time as the President determines that the Government of Canada has adopted a long-term policy that ensures such protection;

(B) prohibiting the import of selected Canadian products until such time as the President determines that Canada has adopted a long-term policy that protects U.S. citizens exercising their right of innocent passage through the territorial sea of Canada from illegal actions or harassment;

(C) directing that no Canadian vessel may anchor or otherwise take shelter in U.S. waters off Alaska or other States without formal clearance from U.S. Customs, except in emergency situations;

(D) directing that no fish or shellfish taken in sport fisheries in the Province of British Columbia may enter the United States; and

(E) enforcing U.S. law with respect to all vessels in waters of the Dixon Entrance claimed by the United States, including the area in which jurisdiction is disputed.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 965

The PRESIDING OFFICER. There are 2 minutes, equally divided, on the motion to table amendment No. 965, the Durbin amendment.

Mr. COCHRAN. Mr. President, I understand that we have 2 minutes, equally divided, on the motion to table the Durbin amendment. I made the motion to table. The Durbin amendment seeks to do away with crop insurance payments for tobacco farmers and any disaster assistance payments that might fall due under the law. I moved to table it. It carried with it a second degree amendment by the Senator from Kentucky [Mr. FORD], which limits crop insurance payments to farms 400 acres or smaller.

So, as you may see, unless we table the DURBIN amendment, you are going to cause a lot of disruptions in agriculture for two reasons. I hope that the Senate will vote to table this amendment. This is an agriculture appropriations bill. Both of these amendments would change the law, not funding levels. Let's stick to the purpose of our bill and please vote to table the Durbin amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, this amendment eliminates the Federal subsidy for tobacco. How many times have we faced that question?

Senators, the Federal Government says that tobacco is dangerous. Why do the taxpayers continue to subsidize it? We subsidize it in the form of crop insurance.

Senator GREGG and I are offering this amendment to eliminate once and for all crop insurance for tobacco. Some Senators have said that is unfair. Every crop gets insured. Right? Wrong. Sixty-seven crops are presently ensured. Sixteen hundred are not.

The list goes on and on and on. I am about to drop them.

What is this about? It is about a crop that is perfectly legal and perfectly lethal. Tobacco is the No. 1 preventable cause of death in America today.

Let's get our public health policy and our subsidies straight.

So, to vote against the crop insurance for tobacco, the appropriate vote is "no" on the motion to table and "no" on more subsidies.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the motion of the Senator from Mississippi to lay on the table the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 53, nays 47, as follows:

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—53

Akaka
Allard
Ashcroft
Baucus
Biden

Bond
Breaux
Bryan
Burns
Campbell

Cleland
Cochran
Conrad
Coverdell
Craig

Daschle
Domenici
Dorgan
Enzi
Faircloth
Feingold
Ford
Frist
Graham
Grams
Grassley
Hagel
Helms
Hollings
Inhofe
Inouye
Jeffords
Kempthorne
Kerrey
Kohl
Landrieu
Leahy
Lott
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Robb
Roberts
Roth
Sarbanes
Sessions
Shelby
Stevens
Thompson
Thurmond
Warner

NAYS—47

Abraham
Bennett
Bingaman
Boxer
Brownback
Bumpers
Byrd
Chafee
Coats
Collins
D'Amato
DeWine
Dodd
Durbin
Feinstein
Glenn
Gorton
Gramm
Gregg
Harkin
Hatch
Hutchinson
Hutchison
Johnson
Kennedy
Kerry
Kyl
Lautenberg
Levin
Lieberman
Lugar
Mack
McCain
Moseley-Braun
Murray
Reed
Reid
Rockefeller
Santorum
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Torricelli
Wellstone
Wyden

The motion to lay on the table the amendment (No. 965) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. COCHRAN. Mr. President, what is the pending business before the Senate?

AMENDMENT NO. 969, AS MODIFIED

The PRESIDING OFFICER. The pending business is the Helms amendment No. 969.

Mr. COCHRAN. Mr. President, the issue here was joined with the offering of the amendment by the distinguished Senator from Iowa. It is an amendment related to the Food and Drug Administration's funds for an antismoking regulatory program that has been developed and put out by the Food and Drug Administration. The issue is whether or not there is sufficient funds in the FDA account to help pay the cost of this regulatory program.

Some Senators may not be aware of the fact that we have increased in this legislation the proposed funding for FDA by over $20 million. As a matter of fact, I think the total is around $30 million—$24 million for the FDA account for this next fiscal year. This is in comparison with this current year's funding level. So there are funds available to carry out the additional food safety initiatives that the Food and Drug Administration has proposed. There is a specified $4.9 million available, the same amount as last year, for the FDA's smoking regulatory program, or antismoking regulatory program.

One thing that has to be kept in mind, I think, to try to understand, get a perspective on this issue is that litigation is underway. There was a lawsuit filed in North Carolina. Some of the regulatory initiatives of the FDA were upheld and some are on appeal.

Mr. President, the other aspect of this issue is that there has been a negotiated settlement among attorneys general and the tobacco industry that involves the commitment of the tobacco industry to make certain payments to help pay health costs and Food and Drug Administration activities in connection with the use of tobacco and trying to convince people that smoking tobacco is bad for you.

This bill does not in any way try to adversely affect or take away from any initiative of that kind. We did say, when we were discussing this legislation in the subcommittee and at the full committee, that we assumed some funds could be made available from the tobacco industry to help pay costs that might not be fully funded in this legislation, costs of the Food and Drug Administration. So we see nothing wrong with making that assumption in our bill. The Harkin amendment imposes an assessment on tobacco companies that would cause funds then to be created that could then be given to the FDA for additional program costs.

The Senator from North Carolina has offered a second-degree amendment changing the source of the funding from the assessment to an ethanol assessment, so that the funds would come from the ethanol program, in effect, for the antismoking program of FDA. And so there is where we stand now.

The yeas and nays have been ordered on the Helms amendment. The yeas and nays have been ordered on the Harkin amendment. And so that is the situation as I understand it. There was a suggestion that one way to deal with this is to put it before the Senate in the form of a motion to table the Harkin amendment.

Now, I could make that motion, but I do not want to make that motion and cut off the right of Senators who want to speak on this issue. And I understand from the Senator from Iowa that he might want to speak further on it. The Senator from Rhode Island is a cosponsor of the Harkin amendment and he wanted to speak. So I am reluctant to make that motion. But it would be my hope that we could resolve the issue in that way. If that is not satisfactory to the Senate, the Senate can work its will. But that is the suggestion that I have for dealing with the issue, of wrapping it all up in one vote, if the motion to table is approved. If the motion to table is not approved, then we have a vote on the Helms amendment and we have a vote on the Harkin amendment. So that is my suggestion for how we can wrap it all up.

Mr. HARKIN. If the Senator will yield.

Mr. COCHRAN. I am just one Senator. I am trying to help get this bill passed and get this issue resolved, and I hope that that can be embraced by the proponents of both sides.

Mr. HARKIN. Will the Senator yield for a question?

Mr. COCHRAN. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I say to my friend from Mississippi that the amendment I offered is an entirely separate matter the proposed tobacco settlement that is being worked out with the attorneys general and the tobacco companies. In fact, I submitted for the RECORD earlier a copy of a letter from 33 attorneys general involved in the tobacco settlement supporting full funding for FDA's tobacco initiative. I have also a letter here from Michael Moore, who is the attorney general of the State of Mississippi who is the lead attorney general in the negotiations. He stated here, "I would like to express my strong support for your amendment." Dated July 21. That would be 2 days ago.

And he said, "There has been some confusion regarding your amendment and whether it would interfere or conflict with the proposed settlement with the tobacco industry." He went on to say that he supported it.

So this has nothing to do with the proposed tobacco settlement whatsoever. What this has to do with is the part of the proposed FDA rule that was upheld by the court in Greensboro, NC. The court upheld the authority of FDA to regulate tobacco sales to minors. The FDA promulgated the rule. It was upheld by the courts.

Now, the administration has requested $34 million to implement the rule. It needs this amount to carry out the rules upheld by the court. However, in the Agriculture appropriations bill there is only $4.9 million to implement it. So we cannot reach out to all 50 States to get this rule implemented to cut down on sales of tobacco to young people. And due to the involvement, I might say the good involvement, of the Senator from West Virginia, a provision was added to our amendment that says that in carrying out the responsibilities under the Food and Drug Administration initiative, States are encouraged to coordinate enforcement efforts with the enforcement of laws that prohibit under-age drinking. That is, I might add, a very worthwhile addition to this amendment. So I hope Senators are not confused. This has nothing to do with the tobacco settlement whatsoever. This has everything to do with whether or not we are going to have enforcement of the FDA rule to prevent sales of tobacco to kids.

I would also point out there is some talk that somehow this FDA initiative is duplicative of the SAMHSA regulations. I am informed that it is not. This is because SAMHSA is not an enforcement program but FDA is. SAMHSA provides no incentives for retailers to stop illegal sales to kids. FDA will educate retailers about their responsibility and penalize retailers if they repeatedly sell to kids. And so SAMHSA is a lot different than FDA's tobacco initiative.

Now, why does the FDA need the full $34 million? Well, basically, the Court provided FDA with full authority to regulate cigarettes and smokeless tobacco products and with full authority to continue implementing provisions of the FDA initiative that sets a minimum age of 18 for buying tobacco and requires retailers to check the photo ID of consumers seeking to purchase tobacco.

Given that there are more than a half a million retailers in this country, it will be a big task to educate retailers about their responsibilities. Funds are also needed to conduct periodic compliance checks. So the $34 million is not that much money given the task at hand. The Court did strike down parts of the FDA rule, but resources are needed to enforce the minimum age and ID check rules that were fully upheld by the Court.

Mr. President, $34 million is a very small investment when you realize that tobacco use drains more than $50 billion from our health care system each year. So this is a very small amount of money.

Now, Mr. President, I have a parliamentary inquiry. Might I inquire of the Chair, what is the business before the Senate? I make a parliamentary inquiry.

The PRESIDING OFFICER. The question before the Senate is the Helms amendment. I believe that is 969.

Mr. STEVENS addressed the Chair.

Mr. HARKIN. Mr. President, I still have the floor.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. Well, Mr. President, I think that we are all very clear on this. Now, I had in good faith with the Senator from North Carolina made an agreement earlier that I would be permitted the yeas and nays on my amendment, which required unanimous consent at that point, that the Senator would then be allowed to modify his amendment, which he did, and then we asked for the yeas and nays on the amendment of the Senator from North Carolina.

We could then have a vote on his amendment and then have a vote on my underlying amendment—in other words, a vote first on the amendment of the Senator from North Carolina. If that prevailed, well, that would be the end of it. If it went down, then there would be an up-or-down vote on my amendment. And the Senator can correct me if I am wrong, but I believe that was the agreement and we shook hands on it.

Mr. BUMPERS. Mr. President, will the Senator from Iowa yield for a question?

Mr. HARKIN. I yield only for a question.

Mr. BUMPERS. I think it might be helpful if we engaged in a few questions and answers to understand precisely what this amendment is. I have not been sure all along I understood it.

There is presently a Federal law which prohibits the sale of cigarettes to anybody under 18 years of age, is that correct?

Mr. HARKIN. Yes, that is true.

Mr. BUMPERS. And does the Federal Government provide any funds to the States for enforcement of that law at present?

Mr. HARKIN. I understand that that is, indeed, what the FDA initiative is for, is to provide funds to the States to implement it and to carry it out.

Mr. BUMPERS. The question is, do we provide any money for them at this moment for the enforcement of this law?

Mr. HARKIN. This Senator is not aware of any. However, I would not unequivocally state there is not.

Mr. BUMPERS. I understand there is $4.9 million available for that purpose, is that correct?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. The Senator from Arkansas is correct with respect to the $4.9 million. As I understand it, the $4.9 million is what is expected to be spent this year for the first step in this initiative, this FDA initiative to cut down on tobacco sales to minors under the age of 18. The $4.9 million is the first step in that process.

Mr. BUMPERS. Now, the administration has asked for an additional $34 million?

Mr. HARKIN. No, they have asked for $34 million. That includes the $4.9 million.

Mr. BUMPERS. That includes the present 4-plus million.

Mr. HARKIN. Yes. It raises the 4.9 up to 34.

Mr. BUMPERS. This money will be distributed to the States to assist them in the enforcement of this law?

Mr. HARKIN. Yes.

Mr. BUMPERS. Now, if we do not provide—we have imposed, in effect, a law that we are requesting the States to enforce. We passed a law saying to the States, you can't allow sales of cigarettes to anybody under 18, and we have not given them any money to enforce it. How does that play with the law we passed here either last year or the year before on mandates to the States with no money?

Mr. HARKIN. I am sorry.

Mr. BUMPERS. The Senator will recall the distinguished Senator from Idaho, [Mr. KEMPTHORNE], led the fight here to provide that the Federal Government in the future must pay the States for any mandates we impose on them and for which we do not provide any money. I am asking the Senator, why doesn't this come under the category of a violation, as long as we required them to enforce the "18-year-old" prohibition, but we haven't given them any money? Why is that not a violation of the law we passed here prohibiting mandates on local jurisdictions without money?

Mr. HARKIN. As I understand it, what the Senator is suggesting is that this money is to help the Federal Government meet its obligations of ensuring that we do not mandate States to do things which we do not fund.

Mr. BUMPERS. Well, essentially that is right, but what I am saying is at present we do not give the States but I think maybe $4-plus million, which is not nearly enough.

Mr. HARKIN. If I might respond, that $4.9 million only covers 10 States. We want to cover 50 States. Thus the need for the $34 million.

Mr. BUMPERS. Let me ask the Senator this question, changing gears just a little bit. Could the Senator tell us, is there a figure available as to what it would take to effectively enforce this law in all 50 States?

Mr. HARKIN. I am told that figure is $34 million. And that is what they are requesting. They are requesting $34 million to expand it from 10 States to 50 States.

Mr. BUMPERS. Under the rule of thumb, I come from a State that has 1 percent of the Nation's population. When I was Governor of that State we used to always assume that under all the formulas, welfare and otherwise, we would get 1 percent, because we have 1 percent of the population. In this case, if we had $34 million and we put it out on that basis, Arkansas would get $340,000.

I don't think that would be enough to even get the water hot, in enforcing this law.

Mr. HARKIN. If I may respond again to the Senator, I think there is a bit of confusion here. It is my understanding that the FDA rule does not impose a mandate on States. It imposes an obligation on retailers who sell tobacco or tobacco products not to sell them to anyone under the age of 18. In fact, the rule says that anyone under the age of 27 must provide a valid photo ID to prove their age is over the age of 18. The money that we are seeking here is to go out to the States and local communities to help them, and to help retailers, enforce and comply with the FDA rule.

The FDA rule does not apply to a State. It applies to retailers, and not to a State.

Mr. BUMPERS. Let me ask the Senator this question. If the amendment of the Senator fails and there is no money going to the States and the States simply take the position that they are not going to enforce this rule because they don't have the money to do it, then there will be no enforcement?

Mr. HARKIN. That is true.

Mr. BUMPERS. And there would be no way for the Feds to make them enforce it?

Mr. HARKIN. The Senator is absolutely correct, there is no way we could make them enforce it.

Mr. BUMPERS. If we develop a formula along the lines I mentioned a moment ago, where say my State of Arkansas would get 1 percent, what if we were to say to the Federal Government: We don't like the rule and we are not going to enforce it. Keep your $340,000. Would the Federal Government have any recourse against the State of Arkansas?

Mr. HARKIN. No, because the States will contract with FDA to help carry out the FDA rule. But there is no mandate that the States have to enforce the FDA rule. We are seeking, with this amount of money, $34 million, a way of implementing the rule through the use of State and local governments to help enforce this rule. But there is no mandate that they have to do so; absolutely none whatsoever.

Mr. BUMPERS. I thank the Senator.

Mr. STEVENS addressed the Chair.

Mr. FORD. Could I get in here just a minute?

The PRESIDING OFFICER (Mr. ALLARD). Does the Senator from Iowa yield to the Senator from Alaska, who is asking to be recognized?

Mr. HARKIN. I will yield for a question.

Mr. FORD. May I ask the Senator a question?

The PRESIDING OFFICER. The Senator from Iowa controls the times.

Mr. HARKIN. I yield for a question from the Senator from Kentucky.

Mr. FORD. You are talking about funding a regulation and not a statutory provision, isn't that correct?

Mr. HARKIN. That is true.

Mr. FORD. Isn't it true, under SAMHSA and the so-called Synar amendment, that the enforcement is there and there is about $1 billion in this particular area as block grants? Isn't that true?

Mr. HARKIN. I respond to the Senator this way, and we had this discussion earlier. The Synar regulation of SAMHSA is not an enforcement program. FDA is. SAMHSA provides no incentives for retailers to stop illegal sales to kids. Through its tobacco initiative, FDA will educate retailers about their responsibility, and can assess penalties and penalize retailers if they repeatedly sell to kids. SAMHSA does not provide enforcement power or enforcement money.

Mr. FORD. Under SAMHSA, as I understand it, the States are required to certify to SAMHSA that they are carrying out these laws and one of the requirements under SAMHSA, in the so-called Synar amendment, is sting operations. So the enforcement is there from the States certifying to SAMHSA that they are complying with the law. And $1 billion is there, as I recall, for the enforcement because, if you don't enforce it and you don't certify it, then you lose your block grants. And that is pretty tough enforcement, in my opinion.

Mr. HARKIN. I might respond to my friend from Kentucky, that, under the Synar amendment it is true that SAMHSA—SAMHSA imposes an——

Mr. FORD. That's Japanese.

Mr. HARKIN. Sets targets for the States to cut illegal sales to minors.

Mr. FORD. That is correct.

Mr. HARKIN. If they do not do so, then the State could lose block grant funding——

Mr. FORD. That is correct.

Mr. HARKIN. If they do not reduce smoking.

Mr. FORD. That is correct.

Mr. HARKIN. But here is the catch. The tobacco industry was successful in pulling the teeth from this provision. Synar has no teeth because there are no hard targets. It is discretionary whether any State will lose its block grant. That is why SAMHSA is not an enforcement program, no one is going to lose their block grants, because there are no teeth in the targets. If States miss their targets, they are not going to lose their block grants. To my knowledge, no State has.

Mr. FORD. I say to my good friend——

Mr. HARKIN. I yield further without losing my right to the floor.

Mr. FORD. Under the Synar amendment, the States have passed laws to comply with SAMHSA. And, under that compliance they are required to enforce the law. And they are to so certify. They are to so certify to HHS that they are doing it. And part of that requirement is the so-called sting operations, that you wouldn't notify an operation that you are going to inspect them.

So, this to me is double jeopardy on the States. You are taking SAMHSA that can take away their block grants and you have FDA, that you are trying to give money to, to enforce something that you already have the enforcement mechanism to do.

We may disagree on this, but $1 billion is a lot of money. It is not an unfunded mandate.

Mr. HARKIN. I would reply to the Senator from Kentucky again in this way. SAMHSA does in fact provide that States should or must enforce this and reduce smoking by passing laws that would do that, to take action to do that. However, there are absolutely no teeth at all in this SAMHSA provision because, if States don't do it, there are essentially no effective penalties that apply.

Mr. FORD. Senator, losing their block grant is a penalty.

Mr. HARKIN. A State could conceivably lose its block grant but there are no hard targets that hold the states accountable to enforce laws that cut teenage smoking.

Mr. FORD. They passed a law saying what you have to do.

Mr. HARKIN. But there are no teeth saying if you don't meet the requirements of law that you lose their block grants. There are no teeth in it.

Mr. FORD. It reminds me of the military, the teeth and the tail. I believe the teeth here have been pulled.

Mr. HARKIN. The teeth have been pulled out of SAMHSA. But nonetheless, I say to the Senator from Kentucky, that SAMHSA applies to the States. The States do their thing. What the FDA initiative goes to are the retailers. The FDA rule goes directly to retailers. And what this money is used for is to go out and contract with State and local jurisdictions to enforce the rules to prevent teen smoking and to help retailers understand what they have to do. And the FDA can absolutely set up penalties for retailers who do not comply, who are repeat offenders in selling tobacco to underage kids. That is not the case under the SAMHSA rules. I am sorry.

Mr. FORD. Mr. President, without the Senator losing his right to the floor, I would like to ask him another question.

Mr. HARKIN. I will yield for a question.

Mr. FORD. How can States regulate the purchase of cigarettes without dealing with retailers? There is no way. Because that is where the tobacco is sold. So, therefore, they do deal with retailers. Under the SAMHSA rule they have, based on their law in their State, under that statute, to comply with SAMHSA. And you have funded it by $1 billion and that is a block grant to the States.

Mr. HARKIN. Mr. President, again, let's be clear what we are talking about when we are talking about SAMHSA. SAMHSA and the States can pass a law and they can deal with retailers. But there are no hard targets in SAMHSA to say: Here is what you have to do or you will certainly lose your block grant. The State can pass all kinds of laws but, if the State laws don't meet a target, then SAMHSA has no way of going to the State and saying, "Look, you didn't meet the requirements of the law and therefore we will take away your mental health and substance abuse block grants."

If there were, in the Synar amendment, a provision that said that, if a State, for example, cannot show that by year one they have taken this step and this step, and this step, and that they have met the target—if in that case they then would lose their block grants, I would then agree with the Senator from Kentucky.

That is not the case in the Synar amendment. It is a lot of nice words, but it doesn't really get to the heart of it, because there are no effective penalties, there is no real trigger, there is no hard target that, if a State doesn't do something, they then will lose their block grant.

On the other hand, the proposed FDA rule upheld by the courts goes to the retailers, and FDA can—not must—but can contract with States and contract with local jurisdictions for enforcement of the FDA rules. FDA will also provide information, resources, support and help through outreach. A lot of times the small businesses don't really know what they have to do, and outreach can help them carry out this rule requiring the photo ID under age 27.

So I don't want to get this FDA initiative confused with SAMHSA at all. This is something entirely different. I don't know if the Senator from Alaska wanted me to yield for a question.

Mr. STEVENS. The Senator from Alaska would like to have the floor, Mr. President.

Mr. HARKIN. Mr. President, as I was saying earlier before I yielded to the Senator from Arkansas, I was talking about the situation that we had agreed to, that I thought I agreed to. I might just also say that the Helms amendment provides no funds to reduce tobacco smoking in any way. It creates a 3-cent tax on each gallon of ethanol. It puts it in a trust fund to be used for programs within the Substance Abuse and Mental Health Services Administration, but it doesn't allow the money to be spent unless funding is included in some appropriations bill. So it really doesn't provide an alternative source of funding. It just sets up a trust fund that you take money out of ethanol and put in there. But it really doesn't do anything.

As I understood it, I had agreed with the Senator from North Carolina that I would not object to a unanimous consent request to have the yeas and nays on my amendment, which was required at that point in time; then he would modify his amendment; and then we would have the yeas and nays on his amendment; and if we could have an up-or-down vote on his amendment, which I thought was fair, and if we could have an up-or-down vote on my amendment, which I thought would be fair.

Now I understand that that may not be the case; that now there may be a motion made to table the underlying amendment without a vote happening on the Helms amendment. I think there should be a vote on the Helms amendment to see whether or not people want to take the money out of ethanol and put it into a trust fund which doesn't go anywhere, or whether Senators would rather raise the assessment, as the amendment by Senator CHAFEE and I, and others, does: to raise the marketing assessment now from 1 percent to 2.1 percent, remove the half a percent that farmers have to pay now, make tobacco companies pay the full 2.1 percent, in order to offset the $34 million needed to fund the FDA's youth tobacco initiative.

That really is the essence of the two amendments, and I believe we ought to have a vote on the two amendments. So, therefore, Mr. President, I move to table the Helms amendment, and I ask for the yeas and nays.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the pending amendment is the amendment offered by the Senator from North Carolina to raise a tax. The underlying amendment is an amendment to raise a fee, and then it turns around and spends the fee. I view my job as chairman of the Appropriations Committee—I beg your pardon, did he make a motion to table?

The PRESIDING OFFICER. If the Senator will suspend for just a moment, apparently we have a motion to table, which is a nondebatable motion.

Mr. STEVENS. I am sorry. I apologize. I did not hear that motion. When was the motion made?

The PRESIDING OFFICER. It apparently was made just prior to the Senator from Iowa taking his seat.

Mr. STEVENS. Parliamentary inquiry. Is it in order to table the underlying amendment now?

The PRESIDING OFFICER. Not at this point in time.

Mr. STEVENS. I regret that, and I apologize to the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Helms amendment No. 969, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 76, nays 24, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—76

Abraham
Akaka
Allard
Ashcroft
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Chafee
Cleland
Coats
Collins
Conrad
Coverdell
Craig
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Glenn
Gorton
Graham
Grams
Grassley
Hagel
Harkin
Hatch
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Torricelli
Wellstone
Wyden

NAYS—24

Bennett
Campbell
Cochran
D'Amato
Faircloth
Ford
Frist
Gramm
Gregg
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Kyl
Lott
McConnell
Murkowski
Nickles
Roth
Stevens
Thompson
Thurmond
Warner

The motion to lay on the table the amendment (No. 969), as modified, was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 968

Mr. STEVENS. Mr. President, I want to appeal to the Senate on this bill. It is my hope that we can finish this bill tonight and move on to State, Justice, Commerce bill tomorrow and finish it before we recess for this week. We still will have two more to do or three more to do next week, in terms of appropriations bills. Our goal has been to try and finish all that we can before the recess.

Mr. President, this amendment that is pending, the Harkin amendment, as I understand it, would require that this bill be referred to Ways and Means when it goes to the House. I do not believe that we should be handling this amendment on this bill. The Senator knows that has been my feeling. I am grateful to the Senator for bringing it to the floor rather than having a prolonged discussion of it in the Appropriations Committee. But it is my hope that the Senate will understand this motion I am about to make and support it, so that we can keep the momentum we have for our appropriations bills and finish this bill tonight. I do not think the bill will be able to be finished tonight unless we do get this motion of mine agreed to.

Mr. HARKIN. Mr. President, will the Senator yield for a question?

Mr. STEVENS. Mr. President, I move to table the Harkin amendment.

Mr. HARKIN. Will the Senator yield for a question?

Mr. STEVENS. Mr. President, I move to table the Harkin amendment and I will yield in a minute.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I move to table the Harkin amendment, and I ask unanimous consent that I be able to yield to the Senator from Iowa, and I also ask unanimous consent that my motion then be set aside so that the two leaders can arrange the balance of the program for this evening. There are Senators who have problems, as I understand it. The two leaders will address that. I have made the motion to table, right?

The PRESIDING OFFICER. The motion has been made to table.

Is there objection to the request?

Mr. HARKIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the motion to table.

Mr. STEVENS. I made a motion to table, and I asked unanimous consent that I be able to listen to the Senator from Iowa.

Mr. HARKIN. I can't hear anything. What is the pending business?

The PRESIDING OFFICER. The pending question is the motion to table the Harkin amendment.

Mr. HARKIN. Mr. President, I asked the Senator to yield for a question.

The PRESIDING OFFICER. The Senator didn't choose to do that. He moved to table.

Mr. STEVENS. What is the question, Senator?

Mr. HARKIN. The Senator from Alaska stated that this amendment would mean that the bill would be referred to the Ways and Means Committee of the House. However, the amendment that Senator CHAFEE and I offered is on an assessment that was passed by the Agriculture Committee in 1990, not the Ways and Means Committee. The Ways and Means Committee never had any jurisdiction over this.

I am somewhat perplexed as to why this would then go to the Ways and Means Committee, since it was the Agriculture Committee that passed the assessment in 1990.

Mr. STEVENS. I just want to say that my information was that that committee of the House has taken one of our bills previously.

I do ask for the yeas and nays and renew my request that the leaders be recognized.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will please come to order.

The majority leader is now recognized on the leader time.

Mr. LOTT. Mr. President, we have a unanimous-consent request that we have been working on for the past few minutes with the members of the Appropriations Committee and the leadership on both sides of the aisle. This will give the Members some clear understanding of what they can expect for the balance of the evening and first thing in the morning.

I ask unanimous consent that the vote on the motion to table the Harkin amendment occur at 6:30 p.m. this evening and, between now and 6:30, Senator BRYAN be recognized to offer an amendment regarding market promotion and there be 30 minutes for debate to be equally divided in the usual form and the vote occur in relation to that amendment following the motion to table at 6:30 and no amendments be in order to the Bryan amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object. I ask that you might include in the request that I be recognized to offer an amendment tonight—it won't be voted on tonight—after the votes on tabling the Harkin and Bryan amendments.

Mr. LOTT. Will the Senator repeat the question?

Mr. WELLSTONE. I was asking whether or not you would modify the request that I be able to offer an amendment after we have those 2 votes tonight. It won't be voted on tonight, I say to colleagues.

Mr. LOTT. Mr. President, I had hoped to do that. I would be willing—well, if I could get an agreement to what I have asked, and then I would like to propound a second unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. Mr. President, reserving the right to object, and I don't think I will. I have not seen the Bryan amendment and I think in your unanimous consent you stated that there could be no second-degree amendments, is that correct?

Mr. LOTT. The Bryan amendment is available and we do have 30 minutes reserved for debate equally divided, and I don't believe—under the request we asked for, no second-degree amendments would be in order.

Mr. BURNS. I lift the objection. That will be fine.

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. Objection is still heard.

Mr. HARKIN. Reserving the right to object, I ask the majority leader, because there is some, I think, misunderstanding here about going to the Ways and Means Committee, which I don't believe is correct, since customs fees are normally within the jurisdiction of the Ways and Means Committee in any event. There are in this bill more provisions that deal with authorization in the agricultural area. I have a letter from Senator LUGAR here saying that he supports our amendment, and he finds it fully consistent with his views. So this amendment would not be referred to the Ways and Means Committee of the House. There is other language in the bill that is in the authorizing level of the Agriculture Committee. This assessment was created in the reconciliation bill of 1990, under the jurisdiction of the Agriculture Committee. It is not a customs fee. I was wondering whether we could have a few more minutes to discuss this issue so we can clear it up.

Mr. LOTT. Mr. President, we are working very feverishly trying to accommodate a number of Senators that have very important meetings and matters they need to go to. We will have 35 more minutes here in which discussions or clarifications can be worked out, I hope, or at least an understanding of what is going on. I personally am not aware of what jurisdictions are involved. We are just trying to get a time schedule here that would accommodate everybody. I am sure that the Senators will continue discussing this issue in the meantime.

Mr. HARKIN. As I understand the UC, there was to be a vote on the Harkin amendment at 6:35.

Mr. LOTT. That's correct. Between now and 6:30, Senator BRYAN will offer his amendment, with 30 minutes of debate. During that time, you can continue to talk.

Mr. HARKIN. Can we have 5 minutes to discuss my amendment before the vote, from 6:30 to 6:35?

Mr. LOTT. Mr. President, I modify my unanimous consent request that between 6:30 and 6:35 we have 5 minutes of debate, 2½ on each side.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Hearing no objection, it is so ordered.

Mr. LOTT. Mr. President, I will propound another unanimous-consent request.

Mr. President, I ask unanimous consent that after these two votes, a Grams amendment with regard to compact language be in order, followed by a Wellstone amendment, followed by the managers' amendment, with the vote or votes on those amendments and final passage to occur in the morning at 9:30.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object, Mr. President. I had said to the minority leader that I know colleagues have a schedule tonight and are willing to do the amendment. I wanted to have at least 5 minutes tomorrow to summarize this amendment before people vote. That would be 10 minutes—in other words, 5 minutes equally divided.

Mr. LOTT. I modify my unanimous consent request that there be 10 minutes, equally divided, before the votes in the morning on the Grams amendment, if necessary, and the Wellstone amendment, if necessary, and then final passage.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified?

Mr. DASCHLE. Reserving the right to object, is it my understanding that the compact amendment deals with the dairy matter? It is my understanding that, if it does deal with the dairy matter, there are Senators on our side that would object to any time agreement. So we will have to work out additional time agreements in regard to the Grams amendment before we can agree on this particular——

Mr. LOTT. I didn't ask for any time agreements on the Grams amendment or the Wellstone amendment, thinking that Senators could have a full time opportunity tonight to discuss their amendments, without time limit. The only time limit would be that we would come in at 9:30 and have 10 minutes on Wellstone, equally divided, and then go to final passage.

Mr. DASCHLE. Unfortunately, the Grams amendment reopens the question of the dairy compact, as described to me. That is an extraordinarily controversial issue involving the Northeast as well as the Midwest. I am told that Northeastern Senators would not agree to any time agreement so long as this amendment is pending.

Mr. LOTT. So that we can get the train underway, we have one UC agreed to. Let's have the debate and we will have the votes at 6:30 and, in the meantime, we will see if we can work out the final agreement that would get us to final votes tonight.

I have to say that because we don't have this agreement, then we have no conclusion about whether or not there would be additional votes after 6:30. We will try to clarify that when we get through with those votes, sometime shortly before 7.

Mr. BIDEN. Mr. President, I wish to comment on my vote on tobacco farmers' eligibility for Federal crop insurance. I begin by noting that no substance rivals tobacco in its negative impact on our Nation's health: It is estimated that tobacco use is responsible for the premature deaths of 400,000 people annually.

Caught up in the battle between elected and public health officials and tobacco companies are the tobacco farmers, whose honest labor is spent raising this dangerous but unfortunately often lucrative crop. It is contradictory at best—and irrational at worst—for the American taxpayers to on the one hand pay for the medical costs associated with tobacco use, and on the other, pay to subsidize tobacco production through reduced-rate crop insurance. For this reason, I oppose continuing to provide tobacco farmers with taxpayer-subsidized crop insurance.

I do, however, believe that tobacco growers ought to be given reasonable warning that they stand to lose their Federal insurance, enabling them to find comparable coverage in the private insurance market. To me, it is simply an issue of fairness. I was troubled by the immediacy of the Durbin amendment's provisions, and, though I supported its objective, voted against it for this reason.

AMENDMENT NO. 970

(Purpose: To limit funding for the market access program)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself, Mr. KERRY, Mr. GREGG, Mr. GRAMS, and Mr. REID, proposes an amendment numbered 970.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 63, strike line 24 and all that follows through page 64, line 5, and insert the following:

SEC. 718. None of the funds made available by this Act may be used to provide assistance under, or to pay the salaries of personnel who carry out, a market promotion or market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623)—

(1) that provides assistance to the United States Mink Export Development Council or any mink industry trade association;

(2) to the extent that the aggregate amount of funds and value of commodities under the program exceeds $70,000,000; or

(3) that provides assistance to a foreign person (as defined in section 9 of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3508)).

Mr. BRYAN. Mr. President, as I understand the unanimous consent, it is 30 minutes equally divided, if I might inquire of the Chair.

The PRESIDING OFFICER. The Senator is correct.

Mr. BRYAN. I yield myself 7½ minutes.

Mr. President, the amendment I am offering today, along with Senator KERRY, Senator GREGG, and Senator GRAMS, addresses a continuing misuse of taxpayer dollars by the now infamous Market Access Program, which has previously been known as the Market Promotion Program, and before that the Targeted Export Assistance Program.

As most Senators know, I have worked to eliminate this unjustifiable program for more than 5 years. But the resilient program keeps coming back to life under different names and without the consent of the full Senate. When efforts to eliminate the program have been blocked, I have tried to reform the program and end its subsidies to large corporate and foreign interests. Twice now the Senate has voted to reduce funding for this program to a level of $70 million annually, and twice the funding has been restored off the Senate floor.

Today, I am asking the Senate to join me once again to put an end to this program's abuses. It is inexcusable to allow this program to continue to funnel Americans hard-earned tax dollars to foreign companies to subsidize their advertising budgets. When the Market Access Program was created more than 10 years ago it was called the Targeted Export Assistance Program and was intended to be used by trade organizations to counter unfair trading practices by foreign competitors to disadvantage U.S. exports, and reduce funds from the Department of Agriculture's Commodity Credit Corporation to promote U.S. goods in foreign markets. I don't think that anyone would disagree that expanding foreign markets for U.S. products is an important part of the overall competitive trade strategy. However, as this program evolved over the past 10 years the program was no longer limited to exporters facing unfair competition. Even as this body labored to cut back on Federal expenditures, scarce U.S. tax dollars continued to flow to major U.S. corporations as well as to foreign companies.

Make no mistake. We are talking about more than $1.5 billion given away to corporate entities over the past decade. Unlike the Promotion Assistance Program provided through the Department of Commerce, these are grants. So they are never repaid.

From 1986 to 1993, nearly $100 million of Market Promotion Program funds went to foreign companies. From 1993 to 1995, the program gave roughly $10 million to $12 million each year to foreign corporations.

Many of my colleagues will recall that I joined with the distinguished ranking member of this subcommittee, Senator BUMPERS, to try to end this blatant waste of taxpayer dollars, and the Senate backed us in our efforts. During consideration of the 1996 farm bill, the Senate voted 59 to 37 in favor of my amendment to prevent Market Access Program funds from flowing to foreign companies. The amendment provided that only "small business," as defined by the Small Business Administration, and Kapra Vaultsted Cooperatives, would provide for assistance through programs.

In addition, funds for the program which were at that time set at $110 million were capped at $70 million. So the Senate has been on record to limit the amount of money in this program at $70 million and to eliminate money from this program going to foreign companies.

I make it clear. My preference would be to eliminate the entire program because I believe this is corporate welfare in its worst form. That has not been the will of the Senate. But twice the Senate has been on record capping this program and preventing money from going to foreign companies.

In reviewing the action of the Foreign Agriculture Service since the 1996 farm bill changes took effect, it is clear however, that the Foreign Agriculture Service has not carried out the intent of the Senate in spite of the Senate's action to bar the distribution of Market Access Program funds to foreign companies. Companies based in the United Kingdom, Australia, and Saudi Arabia received more than $475,000 in fiscal year 1996 through this same program.

There is a partial list of foreign companies that received funds after the Senate added in the 1996 agriculture bill a prohibition against money going to foreign companies. They did it by an ingenious but somewhat convoluted definition of what constitutes a foreign company.

The purpose of this amendment is simply to do what the Senate has gone on record to do twice before, and that is to cap the amount of money going into the program at $70 million and to prevent money from going to foreign companies.

I ask my colleagues to be supportive of this amendment.

If I might cite an example. The Alaska Seafood Marketing Institute has received $55 million through this program since 1987. Supporters of this corporate giveaway would no doubt point out the importance of supporting Alaskan industry in foreign markets. But the Alaskan Seafood Marketing Institute gave at least $724,000 to USDA-listed foreign corporations in 1996 alone.

So I must say it boggles the mind to imagine how much money has gone to these same companies since the program began in 1986.

The National Peanut Council in 1996 distributed $50,000 to Internut Germany, $60,000 to Felix Polska, and $30,000 to the Basamh Trading Company of Saudi Arabia. All three of these companies were openly listed as foreign on the USDA list in past years. Yet, they continue to receive funds from the Market Access Program.

The PRESIDING OFFICER (Ms. COLLINS). The Senator has used 7½ minutes.

Mr. BRYAN. I thank the Chair.

I reserve remainder of my time.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, I yield myself such time as I may consume.

One part of the amendment of the distinguished Senator from Nevada suggests that foreign corporations should not be eligible for funds under this provision of our bill.

Our bill does not contain any language relating to this program because we are not limiting the spending of funds that are directed by the legislative language in the farm bill. The last farm bill that was passed directs that funds be made available by the Department of Agriculture for this program in the amount of $90 million. Our bill does not limit the use of those funds. It does not any further restrict the use of those funds.

The amendment the Senator has offered will change existing legislative language. I want to read the amendment.

> Funds made available to carry out this section shall not be used to provide direct assistance to any foreign for-profit corporation, or the corporation's use in promoting foreign-produced products. It shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small business concern described in section 3(a) of the Small Business Act, "excluding a cooperative . . . an association described in the first section of the act," et cetera—". . . a nonprofit trade association."

So the whole point is that this program has been reformed, reformed, and reformed. The Senator from Nevada just cannot be pleased that this program continues to be authorized and funded and funded. Our committee is simply letting the funds be used, as directed by law, by the Department of Agriculture.

So what he is suggesting is cut the funds that are directed by law to be spent by the Department of Agriculture on this program, and to further restrict them with additional legislative language.

What amount of reform is going to be enough? I mean it gets to the point where I suggest we are nit-picking this program now. Once upon a time there were charts in here with McDonald's hamburger signs saying that they were benefiting from this program, and we were appropriating money that was being used by huge corporations to increase their sales. All the program was ever designed to do was to combat unfair trade practices overseas in foreign markets where we were trying to compete for our share of the market in the sale of agriculture commodities and food products. We were giving the Department of Agriculture money. It was called the Targeted Export Assistance Program first. Then it was the Market Promotion Program. Now it is the Market Access Program. We can't even get the right name so that it is acceptable. So the Senator continues to make changes.

I think we ought to just say this program is working. It is increasing sales of U.S. farm-produced commodities in overseas markets. There is a limited amount of money available. It is prescribed by law.

Everyone here had a chance to debate the farm bill. We had a chance to debate all of the limiting language that any Senator wanted to offer. And that was done. It is over with. It is not being abused anymore, if it ever was. It is not being subjected to any kind of abuse that I know anything about.

So my suggestion to the Senate is to table this amendment and get on with the consideration of the rest of the bill. It is not necessary to adopt it to seek any reforms that need to be made.

So I am hoping the Senate will reject the amendment and vote for the motion to table.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I yield myself another 4 minutes, and I would certainly provide whatever time the distinguished ranking member would like to speak if he chooses to comment on this.

Madam President, let me just point out that this program ought to be eliminated. The Senate has been resistant. But the Senate has gone on record twice as having said the program ought to be limited to $70 million. The present level would be $90 million.

So this amendment seeks to in effect do what the Senate twice has gone on record as trying to accomplish.

Second, my colleagues will recall that the other part of the amendment that we offered was passed by a vote of 59 to 31, which, I believe, was to eliminate money going to foreign companies.

The bureaucracy is extraordinarily creative and ingenious. So companies that have historically since the advent of this program back in the 1980's were designated as foreign companies miraculously under a new definition after the Congress—this is the current law—went on record as saying not to allow this money to go to foreign companies. They have redefined "foreign companies" as "nonforeign" or "domestic companies" for purposes of this legislation.

So one of the reforms that we thought that we got enacted in the last Congress—that is, to eliminate the flow of money to companies like this to Saudi Arabia, to France, to the Netherlands, to Germany, to Canada, the United Kingdom, and other companies. We thought we had closed that door. But the Foreign Agriculture Service had redefined what constitutes a foreign company.

So what this amendment tries to do is to reinstate the intent of the Senate as passed by an overwhelming margin, and is currently the law to prohibit the flow of money in this program, the taxpayer dollars to foreign companies.

I hope my colleagues will be supportive of this amendment as they have on two previous occasions.

I yield the floor but reserve the remainder of my time.

Mr. COCHRAN. Madam President, I know of no other Senators who are seeking recognition on this issue.

Might I inquire how much time remains under the order on the amendment?

The PRESIDING OFFICER. The Senator from Mississippi has 10 minutes, and the Senator from Nevada has 5 minutes remaining.

Mr. COCHRAN. Madam President, I yield myself the additional 10 minutes.

I was just handed a chart that shows how much money comparatively is being spent on export or market promotion by the European Union as compared with how much we are spending in the United States of taxpayer funds for the same purpose.

I do not have one of these big charts on an easel, and I don't know if everybody can see this, but this big colored part of the chart here is how much is spent by the European Union, and it is $10.11 billion. This is this year. You cannot see anything on the other side except white, but if you look very, very carefully, you can see just a little bit of a line here and it is $0.15 billion. And the Senator is trying to cut that further.

Now, think about it. The European Union is spending more money promoting the sale of wine than we are spending as a nation in our Federal programs on all of our United States-produced commodities and foodstuffs that are being sold in the overseas markets. Think about it. And this program is available only to trade associations, cooperatives and small businesses. Think about it.

Now, this is getting ridiculous. We have changed this program every time it has come up, or changes have been attempted every time it has come up. It has been reformed and modified and refocused. We are trying to give the Department of Agriculture some funds to use in situations where our exporters are being denied access to markets or are being unfairly treated in some way by barriers that are being erected to prevent the sale of United States-produced agriculture foodstuffs and commodities.

Whose side are we on, for goodness sakes? Think about this. We are being asked to cut the program more and to limit it more so it is tied down tighter than you can imagine.

Finally, I think those who ask for access to these funds, these market access program funds are going to finally give up. It is going to be so much redtape, so many new rules and regulations, that it is going to take a whole firm of lawyers to figure out how to get some of these funds to use if you need them.

I am hoping that the Senate will say OK, enough is enough. In the farm bill of last year—year before last—language was used to try to define as carefully as could be the authority for using these funds, and the amount of money was not given any discretion at all in terms of the appropriations process. It was directed in the farm bill that $90 million be spent or made available to the Department of Agriculture to spend under these tightly constricted and restrained definitions. Now the Senator is saying the appropriations bill, because it does not limit the expenditure of these funds that are directed, ought to be amended so that it will, and that there ought to be further limitations on the spending. I say I think enough is enough. We have reformed the program.

There is a coalition of exporters that has written me a letter again saying that the Senate, they understand, may have to consider another amendment to further reduce or eliminate funding for the Market Access Program. A similar amendment was defeated last year, they point out in this letter. The program has been substantially reformed and reduced; it is targeted toward farmer-owned cooperatives, small businesses and trade associations; it is administered on a cost-share basis with farmers and ranchers and other participants; they are required to contribute as much as 50 percent toward the program costs; on and on and on.

Here is a list of all of those who are a part of this coalition, double-spaced columns here, a whole page of U.S. agriculture producers and growers trying to sell our share in the world market. Exports have become so important to U.S. agriculture. There are markets out there that are growing and expanding. There are opportunities for us. They create jobs here in the United States for our U.S. citizens. Vote for America for a change. Vote against this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. My friend and colleague from Mississippi propounded, I think, a very fair question. Whose side are you on? Those who support the Bryan amendment are on the side of the American taxpayer. I believe that whether you come from a farm State or nonfarm State, when you are told that your hard-earned tax dollars go to foreign companies, that is offensive. I think it is not only offensive, it is without justification.

How can we call upon the American people, in effect, to subsidize foreign companies with their own tax dollars. It is my view that this program is corporate welfare. It is also my view that this program ought to be eliminated. But that is not the issue today. The issue today is whether you favor cutting off money, taxpayer dollars, to foreign companies such as these that are illustrated here from Saudi Arabia, from France, the Netherlands, Germany, and Canada. We tried to do that. We tried to do that. But the bureaucrats have come up with some convoluted definition of what constitutes a foreign company that now makes it possible for foreign companies to receive these moneys notwithstanding the overwhelming vote of the Senate to express its displeasure.

I could not resist a comment when my friend from Mississippi talked about the reforms that have taken place. This is a program that is in need of elimination. But I will say to you that the General Accounting Office as recently as March of this year had this to say about this Market Access Program, and I quote:

> Adequate assurance does not exist to demonstrate that Market Access Program funds are supporting additional promotional activities rather than simply replacing company industry funds.

So, in effect, what is occurring here is a big scam, and the American taxpayer is the victim. Companies that receive these subsidies simply reduce the amount of money of their own corporate funds for their advertising budget and have it supplemented at the expense of the taxpayer. That neither encourages nor helps agricultural exports nor helps American agriculture, but it certainly dips deep into the taxpayer pocket, as it has for many, many years.

This is the time to eliminate one of the fundamental abuses. That is money going to foreign companies. We thought we had done that in the last Congress. This definition in this amendment tightens that loophole that apparently the bureaucrats have been able to find and would put a cap which the Senate has previously voted on at $70 million.

I will yield the floor and the remainder of my time.

Mr. KERRY. Madam President, I am pleased once again to join with my friend, the distinguished Senator from Nevada, as a cosponsor of his amendment to reduce funding for the Market Access Program [MAP]. I urge my colleagues to support this effort to scale back funding for the Market Access Program by $20 million for fiscal year 1998.

I would like to eliminate totally the Market Access Program, formerly known as the Market Promotion Program. This is a subsidy program which has been roundly criticized by research institutes across the political and economic spectrum—the National Taxpayers' Union, the Progressive Policy Institute, Citizens Against Government Waste, the Cato Institute, and others.

The MAP Program makes possible some of the most obvious cases of corporate welfare to which we can point in the Federal budget today. But, as my friend from Nevada knows, we have tried year after year to terminate this program which has funneled more than $1 billion of taxpayer money into the advertising budgets of some major American corporations. Unfortunately, our efforts to eliminate this program have been unsuccessful, but we have proscribed some of the more egregious uses of MAP funds.

For example, American taxpayers no longer will be subsidizing the advertising expenses of the mink industry to promote fashion shows abroad. My amendment to the MAP passed the Senate last year and I am pleased that the distinguished chairman and ranking member of the Agriculture Subcommittee have agreed to continue this prohibition another year. In addition, last year, the distinguished Senator from Arkansas, Senator BUMPERS, and Senator BRYAN successfully led the fight to limit this program to small businesses and agricultural co-operatives. That was another giant step in the right direction—taxpayers should not be subsidizing the foreign advertising accounts of McDonald's, Gallo Wines, M&Ms, Tyson's and all the other corporate giants that have received MAP funds in the past.

American taxpayers also should not be asked to subsidize foreign firms. And this program has benefited foreign companies. From 1986–1993, $92 million of MPP funds went to foreign-based firms. Senator BRYAN successfully passed an amendment that will keep MAP funds from going to foreign corporations. Yet, as we heard while he described his amendment today, more than 40 foreign companies received funding from the MAP last year. This is outrageous, and makes obvious the necessity for the distinguished Senator's amendment.

At a time when we are asked to cut back on education funding, on Medicare, on environmental programs, how can we justify paying the advertising expenses of foreign agricultural companies?

Our work to eliminate corporate welfare from this program certainly is not finished. As long as foreign-owned companies with subsidiaries in the United States are still able to receive subsidies to advertise their products in their own countries, I will be back in this Chamber arguing against this program. I am hopeful that the Senate will pass this amendment today, because it will take us a long way toward the goal of removing the nonsensical from this program by eliminating funding for foreign-owned subsidiaries and for large corporations.

I think most Americans are not even aware that this kind of egregious subsidy is taking place, and when I discuss this program with people in my state, they express astonishment and dismay. They know it is inappropriate and unnecessary, and measured against the other choices we are making here, it is plainly and simply wrong.

I commend my distinguished colleague from Nevada, Senator BRYAN, for his continuing leadership fighting inappropriate Federal subsidies, and the MAP in particular. He and I have joined forces in this effort on so many occasions, fighting against the wool and mohair subsidy, fighting the mink subsidy, fighting wasteful subsidies in the MAP Program. I urge all my colleagues to vote for this amendment to reduce funding for the Market Access Program.

Mr. COCHRAN. Madam President, I urge that the amendment be defeated. I am prepared to yield back the remainder of my time.

I ask unanimous consent that there be printed in the RECORD a copy of a letter to me from the Coalition to Promote U.S. Agricultural Exports that I referred to in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COALITION TO PROMOTE
U.S. AGRICULTURAL EXPORTS,
Washington, DC, July 22, 1997.

DEAR SENATOR: It is our understanding the Senate may consider the FY 1998 agriculture appropriations bill as early as today. Accordingly, we want to take this opportunity to urge your strong opposition to any amendment which may further reduce or eliminate funding for USDA's Market Access Program (MAP). A similar amendment was defeated last year by a 55–42 vote.

MAP has been substantially reformed and refocused. It is now specifically targeted towards farmer-owned cooperatives, small businesses and trade associations. Further, it is administered on a cost-share basis with farmers and ranchers, and other participants, required to contribute as much as 50 percent or more toward the program's cost. In addition to encouraging U.S. agricultural exports, it has helped create and maintain needed jobs throughout the economy. Over one million Americans have jobs which depend on U.S. agricultural exports.

The program is also a key part of the new 7-year farm bill (FAIR ACT of 1996), which gradually reduces direct income support to farmers over 7 years and eliminates acreage reduction programs, while providing greater planting flexibility. As a result, farm income is more dependent than ever on maintaining and expanding exports, which now account for as much as one-third or more of domestic production. The export market, however, continues to be extremely competitive with the European Union and other countries heavily outspending the U.S. when it comes to market development and promotion efforts. Recently, the European Union announced a major new initiative aimed at Japan—the largest single market for U.S. agriculture. This underscores the continued need for MAP and similar programs.

Enclosed for your use are additional fact sheets, including a table highlighting the value of agricultural exports and number of export-related jobs by state.

Again, we appreciate your leadership and support on this important issue.

Sincerely,

COALITION MEMBERSHIP—1997

Ag Processing, Inc.
Alaska Seafood Marketing Institute
American Farm Bureau Federation
American Forest & Paper Association
American Hardwood Export Council
American Meat Institute
American Plywood Association
American Seed Trade Association
American Sheep Industry Association
American Soybean Association
Blue Diamond Growers
California Agricultural Export Council
California Canning Peach Association
California Kiwifruit Commission
California Pistachio Commission
California Prune Board
California Table Grape Commission
California Tomato Board
California Walnut Commission
Cherry Marketing Institute, Inc.
Chocolate Manufacturers Association
CoBank
Diamond Walnut Growers
Eastern Agricultural and Food Export Council Corp.
Farmland Industries
Florida Citrus Mutual
Florida Citrus Packers
Florida Department of Citrus
Ginseng Board of Wisconsin
Hop Growers of America
International American Supermarkets Corp.
International Dairy Foods Association
Kentucky Distillers Association
Mid-America International Agri-Trade Council
National Association of State Departments of Agriculture
National Cattlemen's Beef Association
National Confectioners Association
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Dry Bean Council
National Grange
National Hay Association
National Grape Cooperative Association, Inc.
National Milk Producers Federation
National Peanut Council of America
National Pork Producers Council
National Potato Council
National Renderers Association
National Sunflower Association
NORPAC Foods, Inc.
Northwest Horticultural Council
Pet Food Institute
Produce Marketing Association
Protein Grain Products International
Sioux Honey Association
Southern Forest Products Association
Southern U.S. Trade Association
Sun-Diamond Growers of California
Sun Maid Raisin Growers of California
Sunkist Growers
Sunsweet Prune Growers
The Catfish Institute
The Farm Credit Council
The Popcorn Institute
Tree Fruit Reserve
Tree Top, Inc.
Tri Valley Growers
United Egg Association
United Egg Producers
United Fresh Fruit and Vegetable Association
USA Dry Pea & Lentil Council
USA Poultry & Egg Export Council
USA Rice Federation
U.S. Apple Association
U.S. Feed Grains Council
U.S. Livestock Genetics Export, Inc.
U.S. Meat Export Federation
U.S. Wheat Associates
Vinifera Wine Growers Association
Vodka Producers of America
Washington Apple Commission
Western Pistachio Association
Western U.S. Agricultural Trade Association
Wine Institute

Mr. COCHRAN. I yield back the remainder of my time. I move to table the Bryan amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 968

The PRESIDING OFFICER. The question now is on agreeing to the motion to table the Harkin amendment. There is 5 minutes of debate remaining.

Mr. COVERDELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Madam President, am I correct that 5 minutes is now running on the debate on the Harkin amendment with 2½ minutes equally divided?

The PRESIDING OFFICER. It is not yet running.

Mr. FORD. May I be recognized since there is no pending business?

The PRESIDING OFFICER. The Senator is recognized.

Mr. FORD. I thank the Chair. And I might get a few more minutes here.

The motion to table the Harkin amendment is significant because the Senator from Iowa talked about the goals; there were no goals under the SAMHSA amendment or what we refer to as the Synar amendment.

The PRESIDING OFFICER. The Senator may proceed.

Mr. FORD. I thank my neighbor. I have in my hand the explanation and rationale for the budget request of FDA as it relates to tobacco. There is not a goal in here. There is not a goal in here. So if SAMHSA does not have a goal, then FDA does not have one. So if the teeth are not in the SAMHSA amendment, there are no teeth in the FDA amendment that the Senator from Iowa said there were.

So it is a little bit confusing to me for him to say that FDA has a goal and they have teeth, and yet when you look at the explanation of the program, the rationale for the budget request, there is no goal in here, none whatsoever. None whatsoever. We hear a lot about health, but the enforcement is there. The enforcement under SAMHSA is there. The ability to take from the States is there—that is enforcement—to carry out and comply with the law.

Now, this is double jeopardy. We have SAMHSA on one side telling the States what to do. They passed a law. Now we are trying to give FDA $34 million, taken directly from the farmers' pocket—whether you want to agree with that or not—and say FDA is going to get involved, also. It just does not seem fair. Then the $34 million that we have, that the Senator is asking for, is the budget request of the administration prior to the court case which threw out several of these items and, therefore, $34 million would not be needed anyhow.

So, I say to my colleagues, tobacco is something that everybody wants to shoot at. But what we forget about is the farmer. He is sitting there. He does not set a price on anything. What will you give me? So they say the manufacturers will pay all of it. They just reduce the price of tobacco, and the farmer pays for it. He pays for the warehouse; he pays for the grading; he pays the deficit reduction charge. All these are paid by the farmer before he gets the check. So now we find ourselves saying FDA has rules to go by. There are no rules. The Senator from Iowa gave me this piece of paper, and there are no criteria in here that say the States have to do anything, if they want to give them money to enforce it. Well, it is already there, and the States have already passed the laws.

So, Madam President, I will yield the floor and I still have the opportunity to get 2½ minutes, I understand. I thank the Chair.

The PRESIDING OFFICER. There are now 5 minutes equally divided on the Harkin amendment.

Mr. HARKIN. Madam President, I understand we have 2½ minutes. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I just listened to my friend from Kentucky—and he is my friend, I mean that in all sincerity—talking about this amendment not being fair. Madam President, what is not fair is this: Kids all over America walking into gas stations, small retail outlets, not being asked to show an ID, buying cigarettes and getting hooked, getting hooked on tobacco. That is what is not fair. That is what is not fair, and that is what this amendment seeks to prevent.

The FDA promulgated a rule. The tobacco companies took them to court. The court in Greensboro, NC, upheld that part of the FDA rule that says FDA can set a minimum age for tobacco purchases and require that retail establishments have to card anyone who appears to be under 27. The Court said FDA can promulgate that rule. The rule is in place.

What our amendment does is provide some money to the States and local jurisdictions to enforce the rules and also money to help the private establishments meet their obligations not to sell to minors and to have an ID check on young people so they do not buy tobacco when they are under the age of 18. That is what is fair. States need the funds.

This funding for FDA's youth tobacco initiative is supported by 33 attorneys general from around the country who have been part of this tobacco settlement that they are working on. The attorney general of Mississippi, Mike Moore, wrote me a letter supporting this amendment saying it would not interfere or conflict with the proposed tobacco settlement.

Lastly, this offset is totally within the jurisdiction of the Agriculture Committee. It is supported by both Chairman LUGAR and by me, the ranking member. This amendment will not go to the Ways and Means Committee. It is under Agriculture's jurisdiction. It was in the 1990 reconciliation bill and it is today.

Mr. LUGAR. Mr. President, I strongly support Senator HARKINS's amendment to increase the tobacco deficit-reduction assessment and devote the proceeds to enforcement of the Food and Drug Administration's rules to deter underage smoking.

Senator HARKIN has discussed this amendment with me and I find it fully consistent with my own views on the urgency of preventing smoking. The increased assessment will still contribute to future deficit reduction because it will assist us in preventing smoking. When a young person makes the mistake of beginning to smoke, serious health risks are created for the individual. The problems do not end here, however. A decision to smoke is also a decision to increase potential future health care costs. Many of these costs are borne by the Federal and State governments. People who do not begin smoking will be less a burden on the Nation's health care system and on the Nation's treasury.

The primary benefit of the amendment, however, will be on the lives of individual young people. If they do not begin smoking in youth, they are unlikely to start once they attain greater maturity. Preventing smoking at an especially vulnerable age is a national priority and I commend Senator HARKIN for advancing it in this amendment.

Mr. HARKIN. Madam President, I yield the remainder of my time to the Senator from Rhode Island, and thank him for his support.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Madam President, I stand in strong support of the Harkin amendment. We know today 90 percent of the adults who are smoking started when they were children. We know, if current trends continue, 5 million kids today under 18 years old will die because of smoking related diseases. We know all this, yet we are doing nothing effective to stop the use of tobacco products by children under 18 years of age.

The Harkin amendment would actually provide resources to ensure that the FDA regulations are enforced. That, to me, is the most critical test. I believe we should support this amendment wholeheartedly.

I yield the floor.

Mr. HARKIN. Madam President, how much time do we have?

The PRESIDING OFFICER. The time of the Senator has expired. There are 2½ minutes available on the other side. The Senator from Alaska.

Mr. STEVENS. Madam President, I have made this motion to table. We have an extraordinary procedure, having the right to debate before it is voted upon, but, in fairness, I thought that should be the case.

Let me state to the Chair and the Senate, we have checked with the Ways and Means Committee. The tax counsel for that committee has informed my staff that this provision will require a review by the Ways and Means Committee. What it is, it is a revenue-raising measure. This is an appropriations bill, a bill to spend money. It is not a bill for legislation. Until just a couple of years ago, we had a point of order about legislation on appropriations bills. That is no longer a valid technique for us to control the bill. The only way we can control a bill and keep amendments like this off is to have a motion to table.

I urge the Senate to come back to our senses concerning legislation on appropriations bills, particularly legislation that raises money. The House is the place where revenue-raising measures start, under the Constitution. They have every right to take this bill to their committee. I do not disagree with the purpose that the Senator from Iowa seeks to fulfill with this money. But if he wants to do it, he should go to the legislative committees and have the tax committees raise the money, and then we will help him spend it. Our job is to spend money, not to raise money.

This is a wrong provision on this bill. It is going to delay. We are not through tonight. I don't think we are through with this amendment unless we table it.

Beyond that, if it passes, it is going to go over and this bill will go to the Ways and Means Committee, and the Ways and Means Committee will send it back to the Senate. That is no way to handle appropriations bills.

I have tried my best as Appropriations Committee chairman to move these bills, to move them through, to be absolutely fair in consideration of provisions that could be in an appropriations bill. The Senator has part of his amendment which provides money to spend to FDA. We don't have that money. So what he does, he also puts in a provision to raise revenue. We do not have that right in an appropriations bill. The Senate doesn't have that right. Revenue-raising measures must start in the House of Representatives.

I urge the Senate to read the Constitution, read it again, and table this amendment. Because that is the only way to handle amendments like this, is to table them, now, under our procedure. I believe we should not vote on this in a substantive way. We should table it and leave it to the tax-raising committees to raise the revenue. We should handle spending.

Has my time expired?

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 52, nays 48, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—52

Abraham
Allard
Ashcroft
Breaux
Brownback
Bryan
Burns
Campbell
Cleland
Coats
Cochran
Coverdell
Craig
Daschle
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Hagel
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Kempthorne
Kyl
Landrieu
Lott
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Reid
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bumpers
Byrd
Chafee
Collins
Conrad
D'Amato
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Graham
Grassley
Gregg
Harkin
Hutchison
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mikulski
Murray
Reed
Rockefeller
Sarbanes
Smith (OR)
Snowe
Specter
Torricelli
Wellstone
Wyden

The motion to lay on the table the amendment (No. 968) was agreed to.

Mr. COCHRAN. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 970

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to lay on the table the amendment offered by the Senator from Nevada, amendment No. 970. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—59

Akaka
Baucus
Bennett
Bond
Boxer
Breaux
Burns
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Daschle
Domenici
Dorgan
Durbin
Enzi
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grassley
Hagel
Harkin
Hatch
Helms
Hutchison
Inhofe
Inouye
Jeffords
Kempthorne
Kerrey
Landrieu
Leahy
Levin
Lott
Mack
McConnell
Moseley-Braun
Murkowski
Murray
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wyden

NAYS—40

Abraham
Allard
Ashcroft
Bingaman
Brownback
Bryan
Bumpers
Byrd
Coats
D'Amato
DeWine
Dodd
Faircloth
Feingold
Glenn
Grams
Gregg
Hollings
Hutchinson
Johnson
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Lieberman
Lugar
McCain
Mikulski
Moynihan
Nickles
Reed
Reid
Robb
Rockefeller
Roth
Smith (NH)
Thompson
Torricelli
Wellstone

NOT VOTING—1

Biden

The motion to lay on the table the amendment (No. 970) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The majority leader.

Mr. LOTT. Mr. President, I have another unanimous-consent request we would like to make on the amendments that are pending and how we can get to a conclusion. Then we can advise the Members that there would be no more votes tonight if we can get this agreement worked out. I think we have talked to all the interested Senators, and we should get this agreed to.

I ask unanimous consent that the following be the only remaining amendments in order and they be limited to relevant second-degrees and votes ordered with respect to those amendments be stacked to occur beginning at 10 a.m. on Thursday, with 2 minutes for debate between each stacked vote, equally divided. Those amendments are as follows and subject to time restraints where noted: Grams, dairy compact amendment; Wellstone, school breakfast, 1 hour equally divided; a managers' amendment; the Bingaman amendment with regard to CRP; the Robb amendment with regard to farmers' civil rights; and the Johnson amendment regarding livestock packers.

I further ask unanimous consent that following the disposition of the above-listed amendments, the bill be advanced to third reading and, if the Senate has received H.R. 2160, the Senate proceed to the House companion bill, all after the enacting clause be stricken, the text of S. 1033, as amended, be inserted, and the bill be advanced to third reading, and the Senate proceed to vote on passage of the Agriculture appropriations bill, and following the passage the Senate insist on its amendment and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, reserving the right to object, two questions of the majority leader. When we had this discussion about how to proceed, I had asked for 10 minutes to be equally divided before the vote because I think the amendment is an important one. Colleagues will not be here tonight.

Mr. LOTT. Mr. President, the Senator is correct. That was the agreement. So we need to modify the agreement that there would be 10 minutes equally divided before the Wellstone amendment would be voted on tomorrow morning.

Mr. WELLSTONE. I thank the majority leader.

The second question was, my understanding is I will proceed next, or is there——

Mr. LOTT. The request we have here is that the Grams amendment would go first, because I think we have that worked out where it will be just a very brief period of time, and we would go right to your amendment after that with a time limit of 1 hour equally divided.

Mr. WELLSTONE. Reserving the right to object, the Grams amendment has been worked out? We are not going to have a long time on that; is that correct? Is that what you are saying?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. Any other objection?

Mr. MCCAIN. Reserving the right to object, I have been waiting all day to make a brief statement of 3 or 4 minutes. I would like to have the opportunity.

Mr. LOTT. Is it regarding the legislation?

Mr. MCCAIN. Regarding the bill.

Mr. LOTT. Did the Senator from Minnesota have a question that I did not respond to?

Mr. WELLSTONE. No. I thank the leader.

Mr. LOTT. I thank the Senator from Minnesota for his cooperation and his understanding that these things are very difficult and sometimes we all get a little carried away in our comments. I appreciate his cooperation on this. He will have time to make his case and he will have 10 minutes in the morning. I thank him for his cooperation.

Mr. President, in furtherance of this reservation, Mr. President, I—how long does the Senator need?

Mr. MCCAIN. Four minutes.

Mr. LOTT. I also ask unanimous consent that the Senator from Arizona have 4 minutes before we begin on the amendments we have lined up.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, Mr. President. I might ask the majority leader, I understand from in the UC request that, after all these amendments are disposed of, we go to the third reading of the bill, and that there would be a vote on final passage.

Mr. LOTT. That's right.

Mr. HARKIN. After that, the UC also says that the House bill would then come in and be substituted for the Senate bill and then proceed to a third reading of the House bill at that point in time. However, it is my understanding that when the House bill is substituted for the Senate bill, it is also open for amendment at that point in time; is that not correct?

Mr. LOTT. This is the normal language that we use in this type of consent, getting the final passage. It is the normal procedure and the normal language. I guess, in theory, it is subject to amendment.

Mr. HARKIN. Yes. I would like to inform the distinguished majority leader that when this point happens, I intend to offer an amendment on the House bill. It would be subject to the Senate bill at that point in time.

Mr. LOTT. It would be what? Subject to what?

Mr. HARKIN. When the House bill takes the place of the Senate bill, when you strike all after the enacting clause and put in the House bill, at that point the House bill is then open for amendment. It is my intention to offer an amendment to the House bill at that point in time.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, while the leaders are discussing this issue, I will make my brief statement at this time so that we can proceed with the business of the Senate.

Mr. President, once again, the hard work of Chairman COCHRAN and Senator BUMPERS is readily apparent in this bill and report. I congratulate them for their efforts.

This is the eighth appropriations bill to come before the Senate in these 2 weeks. And I must say that this bill and report, so far, take the cake for earmarks and set-asides for Members' special interests.

Most of these earmarks are in the report language and do not, therefore, have the full force of law. But I have no doubt that the Department of Agriculture will feel compelled to spend the funds appropriated to them in accordance with these earmarks.

These earmarks are the usual collection of add-ons for universities and laboratories, prohibitions on closing facilities or cutting personnel levels, special exemptions for certain areas, and the like. There is little on this list that would surprise any of my colleagues.

There is, however, a new type of earmark that I do not recall seeing in other appropriations bills. I am referring to the practice of earmarking funds to provide additional personnel at specific locations. For example, in the report:

$250,000 is earmarked for a hydrologist to work for the Agricultural Research Service on south Florida Everglades restoration;

$500,000 is earmarked for additional scientists to do research on parasitic mites and Africanized honeybees at the Bee Laboratory in Texas;

Language specifies funding at fiscal year 1997 levels for the peanut research unit of the Agricultural Research Service in Oklahoma to retain two scientists at the facility;

Language specifies funding at fiscal year 1997 levels to maintain the potato breeder and small grains geneticist positions at the Agricultural Research Service facility in Aberdeen, ID—the report notes that the current potato breeder is getting ready to retire;

An additional $250,000 is earmarked for an animal physiologist position at the Fort Keough Laboratory in Montana;

$1.05 million is added for additional staffing at the Rice Germplasm Laboratory in Arkansas;

$250,000 is added for additional scientific staffing at the Small Fruits Research Laboratory in Mississippi;

$250,000 is added to establish a small grains pathologist research position for the Agricultural Research Service in Raleigh, NC;

Language acknowledges the importance of the horticulturist position specializing in grape production at the Agricultural Research Service station in Prosser, WA;

$200,000 is added for 21 additional full-time inspectors at agriculture quarantine inspection facilities at Hawaii's airports;

$200,000 is added for the cattle tick inspection program to ensure current staffing levels are maintained along the border with Mexico; and

Language recommends continued staffing and operations at the cooperative services office in Hilo, HI.

Mr. President, I am amazed again. We have found a new way of earmarking. I congratulate the appropriators for doing so. I have never before seen earmarking funds for the hiring of a specialist at a particular job. So I want to again say we have broken a new frontier here and one that I am sure will be emulated by others in the appropriations bills to come.

Mr. President, I won't delay the Senate further. I ask unanimous consent that a listing of the provisions that I find objectionable in the agriculture appropriations bill be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OBJECTIONABLE PROVISIONS IN S. 1033 FISCAL YEAR 1998 AGRICULTURE APPROPRIATIONS BILL

BILL LANGUAGE

$24.5 million earmarked for water and waste disposal systems for the Colonias along the U.S.-Mexico border.

$15 million for water systems for rural and native villages in Alaska.

Section 725 exempts the Martin Luther King area of Pawley's Island, South Carolina, from the population eligibility ceiling for housing loans and grants.

Section 726 prohibits closing or relocating the FDA Division of Drug Analysis in St. Louis, Missouri, or closing or consolidating FDA's laboratory in Baltimore, Maryland.

REPORT LANGUAGE

Agricultural Research Service:

Earmarks and directive language for research programs—$250,000 for apple-specific E. coli research at the Eastern Regional Research Center, Wyndmoor, Pennsylvania.

$250,000 for research at the ARS Pasture Center in Logan, Utah.

$500,000 for fusarium head blight research at the Cereal Rust Laboratory in St. Paul, Minnesota.

$500,000 for research on karnal bunt at Manhattan, Kansas.

$1.25 million for Everglades Initiative, of which $1 million is for research on biocontrol of melaleuca and other exotic pests at Fort Lauderdale, Florida, and $250,000 is for a hydrologist to work on south Florida Everglades restoration.

$1 million each for Texas and Arkansas entities to perform dietary research, and $250,000 for each of five other centers proposing to do dietary research.

$250,000 each for laboratories in Colorado, Maryland, and California to do critical plant genetics research.

$50,000 each to 4 entities in Hawaii, California, and Oregon for clonal repositories and introduction stations.

Additional earmarks for clonal repositories and introduction stations at College Station, Texas ($100,000), Ames, Iowa ($200,000), and Pullman, Washington ($250,000).

Continues funding for ARS laboratories and worksites in North Dakota, Washington, Maine, and California which had been proposed for closure.

Increase of $250,000 for Appalachian Soil and Water Conservation Laboratory.

$750,000 for ARS to assist Alaska in support of arctic germplasm.

$250,000 to initiate a program for the National Center for Cool and Cold Water Aquaculture at the Interior Department's Leetown Science Center, where the national aquaculture center will be collocated.

$250,000 for high-yield cotton germplasm research at Stoneville, Mississippi.

$198,000 for center of excellence in endophyte/grass research to be operated cooperatively by the University of Missouri and the University of Arkansas.

$250,000 to support research on infectious diseases in warmwater fish at the Fish Disease and Parasite Research Laboratory at Auburn, Alabama.

$500,000 increase for the National Aquaculture Research Center in Arkansas.

4 separate earmarks for the Hawaii Institute of Tropical Agriculture and Human Resources—$298,000 to develop a program to control the papaya ringspot virus; another $298,000 to establish nematode resistance in commercial pineapple cultivars; $275,100 to develop efficacious and nontoxic methods to control tephritid fruit flies; and funding at FY 1997 levels for environmentally safe methods of controlling pests prominent in small scale farms in tropical and subtropical agricultural systems.

$250,000 for grain legume genetics research at Washington State University.

$950,000 for Hawaii Agriculture Research Center (formerly called the Hawaii Sugar Planters' Association Experiment Station) to maintain competitiveness of U.S. sugarcane producers.

$500,000 increase for additional scientists to do research on parasitic mites and Africanized honeybees at the ARS Bee Laboratory in Weslaco, Texas.

$388,000 to continue hops research in the Pacific Northwest.

$500,000 for integrated crop and livestock production systems research at ARS Dairy Forage Center in Wisconsin.

Funding at FY 1997 levels for kenaf research and product development efforts at Mississippi State University.

$14.58 million for methyl bromide replacement research, directed to "facilities and universities that have expertise or ongoing programs in this area."

Funding at FY 1997 levels for the National Center for Agricultural Law Research and Information at the Leflar School of Law in Fayetteville, Arkansas.

Funding at FY 1997 levels for the National Sedimentation Laboratory.

$500,000 increase for the National Warmwater Aquaculture Research Center in Mississippi.

$1 million increase for University of Mississippi pharmaceutical research.

Funding at FY 1997 levels for Northwest Nursery Crops Research Center in Oregon.

Funding at FY 1997 levels for two scientists for the peanut research unit in Oklahoma

Funding for FY 1997 levels for pear thrip control research at University of Vermont

Funding at FY 1997 level to maintain the potato breeder position at Aberdeen, Idaho, after the current person retires

Numerous earmarks at the FY 1997 funding levels for continued research on a variety of projects at the following locations [page 26–27 of report]:

$370,700 for Albany, California
$245,700 for Fresno/Parlier, California
$144,100 for Gainsville, Florida
$1.6 million for Hilo, Hawaii
$160,700 for Aberdeen, Idaho
$1.2 million for Peoria, Illinois
$350 million for Ames, Iowa
$250,000 for Manhattan, Kansas
$400,000 for New Orleans, Louisiana
$1.5 million for Beltsville, Maryland
$393,000 for East Lansing, Michigan
$147,000 for St. Paul, Minnesota
$491,500 for Stoneville, Mississippi
$393,200 for Columbia, Missouri
$208,400 for Clay Center, Nebraska
$143,100 for Lincoln, Nebraska
$50,000 for Ithaca, New York
$877,200 for Raleigh, North Carolina
$210,100 for Wooster, Ohio
$150,000 for Stillwater, Oklahoma
$930,800 for Corvallis, Oregon
$691,500 for Wyndmoor, Pennsylvania
$350,000 for Pullman, Washington
$919,800 for Washington, D.C.

$300,000 increase for Southeast Poultry Research Laboratory in Georgia

$250,000 increase for an animal physiologist position at the Fort Keough Laboratory in Montana

$1.05 million increase for additional staffing at the Rice Germplasm Laboratory in Arkansas

Funding at FY 1997 levels for Geisinger Health Systems Geriatric Nutrition Center in Pennsylvania to develop programs to assist the rural elderly population in nutrition

$250,000 increase for additional scientific staffing at Small Fruits Research Laboratory in Mississippi

Funding at FY 1997 level to maintain small grains geneticist position at Aberdeen, Idaho, ARS station

$250,000 increase to establish a small grains pathologist research position in Raleigh, North Carolina

At least $180,000 to continue program at National Center for Physical Acoustics to develop automated methods of monitoring pest populations

$144,100 for subterranean termite research in Hawaii

$600,000 for sugarcane biotechnology research at Southern Regional Research Center in Louisiana, with direction to collaborate with American Sugar Cane League to coordinate research

$1.6 million for aquaculture productivity research and requirements and sources of nutrients for marine shrimp projects in Hawaii

EARMARKS FOR UNREQUESTED BUILDING PROJECTS

$7.9 million for two projects in Mississippi (planning and design for a Biocontrol and Insect Rearing Laboratory in Stoneville, and National Center for Natural Products in Oxford)

$606,000 for a pest quarantine and integrated pest management facility in Montana

$5 million for Human Nutrition Research Center in North Dakota

$4.8 million for the U.S. Vegetable Laboratory in South Carolina

$600,000 for a Poisonous Plant Laboratory in Utah

$6 million for a National Center for Cool and Cold Water Aquaculture in West Virginia

SUPPORTIVE LANGUAGE

Notes importance of barley stripe rust research at Pullman, Washington, laboratory

Impressed with results of work at the Midsouth research unit on biological controls of cotton insect pests

Supports expansion of catfish research at Mississippi Center for Food Safety and Postharvest Technology

Urges ARS to continue cotton textile processing research at New Orleans, Louisiana

Expects ARS to provide adequate funding for ginning research at laboratories in New Mexico, Mississippi, and Texas

Acknowledges the importance of the horticulturist position specializing in grape production at the ARS station in Prosser, Washington, and urges that more resources be placed on grape production research

Urges ARS to continue needed research for meadowfoam at Oregon State University and the ARS facility at Peoria, Illinois

Urges continued funding for Poisonous Plant Laboratory at Logan, Utah

Urges continued research at the Idaho ARS station on potato late blight

Expects ARS to continue to support the South Central Family Farm Research Center in Arkansas

Expects no less than FY 1997 funding level for agroforestry research at the University of Missouri

Expects funding at FY 1997 levels for research in Iowa and Mississippi on soybean production and processing

Expects ARS to provide increased emphasis on viticulture research for that U.S. can remain competitive in the international marketplace for wine

Should continue and expand research at the Midsouth Research Center on water quality and pesticide application

Cooperative State Research, Education, and Extension Service:

EARMARKS

$47.5 million for 121 special research grants:

—Only $10 million of this amount was requested for 7 projects, and the committee eliminated funding for one requested project and reduced funding for another requested project.

—The entire $47.5 million is earmarked for particular states.

$7.7 million for unrequested administrative costs in connection with 13 research programs in specific states [pages 33–37 of report], including:

—$200,000 for the Center for Human Nutrition in Baltimore, Maryland

—$844,000 for the Geographic Information System program in Georgia, Chesapeake Bay, Arkansas, North Dakota, Washington, and Wisconsin

—$200,000 for the mariculture program at University of North Carolina at Wilmington

$5.8 million for 10 unrequested special grants for extension activities in specific states [page 40 of report]

$400,000 of pest management funds for potato late blight activities in Maine

$2.6 million for unrequested rural health programs in Mississippi and Louisiana

Animal and Plant Health Inspection Service:

EARMARKS AND DIRECTIVE LANGUAGE

$200,000 increase for 21 additional full-time inspectors at agriculture quarantine inspection facilities in Hawaii's airports

$200,000 increase in the cattle tick inspection program to ensure current staffing levels for U.S.-Mexico border control

Directs that vacancies at Gulfport APHIS office be filled once the Southeast Regional Office is transferred to the eastern hub

Funding at FY 1997 levels to continue cattail management and blackbird control efforts in North and South Dakota and Louisiana

$150,000 increase for the beaver damage control assistance program for the Delta National Forest and other areas in Mississippi

Funding at FY 1997 levels for Hawaii Agriculture Research Center for research into rodent control in sugarcane and macadamia nut crops

Funding at FY 1997 levels for depredation efforts on fish-eating birds in the mid-South

Funding at FY 1997 levels for Jack H. Berryman Institute of Wildlife Damage Management in Utah

$115,000 increase for coyote control program in West Virginia

Directs use of available funds to control spread of raccoon rabies in the Northeast

$455,000 increase for the Texas Oral Rabies Vaccination Program

Funding at FY 1997 levels for imported fire ant research at University of Arkansas at Monticello

$50,000 increase to initiate a demonstration project on kudzu as a noxious weed

$1 million increase for construction of a bison quarantine facility in Montana to hold and test bison leaving Yellowstone National Park

SUPPORTIVE LANGUAGE

—Supports plans by APHIS to assist producers who have suffered losses due to karnal bunt

—Expects APHIS to maintain animal damage control office in Vermont at FY 1997 levels

—Expects APHIS to use reserve funds for management of western grasshopper and Mormon cricket populations

—Expects APHIS to continue funding eradication of orbanche ramosa in Texas

Agricultural Marketing Service:

EARMARKS

$1.05 million increase for marketing assistance to Alaska

Supportive language:

—Expects AMS to continue to asses existing inventories of canned pink salmon, pouched pink salmon, and salmon nuggets made from chum salmon and determine whether there is a surplus in FY 1998; encourages Agriculture Department to purchase surplus salmon

National Resources Conservation Service:

EARMARKS

$250,000 for agricultural development and resource conservation in native Hawaiian communities serviced by the Molokai Agriculture Community Committee

$250,000 for Great Lakes Basin Program for soil and erosion sediment control

$3.5 million increase for technical assistance in Franklin County, Mississippi

$4.75 million for continued work on Chesapeake Bay

Funding at FY 1997 levels for Mississippi Delta water resources study to move into next phase

Funding at FY 1997 levels for Golden Meadow, Louisiana, Plant Materials Center, in collaboration with Crowley, Louisiana, Rice Research Station, for development and commercialization of artificial seed for smooth cord grass to prevent coastal erosion

$40,000 to continue development of techniques to address loess hills erosion problem in Iowa

$120,000 increase for a poultry litter composting project utilizing sawdust in West Virginia

$300,000 to carry out a long-range grazing lands initiative to reduce current erosion in West Virginia

Directs Agriculture Department to work with Hawaii Department of Agriculture in securing environmentally safe biological controls for alien weed pests introduced into Hawaii and to provide funding

$200,000 increase to develop a feasibility study for a watershed project in Waianae, Hawaii, to alleviate and prevent flood disasters

$500,000 for West Virginia Department of Agriculture to continue operation and testing of concepts, such as the Micgas methane gas process, at the poultry waste energy recovery project in Moorefield, West Virginia, and to study the feasibility of resource recovery at Franklin, West Virginia, to reduce poultry-related pollution in the South Branch of the Potomac River

SUPPORTIVE LANGUAGE

Expects NRCS to continue support of groundwater activities in eastern Arkansas and programs related to Boeuf-Tensas and Bayou Meto

Expects continuation of planning and design activities for the Kuhn Bayou, Arkansas project

Supports and encourages Agriculture Department to provide technical assistance and funding to assist Great Lakes watershed initiative

Supports work of GIS Center for Advanced Spacial Technology in Arkansas in developing digital soil maps, and supports continuation of the National Digital Orthophotography Program, and urges NRCS to maintain its strong relationship with the center

Notes the economic potential of expanding aquaculture in West Virginia and supports development of water treatment practices for wastewater from aquaculture

Supports needed financial assistance to complete the Indian Creek Watershed project in Mississippi

Urges NRCS to provide additional support to initiate work on Poinsett Channel main ditch no. 1 in Arkansas

Expects NRCS to find necessary resources to complete innovative community-based comprehensive resource management plans for West Virginia communities devastated by floods

Encourages the Agriculture Department to raise the priority of developing greater capacity water storage systems and improving the efficiency of water delivery systems in Hawaii and Maui

Encourages Agriculture Department to give consideration to emergency watershed needs in 41 of the 52 counties in the State of Mississippi, and 3 counties in Oregon, Pennsylvania, and New York [page 70 of report] when allocating watershed and flood prevention funds to states

Is aware of need for a pilot flood plain project for the Tygart River basin in West Virginia

Encourages Agriculture Department to finish 5 river projects in Vermont, 1 project in North Dakota, and 1 project in Mississippi [page 71 report]

Encourages NRCS to assist FEMA in flood response and water management activities in Devils Lake basin in North Dakota

Rural Community Advancement Program:

EARMARKS

Directs Agriculture Department to assist in financing Alaska Village Electric Cooperative work to alleviate environmental problems of leaking fuel lines and tanks

SUPPORTIVE LANGUAGE

Encourages Agriculture Department to give the utmost consideration to a grant application from the Native Village Health Clinic in Nelson Lagoon, Alaska, for community facility funding

Encourages Agriculture Department to give consideration to rural business enterprise grant applications from 11 entities listed in the report [page 76 of report]

Encourages Agriculture Department to consider applications from 7 cities in Pennsylvania, Mississippi, and Alaska for water and waste disposal loans and grants [page 77 of report]

Rural Business Cooperative Service:

EARMARKS AND DIRECTIVE LANGUAGE

Directs RBCS to develop and implement a pilot project to financing new or expanded diversified agricultural operations in Hawaii because of the closure of sugarcane plantations

$250,000 for an agribusiness and cooperative development program at Mississippi State University

Recommends continued staffing and operations of the cooperative services office in Hilo, Hawaii, to address the demand for cooperatives for the expanding diversified agricultural sector

SUPPORTIVE LANGUAGE

Encourages RBCS to work with Union County, Pennsylvania, to explore options to facilitate construction of the Union County Business Park

Encourages RBCS to consider cooperative development grants to New Mexico State University for rural economic development through tourism and to America's Agricultural Heritage Partnership in Iowa

Rural Utilities Service:

Encourages Agriculture Department to give consideration to the following applications for distance learning and medical link program funds:

University of Colorado Health Science Center telemedicine project

Demonstration project with Maui Community College

Hawaii Community Hospital system

Nutrition education activities of the University of Hawaii's Tropical Agriculture and Human Resources College

Vermont Department of Education proposal to provide high schools in rural areas with two-way audio/video connections

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I want to renew my unanimous-consent request, with the modifications that we think are appropriate at this time. So I will begin again.

I ask unanimous consent that the following be the only remaining amendments in order, and limited to relevant second-degree amendment and votes ordered with respect to those amendments be stacked to occur beginning at 10 a.m. on Thursday, with 2 minutes for debate between each stacked vote, equally divided, except that there will be 10 minutes prior to the Wellstone amendment.

Those amendments are as follows and subject to time restraints where noted:

Grams, on dairy compact; Wellstone, on school breakfast; a manager's package; a Bingaman amendment on CRP; Robb, concerning farmers' civil rights, and a Johnson amendment with regard to livestock packers.

I further ask that following disposition of the amendments, the Senate then proceed to vote on S. 1033 and, following passage, the bill remain at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Therefore, there will be no further rollcall votes this evening. The next rollcall votes will be a series of votes completing action on the Agriculture appropriations bill occurring at 10 a.m.

I yield the floor.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I am sorry the Senator from Arizona, Mr. McCAIN, left the floor. He listed a number of what he called earmarks, and the implication was that any money in this bill earmarked for specific kinds of research or specific kinds of personnel in a particular State was—he didn't say it in these words, but that it was pork and that earmarks are automatically bad. I could not disagree more. Every earmark the Senator from Arizona mentioned tonight, listed tonight in the bill, he was absolutely correct about it. Every one of them were for research projects.

I said in my opening statement this morning that it is a tragedy that in this country we have become complacent about our food supplies, and, yet, we are adding 2 million people a year in this Nation alone to feed, and almost 100 million people a year worldwide to feed. And at the same time in this Nation, as we add 2 million people to feed, we are also taking between 2 million and 3 million acres of arable land out of cultivation for airports, urban sprawl, housing, you name it.

Now, it is quite obvious to me that when you spend about $1.2 billion for research—I don't know precisely how much is in this bill, but when you consider the fact that we spend $13 billion a year on medical research, which I applaud, $13 billion a year for NASA, all of which I applaud—except space station, of course—and $36 billion to $40 billion—I believe $40 billion we approved the other day to make things explode in the Defense authorization bill, without so much as a whimper from one person in this body—about $40 billion in research and development.

I am not saying it is all bad. All I am saying is here is poor old agriculture which is going to be charged with the responsibility—and is charged with the responsibility—of providing a good, safe, reliable food supply for this country. The American housewife spends 10 cents of every dollar for food, the lowest of any nation on Earth. And to suggest that somehow or other these items in here simply because they earmarked are bad and a waste of money—I can tell you, for example, that the new poultry and meat inspection system which is being implemented right now as the ultimate in providing safe food for us to eat is the result of a very small appropriation to a consortium of the University of Arkansas, Kansas State, and Iowa State—one of the best bargains we ever got. And every dime of it was earmarked to start that program several years ago.

Mr. President, I am about to get exercised. And I could go on with all the earmarks that have provided great research for this country that we have all benefited from.

I know there is some pork in this bill, as there is in every bill. But I can tell you just because someone says it is for the State of Mississippi or the State of Arkansas doesn't mean it is bad. The truth of matter is we have reaped tremendous benefits from some of these earmarks.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I must say that I agree with the Senator from Arkansas on the last part of his comments.

THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT —MOTION TO PROCEED

Mr. LOTT. Mr. President, I have a motion that I need to file. I believe that there is a Senator who will want to object on this.

Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 109, S. 39, regarding the International Dolphin Conservation Program.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Yes. With some reluctance, Mr. President, I must object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. LOTT. Mr. President, in light of the objection, I now move to proceed to S. 39, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 109, S. 39, the International Dolphin Conservation Program Act:

Trent Lott, Fred Thompson, Larry Craig, Don Nickles, Chuck Grassley, Christopher Bond, Pete Domenici, Alfonse D'Amato, Thad Cochran, James Jeffords, Bill Frist, Olympia Snowe, Rick Santorum, Lauch Faircloth, Daniel Coats, and Ted Stevens.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur on Friday at a time to be determined by the majority leader after consultation with the Democratic leader.

I understand that there is a good likelihood that a compromise agreement has been worked out on this. If it has, that would be what I really want to do.

I am pushing this issue at the request of the President of the United States. I think it is a good conservation policy.

But if an agreement has been worked out between the differing sides, that would be our preference. If that is the case we would vitiate, of course, the cloture, and not have a vote.

But as it now would stand we would have the opportunity for this vote on Friday.

So I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. It will be the intention of the leadership to schedule this vote to occur on Friday.

I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

Mr. LOTT. I yield the floor.

I believe we are ready to proceed with the order.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Minnesota is recognized.

Mr. GRAMS. Thank you, very much, Mr. President.

AMENDMENT NO. 971

(Purpose: To require the Director of the Office of Management and Budget to conduct, complete, and transmit to Congress a comprehensive economic evaluation of the direct and indirect effects of the Northeast Interstate Dairy Compact)

Mr. GRAMS. Mr. President, tonight I am pleased that an amendment by Senator FEINGOLD and I, which we intended to offer, has now been accepted in modified form.

Because this issue is so important to my State, I wanted to take some time to briefly review why I offered the amendment and why this amendment is requiring a study of the Northeast Dairy Compact.

My amendment is straightforward and is noncontroversial. It simply requires the Secretary of Agriculture to study and report the economic impacts of the Northeast Interstate Dairy Compact.

The focus of this amendment is to examine the impact of the Northeast Interstate Dairy Compact on food nutrition programs and on the entire Nation's dairy industry.

This amendment will help protect senior citizens, children, and the most needy among us.

This amendment helps all who rely on food stamps, the School Lunch Program, the Summer Food Service Program, the Child and Adult Care Food Program, the Special Milk Program, the School Breakfast Program, and the Special Supplemental Nutrition Program for Women, Infants, and Children, as well as dairy producers in 44 States.

Joining me in offering this amendment are Senators FEINGOLD, THOMAS, KOHL, LEVIN, WELLSTONE, DEWINE, and CRAIG.

As many of my colleagues may know, on July 1, 1997, the Compact became effective in a six-State region in New England giving producers there an arbitrary, fixed price for their milk—nearly $17 per hundredweight.

Unfortunately, few of us know exactly what this will mean for consumers in that region, particularly the poor; for the cost of delivering food nutrition assistance by Federal, State, and local governments; and for dairy producers in 44 other States, including my producers in Minnesota, who receive far, far less for their milk than their New England counterparts.

We are not sure of the Compact's impact, in large part, because there has been so little light shed on it. It became law attached in a conference committee. The Compact has always seemed to travel under a cloud with no justification for its existence.

For example, in the 103d Congress, the Senate Judiciary Committee held a business meeting to consider the Compact—without the benefit of a single hearing—and reported the Compact to the floor. The Senate never considered it.

A House Judiciary subcommittee held one hearing on the proposal, but eventually sent it to full Committee without recommendation because the vote was evenly divided for and against the Compact. The bill died in Committee.

In fact, at the House hearing, the administration's testimony was "we believe this is a matter that warrants further review and consideration". Hardly a ringing endorsement.

In the 104th Congress, the Compact was the subject of not a single hearing in either the Judiciary Committee or the Agriculture Committee of the Senate. Nor was it the topic of a single hearing in counterpart Committees in the House.

Despite this, the Compact wound up in the Senate's version of the farm bill. In response, a majority of this body voted to strip it out. The House never included the Compact in its version of the farm bill. Yet, somehow the Compact found its way back into the farm bill during conference, and survived buried in a conference report most of us supported overall.

Subsequent to the authority for the Compact becoming law, the Secretary of Agriculture decided to go ahead with implementation of the Compact despite the fact that the President's own Council of Economic Advisors recommended against it.

As a matter of fact, it was reported that the former head of the President's Council of Economic Advisors, Mr. Joseph Stiglitz, lashed out at the * * * Compact, noting it was a cost to U.S. consumers and lowered real benefits paid out via food stamps by 10 percent.

I wish I could share with my colleagues the Council of Economic Advisor's actual recommendation against the Compact. Unfortunately, however, when I wrote to the current Chairman of the Council, Ms. Janet Yellen, for that information, my request was denied.

I also took the time to show up at an Agriculture Appropriations Subcommittee hearing to submit the request to Secretary Glickman who was testifying at the time. A month or two later, I received from the Secretary yet another denial of my request for this information.

Adding insult to injury, when the Compact was being challenged in court, it seemed for a while that the Department of Agriculture was going to have a tough time just beating back that challenge even though the Federal court hearing the case was applying the lowest possible threshold—the rationale basis test—in scrutinizing the Compact.

As my colleagues are aware, the rationable basis test applied by courts only requires that there be just a little bit of logic in a government action—it just has to make some kind of sense.

Yet, on the Secretary's first attempt to explain the Compact, the judge in a frustrated tone, stated that the Secretary of Agriculture's concerns—about the Compact—expressed in four paragraphs, overshadow the four reasons, expressed in two sentences, that the Secretary gave—in favor of the Compact.

In short, the Secretary could not even supply a meager rational reason for the Compact's existence.

Shortly after that pronouncement from the court, the Secretary of Agriculture asked Judge Friedman for a second shot at rationalizing the Compact.

However, the amended brief supporting the Compact did not address the economic impacts of the Compact or even the Secretary's own concerns. But, since the court only required some kind of reasoning—any kind of reasoning—the Compact survived in court.

Mr. President, it is plain to see from all this that the cloud covering the Compact has still not lifted. The Compact and its exact economic effects are very uncertain, at best, and this should rightly concern Members from the Compact region as well as those of us in the other 44 States.

In his August 9, 1996, statement, Secretary Glickman himself stated:

> I am concerned about the potential effects of the Compact in several respects and intend, therefore, to monitor closely its implementation.

Secretary Glickman also continued:

> I expect that the Compact Commission will implement the Compact in a way that does not burden other regions of the country, consistent with the provisions of the FAIR Act and the Compact. I will monitor whether the Compact has any adverse effects on the income of dairy producers outside the Compact region.

Further, the Secretary announced, and again I quote:

> Perhaps most significantly, I am deeply concerned about and will closely monitor the effect of the Compact on consumers, especially low-income families, within the Compact region.
>
> I expect that the Commission will pay close attention to monitor the effects of its

decisions on consumers before and after it takes any action.

He went on to say, and again I am quoting:

> I also expect the commission and the Compact States to provide assistance to offset any increased burden on low-income families in the Compact region. I am also concerned about the effect of the Compact on the Department of Agriculture's nutrition programs, and I expect the commission to exercise its authority to reimburse participants in a special supplemental nutrition program for WIC and to fulfill its obligation to reimburse the CCC, as provided in the Compact and in the FAIR Act.

Mr. President, despite the concerns expressed by the Secretary of Agriculture regarding the compact, we still have no way of knowing whether the compact is in fact having an adverse effect on consumers, especially the poor, and, if it is, to what extent.

We have no way of knowing whether the compact is increasing the cost of food nutrition programs, adversely affecting taxpayers who foot the bill. We also have no way of knowing whether the compact has an adverse effect on the dairy producers of 44 other States in this country or whether the CCC will pick up bigger tabs because of the compact. The only information we have today are newspaper articles from the compact region reporting that retail milk prices have climbed 20 to 26 cents per gallon since the compact was implemented, and retailers and consumer groups are blaming the compact.

We are also hearing word that milk production in the compact region is on the rise in response to the fixed prices New England dairy producers are receiving. I am told that one large processor in the compact region is not accepting any additional milk at one of its plants and is instead shipping five to seven loads a day of excess milk to the Midwest where it is sold for around $7 to $8 per hundredweight for processing.

If these reports are correct, New England lawmakers should be extremely concerned about their consumers, especially the poorest among them. My colleagues from the other 44 States, especially those States that produce dry powdered milk or cheese, should be equally concerned about producers in their home States having to compete with $7 and $8 milk coming out of New England. But the fact is none of us know for sure what is happening out there due to the compact because the cloud lingers, and, therefore, all I am asking from my colleagues is a little bit of sunshine.

It seems to me that last Congress we bought this rig sight unseen without even so much as kicking the tires. Under those circumstances, I don't think it is unreasonable to now ask that we take a look under the hood. If the folks who sold us the compact are right, then there is nothing to hide. At this juncture, I believe that a study of the compact is not only appropriate but it is very necessary.

Mr. President, in the August 9, 1996, statement of Secretary Glickman, which I mentioned earlier, the Secretary also stated:

> I also encourage Congress to exercise its oversight function and to monitor the implementation of the compact.

Mr. President, I think the Secretary has offered us some very sound advice. This is the best way to provide that necessary oversight. If the compact is compromising our efforts to help the disadvantaged, the senior citizens and children through nutrition programs or disadvantaging dairy producers in 44 States, I want to be one of the first to learn that information and then to do something about it.

So, Mr. President, I understand again that this amendment I offer with Senator FEINGOLD is accepted, and I thank all of those who have helped us work on this and support it.

Also, Mr. President, I ask unanimous consent that I add Senator ABRAHAM to the list of cosponsors of this amendment as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. I thank the Chair. I thank you for the time and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Is the Senator's amendment offered for a vote?

Mr. GRAMS. Mr. President, I understand that the amendment has been accepted.

The PRESIDING OFFICER. The amendment would need to be offered and a voice vote taken.

Mr. GRAMS. Mr. President, my understanding is that the amendment has been accepted and no recall vote is needed.

The PRESIDING OFFICER. The Senator needs to send the amendment to the desk.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Minnesota [Mr. GRAMS], for himself, Mr. FEINGOLD, Mr. KOHL, Mr. LEVIN, Mr. WELLSTONE, and Mr. CRAIG, proposes an amendment numbered 971.

Mr. GRAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, between lines 12 and 13, insert the following:

SEC. 728. STUDY OF NORTHEAST INTERSTATE DAIRY COMPACT.

(a) DEFINITIONS.—In this section:

(1) CHILD, SENIOR, AND LOW-INCOME NUTRITION PROGRAMS.—The term "child, senior, and low-income nutrition programs" includes—

(A) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(B) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.);

(C) the summer food service program for children established under section 13 of that Act (42 U.S.C. 1761);

(D) the child and adult care food program established under section 17 of that Act (42 U.S.C. 1766);

(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

(F) the school breakfast program established under section 4 of that Act (42 U.S.C. 1773);

(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of that Act (42 U.S.C. 1786); and

(H) the nutrition programs and projects carried out under part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.).

(2) COMPACT.—The term "Compact" means the Northeast Interstate Dairy Compact.

(3) NORTHEAST INTERSTATE DAIRY COMPACT.—The term "Northeast Interstate Dairy Compact" means the Northeast Interstate Dairy Compact referred to in section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256).

(4) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(b) EVALUATION.—Not later than December 31, 1997, the Director shall conduct, complete, and transmit to Congress a comprehensive economic evaluation of the direct and indirect effects of the Northeast Interstate Dairy Compact, and other factors which affect the price of fluid milk.

(c) COMPONENTS.—In conducting the evaluation, the Director shall consider, among other factors, the effects of implementation of the rules and regulations of the Northeast Interstate Dairy Compact Commission, such as rules and regulations relating to over-order Class I pricing and pooling provisions. This evaluation shall consider such effects prior to implementation of the Compact and that would have occurred in the absence of the implementation of the Compact. The evaluation shall include an analysis of the impacts on—

(1) child, senior, and low-income nutrition programs including impacts on schools and institutions participating in the programs, on program recipients and other factors;

(2) the wholesale and retail cost of fluid milk;

(3) the level of milk production, the number of cows, the number of dairy farms, and milk utilization in the Compact region, including—

(A) changes in the level of milk production, the number of cows, and the number of dairy farms in the Compact region relative to trends in the level of milk production and trends in the number of cows and dairy farms prior to implementation of the Compact;

(B) changes in the disposition of bulk and packaged milk for Class I, II, or III use produced in the Compact region to areas outside the region relative to the milk disposition to areas outside the region—

(C) changes in—

(i) the share of milk production for Class I use of the total milk production in the Compact region; and

(ii) the share of milk production for Class II and Class III use of the total milk production in the Compact region;

(4) dairy farmers and dairy products manufacturers in States and regions outside the

Compact region with respect to the impact of changes in milk production, and the impact of any changes in disposition of milk originating in the Compact region, on national milk supply levels and farm level milk prices nationally; and

(5) the cost of carrying out the milk price support program established under section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251).

(d) ADDITIONAL STATES AND COMPACTS.—The Secretary shall evaluate and incorporate into the evaluation required under subsection (b) an evaluation of the economic impact of adding additional States to the Compact for the purpose of increasing prices paid to milk producers.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 971) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. By previous order, the Senator from Minnesota has the floor and has an amendment.

Mr. WELLSTONE. Mr. President, my understanding is that the Senator from—I thought that this amendment was going to be much more brief. That was my understanding. I am anxious to go on with my amendment, but my understanding is that the Senator from Vermont had wanted to speak on this, and out of courtesy to a colleague, I defer to him.

I ask the Senator, does he know how long he will be speaking?

Mr. LEAHY. Mr. President, I tell my good friend from Minnesota that I will speak probably about 1 minute.

Mr. WELLSTONE. More than that.

Mr. LEAHY. It will be very brief.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank Senators who worked very hard in working this matter out. I thank the distinguished chairman of the subcommittee, my good friend, the senior Senator from Mississippi, for his efforts and, of course, the senior Senator from Arkansas [Mr. BUMPERS], for his efforts.

I thank the members of my staff who worked so hard, and my colleague from Vermont, Senator JEFFORDS. And, of course, Senator GRAMS and Senator FEINGOLD, from Wisconsin, who as a Member of the Judiciary Committee, while involved in a very difficult markup today, also spent a great deal of time in trying to work out this matter of great concern to his dairy farmers, as it is the other Senator from Minnesota, Mr. WELLSTONE.

We have worked out an understanding regarding a study of the Northeast Dairy Compact and regarding milk pricing practices as they effect consumers.

The Director of OMB will do a study on dairy, retail store, wholesaler and processor pricing in New England.

Many Senators are very concerned, and I have not found one who is not, that when the price that farmers get for their milk drops that the retail price—the consumer price—often does not drop.

Wholesalers or retail stores appear to be simply making more profits at the expense of farmers.

This is one issue we are very interested in.

Also, the price of milk in New England, in the South, in the Midwest, and in the West is supported by a variety of milk marketing orders. These have a tremendous impact on the price of milk in retail stores, and these marketing orders will continue to exist for years to come.

The Northeast Dairy Compact will exist for only about 18 months—it terminates in 1999, or when the Secretary reforms the milk marketing order system, whichever comes first as provided in the farm bill.

I want to remind everyone that the compact was first approved by each of the six legislative bodies in New England, and signed into law by each of their Governors.

So the impact on retail prices of the milk marketing order system, the impact on prices of wholesaler and retail profits, the impact on prices of the dairy compact, among other factors will be examined by the Director.

The prices farmers get for their milk dropped substantially last November nationwide. They dropped quickly, and have stayed low for months.

It amounted to a 35 cent to 40 cent drop on a per gallon basis. That is a huge drop for farmers. Yet retail stores did not lower their prices to consumers except by a few pennies.

Prices that farmers got stayed low, and prices paid by consumers stayed high.

How did the stores make out during this big price drop to farmers? There has been a major increase in retail store profits for milk.

In some areas of the country there is now a $1.40 per gallon difference between the raw milk price—which farmers get—and the retail price of milk.

Now that stores took advantage of that price drop to lock in huge profit margins for milk are they going to give consumers a break? Of course not.

The Compact Commission did its job. They picked a fair return for farmers that is lower than the average price last year for milk.

Let me repeat that: under the Compact farmers in New England are getting less for their milk than the average price they got for their milk last year.

Because retail stores now have huge built-in profit margins on milk there should be no increases in price under the compact—yet retail stores are not satisfied.

The Wall Street Journal and the New York Times have exposed this retail store overcharging for milk.

The Wall Street Journal pointed out that the value of milk for farmers plunged by 22 percent since October of 1996—but that no comparative decline occurred in the retail price of milk.

Farmers got one-fifth less for their milk, and stores made a bundle. The dairy case is now the most profitable part of a supermarket.

The last time I asked GAO to look at store profits for milk I was amazed at what they discovered.

GAO found then, and its the same now, that when farm prices collapse that retail milk prices to consumers stay high.

The failure of stores to lower prices may have had a significant adverse impact on nutrition programs. Also, I know from newspaper accounts that one chainstore in Maine dropped the price of a gallon of skim milk by one penny after the compact was implemented. Other stores reacted differently even though they enjoyed the benefit of a major price drop which I previously discussed. We need to know if stores unfairly increased prices by taking advantage of the compact even though they did not have to increase prices at all.

I thank my good friend from Minnesota for the courtesy of letting me take this time, and my friend from Minnesota, Mr. GRAMS.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

AMENDMENT NO. 972

(Purpose: To provide funds for outreach and startup for the school breakfast program, with an offset)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 972.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 21, strike "$202,571,000" and insert "$197,571,000".

On page 47, line 6, strike "$7,769,066,000" and insert "$7,774,066,000".

On page 47, line 13, insert after "claims" the following: ": *Provided further*, That not less than $5,000,000 shall be available for outreach and startup in accordance with section 4(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(f))".

On page 66, between lines 12 and 13, insert the following:

SEC. 728. OUTREACH AND STARTUP FOR THE SCHOOL BREAKFAST PROGRAM.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

"(f) Outreach and Startup.—

"(1) Definitions.—In this subsection:

"(A) Eligible school.—The term 'eligible school' means a school—

"(i) attended by children, a significant percentage of whom are members of low-income families;

"(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

"(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

"(B) Service institution.—The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)).

"(C) Summer food service program for children.—The term 'summer food service program for children' means a program authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(2) Payments.—The Secretary shall make payments on a competitive basis and in the following order of priority (subject to the other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(3) Payments additional.—Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) of this section and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(4) State plan.—To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

"(5) School breakfast program preferences.—In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a school breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(6) Summer food service program preferences.—In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(7) Recovery and reallocation.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(8) Annual application.—The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(9) Greatest need.—Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

"(10) Maintenance of effort.—Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.".

Mr. WELLSTONE. Mr. President, I am sorry it is late tonight. I am going to have a chance to summarize this amendment for colleagues tomorrow. Let me just start out with a poster from the Children's Defense Fund: "Remember Those Hungry Kids In China? Now They Are In Omaha." But it could be in any of our States. Currently there are an estimated 5.5 million American kids who don't eat regularly. They don't get enough to eat.

Mr. President, we have to do better. I offer an amendment to the agriculture appropriations bill which would revive the outreach and startup grants program for school breakfasts. They are called outreach grants. It may come as a shock to some of the Members of this body that children, too many children, are going to school hungry and we are not doing anything about it. Let me repeat that. I have brought this amendment to the floor of the Senate before. I now have an amendment on the agriculture appropriations bill. I hope I will win on this amendment. I appeal to my colleagues to please support this amendment, but I will come back with this amendment over and over and over again, until I restore the funding.

This program was eliminated. Let me just repeat what is going on here. There are too many children who go to school who are hungry. We are not doing anything about it. There are too many children who go to school with rotting teeth from non-nutritious foods. There are too many children who go to school with aching, empty stomachs. There are too many children who go to school who are unable to learn because they are malnourished and hungry. And that is not the goodness in our country.

Mr. President, the welfare law of 1996 eliminated—eliminated the school breakfast outreach and startup grants. They were created in 1990 and they were made permanent in 1994. What these outreach grants are all about—and we are talking about $5 million and only $5 million to reestablish this program—these were grants that enabled States and school districts to set up school breakfast programs. Some 45 States have received these funds. Every student who is eligible for a free lunch is eligible for school breakfast as well. However, only about 40 percent of those who are hungry, those who come from very low-income families and are eligible for school lunch program, are able to participate in the school breakfast program as well.

This program, this outreach program which was combined with the public awareness program by the Food Research and Action Committee—and thank God we have FRAC, because they do wonderful work, and other nutrition advocacy groups—was a catalyst. We were able, through this outreach program, to expand the school breakfast program by 26,000 schools to an additional 2.3 million poor children between 1987 and 1994.

I would like my colleagues to listen carefully to this, not only tonight, many are gone but staffs are around, but also tomorrow when I summarize. This program was extremely successful. It was eliminated because of the almost Orwellian argument that the $5 million outreach program should be eliminated because it was effective, because it was providing States and school districts with the information they needed to set up a school breakfast program to help hungry, malnourished children.

I need to repeat that argument. This was completely eliminated. We eliminated an outreach program for poor children in America to make sure that they were able to participate in the school breakfast program because the argument was made it was encouraging school districts to set up school breakfast programs and therefore the Federal Government would have to contribute some money.

Yes, we would. And that would be a good thing. Because today there are 14.3 million children who receive free and reduced-price lunches, but 8 million of them, spread across 27,000 schools, go to school hungry and receive no school breakfasts at all. Mr. President, 8 million children who need the help, 8 million children who could be starting out the day with a nutritious breakfast, do not receive that assistance, in part because we eliminated a $5 million outreach grant program. We eliminated the whole program. My colleagues know that hungry children cannot learn. And they know that if they cannot learn, when they are adults they won't be able to earn. I could not think of anything that is more shortsighted.

Let me just repeat, talking about children and the importance of an equal chance for every child, too many children in our country, 8 million children—maybe more, maybe a few less, what difference does it make?—go to school and there is no school breakfast program. They are eligible. We eliminated the outreach program that would give States and school districts additional information so they could help hungry children, and as a result of that there are too many children who don't do well in school.

Let me go with the next chart, although I will hold this up tomorrow. I would like my colleagues to see this. There are hungry kids in our country, an estimated 5.5 million American kids don't regularly get enough to eat. That is the Food Research in Action Coalition report, that is the Children's Defense Fund, this comes from the work of Tufts University. I mean, the evidence is there, colleagues. We have too many children who are malnourished. We have too many children that do not have an adequate diet. And we eliminate a $5 million program, an outreach program, because we said it was too effective.

This chart points out the percentage of children from hungry and nonhungry households, and how it relates to health-related problems. Let me point out, the red is percent of nonhungry children, the green is percent of hungry children. Whether you are looking at unwanted weight loss, or fatigue, or frequent colds, or inability to concentrate, or ear infection, dizziness, asthma, allergies, diarrhea, irritability, frequent headaches—over and over and over again—this is from the Food Research Action Council, 1995—it is dramatic: The much larger percentage of children who are hungry children experience all of these specific health related problems.

It is not too much, I say to my colleague from Mississippi, this is not too much to ask for. I don't think, when we voted on the welfare bill, the debate was really on this one $5 million outreach program. It was just one program in a large bill that we eliminated and we should not have. We set it up in 1990. It was very effective between 1990 and 1994; 1995, it was an excellent program, it was a program that provided outreach to 45 States. It meant that some additional school districts knew how to set up a school breakfast program. And, yes, we ended up providing some funding for that. But we should. Where there are children in need, where there are children who could really be helped by a program that would give them a nutritious meal, would give them a nutritious breakfast, we ought to make sure that happens. Otherwise these children don't do as well in school.

I would just say to my colleagues, this is really all about our national vow of equal opportunity for every child. How can anybody here in the U.S. Senate say that we truly have equal opportunity for every single child when we have over 5 million children that do not get enough to eat and we don't even allocate $5 million for an outreach program that would help those children start out the day with a nutritious breakfast? This is wrong. I am just sure of it. This is wrong. We have to be able to do this.

I just want to say, because my colleague is on the floor, Senator COCHRAN from Mississippi, that the Ag Appropriations Subcommittee did not cut this program at all. They didn't eliminate this program. This happened in the overall welfare bill. This was not action of the Appropriations Committee.

I also want to say that Senator COCHRAN has been an advocate for children's nutrition programs. So let me be crystal clear, this is not aimed at some action taken by the Ag Appropriations Committee. But, Mr. President, what we did in the last Congress was profoundly mistaken.

Let me just read for a moment—and there are many different studies I could read from—from the Tufts study. This really went back to 1987, in which Meyer Sampson, et al, examined the effect of the School Breakfast Program on school performance of low-income students in Lawrence, MA.

In any case, what they found out is that from standardized tests to lateness and absences, over and over again, children who participated in the School Breakfast Program were shown to do much better on achievement tests, were shown to get to school on time, were shown to not be absent from school so often.

It is just so clear. Can't we come up with $5 million? Now we have a doctor, Dr. FRIST, who is presiding. This is a medical issue. I am just saying to Dr. FRIST that we have a study here from the Food Research Action Council which points out the correlation between children who are malnourished and some of the health problems—unwanted weight loss, fatigue, frequent colds, inability to concentrate, ear infection, dizziness.

I am saying I don't think any of us realize that in the welfare bill, we eliminated a $5 million—that is all it is—outreach program that was very effective. It was in operation in 45 States, and for the $5 million investment, we help provide school districts with information about how they can set up a school breakfast program.

I am pointing out that there are some 8 million children who are eligible for the School Breakfast Program who don't receive any help, and there are too many children who go to school and don't get a nutritious meal. For $5 million, I say to my colleagues, we could have this outreach program. We never should have eliminated it. We know that when children are hungry, they don't do as well in school. The evidence is irrefutable and irreducible. We know that when children are malnourished and hungry that they don't have the same opportunities as our children do to do well in school. And we know that there is, as reported by the Tufts study, as reported by some of the work of the Food Research Action Council, and I have here about—if I had wanted to, I could have taken several hours to go over this amendment—a variety of different studies that have been done, and over and over and over again, it is the same. This is the Tufts University School of Nutrition, I say to the Presiding Officer, "The Link Between Nutrition and Cognitive Development in Children."

Look, if we have children in our country—and the evidence is clear—who go to school and, because their parents are so poor or for other reasons, and they are eligible because they are from low-income families, they don't get that nutritious breakfast, and we know there is a link between nutrition and cognitive development, we know there is a link in early years, we know there is a link in terms of how children do in school, why in the world would we have eliminated an outreach program? That is what we did.

I will tomorrow, in summarizing this amendment, talk about what the offset will be, but I want to be real clear to everybody who is listening tonight—and I will do my very best to talk about this tomorrow again—that it may come as a shock, but the fact of the matter is, there are too many children who are going to school hungry, and we are not doing what we could do to help those children.

It is a fact that there are too many children who go to school with rotting teeth from non-nutritious foods, and we could allocate $5 million for an outreach program which, as I pointed out, multiplies itself over and over and over again, and, in fact, has made a huge difference for some 2.3 million children.

It is a fact that too many children are going to school with aching, empty stomachs, and we are not doing all that we can do to help those children.

It is a fact that there are too many children who, because they do not start out the day with a decent meal, are not able to learn, and I will say it one more time, they are not able to learn, and because they are not able to learn, when they are adults, they are not able to earn.

How shortsighted can it be to not be willing—we had a $270 billion Pentagon budget. We have all sorts of subsidies that go to oil companies, to pharmaceutical companies, to big insurance companies. We find all sorts of places and areas to spend money, and this $5 million outreach program was eliminated.

Mr. President, maybe some people who are watching tonight will have a chance to speak on the floor about something I think is important tomorrow morning. I will have a chance to summarize this amendment. But one more time, I hope that we will restore this. I could read study after study after study, but I don't think I need to; I really don't think I need to. It is just crystal clear: We never should have eliminated a $5 million outreach program that actually led to some 2.2 million more children having the chance to participate in the School Breakfast Program, because this outreach program gave school districts and gave States the information they needed to set up the School Breakfast Program.

Then in the welfare bill, this outreach program was eliminated because the curious argument was made that it was too successful and too many school districts were setting up the School Breakfast Program and, God forbid, we were going to have to spend more money on child nutrition. That is the argument that was made, not by this committee, but the Ag Committee has jurisdiction over nutrition programs.

I say to my colleague from Mississippi, this is an opportunity for us to do something in a bipartisan way that would really make a difference. This would be a good thing to do. This would be a right thing to do. This would be a small thing to do, but it would have a really large impact.

Mr. President, I reserve the remainder of my time to see whether or not there might be some reaction to my amendment.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I appreciate very much the kind remarks of the distinguished Senator from Minnesota in connection with the fact that the program discussed by him, and which is the subject of his amendment, was not in any way reduced in funding by the action of the Agriculture Appropriations Subcommittee or the full Committee on Appropriations. As a matter of fact, we tried very hard to identify needs in the nutrition area, including the school lunch programs, child nutrition programs, food stamps, Women, Infants and Children feeding program, and others. I think Senators will notice that there are substantial increases in funding for WIC, for example, to make sure there is a full participation permitted next year, and that means we had to add $200 million more to that account to help guarantee that no one participating in the WIC Program now would be denied eligibility or participation due to a lack of funding next year.

And in every other way, we tried to look at the evidence before the committee that we had available to us during our hearings to assess the needs and to make available the funds that we thought were necessary to help make sure that all Americans have access to a nutritious diet, that the food supply is safe, and that, in every respect, we continue to make sure that people in our society do not have to go without food.

Having said that, the Senator is correct in that there are still a lot of unmet needs, there are still a lot of problems. We can identify areas of the country that have special needs. I am sympathetic to those needs and assure all Senators that this committee will continue to try to work to alleviate those needs.

The amendment addresses language that was adopted by the Senate and eventually contained in legislation signed by the President that modified a lot of the programs that do provide assistance to individuals. In the welfare reform effort, there were a number of the laws that were modified, some under the jurisdiction of our Agriculture Committee—this was one of them—that were made necessary through the establishment of spending ceilings in certain program areas.

Our committee had the unwelcome task in many cases of identifying programs that could be helpful in some areas of the country but, for various reasons, maybe the States or local school districts, it was thought, could do the things that the Federal Government had previously been trying to do. And this is one area.

Outreach is very important. School districts, local communities, State governments all have resources, all have very dedicated people leading them in elected positions and in every way are available to help deal with problems that the Senator from Minnesota has discussed.

I do not know what the disposition of the legislative committee will be on this amendment, whether it will suggest that it ought to be accepted or resisted. We are consulting with the leaders of the legislative committee, and we understand that they will continue to look at this and maybe tomorrow when we return to consideration of this amendment in the morning when we convene, there may be a better understanding of what the response will be at that time.

But at this point, I am willing to let the Senator continue to discuss his amendment if he likes. He has the right to do that under the order that has been entered, and we will be happy to continue to work with him on this and other issues that he is interested in.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me thank my colleague, who is always gracious. I think that is one of the reasons he is held in such high regard.

I just point out again that we can have a discussion tomorrow morning or negotiation. And look, from my point of view, you know, I am sometimes grateful for small victories. And if there was a way that this amendment would be accepted, I would be very pleased. Then I would have to fight hard to keep it in the conference committee.

Mr. President, I think that my colleague from Mississippi is absolutely correct in his analysis of what happened by way of going after this outreach grant program for school breakfasts with the argument being, "Here are the caps and here is what we have got to do to save the money." If you want to, call me naive, but I just would like to say that this is a very brutal argument, not by my colleague from Mississippi, but this is a brutal argument that people are making. "We have got caps. We have got to save the money. Therefore, we eliminate a $5 million outreach program because it has led—that is why we have to eliminate it—it will lead to more school districts setting up a school breakfast program, and, therefore, more children who are in fact malnourished or hungry will be able to get at school a nutritious breakfast." That is a brutal argument.

Why in the world are we willing to make these kinds of cuts that target these children when we know darn well that the medical evidence and the educational evidence is so clear that it can make a huge difference whether or not a poor child has a decent breakfast and can start out the schoolday with a decent breakfast?

What do you think the price is that we pay in children that could do well in school, that don't, that drop out? What do you think the price is that we pay for kids that get into trouble with substance abuse, that get into trouble with the law, that there is a higher correlation between high school dropouts and incarceration than cigarette smoking and lung cancer? What is the price we pay for kids dropping out?

Now, an adequate breakfast for a poor child does not, ipso facto, guarantee that child will do well. But why in the world did we eliminate this outreach program? And why can't we restore it?

Mr. President, I am really hoping that tomorrow we will be able to get support for this one. The Tufts University—I believe the Chair knows the Tufts University does some pretty good work, especially when it comes to issues with children and malnutrition.

Current scientific research links nutrition and cognitive development.

Undernutrition along with environmental factors associated with poverty can permanently retard physical growth, brain development, and cognitive functioning.

The longer a child's nutritional, emotional, and education needs go unmet, the greater the likelihood of cognitive impairments.

Iron deficiency anemia, affecting nearly 25 percent of poor children in the United States, is associated with impaired cognitive development. Iron deficiency anemia, which affects 25 percent of poor children in the United States, is associated with impaired cognitive development, and we cannot find $5 million for an outreach program, for a school breakfast program for malnourished children?

Poor children who attend school hungry perform significantly below nonhungry low-income peers on standardized test scores.

There is a study—I am a social scientist. They had an experimental group and control group, and they found out—they took children from the same income category—and they found that those children who attended school not hungry did much better on standardized tests than those children who attended school hungry.

Is anybody here surprised by that finding? Isn't that clear? Those children from poor families who go to school and receive a good breakfast will do better in school, will do better on standardized tests. Does anybody want to argue with that? Well, if you don't, then how can you eliminate an outreach program that makes sure that those children are able to get that healthy breakfast?

So, Mr. President, we will have more debate on this tomorrow. I thank my colleague, the Senator from Mississippi. I really hope that there will be support for this amendment, that we can find the small amount of money which would make such a huge difference.

In any case, this is one of those amendments I just am going to keep bringing out on the floor because I know that we did the wrong thing. I know that. I think I can argue that. Since I believe in the goodness of people and I believe in the goodness of the Senate, I think there has just got to be a way that we can restore this program because it is not a program; it is kids, it is children. And we can help them.

I yield the floor.

AMENDMENT NO. 971

Mr. FEINGOLD. Mr. President, I am pleased to be a cosponsor of the amendment offered by Senator GRAMS which has been agreed to today and it has been my pleasure to work with the Senator from Minnesota [Mr. GRAMS] and the Senators from Vermont [Mr. LEAHY and Mr. JEFFORDS] to reach an agreement to require the Director of the Office of Management and Budget to study the impacts of the Northeast Interstate Dairy Compact. I appreciate the cooperation of the senior Senator from Mississippi [Mr. COCHRAN] and the senior Senator from Arkansas [Mr. BUMPERS] in reaching agreement on this amendment.

Mr. President, the amendment we have offered today is an extremely reasonable amendment on which all Senators should agree. This amendment simply requires that the Director of the Office of Management and Budget study the economic effects of implementation of the Northeast Interstate Dairy Compact with respect to consumers, dairy farmers outside the compact as well as on vital low income nutrition programs such as the National School Lunch Program, the School Breakfast Program, and the Summer Food Service Program all offer milk to children from low-income families. The congressional oversight provided by this amendment is the responsible thing to do and I am pleased that the managers of the bill and the compact supporters have agreed to have this study conducted.

The Northeast Interstate Dairy Compact was included in the conference report of the Federal Agricultural Improvement and Reform Act of 1996, or farm bill, despite the fact the full Senate decisively struck the compact from the Senate bill by a vote of 50 to 46. The compact was in neither the Senate farm bill nor the House version of the farm bill as passed by both Chambers.

It is unfortunate that the will of the Senate was undermined by the backroom agreements of the conference committee. That conference agreement further undermined the authority of the Congress by improperly delegating to the Secretary of Agriculture the ability to consent to the compact, regardless of the national public interest. This amendment will help us to determine whether the public interest is subverted by the compact.

And the public interest is definitely implicated by the Northeast Interstate Dairy Compact. The compact allows six States to fix milk prices paid to dairy farmers well beyond the minimum price specified under Federal Milk Marketing Orders. The compact also allows those six States to keep out milk produced by farmers from other parts of the country, regardless of how competitively that milk is priced. The compact provides competitive credits, or subsidies, to compact milk processors in order to allow them to sell their milk outside of the compact region. Meanwhile, the compact fails to protect consumers from increased prices and does not have any mechanism in place to protect farmers outside the compact from the actions of dairy farmers in six States who are isolated from the market conditions that non-compact producers face.

Mr. President, up to this point both the concern about, and the promise of, the Northeast Dairy Compact has been conjecture. But now that the compact has gone into effect we will have hard data to examine its economic impacts.

The Northeast Interstate Dairy Compact Commission fixed the price of fluid milk in the compact region at $16.94 per hundredweight on July 1, 1997. That price is a full $3.00 above the price Northeast farmers would have received in July under Federal Milk Marketing Orders. As many of the compact opponents had predicted, the retail price of fluid milk has increased by as much as 26 cents per gallon—a full cost increase pass through to consumers—something the compact proponents said would never happen.

And media in the Northeast report on farmers who are now considering adding more cows to their herds to increase their production and income when in fact, compact proponents suggested that the compact would not increase milk production in the Northeast. These production increases in the compact region come at a time when producers in the 44 other States are facing 6-year low prices due to excess dairy product stocks. At a time when the market is sending the dairy industry the signal to cut back of supplies, the compact farmers are getting the signal to increase production.

Furthermore, anecdotal reports from milk buyers in the Northeast suggest that excess milk production from the Northeast is already being dumped on States outside of the region at prices less than half the price being paid to compact producers. Farmers fear this excess milk will depress prices nationally which are already at devastatingly low levels. Yet compact opponents were assured that no milk would be dumped outside of the compact because the compact was a net milk importer.

Mr. President, given that many of the things compact proponents said could never happen appear to be happening—increased consumer costs, increased milk production, lower priced exports of milk from the compact region—we must take a careful look at the impacts of this compact.

We must scrutinize how the compact affects our vital low-income nutrition programs. The National School Lunch Program serves 25 million children daily and in 1996 served 4.3 billion lunches. The six compact States alone served 170 million school lunches in 1996, nearly all of which were served with milk. Milk is also a component of the School Breakfast Program, the Summer Food Service Program, the Child and Adult Care Food Program and the Special Milk Program, programs all offered in the compact States.

If the cost of milk to consumers is going up in the compact region due to compact milk price, the value of food stamps for poor families may be declining, costs to schools, summer food service institutions and child and adult care facilities are likely increasing as their per meal reimbursement remains flat and the cost of the milk they serve increases, and the food dollars of low-income families are likely not stretching as far as they used to. It is absolutely critical that we determine the impact of the Northeast Interstate Dairy Compact on these vital nutrition programs and I am surprised that compact proponents do not agree.

The amendment that has been accepted today will help determine whether or not the benefit of the compact exceeds the financial cost to dairy producers in other States.

The Northeast dairy compact has been extremely controversial in the U.S. Senate because it takes an entirely regional approach to dairy policy, walling off a few farmers in six States from the conditions faced by tens of thousands of dairy farmers elsewhere. And Mr. President I believe the Northeast dairy compact will ultimately harm Wisconsin's 24,000 dairy farmers. But I also believe it will hurt dairy farmers in the 44 non-compact States such as California, Washington, Oregon, Pennsylvania, Illinois, Idaho, and Indiana, among others.

Milk is produced and marketed in a national, not a regional market. And what happens with respect to milk prices and production levels in one region has national repercussions. Wisconsin's family farmers, with an average herd size of 55 cows, are concerned that increased production in the Northeast spurred on by the high compact milk price, will depress prices throughout the Nation. Farmers who are suffering from the current national $10.74 basic milk price cannot afford to suffer further price declines due to increased milk production from the Northeast. Furthermore, as history has shown increased milk production in one region in surplus of what is needed for fluid purposes results in surplus production of cheese, butter and similar product. This in turn depresses cheese prices which directly impact prices paid to producers. These concerns are serious and the compact must be carefully evaluated to determine if compact farmers are producing too much milk to the detriment of non-compact farmers.

Mr. President, I am pleased the Senate today has recognized the obligation of this body in ensuring that the compact is carefully monitored and its impacts scrutinized.

Mr. President, I remain strongly opposed to the compact and will continue to work toward its repeal. The compact sets a dangerous precedent in allowing one region to fix prices for its producers to the detriment of non-compact producers. I believe the Northeast dairy compact will harm the 24,000 family dairy farmers in my State of Wisconsin. Hopefully the information that may be gathered by the study required by our amendment will help persuade the Senate that it erred in allowing the inclusion of the amendment in the 1996 Farm bill.

I yield the floor.

PRESCRIPTION DRUG USER FEE

Mr. JEFFORDS. Mr. President, I would like to engage in a brief colloquy with Senator COCHRAN regarding the status of legislation to modernize the Food and Drug Administration and reauthorize the Prescription Drug User Fee Act of 1992 [PDUFA]. The Labor Committee has reported out S. 830 with a strong bipartisan vote of 14–4. This legislation reauthorizes PDUFA for 5 years and brings the Agency's procedures up to date with the tremendous innovation now occurring in the health technology sector. It is my understanding that the bill before us does not reauthorize or extend the PDUFA program and appropriately leaves this action to the Labor Committee and the Congress. The bill before us does anticipate this reauthorization of PDUFA by setting a limit on the amount of fees which may be collected and expended once the reauthorization is enacted—which is a sensible approach. FDA reform and reauthorization of PDUFA go hand-in-hand and I am fully confident that we will have legislation accomplishing both at once on the floor in a timely fashion.

Mr. COCHRAN. Mr. President, my colleague, Senator JEFFORDS, is correct. I would note that the bill before us does not allow the collection of Mammography Standards Act or PDUFA fees in the absence of authorizing legislation from the Labor Committee being approved by the Congress and signed into law. Further, I am well aware of the Senator's efforts to bring a bill reauthorizing PDUFA and modernizing the FDA to the floor and strongly agree that reform of the Agency and PDUFA reauthorization must go forward together. I look forward to debating these issues in the full Senate in the near future.

Mr. DOMENICI. Mr. President, I rise in support of the Department of Agriculture and Related Agencies appropriations bill for fiscal year 1998.

The Senate-reported bill provides $50.0 billion in new budget authority [BA] and $41.6 billion in new outlays to fund most of the programs of the Department of Agriculture and other related agencies. All of the funding in this bill is nondefense spending. This subcommittee received no allocation under the Crime Reduction Trust Fund.

When outlays for prior-year appropriations and other adjustments are taken into account, the Senate-reported bill totals $48.8 billion in BA and $49.2 billion in outlays for fiscal year 1998. Including mandatory savings, the subcommittee is at its 602(b) allocation in BA and slightly below its 602(b) allocation in outlays.

The Senate Agriculture Appropriations Subcommittee 602(b) allocation totals $48.8 billion in budget authority [BA] and $49.4 billion in outlays. Within this amount, $13.8 billion in BA and $14.2 billion in outlays is for nondefense discretionary spending.

For discretionary spending in the bill, and counting—scoring—all the mandatory savings in the bill, the Senate-reported bill is at the subcommittee's 602(b) allocation in BA and $128 million below the allocation in outlays. It is $281 million in BA and $324 million in outlays below the President's budget request for these programs.

I recognize the difficulty of bringing this bill to the floor under its 602(b) allocation. I appreciate the committee's support for a number of ongoing projects and programs important to my home State of New Mexico as it has worked to keep this bill within its budget allocation.

Mr. President, I ask unanimous consent that a table displaying the Senate Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

S. 1033, AGRICULTURE APPROPRIATIONS, 1998—SPENDING COMPARISONS, SENATE-REPORTED BILL

[Fiscal year 1998, $ millions]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	....	13,791	....	35,048	48,839
Outlays	....	14,039	....	35,205	49,244
Senate 602(b) allocation:					
Budget authority	....	13,791	....	35,048	48,839
Outlays	....	14,167	....	35,205	49,372
President's request:					
Budget authority	....	14,072	....	35,048	49,120
Outlays	....	14,363	....	35,205	49,568
House-passed bill:					
Budget authority	....	....	....	35,048	35,048
Outlays	....	3,909	....	35,205	39,114
SENATE-REPORTED BILL COMPARED TO:					
Senate 602(b) allocation:					
Budget authority	....	....	....	....	....
Outlays	....	(128)	....	....	(128)
President's request:					
Budget authority	....	(281)	....	....	(281)
Outlays	....	(324)	....	....	(324)
House-passed bill:					
Budget authority	....	13,791	....	....	13,791

S. 1033, AGRICULTURE APPROPRIATIONS, 1998—SPENDING COMPARISONS, SENATE-REPORTED BILL—Continued

[Fiscal year 1998, $ millions]

	Defense	Nondefense	Crime	Mandatory	Total
Outlays	....	10,130	....	....	10,130

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DOMENICI. I urge the passage of the bill.

ACCESS TO CREDIT

Mr. BENNETT. I would like to take a moment to discuss an issue in which I know my colleague, Senator LUGAR, has a strong interest, that is the need for access to credit by entrepreneurs in the rural areas of this country. I have been concerned about the access to capital for entrepreneurial businesses almost since I first stepped onto the Senate floor after my election in 1992 and I want to make clear that I have pursued a number of different avenues to help create a more liquid credit market in rural areas. Senator LUGAR, you and I are no strangers to under served capital needs of rural businesses. I helped sponsor and pass Senator D'AMATO's Small Business Loan Securitization bill almost 3 years ago in hopes of helping bring more credit to rural businesses.

In past Congresses and in this Congress I have repeatedly approached Senator BOND, the chairman of the Small Business Committee, with regard to the increasing need for rural credit. The Small Business Committee tells me that there will be inadequate funding for rural nonagricultural businesses as included in the SBA 7(a) Program. The Department of Agriculture is concerned that there is inadequate funding for its Business and Industry Program, which lends to rural nonagricultural interests. Additionally, many bankers have voiced their concerns that inadequate credit and liquidity will adversely affect their small business lending and investment programs nationwide.

Mr. LUGAR. I am aware that recent studies by USDA, GAO, the Kansas City Fed, and the Rural Policy Research Institute have all noted the difficulty rural businesses, particularly new businesses, have in obtaining capital. The studies also suggest that a lack of adequate credit for rural businesses is affecting the economic growth of those communities.

Mr. BENNETT. I have read those reports as well and I know that the reasons they cite for these deficiencies include relatively fewer credit suppliers, higher costs due to lower credit demand, a lack of professional lending experience in rural and outlying areas, and a lack of liquidity in many rural lending institutions when compared to urban lending institutions.

The amendment I was prepared to offer today sought to remedy this situation by creating a pilot project, at no cost to the Federal Government, for 1 year. If the pilot had proven unsuccessful, the project would not have been renewed.

This solution would have expanded the authorities of an existing Government Sponsored Enterprise [GSE] to ensure reliable and competitively priced credit from existing lending institutions to rural small businesses nationwide.

It was my belief that this was the most expedient legislative approach to take. I believe that the expansion of Farmer Mac's authority in this area makes sense because it is a logical outgrowth of activities it already conducts, such as securitizing commercial loans, operating through thousands of existing commercial credit outlets, and providing access to national capital markets for rural and nonrural borrowers alike.

I look forward to working with the Agriculture Committee, which has jurisdiction over this issue, over the coming months to remedy this problem and I thank my colleague Senator LUGAR for his willingness to address this important issue.

Mr. LUGAR. I, too, am concerned that rural entrepreneurs do not have the same kind of access to capital markets as do their nonrural counterparts. I am also aware of concerns raised by various groups in regards to my esteemed colleague's amendment. I believe a hearing will offer the opportunity to vet all points of view. It is my intent that the Committee on Agriculture, Nutrition, and Forestry hold a hearing on rural and agricultural credit as soon as possible in the hopes that we can find a timely solution to this problem.

Mr. BENNETT. Mr. President, I have been monitoring the problems associated with rural credit needs for some time. At a time when the credit availability problems of rural small business and rural infrastructure are being highlighted by various experts and studies, the very institutions that provide credit to these concerns are having their funding reduced. Solutions to these problems are being thwarted by petty bickering and turf battles that do little else than prolong the agony for rural residents and deprive them of the benefits they deserve.

I have read with interest the recent reports from the Rural Policy Research Institute [RUPRI], the General Accounting Office [GAO], and the USDA on rural credit needs. I have also reviewed the proceedings of the Kansas City Fed's conference on "Financing Rural America." These documents present no surprises for those of us who represent rural areas. While each study approaches its task in a unique manner, all of these reports are similar in their conclusions. They note that while rural financial markets work reasonably well, not all market segments are equally well served. They all agree that small businesses from rural areas can have a difficult time obtaining financing, have fewer credit options, and may well pay more for their credit than comparable urban enterprises. At a time when small businesses are being recognized for their valuable contributions to our economic growth and stability, small businesses are experiencing increasing credit needs. Unfortunately, USDA's Business and Industry loan program and the Small Business Administration's funding are being limited in fiscal year 1998.

The facts are worrisome. As the RUPRI study points out, many rural areas were bypassed by recent employment growth. Existing rural employment is concentrated in slow-growth or declining industries. Job growth in rural areas, particularly rural areas that are not adjacent to metropolitan areas, is biased toward low-skill, low-wage activities. USDA has stated that "Rural economies are characterized by a preponderance of small businesses, fewer and smaller local sources of financial capital, less diversification of business and industry, and fewer ties to non-local economic activity." This does not bode well for my home State of Utah where 25 of 29 counties are classified as rural by the USDA.

To further illustrate, USDA's Fiscal Year 1998 Business and Industry [B&I] loan program will be straight-lined at fiscal year 97 levels. Based on data provided by USDA, current B&I loan volume is capped at about $740 million; however, USDA has applications pending for yet another $700 million, with preapplications already on file for still another $200 million. These numbers suggest that adequate private capital is not available. Again, using my home State of Utah as an example, there are over $10 million in B&I loans outstanding. However, due to USDA budget limitations, loans for almost $19 million, associated with pending applications and preapplications, will not be made. This will not be helpful to Utah's economic growth and development, especially in rural areas. Unfortunately, this story of unmet rural credit demand can be replicated for almost all of the 50 States represented by this Congress.

All of the above mentioned reports discuss options for addressing the need for rural credit. All of them discuss one or more options associated with GSE funding, which frankly, are the most logical and persuasive alternatives discussed. I, personally, am persuaded that expansion of Farmer Mac authorities is the most effective and the least obtrusive alternative presented to date. It uses existing credit delivery systems and allows lenders to sell their qualifying loans into the secondary market. Other options discussed include expanding the authorities of the

Federal Home Loan Bank System, or the Farm Credit System. I am uncomfortable in advocating expansion of a mortgage lender's authorities into commercial lending activity. I am equally uncomfortable with expanding a tax exempt GSE's authorities into direct competition with the private sector. I am open to suggestions and want to consider all options, including merging GSE's or mergers of public and private interests if such options will provide cost-effective and efficient solutions to the problems associated with rural credit availability.

Throughout the discussion of the last several weeks, I have become poignantly aware of the strongly held feelings on this issue. I am concerned that a solution to the problems associated with improving rural credit delivery may be beyond the grasp of rural residents and businessmen if the petty bickering and turf battles are not set aside. I commend my esteemed colleague, Senator LUGAR, who chairs the Committee on Agriculture, Nutrition, and Forestry for his willingness to hold hearings on this issue. I, for one, am open to any and all reasonable options for improving credit delivery in these rural areas. I believe, as many of these reports point out, that improved economic growth will be the result and national GDP will be enhanced.

Mr. KYL. Mr. President, the fiscal year 1998 agriculture spending bill that comes before us today totals $3.2 billion less than was spent on agriculture-related programs last year, and $12.6 billion less than was spent the prior year. That is an actual reduction in spending, from $63.3 billion in fiscal year 1996 to $50.7 billion this year—an astounding 20 percent cut.

Mr. President, the savings are due in large part to the more market-oriented farm policies that Congress approved in 1996—policies that I supported. The Freedom to Farm Act did away with the decades-old policy of providing subsidies to farmers when market prices dropped. It did away with the policy of requiring farmers to plant the same crops every year and instead established a system of fixed, declining payments on the way to a farm policy free of Government intervention.

The substantial savings in farm programs will allow us to target more funding to high-priority domestic programs, like the Women, Infants, and Children [WIC] nutrition program and the Food and Drug Administration's food safety initiative. WIC alone would receive an additional $121 million in the upcoming fiscal year. And without price supports and other subsidies to artificially boost the cost of food, every family's food budget will eventually go farther. WIC recipients will get more for their food dollar. Taxpayers will save. Every family will save.

Given that spending is better prioritized, and given the substantial savings achieved in this bill, I intend to vote for it. Nevertheless, I believe we have the opportunity to do even better. Corporate welfare programs, like the Market Access Program, which subsidizes the advertising budgets of U.S. companies overseas, is still funded by this bill. It should be cut or eliminated. Spending on the tobacco, sugar, and peanut programs could also be reduced. These programs were largely preserved, notwithstanding other reforms in the 1996 farm bill. We ought to phase them out as well.

There are a variety of special funding earmarks in this bill that could be the subject of the President's new line-item veto authority. The veto could be applied, for example, to almost all of the nearly 100 special research grants earmarked within the Cooperate State Research, Education, and Extension Service budget. The Committee report identifies grants totalling $47.5 million for such activities as maple research, alternative salmon products, goat research, and potato research, to name just a few. Most of these grants were not requested by the President.

It may well be that some of these research activities have merit and should proceed, but I would ask why taxpayers should be obligated, particularly to fund those projects that specifically benefit targeted industries? More money could always be spent to find ways of enhancing productivity, improving flavor or appearance, or increasing resistance to disease or drought. It seems to me, however, that producers—whether they grow potatoes, blueberries, cranberries, or goats—have every reason and incentive to bear the costs of research that leads to better crops or improved sales. That is, after all, a fundamental cost of doing business. At the very least, we ought to ensure that such grants are awarded on a competitive basis after adequate peer review.

Mr. President, there is similar earmarking in the Agricultural Research Service budget—set-asides for improving postharvest technologies for apples, for hops research, and the enhancement of peanut flavor quality. The list goes on and on. I would not be surprised if any of these projects was to be among the first that the President strikes with the line-item veto.

Since a reduction of 20 percent in the overall budget should be recognized, I intend to support the bill. But I will also be inclined to support vetoes of some items in the legislation.

KARNAL BUNT

Mr. President, before I conclude my remarks, I would like to take this opportunity to discuss an ongoing issue that has severely affected the wheat industry in Arizona. Karnal bunt was discovered in Arizona in March 1996. Growers and seed producers have been hard hit since then, and progress has been made only in the area of compensation. USDA continues to hold the wheat-seed industry under a Karnal bunt-spore quarantine, a decision that has devastated this once stable and profitable industry. Though Karnal bunt poses no health threat to humans or animals, USDA refuses to lift the quarantine. Furthermore, the results of tests conducted by the USDA Agriculture Research Service scientists support findings by the University of Arizona that spores from ryegrass can severely bunt wheat. The science in this area is very involved, but what it boils down to is that USDA officials continue to contend that there exist two separate spores for bunting wheat; they refuse to acknowledge the Agriculture Research Service test results. These results show that we are talking about one and the same spore, not two separate spores. Yet ryegrass and wheat continue to be treated differently, one is not quarantined but the other is. Arizona remains the only State under quarantine.

Mr. President, we are talking about an Arizona industry that produced more than 335,000 tons of wheat in 1995 at a value of $46.2 million. The value of the 1996 crop before Karnal bunt was expected to top $80 million. This year, Arizona wheatgrowers planted approximately 20 percent less wheat due to Karnal bunt restrictions. Dr. Bruce Beatty of the University of Arizona estimates losses of more than $100 million, an estimate given in Federal court testimony that has not been challenged by the USDA. Obviously, the wheat industry plays a vital role in the economy of Arizona.

In a June 19 speech made to the International Grains Council, Secretary of Agriculture Dan Glickman stated that "perhaps the greatest threat to free trade is phony science." He continued, "Unfounded sanitary and phytosanitary objections have the potential to wreck the delicate balance of fairness we are trying to establish." Fairness is all Arizona seeks. The USDA policy in addressing the Karnal bunt issue has failed. Science has shown that severe bunting of wheat can occur from spores determined to be ryegrass in nature from Oregon, Alabama, Tennessee, and Georgia. Yet Arizona remains the only State under quarantine. Therefore, I call on the Secretary to lift the quarantine that has wreaked havoc on the Arizona wheat industry.

Mr. DORGAN. Mr. President, I commend Senators COCHRAN and BUMPERS for the excellent bill they crafted to fund many crucial programs affecting American agriculture. They have done a superb job of balancing the competing yet meritorious interests covered in this legislation. It was a pleasure working with them as a new member of the Senate Committee on Appropriations, and I thank them for the generous way in which they responded to my requests to ensure that the needs of North Dakota farmers and ranchers were addressed.

There is one issue which was not addressed in this bill which is of great concern to me. I hope it will be addressed in conference. The buildings and facilities account of the Cooperative State Research, Extension, and Education Service received no funding in this bill. While I understand the chairman's desire not to continue to fund this construction account, I think it is unfair not to fulfill our responsibilities to complete the projects in the pipeline. There are a number of institutions in this category. These institutions have already received partial Federal funding, have met all the program requirements, including their 50-percent State matching requirement, but they cannot be completed unless the conference committee provides the balance of the Federal funding needed to do so.

North Dakota State University [NDSU] falls into this category, and it is a unique case. Since fiscal year 1992, it has received approximately $1.9 million in Federal funds for an animal care research facility. It was not until June 30, 1995, when the House indicated in its report on the fiscal year 1996 Agriculture appropriations bill that it was making an "in depth review of policies and practices related to this program," that there was any indication that the program might be changed. In fact, it was not until September 28, 1995, that we had notice that time might be of importance and that it was the conference committee's intent to terminate the program after fiscal year 1997.

Since North Dakota has a biennial legislature, which did not meet in 1996, it could not meet its 50-percent cost share requirement in 1996. When the legislature met early in 1997, it appropriated the relevant State cost share funds for this facility. Let me repeat, the only reason NDSU did not meet the committee's 1996 requirement is that it could not since our State legislature did not meet.

The animal care facility at North Dakota State University is an extremely important project for the State and the region. Livestock production is a $1 billion industry in our State. It is likely to grow. But livestock disease is always a threat to the industry, especially some of the anabiotic-resistant organisms and viruses we have to deal with today. Work in this proposed facility can help protect incomes in the livestock industry by reducing livestock disease and deaths, contributing to the development of more effective pharmaceuticals and helping to ensure the quality and safety of food products. This facility is absolutely crucial to the future health and growth of agriculture in our region.

Not to provide the balance of the Federal funds necessary to complete this facility, when North Dakota State University and the North Dakota State Legislature acted in good faith, seems unfair to me, and I urge my colleagues on the conference committee to seek an equitable solution to this problem.

Again, I thank the chairman and ranking members, Senators COCHRAN and BUMPERS, and their excellent staffs, especially Becky Davies and Galen Fountain, for all their help on this bill.

ASTHMA INHALERS

Mr. COATS. Mr. President, I rise to highlight my particular support for one provision in the committee report for this bill and express my concern with proposed Food and Drug Administration rulemaking that would adversely effect asthma patients.

First, I'd like to note my own personal interest in the issue. My own children suffer from asthma and I appreciate only too well the impact of this condition on children and their families. As a result, I strongly support efforts to ensure that asthmatics have access to the safest and most effective treatment.

The agency's recent actions, however, suggest that remote, even hypothetical environmental concerns might take precedence over the direct concerns for the lives and health of America's substantial asthmatic population. In March of this year, the agency issued an advance notice of proposed rulemaking setting forth the criteria by which it would ban certain CFC-propelled metered-dose inhalers [MDI's] from sale in this country. The proposal was apparently developed in response to concerns about ozone depletion.

But this ozone depletion is already subject to international treaty provisions of the Montreal protocol that ensure the timely removal of products using CFC's. These medical devices are covered by those provisions, even though they only contribute a fraction of 1 percent of the overall atmospheric chlorine that threatens the ozone. Now the agency proposes to speed up the ban on those products in pursuit of some environmental gain—but at the risk of patients with asthma.

There is currently only one MDI, of approximately 70, that is not propelled by CFC's. Removing any or all of these products too early may threaten the health of some patients, particularly the increasing number of American children with asthma. How will the agency address a situation where a CFC-free product with an active ingredient is not labeled for children when the proposed rule would remove from the market a CFC-propelled product with the same ingredient that is labeled for children? How is the health of those children promoted through such a policy? Why is the agency considering removing otherwise legal products from the market, products proven to be beneficial for children, at a time when it laments the lack of adequately labeled products for children? And further, how are children, health care costs, and the Federal budget benefited by this bureaucratically created monopoly?

If the agency believes that hypothetical environmental concerns can justify speeding up an international treaty that attempts to accommodate the health of these 5 million children with asthma, then I urge them to justify that position before the relevant committees of Congress. In the meantime, I urge the FDA to carefully consider the merits of the rulemaking they are proposing and whether alternative approaches might better serve the health of America's asthmatic children.

AMENDMENT NOS. 973 THROUGH 976, EN BLOC

Mr. COCHRAN. Mr. President, under the previous order, there is permitted the offering of a managers' amendment.

Senator BUMPERS and I have been working to identify requests from Senators for inclusion in this managers' amendment, and we have now prepared a managers' amendment and it includes the following four amendments:

An amendment to be offered by myself and Senator BUMPERS on behalf of Senators DASCHLE, DORGAN, JOHNSON, CONRAD and BAUCUS, regarding the Livestock Indemnity Assistance Program; an amendment proposed by Senators GRAMS and WELLSTONE regarding the planting of wild rice; an amendment proposed by Senator CRAIG regarding inspection and certification of agricultural processing equipment; an amendment proposed by Senator DEWINE on the Orphan Feeding Program in Haiti.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes amendments numbered 973 through 976, en bloc.

The amendments are as follows:

AMENDMENT NO. 973

At the end of the bill insert the following new section:

"SEC. . From proceeds earned from the sale of grain in the disaster reserve established in the Agricultural Act of 1970, the Secretary may use up to an additional $23 million to implement a livestock indemnity program as established in PL 105–18."

AMENDMENT NO. 974

(Purpose: To prohibit the use of appropriated funds to administer the provision of contract payments to a producer for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice)

On page 66, between lines 12 and 13, insert the following:

SEC. 728. PLANTING OF WILD RICE ON CONTRACT ACREAGE.

None of the funds appropriated in this Act may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7. U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice.

Mr. GRAMS. This technical amendment, which I offer with Senator WELLSTONE, simply provides that if a producer decides to grow wild rice on acres on which he receives Agricultural Market Transition Act [AMTA] payments, that producer's AMTA payment will be reduced on those acres.

This amendment ensures that wild rice producers, who do not receive any kind of program payment, do not have to compete against producers who unfairly grow wild rice plus collect farm payments on the same acreage. In short, it ensures fairness by prohibiting double dipping and keeps producers on an equal playing field.

USDA once believed that the substance of this amendment could be accomplished through regulation but later indicated that legislation is necessary.

This same amendment was approved during consideration of last year's Agriculture appropriations on a voice vote but was removed during conference with other provisions for reasons unrelated to the substance of the amendment.

I understand the amendment I offer has been approved by the chairman and ranking member of the Senate Agriculture Committee, Senators LUGAR and HARKIN. I want to thank each of them for their assistance in this regard.

I also understand that this amendment has been accepted by the chairman and ranking member of the Agriculture Appropriations Subcommittee, Senators COCHRAN and BUMPERS.

Accordingly, I would ask the chairman to accept this amendment I offer today with Senator WELLSTONE.

AMENDMENT NO. 975

(Purpose: To prohibit the use of appropriated funds to inspect or certify agricultural products unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products)

On page 66, between lines 12 and 13, insert the following:

SEC. . INSPECTION AND CERTIFICATION OF AGRICULTURAL PROCESSING EQUIPMENT.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available by this Act or any other Act for any fiscal year may be used to carry out section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary.

(b) RELATIONSHIP TO OTHER LAW.—Subsection (a) shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

Mr. CRAIG. Mr. President, I rise today to offer an amendment relative to the inspection of equipment used in the production of agricultural products. For years, FSIS has inspected and certified all equipment used in processing agricultural products. However, FSIS announced on May 2, 1996, its intent to discontinue its prior approval process.

While the FSIS proposal is still pending, no system of prior approval has been developed anywhere at USDA.

Mr. President, the Craig amendment would establish a fee for service system for equipment inspection within AMS, which currently inspects processed agriculture products. Let me stress: The system would be entirely voluntary. Those equipment manufacturers who choose to participate would pay for the service and, if the equipment qualifies, become AMS certified.

This proposal is self-funding and would use the existing trust fund established in section 203(h) of the Agricultural Marketing Act of 1946. By providing a certification process to replace the FSIS system, the amendment would both reduce the risk that unacceptable equipment could be purchased and installed in processing plants and enhance exports of processing equipment.

Mr. President, I appreciate the support of the managers of the bill in adopting this amendment.

AMENDMENT NO. 976

(Purpose: To require the United States Agency for International Development to use at least the same amount of funds made available under title II of Public Law 480 to carry out the orphan feeding program in Haiti during fiscal year 1998 as was used by the Agency to carry out the program during fiscal year 1997)

On page 53, line 3, before the period, insert the following: ": *Provided further*, That, of the amount of funds made available under title II of said Act, the United States Agency for International Development should use at least the same amount of funds to carry out the orphan feeding program in Haiti during fiscal year 1998 as was used by the Agency to carry out the program during fiscal year 1997".

Mr. DEWINE. Mr. President, my amendment is simple and to the point. It urges the U.S. Agency for International Development to maintain the same level of resources for orphan feeding programs in Haiti in fiscal year 1998 as it provided in fiscal year 1997.

The total funding level for Public Law 480 title II food programs is projected to stay the same for fiscal year 1998 as was appropriated for fiscal year 1997. Therefore, I believe that keeping the same level of such resources for this particular program should not be contentious, especially when my colleagues understand who the beneficiaries of this program are.

Mr. President, many facilities in Haiti have to care for a truly vast number of orphans—and also for an increasing number of abandoned and neglected children. In the Port-au-Prince area alone, Christian Relief Services provides Public Law 480 title II food assistance to 70 orphanages. The Adventist Development and Relief Agency also supports some 46 orphanages in the southern rural areas. Simply stated, there are numerous orphanages throughout this country which take care of thousands upon thousands of orphaned and abandoned children.

I have traveled to Haiti four times in the last few years and have visited many orphanages. I can give you a first-hand account of some of their heart-breaking stories. The flow of desperate children into these orphanages is constant—and these institutions face an increasing challenge in accommodating all of these needy children.

Take the case of Notre Dame de Victoires, an orphanage run by Sister Veronique. She will not turn down a single child that is dropped off at her facility. She also makes frequent visits to the local hospitals where babies, after being born, are abandoned. This particular orphanage takes care of the sickest of the sick. They get no means of support other than the food administered to them through CRS, which in turn receives its resources through AID.

Mr. President, let me make it clear what this amendment does. The current program guarantees one meal a day to these orphans. My amendment would ensure that these meals keep coming. I am not talking about medical assistance, clothing, or anything else. Just one meal. These orphanages still have to find sources of support for the other meals and other necessary assistance for these children.

According to AID, $238,000 worth of food went indirectly to orphanages in fiscal year 1996. If this figure is accurate, this is less than 1 percent of the total food resources allocated by AID for Haiti. Specifically, in fiscal year 1996 only 506 metric tonnes of food—out of a total of 50,000 metric tonnes provided by AID—went toward feeding children in orphanages. This is just a drop in the bucket of AID resources.

Now, I have urged AID to maintain the current level of resources allocated for feeding orphans in fiscal year 1997 through fiscal year 1998. AID officials assured me that they will do just that. In fact, they spoke to the relevant relief agencies about the situation and confirmed that this could be done.

My original intent was to earmark this program, requiring AID to implement what has been promised. After numerous conversations between my staff and AID, and after their repeated assurances, the amendment I am offering states that AID simply should honor its commitment. This amendment would make AID's commitment not a personal assurance to me, but a commitment to the U.S. Senate. And if this language is kept in conference and signed into law, the commitment will be thus extended to the entire U.S. Congress.

Mr. President, I am not asking for any more money than the orphanages are currently receiving from AID. This is essential for the survival of many thousands of Haitian children living in overcrowded orphanages. I urge my colleagues to vote for this important amendment.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the amendments be considered and agreed to, en bloc, that statements of the Senators accompanying the amendments be printed in the RECORD, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 973 through 976), en bloc, were agreed to.

Mr. COCHRAN. Mr. President, that concludes action on the Agriculture appropriations bill that is contemplated for this evening. Under the order that has been entered, there will be consideration of specified amendments tomorrow morning, and then we will vote on passage of the bill.

MORNING BUSINESS

Mr. COCHRAN. At the request of the majority leader, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. McCAIN. Mr. President, H.R. 1119, the House-passed version of the National Defense Authorization Act, includes several maritime provisions which are within the jurisdiction of the Senate Committee on Commerce, Science, and Transportation. Of particular interest are section 1021(b) and title XXXVI of that bill. The House National Security Committee, which has jurisdiction over certain maritime matters in that body, has chosen to attach these maritime authorizations to H.R. 1119 rather than include them in a separate bill. If the Senate amends and passes H.R. 1119, the Commerce Committee will not have the opportunity to consider those maritime provisions which are within its jurisdiction.

As both the chairman of the Commerce Committee and a member of the Armed Services Committee, I do not wish to either slow the progress we are making on the National Defense Authorization Act or relinquish the Commerce Committee's right to consider maritime authorizations under its jurisdiction. Therefore, I'd like to take this opportunity to discuss these provisions, and the process for addressing similar jurisdictional issues in the future, with Senator HOLLINGS, ranking member of the Commerce Committee; Senator HUTCHISON, chairman of the Surface Transportation and Merchant Marine Subcommittee; and Senator INOUYE, ranking member of the Surface Transportation and Merchant Marine Subcommittee.

First, I would like to summarize the maritime authorization provisions of H.R. 1119. Section 1021(b) of the bill would amend title 46, United States Code, to facilitate the scrapping of excess National Defense Reserve Fleet [NDRF] vessels that contain hazardous materials and would amend the National Maritime Heritage Act to extend the authorization for this program an additional 2 years to 2001 to account for the delay in scrapping the NDRF vessels. Section 3601 of the bill would authorize appropriations for the Maritime Administration's expenses for operations and training and under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936, at the levels requested by the President for fiscal year 1998. Section 3602 would repeal the requirement for a now obsolete annual report by the Maritime Administration on regional shipbuilding costs. Section 3603 would amend the Maritime Security Act of 1996 by clarifying that the noncontiguous domestic trade restrictions of that act do not apply to self-propelled tanker operations of Maritime Security Program [MSP] contractors. Also, section 3603 would relieve foreign-built MSP vessels from the 3-year delay in eligibility for certain cargo preference programs. Section 3604 would amend the Maritime Security Act to allow vessel operators that participate in military sealift readiness agreements with the Department of Defense, but that are not MSP contractors, to temporarily use foreign-flag vessels as replacements for any vessel activated under those agreements. Section 3605 would convey an NDRF vessel to the Artship Foundation in Oakland, CA. Section 3606 would enforce the single-hull tank vessel phase-out schedule of the Oil Pollution Act of 1990 by eliminating a loophole that would otherwise allow single hull tank vessel lives to be extended by reducing their cargo capacity.

These provisions are clearly within the jurisdiction of the Commerce Committee. I ask that the Armed Services Committee not accept them for inclusion in the final National Defense Authorization Act for fiscal year 1998 so that the Commerce Committee may consider these provisions as separate legislation this year. I ask Senators HOLLINGS, HUTCHISON, and INOUYE if they agree with this position.

Mr. HOLLINGS. Mr. President, I agree that these provisions are clearly within the jurisdiction of the Commerce Committee, that the Armed Services Committee should not accept them for inclusion in the final National Defense Authorization Act for fiscal year 1998, and that the Commerce Committee should consider these provisions as separate legislation this year.

Mrs. HUTCHISON. Mr. President, I agree with this proposed course of action. I intend to introduce separate legislation including these provisions so that they may be considered by the Commerce Committee this year.

Mr. INOUYE. Mr. President, I intend to work with Senator HUTCHISON on separate authorizing legislation, and also agree with this proposed course of action.

Mr. McCAIN. Mr. President, I also intend to work with the members of the Commerce Committee and the Armed Services Committee to ensure full Commerce Committee consideration of maritime issues that may be included in future national defense bills initiated by the other body.

Mr. HOLLINGS. Mr. President, I share the Commerce Committee chairman's interest in working with the Armed Services Committee to ensure that the future inclusion of maritime provisions in House-passed national defense bills does not impair the Commerce Committee's ability to carry out its jurisdictional responsibility over issues affecting the Maritime Administration and the merchant marine.

TRIBUTE TO THE LATE GEN. FRANK S. BESSON, JR.

Mr. THURMOND. Mr. President, though the borders of the United States stretch from the Atlantic to the Pacific, and from the Rio Grande to the "Great White North," the defense of our Nation takes our military personnel around the globe. Point to almost any continent on the globe and you will find American soldiers serving bravely and selflessly, and transporting these men and women to the far corners of the Earth, as well as keeping them supplied with everything from bullets to vehicles, is a challenging but essential task which falls to the Army Materiel Command. Today, I rise to pay tribute to a man who made many innovations in the field of military logistics and who served the U.S. Army in times of peace and war, Gen. Frank S. Besson, Jr.

General Besson passed away more than 10 years ago, but during his life and military career, he distinguished himself in any number of ways and set an excellent example for service to the Nation and devotion to the Army. A 1932 graduate of the U.S. Military Academy, then Second Lieutenant Besson headed north to Boston where he earned a master's degree at the Massachusetts Institute of Technology. His education and training at West Point and MIT paid dividends for the security of the Nation, and helped to pave his way to leadership positions at the highest levels of the U.S. Army. During his career, Frank Besson served with distinction in Persia, Japan, Europe, and in the United States. He was responsible for important innovations in the areas of military pipelines, steel airplane landing mats, steel treadway bridges, and "roll-on/roll-off" techniques. Though no sane person welcomed the outbreak of World War II, that conflict proved the viability of Frank Beeson's innovations, and the lives of thousands of GI's were made a little easier thanks to his ideas and efforts. As a matter of fact, it was Frank Besson who ordered studies which led to the adoption of the "Bailey Bridge," a key piece of equipment used during World War II which allowed Allied Forces greater mobility in their march against the Reich.

At age 34, Frank Besson became the youngest brigadier general in the Army Ground Forces. From 1941 to 1945, while we battled the Axis Powers, General Besson was charged with ensuring that Allied supplies reached Soviet forces through the Persian corridor, and as the Deputy Chief Transportation Officer of Army Forces in the Western Pacific, he played an important role in the war against Japan. When the Imperial Japanese surrendered in 1945, General Besson shifted his efforts from working for the defeat of that nation to helping rehabilitate its rail system and working to rebuild Japan.

As the shooting of World War II was replaced by the tense stalemate of the cold war, General Besson continued to serve, this time working to contain the Soviet Union by helping NATO plan and meet its logistical challenges. By the end of the 1950's, General Besson had reached the top of his career field, serving as Chief of Transportation for the U.S. Army, and when the Army Materiel Command was formed in 1962, he took command of this new entity. On May 27, 1964, General Besson again made history by becoming the first Army officer to become a four-star general as the head of a logistical organization during peacetime.

During his career, General Besson earned a long list of awards, commendations, and distinctions, including the Distinguished Service Medal, the Legion of Merit, and the Commander of the Order of the British Empire. There is no question that this was a man who made his mark on military and transportation history, and who dedicated his life to protecting our Nation. While it has been many years since General Besson wore the uniform of the U.S. Army, his accomplishments, leadership, and service have not been forgotten, and as a matter of fact, they are still greatly appreciated by the soldiers of today. In recognition of this unique man's illustrious career, the men and women of the Army Transportation Corps will today induct the late Gen. Frank S. Besson, Jr., into the Transportation Corps Hall of Fame at the U.S. Army Transportation Center and Fort Eustis, VA. This is an honor which is certainly appropriate, and I salute General Besson's distinguished career and add my congratulations to his proud family and friends as they gather to pay homage to this great soldier.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JULY 18

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending July 18, the United States imported 8,145,000 barrels of oil each day, 360,000 barrels more than the 7,785,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 56.3 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 8,145,000 barrels a day.

RESOLVING OUR MARITIME DISPUTES WITH CANADA

Mr. BIDEN. Mr. President, today I voted against the resolution offered by Senator MURKOWSKI condemning the Government of Canada for its failure to resolve the blockade of a United States vessel in Canadian waters.

Canada's inaction clearly was wrong. The M/V *Malaspina*, a United Stats passenger vessel operated by the Alaska Marine Highway System, was blockaded in port by Canadian fishing boats for 3 days. The Canadian Government not only failed to condemn the blockage of the Ferry boat, it also took no action to enforce an injunction issued by a Canadian court requiring the M/V *Malaspina* to be allowed to continue its passage. The ferry was able to continue its passage only when the fishing boats voluntarily ended their blockade.

There is no doubt that the M/V *Malaspina* has the right of innocent passage through the territorial sea of Canada. Article 17 of the United Nations Convention on the Law of the Sea guarantees that right to the ships of all states.

There can also be no doubt that Canada failed to handle the illegal blockage of the United States vessel responsibly.

The amendment introduced by Senator MURKOWSKI, however, is overkill. It would grant broad authority to the President and instruct him to compel Canada to prevent any further harassment of United States shipping. The amendment hints at the use of military force to escort shipping through Canadian waters, and offers only vague guidance on how outstanding maritime disputes with Canada might ultimately be resolved.

I believe that we should not jump to coercive methods to deal with maritime disputes—especially with one of our closest allies and largest trading partners—until all other diplomatic avenues have been tried and exhausted. Moreover, as a general rule, the Senate should avoid granting the President broad authority to accomplish vague objectives.

Rather than escalating this dispute, the Senate should call on Canada to fulfill its international commitments and provide assurances that the M/V *Malaspina* episode will not be repeated. We deserve at least that much consideration from our ally to the north.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12 noon, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 765. An act to ensure maintenance of a herd of wild horses in Cape Lookout National Seashore.

H.R. 1585. An act to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued United States postage stamps, and for other purposes.

H.R. 1661. An act to implement the provisions of the Trademark Law Treaty.

H.R. 1663. An act to clarify the intent of the Congress in Public Law 93–632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that Public Law.

H.R. 1853. An act to amend the Carl D. Perkins Vocational and Applied Technology Education Act.

H.R. 1944. An act to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 81. Concurrent resolution calling for a United States initiative seeking a just and peaceful resolution of the situation on Cyprus.

H. Con. Res. 88. Concurrent resolution congratulating the Government and the people of the Republic of El Salvador on successfully completing free and democratic elections on March 16, 1997.

H. Con. Res. 99. Concurrent resolution expressing concern over recent years in the Republic of Sierra Leone in the wake of the recent military coup d'etat of that country's first democratically elected President.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1661. An act to implement the provisions of the Trademark Law Treaty; to the Committee on the Judiciary.

H.R. 1663. An act to clarify the intent of the Congress in Public Law 93-632 to require the Secretary of Agriculture to continue to provide the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that Public Law; to the Committee on Energy and Natural Resources.

H.R. 1853. An act to amend the Carl D. Perkins Vocational and Applied Technology Education Act; to the Committee on Labor and Human Resources.

H.R. 1944. An act to provide for a land exchange involving the Warner Canyon Ski Area and other land in the State of Oregon; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 81. Concurrent resolution calling for a United States initiative seeking a just and peaceful resolution of the situation on Cyprus; to the Committee on Foreign Relations.

H. Con. Res. 88. Concurrent resolution congratulating the Government and the people of the Republic of El Salvador on successfully completing free and democratic elections on March 16, 1997; to the Committee on Foreign Relations.

H. Con. Res. 99. Concurrent resolution expressing concern over recent events in the Republic of Sierra Leone in the wake of the recent military coup d'etat of that country's first democratically elected President; to the Committee on Foreign Relations.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 748. An act to amend the prohibition of title 18, United States Code, against financial transactions with terrorists.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-186. A resolution adopted by the East Tennessee Development District relative to the National Spallation Neutron Source; to the Committee on Commerce, Science, and Transportation.

POM-187. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Armed Services.

RESOLUTION

Whereas Alaska is the 49th state to enter the federal union of the United States of America and is entitled to all of the rights, privileges, and obligations that the union affords and requires; and

Whereas Alaska possesses natural resources, including energy, mineral, and human resources, vital to the prosperity and national security of the United States; and

Whereas the people of Alaska are conscious of the state's remote northern location and proximity to Northeast Asia and the Eurasian land mass, and of how the unique location places the state in a more vulnerable position than other states with regard to missiles that could be launched in Asia and Europe; and

Whereas the people of Alaska recognize the changing nature of the international political structure and evolution and proliferation of missile delivery systems and weapons of mass destruction as foreign states seek the military means to deter the power of the United States in international affairs; and

Whereas there is a growing threat to Alaska by potential aggressors in these nations and in rogue nations that are seeking nuclear weapons capability and that have sponsored international terrorism; and

Whereas a National Intelligence Estimate to assess missile threats to the United States left Alaska and Hawaii out of the assessment and estimate; and

Whereas one of the primary reasons for joining the Union of the United States of America was to gain security for the people of Alaska and for the common regulation of foreign affairs on the basis of an equitable membership in the United States federation; and

Whereas the United States plans to field a national missile defense, perhaps as early as 2003; this national missile defense plan will provide only a fragile defense for Alaska, the state most likely to be threatened by new missile powers that are emerging in Northeast Asia; be it

Resolved That the Alaska State Legislature respectfully requests the President of the United States to take all actions necessary, within the considerable limits of the resources of the United States, to protect on an equal basis all peoples and resources of this great Union from threat of missile attack regardless of the physical location of the member state; and be it further

Resolved That the Alaska State Legislature respectfully requests that Alaska be included in every National Intelligence Estimate conducted by the United States joint intelligence agencies; and be it further

Resolved That the Alaska State Legislature respectfully requests the President of the United States to include Alaska and Hawaii, not just the contiguous 48 states, in every National Intelligence Estimate of missile threat to the United States; and be it further

Resolved That the Alaska State Legislature urges the United States government to take necessary measures to ensure that Alaska is protected against foreseeable threats, nuclear and otherwise, posed by foreign aggressors, including deployment of a ballistic missile defense system to protect Alaska; and be it further

Resolved That the Alaska State Legislature conveys to the President of the United States expectations that Alaska's safety and security take priority over any international treaty or obligation and that the President take whatever action is necessary to ensure that Alaska can be defended against limited missile attacks with the same degree of assurance as that provided to all other states; and be it further

Resolved That the Alaska State Legislature respectfully requests that the appropriate Congressional committees hold hearings in Alaska that include defense experts and administration officials to help Alaskans understand their risks, their level of security, and Alaska's vulnerability.

POM-188. A resolution adopted by General Court of the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

RESOLUTION

Whereas, the Blackstone River Valley National Heritage Corridor was established by Congress through the enactment of Public Law 99-647, for the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage certain historic and cultural lands, waterways, and structures within the Blackstone River Valley of the States of Massachusetts and Rhode Island; and

Whereas, the Peters River, which begins at the Silver Lake Beach Dam in the town of Bellingham, is a major tributary of the historic Blackstone River; and

Whereas, it is a historic fact that, at a time when few bridges spanned the Blackstone River, many travelers had to rely on Bellingham's Scott Hill Boulevard, then part of East Bank Road, as a river crossing, tying the town of Bellingham to the other towns of the Blackstone Valley, and at a time when Bellingham residents also operated several mills in the early nineteenth century, providing significant historic and cultural links to the corridor communities; and

Whereas, Bellingham's commitment to providing open space is demonstrated by the town's purchase of Silver Lake and of land for the development of a town common, achieves another significant requirement for membership in the National Heritage Corridor; and

Whereas, the town officials and members of the business community in Bellingham have demonstrated significant support for preservation of historic and natural assets of Bellingham and the Blackstone River Valley; and

Whereas, the addition of Bellingham, a town which abuts the corridor communities of Blackstone and Mendon in Massachusetts and Woonsocket in the State of Rhode Island, to the Blackstone River National Heritage Corridor, would enhance the historic and cultural resources of the existing corridor; therefore be it

Resolved, That the Massachusetts General Court respectfully urges the President and the Congress of the United States to enact legislation to expand the Blackstone River Valley National Heritage Corridor to include the town of Bellingham within the corridor boundaries; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the

Senate to the President of the United States, the Presiding Officer of each branch of the Congress, and to each member thereof from this commonwealth.

POM–189. A resolution adopted by General Court of the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

RESOLUTION

Whereas, the Quinebaug and Shetucket Rivers Valley National Heritage Corridor was established by Congress through the enactment of Public Law 103–449 for the purpose of providing assistance in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley; and

Whereas, the Quinebaug and Shetucket Rivers Valley extends beyond the boundary of the State of Connecticut northward into the Commonwealth of Massachusetts including towns along the French River, a tributary of the Quinebaug, such as Charlton, Dudley, Oxford, Southbridge, Sturbridge, and Webster; and

Whereas, the Massachusetts communities within the Quinebaug and Shetucket Rivers Valley include nationally significant historic and cultural resources such as Samuel Slater's Mill Village in Webster, the birthplace of Clara Barton in Oxford, the Optical Museum of America in Southbridge, and the nationally known "Old Sturbridge Village" in Sturbridge, as well as countless buildings on the National Register of Historic Places; and

Whereas, the Massachusetts communities include significant natural scenic areas, tourist attractions, and local, State, and Federal recreational sites that would enhance the historic, cultural, and natural resources of the existing corridor; therefore be it

Resolved, That the Massachusetts General Court respectfully urges the President and the Congress of the United States to enact legislation to expand the Quinebaug and Shetucket Rivers Valley National Heritage Corridor to include the towns of Charlton, Dudley, Oxford, Southbridge, Sturbridge, and Webster, within the corridor boundaries; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, the Presiding Officer of each branch of the Congress, and to each member thereof from this commonwealth.

POM–190. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Finance.

RESOLUTION

Whereas the federal matching rate for the Medicaid program in each state varies from 50 percent to 77 percent based on the relative per capita income of each state; and

Whereas the use of a simple per capita income figure in the Medicaid program is unfair to the State of Alaska because it ignores the higher cost of living in Alaska, particularly the higher cost of health care services; and

Whereas this unfair federal funding formula affects not only the state's receipt of federal matching funds for Medicaid but also for the Foster Care and Adoption Assistance Program, child support disbursements, and certain funds under welfare reform; and

Whereas the federal government has already recognized the higher cost of living in Alaska by adjusting by 25 percent the Medicare nursing facility rates and the federal poverty level figures for the state; and

Whereas the use of a 25 percent cost-of-living adjustment in the federal formula would reduce the state's general fund Medicaid match from 50 percent to 38 percent, resulting in a savings of $39,249,300 in Medicaid and $646,000 in the Foster Care and Adoption Assistance Program that could be applied to other state purposes without any reductions in Medicaid services or services to children; be it

Resolved That the Alaska State Legislature respectfully urges the Congress to amend the Social Security Act so that the higher cost of living in Alaska is reflected when per capita income is used in determining the federal share of Medicaid costs in the state.

POM–191. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

RESOLUTION

Whereas, Joshua Lawrence Chamberlain, born in Brewer, Maine in 1828, was an outstanding soldier, educator, statesman and author during his long and distinguished career; and

Whereas, Joshua Lawrence Chamberlain was the living embodiment of Maine character, grit and courage; and

Whereas, Joshua Lawrence Chamberlain, as Colonel of the 20th Maine Volunteer Infantry Regiment, contributed greatly to Union victory at Gettysburg by his heroic defense of Little Round Top on July 2, 1863; and

Whereas, Joshua Lawrence Chamberlain, as Major General of the Third Brigade, Fifth Corps, Army of the Potomac, was selected by Lieutenant General Ulysses S. Grant to preside over the formal surrender of the Army of Northern Virginia on April 12, 1865, rendered a salute to the defeated adversary that symbolized hopes for reconciliation of North and South; and

Whereas, Joshua Lawrence Chamberlain, as commander of the militia, displayed great statesmanship in averting civil conflict without resort to arms during the 1880 Election Crisis in Maine; and

Whereas, Joshua Lawrence Chamberlain was a progressive educator who inaugurated a "new Elizabethan age" of learning as President of Bowdoin College, represented Maine at the 1876 Philadelphia Centennial, speaking on "Maine: Her Place in History," represented the United States at the Paris Exposition on education and wrote the classic The Passing of the Armies; and

Whereas, Joshua Lawrence Chamberlain is an historical figure of national significance: Now, therefore, be it

Resolved: That We, your Memorialists, the Members of the 118th Legislature, now assembled in this First Special Session, respectfully recommend and urge the United States Postal Service to issue a stamp honoring Joshua Lawrence Chamberlain; and be it further

Resolved: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each member of the Maine Congressional Delegation and to the Postmaster General of the United States Postal Service.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Patrick A. Shea, of Utah, to be Director of the Bureau of Land Management.

Kathleen M. Karpan, of Wyoming, to be Director of the Office of Surface Mining Reclamation and Enforcement.

Robert G. Stanton, of Virginia, to be Director of the National Park Service.

Kneeland C. Youngblood, of Texas, to be a Member of the Board of Directors of the U.S. Enrichment Corporation for a term expiring February 24, 2002.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation:

Jane Garvey, of Massachusetts, to be Administrator of the Federal Aviation Administration for the term of 5 years.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Louis Caldera, of California, to be a Managing Director of the Corporation for National and Community Service.

Ernestine P. Watlington, of Pennsylvania, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999.

John T. Broderick, Jr., of New Hampshire, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999.

Gina McDonald, of Kansas, to be a Member of the National Council on Disability for a term expiring September 17, 1998.

Bonnie O'Day, of Minnesota, to be a Member of the National Council on Disability for a term expiring September 17, 1998.

Paul Simon, of Illinois, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 16 nomination lists in the Air Force, Army, Marine Corps, and the Navy which were printed in full in the CONGRESSIONAL RECORDS of June 12, 17, 23, 27, July 8 and 9, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of June 12, 17, 23, 27, July 8 and 9, 1997, at the end of the Senate proceedings.)

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

Beginning James W Adams and ending Michael B Wood, received by Senate and appeared in Congressional Record of June 17, 1997.

Beginning James M Abatti and ending Scott A Zuerlein, received by Senate and appeared in Congressional Record of July 8, 1997.

IN THE ARMY

Juliet T. Tanada, received by Senate and appeared in Congressional Record of June 17, 1997.

Beginning Cornelius S. Mccarthy and ending *Todd A. Mercer, received by Senate and appeared in Congressional Record of June 23, 1997.

Beginning Terry L. Belvin and ending James A. Zernicke, received by Senate and appeared in Congressional Record of June 27, 1997.

Beginning Daniel J. Adelstein and ending *Alan S. Mccoy, received by Senate and appeared in Congressional Record of July 8, 1997.

Maureen K. Leboeuf, received by Senate and appeared in Congressional Record of July 8, 1997.

Beginning James A. Barrineau, Jr., and ending Deborah C. Wheeling, received by Senate and appeared in Congressional Record of July 8, 1997.

IN THE MARINE CORPS

Thomas W. Spencer, received by Senate and appeared in Congressional Record of June 23, 1997.

Dennis M. Arinello, received by Senate and appeared in Congressional Record of June 23, 1997.

Carlo A. Montemayor, received by Senate and appeared in Congressional Record of June 23, 1997.

Beginning Demetrice M. Babb and ending John E. Zeger, Jr., received by Senate and appeared in Congressional Record of June 27, 1997.

Anthony J. Zell, received by Senate and appeared in Congressional Record of July 8, 1997.

Mark G. Garcia, received by Senate and appeared in Congressional Record of July 8, 1997.

IN THE NAVY

Beginning John A Achenbach and ending Sreten Zivovic, received by Senate and appeared in Congressional Record of June 12, 1997.

Beginning Layne M. K. Araki and ending Charles F. Wrightson, received by Senate and appeared in Congressional Record of July 8, 1997.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 1054. A bill to amend title II of the Social Security Act to establish, for purposes of disability determinations under such titles, a uniform minimum level of earnings, for demonstrating ability to engage in substantial gainful activity, at the level currently applicable solely to blind individuals; to the Committee on Finance.

By Mr. DURBIN (for himself, Ms. MOSELEY-BRAUN, and Mr. REID):

S. 1055. A bill to amend title 23, United States Code, to extend the Interstate 4R discretionary program; to the Committee on Environment and Public Works.

By Mr. BURNS (for himself, Mr. COATS, and Mr. LUGAR):

S. 1056. A bill to provide for farm-related exemptions from certain hazardous materials transporation requirements; to the Committee on Commerce, Science, and Transportation.

By Mr. REED (for himself, Mr. BRYAN, Mr. HOLLINGS, and Mr. JOHNSON):

S. 1057. A bill to amend the Federal Election Campaign Act of 1971 to require mandatory spending limits for Senate candidates and limits on independent expenditures, to ban soft money, and for other purposes; to the Committee on Rules and Administration.

By Mr. DURBIN:

S. 1058. A bill to amend the National Forest Management Act of 1976 to prohibit below-cost timber sales in the Shawnee National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, and Mr. GRAHAM):

S. 1059. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. WYDEN, Mr. DURBIN, and Mr. HARKIN):

S. 1060. A bill to restrict the activities of the United States with respect to foreign laws that regulate the marketing of tobacco products and to subject cigarettes that are exported to the same restrictions on labeling as apply to the sale or distribution of cigarettes in the United States; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. GORTON, and Mr. HELMS):

S. Res. 109. A resolution condemning the Government of Canada for its failure to accept responsibility for the illegal blockade of a U.S. vessel in Canada, and calling on the President to take appropriate action; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Ms. MOSELEY-BRAUN and Mr. REID):

S. 1055. A bill to amend title 23, United States Code, to extend the Interstate 4R discretionary program; to the Committee on Environment and Public Works.

THE INTERSTATE SYSTEM IMPROVEMENT ACT OF 1997

Mr. DURBIN. Mr. President, today I am introducing legislation that would help improve our country's aging Interstate System—the Interstate System Improvement Act of 1997. My colleagues, Senators MOSELEY-BRAUN and REID have joined me as original cosponsors.

This bill is simple. It would fund the discretionary Interstate 4R [I-4R] program at a level of $800 million annually, a significant increase from the current level of $66 million in fiscal year 1997. I believe that the I-4R program is one of the most crucial aspects of the upcoming Intermodal Surface Transportation and Efficiency Act [ISTEA] reauthorization. And, I hope to work with my colleagues on the Environment and Public Works Committee to incorporate this important measure into ISTEA legislation later this year.

The I-4R program is critical to the resurfacing, restoration, rehabilitation, and reconstruction of our country's vital infrastructure. This year, the program is funded at $66 million. However, demand for funds has outpaced available money by more than 9 to 1. For example, in fiscal year 1997, 25 States requested $1.2 billion in I-4R funds under the discretionary program. Only six States received assistance, most at greatly reduced levels. Nineteen States will receive no I-4R discretionary funds in fiscal year 1997 and over $1 billion in funding requests have gone unanswered.

States with major interstate projects would benefit greatly from this legislation. In Illinois alone, the State faces a highway funding shortage because of crucial projects like the Stevenson Expressway in Chicago and I-74 in Peoria. These projects are simply too important to delay. A healthy I-4R discretionary program is necessary in order to rebuild this vital infrastructure.

Mr. President, I urge my colleagues to join me in advancing this important legislation.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to introduce the Interstate System Improvement Act of 1997 with my colleague from Illinois, Senator DURBIN.

This legislation would increase the authorization for the discretionary I-4R program from its current level of around $60 to $800 million annually. This change would allow States with large interstate improvement projects to compete for discretionary grants at the Federal level.

As our Nation's interstate system ages, it is going to become more important for many States to have access to large, discretionary grants for major interstate improvement projects. For my home State of Illinois, this legislation would provide an opportunity to compete for funds to reconstruct a 15-mile segment of the aging Stevenson Expressway, one of the Chicago area's most important arteries, and one that is badly in need of repair.

I believe this change is important to improve our current system of highway funding, and I urge my colleagues on the Environment and Public Works Committee who are involved in drafting legislation to reauthorize the Intermodal Surface Transportation and Efficiency Act to include this legislation as part of their reauthorization bill.

By Mr. BURNS (for himself, Mr. COATS, and Mr. LUGAR):

S. 1056. A bill to provide for farm-related exemptions from certain hazardous materials transportation requirements; to the Committee on Commerce, Science, and Transportation.

FARM-RELATED EXEMPTIONS LEGISLATION

Mr. BURNS. Mr. President, I am introducing today a bill to provide for farm-related exemptions for certain hazardous materials and transportation requirements. I send it to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The bill will be read twice and then referred to the appropriate committee.

Mr. BURNS. Mr. President, today, I rise to introduce a bill that will provide further regulatory relief for our farmers and ranchers.

Let me give you some background on this issue. Earlier this year, the U.S. Department of Transportation published a rule under the HM–200 docket which severely restricts the transportation of agricultural products classified as hazardous materials.

This aspect of the HM–200 rule could cost the agricultural retail industry and the farm economy millions of dollars every year.

Currently, States model their regulations concerning the transport of hazardous materials on Federal Hazardous Materials Regulations [HMR's]. However, some States with large farm economies provide exceptions from the State HMR's to the agricultural industry for the short-haul, intrastate, retail-to-farm transport of agricultural inputs.

HM–200 would supersede all State HMR's, eliminate these exceptions, and apply Federal regulations to the short-haul, seasonal and mostly rural transport of farm products.

The cost of this regulatory burden is estimated to be in excess of $12,300 a year for each agricultural retailer. Industrywide, it is estimated that it could cost the agricultural economy nearly $62 million annually.

We all want safe highways, safe food production, and a safe workplace, but when DOT, OSHA, and EPA regulations are stirred together in a pot, the stew can turn out to be quite rancid. Placing these Federal burdens on the backs of farmers and ranchers in Montana's rural communities, can mean the difference between flying or dying.

HM–200 will require agricultural retailers to comply with time consuming and costly regulations that will not make our rural roads safer, but only increase the cost of doing business, cause confusion, and require unnecessary paperwork. These expenses will be passed on to farmers who already are burdened with slimming margins and ever higher cost of production.

States and the agricultural community have an excellent track record for protecting the environment and keeping the public safe. The agricultural retail industry complies with numerous safety measures such as requiring all drivers to have Commercial Drivers Licenses [CDL's] drug and alcohol testing for drivers, HAZMAT handling experience, and so forth.

Additionally, States which do not provide exceptions to their own HMR's for the agricultural community will face a new regulatory burden since these States rarely enforce the regulations that they have in place. The U.S. DOT has made it abundantly clear that they will expect all States to actively enforce HM–200, thereby making it an unfunded mandate.

Despite petitions for reconsideration from the agricultural community—all of which have gone unanswered by DOT—HM–200 is due to be implemented on October 1, 1997—it was published in February of this year.

This legislation seeks to delay implementation of HM–200 with respect to agricultural transports, until October 1, 1999, or until the reauthorization of Federal Hazardous Materials legislation. By allowing for a delay in HM–200 implementation, I believe we can properly address and examine the facts as they stand with regard to the need for this new regulation.

I urge my colleagues to support this vital legislation, and help keep our agricultural community from having to bear a needless expense which has little safety value to the public.

By Mr. REED (for himself, Mr. BRYAN, Mr. HOLLINGS, and Mr. JOHNSON):

S. 1057. A bill to amend the Federal Election Campaign Act of 1971 to require mandatory spending limits for Senate candidates and limits on independent expenditures, to ban soft money, and for other purposes; to the Committee on Rules and Administration.

THE CAMPAIGN SPENDING CONTROL ACT OF 1997

Mr. REED. Mr. President, I rise today to discuss legislation I have just introduced, the Campaign Spending Control Act of 1997. The 1996 elections, unfortunately, will be remembered for two remarkable facts. First, Federal campaigns produced record spending; over $2.7 billion or almost $28 for every voter. Second, the election produced record-low voter participation: less than half of those eligible chose to vote. These two tragic facts are inextricably linked.

Due to the vast sums of money spent on campaigns, most Americans believe our current campaign system is tainted by special interest money. Under a flood of money and television ads, voters view their voice as meaningless, their concerns as unaddressed, and their votes as unimportant. In order to restore public confidence, campaign finance reform must accomplish three goals. It must significantly reduce campaign spending; level the playing field for those who challenge incumbents; and, finally, encourage greater public participation and debate.

These goals cannot be successfully addressed without significantly changing the rules which govern campaigns. Campaign scandals have posed a threat to the health of our democracy throughout our Nation's history. In 1907, after enduring embarrassment over a campaign scandal, President Teddy Roosevelt championed legislation prohibiting corporations from financing Federal candidates. In 1974, responding to the scandals of the 1972 elections and the resignation of President Nixon, Congress overwhelmingly passed legislation limiting spending by candidates, parties, and wealthy individuals.

In 1996, all the past campaign reforms imploded, with a flood of corporate and individual money overwhelming legal limits. Million-dollar corporate contributions funded advertisements to impact Presidential and congressional campaigns. Well-funded individuals and organizations also got into the act. By spending a record $70 million on so-called issue advertising, labor unions, business organizations, and ideological groups circumvented limits on direct contributions to candidates. Thus, candidates, awash in a sea of outside money, were pushed to not only trounce their opponents in fundraising, but to match outside groups. The chase for dollars sapped candidates' time which could have been spent debating, attending forums, and otherwise engaging voters. Once solicited, most of these millions were spent on uninformative, 30-second advertisements, which only served to further alienate the electorate. Unchecked, this campaign system will spiral into exponential spending increases, further disenfranchisement, and less dialog. The system is already close to collapsing under its own weight; the time to act is now.

The roots of this abysmal situation can be traced to a misguided Supreme Court decision. In Buckley versus Valeo, a 1976 case which challenged the 1974 campaign reform legislation, the Court held that, in order to avoid corruption, contributions to candidates and committees could be limited. However, the Court invalidated expenditure limits on candidates and independent entities as infringements on free speech rights. The Court surmised that unlimited spending would increase the number and depth of issues discussed. Twenty years of campaign spending has proven the Court's decision fatally flawed: fewer issues are discussed, less debate occurs, and voter participation has declined. The single most important step to reform elections and revitalize our democracy is to reverse the Buckley decision by limiting the amount of money that a candidate or his allies can spend.

For this reason, Senators BRYAN, HOLLINGS, JOHNSON, and I are introducing legislation which directly challenges the Buckley decision and places mandatory limits on all campaign expenditures. These limits do not favor incumbents. Over the last three elections, these limits would have restricted 80 percent of incumbents, while only impacting 18 percent of those who challenged incumbents. Additionally, this legislation would fully ban corporate contributions, as well as unlimited and unregulated contributions by wealthy individuals and organizations. Further, our bill would limit campaign expenditures by supposedly, neutral, independent groups, and restrict corporations, labor unions, and other organizations from influencing campaigns under the guise of issue advocacy. The end result of this legislation would be to eliminate over $500 million from the system, discourage violations, encourage challenges to incumbents, and further promote debate among both candidates and the electorate.

What effect would these limits have on political debate? Contrary to the Supreme Court, I believe such limits would increase dialog. Candidates would be free from the burdens of unending fundraising and thus be available to participate in debates, forums, and interviews. With greater access to candidates and less reason to believe that candidates were captives of their contributors, voters might well be more prepared to invest the time needed to be informed on issues of concern and ask candidates to address them.

Some will argue that this legislation impinges upon freedom of speech. The bill will marginally restrict the rights of a few to spend money—not speak—so that the majority of voters might restore their faith in the process. Thus, speech will be restricted no more than necessary to fulfill what I believe to be several compelling interests. Such a restriction conforms with constitutional jurisprudence and has been demonstrated necessary by history. The fact is all democratic debates are restricted by rules. My legislation would simply implement necessary rules into our campaign system. Finally, it is important to remember that the vast majority of Americans, 96 percent, have never made a political contribution at any level of government. Capping expenditures will truly impact very few individuals, and that restriction will be marginal, but necessary.

Implementing spending caps is a grass-roots initiative. Elected officials from 33 States have urged that the Buckley decision be revisited and limits implemented. Legislative bodies in Ohio and Vermont have implemented sweeping reform by enacting mandatory caps on candidate expenditures. Other States, such as my own, have embraced public financing as a means of reform. Yet, today, Congress struggles to even consider the most modest of reforms, such as banning so called soft money: unlimited donations by corporations, labor unions, and wealthy individuals to political party committees. Unfortunately, because most of the current reform proposals accept the reasoning enunciated in the Buckley decision, they will only serve to redirect an unlimited flow of cash. While I enthusiastically support any substantive reform, if we are to address the underlying cancer which has disintegrated voter trust and participation, the problem of unlimited expenditures must be directly confronted. This is a step that one municipality and two States have embraced. Many more State officials as well as prominent constitutional law scholars have urged such a course. Expenditure limitations have been proposed by congressional reformers in the past, and it is time to rededicate ourselves to this goal.

Mr. President, I have a list of the 33 State officials and 24 State attorneys general who have urged the reversal of Buckley. I ask unanimous consent that these documents be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. REED. Mr. President, our democracy is dependent upon participation, stimulated by a belief that the system works for everyone. Just as scandals led to reform in 1907 and 1974, Congress must now rise to the task once again to address a threat to our democratic process. Polls continue to demonstrate that a majority of Americans believe the political process is controlled by wealthy interests. The most dangerous aspect of the current situation is that polls also show that voters have no faith in the ability of their representatives to implement reform. If we do not address the influence of money in our electoral system, the health of our democracy will endure increasing risk. It is time to begin true, comprehensive reform. I would like to thank Senators BRYAN, HOLLINGS, and JOHNSON for joining me in this endeavor. Their leadership on this issue in the past has proven invaluable, and I am proud that they have chosen to join me in this important effort. It is my hope that the Senate will now move to address the problem of our campaign system at its root. Finally, Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Campaign Spending Control Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Statement of purpose.
Sec. 3. Findings of fact.

TITLE I—SENATE ELECTION SPENDING LIMITS

Sec. 101. Senate election spending limits.

TITLE II—COORDINATED AND INDEPENDENT EXPENDITURES

Sec. 201. Adding definition of coordination to definition of contribution.
Sec. 202. Treatment of certain coordinated contributions and expenditures.
Sec. 203. Political party committees.
Sec. 204. Limit on independent expenditures.
Sec. 205. Clarification of definitions relating to independent expenditures.
Sec. 206. Elimination of leadership PACs.

TITLE III—SOFT MONEY

Sec. 301. Soft money of political party committee.
Sec. 302. State party grassroots funds.
Sec. 303. Reporting requirements.
Sec. 304. Soft money of persons other than political parties.

TITLE IV—ENFORCEMENT

Sec. 401. Filing of reports using computers and facsimile machines.
Sec. 402. Audits.
Sec. 403. Authority to seek injunction.
Sec. 404. Increase in penalty for knowing and willful violations.
Sec. 405. Prohibition of contributions by individuals not qualified to vote.
Sec. 406. Use of candidates' names.
Sec. 407. Expedited procedures.

TITLE V—SEVERABILITY; REGULATIONS; EFFECTIVE DATE

Sec. 501. Severability.
Sec. 502. Regulations.
Sec. 503. Effective date.

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to—

(1) restore the public confidence in and the integrity of our democratic system;

(2) strengthen and promote full and free discussion and debate during election campaigns;

(3) relieve Federal officeholders from limitations on their attention to the affairs of the Federal government that can arise from excessive attention to fundraising;

(4) relieve elective office-seekers and officeholders from the limitations on purposeful political conduct and discourse that can arise from excessive attention to fundraising;

(5) reduce corruption and undue influence, or the appearance thereof, in the financing of Federal election campaigns; and

(6) provide non-preferential terms of access to elected Federal officeholders by all interested members of the public in order to uphold the constitutionally guaranteed right to petition the Government for redress of grievances.

SEC. 3. FINDINGS OF FACT.

Congress finds the following:

(1) The current Federal campaign finance system, with its perceived preferential access to lawmakers for interest groups capable of contributing sizable sums of money to lawmakers' campaigns, has caused a widespread loss of public confidence in the fairness and responsiveness of elective government and undermined the belief, necessary to a functioning democracy, that the Government exists to serve the needs of all people.

(2) The United States Supreme Court, in *Buckley v. Valeo*, 424 U.S. 1 (1976), disapproved the use of mandatory spending limits as a remedy for such effects, while approving the use of campaign contribution limits.

(3) Since that time, campaign expenditures have risen steeply in Federal elections with spending by successful candidates for the United States Senate between 1976 and 1996 rising from $609,100 to $3,775,000, an increase that is twice the rate of inflation.

(4) As campaign spending has escalated, voter turnout has steadily declined and in 1996 voter turnout fell to its lowest point since 1924, and stands now at the lowest level of any democracy in the world.

(5) Coupled with out-of-control campaign spending has come the constant necessity of fundraising, arising, to a large extent, from candidates adopting a defensive "arms race" posture of constant readiness against the risk of massively financed attacks against whatever the candidate may say or do.

(6) The current campaign finance system has had a deleterious effect on those who hold public office as endless fundraising pressures intrude upon the performance of constitutionally required duties. Capable and dedicated officials have left office in dismay over these distractions and the negative public perceptions that the fundraising process engenders and numerous qualified citizens have declined to seek office because of the prospect of having to raise the extraordinary amounts of money needed in today's elections.

(7) The requirement for candidates to fundraise, the average 1996 expenditure level required a successful Senate candidate to raise more than $12,099 a week for 6 years, significantly impedes on the ability of Senators and other officeholders to tend to their official duties, and limits the ability of candidates to interact with the electorate while also tending to professional responsibilities.

(8) As talented incumbent and potential public servants are deterred from seeking office in Congress because of such fundraising pressures, the quality of representation suffers and those who do serve are impeded in their effort to devote full attention to matters of the Government by the campaign financing system.

(9) Contribution limits are inadequate to control all of these trends and as long as campaign spending is effectively unrestrained, supporters can find ways to protect their favored candidates from being outspent. Since 1976 major techniques have been found and exploited to get around and evade contribution limits.

(10) Techniques to evade contribution limits include personal spending by wealthy candidates, independent expenditures that assist or attack an identified candidate, media campaigns by corporations, labor unions, and nonprofit organizations to advocate the election or defeat of candidates, and the use of national, State, or local political parties as a conduit for money that assists or attacks such candidates.

(11) Wealthy candidates may, under the present Federal campaign financing system, spend any amount they want out of their own resources and while such spending may not be self-corrupting, it introduces the very defects the Supreme Court wants to avoid. The effectively limitless character of such resources obliges a wealthy candidate's opponent to reach for larger amounts of outside support, causing the deleterious effects previously described.

(12) Experience shows that there is an identity of interest between candidates and political parties because the parties exist to support candidates, not the other way around. Party expenditures in support of, or in opposition to, an identifiable candidate are, therefore, effectively spending on behalf of a candidate.

(13) Political experience shows that so-called "independent" support, whether by individuals, committees, or other entities, can be and often is coordinated with a candidate's campaign by means of tacit understandings without losing its nominally independent character and, similarly, contributions to a political party, ostensibly for "party-building" purposes, can be and often are routed, by undeclared design, to the support of identified candidates.

(14) The actual, case-by-case detection of coordination between candidate, party, and independent contributor is, as a practical matter, impossible in a fast-moving campaign environment.

(15) So-called "issue advocacy" communications, by or through political parties or independent contributors, need not, as a practical matter, advocate expressly for the election or defeat of a named candidate in order to cross the line into election campaign advocacy; any clear, objective indication of purpose, such that voters may readily observe where their electoral support is invited, can suffice as evidence of intent to impact a Federal election campaign.

(16) When State political parties or other entities operating under State law receive funds, often called "soft money", for use in Federal elections, they become de facto agents of the national political party and the inclusion of these funds under applicable Federal limitations is necessary and proper for the effective regulation of Federal election campaigns.

(17) The exorbitant level of money in the political system has served to distort our democracy by giving some contributors, who constitute less than 3 percent of the citizenry, the appearance of favored access to elected officials, thus undermining the ability of ordinary citizens to petition their Government. Concerns over the potential for corruption and undue influence, and the appearances thereof, has left citizens cynical, the reputation of elected officials tarnished, and the moral authority of Government weakened.

(18) The 2 decades of experience since the Supreme Court's *Buckley v. Valeo* ruling in 1976 have made it evident that reasonable limits on election campaign expenditures are now necessary and these limits must comprehensively address all types of expenditures to prevent circumvention of such limits.

(19) The Supreme Court based its *Buckley v. Valeo* decision on a concern that spending limits could narrow political speech "by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached". The experience of the past 20 years has been otherwise as experience shows that unlimited expenditures can drown out or distort political discourse in a flood of distractive repetition. Reasonable spending limits will increase the opportunity for previously muted voices to be heard and thereby increase the number, depth, and diversity of ideas presented to the public.

(20) Issue advocacy communications that do not promote or oppose an identified candidate should remain unregulated, as should the traditional freedom of the press to report and editorialize about candidates and campaigns.

(21) In establishing reasonable limits on campaign spending, it is necessary that the limits reflect the realities of modern campaigning in a large, diverse population with sophisticated and expensive modes of communication. The limits must allow citizens to benefit from a full and free debate of issues and permit candidates to garner the resources necessary to engage in that debate.

(22) The expenditure limits established in this Act for election to the United States Senate were determined after careful review of historical spending patterns in Senate campaigns as well as the particular spending level of the 3 most recent elections as evidenced by the following:

(A) The limit formula allows candidates a level of spending which guarantees an ability to disseminate their message by accounting for the size of the population in each State as well as historical spending trends including the demonstrated trend of lower campaign spending per voter in larger States as compared to voter spending in smaller States.

(B) The candidate expenditure limits included in this legislation would have restricted 80 percent of the incumbent candidates in the last 3 elections, while only impeding 18 percent of the challengers.

(C) It is clear from recent experience that expenditure limits as set by the formula in this Act will be high enough to allow an effective level of competition, encourage candidate dialogue with constituents, and circumscribe the most egregiously high spending levels, so as to be a bulwark against future campaign finance excesses and the resulting voter disenfranchisement.

TITLE I—SENATE ELECTION SPENDING LIMITS

SEC. 101. SENATE ELECTION SPENDING LIMITS.

(a) In General.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. SPENDING LIMITS FOR SENATE ELECTION CAMPAIGNS

"(a) In General.—The amount of funds expended by a candidate for election to the Senate and the candidate's authorized committees with respect to an election may not exceed the election expenditure limits of subsections (b), (c), and (d).

"(b) Primary Election Expenditure Limit.—The aggregate amount of expenditures for a primary election by a Senate candidate and the candidate's authorized committees shall not exceed 67 percent of the general election expenditure limit under subsection (d).

"(c) Runoff Election Expenditure Limit.—The aggregate amount of expenditures for a runoff election by a Senate candidate and the candidate's authorized committees shall not exceed 20 percent of the general election expenditure limit under subsection (d).

"(d) General Election Expenditure Limit.—

"(1) IN GENERAL.—The aggregate amount of expenditures for a general election by a Senate candidate and the candidate's authorized committees shall not exceed the greater of—

"(A) $1,182,500; or

"(B) $500,000; plus

"(i) 37.5 cents multiplied by the voting age population not in excess of 4,000,000; and

"(ii) 31.25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) EXCEPTION.—In the case of a Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B) shall be applied by substituting—

"(A) '$1.00' for '37.5 cents' in clause (i); and

"(B) '87.5 cents' for '31.25 cents' in clause (ii).

"(3) INDEXING.—The monetary amounts in paragraphs (1) and (2) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1997.

"(e) EXEMPTED EXPENDITURES.—In determining the amount of funds expended for purposes of this section, there shall be excluded any amounts expended for—

"(1) Federal, State, or local taxes with respect to earnings on contributions raised;

"(2) legal and accounting services provided solely in connection with complying with the requirements of this Act;

"(3) legal services related to a recount of the results of a Federal election or an election contest concerning a Federal election; or

"(4) payments made to or on behalf of an employee of a candidate's authorized committees for employee benefits—

"(A) including—

"(i) health care insurance;

"(ii) retirement plans; and

"(iii) unemployment insurance; but

"(B) not including salary, any form of compensation, or amounts intended to reimburse the employee.".

TITLE II—COORDINATED AND INDEPENDENT EXPENDITURES

SEC. 201. ADDING DEFINITION OF COORDINATION TO DEFINITION OF CONTRIBUTION.

(a) DEFINITION OF CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(iii) a payment made for a communication or anything of value that is for the purpose of influencing an election for Federal office and that is a payment made in coordination with a candidate."; and

(2) by adding at the end the following:

"(C) PAYMENT MADE IN COORDINATION WITH.—The term 'payment made in coordination with' means—

"(i) a payment made by any person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with, a candidate, a candidate's authorized committees, an agent acting on behalf of a candidate or a candidate's authorized committee, or (for purposes of paragraphs (9) and (10) of section 315(a)) another person;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate or the candidate's authorized committees (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat); or

"(iii) payments made based on information about the candidate's plans, projects, or needs provided to the person making the payment by the candidate, the candidate's authorized committees, or an agent of a candidate or a candidate's authorized committees.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 315.—Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended to read as follows:

"(B) expenditures made in coordination with a candidate, within the meaning of section 301(8)(C), shall be considered to be contributions to the candidate and, in the case of limitations on expenditures, shall be treated as an expenditure for purposes of this section; and".

(2) SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "shall have the meaning given those terms in paragraphs (8) and (9) of section 301 and shall also include".

SEC. 202. TREATMENT OF CERTAIN COORDINATED CONTRIBUTIONS AND EXPENDITURES.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

"(9) For purposes of this section, contributions made by more than 1 person in coordination with each other (within the meaning of section 301(8)(C)) shall be considered to have been made by a single person.

"(10) For purposes of this section, an independent expenditure made by a person in coordination with (within the meaning of section 301(8)(C)) another person shall be considered to have been made by a single person.".

SEC. 203. POLITICAL PARTY COMMITTEES.

(a) LIMIT ON COORDINATED AND INDEPENDENT EXPENDITURES BY POLITICAL PARTY COMMITTEES.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by inserting "and independent expenditures" after "Federal office"; and

(2) in paragraph (3)—

(A) by inserting ", including expenditures made" after "make any expenditure"; and

(B) by inserting "and independent expenditures advocating the election or defeat of a candidate," after "such party".

(b) RULES APPLICABLE WHEN LIMITS NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), during any period beginning after the effective date of this Act in which the limitation under section 315(d)(3) (as amended by subsection (a)) is not in effect the following amendments shall be effective:

(1) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY A POLITICAL PARTY COMMITTEE.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(A) in paragraph (1)—

(i) by striking "(2) and (3) of this subsection" and inserting "(2), (3), and (4) of this subsection"; and

(ii) by inserting "coordinated" after "make";

(B) in paragraph (3), by inserting "coordinated" after "make"; and

(C) by adding at the end the following:

"(4) PROHIBITION AGAINST MAKING BOTH COORDINATED EXPENDITURES AND INDEPENDENT EXPENDITURES.—

"(A) IN GENERAL.—A committee of a political party shall not make both a coordinated expenditure in excess of $5,000 and an independent expenditure with respect to the same candidate during an election cycle.

"(B) CERTIFICATION.—Before making a coordinated expenditure in excess of $5,000 in connection with a general election campaign for Federal office, a committee of a political party that is subject to this subsection shall file with the Commission a certification, signed by the treasurer, stating that the committee will not make independent expenditures with respect to such candidate.

"(C) TRANSFERS.—A party committee that certifies under this paragraph that the committee will make coordinated expenditures with respect to any candidate shall not, in the same election cycle, make a transfer of funds to, or receive a transfer of funds from, any other party committee unless that committee has certified under this paragraph that it will only make coordinated expenditures with respect to candidates.

"(D) DEFINITION OF COORDINATED EXPENDITURE.—In this paragraph, the term 'coordinated expenditure' shall have the meaning given the term 'payments made in coordination with' in section 301(8)(C).".

(2) LIMIT ON CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.—Section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(A) in paragraph (1)(B), by striking "which, in the aggregate, exceed $20,000" and inserting "that—

"(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $20,000; or

"(ii) in the case of a political committee that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000"; and

(B) in paragraph (2)(B), by striking "which, in the aggregate, exceed $15,000" and inserting "that—

"(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $15,000; or

"(ii) in the case of a political committee that does not certify under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $5,000".

(c) DEFINITION OF ELECTION CYCLE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) ELECTION CYCLE.—The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate is seeking and ending on the date of the next general election for that office or seat; and

"(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.".

SEC. 204. LIMIT ON INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

"(i) LIMIT ON INDEPENDENT EXPENDITURES.—No person shall make an amount of independent expenditures advocating the election or defeat of a candidate during an election cycle in an aggregate amount greater than the limit applicable to the candidate under section 315(d)(3).".

(b) RULES APPLICABLE WHEN RULES IN SUBSECTION (a) NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date of this Act in which the limit on independent expenditures under section 315(i) of the Federal Election Campaign Act of 1971, as added by subsection (a), is not in effect section 324 of such Act, as added by section 101(a), is amended by adding at the end the following:

"(f) INCREASE IN EXPENDITURE LIMIT IN RESPONSE TO INDEPENDENT EXPENDITURES.—

"(1) IN GENERAL.—The applicable election expenditure limit for a candidate shall be increased by the aggregate amount of independent expenditures made in excess of the limit applicable to the candidate under section 315(d)(3)—

"(A) on behalf of an opponent of the candidate; or

"(B) in opposition to the candidate.

"(2) NOTIFICATION.—

"(A) IN GENERAL.—A candidate shall notify the Commission of an intent to increase an expenditure limit under paragraph (1).

"(B) COMMISSION RESPONSE.—Within 3 business days of receiving a notice under subparagraph (A), the Commission must approve or deny the increase in expenditure limit.

"(C) ADDITIONAL NOTIFICATION.—A candidate who has increased an expenditure limit under paragraph (1) shall notify the Commission of each additional increase in increments of $50,000.".

SEC. 205. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—The term 'independent expenditure' means an expenditure that—

(A) contains express advocacy; and

(B) is made without the participation or cooperation of, or without consultation with, or without coordination with a candidate or a candidate's authorized committee or agent (within the meaning of section 301(8)(C)).".

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 202(c), is amended by adding at the end the following:

"(21) EXPRESS ADVOCACY.—The term 'express advocacy' includes—

"(i) a communication that conveys a message that advocates the election or defeat of a clearly identified candidate for Federal office by using an expression such as 'vote for,' 'elect,' 'support,' 'vote against,' 'defeat,' 'reject,' '(name of candidate) for Congress,' 'vote pro-life,' or 'vote pro-choice,' accompanied by a listing or picture of a clearly identified candidate described as 'pro-life' or 'pro-choice,' 'reject the incumbent,' or an expression susceptible to no other reasonable interpretation but an unmistakable and unambiguous exhortation to vote for or against a specific candidate; or

"(ii) a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising—

"(A) that is made on or after a date that is 90 days before the date of a general election of the candidate;

"(B) that refers to the character, qualifications, or accomplishments of a clearly identified candidate, group of candidates, or candidate of a clearly identified political party; and

"(C) that does not have as its sole purpose an attempt to urge action on legislation that has been introduced in or is being considered by a legislature that is in session.".

SEC. 206. ELIMINATION OF LEADERSHIP PACS.

(a) DESIGNATION AND ESTABLISHMENT OF AUTHORIZED COMMITTEE.—Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by—

(1) striking paragraph (3) and inserting the following:

"(3) No political committee that supports, or has supported, more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."; and

(2) adding at the end the following:

"(6)(A) A candidate for Federal office or any individual holding Federal office may not directly or indirectly establish, finance, maintain, or control any political committee other than a principal campaign committee of the candidate, designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office. This paragraph shall not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to such State or local office.

"(B) A political committee prohibited by subparagraph (A), that is established before the date of enactment of this Act, may continue to make contributions for a period that ends on the date that is 1 year after the date of enactment of this paragraph. At the end of such period the political committee shall disburse all funds by 1 or more of the following means:

"(1) Making contributions to an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Act that is not established, maintained, financed, or controlled directly or indirectly by any candidate for Federal office or any individual holding Federal office.

"(2) Making a contribution to the Treasury.

"(3) Making contributions to the national, State, or local committees of a political party.

"(4) Making contributions not to exceed $1,000 to candidates for elective office.".

TITLE III—SOFT MONEY

SEC. 301. SOFT MONEY OF POLITICAL PARTY COMMITTEE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 325. SOFT MONEY OF PARTY COMMITTEES.

"(a) NATIONAL COMMITTEES.—A national committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee or its agent, an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity (but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions, donations, or transfers of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—Any amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of any such committee or entity) during a calendar year in which a Federal election is held, for any activity that might affect the outcome of a Federal election, including any voter registration or get-out-the-vote activity, any generic campaign activity, and any communication that refers to a candidate (regardless of whether a candidate for State or local office is also mentioned or identified) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) ACTIVITY EXCLUDED FROM PARAGRAPH (1).—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State, district, or local committee of a political party for—

"(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

"(ii) the costs of a State, district, or local political convention;

"(iii) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of the individual's time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this paragraph, the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

"(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the candidate activity is not an activity described in paragraph (1).

"(B) FUNDRAISING COSTS.—Any amount spent by a national, State, district, or local committee, by an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party, or by an agent or officer of any such committee or entity to raise funds that are used, in whole or in part, to pay the costs of an activity described in paragraph (1) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986.

"(d) CANDIDATES.—

"(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not—

"(A) solicit, receive, transfer, or spend funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act;

"(B) solicit, receive, or transfer funds that are to be expended in connection with any election other than a Federal election unless the funds—

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under section 315(a) (1) and (2); and

"(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office; or

"(C) solicit, receive, or transfer any funds on behalf of any person that are not subject to the limitations, prohibitions, and reporting requirements of the Act if the funds are for use in financing any campaign-related activity or any communication that refers to a clearly identified candidate for Federal office.

"(2) EXCEPTION.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee.".

SEC. 302. STATE PARTY GRASSROOTS FUNDS.

(a) INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by inserting after subparagraph (C) the following:

"(D) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000.".

(b) LIMITS.—

(1) IN GENERAL.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by striking paragraph (3) and inserting the following:

"(3) OVERALL LIMITS.—

"(A) INDIVIDUAL LIMIT.—No individual shall make contributions during any calendar year that, in the aggregate, exceed $30,000.

"(B) CALENDAR YEAR.—No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000; or

"(ii) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

"(C) NONELECTION YEARS.—For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.".

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1970 (2 U.S.C. 431), as amended by section 205(b), is amended by adding at the end the following:

"(22) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means a campaign activity that promotes a political party and does not refer to any particular Federal or non-Federal candidate.

"(23) STATE PARTY GRASSROOTS FUND.—The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 326(d).".

(d) STATE PARTY GRASSROOTS FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is amended by adding at the end the following:

"SEC. 326. STATE PARTY GRASSROOTS FUNDS.

"(a) DEFINITION.—In this section, the term 'State or local candidate committee' means a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

"(b) TRANSFERS.—Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if the district or local committee—

"(1) has established a separate segregated fund for the purposes described in subsection (d); and

"(2) uses the transferred funds solely for those purposes.

"(c) AMOUNTS RECEIVED BY GRASSROOTS FUNDS FROM STATE AND LOCAL CANDIDATE COMMITTEES.—

"(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (d) that are for the benefit of that candidate shall be treated as meeting the requirements of 325(b)(1) and section 304(e) if—

"(A) the amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A); and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

"(ii) certifies that the requirements were met.

"(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in paragraph (1)(A)—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

"(B) the committee must be able to demonstrate that its cash on hand contains funds meeting those requirements sufficient to cover the transferred funds.

"(3) REPORTING.—Notwithstanding paragraph (1), any State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from the candidate committee.

"(d) DISBURSEMENTS AND EXPENDITURES.—A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(1) any generic campaign activity;

"(2) payments described in clauses (v), (ix), and (xi) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

"(3) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

"(4) voter registration; and

"(5) development and maintenance of voter files during an even-numbered calendar year.".

SEC. 303. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(e) POLITICAL COMMITTEES.—

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 325 APPLIES.—A political committee (not described in paragraph (1)) to which section 325(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (1) and (2)(iii) of section 325(b).

(3) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

"(4) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(5) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following:

"(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by inserting "and" at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by inserting ", and the election to which the operating expenditure relates" after "operating expenditure".

SEC. 304. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection 303, is amended by adding at the end the following:

"(g) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

"(1) IN GENERAL.—A person other than a committee of a political party that makes aggregate disbursements totaling in excess of $10,000 for activities described in paragraph (2) shall file a statement with the Commission—

"(A) within 48 hours after the disbursements are made; or

"(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

"(2) ACTIVITY.—The activity described in this paragraph is—

"(A) any activity described in section 316(b)(2)(A) that refers to any candidate for Federal office, any political party, or any Federal election; and

"(B) any activity described in subparagraph (B) or (C) of section 316(b)(2).

"(3) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $10,000 are made by a person described in paragraph (1).

"(4) APPLICABILITY.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including—

"(A) the name and address of the person or entity to whom the disbursement was made;

"(B) the amount and purpose of the disbursement; and

"(C) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.".

TITLE IV—ENFORCEMENT

SEC. 401. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

"(11) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

"(A) REQUIRED FILING.—The Commission may promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in that manner if not required to do so under regulations prescribed under clause (i).

"(B) FACSIMILE MACHINE.—The Commission shall promulgate a regulation that allows a person to file a designation, statement, or report required by this Act through the use of facsimile machines.

"(C) VERIFICATION OF SIGNATURE.—

"(i) IN GENERAL.—In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report covered by the regulations.

"(ii) TREATMENT OF VERIFICATION.—A document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 402. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by adding at the end the following:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act.

"(B) LIMITATION.—The Commission shall not institute an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in that election cycle.

"(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 403. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) AUTHORITY TO SEEK INJUNCTION.—

"(A) IN GENERAL.—If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a preliminary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) VENUE.—An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.";

(2) in paragraph (7), by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(3) in paragraph (11), by striking "(6)" and inserting "(6) or (13)".

SEC. 404. INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.

Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking "the greater of $10,000 or an amount equal to 200 percent" and inserting "the greater of $15,000 or an amount equal to 300 percent".

SEC. 405. PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS NOT QUALIFIED TO VOTE.

(a) PROHIBITION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) in the heading by adding "AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE" at the end; and

(2) in subsection (a)—

(A) by striking "(a) It shall" and inserting the following:

"(a) PROHIBITIONS.—

"(1) FOREIGN NATIONALS.—It shall"; and

(B) by adding at the end the following:

"(2) INDIVIDUALS NOT QUALIFIED TO VOTE.—It shall be unlawful for an individual who is not qualified to register to vote in a Federal election to make a contribution, or to promise expressly or impliedly to make a contribution, in connection with a Federal election; or for any person to knowingly solicit, accept, or receive a contribution in connection with a Federal election from an individual who is not qualified to register to vote in a Federal election.".

(b) INCLUSION IN DEFINITION OF IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking "and" the first place it appears; and

(B) by inserting ", and an affirmation that the individual is an individual who is not prohibited by section 319 from making a contribution" after "employer"; and

(2) in subparagraph (B) by inserting "and an affirmation that the person is a person that is not prohibited by section 319 from making a contribution" after "such person".

SEC. 406. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name, or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 407. EXPEDITED PROCEDURES.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)), as amended by section 403, is amended by adding at the end the following:

"(14) EXPEDITED PROCEDURE.—

"(A) 60 DAYS PRECEDING AN ELECTION.—If the complaint in a proceeding was filed within 60 days immediately preceding a general election, the Commission may take action described in this subparagraph.

"(B) RESOLUTION BEFORE ELECTION.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in paragraph (13)(A) (ii), (iii), and (iv) are met, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

"(C) COMPLAINT WITHOUT MERIT.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

TITLE V—SEVERABILITY; REGULATIONS; EFFECTIVE DATE

SEC. 501. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 502. REGULATIONS.

The Federal Election Commission shall promulgate any regulations required to carry out this Act and the amendments made by this Act.

SEC. 503. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date that is 30 days after the date of enactment of this Act.

EXHIBIT 1

[From the Secretary of State, State of West Virginia]

On May 20, officials of 33 states, including secretaries of state, attorneys general and state regulators of campaign finance (in those states where the secretary of state does not have that responsibility) registered their support of a court challenge to the 1976 U.S. Supreme Court decision in the case of Buckley v. Valeo. The officials in these 33 states made known their support as amicus curiae in a pending appeal in the 6th Circuit Court of Appeals in a case entitled Kruse v. City of Cincinnati, which concerns a Cincinnati ordinance limiting candidates for the city council to spending no more than three times their annual salary. The ordinance was declared unconstitutional by a Federal district court, based on the Buckley v. Valeo decision, which ruled that such limits violated First Amendment freedom of speech protection. Whichever way the 6th Circuit Court of Appeals rules, it is almost certain to be appealed to the U.S. Supreme Court, thus paving the way for a re-argument of Buckley v. Valeo.

Officials in the following states filed the amicus brief:

Arizona—A.G.
Arkansas—SOS and A.G.
Connecticut—SOS and A.G.
Florida—SOS and A.G.
Georgia—SOS.
Hawaii—Campaign Spending Commisison and A.G.
Indiana—A.G.
Iowa—A.G.
Kansas—A.G.
Kentucky—Registry of Campaign Finance and A.G.
Maine—SOS.
Massachusetts—SOS and A.G.
Michigan—A.G.
Minnesota—SOS and A.G.
Mississippi—SOS.
Montana—SOS and A.G.
Nevada—SOS and A.G.
New Hampshire—SOS and A.G.
New Mexico—SOS.
North Carolina—Chief Elections Officer.
North Dakota—A.G.
Ohio—A.G.
Oklahoma—Ethics Commission and A.G.
Oregon—SOS and A.G.
Rhode Island—SOS.
South Carolina—SOS.
South Dakota—A.G.
Tennessee—SOS.
Utah—A.G.
Vermont—A.G.
Washington—SOS and A.G.
West Virginia—SOS and A.G.
Wisconsin—SOS.
Territory of Guam—Lt. Gov. and A.G.

[From the Department of Justice, State of Iowa]

24 STATE ATTORNEYS GENERAL ISSUE CALL FOR THE REVERSAL OF BUCKLEY V. VALEO

DES MOINES, IOWA—The attorneys general for twenty-four states released a joint statement Tuesday calling for the reversal of a 1976 Supreme Court decision which struck down mandatory campaign spending limits on free speech grounds. The attorneys general statement comes amidst a growing national debate about the validity of that court ruling, *Buckley* v. *Valeo*.

Former U.S. Senator Bill Bradley has denounced the decision and has helped lead the recent push in the U.S. Congress for a constitutional amendment to allow for mandatory spending limits in federal elections. The City of Cincinnati is litigating the first direct court challenge to the ruling, defending an ordinance passed in 1995 by the City Council which sets limits in city council races. And, in late October 1996, a group of prominent constitutional scholars from around the nation signed a statement calling for the reversal of *Buckley*.

The attorneys general statement reads as follows:

"Over two decades ago, the United States Supreme Court, in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), declared mandatory campaign expenditure limits unconstitutional on First Amendment grounds. We, the undersigned state attorneys general, believe the time has come for that holding to be revisited and reversed.

"U.S. Supreme Court Justice Louis Brandeis once wrote '[I]n cases involving the Federal Constitution, where correction through legislative action is practically impossible, this court has often overruled its earlier decision. The court bows to the lessons of experience and the force of better reasoning . . .' *Burnet* v. *Coronado Oil & Gas Co.*, 285 U.S. 393, 406–408 (1932) (Brandeis, J., dissenting).

"As state attorneys general—many of us elected—we believe the experience of campaigns teaches the lesson that unlimited campaign spending threatens the integrity of the election process. As the chief legal officers of our respective states, we believe that the force of better reasoning compels the conclusion that it is the absence of limits on campaign expenditures—not the restrictions—which strike 'at the core of our electoral process and of the First Amendment freedoms.' *Buckley* v. *Valeo*, 424 U.S. 1, 39 (1976) (quoting *Williams* v. *Rhodes*, 393 U.S. 23, 32 (1968)."

The United States has witnessed a more than a 700% increase in the cost of federal elections since the *Buckley* ruling. The presidential and congressional campaigns combined spent more than $2 billion this past election cycle, making the 1996 elections the costliest ever in U.S. history.

Iowa Attorney General Tom Miller, Nevada Attorney General Frankie Sue Del Papa, Arizona Attorney General Grant Woods, and the National Voting Rights Institute of Boston initiated Tuesday's statement. The Institute is a non-profit organization engaged in constitutional challenges across the country to the current campaign finance system. The Institute serves as special counsel for the City of Cincinnati in its challenge to *Buckley*, now in federal district court in Cincinnati and due for its first court hearing on January 31,

"*Buckley* stands today as a barrier to American democracy," says Attorney General Del Papa. "As state attorneys general, we are committed to helping remove that barrier." Del Papa says the twenty-four state attorneys general will seek to play an active role in efforts to reverse the *Buckley* decision, including the submission of friend-of-the-court briefs in emerging court cases which address the ruling.

"Maybe it wasn't clear in 1976, but it is clear today that financing of campaigns has gotten totally out of control," says Iowa Attorney General Tom Miller. "The state has a compelling interest in bringing campaign finances back under control and protecting the integrity of the electoral process."

Arizona Attorney General Grant Woods adds, "I believe that it is a major stretch to say that the First Amendment requires that no restrictions be placed on individual campaign spending. The practical results, where millionaires dominate the process to the detriment of nearly everyone who cannot compete financially, have perverted the electoral process in America."

The full listing of signatories is as follows:

Attorney General Grant Woods of Arizona (R).

Attorney General Richard Blumenthal of Connecticut (D).

Attorney General Robert Butterworth of Florida (D).

Attorney General Alan G. Lance of Idaho (R).

Attorney General Tom Miller of Iowa (D).

Attorney General Carla J. Stovall of Kansas (R).

Attorney General Albert B. Chandler III of Kentucky (D).

Attorney General Andrew Ketterer of Maine (D).

Attorney General Scott Harshbargor of Massachusetts (D).

Attorney General Frank Kelley of Michigan (D).

Attorney General Hubert H. Humphrey of Minnesota (D).

Attorney General Mike Moore of Mississippi (D).

Attorney General Joseph P. Mazurek of Montana (D).

Attorney General Frankie Sue Del Papa of Nevada (D).

Attorney General Jeff Howard of New Hampshire (R).

Attorney General Tom Udall of New Mexico (D).

Attorney General Heidi Heitkamp of North Dakota (D).

Attorney General Drew Edmondson of Oklahoma (D).

Attorney General Charles W. Burson of Tennessee (D).

Attorney General Jan Graham of Utah (D).

Attorney General Wallace Malley of Vermont (R).

Attorney General Darrel V. McGraw of West Virginia (D).

Attorney General Christine O. Gregoire of Washington (D).

Attorney General James Doyle of Wisconsin (D).

By Mr. LAUTENBERG (for himself, Mr. WYDEN, Mr. DURBIN, and Mr. HARKIN):

S. 1060. A bill to restrict the activities of the United States with respect to foreign laws that regulate the marketing of tobacco products and to subject cigarettes that are exported to the same restrictions on labeling as apply to the sale or distribution of cigarettes in the United States; to the Committee on Commerce, Science, and Transportation.

THE WORLDWIDE TOBACCO DISCLOSURE ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing the Worldwide Tobacco Disclosure Act of 1997. I am joined by Senators WYDEN, DURBIN, and HARKIN. Our bill will address a loophole in current law that enables packages of cigarettes to be exported from this country without warning labels and to prevent the executive branch from undermining other countries' restrictions on tobacco.

Within a few decades, the World Health Organization estimates that 10 million people will die annually from tobacco-related disease, up from 3 million per year. An astonishing 70 percent of those deaths will be in developing countries. To give my colleagues a basis for comparison, in America, today, approximately 400,000 die a year from tobacco. While smoking has declined 10 percent since 1990 in developed countries, the WHO concludes it has risen an alarming 67 percent in developing countries during that same period. American tobacco exports have increased by almost 340 percent since the mid-1970's, and these exports now account for more than half of our tobacco companies' sales.

America is rightfully proud of its exports and the standards it upholds in international trade. But with tobacco, we're exporting death. We are the largest exporter of a product we know kills, and that is not something about which we should be proud. With marketing savvy and millions of dollars, American tobacco companies have significantly increased cigarette consumption in developing countries. It is estimated that cigarette consumption increased by 10 percent as a direct result of American tobacco companies entering the markets of Japan, South Korea, Thailand, and Taiwan.

Why should Congress care if hundreds of thousands of teenage boys and girls in China become addicted to nicotine? Why not let their government deal with this matter? Mr. President, morally, we are obligated to warn them, to the extent we know of tobacco's dangers. We are obligated to support the efforts of our trading partners to protect the health of their citizens.

Mr. President, cigarettes kill and the label should clearly state that. One component of the proposed tobacco settlement between the State attorneys general and the tobacco industry was stronger warning labels on cigarette packages, similar to those I included in legislation introduced earlier this year. While we are taking additional steps to make our citizens more aware of the dangers of tobacco, my colleagues may be surprised to know that our Government requires no warning on exported cigarette packages. We know that smoking is addictive and can kill, but you would never guess that by looking at a pack of Camels exported from this country into Africa or Eastern Europe. When we enacted the Federal Cigarette Labeling and Advertising Act of 1965, we may have thought that other countries would require their own warning labels and these would be adequate. We know, Mr. President, that this is simply not the case.

Too many countries, especially in the developing world, have no warning labels on cigarette packages, and those that do, are inadequate to fully alert their citizens to the dangers of tobacco. Coupled with a poor national health system, citizens in these countries have no chance against tobacco promotional giveaways or slick advertising. Not knowing of the health risks associated with cigarettes, they are easily addicted and a significant percentage of them will die from this product.

Mr. President, barring further steps, a health crisis resulting from tobacco will occur in the developing world within the next few decades. Our country alone spends $50 billion a year more on health care as a result of tobacco. Imagine what the worldwide cost of tobacco related illness will be in 20 years. Today limited funds are spent combating hunger, AIDS and other infectious diseases, and infant mortality worldwide. In about 10 years, we can add tobacco related illnesses to the list.

One part of this legislation, Mr. President, requires exported packages of cigarettes to have warning labels in the language of the country where the cigarette will be consumed. Before exporting hazardous materials, Congress requires exports to alert our Government prior to export so that we might warn the government of the importing country that a certain product is being shipped to its borders. Cigarettes are a hazardous product and should be treated differently than an exported widget. Foreign subsidiaries of American tobacco companies will also be required to comply with this legislation because we do not want to put our farmers at a competitive disadvantage. This is a global problem that must be addressed by whatever means we have available. Should a country require more stringent labels than ours, the administration could grant a waiver of this provision for that country.

Mr. President, the success tobacco companies have had selling death overseas is not solely due to their own own efforts. In the past, the U.S. Government assisted U.S. tobacco companies in hooking foreigners by using trade policy to dismantle foreign tobacco regulations, such as advertising bans, in several key markets. While most of this assistance occurred in the 1980's, its effects are felt today. Japan, South Korea, Thailand, and Taiwan were on the other side of this dispute with our Government over their antitobacco laws. They lost, their citizens lost, and the U.S. tobacco companies won. Smoking in those countries is higher as a result of past action by the U.S. Trade Representative.

Our bill will prevent the USTR from undermining another country's tobacco restrictions if those restrictions are applied to both foreign and domestic products in the same manner. If a country has an advertising ban on tobacco products, our Government should not be spending money trying to dismantle that law if it equally affects foreign and domestic companies.

This legislation is consistent with a GATT decision from 1990, which held that member nations can use various policies to protect health as long as they are applied evenly to domestic and foreign products, and with statements made by our current U.S. Trade Representative. Charlene Barshefsky stated last year that the U.S. Government should not object when foreign government take steps to protect their citizens by adopting health measures to restrict the consumption of tobacco.

Mr. President, I hope my colleagues would agree that we should not, in good conscience, turn a blind eye to the untold suffering caused by U.S. exports of this deadly product. We know too much about tobacco to sit idly by while our companies poison tens of millions throughout the world. And if foreign governments do not warn their citizens of tobacco's dangers, enacting this legislation is the very least we can and should do.

Mr. President, I ask unanimous consent that the full text of my legislation be printed in the CONGRESSIONAL RECORD along with letters of support for this legislation from the American Lung Association, the National Center for Tobacco-Free Kids, and the American Heart Association, and two articles from the Washington Post documenting our Government's actions in Asia in the 1980's and how U.S. tobacco companies are targeting overseas markets.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worldwide Tobacco Disclosure Act of 1997".

SEC. 2. DEFINITIONS.

In this Act:

(1) CIGARETTE.—The term "cigarette" means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco which is to be burned,

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by consumers as a cigarette described in subparagraph (A),

(C) little cigars which are any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (A)) and as to which 1000 units weigh not more than 3 pounds, and

(D) loose rolling tobacco and papers or tubes used to contain such tobacco.

(2) DOMESTIC CONCERN.—The term "domestic concern" means—

(A) any individual who is a citizen, national, or resident of the United States; and

(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

(3) NONDISCRIMINATORY LAW OR REGULATION.—The term "nondiscriminatory law or regulation" means a law or regulation of a foreign country that adheres to the principle of national treatment and applies no less favorable treatment to goods that are imported into that country than it applies to like goods that are the product, growth, or manufacture of that country.

(4) PACKAGE.—The term "package" means a pack, box, carton, or other container of any kind in which cigarettes or other tobacco products are offered for sale, sold, or otherwise distributed to customers.

(5) SALE OR DISTRIBUTION.—The term "sale or distribution" includes sampling or any other distribution not for sale.

(6) STATE.—The term "State" includes, in addition to the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(7) TOBACCO PRODUCT.—The term "tobacco product" means—

(A) cigarettes;

(B) little cigars;

(C) cigars as defined in section 5702 of the Internal Revenue Code of 1986;

(D) pipe tobacco;

(E) loose rolling tobacco and papers used to contain such tobacco;

(F) products referred to as spit tobacco; and

(G) any other form of tobacco intended for human use or consumption.

(8) UNITED STATES.—The term "United States" includes the States and installations of the Armed Forces of the United States located outside a State.

SEC. 3. RESTRICTIONS ON NEGOTIATIONS REGARDING FOREIGN LAWS REGULATING TOBACCO PRODUCTS.

No funds appropriated by law may be used by any officer, employee, department, or agency of the United States—

(1) to seek, through negotiation or otherwise, the removal or reduction by any foreign country of any nondiscriminatory law or regulation, or any proposed nondiscriminatory law or regulation, in that country that restricts the advertising, manufacture, packaging, taxation, sale, importation, labeling, or distribution of tobacco products; or

(2) to encourage or promote the export, advertising, manufacture, sale, or distribution of tobacco products.

SEC. 4. CIGARETTE EXPORT LABELING.

(a) LABELING REQUIREMENTS FOR EXPORT OF CIGARETTES.—

(1) IN GENERAL.—It shall be unlawful for any domestic concern to export from the United States, or to sell or distribute in, or export from, any other country, any cigarettes whose package does not contain a warning label that—

(A) complies with Federal labeling requirements for cigarettes manufactured, imported, or packaged for sale or distribution within the United States; and

(B) is in the primary language of the country in which the cigarettes are intended for consumption.

(2) LABELING FORMAT.—Federal labeling format requirements shall apply to a warning label described in paragraph (1) in the same manner, and to the same extent, as such requirements apply to cigarettes manufactured, imported, or packaged for sale or distribution within the United States.

(3) ROTATION OF LABELING.—Federal rotation requirements for warning labels shall apply to a warning label described in paragraph (1) in the same manner, and to the same extent, as such requirements apply to cigarettes manufactured, imported, or packaged for sale or distributed within the United States.

(4) WAIVERS.—

(A) IN GENERAL.—The President may waive the labeling requirements required by this Act for cigarettes, if the cigarettes are exported to a foreign country included in the list described in subparagraph (B) and if that country is the country in which the cigarettes are intended for consumption. A waiver under this subparagraph shall be in effect prior to the exportation of any cigarettes not in compliance with the requirements of this section by a person to a foreign country included in the list.

(B) LIST OF ELIGIBLE COUNTRIES FOR WAIVER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President shall develop and publish in the Federal Register a list of foreign countries that have in effect requirements for the labeling of cigarette packages substantially similar to or more stringent than the requirements for labeling of cigarette packages set forth in paragraphs (1) through (3). The President shall use the list to grant a waiver under subparagraph (A).

(ii) UPDATE OF LIST.—The President shall—

(I) update the list described in clause (i) to include a foreign country on the list if the country meets the criteria described in clause (i), or to remove a foreign country from the list if the country fails to meet the criteria; and

(II) publish the updated list in the Federal Register.

(b) PENALTIES.—

(1) FINE.—Any person who violates the provisions of subsection (a) shall be fined not more than $100,000 per day for each such violation. Any person who knowingly reexports from or transships cigarettes through a foreign country included in the list described in subsection (a)(4)(B) to avoid the requirements of this Act shall be fined not more than $150,000 per day for each such occurrence.

(2) INJUNCTION PROCEEDINGS.—The district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of subsection (a) upon the application of the Attorney General of the United States.

(c) REPEAL.—Section 12 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1340) is repealed.

(d) REGULATORY AUTHORITY.—Not later than 90 days after the date of enactment of this Act, the President shall promulgate such regulations and orders as may be necessary to carry out this section.

(e) EFFECTIVE DATE.—The provisions of subsections (a) through (c) shall take effect upon the effective date of the regulations promulgated under subsection (d).

AMERICAN LUNG ASSOCIATION,
Washington, DC, July 22, 1997.
Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Lung Association supports your legislation addressing U.S. economic and foreign policy towards the international sale and labeling of tobacco products.

Tobacco use continues to be the single most preventable cause of premature death and disease in the United States. Worldwide, smoking causes one death every ten seconds, 3 million people a year. Unless strong measures are taken, it is estimated that in three decades the death toll will rise to about 10 million people each year, with 70 percent of those deaths occurring in developing countries.

In the past, the United States government has assisted U.S. tobacco companies in their efforts to expand tobacco advertising, promotion and exports. Using Section 301 of the Trade Act of 1974, previous administrations have issued formal threats to force other nations to import U.S. tobacco products and to weaken health laws that would reduce tobacco use. Your legislation would end the U.S. government's proactive involvement in the exportation of tobacco's death and disease to other countries by curtailing federal agencies from intervening internationally on behalf of the industry.

The American Lung Association believes the United States should be a world leader in tobacco control and that the U.S. should not help open international markets so companies here can profit from death and disease elsewhere. This policy is unacceptable and must end. The adoption of your legislation would be a major step in the right direction.

Thank you for your leadership on this and other tobacco control-related issues.

Sincerely,

FRAN DU MELLE,
Deputy Managing Director.

NATIONAL CENTER FOR
TOBACCO-FREE KIDS,
Washington, DC, July 23, 1997.
Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: We are writing on behalf of the National Center for Tobacco Free Kids to express the center's strong support for your effort, as a part of the Worldwide Tobacco Disclosure Act, to ensure that the United States does not interfere with actions taken by foreign governments to reduce the dangers that tobacco products pose to their citizens. This would help to save lives and improve the public health of people around the world.

There is clear need for action to be taken to prevent the spread of tobacco caused disease throughout the world. In 1994, over 4.6 trillion cigarettes were consumed in foreign nations. In 1995, over 3.1 million people died as a result of tobacco use, with over 1.2 million of those deaths occurring in developing countries. As worldwide tobacco use and tobacco related disease has reached astronomical levels, U.S. tobacco exports have continued to climb. In 1995, the U.S. exported an estimated 240 billion cigarettes, up from less than 60 billion ten years earlier.

In the past, America has taken action against governments that promulgate rules to curb tobacco caused disease. During the previous administration, the U.S. pressured Thailand, Taiwan, South Korea and other countries not to enact tough new laws to curb tobacco marketing, even though these laws were to be applied in a non-discriminatory manner. The U.S. also encouraged Taiwan to repeal new requirements for cigarette warning labels. The Worldwide Tobacco Disclosure Act would prevent American officials from using economic muscle to promote higher cigarette exports by blocking legitimate health laws in other countries.

We commend you for taking the lead in introducing this important piece of legislation and urge the Senate to stand up for the health of millions of people around the world.

Sincerely Yours,

WILLIAM D. NOVELLI,
President.
MATTHEW L. MYERS,
Executive Vice President and General Counsel.

AMERICAN HEART ASSOCIATION,
Washington, DC, July 23, 1997.
Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Heart Association (AHA) is pleased to express its strong support for your legislation, the Worldwide Tobacco Disclosure Act of 1997, a critical step in addressing the inadequacy of current laws on U.S. economic and foreign policy regarding the international sale of tobacco products. In general, we believe that the U.S. should actively promote the global adoption of U.S. domestic tobacco control policies.

The AHA is a non-profit organization representing the interests of over 4.6 million volunteers nationwide who give their time and energies to reducing cardiovascular disease and stroke, this nation's number one and three killers respectively. Despite our efforts, and the efforts of our partners in tobacco control, tobacco use continues to be the number one preventable cause of premature death and disease in the United States.

Worldwide, smoking causes one death every 10 seconds. The global smoking rate is increasing steadily, despite decreases in the United States and other developed nation. The World Health Organization (WHO) predicts that more than 500 million people alive today eventually will die of diseases caused by smoking, unless strong action is taken to stem this epidemic.

Historically, U.S. government agencies and Congress have assisted U.S. tobacco companies in their efforts to expand tobacco advertising, promotion and exports around the world. Previous administrations have issued formal trade threats under Section 301 of the Trade Act of 1974, to force other nations to import U.S. tobacco products and to weaken health laws that would reduce tobacco use.

The AHA supports the primary goals of this legislation: That exported cigarettes carry the same federal labeling format requirements as those manufactured, imported or packaged for sale or distribution within the United States, and that there be a prohibition on the use of federal funds to aid any effort by the United States, through negotiation or otherwise, to weaken the tobacco control laws of foreign countries.

Sincerely,

MARTHA, N. HILL, R.N., Ph.D.,
President.

[From the Washington Post, Nov. 17, 1996]

U.S. AIDED CIGARETTE FIRMS IN CONQUESTS ACROSS ASIA

AGGRESSIVE STRATEGY FORCED OPEN LUCRATIVE MARKETS

(By Glenn Frankel)

On the streets of Manila, "jump boys" as young as 10 hop in and out of traffic selling Marlboros and Lucky Strikes to passing motorists. In the discos and coffee shops of Seoul, young Koreans light up foreign brands that a decade ago were illegal to possess. Downtown Kiev has become the Ukrainian version of Marlboro Country, with the gray socialist cityscape punctuated with colorful billboards of cowboy sunsets and chiseled faces. And in Beijing, America's biggest tobacco companies are competing for the right to launch cooperative projects with the state-run tobacco monopoly in hopes of capturing a share of the biggest potential market in the world.

Throughout the bustling cities of a newly prosperous Asia and the ruined economies of the former Soviet Bloc, the American cigarette is king. It has become a symbol of affluence and sophistication, a statement and an aspiration. At home—where the American tobacco industry is besieged by anti-smoking activists, whistle-blowers, government regulators, grand juries and plaintiffs' lawyers—cigarette consumption has undergone a 15-year decline. Thanks to foreign sales, however, the companies are making larger profits than ever before.

But the industry did not launch its campaign for new overseas markets alone. The Reagan and Bush administrations used their economic and political clout to pry open markets in Japan, South Korea, Taiwan, Thailand and China for American cigarettes. At a time when one arm of the government was warning Americans about the dangers of smoking, another was helping the industry recruit a new generation of smokers abroad.

To this day, many U.S. officials see cigarette exports as strictly an issue of free trade and economic fairness, while tobacco industry critics and public health advocates consider it a moral question. Even the Clinton administration finds itself torn: It is the most vocally anti-smoking administration in U.S. history, yet it has been in the uncomfortable role of challenging or delaying some anti-smoking efforts overseas.

At the same time, fledgling anti-smoking movements are rising up with support from American activists, passing restrictions that in some cases are tougher than those in the United States.

Having exported its cigarette industry, the United States is now in effect exporting its anti-smoking movement as well.

Just as the industry's overseas campaign has produced new smokers and new profits, it has also produced new consequences. International epidemiologist Richard Peto of Oxford University estimates that smoking is responsible for 3 million deaths per year worldwide; he projects that 30 years from now the number will have reached 10 million, most of them in developing nations. In China alone, Peto says 50 million people who are currently 18 or younger eventually will die from smoking-related diseases. "In most countries, the worst is yet to come," he warned.

Asia is where tobacco's search for new horizons began and where the industry came to rely most on Washington's help. U.S. officials in effect became the industry's lawyers, agents and collaborators. Prominent politicians such as Robert J. Dole, Jesse Helms, Dan Quayle and Al Gore played a role. "No matter how this process spins itself out," George Griffin, commercial counselor at the U.S. Embassy in Seoul, told Matthew N. Winokur, public affairs manager of Philip Morris Asia, in a "Dear Matt" letter in January 1986, "I want to emphasize that the embassy and the various U.S. government agencies in Washington will keep the interests of Philip Morris and the other American cigarette manufacturers in the forefront of our daily concerns."

U.S. officials not only insisted that Asian countries allow American companies to sell cigarettes, they also demanded that the companies be allowed to advertise, hold give-away promotions and sponsor concerts and sports events in what critics say was a blatant appeal to women and young people. They regularly consulted with company representatives and relied upon the industry's arguments and research. They ignored the protests of public health officials in the United States and Asia who warned of the consequences of the market openings they sought. Indeed, their constant slogan was that health factors were irrelevant. This was, they insisted, solely an issue of free trade.

But then-Vice President Quayle suggested another motive when he told a North Carolina farming audience in 1990 that the government also was seeking to help the tobacco industry compensate for shrinking markets at home. "I don't think it's any news to North Carolina tobacco farmers that the American public as a whole is smoking less," said Quayle. "We ought to think about the exports. We ought to think about opening up markets, breaking down the barriers."

A handful of American health officials vigorously opposed the government's campaign, yet were either stymied or ignored. "I feel the most shameful thing this country did was to export disease, disability and death by selling our cigarettes to the world," said former surgeon general C. Everett Koop. "What the companies did was shocking, but even more appalling was the fact that our own government helped make it possible."

WAGING THE WAR

Clayton Yeutter, an affable, high octane Nebraska Republican with a wide smile and serious political aspirations, came to the Office of the U.S. Trade Representative in 1985 with a mission: to put a dent in the record U.S. trade deficit by forcing foreign countries to lower their barriers against American products.

Yeutter (prounced "Yi-ter") took office at a time when Washington was on the verge of declaring a trade war against some of its staunchest allies in the Far East. Asian tigers such as Japan, South Korea, Taiwan and Thailand were running up huge trade surpluses with the United States on goods ranging from T-shirts to computer chips to luxury sedans. The U.S. annual trade deficit in 1984 totaled a record $123 billion. Congressional Democrats proposed a 25 percent surcharge on products from Japan, Taiwan, South Korea and Brazil, while the House and Senate overwhelmingly approved resolutions calling for retaliation against Japan if it didn't increase its purchases of exports.

In heeding that warning, the Reagan administration turned to a small, elite and little-known federal agency. The Office of the U.S. Trade Representative (USTR) had only 164 permanent employees, but it enjoyed cabinet-level status and a self-styled half-joking, half-serious reputation as "the Jedi knights of the trade world." Operating out of the four-story, Civil War-era Winder Building on 17th Street NW, USTR's staff was known for its dedication and aggressiveness. Most staff members came from departments such as Commerce, State and Agriculture, and they saw the trade rep's office as a place where they could practice their craft free from the fetters of larger, more rigid bureaucracies. They worked long hours and displayed a fierce loyalty to each other and the agency they served.

In 1985 they got a new boss to match their mood. Yeutter had worked as a deputy trade representative during the Ford administration, then went on to become president of the Chicago Mercantile Exchange. He came back to Washington with an eye toward using USTR as a launching pad for becoming a U.S. senator, secretary of agriculture or even vice president, according to friends. Yeutter was not a member of Ronald Reagan's inner circle, and he was eager to show the president what he could do. "They told me they needed a high-energy person," he recalled in a interview. "I told them I was ready to hit the ground running."

Yeutter knew that USTR had a weapon in its arsenal that was tailor-made for softening up recalcitrant trading partners. Section 301 of the 1974 Trade Act empowered USTR to launch a full-scale investigation of unfair trading practices and required that Washington invoke retaliatory sanctions within a year if a targeted government did not agree to change its ways. Launching a 301 was like setting a time bomb; both sides could hear the clock ticking.

Yeutter had no trouble persuading the administration to allow him to use Section 301 aggressively. "There was a lot of momentum for attempting something new," he said.

The U.S. tobacco industry had been trying for years to get a foothold in these promising new Asian markets. In 1981 the big three—Philip Morris Inc., R.J. Reynolds Tobacco Co. and Brown & Williamson—had formed a trade group called the U.S. Cigarette Export Association to pursue a joint industry-wide policy on the issue. But the companies had felt frustrated during the first term of the Reagan administration.

Japan, the West's second largest market for cigarettes, remained virtually closed to American brands due to high tariffs and discriminatory distribution. South Korean law effectively made it a crime to buy or sell a pack of foreign cigarettes. Taiwan and Thailand remained tightly shut. All of these countries but Taiwan were signatories to the General Agreement on Tariffs and Trade, and Taipei hoped to join soon. Yet each appeared to violate free trade principles.

"In international trade terms, it's really very rare that the issues are so clear-cut and so blatant," recalled Owen C. Smith, a Philip Morris foreign trade expert who serves as president of the association. "These countries were sitting with published laws which on their face discriminated against American products. It was an untenable situation. . . . These were, frankly, open-and-shut cases."

When Yeutter and his staff looked at the cigarette business in these countries, they saw blatant hypocrisy. Each Asian government sought to justify its ban on imported cigarettes in the name of public health, yet each had its own protected, state-controlled tobacco monopoly that manufactured and sold cigarettes—and provided large amounts of tax revenue to the government. The state companies' marketing techniques were in many ways just as cynical as those of the American companies. In Taiwan, for example, the most popular state brand was called Long Life. These were classic, state-run companies; bloated and inefficient, they produced overpriced, low-quality and poorly marketed cigarettes that could never compete with jazzier American brands in free competition.

Health was simply a smoke screen, Yeutter quickly decided, raised by recalcitrant foreign governments hooked on cigarette profits. "I would have had no problem with Japan or Korean or Taiwan putting up genuine health restrictions," he insisted. "But that's not what these governments were doing. They were restricting trade, and it was just blatant."

What Yeutter didn't seem to appreciate was that the very flaws of the state-run monopolies were exactly what a doctor might have ordered: Their high price and poor quality had helped limit smoking mostly to older men who had the money and taste for harsh, tar-heavy local brands. The monopolies seldom, if ever, advertised and did not target the great untapped markets of women and young people. Per capita sales remained low in every country except Japan. From a public health standpoint, maintaining the monopolies was far preferable to opening the gates to American companies with their milder blends and state-of-the-art marketing.

"When the multinational companies penetrate a new country, they not only sell U.S. cigarettes but they transform the entire market," said Gregory Connolly, a veteran anti-smoking activist who heads the Massachusetts Tobacco Control Program. "They transform how tobacco is presented, how it's advertised, how it's promoted. And the result is the creation of new demand, especially among women and young people."

Connolly, who traveled widely through Asia, documented how American companies skirted advertising restrictions by sponsoring televised rock concerts and sporting events, placing cigarette brands in movies and lending their brand names to non-tobacco products such as clothing and sports gear. A Madonna concert in Spain became a "Salem Madonna Concert" when televised in Hong Kong, while the U.S. Open tennis tournament in New York became the "Salem Tennis Open" in Malaysia. Tennis stars Pat Cash, Michael Chang, Jimmy Connors and John McEnroe appeared in live matches in Malaysia sponsored by RJR.

None of this troubled Yeutter and his trade warriors. They saw foreign advertising restrictions as one more form of trade discrimination. The interagency committee that advised Yeutter on the issue consisted of representatives from State, Agriculture, Commerce, Labor and Treasury, but not from Health and Human Services. There was no one with a public health or tobacco control background to argue that there was a link between advertising and health.

The companies convinced Yeutter that helping them sell cigarettes meant helping American trade. They produced studies showing that aside from heavy aviation parts, cigarettes were America's most successful manufactured export in terms of the net balance of trade. They estimated that cigarette exports—largely to Western Europe and Latin America—accounted for 250,000 full-time jobs in the United States and contributed more than $4 billion to the positive side of the trade ledger.

The industry also turned up the political heat. In a January 1984 letter to an official in the Commerce Department, Robert H. Bockman, then director of corporate affairs for Philip Morris Asia, described trade barriers against his company's products in South Korea. He then went on to discuss what he called "the politics of tobacco in this election year. Attached please find a listing of the 1980 election results in the major tobacco-growing areas in the United States. You will note that the margin of victory for the president [Ronald Reagan] was narrow in some key areas."

Jesse Helms (R–N.C.), who at the time chaired the Senate Agriculture Committee, also intervened. In July 1986 Helms wrote to Japanese Prime Minister Yasuhiro Nakasone congratulating him on his recent election victory and pointing out that American cigarettes accounted for less than 2 percent of the Japanese market. "Your friends in Congress will have a better chance to stem the tide of anti-Japanese trade sentiment if and when they can cite tangible examples of your doors being opened to American products," wrote Helms. "I urge that you make a commitment to establish timetable for allowing U.S. cigarettes a specific share of your market. May I suggest a goal of 20 percent within the next 18 months."

At Yeutter's urging, Reagan decided not to wait for a formal filing from the industry against Japan. Instead, for the first time the White House filed three 301 complaints with USTR in September 1985, one of them against Japanese restrictions on the sale of U.S. cigarettes.

According to the USTR log of the case, U.S. officials presented a lengthy questionnaire at their opening session with Japanese trade representatives, demanding detailed data on the Japanese market. Meanwhile, other U.S. bureaucrats began drawing up lists of products for possible retaliation—all part of what one negotiator called the "ratcheting-up process."

Japanese negotiators hung tough over the course of 14 sessions. Joseph A. Massey, who was in charge of trade negotiations with Japan, recalled they argued that Japan Tobacco, the state-run cigarette monopoly, was too inefficient to withstand U.S. competition, and that in any case the Americans should continue the previous long-standing practice of giving Japan an indefinite time period to comply.

Massey recalled one other unusual aspect of the negotiation: Industry representatives from both sides sat in on bargaining sessions. "The Japanese insisted that Japan Tobacco should be in the room," he said. "We said, 'If that's the case, there needs to be parallelism.' . . . They did not sit at the table. They sat quietly along the back wall."

Finally in late September 1986, a year after the 301 complaint was filed, Yeutter received a phone call at his McLean home late one evening from Japanese Finance Minister Kiichi Miyazawa. The minister wanted more time, but Yeutter was unrelenting. He recalls telling Miyazawa that the completed retaliation documents were to be forwarded to the White House the following day. "I said, 'I'm sorry, Mr. Minister, but your government has run out of time,'" Yeutter recalled.

Within days the Japanese capitulated, signing an agreement allowing in American-made cigarettes. By giving in on such a politically well-connected product as cigarettes, Japanese commentators said, Tokyo hoped to buy time on other trade issues. It was, commented the Asahi Shimbun newspaper, a "blood offering."

And so Japan was transformed into a battleground for the world's biggest tobacco companies. Philip Morris aimed at Japanese women with Virginia Slims; Japan Tobacco fought back with Misty, a thin, mildblended cigarette. When RJR wooed young smokers with Joe Camel, JT countered with Dean, named after fabled actor James Dean. Cigarettes became the second most-advertised product on television in Tokyo—up from 40th just a year earlier.

Today, imported brands control 21 percent of the Japanese market and earn more than $7 billion in annual sales. Female smoking is at an all-time high, according to Japan Tobacco's surveys, and one study showed female college freshmen four times more likely to smoke than their mothers.

Yeutter and his colleagues insisted they had done nothing for tobacco.they would not have done for any other industry. But the fact remained that at a time when the United States could not overcome Japan's resistance on a broad range of exports—from beef to cars to super-computers—U.S. cigarettes flourished, thanks to the perseverance of the trade warriors.

INTO SOUTH KOREA

The next target was South Korea, which had a $1.7 billion domestic tobacco market. The U.S. tobacco industry filed a 301 complaint against Seoul in January 1988, and USTR initiated its investigation a month later. South Korea's state cigarette monopoly had done little advertising over the years, and a few months before the 301 case, the Seoul government had formally outlawed cigarette ads. But the United States insisted on defining "fair access" as including the right to advertise.

Even before the formal complaint was filed, tobacco state lawmakers and their allies had supported opening South Korea's market. Senators Dole (R–Kan.) and Helms and 14 others—including Gore, then a senator from Tennessee—wrote to South Korean President Chun Doo Hwan in July 1987 demanding that tobacco companies be allowed "the right to import and distribute without discriminatory taxes and duties, as well as the right to advertise and promote their products."

The companies did their own work as well. RJR hired former Reagan national security adviser Richard Allen to lobby the government in Seoul and give the company more influence than its corporate rivals. Philip Morris gave a $250,000 contract to former White House aide Michael Deaver, who hired two former USTR officials and later obtained a $475,000 lobbying contract with the South Korean government, according to testimony at his 1987 trial for perjury. (Deaver was convicted of lying to Congress about his lobbying activities after he left the White House.)

In May 1988 Seoul formally agreed to open its doors to American brands. The deal allowed cigarette signs and promotions at shops, 120 pages of advertisements in magazines and cigarette company sponsorship of social, cultural and sporting events. Cigarettes quickly became one of the most heavily advertised products in South Korea; from no advertising in 1986, American tobacco companies spent $25 million in 1988. Student activists, anti-smoking groups, the South Korean consumers' union and the local cigarette retail association all staged protests against "tobacco imperialism" and boycotted American cigarettes, and the companies accused the state cigarette monopoly of constant violations of the agreement. Still, within a year, American companies had captured 6 percent of the market.

USTR also made fast work of Taiwan. On the heels of the Japanese agreement, Taiwan had agreed in October 1985 to liberalize barriers to wine, beer and cigarettes. But a year passed and the market remained effectively closed. Reagan then ordered Yeutter to propose "proportional countermeasures," while U.S. officials threatened to oppose Taiwan's application for membership in GATT.

"Since Taiwan wasn't a GATT member, we were not under GATT constraints," said a senior USTR negotiator. "I hate to say it, but you can do whatever you want with Taiwan and Taiwan knows it. They're much more vulnerable than other countries."

Six weeks after Reagan's order, Taiwan folded. "The atmosphere in the negotiations was very bad for us," recalled Chien-Shien Wang, then deputy minister of commerce, who was Taiwan's chief negotiator. "We were told the U.S. had lost patience with us and was about to put us on the 301 list. So we had no choice but to agree."

While some USTR officials now concede they were uneasy about using their power on behalf of America's most controversial industry, they say they had no choice.

"For us it was an issue of, it's a U.S. product and it deserves fair market access," said Robert Cassidy, the current assistant U.S. trade representative for Asia and the Pacific. "There are lots of products people here might prefer not to pursue—I myself didn't much like exporting machines to manufacture bullets. But that's not the issue. The issue was, is this discriminatory treatment or not?"

Following the agreement, consumption of imported cigarettes in Taiwan soared. According to one industry trade journal, foreign brands went from 1 percent of annual cigarette sales to more than 20 percent in less than two years, while state-manufactured brands declined accordingly. RJR sponsored a dance at a Taipei disco popular with teenagers and offered free admission for five empty packs of Winstons. Studies by Taiwanese public health specialist Ted Chen, now a professor at Tulane University Medical Center, tracked a steadily rising rate of smoking among high schoolers.

THE ANTI-SMOKING CRUSADE

The 301 cases were a boon to the industry. The Boston-based National Bureau of Economic Research estimated in a recent report that sales of American cigarettes were 600 percent higher in the targeted countries in 1991 then they would have been without U.S. intervention. In 1990, after he became secretary of agriculture, Yeutter told a news conference, "I just saw the figures on tobacco exports here a few days ago and, my, have the turned out to be a marvelous success story."

The tobacco companies insist that the government's efforts merely allowed them to gain a fair share of existing markets. But the National Bureau projected that American entry pushed up average cigarette consumption per capita by nearly 10 percent in the targeted countries. The report said fiercer price competition and sophisticated advertising campaigns had stimulated the increase.

Then-surgeon general Koop, a fierce critic of the industry, first heard about the 301s when he visited the Japanese Health Ministry during the swing through the Far East in the mid-1980s. "They greeted me with, 'What are you trying to do for us? We will never be able to pay the medical bill,'" he recalled. "I had no idea what they were talking about."

Koop soon found out that USTR was, in his words, "trading Marlboros for Toyotas." But it took several years for anti-smoking activists to become mobilized. In 1988 Koop attempted to hold a hearing on cigarette exports in his Interagency Committee on Smoking and Health, but said he was advised a few days before that the Reagan White House wanted him to drop the subject and uninvite witnesses such as Judith Mackay, a prominent anti-smoking activist from Hong Kong.

Koop refused. Officials from State and Commerce who had agreed to appear suddenly withdrew, but Mackay and a parade of critics testified. She accused the United States of waging "a new Opium War" against Asia, an allusion to Britain's 19th-century effort to force China to allow trade of the addictive drug.

When Yeutter learned of the criticism, he wrote to Koop to defend his record. "I have never smoked, have no desire to do so and believe this addiction to be a terrible human tragedy," he told Koop. "However, what we are about in our trade relationships is something entirely different."

Koop found Yeutter's letter unconvincing. "I'm a firm believer in the difference between a moral compromise and a political compromise," Koop said in a recent interview. "I suppose Yeutter can say he was just doing his job, but when you really are exporting death and disease to the Third World, that's a moral compromise that I would never make."

During congressional hearings on the trade issue in May 1990, the government's sole witness was Sandra Kristoff, then assistant trade representative for Asia and the Pacific, who had negotiated the agreements with South Korea and Taiwan and who vigorously defended USTR's role. She mocked the idea of taking into account health issues in trade policy matters, saying such considerations might result in banning trade in cholesterol-laden cookies "or hormones in red meat. . . . U.S. trade policy is not in the business of picking winners or losers in terms of products."

After the hearing, two lobbyists for Philip Morris wrote a memo to their boss praising her testimony. "The best witness we had was USTR Representative Sandy Kristoff . . . ," they wrote. "She was tremendously effective." Kristoff, who now serves on the staff of the National Security Council, declined to be interviewed.

EYEING NEW MARKETS

When anti-smoking activist Gregory Connolly toured Asia in 1988 he was astonished by how entrenched American cigarettes already had become. In Taipei he discovered 17 billboards advertising foreign cigarettes within sight of a local high school. In Bangkok he was shown student notebooks decorated with the Marlboro logo. In Manila he took photographs of jump boys huddling in an alley smoking Marlboros. Afterward, he protested to Filipino health activist Phyllis Tabla: "You've got to do something about this!"

Her reply: "Don't lecture us! It's not us! It's you!"

Philip Morris was so delighted with the success of the 301 cases that when Yeutter left USTR in 1989 to become secretary of agriculture in the Bush administration, the company threw a celebration in his honor at the Decatur Club here. When critics raised questions about the reception, Yeutter told the Senate Agriculture Committee: "It's unfortunate that when people try to say thank you, it becomes a potential conflict of interest issue, but that's the way the world is these days."

Looking back, Yeutter said he now feels the reception was a mistake. "Philip Morris shouldn't have done it," he said, "They were simply trying to be gracious. . . . It simply was not good judgment on their part. And in retrospect I probably should have done more to discourage it."

Today Yeutter practices international trade law from a corner office at Hogan & Hartson, Washington's largest law firm. He also sits on the board of British-American Tobacco (BAT), the British-based tobacco conglomerate that owns Brown & Williamson, the Louisville-based cigarette manufacturer that was one of the participants in the 301s. He insists he has not changed his mind about the dangers of smoking. But cigarettes remain a legal product, and, he says, BAT is an excellent, well-run company that he is proud to serve.

When Yeutter moved to Agriculture, incoming President Bush appointed Carla Hills, a highly regarded lawyer and former housing and urban development secretary, to succeed him at USTR. One canny political pro replaced another. And USTR set its sights on opening more cigarette markets in Asia.

Next on the agenda was Thailand.

Conditions there were similar to those in Japan, South Korea and Taiwan: a very promising market in a country undergoing explosive economic growth; a state-run monopoly: tight restrictions on imported cigarettes; an advertising ban purportedly based on health claims.

After their success in Japan, South Korea and Taiwan, officials were highly optimistic about Thailand.

The Thai Finance Ministry already was holding discussions about opening its market.

Thailand, both U.S. officials and industry representatives agreed, would be easy.

Only they were wrong. As they were about to find out, in pressing on into Thailand, Washington and the industry had gone a country too far.

TWO ON TOP OF THE WORLD

THE LARGEST INDEPENDENT TOBACCO MERCHANTS ARE BASED IN VA. BUT THEIR GROWTH IS ABROAD

(By Frank Swoboda and Martha M. Hamilton)

RICHMOND.—The faint, pungent smell of tobacco leaf is the first thing you notice when you enter the second-floor executive offices of Universal Corp., the world's largest independent tobacco leaf merchant.

At Universal, as at the Danville, Va., headquarters of its second largest rival, Dimon, Inc., the smell of tobacco is the smell of money.

The two companies (and their only other major competitor, Standard Universal Corp. of North Carolina) are the middlemen in the world tobacco industry. They don't make cigarettes or other consumer tobacco products. Instead, they buy, ship, process, pack, store and finance leaf tobacco for sale to cigarette manufacturers.

Together the two had $5.7 billion in revenue in 1996 from operations in locations that included the United States, Brazil, Tanzania, Zimbabwe, Italy, Bulgaria and China. Despite declining U.S. consumption, and a multibillion-dollar legal settlement by manufacturers that is apt to cut domestic consumption even further, there is no sense of panic in the corridors of these tobacco merchants. Universal and Dimon know the world market—it's enormous and still growing.

"The world market is where the bulk of the growth is," said Universal Vice President James H. Starkey III. Worldwide tobacco consumption has been rising by 1.2 percent to 1.5 percent a year, providing Universal with a consistent 18 percent to 19 percent annual return on equity.

About a third of the tobacco grown in the United States is exported. Last year, that came to 340 million tons of flue-cured tobacco, which is harvested over a several-week period and cured by heat, and about 160 million tons of burley tobacco, which is hung to dry and cure, according to Randy Weber, associate administrator for the Farm Service Agency of the U.S. Department of Agriculture.

"I don't see us shifting away from tobacco. We have continued to reinvest in tobacco as opportunities arise. We're constantly looking for opportunities for expansion," said Starkey.

His optimism is echoed by those who follow the industry. "I'd say the future is very strong, although there are going to be short-term ripples because of the cigarette settlement and the imposition of higher prices," said David A. Goldman, an industry analyst with Robinson-Humphrey in Atlanta.

Universal noted in its annual report to stockholders that "demand for leaf continues to increase in response to an estimated 1 percent annual growth in world cigarette consumption and consumption of American-blend cigarettes is increasing by 3 to 4 percent annually."

There is a growing global market for the mild tobacco mixture known as "American blend" and for American-style cigarettes, of which Universal is a major supplier. More and more of the leaf that goes into those products is being harvested abroad, putting pressure on U.S. growers but increasing profitability for processors by lowering the price of tobacco. As an example of the shift, Starkey points to France, where, he said, the public is beginning to move away from "dark tobacco" cigarettes such as the well-known Gaulois to milder, American blend cigarettes as manufacturers introduce low-cost, generic brands to cultivate a taste for the new blend with the smoking public.

Universal has operations in 30 countries around the globe. It first went into China in the 1920s, and there and elsewhere it has survived civil wars, communist takeovers and political unrest. "The one thing we've been good at is managing through instability. We stick to our knitting. We don't get involved in politics," Starkey said.

Karen W.L. Whelan, Universal's treasurer, said the company keeps "liaison people" at its headquarters who travel back and forth to various countries to help it keep track of changes overseas.

The search for new markets has taken Universal from Eastern Europe to the emerging nations of Africa. In the early 1990s, Universal and Philip Morris purchased the largest tobacco processing company in Kazakhstan from the government. In China—the world's largest tobacco producer, growing more than half the world's supply of flue-cured tobacco—Universal manages a new leaf processing plant near Bengbu for the Shanghai Tobacco Co.

Universal buys the leaf processed at the Chinese plant and has agreed to export a minimum of 70 percent of the tobacco. "It's the only export operation in China managed by a foreign company," Starkey said.

The company first entered China in 1925, and it remained until the communist takeover. It returned to China when the Nixon administration reopened relations with the Asian nation in the 1970s.

Like almost all the other U.S.-based multinationals, America's tobacco merchants are watching the vast Chinese market closely, for an obvious reason: Smokers in China consume approximately 1.7 trillion cigarettes a year, far more than the 450 billion a year smoked by U.S. consumers, according to Scott & Stringfellow analyst John F. Kasprzak.

More than just a tobacco merchant, Universal's interests include lumber and building products distribution in the Netherlands and Belgium. It also buys, processes and distributes tea, rubber, sunflower seeds, dried fruits and seasonings as part of a joint venture with COSUN, a Dutch sugar cooperative. But tobacco is by far its biggest business, accounting for 71 percent of the company's revenues and 83 percent of its operating profits.

Rival Dimon Inc. is also enjoying an upcurve, reaching almost $2.2 billion in sales last year. Dimon operates in 36 countries, and like its Richmond competitor its business is not one-dimensional: It ranks as the world's largest exporter and distributor of fresh-cut flowers. Dimon was formed in 1995 by a merger of 120-year-old Dibrell Bros. Inc. of Danville with tobacco processor Monk-Austin of Farmville, N.C. That union created a company that ranked second in its industry to Universal; a deal consummated earlier this year in which Dimon acquired British-based Intabex Holdings Worldwide SA narrowed the gap between the two companies.

Intabex was a privately-owned company that was the fourth-largest leaf tobacco dealer in the world. It owned tobacco buying, processing and exporting operations in the United States, Brazil, Argentina, Malawi, Italy and Thailand and was affiliated with a Zimbabwe company that Dimon also acquired. Its acquisition will offer Dimon considerable opportunity to cut costs, Kasprzak said, by consolidating operations and refinancing Intabex's considerable debt.

Officials from Dimon declined to be interviewed for this story.

Both Universal and Dimon have benefited from industry consolidation, which has in the past several years cut the number of major leaf merchants from eight to three. But the same consolidation has hurt U.S. tobacco growers, said Jerry Jenkins, a grower in Lunenberg County, Va., who is also chairman of Tobacco Associates, the export promotion organization for the nation's flue-cured growers.

"The problem with the recent mergers and consolidations in the industry is that they reduce competition," said Jenkins, who farms about 30 acres of flue-cured tobacco and 3.5 acres of dark fire-cured tobacco. "It's generally not to the benefit of the seller of the product."

Virginia farmers grow flue-cured tobacco on approximately 40,000 acres and burley tobacco on about 10,000 acres. Maryland is also a tobacco-growing state but on a much smaller level. Only about 8,000 acres there are devoted to tobacco cultivation, according to the USDA's Weber.

The increasing worldwide demand for tobacco that is filling the coffers of Universal and Dimon may not be the long-term salvation of these farmers. Although the world's smokers are developing a taste for American blend, U.S.-grown tobacco is simply too expensive for many world markets. U.S. tobacco is still as much as 30 percent higher in price than competitive tobacco products from Brazil and Zimbabwe, according to Universal's Starkey.

Perhaps an even greater problem for American growers is the financing role the processing companies play in overseas markets. According to analyst Goldman, companies like Dimon contract with a cigarette maker like R.J. Reynolds Tobacco Co. to deliver a certain grade of tobacco a year from now and ask for a down payment. They then use that down payment to provide cash advances to growers in countries such as Brazil, helping to finance farmers there without putting their own funds at risk.

"When you're loaning a man money to grow a crop or underwriting his loan and furnishing technical advice, it only seems natural that you're going to want to buy his crop first to recoup that investment," said tobacco grower Jenkins. To compete, tobacco growers in Virginia have had to cultivate larger acreages to achieve efficiencies of scale, he said.

"We don't like to buy without having an order," said Universal's Whelan, adding that most of the company's tobacco purchases are made at local auction, which is how tobacco is sold in this country. She said that in only a handful of countries does Universal have advance contracts with growers, in countries such as Brazil, Guatemala, Mexico and Italy.

The next possible target for expansion for Universal, Dimon and Standard may be processing tobacco for U.S. cigarette manufacturers who now do their own processing, said Scott & Stringfellow's Kasprzak. In recent years Lorillard Tobacco and RJR turned over their leaf purchasing and some processing to Dimon's predecessors, and others may follow suit.

In the meantime, Virginia's tobacco merchants can look forward to doing business in a world that every year consumes more cigarettes with no sign of slowing down.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the names of the Senator from Louisiana [Ms. LANDRIEU] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 194

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations and for other purposes.

S. 202

At the request of Mr. LOTT, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 202, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 260

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 260, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 358

At the request of Mr. DEWINE, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 830

At the request of Mr. JEFFORDS, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 830, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

S. 887

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom Program, and for other purposes.

S. 896

At the request of Mr. LEAHY, the names of the Senator from Wyoming [Mr. THOMAS] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 896, a bill to restrict the use of funds for new deployments of antipersonnel landmines, and for other purposes.

S. 974

At the request of Mr. REED, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 974, a bill to amend the Immigration and Nationality Act to modify the qualifications for a country to be designated as a visa waiver pilot program country.

S. 980

At the request of Mr. DURBIN, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 980, a bill to require the Secretary of the Army to close the U.S. Army School of the Americas.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of child care provided through Federal facilities and programs, and for other purposes.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE RESOLUTION 98

At the request of Mr. BYRD, the names of the Senator from Nevada [Mr. REID], the Senator from Nevada [Mr. BRYAN], the Senator from Tennessee [Mr. THOMPSON], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Resolution 98, a resolution expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change.

SENATE RESOLUTIONS 109—CONDEMNING THE GOVERNMENT OF CANADA

Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. GORTON, and Mr. HELMS) submitted the following resolution; which was considered and agreed to:

S. RES. 109

Whereas, Canadian fishing vessels blockaded the M/V MALASPINA, a U.S. passenger vessel operated by the Alaska Marine Highway System, preventing that vessel from exercising its right to innocent passage from 8:00 a.m. on Saturday, July 19, 1997 until 9:00 p.m. Monday, July 21, 1997;

Whereas, the Alaska Marine Highway System is part of the United States National Highway System and blocking this critical link between Alaska and the contiguous States is similar in impact to a blockade of a major North American highway or air-travel route;

Whereas, the M/V MALASPINA was carrying over 300 passengers, mail sent through the U.S. Postal Service, quantities of fresh perishable foodstuff bound for communities without any other road connections to the contiguous States, and the official traveling exhibit of the Vietnam War Memorial;

Whereas, international law, as reflected in Article 17 of the United Nations Convention on the Law of the Sea, guarantees the right of innocent passage through the territorial sea of Canada of the ships of all States;

Whereas, the Government of Canada failed to enforce an injunction issued by a Canadian court requiring the M/V MALASPINA to be allowed to continue its passage, and the M/V MALASPINA departed only after the blockaders agreed to let it depart;

Whereas, during the past three years U.S. vessels have periodically been harassed or treated in ways inconsistent with international law by citizens of Canada and by the Government of Canada in an inappropriate response to concerns in Canada about the harvest of Pacific salmon in waters under the sole jurisdiction of the United States;

Whereas, Canada has failed to match the good faith efforts of the United States in attempting to resolve differences under the Pacific Salmon Treaty, in particular, by rejecting continued attempts to reach agreement and withdrawing from negotiations when an agreement seemed imminent just before the Canadian national election of June, 1997;

Whereas neither the Government of Canada nor its citizens have been deterred from additional actions against vessels of the United States by the diplomatic responses of the United States to past incidents such as the imposition of an illegal transit fee on American fishing vessels in June, 1994: Now, therefore, be it *Resolved by the Senate*, that it is the sense of the Senate that—

(1) The failure of the Government of Canada to protect U.S. citizens exercising their right of innocent passage through the territorial sea of Canada from illegal actions and harassment should be condemned;

(2) The President of the United States should immediately take steps to protect the interests of the United States and should not tolerate threats to those interests from the action or inaction of a foreign government or its citizens;

(3) The President should provide assistance, including financial assistance, to States and citizens of the United States seeking damages in Canada that have resulted from illegal or harassing actions by the Government of Canada or its citizens; and

(4) The President should use all necessary and appropriate means to compel the Government of Canada to prevent any further illegal or harassing actions against the United States, its citizens or their interests, which may include—

(A) using U.S. assets and personnel to protect U.S. citizens exercising their right of innocent passage through the territorial sea of Canada from illegal actions or harassment until such time as the President determines that the Government of Canada has adopted a long-term policy that ensures such protection;

(B) prohibiting the import of selected Canadian products until such time as the President determines that Canada has adopted a long-term policy that protects U.S. citizens exercising their right of innocent passage through the territorial sea of Canada from illegal actions or harassment;

(C) directing that no Canadian vessel may anchor or otherwise take shelter in U.S. waters off Alaska or other States without formal clearance from U.S. Customs, except in emergency situations;

(D) directing that no fish or shellfish taken in sport fisheries in the Province of British Columbia may enter the United States; and

(E) enforcing U.S. law with respect to all vessels in waters of the Dixon Entrance claimed by the United States, including the area in which jurisdiction is disputed.

AMENDMENTS SUBMITTED

THE AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

ROBERTS AMENDMENT NO. 961

Mr. ROBERTS proposed an amendment to the bill (S. 1033) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 28, line 19, before the period at the end of the sentence, insert the following: ": *Provided further*, That, of the amount made available under this sentence, $4,000,000 shall be available for obligation only after the Administrator of the Risk Management Agency issues and begins to implement the plan to reduce administrative and operating costs of approved insurance providers required under section 508(k)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(7))".

COCHRAN (AND BUMPERS) AMENDMENT NO. 962

Mr. COCHRAN (for himself and Mr. BUMPERS) proposed an amendment to the bill, S. 1033, supra; as follows:

On page 55, line 20, strike "1997" and insert "1998".

On page 55, line 21, strike "1997" and insert "1998".

D'AMATO (AND SARBANES) AMENDMENT NO. 963

Mr. COCHRAN (for Mr. D'AMATO for himself and Mr. SARBANES) proposed an amendment to the bill, S. 1033, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . RURAL HOUSING PROGRAMS.

(a) HOUSING IN UNDERSERVED AREAS PROGRAM.—The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(b) HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.—

(1) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(2) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(3) LOAN TERM.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(A) in subsection (a)(2), by striking "up to fifty" and inserting "up to 30"; and

(B) in subsection (b)—

(i) by striking paragraph (2) and inserting the following:

"(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;";

(ii) in paragraph (5), by striking "and" at the end;

(iii) in paragraph (6), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(7) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

"(A) the Secretary determines—

"(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

"(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

"(B) the Secretary determines—

"(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

"(ii) any other criteria established by the Secretary has been met.".

(c) LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.—Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p–2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

"(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.";

(2) by striking subsection (t) and inserting the following:

"(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1998 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year."; and

(3) in subsection (u), by striking "1996" and inserting "1998".

COCHRAN (AND BUMPERS) AMENDMENT NO. 964

Mr. COCHRAN (for himself and Mr. BUMPERS) proposed an amendment to the bill, S. 1033, supra; as follows:

At the end of the bill, add the following new provision:

SEC. . Effective on October 1, 1998, section 136(a) of the Agricultural Market Transition Act (7 U.S.C. 7236(a)) is amended—

(a) in paragraph (1)

(1) by striking "Subject to paragraph (4), during" and inserting "During"; and

(2) in subparagraph (B), by striking "130" and inserting "134";

(b) by striking paragraph (4); and

(c) by redesignating paragraph (5) as paragraph (4).

DURBIN (AND OTHERS) AMENDMENT NO. 965

Mr. DURBIN (for himself and Mr. GREGG, and Mr. WYDEN) proposed an amendment to the bill, S. 1033, supra; as follows:

On page 66, between lines 12 and 13, insert the follows:

SEC. 728. None of the funds made available in this Act may be used to provide or pay the salaries of personnel who provide crop insurance or noninsured crop disaster assistance for tobacco for the 1998 for later crop years.

FORD AMENDMENT NO. 966

Mr. FORD proposed an amendment to amendment No. 965 proposed by Mr. DURBIN to the bill, S. 1033, supra; as follows:

Strike all after the first word and insert the following:

LIMITATION OF CROP INSURANCE TO FAMILY FARMERS

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

"(6) CROP INSURANCE LIMITATION.—

"(A) IN GENERAL.—To qualify for coverage under a plan of insurance or reinsurance under this title, a person may not own or operate farms with more than 400 acres of cropland.

"(B) DEFINITION OF PERSON.—The Corporation shall issue regulations—

"(i) defining the term 'person' for purposes of subparagraph (A); and

"(ii) prescribing such rules as the Corporation determines necessary to ensure a fair and reasonable application of the limitation established under subparagraph (A).".

GREGG (AND BROWNBACK) AMENDMENT NO. 967

(Ordered to lie on the table.)

Mr. GREGG (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by them to the bill, S. 1033, supra; as follows:

At the end of the bill, add the following:

SEC. . REPAYMENT OF CERTAIN SUGAR LOANS.

None of the funds appropriated or otherwise made available by this Act may be used to make a loan to a processor of sugarcane or sugar beets, or both, who has an annual revenue that exceeds $10 million, unless the terms of the loan require the processor to repay the full amount of the loan, plus interest.

HARKIN (AND OTHERS) AMENDMENT NO. 968

Mr. HARKIN (for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. BYRD, Mr. REED, and Mr. BINGAMAN) proposed an amendment to the bill, S. 1033, supra; as follows:

At the end of title VII, insert the following:

SEC. . TOBACCO ASSESSMENTS.

Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended—

(1) in subsection (g)(1), by striking "Effective" and inserting "Except as provided in subsection (h), effective"; and

(2) by adding at the end the following:

"(h) MARKETING ASSESSMENT FOR CERTAIN 1997 AND 1998 CROPS.—

"(1) IN GENERAL.—Effective only for the 1997 crop of tobacco (other than Flue-cured tobacco) and the 1998 crop of Flue-cured tobacco for which price support is made available under this Act, each purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

"(A) in the case of a purchaser of domestic tobacco, 2.1 percent of the national price support level for each such crop; and

"(B) in the case of an importer of tobacco, 2.1 percent of the national support price for the same kind of tobacco;

as provided for in this section.

"(2) COLLECTION AND ENFORCEMENT.—The purchaser and importer assessments under paragraph (1) shall be—

"(A) collected in the same manner as provided for in section 106A(d)(2) or 106B(d)(3), as applicable; and

"(B) enforced in the same manner as provided in section 106A(h) or 106B(j), as applicable.

"(3) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.".

Notwithstanding any other provision of this act, $964,261,000 is provided for salaries and expenses of the Food and Drug Administration.

In carrying out their responsibilities under the Food and Drug Administration youth tobacco use prevention initiative, States are encouraged to coordinate their enforcement efforts with enforcement of laws that prohibit underage drinking.

HELMS (AND FAIRCLOTH) AMENDMENT NO. 969

Mr. HELMS (for himself and Mr. FAIRCLOTH) proposed an amendment to amendment No. 968 proposed by Mr. HARKIN to the bill, S. 1033, supra; as follows:

Strike all after the first word and insert the following:

ASSESSMENT FOR ETHANOL PRODUCERS.

(a) IN GENERAL.—For fiscal year 1998, the rate of tax otherwise imposed on a gallon of ethanol under the Internal Revenue Code of 1986 shall be increased by 3 cents and such rate increase shall not be considered in any determination under section 9503(f)(3) of the Internal Revenue Code of 1986.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. TRUST FUND FOR ANTI-SMOKING ACTIVITIES.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Anti-Smoking Activities' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to section (a) of the Agriculture, Rural and Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, as estimated by the Secretary.

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to the Secretary of Health and Human Services for anti-smoking programs through the Substance Abuse and Mental Health Administration.".

(2) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9512. Trust Fund for Anti-Smoking Activities.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply fuel removed after September 30, 1997.

BRYAN (AND OTHERS) AMENDMENT NO 970

Mr. BRYAN (for himself, Mr. KERRY, Mr. GREGG, Mr. GRAMS, and Mr. REID) proposed an amendment to the bill, S. 1033, supra; as follows:

Beginning on page 63, strike line 24 and all that follows through page 64, line 5, and insert the following:

SEC. 718. None of the funds made available by this Act may be used to provide assistance under, or to pay the salaries of personnel who carry out, a market promotion or market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623)—

(1) that provides assistance to the United States Mink Export Development Council or any mink industry trade association;

(2) to the extent that the aggregate amount of funds and value of commodities under the program exceeds $70,000,000; or

(3) that provides assistance to a foreign person (as defined in section 9 of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3508)).

GRAMS (AND OTHERS) AMENDMENT NO. 971

Mr. GRAMS (for himself, Mr. FEINGOLD, Mr. KOHL, Mr. LEVIN, Mr. WELLSTONE, Mr. CRAIG, and Mr. ABRAHAM) proposed an amendment to the bill, S. 1033, supra; as follows:

On page 66, between lines 12 and 13, insert the following:

SEC. 728. STUDY OF NORTHEAST INTERSTATE DAIRY COMPACT.

(a) DEFINITIONS.—In this section:

(1) CHILD, SENIOR, AND LOW-INCOME NUTRITION PROGRAMS.—The term "child, senior, and low-income nutrition programs" includes—

(A) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(B) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.);

(C) the summer food service program for children established under section 13 of that Act (42 U.S.C. 1761);

(D) the child and adult care food program established under section 17 of that Act (42 U.S.C. 1766);

(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

(F) the school breakfast program established under section 4 of that Act (42 U.S.C. 1773);

(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of that Act (42 U.S.C. 1786); and

(H) the nutrition programs and projects carried out under part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.).

(2) COMPACT.—The term "Compact" means the Northeast Interstate Dairy Compact.

(3) NORTHEAST INTERSTATE DAIRY COMPACT.—The term "Northeast Interstate Dairy Compact" means the Northeast Interstate Dairy Compact referred to in section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256).

(4) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(b) EVALUATION.—Not later than December 31, 1997, the Director shall conduct, complete, and transmit to Congress a comprehensive economic evaluation of the direct and indirect effects of the Northeast Interstate Dairy Compact, and other factors which affect the price of fluid milk.

(c) COMPONENTS.—In conducting the evaluation, the Director shall consider, among other factors, the effects of implementation of the rules and regulations of the Northeast Interstate Dairy Compact Commission, such as rules and regulations relating to over-order Class I pricing and pooling provisions. This evaluation shall consider such effects prior to implementation of the Compact and that would have occurred in the absence of the implementation of the Compact. The evaluation shall include an analysis of the impacts on—

(1) child, senior, and low-income nutrition programs including impacts on schools and institutions participating in the programs, on program recipients and other factors;

(2) the wholesale and retail cost of fluid milk;

(3) the level of milk production, the number of cows, the number of dairy farms, and milk utilization in the Compact region, including—

(A) changes in the level of milk production, the number of cows, and the number of dairy farms in the Compact region relative to trends in the level of milk production and trends in the number of cows and dairy farms prior to implementation of the Compact;

(B) changes in the disposition of bulk and packaged milk for Class I, II, or III use produced in the Compact region to areas outside the region relative to the milk disposition to areas outside the region;

(C) changes in—

(i) the share of milk production for Class I use of the total milk production in the Compact region; and

(ii) the share of milk production for Class II and Class III use of the total milk production in the Compact region;

(4) dairy farmers and dairy product manufacturers in States and regions outside the Compact region with respect to the impact of changes in milk production, and the impact of any changes in disposition of milk originating in the Compact region, on national milk supply levels and farm level milk prices nationally; and

(5) the cost of carrying out the milk price support program established under section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251).

(d) ADDITIONAL STATES AND COMPACTS.—The Secretary shall evaluate and incorporate into the evaluation required under subsection (b) an evaluation of the economic impact of adding additional States to the Compact for the purpose of increasing prices paid to milk producers.

WELLSTONE AMENDMENT NO. 972

Mr. WELLSTONE proposed an amendment to the bill, S. 1033, supra; as follows:

On page 28, line 21, strike "$202,571,000" and insert "$197,571,000".

On page 47, line 6, strike "$7,769,066,000" and insert "$7,774,066,000".

On page 47, line 13, insert after "claims" the following: ": *Provided further*, That not less than $5,000,000 shall be available for outreach and startup in accordance with section 4(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(f))".

On page 66, between lines 12 and 13, insert the following:

SEC. 728. OUTREACH AND STARTUP FOR THE SCHOOL BREAKFAST PROGRAM.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

"(f) OUTREACH AND STARTUP.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE SCHOOL.—The term 'eligible school' means a school—

"(i) attended by children, a significant percentage of whom are members of low-income families;

"(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

"(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

"(B) SERVICE INSTITUTION.—The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)).

"(C) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—The term 'summer food service program for children' means a program authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(2) PAYMENTS.—The Secretary shall make payments on a competitive basis and in the following order of priority (subject to the other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(3) PAYMENTS ADDITIONAL.—Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) of this section and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(4) STATE PLAN.—To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

"(5) SCHOOL BREAKFAST PROGRAM PREFERENCES.—In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a school breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(6) SUMMER FOOD SERVICE PROGRAM PREFERENCES.—In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(7) RECOVERY AND REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(8) ANNUAL APPLICATION.—The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(9) GREATEST NEED.—Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

"(10) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.".

DASCHLE (AND OTHERS) AMENDMENT NO. 973

Mr. COCHRAN (for Mr. DASCHLE, for himself, Mr. DORGAN, Mr. JOHNSON, Mr. CONRAD, and Mr. BAUCUS) proposed an amendment to the bill, S. 1033, supra; as follows:

At the end of the bill insert the following new section:

"SEC. . From proceeds earned from the sale of grain in the disaster reserve established in the Agricultural Act of 1970, the Secretary may use up to an additional $23 million to implement a livestock indemnity program as established in PL 105–18."

GRAMS (AND WELLSTONE) AMENDMENT NO. 974

Mr. COCHRAN (for Mr. GRAMS, for himself and Mr. WELLSTONE) proposed an amendment to the bill, S. 1033, supra; as follows:

On page 66, between lines 12 and 13, insert the following:

SEC. 728. PLANTING OF WILD RICE ON CONTRACT ACREAGE.

None of the funds appropriated in this Act may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice.

CRAIG AMENDMENT NO. 975

Mr. COCHRAN (for Mr. CRAIG) proposed an amendment to the bill, S. 1033, supra; as follows:

On page 66, between lines 12 and 13, insert the following:

SEC. . INSPECTION AND CERTIFICATION OF AGRICULTURAL PROCESSING EQUIPMENT.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available by this Act or any other Act for any fiscal year may be used to carry out section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary.

(b) RELATIONSHIP TO OTHER LAW.—Subsection (a) shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

DEWINE AMENDMENT NO. 976

Mr. COCHRAN (for Mr. DEWINE) proposed an amendment to the bill, S. 1033, supra; as follows:

On page 53, line 3, before the period, insert the following: "*Provide further*, That, of the amount of funds made available under title II of said Act, the United States Agency for International Development should use at least the same amount of funds to carry out the orphan feeding program in Haiti during fiscal year 1998 as was used by the Agency to carry out the program during fiscal year 1997".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, July 23, 1997, at 9 a.m. in SR–328A to consider the nominations of Dr. Catherine E. Woteki, of the District of Columbia, to be Under Secretary of Agriculture for Food Safety; Ms. Shirley Robinson Watkins, of Arkansas, to be Under Secretary of Food, Nutrition, and Consumer Services and a member of the Commodity Credit Corporation; Mr. August Schumacher, Jr., of Massachusetts, to be Under Secretary of Agriculture for Farm and Foreign Agriculture Services; Dr. I. Miley Gonzalez, of New Mexico, to be Under Secretary of Agriculture for Research, Education, and Economics.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 23, 1997, to conduct a hearing on the oversight on the monetary policy report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 23, 1997, at 9:30 A.M. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 23, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending nominations.

The PRESIDING OFFICER. Without objections, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 23, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to broadly examine three aspects of natural gas issues into the next century. Specifically, the committee will look at world energy supply and demand to 2015, what percentage of that will be filled by natural gas, and how this could be impacted by other large scale energy projects, such as nuclear, that are being developed in Asia. Second, the committee will examine the role of Government in large scale gas projects in foreign countries, what type of assistance the U.S. companies competing for overseas projects receive from the U.S. Government, and what can be done in the United States to make American gas more globally competitive. The third aspect for consideration will be the emerging gas field development technologies that are making natural gas more economical to market.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee special investigation to meet on Wednesday, July 23, at 10 a.m. for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 23, 1997, at 10 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: The proposed reauthorization of the Office of National Drug Control Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold an executive business meeting during the session of the Senate on Wednesday, July 23, 1997, at 2 p.m. in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, July 23, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STAMP OUT BREAST CANCER

● Mr. COCHRAN. Mr. President, As chairman of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services, which has jurisdiction over postal matters, I would like to comment on Representative MOLINARI's Stamp Out Breast Cancer Act, H.R. 1585, passed by the House on July 22, 1997. This bill is similar to the Feinstein amendment included as part of the Senate's fiscal year 1998 Treasury/Postal appropriations bill, S. 1023, in that it would raise money for breast cancer research through a new, specially designed postage stamp—generally referred to as a semipostal—which would be purchased on a voluntary basis and as an alternative to regular first-class postage.

H.R. 1585 differs from the Feinstein amendment in three respects. The rate of this semipostal would be determined in part, by the Postal Service to cover administrative costs and the remainder by the governors of the Postal Service to direct research. The total cost would not exceed the current cost plus 25 percent. In addition, following the 2-year period beginning on the date which the stamp would be publicly available, the General Accounting Office would report to Congress with an evaluation of the effectiveness and appropriateness of this method of fundraising and a description of the resources required to carry out this bill. Finally, the Postal Service would have the authority to decide when the stamp would be available to the public and would have up until 12 months after the date of enactment to make it available.

Though this is a well-intentioned bill, and breast cancer research is a highly worthwhile cause, the idea of using the Postal Service as a fundraising organization for social issues is just plain wrong. If we start here, where do we stop? The list of diseases is endless. Requiring the Postal Service to issue a semipostal stamp for breast cancer would place the Postal Service and Congress in the very difficult position of determining which worthy organizations should receive Federal assistance in fundraising and which should not.

The concept of semipostals has been around for years. Some nations issue them, however most do not. The European experience with this kind of stamp has shown that they are rarely as beneficial to the designated organization as would be expected. Consider the example set by our neighbor Canada. In 1975, the Canadian Postal Corporation issued a series of semipostal stamps to provide supplementary revenue for the Canadian Olympic Committee. It was reported that while the program received exceptionally good promotional and advertising support, it fell short of its intended revenue objective. Demand for the semipostals throughout Canada was reportedly insubstantial. The program—viewed as a failure—concluded in 1976. More recently, the Canada Post issued a semipostal to support literacy. With a surcharge of 5-cents per stamp, it raised only $252,000. After raising only a modest amount of money, combined with a tremendous administrative expense, Canada Post says they will not issue another semipostal.

There is a strong U.S. tradition of private fundraising for charities. Such a stamp would effectively use the United States Postal Service as a fundraiser, a role it has never before taken on. The Postal Service's job—and expertise—is mail delivery. Congress should be mindful that the postage stamp pays strictly for postal operations. It is not a fee for anything but delivering the mail and the cost of running the service. In fact, section 3622 of the Postal Reorganization Act of 1970 precludes charging rates in excess of those required to offset the Postal Service's costs of providing a particular service. In other words, the Postal Service does not have the authority to put a surcharge on a postage rate that is cost and overhead driven. There is simply no legitimate connection between the desire to raise money for a cause, and maintenance of the Postal Service's mission of providing universal service at a universal rate.

The goals of H.R. 1585 are laudatory. But, Mr. President, as I previously indicated during Senate consideration of the Feinstein semipostal amendment, the Postal Service should not be doing fundraising.●

ON AND UNDER THE DELAWARE RIVER CLEANUP

● Mr. MOYNIHAN. Mr. President, throughout this week, hundreds of volunteers will gather together for the annual "On and Under the Delaware River Cleanup" on the upper Delaware River. People from New York, New Jersey, and Pennsylvania will work together to clean up the Delaware River, picking up trash and removing debris from the shores, surface, and bottom of a 70-mile section of the river. Once again, Ruth Jones and the folks at Kittatinny Canoes will lead this effort and supply the boats, cleaning materials, trash removal, and other services needed for the effort. National Park Service employees and a member of my staff will also participate.

The Delaware River is the longest free-flowing river in the country. It starts in my home county, Delaware County, NY, at the confluence of the east and west branches of the river in Deposit, NY and continues down through Pennsylvania, New Jersey, and Delaware, ultimately feeding into the Atlantic Ocean. The west branch starts in Stamford, NY, just 25 miles from my home in Pindars Corners.

This river is one of New York's and the Nation's great treasures. I applaud Ms. Jones for sponsoring this event and thank all the volunteers for their hard work in helping to keep the river clean.●

EXCHANGE OF NAVAL ATTACHÉS WITH VIETNAM

● Mr. WARNER. Mr President, I rise today to recognize an historic event in our relations with our erstwhile cold war enemy, Vietnam. On May 7, 1997, that country and our own great Nation exchanged defense attachés. Senior Col. Vo Dinh Quang of the Vietnam

Army was accredited as the defense, military, naval, and air attaché to the United States. He is the first defense attaché from Vietnam since 1975, when the South Vietnam attaché positions dissolved by default with the collapse of South Vietnam.

The Corps of Foreign Attachés is a distinguished group of foreign senior officers who are accredited to the Department of Defense and the Department of State to officially and personally represent their defense secretaries in the United States with regard to military matters. Eighty-one countries around the world, allied and nonallied, are represented by over 100 navy, army, and air force officers living in the Washington, DC, area. Historically, this prestigious assignment has produced many flag and general officers who have subsequently become the equivalent of our service chiefs or Chairman of the Joint Chiefs of Staff.

A primary responsibility of the foreign defense attaché, as recognized by the Vienna Convention, is to collect information and learn about the services of the United States. To assist in this effort, the U.S. service chiefs sponsor an aggressive information program which includes orientation tours to commands and related industrial facilities; service chief counterpart and other delegation visits; intelligence and operations briefings; and document dissemination. In turn, the attaché provides Department of Defense decisionmakers with perspectives on developments within the attaché's country and armed services.

This is the office in which Senior Colonel Quang finds himself today. Born in 1932, Colonel Quang served in the North Vietnamese and Vietnamese Armies for a total of 27 years before being assigned to the Department of Foreign Relations within the Vietnamese Ministry of Defense. While serving in that capacity, Colonel Quang was a staff member of the Vietnamese Office for Seeking Missing Personnel. His responsibility was to interface with the United States concerning our country's servicemen who were still missing in action.

Once a sworn enemy of the United States, Colonel Quang became a man who searched for the remains of our soldiers, sailors, and airmen. Now he serves here in Washington, representing his country as Vietnam's first post-war defense attaché.

In commemorating this historic event, I pray that this new relationship with Vietnam continues to prosper.•

MIKULSKI AMENDMENT ON AMERICORPS LITERACY FUNDING

• Mr. KENNEDY. Mr. President, I commend my colleague, Senator MIKULSKI, for her leadership yesterday in seeking $20 million for President Clinton's America Reads initiative. This amendment supports 1,300 AmeriCorps members who will serve as literacy tutors to help children learn to read—and read well—by the end of the third grade.

Reading is a fundamental skill for learning, but too many children have trouble learning how to read. If students don't learn to read in the early elementary school years, it is virtually impossible for them to keep up later. According to a recent study, 40 percent of fourth grade students don't attain the basic level of reading, and 70 percent don't attain the proficient level.

Research shows that reading skills are developed not only in the home and in the classroom, but also in communities and libraries. Sustained, reading opportunities outside the regular school day and during the summer can raise reading levels when combined with other instruction. Only 30 minutes a day of reading aloud with an adult can enable a young child to make real gains in reading. Adults also serve as role models for young children.

I commend Senator MIKULSKI for her effective leadership in the extremely important area of community service and childhood literacy. Every child can learn to read well, and every child deserves that chance. No child should be left out or left behind.•

EXPLANATION OF VOTE ON H.R. 2158

• Mr. KYL. Mr. President, yesterday I voted against H.R. 2158, the bill providing fiscal year 1998 appropriations for the Departments of Veterans Affairs, Housing and Urban Development, and various independent agencies. Funding provided by that measure totaled nearly $9 billion more than the comparable amount provided last year—about a 10-percent increase.

It would be one thing if the increase were devoted to improved services for our Nation's veterans. After all, they put their lives on the line in defense of our country and all of the rights and liberties we enjoy. We owe them a debt of gratitude—and the obligation to fulfill the promises our Nation made to them when they were called to serve.

Yet the spending increase in this bill is not targeted to veterans. The VA sees only a 0.5 percent increase in its budget. Medical care is increased only 1 percent. But presumably, these increases were sufficient to fulfill our obligations to veterans, exceeding President Clinton's request by nearly $93 million. I support them, and I stand ready to do more if that is necessary.

Mr. President, compare the virtual spending freeze that our Nation's veteran population is able to bear with what happens to HUD's budget. Last year, HUD received a total of $16.3 billion. H.R. 2158 proposes to take that figure to $25.4 billion—a $9 billion increase. An increase of nearly 56 percent. That is a huge increase, even by Washington standards.

Now I know that part of the reason for the added funding is the need to renew expiring section 8 housing contracts. But I believe we have a responsibility to try to offset the extra spending with reductions in lower priority HUD programs, rather than just add to the total. I see little evidence of attempting to prioritize HUD and other programs in this bill.

It seems to me that the opportunity to find offsets was certainly there. The AmeriCorps Program, for example, was funded at $405 million. Remember, this is a program that pays volunteers to work. In most parts of the country, paying someone to work constitutes employment. Volunteers provide their time and energy out of their own good will. But here we have a government program—a Clinton administration priority—that actually pays volunteers to work.

AmeriCorps committed last year to try to reduce its cost per participant to $17,000 this year and to $15,000 in 1999. Yet that is how much a lot of people around the country earn from their jobs. This is an unnecessary expenditure of taxpayer funds, and we would do well to eliminate it. Yet I know that President Clinton would probably veto the bill—veterans funding and all—just to preserve it. So there seems to be little incentive to do the right thing and trim expenditures.

The Community Development Block Grant [CDBG] Program is another case in point. The bill provides $1.4 billion for the program, with funding earmarked for a variety of projects, including library expansion in West Virginia, the Paramount Theater in Vermont, the Bushnell Theater in Connecticut, and economic development in downtown Ogden, Utah, to name just a few. If we had to set priorities, just like any family back home, we would probably conclude that section 8 renewals might be a little more important than some of these CDBG grants.

But when the sky is the limit, we do not have to prioritize. We simply add more spending on top of everything else. And that is how we get a deficit problem.

Mr. President, we need a new way of conducting business. We need to get back to a politics of principle, and of being honest with the American people about whether we are serious about seeking more responsible use of hard-earned tax dollars and reducing the deficit. This bill represents the old way of doing things, and exemplifies the politics of pork.

I voted against the budget agreement last month, in large part because it allowed too much new spending. And the HUD and independent agencies portion of this bill is evidence of what we can expect as the agreement is fully implemented. That is why next year's budget deficit is projected to rise—and not fall—as a result of the agreement.

Mr. President, it is unfortunate that we do not have an opportunity to consider the various components of this bill on their own merits—veterans, HUD, EPA, NASA, AmeriCorps, and the like. I would have supported the veterans budget, the NASA budget, and environmental spending in the bill. But as a package, with the very large increase in HUD spending and a lack of sufficient offsets for it, I concluded that it was necessary to register concern about the process and our country's future, and to vote "no" on the bill.•

LLOYD D. GEORGE UNITED STATES COURTHOUSE

• Mr. REID. Mr. President, it is with great pride that I rise today in support of a bill I introduced on Monday to designate the new Federal courthouse in Las Vegas as the "Lloyd D. George United States Courthouse." As the Chief Judge of the United States District Court for the District of Nevada, Lloyd George is considered to be one of the most distinguished jurists of the federal judiciary. There is no greater honor we could bestow on the new courthouse in Las Vegas than to name it after a man who has served our Nation with such distinction.

Those who have the privilege of knowing Judge George, as I do, consider him to be a man of great integrity whose career has been marked by a constant commitment to justice. As an attorney, Judge George enjoyed a successful career practicing primarily in the area of commercial law. Prior to his appointment as a United States District Judge in May 1984, Judge George served on the United States Bankruptcy Bench for 10 years. Judge George is a graduate of Las Vegas High and Brigham Young University. He served as the student body president at both schools. He received his law degree from the University of California, Boalt Hall. Judge George was a pilot in the U.S. Air Force, attaining the rank of Captain.

Throughout Judge George's professional life he has assumed many leadership responsibilities requiring countless hours of service work all in the pursuit of improving and preserving the best aspects of our judicial system. He has served on three—and been the chairman of two—United States Judicial Conference Committee. Currently, he serves as a member of the Judicial Conference of the United States. At the request of Chief Justice Rehnquist he serves as a member of the Executive Committee of the Judicial Conference and the International Judicial Relations Committee. He is also a member of the Judicial Council for the Ninth Circuit Court of Appeals, and has chaired the Executive Committee of the Judicial Conference of the Ninth Circuit. Additionally, he serves on the Advisory Board of the Central and East European Law Initiative, American Bar Association's Standing Committee of World Order Under Law, and is an Advisory Committee Member of the American Judicature Society. He frequently lectures in the U.S. and abroad on various legal topics and has published a number of articles in legal periodicals. His dedication to improving and promoting our judicial system is unparalleled.

All of us are fortunate to live in a country where men like Judge Lloyd George serve as the arbiter's of our laws. He is truly a man of the highest integrity whose legal career has been guided by a keen, almost innate, sense of justice. On a personal note, I consider myself most fortunate to call Lloyd George my friend.

I believe there is no better way to honor Judge George than to name this new courthouse the Lloyd D. George United States Courthouse. The proposed courthouse is an architectural wonder that will provide a state of the art judicial forum for generations of Nevadans. Judge George was instrumental in bringing this about. We honor his service to the judiciary and his commitment to the principle of equal justice under law by naming the new courthouse after him.•

APPROPRIATIONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, there was an error in the printing of the change to the Appropriations Committee allocation, which was submitted for the RECORD of July 21, 1997. The correct figure for the budget authority allocation pursuant to section 302 of the Congressional Budget Act follows:

Budget Authority	*1998*
Current Appropriations Committee allocation	$792,510,000,000
Adjustment	8,766,000,000
Revised Appropriations Committee allocation	801,276,000,000•

VA-HUD APPROPRIATIONS BILL

• Mr. KERRY. Mr. President, I want to thank Senator BOND, Senator MIKULSKI, and all the members of the VA-HUD Appropriations Subcommittee for all their hard work in bringing this bill to the floor so quickly and with such widespread support. I want to add my voice to the many others offering you congratulations for such a good product.

I appreciate the understanding and expertise both of you bring to this bill. Your sensitivity to the need to create new affordable housing and homeownership opportunities serves every Member of the Senate well.

Unfortunately, no amount of good intentions and hard work can make up for the basic lack of funding for housing programs in this bill. While the bill maintains funding for most crucial programs, existing funding levels will not really solve the housing problems we face in this country.

Let us take a moment to put the problem into a broader context. There are about 16.5 million families that are eligible for housing assistance in America. Yet, only 4.3 million of these families receive any housing assistance whatsoever. This includes households living in public housing, assisted housing, housing built with the tax credit and HOME funds.

Of the 12 million unassisted families, about 5.5 million are faced with desperate housing needs, yet are receiving no help at all from the Federal Government.

These families are paying over half their incomes every month to keep a roof over their heads. Or, they live in housing that is falling down around them. These families teeter on the edge of homelessness. One unanticipated problem—a temporary layoff, an illness of a parent or child, even an unexpected car repair bill—can force these families to choose between paying the rent and buying groceries.

The committee did a good job of addressing many competing needs and interests that go far beyond housing programs. But they have simply not been given enough resources to address the larger need for adequate affordable housing.

The fact is, we are facing a likely reduction in the total affordable housing stock in America. We expect about 100,000 units of public housing to be demolished in the next several years. Private owners of some assisted housing are likely to prepay their subsidized mortgages to get out from under the affordable housing restrictions. Many owners of section 8 project-based housing will simply choose not to renew their contracts, eliminating some of the highest quality affordable housing stock in the inventory.

We cannot continue to go in this direction unless we are prepared to face a huge increase in the problem of homelessness. Already, in a time of low unemployment and strong economic growth, we have seen an increase in homelessness of 5 percent, according to a Conference of Mayors study.

Mr. President, one casualty of the fiscal constraints that the committee labored within is the Low Income Housing Preservation and Homeownership Act [LIHPRH], better known as the Preservation Program. This program has preserved over 80,000 units of affordable housing permanently. Another 30,000 units in 37 States await funding. While the GAO has raised some concerns about this program, I want to make sure the facts get in the record. The average cost of preserving this housing is $30,000 to $33,000 per unit. This housing could not possibly be replaced for such a cheap price in my home State of Massachusetts, nor, I suspect, in many other States, either.

Given the overall reduction of affordable housing, the modest investment it would take to preserve this housing, housing that is unlikely to otherwise be replaced, is a wise investment indeed.

I urge the committee to work in conference to find some funding for this crucial program. I know Senator BOND's interest in accomplishing this goal, along with appropriate reforms to the program.

In doing so, I urge the chairman to adopt a priority for direct sales to tenants. One of the key elements of the Preservation Program has been to empower residents to participate in the decisionmaking regarding how their homes are to be preserved. Sales to the residents who live in these communities is the most direct way to achieve this important goal. It gives the tenants the opportunity to build equity, like other homeowners; it gives tenants a greater stake in the management of the property. In sum, Mr. President, it builds a bridge to the middle class for the residents of these projects. I would be happy to work with the chairman to achieve this goal.

Mr. President, I thank my colleagues for all their hard work. I support this bill and urge my colleagues to do so, as well. I will continue to work for more funding for housing programs, and look forward to the day when the chairman and ranking member are able to fully fund the needs of public housing, assisted housing, and the many other demands they face as well.●

TRIBUTE TO HAMILTON FISH

● Mr. D'AMATO. Mr. President, one year ago today, our friend and former colleague in the other body, Hamilton Fish, died here in Washington.

Ham and his forebears, statesman and patriots to a man, were gifts to our Nation's Capital from New York where they emerged from immigrant roots that were truly extraordinary in the American experience.

In the years I knew Ham, I saw reflected in his bearing, his code of life, his approach to the law and devotion to public service, a man whose very genes held rich lessons of bravery, honesty, integrity and patriotism handed down from those who had formed this Nation, nurtured and served it since the 17th Century. And yet he never let on about the first Mayor of New York, the last Mayor of Brooklyn, a hero of the Battle of Yorktown who looks down from the nearby Rotunda's wall, the Secretary of State, the Senators, Rough Riders and Members of the House of Representatives who filled his family tree.

An impressive lineage was not what was important to him. To Ham, what one did in the time allotted by God was what mattered.

Officially, Hamilton Fish, was the 13-term Congressman from the Empire State's Hudson Valley, who from his earliest years in Congress wrestled with the turmoil of Watergate and the Vietnam war, the causes of civil rights, refugees, the environment, and a daily concern that Washington respond to and be a positive influence for his constituents and all Americans.

He was neither a "hawk" nor a "dove" in the contentious and important issues of his time, but rather an impressive "owl"—a wise owl, using head and heart, with the talons to fight a ferocious battle when needed, but possessing the sharp ears and keen eyes to recognize and counsel for the strength to be gained from collegial compromise; knowing the ways to bridge often great divides of politics and ideologies.

Ham Fish was also a very private figure in our midst. The deep love he shared with his wife and family was obvious soon after first meeting him; but the little known, almost spiritual way he approached, planned and prepared for each and every one of his days until he died, whether for legislating, trout fishing or making a favorite soup recipe, being with his grandchildren near his beloved Hudson River or meeting with the famous or not so famous, was astonishing. Hamilton Fish the private man knew each and every day was to be cherished: taken all in all, of limited number and deserving to be filled with actions and thoughts that were positive, moral and strong.

His memory will remain strong for all of us that worked with him. I hope those who are just beginning their lives of public service will take a moment today to think about Hamilton Fish of New York . . . a genuine gift to our nation.●

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

The text of the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, as passed by the Senate on July 22, 1997, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 2158) entitled "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); $19,932,997,000, to remain available until expended: Provided, That not to exceed $26,380,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55).

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by 38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61, $1,366,000,000, to remain available until expended: Provided, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, $51,360,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That during fiscal year 1998, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $160,437,000, which may be transferred to *and merged with the appropriation for "General operating expenses".*

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $200,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $44,000, as authorized by 38 U.S.C. chapter 31, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $2,278,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $388,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $515,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department; and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in the Department; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; aid to State homes as authorized by 38 U.S.C. 1741; administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under 38 U.S.C. chapter 17, and the Federal Medical Care Recovery Act, 42 U.S.C. 2651 et seq.; and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $17,026,846,000, plus reimbursements: Provided, That of the funds made available under this heading, $550,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1998, and shall remain available until September 30, 1999.

In addition, contingent on enactment of legislation establishing the Medical Collections Fund, such sums as may be derived pursuant to 38 U.S.C. 1729(g) shall be deposited to such Fund and may be transferred to this account, to remain available until expended for the purposes of this account.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by 38 U.S.C. chapter 73, to remain available until September 30, 1999, $267,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $60,160,000, plus reimbursements.

GENERAL POST FUND, NATIONAL HOMES

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000.

In addition, for administrative expenses to carry out the direct loan programs, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $786,385,000: Provided, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles for use in cemeterial operations; and hire of passenger motor vehicles, $84,183,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $31,013,000.

CONSTRUCTION, MAJOR PROJECTS

(INCLUDING RESCISSION OF FUNDS)

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $4,000,000 or more or where funds for a project were made available in a previous major project appropriation, $92,800,000, to remain available until expended: Provided, That the $32,100,000 provided under this heading in Public Law 104–204 for a replacement hospital at Travis Air Force Base, Fairfield, CA, shall not be obligated for that purpose but shall be available instead to implement the decisions reached as a result of the capital facility recommendations contained in the final report entitled "Assessment of Veterans Health Care Needs in Northern California," (Department of Veterans Affairs Contract No. V101 (93)P–1444): Provided further, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 1998, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1998, and (2) by the awarding of a construction contract by September 30, 1999: Provided further, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): Provided further, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $4,000,000; $166,300,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $4,000,000: Provided, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by 38 U.S.C. 8109, income from fees collected, to remain available until expended, which shall be available for all authorized expenses except operations and maintenance costs, which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by 38 U.S.C. 8131–8137, $80,000,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERAN CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by 38 U.S.C. 2408, $10,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for fiscal year 1998 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for fiscal year 1998 for salaries and expenses shall be available for services authorized by 5 U.S.C. 3109.

SEC. 103. No appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C. 7901–7904 or 42 U.S.C. 5141–5204), unless reimbursement of cost is made to the "Medical care" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1998 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1997.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1998 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 107. Notwithstanding any other provision of law, during fiscal year 1998, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" account for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 1998, that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary shall determine the cost of administration for fiscal year 1998, which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 108. Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) (as added by section 220 of the Immigration and Nationality Technical Corrections Act of 1994 and redesignated as subsection (l) by section 671(a)(3)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) is amended by inserting before the period at the end the following: ", except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary".

SEC. 109. None of the funds made available by title I of this Act may be used to provide a locality payment differential which would have the effect of causing a pay increase to any employee that was removed as a Director of a VA Hospital and transferred to another hospital as a result of the Inspector General's conclusion that the employee engaged in verbal sexual harassment and abusive behavior toward female employees.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

For activities and assistance to prevent the involuntary displacement of low-income families, the elderly and the disabled because of the loss of affordable housing stock, expiration of subsidy contracts (other than contracts for which amounts are provided under another head) or expiration of use restrictions, or other changes in housing assistance arrangements, and for other purposes, $10,119,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $8,666,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts including, where appropriate, congregate care services associated with the expiring or terminating contracts: Provided further, That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1998: Provided further, That of the total amount provided under this heading, $1,110,000,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: Provided further, That of the total amount provided under this heading, $343,000,000 shall be for section 8 rental assistance under the United States Housing Act including assistance to relocate residents of properties (i) that are owned by the Secretary and being disposed of or (ii) that are discontinuing section 8 project-based assistance; for the conversion of section 23 projects to assistance under section 8; for funds to carry out the family unification program; and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: Provided further, That of the total amount made available in the preceding proviso, $40,000,000 shall be made available to nonelderly disabled families affected by the designation of a public housing development under section 7 of such Act or the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611).

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFERS OF FUNDS)

For the Public Housing Capital Fund Program under the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $2,500,000,000, to remain available until expended for modernization of existing public housing projects as authorized under section 14 of such Act: Provided, That of the total amount, $30,000,000 shall be for carrying out activities under section 6(j) of such Act and technical assistance for the inspection of public housing units, contract expertise, and training and technical assistance directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public housing program and for lease adjustments to section 23 projects: Provided further, That of the amount available under this heading, the Secretary of Housing and Urban Development may use up to $60,000,000 for a public and assisted housing self-sufficiency program of which up to $5,000,000 may be used for the Moving to Work Demonstration and up to $5,000,000 may be used for the Tenant Opportunity Program: Provided further, That, for the self-sufficiency activities, the Secretary may make grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: Provided, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: Provided further, That the supportive services may include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: Provided further, That the Secretary shall require applications to demonstrate firm commitments of funding or services from other sources: Provided further, That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program, including any innovative approaches, the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary: Provided further, That all balances, as of September 30, 1997, of funds heretofore provided (other than for Indian families) for the development or acquisition costs of public housing, for *modernization of existing public housing projects, for public housing amendments, for public housing modernization and development technical assistance, for lease adjustments under the section 23 program, and for the Family Investment Centers program, shall be transferred to and merged with amounts made available under this heading.*

PUBLIC HOUSING OPERATING FUND

(INCLUDING TRANSFER OF FUNDS)

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, including the costs associated with congregate care and supportive services, as amended (42 U.S.C. 1437g), $2,900,000,000, to remain available until expended: Provided, That all balances outstanding, as of September 30, 1997, of funds heretofore provided (other than for Indian families) for payments to public housing agencies for operating subsidies for low-income housing projects, shall be transferred to and merged with amounts made available under this heading.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

(INCLUDING TRANSFER OF FUNDS)

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $290,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies, resident organizations, and Indian Tribes and their Tribally designated housing entities (including the cost of necessary travel for participants in such training); $10,000,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home Program administered by the Inspector General of the Department of Housing and Urban Development; and $5,000,000 shall be provided to the Office of Inspector General for Operation Safe Home: Provided, That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: Provided further, That notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for assisting in the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937; and for providing replacement housing and assisting tenants to be displaced by the demolition, $550,000,000, to remain available until expended, of which the Secretary may use up to $10,000,000 for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided, That of the amount made available under this head, $50,000,000 shall be made available, including up to $10,000,000 for Heritage House in Kansas City, Missouri, for the demolition of obsolete elderly public housing projects and the replacement, where appropriate, and revitalization of the elderly public housing as new communities for the elderly designed to meet the special needs and physical requirements of the elderly: Provided further, That no funds appropriated in this title shall be used for any purpose that is not provided for herein, in the Housing Act of 1937, in the Appropriations Acts for Veterans Affairs, Housing and Urban Development, and Independent Agencies, for the fiscal years 1993, 1994, 1995, and 1997, and the Omnibus Consolidated Rescissions and Appropriations Act of 1996: Provided further, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104–330), $485,000,000, to remain available until expended, of which $5,000,000 shall be used to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the oversight and management of Indian housing and tenant-based assistance, including up to $200,000 for related travel: Provided, That of the amount available under this head, $5,000,000 shall be made available for the credit subsidy cost of guaranteed loans, including the cost of modifying such loans, as authorized under section 601 of the Native American Housing Assistance and Self-Determination Act: Provided further, That these funds are available for the Secretary, in conjunction with Native American groups, Indian tribes and their tribally designated housing entities, for a demonstration on ways to enhance economic growth, access to private capital, and encourage the investment and participation of traditional financial institutions in tribal and other Native American areas: Provided, further: That all balances outstanding as of September 30, 1997, previously appropriated under the headings "Annual Contributions for Assisted Housing", "Development of Additional New Subsidized Housing", "Preserving Existing Housing Development", "HOME Investment Partnerships Program", "Emergency Shelter Grants Program", and "Homeless Assistance Funds", identified for Indian Housing Authorities and other agencies primarily serving Indians or Indian areas, shall be transferred to and merged with amounts made under this heading.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739) $6,000,000, to remain available until expended: Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $73,800,000.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), $204,000,000, to remain available until expended.

CAPITAL GRANTS/CAPITAL LOANS PRESERVATION ACCOUNT

That of any amounts recaptured in excess of $250,000,000 from interest reduction payment contracts for section 236 contracts recaptured during fiscal year 1998, that excess amount shall be available for use in conjunction with properties that are eligible for assistance under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA) for projects that are currently eligible for funding, as provided under the VA/HUD Fiscal Year 1997 Appropriations Act: Provided, That the queue shall be reordered so that one project is funded per State using the current order of the funding queue for reordering the queue and 3 projects per HUD region with each project reordered (1) on the basis of the lowest vacancy rates for the areas where each project is located and, where necessary, (2) using the current order of the funding queue for reordering the queue, where necessary: Provided further, That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: Provided further, that all appraisals of each property in the queue shall be revised to reflect the existing value of the property: Provided further, That, to be eligible, each development shall have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of four times the most recently published monthly fair market rent for the areas in which the project is located while considering the appropriate unit size for all of the units in the eligible project: Provided further, That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge for projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low- and moderate-income character of the housing: Provided further, That, notwithstanding any other provision of law, subject to the availability of appropriated funds, each low-income family or moderate income family who is elderly or disabled or is residing in a low-vacancy area, residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: Provided further, That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, if applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market or the payment standard, as applicable, under existing program rules and procedures: Provided further, That the tenant-based assistance made available under the preceding two provisos are in lieu of benefits provided under subsections 223 (b), (c), and (d) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990: Provided further, That any sales shall be funded using the capital grant available under subsections 220(d)(3)(A) of LIHPRHA: Provided further, That any extensions shall be funded using a non-interest-bearing capital (direct) loan by the Secretary not in excess of the amount of the cost of rehabilitation approved in the plan of action plus 65 percent of the property's preservation equity and under such other terms and conditions as the Secretary may prescribe: Provided further, That *any capital grant or capital loan, including rehabilitation costs, shall be limited to four times the fair market rent for fiscal year 1998 for the area in which the project is located, using the appropriate apartment sizes: Provided further, That section 241(f) of the National Housing Act is repealed and insurance under such section shall not be offered as an incentive under LIHPHRA and ELIPHA: Provided further, That notwithstanding any other provision of law, the Secretary shall, at the request of an owner or a priority purchaser, approve a one-time rent increase of up to 10 percent: Provided further, That notwithstanding any other provision of law, priority purchasers may utilize assistance under the Community Development Block Grant program, the HOME Investment Partnerships Act or the Low Income Housing Tax Credit: Provided further, That projects with approved plans of action may submit revised plans of action which conform to these requirements by March 15, 1998, and retain the new priority for funding under these provisos.*

COMMUNITY DEVELOPMENT BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, to carry out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (the "Act" herein) (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 2000: Provided, That $67,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of the Act; $2,100,000 shall be available as a grant to the Housing Assistance Council; $1,500,000 shall be available as a grant to the National American Indian Housing Council; $30,000,000 shall be for grants pursuant to section 107 of such Act; $12,000,000 shall be for the Community Outreach Partnership program; $30,000,000 shall be made available for "Capacity Building for Community Development and Affordable Housing," as authorized by section 4 of the HUD Demonstration Act of 1993 (Public Law 103–120) with not less than $10,000,000 of the funding to be used in rural areas, including tribal areas: Provided further, That not to exceed 20 percent of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974, as amended) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department.

Of the amount made available under this heading, notwithstanding any other provision of law, $35,000,000 shall be available for youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading. Local youthbuild programs that demonstrate an ability to leverage private and nonprofit funding shall be given a priority for youthbuild funding.

Of the amount made available under this heading, notwithstanding any other provision of law, $60,000,000 shall be available for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992.

Of the amounts made available under this heading, $30,000,000 shall be available for the New Approach Anti-Drug program for competitive grants to entities managing or operating public housing developments, federally assisted multifamily housing developments, or other multifamily housing development for low-income families supported by non-Federal Governmental entities or similar housing developments supported by nonprofit private sources; to reimburse local law enforcement entities for additional police presence in and around such housing developments; to provide or augment such security services by other entities or employees of the recipient agency; to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments; and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: Provided, That such grants be made on a competitive basis as specified in section 102 of the HUD Reform Act.

Of the amounts made available under this heading $42,000,000 shall be available for the Secretary, in consultation with the Secretary of Agriculture, to make grants, not to exceed $7,000,000 each, for rural and tribal areas, including at least one Native American area in Alaska, to test out comprehensive approaches to developing a job base through economic development, developing affordable low- and moderate-income rental and homeownership housing, and the investment of both private and nonprofit capital.

Of the amounts made available under this heading, $40,000,000 for the Economic Development Initiative (EDI) to finance a variety of efforts, including those identified in the Senate committee report, that promote economic revitalization that links people to jobs and supportive services. Failure to fund any project identified for EDI funds in the Senate committee report shall result in all funding under this paragraph to be allocated as funding under the Community Development Block Grant Program as authorized under title I of the Housing and Community Development Act of 1974, as amended.

For the cost of guaranteed loans, $29,000,000, as authorized by section 108 of the Housing and Community Development Act of 1974: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,261,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act. In addition, for administrative expenses to carry out the guaranteed loan program, $1,000,000, which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

For grants to Empowerment Zones and Enterprise Communities, to be designated by the Secretary of Housing and Urban Development, to continue efforts to stimulate economic opportunity in America's distressed communities, $25,000,000, to remain available until expended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,400,000,000, to remain available until expended: Provided, That up to $7,000,000 shall be available for the development and operation of integrated community development management information systems: Provided further, That $20,000,000 shall be available for Housing Counseling under section 106 of the Housing and Urban Development Act of 1968.

SUPPORTIVE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior laws for the Supportive Housing Demonstration Program, as authorized by the Stewart B. McKinney Homeless Assistance Act, $6,000,000 of funds recaptured during fiscal year 1998 shall be rescinded.

SHELTER PLUS CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior laws for the Shelter Plus Care program, as authorized by the Stewart B. McKinney Homeless Assistance Act, $4,000,000 of funds recaptured during fiscal year 1998 shall be rescinded.

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), $823,000,000, to remain available until expended: Provided further, That any unobligated balances available or recaptures in, or which become available in the Emergency Shelter Grants Program account, Supportive Housing Program account, Supplemental Assistance for Facilities to Assist the Homeless account, Shelter Plus Care account, Innovative Homeless Initiatives Demonstration Program account and Section 8 Moderate Rehabilitation (SRO) account, shall be transferred to and merged with the amounts in this account and shall be used for purposes under this account.

HOUSING PROGRAMS

HOUSING FOR SPECIAL POPULATIONS

(INCLUDING TRANSFER OF FUNDS)

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families under the United States Housing Act of 1937, as amended (42 U.S.C. 1437), not otherwise provided for, $839,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $645,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for the elderly under section 202(c)(2) of the Housing Act of 1959, and for supportive services associated with the housing; and $194,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, for project rental assistance, for amendments to contracts for project rental assistance, and supportive services associated with the housing for persons with disabilities as authorized by section 811 of such Act: Provided further, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of such Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is five years in duration: Provided further, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance and tenant-based assistance) that the Secretary determines is not necessary to achieve the objectives *of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate: Provided further, That all obligated and unobligated balances remaining in either the "Annual Contributions for Assisted Housing" account or the "Development of Additional New Subsidized Housing" account for capital advances, including amendments to capital advances, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly, under section 202(c)(2) of such Act, shall be transferred to and merged with the amounts for those purposes under this heading; and, all obligated and unobligated balances remaining in either the "Annual Contributions for Assisted Housing" account or the "Development of Additional New Subsidized Housing" account for capital advances, including amendments to capital advances, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzales National Affordable Housing Act, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities, as authorized under section 811 of such Act, shall be transferred to and merged with the amounts for those purposes under this heading.*

OTHER ASSISTED HOUSING PROGRAMS

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1998 by not more than $7,350,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts: Provided, That up to $125,000,000 of recaptured budget authority shall be canceled.

FLEXIBLE SUBSIDY FUND

(TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 1997, and any collections made during fiscal year 1998, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1998, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $110,000,000,000.

During fiscal year 1998, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $200,000,000: Provided, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $333,421,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $326,309,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed $12,112,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended), $81,000,000, to remain available until expended: Provided, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $17,400,000,000: Provided further, That any amounts made available in any prior appropriations Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed $120,000,000; of which not to exceed $100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $222,305,000, of which $218,134,000, including $25,000,000 for the enforcement of housing standards on FHA-insured multifamily projects, shall be transferred to the appropriation for departmental salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

During fiscal year 1998, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $130,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,383,000, to be derived from the Ginnie Mae-guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,383,000 shall be transferred to the appropriation for salaries and expenses.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $34,000,000, to remain available until September 30, 1999.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $30,000,000, to remain available until September 30, 1999, of which $10,000,000 shall be to carry out activities pursuant to such section 561. No funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $954,826,000, of which $544,443,000 shall be provided from the various funds of the Federal Housing Administration, $9,383,000 shall be provided from funds of the Government National Mortgage Association, and $1,000,000 shall be provided from the "Community Development Grants Program" account.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $57,850,000, of which $16,283,000 shall be provided from the various funds of the Federal Housing Administration and $5,000,000 shall be provided from the amount earmarked for Operation Safe Home in the "Drug Elimination Grants for Low Income Housing" account.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $15,500,000, to remain available until expended, to be derived from the Federal Housing Enterprise Oversight Fund: Provided, That not to exceed such amount shall be available from the General Fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the General Fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the General Fund estimated at not more than $0.

ADMINISTRATIVE PROVISIONS

EXTENDERS

SEC. 201. (a) ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.—Section 1002(d) of Public Law 104–19 is amended by striking "1997" and inserting "1998".

(b) STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.—Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 is amended by striking "fiscal years 1996 and 1997" and inserting "fiscal years 1996, 1997, and 1998".

(c) SECTION 8 RENT ADJUSTMENTS.—Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended—

(1) in the third sentence, by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998";

(2) in the last sentence, by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998".

(3) in the fourth sentence, by striking "For" and inserting "Except for assistance under the certificate program, for";

(4) after the fourth sentence, by inserting the following new sentence: "In the case of assistance under the certificate program, 0.01 shall be

subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area."; and

(5) in the last sentence, by—

(A) striking "sentence" and inserting "two sentences"; and

(B) inserting ", fiscal year 1996 prior to April 26, 1996, and fiscal year 1997" after "1995".

(d) PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS AND PREFERENCES.—

(1) Section 402(a) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal year 1997" and insert in lieu thereof "fiscal year 1998".

(2) Section 402(f) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal years 1996 and 1997" and inserting in lieu thereof "fiscal years 1997 and 1998".

DELAY REISSUANCE OF VOUCHERS AND CERTIFICATES

SEC. 202. Section 403(c) of The Balanced Budget Downpayment Act, I is amended—

(1) by striking "fiscal years 1996 and 1997" and inserting "fiscal years 1996, 1997, and 1998"; and

(2) by inserting before the semicolon the following: "and October 1, 1998 for assistance made available during fiscal year 1998".

FINANCING ADJUSTMENT FACTORS

SEC. 203. Fifty per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

ANNUAL ADJUSTMENT FACTORS

SEC. 204. Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended by inserting the following new sentences at the end: "In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.".

COMMUNITY DEVELOPMENT BLOCK GRANT

SEC. 205. Notwithstanding any other provision of law, the $7,100,000 appropriated for an industrial park at 18th Street and Indiana Avenue shall be made available by the Secretary instead to 18th and Vine for rehabilitation and infrastructure development associated with the "Negro Leagues Baseball Museum" and the Jazz Museum.

FAIR HOUSING AND FREE SPEECH

SEC. 206. None of the amounts made available under this Act may be used during fiscal year 1998 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

REQUIREMENT FOR HUD TO MAINTAIN PUBLIC NOTICE AND COMMENT RULEMAKING

SEC. 207. Notwithstanding any other provision of law, for fiscal year 1998 and for all fiscal years thereafter, the Secretary of Housing and Urban Development shall maintain all current requirements under part 10 of the Department of Housing and Urban Development's regulations (24 CRS part 10) with respect to the Department's policies and procedures for the promulgation and issuance of rules, including the use of public participation in the rulemaking process.

BROWNFIELDS AS ELIGIBLE CDBG ACTIVITY

SEC. 208. States and entitlement communities may use funds allocated under the community development block grant program under title I of the Housing and Community Development Act of 1974 for remediation and development activities related to brownfields projects in conjunction with the appropriate environmental regulatory agencies.

PARTIAL PAYMENT OF CLAIMS ON HEALTH CARE FACILITIES

SEC. 209. Section 541(a) of the National Housing Act is amended—

(1) in the section heading, by adding "AND HEALTH CARE FACILITIES" AT THE END; AND

(2) in subsection (a)—

(A) by inserting "or a health care facility (including a nursing home, intermediate care facility, or board and care home (as those terms are defined in section 232), a hospital (as that term is defined in section 242), or a group practice facility (as that term is defined in section 1106)" after "1978"; and

(B) by inserting "or for keeping the health care facility operational to serve community needs," after "character of the project,".

FHA MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS

SEC. 210. Section 542 of the Housing and Community Development Act of 1992 is amended—

(1) in subsection (b)(5) by adding before the period at the end of the first sentence ", and not more than an additional 15,000 units over fiscal year 1998"; and

(2) in the first sentence of subsection (c)(4) inserting after "fiscal year 1997" the following: "and not more than an additional 15,000 units during fiscal year 1998.".

CALCULATION OF DOWNPAYMENT

SEC. 211. Section 203(b) of the National Housing Act is amended by striking "fiscal year 1997" in paragraph (10)(A) and inserting in lieu thereof "fiscal year 1997 and thereafter".

SECTION 8 MARK-TO-MARKET MULTIFAMILY HOUSING REFORM

SEC. 212. Subtitle B, the Multifamily Assisted Housing Reform and Affordability Act of 1997", of title II of S. 947, the Balanced Budget Act of 1997, as passed by the Senate on June 25, 1997, is incorporated by reference in this bill, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, 1998.

HOPE VI NOFA

SEC. 213. Notwithstanding any other provision of law, including the July 22, 1996 Notice of Funding Availability (61 Fed. Reg. 38024), the demolition of units at developments funded under the Notice of Funding Availability shall be at the option of the New York City Housing Authority and the assistance awarded shall be allocated by the public housing agency among other eligible activities under the HOPE VI program and without the development costs limitations of the Notice, provided that the public housing agency shall not exceed the total cost limitations for the public housing agency, as provided by the Department of Housing and Urban Development.

ENHANCED DISPOSITION AUTHORITY

SEC. 214. Section 204 of the Department of Veterans Affairs and Housing and Urban Development, and independent Agencies Appropriations Act, 1997 is amended by inserting after "owned by the Secretary" the following: ", including, for fiscal year 1998, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation or demolition.

HOME PROGRAM FORMULA

SEC. 215. The first sentence of section 217(b)(3) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation" and inserting in lieu thereof the following: "jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation".

INDIAN HOUSING REFORM

SEC. 216. Upon a finding by the Secretary of Housing and Urban Development that any person has substantially, significantly, or materially violated the requirements of any activity under the Native American Housing Block Grants Program under title I of the Native American Self-Determination Act of 1996 or any associated activity under the jurisdiction of the Department of Housing and Urban Development, the Secretary shall bar that person from any such participation in programs under that title thereafter and shall require reimbursement for any losses or costs associated with these violations.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $23,897,000, to remain available until expended: Provided, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: Provided further, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: Provided further, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $4,000,000.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $45,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $420,500,000, to remain available until September 30, 1999: Provided, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): Provided further, That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): Provided further, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That $20,000,000 shall be available for the America Reads Initiative: Provided further, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal costs per participant in all programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $3,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7298, $9,320,000, of which $790,000, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set fourth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $11,815,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $600,000,000, which shall remain available until September 30, 1999.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses, $1,801,000,000, which shall remain available until September 30, 1999.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,500,000, to remain available until September 30, 1999.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $19,420,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $1,400,000,000 (of which $100,000,000 shall not become available under September 1, 1998), to remain available until expended, consisting of $1,150,000,000, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That $11,641,000 of the funds appropriated under this heading shall be transferred to the "Office of Inspector General" appropriation to remain available until September 30, 1999: Provided further, That notwithstanding section 111(m) of CERCLA or any other provision of law, $68,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of SARA: Provided further, That $35,000,000 of the funds appropriated under this heading shall be transferred to the "Science and Technology" appropriation to remain available until September 30, 1999: Provided further, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1998.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $65,000,000, to remain available until expended: Provided, That no more than $7,500,000 shall be available for administrative expenses.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: Provided, That not more than $8,500,000 of these funds shall be available for administrative expenses.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,047,000,000, to remain available until expended, of which $1,350,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, and $725,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended; $100,000,000 for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas for the purpose of improving wastewater treatment for colonias; $15,000,000 for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages as provided by section 303 of Public Law 104–182; $82,000,000 for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the report accompanying this Act; and $725,000,000 for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities pursuant to the provisions set forth under this heading in Public Law 104–134, including grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities: Provided, That notwithstanding any other provision of law, hereafter, States may combine the assets of State Revolving Funds (SRFs) established under section 1452 of the Safe Drinking Water Act, as amended, and title VI of the Federal Water Pollution Control Act, as amended, as security for bond issues to enhance the lending capacity of one or both SRFs, but not to acquire the State match for either SRF program provided that revenues from the bonds are allocated for the purposes of the Safe Drinking Water Act and title VI of the Federal Water Pollution Control Act, respectively, in the same portion as the funds are used as security for the bonds: Provided further, That, hereafter from funds appropriated under this heading, the Administrator is authorized to make grants to federally recognized Indian governments for the development of multimedia environmental programs: Provided further, That, hereafter, the funds available under this heading for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities may also be used for the direct implementation by the Federal Government of a program required by law in the absence of an acceptable State or tribal program: Provided further, That, notwithstanding any other provision of law, the Administrator is authorized to make a grant of $4,326,000 under title II of the Federal Water Pollution Control Act, as amended, from funds appropriated in prior years under section 205 of the Act for the State of Florida and available due to deobligation, to the appropriate instrumentality for wastewater treatment works in Monroe County, Florida.

WORKING CAPITAL FUND

Under this heading in Public Law 104–204, delete the following: the phrases, "franchise fund pilot to be known as the"; "as authorized by section 403 of Public Law 103–356,"; and "as provided in such section"; and the final proviso. After the phrase, "to be available", insert "without fiscal year limitation".

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,932,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,436,000: Provided, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading, shall be used for or by the Council on Environmental Quality and Office of Environmental Quality.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $34,265,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended: Provided, That none of the funds appropriated for the Federal Emergency Management Agency may be used to perform repair, replacement, reconstruction, or restoration activities with respect to (1) trees and other natural features belonging to State and local governments that are located within parks and recreational facilities, as well as on the grounds of other publicly-owned property; or (2) parks, recreational areas, marinas, golf courses, stadiums, arenas or other similar facilities which generate any portion of their operational revenue through user fees, rents, admission charges, or similar fees.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,495,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $341,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $171,773,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $4,803,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $207,146,000: Provided, That for purposes of predisaster mitigation pursuant to 42 U.S.C. 5131 (b) and (c) and 42 U.S.C. 5196 (e) and (i), $5,000,000 of the funds made available under this heading shall be available until expended for project grants for State and local governments.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $100,000,000: Provided, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed $21,610,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 1999. In fiscal year 1998, no funds in excess of (1) $47,000,000 for operating expenses, (2) $375,165,000 for agents' commissions and taxes, and (3) $50,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1998, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

ADMINISTRATIVE PROVISION

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1998 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1998 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees shall be assessed in a manner that reflects the use of agency resources for classes of regulated persons and *the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1998.*

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,419,000, to be deposited into the Consumer Information Center Fund: Provided, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1998 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts: Provided further, That notwithstanding any other provision of law, the Consumer Information Center may accept and deposit to this account, during fiscal year 1998 and hereafter, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials and undertaking other consumer information activities; may expend those gifts for those purposes, in addition to amounts appropriated or otherwise made available; and the balance shall remain available for expenditure for such purpose.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,326,500,000, to remain available until September 30, 1999: Provided, That of the amount appropriated or otherwise made available by this heading, $1,000,000 may be available for the Neutral Buoyancy Simulator program.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,642,000,000, to remain available until September 30, 1999.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed 33 for replacement only) and hire of passenger motor vehicles; $2,503,200,000, to remain available until September 30, 1999.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $18,300,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2000.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1998 and may be used to enter into contracts for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

Of the funds provided to the National Aeronautics and Space Administration in this Act, the Administrator shall by November 1, 1998, make available no less than $400,000 for a study by the National Research Council, with an interim report to be completed by June 1, 1998, that evaluates, in terms of the potential impact on the Space Station's assembly schedule, budget, and capabilities, the engineering challenges posed by extravehicular activity (EVA) requirements, United States and non-United States space launch requirements, the potential need to upgrade or replace equipment and components after assembly complete, and the requirement to decommission and disassemble the facility.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1998, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed $600,000,000: Provided, That administrative expenses of the Central Liquidity Facility in fiscal year 1998 shall not exceed $203,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,524,700,000, of which not to exceed $228,530,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1999: Provided, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: Provided further, That $40,000,000 of the funds available under this heading shall be made available for a comprehensive research initiative on plant genomes, including the corn genome: Provided further, That $359,000,000 of the funds available under this heading shall not be made available for initiatives in Knowledge and Distributed Intelligence and Life and Earth's Environment until the agency submits appropriate milestones to be achieved by the initiatives in fiscal year 1998.

MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, $85,000,000, to remain available until expended.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $625,500,000, to remain available until September 30, 1999: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services and headquarters relocation; $136,950,000: Provided, That contracts may be entered into under "Salaries and expenses" in fiscal year 1998 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $4,850,000, to remain available until September 30, 1999.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $50,000,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $23,413,000: Provided, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: Provided further, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations: Provided, That this provision does not apply to accounts that do not contain an object classification for travel: Provided further, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: Provided further, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 410. Except as otherwise provided under existing law or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 415. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 417. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 419. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1998 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 420. Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 1998 and prior fiscal years may be used for implementing comprehensive conservation and management plans.

SEC. 421. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1998.

AMERICORPS STUDENT LOAN REPAYMENT

SEC. 422. Not withstanding any other provision of law, the term "qualified student loan" with respect to national service education awards shall mean any loan made directly to a student and certified through an institution of *higher education as necessary to assist the student in paying the cost of attendance, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.*

SENSE OF THE SENATE CONCERNING CATASTROPHIC NATURAL DISASTERS

SEC. 423. (a) FINDINGS.—The Senate finds that—

(1) catastrophic natural disasters are occurring with great frequency, a trend that is likely to continue for several decades according to prominent scientists;

(2) estimated damage to homes, buildings, and other structures from catastrophic natural disasters has totaled well over $100,000,000,000 during the last decade, not including the indirect costs of the disasters such as lost productivity and economic decline;

(3) the lack of adequate planning for catastrophic natural disasters, coupled with inadequate private insurance, has led to increasing reliance on the Federal Government to provide disaster relief, including the appropriation of $40,000,000,000 in supplemental funding since 1989;

(4) in the foreseeable future, a strong likelihood exists that the United States will experience a megacatastrophe, the impact of which would cause widespread economic disruption for homeowners and businesses and enormous cost to the Federal Government; and

(5) the Federal Government has failed to anticipate catastrophic natural disasters and take comprehensive action to reduce their impact.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider legislation that embodies the following principles:

(1) Persons who live in areas at risk of natural disaster should assume a practical level of personal responsibility for the risks through private insurance.

(2) The insurance industry, in partnership with the Federal Government and other private sector entities, should establish new mechanisms for the spreading of the risk of catastrophes that minimize the involvement and liability of the Federal Government.

(3) A partnership should be formed between the private sector and government at all levels to encourage better disaster preparation and respond quickly to the physical and financial impacts of catastrophic natural disasters.

SEC. 424. It is the sense of the Senate that Congress should appropriate for the Department of Veterans Affairs for discretionary activities in each of fiscal years 1999 through 2002 an amount equal to the amount required by the Department in such fiscal year for such activities.

SEC. 425. (a) Not later than 60 days after enactment of this Act, the Senate Committee on Veterans' Affairs shall hold one or more hearings to consider legislation which would add the following diseases at the end of section 1112(c)(2) of title 38, United States Code:

(1) Lung cancer.
(2) Bone cancer.
(3) Skin cancer.
(4) Colon cancer.
(5) Kidney cancer.
(6) Posterior subcapsular cataracts.
(7) Non-malignant thyroid nodular disease.
(8) Ovarian cancer.
(9) Parathyroid adenoma.
(10) Tumors of the brain and central nervous system.
(11) Rectal cancer.

(b) Not later than 30 days after enactment of this Act, the Congressional Budget Office shall provide to the Senate Committee on Veterans' Affairs and the Senate Appropriations Committee an estimate of the cost of the provision contained in subsection (a).

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998".

NATIONAL GEOLOGIC MAPPING REAUTHORIZATION ACT OF 1997

Mr. COCHRAN. I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 709 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 709) to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 709) was considered read the third time, and passed.

TAXPAYER BROWSING PROTECTION ACT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 39, H.R. 1226.

The PRESIDING OFFICER. Without objection, the clerk will report.

A bill (H.R. 1226) to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1226) was considered read the third time, and passed.

OAS-CIAV MISSION IN NICARAGUA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 114, S. Con. Res. 40.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 40) expressing the sense of the Congress regarding OAS-CIAV Mission in Nicaragua.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 40) was agreed to, as follows:

S. CON. RES. 40

Whereas the International Support and Verification Commission of the Organization of American States (in this resolution referred to as the "OAS–CIAV") was established in the August 7, 1989, Tela Accords by the presidents of the Central American countries and by the Secretaries General of the United Nations and the Organization of American States for the purpose of ending the Nicaraguan war and reintegrating members of the Nicaraguan Resistance into civil society;

Whereas the OAS–CIAV, originally comprised of 53 unarmed Latin Americans, successfully demobilized 22,500 members of the Nicaraguan Resistance and distributed food and humanitarian assistance to more than 119,000 repatriated Nicaraguans prior to July 1991;

Whereas the OAS–CIAV provided seeds, starter plants, and fertilizer to more than 17,000 families of demobilized combatants;

Whereas the OAS–CIAV assisted former Nicaraguan Resistance members in the construction of nearly 3,000 homes for impoverished families, 45 schools, 50 health clinics, and 25 community multi-purpose centers, as well as the development of microenterprises;

Whereas the OAS–CIAV assisted rural communities with the reparation of roads, development of potable water sources, veterinary and preventative medical training, raising basic crops, cattle ranching, and reforestation;

Whereas the OAS–CIAV, together with the Pan-American Health Organization (PAHO), trained local paramedics to staff 22 health posts in the Atlantic and Pacific regions of Nicaragua and provided medical supplies to treat mothers, young children, and cholera patients, among others, in a five-month program that benefited nearly 50,000 Nicaraguans;

Whereas the OAS–CIAV, with 15 members under a new mandate effective June 9, 1993, has investigated and documented more than 1,800 human rights violations, including 653 murders and has presented these cases to Nicaraguan authorities, following and advocating justice in each case;

Whereas the OAS–CIAV has demobilized 20,745 rearmed contras and Sandinistas, as well as apolitical criminal groups, and recently brokered and mediated the successful May 1997 negotiations between the Government of Nicaragua and the largest rearmed group;

Whereas the OAS-CIAV has resolved hostage crises successfully, including the 1993 abductions of UNO party Congressmen, the Vice President and the French military attache, and the 1996 kidnappings of an Agency for International Development contractor and 28 Supreme Electoral Council employees;

Whereas the OAS–CIAV created 86 peace commissions and has provided assistance and extensive training in human rights and alternative dispute resolution for their members, who are currently mediating conflicts, including kidnappings and demobilization of rearmed groups, in every municipality of the zones of conflict;

Whereas the OAS–CIAV assistance and training by the OAS–CIAV of rural Nicaraguans has led to a decrease in violence in the zones of conflict since 1994, in some areas as much as 85 percent;

Whereas the OAS–CIAV has assisted children wounded by land mines;

Whereas the OAS–CIAV has provided assistance to disabled war veterans and widows of combatants;

Whereas the OAS–CIAV provided and distributed 44,010 birth certificates to rural Nicaraguans in early 1996, allowing them to participate in the 1996 presidential and parliamentary elections; and

Whereas the OAS–CIAV provided transportation to and communication with remote areas or areas of conflict, assuring a secure climate for voter registration and the elections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) commends and congratulates Santiago Murray and Sergio Caramagna, the first and current directors, respectively, of the OAS–CIAV and all members of the OAS–CIAV team for their tireless defense of human rights, promotion of peaceful conflict resolution, and contribution to the development of freedom and democracy in Nicaragua; and

(2) expresses its support for the continuation of the role of the Organization of American States (OAS) in Nicaragua described in the resolution passed by the OAS General Assembly in Lima, Peru, on June 4, 1997.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such resolution to the Secretary General of the Organization of American States.

RELATIVE TO THE SITUATION ON CYPRUS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 115, Senate Concurrent Resolution 41.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 41) calling for a United States initiative seeking a just and peaceful resolution of the situation on Cyprus.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 41) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 41

Whereas the Republic of Cyprus has been divided and occupied by foreign forces since 1974 in violation of United Nations resolutions;

Whereas the international community, Congress, and successive United States administrations have called for an end to the status quo on Cyprus, considering that it perpetuates an unacceptable violation of international law and fundamental human rights affecting all the people of Cyprus, and undermines significant United States interests in the Eastern Mediterranean region;

Whereas the international community and the United States Government have repeatedly called for the speedy withdrawal of all foreign forces from the territory of Cyprus;

Whereas there are internationally acceptable means to resolve the situation in Cyprus, including the demilitarization of Cyprus and the establishment of a multinational force to ensure the security of both communities in Cyprus;

Whereas during the past year tensions in Cyprus have dramatically increased, with violent incidents occurring along cease-fire lines at a level not reached since 1974;

Whereas recent events in Cyprus have heightened the potential for armed conflict in the region involving two North Atlantic Treaty Organization (NATO) allies, Greece and Turkey, which would threaten vital United States interests in the already volatile Eastern Mediterranean area and beyond;

Whereas a peaceful, just, and lasting solution to the Cyprus problem would greatly benefit the security, and the political, economic, and social well-being of all Cypriots, as well as contribute to improved relations between Greece and Turkey;

Whereas a lasting solution to the Cyprus problem would also strengthen peace and stability in the Eastern Mediterranean and serve important interests of the United States;

Whereas the United Nations has repeatedly stated the parameters for such a solution, most recently in United Nations Security Council Resolution 1092, adopted on December 23, 1996, with United States support;

Whereas the prospect of the accession by Cyprus to the European Union, which the United States has actively supported, could serve as a catalyst for a solution to the Cyprus problem;

Whereas President Bill Clinton has pledged that in 1997 the United States will "play a heightened role in promoting a resolution in Cyprus"; and

Whereas United States leadership will be a crucial factor in achieving a solution to the Cyprus problem, and increased United States involvement in the search for this solution will contribute to a reduction of tension on Cyprus: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) reaffirms its view that the status quo on Cyprus is unacceptable and detrimental to the interests of the United States in the Eastern Mediterranean and beyond;

(2) considers that lasting peace and stability on Cyprus could be best secured by—

(A) a process of complete demilitarization leading to the withdrawal of all foreign occupation forces;

(B) the cessation of foreign arms transfers to Cyprus; and

(C) the provision of alternative internationally acceptable and effective security arrangements with guaranteed rights for both communities as negotiated by the parties;

(3) welcomes and supports the commitment by President Clinton to give increased attention to Cyprus and to make the search for a solution a priority of United States foreign policy, as witnessed by the appointment of Ambassador Richard Holbrooke as Special Presidential Emissary for Cyprus; and

(4) calls upon the parties to lend their full support and cooperation to United States, United Nations, and other international efforts to promote an equitable and speedy resolution of the Cyprus problem—

(A) on the basis of international law, the provisions of relevant United Nations Security Council resolutions, and democratic principles, including respect for human rights; and

(B) in accordance with the norms and requirements for accession to the European Union.

Mr. BIDEN. I rise to congratulate the Senate on having adopted Senate Concurrent Resolution 41, which calls for a United States initiative seeking a just and peaceful resolution on the situation on Cyprus.

Senator SMITH of Oregon and I submitted this resolution last week in the Committee on Foreign Relations, where it received speedy and favorable action. I applaud my colleagues for having adopted the resolution today.

For 23 years Cyprus has been divided, with the northern part occupied by Turkish troops, and the southern part home to the Greek Cypriot community. Tensions remain high, and since Cyprus has become one of the most heavily armed places in the world, the possibility for serious hostilities is high. So, Mr. President, it is clear that the status quo on Cyprus is detrimental to U.S. interests in the volatile Eastern Mediterranean region.

The resolution declares that lasting peace and stability on Cyprus could best be served by complete demilitarization leading to the withdrawal of all foreign occupation forces, the cessation of foreign arms transfers to Cyprus, and the provision of alternative internationally acceptable and effective security arrangements with guaranteed rights for both communities as negotiated by the parties.

The resolution also welcomes and supports President Clinton's commitment to give increased attention to Cyprus as witnessed by Ambassador Holbrook's appointment as Special Presidential Emissary for Cyprus.

Finally, the resolution calls upon the parties to lend their full support and cooperation to United States, United Nations, and other international efforts to promote an equitable and speedy resolution of the Cyprus problem on the basis of international law, relevant U.N. Security Council resolutions, and democratic principles, including respect for human rights, and in accordance with the norms and requirements for accession to the European Union.

This last item is important, Mr. President, giving the naming earlier this month of Cyprus to the first group of candidate countries for final membership negotiations with the European Union, along with Poland, the Czech Republic, Hungary, Slovenia, and Estonia.

Mr. President, the intolerable situation on Cyprus must be changed. Face to face negotiations between the two parties have resumed, and there are some grounds for optimism. I hope that this resolution will serve to energize the parties to come to a just and lasting agreement.

I thank the Chair and yield the floor.

ORDERS FOR THURSDAY, JULY 24, 1997

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. on Thursday, July 24. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of S. 1033, the Agriculture appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COCHRAN. Mr. President, for the information of all Senators, tomorrow, the Senate will resume consideration of S. 1033, the Agriculture appropriations bill. By previous consent, there will be 10 minutes of debate, equally divided, between Senator COCHRAN and Senator WELLSTONE on the Wellstone amendment regarding school breakfast. Also by consent, at 10 a.m., the Senate will proceed to a series of rollcall votes on the remaining amendments to the agriculture appropriations bill, including final passage. Following disposition of the agriculture appropriations bill, it is the intention of the majority leader that the Senate proceed to the consideration of the transportation appropriations bill. Therefore, Members can anticipate rollcall votes throughout Thursday's session of the Senate.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. COCHRAN. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:26 p.m., adjourned until Thursday, July 24, 1997, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 23, 1997:

DEPARTMENT OF STATE

WILLIAM F. WELD, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

EXECUTIVE OFFICE OF THE PRESIDENT

RITA D. HAYES, OF SOUTH CAROLINA, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE WILLIAM BOOTH GARDNER, RESIGNED.

EXTENSIONS OF REMARKS

FEDERAL FACILITIES CLEAN WATER COMPLIANCE ACT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. DEFAZIO. Mr. Speaker, today I'm re-introducing the Federal Facilities Clean Water Compliance Act (H.R. 2222). This legislation, which I first introduced in 1993, would subject Federal facilities to the same requirements under the Clean Water Act, as private facilities.

Five years ago, Congress overwhelmingly enacted the Federal Facilities Compliance Act. This act has become a major enforcement tool in cleaning up waste at military and civilian sites around the Nation. But few people realize it only applies to solid wastes. Liquid discharges into surface water at Federal facilities are completely exempt from enforcement actions under the law. Under this indefensible double standard, the Federal Government gets off scot-free for the same violations for which private companies and local government are slapped with fines of $25,000 each day.

At the Hanford Nuclear Reservation in the Pacific Northwest, hundreds of billions of gallons of contaminated wastewater were discharged directly into the Columbia River. More than 400 billion gallons of liquid waste have been discharged into the soil, contaminating over 200 square miles of ground water with radioactive and chemical wastes. This contamination is slowing inching toward, and in some cases has already reached, the Columbia River.

In December 1991, following a 3-year, billion-dollar start-up effort, the Department of Energy's [DOE] "K" Reactor at the Savannah River Site in South Carolina discharged thousands of curies of contaminated cooling water into the Savannah River. As a result, a number of drinking water plants, food processors, and oyster beds on the river had to be shut down until the tritium concentrations diminished.

It was not the first time radioactive pollutants had been dumped into the river. DOE records indicate that more than 3.5 million curies of tritium had been released from the site since 1984.

In Texas, the DOE has admitted to discharging waste from its Pantex Plant into nearby Playa Lakes. In Ohio, the DOE has dumped over one-half million pounds of uranium into the air and water from its Fernald Plant, located 20 miles northwest of Cincinnati. Drinking wells south of the Fernald plant are contaminated with radioactivity at levels as much as 250 times higher than limits set by the Environmental Protection Agency [EPA].

One startling fact highlighted by all of these tragic spills is that radioactive discharges from Federal facilities are not regulated under the Clean Water Act [CWA]. Neither the EPA nor individual States can set or enforce discharge limits for Federal facilities that dump nuclear waste into our streams and rivers.

Although the CWA defines a pollutant as "radioactive material" and requires DOE and other Federal agencies to comply with the CWA in the same manner and to the same extent as private individuals, the language doesn't have much backbone. A 1976 Supreme Court decision, Train versus Colorado PIRG, ruled that the CWA's definition of pollutant does not clearly indicate whether Congress intended the CWA to apply to radioactive materials regulated under the Atomic Energy Act—namely "source," "special nuclear," and "by-product" materials. These are the chief waste discharges found in tritium and released from DOE and Department of Defense facilities.

In addition, States are virtually helpless to do anything about the dumping, since States cannot assess civil penalties against the Federal Government under the doctrine of sovereign immunity.

Under the CWA, States may assess penalties against individuals up to $25,000 per day per violation. However, another Supreme Court decision, State of Ohio versus DOE, ruled that the DOE and other Federal agencies are immune from civil penalties under the CWA and the Resource Conservation and Recovery Act [RCRA].

This infamous decision ultimately led Congress to pass the Federal Facilities Compliance Act for RCRA in 1992. The exemption for the CWA still remains.

And finally, the EPA cannot issue administrative orders or assess penalties against other agencies for violating the CWA. The EPA may currently assess penalties up to $10,000 per day against individuals. But it can only issue administrative orders against Federal facilities on a consent basis. The EPA cannot assess unwanted penalties against a Federal agency. This essentially limits the EPA's primary enforcement mechanism to voluntary compliance agreements.

Congress needs to fill this regulatory void by providing independent oversight of Federal facilities that discharge radioactive waste into our waters. That authority already exists for toxics, suspended solids, and other nonradioactive pollutants under the CWA. Radioactive material should not be held to a lesser standard.

In addition, we should grant EPA the same regulatory powers it now enjoys under the Clean Air Act. Under this act, the EPA can regulate radioactive air pollutants discharged from Federal facilities. There is no distinction made between pollutants; a poison is still a poison. We should eliminate the paradox under the Clean Water Act.

The legislation I'm introducing today will eliminate the exemption under the CWA for radioactive discharges, empower States to assess civil penalties against Federal agencies, and authorize the EPA to issue unilateral administrative orders and assess penalties against other Federal agencies for violations of the CWA. My bill is supported by the Clean Water Network, Natural Resources Defense Council, USPIRG, Physicians for Social Responsibility, the Military Production Network, Plutonium Challenge, and Heart of America Northwest. It has also been endorsed by the Oregon Department of Energy and the Oregon Department of Environmental Quality.

At a time when the emphasis on America's nuclear weapons complex is shifting from production to cleanup, it's essential that we close these dangerous loopholes. Independent oversight of Federal facility discharges can prevent future accidents from happening and provide a means of cleanup enforcement when they do occur. I urge my colleagues to cosponsor this legislation and join me in this effort.

TRIBUTE TO CLAIRE AND BEAVER JUTRAS

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. BASS. Mr. Speaker, I rise today to pay tribute to Claire and Roland, "Beaver" Jutras, of Peterborough, NH, who have recently been named as Parents of the Year by the National Parents Day Foundation. When Claire and Beaver Jutras are asked about their four daughters, Michelle, Christine, Natalie, and Veronica, they say that they have been blessed. It is now clear that these four girl have been blessed as well, with two loving, caring and dedicated parents.

Claire and Beaver are an inspiration to all parents for their selfless devotion to their daughters. The girls are active in countless activities and organizations. As any parent knows, that means Claire and Beaver have always had to find time to provide transportation and attend games and activities, as well as being active community leaders themselves. Beaver is the director of the Peterborough recreation department, a leader in his church, and an active, committed citizen of the town. He has been recognized as a Paul Harris Fellow, the VFW man of the Year in 1981, and Citizen of the Year in 1987. He was also a member of the ConVal District School Board and teaches at his church.

Claire Jutras is a special education aide at Peterborough Elementary School but worked part time while her daughters were in school so as to be able to devote her afternoons to them and their activities. She has also served as a Brownie leader, a teacher, and Eucharistic minister at their church, a preschool teacher, a recreation volunteer, and supervisor of the checklist for the town.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Jutrases are civic and spiritual leaders, athletes, scholars, and good neighbors. Families such as this one are the fabric of smalltown new Hampshire. It is an honor to be able to recognize them for their accomplishments.

CALLING FOR UNITED STATES INITIATIVE SEEKING JUST AND PEACEFUL RESOLUTION OF SITUATION ON CYPRUS

SPEECH OF

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. BLAGOJEVICH. Mr. Speaker, I rise today to reflect on Cyprus' troubled history. For years, the people of Cyprus have suffered under the yoke of Turkish aggression. But I also rise to look for hope toward the future. For recent events have left the people of Cyprus with the best hopes for peace they have had in decades.

Cyprus is a unique nation, one which has always served as a bridge between the cultures of East and West. The mix of cultures of the Cypriot people was for generations a blessing rather than a curse. Almost four decades ago, when Cyprus was granted independence from Britain, it appeared that for the first time in the centuries the Cypriot people would be able to determine their destiny. But that opportunity was torn from their grasp by the threat of outside aggression. In 1974, that threat was realized when the Turkish military invaded Cyprus, dividing the island and causing immeasurable pain and suffering. While the idea of ethnic cleansing was not invented on Cyprus, it was carried out with brutal efficiency. Thousands were forced out of their homes, never to return. Families were torn apart, separated only by an artificial line drawn by aggression. Cyprus' natural beauty was forever scarred by outside invaders.

As Americans, it is vital that we support the peace process in Cyprus while the opportunity remains. The United States is uniquely situated to play an important and constructive role in the effort to build peace in Cyprus. The President's recent appointment of Richard Holbrooke as his special representative to Cyprus is especially welcome. Ambassador Holbrooke has ably demonstrated his skill as a peacemaker and a diplomat. His role in the process only serves to reassure optimists that the opportunity for peace is real, and that the United States is deeply committed to the effort for peace in Cyprus. We cannot let this opportunity slip out of our grasp. We must stand with the people of Cyprus as they work to throw off the yoke of Turkish oppression.

CALLING FOR UNITED STATES INITIATIVE SEEKING JUST AND PEACEFUL RESOLUTION OF SITUATION ON CYPRUS

SPEECH OF

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. BURTON of Indiana. Mr. Speaker, I rise in support of peace and stability on the Island of Cyprus. However, Mr. Speaker, if there is to be a resolution of the Cyprus issue, then there must be a balanced approach giving both Greeks and Turks equal voice both in the process and in the government. If this resolution intends to bestow sole rule of Cyprus to the Greek community, then I rise in strong opposition.

We have been down that blood-soaked road before when in the 1960's and 1970's, Archbishop Makarios adopted a policy of Enosis, in an attempt to unite Cyprus with Greece. Fighting broke out, many Turkish Cypriots were killed, in some cases, slaughtered, and the Turkish Government, as one of the legal guarantors of the Republic of Cyprus, felt, in order to protect the lives and safeguard the property of the Turkish Cypriots, that military intervention was in order.

Since 1974, there has been a de facto military balance on the island which has prevented additional bloodshed. An upset in this balance could result in future hostilities. The international community cannot make the problem go away between the Greeks and Turks on the island of Cyprus, only those two parties can.

Having said that Mr. Speaker, I am very concerned with some of the language in House Concurrent Resolution 81. The language of the resolution states, "Whereas the prospect of the accession by Cyprus to the European Union, which the United States has actively supported, could serve as a catalyst for a solution to the Cyprus problem."

This language does not give any incentive to the Greek Cypriots to settle with the Turkish Cypriots. Moreover, on February 24, 1997, Greece alone objected to a draft common EU position demanding "all Cypriots be able to participate in the accession process" because, according to Athens, its reference to Turkish Cypriots contradicts U.N. and EU policies that one internationally recognized Cyprus Government is competent to negotiate for the state.

The resolved clauses are especially troubling. The second resolved clause states, "The Congress considers lasting peace and stability on Cyprus could best be secured by a process of complete demilitarization leading to the withdrawal of all foreign occupation forces, * * *, and providing for alternative internationally acceptable and effective security arrangements as negotiated by the parties."

Mr. Speaker, this to me suggests that Turkey is directed to withdrawal from the island of Cyprus without direct input from the Turkish Cypriot community. This is not possible without the creation of a security apparatus which is found acceptable to the Turkish Cypriot community. The Congress needs a careful reminder into the history of Cyprus before such a suggestion is considered.

I want to remind my colleagues that in 1960, when Great Britain relinquished control of the island, a bicommunal government was established with shared leadership by Turkish Cypriots and Greek Cypriots as political equals. Neither community was to dominate the new government. Tragically, right after Britain's departure, the new President of Cyprus, a Greek Cypriot, Archbishop Makarios, began to carry out his plan for union with Greece. By December 1963, Greek Cypriots had destroyed the bicommunal character of the republic physically ousting Turkish Cypriot leaders from their elected positions and destroying over 100 Turkish Cypriot villages.

For the next 11 years, Turkish Cypriots, heavily outnumbered by the Greek Cypriots, suffered great losses—human and material—in clashes initiated by Greek Cypriots and fully supported by the Greek Army. One out of every one hundred twenty Turkish Cypriots, including women, children, and the elderly, was killed during this period even with U.N. peacekeeping troops present on the island. Thousands of Turkish Cypriots were forced to flee from their homes to live in enclaves throughout the island and were, held hostage in their own land without representation in government which was stipulated in the 1960 constitution.

United States Secretary of State George Ball visited Cyprus in February 1964 and concluded that Greek Cypriots "just wanted to be left alone to kill Turkish Cypriots." Turkey waited for 11 years for help from the world community. None came. By 1974, Turkey could no longer stand by and watch innocent Turkish Cypriots be slaughtered by Greek Cypriots.

So Turkey intervened militarily on the island which was completely legal under the 1960 Treaty of Guarantee signed by the Turkish Cypriots, Turkey, Britain, Greece, and the Greek Cypriots. It clearly stated that any of the signatories had the right to intervene on Cyprus should the sovereignty of the island be threatened. These troops have posed no threat to the southern part of the island. Since the Turkish military intervention concluded in 1974, these troops have never attacked or threatened to attack the south. They are simply to ensure the security of the Turkish Cypriot community.

Due to domestic considerations, we are not doing what is right and necessary on the Cyprus issue. The Cyprus conflict is an international issue relating to Turks and Greeks and, if we want to help settle the issue, we must be totally even-handed in all facets of our approach. They both must learn to live in cohabitation. Perhaps, separate sovereignty of the communities, as in the proposal of bizonal and bicommunal governance, is in the best interest of security both for the region and for the United States. That could be determined in meetings between Turkish Cypriot President Rauf Denktash and Greek Cypriot leader Glafko Clerides.

Mr. Speaker, in closing I want to thank my chairman, the honorable and kind-hearted gentleman from New York, BEN GILMAN, for bringing this issue to the attention of the Congress. Cyprus is a vital issue for the security of the eastern Mediterranean. The proper encouragement by the United States Congress could help both Greeks and Turks to understand that they must work together to resolve their differences.

TRIBUTE TO PHEBE WARD BOSTWICK

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Ms. ESHOO. Mr. Speaker, I rise today to honor Phebe Ward Bostwick, an outstanding citizen and dedicated community leader of the 14th Congressional District who passed away on July 6, 1997. She was the devoted wife of Alan Bostwick and the stepmother of three children, the proud grandmother of eight, and great grandmother of seven. She was married to Alan Bostwick for a remarkable 36 years.

Phebe Bostwick was a trailblazer. At the young age of 15, she was admitted to Stanford University as one of only 500 women permitted to study on the campus at any one time. She pursued education as her course of studies and earned her teaching credential at the university.

She began her 45 years as a northern California educator in Calistoga, Piedmont, and Redwood City High Schools before becoming an English instructor at San Francisco City College. She earned a reputation at the college as an administrator who could easily adapt to any assignment. She later spent 25 years as principal of Galileo Adult School which eventually became a part of the San Francisco Community College district. She was also loaned out for several other projects; as a counselor with the U.S. Department of Employment for women trainees for aircraft jobs, and to Contra Costa County to set up new community colleges. She also served as a member of the United Nations Educational, Scientific and Cultural Organization Commission. She enriched the lives of countless young people as their teacher with her intelligence, common sense, warmth, and wisdom and contributed greatly to the improvement of the administration in all the institutions she served.

Upon her retirement from education, Phebe Bostwick committed herself to volunteering in a number of organizations including the Little House Senior Center where she was program director and president of its council, volunteering at the Center for 20 years. She was a forceful advocate for seniors as a member of the California Senior Legislature where she represented 103,000 older adults of San Mateo County. She chaired the Legislative Committee, often testified at hearings, and was a featured speaker at conferences on legislative advocacy training. Phebe Bostwick also served with great distinction on the San Mateo County Commission on Aging and its Advisory Committee, and was a member of Soroptimist International of San Francisco.

Mr. Speaker, Phebe Bostwick was a shining light among us, inspiring all who knew her. She was a high achiever and made remarkable contributions to our community and our country. She lives on through her stepchildren, grandchildren, and great grandchildren, through her devoted husband Alan, and through all of us who were blessed to be part of her life, work with her and call her friend.

Mr. Speaker, I ask my colleagues to join me in paying tribute to a noble woman who lived a life of purpose and to extend our deepest sympathy to Alan Bostwick and the entire Bostwick family.

Phebe Bostwick's legacy is that she made each one of us better, and because of her, our community and our country have been immeasurably bettered as well.

CLARIFICATION OF THE TREATMENT OF INVESTMENT MANAGERS

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. FAWELL. Mr. Speaker, I am pleased to today introduce legislation which amends title I of the Employee Retirement Income Security Act of 1974 [ERISA] to permit investment advisers registered with State securities regulators to continue to serve as investment managers to ERISA plans.

At the end of last Congress, landmark bipartisan legislation was enacted which adopted a new approach for regulating investment advisers: the Investment Advisers Supervision Coordination Act (title III of P.L. 104–290). Under the act, beginning July 8, 1997, States are assigned primary responsibility for regulating smaller investment advisers and the Securities and Exchange Commission [SEC] is assigned primary responsibility for regulating larger investment advisers. Under this framework, however, smaller investment advisers registered only with the States, and prohibited by the new law from registering with the SEC, would no longer meet the definition of "investment manager" under ERISA, since the current Federal law definition only recognizes advisers registered with the SEC.

As a temporary measure, a 2-year sunset provision was included in the securities reform law extending for 2 years the qualification of State registered investment advisers as investment managers under ERISA. This provision was intended to address the problem on an interim basis while the congressional committees with jurisdiction over ERISA reviewed the issue. We have reviewed this issue and have developed the legislation that I am introducing today to permanently correct this oversight.

Without the legislation I am introducing, State licensed investment advisers who, because of the securities reform law, no longer are permitted to register with the SEC would be unable to continue to be qualified to serve as investment managers to pension and welfare plans covered by ERISA. Without this legislation, the practices of thousands of small investment advisers and investment advisory firms would be seriously disrupted after October 10, 1998—as would the 401(k) and other pension plans of their clients.

It is necessary for an investment adviser seeking to advise and manage the assets of employee benefit plans subject to ERISA to meet ERISA's definition of "investment manager." It is also important, for business reasons, for small investment advisers to eliminate the uncertainty about their status as investment managers under ERISA. This uncertainty makes it difficult for such advisers to acquire new ERISA-plan client and could well cause the loss of existing clients.

The bill will amend title I of ERISA to permit an investment adviser to serve as an investment manager to ERISA plans if it is registered with either the SEC or the State in which it maintains its principal office and place of business, if it could no longer register with the SEC as a result of the requirements of the 1996 securities reform law. In addition, at the request of the Department of Labor, the bill requires that whatever filing is made by the investment adviser with the State be filed with the Secretary of Labor as well.

Arthur Levitt, Chairman of the Securities and Exchange Commission, has written a letter expressing the need for this legislation and his support for this effort to correct this problem. I ask that a copy of Chairman Levitt's letter be inserted in the RECORD.

This legislation also has the support of the Department of Labor. In addition, this bill is supported by the International Association for Financial Planning, the Institute of Certified Financial Planners, the National Association of Personal Financial Advisors, the American Institute of Certified Public Accountants, and the North American Securities Administrators Association, Inc. Identical legislation is being introduced on the other side of the Hill by Senator JEFFORDS, the chairman of the Senate Labor Committee.

Congress must act quickly to correct this oversight, to protect small advisers from unintended ruin and to bring stability to the capital management marketplace.

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, April 7, 1997.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Education and the Work Force, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLING: I am writing to urge that the House Committee on Education and the Work Force consider enacting legislation to amend the Employee Retirement Income Security Act of 1974 ("ERISA;") in a small but terribly important way. Unless the Congress acts quickly, thousands of small investment adviser firms, and their employees, risk having their businesses and their livelihoods inadvertently disrupted by changes to federal securities laws that were enacted during the last Congress.

At the very end of its last session, Congress passed the Investment Advisers Supervision Coordination Act. This was landmark bipartisan legislation that replaced an overlapping and duplicative state and federal regulatory scheme with a new approach that divided responsibility for investment adviser supervision; states were assigned primary responsibility for regulating smaller investment advisers, and the Securities and Exchange Commission was assigned primarily responsibility for regulating larger investment advisers. We supported this approach.

Until the Coordination Act takes effect in the next few months, most of the nation's 23,500 investment adviser firms—regardless of their size—will continue to be registered with the SEC, as they have for many decades. Once the Act becomes effective, however, we estimate that as many as 16,000 firms will be required to withdraw their federal registration. Indeed, this requirement is crucial if the Act's overall intent of reducing overlapping and duplicative regulation is to be realized. But the withdrawal of federal registration is also what causes the problem for these firms under ERISA.

As a practical business matter, it is a virtual necessity for a professional money manager (such as an investment adviser) seeking to serve employee benefit plans subject to ERISA to meet ERISA's definition of "investment manager." The term is defined in ERISA to include only investment advisers registered with the SEC, and certain banks and insurance companies. Once the Coordination Act becomes effective, large advisers registered with the SEC will of course continue to meet the definition. But small advisory firms will not be able to meet the definition of investment manager because they will be registered with the states rather than with the SEC. Thus they may well be precluded from providing advisory services to employee benefit plans subject to ERISA, even if they have been doing so successfully for many years.

The sponsors of the Coordination Act were aware that the interplay between the Act and ERISA could have substantial detrimental consequences for small advisors, and thus added an amendment to ERISA during the House-Senate Conference on the Act. The ERISA amendment provided that investment advisers registered with a state can serve as "investment managers" for two years, or through October 12, 1998. My staff has been told that this "sunset" provision was included in the ERISA amendment so that the appropriate congressional committees with jurisdiction over ERISA could have a reasonable amount of time to review the amendment before deciding whether to make it permanent. Apart from that important procedural issue, I am not aware of any other considerations that would suggest the need for the ERISA amendment to expire in two years.

I believe that the Congress should move as quickly as possible to enact legislation that eliminates the sunset provision, and permanently enables properly registered state investment advisers to continue their service as investment managers under ERISA. There is no reason to wait until 1998 to do so. In fact, many small investment advisers believe that the ongoing uncertainty about their status as "investment managers" under ERISA is making it difficult for them to acquire new ERISA plan clients, and may even cause them to lose existing clients. Some advisers think the harm they could suffer, even before the expiration of the sunset provision next year, could be irreparable, and it is easy to see why.

It is only through the swift action of your Committee that these unintended and unnecessary consequences for thousands of successful small businesses can be avoided. If you or your staff would like additional information about this matter, please do not hesitate to contact me at 942-0100, or Barry P. Barbash, Director of the Division of Investment Management, or Robert E. Plaze, an Associate Director in the Division, at 942-0720.

Sincerely,

ARTHUR LEVITT.

TRIBUTE TO LINDA MITCHELL

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. FLAKE. Mr. Speaker, Linda Mitchell was honored as the Lutheran Schools Association Administrator of the Year for Metropolitan New York and New Jersey. Ms. Mitchell is a lifelong resident of Queens, NY, and in response to the need for a successful learning environment she founded Holy Trinity Community School in 1976. As principal of the school, she has committed her efforts to provide children with a quality education funded on solid moral teaching. She has also worked hard to increase the school's relationship with the Holy Trinity Lutheran Church. This effort has motivated the school to adopt positive themes like "Do the Right Thing" and "Zero Tolerance." These themes steer children away from negativity and encourage them to eliminate physical aggression, while stressing the importance of learning values. She is particularly committed to creating an accepting environment for children who have been unsuccessful in other school settings.

In addition to her role as principal of HTCS, Ms. Mitchell serves on the Hillis Park Gardens Board, the Community Board 12, the 103d Precinct Community Council, and the board of the Greater Jamaica Community Coalition. She has received additional awards for service to her community, where she is recognized for her active involvement in local affairs. Linda Mitchell is a model citizen for all Americans. She is intent on serving her community in every way, and demonstrates how we, as individuals, can improve the status of our communities. I commend Ms. Mitchell for her service, acknowledge her for her excellences, and join with all of those honoring her as an outstanding individual.

STAMP OUT BREAST CANCER ACT

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. FAZIO of California. Mr. Speaker, I rise today in strong support of H.R. 1585, sponsored by myself and my colleague, SUSAN MOLINARI. I seem to have developed quite a history with the idea of an experiment whereby the American people would contribute to public health causes through the voluntary purchase of a U.S. postage stamp.

In May of 1996, Dr. Ernie Bodai—one of my constituents and the chief of surgery at the Kaiser Permanente Medical Center in Sacramento, CA—came to my office with an innovative proposal. Dr. Bodai's idea involved a bill to establish a special first-class postage stamp priced at 1 cent above normal first-class postage. The stamp would be purchased voluntarily, with the additional penny going toward breast cancer research. As a result of Dr. Bodai's unflagging personal effort, I was pleased to introduce the Breast Cancer Research Stamp Act in the 104th Congress. That piece of legislation gained the support of 86 Members of the House of Representatives.

This year, I reintroduced this bill in the 105th Congress, and H.R. 407 has the support of 125 of my colleagues. Thanks to some energetic and tireless efforts by several compassionate groups within the breast cancer advocacy community and a special thank you to my colleague, SUSAN MOLINARI, we are considering today H.R. 1585, the Stamp Out Breast Cancer Act of 1997. H.R. 1585 remains true to the idea of the American public participating in the search for a cure for breast cancer. H.R. 1585 also ensures that money raised by the breast cancer research stamp will not replace current Federal funding levels. It will add to it.

H.R. 1585 provides a workable and realistic framework for a cooperative effort between the Postal Service and the American public to take place. Questions have been raised—how much money could be raised by the sale of a stamp priced above the normal first-class postage rate? And how much would such an endeavor cost the Postal Service to administer? H.R. 1585 sets up a demonstration project to answer these questions. After 2 years, the General Accounting Office will provide an evaluation of the effectiveness of this project. And after 2 years, perhaps there will be additional money from the stamp going toward breast cancer research at the National Institutes of Health and the Department of Defense.

I want to thank Representative MCHUGH, chairman of the Postal Service Subcommittee, for working out the details of this bill so that we may finally put this project into place. And I want to thank again my colleague, SUSAN MOLINARI, for her effort and commitment to seeing that this bill and this cause moves forward in the House of Representatives. We have made tremendous progress in raising money, awareness and spirits in the battle against a disease that has devastated the lives of millions of loved ones, but we still have a long way to go. I know that we will get there, through the support of legislators in Congress and the grass roots support in our communities.

By passing H.R. 1585, we will enable the people of the United States to demonstrate a spirit of volunteerism to advance our successes in finding a cure for breast cancer. I urge my colleagues to vote to suspend the rules and pass this important piece of legislation.

VETERANS IN POLITICS HONORING SENATOR JACOBSEN

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. GIBBONS. Mr. Speaker, Veterans in Politics, a nationally recognized veteran's organization, is honoring Senator JACOBSEN at a ceremony this evening in Las Vegas. I would like to have the following comments included in the CONGRESSIONAL RECORD today for their event.

As a fellow veteran with Senator LAWRENCE JACOBSEN, it is my honor and privilege to pay special tribute to a man who has committed his entire life to serving our great State and Nation. "JAKE," as he is known to most, is one of the true legends in Nevada politics. JAKE is someone who would rather be out there with his sleeves rolled up helping Nevadans than sitting in a restaurant with well-paid lobbyists. His commonsense approach to politics is refreshing and sorely needed in Carson City.

JAKE's life and his ensuing marriage to beloved Betty is one of true Americana literature. Born in Gardnerville in 1921, JAKE has lived there all his life. When the call to duty came to serve his country, JAKE enlisted in the U.S. Navy during World War II. Little known to many, he is a survivor of the attack on Pearl Harbor. When the 50th anniversary of Pearl Harbor was recognized in 1991, JAKE was one of the most sought after speakers in the State and graciously rose to the occasion. His sense of patriotism is practically unmatched by any other political figure in Nevada.

Through his membership in the American Legion, JAKE has been committed to preserving and enhancing patriotism and education with such programs as Boys State. Held every year in Carson City, JAKE has shared his vast experiences and knowledge of public service with the young men of Nevada.

Having served with JAKE in the Nevada Legislature, I know first hand of his unwavering dedication to the hard-working families that he represents so well. JAKE is also one of the Nevada Legislature's strongest supporters of veterans issues, including bringing a veterans home to Nevada.

It has been a true pleasure and honor to work with LAWRENCE "JAKE," JACOBSEN and join him in promoting many of the noteworthy causes he has championed. He has been both a mentor and friend providing much appreciated advice since my earliest days as a legislator. JAKE has inspired and encouraged all of us in one form or another to maximize our abilities. He has provided us a model to follow which will not be easy to emulate yet will give us something to which we can strive, For that JAKE, we will always be grateful. Best wishes in all of the pursuits and endeavors which are still awaiting you.

REGARDING INTERFERENCE OF EUROPEAN COMMISSION IN MERGER OF BOEING CO. AND McDONNELL DOUGLAS

SPEECH OF

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Ms. HARMAN. Mr. Speaker, I rise to express deep concern about the future of American aerospace industry in light of the European Union's inappropriate and unfounded reaction to the Boeing-McDonnell Douglas merger.

The EU threatens to interfere with this merger on the grounds that it impinges on fair trade. They have stated their intent to do this even after Boeing offered numerous concessions, including modification of exclusive purchasing arrangements with several American carriers.

There are persistent rumors that the EU is demanding other concessions as well, including closing of aircraft plants and requiring Boeing to put McDonnell Douglas' commercial segment on the market. Giving in to such conditions could cost thousands of U.S. jobs—many of them in southern California—adversely affect the efficiency of the industry, and set a disastrous precedent.

Free and fair trade is a cornerstone of our relations with Europe, but the EU's threatened actions contribute little to either and we ought to resist them. Their demands in this case are clearly unreasonable and an infringement upon U.S. sovereignty.

This merger will not result in unfair trade practices as the EU contends. McDonnell Douglas' commercial aviation accounts for only 4 percent of the global market. In fact, the Federal Trade Commission's review of the merger determined that McDonnell Douglas was not a factor in the commercial aviation market.

The likelihood that this merger will somehow limit competition is nonexistent. And, Boeing's offer to substantially modify its arrangements with American carriers seems to more than make up for any advantage it might theoretically gain from its acquisition of McDonnell Douglas.

EU interference in the merger is unwarranted, and, if allowed to continue, is likely to redound with far reaching and adverse effects for all concerned. Therefore, I urge my colleagues to support this resolution, and I urge the President to deal with the EU promptly and resolutely and defend the rights of American business to consummate mergers that have been reviewed and approved by the appropriate U.S. Government agencies.

TRIBUTE TO HAM FISH

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. HOUGHTON. Mr. Speaker, there are few indispendable people. Ham Fish was one of them. He gave something to this House, his country that was unique and powerful.

We miss Ham.

IN RECOGNITION OF FORMER CONGRESSMAN HAM FISH

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mrs. KELLY. Mr. Speaker, today marks the first anniversary of the death of New York's Congressman Hamilton Fish. For many years, Ham Fish represented the people of New York's Hudson Valley with dedication and integrity. It is now my honor and privilege to represent that congressional district here in the House.

Ham was one of the giants of this great legislative body. His was a voice of reason through tumultuous times in our Nation and at all times on the people's House; he served us with integrity and honor. In his long and distinguished service on the House Judiciary Committee, Ham Fish's name was synonymous with justice and fair play for all Americans. While carefully looking after the needs of the people of the Hudson Valley, who repeatedly returned him to Congress, Ham Fish gained national recognition for his principled positions and his determination to protect the integrity of our Republican institutions.

Mr. Speaker, Ham Fish embodied all that is good and great about this House. Today, on the anniversary of his death, I ask that we honor his memory by living up to the high principles and unquestioned integrity which are the legacy of his service to us and to the American people.

A TRIBUTE TO FLOYD D. HISER, SR.

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fearless and selfless efforts of a dedicated helicopter pilot from the city of Blyth, CA. Floyd D. Hiser, 51, recently lost his life when his Bell 206L–1 engine stalled while fighting an out-of-control blaze in the San Bernardino National Forest on July 6, 1997.

The fire charred over 2,797 acres of trees and brush, and was threatening the terrain above the city of Highland, CA. On the scene, there were 903 firefighters and officials accompanied by tankers and helicopters battling to put out the blaze. Floyd Hiser, a pilot with over 10,000 hours of flight time, was flying for Rogers Helicopters of Clovis, when he was called to battle the fires in the rugged terrain of the San Bernardino Mountains.

Hiser held commercial, instrument, and instructor ratings for fixed-winged and rotary-winged aircraft and was an FAA-certified flight examiner for prospective helicopter pilots. His commitment to the protection and safety of his community did not stop with flying. He served in the U.S. Marine Corps from 1964 to 1968, and was also a Vietnam veteran. He also served in the Blyth Police Department as a sergeant and detective from 1969 to 1979.

Hiser is survived by wife, Sharon; his daughter, Kimberly; his mother, Ruby Faye; his stepmother, Ruth Wadlow; his brother, Loyld; and four grandchildren. After a moving ceremony, his flag-draped coffin was carried out of the church by a color guard, the last two members of which carried red fire axes to remember his efforts.

"Floyd could put the drops on the leaves that he wanted hit," said one of his many friends. Floyd died doing what he loved most, and what he believed in: piloting a helicopter and protecting people from a wildland fire.

Mr. Speaker, Floyd Hiser provided an example of leadership and the ultimate level of sacrifice for the benefit of his friends, family, and the communities he protected. His efforts will long be respected and admired. I ask that you join me, our colleagues, and hundreds of people who knew and loved Floyd, and to recognize him for his lifetime commitment to the protection and goodwill of the communities he served.

THE CONGRESS ACCORDING TO KESSLER?

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. LIVINGSTON. Mr. Speaker, I rise today in defense of this most noble of democratic institutions and the Members who occupy it.

Mr. Ronald Kessler has written a book entitled "Inside Congress," the premise of which is that we, the elected representatives who hold seats in this Congress are nothing but scoundrels, criminals, and charlatans.

Mr. Speaker, not only do I rise in total disagreement with Mr. Kessler's cynicism, but I strongly maintain that the people who serve here are, for the most part, good, decent, honest, hard-working, patriotic Americans.

In support of my position, I submit into the RECORD an article I wrote which appeared in the newspaper "The Chronicle" of Colfax, LA.

It is my hope that the American people will see through Mr. Kessler's sensationalism and realize that the overwhelming majority of the Representatives, Senators, and staff are truly worthy of their trust.

THE CONGRESS ACCORDING TO KESSLER?

(By U.S. Rep. Bob Livingston)

In Ron Kessler's tell-all book, "Inside Congress," only true charlatans, perverts and power-mad political hucksters are worthy of note. Sadly, that pretty much encompasses every member of the House and Senate for in Mr. Kessler's view, we're all rotten.

Fortunately, Mr. Kessler himself spared me from buying his book. After seeing him on "Good Morning America" last week, I learned everything I need to know about it. The people who inhabit Mr. Kessler's Congress come straight out of a B movie. In fact, Kessler said that the television talk shows only feature the more articulate members who look good on camera and seem intelligent. But according to him, that's not reality. Most members are "clueless" and incapable of discussing issues on a substantive level, relying on handlers to tell them what to think and say. He went as far as to write that when members are on the floor, sans makeup and proper lighting, they look, "shifty." Talk about broad generalizations. At least Good Morning America anchorman, Charlie Gibson politely demurred. Charlie spent eight years covering Congress and found most members to be honest, hard-working men and woman interested in "doing the people's business." My thanks to Mr. Gibson for his judgment with which I heartily concur. Yet faced with Mr. Gibson's gentlemanly confrontation, Mr. Kessler insisted that Congress is a cesspool of corruption. In fact, Mr. Kessler was so sanctimoniously assured, he refused to admit he might have overstated his case just a bit.

While in Congress over the last twenty years, I've seen some members reap the rewards of inappropriate and even criminal acts. But those are the exceptions and far from the rule. For the most part, members of Congress are honest, dedicated, patriotic, hard working, competent legislators. In fact, most members love and respect this greatest of democratic institutions and would avoid bringing shame on this House at all costs. They are good people trying to do good things, be they conservative or liberal, Republican or Democrat.

Yet our televisions, radios and newspapers are saturated with detailed accounts of official misconduct. After all, good news is no news and people like Mr. Kessler, who only report the seedier side of life, profit by capturing the public's attention. Mr. Kessler knows that books in the "shocking real story" genre sell.

Kessler's sources include Capitol Hill police, Congressional staff and some members themselves, few if any quoted by name. Who would expect them to hurl salacious rumors in the clear light of public scrutiny? Instead, most chose to remain anonymous.

Kessler has been inside a lot over the last few years. He has been inside the FBI, inside the CIA, inside the White House—I wonder if he paid the admission price to get inside the Lincoln bedroom?

Perhaps Mr. Kessler should go outside for a change. He could take in a ballgame or play some golf. A little fresh air and sunshine might do him some good. It might even change his outlook on life. Then, he might conclude that in reality, the good people of the world—and that includes those in the United States Congress—far outnumber the bad.

I don't know what his next subject will be, but after his performance on ABC, perhaps the title of his next book should be "A View of the World—From Under a Rock" by Ron Kessler.

IN HONOR OF THE ADIRONDACK MUSEUM

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay a respectful tribute to the Adirondack Museum as it celebrates its 40th anniversary documenting the Adirondack region's history and culture. The museum's wealth of knowledge enables its visitors to enjoy the entire region with increased understanding and appreciation.

Since its opening in 1957, the museum's collection has grown to include a large and varied assortment of books, maps, paintings, photographs, drawings, and prints. Seventy-five horse-drawn carriages, a private parlor rail car, a 1926 Lin tractor, a blacksmith shop, and the second largest collection of boats in the United States further enhance the museum's offerings.

In addition to its many exhibits, the Adirondack Museum runs educational programs aimed at teaching local residents, including thousands of children annually, about the relationship between the Adirondacks and its residents. Last summer, in a project sponsored by the National Endowment for the Arts, the museum collected oral histories and photographs for a folklore presentation about the forest experiences of women. Through educational undertakings such as this one, the Museum encourages and guides exploration of the culture and history of this majestic geographical area.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to the Adirondack Museum as it celebrates 40 years of enhancing and sharing the history and culture of the Adirondacks with the local community and visitors from around the world. The Adirondack Museum has played a central role in making the magnificent Adirondack Park what the New York Times, in 1864, called a Central Park for the world.

REGARDING INTERFERENCE OF EUROPEAN COMMISSION IN MERGER OF BOEING CO. AND MCDONNELL DOUGLAS

SPEECH OF

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. McDERMOTT. Mr. Speaker, I rise in strong support of House Resolution 191. I am deeply concerned that the European Union might vote tomorrow to disapprove the Boeing-McDonnell Douglas merger and impose a multi-billion dollar fine on the Boeing company—a fine that would effectively shut Boeing out of the European market because it would be levied on payments to Boeing by European airlines.

In my view, Boeing has made numerous reasonable efforts to not only convince the European Commission that the merger is not anti-competitive, but also offered several options that should ease European concerns. Yet despite these efforts, the Commission has responded with extreme demands—including the transfer of patented technology and cancellation of existing sales contracts.

It would be unfortunate for the EU to use this proposed merger, as an attempt to improve Airbus's competitive position at Boeing's expense. If the Commission continues its obstructive course, the likely impact of a failed merger would result in the bankruptcy of McDonnell Douglas, the loss of 14,000 high-technology jobs in Southern California, and the substantial devaluation of assets for those airlines that have McDonnell Douglas aircraft in their fleet.

Hopefully this scenario can be averted. With the passage of this resolution as well as the continued pressure by the Clinton administration, I am confident we can reach a favorable conclusion to this unfortunate trade dispute.

TRIBUTE TO NANCY BRUTON-MAREE

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to pay tribute to one of my constituents, Nancy Bruton-Maree of Raleigh, NC. Mr. Speaker, Nancy will soon complete her year as national president of the American Association of Nurse Anesthetists [AANA]. I am very pleased that one of North Carolina's own was tapped as the 1996–97 president of this prestigious national organization.

The AANA is the professional association that represent over 26,000 practicing CRNA. Founded in 1931, the American Association of Nurse Anesthetists is the professional association representing CRNA's nationwide. As you may know, certified registered nurse anesthetists administer more than 65 percent of the anesthetics given to patients each year in the United States. CRNA's provide anesthesia for all types of surgical cases. CRNA's are the sole anesthesia providers in 70 percent of rural hospitals, affording these medical facilities obstetrical, surgical, and trauma stabilization capabilities. They work in every setting in which anesthesia is delivered, including hospital surgical suites and obstetrical delivery rooms; ambulatory surgical centers and the offices of dentists, podiatrists, and plastic surgeons.

Nancy received her bachelor of science degree from Guilford College in Greensboro, and her masters in science in anesthesia from Bowman Gray School of Medicine of Wake Forest University in Winston-Salem. She currently serves as the director of the Raleigh School of Nurse Anesthesia and has done so since 1990. She also serves as visiting assistant professor at the School of Nursing, at the University of North Carolina at Greensboro. In addition she is a relief CRNA with Sanders and Associates in Wrightsville Beach.

Nancy has enjoyed an outstanding career and has been an anesthetist since 1974. She has been a program instructor, president of the North Carolina Association of Nurse Anesthetists, served on various AANA committees and its board of directors, and has earned the respect and admiration of her friends and colleagues both inside and outside of her profession. She has published various articles and spoken numerous times before various professional groups and societies.

I know that her husband Ben and son Scott take special pride in what Nancy has accomplished throughout her career. I congratulate Nancy on her year as president of the American Association of Nurse Anesthetists and I am proud of her many accomplishments.

Congratulations Nancy.

20TH ANNIVERSARY OF SURFACE MINING CONTROL AND RECLAMATION ACT OF 1997

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. RAHALL. Mr. Speaker, on February 26, 1972, at 8 o'clock in the morning, a coal waste dam failed on the Middle Fork of Buffalo Creek in Logan County. Over 175 million gallons of water and coal waste raced through a 17-mile valley. In its wake, 125 people were dead, 523 injured, and 4,000 left homeless.

Historically, the environmental effects of coal mining were often neglected. From the time surface mining techniques became widespread until the 1970's, it was assumed implicitly that the permanent degrading of the local surroundings and the pollution of streams was the inevitable price a community paid in return for jobs and tax revenue generated by the coal industry.

What happened at Buffalo Creek changed all of that. While the lives of those 125 individuals could not be reclaimed, their ultimate sacrifice raised the level of public attention to the plight of coalfield citizens from a local, to a truly national, level.

The Buffalo Creek disaster also became, in 1977, a major factor in the enactment of the Surface Mining Control and Reclamation Act, known as SMCRA.

August 3, 1997, marks the 20th anniversary of the date former President Jimmy Carter signed SMCRA into law. The act set detailed mining and reclamation standards for coal operators and established in abandoned mine reclamation fund to finance the restoration of land that had been mined and abandoned in prior years. I was pleased to have been a Member of Congress who worked to make that law a reality, and to have participated in the Rose Garden ceremony when President Carter signed the legislation into law.

Much has changed over the last 20 years since SMCRA was enacted. The coal industry has benefited because the law created a more level playing field. At one time States would try to increase the competitiveness of their industry by reducing environmental regulations. That cannot happen under SMCRA. Coalfield citizens have benefited as well. Many hazards we once faced—burning job piles, abandoned open mine portals, and landslide-prone hillsides—have been eliminated and the land brought back to productive uses.

SMCRA also created a Federal agency to make sure the States properly enforced the law. This arrangement has also benefited coalfield residents as this agency, the Office of Surface Mining Reclamation and Enforcement, is their second line of defense—their safety net—against the occasional failure of State enforcement authorities to fully implement SMCRA.

In recognition of the 20th anniversary of SMCRA, today I am introducing a House concurrent resolution which reaffirms the goals of SMCRA: the advancement of the health, safety, and general welfare of the residents of the Nation's coalfields.

Joining me in introducing this resolution are a number of my Democratic colleagues on the Resources Committee. They are Mr. MILLER of California, Mr. VENTO, Mr. ROMERO-BARCELÓ, Mr. KENNEDY of Rhode Island, Mr. DEFAZIO, Mr. ABERCROMBIE, Mr. PICKETT, Mr. ORITIZ, Ms. CHRISTIAN-GREEN, Mr. FALEOMAVAEGA, and Mr. HINCHEY. To each of them, I express my gratitude for their support of this resolution and what it means to the people of the Appalachian region.

Mr. Speaker, this resolution simply states it is the sense of the Congress that the private property rights of coalfield citizens should be protected against incursions by improper coal mining practices. It states that the homes, farms, water supplies, and places of business of coalfield residents should be protected from subsidence, from improper blasting practices, and from landslides and erosion.

It states that the health, safety, and general welfare of coalfield citizens should not be diminished, or threatened, by the failure of State or Federal regulatory authorities to enforce SMCRA.

It states that coalfield residents have the right to enjoy the recreational values of their rivers and streams, that these water bodies should not be diminished by acidic or toxic water pollution from coal mining operations.

And it states that coal operators, as citizens of our Nation's coalfields, deserve equal protection under SMCRA. That they deserve equal protection against predatory policies which may be advanced on the State level aimed at providing operators in one State a competitive advantage over operators in another State. In effect, that it is our policy that Kentucky should no less effectively enforce SMCRA than West Virginia, giving Kentucky operators a leg up on West Virginia operators in pursuing utility coal contracts. That in the Powder River Basin, Montana producers should not have a competitive advantage over those in Wyoming because of less stringent environmental protection standards.

Mr. Speaker, I would be remiss if I did not also take this opportunity to pay homage to the father of the Surface Mining Control and Reclamation Act of 1977, our former colleague and once chairman of the Committee on Interior and Insular Affairs, Morris Udall. It took Mo over 9 years and two Presidential vetoes to gain the enactment of Federal surface mining legislation. But get it enacted he did. While he hailed from Arizona, I know that Mo came to understand Appalachia and the pressing need we had at that time for Federal leadership in gaining the enactment of legislation such as SMCRA. The last time I visited Mo, I told him that I was seeking to return the favor by promoting the reform of the mining law of 1872 which in its present form so adversely affects the environment of the West.

Finally, I would like to note that nine House Members and eight Senators signed the conference report on H.R. 2, the legislation which was enacted as SMCRA back in 1977. Of those nine House Members, I am the only one still serving in the House of Representatives. Of the eight Senators, two still serve: Senator WENDELL FORD of Kentucky and Senator PETE DOMENICI of New Mexico. I salute these gentlemen as well for their foresight and courage in working 20 years ago to gain the enactment of SMCRA.

THE HARPY EAGLE PROJECT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. SHAW. Mr. Speaker, I rise today to recognize Ron Magill and the harpy eagle project—an international collaboration which aims to educate today's youth on the necessity of protecting our fragile environment. The harpy eagle project, as it has come to be known, was first conceived of by Mr. Ron Magill, zoological ambassador and director of communications at Miami's Metrozoo. After seeing the tremendous results that Metrozoo's many educational programs have had on area youth, Mr. Magill realized the profound impacts that occurred as a result of educating young Americans about protecting our wildlife. Mr. Magill did not, however, limit his vision of a concerned, earth-friendly future generation to North America. He also recognized the need to educate international youth on the necessity of restoring and maintaining the natural habitat of indigenous animals. Combining his desire to educate with his concern for the harpy eagle, Mr. Magill has created the harpy eagle project.

Last month Mr. Magill traveled to Panama for the groundbreaking of an international facility dedicated entirely to the harpy eagle. The harpy eagle, Panama's national bird, is the largest, most powerful bird of prey in the world. It is, quite literally, the top of the food chain in the tropical rain forest and plays an invaluable role in maintaining the delicate balance of life in Panama. Sadly, however, fewer than 20 pairs of harpy eagles exist today in Panama. The species has disappeared altogether in Costa Rica.

Mr. Speaker, the Harpy Eagle Center, a facility for which Mr. Magill has worked tirelessly over the past 4 years, will not only educate its visitors on the plight of the harpy eagle, but will also introduce them to the unique diversity of the rainforest. Hopefully, visitors to the center will leave with a newfound interest and concern for the care and protection of the tropical rainforest. It is, after all, only through an enhanced understanding of the ecosystem and of habitat restoration that we can hope to protect our fragile environment for future generations.

Mr. Magill also created a wonderfully unique project for the schoolchildren of Panama. Supported by the Panamanian Government, Mr. Magill initiated a competition in which students will paint the harpy eagle. The winning image will become the next postage stamp for the Republic of Panama.

Mr. Speaker, I commend Mr. Magill on his hard work and dedication in creating the harpy eagle project. The project has successfully combined Mr. Magill's desire to inform the public of the necessity of protecting our wildlife with the understanding of the importance of international cooperation concerning our environment.

RECOGNITION OF PUBLIC SERVICE OF DR. THOMAS LARSON

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. SHUSTER. Mr. Speaker, I rise to thank Dr. Thomas Larson for the vital contributions he has made to our Nation's transportation policy, most recently in the field of rail passenger transportation. Dr. Larson has had a long and distinguished career in transportation policy, including outstanding performance as the Secretary of Transportation of the Commonwealth of Pennsylvania, and as administrator of the Federal Highway Administration under President Bush. In these earlier positions, Dr. Larson demonstrated broad expertise, an impressive ability to bring together people and organizations with different views, and a tireless dedication to achieving a sound, balanced, and steady national transportation policy.

Earlier this year, knowing of Dr. Larson's outstanding credentials and record, I asked him to be the coordinator who would head the all-volunteer Inter-City Rail Working Group established by the Transportation and Infrastructure Committee to recommend policies to address the current critical situation and near-bankruptcy of Amtrak.

As he always does, Tom approached this task with boundless zeal and determination. Like the other working group members, Tom served without any compensation and traveled to all working group meetings at his own expense. He met with the other 12 members of the working group, who represented both political parties and a wide range of transportation expertise—finance, rail operations, passenger service, labor relations, and more. Getting these people from various parts of the country together for discussions and deliberations was no easy task in itself. But Tom also managed to guide the discussions so effectively that the working group was able to coalesce around a single package of policy recommendations on an 11 to 2 vote. I consider this an outstanding accomplishment, but for Tom Larson, it is par for the course.

Tom has continued to assist the Transportation and Infrastructure Committee as we work to forge new legislation not only to reform inter-city rail passenger service, but also to fashion the bill that will reauthorize the many surface transportation programs under the Intermodal Surface Transportation Efficiency Act [ISTEA]. His counsel has been especially valuable, since Tom was the Federal Highway Administrator at the time Congress wrote the book in the original 1991 ISTEA legislation.

In conclusion, Mr. Speaker, I want to convey my heartfelt thanks and those of my colleagues on the Transportation and Infrastructure Committee to Dr. Tom Larson for his wise and valuable counsel and assistance. We do not yet know whether inter-city rail passenger service can be successfully reformed without the chaos of an Amtrak bankruptcy, but Tom and his colleagues have given us a much better framework for approaching this task as a result of their selfless public service. I can think of no better model or epitome of true public service than the career of Dr. Tom Larson.

CALLING FOR UNITED STATES INITIATIVE SEEKING JUST AND PEACEFUL RESOLUTION OF SITUATION ON CYPRUS

SPEECH OF

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Ms. HARMAN. Mr. Speaker, I rise today in support of Concurrent Resolution 81, calling for a just and peaceful resolution of the situation in Cyprus. The division of Cyprus and the emotional and physical suffering it has brought to island inhabitants and their families has gone on far too long. It is time to renew efforts to bring peace to this troubled part of the world.

Mr. Speaker, I see three positive signs on the horizon which, if supported and nourished, offer hope for a settlement of the conflict in Cyprus.

First, the United Nations is hosting a new set of talks between Cypriot President Clerides and Turkish Cypriot leader Denktash. Although similar negotiations have been brokered with little effect in the past, open channels of communication are indispensable—they cannot be discounted.

Second, Cyprus is preparing to enter into negotiations with the European Union in 1998 to gain membership into the EU. The prospect of EU membership offers increased prosperity for all, and may provide an added incentive for all sides to resolve their differences.

Third, there is again high-level United States engagement in the issue, with the appointment by the President of Richard Holbrooke as Special Presidential Envoy to Cyprus.

Mr. Speaker, I believe these three developments provide renewed momentum toward resolving this difficult problem, with its potential for increasing tensions in an area of strategic interest to the United States.

The expressed support of the U.S. Congress for a peaceful resolution is important and I join in support of House Concurrent Resolution 81.

INCREASED HIGHWAY FATALITIES DUE TO FASTER SPEED LIMITS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. RAHALL. Mr. Speaker, just last week, in the July 14, 1997, issue of USA Today an article entitled "Fewer Dying Despite Faster Speed Limits" reported that a decrease in the number of highway fatalities is a direct result of increased speed limits. On the contrary, the National Highway Traffic Safety Administration claims that highway fatalities are in fact up overall from 1996, leading us once again to the conclusion that speed and safety don't mix.

In 1987, when we allowed States to raise rural interstate highway speed limits to 65 mph, a 15–20 percent increase in deaths on interstate highways resulted, amounting to an increase of 500 deaths per year. Now, after the States were allowed, at their option, to raise speed limits in 1995, we see once again the result of high speed limits. Every time we raise the speed limit more people die. It's as simple as that.

In 1995, when Congress considered legislation to repeal the national speed limit, I led the charge to maintain what was then current law set in place in 1974. I did so because, as a result of that law, the very first year after its enactment highway deaths dropped by over 9,000.

At the time, I said that the repeal of the national minimum speed limit would turn our highways into killing fields. Some proponents of the National Highway System Designation Act of 1995, however, used States' rights as an issue in passing this bill. They claimed we should let the States decide what their own speed limits should be. I'll say now what I said then, this is not a States' rights issue, it is a human rights issue. People are dying out there and we have the opportunity to do something about it. After all, the Federal Government financed 90 percent of the cost to construct the Interstate Highway System. The Federal Government, therefore, has a vested interest in the protection and safety of those roads.

Yet, the National Highway System Designation Act of 1995 gave the States the power to set their own speed limits. It repealed the Federal standard. In many cases States raised their speed limits. Many by 10 mph, others by 15–20 miles per hour, and in extreme cases such as Montana, simply abolished them during daytime hours. The numbers don't lie. These increased speed limits have led to more deaths on America's highways.

For example in California on roads where speed limits were increased to 70 or 75 miles per hour there has been a 12 percent increase in fatalities. On roads where there was a increase to 65 miles per hour there has been a 22 percent increase in fatalities. However, sometimes the numbers can be misleading. In California they have a reduction in traffic fatalities. However, on roads where the speed limit was increased, they saw an alarming rise in the number of traffic fatalities. The reason for the overall reduction in deaths is the result of a 8 percent reduction in death on roads that remained at the 55 miles per hour speed limit.

These are the facts. On roads where the speed limit is increased, more people die. On roads where the speed limit remained 55 miles per hour, there was a reduction in traffic fatalities. It's simple, it's there in black and white. Let's make our roads safe again and demand a uniform national speed limit of 55 miles per hour.

IN HONOR OF LOUIS L. FERFOLIA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of Louis L. Ferfolia, an accomplished businessman, as well as a devoted husband. This year marked the 70th anniversary of the founding of his Ferfolia funeral homes and of the marriage to his wife.

Mr. Ferfolia was born in Cleveland, where he experimented in many fields of business before entering the funeral home business. After graduating from the College of Mortuary Science in 1927, he established his first funeral home on E. 81st Street. He and his family have also operated another funeral home in Sagamore Hills Township for the past 3 years.

Mr. Ferfolia was a member in a number of different organizations. He belonged to the Cuyahoga, OH, and national funeral directors and embalmers associations. For over 30 years he was president of the Woodland Hills Businessmen Association. Mr. Ferfolia also belonged to the Catholic Order of Foresters, West Side Slovenian Home, Newburgh-Maple Heights Pensioners, St. Monica Catholic Church, St. Monica Golden Agers, and the Martineer's Club. He was a supporter to many men's and women's bowling teams.

Mr. Ferfolia was also a member of several Slovenian fraternal organizations including KSKJ, SNPJ, and AMLA. In 1980, he was honored as Maple Heights Slovenian Home Man of the Year. Mr. Ferfolia and his wife, Theresa, were active travelers. Trips were taken to the Amazon River, Europe, and to Florida.

Along with his wife, Mr. Ferfolia is survived by his son, Donald of Maple Heights; his sister; 4 grandchildren; and 16 great-grandchildren. He will be missed by his family and by all who had the pleasure of knowing him.

THIRD ANNIVERSARY OF THE BOMBING OF THE JEWISH CENTER IN ARGENTINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. LANTOS. Mr. Speaker, last week marked the third anniversary of the most brutal terrorist attack in the Western Hemisphere. Eighty-six people were killed and over 300 injured when a terrorist bomb ripped through the Jewish Social Service Center in Buenos Aires, Argentina, on July 18, 1994. The building which was destroyed in that bombing houses social services and other agencies for the Jewish community of Argentina.

To this day, Mr. Speaker, the perpetrators of this despicable and cowardly act of violence have gone unpunished. I am deeply concerned at the inability of the Argentine Government thus far to bring a successful conclusion to this investigation. The families of the victims of that horrendous crime still await the final information about those who committed this crime, and all law-abiding citizens everywhere await justice for the victims and appropriate punishment for those murderers who carried out this dastardly act. It is essential that these outlaws be apprehended and punished.

For 3 years, the people of Argentina and citizens throughout the world have been waiting for justice in this horrendous bombing. But this is not the only unresolved terrorist crime in Argentina. In addition to the 1994 Jewish Social Service Center bombing, the 1992 bombing of the Israeli Embassy also in Buenos Aires, Argentina, also remain unsolved. Swift and certain justice is the only effective way to deal with terrorists. If we do not bring this matter to a close, we fail families and survivors of those who lost their lives and those who have been maimed and injured in these bombings. This only encourages terrorists.

It is essential that the international community work together to confront terrorism and to ensure that terrorists understand that we will not be swayed by such ruthless and underhanded tactics. It is the responsibility of all of us living under the threat to terrorism to keep up the pressure to see this issue solved. In memory of those victims of 3 years ago, I urge the Government of Argentina renew its efforts to bring those responsible for this most horrendous crime to justice.

GROWTH IN MANAGED CARE MAY BE RESPONSIBLE FOR DECLINE IN MEDICARE RESEARCH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. STARK. Mr. Speaker, in recent months, the future of graduate medical education [GME] has been one of the most frequently discussed topics, both by this Congress and the interested public. While the budget reconciliation bills currently underway in the Congress make some changes in GME, the key long-term problems are not being addressed, and time is running out for our Nation's premier academic teaching and research institutions.

Health care in 1997 is far different than it was in 1965 when Medicare was established. The environment and methods for training the next generation of physicians and other health care providers has changed, but the way we fund that training has not kept pace. The evolution of managed care has had a definite impact on our medical schools and our academic health centers. Governmental support in the form of Medicare has been sufficient in the past, but similar guarantees no longer exist. Now is the time to consider revolutionary changes in graduate medical education. The establishment of an all-payer trust fund, supported by the Government, as well as by all users of health care, is a reasonable option to consider. If we don't begin to rethink and change the way in which we currently fund graduate medical education, the quality and stability of health care in America may be the price we pay.

The most recent edition of "The Journal of the American Medical Association" [JAMA] includes an alarming study that may represent the direction we are heading if we continue to treat graduate medical education the same way it has always been treated. The study focuses on the decreasing levels of research being conducted in academic medical centers. The authors found that, "Anecdotal evidence suggests that managed care has the potential to affect research conducted in academic medical centers by challenging clinical revenues." Their findings provide evidence of the existence of an inverse relationship between growth in awards by the National Institutes of Health [NIH] and managed care penetration among U.S. medical schools. They found that medical schools in markets with high-managed care penetration had slower growth in dollar amounts and numbers of NIH awards compared to schools in markets with low- or medium-managed care penetration.

If managed care has the potential to affect research levels in a negative manner, then we must find a way to provide for alternative funding mechanisms to continue research in our medical schools and academic health centers.

An all-payer trust fund could help support vital and necessary research activities in appropriate settings.

The authors state:

> Managed care plans often select physicians and hospitals on the basis of cost. As managed care entities negotiate discounted fees with the faculty practice plans and teaching hospitals that support medical schools, the ability of medical schools to maintain their research base may be jeopardized.

It is a known fact that medical schools in the United States rely heavily on clinical revenues generated by their faculty. These revenues help support a wide variety of medical school functions, including the core academic programs, undergraduate and graduate medical education, and biomedical research. According to the study in JAMA, this clinical support was estimated to total $2.4 billion in 1993. Of this, approximately $816 million or $0.10 of every faculty practice plan dollar collected was used to finance research. If the emergence and growth of managed care has had a demonstrable impact, as suggested by the article, then we must explore other avenues to ensure that valuable research activities are not sacrificed in the process.

Establishing an all-payer trust fund would better ensure that all components of medical education receive adequate support. For years, Medicare has been the single best source of reliable funding for teaching and research hospitals, but the available funds are already shrinking in relative terms as we struggle to maintain solvency of the Medicare trust fund while preparing for the aging of the baby boom population. An all-payer trust fund would help alleviate some of the current drain on Medicare through GME while concurrently increasing the total amount of funds available to qualified institutions. A trust fund would rely on support from a broader patient population than exists today. It would require fair and equal contributions from all those who benefit from care provided by physicians and health care professionals trained in the world's most advanced and well-respected institutions.

The idea has been discussed previously. Research today. What about tomorrow? What activities will be sacrificed next because of insufficient funds in the world of health care? If we continue to delay, we may discover the hard way what the answer to that question is. That's one risk I don't intend to take. The time for support is now. The report of a decline in research activities should be a call to action.

A TRIBUTE TO THE LATE HON. HAMILTON FISH

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. GILMAN. Mr. Speaker, 1 year ago today marked the passing of one of our outstanding Members of Congress.

Congressman Ham Fish was part of a disappearing breed—an individual dedicated to public service for no purpose other than helping others. Ham was devoted to creating a better nation for all of us.

During his congressional career, Hamilton Fish became the ranking Republican on the Committee on the Judiciary. It was in this capacity that he earned a nationwide reputation as a leading proponent of civil rights for all Americans. He was the champion of our minorities and the downtrodden.

Ham Fish was also a member of the Select Committee on Children, Youth and Families.

Ham Fish's experiences on these panels exposed him to school administrators, teachers, parents, criminal justice officials, and students who alerted him to the escalating levels of violence in and around our schools. In his largely suburban and rural Hudson Valley, NY congressional district and in other areas of the country, Congressman Fish recognized a steady decline in safe and secure environments in which young people could learn, free from fear of violence and crime.

During the development of the crime bill of 1992, Congressman Fish utilized his practical experience to propose funding for an institute, comprising experts in education, health care, and juvenile justice which would determine effective antidotes and intervention strategies that would be made available nationally to schools and communities in crisis.

Although not accomplished before he left public office at the end of the 103d Congress, Hamilton Fish continued his advocacy for this institute, actively working on its behalf with his former colleagues up until a week before his death.

Bipartisan congressional support for his dream was achieved with passage of the Omnibus Appropriations Act of 1997. The U.S. Department of Justice has now begun funding the institute.

The institute has now been renamed "The Hamilton Fish National Institute on School and Community Violence" in recognition of much that characterized the man and the Congressman: total commitment to country, family, the young, as well as integrity, dialog, and reconciliation.

The Hamilton Fish National Institute on School and Community Violence is a living memorial to an outstanding legislator and remarkable individual whose career is an example to us all.

Mr. Speaker, two individuals have eloquently captured the essence of Ham Fish. The first was Ralph G. Neas, a longtime family friend who delivered the eulogy at St. Albans Chapel here in Washington a year ago next week. The second was William L. Taylor, who spoke a few words of tribute at the Hamilton Fish Library in Garrison, NY, earlier this year. I request that both of these tributes be inserted in the CONGRESSIONAL RECORD at this point:

REMARKS OF RALPH G. NEAS AT THE MEMORIAL SERVICE FOR CONGRESSMAN HAMILTON FISH, JR.—ST. ALBANS CHAPEL, WASHINGTON, DC, JULY 30, 1996

Mary Ann, Hamilton, Alexa, Nicholas, Peter, others in the Fish family, Speaker Gingrich, Members of Congress, and distinguished guests, I am profoundly grateful and deeply honored to have this opportunity to help celebrate the extraordinary life and legislative career of Congressman Hamilton Fish, Jr.

As the Executive Director of the Leadership Conference on Civil Rights, the legislative arm of the civil rights movement, I had the privilege of working with Ham Fish on nearly two dozen legislative campaigns between 1981 and 1995. Hamilton Fish was a civil rights champion, a mentor, and a close friend.

During the past week, the press coverage of Ham's thirteen terms in Congress has accurately characterized his personal integrity, his principled leadership, and his courageous commitment to equal opportunity for all Americans.

But, frankly, what I have read does not capture the sheer magnitude of Ham Fish's legislative accomplishments or, very importantly, the manner in which he achieved them. For a few minutes, I would like to share with you my perspective on this great man.

First, let us look at Ham Fish's civil rights record. It was legendary in its scope and breadth. Propelled by an awesome sense of justice and a determination not to rest until he had completed his mission. Ham Fish played an important role in virtually every civil rights law enacted over the past two and a half decades.

Even during the Reagan and Bush presidencies, when Ham often faced formidable odds, he helped shepherd through Congress nearly a score of civil rights laws. Indeed, during this remarkable era, Ham, along with Don Edwards, his Democratic partner in guarding the Constitution, actually strengthened all the major civil rights statutes.

To sum up all these legislative successes would take up most of the morning. But I would like to mention specifically five landmark laws where Ham Fish was either the House author or the lead Republican sponsor. And, with respect to several of them, Ham was the legislator who fashioned the bipartisan compromise that catapulted the bill toward passage.

The 1982 Voting Rights Act Extension. Extended the Voting Rights Act for twenty-five years, overturned an adverse Supreme Court decision, and extended for ten years bilingual ballot assistance for language minorities.

The Civil Rights Restoration Act (1988). Overturned the notorious 1984 *Grove City* Supreme Court decision and once again made it illegal to use federal funds to discriminate against women, minorities, persons with disabilities, and older Americans.

The Fair Housing Act Amendments of 1988. Provided at long last an effective enforcement mechanism for the 1968 Fair Housing Act. The 1988 Amendments also prohibited discrimination in housing against families with children and people with disabilities for the first time.

The Civil Rights Act of 1991. Overturned eight Supreme Court decisions that had dramatically weakened our nation's equal employment opportunity laws. And provides, for the first time, monetary damages for women and persons with disabilities who are victims of intentional discrimination.

The Americans with Disabilities Act (1990). Prohibits discrimination against 49 million Americans with disabilities in employment, public accommodations, communications and transportation.

These historic civil rights laws have benefitted, and will continue to benefit, millions of Americans. And let me state this as unequivocally as possible: these laws would not have been enacted without Congressman Hamilton Fish. His leadership during the most challenging of times was absolutely indispensable.

But it was not just the quantity and quality of these civil rights laws, or the legislative skills that made them possible, that made Hamilton Fish so special. In fact, his other attributes are what truly set him apart, providing standards of leadership that should serve as a model for everyone.

First, Ham Fish always understood thoroughly the need for bipartisanship. He knew how to build coalitions and forge a consensus. He knew the art of the timely compromise, the good compromise made at the right time that will produce the requisite number of votes, either a simple majority or a super majority, that is needed to enact a law.

The numerical results of the legislative victories I cited previously ample demonstrate this commitment to bipartisanship. The average final passage vote on these five laws was 90 percent of both Houses of Congress. Thanks to Ham Fish and his allies, the past decade and a half has been, legislatively, a bipartisan reaffirmation of civil rights laws and remedies.

Second, while Ham Fish was passionate in his beliefs, civility characterized his every action. He treated everyone with dignity. Few in Washington have matched his ability to command both the respect and the love of his peers. Time and again he proved that a nice guy can finish first.

Third, Ham Fish revered the institution in which he served. He enjoyed immensely being a member of the House of Representatives and always strove to make the House work. And while the House held his primary allegiance, he also respected the other institutions that comprise the federal government.

When the need arose, Ham Fish could be a fierce partisan. But he knew that bipartisan cooperation, not partisan confrontation, must ultimately prevail if government is to function at all.

Finally, and perhaps most significantly, Ham Fish was courageous. Whether it was voting to impeach a President of his own party or standing firm on civil rights legislation, Ham Fish did what he believed to be fair and just.

Last week, Congressman Maurice Hinchey summarized eloquently how Ham carefully balanced loyalty and independence in order to further the national interest. He stated:

"Ham was very proud to be called a loyal Republican, but he knew that loyalty does not mean surrender of one's own judgment and temperament . . . He believed that he served his party best when he served his country best, and that he served the country best by bringing the best of his own mind and heart to every issue he addressed."

After he retired from the House, Ham Fish continued to work on behalf of his favorite issues. Just last month the two of us visited Senator Nancy Kassebaum and Congressman Amo Houghton lobbying on behalf of affirmative action and legal services.

As you can tell by now, I cherished my friendship with Ham. He was always there to help, performing any task with graceful enthusiasm. I will miss so much his warm smile, his mischievous sense of humor, and his calm and gentle presence.

As I sat praying at St. Albans chapel this morning, I thanked God for allowing Katy and me the opportunity to get to know Ham. And I was thankful that we all had the benefit of Ham's leadership at critical moments during our nation's past quarter of a century. As we leave the chapel shortly, let us all pray that God will bless America with a few more Ham Fishes.

TRIBUTE TO THE LATE HAMILTON FISH—GARRISON, N.Y., APRIL 27, 1997

(By William L. Taylor)

It is truly a great honor and privilege for me to be asked to say a few words of tribute to the memory of Rep. Hamilton Fish.

I have worked as a lawyer in the field of civil rights for more than 40 years, starting as an attorney on the staff of Thurgood Marshall in 1954. During that time I have established my own private hall of fame for people who have made important contributions to providing opportunity to millions of citizens who have suffered discrimination. It is not a very large hall of fame and several of those in it are people whose names or contributions are not well known to the American people, because they did not seek to draw public attention to themselves or seek acclaim for their work.

One of those people is Judge Robert L. Carter who was Thurgood Marshall's chief deputy in bringing the case of Brown v. Board of Education and other landmark cases that started the legal revolution in civil rights and then went on to a distinguished career as a federal judge in New York. Bob Carter was my first boss at the NAACP Legal Defense Fund. He is celebrating his 80th birthday at an event in New York City that starts in a few minutes and that is the reason I can't stay with you this evening.

Another of the people in my hall of fame is Ham Fish. Although I had met him before, my first substantial encounter with Ham Fish came under somewhat dramatic circumstances in 1981. I was working with the Leadership Conference on Civil Rights in seeking a reauthorization of the Voting Rights Act of 1965 which many people think is the most effective piece of civil rights legislation passed in this century. But in 1981 we were in a tough fight because many in Congress thought the time had come to end the special provisions of the Voting Rights Act. An agreement that had been made by civil rights forces with another Republican member of Congress fell apart just as the House Judiciary Committee was to meet to consider the bill. Mr. Fish was a senior member of the committee and a supporter of the extension of the Voting Rights Act, but he had not been intimately involved with the legislation. I spent all night with other civil rights lawyers redrafting the bill and Rep. Don Edwards arranged for me to see Mr. Fish at 10 am, just before the Committee was scheduled to meet.

I approached the meeting with some trepidation. What would Rep. Fish think about our coming to him at the last moment? Would he be able to master the details of a complicated piece of legislation in so short a time and serve as its chief Republican spokesman?

In his book Giantkillers, Mike Pertschuk describes what happened:

"Taylor, on three hours sleep, briefed Fish just 15 minutes before the Committee meeting. Fish, a quick study, quickly grasped the essential elements and later deftly defended the bill in committee as if he had spent all night writing it."

The legislation passed and Fish proved "an eloquent advocate."

Afterwards, I thought back on how remarkable that meeting had been. The typical member of Congress of whatever political persuasion would have spent at least some time berating me for coming to him only when we were in dire straits (and would have had some justification for saying so). Ham Fish didn't waste any time massaging his ego. Instead, he asked a few incisive questions about the bill until he was satisfied he could support it and serve as its spokesman. He knew that there was an important job in fighting voting discrimination still to be done and he kept his eye on the ball.

That first meeting in many ways typified the relationship we came to enjoy over more than a dozen years. During those years, Ham Fish was the Republican leader in the House responsible for passing several pieces of landmark civil rights legislation—including the Civil Rights Restoration Act of 1988, the Fair Housing Amendments of 1988, the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991. It is fair to say that those laws have benefitted millions of people—people of color, women, disabled people, older people. The laws did not give people special favors or breaks; rather they enable them to remove barriers to achieving their potential and to their ability to live in dignity. And though few may know his name, all of these millions owe a debt to Ham Fish for his leadership in passing these laws. Indeed, all of us who have led advantaged lives owe Ham a debt for enabling us to live in a society that is fairer, more just, less marked by ugly prejudice than the world inhabited by our forebears.

But while I think about these great achievements, I also think about the personal qualities of Ham Fish. He had both a first rate mind and traits of modesty and humility. That is a rare enough combination in the general population and it is almost unheard of among politicians. Often, in his office or in a committee meeting or on the floor of the House, someone would put forth a proposition that would not bear scrutiny. Instead of challenging the person aggressively, Ham would get a twinkle in his eye and a slight hint of a smile and would then ask in gentle, matter-of-fact tones a question or two that would expose the flaws in the speaker's argument. And that was his manner with people from all parts of the political spectrum. I sometimes brought lawyers from our civil rights coalition into his office who were very bright people, but who may have been off on a tangent that was not realistic or sensible. Ham brought them back to earth. In fact, although I don't like to admit it, I may have been a victim of that twinkle and amused smile once or twice myself.

The other legislative leader who comes to mind whose manner was similar was Phil Hart from Michigan—another member of my private hall of fame. Both he and Ham Fish genuinely deserve the appellation used so freely in the Congress—gentleman.

This is not to say that Ham Fish was modest to the point of self-abasement. He took a quiet pride in his work on civil rights. I remember how touched he was when the NAACP decided to honor him for his leadership. He shared a draft of his acceptance speech with a couple of us because he wanted to be sure that he was conveying adequately how important the cause was and how appreciative he was of the honor.

Ham Fish was also courageous. By the 1980s, civil rights legislation, although vitally needed, was not popular in many places. Although there were 40 or so Republicans in the House who joined with Ham Fish in providing the critical votes for civil rights laws, by the mid-80s almost none of them were on the House Judiciary Committee. That meant that Ham walked a lonely path. Often, under circumstances when we would ordinarily meet with staff, we met with Mr. Fish alone because of concerns about the divided loyalties of the committee staff. That isolation had to be difficult for Ham although he never talked about it or said a bad word about any of his colleagues. It surely would have been easier to go along with fellow committee members who could, if they became displeased enough, vote him out of his position as ranking minority member of the committee. But Ham Fish followed his conscience just as he did in that early vote to impeach a President and on so many other matters.

Last year as I was leaving the moving memorial service for Representative Fish at St. Albans Chapel in Washington, I ran into a Republican Congressman I knew. He is a very bright and capable legislator who had made an unsuccessful run for higher office and then returned to the House and his record on issues of civil rights and social justice is a mixed one. As we were parting I said to him "I hope you will carry on in the tradition of Ham Fish." I hadn't planned to say that and I wasn't sure how he would take it since he regards himself as very independent. But he clearly was flattered and he replied that he hoped he would be equal to the task.

In the months that followed, there was one clear test of character in the House and this Congressman stood up with a handful of other Republicans to go against his party's demands and to vote his conscience. I like to believe he was thinking of Ham Fish when he cast that vote. I don't know that for sure.

But I do know that Hamilton Fish left his legacy in many places—in the passion for justice of his children who I have become acquainted with over the years, in the civil rights and other communities he served, and in the Congress itself. It is a legacy of commitment, of generosity of spirit and of courage. And it should leave us all a bit more hopeful about the future.

10TH ANNIVERSARY OF SAY YES TO EDUCATION

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. FATTAH. Mr. Speaker, today I rise in honor of the 10th anniversary of a program that has made a dramatic difference in the lives of students in Philadelphia and two other cities, and that has helped our Nation focus attention on better ways to promote success for inner-city students.

In June 1987, a trustee of the University of Pennsylvania, George Weiss and his former wife Diane, made an announcement at the Belmont Elementary School that changed the lives of 112 West Philadelphia students and launched a program that has become a national model for intervention in urban schools.

Say Yes to Education began with a promise by the Weisses to pay complete costs for college or postsecondary training. However, they knew that more would be needed to ensure that the students would be prepared to take advantage of their promise. The Say Yes to Education Foundation was formed under the educational leadership of Dr. Norman Newberg, its executive director and Randall Sims, its senior project coordinator. The program provided counseling, tutoring, mentoring, and summer programs to enrich the cultural and intellectual lives of the student. Perhaps even more important was the personal involvement of the Weisses and the Say Yes staff in encouraging the students. On more than one occasion, George Weiss himself knocked on doors to personally urge students to reject negative influences and take education seriously. It's this kind of dedication that makes the Say Yes program a national example of true educational reform.

Under Dr. Newberg's leadership, Say Yes is organized as a four-way partnership between sponsors, a college or university, the students and their families, and the public schools. The relationship with a college or university adds a significant dimension to the program because of the vast human and institutional resources which are available to be used in support of student progress. The university connection helps to spread information and ideas to other educators about what works.

The program has grown to include over 300 students, including a class from the Harrity Elementary School in Philadelphia and students in Hartford, CT, and Cambridge, MA. To date 67 of the original Say Yes students have graduated from high school, with 19 matriculating at 4-year colleges and 21 at 2-year colleges. This number far exceeds the expectations of educational experts for students from similar economic backgrounds.

The stories of these students, dubbed the Belmont 112 by the Philadelphia Inquirer in periodic articles about the program, have touched the lives of many Philadelphians and inspired other sponsors to reach out to urban students.

It is because the success of programs like Say Yes to Education, that I introduced the 21st Century Scholar Act, H.R. 777. This act would notify elementary school students at the poorest public schools in the country that they would be eligible for the maximum Federal Pell grant award if they complete their high school education and gain admission into a postsecondary institution. In addition, my legislation would make available tutoring and mentoring services to these students through the existing Federal TRIO programs. The 21st Century Scholars Act implements the efforts of successful private early intervention programs, such as Say Yes to Education, on a national scale.

To mark the 10th anniversary of the Say Yes to Education Program, a reunion of student participants and sponsors will take place in Philadelphia on July 26, 1997.

I am pleased to honor the original Belmont Say Yes to Education students by entering their names into the CONGRESSIONAL RECORD: Allen Alexander; Eric Alexander; Tanyell Alick; Dana Baynes; Jerell Baynes; Majovie Billups-Bland; Maurice Boone; Christopher Bradford; Mitchell Bronson; Shermika Brown; Walter Brown; Damion Caldwell; Tabitha Casper; Sekou Clark; David Cox-Sims; Kimberly Creamer; Zengo Daigre; Zeno Daigre; Jahleel Daniels.

James Davis; Solomon Davis; Troy Davis; William Dorsey; Frank Duckett; Craig Dunston; Anita Edwards; Micah Ellison; Jalina Evans; Mark Ferguson; Vedia Fisher; Tolanda Fortune; Craig Freeman; Gregg Freeman; Joelena Fuller; Lamont Goings; Ayenna Gomez; Yasmeen Grantham; Steven Guilford; Antoinette Harper; Mack Harvey; Mildrianne Hatten; Jerwayne Haywood; Kenneth Hilliard; Charles Hollerway; Micah Holliday; Jermaine Horton; Nicole Huff; Carol Jackson; Eugene Jackson; Tamika Jackson; Carmen James; Aronda Jenkins; James Johnson; Ravenel Johnson; Crystal Jones; Chantel Jones-Akers; Marvette Leatherberry; Sherlina Leatherberry; Christopher Lee; Latasha Lighty; Nickia Little; Genise Mace; Cedric Mallory; Richard Matthews.

Percy McKitthen; Charles Miles; Dellshon Miller; Sonny Miller; Vanessa Mitchell; Jarmaine Olliviere; William Payne; Ronald Pierce; Aaron Pitt; Shaheed Purnell; Joanne Randall; Nicole Randall; Kemeika Richardson; Rodana Robinson; Juanita Rollerson; Quentin Ross; Katrina Scruggs; Edwin Seals; Marc Seymour; Michael Shenoster; Harold Shields, Jr.; Orion Sistrunk; Tanisha Smalls; Cornell Smith; Jumar Smith; Larry Smith; Rodney Sowell; Janine Spruill; Dorothy Stewart; Jeremy Summers; Iva Supplee-Tate; Bradley Torrence; Horace Torrence; Montara Tyler; Kenya Walker; Shantee Washington; Bryant Webster; Pauline White; Kelly Whitehead; Eric Whitney; Bill Wilcox; David Williams; Paul Williams; Tamika Williams; Tashieka Williams; Theresa Williams; Marvin Wilson; Christopher Wood.

I hope that all Members will take time to learn more about this important program and its successes as our Nation moves forward in its effort to revitalize education for all students.

SALUTING NASA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. KUCINICH. Mr. Speaker, I rise in support of the excellent work being done by the scientists and engineers at the National Aeronautics and Space Administration [NASA]. NASA is an extremely important public agency and its vast array of work including space, science, aeronautics, global environment, and education, benefits the Nation on a number of levels.

Under the direction of Administrator Daniel Goldin, current NASA operations are both dynamic and productive. Mr. Goldin has been an agent of positive change and reform. Programs are being carried out faster and cheaper. His dedication to the international space station has promoted an atmosphere in which nations from around the world have been willing to work in partnership. His efforts in seeking the inclusion of the Russian space agency are particularly noteworthy. They demonstrate the impact that the space program can have on international relations, encouraging cooperation toward peace. A United States and Russian joint space program is something that could never have even been dreamed of when cold war divisions were prevalent. The program highlights the mutual interests and mutual benefits of peace shared by our two great nations.

Of the many missions which NASA is currently working on, Mars Pathfinder, which landed on July 4, 1997, is the highlight. The mobile geological studies of Mars which are currently being carried out, are extremely innovative and educational. I would like to commend the brilliant scientists and engineers of NASA for the success of this mission.

NASA's international space station [ISS], phase I, has sought to collaborate international efforts in order to place into orbit and monitor American astronauts in space.

NASA's Mission to Planet Earth [MTPE] and the Earth Observing System [EOS] have provided, and are continuing to provide, key data on the Earth's global climate change. The program, designed by the talented engineers and staff of TRW, headquartered in the Cleveland area, endeavors to evaluate the interaction between the elements and the effects of natural and human-induced changes on the global environment. In the past the program has helped us to understand about the ozone layer and the effects and causes of destructive natural phenomena. At this time there are a number of scientific instruments aboard various spacecraft which are monitoring climatic trends.

A driving force behind the success of NASA's missions is the work carried out by the Cleveland based Lewis Research Center [LeRC]. The Mars Pathfinder mission is one in which LeRC has an important role. The geological experiments being carried out by the Sojourner rover on Mars were formulated by LeRC scientists. The Lewis team is also a major participant in microgravity research. The near zero gravity experimentation has been successfully used over 80 times on 30 different missions. Eleven NASA Lewis experiments are part of the microgravity science laboratory aboard the space shuttle. These experiments will be invaluable in providing a bridge between present operations and those operations to be conducted in the near future aboard the ISS.

As impressive as all of these programs are, perhaps NASA's biggest achievement lies in the fact that all of the above has been conducted while reducing spending.

The Appropriations Committee proposed a fiscal year 1998 budget of $13,648,000,000. As each fiscal year budget passes, projected NASA future spending shrinks. Productivity, however, has been maximized. The Earth Observing System program, for example, was in fiscal year 1991 forecast by NASA to require $17 billion of public funds through the year 2000. In the fiscal year 1996 budget plan this projection had been reduced to $7.2 billion. NASA has managed to achieve more with less.

One reason for the NASA success story is the cooperative interaction with commercial institutions and the links forged with their international counterparts. By collaborating with private sector organizations, NASA has been able to restructure certain of its operations while still achieving the desired results. For example, the technology generated by NASA in detecting and tracking tornadoes, has been used by commercial weather stations. Such links have produced a catalyst enabling more research and development to be undertaken.

Mr. Speaker, NASA is the unparalleled world leader in space technology, enabling this country to maintain world leadership in science technology and in aeronautics research and in space exploration. I salute the thousands of NASA employees who help to make the program possible.

NIKOLAI IVANOVICH GETMAN: ARTIST OF THE SOVIET GULAG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. LANTOS. Mr. Speaker, I would like to recognize the accomplishments of Soviet born artist, Nikolai Getman, a refugee of the Soviet Gulag, the immense series of prison camps that extended across the length and breadth of the former Soviet Union. His paintings have given us a unique insight into the ghastly life of the Gulag. This exhibition, a collection of paintings depicting life at the Gulag, is of immense historical importance. Over the past several months the Jamestown Foundation, a nonprofit organization which focuses on the former Soviet Union, has raised funds to bring these paintings to the United States and save them from possible destruction. The paintings will be available for viewing in the Rotunda of the Russell Senate Office Building between July 21 and July 25.

In 1946, Soviet police imprisoned Nikolai Getman in the Gulag, the Soviet Union's state operated system of prisons and forced labor camps. He is one of the millions of victims of Josef Stalin's purges and political repressions. Getman's crime was that he had been present in a cafe with several fellow artists, one of whom drew a caricature of Stalin on a cigarette paper. An informer told the authorities about the drawing, and the entire group was arrested for anti-Soviet behavior. Getman spent 8 years in Siberia at the Kolyma labor camp where he witnessed one of the darkest periods of Soviet history. Although he survived the camp, the horrors of the Gulag were burned into his memory. Upon his release in 1954, Getman returned to his career as a painter, painting prominent members of state.

In secret, however, he drew many pictures depicting his memories of the camps. He told no one, not even his wife, what he was doing because to do so meant risking imprisonment or even death. Despite the danger, he undertook the project believing that he must record the plight of the millions of dead prisoners so their fate would not be forgotten. For more than four decades, Getman worked at his task of creating a visual record of the Gulag. During those years, his secret collection grew to 50 paintings which depict all aspects of life in the camps.

The Getman collection is outstanding. It is the only known visual record to exist of this tragic period in Soviet history. If film or other visual representations of the Soviet Gulag existed, they have been largely destroyed or suppressed. The Getman collection stands alone as a most unique historical document.

Getman, now 79, lives in Oryol, Russia. He feared that when he died his paintings would be destroyed or sold off. He asked the Jamestown Foundation to assist him in moving the paintings to a place of safety in the West and to develop a plan for their preservation and exhibition. After 6 months of effort, the paintings are now safely in the United States.

It is important that Nikolai Getman's painting act as a public reminder, a means of education, and a testament to the more than 50 million people who died in one of the most vicious and brutal acts of political repression. Getman's perservance, determination, and bravery, as well as the hard work of the people at the Jamestown Foundation, have guaranteed that the visual record of the atrocities exists despite concerted attempts on the part of the Russian authorities to make the memories disappear. Mr. Speaker, I take great pride in the fact that the first exhibition of such important works will take place inside the U.S. Congress.

AMERICAN HERITAGE RIVERS

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. REYES. Mr. Speaker, I am concerned about efforts by some of my colleagues to prohibit any further action on the American Heritage Rivers Initiative, which was proposed by President Clinton in his State of the Union Address earlier this year.

In the committee report accompanying the Agriculture Appropriations Act for fiscal year 1998, H.R. 2160, language is included stipulating that "Funds for [the American Heritage Rivers] initiatives are not available until justification and reprogram requests are approved." In addition, Representative HELEN CHENOWETH has introduced a bill to prohibit any further action on the initiative.

I am a very strong supporter of this initiative and am working very actively with my colleagues along the Rio Grande River to submit a proposal for consideration for designation as 1 of the first 10 rivers to be designated.

The Rio Grande River is rich in history, with dramatic contrasts. Some stretches offer incredible scenery and a pristine environment, while others are marred by the stench of pollution that threatens public health. For roughly 1,000 miles, the Rio Grande, known in Mexico as the Rio Bravo, serves as an international boundary. The river has provided the water needed for border towns to grow into sister cities. It has nurtured industry, agriculture, and the development of commerce on both sides of the border, but demand for its water is exceeding supply in many places. How we secure the quantity and quality of water needed from the Rio Grande and other sources will be crucial to the prospects for sustaining growth for our region in the 21st century.

The possibility for designation of the Rio Grande as an American Heritage River offers an opportunity for communities along the Rio Grande to work together and gain easier, more direct access to existing Federal assistance. The designation would help us celebrate our heritage, draw attention to the natural wonders of our river and, at the same time, address very real and complex challenges facing its wonders of our river and, at the same time, address very real and complex challenge facing its future. Proposals for designation will be evaluated on whether the plans have strong or solid community support which involve partnerships between the public and private sectors.

The Federal Government is to offer a partnership determined by the needs of the local communities, offering them ways to cut through redtape and develop innovative arrangements for new or existing objectives. There are to be no new regulations or standards, and property rights are not to be impaired.

It is important to note that this opportunity comes at the same time that the Texas legislature has passed a major overhaul of our State's water law to help communities and regions work together in planning for the future. The Rio Grande was cited as a special case and agencies were instructed to seek Federal assistance.

Regional councils of government along the border are meeting now to frame a proposal to be sent to the White House on behalf of those local jurisdictions that wish to participate. The proposed partnership is to have key Federal agencies assist the communities of the Rio Grande develop the long-term assessments of their water needs called for by the water plan that Governor George Bush recently signed into law. A broader partnership is being proposed under which the Federal, State and local authorities working with business and civic groups will assist Rio Grande communities to participate in the 1998 Smithsonian Folklife Festival in Washington, DC. That year's festival will focus on the Rio Grande/Rio Bravo and provide a unique opportunity for us to share our rich heritage with over 1 million visitors.

A focus on the Rio Grande is something Texas can get behind. We are proud of our river and want to assert our stake in its future. The proposed being drafted will make sure that Federal jurisdiction is not expanded, that no new regulations are imposed as a result of the designation, and that no one's property rights or water rights are affected. Our effort is being designed and managed by Texans on behalf of a heritage we share with our neighbors and fellow Americans.

I urge all of my colleagues to join me in supporting the American Heritage Rivers Initiative and opposing efforts to kill this important initiative.

Finally, Mr. Speaker, I am submitting for the record a list of questions I submitted to the Council on Environmental Quality and the responses I received. I believe this documents answers all of the concerns that have been expressed by citizens and my colleagues.

EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, DC, July 18, 1997.
Hon. SILVESTRE REYES
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE REYES: Thank you for your recent letter requesting additional information on the American Heritage Rivers initiative. I appreciate your continued support and outstanding leadership in the Congress. I have attached answers to the 25 questions. I hope this information is helpful to you.

Please let me know if I can be of further assistance.

Sincerely,
KATHLEEN A. MCGINTY, *Chair.*

Enclosure.

ANSWERS IN RESPONSE TO QUESTIONS SUBMITTED REGARDING THE AMERICAN HERITAGE RIVERS INITIATIVE

1. Q: Can the designation be, in effect, a contract between the local jurisdictions and the federal government in which the terms, the scope and the limitations of the designation are set out clearly and agreed upon by all parties?

A: There is nothing in the initiative that requires applicants to enter into any type of agreement with the federal government. Designation is the recognition of local communities' efforts to enhance and protect their river resources.

As a practical matter, the federal government cannot enter into "contracts," in the legal sense, with communities. However, the federal government often enters into Memoranda of Understanding with state, tribal and local governments and nongovernmental organizations. Designated communities will have the option of entering into Memoranda of Understanding at the local level to explain the terms, scope and limitations of designation and how they want to work with federal agencies.

2. Q: Will a designation carry with it any new federal regulation, mandate, or increased eligibility standards? Can that be asserted in a designation proclamation?

A: No. Designation as an American Heritage River will not carry with it any new federal regulation, mandate or increased eligibility standards.

As stated in the Federal Register Notices of May 19 and June 10, "The [American Heritage Rivers] initiative will create no new regulatory requirements for individuals or state and local governments." This can be asserted in a designation proclamation.

The goal of the American Heritage Rivers initiative is to support communities, within existing laws and regulations, by providing them with better access to information, tools and resources, and encouraging private funding of local efforts deserving of special recognition.

3. Q. Will and AHR designation affect property rights and/or water rights in any way?

A: No. An American Heritage Rivers designation will not adversely affect property or water rights. The initiative will not grant any federal, state or local government entity any new authority or control over private property. The comment period was extended, in part, to work with landowners and other interested parties to better understand the initiative. During this period, we have listened to these concerns and have developed the following language that will be included in the final description of the American Heritage Rivers initiative to demonstrate our intent not to diminish property and water rights:

"In implementing the American Heritage Rivers initiative, Federal departments shall act with due regard for the protections of private property provided by the Fifth Amendment to the United States Constitution."

4. Q: Can there be procedures for prohibiting any changes in existing private property, water and/or development rights on land along a river in connection with activities recognized under an AHR designation? Or: Can there be procedures for geographic areas within the designated geographic area to be exempted from activities recognized under the AHR designation?

A: The local and state governments establish procedures for changes to existing private property, water and/or development rights. Any geographic areas within the designated geographic area to be exempted from such activities will be identified by the local sponsoring organization.

5. Q: What is the procedure that makes the projects of an American Heritage River designee a priority to federal agencies? What could be the practical benefit of that?

A: After the President designates the rivers, the Secretaries of the participating federal agencies will enter into a Memorandum of Understanding describing how they will work together to create the American Heritage Rivers initiative.

The practical benefit is that communities will have easier access to information about existing federal resources and help in targeting funding and technical assistance resources most appropriate to their needs.

As stated in the Federal Register Notices of May 19 and June 20, an "interagency task force will work with each River Community as it is designated to identify technical and funding needs. First, a team of planning and technical assistance experts will help each designated River Community assess its strategy and implementation plan to identify technical assistance and funding needs. Then, federal agencies will commit field staff and resources to the teams, which will also include non-federal partners, such as state, local, tribal governments and nongovernmental organizations."

This means that each interagency task force will work closely with the community to meet identified community needs. Not every community will require the resources and programs of every federal agency. The "River Navigator" will be a full-time liaison between the community and the federal agencies. The resources and staff of the agencies will be accessed as appropriate and needed.

6. Q: Does an AHR designation have to include the full watershed/basin of the river? How does an applicant set the geographical limits of the designation?

A: An American Heritage Rivers designation does not have to include the full watershed or basin of the river. Communities set the geographical limits of the application and the designation is confined to those limits.

7. The Federal Register mentions the restoration of rivers.

a. What is meant by restoration?

Restoration is any activity that returns an area to a former use or condition. The extent of restoration activities will be defined by the communities in their applications.

b. If there is a designation, will that mean local acquiescence to a federal effort to restore that river to previous uses or to a natural state untouched by human activities?

Absolutely not. The community will identify what they want to do within a designated area. The American Heritage Rivers initiative is not about "local acquiescence to a federal effort." It is about federal agencies working closely with communities to achieve the communities' goals.

c. Does "restoration" have to be a part of the proposal in order to secure a designation?

Restoration does not have to be part of any designation. The community decides its priorities and seeks designation based on that community's needs.

8. Q: Could a designation enable local jurisdictions along the Rio Grande to have a stronger and more active voice with federal and international activities such as Border XXI, NADBank, BECC and the IBWC? If so, how?

A: We are hopeful that the American Heritage River designation will provide many more avenues for the federal government to form partnerships with local communities. There are a number of existing opportunities along the border, including Border XXI, NADBank, BECC and IBWC, that the communities along the Rio Grande might identify in their application. Representatives from these programs would be included in the federal assistance team working with the designated river's community to ensure that the community's goal and objectives are integrated into these institutions' decision making.

9. Q: Once a river has been designated in response to the communities' application, can the projects and activities within the original application be modified or added to at a later time? Who can make such changes and who would decide or approve them?

A: The community can make changes or modifications to their plan consistent with the process and criteria used to develop and recognize the application by the community and the federal government.

10. Q: How can the designation be used to encourage Mexican enforcement of environmental laws that deal with discharge into the Rio Grande?

A: The American Heritage Rivers initiative does not alter existing environmental law or dispute resolution processes.

11. Q: As a Rio Grande application is drafted, could representatives from relevant federal agencies be made available to field questions regarding the AHR program and how each agency might give priority to the designated rivers?

A: Yes. Federal agency representatives were trained in a video uplink on June 17 to answer questions about the American Heritage Rivers initiative. Lists of these employees will be available in mid-July.

12. Q: Does federal attention to water flow needs and water quality automatically follow a designation or must it be something specifically identified in the application?

A: No federal attention automatically follows a designation, unless it is requested by the community in its application. The federal agencies will assess whether such a request is authorized by Congress, that funds are appropriated for such action, or can be appropriated if the action is approved.

13. Q: Would a designation of the Rio Grande mean federal funds would be diverted from other activities in the state to the designated river's program?

A: No. The initiative will help communities through better use and coordination of existing programs and resources. Communities will only receive funds for which they would be otherwise eligible, under the authorization and appropriation terms of Congress.

14. Q: Can the CEQ make public the designation proposals it has received from Texas?

A: As the application process has not opened, no proposals have been received from Texas, or any other state. Many communities requested nomination of their rivers following the President's State of the Union Address. These communities have been asked to submit formal applications, once those applications are available in mid-September.

American Heritage Rivers is committed to an open process and full disclosure. Information will be made available about applications received.

On the American Heritage Rivers homepage, we are asking people to self report their interests in specific river designations. You can access the homepage at: http://www.epa.gov.owow.heritage.rivers.html

15. Q: Will procedures be put in place whereby the applicant can ask to have a designation rescinded and/or given activities and/or geographical rescinded?

A: Yes. As stated in the June 20 Federal Register Notice, "Any community which nominates a river for designation and has its river designated, may have this designation terminated at its request at any point in the future."

16. Q: How is the AHRI associated with the United Nations or the NAFTA or their agencies?

A: The American Heritage Rivers initiative has not been associated with the United Nations or NAFTA. As stated in the June 20 Federal Register Notice, "Foreign governments and their international organizations will not have a role in sponsoring a nomination to be an American Heritage River nor will they have any authority granted to them as a result of an American Heritage River designation."

17. Q: If planning of a capital intensive scenic route or nature trail along a river was part of an AHR designation, would a subsequent proposal for appropriation of new money for the projects planned be prejudiced by the "no new money" commitment?

A: No. Substantial federal resources have already been authorized and appropriated by Congress. Therefore, projects otherwise eligible for funding would not be prejudiced against because of an American Heritage Rivers designation. In fact, for some projects, the cooperation of the federal, state and local agencies through the American Heritage Rivers initiative could strengthen a subsequent proposal for funds.

18. Q: Why is the AHRI needed to get the federal agencies to do what they are supposed to be doing anyway?

A: The federal agencies have done an excellent job of cooperating more effectively. Interagency cooperation is at an all-time high, which is good news for taxpayers. But as the Administration's effort has found, the job of reinvention is never complete. The National Performance Review, directed by Vice President Gore, continuously seeks to create a government that works better and costs less through focusing on customer service, developing partnerships and delegating power to the front lines.

The American Heritage Rivers can help accomplish this in four ways:

1. To recognize outstanding community-led efforts. The American Heritage Rivers initiative is the most important recognition of local river efforts in 20 years.

2. To serve as models of the most innovative, successful and sustainable approaches to river restoration and protection for communities across the United States. The lessons learned from these models can be applied to programs across the country.

3. To ensure that federal agencies are cooperating to the greatest extent possible. At a time of declining federal resources, the Administration believes the decisions about prioritizing federal programs should come from the affected communities.

4. To encourage greater agency cooperation across disciplines and programs. There is a continuing need to integrate the environmental, economic and historic disciplines of not only the federal government, but state and local governments as well.

19. Q: What protection is there in the AHRI for the rights of those in a community that do not favor a designation?

A: As stated in the June 20 Federal Register Notice, "A local mechanism will be required that allows members of a community to comment on the nomination of a river or river stretch by their community."

The nomination process will be fully controlled, discussed and organized at the local level. The concerns of all members of a community should be aired as the nomination is prepared. Communities submitting applications should make opportunities available for members of the local public to comment on the nomination. Elected officials are expected to participate in the nomination process. The Administration will also make public the nominations that it receives.

20. Q: Will a designation application gain points in the scoring process if it has bipartisan support?

A: Yes. Bipartisan support will help a community demonstrate that it meets the criterion of broad community support.

21. Q: Would requests for federal agency help to prepare for participation in the Smithsonian Institute's 1998 American Folklife Festival be an appropriate activity under the AHRI?

A: Yes. The community defines appropriate activities under the American Heritage Rivers initiative.

22. Q: Could local requests for federal grants and cooperative assistance to improve use of river water in irrigation be recognized as part of an AHR designation?

A: Again, the community defines appropriate activities under the American Heritage Rivers initiative. If a community decided to seek federal grants and cooperative assistance to improve use of river water in irrigation that would definitely be considered if the river gained American Heritage River status. The American Heritage Rivers initiative would not alter or affect any laws or rights relating to river or water flows.

23. Q: Are applications for designation required to include specific projects for implementation under the designation? If yes, what is the impact on other projects in the designated area that are not included in the designation application?

A: One of the criteria for designation is that communities have in hand, or are developing, a well-defined plan of action for the river. Projects and products, including any anticipated impacts beyond the designated river area, are part of this plan of action. Other components of the action plan are community vision, operating procedures and policies, description of how the proposal takes into account existing plans for the area, public participation and public education, committed and anticipated resources, schedule of actions, the community's expectation of the federal role, obstacles to community action, including those the community believes can be resolved by joint federal, state and local support, and measures of success.

There is not necessarily an impact on other projects in the designated area that are not included in the designation application. Some projects, of course, may be dependent on each other.

24. Q: can an AHR designation create a situation to allow one of its projects to circumvent existing and required local and/or regional planning processes? If not, would an application for designation be eligible for consideration if specific projects were not mentioned, but the application stressed the desire to acquire designation to attain an increased federal focus to aid in encouraging and supporting local, regional and state planning processes that would result in projects that are in compliance with local, state and federal requirements?

A: No. American Heritage Rivers designation will not be a means for projects to circumvent local or regional planning processes. Quite the contrary. The goal of American Heritage Rivers is to look to local or regional planning processes and to ensure that the federal agencies are cooperating sufficiently to streamline processes to help communities realize their goals wherever possible. All actions, by all involved with the initiative at the federal, state and local levels, must take place within existing laws and regulations.

If the community wished to identify appropriate roles for and services from the federal agencies, assistance with local, state and regional planning processes would be eligible. All the projects under consideration in a designated area do not necessarily have to be mentioned in the application. However, to the extent that these projects demonstrate how the community meets the criteria, including broad community support and strategies that lead to action, their inclusion is to the benefit of the applying community.

25. Q: Is it the intent of the AHRI to designate rivers on the basis of demonstrated historical, cultural, economic and environmental significance, or to designate rivers based on the merits of proposed projects?

A: Both. It is the intent of the American Heritage Rivers to designate rivers on the basis of their demonstrated historical, cultural, economic and environmental significance and the commitment the communities have to preserving and restoring these resources. Projects identified by the community should integrate, to the largest extent possible, the environmental, historic and economic aspects of their communities.

HONORING THE RETIREMENT OF REV. DR. JAMES W. BATTLE, SR.

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. VENTO. Mr. Speaker, I rise today to celebrate the career of the Reverend Dr. James W. Battle Sr. Reverend Battle has served as pastor of Mount Olivet Baptist Church in Saint Paul, MN, since June 1972. His distinguished career and commitment to the community should serve as an example to all.

Pastor Battle answered his call to the ministry and moved with his family to Nashville, TN, in order to attend the American Baptist College. He graduated and became the chaplain of the State Prison, and later a counselor at Meharry Medical College. In 1972, he accepted the position as pastor of Mount Olivet Baptist Church in Saint Paul, MN. In 1977, the pastor received his master's of divinity from the Luther Seminary in Saint Paul, and earned his doctorate of ministry degree from the United Seminary in New Brighton, MN, in 1985.

Under his leadership, Mount Olivet has steadily grown. Shortly after his arrival, he directed the construction of a new church building and revived Bible study classes. These improvements have resulted in additional services being provided by the church, as well as expansions to the church facility.

Aside from being a dynamic leader of his church, Pastor Battle has extended his energies to the community. He has served as: cofounder of the Saint Paul Ecumenical Alliance of Congregations; member of the St. Paul Urban League; member of the Council of Black Minnesotans; member of the Rainbow Coalition; and chairman of the Minority Advisory Committee of the Metropolitan Transit Commission.

In addition, the Reverend has organized his community at several levels. He was an organizer of the march of the State capitol in honor of Dr. Martin Luther King, Jr., in 1979, and most recently helped coordinate the Minnesota contingency to the Million Man March in Washington, DC, which departed from and returned to Mount Olivet. Currently, he is also involved with a Gang Summit at Mount Olivet, the African-American Parent Group, Native American Special Project, and Lao Family Community Services, all in Saint Paul.

In 1996, I was privileged to be present when Pastor Battle received Luther Seminary's annual Race, Church, and Change Award. He has also been the recipient of the S.E. Hall Community Service Award from the Saint Paul Urban League, and the Martin Luther King Humanitarian Award for Outstanding Achievement and Contribution in the area of religion in 1992 and 1993.

I would like to take this opportunity to congratulate the Reverend Battle and his family for all of his accomplishments as he celebrates 25 years with Mount Olivet. I would also like to thank him for serving his church and community with such dedication and devotion and hope that he and his family are blessed with greater endeavors in the future. Happy Retirement.

IN HONOR OF PUERTO RICO ON ITS CONSTITUTION DAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the citizens of Puerto Rico on Constitution Day, July 25, 1997. The people of Puerto Rico established the Constitution of the Commonwealth of Puerto Rico for the very same reasons our forefathers wrote the Constitution of the United States of America, to establish themselves as a democracy.

The Puerto Rican Constitution ensures basic welfare and human rights for the people, ensconces the idea of a government which reflects the will of the people, and pays tribute and loyalty to the Constitution of the United States of America.

The Puerto Rican culture is a distinctly unique culture. By pledging allegiance to the Constitution of the United States of America, the people of Puerto Rico celebrate shared beliefs and the co-existence of both cultures. By ratifying their own constitution, the people of Puerto Rico retain and honor their original heritage while expressing the desire to pursue democracy and happiness for themselves.

A TRIBUTE TO WILLIAM "B.J." HANNON

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. STRICKLAND. Mr. Speaker, I rise today to pay tribute to William "B.J." Hannon. Born September 18, 1927, in Ironton, OH, B.J. has shown throughout his life that one man, by dedicating himself to his work and his community, can make a real and lasting difference in people's lives.

After has graduation from Ironton High School, B.J. proudly served his country in the U.S. Navy from June 1945 to August 1946. After this period of service, B.J. returned home to Ironton and began working at the Wilson Sporting Goods Co., where he was employed for 36 years.

Through his love of sports, B.J. gave every member of the Ironton community the opportunity to become a star athlete. Both children and adults alike have benefited from B.J.'s knowledge of sports and devotion to his hometown. A coach since 1960, B.J. has coached almost every sport conceivable including football, basketball, baseball, softball, and track.

He still coaches youth football, bringing countless hours of fun and hard work to the youth of Ironton.

The impact that a positive role model can have on children is immeasurable, and B.J. has not taken his responsibility lightly. One can only imagine how many little league kids might have been inspired to work a little harder after realizing that what they accomplish on the field can be duplicated in others aspects of their lives. Maybe some of the players on his high school girls' basketball team were inspired to take their game to the next level, college. And the hours of fun and relaxation that playing for his women's softball team or men's basketball team provides have let the adults in Ironton have as much fun as their children. For these reasons, in 1987 B.J. was an Ironton Sports Day honoree.

B.J. has also taken this responsibility to the civic level. He is a member of the Ironton City School Board, the city recreation board, and the Ironton Little League board of directors. These positions have allowed him the opportunity to provide his insight on issues affecting the entire community, and have established him as a greatly respected figure in the Ironton area. The best part is that B.J. doesn't think of these positions as jobs, but as a way to improve the quality of life in Ironton.

At the end of this month, B.J. will be retiring from Cabletron—a company he helped build over the past 10 years. He began with the company on day one when Cabletron first set up operations in Ironton with just 25 employees. And he has left his mark. I recently attended the dedication of Cabletron's new state-of-the-art manufacturing facility in Ironton which now employs over 550 employees. There is no historical document stating when the last industrial facility was built in the city of Ironton. But we know it has been a long time. The construction of this new facility shows that Cabletron sees its future in southern Ohio.

There is no doubt that Cabletron's presence and growth in Ohio are the result of the skills and commitment of our work force. There truly has been an outstanding group of men and women who have contributed to the growth of Cabletron. And B.J. has been at the center of it all. As human resources director, B.J. put together and led this world-class work force.

During the dedication of Cabletron's new facility, every time B.J.'s name was mentioned the workers erupted with applause. The feeling seems mutual. B.J. excels in his ability to work with people. He treats everyone as an individual, and respects them and their opinions.

One of my favorite stories about B.J. involves an incident on a hot summer day when the air conditioning went out at the plant. B.J. showed up with boxes of popsicles for the 120 employees who were working at the plant at that time, and invited them all to take a break and share a popsicle with him. No matter what the situation, you can always count on B.J. to look out for those he works with.

B.J.'s noteworthy professional and public life has paralleled an equally happy home life. Married since 1952, B.J. and his wife Lavena have a son, Jeffrey, and three grandchildren. In his leisure hours, B.J. enjoys getting in some rounds of golf, and not surprisingly, enjoys watching his grandchildren participate in sports.

Mr. Speaker, it is a privilege for me to honor a man who, simply by going about his work and being dedicated to his hometown, has given so much to the Ironton community. People of all ages, athletes, spectators, and fellow employees have had their lives touched by Mr. Hannon, whether they knew him or not. People like Mr. Hannon are what make smalltown America a great place to live. I hope my colleagues will join me in congratulating Mr. Hannon on his retirement and thanking him for his years of dedication to his community.

WHY MANAGED CARE PLANS NEED OUTSIDE AUDITS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. STARK. Mr. Speaker, one of the issues under debate between the House and Senate in the Medicare budget reconciliation bill is the issue of whether managed care plans should have an external and on-going—outside—quality review, or whether we should just rely on them being periodically reviewed through the accrediting process.

The Peer Review Organization for parts of the Delaware, Maryland, D.C., and Virginia area has written me, showing how HMO's that obtain accreditation from private accrediting agencies can, upon review and check by an external quality reviewing organization, be found to have serious problems.

It is important that we have both accrediting and outside, external review. The excerpt from the letter from the Delmarva Foundation for Medical Care, Inc., speaks for itself. Second, I would like to include in the RECORD a memo from the National Health Law Program concerning the limits and dangers of relying on private accreditation.

[From the Delmarva Foundation for Medical Care, July 11, 1997]

Table 1 presents non-compliance rates from a Medical Record Review we did of five managed care organizations for FY 97. All but one is accredited by NCQA. Each of these clinical areas were reviewed against specific standards well known and accepted by the industry. For instance, for hypertension, specific processes of care were measured, such as whether the patient had a physical examination, specific laboratory tests, blood pressure monitoring, and diet/exercise education.

TABLE 1—ACCREDITATION AND NON-COMPLIANCE RATE WITH CLINICAL PERFORMANCE STANDARDS

	HMO1	HMO2	HMO3	HMO4	HMO5
NCQA Accreditation [1]	3	1	3	0	1
External Review: [2]					
Hypertension	38	39	39	46	53
Immunizations	(3)	(3)	(3)	57	55
Mental health	(3)	(3)	35	(3)	(3)
Initial assessment	56	49	43	44	57
Problem corrections	47	67	55	44	67

[1] Accreditation figures given in years.

[2] External Review Non-compliance rates given in percent.

[3] Met an acceptable threshold.

These final data reflect results from a review of the SYSTEMS in place at those HMO's. Using health education as an example, 58 percent of the performance standards were not met by one HMO, 33 percent for another. In another example, one HMO, which has a three year accreditation had an overall non-compliance rate of 23 percent; 33 percent of the enrollee rights standards were not met; 39 percent of the patient satisfaction standards were failed and 33 percent of the health education standards were not met.

PRIVATIZING GOVERNMENT REGULATION OF PUBLICLY FUNDED HEALTH PLANS: THE LIMITS OF PRIVATE ACCREDITATION

(Prepared by Claudia Schlosberg, Esq.)

Senate and House conferees begin deliberations this week to reconcile legislation designed to balance the federal budget in the next five years. Both the Senate and House versions contain a daunting number of changes to the nation's health safety net programs: Medicaid and Medicare. Some, such as eliminating the waiver requirement, have received a great deal of attention. Many other provisions, however, lie obscured within hundred of pages of text and have received little, if any public scrutiny. One such provision exempts Medicaid managed care plans from the requirement of an annual external, independent review if they have attained accreditation from a private, nonprofit accrediting body such as the National Committee for Quality Assurance or the Joint Commission on the Accreditation of Health Organizations. The annual external review process is designed to look at quality outcomes and the extent to which he managed care entity is meeting the terms of its contract with the state. In similar fashion, the House Medicare provision waive requirements for external review if a plan is privately accredited.

Consumers should be deeply troubled and concerned by this extension of "deemed status" to publicly-funded health plans. Although private accreditation of health care facilities and services historically has played an important role in the evolution of internal health care quality assurance systems, the role and function of a private accrediting organization is very different from that of a public regulatory authority. The extension of deemed status to publicly-funded health plans, as currently proposed, represents a swift and sure erosion of federal oversight and regulatory authority, the elimination of public access to meaningful information about health plan quality, and diminished public accountability. Consider the following:

(1) Lack of Independence—Private accrediting bodies such as the National Commission of Quality Assurance (NCQA) and the Joint Commission on Accreditation of Health Care Organizations (JCAHO) are closely tied to the industries they oversee and monitor. Industry representatives are heavily represented on their boards and they are financially dependent on the industries they oversee. Fees for accreditation services can run into tens of thousands of dollars. For example, the base rate for NCQA accreditation of a health plan with fewer than 50,000 members in $42,350 just for the initial two to four day survey. Health care organizations such as managed care companies purchase not only accreditation services but also technical assistance and consulting services to improve survey performance. Although both JCAHO and NCQA assert they operate free of conflicts of interest, the close ties to and financial dependency on the managed care industry, as well as their dual roles as monitor and advisor, raise clear concerns about independence and objectivity.

(2) Lack of Accountability—When the Health Care Financing Administration or a state licensing authority conducts an on-site quality review, the findings of the actual survey reports are available to the public (Nursing homes in fact must post a copy of their latest survey report within the facility). In contrast, the private accreditation process is shrouded in secrecy. Although both NCQA and JCAHO release sanitized summaries of accreditation reports to the public, the underlying findings from the actual surveys themselves are held in strictest confidence. Absent specific legislation, public access to meaningful information, even when relied upon by government regulators, is virtually non-existent.

(3) Flawed Survey Protocols—As a general rule, regulatory authorities are required to conduct annual, unannounced, on-site surveys. The element of surprise is an important tool that helps ensure that surveyors observe the actual operations of a health plan or facility. In contrast, private accrediting bodies generally survey only every three years, and surveys are scheduled well in advance. NCQA for example, schedules surveys in conjunction with the health plan at a mutually agreeable date. NCQA also gives plans advance notice of the specific clinical records that they will review. Additionally, both NCQA and JCAHO supply the names of the survey team members in advance and strongly encourage health plans to undergo "practice" accreditation reviews as a way of preparing for the full accreditation survey. Health plans thus have ample opportunity to assess and spruce-up operations before the survey team's arrival. Often, the fixes are illusionary. When the survey team leaves, the amenities and improvements disappear.

Private accrediting bodies also make no provision for interested third parties to speak confidentially with the survey team. JCAHO policy provides for disclosure to the health facility of the identity of any person seeking a public information interview with a surveyor—a process unlikely to encourage staff, patients or interested members of the public to come forward with complaints or information about health plan policies and practices. Recently, hospital workers at Columbia Sunrise Hospital in Las Vegas, Nevada requested an opportunity to meet in confidence with a JCAHO survey team to share workers' concerns about quality issues in the facility being surveyed. JCAHO refused. Instead two hospital worker representatives met with the JCAHO survey team on hospital premises, at a place and time set by hospital management, with senior hospital officials present.

(4) Discretion and Variability Among Surveyors—Both NCQA and JCAHO use consultant surveyors—professionals from health plans and health practitioners who take time off from their regular jobs to conduct site visits over several days. Although surveyors receive training, individual surveyors have much discretion and use their own judgment when evaluating a health plan or facility. Consequently, there can be a great deal of variation in how standards are scored. Complex scoring methodologies also obscure results. For example, under guidelines established in the JCAHO scoring manual on accreditation of hospitals, perfect scores do not necessarily reflect 100 percent compliance with standards. This is because a score of one (on a five-point scale) requires a showing of only 91-percent compliance, while a score of two requires a showing of only 76-percent compliance. Thus, even facilities with significant problems affecting large number of patients can attain high scores.

(5) Adequacy of Standards.—Although private accrediting bodies purport to utilize rigorous quality standards, the standards will largely focus on process or structure rather than on the outcomes of care. The standards themselves often provide only a minimum framework and give plans enormous discretion to define not only the standards themselves but the level of required compliance. For example:

NCQA Managed Behavioral Health Care Standards for Accreditation require plans to make timely utilization management decisions but the health plan, not NCQA, has discretion to define its own timeliness standard.

To meet NCQA's requirements for clinical quality improvement activities, a full service behavioral health plan that provides both in-patient and out-patient care need only assess and evaluate three issues relevant to its membership. A managed behavioral health plan not only can pick and choose what clinical issues to assess and evaluate, it also has complete discretion to define the clinical issue, to set its own benchmark, and to adopt or establish quantitative measures to assess performance and identify areas for improvement.

Private accreditation standards also fail to address key indicators. For example, NCQA Managed Behavioral Healthcare Standards do not require plans to monitor death or adverse drug interactions. Plans also are not required to monitor long and short-term community tenure. Despite the potential for abuse and misuse in the behavioral health field, absolutely nothing in the standards addresses the use of seclusion and physical restraint.

(5) Public Participation in the Development of Standards—When federal or state governments seek to develop or change standards used to regulate health facilities and services, they are required by law to notify the public and provide opportunity for public comment. In contrast, private accrediting bodies are under no obligation to elicit public comment. Although private accrediting bodies have solicited outside comments on drafts of some accreditation standards, the process is entirely voluntary and variable.

(6) Access to Standards—Unlike federal regulations, standards and surveyor guidelines, which are readily available to the public through libraries, the world wide web or low and no-cost publications, private accreditation standards are difficult and expensive to access. Private accrediting organizations copyright and market their standards and survey materials. The cost of NCQA's Standards for Managed Care Plans is $75.00. Copies of the surveyors' guidelines and data collection tools cost an additional $195.00 each or can be purchased together at the discounted price of $365. Thus, the complete set of NCQA accreditation materials for managed care plans is over $400—an amount which is prohibitive for most of the general public and the public sector advocacy community. Without ready access to the standards and guidelines, consumers and their advocates have little opportunity to effect policy debates, seek improvements or monitor implementation.

(7) Lack of Meaningful Enforcement—Once a survey is completed and scored, an accreditation decision is made. As a general rule, a health plan or facility can receive full accreditation, accreditation with recommendations, one-year accreditation, denial or deferral. Other than denying, deferring or granting less than full accreditation status, private accrediting bodies do not have the tools or the mandate to pursue intermediate sanctions or take other action to ensure compliance. The result is that poor performing facilities can continue to operate with impunity. To monitor private accrediting bodies' performance, federal Medicare law requires the Health Care Financing Administration to conduct validation surveys of health facilities that have been granted "deemed" status. However this important safeguard is not included within the provisions extending deemed status to health plans.

(8) Complaint Investigations—Unlike state and federal authorities, private accrediting bodies do not routinely respond to or investigate complaints, even when they relate to facilities and services which they have accredited. The extension of deemed status to health plans threatens to undermine public resources needed to sustain these critical regulatory activities.

CONCLUSION

While private accrediting bodies play an important role in the evolution of quality assurance systems, the private accreditation process is inherently limited. Private accrediting bodies operate as partners with health plans and are not accountable to the public. Standards measure process, not quality. Even NCQA admits that "NCQA accreditation does not constitute a warranty or any other representation by NCQA to any third parties (including, but not limited to, employers, consumers, or organizations members) regarding the quality or nature of the . . . services provided or arranged by the [health plan]." Accordingly, private accreditation of health plans should not be used to supplant a truly independent oversight process. At the very least, if private accreditation is to be more formally integrated into public oversight of health plans to minimize actual (not just perceived) duplication, public accountability must be preserved. Accordingly, private accrediting bodies must be required to fully disclose survey information, government must have authority to validate survey data; effective enforcement mechanisms must be clearly established in law; government must remain the final arbiter on compliance issues and retain authority to investigate complaints and enforce standards; and standards used to reach accreditation decisions must be developed in a public process and once developed, placed in the public domain at low or no cost.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill, H.R. 2107, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

Mr. WELDON. Mr. Chairman, during the debate on my amendment to the Interior appropriations bill that will ensure families are able to enjoy this national seashore, I was asked by my colleagues to submit examples of the type of behavior that park visitors were encountering. In response to these requests, I am submitting the following examples. When families go to a national park, they do not expect to see the type of behavior that is listed below. These examples are taken verbatim from National Park Service Criminal Incident Records. My amendment, which was adopted 396–25 ensures that Brevard County, FL is able to set its own public decency standard without fear of the Federal Government overruling their decision.

CRIMINAL INCIDENT RECORDS

Two visitors stopped at the visitor center and reported a man and woman having sex on the beach while numerous other nude people watched. Ranger [deleted] and I responded and walked to the area, observing the couple described earlier and approximately 10 others in the immediate area. Most were regulars on the beach, including [deleted].

On 02–[deleted]–96 at approximately [deleted] hours, Ms. [deleted] reported to me at the North District Ranger Station that she and her two sons ([deleted], age 9 and [deleted] age 2) had witnessed a sexual offense on the beach. Ms. [deleted] stated that she and the children were on the beach, 60 yards south of boardwalk #5, when they observed a W/M walking down the beach who then stopped 20 feet from them. He took his clothes off and sat down. Then he started masturbating in full view of them. She and the children then walked off the beach. The W/M put his clothes on fast and walked off the beach. He got in front of them and stopped on the boardwalk at the top. When Ms. [deleted] came up to him she called him a Creep and told him he shouldn't masturbate in front of her children. He told her that she was crazy. She walked to her vehicle and the W/M went into the bathroom. She had her back turned in his direction and told her son [deleted] they must have lost him. [deleted] told her the W/M was getting into a van. Ms. [deleted] then followed the van up A1A at a high rate of speed.

While visiting the Beach at Parking Lot Area 2 with my 3 sons, ages 12–15 and a female friend who is a local resident, and her two sons, ages 7 and 16; we found we needed to cut our visit short due to the arrival of a young man who, approximately 50 yards from us, began sunbathing in the nude. Several times he would stand up, or would turn and lie in different positions facing whichever direction our children ran. He did not attempt to speak to anyone, but we felt this type of behavior was inappropriate at a national site.

I was contracted by the complainant who was very upset with the confrontation she and her family had with two nude white males. While walking south from boardwalk #3, two males who had been lying in wait for the group to get close, both got up and began walking toward [deleted] family. Shocked by the nudity of the men, the family quickly turned around and departed the beach. I attempted to explain to the group the situation the Park Service and its rangers at Canaveral National Seashore are faced with.

[Deleted] stated that while she was on the beach at grid marker 29, south of boardwalk #4, on an ATV she came upon a dead sea turtle. A white male who was jogging came up to her asking questions about the turtle, and as he was talking to her he began fondling himself. [Deleted] got on the ATV and headed north. When she looked back, the male appeared to be masturbating.

Mr. [deleted] came to the North District Ranger Station on 1[deleted]93 at approximately [deleted] p.m. He wrote the following complaint against nudity.

Currently, I have alternating weekend visitation with my son. Having selected Cape Canaveral National Seashore for time to spend with my son, I eagerly awaited an enjoyable day. "National," implies family oriented being these parks are visited by families; however, while walking south of parking lot 5 with my 9 year old son, an adult male walked out of the water, nude, without any consideration for the ill-effect this could have on a child. I now have to determine how to explain this to my son. I believe this activity is detremental to a family unit and should not be tolerated at a vacation location.

At about [deleted]; 03/ [deleted]/93, Mr. [deleted] approached me at the Miles Avenue 7–11 store. He said that he and his wife had just been walking on the beach about 1 mile south of parking lot 5. He said that when he got some distance away from his wife he looked back and saw a nude white male, with an obvious erection,"Bird-dogging" his wife. He said the man walked up close to his wife and clearly attempted to display his masculinity to her.

Mr. [deleted] described the subject as a white male, [deleted]. He said he saw the man drive away from parking area 5 in a 2-door Honda with Florida tag# [deleted] said he did not want to press charges. But wanted me to file a report.

[Deleted]

On 02–[deleted]93 at approximately [deleted] hours, I was contacted by [deleted]. She explained that she had been jogging on the beach, north of Lot #13, when a man jogged up to her and removed his shorts. He then started to jog next to her and was fondling himself and trying to "masterbate". [Deleted] repeatedly told the man to put his shorts on. She said she was going to report him and get him "busted'. [Deleted] then went up a boardwalk to get away from the individual. A few minutes later the man drove up beside her and asked her if she wanted [deleted].

On 8/[deleted]/96 at about [deleted] hrs, I received a complaint from a male visitor who alleged that [deleted] had been fondling his genital area in front of the complainant's female companion. The complaining party did not wish to give his name. [deleted] denied this allegation. I checked for want's and warrants on [deleted] and did not find any.

[Deleted] that made a verbal threat about the complaining party but then calmed down and returned to the beach.

Mr.[deleted] called via cell phone to report two males and one female engaged in sex acts on the beach in front of numerous passersby. I responded, but was unable to locate the suspects or reporting party. The phone connection was poor and the message misunderstood as to location.

Later, Mr. [deleted] contacted me on the road and described in detail how the three performed sex acts without regard for others on the beach.

He described each individual and I recognized Mr. [deleted] as a regular visitor. Ms. [deleted] had just been issued a citation for unsafe operation, and the third individual was observed [deleted] leaving the park.

I was stopped by a [deleted] at the boardwalk #3. She was complaining about a [deleted] male who was walking around her family. The male was nude and purposely exposing himself to her family. Suspect left the area and parking lot when he observed me arriving on the ATV. [Deleted] wrote a complaint and I seized the suspect's abandoned property, (towel, shirt, cooler, sunscreen, and umbrella).

ANTI-GOVERNMENT, ANTI-SOCIAL ATTITUDES

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. OBEY. Mr. Speaker, many of us are concerned about some of the anti-government and anti-social attitudes that are developing in some rural communities. It is important to understand that one of the contributing factors in this unhealthy development is the economic squeeze that is being placed on many hardworking farmers throughout the country. Recently an article appeared in one of my hometown newspapers, City Pages, which brings into sharp focus the psychological emotional pressures that are fed by the cruel way that farmers have been dealt with in national farm policy over the past decade or more. One does not have to agree with every point in the article to recognize that this analysis is attempting to bring to our attention some profound truths about the damage that is being done to rural America by those policies. I urge every American who cares about justice and cares about the future social stability of the country to heed the concerns brought to light so forcefully in the article.

HARVEST OF RAGE

HOW THE RURAL CRISIS FUELS ANTIGOVERNMENT MOVEMENT

(By Joel Dyer)

It's two in the morning when the telephone rings waking Oklahoma City psychologist Glen Wallace. The farmer on the other end of the line has been drinking and is holding a loaded gun to his head. The distressed man tells Wallace that his farm is to be sold at auction within a few days. He goes on to explain that he can't bear the shame he has brought to his family and that the only way out is to kill himself.

Within hours Wallace is at the farm. This time the farmer agrees to go into counseling; this time no one dies. Unfortunately, that's not always the case. Wallace has handled hundreds of these calls through AG–LINK, a farm crisis hotline, and many times the suicide attempts are successful. According to Mona Lee Brock, another former AG–LINK counselor, therapists in Oklahoma alone make more than 150 on-site suicide interventions with farmers each year. And Oklahoma has only the third highest number of farm suicides in the nation, trailing both Montana and Wisconsin.

A study conducted in 1989 at Oklahoma State University determined suicide is by far the leading cause of death on America's family farms, and that they are the direct result of economic stress.

As heartwrenching as those statistics are, they also are related to a much broader issue. Those who have watched the previously strong family farm communities wither have seen radical, anti-government groups and militas step in all across the country, and especially in the Midwest.

As far back as 1989, Wallace—then director of Rural Mental Health for Oklahoma—was beginning to see the birth pangs of today's heartland revolt. In his testimony before a U.S. congressional committee examining rural development, Wallace warned that farm-dependent rural areas were falling under a "community psychosis:"

"Many debt-ridden farm families will become more suspicious of government, as their self-worth, their sense of belonging, their hope for the future deteriorates. . . These families are torn by divorce, domestic violence, alcoholism. There is a loss of relationships of these communities to the state and federal government.

"We have communities that are made up now of collectively depressed individuals, and the symptoms of that community depression are similar to what you would find in someone that has a long term chronic depression."

Wallace went on to tell the committee that if the rural economic system remained fragile, which it has, the community depression could turn into a decade's long social and cultural psychosis, which he described as "stress syndrome."

In 1989, Wallace could only guess how this community psychosis would eventually express itself. He believes this transition is now a reality.

"We knew the anti-government backlash was just around the corner, but we didn't know exactly what form it would take. You can't treat human beings in a society the way farmers have been treated without them organizing and fighting back. It was just a matter of time."

THE RURAL SICKNESS

"I don't even know if I should say this," says Wallace regarding the explosion that destroyed the Alfred P. Murrah building killing 168 people, "but the minute that bomb went off, I suspected it was because of the farm crisis. These people (farmers) have suffered so much." Wallace, who has spend much of his professional life counseling depressed farmers, could only hope he was wrong.

The United States has lost more than 700,000 small- to medium-size family farms since 1980. For the 2 percent of America that makes its living from the land, this loss is a crisis that surpasses even the Great Depression. For the other 98 percent—those who gauge the health of the farm industry by the amount of food on our supermarket shelves—the farm crisis is a vaguely remembered headline from the last decade.

But not for long. The farms are gone, yet the farmers remain. They've been transformed into a harvest of rage, fueled by the grief of their loss and blown by the winds of conspiracy and hate-filled rhetoric.

By the tens of thousands they are being recruited by the anti-government militia movement. Some are being enlisted by the Freemen and Christian Identity groups that comprise the most violent components of this revolution of the heartland.

Detractors of these violent groups such as Morris Dees of the Southern Poverty Law Center blame them for everything from the Oklahoma City bombing to the formation of militia organizations to influencing Pat Buchanan's rhetoric. They may be right.

But the real question remains unanswered. Why has a religious and political ideology that has existed in sparse numbers since the 1940s, suddenly—within the last 15 years—become the driving force in the rapidly growing anti-government movement which Dees estimates has five million participants ranging from tax protesters to armed militia members?

The main cause for the growth of these violent anti-government groups is economic, and the best example of this is the farm crisis. What was for two decades a war of economic policy has become a war of guns and bombs and arson.

At the center of this storm is the "justice" movement, a radical vigilante court system, a spin-off of central Wisconsin's Posse Commitatus system of the 1980s, which will likely affect all our lives on some level in the future. It may have touched us already in the form of the Oklahoma City bombing.

Freemen/Identity common-law courts are being convened in back rooms all across America, and sentences are being delivered. Trials are being held on subjects ranging from the Bureau of Alcohol, Tobacco and Firearms' handling of Waco to a person's sexual preference or race. And the sentences are all the same—death.

We may never prove the Oklahoma City bombing was the result of a secret common-law court, but we can show it was the result of some kind of sickness, a "madness" in the rural parts of our nation. Unless we move quickly to address the economic problems which spawned this "madness" we are likely entering the most violent time on American soil since the Civil War.

Men and women who were once the backbone of our culture have declared war on the government they blame for their pain and suffering—and not without some cause.

THE ECONOMICS OF HATE

The 1989 rural study showed that farmers took their own lives five times more often than they were killed by equipment accidents which, until the study, were considered to be the leading cause of death.

"These figures are probably very conservative," says Pat Lewis who directed the research. "We've been provided with information from counselors and mental health workers that suggests that many of the accidental deaths are in reality, suicides."

* * * * *

In Oklahoma, the government is foreclosing on Josh Powers, a farmer who took out a $98,000 loan at 8 percent in 1969. That same loan today has an interest rate of 15 percent—almost twice as high as when the note was first issued. The angry farmer claims that he's paid back more than $150,000 against the loan, yet he still owes $53,000 on the note. Says Powers, "They'll spend millions to get me, a little guy, off the land—while Neil Bush just walks away from the savings and loan scandal."

The 1987 Farm Bill allowed for loans such as this to be "written down," allowing farmers to bring their debt load back in line with the diminished value of their farm. The purpose of the bill was to keep financially strapped farmers on the land. But in a rarely equaled display of government bungling, this debt forgiveness process was left to the whims of county bureaucrats with little or no banking experience.

As Wallace points out, "Imagine the frustration when a small farmer sees the buddy or family member of one of these county agents getting a $5 million write-down at the same time the agent is foreclosing on them (the small farmer) for a measly $20,000. It happens all the time. When these little farmers complain, they're given this telephone number in Washington. It's become a big joke in farm country, I've even tried to call it for years. You get this recording and nobody ever calls you back.

"These farmers are literally at the mercy of these county bureaucrats and some of them are just horrible people . . . We've had to intervene several times to keep farmers from killing them."

Most Americans are unaware that the farm crisis isn't over. According to counselor Brock, things are as bad now for the family farmer as they were in the 80s. She notes that recent USDA figures that show the economic health of farms improving are, in fact, skewed by the inclusion of large farming cooperatives and corporate farms. Brock also says that "state hotlines are busier than ever as the small family farmer is being pushed off the land."

According to Wallace thousands of people have died as a result of the farm crisis, but not just from suicides. The psychologist says the number of men and women who have died of heart attacks and other illnesses—directly as a result of stress brought on by foreclosure—dwarfs the suicide numbers.

These deaths are often viewed as murder in farm country.

This spring, I went to western Oklahoma and met with a group fo farmers who have become involved in the Freeman/Identity movement. This meeting demonstrated not only their belief that the government is to blame for their loss, but also the politics that evolve from that belief.

"They murdered her," says Sam Conners (not his real name) referring to the government. The room goes silent as the gray haired 60-year-old stares out the window of his soon-to-be-foreclosed farmhouse. In his left hand he holds a photograph of his wife who died of a heart attack in 1990. "She fought 'em as long as she could," he continues, "but she finally gave out. Even when she was lying there in a coma and I was visiting her every day—bringing my nine-year-old boy to see his momma everyday—they wouldn't cut me no slack. All they cared about was getting me off my land so they could take it. But I tell you now, I'm never gonna' give up. They'll have to carry me off feet first and they probably will."

The other men in the room all quietly as they listen to Conners' story, their eyes alternating between their dirty work boots and the angry farmer. The conversation comes to a sudden halt with a "click" from a nearby tape recorder. Conners looks clumsy as he tries to change the small tape in the micro-cassette recorder. His thick earth-stained fingers seem poorly designed for the delicate task. "I apologize for recording you," he says to this reporter. "We just have to be careful."

With their low-tech safeguard back in place, one of the other men begins to speak. Tim, a California farmer who looks to be in his early 30s, describes his plight: another farm, another foreclosure, more anti-government sentiment. Only this time, the story is filled with the unmistakable religious overtones of the Christian Identity movement; one world government, Satan's Jewish bankers, the federal reserve, a fabricated Holocaust, a coming holy war. "This kind of injustice is going on all over the country," says Tim. "It's what happened to the folks in Montana (referring to the Freemen) and it's what happened to me. That's why LeRoy (Schweltzer, the leader of the Justus Township Freeman) was arrested. He was teaching people how to keep their farms and ranches. He was showing them that the government isn't constitutional. They foreclose on us so they can control the food supply. What they want to do is control the Christians.

THE MIND OF THE FARMER

Losing a farm doesn't happen overnight. It can often take four to six years from the time a farm family first gets into financial trouble. By the end, says Wallace, these families are victims of chronic long term stress. "Once a person is to that point," he explains, "there are only a few things that can happen."

"There are basically four escape hatches for chronic long term stress. One, a person seeks help—usually through a church or the medical community. Two, they can't take the pain and they commit suicide. They hurt themselves. Three, they become psychotic. They lose touch with reality. They basically go crazy. And last, they become psychotic and turn their anger outward. They decide that since they hurt, they're going to make others hurt. These are the people that wind up threatening or even killing their lenders or FMHA agents. They're also the ones that are most susceptible to a violent anti-government message."

Unfortunately, psychotic personalities looking for support can find it in the wrong places. "Any group," says Wallace, "can fill the need for support. Not just good ones. Identity, militias or any anti-governmental group can come along and fill that role. Add their influence to a personality that is already violent towards others and you have an extremely dangerous individual."

No one knows how many members of the 700,000 farm families who have already lost their land or the additional hundreds of thousands that are still holding on to their farms under extreme duress have fallen prey to this violent psychosis, but those who have watched this situation develop agree the number is growing.

Wallace says that most people don't understand the mindset of farmers. "They ask, why don't farmers just get a new job or why does losing a farm cause someone to kill themselves or someone else?" Another rural psychologist, Val Farmer, has written often on this subject. In an article in the Iowa Farmer Today, he explained why farm loss affects its victims so powerfully.

"To lose a farm is to lose part of one's own identity. There is probably no other occupation that has affects its victims so powerfully.

"To lose a farm is to lose part of one's own identity. There is probably no other occupation that has the potential for defining one's self so completely. Those who have gone through the loss of a family farm compare their grief to a death in the family, one of the hardest experiences in life.

"Like some deaths, the loss may have been preventable. If a farmer blames himself, the reaction is guilt. Guilt can stem from a violation of family trust. By failing to keep the farm in the family, he loses that for which others had sacrificed greatly. The loss of the farm also affects the loss of the opportunity to pass on the farm to a child. Guilt can also arise from failing to anticipate the conditions that eventually placed the farm at risk; government policy, trade policies, world economy, prices, weather.

"On the other hand, if the loss is perceived to have been caused by the actions and negligence of others, then the farmer is racked with feelings of anger, bitterness and betrayal. This feeling extends to lenders, government, the urban public or the specific actions of a particular individual or institution."

"The stress intensifies with each new setback; failure to cash flow, inability to meet obligations, loan refusal, foreclosure notices, court appearances and farm auctions." Farmer concludes that "these people start grasping at straws—anything to slave off the inevitable."

PREYING ON THE SICK

Wallace agrees with Farmer and believes the anti-government message is one such straw. "When you reach the point where you're willing to kill yourself, anything sounds good. When these groups come along and tell a farmer that it's not his fault, it's the government's fault or the bank's fault, they're more than ready to listen. These groups are preying on sick individuals."

It's no wonder that groups like the Freemen, We the People and Christian Identity have found such enthusiastic support. They preach a message of hope for desperate men and women.

The Freemen offer their converts a chance to save the farm through a quagmire of constitutional loopholes and their complicated interpretations of the Uniform Commercial Code. Their legal voodoo may seem nuts to a suburban dweller, but to a desperate farmer they offer a last hope to hang on to the land their grandfather homesteaded, a trust they intended to pass on to their children.

And just how crazy their rhetoric is remains to be seen. Not all in the legal community scoff at the Freemen's claim, famed attorney Getty Spence—who represented Randy Weaver, a survivor of Ruby Ridge—has stated that at least some of their interpretations of constitutional law are accurate. It will be years before the court system manages to sort out the truth from the myth, and only then provided it desires to scrutinize itself—something it historically has shown little stomach for.

Organizers of We the People told farmers they could receive windfalls of $20 million or more from the federal government. They explained to their audiences—which sometimes reached more than 500—that they had won a Supreme Court judgment against the feds for allowing the country to go off the gold standard. They claimed that for a $300 filing fee the desperate farmers could share in the riches.

The media has repeatedly described the exploits of Freeman/We the People members: millions in hot checks, false liens, refusal to leave land that has been foreclosed by the bank and sold at auction and plans to kidnap and possibly kill judges.

Members of the press, including the alternative press, have commented on the fact that what all these people seem to have in common is that they are unwilling to pay their bills.

The *Daily Oklahoman* quoted an official describing these anti-government groups as saying: "We are talking about people who are trying to legitimize being deadbeats and thugs by denying their responsibilities."

But that analysis is at best partially true and at worst dead wrong.

What most of these radical anti-government people have in common—and what most government officials refuse to acknowledge—is that they were, first and foremost, *unable* to pay their bills. It was only after being unable to pay that they took up the notion of being unwilling to pay.

These farmers are the canaries in the coal mine of America's economy. They are in effect monitoring the fallout from the ever widening "gap" between the classes. The canaries are dying and that bodes poorly for the rest of us in the mine.

Both Farmer and Wallace agree that, as a rule, farmers have an extremely strong and perhaps unhealthy sense of morality when it comes to paying their bills. They suffer from deep humiliation and shame when they can't fulfill their financial obligations.

Wallace says, "It's only natural that they would embrace an ideology that comes along and says they are not only not bad for failing to pay their debts but rather are morally and politically correct to not pay their debts. It's a message that provides instant relief from the guilt that's making them sick."

In much the same way, only more dangerous, Christian Identity offers a way out for stressed farm families. Identity teaches that Whites and native Americans are God's chosen people and that Jews are the seed of Satan. Identity believers see a conspiracy of "Satan's army of Jews" taking control of banks, governments, media and most major corporations and destroying the family farm in order to control the food supply. They believe that we are at the beginning of a holy war where identity followers must battle these international forces of evil and establish a new and "just" government based on the principles of the Bible's Old Testament as they interpret it. They become a soldier in a holy war under orders to not give up their land or money to the Jewish enemy.

AND JUSTICE FOR SOME

The renegade legal system known as the "Justice" movement is now estimated to be in more than 40 states. It seems to have as many variations as the fractional anti-government movement that created it. Some mainstream Patriots hold common-law courts at venues where the press and those accused of crimes are invited to attend. Sentences from these publicly held trials usually result in lawsuits, arrest warrants, judgments and liens being filed against public officials.

In Colorado, Attorney Gail Norton has been just one of the targets of these courts. She's had millions of dollars worth of bogus liens filed against her. Across the nation, thousands of public officials including governors, judges, county commissioners and legislatures have been the targets of this new "paper terrorism." In most cases they are found guilty of cavorting with the enemy: the federal government.

Ironically, arresting those involved in this mainstream common law court revolution isn't easy. It's not because they can't be found; it's because they may not be doing anything illegal. Last month, Richard Wintory, the chief deputy of the Oklahoma attorney general's office, told the *Daily Oklahoman* that he could not say whether common-law court organizers had broken any laws.

The debate as to whether or not citizens have a constitutional right to convene grand juries and hold public trials will eventually be resolved. It's only one of the fascinating legal issues being raised by the heartland revolt. But there is a darker side to this vigilante court system, one that deals out death sentences in its quest to deliver justice and create a new and holy government.

In his book Gathering Storm, Dees describes Identity this way: "There is nothing 'goody, goody' to 'tender' bout Identity. It is a religion, a form of Christianity, that few churchgoers would recognize as that of Jesus, son of a loving God. It is a religion on steroids. It is a religion whose god commands the death of race traitors, homosexuals, and other so-called children of Satan."

It is for this reason that the common law courts convened by those groups influenced by the Identity belief system are by far the most dangerous. Death sentences can be doled out for almost any conceivable transgression.

In the remote western Oklahoma farmhouse, Freeman/Identity farmers discussed the Justice movement. One man who had recently lost his farm to foreclosure explained their court system. "What you're seeing right now is just the beginning of taking back our country, the true Israel. The Bible says that we're to be a just people. Where is justice in this country? Our judges turn loose rapists and murderers and put farmers in jail. We're about justice. Why would anyone be afraid of that?

"We're holding courts right now in every part of this land. We're finding people guilty and we're keeping records so we can carry out the sentences. It's the citizen's duty and right to hold common law courts. It's the militia's job to carry out the sentences."

The farmer goes on to explain that Identity doesn't believe in prisons. He says that nearly all serious offenses are dealt with by capital punishment and that this punishment system is based on the Bible, the first 10 amendments to the Constitution and the Magna Carta. When asked how these death sentences would be carried out, he says, "There's a part of the militia that's getting ready to start working on that (death sentences). I think they're ready to go now. You'll start seeing it soon."

Perhaps we already have. Was the Oklahoma City bombing only the largest and most recent example? When asked, the men in the room state emphatically that they have no first hand knowledge of the bombing—even though some of them were questioned by the FBI within days of the deadly explosion. They say the don't condone it because so many innocent people died. But they agree that it may well have been the result of a secret court sentence. The court could have found the AFT guilty for any number of actions—including Waco and Ruby Ridge—and the militia foot soldiers, in this case McVeigh and Nichols, may have simply followed orders to carry out the sentence.

Whatever the case in Oklahoma City, it seems likely that this new and radical system of vigilante justice can't help but produce similar catastrophes.

The process that gave us that bomb was likely the result of the same stress-induced illness that is tearing our country apart one pipe bomb or burned-downed church at a time. Comprehending and healing that illness is our only hope for creating a future free of more bombs, more death and destruction.

IN MEMORY OF MARJORIE MORRIS

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. BERMAN. Mr. Speaker, my colleagues, Mr. WAXMAN, Mr. SHERMAN, and I rise today to honor the memory of our dear friend, Marjorie Morris, who passed away earlier this month. Marjorie was a warm, compassionate and caring woman who spent most of her life helping children and families. She was a wonderful mother to her three children, Blond, Clifford, and Paul, and the loving wife of our close friend, Hugo. Marjorie and Hugo were married for 48 years.

Born in Kansas, Marjorie moved with her family to California when she was a young girl. She met her future husband at UCLA, where both were elected officers of the campus United Nations Association. They were married on September 1, 1949.

Marjorie touched the lives of literally thousands of children. She was a kindergarten teacher in San Fernando, and then a teacher at the Lokrantz School for children with special needs. From 1981 to 1983, she was president of the 4,000-member Southern California Association for the Education of Young Children.

From 1965 to her death Marjorie was a member of the board of directors of the Foundation for Early Childhood Education, an agency that operates 31 Head Start and other sites for 1,500 children.

Marjorie also loved music; she sang in Roger Wagner's choral group at UCLA and conducted a weekly children's folk music program on Radio Station KPFK. Marjorie's family had the good fortune to hear her sing at holiday gatherings. She was blessed with a truly beautiful voice.

We ask our colleagues to join us in honoring the memory of Marjorie Morris, a woman who brought joy and love into the lives of many. She will be missed.

MAST MOUNTED SIGHT (MMS) AND THERMAL IMAGING SENSOR SYSTEM (TISS)

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. DREIER. Mr. Speaker, I rise today to commend the over 200 McDonnell Douglas employees in Monrovia, CA, who are engaged in producing night vision/targeting systems for use by the U.S. Army and Navy. For nearly 10 years, the Army's Mast Mounted Sight [MMS] has been assembled at this facility.

During Desert Shield/Desert Storm, many Americans saw pictures and video images of Army OH–58D Kiowa Warrior helicopters with a large dome over the rotor blades. This dome, or MMS, was developed to increase survivability through its capacity to identify and target potential threats in both day and night, and during adverse weather. Through its multisensor electro-optical sighting system, our pilots were able to see through fog, and storms and thick smoke from burning oil fields, thus allowing our soldiers to own the night.

The U.S. Navy also made wide use of the MMS to protect our warships passing through narrow shipping lanes. More than 200 Mast Mounted Sights were deployed during the Gulf War to spot and destroy floating mines, detect and track antiship missiles, and to destroy enemy missile sites. Even under adverse conditions of war in a desert environment, the MMS maintained a 96 percent mission capable rate.

Using lessons learned from producing the MMS, the team at Monrovia is transitioning their facility to the next generation system known as Thermal Imaging Sensor System [TISS]. TISS is primarily designed for shipboard application and uses a combination of infrared sensor, TV camera and eyesafe laser range finder to detect, recognize and track mines, ships, small boats, low flying aircraft, cruise missiles and swimmers. TISS is fully operational at night and during bad weather, and is effective in close-in operations where radar may be ineffective. It is also useful for navigating and for search and seizure operations.

TISS can easily be adapted to helicopters, fixed wing aircraft and security installations. TISS is now in production and delivery of initial units to the fleet is scheduled for September 1997. The U.S. Navy plans to procure between 120 to 150 systems over the next 6 years.

Over the past few years, my staff and I have visited the outstanding production facility in Monrovia and found both the workers and production line to be of the highest quality. Each and every McDonnell Douglas employee at Monrovia, along with their supplier team, should be extremely proud of their efforts in providing our military forces the finest and most reliable equipment available for carrying out their difficult mission of defending the resources and interests of the United States of America.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill, H.R. 2160:

Mr. KIM. Mr. Chairman, I rise in support of the Cox-Hall compromise amendment. I applaud my two colleagues for working together on this issue to come up with this solution which continues the United States tradition of humanitarian assistance, while preventing direct shipments of food to the rogue regime in North Korea.

Yes, North Korea is ruled by one of the last remaining hardcore Communist dictatorships, and yes, some of the food aid currently flowing into North Korea may be diverted to the military. Nonetheless, I believe that we need to help feed the starving people of North Korea.

The United States has a long tradition of helping feed the world's hungry citizens. The United States has always helped out humanitarian causes. We have always fed people in need: Bangladesh, Cambodia, Congo, Somalia and Haiti, to name a few. Some have had regimes just as awful as North Korea's.

I would like to quickly point out one such country: Ethiopia.

In the 1980's, Ethiopia was suffering through a great famine. Much like North Korea, a natural disaster—combined with the bankrupt policies of the Stalinist Mengistu regime—resulted in millions of starving people.

Yet, we did not deny those people food because of their war-mongering government. We did not let children starve because Mengistu bought tanks instead of food. Instead, we used nongovernment food relief agencies to make sure that the food reached the people who needed it most. This is exactly what this amendment would assure: that our food aid goes through responsible, international organizations, not directly to the Communist government of North Korea.

Currently, our food aid to North Korea is sent through the World Food Programme and other international food-relief organizations. The World Food Programme has monitors on the ground in North Korea who closely follow the food deliveries to make sure that the food gets to the starving people.

USAID has come up to Capitol Hill—and has testified before the International Relations Committee—that the majority of the food does get to the innocent civilians who need it most.

While some food may be diverted, cutting off all food and aid will really only hurt the starving people of North Korea. It will not hurt the ruling communists or the North Korea Army.

Finally, I fear that cutting off this aid would endanger the fragile stability on the Korean Peninsula. While we all want to put pressure on the North Korean regime, I do not want to create a situation where North Korea is blocked so much into a corner and its only response would be to come out fighting. Not with 37,000 United States troops on the Korean peninsula. With the United States troops stationed along the DMZ, are we going to get dragged into another Korean War?

Believe me, in no way do I want to "prop up" the North Korean regime. My family and I were victimized by he Communists in the 1950s. But it is not our food aid that is propping up Kim Jong-Il. Our aid is not enough to really subsidize his regime. It is only enough to help feed the truly starving men, women and children in North Korea: those poor people the Communists have ignored.

Mr. Chairman, I applaud the compromise and call on all my colleagues to support the Cox amendment.

RACE RELATIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 23, 1997 into the CONGRESSIONAL RECORD.

A NATIONAL DIALOG ON RACE RELATIONS

A Member of Congress from southern Indiana does not very often have to deal with the problem of race. Looking back over several years it is difficult for me to remember many public discussions of the race issue in my public meetings. And that is probably because in southern Indiana blacks and Hispanics are a small percentage of the population.

Race, nonetheless, is a dominant strain in our national politics, much as it has been since the settlement of America in the 17th Century. This country has long struggled with the meaning of race and the implications of people of different racial backgrounds living and working together. We fought a Civil War over the issue. When I first came to Congress in the middle of the civil rights era in the 1960s, national debate focused on race relations between whites and blacks. Race relations today are more complex, particularly with the large influx of immigrants from Asia and Central America in the last 20 years. Half a century from now, there will be no majority race in America.

The great challenge of public policy is to lessen historic divisions among the races, to build a country where people of diverse backgrounds can coexist peacefully. Sometimes we confront the issue of race, sometimes we don't. Often it takes a crisis to make us really examine the issue. And even when we do confront it, we have difficulty achieving a national consensus on what exactly to do.

PUBLIC VIEWS ON RACE

Polls suggest that while Americans view race as a serious problem, only one in 10 believes the country faces a racial crisis. Most people, at least most white people, tend to think that there is no race problem or if there is, it is more a problem of individual moral failure than it is of race or racism. Whites also think that the biggest race problem facing the country is the continuation of racial preference policies.

Blacks are far more pessimistic about the racial climate than whites. Three in four white Americans said blacks in their community are treated the same as whites. Only 49% of the blacks agreed. Whites really see very little problem when it comes to opportunities for blacks in jobs, education, and housing. Many blacks see racial discrimination as a fact of life. Most blacks think the government should play a role in addressing the effects of past and present discrimination. Only a minority of whites think that government should make special efforts.

I find in southern Indiana a distinct lack of urgency about racial issues. Many other things are more important to people, such as balancing the budget, creating good jobs, fighting crime, reducing health care costs, and improving educational opportunities. Hoosiers believe race relations have significantly improved since the 1960s. Nonetheless, when matters of race do arise, they can be sharply polarizing.

A NATIONAL DIALOG ON RACE

The challenge is to approach any discussion of racial problems in a manner likely to produce consensus in the country. There has been a trend in recent years toward separation of the races. Blacks and whites may often share a common workplace, but social interaction between the races, whether at school or after work, is limited. The mantra of the civil rights movement used to be integration of the races. Today, there is serious discussion among black and white leaders about the merits of separation and self-help.

President Clinton recently initiated what he hopes to be a national what he hopes to be a national dialog on race by appointing a commission to study ways to improve race relations. He has said he will host public meetings throughout the country to discuss issues of race. Such a dialog may be painful, but also may ultimately be helpful and healing. How the dialogue is carried out makes all the difference. Honesty is critical. It is also important to frame the issues not in terms of conflict, but rather areas of common interest, such as good schools and safe neighborhoods.

My own experience is that the best way to improve relations among races is to have people work together at something they believe both to be worthwhile and important. If you get two adult women, for example, of different races together to talk about the future of their children, you can see the making of harmony and consensus. People who may not believe they have very much in common learn that they really do. A dialogue that simply leaves people feeling that we remain far apart doesn't get us very far.

ROLE OF GOVERNMENT

Some will argue that any national effort to improve race relations must include a strong commitment of federal resources to break the cycle of poverty, improve schools, and provide jobs. But in today's budget and political climate, that's just not possible. Public policy is focused on cutting the budget and cutting taxes, not on financing massive new government programs. There is no possibility that Congress would approve a massive new social program.

Government can nonetheless play an important role. Expanding opportunities, particularly educational opportunities, must be a top priority. The more Americans who have a full opportunity to participate in a growing community, the stronger the community becomes. Obeying and enforcing the law are also fundamental to improving racial relations. We have a long list of civil rights laws on the books today, but also a backlog of discrimination claims. It is also important to recruit and encourage people of all races for political, civic, and business leadership so we can develop common solutions to our problems.

CONCLUSION

We still have a long way to go before we feel really comfortable working with each other, living with each other, and helping each other solve problems. We have torn down many of the legal barriers in the country. We have not been as successful breaking down the barriers in our hearts and minds.

I do find that Hoosiers, like most Americans, really would like to talk about the racial problems in their communities, in the state, and in the nation. A national dialogue on race which helps reduce the gaps in knowledge and perception will have merit. The right kind of dialogue can help us move forward in dealing with the challenges of race. The wrong kind of dialogue can hold us back.

ON THE INTRODUCTION OF THE TEACHING EXCELLENCE FOR ALL CHILDREN (TEACH) ACT OF 1997

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. MILLER of California. Mr. Speaker, I rise today to offer The Teaching Excellence for All Children (TEACH) Act of 1997.

This legislation addresses a long-standing concern that many of our Nation's school children are being taught by teachers who are not qualified to teach in their subject areas. This is a disservice to students, to parents, to the teachers themselves, and to taxpayers.

The problem, documented in several studies, will only get worse as the student population continues to rise along with the demand for ever more new teachers.

Parents have a right to know whether their children are being instructed by qualified teachers. And taxpayers have a right to expect Congress to do all it can to ensure that federal education dollars are being spent in a responsible manner. I believe this legislation addresses both of those important demands.

Under this legislation, states receiving Federal education funds would set clear standards for teacher quality. The bill also will ensure accountability for federally supported teacher education, provide financial rewards to teachers who choose to teach in high-need schools and who pursue advanced teaching credentials, and establish local community partnerships to help to schools to recruit and retain qualified teachers.

TWO MILLION TEACHERS NEEDED OVER NEXT NINE YEARS

The number of elementary and secondary school students is expected to increase each successive year between now and the year 2006, from the current level of 51.7 million to an all time high of 54.6 million.

The need for qualified teachers will increase accordingly. Between now and 2006, enrollment and teacher retirement together will create demand for an additional 2 million teachers.

The shortage right now of qualified teachers to fill this demand is a significant barrier to students receiving an appropriate education.

TOO MANY TEACHERS ARE NOT FULLY QUALIFIED TO TEACH IN THEIR SUBJECT AREAS

Last September, the National Commission on Teaching and America's Future found that one-quarter of classroom teachers were already not fully qualified to teach in their subject areas. An even newer report—forthcoming from the Department of Education—indicates that 36% of teachers have neither a major nor minor in their main teaching field. Both reports show that the problem is even more serious in academic subjects such as math and science and in schools with high numbers of low-income and minority children.

Research evidence suggests that teacher quality is probably the single most important factor influencing student achievement. Now is the time to redouble efforts to ensure that all teachers in our Nation's public schools are properly prepared and qualified and that they also receive the ongoing support and professional development they need to be effective educators.

A FAIR DEAL FOR TEACHERS

Teachers are among the hardest working people in our country and they certainly have one of the most important jobs in our country. The vast majority of teachers deserve our wholehearted admiration, respect, and gratitude.

Unfortunately, our public polices have not always reflected this attitude. As the Association for Supervision and Curriculum Development recently pointed out, "teacher education, which encompasses preservice preparation as well as ongoing professional development, has suffered a chronic lack of funding resources, and status in the United States, particularly as compared to education in other professional fields."

In addition, the Teaching for America's Future report pointed out that: "Not only do U.S. teachers teach more hours per day but they also take more work home to complete at night, on the weekends and holidays." At the same time, the report goes on to say that "Other industrialized countries fund their schools equally and make sure there are qualified teachers for all of them by underwriting teacher preparation and salaries. However, teachers in the United States must go into substantial debt to become prepared for a field that in most states pays less than any other occupation requiring a college degree."

I think the public is willing to address these issues. Education tops the list of concerns in most public opinion polls. But at the same time, parents and taxpayers want greater accountability to ensure that any additional resources directed at improving teacher quality have a maximal impact on student achievement.

By coupling support for teachers with enhanced accountability, this bill is a win-win for all those involved-educators, parents, taxpayers and, above all, our Nation's schoolchildren.

125TH ANNIVERSARY CELEBRATION OF PEARL RIVER, NEW YORK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. GILMAN. Mr. Speaker, I rise today in recognition of the 125th anniversary of Pearl River, NY, this year. This is indeed a great moment for the people of this Rockland County, NY community, and I invite my colleagues to join with me in extending our congratulations to the Pearl River community on this momentous occasion.

It was on the 11th day of January, 1872, that a post office was founded in Pearl River, signaling the emergence of a community in that area. Since then it has steadily grown to become the second largest hamlet in the State of New York. Pearl River might well have remained a small, sleepy back-woods locality, had it not been for the coming of the railroad, which literally opened Pearl River to the outside world, allowing the place, and with it the people, to grow and diversify. However, although many things have changed in Pearl River over the last 125 years, one thing still remains the same: Pearl River's pride in its merchants and community. In 1997, a person can walk down the streets of Pearl River and still feel the sense of self-respect and security that was felt all those years ago. Indeed, Mr. Speaker, every year I look forward to the parade held in Pearl River on St. Patrick's day, which according to "The Almanac of American Politics" is the third largest St. Patrick's day parade in the world.

A committee has been set up to oversee Pearl River's anniversary celebrations, in what promises to be an action-packed, fun-filled week of excitement and jubilation. Festivities will begin on Sunday, July 27, 1997, with events for all age groups and interests. The calendar of events is filled with such diverse activities as a bicycle race, musical performances, slide shows, and the cutting of the 125th birthday cake. Celebrations will end with a parade, to be held on Sunday, August 3.

Mr. Speaker, in joining the celebration on this auspicious occasion, I once again invite our colleagues to join with me in extending our greetings and congratulations, and wishing the people of Pearl River continued progress, growth and happiness for the next 125 years.

STAMP OUT BREAST CANCER ACT

SPEECH OF

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

Mr. UNDERWOOD. Mr. Speaker, I rise today to express my strong support for H.R. 1585, the Stamp Out Breast Cancer Act. The bill would authorize the Postal Service to establish a special postage stamp, priced one cent above the price of ordinary first class postage, the revenues from which would go toward the research of breast cancer. Seventy percent of the profits would go to the breast cancer research at the National Institutes of Health, and the remaining 30 percent would go to the Defense Department where breast cancer research is also conducted.

The importance of breast cancer research cannot be over-emphasized. More than 1.8 million women in America have been diagnosed with cancer. Each year, nearly 50,000 die. Although medical research and greater public awareness have gone a long way toward improving these statistics, through early detection and more effective treatment, the challenge still remains. As you may know, I have long been a strong supporter of legislation that helped promote breast cancer research and treatment. In the 104th Congress I cosponsored a bill that provided Medicare coverage for annual screening of cancer for women over the age of 65. I also supported H.R. 418, the Breast Cancer Early Detection Act, which required Medicare to cover annual mammograms for women over the age of 65.

Now, in the 105th Congress, I rise in support of the Stamp Out Breast Cancer Act, an innovative and effective weapon in the battle against breast cancer. The act deserves special praise in two particular aspects. First, the act insures that Federal support for breast cancer research is not decreased, offsetting the increased funds raised through the special postage rate. Second, the act helps increase public awareness and involvement in this worthy cause by allowing them to make voluntary contributions to breast cancer research through their purchase of the stamp. Once again, I state my unwavering support of the Stamp Out Breast Cancer Act and urge my fellow Members of Congress to do likewise.

DENYING LEGAL IMMIGRANTS VALUABLE PRENATAL CARE SERVICES ISN'T EVEN PENNY WISE—IT'S JUST POUND FOOLISH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. STARK. Mr. Speaker, today I rise to defend the rights of legal immigrants in our country. In particular, I would like to address the potential health care crisis that is threatening the well-being of our legal immigrants and our health care system.

In the quest to shrink the Federal budget deficit, many government programs have been threatened. Many of my Republican colleagues would lead you to believe that eliminating funding for legal immigrant health care is a fiscally and morally responsible way of attacking the deficit. In the new welfare law, my colleagues have done just that, by leaving many health care funding decisions to state governors. As a result, health insurance programs that currently benefit legal immigrants, such as California's Medi-Cal Program, stand to lose funding when money-strapped states refuse to appropriate sufficient funds. Legal immigrant prenatal care is an example of an essential government funded health care program that stands to suffer. Cutting spending by ignoring the health care of those folks is a perverse approach to reforming our Government.

While the benefits of regular prenatal care are widely known, I would like to refresh the memories of some of my colleagues. Regular prenatal care helps to prevent birth outcomes that can be both physically and financially disastrous and distressing. Reductions in infant mortality, long-term disability, and infant and maternal illnesses have been demonstrated in numerous studies documenting the importance of prenatal care. Healthier mothers and babies lead happier lives, resulting in smaller health care costs in the long run.

Legal immigrants deserve the same access to these essential prenatal care services as full citizens. We owe much of our country's development and success to legal immigrants. My ancestors and most of the ancestors of my colleagues and fellow citizens entered the country as immigrants. We need to acknowledge not only the contributions of past immigrants, but of current legal immigrants. Many legal immigrants today serve in our military and are hard-working taxpayers. They deserve basic health services in return for their contribution to society.

If legal immigrants are denied access to such effective prenatal care, both the government and these immigrants will suffer. In my home state of California nearly 1 million legal immigrants rely on Medi-Cal for their medical coverage, many of which receive prenatal care. If California gains more independent leverage in funding Medi-Cal, as is proposed in the welfare law, innocent mothers and babies stand to be denied preventive care. Instead, they will crowd our hospitals and emergency rooms for avoidable crisis care as well as routine matters. The costs that our state will have to absorb will well offset any savings incurred through the welfare law. This process will be repeated throughout the country, leaving millions of legal immigrants and their states, in dire financial, not to mention public health, straits.

I am baffled by why my Republican colleagues would want to encourage the demise of prenatal care programs for legal immigrants just as programs such as Medi-Cal have proven to work so well. According to the California Policy Seminar, Medi-Cal expansions during the 1990's have increased the percentage of pregnant women who received adequate care once they began prenatal care from 72 percent in 1990 to 85 percent in 1995. Willfully halting the progress that has been made in prenatal care availability is irresponsible, immoral, and illogical. Instead of dismantling prenatal care programs for legal immigrants we should be focusing on improving the timeliness of care received by legal immigrant mothers. I appeal to my colleagues to consider these realities as we continue to debate budget expenditures.

The attached summary of a California Policy Seminar study on prenatal care documents the need to maintain coverage for legal immigrant prenatal care services. An investment in important preventive health programs secures a healthy future for our country and the legal immigrants who will continue to be integral to our progress as a nation.

[California Policy Seminar Brief Vol. 9 No. 2 June 1997]

ACCESS TO MATERNITY CARE IN CALIFORNIA

(By Paula Braveman, Kristen Marchi, Susan Egerter, Michelle Pearl, Lisa Nelson, Michelle McDermid)

IMPLICATIONS FOR FUTURE POLICY

This report presents findings from a study of 10,132 women who gave birth in California during 1994–95, based on previously unavailable data concerning characteristics of the women delivering in the state, their income and insurance status, their use of prenatal care, and barriers to care remaining after Medi-Cal eligibility expansions. These findings suggest several important considerations for policy making and for the design of health care services to improve birth outcomes in California.

- The majority of women who deliver in California are low-income—a finding that needs to be reflected in the design of perinatal health care delivery.
- The expanded prenatal coverage needs to be maintained, not reduced. The expansions of Medi-Cal income eligibility for pregnant women have been successful in ensuring that virtually all (98%) pregnant women in California during 1994–95 had health insurance coverage at some time during their pregnancies. This represents considerable progress since 1990, when only 89% of pregnant women in California had prenatal insurance.[2] Because uninsured women are currently almost all income-eligible for Medi-Cal, there does not appear to be a need to expand income eligibility beyond 200% of the poverty level. However, legislative efforts to eliminate Medi-Cal eligibility for immigrants threaten to increase the number of low-income women without coverage for prenatal care. While this study did not obtain information on immigration status, it did find that 28% of women with Medi-Cal coverage during pregnancy had lived in the United States for five years or less. Thus, the number of women who could remain uninsured during pregnancy, either because they no longer qualify for Medi-Cal or because they fear deportation if they enroll, is potentially high.
- The success of Medi-Cal income eligibility expansions has been demonstrated by improvements both in the provision of coverage to low-income women at some time during their pregnancies, and in the proportion of women who receive an adequate number of visits once they begin care. The greatest remaining challenges are ensuring that low-income women receive timely coverage and timely prenatal care.
- Timing of prenatal care initiation was related to whether the pregnancy was planned or wanted. Continued support for programs such as the State-only Medi-Cal family planning program may help reduce unplanned or unwanted pregnancies as well as contribute to timely prenatal care for women who choose to become pregnant.
- The importance of pre-pregnancy care for improved birth outcomes has been described by others.[6] In current study nearly half (49%) of women with Medi-Cal coverage reported having no regular source of care before pregnancy, and these women were 40% more likely to have had untimely care than were women with a regular source of care, controlling for other risk factors. Improvement in the number of women with a pre-pregnancy source of health care could be expected by providing all women with continuous insurance coverage.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 24, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 25

9:30 a.m.
Foreign Relations
To hold hearings on the nominations of Maura Harty, of Florida, to be Ambassador to the Republic of Paraguay, and James F. Mack, of Virginia, to be Ambassador to the Co-operative Republic of Guyana.
SD–419

10:00 a.m.
Governmental Affairs
To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.
SH–216

Veterans' Affairs
To hold hearings on pending legislation.
SR–418

JULY 28

1:00 p.m.
Special on Aging
To hold hearings to examine the amount of fraud in the home health care system and ways to identify and deter fraud, waste and abuse in health care.
SD–562

2:00 p.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings on S. 474, to prohibit gambling on the Internet.
SD–226

JULY 29

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the effect of the Federal Agriculture Improvement and Reform Act (P.L. 104–127) on price and income volatility, and the proper role of the Federal government to manage volatility and protect the integrity of agricultural markets.
SR–332

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 967, to amend the Alaska Native Claims Settlement Act

and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and S. 1015, to provide for the exchange of lands within Admiralty Island National Monument.

SD–366

Labor and Human Resources

To hold hearings to examine the status of educational opportunities for low-income children.

SD–430

10:00 a.m.

Foreign Relations

To hold hearings on the nominations of Richard Dale Kauzlarich, of Virginia, to be Ambassador to the Republic of Bosnia and Herzegovina, James W. Pardew, Jr., of Virginia, for the rank of Ambassador during his tenure of service as U.S. Special Representative for Military Stabilization in the Balkans, Anne Marie Sigmund, of the District of Columbia, to be Ambassador to the Kyrgyz Republic, Keith C. Smith, of California, to be Ambassador to the Republic of Lithuania, and Daniel V. Speckhard, of Wisconsin, to be Ambassador to the Republic of Belarus.

SD–419

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

To hold hearings to examine the copyright infringement liability of on-line and Internet service providers.

SD–226

2:00 p.m.

Judiciary

Constitution, Federalism, and Property Rights Subcommittee

To resume hearings to examine issues with regard to the constitutional role of federal judges to decide cases and controversies, focusing on the problem and impact of judicial activism, whereby federal judges' decisions are based on policy preferences.

SD–226

2:30 p.m.

Commerce, Science, and Transportation

To hold hearings on S. 268, to regulate flights over national parks.

SR–253

JULY 30

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Environment and Public Works

To hold hearings on S. 1059, to amend the National Wildlife Refuge System Administration Act of 1066 to improve the management of the National Wildlife Refuge System.

SD–406

Indian Affairs

Business meeting, to mark up S. 569, to amend the Indian Child Welfare Act of 1978 to provide for retention by an Indian tribe of exclusive jurisdiction over child custody proceedings involving Indian children and other related requirements; to be followed by an oversight hearing on the Bureau of Indian Affairs Special Trustee's strategic plan to reform the management of Indian trust funds.

SD–106

10:00 a.m.

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

To resume hearings to examine the terms and parameters of the proposed Global Tobacco Settlement which will mandate a total reformation and restructuring of how tobacco products are manufactured, marketed and distributed in America.

SD–G50

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings to review the management and operations of concession programs within the National Park System.

SD–366

JULY 31

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine how trade opportunities and international agricultural research can stimulate economic growth in Africa, thereby enhancing African food security and increasing U.S. exports.

SR–332

10:00 a.m.

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

2:00 p.m.

Judiciary

Immigration Subcommittee

To hold hearings to review annual refugee admissions.

SD–226

SENATE—*Thursday, July 24, 1997*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, our day is filled with challenges and decisions. In the quiet of this magnificent moment of conversation with You we dedicate this day. We want to live it to Your glory.

We praise You that it is Your desire to give Your presence and blessings to those who ask You. You give strength and power to Your people when we seek You above anything else. You guide the humble and teach them Your way. Help us to humble ourselves as we begin this day so that no self-serving agenda or self-aggrandizing attitude will block Your blessings to us or to our Nation through us. Speak to us so that we may speak with both the tenor of Your truth and the tone of Your grace.

Make us maximum by Your spirit for the demanding responsibilities and relationships of this day. We say with the Psalmist, *God, be merciful to us and bless us, and cause Your face to shine upon us, that Your way may be known on earth, Your salvation among the nations.*—Psalm 67:1–2. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COCHRAN of Mississippi, is recognized.

SCHEDULE

Mr. COCHRAN. Mr. President, this morning the Senate will resume consideration of S. 1033, the agriculture appropriations bill.

By previous consent, there will be 10 minutes of debate equally divided between Senator COCHRAN and Senator WELLSTONE on the Wellstone amendment regarding school breakfast outreach.

Also, by consent, at 10 a.m., the Senate will proceed to a series of rollcall votes on the remaining amendments to the agriculture appropriations bill, including final passage.

Following disposition of the agriculture appropriations bill, it is the intention of the majority leader to proceed to consideration of the transportation appropriations bill.

Therefore, Members can anticipate additional rollcall votes throughout today's session of the Senate.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS, 1998

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, the Senate will now resume consideration of S. 1033, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1033) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Wellstone amendment No. 972, to provide funds for outreach and startup of the school breakfast program.

AMENDMENT NO. 972

The PRESIDING OFFICER. By previous order, we have 10 minutes on the Wellstone amendment: 5 minutes controlled by the Senator from Minnesota and 5 minutes controlled by the floor manager of the bill.

Who seeks time?

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Greg Renden, an intern in my office, be allowed to be on the floor for the duration of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I offered this amendment last night. We had a fairly thorough discussion. I don't think this is an adversarial relationship with my colleague from Mississippi.

Let me just briefly summarize.

This amendment revives what is called the Outreach and Start Up Grant Program for school breakfasts. Let me point out to my colleagues what this is about.

This is a Children's Defense Fund poster. "Remember these hungry kids in China? Now they are in Omaha." They could be in any of our States.

We have 5.5 million American children who do not regularly get enough to eat. There was a $5 million outreach program that we eliminated last year in the welfare bill. I don't think colleagues knew what they were voting on. They did when it came to the overall welfare bill. But this was one tiny provision.

The argument that was made about this outreach program was that it was too successful. That is to say, we have 8 million children who could qualify for the School Breakfast Program but don't receive it because many school districts and States aren't yet able to set it up.

This $5 million outreach program made a huge difference. It was very successful, and, indeed, the School Breakfast Program is credited as being one of the most successful nutritional programs in our country.

I fear that too many of my colleagues do not understand that there are children in our country who go to school hungry, and we are not doing very much about it. When children go to school hungry, they don't do well in school, and when they don't do well in school they can't learn, and when they are adults later on they can't earn.

It is very shortsighted that we eliminated this program. We should not have done so.

Mr. President, there are 8 million children spread across 27,000 schools who go to school hungry or are malnourished or without enough to eat. The distinctions aren't that important. We can do better.

For $5 million we can have an outreach program that will enable more of our States and more of our school districts to provide a school breakfast, a nutritious meal, to children before they start school.

Mr. President, again this is an extremely effective program. Study after study has really pointed out that the School Breakfast Program makes an enormous difference. It makes an enormous difference in terms of overall test scores. It makes an enormous difference in terms of whether students drop out of school or not, whether they arrive at school on time, and how well they do.

Clearly this amendment speaks to priorities. Surely we can find $5 million.

Mr. President, the offset is from funds allocated to the crop insurance companies for which right now the total amount is $202 million. In the Senate we have $24 million more than the House appropriated. We have $52 million more than the President appropriated.

The GAO in a very critical report of this insurance program pointed out that there is $81 million more than the companies' expenses for selling and servicing crop insurance.

I am very careful to maintain the integrity of this program—a mere $5 million transfer, $5 million out of $24 million more than the House allocated, $5 million out of $52 million we have more

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

than the President asked for, which could go to an outreach program for school breakfast.

I make this appeal to colleagues. There are too many children in our country who are malnourished. There are too many children who cannot learn. There are too many children who have rotting teeth because they don't get the decent meals that they deserve and the adequate meal that they deserve and the nutrition that they deserve. There are too many children who aren't able to concentrate in school. There are too many children who suffer from health care problems because they don't have an adequate diet.

We never should have done that. We never should have done this. We eliminated the most successful outreach program—total cost for the whole Nation, $5 million.

Surely it is not asking too much of my colleagues to allocate a transfer of this small amount of money to make sure that we provide children with an adequate breakfast, with a decent meal, so that they can start school on the right foot and do well.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume to remind Senators that this is an issue that came up during the welfare reform debate. The President proposed repeal of these startup grants during last year's welfare reform debate.

In addition, the Democratic substitute welfare reform bill and the Republican welfare reform bill contained a provision to repeal these grants. Funds were taken from the grant program to expand the school breakfast and summer food service programs.

Additionally, the Senate voted on a similar proposal to the Wellstone amendment on the Department of Defense authorization bill on July 9 and defeated it by a vote of 65 to 33.

The question is not whether we need to do more in terms of acquainting students and school districts and parents with the availability of these important nutrition programs. The question is: Do we need Federal dollars that could otherwise go to the feeding programs themselves to be diverted for that purpose, or do we need to divert, as the Senator suggests, funds from other parts of this appropriations bill which are needed for other matters?

Our suggestion is that we try to do a better job of working with local school districts, with parent groups, with the schools themselves, to make sure that all students are aware of the availability of these programs.

We have increased funding for all of the food nutrition programs as a whole. The WIC program, for example, has over $200 million increased funding in this bill to guarantee that the current participation rate will not be compromised as a result of our effort to reduce spending and balance the budget.

We are protecting those who are vulnerable. We are protecting those who need assistance to meet their nutrition needs in this budget.

This is a sensitive bill on this subject, and I urge all Senators to vote against this amendment.

Mr. President, I yield the remainder of my time.

I move to table the Wellstone amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, the vote on the amendments under the order will commence at 10 a.m. We have not yet reached that hour.

Let me, for the information of Senators, remind them that we have other amendments that were stated in the order as subject to votes beginning at 10 o'clock this morning with 2 minutes for debate between each amendment, which will be stacked with time equally divided.

Those amendments under the order are the Wellstone amendment; the managers' package, which was adopted last night; the Bingaman amendment on CRP, which we are advised will not be offered; the Robb amendment on farmers' civil rights, which we hope will be resolved on a voice vote. We have proposed an alternative to the Robb amendment which is under consideration now, we are told, and a Johnson amendment on livestock packers' issues. We are advised that that will not be offered.

So, with the vote on the motion to table the Wellstone amendment, and if we do not need a vote on the Robb amendment, then we will move to final passage immediately after the vote on the motion to table the Wellstone amendment.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that David Schindel, a legislative fellow in my office, be granted floor privileges for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

FARMERS' CIVIL RIGHTS

Mr. ROBB. Mr. President, I have an amendment that we have been working very hard to work out. I commend and appreciate the cooperation of the chairman and the ranking member of the Agriculture Committee.

It is an amendment that has been requested specifically by the Secretary of Agriculture to address a very serious problem. We have had documented discrimination by the U.S. Department of Agriculture against minority and impoverished farmers over an extended period of time. A report that he requested that took 90 days to compile again documented the same problem. We have reports going back to 1995 to document the problem.

To the best of my knowledge, no Senator who has worked with me or worked on this particular problem has suggested in any way, shape, or form that the problem does not exist and that we do not have an obligation to solve it. The only difficulty that we have run into is identifying the precise offset. The offset that the Secretary of the Department of Agriculture recommended is one in terms of a very small reduction in the Crop Insurance Program, taking it down from 28 to 27.9, I believe it is.

I hope that by the time the vote will actually be required we will have resolved this particular question. If we do not, I say and I pledge to those involved on both sides of the aisle that we will do everything we can between now and conference to ensure that we have an offset that is consistent with the programs that the various Members are interested in protecting but, most importantly, addresses this situation.

The bottom line is that the investigative unit in the Department of Agriculture, unbeknownst to the farmers who were affected by the discrimination, was abolished 13 years ago, and they were relying on that. The Department of Agriculture says they need this particular remedy to solve the problem.

We will work with the committee and work with the conferees, if necessary, if we can't come up with the right offset. But I hope that this can be accepted, and if it is not, I hope that we get a vote on it—a very positive vote on it. We will certainly work hard to make sure that we have the appropriate offset at the appropriate time.

Thank you, Mr. President.

Mr. COCHRAN. Mr. President, I am happy to hear the remarks of the distinguished Senator from Virginia, and I am encouraged by his attitude to try to work this out so that we will not have to prolong the time of Senators this morning on a rollcall vote if it is not necessary. We think that this is a matter of importance as well, and we hope that adequate funds can be made available so that there can be in the office of civil rights in the Department of Agriculture funds needed to carry on this important work.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 972, AS MODIFIED

Mr. WELLSTONE. I have just been conferring with my colleagues from Kansas and Arkansas. I ask unanimous consent that I be able to modify my amendment that the offset be from travel and administrative costs within the Department of Agriculture.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. I have no objection.

Mr. WELLSTONE. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator send the modification to the desk.

The amendment is so modified.

The amendment (No. 972), as modified, is as follows:

On page 47, line 6, strike "$7,769,066,000" and insert "$7,774,066,000".

On page 47, line 13, insert after "claims" the following: ": *Provided further*, That not less than $5,000,000 shall be available for outreach and startup in accordance with section 4(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(f))".

On page 66, between lines 12 and 13, insert the following:

SEC. 728. OUTREACH AND STARTUP FOR THE SCHOOL BREAKFAST PROGRAM.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

"(f) Outreach and Startup.—

"(1) Definitions.—In this subsection:

"(A) Eligible school.—The term 'eligible school' means a school—

"(i) attended by children, a significant percentage of whom are members of low-income families;

"(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

"(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

"(B) Service institution.—The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)).

"(C) Summer food service program for children.—The term 'summer food service program for children' means a program authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(2) Payments.—The Secretary shall make payments on a competitive basis and in the following order of priority (subject to the other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(3) Payments additional.—Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) of this section and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(4) State plan.—To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

"(5) School breakfast program preferences.—In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year,

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a school breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(6) Summer food service program preferences.—In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(7) Recovery and reallocation.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(8) Annual application.—The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(9) Greatest need.—Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

"(10) Maintenance of effort.—Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.".

At the end of the bill, insert the following new section:

Sec. . The Secretary shall reduce funding for travel and office expenses within the Department of Agriculture sufficient to reduce spending in terms of budget authority and budget outlays by an amount sufficient to fully cover the costs of the outreach and startup grants for the School Breakfast Program.

The PRESIDING OFFICER. The question now is on agreeing to the motion to table the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "nay."

The PRESIDING OFFICER (Mr. ROBERTS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—54

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
Domenici
Enzi
Faircloth
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Johnson
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—45

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Graham
Harkin
Hollings
Inouye
Jeffords
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Torricelli
Wellstone
Wyden

NOT VOTING—1

Kennedy

The motion to lay on the table the amendment (No. 972) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi will be recognized. Prior to the Senator speaking, however, the Senate will come to order.

Mr. STEVENS. Mr. President, we do not have order.

The PRESIDING OFFICER. The Senator from Alaska is correct.

The Senator from Mississippi is recognized.

AMENDMENT NO. 977

(Purpose: To provide additional funding for the Outreach Program for Socially Disadvantaged Farmers and earmark funds for the civil rights investigative unit)

Mr. COCHRAN. Mr. President, under the order, there is an opportunity for the offering of a Robb amendment on farmers civil rights. We have now worked out an alternative to the amendment that was first presented. I will yield the floor to the Senator from Virginia to describe his amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. ROBB] proposes an amendment numbered 977.

Mr. ROBB. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 3, strike "$24,948,000" and insert in lieu thereof "$26,948,000".

On page 7, line 16, before the period, insert the following: ": *Provided further*, That of the total amount appropriated, not less than $13,774,000 shall be made available for civil rights enforcement, of which up to $3,000,000 shall be provided to establish an investigative unit within the Office of Civil Rights".

On page 34, line 6, strike "$47,700,000" and insert in lieu thereof "$44,700,000".

On page 35, line 1, strike "$3,000,000" and insert in lieu thereof "$4,000,000".

Mr. ROBB. Mr. President, I rise today to offer an amendment to the Agriculture appropriations bill that will provide USDA with the resources to reestablish the Department's investigative unit and to improve outreach efforts, ensuring equal access for all farmers in USDA programs. This amendment will allow the Department of Agriculture to resolve the backlog of complaints made by farmers who have suffered racial discrimination at the hands of USDA, and will provide the Department with the resources necessary to eradicate discrimination and improve small and minority farmers' participation in agricultural programs.

Mr. President, discrimination of any kind is offensive. But it is even more repugnant when it is practiced by people within the Federal Government—the very body that is supposed to come to the aid of the disadvantaged and the dispossessed. Sadly, Mr. President, the Department of Agriculture has had a long history of discrimination against minority and disadvantaged farmers, as well as minority and women employees.

Mr. President, for too long serving the needs of small and disadvantaged farmers has clearly not been a priority for USDA, and until recently the Department had not supported any coordinated effort to address this problem. In fact, despite decades of documented discrimination in program delivery and employment, USDA acknowledges today they have a backlog of nearly 800 racial discrimination complaints by farmers, some of which have been pending for over 7 years. Even Agriculture Secretary Dan Glickman admits that for "far too long USDA has turned a blind eye to serious, pervasive problems with [the] civil rights system." Fortunately, Secretary Glickman is committed to fixing this long-standing problem, but he needs the tools to accomplish the task.

Mr. President, I have discovered that although studies, reports, and task forces from 1965 to 1997 have all documented discrimination and mistreatment of minority and socially disadvantaged customers, as well as agency employees, many do not know the extent of these long-standing problems plaguing the Department.

The reality is black farmers in the United States are dwindling at three times the rate of farmers nationwide—nearly to the point of extinction.

In December 1996, after a group of black farmers demonstrated outside the White House calling for fair treatment in agricultural lending programs, Secretary Glickman promptly called for a national forum, and appointed a Civil Rights Action Team to conduct a thorough audit of USDA civil rights issues inside and outside the department.

Within 90 days, the Civil Rights Action Team published a 121-page report confirming not only that small and minority farmers had often not been served at all, but in many cases the service provided by USDA appeared to be detrimental to their survival. Minority farmers have lost significant amounts of land and potential farm income as a result of discrimination by USDA agencies.

Secretary Glickman came to the Capitol just last week and addressed the House Agriculture Committee on racial discrimination. The Secretary admitted that his Department has "a long history of both discrimination and perceptions of unfairness that go back literally to the middle of the 19th century." The Secretary acknowledged that USDA does not fully practice what they preach, and during field hearings he had spoken to people who had lost their farms and lost their family land, as he said, "not because of a bad crop, not because of a flood, but because of the color of their skin." The Secretary went on to state his desire to close this chapter of USDA's history and stated his goal is "to get USDA out from under the past and have it emerge in the 21st century as the Federal civil rights leader."

I commend the Secretary for his leadership in candidly and openly addressing an issue that for too long has plagued the U.S. Department of Agriculture. I am convinced that his commitment to eradicating discrimination at USDA is genuine, but before we can solve the problem prospectively, we have to focus on the problem at hand, the nearly 800 pending complaints.

I initially intended to offer an amendment to the Agricultural appropriations bill that would give USDA the necessary authority and resources to eliminate any legal impediments and expedite the settlement of the nearly 800 pending discrimination complaints by farmers against the Department of Agriculture.

After speaking to Secretary Glickman on Monday, the Secretary indicated that he intends to settle claims out of the Judgment Fund and that he does not view the identification of a funding source as an impediment to entering into appropriate settlements. Because he is persuaded that existing mechanisms can be used to provide appropriate remedies to those aggrieved, my original amendment, at this time, will not be necessary.

The Secretary did alert me to two areas where he urgently needs additional funds, however. These two areas are directly related to resolving the current backlog of racial discrimination complaints by farmers, and my current amendment addresses this need.

In 1983, the civil rights investigative unit at USDA was simply abolished. For 14 years, farmers were led to believe their cases were being investigated when in truth they were not. As a result, determinations were being made on some cases based on preliminary findings often compiled by the person accused of discrimination and the backlog of cases has grown to 798 complaints.

Without investigation, virtually none of the complaints can now be settled. That's why the Secretary needs to reestablish the investigative unit to finally resolve the longstanding problem plaguing the Department of Agriculture. The Secretary's goal is to establish a 34-person investigative unit to address the backlog by July 1998 and to ensure timely resolution of all future complaints, and my current amendment provides the Secretary with $2 million for that purpose.

Mr. President, the process for resolving complaints has failed our Nation's farmers. Today, we have to give the Secretary the necessary resources so that he may back up his sympathetic words with action. We have to begin investigating these complaints so the farmers' cases, some over 7 years old, can finally be settled.

Mr. President, the Secretary has also indicated that the funding level currently in the Agriculture appropriations bill for the Outreach for Socially Disadvantaged Farmers and Ranchers Program is insufficient. My new amendment provides USDA with an additional $1 million to improve USDA outreach efforts. The Department acknowledges that poor outreach efforts are central to the USDA's failure to meet the needs of minority farmers. Increased funding, as well as improved targeting, will improve minority participation in USDA programs and will demonstrate the Department's commitment to serving their needs.

Virginia farmers have told me the importance of this outreach effort and I agree, equal program access for all farmers is crucial.

Before President Clinton can lead this country in a discussion about race relations, we must first confront the discrimination within our Federal Government. We must resolve the underlying civil rights problems at USDA to make the system work for both customers and employees. Congress can help those individuals at the U.S. Department of Agriculture actually interested in improving USDA's ability to serve agriculture and our Nation with the necessary resources to provide appropriate remedies for those aggrieved. For it is only after USDA makes amends for its past injustices that they can face the bigger challenge of eradicating discrimination at all levels within the Department of Agriculture.

Mr. President, if reluctance to resolve these longstanding issues continues much longer, then the problem may well sadly resolve itself. Without immediate action we could lose all of our minority farmers and an important part of our heritage forever. I would certainly hope that no Member of Congress would want to see that happen.

Mr. President, very briefly, I thank the chairman and the ranking member of the Agriculture Committee. A number of Members in agricultural States presented difficulties with the original proposed solution, none more important than the current Presiding Officer who apprised this Senator of concerns about one of the original offsets. We have now worked it out, where there is agreement on both sides. It is supported by the administration.

Basically, this reestablishes the investigative unit for the Department of Agriculture.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from West Virginia is precisely correct.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Thank you, Mr. President. As I say, this amendment will reestablish the investigative unit for the Office of Civil Rights. It will provide the additional money necessary for the outreach for minority and socially disadvantaged farmers. This is precisely what the Secretary of Agriculture said is necessary to solve a vexing problem that has been with the department for decades. Literally it has been documented time and time again.

I thank all Senators who worked on finding the appropriate offsets so we could provide the funding that the department has requested. I believe it has been cleared and approved on both sides.

With that information, I urge adoption of the amendment at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 977) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PEANUT PROGRAM

Mr. SHELBY. Mr. President, I rise today to express my continued support for the peanut program.

Mr. President, just last year the Senate completed a comprehensive review of all federally sponsored farm programs. This review prompted extensive debate in this chamber—debate in which divergent positions were articulated and competing interests were expounded. Ultimately, after much hard work, consideration and compromise, the Senate produced the landmark 1996 farm bill.

The farm bill sets Federal farm policy through the year 2002 and contains fundamental changes which have impacted every facet of Federal involvement in farm programs—from crop subsidies, conservation practices and rural subsidies to credit, research and trade policies. Included in this legislation were provisions that specifically covered the peanut program, provisions which made considerable changes to the program.

This year, despite the significant work that went into putting the farm bill together, despite the fact that the farm bill reforms of the peanut program have only been on the books for little over a year and have only affected one crop, and despite the fact that thousands of farmers have made significant financial and farming commitments through the year 2002 in reliance upon the provisions of the farm bill, some Members have discussed undoing the work of the sponsors of the farm bill and dismantling the peanut program.

Mr. President, I feel any attempt to change the peanut program is unnecessary, misguided, and would ultimately destroy American peanut farming and American peanut farmers.

Mr. President, the peanut program helps support more than 16,000 family farmers, many of whom live in some of the poorest, most agriculturally dependent areas in the United States. Mr. President, the peanut program provides American consumers with a steady and large supply of safe and cheap peanuts and peanut products.

Mr. President, the peanut program works for American peanut farmers and American consumers. It has been significantly revised in recent years and these revisions will only serve to enhance the program if allowed to stand. We must allow farmers who have relied on the farm bill an opportunity to work within the new peanut program.

Mr. BYRD. Mr. President, I congratulate Senator COCHRAN, the chairman of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Subcommittee, and Senator BUMPERS, the ranking member, for bringing to the Senate Floor the Fiscal Year 1998 Appropriations Bill. This bill will provide funding for all activities of the Department of Agriculture, except those of the Forest Service, and the functions of the Food and Drug Administration, the Farm Credit Administration, and the Commodity Futures Trading Commission.

This bill, as reported by the Appropriations Committee, provides $50.7 billion in total obligational authority for the coming year. That is nearly $1.1 billion more than the bill reported by the House Appropriations Committee, and $1.6 billion below the President's request. It is within the subcommittee's 602(b) allocation.

This bill is $3.2 billion below last year's level, due largely to reductions in mandatory accounts. The subcommittee's discretionary allocation in budget authority was increased from $13.1 billion in fiscal year 1997 to $13.8 billion in this bill.

This bill provides funding for programs vitally important to all Americans. These include agricultural research necessary to keep our farmers competitive in the global marketplace, conservation programs to protect the environment and productivity of the land, rural development programs to serve the millions of Americans who live outside our cities, and programs to promote U.S. agricultural products throughout the world. Funding in this bill for the Food Safety Inspection Service and the Food and Drug Administration ensures we will have safe food and blood supplies and that pharmaceuticals and medical devices will be safe and effective.

I would like to specifically remark on the inclusion of funding for the second year of the Potomac Headwaters Land Treatment Watershed Project, a program to protect the Potomac River and its headwater feeder streams from a possible harmful accumulation of agricultural pollution. I am aware that some Members of Congress have expressed concern about the June 1, 1997, Washington Post article and an American Rivers' report that, in part, attributed pollution in the Potomac to West Virginia poultry production. These reports raised concerns but were one-sided in that they did not address the responsible actions already underway to mitigate possible problems that can be associated with poultry waste. Funding in this bill will continue the exemplary efforts by public officials and West Virginia small family farmers to balance economic interest with environmental goals by providing Federal money for technical assistance and loans to help family farmers design and institute the type of measures necessary to prevent pollution in rivers and streams. The program achieves benefits for a broad base of interests, extending from my beautiful state to the Chesapeake Bay, and is an example of government at its best. I thank the members of the committee for recognizing the widespread concerns held by the millions of people who draw their drinking water from the Potomac, and for taking action to alleviate these concerns.

In all this is a very good bill, and I am happy to support its passage. Again, I congratulate Senator COCHRAN and Senator BUMPERS for their hard work. I also commend the work of the subcommittee staff: Galen Fountain and Carole Geagley, for the minority, and Rebecca Davies, Martha Scott Poindexter, and Rachelle Graves, for the majority.

Mr. GRAHAM. Mr. President, before we complete action on the Agriculture and Related Agencies appropriations bill, I wanted to compliment the chairman, Senator COCHRAN, and the ranking member, Senator BUMPERS, for their very hard work and very able leadership.

All the Members know of the many demands placed on the subcommittee to fund many worthwhile projects. We also know that the discretionary spending available to the Agriculture Subcommittee has been reduced substantially over the last several years. This very limited funding makes it difficult to fund all the many excellent proposals that have come to the subcommittee for consideration.

Mr. President, while I understand the limitations of the subcommittee to fund all good projects, I would be less than frank if I did not mention my disappointment with a number of items that were left out of this bill. One of those projects not funded by this bill is an Extension Service training project to help bring behavioral and mental health services to rural areas.

As the Members know, the Extension Service is a long and well established institution that exists across the country in almost every county in America. In the minds of most people, the Extension Service and the Extension agents are focused on agricultural and farm issues. While this impression is true the facts also reveal that the Extension Service is called on more and more to help meet family, health, and social service needs of our rural residents. The array of services offered by the Extension Service is established at the State level by State priorities. In my State, and I am sure in other States, as well, the Extension Service is doing a great job in meeting rural needs for a broad array of services.

In Florida, for example, following Hurricane Andrew, our Extension agents were trained to provide threshold counseling services to rural residents who were under severe emotional stress following the storm. The agents were trained to identify problems, provide initial counseling and to refer severe cases to appropriate professionals. This training was provided by the University of Florida and the program received a USDA award. The University of Florida was recently invited to North Dakota to train Extension agents following the floods. Initial reports from the Director of the Extension Service in North Dakota is that the program "exceeded expectations".

Mr. President, for a very small amount of money this bill could have created a small program or center to be a national resource for the Extension Service. This center would train the agents from the various States to be better able to provide the counseling services that they are more and more being called on to provide. The demand for these services is due in large part to the lack of service providers in rural areas.

Mr. President, it is my hope and expectation that the Department will look at this proposal very carefully and reprogram some funds or include it in the Department's next budget request. It is a program that has been proven to work. It is a program that meets a very large need in our rural areas. In the process of this review I would also expect that the Department meet with the appropriate officials at the University of Florida who have a track record in this area.

FOOD AND DRUG ADMINISTRATION PROVISIONS

Mr. HATCH. Mr. President, there is growing awareness of the huge potential savings to consumers and taxpayers from the prompt approval of generic drugs, a fact which was one of the reasons that Congress passed the Drug Price Competition and Patent Term Restoration Act of 1984. That statute created a legal structure that benefits both consumers and the generic industry while providing strong incentives for continued investment by the brand companies in research and development.

Unfortunately, the success of the act has been limited by the inability of the Food and Drug Administration to comply with its statutory mandate to approve generic drug applications within 180 days. In fact, generic drug approvals now are taking an average of approximately 23 months, nearly four times the statutory requirement, and the number of personnel at the agency responsible for this mission has been significantly reduced. This latter fact is especially troubling since the personnel levels in several administrative areas have grown significantly.

The Appropriations Committee has taken action to address this failure. Last year, the committee directed the FDA to expend sufficient resources to ensure compliance with its statutory mandates. This year, the committee has further directed the agency to provide the relevant congressional committees 90 days after the beginning of the fiscal year with a plan that explains how the agency will meet the statutory review time for generic drug applications.

The House Appropriations Committee, apparently losing patience with the FDA, included an extra million dollars in the fiscal 1998 bill for the express purpose of increasing the speed of generic drug reviews. The committee report noted that health care costs have increased to extraordinary levels and that the timely approval of generic drugs could save billions of dollars. The committee also reports that FDA costs related to administrative functions were excessive, pointing out that expenditures for the Office of the Commissioner in fiscal year 1997 far exceeded total expenditures for the offices of the Secretary and all the Under and Assistant Secretaries at the Department of Agriculture.

It is my strong desire that the conference will give serious consideration to the House committee's direction of funds for generic drug approvals. It is obvious that if the FDA complies with its statutory mandates, patients will be the winners, especially in terms of the tremendous savings that consumers could reap if generic competitors are sent to market more quickly. Mr. President, this seemingly small and perhaps even insignificant corner of the Federal budget has the potential to help every family in our country by reducing the cost that we all must pay for life-saving pharmaceutical products, and I hope the conferees will give it serious weight.

In closing, I want to commend you, Chairman COCHRAN, for the splendid job you have done in crafting this legislation, and pay particular commendation to Rebecca Davies of your staff, who is indeed such an asset to the committee.

NORTHEAST DAIRY COMPACT

Mr. LEAHY. Mr. President, I want to again focus as I did yesterday on the study of the Northeast dairy compact that will be contained in the appropriations bill as it winds its way through conference with the House and then comes back to the Senate.

Under the Senate proposal, the Director of OMB will do a study on dairy, retail store, wholesale, and processor pricing in New England.

As I mentioned yesterday, many Senators are very concerned that when the price that farmers get for their milk drops that the retail price—the consumer price—often does not drop. Study after study shows this result.

Wholesale or retail stores appear to be simply making more profits at the expense of farmers. This is one of the issues OMB should examine.

But it is very important that OMB not just give us numbers. It will not be helpful to Congress, and will be misleading, if OMB just says, for example, that the average price of milk in stores during the first 6 months of the compact was a certain amount higher than some earlier amount.

It will not assist decisionmakers at all if OMB then simply multiplies that difference by the number of gallons bought by persons on Food Stamps and concludes that the product of the multiplication is the harm to the Food Stamp Program.

It is important for OMB to put the information in context or they shouldn't even do the study. I do not want information that I cannot use in deciding on legislative options.

To continue with the food stamp example, if the cuts in the welfare reform bill enacted last year are 10 times, or 20 times, or 30 times more—not 30 percent more, but 30 times more—than any impact of the compact then perhaps the best legislative solution is to reduce the welfare reform cuts by one-thirtieth rather than dealing with the compact since the compact has positive benefits.

It will be extremely important, from a policy perspective, to make these types of comparisons. Also note, I do not think that any increase that shows up in retail stores is justifiable under the compact after such a huge decrease in farm prices. But, if OMB assumes some we should know if the national system of milk marketing orders, or if store profits, dwarfs the impact of the compact. This will help us with policy decisions.

A 1991 study by GAO showed a huge variation in regional pricing of milk in retail stores. Just those variations may far exceed any impact of the compact. We need OMB to look at these issues.

Without this more detailed analysis we will only be able to announce numbers on the Senate floor to support positions, but we will not be able to use the OMB study to come to good policy conclusions.

In addition, the purchase of fluid milk represents only a small fraction of total food expenditures. One study showed that fluid milk represents 3 percent of total food expenditures of the typical family. If use of discount coupons for a variety of foods, or the purchase of store brands, or shopping at less expensive stores dwarf the impacts of the compact, that should also be analyzed.

It makes a big difference if the impact of the compact is equivalent to one-fourth of 1 percent of a family's food purchasing power versus, let's say, 5 percent of the family's food purchasing power.

I also want OMB to look at the drop in food purchasing power, adjusted for inflation, that will be caused by full implementation of the welfare reform bill for our lower income households. Food stamp families live below the poverty level and these comparisons will be helpful for possible legislative solutions.

You should also look at whether some stores price dairy products to increase their profits when they already have a reasonable return on milk. Are the profit margins on dairy products higher, or lower, than for other items? Do the profit margins far exceed any potential impact of the compact? Or are they less?

It will be interesting and very helpful to see how milk prices change during the entire duration of the compact. There are news reports that some retailers are taking unfair advantage of the compact. If this is accurate, these effects should be temporary as the normal competitive forces take over. It is important to note that economists who have analyzed the compact determined that over time it could lower consumer prices by stabilizing the price that stores pay for milk.

Many reports show that stores build in an extra margin to protect against increases in milk costs since it is costly to routinely change prices. If no extra margins are required it is very likely that competitive forces would lead stores to reduce those extra margins.

Researchers such as Henry Kinnucan, Olan Forker, Andrew Novakovic, Brandon Hansen, William Hahn and others have looked at how price volatility at the wholesale level can result in increases in consumer prices for milk higher than would have occurred had wholesale prices been stable. In the New England area I am told some stores sell gallons of milk for $1.99 and some sell them for $3.29—that is a large difference and none of the difference goes to farmers.

OMB should look at that difference to help us with our policy decisions. That could, indeed, be a major contribution to better understanding the impact of the compact, or milk marketing orders, or retail store pricing—how can such a difference exist?

It is my view that the compact over time can reduce that need for extra margins since stores will not have to build in that cushion to protect against feared higher prices. And many economic studies support that point. My view is that no increase should have occurred especially after the major drop in milk prices to farmers starting late last year. I want to touch on one more issue. The statutory language talks of the direct and indirect effects of the compact.

I am a strong supporter of the compact and believe it has very positive indirect effects in addition to stabilizing the price of milk. The Secretary of Agriculture has also addressed these positive indirect effects.

I have detailed these effects in correspondence to the Secretary of Agriculture and will provide these to OMB at a later date.

I want to mention again a point I raised yesterday. The prices farmers get for their milk dropped substantially last November nationwide. They dropped quickly, and have stayed low for months.

It amounted to a 35-cent to 40-cent drop on a per gallon basis. Yet retail stores did not lower their prices to consumers except by a few pennies. This pricing practice for milk is well documented in the research and in the press.

Does this failure to drop prices by 35 cents, or even just 25 cents, a gallon have a major impact on consumers?

Will it be more than any hypothetical impact on consumers of the compact? In many areas of the country there is now a $1.40/gallon difference between the raw milk price—which farmers get—and the retail price of milk. Is that justified?

OMB should look at what that difference represents in terms of profits for transporters, stores, and wholesalers.

The Wall Street Journal pointed out that the value of milk for farmers plunged by 22 percent since October 1996—but that no comparative decline occurred in the price of milk. Another point I made yesterday was that the Wall Street Journal and the New York Times have exposed retail store overcharging for milk. This should be examined.

Farmers got one-fifth less for their milk, and someone, I presume, made a bundle. Some studies show that the dairy case is now the most profitable part of a supermarket. This should be carefully examined since most families consider milk a necessity.

Also, the time period that OMB examines may completely determine their conclusions. Something this important should not be determined by the luck of the draw.

In this regard, under the compact, farmers in New England are getting less for their milk than the average price they got for their milk last year.

It will be important for OMB to look at all the factors which affect the price of fluid milk including farm prices, labor, transportation, milk marketing orders, retail profits, co-op returns, marketing strategies, feed costs, farm expenses, and wholesaler profits.

I want to also quote from a letter that I sent to the Secretary regarding the compact relating to the indirect benefits of the compact.

You should note that a lack of farm income resulting from low dairy prices is cited as the major reason dairy farmers leave farming in New England. Production costs in New England are much higher than in other areas of the Nation while the value of the land for nonfarm purposes is often greater than its value as farmland.

This is very different as compared to vast areas of the Midwest and Upper Midwest where land is sometimes worth little except for its value as farmland. As the Vermont Economy Newsletter reported in July 1994:

> In the all important dairy industry, the decrease in farm income has come from a continuation of the long term trends the industry has been facing. Should these trends persist, and there is every expectation they will, Vermont will continue to see dairy farms disappearing from its landscape during the 1990's.

One of the consequences of the exit of dairy farmers in New England is that land is released from agriculture. Given the close proximity to population centers and recreational areas in New England, good land is in high demand, and as a result there is often a strong incentive to develop the land.

What are the consequences of land being converted from farm to nonfarm uses?

One consequence is that the rural heritage and aesthetic qualities of the working landscape are lost forever. The impact of this loss would be devastating to Vermont and to much of New England. The tourists from some of America's largest urban centers are drawn to rural New England because of its beauty, its farms and valleys, and picturesque roads.

Strip malls and condominiums do not have the same appeal to vacationers.

The Vermont Partnership for Economic Progress, noted in its 1993 report, "Plan for a Decade of Progress: Actions for Vermont's Economy,"-

> There are many issues that will influence the [tourism] industry's future in Vermont . . . including our state's ability to preserve its landscape.

The report went on to list among its primary goals: Maintain the existing amount of land in agriculture and related uses; and preserve the family farm as part of our economic base and as an integral factor in Vermont's quality of life. This is taken from "A Plan for a Decade of Progress."

The priority of these goals show that preserving farmland and a viable agriculture industry are important for the overall economic health of the region from Maine, to rural parts of Connecticut, Rhode Island, and Massachusetts, to Vermont and New Hampshire.

Other consequences of farm losses are equally destructive. The American Farmland Trust has completed cost of community services studies in four New England towns, one in Connecticut and three in Massachusetts.

These studies show the cost of providing community services for farmland and developed land. It is true that developed land brings in more tax revenues than farmland, especially when farmland is assessed at its agricultural value, as it is in most New England States. Developed land, however, requires far more in the way of services than the tax revenues it returns to the treasuries of municipalities.

For example, residential land in these four New England towns required $1.11 in services for every $1 in tax revenue generated while the farmland required only $0.34 of services for every $1 of revenue it generated. This demonstrates the major impact that losing dairy farmland has on rural New England.

National Geographic recently detailed the risk of economic death by strip malling otherwise tourist-drawing farmland. New England should be allowed to try to reverse this trend—especially in ways that help neighboring States such as under the compact.

The American Farmland Trust Study pointed out that agricultural land actually enhanced the value of surrounding lands in addition to sustaining important economic uses.

Farming is a cost effective, private way to protect open space and the quality of life. It also supports a profusion of other interests, including: hunting, fishing, recreation, tourism, historic preservation, floodplain, and wetland protection. "Does Farmland Protection Pay?" is the name of that study.

Keeping land in agriculture and protecting it from development is vitally important for all of New England which is one reason all six New England States have funded or authorized purchase of agricultural conservation easement programs to help protect farmland permanently. Unlike much of the Midwest, for example, once farms go out of business, the land is converted and is lost forever for agricultural purposes.

Other economic uses, from condominiums and second homes for retired or professional people from New York, Boston, or Philadelphia to shopping malls to serve them, are waiting in the wings. The pressure to develop in New England is voracious.

A 1993 report from the American Farmland Trust called "Farming on the Edge" showed that only 14 of the more than 67 counties in New England, were not significantly influenced by urban areas.

In fact, eight New England counties were considered to be farming areas in the greatest danger of being lost to development because of their high productivity and close proximity to urban areas. The Champlain and Hudson River Valleys were considered to be among the top 12 threatened agricultural areas in the entire country according to this study. "Farming on the Edge" is the name of that study.

As we go to conference I will further explore the goals and intent behind this language.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, other amendments that were going to be offered will not be offered. The managers' package was adopted last night. The Senator from Arkansas is going to send an amendment to the desk on behalf of the Senator from New Mexico.

AMENDMENT NO. 978

(Purpose: Providing support to a Tribal College through appropriations for the Department of Agriculture for the fiscal year ending September 30, 1998, and for other purposes)

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Arkansas [Mr. BUMPERS], for Mr. BINGAMAN, for himself and Mr. CAMPBELL, proposes an amendment numbered 978.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 13, line 20, strike "$13,619,000" and insert "$13,469,000".
>
> On page 14, line 22, strike "$10,991,000" and insert "$11,141,000".

Mr. BUMPERS. This amendment would reduce the amount recommended for pesticide clearance by $150,000 and increase the Cooperative State, Education, and Extension Service research and education Federal Administration appropriation to increase the amount recommended for the geographic information system by $150,000 to include New Mexico and Colorado in this program.

Mr. COCHRAN. Mr. President, with the adoption of this amendment, it completes the managers' package. There are no other amendments in order to be offered. Indeed, we will have a vote on final passage after the adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 978) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "aye."

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Kennedy

The bill (S. 1033), as amended, was passed, as follows:

S. 1033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes; namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $2,836,000: *Provided,* That not to exceed $11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service, shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further,* That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further,* That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,252,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $12,360,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,986,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $783,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $4,773,000.

CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $4,283,000: *Provided,* That the Chief Financial Officer shall actively market cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $613,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for the operation, maintenance, modification, and repair of buildings and facilities as necessary to carry out the programs of the Department, where not otherwise provided, $123,385,000: *Provided,* That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account. In addition, for construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the programs of the Department, where not otherwise provided, $5,000,000, to remain available until expended; and in addition, for necessary relocation expenses of the Department's agencies, $2,700,000, to remain available until expended; making a total appropriation of $131,085,000.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $15,700,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department for Hazardous Waste Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $26,948,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558: *Provided further*, That of the total amount appropriated, not less than $13,774,000 shall be made available for civil rights enforcement, of which up to $3,000,000 shall be provided to establish an investigative unit within the Office of Civil Rights.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,668,000: *Provided*, That no other funds appropriated to the Department in this Act shall be available to the Department for support of activities of congressional relations: *Provided further*, That not less than $2,241,000 shall be transferred to agencies funded in this Act to maintain personnel at the agency level.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $8,138,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $63,728,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, as amended, including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $125,000, for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98: *Provided*, That funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of the Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account for law enforcement activities authorized under the Inspector General Act of 1978, as amended, to remain available until expended.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $29,098,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $540,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $53,109,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture notwithstanding 13 U.S.C. 142(a–b), as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $118,048,000, of which up to $36,327,000 shall be available until expended for the Census of Agriculture: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $738,000,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $69,100,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,734,000 to carry into effect the provisions of the Hatch Act (7 U.S.C. 361a–361i); $20,497,000 for grants for cooperative forestry research (16 U.S.C. 582a–582a7); $27,735,000 for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222); $47,525,000 for special grants for agricultural research (7 U.S.C. 450i(c)); $13,469,000 for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)); $100,000,000 for competitive research grants (7 U.S.C. 450i(b)); $4,775,000 for the support of animal health and disease programs (7 U.S.C. 3195); $550,000 for supplemental and alternative crops and products (7 U.S.C. 3319d); $600,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $3,000,000 for higher education graduate fellowships grants (7 U.S.C. 3152(b)(6)), to remain available until expended (7 U.S.C. 2209b); $4,350,000 for higher education challenge grants (7 U.S.C. 3152(b)(1)); $1,000,000 for a higher education minority scholars program (7 U.S.C. 3152(b)(5)), to remain available until expended (7 U.S.C. 2209b); $1,500,000 for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241); $4,000,000 for aquaculture grants (7 U.S.C. 3322); $8,000,000 for sustainable agriculture research and education (7 U.S.C. 5811); $9,200,000 for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, to remain available until expended (7 U.S.C. 2209b); $1,450,000 for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382; and $11,141,000 for necessary expenses of Research and Education Activities, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $427,526,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For establishment of a Native American institutions endowment fund, as authorized by Public Law 103–382 (7 U.S.C. 301 note), $4,600,000.

EXTENSION ACTIVITIES

Payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $268,493,000; $2,000,000 for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)); payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,695,000; payments for the pest management program under section 3(d) of the Act, $10,783,000; payments for the farm safety program under section 3(d) of the Act, $2,855,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,214,000; payments to upgrade 1890 land-grant college research, extension, and teaching facilities as authorized by section 1447 of Public Law 95–113, as amended (7 U.S.C. 3222b), $7,549,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $908,000; payments for a groundwater quality program under section 3(d) of the Act, $9,061,000; payments for the agricultural telecommunications program, as authorized by Public Law 101–624 (7 U.S.C. 5926), $1,167,000; payments for youth-at-risk programs under section 3(d) of the Act, $9,554,000; payments for a food safety program under section 3(d) of the Act, $2,365,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,192,000; payments for Indian reservation agents under section 3(d) of the Act, $1,672,000; payments for sustainable agriculture programs under section 3(d) of the Act, $3,309,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,628,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $25,090,000; and for Federal administration and coordination including administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $10,787,000; in all, $423,322,000: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Office of the Assistant Secretary for Marketing and Regulatory Programs

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, $618,000.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $437,183,000, of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 1998 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 1998, $100,000,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

Buildings and Facilities

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $4,200,000, to remain available until expended.

Agricultural Marketing Service

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $49,627,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $59,521,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,690,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,200,000.

Grain Inspection, Packers and Stockyards Administration

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $23,583,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $43,092,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Appropriations Committees.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $446,000.

Food Safety and Inspection Service

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, the Poultry Products Inspection Act, as amended, and the Egg Products Inspection Act, as amended, $590,614,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided,* That this appropriation shall not be available for shell egg surveillance under section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)): *Provided further,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Office of the Under Secretary for Farm and Foreign Agricultural Services

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, Foreign Agricultural Service, the Office of Risk Management, and the Commodity Credit Corporation, $572,000.

Farm Service Agency

SALARIES AND EXPENSES

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $700,659,000: *Provided,* That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further,* That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $2,000,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $550,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $460,000,000 of which $400,000,000 shall be for guaranteed loans; operating loans, $2,395,000,000, of which $1,700,000,000 shall be for unsubsidized guaranteed loans and $200,000,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $34,653,000; and for credit sales of acquired property, $25,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $21,380,000, of which $15,440,000 shall be for guaranteed loans; operating loans, $71,394,500, of which $19,890,000 shall be for unsubsidized guaranteed loans and $19,280,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $132,000; for emergency insured loans, $6,008,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $249,500; and for credit sales of acquired property, $3,255,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $219,861,000, of which $209,861,000 shall be transferred to and merged with the "Farm Service Agency, Salaries and Expenses" account.

Risk Management Agency

Administrative and Operating Expenses

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), $64,000,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i): *Provided further,* That, of the amount made available under this sentence, $4,000,000 shall be available for obligation only after the Administrator of the Risk Management Agency issues and begins to implement the plan to reduce administrative and operating costs of approved insurance providers required under section 508(k)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(7)). In addition, for sales commissions of agents, as authorized by section 516 (7 U.S.C. 1516), $202,571,000.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments, as authorized subsections (a)(2), (b)(2), and (c) of section 516 of the Federal Crop Insurance Act, as amended, such sums as may be necessary to remain available until expended (7 U.S.C. 2209b).

Commodity Credit Corporation Fund

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1998, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $783,507,000 in the President's fiscal year 1998 Budget Request (H. Doc. 105–3)), but not to exceed $783,507,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1998, the Commodity Credit Corporation shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided,* That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation in this Act.

TITLE II

CONSERVATION PROGRAMS

Office of the Under Secretary for Natural Resources and Environment

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $693,000.

Natural Resources Conservation Service

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); administration of research, investigation, and surveys of watersheds of rivers and other waterways, for small watershed investigations and planning, and for technical assistance to carry out preventive measures, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C.1001–1009), and the Flood Control Act (33 U.S.C. 701); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein, for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $729,880,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $5,835,000 is for snow survey and water forecasting and not less than $8,825,000 is for operation and establishment of the plant materials centers: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c)): *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2): *Provided further*, That not less than $80,138,000 shall be available to provide technical assistance for water resources assistance (Public Law–534 and Public Law–566).

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $40,000,000, to remain available until expended (7 U.S.C. 2209b) (of which up to $15,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented: *Provided*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607) and, the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $44,700,000, to remain available until expended (7 U.S.C. 2209): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Assistance Act of 1978 (16 U.S.C. 2101), as amended by the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127), including technical assistance and related expenses, $6,325,000, to remain available until expended, as authorized by the Act.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $4,000,000, to remain available until expended.

TITLE III

RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $588,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, and 1932, except for section 381G of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 2009f), $644,259,000, to remain available until expended, of which $27,562,000 shall be for rural community programs described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, as amended; of which $568,304,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act; and of which $48,393,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided*, That section 381E(d)(3)(B) of such Act is amended by inserting after the phrase, "business and industry", the words, "direct and": *Provided further*, That of the amount appropriated for rural utilities programs, not to exceed $24,500,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; not to exceed $15,000,000 shall be for water systems for rural and native villages in Alaska pursuant to section 306D of such Act; not to exceed $15,000,000 shall be for technical assistance grants for rural waste systems pursuant to section 306(a)(14) of such Act; and not to exceed $5,650,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amounts appropriated, not to exceed $32,163,600 shall be available through June 30, 1998, for empowerment zones and enterprise communities, as authorized by Public Law 103–66, of which $1,614,600 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $21,952,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act; of which $8,597,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further*, That any obligated and unobligated balances available for prior years for the "Rural Water and Waste Disposal Grants," "Rural Water and Waste Disposal Loans Program Account," "Emergency Community Water Assistance Grants," "Solid Waste Management Grants," the community facility grant program in the "Rural Housing Assistance Program" Account, "Community Facility Loans Program Account," "Rural Business Enterprise Grants," "Rural Business and Industry Loans Program Account," and "Local Technical Assistance and Planning Grants" shall be transferred to and merged with this account.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the rural housing insurance fund, as follows: $3,300,000,000 for loans to section 502 borrowers, as determined by the Secretary, of which $2,300,000,000 shall be for unsubsidized guaranteed loans; $30,000,000 for section 504 housing repair loans; $19,700,000 for section 538 guaranteed multi-family housing loans; $15,001,000 for section 514 farm labor housing; $128,640,000 for section 515 rental housing; $600,000 for section 524 site loans; $25,004,000 for credit sales of acquired property; and $587,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $133,390,000, of which $5,290,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,308,000; section 538 multi-family housing guaranteed loans, $1,200,000; section 514 farm labor housing, $7,388,000; section 515 rental housing, $68,745,000; credit sales of acquired property, $3,493,000; and section 523 self-help housing land development loans, $20,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $354,785,000, which shall be transferred to and merged with the appropriation for "Rural Housing Service, Salaries and Expenses".

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, as amended, $541,397,000; and in addition such sums as may be necessary, as authorized by section 521 of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during fiscal year 1998 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $26,000,000, to remain available until expended (7 U.S.C. 2209b).

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $1,285,000 to fund up to 50 percent of the cost of organizing, training, and equipping rural volunteer fire departments.

RURAL HOUSING ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants and contracts for housing for domestic farm labor, very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service as authorized by 42 U.S.C. 1474, 1479(c), 1486, 1490c, 1490e, and 1490m, $45,720,000, to remain available until expended: *Provided*, That any obligated and unobligated balances available from prior years in "Rural Housing for Domestic Farm Labor," "Supervisory and Technical Assistance Grants," "Very Low-Income Housing Repair Grants," "Compensation for Construction Defects," and "Rural Housing Preservation Grants" shall be transferred to and merged with this account: *Provided further*, That of the total amount appropriated, $1,200,000 shall be for empowerment zones and enterprise communities, as authorized by Public Law 103–66: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1998, they shall remain available for other authorized purposes under this head.

SALARIES AND EXPENSES

For necessary expenses of the Rural Housing Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended, title V of the Housing Act of 1949, as amended, and cooperative agreements, $58,804,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $520,000 may be used for employment under 5 U.S.C. 3109.

RURAL BUSINESS-COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, $19,200,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $40,000,000: *Provided further*, That through June 30, 1998, of the total amount appropriated $3,618,750 shall be available for the cost of direct loans, for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, to subsidize gross obligations for the principal amount of direct loans, $7,500,000.

In addition, for administrative expenses to carry out the direct loan programs, $3,482,000 shall be transferred to and merged with the appropriation for "Salaries and Expenses".

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, as amended, for the purpose of promoting rural economic development and job creation projects, $12,865,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,076,000.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND

For necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901–5908), $10,000,000 is appropriated to the alternative agricultural research and commercialization corporation revolving fund.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), $3,000,000, of which up to $1,500,000 may be available for cooperative agreements for appropriate technology transfer for rural areas program.

SALARIES AND EXPENSES

For necessary expenses of the Rural Business-Cooperative Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended; section 1323 of the Food Security Act of 1985; the Cooperative Marketing Act of 1926; for activities relating to the marketing aspects of cooperatives, including economic research findings, as authorized by the Agricultural Marketing Act of 1946; for activities with institutions concerning the development and operation of agricultural cooperatives; and cooperative agreements; $25,680,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $260,000 may be used for employment under 5 U.S.C. 3109.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: 5 percent rural electrification loans, $125,000,000; 5 percent rural telecommunications loans, $52,756,000; cost of money rural telecommunications loans, $300,000,000; municipal rate rural electric loans, $500,000,000; and loans made pursuant to section 306 of that Act, rural electric, $300,000,000, and rural telecommunications, $120,000,000, to remain available until expended.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935 and 936), as follows: cost of direct loans, $11,393,000; cost of municipal rate loans, $21,100,000; cost of money rural telecommunications loans, $60,000; cost of loans guaranteed pursuant to section 306, $2,760,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,982,000, which shall be transferred to and merged with the appropriation for "Salaries and Expenses.".

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1998 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $175,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $3,710,000.

In addition, for administrative expenses necessary to carry out the loan programs, $3,000,000.

DISTANCE LEARNING AND MEDICAL LINK PROGRAM

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., as amended, $12,030,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided*, That the costs of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

SALARIES AND EXPENSES

For necessary expenses of the Rural Utilities Service, including administering the programs authorized by the Rural Electrification Act of 1936, as amended, and the Consolidated Farm and Rural Development Act, as amended, and cooperative agreements, $33,000,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $105,000 may be used for employment under 5 U.S.C. 3109.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Consumer Service, $454,000.

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1772 et seq.), except sections 17 and 21; $7,769,066,000, to remain available through September 30, 1999, of which $2,617,675,000 is hereby appropriated and $5,151,391,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That $4,124,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $3,927,600,000, to remain available through September 30, 1999, of which up to $12,000,000 may be used to carry out the farmers' market nutrition program from any funds not needed to maintain current caseload levels: *Provided*, That notwithstanding sections 17 (g), (h), and (i) of such Act, the Secretary shall adjust fiscal year 1998 State allocations to reflect food funds available to the State from fiscal year 1997 under section 17(i)(3)(A)(ii) and 17(i)(3)(D): *Provided further*, That the Secretary shall allocate funds recovered from fiscal year 1997 first to States to maintain stability funding levels, as defined by regulations promulgated under section 17(g), and then to give first priority for the allocation of any remaining funds to States whose funding is less than their fair share of funds, as defined by regulations promulgated under section 17(g): *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of the Child Nutrition Act of 1966: *Provided further*, That State agencies required to procure infant formula using a competitive bidding system may use funds appropriated by this Act to purchase infant formula under a cost containment contract entered into after September 30, 1996 only if the contract was awarded to the bidder offering the lowest net price, as defined by section 17(b)(20) of the Child Nutrition Act of 1966, unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than five percent.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $26,051,479,000, of which $1,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and the Emergency Food Assistance Act of 1983, as amended, $148,600,000, to remain available through September 30, 1999: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $141,165,000, to remain available through September 30, 1999.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $107,719,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $128,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $136,664,000, of which $3,231,000 may be transferred from the Export Loan Program account in this Act, and $1,066,000 may be transferred from the Public Law 480 program account in this Act: *Provided*, That up to $3,000,000 shall be available in fiscal year 1999 for overseas inflation, subject to documentation by USDA of actual overseas inflation and deflation: *Provided further*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM AND GRANT ACCOUNTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $226,900,000 for Public Law 480 title I credit, including Food for Progress programs; (2) $20,630,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $837,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $30,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 15 percent of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further*, That such sums shall remain available until expended (7 U.S.C. 2209b): *Provided further*, That, of the amount of funds made available under title II of said Act, the United States Agency for International Development should use at least the same amount of funds to carry out the orphan feeding program in Haiti during fiscal year 1998 as was used by the Agency to carry out the program during fiscal year 1997.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $176,596,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $1,881,000.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $3,820,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which not to exceed $3,231,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Foreign Agricultural Service, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Farm Service Agency.

EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,500,000,000 in credit guarantees under its export credit guarantee program extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 202 (a) and (b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING MARKETS EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its export guarantee program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging markets, as authorized by section 1542 of Public Law 101–624 (7 U.S.C. 5622 note).

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the

Secretary's certificate, not to exceed $25,000; $935,175,000, of which not to exceed $91,204,000 in fees pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act may be credited to this appropriation and remain available until expended: *Provided*, That fees derived from applications received during fiscal year 1998 shall be subject to the fiscal year 1998 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

In addition, fees pursuant to section 354 of the Public Health Service Act may be credited to this account, to remain available until expended.

In addition, fees pursuant to section 801 of the Federal Food, Drug, and Cosmetic Act may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $22,900,000, to remain available until expended (7 U.S.C. 2209b).

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $46,294,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 5 percent of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

Financial Management Service

Payments to the Farm Credit System Financial Assistance Corporation

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1994, as authorized, $7,728,000.

INDEPENDENT AGENCIES

Commodity Futures Trading Commission

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $60,101,000 including not to exceed $1,000 for official reception and representation expenses: *Provided*, That the Commission is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.

Farm Credit Administration

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $34,423,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1998 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 394 passenger motor vehicles, of which 391 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954 (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, and integrated systems acquisition project; Farm Service Agency, salaries and expenses funds made available to county committees; and Foreign Agricultural Service, middle-income country training program.

New obligational authority for the boll weevil program; up to 10 percent of the screwworm program of the Animal and Plant Health Inspection Service; funds appropriated for rental payments; funds for the Native American institutions endowment fund in the Cooperative State Research, Education, and Extension Service, and funds for the competitive research grants (7 U.S.C. 450i(b)), shall remain available until expended.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 710. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1997 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 711. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 712. With the exception of grants awarded under the Small Business Innovation Development Act of 1982, Public Law 97–219, as amended (15 U.S.C. 638), none of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research, Education, and Extension Service that exceed 14 percent of total Federal funds provided under each award.

SEC. 713. Notwithstanding any other provisions of this Act, all loan levels provided of this Act shall be considered estimates, not limitations.

SEC. 714. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 1998 shall remain available until expended to cover obligations made in fiscal year 1998 for the following accounts: the rural development loan fund program account; the Rural Telephone Bank program account; the rural electrification and telecommunications loans program account; and the rural economic development loans program account.

SEC. 715. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 716. Notwithstanding the Federal Grant and Cooperative Agreement Act, marketing services of the Agricultural Marketing Service and the Animal and Plant Health Inspection Service may use cooperative agreements to reflect a relationship between Agricultural Marketing Service or the Animal and Plant Health Inspection Service and a State or Cooperator to carry out agricultural marketing programs or to carry out programs to protect the Nation's animal and plant resources.

SEC. 717. None of the funds in this Act may be used to retire more than 5 per centum of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 718. None of the funds made available in this Act may be used to provide assistance to, or to pay the salaries of personnel who carry out a market promotion/market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to the United States Mink Export Development Council or any mink industry trade association.

SEC. 719. Of the funds made available by this Act, not more than $1,000,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 720. None of the funds appropriated in this Act may be used to carry out the provisions of section 918 of Public Law 104–127, the Federal Agriculture Improvement and Reform Act.

SEC. 721. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 722. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $150,000,000.

SEC. 723. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board.

SEC. 724. Section 3(c) of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2802 (c)) is amended by inserting before the period at the end the following: ", and includes kudzu (Pueraria lobata Dc)".

SEC. 725. Notwithstanding section 520 of the Housing Act of 1949, (42 U.S.C. 1490) the Martin Luther King area of Pawley's Island, South Carolina, located in Georgetown County, shall be eligible for loans and grants under section 504 of the Housing Act of 1949, as amended.

SEC. 726. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate the Food and Drug Administration Division of Drug Analysis in St. Louis, Missouri, or to proceed with a plan to close or consolidate the Food and Drug Administration's Baltimore, Maryland, laboratory.

SEC. 727. The Secretary of Agriculture, before making any reduction in the employee level required to carry out a program or activity under the jurisdiction of the Under Secretary for Rural Development, shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate a plan (including the justification and cost savings) for reducing the employee level below the level described in the budget submitted by the President for fiscal year 1998.

SEC. 728. Effective on October 1, 1998, section 136(a) of the Agricultural Market Transition Act (7 U.S.C. 7236(a)) is amended—

(1) in paragraph (1)—

(A) by striking "Subject to paragraph (4), during" and inserting "During"; and

(B) in subparagraph (B), by striking "130" and inserting "134";

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 729. STUDY OF NORTHEAST INTERSTATE DAIRY COMPACT. (a) DEFINITIONS.—In this section:

(1) CHILD, SENIOR, AND LOW-INCOME NUTRITION PROGRAMS.—The term "child, senior, and low-income nutrition programs" includes—

(A) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(B) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.);

(C) the summer food service program for children established under section 13 of that Act (42 U.S.C. 1761);

(D) the child and adult care food program established under section 17 of that Act (42 U.S.C. 1766);

(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

(F) the school breakfast program established under section 4 of that Act (42 U.S.C. 1773);

(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of that Act (42 U.S.C. 1786); and

(H) the nutrition programs and projects carried out under part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.).

(2) COMPACT.—The term "Compact" means the Northeast Interstate Dairy Compact.

(3) NORTHEAST INTERSTATE DAIRY COMPACT.—The term "Northeast Interstate Dairy Compact" means the Northeast Interstate Dairy Compact referred to in section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256).

(4) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(b) EVALUATION.—Not later than December 31, 1997, the Director shall conduct, complete, and transmit to Congress a comprehensive economic evaluation of the direct and indirect effects of the Northeast Interstate Dairy Compact and other factors which affect the price of fluid milk.

(c) COMPONENTS.—In conducting the evaluation, the Director shall consider, among other factors, the effects of implementation of the rules and regulations of the Northeast Interstate Dairy Compact Commission, such as rules and regulations relating to over-order Class I pricing and pooling provisions. This evaluation shall consider such effects prior to implementation of the Compact and that would have occurred in the absence of the implementation of the Compact. The evaluation shall include an analysis of the impacts on—

(1) child, senior, and low-income nutrition programs including impacts on schools and institutions participating in the programs, on program recipients, and other factors;

(2) the wholesale and retail cost of fluid milk;

(3) the level of milk production, the number of cows, the number of dairy farms, and milk utilization in the Compact region, including—

(A) changes in the level of milk production, the number of cows, and the number of dairy farms in the Compact region relative to trends in the level of milk production and trends in the number of cows and dairy farms prior to implementation of the Compact;

(B) changes in the disposition of bulk and packaged milk for Class I, II, or III use produced in the Compact region to areas outside the region relative to the milk disposition to areas outside the region;

(C) changes in—

(i) the share of milk production for Class I use of the total milk production in the Compact region; and

(ii) the share of milk production for Class II and Class III use of the total milk production in the Compact region;

(4) dairy farmers and dairy product manufacturers in States and regions outside the Compact region with respect to the impact of changes in milk production, and the impact of any changes in disposition of milk originating in the Compact region, on national milk supply levels and farm level milk prices nationally; and

(5) the cost of carrying out the milk price support program established under section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251).

(d) ADDITIONAL STATES AND COMPACTS.—The Secretary shall evaluate and incorporate into the evaluation required under subsection (b) an evaluation of the economic impact of adding additional States to the Compact for the purpose of increasing prices paid to milk producers.

SEC. 730. From proceeds earned from the sale of grain in the disaster reserve established in the Agricultural Act of 1970, the Secretary may use up to an additional $23,000,000 to implement a livestock indemnity program as established in Public Law 105–18.

SEC. 731. PLANTING OF WILD RICE ON CONTRACT ACREAGE.—None of the funds appropriated in this Act may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice.

SEC. 732. INSPECTION AND CERTIFICATION OF AGRICULTURAL PROCESSING EQUIPMENT. (a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available by this Act or any other Act for any fiscal year may be used to carry out section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary.

(b) RELATIONSHIP TO OTHER LAW.—Subsection (a) shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

SEC. 733. RURAL HOUSING PROGRAMS.—(a) HOUSING IN UNDERSERVED AREAS PROGRAM.—The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(b) HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.—

(1) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

(2) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(3) LOAN TERM.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(A) in subsection (a)(2), by striking "up to fifty" and inserting "up to 30"; and

(B) in subsection (b)—

(i) by striking paragraph (2) and inserting the following:

"(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;";

(ii) in paragraph (5), by striking "and" at the end;

(iii) in paragraph (6), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(7) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

"(A) the Secretary determines—

"(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

"(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

"(B) the Secretary determines—

"(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

"(ii) any other criteria established by the Secretary has been met.".

(c) LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.—Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p-2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

"(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.";

(2) by striking subsection (t) and inserting the following:

"(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1998 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year."; and

(3) in subsection (u), by striking "1996" and inserting "1998".

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998".

Mr. COCHRAN. I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, let me thank all Senators for their cooperation and assistance in the passage of this bill, particularly those members of our subcommittee and the full Committee on Appropriations. Those who had amendments and helped improve the bill, we appreciate their help as well. I also want to make a special point to commend and thank the members of our staff—on our side of the aisle Rebecca Davies, who is the clerk of the subcommittee; Martha Scott Poindexter, who assisted her; Rachelle Graves-Bell; and our intern, Justin Brasell, who also was a help in the preparation of this bill. We had a lot of hearings. We did a lot of work developing this legislation. We appreciate the help that we got.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, let me echo the laudatory comments the Senator from Mississippi has just paid to the majority staff. I would like to also pay tribute to the minority staff as well as the majority staff. They worked extremely well with us. They were helpful to us as well as the chairman of the committee. On our side of the aisle, I want to especially thank Galen Fountain, who is seated at my left and who was my personal agricultural aide for many years before he joined the appropriations staff, and pay special tribute to him and Rebecca Davies, who probably know on a magnitude of about five times more about this bill than Senator COCHRAN and I do. We simply could not function here and get a bill like this through without the very able assistance of those people. But in addition to Galen, I also want to pay tribute to Carole Geagley and to my own personal staff member, Ben Noble. They have done a magnificent job.

Again, my sincere thanks to Senator COCHRAN, who is the chief architect of this bill. He did a magnificent job. If you watched here, as always when these appropriations bills are coming through, you see the Senators all gathered around here pleading with Senator COCHRAN and me to accept this amendment and that amendment. We would love to accept them all. It is always that way in appropriations. But the money constraints keep us from doing that. But we like to help other Senators.

As I said yesterday afternoon on the floor, it is not pork. Sometimes it is pure, unadulterated research from which the entire Nation benefits. But having said that, I think it is a good bill. We will do our very best to honor all the Senate's wishes in the conference committee. I think we will come back here with a good bill from conference.

Mr. CONRAD. Mr. President, the Agriculture appropriations bill just approved by the Senate includes funds for many important programs, and I deeply appreciate the work of Chairman COCHRAN and Senator BUMPERS in putting together this bill. While I appreciate their good work, I deeply regret that funds are not included to provide the final Federal matching funds for several Cooperative State Research, Education, and Extension Service buildings, including one at North Dakota State University, for which State and local matching funds have been provided.

I believe this is especially unfortunate because of unique circumstances faced by NDSU in their attempt to complete this important project. The Agriculture Appropriations Subcommittee provided an initial planning grant for this building in fiscal year 1992. After that, the subcommittee provided $1.65 million in the fiscal year 1994 bill as a down payment on the Federal share of this $10 million facility. Unfortunately the House Agriculture Appropriations Subcommittee indicated in its fiscal year 1996 report that the committee would no longer provide Federal funding for these buildings if the projects did not have their state and local matching funds in hand by the time Congress prepared the appropriations bills the following year for fiscal year 1997.

Mr. President, this decision created a serious problem for North Dakota because our State legislature only meets every other year. That meant North Dakota State University did not even have an opportunity to seek the State matching funds between the time the House subcommittee issued its notice in the summer of 1995 to provide no additional funding and the time the fiscal year 1997 appropriations bill was considered last summer. The first time our State legislature met following the House subcommittee's decision was January 1997, at which time the legislature provided the State match for this building. In other words, the State provided its share of funds for this building at the first opportunity they had following the announcement by the House subcommittee.

This facility is extremely important because the existing facilities at NDSU were constructed in the 1960's and do not meet USDA standards, causing animal health and production research to be curtailed. The new facility would allow expanded research into fighting anti-biotic resistant viruses, enhancing reproductive efficiency in farm animals, developing safer, more effective pharmaceuticals, improving meat animal research to improve food quality, and other important areas of research.

Mr. President, it is my strong desire that we are able to find a responsible solution to this situation. I believe terminating Federal funding for this building is premature, and I will continue to work with NDSU, USDA, and my colleagues in the House and Senate to see that this building is completed. I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I ask unanimous consent that my remarks be considered as morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Would the Senator from Utah yield for a moment?

Mr. HATCH. Yes.

THE MIR SPACE STATION

Mr. BUMPERS. Mr. President, everybody knows that I am sort of a Johnny-one-note on the space station. I ask unanimous consent to have printed in the RECORD an article that appeared in this morning's Washington Post, the headline of which is "Russia Wonders If Manned Flight Is Worth Cost." One of the reasons I wanted to put it in the RECORD is because it echoes precisely what I said on the floor, in spades, 2 days ago.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RUSSIA WONDERS IF MANNED FLIGHT IS WORTH COST

(By Daniel Williams)

MOSCOW, JULY 23.—With the immediate crisis on the Mir space station largely resolved for now, space officials here have turned their attention to tangled problems on Earth.

They may be as hard to fix as the ones on Mir.

Lack of money, the bane of a space enterprise that was once Moscow's pride, is the major problem. The space program also is suffering from a battered public image that makes rallying support difficult.

Debate over the future of Mir has ignited a finger-pointing spree in newspapers over who is to blame for a recent series of mishaps including a fire, a collision with a supply craft and the erroneous disconnection of a computer system that threw Mir out of position and drained much of its power.

The central issue of the controversy here is one that also surfaces from time to time in the United States: What price manned space travel, especially when compared with unmanned expeditions?

Unmanned expeditions offer more scientific benefits per dollar, except for learning about the capabilities of human beings in space. And as painful as the failure of unmanned satellite launches, space probes and robotic landings may be, a dead satellite is not the same as a dead astronaut. That element alone makes manned flights not only more dramatic, but also more expensive as systems are piled on systems for safety's sake.

Mir is the space equivalent of an old used car, but Russia appears unwilling to give up manned flight, even temporarily. To surrender a human toehold in space is to give it up permanently, officials here argue, "If we drop space, we will lag behind in this field forever," said Yuri Baturin, secretary of the Russian defense council.

One reason for sticking with Mir, even if it requires repeated tinkering under the hood, is that it makes money. The United States alone is paying Russia about $400 million for continual use of the space station by NASA astronauts to conduct scientific experiments in space.

Although figures for how much Russia spends in space are difficult to come by, everyone agrees that the program is short of cash. On Monday, contractors and scientists held a meeting in advance of Russia's next launch on Aug. 5. Each speaker said that key preparations for the launch were complete, but several also complained they had not been paid for their work, an observer at the meeting recounted.

Economic dealings in Russia are plagued by delayed payments and unfulfilled contracts, and the space program is no exception.

Parts of the modular station are 11 years old, more than double their original life expectancy. Russian space officials have taken pains to assure everyone that the Mir was viable and in no need of being scrapped.

"I would fly to Mir," Sergei Krikalev, a cosmonaut and emerging spokesman for the space program, said recently.

In the past, it was highly unusual for officials here to publicly air the detail that has been made available about Mir. In the Soviet era, only successes were widely reported; operational specifics—not to mention failures—were hidden as much as possible. Although the democratic atmosphere in contemporary Russia explains some of the current openness, so too does the perception of a need for public relations.

Foreigners fly on Mir, and secrecy about conditions on the space station would be unacceptable to the foreign patrons of the flights, Russian officials say. In the United States, some politicians oppose the trips as dangerous and of little use; secrecy probably would fuel criticism there.

Inexperience with public scrutiny has led to tension with the Russian press. A few weeks ago, space officials invited reporters to witness work at the Star City cosmonaut training complex. As reporters clustered around Anatoly Solovyov, one of the next cosmonauts to go up, a scientist frantically tried to push them away. "What if someone sneezes" he cried out. "What if the cosmonaut catches a virus? All this preparation will go to waste!"

Russian space officials have accused the Russian press of scandal-mongering, although many reports they initially denied were later confirmed. For example, Izvestia, regarded as the country's leading newspaper, reported that news about a death in the family of Vasily Tsibliev, the commander of Mir, had been withheld from him.

Russian officials stopped denying the story only after the Reuter news agency reported from Tsibliev's home town that the family had kept the death secret.

Space officials expressed irritation with articles about conflicts among different departments of the space program: Mission Control, the cosmonaut training center and Energia, the enterprise that designs, builds and launches rockets and space vehicles.

Newspapers reported that Energia officials blame Tsibliev for the June 25 Mir collision with a cargo vessel. The crash damaged one of the modules and resulted in an emergency reduction of about half of Mir's power.

Sergei Gromov, a spokesman for Energia, said this week that such a report was nonsensical given the interlocking structure of the Russian space program. Almost every one works for everyone else, and Energia had a big say in who was to fly.

"The cosmonauts are affiliated with the Air Force and the cosmonaut training center, but they are also personnel of our organization," he said. "We choose them and pay them; they are half ours. It would be like blaming ourselves."

Space officials acknowledged that Tsibliev probably faces a loss of bonus money for the flight because of the collision as well as the later episode that caused the temporary loss of all power on Mir: last week's accidental unplugging of a computer cable.

"He may lose some of his bonus. But he is not on trial here," cosmonaut Krikalev said.

Solovyov and another cosmonaut due to relieve the exhausted Mir crew prepared today for the Aug. 5 launch and for the repairs they will conduct later in the month on the crippled spacecraft.

The drumbeat of bad news about Mir prompted Izvestia to question whether openness in space was worth the national loss of morale.

The news from space "makes one feel disappointed rather than proud of the country, which has opened the doors to another state secret," said the commentary published Tuesday.

Mr. BUMPERS. I thank the Senator from Utah for yielding.

UTAH SESQUICENTENNIAL

Mr. HATCH. Mr. President, it is a unique privilege and distinct honor for me to recognize, today, on the floor of the U.S. Senate, the 150th anniversary of the arrival of the Mormon Pioneers in the Valley of the Great Salt Lake on July 24, 1847.

It was spring, by the calendar, in late March of the year 1846, as some 3,000 people in 400 wagons struggled west across the rolling hills of Iowa, through snow and drizzling rain. The muddy track was nearly impassable as they lumbered on, far behind schedule and nearing exhaustion. Behind them lay the last few villages of organized territory; before them, the great unknown. Somewhere, over the horizon, beyond the sheltering forests and the waving grasslands, lay the Rocky Mountains. Previous maps showed the way into the wilderness, while scouting reports told of the romantic landscape ahead: Black clouds of buffalo sweeping across the prairie swells, great rivers and snow-capped peaks, the endless sky, and the lonely stars. Most of these wagons had never been this far West; perhaps a few had reached Missouri—Independence or Clay County. But that was no comfort. Few people in this wagon train cared to think much of Missouri—where the stench of massacre and betrayal had but recently overwhelmed the sweet scent of fresh gardens and new-mown hay. Now, as history repeated itself, their last refuge—their beautiful Nauvoo—was besieged by hateful mobs, and there seemed no other solution than to flee, yet again. These wagons were the vanguard; hundreds were on the road behind them, and thousands more, gathered on the banks of the Mississippi, were making ready to follow.

Barely 26 years before, young Joseph Smith, by his own account, had entered the woods near his father's farm to pray, when "Suddenly, a light descended, brighter far than noonday Sun, and a shining, glorious pillar o'er him fell, around him shone, while appeared two heav'nly beings, God the Father and the Son." Now, scarcely grown to the fulness of his prophetic calling, this towering leader lay dead in a martyr's grave, and the faithful who had responded to the restored Gospel entrusted to him were scattered and driven, with only one hope, expressed in the hymn that would become their inspiration and epitaph: "We'll find the place, which God for us prepared, far away in the West, where none shall come to hurt, or make afraid. There, the Saints will be blessed."

They came from everywhere, these honored pioneers—New England, Old England, the lands of the North—wherever believers could spread the word. Some were already crusty pioneers—the likes of Daniel Boone or the Green Mountain boys —whose ancestors had settled the Tidewater counties or landed at Plymouth Rock. Others had only recently left the coal mines of Wales and the sweatshops of Manchester to take their first draught of fresh air in the New World. A few were professionals, who could doctor, or teach, or play music to ease the rigors of the trail; many were artisans—carpenters, wheelwrights, shoemakers—whose skills were sorely needed. But for all their skills and preparations, far too few were ready for the bone-deep weariness, the numbing cold, or birthing in the open air.

Critics might say that they brought their misery upon themselves—through blind faith and foolhardy dreams. Such was the litany of those who mobbed and burned and killed without mercy. Yet the saints were moved by a destiny their detractors could not have understood. It came from the lips of their fallen prophet:

> I prophesied that the Saints would continue to suffer much affliction * * *, many would apostatize, others would be put to death by our persecutors or lose their lives in consequence of exposure or disease, and some of you will live to go and assist in making settlements and build cities, and see the Saints become a mighty people in the midst of the Rocky Mountains.

As summer came to western Iowa the vanguard paused to build and plant for those who would follow, and, thus further delayed, found it necessary to spend the winter of 1846–47 on the banks of the Missouri, upriver from Council Bluffs, in Indian territory. Here, at winter quarters, they gathered and regrouped. On the 7th of April 1847, the advance company, led by Brigham Young, was once more on the move, followed in June by approximately 1,500 people organized after the Biblical model as the "Camp of Israel." By July 21, after nearly 4 months on the trail, a scouting party reached the Valley of the Great Salt Lake, followed on the 22d by the main body of the advanced company. Two days later, Brigham Young himself reached the foothills at the edge of the Great Basin. Surveying the valley before him, as if in a vision, he finally spoke the now-famous words of approbation: "This is the right place. Drive on."

Over the next 150 years, the vision was verified and the prophecy fulfilled. Upward of 70,000 people crossed the plains in wagons and handcarts. Many a journey started from Liverpool where the faithful from throughout Europe embarked for Zion, fulfilling, as they believed, the words of the prophet Isaiah:

> And it shall come to pass in the last days, that the mountain of the Lord's house shall be established in the top of the mountains, and shall be exalted above the hills; and all nations shall flow unto it. And many people shall go and say, Come ye, and let us go up to the mountain of the Lord, to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths * * *.

Six thousand died along the way. Some lost heart and turned back, or shrank before the daunting task of taming the harsh land and moved on to the greener pastures of Oregon and California. But more than 300 settlements in Utah and surrounding States, as well as colonies in Canada and Mexico, testify to the courage and determination of that vast majority who persevered.

Today, the desert blossoms with the fruits of their labor, while their descendants continue to build upon their firm foundation. A yearlong celebration, with the theme "Faith in Every Footstep," is now in progress to honor their memory. Well-wishers and admirers in towns and cities along the trail and throughout the world have joined with Latter-day Saints in commemorating this milestone of human history—with the dedication of buildings and monuments in hallowed places, with theater and music, historical displays, and a vivid reenactment of the trek itself. It has been, and continues to be, a joyful celebration, as befits the memory of those whose sacrifice has indeed given birth to "a mighty people."

Mr. President, I would like to add my tribute by quoting the words of a Mormon hymn which reflects—I think, appropriately—the joy and the guiding faith of those marvelous Saints who, 150 years ago, put their fate in the hands of God and turned their faces West:

> The Spirit of God like a fire is burning!
> The latter-day glory begins to come forth;
> The visions and blessings of old are returning,
> And angels are coming to visit the earth.
> We'll sing and we'll shout with the armies of heaven,
> Hosanna, hosanna to God and the Lamb!
> Let glory to them in the highest be given,
> Henceforth and forever, Amen and amen.

Mr. President, my forebears were part of these pioneers who came across this vast territory, who suffered untold privations. My great-great-grandfather was killed by a mob. I have to say that when they came to Utah, they followed the leadership of Brigham Young and went wherever they were told to go. They believed in what they believed. They had faith in what they had faith in. And they lived up to the principles that literally made Utah such a great State and much of the West greater than it would have been.

So I am very grateful for these pioneers. I am grateful for those who made that commemorative trip this year and have gone through the deprivations and privations to show just a little bit what some of these early pioneers had gone through.

Last but not least, a number of them expressed themselves and said that this experience of going on that pioneer trek, walking it, riding in covered wagons, riding horses, and pulling handcarts was one of the greatest experiences of their lives. Unfortunately, it wasn't perhaps the greatest experience for our early forebears, the pioneers, because of the many travails and problems they had. These trails they had to break themselves, in many respects, and they did it and I am grateful for it.

Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, I ask unanimous consent that, like my colleague, I may be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I had not expected to be here in the Senate today. I had made plans to be in Salt Lake City where the celebrations are going on for a historic event marking the 150th anniversary of the entry of Brigham Young into the Salt Lake Valley. As Senate business has been pressing, combined with a bad cold that you can hear in my throat, I decided wisdom meant that I should stay here, even though my heart is in Utah.

Mr. President, we have heard a lot from the senior Senator, appropriately, about the trek and what went on. Like him, I have forebears who were part of that great movement, which began with Brigham Young in 1847, but continued until the coming of the railroad in 1869. My grandfather, John F. Bennett, was 3 years old when his parents and his grandparents took him out of the slums of Liverpool, where they were born and raised in what would be considered the lower-lower class, walked across the great American plains to try to find a new life and a new religion in a new place. Out of that family that came from that little boy, who had no education, no hope, and in the class-ridden status of England at the time, no chance of opportunity for advancement, have come two United States Senators, a number of successful businessmen, a series of college graduates, and a tremendous family of achievement and family happiness of which I am a beneficiary.

There was indeed something magic about that trek that called people not only from the United States, but from all over the world, to go forward in the name of their religion and their faith to a place that was picked because no one else wanted it. Indeed, their leader chose this place because he had been literally driven out of the United States—some say solely because of his religion, others say because of political problems, and others say because the Mormons weren't good at getting along with their neighbors in Missouri, Illinois, and the other places where they tried to settle permanently.

I won't try to rehash that history because it doesn't really matter. What matters is that they stayed together, they traveled together, they spread their version of the Gospel of Jesus Christ throughout the world, and they called their adherence from all over the world to join with them in that tremendous sacrifice, to find a place where they could be left alone to flourish.

They were not successful. They were not left alone. Within 2 years after Brigham Young arrived, gold was discovered in California and the world started going through Utah on its way for riches. Not everyone found their way to riches, but they did help, economically, build a State—an ironic twist of events for Brigham Young, who wanted to be alone.

We have had a great deal said during this sesquicentennial year about the tremendous physical sacrifice involved in that trek. As I think of my 3-year-old grandfather, I can barely identify with how physically difficult that must have been for him and for his parents and his grandparents. I have just gone across country with a 5-year-old grandchild, courtesy of Delta Airlines, and it was a whole lot easier than taking him in a covered wagon for hundreds, if not thousands, of miles.

So I pay tribute today to the legacy that I owe to those people and what they did and what they endured. I have been back to England and have looked at my relatives who stayed there and compared what happened to those of us who are descendants of the people who were willing to make that trek with what happened to those who stayed in what they thought would be the comfort of the British Isles. It is one of the things I offer thanks for in my personal prayers, that I am descended from that branch of the family that endured that trek.

I want to make one final point about this, which I think is the important point out of this entire experience as we pay tribute to the people and who they were and what they did. As impressive as their physical sacrifice and performance was, there is something else that I want to mention that I think, in many ways, is more distinctive and more instructive for us today in our world. This was a group of people—at least the core group—who had been physically driven from their homes several times. They had been physically driven from Ohio. They sought refuge in Missouri; they did not find it. They were physically driven from Missouri and ended up penniless, with nothing but the clothes on their backs, in the State of Illinois. They started over again. They built the largest and, by some accounts, most beautiful city in Illinois. They were physically driven from there and, again, started out with very little to go someplace where they could be left alone.

In today's world, when we see articles in books constantly written about how we are all victims, we could expect that they would have spent their time lamenting over that which they lost and focusing on their resentments and their bitterness and that which other people owed them. They did not. Oh, I am sure that there was some of that. It would only be human that there would be some regrets and tears shed for homes left. But that was not their focus. That was not their driving force. They were not driven by hatred, a desire for revenge, a sense of victimhood and petitions to get everything back that had been taken away from them.

Instead, their focus was on the future. Senator HATCH has already quoted the third verse of the hymn that they wrote and sang to themselves again and again as they endured the physical difficulties. I want to repeat it here in this context. It was not a hymn of mourning or longing for the past.

They said:

> We'll find a place which God for us prepared,
> Far away in the West, where none shall come to hurt,
> or make afraid.
> There, the Saints will be blessed.
> We'll make the air with music ring,
> Shout praises to our God and King, above the rest.
> This tale will tell, all is well, all is well.

Mr. President, we look around the world today in Bosnia, in Northern Ireland, in the Middle East, and we find people who have suffered ancient wrongs, sometimes terrible, unforgivable wrongs, at the hands of their fellow men, in the name of politics or religion, or just plain ethnic hatred. We find people in the Middle East who remember the Crusades and feel offended by something that happened a thousand years ago and are sworn to set right those ancient grievances.

I say to them and to all of us that those who made their way across the plains 150 years ago had reason to hold grievances, but they looked not to the past but to the future. And as I rise today to pay tribute to their memory, I pay tribute not only to their physical courage in undergoing that trek and express my gratitude for the privilege of being descended from them, but I express my greater gratitude for what, in my view, is a greater legacy: that I have grown up in a circumstance where these people, however much they talk about the history of the past, are willing to forgive the past; that they are not viewing themselves anymore as that first generation, as victims, as obsessed with redressing old wrongs or attacking old antagonists. The legacy that is of greatest value to me and to the people of my State that came from those who were engaged in that great trek was their legacy of hope and optimism and a willingness to forgive and forget and look to the future.

That is what we are celebrating today as we look back on 150 years since the time they finally found their place faraway in the West, which God had in fact for them prepared, where they have indeed been blessed. Senator HATCH and I would like to be with them today, but we cannot because of our duties here in the Senate. But we thank the Members of the Senate for their indulgence in allowing us to take the time of the U.S. Senate and make this recognition of significant events in American history.

I yield the floor.

Mr. GREGG. Mr. President, before I proceed with the formal business of the Senate, I just want to congratulate and acknowledge the Senators from Utah in their extraordinarily moving and thoughtful and brilliant statements on the importance of today and the history of Utah and the Mormon Church, which has so reflected effectively the history of this country. The tempo and culture of that experience has been one which has been intertwined with our Nation's strengths and, unfortunately, some of our Nation's failures.

Their statements today, I think, as well as anything that I have ever heard, reflect the energy and enthusiasm and vitality and warmth that that church presents to its parishioners and which makes it such a dynamic force in the faith of many people across this country and across the world. So I congratulate them for their truly extraordinary statements.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate now turn to S. 1022, the Commerce, Justice, State, and Judiciary appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1022) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1998 and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. GREGG. Mr. President, I ask further unanimous consent that with respect to the Feinstein amendment regarding the ninth circuit court, there be 4 hours of debate on the amendment equally divided between the chairman and the ranking member or their designees with no second-degree amendments in order to the amendment. I further ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to a vote on or in relationship to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I also ask unanimous consent that the following Appropriations Committee staff members be granted floor privileges during the consideration of this bill: Jim Morhard, Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, Josh Irwin, Scott Gudes, Emelie East, Karen Swanson-Wolf, Jay Kimmitt, Luke Nachbar, and Vas Alexopoulos.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. This request I just made also includes both majority and minority staff.

Mr. President, I come to the floor today to introduce this bill, S. 1022, for the fiscal year 1998 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies. This year we have taken great strides to obtain bipartisan support for this bill and to be responsive to the needs of the people within the budget that we are provided. I think we have achieved this goal.

I want to especially acknowledge and thank the ranking member of this committee who for many, many years has served on this committee and whose cooperation, effort, and knowledge has been a core element in developing this bill and achieving progress in making these agencies function effectively. And that, of course, is the Senator from South Carolina [Mr. HOLLINGS].

The bill before us includes $31.6 billion for programs administered by the Commerce, State, and Justice Departments, the Judiciary, and related agencies. That is a lot of money, $31.6 billion, but I would note that it is a bill that is frugal. It is $4 billion less than what the President's budget request, and it is over $100 million less than what the House will have passed in its bill in this area.

The essential thrust of this bill is to make sure the committee adequately funds the activities of our criminal justice system and to make sure that the States receive adequate funding to undertake an aggressive posture to control the spread of violence and crime in our Nation. As a result, we have increased funding for the Department of Justice by 5 percent over 1997 levels. This represents a fairly significant commitment to that Department, obviously.

Within the Justice Department, top priorities include fighting crimes against children; providing assistance to State and local law enforcement; countering terrorism activities; bolstering drug control efforts; and pursuing new juvenile programs.

As chairman, I directed the committee to take a close look at the needs of the juveniles in our country. In hearings this year, it was brought to my attention the threats our children face when surfing the Internet. While the Internet can be a place for the world to be at play and to be at the access of children's fingertips, that world can also have its shady side where predators lurk to exploit our children if given the opportunity.

The Federal Bureau of Investigation [FBI], along with organizations like the Center for Missing and Exploited Children, has worked to combat pedophile activity on the Internet. In our legislation we provide funding to continue these efforts: $10 million for the FBI to apprehend the pedophiles who use the Internet in their criminal activities; $2.4 million to the local and State law enforcement agencies to form specialized cyber units to investigate and prevent child sexual exploitation; and $6.2 million for the National Center for Missing and Exploited Children to continue their efforts to educate and work with law enforcement officials in handing child exploitation cases.

Also, the committee believes it is in the national interest to improve the skills of our law enforcement personnel on all levels and supports initiatives to do this. The Community Oriented Policing Services, or COPS Program, is funded at $1.4 billion so that 100,000 extra police can be hired by our States and our communities. The President's request did not include any funding for the local law enforcement block grant. However, we have provided $503 million so that localities could obtain funding for initiatives to reduce crime and improve public safety.

Also, in response to a number of requests from law enforcement officials, we have added $10.5 million to the President's request for a regional information sharing system so that law enforcement officers throughout the country can have increased access to national crime databases.

This year the committee has taken a strong stance against the violent acts that are directed toward women and children.

Our support includes a $67.3 million increase in the funding for the Violence Against Women Act grants. We recognize the need to enhance and expand current women's assistance programs as violent crimes against them continue. Violence Against Women Act grants will be given to the States to develop and implement effective arrest and prosecution policies to prevent, identify, and respond to violent crimes against women. This funding provides domestically abused women and children with additional support services. This includes access to specially trained prosecutors and law enforcement officials. Only 20 States received Violence Against Women grants in 1996. We believe there should be sufficient funding for more States to participate in this program. Consequently, we have appropriated funds for this effort. And while we have given significant funding to the Violence Against Women Program, other grant programs still receive funding—the Motor Vehicle Theft Prevention Program, the State Prison Grant Program, and the Missing Alzheimer's Patient Program, just to name a few.

The Counterterrorism Fund received $29.5 million so that the law enforcement officials can counter, investigate, and prosecute those people who are involved in terrorist activities. In addition, the funds will be used to conduct terrorism threat assessment against Federal agencies and their facilities. Additional funds have been provided in a classified portion of the bill, which is available to all Members.

Like many Members of Congress, the committee is concerned about the proliferation of illegal drugs coming across our borders and its impact on our children. In an effort to support law enforcement efforts to combat the rampant spread of illegal drugs, the committee devoted $16.5 million to combat the trade in methamphetamine and $10 million to the effort to reduce heroin trafficking. The committee also provided substantial funding for the Drug Enforcement Administration program to provide adequate equipment for its agents. It does no good to hire new agents—and we are hiring a large number of new agents in this bill—if they do not have the equipment needed to do the job. So this bill takes care of that issue.

Over the last few years, the infrastructure needs of organizations funded by this bill have been neglected. We have made a point of providing funds to repair buildings throughout our agencies. Over $300 million will go to the FBI, the Drug Enforcement Administration, and the Bureau of Prisons to make much-needed infrastructure improvements. This money covers the costs of a new FBI forensics lab at Quantico, State prison grants to help States build new prisons, and facilities for 1,000 new Border Patrol agents we have funded through the Immigration and Naturalization Service.

As last mentioned within the Justice portion of the bill, the committee sets aside funding for a Juvenile Block Grant Program, subject to the authorization of the Judiciary Committee. It is our understanding that the authorization may address such issues as the need for increased penalties for criminal street-gang activities and prosecuting violent youth offenders as adults at the discretion of the prosecutor. This funding should assist in undertaking that effort.

This is just a brief summary of a wide range of Justice provisions that will help law enforcement combat the threats that Americans face in our daily lives.

In the area of the Commerce Department, we have made some difficult decisions, but I think they are constructive ones. We have, for example, provided strong support for the National Oceanic and Atmospheric Administration (NOAA), which provides high-quality research and provides technical data to our economy. In particular, the bill increases funding for the Coastal Zone Management Act, which is important to all coastal and Great Lakes States and provides funding for estuarine research. Since 75 percent of our Nation's population lives near the coastline, placing a priority on preserving our estuarine areas is important. Equally important is the need to conserve the resources that live in our estuaries and oceans.

The bill increases funding for protected species research. The Sea Grant Program, which conducts research of regional importance through colleges and universities, is strongly supported in this bill. While we believe NOAA is doing essential work for America, sometimes we disagree with our House colleagues on the level of funding. We intend to address this in conference, and we will go to conference with a strong bill.

The committee provides increased funding for the National Weather Service, also. Many of us are concerned that this agency has the resources necessary to ensure timely warning of severe weather, especially hurricanes and tornadoes. The bill contains funding for satellite improvements which are critical to monitoring and predicting the weather. The committee supports the modernization of the Weather Service and looks forward to working with the Department of Commerce to ensure the orderly deployment of technology needed to improve forecasting and warnings.

The largest increase in the Department of Commerce is the administration's request for additional funds to prepare for the decennial census. We have had previous discussions on the Senate floor about whether or not to use a sampling technique to conduct the census 2000. The bill contains language on this issue developed on a bipartisan basis during the consideration of the Supplemental Appropriations bill earlier this year. The increase for fiscal year 1998 does not require a decision on whether or not to employ sampling.

The committee also funds the trade development and enforcement responsibilities of the Department of Commerce at or slightly above the administration's requests. The Bureau of Export Administration has two new requirements which deserve mention. First, the Department of State's encryption export control responsibilities have been transferred to the Export Administration.

Second, with the ratification of the Chemical Weapons Convention (CWC), the Export Administration will have the primary responsibility for enforcing the convention. While funds are provided at the requested level to support the Export Administration's enforcement responsibilities, any additional funds which may be needed during fiscal year 1998 should be provided by the Department of Defense or the Department of State. There is some concern that the administration has underestimated the funds needed to enforce CWC. The Department of Commerce should not be required to shoulder all the costs of Chemical Weapons Convention enforcement.

Many Senators will be glad to hear that the committee did not agree with the administration's request to zero out public telecommunication facility grants. We went ahead and provided $25 million for this program based on the strong bipartisan support it enjoys.

In the judiciary area of the bill, the committee had to confront some difficult issues, but I believe we have provided the American people with a better judiciary through our efforts. The appropriation is sufficient to maintain current judicial operation levels and takes into account the increase in bankruptcy caseloads and probation population. We are also providing the Justices and judges with a 2.8-percent cost-of-living adjustment requested by the President.

The largest change—and it is a change I think will be for the best—is that the ninth circuit Federal court will be split into two circuits, reducing the caseload level in each to a manageable level. During the 1996–97 session, the Supreme Court overturned 96 percent—96 percent—of the decisions reviewed by the ninth circuit. This high overturn rate is a beacon that the ninth circuit is not meeting the needs of the people it serves. Last Congress, Chief Judge Wallace stated in testimony before the Senate Judiciary Committee that "it takes about 4 months longer to complete an appeal in the ninth circuit as compared to the national median time." The caseload continues to increase yearly.

Justice Kennedy of the Supreme Court testified before our committee on April 17 that there are "very dedicated judges on that circuit, very scholarly judges. * * * But, [he thinks] that institutionally, and from a collegial standpoint, that it is too large to have the discipline and the control that is necessary for an effective circuit."

While some of my colleagues may disagree, the facts lead me to believe it is past time for the ninth circuit to be split, and we are going to hear a considerable amount of debate on that issue later today.

Lastly, for the judiciary, we are providing an additional $2.2 million to the Supreme Court for renovations in an effort to comply with safety regulations and with the Americans With Disabilities Act at the Supreme Court building.

Moving on to the State Department, we have fully funded to the best of our abilities, the operations carried out by this Department. We made sure that the day-to-day functions of the State Department are funded at an acceptable level, and we are going a long way toward updating their outdated technology systems.

Maintaining infrastructure was a top priority of mine in funding this bill. To do this, we are providing $40.4 million above the President's request for the Capital Investment Fund so that desperately needed upgrades on information and communications systems can be done. It is quite alarming to hear that the State Department is still using Wang computers and that oversees, about 82 percent of the radio equipment, 55 percent of the computer equipment, and 40 percent of the telephone systems are obsolete. These are the people who are representing us in foreign countries and they deserve to have up-to-date equipment.

As a final noteworthy item, this bill covers the U.N. arrears as agreed to during the budget talks this year, in addition to supporting the bicameral U.N. reform package found in S. 903, the Foreign Affairs Reform and Restructuring Act of 1997. The international organization and peacekeeping efforts are also included in this appropriation.

This is a very quick rundown of a very complicated and expansive piece of legislation. I believe it is an extremely strong bill, complying with the ideas that have been guiding the budget process over the last few months. As I mentioned earlier, it is under the President's request and under the House bill. Yet I believe it still represents a sound and strong commitment to the agencies which it has to cover.

Before turning this over to my esteemed colleague and ranking member, I want to recognize the contributions of my staff, which have been extraordinary, the members of my staff that I outlined earlier, Kevin Linsky, Paddy

Link, Vas Alexopoulos, Jim Morhard, Carl Truscott, Dana Quam, Josh Irwin, and Luke Nachbar; and I also want to acknowledge the ranking member's staff, who do such a super job—Scott Gudes, Emelie East, and Karen Swanson-Wolf. Their help has made a tremendous difference, and we would not have gotten to this point without their assistance.

I yield to my ranking member.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank our distinguished chairman.

Mr. President, this Commerce, Justice, and State appropriations bill is probably the most complicated of the 13 appropriations bills. In it we fund programs ranging from the FBI to our embassies overseas, to fisheries research to the Small Business Administration. It requires a balancing act—considering the priorities of our President, our colleagues here in the Senate, and our Nation, in equitably distributing our subcommittee 602(b) allocation to the many programs in this bill. I think Chairman GREGG has done a masterful job in putting it together, and I support him in bringing this very solid bill before the Senate.

I would especially like to recognize the majority staff who are all new to this bill—Jim Morhard, Paddy Link, Kevin Linskey, Carl Truscott, and Dana Quam, and our Democratic staff—Scott Gudes, Emelie East, and Karen Swanson-Wolf. They have been working night and day to put together this bill. They have done a truly outstanding job, and have ensured a bipartisan spirit was maintained throughout this entire process.

In total, this bill provides $31.623 billion in budget authority. That is about half-a-billion dollars below the President's budget request * * * and it is right at our section 602(b) allocation. The bill is $1.4 billion above this year's appropriated levels.

JUSTICE

Once again, our bill makes it clear we're not fooling around with Justice and law enforcement priorities. The bill provides appropriations totaling $17.3 billion—an increase of $862 million above last year. Including fees we provide the Department, the total Justice budget comes to $19.3 billion.

It might be well to note historically that some 10 years ago the bill was right at $4 billion. We in the Congress run around everywhere, "Cut spending, cut spending, cut spending." If you want to know where the increases in spending occur, you can look at the space program. I followed the thought, of course, of the distinguished Senator from Arkansas—who has been up in space. They say the interest is trying to get Senator JOHN GLENN back in space. My interest is trying to get the Senator from Arkansas, Senator BUMPERS, out of space. He has been up there for 2 days. But he has been doing a masterful job, trying to save moneys there.

Now, with respect to the Justice Department, the DEA, hundreds of more FBI agents, a new laboratory there, Cops on the Beat, 1,000 more Border Patrol, half a billion more in prisons—we are building prisons. If you haven't gotten a prison in your State, call us; we will be glad to build you one. Because we are not building schools in America, we are building prisons everywhere. So, everybody ought to understand, in the 10-year period under the leadership here of this Congress, trying to cut spending, we have veritably quintupled the Justice Department.

Of this amount, our Federal Bureau of Investigations, the FBI, is provided $3.1 billion, and we have funded completion of its new laboratory at Quantico as well as $10 million to enhance efforts to combat child pornography on the Internet.

As, I said, we've made sure the INS will keep our borders secure, by providing an additional, 1,000 Border Patrol agents in the Immigration and Naturalization service. Furthermore, the bill extends section 2451 of the Immigration Act. These fees allow adjustment of status for legal immigrants in the United States and result in the Immigration Service getting almost $200 million per year for border enforcement and combating illegal immigration. This is important to both INS which needs the funding, and the State Department which no longer has the consular officers overseas to provide for adjustment of status in embassies.

Within the Justice Department, we also provide $1,033 billion for our prosecutors, the U.S. attorneys. That is an increase of $55 million. I'm pleased to note that it provides for activation of the National Advocacy Center to train our Federal and State prosecutors, and it continues State and local violent crime task forces which report to our U.S. attorneys.

So, looking at the Justice grant programs: the COPS Program is provided $1.4 billion; the local law enforcement block grant is $503 million; $590 million is recommended for State prison grants; $264 million for violence against women grants; $580 million is provided in Byrne grants and; $380 million is provided for juvenile justice programs which is over twice the amount as this year.

COMMERCE

On the Commerce Department, the bill provides $4.169 billion for the Commerce Department. That is an increase of $368 million over this year. Within this Department, the bill provides $659 million for the Census, which is an increase of $314 million. This bill does not prohibit statistical sampling, though we will continue to monitor this issue closely.

We have provided $25 million for the Public Broadcasting facilities grants and have rejected the administration's proposal to terminate this program which assists public television and radio.

The recommendation includes $200 million for the NIST Advanced Technology Program and $111 million for the Manufacturing Extension Program. So this bill supports the bipartisan budget agreement which specifically made these technology programs a priority. Another program of interest, the International Trade Administration, has been provided with $280.7 million.

The biggest account in the Department of Commerce, NOAA, has been provided with $2.1 billion. We have included $473 million for Weather Service operations, an increase of $23 million above the request. This ensures that we won't have a repeat of all the problems we have seen this year. LIke cutting the National Hurriance Center. And this bill continues support for the NOAA oceans programs and the NOAA fleet.

I just attended the commissioning of the most modern research vessel in the fleet, the *Ronald H. Brown*. I am pleased to report that, rather than the interest up here—310 million miles away whether or not some little instrument ran into a rock—in contrast, the NOAA fleet is out researching seven-tenths of the Earth's surface, the oceans and atmosphere, mapping the ocean floor and harbors and conducting surveys of living marine resources so that the NOAA fleet is alive and well. And we are not going to scuttle it as has been proposed here previously.

STATE

In our title for the State Department and international programs, we have included some $4 billion for the Department of State, and have supported the consolidation of our international affairs agencies. We have assigned, again, a priority to the operations and facilities of the State Department, for example we included $105 million to modernize computer and telecommunications systems.

We have included $100 million for United Nations and peacekeeping arrearages as part of the agreement that was reached with the Administration on the Foreign Relations authorization bill. The recommendation also includes $20 million for renovating housing and the U.S. Embassy in Beijing.

I have just had a conversation with the Ambassador Designate to the Court of Saint James, which has a magnificent residence there. It was done over by Walter Annenberg. It looks like a beauty to me. It doesn't look like it's falling down. But they are going to close it and get into a multimillion-dollar renovation program over 2 years, while they are in squalor in Beijing.

I can tell you here and now, we have to do something about the Property Division over in that Department of State, so that we can at least have decent housing for those who are willing to sacrifice and lead this Nation's foreign policy, particularly now in the most important nation with respect to foreign affairs, the People's Republic of China.

There is almost $400 million in the bill for international broadcasting, $200 million for international exchanges. That is the first time, of course, Mr. President, that the Fulbright and other exchanges have gotten an increase. It should be noted that no funds are included for the National Endowments for Democracy, and the distinguished chairman and I are well able to defend that particular initiative now. I imagine we will be hearing from our colleagues with an amendment. But if they want to bring this up and talk about pork, I never heard of worse ones—although we have had it. This Senator at one time opposed it; at one time supported it at the request—at the fall of the wall. We didn't have an entity that could really bring newspapers and printing presses and election fliers for democratic elections where in countries they had never held a democratic election. It looked to me it might be an exception.

The Department of State, we ought not to be embarrassed, the Department of State ought to be, really, about its front-line position, now, with the fall of the wall, in promoting democracy, individual rights, and the American way the world around. And we need not fund the chairman of the Democratic Party, the chairman of the Republican Party, the Chamber of Commerce and the AFL. I think that here we can make a savings of several million dollars.

Mr. President, this is a good bill. I support it. We have had to make some tough decisions, but under the leadership of Senator GREGG, I think we have made the proper decisions. It is nice to have worked on this State, Justice, Commerce bill, and I urge my colleagues to join in its passage.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 979

(Purpose: To authorize the Administrator of General Services to transfer certain surplus property for use for law enforcement or fire and rescue purposes)

Mr. GREGG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 979.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, strike lines 3 through 9 and insert the following:

SEC. 119. Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) The Administrator may exercise the authority under subparagraph (A) with respect to such surplus real and related property needed by the transferee or grantee for—

"(I) law enforcement purposes, as determined by the Attorney General; or

"(II) emergency management response purposes, including fire and rescue services, as determined by the Director of the Federal Emergency Management Agency.

"(ii) The authority provided under this subparagraph shall terminate on December 31, 1999.".

Mr. GREGG. Mr. President, I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask that the previous amendment that has been proposed be set aside and I have an amendment that I will send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 980

(Purpose: To prohibit certain corporations from participating in the Advanced Technology Program)

Mr. BROWNBACK. Mr. President, I ask that the pending amendment be set aside. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 980.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title VI, insert the following:

SEC. 6 . Section 28(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)) is amended by adding at the end the following:

"(12) For each fiscal year following fiscal year 1997, the Secretary may not enter into a contract with, or make an award to, a corporation under the Program, or otherwise permit the participation of the corporation in the Program (individually, or through a joint venture or consortium) if that corporation, for the fiscal year immediately preceding that fiscal year, has revenues that exceed $2,500,000,000.".

Mr. BROWNBACK. Mr. President, this amendment deals with the Advanced Technology Program which was established to spur high-risk precompetitive research and development. It was intended to make U.S. businesses more competitive in the global marketplace by assisting them in developing technologies which they wouldn't fund on their own.

It was not established to fund research and development which would have been funded in the marketplace anyway. No one believes that the Federal Government should be in the business of taxing American families to subsidize product development, research spending for rich corporations. I think this would be in anybody's definition what former Secretary of Labor Robert Reich qualified and stated was "corporate welfare."

I have grave concern that the Advanced Technology Program has become just that, a corporate welfare program. While recognizing the importance of a strong Federal role in research and development, I am very concerned that the ATP program is providing too much money to companies that have clearly adequate resources of their own to fund any research that is worth their doing.

My amendment is a simple one, and it should have broad bipartisan support. My amendment says that no company with revenues in excess of $2.5 billion—revenues in excess of $2.5 billion—can receive Federal funding through the Advanced Technology Program. We are talking about revenues. This is gross revenues of a company of $2.5 billion—so this is a pretty large company we are talking about—above which you can't receive funding from the Advanced Technology Program. I think if you are having revenues of $2.5 billion or more a year, you can afford to fund your own research and development program, and you don't need the Advanced Technology Program.

We use the $2.5 billion revenue threshold because it would exclude the 500 largest companies in America, the so-called Fortune 500, from receiving welfare dollars.

I think if you are a Fortune 500 company, you can do without corporate welfare dollars. In the word of one Silicon Valley executive—and there have been a number out there to support this provision; we have a letter signed by over 100 CEO's from startup companies in Silicon Valley which say terminate the entire ATP program, get rid of the whole thing. We are saying let's hold it to the largest corporations.

One executive said this:

If you were General Motors with annual sales of $160 billion and $20 billion in the

> bank, why don't you fund this great idea yourself and patent it yourself?

I think the answer to this question is pretty simple, and that is, if there is a Federal subsidy program which will fund corporate R&D for free, even if the company has enough corporate R&D resources, and if that company's competitors are taking the money from the Federal Government, why not take the money from the Federal Government yourself? Therefore, we need to close that loophole so their competitors can't get it and they be forced to take it as well.

What may be most troublesome is that for every grant given to a huge company with a multibillion-dollar budget and CEO making tens of millions of dollars, there is a small company who may have a good idea but can't raise the capital and will do without Federal assistance. The small companies will do without, while the big corporations get it. What we are saying is let's keep it from going to the megacorporation and have more available to the small corporation, which is what we are trying to target in the first place.

We are not talking about a program that gives money exclusively to small business, entrepreneurs or inventors working in their garages. Some ATP money goes to small companies and universities. This amendment would make it more available to them. But the top five companies that participate in the greatest dollar volume of grants from the ATP program are some pretty familiar names: IBM, General Motors, General Electric, FORD, Sun Microsystems. I think they can afford to fund these programs on their own. They don't need corporate welfare, and we should be making more of this available to small companies.

Maybe they get it because they have a great idea or maybe they get it because they have a lobbyist in Washington that watches for these things. That may be part of it as well. Whereas, a small startup company is just busy in their garage, or wherever, trying to hustle enough to make this thing go. We want to make it more available to the small companies, the entrepreneurs and keep it out of the hands of the Fortune 500, all of which have large lobbying staffs to get hold of that here.

According to the Department of Commerce, more than 40 percent of single-applicant grants currently go to large companies—40 percent. Other ATP recipients are AT&T, Black & Decker, 3M, DuPont, MCI, Xerox, Caterpillar, Kodak, United States Steel, Honeywell, Allied Signal, and the list goes on. These industrial giants have the time and the money to fill out ATP applications, but also have the money to fund these projects on their own.

I also take this opportunity to commend Secretary Daley for initiating a review of the ATP program. As he and I have discussed, I believe this review is long, long overdue, and I appreciate that it was instigated very early on in his tenure. The Secretary recognized in his recent report on the program that the question of whether huge corporations should participate in ATP grants to the exclusion of some smaller ventures is a legitimate concern and one that he is concerned about as well. As a result of the Secretary's review, he has proposed changes in the match for single-applicant-large companies to a 60–40 match from the current 50–50 and encourage joint ventures over single applicants.

That is a laudable start, but, my goodness, that is just not far enough when we are talking about a company that has $2.5 billion in revenues, huge companies. They can afford to do this on their own. It just doesn't go far enough. At most, this would reduce the amount a large company will receive in grants by $65,000 a year, and that is not much of an incentive for companies like IBM with revenues of $76 billion annually.

To its credit, this year the Department of Commerce requested input from the public on the ATP. Among the public responses were, listen to this one:

> ATP awards large companies even though a smaller company, as a single applicant, may have a better technical and business proposal. In some cases, the large company tries to get the award in a new research file just to shelf the idea and prevent someone from doing the research because it will compete with its existing markets.

Another one:

> ATP should not be a time-consuming, expensive proposal preparation contest which it is now.

Another one:

> ATP does not provide much assistance for individuals or shoestring startups which need assistance most.

While I am not offering an amendment to kill this program today, I do have grave concerns about it primarily because I believe there is ample private capital for good ideas. Last year alone, the venture capital industry pumped more than $10 billion into new ventures. Last year, companies raised more than $50 billion from initial public stock offerings. The top four winners of ATP grants invested more than $20 billion of their own corporate resources on research and development. We are talking about a total program, the total ATP program of right around or under $300 million.

I don't think I have the support this year to eliminate this program on an appropriations bill. Many of my colleagues believe that would be more appropriate for the authorizing process, which I think would be as well and a good place to do it as well.

So let me reiterate, today I am not offering a killer amendment. This isn't even an amendment to reduce the funding of this program. It does nothing to the funding of ATP. I am offering an amendment which will make a small change in the program to better enable it to meet its mission of providing funds for high-technology research without replacing private dollars.

I want to note something else, Mr. President, if I can, about people applying for ATP grants and companies that are applying for ATP grants. This is according to a GAO report when they were looking at whether people try to find these first outside the Government. This is the GAO:

> When we asked if they had searched for funding from other sources before applying to ATP, we found that 63 percent of the applicants said they had not—

Sixty-three percent—

> [and] 65 percent of the winners had not looked for funding before applying to ATP.

In other words, they are going first right to the Federal Government, to the ATP program. These are huge corporations with over $2.5 billion in revenues, the only ones we are targeting, and they are saying, "Let us take it there first."

This is a simple amendment and will help the small entrepreneur. It will bring some sanity back to the process. It will start to address the issue of corporate welfare, and this is a perfect case.

So, Mr. President, I think this is an appropriate amendment. At the appropriate time, I will urge its adoption and ask for the yeas and nays. I yield the floor.

The PRESIDING OFFICER (Mr. KYL). Is there further debate on the amendment?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am reminded of a little ditty they used to have on the radio each Saturday morning for my children: "All the way through life, make this your goal; keep your eye on the donut and not the hole."

The distinguished Senator from Kansas is really, with this amendment, trying to reduce it to a corporate welfare program. The goal, and the eye ought to be on it, was commercialization of our technology, not research. In fact, the research arm of the Defense Department, DARPA as we call it, which has billions of dollars that come over—Greg Fields, working with the National Institutes of Standards and Technology—this is now back in the late seventies because I authored this particular program—in the late seventies in talking with Mr. Fields and the authorities at the National Bureau of Standards, at the time we called it, found that we had all kinds of technology backed up in research at the National Bureau of Standards on the civilian side that was not being commercialized. In fact, what they call the rapid acquisition of manufacturing parts—it is a wonderful type program—was developed and came really out of the Bureau of Standards. A ship broke down in the Persian Gulf that was 25 years of age, and they weren't making the parts anymore, so the ship couldn't function. It took several months or a year to get the part back out to get the ship moving again and everything else.

The computerization and manufacturing at the defense level of all parts are immediately on the board. Within days, they knew how to punch the computer, get the particular manufacturer, get the part back and going again. That came out of the Department of Commerce that my distinguished colleague has been bent on trying to abolish.

Back to the commercialization. In the late 1970s, down in Houston, TX, they developed the superconductor, and right to the point, with the research initiative, these particular scientists won the Nobel Prize. But the actual commercialization was caused by our Japanese friends who correlated some 22 entities and immediately started developing and commercializing it. Oh, yes, the American scientists won the Nobel Prize; the Japanese entrepreneurs won the profits.

We are going out of business in this country. This has nothing to do with small companies or large companies. The staff, of course, has provided me—but I do not want to get into that because I support DARPA very much. But if we had this particular amendment and it took, then we could put it to DARPA and all other research over in the Defense Department, and then we could grind research to a halt. Because the reality is that the larger companies do have the better research entities. And the larger research companies also have the stock-market-turnaround, get-in-the-black, get-your-stock-increase kind of pressure.

Talk to the CEO of AT&T, a multibillion dollar company. One of the largest corporations ever in the world is in trouble because the chairman that they had momentarily, barely a year, could not turn it around and get it into the black and get it going. He is gone.

Now, Senator Danforth and I, working on this commercialization, said now we are not going to have welfare and we are not going to have pork. So we put in unusual safeguards which this Senator from South Carolina has had to fight personally to maintain.

One safeguard coming with the particular research endeavor was that we had to have this particular request approved, bucked right over to the National Academy of Engineering, and saying, "Wait a minute. Does this really contribute to the Nation's particular research?" We did not just want company research to increase the profits of a particular company; we wanted a research endeavor that meant something to the basic research technology advancement of the United States of America. This is a national program; it is not a welfare program; it is not a corporate-profit program.

So this is No. 1. The corporation has to come with at least 50 percent of its money. They have to have upfront money they are willing to put in, then bucked over to the National Academy of Engineering for its approval on a national basis, then going back for a third particular test of competition of which were the most deserving because this has been very, very, very limited.

Look at our agricultural boards. They have multimillions in there for California raisins and "Don't drink the wine before its time," Gallo, and all of those other things. The farm boys around here know how to get things done, but the technology boys are out researching and making money and continuing to research. Then, like GE coming through my office and saying, "We don't have time to turn this particular around," so go sell it to the Saudis because they have the money and they can develop it.

Mr. President, 15 years ago, I put in a bill to cut out the quarterly reporting. That is one of the real bad devices—all this quarterly reporting. The market is going up; the market is going down. Greenspan says something, it goes up billions, it goes down billions, costs or whatever it is. We have to understand the global competition has to steady the boat in this land financially. One of the great initiatives to have it steadied is to do away with quarterly reports.

We all fault the American entrepreneur and corporate leader in saying, oh, he won't invest in the long range. Our Japanese competition, they know how. In Korea, Japan, the competition in the Pacific rim, they get long-range planning. The American corporate head cannot do it under this structure. He has to get in and somehow take the best profits, the bigger profits, go for it. You might have a technology, but if it takes over 3 years, forget it, "We don't have time. We don't have the money. Sell it to somebody else, get a joint venture with the Germans or the Brits or whatever it is."

We are exporting our technology. And the security of the United States of America depends on our superiority of technology. We do not have as many Americans as they do Chinese. Someday we are going to find that out, Mr. President.

Running around with a little boat in the Taiwan Straits, I was on one of those aircraft carriers up in the Gulf of Tonkin 30 years ago. We did not stop 30 or 40 million little North Vietnamese coming down the Ho Chi Minh trail. I do not know how, with a couple of these boats in the Straits of Taiwan, that we are going to stop 1.2 billion Chinese. So we better sober up in this land, emphasize our technology, get it developed. That is the thrust of the Advanced Technology Program.

So we had all the tests. Like I had commented, I had personally taken it on over on the House side. We had a distinguished colleague over on the House side that every time we got to the State, Justice conference, he wanted to write up one of these particular programs for himself. I said, "This is not corporate welfare. This is not pork. We're going to stand by." We held this bill up in conference for weeks on this one particular point, that it was not corporate welfare, it was not pork. It was a studied program to commercialize, develop, and commercialize the technology that we could get financed. It is a solid program with strong bipartisan support.

Mr. President, I remember when we had the particular—if you can remember. I can hardly remember when the Republicans were in a minority, but there was a day. It was just about 4 years ago. They had a Republican task force in the U.S. Senate at that time chaired by the distinguished majority leader, Senator Dole. They had over a dozen Senators endorse this program as it is, which includes, of course, our distinguished majority leader, Senator LOTT; the former Secretary of the Navy, Senator WARNER; the chairman now of our Appropriations Committee, Senator TED STEVENS; the chairman of our Judiciary Committee, Senator HATCH—you can go right on down the list—the chairman of our Budget Committee, Senator DOMENICI; and others.

I just want the distinguished colleague and friend that I have here from Kansas to understand coming over from the House side with that Walker disease—we had a fellow over there named Bob Walker from Pennsylvania who just took on a personal kind of vendetta against doing anything about commercialization or development of technology or research except in his district. He held up the authorization for this particular measure for several years. Now it has been passed over on the House side. I thank the distinguished Republican leadership for passing that authorization bill and do not want to stultify it now by resolving it into big-little, 2½ billion or whatever it is.

I can tell you here how they move on these large entities here. They move on and do not put the money to it. They sell it. I can give you example after example where I have worked with them in this particular field, and they come by the office and say, "I am headed to so and so just for a joint venture. I will just take it to Japan and get a 49-51 deal. At least I can get my money back out to do some more research." But this has been draining, veritably, the security—not just the technology, but the security—of the United States of America.

It is a well-conceived program, well-administered, just updated by our distinguished Secretary of Commerce. He has come along. I do not have the exact breakdown. I wish I had the Fortune 500 approach. We know about half of it goes to small companies. I have no objection to it going to small companies. I just have a distaste and would have to vote against that kind of division because if this kind of thing sells, then we are going to begin the big-little and it is really going to miss out on some very, very valued technological programs.

I have example after example that we could get in. I see other Senators wanting to speak. But the point here is, big, little, small, or otherwise, you have to first put up some money, at least half of it. You have to have it reviewed nationally. Some of the smaller companies, they are engaged in research, but they are not engaged in basic research. The smaller companies, by their very nature, only have the moneys for their particular endeavor, their particular profits. Therefore, they do not come. We tried to get the small companies going because that is where jobs are created, trying to get small business. We have a specific program for that. We have in here the Small Business Administration program in Senator GREGG's bill right here and now. So we take care of that when it comes to small business.

I know the administration, under Secretary Daley and his particular study here that we could put in the RECORD, says let us give even again more emphasis to it and require more than the 50 percent from the larger corporations. That particular guideline would be good. I would have hoped that the gentleman would have come with a sense of the Senate to confirm that guideline. But to actually put in law this initiative begins to develop in the minds of everyone that this is a welfare program and what we are trying to do is finance research.

We are not trying to finance research at all. We are trying to finance the development and commercialization of already established research. That really comes for the more affluent larger corporations. They come in with the great innovations because they have basic research. The small company—incidentally, I do not know that I have any—of course, down in my home State it is not welfare. I do know this.

In the debate, it ought to be understood that I had my textile folks come to me and they said that they had a technology program and they knew that I had been the father of the Advanced Technology Program, the ATP, and the manufacturing extension centers. So they said, "We need your help over at Commerce to get this particular"—it had a computerization of the supplies coming in and going out so they would not end up with a warehouse full of bluejeans that they could not sell, whatever it was. Mind you me, I said, No. 1, "I'll not call over there." I never have called over there to talk to a Secretary about it. "This is not pork. It's not corporate welfare." I told that to my own textile leaders.

Mr. President, you know what they did? They went out to Livermore Labs, through the Energy Department, and got started a $350 million program in textile research. You see, with the closedown, fall of the wall and the closedown of some of the defense research and what have you, to keep Energy's budget livable and alive, they said, "Sooey, pig. You all come. We've got money. Anybody that can do it, we are ready to go."

That is what happened. They did not qualify at the National Academy of Engineering for this computerization. It was an advancement. It would have helped out my home industry and that kind of thing, but it had nothing to do with the overall commercialization of a national kind of research unique to the security of the United States itself. So it was turned down.

So we ought to be looking now and do not start this particular kind of initiative for defense, because we have the large companies here that do all—we put this under research in the Defense Department. United Technologies, Lockheed Martin, Texas Instruments, IBM, MIT, Hughes Aircraft, Carnegie Mellon, Northrop Grumman, Loral, Honeywell, GE. I can go down the list of millions and millions and millions. If this particular applied, I can tell you you would not get any defense research, you would not be getting the F-22, the advanced plane, and others of that kind that have come on now to maintain the national defense of the United States.

So I hope that colleagues will understand the genesis of ATP, the practical reality of financing and developing and commercializing the research. The large corporations who developed the unique research in this land of ours can make more money elsewhere, and they have been doing it like gangbusters by exporting it right and left everywhere, and we have been losing out. And we are wondering why we still have a deficit in the balance of trade.

We have gone and manufactured the actual production and commercialization. We have gone from 26 percent of our work force, 10 years ago, and manufactured down to 13 percent. Oh, yes, we are getting the software, we are getting the wonderful jobs at McDonald's and the other hamburger places and the laundries. But the actual production and high-paying jobs are going elsewhere. We are exporting them as fast as we can. We ought not to toy around with the solid nature of the Advanced Technology Program. It is not pork. It is not corporate welfare. The distinguished Senator has come up with an arithmetic formula, and if we begin to apply that to research in America, we are gone goslings.

I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent that Tom Wood, a fellow for Senator FRIST's office be given access to the floor during the debate of the Commerce, Justice, and State appropriations bill, and the same applies to Floyd DesChamps, a detailee from the Department of Energy with the Commerce, Science, and Transportation Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I rise in support of the amendment of the Senator from Kansas. The ATP issue has been one of the more contentious issues that we have dealt with within our committee. Last year, it was more contentious than this year because of an agreement reached between the White House and the leadership of the Senate and House. The House and Senate and the White House agreed that this program would be funded. I suspect that they agreed it would be funded because of the strength of the arguments made by the Senator from South Carolina, but I think most people appreciate the fact that I have, since my tenure on this committee, opposed funding for this program. It was over my strong objection that this decision was made. But it was made and I have agreed to live by the budget agreement and, therefore, the money for ATP is in there.

But if you acknowledge ATP even as a program that should proceed forward because of whatever arguments we are inclined to accept, it is very hard to understand how we can justify using a program, the purpose of which is to encourage the development of technologies which might not otherwise evolve. That is the key here—they might not otherwise evolve. It is very hard to justify such a program being used to fund Fortune 500 companies' research initiatives. The fact is that Fortune 500 companies, companies with over $2.5 billion in sales, have the capacity to pursue any technology they wish to pursue if they determine that it has some value, if it has some economic value and if it is going to produce some sort of worth to them. And it's very illogical to presume that those companies would not pursue those technologies if they felt there is a value and they have the wherewithal to do it. You have essentially created a piggy bank into which these companies can step or put their hands into if they desire to pursue a technology, which they probably would have pursued anyway if they had the financial wherewithal to do it. But in this instance, there are Federal dollars available, so they say let's use the Federal dollars instead.

I think it is much more logical to focus this fund on those entrepreneurs and entities which do not have that sort of flexibility, do not have in-house the capital wherewithal to fund whatever research they desire. That is why I believe we should limit access to these dollars to the smaller companies. And smaller is a relative term here. We are talking about companies up to $2.5 billion of gross sales. That is a pretty big entity. I suspect there are a lot of major companies that fall into that category. In fact, within the State of New Hampshire, I am not sure how many companies would have more than 2.5 billion dollars' worth of gross sales; it would not be many. We are retaining the availability of this program to the vast majority of corporate America and to all of the entrepreneurial world.

It is not as if we were handicapping for purposes of this exercise. In fact, there isn't enough money to go around as far as applications are concerned. There are a lot of applications that are not approved. In fact, the Senator from South Carolina cited one in his own State. It just seems much more logical to me that we take this money and, rather than giving it to folks who have the capacity to pursue this research independently and on their own and are simply using the Federal dollars to replace dollars that they would spend anyway, that we give it to companies—or make this money available to entities that do not have the financial wherewithal to pursue these programs; or if they do have it, they would be under more stress than a company that has 2.5 billion dollars' worth of income.

So the amendment of the Senator from Kansas makes an immense amount of sense. It is not a dagger in the heart of this program. In fact, I think it is a strengthening amendment for this program. It will significantly improve the nature of this program. And, really, I am a little bit surprised at the intensity of opposition to it because it appears to be an effort to logically and fairly approach this program, rather than just eliminate it, which would be something that many of us would support also.

So I think the Senator from Kansas has brought forward an excellent amendment. I hope that we can pass it. I will certainly support it.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I want to rise in response to some of the statements made by the Senator from South Carolina. I deeply appreciate his heart, of where it is about what we need to do to make America a stronger economy, to keep jobs, growth, high technology, and jobs growing and prospering in the United States. I think his heart is clearly in the right place and he wants to do the right thing.

I just think in a nation this big, with an economy this size, with the dynamism that we have in this country, you can't control it out of Washington. That is why the President pronounced, over a year ago, that the era of big Government is over. It seems to me that was an admission that things have changed to the point that you just can't direct all things, and all wisdom doesn't come out of Washington.

This program is one of those that we are talking about in that particular area. You are basically talking about a program here where you are going to pick winners and losers out of Washington. We have an application process that takes place here. You apply for this and give us your good idea, and we in Washington are going to think about it and see if we think you deserve to get this money or not. If your technology is one we are interested in and if we think this technology is good for our future, then we will decide to give it to you. We will decide those sort of issues from Washington.

I am not even talking about the overall program here. As I mentioned, and as Senator GREGG has mentioned as well, this is actually a strengthening amendment. We are just saying, if you are a Fortune 500 company and have revenues of over $2.5 billion a year, we are not going to make this program available to you. You are going to have to be, at least, a startup company, because the larger companies do have lobbyists here in Washington, as the Senator from South Carolina knows. They are always coming around looking for things for their companies, as they should be. Many of their companies take it because their competitor takes this. Let's remove that as an opportunity and remove this area of corporate welfare, which truly is corporate welfare.

Now I would like to clear up a couple of other points on this, if we could. One is that I am afraid, too, that some of these programs qualify in the area—we put out a big press release saying this program is going to solve all the problems of technology drifting abroad, and we are going to solve all of the problems of not having good, high-wage, high-skill jobs in the United States because we have the Advanced Technology Program. This will solve all of those problems. This will do it. I think we suffer here from a concept of having a big press release and a very small program to answer that.

Listen once again to the figures. We are talking about a program of $200 million. That is a large sum of money, but if you look at what venture capital put into new startups last year alone, which was $10 billion, this is 2 percent of what was put into this from just venture capital. And I add initial public offerings on to that, where people go to the marketplace to raise capital for a good idea, and that was $50 billion. We are talking about less than 2 percent in this particular program.

If we really want to help business in America—which I think the Senator from South Carolina clearly wants to do; he wants business to stay here in America, to grow in America, and he wants business to prosper—well, then let's do some things that would actually help business: cut taxation, regulation and litigation and manipulation out of Washington. Let's cut capital gains tax rates.

I was just in the Silicon Valley, one of the key areas in this country where startup companies are flourishing with new ideas and products that are going global rapidly. I was there and talking about the Advanced Technology Program. I have a letter, as I mentioned, signed by over 100 CEO's of startup companies saying, "Do away with this corporate welfare." That is what they called it. These are the people who, arguably, this program started for. They said:

> We don't want you directing it because you move too slow; Washington moves too slow in trying to figure out what is taking place in the global marketplace. It can't react fast enough; it can't figure these out. You are going back and basically taking taxpayer dollars from the startup companies to fund more stodgy, slower moving items, many of which end up going to the private market. If you want to help us, cut the capital gains rates; do something about the litigation; as we try to raise capital in this marketplace, do something about the regulatory regime where we have 50 different entities regulating us. Much of that is needed, but can you make it more simplified? What about all the manipulation where you are trying to direct, by the Tax Code, everything we do every day.

Then they gave a great example which I thought was wonderful. There is a little startup company in the Silicon Valley that raised over $300 million in capital. That is more than the Advanced Technology Program. We are talking about $200 million in this program. They raised that much. I was speaking to a group of people about 5 miles away from this startup company that raised $300 million. I was talking to a crowd of about 100 people there. I asked them, "Have any of you heard of this company?" I gave the name of the company. This was a group of 100 people, 5 miles a way. This company has actually raised more money than is in the ATP Program. One person there out of the 100 had heard of it. That is a substantial amount of money, but it is not large compared to the amount of capital being raised and is needed.

If we really want to do something, let's help the overall atmosphere and not try to direct it. As I want to point out yet again, look at what we are talking about with this amendment. We are saying that if you are a Fortune 500 company, if you have over $2.5 billion in revenues, we think you can find enough capital on your own to fund ideas you think are good. Let's target it for the startup companies. That is what we are supposed to be after with this. These large companies, when they have an idea they want to pursue, have the ability to be able to pursue it. That is how you deal with this issue. If we want to really help corporate America, we have a great chance coming up to cut capital gains and deal with litigation reform, and we can actually do something real.

So those are my responses. I know the Senator from South Carolina has his heart in the right place and his concepts are clear in his mind. If we really want to help them—and I have been there and talked with them—target this and cut it away from the Fortune 500 companies.

Mr. President, I do ask for the yeas and nays on this amendment, and I believe there is some discussion about holding this vote until 2:45.

The PRESIDING OFFICER. Is there a sufficient second?

It appears there is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that at 2 p.m. the Senate proceed to a vote on or in relation to the Brownback amendment No. 980, with no amendments in order to the Brownback amendment prior to the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, once again, we tried to go to the fundamental that a $2.5 billion company does not have the ability to develop it or to pursue it or to commercialize it.

Now, why doesn't it have that ability? I emphasize, of course, the way the market and the financing of projects works. You have to have a quick turnaround. A lot of good, fundamental research technology is not developed and not commercialized in the United States for the simple reason that the market financing infrastructure does not allow it.

If you were chairman of the board, then we would see how long you last unless you turn around and get your stock up. And that is the name of the game in America. And they all have to play it. When they get a choice of anything beyond 2 or 3 years, then obviously the board members, everybody wants to look like good guys and making money and everything else for the stockholders. The pressure is there to go ahead and export it, get an arrangement, a split arrangement with any of the other countries that would want to try to develop it. That is our global competition.

Specifically, right here, in Business Week:

> To stay in the game, Singapore is stepping up its industrial subsidies.

In September, the Government announced it will pump $2.85 billion over the next 5 years into science and technology development including research and development grants for multinationals.

No small business. I am trying to get my friend from Kansas to understand we have got the Small Business Administration. We take care of small business. We favor small business. But what we are looking at, to keep the eye on the target, is the development and commercialization of technology. And small business, if they went with good research that could really be proven to the SBA, they would get total financing right now. They would get it underwritten under the SBA technology grants. We worked that program far more than the little $200 million in this particular endeavor. They have over $800 million in grant authorization for small business.

Please, my gracious, let us go with it. Global competition is such that the smallest of the small competitor, Singapore, recently helped fund a $51 million research development facility for whom? For Sony, a $2.5 billion corporation:

> Last month Lucent Technologies received a grant for a new communications research and development endeavor.

I could go on down reading these articles. I wish everybody in the National Government would be given a book by Eamonn Fingleton entitled "Blind Side." We have all been running around and talking about the bank problems in Japan and, oh, Japan has all kinds of problems, and they really have their back up against the wall; they are not any competition any longer.

The fact is, Mr. President, last year while we had a 2.5 percent growth with the market booming. A rebirth in America, we have the strongest economy, Greenspan says he's never seen such a thing, 2.5-percent growth, Japan had 3.6 percent growth.

The name of the game is market share, market share. They are copying it off right and left. And at this moment, this very moment, for example, the great big automaker, United States of America, exports less cars than Mexico. Mark it down. You are down there in that area, Mr. President. Mexico exports more automobiles than the United States of America.

I just helped break ground for Honda in Timmonsville, SC. Who exports more cars than any other entity in America? Honda; the Japanese. Not General Motors, not Ford, not Chrysler. Honda.

When are we going to wake up to what's going on? Market share. If you read Fingleton's book, you go to the Ministry of Finance. Don't worry about MITI, go to the Ministry of Finance and you get your financing, your large corporations.

Now, please, my gracious, I am for the little man. I am a Democrat. Heavens above. We know the large corporate welfare crowd. But we have been for the little man against hunger. I just voted to take $5 million off administration in the Department of Agricultural budget to get more lunchroom programs. So don't talk about corporate welfare and try to identify. We are talking about global competition, which, frankly, the White House doesn't even understand.

You know why I say that. We had a course on Tuesday on NAFTA, North American Free-Trade Agreement, where we brought in Mexico in 1994, and we were going to have a sort of update on how it was doing, whether it was a success or not. They wouldn't even send an administration witness to the senatorial committee, and that's why they called off the particular hearing. They are embarrassed that they said we would create 200,000 jobs. We have lost 300,000. I will show you the Department of Labor statistics. We have lost in textiles and apparel 231,000 alone. So instead of increasing it in one direction, we have decreased it in the other direction; we have been exporting fine, good-paying jobs in the particular industry that predominates my own State. They said, well, we are going to increase trade. We had a plus balance of trade of $5 billion and we have gone to a $16 billion minus balance.

And they say exports, exports. Well, exports are up. We are sending parts down there to be assembled into automobiles and the good automobile manufacturer is moving to Mexico. You would, too. I do not blame them. I blame us, you and me. This is the policy. In manufacturing, a third of your operating costs goes into labor, to payroll, and you can save as much as 20 percent by moving to an offshore, or down in Mexico, low wages and little or no worker or environmental protections.

When I say no particular protections, colleagues are running around on this Senate floor saying you have to have a minimum wage, you have to have clean air and clean water and plant closing and parental leave, Social Security, Medicare, occupational safety from hazard, and up and down the list. Whoopee, yea, we are great. And then we put in a policy that says you don't have to do any of that. You can go offshore for 58 cents an hour. Did you see the program on Mexico just last night on public television?

Come on. We are losing the jobs right and left. We are losing our technology right and left. Eamonn Fingleton in his book—and I called him just the other day because he has updated it now with a paperback—projected by 2000 we would be blind-sided. Today, Japan, a country as big as the State of California, manufactures more than the great United States of America. It has a greater manufacturing output. And otherwise by the year 2000 it will have a greater gross domestic product, a larger economy, and I will bet you on it. And I want them to come here and take the bets because I believe he is right. You can just see how the market share goes. You see how the GDP goes and everything else of that kind.

We are going out of business the way of Great Britain. They told the Brits at the end of World War II, the empire was breaking up, they said don't worry about it. Instead of a nation of brawn, we will be a nation of brains; instead of producing products, provide services, a service economy. Instead of creating wealth with manufacturing we are going to become a financial center.

And England today, Mr. President—I have the distinguished President's attention—England, the United Kingdom has less of an economy than little irrelevant Ireland. Mark it down. Read the Economist just a month ago. Yes, Ireland, now bigger, economically than the United Kingdom. All they have is a debating society. London is a downtown amusement park.

Come on. Are we going to head that way as we go out of business, continue to appropriate again more and more moneys and finance our campaigns with these false promises of "I am going to cut taxes." Oh, the Post is running around: "Are you for cutting taxes? Yes, I'm for cutting taxes." You cannot cut your and my taxes today without increasing our children's taxes tomorrow. We have deficit financing.

We will get into that debate again when they bring the reconciliation bill over. It is not the Chinese trying to get into our elections. If they want to get into our elections, do as the Japanese do. Pat Choate wrote the book, "The Agents of Influence," 7 years ago. One hundred Japanese law firms, consultants here in Washington paid over $113 million. Add up the pay of the Senators and Congressmen, the 535 Members of Congress, and boy, oh, boy, you get, about $71.3 million. The Japanese in Washington by way of pay are better represented than the people of America.

When are we going to wake up? Tell the Chinese, "For Heaven's sake, to do the same thing as the Japanese. Give it to a lawyer. Tell them to come around and find some lawyers.

But, no, we want to turn this into corporate welfare, show that we fought against corporate welfare. Absolute folly. There is no corporate welfare at all in this. It is, by gosh, trying to commercialize technology and we will not face up to the reality. We are going out of business and now we want to say to those who do the general research, the unique research, that there is no reason to try and get into anything marginal that is going to take over 3 years to develop. Sell it, move on to the next thing. Let us continue the outflow of business, the outflow of jobs, the outflow of technology, and the outflow of our security. And everybody comes around and says that's a good idea.

I think, to the President's credit, it ought to be emphasized that he put this program down as a quid pro quo in the leadership agreement. Now, the agreement has been on both sides of the aisle, the Democratic and Republican agreement, the White House and the congressional agreement that the Advanced Technology Program would be funded at this particular level and in the manner in which it is currently funded. What we are being asked for in this particular amendment is to violate that agreement. We are running right into a veto situation on a small matter while trying to make it appear as corporate welfare. The opponents of this program don't tell you about the National Academy of Engineering. You show me another grant program that has to be reviewed that way.

I wish we still had Senator Danforth here because he and I worked on this thing over the years to develop the bill's credibility, but now we are going to start tearing down its credibility, by changing it into a small business program for those small companies that can't afford to really commercialize their technology. They can't afford to engage in general research, or in unique research to begin with, on account of its small nature. They just don't have the labs and facilities that the large companies do. But we want to act as political animals up here, pollster politicians and so we are for tax cuts, when we go up and continue to increase the debt.

We have been reducing the deficit each year for 5 years. Now we are going to use the public till to run around and say we are going to cut revenues while we increase, and we are going to have to go out and borrow the money to do it, because we are in the red. We are not in the black. So we will take that multitrillion-dollar debt and interest costs of $1 billion a day and increase that for nothing.

In the last 16 years we have increased the debt from less than $1 trillion to $5.4 trillion without the cost of a single war. Mr. President, in 200 years of history with the cost of all the wars we have not even reached a trillion. Now we jump to $5.4 trillion and instead of $75 billion—$74.8 billion, to be exact, we are going to up to $365 billion, $1 billion a day. That extra $285 billion, we are spending it for nothing. And there are all these fellows talking about pork and welfare and getting rid of the waste, and using that rhetoric for their reelection next year.

"I am against taxes, I am against the Government, get rid of the Government." That's the big hoopla they have going on, on the other side of the Hill. They are now tasking the leadership of the contract to get rid of the Department of Commerce, to get rid of the Advanced Technology Program, to get rid of all the Government that pays for itself and keeps us secure and keeps us superior as a nation. So now they are going against jobs, against the security of the land, and for corporate welfare, based on this amendment. They say, just on account of the $2.5 billion measure, that "the corporation has the ability to pursue it," their exact words. Yet, everyone knows that the CEO's do not have the ability if they are going to be a good corporate head. They are going to put their moneys elsewhere because where the turnaround is, there also is the competition, and they also know that the other governments are financing not only the research but development and taking over the market share.

We are going to holler, "let market forces, let market forces"—well, let's look at the market that we developed here in the National Government, through measures such as minimum wage, plant closings, clean air, clean water—which we all vote for, Republican and Democrat. But the companies say, "You don't have any of that in global competition." In addition, they are financing it like we finance research for the aircraft industry.

They have learned from the United States. We finance Boeing, we are proud of them. They produce and ship planes globally. Thank God we still have one industry. Now, however, we have shipped the technology on the FSX to Japan, and Boeing has had to move the parts manufacturing into the People's Republic of China. We are beginning to lose that segment of manufacturing. We are losing the automobile industry. Now we are going to lose the aerospace industry.

They told me years ago, "HOLLINGS, what's the matter with you? Let the developing nations, the Third World, make the textiles and the shoes and we will make the airplanes and the computers." Now our competition in the global competition is making the airplanes and the computers and the textiles and the shoes and we are running around here jabbering about, "free trade, free trade, free trade, let market forces, let market forces, let market forces," and don't have any realization of the actual market forces that we, as politicians, created.

I hope this amendment will be defeated in consonance with the overall agreement of the leadership in the Congress and the White House on the one hand—and defeated based on common sense and competition on the other hand.

I know my distinguished colleague on the other side of the aisle, the distinguished Senator from Tennessee, Senator FRIST, has been leading now, in our committee. He has been holding hearings, and has been providing leadership on addressing the issues relating to the Advanced Technology Program. I know the others that are interested in this program, including those that I have listed—trying to emphasize, by the way, that this effort is bipartisan. Senator Danforth and I worked this out 10 years ago, and the program is working. It is working well. We need more money. Thousands and thousands of qualified grants still don't receive funding.

I asked, I say, does the Senator from Kansas have the documentation where small business really applied but the big companies got the award? If that occurred we would have it here. He said these little businesses are being denied. I know the Commerce Department, Secretary Daley. I know the administration of this particular program and they look for the small business in order to sustain the credibility and support of the program because since its beginnings, critics have been watching the Advanced Technology Program closely for the simple reason they don't understand. They think, "Well, get rid of the Government. Find out where the pork is. Find out where the welfare is. Characterize it as welfare. Say you have these big Fortune 500 companies, they have $2.5 billion so they can do it." And they don't understand what they are talking about.

It is a sad day when we even propose an amendment of this kind, because it shows that we really don't understand competition, although we keep running around like parrots, "Competition, competition, competition." We are the ones with these kind of amendments that destroy competition.

We are against welfare but we are the ones with these kind of amendments that create welfare.

I yield the floor.

Mr. GREGG. Mr. President, we are awaiting other Members bringing amendments to the floor. I appreciate the enthusiasm and energy of the Senator from South Carolina in his spirited defense of the ATP program, which he, as he has mentioned and which will be generally acknowledged—he is the father of.

I would say we are going to have a vote on that at 2 o'clock, and at that time I hope Members would support the amendment of the Senator from Kansas because I believe it makes sense and it is a strengthening amendment to the ATP program.

So, at this time I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I want to speak very briefly in opposition to the amendment offered by the Senator from Kansas, Senator BROWNBACK, as I understand it.

That amendment, if it were adopted, would essentially prohibit the Advanced Technology Program, which is administered through the Department of Commerce, from allowing participation of large companies.

Let me give you my own understanding of how the Advanced Technology Program works. I think it has been an extremely useful program. It has helped to keep the United States at the forefront of technology development and high-technology industry development in the world, and, to a significant degree, our leadership in that arena, in that area of high technology, is the reason why we enjoy the strong economy we enjoy today.

So I believe the Advanced Technology Program is useful. It has been a great help to many companies. It has been a great help in helping us, as a country, create jobs in the industries of the future.

In order for that program to succeed, though, we need to be sure that taxpayer funds are provided, and they are only a very small portion of the total funds that go into these technology development activities, but they are a catalyst. They bring together companies. They bring together research institutions to do this important work. Those funds also provide a bridge between the Government-funded research and the private-sector research, so that we have national laboratories, such as the two in my State, Los Alamos and Sandia, and we have many large and small companies working together to make breakthroughs in technology.

It is essential, if this program is going to succeed, that we allow the Advanced Technology Program to put the funds where the most good can be done and we not begin to structure this program as though it was some kind of a jobs program or as though it is a doling out of funds to different corporate interests. It is not that. It is an effort by the Federal Government to stimulate cooperative research in areas that show great promise.

Sometimes the people doing that work are in large companies. Sometimes there are a few individuals in a large company who are doing very important work and can benefit from collaborating with researchers in small companies or researchers in national laboratories or researchers in universities around this country.

I think it would be a great mistake for us to begin to limit the companies that can participate in the Advanced Technology Program. To do so would begin to move us down the road toward mediocrity in the technologies that are developed through use of these public funds, and I believe that is a very major mistake.

I know that there have been criticisms over the past that any time the Federal Government invests dollars in research and development activities that private sector companies are engaged in, that somehow or another that is corporate welfare. I strongly disagree with that point of view. I think the taxpayers are well served if we can invest in developing technologies that will create jobs, will produce revenue, will produce additional tax revenue in the future and will keep our economy the strongest in the world.

I very much hope that the Senate will reject the Brownback amendment when it is finally voted on, and I hope we will allow this Advanced Technology Program to continue to be the great engine of innovation and technology development that it has been in recent years.

Mr. ROCKEFELLER. Mr. President, I rise to urge the Senate to reject the amendment offered by Senator BROWNBACK that is designed to weaken a program absolutely critical to the country's technological strength. I thought that the fact that this bill contains the $200 million in funds needed for the Advanced Technology Program was a sign that we could finally get past a debate that is nothing but a distraction and a danger to our own economy.

I stand here today just as I did last year and the year before to defend this program—this investment in America's economic competitiveness. As I, along with many others in this Chamber, have stated before, this program supports American industry's own efforts to develop new cutting edge, next-generation technologies—technologies that will create the new industries and jobs of the 21st century.

Let me remind my colleagues that ATP does not, and I repeat, does not fund the development of commercial products. Instead, this program provides matching funds to both individual companies and joint ventures for pre-product research on high risk, potentially high payoff technologies.

The Senate should give credit to Secretary of Commerce Daley, and let us work with him through the authorization process to improve the program. Secretary Daley just met his pledge to conduct a 60-day review of the program to assess the ATP's performance and the criticisms that have been levied against it.

Sure enough, his review took into account comments provided by both critics and supporters of ATP. The Department of Commerce notified more than 3,500 interested parties, soliciting comments about ATP. In fact, Senators LIEBERMAN, DOMENICI, FRIST, and I joined together and provided 1 of the 80-plus comments the Department received.

I commend Secretary Daley for the job he did in undertaking this review. As we all know, there is not a department or program that can't be improved. And as a long time and avid supporter of ATP, I believe that after 6 years of operation, experience shows us some areas that indeed can be improved. This review has done just that. I agree with his suggestion to place more emphasis on joint-ventures and consortia and more emphasis on small and medium-size single applicants. I also support his proposal to shift the cost-share ratio for large single applicants to 60 percent, and I will further review his suggestions to encourage state participation.

As ranking Democrat on the Science and Technology Subcommittee, which has oversight of the ATP, I look forward to working with my colleague Senator FRIST to review this report and to make any necessary legislative changes during consideration of legislation to reauthorize the Technology Administration.

Secretary Daley's review could not have been done at a better time. As I stated, this program has been in existence for 6 years, and this review was conducted on those 6 years of experience. The proposals set forth in this review strengthen a very strong program that is one of the cornerstones to the Nation's long-term economic prosperity.

Some of us in the Senate, Senator HOLLINGS, Senator BURNS, Senator LIEBERMAN, and myself, to name just a few, have been fighting every year for the past 4 years to keep the ATP alive. We welcomed the Secretary's review because we knew that it would validate the arguments we've been making for the past 4 years. A new element also is emerging in this debate that is validating what we have been saying. That new element is the success stories that are finally emerging. The mere ideas receiving grant money 4, 5, and 6 years ago are now technologies entering the market place and enhancing our economy and our livelihood.

Let me close with some success stories that are starting to emerge.

In Michigan for example, there are already two success stories, the first relating to the auto industry and the second relating to bone marrow transplants.

In September 1995, an ATP-funded project, the "2 millimeter (2mm) program," was completed. As a result of this grant, new manufacturing technologies and practices that substantially improve the fit of auto body parts during automated assembly of metal parts was developed. This technology has substantially improved the fit of auto body parts during assembly, resulting in dimensional variation at or below the world benchmark of 2 millimeters, the thickness of a nickel. What does this mean for this Nation's economy? It means that U.S. auto manufacturers can make cars and trucks with less wind noise, tighter fitting doors and windshields, fewer rattles, and higher customer satisfaction. In addition, there is a cost savings between $10 and $25 per car to the consumer, and maintenance cost savings is estimated between $50 and $100 per car. In addition, this improved quality is estimated to give the U.S. auto manufacturers a 1- to 2-percent gain in market share. Equally important is that this newly developed technology is applicable in the sheet metal industry, and industries as diverse as aircraft, metal furniture fabrication, and appliance manufacturing. Quality improvement from this technology could result in an increase in total U.S. economic output of more than $3 billion annually.

In 1992, Aastrom Biosciences, a 15-person firm in Ann Arbor, MI, proposed a bioreactor that would take bone marrow cells from a patient and within 12 days produce several billion stem, white, and other blood cells—cells that can be injected into the patient to rapidly boost the body's disease-fighting ability. The technology looked promising but was too risky and long-term at that point to obtain significant private funding.

The national benefit of this program was that it provided a reliable device that would allow blood cells from a patient to be grown in large quantities would reduce health care costs, require fewer blood transfusions, and greatly improve the treatment of patients with cancer, AIDS, and genetic blood diseases. Aastrom submitted a proposal identifying the economic opportunity and technical promise, and in 1992 the ATP co-funded a research project that developed a new prototype bioreactor. Today, after completing the ATP project and proving the technology, the company has over 60 employees, and another 30 providing contract services, a practical prototype, and over $36 million in private investment to develop their new blood cell bioreactor into a commercial product.

In North Carolina, Cree Research of Durham, won an ATP award in April 1992 to develop improved processing for growing large silicon-carbide crystals—a semiconductor material used for specialized electronic and optoelectronic devices such as the highly desired blue light-emitting diodes [LED's]. In 1992, this market was limited because of difficulties in growing large, high-quality single crystals. With ATP support, Cree Research was able to double the wafer size, with significant improvements in the quality of the larger wafers. Since 1992, LED sales are up by over 850 percent as a result of the ATP-funded technology.

In Texas, a company has developed a cost-effective, microchip-based DNA diagnostic testing platform which contains both a family of diagnostic instruments and disposables. This successful prototype has demonstrated single molecule detection at a tenfold throughput advantage over conventional technologies. Numerous patented products will result from this technology in a market—molecular tools for diagnostics—which is expected to reach $2 billion by the year 2004.

ATP funded projects from 5 and 6 years ago are becoming success stories all across the Nation.

Mr. President, ATP is working, and the U.S. economy is benefitting; 288 awards have been given thus far, including 104 joint ventures, and 184 single applicants. Small businesses account for 106 awards and are the lead in 28 of the joint ventures. For the $989 million in ATP funding committed by the Federal Government, industry has committed $1.03 billion in cost sharing. The success stories, however, show us Mr. President, that the Federal funding and the cost sharing is just the seed money for enormous contributions to our national economy and our global competitiveness. Necessary seed money that bridges the innovation gap in this country between basic research and emerging technologies. I encourage my colleagues to continue their support of this worthy and successful program, and to reject this amendment that will take us backwards and help our foreign competitors while weakening our own economy.

Mr. SMITH of New Hampshire. Mr. President, I rise today in support of Senator BROWNBACK's amendment to the Commerce, Justice, and State appropriations bill for fiscal year 1998. This amendment prohibits the awarding of grants from the Advanced Technology Program [ATP] within the Department of Commerce to corporations with sales greater than $2.5 billion.

This amendment offered by the Senator from Kansas is a good amendment that should enjoy bipartisan support. After all, I hear my colleagues on both sides of the aisle talking year after campaign year about eliminating corporate welfare. Therefore, I assume a vote to limit grants to the wealthiest corporations in the Nation should be an easy one. Let's be clear about what firms we are talking about. The companies that have been awarded the largest grant amounts are IBM, General Motors, General Electric, Ford, and Sun Microsystems, among others. Do these sound like corporations in need of one, two or three million dollar grants? To me, these profitable firms sound like companies that could certainly find private sector funding. And this belief is not without basis. In fact, the General Accounting Office [GAO] surveyed 89 grant recipients and 34 near-winners that applied for ATP funding between 1990 and 1993. Of the near-winners, half continued their research and development projects despite a lack of ATP funding. Among those who received grants, 42 percent said they would have continued their R&D without the ATP money.

The Federal Government should not be in the business of providing corporate subsidies. However, we should fund basic science projects that do not have short-term profit-making potential, and would otherwise not be funded by the private sector. The Senator's amendment is a step toward reversing this trend toward funding applied research that ultimately produces handsome profits for these companies. Under his reasonable proposal, the most profitable firms, companies that realize more than $2.5 billion in sales, would not be eligible for ATP subsidies. While I would prefer to see these corporate subsidies eliminated from our budget, I would be pleased to know that Federal funding is not going to enormously profitable corporations.

Defenders of the ATP corporate welfare program argue that these grants allow research that otherwise would not go forward. How do we know, when many of the grant recipients did not even seek private sector money before coming to the Federal Government? In fact, GAO found that 63 percent of the ATP applicants surveyed had not sought private sector funding before applying for a grant. Other opponents of this amendment are the same Senators who oppose the efforts of the Republicans to ease the tax burden on Americans. At the same time these Members deny taxpayers the chance to keep some of their own money, they turn around and give the hard-earned tax dollar to billion dollar corporations.

However, after hearing so many Senators speak out against corporate welfare, I am confident that this amendment will be approved by a wide margin. I urge my colleagues to support the amendment.

Mr. LIEBERMAN. Mr. President, I rise to speak on the Department of Commerce's Advanced Technology Program or ATP. This is an important program and I have long appreciated Senator HOLLINGS' work in founding and continuing it. The amendment offered by Senator BROWNBACK would prohibit ATP awards to companies with revenues that exceed $2.5 billion. I oppose Senator BROWNBACK's amendment and would like to thank Senator FRIST for his floor statement explaining why he too has voted against the amendment. Like Senator FRIST, I think there are several solid reasons as to why Senator BROWNBACK's amendment should be opposed.

My first concern is process—this is an attempt to legislate a very complex issue now being considered by the authorizing committee, on an appropriations bill. The Senate Commerce Committee, Science and Technology Subcommittee under Senator FRIST, the Subcommittee Chair, and Senator ROCKEFELLER, ranking Democrat, are planning legislation on ATP, including a careful look at this issue, later this session. I believe in this case that the Senate should vote to wait and see what action the authorizing committee takes.

I would also highlight recent changes to the ATP proposed by Commerce Secretary William Daley that may assist in resolving this debate. The Secretary's action plan for changes is very responsive to recommendations I and other Members of Congress made. Specifically the evaluation criteria will be changed to put more emphasis on joint ventures or consortia. This will help ensure that the program funds only pre-competitive research and development; for if competitors in the development phase cooperate in research and development, they are very unlikely to allow access to each other's product development efforts.

Secretary Daley has mandated that the cost-share ratio for large companies, applying as single applicants, will be increased to a minimum of 60 percent. Proposals will also be reviewed by venture capital experts to ensure that private sector financing would not be available and a government role is needed. When combined with changes in the evaluation criteria favoring small and medium sized businesses, these changes will result in virtually all ATP grants being awarded to either consortium or small and medium sized company single applicants.

Finally, modifications to the ATP's rules and procedures would help facilitate cooperative ventures between industry and universities and national laboratories. To date, university and Federal laboratory participation has been hindered over concerns regarding intellectual property and project management.

After studying the Secretary's report, I believe that the ATP will emerge both as a more effective program and one with a significantly reduced political profile. Its new structure appears to have answered criticisms raised and is consistent with the bipartisan ideas endorsed by the Senate Science and Technology Caucus of which I am a member.

I believe that the changes introduced by Secretary Daley, now under review by the Commerce Committee, are a better way to ensure the continued effectiveness of the Advanced Technology Program than the pending amendment which would completely ban large companies from all participation in the ATP. Large companies play a key role in the innovation process through their organizational ability, resources and market experience. To entirely preclude their participation in the ATP would be a mistake. I will vote to oppose this amendment and look forward to Senator FRIST's subcommittee review.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I want to speak on this bill.

I thank Senator GREGG, our subcommittee chairman, and Senator HOLLINGS, our ranking member, for help, for cooperation and commitment to the most important issue facing my State, and that is bolstering the front line of our Nation's defense in the war on drugs.

The U.S. Border Patrol has been funded in this bill. It has been funded to the extent that we will be able to add 1,000 new Border Patrol agents during fiscal year 1998. This bill provides adequate funding for their training and supervision. Moreover, it reflects the ongoing commitment of Congress to put 5,000 new Border Patrol agents on the line and to regain control of our borders by the year 2002.

Mr. President, I have to tell you that this was a hard-fought effort. The Immigration Reform Act passed last year directed the administration to submit a budget request to Congress which included funding for 1,000 new agents. Regrettably, they only requested funding for 500. I and Senator GRAMM have had many discussions with the Attorney General and the INS Commissioner. I am convinced of their commitment to secure our borders. I think they really are sincere. But now they must back that up with the requested resources in future years.

Over the past several months, I have felt and expressed a sense of hopelessness in our Nation's war on drugs. I feel this hopelessness because no matter where I travel in Texas, I meet people who have lost loved ones to drug violence. I know ranchers and farmers along our border who have been intimidated by drug smugglers. They have had their homes shot at in broad daylight. I know of Customs agents of Mexican-American heritage who have been told by drug smugglers to look the other way as cocaine, heroin, marijuana, and methamphetamines are smuggled across the border because their families back in Mexico will be harmed if they do not.

Just this morning, a friend of mine called me to tell me about his friend who lives in Carrizo Springs. He described gangs of drug thugs and illegal immigrants who are terrorizing residents of this small Texas community. They are scared and they feel helpless. These Texans have the misfortune to live along the front lines of a business that provides $10 billion to the Mexican economy each year—the drug market.

The Office of National Drug Control Policy reports that approximately 12,800,000 Americans use illegal drugs.

Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States. And 10.9 percent of all children between 12 and 17 use illegal drugs and 1 child in 4 claims to have been offered illegal drugs in the last year.

Drug-related illness, death and crime cost the United States approximately $67 billion each year, including costs for lost productivity, premature death, and incarceration.

I strongly believe and share the view that effective treatment and prevention is needed to break the cycle that links illegal drugs to violent crime. It is the only way to protect our children and save their future.

Mr. President, our southern neighbor, Mexico, is the source of between 20 and 30 percent of the heroin, 70 percent of the marijuana, and 50 to 70 percent of the cocaine shipped into the United States. If the flow of drugs is going to stop, the front line of that war will be along our Nation's border with Mexico. The United States-Mexico border is 2,000 miles long, and Texas has 1,200 miles of that border.

You can see how that border goes. You can see that, of the 2,000, 1,200 miles is along Texas. Texas has been and will continue to be the key battleground in this war.

I am pleased that we have been able to work with the Border Patrol and the committee to correct disparities in placing Border Patrol along the border. As you can see from this chart, Texas has 1.7 agents for every 1 of our 1,254 miles—1.7 for this 1,254-mile border. New Mexico and Arizona do not fare much better. California has 16.3 agents for every one mile of the border. I cannot go home and tell my constituents that we are doing all we can in the war on drugs if Congress and the administration fail to provide the funding for more Border Patrol agents.

Two of Mexico's largest drug cartels, the Juarez cartel and the Matamoros cartel operate from El Paso here and Brownsville, respectively. You can see from this chart that from the Matamoros cartel, the gulf cartel, the drugs go in and over to the eastern seaboard. From the Juarez cartel, it goes into Colorado and Chicago, the Midwest. From the Tijuana cartel, it goes into California, goes to the Pacific Northwest. So you can see what is happening to our country and what not closing the border can do to the amount of illegal drugs that are coming into our country.

As we work on this funding for fiscal year 1998, I will be asking many questions about deployment of resources from the DEA and from the Border Patrol because we must put the resources where the threat lies. Two-thirds of the illegal immigration and the illegal drugs flowing through Mexico and into our country go through Texas, through McAllen, through Eagle Pass, and through the Del Rio Border Patrol sectors. Two-thirds of the illegal immigration and the illegal drugs go through these corridors. Yet as we have said, there are only 1.7 agents per mile in Texas, and we must do something about that, and that is what this bill is going to address today.

The bill that we pass will fully fund 1,000 new Border Patrol agents. We need this help. It is the highest priority I have. As long as drugs are coming through Mexico into the United States through this border, it should be the highest priority for everyone.

That is why I cannot say enough times how pleased I am that the chairman of the subcommittee, Senator GREGG; Senator HOLLINGS, the ranking member of the subcommittee; as well as our chairman, Senator STEVENS, all agreed that this was a crisis that affects all of us. It is not just the border States; it is all of the States that these drugs funnel into. Nothing is a greater priority than stopping the flow of illegal drugs into our country. When 1 child in every 4 has been offered illegal drugs, we cannot look them in the eye and say we are protecting their future if we do not stop those illegal drugs.

So I want to work with the Attorney General and the Commissioner of INS and General McCaffrey, who is our drug czar, who is trying to grapple with this issue. I want to say to them, no resource is going to be withheld if it will stop the illegal drugs and the illegal immigration into our country that has criminalized our borders.

This bill addresses that today, and I will ask the Attorney General and the Commissioner of INS to help us by deploying the full 1,000 and making sure that we stop the centers where these people are coming through Texas. If we can stop it right now, then our children will have a better future.

Thank you, Mr. President. Once again I thank the subcommittee chairman. I think, if we can work together on a bipartisan basis, we can make a difference for the future of our country. And this is a major first step.

Thank you, Mr. President. I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my judgment, there is an urgent need that independent counsel be appointed to investigate and prosecute campaign finance violations arising out of the 1996 Federal elections. The efforts to persuade Attorney General Reno to make that application for independent counsel have thus far failed. It is my view that it is important to consider alternatives in order to have independent counsel appointed.

In my judgment, there are two possible alternatives available. One would be a lawsuit to ask the United States Court of Appeals for the District of Columbia, the appropriate panel on independent counsel, to appoint independent counsel, notwithstanding the refusal of the Attorney General to make that application.

The general rule of law is that a public official may not be compelled to perform a discretionary function, an area of law which I had some experience with as district attorney of Philadelphia. However, there is a narrow ambit, even when considering a discretionary rule, where there may be an application for relief if there is an abuse of discretion by the public official. It is my legal judgment that there has been such an abuse of discretion by the Attorney General in this situation.

Another alternative would be to legislate in the field, to make it abundantly plain that independent counsel should be appointed here, and that the circuit court would have the authority to do so. In my opinion, there is a realistic likelihood of success on litigation at the present time.

Although the independent counsel statute poses certain problems which make it to some extent uncertain, I believe there is a legal basis for proceeding to have the court appoint independent counsel without any modification of pending law. There is the alternative of legislating on this bill which is before the Senate, to make certain modifications of the independent counsel law, which would remove any conceivable doubt about the authority of the circuit court to appoint independent counsel.

Mr. President, on the issue of the exhausting of remedies on requesting that independent counsel be appointed by Attorney General Reno, the record is replete with a whole series of requests having been made by individual Members of Congress and then by the Judiciary Committee of the U.S. Senate. The issue was focused on very sharply with Attorney General Reno in oversight hearings which we had several months ago. I had an opportunity to question the Attorney General on this subject and pointed to two specific instances which, in my judgment, cried out for the appointment of independent counsel.

President Clinton has publicly complained about having been denied national security information which he thought he should have and has complained that such information was denied to him by the FBI and the Department of Justice. In questioning Attorney General Reno on this subject in the Judiciary oversight hearing, she defended that denial of information on the ground that there was a pending criminal investigation and that as a matter of balance, it was her judgment as Attorney General that the information should not be turned over to the President.

On the record in that Judiciary Committee oversight hearing, I disagreed with her conclusion on the ground that the Attorney General did not have the authority to decide what the President should or should not see on national security matters; the President as Commander in Chief and Chief Executive Officer of the United States has an absolute right to that information. If there were to be a denial to the President, it was not the function of the Attorney General or the FBI to deny that information. However, if the Attorney General felt that a denial of information was warranted under the circumstances, that was a very powerful showing that independent counsel ought to be appointed. If the President of the United States is in any way suspected, that provides a very strong basis that his appointed Attorney General ought not be conducting that investigation. It ought to be handled by independent counsel.

It was pointed out to Attorney General Reno in the course of that oversight hearing that this followed directly her testimony on confirmation where she strongly endorsed the concept of independent counsel both as a matter of avoiding conflict of interest and, as Attorney General Reno said at that time, avoiding the appearance of conflict of interest. Notwithstanding that, she has refused to make an application for the appointment of independent counsel.

A second line of questioning which I pursued with the Attorney General involved the issue of violations of the campaign finance laws. On that subject, there has been substantial information in the public domain about the President's personal activities in preparing television commercials for the 1996 campaign. There is no doubt—and the Attorney General conceded this—there would be a violation of the Federal election law if, when the President prepared campaign commercials, they were advocacy commercials, contrasted with what is known as issue commercials. The activity of the President in undertaking that activity has been documented in a book by Dick Morris and also in public statements by his chief of staff, Leon Panetta.

The Attorney General, during the course of the hearing, disputed my contention that the commercials were, in fact, advocacy commercials. I then wrote to the Attorney General the next day, on May 1, and set forth a series of commercials which President Clinton had edited, or prepared, and asked her if those were, in fact, advocacy commercials. In the letter, I cited the Federal Election Commission definition of express advocacy, which is as follows:

> Communications using phrases such as "vote for President," or "reelect your Congressman," "Smith for Congress," or language which, when taken as a whole and with limited reference to external events, can have no other reasonable meaning than to urge the election or defeat of a clearly identifiable Federal candidate.

Mr. President, it is my submission that reasonable people cannot differ on the conclusion that the commercials that President Clinton prepared were express advocacy commercials. This is an illustration of a commercial:

> Protecting families. For millions of working families, President Clinton cut taxes. The Dole-Gingrich budget tried to raise taxes on 8 million. The Dole-Gingrich budget would have slashed Medicare $270 billion and cut college scholarships. The President defended our values, protected Medicare, and now a tax cut of almost $1,500 a year for the first two years of college. Most community college is free. Help adults go back to school. The President's plan protects our values.

It is hard to see how anyone could contend that that is not an express advocacy commercial. It certainly fits within the definition of the Federal Election Commission, which is that the language taken as a whole can have no other reasonable meaning than to urge the election and defeat of a clearly identified Federal candidate. That commercial refers to two Federal candidates, and one is President Clinton. It extols his virtues, obviously speaking in favor of the President. That commercial refers to another candidate, former Senator Dole, arguing about his failings.

Mr. President, I ask unanimous consent that at the conclusion of my remarks, my letter dated May 1, 1997, be printed in the Congressional RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERRY. Mr. President, can I ask the Senator from Pennsylvania what his intentions may be with respect to the floor, timewise?

Mr. SPECTER. I expect to speak at some length, Senator KERRY, and to introduce an amendment to the present bill. There is a vote scheduled for 2 o'clock, and I will have a considerable amount to say, which will not all be said by the time the vote comes up.

Mr. KERRY. Well, Mr. President, if I could inquire again of the Senator—and I appreciate his indulgence here. I did want to speak with respect to the amendment that is pending for the vote at 2 o'clock. It is my understanding that the amendment being submitted by the Senator will not be voted on at 2. So I ask the distinguished Senator if he might be willing to agree to permit some period of time—and I don't need a lot—before 2 o'clock so that I might speak on the pending amendment.

Mr. SPECTER. May I inquire of the Senator from Massachusetts, how much time he would like to have?

Mr. KERRY. I would be pleased to have 6 or 7 minutes.

Mr. SPECTER. Mr. President, I ask unanimous consent that my presentation be interrupted for 7 minutes so that Senator KERRY may speak and that I be entitled to regain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I want to speak with respect to the amendment that seeks to make it more difficult for large companies to be able to participate in the Advanced Technology Program. As a matter of background, Mr. President, for years in this country, we had a structure where we had the Bell Laboratories, or IBM, and other very large entities who were engaged in major research and technology. And for years, this country's economy benefited enormously because of the remarkable amount of private sector and public sector research. The defense industry and other industries had an enormous amount of spinoff. If you look at something like the experience of Route 128 in Massachusetts, or the Silicon Valley, everybody understands that some of the great technology jobs of the present time come from the 1960's and 1970's spinoffs through that investment.

The fact is that our economic structure has changed very significantly in the 1990's. We no longer have that kind of broad-based technology research fueled by the Federal Government. We have a much more specific and targeted kind of research that takes place. And as a result of that, both the Federal Government and the private sector have narrowed the kind of basic science and research that we do, which often results in those spinoffs, which has provided the remarkable foundation of the economic growth we are experiencing now in our Nation.

It is also ironic that, at the very time that we are doing that, Japan and other countries are increasing their technology investment. I believe, last year, Japan committed to a 50-percent increase in their national commitment to science and basic technology research.

So the truth is that, a number of years ago, the Commerce Committee, with the leadership of Senator HOLLINGS, Senator ROCKEFELLER, myself and others, created what is known as the Advanced Technology Program, which is a way to joint venture in the United States between our universities and our laboratories and various entities in the private sector, in order to maximize what was a diminishing ability to move science from the laboratory to the shelf, to the marketplace. It would be most regrettable to turn around now and reduce the capacity of a large company to be able to be part of a consortium, to be able to joint venture with smaller companies in an effort to fill that vacuum and make up for that scientific research.

In point of fact, Mr. President, let me just share a couple of success stories from the Advanced Technology Program from 16 different States in our country. The Advanced Technology Program put together a device that would allow blood cells from a patient to be grown in large quantities, consequently reducing health care costs, requiring fewer blood transfusions and improving treatment possibilities for patients with cancer, AIDS, and genetic blood diseases. It developed manufacturing technologies and practices that substantially improved the fit of auto body parts during automated assembly of metal parts, which resulted in United States auto manufacturers making cars and trucks with less wind noise, tighter fitting doors and windshields, fewer rattles, and higher customer satisfaction, and potentially increasing United States auto manufacturers' gain in the world market. Another example of success was a development of a new way to solder electronic circuit boards that uses less solder, and is more precise, more efficient, and environmentally benign than current technologies. In addition, there was a development of a process to develop ultrafine ceramic powders that can be heat pressed into parts such as piston heads and turbine blades, and those significantly impact parts manufacturing.

Somebody might sit there and say, well, OK, Senator, these things are all well and good, why didn't these companies just go do it on their own? Why should the Federal Government be involved in supporting that? The answer to that is the reason that we ought to keep this program going: The reality is that the way money functions in the marketplace, it seems it's the best return on investment, fastest or safest, but it doesn't often commit to take some of the higher risks, particularly given the change within the marketplace today. It is a known fact—you can talk to any venture capitalist, and talk to anybody out there seeking the capital—that it is only because of programs like the Advanced Technology Program, where the Government is willing to share not only in the risk, but in the burden of trying to find the processes and the technologies, that we can advance in helping to bring together the special combinations, where we have been able to make things happen that simply would not happen otherwise.

We have created jobs, we have advanced ourselves in the world marketplace. We have maintained our competitive edge as a consequence of this commitment. And to create this arbitrary, sort of means-tested, very precise process of eliminating a whole group of companies that have great technology, but may not be willing to share it with smaller companies absent this joint risk, would be an enormous loss to the American competitive edge. That is the reason that it is so important for the United States to continue this effort. It is also a fact that while large firms are able to pay for their own research and development, they are not always going to pay for the longer term, higher risk, broader applied technology principles that other nations or other companies might benefit from without paying for it.

So, Mr. President, I strongly urge colleagues not to respond to the sort of simple view of this adopting a notion that a large company is automatically able to take care of itself and eliminate this program. We need large companies in combination with small, we need large companies lending expertise to our universities, we need large companies to be part of this combination. Without this combination, those companies, Mr. President, will not make this commitment and America will lose in the marketplace. I urge my colleagues to reject the Brownback amendment. I thank the Senator from Pennsylvania again for his courtesy.

Mr. SPECTER. Mr. President, I was in the process of my contention that the commercials prepared and/or edited by President Clinton constituted express advocacy, and I asked that my letter of May 1, 1997, to Attorney General Reno be printed in the RECORD.

I now ask that the reply from Attorney General Reno, dated June 19, 1997, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, June 19, 1997.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: I have received your letter of May 1, 1997, asking that I offer you my legal opinion as to whether the text of certain television commercials constitutes "express advocacy" within the meaning of regulations of the Federal Election Commission ("FEC"). For the reasons set forth below, I have referred your request to the FEC for its consideration and response.

Under the Federal Election Campaign Act, the FEC has statutory authority to "administer, seek to obtain compliance with, and formulate policy with respect to" FECA, and exclusive jurisdiction with respect to civil enforcement of FECA. 2 U.S.C. §437c(b)(1); *see* 2 U.S.C. §437d(e) (FEC civil action is "exclusive civil remedy" for enforcing FECA). The FEC has the power to issue rules and advisory opinions interpreting the provisions of FECA. 2 U.S.C. §§437f, 438. The FEC may penalize violations of FECA administratively or through bringing civil actions. 2 U.S.C. §437g. In short, "Congress has vested the Commission with 'primary and substantial responsibility for administering and enforcing the Act.'" *FEC* v. *Democratic Senatorial Campaign Comm.*, 454 U.S. 27, 37 (1981), *quoting Buckley* v. *Valeo*, 424 U.S. 1, 109 (1976).

The legal opinion that you seek is one that is particularly within the competence of the FEC, and not one which has historically been made by the Department of Justice. Determining whether these advertisements constitute "express advocacy" under the FEC's rules will require consideration not only of their content but also of the timing and circumstances under which they were distributed. The FEC has considerably more experience than the Department in making such evaluations. Moreover, your request involves interpretation of a rule promulgated by the FEC itself. Indeed, it is the standard practice of the Department to defer to the FEC in interpreting its regulations.

There is particular reason to defer to the expertise of the FEC in this matter, because the issue is not as clear-cut as you suggest. In *FEC* v. *Colorado Republican Federal Campaign Comm.*, 839 F. Supp. 1448 (D. Colo. 1993), *rev'd on other grounds*, 59 F.3d 1015 (10th Cir. 1995), *vacated*, 116 S.Ct. 2309 (1996), the United States District Court held that the following advertisement, run in Colorado by the state Republican Federal Campaign Committee, did *not* constitute "express advocacy":

"Here in Colorado we're used to politicians who let you know where they stand, and I thought we could count on Tim Wirth to do the same. But the last few weeks have been a real eye-opener. I just saw some ads where Tim Wirth said he's for a strong defense and a balanced budget. But according to his record, Tim Wirth voted against every new weapon system in the last five years. And he voted against the balanced budget amendment.

"Tim Wirth has a right to run for the Senate, but he doesn't have a right to change the facts."

839 F. Supp. at 1451, 1455–56. The court held that the "express advocacy" test requires that an advertisement "in express terms advocate the election or defeat of a candidate." *Id.* at 1456. The Court of Appeals reversed the District Court on other grounds, holding that "express advocacy" was not the appropriate test, and the Supreme Court did not reach the issue.

Furthermore, a pending matter before the Supreme Court may assist in the legal resolution of some of these issues; the Solicitor General has recently filed a petition for certiorari on behalf of the FEC in the case of *Federal Election Commission* v. *Maine Right to Life Committee, Inc.*, No. 96–1818, filed May 15, 1997. I have enclosed a copy of the petition for your information. It discusses at some length the current state of the law with respect to the definition and application of the "express advocacy" standard in the course of petitioning the Court to review the restrictive definition of the standard adopted by the lower courts in that case.

It appears, therefore, that the proper legal status of these advertisements under the regulations issued by the FEC is a question that is most appropriate for initial review by the FEC. Accordingly, I have referred your letter to the FEC for its consideration. Thank you for your inquiry on this important matter, and do not hesitate to contract me if I can be of any further assistance.

Sincerely,

JANET RENO.

Mr. SPECTER. Further, I ask unanimous consent that a letter from the Federal Election Commission, dated June 26, 1997, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL ELECTION COMMISSION,
Washington, DC, June 26, 1997.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR SPECTER: Your letter of May 1, 1997 to Attorney General Reno has been referred by the Department of Justice to the Federal Election Commission. Your letter asks for a legal opinion on whether the text of certain advertisements constitutes "issue advocacy" or "express advocacy."

As the Attorney General's June 19, 1997 letter to you correctly notes, the Federal Election Commission has statutory authority to "administer, seek to obtain compliance with, and formulate policy with respect to" the Federal Election Campaign Act ("FECA"). 2 U.S.C. §437c(b)(1). The Commission's policymaking authority includes the power to issue rules and advisory opinions interpreting the FECA and Commission regulations. 2 U.S.C. §§437f and 438.

Your May 1 letter notes that the Commission has promulgated a regulatory definition of "express advocacy" at 11 CFR 100.22. While the Commission may issue advisory opinions interpreting the application of that provision, the FECA places certain limitations on the scope of the Commission's advisory opinion authority. Specifically, the FEC may render an opinion only with respect to a specific transaction or activity which the requesting person plans to undertake in the future. See 2 U.S.C. 437f(a) and 11 CFR 112.1(b). Thus, the opinion which you seek regarding the text of certain advertisements does not qualify for advisory opinion treatment, since the ads appear to be ones previously aired and do not appear to be communications that you intend to air in the future. Moreover, "[n]o opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of [section 437f]." 2 U.S.C. §437f(b).

While the FECA's confidentiality provision precludes the Commission from making public any information relating to a pending enforcement matter, I note that past activity such as the advertisements you describe may be the subject of compliance action. If you believe that the advertisements in question involve a violation of the FECA, you may file a complaint with the Commission pursuant to 2 U.S.C. §437g(a) noting who paid for the ads and any additional information in your possession that would assist the Commission's inquiry. The requirements for filing a complaint are more fully described in the enclosed brochure.

I hope that this information proves helpful to your inquiry. Please feel free to contact my office (219-4104) or the Office of General Counsel (219-3690) if you need further assistance.

Sincerely,

JOHN WARREN MCGARRY,
Chairman.

Mr. SPECTER. Mr. President, the essence of the Attorney General's response to me was that she would not respond on the legal issue, notwithstanding she is the Nation's chief law enforcement officer. She passed the buck over to the Federal Election Commission. The Federal Election Commission passed the buck back, saying that these were matters that had already occurred, so they didn't come within advisory opinions. One way or another, Mr. President, we will have a determination as to what is involved there. The alternative of proceeding in court is one which we are currently examining, and as I have noted, there is an issue as to whether that can be done on the existing statute.

I do believe there is a legal basis for so proceeding, but on a novel bit of litigation of this sort, no lawyer can be absolutely certain as to what the result would be. But in the context of what we have on the record with the Attorney General's refusal to appoint independent counsel, in a context where she is denying the President of the United States national security information, and her refusal to proceed to appoint independent counsel where the Attorney General concedes that there has been a coordinated effort by the President so that the only remaining issue is whether there is an advocacy commercial, which on their face, I submit, these commercials are. The problems have been compounded with the conduct of the Attorney General and the Justice Department in the course of the last several days where they have opposed applications for immunity requested for consideration by the Governmental Affairs Committee.

The Governmental Affairs Committee, as is well known, is currently investigating illegal or improper activities in the 1996 Federal elections. A modus operandi has been worked out there which would allow the Attorney General to come in and give the committee the Attorney General's opinion as to whether immunity should be withheld or granted.

The law is plain that the committee has the jurisdiction to make that determination, where the statute gives the Attorney General a period of time to object and additional time for the purpose of putting the Department of Justice's case together. Due to the problems created by the decisions involving Admiral Poindexter and Colonel North go to a point where limited immunity is granted, the prosecutor must prove the case from independent sources and the prosecutor can put a case together, can, so to speak, bundle the case before immunity is granted.

So when the request was made for applications for immunity for five individuals, the Attorney General responded, the Department of Justice responded that they objected to the grant of immunity. That was, so to speak, the straw which broke the camel's back and the chairman of the committee, Senator THOMPSON, made a very forceful public statement on Tuesday saying that he had lost confidence in the Department of Justice to conduct an impartial and appropriate investigation, and that the refusal to agree to those grants of immunity was just beyond the pale, a conclusion with which I agree.

On the basis of the equities here, I believe a very, very strong case can be made out to have the Court, in its supervisory authority, appoint independent counsel notwithstanding the absence of an application by the Attorney General. However, in consultation with my colleagues, I have decided to introduce an amendment to the pending bill which would make certain modifications in the independent counsel statute. These modifications would create new authority for the Congress to seek judicial appointment of an independent counsel where there is a determination that the Attorney General's failure to do so is an abuse of discretion. This authority would reside in the Judiciary Committee, where the full committee or a majority of the majority party members or a majority of the nonmajority party members could petition the Court to appoint an independent counsel where the full committee or a majority of either party's committee members determines that the Attorney General's failure to appoint an independent counsel is an abuse of discretion. This carefully crafts a procedure so that there is a limit of standing as to who may come in and ask for the appointment of independent counsel.

The amendment, which I propose to introduce, would further provide for a judicial determination on independent counsel with a specification that upon receipt of a congressional application, the Court shall appoint independent counsel where the Court has determined that the Attorney General's failure to appoint an independent counsel is an abuse of discretion.

There are considerations on constitutional issues here, but I believe that other relevant issues must also be considered. Regarding the context of the current factual situation and carefully limiting the petitioning authority to the Congress, and in the context where the Attorney General herself has emphasized the importance of the independent counsel provision, including the avoidance of appearance of impropriety, it is my judgment that this law would pass constitutional muster and would provide an important addition in the interest of justice to solve the problem which we now confront, where the overwhelming weight of evidence—and I don't use that term lightly. It is evidence. It has evidentiary value—calls for the appointment of independent counsel.

There is pending at the present time an amendment so I cannot introduce my amendment now. A subsequent amendment is pending. But it is my intention, as I say, Mr. President, to introduce this amendment. There have been some preliminary indications that the introduction of this amendment might tie up the bill, and I do not intend to tie up the bill. If that is the consequence of the introduction of an amendment, if a filibuster were to follow, I would not persist and subject this appropriations bill to a filibuster. I firmly believe that it is in the public interest in a very serious way to have independent counsel appointed, and it is obvious that all the entreaties to the Attorney General have thus far been unsuccessful and litigation is an option which may be pursued. However, this statutory change would make it certain that the Court would have the authority and that the petitioning parties would have appropriate standing to have independent counsel appointed.

I thank the Chair and yield the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 1, 1997.

Hon. JANET RENO,
Attorney General,
Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: Following up on yesterday's hearing, please respond for the record whether, in your legal judgment, the text of the television commercials, set forth below, constitutes "issue advocacy" or "express advocacy."

The Federal Election Commission defines "express advocacy" as follows:

"Communications using phrases such as 'vote for President,' 'reelect your Congressman,' 'Smith for Congress,' or language which, when taken as a whole and with limited reference to external events, can have no other reasonable meaning than to urge the election or defeat of a clearly identified federal candidate." 11 CFR 100.22

The text of the television commercials follows:

"American values. Do our duty to our parents. President Clinton protects Medicare. The Dole/Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole/Gingrich budget tried to raise taxes on eight million of them. Opportunity. President Clinton proposes tax breaks for tuition. The Dole/Gringrich budget tried to slash college scholarships. Only President Clinton's plan meets our challenges, protects our values.

"60,000 felons and fugitives tried to buy handguns—but couldn't—because President Clinton passed the Brady Bill—five-day waits, background checks. But Dole and Gingrich voted no. One hundred thousand new police—because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal 'em. Strengthen school anti-drug programs. President Clinton did it. Dole and Gingrich? No again. Their old ways don't work. President Clinton's plan. The new way. Meeting our challenges, protecting our values.

"America's values. Head Start. Student loans. Toxic cleanup. Extra police. Protected in the budget agreement; the president stood firm. Dole, Gingrich's latest plan includes tax hikes on working families. Up to 18 million children face healthcare cuts. Medicare slashed $167 billion. Then Dole resigns, leaving behind gridlock he and Gingrich created. The president's plan: Politics must wait. Balance the budget, reform welfare, protect our values.

"Head Start. Student loans. Toxic cleanup. Extra police. Anti-drug programs. Dole, Gingrich wanted them cut. Now they're safe. Protected in the '96 budget—because the President stood firm. Dole, Gingrich? Deadlock. Gridlock. Shutdowns. The president's plan? Finish the job, balance the budget. Reform welfare. Cut taxes. Protect Medicare. President Clinton says get it done. Meet our challenges. Protect our values.

"The president says give every child a chance for college with a tax cut that gives $1,500 a year for two years, making most community colleges free, all colleges more affordable . . . And for adults, a chance to learn, find a better job. The president's tuition tax cut plan.

"Protecting families. For millions of working families, President Clinton cut taxes. The Dole-Gingrich budget tried to raise taxes on eight million. The Dole-Gingrich budget would have slashed Medicare $270 billion. Cut college scholarships. The president defended our values. Protected Medicare. And now, a tax cut of $1,500 a year for the first two years of college. Most community colleges free. Help adults go back to school. The president's plan protects our values."

Sincerely,

ARLEN SPECTER.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak on the underlying amendment briefly, the amendment offered by the Senator from Kansas with regard to his efforts to really hone NIST's Advanced Technology Program to serve the public, the amendment to the Commerce, Justice, State, and Judiciary appropriations bill.

I do wish to thank my colleague, the Senator from Kansas, for his efforts to accomplish what we all want to do, and that is to have NIST's ATP serve in the best way possible the public, using taxpayer dollars. And I, too, am very optimistic and feel very confident that this can be done, yet I want to rise and speak against the amendment and stress that the approach is different than what I would like to take and therefore explain it.

I am chairman of the Commerce Science, Technology and Space Subcommittee, the committee through which the reauthorization and the authorization for this ATP takes place. That subcommittee right now is looking at all of the information in a very systematic way to see how we best can evolve that program to provide absolutely the best return on our Nation's investment.

I feel strongly that the proper place to effect such changes should be in a more comprehensive approach rather than a shotgun approach, and that is through the committee structure, through the committee that is charged with the reauthorization of NIST's ATP, and that is what we are doing.

Just last week an excellent report was released by the Commerce Department. It is a 60-day report. It put forth recommendations, four reform efforts in place, suggestions, recommendations—conducted by the Commerce Department. And I dare say I bet there has not been a Senator in the room who has read through that report released just last week.

I think the report is a good first step. We need to go much further than that, but I would rather do that on an authorizing bill rather than having it tagged on an appropriations bill in more of a shotgun fashion.

Our subcommittee is right now working on a reauthorization bill that addresses the longstanding concerns which people have with the Advanced Technology Program so that it can be become a really more effective vehicle for stimulating innovation in this country, and that is what we want to do, stimulate innovation.

I welcome the input to our subcommittee of all interested parties, including my colleagues from the Commerce Committee and the Senator from Kansas, who is also on the Commerce Committee, in order to craft this more comprehensive legislation. Therefore, I rise to express my opposition to this particular amendment offered by the Senator from Kansas and hope that we will begin the opportunity through the appropriate authorizing subcommittee to effect real change, more comprehensive change where we can consider all of the available data in order to accomplish the necessary change in the NIST's Advanced Technology Program through this reauthorization process. I hope my colleagues will join me in opposition to this amendment, recognizing that we will be addressing all of these issues through the appropriate reauthorizing committee, that of science, technology and space.

I yield the floor.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Under the previous order, the question now occurs on amendment No. 980, offered by the Senator from Kansas [Mr. BROWNBACK].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "no."

The result was announced, yeas 42, nays 57, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—42

Abraham
Allard
Ashcroft
Bond
Brownback
Campbell
Chafee
Coats
Collins
Craig
Domenici
Enzi
Faircloth
Feingold
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchinson
Inhofe
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Thomas
Thompson
Thurmond
Wyden

NAYS—57

Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Cleland
Cochran
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Feinstein
Ford
Frist
Glenn
Graham
Grams
Hagel
Harkin
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Specter
Stevens
Torricelli
Warner
Wellstone

NOT VOTING—1

Kennedy

The amendment (No. 980) was rejected.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. LUGAR. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. LUGAR. I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 981

(Purpose: To make appropriations for grants to the National Endowment for Democracy)

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mr. MCCONNELL, Mr. LEAHY, Mr. GRAHAM, Mr. LIEBERMAN, Mr. ROTH, Mr. DODD, and Mr. MACK proposes an amendment numbered 981.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 113, line 7, after the word "expended." insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended.

On page 100, line 24 strike "$105,000,000" and insert "$75,000,000".

Mr. LUGAR. Mr. President, I ask unanimous consent that no second-degree amendment to my amendment be in order.

Mr. BUMPERS. Objection.

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I understand while I was reserving the right to object somebody else actually lodged an objection.

Mr. BUMPERS. Mr. President, I object to the request.

The PRESIDING OFFICER. Objection is heard.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. KERRY. Mr. President, point of personal privilege, I would simply like to indulge the attention of the Chair. I do this in the most gentle, appropriate way as possible.

I have the utmost respect for the Senator from Indiana. The rules of the Senate are, Senators are recognized as a right of first voice heard by the Chair. Three voices were raised on this side of the aisle. And while I have enormous respect and affection for the Senator from Indiana, I do not think his voice had even been expressed, but he was recognized.

I think the Chair should proceed, if I may say, by the rules of the Senate.

The PRESIDING OFFICER. His voice was expressed. I happened to be looking in his direction and recognized him.

The Senator from Indiana.

Mr. LUGAR. Mr. President, the amendment that I introduce comes to the floor because no funding for the National Endowment for Democracy is in this bill. It has been zeroed out. The bill as written proposes to eliminate the National Endowment for Democracy, a program that has been enthusiastically supported by every administration, Republican and Democratic, since President Ronald Reagan's first term, and by every Congress, Republican and Democratic, since 1983, when it was first launched.

The amendment we are proposing would continue funding for the National Endowment for Democracy at this year's level, namely $30 million. It does not seek an increase in funding. But it proposes that the funding continue.

The amendment would shift $30 million from the State Department Capital Investment Fund in the bill to the National Endowment for Democracy.

I point out, Mr. President, that even with the $30 million shifted from the State Department Capital Investment Fund, that fund will still exceed by $11 million the administration's request.

The capital investment fund is an important initiative. Many of us have written to Secretary Albright and the President about the importance of strengthening the State Department's technological and communications capability. They are significant and important deficiencies in the State Department. And this bill will go a long way to correct them.

But, Mr. President, the administration requested a total of $64 million for these purposes. The bill before us includes a funding level of $105 million, some $41 million over the President's request. Therefore, Mr. President, I am pleased to announce the administration favors our amendment, it favors support of the amendment because it provides for the National Endowment for Democracy and all that had been requested, and more, for the Capital Investment Fund of the State Department.

Let me point out, Mr. President, an important editorial that appeared in the Wall Street Journal this morning that very succinctly sums up the case that we make.

The Wall Street Journal editorial states—and I quote:

> A United States Senate accustomed to forking up multibillions will debate the government's equivalent of the widow's mite today, a $30 million appropriation to fund the National Endowment for Democracy. An appropriations subcommittee chaired by New Hampshire Republican Judd Gregg decided not long ago in a fit of austerity to defund the NED, on grounds that it was a relic of the Cold War. The same subcommittee awarded the State Department $100 million, $40 million more than it requested, just to buy computers.
>
> We don't think for minute that a title with the word "democracy" in it imparts virtue to a federal enterprise in and of itself, and we confess to having had some skepticism of our own about the NED some years after it was founded in 1984. But a closer look at what the NED has been up to produces some surprises.
>
> Its rather unusual design seems to have encouraged considerably more initiative in its mission of spreading democracy around the world than would be expected of the usual federal agency. Maybe that's because it is not a federal agency, but a free standing foundation with its own board of directors supported by both federal and private money. It channels its grants through four institutes, two of which are operated by the two major U.S. political parties.
>
> One achievement of this Ronald Reagan brainchild was to help Poland's Solidarity break the grip of the Soviet Union in the Cold War days. But it is doing some rewarding work today as well.
>
> Its Republican branch, the International Republican Institute, help set up free elections in Mongolia last year, turning that once-Communist country into a democratic, free market paragon. IRI also is helping villages in China learn how to conduct free and fair elections of local governing committees something they are entitled to do under Chinese law. The Democrats, through their National Democratic Institute for International Affairs, are doing similar work. American politicians are helping teach practical politics at the very foundations of democracy, and doing it on a shoestring.

> Is this of value to the U.S.? You only have to ask yourself whether the world is safer with a democratic or an authoritarian China to answer that question. The fact that private corporations are willing to fund special NED projects in non-sensitive situations offers evidence that enlightened businesses value the stability that democracy and a rule of law bring to the countries where they seek to operate. Bulgaria is one such place where new democrats are being offered such aid.
>
> Since news of the defunding became known, the NED has had an outpouring of support from people around the world who have direct knowledge of its contributions.
>
> Hong Kong democratic leader Martin Lee, who faces tough battles ahead in coping with Hong Kong's new Beijing landlords, penned a letter to Senator Connie Mack begging him to help save the NED, Senator Bob Graham has heard from Sergio Aguayo of the Civic Alliance, which has had a strong hand in promoting the multiparty democracy now taking root in Mexico. Jack Kemp, Jeane Kirkpatrick and William Bennett, along with such varied Senate personalities as Richard Lugar, Chris Dodd, John Kyl and Ted Kennedy have weighed in one behalf of NED.
>
> The NED recently sent out an invitation to kindred groups in Germany, Britain, Canada, Sweden and the Netherlands to a meeting in Taiwan in October it will co-sponsor with Taiwan's Institute for National Policy Research. The purpose of this gathering in one of the world's newest democracies is to foster NED-type groups in still more countries. What a shame it would if the U.S. Senate collapsed with an attack of parochialism on the eve of such a bold endeavor.

That is the end of the Wall Street Journal editorial.

Mr. President, I simply make the point that the NED is not a cold war relic. The President of the United States, currently, President Bill Clinton, just as Ronald Reagan at the inception of this, sees the value of this type of activity.

President Clinton has said if we are going to make a difference in Chinese democracy, the National Endowment for Democracy and its International Republican Institute is on the spur of what needs to happen by promoting the organization of elections in local villages. And this we are doing. These things do not happen by chance.

The President has commended the idea that the National Endowment for Democracy has been involved in Mongolia, has commended the work that is occurring in situations where not only free and fair elections have occurred, but in its unique way the National Endowment for Democracy, by placing labor leaders in nations that have gained democracy, helps build labor unions.

The Chamber of Commerce, by placing businesspeople under the National Endowment for Democracy's auspices, helps market economics get started. Are these important to the United States? You bet they are.

The fact is, a free and fair election can occur, and the cold war may be over, but our Nation needs to relate to other nations that have ongoing sensitivity toward labor-management relationships, market economics, price finding in the markets, freedom of speech, and political dialog that our political parties have fostered.

The suggestion, Mr. President, is this could be done by private enterprise all by itself. But that would have no particular legitimacy. The backing by the Congress, by the administration, by every living Secretary of State, every living National Security Adviser, every living President, of this idea ought to at least weigh in with this body.

There may be Members second-guessing all of these people and saying they are simply out of it. But I would advise Members, they are very much with it. They understand the dynamics of what has to happen in the world and why it is important for these four groups in the National Endowment for Democracy to band together throughout several administrations and with a continuity of effort to make a substantial difference in the world.

Mr. President, I cited a few moments ago letters that have been written. I want to mention specifically one from the Laogai Research Foundation, and a name that all will recognize in this body, Harry Wu, its executive director. He simply says:

> Tomorrow (Thursday), in a letter he wrote to me yesterday, in a vote on the Senate floor, you will be presented with a choice to either support the N.E.D. or [to] kill it. I understand that particular . . . programs may, from time to time, draw the ire of lawmakers. [But] may we suggest that when this is the case, leaders such as yourself [must] suggest . . . what internal changes need to be made.
>
> In other words, don't throw out the baby with the bathwater.
>
> If the United States intends to maintain its leading role in world affairs, continued Congressional support of the National Endowment for Democracy is imperative.

I have cited a letter that was written by Jeane Kirkpatrick, Jack Kemp, William Bennett, Lamar Alexander, Steve Forbes, Vin Weber, a whole galaxy of people involved in Empower America. They are important voices, living, active voices, not relics of the cold war. They understand the dynamics of what we ought to be doing in American politics.

They are joined, as I have suggested earlier, by Sandy Berger, currently the National Security Adviser, and by all the National Security Advisers since the NED was created.

Mr. President, I want to cite specifically a letter from Martin Lee, chairman of the Democratic Party in Hong Kong. Not long ago, many in this Senate honored Martin Lee. Prior to the turnover in Hong Kong, most of us were worried about Martin Lee and democracy.

I simply cite Martin's letter in which he says:

> My main purpose in writing now is to express my concern about proposals I understand are before the Senate to consider eliminating funding for the National Endowment for Democracy. I know you have always been a strong supporter of NED and the important work it does around the world, but I wanted to write to express my conviction the National Endowment for Democracy is indeed indispensable in a world where democracy and freedom are not entrenched and where—to cite the example of Hong Kong—all democratic institutions can be wiped out by fiat.
>
> In Hong Kong and elsewhere in Asia—

Martin Lee says:

> and around the world, the struggle to preserve democracy, political freedom and the rule of law is far from being won.

Let me just simply say, Mr. President, this is serious business. What is being proposed here in our amendment is that $30 million for computers and technological equipment the State Department did not seek be restored to the National Endowment for Democracy that they did ask for. The request of the President is for this money, leaving fully all of the requests that the administration made for the equipment.

Mr. President, what we have before us we need to see very clearly. There are Members of the body who simply want to kill the National Endowment for Democracy. Now, I resist that idea, and for good reason. The experience of most of us in this Chamber, I hope, would be to say that we have to be active on the front lines, and we have to be active as Republicans, Democrats, labor union members, and business people in our own expertise and synergy and continuity; we have to be active not simply in setting up those activities our diplomacy can do—free and fair elections—but the centers of support of commerce, of labor, of freedom of speech and press and contract law and the details that, alone, make continuity possible and second and third elections in countries transitioning to democracy possible. Mr. President, I do hope that Members will support this amendment. I think it is very important for the foreign policy and security of this country. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

AMENDMENT NO. 982 TO AMENDMENT NO. 981

(Purpose: To make appropriations for grants to the National Endowment for Democracy)

Mr. McCONNELL. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Kentucky [Mr. McCONNELL], for himself, Mr. LUGAR, Mr. LEAHY, Mr. GRAHAM, Mr. LIEBERMAN, Mr. ROTH, Mr. DODD, and Mr. MACK, proposes an amendment numbered 982 to amendment No. 981.

The amendment is as follows:

> On page 113, line 7, after the word "expended." insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended. This shall become effective one day after enactment of this Act.

On page 100, line 24 strike "$105,000,000" and insert "$75,000,000".

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCONNELL. Mr. President, independence is the first step toward democracy—hardly the last. As our own Nation's history records, 87 years after our revolution, President Lincoln stood at Gettysburg to remind a deeply wounded nation——

> It is for us, the living to be dedicated . . . to the unfinished work which they who fought here have thus far so nobly advanced . . . the great task remaining before us—that this nation, under God shall have a new birth both of freedom—and that government of the people, by the people and for the people shall not perish from the earth.

We all, at one point or another in our school careers, memorized that famous address. Eighty-seven years after our Nation's birth—when we had a strong, well established representative government—Lincoln spoke of our unfinished work—because we saw our democracy, our Government and Nation divided and devastated by civil war—a war which serves as a caution that even healthy, strong democracies suffer attack and setbacks.

One hundred years after President Lincoln reminded us of our unfinished work, President Reagan stood before the British Parliament in 1982 and predicted the certain end of communism.

But, in forecasting communism's imminent demise, President Reagan called upon his country, our allies and our American political parties to "contribute as a nation to the global campaign for democracy gathering force."

This remarkable speech set in motion the people and events which established the National Endowment for Democracy.

President Reagan's message was as simple and pure as it was powerful and enduring—the mission he defined was to create a world illuminated by individual liberty, representative government, and the rule of law under God.

Eighty-seven years after our revolution, we needed to recommit ourselves to that purpose at Gettysburg. President Reagan renewed the call and, now, we must rededicate and redouble our efforts to secure democracy around the globe.

With the end of the cold war, this mission and our responsibilities have only just begun. It is not ending, it is the beginning.

The National Endowment for Democracy—and especially its four core institutes—offer the best, most effective, and strongest tools we have available to consolidate the gains we have made in dismantling the structure of Communist and totalitarian governments.

We need to remember that tearing down the weak practices and government architecture of communism is not the same thing as creating or sustaining strong, viable democratic principles, laws and institutions.

Communism has indeed been cast on the ash heap of history. The question remains what will take its place.

Virtually every nation which suffered behind the Iron Curtain has enjoyed some form of free and fair elections—but the first election is not as important as the second then third when there is a real test of democratic principle and practice—when those who have enjoyed elected office must relinquish power if the principle of self determination is to survive. In other words, only after an orderly transition of power from election to election occurs can democracy truly take root.

The key to self-determination—the core of democracy—is the active engagement of citizens in their government. NED and its institutes, in turn are the key to building and encouraging this deep, informed involvement.

These organizations carry out this important work in a number of ways.

In Burma, NED funding is keeping the faint but fervent hopes for freedom and democracy alive. Let me explain why their work is so vital.

Burma and North Korea have a lot in common with the Stalinist era in the Soviet Union. A ruthless 400,000 man military force, led by the State Law and Order Restoration Council—SLORC—have systematically destroyed the education system and detained, tortured, and executed anyone opposing their brutal rule.

NED is a lifeline for the courageous opponents who resist SLORC inside Burma and the large, exiled community who struggle every day to restore the results of the 1990 elections and their leader Aung San Suu Kyi to office.

With less than $200,000 NED has kept alive the only uncensored, independent newspaper circulated inside Burma. The New Era, a monthly newspaper, is vital to the effort to raise awareness of SLORC's violations of human rights and civil liberties, to assure independent reporting of events and to provide counterbalance to SLORC's daily campaign to smear and slander Aung San Suu Kyi.

Let me point out that it's a crime in Burma to have a copy of this newspaper, yet in spite of threats of imprisonment and death, an extraordinary network of students and citizens take this risk to assure monthly delivery and circulation of the New Era.

The NED also supports the Democratic Voice of Burma which produces and transmits a daily morning and evening broadcast of news, features and ethnic language programming as well as broadcasting recordings of Aung San Suu Kyi's speeches, the texts of U.N. decisions and other information of intense interest to Burma's citizens.

Beyond sustaining the independent media, NED supports efforts to strengthen cooperation among the more than 15 ethnic groups which work in peaceful opposition to the military junta. This support has enabled the National Coalition Government of the Union of Burma under the direction of elected Prime Minister Dr. Sein Win to continue to represent to the outside world the views and aspirations of the legitimately elected parliamentarians of Burma.

Although they are victims of one of the world's most repressive regimes, Dr. Sein Win works with his colleagues inside and outside Burma, calling for peaceful dialog to restore democracy to his beleaguered nation.

Burma is just one example of the Endowment's exceptional service to the cause of democracy.

I have also observed the crucial role they have played in the New Independent States of the former Soviet Union.

Each of these countries illustrate my earlier point that while trappings of communism have been dismantled, it is far too early to judge the transition to democracy a complete success.

Communities across the region desperately need precisely the kind of training and support available through NED. One of the most compelling reasons why NED is so vital is illustrated by the work done through their core grantee in Russia.

Although we are all concerned about the reactionary elements which continue to dominate the Russian Parliament, there is some reason to be hopeful. During the last election, in every community and town where the International Republican Institute ran training programs and supported efforts to strengthen local political parties, reformers were elected to office—reformers who shared our interests in free market economies and individual liberties.

Obviously, reformers do not control a majority yet, but IRI's impressive record suggests we should be substantially expanding our support for endowment activities to secure the kinds of governments and societies which share our interests.

The cold war may be over, but repression and authoritarian impulses are alive and well.

NED nourishes the ambitions of all those who want to participate and shape their own great experiment in democracy—Muslim women in the Middle East, journalists under fire in

Cambodia, trade unions in Belarus, political scientists in Azerbaijan, legal defense funds in Latin America—all benefit from NED's small grants—all contribute to building the foundation which sustains a healthy democracy.

The National Endowment for Democracy and its core grantees work citizen by citizen and community by community to transform individual aspirations of self-determination into the governing nations which Ronald Reagan defined so well—nations which preserve and protect individual liberty, representative government, and the rule of law under God.

NED deserves our support. It does a good job and it does it in service to our national interests. Each democracy which grows is one more trading partner, one less crisis which may require our political or military intervention.

We abandon this extraordinary campaign for democracy gathering force at our own peril.

Ms. MIKULSKI. Mr. President, I am proud to strongly support and cosponsor the McConnell amendment to restore modest funding for the National Endowment for Democracy. I commend the distinguished chairman of the Foreign Operations Subcommittee for his continued leadership on this important matter.

The National Endowment for Democracy is a proven, cost-effective investment in democracy. It represents our national interests and our values.

As a member of the Commerce, State, Justice Subcommittee, I am disappointed that no funds were provided for a program that so effectively strengthens democracy around the world. Today we seek to restore funding to continue this important tool of American foreign policy.

The cold war may be over—but dictatorships and military juntas still exist. Democracy is still fragile in too many countries. Rigged elections still occur, and freedom of speech is not a universal right. The National Endowment for Democracy provides the tools of democracy. It encourages a free press, unions, and multiparty elections. It supports women's participation in the electoral process. It assists grassroots organizations that support democracy and human rights.

The National Endowment for Democracy has a remarkable track record. It was one of the early supporters of the Solidarity movement in Poland. It helped to draft South Africa's constitution.

But NED does not rest on it laurels. Today, in Albania, Burma, and Cuba—NED is supporting democracy. It provides assistance to the only independent newspaper in Bosnia. It is helping to empower women in Turkey. It is helping Asian organizations to fight against the use of child labor.

Mr. President, the cold war is over—but American leadership is still important. We are still the strongest voice for democracy. I urge my colleagues to join me is supporting the National Endowment for Democracy—one of our most important tools in supporting democracy around the world.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise today to speak in favor of the pending amendment, which will restore $30 million of funding for the National Endowment for Democracy.

Mr. President, unless we reverse the decision that has been made by the Appropriations Committee, the Senate will be on record as eliminating this unique, flexible, low-cost, public-private partnership, an important foreign policy instrument, an instrument that has proven important today in furthering U.S. interests, as important today as it was in 1983 when established with the active support and leadership of President Ronald Reagan.

Mr. President, the Senate has debated the future of the National Endowment for Democracy virtually every year in recent years. Every year, proponents of continuing the Endowment have prevailed, but the fight has taken a toll. NED's budget has been whittled down by almost 15 percent over the last 3 years, and its authorization is now flat for the next 2 years. Any further cuts will severely hamper NED's ability to carry out its important programs. That is why so many of us are here today concerned that its current budget be sustained at the requested level of $30 million.

Mr. President, although we once again are debating NED's future, this recurring debate has been, and continues to be, more about our future and our view of the world than it does this one Federal initiative for democracy. It is also about how the American people view America's role in the world. In examining that world view, several fundamental questions must be answered.

First and foremost is the question of whether it is in the interest of the United States of America to remain actively engaged in world affairs.

Second, is it in our interest to creatively promote peaceful democratic change? To put it another way, is it in our interest to stay one step ahead of tomorrow's costly conflicts by promoting peaceful democratic change today?

Finally, does the National Endowment for Democracy make a positive contribution to advancing these interests?

Mr. President, I submit that the answer to each of these questions is yes. I would briefly wish to cite two examples.

First, in our own hemisphere, the United States has had a long and, I suggest, painful and destructive history of being involved in our hemisphere only when we faced an immediate security, political, or economic crisis. Once the crisis passed, our interests waned and then evaporated.

Mr. President, in large part because of some of the things that the United States led in the last 50 years, we now have a period of democratic government within our hemisphere that we have never known since Christopher Columbus discovered the new world. Those democracies, from Guatemala to Argentina, are new. They are enthusiastic. But they lack the kinds of deep roots that will assure their longevity. It is exactly nations such as that and building those roots that will sustain democracy that the National Endowment for Democracy has exhibited, and it is in exactly those circumstances within Latin America and the Caribbean that the endowment has played such an important role, and I submit will play an even more important role in the future.

Another prime example is China. Those who understand and care about the need for long-term democratic change in China strongly support the National Endowment for Democracy. That is because the National Endowment for Democracy is working with human rights activists to bring to life abuses by the current regime. The endowment is also creatively exploring openings at the local level to help officials establish independent elections.

NED is on the ground working in China every day in ways that very directly further United States national interests. No other agency of this Government is equipped to carry out the kind of innovative grassroots work as is the National Endowment for Democracy.

If we are to successfully engage China over the long term, if we are positively to influence United States-China relations, if we are to reverse our past history and demonstrate a sustained commitment to democratic institutions within our nearest neighbors in the Western Hemisphere, the National Endowment for Democracy must necessarily be an essential ingredient in that United States policy.

Indeed, the long-term impact we are confident NED to have in China is on display today in Mexico, where the Endowment's support of the Civic Alliance, a coalition of non-governmental organizations in that country, paved the way for electoral reform that resulted in the freest elections in Mexico's history. The result has been a deepening of democracy, and a sense among the Mexican people that casting ballots can produce positive change in their lives. The result is a government which is far more stable and responsive to the people's needs. The Mexican people benefit, and so do we.

Mr. President, China and Mexico are only two examples of NED's work. Indeed, the Endowment is helping dissidents in over 90 countries, including dissidents who are fighting for democratic change in Cuba, Burma, Nigeria, Belarus, Serbia, and Sudan. NED is working to strengthen democratic institutions in Russia, Ukraine, and South Africa. This is vitally important work. And there are many informed observers who see it the same way.

Former Secretaries of State Baker, Eagleburger, Haig, Kissinger, Shultz, and Vance are on record in support of NED. According to them:

> During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but non-government contributor to democratic reform and freedom. We consider the nongovernmental character of the NED even more relevant today than it was at NED's founding * * *

Former National Security Advisors Allen, Carlucci, Brzezinski, and Scowcroft also are on record in support. They have stated that:

> The endowment, a small bipartisan institution with its roots in America's's private sector, operates in situations where direct government involvement is not appropriate.
>
> It is an exceptionally effective instrument in today's climate for reaching dedicated groups seeking to counter extreme nationalist and autocratic forces that are responsible for so much conflict and instability.
>
> Eliminating this program would be particularly unsettling to our friends around the world, and could be interpreted as sign of America's disengagement from the vital policy of supporting democracy. The endowment remains a critical and cost-effective investment in a more secure America.

Mr. President, I ask unanimous to have printed in the RECORD an exchange of correspondence I recently had with National Security Advisor Sandy Berger. He responded in a July 21 letter reaffirming strong administration support the NED and "our opposition to any effort reduce or eliminate NED funding."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 21, 1997.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR BOB: Thank you for your letter of July 16 regarding funding for the National Endowment for Democracy (NED).

I welcome the opportunity to reaffirm strong Administration support for the NED and our opposition to any effort to reduce or eliminate NED funding. As you correctly note, the President is a dedicated supporter of the NED, as it has been in the forefront of U.S. efforts to promote democracy, civil society and the rule of law around the world. Moreover, it has done so at very little cost to the American public, leveraging modest resources with great effectiveness.

I should also note that the NED, established by President Reagan and strongly supported by each of his successors, has served as a model for democracy-promotion efforts by our democratic friends and allies.

For all of these reasons, we enthusiastically endorse your efforts to restore funding for the NED, and we are prepared to work closely with you to ensure that objective.

Best regards.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

U.S. SENATE,
Washington, DC, July 16, 1997.

Hon. SAMUEL R. BERGER,
Assistant to the President for National Security Affairs, The White House, Washington, DC.

DEAR SANDY: The Commerce-Justice-State Appropriation will soon be debated on the Senate floor. As you may know, the Appropriations Committee is recommending that all funding for the National Endowment for Democracy be eliminated.

NED's numerous Senate supporters, including myself, regard this as a serious mistake, since it would cripple the ability of our country to assist the various democratic networks abroad whose continued sustenance is so critical to our national security.

The President has been a dedicated supporter of the Endowment in the past. It would be helpful if he would commit the Administration to reaffirming that support by backing the efforts of the Endowment's friends in the Senate to restore its funding.

Sincerely,

BOB GRAHAM,
U.S. Senator.

Mr. GRAHAM. Mr. President, I would like now to take this opportunity to clarify some misconceptions that have arisen regarding NED and its work over the years. Two of those misconceptions are contained in the report accompanying the bill we are now debating.

The report states that, because NED was created to support democratic movements behind the Iron Curtain, it is no longer needed. Nothing could be further from the truth. Indeed, NED was never intended to be a cold war institution.

In Ronald Reagan's speech that helped launch the Endowment, he offered the following vision of NED:

> . . . To foster the infrastructure of democracy—the system of a free press, unions, political parties, universities—which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means.

He referred to the work of Western European parties assisting counterpart institutions and of the foundation looking into "how the United States can best contribute as a nation to the global campaign for democracy now gathering force."

It is true that the Endowment supported Solidarity and other dissidents behind the Iron Curtain.

But that represented a small percentage of its funding. In fact, in the early years of the Endowment, approximately half of its funds went to support the growing democratic movements in Latin America.

This had nothing to do with the cold war and everything to do with the reason NED was created and the reason it exists today—because America believes that the spread of democracy is good for the people of these countries, and ultimately, for the people of the United States as well.

NED's work in the Middle East, in East Asia, in Central Asia, in Africa, in Bosnia, in Mexico, demonstrates that in the post-cold-war world, efforts to foster civil society are even more relevant today than they were when the Endowment was created.

The report accompanying this bill goes on to state that NED was never intended to be a "private-public partnership." According to the Congressional Research Service, which carefully researched NED's legislative history, "While NED was originally established as a private entity, private funding was not required. Neither the congressional debate in 1983, nor the National Endowment for Democracy Act—the law establishing NED—indicates private source funding would be required."

It is true that NED does raise some funds in the private sector, primarily to support its International Forum for Democratic Studies, which is a research center and clearinghouse for worldwide information about democracy. In addition, NED has calculated that its funding leverages over 70 cents for every program dollar it grants.

The essential point, however, is that the founders of NED never imagined that this would be a privately funded effort. To the contrary, because NED serves the national interest, it is an entirely worthwhile expenditure of the Federal Government.

Several other misperceptions have dominated this debate in the past. Let me address them as well.

Opponents have suggested that the Endowment duplicates those of the Agency for International Development. AID Administrator Brian Atwood reported to the House Committee on International Relations in March 1996, following an extensive review of hundreds of programs funded by his agency and those of the Endowment. His report stated:

> We found that USAID and NED do not duplicate, but rather complement each other's efforts.

In the same report, Atwood outlined a series of steps that AID and NED have taken together to make sure that this lack of duplication continues.

NED and its supporters also have been accused of keeping a GAO report calling for a reassessment of NED's funding from being issued. This is a nonissue originally raised in print by a long time NED opponent. The facts are quite simple:

The General Accounting Office, after an exhaustive study of U.S. Government programs to promote democracy, concluded that there was no significant overlap between those funded by NED and official agencies.

Referring to the stops that have been taken between AID and NED to make sure the lack of duplication between their programs continues, a GAO official wrote to House International Relations Chairman GILMAN and Ranking Member HAMILTON that the Agency's concerns about potential overlap had been allayed.

Another charge frequently made against NED is its funding is used disproportionately for travel. Some of the over 300 programs that are funded annually by the Endowment involve the use of experts from the United States and abroad who travel pro bono basis to share their knowledge and experiences with grassroots Democrats.

Many of these trips are under adverse circumstances to places that can hardly be regarded as vacation spots and the trips are not only working trips but frequently quite rigorous for participants. The amount of free time that is donated by these experts is rather significant in dollar terms.

Opponents also charge NED with funding meaningless conferences. NED funds in fact are used to assist organizations working inside countries. Occasionally NED funds gatherings of democrats in exile who cannot operate in their home countries. Countries such as China and Cuba fall in this category.

An example of a conference pointed to as insignificant by some NED critics is a meeting held in 1995 in Zagreb, Croatia. In fact this particular conference brought together activists from all the countries of the former Yugoslavia at the height of the war to exchange information.

The meeting succeeded in matching funders and civic groups in the region in desperate need of help. Apart from bringing together democrats in a war situation the meeting has led to a number of worthwhile projects in a region that desperately needs to build up its civil society.

Mr. President, NED deserves our support. I urge my colleagues to support a restoration of this funding.

Mr. KERREY. Mr. President, I rise today to offer my support for the pending amendment. I have long been a supporter of the National Endowment for Democracy because I believe that it serves to promote U.S. interests by fostering democracy throughout the world.

NED was established by Congress in 1983 as a nonprofit, bipartisan organization designed to promote democratic values by encouraging the development of democracy in a manner consistent with U.S. interests, assisting pro-democracy groups abroad, and strengthening electoral processes and democratic institutions. NED accomplishes these goals by providing funding to a wide variety of grantees that operate programs in more than 90 countries throughout the world.

Mr. President, many of my colleagues may be aware of the work that NED-funded grantees have done in Eastern Europe and the countries of the former Soviet Union. These Newly Independent States have benefited immensely from programs designed to help develop the rule of law, grassroots campaigns, party organization, and private sector enterprise. And while the development of truly democratic institutions is a slow process, I believe that over the long run it remains in the interest of the United States to continue our commitment to those who are struggling to build stable, democratic governments.

While NED's work in the newly independent states is commendable, of equal importance—and often with less publicity—NED grantees are also hard at work in countries like Nigeria, Burma, Cuba, and Mongolia where pro-democracy forces are most in need of assistance, and where the ability of the United States to make a positive impact is at its greatest.

Mr. President, even though in the past decade the world has witnessed a remarkable transformation, and the forces of democracy are on an upswing throughout the world, it remains a fact that approximately two-fifths of the world's population continues to live under authoritarian rule. There clearly remains a need for continued vigilance and support of those groups still striving to achieve democratic reforms. While Congress may have created the National Endowment for Democracy during the cold war, I firmly believe that fostering democracy remains as important today as it was 14 years ago.

Because of the continued need for U.S. assistance to pro-democracy forces, I was disappointed that the Senate subcommittee did not fund the President's request of $30 million for NED. It is for this reason that I fully support the amendment before the Senate that will fund the National Endowment for Democracy for fiscal year 1998.

Mr. President, there is a reason that four former National Security Advisers to the President have said that the elimination of NED funding would signal America's disengagement from the vital policy of supporting democracy. There is a reason that seven former Secretaries of State from both Republican and Democratic administrations have voiced their belief that NED funding is as vital today as when the program was created. And finally, there is a reason that brave, pro-democracy activists like Harry Wu and Vaclav Havel tell us that NED funding is essential to advancing the cause of democracy. Mr. President, the reason is that they, like many of my colleagues here today, realize that America must maintain its commitment to the ideals and principles of democracy.

Mr. DODD. Mr. President, I rise to support the restoration of funding for the National Endowment for Democracy in the Justice, State, Commerce appropriations bill. The amount is very modest—$30 million—and the same level of funding as the NED currently receives for this fiscal year.

What is the NED? It is a grant-making organization that is governed by an independent, nonpartisan board of directors. NED monies are utilized to fund the activities of the four independent institutes—the National Democratic Institute, the International Republican Institute, the Free Trade Union Institute, and Center for International Private Enterprise.

In addition to funding the programs of these institutes, NED also provides grants directly to support democratic activist groups throughout the world. This includes grass roots organizations in Nigeria and Zaire, women's groups in moderate Islamic countries, civic groups who worked to make the recently held Mexican elections open and transparent, pro-democracy groups in Cuba, China and Burma. These are just a small handful of the activities funded by NED.

The endowment also sponsors the Journal of Democracy, a well known and highly regarded scholarly publication on global democracy issues. The journal is part of the work of the International Forum for Democratic Studies—NED's research center. In addition to the publication of the journal, the Forum holds important conferences on issues of particular relevance to democratic societies, such as civil-military relations, economic reform, and the role of political parties.

In other words, NED has become an important focal point for democracy-promotion activities around the globe.

For those who say they don't know what NED or the grantee agencies have been doing with the funds they receive, I would urge them to take a long look at the annual report which NED issues every year. I have with me the latest report for 1996—that report goes into great detail where the monies are being spent. It is my view that if my colleagues would take a look at this publication they would be impressed with the extensive activities being undertaken with relatively small amounts of money.

Mr. President, I strongly agree with President Clinton's assessment of the NED. Earlier this year he said of the NED, "through its everyday efforts, the Endowment provides renewed evidence of the universality of the democratic ideal and of the benefits to our Nation of our continued international engagement."

I urge my colleagues to support the restoration of funding for the Endowment.

Mr. BIDEN. Mr. President, I rise in support of the amendment to restore funding for the National Endowment for Democracy [NED].

Last month the Senate expressed its overwhelming support for the NED when it passed the Foreign Affairs Reform and Restructuring Act of 1997—90 to 5. That legislation provided $30 million, full funding, for the NED.

Even more recently we voted unanimously to congratulate Mexico on its elections. The NED provided critical support to the Civic Alliance in Mexico, a nonprofit election monitoring and civic education group that played a key role in that success story.

When the Reagan administration proposed the NED, I thought it was a bad idea and voted against it. After seeing all of the good work they have done and are doing, I have been converted to a supporter.

The NED continues to play a critical role in promoting democracy and democratic values, and is vital to U.S. national interests.

Mr. President, let me make this clear—NED is not a foreign aid program. This is because it builds self-sufficiency by working with indigenous groups that demonstrate a real commitment to democratic principles.

NED only receives $30 million, but is very cost-effective. It makes hundreds of grants annually in over 90 countries for civic education, media, human rights, and other organizations dedicated to supporting those who desire democracy.

NED funds support political party training and the establishment of opposition newspapers, helping to promote an independent press. For example, NED has done important work in China through its support of Chinese human rights activists.

Another well-known example is Burma, where the NED has strongly supported Aung San Suu Kyi and the pro-democracy movement there.

Still another important aspect of the NED is that it is rooted in the U.S. private sector, and operates in situations where direct government involvement is not appropriate.

It is particularly effective in reaching those groups seeking to counter nationalist and autocratic forces that are responsible for so much conflict and instability.

The NED provides a successful and cost-effective mechanism for spreading our democratic values and enhancing American security.

This point was made today in a Wall Street Journal editorial that highlights and praises the NED's effective and innovative approach to democracy promotion.

Elimination of this program could be interpreted as a sign of America's disengagement from the vital policy of supporting democracy around the globe.

I urge my colleagues to continue to support this critical democracy-building organization.

Mr. HATCH. Mr. President, once more we are engaging in the increasingly repetitive argument over whether the U.S. Senate should support one of our country's most valuable tools of foreign policy—the National Endowment for Democracy. The Senate subcommittee zeroed out the administration request for $30 million for the Endowment, although the House of Representatives granted it full funding. Today, Senators LUGAR and others are offering an amendment that will restore the Senate's support for full funding for the National Endowment for Democracy (NED), and I encourage my colleagues to vote in favor of this amendment.

Mr. President, I've been in this body for the entire history of the National Endowment for Democracy, and I make no reservations about my wholehearted support for this organization. My colleagues know I was an original supporter of the NED, and I am a stronger supporter today than I was then.

President Reagan clearly summarized the NED's mission when he stated at its inception:

> The objective I propose is quite simple to state: to foster the infrastructure of democracy—the system of a free press, unions, political parties, universities—which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means.

I believe that mission statement is as relevant to our goals today as it was in 1982, when the National Endowment for Democracy was founded. And I find it illogical and disingenuous that some argue that the Endowment is a cold war institution which, because we have won the cold war, is no longer relevant. Many appear to agree with me. In a September 1995 letter to our congressional leadership, seven former Secretaries of State said:

> During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but non-governmental contributor to democratic reform and freedom.

It appears that a few still believe, illogically, that because the NED was engaged in fighting for democracy during the cold war, it is no longer relevant. This reasoning is unsound, based on facts of the past, and realities of the present.

First, the past. The NED did have some high-profile involvement with organizations such as Solidarity, which were critical in loosening Moscow's grip on its captive nations. I applaud the NED for that, as I applaud the many other organizations, such as the International Labor Office and other great anti-communists such as Irving Brown, who worked with us to undermine Soviet totalitarian control. But anyone who believes that the cold war was the central or only focus of the NED may not have all the facts.

It is a fact, for example, that during the early days of the National Endowment for Democracy, approximately half of NED's funds were directed toward Latin America. The 1980's, you will recall, Mr. President, was the decade when democracy swept across the Latin American continent. The people of Latin America, and their brave democratic leaders, deserve the credit for this. But it was the wisdom of U.S. foreign policy—and the participation from the NED—that provided important diplomatic and practical support.

Second, the present. The obvious fact is, Mr. President, that support for democracy remains a necessary goal of U.S. foreign policy. Students of history know that democracies are less likely to try to settle their internal and external conflicts with a resort to violence. Observers of current affairs recognize that, while democracy continues to spread, many parts of the world are in desperate need for further democratic development. It is no coincidence indeed that many of these areas are areas where U.S. foreign policy goals are and will be challenged.

To believe that supporting democracy was a need solely of the cold war is a notion that ignores the basic reality that the world remains full of nations where democracy needs support. And where democracy advances, the risk of conflict that could require a U.S. response declines.

That is why a number of my friends—Jack Kemp, Steve Forbes, Bill Bennett, Jeane Kirkpatrick, Vin Weber, and Lamar Alexander—have circulated a letter from their organization, Empower America, which I would like to quote:

> NED helps brave people around the world who are engaged in difficult struggles for freedom. These are America's natural friends. Resisting the enemies of freedom, they need our continual solidarity.
>
> A case in point is China, where the Endowment supports various pro-democracy networks as well as the democracy movements in Tibet and Hong Kong . . .
>
> China is but one example of how NED, which works in over 90 countries, is as relevant to the post-Cold War world as it was in the struggle against Soviet totalitarianism. Examples could be cited from other difficult situations, from Burma to Cuba, from the Balkans to the Middle East. The kind of political assistance NED provides is not foreign aid. NED is more than a program; it is an instrument for transmitting in a peaceful way American democratic values to a world that looks to us to maintain our leadership role.
>
> NED works to expand human freedom and helps people help themselves. It promotes American values and interests. It is realistic and idealistic at the same time. It internationalist in the best sense of that term. It is truly our kind of program.

Mr. President, among my friends at Empower America, you will not find one person who believes the United States should be the world's policeman. Most of these individuals are very skeptical—like me—about some of this country's recent unilateral as well as multilateral deployments.

But none of these individuals believes that the $30 million spent on the National Endowment for Democracy is anything but a completely worthwhile expenditure that supports our national interests by supporting the spread of democracy around the world.

The cold war is over, Mr. President, and we won it. We won it with a strong defense posture, with a policy of engagement in Latin America, Afghanistan, and central Europe. And we won it by standing with democrats around the world. Despite the end of the cold war, there are many democratic movements that need our support. As the Empower America letter said: ". . . the brave people around the world who are engaged in difficult struggles for freedom . . . these are America's natural friends."

I wish that we could do more for these friends of America, Mr. President. But the reality of foreign affairs has always been limited by the need to prioritize limited resources. In my view, an expenditure of $30 million to support the many activities of the NED throughout the world may be one of the most cost-effective investments we make in the support of American's interests overseas.

The critics of the NED should review the Endowment's materials. For example, this body has spent a large amount of time debating how we should relate to the rising power of authoritarian China. While we debate the value of sanctions or engagement, who in this body suggests that the support for local elections in China that is conducted by NED with the International Republican Institute is anything but an enormously positive development? Who suggests that NED-supported Chinese activists who monitor and report on the repression of dissidents must not be continued—so that lawmakers around the world can know the truth when we debate complicated issues of engaging China? Who believes that Harry Wu's research foundation—dedicated to monitoring the abhorrent use of prison labor—should not be supported, so that we know how China abuses our trade relations?

Who believes, Mr. President, that the many programs promoting open press, reasoned democratic debate and the rule of law that NED supports throughout the Arab world are not supporting America's goals in that region? Can anyone who is aware of America's uncertain relations with the Islamic world declare that it is not in our interest to promote democratic values there?

Mr. President, I've cited a few examples and endorsements from prominent U.S. foreign policymakers—Republican and Democrat—but I'd like to close my remarks by quoting Martin Lee, who my colleagues surely recognize as Hong Kong's voice of democracy. As we know, the reversion to the People's Republic of China opens a new—and uncertain—page in the recent history of democracy in Hong Kong.

Martin Lee recently wrote a letter to my colleague, Senator MACK. Members of this body know that Senator MACK has devoted a large amount of his time to the difficult process of Hong Kong's reversion, and he is one of the leaders who will increase his attentions to the former British colony now that July 1 has past. Martin Lee wrote:

> In Hong Kong and elsewhere in Asia and around the world, the struggle to preserve democracy, political freedom and the rule of law is far from being won. But by supporting key human rights organizations which work for development of democracy and the preservation of the rule of law and human rights in Hong Kong, the Endowment's work in Hong Kong has had profound effect at a critical time. During what I realize is a time of shrinking budgets, I cannot think of better value for money than the National Endowment for Democracy.

Mr. President, Martin Lee is correct: "The struggle to preserve democracy, political freedom and the rule of law is far from being won." What a sorry signal the United States would be giving democrats struggling around the world if we ended our support for the National Endowment for Democracy. What a shortsighted notion it would be to save $30 million by abandoning our support for an organization that promotes our political values around the world.

I urge my colleagues to support full funding for the National Endowment for Democracy.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. I yield the floor, Mr. President, to the Senator from Maryland.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator can't yield the floor. But I will recognize the Senator from Maryland.

The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in strong support for the amendment now pending. The National Endowment for Democracy has done some extremely effective work around the world in strengthening and assisting in the development of democratic institutions and protecting individual rights and freedoms. Endowment programs have assisted grassroots organizations and individuals in more than 90 countries across the globe.

A great number of distinguished individuals have walked through the Halls of the Capitol over the years whom we have recognized as fighters for human rights, freedom, and democracy. They are leaders from abroad who have come to visit the U.S. Congress as a sign of their respect for American democracy. They have led the way toward democracy and human rights, and freedom in their own countries. In expressing their support for the National Endowment for Democracy, they have underscored the critical assistance that they have received from it, which made it possible for them to pursue democratic efforts in their own countries.

The National Endowment for Democracy has enjoyed broad bipartisan support since it was established in 1983 under the Presidency of Ronald Reagan. Seven former Secretaries of State—James Baker, Lawrence Eagleburger, Alexander Haig, Henry Kissinger, Edmund Muskie, George Shultz, and Cyrus Vance—wrote to the leadership of the Congress in 1995 to express their support for continuing funding of the National Endowment for Democracy. Their letter and stated, and I quote:

> During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but nongovernmental contributor to democratic reform and freedom. We consider the nongovernmental character of the NED even more relevant today than it was at NED's founding 12 years ago.

The NED serves an important role because of the fact that it can operate as a nongovernmental entity. It can support nongovernmental organizations which, in turn, provide opportunities that would not otherwise be available if these activities were undertaken by a government or governmental agency. This is an extremely important dimension to the work of the National Endowment for Democracy.

Former national security advisers of previous administrations and the President's current Adviser for National Security Affairs, Sandy Berger, have expressed their strong support for the NED. Mr. Berger noted in his letter to Members of Congress this week:

> I welcome the opportunity to reaffirm strong administration support for the NED and our opposition to any effort to reduce or eliminate NED funding . . . The President is a dedicated supporter of the NED, as it has been in the forefront of U.S. efforts to promote democracy, civil society and the rule of law around the world. Moreover, it has done so at very little cost to the American public, leveraging modest resources with great effectiveness.

The sweeping and profound changes resulting from the end of the cold war provide ample reason for why we continue to need institutions like the NED, which can operate in a cost-effective manner and at the same time promote our interests and values. Many of the new democracies that have emerged from the implosion of the Soviet Union and the collapse of the Iron

Curtain have benefited from the assistance NED and its grantees have provided. Those who paved the way for freedom and democracy in their own countries have consistently testified as to the importance of NED support to the success of their efforts.

In fact, President Vaclav Havel of the Czech Republic stated that "the National Democratic Institute was one of the first supporting actors in the democratic revolution in our country."

And others have made similar statements with respect to the activities of the two party organizations, the business groups, and the labor groups that are the core grantees of NED.

This is a program that is working. It is producing significant results around the world.

I strongly support this amendment, and urge my colleagues to adopt it.

I yield the floor.

Mr. BUMPERS addressed the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, first of all, I would like to say to my very dear friend, Senator FEINSTEIN from California, who is anxiously awaiting the floor so she can get into the ninth circuit debate, that I am going to object to moving to that amendment until this amendment is disposed of.

Let me also say that I am prepared to enter into a time agreement, but not yet.

Let me start off by saying that Rasputin was a piker compared to the National Endowment for Democracy. It took him a long time to die, and it has just taken forever for this boondoggle to die.

I have heard so may people in this body lament the size of Government, the waste of Government, the terribleness of Government, and here is $30 million of wasteful Government spending. There was actually an effort to get NED's appropriation up to $50 million 3 years ago.

I can tell you that, in this Senator's opinion, the National Endowment for Democracy is without question the biggest waste of money I can think of next to the space station. That is saying something.

It is a cold war relic. Everybody in this body knows that the National Endowment for Democracy was started in 1983 as an answer to communism in the world. We were not only spending $250 to $300 billion a year on defense at that point—that was not enough to contain communism around the world—we decided to add $18 million to bring democracy to the world. We started this program with $18 million in 1983, and a year after that, it soared up to about $23 million; the year after that, $27 million, then $35 million. Then, finally, I was able to get it back to $30 million 2 years ago. And this year, in this bill, thanks to the very good judgment of our chairman of this subcommittee, Senator GREGG of New Hampshire, it was sacked as it richly deserved.

Mr. President, we have been holding hearings in the Governmental Affairs Committee. And the headlines in the paper since January have been in anticipation of those hearings about foreign influence in American elections. I want to say that if China had had any judgment at all they would have consulted with the NED before they started trying to influence American elections.

The National Endowment for Democracy has as good a record of meddling in foreign elections as any organization the Earth has ever known. They tried to clean it up a little bit. They used to be very overt, and made no bones about who they were giving money to. But they are still giving out money to influence foreign elections.

One of the things that is the most intriguing of all is: Who do they give this $30 million to?

At the expense of sounding terribly arrogant, I would just like to say that on the debate on the space station which occurred day before yesterday, I daresay if that debate were held on national television before an American audience of every voter in America, the space station would be dead, dead, dead, at this moment, by an overwhelming vote. But, unhappily, all the people who might be watching that telecast wouldn't be interested in those few jobs that NASA has put in their State.

But now when it comes to boondoggles and giving away money, I invite my colleagues' attention to this: What happens to this $30 million? It took me 2 or 3 years for the realization really to soak in that this actually is the case.

Out of the $30 million, first of all, 15 percent of it, 15 percent of it, or $4.5 million, goes for NED Administration. And if you look at the way the money is spent, you will find a lot of it going for first class airfare to transport people all over the world, people who every year will write letters to the people who are engaged in this debate. They will write letters about what a wonderful program NED is.

You think of it. If a food stamp program had a 15 percent administrative cost, we would kill it dead. We would not tolerate that for a moment. But we are willing to put aside $4.5 million, 15 percent of this $30 million, and allow NED to use that for administrative expense.

But that is not the worst of it. We give the money out as follows. Listen to this, colleagues. CIPE—that's a nice acronym, isn't it. CIPE gets 13.75 percent of the money—$4.125 million. Who is CIPE? I bet you never heard of them. CIPE stands for Center for International Private Enterprise, but they are really the U.S. Chamber of Commerce. This is a little offspring of the chamber of commerce, CIPE. We give them a neat $4,125,000 out of this $30 million.

Let me ask you this: how much of that do you think they spend on administration? Bear in mind, 15 percent comes off the top for NED administration. Then you give the chamber of commerce $4.125 million, and what do you think their administrative expense is?

Then to even things up, we give an organization called FTUI, to make things even we give them 13.75 percent, also $4,125,000, the same amount we give the chamber of commerce. Who is FTUI? The Free Trade Union Institute. Why, that's the AFL–CIO. You cannot give money to the chamber of commerce unless you are willing to balance it out and give the AFL–CIO another $4,125,000. And what do you think their administrative expense is? Lord only knows. I cannot find out.

So you have the administrative expense of the chamber; you have the administrative expense of the AFL–CIO; you have the 15 percent for NED right off the top.

We are not finished. Now we go to the IRI. Whoever heard of the IRI? Now, this is going to be hard for you to believe. I will tell you who the IRI is. That is the International Republican Institute—the Republican Party. Can you believe this, another 13.75 percent, $4,125,000. We have to be evenhanded. We have to give the chamber $4.125 million, have to give the AFL–CIO $4.125 million, have to give the Republican Party $4.125 million.

And then we get down to the fourth organization, NDI. Who do you think NDI is? Why, you guessed it. It is the National Democratic Institute—the Democratic Party. And we are going to give them 13.75 percent. They get $4,125,000. I will say one thing. What do you think the administrative expense is for all those four organizations on top of the 15 percent administrative expense of NED? Who knows? The National Endowment for Democracy is an egalitarian group; they treat everybody the same. But some are more equal than others.

Here is the portion for everybody else. After you get through giving it out most of the money to all these groups who we know will send members to the Senate every year to tell us how wonderful NED is so we will give them another $30 million the next year after they evenhandedly give everybody $4.125 million in exchange for writing Senators here saying how wonderful it is, they have $9 million left. That's what everybody else gets.

Do you know what that amounts to? It comes to an average of $41,096 for all the grantees who are not part of the chamber of commerce, the AFL–CIO, the Democratic Party or the Republican Party. Everybody else, the other grantees—there are 218 of them for 1996, 218 grants made with the remaining $9 million, gets an average of $41,096. Now, ain't that something—218 grants. When you get past the big boys, the Republicans, Democrats, labor and the chamber, you have 218 grants, $41,096 each. What are they going to do with that? That will not even buy enough first class air tickets to get to the election in Cambodia or wherever. And what is the administrative expense for those 218 grantees? You talk about money well spent and saving the world through democracy.

Mr. President, we spend on the Agency for International Development about $4 billion a year. And did you know that I am a great champion of that program? And do you know what that is for? That is to help countries help themselves. That is to help them generate electricity so they can develop. That is to teach them how to plant crops so they can feed themselves. And it is also designed to make those people feel kindly toward the greatest democracy of all, the United States of America. And about $450 million of AID's budget is for democracy-building projects.

And then there is Public Law 480, popularly known as Food for Peace—over $1 billion a year. Do you know who favors that? The Senator from Arkansas. We help feed people who cannot feed themselves. Mr. President, Public Law 480 has been around as long or longer than any Member of the Senate, with a couple of exceptions, and it is designed to help people keep from starving.

Do you know what else it is designed to do? It is designed to help them feel kindly toward the United States, that great citadel of democracy.

Then, Mr. President, there is that $13 to $14 billion a year we spend on that terrible thing that the American people have such misconceptions about called foreign aid. And you know something else? I vote for that. I vote for foreign aid. Never made any bones about it. No. 1, it helps farmers because that money also buys food. It helps industry because people buy American products with the aid we give them. It is money well spent.

Do you know what else we expect to get out of it? We expect people to want to be like us. We expect them to want to be democratic. We expect them to want to be free and enjoy the same kinds of freedoms we enjoy here in the United States.

I have just finished listing for you all those billions of dollars we spend for what? To try to build democracy around the world. What good do you think this $30 million will do in changing China from a Communist nation to a free democracy? None. It is utter waste, $30 paltry million dollars that ought to be saved. It is nothing.

You have the Voice of America. You have these radio programs to influence the rest of the world about the joys of democracy and how great the United States is. And $450 million for the Agency for International Development is for democracy building. This is nothing in the world, but in 1983, when Ronald Reagan was President and everybody thought the Communists were going to come up the Potomac River and get us any minute, we thought, well, we will just dump a little more money into this democracy-building business.

You know something else. It was never intended—I want everybody to understand this. It was never intended that the National Endowment for Democracy would be a federally funded agency. We started it off with $18 million with the clear understanding that within a short period of time they were going to have to stand on their own feet with private contributions. We never intended for that to be another perpetual Government program. And so last year, 1996, do you know what their report shows? Out of $30 million, they collected from the private sector $541,000. And if I am not mistaken that is their high watermark.

It is just like so many other Federal programs. It is a program that becomes self-perpetuating because a lot of people find it to their advantage. It is difficult when you think about how I was trying to save $100 billion, 2 days ago, on the space station. Here I find myself just as exercised, just as exercised about $30 million because it doesn't really matter. It is money that ought not to be spent. The taxpayers have a right to expect more of us. Can you imagine, Mr. President, can you imagine members of the AFL–CIO and the Chamber of Commerce sitting around the table with some people from a foreign country and trying to explain the joys of democracy, the Chamber member representing what democracy means to him, the head of the labor union telling what democracy means to him.

Why, if those people on the other side were not confused beforehand——

Mr. GREGG. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield for a question.

Mr. GREGG. I was wondering if the Senator would be willing to enter into a time agreement so that we could move on with the bill. The Senator mentioned that after he had spoken for a while he might be willing to consider that. He has spoken now for approximately 40 minutes and the other side has taken approximately the same amount of time.

I was wondering if we could enter an agreement which would limit debate to an additional hour with the time equally divided between the proponents and the opponents and have a vote here at 4:30.

Mr. BUMPERS. Mr. President, let me say to my distinguished chairman, of course, I sit on this subcommittee and he is doing an excellent job. One of the greatest day's work he ever did in his life was when he torpedoed NED in the bill. But let me say, to accommodate the chairman, I will be delighted to agree to 1 hour equally divided, 30 minutes on a side, with a vote to occur at 4:30.

Mr. GREGG. If there is no objection from the other side, I would ask unanimous consent that the vote on the pending amendment be at 4:30, with the hour equally divided.

I would ask, additionally, after the vote on the second-degree amendment offered by Senator McCONNELL, if the next matter before the body could be the matter of the ninth circuit and the amendment of the Senator from California.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I would ask in that unanimous-consent agreement I be allowed 10 minutes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. If I may ask——

The PRESIDING OFFICER. Is there objection to the request?

Mr. BUMPERS. There is objection—reserving the right to object, is the request of the Senator from New Hampshire on the McConnell amendment or on the Lugar amendment?

Mr. GREGG. I believe the pending amendment is the second-degree. Whatever amendment is presently pending would be the intention of the Senator.

The PRESIDING OFFICER. The current amendment which is pending is Amendment 982 offered by the Senator from Kentucky, [Mr. McCONNELL].

Mr. GREGG. And the yeas and nays have been asked on that, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. And the Senator from Arizona is asking for 10 minutes. I would suggest that neither myself nor the Senator from South Carolina, both of whom are involved in this issue, have had an opportunity to speak. So we may have to add a little bit more time. Why don't we add an additional—have the vote be at quarter of 5, add an additional 15 minutes with the time, an hour and 15 minutes equally divided, and 10 minutes to the Senator from Arizona. Is that acceptable?

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object.

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have been on the floor for the substantial period of this debate. It is my intention to speak on this as well. I have no objection to a time agreement provided there is sufficient time.

Mr. GREGG. How much time would the Senator need?

Mr. DORGAN. Mr. President, 10 or 15 minutes. I guess I would like 15 minutes. I may not use all of it, but I have waited for some while, and I intend to speak in support of it.

Mr. GREGG. The Senator from North Dakota would like 15 minutes, the Senator from Arizona—does the Senator rise in support or opposition to the amendment?

Mr. McCAIN. I rise in support of the Lugar amendment.

Mr. GREGG. Well, I represent we will get the Senator his time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, it would be my intention at the conclusion of that time to move to table the Lugar amendment. Of course, if that would prevail, it would take the McConnell amendment with it. When we talk about voting at 4:30, I want to reserve the right to make that motion to table at the expiration of that period of time. So the unanimous-consent agreement does not necessarily pertain to the McConnell amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask unanimous consent, or I will ask unanimous consent as a part of my assent to the idea before us, that I have the right to withdraw my amendment, and I would say, for clarity of all sides, my intent would be to send an amendment to the desk promptly thereafter. I simply want to make certain that all sides know this, so there is not any misunderstanding. But I reserve the right to object until I am certain I could withdraw my amendment and send an amendment to the desk.

Several Senators addressed the Chair.

Mr. GREGG. Mr. President, I withdraw my request, and we will just proceed here and see what happens.

The PRESIDING OFFICER. The Senator from Arkansas retains the floor.

Mr. BUMPERS. Mr. President, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in opposition to the amendment that is pending and in support of the underlying bill, obviously. I think the Senator from Arkansas had certainly outlined rather effectively the problems with NED, the expense of this program, and the fact that the program, for all intents and purposes, involves a passing of Federal tax dollars, hard-earned tax dollars, on to a number of groups for the purposes of exercises which are of questionable value in the post-cold-war period: the Democratic National Committee, Republican National Committee, the AFL–CIO, and the Chamber of Commerce being the primary beneficiaries of this fund.

I call this the club fund. You know, here in Washington there are a lot of folks who are sort of part of a club. The city has a bit of a clubby atmosphere. It is a you-scratch-my-back-and-I-scratch-your-back club. This is sort of one of the funding mechanisms for the club. I am not too surprised that some community of the press supports the exercise because the club, regrettably, involves some of the press, too. But, as a practical matter, there is very little substance done here.

Let's take China, for example. I suppose if there is an example of a nation where we have concerns about democracy and its impact on our future as a country, China is probably it. How valuable is NED in relationship to China? Well, last year NED sent a lot of people over there. A lot of people took airline flights over there. There were a lot of good trips, I am sure, to China. China is a nice place to visit. I am absolutely sure of that. A lot of people had an opportunity to go there, people who were members of the Republican National Committee, Democratic National Committee, AFL–CIO activists, Chamber of Commerce activists, people who are friends—a lot of people who were friends of members of these different organizations went on trips. All of them went to China for a variety of meetings, and NED committed $2 million for various programs. They had about, I think, about 20 or 30 different meetings in China to tell China how to become a democracy; $20 million for 1 billion people. That works out to about 2 cents a person. I think they must have distributed toothpicks that said "vote" on them for 2 cents a person.

The fact is, it had absolutely no impact. All it did was represent a nice trip for a bunch of folks from the United States who probably looked forward to going to China and meeting some folks in China.

The inverse, of course, is that when China tried to influence our elections, I think we generated a fair amount of outrage here in the United States about that. We are still looking for Charlie Trie. Maybe he is working for NED in China now. The fact is, the influence of elections in the United States by a foreign country tends to really antagonize a few people—as it should, in the post-cold-war period. And vice versa. You know? Vice versa.

So what's the purpose of NED? The purpose of NED is to, for the most part, be a nice gathering of folks who find it is a very effective way to fund various trips, various get-togethers around the globe. What does this amendment suggest we do to pay for these trips, to pay for this club activity? What is the suggestion of the way they are going to fund this? They are going to take the money out of the State Department capital account.

Yes, the White House did not ask for as much money in the capital account as we put into it, because the White House wanted to spend the money on the United Nations and on international operations, international organizations. So they raided that fund for that account. That is a little more legitimate than NED but not a whole lot more legitimate than NED when you are talking about the capital account of the State Department.

I submit to the people who are supporting this amendment that maybe they should read a few of the reports from the State Department about the present status of the State Department's capital situation. Maybe the people who offered this amendment would like to call up the United States on a dial telephone from Lagos. Maybe the people who offered this amendment would like to be working on a Wang computer that cannot communicate with any other computer in the United States. That is what we subject our people to at the State Department.

The present infrastructure of the State Department is a disaster. They can't call home. And the practical effect of this amendment is that a lot of them aren't going to be able to call home. Or maybe when you have a constituent who has a family member who has run into a serious problem in one of these Third World nations and you are out trying to help your constituent out, you are going to be really upset that the State Department can't communicate with its people in the field effectively because 82 percent of the State Department radio equipment, 55 percent of their computer equipment, and 40 percent of their telephone equipment is totally obsolete.

So what does this amendment suggest? It suggests we keep it obsolete so we can fund a bunch of folks at the Republican National Committee, Democratic National Committee, the AFL–CIO, and the Chamber of Commerce—who happen to have the best computer equipment in the world, the best communication equipment in the world—so we can fund them for their trips. What an absolute outrage.

I cannot believe that we would consider doing this to the people who work at the State Department. It is an absolute affront. This is important. Yes, somebody said, this is serious business. You are darned right this is serious business. This is very serious business. You go out to these embassies in some of these Third World countries and you see what we subject our people to, and it is not right. They take their families along with them. They take their families along with them, and they get into some of these countries where Americans aren't all that popular, and their families are driving to work some morning, or driving to school, and their lives are threatened and they have no secure vehicles to travel in because we can't fund it—because we can't fund it. But we can fund a first-class airline ticket to China for somebody here in the United States to go to a meeting to talk about stuff and come back and have a good time on the trip. But we can't fund the protection of an American family serving overseas. It's really incredible.

I heard somebody on this floor citing an editorial from the Wall Street Journal, or some commentary in the Wall Street Journal. You tell me the last time a reporter at the Wall Street Journal used a Wang computer to file their story. You tell me when that happened. Wang was a great company. It started right down the road from where I live. We were very sad to see it go by the way. The fact is that it did. Yet we still ask our people in the field to use Wang computers.

This amendment takes from the capacity of the guys and women who are in the field doing the job of presenting American policy, it takes out of their hands the capacity to do their job and gives it to a bunch of folks who may be well intentioned but who do not accomplish a whole lot.

I just find it unbelievable that the account into which you would dip to pay for the NED is the account which is absolutely critical to upgrading the State Department and giving our people in the field an adequate opportunity to represent us. But that is the amendment, and I look forward to this vote with some enthusiasm because this is going to be a real test of who really cares about the future of our State Department.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, you know now why, in my opening statement on this particular measure, I said I was so enthused about working with the distinguished chairman, the Senator from New Hampshire—he laid it on the line. Last December we had a NATO conference in Paris whereby we elected the distinguished Senator from Delaware the president of the North Atlantic Treaty Organization Council. Senator ROTH is now the president.

Pamela Harriman, the distinguished Ambassador, was there, and she knew that I was ranking member and had been the chairman. The word had gotten around of our attempt to try to bring the State Department from the Third World into the first world. I am aghast here that those who chaired foreign relations would put in such an amendment, to tell you the truth. I feel just as strongly as the Senator from New Hampshire. Because Pamela Harriman came to me and said, "Can I meet you in the morning?" Then we met for the entire morning. We spent the morning together.

Exactly what the Senator from New Hampshire said was pointed out. Although the Embassy in Paris was nice, their equipment was outdated. Their computers were totally obsolete. They couldn't even get replacement parts for it. Their communications had broken down. They had a premier facility, an embassy, with hundreds of Americans coming in daily—I don't know how you handle a post of that size—but I wouldn't even volunteer for it. It wouldn't be an honor; it would really be a drag, because trying to keep up with national policy while dealing with the visiting firemen and repairmen and all the other problems, the problems that ensue in a wonderful city like Paris. It is really hard work—she was doing an outstanding job. I said to her—the Assistant Secretary, Dick Moose, who used to head up our Foreign Relations Committee, and I have been trying to increase funding for the capital account to modernize telecommunications, to modernize computerization and other equipment in hopes of doing all the good things that the distinguished Senator from Kentucky says that NED does.

Let's assume it is true, and I can tell you, I opposed this in the very beginning and then finally said, "I'm wasting my breath." The one time I actually supported it was when the current Secretary of State, the distinguished Secretary Albright, came to me and said,

> We've got an election in Budapest, Hungary, and we can buy some old printing presses out in Indiana and print up voting bills to be handed out and ballots to help conduct an election.

Now everyone is bothered about foreign governments trying to influence our elections? Heavens above, the other day we had, I think, 99 votes commending Mexico on its elections because it was the first time the United States stayed out.

We have been funding activities through Wall Street or otherwise down there with the PRI. That is a big financial fix. Paying off the Mexican debt was just a refinancing. Nothing went to the Mexican people. It all went back up to the banks on Wall Street. It is time we sober up and understand. My colleagues should get the American Chamber of Commerce report in Mexico City 60 days ago and see what it says: Unemployment is down, the economy is down and the forecast is no recovery for several years to come. NAFTA hasn't worked. It has worked for the financial crowd, and it has worked for those who want to export the industrial backbone of America.

I reviewed, as a member of the Hoover Commission in the fifties, the Central Intelligence Agency. That was our primary function. I can see Sonny Purfoy in the Guatemala election. I can see him in the Greek election. His job was to run elections the world around.

So the Chinese learned to do a little bit of that, and now we are going to have a big Federal program and spend millions of dollars, all to get on national TV to express our horror and surprise. Mature individuals ought to quit acting like children, and let's move on and let's get the work of the Government done. Now that is what I want to speak about, the work of the Government, namely the State Department.

Assume everything said by the distinguished Senator from Indiana, everything said by the distinguished Senator from Kentucky is absolutely true and ought to be done without apology by the Department of State. What is wrong with that? What is wrong is under communism, we said, "Well, we couldn't do that." We always apologized because of our democracy and our freedom and our individual rights.

The Department of State ought to be around as the foremost lead organization, not the Department of Defense, now with the fall of the wall. We ought to be selling democracy. To Secretary Christopher's credit, he finally got them doing business.

I started back 37 years ago as Governor of South Carolina. I went down in Rio de Janeiro and, like the distinguished Senator from North Carolina, Chairman HELMS, I thought of them in that same vein. Why? Because the United States Ambassador, standing up with the Governor of Guana Bera, in the Embassy in Rio in Brazil, reached over into my glass and pulled the ice out of it and threw it on the floor and said, "Don't drink that, Governor, the ice is dirty in this country." How do you think I felt? I said, "That fellow doesn't have any manners." But a lot has happened in 37 years.

Our Department of State has outstanding personnel the world around, and they are trying to work in the business field to help spread capitalism. In my opinion that is what really prevailed with the fall of the wall. It wasn't the CIA or anything else. It was capitalism. I served on the Intelligence Committee, and they never briefed us that the wall was about to fall.

So be that as it may, let's bring our Department of State in and put in a billion more. They gave a billion more in foreign aid and less to the Department of State. The distinguished chairman, the Senator from New Hampshire, comes around and finds some money here, and we put it in the infrastructure to try to build up the Department of State. We come around and we have a crowd that says, "No, the Republican Party, the Democratic Party, the AFL–CIO, the chamber of commerce"—now, by gosh, they have their minions all over this Capital City, and so they can fix the vote and tell what wonderful work it does. Well, if it is wonderful work, let's let the Department of State, without embarrassment or apology, perform it.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have on previous occasions come to the floor of the Senate to support amendments offered by the Senator from Arkansas to strike the funding for the National Endowment for Democracy. I must say that I was surprised and very pleased by the actions taken by the Senator from New Hampshire and the Senator from South Carolina and the subcommittee to strike the funding in the subcommittee and recommend to the full Senate there be no funding for the National Endowment for Democracy.

The chairman and the ranking member say it very simply. They simply cut the $30 million out. In their report, they tell us that:

> The National Endowment for Democracy was originally established in 1984 during the days of the cold war as a public-private partnership to promote democratic movements behind the Iron Curtain. Limited U.S. Government funds were viewed as a way to help leverage private contributions and were never envisioned as the sole or major source of continuing funds for the National Endowment for Democracy.

I might say parenthetically, it wasn't really a private-public partnership, it was public funding. There was never very much private money available. But the subcommittee says:

> Since the cold war is over, the committee believes the time has come to eliminate Federal funding for this program.

Once again, I am pleased by this recommendation. I think it is the right recommendation.

We have a weed in North Dakota out in ranching and farming country called the leafy spurge. The leafy spurge is kind of an ugly weed. It grows anywhere, without moisture. You just can't get rid of it. You can cut it, you can spray it, you can mutilate it, you can dig it up, and you come back and it is still growing. We have some things in the Federal budget that remind me a little bit of leafy spurge. It doesn't matter what you do, you just can't kill it.

The chairman and the ranking member bring a proposal to this floor from the committee that says this program is a program that is done, it ought not be funded. I think the Senator from Arkansas, the Senator from New Hampshire, the Senator from South Carolina, and others, have said it well. Most taxpayers, I think, would be surprised to discover that we were spending nearly $30 million and we were dividing it up and saying to groups, "Take this and go around the world and promote democracy." We would give a pretty big chunk to the National Democratic Party. Then we would give an equivalent chunk to the Republican Party, because you can't give to one without the other. Then we would give a big chunk of money to the U.S. Chamber of Commerce, and then give an equivalent amount of money to the AFL–CIO, and we would say, "With this, promote democracy, promote free enterprise, promote unionism."

It is 1997. The cold war is over. The Soviet Union doesn't exist. There is no Berlin Wall. There is no Warsaw Pact. Democracy has marched across the continents on this Earth, and yet, today, we face an amendment that says, "Let us decide to continue to spend $30 million a year for the National Endowment for Democracy."

I must tell you that I sort of view these things also in the context of what else is necessary to be done. The Senator from New Hampshire talked about trying to make a telephone call from a U.S. embassy on foreign soil to the United States or to use a computer in an American embassy abroad to try and connect to the United States. He talked about the Department's equipment needs, and I understand that. I think most of us have seen that first hand. He is talking about the needs of the State Department.

Those needs are great, and yet the funding to meet those needs is cut under this amendment, in order to pay for this $30 million for the National Endowment for Democracy.

There are other needs that frustrate me from time to time, sufficient so that I sit and grit my teeth and wonder why, why can't you get something so small done that would help people who are so important? But you just can't. And yet $30 million is available for a National Endowment for Democracy.

I think for 4 or 5 years, I have come to this floor to try to get, first, $1 million, then $2 million, to deal with the issue of child abuse on Indian reservations. I have been unsuccessful all these years to get that money.

I held a hearing one day, and at the hearing, we heard the story of Tamara DeMaris, a young Indian girl 3 years old who was put in a foster home, and they didn't have enough time to check out the foster home. So this 3-year-old girl was in this foster home, and a drunken party ensued. The 3-year-old girl was beaten severely, her hair was torn out at the roots, her arm was broken and her nose was broken. Why? Because she was put in a foster home and no one checked to see that the foster home was safe. Why? Because one person had 150 cases of children who needed help and didn't have time to check the foster home.

At a hearing on this issue of child abuse, I had a young woman sit at the table and begin to weep. She was in charge of child welfare. She said, "I have stacks of folders on the floor alleging physical abuse and sexual abuse that haven't even been investigated because I don't have the money." She began to weep. She said, "I don't even have the ability to transport kids to a doctor."

I tried for 4 or 5 years to get money to start a pilot project to deal with those child abuse issues. The money is not available. But $30 million for the National Endowment for Democracy? A big chunk to the AFL–CIO, to the chamber of commerce, to each political party, and then send some contracts around the world, fly around the world to meetings in the biggest cities in the world and talk about democracy?

We are going to come to a portion of appropriations, as the Senator from Arkansas said, where we will spend $4 billion for something called the Agency for International Development. That is a program that promotes democracy abroad. That is a program that helps people around the rest of the world. Four billion dollars, I am told. The U.S. Information Agency is a program that helps people around the world; Food for Peace; the contribution we make to NATO.

I was asking somebody today, if we contributed the same amount of our national income as all of our NATO partners do to the defense of Europe, what would it mean to us? I discovered something interesting: $100 billion a year of savings. If we were contributing the same average amount for defense as all of our allies are contributing, $100 billion a year. Think of that.

So we spend $100 billion extra a year to promote democracy, to help our allies, to help defend the free world, and then we spend money in AID, we spend money in USIA, we spend money in Food for Peace in a dozen other ways, and then we want to duplicate it in a minuscule program that doesn't have a reason for being, except that we fund it and it sets up a very well-connected board. The Senator from New Hampshire said, I guess he called it the club, I think that was the reference.

I don't know much about this club. The names I see are some of the most distinguished Americans, no question about that, people for whom I have great respect. I would expect every single one of them associated with this organization would support the organization. I understand that.

The point is, we spend billions and billions of dollars supporting democracy abroad through this Government's programs—the foreign aid program, the Food for Peace Program, USIA, AID, and dozens of others—and there is not a need when the cold war is over, when there is no Soviet Union, when times have changed, to resurrect a $30 million program that this subcommittee decided it wanted to kill.

It is unusual to see a bill come to the floor of the Senate with a recommendation that says, you know, this program has outlived its usefulness. This program is no longer needed. This money ought to be saved. It is very unusual to see that happen here in Congress. But it happened today when Senator GREGG and Senator HOLLINGS brought a recommendation to the floor saying this organization that produces these slick annual reports is no longer necessary.

That conclusion is contested by some who say, yes, it is. We want $30 million more added to the bill to support the continued existence of this organization, the National Endowment for Democracy.

We live in the greatest democracy on the face of this Earth. Half of the people in the last election said they did not want to go vote. If we want to endow a democracy, let us invest this $30 million here, let us continue an investment in this democracy.

You know, I know some people look at, I suppose, some of the things I talk about on trade and other things I talk about and say, "Well, it's some of the same old story, kind of isolationist, and don't understand things, can't see over the horizon. You just don't have the vision, the breadth of understanding that it takes to know why this is necessary."

I think I do understand this.

I am not a foreign policy expert by any means, nor am I an isolationist, nor do I believe the world is growing larger—it is growing smaller—nor do I believe that we do not have to be involved in what is happening in the rest of the world. But this country can no longer afford to spend money it does not have on things it does not need. And it does not need the National Endowment for Democracy, an organization with a fancy title, that gives its money to the AFL–CIO, the chamber of commerce, the two national political parties, and then goes without much strain to promote democracy abroad.

There is plenty of democracy to promote here at home, plenty of reasons to decide either to save this money or to invest it here in things we need to do in this country and use the promotion of democracy as it is effectively done in AID, in USIA, and Food For Peace, and so many other organizations, yes, including, as Senator BUMPERS said, the foreign aid bill. That is where we promote the principles of democracy abroad. It is where it should be promoted.

Finally, let me just say this. This organization was created on a recommendation offered in 1983, created in 1984 in the middle of the cold war, I assume for good purposes at that time, for people who felt it was a necessary organization. It is now no longer necessary.

The subcommittee is dead right. This is a colossal waste of the taxpayers' money. If we cannot kill this organization, and end this funding, then in my judgment we have a very difficult time taking a look at other areas of questionable funding and making the right choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I withdraw amendment No. 981.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 981) was withdrawn.

AMENDMENT NO. 984

(Purpose: To make appropriations for grants through the National Endowment for Democracy)

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mr. LEAHY, Mr. MCCONNELL, Mr. GRAHAM, Mr. DODD, Mr. ROTH, Mr. LIEBERMAN, and Mr. MACK, proposes an amendment numbered 984.

Mr. MCCAIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the last word in the bill and substitute the following:

"1998

"SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

"For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended. The language on page 100, line 24 to wit, '$105,000,000' is deemed to be '$75,000,000'."

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

AMENDMENT NO. 985 TO AMENDMENT NO. 984

(Purpose: To make appropriations for grants through the National Endowment for Democracy)

Mr. MCCONNELL. I send a second-degree amendment to the Lugar amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. LEAHY, Mr. LUGAR, Mr. GRAHAM, Mr. DODD, Mr. ROTH, Mr. LIEBERMAN, and Mr. MACK, proposes amendment numbered 985 to amendment No. 984.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "1998" on line 4 of the underlying amendment and substitute the following:

SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended. The language on page 100, line 24 to wit, "$105,000,000" is deemed to be "$75,000,000". This shall become effective one day after enactment of this Act.

Mr. MCCONNELL. Mr. President, let me just say very briefly—we are anxious to hear from Senator MCCAIN, and move on to a vote—the capital investment account referred to by the distinguished chairman of the subcommittee and the ranking member will still be $105 million after the Lugar amendment is approved. That would exceed the President's request by $10 million and exceed the 1997 level of last year's bill by $80 million.

The distinguished chairman of the subcommittee certainly raises a valid point with regard to the infrastructure at the State Department. But it will be substantially increased for all the purposes he alluded to even after the amendment restoring the National Endowment for Democracy is hopefully approved.

Just one other point, Mr. President. I just want to mention a letter that was sent to the chairman and the ranking member in support of the National Endowment funding at $30 million signed by, in addition to Senator LUGAR and myself, Senator GRAHAM, Senator MIKULSKI, Senator LAUTENBERG, Senator MACK, Senator SARBANES, Senator COCHRAN, Senator LIEBERMAN, Senator HATCH, Senator Bob KERREY, Senator INHOFE, Senator DODD, Senator ABRAHAM, Senator KENNEDY, Senator MURKOWSKI, Senators LEAHY, ROTH, KERRY of Massachusetts, ROBB, LEVIN, BREAUX, KYL, DEWINE, COVERDELL, JEFFORDS, MOYNIHAN, REED, HAGEL, TORRICELLI, THOMAS, REID, ROCKEFELLER, FRIST, and of course the distinguished Senator from Arizona, who is about to speak who has been an enthusiastic supporter of this program over the years.

The NED, many of us feel, has done wonderful work, has broad bipartisan support across both party and ideological lines.

Mr. President, we hope the amendment offered by the distinguished Senator from Indiana will be approved.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, the Senator from Kentucky and the Senator from Indiana have made I think a strong and compelling case for this amendment. I am grateful for what they have said and their active involvement in the pursuit of democracy throughout the world.

The Senator from Kentucky just recently completed action on an appropriations bill here that I think embodies frankly what the National Endowment for Democracy is all about. And of course the Senator from Indiana, Senator LUGAR, is acknowledged throughout the world, not only in this body, but throughout the world as one of the foremost experts on national security issues and foreign affairs.

Mr. President, I do not want to repeat a lot of the things that have already been said about this issue, except to try to define really what this debate is all about.

The Senator from North Dakota just talked about the fact that there was no use for this kind of activity by our Government. I understand that. I less understand the Senator from New Hampshire who I have always known to be a person who supported efforts for freedom and democracy throughout the world.

We have people, Mr. President, like Martin Lee, who everyone recognizes as the voice of human rights and freedom in Hong Kong. He says:

> In Hong Kong and elsewhere in Asia and around the world, the struggle to preserve democracy, political freedom and the rule of law is far from being won [is far from being won]. But by supporting key human rights organizations which work for the development of democracy and the preservation of the rule of law and human rights in Hong Kong, the Endowment's work in Hong Kong has had a profound effect at a critical time.

I do not know if the Senator from Arkansas, who I have debated this issue for several years with, takes the time or the effort or the trouble to hear from people like Martin Lee and Harry Wu, and people who have suffered—who have suffered—on behalf of fighting for human rights and freedom in their countries.

I wish the Senator from Arkansas would take some time and listen to these individuals, not me, not the Senator from Kentucky, not the Senator from Indiana, but why don't you, I would ask the Senator from Arkansas, listen to people like Martin Lee and Harry Wu, the Dali Lama, the Prime Minister of the National Coalition Government of Burma, the former chief of staff of the President of Chile, the President of Lithuania, the list goes on and on, names that are not known to some in America but are known throughout the world in their struggle for freedom in virtually every part of the world. That is why I am a bit puzzled and confused by the length of this debate and, frankly, the emotion associated with it.

As has already been noted by the Senator from Indiana and the Senator from Kentucky, there is an editorial in the Wall Street Journal this morning. I quote:

> Hong Kong democratic leader Martin Lee, who faces tough battles ahead in coping with Hong Kong's new Beijing landlords, penned a letter to Senator CONNIE MACK begging him—begging him—to help save the NED. Senator BOB GRAHAM has heard from Sergio Aguayo of the Civic Alliance, which has a strong hand in promoting the multiparty democracy now taking root in Mexico.

The list goes on and on.

> One achievement of this Ronald Reagan brainchild was to help Poland's Solidarity break the grip of the Soviet Union in the Cold War days.

It goes on and on.

Mr. President, as I said, I am not going to take a lot of time. I just want to say as strongly as I can, in the end I think it is fair to say that the opponents of the National Endowment for Democracy are those who define this country only by what we are against and not by what we are for. It is enough for them that the United States opposed communism, and once the threat communism posed to our own security was defeated, they viewed America's role as the champion of liberal democracy to have become an expensive vanity which deserved to disappear with the Berlin wall.

But such a cramped view of American purpose ignores the service and sacrifice of hundreds of thousands of Americans who were ordered into innumerable battles, not just in defense of American security, but of American values.

It ignores the aspirations of our Founding Fathers who conceived of this Nation as an inspiration for and friend to all peoples who sought their natural right to life, liberty, and the pursuit of happiness.

It ignores the wisdom of Abraham Lincoln who knew that the outcome of our Civil War would affect the world as profoundly as it affected our own society. And it ignores the generous spirit of Ronald Reagan who believed that supporting the forces of democracy overseas was our abiding moral obligation, just as it was a practical necessity during the cold war.

I am proud of America's long and successful opposition to communism, but being an anticommunist is not enough. It was never an end in itself. We are all small "d" democrats in our efforts to help secure the blessings of liberty of what truly distinguishes American history from all other nations on Earth. It was necessary to defeat communism to protect the well-being of Americans, but it was also necessary to defeat communism because it threatened America's best sense of itself and our sublime legacy to the world.

Mr. President, $30 million is a small investment in preserving that legacy. And I ask all my colleagues to keep faith with the many revered Americans who paid a much higher price than that to keep America a beacon light of liberty.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I am delighted I was here to hear the Senator from Arizona comment on the program. I will call attention to the fact that the bill in the other body has the same amount of money that is in the amendment as proposed here. This matter will be at conference. And it will be a long and sustained conference whether this amendment is adopted or not.

I believe that we should keep on course. I am not an opponent of this matter. As a matter of fact, I have always voted for it. But I do not think it gains anything to have a prolonged discussion here at this time. I will assure Senators who support it, we will do everything in our power to assure the conference of their objectives at conference. But I move to table this amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 984

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment. The yeas and nays are ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 72, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—27

Allard
Baucus
Bingaman
Boxer
Breaux
Bumpers
Byrd
Cleland
Cochran
Conrad
D'Amato
Dorgan
Faircloth
Feingold
Ford
Grassley
Gregg
Helms
Hollings
Kohl
Lott
Nickles
Shelby
Stevens
Thompson
Warner
Wyden

NAYS—72

Abraham
Akaka
Ashcroft
Bennett
Biden
Bond
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Collins
Coverdell
Craig
Daschle
DeWine
Dodd
Domenici
Durbin
Enzi
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Hagel
Harkin
Hatch
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kerrey
Kerry
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller

Roth
Santorum
Sarbanes
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thurmond
Torricelli
Wellstone

NOT VOTING—1

Kennedy

The motion to lay on the table the amendment (No. 984) was rejected.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, there is overwhelming opposition. But I do want to tell the Senate that we are spending time on an amendment that deals with a subject the House has always insisted on in conference. I don't know why we spend time debating here on the floor whether or not we are going to give this subject approval by the Senate, because it is one item that the House will not let us come out of conference on unless we approve it. So we have taken time to get negotiating room with the House, and the Senate won't let us have it. I am sorry to say that I think the Senate just made a mistake.

AMENDMENT NO. 985

The PRESIDING OFFICER. If there is no further debate, the pending business before the body is the second-degree amendment by the Senator from Kentucky.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 985) was agreed to.

Mrs. FEINSTEIN addressed the Chair.

AMENDMENT NO. 984, AS AMENDED

The PRESIDING OFFICER. The question is now on the first-degree amendment, as amended. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 984), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 986

(Purpose: To establish a Commission on Structural Alternatives for the Federal Courts of Appeals)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. LEAHY, Mrs. MURRAY, Mrs. BOXER, Mr. REID, and Mr. BRYAN, proposes an amendment numbered 986.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, line 5, strike all through line 15 on page 97 and insert the following new section:

SEC. 305. COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS.

(a) ESTABLISHMENT AND FUNCTIONS OF COMMISSION.—

(1) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(2) FUNCTIONS.—The functions of the Commission shall be to—

(A) study the present division of the United States into the several judicial circuits;

(B) study the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit; and

(C) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 10 members appointed as follows:

(A) One member appointed by the President of the United States.

(B) One member appointed by the Chief Justice of the United States.

(C) Two members appointed by the Majority Leader of the Senate.

(D) Two members appointed by the Minority Leader of the Senate.

(E) Two members appointed by the Speaker of the House of Representatives.

(F) Two members appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENT.—The members of the Commission shall be appointed within 60 days after the date of the enactment of this Act.

(3) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(5) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

(c) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(2) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(d) PERSONNEL.—

(1) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—The Executive Director, with the approval of the Commission, may appoint and fix the compensation of such additional personnel as the Executive Director determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this paragraph shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(3) EXPERTS AND CONSULTANTS.—The Executive Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(4) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, to the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services to the Commission on a reimbursable basis.

(e) INFORMATION.—The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance the Commission determines necessary to carry out its functions under this section. Each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

(f) REPORT.—No later than 18 months following the date on which its sixth member is appointed in accordance with subsection (b)(2), the Commission shall submit its report to the President and the Congress. The Commission shall terminate 90 days after the date of the submission of its report.

(g) CONGRESSIONAL CONSIDERATION.—No later than 60 days after the submission of the report, the Committees on the Judiciary of the House of Representatives and the Senate shall act on the report.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums, not to exceed $900,000, as may be necessary to carry out the purposes of this section. Such sums as are appropriated shall remain available until expended.

Mr. D'AMATO addressed the Chair.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I believe the Senator from New York has a question. I yield to him for a moment.

The PRESIDING OFFICER. The Senator from New York is recognized.

STAMP OUT BREAST CANCER ACT

Mr. D'AMATO. Mr. President, I ask unanimous consent that the pending amendment be laid aside for up to 3 minutes; and I further ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1585, which was just received from the House.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Mr. President, reserving the right to object, as long as the Chair will recognize the Senator from California following the handling of this measure.

The PRESIDING OFFICER. The Senator's request is so modified.

Is there an objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1585) to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued United States postage stamps, and for other purposes.

The Senate proceeded to consider the bill.

Mrs. FEINSTEIN. Mr. President, I am proud to support the breast cancer research stamp bill, H.R. 1585, sponsored by Congresswoman SUSAN MOLINARI and approved in the House of Representatives yesterday on a vote of 422 to 3.

I, along with Senators D'AMATO, FAIRCLOTH, and the original 51 cosponsors of my bill, the breast cancer research stamp Act (S. 726), have worked very hard to give life to this innovative breast cancer research stamp idea, which originated with a physician—Dr. Bodai from my State, and I am happy to see it become a reality today.

At a time when the National Cancer Institute can only fund 26 percent of applications, a drop from 60 percent in the 1970's, this legislation creates an innovative way for citizens to contribute to breast cancer research.

Under this bill:

Postal Service would establish a special rate of postage for first-class mail, not to exceed 25 percent of the first-class rate, as an alternative to the regular first-class postage. The additional sum would be contributed to breast cancer research.

The rate would be determined in part, by the Postal Service to cover administrative costs and the remainder by the Governors of the Postal Service.

Seventy percent of the funds raised would fund breast cancer research at NIH and 30 percent of the funds raised would go to breast cancer research at DOD.

The Postal Service would provide the stamp within a year from the date of enactment.

Within 3 months prior to the stamp's 2-year anniversary, the bill requires the Comptroller General to evaluate the effectiveness and the appropriateness of this method of fund raising and report its findings to Congress.

THE BREAST CANCER TOLL

There are 1.8 million women in America today with breast cancer. Another 1 million women do not know they have it; 180,200 new invasive cases will be diagnosed this year.

Breast cancer kills 46,000 women a year. It is the leading cause of death for women ages 35 to 52 and the second leading cause of cancer death in all women, claiming a woman's life every 12 minutes in this country.

For California, 20,230 women were diagnosed with breast cancer and 5,000 women will die from the disease. (Source: American Cancer Society—cancer facts and figures 1996.)

The San Francisco Bay area has one of the highest rates of breast cancer incidence and mortality in the world. According to the Northern California Cancer Center, bay area white women have the highest reported breast cancer rate in the world, 104 per 100,000 population. Bay area African-American women have the fourth highest reported rate in the world at 82 per 100,000.

In addition to the cost of women's lives, the annual cost of treatment of breast cancer in the United States is approximately $10 billion.

The incidence of breast cancer is increasing. In the 1950's, 1 in 20 women developed breast cancer. Today, it is one in eight and growing.

While we know there is a genetic link to some breast cancers, we do not understand the fundamental cause. In hearings I held as cochair of the Senate Cancer Coalition, we learned that environmental factors may lead to as much as 90 percent of breast cancer. We know that breast cancer rates vary between countries and when people migrate, they tend to acquire cancer rates closer to those of newly adopted countries within a generation.

Over the last 25 years, the National Institutes of Health has spent over $31.5 billion on cancer research—$2 billion of that on breast cancer. In the last 6 years alone, appropriations for breast cancer research have risen from $90 million in 1990 to $600 million today.

And the United States is privileged to have some of the most talented scientists and many of the leading cancer research centers in the world such as UCLA, UC San Francisco, Memorial Sloan-Kettering, the Dana Farber Institute, and M.D. Anderson. But researchers need funding. Science needs nourishment. Without it, promising avenues of scientific discovery go unexplored. Questions go unanswered. Cures go undiscovered.

CITIZEN CONTRIBUTIONS

The breast cancer research stamp bill allows anyone who chooses to, to conveniently contribute to Federal research and to finding a cure for the breast cancer epidemic. It is an innovative idea originating with an American citizen and I am very grateful for the support of the House yesterday.

I urge my colleagues to support this important legislation.

Mr. THOMPSON. Mr. President, as chairman of the Governmental Affairs Committee, which has oversight responsibility for the U.S. Postal Service, I want to comment on H.R. 1585. This measure directs the Postal Service to issue a semipostal stamp, at a price of up to 8 additional cents per first-class stamp, to raise funds for breast cancer research. Clearly this measure has the votes to pass; a similar measure passed the Senate last week by a vote of 83 to 17. But I want the record to reflect my strong disagreement with it. I think it is a bad idea for several reasons. It will create a precedent for congressional authorization for the issuance of many other fundraising postal stamps for many other worthy causes. As all Members are aware, the Postal Service has plenty of challenges on which it should concentrate. Not all costs of undertaking this new program are quantifiable, and we will be distracting the Postal Service from its responsibility of providing the best delivery service at the lowest price. Note that it is likely that we will soon see an increase in the cost of mailing a first-class letter. If Congress believes additional funds should be spent for this or another purposes, Congress should appropriate the funds directly. That is our responsibility.

Mr. HOLLINGS. Mr. President, I want to convey my strong support for the Stamp Out Breast Cancer Act, H.R. 1585. I may have created confusion on this point by voting last week against an amendment offered by my friend Senator FEINSTEIN of California when the Senate was considering the Treasury-Postal Service-general Government appropriations bill. I was concerned about initial reports that the Postal Service would have technical problems raising the projected funds. However, passage of today's legislation both solves those problems and properly authorizes the program. As a supporter of the war on cancer 26 years ago and the author of the pilot program which grew into the Centers for Disease Control's breast and cervical cancer screening program, I am very pleased to see this legislation enacted. The bottom line is that we need public awareness and research funds, and this legislation provides both. Again, I commend my friend Senator FEINSTEIN for her energetic efforts on this front and am pleased to support this bill.

Mr. D'AMATO. Mr. President, I ask unanimous consent the bill be considered read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1585) was passed.

Mr. D'AMATO. Mr. President, I want to thank the Senator from California for yielding. I think it is just gratitude at this time because there is no one who has worked harder than Senator FEINSTEIN in terms of the attempts to bring forward this passage.

This will permit the Postal Service to go forward with a program that will pay for it itself and dedicate 70 percent of the net proceeds to cancer research at NIH and give the other 30 percent to the Department of Defense.

We worked together on this with the House, and I think it is a great testimony to the dedication of bringing people together for a sole purpose.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I also want to thank the Senator from New York for his help on this matter.

We have had a true bipartisan effort with Ms. MOLINARI and Mr. FAZIO in the House and Senators D'AMATO, FAIRCLOTH and FEINSTEIN in the Senate. This bill passed the House on suspension. I believe it is an excellent bill. I think it will get the job done in a way in which we can all be proud.

The bill is slightly different than the bill that we introduced as an amendment on the fiscal year 1998 Treasury-Postal appropriations bill last week. This bill provides for up to 25 percent of the cost of a first-class stamp to be attached, the extra amount added to be used for breast cancer research. Of the amount of funds raised, 75 percent would go to the NIH, and the remainder to DOD.

It is something that is widely supported by virtually every medical and cancer association in the United States.

Let me say one thing. Breast cancer is the No. 1 killer for women between the ages of 35 and 52 in this Nation today. It used to be 1 out of 20 women. Today it is one out of every eight women in the United States will come down with breast cancer. It is extraordinarily serious. This is a unique public/private partnership, the first time it has been tried, a pilot, if you will. I know it has been hotlined. I am grateful for the results. I thank the Senator from New York so very much for his work and support and the pink ribbon he is wearing on his lapel, and I believe the women of America, all of us, also thank every Member of this body.

The PRESIDING OFFICER. The bill has been passed.

Mr. BUMPERS. Will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mr. BUMPERS. We debated this in the Appropriations Committee, as we know, for a short time. We voted on it the other day—a different proposition. I am not clear on the difference between the amendment the Senator is offering now and the one that was overwhelmingly passed in the Senate the other day. That was carried—a 1-cent increase in the 32-cent stamp, with the extra penny going to breast cancer research. This one, as I understand it—does this amendment take part of the 32 cents or does it also carry an increase in the 32 cents?

Mrs. FEINSTEIN. The amendment we are to be on is a Commerce, State, Justice amendment that I have sent to the desk involving the ninth circuit split. But before we start that, it is my understanding the bill has passed on the breast cancer stamp, and I would be very happy to discuss it.

Mr. BUMPERS. I did not realize the parliamentary situation. Could the Senator just take a minute to explain?

Mrs. FEINSTEIN. I will be very happy to.

One of the problems with the 1-cent stamp is the uncertainty of the post office that the administrative costs will be fully covered by the additional 1 cent. The legislation which passed the House, authored by SUSAN MOLINARI and DICK FAZIO, on suspension, essentially provides that it can be up to 25 percent —that would be about 8 cents, determined by the Board of Governors—so that the full cost of administering it is covered. The Board of Governors within a short period of time will set the actual amount, whether it is 1 cent, 2 cents, 3 cents or 4 cents, and I actually feel is a much better way of doing it. I think it will end up producing more money. I think it will give the post office fewer ulcers. I think it will be carried out forthwith. This has passed the House, and with the passage here today we can get the show underway.

The Board of Governors must, within 1 year of the enactment of the bill, issue the stamp.

Mr. BUMPERS. The Senator mentioned 25 percent. Is that 25 percent of 32 cents or is that 25 percent of something else?

Mrs. FEINSTEIN. It is 25 percent of a first-class stamp which right now is 32 cents.

Mr. BUMPERS. So 25 percent of that goes to the Postal Service to administer this program?

Mrs. FEINSTEIN. No. No. It allows an optional first-class stamp, up to 25 percent of the cost of a first-class stamp. In other words, it could add 8 cents onto it, on an optional basis. There would still be a 32-cent stamp. Then there would be this breast cancer stamp. All right. The Board of Governors in their deliberation would make a decision of administrative cost and then out of the 8 cents or 4 cents or 6 cents or 2 cents, whatever they decide, those administrative costs would come out of that additional amount.

Mr. BUMPERS. I follow you. And the rest of it then would go to the Department of Defense and the National Institutes of Health?

Mrs. FEINSTEIN. That is correct.

Mr. BUMPERS. I thank the Senator.

Mrs. BOXER. Will the Senator yield for a moment?

Mrs. FEINSTEIN. I would be happy to.

Mrs. BOXER. I thank the Senator for her leadership on the breast cancer stamp. I was proud to be one of the cosponsors of the stamp. I know how hard she worked. I know it took many, many hours of work. I was sitting in the Appropriations Committee when the committee chose to await action on the floor. I know that a couple of the senior members of the committee were not that enthusiastic. But I do feel that what the Senator says is right. This bill, this freestanding bill that we have now passed, takes the best of both worlds. I am very excited about it. I congratulate my friend. I can't wait to go to the post office and buy that stamp. If all the American people just think about buying a few of those stamps during the year, we will be able to put so much more into research. It is just a great concept. I thank my colleague for her leadership.

Mrs. FEINSTEIN. I thank the Senator from California for her comments. I thank the Senator for her help, and I think all of us can be very proud if we just await Presidential signature. It is a fine thing.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 986

The PRESIDING OFFICER. The Senate will now proceed to consider the amendment of the Senator from California, which is to be considered under a pending time agreement.

Mrs. FEINSTEIN. I thank the Chair.

Now, if we may turn to something which is of very deep concern. The amendment that I have sent to the desk is on behalf of the ranking member of the Judiciary Committee, Senator LEAHY; the Senator from Washington, Mrs. MURRAY; my colleague from California, Senator BOXER; and the two Senators from Nevada, Senators REID and BRYAN. The amendment is an amendment to strike and substitute language. The section we would strike from the bill is section 305, which splits the Ninth Circuit Court of Appeals on an appropriations bill.

Mr. President, this legislation which I am presenting serves as a substitute to a nongermane provision of the fiscal year 1998 appropriations bill for Commerce, State, Justice.

Mr. GREGG. Will the Senator from California yield for a question?

Mrs. FEINSTEIN. Yes, I will.

Mr. GREGG. I am sorry to break in. I was wondering if the Senator would agree to reducing the time of this amendment down to 3 hours equally divided?

Mrs. FEINSTEIN. I would be happy to.

Mr. GREGG. I ask unanimous consent that, under the prior order on this amendment, the time be reduced to 3 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I thank the Senator from California.

Mrs. FEINSTEIN. Mr. President, this bill, with no hearing, no due diligence, no consultation with the ninth circuit—any of its judges, attorneys, bar associations within the circuit—splits the circuit, and I would like to show you how it splits the circuit. It creates a twelfth circuit which would comprise Washington, Arizona, Alaska, Oregon, Hawaii, Idaho, and Montana. If you look at the map—separate and distinct, alone—separated from the rest, would be the State of Arizona. The proposal would leave in the ninth circuit only two States—the States of California and Nevada—along with the territories of Guam and the Marianas.

Now, what is wrong with that? First of all, the way in which it is done, which I will address in detail. But second, it creates two unequal circuits. The ninth circuit and Nevada would have close to 35 million people and the twelfth circuit would have 16 million people. But look at the proposed distribution of the judges. It would distribute 15 judges to the ninth circuit and 13 judges to the remainder—an unequal, unfair distribution of judges.

Here is what the effect would be. In the ninth circuit, you would have 363 cases per judge. In the new twelfth circuit, each judge would have just 239 cases. So the judges of the ninth circuit would immediately have caseloads 52 percent higher than the judges of the twelfth circuit.

Mr. President, the real point is that there is already a resolution to this issue. It was passed by the Senate last session, and it has already passed the House. The resolution is legislation that calls for a study of all of the circuits, with special emphasis on the ninth circuit.

The substitute amendment that I am offering today to form a study commission passed the House of Representatives unanimously in June. This bill is identical to the House-passed bill. The study commission represents, I believe, the only principled approach to dealing with an issue as important and far-reaching as the structure of the U.S. courts of appeals.

If I may, Mr. President, there has never been a division of a circuit court without careful study and without the support of the judges and the lawyers within the circuit who represent the public they serve. There has never been a division of any circuit in this manner—arbitrary, political, and gerrymandered. As a member of the Senate Judiciary Committee, I am deeply concerned that the legislation to split the ninth circuit has been included in this appropriations bill with no hearing, no study, no due diligence as to its impact. Section 305 of the bill contains language for this split. It is a misuse, in my view, of the appropriations process.

Yesterday, Representative HENRY HYDE, the chairman of the House Judiciary Committee, wrote a strongly worded letter, which was circulated broadly. I would like to quote from it.

> I understand that this week the Senate is expected to consider S. 1022, the Commerce-Justice-State-Judiciary appropriations bill. Included in the bill is a major piece of substantive legislation, the "Ninth Circuit Court of Appeals Reorganization Act of 1997." This provision of the bill (section 305) would amend Title 28 of the United States Code by dividing the existing Ninth Circuit into two circuits. As you well know, altering the structure of the federal judicial system is a serious matter. It is something that Congress does rarely, and only after careful consideration.
>
> It is anticipated that an amendment will be offered to replace the circuit division rider with legislation to create a commission—

That is what I am trying to do at this time—

> to study the courts of appeals and report recommendations on possible change. This legislation, H.R. 908, has already passed the House unanimously on a voice vote on June 3, 1997. A similar bill, S. 956, was passed unanimously by the Senate in the 104th Congress. This is a far superior way of dealing with the problems of caseload growth in the Ninth Circuit and other courts of appeals. I urge your support for the amendment.
>
> Sincerely, Henry Hyde, Chairman.

So the House is on record supporting a study. The chairman of the Judiciary Committee of the House writes this letter, and yet this split is in the bill. The administration has issued a strong statement to the Senate Appropriations Committee indicating its support for a study commission and its opposition to the inclusion of such far-reaching legislation in an appropriations bill.

Mr. President, I hope the President will veto this bill if it should contain an arbitrary split of the Ninth Circuit Court of Appeals—a split done politically, as a form of gerrymandering.

In a letter dated July 11, Gov. Pete Wilson reiterated his support for the commission study and stated that the present effort to split the circuit involves judicial gerrymandering, apparently designed, and I quote, "to cordon off some judges in one circuit while keeping others in another because of concerns, whether perceived or real, over particular judges' perspectives or judicial philosophy."

Less than 2 weeks ago, when Governor Wilson wrote this letter, there was a proposal that would have divided the ninth circuit into three circuits and split California in half. Then there was another proposal that would have left California and Hawaii in a two-State circuit, the first time in history that a Federal judicial circuit would have consisted of fewer than three States.

In a matter of hours, an amendment was made to the bill, and we have the latest proposal which keeps California whole, teams it with Nevada, isolating a geographical neighbor, Arizona, and placing Arizona with Oregon, Washington, Hawaii, Idaho, Alaska, and Montana. Mr. President, I respectfully submit this is not the way to do the people's legal business. This is not the way to restructure the Ninth Circuit Court of Appeals.

Let me offer some history. I authored the first proposal to create a commission on structural alternatives for the Federal courts of appeal in the 104th Congress during a markup session in the Senate Judiciary Committee on December 8, 1985. If that had been passed, the job would have been done by now. The Senate ultimately passed legislation to create a study commission during that Congress on March 20.

As noted above, in the present Congress, a commission bill identical to the one I am offering today unanimously passed the House. So both Houses of Congress have spoken on this issue and both Houses of Congress have said if the Ninth Circuit Court of Appeals should be split, no due diligence, consult the judges, consult the attorneys who practice before it, look at the precedents, see that there is study, thought and consideration to what would be the best split. None of this has been done. In a matter of a week, four separate proposals have been put forward and changed with no opportunity for anyone who practices law in the ninth circuit, the huge ninth circuit, to indicate what the impact of those proposals might be.

The House-passed bill was modeled on a proposal I introduced with Senator REID on January 30, 1997. The House Judiciary Subcommittee Chairman COBLE and Chairman HYDE moved the bill with the support and cosponsorship of Representative BERMAN. The current H.R. 908 represents a compromise that was worked out in the House and endorsed by every House Republican and Democrat.

I should note that the House-passed bill is very similar to a compromise on a study commission that Senator BURNS and I reached together just a few months ago. This all began with Senator BURNS. I understand his concerns. He has legitimate interests, legitimate thoughts, and I appreciate them. The last I had heard was Senator BURNS signed off on the study commission. So you can imagine the surprise when I heard. My goodness, this is on an appropriations bill. And Members of this body have taken it on themselves to arbitrarily just decide, willy-nilly, how the ninth circuit should be split.

The House-passed commission study is fully bipartisan, a 10-member commission. The commission would operate for 18 months, at which time it would make recommendations to Congress for any changes in circuit structure or alignment.

I don't think we should subject something as important as the structure of our courts to political gamesmanship, and that is just what this is. The study called for in H.R. 908 is a responsible method of evaluating the current situation and making recommendations that can provide a sound foundation for Congressional action in the future.

A study is needed to determine whether this or any proposed circuit division would be likely to improve the administration of justice in the region. That is the fundamental question: Would a split improve the administration of justice, and, if so, what should that split be? Even among those who believe that some kind of split should occur, there is no consensus as to where any circuit boundary lines might be redrawn.

During the 105th Congress, proponents of a circuit split put forward these four proposals. One would have split the north from the southernmost States of the circuit. The second would have chopped the existing circuit into three separate circuits and split California in half. The third would have created a narrow stringbean circuit. That was the same proposal that failed to pass the Senate during the 104th Congress.

The current proposal, which represents at least the fourth proposal in the 105th Congress, is a modification of the stringbean circuit. Again, no due diligence, no hearings, no study, no testimony—nothing.

As I noted before, the proposal isolates Arizona. It combines Nevada. It separates coastal States that have common maritime law. And that is why I say it is gerrymandering. I say if it looks like a gerrymander, talks like a gerrymander, it probably is a gerrymander.

Let's talk about the costs inherent in what is happening here today. If this bill passes and should go into law, splitting the circuit will require duplicative offices of clerk of the court, circuit executive, staff attorneys, settlement attorneys and library as well as courtrooms, mail and computer facilities. According to the ninth circuit executive office, neither Phoenix nor Seattle currently have facilities capable of housing a court of appeals headquarters operation.

As part of the review of last year's similar proposal to split the circuit, the GSA estimated that it would cost a minimum of $23 million to construct new facilities for a headquarters in Phoenix, and I would be very surprised if it was as little as $23 million. Based on GSA costs, the ninth circuit executive has estimated that building and renovation costs for creating or upgrading new headquarters in Seattle and Phoenix would amount to at least $56 million. Additional combined outlay of another $6 million in startup costs would be needed to outfit both Phoenix and Seattle.

The CBO last year estimated the cost of duplicative staff positions at $1 million annually. The new proposal calls for two coequal clerks of the court in the twelfth circuit. Assuming each clerk would have the customary deputy clerk and staff attorney, an additional $300,000 in salaries would be added to the total. So the new twelfth circuit would cost an additional $1.3 million annually for duplicate salaries, and minimum of $25 million in Phoenix and an additional amount for Seattle. It is estimated the cost would run in the neighborhood of $60 million.

This wouldn't be so bad if there just hadn't been approved and spent $140 million to rehabilitate and seismically equip the Ninth Circuit Court of Appeals in the city of San Francisco and Pasadena—$140 million has just been spent. I just visited the San Francisco ninth circuit. It compares with the U.S. Capitol. There is a brand-new library already built in, magnificent chambers, one library that is solid redwood, marble that is incredible, lighting fixtures that go back well over 100 years. It is an amazing and beautiful building.

Under the configuration of States proposed for the new twelfth circuit, the circuit executive estimates that upward of 50 percent of the space recently renovated in San Francisco and Pasadena at a cost of $140 million would no longer be needed. The space was specifically designed to meet the business needs of the court of appeals. The executive office estimates, "It would cost many tens of millions of dollars to modify the space to make it usable by tenants other than the court of appeals."

Let me talk for a minute about the real risk of an impetuous political and gerrymandered split of the ninth circuit.

Forum shopping: Organizations and entities whose activities cut across State lines, and those who sue them, would be able to forum shop to take advantage of favorable precedents or to avoid those that are unfavorable. And I suspect, frankly speaking, that this is just what is behind this split. Thus, an additional burden would be placed on the U.S. Supreme Court to resolve conflicts that are now handled internally within the circuit.

Here are some examples provided by the ninth circuit of how dividing it could invite forum shopping: water disputes concerning the Colorado River, which affect California, Nevada, and Arizona; commercial disputes between large contractors like Boeing and McDonald—perhaps that is resolved now—or Microsoft and Intel; different legal precedents affecting the shipping industry along the coastline of the continental United States and Hawaii.

Think of the complications created if different commercial and maritime rules governed the Port of Los Angeles and the Port of Tacoma and Hawaii. The ninth circuit includes a vast expanse of coastal area, all subject to the same Federal law on cargo loading, on seaman's wages, on personal injury, and maritime employment. Vessels plying the coast stop frequently at ports in California, Washington, Alaska, Hawaii and the Pacific territories. If the circuit were to be divided, seamen would have an incentive to forum shop among port districts in order to predetermine the most sympathetic court of appeals to hear the case.

In the commercial law area, all of the States in the circuit have considerable economic relations with California because of its large and diverse population. In a recent case, Vizcaino v. Microsoft, the ninth circuit decided to hear a case en banc concerning whether Microsoft contractors were entitled to the same ERISA benefits and stock options as were regular employees. Microsoft is a large corporation with primary offices in Washington but significant business operations in California. If the ninth circuit were split, Microsoft or its employees might choose to bring a lawsuit in either the ninth or twelfth circuit, in hopes of finding a more sympathetic court.

The judges and lawyers of the ninth circuit overwhelmingly oppose what is happening in this bill. Let me repeat that. The lawyers and judges in all of the ninth circuit States overwhelmingly oppose what is happening in this State, Justice, Commerce appropriations bill.

On four occasions, the Federal judges in the ninth circuit and the practicing lawyers in the ninth circuit judicial conference have voted their opposition to splitting the circuit. The official bar organizations of Arizona, California, Hawaii, Idaho, Montana and Nevada, and the National Federal Bar Association, all have taken positions against circuit division. No State bar organization in the circuit has taken a position in favor of circuit division or what is happening in this bill.

Candidly speaking, this is a political decision of Senators of the Appropriations Committee to affect the legal business of 50 million people in the United States with an arbitrary split, gerrymandered, of the Ninth Circuit Court of Appeals. Candidly speaking, also, the ninth circuit is large. California alone is predicted to be 50 million people by the year 2025.

Whether the circuit should be split or not, I can't say. I strongly believe it is a decision that should not be made, however, either politically or in a cavalier fashion. The decision should not be made without study, without hearing, without comment from those lawyers and judges whose clients are affected by it.

If—and I say if—the circuit is eventually split, it should be the product of diligence, of study, of hearing, of commentary. It should be part of an analysis of how the circuit courts are functioning in the United States. There may well be a better split involving other States. I don't know, and I would hazard a guess that no one in this Chamber knows that either.

But this does mean a careful study of population should be undertaken. It means an even distribution of caseload by judge, not a rammed-through circuit split that has a 52 percent higher caseload for judges in this new ninth circuit than in the twelfth circuit. On its face, it is patently unfair. Anybody who looks at any split that says you split it so that one set of judges has double the number of cases than the other—that doesn't meet a simple test of fairness.

There should be a careful study of precedents, of commercial law, of maritime law, of the other aspects of precedents. California now has the largest consumer market in the United States in Los Angeles; the third largest in the San Francisco Bay area. It is a huge consumer market, and it is going to be bigger with all kinds of intercommunication among these States.

There should be a study of costs. I pointed out the duplication of staff, I pointed out the need for two new courthouses when two already have been refurbished at a cost of $140 million for the taxpayers. All of this is being done without any study, any hearing, any commentary. It is not something of which this great body can be proud.

I notice that the distinguished Senator from Nevada is here, and if I might ask him, I believe he would like 10 minutes? I will be happy to yield to him.

Mr. GREGG. Mr. President, if the Senator from California wouldn't mind, I would like to go from side to side.

Mrs. FEINSTEIN. I will be happy to do that.

Mr. GREGG. I yield to the Senator from Washington 20 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, there can be no serious argument posed to Members in body that it is not appropriate, maybe beyond appropriate, for all practical purposes necessary, for the proper administration of justice that the U.S. Court of Appeals—almost twice as large as the next largest court of appeals and almost three times as large in population and in caseload as the average circuit—should not be divided.

Twenty-three years ago, a commission, the Hruska Commission, said the Ninth Circuit Court of Appeals was too large and should be divided; that no circuit court of appeals should have more than 15 judges. The reasons, of course, is collegiality, the prompt and effective administration of justice. Any other argument is simply a matter of delay, simply a matter of a maintenance of the status quo.

The Ninth Circuit Court of Appeals should be divided. There have been bills on this subject and hearings on this subject in most of the Congresses from 1975, 22 years ago, to date. The very proposal that is before us right now, with minor changes, was recommended by the Judiciary Committee in the last Congress and did not come to a vote because it was clear that it would be filibustered as an independent vote. That is at least one of the reasons that when he comes to the floor, the chairman of the Judiciary Committee will recommend the rejection of this amendment and supports the division that is included in this bill.

But, Mr. President, before I get back to the merits of the proposal, I want to express my deep concern over some portions of the opposition that come to this bill from California and perhaps elsewhere. One of the reasons that the Senator from California can describe this bill as a gerrymander, one of the reasons that she can call for delay is because the proponents of the division have acceded to the requests of the Senators from the various States that are affected by this division.

Should we have another study commission? That study commission, if it is remotely objective, will recommend the division of the ninth circuit not into two, but into three new circuits, a proposition that this Senator feels to be highly appropriate. The only way to create three new circuits out of the present ninth circuit is to divide the State of California and to place it into two circuits: one centered in San Francisco, the other centered in Los Angeles.

That recommendation has been with us for many years. That recommendation was incorporated into the first version of this bill. The two Senators from California are vehemently opposed to that recommendation, and I strongly suspect that if we go 2 years and have another study commission and it comes up with dividing California, they will find a reason to object to it again and to filibuster the proposal.

So what did the sponsors of the division do? The sponsors of the division said, "Fine, we will accede to the wishes of the Senators from California. We will make this a two-new-circuit bill." California will be left united.

The Senators from Nevada, with some real justice with respect to the bill reported by the Judiciary Committee 2 years ago, stated that they didn't like the division; that Nevada felt more drawn to California than it did to the Pacific Northwest and Arizona. And so in this bill, we have acceded to the wishes of the Senators from Nevada and have left that State in the ninth circuit with the State of California.

That is the reason that the circuit, as it appears in the bill, is not contiguous. But in the days of the Internet, of e-mail, of faxes, of air transportation, there is nothing but history to require that circuits be made up of contiguous States. And, of course, Alaska and Hawaii have never been contiguous to the States in the ninth circuit. Nor has Puerto Rico and the Virgin Islands to the circuits to which they are attached.

Finally, the State of Hawaii, through its Senators, when it was determined there was to be a bill, elected, to my delight, Mr. President, that it would rather be in the smaller, the more intimate, the more collegial circuit, the new twelfth, and that appears in the bill. Then when we asked the representatives of Guam and the trust territories of the Pacific, they said, while they really don't want to change that, of course, they prefer to stay with Hawaii.

If the great majority of the Senators from the Northwest and from Arizona wish a new circuit that is so logical, and if they have deferred to the wishes of the Senators from Colorado and Nevada as to their desires, why should we say no on the floor of the Senate to those who wish the division? What business is it of the Governor of California to tell us how the ninth circuit should be constituted? I am deeply troubled that Senators whose own wishes, reflecting what they think is best for their States, have been respected, refuse so arbitrarily as they and their predecessors have for more than two decades to accede to ours.

Mr. President, there are 28 positions authorized for the Ninth Circuit Court of Appeals. There are 10 more requested by those judges and approved by the Judicial Council. That is a collegial circuit? At the number 28, three-judge panels that are chosen by lot have 3,276 possible combinations of those three judges. You, Mr. President, one of the youngest of our Members, could be appointed to the ninth circuit, could serve on it for 30 years, and the chances are you would never serve on the same panel of three twice in that entire period of time. That is collegiality?

The ninth circuit is slow from the time appeals are filed until they are decided. It is notoriously reversed more frequently than in the case of any other circuit. When I was attorney general of the State of Washington, we figured that if we could get the Supreme Court of the United States to take certiorari from the ninth circuit, we had at least a 75-percent chance of winning in the U.S. Supreme Court, of causing it to repeal the circuit.

At one level, that is not a totally relevant argument, because the two new circuits would start with exactly the same judges they have now, and I can't note any difference in philosophy from those who come from the States in the old ninth circuit under this proposal and the new twelfth circuit, and, of course, they are nominated by the same Presidents and confirmed by the same Members of the U.S. Senate. But I suspect that if the judges who work together knew one another a little bit better than they do now, there would at least be a marginal improvement in the number of times during which they are reversed.

Mr. President, there is simply no justification whatsoever for the maintenance of this huge and unwieldy circuit. The Senator from California said in 20 years, California itself will have 50 million people. We have a wonderful First Circuit Court of Appeals, much smaller than the twelfth we propose in this legislation. New York and Pennsylvania, that don't have the population of California combined, have always been in separate circuits, and they are both on the Atlantic Ocean, and they both have to deal with the same kind of admiralty law.

No, Mr. President. The time has come. There have been hearings galore. Those hearings have occupied a quarter of a century. There have been bills reported. Another study, another delay, only to be followed by another attempt to delay after that when a three-circuit division is proposed.

No, Mr. President. The time is now. The division is appropriate. It will not be the last in the history of the U.S. courts. But it seems to me we should go ahead. From a personal point of view, I am somewhat unhappy that while we have done all we can to accommodate California, California refuses to accommodate us.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. How much time is remaining on our side, Mr. President?

The PRESIDING OFFICER. Fifty-eight minutes.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I yield 10 minutes of the time to the ranking member of the Judiciary Committee, Senator LEAHY.

Mr. LEAHY. Mr. President, I have been on the Appropriations Committee for 20-some odd years, on the Judiciary Committee about the same amount of time, and I understand that periodically, out of necessity, we have some items of legislation on the appropriations. But this is about as amazing a step as we could take to determine the fate of the ninth circuit on an appropriations bill.

It is not the way to do it. We say we are going to split the Nation's largest court of appeals on this appropriations bill. We have had no hearings, no testimony, no public deliberations on the proposed split before us.

Well, the 45 million people that live in these nine Western States deserve a more considered approach. What we ought to do is have the Senate Judiciary Committee hold hearings, conduct an independent study to determine whether this or any other proposed circuit division is necessary, find out what is the best way to do it, and not just do it basically based on one vote with very little debate in a committee, then on the floor in an appropriations bill.

Last year, the Senate unanimously passed a bill to create a bipartisan commission to study if and how the ninth circuit should be restructured. And that is what the House has done this year. The amendment of the distinguished Senator from California [Mrs. FEINSTEIN], is the same language as H.R. 908, the House-passed bill.

What the Senator from California has done is a principled approach. It is also the approach supported by the majority of the judges and lawyers in the areas served.

Are there problems in the ninth circuit? Of course there are. Let me point out to you, it is a problem not caused by the circuit, but by the U.S. Senate; 9 of the 28 judgeships in the ninth circuit are vacant. There are nominees up here before the Senate.

As a result, the national average is 315 days to get a decision, but for the ninth circuit, it is 429 days. We have people in the ninth circuit who pay taxes like everybody else but who have to wait an extra 114 days. In fact, the ninth circuit canceled 600 hearings this year because we cannot get judges confirmed to sit there.

And what does that mean? It means that a multimillion-dollar settlement of a nationwide consumer class action against a maker of alleged defective minivans is not heard; a $71.7 million antitrust case involving the monopolizing of photocopy markets is not there; an arsenic and lead poisoning class action case with a $68 million settlement agreement is not being heard.

What is happening, Mr. President, is that we go on and try to do little quick fixes because somebody wants to at the moment on an appropriations bill.

What we ought to do, if we want to really do something to help justice in this country, is for the leadership of the Senate, that is, those who schedule debate, in this case, the majority leader, to take some of these judges and allow us to confirm them.

The distinguished senior Senator from Utah, the chairman of the Senate Judiciary Committee, is on the floor. He has been working hard to get judges heard. But no matter how many we hear in the Judiciary Committee, unless they are confirmed on the floor of the Senate, it does not do any good.

At this point, incidentally, we have confirmed—and we are down to the seventh month of this session—we have confirmed six judges. We are about to take another vacation. No more judges will be confirmed. That is less than one a month.

There are over 100 vacancies. We have about 40 or so nominees up here waiting to be confirmed. We cannot even get them confirmed. Here is one, William Fletcher, nominated in 1995; still waiting. Richard Paez, the first month of 1996; still waiting. Margaret McKeown, March 1996; still waiting. This goes on and on and on.

Here is what we have in vacancies—102 vacancies. This Senate has confirmed six.

We all give speeches of needing judicial reform and needing law and order. You have a whole lot of courts where, because the U.S. Senate, because the leadership of the U.S. Senate will not let us confirm judges, we have courts where prosecutors have to kick cases out, that they have to plea bargain and everything else because there are not enough judges to hear them.

Now, when you have proponents of the split of the ninth circuit say it is because justice is being denied, the reason justice is being denied is not geography; the real reason justice is being denied is because judges are being delayed.

These are four well-qualified in the ninth circuit, four well-qualified people. In fact, they have the highest ratings there are. One nominee has actually been favorably reported by the Judiciary Committee, but no—no—action here.

What is happening, Mr. President, is not something that is going to get fixed by the Judiciary Committee, but is going to get fixed if the U.S. Senate does the duty it is supposed to. If we have judges here people do not like, vote them down. We held up the Deputy Attorney General of the United States, Eric Holder, week after week. "Oh, we've got Senators, we cannot tell you their names, of course, but we have Senators who have real problems, real problems with this man. We can't bring him to a vote. We've got real problems."

We brought it to a vote. I asked for a rollcall vote. I thought, well, at least let all those Senators, unnamed Senators, who had an excuse for holding the No. 2 law enforcement officer of this country—I said, now we will know who they are, because, obviously, they have problems that they would hold up this man all these months, so they will vote against him. And the clerk called the roll.

And do you know what it was? You know how many voted against him? You say, maybe 30? Probably 20, 10, I ask my good friend, the ranking member? You know how many it was?

Mr. HOLLINGS. How many?

Mr. LEAHY. Zero. I cannot quite say it—I cannot quite say it like my good friend from South Carolina. He is the only person I know who can get five syllables in the word "zero," but zero. It was 100 to nothing; 100 to nothing.

But what we have is, while the Judicial Conference, Chief Justice Rehnquist was asking for more justices, we have 27 vacancies in the court of appeals. We have all kinds of problems. And the ninth circuit is not going to be helped by politicizing it on an appropriations bill.

The ninth circuit can at least be helped by doing what the Senator from California said, have a nonpartisan professional panel look, make a recommendation, go to the Senate Judiciary Committee, vote it up or down, which is exactly what we should be doing on these judges. If we do not want them, vote them down.

But what we have is always some mysterious person who has a problem. But when we have to vote in the light of day, there is no mysterious person at all because they vote for them. So, Mr. President, I know there are others who wish to speak.

Mr. President, I ask unanimous consent that a letter be printed in the RECORD addressed to Majority Leader LOTT from all the leaders of seven national legal groups, asking him to finally move these judges that are being held hostage.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
July 14, 1997.

Hon. WILLIAM J. CLINTON,
The President, The White House,
Washington, DC.
Hon. TRENT LOTT,
The Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT AND MR. MAJORITY LEADER: Among the constitutional responsibilities entrusted to the President and the Senate, none is more essential to the foundation upon which our democracy rests than the appointment of justices and judges to serve at all levels of the federal bench. Notwithstanding the intensely political nature of the process, historically this critical duty has been carried out with bipartisan cooperation to ensure a highly qualified and effective federal judiciary.

There is a looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions and the resulting problems that are associated with delayed judicial appointments. There are 102 pending judicial vacancies, or 11% of the number of authorized judicial positions. A record 24 of these Article III positions have been vacant for more than 18 months. Those courts hardest hit are among the nation's busiest; for example, the Ninth Circuit Court of Appeals has 9 of its 28 positions vacant. At the district court level, six states have unusually high vacancy rates: 10 in California, 8 in Pennsylvania, 6 in New York, 5 in Illinois, and 4 each in Texas and Louisiana.

The injustice of this situation for all of society cannot be overstated. Dangerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts undermine our democracy and respect for the supremacy of law.

We, the undersigned representatives of national legal organizations, call upon the President and the Senate to devote the time and resources necessary to expedite the selection and confirmation process for federal judicial nominees. We respectfully urge all participants in the process to move quickly to resolve the issues that have resulted in these numerous and longstanding vacancies in order to preserve the integrity of our justice system.

N. Lee Cooper, President, American Bar Association; U. Lawrence Boze, President, National Bar Association; Hugo Chavaino, President, Hispanic National Bar Association; Paul Chan, President, National Asian Pacific American Bar Association; Howard Twiggs, President, Association of Trial Lawyers of America; Sally Lee Foley, President, National Association of Women Lawyers; Juliet Gee, President, National Conference of Women's Bar Association.

Mr. LEAHY. Mr. President, let us also not add to the partisanship we have had with stopping judges from being confirmed by now showing even more of a capricious nature on the part of the U.S. Senate by splitting the ninth circuit with no hearings, no debate, no thoughtful consideration.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I just mention briefly there have been considerable hearings on this issue, testimony before our committee on this issue, and the matter has been around and been discussed at length in a variety of forums.

Mr. President, how much time do we have?

The PRESIDING OFFICER. Seventy-seven minutes and eighteen seconds.

Mr. GREGG. And the Senator from California has?

The PRESIDING OFFICER. Forty-nine minutes.

Mr. GREGG. We have 77 minutes?

The PRESIDING OFFICER. Yes.

Mr. GREGG. I yield, in sequence, 5 minutes to the Senator from Utah and 20 minutes to the Senator from Montana, if that is acceptable.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to speak in support of the appropriations provision effecting a split of the Ninth U.S. Circuit Court of Appeals, and to respectively oppose the amendment offered by my colleague from California. Splitting the ninth circuit is appropriate at this time for three principal reasons: First, its size. The ninth circuit is the largest of the 13 federal circuits. Indeed, the ninth circuit is larger than the 1st, 2d, 3d, 4th, 5th, 6th, 7th and 11th circuits combined. The population of the States comprising the ninth circuit is 49,358,941, almost one-fifth of the Nation's population. The size of the circuit also has an effect on the caseloads of the judges of the circuit. The ninth circuit's caseload in recent years has been in excess of 7,000 cases a year, far and away more than in any other circuit.

The second reason to support this proposal is a function of the first. The ninth circuit's size also negatively impacts the internal consistency of law within the circuit. There are currently 28 seats on the ninth circuit, and many who are claiming that Congress should significantly add to that number at least 10 more seats—so, 38 seats. A circuit comprised of so many judges is entirely unmanageable and undermines important considerations of judicial economy, efficiency and collegiality. Because the circuit is so large its judges cannot sit together to hear cases en banc as do other circuits, and accordingly the court has lost the necessary sense of judicial collegiality, and coherence of its circuit-wide case law. I would venture that there are as many contradictory rules of law within the ninth circuit as there are within all the other circuits combined. This has, I believe, contributed to a trend by which some ninth circuit judges feel totally free to disregard precedent, be it circuit precedent or even the Supreme Court's rulings. Just this past term, the ninth circuit had an astounding reversal rate of 95 percent before the Supreme Court. Twenty-eight of 29 cases were reversed. And the usual rate is no less than 75 percent of their cases are reversed. One ninth circuit judge has expressed chagrin at this regrettable situation, explaining that "the circuit is too large and has too many cases—making it impossible to keep abreast of ninth circuit decisions."

The third cost of having such a large circuit is the resulting delay in having cases decided. The ninth circuit is, in fact, one of the slowest in turning around case decisions from the time of filing. And, because of its size, some cases, especially high-profile ones, appear to be subject to manipulation.

These important considerations have persuaded me that the ninth circuit should be split. And, I am happy to report that I believe some of my colleagues on the other side of the aisle, from States within the ninth circuit, will vote against the present amendment, and support the split provided for in the present bill.

And finally, I would like to say a word about the way in which this proposed split has come to the floor. Some argue that a significant development like splitting a judicial circuit should not arise in the context of an appropriations bill—that the committee of jurisdiction, in this case the Judiciary Committee, should have the opportunity to review and comment about this proposal. I could not agree more with the proposition that this is a serious matter, deserving serious consideration. I point out, however, that the Judiciary Committee has indeed examined the advisability of splitting the ninth circuit. In just the last Congress, the Judiciary Committee held hearings on the subject, hearing from judges of the circuit and others knowledgeable about the implications of a split. After that hearing, the committee reported out a bill that, in many regards, is similar to the one before the Senate today.

Accordingly, I am confident that the Senate has before it today a well-considered and desperately needed proposal to divide the ninth circuit. This is a proposal that serves the interests of judicial efficiency, stable case law, and equal justice for Americans within the ninth circuit.

With all due respect, therefore, I must take exception to the proposed commission my colleague from California is now offering by way of an amendment. I think the time for a split of the ninth circuit is now. I believe we have studied the matter thoroughly, and that there is no need for further hearings or a commission.

Frankly, I would expect that, were we in fact to proceed with another commission, it would simply make a recommendation similar to the Hruska report of nearly 25 years ago—namely, to divide the State of California. I don't have any doubt in my mind that that is what a future commission will decide, because if you want to get population equality, you are going to have to divide California. This does not do that, in deference to the Governor of California and, I might add, the two Senators from California, and to the various Congresspeople from California. And I might add, should this amendment succeed—the amendment of the distinguished Senator from California—and a commission be created that ultimately recommends splitting California, I may well be compelled, as will others in this body, to support that split and finally put this matter to rest. So this is dangerous stuff to be playing around with because I believe that there will be a split of California if you go the commission route.

Now, while I recognize that many are greatly concerned about the prospect of dividing the State of California, I have to tell everybody today that this is pretty certain to result if this amendment is enacted.

I urge my colleagues to vote against the amendment offered by my colleague from California. I believe, in the best interests of all concerned, this is an adequate and reasonable response. And, frankly, we have given States within the total area to be divided their right to choose which circuit they will belong to. I think that is an appropriate, reasonable, decent way to proceed. Otherwise, we are just delaying this another 2, 3 years, and we will come up with another split of California, which will be vigorously fought against by Members of the California delegation in both the House and Senate, and we will wind up right back where we are, or California will be split. If it is split, I think it would be to the disadvantage of California, as I view it.

I hope our colleagues will vote down this amendment, as well-intentioned as it is, and will vote for this split, because it would be a split that would, I think, bring about collegiality, and it will bring about a better functioning two circuits, and it will give the States who want the split a chance to have their own circuit, where they can work together in the best interests of their States.

If California continues to be the most reversible set of judges in the Nation, then they will have to live with that. Then everybody will know exactly who are the people that are doing this, who are the judicial activists, the ones undermining the judicial system, and are really causing California the pain, struggles, and difficulties that come from an out-of-control, judicially activist Ninth Circuit Court of Appeals.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I do not see the Senator from Nevada at the moment. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 48 minutes 40 seconds.

Mrs. FEINSTEIN. I yield 5 minutes to the Senator from Washington [Mrs. MURRAY].

The PRESIDING OFFICER. The Senator from Washington [Mrs. MURRAY] is recognized.

Mrs. MURRAY. Mr. President, I rise in strong support of the Feinstein amendment. We simply should not—must not—divide the Ninth Circuit Court of Appeals on an appropriations bill. It is an irresponsible way to proceed with such a fundamentally important question about how we best administer justice in the West.

I want to remind my colleagues that this body, the Senate, in the 104th Congress twice approved a study commission bill. In June, the House of Representatives sent us a bill, H.R. 908, establishing a similar commission. That bill is waiting at the desk for our action. House Judiciary Chairman HENRY HYDE has voiced his dismay at this end run around his authorizing committee. Tuesday he wrote to Chairman HATCH, saying: "As you well know, altering the structure of the Federal judicial system is a serious matter. It is something that Congress does rarely, and only after careful consideration."

Mr. President, I am not necessarily opposed to a split of the ninth circuit, but I am adamantly opposed to an appropriation's rider mandating such a gerrymandered split. As Chairman HYDE suggested, we need judicial experts thoroughly analyzing the courts and advising us on what makes sense from a national perspective.

With so many of those who work directly in the ninth circuit opposed to this split, it seems clear we need guidance before we act. The White House opposes this split, the majority of judges on the ninth circuit oppose this split, and the majority of bar associations of the affected States oppose this split. Simply put, this is not the right way to proceed.

We need answers to some important questions first. How much will this cost? Should we create a virtual one-state court? Should Arizona become a part of the tenth circuit? Where should we place a new circuit's courthouse? How many judges should serve in each circuit and from which States should they come? Should we break the ninth circuit into three circuits? How will our Pacific maritime law be affected? Before I participate in breaking up an institution that is more than 100 years old, I want those—and many more questions—answered.

Mr. President, I also have another concern. I find it interesting that supporters of this rider so often refer to the pace at which the ninth circuit does its business. Yet, these same Senators have done little or nothing to fill the many vacancies plaguing the ninth circuit. An outstanding member of the Washington State legal community, Margaret McKeown, has been languishing for nearly 2 years in this body. She has yet to receive a hearing. This is unconscionable and this has real impact on the administration of justice. To make the ninth circuit—or any circuit—work, we must have judges. Let's get the confirmation process moving, and that will stop the glacial pace that people are concerned about.

Finally, I want to remind my colleagues that we have passed almost every fiscal year 1998 appropriations bill without contentious riders. We should have learned from the disaster relief bill what can happen when these riders dominate the process. I believe we should maintain the bipartisan approach we've used so far and avoid letting this important bill get bogged down with riders.

Let's do our appropriations job right and let's do the very serious job of reconfiguring the judiciary right. I urge my colleagues to support the Feinstein amendment establishing a commission to guide the Congress on how best to resolve any real or perceived difficulties in the administration of justice in the ninth circuit.

I yield my time back to the Senator from California.

Mr. BURNS. Mr. President, I rise to oppose the amendment that would strike the provision from the Commerce, State, Justice appropriations bill to divide the Ninth Circuit Court of Appeals. We have heard so much said today about how the bar associations oppose it, the judges oppose it, and nobody has said anything about the people. Are they secondary in our justice system? We are supposed to be serving the people, and I think the bar associations do, too. I happen to believe that they believe very strongly in the kind of service that they deliver to their clientele. But we haven't heard that today.

If there were a judicial equivalent of baseball's famous "Mendoza line," marking the mediocre batting average of .200 below which players dread dropping, then the Ninth U.S. Circuit Court of Appeals would be laboring in the farm leagues.

In terms of the rate at which its decisions are reversed by the U.S. Supreme Court, the ninth circuit's record for failure is practically unblemished. In recent years, on average, more than 80 percent of rulings by the ninth have been overturned. This past term, the Supreme Court reviewed 29 cases from the ninth circuit—it reversed, in part or in whole, an astonishing 28 of them.

The ninth circuit in 1996–97 alone was reversed, often 9 to 0, on decisions asserting the right to die, requiring sheriffs to conduct federally required but unfunded background checks on people who buy guns, and denying the right of groups who were economically harmed by the Endangered Species Act to sue even though the law gives legal standing to any person.

While the high court undoubtedly chooses many cases with the express intent of reversing them, the ninth circuit this past year has wrecked the curve. For instance, the eighth circuit, which had the second-most cases reviewed, had a reversal-and-affirmance record of only 4 to 4.

But "this isn't baseball," says Judge Stephen S. Trott of Boise, ID, according to a recent Los Angeles Times article.

Agreed. The jurisprudence of our Federal appellate court system is far more serious than a game. In my view, the fact that the ninth circuit is undeniably out of step with the rest of the Nation is perhaps the least of the multitude of reasons to consider splitting this giant court.

First, the ninth circuit outstrips the other circuits in all measures of size, both physically and legally. The ninth circuit encompasses a land mass the size of Western Europe. Its nine States and two territories—Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, Guam, and the Northern Mariana Islands—stretch from the Arctic Circle south to the United States-Mexico border and west across the international dateline. It has a population of nearly 50 million people, about 1 in 5 Americans, and is expected to grow by 43 percent over just the next 13 years.

Second, the ninth's caseload is the largest. More than 8,500 appeals were filed last year, and that number is expected to jump by nearly 700 percent in the next 25 years, making the ninth less than a model of fair and speedy justice. In fact, of the 11 regional circuits and the District of Columbia circuit, it ranks next-to-worst in the duration of pending appeals—an average of 429 days, usually more for criminal cases, compared to the national average of 315 days.

These delays are costly. Appeals take time and money, and they're putting the squeeze on my State. Litigants and attorneys who must make frequent and expensive trips to San Francisco are pleading for reform.

Third, the problems of geography and population are two factors that contribute to judicial inconsistency on the ninth. Because the 28 judgeships of the ninth—nearly twice the maximum number recommended by the U.S. Judicial Conference—are scattered so far and wide, the court has experimented with limited en banc proceedings in which a panel of 11 judges decides the most important cases. By relaying on this approach, conflicting court decisions are common. The right hand doesn't know what the left hand is doing. As a result, decisions by the ninth are often narrow and set few precedents for use by judges in other cases.

In fact, several of the Supreme Court Justices criticized the Ninth Circuit's en banc decision in Washington versus Glucksberg that the due process clause of the 14th amendment guarantees critically ill individuals a limited right to assisted suicide. Even some liberal members of the Court, such as Justice Ginsburg, expressed concern that the Ninth Circuit opinion seemed to give Federal courts a "dangerous power."

Size was a factor leading a congressional commission in 1973 to urge splitting the fifth and ninth circuits. Congress chose to split the fifth, while the ninth has become bogged down in political squabbles and has had to make due with its enormous size.

One cannot make the argument this has not been heard, or that it has not been studied when in actuality it has.

Some press accounts have portrayed the debate as a clash of party ideologies, of conservatives who favor the split versus liberals who do not. But such a view is short-sighted. These press accounts overlook the bipartisan support behind dividing the ninth. For many of us, it is just as simple as wanting a court that is closer in every sense to the people it serves.

Supreme Court Justice Anthony Kennedy has publicly noted the merit of division. The U.S. Department of Justice has recently said "the sheer size of the Ninth Circuit, even without its attendant management difficulties, argues for its division." Montana Governor Marc Racicot, a former State attorney general, favors the idea. And I would now like to submit a letter from Governor Racicot supporting this split.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, MT, July 22, 1997.

Senator CONRAD BURNS,
U.S. Senate, Washington DC.

DEAR SENATOR BURNS: I would like to submit this letter in support of an amendment to the appropriations bill for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998. The amendment would divide the Ninth Circuit Court of Appeals and create a Twelfth Circuit Court of Appeals made up of the states of Alaska, Arizona, Hawaii, Idaho, Montana, Oregon, and Washington. As you know, I have been supportive of this effort for a long time and I continue to support the proposal for the reasons stated below.

The Ninth Circuit, of which Montana is currently a part, is simply too large to effectively respond to the needs of those it serves. That Court has 28 judges making decisions for 9 states and 2 territories, with a population of between 40 and 50 million people in an area that encompasses about fourteen million square miles. The next largest circuit has a population of under 30 million. California cases alone represent over half of the Ninth Circuit's caseload and the number of judges exceeds by twelve the next largest appellate court, the Fifth Circuit, and is sixteen more than the average appellate bench. I cannot imagine anyone making a compelling argument that a judicial unit of government this size can be administratively efficient.

As you know, our system of jurisprudence relies upon the principle of "stare decisis" or precedent. With a circuit and court so large, most cases must be heard by smaller panels of judges, with increased reliance upon staff and summary procedures. With 28 judges, there are over 3,276 combinations of panels that may decide cases that involve similar issues. This leads to conflicting and unpublished opinions, reduced communications among judges and little consistency in the court's determinations. The lack of consistency in a court's decisions, in turn, makes our system of justice unpredictable and unreliable. As a result, the body of established precedent in the circuit can be rendered meaningless. There is, in essence, a diminution of precedent, which undermines the stability and predictability of the law, and actually leads to increased litigation.

I have questioned whether the operational costs of such a large system are comparatively higher. Travel expenses and efficiency of judges and staff should be examined to determine if significant efficiencies could be produced in a smaller circuit. It is not true that a new circuit would result in attorneys traveling to the same cities for argument as before. Montana attorneys often are ordered to San Francisco for argument.

The size of the Ninth Circuit also seems to bear upon the length of time it takes to make decisions. The median time to dispose of a case—from the time of filing a notice of appeal to the final decision on the merits—is 14.6 months. Arguments will be made that much of this time is consumed by counsel rather than the Court; however, I can recall as Montana's Attorney General waiting a long time for the Court to decide cases for which the record had been submitted months or years before.

Habeas corpus matters have taken up to 14 years in one Montana case. It appears that the legitimate interest of the public in reaching final resolution in these cases is not given equal and appropriate consideration when balancing the rights of petitioners. The resulting delays invite the kinds of "recreational" use of the court system by inmates that we have seen in recent years.

Opponents of splitting the Ninth Circuit argue that the larger the circuit the more consistency in federal law and mention that judges and attorneys have testified to a sense of community which they enjoy with the existing appellate courts. As I noted in the beginning of my letter, the size of the Ninth Circuit bench has led to decision-making by panel, the differing combinations of which leads inescapably to a lack of consistency in precedential authority. And to argue that judges and attorneys are comfortable with the status quo is a position that, with all due respect, I would imagine falls deaf on the ears of those who have been awaiting a decision from the Court for many months or years.

I do not take the position that Montanans can only find justice before a bench made up of Montana judges or judges from neighboring states. And I am not moved to my position by the political arguments of interest groups whose position on S. 956 is based upon whether they wish their particular body of substantive law to change or remain the same. However, I do not believe that the original intent of the appellate court system, which was to establish circuits which reflected a regional identity by designating a manageable set of contiguous states that shared a common background, is consistent with a circuit that serves twenty million more people than most of the other circuits and covers fourteen million square miles.

Suggestions to divide the Ninth Circuit Court of Appeals have apparently been proposed since before World War II. The Hruska Commission (Commission on Revision of the Federal Court Appellate System) in 1973 recommended dividing the Fifth and the Ninth Circuits (the Fifth was subsequently divided, but not the Ninth). Opponents of dividing circuits recommend a variety of alternatives: consolidation of all circuits into one large national court, dividing California into two different circuits, and finally the familiar solution of studying the problem further. I hope Congress does not delay further correcting a situation that penalizes those states in the Ninth Circuit for the incredible population growth that has occurred in California and is occurring in Nevada.

I strongly support the proposed amendment, because I think it will solve some of the problems mentioned above and end many of the frustrations we feel with the Ninth Circuit Court of Appeals. If I can be of further assistance in your effort to pass this proposal, please let me know.

Sincerely,

MARC RACICOT,
Governor.

Mr. BURNS. Mr. President, I would like to read one part of the Governor's letter. He states "the Ninth Circuit is simply too large to effectively respond to the needs of those it serves." State legislatures of the Northwest consistently and overwhelmingly call on Congress to split the ninth circuit.

On the other hand, the bill is opposed by judges and lawyers in the ninth circuit who would lose control over their fiefdoms. It is also opposed by special-interest groups that apparently care little about the troubles that are caused by the ninth circuit.

Mr. President, as you may know, since I came to the Senate in 1989, I have sponsored numerous bills and amendments that would achieve a split of the ninth circuit and I commend the Commerce, State Justice, Subcommittee on their willingness to again take up the fight in the 105th Congress. It's an old axiom that justice delayed is justice denied. For too long the people of the ninth circuit have been caught in the cogs of the wheels of justice. I want to put a stop to this inequity by dividing this court before its growth overwhelms us all.

Mr. President, in looking at what has been said by some, that it has not been heard, that it has not been studied, let's just take a look and see what has been done since.

In 1974, the Senate Judiciary Committee held hearings on S. 729 to realign the fifth and ninth. It was reported out of committee. Nothing happened.

On March 7, 1984, the Judiciary Subcommittee on Courts held hearings on S. 1156, the Ninth Court of Appeals Reorganization Act of 1983. No action was taken.

On March 6, 1990, the Senate Judiciary Subcommittee on Courts and Administrative Practices held hearings on S. 948, the Ninth Circuit Court of Appeals Reorganization Act of 1989. And there was no action taken.

In 1990, the Intellectual Property and Administration of Justice Committee held hearings on H.R. 4900, the Ninth Circuit Court of Appeals Reorganization Act of 1990. Still no action was taken.

H.R. 3654 died in committee without hearings.

In 1995, the full Senate Judiciary Committee held hearings on S. 956, the Court of Appeals Reorganization Act of 1995. An amended version passed the Senate by voice vote, but it died in the House Judiciary Committee.

So it is not that this has not been looked at and studied. It has always gotten bogged down.

Basically that is what we are talking about here. We continue to talk about the bar association doesn't want it, the judges of the ninth don't want it. When do we start listening to the people who have to use it?

Mr. President, I yield the floor.

I reserve the remainder of my time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER [Mr. BENNETT]. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I yield 10 minutes of my time to the distinguished Senator from Nevada [Mr. REID].

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if a litigant in the ninth circuit, which covers the areas that have already been spoken of, has a case heard before a Federal district judge or a bankruptcy court and they are displeased with how the case turns out, they have a right to appeal that case. Under the framework of the courts that we have now in this country, that is appealed to the Ninth Circuit Court of Appeals in San Francisco.

That is what we are talking about here today—what happens when a case is appealed from a lower Federal court to the ninth circuit, which is an intermediary step before it goes to the U.S. Supreme Court. That is what we are talking about. It is extremely important if you are involved in the judicial process. There isn't a court that is more important than a circuit court, a Federal circuit court of appeals.

We are very fortunate in the ninth circuit to have the chief judge of the ninth circuit, not only one of the distinguished jurists of this country but also a graduate of Stanford Law School with a great academic record, but, most important for this Senator, is a Nevadan, born in Nevada, went to school in Nevada until he got into law school. We didn't have a law school.

I have spent a lot of time with Judge Hug learning about the ninth circuit. I would ask the Members of this body to reflect upon what the ranking member of the Judiciary Committee said. The ninth circuit is doing an excellent job. They are reducing caseload. In fact, even with nine vacancies, which the distinguished ranking member, the senior Senator from Vermont, established, the ninth circuit caseload is decreasing—not increasing, decreasing. They have increased their termination of cases by almost 1,000 from March 1996 to March 1997. They are doing a good job even though they are handicapped because the Senate won't confirm the vacancies that they now have.

I, first of all, want to thank the distinguished Senator on the subcommittee, Senator GREGG, for taking into account my concerns about the split. I very much want this study to go forward, the amendment that is now before this body. But if it doesn't go forward, it is important that the State of Nevada recognize people—recognize, as the chairman of the subcommittee recognized, that the State of Nevada is now the most urban State in America. Ninety percent of the people live in the metropolitan areas of Reno and Las Vegas. We have tremendously difficult judicial problems. Frankly, the way the State has changed populationwise is we have a great deal in common with the more populated areas of America.

We feel that it would be unfair to have the split any other way than it now is. There may be other and better ways to split this court. That is why this study is so important. That is why the U.S. Senate last year passed a study saying let's take a look at all the circuit courts before a decision is made as to how you are going to split the ninth circuit. We all have a feeling that the ninth circuit is large. It is larger than most all of the other circuits. But the fact of the matter is, how can we determine how it should be split under the terms that it is now being done; that is, before the Appropriations Committee? It is being done for reasons that are not legal in nature. They are political in nature.

Judge Hug said, "By adding a circuit-split provision as a rider to an appropriations bill, it would completely bypass the Judiciary Committee and would seek to impose a new judicial structure on nine Western States and the Pacific territories without appropriate hearings, public comment, or independent research subsequent of such action."

Let's, in effect, have the experts take a look at what we should do. The House passed a compromise very comparable to what we did last year. The House passed a bill that says let's have the Chief Justice, the President of the United States, and the minority and majority leaders of the House and Senate pick people to serve on this 10-member commission and to report back to us in 18 months as to what should be done.

I think it would even be better, while all of this is going on, to fill the nine vacancies in the ninth circuit. People are really concerned about the administration of justice. Let's have the majority move those people through this body as quickly as possible.

The fifth circuit, the most recently split circuit, has only 1,000 fewer cases than the ninth circuit, and the eleventh circuit, the other half of the most recently split circuit, is the slowest circuit for filing the disposition. It is not the ninth circuit, even though we are hamstrung and are short a significant number of judges. If you look at the eleventh circuit, which has 1,000 fewer cases than the ninth circuit, it takes them longer to dispose of a case than the ninth circuit.

So the ninth circuit should be commended for the good work they are doing with the limited resources they have.

Mr. President, there are some who say, "Well, it is important that we do this because California takes up so much of the ninth circuit."

Another misstatement of fact: California doesn't do as much work in the ninth circuit as, for example, the second circuit. The second circuit, New York, has 86 percent of the filings; the ninth circuit, only has 55 percent. The fifth circuit takes up 72 percent of the filings; and the eleventh circuit, Florida, takes up 55 percent of the cases.

So, Mr. President, California is not the glutton that people have alleged it to be. They don't take up as many of the case filings as other circuits.

I would compare the qualifications of the ninth circuit judges—those appointed by Republican Presidents and those appointed by Democratic Presidents—with any other circuit. From the finest law schools in America are the judges who serve on the ninth circuit. Five of the senior judges in the ninth circuit were appointed by Republican Presidents; four by Democratic Presidents.

There has been a lot of talk in this body about the Hruska Commission. The Hruska Commission said, in 1974, you should split the circuits. But let's listen to what the experts said about that. I have a letter here dated July 17, 1997, from Arthur Helman, Professor of Law at the University of Pittsburgh. I will read parts of this letter. This is written to the president of the California State Bar Association.

> Again, as the Deputy Executive Director of the Hruska Commission, and as a scholar who has studied the ninth circuit extensively during the intervening period, I am in as good a position as anyone to shed light on this matter. My conclusion is unequivocal. Such speculation is baseless.

Mr. President, this isn't some lawyer from California or some professor from California or anyone in the ninth circuit. This is the professor in the School of Law at the University of Pittsburgh.

> My conclusion is unequivocal. Such speculation is baseless. The circumstances that led to the Hruska Commission are no longer present, and there is absolutely no reason to think that a new commission would endorse such a proposal. Let me be more specific. The Hruska Commission recommendation was driven primarily by a single factor. The commission believes that "no circuit should be created which would immediately require more than nine active judges." That was a realistic possibility 25 years ago. Today it is not. In fact, of existing circuits, all but one have more than nine active judges. With the nine-judge circuit a relic of the past, a new commission would have no reason to recommend a division of California. A second consideration is also relevant. The Hruska Commission held hearings in the ninth circuit, and, although there was no consensus, several prominent California judges expressed support for the idea of dividing California between Federal judicial circuits.
>
> I know that sounds implausible, but that only underscores how much things have changed since the Hruska Commission carried out its work 25 years ago. Plainly, no such support would be forthcoming today without a record such as the one of the Hruska Commission and with overwhelming opposition from the California bar, no commission would recommend a division of California. For all these reasons the speculation you referred to is totally without foundation. Whatever recommendations the new commission might make, I am confident that dividing California into circuits will not be among them.

Mr. President, in short, we should do the right thing. The right thing calls for having experts report back to us in a reasonable period of time. If they want to do it in a year, even though it would put a tremendous amount of work on them, I would accept that so that next year at this time we could take appropriate action. But to go forward the way we have done in the Appropriations Committee is bad. It is bad legislation and makes this body look bad, and it is bad legislation because it makes our judicial system look real bad. It has never ever happened before that we have divided a circuit court the way we are about to do it now. The lives of people depend on what we do today. Cases that are appealed to the U.S. Supreme Court come from these circuits. I suggest we follow the recommendation of the amendment that is now before this body.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I yield 15 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the chairman for yielding in opposition to the Feinstein amendment and hope that the Senate would concur with the findings of the committee. Commerce, State, Justice appropriations has dealt in what I believe is an appropriate way with the issue of the ninth circuit court. There should be no surprises. This is simply not a new issue. I have always felt, and I think many concur, that if you want to not resolve an issue, you create a commission and study something once again, and we know that this has been studied and recommendations have been made.

In 1973, the Hruska Commission suggested that the ninth and the fifth circuits be split, and the fifth circuit was split, the ninth was not. There was simply too much political controversy around it. My guess is today it is a lot more about politics than it is about justice, justice to the citizens of our country who deserve a timely process in the courts, and certainly with the ninth circuit court being as large as it is, as other Senators have spoken to this afternoon, justice appropriately and timely rendered is the question.

It has been mentioned—I believe the Senator from Montana mentioned that the ninth circuit averages 429 days and that the medium national time average is 315 days. When you are in the midst of a lawsuit, do you set it aside? Do you quit spending money? Do you stop the retainer of the attorneys representing you? I doubt it. And that clock ticks on and the money accumulates, and the cost is high and justice goes unrendered.

Then the question in this very extended court is to whether the justice is appropriate. The Senator from Utah referenced the number of times the Supreme Court this year has overruled the ninth circuit. Those are all part of the issues that brought the citizens of Idaho to me and to my colleague, Senator KEMPTHORNE, to suggest that it was time we dealt with this issue, that it had been since 1973 that the issue was found to be one of division, one of the appropriate allocation of States, money, and judges, and that simply has not occurred.

I hope that we would deal with this.

The bill before us today would put California, Nevada, Guam, and the Northern Marianas in the ninth circuit. It would also create a new twelfth circuit including Alaska, Idaho, Montana, Hawaii, Oregon, and Washington. I am currently a cosponsor of Senator MURKOSWKI's bill, S. 431, which splits the ninth circuit a little differently. However, I find the division in the Gregg-Stevens amendment to be very well though out and fair. I think either split of the ninth circuit would work much better than the current organization of the ninth circuit.

The subject of dividing the ninth circuit split has been discussed now for many years. In fact, as long as 1973, the Hruska Commission suggested the ninth and fifth circuits should be split. Although the fifth circuit was divided, the ninth was not. Ever since then, the debate about splitting the ninth circuit has roared on.

Frankly, Mr. President, I am perplexed why there is any question about this proposal. The ninth circuit is by the largest circuit in the United States. It currently employs 28 judges—11 more than any other circuit. The U.S. Judicial Conference has called any circuit with more than 15 judges unworkable. I guess that means, in the opinion of the Judicial Conference, we have an unworkable situation.

The ninth circuit currently serves 45 million people. This is 60 percent more than the next largest district. The Census Bureau has estimated that by 2010, the population in the ninth circuit will top 63 million people, an increase of 40 percent. The situation has worsened since the Hruska Commission suggested a split of the ninth circuit—a trend certain to continue with further delay.

Over the years of debate on this issue, there has been much discussion of inconsistency and unmanageable caseloads. I would like to change the focus of the argument for just a moment and instead look at the impact on the people of the ninth circuit, which includes the people of Idaho. The size of the ninth circuit also has quite an effect on these individuals.

The ninth circuit averages 429 days from filing to concluding an appeal. This is much longer than the national median time of 315 days. This affects the individuals who resort to the judicial system to resolve a dispute in their lives. It's been said that people in this country want and expect swift, efficient justice and I think they deserve it.

It is not fair for the people in the ninth circuit to be subjected to this inefficiency. People want their disputes to be solved quickly so they can go on with their lives. A lawsuit has the ability to consume everything else in one's life. In the ninth circuit, it consumes their lives for a longer period of time. Also, during this extended process, these individuals are forced to continue paying legal fees. Mr. President, I ask you if 100 extra days in litigation sounds like swift justice.

The huge backlog that develops can lead to different sorts of problems in the Northwest. The economic stability of the Northwest is threatened when suits involving, for example, the timber industry are forced into the backlog of inefficiency.

It is unquestioned that the ninth circuit covers a huge area. However, when that is combined with the 7,000 new filings the circuit had last year, it becomes almost impossible to keep abreast of legal developments in the circuit. The result is everchanging judicial patterns that inevitably make conflicting rulings. This leads to judicial inconsistency, which is not good for the system, or the people who seek relief through the system. This might help to explain the fact that the ninth circuit has an 82 percent rate of reversal by the Supreme Court of the United States. Mr. President, I ask you if this sounds like efficient justice.

Opponents of this legislation argue that the extreme size and population of the ninth circuit is not enough of a reason to support a split. However, that was the exact reason for the split of the former eighth circuit, which created the tenth circuit. It was also the exact reason for dividing the fifth circuit and creating the eleventh circuit. In fact, as I said before, when the fifth circuit was split, it was suggested that the ninth circuit be split as well.

Opponents also argue for the need of a new commission to determine the need for a split of the ninth circuit. Twenty-five years ago the suggestion of just such a commission was to split the ninth circuit. It has grown since then, and is continuing to grow. The proposed split has been discussed for many years now, including Senate Judiciary hearings. There is more than enough data currently in the record to make an informed decision, and that decision should be to split the ninth circuit.

Mr. President, this situation has been a long time in coming. It is now time for us to act. The split of the fifth circuit worked 25 years ago, so there is no reason we should not expect similar success with the ninth circuit. It is time that we recognize the competing interests of the differing regions in the ninth circuit and split them up. I ask that my colleagues support the split of the ninth circuit in the interest of returning swift, efficient justice to the people of the ninth circuit.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I yield 5 minutes to the distinguished Senator from California, my colleague, Senator BOXER.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair. I thank my colleague. I stand in favor of the pending Feinstein amendment calling for a study to decide whether the people would be better served by splitting the ninth circuit and, if so, how to split the ninth circuit.

Mr. President, I am very fortunate at this time to be sitting on the Appropriations Committee, and I knew when I took a seat on that committee it was very powerful. Mr. President, I know you sit on that committee as well, and we are proud to be there. But, in my opinion, I never believed the Appropriations Committee would take it upon itself to determine how to split the ninth circuit. It seems to me if we are going to undertake this, it ought to be a study. The study ought to go to the Judiciary Committee, of which my distinguished colleague, Senator FEINSTEIN, is a member. That is the proper way to serve the people we represent.

Congress has redrawn circuit boundaries only twice since creating the modern appellate system in 1891. So only twice has Congress stepped in. Congress has never divided a circuit without the support of the circuit judges and the organized bar. The judges and lawyers of the ninth circuit overwhelmingly oppose the split without first studying it. The Federal Bar Association and the bar associations of California, Arizona, Nevada, Montana, Idaho, and Hawaii have all passed resolutions expressing their opposition to splitting the circuit. The Ninth Circuit Judicial Council, the governing body for all the courts in the ninth circuit, is unanimous in their opposition to splitting the circuit.

The last time splitting up the ninth circuit was studied was during the Hruska Commission in 1973, and the principal authors of that report, Judge Charles Wiggins of Nevada and former Deputy Executive Director of the Hruska Commission, Professor Arthur

Hellman, agree that its recommendation to split the ninth circuit is outdated and they oppose a split without first conducting a study. And that, of course, is what the pending amendment is about, to have a study first.

Now, we hear many comments in this Chamber, and I heard them in committee, about the delay at the ninth circuit. Any delay in total case processing time is clearly due to unfilled vacancies. I have heard this over and over. There are 28 judicial seats on the ninth circuit. Of these 28, there are only 19 active judges. So clearly we have not done our job here, and it seems to me justice delayed is justice denied, and we better get busy.

We have some excellent nominees pending before the Senate and before the Committee on the Judiciary. And I tell you, I have been quite frustrated that we cannot seem to get these nominations up before the body but yet we can seem to bring a split of the ninth circuit with all its ramifications here in lickety-split time without much study. I find it very, very ironic when we have the most qualified candidates who have been selected by Republicans and Democrats alike sitting and waiting here in excess of a year and a half, 2 years.

We hear about the high reversal rate at the ninth circuit, and clearly there is a high reversal, if you look at it this way —28 of 29 cases. However, the Supreme Court elects to hear only a tiny fraction of the more than 4,000 final dispositions issued annually by the circuit. So thousands of cases stand and then 28 of 29 that they chose to hear they reversed.

But, Mr. President, it is interesting. Four other circuits have higher reversal rates than the ninth circuit. The first, second, seventh, and D.C. circuits are all reversed 100 percent of the time.

We also hear that California judicial philosophy dominates the ninth circuit. Ten of the circuits' nineteen active judges actually sit outside California: Arizona, Nevada, and Idaho each have two judges; Montana, Washington, Oregon, and Alaska each have one. And the circuit judges are evenly split between Republicans and Democrats. Of the court's 19 active judges, Mr. President, 10 were nominated by Republican Presidents and 9 by Democratic Presidents. So many of the arguments that we hear today seem to me to be rather specious.

Then we hear the argument that this is very cost efficient, but no one talks about costs of the splitting up of the ninth circuit, and those would be substantial. Creation of a new twelfth circuit would require duplicate offices of clerk of court, circuit executive, staff attorneys, settlement attorneys, libraries, courtrooms, and mail and computer facilities, at an annual cost of $1.3 million.

Now, it may be that this money would be well spent. I certainly am very, very open to splitting this court. That is not a problem for me. The problem for me is how we go about it. Before we invest this money every year plus the $3 million startup costs, and an additional $2 million for leasing space, it seems to me we ought to have a study.

So I strongly support the Feinstein amendment. I am proud to be a cosponsor of it. I hope that wisdom will prevail.

I thank the Chair for its patience. I thank my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I yield 5 minutes to the Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I have a prepared statement, but I am going to divert from it and frankly just speak from my heart, from my experience. My experience is not long in this Chamber. But my experience among the people of Oregon is very recent. And my experience there with people causes me to rise in opposition to the amendment of the Senator from California. I am reluctant to do that for a personal reason. I am one of Senator FEINSTEIN's great admirers. She may not know that, but I think she is a terrific human being. But I have an obligation to speak as best I can for the people who elected me.

I believe this may be an imperfect process. Maybe it should not be a rider to a bill. But I am very aware that for 25 years this issue has been debated in this Chamber, and we have had study after study after study, and what we are beginning to develop is a feeling among the electorate that when going for justice in the ninth circuit, that justice will be denied. So I think there is a lot of frustration on the part of many of us here that we have to do whatever we can and stop studying and stop delaying and start doing. So I feel very strongly about this.

I have heard many arguments today that have merit on a procedural basis. Yes, maybe many of the legal profession oppose this. But many people support this.

We have heard charges of gerrymandering. I have a map of the United States and the circuit courts of this country. They are saying we are gerrymandering on the west coast of the United States, but I notice that nearly every State on the east coast of the United States is in a different circuit. There are five circuits that cover the Eastern United States, and those circuits have the lowest reversal rates, taken together, of any region in the country. I think we need to change it.

So I rise to support what Senator GREGG is doing. I thank him for that. I thank him for his leadership. He doesn't have a dog in the fight of the ninth circuit, but a lot of us do. So I thank him for that.

I join my colleagues in opposition to this amendment to strike the provision in this bill to divide the Ninth Circuit of the U.S. Court of Appeals. This may not be the most perfect solution to a difficult problem, but I believe that it provides a platform from which to relieve the caseload and reversal rate of the Ninth Circuit Court of Appeals. Serving more than 45 million people and spanning 1.4 million square miles, the Ninth Circuit Court of Appeals handles more than 8,500 filings a year—with a reversal rate of 96 percent. By the year 2010, the ninth circuit population will increase in size by 43 percent.

While my colleague from California may argue that this is an issue for further study, I would like to remind my colleagues that the Senate has studied this issue for almost a quarter century and has reported legislation to split the ninth circuit on three separate occasions. Clearly, the time has come to act.

I want to conclude by reading the comments of some judges who support what is happening here, because some have been read to the reverse.

Mr. President, we are not simply legislating without just cause. The judges that serve in the ninth circuit have given us cause to act without further delay. Judge Diarmuid O'Scannlain from my state of Oregon has stated:

> We (the ninth circuit) cannot grow without limit. As the number of opinions increases, we judges risk losing the ability to know what our circuit's law is. In short, bigger is not necessarily better. The ninth circuit will ultimately need to be split.

I replaced a great senator, Senator Mark O. Hatfield who served in this Chamber for 30 years. He said:

> The ninth circuit's size has created serious problems: too many judges spending more time and money traveling than hearing cases, a growing backlog of cases which threaten to bury each judge, a dangerous inability to keep up with current case law, a breakdown in judicial collegiality and, most importantly, a failure to provide uniformity, stability and predictability in the development of federal law throughout the Western region. It is increasingly clear that these problems cannot be solved by the reforms already implemented by the Court. These arguments adequately state the case for the division of the circuit. We delay at our peril.

Mr. President, justice delayed is justice denied. I ask my colleagues to join me in opposing this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, how much time is left on both sides?

The PRESIDING OFFICER. The Senator from New Hampshire controls 46 minutes. The Senator from California controls 27 minutes.

Mr. GREGG. Does the Senator from California mind if we take another speaker?

Mrs. FEINSTEIN. Not at all.

Mr. GREGG. I yield to the Senator from Idaho for 10 minutes.

Mr. KEMPTHORNE. Mr. President, may I commend the Senator from New

Hampshire for his efforts on this issue. I applaud him on that. It is long overdue. Therefore, I must rise in opposition to the Senator from California, for whom I have the utmost respect. She and I happen to have served as mayors in this country at the same time. I prefer it when we are on the same side of an issue. I look forward to that day again.

The time to alleviate the problems being faced by the ninth circuit has long been passed. It is time for us to deal with this. The proposal to realign the ninth circuit was first considered by the Senate nearly 25 years ago. For 25 years we have known that we should be at this point, that we should have made the decision long ago. Yet, the option presented by this amendment would only serve to further delay this long overdue realignment. And further delay serves only to deny access to justice to the people who fall under the jurisdiction of the ninth circuit.

The immense size of the ninth circuit is one of the problems. The next closest circuit in size is the sixth. The sixth circuit has a population of just under 30 million people. The ninth circuit has nearly 50 million people—70 percent more people than does the sixth. And the problem will only get worse because, over the next 12 years, the States which make up the current ninth circuit are expected to grow by 43 percent.

So here we have a problem that is 25 years in the making and getting worse, and now we can see the projections that it is just simply going to be driven to the point that access to justice is absolutely impossible. As a result of the tremendous caseloads, adjudication by the ninth circuit is unnecessarily and unfortunately slow. Recent figures indicate the time to complete an appeal in the ninth circuit is 40 percent longer than the national median.

The people of the ninth circuit are simply not served by the unneeded delay experienced within the circuit. The question before us, therefore, is not a question of politics. It is a question of fairness. The judges in the ninth circuit simply cannot keep up with the number of cases which are being decided. It is nearly impossible logistically for judges within the circuit to know the law as it is being decided within the circuit, and therefore you see inconsistencies, you see problems with not staying up with decisions that have been made elsewhere within the jurisdiction, and therefore we see the cases being overturned.

So, should the people of the ninth circuit have to continue to face the unnecessary delays and judicial uncertainty which is becoming commonplace within the circuit? Should the judges of the ninth circuit continue to be burdened with a system which prevents the kind of collegiality which is necessary for effective decisionmaking? Any objective analysis of these questions reveals that the answer must be no. And, if the answer is no, then we must act now to split the ninth circuit and provide the people within this jurisdiction the access to justice which all Americans expect and are entitled to. Speaking for the people I represent, I say that it is fundamentally unfair to deny the people of Idaho justice. Yet, the amendment of the Senator from California would continue the kind of injustice that was exposed nearly a quarter of a century ago.

In reviewing a proposal of this magnitude, I believe it is important to speak with those who are most familiar with the situation. With this in mind, I asked Idaho's attorney general, Al Lance, to share his views with me. I believe his words are worth repeating at this time. He said:

> My concerns regarding the ninth circuit include its unwieldy size, inconsistency in decisions issued by its various panels, excessive delay in the issuance of those decisions, as well as the circuit's very high reversal rate when its decisions are reviewed by the U.S. Supreme Court. Furthermore, it is my firm belief that in view of the unwieldy nature of the circuit as it is presently configured, that the true significance of regional and local issues is neither fully appreciated by the court nor reflected in the court's decisions. Establishing a new Twelfth Circuit Court of Appeals will resolve these concerns and, at the same time, reduce the average case processing time by over 400 days to a time period consistent with most other circuits.

In closing, I would like to quote another friend of mine who is the Governor of the State of Idaho, Phil Batt. With regard to the ninth circuit, he stated:

> The court has been overloaded for a long time, and it is in the interest of everyone, especially justice, to split it.

That is what this debate is truly about: justice. I urge my colleagues to vote for justice and to vote against the amendment which is before us. Americans are entitled to justice and they are entitled to access to the justice system, and it is being denied currently in the ninth circuit. The remedy, as proposed by the Senator from New Hampshire, is before us. It is a quarter of a century overdue. It is time for us to take the right action and provide that access to justice for all Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I yield 10 minutes to the distinguished Senator from Nevada, [Mr. BRYAN].

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the senior Senator from California.

Mr. President, I rise to support the amendment offered by the senior Senator from California. In my view, and I speak as one who has appeared before the ninth circuit as an attorney, the provision included in this appropriation bill to divide the ninth circuit and create a new 12th circuit is inappropriate, ill-conceived and ill-advised. I must express my dismay that my colleagues on the Appropriations Committee have seen fit to usurp the jurisdiction of the Judiciary Committee on this matter. If there was ever an issue that deserved to be considered in a thoughtful and careful manner by the Judiciary Committee, it is the issue of reforming our Federal court system.

The Commerce, Justice, State appropriation bill is clearly not an appropriate venue to debate an issue of this magnitude, one that will have far-reaching policy implications, not only for those of us in the West but for the entire Nation.

The Ninth Circuit Court of Appeals Reorganization Act of 1997 would reformulate the ninth circuit to include California, Nevada and the Pacific territories, and create a new twelfth circuit consisting of Alaska, Arizona, Hawaii, Idaho, Montana, Oregon and Washington.

In the 104th Congress, the distinguished senior Senator from Washington introduced legislation that would have placed California, Nevada, Arizona, Hawaii and the Pacific territories in the ninth circuit. That legislation was later modified by the Judiciary Committee to establish a new ninth circuit consisting of California, Hawaii and the Pacific territories, and I have been further advised that at one time a proposal was floating around that would divide northern and southern California into separate circuits.

I mention these various iterations of dividing the ninth circuit to make the point that there is a variety of views as to how best to address the ninth circuit and whether or not it should be divided, and, if so, how it should be divided. But in my view, it is clear the proposal to divide the ninth circuit is more reflective of an act of political expediency than the prudential concerns related to the administration of justice. The sponsors of this provision claim that the ninth circuit is unable to effectively manage its caseload because it has grown too big and that the solution to this perceived problem is to divide the circuit. But this, I fear, is only a smokescreen, for the real reason splitting the ninth circuit being proposed at this time is simply that many do not like the decisions rendered by the circuit.

While they will not admit that one purpose of dividing the ninth circuit is to change the substantive outcomes of decisions, the sponsors have made clear their displeasure with many decisions issued by the court, particularly in the area of natural resource protection. Surely not all of the decisions in the ninth circuit, or for that matter any circuit, come down the way that all of us would like. I, myself, have cosponsored legislation that would reverse the effect of some of the ninth circuit decisions. But I do not believe that differences over the decisions rendered by the ninth circuit are an adequate basis to split the circuit.

What kind of precedent would the Congress then be setting? Would a circuit court of appeals face possible reconfiguration whenever Congress does not like the decisions being rendered? Does this Congress really want to support what is essentially judicial gerrymandering? I hope not. The ninth circuit serves nine Western States and has been one circuit for more than 100 years. Whenever the issue of splitting the circuit is put to a vote of the judges and lawyers in the circuit, the vote has been overwhelmingly to retain the circuit as it is currently constituted.

Who better than those judges who comprise the circuit and those lawyers who represent litigants before the ninth circuit to determine whether or not the ninth circuit is working effectively or not?

It has been my experience that neither judges nor lawyers have been shy about stating an opinion when they think something needs to be changed.

The last study of the Federal Circuit Court of Appeals was by the 1973 Hruska Commission. A fellow Nevadan, the Honorable Charles Wiggins, a ninth circuit court judge, served as a member of that commission. Parenthetically, Judge Wiggins first served as a Republican Member of the House before serving on the ninth circuit. In a letter to California's senior Senator, he stated:

> My understanding of the role of the circuit courts in our system of Federal justice has changed over the years from that which I held when the Hruska Commission issued its final report in 1973. At that time, I endorsed the recommendations of the Commission calling for a division of the fifth and ninth circuits. I have grown wiser in the succeeding 22 years.

We should heed Judge Wiggins' experience—act wisely and not precipitously in dividing this circuit.

The last time a circuit court of appeals split was in 1980 when the fifth circuit was divided and the eleventh created. It should be noted that the judges of the fifth circuit unanimously requested the split, a situation we clearly do not have with the ninth circuit.

In a recent letter, Judge Wiggins wrote me:

> Circuit division is not the answer. It has not proved effective in reducing delays. The former fifth circuit ranked sixth in case processing times just prior to its division into the fifth and eleventh circuits. Since the division, the new fifth circuit is still ranked fifth or seventh, while the new eleventh circuit now ranks 12th, the slowest of all circuits. The Ninth Circuit Court of Appeals judges are the fastest in the Nation in disposing of cases once the panel has received the case.

So the ninth circuit would appear to take the appropriate administrative steps to manage its caseloads through innovative ways that other circuits use as models.

The ninth circuit disposes of cases in 1.9 months from oral argument to rendering a decision. That is less than the national average by 2 weeks. This currently makes the ninth circuit the second most efficient circuit in the country.

So it is obvious the circuit has recognized caseload management is an area that needs improving and is successfully addressing it.

I find it particularly ironic that in this political environment in which budget decisions are hotly debated and new expenditures are closely watched that a new circuit would be proposed, because it is estimated that a courthouse alone would cost some $60 million and there would be additional costs that would be involved in the transition period. So, therefore, we would face the continuing cost of operating an additional circuit court when, at this point, no determination has been made in a fair and objective way that dividing the circuit is necessary.

In my view, the ninth circuit has worked well for the nine Western States it serves and will continue to do so into the future. For those who believe the ninth circuit must be split, I urge the support of the Feinstein amendment to establish a commission to review the structure and the alignment of the Federal courts of appeals. This is a thoughtful and prudent way to address this issue.

When the information necessary to determine whether any circuits need their geographical jurisdiction changed is available, we can then debate this issue more intelligently, having been thoroughly informed as to the facts. But let us not split the ninth circuit at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I yield the Senator from Alaska 10 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I rise to oppose the amendment offered by my good friend, the Senator from California, the amendment which would strike the provisions of the bill to divide the ninth circuit into two separate circuits of more manageable size and certainly more manageable responsibility.

The division of the ninth circuit is warranted for three very important reasons: its size and population; its caseload; and its astounding reversal rate by the U.S. Supreme Court. Who holds the ninth circuit court accountable? It is the U.S. Supreme Court.

Let's talk about size and population. I have a chart here which shows the magnitude of the area covered by the ninth circuit. The ninth circuit is, by far, the largest of the 13 judicial circuits, encompassing nine States and stretching from the Arctic Circle in my State to the border of Mexico and across the international date line. That is how big it is.

We are not against California or Nevada. What we want is a recognition of timely judicial action.

Population: The second chart I have shows the number of people served by the ninth circuit. Over 49 million people are served by the ninth circuit, almost 60 percent more than are served by the next largest circuit. By the year 2010, not very far away, the Census Bureau estimates that the ninth circuit's population will be more than 63 million, a 43-percent increase in just 13 years. Talk about not doing anything rash. This population is increasing out of control. We better start doing something now.

On the issue of accountability, Mr. President, and that is most important, the only factor more disturbing than the geographic magnitude of the circuit is the magnitude of its ever-expanding docket. The ninth circuit has more cases than any other circuit. Last year alone, the ninth circuit had an astounding 8,502 new filings. It is because of its caseload that the entire appellate process in the ninth circuit is the second slowest in the Nation. How do they explain that? As a former chief judge, Judge Wallace of the ninth circuit, stated:

> It takes about 4 months longer to complete an appeal in our court as compared to the national median time.

Former Chief Justice Warren E. Burger put it more succinctly when he called the ninth circuit an "unmanageable administrative monstrosity."

Let's look at this reversal rate which I want to talk to you about, because there is the issue of accountability. Our responsibility of judicial oversight demands action now. Unfortunately, this massive size often results in the decrease in the ability of the judges to keep abreast of legal developments within this jurisdiction. The large number of judges scattered over a large area inevitably results in difficulty in reaching consistent circuit decisions. This judicial inconsistency has led to continual increases in the reversal rate of the ninth circuit decisions by the U.S. Supreme Court.

During the last Supreme Court session, the Court reversed 19 of the 20 cases that it heard from the ninth circuit. That is an astounding 95 percent reversal rate. How do they explain that? They don't. It is embarrassing, I would think, for the judges. The Supreme Court holds the circuit accountable to the tune of a 95 percent reversal rate. It's about accountability, Mr. President.

Here is the relative ninth circuit reversal rate: 95 percent in 1996; 83 percent in 1995; 82 percent in 1994; 73 percent in 1993; 63 percent in 1992.

Why does this reversal rate continue to increase? Because the circuit is simply too big. Intracircuit conflicts are the result. Ninth circuit Judge Diramuid O'Scannlain, a sitting judge on the ninth circuit, described the problem as follows:

> An appellate court must function as a unified body, and it must speak with a unified voice. It must maintain and shape a coherent body of law. A circuit judge must feel as though he or she speaks for the whole court and not merely an individual. As more and more judges are added, it becomes harder for the court to remain accountable to lawyers, other judges, and the public at large.

Listen to that, "the public at large."

> As the number of opinions increase, we judges risk losing the ability to keep track of precedents and the ability to know what our circuit's law is. In short, bigger is not better.

Another sitting judge on the ninth circuit, Judge Andrew Kleinfeld, agrees:

> With so many judges on the ninth circuit and so many cases, there is no way a judge can read all the other judges' opinions. . . It's an impossibility.

Now there you have it, Mr. President. Two statements from two sitting judges about what the problem is.

Some today argue that the Senate is acting in haste. This is entirely untrue. The concept of dividing the ninth circuit is not new. Numerous proposals to divide the ninth circuit were debated in Congress since before World War II. More recent congressional history includes:

A 1973 congressional commission to study realignment with the circuit court, chaired by Senator Hruska, which strongly called for division of the ninth circuit.

Congressional hearings have been held in 1974, 1975, 1983, 1989, 1990 and 1995.

A split of the ninth circuit has been reported from a Senate committee on three occasions, Mr. President.

How long do we have to wait? Dividing the ninth has been studied, debated and analyzed to death. It is time for action.

I have one final chart. This is a statement from retired U.S. Supreme Court Justice Warren Burger:

> I strongly believe that the ninth circuit is far too cumbersome and it should be divided.

U.S. Supreme Court Justice Anthony M. Kennedy who reviews, if you will, the appeals, has this opinion:

> I have increasing doubts and increasing reservations about the wisdom of retaining the ninth in its historic size, and with its historic jurisdiction.

Honorable Diarmuid O'Scannlain, ninth circuit:

> We (the ninth circuit) cannot grow without limit. . . As the number of opinions increases, we judges risk losing the ability to know what our circuit's law is. . .

Judge Kleinfeld currently sitting on the court:

> The ninth circuit is too large and has too many cases—making it impossible to keep abreast of ninth circuit decisions.

Our own former Member, a Senator from Alabama, former Alabama Supreme Court Chief Justice Howell Heflin, who we have the greatest respect for:

> Congress recognized that a point is reached where the addition of judges decreases the effectiveness of the court, complicates the administration of uniform law, and potentially diminishes the quality of justice within a circuit.

That is our own former Senator.

Finally, recently retired Senator Mark Hatfield:

> The increased likelihood of intracircuit conflicts is an important justification for splitting the court.

There you have some of the most respected people we know relative to this subject. The Commerce, State, Justice bill splits the circuit in a rational way. The States of California and Nevada, due to their large population, particularly of California, and the rapid population growth of Nevada, will comprise the new ninth circuit. The balance of the States of the circuit will form the new twelfth circuit. The 49 million residents of the ninth circuit are the persons who suffer. Many wait years before cases are heard and decided, prompting many to forgo the entire appellate process.

In brief, the ninth circuit has become a circuit where justice is not swift and justice is not always served. We have known of the problem of the ninth circuit for a long time. It is time to solve the problem. It is time for action now, and it is time for timely justice.

I urge my colleagues to reflect on this reality and the responsibility that this Senate has to address it. Let's not forget that reversal rate relative to the chart on my right. I am going to leave that up as I yield the remainder of my time, because this is the real story, Mr. President. Here is the accountability of the court, the Supreme Court of the United States, and the number of cases that they have reversed. It is absolutely embarrassing and, as a consequence, action should be taken by this body now.

This is nothing against my good friends from California or the State of California. This just happens to be the reality of the court that we are forced to operate under. To suggest that somehow we don't like the decisions is absolutely silly and unrealistic. These decisions are made on legal merits, as they should be. They have nothing to do relative to the location of the court. This court is simply overworked and is unresponsive to the public, as indicated by the Supreme Court's reversal rate.

Mr. President, I thank the floor manager. I yield the floor.

Mr. HOLLINGS. Mr. President, in the bill before us, we have in there something called the Ninth Circuit Court of Appeals Reorganization Act of 1997. It is hidden in the back of the bill within the general provisions, but boy, does it have great import. This language asks us to split the ninth circuit court into two circuits—the ninth circuit would include California, Guam, Nevada, and the Northern Mariana Islands while the twelfth circuit would include Alaska, Arizona, Hawaii, Idaho, Montana, Oregon, and Washington. Needless to say, I am certain my friends from these States will have something to say about this matter.

While there will be Senators here to talk about the pros and cons of splitting this ninth circuit court, I would like to say to my colleagues that this is neither the time nor place to be talking about this issue at all. As far as I can tell, this is a matter that belongs in the most able hands of our Judiciary Committee. This is not a money matter. This is true and true new authorization language that has no place being on our appropriations bill.

In our full committee mark of the bill, Senators REID and BOXER asked the committee to create a commission to study the state of all the circuits and make recommendations according to the big picture. The rationale behind this is to let the experts who know and understand our circuit courts tell us what they think before we do anything drastic. Expanding Federal caseloads is a nationwide problem requiring a nationwide solution. We can't sit here on our appropriations bill and pretend to be experts as to what's best for the ninth circuit or all the circuit courts, especially without ever having any hearings on the topic, and especially not knowing how much our decision will cost us. Believe me, splitting the ninth circuit court will without a doubt incur upon us additional costs that we haven't even begun to predict.

So I urge my chairman and my colleagues to listen when I say that this issue must go. We need to give this to the Judiciary Committee where I have confidence they will make an informed and thorough decision in a field that is theirs and theirs alone.

Mr. GREGG. Mr. President, can the Chair advise us of the present time status?

The PRESIDING OFFICER. The Senator from New Hampshire controls 30 minutes; the Senator from California controls 19 minutes.

Mr. GREGG. Mr. President, I suggest to the Senator from California, if it is agreeable, that we move to the Senator from Arizona for 5 minutes while we work on a possible unanimous consent agreement for a vote.

Mrs. FEINSTEIN. That is acceptable.

Mr. GREGG. I yield 5 minutes to the Senator from Arizona.

Mr. KYL. Mr. President, I thank my colleague for yielding. This proposal to divide the ninth circuit is especially important to my State.

Mr. GREGG. May I ask the Senator from Arizona to suspend for a second while I propound a unanimous consent request?

Mr. KYL. Sure.

Mr. GREGG. Mr. President, I ask unanimous consent that the vote occur on or in relation to the pending Feinstein amendment at 7:45 p.m. this evening; and further, that the time between now and then be equally divided in the usual form, and that there be no amendments in the second degree.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. As I said, this provision in the bill to divide the ninth circuit is very important to the State of Arizona because Arizona is the second largest State in the existing ninth circuit, both in terms of population and caseload. It, California, and Nevada are all three very fast growing. And there is no question that the caseload will continue to grow at least in proportion to the population.

Phoenix, AZ, is now the sixth largest city in the country. Arizona is, I believe, the fastest growing State in the country. So not only do we have a situation in which we are growing very rapidly, along with Nevada and California, but the proposed amendment would result in a division of the circuit which would affect my own State of Arizona. So I speak to that issue.

Now, it is not my suggestion, Mr. President, that the circuit be divided. There is a division of opinion in Arizona on that that suggests that the bench and bar are split. I do not think there is a clear consensus in my State as to whether the circuit should be divided, but I think there is a pretty clear recognition that it will be. It will happen sooner or later. It is inevitable, as several of my colleagues have already pointed out here. There is no question, because of its size and other factors, the circuit is going to be divided one way or another.

The question is how will it be divided? On that question I think we have to look at this question of size, population, growth, caseload growth, and so on. Because if, for example, you divided the circuit the way it calls for in the bill, the caseload division would be as follows: The circuit comprised of California and Nevada would have 63 percent of the cases, and the remainder of the circuit would have 37 percent of the cases. That is about a 2-to-1 division, showing just how big California is. Probably in terms of caseload, the sounder way to do it would be just to have California. It would still be about 60–40 in favor of California versus all of the rest of the States in the circuit.

But I gather that the proponents of this have decided to accommodate States who have expressed a willingness, through their Senators, to be added to California or to remain with California, and that Nevada has done that, as a result of which, to accommodate Nevada, it has been put with California.

Now, if Arizona were to be added to that circuit, as some people suggest—again, there is division of view on this—the caseload would be 73 percent for the Arizona, Nevada, California circuit; 27 percent for the rest of the circuit. Obviously, that is not a good division for the circuits. So I have had to consider it from both a perspective of my State and what makes sense how to approach this issue. It clearly does not make sense, from a caseload division, to divide the circuit in a way that would add the three fastest growing States—Arizona, Nevada and California—together. I think it is bad enough to add Nevada and California together, though I do not deny that Nevada has a right to be with California if they desire. But it will soon be unbalanced and soon be the largest circuit in the country.

Mr. President, in the end, I conclude I will not oppose this proposal. I would like to add two comments to those that have been made by my colleagues. First, there has been a suggestion that this circuit would be gerrymandered. I do want to suggest that that is not true. It is not true politically. The division of Democrat and Republican nominees would be exactly the same with the new division as it would be under the existing circuit. So I do not think that anybody believes this is about gerrymandering in a political sense. The percentage of Democrats and Republicans would be the same. Moreover, it is not a geographical gerrymandering. It simply takes two of the States of the circuit and leaves the remaining circuit as it is.

Again, I would prefer that Nevada remain with the rest of the circuit to have a more evenly balanced caseload. Nevada wants to go with California—fine. That creates the anomaly that Arizona is divided from the rest of the circuit. But in the day of air travel, I do not think that is a particularly difficult problem for us, particularly since the committee has seen fit to designate both Seattle and Phoenix administrative sites of the circuit. So you have both a northern and southern administrative site. I know in the existing ninth circuit, cases are argued in Phoenix, Seattle, Los Angeles, San Francisco, and so on. Because of its size, you have to accommodate the travel needs of the parties, the litigants. So there is an accommodation to that. And it would exist in this new circuit as well.

But at least the people in the new circuit would not have to travel to California. So it seems to me that, on balance, maybe the best of a difficult situation has been made. I should say, the best has been made of a difficult situation. That is how to make a division that results in a fairly even distribution of cases, No. 1, and that does not divide the State of California, which I objected to along with Senator FEINSTEIN. So in the end, Mr. President, conceding that division is ultimately going to occur, it seems to me that this is a division that makes sense. Therefore I will not oppose it.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from California.

Mrs. FEINSTEIN. I think the distinguished Senator from Arizona knows I greatly respect him, from working together on other issues. I think we work very well together.

I want to directly address something that he has said about the fairness of this split, particularly with respect to the size. I say to him, that isn't the issue. The issue is how the judges are split. I say to the Senator, this legislation splits the judges. The way in which it splits the judges is 15 judges for the ninth circuit, and 13 judges for the newly formed twelfth circuit. Now, the caseload means that the ninth circuit court judges have a 50 percent greater caseload per judge than do the twelfth circuit court judges.

The Senator and I discussed these kinds of issues a year or so ago. I hope you will recall when we were discussing this in the Judiciary Committee.

There is a letter dated July 18 of this year to Senator REID from Chief Judge Procter Hug. What Judge Hug points out is:

> Under the bill, the Ninth Circuit is to have 15 judges and the Twelfth Circuit is to have 13 judges. The Ninth Circuit would have a 50% greater caseload per judge than the Twelfth.

He goes on and shows the total for California, Nevada, Guam, Northern Marianas, with a total caseload of 5,448.

> With 15 judges, the caseload per judge—363 cases, then the caseload for Alaska, 204; Arizona, 891; Hawaii, 204; Idaho, 141; Montana, 175; Oregon, 626; Washington, 871, with a total of 3,112.
>
> With 13 judges, the caseload per judge—239 cases. That is one of my big objections. One thing I would just bet my life on is, as a product of a study, there will be a fairer distribution of judges.

Mr. KYL. Will the Senator yield?

Mrs. FEINSTEIN. If it is on your time, I would be happy to yield.

Mr. KYL. That would be up to Senator GREGG. I am going to agree with you, so perhaps——

Mr. GREGG. I have no problem with that. This colloquy can be on our time.

Mr. KYL. I want to say, we discussed the allocation of judges before. The Senator is exactly correct. I totally agree with you there should be a fair allocation, meaning that it should be in rough proportion to the caseload, and the projected caseload, not just the existing caseload. Therefore, if that means that there should be a different division of the judges vis-a-vis the States in the new circuit, I would not only have no objection to that, but I would join the Senator from California in assuring that that is the case.

This was not my proposal, as the Senator from California knows. But I would suspect that the proponents of this amendment would be very happy to ensure that that distribution of judges is made a part of the legislation. At least, I would work with the Senator from California to assure that that would be the case.

Mrs. FEINSTEIN. I very much appreciate that, and I take you at your word. However, what this legislation does will be the law if it is accepted by the House.

Mr. MURKOWSKI. Could I ask my friend from California a question?

Mrs. FEINSTEIN. Of course.

Mr. GREGG. At this time I would have to reclaim my time because we do have some additional speakers. So any additional colloquy should come off the time of the Senator from California.

Mrs. FEINSTEIN. If I may just make my quick statement here.

On four occasions, the Federal judges of the ninth circuit and the practicing lawyers of the Ninth Circuit Judicial Conference have voted in opposition to splitting the circuits. The official bar organization of Arizona—as recently as July 14, a few days ago—and the bars of California, Hawaii, Idaho, Montana, and Nevada, and the National Federal Bar Association, all have taken positions against the circuit division. No State bar organization to this day has taken a position in favor of circuit division, let alone this division.

Now, let me try to begin to summarize here.

I believe strongly—and I think the other side knows I do not throw these comments around loosely—that this is really being done for the wrong reasons and in the wrong way. I think some people did not like some of the decisions, specifically in mining and grazing. For some it is being done because they think they will get more judges for their State. I have had Senators tell me that directly. For some, a new courthouse is attractive.

The point is, the House of Representatives has passed the very bill, the amendment of which I am carrying here in the Senate. This proposal, notwithstanding anything anyone has said, as a member of the Judiciary Committee for the last 4½ years —there has never, Mr. President, in the time you've been there, there has never been a hearing on this split. There has never been a discussion of the ramifications of this split on legal precedent or forum shopping. There has never been input from the judicial council, from the judges, from the bar associations on this split. That is fact, Mr. President. That is fact.

Yet, an appropriations committee has stolen the jurisdiction of the Judiciary Committee and moved ahead and proposed a split a few weeks ago—2 days later they had a split which split California in half—the next day that was gone and there was the split we are faced with today. That is why I say it is a gerrymander.

If this were a map before a court on an electoral district with Arizona floating out here alone, they would say, aha, it is a gerrymander. Yet it can be done by a committee that does not even have authorizing oversight jurisdiction, and, bingo, it is before the full body. I really have a problem with that. I do not think that is right.

I happen to agree with my chairman, California is going to have 50 million people by the year 2025. We should take a look at whether or not the interests of justice would be carried out by splitting the largest circuit in the Union. I do not have a problem with that.

What I do have a problem with is worrying, aha, is this being done because Montana does not like a mining decision? Is it being done because Washington does not like a timber decision? Is it being done because someone else doesn't like another decision? Is it being done because a state wants an additional judge?

I mean, this is a very real and pertinent consideration because never before in the history of the Union has a circuit been split in this manner. So it is indeed very, very important.

No consideration of costs. I pointed out the Pasadena and San Francisco courthouses; $140 million has just been spent on them. My goodness, I can see the spot done now on television. "They spend all this money." I believe there is no way you can build new courthouses, and staff them with duplicate positions, and not have it cost at least $100 million in 1997 dollars. And do you know what? This goes into place, Mr. President, in October of this year.

This is almost the end of July, and then there's August, September, and October 1 this goes into effect. No hearing; no study; no talk; no what do you think, bar of Arizona; what do you think, bar of Nevada; what do you think, bar of Alaska; or what do you think, bar of Idaho? It doesn't meet the smell test. That is the problem for me.

Now, let me talk——

Mr. MURKOWSKI. Will the Senator yield for a question?

Mrs. FEINSTEIN. If I may finish my thought, the point has been made—and the distinguished Senator from Alaska made this point very well—that 28 out of 29 cases of this session were reversed by the United States Supreme Court. Bingo, it is a terrible circuit. Well, let me say that that is only 28 cases out of over 4,480 cases. It is the largest circuit. That is a very small percentage of the cases it successfully adjudicated.

Let me just go back to Judge Hug's letter because I believe there is something important here. The caseload per judge in the ninth circuit would be 124 cases per judge higher than the twelfth circuit, or 52 percent greater, as I have said, than the twelfth.

Then he raises this:

> The provision in the bill for coequal clerks in the twelfth Circuit is completely unworkable. How can it be efficiently administered in this way? Is the administration of the circuit to be done in two separate, coequal headquarters? Where would the circuit executive be located?

These are all questions that need to be answered. This thing would go into effect on October 1. No question is answered.

Then Judge Hug says in his letter:

> Consider the travel time and expense of the judges. Presumably, the judges from Alaska and Montana will need to travel half of the time to Phoenix, and the Arizona judges will need to travel half the time to Seattle. Presently, the circuit headquarters in San Francisco is equal distance, and the air routes convenient. This would not be the case in the new twelfth circuit. I don't know whether that's good or bad. My point is that it ought to be looked at. If we had been able to move ahead, and the House and the Senate agreed on the study, it would have been done by now. The study would have been done by now. It is a year and a half ago. It would have been done by now. Instead, we are faced with another arbitrary proposal for a split. We are rushing it through. It is an arbitrary split. No one has looked at costs, or at fair distribution of judges; no one has heard from a judge or from a bar association on this split; and no members of any of the bars of any of the States have indicated their support for this—none, zero, zilch, none. October 1, it goes into play. It does not make sense.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mrs. FEINSTEIN. I yield the floor and reserve the balance of my time.

Mr. MURKOWSKI. Will the Senator from California yield for a question?

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. MURKOWSKI. I ask for 1 minute.

Mr. GREGG. Mr. President, I yield the Senator from Alaska a minute.

Mr. MURKOWSKI. I believe the Senator from California indicated, Mr. President, that new California judges would have a 50 percent increase in caseload, and the Senator from California indicated that would not be enough judges. I wonder if she meant to say that, in the new ninth circuit, there would be 63 percent new cases and 53 percent judges, and in the twelfth circuit, there would be 37 percent new cases and 42 percent judges, which are the figures that we have from the committee, which hardly reflect a 50 percent increase in the caseload.

Mrs. FEINSTEIN. Mr. President, I would be happy to respond. I am reading from a letter dated July 18, signed by Procter Hug, Chief Judge, U.S. Court of Appeals for the Ninth Circuit. What he points out is—he is using what I believe is current caseload. I would be happy to share this with the Senator. I read this accurately:

> The total caseload filings in California, Nevada, Guam and the Northern Marianas would be 5,448. The filings in Alaska, Arizona, Hawaii, Idaho, Montana, Oregon, and Washington would be 3,012.

The point is, with 13 judges, the twelfth circuit would have 239 cases per judge. The ninth circuit would have 363 cases per judge. That is an unfair allocation of cases per judge.

Mr. MURKOWSKI. I will not further comment, other than to point out that I don't think it is a fair statement to suggest that California judges would have a 50 percent increase in caseload, because that is not reflected.

Mrs. FEINSTEIN. The Senator misunderstood me. If I might respectfully get this straight——

Mr. MURKOWSKI. I have no further questions.

Mrs. FEINSTEIN. Mr. President, I will reclaim a moment of my time to say this. Let me quote the chief judge:

> The ninth circuit would have a 50 percent greater caseload per judge than the twelfth circuit.

That letter is here. Anyone can see it.

I yield the floor and reserve the remainder of my time.

Mr. GREGG. Could the Chair advise us of the time status?

The PRESIDING OFFICER. The Senator from New Hampshire has 14 minutes and 48 seconds.

Mr. GREGG. And the Senator from California?

The PRESIDING OFFICER. She has 9 minutes 2 seconds.

Mr. GREGG. I yield to the Senator from Alaska, the chairman of the committee, 9 minutes.

Mr. STEVENS. Mr. President, I shall not use that much time. I do appreciate the courtesy of the manager of the bill.

Mr. President, we have studied this matter to death. The issue, in 1973, was recommended by Senator Hruska and the Hruska Commission was created. It recommended then, in 1973, that the ninth circuit court be split. Every Congress we hear the same thing from the large delegation in the House and the two Senators in the Senate from California: we need more study. I think that is what we are hearing again now—have another study.

It has only been 24 years now that we have been studying since the first commission reported. But, of course, we do need the advice of another commission.

Mr. President, I am a California lawyer. I was raised in California, and I am pleased to have that background. But I tell you, in all sincerity, I cannot believe that we can continue this situation. This chart—I am not sure it can be seen, Mr. President. This chart shows the population and caseload of the circuits. Clearly, the population is almost 50 million people in the ninth circuit, and it requires some change when, clearly, the average of all of the others is somewhere around 20 million people.

I want to address the concern spoken to, I think, by my good friend from Hawaii, Senator INOUYE. It has been 13 years now since a Hawaii resident was appointed to the ninth circuit. Fourteen judges have been seated on the circuit since that time, but Hawaii was never recognized. Senator INOUYE has included an amendment in this provision that guarantees that at least one judge will be appointed to the circuit court of appeals from the new circuit, when it is created, from each State. Now, I think the Senate should listen to that kind of frustration and should listen to the frustration of those who see how long it takes for a case to be decided by the Ninth Circuit Court of Appeals.

Mr. President, I said the other day that the Ninth Circuit Court of Appeals judges come to our State. They come during the summer, and they have a delightful time visiting our State. In the wintertime, all our people fly south and some of our lawyers like that. But the litigants don't like it because the average time that an appeal is pending before the ninth circuit is so long, it puts a great burden upon our States, the smaller States in this circuit.

Now, in 1995, the Senate Judiciary Committee report showed that New York accounted for approximately 87 percent of the second circuit docket; Texas cases were approximately 70 percent of the fifth circuit docket. We have considered splitting the ninth circuit before several times since I have been in the Senate. Mr. President, the overload of the ninth circuit is now such a serious problem, and it is only going to get worse if we continue to talk about another commission to discuss whether this split should take place.

The appellate process, for almost one-fifth of the citizens of the United States, will continue to be inadequate. I believe we are doing California a favor by splitting this court. They are the only State that has one circuit all to itself, all to itself—well, Nevada could make the decision to join if they wish. But the establishment of tribunals is a responsibility of the Congress, not of a commission. It is one of our most important responsibilities under the Constitution. I believe the Senate will shirk its responsibility if we do not act to correct this problem of the ninth circuit, and I urge the Senate to do what this amendment would do: create a new twelfth circuit and allocate to it the States that are suffering greatly by the current crowded situation and long delays in the Ninth Circuit Court of Appeals.

I thank the Chair and yield back the balance of my time.

Mr. GREGG. Mr. President, does the Senator from California have any additional speakers?

Mrs. FEINSTEIN. I would like to know how much time I have remaining, if I might.

The PRESIDING OFFICER. Nine minutes.

Mrs. FEINSTEIN. I reserve the balance of my time.

Mr. GREGG. Does the Senator plan to close? We have one additional speaker. I will have that speaker go if the Senator is planning to close as the final speaker.

Mrs. FEINSTEIN. I will speak after the Senator from Washington.

Mr. GREGG. I yield the balance of our time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from California makes a serious argument: we should not split the circuits because we will waste the $140 million investment in a courthouse in San Francisco, except that we can split the circuits if this so-called study commission says we should do so, and she would then have no objection.

Well, either the courthouse is an important consideration, or it is not an important consideration. Obviously, Mr. President, it is not an important consideration. I presume—I hope—that the Senator from California is not arguing that, even if there is a split, all of the staff and all of the people who are now in that courthouse in San Francisco would still be there and everything has to be added onto that. That is often a way in which the Federal bureaucracy operates. But there is no reason in the world for us to allow it to operate in that fashion under this set of circumstances.

This can be done efficiently and effectively. But that is the fundamental argument against this amendment and in favor of the bill as it stands. The ranking minority member of the Judiciary Committee said that this is the wrong way to act. The Senator from California says this is the wrong way to act because it is on an appropriations bill.

Yet, 2 years ago when a bill practically identical to this was reported by the Judiciary Committee, after full hearings and a full debate, they objected to it even being debated on the floor of the U.S. Senate. Now for the first time we have an opportunity to do so.

This Senator has favored this flip since the early 1980's. And this is the first time we have ever been able so much as to debate it on the floor of the U.S. Senate.

The arguments against the proposal for split are essentially procedural. "Oh, no, we have not had enough hearings. We have not talked about it for a long enough time. There have not been enough study commissions."

There have been hearings for decades. There has been a debate for decades. It simply cannot be argued in any kind of rationale manner that a circuit with this number of States, with 14 million square miles of land and water, with almost 50 million people growing more rapidly than any other part of the country, with 28 authorized judges at the present time, 10 more requested on top of that, can be a collegial body, a court that can understand the cases that come in front of it, a court in which the members can even learn the names of the other members of the court.

Of course a division is appropriate, and the division that is being discussed here today is the division, if there is to be one, that the Senators in opposition asked for.

We are criticized because the bill changed in form as it got in front of us. Well, California is not divided because the Senators from California ask that it not be divided. And we went along.

Nevada remains a part of the ninth circuit because the Senators from Nevada asked that that be the case as against the bill that was reported 2 years ago.

Hawaii and the trust territories are with the new twelfth circuit because, assuming a division, that is where they wanted to be.

Yes, there have been changes, but they have been changes requested by the very Senators who are here on the floor arguing against the result of their requests. Justice in these circuit courts will be done better in circuits that are roughly similar to the other circuits—all of the other circuits in the United States. Each of these circuits will still have more square miles than any other, except for, I believe it is the tenth in the Mountain States, and more when you include Alaska. The ninth circuit will still be the largest of any and all of them.

I don't believe this is going to be the last such division. But it is a division whose time came almost a quarter of a century ago. And that has been resisted by lawyers and judges who are comfortable with the present situation, with the wonderful travel opportunities they have, and rank that convenience ahead of the convenience of individuals seeking justice before those courts who can be served far better, far closer to home, with far more understanding, if this division becomes law, than if we simply say, "Oh, let's wait. Let's have another study. And let's let that study come up with the same results we did before. And then we will have another excuse to oppose the division."

That is what we got when we heard, on the one hand, "Fine, let's have the study, and we will agree with it. But, no, we can't divide the circuit because we have a brandnew $140 million courthouse in San Francisco."

No, Mr. President, it is time for the Senate of the United States to deal with this question as a matter of substance today. It is time to do justice. It is time to reject this amendment and pass this bill.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I believe I have 9 minutes remaining on my time. I would like to yield 7 of them to the distinguished Senator from Delaware, the former chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Thank you very much.

Mr. President, this is not the right way to do this. Let me repeat that again. This is not the right way to do this. If the circuit were to be split, we should do it in a way we have done it in the past.

When some of my colleagues who have argued for the split in the past have come before the committee, they have said some of the following things. The argument is, "Well, the reason we want a split is we don't want to have the court, basically a California-dominated court, making judgments for the folks in my State. We are different."

And I point out to my colleagues who say that, you know, it is a funny thing about the circuit courts. Our Founding Fathers set the circuit courts up for a basic fundamental reason. They didn't want 50 different interpretations of the Federal Constitution. It is kind of strange. The whole purpose of the circuit court of appeals was to make sure there was a uniform view as to how to read the Constitution—not a Montana reading, not a Washington State reading, not a Nevada reading, not a Hawaii reading, and not an Alaska reading. Geography is relevant only in terms of convenience—not ideology.

This is all about ideology at its core. That is what this is about. That is what the attempt to split it is about.

There is no data to sustain that this should be done. Let the Judicial Conference make a judgment, make a recommendation to us. Let them decide as they have in the past.

I say to my friends from the South, before I got here, we split up what used to be a giant circuit from Texas to Florida. The Senator's home State was part of the Presiding Officer's home State, was part of this giant district of the circuit court, and it got split. We did it the right way. We got the facts. We heard from the Judicial Conference. We listened to the court.

This is about politics. It is no way to deal with the court. It isn't how to do this.

Let's look at what we have. We don't have any data on the operation of the circuit as it is presently configured. So, therefore, it seems to me, we should at least give some weight to those folks who are on the court, and those folks who are litigants argue before the court—the bar of those States.

With that in mind, let me point out that the Ninth Circuit Judicial Council, the governing body of all the courts in the ninth circuit, is unanimously opposed to this—Republican appointees to that court, Democratic appointees to that court, liberal appointees, conservative appointees, pointed-head appointees, flat-headed appointees. They are all opposed.

Let's look at the next thing that makes sense to look at—those who litigate before the court.

The California bar is opposed to this. The Arizona bar is opposed to this. The Hawaii State Bar Association is opposed to this. Big Sky Country Bar from Montana is opposed to this. The State of Nevada's bar is opposed to this, and the State of Idaho.

Mr. President, I would also point out that splitting the circuit, as proposed, will not guarantee that certain regional interests will be better represented. Keep in mind that is what this is really about—regional interests.

That is the part that bothers me about how we are going about this.

Look, I am from the third circuit way back East—Pennsylvania, Delaware. So I am not telling anybody in the other part of the country what their business is. But it offends me that we have argued at least—I have not been here for the debate—in the committee based upon regional bias. There is not a Western Federal Constitution. There is not an Eastern Federal Constitution. There is not a Southern Federal Constitution. There is one Constitution—one.

Another problem with this legislation that the court will face is the costs incurred. Dividing this circuit requires trading an infrastructure to support the new twelfth circuit. The Ninth Circuit Executive Office estimates that the initial startup cost for the establishment of the new twelfth circuit would amount to tens of millions of dollars. Operating costs of maintaining two circuits have been estimated to be more than $5 million per year.

Look, I think the Senator from California has been eminently reasonable throughout this whole process. By the way, if anybody wonders whether this is not about regionalism, which is the worst thing we could be talking about when we talk about the Federal Constitution, let me remind my colleagues of a point in fact.

No ninth circuit judge has been appointed to the court for a long time because those who, in fact, are suggesting that this should be split said, "Unless it is split, we are not letting any judges go on the court."

Think of that now, Mr. President. Isn't that nice?

"You won't split the court so we can have a regional division. We are not letting any folks get on the court. And then we are going to tell you that the court is overworked. Then we are going to tell you the court has a backlog. Then we are going to tell you the court has a problem."

The reason, if it does, is because they have arbitrarily held up the appointments.

Republican judges from the circuit have come to my office—Democratic judges from the circuit, Reagan appointees, Bush appointees—and said, "Can't you do something?" I said, "You are talking to the wrong guy. You are preaching to the choir. Go to the guys who are blocking these judges."

So, Mr. President, you can make an argument that this court is overworked. You can make the argument that this distribution is but part of the argument. The reason is a self-fulfilling prophesy. You don't put judges on the circuit. You create a problem.

I can see my time is up. I thank my colleague for yielding.

This is a bad idea. It is not the right way to go about it.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Delaware for his excellent comment. I agree with him 100 percent. This is the wrong way for the wrong reason. The reasons are regional. The reasons are, if we do not like the decision, we don't appoint the judges.

One-third of the ninth circuit today is vacant. I repeat, one-third of the judgeships on the ninth circuit today are vacant. And I do not believe that there is a plan to appoint another judge to the ninth circuit until we bow to this. What we are bowing to is something that has never been heard, never been studied in the 4½ years that I have been on the Judiciary Committee of the Senate.

Mr. President, I ask unanimous consent to include in the RECORD a July 14, 1997 statement of the Arizona bar in opposition to this split, a statement of the California bar in objection to this, a recent letter from the Governor of the State of California in objection to this, a July 22 letter from the chairman of the House Judiciary Committee in objection to this, a letter from the chief judge of the ninth circuit in objection to this, and the chief judge's letter on the unfair allocation of judges. I also have in my files letters objecting to the earlier proposals to split the circuit. These include letters of objection from the State Bar of Nevada, the State Bar of Montana, the State Bar of Hawaii, the Los Angeles County Bar, lawyers' representatives of the ninth circuit, and the Judicial Council.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 22, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR ORRIN: I understand that this week the Senate is expected to consider S. 1022, the Commerce-Justice-State-Judiciary appropriations bill. Included in the bill is a major piece of substantive legislation, the "Ninth Circuit Court of Appeals Reorganization Act of 1997." This provision of the bill (section 305) would amend Title 28 of the United States Code by dividing the existing Ninth Circuit into two new circuits. As you well know, altering the structure of the Federal judicial system is a serious matter. It is something that Congress does rarely, and only after careful consideration.

It is anticipated that an amendment will be offered to replace the circuit division rider with legislation to create a commission to study the courts of appeals and report recommendations on possible change. This legislation, H.R. 908, has already passed the House unanimously on a voice vote on June 3, 1997. A similar bill, S. 956, was passed unanimously by the Senate in the 104th Congress. This is a far superior way of dealing with the problems of caseload growth in the Ninth Circuit and other courts of appeals. I urge your support for the amendment.

Sincerely,

HENRY J. HYDE,
Chairman.

STATE CAPITOL,
Sacramento, CA, July 11, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR ORRIN: I have been closely following the renewed interest in Congress over proposals to split the Ninth Circuit. I understand that a new proposal, under consideration by the Appropriations Committee, would split the Ninth Circuit and divide California in half between the resulting circuits. I am writing to register my strong opposition to the passage of any such measure prior to such time that an objective study is commissioned and issued addressing the many, serious ramifications of such a split.

As you may know, I have been on record in opposition to previous proposals to split the Ninth Circuit on the grounds that they were a form of judicial gerrymandering which sought to cordon off some judges and keep others.

However, the present proposal to split California between two circuits would not only amount to judicial gerrymandering but would invite forum shopping of the rankest kind. California would face the unprecedented prospect of a "circuit split" on a question of law within the same state, which would invite lawyers to "forum shop" between the two resulting halves of California on the basis of which law is more favorable to their position. This would be particularly frustrating for State government, where legal challenges to its actions may generally be brought in any venue within the State.

While a split of the Ninth Circuit would generate a number of inconsistent rulings along the West Coast in areas such as commercial law, environmental law (including standing to sue), and admiralty law, a split of California would exacerbate this inconsistency by subjecting Northern California's cities, like San Francisco, to different controlling law than Southern California's cities, like Los Angeles.

Nor would the spectacle of forum shopping between circuits within California be alleviated by a mechanism similar to that proposed in a 1993 House bill (H.R. 3654), which suggested the creation of an "Intercircuit California En Banc Court." As proposed in that bill, the Intercircuit California Court would permit en banc review by judges of different circuits "whose official duty stations are in the State of California." Such an intercircuit en banc panel would necessarily differ from the composition of the en banc panels for each of the participating circuits. This, of course, raises the specter of greater inconsistencies among the circuits arising from overlapping en banc panels. As the proposal would permit the Intercircuit Court to resolve only intercircuit conflicts of federal law, conflicting interpretations of California substantive law arising in diversity cases would presumably remain unresolved. Of course, these additional circuits would impose additional burdens on the U.S. Supreme Court.

Admittedly, the Ninth Circuit handles more cases than any other circuit. However, statistics refute any objection that the Circuit is "too big." The median time for it to decide appeals (14.3 months as of September 30, 1995) is less than that for the Eleventh Circuit (15.1 months), and only slightly higher than that for the Sixth, Seventh and District of Columbia Circuits.

The real issue underlying this debate appears to be one of judicial gerrymandering, which seeks to cordon off some judges in one circuit while keeping others in another because of concerns, whether perceived or real, over particular judges' perspectives or judicial philosophy. If this is the issue, I submit that the proper means to address it is through the appointment of judges who share our judicial philosophy that judges should not make policy judgments, but should interpret the law based on the purposes of the statute as expressed in its language, and who respect the role of the states in our federal system.

I urge you to discourage your colleagues from approving any proposed split of the Ninth Circuit, and particularly one that splits California, until such time as a study is issued that carefully examines the implications of this significant issue. I would be pleased to contribute one or more representatives to assist with such a study.

Sincerely,

PETE WILSON,
Governor.

THE STATE BAR
OF CALIFORNIA,
San Francisco, CA, July 14, 1997.

Re State Bar of California Support for Commission to Study the Federal Courts of Appeals and Opposition to Splitting the Ninth Circuit Court of Appeals.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The Board of Governors of the State Bar of California strongly opposes the recent proposals to split the Ninth Circuit Court of Appeals. We support the establishment of a non-partisan commission to study the structure and alignment of the federal courts of appeals. A bill to establish such a commission, H.R. 908, unanimously passed the House in June. It has been 24 years since the last major study of the structure and alignment of the federal courts of appeals was conducted. No proposal to restructure the Ninth Circuit should be considered prior to the completion of a thorough study.

Some have argued that the size of the caseload of the Ninth Circuit argues for its division; however, caseload growth is an issue common to courts of appeals nationwide. Splitting the Ninth Circuit, ostensibly because of its caseload, before considering how to respond to growing caseloads nationwide, will complicate rather than advance solutions to caseload growth. Furthermore, repeated division of circuits in response to growth is likely to create a proliferation of balkanized circuits.

We have heard that various proposals to split the Ninth Circuit may be made in the Senate Appropriations Committee, for example, to include California and Nevada in one circuit and to join other states in the Continental United States in another circuit, including non-contiguous Arizona; or to place California in a single circuit with the island territories, with all other states presently in the Ninth Circuit in a separate circuit. The variety of proposals indicates that there is no consensus, even among proponents, as to how any split should be achieved.

We are strongly opposed to all of these proposals to split the Ninth Circuit. They represent a form of judicial gerrymandering and are not based upon any study of the Ninth Circuit or of the overall needs of the federal courts of appeals. They violate the established principles that federal judicial circuits encompass three or more states and be designed to transcend parochial interests. These proposals are likely to increase the problems of the federal courts of appeals and make these problems more costly and difficult to fix. The multiplicity of proposals that have been made, without study, simply emphasize the need for a thorough study of the federal appellate courts as a whole.

For these reasons, we believe that any proposal to split the Ninth Circuit, or to realign any other circuit, needs to be informed by a non-partisan study of the structure and alignment of the federal courts of appeal.

I have written a similar letter to Senator Boxer, who is a member of the Senate Appropriations Committee.

Sincerely,

THOMAS G. STOLPMAN,
President.

STATE BAR OF ARIZONA,
Phoenix, AZ, July 14, 1997.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: This letter is simply to confirm that the State Bar of Arizona has repeatedly opposed any division of the Ninth Circuit Court of Appeals, and supports the House's proposal for a study commission.

Sincerely,

DON BIVENS,
President-Elect.

UNITED STATES COURTS,
FOR THE NINTH CIRCUIT,
Reno, NV, July 23, 1997.

Hon. DIANNE FEINSTEIN,
U.S. Senator,
Washington, DC.

DEAR SENATOR FEINSTEIN: This afternoon we had a meeting of the active and senior judges of the Ninth Circuit Court of Appeals, for the sole purpose of discussing the current efforts underway by the Senate Appropriations Committee to split the Ninth Circuit. After a thorough discussion, the judges voted overwhelmingly to support the creation of a study commission to study the structure of the circuits.

Altering the structure of the federal judiciary system is an extremely serious matter, something that should be done rarely and only after careful, serious study and consideration.

We strongly urge the members of the Senate to support the creation of a commission to conduct a thoughtful, thorough and complete study of the matter.

Our court asked me to convey to you our appreciation for your continued leadership in this matter.

Yours sincerely,

PROCTER HUG, Jr.,
Chief Judge.

UNITED STATES COURTS
FOR THE NINTH CIRCUIT,
Reno, NV, July 18, 1997.

Hon. HARRY M. REID,
U.S. Senator,
Washington, DC.

DEAR HARRY: After reviewing this matter yet again, I have some possible arguments for the floor of the Senate, giving examples of why this is a hasty and ill-considered bill and why a Commission should study such an important issue.

1. Under the bill, the Ninth Circuit is to have fifteen judges and the Twelfth Circuit is to have thirteen judges. The Ninth Circuit would have a 50% greater caseload per judge than the Twelfth Circuit.

States:

	Filings
California	4,840
Nevada	500
Guam	87
Northern Marianas	21
Total	5,448
With 15 judges, the caseload per judge	363
Alaska	204
Arizona	891
Hawaii	204
Idaho	141
Montana	175
Oregon	626
Washington	871
Total	3,112
With 13 judges, the caseload per judge	239

The caseload per judge in the Ninth Circuit would be 124 cases per judge higher than the Twelfth Circuit, or 52% greater than the Twelfth.

2. The provision in the bill for co-equal clerks in the Twelfth Circuit is completely unworkable. How can it be efficiently administered in this way? Is the administration of the circuit to be done in two separate co-equal headquarters? Where would the Circuit Executive be located?

3. Consider the travel time and expense of the judges. Presumably, the judges from Alaska and Montana will half the time travel to Phoenix, and the Arizona judges will half the time travel to Seattle. Presently, the circuit headquarters in San Francisco is equidistant and air routes convenient. This would not be the case in the new Twelfth Circuit.

Harry, I suggest these arguments be saved for the floor to avoid changes or arguments prepared to meet them.

Yours Sincerely,

PROCTER HUG, JR.,
Chief Judge.

STATEMENT OF ADMINISTRATION POLICY

THE JUDICIARY: NINTH CIRCUIT

The Administration opposes the provision in the Committee bill that would reorganize the Ninth Circuit by splitting it into two separate circuits. We understand that other substantive amendments to divide the Ninth Circuit may be offered on the Senate Floor. The Administration strongly objects to using the appropriations process to legislate on this important matter. The division of the Ninth Circuit is an important issue not just for the bench and the bar of the affected region, but also for the citizens of the Ninth Circuit. The Administration believes that a much better approach would be passage of legislation, H.R. 908—already passed by the House and currently pending at the desk in the Senate—that would create a bipartisan commission to study this difficult and complex question and make recommendations to the Congress within a date certain. This would allow for substantive resolution of the issue in a deliberative manner, allowing all affected parties to voice their views.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Mr. GREGG. Mr. President, I have a couple of minutes left.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Before getting to a vote on this issue, just let me make this point.

Were this a judicial proceeding, there is something called judicial notice. That is like water runs downhill and the Sun comes up in the East. I think the Court would take judicial notice of the fact the ninth circuit does not work; it is too big; it has too many people for one circuit to manage; it has too many judges to work effectively; it has too large a geographic region. This is an attempt to address that issue. It is a very important issue to address. It is an affordable issue to address. I hope my colleagues will vote down this amendment.

Have the yeas and nays been asked for on this amendment?

The PRESIDING OFFICER. They have not.

Mr. GREGG. Does the Senator from California wish to ask for the yeas and nays?

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg

Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—55

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The amendment (No. 986) was rejected.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, is it in order to send an amendment to the desk at this point?

The PRESIDING OFFICER. Is there objection to laying aside amendment 979? Without objection, it is so ordered.

AMENDMENT NO. 989

(Purpose: To Strike the Provisions Dealing With the Withdrawal of the United States From Certain International Organizations)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Maryland [Mr. SARBANES], proposes an amendment numbered 989.
>
> On page 124, beginning on line 5, strike all through page 125, line 2.

Mr. SARBANES. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to direct my colleagues' attention to section 408 of this bill, on pages 124 and 125. I am absolutely stunned to find this language in this legislation, because it provides for our withdrawal from the United Nations.

What it says, if I understand it correctly, is that if the appropriation does not come up to the level of the U.N. assessment, then the United States shall withdraw from an international organization, but I assume it is primarily directed at the U.N.

Let me just read a couple of paragraphs to my colleagues.

> The United States shall withdraw from an international organization under this section in accordance with the procedures identified for withdrawal in the treaty, pact, agreement, charter, or other instrument of that organization which establishes such procedures.
>
> Unless otherwise provided for in the instrument concerned, a withdrawal under this section shall be completed by the end of the fiscal year in which the withdrawal is required.

This is a small section located in the latter part of this legislation. As you read through this bill, all of a sudden, you come across the provision. If we are going to withdraw from the U.N., we ought to have a full-scale debate. This is not a minor decision. There are some people in the country who would like to do that, but if we are going to undertake to do so we ought to have a full scale debate.

What this section says as it starts off is:

> Notwithstanding any other provision of law, the United States shall withdraw from an international organization if the President determines that the amount appropriated or otherwise available for a fiscal year . . . is less than the actual amount of such contributions. . . .

In other words, the assessments. So, if we do not appropriate the full assessment, as I understand this section, the President has to begin withdrawal procedures.

There are many years when we have not met the assessment. In fact, we continue to run arrearages. We just passed legislation here that had certain conditions for paying our U.N. dues, that withheld certain amounts, required certifications, and so forth and so on.

I don't know where this provision came from but it is a backdoor way of compelling our withdrawal from the United Nations.

The amendment that was sent to the desk would strike this section from the bill. I urge my colleagues to support the amendment. We should not be talking about withdrawal from international organizations. We are the world's leading power. We essentially use these international organizations to serve our interests. Now we come to this section, which is sort of hidden away. The upshot of it would be to, in effect, lead us to begin withdrawal procedures from the United Nations.

I don't think we even ought to have any references to withdrawal. Certainly the way this provision is written, the bill is going to force us out of the U.N.

I hope the committee, upon reflection, would agree to drop the section from the bill.

Mr. HATCH. Will my colleague yield for a second?

Mr. SARBANES. Certainly.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. He is just yielding to me. But I absolutely agree with you. I absolutely agree with you. Let me tell you, during this last cold war time, I had a lot to do with the ILO when I was chairman of the Labor Committee and ranking member there, and ever since, when our tripartite organization—Government, labor and business—saved this country and countries all around this world from the tyranny of totalitarianism, right at the ILO.

I can remember one trip I made over there because Irving Brown called me. He was the head of our delegation. He was the International Vice President of the AFL–CIO, and in my opinion the strongest anti-Communist in the world at the time. He stopped the Communists from taking over the French docks. He went into Paris before the end of the Second World War—one of the most heroic figures I ever met in my life. And he led our delegation with the full support of labor, business, and Government, year after year. He died here a few years ago. I went to his memorial service here.

But I know what the ILO has meant to this country and what it has meant to free trade unionism around the world and what it has meant to freedom.

I have to tell you, if we have this provision continue in this bill, since all three of these organizations, the WHO, the ILO, and the agricultural organization, we are behind in payments to them, it would mean it would have to come down to choosing one of them that they would delete. I can tell you right now, the one, probably the weakest that would be deleted, would be the ILO. I have to tell you, that preserves free trade unionism around the world, it protects freedom around the world, and, I have to tell you, quells disruptions and problems all over the world. It helps us all over the world to spread democracy.

I don't want to see that happen, and I think the distinguished Senator from Maryland has brought up a very, very good point here. I call my colleagues' attention to it. I am grateful he has yielded to me for these few remarks. I hope they have been helpful to my colleagues on both sides, but I have been there, I know how important this is. I believe this is not the thing to do, to have that particular language left in there as it is. So I support my colleague from Maryland.

Mr. BIDEN. Will the Senator from Maryland yield for a brief comment?

Mr. President, this is the second time we have addressed this issue in the last several weeks. A similar provision was in the State Department authorization bill that we dealt with. We raised the issue then, and the Senator moved to strike a similar provision, a withdrawal provision. It was accepted by a voice vote. This bill went on to pass the Senate 90 to 5, I believe.

I am surprised this issue has surfaced again. Not only does section 408 depart from the State Department authorization bill, but it is bad policy; it is just simply bad policy.

I hope my friends, the managers of this bill, will consider the fact that we have been through this once already and maybe allow us just to have a voice vote and move on. We have enough to fight over in this bill.

I have much more to say on this, but, as the old joke goes, everybody has already said it, so I am not going to repeat it. The Senator from Maryland is absolutely right; it is a repeat of what we did.

I thank the Senator for yielding to me, and I yield the floor.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I seek recognition so we can announce there will be no further rollcall votes tonight. There will be at least one vote tomorrow. And I believe that we can say there will be one vote tomorrow. It will be an important vote. We expect that that vote will be either on the tuna-dolphin issue or, more than likely, under the agreement we are going to propound, it would be on the global warming issue.

So there would be a vote tomorrow. A time would have to yet be determined exactly what time that would be, but probably not before 10 o'clock in the morning. And then we hope to work out some understandings with regard to State, Justice, Commerce. And then we would probably not have final votes on that until next Tuesday, I believe it would be.

So that is the point I wanted to announce. There will be at least one vote tomorrow, and no further rollcall votes tonight. We will make an announcement with regard to Monday later on, in a few minutes, or tomorrow, about the situation on Monday.

Mr. MCCAIN. Is the leader's intention, if there is no agreement on tuna-dolphin, that there will be a cloture vote tomorrow morning on tuna-dolphin that he had previously anticipated?

Mr. LOTT. Unless there is an agreement, there will be a cloture vote on tuna-dolphin, but we are working on an agreement where it may not be in the morning. But we will have one in short order. We are trying to work through all the different players and make sure everybody has been consulted. That is why we are not asking for the UC right now.

I think I should go ahead and say to the chairman of the Appropriations Committee, it would be our intent, because of requests of a number of Senators, and because of the cooperation we have received, that we would not have any recorded votes on Monday. But we are trying to also clear an agreement that the Democratic leader indicated he would like to approve with us to take up the Transportation appropriations bill some time during the day on Monday, but it would not lead to recorded votes. The next recorded vote would be tomorrow, and then Tuesday morning and Wednesday morning under the agreements we are working. But we have not cleared them with everybody at this point.

With that, at this time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. KERRY pertaining to the introduction of S. 1067 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I can engage in a brief colloquy with the chairman of the subcommittee.

The PRESIDING OFFICER (Mr. BROWNBACK). Is there objection?

Mr. SARBANES. Reserving the right to object, I don't think it is necessary to set the amendment aside in order to have a colloquy.

The PRESIDING OFFICER. The Senator is correct. It is not necessary.

Ms. COLLINS. I stand corrected.

Mr. SARBANES. Mr. President, I object to the request, but it doesn't preclude the distinguished Senator from having her colloquy.

The PRESIDING OFFICER. The objection is heard. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I ask unanimous consent to be recognized for such time as I may consume for a brief colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

NWS REORGANIZATION

Ms. COLLINS. Mr. President, I rise today to engage in a colloquy with the distinguished chairman of the subcommittee, Senator GREGG, regarding the National Weather Service's ongoing top-to-bottom review of its operations and structure.

I am taking this opportunity today to express my hope and belief that this review process will conclude that the Weather Service Office in Caribou, ME, should be fully upgraded to a Weather Forecasting Office. I just want to comment very briefly, Mr. President, on a few of the reasons why the Caribou Weather Service Office should be upgraded.

In general, it is the Weather Service's policy that weather forecasting offices should cover roughly 17,000 square miles. Right now, the Weather Forecasting Office in Gray, ME—which is more than 230 miles from Caribou—is attempting to provide services for roughly 63,000 square miles, an area more than three times larger than the norm. Given the huge area involved, it is extremely difficult for the small staff of a Weather Service Office to provide the services necessary to ensure public safety.

For example, the Weather Service Office currently has only one electrical technician who must service equipment in Frenchville, Caribou, Houlton, and as far south as Millinocket, in Penobscot County. This is an enormous workload for just one employee, particularly in light of the possibility that repairs may be needed at the same time at different locations far away from each other.

Accurate and timely weather reports are essential to Aroostook County, the largest county in Maine, for two reasons: one involving public safety, the other an economic concern.

Mr. President, northern Maine experiences more than its fair share of severe weather, including blizzards in the winter months. Many of my colleagues have probably heard weather reports in which my hometown of Caribou has recorded the lowest temperature in the Continental United States. Accurate and timely weather reports are essential for public safety.

The second reason for upgrading the Weather Service Office centers on the nature of the economy in the county. Natural resource-based industries such as agriculture, logging, and tourism are the mainstay of the county's economy. Our potato farmers, for example, must have quality weather forecasts and reports in order to know best when to plant and harvest their crops.

For these public safety and economic reasons, I am convinced that upgrading the Weather Service Office in Caribou is a necessary action for the National Weather Service to undertake, and I hope that the Appropriations Committee will act favorably on upcoming funding requests.

Mr. President, I yield the floor so that my distinguished New England neighbor and colleague, Senator GREGG, may respond to my concerns.

Ms. SNOWE. Mr. President, I am pleased to join my colleague from Maine, Senator COLLINS, and the distinguished chairman of the subcommittee, Senator GREGG, today to discuss an issue of utmost importance to Aroostook County, the Caribou Weather Service Office.

The bill before us requires the National Weather Service [NWS] to consult with the subcommittee before making any reprogramming requests in relation to the top-to-bottom review that is currently underway. As part of their review, NWS will consider whether the Caribou Weather Service Office should be upgraded to a weather forecasting office.

Under the National Weather Service's modernization plan, a weather forecasting office will have Doppler radar. The Doppler radar would give Caribou the ability to forecast warnings for sudden and severe changing weather patterns so that the communities the weather station serves will be able to respond quickly. At the present time, the nearest Doppler radar is in Gray, ME, more than 200 miles away. This is too far away to be of immediate help to Aroostook County.

Aroostook County is one of the largest counties in the United States—the size of Connecticut and Rhode Island combined—and its economy is dominated by agriculture, trucking, and forest products industries, all of which rely heavily on timely and accurate weather information. The Caribou station provides vital information on a daily basis to northern Maine communities that must deal with a wide range of weather patterns from bitter cold and snow to severe thunderstorms and flooding. An upgrade from a weather service office to a weather forecasting office would improve the weather forecasting abilities of the Caribou station, thereby improving the ability of the affected towns to react to sudden and severe weather changes.

Once the NWS has completed its review, I look forward to working with Chairman GREGG and the subcommittee to ensure that the recommended changes are funded in an expeditious manner.

Mr. GREGG. Mr. President, I appreciate the Senator from Maine raising this very significant issue to the folks of Northeastern Maine. Those of us who have been to Caribou understand that it is the coldest place in America, consistently, and recognize that the issue of weather and predictability of weather is very important. Also, I know how important upgrading the Caribou Weather Service Office into a Weather Forecasting Office is for the people of Aroostook County. It is a major issue, and I can understand how strongly my friend and colleague from Maine feels about this matter.

The Senator from Maine, Senator COLLINS, has made a very persuasive case for why the Weather Service Office in Caribou, ME, should be upgraded into a Weather Forecasting Office. We must always work to ensure public safety, and given the enormous land area, a Weather Forecasting Office would be a tremendous benefit for the people of northern Maine.

You have my assurance, Senator COLLINS, that when the subcommittee receives the National Weather Service report and recommendations on a reorganization plan, the subcommittee will work closely with you regarding the Caribou, ME, Weather Service Office.

Ms. COLLINS. I thank the Senator very much for his assistance.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

SLAMMING

Mr. REED. Mr. President, I would like to take a moment to discuss a sense-of-the-Senate resolution which is included, I believe, in the managers' amendment, with the concurrence of the Senator from New Hampshire and the Senator from South Carolina.

The thrust of my amendment is to confront an issue which is growing—the issue of slamming—where individuals who have signed up for long distance telephone service have their service changed illegally. This is a growing problem, a problem that we must confront. It is a problem that—in fact, as I considered it, I also contemplated the construction of an amendment to this appropriations bill that would have dealt with the problem by mandating better proof that a customer has actually changed service, including criminal penalties for slamming, and other deterrences.

As I spoke with my colleagues and law enforcement officials, I came to realize, through many different viewpoints, that an amendment at this time would delay the appropriations process. So rather than introducing an amendment, I have proposed a sense-of-the-Senate resolution which, again, I believe has been accepted and will be maintained within the managers' agreement.

Before going forward, I commend and thank the chairman, Senator GREGG, and the ranking member, Mr. HOLLINGS, and also Chairman MCCAIN and Chairman BURNS for their generous assistance in this endeavor.

Mr. HOLLINGS. Mr. President, if the distinguished Senator will yield. The Senator from Rhode Island has done a valuable service to the Senate in bringing this to our attention. The FCC has just promulgated a rule relative to slamming just this past week. This sense-of-the-Senate resolution is consistent with it, in the sense that it would require the mandating of the evidence itself, civil fines, and a civil right of action. I think it really emphasizes the concern that all of us have had in the communications field of this particular malpractice. I hope we can help, with this sense-of-the-Senate resolution, emphasize the need to expedite the rulemaking on the part of the FCC. I thank the distinguished Senator from Rhode Island and I join in his resolution.

Mr. REED. Mr. President, I yield to the Senator from New Hampshire, without losing my right to the floor.

Mr. GREGG. Mr. President, I support the efforts of the Senator from Rhode Island to put a sense-of-the-Senate resolution in this bill relative to this very important issue. His sense of the Senate tracks the FEC regulation. I think it is very appropriate that he has raised the visibility of this issue, and the sense of the Senate will be included in the managers' amendment.

Mr. REED. Mr. President, reclaiming my time, I thank the Senator from New Hampshire for his support. I would like to just briefly describe the problem and also the ongoing discussion with the FCC and also here within Congress.

First, as both my colleagues have indicated, this is an alarming and growing problem. The Federal Communications Commission is dealing with the problem now. They will shortly propose a rule that will take away the financial incentive for some of these renegade companies who essentially illegally change service. Surprisingly, today under FCC rules, a renegade company can, in fact, illegally switch a customer and still get the benefits of that month or of several months of charges. The FCC has proposed to change this.

This sense-of-the-Senate resolution supports that proposed rule change and the other activities the FCC is contemplating. One of the reasons we are here today is that, under the present rules of the FCC, telephone companies must get either a verbal or written response in terms of a formal request to change. The problem with respect to a written consent is that, many times, they are hidden in sweepstakes promotions, giveaways and, in fact, the nature of the written response is unknown to the consumer. Once again, the FCC is proposing to change this new rule. I support that change and encourage them to go forward.

The phone company can also rely upon the verbal assent of a consumer, but there are problems with this verbal assent, also. Some of the problems we have seen with telemarketers are the fact that they will deceive the consumer about identity or the nature of the service, or they will obtain the consent of a child, or stranger in the household, or disregard the consumer's decline to switch the service, or flatout not even bother to get the verbal assent and claim that they do in retrospect. The problem with this verbal authorization is proof. Again, the FCC has taken some steps in this regard. They are proposing to eliminate what is an option today, where someone presumably could consent over the phone and then receive a package later from the company requiring that consumer to send a card in to deny the service change. The FCC once again is trying to eliminate that procedure, also.

These are all positive steps. I encourage, and this resolution encourages, the FCC to pursue those steps.

This is a major problem for consumers in the United States. Fifty million people each year switch their phone service. One million of those switches are likely to be fraudulent. One regional carrier now estimates that 1 in 20 of the switches in their system are fraudulent switches. This problem has tripled since 1994. It is now the FCC's No. 1 consumer complaint. Therefore, this problem is something that we should deal with, and deal with decisively.

In my own home State of Rhode Island, there are abundant examples of consumers who have been disadvantaged by this illegal switching. Indeed, the Rhode Island Public Utilities Commission has noted this complaint as the No. 1 complaint they receive with respect to telephone services. For example, a small businessperson in Newport, RI, had his 800 number switched, and rather than an 800 number, the only people who could call the business were residents of Alaska.

In Smithfield, RI, a family had their phone service illegally switched. They protested, but before they could rectify the problem, their phone service was terminated because they refused to pay the bill for the illegal company that switched them.

These are problems that have to be addressed, and I hope are being addressed today by the FCC, and perhaps ultimately our legislation in this body.

What I hope we could do would be to focus more resources of the FCC on this problem. In 1996, the FCC received 16,000 complaints about slamming, but they only were able to successfully prosecute and induce judgment against 15 companies. They don't have the resources. They need those resources. Indeed, I worry that law enforcement agencies around the country not only lack resources but lack, ultimately, the proof that a switch has been made illegally. Law enforcement officials in certain States, such as Connecticut, Wisconsin, California, Texas, and Illinois, have been successful, but they need additional support.

Indeed, one of the major elements of the legislation I was contemplating was the requirement not only of written proof but, also, in the case that an oral or verbal consent was given, some type of recording of assent so that law enforcement authorities could verify decisively whether or not the appropriate assent had been made. It is necessary for us to balance the needs for a flexible system by which consumers can make choices and change their service to one that protects their right to ensure that it is their choice and not the result of fraudulent or manipulative practices by unscrupulous companies. I believe we can do that.

I believe we have taken a step forward today with this sense-of-the-Senate resolution to start on that path. I look forward to offering independent legislation which I think will assist the current effort of the FCC to resolve this grave problem that is growing each day.

Once again, I thank my colleagues, Senator GREGG, Senator HOLLINGS, Senator MCCAIN, and Senator BURNS, for their work and for their effort on this. Others are interested. I know Senator CAMPBELL and Senator DURBIN are also interested in this problem.

We have an opportunity today to send a strong message to the FCC to move forward and also to continue to contemplate and deliberate about legislation which will assist in their efforts and end this scandalous problem, the No. 1 consumer complaint today with respect to telecommunications slamming.

I thank my colleagues. I yield the remainder of my time.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I had a discussion with the Senator from North Dakota. I am going to be very, very brief, with his indulgence.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Mr. KERRY. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment for the purpose of introducing my amendment, and the moment my introduction is completed that the pending amendment will return and be the pending amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 992

(Purpose: To provide funding for the Community Policing to Combat Domestic Violence Program)

Mr. KERRY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KERRY), for himself, Mr. DODD, Mrs. MURRAY, Mr. LAUTENBERG, and Mr. JOHNSON, proposes an amendment numbered 992.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 18, insert "That of the amount made available for Local Law Enforcement Block Grants under this heading, $47,000,000 shall be for the Community Policing to Combat Domestic Violence Program established pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968: *Provided further*," after "*Provided*,".

STOP DOMESTIC VIOLENCE NOW

Mr. KERRY. Mr. President, this amendment continues the successful COPS "Community Policing to Combat Domestic Violence" Program. Police departments currently use these COPS funds for domestic violence training and support. This amendment would allow local law enforcement agencies to renew their grant funding so they can continue to employ innovative community policing strategies to combat domestic violence.

Mr. President, domestic violence is a very serious national problem. Almost four million American women were physically abused by their husbands or boyfriends in the last year alone. A woman is physically abused every 9 seconds in the United States. Women are victims of domestic violence more often than they are victims of burglary, muggings, and all other physical crimes combined. In fact, 42 percent of women who are murdered are killed by their intimate male partners. In Massachusetts, 33 women were killed in domestic related cases in 1995. This amendment is necessary to fight this epidemic of domestic violence.

Mr. President, this problem of domestic violence affects all classes and all races. More than one in three Americans have witnessed an incident of domestic violence according to a recent nationwide survey released by the Family Violence Prevention Fund. Mr. President, battering accounts for one-fifth of all medical visits by women and one-third of all emergency room visits by women in the U.S. each year. As Dartmouth, MA, Police Chief Stephen Soares said recently, domestic violence "goes from the lowest economic planes to the highest in terms of professional persons. There isn't a line drawn in terms of profession or money."

Domestic violence hurts women and hurts our economy. The Bureau of National Affairs estimates that domestic violence costs employers between $3 billion and $5 billion each year in lost work time and decreased productivity. In a recent survey of senior business executives, 49 percent said that domestic violence has a harmful effect on their company's productivity. Forty-seven percent said domestic violence negatively affects attendance and 44 percent said domestic violence increases health care costs.

Mr. President, domestic violence also has tragic effects on children. Children who witness the violence often do poorly in school, repeat the pattern of either victim or abuser as adults, and are more prone to have a variety of emotional problems.

According to Linda Aguiar, the head of "Our Sisters' Place" in Fall River, Massachusetts, "One child that was at the shelter, we found out he had taken knives from the kitchen and hid them in the bedroom. He did this because he was afraid his father would come. He thought his father would come and put a ladder to the window."

To attempt to deal with these problems, Congress in the 1994 Crime Act provided that up to 15 percent of the funding for the COPS program could be made available for innovative community policing activities. A small part of that money, $47 million, was made available to police departments for domestic violence training and support. I would like to read excerpts from a letter I received from the Chief of Police of Chelmsford, MA, about the COPS Domestic Violence program. He said, "It has come to my attention that the federal grant entitled 'Community Oriented Policing Services Combating Domestic Violence'" (COPS) has not been approved—As you know, domestic violence is a serious law enforcement and societal problem that we are just beginning to face. Every year, millions of women are abused and hundreds are murdered by members of their own family. It's time that society began viewing these atrocities as a crime. We must put forward the necessary attention and funding to solve this problem. The COPS grant does exactly that. It provides advocacy, training, and research toward ending this problem. Without this funding victims of domestic abuse and police officers will have nowhere to turn for support, education, resources and training."

Mr. President, the COPS Domestic Violence Program has been a success. In Massachusetts, police departments have used the money to fund many anti-domestic violence activities:

The Gardner Police Department and a local battered women's resource center were able to establish school-based support groups for children affected by violence in their homes. More than 250 children ages 5–10 have benefited from this program.

In Somerville, nearly 100 city police officers and an equal number of representatives of local non-profit service agencies received anti-domestic violence training. As a result, a young woman who appeared in the Emergency Room seeking assistance for domestic violence was referred to a nurse supervisor who helped her get a restraining order, safety planning, and other support.

Officers in the Domestic Violence Unit of the Fall River Police Department, in coordination with a local battered women's and children's shelter, have been able to conduct personal follow-up in more than 1,100 incidents of domestic violence since September of 1996.

Mr. President, before these funds were available, many local law enforcement agencies lacked the resources to provide anti-domestic violence training and support. In 1995 prior to the awarding of the COPS domestic violence grant, police in Gardner, MA were called to intervene in a dispute involving domestic abuse. Due to the lack of cooperation from the victim, officers did not have sufficient evidence to arrest her boyfriend, but instead were only able to escort him off the property. Two hours after the incident, the victim's boyfriend returned to the property and set it afire, and the woman was killed by asphyxiation. Subsequent to this crime the suspect was arrested, convicted of the crime with which he was charged and sentenced to time in prison. This incident demonstrated the need for a victim's advocate employed by the police department who might have been able to convince the woman of her need for help and then intervene on her behalf. Due to the COPS Domestic Violence grants, the Gardner Police Department now has the resources to more successfully combat domestic violence.

When the Department of Justice announced these Community Policing to Combat Domestic Violence grants on June 1, 1996, police departments were promised 1 year of funding with the ability to receive two additional years of funding. Unfortunately, these successful Domestic Violence programs will be denied the additional 2 years of funding because of a little-noticed change, included in the appropriations bill report language, which no longer allows up to 15 percent of COPS funds to be used for innovative community policing activities such as anti-domestic violence training and support for local law enforcement agencies.

Our amendment earmarks $47 million of the $503 million provided by the Commerce/State/Justice Appropriation bill for the Local Law Enforcement Block Grant (LLEBG) to renew funding of grants made under the COPS Domestic Violence Program. It is appropriate that this money be earmarked for this purpose because the Local Law Enforcement Block Grant Program was designed to provide funds to local governments to fund crime reduction and public safety improvements broadly defined. Additionally, the LLEBG already contains several earmarks in the C/S/J Appropriations bill: $2.4 million for discretionary grants for local law enforcement to form specialized cyber units to prevent child sexual exploitation, and $20 million for the Boys and Girls Clubs.

Some will argue that this appropriations bill increases funding for the Violence Against Women Act (VAWA) and that therefore no additional funds are needed to confront domestic violence. However, that is incorrect for three reasons. First, the increase in funding for the Violence Against Women Act is only $15 million, far less than the $47 million needed to renew the COPS Domestic Violence grants. Second, only 25 percent of the VAWA money goes to police departments—most of the rest goes to prosecution and direct victims services. Third, most of the VAWA money for police departments goes to buy equipment, not for training and support.

Mr. President, this funding is necessary to help police departments to deal with the epidemic of domestic violence. I would like to thank Senators DODD, LAUTENBERG, and JOHNSON for joining me in proposing this important amendment and urge all my colleagues to support it.

Mr. DODD. Mr. President, I rise to support the amendment of my colleague, the Senator from Massachusetts [Mr. KERRY]. This amendment will restore the COPS antidomestic violence grants created by the Violence Against Women Act—a program of vital importance that funds local police and community initiatives to combat domestic violence.

Domestic violence is a serious scourge on our society. Once every 9 seconds, a woman is beaten by her husband or boyfriend, according to FBI crime statistics. Four women are killed each day at the hands of their domestic attackers, according to the National Clearinghouse for the Defense of Battered Women. And 16 people were killed by family violence in Connecticut between September 1995 and September 1996. That is totally unacceptable.

Mr. President, for quite some time I have been extremely concerned that antidomestic violence programs currently funded through domestic violence COPS grants will no longer have a source of funding as the COPS grants for this purpose are eliminated.

For too long before Congress enacted the 1994 crime law and Violence Against Women Act, domestic violence was considered a private matter—something to be dealt with inside the home, and outside of public view and public policy. The Violence Against Women Act represented a consensus that government and our communities should work together to prevent and stop domestic violence, and that it should be one of our highest priorities.

In Connecticut, many communities were able to rise to that challenge when they received anti-domestic violence grants under the COPS program. More than ten Connecticut cites and towns have used these grants to establish law enforcement infrastructures to support a diverse range of anti-domestic violence programs, each specifically tailored to the needs of that local community. I recently had the opportunity to visit with two police chiefs who are using anti-domestic violence COPS grants to run domestic violence prevention and intervention programs in Bridgeport, CT, and Groton, CT. They have developed different programs that make use of a wide range of resources to fight domestic violence, utilizing police officers, involving victims' shelters and services, incorporating counseling for both victims and batterers, and aggressively pursuing prosecution of batterers.

Programs like these send a message from our communities to victims and batterers alike. These programs say that domestic violence has no place in Connecticut or anywhere in our country. These programs say that if you are a batterer, we will stop you, we will catch you, and we will prosecute you to the fullest extent of the law. And I am told by police chiefs throughout Connecticut that that is why these programs, and the funds that make them possible, have truly improved their ability to combat domestic violence. Domestic violence is preventable, if we provide the funding for initiatives to stop it.

Now, however, the elimination of antidomestic violence COPS grants threatens to force an untimely end to successful programs like those in Connecticut. Law enforcement officials would be hindered in their effort to prevent domestic violence and catch and punish perpetrators, and victims of domestic violence would continue to suffer. Let's not abandon police chiefs when they've just begun to win the battle against domestic violence. Let's not turn our backs on the victims who need our help.

I wrote to the Commerce-State-Justice appropriators to ask them to maintain the funding for these important programs, and I am pleased today to cosponsor the amendment that would do just that. Hundreds of police chiefs and countless victims across the country are counting on us to do no less.

I thank the Senator from Massachusetts for his amendment, and I join him in urging my colleagues to adopt it.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I thank the Senator from Massachusetts for finishing expeditiously and for his help on a number of issues throughout the day as we try to get an agreement on how we can proceed for the remainder of the day, and when we can get votes tomorrow and next week.

Mr. President, I ask unanimous consent that the following be the only remaining first-degree amendments in order to S. 1022, and they be subject to relevant second-degree amendments.

Mr. President, I will submit the list since there are several of them. But everybody has been consulted on this list. The Democratic leadership is aware of it as well as the Members on this side.

I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEMOCRATIC AMENDMENTS TO COMMERCE-STATE-JUSTICE

Baucus, EDA.
Biden, COPS.
Biden, trust fund.
Bingaman, registration of nonprofits.
Bumpers, OMB.
Byrd, anti-alcohol.
Conrad, relevant.
Daschle, law enforcement.
Dorgan, sense of Senate—Univ. Service Fund.
Dorgan, NII grants.
Graham, public safety officers.
Harkin, funding for globe.
Inouye, Ninth circuit—northern territories.
Kennedy/Leahy, capital murder.
Kerry, COPS.
Lautenberg, PTO.
Reed, SoS telecom slamming.
Robb, public safety grants.
Sarbanes, Sec. 408 pending No. 989.
Wellstone, Legal Services Corp.
Wellstone, Legal Services Corp.
Harkin, private relief.
Hollings, managers.
Hollings, managers.

REPUBLIC AMENDMENTS TO STATE-JUSTICE-COMMERCE

Domenici, court appointed attorney's fees.
Hatch, DOJ LEG. AFFAIRS.
Burns, Mansfield fellowships.
McCain, INS inoculations.
Stevens, Cable laying.
Hatch, Limitation of funds for Under Secretary of Commerce.
DeWine, Visas.
Helms, Technical.
Warner, Terrorism.
Coverdell, DNA testing/sex offenders.
Bond, small business.
Warner, patent trademark.
Kyl, masters.
Abraham, INS fingerprinting.
Stevens, womens World Cup.
Coats, gambling impact.
McCain, relevant.
McCain, relevant.
Burns, EDA.
Hatch, antitrust provisions.
Gregg, relevant.
Hatch, local law enforcement.

Mr. LOTT. Mr. President, I further ask unanimous consent that all amendments must be offered and debated tonight and any votes ordered with respect to S. 1022 be postponed to occur beginning on 9:30 a.m. on Tuesday, July 29, with 2 minutes for debate equally divided before each vote, and following the disposition of amendments, S. 1022 be advanced to third reading and a passage vote occur, all without further action or debate.

I have more to this request, but I want to emphasize what that means. We will complete all of the amendments tonight. The votes on those amendments and final passage will occur next Tuesday beginning the 9:30.

I further ask that if the Senate has not received the House companion bill at the time of passage of S. 1022, the bill remain at the desk; and I further ask unanimous consent that when the Senate receives the House companion bill, the Senate proceed to its immediate consideration and all after the enacting clause be stricken and the text of S. 1022, as amended, be inserted, the House bill then be read a third time and passed and the Senate insist on its amendment, request a conference with the House and that the Chair be authorized to appoint conferees and that S. 1022 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, reserving the right to object, in the discussions with the chairman of the subcommittee, as I understand it, the amendment that is pending at the desk will be adopted this evening.

Mr. LOTT. That is my understanding Mr. President.

Mr. HOLLINGS. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that at 8:30 a.m. on Tuesday the Senate resume the State, Justice, Commerce appropriations bill and there be 30 minutes remaining, equally divided, for debate on each of the two amendments to be offered by Senator WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that it be in order, if necessary, for each leader to offer one relevant amendment on Tuesday prior to the scheduled 9:30 votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. With regard to the tuna-dolphin issue, I ask unanimous consent that, at 9:30 a.m. on Friday, July 25, the Senate resume the motion to proceed to S. 39, the tuna-dolphin bill, and there be 30 minutes equally divided between Senator MCCAIN, or his designee, and Senator BOXER. I further ask unanimous consent that following the use or yielding back of the time, the Senate proceed to the vote on the motion to invoke cloture on the motion to proceed to S. 39.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask that if an agreement can be reached with respect to S. 39—and it appears there may be—it be in order for the majority leader to vitiate the cloture vote, the Senate to then immediately proceed to S. 39, that the managers' amendment be in order, and the amendment and bill be limited to a total of 30 minutes equally divided, and following the disposition of the amendment the bill be advanced to third reading, and passage occur, all without further action or debate.

I think I should clarify this and put it in common language.

If an agreement is worked out, we will vitiate the cloture vote. I would like to modify that agreement to say that, if an agreement is reached, we will vitiate; then we will take that issue up next week with 30 minutes of debate and a vote next week, unless a voice vote would be agreed to for tomorrow or next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. With regard to Wednesday of next week, I ask unanimous consent that at 9:30 a.m., Wednesday, July 30, the Senate proceed to the consideration of Senate Resolution 98. I further ask unanimous consent that there be 2 hours of debate on the resolution equally divided between the chairman and the ranking member, or their designees, with the following amendments in order to this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I realize it gets a little confusing on how we are lining these up. But I think it is being helpful to all Senators. I think it is allowing us to complete the debate and get votes and move important legislation forward in the best way possible.

So the way we are getting it racked up, so to speak, I think is good for the Senate, and we are trying to do the right thing.

So I would like to modify that earlier request to this extent:

That we come in in the morning and go immediately at 9:30 to the global-warming bill. That bill is Senate Resolution 98. I ask consent that there be 2 hours of debate on the resolution equally divided between the chairman and the ranking member or their designees with the only amendments in order to be the following: Kerry amendment adding specific negotiating positions; Senator BYRD's amendment, relevant.

I further ask unanimous consent that following the disposition of the abovementioned amendments and the expiration or yielding back of time for debate, the Senate proceed to a vote on the resolution with no intervening action or debate, and, if the resolution is agreed to, the preamble then be agreed to, which means that the final vote on global warming would occur around 11:30 tomorrow morning.

Mr. KERRY. Mr. President, reserving the right to object—I will not object—I simply ask the majority leader if he would modify that further, per our agreement, that they would be first-degree amendments with no second-degree amendments.

Mr. LOTT. Mr. President, I ask to further modify my unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Then the modification of what we had earlier agreed to is that after that vote on Senate Resolution 98, we would then have the vote on the cloture motion on tuna-dolphin unless an agreement is worked out, at which point we would vitiate that cloture vote, and we would get a subsequent time agreement of 30 minutes and a voice vote, or a recorded vote, on that issue next week.

Mrs. BOXER. Reserving the right to object, and I shall not object—

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. The leader did not say exactly what time the cloture vote would take place.

Mr. LOTT. The cloture vote would then take place, after the global warming vote, I presume about 11:45, 11:50, something of that nature.

Mrs. BOXER. Could we say by 12 o'clock?

Mr. LOTT. It certainly would be by 12 o'clock.

Mrs. BOXER. That would be very helpful. One more point. If there should be a recorded vote, which many of us do not anticipate, on the dolphin-tuna compromise, if there is one, could we reserve just a couple of minutes on either side just to talk before that vote, on next week, just 2 minutes?

Mr. LOTT. Before the vote next week.

Mrs. BOXER. Yes.

Mr. LOTT. Sure. I would hate to enter into a time agreement on a specific time now but we would have a vote at an agreed to time and we would have some time to explain it. I think it is appropriate.

Mr. KERRY. It is my understanding the majority leader in the prior order already requested 30 minutes.

Mr. LOTT. I had indicated 30 minutes.

Mrs. BOXER. That is very acceptable. Thank you very much. And I wanted to thank the Senator from Arizona as well for helping resolve this procedure.

Mr. LOTT. Mr. President, I thank the Senators for their cooperation. Let us keep going then. I think we are making good progress.

I ask unanimous consent that at 5 o'clock on Monday, July 28, the Senate proceed to the consideration of the Transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, any votes ordered with respect to the Transportation appropriations bill will be postponed to occur on Wednesday morning immediately following the global warming resolution vote.

We have changed that now. The Transportation appropriations bill would occur on Wednesday morning.

Mr. FORD. I liked the first one better.

Mr. LOTT. Therefore, no votes will occur during the session on Monday, July 28.

Mr. President, I will yield the floor at this point and in a few minutes we will recap everything we agreed to in those unanimous-consent agreements so that they will be clear and understandable. We will do that before we go out tonight.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 989

Mr. SARBANES. Mr. President, is the Sarbanes amendment now the pending business?

The PRESIDING OFFICER. The Sarbanes amendment is now the pending business.

Mr. SARBANES. I ask unanimous consent that Senators MOYNIHAN, HATCH, JEFFORDS, KERRY, BIDEN, and LEAHY be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. I hope we could move to adoption of the amendment.

Mr. GREGG. I hope the Senator would ask for adoption.

Mr. HOLLINGS. The question is on the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 989) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 993

(Purpose: To make an Amendment Relating to the Health Insurance Benefits of Certain Public Safety Officers)

Mr. GRAHAM. Mr. President, at the completion of these brief remarks, I will send an amendment to the desk.

Mr. President, last year in consideration of this same appropriations bill, the Senate and the House adopted and the President signed into law what is known as the Alu-O'Hara bill. This is legislation which was the result of a tragic circumstance in which two law enforcement officers called to a hostage-taking scene were seriously burned when the hostage taker set on fire the structure in which the hostages were being held. These two law enforcement officers were subsequently discharged from the law enforcement agency because of their severe injuries, and in the course of their discharge they lost their insurance coverage. So now they were two heroes out of work, lifetime injuries and without health insurance.

This Alu-O'Hara bill, which we adopted last year, provided that law enforcement agencies would provide to any public service officer "who retires or is separated from service due to an injury suffered as the direct and proximate result of a personal injury sustained in line of duty while responding to an emergency situation or in hot pursuit with the same or better level of health insurance benefits that are otherwise paid by the entity to a public service officer at the time of retirement or separation." The enforcement for this was a reduction in that local law enforcement block grant award.

Mr. President, as I indicate, this has been the law since last year. It is currently in the House appropriations bill. Frankly, we are seeking an opportunity to put this into substantive law so we will not have to continue to rely upon the appropriations bill as the means of continuing this important protection for law enforcement officers which has strong support by all the major law enforcement agencies in America.

So I send this amendment to the desk and will ask my colleagues for its favorable adoption when we consider these matters on Tuesday.

The PRESIDING OFFICER. The clerk will report the amendment. The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 993.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1. Of the amounts made available under this title under the heading "OFFICE OF JUSTICE PROGRAMS" under the subheading "STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than 90 percent of the amount otherwise to be awarded to an entity under the Local Law Enforcement Block Grant Program shall be made available to that entity, if it is made known to the Federal official having authority to obligate or expend such amounts that the entity employs a public safety officer (as that term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide an employee who is public safety officer and who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are otherwise paid by the entity to a public safety officer at the time of retirement or separation.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. We have no objection to this amendment and I ask unanimous consent the amendment be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 993) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have been working on a sense-of-the-Senate resolution which I hoped to have the agreement of a number of Members of the Senate who have similar interests on the issue of the using universal service funds for the purpose of reaching a balanced budget in the budget reconciliation conference that is now going on. I know that sounds foreign as a subject to those who are not familiar with it, but I want to explain it a little bit and describe why this is important.

I have spoken to a number of Senators in the Chamber this evening—Senator STEVENS, the distinguished chairman of the Senate Appropriations Committee, Senator ROCKEFELLER, Senator HOLLINGS, Senator DASCHLE, Senator SNOWE, and others who are concerned about something that is happening in the reconciliation conference that could have a significant impact on the cost of telephone service in rural areas in this country in the years ahead. Here is what it is.

Our country has been fortunate to enjoy the benefits of a telecommunications system that says it does not matter where you live. If you live in an area where you have very high-cost service, there will be something called a universal service fund that helps drive down that high cost so that everyone in this country can afford telephone service, universally affordable telephone service. That is what the universal service fund is designed to do and has been designed to do for a long, long while. I come from a town of 300 people and telephone service there is affordable because the universal service fund drives down the rate of what would otherwise be high cost. The benefits of a national system is that every telephone in the country makes every other telephone more valuable. A telephone in my hometown in Regent, ND, makes Donald Trump's telephone more valuable in New York City because he can reach that telephone in Regent, ND. That is the whole concept of universally affordable telephone service, and it is why we have a universal service fund.

Now, having said that, the universal service fund was reconstructed some—but not dramatically—during the Telecommunications Act passed by Congress a year and a half ago. We now have a balanced budget proposal that is in conference between the House and the Senate and some are saying in this negotiation that they want to use the revenues from the universal service fund out in the year 2002 in order to help plug a leak on the budget side.

The fact is the universal service fund was never intended to be used for such a purpose. In fact, the universal service fund does not belong to the Government. It does not come into the Federal Treasury and is not expended by the Federal Government. It, therefore, ought not be a part of any discussion on budget negotiations, and yet it is.

This week I have spoken several times to the Office of Management and Budget, and they have explained to me in great detail with no clarity at all why it is now part of this process. I have spoken to people who claim to be experts on this, and none of them have the foggiest idea about what the proposal actually does.

Now, the reason I come to the floor to speak about it is this: We are nearing presumably the end of a conference, and if a conference report comes to the floor of the Senate using the universal service fund as part of a manipulated set of revenues in the year 2002, in order to reach some sort of budget figure, it will be an enormous disservice for the universal service fund. It will deny the purpose of the fund for which we in the Commerce Committee worked so hard to preserve in the Telecommunications Act of 1996. This provision in the reconciliation bill will set a precedent that will be a terrible precedent for the future. The result will be, I guarantee, higher phone bills in rural areas in this country in the years ahead.

I once stopped at a hotel in Minneapolis, MN, and there was a sign at the nearest parking space to the front door, and it said "Manager's parking space." And then below it, it said, "Don't even think about parking here." I don't expect anybody ever parked in that space besides the manager. Don't even think about parking here. I hope that the Senate will pass the sense-of-the-Senate resolution I have proposed that says to the reconciliation conference: "do not even think about this." I say to the budget reconciliation conferees: "do not try to bring to the floor of the Senate or the House a budget reconciliation conference report that manipulates and misuses the universal service fund." It is not right, it is not fair, and it will destroy the underpinnings of what we have done in telecommunications policy to provide affordable telephone service across this country for all Americans. Yes, especially, most especially Americans who live in the rural areas of this country.

I have enormous respect for those people who put these budgets together. It is not easy. But this instance of using the universal service fund as is now being proposed is, I am afraid, budget juggling at its worst. Juggling I suppose at a carnival or in the backyard is entertaining. Juggling in this circumstance using universal fund support to manipulate the numbers in 2002 is not entertaining to me. It is fundamentally wrong. This money does not belong to the Federal Government. It does not come to the Federal Treasury, and it is not spent by the Federal Government and has no place and no business in any reconciliation conference report.

I was flabbergasted to learn that it was there and it is being discussed. I have spoken to the Director of the Office of Management and Budget about this several times this week, spoken to others who are involved with it. And I must tell you I think that the Congressional Budget Office, the Office of Management and Budget, and any member of the conference that espouses this is making a terrible, terrible mistake. I hope that the Senate will pass the sense-of-the-Senate resolution I have proposed and that we can garner the support of the position I now espouse to say as that parking sign, "don't even think about this." It is wrong, and it will disserve the interests that we have fought so hard to preserve affordable telephone service all across this country.

The Senator from South Carolina has spent a great deal of time on this issue, as has the Senator from Alaska, the Senator from West Virginia, the Senator from Maine, and so many others. As I said, the wording is not yet agreed to on the sense-of-the-Senate resolution. I hope it will be very shortly, and when it is I hope we will pass it and send a message that any conference report that comes back here ought not use universal service support funds because they are not our funds to use.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 994

(Purpose: To amend section 3006A of title 18, United States Code, to provide for the public disclosure of court appointed attorneys' fees upon approval of such fees by the court)

Mr. DOMENICI. Mr. President, I have an amendment and I understand it is going to be accepted. I will let the managers do that in their wrap-up if they would like unless the Senator has indicated that it is all right.

Mr. President, I ask, has Senator HOLLINGS cleared it?

Mr. HOLLINGS. It has been cleared.

Mr. DOMENICI. I thank the Senator very much.

I send an amendment to the desk, and since it is acceptable on both sides I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 994.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1. PUBLIC DISCLOSURE OF COURT APPOINTED ATTORNEYS' FEES.

Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (4) and inserting the following:

"(4) DISCLOSURE OF FEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court's approval of the payment.

"(B) PRE-TRIAL OR TRIAL IN PROGRESS.—If a trial is in pre-trial status or still in progress and after considering the defendant's interests as set forth in subparagraph (D), the court shall—

"(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

"(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

"(I) Arraignment and or plea.

"(II) Bail and detention hearings.

"(III) Motions.

"(IV) Hearings.

"(V) Interviews and conferences.

"(VI) Obtaining and reviewing records.

"(VII) Legal research and brief writing.

"(VIII) Travel time.

"(IX) Investigative work.

"(X) Experts.

"(XI) Trial and appeals.

"(XII) Other.

"(C) TRIAL COMPLETED.—

"(i) IN GENERAL.—If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant's interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

"(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.—If the court determines that defendant's interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

"(D) CONSIDERATIONS.—The interests referred to in subparagraphs (B) and (C) are—

"(i) to protect any person's 5th amendment right against self-incrimination;

"(ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;

"(iii) the defendant's attorney-client privilege;

"(iv) the work product privilege of the defendant's counsel;

"(v) the safety of any person; and

"(vi) any other interest that justice may require.

"(E) NOTICE.—The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant's interests set forth in subparagraph (D) will be compromised.".

Mr. DOMENICI. Mr. President, I am not sure, if I were to ask every Senator to take a guess, anyone would come anywhere close to answering this question correctly.

I ask, how many dollars do you think we spent last year paying for defense lawyers for criminals in the Federal court who claim they don't have enough money to defend themselves?

We have an obligation. The court has interpreted our Constitution to say they must have counsel, so I am not here complaining. But I don't think anyone—I see my friend from Iowa looking at me—would guess $308 million, and growing tremendously, taxpayers' dollars to defend criminals in the Federal court system.

I am not asking in this amendment that we review that process, although I kind of cry out to any committee that has jurisdiction and ask them to take a look. All I am doing in this amendment is changing the law slightly with reference to letting the taxpayer know how much we are paying criminal defense lawyers. All this amendment does is say when a payment is made to a criminal defense lawyer, a form has to be filed that indicates that payment. There is no violation of the sixth amendment because there are no details. We are not going to, in this statement, reveal the secret strategy of the defense counsel or their latest deposition theory. We are just saying, reveal the dollar amount so the American people know, through public sources, how much we are paying.

Frankly, if I had a little more time, I would state some of the fees that we finally have ascertained, and I think many would say, "Are you kidding?" I will just give you three that we know of.

Mr. President, what would you say if I told you that from the beginning of fiscal year 1996 through January 1997, $472,841 was paid to a lawyer to defend a person accused of a crime so heinous that the United States Attorney in the Northern District of New York is pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

What would you say if I told you that $470,968 was paid to a lawyer to defend a person accused of a crime so reprehensible that, there too, the United States Attorney in the Southern District of Florida is also pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

What would you say if I told you that during the same period, for the same purpose, $443,683 was paid to another attorney to defend a person accused of a crime so villainous that the United States Attorney in the Northern District of New York is pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

Now, Mr. President, what would you say if I told you that some of these cases have been ongoing for three or more years and that total fees in some instances will be more than $1 million in an individual case? That's $1 million to pay criminal lawyers to defend people accused of the most vicious types of murders often which are of the greatest interest to the communities in which they were committed.

At minimum, Mr. President, this Senator would say that we are spending a great deal of money on criminal defense lawyers and the American taxpayer ought to have timely access to the information that will tell them who is spending their money, and how it is being spent. That is why today I am introducing the "Disclosure of Court Appointed Attorney's Fees and Taxpayer Right to Know Act of 1997".

Under current law, the maximum amount payable for representation before the United States Magistrate or the District Court, or both, is limited to $3,500 for each lawyer in a case in which one or more felonies are charged and $125 per hour per lawyer in death penalty cases. Many Senators might ask, if that is so, why are these exorbitant amounts being paid in the particular cases you mention? I say to my colleagues the reason this happens is because under current law the maximum amounts established by statute may be waived whenever the judge certifies that the amount of the excess payment is necessary to provide "fair compensation" and the payment is approved by the Chief Judge on the circuit. In addition, whatever is considered "fair compensation" at the $125 per hour per lawyer rate may also be approved at the Judge's discretion.

Mr. President, the American taxpayer has a legitimate interest in knowing what is being provided as "fair compensation" to defend individuals charged with these dastardly crimes in our federal court system. Especially when certain persons the American taxpayer is paying for mock the American Justice System. A recent Nightline episode reported that one of the people the American taxpayer is shelling out their hard earned money to defend urinated in open court, in front of the Judge, to demonstrate his feelings about the judge and the American judicial system.

I want to be very clear about what exactly my bill would accomplish. The question of whether these enormous fees should be paid for these criminal lawyers is not, I repeat, is not a focus of my bill. In keeping with my strongly held belief that the American taxpayer has a legitimate interest in having timely access to this information, my bill simply requires that at the time the court approves the payments for these services, that the payments be publicly disclosed. Many Senators are probably saying right now that this sounds like a very reasonable request, and I think it is, but the problem is that often times these payments are not disclosed until long after the trial has been completed, and in some cases they may not be disclosed at all if the remains are sealed by the Judge. How much criminal defense lawyers are being paid should not be a secret. There is a way in which we can protect the alleged criminal's sixth amendment rights and still honor the American taxpayer's right to know. Mr. President, that is what my bill does.

Current law basically leaves the question of when and whether court appointed attorneys' fees should be disclosed at the discretion of the Judge in which the particular case is being tried. My bill would take some of that discretion away and require that disclosure occur once the payment has been approved.

My bill continues to protect the defendant's sixth amendment right to effective assistance of counsel, the defendant's attorney client privilege, the work product immunity of defendant's counsel, the safety of any witness, and any other interest that justice may require by providing notice to defense counsel that this information will be released, and allowing defense counsel, or the court on its own, to redact any information contained on the payment voucher that might compromise any of the aforementioned interests. That means that the criminal lawyer can ask the Judge to take his big black marker and black-out any information that might compromise these precious Sixth Amendment rights, or the Judge can make this decision on his own. In any case, the Judge will let the criminal lawyer know that this information will be released and the criminal lawyer will have the opportunity to request the Judge black-out any compromising information from the payment voucher.

How would this occur? Under current law, criminal lawyers must fill out Criminal Justice Act payment vouchers in order to receive payment for services rendered. Mr. President, I have brought two charts to the floor to provide Senators with an example of what these payment vouchers look like so that they can get an understanding of what my bill would accomplish. These two payment vouchers are the standard vouchers used in the typical felony and death penalty cases prosecuted in the federal district courts. As you can see Mr. President, the information on these payment vouchers describes in barebones fashion the nature of the work performed and the amount that is paid for each category of service.

My bill says that once the Judge approves these payment vouchers that they be publicly disclosed. That means that anyone can walk down to the federal district court where the case is being tried and ask the clerk of the court for copies of the relevant CJA payment vouchers. It's that simple. Nothing more. Nothing less.

Before the court releases this information it will provide notice to defense counsel that the information will be released, and either the criminal lawyer, or the Judge on his/her own, may black-out any of the barebones information on the payment voucher that might compromise the alleged criminal's precious sixth amendment rights.

Mr. President, I believe that my bill is a modest step toward assuring that the American taxpayer have timely access to this information. In addition to these CJA payment vouchers, criminal lawyers must also supply the court with detailed time sheets that recount with extreme particularity the nature of the work performed. These detailed time sheets break down the work performed by the criminal lawyer to the minute. They name each and every person that was interviewed, each and every phone call that was made, the subjects that were discussed and the days and the times they took place. They go into intimate detail about what was done to prepare briefs, conduct investigations, and prepare for trial.

Mr. President, clearly if this information were subject to public disclosure the alleged criminal's sixth amendment rights might be compromised. My bill does not seek to make this sensitive information subject to public disclosure, but rather continues to leave it to the Judge to determine if and when it should be released. In this way, my bill recognizes and preserves the delicate balance between the American taxpayers' right to know how their money is being spent, and the alleged criminal's right to a fair trial.

I believe we should take every reasonable step to protect any disclosure that might compromise the alleged criminal's sixth amendment rights. My bill does this by providing notice to defense counsel of the release of the information, and providing the Judge with the authority to black-out any of the barebones information contained on the payment voucher if it might compromise any of the aforementioned interests. I believe it is reasonable and fair, and I hope I will have my colleagues' support.

I am very pleased the Senate will accept this. I hope the House does. I believe they will. Because I think the public has a right to know. As a matter of fact, I think we have a right to know, case by case, payment by payment, how much is being paid by the taxpayer to defend criminals in the Federal court.

I yield the floor.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 994) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 995

(Purpose: To Provide for the Payment of Special Masters, and for Other Purposes)

Mr. GREGG. Mr. President, on behalf of Senator KYL, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. KYL, proposes an amendment numbered 995.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009-201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321-165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

Mr. GREGG. I move to set aside the amendment by Senator KYL.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 996

(Purpose: To require the Attorney General to submit a report on the feasibility of requiring convicted sex offenders to submit DNA samples for law enforcement purposes)

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. COVERDELL, proposes an amendment numbered 996.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. . REPORT ON COLLECTING DNA SAMPLES FROM SEX OFFENDERS.

(a) DEFINITIONS.—In this section—

(1) the terms "criminal offense against a victim who is a minor", "sexually violent offense", and "sexually violent predator" have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a));

(2) the term "DNA" means deoxyribonucleic acid; and

(3) the term "sex offender" means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) REPORT.—From amounts made available to the Department of Justice under this title, not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) PLAN REQUIREMENTS.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of blood and saliva specimens from any sex offender;

(B) the analysis of the collected blood and saliva specimens for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 997

(Purpose: To Express the Sense of the Senate That the Federal Government Should not Withhold Universal Service Support Payments)

Mr. HOLLINGS. On behalf of Senator DORGAN and others, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. DORGAN, for himself, Mr. ROCKEFELLER, Mr. HOLLINGS and Mr. DASCHLE, proposes an amendment numbered 997.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD NOT MANIPULATE UNIVERSAL SERVICE SUPPORT PAYMENTS TO BALANCE THE FEDERAL BUDGET.

Whereas the Congress reaffirmed the importance of universal service support for telecommunications services by passing the Telecommunications Act of 1996;

Whereas the Telecommunications Act of 1996 required the Federal Communications Commission to preserve and advance universal service based on the following principles:

(A) Quality services should be available at just, reasonable, and affordable rates;

(B) Access to advanced telecommunications and information services should be provided in all regions of the Nation;

(C) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services;

(D) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service;

(E) There should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; and

(F) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services;

Whereas Federal and State universal contributions are administered by an independent, non-Federal entity and are not deposited into the Federal Treasury and therefore not available for Federal appropriations;

Whereas the Conference Committee on H.R. 2015, the Budget Reconciliation Bill, is considering proposals that would withhold Federal and State universal service funds in the year 2002; and

Whereas the withholding of billions of dollars of universal service support payments will mean significant rate increases in rural and high cost areas and will deny qualifying schools, libraries, and rural health facilities discounts directed under the Telecommunications Act of 1996:

Now, therefore, be it

Resolved, That it is the sense of the Senate that the Conference Committee on H.R. 2015 should not manipulate, modify, or impair universal service support as a means to achieve a balanced Federal budget or achieve Federal budget savings.

AMENDMENT NO. 998

Mr. HOLLINGS. Mr. President, I also, on behalf of the distinguished Senator from Delaware, Senator BIDEN, send an amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. BIDEN, proposes an amendment numbered 998.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) for fiscal year 2001, $4,355,000,000; and

"(8) for fiscal year 2002, $4,455,000,000.".

Beginning on the date of enactment of this legislation, the non-defense discretionary spending limits contained in Section 201 of H.Con Res. (105th Congress) are reduced as follows:

for fiscal year 2001, $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

for fiscal year 2002, $4,455,000,000 in new budget authority and $4,485,000,000 in outlays.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, the junior Senator from West Virginia wishes to continue, a little bit, the comments that were made by the Senator from North Dakota [Mr. DORGAN]. Needless to say, the Senator from West Virginia not only wholly agrees with him, but would carry the argument even further.

The concept of universal service is literally sacred in our country. For the majority of the people of our land, which is rural land, it is the only lifeline they have potentially to the present day and to their future day. They are able to afford certain kinds of rural rates. But if people start to take the universal service fund and use it for any other purpose other than what it was originally intended, the whole system of equality between rural States and urban States, of user States and using States, disappears. The concept of universal service is ended.

I would like to suggest that this is not a thought which is held by myself alone. I ask at this moment to have printed in the RECORD a letter from the U.S. Telephone Association and a letter from the Rural Telephone Coalition on the subject that the Senator from North Dakota and I were discussing.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNITED STATES TELEPHONE ASSOCIATION,
Washington, DC, July 9, 1997.

Hon. BYRON L. DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: The United States Telephone Association ("USTA"), representing more than 1,200 companies, is dismayed that Congress has chosen universal telephone service as a vehicle to balance the budget by the year 2002. While USTA recognizes the endeavors of key leaders in rejecting spectrum fees and other inappropriate budget proposals, exploiting the universal telephone service fund to balance the budget is not only bad precedent, it is bad telecommunications policy. Accordingly, USTA strenuously urges you to oppose this proposal in conference.

In its effort to meet the budget accord, the U.S. House of Representatives adopted a reconciliation package that maneuvers universal telephone service support moneys to satisfy current budgetary objectives. To make up for a $2 billion budget shortfall, the House's proposal borrows $2 billion in FY 2001 while artificially reducing universal telephone service support by this same amount in FY 2002. This proposal needlessly jeopardizes a privately run support system that continues to work without federal monetary aid. Moreover, such a "scoring" device sets a dangerous precedent that could damage this nation's universal telephone service policy necessary to maintain nationwide, affordable telecommunications service.

USTA has opposed the Office of Management and Budget and the Congressional Budget Office for more than two years over their claims of authority to reflect universal telephone service transactions on the federal budget. The Telecommunications Act clearly establishes the manner in which universal telephone service funds are collected and disbursed. Pursuant to the Act, universal telephone service moneys logically should not be classified as either federal receipts or federal disbursements and thus should not be associated with the federal budget, as the Administration has insisted and Congress has allowed.

USTA appreciates your continued support regarding the elimination of such budget proposals as the imposition of spectrum fees. Similarly, USTA strongly urges you to reject any proposals that would seek to balance the budget at the expense of universal telephone service. We hope we can count on you to help keep such initiatives out of the final conferenced agreement.

Sincerely,

ROY NEEL,
President and CEO.

NRTA—NTCA—OPASTCO,
RURAL TELEPHONE COALITION,
Washington, DC, July 10, 1997.

DEAR SENATOR/REPRESENTATIVE: The undersigned collectively representing approximately 850 of the nation's small rural incumbent local exchange carriers, have been closely following the struggle of the Congress to develop a reconciliation package that meets the targets assigned by the recent budget accord. Although we understand the difficult nature of this task, we applaud the efforts of key leaders who have prevented the adoption of many of the more unrealistic and unjustified concepts for meeting the agreement's targets. These concepts include auctioning electromagnetic radio spectrum at all costs, imposing new electromagnetic radio spectrum fees and auctioning toll-free "vanity" numbers.

However, we are alarmed that the U.S. House of Representatives, in its last-minute effort to achieve the budget agreement's targets, adopted a reconciliation package containing language that manipulates universal service support moneys to do so. Universal telecommunications service is a national policy objective, but the moneys that are involved in effectuating this policy are strictly private, not governmental as the House initiative attempts to suggest. The House provision seeks to create the illusion that the U.S. government should somehow have access to these private universal service moneys for the sole purpose of balancing the budget.

Specifically, in attempting to make up for a $2 billion budget shortfall, the U.S. House of Representatives has adopted a reconciliation package that uses universal service support moneys to meet its present budget objectives and even seems to suggest that a totally unnecessary appropriation is involved. This proposal borrows $2 billion in fiscal year (FY) 2001 while artificially reducing universal service support by this same amount in FY 2002—budget gimmickry Congress should reject. This proposal unnecessarily jeopardizes a privately run support system that continues to work without federal monetary aid. Such a misleading "scoring" device sets a dangerous precedent that could permanently damage the nation's statutory universal service policy and budget process.

Our organizations have opposed the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) for more than two years over their claims of authority to reflect universal service transactions on the federal budget. Universal service flow transactions represent the collection and distribution of private moneys, for the sole purpose of recovering private investment and expenses necessary to maintain nationwide universal telecommunications service. Therefore, universal service moneys logically cannot be classified as either federal receipts or federal disbursements and thus legally should not be associated with the federal budget, as the administration has insisted and the Congress has allowed.

We are pleased that Congress rejected spectrum fees and other inappropriate proposals that had the sole intent of meeting budgetary targets. However, manipulation of universal service moneys to look like U.S. government resources is not only bad precedent, but also had telecommunications policy. Any measure embracing such a proposal should be strenuously opposed. We hope we can count on your support to keep such initiatives out of the final conferenced reconciliation package. Please feel free to contact any one of our organizations if you have questions about this critical matter.

Sincerely,

JOHN F. O'NEAL,
General Counsel, National Rural Telecom Association.
MICHAEL E. BRUNNER,
Executive Vice President and Chief Executive Officer, National Telephone Cooperative Association.
JOHN N. ROSE,
President, Organization for the Promotion and Advancement of Small Telecommunications Companies.

Mr. ROCKEFELLER. There is another aspect which worries me greatly. I have heard so many people talk about the importance of technology and the importance of understanding that technology is our future and the fact that so many of the people in our rural areas and in our urban areas are not hooked up to the Internet and hooked up to all of the advantages that technology and the computer brings us. It was with that in mind that during the consideration of the Telecommunications Act, a number of Senators, led by Senator SNOWE of Maine, put forward an amendment which would allow, for the very first time, money to be used with the full consent of the carriers, to be used to wire up 116,000 schools in this country, endless numbers of public libraries, enormous numbers of rural health clinics so that they could develop in the practice of telemedicine and other new technologies that are now and will be available.

If what is being contemplated by those who are working on the reconciliation process is the use of universal service money to plug up a potential shortfall in the spectrum auction, the entire Snowe amendment, which relates to whether or not we are going to have a first- or second-class citizenry in this country —first-class being those who have the money to have computers in their schools and at home and then the second class, and that being the majority, being those who do not—all of that will go down.

I make the further point that this is not the Government's money. Some may try to argue that it is, but it is money that is paid into a special fund and it is money which is being administered by something called NECA, which is the "national exchange cable association"—I believe that is what it stands for. They are private. They are private. They are a private entity administering this fund.

This has been through a Senate process where it was agreed to in a bipartisan debate, 98 to 1. It has been through a joint board, FCC process, that is State and FCC together, voting 8 to nothing, and through a further final FCC process, 4 to nothing—unanimous, virtually the entire way through.

If the budget negotiators use this universal service fund for any purpose other than for the purposes that the universal service fund is meant to be used for, I think it begins a tremendous downfall in not only our future in terms of rural rates, but also in terms of learning and technology. The Vice President of the United States, our former colleague, Albert Gore, said that in his view the Snowe amendment, relating to 116,000 schools, more public libraries and more rural health clinics, was the biggest and most important thing that had happened in education policy in the last 30 years. He may have said, in this century.

In any event, all of that is in jeopardy, and the resolution, which is being circulated, I hope will be carried by staff members and others who hear the voice of the Senator from North Dakota and myself, to their Senators to know that something called universal service is in dire jeopardy as of this moment, because the tampering with that universal service is now in the bill that may come before us. There has to be a change made. Change is hard to come by. In other words, we really are at the ramparts on this issue.

I thank the Presiding Officer and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, NECA is the National Exchange Carriers Association. Mr. President, this association was formed at the breakup of AT&T back in 1984, and it is a private entity, whereby the different carriers, through their trade associations, self-impose, in an intermittent fashion, the amounts due and owing in order to constitute what we call the universal service fund. It is a private entity. There is no Federal law that says you can be a member or shall be a member or you cannot be a member. It is not under the Federal law; it is under this particular entity that it was associated with and together at that particular time of the breakup.

It depends on the volume of business, obviously. If you get a greater volume and more burdens and so forth—for high-cost areas is really what it was for, initially. It is now being extended to rural, being extended for the schools and the hospitals. But the high-cost areas are being taken care of under this universal service fund.

Mr. President, what we are seeing here—and I hope the conferees on reconciliation get the message—this is the epitome of the national loot. In 1994, this Congress passed, President Clinton signed into law the Pension Reform Act. Under that Pension Reform Act, it provided certain penalties, whereby you can't loot the pension funds of the particular corporate America. They wanted to make sure that a person in this particular corporation who had worked over the years and everything else, didn't have a newcomer in a merger or buyout or whatever it is, abscond with all the moneys and all of a sudden your pension was gone.

Now, it so happens that in the news here, about 6 weeks ago, now 8 weeks ago, that a famous American, Denny McLain, the all-time all-star pitcher, I think it was, for the Detroit Tigers, became a president of the corporation and he used the corporate pension fund in violation of law to pay the company's debt, and he was promptly sentenced to an 8-year jail sentence. We do it at the Federal level and get the good Government award.

We loot the Social Security pension fund, the Medicare trust fund, the civil service pension trust fund, the military retirees' trust fund. They even had in the reconciliation bill —and I put in an amendment—the looting of the airport and airways improvement fund, whereby the moneys that are supposed to go to the improvement of the airways instead is going to the deficit.

Now the cabal, the conspiracy that they call a conference committee has the unmitigated gall to provide as follows, and I read:

> The Senate recedes to the House with modifications.
>
> 3006 of this title provides that expenditures from the universal service fund under part 54 of the Commission's rules for the fiscal year 2002 shall not exceed the amount of revenue to be collected for that fiscal year, less [blank] billion dollars.
>
> Section 3006(B) further provides that any outlays not made from the universal service fund in fiscal year 2002 under subsection (A) are immediately available commencing October 1, 2002.
>
> The conferees note that this subsection shall not be construed to require the amount of revenues collected under part 54 of the Commission's rules to be increased.

What in the world, how else is it going to be done? If you take the amount of the funds necessary to keep universal service constant, less X billion dollars or million dollars, whatever, that they want to fit in here for a budget fix, then the companies and the associations through their companies that make the contributions are going to have to immediately either cut out the service under the service fund and the rules and regulations of the entity that controls it or raise the rates, and then the politicians will all run around saying, "I'm against taxes, I'm against rate increases," when they are causing it in a shameful, shameless way in this particular provision and not even put in the amount. They have a blank here, and they are going to fill in the amount, and it is another smoke and another mirror and another loot.

Oh, yes, wonderful. We pass overwhelmingly the Pension Reform Act to make sure that it is a trust and it can be depended upon, and here, in the very same Congress, we come around and we loot all the particular funds, and now we find a private one. Maybe they will get the Brownback fund before they get through, if they can find it, and add that to it, too. They can get anybody's fund and put something down in black and white and they say, "Oh, what good boys we are. We put in our thumb and pulled out a plum, and we balance the budget."

Turn to page 4 on the conference report on a so-called balance budget agreement and report for the 5-year period terminating fiscal year 2002, and on page 4, line 15, the word is not "balance," the word is "deficit," $173.9 billion deficit.

Yet, the print media—I am glad this is on C-SPAN so the people within the sound of my voice can at least hear it, because they are not going to print it—the media goes along with the loot, and then they wonder why the budget is not balanced. If we only level with the American people, they would understand you can't cut taxes without increasing taxes.

We have increased the debt with that particular shenanigan to the tune now of $5.4 trillion with interest costs on the national debt of $1 billion a day. So when you cut down more revenues to pay, you increase the debt, you increase the interest costs, so you get reelected next year, because I stood for tax cuts, but they won't tell them that with the child tax cut that they have actually increased the tax for the child. Now that is at least in the Congressional RECORD in black and white.

I yield the floor.

Mr. DOMENICI. Mr. President, I rise in support of S. 1022, the Commerce, Justice, State, and the Judiciary appropriations bill for fiscal year 1998. The Senate bill provides $31.6 billion in budget authority and $21.2 billion in new outlays to operate the programs of the Department of Commerce, Department of Justice, Department of State, the Judiciary and Related Agencies for fiscal year 1998. When outlays from prior-year budget authority and other completed actions are taken into account, the bill totals $31.6 billion in budget authority and $29.4 billion in outlays for fiscal year 1998. The subcommittee is within its revised section 602(b) allocation for budget authority and outlays.

Mr. President, I commend the distinguished subcommittee chairman, Senator GREGG, for bringing this bill to the floor. It is not easy to balance the competing program requirements that are funded in this bill. I thank the chairman for the consideration he gave to issues I brought before the subcommittee, and his extra effort to address the items in the bipartisan balanced budget agreement. It has been a pleasure to serve on the subcommittee.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

S. 1022, COMMERCE-JUSTICE APPROPRIATIONS, 1998; SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 1998, in millions of dollars]

	Defense	Non-defense	Crime	Mandatory	Total
Senate-Reported bill:					
Budget authority	275	25,587	5,225	522	31,609
Outlays	322	25,188	3,381	532	29,423
Senate 602(b) allocation:					
Budget authority	297	25,588	5,225	522	31,632
Outlays	322	25,479	3,401	532	29,734
President's request:					
Budget authority	257	26,114	5,238	522	32,131
Outlays	286	25,907	3,423	532	30,148
House-passed bill:					
Budget authority.					
Outlays.					
SENATE-REPORTED BILL COMPARED TO:					
Senate 602(b) allocation:					
Budget authority	(22)	(1)	....	....	(23)
Outlays	....	(291)	(20)	....	(311)
President's request:					
Budget authority	18	(527)	(13)	....	(522)
Outlays	36	(719)	(42)	....	(725)
House-passed bill:					
Budget authority	275	25,587	5,225	522	31,334
Outlays	322	25,188	3,381	532	29,423

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

CARBON MONOXIDE VIOLATIONS

Mr. MURKOWSKI. Mr. President, as we consider funding for the Environmental Protection Agency, I would like to raise the issue of Clean Air Act carbon monoxide violations in my home town of Fairbanks with the chairman of the Environment and Public Works Committee, Senator CHAFEE.

As the chairman knows, Fairbanks has one of the highest rates of temperature inversions in the world. When such inversions occur, pollutants from any source in the area are trapped at extremely low altitudes. For example, it is not uncommon to see the smoke from house chimneys trapped directly above a house rather than disbursed in the atmosphere as in other cities nationwide.

While I would have preferred that the EPA not go forward with a bump-up on the rating of Fairbanks' air from moderate to serious, I recognize that this bill is not the place to accomplish that goal. I would like to point out that in the past 20 years, Fairbanks has reduced its violation days from 160 to as low as 1 last year. It is these last violations that are causing difficulties for communities nationwide. However, Fairbanks may never be able to prevent several violations per year due to its unique and extreme cold weather. It is my hope that the EPA would work with Fairbanks to develop strategies to mitigate the pollution that is so severely magnified by the extreme cold weather of my hometown.

Mr. STEVENS. I want to reiterate the concerns expressed by my colleague, Senator MURKOWSKI. The reality may be that no matter what Fairbanks does, it may never be able to comply with EPA standards because of its geographic location.

Mr. CHAFEE. I thank the Senators from Alaska for their remarks about carbon monoxide violations in Fairbanks. Their hometown has dramatically reduced the number of exceedences over the past 20 years and should be recognized for this success. It is my hope that the EPA will continue to work with Fairbanks to devise pollution reduction strategies that recognize the unique conditions that exist in Fairbanks.

Mr. MURKOWSKI: I thank my friend from Rhode Island.

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. CHAFEE. Mr. President, I want to take a moment to discuss one provision in the legislation now before the Senate. Under the heading of Related Agencies, the Commerce-State-Justice appropriations bill provides funding for the Office of the U.S. Trade Representative.

As my colleagues know, our Nation's Special Trade Representative, backed by the team of staff at USTR, is responsible for negotiating and administering trade agreements and coordinating overall trade policy for the United States. Those are significant responsibilities, and they are critical to the economic interests of American firms, workers, consumers, and families.

For an agency with such significant duties, USTR does not consume much in the way of taxpayer monies. Annual funding for USTR has hovered at just over $20 million for the past 5 years. In terms of the Federal budget—or for that matter of the several other agencies funded by this bill—$20 million is a mere pittance.

I might say that for what we get in return, the funds spent on USTR represent quite a bargain. Thanks to USTR, we have in place trade agreements and policies that allow our companies to compete successfully worldwide. And where barriers remain, the USTR team works continuously to make further progress. Their work over the years has affected billions of dollars in U.S. trade and contributes enormously to the health of the overall U.S. economy.

Now, USTR does not require much in funding because for the most part, appropriations are spent on two items: salaries and travel. Those basic necessities—the salaries that pay the staff, and the travel that is required for the various ongoing negotiations with our trading partners around the world—make up the bulk of USTR's financial needs. There is not much fat there. Therefore, every dime they get is critical.

I want to commend the chairman of the Commerce-State-Justice Subcommittee for allocating the full budget request for USTR for fiscal year 1998. Under his bill, the Office of the

USTR will receive $22,092,000, exactly what the administration sought. I want to thank him for that.

Let me raise one concern, however, that I know is shared by the leadership and most members of the Senate Finance Committee. Since the January 1995 implementation of the Uruguay round agreements and the WTO, USTR has taken on an enormous new docket of cases in which the United States is involved, and all of these cases now come with strict deadlines. As of July 1, there were pending some 47 WTO or NAFTA cases in which the United States is a plaintiff, a defendant, or otherwise a participant. That is quite a workload. Yet despite the increase, USTR has not increased its career legal staff. The number of lawyers and litigators now on staff is virtually the same as in the pre-WTO days. USTR has just 12 lawyers in Washington, with 2 more in Geneva, and only 2 of them are able to devote themselves fulltime to the international litigation. That dearth of staff makes no sense—and only hurts our efforts to win our cases.

I believe USTR must have the resources and personnel that it needs to fulfill its responsibilities. While I am delighted that USTR received its full budget request, I must say that the budget request amount is simply not realistic for an agency facing these new assignments. Even a modest increase of, say, $1 million—which again, in terms of the federal budget is not even visible—would make a significant and positive difference to the ability of USTR to carry out its work. And that in turn would only benefit US workers and families, and the overall US economy.

I want to urge USTR to press the Office of Management and Budget to recognize their new workload. I have mentioned this repeatedly to Ambassador Barshefsky and I hope she will act on it. And I want to exhort OMB in the strongest terms possible to adjust next year's budget request accordingly for USTR. I am confident that such an adjustment would be met with favor by the members of the authorizing committee, namely the Senate Finance Committee.

If OMB fails to act, then it may fall to Congress to do the right thing, and make the small but necessary increased investment in this agency. Indeed, I seriously considered taking such a step during today's debate. But for now I will wait. Thanks to the good work of the chairman, we do have in this bill $22 million in full funding for USTR, and I intend to do what I can to make sure that that full $22 million becomes law. However, I call upon the administration in no uncertain terms to ensure that in the budget submitted next year, USTR is provided the resources they need.

Mr. McCAIN. Mr. President, I am happy to say that, after reviewing the bill before the Senate, I find relatively few examples of pork-barrel spending. I stress, relatively few, since I can still find a few objectionable provisions in the bill and many in the report. But there are far fewer problems with this bill than the last few appropriations bills we have passed in the Senate.

This bill contains the usual earmarks for centers of excellence. In particular, bill earmarks $22 million for the East-West Center in Hawaii and $3 million for the North/South Center in Florida.

These amounts represent a combined increase of $16.5 million above the administration's request.

Last week, I spoke about the problem of Congress establishing, at taxpayer expense, centers for the study of virtually every subject, irrespective of the availability of research and analysis on those issues already available from existing universities and private research institutions.

This enormous increase in funding for the East-West and North/South Centers is incomprehensible given the dire state of U.S. diplomatic representation in many of the newly independent countries of the post-cold-war world. They are particularly inexplicable in light of the committee's decision to zero out the funding for the National Endowment for Democracy, a decision which the Senate fortunately reversed earlier today.

Mr. President, I would not be at all surprised to see in next year's bill funding for a North-by-Northwest Center, perhaps to include a banquet room honoring the last Alfred Hitchcock.

The bill also contains language that directs the U.S. Marshals Service to provide a magnetometer and not less than one qualified guard at each entrance to the Federal facility located at 625 Silver, S.W., in Albuquerque, NM. I must say that this is perhaps the most specific earmark I have ever seen, even providing an address to ensure the assets are delivered to the proper beneficiaries.

Once again, though, the Appropriations Committee has contributed a few new and innovative ways to earmark port-barrel spending.

The most interesting is language that I will call a reverse earmark. The report earmarks $8 million to begin addressing the backlog in repair and maintenance of FBI-owned facilities, other than those located in and around Washington, DC and Quantico, VA. I wonder whether my colleagues from this area were aware that they had been singled out for exclusion from an earmark.

Other report language earmarks are more typical, such as: Various earmarks for southwest border activities, although I note that my colleagues singled out the New Mexico and Texas borders for special attention to combat illegal border crossing and drug smuggling problems. I was of the impression that these problems were prevalent across the entire border with Mexico, including Arizona and California.

Similarly, the report requires that two-thirds of the additional 1,000 border patrol agents are to be deployed in Texas sectors, with the remaining 300-plus agencies to be scattered across New Mexico, Arizona, or California. The report earmarks $1 million for Nova Southeastern University in Florida for the establishment of a National Coral Reef Institute to conduct research on, what else, coral reefs. And it also earmarks $1 million to the University of Hawaii to conduct similar coral reef studies. I suppose this might be considered a good idea to fund competitive research projects, except these institutions did not have to compete to get these funds, nor will they likely have to compete to continue to receive hand-outs to continue their coral reef research.

The report contains $410,000 for the Alaska Eskimo Whaling Commission, and $200,000 for the Beluga Whale Commission. It contains $2.3 million to reduce tsunami risks to residents and visitors in Oregon, Washington, California, Hawaii, and Alaska. And it earmarks $88 million in NOAA construction funds for specific locations in Alaska, Hawaii, South Carolina, Mississippi, and other States.

And finally, this bill contains earmarks for assistance to the U.S. Olympic Committee to prepare for the 2002 Winter Olympics in Utah. I found $3 million for communications and security infrastructure upgrades, $2 million to formulate a public safety master plan, and language directing that NTIA provide telecommunications support to the Utah Olympics similar to that provided in Atlanta last summer. As my colleagues know, this is just a small portion of the funding we will see channeled to the Utah Olympics. It is in addition to the money included in the supplemental passed earlier this year and in other appropriations bills that have already passed this body.

While the wasteful spending in this bill is less onerous than in other bills I have seen in the past 2 weeks, I still have to object strenuously to the inclusion of these earmarks and add-ons in the bill. We cannot afford pork-barrel spending, even the amount contained in this bill.

I ask unanimous consent that a list of the objectionable provisions in this bill be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Objectionable Provisions in S. 1022 FY 1998 Commerce/Justice/State/Judiciary Appropriations Bill

BILL LANGUAGE

Earmarks for funding for the National Advocacy Center in Columbia, South Carolina, which was authorized in 1993 as a center for training federal, state, and local prosecutors and litigators in advocacy skills and management of legal operations: $2.5 million for operations, salaries, and expenses of the Center, $2.1 million to support the National District Attorney's Association participation in legal education training at the Center.

U.S. Marshals Service is directed to provide "a magnetometer and not less than one qualified guard" at each entrance to a federal facility (including both buildings and related grounds) at 625 Silver, S.W., in Albuquerque, New Mexico

$125,000 of State Department Diplomatic and Consular Programs funding earmarked for the Maui Pacific Center

$22 million of USIA funds earmarked for the Center for Cultural and Technical Interchange between East and West in the State of Hawaii, and $3 million for an educational institution in Florida known as the North/South Center

Section 606 prohibits construction, repair, or overhaul of vessels for the National Oceanic and Atmospheric Administration in shipyards outside the U.S.

REPORT LANGUAGE

Department of Justice:

Various earmarks for Southwest Border activities, including: $281,000 for a Southwest Border initiative; $11.4 million for Southwest Border control; $29.7 million and the direction to allocate additional necessary resources to address border crossing and drug smuggling problems along the New Mexico and Texas borders; $39.3 million in construction and engineering funds for facilities at 29 specific locations along the Southwest Border

Earmark of not less than $468,000 of the U.S. Marshals Service funding for witness security New York metro inspectors

Earmark of $700,000 for acquisition and installation of video conferencing equipment in jails and courthouses in New York, Illinois, Utah, Colorado, Nevada, Washington, and sites to be determined in New Mexico and Texas after consultation with the Appropriations Committee

Language urging the FBI to favorably consider the FBI Center in West Virginia as the location for a new training program on the investigative use of computers, for which $1 million was earmarked

$1.5 million to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and automation of fingerprint identification services

Increase of $8 million to begin addressing the backlog in repair and maintenance of FBI-owned facilities, other than those located in and around Washington, D.C. and Quantico, Virginia

Earmarks of a portion of the increased funding and positions for identification, apprehension, detention, and deportation of illegal aliens, as follows: $48.3 million for additional detention capacity, including 300 beds in New York, 300 bed in Florida, and 400 beds in California facilities; $5 million for the Law Enforcement Support Center and expanded services of the Center in Utah.

Directive to deploy not less than two-thirds of the 1,000 new border patrol agents in the Mafa, Del Rio, Laredo, and McAllen sectors in Texas

Earmarks of increased funding for inspection activities for: Full-time manning of three in-transit lounges at Miami International Airport; $4 million for dedicated commuter lanes, including equipment and facilities, at Laredo, Hidalgo, and El Paso, Texas, and Nogales, Arizona; $1.7 million to staff three new airports in Oregon, California, and Nova Scotia; $700,000 for automated permit ports in Maine, Vermont, New York, Montana, Washington, Alaska, and New York; $1.5 million for automated I–94 equipment at airports in New York, Newark, Seattle, San Francisco, Los Angeles, Honolulu, Chicago, Philadelphia, Miami, and Boston.

Earmark for activation of new and expanded prison facilities in Texas, California, Mississippi, South Carolina, Arkansas, Texas, West Virginia, Washington, and Ohio

Language urging the Bureau of Prisons to favorably consider development of MDTV at the Beckley Federal prison facility

$1 million equally divided between Mount Pleasant and Charleston, South Carolina police departments for computer enhancements and equipment upgrades

$3 million for the Utah Communications Agency to support security and communications infrastructure upgrades to counter potential terrorism threats at the 2002 Winter Olympic Games, and $2 million to allow the Law Enforcement Coordinating Council for the 2002 Olympics to develop and support a public safety master plan

$2 million as a grant to establish a Public Training Center for First Responders at Fort McClellan, Alabama

$3.85 million for the National White Collar Crime Center in Richmond, Virginia

Earmarks of Violent Crime Reduction Trust Fund dollars for: $190,000 for the Gospel Rescue Ministries of Washington, D.C. to renovate the Fulton Hotel as a drug treatment center; $2 million for the Marshall University Forensic Science Program; $2 million for a rural states management information system demonstration project in Alaska; $500,000 for the Alaska Native Justice Center; $1 million for the Santee-Lynches Regional Council of Governments Local Law Enforcement Program; $10 million for North Carolina Criminal Justice Information Network for automation and security equipment; $1 million for the National Judicial College; Language urging funding for the New Orleans-based Project Return and Chicago-based Family Violence Intervention Program

$2 million for Southwest Surety Institute at New Mexico State University

$1 million for a public-private partnership demonstration project in Las Vegas, Nevada, for a home for victims of domestic abuse

Language directing funding to complete design of the Choctaw Indian tribal detention facility in Mississippi

Language expressing the expectation that the National Center for Forensic Science at the University of Central Florida will be provided a grant for DNA identification work, if warranted

$850,000 of juvenile justice grants for the Vermont Department of Social and Rehabilitation Services to establish a national model for youth justice boards.

$1 million for the New Mexico prevention project.

$200,000 for the State of Alaska for a study on child abuse and criminal behavior linkage.

$1.75 million for the Shelby County, Tennessee, Juvenile Offender Transition Program.

Direction to examine proposals and provide grants, if warranted, to the following entities: Hill Renaissance Partnership, Lincoln Council on Alcoholism and Drugs, Hamilton Fish National Institute on School and Community Violence, Low Country Children's Center, and Comprehensive Juvenile Justice Crime Prevention and Juvenile Assessment Center in Gainesville, Florida.

DEPARTMENT OF COMMERCE

Language urging the Economic Development Administration to consider applications for grants for: Defense conversion project at University of Colorado Health Sciences Center in Aurora, Colorado; Passenger terminal and control tower at Bowling Green/Warren County, Kentucky, regional airport; Jackson Falls Heritage Riverpark in Nashua, New Hampshire; Bristol Bay Native Association; Redevelopment of abandoned property in Newark, New Jersey; Pacific Science Center in Seattle, Washington; Rodale Center at Cedar Crest College in Lehigh Valley, Pennsylvania; Minority labor force initiative in South Carolina; Cumbres and Toltec Scenic Railroad Commission in Arriba County, New Mexico, and Conejos County, Colorado; Fore River Shipyard in Quincy, Massachusetts; Native American manufacturer's network in Montana; National Canal Museum in Easton, Pennsylvania; Cranston Street Armory in Providence, Rhode Island.

Recommendation that Little Rock, Arkansas, Minority Business Development Center remain in operation.

Recommendation that Jonesboro-Paraground, Arkansas, Metropolitan Statistical Area be designated to include both Craighead and Greene Counties.

Language urging the NTIA to consider grants to University of Montana and Marshall University, West Virginia.

Language directing NTIA to fund telecommunications support for the Olympic Committee Organization in Utah to ensure that similar telecommunications facilities as were available at the Atlanta Olympics

$500,000 earmarked for South Carolina geodetic survey

$300,000 earmarked for Galveston-Houston operation of physical oceanographic real time system

$1.9 million earmarked for south Florida ecosystem restoration, including $1 million for Nova Southeastern University for establishment of a National Coral Reef Institute to conduct research on coral reefs, and $1 million for the University of Hawaii for similar coral reef studies

$450,000 for a cooperative agreement with the State of South Carolina Department of Health and Environmental Control to work on the Charleston Harbor project

Increase of $6.6 million above the request for the National Estuarine Research Reserve System, which serves 22 sites in 18 states and Puerto Rico

$4.7 million for the Pacific fishery information network, including $1.7 million for the Alaska network

Not less than $850,000, for the marine resources monitoring assessment and prediction program of the South Carolina Division of Marine Resources

$390,000 for the Chesapeake Bay resource collection program

$50,000 for Hawaiian monk seals

$500,000 for the Hawaii stock management plan

$300,000 for Alaska groundfish surveys and $5.5 million for Alaska groundfish monitoring

$410,000 for the Alaska Eskimo Whaling Commission and $200,000 for the Beluga Whale Committee

$1 million for research on Steller seals at the Alaska SeaLife Center, $325,000 for similar work by the state of Alaska, and $330,000 for work by the North Pacific Universities Marine Mammal Consortium

$400,000 for the NMFS in Honolulu for Pacific swordfish research

$250,000 to implementation of the state of Maine's recovery plan for Atlantic salmon

$150,000 to the Alaska Fisheries Development Foundation

$200,000 for the Island Institute to develop multispecies shellfish hatchery and nursery facility to benefit Gulf of Maine communities

$3.8 million to develop a national resources center at Mount Washington, New Hampshire, to demonstrate innovative approaches using weather as the education link among sciences, math, geography, and history

$500,000 for the ballast water demonstration in the Chesapeake Bay

$2.3 million to reduce tsunami risks to residents and visitors in Oregon, Washington, California, Hawaii, and Alaska

$3 million increase, with total earmark of $15 million, for the National Undersea Research Program, equally divided between east and west coast research centers, with the west coast funds equally divided between the Hawaii and Pacific center and the West Coast and Polar Regions center

$1.7 million for the New England open ocean aquaculture program

$1 million for the Susquehanna River basin flood system

$97,000 for the NOAA Cooperative Institute for Regional Prediction at the University of Utah

$150,000 to maintain staff at Fort Smith, Arkansas, to improve the ability of southern Indiana to receive weather warnings

Earmarks of $88 million in NOAA construction funds for specific locations in Alaska, Hawaii, South Carolina, Mississippi, and others

DEPARTMENT OF STATE:

$22 million for East-West Center (increase of $15 million), and $3 million for North/South Center (increase of $1.5 million)

SMALL BUSINESS ADMINISTRATION:

Language stating SBA should consider funding a demonstration in Vermont with the Northern New England Tradeswoman, Inc.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

METHAMPHETAMINE INITIATIVE

Mr. HATCH. Mr. President, I would like to thank the chairman of the subcommittee for taking what I believe is a necessary and meaningful step to turn the tide on a growing epidemic in this country, methamphetamine abuse. Although originally confined principally to the Southwest, including my home State of Utah, this epidemic is now moving East. Congress needs to take action to stop meth abuse.

Mr. GREGG. I could not agree more with the Senator from Utah. In my home State of New Hampshire, we are now experiencing our own influx of methamphetamine. I am seriously concerned about the effect that the proliferation of this drug is going to have upon the children of this Nation, particularly in New Hampshire.

Mr. HATCH. Meth abuse, unfortunately, is also rapidly becoming one of our top public health threats. According to the latest data released by SAMHSA in its "Drug Abuse Warning Network" report released last week the number of children aged 12 to 17 who have had to go to emergency rooms due to meth use increased well over 200 percent between 1993 and 1995 alone. The number of deaths associated with meth has also increased dramatically. From 1989 to 1994, methamphetamine accounted for 80 percent or more of clandestine lab seizures by the DEA. Clandestine lab crackdowns are at an all-time high, and many more are going undetected. Mobile labs in rural areas of Utah, including numerous locations in Ogden, Provo, and the St. George area are making meth with virtual impunity. Local law enforcement does not have the manpower, resources, or technical expertise to cover such vast areas in a truly meaningful fashion. Federal law enforcement, most principally the Drug Enforcement Administration, has agents specially trained in the areas of methamphetamine lab take downs, but the number of such specialists is extremely limited, and certainly is of insufficient numbers to be any sort of meaningful presence in Utah, as well as the rest of the Rocky Mountains.

I am deeply concerned about the Methamphetamine problem in Utah, as well as the rest of the Nation. In my State, distribution by Mexican traffickers has been expanded by using networks established in the cocaine, heroin, and marijuana trades. Wholesale distribution is typically organized into networks in major metropolitan areas, to include Salt Lake City. Utah has 2,500 isolated noncontrolled airstrips which provide a convenient means for drug smugglers to transfer methamphetamine to vehicles for shipment throughout the United States. Also, there are over 65 public airports throughout the State that are not manned on a 24-hour basis, but can be lit from a plane by using the plane's radio tuned to a specific frequency.

Major highway systems such as I–15, I–70, and I–80 serve to interconnect Mexico with Colorado, Utah, and Wyoming which allows Utah to be an ideal transshipment point to major markets on the west coast, as well as Minneapolis, Chicago, Detroit, and other Midwestern areas. It also results in such illegal drugs being readily accessible throughout Utah.

According to the DEA, methamphetamine seizures nationwide in 1996 were the highest in over a decade. Not easily dissuaded, particularly when such large profits can be made, Mexican traffickers have begun obtaining the necessary precursor chemicals for methamphetamine from sources in Europe, China, and India. These precursor chemicals needed to manufacture methamphetamine drugs are available in Utah and have contributed to the increased consumption of the drug. Further, ephedrine tablets are purchased in large quantities and then converted to methamphetamine.

For these reasons I believe that it is imperative that this Congress provide the necessary resources to the DEA to engage in a meaningful methamphetamine initiative. I fully support the Appropriations Committee's report to S. 1022 that recommends that $16,500,000 of the funds appropriated to the DEA be used to fund a methamphetamine initiative, to include an additional 90 agents and 21 support personnel who will be tasked with implementing a broad approach for attacking methamphetamine abuse in this country. I strongly encourage that some of these funds be applied to funding DEA agents with particularized methamphetamine training be stationed in Utah to combat this ever growing threat in my State, and to prevent the methamphetamine lab activities in Utah from continuing to harm other States throughout this Nation.

Mr. GREGG. It is my intention that these new agents be allocated where they are most needed. Many States, such as New Hampshire and Utah are certainly experiencing the level of increased meth abuse this meth initiative is designed to address.

COOPER HOSPITAL'S TRAUMA REDUCTION INITIATIVE

Mr. LAUTENBERG. I would like to express my support for Cooper Hospital's Trauma Reduction Initiative.

Cooper Hospital is located in Camden, NJ, one of the most troubled cities in the Nation. Between 1994 and 1995, the number of violent crimes declined 4 percent nationwide, while in Camden they rose 8.6 percent. Homicides in Camden rose 28.88 percent, while homicides declined 6 percent nationally. With an estimated population of 82,000, Camden ranks as the sixth most violent city in the country when compared to all cities and towns.

Cooper Hospital's Trauma Reduction Initiative links hospital staff, community leaders, and churches throughout Camden as the frontline of crisis intervention. The Trauma Reduction Initiative represents a community-based approach to deal with the types of violence that disrupt our neighborhoods and burden our health care system.

According to Government research, by 2003, firearms will have surpassed auto accidents as the leading cause of injury death in the United States. But unlike victims of car accidents, who are almost always privately insured, four out of five firearm victims are receiving public assistance or are uninsured. Thus, taxpayers bear the brunt of medical costs that have grown to $4.5 billion a year in the past decade.

Cooper Hospital's violence prevention program is designed to help stop the spiral of violent crime and retaliation in Camden. This program could serve as a model for other cities to follow.

The Trauma Reduction Initiative has received funding from the Bureau of Justice Assistance. I ask my colleagues, the chairman and ranking member of the Commerce, Justice, State Appropriations Subcommittee, if they agree that the Trauma Reduction Initiative is worthy of BJA's continued support?

Mr. GREGG. I appreciate the concerns of the Senator from New Jersey about the disturbing amount of violent crime in Camden. I agree that, within the available resources, the Trauma Reduction Initiative is worthy of BJA's continued support.

Mr. HOLLINGS. I, too, share the concerns of the Senator from New Jersey about the escalating costs of firearm violence in our country. I agree with the chairman that, within the available resources, BJA should continue to support the Trauma Reduction Initiative.

TECHNICAL CORRECTIONS

Mrs. FEINSTEIN. Mr. President, I would first like to thank the chairman and ranking member of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee for joining Senator BOXER and myself in this colloquy regarding our amendment to make technical corrections to title I, section 119 of the Commerce-State-Justice appropriations bill. This section, as amended, will allow the Department of Justice and the Federal Emergency Management Agency to transfer surplus real property to State and local governments for law enforcement, fire fighting, and rescue purposes.

Mrs. BOXER. Mr. President, I would like to join my colleague from California in thanking the chairman and ranking member for all their assistance on this issue. I would also like to extend our appreciation to the chairman and ranking member of the Governmental Affairs Committee, without whose suggestions this amendment would not have gone forward. I am very pleased to cosponsor this amendment, which modifies the amendment I offered in the Appropriations Committee to include the Department of Justice Property Transfer Act.

Mr. GREGG. I thank my colleagues from California for their hard work in including this language in the bill. We all know that the police and fire departments are the first to respond to crises, and this change in law will facilitate local agencies in obtaining surplus Federal property for primary and specialized law enforcement and rescue training. I am pleased to support this change in law for the benefit of our communities.

Mr. HOLLINGS. I join my colleagues in recognizing the value of this language. I would like to ask if the Senator from California knows of any situations where this change in law would serve immediate benefit?

Mrs. FEINSTEIN. I would be pleased to answer that question. I was first made aware of the problems that current property transfer laws poses by the sheriff of Riverside County in southern California. The sheriff's office has obtained, by short-term lease, a portion of March Air Reserve Base. The sheriff's office has been using this land for joint law enforcement and fire and rescue training. This legislation will allow the sheriff's office to apply directly to the General Services Administration, which will coordinate the application and approval process with the Department of Justice and FEMA to transfer the necessary property. Once again, I thank my colleagues for their support of this legislation.

ABUSIVE AND EXPLOITATIVE CHILD LABOR

Mr. HARKIN. Mr. President, I would like to engage the chairman and the ranking member of the Commerce, Justice, State, and the Judiciary Subcommittee in a colloquy regarding abusive and exploitative child labor.

According to the International Labor Organization [ILO], some 250 million children between the ages of 5 and 14 are working in developing countries and the number is on the rise. I strongly believe that access to primary education reduces the incidence of child labor around the world. It is my understanding that the Asia Foundation supports efforts to improve access to primary education.

I would like to see some language in the conference report urging the Asia Foundation to continue its work in Pakistan. I know that our staffs' have conferred, and that you and the ranking member share my concern about abusive and exploitative child labor.

Mr. GREGG. I commend the Senator for his concern, and would welcome any report language he has regarding the matter. Though it is outside the scope of the conference, I will exploit any opportunity that presents itself that would allow language to be inserted in the conference report.

Mr. HOLLINGS. The Senator from Iowa has been working this issue hard, and I agree with the chairman.

KETCHIKAN SHIPYARD

Mr. MURKOWSKI. Mr. President, Ketchikan, AK, just north of the Canadian border in southeast Alaska, has recently suffered an extreme economic blow due to changes in Federal forest management policies. It is a town of just a few thousand people, and the loss of 406 jobs due to the closure of one of the town's major industries, a pulpmill, severely disrupted the community.

The need for economic revitalization in Ketchikan is great, but the available opportunities are limited. One potentially important opportunity is provided by a local shipyard, Ketchikan Ship and Drydock. However, the ability of this yard to contribute to the local economy is limited without a significant upgrade of its ability to handle a variety of vessel sizes.

It is my understanding that the subcommittee report on this appropriation recognizes similar situations in other areas by suggesting that the Economic Development Administration consider proposals which meet its procedures and guidelines.

Would the distinguished managers of the bill, my friends from New Hampshire and South Carolina, agree that if the EDA receives a proposal for the Ketchikan shipyard which meets its procedures and guidelines, the EDA should consider that proposal and provide a grant if the latter is warranted?

Mr. GREGG. Mr. President, the distinguished Senator from Alaska is correct. I would urge the Economic Development Administration to consider such a proposal that met its procedures and guidelines and urge it to provide a grant if it finds the proposal warranted.

Mr. HOLLINGS. Mr. President, I agree with the response by my friend from New Hampshire.

NIST FUNDING FOR TEXAS TECH UNIVERSITY WIND RESEARCH

Mrs. HUTCHISON. Mr. President, I would like to ask the distinguished Subcommittee Chairman, Senator GREGG, to engage in a colloquy on a matter of extreme importance to my State and a number of others, and that is the need for more research into wind and severe storm disasters and ways to protect people and property from catastrophic harm.

Mr. GREGG. Mr. President, I would be happy to yield to the Senator from Texas and engage in a colloquy.

Mrs. HUTCHISON. Mr. President, as you know, there have been a number of severe tornadoes, wind storms, hurricanes and other wind-related disasters in recent months which have killed scores of people and destroyed communities. Earlier this year, the small town of Jarrell, TX, experienced a tornado that killed 29 people, seriously injured many others, and caused millions of dollars in damage to homes and businesses. The President's home State of Arkansas was also hit by a wind disaster that resulted in loss of life. The home State of the Ranking Minority Member of the Subcommittee, Senator HOLLINGS is still rebuilding after the devastation of Hurricane Hugo in 1989.

Mr. President, there is important work being done at Texas Tech University to help improve design construction of buildings to make them more resilient to windstorms. The laboratory building will include space to house a wind tunnel, a structural and building component testing lab and a material testing lab. These laboratory facilities will be used to develop innovative building frames and components that are resilient to extreme winds and windborne debris and yet are economically affordable. The research will also produce results to help cope with the environmental effects of wind erosion and dust and particulate generation.

The Department of Commerce, through the National Institute of Standards and Technology, does wind research. NIST in particular is engaged in research that complements the Texas Tech project.

The Committee has provided $276,852,000 for the scientific and technical research and services (core programs) appropriation of NIST. Part of the increased amount is for continued research, development, application and demonstration of new building products, processes, technologies and methods of construction for energy-efficient and environmentally compatible buildings.

Senator GREGG, do you concur that it is the intent of the committee to direct $3.8 million in funds provided to NIST for scientific and technical research and services for cooperative research between NIST and Texas Tech University to pursue this important wind research?

Mr. GREGG. It is the intent of the Committee to direct $3.8 million of NIST's scientific and technical research and services funding provided in the bill for cooperative research with Texas Tech University. I look forward to working with the Senator from Texas to ensure that the additional funds provided for core programs for continued research, development, application and demonstration of new building products, processes, technologies and methods of construction supports cooperative wind research between NIST and Texas Tech University.

SMALL BUSINESS DEVELOPMENT CENTERS

Mr. CHAFEE. I wonder if I could get the attention of the distinguished manager of the bill, Commerce, Justice, State Appropriations Subcommittee Chairman JUDD GREGG. I have a proposal related to small business development centers, and I'd like to get him to comment on it.

Mr. GREGG. I'd be happy to.

Mr. CHAFEE. I thank the Senator. What I propose to do is give more SBDCs the tools they need to encourage small companies to start exporting. As the Senator knows, the SBDCs are doing a terrific job helping small business owners devise business plans, marketing strategies, and so forth, but many of them simply don't have the capacity to offer advice on how to export.

We ought to try to change that, in my view. Exporting is the name of the game today—even for small businesses. And one way to do that would be to broaden access to a successful small business export promotion program called the International Trade Data Network, or ITDN.

Now, what is the ITDN? The ITDN is a computer-based service that small business owners can use to retrieve a stunning amount of international trade data—compiled both from Federal Government sources and the private sector. With a few quick keystrokes, individuals can read about everything from market demographics to descriptions of upcoming trade missions to explanations of relevant export and import regulations to potential contract leads. Small businesses anxious to export can learn about virtually every industry and virtually every country.

The ITDN was developed in 1988 by the Export Assistance Center at Bryant College in Smithfield, RI, and it's been a big help to literally hundreds of Rhode Island's small businesses. In fact, 18 companies in Rhode Island use the ITDN every single day.

Listen to some of these endorsements from Rhode Island business owners. One said, "The information made available through the ITDN is an integral part of our Pre-Entry Level Market Analysis." Another reported, "I find the ITDN to be a state-of-the-art, user friendly software that is a one-stop shop for international information. It is a vital tool for businesses today that need to survive in a global environment."

But right now, only 30 or so of our 960 Small Business Development Centers have direct access to the ITDN. So what I'd like to do is expand the program, so that SBDCs all across the country are connected to it. Specifically what I have in mind is converting the ITDN to an internet-based website, and establishing an Interactive Video Trade Conferencing Center at each State's lead small business assistance office. My proposal would also make the ITDN technology available to the Approximately 2,500 SBDC sub-centers across the country.

As I understand the situation, SBDCs are already authorized to conduct export promotion activities under Section 21 of the Small Business Act. In fact, representatives of Bryant College met with the SBA's Associate Administrator for the SBDC program earlier this year to discuss this proposal, and received a very positive response. For one reason or another, however, the SBA has been reluctant to dedicate any money to this purpose.

The 1988 Commerce, Justice, State Appropriation bill contains $75.8 million for the SBDC program, an increase of some $2.3 million over the 1997 funding level. In talking with the folks at the Export Assistance Center at Bryant College, it's my understanding that expanding the ITDN could be done over 2 years, with a first year cost of about $925,000. I'd ask the distinguished manager if I could get his endorsement of my proposal.

Mr. GREGG. I appreciate the Senator's interest in this matter, and I agree that we ought to look for ways to increase American small businesses' capacity to export.

Having looked at the Senator from Rhode Island's proposal, and listened to his remarks, I think that the ITDN program could be an excellent tool for opening international markets. I strongly encourage the Small Business Administration to make funds available for the expansion of the ITDN in fiscal year 1998.

Mr. CHAFEE. I want to thank my friend from New Hampshire for his support for this initiative.

"MADE IN THE USA" ADVERTISING

Mr. KOHL. I understand that the FTC has proposed to weaken the standard for "Made in the U.S.A." advertising from "all to virtually all" U.S. content to "substantially all" U.S. content. The proposal sets forth two alternative safe harbors for "Made in the U.S.A." claims: 75 percent U.S. content—U.S. manufacturing costs represent 75 percent of the total manufacturing costs for the product and the product was last substantially transformed in the U.S. or; two level substantial transformation—The product was last substantially transformed in the United States and all significant inputs were last substantially transformed in the United States.

I also understand that the new proposed guidelines would have the effect of allowing products made with 25 percent or more foreign labor and foreign materials to be labeled "Made in the U.S.A." In some cases, the FTC's proposed guidelines would allow products made entirely with foreign materials and foreign components to be labeled "Made in the U.S.A."

The "Made in the U.S.A." label, a time-honored symbol of American pride and craftsmanship, is an extremely valuable asset to manufacturers. Allowing this label to be applied to goods not wholly made in America will encourage companies to ship U.S. jobs overseas because they can take advantage of the cheaper labor markets while promoting their products as "Made in the U.S.A." For products not wholly made in the U.S.A., companies already can make a truthful claim about whatever U.S. content their products have—e.g., "Made in the U.S.A. of 75 percent U.S. component parts" or "Assembled in the U.S.A. from imported and domestic parts". However, if manufacturers seek to voluntarily promote their products as "Made in the U.S.A." they must be honest in that promotion and only apply the "Made in the U.S.A." label to products wholly made in the U.S.A.

Mr. GREGG. I am aware of the concerns expressed by my colleague on the Appropriations Committee and share the Senator's concerns on the need to protect American jobs. My subcommittee has jurisdiction over the FTC and you can be assured that we will closely watch any action taken by the FTC regarding the current standard for "Made in the U.S.A."

Mr. HOLLINGS. I too want to assure the Senator that our Subcommittee will closely monitor any actions on the FTC's part to change the "Made in the U.S.A." designation. The "Made in the U.S.A." label should continue to assure consumers that they are purchasing a product wholly made by American workers.

Mr. KOHL. I thank Senator GREGG and Senator HOLLINGS for their comments on this important issue. I am reassured by their interest in this matter.

JEFFERSON PARISH COMMUNICATIONS SYSTEM

Mr. BREAUX. Mr. President, I rise to discuss with the distinguished chairman of the subcommittee, Senator GREGG, the distinguished ranking member of the subcommittee, Senator HOLLINGS, and my distinguished colleague from Louisiana, Senator LANDRIEU, an important safety issue facing Jefferson Parish, LA.

As my colleagues know, the Jefferson Parish Sheriff's Office is one of the most progressive and notable law enforcement offices in the country. Unfortunately, they have been forced to use a conventional 450 MHz UHF radio system that is far too small and antiquated to handle current traffic volumes and to provide the secure and varied communications capabilities necessary in today's law enforcement environment. Replacing this old system with a new 800 MHz digital system is necessary to ensure the safety of its residents and guests, and to enhance the operational efficiencies of the sheriff's office.

Hurricane Danny recently demonstrated the dire need for this new communications system. Grand Isle, off the southern-most part of Jefferson Parish, is a barrier island with approximately 2,500 residents. There is, however, only one road leading from Grand Isle to the mainland. When it appeared this road was at risk because of Danny's 70–75 mph winds and high tides, the sheriff's office decided to evacuate the island. Unfortunately, before the island could be safely evacuated, one of the radio towers was damaged and rendered inoperable by the hurricane. The sheriff's office was forced to borrow cellular telephones in order to evacuate the island.

Ms. LANDRIEU. The Senator makes a fine point, and I would like to add that the new communications system would also support inter-operability with most of the adjoining parishes and the city of New Orleans. This would mean expanded emergency capabilities throughout the region which are vital to the entire State of Louisiana.

Mr. BREAUX. Mr. President, as my colleague knows, the sheriff's office of Jefferson Parish has sought assistance in the past and has helped to highlight the need for Federal assistance to help local law enforcement agencies replace outdated communications equipment. In fact, the sheriff's office was influential in getting a discretionary grant program created in 1994 that would provide funds for these types of activities. However, Congress has consistently earmarked these funds, leaving no funds for grant applicants.

Ms. LANDRIEU. Mr. President, the Jefferson Parish Sheriff's Office has demonstrated its commitment to this project by allocating over 50 percent of the cost of this initiative in a dedicated escrow account. In a competition for funds, the sheriff's office, with its well developed procurement strategy and available matching funds, would no doubt prevail as a deserving candidate.

Mr. GREGG. I thank the Senators from Louisiana for bringing this issue to my attention. I understand that the new communication system for the sheriff's office in Jefferson Parish is a priority and I will give this request my attention and consideration in conference.

Mr. HOLLINGS. I too, thank the Senators from Louisiana and believe that this is a project worthy of attention in conference.

Mr. BREAUX. I greatly appreciate the assistance of the distinguished chairman and ranking member of the subcommittee in this matter. I would like to thank them and my colleague from Louisiana, Senator LANDRIEU, for joining me in this colloquy.

ODYSSEY MARITIME DISCOVERY CENTER EXHIBITS AND LECTURE SERIES

Mrs. MURRAY. Mr. President, I would like to urge the chairman and ranking member of the Commerce, State Justice Appropriations Subcommittee to join me in directing the National Marine Fisheries Service, through the Information and Analyses, Resource Information account, to provide $250,000 to the Odyssey Maritime Discovery Center in Seattle, WA.

The Odyssey Center is a new educational learning center opening in July, 1998. This Center will establish an educational link between the everyday maritime, fishing, trade, and environmental activities that occur in the waters of Puget Sound and Alaska, and the lessons students learn in the classroom. Through high-tech and interactive exhibits, over 300,000 children and adults per year will discover that what happens in our waters, on our coast lines, at our ports affects our State's and Nation's economic livelihood, environmental well-being, and international competitiveness. The Center wishes to establish an exhibits and lecture series to link the public, particularly school children, with the maritime, fishing, trade, and environmental industries. Named in honor of the great Senator of Washington, Warren G. Magnuson, this series would begin in 1998 and would serve as an educational resource on the sustainable development, uses, and protection of our seas and coastal waters. This series would provide a fitting tribute to Senator Magnuson, the founder of this Nation's Federal fisheries policies and the namesake of our principal fisheries management law, the Magnuson-Stevens Fishery Conservation and Management Act.

Mr. HOLLINGS. Mr. President, I join the Senator from Washington in supporting this exhibits and lecture series at the Odyssey Maritime Discovery Center and believe the National Marine Fisheries Service should provide $250,000 through the Information and Analyses, Resource Information account. I too feel this series will provide a fitting tribute to the former Senator from Washington and an important learning tool for young people.

Mr. GREGG. Mr. President, I also join the Senator from Washington in supporting this lecture series. I think Senator Magnuson would be honored by this educational effort to teach children about the ways of the sea, and the economic and ecological ways of life that depend on it.

Mrs. MURRAY. I thank the chairman and ranking member of the Subcommittee for their support and interest.

Mr. GORTON. Mr. President, I join in support of this effort on behalf of the Odyssey Maritime Discovery Center and I applaud Senator MURRAY's efforts on the Center's behalf.

WOMEN'S BUSINESS CENTERS

Mr. DOMENICI. Mr. President. On June 12, I introduced in behalf of myself and Senator BOND, along with 24 other cosponsors, a bill to strengthen the Small Business Administration's [SBA] women's business centers program. This bill, S. 888, the "Women's Business Centers Act of 1997," reflects our commitment for a stronger and more dynamic program for women-owned businesses.

I am pleased that the Small Business Committee has included the text of this bill into its 3-year reauthorization of the Small Business Act. It is anticipated that this reauthorization bill will be considered by the Senate within the next few months. The language in the reauthorization bill, as stated in the "Women's Business Centers Act of 1997," increases the annual funding authorization for the women's business centers to $8 million from the present level of $4 million, authorizes the centers to receive funding for 5 years rather than the present 3 years, changes the matching Federal to non-Federal funding formula, and enables organizations receiving funds at the date of enactment to extend their program from 3 to 5 years.

Since the Small Business Committee's reauthorization bill has not yet been considered by the Senate, the additional funds for the women's business centers' program are not included in S. 1022. I do want, however, to thank Senator GREGG, Chairman of the Commerce, State, Justice, and Judiciary Subcommittee of the Senate Appropriations Committee, for providing full funding of the authorized $4 million for 1998. This is most appreciated by all of us who support the women's business centers' activities, and it is especially important since the House has requested $1 million less for this program.

It will be most beneficial if the Small Business reauthorization bill is considered and passed in the Senate and House prior to conference on this appropriations measure. I draw my colleagues' attention to this issue because absent the higher authorized funds of $8 million for the women's centers' program, it means in 1998 we may not be able to achieve the expansion of this program as we intended. There will be insufficient funds to expand the program into States who presently do not have women's centers and existing programs cannot extend their programs from 3 to 5 years. This is a serious problem because we are well aware of the positive benefits of the women's business centers in helping women entrepreneurs, the fastest growing group of new small businesses in the United States. These business centers are able to leverage public and private resources to help their clients develop new businesses or expand existing ones, and their services are absolutely essential for the successful and continued growth of this sector of our economy.

I am also concerned that because there are insufficient funds to expand the women's business centers' program, existing centers will not be able to extend their activities from the present 3-year grant program to a 5-year schedule. These existing centers in approximately 29 States have proven track records of support to women entrepreneurs. The Office of Women's Business Ownership within the SBA will continue its administration of the overall program and will be able to develop a few new sites in States that do not have centers; however, the office is not yet authorized to extend funding an additional 2 years for existing sites. This is most regrettable because these successful existing centers desperately need these small amounts of funds to continue their professional assistance to their women-owned business clients.

Mr. President, I want to once again go on record that I am dissatisfied that the SBA has not given appropriate attention to the women's business program. It has failed to provide sufficient professional personnel to the Office of Women's Business Ownership in order to carry out its important tasks. It has repeatedly requested less funding than authorized for the program despite the fact that this is one of the most successful of all SBA programs. To my knowledge, it has never come to Congress and requested additional monies for the program; instead, it has expected Congress to do SBA's work in trumpeting the successes of this small but vital program. I find it most discouraging that while we in Congress are well aware of the outstanding work of the women's business centers—and the administration's repeatedly publicized the success stories last year—there appears to be minimal support within SBA for expanding the work of this very small program. This is a loss to the agency, and it is most assuredly a loss to countless thousands of women entrepreneurs, let alone a loss to our overall national economy.

We must keep in mind that the funds in this bill for the women's business centers reflect those appropriated in 1997, and, therefore, the expansion of this program as envisioned in S. 888, the "Women's Business Centers Act of 1997" and the reauthorization of the Small Business Act, may be delayed. As evidenced by cosponsorship of S. 888, a fourth of the Senate, on a bipartisan basis, supports expansion of the women's business centers' program. We need to be aware of the consequences of this and do everything we possibly can to provide the support this critical and highly successful program needs in the future. Thank you.

THE VERMONT WORLD TRADE OFFICE

Mr. LEAHY. Mr. President, I would like to take a moment to highlight a program in my State which I believe is a model the Small Business Administration [SBA] should consider investing in. Small businesses are the driving force of Vermont's economy. An important reason for their success in the State has been the development of a healthy export market for the goods they produce. Forty percent of Vermont companies, employing some 70,000 Vermonters, are engaged in some degree of export trade. In 1995, Vermont created and funded the Vermont World Trade Office [WTO] to provide technical assistance to Vermont businesses and information on foreign trade opportunities. The office has been overwhelmed by requests from companies interested in exploring trade opportunities. To meet that demand and make the office more convenient to Vermont businesses, the WTO hopes to open satellite offices in other parts of the State, expand services and offer additional seminars for interested businesses. Funding from the SBA would make this expansion possible. I believe that a modest investment by SBA would yield a valuable demonstration of the importance of export assistance in building and expanding markets for small businesses. Does the Senator from New Hampshire agree that this would be an appropriate use of SBA funding?

Mr. GREGG. Mr. President, I thank the Senator from Vermont for bringing this project to my attention. I agree that many small businesses do not have adequate access to information on building an export market for their goods. A demonstration of the importance of this assistance by the Vermont World Trade Office would benefit other States considering a similar system. I urge the SBA to consider providing the Vermont World Trade Office with $150,000 to conduct such a demonstration.

VIOLENCE INSTITUTE

Mr. LAUTENBERG. I want to express my support for the University of Medicine and Dentistry of New Jersey's [UMDNJ] Violence Institute, which provides valuable assistance to our efforts to curb violent behavior in all aspects of our society. The Violence Institute's programs are not directed solely at violent behavior of a criminal nature, but also focus on issues of domestic violence, and violence against women and children. I want to note that the Violence Institute was one of only a handful of projects recommended for special funding in the conference report accompanying the fiscal year 1997 Commerce, Justice, State appropriations bill.

I ask my colleagues, the chairman and ranking member of the Commerce, Justice, State Appropriations Subcommittee, Senators GREGG and HOLLINGS, if they agree that the Violence Institute's initiatives to curb violent behavior are consistent with the Department of Justice's objectives and that such programs are worthy of the Department's support?

Mr. GREGG. I appreciate the concerns of my colleague from New Jersey about reducing violent behavior in our society, and I agree that the Violence Institute provides valuable assistance in addressing the epidemic of violent crime in the United States. Successful programs that provide research into the basic causes of violence, and that develop initiatives to prevent the spread of violent crime, can be valuable tools in our Nation's fight against crime. I believe that programs such as the ones conducted at the Violence Institute are worthy of the Department's support.

Mr. HOLLINGS. I, too, share the concerns of the Senator from New Jersey about violent crime in our society. The Violence Institute's research in this area makes a significant contribution to the Department of Justice's efforts to address this problem, and I agree with the chairman that programs like the Violence Institute are worthy of the Department's support.

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Mr. LEAHY. Mr. President, Chairman GREGG and the Appropriations Subcommittee on Commerce, Justice, State and the Judiciary recognize in the Report for S. 1022 that the "pace of technological change in the telecommunications industry poses enormous challenge" both to law enforcement and national security agencies in conducting court-authorized wiretaps and "in the conduct of foreign counterintelligence and terrorism investigations in the United States." The Communications Assistance for Law Enforcement Act [CALEA], which I sponsored in the 103d Congress, addressed this public safety and national security problem, after considerable debate and hearings in the Judiciary Committees of both the House and the Senate. I commend the chairman and the subcommittee for recognizing "that digital telephony is a top law enforcement priority."

CALEA authorizes $500 million for the Attorney General to pay telecommunications carriers for costs associated with modifying the embedded base of equipment, services, and facilities to comply with CALEA. Nevertheless, S. 1022 does not include any funding for this law, based upon the Committee's finding "that the Bureau has adequate resources available."

Moreover, the report recommends that no funds be expended for CALEA until the following requirements are met: First, the Bureau creates a working group with industry officials approved by the House and Senate Appropriations Committees, and second, the working group develops a new "more rational, reasonable, and cost-effective CALEA implementation plan" that is satisfactory to the Senate Appropriations Committee.

Would Chairman GREGG agree with me that in addition to the Appropriations Committees, the Judiciary Committees of both the House and Senate, which authorized CALEA, should also be involved in approving the industry officials on the working group and any plan provided by the working group?

Mr. GREGG. Yes. It is appropriate for the Committees on the Judiciary of both the House and the Senate to be involved and that was the intention of the committee when it prepared the report.

Mr. HOLLINGS. Yes. I agree with Senators LEAHY and GREGG.

Mr. LEAHY. This addresses one of the concerns I have with the report's new requirements for expenditures of money for CALEA implementation.

I am also concerned about whether creation of the working group tasked with developing a CALEA implementation plan will delay, rather than facilitate, implementation of this law and compliance by telecommunications carriers with the four law enforcement requirements enumerated in this important law. Indeed, the report places no time constraints on creation of this working group or on when the Bureau-working group implementation plan must be submitted to the specified committees.

Further delay in implementation of CALEA poses risks for the effectiveness of our law enforcement agencies. As the committee acknowledges, they are already encountering problems in executing court-authorized wiretaps. The industry, with the input of law enforcement, has drafted a specifications standard for CALEA. I am concerned that objections from the Bureau over elements in that proposed standard are delaying its adoption. I would like to see the Bureau accept that standard and get on with CALEA implementation.

I am also concerned that the working group proposed by the committee will work behind closed doors, without the accountability that CALEA intended. We should make sure that any meetings of the working group will be open to privacy advocates and other interested parties.

I fully appreciate that questions have been raised about how the implementation of CALEA is proceeding. That is why, over a year ago, Senator SPECTER and I asked the Digital Privacy and Security Working Group, a diverse coalition of industry, privacy and government reform organizations, for its views on implementation of CALEA, and other matters. We circulated to our colleagues on June 20, 1997, a copy of this group's "Interim Report: Communications Privacy in the Digital Age." The report recommends that hearings be held to examine implementation of CALEA, how the Bureau intends to spend CALEA funds, and the viability of CALEA's compliance dates. This recommendation is a good one.

We should air these significant questions at an open hearing before the authorizing Committees. I would rather see the authorizing Committees work in that fashion with the Appropriations Committees to make funds immediately available and insure those funds are spent to establish a minimum standard that serves law enforcement's pressing needs, without some of the enhancements being proposed by the FBI that industry claims are delaying the process of implementation. The committees should insist on some priorities in terms of geographic need and capability. I think we could resolve this with a little oversight, and return to the spirit of reasonableness that characterize the drafting of CALEA.

TECHNICAL CORRECTIONS

Mr. GREGG. Mr. President, the following are technical corrections to the fiscal year 1998 Departments of Commerce, Justice, and State, the Judiciary and related agencies appropriations report: First, under "Title I—Department of Justice", on page 7, line 3, delete $17,251,958,000; and insert $17,278,990,000; on page 7, line 6, delete $826,955,000 and insert $853,987,000; and second, under "Title V—Related Agencies, Small Business Administration", on page 126, line 22, delete $8,756,000 and insert $8,756,000,000.

AMENDMENT NO. 979

Mr. GREGG. Mr. President, I ask unanimous consent that we now adopt the managers' amendment, which is the pending amendment No. 979.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 979) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 999 THROUGH 1021, EN BLOC

Mr. GREGG. Mr. President, I now send a series of amendments to the desk and ask unanimous consent that they be considered read and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to these amendments be inserted at this point in the RECORD, with all of the above occurring, en bloc.

These amendments have been cleared by both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 999 through 1021) were agreed to, as follows:

AMENDMENT NO. 999

At the appropriate place, insert the following: Notwithstanding any other provision of law, the Economic Development Administration is directed to transfer funds obligated and awarded to the Butte-Silver Bow Consolidated Local Government as Project Number 05-01-02822 to the Butte Local Development Corporation Revolving Loan Fund to be administered by the Butte Local Development Corporation, such funds to remain available until expended.

AMENDMENT NO. 1000

(Purpose: To require a non-profit public affairs organization to register with the Attorney General if the organization receives contributions in excess of $10,000 from foreign governments in any 12-month period)

On page 65, between lines 9 and 10, insert the following:

SEC. 120. (a) Section 1(d) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(d)) is amended by inserting after "The term 'agent of a foreign principal'" the following: "(1) includes an entity described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 that receives, directly or indirectly, from a government of a foreign country (or more than one such government) in any 12-month period contributions in a total amount in excess of $10,000, and that conducts public policy research, education, or information dissemination and that is not included in any other subsection of 170(b)(1)(A), and (2)".

(b) Section 3(d) of such Act (22 U.S.C. 613(d)) is amended by inserting ", other than an entity referred to in section 1(d)(1)," after "any person".

Mr. BINGAMAN. Mr. President, this amendment is basically a sunshine provision that would require nonprofit public affairs organizations to register with the Attorney General if such organizations receive contributions in excess of $10,000 from foreign governments in any 12-month period.

This provision would not affect churches, hospitals, or other nonprofit, 501(c)3 organizations which are not focused on public policy matters. In fact, this amendment only affects those public policy nonprofit organizations that do accept foreign government money.

Furthermore, this amendment does not prohibit or object to such foreign government contributions. It only requires that organizations publicly acknowledge such contributions—when they are over a threshold of $10,000 a year from all foreign government sources—by registering this information with the Attorney General under the Foreign Agents Registration Act.

Mr. President, I'm sure that many of my colleagues may be wondering what triggered the need for this legislation. Let me state that this amendment is not directed at any particular organization or nonprofit entity. This is simply a common-sense provision that will help make the public affairs environment healthier by the disclosure of when foreign government money is supporting a given nonprofit public affairs organization and when not.

These nonprofit organizations are organized for the public good and they are subsidized by the American people. To the degree that these organizations are weighing in on important public policy matters—particularly on our Nation's economic policies and defense strategies, but also in other public policy areas—and are receiving foreign government contributions to support their activities, I believe that the American public has the right to know that such foreign government contributions have been made to that organization.

Members of Congress and their staff meet regularly with representatives of many nonprofit public affairs organizations—which are permitted to engage in public education activities on the Hill. But while some organizations like the Japan Economic Institute and Korea Economic Institute are quite straightforward about their primary funding sources and register with the Attorney General that their sources of funding are foreign governments, some other nonprofit public affairs organizations actually try to keep from public view the fact that they receive substantial foreign government revenue.

When these groups meet with Members of Congress and staff, mail information all around the country, and organize public affairs events without ever disclosing the fact that their funding comes from other countries' national governments, something is wrong.

Mr. President, this amendment has a different target than the discussions going on about campaign finance reform. It is focused on a rather narrow window in the law which allows some nonprofits to be bolstered by foreign government funds while not having to be up front with the broader public.

I believe that our public policy process can only benefit by the disclosure that this legislation would require. And I trust that my colleagues will agree and hope that they will support this amendment which I am offering today.

AMENDMENT NO. 1001

At the appropriate place, insert the following new section:

SEC. . The Office of Management and Budget shall designate the Jonesboro-Paragould, AR Metropolitan Statistical Area in lieu of the Jonesboro, AR Metropolitan Statistical Area. The Jonesboro-Paragould, AR Metropolitan Statistical Area shall include both Craighead County, AR and Greene County, AR, in their entirety.

AMENDMENT NO. 1002

On page 29 of the bill, on line 18, before the ":" insert the following: ", of which $25,000,000 shall be for grants to states for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors".

Mr. BYRD. Mr. President, of the funds appropriated for law enforcement grants in the bill before us, my amendment would ensure that $25 million would be provided for grants to states for programs and activities to enforce state laws regarding youth access to alcohol. This amendment adds no money to the bill and needs no offset.

All states prohibit the sale of alcoholic beverages to minors. In addition, thee are a range of other laws regarding youth access to alcohol that states may have on the books. For instance, some states, in addition to prohibiting the sale of alcoholic beverage to minors, have laws prohibiting the consumption of alcoholic beverages by minors, and still others ban possession of alcoholic beverages by minors.

Mr. President, just today in The Washington Post there is an article regarding a sting operation in Arlington County in establishments that sell alcohol to minors. According to the officer in charge of the operation, minors purchased alcoholic beverages without any kind of I.D. check in 57 percent of the establishments visited. This is a disgrace, Mr. President, and, I am afraid, a not uncommon occurrence. I concur wholeheartedly with a quote of Eric, who is 19 years old and who participated in the sting operation. According to Eric, "We've figured out why we have an underage drinking problem." With the media and advertisements besieging our nation's youth with unrealistic messages about alcohol consumption combined with insufficient enforcement of laws already on the books, what you wind up with is, indeed, an "underage drinking problem." The article concludes by saying that County officials even warned establishments that they would be using underage people to buy alcohol, and, still, 57 percent of the time the underage participants in the operation were able to purchase alcohol without challenge. What would the percentage have been had the letters not been sent? Mr. President, I ask unanimous consent that the article from The Washington Post be printed into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALCOHOL SALES TO MINORS TARGETED—170 OF 294 BUSINESSES SOLD TO TEEN TESTERS

[From the Washington Post, July 24, 1997]

(By Brooke A. Masters)

When the Arlington County police decided to crack down on restaurants, hotels and stores that sell alcohol to minors, they were shocked by the results.

Since mid-June, they have sent 18- and 19-year-old testers to 294 establishments, and the testers were able to buy booze at 170 of them. Servers and clerks failed to check identification at everything from the Ritz-Carlton Hotel to two out of three restaurants in the Fashion Centre at Pentagon City to dozens of small convenience stores.

"We're making purchases at 57 percent of the places we go to. It's really absurd," said Lt. Thomas Hoffman, who is overseeing the sting. "We figured we'd get 30 percent."

Eric, a 19-year-old Virginia Tech sophomore who participates in the stings, said, "We've figured out why we have an underage drinking problem."

Eric, who is not being fully identified because he's still out trying to buy alcohol, and his fellow student aides wear recording devices when they enter a store or a restaurant. They carry no identification, so stores and restaurants can't claim that the testers provided fake IDs.

In restaurants, the students order drinks, and county police officers take over once the alcohol arrives, Hoffman said. They pour the drinks into evidence bottles, take pictures of the server and hand out arrest warrants.

In stores, the students take beer or wine up to the counter, pay for it and leave. Then an officer goes in and makes an arrest, he said. Often, the employees claim that they usually check ID or that the tester is a regular. The employees all have been charged with serving alcohol to a minor, a misdemeanor.

At Hard Times Cafe in Clarendon, the young female tester came in with an older man, and the server "looked at the guy and assumed he's her father and he wouldn't let her drink under age," said Su Carlson, the general manager. "We were wrong. But it's slightly entrapment. It's better to put an undercover person in an establishment, and if they see someone underaged drink, ID them."

The sting also has caught four underage people selling alcohol, which also is illegal, Hoffman said. One of those caught was a 10-year-old working beside her father at a family-run store, he said.

Testers have revisited 12 stores and restaurants after busting employees a first time, and two of them, a Giant pharmacy and a CVS drugstore, failed to card a second time, police records show.

"We are constantly educating our people about selling alcohol to minors with training sessions, booklets and videos," Giant Vice President Barry Scher said. "But we have 5,000 checkers, and we do the best we can."

The Virginia Department of Alcoholic Beverage Control has started administrative proceedings against 29 establishments where arrests have been made, and that's just the beginning. "It is our intention to file a charge against each and every establishment," said Philip Disharoon, assistant special agent in charge of the Alexandria/Arlington ABC office.

The sting, while it is Arlington's first in recent years, is not unprecedented in the Washington area. In 1994, Montgomery County sent underage drinkers to 25 county hotels and eventually cited 14 businesses for selling alcohol to minors in hotel rooms.

Nor did the operation come out of the blue: Arlington officials sent letters to all licensed stores, restaurants and hotels in April warning that they would be using underage people to buy alcohol.

Mr. BYRD. Mr. President, alcohol is the drug used most by teens with devastating consequences. According to statistics compiled by the National Center on Addiction and Substance Abuse, among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetimes experimented with alcohol. As I consistently remind my colleagues, in the last month, approximately 8 percent of the nation's eighth graders have been drunk. Eighth graders are 13 years old, Mr. President! Junior and senior high school students drink 35 percent of all wine coolers and consume 1.1 billion cans of beer a year. And I will repeat what is common knowledge to us all—every state has a law prohibiting the sale of alcohol to individuals under the age of 21. Knowing this, how is it then that two out of every three teenagers who drink report that they can buy their own alcoholic beverages? As if the dangers of youth alcohol consumption are not bad enough, statistics have shown that alcohol is a gateway to other drugs such as marijuana and cocaine.

Drinking impairs one's judgment and when mixed with teenage driving there are too often lethal results. In 1995, there were 2,206 alcohol-related fatalities of children between the ages of 15 and 20. For many years, I have taken the opportunity when addressing groups of youth West Virginians to warn them about the dangers of alcohol, and I have supported legislative efforts to discourage people, particularly young people, from drinking any alcohol. I am proud to have sponsored an amendment two years ago which requires states to pass zero-tolerance laws that will make it illegal for persons under the age of 21 to drive a motor vehicle if they have a blood alcohol level greater than .02 percent. This legislation helps to save lives and sends a message to our nation's youth that drinking and driving is wrong, that it is a violation of the law, and that it will be appropriately punished.

Our children are besieged with media messages that create the impression that alcohol can help to solve life's problems, lead to popularity, and enhance athletic skills. These messages coupled with insufficient enforcement of laws prohibiting the consumption of alcohol by minors give our nation's youth the impression that it is okay for them to drink. This impression has deadly consequences. In the three leading causes of death for 15 to 24 year olds, accidents, homicides, and suicides, alcohol is a factor. Efforts to curb the sale of alcohol to minors have high payoffs in helping to prevent children from drinking and driving death or injury.

There is a link between alcohol consumption and increased violence and crime, and I believe that directing funding to programs to enforce underage drinking and sale-to-minors laws will have a positive effect on efforts to address juvenile crime. According to the Center on Addiction and Substance Abuse at Columbia University, on college campuses, 95 percent of violent crime is alcohol-related and in 90 percent of campus rapes that are reported, alcohol is a factor. 31.9 percent of youth under the age of 18 in long-term, state operated juvenile institutions were under the influence of alcohol at the time of their arrest. These statistics are frightening and they need to be addressed.

This amendment will send a clear message to states that the federal government recognizes that enforcement of underage drinking laws is an important priority and that we are willing to back that message up with funds to assist states in their efforts. It is not good enough to simply urge better enforcement. We must provide the resources.

In addition, Mr. President, I would like to say to my good friend, the Chairman of the Judiciary Committee, Senator HATCH, that I intend to work with him when S. 10, the Violent and Repeat Juvenile Offender Act of 1997, is being reauthorized and before the Senate in order to authorize funding for this program in the coming fiscal years.

I call on my colleagues to support this amendment which will help states and localities better enforce youth alcohol laws and protect our children.

AMENDMENT NO. 1003

On page 86, line 3 after "Secretary of Commerce." insert the following:

SEC. 211. In addition to funds provided elsewhere in this Act for the National Telecommunications and Information Administration Information Infrastructure Grants program, $10,490,000 is available until expended: *Provided*, That this amount shall be offset proportionately by reductions in appropriations provided for the Department of Commerce in Title II of this Act, provided amounts provided: *Provided further*, That no reductions shall be made from any appropriations made available in this Act for the National Oceanic and Atmospheric Administration, National Institute of Standards and Technology and National Telecommunications and Information Administration public broadcasting facilities, planning and construction.

AMENDMENT NO. 1004

On page 29 of the bill, line 2, after "Center" insert the following: ", of which $100,000 shall be available for a grant to Roberts County, South Dakota; and of which $900,000 shall be available for a grant to the South Dakota Division of Criminal Investigation for the procurement of equipment for law enforcement telecommunications, emergency communications, and the state forensic laboratory".

AMENDMENT NO. 1005

Purpose: To improve the bill by amending section 305 to realign Guam and the Northern Mariana Islands with the United States Court of Appeals for the Twelfth Circuit)

On page 93, strike the matter between lines 14 and 15 and insert the following:

"Ninth .... California, Nevada.";

On page 93, strike the matter between lines 17 and 18 and insert the following:

"Twelfth .... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.".

On page 94, strike lines 14 through 19 and insert the following:

"(1) is in California or Nevada is assigned as a circuit judge on the new ninth circuit;

(2) is in Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington is assigned as a circuit judge on the twelfth circuit; and".

AMENDMENT NO. 1006

(Purpose: Sense of the Senate regarding half a century of service to U.S. taxpayer)

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE EXEMPLARY SERVICE OF JOHN J. R. BERG TO THE UNITED STATES.

Whereas, John H. R. Berg began his service to the United States Government working for the United States Army at the age of fifteen after fleeing Nazi persecution in Germany where his father died in the Auschwitz concentration camp; and,

Whereas, John H. R. Berg's dedication to the United States Government was further exhibited by his desire to become a United States citizen, a goal that was achieved in 1981, 35 years after he began his commendable service to the United States; and,

Whereas, since 1949, John H. R. Berg has been employed by the United States Embassy in Paris where he is currently the Chief of the Visitor's and Travel Unit, And, this year has supported over 10,700 official visitors, 500 conferences, and over 15,000 official and unofficial reservations; and,

Whereas, John H. R. Berg's reputation for "accomplishing the impossible" through his dedication, efficiency and knowledge has become legend in the Foreign Service; and,

Whereas, John H. R. Berg has just completed 50 years of outstanding service to the United States Government with the United States Department of State,

Therefore Be It *Resolved*, it is the Sense of the Senate that John H. R. Berg deserves the highest praise from the Congress for his steadfast devotion, caring leadership, and lifetime of service of the United States Government.

Mr. HARKIN. Mr. President it is my great pleasure to offer this sense of the Senate to recognize and commend John H.R. Berg for 50 years of service to the U.S. Government on behalf of myself and Senator WARNER. Mr. Berg's employment with the U.S. Government began at age 15 working for the U.S. Army in 1946. From July 1947 to February 1949 he worked with the American Graves Registration Command in Paris.

In July 1949, Mr. Berg began his employment with the U.S. Embassy in Paris. Currently, he is the chief of the visitors and travel unit in our Embassy in Paris. Currently, he is the chief of the visitors and travel unit in our Embassy in Paris. So far this year, as chief of the Embassy's travel and visitors office, Mr. Berg and his staff of three have supported over 10,700 official visitors, 500 conferences, and over 15,000 official and unofficial reservations. The position entails coordinating all travel, transportation, housing control rooms and airport formalities for visits and conferences. Mr. Berg's dedication, efficiency, and wide range of useful host government and private sector contacts have been invaluable to the Embassy and the U.S. Government. His support efforts, personal interest, and ability to accomplish the impossible have become legend in the Foreign Service and to those of us who know his work personally.

I know I speak for those who have worked with Mr. Berg when I say that he has devoted his life to providing dedicated, faithful, and loyal service to the U.S. Government. He willingly and cheerfully works long hours—evenings, weekends and holidays—to ensure that our visits are handled in the most skillful and efficient manner possible. And he has received five Department of State Meritorious Honor Awards for his outstanding work.

A little known fact about John Berg was that he was a stateless person at the beginning of his service to the U.S. Government. He was born in Germany in 1930, but lost his German citizenship in 1943 due to Nazi Jewish persecution. After his father was deported to Auschwitz, he and his mother with a small group of brave Jews, hid in Berlin from the Gestapo until the end of the war. The heroism they exhibited and the dangers they faced are documented in the book, "The Last Jews of Berlin," by Leonard Gross. His father died in the concentration camp. And after World War II, John Berg moved to France where he began working for the American Government, and has now completed 50 years of service to the U.S. Government. For all his adult life, John Berg's most fervent desire was to become a U.S. citizen. That goal was realized, and he was sworn in as an American citizen in 1981.

Mr. President I cannot think of a better role model for those in the public sector. Therefore, I believe that John Berg deserves the absolute highest praise from the President and the Congress for his 50 years of dedicated service to the U.S. Government.

Mr. WARNER. Mr. President, I am privileged to join my friend from Iowa, Senator HARKIN, in putting in the Senate's recognition of John Berg—an institution himself.

His service to Americans was his life. No task was insurmountable; no task was performed with less than all-out dedication.

My most memorable among many trips to Paris was during the bicentennial of the Treaty of Paris in 1983. President Reagan had appointed me as his representative to the many events the French hosted to honor the first treaty to recognize, in 1783, a new Nation—the 13 colonies as the United States of America. John Berg was my aid-de-camp throughout that visit. I should add to that official visits to the 40th and 50th recognitions of D-day, June 6, 1944.

And so it goes for all of us in Congress as we salute John Berg. Well done, sir.

AMENDMENT NO. 1007

At the appropriate place in the bill, insert the following new section:

"The Administrative Office of the United States Courts, in consultation with the Judicial Conference, shall conduct a study of the average costs incurred in defending and presiding over federal capital cases from the initial appearance of the defendant through the final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, with constitutional requirements."

": *Provided Further*, That the Attorney General, shall review the practices of U.S. Attorneys' Offices and relevant investigating agencies in investigating and prosecuting federal capital cases, including before the initial appearance of the defendant through final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on the Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, consistent with constitutional requirements, and outlining a protocol for the effective, fiscally responsible prosecution of federal capital cases".

AMENDMENT NO. 1008

(Purpose: To express the sense of the Senate with respect to slamming)

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SLAMMING.

(a) STATEMENT OF PURPOSE.—The purposes of this statement of the sense of the Senate are to—

(1) protect consumers from the fraudulent transfer of their phone service provider;

(2) allow the efficient prosecution of phone service providers who defraud consumers; and

(3) encourage an environment in which consumers can readily select the telephone service provider which best serves them.

(b) FINDINGS.—The Congress finds the following:

(1) As the telecommunications industry has moved toward competition in the long distance market, consumers have increasingly elected to change the company which provides their long-distance phone service. As many as fifty million consumers now change their long distance provider annually.

(2) The fluid nature of the long distance market has also allowed an increasing number of fraudulent transfers to occur. Such transfers have been termed "slamming", which constitutes any practice that changes a consumer's long distance carrier without the consumer's knowledge or consent.

(3) Slamming is now the largest single consumer complaint received by the Common Carrier Bureau of the Federal Communications Commission. As many as one million consumers are fraudulently transferred annually to a telephone consumer which they have not chosen.

(4) The increased costs which consumers face as a result of these fraudulent switches threaten to rob consumers of the financial benefits created by a competitive marketplace.

(5) The Telecommunications Act of 1996 sought to combat this problem by directing that any revenues generated by a fraudulent transfer be payable to the company which the consumer has expressly chosen, not the fraudulent transferor.

(6) While the Federal Communications Commission has proposed and promulgated regulations on this subject, the Commission has not been able to effectively deter the practice of slamming due to a lack of prosecutorial resources as well as the difficulty of proving that a provider failed to obtain the consent of a consumer prior to acquiring that consumer as a new customer. Commission action to date has not adequately protected consumers.

(7) The majority of consumers who have been fraudulently denied the services of their chosen phone service vendor do not turn to the Federal Communications Commission for assistance. Indeed, section 258 of the Communications Act of 1934 directs that State commissions shall be able to enforce regulations mandating that the consent of a consumer be obtained prior to a switch of service.

(8) It is essential that Congress provide the consumer, local carriers, law enforcement, and consumer agencies with the ability to efficiently and effectively persecute those companies which slam consumers, thus providing a deterrent to all other firms which provide phone services.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Communications Commission should, within 12 months of the date of enactment of this Act, promulgate regulations, consistent with the Communications Act of 1934 which provide law enforcement officials dispositive evidence for use in the prosecution of fraudulent transfers of presubscribed costumers of long distance and local service; and

(2) the Senate should examine the issue of slamming and take appropriate legislative action in the 105th Congress to better protect consumers from unscrupulous practices including, but not limited to, mandating the recording and maintenance of evidence concerning the consent of the consumer to switch phone vendors, establishing higher civil fines for violations, and establishing a civil right of action against fraudulent providers, as well as criminal sanctions for repeated and willful instances of slamming.

AMENDMENT NO. 1009

(Purpose: To foster a safer elementary and secondary school environment for the nation's children through the support of community policing efforts)

On page 65, line 10, insert the following: "Section 120. There shall be no restriction on the use of Public Safety and Community Policing Grants, authorized under title I of the 1994 Act, to support innovative programs to improve the safety of elementary and secondary school children and reduce crime on or near elementary or secondary school grounds."

AMENDMENT NO. 1010

(Purpose: To limit the funds made available for the Office of the Under Secretary of Commerce for Intellectual Property Policy, if such office is established, and for other purposes)

On page 75, line 3, strike all beginning with "$20,000,000," through line 8 and insert the following: "such funds as are necessary, not to exceed 2 percent of projected annual revenues of the Patent and Trademark Office, shall be made available from the sum appropriated in this paragraph for the staffing, operation, and support of said office once a plan for this office has been submitted to the House and Senate Committees on Appropriations pursuant to section 605 of this Act.".

AMENDMENT NO. 1011

At the appropriate place, add the following:

"Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows:

"(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.".

AMENDMENT NO. 1012

At the appropriate place, insert "*Provided further*, That none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service may be used to accept, process, or forward to the Federal Bureau of Investigation any FD–258 fingerprint card, or any other means used to transmit fingerprints, for the purpose of conducting a criminal background check on any applicant for any benefit under the Immigration and Nationality Act unless the applicant's fingerprints have been taken by an office of the Immigration and Naturalization Service or by a law enforcement agency, which may collect a fee for the service of taking and forwarding the fingerprints."

AMENDMENT NO. 1013

(Purpose: To strike a restriction concerning the transfer of certain personnel to the Office of Legislative Affairs or the Office of Public Affairs of the Department of Justice)

On page 2, lines 17 through 22, strike the colon on line 17 and all that follows through "basis" on line 22.

AMENDMENT NO. 1014

On page 125, strike lines 3-9.

AMENDMENT NO. 1015

(Purpose: To provide a waiver from certain immunization requirements for certain aliens entering the United States)

At the appropriate place, insert the following: WAIVER OF CERTAIN VACCINATION REQUIREMENTS

SEC. . (a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

"(p) The Attorney General should exercise the waiver authority provided for in subsection (g)(2)(B) for any alien orphan applying for an IR3 or IR4 category visa.".

Mr. MCCAIN. Mr. President, This is intended to resolve a potentially serious problem involving foreign children emigrating to the United States for the purpose of being united with their adoptive parents. Quite simply, the amendment urges the Attorney General to exercise that authority to waive vaccination requirements for certain categories of emigres that is part of current law.

Last year, my colleague from Arizona, Senator KYL, succeeded in getting passed legislation authorizing the Attorney General to waive the immunization requirements for legal aliens entering the country if medical, moral or religious considerations so warrant. Unfortunately, that authority has not been exercised, despite extenuating circumstances that clearly argue for such a waiver from the immunization requirement. No where is this failure to exercise that authority more damaging than in the area of foreign-borne orphans being adopted by U.S. citizens.

Neither Senator KYL nor I would argue that immigrants with serious communicable diseases should be allowed into the United States. What we are saying is that children whose medical conditions cannot be accurately determined without a more thorough examination than can be administered in their home country should not be subjected to vaccinations that may trigger unforeseen reactions, for instance, from allergies to a specific serum. Additionally, other medical conditions may exist that make immunization at a specific time unadvisable, as would be the case with a child suffering from influenza. All this amendment does is tell the Attorney General to do what common sense dictates should be done anyway: not subject children to vaccinations to which their systems may not be immediately adaptable.

Mr. President, I urge my colleagues to support this amendment. It would do nothing that could pose a health risk to the American public; it only eliminates the risk to children, often from countries with far more primitive health care than is available here, of immunizations if their individual medical conditions indicate such treatment would pose a serious risk to the health of the child.

AMENDMENT NO. 1016

SEC. . The second proviso of the second paragraph under the heading "OFFICE OF THE CHIEF SIGNAL OFFICER." in the Act entitled "An Act Making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June thirtieth, nineteen hundred and one", approved May 26, 1900 (31 Stat. 206; chapter 586; 47 U.S.C. 17), is repealed.

AMENDMENT NO. 1017

(Purpose: To exclude from the United States aliens who have been involved in extrajudicial and political killings in Haiti)

At the appropriate place, insert the following:

SEC. . EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE BEEN INVOLVED IN EXTRAJUDICIAL AND POLITICAL KILLINGS IN HAITI.

(a) GROUNDS FOR EXCLUSION.—None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergea, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was a member of the Haitian presidential security unit who has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Pastor Antoine Leroy and Jacques Fleurival, or who was suspended by President Preval for his involvement in or knowledge of the Leroy and Fleurival killings on August 20, 1996;

(4) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergea, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(5) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(6) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

Mr. DEWINE. Mr. President, my amendment excludes Haitians from the U.S. who have been involved in extrajudicial and political killings in Haiti. Specifically, it does this by denying funds for the issuance of visas to these persons.

There have been numerous cases of politically-motivated assassinations in Haiti. Some of these extrajudicial killings occurred while former President Jean-Bertrand Aristide was in exile. Many others took place after he returned to power. Unfortunately, these killings have continued after Mr. Aristide left office and Rene Preval became President.

The Haitian Government has assigned over eighty extrajudicial and political killing cases to the Special Investigative Unit. The Haitian Government claims that they have fired several government employees who are suspects in these killings.

But the sad fact remains that to date, no one has been convicted for any of these assassinations. Simply stated, there has been no substantial progress in these investigations.

We need to encourage the Haitians to bring these killers to justice. We need to let them know that these killings cannot be tolerated.

My amendment denies funding for the issuance of visas to those who have been credibly alleged to have ordered, carried out, materially assisted, or sought to conceal these extrajudicial and political killings. The amendment exempts persons for medical reasons, or if they have cooperated fully with the investigation of these political murders.

The legislation also includes a reporting requirement. The Administration would be directed to submit, to the appropriate congressional committees, (1) a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings; (2) a list of those refused entry to the United States as a result of this provision; and (3) a report on this matter, to be submitted once each year, until such time as the Government of Haiti has completed the investigation of these extrajudicial and political killings and has prosecuted those implicated in these murders.

It is an unfortunate reality that political violence has been a way of life in Haiti. Too many Haitians have died due to acts of political violence. The adoption of this amendment will not solve their problems overnight. But it can help. I believe this legislation sends a strong signal that violence must not be used as a political tool in Haiti. It also sends a message to the Haitians that we will vigorously support those who want to end political violence and create a lasting society of peace and prosperity in Haiti.

Mr. President, I urge the adoption of this amendment.

AMENDMENT NO. 1018

(Purpose: To improve the bill)

On page 114, strike lines 14–23.

AMENDMENT NO. 1019

(Purpose: To delay the effective date of the amendments made by section 233 of the Antiterrorism and Effective Death Penalty Act of 1996)

At the appropriate place in title I of the bill, insert the following:

SEC. 1 . Section 233(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking "1 year after the date of enactment of this Act" and inserting "October 1, 1999".

AMENDMENT NO. 1020

On page 139, after line 13 insert the following:

"GAMBLING IMPACT STUDY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Gambling Impact Study Commission, $1,000,000, to remain available until expended: Provided, That funds made available for this purpose shall be taken from funds made available on page 23, line 21."

AMENDMENT NO. 1021

At the appropriate place in the bill, insert the following: *Provided further*, that not to exceed $2,000,000 may be made available for the 1999 Women's World Cup Organizing Committee cultural exchange and exchange related activities associated with the 1999 Women's World Cup."

Mr. GREGG. I ask unanimous consent that Senator KERRY of Massachusetts and Senator FEINSTEIN be added as cosponsors to Senator STEVEN's USIA amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, at this point I wish to thank, obviously, my staff and the minority staff for the extraordinary amount of time and energy they have put into this bill. They have been here all day and have done an incredible amount of work in an extremely complex situation, I would say, on a number of occasions. How they sort it all out, I am not sure. But they have and they have done it beautifully. I thank them for their energies. I thank the ranking member for all his time and patience in this exercise, which has been reasonably complicated but very successful as a result of all this.

Mr. HOLLINGS. Mr. President, I am really grateful to the distinguished chairman, the Senator from New Hampshire, for his leadership. His staff has been very professional and cooperative. It is truly a bipartisan measure. It has been a privilege and pleasure to work with him. Obviously, my staff has been working around the clock, and I am really indebted to them. I thank the distinguished chairman.

Mr. GREGG. I thank the Senator for all his work.

MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mrs. BOXER. Mr. President, in behalf of Mr. BINGAMAN, I ask unanimous consent that privileges of the floor be granted to Dr. Robert Simon on detail from the Department of Energy to his staff, during the pendency of Senate Resolution 98 or any votes occurring thereupon.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 23, 1997, the Federal debt stood at $5,367,622,941,689.53. (Five trillion, three hundred sixty-seven billion, six hundred twenty-two million, nine hundred forty-one thousand, six hundred eighty-nine dollars and fifty-three cents.)

One year ago, July 23, 1996, the Federal debt stood at $5,171,664,000,000. (Five trillion, one hundred seventy-one billion, six hundred sixty-four million.)

Five years ago, July 23, 1992, the Federal debt stood at $3,988,415,000,000. (Three trillion, nine hundred eighty-eight billion, four hundred fifteen million.)

Ten years ago, July 23, 1987, the Federal debt stood at $2,300,098,000,000. (Two trillion, three hundred billion, ninety-eight million.)

Fifteen years ago, July 23, 1982, the Federal debt stood at $1,086,341,000,000 (One trillion, eighty-six billion, three hundred forty-one million) which reflects a debt increase of more than $4 trillion—$4,281,281,941,689.53 (Four trillion, two hundred eighty-one billion, two hundred eighty-one million, nine hundred forty-one thousand, six hundred eighty-nine dollars and fifty-three cents) during the past 15 years.

APPROVAL OF GEORGE TENET AS DIRECTOR OF CENTRAL INTELLIGENCE

Mr. BYRD. Mr. President, on Thursday evening, July 10, 1997, the Senate confirmed the nomination of George J. Tenet, of Maryland, to be the Director of Central Intelligence. I am delighted that the Senate has taken this action, based on the unanimous recommendation of the Senate Intelligence Committee.

George Tenet is well known to many members of the Senate, as he served with distinction as a staff member, and then Staff Director of the Senate Intelligence Committee during the service of Senator David Boren, of Oklahoma, when he was Chairman of that Committee. When Senator Boren retired, to take up the post of President of the University of Oklahoma, George became the Assistant to the President for Intelligence matters on the staff of the National Security Council, and served with great distinction in that capacity. As a result of that service, he was asked by Mr. John Deutsch to be the Deputy Director of Central Intelligence when Mr. Deutsch was appointed Director, and he has served as the Acting Director since January of this year when Mr. Deutsch returned to the private sector. Mr. Tenet has been praised on the floor by the current leadership of the Senate Intelligence Committee, by the Chairman, the distinguished Senator from Alabama, Mr. SHELBY, and the Ranking Democrat, the distinguished Senator from Nebraska, Mr. KERREY. They have praised Mr. Tenet's capabilities, judgment and character. I wish to express my own confidence in his leadership and I believe he has the capacity to bring the agency out of the unfortunate period that it has recently experienced which was tarnished by espionage scandals, and too rapid a turnover in the Office of the Director. He faces the challenge of bringing morale up, as well as restoring public and Congressional confidence in the intelligence organization of the nation. It is his responsibility to ensure that the Intelligence Community performs on the basis of the highest standards of integrity, and that the tremendous analytical, technical, and personnel resources that the community possesses, without rival in the world, are brought to bear on the often dangerous and difficult targets and areas of concern that constitute the intelligence agenda of the nation.

Mr. Tenet is already known as a strong leader with clear focus and a broad vision. I do not believe there is any recent Director of Central Intelligence that I have dealt with that brings as strong a knowledge of and constituency in the Senate as he enjoys. Intelligence in the confusing and shifting world of this post-cold war era is vital to both branches of the national government, and to be successful must enjoy the strong support of both of them. George is uniquely qualified to bring about a working consensus on the priorities, activities and budget of the intelligence community. He enjoys an extraordinarily deep reservoir of support here in the Senate, and I believe in the White House and the Intelligence Community as well. He is an outstanding choice, and the President is to be commended on his selection. I look forward to working with him to ensure that the highly dedicated, talented and courageous individuals who serve the nation silently day and night across the globe enjoy the support that they need to carry out their duties. I wish him a long, fruitful and rewarding tenure as our new Director of Central Intelligence.

CNN'S COVERAGE OF THE SENATE CAMPAIGN FINANCE HEARINGS

Mr. CRAIG. Mr. President, Cable News Network announced this week that it would provide live television coverage of the Senate Governmental Affairs Committee hearings on campaign finance activities. But, Mr. President, their decision was based only on the fact that former Republican National Committee chairman, Haley Barbour, is scheduled to testify.

CNN has been suspiciously absent in its live coverage of the hearings, only allowing its viewers to see the opening statements of the chairman and the ranking member during the past 2 weeks of the hearings.

As I understand it, CNN based its decision to provide live coverage of Mr. Barbour's testimony on the judgment that he has celebrity status. Or, as CNN's own Washington Bureau chief, Frank Sesno, called them yesterday, "major players".

That is a decision more fitting of the program "Entertainment Tonight", instead of a network which prides itself on being the world's leader of news.

I am certain that I am not the only one disappointed by CNN's decision to forgo live coverage of the hearings. In fact, on CNN's own Internet web page, an overwhelming number of CNN's viewers are distressed over the network's failure to provide live coverage.

One viewer wrote, and I quote:

> Although I am very pleased that you are carrying the campaign finance hearings through your Web site, I must say after all of the interminable O.J. hearings you carried live on CNN, why on God's earth aren't you carrying the hearings as well? I am very disappointed.

It was signed by Jim Merrick on July 16.

Mr. President, there has been such sufficient controversy over the CNN's lack of live coverage of the hearings—and even the lack of regular coverage of the hearings by the other television networks—that CNN devoted a substantial portion of its program "Inside Politics" on Tuesday, to discuss the uproar.

In a roundtable discussion, where journalists interview each other about what a great job they're doing, CNN's Judy Woodruff asked ABC's Hal Bruno about the difference of these hearings as compared to the Watergate and Iran-Contra hearings. Hal Bruno replied, and I quote:

> Government was at a standstill in Washington as a result of Watergate and the whole country was immersed in it. And the same was true to a lesser degree with Iran-Contra. These were major stories of revelations of criminal wrongdoing.

Mr. President, Hal Bruno's comment is an outrage.

For one, the country was immersed in these events because the television networks were carrying the hearings live.

And furthermore, the campaign finance hearings have uncovered much more serious charges and allegations. They include: Espionage, foreign influence peddling, campaign corruption and even money laundering. Just look at this summary by the staff of the Governmental Affairs Committee on what has been revealed so far during 2 weeks of hearings.

Hal Bruno's statement is ludicrous, and CNN's lack of live coverage of the hearings proves that they are ignoring a major news story.

Mr. President, I have written a letter to CNN president, Tom Johnson, and CNN Washington Bureau chief, Frank Sesno, expressing my disappointment and anger over their decision. This is the same network that covered endless hours of the O.J. Simpson murder trial—a news event that affected relatively few Americans. I have not yet received a reply from my letter, and I doubt I will.

Mr. President, I ask for unanimous consent to have printed in the RECORD the summary of highlights of the first 2 weeks of hearings by the Governmental Affairs hearings, and my letter to CNN's president and Washington Bureau chief.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
Washington, DC, July 22, 1997.

Mr. TOM JOHNSON,
President, CNN, Atlanta, GA.

DEAR MR. JOHNSON: I am disappointed over CNN's unwillingness to provide live, gavel-to-gavel coverage of the Senate Governmental Affairs hearings on campaign finance activities. If you had been carrying the hearings, your viewers would have been able to watch the testimony of witnesses who gave compelling evidence of criminal wrongdoing by foreign donors to the Democratic party during the 1996 elections. The result of such testimony even prompted a key Democrat on the committee, Senator Joseph Lieberman of Connecticut, to publicly acknowledge that there was a Chinese government plan to influence the elections. Unfortunately, CNN viewers were not given the opportunity to draw their own conclusions.

Now, I have come to learn that your network is planning to provide live coverage of this week's scheduled testimony of former Republican National Committee chairman, Haley Barbour. Unlike previous witnesses, who linked one Democratic fundraiser to possible charges of espionage and illegal influence buying and peddling, Mr. Barbour has not been charged with any crime nor has he broken any laws. Why does CNN deem Mr. Barbour's testimony so important as to merit live coverage? Is your network "celebrity watching"—like "Entertainment Tonight"?

What can be said about CNN's decision to only provide live coverage of Mr. Barbour's testimony is media bias at best, and tabloid journalism at worst. Your intensive coverage of the O.J. Simpson trial suggests that the later is more accurate. It's apparent that CNN has already decided what the public is interested in watching instead of the public making that decision for themselves.

Sincerely,

LARRY E. CRAIG,
Chairman.

SUMMARY OF HIGHLIGHTS OF TESTIMONY OF FIRST TWO WEEKS OF HEARINGS BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS INTO 1996 CAMPAIGN FINANCE ABUSES

DNC Finance Director Richard Sullivan acknowledged that the DNC's process for vetting contributions had "atrophied," and that the Republican Party's system for vetting contributions was "much more systematic, complex and thorough" than the Democratic Party's system.

The Committee learned that John Huang was pushed for his job at the DNC by a foreign corporation and its head, James Riady, a close friend of President Clinton.

The Committee learned that Huang was also pushed for his fund-raising position by senior White House officials, like Harold Ickes, but he was not hired by the DNC until President Clinton himself pushed for Huang's hiring.

The Committee revealed several instances of foreign contributions being laundered into the DNC:

(1) Yogesh Gandhi made a $325,000 contribution to the DNC at an event at the Sheraton-Carlton Hotel in Washington in 1996 and shortly thereafter received two $250,000 wire transfers from a Japanese businessman named Tanaka to cover the contribution. This was Gandhi's first US political contribution and the $325,000 represented more than half the funds raised by the DNC at the Sheraton-Carlton event.

(2) Johnny Chung contributed $50,000 to the DNC in March 1996, at a time when he had less than $10,000 in his account. A few days after making the contribution Chung received a $50,000 wire transfer from the Bank of China. Soon after making the $50,000 contribution from these funds, Chung attended the President's weekly radio address with 5 visiting Chinese officials and guests.

(3) In 1992 John Huang contributed $50,000 on behalf of Hip Hing Holdings, a Riady-owned company in Los Angeles, and sought reimbursement for the contribution from Lippo Group in Indonesia.

The Committee also revealed that Chinese arms merchant Wang Jun, son of a prominent Communist official whose arms company has been accused of selling cruise missiles to Iran, attended an event with the President after he contributed $50,000 to the DNC through Ernest Green of Lehman Brothers.

The Committee learned that Gregory Loutschansky, a former Soviet citizen living in Tel Aviv who is reputed to be an international gun-runner and drug-smuggler, was invited by the DNC to an October 1995 dinner with the President, but was denied a visa by the State Department to enter the US.

The Committee learned that Roger Tamraz, a US citizen and major DNC donor, was invited by the DNC to meet with the Vice President, but the invitation was withdrawn after the Vice President's staff objected because Tamraz had "a shady reputation." Despite the fact that Tamraz was deemed unacceptable to meet the Vice President, the DNC invited Tamraz to four subsequent events with the President.

The Committee learned that President Clinton's friend Charlie Trie made a $50,000 contribution to the DNC in June 1995 and raised large amounts for the Presidential Legal Expense Trust, even though a financial disclosure form he filled out after securing a presidential appointment showed he earned only $60,000 that year.

The Committee learned that John Huang had worked for Lippo Bank in Los Angeles, but the CEO of the Bank did not know what Huang did in his office.

The Committee learned that Lippo Group, run by the Riady family, which employed Huang, had over the past few years become a major business partner with China Resources, a trading company wholly owned by the Government of the People's Republic of China, which has reportedly served as an intelligence-collection front for China.

The Committee learned that Huang was given a political appointment in the Commerce Department, but his boss, Commerce Under secretary Jeffrey Garten found Huang totally unqualified for the position and limited his activities to administrative duties.

The Committee learned that Huang was "walled off" from handling China trade policy and was allowed to handle only some matters related to Taiwan.

The Committee learned that despite being "walled off" from China policy, Huang was given intelligence briefings on China.

The Committee learned that while he was at the Commerce Department, Huang had a Top Secret security clearance and received 37 intelligence briefings, at which he was shown 10 to 15 intelligence reports, meaning that he saw between 370 and 550 pieces of intelligence.

The Committee learned that of the pieces of intelligence shown to Huang, he kept possession of 12 classified documents until the end of his tenure at the Commerce Department.

The Committee learned that while he served as a relatively low-level political functionary at the Commerce Department, Huang made at least 67 visits to the White House, often meeting with senior officials on US trade policy.

The Committee learned that while he worked at the Commerce Department, Huang routinely and regularly used the office of Stephens Inc., a Little rock-based company with an office across the street from the Commerce Department, to send and receive phone calls, faxes, and packages, which a Stephens employee testified no other non-Stephens employee did.

The Committee learned that Huang had over 400 contacts with Lippo bank and Lippo group employees and associates while he worked at the Commerce Department, was receiving classified information, attending White House briefings, and using the Stephens Inc. office to send and receive messages and faxes.

The Committee learned that Huang did make personal calls from his Commerce Department phone, indicating that he was not using the Stephens office to avoid using his official phone for personal matters.

The Committee learned that while he served at the Commerce Department, Huang made six visits to the Chinese Embassy and had three other contacts with Chinese Embassy officials, even though he had been "walled off" from anything having to do with China.

The Committee learned that while he served at the Commerce Department, Huang may have illegally solicited several large contributions for the DNC, for which his wife Jane was listed as the solicitor by the DNC, from several individuals.

JULY 22, 1997.

Mr. TOM JOHNSON,
President, CNN, Atlanta, GA.

DEAR MR. JOHNSON: I am disappointed over CNN's unwillingness to provide live, gavel-to-gavel coverage of the Senate Governmental Affairs hearings on campaign finance activities. If you had been carrying the hearings, your viewers would have been able to watch the testimony of witnesses who gave compelling evidence of criminal wrongdoing by foreign donors to the Democratic party during the 1996 elections. The result of such testimony even prompted a key Democrat on the committee, Senator Joseph Lieberman of Connecticut, to publicly acknowledge that there was a Chinese government plan to influence the elections. Unfortunately, CNN viewers were not given the opportunity to draw their own conclusions.

Now, I have come to learn that your network is planning to provide live coverage of this week's scheduled testimony of former Republican National Committee chairman, Haley Barbour. Unlike previous witnesses, who linked one Democratic fundraiser to possible charges of espionage and illegal influence buying and peddling, Mr. Barbour has not been charged with any crime nor has he broken any laws. Why does CNN deem Mr. Barbour's testimony so important as to merit live coverage? Is your network "celebrity watching"—like "Entertainment Tonight"?

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Sincerely,

LARRY E. CRAIG,
Chairman.

HONORING THE SUETTERLINS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Catherine and Martin Suetterlin of St. Louis County, MO, who on September 27, 1997, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Suetterlins' commitment to the principles and values of their marriage deserves to be saluted and recognized.

NATIONAL SAFE PLACE WEEK

Mr. FORD. Mr. President, I rise today in support of a Senate resolution submitted by the distinguished Senator from Idaho. Senate Resolution 96 sponsored by Senator LARRY CRAIG would designate the week of March 15 through March 21, 1998 as "National Safe Place Week."

Project Safe Place is a creative approach to serving youth and families in crisis. I am particularly pleased to cosponsor this resolution on behalf of the first program started in my home State of Kentucky. Project Safe Place began in a firehouse in Louisville, KY in 1983, providing a safe haven from various negative influences such as child abuse, substance abuse, and crime. Safe Places put distressed children and families in touch with the resources they need to keep them safe. This assistance often comes in the form of counseling and a safe and secure place to stay.

Today, the Safe Place Program has spread to 34 States across the country. More than 6,000 business locations displaying the black and yellow Safe Place sign indicating that those in need can seek help from those inside.

The Safe Place Program exemplifies the best in our local communities. Project Safe Place is about community businesses and volunteers working together to help the most vulnerable in our society. It is essential that we bring this valuable program to every community, because those in need feel more comfortable in turning to resources in their own neighborhoods and communities.

By designating March 15 through March 21, 1998 as "National Safe Place Week," we not only bring public awareness to this outstanding program, but recognize those volunteers and businesses who give so much to make our communities a truly safe place. I urge my colleagues to lend their names to this worthwhile legislation.

RETIREMENT OF CAROLE STEVENSON

Mr. FORD. Mr. President, I would like to say a few words about a dedicated Senate employee, Carole Stevenson, who is retiring after 30 years of Federal service. Carole worked for me when I served as chairman of the Rules Committee. She currently works on the staff of our colleague, TIM JOHNSON.

Carole held a number of jobs as she went about acquiring her 30 years of service. She worked for Senators Capehart and Kefauver in the fifties, the Architect of the Capitol and the executive branch in the sixties, and the Office of Technology Assessment in the mid-seventies. She even took off a decade to have and raise a family.

Carole joined the staff of the Senate Rules Committee in 1977 and stayed for 20 years. She held a variety of jobs, moving from front office receptionist, to room reservationist, to secretary and staff assistant in the Technical Services section of the Rules Committee.

To put it simply, Carole was a hard worker who took pride in her work. She always wanted to do a good job for her employer, and she did. She loves the Senate, so she did her best.

I want to personally thank Carole for her service to the Senate. Her many friends in this great institution will miss her. All of us wish her well in her retirement.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary. (The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF DRAFT LEGISLATION ENTITLED "THE IMMIGRATION REFORM TRANSITION ACT OF 1997"—MESSAGE FROM THE PRESIDENT—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to submit for your immediate consideration and enactment the "Immigration Reform Transition Act of 1997," which is accompanied by a section-by-section analysis. This legislative proposal is designed to ensure that the complete transition to the new "cancellation of removal" (formerly "suspension of deportation") provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA; Public Law 104–208) can be accomplished in a fair and equitable manner consistent with our law enforcement needs and foreign policy interests.

This legislative proposal would aid the transition to IIRIRA's new cancellation of removal rules and prevent the unfairness of applying those rules to cases pending before April 1, 1997, the effective date of the new rules. It would also recognize the special circumstances of certain Central Americans who entered the United States in the 1980s in response to civil war and political persecution. The Nicaraguan Review Program, under successive Administrations from 1985 to 1995, protected roughly 40,000 Nicaraguans from deportation while their cases were under review. During this time the *American Baptist Churches v. Thornburgh* (ABC) litigation resulted in a 1990 court settlement, which protected roughly 190,000 Salvadorans and 50,000 Guatemalans. Other Central Americans have been unable to obtain a decision on their asylum applications for many years. Absent this legislative proposal, many of these individuals would be denied protection from deportation under IIRIRA's new cancellation of removal rules. Such a result would unduly harm stable families and communities here in the United States and undermine our strong interests in facilitating the development of peace and democracy in Central America.

This legislative proposal would delay the effect of IIRIRA's new provisions so that immigration cases pending before April 1, 1997, will continue to be considered and decided under the old suspension of deportation rules as they existed prior to that date. IIRIRA'S new cancellation of removal rules would generally apply to cases commenced on or after April 1, 1997. This proposal dictates no particular outcome of any case. Every application for suspension of deportation or cancellation of removal must still be considered on a case-by-case basis. The proposal simply restores a fair opportunity to those whose cases have long been in the system or have other demonstrable equities.

In addition to continuing to apply the old standards to old cases, this legislative proposal would exempt such cases from IIRIRA's annual cap of 4,000 cancellations of removal. It would also exempt from the cap cases of battered spouses and children who otherwise receive such cancellation.

The proposal also guarantees that the cancellation of removal proceedings of certain individuals covered by the 1990 ABC litigation settlement and certain other Central Americans with long-pending asylum claims will be governed by the pre-IIRIRA substantive standard of 7 years continuous physical presence and extreme hardship. It would further exempt those same individuals from IIRIRA's cap. Finally, individuals affected by the legislation whose time has lapsed for reopening their cases following a removal order would be granted 180 days in which to do so.

My Administration is committed to working with the Congress to enact this legislation. If, however, we are unsuccessful in this goal, I am prepared to examine any available administrative options for granting relief to this class of immigrants. These options could include a grant of Deferred Enforced Departure for certain classes of individuals who would qualify for relief from deportation under this legislative proposal. Prompt legislative action on my proposal would ensure a smooth transition to the full implementation of IIRIRA and prevent harsh and avoidable results.

I urge the Congress to give this legislative proposal prompt and favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 24, 1997.*

MESSAGES FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2169. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2169. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2591. A communication from the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison), transmitting, pursuant to law, the report of the Chairman of the National Advisory Council on International Monetary and Financial Policies for fiscal year 1992; to the Committee on Foreign Relations.

EC-2592. A communication from the Deputy Executive Director and Chief Operating Officer of the Pension Guaranty Corporation, transmitting, pursuant to law, a rule entitled "Disclosure of Premium-Related Information" (RIN1212-AA66) received on July 22, 1997; to the Committee on Labor and Human Resources.

EC-2593. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear, transmitting, pursuant to law, a rule received on July 21, 1997; to the Committee on Environment and Public Works.

EC-2594. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, eleven rules received on July 22, 1997; to the Committee on Environment and Public Works.

EC-2595. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving exports to Brazil; to the Committee on Banking, Housing, and Urban Affairs.

EC-2596. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report under the Full Employment and Balanced Growth Act of 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC-2597. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a rule entitled "Phase Two Recommendations of Task Force on Disclosure Simplification" (RIN3235-AG80, 33-7431) received on July 21, 1997; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998" (Rept. No. 105-57)

By Mr. SPECTER, from the Committee on Appropriations, without amendment:

S. 1061. An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105-58).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1000. A bill to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse".

S. 1043. A bill to designate the United States courthouse under construction at the corner of Las Vegas Boulevard and Clark Avenue in Las Vegas, Nevada, as the "Lloyd D. George United States Courthouse".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted on July 23, 1997:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. John N. Abrams, 5774.
Maj. Gen. Roger G. Thompson, Jr., 5744.
Maj. Gen. Michael S. Davison, Jr., 7141.

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) Thomas J. Hill, 0703.
Rear Adm. (lh) Douglas L. Johnson, 9514.
Rear Adm. (lh) Jan H. Nyboer, 8579.
Rear Adm. (lh) Paul V. Quinn, 8574.

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) John A. Gauss, 5672.

The following Air Force National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated, under title 10, United States Code, section 12203:

To be brigadier general

Col. Tommy L. Daniels, 1724.

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William J. Begert, 2790.
Maj. Gen. Lance W. Lord, 1926.

The following-named officers for appointment as the Judge Advocate General* and the Assistant Judge Advocate General**, U.S. Army and for appointment to the grade indicated under title 10, United States Code, section 3037:

To be major general

Brig. Gen. Walter B. Huffman, 7206*.
Brig. Gen. John D. Altenburg, Jr., 6387**.

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Montgomery C. Meigs, 3239.

The following-named officers for appointment in the Regular Army to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Edwin J. Arnold, Jr., 8222.
Col. John R. Batiste, 9665.
Col. Buford C. Blount, III, 5012.
Col. Steven W. Boutelle, 1030.
Col. John S. Brown, 2041.
Col. Edward T. Buckley, Jr., 2325.
Col. Eddie Cain, 1695.
Col. Kevin T. Campbell, 6308.
Col. Jonathan H. Cofer, 8459.
Col. Bantz J. Craddock, 7782.
Col. Keith W. Dayton, 7231.
Col. Barbara Doornink, 2221.
Col. Paul D. Eaton, 1993.
Col. Jeanette K. Edmunds, 9426.
Col. Karl W. Eikenberry, 5197.
Col. Dean R. Ertwine, 8082.
Col. Steven W. Flohr, 7939.
Col. Nicholas P. Grant, 1178.
Col. Stanley E. Green, 4130.
Col. Craig D. Hackett, 5451.
Col. Franklin L. Hagenbeck, 3956.
Col. Hubert L. Hartsell, 8996.

Col. George A. Higgins, 7049.
Col. James C. Hylton, 8014.
Col. Gene M. LaCoste, 2941.
Col. Michael D. Maples, 9508.
Col. Philip M. Mattox, 4434.
Col. Dee A. McWilliams, 1427.
Col. Thomas F. Metz, 5686.
Col. Daniel G. Mongeon, 4804.
Col. William E. Mortensen, 1064.
Col. Raymond T. Odierno, 8425.
Col. Eric T. Olson, 5130.
Col. James W. Parker, 8655.
Col. Ricardo S. Sanchez, 9260.
Col. John R. Schmader, 1780.
Col. Gary D. Speer, 7286.
Col. Mitchell H. Stevenson, 3914.
Col. Carl A. Strock, 1502.
Col. Charles H. Swannack, Jr., 8239.
Col. Hugh B. Tant, III, 4312.
Col. Terry L. Tucker, 6846.
Col. William G. Webster, Jr., 9468.
Col. John R. Wood, 0518.

(The above nominations were reported with the recommendation that they be confirmed.)

The following executive reports of committees were submitted on July 24, 1997:

By Mr. THURMOND, from the Committee on Armed Services:

John J. Hamre, of South Dakota, to be Deputy Secretay of Defense.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Jamie Rappaport Clark, of Maryland, to be Director of the United States Fish and Wildlife Service.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. HATCH, from the Committee on the Judiciary:

Richrd Thomas White, of Michigan, to be a member of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 1999.

Calvin D. Buchanan, of Mississippi, to be U.S. attorney for the Northern District of Mississippi for the term of 4 years.

Thomas E. Scott, of Florida, to be U.S. attorney for the Southern District of Florida for the term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 1061. An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. D'AMATO (for himself and Mr. SARBANES):

S. 1062. A bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:

S. 1063. A bill to suspend temporarily the duty on KN001 (a hydrochloride); to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1064. A bill to amend the Alaska National Interest Lands Conservation Act to more effectively manage visitor service and fishing activity in Glacier Bay National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1065. A bill to amend the Ethics in Government Act with respect to the appointment of an independent counsel; read the first time.

By Mr. WELLSTONE (for himself, Mr. GRASSLEY, Mr. KERREY, Mr. JOHNSON, Mr. DASCHLE, and Mr. CONRAD):

S. 1066. A bill to amend the Internal Revenue Code of 1986 to allow the alcohol fuels credit to be allocated to patrons of a cooperative in certain cases; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. WELLSTONE, Ms. LANDRIEU, Mr. KENNEDY, and Mr. HARKIN):

S. 1067. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself and Mr. SARBANES):

S. Con. Res. 42. Concurrent resolution to authorize the use of the rotunda of the Capitol for a congressional ceremony honoring Ecumenical Patriarch Bartholomew; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself and Mr. SARBANES):

S. 1062. A bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDAL FOR ECUMENICAL PATRIARCH BARTHOLOMEW

Mr. D'AMATO. Mr. President, today I join my friend and colleague from the Banking Committee, Senator SARBANES, to offer a bill that would authorize a congressional gold medal in recognition of the tremendous leadership role—in interfaith relations, international affairs, the promotion of global environmental protection, and the defense of human rights worldwide—of his all holiness Ecumenical Patriarch Bartholomew of Constantinople.

In addition, we are submitting a concurrent resolution providing for the use of the rotunda of the Capitol for a ceremony honoring Patriarch Bartholomew on his visit to the United States in late October of this year.

The Ecumenical Patriarch Bartholomew is the 270th successor of the nearly 2,000 year old Orthodox Christian Church founded in 36 A.D.

As the spiritual leader of the Orthodox Christian Church, Patriarch Bartholomew is the voice for nearly 300 million followers around the world—5 million of which live in the United States and are of Greek, Russian, Ukrainian, and Serbian descent. The contributions of these Americans to our history and culture exemplify the values, ideals, and dreams of this great Nation.

A champion of religious unity and cooperation, Patriarch Bartholomew is working to promote interfaith dialog between the Orthodox Church and the Roman Catholic Church, leading Protestant denominations, Muslim leaders, and various faiths of America's multiethnic diversity.

Patriarch Bartholomew has also sought to strengthen the bonds between Judaism and Orthodox Christianity. In 1994, he worked side by side with Rabbi David Schneier and the Appeal of Conscience Foundation to cosponsor the Peace and Tolerance Conference, bringing together Christians, Jews, and Muslims for human and religious freedom.

As a citizen of Turkey, Patriarch Bartholomew is deeply concerned about the need to sustain the cause of peace. He has been a dynamic leader in efforts to ease Greek-Turkish tensions and to promote international cooperation, adherence to international law, and respect for the human rights of victims of aggression.

The impact of Patriarch Bartholomew's compassion is far-reaching. In the war-torn countries of the Balkans, Patriarch Bartholomew has helped to advance reconciliation among Catholic, Muslim, and Orthodox communities.

Mr. President, Patriarch Bartholomew also cares very deeply for the environmental legacy we will one day leave to our children. Together with global leaders, he convened an international environmental symposium emphasizing the health and wellbeing of the world's oceans. The Patriarch is also a cosponsor of an annual conference addressing the protection of our global environment.

Born in Turkey in 1940, Patriarch Bartholomew has selflessly dedicated his life to religious service. He is a graduate of the renowned Theological School of Halki, which was forced to close by the Turkish Government in 1971. This school must re-open as a basic matter of religious freedom.

Patriarch Bartholomew has also received numerous honorary doctorates and academic honors from institutes and universities all across the globe.

Mr. President, in October of this year, Patriarch Bartholomew will visit the United States to offer his spiritual message of unity, compassion, and brotherhood. It is our belief that Congress honor the work of this great leader in recognition of his outstanding and enduring contributions to: the freedom of the world's religions, world peace, conflict resolution and the rule of law, global environmental protection, the betterment of humankind, and the protection of dignity and human rights of every man, woman, and child.

Therefore, Mr. President, it is fitting and appropriate that this body bestow the congressional gold medal upon a visionary for our times, his all holiness Ecumenical Patriarch Bartholomew.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Ecumenical Patriarch Bartholomew—

(A) is the spiritual leader of nearly 300 million Orthodox Christians around the world and millions of Orthodox Christians in America; and

(B) is recognized in the United States and abroad as a leader in the quest for world peace, respect for the earth's environment, and greater religious understanding;

the extraordinary efforts of Ecumenical Patriarch Bartholomew continue to bring people of all faiths closer together in America and around the world;

(3) the courageous leadership of Ecumenical Patriarch Bartholomew for peace in the Balkans, Eastern Europe, the Middle East, the Eastern Mediterranean, and elsewhere inspires and encourages people of all faiths toward his dream of world peace in the new millennium; and

(4) the outstanding accomplishments of Ecumenical Patriarch Bartholomew have been formally recognized and honored by numerous governmental academic, and other institutions around the world.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) Presentation Authorized.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Ecumenical Patriarch Bartholomew. in recognition of his outstanding and enduring contributions to religious understanding and peace.

(b) Design and Striking.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) Authorization of Appropriations.—There is hereby authorized to be charged against the Numismatic Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medal authorized by this Act.

(b) Proceeds of Sale.—Amounts received from the sales of duplicate bronze medals under section 3 shall be deposited in the Numismatic Public Enterprise Fund.

Mr. SARBANES. Mr. President, I am pleased to join Senator D'Amato, chairman of the Senate Committee on Banking, Housing, and Urban Affairs, in introducing legislation awarding the congressional gold medal to Ecumenical Patriarch Bartholomew, the spiritual leader of approximately 300 million Orthodox Christians worldwide. The occasion of this legislation is to honor Patriarch Bartholomew's first visit to the United States as Patriarch and to recognize his outstanding contributions to world peace and understanding during his tenure as head of this ancient branch of Christianity. As a Greek-Orthodox American and member of the Greek Orthodox Cathedral of the Annunciation in Baltimore, I am particularly gratified to join in this tribute.

During his American visit, which will take place from October 19 through November 17, 1997, Patriarch Bartholomew will meet with thousands of Orthodox faithful and will take the opportunity to convey his message of reconciliation to Americans of all backgrounds and beliefs. His All Holiness has been a leader in ecumenical understanding and has convened important meetings which have brought together participants of all religious backgrounds. In 1994, in cooperation with Rabbi David Schneier and the Appeal of Conscience Foundation, he cosponsored a peace and tolerance Conference in Istanbul where Christians, Jews, and Muslims joined together to discuss important and pressing issues.

As spiritual head of world Orthodoxy, Patriarch Bartholomew has been a leader in the quest for peace throughout the world, particularly in Eastern Europe, the Balkans, and the Middle East. He has vigorously spoken out against extremists and those who would use violence to achieve their ends and has counseled respect for all peoples, irrespective of their nationality and religion; his ministry has been a call to our best virtues.

From his historical seat in Istanbul, Turkey, Patriarch Bartholomew has served as a mediator between East and West, Christians and Muslims, and as a force for openness and tolerance in the newly emerging independent countries of Eastern Europe.

As he pursues the goal of peace, Patriarch Bartholomew is equally vigorous in his desire to preserve and promote the earth's environment as a reflection of God's creation. Working with the European Commission, the Worldwide Fund for Nature, and his Royal Highness Prince Philip, he has cosponsored significant international conferences on the environment, including one scheduled for this fall on the future ecological health of the Black Sea.

I believe it is most fitting that the visit and the accomplishments of Patriarch Bartholomew should be recognized and honored by this gold medal as it will reflect the appreciation of the American people for his ministry of peace and reconciliation.

I am also pleased to join Senator D'Amato in submitting a concurrent resolution providing for the use of the rotunda for a ceremony honoring Patriarch Bartholomew.

By Mr. ROCKEFELLER:

S. 1063. A bill to suspend temporarily the duty on KN001 (a hydrochloride); to the Committee on Finance.

TEMPORARY DUTY SUSPENSION

Mr. ROCKEFELLER. Mr. President, today I am introducing a duty suspension bill that will not only benefit the chemical workers in my state of West Virginia, but also will enable U.S. farmers to grow more crops at lower cost and protect the environment at the same time.

This legislation will suspend the U.S. duty on a hydrochloride known by its code name of KN001. This substance is a key raw material in a new, environmentally safe family of agricultural chemicals invented by DuPont in the 1980's. These new agricultural chemicals, called sulfonylureas, are used in extremely small amounts by farmers to control weed growth in their fields without harming the crops that the farmers are trying to grow. By suppressing weed growth, these chemicals make sure that all of the available soil nutrients and moisture go into growing the crops instead of growing weeds. Because sulfonylureas operate on plant enzymes, they do not affect insects or animals, and because they biodegrade rapidly, they are among the most environmentally friendly crop protection chemicals in use today.

An additional benefit of suspending the duty on KN001 is the effect it will have on jobs in my home state of West

Virginia. DuPont is in the process of constructing a $20 million revitalization project at their plant in Belle, West Virginia, and KN001 is the cornerstone of that project. The new investment will enable the production at Belle of a new sulfonylurea product family that uses KN001 as a feedstock. This revitalization project will preserve 50 existing jobs at Belle and create over a dozen new jobs.

On top of all that, I've been told that this duty suspension is unlikely to result in any substantial revenue loss to the U.S. Treasury. Because it is used in the manufacture of new products, U.S. imports of this chemical are very small, and the resulting duty is also small. Equally important is the fact that this substance is not manufactured in the United States by another company, so no U.S. producer should be disadvantaged by the duty suspension. It's rare that we get a chance to support legislation that benefits workers, farmers, and the environment at virtually no cost to the Treasury. This is one of those times, and I hope the Senate will look favorably on this modest measure at the appropriate time.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.30.41	2-4-dichlon-5-hydrozyhydrazine hydrochloride (CAS No. 189573-21-5) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/98".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1064. A bill to amend the Alaska National Interest Lands Conservation Act to more effectively manage visitor service and fishing activity in Glacier Bay National Park, and for other purposes; to the Committee on Energy and Natural Resources.

THE GLACIER BAY MANAGEMENT AND PROTECTION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation addressing several important aspects of the administration and management of Glacier Bay National Park, one of the most popular and unique tourist destinations in the country.

This bill will encourage the continuation of the Park Service's ongoing efforts to work with concession operators to improve visitor services, as well as deal fairly and finally with a longstanding dispute over the status of commercial and subsistence fishing.

On the latter subject, this bill reflects the progress of several years of discussions with local interests and the Park Service. These efforts have been positive, but have been hampered from achieving consensus by some groups' unwillingness to compromise. Insofar as possible, this bill represents an attempt to stake out reasonable and responsible middle ground that respects the wishes of all concerned.

Mr. President, commercial fishermen have plied the waters of Glacier Bay and the outer coast of the area now included in the park for over 100 years. local native villagers, the Huna Tlingit people, have done so for thousands of years. At no time have these activities damaged the park or its resources, nor have they harmed the area's wild and scenic qualities in any way.

This simple fact cannot be overemphasized. To put it another way—commercial fishermen and local villagers have continually fished in Glacier Bay since long before it became a park or a monument, and the fact that we value it so highly today is proof that they have not had an adverse impact on the species of the bay.

Unfortunately, some interests don't care about fairness, and would like to see fishing and gathering banned no matter how environmentally benign or how critical to local livelihoods.

On subsistence, this bill corrects inconsistencies in the Alaska National Interest Lands Conservation Act [ANILCA] concerning subsistence fishing and gathering in Glacier Bay National Park. Villagers living near Glacier Bay, whose ancestors have used the bay continually for the last 9,000 years, must be allowed to use the bay's resources to feed their families —to fish for halibut, salmon, and crabs, and to collect clams, seaweeds, berries, and other foods that are traditional in their culture.

Let me emphasize that we are talking about a relative handful of families from the local Native village of Hoonah, which has a population of less than 900, and a few people from other nearby communities such as Elfin Cove, Gustavus, and Pelican. We are not talking about thousands of people. These Alaskans do not have convenient supermarkets. They deserve respect—they deserve to have their historic use recognized and provided for by this Congress.

My bill also addresses commercial fishing in the park. For generations, commercial fishermen have caught salmon, halibut, and crabs in Glacier Bay and have fished the rich grounds of the outside coast.

There is no biological reason for restricting commercial fishing activity anywhere in the park. The fishery resources are healthy, diverse, closely monitored, and carefully regulated. It should also be noted that of the park's approximately 3 million acres of marine waters, only about 500,000 are productive enough to warrant significant interest.

These fisheries already are restricted as to method and number of participants, and are carefully managed to ensure continued abundance. There is nothing in this bill, and there is no desire by the fishing industry, to change these controls or increase the level of this sustainable activity. Closely monitored by the State of Alaska, which has proven itself a reliable custodian of the fisheries resources, commercial fishing does not harm the environment in any way.

Mr. President, in the grand scheme of this Nation's economy, these fisheries are small potatoes. But to the fishermen who depend upon them, to their families, and to the small, remote communities in which they live, these fisheries are of utmost importance. They are harm-free, and those who participate in them deserve their government's help, not the destruction of their simple lifestyle.

This bill authorizes fishing throughout the park. However, because there are special sensitivities inside Glacier Bay itself, it also designates the waters inside the bay—as opposed to the outer coast—as a special scientific reserve, for which a joint Federal-State group of scientists will make recommendations on where fishing should or should not occur, and at what level.

A further special provision is also included in the one area where there is a significant potential for conflict between fishermen and certain nonmotorized uses such as kayaking. This area is the Beardlee Islands, near the entrance to the bay. Under this bill, the only commercial fishing that would be allowed in the Beardslees would be crab fishing, and that only by the very small number of people—perhaps half a dozen—that can show both a significant history of participation and significant dependence on that fishery for their livelihoods. This privilege could be transferred to one successor when the original fisherman retires, but will cease after that. And at any point, the Park Service could eliminate all fishing in the Beardslees with a fair payment to the individual fishermen. The reason for such a special rule in the Beardslees is simply that these fishermen have no other option than fishing in the Beardslees, due to the size of their vessels, their reliance on this one fishery, and other factors.

This bill will not contribute to any increase in fishing pressure; in fact, over time the opposite may occur. It will simply provide for the scientifically sound continuation of an environmentally benign activity.

In closing, Mr. President, let me add that the continuation of both subsistence and commercial fishing enjoys wide support from local residents, including environmental groups such as the Southeast Alaska Conservation Council.

I ask unanimous consent that the text of the bill be printed in the RECORD and look forward to my colleagues' support for this measure.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Glacier Bay Management and Protection Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the geographical area comprising Glacier Bay National Park has been recognized as having important national significance since the creation of Glacier Bay National Monument by Presidential proclamation on February 26, 1925, and the subsequent Presidential proclamation expanding the monument on April 18, 1939;

(2) in 1980, Congress enlarged and redesignated the monument as Glacier Bay National Park;

(3) the Park provides valuable opportunities for the scientific study of marine and terrestrial resources in various stages of a postglaciation period;

(4) the Park is a popular tourist destination for cruise ship and tour boat passengers, recreational boaters, fishermen, back-country kayakers, hikers, and other users;

(5) improvements to the Park's infrastructure and an increase in small passenger vessel capacity within the Park are needed to provide for increased enjoyment by visitors to the Park and more efficient management of Park activities;

(6) Huna Tlingit Indians residing near Glacier Bay have engaged in subsistence fishing and gathering in and around the bay for approximately 9,000 years, interrupted only by periodic glacial advances, and reestablished after each glacial retreat;

(7) commercial fishing has occurred in and around Glacier Bay for over 100 years, long before the area was recognized by the Federal Government;

(8) commercial fishing and subsistence fishing and gathering in Glacier Bay National Park occur at stable levels of activity that have no perceivable adverse effect on the health or sustainability of marine resources in the Park, including the marine resources of Glacier Bay;

(9) commercial fishing and subsistence fishing and gathering are of great importance to local residents who often lack other alternatives for sustaining their livelihood; and

(10) the continuation of commercial fishing and subsistence fishing and gathering in Glacier Bay has widespread support among local residents and Glacier Bay users, including the environmental community and operators of back-country kayak tours.

SEC. 3. INFRASTRUCTURE IMPROVEMENT.

Section 1306 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3196) is amended by adding at the end the following:

"(c) GLACIER BAY PARK.—

"(1) GLACIER BAY LODGE.—

"(A) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement, partnership, or other contractual relationship with the operator of Glacier Bay Lodge in Bartlett Cove for the purpose of making improvements to the Lodge and related visitor facilities.

"(B) SCOPE OF WORK.—Improvements to the physical plant and infrastructure under subparagraph (A) may include—

"(i) expansion of the overnight lodging, meeting space, and food service capacity of the Lodge;

"(ii) improvement of visitor access, including boat landing facilities, paths, walkways, and vehicular access routes;

"(iii) construction of a visitor information center and an Alaska Native cultural center;

"(iv) construction of research and maintenance facilities necessary to support Glacier Bay National Park and Glacier Bay Lodge activities;

"(v) construction or alteration of staff housing; and

"(vi) correction of deficiencies that may impair compliance with Federal or State construction, safety, or access requirements.

"(2) ALTERATION OF PARK HEADQUARTERS.—Before entering into a cooperative agreement or contract for alteration or expansion of National Park Service facilities in or near Gustavus, Alaska, the Secretary shall provide to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that includes a cost-benefit analysis of the alteration or expansion, including an examination of other reasonable alternatives to achieve the desired level of service.".

SEC. 4. SMALL PASSENGER VESSELS.

Section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197) is amended by adding at the end the following:

"(d) GLACIER BAY PASSENGER VESSELS.

"(1) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall promulgate regulations to increase the number of Glacier Bay entry permits available to tour boats during June, July, and August to a level consistent with the demand for the entries.

"(2) TRANSIT SEPARATE FROM TOUR BOATS.—Increases in tour boat entry permits for Glacier Bay under paragraph (1) shall be considered separate from, and shall not affect or be affected by, the number of entry permits provided to small passenger vessels providing passage to and from Glacier Bay Lodge.".

SEC. 5. SURVEY OF PARK USERS.

Section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197) (as amended by section 4) is amended by adding at the end the following:

"(e) SURVEY OF GLACIER BAY USERS.—

"(1) SURVEY DESIGN.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a plan for conducting a comprehensive survey of Glacier Bay National Park users during the following visitor season, including individuals arriving in the Park on commercially operated vessels, to determine—

"(A) the extent to which the users consider the activities of other groups of users of the Park as having an adverse impact on the users' enjoyment of the Park; and

"(B) the extent to which the expectations of the users for the Park are being satisfied.

"(2) RESULTS.—Not later than December 31 of the calendar year in which the survey is conducted pursuant to the plan submitted under paragraph (1), the Secretary shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives the results of the survey and any recommendations the Secretary considers necessary to reconcile competing uses of the Park or satisfy visitor access needs of the Park.".

SEC. 6. FISHING.

Section 1314 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3202) is amended by adding at the end the following:

"(d) FISHING IN GLACIER BAY NATIONAL PARK.—

"(1) DEFINITIONS.—In this subsection:

"(A) COUNCIL.—The term 'Council' means the Glacier Bay Fishery Science Advisory Council established by paragraph (6).

"(B) EXTERIOR WATERS OF THE PARK.—The term 'exterior waters of the Park' means the marine waters in the Park but outside Glacier Bay proper.

"(C) GLACIER BAY PROPER.—The term 'Glacier Bay proper' means the waters of Glacier Bay, including coves and inlets, north of a line drawn from Point Gustavus to Point Carolus.

"(D) PARK.—The term 'Park' means Glacier Bay National Park.

"(E) RESERVE.—The term 'Reserve' means the Glacier Bay Marine Fisheries Reserve designated by paragraph (4).

"(F) RESIDENT POPULATION.—The term 'resident population' means a discrete population of fish or shellfish that—

"(i) spawns in the Park;

"(ii) is comprised of individual fish or shellfish the majority of which spend the greater part of their life cycle in the Park; or

"(iii) is demonstrated to be reliant on unique features of the Park for the survival of the population.

"(2) SUBSISTENCE USE.—

"(A) IN GENERAL.—Subject to subparagraph (B), subsistence fishing and gathering by a local resident of the Park, including a resident of Hoonah, shall be allowed in the Park in accordance with title VIII.

"(B) PERMANENT STRUCTURES.—No permanent structure associated with subsistence fishing or gathering, including a set net site, fish camp, cabin, or other related structure, may be constructed in the Park.

"(3) COMMERCIAL FISHING GENERALLY.—

"(A) ALLOWED COMMERCIAL FISHING.—

"(i) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary shall allow commercial fishing in the Park using the following methods and means in use for commercial fishing in the Park during calendar years 1980 through 1996:

"(I) Trolling or seining for salmon, except that seining may not be used in Glacier Bay proper.

"(II) Longlining.

"(III) Use pots or ring nets.

"(ii) FEDERAL AND STATE LAWS.—Fishing allowed under clause (i) shall be subject to any applicable Federal or State law.

"(iii) ADVERSE IMPACT.—

"(I) IN GENERAL.—If the Secretary determines that scientifically valid information demonstrates a significant adverse impact is occurring to a resident population as a result of commercial fishing in the Park, the Secretary shall consult with the relevant State fishery management authority and may request that the authority initiate remedial action.

"(II) EMERGENCY ACTION.—If the Secretary determines that commercial fishing is causing an emergency that poses an immediate threat to a Park resource, including a resident population of fish or shellfish, and that the relevant State fishery management authority is not taking appropriate action, the Secretary may promulgate such regulations as are necessary to protect the threatened resource for the duration of the emergency.

"(B) MEMORANDUM OF UNDERSTANDING.—Not later than 90 days after the date of enactment of this subsection, the Secretary and the relevant State fishery management authority shall jointly prepare and publish a memorandum of understanding that—

"(i) describes the respective authority of the Secretary and the State fishery management authority with regard to the management of commercial fishing in the Park; and

"(ii) establishes a process for consultations and regulatory action under subparagraph (A).

"(4) GLACIER BAY MARINE FISHERIES RESERVE.—

"(A) DESIGNATION.—The waters of Glacier Bay proper are designated as the Glacier Bay Marine Fisheries Reserve.

"(B) PURPOSES.—The purposes of the Reserve are—

"(i) to maintain a high degree of protection for the living marine resources of the Glacier Bay marine ecosystem;

"(ii) to provide for the continued health, diversity, and abundance of the resources in the Glacier Bay marine ecosystem;

"(iii) to provide a continuing opportunity for the conduct of fisheries science in a postglacial ecological environment; and

"(iv) to provide for sustainable public use and enjoyment of the marine resources of Glacier Bay.

"(C) FISHING.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Reserve shall remain open to fishing in accordance with paragraphs (2) and (3).

"(ii) CLOSURES AND RESTRICTIONS.—A closure or a restriction on time, area, or method or means of access to the Reserve may be implemented by the appropriate State fishery management authority if the closure or restriction—

"(I) is recommended by the Council; and

"(II) is required to achieve the purposes of the Reserve.

"(iii) COMMENT.—Before implementing a closure under clause (ii), the appropriate State fishery management authority shall solicit comments from affected commercial or subsistence users of the Reserve.

"(5) BEARDSLEE ISLANDS.—

"(A) RESTRICTION ON FISHING.—Notwithstanding paragraph (4)(C), the waters of the Beardslee Islands managed as wilderness shall be closed to commercial fishing, except that the appropriate State fishery management authority shall allow commercial fishing for Dungeness crab by an individual who, during calendar years 1984 through 1995—

"(i) participated in commercial fishing for Dungeness crab in the Beardslee Islands for a minimum of 10 fishing seasons; and

"(ii) was reliant on the fishing referred to in clause (i) for a significant part of the individual's fishery-related income.

"(B) INFORMATION.—In making a determination of eligibility under subparagraph (A), the appropriate fishery management authority shall consider all available public records as well as any other information made available by the prospective applicant.

"(C) INELIGIBILITY.—

"(i) IN GENERAL.—If an individual engaged in commercial fishing in the waters of the Beardslee Islands under this paragraph voluntarily ceases to participate actively in the fishing for a period of at least 1 year for any reason other than illness, injury, or national service, the individual shall not be eligible to engage in commercial fishing in the waters of the Beardslee Islands under this paragraph.

"(ii) DESIGNATED SUCCESSOR.—

"(I) IN GENERAL.—An individual who is ineligible to engage in commercial fishing under clause (i) may, at any time before or during the year in which the individual ceases to participate actively in fishing, designate a successor that may engage in commercial fishing for Dungeness crab in the waters of the Beardslee Islands under this paragraph as long so the successor—

"(aa) engages in commercial fishing for Dungeness crab in the waters of the Beardslee Islands; and

"(bb) is reliant on the fishing for a significant part of the individual's fishery-related income.

"(II) INELIGIBILITY OF SUCCESSOR.—If a successor designated under subclause (I) voluntarily ceases to participate actively in fishing in the waters of the Beardslee Islands under this paragraph for a period of at least 1 year for any reason other than illness, injury, or national service, the individual shall no longer be eligible to engage in commercial fishing in the waters of the Beardslee Islands under this paragraph.

"(D) TEMPORARY SUCCESSOR.—

"(i) IN GENERAL.—If an individual eligible to engage in commercial fishing in the waters of the Beardslee Islands under this paragraph is forced by reason of illness, injury, or national service to forego the fishing, the individual may designate a temporary successor for a period of 1 year.

"(ii) RENEWAL.—The designation of a temporary successor under clause (i) may be renewed yearly so long as the condition of illness, injury, or national service continues to prevent the eligible individual from participating in the commercial fishing.

"(E) OTHER LAW.—An individual eligible to fish under this paragraph shall be subject to any other Federal or State law.

"(F) FISHING CESSATION AGREEMENT.—

"(i) IN GENERAL.—The Secretary and an individual engaged in commercial fishing under this paragraph may agree on the cessation of commercial fishing by the individual.

"(ii) DESIGNATION OF SUCCESSOR.—An individual who agrees to cease commercial fishing under clause (i) may not designate a successor under subparagraph (C)(ii).

"(G) FORCED RETIREMENT OF SUCCESSOR.—The Secretary may require an individual designated as a successor under subparagraph (C)(ii) to cease commercial fishing under this paragraph if the facility—

"(i) determines that cessation of commercial fishing by the individual would be significantly beneficial to the Reserve; and

"(ii) compensates the individual for the individual's expected lifetime earnings for the commercial fishing, as determined by—

"(I) the individual's average annual earnings over a 5-year period from the commercial fishing; or

"(II) if a minimum of 5 years of data on the individual's earnings from the commercial fishing are unavailable, the average annual earnings of the individual's predecessor for the commercial fishing.

"(6) FISHERY SCIENCE ADVISORY COUNCIL.—

"(A) ESTABLISHMENT.—There is established the Glacier Bay Fishery Science Advisory Council.

"(B) MEMBERSHIP.—

"(i) IN GENERAL.—The Council shall consist of 5 members, of whom—

"(I) 2 members shall be professional fishery biologists appointed by the Secretary;

"(II) 2 members shall be professional fishery biologists appointed by the Governor of Alaska; and

"(III) 1 member shall be a professional fishery biologist who is not employed by the Federal Government or the State of Alaska, who shall—

"(aa) be appointed jointly by the Secretary and the Governor of Alaska; and

"(bb) serve as chairperson of the Council.

"(ii) APPOINTMENTS.—Appointments to the Council shall be made not later than 60 days after the date of enactment of this subsection.

"(iii) REPLACEMENT.—A Council member shall serve on the Council until replaced by the authority that appointed the individual.

"(C) RESPONSIBILITIES.—The Council shall—

"(i) not later than 180 days after the date of enactment of this subsection, provide a report reviewing the status of knowledge about fishery resources in the Park to the Secretary, the State of Alaska, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives; and

"(ii) not later than 1 year after the date of enactment of this subsection, in consultation with appropriate Federal and State agencies, prepare a fisheries management plan for the Reserve, including areas managed as wilderness, in accordance with subparagraph (D).

"(D) FISHERIES MANAGEMENT PLAN.—The fisheries management plan referred to in subparagraph (C)(ii) shall—

"(i) describe a framework for pursuing opportunities for fisheries science in combination with the continued harvest of fish and shellfish from the Reserve, consistent with sound management practices and in accordance with recognized principles for the management of sustainable resources; and

"(ii) make such recommendations as the Council considers appropriate regarding fishery research needs and regulations regarding fishing times, areas, methods, and means.

"(E) CONTINUING RECOMMENDATION.—After completing the fisheries management plan under subparagraph (D), the Council shall continue to meet at least annually, and at such other times as the Council considers necessary, to provide to the Secretary and the entities referred to in subparagraph (C)(i) such additional recommendations on fishery research and management priorities and needs in the Reserve as the Council considers appropriate.

"(F) CONSENSUS DECISIONS.—For a recommendation, designation, or determination of the Council to be effective it shall be made by consensus.

"(G) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(7) EFFECT ON TIDAL AND SUBMERGED LAND.—

"(A) CLAIM TO TIDAL OR SUBMERGED LAND.—

"(i) IN GENERAL.—Nothing is this subsection invalidates, validates, or in any other way affects any claim of the State of Alaska to title to any tidal or submerged land.

"(ii) FUTURE ACTION.—No action taken pursuant to or in accordance with this subsection shall bar the State of Alaska from asserting at any time its claim of title to any tidal or submerged land.

"(B) JURISDICTION.—Nothing in this subsection, and no action taken pursuant to this subsection, shall expand or diminish Federal or State jurisdiction, responsibility, interests, or rights in the management, regulation, or control of waters or tidal or submerged land of the State of Alaska.".

By Mr. WELLSTONE (for himself, Mr. GRASSLEY, Mr. KERREY, Mr. JOHNSON, Mr. DASCHLE, and Mr. CONRAD):

S. 1066. A bill to amend the Internal Revenue Code of 1986 to allow the alcohol fuels credit to be allocated to patrons of a cooperative in certain cases; to the Committee on Finance.

TAX RELIEF LEGISLATION

Mr. WELLSTONE. Mr. President, I rise today to offer a bill to provide tax relief to America's farmer-owned cooperatives. My bill would allow members of America's farmer-owned cooperatives to pass through the small producer tax credit for ethanol to cooperative members, who are currently not able to take this credit.

Farmer-owned cooperatives are at the heart of America's rural communities. Cooperatives and cooperative members—family farmers whose survival and prosperity are essential for our whole country—work hard, invest, and contribute to their communities daily. We owe them their fair share of that daily effort, along with a level playing field to compete on with other businesses.

I am therefore introducing legislation that will allow the small ethanol producer credit to pass through to cooperative owners and members. Farmer-owned cooperatives have invested over $1 billion in ethanol production and marketing, and more than 857,000 farmers have a stake in the continued development and growth of this important domestic value-added industry. Yet, the members of these cooperatives are unable to benefit from this tax credit because cooperatives are not allowed to passthrough the credit.

This situation is extremely unfair—owners of other ethanol production facilities are able to take advantage of this incentive, yet we are denying family farmers their fair share of the benefit. While I strongly support the preservation and extension of the ethanol tax incentives—vital for this maturing industry—passthrough of the small producer credit is a separate issue of fundamental fairness for family farmers.

I believe all Members can agree that family farmers, who have made a substantial investment in ethanol production, should be able to take advantage of the same tax benefits that other small business owners who produce ethanol now enjoy. Passthrough of this tax credit is not a corporate subsidy and does not benefit large corporations, but is an incentive for America's family farmers to help produce a fuel that decreases our foreign oil dependence, spurs rural development, and improves our Nation's air quality.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill as ordered to be printed in the RECORD, as follows:

S. 1066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.

(a) IN GENERAL.—Subsection (d) of section 40 of the Internal Revenue Code of 1986 (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

"(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

"(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization made on a timely filed return (including extensions) for such year, be apportioned pro rata among patrons on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) for the taxable year of the organization, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron in which the patronage dividend for the taxable year referred to in subparagraph (A) is includible in gross income.

"(C) SPECIAL RULE FOR DECREASING CREDIT FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the cooperative organization's return for such year, an amount equal to the excess of such reduction over the amount not apportioned to the patrons under subparagraph (A) for the taxable year shall be treated as an increase in tax imposed by this chapter on the organization. Any such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G of this part."

(b) TECHNICAL AMENDMENT.—Section 1388 of the Internal Revenue Code of 1986 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) CROSS REFERENCE.—

"For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(d)(6)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

By Mr. KERRY (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. WELLSTONE, Ms. LANDRIEU, Mr. KENNEDY, and Mr. HARKIN):

S. 1067. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms; to the Committee on Foreign Relations.

THE CODE OF CONDUCT ON ARMS TRANSFERS ACT OF 1997

Mr. KERRY. Mr. President, today I am introducing the Code of Conduct on Arms Transfers Act of 1997, a bill to place restrictions on military assistance and arms transfers to governments that are not democratic, do not respect human rights, are engaged in armed aggression, or are not participating in the U.N. Register of Conventional Arms.

Before I discuss the specifics of the legislation, I want to take a moment to pay tribute to our former colleague and long-time champion of this effort, Senator Mark Hatfield. During his four terms in the Senate, Senator Hatfield developed a reputation as a man committed to the search for peace and a staunch advocate of nonmilitary solutions for international problems. It was natural for Senator Hatfield to take the lead in an effort to make U.S. arms sales policy more reflective of American values. He did not succeed in winning passage of a Code of Conduct, but he placed the issue in front of the Senate and the public, and moved the debate forward. I am sure he is gratified to see that the House of Representatives adopted a version of the Code as an amendment to the bill to authorize State Department activities for fiscal year 1998. I am honored to follow in his footsteps and introduce derivative legislation, the 1997 Code of Conduct Act.

The Code of Conduct on Arms Transfers Act embodies a fundamental shift in the way that the United States will deal with the transfer of conventional weapons to the rest of the world. Like many other aspects of our national security structure, arms sales and other military assistance must be adjusted to the realities of the post-cold-war era. The central theme of our foreign policy has changed from containment of communism to expansion of democracy. We no longer need to send massive amounts of weaponry to our surrogates around the world in an arms race against communism. Instead we must evaluate the effect that arms transfers have on regional stability, the promotion of democracy and the protection of human rights.

Unfortunately, our arms transfer policies have not adjusted to this reality. The United States continues to be the primary supplier of arms to the world. We ranked first in arms transfer agreements with developing nations from 1988 to 1995. In 1995 the United States ranked first in deliveries to the developing world for the fourth year in row. The United States share of all arms transfers to developing nations rose from 11.1 percent in 1988 to 44.1 percent in 1995. In constant dollars the United States has increased deliveries to developing nations from $5.5 billion in 1988 to $9.5 billion in 1995. It is disturbing to me that an analysis done by the Project on Demilitarization and Democracy revealed that, of the arms transfers to developing nations over a 4-year period, 85 percent went to non-Democratic governments. It is clear that other factors, including short-term economic benefits from sales, dominate the U.S. Government's decisionmaking process concerning arms sales and the nature of the recipient regimes appears to be of little consequence.

The Code of Conduct seeks to elevate the consideration of democracy, human rights and nonaggression from their current status as policy afterthoughts to primary criteria for decisions on arms transfers. A quote from a February 17, 1995 press release from the White House illustrates—by what it omits—the unfortunate tendency to ignore these factors. The release states, in part: "The U.S. continues to view transfers of conventional arms as a legitimate instrument of U.S. foreign policy—deserving U.S. government support—when they enable us to help friends and allies deter aggression, promote regional security, and increase interoperability of U.S. forces and allied forces. * * * The U.S. will exercise unilateral restraint in cases where overriding national security or foreign policy interests require us to do so."

The criteria denoted in that statement are, indeed, critical components of a sound U.S. policy on arms transfers and should continue to be considered as such. But the statement omits what should be the very important consideration of the effects arms transfers are likely to have on democratization, nonaggression, and human rights. The United States is the largest exporter of weapons to developing nations and we must learn to exercise unilateral restraint not just for national security and foreign policy interests, but also for the furtherance of democracy and human rights.

By exercising restraint, we cannot only further our foreign policy goal of fostering democracy, but also enhance our security as well. The June 1996 Report of the Presidential Advisory Board on Arms Proliferation Policy concluded that U.S. and international security are threatened by the proliferation of advanced conventional weapons. According to the Report, "The world struggles today with the implications of advanced conventional weapons. It will in the future be confronted with yet another generation of weapons, whose destructive power, size, cost, and availability can raise many more problems even than their predecessors today. These challenges will require a new culture among nations, one that accepts increased responsibility for control and restraint, despite short-term economic and political factors pulling in other directions." The Code of Conduct is a step toward that new culture.

The bill I am introducing today differs from past versions of the Code of Conduct in two significant ways. Most importantly, the language no longer requires that Congress pass legislation to accept a Presidential waiver for countries that do not meet the criteria. Under previous versions of the legislation, the President was required to submit to Congress an annual list of countries determined to meet the criteria for human rights, democracy, and nonaggression. For countries that failed to meet this threshold, the President could have requested a national security waiver, but the Congress would have had to enact the waiver through legislation. In my judgment, this approach made granting a waiver pass a very stiff test. Consequently, this provision was a major impediment to passage of the Code. Under the terms of the bill being introduced today, the President will still submit the annual list of countries that meet the criteria, but a Presidential request for a national security waiver does not require further action by the Congress. Congress could, of course, disapprove the waiver through the normal legislative process, but that likely would require overriding a Presidential veto. The design of the waiver process in the bill I am introducing is the same as that passed by the House.

The second difference from past versions of the Code is the inclusion of a section to promote an international arms transfer regime. We are far and away the world's biggest arms merchant and we must lead the way for the rest of the world in addressing this issue. But the United States cannot do this alone. We should not deceive ourselves regarding the ability or willingness of other arms-producing nations to rush in and fill any gap we create. Russia, France, China, and other nations all have the potential to provide weapons the United States and its manufacturers will not provide. My legislation will require the President to expand international efforts to curb worldwide arms sales and to work toward establishing a multilateral regime to govern the transfer of conventional arms. It requires the President to notify allied governments when the United States determines a nation is ineligible under the Code for arms transfers, and request that our allies join the United States in refusing to transfer arms to that nation. The bill also requires the President to report annually to the Congress on steps he is taking to gain international acceptance of the principles incorporated in this legislation and on the progress he is making toward establishing a permanent multilateral structure for controlling arms transfers.

If some of my colleagues view this effort as naive in a rough and tumble world, I call their attention to a commentary editorial in the June 16, 1997, issue of Defense News which endorses the Arms Trade Code of Conduct as passed by the House of Representatives. The editors concluded that the Code "would create a useful tool to shine light on some nations' darkest human rights and other unsavory secrets." The effort to establish an international Code of Conduct has won the support of former Costa Rican President Oscar Arias and a dozen of his fellow Nobel Peace laureates. Similar legislation has been introduced in the European Union and several of its member nations, and the new government in the United Kingdom has expressed support for the concept.

The United States should lead the way and stop selling arms to nations that ignore the rights and needs of their citizens that use those arms to bully their neighbors or their own populations. We should lead the way to establishment of a multilateral regime that will effectively prevent such nations from obtaining arms with which to enforce and administer nefarious activities. This legislation, and the similar legislation already passed by the House of Representatives, can be the vehicle to accomplish this objective.

I want to thank Senator DORGAN, who previously has offered a Code of Conduct provision as an amendment to other legislation, for joining as a cosponsor today, along with Senators FEINGOLD, LEAHY, MOSELEY-BRAUN, WELLSTONE, LANDRIEU, KENNEDY, and HARKIN.

With their support, and the support of other Senators whose support I am confident will be forthcoming, I am hopeful that we will see the Congress enact and the President sign into law this year legislation that will ensure that the values of democratization, human rights, and nonaggression—which are so important to our Nation and so often lauded and referenced by elected officials from both parties—will be legally established as criteria for arms sales and transfers to other nations by the United States.

I ask unanimous consent the text of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Code of Conduct on Arms Transfers Act of 1997".

SEC. 2. PURPOSE.

The purpose of this Act is to provide clear policy guidelines and congressional responsibility for determining the eligibility of foreign governments to be considered for United States military assistance and arms transfers.

SEC. 3. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE AND ARMS TRANSFERS TO CERTAIN FOREIGN GOVERNMENTS.

(a) PROHIBITION.—Except as provided in subsections (b) and (c), beginning on and after October 1, 1998, United States military assistance and arms transfers may not be provided to a foreign government for a fiscal year unless the President certifies to Congress for that fiscal year that such government meets the following requirements:

(1) PROMOTES DEMOCRACY.—Such government—

(A) was chosen by and permits free and fair elections;

(B) promotes civilian control of the military and security forces and has civilian institutions controlling the policy, operation, and spending of all law enforcement and security institutions, as well as the armed forces;

(C) promotes the rule of law, equality before the law, and respect for individual and minority rights, including freedom to speak, publish, associate, and organize; and

(D) promotes the strengthening of political, legislative, and civil institutions of democracy, as well as autonomous institutions to monitor the conduct of public officials and to combat corruption.

(2) RESPECTS HUMAN RIGHTS.—Such government—

(A) does not engage in gross violations of internationally recognized human rights, including—

(i) extrajudicial or arbitrary executions;

(ii) disappearances;

(iii) torture or severe mistreatment;

(iv) prolonged arbitrary imprisonment;

(v) systematic official discrimination on the basis of race, ethnicity, religion, gender, national origin, or political affiliation; and

(vi) grave breaches of international laws of war or equivalent violations of the laws of war in internal conflicts;

(B) vigorously investigates, disciplines, and prosecutes those responsible for gross violations of internationally recognized human rights;

(C) permits access on a regular basis to political prisoners by international humanitarian organizations such as the International Committee of the Red Cross;

(D) promotes the independence of the judiciary and other official bodies that oversee the protection of human rights;

(E) does not impede the free functioning of domestic and international human rights organizations; and

(F) provides access on a regular basis to humanitarian organizations in situations of conflict or famine.

(3) NOT ENGAGED IN CERTAIN ACTS OF ARMED AGGRESSION.—Such government is not currently engaged in acts of armed aggression in violation of international law.

(4) FULL PARTICIPATION IN UNITED NATIONS REGISTER OF CONVENTIONAL ARMS.—Such government is fully participating in the United Nations Register of Conventional Arms.

(b) REQUIREMENT FOR CONTINUING COMPLIANCE.—Any certification with respect to a foreign government for a fiscal year under subsection (a) shall cease to be effective for that fiscal year if the President certifies to Congress that such government has not continued to comply with the requirements contained in paragraphs (1) through (4) of such subsection.

(c) EXEMPTIONS.—

(1) IN GENERAL.—The prohibition contained in subsection (a) shall not apply with respect to a foreign government for a fiscal year if—

(A) subject to paragraph (2), the President submits a request for an exemption to Congress containing a determination that it is in the national security interest of the United States to provide military assistance and arms transfers to such government; or

(B) the President determines that an emergency exists under which it is vital to the interest of the United States to provide military assistance and arms transfers to such government.

(2) DISAPPROVAL.—A request for an exemption to provide military assistance and arms transfers to a foreign government shall not take effect, or shall cease to be effective, if a law is enacted disapproving such request.

(d) NOTIFICATIONS TO CONGRESS.—

(1) IN GENERAL.—The President shall submit to Congress initial certifications under subsection (a) and requests for exemptions under subsection (c)(1)(A) in conjunction with the submission of the annual congressional presentation documents for foreign assistance programs for a fiscal year and shall, where appropriate, submit additional or amended certifications and requests for exemptions at any time thereafter in the fiscal year.

(2) DETERMINATION WITH RESPECT TO EMERGENCY SITUATIONS.—Whenever the President determines that it would not be contrary to the national interest to do so, he shall submit to Congress at the earliest possible date reports containing determinations with respect to emergencies under subsection (c)(1)(B). Each such report shall contain a description of—

(A) the nature of the emergency;

(B) the type of military assistance and arms transfers provided to the foreign government; and

(C) the cost to the United States of such assistance and arms transfers.

SEC. 4. PROMOTING AN INTERNATIONAL ARMS TRANSFERS REGIME.

(a) INTERNATIONAL COOPERATION.—Prior to the beginning of each fiscal year, the President shall compile a list of countries that do not meet the requirements in section 3(a) and for which the President has not requested an exemption under section 3(c). The President shall—

(1) notify the governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies, done at Vienna, July 11 and 12, 1996 (in this section referred to as the "Wassenaar Arrangement"), and such other foreign governments as the President deems appropriate, that the countries so listed are ineligible to receive United States arms sales and military assistance under this Act; and

(2) request that the countries so notified also declare the listed countries as ineligible for arms sales and military assistance.

(b) MULTILATERAL EFFORTS.—The President shall continue and expand efforts through the United Nations and other international fora, such as the Wassenaar Arrangement, to limit arms transfers worldwide, particularly transfers to countries that do not meet the criteria established in section 3, for the purpose of establishing a permanent multilateral regime to govern the transfer of conventional arms.

(c) REPORT.—

(1) IN GENERAL.—Beginning one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report to Congress—

(A) describing efforts he has undertaken during the preceding year to gain international acceptance of the principles contained in section 3; and

(B) evaluating the progress made toward establishing a multilateral regime to control the transfer of conventional arms.

(2) SUBMISSION OF THE REPORT.—This report shall be submitted in conjunction with the submission of the annual congressional presentation documents for foreign assistance programs for a fiscal year.

SEC. 5. UNITED STATES MILITARY ASSISTANCE AND ARMS TRANSFERS DEFINED.

For purposes of this Act, the terms "United States military assistance and arms transfers" and "military assistance and arms transfers" mean—

(1) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act;

(2) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training); or

(3) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (excluding any transfer or other assistance under section 23 of such Act), including defense articles and defense services licensed or approved for export under section 38 of that Act.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 224

At the request of Mr. WARNER, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 251

At the request of Mr. SHELBY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years.

S. 349

At the request of Mrs. BOXER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 349, a bill to amend the Public Health Service Act to provide for expanding, intensifying, and coordinating activities of the National Heart, Lung, and Blood Institute with respect to heart attack, stroke, and other cardiovascular diseases in women.

S. 442

At the request of Mr. WYDEN, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 442, a bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

S. 755

At the request of Mr. CAMPBELL, the names of the Senator from New Jersey [Mr. TORRICELLI] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 859

At the request of Mr. KYL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 859, a bill to repeal the increase in tax on Social Security benefits.

S. 887

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Louisiana [Ms. LANDRIEU], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 920

At the request of Mr. WYDEN, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 920, a bill to require the Secretary of Health and Human Services to issue an annual report card on the performance of the States in protecting children placed for adoption in foster care, or with a guardian, and for other purposes.

S. 1000

At the request of Mr. CHAFEE, the names of the Senator from Virginia [Mr. WARNER], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Oklahoma [Mr. INHOFE], the Senator from Wyoming [Mr. THOMAS], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Colorado [Mr. ALLARD], the Senator from Montana [Mr. BAUCUS], the Senator from Nevada [Mr. REID], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1000, a bill to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse".

S. 1002

At the request of Mr. ABRAHAM, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1002, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

S. 1060

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 1060, a bill to restrict the activities of the United States with respect to foreign laws that regulate the marketing of tobacco products and to subject cigarettes that are exported to the same restrictions on labeling as apply to the sale or distribution of cigarettes in the United States.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the names of the Senator from New Jersey [Mr. TORRICELLI], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 38

At the request of Mr. ROTH, the names of the Senator from New Jersey [Mr. TORRICELLI), and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of Senate Concurrent Resolution 38, a concurrent resolution to state the sense of the Congress regarding the obligations of the People's Republic of China under the Joint Declaration and the Basic Law to ensure that Hong Kong remains autonomous, the human rights of the people of Hong Kong remain protected, and the government of the Hong Kong SAR is elected democratically.

SENATE CONCURRENT RESOLUTION—42—AUTHORIZING THE USE OF THE CAPITOL FOR A CEREMONY HONORING ECUMENICAL PATRIARCH BARTHOLOMEW

Mr. D'AMATO (for himself and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 42

Whereas Ecumenical Patriarch Bartholomew is the spiritual leader of nearly 300 million Orthodox Christians around the world and millions of Orthodox Christians in America;

Whereas Ecumenical Patriarch Bartholomew is recognized in the United States and abroad as a leader in the quest for world peace, respect for the earth's environment, and greater religious understanding;

Whereas the extraordinary efforts of Ecumenical Patriarch Bartholomew continue to bring people of all faiths closer together in America and around the world;

Whereas the courageous leadership of Ecumenical Patriarch Bartholomew for peace in the Balkans, Eastern Europe, the Middle East, the Eastern Mediterranean, and elsewhere inspires and encourages people of all faiths toward his dream of world peace in the new millennium; and

Whereas the outstanding accomplishments of Ecumenical Patriarch Bartholomew have been formally recognized and honored by numerous governmental, academic, and other institutions around the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used in October 21, 1997, for a congressional ceremony honoring Ecumenical Patriarch Bartholomew. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED

THE AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

ROBB AMENDMENT NO. 977

Mr. ROBB proposed an amendment to the bill (S. 1033) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 7, line 3, strike "$24,948,000" and insert in lieu thereof, "$26,948,000".

On page 7, line 16, before the period, insert the following: ": *Provided further*, That of the total amount appropriated, not less than $13,774,000 shall be made available for civil rights enforcement, of which up to $3,000,000 shall be provided to establish an investigative unit within the Office of Civil Rights".

On page 34, line 6, strike "$47,700,000" and insert in lieu thereof "$44,700,000".

On page 35, line 1, strike "$3,000,000" and insert in lieu thereof "$4,000,000".

BINGAMAN (AND) CAMPBELL AMENDMENT NO. 978

Mr. BUMPERS (for Mr. BINGAMAN, for himself and Mr. CAMPBELL) proposed an amendment to the bill S. 1033, supra; as follows:

On page 13, line 20, strike "$13,619,000" and insert "$13,469,000".

On page 14, line 22, strike "$10,991,000" and insert "$11,141,000".

THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

GREGG AMENDMENT NO. 979

Mr. GREGG proposed an amendment to the bill (S. 1022) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 65, strike lines 3 through 9 and insert the following:

Sec. 119. Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) The Administrator may exercise the authority under subparagraph (A) with respect to such surplus real and related property needed by the transferee or grantee for—

"(I) law enforcement purposes, as determined by the Attorney General; or

"(II) emergency management response purposes, including fire and rescue services, as determined by the Director of the Federal Emergency Management Agency.

"(ii) The authority provided under this subparagraph shall terminate on December 31, 1999."

BROWNBACK AMENDMENT NO. 980

Mr. BROWNBACK proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title VI, insert the following:

Sec. 6 . Section 28(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)) is amended by adding at the end the following:

"(12) For each fiscal year following fiscal year 1997, the Secretary may not enter into a contract with, or make an award to, a corporation under the Program, or otherwise permit the participation of the corporation in the Program (individually, or through a joint venture or consortium) if that corporation, for the fiscal year immediately preceding that fiscal year, has revenues that exceed $2,500,000,000.".

LUGAR (AND OTHERS) AMENDMENT NO. 981

Mr. LUGAR (for himself, Mr. McConnell, Mr. Leahy, Mr. Graham, Mr. Lieberman, Mr. Roth, Mr. Dodd, Mr. Mack, and Ms. Mikulski) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 113, line 7, after the word "expended." insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended.

On page 100, line 24 strike "$105,000,000" and insert "$75,000,000".

McCONNELL (AND OTHERS) AMENDMENT NO. 982

Mr. McCONNELL (for himself, Mr. Lugar, Mr. Leahy, Mr. Graham, Mr. Lieberman, Mr. Roth, Mr. Dodd, Mr. Mack, and Ms. Mikulski) proposed an amendment to amendment No. 981 proposed by Mr. Lugar to the bill, S. 1022, supra; as follows:

On page 113, line 7, after the word "expended." insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended. This shall become effective one day after enactment of this Act.

On page 100, line 24, strike "$105,000,000" and insert "$75,000,000".

WARNER AMENDMENT NO. 983

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 1022, supra; as follows:

In Section 112(c)(6)(A) before the semicolon insert the following: "subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 471 and following) and the Public Buildings Act of 1959 (40 U.S.C. 601–619)."

In Section 112(c)(6) be further amended by: (1) striking the word "and" after the semicolon, (2) by inserting "and" after the semicolon in subparagraph (B), and (3) by adding the following paragraphs (C):

"(C) The General Services Administration is authorized to and shall continue the ongoing procurement to consolidate or relocate the organization's headquarters facilities in accordance with the authority granted pursuant to the Public Buildings Act of 1959 (40 U.S.C. §§601–619) and authorizing Committee Resolutions.".

In Section 112(c)(7)(A), strike "without regard to" and insert "subject to", add "of 1959" after "Public Buildings Act" and strike "and the" before "Stewart B. McKinney Homeless Assistance Act." and insert "and without regard to the".

In Section 112(c)(12) strike "including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or interest therein,".

LUGAR (AND OTHERS) AMENDMENT NO. 984

Mr. LUGAR (for himself, Mr. Leahy, Mr. McConnell, Mr. Graham, Mr. Dodd, Mr. Roth, Mr. Lieberman, Mr. Mack, and Ms. Mikulski):

Strike all after the last word in the bill and substitute the following:

"1998

"SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

"For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended. The language on page 100, line 24 to wit, '$105,000,000' is deemed to be '$75,000,000'."

McCONNELL (AND OTHERS) AMENDMENT NO. 985

Mr. McCONNELL (for himself, Mr. Leahy, Mr. Lugar, Mr. Graham, Mr. Dodd, Mr. Roth, Mr. Lieberman, Mr. Mack, and Ms. Mikulski) proposed an amendment to amendment No. 984 proposed by Mr. Lugar to the bill, S. 1022, supra; as follows:

Strike all after the word "1998" on line 4 of the underlying amendment and substitute the following:

SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000 to remain available until expended. The language on page 100, line 24 to wit, "$105,000,000" is deemed to be "$75,000,000". This shall become effective one day after enactment of this Act."

FEINSTEIN (AND OTHERS) AMENDMENT NO. 986

Mrs. FEINSTEIN (for herself, Mr. Leahy, Mrs. Murray, Mrs. Boxer, Mr. Reid, and Mr. Bryan) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 93, line 5, strike all through line 15 on page 97 and insert the following new section:

SEC. 305. COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS.

(a) Establishment and Functions of Commission.—

(1) Establishment.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(2) Functions.—The functions of the Commission shall be to—

(A) study the present division of the United States into the several judicial circuits;

(B) study the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit; and

(C) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

(b) Membership.—

(1) Composition.—The Commission shall be composed of 10 members appointed as follows:

(A) One member appointed by the President of the United States.

(B) One member appointed by the Chief Justice of the United States.

(C) Two members appointed by the Majority Leader of the Senate.

(D) Two members appointed by the Minority Leader of the Senate.

(E) Two members appointed by the Speaker of the House of Representatives.

(F) Two members appointed by the Minority Leader of the House of Representatives.

(2) Appointment.—The members of the Commission shall be appointed within 60 days after the date of the enactment of this Act.

(3) Vacancy.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(5) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

(c) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(2) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(d) PERSONNEL.—

(1) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—The Executive Director, with the approval of the Commission, may appoint and fix the compensation of such additional personnel as the Executive Director determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this paragraph shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(3) EXPERTS AND CONSULTANTS.—The Executive Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(4) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, to the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services to the Commission on a reimbursable basis.

(e) INFORMATION.—The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance the Commission determines necessary to carry out its functions under this section. Each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

(f) REPORT.—No later than 18 months following the date on which its sixth member is appointed in accordance with subsection (b)(2), the Commission shall submit its report to the President and the Congress. The Commission shall terminate 90 days after the date of the submission of its report.

(g) CONGRESSIONAL CONSIDERATION.—No later than 60 days after the submission of the report, the Committees on the Judiciary of the House of Representatives and the Senate shall act on the report.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums, not to exceed $900,000, as may be necessary to carry out the purposes of this section. Such sums as are appropriated shall remain available until expended.

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE RESOLUTION

KERRY (AND CHAFEE) AMENDMENT NO. 987

(Ordered to lie on the table.)

Mr. KERRY (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them to the resolution (S. Res. 98) expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change; as follows:

On page 4, line 13, after "period," insert the following:

"(ii) provides countries with incentives and flexibility in reducing emissions cost-effectively by using the market-oriented approaches of emissions budgets, emissions trading, and appropriate joint implementation with all Parties,

"(iii) includes credible compliance mechanisms, and

"(iv) provides appropriate recognition for countries that undertake emissions reductions prior to the start of the mandated reductions;".

THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

BOND AMENDMENT NO. 988

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill, S. 1022, supra; as follows:

On page 143, between lines 18 and 19, insert the following:

SEC. 5 . Notwithstanding any other provision of law, no amount made available to the Small Business Administration under this title may be obligated or expended to carry out section 7(a) of the Small Business Act (15 U.S.C. 637(a)) before the date on which the Committees on Appropriations and the Committees on Small Business of the House of Representatives and the Senate receive, pursuant to section 10(e) of the Small Business Act (15 U.S.C. 639(e)), unredacted copies of all documents requested by the Chairman of the Committee on Small Business of the Senate in a letter of May 16, 1997, relating to the program under section 7(a) of the Small Business Act (15 U.S.C. 637(a)).

SARBANES (AND OTHERS) AMENDMENT NO. 989

Mr. SARBANES (for himself, Mr. MOYNIHAN, Mr. HATCH, Mr. JEFFORDS, Mr. KERRY, Mr. BIDEN, and Mr. LEAHY) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 124, beginning on line 5, strike all through page 125, line 2.

WELLSTONE AMENDMENTS NOS. 990–991

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill, S. 1022, supra; as follows:

AMENDMENT NO. 990

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . For fiscal year 1998 and subsequent fiscal years, in determining, under section 1007(a)(2)(B) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(B)), the eligibility for legal assistance of an individual who is a victim of domestic violence, a recipient described in such section shall calculate the assets and income described in such section as the assets and income of the individual, rather than—

(1) the assets and income of the spouse of the individual; or

(2) the joint assets and income of the individual and the spouse.

AMENDMENT NO. 991

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . The Attorney General, in consultation with the Legal Services Corporation, shall—

(1) conduct a study, with respect to individuals adversely affected due to changes in their Federal benefits resulting from the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193), and the amendments made by that Act, who otherwise would have obtained assistance from the Legal Services Corporation or grantees thereof, but who were unable to obtain such assistance as a result of the enactment of section 504(a)(16) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–55), regarding—

(A) the estimated number of those individuals; and

(B) the legal, financial, and personal effects on those individuals, as appropriate, of that inability to obtain assistance from the Legal Services Corporation or grantees thereof; and

(2) not later than 180 days after the date of enactment of this Act, submit to Congress a report describing the results of the study conducted under paragraph (1).

KERRY (AND OTHERS) AMENDMENT NO. 992

Mr. KERRY (for himself, Mr. DODD, Mrs. MURRAY, Mr. LAUTENBERG, and Mr. JOHNSON) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 29, line 18, insert "That of the amount made available for Local Law Enforcement Block Grants under this heading, $47,000,000 shall be for the Community Policing to Combat Domestic Violence Program established pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968: *Provided further,*" after "*Provided,*".

GRAHAM AMENDMENT NO. 993

Mr. GRAHAM proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

Sec. 1. Of the amounts made available under this title under the heading "OFFICE OF JUSTICE PROGRAMS" under the subheading "STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than 90 percent of the amount otherwise to be awarded to an entity under the Local Law Enforcement Block Grant Program shall be made available to that entity, if it is made known to the Federal official having authority to obligate or expend such amounts that the entity employs a public safety officer (as that term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide an employee who is public safety officer and who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are otherwise paid by the entity to a public safety officer at the time of retirement or separation.

DOMENICI AMENDMENT NO. 994

Mr. DOMENICI proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1 . PUBLIC DISCLOSURE OF COURT APPOINTED ATTORNEYS' FEES.

Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (40 and inserting the following:

"(4) Disclosure of fees.—

"(A) In General.—Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court's approval of the payment.

"(B) Pre-trial or trial in progress.—If a trial is in pre-trial status or still in progress and after considering the defendant's interests as set forth in subparagraph (D), the court shall—

"(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

"(ii) make public only the amounts approved for payment to defense counsel by diving those amounts into the following categories:

"(I) Arraignment and or plea.

"(II) Bail and detention hearings.

"(III) Motions.

"(IV) Hearings.

"(V) Interviews and conferences.

"(VI) Obtaining and reviewing records.

"(VII) Legal research and brief writing.

"(VIII) Travel time.

"(IX) Investigative work.

"(X) Experts.

"(XI) Trial and appeals.

"(XII) Other.

"(C) Trial completed.—

"(i) In general.—If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant's interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

"(ii) Protection of the rights of the defendant.—If the court determines that defendant's interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

"(D) Considerations.—The interests referred to in subparagraphs (B) and (C) are

(i) to protect any person's 5th amendment right against self-incrimination;

"(ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;

"(iii) the defendant's attorney-client privilege;

"(iv) the work product privilege of the defendant's counsel;

"(v) the safety of any person and

"(vi) any other interest that justice may require.

"(E) Notice.—The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant's interests set forth in subparagraph (D) will be compromised.".

KYL AMENDMENT NO. 995

Mr. GREGG (for Mr. Kyl) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) Special Masters For Civil Actions Concerning Prison Conditions.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

COVERDELL AMENDMENT NO. 996

Mr. GREGG (for Mr. Coverdell) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. . REPORT ON COLLECTING DNA SAMPLES FROM SEX OFFENDERS.

(a) Definitions.—In this section—

(1) the terms "criminal offense against a victim who is a minor", "sexually violent offense", and "sexually violent predator" have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)));

(2) the term "DNA" means deoxyribonucleic acid; and

(3) the term "sex offender" means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) Report.—From amounts made available to the Department of Justice under this title, not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) Plan Requirements.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of blood and saliva specimens from any sex offender;

(B) the analysis of the collected blood and saliva specimens for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with the mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

DORGAN (AND OTHERS) AMENDMENT NO. 997

Mr. HOLLINGS (for Mr. Dorgan, for himself, Mr. Rockefeller, Mr. Hollings, and Mr. Daschle) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD NOT MANIPULATE UNIVERSAL SERVICE SUPPORT PAYMENTS TO BALANCE THE FEDERAL BUDGET.

Whereas the Congress reaffirmed the importance of universal service support for telecommunications services by passing the Telecommunications Act of 1996;

Whereas the Telecommunications Act of 1996 required the Federal Communications Commission to preserve and advance universal service based on the following principles:

(A) Quality services should be available at just, reasonable, and affordable rates;

(B) Access to advanced telecommunications and information services should be provided in all regions of the Nation;

(C) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services;

(D) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service;

(E) There should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; and

(F) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services;

Whereas Federal and state universal contributions are administered by an independent, non-federal entity and are not deposited into the Federal Treasury and therefore not available for Federal appropriations;

Whereas the Conference Committee on H.R. 2015, the Budget Reconciliation Bill, is considering proposals that would withhold Federal and State universal service funds in the year 2002; and

Whereas the withholding of billions of dollars of universal service support payments will mean significant rate increases in rural and high cost areas and will deny qualifying schools, libraries, and rural health facilities discounts directed under the Telecommunications Act of 1996:

Now, therefore, be it

Resolved, That it is the sense of the Senate that the Conference Committee on HR 2015 should not manipulate, modify, or impair universal service support as a means to achieve a balanced Federal budget or achieve Federal budget savings.

BIDEN AMENDMENT NO. 998

Mr. HOLLINGS (for Mr. BIDEN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) for fiscal year 2001, $4,355,000,000; and

"(8) for fiscal year 2002, $4,455,000,000.".

Beginning on the date of enactment of this legislation, the non-defense discretionary spending limits contained in Section 201 of H. Con. Res. (105th Congress) are reduced as follows:

for fiscal year 2001, $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

for fiscal year 2002, $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

BAUCUS (AND BURNS) AMENDMENT NO. 999

Mr. HOLLINGS (for Mr. BAUCUS for himself and Mr. BURNS) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of law, the Economic Development Administration is directed to transfer funds obligated and awarded to the Butte-Silver Bow Consolidated Local Government as Project Number 05–01–02822 to the Butte Local Development Corporation Revolving Loan Fund to be administered by the Butte Local Development Corporation, such funds to remain available until expended.

BINGAMAN AMENDMENT NO. 1000

Mr. HOLLINGS (for Mr. BINGAMAN) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 65, between lines 9 and 10, insert the following:

SEC. 120. (a) Section 1(d) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(d)) is amended by inserting after "The term 'agent of a foreign principal'" the following: "(1) includes an entity described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 that receives, directly or indirectly, from a government of a foreign country (or more than one such government) in any 12-month period contributions in a total amount in excess of $10,000, and that conducts public policy research, education, or information dissemination and that is not included in any other subsection of 170(b)(1)(A), and (2)".

Section 3(d) of such Act (22 U.S.C. 613(d)) is amended by inserting ", other than an entity referred to in section 1(d)(1)," after "Any person".

BUMPERS AMENDMENT NO. 1001

Mr. HOLLINGS (for Mr. BUMPERS) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . The Office of Management and Budget shall designate the Jonesboro-Paragould, AR Metropolitan Statistical Area in lieu of the Jonesboro, AR Metropolitan Statistical Area. The Jonesboro-Paragould, AR Metropolitan Statistical Area shall include both Craighead County, AR and Greene County, AR, in their entirety.

BYRD (AND HATCH) AMENDMENT NO. 1002

Mr. HOLLINGS (for Mr. BYRD, for himself and Mr. HATCH) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 29 of the bill, on line 18, before the ":" insert the following: ", of which $25,000,000 shall be for grants to states for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors".

DORGAN AMENDMENT NO. 1003

Mr. HOLLINGS (for Mr. DORGAN) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 86, line 3 after "Secretary of Commerce." insert the following:

"SEC. 211. In addition to funds provided elsewhere in this Act for the National Telecommunications and Information Administration Information Infrastruction Grants program, $10,490,000 is available until expended: Provided, That this amount shall be offset proportionately by reductions in appropriations provided for the Department of Commerce in Title II of this Act, provided amounts provided: *Provided further*, That no reductions shall be made from any appropriations made available in this Act for the National Oceanic and Atmospheric Administration, National Institute of Standards and Technology and National Telecommunications and Information Administration public broadcasting facilities, planning and construction."

DASCHLE AMENDMENT NO. 1004

Mr. HOLLINGS (for Mr. DASCHLE) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 29 of the bill, line 2, after "Center" insert the following: ", of which $100,000 shall be available for a grant to Roberts County, South Dakota; and of which $900,000 shall be available for a grant to the South Dakota Division of Criminal Investigation for the procurement of equipment for law enforcement telecommunications, emergency communications, and the state forensic laboratory".

INOUYE AMENDMENT NO. 1005

Mr. HOLLINGS (for Mr. INOUYE) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 93, strike the matter between lines 14 and 15 and insert the following:

"Ninth .... California, Nevada.";

On page 93, strike the matter between lines 17 and 18 and insert the following:

"Twelfth .... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.".

On page 94, strike lines 14 through 19 and insert the following:

"(1) is in California or Nevada is assigned as a circuit judge on the new ninth circuit;

(2) is in Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon or Washington is assigned as a circuit judge on the twelfth circuit; and".

HARKIN (AND WARNER) AMENDMENT NO. 1006

Mr. HOLLINGS (for Mr. HARKIN, for himself and Mr. WARNER) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE EXEMPLARY SERVICE OF JOHN H. R. BERG TO THE UNITED STATES

Whereas, John H. R. Berg began his service to the United States Government working for the United States Army at the age of fifteen after fleeing Nazi persecution in Germany where his father died in the Auschwitz concentration camp; and,

Whereas, John H. R. Berg's dedication to the United States Government was further exhibited by his desire to become a United States citizen, a goal that was achieved in 1981, 35 years after he began his commendable service to the United States; and,

Whereas, since 1949, John H. R. Berg has been employed by the United States Embassy in Paris where he is currently the Chief of the Visitor's and Travel Unit. And, this year has supported over 10,700 official visitors, 500 conferences, and over 15,000 official and unofficial reservations; and,

Whereas, John H. R. Berg's reputation for "accomplishing the impossible" through his dedication, efficiency and knowledge has become legend in the Foreign Service; and,

Whereas, John H. R. Berg has just completed 50 years of outstanding service to the United States Government with the United States Department of State,

Therefore Be It Resolved, it is the Sense of the Senate that John H. R. Berg deserves the highest praise from the Congress for his steadfast devotion, caring leadership, and lifetime of service to the United States Government.

LEAHY (AND KENNEDY) AMENDMENT NO. 1007

Mr. HOLLINGS (for Mr. LEAHY, for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in the bill, insert the following new section:

"The Administrative Office of the United States Courts, in consultation with the Judicial Conference, shall conduct a study of the average costs incurred in defending and presiding over federal capital cases from the initial appearance of the defendant through the final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, with constitutional requirements.

": *Provided Further*, That the Attorney General, shall review the practices of U.S. Attorneys' Offices and relevant investigating agencies in investigating and prosecuting federal capital cases, including before the initial appearance of the defendant through final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on the Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, consistent with constitutional requirements, and outlining a protocol for the effective, fiscally responsible prosecution of federal capital cases".

REED (AND OTHERS) AMENDMENT NO. 1008

Mr. HOLLINGS (for Mr. REED, for himself, Mr. HOLLINGS, Mr. MCCAIN, Mr. BURNS, and Mr. DURBIN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SLAMMING.

(a) STATEMENT OF PURPOSE.—The purposes of this statement of the sense of the Senate are to—

(1) protect consumers from the fraudulent transfer of their phone service provider;

(2) allow the efficient prosecution of phone service providers who defraud consumers; and

(3) encourage an environment in which consumers can readily select the telephone service provider which best serves them.

(b) FINDINGS.—The Congress finds the following:

(1) As the telecommunications industry has moved toward competition in the long distance market, consumers have increasingly elected to change the company which provides their long-distance phone service. As many as fifty million consumers now change their long distance provider annually.

(2) The fluid nature of the long distance market has also allowed an increasing number of fraudulent transfers to occur. Such transfers have been termed "slamming", which constitutes any practice that changes a consumer's long distance carrier without the consumer's knowledge or consent.

(3) Slamming is now the largest single consumer complaint received by the Common Carrier Bureau of the Federal Communications Commission. As many as one million consumers are fraudulently transferred annually to a telephone consumer which they have not chosen.

(4) The increased costs which consumers face as a result of these fraudulent switches threaten to rob consumers of the financial benefits created by a competitive marketplace.

(5) The Telecommunications Act of 1996 sought to combat this problem by directing that any revenues generated by a fraudulent transfer by payable to the company which the consumer has expressly chosen, not the fraudulent transferor.

(6) While the Federal Communications Commission has proposed and promulgated regulations on this subject, the Commission has not been able to effectively deter the practice of slamming due to a lack of prosecutorial resources as well as the difficulty of proving that a provider failed to obtain the consent of a consumer prior to acquiring that consumer as a new customer. Commission action to date has not adequately protected consumers.

(7) The majority of consumers who have been fraudulently denied the services of their chosen phone service vendor do not turn to the Federal Communications Commission for assistance. Indeed, section 258 of the Communications Act of 1934 directs that State commissions shall be able to enforce regulations mandating that the consent of a consumer be obtained prior to a switch of service.

(8) It is essential that Congress provide the consumer, local carriers, law enforcement, and consumer agencies with the ability to efficiently and effectively persecute those companies which slam consumers, thus providing a deterrent to all other firms which provide phone services.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Communications Commission should, within 12 months of the date of enactment of this Act, promulgate regulations, consistent with the Communications Act of 1934 which provide law enforcement officials dispositive evidence for use in the prosecution of fraudulent transfers of presubscribed customers of long distance and local service; and

(2) the Senate should examine the issue of slamming and take appropriate legislative action in the 105th Congress to better protect consumers from unscrupulous practices including, but not limited to, mandating the recording and maintenance of evidence concerning the consent of the consumer to switch phone vendors, establishing higher civil fines for violations, and establishing a civil right of action against fraudulent providers, as well as criminal sanctions for repeated and willful instances of slamming.

ROBB AMENDMENT NO. 1009

Mr. HOLLINGS (for Mr. ROBB) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 65, line 10, insert the following:

"SEC. 120. There shall be no restriction on the use of Public Safety and Community Policing Grants, authorized under title I of the 1994 Act, to support innovative programs to improve the safety of elementary and secondary school children and reduce crime on or near elementary or secondary school grounds."

LAUTENBERG (AND HATCH) AMENDMENT NO. 1010

Mr. HOLLINGS (for Mr. LAUTENBERG, for himself and Mr. HATCH) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 75, line 3, strike all beginning with "$20,000,000," through line 8 and insert the following: "such funds as are necessary, not to exceed 2 percent of projected annual revenues of the Patent and Trademark Office, shall be made available from the sum appropriated in this paragraph for the staffing, operation, and support of said office once a plan for this office has been submitted to the House and Senate Committees on Appropriations pursuant to section 605 of this Act.".

BIDEN AMENDMENT NO. 1011

Mr. HOLLINGS (for Mr. BIDEN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, add the following:

"Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows:

"(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.".

ABRAHAM (AND KENNEDY) AMENDMENT NO. 1012

Mr. GREGG (for Mr. ABRAHAM, for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert: "*Provided further*, That none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service may be used to accept, process, or forward to the Federal Bureau of Investigation any FD–258 fingerprint card, or any other means used to transmit fingerprints, for the purpose of conducting a criminal background check on any applicant for any benefit under the Immigration and Nationality Act unless the applicant's fingerprints have been taken by an office of the Immigration and Naturalization Service or by a law enforcement agency, which may collect a fee for the service of taking and forwarding the fingerprints."

HATCH AMENDMENT NO. 1013

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 2, lines 17 through 22, strike the colon on line 17 and all that follows through "basis" on line 22.

BURNS AMENDMENT NO. 1014

Mr. GREGG (for Mr. BURNS) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 125, strike lines 3–9.

McCAIN (AND KYL) AMENDMENT NO. 1015

Mr. GREGG (for Mr. McCAIN, for himself and Mr. KYL) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

WAIVER OF CERTAIN VACCINATION REQUIREMENTS

SEC. (a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

"(p) The Attorney General should exercise the waiver authority provided for in subsection (g)(2)(B) for any alien orphan applying for an IR3 or IR4 category visa.".

STEVENS AMENDMENT NO. 1016

Mr. GREGG (for Mr. STEVENS) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert:

SEC. . The second proviso of the second paragraph under the heading "OFFICE OF THE CHIEF SIGNAL OFFICER." in the Act entitled "An Act Making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June thirtieth, nineteen hundred and one", approved May 26, 1900 (31 Stat. 206; chapter 586; 47 U.S.C. 17), is repealed.

DEWINE AMENDMENT NO. 1017

Mr. GREGG (for Mr. DEWINE) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE BEEN INVOLVED IN EXTRAJUDICIAL AND POLITICAL KILLINGS IN HAITI.

(a) GROUNDS FOR EXCLUSION.—None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was a member of the Haitian presidential security unit who has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Pastor Antoine Leroy and Jacques Fleurival, or who was suspended by President Preval for his involvement in or knowledge of the Leroy and Fleurival killings on August 20, 1996;

(4) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(5) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(6) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

HELMS (AND BIDEN) AMENDMENT NO. 1018

Mr. GREGG (for Mr. HELMS, for himself and Mr. BIDEN) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 114, strike lines 14–23.

WARNER (AND OTHERS) AMENDMENT NO. 1019

Mr. GREGG (for Mr. WARNER, for himself, Mr. LEAHY, and Mr. ROBB) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1. Section 233(d) of the Anti terrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking "1 year after the date of enactment of this Act" and inserting "October 1, 1999".

COATS AMENDMENT NO. 1020

Mr. GREGG (for Mr. COATS) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 139, after line 13 insert the following:

GAMBLING IMPACT STUDY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Gambling Impact Study Commission, $1,000,000, to remain available until expended: Provided, That funds made available for this purpose shall be taken from funds made available on page 23, line 21.

STEVENS (AND OTHERS) AMENDMENT NO. 1021

Mr. GREGG (for Mr. STEVENS, Mr. KERRY, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in the bill, insert the following: "*Provided further*, That not to exceed $2,000,000 may be made available for the 1999 Women's World Cup Organizing Committee cultural exchange and exchange related activities associated with the 1999 Women's World Cup."

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Wednesday, July 30, 1997, at 9:30 a.m. to mark-up S. 569, a bill to amend the Indian Child Welfare Act of 1978; to be followed immediately by an Oversight Hearing on the Special Trustee's "Strategic Plan" to reform the management of Indian Trust Funds. The hearing will be held in room 106 of the Dirksen Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 31, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony from the Forest Service on their organizational structure, staffing, and budget for the Alaska region.

Those who wish to submit written statements should write to the Committee on energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 24, 1997, at 9:30 a.m. in open session, to consider the nomination of John J. Hamre, to be Deputy Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 24, 1997, at 9:30 a.m. on management and program weaknesses at NASA and National Science Foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Thursday, July 24, 1997, at 10 a.m. for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a business meeting Thursday, July 24, 1997, at 9:30 a.m. hearing room (SD–406)

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 24, 1997, at 9:30 a.m. and 11:30 a.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, July 24, 1997, at 9 a.m. in room 226 of the Senate Dirksen Office Building..

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Higher Education Act Reauthorization during the session of the Senate on Thursday, July 24, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources Subcommittee on Public Health and Safety to authorized to meet for a hearing on National Institutes of Health Reauthorization during the session of the Senate on Thursday, July 24, 1997, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 24, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, July 24, 1997, at 1:30 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: "Defense Consolidation: Antitrust and Competition Issues."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing Thursday, July 24, at 9:45 a.m., hearing room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 24, for purposes of conducting a subcommittee hearing which is scheduled to begin at 10 a.m. The purpose of this hearing is to receive testimony on H.R. 858 and S. 1028, to direct the Secretary of Agriculture to conduct a pilot project on designated lands within Plumas, Lasse, and Tahoe National Forests in the State of California to demonstrate the effectiveness of the resource management activities proposed by the Qunicy Library Group and to amend current land and resource management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 24, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to review the process by which the National Park Service determines the suitability and feasibility of new areas to be added to the National Park System, and to examine the criteria used to determine national significance.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban affairs be authorized to meet during the session of the Senate on Thursday, July 24, 1997, to conduct an oversight hearing on securities litigation abuses.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' BENEFITS

Mr. GRAMS. Mr. President, I rise to commend the members of the Subcommittee on VA/HUD Appropriations for their work to provide adequate benefits to veterans. In a letter to the Chairman, I urged the subcommittee to support a level of spending that adequately funded veterans' benefits in rightful recognition of their efforts to defend our country in war. I am pleased to learn that the VA will get a full appropriation which shows a total budget increase of $222.6 million above last year and $92.9 million above the President's request.

I also applaud their foresight in voting $68 million additional funding over the President's request for the medical care account. The high priority which the subcommittee placed on this area reflects the heightened concern the country feels for providing appropriate health care to those who have served us so well.

The mandatory spending has also been increased by $1.26 billion over last year for pensions and compensation.

Mr. President, I am pleased that the subcommittee has included a provision which will allow the VA to retain third-party collections, which I have long supported, in addition to the regular appropriation. This additional estimated $604 million will be retained by the VA medical centers giving the care. This will provide much needed additional revenue which should allow the centers to treat more veterans. It will also provide an incentive to improve health care for more veterans at each of the 171 facilities throughout the country.

The committee report supports the restructuring efforts of the Veterans Health Administration; I will be interested to see the results of this effort over the next 5 years as this, too, will improve health care for our veterans. I also share the subcommittee's concerns that the VA has yet to develop a nationwide plan for community-based outpatient clinics to ensure equitable access to medical care nationwide. We will be seeing great changes at the VA in the next few years that will make it a more streamlined and improved provider of services to veterans.

Again, I thank my colleagues on the Appropriations Committee for their efforts to help America's veterans.

PROGRESS FOR WOMEN'S ATHLETICS IN WEST VIRGINIA

• Mr. ROCKEFELLER. Mr. President, I want to reflect on the positive results of our country's growing commitment to equal opportunities for women in college sports and to the elimination of discrimination in our Nation's educational programs. During this time of commemorating the 25th anniversary of title IX, Americans recognize the success of our Nation's athletes as they continue to grow both on the field and in the classroom.

I take this opportunity to commend the achievement of women in college and university sports and to support their advancement in the athletic world. Expanded opportunities for women as a result of title IX have enabled more young women from all arenas to challenge themselves and each other, develop the competitive spirit, and truly enrich their academic lives.

In West Virginia, title IX's impact on college and university sports is made clear by the success of their women's athletic programs. It pleases me to see the competitive spirit grow within West Virginia and to include the aspirations of our daughters as well as our sons. I am proud to commend our individual athletes who deserve praise for their constant and persistent efforts.

Over the past years, West Virginia's fine institutions that include, to cite just one example, Bluefield State College, in Bluefield, WV, have given scholarship money that significantly increased participation in women's athletics. Alderson-Broaddus College in Phillipi, WV, in this past year alone has had an award-winning WVIAC women's softball team, with players like Laura Granger, who balances a competitive sports schedule, her honors GPA, and her enrollment in a difficult sports medicine program.

At the University of Charleston [UC], the Golden Eagles Volleyball Team complied an impressive 29-4 record in 1996 and continues to strive toward success. UC's basketball team is also on the high rise with athletes like Jodie Prenger, who plays Division II basketball and spends the rest of her time devoted to academics.

With a devotion to the team and to their own growth as individuals, these women athletes will provide role models for our future daughters. I can see how perseverence learned in athletics contributes to the academic lives of these high-achieving students.

I am pleased to hear of the progress we as a State have made by supporting greater opportunities for women in sports, and I want to continue to honor such dedication on the parts of our athletes and school administrators who prize and promote such equality. As the struggle to root out discrimination from all realms of life continues, I am very proud to say West Virginia is a strong part of the extraordinary progress that America is celebrating during title IX's anniversary year.•

EMERITUS LAW PROFESSOR J. WILLARD HURST

• Mr. FEINGOLD. Mr. President, last month, this Nation lost one of its most distinguished scholars when J. Willard Hurst, Emeritus Professor of Law at the University of Wisconsin, died at his home. He was 86.

Professor Hurst was that wonderful and rare combination of truly gifted scholar and great teacher. Indeed, his scholarship was so profound, it was responsible for the creation of a new field of study, and today Willard Hurst is widely recognized as the Founding Father of American legal history.

Hurst was born in Rockford, IL in 1910. He graduated Phi Beta Kappa from Williams College in 1932 and went on to Harvard Law School, where he graduated at the top of his class in 1935.

Hurst worked as a research fellow for Prof. Felix Frankfurter, who was later named to the U.S. Supreme Court, and clerked for Supreme Court Justice Louis D. Brandeis before heading to Wisconsin, at Brandeis's suggestion, where he joined the University of Wisconsin law school faculty.

When Hurst first joined the law school faculty, Dean Lloyd Garrison encouraged him to design a program in law and society that investigated how the State's legal system and economy related to each other. Hurst began that project by studying the law's impact on the State's lumber industry, research that would result in his seminal work, "Law and Economic Growth: The Legal History of the Wisconsin Lumber Industry." That landmark study chronicled the social and economic forces that shaped and used the laws of property, contracts, accident compensation, and other legal areas to destroy the greatest natural stand of timber in the world between 1830 and 1900.

That work was a classic application of the new scholarly discipline of American legal history, a discipline Hurst himself had created—his great legacy and a field he dominated directly or indirectly even in retirement. As Lawrence M. Friedman of Stanford Law School was quoted as saying of legal historians, "You're either a Hurstian or a revisor of Hurst."

In a 1990 article in the New York Times about Professor Hurst, David Margolick wrote of the state of the study of law when Hurst attended law school. "The law was a self-contained science and the law library its laboratory," Margolick reported. "One need not study how law actually affected people or how legal institutions evolved; all wisdom could be gleaned from appellate decisions. This approach not only gave law professors a shot at omniscience but also spared them from having to learn other disciplines, set foot in a courtroom or state legislature, or even step outside." As Margolick added, from the moment he arrived at the University of Wisconsin Law School, Professor Hurst changed all that.

University of Wisconsin Emeritus Law Professor Bill Foster said Hurst forced people to think of problems separate from the law in an historic sense and think about the economic, social and political consequences. "He trained us to see around corners." As Stanford Professor Hendrik Hartog noted, Hurst's interest in the relationship between the law and social sciences, especially economics, was really a study of how law was experienced by people.

That approach to studying law found a nurturing home at the University of Wisconsin, which was heavily influenced by the so-called Wisconsin Idea, the Progressive Era philosophy which encouraged scholars to view the entire State as their campus, and which envisioned academics as a vital resource for reform-minded government.

Willard Hurst and Wisconsin were a perfect match. Hurst loved Wisconsin.

On three occasions he turned down offers to be Dean of the Yale Law School. He also turned down the offer of a chair at Harvard. Hurst said, "I guess I was just too pleasure-loving. I was having too good a time in Wisconsin."

At Wisconsin, Hurst was a prolific writer, contributing to law reviews, writing articles, and authoring over a dozen books, including "The Law Makers" (1950), "Law and Conditions of Freedom" (1956), "Law and Social Process in U.S. History" (1960), "Justice Holmes on Legal History" (1964), and "A Legal History of Money in the United States" (1973).

Hurst was more than a great original thinker. He was an enormously talented and caring teacher. Robben Fleming, former president of the University of Michigan and former Chancellor of the University of Wisconsin, said that Hurst was the finest teacher he ever had. University of Wisconsin Law Professor Stewart Macaulay said Hurst was wonderfully generous. "What Willard would do is go out to lunch with someone who was an absolute beginner. He would give you time, make incredible suggestions, make contacts for you."

Willard Hurst continued to be an academic force in retirement with a steady flow of research and writing. As Margolick reported in the Times, even in retirement Hurst remained one of the few legal scholars whose work could be "measured in shelf feet—and shelf feet of bona fide research rather than cut-and-paste cases and comments."

A number of his books became standard texts for law students. In fact, I still remember of the five books I was asked to read before I entered Harvard Law School, two were written by Willard Hurst.

As the acknowledged grandfather of American legal history, Hurst's legacy is not only a new field of study, but generations of law students, and dozens of distinguished scholars. Willard Hurst was a giant intellect, but a gentle giant who cared about his students and who loved his adopted State. I was privileged to have known him.●

CHANGE OF CLOTURE MOTION SIGNATORIES

Mr. GREGG. Mr. President, I ask unanimous consent that Senator FAIRCLOTH's name be removed from the cloture motion filed on July 23 and replaced by Senator SESSIONS.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 186 through 199; the nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy; and the nomination of John Hamre, to be Deputy Secretary of Defense, which was reported from the Armed Services Committee today.

I further ask unanimous consent that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table, and any statements related to the nominations appear at this point in the RECORD, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confired, en bloc, as follows:

IN THE AIR FORCE

The following Air Force National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated, under title 10, United States Code, section 12203:

To be brigadier general

Col. Tommy L. Daniels, 1724

The following-named officers for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William J. Begert, 2790
Maj. Gen. Lance W. Lord, 1026

IN THE ARMY

The following-named officers for appointments in the Regular Army to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Edwin J. Arnold, Jr., 8222
Col. John R. Batiste, 9665
Col. Buford C. Blount III, 5012
Col. Steven W. Boutelle, 1030
Col. John S. Brown, 2041
Col. Edward T. Buckley, Jr., 2325
Col. Eddie Cain, 1695
Col. Kevin T. Campbell, 6308
Col. Jonathan H. Cofer, 8459
Col. Bantz J. Craddock, 7782
Col. Keith W. Dayton, 7231
Col. Barbara Doornink, 2221
Col. Paul D. Eaton, 1993
Col. Jeanette K. Edmunds, 9426
Col. Karl W. Eikenberry, 5197
Col. Dean R. Ertwine, 8082
Col. Steven W. Flohr, 7939
Col. Nicholas P. Grant, 1178
Col. Stanley E. Green, 4130
Col. Craig D. Hackett, 5451
Col. Franklin L. Hagenbeck, 3956
Col. Hubert L. Hartsell, 8996
Col. George A. Higgins, 7049
Col. James C. Hylton, 8014
Col. Gene M. LaCoste, 2941
Col. Michael D. Maples, 9508
Col. Philip M. Mattox, 4434
Col. Dee A. McWilliams, 1427
Col. Thomas F. Metz, 5686
Col. Daniel G. Mongeon, 4804
Col. William E. Mortensen, 1064
Col. Raymond T. Odierno, 8425
Col. Eric T. Olson, 5130
Col. James W. Parker, 8655
Col. Ricardo S. Sanchez, 9260
Col. John R. Schmader, 1780
Col. Gary D. Speer, 7286
Col. Mitchell H. Stevenson, 3914
Col. Carl A. Strock, 1502
Col. Charles H. Swannack, Jr., 8239
Col. Hugh B. Tant III, 4312
Col. Terry L. Tucker, 6846
Col. William G. Webster, Jr., 9468
Col. John R. Wood, 0518

The following-named officers for appointment as the Judge Advocate General* and the Assistant Judge Advocate General**, U.S. Army and for appointment to the grade indicated under title 10, United States Code, section 3037:

To be major general

Brig. Gen. Walter B. Huffman, 7206*
Brig. Gen. John D. Altenburg, Jr., 6387**

The following-named officers for appointments in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Montgomery C. Meigs, 3239
Lt. Gen. John N. Abrams, 5774
Maj. Gen. William H. Campbell, 8819
Maj. Gen. Roger G. Thompson, Jr., 5744
Maj. Gen. Michael S. Davison, Jr., 7141

To be general

Gen. William W. Crouch, 4224

The following-named officer for appointment in the Regular Army of the United States to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Warren C. Edwards, 4897

IN THE NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) Thomas J. Hill, 0703
Rear Adm. (lh) Douglas L. Johnson, 9514
Rear Adm. (lh) Jan H. Nyboer, 8579
Rear Adm. (lh) Paul V. Quinn, 8574

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) John A. Gauss, 5672

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning James W. Adams, and ending Michael B. Wood, which nominations were received by the Senate and appeared in the Congressional Record of June 17, 1997.

Air Force nominations beginning James M. Abatti, and ending Scott A. Zuerlein, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nomination of Juliet T. Tanada, which was received by the Senate and appeared in the Congressional Record of June 17, 1997.

Army nominations beginning Cornelius S. McCarthy, and ending *Todd A. Mercer, which nominations were received by the Senate and appeared in the Congressional Record of June 23, 1997.

Army nominations beginning Terry L. Belvin, and ending James A. Zernicke, which nominations were received by the Senate and appeared in the Congressional Record of June 27, 1997.

Army nominations beginning Daniel J. Adelstein, and ending *Alan S. McCoy, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nomination of Maureen K. Leboeuf, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nominations beginning James A. Barrineau, Jr., and ending Deborah C. Wheeling, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Foreign Service nomination of Marilyn E. Hulbert, which was received by the Senate and appeared in the Congressional Record of February 13, 1997.

Foreign Service nominations beginning John R. Swallow, and ending George S. Dragnich, which nominations were received by the Senate and appeared in the Congressional Record of April 25, 1997.

Marine Corps nomination of Thomas W. Spencer, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nomination of Dennis M. Arinello, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nomination of Carlo A. Montemayor, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nominations beginning Demetrice M. Babb, and ending John E. Zeger, Jr., which nominations were received by the Senate and appeared in the Congressional Record of June 27, 1997.

Marine Corps nomination of Anthony J. Zell, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Marine Corps nomination of Mark G. Garcia, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Navy nominations beginning John A. Achenbach, and ending Sreten Zivovic, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 1997.

Navy nominations beginning Layne M. K. Araki, and ending Charles F. Wrightson, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

DEPARTMENT OF DEFENSE

John J. Hamre, of South Dakota, to be Deputy Secretary of Defense.

STATEMENTS ON THE NOMINATION OF JOHN J. HAMRE FOR DEPUTY SECRETARY OF DEFENSE

Mr. DASCHLE. Mr. President, it is a distinct pleasure for me to convey to the entire Senate what I communicated to the Senate Armed Services Committee earlier today—I am an enthusiastic supporter of John Hamre for Deputy Secretary of Defense. I am pleased to note that the committee reported out his nomination unanimously. Evidently they, like many of their colleagues, are already well aware of John's exceptional background and skills, and his impressive record. Therefore, I will not belabor these points—except to say that I think they make John an excellent choice for this critically important post.

Less known to some of my colleagues perhaps is the fact that John is from South Dakota, my home State. In fact, John was born in the tiny town of Willow Lake, South Dakota and grew up in Clark, SD. His rise to the No. 2 civilian position in the world's number one military force is a tribute not only to John and his family, but to the entire state of South Dakota and its people.

Like many of the families in our state, John's family's story reads like a Charles Kuralt profile of small-town America. His maternal grandfather was a Lutheran preacher who lived to be 100 years old (which should eliminate any chance of John having to take an early retirement). His paternal grandfather was a farmer and county sheriff. One of John's uncles, Julian, was killed in action as an aviator in the Pacific during World War II. John's father, Mel, was a banker and his mother, Ruth, was a teacher. They have lived in Clark all their adult lives. If you happen to visit Clark on a Sunday morning, chances are you would hear them performing with their church choir.

John graduated with a degree in political science from Augustana College in Sioux Falls, SD. After that, he did what every political scientist does: headed off to Harvard to earn a masters degree in Divinity. It was the first time he had ever really been away from South Dakota. From Harvard, John went on to earn a masters degree and doctorate degree in 1978 from the Johns Hopkins School of Advanced International Studies. I would just note parenthetically: If John is confirmed, he may be the first Deputy Secretary of Defense who can say the Lord's Prayer—in Russian.

After graduate school, John joined the staff of the Congressional Budget Office [CBO]. In 1984, he joined the staff of the Senate Armed Services Committee, where he developed a reputation for being able to work closely with both sides of the aisle.

John was appointed Undersecretary of Defense—comptroller by former Defense Secretary Les Aspin. In his new position, John will be the second highest-ranking civilian in the Pentagon's chain of command. The Deputy Secretary of Defense is one of the most critical national security positions in the U.S. Government. He or she is given full power and authority to act for the secretary of Defense in the secretary's absence.

As a indication of the trust and confidence Secretary Cohen has in John's talents, he recently asked John to head up the Defense Management Reform Task Force—perhaps the most critical study the Pentagon will undertake in the next decade or so. If our available defense resources are to match our proclaimed defense policies for the 21st century, it is crucial that the Pentagon adopt more efficient business methods. The task force John will head is charged with the responsibility of overhauling the Defense Department's accounting methods and streamlining its business practices. Such reforms are long overdue and much needed if we are to get a dollar of defense for each dollar we provide the Pentagon. On behalf of the Congress, I wish John well in this endeavor and will be closely following his progress.

Anyone who has spent any time with John Hamre knows his passion for defense policy. From his days at CBO in the late 1970's to his present position at the Department of Defense, he has demonstrated time and again his mastery of defense policy issues. Throughout his career, Dr. Hamre has consistently demonstrated an even-handedness and objectivity. That has allowed him, in turn, to establish and maintain good relations with Members of the Congress. The regard in which he is held by both parties will enable him to serve the President well. Even more importantly, it will enable him to serve his country well.

In conclusion, it is an honor and a privilege to commend a true South Dakotan, a man who has dedicated his life to integrity, love of his country and outstanding achievement, and who will serve his country well as Deputy Secretary of Defense.

Mr. GRASSLEY. Mr. President, I come to the floor today to announce my support for Mr. John J. Hamre's nomination to be the next Deputy Secretary of Defense.

Mr. President, my support in favor of the Hamre nomination may come as a surprise to some of my colleagues.

A yes vote on the Hamre nomination may appear to be totally inconsistent with all that I have said here on the floor about the nominee.

I have made a series of critical speeches about Mr. Hamre since January.

I have criticized Mr. Hamre for failing to control the money and make sure it is spent according to law.

I have attempted to hold him accountable.

In my book, accountability in government should be a top priority.

My criticism of Mr. Hamre boils down to one main problem area.

As Chief Financial Officer at the Department of Defense [DOD], Mr. Hamre pursued a policy on progress payments that the Inspector General [IG] had declared illegal.

The General Accounting Office [GAO] has just completed another review of the Department's progress payment policy.

As of July 21, 1997, the GAO report indicates that the policy declared illegal by the IG remains in operation.

It remains in operation today—at this very moment.

Mr. President, I am happy to report that Mr. Hamre has promised to change the policy.

He has made a commitment to bring the Department's progress payment policy into compliance with the law.

This happened at an important meeting on Tuesday evening, July 22d.

The meeting took place in the office of Senator STROM THURMOND, chairman of the Armed Services Committee.

This meeting was attended by Senators THURMOND, LEVIN, WARNER, and the Senator from Iowa.

The nominee, Mr. Hamre, was also present.

Mr. President, I don't quite know how this meeting came about, but I suspect that my good friend from Virginia, Senator WARNER, was the motivating force behind it.

I would like to extend a special word of thanks to my friend from Virginia for helping me out.

He helped me find a reasonable solution to a very difficult dilemma.

The Senator from Virginia was instrumental in resolving the dispute.

At this important meeting, Mr. Hamre made a commitment to bring the department's progress payment policy into compliance with the law.

To do that, the IG says DOD has taken two distinct steps.

Step One: The Director of Defense Procurement, Ms. Eleanor Spector, is issuing a new contract regulation—known as a DFAR.

The DFAR will authorize contracting officers—or ACO's—to require that each contract contains specific funding instructions.

These would be fund citations.

Step Two: The Comptroller, Mr. Hamre, has ordered the Defense Finance and Accounting Service or DFAS to shut down the current operation.

DFAS must issue payment instructions that match up with the DFAR.

This would allow DFAS to match the money with the work performed—as required by law.

This would allow the disbursing officers to post payments to the correct accounts.

Since DOD makes about $20 billion a year in progress payments, this should help to clean up the books.

It should cut down on overpayments and erroneous payments.

It should cut down on costly reconciliation work done by the big accounting firms like Coopers & Lybrand.

The new policy should save money.

But the fix won't happen overnight.

It will take time to phase down the old system and get the new policy up and running.

The IG is planning on a kick off date of October 1, 1997.

At the meeting, Senator LEVIN raised questions about the cost of the new policy.

Mr. Hamre responded by saying that he would have to add 50 people to the DFAS work force.

The extra people would be needed to manually process the payments under the new policy.

The software necessary to support automated computer processing will not be available until the year 2000 or beyond, according to Mr. Hamre.

Now, Mr. President, that sounds like more Pentagon nonsense to me.

Businesses, like NationsBank, routinely conduct 15.5 million comparable matching operations in a single day—using computers.

The software is here—now!

This is off-the-shelf stuff—not leading edge technology.

DFAS needs to get on the stick.

Senator LEVIN also insisted that the new policy should apply just to new contracts—and not be retroactive.

That makes sense to me.

Senator LEVIN raised one other very valid concern.

He said: "Maybe we need to change the law? Maybe the law governing these payments doesn't make sense?"

These are valid questions. They need to be explored.

But I would like to offer a word of caution on this point.

If Congress should decide to change the law—as Mr. Hamre proposed late last year, Congress must then change the way the money is appropriated.

We must never allow DOD to merge the appropriations at the contract level, while Congress continues to appropriate and segregate money in special accounts.

That would subvert the whole appropriations process.

If DOD were authorized to merge the money at the contract level, then Congress would have to consolidate accounts upstream in appropriations.

We might, for example, create an acquisition account by merging R&D and procurement money in one big account.

Quite frankly, Mr. President, I don't think that idea would be a very popular around here.

Segregating the money in the R&D and procurement accounts gives Congress some broad and general control over how the money is used—as intended by the Constitution.

Mr. President, I left the meeting in Sentor THURMOND's office believing that something important had been accomplished.

First, Mr. Hamre made a commitment to bring the Department's policy into compliance with the law.

Second, it was agreed that the IG would send a letter to the committee.

This letter would serve two purposes.

The IG would certify that the Department had taken the two steps necessary to bring the policy into compliance with the law.

And the IG would agree to provide Congress with periodic follow-up reports to ensure that the new policy is, in fact, executed.

Mr. President, I have the IG's letter here in my hand.

It provides the assurances I sought.

With those assurances in hand, I can support the Hamre nomination with a clear conscience.

I ask unanimous consent that my letter requesting certification by the IG and the IG's response be printed in the RECORD.

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, July 23, 1997.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for my views as to whether the Department of Defense has made a good faith effort to address previous audit findings on progress payments to contractors and whether the Department has established a reasonable schedule to implement the changes needed to bring progress payment practices into compliance with fiscal law.

On June 30, 1997, the Director, Defense Procurement, issued the requisite contracting guidance in draft form for comment. While we cannot prejudge or speculate as to the outcome of the comment period, I can tell you that at this time this office concurs with the draft guidance as written. The guidance should be issued in final form by October 1, 1997.

The first elements of the necessary guidance for paying offices, two Under Secretary of Defense (Comptroller) memoranda, were signed out today. Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this long-standing problem. Between now and the planned October 1, 1997, implementation date for the new progress payment distribution policy, we will work with the Comptroller and the Defense Finance and Accounting Service to ensure that sound desk procedures are developed for the paying offices.

This office is already auditing various aspects of DoD vendor payment operations and will ensure that coverage of the implementation of the new progress payment procedures receives high priority. We will provide periodic status reports to the Department and the Congress starting in January 1998.

Thank you for seeking our views on this important issue. If we can be of further assistance in this matter, please contact me or Mr. Robert J. Lieberman, Assistant Inspector General for Auditing, at (703) 604–8900.

Sincerely,

ELEANOR HILL,
Inspector General.

U.S. SENATE,
Washington, DC, July 21, 1997.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC

DEAR JOHN: I am writing to clarify my position on the nomination of Mr. John J. Hamre to be Deputy Secretary of Defense.

My opposition to Mr. Hamre's nomination boils down to one main problem area. As Chief Financial Officer at the Department of Defense, Mr. Hamre aggressively pursued a policy on progress payments that the Inspector General (IG) declared illegal. The General Accounting Office has just completed a review of the department's progress payment policy. This report clearly indicates that the policy declared illegal by the Inspector General remains in operation today—at this very moment.

John, that's the bad news. There is some good news, however.

I can see a solution looming up on the horizon.

The IG is telling me that Mr. Hamre is moving to bring the policy into compliance with the law. The IG says that the department must issue: 1) new contract (DFAR) regulations; and 2) The Defense Finance and Accounting Service must issue new payment instructions to match the DFAR regulations. The IG says the new policy directives are in the process of being issued. The new policy must then be put into practice.

John, I will not oppose the Hamre nomination if two conditions are met: 1) The IG certifies in writing that the department has taken the two steps necessary to bring the policy into compliance with the law; and 2) The IG provides Congress with periodic reports to ensure that the new policy is, in fact, being executed.

Your assistance in this matter is appreciated.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 24, 1997.

Senator CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC

DEAR CHUCK: Enclosed is a copy of a letter from the Department of Defense Inspector General received today by the Committee on Armed Services. The letter addresses the concerns that you expressed in the meeting in my office on July 22.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND,
Chairman.

Mr. GRASSLEY. Mr. President, I only hope Mr. Hamre understands my position on this issue.

From day one, I have merely tried to hold him accountable for the improper progress payment policy.

I do my best to watchdog the Pentagon.

And when the IG tells me something is wrong, then I'm going to speak out. I'm going to dig and bore in—until things are right.

That's what I did in this case.

I believe that together we have crafted a constructive solution to this problem.

I thank the committee for its leadership and for helping me resolve this issue.

Mr. LEVIN. Mr. President, I strongly support the nomination of Dr. John Hamre to be Deputy Secretary of Defense. The position of the Deputy Secretary of Defense is one of the most important members of the Secretary of Defense's team. The Deputy serves as the Secretary's alter ego; he traditionally exercises primary responsibility for the internal management of the Department of Defense; and he acts for the Secretary when the Secretary is absent.

Those are all very important responsibilities. The decisions that Secretary Cohen and his deputy make will have a major impact on the security of our Nation, on the protection of our national interests, and on the well-being of the men and women of our Armed Forces. I have complete confidence in John Hamre's ability to perform these important responsibilities.

John is, of course, very well known to many Members of the Senate from the 8 years he spent on the staff of the Senate Armed Services Committee. Since leaving the committee staff in 1993, John has moved on to serve as the Comptroller and Chief Financial Officer of the Department of Defense.

In this capacity, John has devoted a tremendous amount of time and energy to bringing about meaningful and much-needed reform in financial management within DOD. John would be the first to acknowledge that the job is far from finished, but the progress under his leadership has been substantial in my view. For example:

DOD is in the process of consolidating its accounting offices, moving from 333 offices to only 21 in less than 5 years. DOD had closed 230 accounting offices through fiscal year 1996 and is scheduled to close an additional 103 in fiscal year 1997 and fiscal year 1998.

As a result, DOD has been able to reduce employment at the Defense Finance and Accounting Service [DFAS] from more than 31,000 in fiscal year 1993 to 24,000 today. DFAS operating costs have dropped 25 percent in 4 years, from $1.6 billion in fiscal year 1993 to $1.2 billion in fiscal year 1997, in constant fiscal year 1993 dollars.

DOD has consolidated its civilian pay systems from 25 systems in fiscal year 1991 to 2 systems today and hopes to be down to a single system next year. The system that DOD has designated to take over all civilian pay accounts has gone from handling 15 percent of DOD accounts in fiscal year 1992 to a projected 73 percent in fiscal year 1996 and 83 percent in fiscal year 1997.

DOD has consolidated its military pay systems from 24 systems in fiscal year 1991 to 4 systems today and hopes to be down to 2 systems next year, with only the Marine Corps maintaining a separate system. The system that DOD has designated to take over all military pay accounts has gone from handling 15 percent of DOD accounts, other than Marine Corps accounts, in fiscal year 1991 to a projected 65 percent in fiscal year 1996 and 90 percent in fiscal year 1997.

DOD contract overpayments have dropped from $592 million in fiscal year 1993 to $184 million in fiscal year 1996.

The two most significant categories of problem disbursements—unmatched disbursements and negative unliquidated obligations [NULO]—have dropped from $34.3 billion in June 1993 to $7.9 billion in January 1997. Unmatched disbursements are cases in which a payment has been made, but cannot be matched to its obligation authority; NULO's are cases in which too much money is disbursed, for example, contractor overpayments, or the wrong obligation has been charged.

The third category of problem disbursements—in-transit disbursements—has increased recently, but is still down substantially over the long run, from $16.8 billion in June 1993 to $11.1 billion in January 1997. In-transit disbursements are cases in which a payment has been made, but the obligation has not yet been matched to its obligation authority, and more than 180 days have passed.

Over the last several months, a number of statements have been made about Dr. Hamre's handling of progress payments under complex contracts using money from more than one appropriation. While there is no evidence that the existing progress payment system has ever resulted in a violation of the Antideficiency Act, Dr. Hamre has acknowledged that this system is incapable of meeting all applicable requirements, and he has been working hard to address the problem.

On Wednesday afternoon, I received a letter from Eleanor Hill—the inspector general of the Department of Defense—who first identified the progress payment issue. In response to a joint request from the chairman of the Armed Services Committee and myself, Ms. Hill reviewed the steps taken by Dr. Hamre to address the progress payment issue. Her letter concludes:

> Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem.

I am pleased that Dr. Hamre has taken the actions necessary to address the progress payment issue in compliance with existing requirements. But we also need to make sure that these changes are in the best interest of the taxpayers and the Department of Defense. I have asked Dr. Hamre to review the issue and let the Armed Services Committee know if any legislative changes may be needed in this regard.

Mr. President, I think President Clinton and Secretary Cohen have made an excellent choice with this nomination. I strongly support John Hamre's nomination to be Deputy Secretary of Defense, Mr. Chairman, and I look forward to working closely with him and Secretary Cohen in the future.

Mr. President, I ask unanimous consent that Ms. Hill's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, July 23, 1997.

Hon. CARL LEVIN,
Committee on Armed Services,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your request for my views as to whether the Department of Defense has made a good faith effort to address previous audit findings on progress payments to contractors and whether the Department has established a reasonable schedule to implement the changes needed to bring progress payment practices into compliance with fiscal law.

On June 30, 1997, the Director, Defense Procurement, issued the requisite contracting guidance in draft form for comment. While we cannot prejudge or speculate as to the outcome of the comment period, I can tell you that at this time this office concurs with the draft guidance as written. The guidance should be issued in final form by October 1, 1997.

The first elements of the necessary guidance for paying offices, two Under Secretary of Defense (Comptroller) memoranda, were signed out today. Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem. Between now and the planned October 1, 1997, implementation date for the new progress payment distribution policy, we will work with the Comptroller and the Defense Finance and Accounting Service to ensure that sound desk procedures are developed for the paying offices.

This office is already auditing various aspects of DoD vendor payment operations and will ensure that coverage of the implementation of the new progress payment procedures receives high priority. We will provide periodic status reports to the Department and the Congress starting in January 1998.

Thank you for seeking our views on this important issue. If we can be of further assistance in this matter, please contact me or Mr. Robert J. Kieberman, Assistant Inspector General for Auditing, at (703) 604-8900.

Sincerely,

ELEANOR HILL,
Inspector General.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE READ FOR THE FIRST TIME—S. 1065

Mr. GREGG. Mr. President, I understand that S. 1065, which was introduced earlier today by Senator SPECTER, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1065) to amend the Ethics in Government Act with respect to the appointment of independent counsel.

Mr. GREGG. I now ask for its second reading, and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

The bill will remain at the desk and have its next reading on the next legislative day.

ORDERS FOR FRIDAY, JULY 25, 1997

Mr. GREGG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, July 25. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately begin consideration of Calendar No. 120, Senate Resolution 98, the global warming resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GREGG. For the information of all Members, tomorrow the Senate will begin consideration of Senate Resolution 98, the global warming resolution. By previous consent, there are two amendments in order to the resolution with a vote on the resolution occurring at 11:30 a.m. Following disposition of Senate Resolution 98, the Senate may proceed to a cloture on the tuna-dolphin legislation, if an agreement is not reached prior to the global warming resolution. Also, by consent, at 5 p.m. on Monday, the Senate will begin consideration of the transportation appropriations bill. However, as announced by the majority leader, there will be no rollcall votes during Monday's session of the Senate. As a reminder to all Members, following the votes on Friday, the next votes will be a series of votes occurring on Tuesday at 9:30 a.m. on the Commerce, Justice, State appropriations bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GREGG. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:22 p.m., adjourned until Friday, July 25, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 1997:

THE JUDICIARY

CHARLES R. BREYER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE D. LOWELL JENSEN, RETIRED.

FRANK C. DAMRELL, JR., OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA VICE EDWARD J. GARCIA, RETIRED.

MARTIN J. JENKINS, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE EUGENE F. LYNCH, RETIRED.

JORGE C. RANGEL, OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE WILLIAM L. GARWOOD, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 24, 1997:

DEPARTMENT OF DEFENSE

JOHN J. HAMRE, OF SOUTH DAKOTA, TO BE DEPUTY SECRETARY OF DEFENSE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING AIR FORCE NATIONAL GUARD OF THE U.S. OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. TOMMY L. DANIELS, 1724.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM J. BEGERT, 2790.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. LANCE W. LORD, 1026.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. EDWIN J. ARNOLD, JR., 8222.
COL. JOHN R. BATISTE, 9665.
COL. BUFORD C. BLOUNT, III, 5012.
COL. STEVEN W. BOUTELLE, 1030.
COL. JOHN S. BROWN, 2041.
COL. EDWARD T. BUCKLEY, JR., 2325.
COL. EDDIE CAIN, 1695.
COL. KEVIN T. CAMPBELL, 6308.
COL. JONATHAN H. COFER, 8459.
COL. BANTZ J. CRADDOCK, 7782.
COL. KEITH W. DAYTON, 7231.
COL. BARBARA DOORNINK, 2221.
COL. PAUL D. EATON, 1993.
COL. JEANETTE K. EDMUNDS, 9426.
COL. KARL W. EIKENBERRY, 5197.
COL. DEAN R. ERTWINE, 8082.
COL. STEVEN W. FLOHR, 7939.
COL. NICHOLAS P. GRANT, 1178.
COL. STANLEY E. GREEN, 4130.
COL. CRAIG D. HACKETT, 5451.
COL. FRANKLIN L. HAGENBECK, 3956.
COL. HUBERT L. HARTSELL, 8996.
COL. GEORGE A. HIGGINS, 7049.
COL. JAMES C. HYLTON, 8014.
COL. GENE M. LACOSTE, 2941.
COL. MICHAEL D. MAPLES, 9508.
COL. PHILIP M. MATTOX, 4434.
COL. DEE A. MCWILLIAMS, 1427.
COL. THOMAS F. METZ, 5686.
COL. DANIEL G. MONGEON, 4804.
COL. WILLIAM E. MORTENSEN, 1064.
COL. RAYMOND T. ODIERNO, 8425.
COL. ERIC T. OLSON, 5130.
COL. JAMES W. PARKER, 8655.
COL. RICARDO S. SANCHEZ, 9260.
COL. JOHN R. SCHMADER, 1780.
COL. GARY D. SPEER, 7286.
COL. MITCHELL H. STEVENSON, 3914.
COL. CARL A. STROCK, 1502.
COL. CHARLES H. SWANNACK, JR., 8239.
COL. HUGH B. TANT, III, 4312.
COL. TERRY L. TUCKER, 6846.
COL. WILLIAM G. WEBSTER, JR., 9468.
COL. JOHN R. WOOD, 0518.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT AS THE JUDGE ADVOCATE GENERAL* AND THE ASSISTANT JUDGE ADVOCATE GENERAL**, U.S. ARMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 3037:

To be major general

BRIG. GEN. WALTER B. HUFFMAN, 7206*.
BRIG. GEN. JOHN D. ALTENBURG, JR., 6387**.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MONTGOMERY C. MEIGS, 3239.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOHN N. ABRAMS, 5774.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM H. CAMPBELL, 8819.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. WILLIAM W. CROUCH, 4224.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROGER G. THOMPSON, JR., 5744.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL S. DAVISON, JR., 7141.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be major general

BRIG. GEN. WARREN C. EDWARDS, 4897.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be rear admiral

REAR ADM. (LH) THOMAS J. HILL, 0703.
REAR ADM. (LH) DOUGLAS L. JOHNSON, 9514.
REAR ADM. (LH) JAN H. NYBOER, 8579.
REAR ADM. (LH) PAUL V. QUINN, 8574.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral

REAR ADM. (LH) JOHN A. GAUSS, 5672.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING JAMES W ADAMS, AND ENDING MICHAEL B WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 17, 1997

AIR FORCE NOMINATIONS BEGINNING JAMES M ABATTI, AND ENDING SCOTT A ZUERLEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

IN THE ARMY

ARMY NOMINATION OF JULIET T. TANADA, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 17, 1997

ARMY NOMINATIONS BEGINNING CORNELIUS S. MCCARTHY, AND ENDING * TODD A. MERCER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997

ARMY NOMINATIONS BEGINNING TERRY L. BELVIN, AND ENDING JAMES A. ZERNICKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 27, 1997

ARMY NOMINATIONS BEGINNING DANIEL J. ADELSTEIN, AND ENDING * ALAN S. MCCOY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

ARMY NOMINATION OF MAUREEN K. LEBOEUF, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

ARMY NOMINATIONS BEGINNING JAMES A. BARRINEAU, JR., AND ENDING DEBORAH C. WHEELING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF THOMAS W. SPENCER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997.

MARINE CORPS NOMINATION OF DENNIS M. ARINELLO, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997.

MARINE CORPS NOMINATION OF CARLO A. MONTEMAYOR, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997.

MARINE CORPS NOMINATIONS BEGINNING DEMETRICE M. BABB, AND ENDING JOHN E. ZEGER, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 27, 1997.

MARINE CORPS NOMINATION OF ANTHONY J. ZELL, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997.

MARINE CORPS NOMINATION OF MARK G. GARCIA, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997.

IN THE NAVY

NAVY NOMINATIONS BEGINNING JOHN A. ACHENBACH, AND ENDING SRETEN ZIVOVIC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 12, 1997.

NAVY NOMINATIONS BEGINNING LAYNE M.K. ARAKI, AND ENDING CHARLES F. WRIGHTSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997.

HOUSE OF REPRESENTATIVES—*Thursday, July 24, 1997*

The House met at 10 a.m.

The Reverend David F. Dzermejko, Mary, Mother of the Church, Charleroi, PA, offered the following prayer:

God of Abraham, Isaac, and Jacob, and Father of the Lord Jesus, in the elective leadership of our office, we gather as members of this magnificent assembly of Representatives, filled with the desire to serve all our people, irrespective of their color, creed, or social class, and at this moment we seek Your divine presence in our midst.

In this 221st year of our independence, so beautifully commemorated at the beginning of this month, we once more pledge ourselves to You as did the founding generation of our mighty Nation, and look for Your guiding spirit to give us wisdom beyond our years, justice beyond our geographic boundaries, and truth beyond our political affiliation.

We pray that the legislative decisions we make this day will reflect the glory of Your kingdom where one day we shall together share life forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. MASCARA] come forward and lead the House in the Pledge of Allegiance.

Mr. MASCARA led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 709. An act to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes; and

H.R. 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2158. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2158) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BOND, Mr. BURNS, Mr. STEVENS, Mr. SHELBY, Mr. CAMPBELL, Mr. CRAIG, Mr. COCHRAN, Ms. MIKULSKI, Mr. LEAHY, Mr. LAUTENBERG, Mr. HARKIN, Mrs. BOXER, and Mr. BYRD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 40. Concurrent resolution expressing the sense of the Congress regarding the OAS-CIAV Mission in Nicaragua; and

S. Con. Res. 41. Concurrent resolution calling for a United States initiative seeking a just and peaceful resolution of the situation on Cyprus.

WELCOMING FATHER DAVID DZERMEJKO, GUEST CHAPLAIN

(Mr. MASCARA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. MASCARA. Mr. Speaker, I would like to welcome Father David F. Dzermejko, my pastor and today's guest chaplain, to our Nation's Capital.

Father David, along with Father John Marcucci, are the dedicated and hard-working spiritual leaders of Mary, Mother of the Church, my parish back in Charleroi, PA.

I would like to thank Dr. Ford, the House Chaplain, for his kindness and assistance in extending an invitation to Father David to give the opening prayer at this session of the U.S. House of Representatives. I am sure his message will help guide us through our journey today as we do legislative work.

I know Father David joins me in sending greetings and best wishes to Father John and the entire parish family at Mary, Mother of the Church.

While many of us on Capitol Hill talk about family values, I can say without hesitation and qualification that our parish family could serve as a national model for family values. The church has certainly served as an inspiration to my wife Dolores, me, and my entire family.

Hopefully Father David will enjoy his stay in Washington, DC. I assure everyone back home that I will take excellent care of the good Father.

Father David, again welcome and thanks for joining me in this morning's opening session. It is truly an honor to have you with us today.

HONORING THE 150TH ANNIVERSARY OF THE ENTRY OF PIONEERS INTO THE STATE OF UTAH

(Mr. CANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. CANNON. Mr. Speaker, I rise in honor of today's 150th anniversary of the entry of the pioneers into Utah. The pioneer exodus was an event of monumental proportions. Seeking a land of opportunity and freedom, over 80,000 Mormon pioneers made the trek west in wagons, on horses, and on foot, covering the rugged trail from the shores of the Mississippi to the valley of the Great Salt Lake. It was blistering hot in the summer and deathly cold in the winter. Obstacles included disease, fatigue, hunger, and hostile natives.

My great grandfather, George Q. Cannon, was among those pioneers. At the age of 17, he lost both parents along the trail. Yet young George trekked on. He went on to become a Utah leader, fighting for statehood while serving in this very body as a territorial representative.

Today I honor my ancestor and his fellow pioneers for having the courage, fortitude, and the faith in every footstep to push on despite the obstacles, creating a legacy of faith and freedom.

TAX RELIEF FOR FAMILIES WHO TRULY NEED IT

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

his remarks and include extraneous material.)

Mr. GEPHARDT. Mr. Speaker, I would like to introduce to all of my colleagues the Boyer family of Ste. Genevieve, MO, in my district. No strangers to hard work and sacrifice, the Boyers are struggling to provide their children with a quality education.

Cecil is a janitor in the County Sheriff's Department; Mary, a biology and algebra teacher for the past 23 years at Valle Catholic High School, has started working a second job as an attendant at a local gas station.

Now not only are the Boyers taking out student loans, but their daughter, Cathy, a junior at Central Missouri State and their son, Kevin, a Jefferson Community College student are also working part-time jobs. Combined, the Boyer family, four people working five jobs, make about $50,000 a year, middle class by anybody's definition of the word.

Under the Democratic tax plan, the Boyers would receive a $1,584 tax cut; under the Republican vision of tax relief the Boyers would receive only $528 in tax cuts.

Republicans have taken weeks to reach agreement on a unified tax cut proposal, but for most middle-income families like the Boyers it was not worth waiting for.

We hope the President can persuade Republicans to move toward the Democratic tax cut and direct relief into the pockets of the families who truly need it.

MOVING TOWARD THE GOAL OF LESS GOVERNMENT AND MORE FREEDOM FOR THE AMERICAN PEOPLE

(Mr. RYUN asked and was given permission to address the House for 1 minute.)

Mr. RYUN. Mr. Speaker, this morning I would like to review some recent history. It is a matter of record that the American people have not had a tax cut in 16 years. It is also a matter of record that the Federal budget has not balanced in 28 years. It is a matter of record that we have never had Medicare reform.

Mr. Speaker, the 105th Congress is about to change all of that. This Congress is on the verge of passing the first tax cut in 16 years. This Congress is about to achieve the first balanced budget since 1969. This Congress is about to enact the first major reform in the Medicare Program in history.

While I do not believe the tax cuts go far enough and the budget will not be balanced soon enough, I do believe that we are moving toward the goal of less government and more freedom for the citizens of this Nation. The American people whom we serve deserve this.

INDEPENDENT CONTRACTOR PROVISION IS BAD FOR THE FUTURE OF OUR ECONOMY

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the independent contractor provision is a potential disaster for the working people of our country. What would it do if adopted?

It would take away health care and pension benefits from millions of employees.

It would punish socially responsible employers and reward companies which refuse to invest in their workers.

It would mean an instant tax increase for workers who would pay twice as much in Medicare and Social Security taxes.

It would deny workers their legal protections against sex, race, age, and disability discrimination.

It would lead to the misclassification of millions of employees, and this would cost the U.S. Treasury billions of dollars.

Mr. Speaker, the independent contractor clause is bad for employees, bad for legitimate businesses, and bad for the future of our economy. Twelve Republicans wrote to the Speaker of the House citing their serious reservations about this clause. Seventy-nine Democrats wrote to the President asking him to delete this provision.

Let us reaffirm our commitment to America's workers and eliminate this provision from the final budget bill.

REPUBLICANS WANT TO EMPOWER FAMILIES BY TAKING AWAY SPENDING DECISIONS OF IRS AND PUTTING THEM BACK WHERE THEY BELONG

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, every morning in America, working families get up, send someone to work, sometimes two parents to work; they earn a paycheck, and they are required by law to send a big chunk of it back to the IRS in Washington, DC, so bureaucrats can make spending decisions for their families.

The Republicans in this Congress have proposed empowering families by taking those spending decisions away from the IRS and putting them back where they belong.

Our friends on the left do not agree with that proposal. They want to stop this tax cut, and the only way they can do it is to find some reason to be against it, and the argument we hear day after day is that it is a tax cut for the rich.

We should ask ourselves who they mean by the rich. They mean people earning $50,000 a year, like the family that the distinguished gentleman from Missouri [Mr. GEPHARDT] showed us. If someone owns a TV set and can listen to this debate, they are probably the rich they are talking about.

AMERICA'S WORKING FAMILIES DESERVE TAX RELIEF, NOT A TIME BOMB

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, the $50,000 argument my friend makes; it is not $50,000. Sixty percent of their bill, their tax bill, goes to people who make $250,000 a year or more. This tax plan is a time bomb. It reminds me of those crazy TV furniture commercials that we see on TV: No money down, no interest, no payment until 1999.

Mr. Speaker, who is going to get stuck with the bill taking care of these people making a quarter of a million a year that are going to get 60 percent of this bill? It is going to be America's working families.

Under this bill, a young police officer supporting a family makes $23,000 a year, puts his life on the line every day. He would not get a single dollar in child tax credit, not a single dollar. But when the deficit starts to soar again, he is going to foot the bill for those millionaires and those wealthy people.

The numbers do not lie. This Republican plan will create a deficit of $750 billion just as millions of baby boomers start to retire. It is a giveaway, an irresponsible giveaway to the wealthy in this country, it is not fair. America's working families deserve tax relief, not a time bomb.

THE TRUTH ABOUT TAX RELIEF

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I want to respond to my friend from Michigan, Mr. BONIOR.

The administration continues to crunch numbers, trying to make most Americans rich; Americans, by the way, that are struggling, who are not rich.

I believe, finally, there is a balance here in this body that wants to give a tax cut to those people that deserve it. There are those on the other side of the aisle who complain about the tax cut, and I think they are really showing their true colors. They do not really care about struggling families, they do not want a tax cut anyway. What they want is to increase our taxes, they want the Government to have more of our money.

So if my colleagues really want a tax cut, just admit it and do all the working people in this country a favor: Tell them they do not know what is best for their family, tell them they need to pay more taxes, tell them they would rather take more money out of their pocket, tell them they should give more to the IRS. But please tell them the truth about tax relief.

☐ 1015

GOOD NEWS AND BAD NEWS

(Mr. ROTHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTHMAN. Mr. Speaker, now is the time to give a tax cut to working and middle-income Americans. But there is good news and bad news in America today. The good news is that in the last 4 years, the Democrats, under President Clinton, have brought down the deficit, reduced the size of government, and we are on course to balance the Federal budget. It is time to give American families some of their hard-earned money back.

But the bad news today is that the Republicans want to give most of the tax cuts to the very wealthiest of Americans. Under the Republican plan, almost 70 percent of the tax cuts would go to the top 20 percent of income earners in America. Working and middle-class Americans need and deserve the tax cuts more. There is a difference between the Democrat tax cut plan and the Republican tax cut plan.

I have put forward a bill called the Lifetime Learning Affordability Act, which would actually give parents tax deductible IRA-like savings accounts so hardworking Americans could provide for their children's college education in a cheaper and safer way. Mr. Speaker, it is time we invest in working and middle-class Americans with a tax cut for them, not the rich.

A NEW DAWN IN AMERICA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, there is a new dawn in America for working men and women. The Republican tax cuts will enable all hardworking Americans to keep more, not less, of the money they earn, giving them more freedom to grow, more freedom to prosper, and more freedom to create new jobs for others.

It will allow them to meet their personal needs and to fulfill their family responsibilities. A working father and mother will not have to take that second job that takes them away from their kids or from doing the things they enjoy. They will have more time to make a positive difference in their community. They will not have to go into debt or mortgage the family home or business just to send their kids to college. They can pursue that once out of reach dream of starting their own business.

Too often, Mr. Speaker, the crushing burden of Federal taxes undermines these vital opportunities and takes away our freedom to pursue our dreams. The Republican tax relief package is a first step in restoring those stolen dreams and freedoms, or creating new opportunities for all Americans to explore and enjoy.

I urge all my colleagues to support the Republican tax plan.

WINDFALL FOR THE RICH

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, what my colleagues on the other side of the aisle are not telling us about is the $22 billion windfall they are providing to the richest corporations in this Nation, the Exxons, the Boeings, where they would phase out in some instances the tax obligations of the richest corporations in the United States; yes, Mr. Speaker, zero, some of these corporations would pay zero in tax dollars, while hardworking middle-income American families would have to continue to pay their taxes, and these folks would get away with it.

Mr. Speaker, let me just tell the Members that they have come up with a new tax plan which is in the papers this morning, that proved that they have not changed their spots at all. This proposal combines the worst policies of the House and Senate tax bills. Do not take my word for it, let me quote from an editorial in this morning's Washington Post. I quote:

> The tax provisions remain the worst aspect of the GOP legislation. They are tilted hugely toward the very rich, and in the long run, would be a far larger drain on the Treasury than their authors acknowledge.

This latest budget proposal makes Republican priorities clear, clear as a bell: Huge tax breaks for the richest individuals and corporations in the United States.

REPUBLICAN CONSENSUS ON TAX RELIEF

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I am very proud of my fellow Republicans. Last night we met for 3 hours and openly and honestly discussed our faults and our hopes for the future. We have heard and read the rumors about the nonexistent or alleged coup attempt, and we all know the Republicans do not always agree. But we decided to work together to overcome the obstacles that we have.

I admire our leadership. They open themselves to the media every day. Their lives are scrutinized by the public microscope, and this makes us all very guarded. Yet last night they opened themselves, they were vulnerable, honest, and frank. Any differences we had yesterday morning are now behind us. We are looking forward now.

As a team we are fighting for tax relief for working Americans. Together we will do all we can to overcome any reason, any excuse the opponents have to overcome tax relief, or to oppose tax relief.

Eventually there will be only one vote for tax relief. It will be at the request of the American people, with the consent of Congress, and with the agreement of the President. Either Members are for tax relief or they are against it. The Republicans have come together to get tax relief for working Americans.

BEWARE OF UNITED STATES-CHINA RELATIONSHIP

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the country that tried to buy our presidency is now a country that holds the fate of the U.S. economy in its claws. While politicians in Washington are playing politics, China is now holding the third largest United States debt, right behind England and Japan. Beam me up.

And make no mistake, the people running China are Communists. Communists do not give a damn about democracy, and Communists have never supported America.

Beware, Democrats alike, do not take China lightly and do not take John Huang lightly. Huang just did not have friends at the Commerce Department, Huang has friends in high Communist places.

I yield back the balance of some problems here.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair would remind Members to refrain from using anything close to profanity in their remarks.

HELP THE POOR, SUPPORT ECONOMIC GROWTH

(Mr. PAPPAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAPPAS. Mr. Speaker, what do the poorest Americans think of our tax relief proposal? What do those forgotten Americans who face great obstacles in life think about a tax plan that begins with the idea that Americans should be allowed to keep more of their own money? If it were up to them to design the tax bill, what would it look like?

I suspect what many of the poorest among us lack most is hope, so the question is, which tax relief measure would give those folks the most hope? Which tax bill would do the most for economic growth? Which tax bill would do the most to encourage job creation?

I know that economic growth is not something that liberals like to talk about, but economic growth is what would give the most hope for the future. That is why the tax on savings and investment needs to be reduced. If Members disagree, then I have but one question: Would lower economic growth help the poor?

REPUBLICAN TAX PLAN: HUGE TAX BREAKS FOR THE WEALTHY AND A BALLOONING DEFICIT

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, we found out this morning that the Republicans have come together on a unified budget bill that is far worse for the average working American than the previous versions that passed the House and Senate. Their unified tax bill is even more unfair to working families and deeply skewed to help the wealthy. In particular, the Republicans have refused to scale back on one of their prize tax breaks for the wealthy, allowing investors to index their capital assets to inflation and thereby reducing their taxes.

Of course, the media and the American people are waking up to this Republican proposal. Today in the Washington Post the headline in the editorial said "A Dismal Budget Prospect." If I could read from a section, it says:

> The tax provisions remain the worst aspect of the legislation. Why? The President has stated two great objections to them: They are tilted hugely toward the very rich, and in the long run, would be a far larger drain on the Treasury than their authors acknowledge. The Republicans today in this unified tax plan have given no ground on either count;

again, huge tax breaks for the wealthy and a ballooning of the deficit.

THE REPUBLICAN TAX BILL IS RIGHT, FAIR, AND TIMELY

(Mr. SUNUNU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNUNU. Mr. Speaker, this week Congress will finalize its proposal for tax relief for all Americans and begin discussions on that tax proposal with the President. During the past month Republicans have worked consistently to lower taxes for all Americans, with a $500-per-child tax credit, relief for families sending their children to college, providing death tax relief for small businesses and family farms. In fact, 75 percent of the tax relief in this proposal goes to those earning less than $75,000.

I hope the President will avoid the class warfare rhetoric we have heard today, but I am not optimistic. This administration's record falls short. In 1993 they pushed through the largest tax increase in America's history. This administration has proposed higher taxes on health care, taxes on energy, even taxes on camping equipment. They have called the reduction in the capital gains tax as being unnecessary and suggested that relief from death taxes is selfish.

The administration's record is one of higher and higher taxes. This is wrong. Americans deserve this tax relief. This bill is right, it is fair, and the time is now.

REPUBLICANS SHOULD COME BACK WITH A TAX PROPOSAL THAT HELPS AVERAGE WORKING FAMILIES

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAGOJEVICH. Mr. Speaker, let me give an example of who benefits under the Republican tax plan. Sandy Weill is a CEO who last year earned $94 million. Under the Republican plan, he would enjoy a capital gains tax cut adding up to $7 million. The average American family earns a little more than $32,000 per year. Their entire annual income is, now get this, only four one-thousandths as big as the capital gains tax cut Sandy Weill would get under the Republican plan.

America has been good to people like Sandy Weill. With $94 million in income last year, I think he can wait for his tax cut. But most Americans cannot wait. They can use a tax cut now. Working families need it to pay their rent or mortgage, buy their groceries, raise their children, and maybe have a little left over for a rainy day.

I implore my Republican colleagues to take a second look at their plan and come back with a proposal that actually helps average working families. I know they can do it. They just have to want to.

TIME FOR THE LEFT TO STOP TWISTING THE TRUTH ABOUT TAX RELIEF

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, it is time for the left to stop twisting the truth about tax relief. That is the headline of the editorial in this week's U.S. News & World Report.

Here is what the editorial says. It says that "The middle-class families that benefit from the Republican tax plan should hardly be considered rich." The editorial goes on: "The way the left is trying to twist the tax debate, boldly ragging successful Americans as a way to achieve political points, trivializes the real issues and divides us as a people." That is what the U.S. News & World Report says.

The editorial suggests that the Democrat approach to this tax debate is a lot like the phony get-rich-quick schemes we often see on television, suggesting that somehow you magically become wealthy overnight. If Members are inclined to believe that kind of baloney, I would direct their attention to the get-rich-quick scheme presented here on my left.

All the Democrats, call the U.S. Treasury Department, 202-622-0120, and they can find out how, by applying their philosophy on taxes and income, their middle-class income actually makes them wealthy overnight, overnight. All Members have to do is call the Treasury Department, and they, too, can find out how the Democrats believe they are rich. Call the Treasury now, 202-622-0120. Democrat operators are standing by.

AN UNJUST AND UNFAIR REPUBLICAN TAX PLAN

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, one purpose of Government is to suppress injustice. The Republican tax plan does just the opposite. This plan unjustly benefits the top 5 percent of income earners by giving them over 50 percent of the cuts. This plan unjustly excludes working and middle-income students trying to pay for an education.

Take, for example, Tina, a single parent, mother of four, and student at Malcolm X College. With an income of $25,000, she pays $1,400 in tuition and fees. She would receive no break under the Republican plan. That is unjust. Under the Democratic plan, Tina would receive a $400 tax break. That is justice for a single mother of four attempting to get an education.

In addition to Tina, 4.8 million other Americans are left out by the Republican plan: Police officers, schoolteachers, dental assistants, and carpenters would not receive a break. The Republican plan can be summed up in three words: Unjust and unfair. Give America a break. Let us support a fair and just plan.

□ 1030

SUBPOENA TO CHAIRMAN OF HOUSE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, something is wrong. How can it be that a House committee serves a subpoena on a Federal agency one day and 3 days later that same agency subpoenas the campaign records of that committee's chairman? Talk about politicizing the Justice Department.

Yes, it is curious but that is exactly what happened 2 weeks ago. The gentleman from Indiana [Mr. BURTON] sent a subpoena about campaign fundraising to the Justice Department on July 8. Bingo. On July 11, an FBI agent walks into his Indianapolis campaign office with a subpoena for all "Burton for Congress" records. We are not the only ones to think this is strange. Even Dan Rather on CBS News raised it on his program.

This is not what good government should be about, Mr. Speaker. It should not be a game of tit for tat. The gentleman from Indiana [Mr. BURTON] should not have to face a political prosecution or persecution just because he is trying to do his job. The Attorney General should not politicize our system of justice in this way.

CUTTING AMERICAN WORKERS

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, the Republican majority has placed a provision in the budget bill to expand the definition of independent contractor. Because of the negotiation on tax cuts and health insurance for children and Medicare, not much has been said about this issue.

Mr. Speaker, this provision goes a long way toward taking away many of the benefits that employees need. We are not talking about personal parking spaces or perks. We are talking about health insurance coverage, pensions, and employer contributions to Social Security and unemployment insurance.

Employers say they want clear rules on how to classify an independent contractor. We can clarify those rules very easily without leaving a hole that one can drive a Mack truck through.

If this provision passes, perhaps millions of workers will lose their benefits and be classified as working for themselves, even though this is not the case. Outside of Washington people are concerned about and oppose this systematic downsizing and lowering of our standard of living. That is what this provision will do.

There is lots in that tax bill to be concerned about, but one of the things I am concerned about is the complaint of the American people that their standard of living is being lowered. They are doing it with this Republican bill.

MOTION TO ADJOURN

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on motion offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 64, nays 322, not voting 48, as follows:

[Roll No. 307]

YEAS—64

Abercrombie
Ackerman
Andrews
Berry
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Carson
Clay
Conyers
Coyne
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Doggett
Evans
Farr
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Hastings (FL)
Hefner
Hinchey
Jefferson
Kennedy (RI)
Kilpatrick
Klink
Lantos
Lewis (GA)
Lowey
McCarthy (NY)
McNulty
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Obey
Olver
Owens
Pallone
Pascrell
Pelosi
Sabo
Sanders
Sandlin
Serrano
Slaughter
Thompson
Torres
Vento
Waters
Waxman
Weygand
Woolsey
Yates

NAYS—322

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Boyd
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Dickey
Dicks
Dixon
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fattah
Fawell
Flake
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paul
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wicker
Wise
Wolf
Wynn
Young (FL)

NOT VOTING—48

Barton
Berman
Blumenauer
Boswell
Brady
Cardin
Chenoweth
Cox
Crane
Davis (FL)
Diaz-Balart
Dingell
Dooley
Engel
Eshoo
Foglietta
Gilchrest
Graham
Hooley
Hoyer
Hyde
Johnson, E. B.
Johnson, Sam
Kaptur

Kennelly
Kind (WI)
Lampson
Markey
Matsui
McCarthy (MO)
McDermott
Molinari
Neal
Norwood
Paxon
Pomeroy
Radanovich
Rangel
Roemer
Sawyer
Schiff
Skaggs
Stark
Stokes
Sununu
Thurman
Whitfield
Young (AK)

□ 1055

Messrs. PACKARD, GEKAS, LEACH, CASTLE, LEWIS of California, HINOJOSA, SMITH of Michigan, BONO, BOEHNER, KANJORSKI, and Ms. SANCHEZ, changed their vote from "yea" to "nay."

Mr. OWENS changed his vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore. Pursuant to House Resolution 193 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2160.

□ 1058

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 22, 1997, the bill had been read through page 27, line 23, and pending was the amendment by the gentleman from Wisconsin [Mr. OBEY].

Pursuant to House Resolution 193, no further amendments to the bill or amendments thereto are in order except the amendments printed in the CONGRESSIONAL RECORD before July 22, 1997, the amendments printed in the CONGRESSIONAL RECORD numbered 21, 22, 23, and 35, one amendment by the gentleman from California [Mr. COX] regarding assistance to the Democratic People's Republic of Korea, and the amendment by the gentleman from Wisconsin [Mr. OBEY], pending when the Committee of the Whole rose on July 22.

Each amendment is considered read, debatable for 10 minutes, except as provided in section 2 of the resolution, equally divided and controlled by the proponent and opponent.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

After a motion that the Committee rise has been rejected on a day, the Chairman of the Committee of the Whole may entertain another such motion on that day only if offered by the Chairman of the Committee on Appropriations or the majority leader or their designee.

After a motion that the Committee rise with the recommendation to strike out the enacting words of the bill has been rejected, the Chairman of the Committee of the Whole may not entertain another such motion during further consideration of the bill.

Pending is the amendment by the gentleman from Wisconsin [Mr. OBEY].

Pursuant to the resolution, the gentleman from Wisconsin [Mr. OBEY] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

□ 1100

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 2 years ago, when the majority party tried to cut the School Lunch Program, this Congress and the Nation finally rejected that. Last year, they tried to cut the WIC Program, the feeding program for women, children, and infants. The country rejected that. Now we are back with this bill, and this bill is $30 million short of the amount that is apparently required in order to prevent 55,000 women and children from being knocked off the program.

At the same time, this Congress is being asked to approve a tax cut which will provide, on average, a $27,000 tax cut to the richest 1 percent of people in this country. I think that is unconscionable. The bill itself is $180 million below the President's budget for the WIC Program.

The amendment that I am offering today simply does not even restore the President's request. We simply try to restore $27 million so that we assure that no person is knocked off the program in the coming fiscal year. Now how do we pay for it? We pay for it simply by eliminating $36 million, which has been put in this bill above the President's budget to pay for subsidies for commissions for insurance agents who write crop insurance.

This is not aimed in any way at changing what farmers receive by way of crop insurance. This is not aimed in any way at affecting what farmers pay. It is simply aimed at the abuses in the commissions which were described by the General Accounting Office when they pointed out that they had discovered above-average commissions paid to agents by one large company. They discovered the Government was being charged for corporate aircraft and excessive automobile charges, we were being charged for country club memberships and various entertainment activities for agencies and employees such as skybox rentals at professional sporting events.

This amendment is, purely and simply, aimed at ending the rip-off of both farmers and taxpayers by some people who are involved in this program so that we can free up some money for starving and malnourished kids. It is as simple as that. I urge support of the amendment

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the Obey amendment.

I would like to point out that we have worked long and hard to put together a bill that is reasonable and fair to all aspects of USDA, FDA, CFTC, and farm credit. I think we have before this House a bill that is balanced. It takes care of the needs of farmers and ranchers; research related to nutrition and ag production; housing, rural development, and nutrition of low-income people and the elderly; food, drug and medical device safety; and food for the needy overseas.

I appreciate the gentleman from Wisconsin [Mr. OBEY] trying to do what he is trying to do. If my colleagues look at this bill, they will see that we both regard WIC as the highest priority item in it. WIC received the largest increase in this bill, at $118.2 million over last year. This is on top of $76 million that was recently provided in the supplemental. With this increase, WIC is funded at $3.924 billion in fiscal year 1998. This amount fully supports the current participation level of 7.4 million.

My colleague, the gentleman from Wisconsin [Mr. OBEY] says that if this amendment does not pass, 55,000, now they are going up about 5,000 a day from what I can gather after hearing the new statistics, 55,000 women, infants and children will be taken off the program.

I do not know where this information came from. We have two Statements of Administration Policy from the Executive Office of the President concerning this bill, and neither one says a word about people being forced off the program with the funding level included in this bill as it is now. We have heard these scare tactics before, let us not fall for them again.

Mr. Chairman, I have presented this House with a balanced bill. This is a bill of compromises. The amendment in full committee to increase crop insurance also provided an increase for the FDA food safety initiative and tobacco regulation enforcement activities. This is a bill that can and should be supported by every Member of this body. I support this bill and ask my colleagues also to support it, and I oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, could I inquire how much time each side has remaining?

The CHAIRMAN. Each side has 12½ minutes remaining.

Mr. OBEY. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, we live in a country where our agricultural production is so bountiful that it exceeds that which our people can consume. We have excess agricultural production each and every year. At the same time, hundreds of thousands of people in our country go to bed hungry every night. Many of these people who are hungry are women who are carrying infants, pregnant women. Others are young mothers, their infants and children.

This is a brutal paradox. And the brutality of it is made worse by the bill before us, because the bill before us would deprive, it is estimated, 50,000 people, young mothers, pregnant women, young children, infants, from the ability to participate in the women, infants and children program, which provides basic nutrition for those folks.

The Obey amendment seeks to correct that brutal situation by restoring $24 million to the women, infants and children program so that some of those pregnant women, some of those young mothers, some of those infants, and some of those children will get proper nutrition. This is a reasonable thing to do.

The opposition says that the Obey amendment is going to hurt farmers. The facts of the matter are quite the contrary. The Obey amendment will help farmers. It will help farmers by taking care of some of that excess agricultural production. Dairy, for example. We have excess dairy production all across the northeastern part of this country and elsewhere in the United States.

The Obey bill will make sure that some of that excess milk and other dairy products are consumed by people who are hungry and need the nutrition. It is a sensible, reasonable thing to do. He takes the money, the $24 million, from the commissions of people who sell crop insurance. And he talked a little bit earlier about some of the specific benefits, like skyboxes and airplane trips and things of that nature, that are enjoyed by these commissioners. And they will be, unfortunately, deprived of those amenities, but that money now will be used to make young mothers, pregnant women, young children whole, give them better nutrition, make them strong, make them healthy. It is a good amendment, and I hope that all Members of this House will support it.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman from New Mexico [Mr. SKEEN] for yielding me the time.

Maybe it is time that we reviewed the facts in this issue rather than listen to the rhetoric. So let me just review the facts for one moment. The gentleman from Wisconsin [Mr. OBEY] offers to reduce the crop insurance program by $23 million, adding it to a $3.9 billion program for WIC. That is almost an insignificant addition, if we understand the immensity of the WIC program already.

However, if we take that same amount from the crop insurance program, we destroy the crop insurance program, we reduce it by 20 percent, it will not be available for agriculture. There will be nobody to deliver the crop insurance.

So while all of us are concerned with the WIC Program, as we should be, I note that this issue was never raised in committee. There were no negative votes on this question. Everybody seemed to have their arms thrown around the program offered by the chairman, until we reach the floor. Is this a hit-and-run on the committee system? I suggest it well may be.

Where should this whole thing be decided? We have added, as mentioned, $118 million to WIC at the same time in committee. Where should this be decided? It should be decided where it has always been decided. The Secretary of Agriculture of the United States of America and crop insurers ought to sit down and negotiate this program. That is what is being done now. We should not take away the negotiation opportunity for farmers by passing this kind of legislation.

So, please, reject the Obey amendment and allow this to be done, as it is properly done, between the Secretary of Agriculture and crop insurers.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Chairman, one of the measures of a strong and prosperous nation is its ability and willingness to take care of its neediest communities. I believe, we as a country, have an obligation to address the problems of our most vulnerable citizens. We have a whole wealth of new research indicating importance of proper care for children, particularly at-risk children during their first few years of life.

The very least we can do for these young children is to make sure that they have access to proper nutrition during these formative years. WIC has been proven to be one of our most successful programs at reducing low birth weight, infant mortality, and child anemia. It is one of the most effective social programs that we have.

Why, then, would we fund WIC coming out of the committee $30 million short of what we need to simply maintain the current caseload in 1998? This subtraction of the $30 million will have a direct impact on children's health in this country. I think that the cost could be exacerbated, in fact, if the cost of food is higher in fiscal year 1998.

I think we need to look carefully at funding this program at levels that we have funded it in the past. I am sympathetic with the concerns of small farmers, but the money that this amendment is taking it from comes from insurance premiums. A GAO study in fact showed that the money that these insurance agents are taking from this program is being used for things like skyboxes. And frankly, if you weigh children's nutrition and healthful food and infant formula against skyboxes, I think the choice is pretty clear.

This is not an intention to hurt farmers. And in fact, I think that we should support our farmers of this country, and I think the farmers of this country would support and do support programs that benefit young children.

And so, for those reasons, I think this is a great amendment. I thank the gentleman for raising it.

□ 1115

Mr. SKEEN. Mr. Chairman, I yield 3½ minutes to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Mr. Chairman, I would just like to point out because I was down here on the debate on the supplemental disaster bill and I was one who voted for $76 billion additional spending on the WIC Program. As was noted earlier today, we have a $118 million increase in WIC over last year's level in this appropriation bill.

What I would like to speak about for just a minute because I was listening with great interest a couple of nights ago to the debate on crop insurance, I found somewhat humorous, if not tragic, the constant reference to skyboxes.

I can tell my colleagues about the typical crop insurance agent in my State of South Dakota. Their business is on Main Street. They are mom and pop operations whose main line of business is probably another field of insurance, but they are also involved in crop insurance because somebody has to do it. They are not cutting a fat hog. They are making a living, having a tough time of it, because they are dealing with a program which is fraught with redtape and bureaucracy.

As I have listened to the crop insurance agents explain to me how difficult it is to be in this business, one of the things that repeatedly comes up is how much bureaucracy and redtape there is. I think as I look the our State of South Dakota, we have 77,000 square miles. Agriculture is our No. 1 industry. We do not have a professional sports team in South Dakota, so our guys are not going to skyboxes. But we have a lot of small crop insurance agents who make this program work. As a matter of fact, 90 percent of the farmers, the producers in South Dakota, are in the crop insurance program and 75 percent at the buyup level.

That is precisely what we wanted to do by changing Government policy in this country, to encourage our producers to protect themselves against future loss so that we do not down the road have to come in with taxpayer dollars in the form of disaster assistance.

Let me tell Members what I think are the alternatives if we do not have a workable crop insurance program. The first one is it will go back to the Federal Government. We will have a delivery system where the Federal Government is once again in the business of crop insurance. I think that is a lot less preferable than having people in the private sector who are delivering this program in a way that makes sense and is efficient and saves the taxpayers dollars.

The second alternative is to have no program at all. Where does that leave us? That leaves us exactly where we were before, and that is year in and year out as a disaster strikes we will be coming back to the Congress and asking for disaster assistance to go to producers in the States that are in the business of agriculture.

I think we have an efficient system that is delivering the product, that is working, and it is to our advantage to have a program that works for the producers, for the people who are trying to make a living, in the business of selling crop insurance, and if we do not have that sort of a system in place, those are the alternatives that we are left with.

I would like to say, because I heard the other night the discussion on skyboxes, it might please the gentleman from Wisconsin to know that I am a Green Bay Packers fan and have been since I was about 5 years old. I have never been to a Green Bay Packers game, but I hope that someday in the future I will. I can assure the gentleman that if and when that happens that I probably will not be in a skybox. I would be happy to sit in general admission, which is where the crop insurance agents in my State of South Dakota, who are small businesses, mom and pop operations, will be sitting with me.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I am very interested in all this discussion about small farmers. I am probably one of the few small farmers in this body. I have a small farm. I sure do not get whole lots of Federal subsidies or insurance agents. I never heard of this commission. But I do know about women's health. I do know what it means when a woman who is pregnant gets good nutrition. I do know what it means when a small child gets good nutrition. All these subsidies for farmers, come on. Farmers are in business. We do not subsidize farmers, or we should not. We certainly should not subsidize insurance agents, at the cost of health care and nutrition. We know that every dollar we put into health care and nutrition for pregnant women is a dollar that pays back time and time again.

What does America stand for? Does it not stand for our children? Let us support the Obey amendment because the Obey amendment is sensible. It is common sense. It is common sense to invest in prevention. All this talk about skyboxes, gee, I never as a small farmer have ever seen one of these commissioners. I buy insurance because I think that is the American way. We buy things for small business. We do it ourselves. We do not take money and food out of the mouths of pregnant women and children so that we in business can get a little subsidy.

As a farmer, I say let us support WIC. I say let us support the Obey amendment. Let us say finally that this is not a country that subsidizes everybody who wants to be in business. This is a country that stands for something. One of the things we stand for is healthy children, healthy mothers. I thank the gentleman from Wisconsin [Mr. OBEY] for presenting this amendment. I say we should all support it.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding me this time.

Mr. Chairman, let me first say that if there is a greater supporter of the WIC Program in this body than CHARLIE STENHOLM, I do not know who it might be. I am a great supporter of WIC. It does wonderful things for people that need wonderful things done for them.

This bill, as presented to us, increases by $118 million the amount of dollars in the WIC Program. If it will take more, I will be glad to join with my colleagues in supporting more. But let me remind all of us, we are dealing with tight budgets. That means we have got to scrutinize all programs, including the good ones, if we are going to do our job.

In regard to crop insurance, I am a great supporter of crop insurance. We have some terrific problems, and time will not permit me to talk about some of the frustrations I have with the crop insurance program today. But this is not the time and the place to revise and reform the crop insurance program. That belongs in the authorizing committee, and we are going to do that.

Let me remind everyone in regard to agents, right now we are racheting down the reimbursement rate for crop insurance agents from 31 percent to 29 percent. We are scheduled to go to 28 percent in 1997. This bill takes it to 27 percent 1 year earlier. Therefore, all of the rhetoric about where this is going and how it is going to do, let me say to my colleagues, this is not the place to make arbitrary judgments regarding the crop insurance plan for some alleged wrongdoing. Stick with the committee bill, defeat the Obey amendment. We are all going to be supportive of WIC. We all are going to be supportive of crop insurance reform, but let the authorizing committee do its work, which I will publicly admit we have not done as yet, and that is a black mark on us, not the appropriators.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DeLAURO. Mr. Chairman, let me try to place this debate and discussion in some context. The fact of the matter is that in the last session of the Congress, the Republican majority did not appropriate enough money for the WIC Program, Women, Infants and Children Program. They were forced, and in fact we helped to force them, to increase those dollars at the end of the process so that women, infants, and children would not be thrown off of the program. In fact, in several States that process has started. But the Democrats forced that debate in order for there to be an increase in funding in the WIC Program, what my colleague from Wisconsin is trying to do, because once again the Republican majority is shortchanging the WIC Program and we will find ourselves in the same position where we will look at approximately 55,000 people, women, infants and children, who will not be able to avail themselves of the program. My colleague from Wisconsin is trying to avoid that situation and in fact restore money so that we will not have to take women, infants and children off of this program. This program, we find, is a cost-effective one. It saves us dollars in other programs. It is a wise investment. What the Obey amendment is suggesting is that what we take the money from is the increase in the insurance rates to those who offer crop insurance to farmers. This does not decrease the amount of dollars to farm subsidies.

I understand the problem of small farmers, or I try to do that. The fact of the matter is that the insurance agents are the ones who are benefiting from this effort. I trust the fact that we are trying to bring down the number, but we are talking today about 24 percent of premium. This is a hefty amount of premium. This should not go to the insurance agents but to women, infants and children.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Chairman, I stand in opposition to the Obey amendment. As working families in every corner of the country go to the grocery store today, they will find about 10,000 items to choose from. In many cases, the overwhelming majority of the cases, they will find good prices for good food products that people can buy in this country. People take that for granted, not understanding how important our agriculture industry is to this country. To amend this bill and to hurt farmers eventually will hurt consumers as they try to buy food in the grocery store.

I know in this day and age we have become a victim to a great degree of our materialistic success and as we go to buy food in stores many Americans think somehow it just comes from the back storeroom or from a truck that came down the road, but that all started out on a farm in some State in this country. To do this to our farmers is a sad commentary on what we are arguing about here today.

The WIC Program is something that we all support. We on our subcommittee in a bipartisan way have supported increased funds for the WIC Program because it is important. But to demagog this issue in the way that it is being demagoged this morning is a real tragedy. I hope Members will look in their hearts and look for the truth in what we are debating about here today and support the position that we have taken on the subcommittee to fully fund crop insurance and fully fund the WIC Program.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I want to address my concerns very briefly to the colleagues who have fiscal concerns. There is no better way to put it than to say we should not be penny wise and pound foolish on this subject. This is not profligate Government spending we are debating here. The WIC Program is a program that works and in the longer term actually saves Federal money. For every $1 used in the prenatal segment of the WIC Program, Medicaid saves untold amounts of money and gives healthy productive lives to all these children. WIC works, to put it very bluntly. It is not an area where we should be penny wise and pound foolish.

I guess I have got to say, Mr. Chairman, and speaking now as a Republican fiscal conservative, in this the wealthiest Nation in the world, we should not see children going to bed hungry.

Mr. Chairman, I rise in support of the Obey amendment to increase funding for the WIC Program by over $24 million by implementing offsetting cuts in funding for crop insurance sales commission.

Mr. Chairman, this amendment is a natural follow-on to the farsighted decision made by this Congress in May to fully fund the WIC Program in the disaster supplemental.

Today, we are reducing for crop insurance sales commissions to provide food and health security for our children. Mr. Chairman, in the constant struggle to make sure that we set our priorities straight, this amendment is another step in the right direction.

For those of my colleagues who have fiscal concerns—don't be penny-wise and pound-foolish.

This is not profligate Government spending we are debating here. The WIC Program is a program that works, and in the longer term, actually saves Federal money. For every $1 used in the prenatal segment of the WIC Program, Medicaid saves untold moneys and gives healthy productive lives to these children and cannot be measured in dollars and cents.

WIC works. It reduces the instances of infant mortality, low birthweight, malnutrition, and the myriad other problems of impoverished children. The WIC Program also provides valuable health care counseling for expectant mothers for both mothers and children.

In recent months Time and Newsweek magazines have written feature articles on the importance of the years from birth to age 3. These articles validate longstanding research based on up-to-date studies of prenatal and early childhood development. WIC funding is a big part of the future development of these infants. Let's not be penny-wise and pound-foolish.

This $24 million for the WIC Program is good investment. A wise investment, at that.

Mr. Chairman, this is the wealthiest Nation in the world and yet, children still go to bed hungry.

WIC must remain fully funded and should be off limits. Only then will we preserve food for hungry babies.

Mr. Chairman, we can take advantage of an opportunity today.

We can meet the challenge of fiscal responsibility in two ways: First, through budget neutrality, that is finding offsets as we appropriate funds to different programs, and second, by making wise investments.

This is a wise investment.

With this amendment, we have the opportunity to enhance WIC funding and thereby protect low-income women and children and—incidentally—the taxpayer.

I urge support of this amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, I certainly count myself among those in this body that fully support the WIC Program. I think that it ought to be funded so that it can operate and provide services and food to all that meet eligibility requirements. That, I do not think, is what is at issue here this morning. We are talking about a zero sum game. We are trying to increase the funding of one program at the expense of another. Of course it sounds more attractive to say we are going to feed infants and pregnant women at the expense of providing insurance agents with commissions. But I submit that is not really the issue. The issue is what type of a crop disaster program do we wish to have. Do we wish to have one that is based on an insurance principle or do we want ad hoc disaster payments? In the past we have paid out billions of dollars in some years in ad hoc disaster payments to farmers for crop losses. With an insurance-based program, the farmers are purchasing insurance. In order to make that program effective we have to have agents selling the insurance, and this program is essential to maintain that commission program and those agents.

□ 1130

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I spoke the other evening on this subject, and there is a lot been made about the WIC program and caring for women, infants and children. There is plenty of money already in the bill for that, more than what is needed as far as the carryover. But I think one thing that is being very much forgotten here is the women, infants and children of farm families that they are going to destroy by taking away an opportunity for them to protect the risks that they have out there.

Mr. Chairman, when we look at the hope and dream of a small family farm which is made up, by the way, of women, infants and children, they would rather have them apparently go on the welfare rolls than they would to survive in their businesses. All we are asking for is the opportunity for these people, these small farm families, to protect their risk so that they do not have to get on a Government program, so that we do not have to have disaster bills which cost us billions of dollars every year.

If my colleagues want to think about women, infants and children, why do they not think about those on family farms?

Mr. OBEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Wisconsin has 3 minutes remaining.

Mr. OBEY. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, a propaganda sheet has been circulated by lobbyists who are lobbying against my amendment, claiming that this is an amendment that attacks farmers. That is certainly not true. I represent farmers, I have fought for them all my life; in my view farmers are not hurt by this amendment, they are hurt by two things. They are hurt by the misguided farm policies of the Reagan, Bush, and Clinton administrations that we suffered through for the last three administrations, and they are also being hurt by the failure of the Committee on Agriculture to reform the crop insurance program so that we do not get ripped off by some of the agents involved in this program. Most of the agents involved are perfectly rational, responsible and fair-minded people, but the fact is that nonetheless the program is being ripped off. If we separate fact from fiction, the fact is that nothing in this amendment changes crop insurance for farmers, nothing in my amendment changes what farmers will pay for crop insurance. What we are trying to do is to stop the rip-offs on the commissions that some of the insurance agents are getting.

Now the lobby sheet that is being circulated says that 10 percent commission is not enough. We are not cutting this to 10 percent. We are trying to cut the commission from 28 percent to 24½ percent, which is the amount USDA and the Office of Management and Budget both say is sufficient to run the program. We are not cutting it to 10 percent. And the reason we are doing that, as I said earlier, is because we have a General Accounting Office report which indicates that some of the commissions being charged included charges for corporate aircraft, excessive automobile charges, country club memberships, rental of things such as skyboxes, and they suggest that the best way to tighten up this program is to do exactly what we are doing in this amendment.

I know we passed a freedom to farm program last year. I did not vote for it because I thought it was a lousy bill. But the fact is, freedom to farm is not freedom to milk farmers. It is also not freedom to milk taxpayers as some of these commissions are doing.

The fact is my amendment is supported by the U.S. Department of Agriculture, it is supported by the Office of Management and Budget, it is an attempt to end the rip-offs of this program, and that is in the benefit of farmers. It is an attempt to use the money we save to help starving infants and to help malnourished mothers who are about to give birth to children who we want to be healthy. That is what it does.

Stick with the kids. Do not listen to this propaganda sheet being pedaled by some of the agents. I urge support for the amendment.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, three of the six counties in our district are in Appalachia where WIC is a very important program. I am a strong supporter of WIC, and if I believed for 1 minute that this bill shortchanged the WIC Program, I would be supporting the Obey amendment.

I think the facts indicate otherwise. The WIC Program is completely funded in this program. We need to vote "no" on this amendment.

Mr. SKEEN. Mr. Chairman, I yield myself the balance of my time.

Let me close and let me state the facts, the facts, once again. This bill does not force anyone to be taken off the program. I do not know where they are getting this information, but we have two statements of administration policy from the Executive Office of the President concerning this bill, and neither one says they are worried about people being forced off the program with the funding level included in the bill. We have heard these scare tactics once again raised, but, Mr. Chairman, they are not true, we have given our colleagues the facts, and I oppose this amendment.

Ms. MILLENDER-McDONALD. Mr. Chairman, I rise to thank and support my colleague, Mr. OBEY, for introducing such an important amendment today. The current bill provides just enough money to maintain current participation levels, but it is based on the assumption that the number of women and children in need and the cost of food will remain absolutely constant. A similar miscalculated assumption brought all of us to the floor 2 months ago to vote on increased funding for WIC in the middle of the 1997 fiscal year.

The WIC funding level does not provide enough funding to ensure that no women, child or infant will be cut from this critical program. The cost of infant formula, for example, depends in part on the contract the State WIC program secure with formula manufacturers. This is not a fixed price. Furthermore, the prices for which the manufacturers have offered to sell formula to State WIC programs have been steadily increasing. If this trend continues, which many expect that it will, then this appropriations bill will fall far short of ensuring that current participation levels are maintained.

The Office of Management and Budget and the U.S. Department of Agriculture project that the funding level the committee has provided would result in the loss of 55,000 to 60,000 women, infants, and children next year alone. In my State of California, 1,225,800 low income and nutritional at risk pregnant women, infants, and children benefit from WIC. It is not fair to suddenly strip many of these women, infants, and children of this vital program in the middle of the 1998 fiscal year simply because we have lacked the foresight now to make accurate predictions of the needs of WIC recipients.

The WIC program is one of the most cost-effective and successful programs in the country. The Government saves $3.50 for each dollar spent on WIC for pregnant women in expenditures for Medicaid, SSI for disabled children, and other programs. More importantly, research has demonstrated how effectively WIC reduces low-birthweight babies, infant mortality, and child anemia.

On behalf of the State of California, which operates the largest WIC program in the country, I urge all of my colleagues to join me in voting "yes" on the Obey amendment. I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 230, not voting 9, as follows:

[Roll No. 308]

AYES—195

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doyle
Ehlers
Engel
Ensign
Eshoo
Evans
Fattah
Fawell
Filner
Flake
Foglietta
Forbes
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Morella
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Porter
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sawyer
Saxton

Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Stokes
Strickland
Stupak
Sununu
Tauscher
Thurman
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Young (FL)

NOES—230

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bateman
Berry
Bilbray
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chambliss
Chenoweth
Christensen
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Farr
Fazio
Foley
Ford
Fowler
Frost
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jefferson
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf

NOT VOTING—9

Barton
Dingell
Hyde
Kaptur
Molinari
Neal
Schiff
Stark
Young (AK)

☐ 1156

The Clerk announced the following pair:

On this vote:

Ms. KAPTUR for, with Mr. BARTON of Texas against.

Ms. DANNER and Messrs. CLYBURN, COX, ENGLISH of Pennsylvania, ROHRABACHER, and MOLLOHAN changed their vote from "aye" to "no."

Messrs. PAPPAS, GIBBONS, SUNUNU, and STRICKLAND changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] will state his parliamentary inquiry.

Mr. OBEY. Mr. Chairman, I would like to ask, what are the rules of the House in terms of distributing literature at the door which absolutely, totally misdescribes and libels the amendment that was just offered by me?

There is a sheet that was distributed which says "Vote no on the Obey amendment to kill crop insurance". It does absolutely no such thing. This House has a rule against that kind of misinformation. I would like to know what the rule is.

The CHAIRMAN. The rule is that anything that is handed out at the doors or on the floor must bear the name of the Member authorizing it.

Mr. OBEY. Could I ask, Mr. Chairman, what are the rules with respect to sheets which are absolutely, totally false and erroneous?

☐ 1200

The CHAIRMAN. The rules of decorum may generally be applied to the contents of such handout.

Mr. OBEY. Mr. Chairman, I have a further parliamentary inquiry.

Mr. Chairman, under the rules of the House, what are the remedies available to a Member when the amendment that he has offered to the House is being falsely described in a sheet handed out by another Member?

The CHAIRMAN. The Chair is reluctant to address the question in a hypothetical manner but would be pleased to consult with the gentleman.

Mr. OBEY. Mr. Chairman, I do not understand that response. This is not a hypothetical situation. This just occurred. I thought there was a requirement for truth on the sheets that are being distributed.

The CHAIRMAN. The Chair suspects the remedy would be the same as the remedy for any action by any Member in any committee.

Mr. OBEY. Mr. Chairman, I suggest this is an outrageous misstatement of the facts. The truth is regular order.

The CHAIRMAN. The Chair understands the gentleman's concern but has not had an opportunity to examine the flier.

AMENDMENT NO. 4 OFFERED BY MR. MEEHAN

Mr. MEEHAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. MEEHAN:

In the item relating to "RISK MANAGEMENT AGENCY" in title I, after the last dollar amount, insert "(reduced by $14,000,000)".

In the item relating to "SALARIES AND EXPENSES"—"FOOD AND DRUG ADMINISTRATION" in title VI, after the aggregate dollar amount in the first undesignated paragraph, insert "(increased by $10,000,000)".

The CHAIRMAN. Pursuant to House Resolution 193, the gentleman from Massachusetts [Mr. MEEHAN] and a Member opposed, each will control 5 minutes.

Does the gentleman from New Mexico seek the time in opposition to the amendment?

Mr. SKEEN. Yes, Mr. Chairman, I do. I rise in opposition.

The CHAIRMAN. The gentleman from New Mexico [Mr. SKEEN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Utah [Mr. HANSEN], my Republican colleague, a leader in the fight to protect America's children against tobacco and the cochair of the task force on tobacco and health in the Congress.

Mr. HANSEN. Mr. Chairman, most of my colleagues know that throughout my 17 years in this body I have been keenly interested in decreasing the use of alcohol and tobacco products by our children. I have no issue with the adults who choose to responsibly use legal tobacco and alcohol products, but I have become increasingly upset at the dramatic increase in tobacco use among our young people today.

Cigarette smoking among high school seniors is at a 17 year high. Smoking among eighth and tenth graders has increased 50 percent since 1991. These 13 and 14 year old children are being sentenced to shorter and unhealthier lives by addictive tobacco products. Even the tobacco industry now agrees to this conclusion. Tobacco smoking is a problem that clearly starts with our children. Almost 90 percent of today's adults who smoke started before the age of 18. The average youth smoker begins at age 13 and becomes a daily smoker at age 14. It is self-evident that the message that tobacco kills is not reaching our children or our grandchildren.

We have worked with the Food and Drug Administration over the past 2 years to develop regulations to curb youth tobacco abuse. The comprehensive FDA plan intends to reduce tobacco use by our young people by 50 percent in 7 years.

Some of the initiatives in the plan would require photo ID for the sale of cigarettes and tobacco smoke just like we do for alcohol. It would prohibit vending machine cigarettes, eliminate free samples and the sale of single cigarettes and packages with less than 20 cigarettes, known as kiddie packs, that are known to be given to children.

The FDA rule will also strive to make tobacco products less appealing to children by banning outdoor advertising within 1,000 feet of schools and prohibiting giveaways of products like hats or gym bags that carry cigarette or smokeless tobacco products. These measures will have no effect on adults who choose to use this product.

However, our children should not be bombarded with advertising and promotion which tell them that the illegal use of tobacco products is fun, it is glamorous, it is cool. The age restrictions on tobacco products which are in law in every State exist because children lack sufficient information and experience to decide whether to use a product as harmful as cigarette or spit tobacco.

The proposed FDA regulation would also require tobacco companies to notify consumers about the unreasonable health risks of their product, including warning labels on packages that kids can understand, for example, warning: Cigarettes kill.

I would urge Members to support the Meehan-Hansen amendment which would do something great for this country on health.

Most of my colleagues know that throughout my 17 years in this body, I have been keenly interested in decreasing the use of alcohol and tobacco products by our Nation's children. I have no issue with adults who choose to responsibly use legal tobacco and alcohol products. But, I have become increasingly upset at the dramatic increase in tobacco use among young people today. Cigarette smoking among high school seniors is at a 17-year high. Smoking among 8th and 10th graders has increased by over 50 percent since 1991. These 13- and 14-year-old children are being sentenced to shorter and unhealthier lives by addictive tobacco products. Even the tobacco industry now agrees with this conclusion.

Tobacco smoking is a problem that clearly starts with our children: Almost 90 percent of today's adult smokers started using tobacco before age 18. The average youth smoker begins at age 13 and becomes a daily smoker by age 14½. It is self-evident that the message that tobacco kills is not reaching our children and grandchildren.

I have worked with the Food and Drug Administration [FDA] over the past 2 years to develop regulations to curb youth tobacco abuse. The comprehensive FDA plan intends to reduce tobacco use by young people by 50 percent in 7 years.

Some of the initiatives included in the FDA plan would: Require photo ID for the sale of cigarettes and smokeless tobacco, just like for alcohol; prohibit vending machine sales of cigarettes; eliminate free samples and the sale of single cigarettes and packages with fewer than 20 cigarettes, known as kiddie packs.

The FDA rule will also strive to make tobacco products less appealing to children by banning outdoor advertising within 1,000 feet of schools, and prohibiting giveaways of products like hats or gym bags that carry cigarette or smokeless tobacco product names or logos. These measures will have no effect on adults who choose to legally use these products.

However, our children should not be bombarded with advertisements and promotions which tell them that their illegal use of tobacco products is fun, glamorous, or cool. The age restrictions on tobacco products, which are law in every State, exist because children lack sufficient information and experience to decide whether to use a product as harmful as cigarettes or spit tobacco. When tobacco products are seen as popular and cool, you can count on an increase in underage smoking.

The proposed FDA regulations will also require tobacco companies to notify consumers about the unreasonable health risks of their products, including descriptive warning labels on packages of cigarettes that kids can really understand:

WARNING: Cigarettes Kill

WARNING: Cigarettes Are Addictive

WARNING: Cigarette Smoking Harms Athletic Performance

WARNING: Smoking During Pregnancy Can Harm Your Baby

Similar warnings will be included on smokeless tobacco products, such as:

WARNING: Use of smokeless tobacco can make your teeth fall out.

Who among us will stand up and argue with the accuracy of these warnings? This will be the first national program ever undertaken to reduce youth access to tobacco. I believe these are major strides in the right direction.

However good these ideas may be, enforcement is the key to their success. Today, it is far too easy for kids to buy cigarettes and spit tobacco. Studies of over-the-counter sales have found that children and adolescents were able to successfully buy tobacco products 67 percent of the time. Despite the fact that it is illegal in all 50 States to sell cigarettes and smokeless tobacco to minors, our young people purchase an estimated 1.26 billion dollars' worth of tobacco products each year.

Strong enforcement is the key to reducing youth access to tobacco. The Food and Drug Administration seeks $34 million to fund the enforcement of these regulations. The funding sought by FDA will not create a new Federal bureaucracy and the majority of these funds will go directly to State and local officials for enforcement.

Let me repeat that, this funding will not create a new Federal bureaucracy and the majority of these funds will go directly to State and local officials for enforcement.

The current Agriculture appropriations bill funds this vital program at only $24 million. The Meehan-Hansen amendment would provide the full funding request for this vital program.

The offset for these funds would come from the Federal Crop Insurance Corporation's Crop Insurance Sales Commission, by decreasing that program's funding by $14 million and increasing the FDA's funding by $10 million, for a net savings of $4 million. The Agriculture appropriations bill currently funds the Crop Insurance Sales Commission at $188 million—an increase of over $36 million above the President's request. This program reimburses private insurance companies for expenses associated with selling and servicing crop insurance policies.

A recent GAO audit of this program uncovered numerous inappropriate expenses, such as business acquisitions and lobbying. Also included in the program's expenses were: $22,000 for a trip to Las Vegas; $44,000 for a fishing trip to Canada; country club memberships; tickets to sporting events, including $18,000 for a baseball skybox rental and $6 million to fund above average individual agent sales commissions by one large company.

In my humble opinion, these are not valid uses of taxpayer money. It appears this program is clearly one that can afford to spare a small percentage of its budget to improve and protect the health of our children and grandchildren. Even with the $14 million decrease in funding contained in this amendment, the program will still be funded at 114 percent of what Secretary Glickman deems necessary.

Please join with 87 percent of the American public in supporting the FDA policy for restricting tobacco use among children. This is the right thing to do for the health of our children and future generations. I urge my colleagues to vote "yes" on the Hansen-Meehan amendment to fully fund the FDA efforts to enforce tobacco regulations to keep these products out of the hands of our children.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

We started on this bill last Wednesday, and yesterday we offered a unanimous-consent request that would have allowed 30 minutes of debate on this amendment. We were informed to not bother making the offer because it would be objected.

The bill is supported by the administration and they are very happy with this bill. They are very happy with the Food and Drug Administration number. Last year FDA spent $4.9 million on its antismoking tobacco program. The committee bill provides $24 million for this program, quadruple what it had last year. In all my years here, I have not ever seen a program that could absorb money that fast and spend it wisely.

Nonetheless, this is an important initiative, and it is obvious that the committee supports it, but enough is enough. They are damaging one program, crop insurance, that also needs help. I ask Members for a no vote.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I rise today because what we need to do with this amendment is fully fund the tobacco initiative. The administration does not support this. The administration requested $34 million to carry out the necessary enforcement and outreach that will effectively curtail sales of tobacco products to children. I would hope that we could all agree, there are 50 States that have laws that are in effect, to regulate tobacco use to children. This allows the FDA to fully enforce those laws. That is what this is all about.

It does not affect tobacco farmers. It does not deal with the contentious or controversial issues relative to FDA regulation like marketing restrictions and advertising. All this attempts to do is give the FDA the resources that the administration says they need to effectively inform retailers of what they are to be doing; namely, carding a consumer who is underage who comes to buy tobacco products. The evidence is overwhelming that retailers are selling these products that kill children to children. The only thing we are trying to do with this amendment is allow the FDA to implement a program of education so that they can make sure that retailers know how they should protect children from sales. We have to card people, to educate people.

We are talking about tobacco, the leading preventable cause of death in America. In nearly every category, children are using tobacco products more and more, 3,000 children experiment with tobacco products a day, 1,000 of them have their lives cut short. The minimum that we can do, the minimum we can do is enforce the laws that are in effect now. Let us make them card people. Let us make the retailers stop selling this destructive product to children.

The way we do that is by giving the FDA the authority and the resources they need. Even with this money that is available, the Department of Agriculture will still get 114 percent of what they asked for. There is no excuse for not passing this amendment. It is in the interest of America's children.

This is a bipartisan bill. It is not a Democratic amendment. It is a bipartisan amendment. There are Members here who have been fighting all across America, attorneys general who have been fighting, hours and months of negotiating to keep tobacco products away from children. Let us join with those health experts. Let us join with the President and protect America's children. Vote for this amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. WHITFIELD].

Mr. WHITFIELD. Mr. Chairman, I rise to speak in opposition to this amendment. Obviously this is an emotional issue. As the gentleman from Massachusetts said, 50 States already prohibit the sale of tobacco products to minors, and those States have the responsibility to enforce those regulations. In addition, as the chairman said, the gentleman from New Mexico [Mr. SKEEN], $24 million is in this bill to give FDA the authority to enforce its regulations.

I would remind the gentleman from Massachusetts and the proponents of this amendment that the FDA in the Fifth Circuit in the U.S. District Court in North Carolina has stayed all of the FDA regulations with the exception of carding children 27 and below at retail establishments. There is sufficient funds available for that.

In addition to that, in 1992, this Congress passed the SAMSA regulations with HHS. They also are enforcing these regulations. So this money is absolutely not needed at this time.

Mr. SKEEN. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I rise against the Meehan amendment and the Hansen amendment. Mr. Chairman, certainly none of the arguments posed here can be objected to by anyone. No one wants children to smoke. As a matter of fact, I do not want adults to smoke. I am so strong in that that I quit myself. But the idea here is simply that we are moving the funding to the wrong area.

It has been said that there is an additional $24 million in this program. I support that idea. The problem here is that we are affecting all of agriculture. We are affecting wheat and corn and soybeans and all other agricultural products. This is not just directed at tobacco. This is directed against crop insurance.

This is the risk management tool, Mr. Chairman, that we talked about in the last amendment; here again, no one is opposed to increasing WIC. No one is opposed to increasing the battle against children smoking and for tobacco itself. But in this amendment, maybe mistakenly, we have impacted all of agriculture and, again, we are attacking a program that must stay in place for a whole industry, and that is agriculture.

Please, I ask all of my colleagues, again, oppose the Hansen-Meehan amendment.

Mr. CASTLE. Mr. Chairman, I rise in support of this amendment to fully fund the FDA's tobacco initiative to enforce restrictions on the sale of tobacco to children. Thirty-three States have pledged to work hand in hand with the FDA to ensure that provisions of its tobacco initiative are fully enforced. This amendment is critical to ensuring our Nation's success in reducing youth access to tobacco.

Cigarette smoking among high school seniors is at a 17-year high, and smoking among 8th and 10th graders has increased by more than 50 percent since 1991. According to a University of Michigan study, an astonishing 18.6 percent of eighth graders smoke. And they are getting cigarettes from stores—on average, kids are able to buy tobacco products over-the-counter 67 percent of the time.

I cannot emphasize enough how important it is to stop kids from smoking. Very few adult smokers picked up their habit after age 20. In fact, 9 percent of adult smokers started smoking before age 12, and 90 percent started before age 18. Every day, approximately 3,000 young people begin smoking, and over half of them become addicted.

Despite the fact it is against the law in all 50 States to sell cigarettes and smokeless tobacco to minors, kids purchase an estimated $1.26 billion worth of tobacco products each year. The FDA's initiative will make it more difficult for kids to sustain their smoking habit by reducing their access. It will require retailers to conduct ID checks of all tobacco purchasers who appear to be under age 27. This may appear to be a pretty high age for an ID check, but teens—particularly older teens—are notorious for being able to make themselves look older and more sophisticated.

There are other important reasons to stop kids from smoking—including a finding that heavy teen smokers are far more likely than nonsmokers to use heroin or other illegal drugs. Young smokers are also susceptible to a host of other health problems, including decreased physical fitness, respiratory illnesses, early development of artery disease, and reduced lung development.

The offset for this amendment, the Crop Insurance Sales Commission program, reimburses private insurance companies for expenses associated with selling and servicing crop insurance policies.

The GAO has found many inappropriate expenses included in reimbursement rates, including funds to cover country club memberships, a $44,000 fishing trip to Canada, and tickets to sporting events—including $18,000 for a baseball skybox rental.

As a remedy, the GAO recommended a $152 million appropriation. Even if this amendment is adopted, the Insurance Sales Commission program will still be funded at $174 million—well above what GAO recommended.

Passage of this amendment is critical to reducing teen access to tobacco. The price of our failure to do so will be millions of tobacco-addicted adults, billions of dollars in lost productivity and health care costs, and unmeasurable pain and suffering. Let's cut our losses and support this amendment.

Mrs. MORELLA. Mr. Chairman, I rise in strong support of the Meehan-Hanson amendment which would increase funding for the Food and Drug Administration [FDA] by $10 million. This money would be used for outreach efforts to educate businesses about their responsibilities regarding the sale of tobacco products to children.

Yes, it is against the law to sell tobacco to children. Unfortunately, these laws are rarely enforced. A review of 13 studies of over-the-counter sales reveals that children and adolescents were able to successfully buy tobacco products 67 percent of the time. Young people purchase an estimated 1.26 billion dollars' worth of cigarettes and smokeless tobacco each year.

The bill that is on the House floor does not adequately fund the FDA's initiative to reduce children's access to tobacco products. The FDA's tobacco initiative mandates that retailers must check the photo identification of individuals who want to buy cigarettes.

Without full funding, the FDA will not be able to adequately enforce this crucial restriction on the sale of tobacco to children.

Tobacco continues to be a major health problem in the United States. The American Heart Association emphasizes that:

> more people die each year in the United States from smoking than from AIDs, alcohol, drug use, homicide, car accidents, and fires combined.

Tobacco use accounts for more than $68 billion in health care costs and lost productivity each year.

Nearly all tobacco use begins in the teenage years. Adolescent smokers become adult smokers. The key to reducing the rate of disease resulting from tobacco use is to discourage young people from starting to use tobacco products.

Mr. Chairman, we can no longer close our eyes to a product that brings into its deathly fold 3,000 children each day. Teenage smoking is a national health care crisis that can be curbed by fully funding the FDA's tobacco initiative.

It is my understanding that, in order to pay for this increase in funds to the FDA, $14 million would be taken from the crop insurance sales commissions of the USDA's Risk Management Agency. Under this program, private insurance companies are reimbursed for expenses incurred in the process of providing crop insurance for Federal programs. I believe this is a reasonable offset because the bill provides $36 million more than was recommended in the President's budget for this program, which is funded at $188 million. I also understand that a GAO report has raised some concerns about this program. According to the GAO, in past years, some of the reimbursements have included expenses for a trip to Las Vegas, $22,000, rental of a skybox, $18,000, and fishing in Canada, $44,000.

What kind of an America will we leave for our children if we do not take steps to prevent yet another generation from becoming addicted to tobacco? Providing the FDA with adequate funds to implement and enforce their tobacco initiative will change for the better the landscape of smoking in the United States.

I urge my colleagues to support the Meehan-Hansen amendment.

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, with so many of our children that are 18 years old——

The CHAIRMAN. The gentlewoman will state her inquiry.

Ms. JACKSON-LEE of Texas. Mr. Chairman, emphasizing the facts of how many of our children are smoking, the inquiry is, Mr. Chairman, with so many of our children dying from tobacco, why this debate is limited to 5 minutes? What are the rules and why are we limited to not allowing the 24 Members who want to speak on this amendment, why can they not speak on this amendment opposing death by cigarettes to children?

The CHAIRMAN. The gentlewoman is not stating a parliamentary inquiry.

Ms. JACKSON-LEE of Texas. Mr. Chairman, why can we not speak beyond the 5 minutes or the 10 minutes allotted?

The CHAIRMAN. The gentlewoman has not stated a parliamentary inquiry.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Meehan amendment to H.R. 2160, the Agriculture Appropriations Act of 1998.

This amendment would transfer $14 million of the excess funds over the Department's request for their Federal Crop Insurance Sales Commission Program to fully fund the Food and Drug Administration's tobacco initiative. This transfer of funds from the Federal Crop Insurance Sales Commission would leave that account with 114 percent over the President's request for that area.

The Federal Crop Insurance Sales Commission Program reimburses private insurance companies for expenses associated with selling and servicing crop insurance policies. This amendment would leave $22 million in funding over the President's request.

According to the University of Texas-Houston School of Public Health study titled "Why Kids Start to Smoke," the smoking prevalence rates for minorities in Texas are slightly higher than the national statistics according to Dr. Steven Kelder, assistant professor of behavioral sciences and principal investigator with the Southwest Center for Prevention Research at the university.

According to Dr. Laura K. McCormick, smoking is clearly a danger to health, and the number of teenagers who do smoke is considerable.

Tobacco use is a problem that starts with children. Almost 90 percent of adult smokers began smoking at or before age 18. Every day 3,000 children and adolescents become regular smokers, 1,000 of whom will eventually die prematurely because of tobacco use. More than 5 million children under age 18 alive today will die from smoking-related disease unless current rates are reversed.

Thirty-three State attorneys general have requested that the FDA receive full funding for the tobacco initiative to help their States fight to protect kids from tobacco. Today, in our Nation 4.5 million kids age 12 to 17 are current smokers, while smoking among high school seniors is at a 17-year high.

Since 1991, the answer to the question, "Have you smoked over the past month," the response among eighth graders and tenth graders has increased by almost 50 percent. If we do not act to stem the tide of teenage smokers more than 5 million children under age 18 alive today will die from smoking-related disease, unless current rates are reversed.

This amendment will have no effect on individual farmers. It leaves the Federal Crop Insurance Sales Commission Program very well funded by $22 million more than USDA Secretary Glickman has indicated is needed to effectively fund the crop insurance program.

The Food and Drug Administration will use the funds made available by this amendment to begin work through training programs for the half million retailers in this country who sell tobacco products regarding their responsibilities under the law regarding tobacco sales to minors.

I thank Congressman MEEHAN for his leadership in bringing this amendment to the House for adoption to the Agriculture appropriation bill.

I would like to encourage my colleagues to support this amendment.

The question is on the amendment offered by gentleman from Massachusetts [Mr. MEEHAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

□ 1215

Mr. MEEHAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 193, further proceedings on the amendment offered by the gentleman from Massachusetts [Mr. MEEHAN] will be postponed.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act, as amended, such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1998, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $783,507,000 in the President's fiscal year 1998 Budget Request (H. Doc. 105–3)), but not to exceed $783,507,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1998, the Commodity Credit Corporation shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided*, That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation in this Act.

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $693,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $610,000,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $5,835,000 is for snow survey and water forecasting and not less than $8,825,000 is for operation and establishment of the plant materials centers: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c)): *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2): *Provided further*, That the Secretary is authorized to transfer ownership of land, buildings and related improvements of the plant materials facilities located at Bow, Washington to the Skagit Conservation District.

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1009), $10,000,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $110,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $101,036,000, to remain available until expended (7 U.S.C. 2209b) of which not more than $50,000,000 shall be available for technical assistance: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), the Act of April 27, 1935 (16 U.S.C. 590a–f), and the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $29,377,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $6,325,000, to remain available until expended, as authorized by that Act.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $2,000,000, to remain available until expended.

TITLE III

RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $588,000.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the rural housing insurance fund, as follows: $3,950,000,000 for loans to section 502 borrowers, as determined by the Secretary, of which $3,000,000,000 shall be for unsubsidized guaranteed loans; $30,000,000 for section 504 housing repair loans; $15,000,000 for section 514 farm labor housing; $128,640,000 for section 515 rental housing; $600,000 for section 524 site loans; $25,000,000 for credit sales of acquired property; and $587,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $128,500,000, of which $6,900,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,300,000; section 514 farm labor housing, $7,388,000; section 515 rental housing, $68,745,000; credit sales of acquired property, $3,492,000; and section 523 self-help housing land development loans, $17,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $354,785,000, which shall be transferred to and merged with the appropriation for "Rural Housing Service, Salaries and Expenses."

MULTI-FAMILY HOUSING GUARANTEES

For gross obligations for the principal amount of guaranteed loans for the multi-family housing guarantee program as authorized by section 538 of the Housing Act of 1949, as amended, $19,700,000.

For the cost of guaranteed loans for the multi-family housing guarantee program as authorized by section 538 of the Housing Act of 1949, as amended, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, $1,200,000.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, as amended, $493,870,000; and in addition such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during fiscal year 1998 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $26,000,000, to remain available until expended (7 U.S.C. 2209b).

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $2,000,000 to fund up to 50 percent of the cost of organizing, training, and equipping rural volunteer fire departments.

RURAL HOUSING ASSISTANCE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, agreements, and grants, as authorized by 7 U.S.C. 1926, 42 U.S.C. 1472, 1474, 1479, 1486, and 1490(a), except for sections 381E, 381H, and 381N of the Consolidated Farm and Rural Development Act, $86,488,000, to remain available until expended, for direct loans and loan guarantees for community facilities, community facilities grant program, rural housing for domestic farm labor grants, very low-income housing repair grants, rural housing preservation grants, and compensation for construction defects of the Rural Housing Service: *Provided*, That the cost of direct loans and loan guarantees shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That the amounts appropriated shall be transferred to loan program and grant accounts as determined by the Secretary: *Provided further*, That of the total amount appropriated, not to exceed $1,200,000 shall be available for the cost of direct loans, loan guarantees, and grants to be made available for empowerment zones and enterprise communities as authorized by Public Law 103–66: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1998, they remain available for other authorized purposes under this head.

SALARIES AND EXPENSES

For necessary expenses of the Rural Housing Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended, title V of the Housing Act of 1949, as amended, and cooperative agreements, $58,804,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944, and not to exceed $520,000 may be used for employment under 5 U.S.C. 3109.

RURAL BUSINESS-COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, $16,888,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $35,000,000: *Provided further*, That through June 30, 1998, of the total amount appropriated, $3,345,000 shall be available for the cost of direct loans for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, to subsidize gross obligations for the principal amount of direct loans, $7,246,000.

In addition, for administrative expenses to carry out the direct loan programs, $3,482,000 shall be transferred to and merged with the appropriation for "Rural Business-Cooperative Service, Salaries and Expenses."

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, as amended, for the purpose of promoting rural economic development and job creation projects, $25,000,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, up to $5,978,000, to be derived by transfer from interest on the cushion of credit payments, as authorized by section 313 of the Rural Electrification Act of 1936, as amended, to remain available until expended.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), $3,000,000, of which up to $1,300,000 may be available for cooperative agreements for appropriate technology transfer for rural areas program.

RURAL BUSINESS-COOPERATIVE ASSISTANCE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1928, and 1932, except for sections 381E, 381H, and 381N of the Consolidated Farm and Rural Development Act, $51,400,000, to remain available until expended, for direct loans and loan guarantees for business and industry assistance and rural business enterprise grants of the Rural Business-Cooperative Service: *Provided*, That the cost of direct loans and loan guarantees shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That $500,000 shall be available for grants to qualified nonprofit organizations as authorized under section 310B(c)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932): *Provided further*, That the amounts appropriated shall be transferred to loan program and grant accounts as determined by the Secretary: *Provided further*, That, of the total amount appropriated, not to exceed $148,000 shall be available for the cost of direct loans, loan guarantees, and grants to be made available for business and industry loans for empowerment zones and enterprise communities as authorized by Public Law 103–66 and rural development loans for empowerment zones and enterprise communities as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1998, they remain available for other authorized purposes under this head.

SALARIES AND EXPENSES

For necessary expenses of the Rural Business-Cooperative Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended; section 1323 of the Food Security Act of 1985; the Cooperative Marketing Act of 1926; for activities relating to the marketing aspects of cooperatives, including economic research findings, as authorized by the Agricultural Marketing Act of 1946; for activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $25,680,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944, and not to exceed $260,000 may be used for employment under 5 U.S.C. 3109.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: 5 percent rural electrification loans, $125,000,000; 5 percent rural telecommunications loans, $75,000,000; cost of money rural telecommunications loans, $300,000,000; municipal rate rural electric loans, $400,000,000; and loans made pursuant to section 306 of that Act, rural electric, $300,000,000 and rural telecommunications, $120,000,000, to remain available until expended.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935 and 936), as follows: cost of direct loans, $12,461,000; cost of municipal rate loans, $16,880,000; cost of money rural telecommunications loans, $60,000; cost of loans guaranteed pursuant to section 306, $2,760,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $34,398,000, which shall be transferred to and merged with the appropriation for "Rural Utilities Service, Salaries and Expenses."

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1998 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $175,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $3,710,000.

In addition, for administrative expenses necessary to carry out the loan programs, $3,000,000, which shall be transferred to and merged with the appropriation for "Rural Utilities Service, Salaries and Expenses."

DISTANCE LEARNING AND MEDICAL LINK PROGRAM

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., as amended, $15,030,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided*, That the costs of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES ASSISTANCE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1928, and 1932, except for sections 381E, 381H, and 381N of the Consolidated Farm and Rural Development Act, $577,242,000, to remain available until expended, for direct loans, loan guarantees, and grants for rural water and waste disposal, and solid waste management grants of the Rural Utilities Service: *Provided*, That the cost of direct loans and loan guarantees shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That the amounts appropriated shall be transferred to loan program and grant accounts as determined by the Secretary: *Provided further*, That through June 30, 1998, of the total amount appropriated, $18,700,000 shall be available for the costs of direct loans, loan guarantees, and grants to be made available for empowerment zones and enterprise communities, as authorized by Public Law 103-66: *Provided further*, That of the total amount appropriated, not to exceed $18,700,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of the Consolidated Farm and Rural Development Act, as amended: *Provided further*, That of the total amount appropriated, not to exceed $5,200,000 shall be available for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That an amount not less than that available in fiscal year 1997 be set aside and made available for ongoing technical assistance under sections 306(a)(14) (7 U.S.C. 1926) and 310(B)(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932): *Provided further*, That of the total amount appropriated, not to exceed $8,750,000 shall be for water and waste disposal systems pursuant to section 757 of Public Law 104–127.

SALARIES AND EXPENSES

For necessary expenses of the Rural Utilities Service, including administering the programs authorized by the Rural Electrification Act of 1936, as amended, and the Consolidated Farm and Rural Development Act, as amended, and for cooperative agreements, $33,000,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944, and not to exceed $105,000 may be used for employment under 5 U.S.C. 3109.

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill, through page 47, line 7, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE IV

DOMESTIC FOOD PROGRAMS

Office of the Under Secretary for Food, Nutrition and Consumer Services

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Consumer Service, $454,000.

Child Nutrition Programs

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $7,766,966,000, to remain available through September 30, 1999 of which $2,548,555,000 is hereby appropriated and $5,218,411,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to $4,124,000 shall be available for independent verification of school food service claims.

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $3,924,000,000, to remain available through September 30, 1999: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to $12,000,000 may be used to carry out the farmers' market nutrition program from any funds not needed to maintain current caseload levels: *Provided further*, That notwithstanding sections 17 (g), (h) and (i) of such Act, the Secretary shall adjust fiscal year 1998 State allocations to reflect food funds available to the State from fiscal year 1997 under section 17(i)(3)(A)(ii) and 17(i)(3)(D): *Provided further*, That the Secretary shall allocate funds recovered from fiscal year 1997 first to States to maintain stability funding levels, as defined by regulations promulgated under section 17(g), and then to give first priority for the allocation of any remaining funds to States whose funding is less than their fair share of funds, as defined by regulations promulgated under section 17(g): *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of the Child Nutrition Act of 1966: *Provided further*, That State agencies required to procure infant formula using a competitive bidding system may use funds appropriated by this Act to purchase infant formula under a cost containment contract entered into after September 30, 1996 only if the contract was awarded to the bidder offering the lowest net price, as defined by section 17(b)(20) of the Child Nutrition Act of 1966, unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than five percent.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $25,140,479,000, to remain available through September 30, 1998, in accordance with section 18(a) of the Food Stamp Act: *Provided*, That $100,000,000 for the foregoing amount shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workforce requirements as may be required by law: *Provided further*, That $1,204,000,000 of the foregoing amount shall be available for nutrition assistance for Puerto Rico as authorized by 7 U.S.C. 2028: *Provided further*, That $100,000,000 of the foregoing amount shall be available to carry out the Emergency Food Assistance Program as authorized by section 27 of the Food Stamp Act.

AMENDMENT NO. 12 OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mrs. CLAYTON:

Page 49, line 21, insert "(increased by $2,478,000,000)" after the first dollar figure.

Page 49, at the end of line 14, add the following:

Each amount otherwise appropriated in this Act (other than this paragraph) is hereby reduced by 5 percent.

Mr. SKEEN. Mr. Chairman, I reserve a point of order on the gentlewoman's amendment.

The CHAIRMAN. The point of order is reserved.

Pursuant to House Resolution 193, the gentlewoman from North Carolina [Mrs. CLAYTON] and the gentleman from New Mexico [Mr. SKEEN] will each control 5 minutes.

The gentlewoman from North Carolina [Mrs. CLAYTON] is recognized.

Mrs. CLAYTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment increases the funding for food stamps by $2.4 billion in fiscal year 1998. The increase will result in food stamps being funded at the same level as in fiscal year 1997. This amendment is paid for, Mr. Chairman, by an across-the-board decrease of 5 percent on all other accounts, mandatory and discretionary.

Mr. Chairman, last Congress we agreed that our welfare system needed to be reformed, and we were right, but reforms should be directed to moving people out of poverty, not into poverty. Nutrition programs are essential for the well-being of millions of our citizens: the disadvantaged, our children, the elderly and the disabled.

These are groups of people who, in many instances, cannot provide for themselves and need assistance for their basic existence. They do not ask for much, just a little help in sustaining them through the day, to keep their children alert in class, or to help others be productive on their jobs or as they seek and search for jobs.

Nutrition programs in many cases provide the only nutritious meals that many of our Nation's poor receive on a daily basis. Many of those I am speaking about, far too many, are working people, working families. These working Americans are struggling to make ends meet and still cannot afford to feed their families.

One-fifth of families receiving food stamps are working families who have a gross income below the poverty level.

Of the 27 million people served by the food stamp program, over half, 51 percent, are children; 7 percent are elderly.

The program allows only 75 cents per person per meal. When was the last time any of us had to exist off of 75 cents per meal?

I am concerned that in our zeal to balance the budget, we are failing to balance our priorities. That failure is demonstrated in a telephone call to my office recently. It was from a woman who, having labored for a lifetime, now lives on her Social Security of $6,500 a year.

Her Social Security payment was increased by $16. Because of that increase, her food stamp allotment was lowered by $7. Her State then made adjustments in their Medicaid Program. Two types of needed medication that had cost her $1 each before, now cost her a total of $100. The $16 increase cost her a $107 cut in her already paltry income.

We may be gliding toward a balanced budget, Mr. Chairman, but many of our citizens are sliding rapidly to the bottom, and this Congress has an obligation to understand what we are doing. The best efforts of the four Presidents and thousands of people who were in Philadelphia recently talking about voluntarism could not make up the difference required in the food banks and shelters if indeed we do not make that money available.

It is time for us to stop picking on the poor, Mr. Chairman. It is time for us to understand that we, too, have an obligation to them. Hunger has a cure, and Congress is part of that remedy. I urge my colleagues to consider the needs of the poor and those who receive food stamps.

Mr. Chairman, I had wanted to make that point so Congress is aware of our responsibility through the food stamp program and how we had been serving the food stamp program and what those cuts will mean to America.

Mr. Chairman, because I know I will have a point of order, I will not call for a vote, and I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk will read.

The Clerk read as follows:

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note) and provide administrative expenses pursuant to section 204 of the Emergency Food Assistance Act of 1983, $141,000,000, to remain available through September 30, 1999: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $141,165,000, to remain available through September 30, 1999.

AMENDMENT NO. 18 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. SANDERS:

Page 51, line 6, insert after the dollar amount "(increased by $5,000,000)".

Page 56, line 15, insert after the second dollar amount "(reduced by $5,470,000)".

The CHAIRMAN. Pursuant to House Resolution 193, the gentleman from Vermont [Mr. SANDERS] and a Member opposed each will control 5 minutes.

Does the gentleman from New Mexico [Mr. SKEEN] seek time in opposition to the amendment?

Mr. SKEEN. Mr. Chairman, yes, I stand in opposition to the amendment.

The CHAIRMAN. The gentleman from New Mexico [Mr. SKEEN] will control 5 minutes.

The Chair recognizes the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. LOBIONDO] to speak on this bipartisan amendment which increases funding for Meals on Wheels.

Mr. LOBIONDO. Mr. Chairman, I want to thank the gentleman from Vermont [Mr. SANDERS] for his cooperation and work on this very important amendment.

Mr. Chairman, in my district the Meals on Wheels programs in Cumberland, Gloucester, Cape May, Atlantic, Burlington and Salem Counties consistently provide a valuable humanitarian service to thousands of seniors. Typically, the recipients of this service are individuals who are unable to leave their homes for a variety of reasons, sometimes due to chronic illness, sometimes because of a handicap, sometimes because of a temporary physical ailment.

At a cost of between $5 and $6 per meal per day, county employees and volunteers, I may stress a large number of volunteers, deliver a meal on weekdays and sometimes on weekends to the doorsteps of needy senior citizens. These meals are hot, well planned and nutritionally balanced.

More importantly, Mr. Chairman, these programs safeguard the well-being of local seniors. For instance, volunteers delivering meals can check to see if the water is running. They can check to see, during this summertime when the temperatures are soaring, if air conditioning is working, if the seniors need any help. Library books are often delivered along with the meals. And an ambulance can be sent or help can be summoned if in fact the volunteer determines there is a need.

I have personally participated in delivering Meals on Wheels with volunteers in the past, and can tell my colleagues from firsthand experience that this is a program that makes a positive difference to elderly Americans.

As the gentleman from Vermont will point out, Meals on Wheels is also an efficient Federal program. For every $1 spent, $3 are saved on other senior programs like Medicare and Medicaid. And as we struggle to find those dollars, I think it is important to note how cost-effective these are. There are not many programs that can match this fiscal rate of success.

Clearly, Mr. Chairman, Meals on Wheels is the kind of successful Federal and local partnership that Congress should be encouraging and looking to do more with. It strengthens the support of family, friends and neighbors. It encourages volunteerism. It is cost-effective.

And yet, despite all these positive aspects, the Meals on Wheels program suffers from a chronic shortage of funding. In fact, this problem is starting to have a tangible effect on the local level.

Mr. Chairman, I urge all my colleagues to vote for this amendment.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume, and rise in opposition to the gentleman's amendment.

This amendment would reduce the funding for the Food and Drug Administration and increase funding for the elderly feeding program. And let me say to my colleagues, we have funded the elderly feeding program at the President's budget request and the same level as last year.

Funding for the operation of this program, also known as Meals on Wheels, is actually contained in the Labor-HHS appropriations bill. The program is administered through the Department of Aging, not USDA. USDA has no say or control over the program. All USDA does is provide a cash reimbursement for each meal served. Increasing the funding for this program in this bill will not increase participation in the program. The funding level provided in the bill supports the President's request.

We all know how important FDA is to the health and safety of this country. We have had hundreds of letters sent to us asking that we increase FDA's funding for food safety and tobacco regulation enforcement. We have done the best we could to meet everyone's needs. The gentleman's amendment reduces funding for FDA, which will negatively impact these and other safety programs.

And let me remind my colleagues that the elderly feeding program is not authorized, but the committee felt strong enough to continue its funding and it is funded at the level the President says it needs.

I ask that the Members oppose this amendment, and ask the gentleman from Vermont to work with the authorizing committee to get this program reauthorized.

Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

What we are trying to do in a bipartisan way is to provide $5 million to some of the weakest and most vulnerable people in this country, senior citizens who are in need of nutrition but are too weak to get out of their own homes to get it, and we are taking that money from the salary and expense account of the FDA. I think it is the proper thing to do.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Chairman, I thank the gentleman from Vermont for yielding me this time.

Mr. Chairman, no person in this country should go hungry. For years, Congress has shown a bipartisan commitment to ensuring adequate nutrition for our citizens, especially children and the elderly. We provide assistance to those in need through food stamps and other Federal nutrition programs, yet 41 percent of the programs still have a waiting list. These are real people.

Now, $5 million may sound like too much money to some here, it may sound like too little to make a difference to others, but every day millions of people depend on senior nutrition programs.

□ 1230

According to studies, this $5 million will save $15 million in Medicare, Medicaid, VA health cost because undernourished people are less healthy.

I urge the Members to support this amendment.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, one of my highest priorities since coming to Congress has been to ensure that our Nation's elderly are able to live with dignity. One can judge the humanity of any society by how it treats its very young, and its very old, the most vulnerable in our society.

This is personal to me. My own mother, who until her death at the age of 94, 2 years ago, was able to remain in our own family home only because of the Meals on Wheels Program. And because of that, she lived with dignity and with peace of mind. I think we should treat all the people of America as I would want my mother treated. This is a very important program. It is fiscally and morally sound.

Mr. SANDERS. Mr. Chairman, could I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Vermont [Mr. SANDERS] has 30 seconds remaining.

Mr. SANDERS. Mr. Chairman, I yield all of 15 seconds to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I rise to support this. This is the better public-private partnership I am aware of. Meals on Wheels helps seniors in every State of the Union. We must restore half the cut from last year. Let us support the Sanders-LoBiondo amendment.

Mr. SANDERS. Mr. Chairman, I would just conclude and suggest that last year there was a cut in this program. We are trying to restore half of the cut to the weakest and most vulnerable people in this country. It is the right thing to do. It is a bipartisan effort. I urge the Members to support it.

Mr. Chairman, the elderly nutrition programs funded in this bill, which include Meals on Wheels and congregate meals are excellent examples of good government and common sense, as well as Federal-State-local and public-private partnerships. This is exactly the sort of senior citizen program we should be funding. Therefore, I am delighted to be joined by Mr. LOBIONDO, Mr. KILDEE, Mr. NEY, Mrs. THURMAN, Mr. FOX, and many more of our colleagues in offering a compromise amendment to increase funding for these programs by $5 million, making up half of the $10 million cut made last year.

Mr. Chairman, across America today, about 6 million hot Meals on Wheels have been served to senior citizens who do not have the capacity to leave their homes, and another 6 million hot meals have been served to lower-income senior citizens at senior centers and other community locations through the congregate program.

Mr. Chairman, this program is terribly important to millions of Americans. For many recipients of Meals on Wheels, the driver who delivers their meals may be their only visitor, their only contact with the world, in a given day. The Urban Institute recently estimated that as many as 4.9 million seniors—about 16 percent of the population aged 60 and older—are either hungry or malnourished. According to studies from the University of Florida, 89 percent of Meals on Wheels recipients are at moderate to high risk for malnutrition. Meals on Wheels and congregate meals help these Americans stay healthy. Yet, 41 percent of Meals on Wheels programs nationwide have waiting lists today—lists of senior citizens who go hungry because we are not funding this program at an appropriate level.

Let me also point out that today in America, 4 million seniors live in poverty, and another 16 million are near poverty. Half of our senior citizens in this country live on incomes of $15,000 or less per year.

As Mathematica Policy Research found last year, the senior nutrition programs are well-targeted at poor elderly Americans. The average beneficiary of these programs is 77 years old, and 90 percent of beneficiaries live below 200 percent of poverty; about 40 percent have subpoverty incomes.

At this time, Mr. Chairman, I would like to tell you about how one of my constituents' lives was saved by a Meals on Wheels driver. On March 25 of this year, my constituent Cecil Utley of Barre, VT, fell and broke his hip. Unable to move, he lay on his floor for 5 hours until David Stevens, a Meals on Wheels driver for the Central Vermont Council on Aging, was troubled that Mr. Utley did not answer his door. He had another Council on Aging worker, Kathy Paquet, try to reach Mr. Utley by phone, and when they failed they obtained help from a neighbor who had a key to Mr. Utley's house. They found him barely conscious and called an ambulance. I am pleased to report that Mr. Utley is now doing well in his recovery.

As his son Gayle wrote to the program, "Without your help and concern, my father would probably not have survived this accident. You * * * will always be remembered fondly by our family. Keep up the great work."

Mr. Chairman, this program not only makes good social policy sense, it also makes excellent fiscal policy sense. Every $1 spent on these senior nutrition programs saves $3 in Federal Medicare, Medicaid, and veterans' health care costs since malnourished patients stay in the hospital nearly twice as long a well-nourished seniors, costing $2,000 to $10,000 more per stay.

Mr. Chairman, this is a modest, compromise amendment. Last year, the elderly nutrition programs in this bill were cut by $10 million, from $150 to $140 million. In my view, that was a penny-wise, pound-foolish cut to make. Given inflation and the aging of our population, funding for these programs is not keeping pace with either the rising cost of food or the increase in Meals on Wheels customers. Further, when Congress reauthorized the Older Americans Act in 1992, it said the per-meal reimbursement rate of these programs should not fall below 61 cents. Unfortunately, the rate has fallen to an estimated 58.5 cents per meal this year, and will fall further if our amendment is not adopted.

This amendment is fully paid for with a modest, 0.6 percent cut in the FDA through its salary and expenses account. I am not here to bash the FDA or its hard-working staff, and it is not my intent to cut food safety initiatives or tobacco control enforcement activities with this amendment, but I do believe this $5 million will better serve the country if it is spent on hot meals for homebound senior citizens rather than administrative expenses at FDA.

Mr. DIAZ-BALART. Mr. Chairman, I rise in strong support of the LoBiondo amendment to add $5 million in appropriations for the extremely successful Meals on Wheels Program.

Because of this Federal-State-local program, many home-bound senior citizens in my district are able to receive at least one nutritious meal daily. Because many seniors on this program have disabilities, the $3 meals provided by this program are especially critical to seniors on a fixed income in Florida, who live alone or do not have anyone to care for them.

As the Appropriations Committee's base bill essentially freezes fiscal year 1998 funding at the fiscal year 1997 level, this small increase in funding is very important to serve the growing number of elderly people who qualify for the program and to reduce the number of disabled who are being placed on waiting lists. I commend my colleague from New Jersey for advancing this meritorious amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MEEHAN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts [Mr. MEEHAN] on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 248, not voting 9, as follows:

[Roll No. 309]

AYES—177

Ackerman
Allen
Andrews
Bachus
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Blagojevich
Blumenauer
Borski
Brown (CA)
Brown (OH)
Callahan
Campbell
Capps
Cardin
Carson
Castle
Clay
Conyers
Cook
Coyne
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dickey
Dicks
Dixon
Doggett
Doyle
Duncan
Engel
English
Ensign
Eshoo
Evans
Fattah
Fawell
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Gutierrez
Hall (OH)
Hansen
Harman
Hayworth
Hinchey
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Porter
Quinn
Ramstad
Rangel
Reyes
Riggs
Rivers
Roemer
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanchez
Sanders
Sawyer
Scarborough
Schumer
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Stupak
Tauscher
Tierney
Torres
Traficant
Velázquez
Vento
Visclosky
Waters
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Yates

NOES—248

Abercrombie
Aderholt
Archer
Armey
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Etheridge
Everett
Ewing
Farr
Fazio
Foley
Forbes
Fowler
Frost
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hamilton
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kilpatrick
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Manton
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek
Metcalf
Mica
Minge
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Redmond
Regula
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Ryun
Sandlin
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Turner
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (FL)

NOT VOTING—9

Barton
Dingell
Greenwood
Hastert
Livingston
Molinari
Schiff
Stark
Young (AK)

□ 1252

Messrs. CONDIT, SNYDER and STOKES and Ms. DANNER changed their vote from "aye" to "no."

Messrs. CLAY, GALLEGLY, PAPPAS, SERRANO, RIGGS and BACHUS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $104,128,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $128,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (U.S.C. 1766), $135,561,000, of which $3,231,000 may be transferred from the Export Loan Program account in this Act, and $1,035,000 may be transferred from the Public Law 480 program account in this Act: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM AND GRANT ACCOUNTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $225,798,000 for Public Law 480 title I credit, including Food for Progress programs; (2) $12,250,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $837,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $30,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 15 percent of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further*, That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $175,738,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $1,780,000.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $3,820,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which not to exceed $3,231,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Foreign Agricultural Service, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Farm Service Agency.

EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,500,000,000 in credit guarantees under its export credit guarantee program extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 202 (a) and (b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING-MARKETS EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its export guarantee program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging markets, as authorized by section 1542 of Public Law 101-624 (7 U.S.C. 5622 note).

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $857,971,000: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

In addition to the foregoing amount, not to exceed $91,204,000 in fees pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act may be collected and credited to this appropriation and shall remain available until expended: *Provided further*, That fees derived from applications received during fiscal year 1998 shall be subject to the fiscal year 1998 limitation.

In addition, fees pursuant to section 354 of the Public Health Service Act may be credited to this account, to remain available until expended.

In addition, fees pursuant to section 801 of the Federal Food, Drug, and Cosmetic Act may be credited to this account, to remain available until expended.

POINT OF ORDER

Mr. BURR of North Carolina. Mr. Chairman, I rise to make a point of order against the language in title VI of the Agricultural Appropriations Act for the Fiscal Year 1998 on page 56 of the bill, lines 18 through 24, based on the ground that this provision constitutes legislation in an appropriations bill, in violation of rule XXI, clause 2 of the Rules of the House.

The Prescription Drug User Fee Act, an act within the jurisdiction of the Committee of Commerce, authorizes the collection of user fees. However, this authority expires at the end of the fiscal year 1997. This provision of H.R. 2160 would authorize the collection and expenditure of these user fees beyond the year 1997. Therefore, I make a point of order against the language because it constitutes legislative language in an appropriations measure in violation of rule XXI, clause 2.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

As argued by the gentleman from North Carolina, the unprotected language on page 56 effectively would extend statutory authority that would otherwise expire. The language therefore constitutes legislation in violation of clause 2(b) of rule XXI. The point of order is sustained and the unprotected paragraph on page 56 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $21,350,000, to remain available until expended (7 U.S.C. 2209b).

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $46,294,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 5 percent of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1994, as authorized, $7,728,000.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $57,101,000, including not to exceed $1,000 for official reception and representation expenses: *Provided*, That the Commission is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $34,423,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1998 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 394 passenger motor vehicles, of which 391 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954 (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, and integrated systems acquisition project; Farm Service Agency, salaries and expenses funds made available to county committees; and Foreign Agricultural Service, middle-income country training program.

New obligational authority for the boll weevil program; up to 10 percent of the screwworm program of the Animal and Plant Health Inspection Service; Food Safety and Inspection Service, field automation and information management project; funds appropriated for rental payments; funds for the Native American Institutions Endowment Fund in the Cooperative State Research, Education, and Extension Service; and funds for the competitive research grants (7 U.S.C. 450i(b)), shall remain available until expended.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 710. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1997 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 711. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 712. With the exception of grants awarded under the Small Business Innovation Development Act of 1982, Public Law 97-219, as amended (15 U.S.C. 638), none of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research, Education, and Extension Service that exceed 14 percent of total Federal funds provided under each award.

SEC. 713. Notwithstanding any other provisions of this Act, all loan levels provided of this Act shall be considered estimates, not limitations.

SEC. 714. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 1998 shall remain available until expended to cover obligations made in fiscal year 1998 for the following accounts: the rural development loan fund program account; the Rural Telephone Bank program account; the rural electrification and telecommunications loans program account; and the rural economic development loans program account.

SEC. 715. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 716. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 717. Notwithstanding the Federal Grant and Cooperative Agreement Act, marketing services of the Agricultural Marketing Service and the Animal and Plant Health Inspection Service may use cooperative agreements to reflect a relationship between the Agricultural Marketing Service or the Animal and Plant Health Inspection Service and a State or Cooperator to carry out agricultural marketing programs or to carry out programs to protect the Nation's animal and plant resources.

SEC. 718. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 719. None of the funds made available in this Act may be used to provide assistance to, or to pay the salaries of personnel who carry out a market promotion/market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to the United States Mink Export Development Council or any mink industry trade association.

SEC. 720. Of the funds made available by this Act, not more than $1,000,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 721. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $205,000,000.

SEC. 722. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 723. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 724. None of the funds appropriated or otherwise made available in this Act may be expended or obligated to fund the activities of the Western Director and Special Assistant to the Secretary within the Office of the Secretary of Agriculture or any similar position.

SEC. 725. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board.

SEC. 726. None of the funds in this Act shall be used to fund the immediate office of the Deputy and Assistant Deputy Administrator for Farm Programs within the Farm Service Agency.

SEC. 727. NONRURAL AREA.—The last sentence of section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by inserting before the period at the end the following: ", and the City of Galt, California, shall not be considered rural or a rural area for purposes of this title".

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 68, line 16, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

POINT OF ORDER

Mr. KENNEDY of Massachusetts. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I make a point of order against section 727 as constituting legislation on an appropriations bill in violation of House rule XXI, clause 2(b). It amends section 520 of the Housing Act of 1949 concerning the definition of rural areas for the purposes of providing USDA funds.

The CHAIRMAN. Does any Member in addition seek to address the point of order?

If not, the Chair is prepared to rule.

The unprotected general provision in section 727 of the bill proposes a direct change in the Housing Act of 1949. The provision is therefore legislation in violation of clause 2(b) of rule XXI. The point of order is sustained and section 727 is stricken from the bill.

AMENDMENT NO. 9 OFFERED BY MR. NETHERCUTT

Mr. NETHERCUTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. NETHERCUTT: Strike section 726 (page 68, lines 8 through 11), regarding limitation on the use of funds for immediate office of the Deputy and Assistant Deputy Administrator for Farm Programs within the Farm Service Agency.

The CHAIRMAN. Pursuant to House Resolution 193, the gentleman from Washington [Mr. NETHERCUTT] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Washington [Mr. NETHERCUTT].

Mr. NETHERCUTT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to join in the offering of this amendment with the gentleman from Texas [Mr. STENHOLM], who authored this amendment initially, and the gentleman from California [Mr. DOOLEY], in restoring the funding for two particular offices within the U.S. Department of Agriculture.

Incidentally, I had earlier in the full committee proposed and had adopted by the full committee an amendment which struck funding for the Deputy and the Assistant Deputy Administrator for Farm Programs within the Farm Service Agency. I proposed that amendment and argued in favor of it and was successful in getting it put into this bill because of my dissatisfaction, and others within my State, with the way the Conservation Reserve Program was administered by this office, or these offices, that we were seeking to grab the attention of.

□ 1300

In the last signup there was acreage across the country earlier this spring permitted to be enrolled in the conservation reserve program, which is a very good program that preserves highly erodible land and involves the farm service agency and the USDA in making sure that highly erodible land is preserved. In my State, relative to every other State in the country that had enrollments, my State received 21 percent of those acres that were sought to be enrolled were enrolled. That is compared to my neighboring States of Oregon and Idaho which had about 80 percent that property that was sought to be enrolled enrolled, and there were problems in the administration of this program around the country and other States as well, but it has been dissatisfactory to the members of the minority as well as members of the majority.

So my efforts in the full committee were to bring attention to what we expect to have as legislators, the fair administration of a program that is good for the country, and I had not felt that our State was treated fairly. So I looked for many options and found that this was perhaps the only option that we had at the time and wanting to make sure that there is a fair administration of the conservation reserve program for all States, not the least of which is my own.

After conferring with the gentleman from Texas [Mr. STENHOLM], conferring with the gentleman from California [Mr. DOOLEY], and having several good conversations with the Secretary of Agriculture this week and previously, it was my judgment that based on assurances that we received that there is going to be fair treatment of all States in the next signup, which we expect to be September, not the least again of which is my own State, and understanding that the Congress and Members of Congress who are in farm-affected States will have the ability to talk with the Secretary and the agency and have input as to a fair signup ratio so that we do not have these terrible disparities that in my opinion are very unfair to my own State and others, I felt it was appropriate that at this time I join with the gentleman from Texas [Mr. STENHOLM] and the gentleman from California [Mr. DOOLEY] and others who objected to my approach and the tactics we used to draw attention to this disparity, that we go ahead and do this now and that we allow this bill to proceed unencumbered.

Mr. Chairman, I am pleased that the Secretary is in my State today meeting with our farmers, addressing their concerns, and I think there is more to do. We need to make sure that the farmers from the districts of the gentleman from Texas [Mr. STENHOLM] and the gentleman from California [Mr. DOOLEY] and the gentleman from Minnesota [Mr. PETERSON] and other farmers, Members who represent farmers, have their needs met so that there is a fair administration of this program. The bureaucracy sometimes gets out of control and is unwilling to be fair and unwilling to change its mind, I shall say more accurately. But nevertheless, Richard Neumann, who is the deputy administrator for farm programs, I believe is a fine person, and understanding a little more about this amendment, my sense is that he was not involved in this decision or what I perceive to be a failure on the part of the Department to correct the mistake. So I have since learned that he is a fine person and a high-quality administrator. But I think there has to be more work done at the assistant deputy administrator's office. I know these Federal employees are trying their best in this very difficult bill to implement, but, by golly, I think that the rest of us in Congress and people who care about farmers and agriculture have the right to expect high standards and high responsibility on the part of all Federal agencies.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I wanted to say to the gentleman how impressed I am and our Members are on the manner in which you conducted yourself on this issue. I think the citizens of the State of Washington are extremely well represented, and I want to thank the gentleman for the manner in which he has operated in order to bring his concerns to the Department.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentlewoman from Ohio [Ms. KAPTUR] and cosponsors of this amendment.

The CHAIRMAN. Does any Member seek time in opposition?

If not, the question is the amendment offered by the gentleman from Washington [Mr. NETHERCUTT].

The amendment was agreed to.

AMENDMENT NO. 35 OFFERED BY MR. WYNN

Mr. WYNN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 35 offered by Mr. WYNN:

On page 68, after line 16, add the following new section:

"SEC. . For an additional amount for the purposes provided for under the heading 'Departmental Administration' in Title I of this Act, $1,500,000, and the amount provided under 'National Agricultural Statistics Service' is hereby reduced by $1,500,000.'"

The CHAIRMAN. Pursuant to House Resolution 193, the gentleman from Maryland [Mr. WYNN] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

I am delighted to be offering this amendment this afternoon along with my colleague the gentlewoman from North Carolina [Mrs. CLAYTON] and the gentleman from Alabama [Mr. HILLIARD]. I am also pleased to have been able to work with the subcommittee chairman, the gentleman from New Mexico [Mr. SKEEN]. I want to thank him for his cooperation in helping me with this amendment.

This is a very simple amendment. It seeks to add $1.5 million to the Department of Agriculture's civil rights division. The purpose of this amendment and these additional funds is basically to assist the civil rights division in addressing its backlog of equal opportunity claims.

Many of us on both sides of the aisle have said it is absolutely important that we address the problem of discrimination with our existing EEO laws. These additional funds will enable us to do that in an efficient way. The Secretary has said that with additional funds he can address the backlog with additional investigators and we can begin to move forward in resolving these complaints.

We also have concerns about the problems and the plight of the black farmers in America, and these funds will also enable some of those concerns to be addressed.

So I believe there is bipartisan support for this approach, and I am pleased to be here, as I say, with the gentlewoman from North Carolina [Mrs. CLAYTON].

Mr. Chairman, I yield to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I want to commend the leadership of the gentleman from Maryland [Mr. WYNN] and thank both the chair of the subcommittee and our ranking member of the subcommittee for both of them agreeing that this is the right thing to do.

Let me just say parenthetically the $1.5 million will go a long ways. It does not represent the total amount of moneys we need to represent. It goes a long ways to represent what we need, but it does not represent the entirety. I think the department said they needed at least $3 million.

So I want to think this is a step in the right direction. We need a few more steps before indeed we have enough funds to do the kind of investigation that is warranted to make sure those persons who have complaints have their complaints investigated properly.

Mr. WYNN. Mr. Chairman, I want to thank the gentlewoman from North Carolina for her outstanding work on this measure. I do not believe we have any speakers in support of the amendment.

Mr. Chairman, on that basis I yield back the balance of my time.

Mr. SKEEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maryland [Mr. WYNN] to say that there have been several versions of this amendment and some of the other ones had scoring problems and this latest version appears budget-neutral and I will be happy to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. WYNN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the last three lines.

The Clerk read as follows:

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998".

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COX of California: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 728. None of the funds appropriated or otherwise made available by this Act may be made available to provide assistance to the Democratic People's Republic of Korea, except for assistance that is provided to needy people by the United Nations World Food Program or private voluntary organizations registered with the United States Agency for International Development, and not by the Government of the Democratic People's Republic of Korea.

The CHAIRMAN. Pursuant to House Resolution 193, the gentleman from California [Mr. COX] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to be offering this amendment with my colleague from Ohio [Mr. HALL]. I am pleased because this is a completely bipartisan amendment and one that I expect will be supported by Members on both sides.

The purpose of the amendment is simple, to ensure that the United States of America, while doing all that it can to assist starving people victimized by the horrifying manmade famine caused by a half century of Stalinist agriculture policies in North Korea, does not empower the dear leader, Kim Jong-il. North Korea is one of the worst pariah states on Earth. North Korea spends over $5 billion a year militarizing itself. It is one of the most controlled societies on Earth, and the starvation caused by its Communist government and by those Communist government policies is horrific.

We have, of late, been providing through the United Nations and nongovernmental organizations assistance to starving people in North Korea, but we are distressed to learn that this aid is not reaching its intended beneficiaries all too often.

North Korea's chief ideologist, Hwang Jang-yop, defected to South Korea this year, and on July 10 he gave a news conference. He told the world that Kim Jong-il uses food to control people. U.S. taxpayers and the United States of America's policy ought not to support that. What he said at his press conference was that North Korea controls people with food, North Korea controls the entire country and people with food distribution. In other words, the food distribution is a means of control, quote, unquote.

Observers report that Kim Jong-il is practicing regional triage, sealing off the hardest-hit regions in the north and northeast and leaving them to starve so that he can feed the elites, in particular the military. Kim Jong-il has spent tens of millions of dollars in a successful effort to develop medium-range missiles. He is spending many millions more to develop long-range missiles. We heard testimony in February of this year that North Korea was on a military shopping spree for aircraft and air defense systems, submarines, landing ships, and automatic weapons. This year he ordered a massive series of war-fighting exercises that consumed huge amounts of food and fuel.

General Shalikashvili, the outgoing chairman of the Joint Chiefs of Staff, noted this recent increase in North Korea military exercises and asked,

> If they are in such great difficulty, and if they are in need of assistance, why are they spending their resources on this kind of exercising? You have to ask yours.

Secretary of Defense Cohen recently stated that North Korea is seeking food to keep its citizenry fed while its military continues to function and soak up what limited sources they have. So in the view of the Secretary of Defense, we are indirectly subsidizing the North Korean military.

Other expenditures by Kim Jong-il should also give us pause as we ask U.S. taxpayers to foot the bill for assistance that ultimately is controlled by Kim Jong-il: $83 million recently for a mausoleum for Kim il-Sung, the great leader, the great Stalinist; $134 million for the dear leader's own residence, for Kim Jong-il's own humble abode; $6 million to embalm Kim il-Sung; millions more just 2 weeks ago for nationwide ceremonies to honor Kim il-Sung.

No wonder Jim Lilley, our former Ambassador to South Korea, has described these massive expenditures which dwarf our food aid as a veritable death cult.

It is for these reasons that the gentleman from Ohio, Mr. TONY HALL, and I have developed a bipartisan compromise that permits the administration to continue its policy but safeguards the delivery of this food so that the military may not receive it and the government of North Korea may not deliver it. By cutting them out of this process, the amendment will decrease the risk that Kim Jong-il's military government will succeed in diverting the food the United States sends to North Korea or manipulating its distribution.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition to the amendment offered by the gentleman from California [Mr. COX]?

If not, the Chair recognizes the gentleman from Ohio [Mr. HALL], to control the 5 minutes in opposition.

Mr. HALL of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly rise in support of this amendment. It is not a perfect amendment, but it brings the bill in line with a long and proud American tradition, and that is extending humanitarian aid to people who are facing starvation. Not one jot of food should be used to feed North Korea's standing army, and under the current approach the food we donate to the world food program is reaching the program is reaching the children and ordinary civilians who are facing starvation, and that is verified by independent monitors.

The policy we are pursuing towards North Korea is one we have painstakingly coordinated with our allies in South Korea. I believe it offers the best hope for making sure our humanitarian aid does not help North Korea's military.

□ 1315

In a few weeks, North Korea and China are meeting South Korea and the United States for peace talks. Negotiations to arrange these talks took more than a year. They offer the first real promise for peace in nearly five decades, since the Korean war ended.

But now, nearly 50 years later, the best hope is not for a collapse of North Korea's regime. Observers say that almost certainly this would almost endanger the 37,000 American troops who safeguard South Korea's borders. They predict it would send millions of refugees fleeing into South Korea and China, and that only a $1 trillion investment would prevent it. No one expects South Korea would bail out North Korea on its own. I am sure none of us wants to see the United States facing that kind of a bill.

Most experts say that the best hope today is for reforms that will bring to North Korea the prosperity and stability that has made South Korea the world's 11th largest economy. The shape of this reunification is the topic of considerable debate among experts here and in South Korea. But all agree that those changes start with peace.

Undercutting American foreign policy now may make some Members of the House feel good, but it is the wrong thing to do and it is potentially a dangerous course. The right thing to do is to support the approach the United States and allies are taking.

I have seen the conditions in North Korea, and I believe they are as desperate as the dozens of international and nongovernmental organizations working there constantly report that they are. I have watched the humanitarian approach to this difficult situation, and I believe it should be strengthened and not weakened. It is the innocent people in North Korea who suffer, and that is the group I am interested in, not the military. I support this amendment and I urge the House to support it.

Mr. BEREUTER. Mr. Chairman, this Member would congratulate the gentleman from California [Mr. COX] and the gentleman from Ohio [Mr. HALL] for working so diligently on this issue. The compromise is a good one, and this Member certainly supports it.

This Member had tried to be helpful in the effort to reach common language on the North Korean famine, and was prepared to offer a second degree amendment that would have reflected the view that has been expressed in the Committee on International Relations. While the Parliamentarian ruled that the International Relations Committee's language would have been authorizing in an appropriation bill and was not in order. This Member would note, however, the intention of the International Relations Committee to move its North Korea policy language as part of the Foreign Assistance Act. This Member will discuss the components of the Bereuter perfecting amendment momentarily.

Certainly it can be agreed that this Nation should be willing to provide food to starving women and children, regardless of the despicable nature of the regime under which they live. And, there is no more heinous regime than that of the Democratic People's Republic of Korea. It is perhaps the last Stalinist regime, and certainly one of the most brutal regimes that ever has existed.

As chairman of the Subcommittee on Asia and the Pacific of the International Relations Committee, this Member has conducted three hearings and countless briefings on the situation in North Korea in the last several years. The subcommittee has followed this issue very carefully.

Certainly there is starvation—some of it as the result of unprecedented flooding, but most due to the utterly incomprehensible and counterproductive agricultural policies of the North Korean Government. This Member would tell his colleagues that this famine is largely Government-induced, and not the result of natural catastrophe. But the famine is real. We have reliable reports of women and children eating grass and tree bark. The famine is so bad that many industries have simply ceased to exist because the workers no longer have the energy to perform even the most simple tasks.

When the United States began working with the World Food Programme to provide humanitarian food aid to the North, this Member, together with the distinguished chairman of the International Relations Committee, Mr. GILMAN, and the distinguished ranking member, Mr. HAMILTON, set forth certain criteria that were absolute preconditions for any U.S. food aid program. These included: One, assurance that our South Korean allies were consulted and supportive of the food aid deliveries; two, assurance that previous food aid and official confessional food deliveries have not been diverted to the military; three, North Korean military stocks have been tapped to respond to the North Korean unmet food needs; four, the World Food Programme would have the monitors on the ground to oversee the delivery and ensure that food aid is not diverted from the intended recipients; and five, that the United States Government encourage the North Korean Government to undertake a fundamental restructuring of its agricultural system.

These basic, commonsense conditions are the essence of the Bereuter second degree amendment that this gentleman would have been prepared to offer had it been ruled in order.

These types of basic conditions were deemed necessary because, in the past, food aid deliveries had in fact been diverted by the North Korean military. This Member would hasten to point out that U.S. humanitarian assistance was not diverted, but significant diversions of assistance from other countries has been detected.

It would be entirely unacceptable if the North Korean military were to benefit from our humanitarian outpouring of good will. This body must be vigilant against this possibility. The Asia and the Pacific Subcommittee and the International Relations Committee are working very closely with the administration to ensure that these conditions have been met. We have taken steps to ensure that the administration dramatically increases the number of trained monitors on the ground to supervise the dispersal of food assistance. The International Relations Committee also has been working with excellent organizations such as Catholic Relief Services and CARE to ensure that the monitoring teams are adequate to perform the tasks they have been assigned. We continue to work with the administration, and this Member can assure his colleagues that the Asia and the Pacific Subcommittee and the International Relations Committee are following this extremely important matter very, very closely.

Again, this Member commends the gentlemen for crafting an amendment that addresses the very real famine in North Korea while at the same time addressing the legitimate security concern that we not provide comfort to the North Korean military.

The CHAIRMAN. The question is on the amendment offered by gentleman from California [Mr. COX].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. KAPTUR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to rule 193, further proceedings on the amendment offered by the gentleman from California [Mr. COX] will be postponed.

AMENDMENT NO. 3 OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mrs. LOWEY:

At the end of the bill, insert after the last section the following new section:

SEC. . None of the funds made available in this Act may be used to provide or pay the salaries of personnel who provide crop insurance or noninsured crop disaster assistance for tobacco for the 1998 or later crop years.

The CHAIRMAN. Pursuant to House Resolution 193, the gentlewoman from New York [Mrs. LOWEY] and a Member opposed will each control 15 minutes.

The Chair recognizes the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I yield myself such time as I may consume.

The bipartisan Lowey-DeGette-Hansen-Meehan-Smith amendment will eliminate Federally-based crop insurance for tobacco and begin to get the Federal Government out of the tobacco business for good. According to the CBO, this amendment will save taxpayers at least $34 million.

Tobacco products kill 400,000 Americans each year. Every day more than 3,000 American teenagers start smoking. One in three will die from cancer, heart disease, and other illnesses caused by smoking. American taxpayers should not be subsidizing this deadly product.

The Federal Government is spending millions on crop insurance for tobacco; at the same time, we are spending almost $200 million to warn Americans about the dangers of tobacco and prevent its use. It is time for this hypocrisy to end. We must make our agricultural policy consistent with our public health policy.

Mr. Chairman, opponents of this amendment will say that we are denying a service to tobacco growers that is available to all other farmers. That is simply not true. Only 65 of nearly 1,600 crops grown in the United States are eligible for Federal crop insurance; honey, broccoli, watermelon, squash, cherries, cucumbers, not covered.

Opponents of this amendment will also say that it will hurt small tobacco farmers. But what they do not tell us is that tobacco is one of the most lucrative crops in America. An acre of tobacco yields a 1,000-percent higher price than an acre of corn. Today we have an historic opportunity to dissolve the Federal Government's partnership with the tobacco industry. We must stop using taxpayer dollars to subsidize a product that kills millions of adults, addicts our kids, and costs billions a year in health care.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I ask unanimous consent that one-half of my time be yielded to the gentlewoman from Ohio [Ms. KAPTUR], and that she be allowed to further yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The gentlewoman from Ohio [Ms. KAPTUR] will control 7½ minutes, and the gentleman from New Mexico [Mr. SKEEN] will control 7½ minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I yield 1½ minute to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Chairman, I rise in opposition to the Lowey-DeGette amendment.

Mr. Chairman, I am not a reflexive defender of the tobacco industry. I favor effective public health and education measures, and I wish Joe Camel good riddance. But I find this amendment deeply offensive, punitive, and unfair, and I hope fair-minded colleagues will hear me out before they reflexively support it.

Crop insurance is a protection that we offer to farmers of all major crops, as determined by yield, demand, and value. This amendment would stigmatize and deny this protection to one group of farmers. It targets the people who farm, punishing them for the crop which they are able to grow by virtue of climate and geography and the size of their farms. If that is not discrimination, if that is not unfairness, I would like to know what name you would put on it?

Mr. Chairman, in North Carolina, the climate and soil are ideal for growing tobacco. Many of our farms are successfully diversifying, and we are attracting light industry to the countryside. But with an average size farm of just 160 acres, our farmers don't have the luxury of enough acreage to make a living planting only corn or cotton or soybeans; they have to make their living with what is theirs to work.

Denying crop insurance or disaster relief to these individuals will not change their geography or climate or the economic facts of life. It will not miraculously enable them to turn to some other crop or other line of work. It will simply ruin many of them economically, especially those on the margins of profitability, those on the small farms.

The burden of proof is on those who would withdraw crop insurance for one and only one group of farmers. The Lowey amendment has nothing to do with smoking and health, everything to do with driving the small farmer off the land and hastening the day of corporate and contract farming. To stigmatize a group and exclude them from a common benefit simply because of the size of their farm, their climate, their geography, and what they grow, is the sort of discrimination we would reject out of hand in other realms. I urge my colleagues to reject it here.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Washington [Mrs. LINDA SMITH], a cosponsor of the amendment and a fighter on antitobacco programs.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I rise in support of this amendment. I think the major argument before us today will be that it is discrimination if we do not subsidize tobacco. I want to stand here before Members and tell them, there is only a handful of crops that qualify for Federal crop insurance, only a handful, less than 65.

Mr. Chairman, I believe if people look to their own States and find out which crops are not insured, they will find that good crops, like in the State of Washington, peaches, berries, cherries, Christmas trees, alfalfa forage, are not insured. I would beg Members to go back to find out which crops in their State are discriminated against as they are voting for certain States to get preference.

Let us look at the benefits of a peach. A peach is good for a kid. Now let us look at the benefits of tobacco. Tobacco kills kids. Where is the value for America? I looked up the amount of money pumped into this place for campaigns in the month of June. I did not see a whole lot from peaches. But I sure saw a whole lot from tobacco.

Why would tobacco think, up against this vote, that they had to pump hundreds of thousands, yes, millions of dollars into campaigns of people incumbent in Congress? I did not see them walking down the streets handing out checks to the tourists. I did not see them mailing them to people in my home district. But they do report that they have given hundreds of thousands to this body in the month of June, anticipating this vote.

I would beg Members to go home and look at their priorities, look at the crops that are being discriminated against in their State, and then justify to their constituents why they voted to subsidize tobacco.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I rise in opposition to this amendment, and to all the tobacco growers in Oregon, I want to explain why. By the way, we do not have tobacco growers in Oregon.

First of all, Mr. Chairman, there are three reasons here that this is a bad idea. One, it unfairly singles out tobacco farmers for punishment. Second, it undermines the Federal crop insurance program, which we have discussed here at great length under the other two amendments. Finally, and most importantly, this does absolutely nothing to stop people from smoking.

Mr. Chairman, if there is an effort here sincerely to stop people from smoking, I will join it. But I am not here to punish farmers. I am here to protect farmers. Listen to this, Mr. Chairman: 124,000 farms in 21 States grow tobacco, 90,000 tobacco policies are under the crop insurance program of over $1 billion. To say that this amendment does not hurt farmers, listen to those numbers.

Mrs. LOWEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Colorado [Ms. DEGETTE], a proud cosponsor of the amendment.

Ms. DEGETTE. Mr. Chairman, in 1989 Pat Rose died of lung cancer after smoking for 38 years, starting at the age of 16. Pat Rose was my mother, and she left behind me and my four younger siblings. Millions of Americans like my family are affected every year by smoking, and a new study shows that thousands of kids in this country every year die because of direct or indirect effects of smoking.

The United States recognizes that smoking is not good for our children or our families, which is why last year we spent $200 million trying to get Americans to stop smoking. Paradoxically, last year we also spent $80 million for tobacco crop insurance. This is a policy that is schizophrenic and must change now.

Let us debunk some myths, first of all. Members have heard that not every farmer has crop insurance. Only about 65 of the 1,600 crops grown in this country receive it. Healthy crops, as Members have heard, do not get a dime of Federal crop insurance, yet tobacco crops, which have no nutritional value, obtained this insurance. When our amendment passes, tobacco farmers can still obtain crop insurance, just not at the Government's expense.

I daresay that as we move from tobacco in this country, we need to spend our time not arguing about whether we should grow it, but helping these small farmers to find alternative sources of income. I am very sympathetic with the small farmers. I think we need to support their ability to move into healthy crops. I also daresay there are many small tobacco farmers who are killed by the effects of smoking and whose families are affected by smoking as well.

I urge all of my colleagues to think about our constituents, our friends and our families who are struck every year with the effects of tobacco, and the fact that smoking is increasing more than 50 percent among 8th through 10th graders. We must do everything in our power to discourage tobacco and to help the small farmers.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman. Here we are, Mr. Chairman, on our perennial trip to the whipping post. Who is to be whipped? Tobacco, of course, men and women who work 14 to 16 hours a day to get their crop to the barn and then to the market to make lives better for their children, workers who are employed at Lorillard in my hometown, nearby Phillip Morris, Reynolds, and Leggett, formerly, until American was forced to close their doors. And finally, the companies are to be whipped because they pay a million dollars of taxes to local and State governments, to enable these governments to extend services to thousands of citizens.

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Tobacco, Mr. Chairman, has traditionally been known as the golden weed in my part of the country. One would think to hear this rhetoric in this hall that the weed was scarlet, the color of sin. Protect the golden weed. That is all we are asking. This is unconscionable what is being done here today, Mr. Chairman. I urge my colleagues to oppose the amendment of my friend from New York and see it go down in flames.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Utah [Mr. HANSEN], a cosponsor of this amendment.

Mr. HANSEN. Mr. Chairman, here we go again, confusing the public. I have never seen anything that confuses the public more than what we are doing right now. We spend $177 million to warn people of the use of this tobacco product. Then on the other hand here we are guaranteeing to subsidize the product.

It is interesting, another statistic that I recently pulled out. We are spending $50 billion in health care in America to take care of this particular product. But we are still going to subsidize it. We confuse the public a little more. We now find out that more lives are lost due to this product than murder, suicide, AIDS, alcohol and car accidents combined. Still here we go again, let us subsidize the product.

Is it a lucrative product? You bet it is. This amendment that we are working on does not affect the no net cost tobacco price support program for Federal Extension Services. Tobacco farmers are still able to grow tobacco and will still be able to sell it to the tobacco companies. This amendment is simply putting our agricultural policy in line with our health policy. I urge support for the amendment.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. McINTYRE].

Mr. McINTYRE. Mr. Chairman, if the idea today is to do away with the tobacco industry and smoking, this amendment will not work. All it will do is take some hard-working families from their farms.

The only victims of this scheme are the small farmers. No one will stop smoking because of this amendment. The only thing it will do is take away the already endangered family farm. If we take away crop insurance from our tobacco farmers, we punish them for making an honest living from the soil of the earth. We punish them by keeping them from getting bank loans.

Nobody asked for the two hurricanes that hit my district and destroyed crops in all eight counties last year. Are we going to punish the farmers for something they cannot help. This is what this amendment would do. It is a loser. Families first? No. Families last under this amendment. Mr. Chairman, we need to oppose this amendment and preserve the family farm.

Mr. Chairman, I rise today in strong opposition to the Lowey-DeGette amendment that would eliminate Federal crop insurance and Federal disaster compensation for tobacco farmers. Mr. Chairman, proponents of this amendment would have you believe that it will curb smoking levels across the country. They would have you believe that removing Federal crop insurance for tobacco would somehow injure the tobacco industry which they hold responsible for youth smoking. The results of this amendment, however, will not be felt by the tobacco industry. That is the big deception. The true fall-out, Mr. Chairman, will be felt by tobacco farmers and their families.

The truth of the matter, Mr. Chairman, is that the Lowey-DeGette amendment would do absolutely nothing to deter or stop the production of tobacco or punish cigarette companies. Can anyone honestly say that removing Federal crop insurance for tobacco farmers would promote a single smoker to give up the habit, or deter a single nonsmoker from initiating one? No.

Mr. Chairman, let's look at exactly who this amendment will affect. The Lowey-DeGette amendment will take away the ability of small farmers to keep their families above the poverty line. Let me repeat that. The Lowey-DeGette amendment will prevent small farmers from growing a legal crop that often means the difference in their efforts to provide food, clothing, and shelter for their families.

As an editorial in today's Fayetteville Observer-Times stated,

> If the plan is to do in the tobacco industry, it won't work. What it will do is separate

some hard-working people from their family farms.

Picture this (because this is all that the proposed legislation would accomplish). The people who provide the growers with the many things they need to get a crop started wouldn't be affected. Neither would the warehousemen, the corporate buyers, the manufacturers or the retailers. Only growers would fall under its provisions.

Moreover, the victims, if this scheme were to become law * * * would be small farmers.

Whatever the outcome, tobacco will still be produced, sold, processed, re-sold, and smoked. The only thing that will come close to disappearing is the already endangered family farm.

To paraphrase Shakespeare—and I can say this as a lawyer—the proponents of this awful, unfair, ugly amendment ought to say, "The first thing let's do is to kill all the farmers," for economically speaking, that is exactly what supporters of this amendment will be doing.

Go ahead. Make the farm killers' day. Just blow 'em away. Let a hurricane or tornado or hail storm ruin their lives and the lives of their families.

If we take away crop insurance from our tobacco farmers, we punish them for making an honest living from the soil of the Earth, we punish them by keeping them from getting bank loans, and we punish them again if disaster strikes. Do not do it. Do not take away their chance to make an honest living an be able to provide for their families.

The U.S. Department of Agriculture classifies small farmers whose income total $20,000 or less for 2 consecutive years as limited resource farmers. The States with the largest numbers of limited resource farmers are Kentucky, Tennessee, Virginia, and North Carolina. It is no coincidence that these States also make up a majority of the leading tobacco producing States in the Nation. Mr. Chairman, the limited resource farmers that grow tobacco are by no means wealthy people. They sweat and toil on small plots of land where oftentimes the only crop that can be grown in such small quantities and still bring a financial return sufficient to maintain their operation from year to year is tobacco. The argument put forth by proponents of the Lowey-DeGette amendment that tobacco farmers could replace tobacco with another commodity is simply not true. The average size farm in tobacco country is 169 acres, of which tobacco is usually grown on 50 to 100 acres. In order to replace the gross income from just 50 acres of tobacco, a farmer would have to produce 235 acres of peanuts, 372 acres of cotton, 1,442 acres of wheat, 1,161 acres of soybeans, or 747 acres of corn. The small amounts of land that are typically available to limited resource farmers makes any of these options mathematically impossible.

My friends in the House, limited resource farmers do not grow tobacco to get rich. They do not grow tobacco so that cigarette companies can get rich. Limited resource farmers grow the legal crop tobacco in order to put a roof over their families' heads. They grow tobacco to put food on their families' tables. They grow tobacco so that they can someday send their children to school; so that they can provide the opportunity of a better life for their children.

Mr. Chairman, proponents of the Lowey-DeGette amendment would have us believe that not a single farmer will lose his or her job as a result of their language. This, my colleagues in the House, is absolutely false. My friends, tobacco is an extremely difficult crop to grow. It is vulnerable to a variety of diseases, infestations, and is especially sensitive to weather variations. In addition, due to its proximity to the Atlantic Ocean, our tobacco farmers are also at the mercy of competely unpredictable natural disasters like hurricanes, two of which hit my district last year and wiped out entire tobacco fields across the region in all eight of the counties which I represent. The delicate nature of tobacco requires that farmers secure insurance in order to receive operating loans that many farmers rely on for the funding necessary to initiate planting each year.

Without that insurance, farmers will not even be considered for the loans that enable them to begin planting each year. Without insurance, tobacco farmers will not have a means to make a living. USDA Secretary Dan Glickman recognized this and has made the availability of Federal crop insurance a top department priority. In a statement he made this past May, Secretary Glickman said, "I am determined that everyone will have access to crop insurance—large farmers and small farmers alike, especially those with limited resources, minorities, and producers in all areas of the country." In addition, Secretary Glickman announced last week the formation of a National Commission on Small Farms to find new ways to support small farms and limited resource farmers. It would appear, then, that eliminating Federal crop insurance which is relied upon so heavily by small, limited resource farmers is not at all in line with the USDA. It is simply advancing someone's political agenda at the expense and heartache of farmer families. It is stealing bread off of the table. It is discrimination in its ugliest form. It is taking advantage of someone else who falls victim to a natural disaster.

Mr. Chairman, limited resource farmers depend on Federal crop insurance and the protection it provides simply because they cannot afford the high cost of private insurance which proponents of the Lowey-DeGette amendment like to point to as an alternative. Let's take a closer look at that alternative. Limited resource farmers are simply unable to afford current premiums on private insurance. If they could afford it, they would certainly look in that direction for protection, for private insurance offers much more comprehensive coverage than its Federal counterpart. I have spoken with several private insurers in my district about the ramifications of losing Federal coverage. Without hesitation, they provided me with figures that indicate their premiums would increase nearly threefold, making private insurance even further out of reach financially for limited resource farmers. In addition, private insurers are in no way compelled to offer insurance to everyone who applies for it. The harsh truth is that even if limited resource farmers were to attempt to pull together enough capital to apply for private insurance, they would likely be denied. So don't listen to the falsehoods you are being told. Many tobacco farmers simply cannot go out and buy private insurance. No insurance means no loans. No loans means no tobacco crop. No crop means no income, no food, no future for their kids, no retirement. It means moving people from work to welfare—something I thought we were trying to get away from.

This is reality, not the big deception that proponents of the Lowey-DeGette amendment are trying to sell. The Lowey-DeGee amendment will put farmers out of work, period. Mr. Chairman, this body has made great strides in recent years to reform out national welfare system. This body has passed legislation that thins the welfare roles by putting long-time recipients to work. My colleagues in the House, does it make sense, then, for this body to pass language that will reverse all of that excellent work? Does it make sense to pass language that will take people from work to welfare?

My friends, I urge a no vote on the Lowey-DeGette amendment. Similar language was rejected by the House of Representatives last year, and this very same amendment was defeated by the Appropriations Committee last week. It is a loser. And under it, farm families would lose as well. Families first? Not under this amendment. Families last and political agendas first—that is what this amendment is all about. Do the right thing for families, reject it again.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN], cosponsor of this amendment.

Mr. MEEHAN. Mr. Chairman, today it is time to bring our agricultural policy in line with our health policy. As the cochairman of the 83 member congressional task force on tobacco and health, we need to correct this serious disconnect in Federal policy. We cannot credibly discourage the use of tobacco as long as we are subsidizing the growing of tobacco. It is really that simple.

We may be able to come up with assistance to tobacco farmers, we should do that through the settlement that has been negotiated by the attorneys general. But it does not make any sense to take taxpayer money and subsidize the growth of tobacco in this country.

We have made enormous progress on this amendment over the last few years. In fact, we have made so much progress that last year it failed by only two votes. Surely in the last year we have gotten enough information about what tobacco companies knew about the dangers of their product, about decades of duplicity and lying that they have perpetrated upon American people. Now is the time to pass this amendment. This is extremely important.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentlewoman from Kentucky [Mrs. NORTHUP].

Mrs. NORTHUP. Mr. Chairman, first of all I am proud to say I have never taken a dime from the tobacco companies and do not intend to now. I refuse all of their PAC checks. I have also been the proud sponsor of a lot of tough youth access legislation and hope to have that opportunity again. But this will hurt exactly the wrong people.

There are some people that love this legislation. They are the farmers from Malawi and Brazil and Argentina that can grow cheap tobacco and replace our tobacco grown in this country. What does that do? That ruins small poor communities all across Kentucky. They are the communities with the highest unemployment rate. They are the communities with the fewest resources. This is the crop that enables them to pay their taxes so that they can support our schools, our small communities, and help capitalize the changes they are trying to make in agriculture so that they can convert to other crops. They understand how threatened they are. They understand the cheap tobacco that is flooding the world market. They understand how short a lifeline they are on. They are trying to capitalize the changes to get into other crops. Please, do not ruin our smallest, poorest communities.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. LAMPSON].

Mr. LAMPSON. Mr. Chairman, we know that tobacco use is the most preventable cause of death, yet 400,000 Americans die each year from causes related to the use of tobacco. Our young people have grown up certain in the knowledge that tobacco causes cancer. Yet 3,000 American teenagers start smoking cigarettes every day. Hopefully the new FDA guidelines will help lower that number dramatically.

I believe we need consistency in our policy toward tobacco. If we do not offer Federal crop insurance for commodities that are not a serious public health risk, why should we offer insurance for tobacco? Last year the taxpayers footed the bill for about $80 million in net tobacco insurance costs. At the same time, we spent almost 177 million trying to discourage tobacco use. Now we must ask the question, should we spend money to promote tobacco use or to discourage tobacco use? That is the fundamental issue that we are discussing right now.

I do not believe the American people want us to continue having it both ways. After all the tough decisions we had in cutting spending, this is a simple one. It is time to stop giving special aid to tobacco. Instead of protecting the special interests, we must take the opportunity to help our families protect their children.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, in discussing this amendment we really need to discuss the morality of young people smoking or the mortality of those who may be chronic long smokers. In spite of the good intentions of the sponsors, we are not doing that. What we should be talking about is fairness and the appropriate remedy. Is it fair to deny vulnerable persons, deny them and be the only ones who are farmers not receiving the protection of our crop insurance? It would mean those farmers would not be able to get loans, not being able to get loans they would go out of business.

I can tell my colleagues, these are not big businesses. These are small farmers. These are small farmers who usually grow 10 or less acres of tobacco. I heard someone say how profitable it is. It is profitable. In order to make that same income, we would have to do 15 times as much cotton, almost 20 times as much corn, if we could find the land that would grow the corn, grow the wheat. This is not the right way. Yes, American policy has spoken. It says we should protect our youth. We should bring that in correlation with each other. This is the wrong way to do it. It is the wrong remedy.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, I rise today in strong opposition to the Lowey amendment.

Mr. Chairman, I rise today in strong opposition to the Lowey amendment.

This is a mean-spirited attack on small farmers throughout the South.

We all know Mrs. LOWEY and her cosponsors don't like smoking, but this amendment will not stop one person from smoking. It will only hurt small tobacco farmers in my district and throughout the South.

The opponents of tobacco always imply that we should not pay farmers to grow tobacco. We do not. Let me repeat that. The Federal Government does not pay subsidies to farmers to grow tobacco.

Sure our Government offers to tobacco farmers some of the same programs like crop insurance that are offered to other farmers.

But we should offer them the same treatment other farmers receive. Tobacco farmers grow a legal crop.

These farmers are not outlaws. They should be treated the same as those who grow corn or raise dairy cattle or any other commodity. Tobacco farmers should be able to purchase the same services almost every other farmer is able to purchase.

What this amendment does is single out the small tobacco farmers who are the backbone of the agriculture industry in my State and all over the South.

Most of these farmers, including the 14,400 tobacco growers in my district own small family farms. They may have a couple or 5 or even 10 acres of tobacco that they use to offset their other costs in farming. Or maybe they use the extra income to send their children to college. So their children may have it just a little bit easier than they did. Where's the crime?

Tobacco is a legal product. We have no right to treat honest taxpaying, hard-working Americans like they are outlaws. They have committed no crime, yet this amendment singles them out and treats them like criminals.

This amendment will not do one thing to prevent smoking. It will not punish the big tobacco companies; it will not decrease the deficit. It will only treat small farmers like criminals.

It's bad policy—it's unfair and it's wrong.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO], a member of the committee.

Ms. DELAURO. Mr. Chairman, this is a debate about saving lives. The deadly effects of tobacco cannot be denied, each year more than 400,000 Americans die of smoking-related illnesses. Each year the Federal Government pays and picks up the tab for many of these health care expenses. Yet our Government provides, pays for, subsidized crop insurance to tobacco growers, $34 million in taxpayers' dollars.

Other crops such as broccoli and cucumbers are not covered by crop insurance. Why tobacco? Some of my colleagues who oppose this amendment will talk about its impact on farmers. It is not that we are not sympathetic to small farmers. But what about the families whose loved ones die due to deadly smoking habits? What about fathers, mothers, grandparents who are among the 400,000 who die each year due to tobacco habits?

We are working at cross-purposes when we give tobacco subsidies with one hand and then we must spend health and education dollars to counteract tobacco's effects with the other. We have a clear and convincing evidence of tobacco's deadly impact. I urge my colleagues to support the Lowey amendment.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Chairman, some have chosen to target the tobacco farmer. The denial of crop insurance is another attempt to suffocate a legitimate industry. This amendment will have a devastating effect on the tobacco farmer and his family. All farmers work hard to put food on the table for their families. The tobacco farmer is no different. He is no different than a corn farmer in the Midwest or a cotton farmer in Alabama. All farmers, including the tobacco farmers, deserve crop insurance. For the sake of fairness, vote "no" on the Lowey amendment.

Some of my colleagues have chosen again to target the tobacco farmer. The denial of crop insurance to tobacco farmers and their family is simply another unfair and insensitive attempt to suffocate a legitimate industry.

Some Members believe this amendment will stop teenagers from smoking. That is absolutely wrong. It will stop one person from smoking; it won't even punish the industry. Instead it will have a devastating effect on the tobacco farmer and his family. The farmer will be left unprotected, unlike any other farmer who grows a legal producing crop.

All farmers work hard to make ends meet, to put food on the table for their families—the tobacco farmer is no different. He is no different than a corn farmer in the Midwest or a cotton farmer in Alabama. This amendment will blatantly discriminate against a legal commodity.

These hard-working farmers struggle every day to make ends meet. You will be dealing them a devastating blow to their ability to make a living. Insurance premiums will double, if not triple, if they are required to seek private insurance, which may not be available.

The economies of tobacco-producing States will be devastated by this amendment. Tobacco is a $7 billion industry for North Carolina—the State contributes $2.8 billion a year in Federal taxes. Schools, hospitals, community buildings, churches, and other community-based projects will not be built because of this revenue loss.

At the national level, tobacco contributes $22.6 billion a year in Federal tax revenue—this money does not just come from producing States. Even nongrowing States will also be hit economically.

New York, for example, could lose up to $4 billion if this amendment passes and as indicated it puts the tobacco farmer out of business. Even the State of California could lose up to $4 billion.

I question whether any State can afford this revenue loss. I would like to ask my colleague from New York who will replace this revenue. In my opinion, it will be on the back of the taxpayer.

I urge my colleagues to vote "no" on the Lowey amendment and not to discriminate against our farmers.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. COOK].

Mr. COOK. Mr. Chairman, I wish to rise in strong support of the Lowey amendment. I am a freshman who decided to come to Congress because I wanted to fight to cut Federal waste. We have promised the American people that we would restore balance and prudence to the Federal budget, and yet last year we spent nearly $80 million on Federal subsidies for tobacco crop insurance. We spent this money to ensure a crop that kills people. Let us not mince words on this point. Tobacco kills people.

Let us not as a nation spend $177 million to prevent tobacco abuse and then at the same time continue to pour taxpayer dollars into tobacco insurance subsidies.

Mr. Chairman, if we are serious about cutting wasteful, needless Federal programs, let us start here. How can we justify cutting other Federal programs but continue to spend taxpayer dollars to insure crops that have no safe level of use?

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. BAESLER].

Mr. BAESLER. Mr. Chairman, a lot of words have been bandied about, one being hypocrisy, one inconsistency. Let me talk about hypocrisy. This amendment, no matter what the rhetoric is, goes just to the farmer. It does not stop anybody from smoking. It does not provide any health care.

We keep on talking about the hypocrisy of the Federal Government. Let me talk about hypocrisy. On one side we want to cut the low man on the food chain, the farmer. On the other side we do not want to say a thing about the excise tax that these States collect from tobacco. New York, $674 million from tobacco excise tax. Are we stopping that? No. Hypocrisy. Colorado, $61 million from excise tax from cigarettes and tobacco alone; are we trying to stop that? No. Hypocrisy. Washington State, $257 million from tobacco excise tax; are we trying to cut that out? No. That is hypocrisy. Texas, $569 million of excise tax from tobacco. Are we going to cut that out? No. So when we speak of hypocrisy, Massachusetts, $230 million from excise tax, when we speak of hypocrisy, the hypocrisy is we want to take from the farmer but we want to stick it to the farmer at the same time.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CASTLE].

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Mr. CASTLE. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I rise in very strong support of this amendment.

As has been pointed out here today, only 65 of our Nation's 1,600 crops enjoy Federal crop insurance subsidies. Peaches, as was pointed out, watermelon, squash, cucumbers, none of them get these subsidies at all. That is point No. 1.

Second, we have all become familiar with the large tobacco settlement. I do not know the exact amount, but it is in excess of $300 billion over a period of time. We are talking around $32 million here for this program that perhaps the tobacco companies would have to step in and do something about.

When we hear about the kind of money we are dealing with here, it is evident and clear to everybody in America that we do not need to continue to underwrite the insurance for the tobacco crops.

And then, and perhaps most importantly, the public probably wonders what are we doing here? We have all these antismoking advertisements, we have all manner and members of the administration who are out saying we should not smoke, and many of us believe people should not smoke, and on the other hand we are paying people, or at least paying for their crop insurance, for the growth of tobacco. That is a tremendous problem.

Tobacco does kill. We need to do something about it. We need to support this amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in opposition to the Lowey amendment.

This is the same proposal we rejected last year and the year before that, that the Committee on Appropriations rejected 2 days ago and the other body rejected yesterday. Here it is again. Here we go again.

They rejected it because it has nothing to do with smoking, teenage smoking, or the hazards of smoking. This is about little tobacco. This is about small farms. This is not big tobacco. Big tobacco would love for us to pass this amendment so they could grow the tobacco overseas at one-third the cost, lower the price of cigarettes and, in the meantime, encourage more smoking.

It attacks the most vulnerable people. Kentucky farmers grow tobacco because it is the only way they can raise their family, send their kids to school, and buy food and clothing. We will drive out the American farmer and the companies will buy their tobacco overseas at one-third the cost. They will get cheaper tobacco. Cigarettes will become cheaper and smoking will increase.

This is not a debate about smoking or how cigarettes are sold, or who buys them. We should do as we did last year. Reject this amendment.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT], a cosponsor of the amendment.

Mr. DOGGETT. Mr. Chairman, the death subsidy must end. That is why I am a cosponsor of this amendment, because the taxpayer subsidy of the only agricultural product in this entire Nation, indeed in this world, when used precisely as directed by the producer, produces death, produces drug addiction, produces disease. Taxpayers do not want to subsidize that product.

If we are ever going to get serious about preventing more of our children from becoming addicted to nicotine, then what we have to do is to break the stranglehold of the tobacco lobby on this Congress. Indeed, they have been successful day after day because they have oiled the machines of government very well.

Only 65 of our Nation's 1,600 crops get the type of crop insurance we are talking about. When the watermelon farmers gather this summer at the Luling Watermelon Thump, and in McDade in central Texas, they will not get a dime of taxpayer subsidies.

Why should we subsidize tobacco? Indeed, why should we subsidize cyanide or arsenic? That is the better comparison. Taxpayers are wasting $34 million on this subsidy.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. BURR].

Mr. BURR of North Carolina. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, what is this about? This is about real people and real lives and real communities all over this country. It is about small tobacco farmers that are part of that community.

The sponsors of this bill would suggest to us that this will not affect the crop and it will not affect crop insurance. Secretary Glickman does not think that. He says that the Department of Agriculture opposes this amendment. He went on to say "Crop insurance is an essential part of the producer's safety net envisioned by the administration's agricultural policy." The administration's agricultural policy.

Well, I have to tell my colleagues, crop insurance allows farmers that sense of security that they will not be financially devastated when there is a Hurricane Fran or a Hurricane Bertha. Most crops in North Carolina were destroyed during those two hurricanes.

What does the gentlewoman from Colorado [Ms. DEGETTE] and the gentlewoman from New York [Mrs. LOWEY] suggest we tell our tobacco farmers? Tough break? Well, that dog don't hunt.

We should vote "no" on the Lowey amendment.

Ms. KAPTUR. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Chairman, I want to thank the gentlewoman for yielding me this time.

I oppose this amendment. It is mean, it is punitive, it is misdirected. It does not attack smoking nor does it attack tobacco companies, as proponents claim, but it does attack small American family farmers trying to protect their land against hurricanes, floods, tornadoes, disease, and drought.

We should not force family farmers to lose their homes and their lands because they cannot buy risk insurance. Help American farmers, not foreign farmers. Kill this amendment. It is bad.

Ms. KAPTUR. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I very strongly oppose the DeGette-Lowey amendment, which is terribly unfair to tobacco farmers.

I understand that there are many in this House who would like to make a political statement against smoking. But this is surely not the right way to go about it.

That's why Secretary of Agriculture Glickman has come out so strongly in opposition to this amendment. Even though this administration has promoted an unprecedented campaign against smoking, Secretary Glickman recognizes that taking away the safety net from small farmers has no place in that campaign.

This amendment will do nothing to stop smoking. It will not limit youth access to cigarettes. It will not restrict tobacco advertising. And it will not put a dent in the profit margins of cigarette manufacturers. What is will do is inflict a lot of harm on tobacco farmers and the farming communities that depend on them. Many of these communities are located in my district.

This amendment singles out tobacco farmers for treatment we would never consider in any other circumstances. It would deny them the benefit of disaster assistance available to every other farmer. It would deny them Government-backed crop insurance available to every other farmer.

This is not only discrimination against tobacco farmers. It's also discrimination against tobacco farming communities. These communities are the ones who will pay the price if crops fail. They are the ones who depend on disaster assistance to help recover from natural calamities.

Mr. Chairman, this is scapegoating, pure and simple. The backers of this amendment are upset with tobacco companies. So they are taking out their frustrations on farmers, many of them small family farmers struggling just to get by.

I suggest they pick on someone their own size. Small farmers have enough troubles. They don't need to be treated like pariahs by this Congress. They deserve better than that.

I urge you to soundly reject this wrongheaded amendment.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I hear what the problem is here, but I want to say to America that we have to oppose this amendment.

We have to oppose it because if the people who are proponents of this amendment want to cure this problem of tobacco, we all admit that it is very bad, let us make tobacco illegal. Let us make it illegal. That will cure all the things we have heard here today. It will stop it.

But I tell my colleagues what we need to keep going, and that is these small farmers that are farming tobacco. And I say this every time. My father was a tobacco farmer. Honest man. The only place he could get any work was on a tobacco farm. I will never forget that. I know that was an opportunity for him, just as it is an opportunity now for the small farmer.

It was an opportunity for the farmers when the hurricane that devastated farmers in my district had everything wiped out. If it were not for crop insurance, they could not have survived. If it were not for crop insurance, the orange growers in Florida would not have survived. We do not see those people. They are not here. They do not dress like we do. They do not talk like we do.

They need their insurance to keep their families fed. I say to my colleagues that we must oppose this amendment because of that, survival for the small farmer.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today in opposition to the Lowey amendment because of its devastating impact on the family tobacco farmers in my district across Kentucky.

Those offering this amendment today think that they are attacking cigarettes, youth smoking and big tobacco. Those attacks, however, are hitting the tobacco farmers and hitting them hard, that small family tobacco farmer. Most of these farms in Kentucky in my district are small, often part-time. They are hard working farmers who are trying to make ends meet and providing a better life for their children.

Denying crop insurance to Kentucky tobacco farmers will have no effect on youth smoking, will have no effect on tobacco use, will have no effect on the big tobacco companies, will have no effect on the local retailers, and will have no effect on the supply of tobacco.

If we do not grow tobacco in the rural areas of Kentucky, then big tobacco will import it. In fact, big tobacco companies could then import cheap foreign tobacco and benefit, yes benefit from our vote in favor of the Lowey amendment.

The only folks hurt by the Lowey amendment will be the small family tobacco farmer, who deserves the right to participate in the same USDA crop insurance or noninsurance disaster assistance program offered to every other farmer in this country.

Ms. KAPTUR. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. ETHERIDGE].

Mr. ETHERIDGE. Mr. Chairman, I rise in opposition to this amendment on behalf of the small farmers of North Carolina.

Mr. Chairman, I oppose this attack on farmers. If not for insurance—floods in the Midwest would have devastated wheat farmers; cold would have destroyed Florida orange growers; droughts would have ruined western farmers; southern farmers would not have survived hurricanes in 1996. Yesterday, rain from Hurricane Danny flooded tobacco fields in North Carolina as farmers prepared to go to market. As adjusters survey the damage, farmers will count on crop insurance to pay the bills as they try to salvage what they can. Singling out these farmers is discriminatory and unfair.

This assault on farmers threatens their last safety net. Secretary Glickman opposes the amendment because insurance is a safety net, not a subsidy.

Proponents claim concern for public health and teen smoking. I understand that this amendment impacts neither. It will not stop teen smoking; will not hurt manufacturers profits; and will not reduce cigarette production. The demagoguery of this amendment is shameful. It threatens the balance reached in a tobacco settlement which includes the most extensive public health proposals on smoking in history. Eliminating insurance for tobacco will devastate victims of Hurricane Danny, hurt poor, minority farmers and do nothing for public health. Vote for fairness. Vote "no" on this amendment.

Ms. KAPTUR. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODE].

Mr. GOODE. Mr. Chairman, on behalf of the Virginia tobacco growers I urge Members to defeat this amendment.

Mrs. LOWEY. Mr. Chairman, may I inquire of the remaining time?

The CHAIRMAN. The gentlewoman from New York [Mrs. LOWEY] has 2 minutes remaining; the gentleman from New Mexico [Mr. SKEEN] has 1 minute remaining, and has the right to close; and the gentlewoman from Ohio [Ms. KAPTUR] has 1½ minutes remaining.

Mrs. LOWEY. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Michigan [Mr. Upton].

Mr. UPTON. Mr. Chairman, it is time to stop this Federal subsidy of a crop that is both addictive and causes cancer.

The passage of this amendment does not stop small tobacco farmers from growing tobacco. It just says we will stop one of the subsidies, one of the incentives for them to do so.

Earlier today we read the debate on the Durbin amendment which bans smoking on airplanes from a couple of years ago. Many of the same folks that are arguing for a "no" vote were the same folks arguing "no" then.

Guess what? The Airline Flight Attendants Union has now filed a $5 billion suit against the airlines for allowing this to happen. Would it not have been nice if they had not been able to file this suit at all and had this Durbin amendment passed many years earlier?

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from Kentucky [Mr. WHITFIELD].

Mr. WHITFIELD. Mr. Chairman, those of us who oppose this amendment do not represent the tobacco lobby. We represent 142,000 farm families around this country who for generations have grown this product.

If we continue our efforts to destroy the tobacco farmers, we will have to come up with a new program to provide economic assistance to 142,000 farm families who have an average income of $13,000 a year. This is a supplemental income product.

Mr. Chairman, we do not require anyone to smoke. There still is such a thing as personal responsibility in America.

Ms. KAPTUR. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, we have heard the rhetoric and the people testifying and talking about tobacco and the ills of tobacco. If we want to vote to do away with tobacco, this is not the way to do it.

We will be called on in just a few minutes to take this little card and we will vote, and potentially the lives and the livelihoods of millions of people across this country will be affected.

But this is not going to stop one teenager, one child, nobody from smoking. We will say to these farmers that go out and mortgage their farms, mortgage their allotments and make commitments, we will say to them, OK, these other folks can get crop insurance, but we are sorry about that. These tobacco farmers cannot have crop insurance. If there is a hurricane or a severe storm or whatever, that is just tough, they will not get any insurance.

That is punitive, and it affects the lives of thousands and thousands of people that are on the small farms throughout all of this country in different places in this country. That is not fair.

And we do not affect the big tobacco companies. This will not have any impact on the big tobacco companies. Somebody said, oh, the big tobacco companies. This does not do anything to the big tobacco companies. All we will do is penalize that hard working family that is trying to send their kids to school and to make a decent living.

This is punitive, it is unfair, and I beg my colleagues when they put their cards in the slot to think of all the people they will be affecting across this country.

Mrs. LOWEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I rise in favor of the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

Mr. Chairman, I rise in support of the Lowey amendment to eliminate the Tobacco Crop Insurance Program.

Today, we provide crop insurance to 65 of the 1,600 crops grown in the United States. Nutrition-packed vegetables like broccoli and squash are not eligible for crop insurance. But we spend millions of dollars to insure the growth of tobacco.

Millions to promote a crop that is unlike any other covered by the Federal Crop Insurance Program. A crop that is neither food nor fiber. A crop that neither provides us with food for our table nor clothes for our backs.

This amendment eliminates the $34 million taxpayer subsidy for crop insurance for tobacco growing.

Tobacco—when used according to directions—harms and kills hundreds of thousands of Americans every year.

To combat this health threat, Mr. Chairman, America spends hundreds of millions of dollars each year to curtail tobacco use.

We spend billions of dollars each year to treat emphysema, lung cancer, and heart disease.

In my State, Massachusetts, over 10,000 people die each year from smoking-related illnesses. And the costs of treating those illnesses in my State alone totals more than $1 billion.

Across America, tobacco use is the single largest drain on the Medicare trust fund. Tobacco costs Medicare more than $10 billion and Medicaid more than $5 billion per year.

We now have irrefutable evidence of the damage tobacco use wreaks on our citizens and our Federal budget.

The proposed settlement between the State attorneys general and the tobacco industry requires a payout of $368 billion over 25 years. This legal settlement is a testament to the disasters of tobacco use. While far from perfect, it represents a step in the right direction for advancing public heath.

Clearly, in the case of tobacco, the time has come to bring our agricultural policy in line with our health policy.

My colleagues on the other side of the aisle are always eager to let the market provide for other sectors of our economy. They do not want to subsidize community service, education standards, economic development, or the arts.

I say to my colleagues, we should not be subsidizing the growth of tobacco.

Tobacco is a lucrative crop. It yields an average of $4,000 per acre; $4,000 compared with a yield of only $200 for an acre of wheat.

Despite the ability of tobacco growers to pay the cost of crop insurance, we continue to fund large portions of their premiums. So, not only do farmers see high profits, but they also have taxpayers footing the bill for their insurance.

Mr. Chairman, we should not subsidize tobacco. We should not promote the growth of a crop that kills. Support the Lowey amendment and let the market provide for tobacco plants.

Mrs. LOWEY. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, we are not antifarmer or antiagriculture. We are prohealth care, we are prochildren. It is our goal to stop lung cancer in our lifetime.

The Government that gives a Surgeon General warning on the dangers of smoking should not be subsidizing insurance for the crop of tobacco.

Mrs. LOWEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have heard that this amendment is mean-spirited and that it will hurt tobacco growers. The simple fact is that tobacco is one of the most lucrative crops in America. Our amendment will not stop these farmers from growing tobacco. The amendment says they can continue to grow tobacco, but they will have to purchase crop insurance on their own.

☐ 1400

Now if that is a hardship, it is a hardship for all the small businesses in America that they manage to overcome. My colleagues on the other side of this debate will also say that this amendment will not end smoking. They are right. This amendment is not a cure-all, but it will bring us one step closer to a consistent Federal policy on tobacco.

Every year 400,000 Americans die from cancer. One of them was my dad. My father smoked three packs a day. At the age of 54, he died. I urge my colleagues to support this amendment.

Mr. SKEEN. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Chairman, I rise in strong opposition to this amendment. We have heard from the proponents of this amendment two things. First, we need to outlaw tobacco companies from producing tobacco that is harmful to Americans. Second, we need to keep children from smoking. This amendment has absolutely nothing to do with either one of those two issues.

I have 5,000 small family tobacco farmers in my district. This particular amendment penalizes those 5,000 farm families who work hard every day to produce a living for their family growing a legal crop. I urge a "no" vote on this amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in support of this amendment to eliminate the Federal subsidy for tobacco crop insurance.

This amendment is consistent with Congress' effort to control Federal spending and target our dollars only to the most necessary and appropriate programs. In 1996, Federal taxpayers paid around $80 million in net tobacco crop insurance costs. The Congressional Budget Office estimates that adoption of this amendment will save $34 million in the coming fiscal year. Beyond that, eliminating this subsidy will go a long way toward lowering tobacco use and reducing the severe public health risks associated with its use.

Personally, I would prefer to see this $34 million applied to cancer research, or research into other diseases afflicting millions of Americans in this country.

According to the Centers for Disease Control and Prevention, cigarettes kill more Americans each year than AIDS, alcohol, car accidents, murders, suicides, drugs and fires combined. With the growing number of individuals suffering from health problems that are related to smoking, second-hand smoke, and tobacco use, it is in the public interest for Congress to remove taxpayer support for this type of crop which harms, and often kills its users.

Mrs. MORELLA. Mr. Chairman, I rise in strong support of the Lowey-De-Gette-Hansen-Meehan-Smith amendment. This amendment would save $34 million by eliminating subsidized crop insurance for tobacco—$34 million in savings scored by CBO.

It is time that we confront the glaring and unforgivable inconsistency in our Federal tobacco policy. We currently spend over $177 million on programs to prevent tobacco use. Yet, USDA spent $80 million for Federal crop insurance subsidies in fiscal year 1996. How can we possibly continue to encourage the growth of tobacco?

Some of our colleagues will argue that jobs are at stake here. But passage of this amendment would not result in the loss of any jobs. The private insurance market can provide crop insurance to tobacco farmers who want it—just like it does for the overwhelming majority of crops, such as honey, broccoli, watermelon, cherries, and livestock.

This amendment simply ends one more Federal subsidy for a product that threatens the public health. This Nation can no longer close its eyes to a product that kills 400,000 Americans each year and brings into its deathly fold 3,000 children each day, more than 1 million new smokers each year. It is time to take the necessary steps to prevent another generation from becoming addicted to this deadly product. Ending subsidized crop insurance for tobacco is an important step in this process.

Vote tonight to get the Federal Government out of the tobacco business. Vote "yes" on the Lowey-DeGette-Hansen-Meehan-Smith amendment.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 193, the Chair announces that proceedings will resume on the amendment offered by the gentleman from California [Mr. COX] immediately following disposition of the pending amendment. The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. LOWEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 216, not voting 9, as follows:

[Roll No. 310]

AYES—209

Ackerman
Allen
Andrews
Bachus
Baldacci
Barrett (WI)
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Blagojevich
Blumenauer
Borski
Boswell
Brown (CA)
Brown (OH)
Callahan
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Christensen
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Doggett
Doyle
Duncan
Dunn
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fawell
Filner
Foglietta
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Goodling
Goss
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hansen
Harman
Hayworth
Hefley
Hill
Hinchey
Hobson
Hoekstra
Holden
Hooley
Horn
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
King (NY)
Kleczka
Klug
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Miller (CA)
Miller (FL)
Minge
Moakley
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Paul
Payne
Pelosi
Petri
Porter
Poshard
Pryce (OH)
Quinn
Ramstad
Riggs
Rivers
Roemer
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanders
Scarborough
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shuster
Slaughter
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Stabenow
Stupak
Sununu
Talent
Tauscher
Taylor (MS)
Tiahrt
Tierney
Torres
Traficant
Upton
Velázquez
Vento
Visclosky
Wamp
Waters
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Wolf
Woolsey
Yates
Young (FL)

NOES—216

Abercrombie
Aderholt
Archer
Armey
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bateman
Berry
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dreier
Ehrlich
Emerson
Etheridge
Everett
Ewing
Fazio
Flake
Foley
Forbes
Ford
Fowler
Frost
Gallegly
Gekas
Gephardt
Gonzalez
Goode
Goodlatte
Gordon
Graham
Granger
Green
Hall (TX)
Hamilton
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Herger
Hilleary
Hilliard
Hinojosa
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kilpatrick
Kim
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manton
Martinez
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McIntosh
McIntyre
Meek
Mica
Millender-McDonald
Mink
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Radanovich
Rahall
Redmond
Regula
Reyes
Riley
Rodriguez
Rogers
Ros-Lehtinen
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (OR)
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Stump
Tanner
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Towns
Turner
Walsh
Watkins

Watt (NC)
Watts (OK)
Weller
Whitfield
Wicker
Wise
Wynn

NOT VOTING—9

Barton
Blunt
Dingell
Molinari
Rangel
Rogan
Schiff
Stark
Young (AK)

□ 1421

Mr. MATSUI changed his vote from "aye" to "no."

Mr. BEREUTER and Mr. GREENWOOD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BLUNT. Mr. Chairman, on rollcall No. 310, I was inadvertently detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. ROGAN. Mr. Chairman, on rollcall No. 310, I was inadvertently detained. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. Cox] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 418, noes 0, not voting 16, as follows:

[Roll No. 311]

AYES—418

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—16

Barton
Blumenauer
Cannon
Coyne
DeGette
Dingell
Goode
Jenkins
Lewis (CA)
Molinari
Schiff
Stark
Taylor (NC)
Visclosky
Wise
Young (AK)

□ 1429

Mr. CAMPBELL changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 21 OFFERED BY MR. MILLER OF FLORIDA

Mr. MILLER of Florida. Mr. Chairman, I offer an amendment.

THE CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 21 offered by Mr. MILLER of Florida:
>
> Insert before the short title the following new section:
>
> SEC. . None of the funds appropriated or otherwise made available by this Act to the Department of Agriculture shall be used to pay the salaries and expenses of personnel who issue, under section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272), any nonrecourse loans to sugar beet or sugar cane processors.

The CHAIRMAN. Pursuant to House Resolution 193, the gentleman from Florida [Mr. MILLER] and a Member opposed will each control 15 minutes.

Who seeks to control the time in opposition?

Mr. EWING. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois is recognized for 15 minutes.

Ms. KAPTUR. Mr. Chairman, I ask the gentleman from Illinois [Mr. EWING] if he would yield one half of his time to me and that I be allowed to further yield time.

Mr. EWING. Mr. Chairman, I ask unanimous consent that one half of my time be yielded to the gentlewoman from Ohio [Ms. KAPTUR] and that she be allowed to further yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MILLER of Florida. Mr. Chairman, I ask unanimous consent to yield half of my time to the gentleman from New York [Mr. SCHUMER] for purposes of control.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. SCHUMER] will control 7½ minutes, the gentleman from Florida [Mr. MILLER] will control 7½ minutes, the gentleman from Illinois [Mr. EWING] will control 7½ minutes, and the gentlewoman from Ohio [Ms. KAPTUR] will control 7½ minutes.

The Chair recognizes the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Chairman, I yield myself 4½ minutes.

Mr. Chairman, the amendment we have before us today is for an incremental change to the sugar program. Last year the gentleman from New York [Mr. SCHUMER] and I introduced legislation for a total phaseout of the program, but this year the amendment only addresses the issue of nonrecourse loans. The sugar program is considered the sugar daddy of corporate welfare because the benefits go to a limited number of people; in fact, 42 percent of the benefits of the sugar program go to only 1 percent of the growers. The sugar program is an old command-and-control economic model that still exists, unfortunately, in this country, and it keeps the price of sugar at twice the world price.

The sugar program was not changed in the last year's farm bill, and that is unfortunate because last year's farm bill had very significant change in agriculture in this country. But, sadly, sugar was the one product or crop that was exempted, and this is what happened:

For example, last year in Time magazine, the week that President Clinton signed the legislation a full page article in Time did not talk about all the good things of that program, it talked about the fact that sugar sweetest deal, the landmark farm deal, left sugar subsidies standing, reformers wondering what went wrong. Agricultural socialism was supposed to end this week by the signing by President Clinton. But for America's sugar growers, how sweet it still is.

The fact is the sugar program continues to keep the price of sugar at twice the world price. My colleagues can look at the Wall Street Journal. There are two prices published for sugar, one for the United States and one for the rural price, and it makes it very difficult for us to compete when we have to pay twice as much for sugar. That is unnecessary.

Let me describe how the program works. We cannot grow enough sugar in the United States so we must import sugar, so farmers can produce all the sugar they can grow now but we still must import because the demand is so great. What the Federal Government does is it restricts the amount of sugar allowed to enter the United States, and by so restricting it, we force the price to twice the world price. The incentive for the Federal Government to do that, to maintain this high price, is the nonrecourse loan, because the nonrecourse loan is such that sugar processors, not farmers, these loans do not go to farmers by the way, they go to processors, big companies, and they get to borrow the money and put up the collateral sugar. They can pay back with sugar or money, cash.

But what they do is, the Federal Government does not want to get paid back in sugar, so since the Federal Government does not want to get paid back in sugar, they force the price up high. This is bad for the American consumer, this is bad for jobs in America, this is bad for the American taxpayer, and it is also bad for the environment in this country.

The consumer, according to the General Accounting Office, pays $1.4 billion more, and for people of lower incomes, when they pay a high percentage of their food, money goes into food cost. This is a very regressive cost to the American consumer.

It is bad for jobs. Refineries are closing. There is an editorial in the San Francisco Examiner today talking about how a refinery may close in San Francisco because there is not enough sugar to process. Then the jobs are also affected because the manufacturers that use a lot of sugar, whether it is candy or baked goods and such, cannot get enough sugar and so they have to pay more for it. They cannot compete with the Canadian companies.

Bob's Candies in Albany, GA, a candy cane company; how can they compete when they pay twice as much for sugar as the Canadian company? That is unfair, and we are penalizing our manufacturers in this country, and that is wrong.

And then the taxpayers get stuck with it, too. The taxpayers pay in several different ways. One area they pay is that we are major purchasers of food products in the United States, whether it is veterans hospitals or the military. GAO says it is costing the American taxpayer another $90 million there.

And then we have the Everglades issue. In Florida, my home State, the Everglades, one of the most important natural resources we have in my home State, it is being damaged, the Everglades, by the sugar program because the sugar program encourages overproduction of sugar on marginal lands and it is damaging the Everglades.

And then what we have to do to solve the sugar program is pay additional for the cost of land. We are inflating the price of land because of the sugar program.

The sugar program is a bad program. It is time to start phasing out. This is only a limited change. I urge my colleagues to support this.

Mr. Chairman, I reserve the balance of my time.

Mr. EWING. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the intent of the Miller-Schumer amendment is to kill an efficient U.S. sugar industry and send those jobs overseas. The sugar program was reformed in the 1996 farm bill. The sugar program retained only protection at the border from the other hundred countries in this world who produce sugar and want the American market to dump their sugar on. It would only hurt those people in the sugar industry and raise costs to the consumer if we were to adopt this amendment.

There are more changes coming in the sugar program. The sugar program must move with the changes in the GATT agreement, and I support that, and most people in this body do for bringing the sugar program into competition in world market.

We cannot change alone. We cannot tie one hand behind us and expect the rest of the world to respect our program.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I want to thank my friend from New York for yielding me this time, and I rise in strong support of the amendment.

Our current sugar program is costing us money and it is costing us jobs. It restricts the amount of sugar that can come into this country by having an arbitrarily high price for sugar. That means American consumers are paying twice what they should for the cost of sugar. That is corporate welfare. That is not what it should be.

Talk about costing jobs. In my district, Domino Sugar Refinery has a plant. Seven times within a year they had to close because they could not get enough sugar at a competitive price in order to refine that sugar. There are 800 jobs there. That is jobs for this country.

So whether my colleagues are interested in the American consumer or they are interested in American jobs, they cannot justify our current sugar program.

The nonrecourse loan program allows sugar production here to guarantee a certain price. As the gentleman from Florida explained, the government does not want to get the sugar for the debt. Therefore the price of sugar is kept at an arbitrarily high level.

For the sake of our consumers, for the sake of jobs, for the sake of fairness, support the Miller-Schumer amendment. It is in the interests of our constituents.

Mr. SCHUMER. Mr. Chairman, I reserve the balance of my time.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the ranking member for yielding time to me.

If the Miller-Schumer amendment were to pass today, it would mean virtually the end of the domestic sugar production here in this country, and it would forfeit over 400,000 jobs, about 6,000 in my district.

I come from an agricultural part of Hawaii. We are very proud of the contributions that the sugar industry has made not only to the State but to the country.

The only people that are going to benefit from the Miller-Schumer amendment are the mega-international food cartels because it is in their interests to be able to buy cheap sugar. They are not interested in the American jobs that are dependent upon the sugar program, and contrary to what the gentleman said in offering this amendment, last year in the farm bill there were major revisions made to the sugar program and those revisions were agreed to by those of us who support this program.

So I urge my colleagues, in the interests of saving U.S. jobs, protecting the farmers, understanding the commitment we made for 7 years to this program, I urge them to defeat this amendment.

Mr. Chairman, throughout this sugar debate you have and will continue to hear opponents refer to a 1993 General Accounting Office [GAO] and a subsequent 1997 GAO report that argue for the elimination of the American sugar program. The U.S. Department of Agriculture [USDA] responded to the 1993 GAO report that it was flawed.

In a correspondence I received from the USDA Under Secretary, they found that the GAO used incorrect data and ignored integral components of the sugar program in generating their conclusions. In fact, the USDA found that even using the GAO's flawed methods, it could still show hundreds of million of dollars in benefits to consumers depending upon which years were studied. The letter I received from the USDA stated that had the GAO looked at 1973–75, rather than 1989–91, the analysis would have showed an annual savings to domestic users and consumers of $350 to $400 million, contrary to the opponents claim that the program was costing taxpayers over $1.4 billion. In fact, the GAO later conceded that the $1.4 billion was simply unsubstantiated.

The USDA analysis not only revealed the deficiencies of the 1993 GAO report, but it reinforced the fact that America's sugar growers do not receive subsidies and that it is operated at no cost to the Government, as is required by law. The USDA analysis supports the sugar program's proponents assertions that the our Nation's sugar policy benefits consumers by providing a stable supply of sugar at prices 32 percent below other developing countries. In reality, the reason for this price differential is because foreign countries subsidize their sugar industry. On the average, retail price for a pound of sugar in America is 0.41 cents. Compare that to the 0.92 retail cost of sugar in Japan or Norway and you can see that American consumers do not pay the astronomical cost for sugar as opponents contend.

Mr. Chairman, I will submit for the RECORD a letter from USDA Under Secretary Eugene Moos dated October 24, 1995, refuting the April 1993 GAO report.

To recover from last year's embarrassment, adversaries of the U.S. sugar program asked the GAO to conduct another study of the sugar program. Mr. Chairman, Congress reformed the U.S. sugar program just last year. The request for an additional study was a waste of taxpayers money. In fact, to no one's surprise, the subsequent 1997 GAO report used the same flawed methodology as in the 1993 report. Similarly, the USDA found the same errors in the 1997 GAO report and refuted its contentions.

I urge my colleagues to reject these false arguments against the sugar program. It more than pays for itself. It benefits taxpayers, benefits consumers, and provides thousands of American jobs.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 24, 1995.

Hon. PATSY T. MINK,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN MINK: Thank you for your letter of July 26, 1995, concerning the General Accounting Office (GAO) report that stated that the U.S. sugar program costs domestic users and consumers an average of $1.4 billion annually and GAO's July 1995 analysis that the sugar program cost the Government an additional $90 million in 1994 for its food purchase and food assistance programs.

In my opinion, GAO's April 1993 report was flawed in its estimates. Some data were used incorrectly and important data and sugar market issues were not considered. Based on GAO's methodology, but by selecting prices in different time periods, the results are more ambiguous. Depending on the timeframe, one may contend that the domestic sugar program either costs or benefits U.S. users and consumers.

GAO's estimate of $1.4 billion annually was based on an assumption of a long-run equilibrium world price of 15.0 cents per pound of raw sugar if all countries liberalized sugar trade. GAO added a transportation cost of 1.5 cents per pound of raw sugar to derive a landed U.S. price (elsewhere in the report GAO stated that the transportation cost adjustment should be 2.0 cents per pound.) To derive a world price of refined sugar of 20.5 cents per pound, GAO added a refining spread of 4.0 cents per pound.

GAO compared its constructed U.S. sweetener price with its derived world price. However, GAO constructed the U.S. price for the 1989–1991 period during which 1989 and 1990 were unusually high price years for U.S. refined sugar. This exaggerated the difference between the so-called world derived price and the U.S. sweetener price. By selecting a period of world price spikes, such as 1973–1975, GAO's analysis would show an annual savings to domestic users and consumers of $350 to $400 million.

Clearly, the expected world price of raw sugar with global liberalization is critical to any analyses of the effects of the U.S. sugar program. In 1993, the Australian Bureau of Agricultural and Resource Economics (ABARE) estimated that sugar trade liberalization in the United States, European Union, and Japan alone would result in an average world price of 17.6 cents per pound of raw sugar—2.6 cents per pound higher than GAO's derived world price.

Based on the ABARE analysis and using a transportation cost of 1.75 cents per pound, which more accurately reflects global transportation costs to the United States, plus a refining spread of 4.27 cents per pound (Landell Mills Commodities Studies, Incorporated), a world price of refined sugar is estimated at 23.6 cents per pound. Based on this world price estimate and an average U.S. sweetener price of 1992–1994, a more normal price period, it can be shown using GAO's methodology, that there are no costs to domestic users and consumers.

The estimated effects of the U.S. sugar program are highly sensitive to expected world prices if global sugar trade is liberalized. GAO's analysis, in my judgement, does not adequately consider the complexities and dynamics of the U.S. and global sugar markets.

With respect to the effects of the U.S. sugar program on Government costs of its food purchase and assistance programs, an independent analysis by the Economic Research Service (ERS) estimates the cost at $84 million based on the difference between U.S. world refined sugar prices in 1994. However, just as for the GAO analysis, different effects could be estimated by using other time periods when the price gap between U.S. and world prices was smaller. Moreover, with global liberalization, the price gap would narrow because of the dynamics of adjustment which were not considered in the ERS analysis.

Sincerely,

EUGENE MOOS,
Under Secretary for Farm and Foreign Agricultural Services.

Mr. Chairman, the U.S. Sugar Program was significantly reformed in the farm bill passed last Congress. We cannot renege on our 7-year commitment made only a year ago to America's sugar growers and producers. The elimination of the nonrecourse loan provisions will lead to the destruction of the support structure for America's sugar farmers and drive them and their families to joblessness and unemployment. The nonrecourse loan is an integral element of America's sugar program. Without these loans, the sugar operations in my district, with the exception of a refinery owned facility, would probably close. That could mean a loss of a 6,000 jobs directly and indirectly in an already weakened Hawaii economy.

Nonrecourse loans work by allowing the harvested sugar to be used as a collateral in exchange for a loan from the Community Credit Corporation [CCC]. In addition, these loans support sugar prices and ensure that America's sugar growers have the ability to make a profit and repay their obligations with interest. Last year, Congress reformed the sugar program by stipulating that nonrecourse loans, and the guarantee of a minimum raw sugar price, would be available only when imports are high. Furthermore, it imposed a 1 cent per pound penalty on any processor who forfeits sugar to the CCC.

Opponents claim that last year's reforms were inadequate and contributes to higher food prices. Nothing could be further from the truth. Compared with other developed countries, the U.S. price for sugar is about 32 percent below what consumers in other countries pay. The cost for sugar-added products, like cookies, cakes, candy, ice cream, and cereal have all risen 1 to 3.4 percent when the price for raw sugar has fallen.

It's obvious that the very ones making the argument to eliminate the safety net for American farmers and consumers, are generating record profits for themselves. It's shear greed without regard to our American producers. This amendment promoted by the mega-food corporations is to allow them to buy cheap foreign subsidized sugar and reap bigger profits on the backs of hardworking Americans.

If you vote for this amendment you are allowing greedy candy manufacturers and their allies to gain access to foreign subsidized sugar. Mr. Chair, America's sugar farmers need our help. From September 1996 to May of this year, raw sugar prices have plummeted 3 percent to 0.21 cents per pound. This drop is significant for sugar growers because this determines whether or not they make a menial profit or file for bankruptcy. If this amendment passes it would mean the end of thousands of America's small farmers. This action betrays last year's agreement and is a slap in the face of America's hardworking sugar farmers. I strongly urge my colleagues to keep our promise to America's farmers and vote "no" on this amendment.

Mr. EWING. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. SMITH], chairman of the Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, my colleagues in the 104th Congress passed a contract with agriculture. Over 300 of them voted for it, and it was a contract which I am sure even the proponents of this bill will support, and that means that all subsidies and all support systems are gone in 7 years, now 6 years.

□ 1445

It was a commitment made by Congress with farmers. It allowed farmers to free up their planning, but it also said it is the end in 7 years.

Now, if Members pass this amendment, they break the contract with farmers. They not only break it with sugar, they break it for the rest of the farmers. Why not wheat? Why not soybeans? Why are we not talking about these as well? How about dairy?

We made a contract with the farmers. They depend upon it. They have borrowed money on the basis of 7 years. The CoBank, the largest agriculture bank in the country, said if we pass this amendment it jeopardizes $1 billion worth of loans to farmers.

Please, I ask the Members not to jeopardize the farm bill they passed.

Mr. Chairman, I include for the RECORD a letter from Mr. Jack Gassidy to Chairman LIVINGSTON.

The letter referred to is as follows:

COBANK,
Denver, CO, July 2, 1997.

HON. ROBERT L. LIVINGSTON,
Chairman, Appropriations Committee, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I'm writing to express CoBank's opposition to H.R. 1387, legislation that would effectively end the federal sugar policy.

With $18 billion in assets, CoBank is the largest bank in the Farm Credit System. We provide financing to about 2,000 customers, including agricultural cooperatives, rural utility systems, and to support the export of agricultural products. At present, CoBank has 25 farmer-owned cooperative customers involved in the sugar or sweetener industry, with loans from CoBank totaling about $996 million.

CoBank's customers, their farmer members, and CoBank itself have made numerous business decisions and financial commitments based on the seven-year farm bill passed by Congress in 1996. As you know, that legislation included provisions vital to the U.S. sugar industry at no cost to U.S. taxpayers. Great hardship would result to sugar farmers and their cooperatives if Congress fails to live up to the commitments made just last year as part of the farm bill.

For these reasons, we urge you to support the existing farm bill provisions and oppose any proposals that would undermine the existing sugar policy.

Please call me if you or your staff have any questions.

Sincerely,

JACK CASSIDY,
Senior Vice President.

Ms. KAPTUR. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. BONIOR], our distinguished leader.

Mr. BONIOR. Mr. Chairman, the gentleman from Oregon [Mr. SMITH] who just spoke, the chairman, is absolutely right. Last year this House made a promise to America's sugar farmers. We promised that we would stand by them, by their families, in case of a natural or an economic disaster. We made this commitment for 7 years. We made it in good faith.

The amendment that we now discuss would break that promise. It would strip these farmers of the security we gave them in last year's farm bill. In my State alone, in Michigan, we have 2,800 sugar beet farmers. They employ, with other ancillary businesses, about 23,000 people in our State.

The modest safety net at issue here simply makes it possible for these families to plan their future with some sense of peace of mind. What we are talking about is enabling hard-working families to weather a tough season without going broke. It is in everybody's interest for the farmers to continue to do what they do best, and that is to farm. One bum crop could put them in the poorhouse. It would not help anybody: Not them, not the Government, and not the public.

So, contrary to some assertions today, this safety net we are talking about is not a handout. It was a handshake. It was a promise. It was a commitment that we made on the floor of this House when we passed the farm bill. Breaking this promise would be bad policy. Breaking this promise would demonstrate bad faith. So I urge my colleagues to support these farmers and oppose this amendment.

Mr. EWING. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding time to me, Mr. Chairman.

Mr. Chairman, I would say to the members of the committee, there is no more sacred obligation of this House when it makes a promise to citizens of this country than to keep those promises.

The previous speakers are exactly right. In the 1996 bill we set the course for the farm communities of America for the next 7 years. The sugar program was the only one where we said nonrecourse loans would not be available to farmers once import levels exceeded 1.5 million tons. We made that commitment in that agreement in 1996. I urge Members to keep that agreement.

If they adopt this amendment, they are saying to American sugar farmers that one bad season means the Government comes and takes their farm, takes their equipment, and they are out of business. That is not the way this Government ought to work. It certainly is not a thing this Congress ought to do.

The bill we passed with over 3,300 votes last year sets the stage for the farm communities for the next 7 years. We ought to keep our word, keep our promise, defeat this Miller-Schumer amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Chairman, the Miller-Schumer amendment has very strong bipartisan support. It would delete sugar price supports and laws that keep sugar prices artificially high. Eleven out of 22 sugar refineries in the United States have closed. Domino Sugar, which operates a plant in my district and employs almost 1,000 people in New York State, has closed three plants.

How can anyone look at this record and say the sugar program is a success? Instead of the sugar program providing American jobs, it is taking good, solid jobs away from the refining industry and giving them to a privileged few sugar growers.

This year Domino has suspended production in my district because it could not purchase enough imported sugar to maintain its profit margin. Deregulating sugar prices would keep sugar refiners like Domino up and running. It also would lower sugar prices and food prices for consumers. American consumers pay twice as much for sugar as the rest of the world.

The American people deserve better. They deserve cheaper sugar and they deserve to keep their jobs. Vote for this amendment.

Mr. MILLER of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, my grandparents were farmers. I represent farmers in east Tennessee. Those same farmers continue to support me even though I voted against the farm bill last year. Why? Because I do not think we can really have reform until we eliminate price supports and subsidies.

These farmers that support me are not in favor of price supports or subsidies. They are in favor of being left alone to do their work, whether it is peanuts, sugar, tobacco. I agree, why not all of them? Why do we not eliminate all the subsidies? It does not make any sense.

After all, the people of Eastern Europe and the Soviet Union were willing to risk their lives to have what we not only take for granted but abuse, and that is the free market. We cannot continue to beat up on the free market with price supports and subsidies and have consumers pay higher prices for things because the Government is involved where the Government should not be involved. A pure pro-farm vote is leave the farmers alone and pull the Government out of the farm business.

Mr. EWING. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, I thank the gentleman for yielding time to me. Our sugar policy was reformed in the 1996 farm bill, Mr. Chairman, which many speakers have mentioned. But I know our opponents also say that they rely on this discredited GAO report claiming that U.S. sugar is overpriced. They constantly cite this 1993 report.

The authors of this flawed report based their entire analysis on a faulty assumption. They assumed that without a sugar policy, U.S. consumers could pay an outrageously low world price of 14 cents a pound for sugar. They failed to mention that the world price was a dump price, the price sugar-exporting countries get for dumping their highly-subsidized sugar on world markets.

The world dump price for sugar is hopelessly flawed and cannot be used as a gauge for measuring sugar's cost. Even the USDA says the GAO report was "* * * flawed in its estimates, and important data and market issues were not considered." The USDA also said, "Using different world price estimates, it can be shown using GAO's methodology that there are no costs to domestic users and consumers."

Oppose the Miller-Schumer amendment.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. This is all we have to see right here, Mr. Chairman. Do Members want to hear about jobs? We all have people that work hard, and I understand the tradition of this country is if you work hard, you are supposed to be rewarded. Our sugar growers are the most productive people on the face of the Earth, and they are up against wage slavery.

If Members want to vote for wage slavery, do it, but do not do it on the backs of American working people. If Members want to blame corporations and tax them, go ahead and tax them for the profits they are making.

But I would like to bring this forward to Members for their consideration. Do Members think for an instant if they kill the sugar program that Coca-Cola is going to cost us any less because it is Diet Coca-Cola? They pocket those profits right now, and if Members kill the sugar program they are inviting Coca-Cola and everybody else to take even more profits, laugh all the way to the bank, and hurt the American working man and woman.

Stand up for the American working man and the American working woman, and fight off the big corporate profits that will be made if Members pass this amendment today. I rest my case.

Mr. MILLER of Florida. Mr. Chairman, I yield myself 5 seconds.

Mr. Chairman, no sugar is used in Coca-Cola. It is corn syrup. They priced themselves out of the market. There is no sugar in Coca-Cola.

Mr. EWING. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. SMITH]

Mr. SMITH of Michigan. Mr. Chairman, there is a misconception about bringing the sugar prices down by doing away with this program. I served for 4 years as the Deputy Administrator for Farm Programs in USDA. I assure you that today's agricultural policy is developed based on the priorities of having an abundant supply of food and fiber at a reasonable price for the American consumer.

Consumers are paying less for sugar in this country than most of the major countries of the world. It makes no sense to compare a dumping price for sugar from another country against the current domestic price. Consider our vulnerability and what we are going to have to pay for sugar if we do away with our sugar producers in this country, it is ridiculous. Our price for sugar is one of the cheapest in the world. Do not compare it to the dump price of sugar. Keep producing quality sugar in this country. Keep this program.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MILLER], who is going to yield a minute of my time.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I rise in support of the amendment offered by my friends, the gentleman from Florida, Mr. DAN MILLER, and the gentleman from New York, Mr. SCHUMER. This amendment prohibits the use of any funds in the bill to carry out the nonrecourse loan portion of the sugar program. It only affects nonrecourse loans. We are losing sight of that fact. It leaves in place recourse loans for processors and the sugar tariff rate quota. I think that is an important distinction.

The sugar industry obviously is a very particular concern in my home State of Florida for economic and environmental reasons. The delegation, frankly, is split. The sugar industry has contributed great benefit to the economy in Florida, but it has also contributed to some of the problems in the Florida Everglades, and I hope that the industry will continue to pitch in to help with the cleanup efforts and future preventative activity.

But the critical issue here today, I believe, is the great majority of the people I represent in Florida believe that the time for deep Government involvement in agricultural markets has ended. It actually ended a long time ago. So on their behalf I am pleased to support the Miller-Schumer amendment, and I commend them for their efforts.

Ms. KAPTUR. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment. It is a choice between farmers and candy. Vote for farmers.

Ms. KAPTUR. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Chairman, I also register my strong opposition to the Miller-Schumer amendment.

Mr. Chairman, I rise in strong opposition to the Miller-Schumer amendment. It is an amendment that should not even be considered on an appropriations bill because it is clear from statements made in "Dear Colleagues" by our two colleagues that their intention is to change the sugar program, a legislative action if I ever saw one.

I join my colleagues who say that this battle has been fought and is over until the next farm bill. Remember last year when our opponents resorted to fairy tale characters to try to undermine the zero-cost and well-intended sugar program. Well, in the words of a former President, there they go again. Now they are looking for the big bad wolf to keep huffing and puffing until he can find a house to blow down.

I represent some of the hardest working, most efficient farmers in this country. They have worked their entire lives to bring the best quality food supply to our consumers at the most reasonable prices in the world. We made a 7-year deal with them last year, and it is wrong for us to change it after they have made their plans based upon our holding out a multiyear program to them.

Mr. Chairman, those who want to end the sugar program any way they can have resorted to using false information to denigrate the program. We have heard them claim that the Food and Agricultural Policy Research Institute has a study that was kept secret that says damage to our domestic sugar industry would be minimal if we changed the program.

That's an old story. The facts now are that FAPRI's 1995 report was not buried, but rather was publicly released, provided to congressional staff, and available on the FAPRI website for several months. FAPRI, in fact, found that the harm to U.S. sugar producers would be substantial if our sugar policy was lost, not minimal as the opponents to the sugar program claim. And FAPRI has acknowledged that it probably understated the probable damage to American sugar growers, and that because of errors on FAPRI's part on U.S. costs of production, if the study were updated, FAPRI would likely demonstrate even larger declines in domestic production.

Mr. Chairman, it is a bad thing to change a good program when it is working. It is even worse to change a good program based on misleading and discredited information. I urge a "no" vote on Miller-Schumer.

Ms. KAPTUR. Mr. Chairman, I yield 45 seconds to the distinguished gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, the family farmers that work in their fields in the Red River Valley that I represent must be watching this debate with utter amazement. After all, U.S. sugar prices are 32 percent below developed countries. U.S. retail prices are the third lowest in the developed world. U.S. spending on sugar is the lowest in the world per capita.

Last year we reformed the sugar program, addressing many of the concerns raised by the opponents. We gave them a straight up-or-down vote on whether this program should be continued.

Now all North Dakota farmers, like farmers everywhere, ask for is that this body maintain the commitment made in last year's farm bill that there will be some price safety net on this product as they deal with the vagaries of weather and other external circumstances that make farming such a high-risk, low-profit business. Do not pull the rug out on America's farmers. This country has a good deal with the sugar program. It should be continued.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

□ 1500

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Miller-Schumer amendment. I have people in my district who are working hard to support their families. What we are seeing is that this anticompetitive program costs consumers over $1 billion per year in higher prices. Because of this program, it is threatening jobs in my district. We see it at Refined Sugars in Yonkers. At Domino's in Brooklyn. It is so critical that we reform the program. I rise in strong support of the Miller-Schumer amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SANFORD].

Mr. SANFORD. Mr. Chairman, I rise in support of this amendment because there has been much talk about commitment. Yet what I think we need to ultimately be committed to is to the simple theme of common sense. What we have with our sugar subsidy program is a system that does not make common sense. I say that because here we have a program that costs American consumers an additional $1.4 billion a year in the form of higher sugar price. All that benefit is handed to in essence the hands of a very few, for instance the Fanjul family that live down in Palm Beach and get $65 million a year of personal benefit. They have got yachts and helicopters and planes. They are on the Forbes 400 list.

So what I have got are people that live in my home district, living in trailers subsidizing the lifestyles of the rich and famous. To me that does not make common sense. I urge adoption of this amendment.

Mr. EWING. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I thank the gentleman for yielding the time to me.

I do rise in opposition to the amendment. The U.S. sugar program is not about corporate welfare. It is not about lower prices for consumers. It is not about environmental protection. The amendment is about eliminating a self-financing, substantially reformed and positive program for American sugar growers and producers and taxpayers.

I think it is important to keep in mind that the sugar program is almost a new program. The 1996 farm bill created a free domestic sugar market, froze the support price at 1995 levels. It required that the USDA impose a penalty on producers who forfeit their crops instead of repaying their marketing loans, and it increased imports.

Do not doubt these reforms have a significant impact on all sugar producers. Sugar producers in my district and all across the country have accepted it and generally welcome the opportunity to work in the new program, an opportunity for them to succeed.

I am proud to represent our sugar beet growers, and I would urge my colleagues to oppose this misguided amendment and support American sugar producers.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, this issue is about American jobs, not about highfalutin Congress speak. I live where these people grow this sugar. I live with the pain of those who think for a moment that they may not have a job at some point in time. We stand around here and talk about jobs in my districts and your district. Let me tell my colleagues about the 44,000 jobs that are produced by the American sugar industry. I can assure my colleagues of this, the argument about who makes profits, do we penalize Bill Gates for owning Microsoft? Hell no. What we do is we support those efforts of manufacturers and businesses and so does the sugar industry. If you do not get it here, you are going to get it there. And if you get it there, it is going to cost more and it is going to cost more in American jobs.

Please know that this is an important program not just to Members but to people and to hospitals in these rural areas and to the little bitty stores and to the little bitty businesses that crop up as a result of this.

Completely defeat this amendment.

Mr. EWING. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I rise in opposition to the amendment.

Ms. KAPTUR. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. JOHN].

Mr. JOHN. Mr. Chairman, I would like to thank the gentlewoman from Ohio for yielding me the time.

Let us be very honest about what we are doing here. This amendment has nothing to do with saving taxpayers' dollars. It has nothing to do with protecting American consumers. In fact this amendment has everything to do with bad public policy. It is about doing through the appropriations process what could not be done in the 1996 farm bill.

In the gentleman's own words, the gentleman from Florida said we tried to totally eliminate this program last year and we could not do it. So please, I urge my colleagues, do not go along with this amendment. This is a backdoor approach to try to wreck the American farmers and not the big farmers but the small farmers.

The CHAIRMAN pro tempore (Mr. QUINN). The Chair announces that the gentleman from Florida [Mr. MILLER] has 2 minutes and 10 seconds remaining, the gentleman from Illinois [Mr. EWING] has 2 minutes remaining, the gentleman from New York [Mr. SCHUMER] has 1½ minutes remaining, and the gentlewoman from Ohio [Ms. KAPTUR] has 2¾ minutes remaining.

For the purposes of closing the debate, the Chair announces that the gentleman from Florida [Mr. MILLER] will close. The gentlewoman from Ohio [Ms. KAPTUR] will go third to last. The gentleman from New York [Mr. SCHUMER] will finish his time first, and the gentleman from Illinois [Mr. EWING] will go second to last.

Mr. EWING. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, something was mentioned today on the floor about the environment. The Miami Herald, an environmental newspaper located in Miami, FL: Congress weighs sugar policy. Dismantling the U.S. sugar program will not save the Everglades. Sugarcane, the plant, is still the most benign crop grown in the Everglades agricultural area, requiring less water than rice, releasing fewer polluting nutrients than vegetables or cattle pastures. Studies show that the crops that might supplant sugarcane would pose a greater threat to the environment and, if the land became fallow, it would be quickly overtaken by melaleuca and Brazilian pepper.

We heard about price. Let me show my colleagues what the farm bill did last near. Raw sugar prices down 3.4 percent. Wholesale refined sugar down 5.2 percent; cereal up 1; ice cream up 1.8; 2 percent for candy; 2.1 for retail refined sugar; and cookies and cakes up 3.4 percent.

Reducing the price of sugar as the amendment would suggest will not create a consumer benefit. Reject this amendment. It is about jobs, as the gentleman from Florida [Mr. HASTINGS] said. It is about a bill that was fairly negotiated on this floor. They lost. They should accept their defeat. Protect the program. Defeat Miller-Schumer.

Ms. KAPTUR. Mr. Chairman, I yield 45 seconds to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Chairman, I would first of all like to correct my good friend from Florida in his original statement. He said a couple of things that are just flat wrong. First of all, we changed the sugar program in the last Congress, and that needs to be understood. Second of all, this does not just affect processors. This affects farmers because in my district the plants are owned by the farmers. These are people that have 500, 600 acres. They have a cooperative. They own this plant. They have put tremendous investments into these plants. We have made a commitment with them in this farm bill last year that we were going to leave this alone for 7 years. It is not fair to do what they are doing to these farmers.

I just wish that we would be honest about what we are doing here. What we are trying to do, legislate on an appropriations bill. We are trying to do what could not be done last time. It is not fair to the farmers in my district and the farmers of this country. We need to defeat the Miller-Schumer amendment.

Mr. SCHUMER. Mr. Chairman, I yield myself the balance of my time.

Let me thank the gentleman from Florida [Mr. MILLER], my coauthor on this amendment. We have heard a lot of passion on the floor. We have not heard too many facts. I would like to rebut a few.

People say the sugar program was reformed in 1995. That is not true. Wheat was reformed, corn was reformed. Sorghum was reformed; soybeans was reformed. All of you reformed your programs. Sugar and peanuts refused to be reformed. Right now the average subsidy per acre of sugar is $480. No other industry farm or farmer otherwise gets that. The average subsidy for wheat is $35. The average subsidy for corn $45. No wonder the gentleman from Florida [Mr. FOLEY] says, do not change it. If you were making $480 per acre, you would not want to change it either. We all pay for it.

Second, it emasculates the poor sugar farmers. Do you know who the money goes to? The refiners. The farmers did not get a nickel from this program. And in fact the program is so skewed to the top that the 1 percent wealthiest, including the Fanjuls, my friend from California said this is farmers versus candy, this is the American people versus the Fanjuls, plain and simple.

One percent of the subsidy, 1 percent of the people get 56 percent of the subsidy, the top 1 percent of those subsidized get 56 percent. This is a rich man's benefit.

Finally, the environment, every day, my colleagues, another 5 acres of the Everglades is destroyed; 500,000 acres of precious Florida wetlands are destroyed. Is it no wonder that free market think tanks, environmental groups, consumer groups all are together in eliminating the program? Let us be honest. There are jobs on the sugar side. There are jobs on the refiner side. Jobs are being lost. We argue net jobs are being lost. But why do we give such a huge subsidy to this one program?

The gentleman in the well said, Bill Gates, Bill Gates prospered. Yes, my colleagues, he prospered without a Federal subsidy. If the Fanjuls can prosper without a Federal subsidy, God bless them. If they were American citizens, I would say God bless America.

But they do not. They prosper to subsidize. That is why they are here with everything they are giving to everybody. That is why they can afford to buy refiners and offer to buy my refinery. That is why they can afford to spread all their money around because of all the money we make, and it comes from the average hard-working American who nickel by nickel pays for that. End this subsidy once and for all.

Mr. EWING. Mr. Chairman, I yield myself the balance of my time.

There has been a lot of conversation about reform of the sugar program. Those of us who have studied it know that it was reformed and reformed as much as any agricultural program. Now, right now this amendment, who is interested in this amendment? It is not the little guy that you are worried about. It is not the senior citizen. It is the big consumer of sugar, the manufacturers who want to destroy the sugar price in America.

The sugar price in America as compared around the world, we are less than the developed world. What is at risk here is opening the doors because all that is left is border protection to dumping of foreign sugar on America's sugar industry and destroying it. Then we will put out of business those who create jobs in the sugar industries and those farmers who pursue a livelihood there. Vote no on this amendment.

□ 1515

Ms. KAPTUR. Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. STENHOLM], the distinguished ranking member of the authorizing Committee on Agriculture.

Mr. STENHOLM. Mr. Chairman, quickly, fact: The sugar program has not cost the U.S. Treasury 1 cent since 1985. Fact: We will reduce the deficit by $288 million over the life of the farm bill that some said was not reformed.

Now I want to talk about M&M candy. I like M&M candy. They include sugar in M&M candy. They also have less than 1 percent corn starch in M&M candy.

This reference that the consumer is going to pay a billion dollars more is laughable. There is 25 grams of sugar in this package. The market price is 22 cents. That makes 1.23 cents worth of sugar in this candy.

If we lowered it to the world prices, as the authors of this amendment want us to do, it will lower it to 8 cents a pound. That will make 0.78 cents per pound worth of sugar in this candy. We can buy this in the Capitol from the vending machines for 55 cents. Do we believe for a moment that there will be a new price at 54.217 cents on that vending machine if we pass this amendment?

Vote "no" on this amendment.

Mr. MILLER of Florida. Mr. Chairman, I yield myself the balance of my time.

I want to correct some of the information stated today. First of all, there was no significant change in the sugar program last year. It only lost by a handful of votes. Five votes made a difference. As Time magazine said, "The landmark farm bill left sugar subsidies standing." They did not get changed last year.

We just have to look at the price of sugar. Five years ago the price of sugar was 22, 23 cents a pound. Today it is 22, 23 cents a pound in the United States. And under this farm bill it will stay at that same price for the next 5 years. But look at the world price. In Canada it is about 11 or 12 cents a pound. That is the world price of sugar.

What will happen to those candy companies is that they are going to ship their jobs to Canada. It is happening now. It is not right for the jobs in this country.

When we talk about subsidized sugar, France has subsidized sugar. There are laws on the books to keep that sugar out of the United States. I agree with that. When countries like France are not allowed to ship it in, that is what I agree with. But a country like Australia, the largest exporter of sugar in the nation, they are allowed to ship and sell it anywhere in the world at 11, 12 cents. We can compete with Australia.

Now, last year, we did not pass a total reform. What we want to do now is just a modest change, which is a nonrecourse loan. Veterans do not get nonrecourse loans. Students do not get nonrecourse loans. Businesses around this country do not get nonrecourse loans. So why should sugar farmers get nonrecourse loans?

Now, to my Republican colleagues, 55 percent of the Republicans last year voted with me for total repeal. This is just an incremental change and there is no reason why they should not be able to come along with me this time. It is pro-jobs, it is pro-consumer, it saves taxpayers money, and it is a good environmental vote.

This will be a scored vote by environmental groups, and the free market, the think tanks all say, hey, if we believe in the free enterprise system, this is a bad program with sugar so we should support this amendment.

To my colleagues on the other side of the aisle that are concerned about the environment, this is a big environmental vote, and it is bad for consumers and for lower income people who pay so much for their food. It does impact the cost of their food.

So I encourage all my colleagues to say let us begin the process. This is one step in the direction of reforming sugar which did not get reformed last year. This is the right thing to do for the American consumer and the American taxpayer.

Mr. HILL. Mr. Chairman, I rise today to strongly oppose the Miller-Schumer amendment. This ill-conceived measure breaks the market-oriented contract made with the hard-working sugar farmers around the country and in my home State of Montana and undermines the viability of our rural communities.

This amendment flies in the face of common sense. Montana's sugar producers and their families have made investments based upon the Federal Government's word in the 1995 farm bill. In this planting year alone, farmers are counting on these promises for a fair return on their investment. Yet, this amendment would place America's sugar producers at great risk by eliminating the safety net they were promised in the farm bill.

For example, Montana's sugar producers are counting on getting up to 70 percent of their net returns from the nearby processors in December of this year. These net returns are ultimately based upon what was supposed to be a 7-year Federal sugar policy commitment. The Miller-Schumer amendment ignores that commitment and compromises the financial investments made by our Nation's producers. Mr. Speaker, Montana's farmers can't unplant what has been planted and can't recover their investments if Congress erases those investments.

Mr. Chairman, I urge my colleagues to defeat this amendment. This dangerous amendment puts our farmers and communities at great and unfair risk and forgets our word to the people. It's time to assure our agriculture community that the promises made by the Federal Government are promises kept.

Mr. CRAPO. Mr. Chairman, I rise in opposition to the Miller-Schumer amendment to eliminate the nonrecourse portion of the U.S. sugar program. As you know, during consideration of last year's historic farm bill, significant reforms were made to the U.S. sugar program. Among the changes were the elimination of all domestic production controls, an increase in the marketing assessments sugar farmers must pay to reduce the Federal deficit, and new penalties to further discourage loan forfeitures and maintain the now 12-year-old no-cost operation of sugar policy.

Our domestic sugarbeet and sugarcane growers provide taxpayers with almost $300 million in Federal revenues through the collection of assessments. In fact, because our domestic growers have been so successful in providing U.S. consumers with stable, high-quality supplies of sugar at a retail price well below the developed country average, our farmers were willing last year to contribute their fair share in the overall goal of reforming Federal farm support programs.

But while our sugar industry has been successful, it does face stiff competition from subsidized sugar growers throughout the world. GATT mandated no reduction in the price support for sugar in the European Union. Thus, while U.S. growers operate under a strict loan program, European farmers receive subsidies to artificially lower the market cost on their sugar sales.

Recognizing the threat that dumping sugar by foreign countries could have on the United States, sugar growers have one remaining safety net, the nonrecourse loan guarantee. While some of my colleagues here have attempted to portray this as a gimmick to raid the Federal Treasury, in actuality, this program would only come into effect when at least 1.5 million tons of foreign imports begin to flood our markets.

I believe this safety net is important to keep our domestic sugarbeet and sugarcane industry viable. Without this small measure of protection from the vagaries of foreign subsidized sugar, a critical sector of our farm economy could collapse. Mr. Chairman, I urge my colleagues to vote against this amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, today, I rise in support of the Miller-Schumer amendment to the fiscal year 1998 agriculture appropriations bill which would prohibit the U.S. Department of Agriculture from spending Federal funds to implement the nonrecourse loan program for sugar producers.

This amendment takes another step forward in our continued efforts to phase out the Federal Government's out-dated sugar price subsidy. The USDA's complex program of loan subsidies, price supports, and good old-fashioned protectionism benefits only a handful of farmers at the expense of American consumers.

I think the American people would be appalled to learn that more than 30 farmers and corporations receive in excess of $1 million annually in USDA sugar subsidies. Meanwhile, consumers pay $1.4 billion a year in higher prices on sugar products and hundreds of consumer items that use sugar.

Last year, Congress passed landmark agriculture legislation, known as the FAIR Act, which opened up most American farmers to the free market and new agricultural opportunities. There is no reason why these same free market principles should not apply to sugar farmers. If passed, this amendment would also have the benefit of opening up new opportunities to sugar farmers while still providing them refuge from foreign dumping and unfair trade barriers in markets overseas.

Mr. Chairman, I want to commend Mr. MILLER and Mr. SCHUMER for their collaborative work on this issue and I urge all my colleagues to support their amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 253, answered "present" 1, not voting 5, as follows:

[Roll No. 312]

AYES—175

Allen
Andrews
Archer
Armey
Barr
Barrett (WI)
Bartlett
Bass
Berman
Bilbray
Bilirakis
Blagojevich
Blumenauer
Boehlert
Borski
Brown (OH)
Campbell
Capps
Cardin
Castle
Chabot
Clement
Collins
Conyers
Cook
Cox
Crane
Cummings
Davis (IL)
Davis (VA)
DeFazio
DeGette
DeLauro
DeLay
Deutsch
Dickey
Doggett
Doyle
Dreier
Duncan
Dunn
Ehrlich
Engel
English
Ensign
Eshoo
Fawell
Forbes
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Goodlatte
Goodling
Gordon
Goss
Greenwood
Hall (OH)
Hansen
Hayworth
Hilleary
Hinchey
Hobson
Hoekstra
Horn
Hostettler
Hoyer
Hutchinson
Inglis
Jackson (IL)
Johnson (CT)
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kim
Kind (WI)
Kingston
Klug
Kolbe
Kucinich
LaFalce
Lantos
Largent
LaTourette
Lazio
Lewis (GA)
Linder
LoBiondo
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McHugh
McKinney
McNulty
Meehan
Miller (CA)
Miller (FL)
Moakley
Moran (KS)
Moran (VA)
Morella
Nadler
Neal
Neumann
Ney
Northup
Olver
Pallone
Pappas
Pascrell
Paul

Paxon
Payne
Petri
Pitts
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rogan
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Slaughter
Smith (NJ)
Smith, Linda
Snowbarger
Souder
Sununu
Tauscher
Tierney
Upton
Velázquez
Visclosky
Wamp
Waxman
Weldon (PA)
White
Wolf
Yates
Young (FL)

NOES—253

Abercrombie
Ackerman
Aderholt
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Bateman
Becerra
Bentsen
Bereuter
Berry
Bishop
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Carson
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clyburn
Coble
Coburn
Combest
Condit
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Deal
Delahunt
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Edwards
Ehlers
Emerson
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fowler
Frost
Furse
Ganske
Gephardt
Gillmor
Gilman
Gonzalez
Goode
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hilliard
Hinojosa
Holden
Hooley
Houghton
Hulshof
Hunter
Hyde
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kildee
Kilpatrick
King (NY)
Kleczka
Klink
Knollenberg
LaHood
Lampson
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
Lofgren
Lucas
Manton
Martinez
Matsui
McCollum
McCrery
McInnis
McIntosh
McIntyre
McKeon
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Minge
Mink
Mollohan
Murtha
Myrick
Nethercutt
Norwood
Nussle
Oberstar
Obey
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Redmond
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Rothman
Roybal-Allard
Ryun
Sabo
Sanchez
Sandlin
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Sherman
Shimkus
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Vento
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—1

Sisisky

NOT VOTING—5

Barton
Molinari
Schiff
Stark
Young (AK)

□ 1538

Ms. WOOLSEY, Ms. ROYBAL-ALLARD, Mr. ORTIZ, and Mr. OWENS changed their vote from "aye" to "no."

Messrs. SAXTON, COOK, VISCLOSKY, and EHRLICH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. SLAUGHTER. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentlewoman from New York [Ms. SLAUGHTER].

The question was taken; and the Chairman pro tempore [Mr. QUINN] announced that the noes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 265, not voting 11, as follows:

[Roll No 313]

AYES—158

Abercrombie
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lantos
Levin
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOES—265

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Manzullo
Martinez
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm

Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (FL)

NOT VOTING—11

Ackerman
Barton
Gonzalez
Lewis (GA)
Meek
Molinari
Reyes
Sanford
Schiff
Stark
Young (AK)

□ 1600

So the motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 17 OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. QUINN). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. NEUMANN:

Insert before the short title the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used to carry out, or to pay the salaries and expenses of personnel of the Department of Agriculture who carry out, a nonrecourse loan program for the 1998 crop of quota peanuts with a national average loan rate in excess of $550 per ton.

The CHAIRMAN pro tempore. Pursuant to House Resolution 193, the gentleman from Wisconsin [Mr. NEUMANN] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Chairman, I ask unanimous consent to yield half of my time, or 7½ minutes, to the gentleman from Pennsylvania [Mr. KANJORSKI] for purposes of control.

The CHAIRMAN pro tempore. Without objection, the gentleman from Pennsylvania [Mr. KANJORSKI] will control 7½ minutes.

There was no objection.

Mr. KINGSTON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Georgia [Mr. KINGSTON] will control 15 minutes.

Mr. KINGSTON. Mr. Chairman, I ask unanimous consent that half of the time, 7½ minutes, be yielded to the gentlewoman from Ohio [Ms. KAPTUR] the ranking member, for purposes of control.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Chairman, I yield myself 2 minutes.

First, I would like to thank my very competent staff for bringing this issue to my attention and getting me fully informed on the details of this particular program. It is a very interesting program. It is a program in which the United States Government controls the amount of peanuts that can be produced in the United States under a system called a quota system. By limiting the amount of peanuts that are available for sale in the United States of America, a very interesting thing happens and it is not unexpected; by controlling the availability of peanuts that limits the supply, naturally with a limited supply the price of peanuts goes up. And the fact is when a hardworking family walks into a store to buy a jar of peanut butter, they literally wind up paying 30 cents a jar extra for no other reason than that the U.S. Government is in the middle of the program.

Let me give my colleagues some of the numbers here that lead to the 30-cent increase in the cost of making peanut butter and jelly sandwiches for lunches in many of the hardworking families across America. In the world market, peanuts sell for $350 a ton, but because the U.S. Government is involved in this quota system, peanuts in the United States of America sell for $650 a ton, almost double the world price on peanuts. As a matter of fact, our Government has this loan guarantee program in place where they guarantee a loan at $610 per ton.

Now an interesting fact came to light in our research. In fact, our American farmers produced peanuts that are sold in the world markets. That is to say they are producing roughly 300,000 tons of peanuts that are sold in the world markets at $350 a ton. So why is it that here in the United States of America, we are asking our consumers to pay all this extra money every time they want to make a peanut butter and jelly sandwich for their kids' lunch when they head them off to wherever it is, whether it be a job or to school or whatever?

Another interesting fact came to light when we started studying who owns these quotas, who has got this limited right to raise peanuts in the United States of America. A lot of people were saying, "Well, it helps the farmers, and therefore you should allow it to continue."

Sixty-eight percent of the quotas are owned by nonfarmers in the United States of America. It is time for this program to end.

Mr. KINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. SMITH], the distinguished chairman of the Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding this time to me.

Again, in the last Congress they passed a couple of bills. One was, of course, the Freedom to Farm which eliminated all subsidies in 7 years, and prior to that they changed the peanut program. It is no longer a Government-subsidized program. In fact, by the year 2002, $434 million will be saved. That is what they did.

But I am sure many of my colleagues do not like the peanut program. They may not, but they signed a contract, the contract with farmers, the Government with farmers. They signed the contract for 7 years. For 7 years there will be no peanut subsidy or no peanut program.

So remember this: It is a contract, it is a commitment, it is a Government promise, the Government-farmer agreement. Do not violate the agreement. Vote against this amendment.

Mr. KANJORSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in strong support of this amendment which implements the first step in the Shays-Lowey peanut program elimination bill.

The peanut program epitomizes wasteful, inefficient Government spending. It supports peanut quota holders at the expense of 250 million Americans, consumers and taxpayers.

The GAO has estimated that this program passes on $500 million per year in higher peanut costs to the consumers. What does this mean to average American families? Well, as a mom who sent her three kids to school with peanut butter and jelly sandwiches for years, I find it unacceptable that this program forces American families to pay an average of 33 cents more for an 18-ounce jar of peanut butter. Now that is not peanuts.

I urge my colleagues to stand up for American consumers and support this amendment. It is good fiscal and consumer policy.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. RODRIGUEZ].

Mr. RODRIGUEZ. Mr. Chairman, I rise today to defend the peanut farmers in my district and throughout the Nation. Once again we see the multicorporations trying to come in and be able to take the profits. When we look at it, the family farmer is less than 100 acres, and so we are looking at a situation where less than 100 acres for the average family farmer in this country. These farmers must compete with multicultural corporations in dealing with them. They had, last time around they had, and it was cut from 678 to 610; now they are coming back for more.

My colleagues, before you is a Snickers. I paid 60 cents for it. It has gone up 5 cents. Have my colleagues seen a cut on it? No.

In addition to that, the peanuts that are in this Snickers is approximately 2 cents. Do my colleagues foresee that there will be a cut of 58 cents? I will attest to my colleagues that that is not going to occur.

What we see before us is an attempt by the multicorporate corporations to be able to get some additional moneys. I thank my colleagues, and I ask them to vote no on the amendment.

Mr. NEUMANN. Mr. Chairman, I yield 1½ minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, in 1934 the Great Depression led Congress to establish the Federal peanut program to protect the peanut producers and to control the domestic supply. Well, the peanut program is now 63 years old. That is 63 years of price controls, 63 years of higher prices for consumers and 63 years of centrally-planned economics.

I rise in support of the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN] which compels the USDA to be fair to consumers when establishing a loan level for the peanut quota.

Mr. Chairman I grew up on a family farm, a small family farm in Arkansas, and this is not about farming but this is about Government and Government quotas. The peanut program combines production quotas, price support, loans and import restrictions which stifle the U.S. peanut industry and endanger trade for other agricultural commodities.

This is a program which benefits only the elite few. The GAO reports that 68 percent of quota owners do not actually participate in farming. They rent their Government quotas for a profit. If a farmer does not sell his crop, he can forfeit to the Government and receive $610 per ton.

The world market price is only $350 per ton; that is more than what is necessary. That is an additional $500 million a year in inflated prices for American consumers. It is time we stop this arcane Government program. I urge my colleagues to support the amendment.

Mr. KINGSTON. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. LUCAS].

Mr. LUCAS of Oklahoma. Mr. Chairman, the amendment that is the pending business before the House should be entitled the "How Many Rural Economies Can We Wreck in 1997 Amendment". Simply put, the Neumann amendment will devastate rural economies throughout the South. Last year's farm bill contained significant reforms for the Nation's peanut program. Further reductions in the support price will cause the economic ruin of thousands of family farms, rural banks and country towns that they support. Contrary to the claims of many, this amendment will not give consumers cheaper candy bars or peanut butter. It is anti-farmer, and it should be defeated.

Mr. Chairman, let us let the 1996 farm bill work. I repeat. Let us let the 1996 farm bill work.

I would urge my colleagues in joining me to vote against this amendment.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ETHERIDGE].

Mr. ETHERIDGE. Mr. Chairman, I oppose this amendment. Peanut farmers are the backbone of the economy in the poorest counties in the South. They agreed to the reforms in the program just last year. Loan rates were reduced, quotas were reduced, programs were opened to new producers, out-of-State quota holders were eliminated. In return they have been given a farm bill, a 7-year promise of stability.

Mr. Chairman, peanut farms face many obstacles without having to worry about whether or not they can pay their bills. Too much rain gives soggy peanuts, drought turns them to dust. Peanut farmers are hardworking people. They need stability. They do not need to face this problem.

Proponents claim they are fighting for consumers. Hogwash. Candy manufacturers have said they will not pass on any of the savings to consumers. Savings will be passed on to a few of the multibillion-dollar companies, and the price of candy bars will not go down.

If there is any integrity left in this Congress, we will live up to the commitment that was made last year to the peanut farmers and defeat this amendment.

Mr. KANJORSKI. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE], the former Governor.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in strong support of the Neumann-Kanjorski amendment.

Mr. Chairman, the Federal peanut program is completely antiquated, and only those who believe in Peter Pan could believe that the program works well. Over the last 2 years USDA announced the national peanut quota production level of 100,000 tons below expected demand. What does this mean? USDA basically created an artificial government-induced shortage of peanuts which, in short, means peanut-loving taxpayers get Jiffed; I mean gypped. At a time when we are reviewing every program for savings in order to balance the budget, it is simply nuts to spend taxpayer dollars on a program that refuses to adopt commonsense reforms to achieve real savings.

Mr. Chairman, the Neumann-Kanjorski amendment is a positive step toward true reform of the peanut program. I believe it does help to protect consumers from Government price fixing, create a more competitive peanut economy and lower prices on peanut products. I ask all of my colleagues, Republicans, Democrats, crunchy peanut butter lovers and creamy peanut butter lovers, to support the Neumann-Kanjorski amendment.

Ms. KAPTUR. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia [Mr. SISISKY].

☐ 1615

Mr. SISISKY. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, it is interesting, I have been doing this a pretty long time. I used to be in the packaging business. To say that you would save 18 cents with peanut butter and jelly is a nice little symbol, but let me just tell the Members something. For the last I think 5 years peanut paste from China has been coming through Canada into the United States like at 25 percent cheaper. Members will see in a few moments a chart showing the rise in peanut butter prices. Oddly enough, oddly enough, the price of peanut butter in Canada is more than the price in the United States.

There are many reasons to vote against this amendment, but I would like to focus on another one. Many Members may not know it, but we have already voted to enact annual cuts in the effective support price for peanuts. Along with a long list of reforms, last year's farm bill contained a 10-percent price cut in the support price for peanuts, but it also froze that price for 7 years with no adjustment for inflation. The freeze amounts to an automatic annual cut in the support price, and each year, as Members know, expenses go up.

If my colleagues really want to cut the real support price for peanuts, there is one alternative to this amendment: Leave the farm bill alone and vote against this amendment.

Mr. Chairman, I rise in strong opposition to the Neumann-Kanjorski amendment, which would devastate peanut farmers in the State of Virginia.

This controversy is not new. Almost every year we consider yet another proposal to cut the peanut support price. I'm afraid many Members may be forgetting that last year's farm bill already cut the support price by 10 percent.

The farm bill contained a long list of reforms that transformed the peanut program. From the perspective of Congress, the most important of these reforms may have been doing away with all cost to the taxpayer. The program actually gives back $83 million to the Treasury that goes toward reducing the deficit.

For most peanut farmers, however, the most important change was losing 10 percent of their support price. A close runner-up was having their support price frozen for 7 years—with no adjustment for inflation.

Many farmers in my district were not happy with this deal. The 10 percent cut was a bitter pill to swallow. A price freeze over 7 years, with expenses cutting into revenue more and more every year, was even tougher.

But it was a deal, and farmers accepted it. What we're talking about today is reneging on that deal. This amendment would effectively gut the peanut program before we've had a chance to determine the effects of last year's reforms.

We still don't know how farmers will adapt to all the changes in the farm bill. The 10 percent cut in the support price has already taken most of the profit out of peanut farming in Virginia.

Fortunately, though, farmers have not felt the full effects of that cut. That's because prices for other commodities have been high, and farmers have not had to rely on peanuts to keep them in the black.

But believe me, that will change. Already, bad weather has taken its toll on farmers in Virginia. With only an inch of rain since planting, many farmers won't be able to harvest enough cotton to make a profit. Prices on other commodities have also fallen.

And what about 6 years from now? We don't know how farmers are going to adjust to a support price frozen at a level 10-percent lower than before. Remember, this freeze amounts to an automatic annual cut in their support price. Every year, their support is reduced by the amount of inflation.

In fact, if the U.S. support price drops below $610, many farmers in Virginia are not going to be growing peanuts anymore. At $550, they simply won't be able to get financing. Rural communities will lose the bread and butter of their economies, on which so many other businesses depend.

Now, we've all heard about how the world price for peanuts is supposedly half the U.S. support price. But this argument dissolves on closer inspection. The so-called world price is simply not comparable.

It generally applies to an inedible, poor quality peanut used mainly for oil. We might as well be talking about the world price for oranges. If the U.S. price were at the so-called world level, there wouldn't by many American peanut farmers left.

If my colleagues really want to cut the support price for peanuts, there is an alternative. Do nothing.

The price freeze in last year's farm bill amounts to an automatic annual price cut. Let the freeze take effect over the full term of the farm bill. Let's see the real-world effects of what we've already done.

In the meantime, I urge my colleagues not to renege on last year's deal. We should not be making it impossible for peanut farmers to make a living at a time when Mother Nature is making it hard enough.

Mr. Chairman, I strongly urge a "no" vote on the Neumann/Kanjorski amendment.

Mr. KINGSTON. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Augusta, Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I will tell the Members quick what is nuts. What is nuts is people from Delaware and people from Wisconsin getting up here and talking about something they do not know the first thing about. My good friend, the gentleman from Wisconsin [Mr. NEUMANN] actually saw a peanut plant one time.

Mr. Chairman, I have lived in a family who grew peanuts. They hated the Government regulations. They wanted to get away from them, but we made them do it. Now give them a chance over the next 7 years to live with this no-cost program to the taxpayers, and undo what we have done to them for the last 50 years. Get off the back of the peanut farmer.

Mr. NEUMANN. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from South Carolina [Mr. SANFORD].

Mr. SANFORD. Mr. Chairman, I rise in support of this amendment, because leaving aside the good and the bad of what we have heard about the peanut program, I think what we need to consider is the fact that if Members look at the peanut program as it is now configured, Members would look straight back to the Dark Ages. In the Dark Ages there was a feudal system wherein if you were lucky and drew the long end of the straw you were lord of the manor, and if you were unlucky you were a serf out there toiling on the land.

In 1997, with our peanut program the way it is configured, if you draw the long end of the stick you have a quota from the Government and can sell your peanuts for about $600 a ton, and if you draw the short end of the stick you can sell them for about half that, the same peanuts. To make matters worse, about two-thirds of the quota owners, and again we are not talking about farmers here, are people that live in Los Angeles and New York and Miami.

So I would simply make the observation that we need to move from the Dark Ages and into the light ages of a market-based system. I urge the adoption of this amendment.

Mr. KINGSTON. Mr. Chairman, I yield 90 seconds to the gentleman from Alabama [Mr. EVERETT].

Mr. EVERETT. Mr. Chairman, I rise in opposition to this amendment which is based on false information. It is poor from a policy standpoint and unworkable from a practical standpoint.

We reformed the peanut program last year extensively. We, the Committee on Agriculture, and the House and the Senate and the President authorized a reform program at no cost to taxpayers, and yes, at no additional cost to families who buy peanut products.

Opponents claim that the peanut program costs families additional money. That is not true. What they do not tell us is in one of the reports they used when they quote from, the GAO identifies consumers as those corporations who first purchased the peanut from the farmer; again, not the housewife but the corporations.

As far as passing along lower prices to the housewife, that is a joke. The only person who would believe that would be somebody who does believe in Peter Pan. Since the peanut farmer received the cuts for their peanuts that were slashed last year, the price of peanut products has increased, not been passed on. Not one penny of the money taken from farmers has been passed on to the families, not one penny.

Also, studies show thousands of jobs in farm-related industries, such as manufacturing of farm equipment and those supplying farmers, will be lost if this flawed amendment passes. This issue was fully considered last year. Now let the program work. This Congress, both House and Senate, and the administration made a commitment to our farmers. We should honor it, and stop this silly and flawed business of trying to rewrite the farm bill every year.

Mr. Chairman, I rise in strong opposition to the Newmann-Kanjorski amendment which is based on false information, is poor from a policy standpoint and unworkable from a practical standpoint.

The appropriation bill is not the appropriate place to consider this issue. This is nothing more than an attempt to rewrite the farm bill in a way that is punitive to farmers.

I could stand up here all day long and discuss the merits of the peanut program, the reforms we made in the 1996 farm bill, and the financial situation of the peanut farmers. But Mr. Chairman, this is not the time or the place to do it. You see, we did that last year * * * extensively, and we, the Agricultural Committee, and subsequently the House, Senate, and President, authorized a reformed program that benefits all Americans and at absolutely no cost to taxpayers, or, and please hear this—at no cost to families who buy peanut butter and other peanut products.

We have been fighting this fight for many years. The fight, however, is not about reform, we have done that, this effort is about corporate greed, pure and simple. These multinational corporations have been lining the Halls of Congress with money for years claiming that the Peanut Program cost families additional money. That is simply not true. The GAO report you will hear quoted does not say the program cost the housewife and families one thin dime. In the report, the GAO identifies "consumers" as those multinational corporations who first purchase the peanut from the farmer. Again, not the buying public, but these corporations who are trying to increase their profits by taking money out of the pockets of already struggling farmers.

As a matter of fact, since the peanut program was reformed last year, the price farmers received for their peanuts has been slashed, their profits greatly reduced, and, consequently many farmers have stopped farming. But guess what, the price of that candy bar has increased, the cost of that jar of peanut butter is still the same, but the profits of these manufacturers have increased. Not one penny of the money taken from farmers was passed on to families. Not one penny. This amendment is purely about corporate greed and it is a sad thing to hear these members say it cost families money when what they are really doing is siding with greedy corporations against working farmers. Members who do that do a serious disservice to both working farmers and working families while they increase the profit margins of these corporations.

And, should this flawed amendment carry the day, it will not be only farmers who lose jobs. Studies show many more thousands of jobs in farm related industries such as the manufacturing of farm equipment and those supplying farmers will be lost. We saw it happen a few years ago when thousands of farm equipment employees lost their jobs. That's real jobs lost, not the pie in the sky stuff you'll hear today. If these members are successful today, they will continue to attack all other farm programs and the jobs lost in farm related industries will occur in the tens of thousands.

This issue was fully considered last year, now let the program work. This Congress, both the House and the Senate and this administration made a commitment to our farmers—we should honor it and stop this silly nonsense of trying to rewrite the farm bill every year.

Mr. KANJORSKI. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I come from Pennsylvania, and I understand the pleas of all my friends from the agricultural States, the arguments that they make, and they are credible arguments. I heard the gentleman from Georgia argue about how we are getting into the key commodity and economic activity of the State of Georgia. I understand that. Then I watch my friend, the gentleman from Virginia, a very good friend of mine. I had the occasion to talk to him. This does affect and impact his district.

We are not trying to completely end the peanut subsidy program here today, because I think that would be unfair. We are merely trying to set in the appropriation bill a 10-percent reduction, from $610 a ton to $550 a ton. Furthermore, it is only effective through the next year, the life of this appropriation bill.

Mr. Chairman, we do this in this way and support this amendment because we are sensitive to economies that need help, and to sectors of economies that need help. But I know as an addict of nicotine that, regardless of how many pledges you make, you invariably will go back to smoking until you find a substitute or you find a way to wean yourself from your addiction.

Now we have a price support addiction. It is a pathetic addiction. If we were arguing that these quotas were farmers' quotas alone and all the profit went to the farmer, the person who worked in the field, that would be one thing. But when we read the statistics: over 68 percent of these quotas are traded as securities by very wealthy people in this country who are buying and selling quotas, and then renting those quotas out to little old farmers who are really their tenant farmers. The major part of the peanut profit goes to these speculative investors. Sixty-three years of that support system.

When this program started, I have no doubt that in 1934 the State of Virginia, the State of North Carolina, the State of Georgia, the State of Alabama, needed that help. I would have been one of the Members of Congress who would have argued for this program or any other that would have supported the peanut farmer at the time or the family farmer.

But suddenly we grandfathered this provision. You now inherit a quota from the U.S. Government because your grandaddy had one. You can go out and buy it speculatively in the market and trade it and negotiate it and sell it. We have created Government-supported securities here that are being readily traded in the market, all with the idea that we are saving the economies of these peanut-producing States.

I say, if Virginia, North Carolina, Georgia, and Alabama need economic development money, I will be the first one up here to vote for it. But we will not have it grandfathered and we will not have it in speculators' hands and it should not exist for 65 years. There has to be a time that you wean off Federal support.

I am speaking to many Members on my side because I think we sometimes have a hard time getting away from subsidies, but I want to talk to my conservative friends on the Republican side that are always telling me about the great nature of the free enterprise system: "Let the market work. Do not vote and create favoritism."

What are we doing, after 63 years, is continuing this favoritism. And what States are we now supporting? I know there are rural areas of Georgia that need help, but there is no more dynamic economy in the United States than Georgia today, with a 2-percent unemployment rate. I urge my colleagues to start the process of weaning us off peanut quotas by supporting this amendment.

Ms. KAPTUR. Mr. Chairman, I yield 45 seconds to the gentleman from Florida [Mr. BOYD].

Mr. BOYD. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I want to rise in opposition to this. I want to address the subject that the gentleman from Pennsylvania [Mr. KANJORSKI] brought up, and also my friend, the gentleman from South Carolina [Mr. SANFORD].

Mr. Chairman, last year this Congress changed the peanut program. It fixed the abuses that those gentlemen are talking about, whereby people who live not on the farm and are not active producers are no longer able to own those peanut allotments, and that is the reason they are being sold and put in the hands of people who actually farm. I want to make sure that we get that straight.

I would urge Members to defeat this well-intentioned but poorly thought-out amendment.

Mr. KINGSTON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, if we look at the guts of the farm bill, it is, indeed, as complicated as the inside of the Pathfinder. As the Pathfinder trudges and scrutinizes the surface of Mars, the American public and Members of Congress are scrutinizing the inside of the farm bill. Anyone who looks at it looks at it in pure disbelief, not knowing what components mean what, and so forth.

It is true, the peanut program under the new reforms is a no-net-cost program that contributes $83 million to deficit reduction, it supports about 30,000 jobs, and there is a phaseout of the program in under 7 years.

But if we take a step back and shut the hood and look at the total picture, Americans have an abundant food supply at cheap prices year around. We spend 11 cents on the dollar on food. The farm bill is working, Mr. Chairman. I urge my colleagues to let it work, and do not do reforms on a piecemeal basis, which is what this amendment would do. I urge a "no" vote.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I have the largest peanut-growing district in the country. A lot of people in our area depend upon peanuts. It is the economic foundation of our area. But I have to say that those people came together well before the farm bill last year and put their heads together and worked with people of good will to address the critics of this program, and to address the issues that were raised, such as those raised by the gentleman from Pennsylvania [Mr. KANJORSKI].

We addressed that in the farm bill last year. We created a no-net-cost program to the taxpayers. It is a market-oriented program, but yet it still provides a safety net for the farmers. We enacted a contract, a 7-year contract, for this farm bill by which we promised that this is what we would operate our farm policy on for 7 years. Our people mortgaged property, they made loans, they bought equipment on time and installments with that in mind.

Now we want to pull the rug out from under them and renege on that commitment. Let us defeat this amendment. Let us stand up for the farm bill we passed last year.

Mr. KANJORSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington, Mrs. LINDA SMITH.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I rise today in support of the Neumann amendment because something really simple happens when we mess with prices. That is, the cost of the peanut butter sandwich for the kid goes up.

□ 1630

That is what we are seeing today. But greater than that, we hear that it is for a small number of farmers. The reality is only one-third of the quota holders are actually farmers. The rest are people who inherited the quotas or purchased them and who lease them to the real farmers who then get less than the quota floor price.

I think it is important that we realize that is a subsidy. But really what is greater, it just raises the cost to the consumer. We need to stop doing this. We need to get in line with what is really happening in the world market and stop this practice. I really do support the Neumann amendment and encourage the rest of the Members to take a look at who really benefits from this system.

Mr. NEUMANN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think it is real important, as we wrap up my portion of this debate, that we really understand what this program is all about. This program is about, because of the rules and regulations of the U.S. Government, people that go into the store and buy peanut butter or peanut related products pay more money than they otherwise would. Of course somebody benefits because other people are overpaying for a product. Of course there are people that benefit from that sort of practice.

Why is it that the U.S. Government should have these quotas out there that limit the production of peanuts and by limiting the production of peanuts keep the price of peanuts higher than they otherwise should be? What is there that would tell the people in Washington that they ought to be in the middle of developing these quotas.

I think the kicker in this whole argument is who owns the quotas, these quotas that have been passed down from generation to generation. These quotas limit the amount of peanuts that can be grown and tell the peanut owners, they literally tell the peanut owner how high the price is going to be because the more they limit the number of pounds of peanuts that are grown, the higher the price goes. So by limiting the price, they have kicked the price all the way up to $650 a ton in the United States, where in other countries we find and in the world markets we find the price is actually $350 a ton.

I heard some arguments today like, well, the Freedom to Farm Act was passed last year. I think every Representative in this House understands that the peanut program was virtually untouched in that compared to other farm programs that were weaned off of these subsidy. And the reason for that, of course, was that vote was very close, and in order to provide the votes necessary to pass the bill, peanuts were left alone, along with the sugar products.

I heard another argument, the other argument went like this, that person held up a product, and they said, look, even if the price of peanuts comes down, these companies are not going to lower the price to the consumer. I have to tell you, I am a home builder. I come out of the home building business. I find that argument to be borderline ridiculous because, if somebody said to me in the home building business, well, starting tomorrow you get the siding for these houses free, would that mean that I am going to charge the same price to my consumer even if I did not have to pay for some of the products going into the house? Of course not. We would have been able to produce the houses at a lower cost if the siding would not have cost us anything as a company or if the siding would have been free.

The argument that somehow, if the price of peanuts comes down, the price of this jar of peanut butter will not be affected just does not add up in a free market society and the kind of society that we live in today. I cannot put much credence in that particular argument.

I think, to wrap it up, we should talk about what this is really all about. It is not really all about the U.S. Government and quotas and these regulations. It is about hard-working families in this great Nation of ours that work very hard to earn their money. And typically they get up every morning of the week and go to work but before they go to work they pack lunches either for themselves or the kids. Many times these lunches include peanut butter or candy or other peanut related products.

What this is really all about is asking these hard-working families that go to work five days a week when they pack those lunches in the morning to pay more than they otherwise should be asked to pay because of regulations of the U.S. Government.

Ms. KAPTUR. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I rise in opposition to this amendment. My home State of North Carolina ranks third nationally in the production of peanuts. I want to appeal to my colleagues' sense of justice, fairness and equity as we toy with the livelihood of many of my constituents who do not think they are on charity but feel they are working every day. This amendment does nothing to lower the consumer prices. Today's peanut prices are lower, not higher than they have been for the last 10 years.

Remember too that the farm price of the peanut, that the real price of the peanut as it goes to the farmers is only 26 percent of the total price, 26 percent. Where does that other 74 percent go? Yet you are picking on those people who are contributing less than one-fourth, not much more than one-fourth of the total price. Again, we did reform. We did reform, contrary to what has been said. Perhaps not the reform we wanted, but there was reform to the peanut program. We lowered the price of the peanut farmer. We lowered the amount of the quota; therefore, it should not have been, as you say, that we did nothing. Those pounds were reduced and therefore the family farmer expected that you will live toward that commitment.

I urge a "no" vote on this amendment.

Ms. KAPTUR. Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. STENHOLM], ranking member of the Committee on Agriculture.

Mr. STENHOLM. Mr. Chairman, in regard to whether or not what we did last year had any effect on farmers, I would like to insert into the RECORD a letter from the Stevenville Production Credit Association that stated if we did the 10-percent reduction last year in the support we would lose 36.1 percent of our farmers. We lost 34.42.

Also when we talk about prices to consumers, is it not interesting that in Mexico and in Canada, they pay $2.55 in Mexico, $2.72 for an 18 ounce equivalent jar of peanut butter. In the United States, our consumers get at $2.10. Yet our consumers pay this outlandish price to producers for peanuts.

Let us talk about the M&Ms again. When we start talking about the consumer, there are 25 grams of peanuts in this. The price support is 30.1 cents per pound. That is 1⅔ cents cost in this peanut. If you reduce it by 10 cents, you are correct. Those who have argued the consumer will benefit, the cost will go down by .168 percent. That would reduce this price in the vending machine in this Capitol building to 54.832 cents. I will introduce legislation to mint a 54.832 cent coin to make sure that the consumer gets the benefit of the gentleman's amendment. Vote no on the amendment.

Mr. KANJORSKI. Mr. Chairman, I yield myself the balance of my time. I think the debate shows what is going to happen. There are those interests in the House that still want to hold on to the peanut support system.

I hope that this amendment serves one good purpose. Which is to point out that we can no longer afford to continue to do business in this institution as it has always been done. If we are really going to go to a supply and demand free enterprise economy, we have got to wean ourselves from the subsidy systems of the last 63 years. I urge my colleagues to vote "yes" on the Neumann-Kanjorski amendment.

Mr. KINGSTON. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. CHAMBLISS], in the heart of peanut country.

Mr. CHAMBLISS. Mr. Chairman, let me just very quickly respond to my good friend from Wisconsin who I agree with on so many issues but on this one I must disagree with him very vehemently.

I look at the jar of peanut butter that you hold up and you say that the peanut program adds 33 cents to the cost of that peanut butter jar. Let me tell you that the amount of peanuts that goes to the farmer that is in that jar of peanuts is 43 cents. So if your amendment reduces the amount of money by 33 cents, then the farmer is going to get 10 cents out of that peanut jar. So somewhere along the way the figures have been skewed.

Mr. Chairman, I yield to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding to me.

I just want us to also recognize and ask the American consumer to recognize, do you want Mexican peanuts or do you want American peanuts? None of us disagree totally with some of the things they are saying. I say to my friend from Pennsylvania, we do not want your derned subsidy. But you should have done that in 1950. You forced this program on us for 60 years. Give them a chance to get out from under it. That is all they are asking to do.

Vote against this silly amendment.

Mr. CHAMBLISS. Mr. Chairman, my friend from Texas held up his M&Ms awhile ago. We share a very favorite candy here and a hope folks eat a lot of it because it contains good American peanuts. I went back and bought this bag of candy a minute ago in the cloakroom. I did not get as good a deal as my friend from Texas. I paid 75 cents for this. But I asked Helen back there, I said, Helen, we reduced the price of peanuts 10 percent last year. Has the price of candy gone down any to you from last year? She said absolutely not. It is the same price. But here we are arguing again that this support price program inflates the cost of products to consumers.

It is just not true, Mr. Chairman. The average peanut farm in Georgia is 98 acres. That is not the big corporate farm, the big rich farmer that lives out of State that my friend from Pennsylvania has reference to. In fact, in last year's farm bill, we produced a no net cost program, a program that is more market oriented because we eliminated all those out-of-State quota holders. They are no longer going to be eligible to participate in the program.

At the same time we provided a safety net for our farmers, the small farmers in my area which number about 7,500 plus the other small farmers throughout the South that depend upon the peanut program. We made a deal. We made a deal in April 1996 with the 1996 farm bill. It expires in 7 years. Let us let it work.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise to support the Neumann/Kanjorski amendment to establish a maximum market price for peanut sales of $550 per ton.

Mr. Chairman, this amendment attempts to keep our promise to the American people to reform the peanut program, one of a number of inappropriate and outdated subsidies.

While last year's Farm Act, better known as the "Fair Act" gave farmers of agricultural commodities greatly expanded flexibility, removed the heavy hand of government, and reduced government payments to farmers; the peanut program continues to waste taxpayer's dollars.

The sole beneficial peanut provision for consumers in the farm bill—the 10 percent price reduction, sold to Congress as reform, has been severely undercut by the Department of Agriculture's deliberate reduction in the national marketing quota for peanuts. As implemented, the peanut program completely ignores the needs of consumers for more reasonable peanut prices.

Under the current system it is up to the USDA to project what the domestic consumption of peanuts will be and set a marketing quota. In the past the USDA has under estimated the quota creating an artificial shortage of peanuts and thus raising the price. By creating an artificial shortage, USDA has effectively denied the promised reduction in the price of peanuts under the reform provision contained in the farm bill.

This amendment follows through with our commitment to reform the peanut program. It will ensure that the Secretary of Agriculture provides the small measure of reform that was promised in the Farm bill.

I urge all my colleagues to support this important amendment.

Mrs. MORELLA. Mr. Chairman, I want to urge my colleagues to vote for this amendment, not only because it is a sound economic decision, but also because it will ensure that consumers will have the opportunity to buy peanuts at a more reasonable price. Let me explain:

By reducing the load rate from $610 per ton to $550 per ton, the amendment forces the Secretary of Agriculture to provide a measure of the reform that was promised in the 1996 Farm bill.

Just as was then predicted, the USDA has administered the peanut program so as to create an artificial shortage of peanuts by reducing the national production of quota peanuts.

A limited national supply of peanuts has ensured that the so-called price reduction is rendered meaningless.

The General Accounting Office has determined that the peanut program inflates the price that consumers pay for peanuts and peanut products by as much as one half billion dollars every year, which is $3 billion over the 6 remaining years of the farm bill.

The artificial government price inflation translates to an extra 33 cents per 18-ounce jar of peanut butter. This extra cost can be especially significant for low-income families that would otherwise substitute peanuts for more expensive sources of protein.

While some proponents of the current peanut program argue that manufacturers will keep any savings from a reduction in the loan level, what seems to happen is that the retail price of peanut butter closely tracks the movement of peanut prices. Between 1991 and 1993, for example, when the price of shelled peanuts dropped three cents per pound, the retail price of peanut butter dropped from $2.15 to $1.79.

If you are concerned about consumers and this includes virtually all the parents of young children, the U.S. peanut industry, and good government, I encourage you to vote for this peanut program amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NEUMANN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 242, not voting 7, as follows:

[Roll No. 314]

AYES—185

Allen
Andrews
Archer
Armey
Barr
Barrett (WI)
Bass
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Boehner
Borski
Brown (CA)
Brown (OH)
Burton
Callahan
Campbell
Cannon
Capps
Cardin
Castle
Chabot
Christensen
Clay
Clement
Collins
Conyers
Cook
Cox
Coyne
Crane
Danner
Davis (IL)
DeFazio
DeGette
DeLauro
DeLay
Deutsch
Dickey
Doggett
Dooley
Doyle
Dreier
Duncan
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Fattah
Fawell
Foglietta
Forbes
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goodling
Goss
Greenwood
Gutierrez
Hall (OH)
Hayworth
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hutchinson
Inglis
Jackson (IL)
Johnson (CT)
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
Kind (WI)
King (NY)
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lantos
LaTourette
Lazio
Levin
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntosh
McNulty
Meehan
Menendez
Miller (FL)
Moakley
Moran (KS)
Morella
Murtha
Nadler
Neal
Neumann
Northup
Obey
Olver
Pallone
Pappas
Pascrell
Paul
Payne
Petri
Pitts
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Salmon
Sanders
Sanford
Sawyer
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Shuster
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Smith, Linda
Snowbarger
Souder
Strickland
Sununu
Tauscher
Taylor (MS)
Tiahrt
Tierney
Upton
Velázquez
Vento
Visclosky
Wamp

Waters
Waxman
Weldon (PA)
Weygand
White
Wolf

NOES—242

Abercrombie
Ackerman
Aderholt
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Bartlett
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Buyer
Calvert
Camp
Canady
Carson
Chambliss
Chenoweth
Clayton
Clyburn
Coble
Coburn
Combest
Condit
Cooksey
Costello
Cramer
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (VA)
Deal
Delahunt
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doolittle
Dunn
Edwards
Emerson
Etheridge
Evans
Everett
Ewing
Farr
Fazio
Filner
Flake
Foley
Ford
Fowler
Frost
Furse
Gephardt
Gilchrest
Goode
Goodlatte
Gordon
Graham
Granger
Green
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hooley
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kingston
Kleczka
Klink
LaHood
Lampson
Largent
Latham
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manton
Martinez
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McInnis
McIntyre
McKeon
McKinney
Meek
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Myrick
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pombo
Pomeroy
Poshard
Price (NC)
Radanovich
Rahall
Rangel
Redmond
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rothman
Roybal-Allard
Sabo
Sanchez
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shimkus
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Torres
Towns
Traficant
Turner
Walsh
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wise
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—7

Barton
Gejdenson
Gonzalez
Molinari
Schiff
Stark
Young (AK)

□ 1701

Mrs. CHENOWETH and Mr. CUMMINGS changed their vote from "aye" to "no."

Mrs. KELLY, Mr. RYUN, and Mr. CHRISTENSEN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I move that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Chairman, I take this time simply to talk about something that has not at all been addressed today. I want to talk about something I intended to talk about but have been precluded from doing so under the rule.

Rural Members will already know what I am talking about, but I really would ask urban Members to listen for a moment to understand what it is I am going to say. We are debating an agriculture appropriation bill which can provide some help to rural communities. But, in fact, we are operating under the handicap of national farm policy.

We have, I believe, for a number of administrations, the previous two and this one, which are essentially antirural and which are driving farmers to the wall. And I want to bring to the attention of my colleagues what I think is a very important study done by an Oklahoma University scientist.

I have an article here by a reporter by the name of Joel Dyer called "Harvest of Rage: How the Rural Crisis Fuels the Anti-Government Movement." I would just like to talk with my colleagues for a moment about some of the points that are raised by this article.

This article points out that suicide is by far the leading cause of death on American family farms and that those suicides are a direct result of economic distress. This article points out a number of things, as follows: It says, for instance, "Many debt-ridden farm families will become more suspicious of government as their self-worth, their sense of belonging, their hope for the future deteriorate. These families are torn by divorce, domestic violence, and alcoholism. There is a loss of relationship of these communities to the State and the Federal Government. We have communities that are made up now of collectively depressed individuals, and the symptoms of that community depression are similar to what you would find in someone that has a long-term chronic depression."

The article then goes on to point out that "The United States has lost more than 700,000 small- to medium-sized family farms since 1980 and that this loss is a greater crisis than was even the Great Depression, if you live in rural America."

It then goes on to say, "By the tens of thousands, some of these same farmers are being recruited by the antigovernment militia movement. Some are being enlisted by the Freeman and Christian identity groups that compromise the most violent components of this revolution in the heartland."

It then goes on to say, "The main cause for the growth of these violent and anti-government groups is economic, and the best example of this is the farm crisis. Men and women who were once the backbone of our culture have declared war on the government, which they blame for their pain and suffering, and not without some cause."

Then the article goes on and says the following: "Losing a farm does not happen overnight. It can often take 4 to 6 years. By the end, these families are victims of chronic long-term stress. Once a person is to that point, there are only a few things they can do."

It then goes on to point out the following: "To lose a farm is to lose part of one's own identity. There is probably no other occupation that has the potential for defining one's self so completely. Those who have gone through the loss of a family farm compare their grief to a death in the family, one of the hardest experiences in life."

And then it goes on to say that "Because of those economic stresses, it is no wonder that many in rural America are falling prey to some of the outlandish theories of some of these antigovernment groups."

I simply take the time in quoting a few paragraphs from this story, which I am going to insert in the RECORD in full, to ask Members, especially from urban areas, to understand that we have an incredible crisis in rural America which is not just affecting farmers, it is affecting whole communities, it is affecting a whole way of life. And, with all due respect to the leadership of both parties, if we do not adopt a farm policy which is substantially different than that being followed by any of the past three administrations, we run the risk of seeing this despair grow deeper, we run the risk of seeing this despair in turn create even more potential for violence. And I do not think any of us on either side of the aisle want to see that happen.

I would simply ask that after this bill is passed, my colleagues understand that until far greater changes are made in American farm programs, we will be complicit in the growth of these anti-government and sometimes violent movements in America.

I urge us to recognize the need to do everything we can to turn that trend in the other direction.

HARVEST OF RAGE

(By Joel Dyer)

It's two in the morning when the telephone rings waking Oklahoma City psychologist Glen Wallace. The farmer on the other end of the line has been drinking and is holding a loaded gun to his head. The distressed man tells Wallace that his farm is to be sold at auction within a few days. He goes on to explain that he can't bear the shame he has brought to his family and that the only way out is to kill himself.

Within hours Wallace is at the farm. This time the farmer agrees to go into counseling; this time no one dies. Unfortunately, that's not always the case. Wallace has handled hundreds of these calls through AG–LINK, a farm crisis hotline, and many times the suicide attempts are successful. According to Mona Lee Brock, another former AG–LINK counselor, therapists in Oklahoma alone make more than 150 on-site suicide interventions with farmers each year. And Oklahoma has only the third highest number of farm suicides in the nation, trailing both Montana and Wisconsin.

A study conducted in 1989 at Oklahoma State University determined suicide is by far the leading cause of death on America's family farms, and that they are the direct result of economic stress.

As heartwrenching as those statistics are, they also are related to a much broader issue. Those who have watched the previously strong family farm communities wither have seen radical, anti-government groups and militias step in all across the country, and especially in the Midwest.

As far back as 1989, Wallace—then director of Rural Mental Health for Oklahoma—was beginning to see the birth pangs of today's heartland revolt. In his testimony before a U.S. congressional committee examining rural development, Wallace warned that farm-dependent rural areas were falling under a "community psychosis:"

"Many debt-ridden farm families will become more suspicious of government, as their self-worth, their sense of belonging, their hope for the future deteriorates. . . . These families are torn by divorce, domestic violence, alcoholism. There is a loss of relationships of these communities to the state and federal government.

"We have communities that are made up now of collectively depressed individuals, and the symptoms of that community depression are similar to what you would find in someone that has a long term chronic depression."

Wallace went on to tell the committee that if the rural economic system remained fragile, which it has, the community depression could turn into a decade's long social and cultural psychosis, which he described as "delayed stress syndrome."

In 1989, Wallace could only guess how this community psychosis would eventually express itself. He believes this transition is now a reality.

"We knew the anti-government backlash was just around the corner, but we didn't know exactly what form it would take. You can't treat human beings in a society the way farmers have been treated without them organizing and fighting back. It was just a matter of time."

THE RURAL SICKNESS

"I don't even know if I should say this," says Wallace regarding the explosion that destroyed the Alfred P. Murrah building killing 168 people, "but the minute that bomb went off, I suspected it as because of the farm crisis. These people (farmers) have suffered so much." Wallace, who has spent much of his professional life counseling depressed farmers, could only hope he was wrong.

The United States has lost more than 700,000 small- to medium-size family farms since 1980. For the 2 percent of America that makes its living from the land, this loss is a crisis that surpasses even the Great Depression. For the other 98 percent—those who gauge the health of the farm industry by the amount of food on our supermarket shelves—the farm crisis is a vaguely remembered headline from the last decade.

But not for long. The farms are gone, yet the farmers remain. They've been transformed into a harvest of rage, fueled by the grief of their loss and blown by the winds of conspiracy and hate-filled rhetoric.

By the tens of thousands they are being recruited by the anti-government militia movement. Some are being enlisted by the Freemen and Christian Identity groups that comprise the most violent components of this revolution of the heartland.

Detractors of these violent groups such as Morris Dees of the Southern Poverty Law Center blame them for everything from the Oklahoma City bombing to the formation of militia organizations to influencing Pat Buchanan's rhetoric. They may be right.

But, the real question remains unanswered. Why has a religious and political ideology that has existed in sparse numbers since the 1940s, suddenly—within the last 15 years—become the driving force in the rapidly growing anti-government movement which Dees estimates has five million participants ranging from tax protesters to armed militia members?

The main cause for the growth of these violent anti-government groups is economic, and the best example of this is the farm crisis. What was for two decades a war of economic policy has become a war of guns and bombs and arson.

At the center of this storm is the "Justice" movement, a radical vigilante court system, a spin-off of central Wisconsin's Posse Commitatus system of the 1980s, and which will likely affect all our lives on some level in the future. It may have touched us already in the form of the Oklahoma City bombing.

Freeman/Identity common-law courts are being convened in back rooms all across America, and sentences are being delivered. Trials are being held on subjects ranging from the Bureau of Alcohol, Tobacco and Firearms' handling of Waco to a person's sexual preference or race. And the sentences are all the same—death.

We may never prove the Oklahoma City bombing was the result of a secret common-law court, but we can show it was the result of some kind of sickness, a "madness" in the rural parts of our nation. Unless we move quickly to address the economic problems which spawned this "madness," we are likely entering the most violent time on American soil since the Civil War.

Men and women who were once the backbone of our culture have declared war on the government they blame for their pain and suffering—and not without some cause.

THE ECONOMICS OF HATE

The 1989 rural study showed that farmers took their own lives five times more often than they were killed by equipment accidents which, until the study, were considered to be the leading cause of death.

"These figures are probably very conservative," says Pat Lewis who directed the research. "We've been provided with information from counselors and mental health workers that suggests that many of the accidental deaths are, in reality, suicides."

Wallace, who was one of those mental health workers, agrees. "The known suicides are just a drop in the bucket. We have farmers crawling into their equipment and being killed so their families can collect insurance money and pay off the farm debt. They're dying in order to stop a foreclosure."

This economic stress has been caused by 20 years of government refusal to enforce the anti-trust laws which once protected the small farmer. Now, with only six to eight multi-national corporations controlling the American food supply, farmers and ranchers have no choice but to sell their products to these monopolies, often for less than their production costs. In 1917, wheat was $2.14 a bushel. In the last five years prices have dipped as low as $2.17 a bushel, yet costs are a hundred times higher now than then.

As if monopolies weren't enough of a problem, the federal government is allowed to increase the interest rates on its loans to troubled farmers to ridiculous figures, sometimes reaching more than 15 percent. And, as many bitter farmers will tell you, the only reason many of these loans exist is that the government's Farm Home Administration (FMHA) agents sought farmers out in the 70s encouraging them to take out loans. The government agents told them that the value of their farms was inflating faster than the current interest rates and that to turn down a loan was a poor business decision. During this time, FMHA lenders received bonuses and trips based on how much money they lent. But when land values tumbled in the 80s, the notes were called and the farms foreclosed. Ironically, bonuses are now awarded based on an agent's ability to clean up the books by foreclosing on bad loans.

In Oklahoma, the government is foreclosing on Josh Powers, a farmer who took out a $98,000 loan at 8 percent in 1969. That same loan today has an interest rate of 15 percent—almost twice as high as when the note was first issued. The angry farmer claims that he's paid back more than $150,000 against the loan, yet he still owes $53,000 on the note. Says Powers, "They'll spend millions to get me, a little guy, off the land—while Neil Bush just walks away from the savings and loan scandal."

The 1987 Farm Bill allowed for loans such as this to be "written down," allowing farmers to bring their debt load back in line with the diminished value of their farm. The purpose of the bill was to keep financially strapped farmers on the land. But in a rarely equaled display of government bungling, this debt forgiveness process was left to the whims of county bureaucrats with little or no banking experience.

As Wallace points out, "Imagine the frustration when a small farmer sees the buddy or family member of one of these county agents getting a $5 million write-down at the same time the agent is foreclosing on them (the small farmer) for a measly $20,000. It happens all the time. When these little farmers complain, they're given this telephone number in Washington. It's become a big joke in farm country. I've even tried to call it for years. You get this recording and nobody ever calls you back.

"These farmers are literally at the mercy of these county bureaucrats and some of them are just horrible people . . . We've had to intervene several times to keep farmers from killing them."

Most Americans are unaware that the farm crisis isn't over. According to counselor

Brock, things are as bad now for the family farmer as they were in the 80s. She notes that recent USDA figures that show the economic health of farms improving are, in fact, skewed by the inclusion of large farming cooperatives and corporate farms. Brock also says that "state hotlines are busier than ever as the small family farmer is being pushed off the land."

According to Wallace thousands of people have died as a result of the farm crisis, but not just from suicides. The psychologist says the number of men and women who have died of heart attacks and other illnesses—directly as a result of stress brought on by foreclosure—dwarfs the suicide numbers.

These deaths are often viewed as murder in farm country.

This spring, I went to western Oklahoma and met with a group of farmers who have become involved in the Freeman/Identity movement. This meeting demonstrated not only their belief that the government is to blame for their loss, but also the politics that evolve from that belief.

"They murdered her," says Sam Conners (not his real name) referring to the government. The room goes silent as the gray haired 60-year-old stares out the window of his soon-to-be-foreclosed farmhouse. In his left hand he holds a photograph of his wife who died of a heart attack in 1990. "She fought 'em as long as she could," he continues, "but she finally gave out. Even when she was lying there is a coma and I was visiting her every day—bringing my nine-year-old boy to see his mamma everyday—they wouldn't cut me no slack. All they cared about was getting me off my land so they could take it. But I tell you now, I'm never gonna' give up. They'll have to carry me off feet first and they probably will."

The other men in the room sit quietly as they listen to Conners' story, their eyes alternating between their dirty work boots and the angry farmer. The conversation comes to a sudden halt with a "click" from a nearby tape recorder. Conners looks clumsy as he tries to change the small tape in the micro-cassette recorder. His thick earth-stained fingers seem poorly designed for the delicate task. "I apologize for recording you," he says to this reporter. "We just have to be careful."

With their low-tech safeguard back in place, one of the other men begins to speak. Tim, a California farmer who looks to be in his early 30's, describes his plight: another farm, another foreclosure, more anti-government sentiment. Only this time, the story is filled with the unmistakable religious overtones of the Christian Identity movement; one world government, Satan's Jewish bankers, the federal reserve, a fabricated Holocaust, a coming holy war. "This kind of injustice is going on all over the country," says Tim. "It's what happened to the folks in Montana (referring to the Freemen) and it's what happened to me. That's why LeRoy (Schweltzer, the leader of the Justus Township Freeman) was arrested. He was teaching people how to keep their farms and ranches. He was showing them that the government isn't constitutional. They foreclose on us so they can control the food supply. What they want to do is control the Christians."

THE MIND OF THE FARMER

Losing a farm doesn't happen overnight. It can often take four to six years from the time a farm family first gets into financial trouble. By the end, says Wallace, these families are victims of chronic long term stress. "Once a person is to that point," he explains, "there are only a few things that can happen.

"There are basically four escape hatches for chronic long term stress. One, a person seeks help—usually through a church or the medical community. Two, they can't take the pain and they commit suicide. They hurt themselves. Three, they become psychotic. They lose touch with reality. They basically go crazy. And last, they become psychotic and turn their anger outward. They decide that since they hurt, they're going to make others hurt. These are the people that wind up threatening or even killing their lenders of FMHA agents. They're also the ones that are most susceptible to a violent anti-government message."

Unfortunately, psychotic personalities looking for support can find it in the wrong places. "Any group," says Wallace, "can fill the need for support. Not just good ones. Identity, militias or any anti-government group can come along and fill that role. Add their influence to a personality that is already violent towards others and you have an extremely dangerous individual."

No one knows how many members of the 700,000 farm families who have already lost their land or the additional hundreds of thousands that are still holding on to their farms under extreme duress have fallen prey to this violet psychosis, but those who have watched this situation develop agree the number is growing.

Wallace says that most people don't understand the mind set of farmers. "They ask, why don't farmers just get a new job or why does losing a farm cause someone to kill themselves or someone else?" Another rural psychologist, Val Farmer, has written often on this subject. In an article in the *Iowa Farmer Today*, he explained why farm loss affects its victims so powerfully.

"To lose a farm is to lose part of one's own identity. There is probably no other occupation that has the potential for defining one's self so completely. Those who have gone through the loss of a family farm compare their grief to a death in the family, one of the hardest experiences in life.

"Like some deaths, the loss may have been preventable. If a farmer blames himself, the reaction is guilt. Guilt can stem from a violation of family trust. By failing to keep the farm in the family, he loses that for which others had sacrificed greatly. The loss of the farm also affects the loss of the opportunity to pass on the farm to a child. Guilt can also arise from failing to anticipate the conditions that eventually placed the farm at risk: government policy, trade policies, world economy, prices, weather.

"On the other hand, if the loss is perceived to have been caused by the actions and negligence of others, then the farmer is racked with feelings of anger, bitterness and betrayal. This feeling extends to lenders, government, the urban public or the specific actions of a particular individual or institution."

"The stress intensifies with each new setback: failure to cash flow, inability to meet obligations, loan refusal, foreclosure notices, court appearances and farm auctions." Farmer concludes that "these people start grasping at straws—anything to stave off the inevitable."

PREYING ON THE SICK

Wallace agrees with Farmer and believes the anti-government message is one such straw. "When you reach the point where you're willing to kill yourself, anything sounds good. When these groups come along and tell a farmer that it's not his fault, it's the government's fault or the bank's fault, they're more than ready to listen. These groups are preying on sick individuals."

It's no wonder that groups like the Freemen, We the People and Christian Identity have found such enthusiastic support. They preach a message of hope for desperate men and women.

The Freemen offer their converts a chance to save the farm through a quagmire of constitutional loopholes and their complicated interpretations of the Uniform Commercial Code. Their legal voodoo may seem nuts to a suburban dweller, but to a desperate farmer they offer a last hope to hang on to the land their grandfather homesteaded, a trust they intended to pass on to their children.

And just how crazy their rhetoric is remains to be seen. Not all in the legal community scoff at the Freemen's claims. Famed attorney Gerry Spence—who represented Randy Weaver, a survivor of Ruby Ridge—has stated that at least some of their interpretations of constitutional law are accurate. It will be years before the court system manages to sort out the truth from the myth, and only then provided it desires to scrutinize itself—something it historically has shown little stomach for.

Organizers of We the People told farmers they could receive windfalls of $20 million or more from the federal government. They explained to their audiences—which sometimes reached more than 500—that they had won a Supreme Court judgment against the feds for allowing the country to go off the gold standard. They claimed that for a $300 filing fee the desperate farmers could share in the riches.

The media has repeatedly described the exploits of Freeman/We the People members: millions in hot checks, false liens, refusal to leave land that has been foreclosed by the bank and sold at auction and plans to kidnap and possibly kill judges.

Members of the press, including the alternative press, have commented on the fact that what all these people seem to have in common is that they are unwilling to pay their bills.

The *Daily Oklahoman* quoted an official describing these anti-government groups as saying, "We are talking about people who are trying to legitimize being deadbeats and thugs by denying their responsibilities."

But that analysis is at best partially true and at worst dead wrong.

What most of these radical anti-government people have in common—and what most government officials refuse to acknowledge—is that they were, first and foremost, *unable* to pay their bills. It was only after being unable to pay that they took up the notion of being unwilling to pay.

These farmers are the canaries in the coal mine of America's economy. They are in effect monitoring the fallout from the ever widening "gap" between the classes. The canaries are dying and that bodes poorly for the rest of us in the mine.

Both Farmer and Wallace agree that, as a rule, farmers have an extremely strong and perhaps unhealthy sense of morality when it comes to paying their bills. They suffer from deep humiliation and shame when they can't fulfill their financial obligations.

Wallace says, "It's only natural that they would embrace an ideology that comes along and says they are not only not bad for failing to pay their debts but rather are morally and politically correct to not pay their debts. It's a message that provides instant relief from the guilt that's making them sick."

In much the same way, only more dangerous, Christian Identity offers a way out for stressed farm families. Identity teaches that Whites and native Americans are God's chosen people and that Jews are the seed of Satan. Identity believers see a conspiracy of "Satan's army of Jews" taking control of banks, governments, media and most major corporations and destroying the family farm in order to control the food supply. They believe that we are at the beginning of a holy war where Identity followers must battle these international forces of evil and establish a new and "just" government based on the principles of the Bible's Old Testament as they interpret it. They become a soldier in a holy war under orders to not give up their land or money to the Jewish enemy.

AND JUSTICE FOR SOME

The renegade legal system known as the "Justice" movement is now estimated to be in more than 40 states. It seems to have as many variations as the fractional anti-government movement that created it. Some mainstream Patriots hold common-law courts at venues where the press and those accused of crimes are invited to attend. Sentences from these publicly held trials usually result in lawsuits, arrest warrants, judgments and liens being filed against public officials.

In Colorado, Attorney General Gail Norton has been just one of the targets of these courts. She's had millions of dollars worth of bogus liens filed against her. Across the nation, thousands of public officials including governors, judges, county commissioners and legislatures have been the targets of this new "paper terrorism." In most cases they are found guilty of cavorting with the enemy: the federal government.

Ironically, arresting those involved in this mainstream common law court revolution isn't easy. It's not because they can't be found; it's because they may not be doing anything illegal. Last month, Richard Wintory, the chief deputy of the Oklahoma attorney general's office, told the Daily Oklahoman that he could not say whether common-law court organizers had broken any laws.

The debate as to whether or not citizens have a constitutional right to convene grand juries and hold public trials will eventually be resolved. It's only one of the fascinating legal issues being raised by the heartland revolt. But there is a darker side to this vigilante court system, one that deals out death sentences in its quest to deliver justice and create a new and holy government.

In his book Gathering Storm, Dees describes Identity this way: "There is nothing 'goody, goody' or 'tender' about Identity. It is a religion, a form of Christianity, that few churchgoers would recognize as that of Jesus, son of a loving God. It is a religion on steroids. It is a religion whose god commands the death of race traitors, homosexuals, and other so-called children of Satan."

It is for this reason that the common law courts convened by those groups influenced by the Identity belief system are by far the most dangerous. Death sentences can be doled out for almost any conceivable transgression.

In the remote western Oklahoma farmhouse, Freeman/Identity farmers discussed the Justice movement. One man who had recently lost his farm to foreclosure explained their court system. "What you're seeing right now is just the beginning of taking back our country, the true Israel. The Bible says that we're to be a just people. Where is justice in this country? Our judges turn loose rapists and murderers and put farmers in jail. We're about justice. Why would anyone be afraid of that?

"We're holding courts right now in every part of this land. We're finding people guilty and we're keeping records so we can carry out the sentences. It's the citizen's duty and right to hold common law courts. It's the militia's job to carry out the sentences."

The farmer goes on to explain that Identity doesn't believe in prisons. He says that nearly all serious offenses are dealt with by capital punishment and that this punishment system is based on the Bible, the first 10 amendments to the Constitution and the Magna Carta. When asked how these death sentences would be carried out, he says, "There's a part of the militia that's getting ready to start working on that (death sentences). I think they're ready to go now. You'll start seeing it soon."

Perhaps we already have. Was the Oklahoma City bombing only the largest and most recent example? When asked, the men in the room state emphatically that they have no first hand knowledge of the bombing—even though some of them were questioned by the FBI within days of the deadly explosion. They say they don't condone it because so many innocent people died. But they agree that it may well have been the result of a secret court sentence. The court could have found the ATF guilty for any number of actions—including Waco and Ruby Ridge—and the militia foot soldiers, in this case McVeigh and Nichols, may have simply followed orders to carry out the sentence.

Whatever the case in Oklahoma City, it seems likely that this new and radical system of vigilante justice can't help but produce similar catastrophes.

The process that gave us that bomb was likely the result of the same stress-induced illness that is tearing our country apart one pipe bomb or burned-down church at a time. Comprehending and healing that illness is our only hope for creating a future free of more bombs, more death and destruction.

Mr. SKEEN. Mr. Chairman, I rise in opposition to this motion. It is another delaying tactic. I urge a "no" vote on the motion

The CHAIRMAN. The question is on the motion offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 125, noes 300, not voting 9, as follows:

[Roll No. 315]

AYES—125

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Edwards
Engel
Eshoo
Evans
Fattah
Fazio
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jefferson
Johnson (WI)
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pomeroy
Rangel
Rodriguez
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Serrano
Slaughter
Spratt
Stokes
Stupak
Tauscher
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waxman
Wexler
Weygand
Woolsey
Yates

NOES—300

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Farr
Fawell
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering

Pickett
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Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
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Ramstad
Redmond
Regula
Reyes
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Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
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Thune
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Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (FL)

NOT VOTING—9

Barton
Gephardt
Gonzalez
Kennedy (RI)
Molinari
Schiff
Stark
Waters
Young (AK)

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Mr. FARR of California changed his vote from "aye" to "no."

Mr. SCHUMER changed his vote from "no" to "aye."

So the motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 22 OFFERED BY MR. CHABOT

Mr. CHABOT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. CHABOT: Insert before the short title the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used to carry out section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) or to pay the salaries and expenses of personnel who carry out a market program under such section.

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. CHABOT] will be recognized for 5 minutes on behalf of his motion and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, in the last Congress, in historic legislation, we overhauled the welfare system as it applied to poor people in this country. I think it was good legislation, we are working on it now, but it affected poor people.

There is one type of welfare that we have hardly touched in that Congress or this Congress and that is something called corporate welfare. Now corporate welfare affects the powerful, it affects the wealthy. We have hardly touched it.

One particularly egregious type of corporate welfare in my opinion is something called the market access program. Now some of the folks on the other side on this issue will argue that it was reformed. This is a program where we spend $90 million a year in taxpayer money to advertise products overseas for trade associations and essentially for corporations.

Now the folks who favor this will say, well, we reformed it already, and basically what was done is we changed the name of it from the market promotion program to the market access program. Big deal. That is essentially the reform that we did in the last Congress.

I mean, should corporations advertise their products overseas to promote trade? Of course they should. But who should pay for it; the taxpayers or the corporations and the trade associations that benefit? I would argue not the taxpayers, but the people who benefit, the corporations themselves, ought to pay for this. If they were using their own money, they would be very careful.

There is all kinds of examples where the money has been wasted. A good example was in the case where my colleagues probably remember the Marvin Gay song, and I think Gladys Knight and the Pips had it also: "I Heard It Through The Grapevine," the California raisins commercial. Well, money from this program was used to advertise for raisins over in Japan.

Now the problem is they did some surveys on this afterwards, and it turns out that they did absolutely no good at all. In fact, a lot of the people that saw the commercials, rather than think they were raisins, they thought they were potatoes. They actually scared small children.

Now would the corporations who would have benefited from this program, if they were using their own money, would they have done a little research so that they did not waste this money? Of course they would. But since they are using taxpayer money, the research was not done, the dollars were wasted.

They will argue, those who favor this program will say it creates jobs, but the real jobs it creates are government jobs or the bureaucrats in the department.

So let us end this program.

Mr. SKEEN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio [Mr. CHABOT] but I yield such time as he may consume to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I just want to point out we can export our products or we can export our jobs, and I rise in strong opposition to this amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I simply rise in strong opposition to this amendment to cut a program which has been very successful in fighting subsidies that continue to be provided by our international trading competitors in agriculture. We have literally transformed this bill through debates on this floor over the last several years. This program was at one time authorized at $350 million. It is now down to 90 million.

We are concentrating on small business. Of the 564 companies that are participating in this program, putting up equal amounts to match the Federal dollars, we now have 417 of them, small businesses as defined by the SBA.

We are doing away with the branded marketing concept. I regret that, frankly, but it had critics here and we did away with it.

But the GAO tells us that we need to do more of this, that we are being taken advantage of in the international market. Despite the fact that our ag exports have grown by 50 percent since 1990, we continue to find, in crop after crop, that foreign subsidies push our farmers out of markets.

We should not adopt this amendment.

I rise in opposition to the amendment and in support of this program.

There is probably no more important tool for export promotion than MAP throughout the United States and particularly in California.

I would ask the gentleman what his point is in offering this amendment.

Does he think we spend too much on MAP? MAP was funded at $200 million as recently as 5 years ago, and was authorized at one time for $350 million.

I believe that was some recognition of the importance of market promotion to the American economy—a viewpoint buttressed not just by USDA but by the GAO who reported we should be doing far more of it in the face of enormous subsidies by our competitors.

Now it's down to a barebones $90 million.

Does the gentleman want MAP funds to go to small companies? FAS says that 417 of the 564 companies participating in MAP qualify as small by the SBA definition.

Is the gentleman against branded product promotion by large companies?

FAS has reduced funding for brand promotion by large companies by 35 percent in 1996, 45 percent in 1997, and will eliminate it altogether in 1998.

Does the gentleman want to make sure that MAP funds don't just substitute for marketing efforts the company would have undertaken anyway?

It is a requirement of the program, and every dollar has to be matched by the company's own funds as well.

But in the gentleman's zeal to oppose so-called corporate welfare, he completely ignores the value of this program to our economy.

Agriculture exports climbed again last year, fiscal year 1996, to $59.8 billion—up some $19 billion or close to 50 percent since 1990.

In an average week this past year, U.S. producers, processors, and exporters shipped more than 1.1 billion dollars' worth of food and farm products to foreign markets, compared with about $775 million per week at the start of this decade.

The overall export gains raised the fiscal year 1996 agricultural trade surplus to a new record of $27.4 billion.

In the most recent comparisons among 11 major industries, agriculture ranked No. 1 as the leading positive contributor to the U.S. merchandise trade balance.

As domestic farm supports are reduced, export markets become even more critical for the economic well-being of our farmers and rural communities, let alone the suburban and urban areas that depend upon the employment generated from increased trade.

Agriculture exports strengthen farm income.

Agriculture exports provide jobs for nearly a million Americans.

Agriculture exports generate nearly $100 billion in related economic activity.

Agriculture exports produce a positive trade balance of nearly $30 billion.

MAP is critical to U.S. agriculture's ability to develop, maintain, and expand export markets in the new post-GATT environment, and MAP is a proven success.

In California, MAP has been tremendously successful in helping promote exports of California citrus, raisins, walnuts, prunes, almonds, peaches, and other specialty crops.

We have to remember that an increase in agriculture exports means jobs: A 10-percent increase in agricultural exports creates over 13,000 new jobs in agriculture and related industries like manufacturing, processing, marketing, and distribution.

Where do those increased agriculture exports come from?

For every $1 we invest in MAP, we reap a $16 return in additional agriculture exports.

In short, the Market Promotion Program is a program that performs for American taxpayers.

I urge my colleagues to support American agriculture and oppose the gentleman's amendment.

Mr. CHABOT. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to say that this program is really a waste and a travesty and a giveaway; my colleagues can pick whatever word they want. It should have been killed years ago, but MAP has more incarnations than Vishnu. In the congressional equivalent of the witness protection program, MAP performs so abysmally we had to change its name, not once, but twice, in order to hide the program from the taxpayer. When I got here it was called TEA, then MPP, and after three excoriating GAO reports and billions in corporate welfare giveaways, it became MAP. If my colleagues do not like the name, we can change it again, but what we should do is get rid of the program.

MAP and its forefathers have given 70 million to Sunkist, 40 million to Blue Diamond, 20 million to Sunsweet, 60 million to Gallo. We are figuring out ways to cut the budget and cannot cut this kind of corporate welfare? Of course, we can. One million dollars to McDonald's.

And then this. We are giving $1 million to McDonald's to advertise overseas. Are there not better needs for our money than that?

And finally, as the gentleman from Ohio [Mr. CHABOT] mentioned, and my colleagues ought to listen to this one, it is one of the best they will hear, the California Raisin Advisory Board won a grant to introduce raisins to Japan. What a fiasco, using taxpayer funds, the ad "I heard it through the grapevine" claymation raisin campaign that won many awards in the United States.

But there will be no awards in Japan. First it turns out that these claymation raisins were not bilingual, so in Japan they were singing only in their native English. Second, Marvin Gay is unknown in Japan so the audience did not understand the song or get the pun. Third, since the Japanese have never seen raisins, it is not a product in Japan, they were baffled by these gargantuan vaudevillian dangerous dancing raisins. They thought they were dancing potatoes. And finally, the raisins had four fingers, which apparently is a bad omen in Japan. They frighten children.

Perhaps the raisin board would have done a little bit of market research if they were using their own money instead of the taxpayers'. Let us end this program once and for all.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I rise in strong opposition to this amendment and in favor of the market access program that is being so very important to exports in America.

The Market Access Program is a $90 million USDA cost-share program aimed at helping maintain, develop, and expand U.S. agriculture export markets.

The program was substantially reformed in the 1996 farm bill:

Participants contribute up to 50 percent or more toward program cost.

MAP is targeted toward small businesses, farmer cooperatives, and trade associations.

Requires funds to be used only to promote American grown and produced commodities and related products.

MAP is a key part of the new 7-year farm bill, which gradually reduces direct income support to farmers. Expanding exports is extremely important—exports now account for as much as one-third of domestic production. Export markets are extremely competitive, especially since other nations and the European Union greatly outspend U.S. promotion efforts.

In 1996, Missouri exported approximately 1.3 billion dollars' worth of agricultural products—soybeans, feedgrains, wheat, cotton, poultry, animals/meats—which sustained more than 22,000 jobs.

MAP has helped the agriculture sector become the largest positive contributor to the U.S. trade balance.

PROMOTING MISSOURI EXPORTS AND PROTECTING JOBS

USDA'S MARKET ACCESS PROGRAM [MAP]

USDA's Market Access Program (MAP) has been a tremendous success in helping promote U.S. and Missouri agriculture. It has also helped protect jobs, counter subsidized foreign competition, and contribute to economic growth and an expanding tax base. As a cost-share program providing assistance to farmers and ranchers through their associations and cooperatives, and to related small businesses, MAP continues to be of critical importance.

MAP IS IMPORTANT TO MISSOURI AGRICULTURE, ECONOMY AND JOBS

Number of jobs: Nearly 1 in 6 Missouri Jobs Depend on Agriculture.

Number of farms: 105,000.

Value of agriculture production: Over $4.5 billion.

Value of agriculture exports: More than $1.2 billion.

Export-related jobs: Approximately 20,000.

MAP IS IMPORTANT TO U.S. AGRICULTURE, ECONOMY AND JOBS

Agriculture largest single U.S. industry: Accounts for 16 percent gross domestic product.

Exports key to continued economic growth.

Value of U.S. agriculture exports: Record $60 billion in 1996.

U.S. agriculture trade surplus: Record $30 billion in 1996.

U.S. agriculture export-related jobs: Over 1 million American jobs.

MAP HELPS MEET SUBSIDIZED FOREIGN COMPETITION

The global marketplace is still characterized by subsidized foreign competition. The European Union (EU) maintains a 10 to 1 advantage over the U.S. in terms of export subsidies. Many other countries and the EU also support industry market development and promotion efforts to encourage exports. MAP is one of the few programs allowed under the Uruguay Round Agreement to help U.S. agriculture and American workers meet such foreign competition.

MAP IS A SUCCESSFUL PARTNERSHIP WITH BROAD PUBLIC SUPPORT

Serves as "Buy American" Program by promoting only American-grown and produced agricultural commodities and related products.

Strongly supported by 75 percent of American public based on 1996 national election day exit poll conducted by Penn & Schoen Associates, Inc.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this amendment. It would be foolish and negligent of us to cut one of our most successful programs that provides Americans with needed jobs, increases American earnings and significantly stimulates our national and local economies. For every dollar spent on value-added products under the market access program, our Nation receives a return of $7.61. This means we are receiving a 761 percent return on our MAP investment. This program is a major success. Remember, the purpose of the market access program is not to subsidize but to open markets for American small businesses.

Mr. Chairman, this program works, and it works well. I urge my colleagues to support the market access program and vote "no" on the Chabot-Schumer amendment.

Mr. CHABOT. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Chairman, I rise in support to eliminate this program which uses taxpayers' dollars to subsidize the overseas advertising budget of major corporations.

Since 1986 this program has spent several billion dollars in this way and, incredibly, has even supported advertising by foreign-owned corporations, including some in Tokyo and in Paris. Studies from several government offices and groups across the political spectrum have blasted the MAP. A U.S. General Accounting Office study reported that MAP funding goes to corporations that have no need for taxpayer funds to support their products.

I urge an "aye" vote.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. WICKER].

Mr. WICKER. Mr. Chairman, I rise in strong support of the market access program and against the Chabot amendment.

Mr. Chairman, I rise in opposition to the amendment to eliminate funding for USDA's Market Access Program.

The Market Access Program, or MAP, has been a tremendous success in maintaining and expanding U.S. agriculture exports, competing with foreign subsidized agriculture, and protecting American jobs.

This is true across the country as well as in my home state of Mississippi. With the help of MAP, Mississippi agriculture exports—including cotton, soybeans, poultry, rice, livestock, and animal products—reached nearly a billion dollars last year. It helped provide nearly 14,000 jobs statewide. This not only strengthened farm income, it provided a significant economic boost to many local communities.

The program helped promote record U.S. agricultural exports of nearly $60 billion last year, contributing to a record trade surplus of almost $30 billion, and providing jobs for over one million Americans. Every billion dollars in exports helps create as many as 17,000 new jobs.

MAP is a cost-share program. Participants are required to contribute as much as 50 percent of their own resources to be eligible for the program. In addition, the program remains a key part of the 1996 farm bill and its 7-year commitment to our farmers and ranchers. The program remains critical to our effort to open up foreign markets and to combat subsidized foreign competition. According to the U.S. Trade Representative, more than 46 countries continue to use trade barriers which limit or restrict U.S. agriculture exports. For example, the European Union spent nearly $10 billion on export subsidies last year, while the U.S. spent less than $150 million. Eliminating MAP would hurt our farmers and ranchers, as well as American workers whose jobs depend on agricultural exports.

The choice is simple. We can either export our products or we can export our jobs.

I encourage my colleagues to vote against this amendment.

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Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I say to the Members, hey, wake up and smell the coffee. What do Members think this program is all about? Members sit there and watch television, where Juan Valdez is wandering around the supermarket selling Colombian coffee, where the Greeks are selling olive oil, where the French are selling wine. Where do Members think those countries are paying for those products to get into our markets?

How are we going to do world trade unless we can reach out and sell our products? Agriculture has the best balance of trade, $30 billion in surplus. Support this program. Members are foolish to cut us off and shoot us in the feet and not allow American products to be sold abroad. Smell the coffee. Defeat this amendment.

Mr. Chairman, the Market Access Program [MAP] is critical to the future health of our Nation's agriculture. If we cut MAP, we will pull the rug out from underneath American farmers.

First, the Market Access Program benefits American agriculture. Every dollar spent by M.A.P. provides several dollars in export sales. For fruits and vegetables alone, each dollar of MAP creates $5 dollars in export sales. MAP benefits all American agriculture: grains, livestock, fruits and vegetables, cotton—all benefit from MAP.

Thanks in part to MAP, U.S. agriculture exports are the single largest positive contributor to the U.S. trade balance. Despite years of trade deficits, agricultural trade continues to run a surplus—$27 billion this year alone. This year alone the United States will export 457 billion in agricultural goods—that's double the size of exports when the program started in 1985.

Second, MAP is very small in comparison to what other countries spend on export promotion. Europe alone spends $350 million a year on export promotion programs—over three times the amount we spend in our country. Fourteen other countries—including Australia, Brazil, Canada, Japan, and Norway—spend a total of $400 million per year on export promotion programs. When you buy Juan Valdez coffee, Greek olive oil, or French wine, you're buying a product that profited from foreign export promotion.

Third, some say MAP is a subsidy—but that just isn't true. MAP gives first priority of funding to small businesses, cooperatives, and trade associations. No MAP funding may supplement or replace private sector funding; it can only be in addition to private-sector funding. MAP funding is matched by up to 50 percent, or sometimes more, by participants. MAP funding has been steadily reduced, from $300 million in 1985 to less than $100 million today.

American agriculture depends more on exports than ever before—don't kill a program that works. Vote against this amendment.

Mr. CHABOT. Mr. Chairman, I yield 30 seconds to the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Chairman, with all due respect, I think companies such as Sunkist, Dole, Gallo, and M&M Mars are capable of smelling the coffee themselves. If there ever was a program that defines welfare for corporations, this is it, $90 million annually for corporations to conduct advertising abroad.

Mr. Chairman, if we ever wanted to cast a vote to end corporate welfare, this is it. I urge an "aye" vote on the pending amendment.

The CHAIRMAN. All time has expired on the proponents' side of the amendment offered by the gentleman from Ohio [Mr. CHABOT].

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in opposition to the amendment.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Chairman, I rise in strong opposition to this amendment. This program helps American farmers to find markets in a very competitive global environment marketplace. We are not supporting our farmers nearly to the degree Europe is. I would also like to suggest to the proponents of this amendment that they get some new material. That California raisin story is getting very, very old.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong opposition to the Chabot amendment.

Mr. Chairman, I have stood before you many times over the years to praise the achievements of America's farmers and ranchers. And, up until now, I have been somewhat restrained, which is not always easy for a Texan.

In past years I have told you that agriculture was the No. 2 contributor to U.S. trade, behind the aerospace industry—not bad when you consider that airplanes are priced in the millions, and wheat is a few dollars a bushel.

Well, agriculture is no longer No. 2. This year, agriculture is the No. 1 contributor the positive side of our trade balance. Believe me, I am from Texas, and I know big. And our exports of agricultural products in the past year have been big—$60 billion.

Critics claim that the Market Access Program, or MAP, has been ineffective—that it has not played an important role in the success story of American agriculture. But the experts at the Foreign Agricultural Service disagree. In a detailed 1995 report, they concluded that export promotion activities under MAP and its predecessor programs have been the leading factor in the 200 percent increase in U.S. high-value consumer food exports since 1986.

The University of Arizona's National Food and Agricultural Policy Project agrees. The project analyzed export values, quantities and prices; measures of foreign income, prices, populations, and exchange rates; and export promotion expenditures by commodity, country and year. They concluded that not only does each promotion dollar return multiple dollars to the commodity being promoted, there is also a halo effect.

This halo effect refers to the contribution that promotion of one product contributes to sales of other U.S. products. The Arizona project concludes that MAP ultimately serves as a "Buy USA" campaign, with broader application than the products it specifically promotes.

Cornell University's National Institute for Commodity Promotion Research & Evaluation has extensively studied the effectiveness of agricultural promotion programs. The institute concluded that export promotion programs are highly effective in increasing private sector investment in export promotion, and that USDA's programs have stimulated promotion expenditures in both the domestic and the export market.

Why have U.S. agricultural exports doubled in the last 10 years? Because American agriculture, long recognized as the most productive in the world, have increased their focus on world markets. They are producing more sophisticated products that cater to the tastes of foreign consumers. And, thanks to MAP, they are marketing those products more effectively.

Last year we voted to phase out subsidies over a period of 7 years. Farmers and ranchers lost their safety net, and were told to look to foreign markets to make up the difference. MAP was an integral part of last year's farm bill.

How important is the program to those farmers who lost the safety net? The Foreign Agricultural Service concluded that in 1992, export promotion boosted net farm income by $642 million. By the year 2000, the level of net farm income supported by the Market Access Program is expected to exceed $1 billion. That translates into 124,000 jobs, including 80,000 nonfarm jobs, in trade, transportation, services, food processing, and manufacturing.

Not only does MAP create jobs for farmers and nonfarmers alike, it also contributes to the U.S. Treasury. By the year 2000, annual tax receipts to the Treasury from economic activity generated by the program are expected to reach $250 million.

Our competitors continue to outspend us in every area of agricultural export promotion—from direct subsidies to market promotion. The EU spends about $10 billion annually on subsidies and $500 million on market promotion. USDA research indicates doubling the MAP program level would support 40,000 additional U.S. jobs by the year 2000.

In the competitive world in which we live, we shouldn't be here today talking about eliminating a program that gives us a fighting chance in export markets. We should be here talking about what else we need to do to build markets we can depend on to stay competitive in the years to come.

Mr. SKEEN. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this amendment. Mr. Chairman, the question here is, do we want to advertise our products worldwide or do we not?

We know that the return and the leverage on this Market Access Program is 10 to 1. Sometimes it is 20 to 1. We are getting huge, huge opportunities from this program. It is one of the few programs we have in our quiver to attack what is happening around the world. If we withdraw unilaterally, we hurt the United States of America. We have built up a $26 billion trade surplus in this program.

Here is what is happening in Europe: $45 billion for domestic and export subsidies. We are at $5 billion, and as I mentioned many times, phasing out at the end of 6 years. Are we going to eliminate our one opportunity here to sell abroad? I think not. It is foolish. It is foolish of us to withdraw from this program. This is no time to withdraw from international trade.

By the way, those of the Members in business, it is the very best business decision you will ever make. Vote against this amendment.

Mr. RIGGS. Mr. Chairman, I rise in strong support of the Market Access Program [MAP]. Once again, the opponents of the MAP have their facts wrong and I would like to take this opportunity to correct the rhetoric and misinformation espoused by the opponents of this invaluable program.

Mr. Chairman, as you know, the congressional district I represent includes the Napa Valley, widely regarded as the prime growing region of the U.S. wine industry. The U.S. wine industry produces an award-winning, high-value product that competes with the best in the world.

However, the agriculture sector in the United States, and specifically wine, continues to face unfair trading practices by foreign competitors. Domestic agriculture industries must compete with the lower wages and the heavily subsidized industries of Europe, East Asia, and other emerging global regions. The European Union alone subsidizes its wine industry by over $2 billion.

Mr. Chairman, opponents of the MAP label the program as just another form of corporate welfare, claiming the program benefits only large corporations. Nothing could be further from the truth. The MAP is an invaluable resource for American agriculture to compete against massively subsidized foreign agriculture exports. What is more, it is a resource that allows America's small farmers to compete in highly restrictive foreign markets. Simply, the MAP is pro-trade, pro-growth and pro-jobs.

Opponents of the program continue to ignore the fact that in 1995, the Agriculture Appropriations Subcommittee reformed the MAP to restrict branded promotions to trade associations, grower cooperatives, and small businesses. Additionally, Secretary of Agriculture Dan Glickman, in March this year, announced that large companies will no longer be able to participate in the branded program. The primary emphasis of the MAP is toward the small family farmer. A sizable number of the so-called large corporations receiving MAP moneys are actually grower cooperatives.

The purpose of the MAP is simple: Move high-value American-grown agriculture products overseas, knock down trade barriers, and create and protect American jobs. A recent study by the University of Arizona showed that for every dollar of MAP funds spent overseas promoting American wine there was a return of $7.44; for table grapes, a return of $5.04; and for apples, a return of $18.19.

In the world marketplace, competition is fierce. Every year, American jobs become more dependent on foreign trade. Efforts to dismantle our leading export promotion program are penny-wise and pound-foolish. To retreat in the international marketplace is shortsighted and counterintuitive. We must actively engage our trading partners and open up emerging markets to our agriculture goods.

Don't be fooled by the rhetoric. Do what is right for America by supporting American jobs and American exports. I urge my colleagues to support the Market Access Program. Thank you, Mr. Chairman.

Ms. WOOLSEY. Mr. Chairman, I rise in strong opposition to this shortsighted amendment which would have a devastating impact on the people I represent in Sonoma and Marin Counties, CA.

The wine and winegrapes from my district are famous worldwide, but vintners have to fight to enter and complete in the world market.

The Market Access Program helps the small wine producers in my district compete with heavily subsidized foreign producers who still dominate the global agricultural marketplace.

The European Union export subsidies amounted to approximately $10 billion last year. In fact, the European Union spends more on export promotion for wine than the United States does for all of our agriculture programs combined.

We need only look at last year to see this unfair disparity in action—market promotion funds for the American wine industry totaled approximately $5 million, whereas the heavily subsidized European wine industries received $1½ billion.

The money we spend to increase the markets for American agricultural products is money well spent. Because of assistance from the market access program, U.S. wine exports had their 12th consecutive record-breaking year in 1996, reaching $320 million. This level is an $85 million increase in 1 year, which means that each Market Access Program dollar being spent generated a $17 increase in exports. In the last 10 years, an additional 7,500 full-time jobs and 5,000 part-time jobs have been created by exporting wine. This is not only good for the American balance of trade—it's good for the American economy.

Mr. Chairman, we should help export U.S. products, not U.S. jobs. Oppose the Schumer-Chabot-Royce amendment.

Mr. POMEROY. Mr. Chairman, I rise in strong support of the Market Access Program [MAP] and oppose any attempt to further weaken the program's ability to assist in the promotional activities for U.S. agricultural products. The Market Access Program is good for agriculture, international trade, and promotes small business and American-made products. MAP simply helps develop foreign markets for U.S. exports. The MAP provides cost-share funds to nearly 800 U.S. businesses, cooperatives, and non-profit trade associations to promote their products overseas. Additionally, funds allocated under the MAP are limited to U.S. entities.

In a time when America's farmers and agricultural sector are just beginning to adjust to Freedom to Farm, a way of operating Government farm programs without the assurance of price supports or safety-nets, it makes no sense to take away other underlying support programs like the MAP. I have said the same thing about research funding and funding for adequate revenue and crop insurance. Congress promised America's farmers certain fundamental things as we moved to Freedom to Farm. Although producers no longer can rely on the Government to come through and pick up the tab when commodity prices are lower than certain target prices, they should be able to rely on certain supplemental programs run by the Department of Agriculture that keep producers' heads above an already narrow margin.

In my State of North Dakota, the MAP contributes to the promotion of $1.7 billion in exports, and 29,300 jobs. I might add that in Ohio, the home State of the proponent of this amendment, agricultural interests receive support for $1.6 billion worth of exports related to 27,400 jobs. Source: USDA, Bureau of Census—1996.

Rural income depends on—and is at the mercy of—many variables. Weather and domestic supply are examples. But the ability to export overseas and compete with foreign markets is another integral piece to maintaining rural income. The MAP offers one small opportunity to help American agricultural interests compete with international markets—during a time when farm income is now more dependent than ever on exports and maintaining access to foreign markets. The elimination of MAP would represent unilateral disarmament—shooting oneself in the foot actually—in the face of continued subsidized foreign competition.

Don't take away a great tool from our agricultural sector that has the potential to help even the playing field with foreign market interests.

Mr. BARRETT of Nebraska. Mr. Chairman, I strongly oppose the amendment offered by Representatives CHABOT and SCHUMER, that would eliminate the Market Access Program.

The sponsors of this amendment suggest that the Market Access Program subsidizes large agribusinesses' export promotion activities, and that it is a waste of taxpayers' money.

Nothing could be further from the truth. The 1996 farm bill substantially reformed this program, by targeting it toward small producers, trade associations, and cooperatives, to promote home-grown U.S. agricultural products. In addition, the farm bill requires Federal funds to be matched by the programs beneficiaries.

In reality, the Market Access Program has been a highly effective tool to promote U.S. exports. And as the Federal Government becomes less and less involved in the everyday decisions of farming, it is even more important that the Government take the initiative to increase our share of the world market.

I urge my colleagues to oppose this amendment. I yield back the remainder of my time.

Mr. DOOLEY. Mr. Chairman, I rise to express my opposition to the amendment offered by the gentleman from New York [Mr. SCHUMER]. This amendment would eliminate funding for one of the most successful Federal programs that we have. It is unfortunate that the overwhelming support that this program has received over the years illustrates its importance.

Think about this: The European Union's 1996 budget allowed for export subsidies for grains and grain products of $1.3 billion, for sugar of $1.9 billion, for fresh fruits and vegetables of $125 million, for processed fruits and vegetables of $18 million, for wine of $72 million, for dairy products of $2.5 billion, for meats and meat products of $2.4 billion and for other processed food of $752 million. This compares to a total for the United States of less than $150 million.

The EU spends nearly $500 million on market promotion specifically. We are debating the fate of a $90 million program that provides the only market promotion funding available to agricultural producers in the United States. Since 1985, the MAP has provided cost-share funds to nearly 800 U.S. companies, cooperatives, and trade associations to promote their products overseas. In that period, total U.S. agricultural exports have more than doubled, from $26.3 billion to a projected $60 billion in 1996. During those same years, exports of U.S. high-value products have more than tripled, and now account for 34 percent of all U.S. agricultural exports, up from 12 percent in 1980. In addition, the U.S. share of world trade in these products has risen from 10 percent to 17 percent.

Over the years the MAP and its predecessor programs MPP and TEA have been criticized for many perceived shortfalls. All of these concerns have been addressed either legislatively or through regulations. The 1996 farm bill made permanent program changes that address these concerns. First, participants are required to contribute up to 50 percent or more toward programs costs. Second, for-profit corporations that are not recognized as small businesses are no longer allowed to participate in the program. Third, funds can be used to promote only American grown and produced commodities and related products. Fourth, participants are required to undergo review, certification and a 5-year graduation from the program.

Mr. Chairman, last year we undertook the greatest rewrite of Federal farm programs in nearly 60 years. The changes that we made make it imperative that the U.S. remain a strong force in the international market. The continued health of the U.S. agriculture sector is reliant on continued exports and future export markets. Our competitors have made a financial commitment to export subsidies and export promotion. We need to ensure that we continue our commitment to our Nation's farmers.

I urge my colleagues to continue their support.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. CHABOT].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 193, further proceedings on the amendment offered by the gentleman from Ohio [Mr. CHABOT] will be postponed.

AMENDMENT NO. 14 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. SMITH of Michigan:

Insert before the short title the following new section:

SEC. . None of the funds appropriated or made available by this Act may be used to pay the salaries and expenses of personnel who work at a regional office of the Natural Resources Conservation Service or to provide a support service for a regional office of the Natural Resources Conservation Service.

Mr. SMITH of Michigan. Mr. Chairman, I rise to make a statement, and to have a colloquy with the ranking member and the chairman of the Committee on Appropriations, and the chairman of the Committee on Agriculture.

Mr. Chairman, I will make a brief statement and proceed into the colloquy. In the last year the National Conservation Service has created a new regional bureaucracy. NRCS has local, State, and national offices. That is what they had before. Now they have put a new tier of bureaucracy between the State offices and the national offices.

There was a situation in Congress in 1994, partially in 1995, when the Democrats and Republicans said that Washington is too top-heavy in USDA. So what happened? There was no firing of personnel, but all of those top-ranking, high-grade executives in the Department of Agriculture, as part of that reorganization, those personnel were not fired or pink-slipped but they were transferred to regional offices, a new tier of six regional offices for our conservation service.

Mr. Chairman, I would urge my colleagues that are concerned with conservation, concerned about the service to farmers and ranchers in this country, to call their conservationists in their area and ask them about the slow-down of paperwork, the slow-down of personnel.

We have $22 million in this budget for these regional offices. This, Mr. Chairman, is the first year that these six regional offices existed. I think it is important that we not allow those to be entrenched.

Mr. Chairman, new bureaucracy makes no sense in the era of "reinvented government" and budget cuts. As we phase out payments to producers and scale back agricultural programs, it is unreasonable to add new layers of bureaucracy.

I urge my colleagues to join this effort to cut back unnecessary bureaucracy at NRCS. If we go to conference with this amendment, we can talk out this problem and reach a solution.

Mr. Chairman, I would like to call on the chairman of the Committee on Appropriations in a colloquy.

Mr. Chairman, I would ask the gentleman from New Mexico [Mr. SKEEN], would he review this issue and the spending of $22 million for these new regional offices in the conference committee, and work to include such report language to ensure that these six new regional offices will not continue if they are an unnecessary level of bureaucracy?

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I am also concerned about these new conservation offices using $22 million of our taxpayers' money. I assure the gentleman that our committee will review this issue. I have no intention of spending $22 million if it is not a constructive addition to our conservation system.

Mr. SMITH of Michigan. If it is a new level of bureaucracy, it makes no sense.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I appreciate the gentleman's constructive work in trying to assure that these regional offices actually serve a useful purpose, and would add my support to the gentleman's request for an inquiry to make sure that the offices themselves are not new nor unnecessary levels of bureaucracy which could complicate our efforts to assist farmers and meet our goals of conservation.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentlewoman.

I would like to address the question to the chairman of the standing Committee on Agriculture. Mr. Chairman, can we pursue this question in the gentleman's committee?

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I would say to my colleague from Michigan that I appreciate his concern on the matter, that our committee will pursue an inquiry and review the new regional offices. I think it is obvious that we need to assure ourselves and the American agriculture community that this is indeed an effective and proper use of funds.

Mr. SMITH of Michigan. I thank my colleagues, Mr. Chairman. Let us remind ourselves, this is the first year of these six new regional offices. If we let them be entrenched, then we go for 2 and 3 and 4 years. It is going to be that much more difficult. It is a cost of $22 million that could be much better spent at our local county offices, in our State offices. That is where the action is. That is where farmers and ranchers need their help.

Mr. Chairman, I want to make a comment on the general amendments that we have had today. Look, the reason we have farm programs in this country is to assure an adequate supply of food and fiber. Let me tell the Members what these farm programs have done. It does not go into the pockets of farmers. It is not subsidizing.

We have ended up with a farm program that has created the most efficient industry in the world as far as agricultural production. That is why the American people eat and spend only 11 percent of their take-home pay on food, the cheapest, highest quality food in the world.

So when we talk about knocking down these amendments for export enhancement programs, for programs that allow farmers to buy the kind of insurance that is going to move ahead with our freedom to farm bill, putting farmers on an even keel with the rest of the world, that is the challenge we have. When other countries are subsidizing their crops and subsidizing their exports into this country, we need to do something to make sure we have a strong industry.

Mr. BEREUTER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. SMITH].

Mr. Chairman, the gentleman has proposed and seems to have indicated he might be satisfied with a study, and he has gained the support of the ranking member and the chairman of the appropriations subcommittee and the chairman of the authorizing committee. But I would like to put additional facts on the record at this point.

We have heard a little comment or two about these issues. They are all fairly negative by the gentleman from Michigan. But I would like to point out to my colleagues that the staff to form the regional offices came from several former organizational levels, including the national headquarters, national technical centers, of which there were four, and State offices. In fact, only 25 percent of the regional office employees came from positions in the national headquarters.

The regional offices have provided essential and successful managerial and oversight functions for the restructured NRCS by bringing managerial authority closer to the field and the actual work and customers. Previously the NRCS assistant chiefs who held some of the current regional managerial authorities were actually located in this city. They were too far removed from local needs to be effective.

Given the funding realities of the last several years, we have been able to keep significant staff in the field largely by making as many cuts above the field level as possible. Without the regional offices, the move toward them, I would say that some of this would have been impossible.

The NRCS regional conservationists hold full authority for funding within their regions. This has put funding decisions closer to the field and to the customer, the client. Regional conservationists, I would suggest, based upon input I receive, are better able to address priority issues in a timely manner than previously when funds and decisions were held here in the Nation's Capitol.

If the various requirements in the GAO asking for strengthening oversight activities alone were not being handled by the regional offices, we would be forced to assign those responsibilities to the State office level in the organization. This approach would hinder the ability to put additional staff at the field level, cause the State operations to be more focused on administrative duties, and reduce the amount of technical backup the State offices are now providing the field, which has directly improved customer service.

Mr. Chairman, I think this approach allows the agency to recognize the different parts of the country and the fact that they have very different natural resource needs, different agricultural systems, and different customers. The old system forced our policy to approach solutions which were national in scope and tended to be kind of one-size-fits-all.

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The regional approach, I think, is assisting in fostering our efforts of locally-led conservation. And as the regional system continues to mature, it will ensure, I hope, that local needs are met with local solutions. And I say "hope" because we have moved to this arrangement only a year ago. So I would suggest that radical surgery is too premature at this time.

Certainly, it is appropriate for the authorizing committee in particular to examine this issue, but I did want to bring these facts to my colleagues' attention at some point.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Chairman, I would like to enter into a colloquy with the gentleman from New Mexico [Mr. SKEEN] about the important issue of outstanding USDA loans. As the chairman is aware, there are billions of dollars in outstanding USDA loans. There are hundreds of individuals with unpaid debts of more than $1 million each, and many of these loans are more than several years overdue.

Right now the USDA is receiving less than 10 cents on the dollar on the loans that the Department tries to collect. If we were able to improve our collection on these loans, we could help reduce our budget deficit at a time when we are working hard to balance the Federal budget.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I want to tell the gentleman from Texas [Mr. EDWARDS] that I agree with him. The outstanding loans are a significant problem at the USDA.

Mr. EDWARDS. Mr. Chairman, if the gentleman would continue to yield, I believe we could be more efficient in the way that we collect on those loans if we allowed qualified private sector firms to contract out for these collections. This is a process being used effectively and efficiently by other Federal agencies.

Mr. SKEEN. Mr. Chairman, if the gentleman would again yield, contracting out would be a good way, in my opinion, to try to collect on these loans. It is my understanding that the USDA has the authority now to contract out but has not yet engaged in any such contracts. And, like the gentleman from Texas, I would support efforts to privatize this collection process, and I am urging the USDA to move forward on this plan and to contract out for the collection of these large overdue loans.

Mr. EDWARDS. Mr. Chairman, I thank the chairman for his attention to this very important matter.

Mr. SMITH of Michigan. Mr. Chairman, I ask unanimous consent that my amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT NO. 23 OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 Offered by Mr. Pombo:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 728. None of the funds made available in title III of this Act may be used to provide any assistance (other than the servicing of loans made on or before September 30, 1997) under any program under title V of the Housing Act of 1949 relating to any housing or project located, or to be located, in the City of Galt, California.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. POMBO] will be recognized for 5 minutes, and a Member in opposition, the gentlewoman from Ohio [Ms. KAPTUR] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, to start off with, I would like to clear up a little bit about what this amendment is all about. First of all, neither I nor the city of Galt is opposed to affordable housing. As a city councilman, I worked hard to establish affordable housing in the city of Tracy, which I had the pleasure of representing. Also, the city of Galt itself has participated directly in financing of low- to very low-income housing within their city limits.

The city of Galt, which is located in my district, is in a unique and critical situation. They have developed a financial plan to pay for their infrastructure within their city, to pay for their schools, to pay for their roads, their sewer system, their water system. A lot of that was based upon the housing that was going to be developed within their city.

Unfortunately, they have run into a problem. Part of that problem is the fact that they are now making up 70 percent of the rural housing and community development service loans within the Sacramento region. The reason that that has become a problem is that the Sacramento region, Sacramento County is made up of 1.1 million people. The city of Galt is made up of 16,000 people, and yet they are being asked to absorb 70 percent of these low-income developments into their city.

Furthermore, Mr. Chairman, the question has come up about whether or not they are trying to keep affordable housing out of their city. I will just point out to my colleagues that the city of Galt currently is made up of 67 percent affordable housing, according to Sacramento County Assessor's Office.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Pombo amendment because I truly do not believe that this is a matter for our Committee on Appropriations.

I am opposed to the amendment of the gentleman from California that redesignates Galt, CA, as an urban community rather than a rural community.

I remain concerned about the purpose of this language and the unintended consequences that may result. The town council of Galt has not voted to ask the Congress for repeal of its eligibility for rural housing assistance. There is no official resolution asking us to do this. And in fact even if they had, the appropriations bill is not the proper place in order to consider this.

In addition, Mr. Chairman, the current Federal statutes do not force any town to take rural housing assistance. It is optional if they wish to seek it. So why would any Member wish to lift this designation from their town?

Finally, it is our understanding that many low-income families seeking to invest their own sweat equity in helping to build their own homes will lose that opportunity in Galt as a result of this amendment.

Mr. Chairman, I have continued to strongly oppose this amendment. This addresses a local matter in which this Congress, certainly the Committee on Appropriations, should not intervene. Why should the Federal Government set a separate policy affecting one community that sets a terrible precedent for other communities to appeal to the Committee on Appropriations for special treatment to resolve their local issues. It is simply not our job to do that.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY], the ranking member on the Subcommittee on Housing and Community Opportunity, and urge a "no" vote on the Pombo amendment.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I rise in opposition to this amendment. I have had an opportunity to discuss this with the gentleman from California [Mr. POMBO]. It would have been appropriate for this issue to come before the Subcommittee on Housing and Community Development and for us to be able to determine the facts of the specific request made by the gentleman from California pertaining to the building of low-income housing in his district.

The purpose of this rural housing initiative funded by the Farmers Home Administration is really to provide, in most cases in the area that it is being built, permanent housing for the farm worker community. There is an underlying concern that many people have voiced to me that what this amendment is about is keeping a farm worker community out of a specific part of the district of the gentleman from California, the area of Galt, CA.

Mr. Chairman, if that is in fact what this amendment is attempting to do, then I would oppose the gentleman's amendment with every ounce of strength I could, and I am sure other Members would as well. The gentleman from California assures me that that is not what it is about. The difficulty is that we have no evidence to suggest whether it is or whether it is not and it puts us in a very difficult position.

I have tried to work out with the gentleman an agreement that I think the chairman of the committee as well as the ranking member would have supported. The gentleman has insisted upon taking this to a vote. I think it is a mistake. I think that if in fact the Subcommittee on Housing and Community Development could have had an opportunity to hear directly from the people involved, get a sense of where the farm worker community was coming out, get a sense of what the needs are.

I understand from the statistics cited by the gentleman from California that 67 percent housing in his community in fact is considered affordable. But I also understand that there are only 335 units of subsidized housing in that area. The truth is that if we are going to stabilize the farm worker community of this country, I believe that it is important that we provide permanent housing for that community. It has worked throughout the State of California and other States around the country, and I think if what this is is a veiled attempt to push those people out, that all of us should understand exactly what the policy being pursued is trying to attempt.

Now, as I say, I have been assured that that is not what the policy is and I would just hope that the chairman of the committee, if he would enter into just a brief colloquy with me and make certain that if, in fact, the Subcommittee on Housing and Community Development, working in a bipartisan way, determines that in fact this is an attempt at a "snob zoning" requirement, that the gentleman from New Mexico [Mr. SKEEN] would, in fact, try to make certain that that amendment would not be accepted once we get into a conference committee.

Mr. POMBO. Mr. Chairman, I yield 30 seconds to the gentleman from New Mexico [Mr. SKEEN], the chairman of the subcommittee.

Mr. SKEEN. Mr. Chairman, I tell the gentleman from Massachusetts [Mr. KENNEDY] it is my understanding that this provision is that it has no effect on the general USDA rural development policy, and I am prepared to accept the amendment and we will work with the gentleman from Massachusetts in any way, in any possible manner, to quell the concerns that he has. I appreciate the work that the gentleman has already done on it.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I appreciate the chairman's indication that we will make certain to find out exactly what the policy is, and I respect the suggestion of the gentleman from California that that is not what he is trying to do, and if in fact that is the case, we would be happy to work with the gentleman.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA] a member of the committee.

Mr. BONILLA. Mr. Chairman, I rise in support of the amendment of the gentleman from California [Mr. POMBO]. I was the one who originally proposed the amendment in the subcommittee markup.

Mr. Chairman, my understanding of this issue, it is a clear distinction of what we stand for philosophically as conservatives in this body versus those who believe that big government needs to micromanage local government. This is a case where we have a Hispanic mayor and Hispanic leadership in a community that are asking for Washington to let them determine their own future, and with the understanding as well that there is an abundance of low-income housing.

Mr. Chairman, I am a Member who is proud to have been recognized by farm worker organizations throughout my work in Congress. I have a large migrant farm worker population in my district that I work very closely with. Neither I nor the gentleman from California [Mr. POMBO], would do anything that would harm this population, because they are hard-working Americans aspiring to live the dreams that all of us have had in this body.

So I would suggest that we should allow the local officials, the mayor and the council, and the others who feel that they should have the latitude to control their destiny, to let them do this. I hope that there is not an implication here that the Hispanic leadership of this local community somehow is not capable of determining their own future, and perhaps because they are people of an ethnic group or people of color that perhaps they are not capable of making decisions that are in the best interest of their community.

Mr. Chairman, I would ask my colleagues in this body to allow these people to determine their future for the best interest of the farm workers and the best interest of this population.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I would just point out to the gentleman from Texas [Mr. BONILLA] that this was in fact approved by the city council of Galt. That is how we got to this state.

Mr. BONILLA. Mr. Chairman, reclaiming my time, that is my point; I appreciate the gentleman from Massachusetts reiterating it.

Mr. KENNEDY of Massachusetts. Mr. Chairman, if the gentleman would continue to yield, the housing that we are talking about has been approved by the city council of Galt, CA. They have approved this housing. It was taken to court to try to have that ruling reversed. That is how this housing got to this point.

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the entitlements for the housing are approved by the city council. That is a local zoning decision that is made. The city of Galt attempted to file suit against USDA to stop this project from proceeding. Their case was thrown out of court because they were told they did not have standing.

Mr. Chairman, I heard somebody say that this was somehow a partnership with local government. They were thrown out of court and told they did not have standing.

So, Mr. Chairman, I do not know what kind of a partnership this might be. This is a dictate from the Federal Government down to the local city council and the local community telling them that this is what they are going to have.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment of the gentleman from California [Mr. POMBO].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to the bill?

AMENDMENT NO. 22 OFFERED BY MR. CHABOT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio [Mr. CHABOT] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 277, not voting 7, as follows:

[Roll No. 316]

AYES—150

Andrews
Archer
Armey
Bachus
Barr
Barrett (WI)
Bass
Bilbray
Blagojevich
Borski
Brown (OH)
Callahan
Campbell
Cannon
Cardin
Carson
Castle
Chabot
Coble
Collins
Conyers
Cox
Coyne
Crane
Cummings
Cunningham
Davis (VA)
DeGette
Delahunt
DeLauro
DeLay
Doggett
Doyle
Duncan
Ehlers
Ehrlich
Engel
Ensign
Fawell
Foglietta
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gejdenson
Gibbons
Gillmor
Goss
Gutierrez
Gutknecht
Hastert
Hayworth
Hefley
Hilleary
Hinchey
Hobson
Hoekstra
Horn
Hostettler

Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Lantos
Largent
Lazio
Lewis (GA)
Linder
Lipinski
LoBiondo
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (NY)
McDermott
McGovern
McIntosh
Meehan
Miller (FL)
Moakley
Moran (VA)
Morella
Myrick
Nadler
Neal
Neumann
Ney
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pitts
Porter
Portman
Pryce (OH)
Ramstad
Rivers
Rogan
Rohrabacher
Rothman
Roukema
Royce
Salmon
Sanders
Sanford
Scarborough
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Smith, Adam
Snowbarger
Souder
Stearns
Stupak
Sununu
Talent
Taylor (MS)
Tiahrt
Tierney
Velázquez
Vento
Visclosky
Wamp
Waxman
Weldon (PA)
Weygand
Wolf
Yates

NOES—277

Abercrombie
Ackerman
Aderholt
Allen
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Bartlett
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Capps
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Combest
Condit
Cook
Cooksey
Costello
Cramer
Crapo
Cubin
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dreier
Dunn
Edwards
Emerson
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Flake
Foley
Forbes
Ford
Frost
Furse
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hefner
Herger
Hill
Hilliard
Hinojosa
Holden
Hooley
Houghton
Hoyer
Hulshof
Hunter
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kennelly
Kildee
Kilpatrick
Kim
Kingston
Klug
LaFalce
LaHood
Lampson
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Livingston
Lofgren
Lucas
Manton
Martinez
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (KS)
Murtha
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Pomeroy
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snyder
Solomon
Spence
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stump
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Torres
Towns
Traficant
Turner
Upton
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Wexler
White
Whitfield
Wicker
Wise
Woolsey
Wynn
Young (FL)

NOT VOTING—7

Barton
Boehner
Gonzalez
Molinari
Schiff
Stark
Young (AK)

☐ 1835

Messrs. HILL, DIXON, RUSH, PETRI, Ms. ROS-LEHTINEN, Ms. MCKINNEY, and Mr. EVERETT changed their vote from "aye" to "no."

Messrs. DELAY, GUTIERREZ, ISTOOK, NEUMANN, NEY, MOAKLEY and Mrs. FOWLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. STARK. Mr. Chairman, I rise in support of the Meehan amendment to the fiscal year 1998 agriculture appropriations bill. This amendment is the next important step in the fight against teen smoking.

This amendment appropriates $10 million to the Food and Drug Administration to implement the agency's tobacco initiative requiring retailers to check the photo identification of persons seeking to purchase tobacco products. Similar to the way retailers check ID for alcohol purchases, this amendment does the same for cigarettes.

There is a large body of evidence about the harmful and addictive effects of tobacco. Adults have the right to decide for themselves about the choices they make with regard to what they eat, drink, or smoke. However, children are not always able to make those same decisions. It is illegal to sell tobacco to children under the age of 18. This amendment helps to implement the FDA policy of carding those individuals who smoke. It is merely an enforcement tool in the fight against youth smoking. This amendment should be non-controversial and should enjoy unanimous support in this chamber.

I urge my colleagues to support the Meehan amendment.

Mr. MANTON. Mr. Chairman, I rise in opposition to the amendment offered by Messrs. SCHUMER and MILLER.

Mr. Chairman, while I understand and appreciate the proponents' interests in pursuing this amendment, I believe their concerns are misplaced and their proposed remedy misguided. I have worked closely with my friend and colleague from New York, Mr. SCHUMER, on a number of important issues over the years, and I do not question his motives; however, I regret that we are once again at odds over this emotional agricultural matter.

Mr. Chairman, only last year, the Congress enacted major, far-reaching agricultural reform legislation. In that measure, we dramatically changed our Nation's long-standing policies affecting farming and agricultural markets, including sugar production—which, I believe, is the only program crop to lose the Government guarantee of a minimum price. I supported these efforts to reform and modernize the sugar price support program and believe these changes have benefited all segments of the industry. These reforms represented an important first step.

However, we simply have not allowed enough time to pass to ensure we achieved our goals in revising the sugar program and determine whether these changes were sufficient. I would also remind my colleagues that this House defeated a similar amendment during the farm bill debate.

Mr. Chairman, for this reason alone, I believe it is unfair and unwise to make such a drastic change in the U.S. sugar program as proposed in the amendment at this time.

We will hear today that this is an issue of fairness and the free-market system; consumers will be pitted against farmers, producers against refiners and manufacturers. I believe these arguments are overly simplistic, picking and choosing statistics which best represent the proponents' arguments, and the distinctions they promote to do an injustice to the sugar producers of our great Nation, be they farmers of sugarcane, sugar beet, or corn.

Mr. Chairman, I do not deny that there are some very real differences between the proponents and opponents on the issue before us, and I doubt any amount of debate is likely to change the position of the amendment's authors. However, I have learned over my years in Congress, and as a New York City councilman, that no issue is one-sided, nor is there often only one all-inclusive right answer to a problem. Reasonable people can, and often do, disagree.

I believe the issue before us here today falls into that category. We differ on what the impacts of a particular program may or not be, and who best to address these issues. But, I do not believe either side has a claim to the so-called high ground.

And, with all due respect to the amendment's proponents, I do not take a back seat to their concern for the American consumer. I represent a congressional district, a part of New York City, where the 1990 median family income was only around $30,000 a year. In the areas of Queens and the Bronx which I have the pleasure to represent, the cost of living is a very real issue with everyday impacts on the hard-working families of the 7th Congressional District of New York.

The proponents argue that their's is the only way to protect the consumer, to potentially lower the cost of sugar and products containing agricultural sweeteners by a few cents or, more likely, fractions of a cent. This is all well and good, if they can ensure the savings they propose will indeed be passed along to the American consumer. A prospect which they cannot guarantee.

But, cost aside, the proponents can also not be sure their amendment, if approved, would not seriously disrupt the supply and availability of sugar throughout our country.

Mr. Chairman, my constituents do not benefit if they have the potential of saving a penny or two on a product but can no longer obtain that commodity or the product is no longer available in a sufficient and steady supply to meet their needs.

I have often commented in meetings I have had over the years that I am unaware of any farms in my urban district, except for one lone Victory Garden started during World War II. But, I am sure of one thing, and that is that each and every one of my constituents eats and needs a secure, steady supply of produce and food products at a reasonable price. As such, I will continue to support those programs which I believe ensure just that, and oppose those measures which I believe will not.

I will note here, also, that New York State does play role in domestic sugar production, with numerous farms that grow corn which is utilized in sweetener production.

Mr. Chairman, my strong, historic support of agriculture programs, including sugar, and the associated refining and processing infrastructure, is based upon this—perhaps simplistic—premise: That the United States must continue to ensure all its people are provided the best, most secure, and stable source of food products possible. And, I believe this goal is best accomplished by reducing our dependence on foreign sources of agriculture products through the encouragement and promotion of a strong domestic agriculture system, and challenging unfair, anticompetitive foreign sources of food.

While we are usually on the same side of most food related issues, from time to time, I part paths with this Nation's food processors. As is the case here, I side with the producers and not the refiners and processors. I do not fault them for their support of this amendment and the desired changes they seek in the sugar program, and I know we will work together on future issues of mutual concern.

I believe the virtual elimination of this program as now proposed would place the U.S. sugar industry as a whole, and the American consumer in particular, at the mercy of the inconsistent and heavily subsidized world sugar market.

Unlike my colleagues who support the amendment, I simply do not believe the American consumer is likely to realize a significant, if any, benefit should the amendment prevail. But, I am concerned that the domestic producers of sugar could suffer from reduced prices and would be made particularly vulnerable to foreign sources of sugar.

While refiners may pass along their savings, I seriously doubt many processors are likely to reciprocate. While the cumulative amounts being bandied about today are significant, and represent real money regardless of one's social standing, the bottom-line is that we are talking about pennies or fractions of pennies on a commodity basis.

Quite frankly, I do not even know how one would calculate the savings that say a manufacturer should pass along for their finished product that now may cost them a fraction of a cent less to produce. Are we likely to see cans of soda from a machine selling for 59 cents instead of 60 cents?

At this point, Mr. Chairman, I would like to refer to some very basic statistics which I believe make clear the short-sightedness of the amendment.

The current sugar program operates at no cost to the Federal Government, and a special marketing tax on sugar farmers is earmarked for deficit reduction, U.S. consumers pay an average of 25 to 28 cents less for sugar than do shoppers in other developed countries. From 1990 to 1995, the retail price of sugar actually decreased approximately 7 percent. U.S. retail sugar prices are approximately 32 percent below the average of other developed countries and the third lowest in the developed world. New York consumers pay 5 percent less for sugar than the average consumer worldwide. Close to $7 billion are generated each year by the U.S. sugar industry in the State of New York along. Finally, more than 5,690 jobs in New York State rely on the sugar industry.

Mr. Chairman, I urge my colleagues to reject this amendment, and cast a vote in favor of a strong, fair and balanced domestic sugar program and to protect the American farmer.

Mrs. MORELLA. Mr. Chairman, I rise in reluctant opposition to this amendment. I strongly support the Meals on Wheels Program that provides nutritious meals to our most vulnerable seniors, and I would like to see more money going to this program.

The problem with this amendment is the offset. Time and time again, members searching for easy deficit reduction targets turn to Federal employees and agencies' salary and expenses budgets. Federal employees and agencies have borne a disproportionate share of cuts as we have worked to balance the budget. This raid on Federal employees and agencies must stop. Over the last 4 years, we have streamlined every Federal agency and reduced our Federal work force by nearly 270,000 FTE's.

Already, the bill before us today will reduce FDA's work force by 70 FTE's. The additional cuts contained in this amendment would reduce FDA by another 65 FTE's, leading to a total reduction of 135 from a total of 954—about a 14 percent reduction. Such a reduction would hinder FDA's ability to protect and promote public health. The Office of Women's Health, the Office of Consumer Affairs, the Office of Special Health Issues, the Office of Science, and many important projects would suffer.

The authors had a great idea when they decided to increase Meals on Wheels, but their offset would seriously hinder FDA's important work, and I urge my colleagues to join me in opposing it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I join in support of my colleague, Congresswoman CLAYTON, and also as a sponsor of this amendment to increase funding by $2.5 billion to our Nation's food stamp program.

Although our intent is to withdraw this amendment the goal is to bring the issue of food and hunger before the House as we debate the Department of Agriculture's appropriations bill.

In the State of Texas participation in the Food Stamp Program this year for the month of May, numbered 2.23 million which represents 738,468 households.

The need to provide adequate food to our Nation's poor is of vital importance, and therefore cannot and must not be left underfunded. State and private entities do not have the resources to assist those who are less fortunate in our society.

One key provision of the Emergency supplemental appropriations which finally passed was additional funding to the Women, Infants, and Children's program which was underfunded last Congress. This program would have run out of funds prior to the close of the agency's fiscal year because of lack of adequate budgetary planning on the part of Congress.

It is our budgetary responsibility as Members of the House to adequately fund each area of government so that such readjustments prior to the close of a department's fiscal year are not necessary, unless unforeseen disaster or emergencies beyond our ability to take preemptive action.

In 1995, a reported 14.7 million children lived in poverty, with a national child poverty rate of 20.8 percent. The United States is the highest child poverty rate amongst the 18 industrialized countries of the world. With these numbers we can and should adequately plan to use the resources of our Nation to meet the needs of our Nation's poor.

We must feed our children, provide education that is challenging and offers them the promise of a better life, as well as secure their future through sound government policy.

I ask that my colleagues focus on the needs of all of our Nation's children regardless of social and economic status. This is indeed a blessed nation with wealth and resources in such abundance that we can share with other nations. However when we make decisions to purchase expensive weapons systems which are not requested by the Pentagon, or increase the Intelligence budget over what the administration requests, but underfund nutrient, food, and housing programs, makes me wonder if we have our priorities in a Tom Clancy novel and not on human beings.

I would ask my colleagues to play real patriot games and take care of our Nation's poor.

Mr. POMEROY. Mr. Chairman, I rise today to address the issue of funds for administrative expenses for crop insurance agents.

The Agriculture appropriations bill presents difficult choices for members from rural America for support for production agriculture—including crop insurance—competes directly against vital nutrition programs such as the Women, Infants, and Children [WIC] program. In a budget climate where discretionary funds are stretched between vital resources such as research, school lunch programs, rural utilities, and food safety, it is easy to forget about production agriculture.

It seems we already have in some aspects. The amendment in full committee to increase funding for crop insurance was not off-set by cuts in nutrition but within production agriculture, namely, the Export Enhancement Program. The choice was difficult but necessary. The Obey amendment, however, would leave farmers with both fewer resources to compete against European subsidies and a less viable crop insurance program to compensate for the loss of the farm program safety net.

Putting "urban" agriculture against "rural" agriculture is not the way to debate this fight.

WIC is a stable program, and funded by the bill with $118 million more than last year. Further, this amendment would fund the WIC program's "carryover" money, not funds directly for the program. More than likely, the program will not even use this funding.

The federal crop insurance program is still on feeble legs, as are producers as they look to alternatives for risk management. Congress modified farm programs just last year, creating the "freedom to farm" and taking away the safety net for price volatility. Along with changes to the farm programs, producers were assured that certain safeguards would remain in place, like the effectiveness of adequate crop insurance. Crop insurance is just about the only risk management assurance producers have, and these producers depend on the time and effort of thousands of insurance agents to provide adequate coverage and information.

We often forget that it is "rural" agriculture that provides the affordable and safe food and fiber for "urban" agriculture programs and cities.

To address a few other points I have heard during this debate, I urge you to keep some things in perspective:

Crop insurance agents are not typical insurance agents.

Crop insurance agents are working to provide information and coverage for twice the number of acres insured than in 1994. Thus efforts to reduce their administrative expense reimbursements come at a time when they are performing more tasks than ever.

Crop insurance agents don't just sign up farmers once-a-year and then wait until the next year to follow up; they often visit with producers 10 times per year.

The level of funding we put in this bill for administrative expenses, whether it is 24.5 percent, 27 percent, or 28 percent, is not pure commission for agents. Not even close. The percentage figure goes to account for the Department of Agriculture's mandatory requirements on agents to administer the program: like training, compliance, paper work, processing, adjusting, and other overhead. After all that, the real "commission" is closer to 12 percent.

Some of the flaws in the GAO report include:

The report only examined three crop years, two of which were some of the best in history. Of course insurance companies do better in some years than others, especially when there are fewer weather catastrophes.

The GAO report rhetoric makes for nice 2 minute "Fleecing of America" TV clips, but in reality the report only acknowledges "excessive expenses" as the exception, not the norm. Furthermore, the expenses noted by the report as "excessive" were clearly legal.

In this time of transition for production agriculture, shifting from disaster payments and price supports of the old farm programs to reformed crop insurance and the "freedom to farm," farmers are depending more than ever on promises made by the last Congress. During recent reforms of our government's role in agriculture, Congress promised certain foundational assistance for farmers would remain: farmers understood that agriculture research, risk management tools, and technical assistance would be maintained.

If we reduce the administrative expenses for crop insurance agents, we are taking away our promise to farmers and production agriculture that they would receive effective service in managing risk from unpredictable weather and market prices.

I urge you to maintain the current level of funding for crop insurance.

Mr. BENTSEN. Mr. Speaker, I rise in support of H.R. 2160, the 1998 House Agriculture appropriations bill. In particular, I am pleased that this legislation includes sufficient funding to continue the vital research done at the Children's Nutrition Research Center in Houston, one of the six human nutrition centers of the Agriculture Research Service.

The CNRC is one of the world's leaders in the field of pediatric nutrition. Their work has resulted in both better health and reduced health care costs for children. For instance, Texas Children's Hospital in my district has developed a more cost-effective, nutritionally balanced approach for feeding premature children as the result of a CNRC study.

The CNRC has led the way in providing more accurate dietary recommendations for calcium requirements for young girls. With these recommendations, young women will now have the necessary nutritional tools to help reduce the number of low-birthweight babies born to teenage mothers. In addition, these calcium recommendations will help prevent future injuries later in life, such as hip replacement surgeries and broken bones. Girls and women will benefit from new information that will help increase bone density in their system and help prevent these injuries.

The CNRC has also done important research on obesity in children. This information along with newly discovered molecular genes, will lead to more effective treatments to prevent these ailments in children. This research may also lead to new treatments for serious diseases such as atheroscelerosis, osteoporosis, and diabetes.

Again, I urge my colleagues to support this legislation and am pleased that it includes vital research funding for pediatric research.

Mr. STARK. Mr. Chairman, I rise in support of the Lowey-DeGette-Hansen-Meehan-Smith amendment to the fiscal year 1998 Agriculture appropriations bill. This amendment is exactly what the doctor ordered.

It is ridiculous for the Federal Government to be subsidizing the crop insurance for a product that is so harmful and addictive.

Taxpayers now pay for the crop to be harvested, provide insurance against crop damage, pay for the health care costs of tobacco related illness through increased Medicare and Medicaid costs, and pay for advertising subsidies for overseas promotion.

It is outrageous to me that while we limit the safety net for our poor, sick and elderly, we maintain a safety net for agribusiness and tobacco. This subsidy should be eliminated.

Mr. Chairman, Joe Camel does not need a government handout. I urge my colleagues to support this amendment.

The CHAIRMAN. Are there any other amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NUSSLE) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 2160), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes, pursuant to House Resolution 193, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman from New York opposed to the bill?

Mr. SCHUMER. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. SCHUMER moves to recommit the bill, H.R. 2160, to the Committee on Appropriations.

Mr. YATES. Mr. Speaker, I move the previous question on the motion to recommit.

The SPEAKER pro tempore. The question is on ordering the previous question on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. YATES. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the motion to recommit.

The vote was taken by electronic device, and there were—ayes 423, noes 4, not voting 7, as follows:

[Roll No. 317]

AYES—423

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOES—4

Bono
Boyd
DeFazio
Frank (MA)

NOT VOTING—7

Barton
Gonzalez
Molinari
Schiff
Stark
Waters
Young (AK)

☐ 1855

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION TO RECONSIDER THE VOTE OFFERED BY MS. ESHOO

Ms. ESHOO. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE OFFERED BY MR. HASTINGS OF WASHINGTON

Mr. HASTINGS of Washington. Mr. Speaker, I move to lay on the table the motion to reconsider the vote.

The SPEAKER pro tempore (Mr. NUSSLE). The question is on the motion offered by the gentleman from Washington [Mr. HASTINGS] to lay on the table the motion to reconsider the vote offered by the gentlewoman from California [Ms. ESHOO].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. ESHOO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote which may be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 258, noes 165, not voting 11, as follows:

[Roll No. 318]

AYES—258

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fattah
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller

White
Whitfield
Wicker
Wise
Wolf
Young (FL)

NOES—165

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (OH)
Cardin
Carson
Clay
Clement
Conyers
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Strickland
Stupak
Tauscher
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Woolsey
Wynn
Yates

NOT VOTING—11

Barton
Clayton
Fawell
Gonzalez
Lazio
McDade
Molinari
Schiff
Stark
Wexler
Young (AK)

□ 1913

Mr. HORN and Mr. HERGER changed their vote from "no" to "aye."

So the motion to reconsider was laid on the table.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. NUSSLE). The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 56, noes 363, answered "present" 2, not voting 13, as follows:

[Roll No. 319]

AYES—56

Barrett (WI)
Blagojevich
Brown (CA)
Brown (OH)
Cardin
Conyers
Coyne
Cummings
DeGette
Dellums
Dicks
Doggett
Ford
Frank (MA)
Green
Gutierrez
Jackson (IL)
Jefferson
Kennedy (MA)
Kennedy (RI)
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Lowey
Luther
Markey
Matsui
McDermott
McGovern
McNulty
Meehan
Meek
Miller (CA)
Moakley
Moran (VA)
Neal
Oberstar
Owens
Pallone
Payne
Pelosi
Roybal-Allard
Rush
Sanchez
Sanders
Schumer
Skaggs
Smith, Adam
Stokes
Torres
Velázquez
Waters
Waxman
Yates

NOES—363

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

ANSWERED "PRESENT"—2

DeFazio
Lipinski

NOT VOTING—13

Ballenger
Barton
Ehrlich
Gilman
Gonzalez
Harman
Hinchey
McKinney
Molinari
Schiff
Stark
Wexler
Young (AK)

□ 1923

Mr. ENGEL changed his vote from "aye" to "no."

Mr. MORAN of Virginia changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

MOTION TO RECONSIDER THE VOTE OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE OFFERED BY MR. HASTINGS OF WASHINGTON

Mr. HASTINGS of Washington. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore (Mr. NUSSLE). The question is on the motion offered by the gentleman from Washington [Mr. HASTINGS] to lay on the table the motion to reconsider the vote offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 285, noes 139, not voting 10, as follows:

[Roll No. 320]

AYES—285

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Filner
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (FL)

NOES—139

Abercrombie
Ackerman
Allen
Andrews
Barrett (WI)
Becerra
Berman
Blagojevich
Blumenauer
Bonior
Borski
Brown (CA)
Brown (OH)
Cardin
Clay
Clement
Conyers
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gordon
Green
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Serrano
Sherman
Skaggs
Slaughter
Spratt
Stabenow
Stokes
Strickland
Stupak
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Woolsey
Wynn
Yates

NOT VOTING—10

Ballenger
Barton
Gonzalez
LaFalce
Molinari
Schiff
Smith, Adam
Stark
Wexler
Young (AK)

□ 1942

Mr. HUNTER and Mr. HANSEN changed their vote from "no" to "aye."

So the motion to reconsider was laid on the table.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. NUSSLE). The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were— yeas 392, nays 32, not voting 10, as follows:

[Roll No. 321]

YEAS—392

Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Capps
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne

Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—32

Andrews
Campbell
Cardin
Conyers
Coyne
Doggett
Ensign
Frank (MA)
Franks (NJ)
Jackson (IL)
Kennedy (MA)
Kucinich
Lofgren
McDermott
McGovern
Meehan
Menendez
Miller (CA)
Neal
Olver
Owens
Paul
Rangel
Rohrabacher
Royce
Salmon
Scarborough
Schumer
Sensenbrenner
Taylor (MS)
Tierney
Velázquez

NOT VOTING—10

Bachus
Barton
Cannon
Gonzalez
Molinari
Schiff
Spratt
Stark
Wexler
Young (AK)

□ 1952

Messrs. FORD, SANFORD, and KENNEDY of Rhode Island changed their vote from "no" to "aye".

So the bill was passed.

The result of the vote was announced as above recorded.

MOTION TO RECONSIDER THE VOTE OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE OFFERED BY MR. HASTINGS OF WASHINGTON

Mr. HASTINGS of Washington. Mr. Speaker, I move to table the motion to reconsider the vote.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 284, noes 132, not voting 18, as follows:

[Roll No. 322]

AYES—284

Aderholt
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Filner
Flake
Foley
Forbes
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (FL)

NOES—132

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bishop
Blagojevich
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Fattah
Fazio
Foglietta
Ford
Frank (MA)
Frost
Furse
Gordon
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Murtha
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne
Pelosi
Rangel
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Stabenow
Stokes
Strickland
Stupak
Tauscher
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Woolsey
Wynn

NOT VOTING—18

Archer
Bateman
Brown (CA)
Cannon
Fowler
Gonzalez
Greenwood
Hoyer
Kennelly
Levin
Linder
Molinari
Schiff
Stark
Thomas
Wexler
Yates
Young (AK)

□ 2009

So the motion to reconsider was laid on the table.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

PROVIDING FOR CONSIDERATION OF H.R. 2209, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1998

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 105–202) on the resolution (H. Res. 197) providing for consideration of the bill (H.R. 2209) making appropriations for the legislative branch for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MOTION TO ADJOURN

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. NUSSLE). The question is on the motion offered by the gentleman from Michigan [Mr. BONIOR].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 315, not voting 23, as follows:

[Roll No. 323]

AYES—96

Abercrombie
Andrews
Barrett (WI)
Berry
Blumenauer
Bonior
Boucher
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cubin
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Doggett
Dooley
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gillmor
Hall (OH)
Hastings (FL)
Hinchey
Jackson (IL)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kennelly
Kilpatrick
LaFalce
Lampson
Lantos
Lewis (GA)
Lowey
Manton
Markey
Martinez
Matsui
McDermott
McGovern
McKinney
McNulty
Meek
Mink
Moakley
Nadler
Neal
Oberstar
Obey
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Rodriguez
Rush
Sabo
Sisisky
Skaggs
Smith, Adam
Spratt
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Torres
Vento
Waters
Watt (NC)
Waxman
Weygand
Woolsey

NOES—315

Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boyd
Brady
Brown (CA)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (IL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dixon
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Foley
Forbes
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (FL)

NOT VOTING—23

Baldacci
Bateman
Cannon
Ehrlich
Fowler
Gonzalez
Harman
Hefner
Hilleary
Hoyer
Kleczka
Linder
Molinari
Olver
Radanovich
Scarborough
Schiff
Spence
Stark
Velázquez
Wexler
Yates
Young (AK)

□ 2029

Mr. KENNEDY of Rhode Island and Mr. GREENWOOD changed their vote from "aye" to "no".

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 695

Mr. ROTHMAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 695.

The SPEAKER pro tempore (Mr. NUSSLE). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2203, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 194 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 194

Resolved, That at anytime after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington [Mr. HASTINGS] is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking member of the Committee on Rules, pending which I yield myself as much time as I may consume. During consideration of this resolution, all time is yielded for purpose of debate only.

Mr. Speaker, House Resolution 194 is an open rule providing for the consideration of H.R. 2203, a bill making appropriations for energy and water development for fiscal year 1998. The rule provides for 1 hour of general debate, equally divided between the chairman and ranking member of the Committee on Appropriations.

The rule waives clause 2 and clause 6 of rule XXI, prohibiting unauthorized appropriations, legislative provisions in general appropriations bills, and reappropriations in appropriations bills.

Mr. Speaker, these waivers are necessary because so many programs funded by this bill have not been reauthorized. The measure also includes transfers of certain funds and contains minor legislative provisions on which the committee has consulted closely with the appropriate authorizing committees.

In addition, the rule permits the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. The rule also allows the Chair to postpone recorded votes and reduce to 5 minutes the minimum time for electronic voting on any postponed votes, provided voting time on the first in a series of questions shall be not less than 15 minutes. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, the gentleman from Pennsylvania [Mr. McDADE], the chairman, and the gentleman from California [Mr. FAZIO], the ranking member, are to be commended for their outstanding effort on this legislation. Together, they have worked hard to provide adequate funding for a number of important programs, while contributing significantly to the vitally important task of deficit reduction.

H.R. 2203 appropriates $20 billion in new budget authority for fiscal year 1998 for the Department of Energy and related programs. I am pleased to report that that amount is $573 million less than last year and $2.6 billion less than the President's request. The subcommittee has essentially met its 602(b) allocation for discretionary spending.

The vast majority of the bill's funding, some $15.3 billion, goes to various programs run by the Department of Energy, including the cleanup of nuclear wastes on a variety of Federal facilities, including the Hanford Nuclear Reservation in my own district.

The bill also allocates $4 billion to the Army Corps of Engineers, $910 million to the Department of Interior, mainly for its Bureau of Reclamation, and $194 million for related independent agencies.

Mr. Speaker, the funding provided in this bill is necessary to protect important investments in our Nation's water and energy infrastructure and to maintain and operate facilities and programs within the subcommittee's jurisdiction.

In closing, Mr. Speaker, I commend the Committee on Appropriations and its Subcommittee on Energy and Water for seeking an open rule on H.R. 2203 so that the House may work its will on this important legislation without unnecessary restrictions. I urge my colleagues to support this open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume; and I thank my colleague, the gentleman from Washington [Mr. HASTINGS], for yielding me the customary half hour.

Mr. Speaker, I want to congratulate my colleagues, the gentleman from California [Mr. FAZIO] and the gentleman from Pennsylvania [Mr. McDADE], for their very hard work on this very difficult bill. The energy and water development appropriations bill represents the culmination of long hours on the part of all the members of that subcommittee, and we owe them a debt of thanks.

Mr. Speaker, this is an open rule which, like the rules for most other appropriation bills, waives points of order against legislating on an appropriations bill. But I am told this waiver is not a cause for objection on the part of the authorizing committees.

The bill we will soon consider contains funding for some very good water resource infrastructure projects. It contains over $4 billion for the water resource programs of the Army Corps of Engineers, which is actually an increase over the President's request.

Mr. Speaker, it also contains funding for the Department of Energy, which is unfortunately below the President's request. The Energy Department, in addition to atomic defense activities, conducts basic science and energy research, which I think is tremendously important, especially in today's high-tech world. So I regret to see, Mr. Speaker, that my colleagues did not appropriate as much money as the Energy Department needs. But, all in all, this is a very good bill.

On the more controversial side, this bill eliminates the Tennessee Valley Authority's subsidies for non-power functions, like flood control and navigation. And it also transfers some of the Energy Department's environmental cleanup projects to the Army Corps of Engineers.

Some other concerns are the $60 million cut in solar and renewable energy research and development. I am sorry to see my Republican colleagues decided to cut this R&D money. These energy sources are both economic and environmentally very sound. We should be running as fast as we can toward solar and renewable energy, not turning the other way.

Mr. Speaker, this bill also contains cuts in nuclear nonproliferation programs, which is going to have some unfortunate consequences. These cuts are going to delay the sensors that detect nuclear, chemical, and biological weapons. And I, for one, think we need those now more than ever.

The $30 million cut in civilian radioactive waste program could jeopardize the completion of the Energy Department's viability assessment of Yucca Mountain. And this bill also eliminates $25 million for the next generation Internet, which was created to help universities and national laboratories implement advanced, high-speed connections.

But, Mr. Speaker, fortunate for those who object to these provisions in the bill, it is coming to the floor with an open rule, which means that any Member with a germane amendment to this bill can offer their amendment on the floor.

Once again, Mr. Speaker, I congratulate my colleagues, the gentleman from California [Mr. FAZIO] and the gentleman from Pennsylvania [Mr. McDADE] for their very hard work. I urge my colleagues to support the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Speaker, I particularly want to thank my friend from Washington State [Mr. HASTINGS] for yielding me this time. I do want to rise in support of this rule and also in support of this bill.

I particularly want to congratulate the gentleman from Pennsylvania [Mr. McDADE], the chairman, and the gentleman from California [Mr. FAZIO], the ranking member, for their hard work in bringing an important piece of legislation, a bill that deserves bipartisan support, before this House.

When I am back home talking with the folks who pay the bills, they always ask the questions: "What does this legislation mean to our communities?" "What does this legislation mean right here in our neighborhoods?"

Clearly, this is an important bill, a bill that funds energy research, flood control, environmental initiatives, as well as sewer and water facilities for many communities. Particularly, I think it is important to emphasize some critical U.S. Army Corps of Engineers initiatives that will benefit the people of the 11th Congressional District: flood control, environmental initiatives, and also projects that will create jobs back home.

We currently have three initiatives in this bill I would like to point out.

One is important to the entire south suburban region, serving the south side of Chicago, as well as the south suburbs in Cook and eastern Will Counties. That is the Thornton Reservoir project.

And, of course, I appreciate the subcommittee's initiative to help this important initiative, which will help 131,000 homeowners to address flood control problems in the south suburbs. I also want to note the funding for initiatives to help clean up and address flood control problems affecting the Kankakee River. I have enjoyed working with my colleagues, the gentleman from Illinois [Mr. EWING] and the gentleman from Indiana [Mr. BUYER], to address the need to bring better flood control and also to address the siltation problem in the Kankakee River, an important environmental initiative. And I appreciate the subcommittee's support.

I also want to note that unlock 14 on the Illinois and Michigan Canal is addressed with an initiative that is also funded in this appropriations bill, an initiative that provides an opportunity to create 110 acres of new wetlands; a new environmental initiative right next to LaSalle County also will create new jobs.

This bill means something to the folks back in Illinois. It deserves bipartisan support. I urge bipartisan support for the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking minority member of the Committee on Appropriations.

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Mr. OBEY. Mr. Speaker, I do not think I will take the 3 minutes, but I thank the gentleman for yielding me the time. I would simply say this is the kind of rule that I think we should have. This rule will allow the resolution of virtually every difference that I know of in the bill. The administration has some concerns with the number of items. I will insert in the RECORD at the proper time the Statement of Administration Policy which indicates that there is still a way that this bill has to go before it can receive the blessing of the White House. But I would not expect that in the end that will be a problem.

I would simply say that I would hope that we can have the kind of cooperation on other rules that are brought to the House floor that we have had on this one. If we can, we can get our work done a whole lot faster and in a whole lot more pleasant fashion and we will all eventually get to the August recess in a whole lot less tired shape than we will otherwise reach that week. Let me at this point simply thank the Committee on Rules for doing what they needed to do.

Mr. Speaker, I include for the RECORD the Statement of Administration Policy, as follows:

STATEMENT OF ADMINISTRATION POLICY

H.R. 2203—ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL FISCAL YEAR 1998

Sponsors: Livingston (R), Louisiana; McDade (R), Pennsylvania.

This Statement of Administration Policy provides the Administration's views on H.R. 2203, the Energy and Water Development Appropriations Bill, FY 1998, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Committee has developed a bill that provides requested funding for many of the Administration's priorities. However, the Administration strongly objects to the Committee's reallocation of national defense funds from Department of Energy programs to Department of Defense programs. These funds are needed for key environmental privatization projects and to provide full funding for Atomic Energy Defense Activities, as requested, which is consistent with fixed asset funding practices in the Government's other defense programs. We believe that this action is an unacceptable deviation from our understanding of the Bipartisan Budget Agreement.

As discussed below, the Administration will seek restoration of certain of the Committee's reductions. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the House toward achieving acceptable funding levels. We urge the House to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

Department of Energy

The Administration objects to the Committee's providing only $102 million of the $1.006 billion requested for environmental management privatization projects. Based on this mark, several environmental privatization projects would not be funded at all, and it is questionable whether the expected outyear funding would allow support for higher priority cleanup privatization projects at this funding level. Failure to invest in competitive privatization contracts for cleanup activities would force the Department of Energy (DOE) to continue using more costly, traditional contracting approaches, which the Committee Report has strongly criticized. This would result in a substantial increase to DOE's cleanup costs in future years and could jeopardize the Department's ability to comply with cleanup agreements.

The Administration strongly opposes the cuts to DOE's Federal staff and management accounts, including Departmental Administration and the Office of the Inspector General. Cuts in Federal staff and support service contractors of this magnitude would make it nearly impossible for the Department to improve contractor oversight or to develop, award, and manage more competitive fixed-price contracts, which are some of the Committee's own recommendations in the accompanying report.

The Administration also opposes the Committee's attempt to micromanage the Department, limit its ability to exercise good business judgment, overly restrict its ability to implement sound innovative contracting practices, and limit its ability to participate in procurement reinvention. It would do this by: (1) requiring special reports and notification prior to the start of any FY 1998 approved construction and special congressional permission to make procurement decisions currently authorized by other statutes; (2) inhibiting market research; (3) further restricting the Department's ability to outsource beyond that required in OMB Circular No. A–76; (4) unnecessarily restricting the Department's ability to deviate from the Federal Acquisition Regulation; and, (5) inappropriately limiting the Department's ability to use current statutory exemptions from competition. Additional reporting requirements combined with the proposed staffing reductions would erode DOE's ability to gain better control over its operations and improve management of its complex mission.

The Administration also strongly opposes the transfer of the Formerly Used Sites Remedial Action Program (FUSRAP) from DOE to the Corps of Engineers. In recent years, the Department has placed nearly half of this program under competitive, fixed-price contracts and developed a plan to accelerate cleanup by 12 years. DOE has established an open, interactive dialogue with communities and regulators, through which the Department has developed cleanup standards commensurate with land use plans and proceeded with early removal of contamination at many sites. DOE has completed cleanup at 52 percent of the main sites and 56 percent of the vicinity properties. Between FYs 1996 and 1997, DOE has reduced support costs for this program by 23 percent. Transferring this well-managed program that is nearly complete to another agency would be disruptive and would most likely delay completion and increase costs.

The Administration objects to the program cuts in the requests for nuclear nonproliferation programs. For example, the reductions in verification research and development would delay the completion of next generation land-based and satellite-borne sensors for the detection of nuclear, chemical and biological weapons programs.

The Administration also opposes the $29 million reduction to the Uranium Enrichment Decontamination and Decommissioning (D&D) program. DOE is about to enter into a large contract for D&D and reindustrialization of the large gaseous diffusion plant in Oak Ridge, Tennessee, using an approach that will expedite cleanup, reduce costs, and create new jobs. The Committee's funding cuts in this program would make it difficult to proceed with this effort, comply with environmental requirements, and provide reimbursements to radium and thorium licensees.

The Administration opposes the Committee's elimination of $25 million requested for the Next Generation Internet. While the Administration acknowledges that the private sector has shown the capability and willingness to fund considerable technology development for the Internet, the Next Generation Internet funds requested in the President's budget are necessary to assist universities and national laboratories in implementing advanced, high-speed connections that will not be financed by industry, and to accelerate research in areas where DOE laboratories have particular expertise.

The Committee's overall reduction of $30 million from the request for the civilian radioactive waste management program would threaten satisfactory completion of the Department of Energy's viability assessment of Yucca Mountain. Both the Nuclear Waste Technical Review Board and independent expert advisers have urged DOE to build and study an "east-west tunnel" or "drift" through the repository block at Yucca Mountain in order to reduce uncertainty about water moving downward through the site. The $14 million (16 percent) reduction to the request for the core science program would virtually eliminate any scientific input from this important research to the viability assessment. Additionally, the 416 million reduction in support services and personnel costs would severely constrain, if not eliminate, an independent review of critical elements of the viability assessment, including a validation of repository design concepts and operating strategies, as well as refined cost estimates of these designs.

The Administration strongly objects to the Committee's $60 million reduction to the Solar and Renewable Energy R&D request (calculated on a comparable basis). The overall funding cuts, particularly in biofuels and solar thermal energy, would seriously set back environmentally promising and increasingly economic sources of energy. Research programs such as these are also the least burdensome way for the Nation to respond to global climate change.

Army Corps of Engineers

The Administration urges the House to reduce the number of unrequested Corps of Engineers' projects and programs and to restore funds that the Administration has requested for priority Corps projects, including the Columbia and Snake Rivers Juvenile Fish Mitigation Program for salmon run restoration and for construction of an emergency outlet for Devils Lake, North Dakota. The Administration urges the House to use the $540 million in unrequested funds that the Committee has provided for the Corps of Engineers construction, studies, and operation and maintenance programs to restore reductions made in other priority Corps and DOE programs.

The Administration appreciates the Committee's full funding of the Administration's request for the Corps' regulatory program. This will allow the Corps to implement its administrative appeals process fully and to continue to process wetlands permits in a timely manner. The Administration urges the House to include the Administration's requested regulatory permit fee, which would allow the Corps to recover its costs for processing permit applications for commercial uses.

Bureau of Reclamation

The Administration appreciates the Committee's support for funding to restore the California Bay-Delta ecosystem. However, we urge the House to provide the full $143 million that Congress authorized for this program and that was requested by the President in the FY 1998 Budget. This important program plays a central role in resolving long-standing water conflicts that have plagued the State of California. In addition, we oppose the reduction of $14 million in requested Central Valley Project funding, which is an important component of the effort to restore this critical ecosystem.

The Administration objects to the Committee's decision to fund a number of Reclamation projects and activities not requested in the FY 1998 Budget, some of which could result in demands for additional funding in the out-years. The Administration supports the Committee's decision to provide funds to cover the estimated authorized Federal share of costs for the purchase of water associated with variable flood control operations at Folsom Dam during FY 1997.

Tennessee Valley Authority

The Administration objects to the Committee's elimination of all appropriations for the Tennessee Valley Authority in FY 1998. We believe that an abrupt and total elimination of funding for the agency in FY 1998 is premature. The Administration has proposed continued funding in FY 1998 while TVA completes its consultations on potential alternate funding arrangements for future years for its appropriated program.

Nuclear Regulatory Commission

The Administration urges restoration of the Committee's $4 million reduction to the request for the Nuclear Regulatory Commission's (NRC's) High-level Waste Program. This 24-percent reduction would adversely affect the NRC's ability to maintain a strong scientific capability, independent of DOE, to review high-level waste activities. This reduction could jeopardize the NRC's ability to complete timely reviews of DOE's viability assessment. Timely resolution of the high-level waste issue is important to the Nation as well as to the nuclear industry.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Speaker, I rise in support of this rule on H.R. 2203. I thank the gentleman from Pennsylvania [Mr. McDADE] for crafting a fiscally responsible bill which will ensure that the United States remains on the forefront in energy research for years to come.

As chairman of the subcommittee that authorizes many of the Department of Energy programs addressed in this legislation, I am encouraged that the chairman fully funded the Large Hadron Collider. There had been some concerns among some members of the Committee on Science that U.S. scientists would not be guaranteed a formal role in managing the operation. Thanks to the work of the gentleman from Pennsylvania [Mr. McDADE] and the gentleman from Wisconsin [Mr. SENSENBRENNER], the chairman of the Committee on Science, these concerns have been addressed.

Second, although the Committee on Science authorized the fusion program at a level slightly higher than this bill, I am encouraged to see a stabilization in funding for this crucial research effort. The fusion community has responded well to congressional calls to restructure their program, and I look forward to seeing the results of their research.

Finally, just as the Committee on Science authorization bill had, this legislation substantially increases funding for renewable energy. I applaud that move, hoping this money will be used primarily for basic research and that the Department of Energy will not involve itself in corporate welfare and subsidies.

Finally, once again, I look forward back home to the Santa Ana Mainstem project to start construction soon. My friends in Orange County need to be protected from future floods potentially. The Norco Bluffs Project in Norco, CA, is moving ahead. Wetlands protection in Lake Elsinore, CA; the Gunnerson Pond project and flood control at Murrieta Creek. Again I thank the gentleman from Pennsylvania [Mr. McDADE] for this legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise to express on this rule my opposition to the funding level in the bill for the Formerly Utilized Site Remedial Action Program, FUSRAP, as it is called.

Mr. Speaker, I have one of those sites in my district. Radioactive material from it has now leaked into a tributary of the Farmington River. The Farmington River is a wild and scenic river, one of our Nation's treasures. For this reason, I wrote to the Committee on Appropriations, strongly supporting funding at the administration's requested level of $182 million for FUSRAP. According to the Department of Energy, that level of funding would permit cleanup of all the existing sites by 2002 rather than what we are talking about now, 2016. An accelerated cleanup program would limit both environmental damage and cost, including the costs associated with maintenance and management of these sites.

Unfortunately, the committee was unable to accommodate this request and now, to make matters worse, has included in this bill a provision to transfer the jurisdiction of FUSRAP from the Department of Energy to the Army Corps of Engineers. Further, the bill directs the Corps of Engineers to evaluate the cost and timetable for the cleanup.

Mr. Speaker, this transfer will serve only to slow critical cleanup of these sites further, endangering the natural resources of the communities near them. Mr. Speaker, these communities have already made sacrifices for national security. The least we could do would be to move expediently to clean up these sites and to protect the health and safety of these communities. I would hope we could work together to make this thing much better than what we are looking at tonight.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Washington, my friend and a highly valued member of the Committee on Rules, for yielding me this time.

I rise in support of what is very clearly a fair and open rule. This rule balances the interests of the authorizing committee as well as the appropriators in what is often a contentious area. For all those involved, I think it is a breakthrough and I congratulate them.

Mr. Speaker, the bill we will consider shortly is an extremely important piece of legislation for the people of Florida, and I will speak parochially about it for a moment. In recent years, the Clinton administration seems to have engaged in an all-out assault on Federal support for beach renourishment, a subject of great interest in our State. First, the President suggested that the Federal Government had no role in assisting State and local governments to protect our Nation's beaches, beaches that I would say are used by all citizens of our Nation as well as the many, many visitors who come to our country, and especially to Florida.

In response, last year's Congress passed the Shore Protection Act which revises the Army Corps of Engineers' mission to specifically include beach renourishment. As evidenced by his budget request this year, the President is continuing his assault on beach programs by not requesting adequate funds for these vital projects. The report accompanying this year's Energy and Water bill admonishes the President, "In the area of shore protection, the committee is extremely disappointed that the administration has once again failed to request funds to continue several ongoing construction projects and studies or to initiate new studies or projects. As the committee stated last year, shore protection projects serve the same function as other flood control projects. They protect lives and property from the impacts of flooding."

I think that says it all and it certainly brings back the recent tragedy of the floods and the flood victims. I think if we understand that we are going to provide relief for flood victims in one part of the Nation, we should do it for flood victims in all parts of the Nation. I hope the administration understands that.

I commend the gentleman from Pennsylvania [Mr. McDADE] and the Committee on Appropriations for their work on this bill. I am particularly pleased with the committee's attention to the shore protection projects and I am sure all Members from States with shoreline that need protection will share that view, as well as all Members from States with people who go to the beach, and that is most of us.

This is a fair rule and a good bill, and I strongly urge my colleagues to support both the bill and the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. I thank the gentleman for yielding me this time.

Mr. Speaker, I am not totally dissatisfied with this rule although the love fest that is developing here would indicate that it is close to perfection, and I do find a few minor flaws in it. I would like to just indicate those very briefly.

I observe that in title III of the bill there are a number of waivers of authorizing legislation on an appropriations bill. I have consistently over the years objected to having authorizing legislation on appropriations bills. I am becoming a little mellower in my old age that I am not condemning the Committee on Appropriations for doing this, or at least I am not condemning them as much as I used to condemn them. But I would like to point out, and I hope that this can be resolved either by colloquy during the processing of this bill or by further action with the Members of the other body in conference, there are certain problems with regard to some of these titles which are going to give us some headaches unless we do something about them.

For example, the requirement contained in section 301 for the competition of maintenance and operating contracts by the laboratories of the Department of Energy is something that I thoroughly approve of, nevertheless requires some transitional language. There are several major contracts in the final stages of renegotiation at the present time, and there is no clear direction as to how these should be handled. I have indicated this to the chairman of the subcommittee, who I know is concerned and who is a dear friend who will do what is right, but I commend to his attention the need to do something about this particular problem.

I might say that the contracts in the process of renegotiation include several of the major Department of Energy facilities, such as Los Alamos, Livermore, Berkeley, Stanford Linear Accelerator and Pacific Northwest Laboratories. These represent multibillion dollar accounts. They have proceeded to renegotiate existing contracts in good faith, and to now stop that and renegotiate and recompete would require months, if not years of time and considerably more expense. I hope that the chairman will consider this problem and see if it can be resolved in some reasonable way.

Some of the other provisions which constitute legislation I think could have been written much better by the authorizing committee. This is maybe pure ego, but I think we will find that the ambiguities and uncertainties contained in the language here, which could have been resolved if there had been a hearing process in the authorizing committee, will need considerable improvement. I urge the committee to seek for ways to improve this language as the bill moves forward.

Let me say that the rule itself, as the gentleman from Wisconsin [Mr. OBEY] has indicated, is not a totally bad rule although I think he has so exhausted himself that he has not been able to probe into the finer details of what might be wrong with it. We have a situation now where the Committee on Rules will not waive the rule with regard to authorizing language on an appropriations bill if the chairman of the authorizing committee objects. In this case there are 3 separate authorizing committees whose rights are being infringed upon, and none of the chairmen objected. The procedures do not allow a ranking minority member this same right. If it had, I would have objected to the language here, and I might still try and do something about it, but it does not rise to the level of importance that I am going to waste too much of my energies trying to do that. I hope that will console the gentleman from Pennsylvania [Mr. McDADE]. If I have his assurances that he will try and remedy some of these things, I will rest a little more easily tonight.

One final thing. Last year I took the floor to ask the cooperation of the then chairman, the distinguished gentleman Mr. Myers, to help provide a little funding to do research on the Salton Sea. He did that. The Bureau of Reclamation had not asked for it. This year they asked for it, and the gentleman kindly granted them the $400,000 that they requested. What happened to last year's $400,000?

They have had several very high level conferences with regard to what makes birds die. I know what makes birds die. They eat rotten fish and the hot weather kills them and a lot of other things like that, and I appreciate all of these conferences. As I say, they have had at least 3 of them and there is another one scheduled next month and they are bringing people from all over the United States down there to look at the Salton Sea to find out something that I could have told them anyway and that the gentlemen from California [Mr. BONO] and the gentleman from California [Mr. HUNTER] and some others could have told them.

I do not want to see too many more conferences. I want to see some action on what is developing to be the largest ecological catastrophe in California, or maybe the United States. I will make this point over and over again until we see something productive coming out of this situation.

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It is already costing hundreds of millions of dollars, and it threatens to go much higher.

With that, let me thank my good friends on the Committee on Appropriations for the fine work that they have otherwise done.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Washington for yielding this time to me, and I rise in strong support of the rule before us and in strong support of the bill, H.R. 2203, the fiscal year 1998 energy and water appropriation.

Mr. Speaker, my colleague, the gentleman from Pennsylvania [Mr.

McDADE] had a very difficult task before him of balancing all of the many meritorious and various requests with the very limited budget, and I commend him, his work as well as the other members of the committee and the ranking member. I would like to take this opportunity to express my particular support for the chairman's commitment to continuing to place an emphasis on coastal storm damage prevention projects, and in particular where there is an obvious and clear Federal responsibility and culpability.

Mr. Speaker, we have experienced considerable erosion problems along our beaches in Florida and along the beaches in Brevard and Indian River Counties in my district in particular. In particular in Brevard County, there is a very obvious Federal responsibility in that much of the erosion began after the creation of a Federal inlet at Port Canaveral. The committee has chosen to continue to place a priority in these projects, and in particular they recognize the fairness and honesty and are continuing to pursue this. And I am hopeful, hopeful that the administration may soon realize the error of their ways in opposing such projects and begin to once again request funding for these very, very critical programs.

We have seen the increasing devastation caused by hurricanes in recent years, and it is important that we pursue policies that protect our citizens and our property from these storms. Much like levees and dikes protect our citizens and property from floods along lakes, rivers and streams, storm damage prevention projects in the form of beach renourishment projects offer the same protection to our coastal citizens and properties from the high seas and the damage that accompanies these storms.

I again commend the gentleman from Pennsylvania [Mr. McDADE] and I urge all my colleagues to support this rule and the underlying bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rise today in support of this rule and congratulate our chairman, the gentleman from Pennsylvania [Mr. McDADE] and our ranking member, the gentleman from California [Mr. FAZIO] for the strong bipartisan manner in which they bring this bill to the floor. Both gentlemen have led this committee in a spirit of great cooperation, listening to all parties and, I believe, producing a bill that is a fair balance between critical needs and limited resources.

Foremost to me and to many of my colleagues are the programs funded in this bill that ensure the safety of our constituents and the protection of our communities from flooding and other related damages. I am pleased that the committee recognized the necessity to ensure adequate funding for the Corps of Engineers and the Bureau of Reclamation to carry out their missions in an effective manner. Although more funding is needed, the committee has done an excellent job in allocating funds to those projects that need them the most.

Mr. Speaker, I am particularly pleased that the committee has rejected the administration request for total up-front funding for all new Corps of Engineer construction projects. The number of projects, the number of years to complete them and the limited funds available would make this a disastrous approach to maintaining the integrity and safety of our Nation's water resources. I encourage my chairman and ranking member and my fellow committee members to continue to oppose this ill-advised plan.

Mr. Speaker, I ask my fellow colleagues to support this rule and the underlying bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member would like to commend the distinguished gentleman from Pennsylvania [Mr. McDADE], the chairman, and the distinguished gentleman from California [Mr. FAZIO], the ranking member of the subcommittee, for their exceptional work in bringing this bill to the floor. This Member recognizes that extremely tight budgetary constraints made the job of the subcommittee much more difficult this year. Therefore the subcommittee, I think, is to be particularly commended for its diligence in creating such a fiscally responsible bill. In light of the budgetary pressures, this Member would like to express his appreciation to the subcommittee for a number of actions that are important to a four-State region where I carried a bi-State region and some various projects like that one in Pender, NE, which is extraordinarily important for flood control purposes.

So I do thank the subcommittee for their work and appreciate their effort once again.

Mr. Speaker, in light of these budgetary pressures, this Member would like to express his appreciation to the subcommittee and formally recognize that the energy and water development appropriations bill for fiscal year 1998 includes funding for several water projects that are of great importance to Nebraska.

First, this Member is very pleased, for example, that the bill includes $3,741,000 for construction of the Pender, NE, section 205 Logan Creek flood control project. There is an urgent need for this funding and this Member is particularly grateful to the subcommittee for agreeing to this appropriations item during a time when the restrictions on available funding are exceedingly tight.

The community of Pender, a small municipality, and the Lower Elkhorn Natural Resources District have expended approximately $160,000 of their own funds to date. The municipality has expended an additional approximate amount of $25,000 on the costs of engineering, project coordination, and other related costs. Without the flood control project the community will remain at risk and will be stymied from undertaking future developments in their community due to FEMA flood plain development restrictions; 60 percent of Pender is in the floodplain and 40 percent is in the floodway.

The plan calls for right bank levees and flood walls with a retention pond for internal storm water during flood periods. The project will remove the entire community from the FEMA 100-year flood plain. This project is needed to protect life and property, eliminate or greatly reduce flood insurance costs, and allow community and housing development.

Mr. Speaker, quite simply, at great expense the State and local entities involved in the project have held up their end of the agreement. If Federal-local partnerships are to work, Federal commitments need to be met; therefore, this Member is pleased that this legislation will greatly facilitate the completion of this project.

In addition, this bill provides additional funding for other flood-related projects of tremendous importance to residents of Nebraska's First Congressional District. Mr. Chairman, flooding in 1993 temporarily closed Interstate 80 and seriously threatened the Lincoln municipal water system which is located along the Platte River near Ashland, NE. Therefore, this Member is extremely pleased the committee agreed to continue funding for the Lower Platte River and Tributaries Flood Control Study. This study should help formulate and develop feasible solutions which will alleviate future flood problems along the Lower Platte River and tributaries.

Mr. Speaker, this Member would like to take this opportunity to thank the subcommittee and the full committee for providing $300,000 in funding for the Lower Platte River and Tributaries Flood Control Study. In addition, a related study was authorized by section 503(d)(11) of the Water Resources Development Act of 1996. This Member would request that the chairman of the Appropriations Subcommittee on Energy and Water into a colloquy on this matter.

Mr. Speaker, additionally, the bill provides $90,000 in continued funding for an ongoing floodplain study of the Antelope Creek which runs through the heart of Nebraska's capital city, Lincoln. The purpose of the study is to find a solution to multifaceted problems involving the flood control and drainage problems in Antelope Creek as well as existing transportation and safety problems all within the context of broad land-use issues. This Member continues to have a strong interest in this project since this Member was responsible for stimulating the city of Lincoln, the Lower Platte South Natural Resources District, and the University of Nebraska-Lincoln to work jointly and cooperatively with the Army Corps of Engineers to identify an effective flood control system for downtown Lincoln.

Antelope Creek, which was originally a small meandering stream, became a straightened urban drainage channel as Lincoln grew and urbanized. Resulting erosion has deepened and widened the channel and created an unstable situation. A 10-foot by 20-foot—height and width—closed underground-conduit that was constructed between 1911 and 1916 now requires significant maintenance and major rehabilitation. A dangerous flood threat to adjacent public and private facilities exists.

The goals of the study are to anticipate and provide for the control of flooding of Antelope Creek, map the floodway, evaluate the condition of the underground conduit, make recommendations for any necessary repair, suggest the appropriate limitations of neighborhood and UN-L city campus development within current defined boundaries, eliminate fragmentation of the city campus, minimize vehicle-pedestrian-bicycle conflicts while providing adequate capacity, and improve bikeway and pedestrian systems.

This Member is also pleased that the bill includes $150,000 for a study of flooding problems in Ponca, NE. This funding is needed to initiate and complete a study to determine the feasibility of a solution to the flooding problems on Aowa and South Creeks at Ponca, NE. The city of Ponca is located on the north side of the junction of South Creek and Aowa Creek. During the flood of July 16–17, 1996, water left the banks and covered Ponca from the west end to the east, causing extensive damage throughout the area. In addition to extensive private property losses, damage to public property reached nearly $100,000. For example, both of the city's wells were damaged and all the pumps and motors in the sewage treatment plant had to be removed and repaired. The flood also caused considerable damage to city streets and park. Future flooding poses a significant risk to life and property. Clearly, action must be taken to prevent a reoccurrence of the flooding disaster of last year.

This Member is also pleased that the bill provides $200,000 for operation and maintenance and $150,000 for construction of the Missouri National Recreational River Project. This project addresses a serious problem by protecting the river banks from the extraordinary and excessive erosion rates caused by the sporadic and varying releases from the Gavins Point Dam. These erosion rates are a result of previous work on the river by the Federal Government.

In addition, this Member appreciates the funding provided for the Missouri River Mitigation Project. This funding is needed to restore fish and wildlife habitat lost due to the federally sponsored channelization and stabilization projects of the Pick-Sloan era. The Islands, wetlands, and flat floodplains needed to support the wildlife and waterfowl that once lived along the river are gone. An estimated 475,000 acres of habitat in Iowa, Nebraska, Missouri, and Kansas have been lost. Today's fishery resources are estimated to be only one-fifth of those which existed in predevelopment days.

The Missouri River Mitigation Project addresses fish and wildlife habitat concerns much more effectively than the Corps' overwhelmingly unpopular and ill-conceived proposed changes to the Missouri River Master Manual. Although the Corps' proposed plan was designed to improve fish and wildlife habitat, these environmental issues are already being addressed by the Missouri River Mitigation Project. In 1986 the Congress authorized over $50 million to fund the Missouri River Mitigation Project to restore fish and wildlife habitat lost due to the construction of structures to implement the Pick-Sloan plan.

This Member is also pleased that the legislation includes full funding for the section 22 planning assistance for States and tribes program as well as significant funding in excess of the budget request for the section 205 small flood control projects program, and the section 14 emergency streambank and shoreline protection program of the Corps of Engineers.

Finally, Mr. Speaker, this Member recognizes that H.R. 2203 also provides funding for a Bureau of Reclamation assessment of Nebraska's water supply, $88,000, and an assessment of the Nebraska Rainwater Basin, $133,000, as well as funding for Army Corps projects in Nebraska at the following sites: Harlan County Lake; Papillion Creek and Tributaries; Gavins Point Dam, Lewis and Clark Lake; Salt Creek and Tributaries; and Wood River.

Again Mr. Speaker, this Member commends the distinguished gentleman from Pennsylvania [Mr. McDADE], the chairman of the Energy and Water Development Appropriations Subcommittee, and the distinguished gentleman from California [Mr. FAZIO], the ranking member of the subcommittee for their support of projects which are important to Nebraska and the First Congressional District, as well as to the people living in the Missouri River Basin.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Speaker, I rise in support of the rule, and I would like to take this opportunity to personally thank the subcommittee chairman, the gentleman from Pennsylvania [Mr. McDADE], and the ranking member, my colleague from California [Mr. FAZIO] for the help and support they have given me on an issue of paramount concern to many of my constituents.

Among its many critical provisions, the bill contains $3.2 million to continue the dredging of Morro Bay Harbor in the 22d district of California. Without this critical dredging project, a vibrant community on the central coast of California would be greatly imperiled. Morro Bay Harbor supports approximately 250 home-ported fishing vessels and related marine-dependent businesses which earn $53 million a year and employ over 700 people.

Mr. Speaker, I am very pleased that the committee could include this funding and ensure the viability of this important community.

Mr. Speaker, I rise in support of this legislation. I am pleased that the bill before us contains critical funding for a number of important projects in my district, in particular the continuation of the much needed $3.2 million dredging project for Morro Bay Harbor.

I want to convey my deep appreciation to Chairman McDADE and the subcommittee's ranking member, my colleague and good friend from California, Mr. FAZIO, for their unwavering support of my request for this funding. I cannot express how important this funding is to this thriving coastal community of the 22d district of California.

Morro Bay Harbor, the only commercial harbor between Santa Barbara and Monterey, supports approximately 250 home-ported fishing vessels and related marine-dependent businesses. Businesses that depend on the harbor generate $53 million a year and employ over 700 people. The Army Corps of Engineers has maintained the harbor since it was initially constructed by the Federal Government as an emergency naval base during World War II, and the dredging project keeps the channel depth between 30 and 40 feet to allow safe passage for the harbor's commercial and recreational traffic.

In fiscal year 1995, the Corps completed construction of the Morro Bay Harbor Entrance Improvement Project to enhance commerce, fishing and navigation safety. Prior to the improvements, the harbor mouth and its giant sea swells were particularly dangerous, as evidenced by the history of serious boating accidents. This project was funded 80 percent by the Federal Government and 20 percent by the city, and has greatly reduced the danger to vessels leaving and entering the harbor.

This year, only 3 years after the Corps completed the enhancement project at Morro Bay Harbor, the President's budget request failed to include the $3.2 million funding necessary to maintain the harbor. Due to the fact that the harbor has limited recreational facilities to generate revenues, there is no local sponsor to assist with dredging costs should the Federal Government cease or reduce maintenance dredging support. For economic and safety reasons, it is critical that the harbor dredging project continue. I am very pleased that the committee has granted my request to include funding for this important project.

This bill also contains $100,000 for an Army Corps reconnaissance study of Morro Bay estuary. The estuary is part of the National Estuary Program administered by the Environmental Protection Agency and is experiencing tidal circulation restrictions and sedimentation, and shoaling of sensitive environmental habitat areas. This funding will allow for Army Corps to perform an analysis of the estuary's present and future conditions and to define problems, needs and potential solutions. At my request earlier this year, the Transportation and Infrastructure Committee authorized funding for this project and I am grateful that the Appropriations Committee could act so quickly in response to this development.

I am also grateful to the committee for including in this bill two projects that were requested by the administration in this year's budget. The bill provides $1.492 million for operations and maintenance work for Santa Barbara Harbor. The harbor accumulates approximately 400,000 cubic yards of sand every winter. In years of severe storms, the accumulated sand can close the channel, bringing local fishing and other businesses in the harbor to a standstill. This funding will allow the harbor to remain clear for both commercial and recreational use.

Finally, the bill includes $380,000 to complete a feasibility study for the Santa Barbara

County Streams, Mission Creek Flood Control project. The proposed project, which runs through downtown Santa Barbara, would construct a natural bottom channel with vegetated stabilized sides.

All of these projects are important public works actions that will increase the quality of life on the central coast. I thank the chairman and the members of the committee for their assistance and I look forward to working with you as this legislation moves forward.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise in support of the rule and also in support of the fiscal 1998 energy and water appropriations bill. As co-chairman of the bipartisan House Coastal Coalition, I would like to thank the gentleman from Pennsylvania [Mr. MCDADE], the gentleman from California [Mr. FAZIO], the gentleman from New Jersey [Mr. FRELINGHUYSEN], and all the members of the Committee on Appropriations for once again rejecting the administration's anti-shore protection policy.

Mr. Speaker, for several years now, despite congressional opposition, the administration has been clinging to an ill-conceived and unjustified policy that attempts to eliminate Federal involvement in the protection of our Nation's coastal residents from the impacts of flooding, and, as the committee report states, shore protection projects serve the same function as other flood control projects. They protect lives and property from the impacts of flooding.

There are only two differences really between shore protection projects and other flood control projects. Unlike other flood control projects in which structural remedies are the only solution, the best remedy for protecting our coastal flooding is often beach nourishment. The other difference is that shore protection projects have added recreational benefits.

Mr. Speaker, I just want to point out that 28.3 million jobs and billions of dollars in economic contributions come from coastal tourism. Coastal tourism-related businesses serve 180 million Americans annually. Recent polls in my home State of New Jersey show that 82 percent of State residents, and that is State residents not just coastal residents, favor beach restoration projects. Those opposed to a Federal role in shore protection point out that it is a source of revenue for local and State economies. But currently all levels of government, local, State and Federal, participate in funding these shore protection projects and all levels of government benefit economically as a result. So who exactly is losing by maintaining a Federal role in shore protection? I say nobody is losing, it is a good thing.

I just want to say again on behalf of the House Coastal Coalition, which is bipartisan, and coastal residents around the country, I thank the committee for its rejection of this policy and I applaud committee members for seeing shore protection for what it is: a wise investment.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Mr. Speaker, I want to inform my colleagues that I am taking this time because we have agreements with 17 of our colleagues to engage in pre-decided colloquies which we negotiated. We are going to try to do that under the rule, thanks to the Committee on Rules, using time on both sides of the aisle to get through as many of them as we can so we can expedite the business of the House.

Mr. Speaker, I yield to the gentleman from Washington [Mr. HASTINGS].

Mr. HASTINGS of Washington. Mr. Speaker, let me start by saying to the gentleman from Pennsylvania [Mr. MCDADE] I appreciate the work that he has done on my behalf. My district is home to nearly two-thirds of the Nation's nuclear waste. This is a legacy of World War II and the Cold War and a testimony to the role that the Hanford Nuclear Reservation played in producing much of the Nation's plutonium over the past 40 years.

As a result, I am concerned by the committee's decision to reduce funding for the department's cleanup privatization program. We all agree that the Department of Energy has a poor track record in managing large-scale cleanup projects. As a result, the gentleman from Washington [Mr. DICKS] and I introduced legislation in the 104th Congress to require that the department utilize the expertise of private sector experts in solving these complex problems.

Unfortunately, the department has not done an adequate job explaining their new way of doing business and the committee has reduced the privatization program from a $1 billion request to only $70 million. These are significant reductions in a critical environmental program. As a result, I would seek an assurance from the subcommittee chairman that this year's action does not indicate the committee's intent to abandon the Hanford tank waste cleanup program in future years. When final contracts are submitted next year, Congress needs to be willing to support an aggressive cleanup program.

Mr. MCDADE. Mr. Speaker, reclaiming my time, I appreciate the gentleman from Washington's continued interest in this issue. As he and I have discussed on several occasions this year, the committee realizes that while we have certainly been critical of the Department of Energy, the nuclear and hazardous waste stored in the Hanford tanks must be remediated.

We understand in less than 6 months, two private companies will submit their proposals to try to deal with the waste problem. The committee is not prejudging this process, and we look forward to reviewing the proposals when they are presented to the Congress in 1998. We believe the committee has provided adequate funding to ensure the bid process is fully supported, and we will commit to working with the gentleman from Washington to ensure that a responsible cleanup program for the Hanford tanks is funded by the committee.

Mr. HASTINGS of Washington. I thank the gentleman.

Mr. MCDADE. Mr. Speaker, I yield to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. I thank the chairman of the subcommittee, the gentleman from the Commonwealth of Pennsylvania [Mr. MCDADE] and congratulate him for his work on this.

I have discussed previously with the chairman that the corps has failed to accomplish projects they have promised or to provide repayment for costs incurred for projects with public sponsors in the southwest Florida area. I understand this bill has funds that will now allow the corps to honor its commitments in southwest Florida for these shore protection issues.

I wish to receive some assurance that the corps will actually use these funds for the Lee County GRR and reimbursement of the Matanzas Pass as intended. Additionally I wish to receive some assurances that the corps will undertake no further dredging of Boca Grande Pass in the future until the corps' outstanding obligations to Lee County have been satisfied, and then only if the dredging and spoilage plan for Boca Grande Pass is agreed to by the State of Florida, the County of Lee and the local community of Gasparilla Island.

The chairman notes from photographs I have showed him and the material I have provided how badly the corps has botched their recent dredging of Boca Grande Pass, and over the last decade taxpayers have spent 10 million for the dredging of this pass, and it is time to reassess justification before any further expenditure.

Mr. MCDADE. Reclaiming my time, Mr. Speaker, I appreciate the very extensive briefing the gentleman from Florida [Mr. GOSS] accorded me on the problem that exists here, and I want to assure him that I am going to look into what assurances may be appropriate, but I agree it is critical that the corps has a strong relationship with the local governments that sponsor these projects and put up their own money. They are very much partners in the projects, and the corps' actions ought to reflect that.

I, too, may I say to my colleague, am concerned about the corps' actions with regard to the Boca Grande Pass project. I believe it raises some serious questions deserving the committee's attention, which I will be mindful of in conference.

Mr. McDADE. Mr. Speaker, I yield to the gentleman from California [Mr. CALVERT].

□ 2115

Mr. CALVERT. Mr. Speaker, I thank the chairman.

First, I would like to thank the distinguished subcommittee chair and his staff for their assistance in addressing the needs of my district. Their fine work is very much appreciated. I am grateful for the $300,000 listed in the committee report accompanying the bill to initiate a feasibility study for the Santa Margarita River project.

However, I believe the flooding issues surrounding Murietta Creek which are mentioned in the Santa Margarita project are serious enough to deserve a separate study. Mr. Speaker, I ask my colleague for his assistance in conference to make this clarification, and indicate that a separate feasibility study should proceed for Murietta Creek. The community has suffered back-to-back flooding and deserves a resolution to their problems.

Mr. McDADE. Mr. Speaker, I want to indicate to my colleague my appreciation of his bringing this matter to my attention. I want say that I look forward to working on this issue as this bill moves through the process and into conference. We are going to try to do everything we can to help the gentleman from California.

Mr. CALVERT. I thank the chairman for his attention to this matter.

Mr. McDADE. Mr. Speaker, I yield to my good friend, the gentleman from Colorado, [Mr. DAN SCHAEFER], chairman of the Subcommittee on Energy and Power of the Committee on Commerce.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentleman for yielding to me, and I would like to engage the gentleman from Pennsylvania in a colloquy.

As the gentleman is aware, title I of this bill would transfer funding from the management of the Formerly Utilized Sites Remedial Action Program, or as we call it, FUSRAP, from the Department of Energy to the U.S. Corps of Engineers. As the gentleman knows, the Committee on Commerce has the responsibility of the management of nuclear waste disposal, including remediation of these nondefense sites.

It has been our goal to ensure that FUSRAP sites are cleaned up in a very effective and efficient manner, and I must admit that I have some concerns about whether transferring funding to the Corps of Engineers is the best way to ensure that these sites are cleaned up.

At the same time, however, I would simply like to confirm my understanding that this transfer of funding from the Department of Energy to the U.S. Corps of Engineers is not intended to and in fact would not affect the Committee on Commerce's jurisdiction over the management of these facilities.

Mr. Speaker, could the gentleman confirm my understanding of this?

Mr. McDADE. Mr. Speaker, may I say the gentleman is correct. It is not our intention to have any effect on the jurisdiction of the authorizing committee by providing funding to the Corps to conduct the cleanup activities. It is my understanding the committee jurisdiction over these FUSRAP sites is not affected in any way regardless of which governmental agency is involved in managing the cleanup.

Mr. DAN SCHAEFER of Colorado. If the gentleman will continue to yield, Mr. Speaker, I would like to commend the chairman again for a very excellent bill, and would like to clarify one provision regarding renewable energy in the fiscal year 1998 energy and water development appropriation bill.

That is, the report language with regard to wind energy research development and demonstration projects appears to restrict ongoing and future cost-shared partnership efforts between the Department of Energy and the wind energy industry. Is it the intention of the House that these and other cost-shared programs should not be continued as appropriate in collaboration with DOE, the National Laboratories and U.S. industries?

Mr. McDADE. Mr. Speaker, may I say to my colleague that the energy and water development appropriations bill has no intention, nor do its members, to impede appropriate current or future research, development, and demonstration projects involving competitively awarded cost-shared partnerships between the Department of Energy, the National Laboratories, and the U.S. wind industry.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I very much appreciate the gentleman yielding to me.

Mr. McDADE. Mr. Speaker, I yield to the distinguished gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I rise to engage the distinguished chairman of the subcommittee, the gentleman from Pennsylvania [Mr. McDADE], in a colloquy.

As the distinguished gentleman is well aware, the issue of how to best deal with high level nuclear waste is of grave concern to me, to my respected colleague, the gentleman from Nevada [Mr. ENSIGN], and to all Nevadans. Currently the Department of Energy is in the process of determining whether the Yucca Mountain site in Nevada meets the scientific standards necessary to become a permanent repository for thousands of metric tons of high-level defense and more particularly civilian nuclear waste generated at 109 locations across America.

The bill under consideration by the House appropriates $160 million from the Nuclear Waste Disposal Fund in fiscal year 1998. In addition to the $190 million recommended from the Defense Nuclear Waste Disposal Fund, the total amount available for disposal activities authorized under current law is $350 million. Moreover, $85 million in fiscal 1996 funds have not been obligated simply because the release of those funds is subject to the enactment of legislation directing the Department of Energy to establish an interim storage site while permanent site characterization at Yucca Mountain continues.

The gentleman from Nevada [Mr. ENSIGN] and I would like to make sure that it is the gentleman's intent and the intent of the committee that the $350 million appropriation from the Nuclear Waste Disposal Fund is to support ongoing permanent site characterization activities.

Our concern and reason for engaging the chairman in a colloquy is to correct the perception which may exist among Members in the House that the appropriation in question has been reserved for site-specific interim storage activities. Simply put, site-specific interim storage activities are not authorized under current and existing law.

At this time my colleague, the gentleman from Nevada [Mr. ENSIGN] and I would like to respectfully ask the assurance and clarification of the gentleman from Pennsylvania [Mr. McDADE] that the $350 million appropriation recommended in the bill is directly for use only on those program activities associated with the permanent, and not interim, storage of high-level nuclear waste.

Mr. McDADE. Mr. Speaker, I want to assure the gentleman that all of the money appropriated in this bill is only for permanent and not site-specific interim storage of high-level nuclear waste at Yucca Mountain.

Mr. GIBBONS. I thank the distinguished gentleman for his understanding and willingness to work with us on this critically important issue.

Mr. Speaker, I would also like to discuss the ability of the State of Nevada and all affected local governments to carry out oversight authority of Yucca Mountain, Nevada, granted to them under the Nuclear Waste Policy Act of 1982.

Currently, the Department of Energy is conducting tests to determine if Yucca Mountain will be a permanent repository site for nuclear waste. When the Nuclear Waste Policy Act of 1982 was created, Members of this body felt it was imperative for the State of Nevada and all affected local governments adversely affected by the storage of nuclear waste to have the necessary monies to properly oversee tests that the Department of Energy was carrying out to determine whether or not Yucca Mountain is suitable as a permanent nuclear waste site.

This was a very critical part of the 1982 Act, because it allowed for the education of Nevada residents as to the scientific validity of the tests that the Department of Energy was conducting, and these resources allowed for State and local governments to perform their own independent tests to ensure that the best science available is used for the site suitability. It has been my experience that the local scientists have been non-biased and have produced needed assurances that only the best scientific data is used to determine the hydrologic and geologic character of Yucca Mountain.

We have nearly 1.8 million people in Nevada, and their safety and quality of life should not be ignored in this debate, making it imperative that we provide for the financial resources to ensure that State and affected local governments are able to monitor and report this activity.

I am hopeful that the gentleman will work with me in conference to appropriate up to $1,500,000 for the State of Nevada and $6,175,200 for the affected local governments. These appropriation amounts are consistent with the monies appropriated in the Senate fiscal year 1998 Energy and Water Appropriations Act. As the legislation moves closer and closer to designating Yucca Mountain as a permanent nuclear waste repository, it becomes imperative that we address the safety and concerns of the citizens of Nevada.

Mr. McDADE. Mr. Speaker, we know how important this issue is to our friends in the State of Nevada, and I want to assure the gentleman that I will be pleased to work with him as the issue moves along.

Mr. GIBBONS. I thank the gentleman, and I appreciate his willingness to work with me on this very important issue.

Mr. Chairman, I include for the RECORD an editorial from the Las Vegas Sun.

The document referred to is as follows:

Let State Nuke Office Do Its Job

The Legislature should not overreact to criticism of the state Office of Nuclear Projects or it may unwittingly become a pawn of the nuclear power industry.

Lawmakers last week debated whether to impose tight fiscal controls on the agency, which monitors the federal nuclear waste dump study at Yucca Mountain. State and federal audits last year criticized the office headed by Bob Loux for sloppy bookkeeping and possibly spending more than it should have on private contracts.

Senate Majority Leader Bill Raggio, R-Reno, wants the Legislature to oversee the organization, placing its budget in reserve and meting out funds every three months. Raggio's assumption is that 90-day reports to the Interim Finance Committee will produce better accountability.

But alloting funds for only three months would destroy long-range planning. Contracts with highly technical organizations could not be continued, wrecking the state's ability to ensure the federal study is scientifically sound.

Nevada needs all the technical ammunition it can muster to watch over the politically motivated study at Yucca Mountain. That site was selected by Congress—not scientists—as the most suitable location in the nation to bury about 70,000 tons of highly radioactive waste. Nevadans have long suspected that the study would be railroaded—ignoring or doctoring negative data—in an effort to soothe public opinion about the safety of the site.

That's why the Nevada office is important. It provides an essential balance to a one-sided information flow from the nuclear industry and the Department of Energy.

Raggio's contention that the office needs closer oversight makes no sense, especially after all deficiencies found in the audits were corrected shortly afterward.

And some of the so-called deficiencies were exaggerated. The General Accounting Office criticized Loux's organization for spending $125 an hour to clip newspaper stories, a report which delighted proponents of the dump and industry hacks. What wasn't said was that the office managed to convince the management of seven major daily newspapers that the dump was a threat to public health and they published editorials to that effect. They included USA Today, the St. Louis Post-Dispatch and the San Francisco Chronicle.

We fear that overreacting to the audit reports will play into the hands of the well-funded industry lobbyists who want the office shut down altogether. They would be delighted if Nevada could not challenge any of the data promoted by the nuclear industry and would quietly accept the dump.

The better course is to require full financial reports during each legislative session, but let the office do its job in the meantime. For more than a year, there have been increasing indications the dump cannot pass scientific muster as a safe site and Nevadans need an alert watchdog to ensure no games are played in these waning days of the study.

Mr. McDADE. Mr. Speaker, I yield to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the distinguished chairman for yielding.

Mr. Speaker, I have a simple colloquy, one question, really: Is it the committee's intention that the appropriations made for the Lower Platte River and Tributaries Nebraska study may also be used to conduct studies authorized by section 503(d)(11) of the Water Resources Development Act of 1996 watershed management, restoration, development of the Lower Platte River watershed, Nebraska?

Mr. McDADE. May I say to my colleague, Mr. Speaker, that we have looked at it with great seriousness. We appreciate the briefings he has given us. I want to tell the gentleman that his comments are absolutely correct.

Mr. BEREUTER. I thank the gentleman very much for his statement of intent and clarification.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 2203, making appropriations for energy and water development for fiscal year 1998.

Mr. Speaker, I rise in support of H.R. 2203, making appropriations for energy and water development for fiscal year 1998.

This bill provides funds for critical flood control and navigation projects in Contra Costa County and the San Francisco Bay Area of California. I appreciate the committee's continued support for these projects.

I am particularly pleased that the committee's bill will assist in funding the initial share of Federal participation in the Bay-Delta Environmental Enhancement and Water Security Act.

Funding the Bay-Delta programs will allow us to begin a comprehensive effort to restore the many components of this huge area that have been damaged by human activity. The California Bay-Delta Environmental Enhancement and Water Security Act went into effect when California votes approved proposition 204, which sets aside nearly a billion dollars for Bay-Delta water programs and guarantees that the State of California will pay a fair share of its costs.

The Bay-Delta initiative is one of the boldest ecosystem restoration programs ever conceived. Funding for Bay-Delta programs in fiscal year 1998 has the full bipartisan support of the entire California congressional delegation, and I believe this initial appropriation deserves the full support of the Congress.

The committee bill raises a new problem with the Central Valley Project Restoration Fund. According to the committee report, the restoration fund is to be cut $14 million in fiscal year 1998 to eliminate funding for the Water Acquisition Reserve. I believe this reduction, apparently suggested by the General Accounting Office, is misguided, and I hope there will be an opportunity to reconsider this matter in conference. Specifically, I believe the Water Acquisition Reserve is a sensible approach to water management needs in California, and that it is well within the authorities granted by the Central Valley Project Improvement Act. I will be pleased to work with the committee to resolve this matter prior to conference.

Lastly, the bill includes funding to study the removal of rock hazards near Alcatraz Island that threaten oil tankers and risk a devastating oil spill in San Francisco Bay. This funding is an important first step in determining how to remove these navigation hazards in a cost-effective and environmentally sound way.

I thank the committee for its hard work on this legislation, and I urge my colleagues to support H.R. 2203.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the ranking member.

Mr. OBEY. Mr. Speaker, I ask unanimous consent to insert in the RECORD immediately after my remarks earlier this evening the text of the article to which I referred during the debate on the agriculture appropriations bill.

The SPEAKER pro tempore [Mr. NUSSLE]. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this rule and legislation. As a new member of the Subcommittee on Energy and Water Development of the Committee on Appropriations, I especially want to thank Chairman McDADE for his fairness and bipartisanship in crafting this legislation.

Mr. Speaker, while most Americans only hear of the partisan battles in Congress, the work of Chairman McDADE and the ranking member, the gentleman from California [Mr. VIC FAZIO], is an example of the Congress at its best: two leaders, along with an excellent staff, working hard and doing simply what they believe is best for the interests of this Nation.

This bill may not be tomorrow's national headlines because the work was done without rancor, but this bill makes an important commitment to our Nation's future. Because of this legislation, there will be communities that will never face the tragedy of devastating floods.

By strengthening our Nation's infrastructure, ports, and waterways, this bill will make America more competitive in the world marketplace. That means more jobs and better jobs for American families.

By investing in the clean-up of nuclear waste and in renewable energy resources, this bill will make our environment cleaner and make America less dependent upon foreign energy sources.

Because of this legislation's commitment to stop the proliferation of nuclear, chemical, and biological weapons, my two small children will grow up in a safer world. For that, I am deeply grateful.

The efforts of Chairman McDADE and the gentleman from California [Mr. FAZIO] may not make prime time news tonight, but millions of American families will be better off tomorrow because of their effective leadership and teamwork in crafting this legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, what other piece of legislation can at the same time protect this Nation's environment, provide opportunity for energy, and yes, strike a chord for removal of flood danger all over America? This is a good, good piece of legislation. Mr. Speaker, I thank Chairman McDADE for his generosity in spirit and cooperation in some very important issues. I thank the ranking Member, the gentleman from California [Mr. FAZIO], and we thank him as well for working in a cooperative spirit and for helping all of us, no matter where we might live, in an urban or rural community. I am gratified this bill gives $52 million more than the current fiscal year, and it gives $413 million to the Army Corps of Engineers.

Just for a moment imagine a community in inner city Houston, flooded in 1994, flooded in 1995, and yes, flooded again in 1997, bungalow homes without flood insurance, my constituents in the Cullen and McCullough area. Let me simply say to the Members, they are rejoicing tonight, not because we are taking taxpayers' dollars and moving them from one place to the next, but because this country cares about those citizens who live day-to-day, struggling to work and to survive.

This is a good bill. I look forward to working with the Army Corps of Engineers, as I said, which is getting $413 million more. Likewise, I look forward to working with them to move that date when this project will be completed beyond the 2006 to an earlier date. I look forward to working with the local community to ensure that happens.

□ 2130

This is an important piece of legislation, and I thank the committee for working with the chairman and ranking member to ensure that we protect this Nation's waterways, energy, and, yes, the environment.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I rise in support of the rule and H.R. 2203, the fiscal year 1998 Energy and Water Appropriations bill.

First of all, I would like to thank the gentleman from Pennsylvania [Mr. McDADE] and the gentleman from California [Mr. FAZIO], ranking member, for their wisdom and foresight in crafting this bill, particularly as it relates to two projects in my district, Sims, Brays, and Greens Bayous and the Houston Ship Channel expansion.

Also I want to thank the gentleman from Texas [Mr. EDWARDS], my colleague, who is a new member of the committee, for the work he did on behalf of our State.

I am especially pleased by the support this legislation provides for addressing the chronic flooding problems in Harris County, Texas. This area has suffered numerous floods over the years as the gentlewoman from Texas [Ms. JACKSON-LEE] mentioned.

In particular, this bill provides funding for Sims, Brays, and Greens Bayous, and follows legislation that we passed in the Water Resources Development Act in the last Congress, including that authored by myself and the gentleman from Texas [Mr. DELAY] of the Houston area.

Mr. Speaker, I am grateful for the committee's decision to fully fund the Sims Bayou project at $13 million for fiscal year 1998. This is an ongoing project, which the Corps of Engineers initially asked for $13 million, but the administration's budget only provided $9.5 million.

The additional funding is what the corps asked for and will allow for two additional contracts to be funded and the project to remain on schedule, which is very important to the people that live along that watershed who have experienced a lot of flooding, and this will result in rapid completion of the project.

I also appreciate the fact that the bill includes funding for the expansion of the Houston Ship Channel. This is the first expansion of the ship channel in 30 years. The ship channel has the second largest amount of tonnage of any port in the United States, and it is a major player in the economy in our area.

I might also add that this ship channel modernization is considered the largest dredging project since the Panama Canal. But in particular, I appreciate the fact that the committee had the foresight to deal with this problem because the administration's original proposal would not have fully funded the project and created numerous legal problems. So the committee has done yeoman's work on this.

Mr. Speaker, I urge my colleagues to support the rule and support the bill.

Mr. MOAKLEY. Mr. Speaker, I would inquire of the amount of time remaining for both parties.

The Speaker pro tempore [Mr. NUSSLE]. The gentleman from Massachusetts [Mr. MOAKLEY] has 7 minutes remaining, and the gentleman from Washington [Mr. HASTINGS] has 2½ minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I have five sites in my district, which are in the Formerly Utilized Sites Remedial Action Program, and that is why I am very concerned about the transfer of FUSRAP from the Department of Energy to the Corps of Engineers, which has been included as part of this appropriations bill. DOE has already completed cleanup in 24 of the 46 FUSRAP sites around the country, and is currently planning an accelerated cleanup of the remainder.

I have a great deal of respect for the Army Corps of Engineers, and I have no doubt that over time it can do a fine job with FUSRAP, but I do not think this is the time to switch horses in midstream.

The administration also opposes this transfer of authority over FUSRAP. In a letter to Chairman LIVINGSTON of the Committee on Appropriations dated July 16, Franklin Raines, the Director of OMB, states:

> The administration strongly opposes the transfer of the Formerly Utilized Sites Remedial Action Program from DOE to the Corps of Engineers. Transferring this well-managed program to another agency would be disruptive and would most likely delay completion and increase costs.

I hope this particular provision can be addressed and changed in conference with the Senate. I also hope the level of funding provided for FUSRAP would be significantly increased in conference to more closely reflect the administration's $182 million request for fiscal 1998 in order to clean up the remaining FUSRAP sites as quickly as possible.

Mr. Speaker, I have five sites in my district which are in the Formerly Utilized Sites Remedial Action Program, more than any other Member of Congress. The communities of Buffalo, Tonawanda, and Niagara Falls in my district made a disproportionate sacrifice for the Nation's nuclear successes in the Manhattan project and the cold war. Now, the radioactive legacy of those efforts must be cleaned up as efficiently, safely, and quickly as possible.

That is why I am very concerned about the transfer of FUSRAP from the Department of Energy to the Army Corps of Engineers which has been included as part of this Energy and Water Development appropriations bill. DOE has already completed cleanup in 24 of the 46 FUSRAP sites around the country, and is currently planning an accelerated cleanup of the remainder. I have a great deal of respect for the Army Corps of Engineers and have no doubt that, over time, it could do a fine job with FUSRAP. But now is not the time to switch horses in midstream.

The administration also opposes this transfer of authority over FUSRAP. In a letter to Chairman LIVINGSTON of the Appropriations Committee dated July 16, Franklin D. Raines, the Director of OMB, states:

> The administration also strongly opposes the transfer of the Formerly Utilized Sites Remedial Action Program [FUSRAP] from DOE to the Corps of Engineers—Transferring this well-managed program that is nearly complete to another agency would be disruptive and would most likely delay completion and increase costs.

Whatever problems existed in the past with the DOE's performance in FUSRAP cleanup, I believe the DOE is now making a genuine effort to correct them. Just yesterday, local citizens in one of my cities agreed to the Department of Energy's plan for the cleanup of two of these sites. In any case, the fencing language in the bill, which sets standards which must be met before funds can be expended, should be insurance enough that the DOE will properly conduct its FUSRAP cleanups. I am concerned that a transfer of this responsibility from the DOE to the Army Corps of Engineers at this point could delay the cleanups that are now underway and planned, and I hope this particular provision can be addressed and changed in conference with the Senate.

I also hope the level of funding provided for FUSRAP must be significantly increased in conference to more closely reflect the administration's $182 million request for fiscal year 1998 in order to clean up the remaining FUSRAP sites as quickly as possible.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I rise in support of a very important provision of the Energy and Water Appropriations bill that provides for the $23.8 million for the widening and deepening of the Port of Houston. This construction project is investment not only in Houston's future, but also in the economic viability of our Nation, and I am proud to represent a large portion of the Port of Houston. The port provides $5.5 billion in annual business revenue and creates 196,000 direct and indirect jobs in our community.

By generating $213 million annually in State and local taxes, this project will more than pay for itself over the next several years.

With last year's passage of the Water Resources Development Act, the Port of Houston was authorized to receive $240 million in Federal funds for the deepening and widening project. Additionally, in a 1989 bond election, Houston voters approved $130 million in local contributions.

Mr. Speaker, I would like to thank the gentleman from Pennsylvania [Mr. MCDADE] and the gentleman from California [Mr. FAZIO], the ranking member, and also the gentleman from Texas [Mr. EDWARDS], my friend and fellow Texan who serves on the subcommittee. The gentleman from Texas has been instrumental in working with us on this important project.

The expansion of the port is important to Houston on many levels. The Port of Houston, connected to the Gulf of Mexico with a 53-mile ship channel, is the busiest U.S. port in foreign tonnage, second in domestic tonnage, and the eighth busiest U.S. port overall. With more than 5,535 vessels navigating the channel annually, and anticipated increases over the next few years, the widening of the channel from 400 to 520 feet and its deepening from 40 to 45 feet is necessary to safeguard the economic viability of the port.

The Port of Houston generates $5.5 billion annually to the Nation's economy and the port generates over $200 million again in State and local taxes and nearly $300 million in customs fees, so there is no doubt that the Port of Houston continues to be a vital force in the commerce of the United States.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Pennsylvania [Mr. MCDADE].

Mr. Chairman, the Hanford Nuclear Reservation is heavily contaminated as a result of nuclear weapons-related activities that took place during the Cold War. The Fast Flux Test Facility was built there as part of the Clinch River Breeder Reactor Program, which was canceled in 1983.

Does the Chairman agree that nothing should be done with FFTF now that diverts resources from the primary mission of Hanford, which is cleanup?

Mr. MCDADE. Mr. Speaker, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Speaker, I agree with the gentlewoman from Oregon [Ms. FURSE.] The gentlewoman is correct.

Ms. FURSE. Mr. Speaker, I would like to discuss the amendment I considered offering on the Energy and Water appropriations bill. It calls for beginning to permanently retire the Fast Flux Test Facility, known as FFTF, at the Hanford Nuclear Reservation in Washington State. It allows funds to be used only for deactivation and cleanup of the facility.

I believe it is time we stop wasting $40 million a year on this white elephant. It is time that we spend environmental cleanup money on real cleanup.

There are several reasons why we should deactivate FFTF.

First, we need to stop wasting taxpayer dollars on FFTF.

FFTF was part of the Clinch River Breeder Reactor Program, which Congress cancelled in 1983. It has been searching for a mission ever since, to the tune of some $40 million last year. In 1993, DOE announced it would begin the shutdown of FFTF. The sooner we begin deactivating FFTF, the sooner we can stop wasting money to maintain it.

Second, cleanup funds should be used for cleanup.

Early this year, FFTF was added to as a candidate to produce tritium, which is used to boost the power of nuclear weapons. Funding for FFTF currently comes from the Non-Defense Environmental Management account. The purpose of that account is for environmental restoration activities, waste management functions, and nuclear materials and facilities stabilization activities. Keeping FFTF on hot standby as a potential source of tritium is none of those things.

Third, Hanford's mission must remain cleanup.

Hanford is the most contaminated site in the Western Hemisphere. Its sole mission needs to be cleanup. Producing tritium there will create more contamination and divert resources.

Fourth, FFTF is expensive to operate.

If FFTF were to be used for producing tritium, it would require highly-enriched plutonium for fuel. That creates a waste stream that is very difficult to manage. FFTF was not designed to produce tritium and would have to undergo significant technical modifications first.

Fifth, FFTF is an unreliable type of reactor.

FFTF is a sodium-cooled reactor. Germany, Britain, and France have all cancelled this type of reactor due to safety and reliability concerns.

Finally, FFTF is not needed for producing medical isotopes.

I want to share with my colleagues the response to my questions regarding this issue at a House Commerce Subcommittee hearing in February. During that hearing, the Acting Secretary of Energy said those who propose to use FFTF as a medical isotope facility "would have a very, very hard burden of persuasion at the Department that that makes sense."

My amendment is endorsed by a number of taxpayer, environmental and arms control groups. They include the Council for Citizens Against Government Waste, Taxpayers for Common Sense, the Council for a Livable World, Friends of the Earth, Greenpeace, the Military Production Network, Peace Action, Physicians for Social Responsibility, Plutonium Challenge, 20/20 Vision, and the U.S. Public Interest Research Group.

I would like to submit to the RECORD the resolution adopted nearly unanimously by the Oregon Legislature last month. It says, in part, that the State of Oregon is unalterably opposed to the use of the Hanford Nuclear Reservation for operations that create more contamination, divert resources from cleanup and make Hanford cleanup more difficult.

My constituents want Hanford cleaned up. My amendment will assure that the necessary steps are taken to enable us to finally move in that direction with FFTF.

This bill passed 53–3 (with 4 excused) in the Oregon House of Representatives and 28–1 (with 1 excused in the Oregon Senate.

69TH OREGON LEGISLATIVE ASSEMBLY—1997
REGULAR SESSION

NOTE: Matter within {+braces and plus signs+} in an amended section is new. Matter within {-braces and minus signs-} is existing law to be omitted. New sections are within {+braces and plus signs+}.

LC 3730

A-Engrossed House Bill 3640

Ordered by the House June 5

Including House Amendments dated June 5

Sponsored by Representative SOWA; Representative ROBERTS, Senators DERFLER, TROW.

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Makes findings regarding Hanford Nuclear Reservation {-and Idaho National Engineering Laboratory-}, importance of uncontaminated ecosystem and state's history regarding nuclear facilities. Declares state policy concerning processing of mixed oxide fuel at Hanford Nuclear Reservation {-and Idaho National Engineering Laboratory-}. Requests that federal officials clean up Hanford Nuclear Reservation.

{-Refers Act to people at next regular general election.-}

A BILL FOR AN ACT

Relating to nuclear facilities.

Be It Enacted by the People of the State of Oregon:

SECTION 1. {+The Legislative Assembly and the people of the State or Oregon find that:

(1) The maintenance of healthy, unpolluted river systems, airsheds and land are essential to the economic vitality and well-being of the citizens of the State of Oregon and the Pacific Northwest.

(2) Radioactive waste stored at the Hanford Nuclear Reservation is already leaking into and contaminating the water table and watershed of the Columbia River and radioactive materials and toxic compounds have been found in plants, animals and waters downstream from the Hanford Nuclear Reservation and constitute a present and potential threat to the health, safety and welfare of the people of the State of Oregon.

(3) The Hanford Nuclear Reservation is now one of the most radioactively contaminated sites in the world, according to government studies, and will require billions of dollars in costs for cleanup and the ongoing assessment of health effects.

(4) In November 1980, the people of the State of Oregon, by direct vote in a statewide election, enacted a moratorium on the construction of nuclear power plants, and no nuclear power plants are presently operating in the State of Oregon.

(5) In May 1987, the people of the State of Oregon, by direct vote in a statewide election, enacted Ballot Measure 1, opposing the disposal of highly radioactive spent fuel from commercial power plants at the Hanford Nuclear Reservation.

(6) In 1995, the Legislative Assembly resolved that Oregon should have all legal rights in matters affecting the Hanford Nuclear Reservation, including party status in the Hanford tri-party agreement that governs the cleanup of the reservation.

(7) Throughout the administrations of Presidents Ford, Carter, Reagan and Bush, the policy of the Federal Government banned the use of plutonium in commercial nuclear power plants due to the risk that the plutonium could be diverted to terrorists and to nations that have not renounced the use of nuclear weapons.

(8) The Federal Government has announced that it will process plutonium from weapons with uranium to produce mixed oxide fuel for commercial nuclear power plants and other nuclear facilities. The Hanford Nuclear Reservation, located on the Columbia River, is a primary candidate site being considered for the production facilities.

(9) The production of mixed oxide fuel will result in enormous new quantities of radioactive and chemical wastes that will present significant additional disposal problems and unknown costs.+}

SECTION 2. {+The Legislative Assembly and the people of the State of Oregon:

(1) Declare that the State of Oregon is unalterably opposed to the use of the Hanford Nuclear Reservation for operations that create more contamination at the Hanford Nuclear Reservation, divert resources from cleanup at the Hanford Nuclear Reservation and make the Hanford Nuclear Reservation cleanup more difficult, such as the processing of plutonium to fuel nuclear power plants, reactors or any other facilities, and further declare that vitrification in a safe manner is the preferred means to dispose of excess plutonium, in order to protect human health and the environment.

(2) Request that the President of the United States and the Secretary of the Department of Energy continue their previous policy of banning the use of plutonium to fuel commercial power plants and nuclear facilities.

(3) Request that the Federal Government honor the Federal Government's original mandate to implement and complete the cleanup and restoration of the Hanford Nuclear Reservation.+}

SECTION 3. {+Not more than 10 days after the effective date of this Act, the Secretary of State shall transmit copies of sections 1 and 2 of this Act to the President of the United States, the Secretary of the Department of Energy, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, each member of the Oregon Congressional Delegation, the Governors of the other 49 states and the tribal councils of the federally recognized Indian tribes in Oregon, Washington and Idaho.+}

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey, [Mr. ROTHMAN].

Mr. ROTHMAN. Mr. Speaker, I rise to engage in a colloquy with the gentleman from Pennsylvania [Mr. MCDADE].

Mr. Speaker, I have a FUSRAP site in my district in Maywood, NJ, and I am very concerned about the committee's proposal to transfer responsibility for this program from the Department of Energy to the Army Corps of Engineers.

Mr. Speaker, cleanup of this site has been in progress for 13 years, and it should be completed in another 4. I want to be able to assure the residents of Maywood that these actions will not jeopardize or slow down the cleanup of this site.

Mr. Speaker, I would be grateful if the gentleman from Pennsylvania could assure me that this transfer of responsibility from the DOE to the Army Corps will not stop or slow down the progress which is being made at the Maywood site and that existing contracts and agreements will be honored.

Mr. MCDADE. Mr. Speaker, will the gentleman yield?

Mr. ROTHMAN. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Speaker, I appreciate the concerns of my colleague, and I want to assure the gentleman that it is clearly the intention of the committee to expedite cleanup at these sites, complete ongoing activities and cleanups as quickly as possible, and to honor existing agreements.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, I rise to engage the gentleman from Pennsylvania [Mr. MCDADE] in a colloquy.

Mr. Speaker, it is my understanding that the Section 107 program allows the Army Corps of Engineers to engage in small navigation construction projects absent a specific authorization. According to Section 107, the sand transfer plant project at Lake Worth Inlet, which requires just $354,000 in funding for preliminary design and engineering, is eligible for funding under this authority and indeed should be so funded with monies made available in this legislation.

Mr. Speaker, would the gentleman from Pennsylvania [Mr. MCDADE], the chairman, be willing to consider this in conference?

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I want to say that the gentleman from Florida [Mr. HASTINGS], my friend, has briefed me extensively on this project and we are very willing to work with the gentleman as this issue works toward conference.

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, I thank the gentleman in advance for his help.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this rule. This is an open rule, and I think what it represents is what the Committee on Rules has been trying to do on many occasions, which is to have an open rule so we can have open discussion on any issues that the Members want to bring to the floor.

Mr. Speaker, I also want to commend the gentleman from Pennsylvania [Mr. McDADE], the chairman, and the gentleman from California [Mr. FAZIO] for their work on this. It certainly shows that when there is a will, that we can get something done with bipartisan support on a bipartisan basis.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McDADE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, and that I be permitted to include tabular and extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore (Mr. NUSSLE). Pursuant to House Resolution 194 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2203.

□ 2143

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, with Mr. OXLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time. The gentleman from Pennsylvania [Mr. McDADE], and the gentleman from California [Mr. FAZIO], each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. McDADE].

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I indicated when the Committee on Rules kindly yielded time to us to consider colloquies, we have a number of Members who have colloquies which are very important to each one of them and we are going to take care of them with expedition and try to get that done.

Before I say anything about the bill or anything else, however, I want to express my appreciation to the gentleman from California [Mr. FAZIO], my dear friend the ranking member, who performed with great diligence and made great impact on the bill. And I want to say to the gentleman that it is a pleasure to work with him. I appreciate all of his efforts and guidance.

Let me say too, Mr. Chairman, that I want to tell every single member of this subcommittee how grateful I am for their diligence and their efforts. Every one of them put a footprint on this bill and added to its unanimous nature.

Mr. Chairman, this bill is reported unanimously from the subcommittee and unanimously from the full committee. It is because all of us as Members worked together, aided by one of the ablest staffs on Capitol Hill. I have nothing but thanks to the staff for their diligence, their efforts, their intelligence, their persistence, and their patience. All of them worked extremely hard and we are grateful to them.

Mr. Chairman, I rise in strong support of H.R. 2203, the Energy and Water Development appropriations bill for fiscal year 1998. The Energy and Water bill is a fiscally responsible measure which continues to protect important priorities of Congress. At $20 billion, the bill is $52 million above the fiscal year 1997 level and $2.6 billion below the budget request. The bill is within its allocation of both budget authority and outlays.

The subcommittee has worked diligently to strike the right balance between the energy and water programs funded in this bill. Unfortunately, the administration's request underfunds vital water resource activities across the country, including flood control, shore protection activities, and harbor maintenance. The subcommittee has been deluged with a crushing number of requests from Members regarding water resource projects in their districts. Recognizing the value of these investments, the subcommittee has been as accommodating as possible to Members within the constraints of a severe budgetary environment.

Mr. Chairman, the Energy and Water bill includes $4 billion for the Corps of Engineers. This amount includes an increase of $550 million, or 16 percent, over the budget request for the water resource activities of the corps. Still, this amount is $188 million below the amount appropriated last year. Although the subcommittee was unable to fund all the worthy requests it received for water projects, it did commit a substantial amount to protect and enhance our vital investment in the country's water resource infrastructure.

Notably, the recommendation rejects the proposed policies of the administration that would: First, require full upfront funding of Corps of Engineers construction projects, and second, severely restrict the role of the corps in shoreline protection and small harbor navigation projects. With respect to these administration initiatives, the committee was confronted with enormous opposition and no visible support.

The Formerly Utilized Site Remedial Action Program [FUSRAP], previously funded as a program of the Department of Energy, is included in this bill as a program of the Army Corps of Engineers, The committee has increased the budget for this program—established to clean up sites participating in the country's early development of nuclear weapons materials—by nearly 50 percent over last year to $110 million. This increase, coupled with the transfer of programmatic responsibilities to the corps, is intended to accelerate the cleanup of contaminated sites, enhance program efficiency, and reduce costs to the taxpayer.

Title II of the bill includes funding for programs of the Department of the Interior, including the Bureau of Reclamation. The $910 million recommended in title II is $23 million below the budget request and an increase of $86 million over the current fiscal year. The recommendation includes $120 million—$23 million below the budget request—for a new initiative: the Bay-Delta Enhancement and Water Supply project. This new program is designed to protect and enhance water resources in northern California's Bay-Delta region. It is worth noting that voters in the State of California have passed a $1 billion bond issue for purposes complementary to the Federal investment.

Title III includes funding for both defense and nondefense functions of the Department of Energy. The recommendation for the Department of Energy is $15.3 billion, $3.2 billion below the budget request. The reduction from the request is largely due to the rejection of the administration's proposals for Environmental Management privatization and full upfront funding of construction projects.

Eleven billion dollars—over half of the bill—is committed to the atomic energy defense activities of DOE. Of this amount, nearly $5.3 billion is devoted to the cleanup of our nuclear defense production complex. Other defense activities funded in this bill include the maintenance of our nuclear weapons stockpile, nonproliferation efforts, and the disposal of defense nuclear waste. The defense portion of the bill is generally consistent with the House National Security authorization bill for fiscal year 1998.

The remaining $4.3 billion appropriated to the Department of Energy is to continue the important civilian activities of the Department. The committee has been especially protective of basic science and energy research conducted by the Department, appropriating $2.2 billion to a newly created science account. This account funds efforts involving nuclear physics, high energy physics, basic energy sciences, and biological and environmental research.

The bill includes $225 million for fusion energy sciences, including funding for the International Thermonuclear Experimental Reactor project. High energy physics and nuclear physics programs are funded at $680 million and $321 million, respectively—a $5 million increase over the budget request for each program. Furthermore, the bill fully funds the budget request for the human genome project, $85 million; the large hadron collider, $35 million; the National Spallation Neutron Source, $23 million; and other high-value basic research programs.

Mr. Chairman, the bill provides a grand total of $329.3 million in direct support of solar and renewable energy activities of the Department of Energy. The bill includes $285 million for solar and renewable energy programs directly administered by the Office of Energy Efficiency and Renewable Energy. This represents an increase of $18.7 million over the fiscal year 1997 level. In addition, the recommendation includes $44 million for basic renewable energy research activities of the Office of Energy Research.

The bill also includes a total of $350 million for the nuclear waste disposal activities of DOE, including the continued characterization of Yucca Mountain in Nevada as a potential geologic repository. This is $30 million less than the budget request and $32 million less than the amount provided in fiscal year 1997. Of the total amount, $160 million is to be derived from the Nuclear Waste Fund, capitalized by contributions of nuclear utility ratepayers, and $190 million represents the Federal contribution for disposal of high-level defense waste.

I would note, Mr. Chairman, that the bill does not provide funding for two new spending programs proposed by the administration for fiscal year 1998: the Nuclear Energy Security Program and the Next Generation Internet initative. Given the severe budgetary environment, as well as the committee's concerns about DOE mission creep, the committee was disinclined to initiate these new spending proposals.

The bill applies several management reforms to the Department of Energy. These reforms are designed to promote efficiency, enhance accountability, and control departmental mission creep. There are general provisions in the bill, which, among other things: Require that management and operating contracts be competitively awarded; demand adherence to Federal Acquisition Regulations; permit the award of support service contracts only in instances where such contracts are demonstrably cost-effective; and require an independent assessment by the Corps of Engineers of all new DOE construction projects. The committee is confident that these reforms will help the Department achieve a higher standard of accountability to Congress and the taxpayer.

Title IV of the bill provides $194 billion for various independent agencies, including the Appalachian Regional Commission, the Defense Nuclear Facilities Safety Board, and the Nuclear Regulatory Commission. The amount recommended is a reduction of $105 million below the fiscal year 1997 enacted level and $116 million below the budget request.

The elimination of direct appropriations to the Tennessee Valley Authority accounts for the large reduction in funding for independent agencies. Earlier this year, the Chairman of TVA proposed elimination of Federal appropriations after fiscal year 1998. The committee was so enthused by this proposal that it decided to accelerate its implementation by 1 year. Although TVA—a $5.7 billion enterprise—will not receive appropriations in fiscal year 1998, it is directed under this bill to continue its essential nonpower programs using internally generated revenues and savings. This approach preserves the prerogative of Congress and its committees to determine the long-term future of TVA's nonpower programs.

The sum of $160 million is provided for the Appalachian Regional Commission and $16 million is included for the Defense Nuclear Facilities Safety Board. These amounts represent level funding for both agencies. In addition, the bill includes $463 million for the Nuclear Regulatory Commission and $2.4 million for the Nuclear Waste Technical Review Board.

Mr. Chairman, I want to thank the Members of the Energy and Water Subcommittee who have worked so hard to make this a well-balanced bill. This balance would not be possible without their full cooperation and dedicated efforts. I am especially grateful to my esteemed colleague and ranking minority member, the Honorable VIC FAZIO, with whom I have worked hand in hand to develop the recommendations in this bill. He is a formidable advocate of the programs within the subcommittee's jurisdiction, and I thank him for his considerable efforts.

Mr. Chairman, I urge all of my colleagues to support the Energy and Water Development appropriations bill, 1998.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 1998 (H.R. 2203)

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF DEFENSE - CIVIL					
DEPARTMENT OF THE ARMY					
Corps of Engineers - Civil					
General investigations	153,872,000	150,000,000	157,260,000	+3,388,000	+7,260,000
Construction, general	1,081,942,000	1,062,470,000	1,475,892,000	+393,950,000	+413,422,000
(By transfer)	(1,000,000)			(-1,000,000)	
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	310,374,000	266,000,000	285,450,000	-24,924,000	+19,450,000
Emergency appropriations (P.L. 105-18)	20,000,000			-20,000,000	
Operation and maintenance, general	1,697,015,000	1,618,000,000	1,726,955,000	+29,940,000	+108,955,000
Emergency appropriations (P.L. 104-208)	19,000,000			-19,000,000	
Emergency appropriations (P.L. 105-18)	150,000,000			-150,000,000	
Regulatory program	101,000,000	112,000,000	112,000,000	+11,000,000	
Flood control and coastal emergencies	10,000,000	14,000,000	14,000,000	+4,000,000	
Emergency appropriations (P.L. 105-18)	415,000,000			-415,000,000	
Formerly utilized sites remedial action program			110,000,000	+110,000,000	+110,000,000
General expenses	149,000,000	148,000,000	148,000,000	-1,000,000	
Total, title I, Department of Defense - Civil	4,107,203,000	3,370,470,000	4,029,557,000	-77,646,000	+659,087,000
(By transfer)	(1,000,000)			(-1,000,000)	
TITLE II - DEPARTMENT OF THE INTERIOR					
Central Utah Project Completion Account					
Central Utah project construction	25,827,000	23,743,000	23,743,000	-2,084,000	
Fish, wildlife, and recreation mitigation and conservation	11,700,000	11,610,000	11,610,000	-90,000	
Utah reclamation mitigation and conservation account	5,000,000	5,000,000	5,000,000		
Program oversight and administration	1,100,000	800,000	800,000	-300,000	
Total, Central Utah project completion account	43,627,000	41,153,000	41,153,000	-2,474,000	
Bureau of Reclamation					
General investigations	16,650,000			-16,650,000	
Construction program	394,056,000			-394,056,000	
Operation and maintenance	267,876,000			-267,876,000	
Emergency appropriations (P.L. 105-18)	7,355,000			-7,355,000	
Water and related resources		651,552,000	651,931,000	+651,931,000	+379,000
California Bay-Delta ecosystem restoration		143,300,000	120,000,000	+120,000,000	-23,300,000
Loan program	12,715,000	10,425,000	10,425,000	-2,290,000	
(Limitation on direct loans)	(37,000,000)	(31,000,000)	(31,000,000)	(-6,000,000)	
Policy and administration	46,000,000	47,658,000	47,658,000	+1,658,000	
Colorado River Dam fund (by transfer, permanent authority)	(-3,774,000)			(+3,774,000)	
Central Valley project restoration fund	38,096,000	39,130,000	39,130,000	+1,034,000	
Total, Bureau of Reclamation	782,748,000	892,065,000	869,144,000	+86,396,000	-22,921,000
Total, title II, Department of the Interior	826,375,000	933,218,000	910,297,000	+83,922,000	-22,921,000
(By transfer)	(-3,774,000)			(+3,774,000)	
TITLE III - DEPARTMENT OF ENERGY					
Energy supply	2,699,728,000	2,999,497,000	880,730,000	-1,818,998,000	-2,118,767,000
Energy assets acquisition		43,582,000			-43,582,000
Uranium supply and enrichment activities	43,200,000			-43,200,000	
Gross revenues	-42,200,000			+42,200,000	
Net appropriation	1,000,000			-1,000,000	
Non-defense environmental management			497,619,000	+497,619,000	+497,619,000
Uranium enrichment decontamination and decommissioning fund	200,200,000	248,788,000	220,200,000	+20,000,000	-28,588,000
Science	996,000,000	875,910,000	2,207,632,000	+1,211,632,000	+1,331,722,000
Science assets acquisition		110,250,000			-110,250,000
Nuclear Waste Disposal Fund	182,000,000	190,000,000	160,000,000	-22,000,000	-30,000,000
Departmental administration	215,021,000	232,604,000	214,723,000	-298,000	-17,881,000
Miscellaneous revenues	-125,388,000	-131,330,000	-131,330,000	-5,942,000	
Net appropriation	89,633,000	101,274,000	83,393,000	-6,240,000	-17,881,000
Office of the Inspector General	23,853,000	29,499,000	27,500,000	+3,647,000	-1,999,000
Environmental restoration and waste management:					
Defense function	(5,619,304,000)	(6,058,499,000)	(5,263,270,000)	(-356,034,000)	(-795,229,000)
Non-defense function	(791,911,000)	(933,472,000)	(717,819,000)	(-74,092,000)	(-215,653,000)
Total	(6,411,215,000)	(6,991,971,000)	(5,981,089,000)	(-430,126,000)	(-1,010,882,000)

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 1998 (H.R. 2203)—Continued

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Atomic Energy Defense Activities					
Weapons activities	3,911,198,000	3,576,255,000	3,943,442,000	+32,244,000	+367,187,000
Defense environmental restoration and waste management	5,459,304,000	5,052,499,000	5,263,270,000	-196,034,000	+210,771,000
Defense environmental management privatization	160,000,000	1,006,000,000		-160,000,000	-1,006,000,000
Other defense activities	1,605,733,000	1,605,981,000	1,580,504,000	-25,229,000	-25,477,000
Defense nuclear waste disposal	200,000,000	190,000,000	190,000,000	-10,000,000	
Defense asset acquisition		2,166,859,000			-2,166,859,000
Total, Atomic Energy Defense Activities	11,336,235,000	13,597,594,000	10,977,216,000	-359,019,000	-2,620,378,000
Power Marketing Administrations					
Operation and maintenance, Alaska Power Administration	4,000,000	1,000,000	1,000,000	-3,000,000	
Operation and maintenance, Southeastern Power Administration	16,359,000	14,222,000	12,222,000	-4,137,000	-2,000,000
Operation and maintenance, Southwestern Power Administration	25,210,000	26,500,000	25,210,000		-1,290,000
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	182,230,000	194,334,000	189,043,000	+6,813,000	-5,291,000
(By transfer, permanent authority)	(3,774,000)			(-3,774,000)	
Falcon and Amistad operating and maintenance fund	970,000	1,065,000	970,000		-95,000
Total, Power Marketing Administrations	228,769,000	237,121,000	228,445,000	-324,000	-8,676,000
Federal Energy Regulatory Commission					
Salaries and expenses	146,290,000	167,577,000	162,141,000	+15,851,000	-5,436,000
Revenues applied	-146,290,000	-167,577,000	-162,141,000	-15,851,000	+5,436,000
Total, title III, Department of Energy	15,757,418,000	18,433,515,000	15,282,735,000	-474,683,000	-3,150,780,000
(By transfer)	(3,774,000)			(-3,774,000)	
TITLE IV - INDEPENDENT AGENCIES					
Appalachian Regional Commission	160,000,000	165,000,000	160,000,000		-5,000,000
Defense Nuclear Facilities Safety Board	16,000,000	17,500,000	16,000,000		-1,500,000
Nuclear Regulatory Commission:					
Salaries and expenses	471,800,000	476,500,000	462,700,000	-9,100,000	-13,800,000
Revenues	-457,300,000	-457,500,000	-446,700,000	+10,600,000	+10,800,000
Subtotal	14,500,000	19,000,000	16,000,000	+1,500,000	-3,000,000
Office of Inspector General	5,000,000	4,800,000	4,800,000	-200,000	
Revenues	-5,000,000	-4,800,000	-4,800,000	+200,000	
Subtotal					
Total	14,500,000	19,000,000	16,000,000	+1,500,000	-3,000,000
Nuclear Waste Technical Review Board	2,531,000	3,200,000	2,400,000	-131,000	-800,000
Tennessee Valley Authority: Tennessee Valley Authority Fund	106,000,000	106,000,000		-106,000,000	-106,000,000
Total, title IV, Independent agencies	299,031,000	310,700,000	194,400,000	-104,631,000	-116,300,000
Grand total:					
New budget (obligational) authority	20,990,027,000	23,047,903,000	20,416,989,000	-573,038,000	-2,630,914,000
Appropriations	(20,378,672,000)	(23,047,903,000)	(20,416,989,000)	(+38,317,000)	(-2,630,914,000)
Emergency appropriations	(611,355,000)			(-611,355,000)	
(By transfer)	(1,000,000)			(-1,000,000)	

□ 2145

Mr. McDADE. Mr. Chairman, I yield to the gentleman from California [Mr. ROHRABACHER] for purposes of a colloquy.

Mr. ROHRABACHER. Mr. Chairman, I would like to add my congratulations to the gentleman from Pennsylvania [Mr. McDADE], to the ranking member, the gentleman from California [Mr. FAZIO], to the gentleman from Louisiana [Mr. LIVINGSTON] and to all those who are involved in this piece of legislation. It is in keeping with the great tradition, I might add, of Tom Bevill, who did such a terrific job in heading this subcommittee, and Mr. Myers.

And, of course, all of these efforts over the years have been marked in this subcommittee by bipartisanship, and that is deeply appreciated on this Congressman's part.

I appreciate not only the gentleman's bipartisanship but also the great way he has been handling himself in the expertise behind this bill.

As the chairman and other House conferees prepare for conference with the Senate, I would like to call their attention to the water infrastructure restoration study in Huntington Beach, California. This study was initiated by the Corps of Engineers last year to assess the current status of the city's water infrastructure and to identify improvements to withstand an earthquake.

I would also like to mention the cost-shared feasibility study to determine the appropriate measures to shore up the coastal bluffs at Blufftop Park in Huntington Beach. Unfortunately funding was not included in the committee bill this year for these projects. I would ask if the chairman would be willing to work during the conference to identify funding to continue these critical studies.

Mr. McDADE. Mr. Chairman, I want to commend my colleague for bringing these studies to my attention. The committee considered numerous projects and studies including studies of the seismic reliability of infrastructure in southern California similar to the Huntington Beach study. I look forward to working with my colleague regarding these studies that he mentioned as the bill moves through the process.

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman and I thank the ranking member.

Mr. McDADE. Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. SANCHEZ] to engage the chairman in a colloquy.

Ms. SANCHEZ. Mr. Chairman, I thank the gentleman for yielding me the time.

I would like to bring to the attention of the gentleman from Pennsylvania [Mr. McDADE] an item that was authorized in the Water Resources and Development Act of 1996 and merits the committee's consideration for the energy and water appropriations bill for fiscal year 1998.

In January of 1995, heavy rains led to extensive flooding and property damage in the western portion of Garden Grove. Over 160 homes in Garden Grove were flooded. Due to this flooding a feasibility study for the Bolsa Chica Channel project was authorized in the Water Resources and Development Act of 1996.

Mr. McDADE. Mr. Chairman, will the gentlewoman yield?

Ms. SANCHEZ. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to thank the gentlewoman for bringing this problem to our attention. I want to assure the gentlewoman from California [Ms. SANCHEZ] that we will work with her and with my friend, the gentleman from California [Mr. FAZIO] as the bill moves through the process to make every effort to address the problem.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

I am at this juncture happy to announce to the House that I have a unanimous consent request to make that I think will be of interest to the Members.

Mr. Chairman, I ask unanimous consent that all votes on the pending bill and amendments on the pending bill be reserved until tomorrow morning.

The CHAIRMAN. The Chair informs the gentleman that the Chair has that authority under the rule and does not need unanimous consent. So with that, the gentleman may proceed.

Mr. McDADE. I appreciate the Chair's indulgence.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first would like to congratulate my good friend, the gentleman from Pennsylvania [Mr. McDADE] for the very hard work and dedication that he has exhibited in bringing this bill to the floor. As the new chairman of the Energy and Water Subcommittee, he has taken hold and demonstrated a unique spirit of bipartisanship and his strong leadership in guiding the energy and water policy of this country.

The recommended energy and water development appropriations bill for fiscal year 1998 is essentially level with last year and is within the allocation of both budget authority and outlays to this subcommittee. Consistent with tradition, the committee has smiled more favorably, I think it is fair to say, on water development projects than the administration has requested, to the tune of some $550 million over the budget request. The committee was literally inundated with a record number of requests from Members seeking funding for projects, many of which were newly authorized by the Water Resources Development Act of 1996.

Although we could not accommodate 100 percent of those requests, the gentleman from Pennsylvania [Mr. McDADE has paid particular attention to these needs throughout the country, although the water development area is still significantly cut back by some $188 million below last year's amount.

The energy portion of the bill has suffered some severe cutbacks. Once again, in these tight budget years, it was difficult meeting all the competing priorities between environmental cleanup, stockpile stewardship, nuclear nonproliferation, renewable energy and basic energy research as well as defense needs. I think we have done as well as we can do. But we will be obviously dealing with a number of issues in conference. We have heard some comments here on the floor tonight about issues that I am sure we will work together to resolve, hopefully to the satisfaction of the Department of Energy and the administration.

I am particularly pleased that we were able to work out an agreement on the solar and renewable budget within the very strict limitations we had. For the first time, I believe, in all the years I have been on this subcommittee, we will not have an amendment on that subject because I believe we have satisfied a broad cross-section of the Members.

I would like to congratulate my good friend and colleague, Mr. JOE McDADE, for his hard work and dedication in bringing this measure to the floor. As the new chairman of the Energy and Water Subcommittee, he has demonstrated a unique spirit of bipartisanship and strong leadership in guiding the energy and water policy of this country.

The recommended Energy & Water Development appropriations bill for fiscal year 1998 is essentially level with last year and within the allocation of both budget authority and outlays.

Consistent with tradition, the committee has smiled far more favorably on water development projects than the administration's request—to the tune of $550 million over the budget request.

The committee was inundated with a record number of requests from Members seeking funding for projects, many of which were newly authorized by the Water Resources Development Act of 1996.

Although we could not accommodate 100 percent of those requests, JOE McDADE has paid particular attention to these needs throughout the country, although the water development area is still significantly cut back—by $188 million—below last year's amount.

In particular, I wanted to cite funding for a significant new initiative in California—the Calfed Bay-Delta environmental restoration initiative.

The San Francisco Bay-Delta system is the largest estuary on the West Coast. Millions of birds and 53 species of fish migrate through and live in the Bay-Delta Estuary, including many listed as threatened or endangered.

The estuary provides drinking water for 20 million people and irrigation water for 200 crops, including 45 percent of the Nation's produce.

The Bay-Delta is in dire need of a comprehensive and lasting plan to restore its ecological health and to improve its management, and to that end, farmers, environmentalists, and water users throughout the State have come together to find long-term solutions.

Voters in the State overwhelmingly supported a $1 billion bond issue to fund such restoration efforts—Californians have clearly taken the initiative.

The administration requested $143 million for the first year of funding for the Federal share of projects related to Bay-Delta restoration, knowing that effective action will require close coordination between Federal, State, and local entities.

Our committee, in a tight budgetary year, included $120 million for this project, a significant step in getting this initiative underway and an amount that will be fully matched by funds approved by California voters.

The bipartisan California delegation as well as Governor Wilson is unanimous in their support for this initiative and grateful to our subcommittee for choosing to fund it in a tight budgetary year—we will fight to hold this funding level at conference.

The energy portion of the bill has suffered severe cutbacks. Once again in these tight budget years it was difficult meeting all of the competing priorities between environmental cleanup, stockpile stewardship, nuclear nonproliferation, renewable energy, basic energy research, and defense needs.

I am particularly pleased that we were able to work out an agreement on the solar and renewable budget within these strict limitations. In past years this issue has been in contention as an amendment on the floor of the House. In the interest of working in a renewed bipartisan fashion, Mr. McDADE graciously offered to negotiate with myself and the 116 members of the Renewable Energy Caucus to find mutual agreement on the needed level of funding.

The level of funding agreed upon, $185 million, is a nominal increase over last year's budget. As a long time supporter of this program, I think this represents a substantial commitment to developing an alternative to our dependency on foreign oil. We have to look to our future energy needs and prepare to rely on new sources that are cleaner and renewable. I commend the chairman once again for his cooperation and support on this issue.

I am also pleased that we were able to fund the fusion program at the President's request. We are in the last year of funding for the design phase of this program, and this funding signals our commitment as a nation to seeing this project through this initial stage.

We also managed to fully fund the National Ignition Facility which will help take us into the next century with regard to the Comprehensive Test Ban Treaty. This new approach to stockpile stewardship is critical to eliminating underground testing and shepherding us into a more peaceful era.

I know the administration has some concerns with this bill. As the ranking member of the subcommittee, I look forward to working with them to address whatever problems may exist during the conference committee's consideration of this bill.

But overall, I believe this bill is well balanced and demonstrates great responsiveness on the part of the chairman and the subcommittee members to meet the energy and water needs of this country.

I want to urge my colleagues to support this measure and vote for its final passage today on the floor.

Mr. Chairman, I reserve the balance of my time.

Mr. McDADE. Mr. Chairman, in order to expedite the procedures of the House, there was a rule pending that the parties involved in have been working on for some hours. In order to expedite consideration of that rule, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. KLUG) having assumed the chair, Mr. OXLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF H.R. 2159, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that consideration of H.R. 2159 may proceed according to the following order:

(1) The Speaker may at any time, as though pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2159) making appropriations for foreign operations, export financing and related programs for the fiscal year ending September 30, 1998, and for other purposes.

(2) The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 7 of rule XXI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and the ranking minority member of the Committee on Appropriations. After general debate, the bill shall be considered for amendment under the five-minute rule.

(3) Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning with ": Provided" on page 24, line 8, through "justice" on line 16. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph.

(4) The amendments printed in House Report 105–184 may be offered only by a Member designated in the report and only at the appropriate point in the reading of the bill, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. No other amendment shall be in order unless printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule XXIII.

(5) The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

(6) At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

(7) Notwithstanding any other provision of this order, the amendment numbered 1 in House report 105–184 shall be debatable for 40 minutes.

(8) Notwithstanding any other provision of this order, it shall be in order in lieu of the amendment numbered 2 in House report 105–184 to consider the amendment I have placed at the desk authored by Representative Gilman of New York, Representative PELOSI of California, Representative CAMPBELL of California, Representative LOWEY of New York, Representative GREENWOOD of Pennsylvania, Representative DELAURO of Connecticut and Representative SLAUGHTER of New York, which may be offered by any of the named authors, shall be debatable for 40 minutes, and shall otherwise be considered as though printed as the amendment numbered 2 in House report 105–184.

For clarification, Mr. Speaker, the perfecting amendment that I have just mentioned is to the amendment offered by the gentleman from New Jersey

[Mr. SMITH], the gentleman from Michigan [Mr. BARCIA], the gentleman from Illinois [Mr. HYDE] and the gentleman from Minnesota [Mr. OBERSTAR].

AMENDMENT IN LIEU OF AMENDMENT NUMBERED 2 IN HOUSE REPORT 105–184

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

In the matter proposed to be inserted by the amendment as a new subsection (h) of section 104 of the Foreign Assistance Act of 1961—

(1) in paragraph (1)(B), insert before the period at the end the following: ", or to organizations that do not promote abortion as a method of family planning and that utilize these funds to prevent abortion as a method of family planning"; and

(2) in paragraph (2)(A), strike "or engage" and insert the following: "or (except in the case of organizations that do not promote abortion as a method of family planning and that utilize these funds to prevent abortion as a method of family planning) engage".

In the matter proposed to be inserted by the amendment as a new subsection (i) of section 301 of the Foreign Assistance Act of 1961, insert before the quotation marks at the end the following sentence: "If the President is unable to make the certification required by paragraph (1) or (2) with respect to a fiscal year, the funds appropriated for the UNFPA for such fiscal year shall be transferred to the Agency for International Development for population planning activities or other population assistance.".

The SPEAKER pro tempore. Does the gentleman from New York [Mr. SOLOMON] wish to add to his request?

Mr. SOLOMON. Mr. Speaker, I would ask that a section 9 be added to the unanimous-consent request: (9) House Resolution 185 is laid on the table.

That is the previous rule.

Mr. Speaker, might I also at this time make it clear that it is the intention of the Committee on Rules that the 40 minutes on each amendment be equally divided between the proponent and an opponent and that divided equally at the discretion of the manager of the amendment on both sides among the two parties.

The SPEAKER pro tempore. The Chair understands that the waiver of points of order against amendments pertains to those in the report actually or constructively and not those actually in the RECORD.

Is there objection to the request of the gentleman from New York?

There was no objection.

□ 2200

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore (Mr. KLUG). Pursuant to House Resolution 194 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2203.

□ 2200

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, with Mr. OXLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, 52 minutes remained in general debate. The gentleman from Pennsylvania [Mr. MCDADE] has 26½ minutes remaining and the gentleman from California [Mr. FAZIO] has 25½ minutes remaining.

The Chair recognizes the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Delaware [Mr. CASTLE] for purposes of a colloquy.

Mr. CASTLE. Mr. Chairman, I rise to engage in a colloquy with the distinguished chairman.

Mr. Chairman, I want to thank first of all the chairman and the ranking member and all the members of the subcommittee for the excellent work they did under difficult budgetary restraints, and I want to particularly comment favorably upon their treatment of my home State of Delaware. However, I would like to point out a short-term and potentially long-term problem in the small community of St. Georges, DE.

As the chairman knows, this Congress has recognized on a number of occasions that the United States has an ongoing legal obligation to provide good and sufficient crossings over many of our Nation's canals with ownership and operation bestowed upon the Army Corps of Engineers.

Currently, the Army Corps owns and operates four such crossings over the Chesapeake and Delaware Canal in Delaware, including two crossings at St. Georges. The Army Corps has notified the State of Delaware of its plan to close and remove one of those crossings, the St. Georges Bridge, at a cost of $20 million and without any consideration to my constituents or the taxpayers of this country.

I believe this plan is shortsighted and is being implemented without congressional consent from either the gentleman's committee or the authorizing committee which has jurisdiction. I believe that there are many cost-efficient alternatives that properly take into account cost, safety, and human need, but I am afraid these alternatives will not be fully considered once the corps moves ahead with their demolition plan.

I would therefore ask the chairman, whose committee oversees the Army Corps' spending, if it is his intent to allow the Army Corps to move ahead with a plan for the demolition of St. Georges Bridge without the consent of this body?

Mr. MCDADE. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. May I say as strongly as I can, Mr. Chairman, that it is not the intent of the committee to allow the corps to move ahead with the plan for the demolition of the St. Georges Bridge.

In the bill we are considering today, there are no funds, I repeat, no funds for the demolition of the bridge nor any report language directing the Army Corps to demolish the St. Georges Bridge.

Mr. CASTLE. Reclaiming my time, Mr. Chairman, I thank the chairman, and I would hope that the chairman would work with me and the authorizers to see that a commonsense solution is found that benefits both the Army Corps, the taxpayers and, most importantly, my constituents.

Will the chairman work with me toward this goal?

Mr. MCDADE. Mr. Chairman, if the gentleman will continue to yield, it is my intent to work with my friend towards reaching a commonsense solution that benefits everybody involved.

I appreciate the gentleman's bringing this important issue to my attention, and I want to assure him that the committee will work to meet many of the Member's concerns regarding the St. Georges Bridge.

Mr. CASTLE. Mr. Chairman, this Member thanks the distinguished gentleman for his time.

Since this issue does affect a great number of my constituents, it could set a dangerous precedent which other Members may face in their districts, so I appreciate the gentleman's clarification.

Mr. MCDADE. Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS] for the purposes of a colloquy.

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding me this time.

As the gentleman knows, I am particularly interested in the programs managed by the Office of Worker and Community Transition. I authored section 3161 of the 1993 defense bill that authorized these programs. I think they will continue to play a very important role as we go further into the post-cold war period. So I was worried about proposals initially in the report to limit the extent of these programs as they would continue at the Rocky Flats site and other sites where weapons production has ended but our final mission cleanup remains to be completed.

I am glad we were able to work out some changes on that part of the report so that there is no doubt that 3161 will continue to apply to Rocky Flats and other similar sites. I appreciate the gentleman's cooperation and that of the gentleman from Michigan [Mr. KNOLLENBERG] in getting those changes made.

However, I think there is still a need to clarify one related provision of the bill. As the gentleman knows, section 305 essentially makes section 3161 of the 1993 defense bill unavailable to "employees of the Department of Energy."

A question has come up as to whether that restriction extends to employees of DOE's contractors or subcontractors. And I just want to make sure that I am correct in understanding that section 305 of the bill refers only to Federal employees of the Department of Energy and not to employees of companies operating under DOE contracts or subcontracts.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I thank my friend for yielding, and let me say that his interpretation is correct. Section 305 of the bill applies only to Federal employees and not to employees of any DOE contractor or subcontractor.

Mr. SKAGGS. Mr. Chairman, reclaiming my time, I thank the gentleman for his clarification.

Let me again express my thanks to him and the ranking member for the usual pleasure that this alumnus of the subcommittee had in working with him and with the ever-distinguished staff.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER] for purposes of a colloquy.

Mr. SENSENBRENNER. Mr. Chairman, I wish to engage the gentleman from Pennsylvania [Mr. McDADE] in colloquy.

Mr. Chairman, the first sentence of section 301 of H.R. 2203 states, "None of the funds appropriated by this act or any prior appropriations act may be used to award a management and operating contract unless such contract is awarded using the competitive procedures."

First, I want to congratulate the chairman of the subcommittee for the strong endorsement of awarding such contracts on a competitive basis. For far too long the Department of Energy has awarded far too many M&O contracts on a sole-source basis.

However, I have a concern about the second sentence of section 301, which states, "The preceding sentence does not apply to a management and operating contract for research and development activities at a federally funded research and development center." My concern is that this language may send an unintended signal to the DOE that Congress is encouraging sole-source awards of M&O contracts for research and development activities at federally funded research and development centers rather than encouraging more competition.

While I understand that in some cases sole-source awards of such M&O contracts may be justified, I would like the gentleman's assurance that this language does not prohibit nor discourage the competitive awards of M&O contracts for R&D.

Further, I would like to ask the gentleman from Pennsylvania if he would be willing to work with the Committee on Science to craft language that could be submitted to the conference committee that would address these concerns.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Pennsylvania.

Mr. McDADE. May I say, Mr. Chairman, to my friend, the gentleman from Wisconsin [Mr. SENSENBRENNER], that the gentleman is correct, that the intent of this section is to encourage and foster more competition in the future awards of M&O contracts for the Department of Energy laboratories.

Furthermore, there is no intention to prohibit or discourage the Department from awarding M&O contracts for research and development on a competitive basis.

Finally, the gentleman has my assurances that the subcommittee will work with the Committee on Science to craft language that could be submitted to the conference that would address his concerns.

Mr. SENSENBRENNER. Mr. Chairman, reclaiming my time, I thank the gentleman from Pennsylvania and look forward to working with him on this matter and on other important issues in the future.

As a general rule, I, as a Member of Congress, would prefer that all DOE contracts be awarded on a competitive basis, and I believe that the burden of proof should be on the department to justify any sole-source award.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank my friend for yielding me this time, and I wish to engage the gentleman from Pennsylvania and the gentlewoman from Idaho in a colloquy.

I am very concerned about the administration's proposed American Heritage Rivers Initiative. This initiative could threaten private properties if it is implemented. Although the initiative purports to be community-led, the Federal agencies involved will dominate the process and could well dictate to property owners how they can use their lands.

If this occurs, we could see a severe erosion of the private properties rights guaranteed to American citizens under the Constitution. A prime example of this could occur in the West where restricting cattle from streams, their only water supply, would create enormous uncompensated losses for ranchers.

The American people have not been given a voice in the process. The agencies involved are currently planning to reprogram funds for purposes that were not authorized or appropriated by Congress.

The reprogramming of funds to pay for an initiative where the voices of the American people have not been heard is simply not acceptable. Until Congress has reviewed this initiative and the agencies have provided substantial protections for private property rights, I am proposing that Congress in general, and the Subcommittee on Energy and Water Development of the Committee on Appropriations in particular, withhold any funds for implementation of the American Heritage Rivers Initiative.

Any assurances that the chairman can provide that no reprogramming requests will be entertained by the committee until all questions have been answered and private property rights have been protected would be appreciated.

Mrs. CHENOWETH. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentlewoman from Idaho.

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman from Texas, and I really appreciate the gentleman from Texas bringing this matter to the attention of the Members. I, too, have grave concerns about the Clinton Administration's American Heritage Rivers Initiative.

There are so many things wrong about both the programming itself and the process by which it was brought forth that we simply do not have time to go into it now, but I wholeheartedly agree with the gentleman from Texas. Private property rights really are at risk.

I have to object also and am very concerned about the process by which this initiative was brought forward. The White House is attempting to spend millions of dollars on an unauthorized program. Congress has never authorized nor appropriated funds for the American Heritage Rivers Initiative. This means that other on-the-ground programs that have been authorized and appropriated for, such as programs in the Bureau of Land Management or programs in the Fish and Wildlife Service or the Forest Service, are being robbed to bring this unauthorized program, the American Heritage Rivers Initiative program, on line.

When we are so desperately striving to meet our existing obligations and commitments to the American people, when we ask the American people to once again tighten their belts, and when we continue to spend our grandchildren's money by engaging in deficit spending, I have to ask if this is really the best use of taxpayers' money. And I say that it is not. We must take care of what we already own and owe.

I introduced H.R. 1842, a bill to stop this proposal. I note that the gentleman from Texas is a cosponsor, and I thank him for raising this ill-conceived program to the attention of the Members.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, let me say that my friends from Texas and Idaho have raised a very important issue. Although the bill before us does not include language regarding the American Heritage Rivers Initiative, the committee shares both their concerns, and they can be certain that I will not agree to funding for this program until we can be assured that there are adequate protections for private property rights.

The gentleman from Texas and the gentlewoman from Idaho have my assurance that we will carefully consider any reprogramming related to the American Heritage Rivers Initiative.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania, the chairman of the subcommittee, for yielding me this time in order to engage in a brief colloquy.

Mr. Chairman, I first of all want to thank the gentleman for the funding that Dade County and Palm Beach County, Florida, received under his committee's appropriation bill. I also appreciate the committee's rejecting the administration's policy to limit the role of the Corps of Engineers in shore protection policies.

I am deeply concerned, however, that one project in Broward County, FL for which I requested $17 million, only received $100,000.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, let me say to my friend that the committee provided $100,000 for the Corps of Engineers to review the general design memorandum for the renourishment of the Broward County project currently being prepared by the local sponsor.

Mr. SHAW. Mr. Chairman, reclaiming my time, the gentleman, as usual, is quite correct. However, large portions of Broward's beaches are severely eroded. While this is partly due to storm damage, it is mainly because the life of the project is nearing its end. The expected life of a renourishment project is 10 years, and Broward County is an excellent example of a beach restoration project that has worked exactly as it was designed.

In January 1996, Broward County's local sponsor made application for approximately $17 million in fiscal year 1998 appropriations, representing the Federal share of the estimated $27 million for the 12-mile-long Broward County beach nourishment and shore protection project.

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This Federal cost-share was calculated in two Corps of Engineers approved section 934 reevaluation reports for segment II, which is Hillsboro Inlet to Port Everglades, and section III, which covers Port Everglades to South County Line. The county plans to include appropriate innovative project features, such as highly engineered structures, which will maximize the life of the beach fill, as requested by the State and Federal legislators.

Broward County requested the full Federal cost of the project in order to ensure maximum cost efficiencies. In fact, Broward County estimates that past nourishment projects have protected approximately $4 billion in infrastructure from storm damage.

However, Broward beaches are reaching minimum storm damage protection right now, and if implementation of the new project does not commence on schedule and we have a hurricane of any great strength, I fear next year I will be back to ask for double the requested amount just to repair the damage.

Mr. Chairman, feasibility studies have been completed on the project, and crucially needed additional appropriations could be used to commence action on this project.

I thank the chairman for listening to me in the past and for allowing me the chance to provide a more complete explanation of Broward's needs.

I yield back to the gentleman.

Mr. McDADE. I want to commend my distinguished colleague, the gentleman from Florida [Mr. SHAW], for the briefing he gave me on this project for bringing to our attention. I understand, and we share his concerns on this issue. And we will continue to give this matter our deepest study during the conference.

Mr. FAZIO of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KIND].

Mr. KIND. Mr. Chairman, I want to commend the chairman of the committee and ranking member of the committee for the fine work they did on this bill. I rise in support of the bill.

Mr. Chairman, as we consider the Energy and Water appropriations bill for fiscal year 1998, I want to commend the chairman and members of the Appropriations Committee for maintaining funding for the Environmental Management Program [EMP]. By appropriating $16.7 million for 1998 the EMP will be able to operate at the same funding level as last year.

The Environmental Management Program is a cooperative effort of the U.S. Fish and Wildlife Service, the National Biological Service, and the U.S. Army Corps of Engineers to evaluate, restore, and enhance ravine and wetland habitat along a 1,200-mile stretch of the upper Mississippi and Illinois Rivers. The EMP is authorized through fiscal year 2002 in the Army Corps of Engineers budget.

The 1986 Water Resources Development Act authorized funding for the implementation of an overall Upper Mississippi River Basin Comprehensive Master Plan. This consisted of two essential components, one dedicated to improved navigation on the river for barge traffic, most notably lock and dam improvements, and the other to the long term environmental and recreational preservation of the river, which became the EMP.

The EMP is an essential tool in maintaining the quality of the river environment, as well as recreational and economic opportunities along the Mississippi River. Navigation along the upper Mississippi River supports 400,000 full or part time jobs, which produces over $4 billion in individual income. Recreation use of the river generates 12 million visitors and spending of $1.2 billion in direct and indirect expenditures in the communities along the Mississippi.

The EMP has always received bipartisan support, and this year is no different. Republican and Democratic members of Congress who represent areas along the upper Mississippi River joined me in helping secure adequate funding for the EMP in this year's Appropriations bill. The Governors of all five States who border the upper Mississippi and Illinois River—(Wisconsin, Illinois, Iowa, Minnesota and Missouri)—support the EMP and have been active in maintaining its long term viability.

The Mississippi River is a national treasure. It flows southward from Minnesota and Wisconsin through the heart of our Nation and into the Gulf of Mexico. The river is a vital source of clean water, a major navigational corridor, a crucial environmental ecosystem, an important flood damage reduction source and a tremendous recreational resource for millions of Americans. The Environmental Management Program serves a crucial role in protecting that resource so we can continue to provide for all of those needs into the future.

The unique bipartisan, multistate support that the EMP receives, and the strong level of cooperation between Federal agencies is a model for all government resource programs. No other program on the Mississippi River is doing the kind of data collection and habitat restoration projects that the EMP does. I applaud the members of the Appropriations Committee for the support of this valuable project and I urge my colleagues to fully support the EMP at the appropriated funding level.

On a personal note I want to thank Bob Dellany, the Director of the Environmental Management Technical Center [EMTC], and his staff for their dedicated work to study, protect and promote the upper Mississippi River.

The folks at the EMTC, located in Onalaska, WI, do an outstanding job and they deserve our recognition and praise.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume, and I yield to my distinguished friend, the gentleman from Kentucky [Mr. WHITFIELD], for purposes of a colloquy.

Mr. WHITFIELD. Mr. Chairman, I want to commend the chairman and his staff and the minority and their staff for the work that they have done with me on many projects in my district, and I ask for the opportunity to enter into a colloquy with the chairman.

As the chairman knows from our many discussions, the national recreation area land between the lakes better known as LBL is in the district that I represent in Kentucky. LBL is the only federally owned national recreation area in the United States managed by the Tennessee Valley Authority and to my knowledge is the only national recreation area with no statutory governance.

My constituents are concerned about continued Federal support for LBL following the TVA Chairman Crowell's announcement to no longer seek funding for the non-power programs including LBL. That decision was later reversed by Chairman Crowell but not before the Subcommittee on Energy and Water Development had already approved the plan to eliminate all appropriated funds for non-power programs and instead pay for those activities from TVA revenues and savings from the power program.

I appreciate very much the chairman's efforts to find another source of revenue to finance LBL operations. However, my constituents remain skeptical about this funding approach and fear further reductions in Federal financial support for LBL because there is no actual line item designating the amount LBL should receive. In the Senate passed bill, monies were appropriated for the non-power program and LBL received $7.9 million.

Mr. Chairman, do you share my view that the Federal Government is financially responsible for this national recreation area, which was established in the 1960's by the Kennedy administration and resulted in the forcible removal of over 800 families from their land in Kentucky?

Mr. McDADE. Mr. Chairman, reclaiming my time, let me say that the answer to your question is yes. The committee fully expects TVA to commit sufficient funding to the Land Between the Lakes to permit continued enjoyment of these resources by the public. We have written into our report, may I say to my friend, that we will exercise vigorous oversight over this problem to make sure that this occurs and we are grateful to the gentleman for bringing it to our attention.

Mr. WHITFIELD. Mr. Chairman, if the gentleman would continue to yield, when he goes to conference with the Senate, is it his intention to support a funding level for LBL that will ensure the proper operation and maintenance of this national recreation area? I yield to the gentleman.

Mr. McDADE. Mr. Chairman, reclaiming my time further, may I say to my colleague that the committee intends to work closely with the gentleman, as we have tried to today, to ensure that his interest in the continued operation and maintenance of LBL is protected.

Mr. WHITFIELD. If the gentleman will yield further, I thank the chairman very much. And once again, I want to thank him and his staff for their cooperation.

Mr. McDADE. Mr. Chairman, let me say that we have about three, perhaps four more Members, and we are down toward the end of the colloquies on this side of the aisle. I believe my friend, the gentleman from California [Mr. FAZIO], has taken care of that side.

It is the Chair's intention, once we finish the colloquies, if there is any time left, to yield it back and to ask that the bill be considered as read and open for amendment. So I make that statement in order that Members who may want to introduce amendments will be advised that their opportunity may come very quickly.

Mr. Chairman, I yield to my friend, the gentleman from Ohio [Mr. LATOURETTE].

Mr. LATOURETTE. Mr. Chairman, I rise tonight to engage the gentleman from Pennsylvania [Mr. McDADE], an acknowledged friend and supporter of Great Lakes priorities, in a colloquy regarding the Army Corps of Engineers Division Reorganization Plan and recently authorized Sediment Remediation Technology Demonstration project.

Mr. Chairman, it has recently come to my attention that the Army Corps of Engineers is planning to restructure its Great Lakes and Ohio River Division by first severely reducing the number of employees, particularly those with decision-making authority, at its Chicago office and eventually closing down that facility. This plan is documented in an internal Army Corps memo that I will submit for the RECORD at the appropriate time. This plan would leave the Great Lakes region with only one office, in Cincinnati, and would obliterate the institutional memory that is so vital to Army Corps operations in this region.

Last year, when this Congress passed the Energy and Water Appropriations Act for fiscal year 1997, the Army Corps was directed to reduce its divisions to no less than six and no more than eight. The Department of the Army's Office of Civil Works submitted a plan to the Congress which detailed the restructuring plan, approved by the Secretary. Again, I will submit this document for the RECORD at the appropriate time.

The plan stated that, "the Great Lakes districts of the North Central Division will be combined with the districts of the Ohio River Division to form the Great Lakes and Ohio River Division. Division headquarters will remain in both Chicago and Cincinnati, each with a deputy commander and SES."

Mr. Chairman, do you agree with me that it is imperative that we exercise congressional oversight authority over the reorganization plan?

I will yield to the chairman.

Mr. McDADE. I thank the gentleman for yielding, and I want to say to him that we remain interested in the Corps of Engineers division office reorganization plan. We will continue to monitor it, and we appreciate the gentleman bringing his concern to our attention.

Mr. LATOURETTE. If the gentleman will yield further, I thank the chairman for his willingness to work on that issue.

The second issue that I would like to address is the Army Corps' sediment remediation technology program, also known as ARCS 2, which was authorized in the Water Resources Development Act of 1996. This program is important to my district and Members' districts throughout the Great Lakes because of the huge quantity of contaminated sediments in the Lakes. Contaminated sediments in the Great Lakes are the largest repository of toxic pollution in the basin and pose a threat to human health as these toxins are slowly released into the water where they can enter the food chain through fish and birds.

The sediments, primarily in harbors, collect many pollutants that have been entering the Great Lakes for decades. A total of 362 contaminants have been identified in the Great Lakes sediments, many of which are known to have potentially severe human health impacts.

The current Energy and Water Appropriations bill does not include language regarding the ARCS 2 account. Pilot and laboratory-scale projects for the assessment and remediation of contaminated sediments were conducted under the assessment of remediation of contaminated sediments authority in the Clean Water Act. Section 515 of the WRDA bill of 1996 builds upon the old ARCS program by directing the Army Corps to conduct full-scale demonstration projects of promising sediment remediation technology. Such full-scale projects are an essential next step to removing the clean-up process from the planning to the implementation phase.

Mr. Chairman, as you are aware, it is within your jurisdiction to see that this issue is addressed in the conference on the energy and water bill in the Senate. I would request on behalf of my colleagues in the Great Lakes region that you support the inclusion of language that will allow the Army Corps to move forward with this important sediment remediation program for fiscal year 1998.

I would further yield to the chair.

Mr. McDADE. I thank the gentleman for yielding, and I appreciate my colleague bringing this matter to our attention. I look forward to working on this issue as the bill moves through the appropriations process.

Mr. LATOURETTE. If the gentleman will yield further, Mr. Chairman, I wish to thank him for his wisdom and continued support of the issues important to myself and those in the Great Lakes region. I look forward to working with him on this and other matters. I thank him for his courtesy.

Mr. McDADE. Mr. Chairman, I yield as much time as he may consume to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Chairman, I thank the gentleman for yielding. Let me also take this opportunity to thank the chairman of the subcommittee and the ranking member for the excellent work they have done in producing this bipartisan bill so important, indeed so vital to the State of Arizona.

Mr. Chairman, as you may know, San Carlos Lake, located in the sixth district, is now on the verge of drying up. Current estimates suggest it could be dry by September. Now as we might expect, this is causing great concern among the local residents because this lake has great recreational value; and, Mr. Chairman, as we all know, it is vital economically to the residents of the sixth district living around San Carlos Lake.

Commensurate with the philosophy of the new majority, Mr. Chairman, we are seeking to solve this problem, first at the State level, but certainly we would be remiss if we did not try to employ every opportunity and explore every avenue of possibility that may exist. And, so, Mr. Chairman, I simply rise to say that I would appreciate the gentleman's help in exploring ways to provide assistance to these people of Arizona's sixth district as we seek to prevent this lake from drying out.

Mr. McDADE. Mr. Chairman, reclaiming my time, let me tell my colleague that we are grateful to him for bringing this to our attention. We realize the serious nature of the problem, and we will be glad to work with him through the process to try to resolve it.

Mr. HAYWORTH. Mr. Chairman, if the gentleman would further yield, I very much appreciate the chairman of the subcommittee. I appreciate his attention to so many matters of vital importance within the State of Arizona and certainly his attention in this regard.

Mr. McDADE. Mr. Chairman, for purposes of a colloquy, I am pleased to yield as much time as he may consume to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding. I would ask the chairman of the Appropriations Subcommittee on Energy and Water to engage in a colloquy regarding the transfer of FUSRAP responsibility from the Department of Energy to the Army Corps of Engineers.

Mr. Chairman, my district in Missouri has a major FUSRAP site which contains nuclear contamination from the Manhattan Project and other hazardous waste as well. For 15 years, the St. Louis community has attempted to work with the Department of Energy to clean up this site. After years of frustration and delay, however, the Department of Energy has finally begun a serious effort to begin to clean up the site. Contracts have been let, feasibility studies completed, the site recommendations have been prepared and commitments have been made.

As a result, Mr. Chairman, there are many people in the community, who while very appreciative of the abilities of the Army Corps of Engineers, are very concerned that the progress we finally made in getting DOE to clean up the site will be undone by this transfer. As a result, I would like to ask the gentleman, as a sponsor of this legislation, to clarify some of the concerns the community and I have about the effects of the legislation.

Although there is no formal record of decision yet for this clean-up, in St. Louis, several feasibility sites have been completed and a site recommendation has been made by the Department of energy. Would the Army Corps of Engineers respect these studies and the site plan and the contracts which have already been let for work at the site?

Mr. McDADE. Reclaiming my time, let me say that we are appreciative to the gentleman for bringing this important problem to our attention. Let me say that the committee intends that the feasibility studies and the site recommendations prepared by the DOE at the time of the enactment of this legislation will be accepted and carried out by the Corps of Engineers and that existing contracts will be honored.

Mr. TALENT. Mr. Chairman, if the gentleman would yield further, I thank the gentleman for his responsiveness.

The Department of Energy, in its site recommendations, has targeted the year 2004 for completion of this project. I would say to the gentleman it is very important to the community that this commitment be maintained.

Mr. McDADE. Mr. Chairman, reclaiming my time, we have, as you know, because we have discussed it substantially, increased money appropriated to the FUSRAP program, with the intent that it will be more likely that the sites will be cleaned up on schedule.

Mr. TALENT. If the gentleman would yield further, I thank the gentleman.

One other concern: The local community has been very involved in designing a plan to clean up the site. Their concern is that the administration of clean-up will be moved away from the St. Louis area to Omaha, reducing the community's input and influence on the clean-up process.

If the Army Corps of Engineers takes over the FUSRAP program, is it committee's intention that it be administered out of the St. Louis Corps office?

Mr. McDADE. Reclaiming my time, let me say to the gentleman that the Corps of Engineers typically manages projects from its closest district office and we would intend for that to be done.

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Mr. TALENT. I thank the gentleman for his assurances and I thank him and the ranking member for their hard work on this outstanding bill.

Mr. MATSUI. Mr. Chairman, I rise in strong support of this legislation. The bill contains several provisions that will be critically important to the safety of the Sacramento area that I represent.

I wish to express my deep gratitude to the Appropriations Committee, particularly Energy and Water Development Subcommittee Chairman JOE McDADE and ranking member VIC FAZIO, for their recognition of the severe danger of flooding that my district faces. The bill they have crafted will allow for significant progress on the project for flood protection from the American River authorized by last year's Water Resources Development Act. The project, while in itself far from sufficient to provide comprehensive protection for the Sacramento area, is a vital step toward that absolutely critical goal. I am extremely pleased that the bill provides funding that will enable the U.S. Army Corps of Engineers to make maximum progress on this initiative in fiscal year 1998.

H.R. 2203 also makes a very important statement in providing reimbursements in two areas where the Sacramento Area Flood Control Agency [SAFCA] has moved forward with flood control efforts in advance of federal funding. One of these instances is SAFCA's project to improve flood protection for the Natomas area of Sacramento. By partially funding the reimbursement that has been authorized for this local effort, the committee has given valuable encouragement to communities that wish to move forward in the most aggressive manner in acting to address pressing flood threats. Similarly, the committee has sent an important signal by fully reimbursing SAFCA for costs associated with the variable flood control operation of Folsom Dam and Reservoir implemented by a 1995 agreement between SAFCA and the Bureau of Reclamation. This contract has provided a very necessary increment of added flood protection for the Sacramento area. Under last year's WRDA bill, the Federal Government accepted responsibility for 75 percent of the costs of lost water and power resulting from this agreement over a four year period. I am extremely pleased that the Committee has acted to meet this federal commitment.

The bill funds a number of other greatly needed flood control initiatives for the Sacramento area. These include the Sacramento River Bank Protection Project, which is helping to prevent bank erosion along the American River levees that represent the last line of flood defense for many Sacramentans. The bill also supports important area flood control efforts by including funds for construction of the Magpie Creek small flood control project, for feasibility studies as well as preconstruction engineering and design for the South Sacramento Streams Group project, and for a reconnaissance study for flood damage reduction from the Cosumnes and Mokelumne Rivers.

Finally, the Committee has provided support for two other innovative projects in the Sacramento area. One of these is an important water quality project—the city of Sacramento's efforts to improve its combined sewer system in order to prevent the flow of sewage into the Sacramento River. The second is the Ueda Parkway, a set of bicycle, equestrian and pedestrian trails to be constructed along a portion of the Natomas levee improvements.

Again, I deeply thank the committee for its support and look forward to working with them to gain final approval for these initiatives.

Mr. CRANE. Mr. Chairman, I wish to take this opportunity to commend the Appropriations Committee in general, and its Energy and Water Development Subcommittee in particular, for the fine job they did in crafting the fiscal year 1998 Energy and Water Appropriations bill being considered today. Not only is H.R. 2203 fiscally responsible, but there is much to be said for its policy and project provisions.

As a Member of Congress, it has long been my position that the Federal Government should spend less money more wisely. In its current form, this bill does just that. As reported, H.R. 2203 calls for a $573-million reduction in spending for energy and water projects next year, precisely what is needed in these times of fiscal restraint. Not only that, but the measure is notable for the quality of the projects it funds.

Let me cite two examples, with which I am particularly familiar. The first is the Des Plaines River Wetlands Demonstration Project [DPRWDP], for which $1 million has been provided, while the second is the Fox River Floodgate Installation Project, to which $1.178 million has been directed. Both are located in northern Illinois and, with the monies allocated by H.R. 2203, each is likely to pay big dividends in the future.

When complete, the DPRWDP will give policymakers the information they need to protect wetlands, preserve species habitat, reduce flooding and improve water quality, while the Fox River project will reduce the threat and expense of flooding along one of America's more popular recreational waterways. In short, both endeavors will provide a substantial and tangible return on the money being invested, just as they should. My thanks to the chairman and members of the Energy and Water Development Subcommittee for including them in H.R. 2203 and to the chairman and members of the Appropriations Committee for approving them subsequently.

By singling out these two projects, I do not mean to suggest that others funded by H.R. 2203 are not equally deserving. To the contrary, there are a number of other projects worthy of favorable mention including the North Libertyville estates flood control project, the Chicago Shoreline project and the Yucca Mountain interim nuclear waste storage project just to name a few. That being the case, I urge my colleagues to give this measure their support. Not only does it contribute to budget reduction but it has many other benefits to offer as well.

Mr. ROGERS. Mr. Chairman, I would like to take this opportunity to express my appreciation for the efforts of Chairman McDADE—and his staff, Jim Ogsbury, Bob Schmidt, Jeanne Wilson, Don McKinnon, and Sandra Farrow—in the formulation and passage of the Energy and Water development Appropriations bill for fiscal year 1998. They were exceedingly helpful, insightful, and responsive.

This is JOE McDADE's first Energy and Water bill. While he follows two outstanding chairmen—Tom Bevill and John Myers—few can dispute that JOE stepped up to the plate and managed to formulate a fine bill and send it swiftly through the complex Appropriations Committee process. And this is not an easy bill to write. It is diverse, funding programs from nuclear weapons research to geothermal heat pump technologies, from the construction of Army Corps of Engineers water infrastructure projects, to the funding of critical development programs like those in the Appalachian Regional Commission. This bill demands an appreciation for physics, electronics, the needs of the rural poor, and, more importantly, a respect for the ravages of nature.

Few of us will forget the loss of life and property, and the heartache that resulted in the floods this year in the West Coast and Midwest United States. We know we cannot control nature, but we can do everything humanly possible to anticipate nature's worst forces, and to the best of our ability prevent loss of life.

We concern ourselves with the well-being of our neighbors, relatives, and communities—to ensure they are protected, and that they are provided a fair chance to prosper in the American economy. That is what we are supposed to do in this body. That is what JOE McDADE has done in this bill.

Mr. KNOLLENBERG. Mr. Chairman. I rise in strong support of this bill. I want to express my appreciation to Chairman McDADE and Ranking Member FAZIO for their efforts and assistance with this bill. I also want to give a big thanks to the entire Energy and Water Subcommittee Staff who were always ready and able to assist me and my staff on this bill.

This is a good bill. This bill provides adequate funding for continued construction of a permanent nuclear waste repository at Yucca Mountain. Furthermore, it still provides $85 million to begin construction of an interim storage facility once we enact authorization for such a facility later this year. This will help the Department of Energy meet its contract obligations to the commercial nuclear industry.

This bill also provides $7 million for the university nuclear reactor programs, $5 million of which is designated for the nuclear engineering R&D. This will ensure that we have the next generation of engineers prepared to develop and oversee our Nation's nuclear power infrastructure.

Although this bill does not fund the administration's request for the Nuclear Energy Security Program, I believe that nuclear power is an essential part of the Nation's energy portfolio and as such, I support some level of nuclear energy R&D for energy security. Considering nuclear power supplies over 20 percent of our Nation's electricity, we need to ensure the existing supply as a component of the Nation's baseload well into the next century. I encourage the Department to re-scope this year's proposal and to propose research that only takes advantage of DOE's unique capabilities but provides the best possible return on investment. The bottom line is that as our primary in nuclear R&D declines, we will lose our ability to participate on the world stage and to observe and understand the civilian nuclear programs of emerging nations.

When we began the appropriations process this year, I was cautiously optimistic that the Department of Energy was turning the corner on its environmental management program—that a new vision had been embraced over at the Department—a vision of accelerating and completing the cleanup of DOE's defense nuclear sites so that as many of them as possible are closed down within the next decade.

But, Mr. Chairman, I'm sorry to say that it's been more than a year since DOE brought forth this new vision and still, the Department has not been able to deliver a credible, defensible plan. As the old saying goes, "the Devil's in the Details." DOE's "Discussion Draft" was finally released in June and is little other than a top-level framework to start the planning process. It is a document that is not supported by DOE's own site data or by what is realistically achievable. I still believe that this vision is well within our grasp and this bill get us much closer to it.

Frustrated with years of mismanagement in clearning up the former nuclear defense sites, this bill directs the Department of Energy to cleanup and close out the two major environmental management sites. Specifically, the Closure Project accelerates the closure of the Rocky Flats and Fernald sites. These are the two sites where all the entities—the administration, the States, the contractors, and the citizens—agree that closure by 2006 can and should be done. We've added funding above the administration's request to ensure just that—so that cleanup by 2006 becomes a reality. I'm also glad the bill preserves funding for other closure projects, a proposal that I championed last year. I hope that the Department follows this lead and creates more closure projects in the future.

Mr. Chairman, I also support transferring funding for cleanup of the Formerly Utilized Sites Remedial Action Program to the U.S. Corps of Engineers. As you know, this is a program for cleanup of 46 former Manhattan District or Atomic Energy Commission sites—a program that's been underway for 17 years and is still only 50 percent complete. I think it's time to try something different—and I believe the Corps, who successfully manages Department of Defense cleanups will be able to bring these projects to closure more quickly and at a more reasonable cost to the taxpayer.

We need to remain vigilant about new and innovative ways to accelerate cleanup. In this context, I support privatization. However, I want greater assurances of the Department's ability to manage privatized cleanups and less dependence on large sums of up-front federal funding, even when it's held in reserve.

I also support efforts to leverage technology and encourage the Department to better utilize the best and brightest of the universities and national laboratories. For example, DOE's use of the leading universities in the area of robotics technology development and deployment is a success story within the technology development program. Using advanced state-of-the-art robotics for a broad spectrum of cleanup tasks is not just efficient and more effective than using humans, but it reduces occupational exposure to hazardous environments.

Finally, I want to see DOE bring forth, along with next year's budget request, a detailed and defensible closure plan based on an aggressive but realistic estimate of the most that can be completed and closed out over the next decade. I agree that the vision can be accomplished by doing more sooner rather than later, by substantial mortgage and risk reduction, and by leveraging technology. But let's get on with it.

Again, Mr. Chairman, I would like to thank you for your leadership and for the efforts of the staff.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the rule and H.R. 2203, the Energy and Water Development Appropriations for fiscal year 1998. I support this bill mainly because it provides $413 million 39—percent more for the Army Corps of Engineers construction programs than requested by the administration. The administration originally requested $9.5 million for the construction of the Sims Bayou Project in Houston, TX. The Subcommittee on Energy and Water Development specifically earmarked an additional $3.5 million bringing the total funding for the project to $13 million.

Mr. Chairman, the Sims Bayou Project is a project that stretches through my district. Over the course of recent years, the Sims Bayou has seen massive amounts of flooding. Citizens in my congressional district, have been flooded out of their homes, and their lives have been disrupted. In 1994, 759 homes were flooded as a result of the overflow from the Sims Bayou. That is 759 families that were forced to leave their homes.

I mainly support this bill, Mr. Chairman, because the subcommittee has earmarked in this bill $13 million for the construction and improvement of the Sims Bayou project that will soon be underway by the Army Corps of Engineers. I would like to thank the Army Corps of Engineers for their cooperation with my office in helping to bring relief to the people of the 18th Congressional District in order to avoid dangerous flooding. The Subcommittee on Energy and Water Development added an additional $3.5 million for the construction of this Sims Bayou project after my office worked to explain the devastating impact of the past flooding in this area. I am quite certain, Mr. Chairman, that this project would not have been able to go forward if this additional money would not have been granted by the Subcommittee. For that I have to thank Chairman MCDADE, Ranking Member FAZIO, and my Texas colleague CHET EDWARDS, a new member on the Appropriations Committee.

However, Mr. Chairman, I would like to call on the Army Corps of Engineers to do everything that they can to accelerate the completion of this project. The project will now extend to Martin Luther King and Airport Boulevards, and Mykaw to Cullen Boulevard. This is flooding that can be remedied and the project must be completed before the expected date of 2006. While I applaud the Army Corps of Engineers for their cooperation, this is unacceptable for the people in my congressional district who are suffering. They need relief and I know that they cannot wait until the expected completion date of 2006. This must be done and I will work with the Army Corps of Engineers and local officials to ensure that this is done.

Mrs. FOWLER. Mr. Chairman, I rise today in support of the FY98 Energy and Water Development Appropriations Act and to congratulate my friend, Chairman MCDADE, for his work on this bill.

I am particularly pleased that this bill recognizes a federal role in preserving our Nation's water resources, including our shorelines. I want to alert my colleagues to language on page 7 of the Committee Report to H.R. 2203:

> The Committee believes that the budget request represents a lack of commitment by the Administration to the traditional roles and missions of the U.S. Army Corps of Engineers: navigation, flood control, and share protection.

I wholly agree with this statement. I would further add that when the Administration fails to offer an acceptable budget request, it makes the job of the appropriators that much more difficult. In light of a woeful budget request, Chairman MCDADE has done an outstanding job.

My district encompasses over 100 miles of coastline and has several ports and navigation channels. These resources provide avenues of commerce, transportation routes and access to military facilities. They are a vast and crucial resource for my district and their maintenance and protection is very important.

In addition to ports and navigation channels, my district has miles of beaches. President Clinton has proposed an end to federal funding of beach nourishment projects, saying that they are not in the "national interest."

I do not support this belief. Shore protection serves the same purpose as flood control projects, by protecting property and saving lives. Furthermore, our Nation's beaches and coastal areas are a great source of national pride. Millions of American and foreign tourists flock to these areas every year, all year, to enjoy clean, safe and beautiful beaches. To say that these areas are only of interest to the states in which they are located is the equivalent of saying that Yosemite is only of interest to the State of California.

The funding for water resource development in this bill will enhance commerce and protect homes and lives. Nonetheless, there is much work ahead of us. I applaud the Chairman and I hope he will be able to preserve our commitment to water resources when this bill goes to Conference.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise today in support of H.R. 2703 making appropriations for energy and water development for fiscal year 1998. I would first like to thank Chairman MCDADE and ranking member VIC FAZIO for their leadership in bringing this bill to the floor today.

I would also like to thank the hard-working subcommittee staff, for without them our jobs would be tremendously more difficult. I truly appreciate their knowledge and professionalism.

The bill before the House today stresses national priorities while keeping our commitment to downsize the Federal Government, maintain funding for critical flood safety projects, coastal protection, and dredging harbors and waterways throughout our Nation. We have made some tough choices about where to reduce spending and have written a bill which is $573 million less than last year.

As a member of the subcommittee, I am very pleased with two recommendations that were included in this year's bill. First, the bill has again flatly rejected the President's proposal to end coastal protection and second the bill terminates funding for the Tennessee Valley Authority's [TVA] nonpower program.

Coastal protection projects are very important to local economies all over the United States and especially New Jersey. The President's policy was shortsighted and would have resulted in hurting many communities that rely on promises the Federal Government has made to provide flood protection. And more often than not, they are projects that have been undertaken in partnerships with local and State governments. I am hopeful that the administration will abandon future efforts such as these and concentrate on providing protection to our coastal communities.

This bill also terminates the direct Federal subsidy for the TVA, which began in 1933. Perhaps the best reason for terminating the TVA can be found in the committee's report. Let me quote:

> In a concession that its Depression-era missions have been largely achieved, TVA has proposed termination of its non-power programs after Fiscal Year 1998. Enthused by the Administration's proposal to discontinue direct appropriations, the Committee has decided to accelerate its implementation.

Last year the TVA made over $5.7 billion in electric power sales and set an all time record for revenue. Given this fact, surely the time has come to move the TVA away from direct Federal subsidization and encourage it to continue only those programs which are necessary to meet its power production needs. I encourage all my colleagues to support this recommendation and turn out the lights of direct subsidization at the TVA.

In addition to these two important recommendations, this bill provides $225 million for magnetic fusion energy research. While this number is slightly reduced from last year's level, I am hopeful that as the bill moves through the legislative process the committee will be able to increase the number so that fusion can continue to make its remarkable achievements in plasma science research.

Mr. Chairman, this bill represents real progress toward setting national priorities. I urge my colleagues to support this bill and yield back the balance of my time.

Mr. PASTOR. Mr. Chairman, I rise today in support of this bill, and to congratulate our chairman and ranking member for the strong bipartisan manner in which they bring this bill to the floor. Both gentlemen have led this committee in a spirit of great cooperation—listening to all parties and, I believe, producing a bill that is a fair balance between critical needs and limited resources.

Although this bill does not meet the administration's spending levels for several Department of Energy programs, it goes a long way toward adequately funding several of the administration's priorities. Where differences still exist, I anticipate and look forward to continued dialog as we move through the appropriations process.

Considering the number of days of sunshine in my State of Arizona, it is no surprise that I am a strong supporter of solar energy technologies. Although the committee did not fund the President's full request for solar and renewable energy programs, I do appreciate the increase over last year's funding and believe the funding levels will allow the Department of Energy to continue an effective program for developing these technologies.

Overall, I am proud of the emphasis this committee continues to place on research, especially basic research. This bill provides the President's request or more for basic energy sciences, biological and environmental research, fusion energy, and high energy and nuclear physics. I am particularly pleased that the committee included language in the report that supports the Department's efforts to increase the ethnic diversity of students, researchers, and scientists working to maintain our Nation's international leadership in science and technology.

The committee continues to struggle, as in previous years, with reaching a balance between micromanaging the Department of Energy and providing adequate and responsible oversight for our Nation's taxpayers. In this bill, the chairman and ranking Member have taken a hard look, and in some cases a hard line, on issues of DOE's management practices. Although I see room for discussion, compromise, and positive resolution, I support the committee's efforts to bring better government to many of the Department's activities. I look forward to working with our counterparts in the Senate, and the administration, to finding mutually acceptable solutions in the areas where presently there is disagreement.

Again, many thanks to my chairman, ranking member, and fellow committee members for their assistance, bipartisanship and friendship. I would also like to thank the staffs on both sides of their aisle for their hard work.

Mr. PORTMAN. Mr. Chairman, I rise today in support of the energy and water appropriations bill. I believe it's a thoughtful approach to the difficult task of balancing our Nation's energy and water priorities in an era of fiscal restraint. I commend Chairman McDADE for his work.

I support the $5.45 billion appropriation for the Department of Energy's Environmental Restoration and Waste Management budget, and particularly the $258.7 million included in the bill for the Fernald environmental management project located in my congressional district. This funding level represents an acknowledgement of the Federal Government's responsibility to clean up the hazardous waste sites that it created. Significant progress has been made in cleaning up our hazardous waste sites, including Fernald. But we still have a long way to go.

My approach has been to ensure that taxpayer funds for Fernald are used in the most cost-effective manner possible to safely clean up the site. I support the accelerated cleanup plan to achieve these goals and am pleased that the committee report also advocates this approach.

I urge my colleagues to support this bill. It helps us meet our energy and water priorities responsibly, while still achieving the necessary savings to help us balance the Federal budget by the year 2002.

Mr. FAZIO of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. McDADE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

Mr. McDADE. Mr. Chairman, I ask unanimous consent that the bill through page 35, line 20 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the bill through page 35, line 20 is as follows:

H.R. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $157,260,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Delaware Bay Coastline, Delaware and New Jersey, $656,000;

Tampa Harbor, Alafia Channel, Florida, $270,000;

Barnegat Inlet to Little Egg Harbor Inlet, New Jersey, $400,000;

Brigantine Inlet to Great Egg Harbor Inlet, New Jersey, $472,000;

Great Egg Harbor Inlet to Townsends Inlet, New Jersey, $400,000;

Lower Cape May Meadows—Cape May Point, New Jersey, $154,000;

Manasquan Inlet to Barnegat Inlet, New Jersey, $400,000;

Raritan Bay to Sandy Hook Bay (Cliffwood Beach), New Jersey, $300,000;

Townsends Inlet to Cape May Inlet, New Jersey, $500,000; and

Monongahela River, Fairmont, West Virginia, $350,000:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $600,000 of the funds appropriated in Public Law 102–377 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project for the feasibility phase of the Red River Navigation, Southwest Arkansas, study: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $470,000 of the funds appropriated herein to initiate the feasibility phase for the Metropolitan Louisville, Southwest, Kentucky, study.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,475,892,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri; Lock and Dam 14, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota, projects, and of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, $1,000,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;

Tybee Island, Georgia, $2,500,000;

Indianapolis Central Waterfront, Indiana, $7,000,000;

Indiana Shoreline Erosion, Indiana, $3,000,000;

Lake George, Hobart, Indiana, $3,500,000;

Ohio River Flood Protection, Indiana, $1,300,000;

Harlan, Williamsburg, and Middlesboro, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, $27,890,000;

Martin County, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, $5,500,000;

Pike County, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, $5,800,000;

Salyersville, Kentucky, $2,050,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $22,920,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $2,379,000;

Flint River, Michigan, $875,000;

Jackson County, Mississippi, $3,000,000;

Joseph G. Minish Passaic River Park, New Jersey, $5,000,000;

Hudson River, Athens, New York, $8,700,000;

Lackawanna River, Olyphant, Pennsylvania, $1,400,000;

Lackawanna River, Scranton, Pennsylvania, $5,425,000;

Lycoming County, Pennsylvania, $339,000;

South Central Pennsylvania Environment Improvement Program, $30,000,000, of which $10,000,000 shall be available only for water-related environmental infrastructure and resource protection and development projects in Lackawanna, Lycoming, Susquehanna, Wyoming, Pike, and Monroe counties in Pennsylvania in accordance with the purposes of subsection (a) and requirements of subsections (b) through (e) of section 313 of the Water Resources Development Act of 1992, as amended;

Williamsport, Pennsylvania, $225,000;

Wallisville Lake, Texas, $9,200,000;

Virginia Beach, Virginia, $10,000,000;

West Virginia and Pennsylvania Flood Control, West Virginia and Pennsylvania, $3,000,000;

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with design and construction of the Southeast Louisiana, Louisiana, project and to award continuing contracts, which are not to be considered fully funded, beginning in fiscal year 1998 consistent with the limit of the authorized appropriation ceiling: *Provided further*, That the Secretary of the Army is directed to incorporate the economic analyses for the Green Ridge and Plot sections of the Lackawanna River, Scranton, Pennsylvania, project with the economic analysis for the Albright Street section of the project, and to cost-share and implement these combined sections as a single project with no separable elements, except that each section may be undertaken individually when the non-Federal sponsor provides the applicable local cooperation requirements: *Provided further*, That section 114 of Public Law 101-101, the Energy and Water Development Appropriations Act, 1990, is amended by striking "total cost of $19,600,000" and inserting in lieu thereof, "total cost of $40,000,000": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to combine the Wilmington Harbor—Northeast Cape Fear River, North Carolina, project authorized in section 202(a) of the Water Resources Development Act of 1986, the Wilmington Harbor, Cape Fear River, North Carolina, project authorized in section 101(a)(23) of the Water Resources Development Act of 1996, and the Cape Fear—Northeast (Cape Fear) Rivers, North Carolina, project authorized in section 101(a)(22) of the Water Resources Development Act of 1996 into a single project with one Project Cooperation Agreement based on cost sharing as a single project.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $285,450,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,726,955,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that Fund for construction, operation, and maintenance of outdoor recreation facilities, and of which funds are provided for the following projects in the amounts specified:

Anclote River, Florida, $1,500,000; and

Raystown Lake, Pennsylvania, $4,690,000:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated in Public Law 104-206 to reimburse the local sponsor of the Fort Myers Beach, Florida, project for the maintenance dredging performed by the local sponsor to open the authorized channel to navigation in fiscal year 1996.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $112,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $14,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to administer and execute the Formerly Utilized Sites Remedial Action Program to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, $110,000,000, to remain available until expended: *Provided*, That funding obligated to an individual site in the Formerly Utilized Sites Remedial Action Program shall not exceed the amount obligated during fiscal year 1997 unless the following conditions are met: (1) there is a technical plan, schedule, and life-cycle cost estimate for the work to be performed; (2) the remedy selected for the site has been developed to meet, but not exceed, the standard of cleanup required for reasonably anticipated future land use and ground water uses; (3) the remedy selected has incorporated separation or other technology where practicable to reduce the amount of material that is to be excavated, removed, transported, or disposed; (4) the contracting mechanism used for the cleanup of each site will be competitive fixed-price wherever possible, but as a minimum shall include performance-based incentives; and (5) the cleanup plan has been presented to the affected communities, and State and Federal officials, and has not received substantial disagreement: *Provided further*, That the unexpended balances of prior appropriations provided for these activities in this Act or any previous Energy and Water Development Appropriations Act may be transferred to and merged with this appropriation account, and thereafter, may be accounted for as one fund for the same time period as originally enacted.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Engineering Strategic Studies Center, the Water Resources Support Center, and the USACE Finance Center; and for costs of implementing the Secretary of the Army's plan to reduce the number of division offices as directed in title I, Public Law 104-206, $148,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, and for activities related to the Uintah and Upalco Units authorized by 43 U.S.C. 620, $40,353,000, to remain available until expended, of which $16,610,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into that account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and $11,610,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $800,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $651,931,000, to remain available until expended, of which $12,758,000 shall be available for transfer to the Upper Colorado River Basin Fund and $54,242,000 shall be available for transfer to the Lower Colorado River Basin Development Fund, and of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That any amounts provided for the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, are in addition to the amount authorized in 43 U.S.C. 509: *Provided further*, That the unexpended balances of the Bureau of Reclamation appropriation accounts for "Construction Program (Including Transfer of Funds)", "General Investigations", "Emergency Fund", and "Operation and Maintenance" shall be transferred to and merged with this account, to be available for the purposes for which they originally were appropriated.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $10,000,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $31,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to levy additional mitigation and restoration payments totaling $30,000,000 (October 1992 price levels) on a three-year rolling average basis, as authorized by section 3407(d) of Public Law 102–575.

CALIFORNIA BAY-DELTA ECOSYSTEM RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of the Interior and other participating Federal agencies in carrying out the California Bay-Delta Environmental Enhancement and Water Security Act consistent with plans to be approved by the Secretary of the Interior, in consultation with such Federal agencies, $120,000,000, to remain available until expended, of which such amounts as may be necessary to conform with such plans shall be transferred to appropriate accounts of such Federal agencies: *Provided*, That such funds may be obligated only as non-Federal sources provide their share in accordance with the cost-sharing agreement required under section 102(d) of such Act: *Provided further*, That such funds may be obligated prior to the completion of a final programmatic environmental impact statement only if: (1) consistent with 40 C.F.R. 1506.1(c), and (2) used for purposes that the Secretary finds are of sufficiently high priority to warrant such an expenditure.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $47,658,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed six passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, and uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $880,730,000.

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 1701, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, $497,619,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $220,200,000, to be derived from the Fund, to remain available until expended: *Provided*, That $37,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of 15 passenger motor vehicles for replacement only, $2,207,632,000, to remain available until expended: *Provided*, That $35,000,000 of the unobligated balances originally available for Superconducting Super Collider termination activities shall be made available for other activities under this heading.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $160,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund: *Provided*, That none of the funds provided herein shall be distributed to the State of Nevada or affected units of local government (as defined by Public Law 97–425) by direct payment, grant, or other means, for financial assistance under section 116 of the Nuclear Waste Policy Act of 1982, as amended: *Provided further*, That the foregoing proviso shall not apply to payments in lieu of taxes under section 116(c)(3)(A) of the Nuclear Waste Policy Act of 1982, as amended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $214,723,000, to remain available until expended: *Provided*, That moneys received by the Department for miscellaneous revenues estimated to total $131,330,000 in fiscal year 1998 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1998 so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at not more than $83,393,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the office of the inspector general in carrying out the provisions of the Inspector General Act of 1978, as amended, $27,500,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 70 for replacement only), $3,943,442,000.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 6 for replacement only), $5,263,270,000.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of passenger motor vehicles (not to exceed 2 for replacement only), $1,580,504,000.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $190,000,000.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $1,000,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for the anadromous fish supplementation facilities in the Yakima River Basin, Methow River Basin and Upper Snake River Basin, for the Billy Shaw Reservoir resident fish substitution project, and for the resident trout fish culture facility in Southeast Idaho; and official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1998, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $12,222,000, to remain available until expended; in addition, notwithstanding 31 U.S.C. 3302, not to exceed $20,000,000 in reimbursements for transmission wheeling and ancillary services, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,210,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,650,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including the replacement of not more than two helicopters through transfers, exchanges, or sale, and official reception and representation expenses in an amount not to exceed $1,500, $189,043,000, to remain available until expended, of which $182,806,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, $5,432,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $970,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $162,141,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $162,141,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1998 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 1998 so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at not more than $0.

DEPARTMENT OF ENERGY

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this Act or any prior appropriations Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures. The preceding sentence does not apply to a management and operating contract for research and development activities performed at a federally funded research and development center.

SEC. 302. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award, amend, or modify a contract in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 303. None of the funds appropriated by this Act or any prior appropriations Act may be used to award, amend, or modify any contract for support services unless a cost comparison conducted under the procedures and requirements of Office of Management and Budget Circular A–76 shows that the cost of performing the support services by contractor personnel is lower than the cost of performing such services by Department of Energy personnel.

SEC. 304. None of the funds appropriated by this Act or any prior appropriations Act may be used to make payments under a management and operating contract for providing products or services for use by Department of Energy employees.

SEC. 305. None of the funds appropriated by this Act or any prior appropriations Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy;

under section 3161 of the National Defense Authorization Act of Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 306. None of the funds appropriated by this Act or any prior appropriations Act may be used to augment the $56,000,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 307. None of the funds appropriated by this Act to initiate new construction projects in fiscal year 1998 by the Department of Energy may be obligated for such a construction project until the Secretary of the Army, acting through the Chief of Engineers—

(1) performs an independent assessment of the cost, scope, and schedule of the construction project and validates the accuracy of the Department of Energy's estimates for the cost, scope, and schedule for the project; and

(2) submits to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report on such assessment.

SEC. 308. None of the funds appropriated by this Act or any prior appropriations Act may be used to prepare or initiate requests for proposals for a program if the program has not been funded by Congress.

SEC. 309. None of the funds appropriated by this Act (including funds appropriated for salaries of employees of the Department of Energy) may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 310. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $160,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $16,000,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $462,700,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $13,000,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $446,700,000 in fiscal year 1998 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That $3,000,000 of the funds herein appropriated for regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1998 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1998 appropriation estimated at not more than $16,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $4,800,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1998 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1998 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,400,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TENNESSEE VALLEY AUTHORITY

For essential stewardship activities for which appropriations were provided to the Tennessee Valley Authority in Public Law 104-206, such sums as are necessary in fiscal year 1998 and thereafter, to be derived only from one or more of the following sources: nonpower fund balances and collections; investment returns of the nonpower program; applied programmatic savings in the power and nonpower programs; savings from the suspension of bonuses and awards; savings from reductions in memberships and contributions; increases in collections resulting from nonpower activities, including user fees; or increases in charges to private and public utilities both investor and cooperatively owned, as well as to direct load customers: *Provided*, That such funds are available to fund the stewardship activities under this paragraph, notwithstanding sections 11, 14, 15, 29, or other provisions of the Tennessee Valley Authority Act, as amended: *Provided further*, That the savings from, and revenue adjustments to, the TVA budget in fiscal year 1998 and thereafter shall be sufficient to fund the aforementioned stewardship activities such that the net spending authority and resulting outlays for these activities shall not exceed $0 in fiscal year 1998 and thereafter: *Provided further*, That within thirty days of enactment of this Act, the Chairman of the TVA shall submit to the Committees on Appropriations of the House of Representatives and Senate an itemized listing of the amounts of the proposed reductions and increased receipts to be made pursuant to this paragraph in fiscal year 1998: *Provided further*, That by November 1, 1999, the Chairman of the TVA shall submit to the Committees on Appropriations of the House and Senate an itemized listing of the amounts of the reductions or increased receipts made pursuant to this paragraph for fiscal year 1998.

TITLE V

GENERAL PROVISIONS

SEC. 501. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKAGGS:

On page 22, line 2, after "$1,580,504,000" strike the period and insert ", including $62,000,000 for the worker and community transition program."

Mr. SKAGGS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. MCDADE. Mr. Chairman, I reserve a point of order against the amendment pending the gentleman's explanation.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order.

Mr. SKAGGS. Mr. Chairman, I assure the distinguished chairman that my intention is to ask unanimous consent to withdraw the amendment in just a moment, but I wanted to use it to bring one matter before the attention of the House.

I am concerned about the inadequate funding in this bill to take care of the legitimate demands for worker transition services and benefits under section 3161 and otherwise at former nuclear weapons sites around the country including Rocky Flats. I am also concerned that we approach the worker transition program funding issue as straightforwardly as we can with sufficient funds appropriated to the proper accounts and not invite later needs for reprogramming or for use of funds from other accounts within the department.

As the chairman of the subcommittee knows, the bill provides now, I think, for $56 million for these purposes. My amendment would raise that to $62 million, the current fiscal year amount, still less than the President has requested. I think we need to provide additional funds for this. I believe the chairman anticipates that we may make further movement in this direction in conference. I also respect his intentions and that of the gentleman from Michigan [Mr. KNOLLENBERG] in particular that we try to make all of this handled in the bill and in practice in a much more straightforward fashion.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I simply want to thank the gentleman from Colorado for bringing this matter to our attention. It is our intention and hopefully we can cooperate with him as we go through the process to see if we can work this out.

Mr. SKAGGS. I appreciate the gentleman's statement.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

Mr. McDADE. Mr. Chairman, I ask unanimous consent that during consideration of title IV of this bill, debate on an amendment and any amendments thereto to be offered by the gentleman from Wisconsin [Mr. KLUG] regarding the Appalachian Regional Commission be limited to 20 minutes, divided equally between the gentleman from Wisconsin [Mr. KLUG] as the proponent of the amendment and myself as an opponent of the amendment.

The CHAIRMAN. Let the Chair inquire, is the pending amendment covered under that unanimous-consent request?

Mr. McDADE. The pending amendment and all amendments thereto, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KLUG

Page 29, line 20, after the dollar amount, insert "(reduced by $90,000,000)".

The CHAIRMAN. Under the previous order of the House, the gentleman from Wisconsin [Mr. KLUG] and the gentleman from Pennsylvania [Mr. McDADE] each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Appalachian Regional Commission was first established in 1965 to help promote the economic development of the Appalachian region. Since then the Federal Government has poured more than $7 billion into funding for projects. Some of these projects to essentially boost economic development include $750,000 from Federal taxpayers to help pay for the Carolina Panthers NFL stadium or $1.2 million for the National Track and Field Hall of Fame.

The Appalachian Regional Commission was first established back in 1965 and 3 years later, the Nixon administration began one of the first attempts to kill the Appalachian Regional Commission. Here I am 32 years after the Appalachian Regional Commission was first begun to essentially carry on this sometimes valiant and quixotic fight.

What we are here to consider tonight, Mr. Chairman, is an amendment specifically aimed at the Appalachian Regional Commission's road program. Some of these projects, back to a catalog of ARC's long and sordid history, include $2.9 million under the guise of economic development for an access road to a Pennsylvania ski resort. The bigger problem is that the roads or corridors in the Appalachian region have access already to two other funding sources, with a request for a third.

Essentially we have 13 States in the country which have been receiving an additional boost of economic aid now for 32 years, and now they are trying to add a third source of income to still build more roads. Let me, if I can, give my colleagues one example of how absurd this entire program is.

In West Virginia, one of the corridors, known as Corridor H, has a project that would rip through 41 streams and cut through two national forests. The amazing thing involving that individual road project in West Virginia is the fact that government studies show that traffic levels along this corridor to be served by the proposed highway average less than 3,000 vehicles a day. As my colleagues will know, when driving to the U.S. Capitol in the morning, traffic is often backed up in multiple directions. Three thousand vehicles a day barely approaches the traffic at rush hour in the Capitol heading in one simple direction. In fact, the national threshold is 10,000 vehicles a day.

Let me make this important point. The Director of the Appalachian Regional Commission, Jesse White, has stated publicly that what local residents need is not more money for new roads but increased support for education and small business development.

In brief, even if my colleagues support the general principle of the Appalachian Regional Commission, which I am not prepared to do at this point, we have essentially told welfare recipients across this country, "You've got 2 years to stand on your feet," and the Appalachian Regional Commission we have already committed ourselves to 32 years of funding. But even if Members buy the argument that the Appalachian Regional Commission as a whole is still necessary, I would argue very passionately this evening that $90 million more is not needed for road projects when the ARC States already have money that comes through the normal transportation cycle and through the normal economic development channel. Those are moneys that the other 37 States get. The difference is the Appalachian Regional Commission gets to ante it up one more level.

Mr. Chairman, I think it is vitally important tonight that as we attempt to balance the Federal budget, we as Republicans have an obligation and a duty and a responsibility to revisit outdated Federal programs, and as I have indicated, beginning since 1968, a whole raft of us have tried to rein in the Appalachian Regional Commission. Let us begin tonight by killing specifically the $90 million in new funding for new highways this year in this appropriation bill in front of us this evening.

Mr. Chairman, I reserve the balance of my time.

Mr. McDADE. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. ROGERS], the distinguished chairman of the Subcommittee' on Commerce, Justice, State, and Judiciary.

Mr. ROGERS. I thank the distinguished gentleman for yielding me this time and thank him for his tremendous work on this bill, incidentally, as we take up this amendment.

Mr. Chairman, of course, I rise in opposition to the gentleman's amendment. Here we go again. Two years ago, this House overwhelmingly defeated a similar amendment. With all the talk of the exploding economy around the country, I have to tell my colleagues that Appalachia has not yet experienced it. This region represents the poorest of the poor in our country. This amendment would halt a commitment we made to millions of Americans in the Appalachian region some 30 to 35 years ago. The interstate highway system through the gentleman's district has been finished. But the highway system has largely bypassed the Appalachian system, because, they said, "We'll let the Appalachian system build the highways in Appalachia." That was the deal struck many, many years ago.

Now the gentleman's amendment would strike our commitment and our end of the bargain to complete what passes for an interstate system in the Appalachian region. These are not four-lane thoroughfares. These, by and large, are two-lane paved roads through the poorest part of our country. This amendment would leave vast pockets of this region without access to national markets, but also without access to local markets.

While the interstate system is nearly 99 percent complete, the Appalachian system lags way behind. It is only 78 percent complete. This Congress is providing over $21 billion on the Federal highway program. Yet this amendment would strip the poorest communities of $90 million for their highway construction. I maintain that is just not fair.

Congress has already cut the Appalachian highway funding by half. We have already cut it by half. It has delayed construction of needed roads, roads that we take for granted in other parts of the country. Even though the Appalachian system is only three-fourths complete, its impacts are already considerable. Industries and businesses have grown along the highways that we have built in this poor part of our country. This growth should be allowed to continue. Let the people of the Appalachian region join the rest of America in access to this growing economy.

I urge my colleagues, in all fairness, as we did two years ago, almost 3 to 1, reject the Klug amendment.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KIND].

Mr. KIND. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time and for offering this amendment. I also commend him for his diligent search for wasteful projects in the Federal budget in an era, at a time when we are trying to balance the books.

The $90 million appropriated for the Appalachian Regional Commission road projects is bad for the environment, bad for taxpayers, and one more example of budget waste that should be eliminated.

I want to make it clear that I do strongly support the efforts of the regional commission to cut poverty rates, reduce infant mortality, provide health care access and increase high school graduation rates. This amendment does not touch any of those programs in dollars. The amendment only seeks to eliminate the $90 million that go to fund highway projects in the 13-State Appalachian region.

In the past, highway money from the Appalachian Regional Commission has funded environmentally unsound projects, such as the Corridor H highway project that my colleague has already cited. The Corridor H project does cut through two national forests. It rips up 41 streams. It would bring thousands of cars and minivans into the scenic West Virginia mountains. As my colleague has already noted, the commission has funded inappropriate projects, such as the $750,000 for the Carolina Panthers football stadium and $1.2 million for the National Track and Field Hall of Fame.

But finally, the $90 million I think is an unfair distribution of the highway funds. The State of Wisconsin has historically been a donor State under the Federal highway funding system, meaning the taxpayers there pay more in the Federal highway tax fund than they receive back for their infrastructure needs. The people of my State only ask that they get a fair distribution of the Federal highway dollars.

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At the same time the 13 States of the Appalachian region receive Federal highway dollars as part of the ISTEA allocation and they receive additional highway dollars through the Appalachian Region Commission.

Now where I come from that is called double dipping, and it is unfair to my constituents, and it is unfair to the taxpayers in the other 37 States in this country.

Now I am sure that there are people who represent the beautiful area, can stand up and speak about all the great things that the Appalachian Commission has done, and as I stated earlier I support most of these efforts in the programs that are being accomplished in the Appalachian region, and in fact the people of my State would love to have some of these programs back home for their use. But in our attempt to balance the budget, I believe that we can and should support programs to reduce poverty and promote economic development, but allocate funds under the appropriate avenue and venue such as ISTEA.

We cannot support pork being delivered to a few privileged States, and it is time we stop the taxpayer handout and distribute highway funds in a fair and equitable manner through ISTEA, rather than double dipping as the commission is doing with these 90 million additional tax dollars.

Mr. McDADE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, before I rise in strong opposition to this amendment I want to thank the chairman and the ranking member for their help in the Marmet Lock situation and helping a lot of people in the Marmet take area get some certainty by including some money for the beginning of the Marmet Locks, and I thank the gentleman for his nonpartisan way of handling this.

First, I want to ask the two gentlemen from Wisconsin who have spoken so eloquently on corridor H, "Have either of you ever driven corridor H? Have you ever been on that segment of road that you're protesting so much?" The answer I think is quite evident by the silence. They have not, and they have not driven the 40 miles of corridor H that was completed from Weston to Buckhannon and then on to Elkins, and so they have not seen the economic growth that is already taking place on that.

So I would use that as evidence of the academic background that I bring, which is that the Appalachian Regional Commission studies clearly document that every county with Appalachian Road Commission highways has job growth three to four times as high as those Appalachian and rural counties without.

And so before my colleagues go and talk about corridor H, I think they ought to drive it and understand why it is that almost every elected official in that whole area supports corridor H, but let us talk about the 13 States that will also lose under this.

We started a program in this Congress a number of years ago, the ARC highway system in which we were to build over 3,000 miles of roads in almost impoverished areas, and the good news is that 75 percent of that is complete. The bad news is that we still have some miles to go. And it is not just West Virginia. I thank my colleagues for calling such attention to our State and its beauty, but it is also 12 other States: Alabama, Kentucky, Georgia, Mississippi, North Carolina, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia. And there are some others I probably should have included as well.

This is a project that is well underway, and I would also urge my colleagues, since they have not driven corridor H, I would urge them to drive corridor G and see what the Appalachian Regional System highway is doing for southern West Virginia. I would urge my colleagues to drive corridor D, and that is just in my State. Go to those other States as well.

Mr. Chairman, I urge rejection of this, and let the ARC finish the job that it set out to do.

Mr. McDADE, Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WICKER], my very able friend.

Mr. WICKER. Mr. Chairman, I rise in support of the Appalachian Regional

Commission and against the amendment offered by my friend from Wisconsin [Mr. KLUG].

The gentleman from Kentucky is correct. A similar companion amendment was offered in 1995 at the beginning of this Republican Congress, and it was rejected overwhelmingly on a bipartisan vote, and it was rejected and the Appalachian Regional Commission was endorsed by this body because we were able to demonstrate on the basis of the facts that this program is a successful program, a program which has worked. It has provided jobs for over 108,000 people in the Appalachian region, it has helped to retain another 80,000 additional jobs, and highways are an important part of the mix. The highways are 75 percent complete, but we need to finish the rest of them.

Since the ARC with the highway program has been in place, the poverty rate in the Appalachian region has been cut in half, infant mortality has been cut by two-thirds, and out-migration has slowed. Also, Mr. Chairman, I would state to you that this is a program which is still very much needed.

In our region, per capita income is 16 percent below the national average. The poverty rate in the region is 16 percent higher than the national average. And I want to address this issue of double dipping.

Some of my friends have said well, Appalachia, through the highway portion of it, gets an extra dip into the Federal Treasury. That is not true at all. In the Appalachian region we receive 11 percent less in total per capita Federal spending than the national average.

So please do not accuse us of getting more than our fair share. If anything, we get less than the national average.

Mr. Chairman, this is level funding from the last fiscal year, it is within our budget allocation, it continues us on a path which will put us within the guidelines and bring us into a balanced budget by the year 2002.

And let us say this: My friends have talked about welfare spending. This is not welfare spending at all. This is spending to create infrastructure, to create jobs in the private sector and to turn people away from welfare and into taxpayers. It is government at its best, it is money well spent, and I am sure the Members of this body will reject the amendment just as they did in 1995.

Mr. KLUG. Mr. Chairman, I yield myself another minute or two.

Mr. Chairman, I want to, if I can for a moment, really strike at the heart of the argument. The Appalachian Regional Commission was set up in 1965 under the premise that if we poured more money from the Federal Government into this area we would get an economic boom. Now I think there is a flaw in this argument, because clearly 32 years later my opponents are down here making the case they still need more money and more years to turn it around.

My colleague and I are here from Wisconsin tonight. Wisconsin actually ranks 50th in Federal spending in the country. The unemployment rate in my home district is less than 2 percent. We have not had Federal money for 30 years so let me make the argument, if I can, that actually with increased Federal funding over the years, they have actually put Appalachia at a disadvantage because it has been dependent on Federal aid rather than standing on its own feet.

Let me also say that I understand that there are problems in Appalachia with undeveloped regions, but so are there in California and Florida and Alaska and Hawaii and New Mexico and every other State in the country. But the bottom line is 13 States have been singled out, and I would suggest after 32 years, 32 years is enough.

Mr. Chairman, I reserve the balance of my time.

Mr. McDADE. Mr. Chairman, I yield a minute and a half to the gentleman from California [Mr. FAZIO] the distinguished ranking member.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment. I do so, fully aware of the frustration that I felt, as the gentleman from Wisconsin [Mr. KLUG] has felt, with the Carolina Panther Stadium construction project. I have concluded, frankly, that we ought to remove discretion from the Governors of these States and target the money to the poorest counties within Appalachia.

But this is a job for the authorizing committee. The fine-tuning of the Appalachian Regional Commission should not be done on an appropriations bill and not done on the floor at this hour of the night. The road program is very valuable to many of the counties in these States.

Mr. Chairman, I know there are many people on our side of the aisle who will join the majority and the gentleman from Pennsylvania [Mr. McDADE] in opposing this amendment.

Mr. McDADE. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from California [Mr. KIM], the chairman of the committee that handles this matter.

Mr. KIM. Mr. Chairman, I thank the gentleman for yielding this time to me.

This argument has nothing to do with how much money we put into this particular region. This amendment is to save $90 million or stop funding, no matter of $90 million on highway projects. That is why I am rising in opposition to this amendment.

If we stop funding now, the highway project will just stop, unfinished. That is not the way it should be. If we try to pick up this highway program later, it is going cost twice as much, sometimes three times as much. This is not a good practice, stopping the highway program almost in the middle of completion.

As my colleagues know, 70 percent of the total 3,025 miles of highway has been completed. We have only 22 percent to go. This is not the time to stop it.

Second, the mentioning of this duplicate roadway funding; this is not true. ISTEA funding was merely proposed by Mr. Clinton, and that funding has not been approved by this Congress yet. Even if approved, we are not talking about seeing overlapping funding. We are talking about additional funding to accelerate those highway programs so we can finish earlier rather than dragging on.

Mr. KLUG. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I will use the rest of my time to close. Fortunately, a disagreement with my colleague from California; let me make it clear: Since 1991, ARC roads or quarters received over $599 million in funding from ISTEA for demonstration projects alone. That is on top of the funding that is done on this bill. That is money that comes out of the transportation appropriations bill, not out of energy and water. And since 1993 ARC has received $688 million in additional funding from this bill. Removing the $90 million does not stop funding the construction of roads in Appalachia, it simply allows them to get funding from the same sources that the 37 other States have to compete for.

Now my colleague from California, Mr. FAZIO, indicated his frustration with the fact that $750,000 in economic development money went into the Carolina Panthers football stadium. Let me refresh his memory on some other things. Five hundred ninety-three thousand dollars for the NASCAR Hall of Fame; $17,000 for the Alabama Music Hall of Fame; $1,200,000 for the National Track and Field Hall of Fame; and $10,000 to celebrate Bridge Day in Fayette County, West Virginia. I imagine that is to celebrate the bridge that the Federal Government also paid for along the way.

In closing, let me go back to the words of Jesse White, the Appalachian Regional Commissioner. "We are trying to seek more balance," Mr. White said. "Congress does not share those priorities." He wants, according to the Cumberland Maryland Times, "more money for education and economic development, not roads. This year Congress placed $61 million in other commission programs but directed $109 million to roads." That was back in 1996.

I think it is time we took Mr. White up on his advice: Preserve the part of the Appalachian Regional Commission that does education and economic development, and join me and my colleagues in zeroing out the additional boost in money they get for highway projects.

Mr. McDADE. Mr. Chairman, I yield myself the remaining time on our side.

Mr. Chairman, I rise in strong opposition to the amendment offered by my friend, the gentleman from Wisconsin [Mr. KLUG].

A few years ago my district was expanded, as so many of us have experienced in our careers in Washington. I picked up a section of Appalachia. I was not very familiar with this new area. After spending a little bit of time there, I saw how much this particular area had been bypassed by the economic revolution that hit this country. Not just economically bypassed, but they were bypassed by the Federal road programs.

Unlike my friend from Wisconsin [Mr. KLUG] whose district benefited from 90/10 interstate financing for the highway program, this area got nothing until just a few years ago. The highway that was replaced was one of the most dangerous highways in the Commonwealth of Pennsylvania. People were killed on that road, school buses were in accidents, and children on their way to school were endangered.

Let me say that since the Appalachian Regional Commission has focused on this problem, these unsafe conditions no longer exist. The road that I am speaking of is now a safe highway and has contributed to the economic development in this area.

I want to remind my colleagues as well that this program is, in my view, one of the best intergovernmental programs that exists in the Nation. It begins at the local level. It requires State participation in the road program, a 20 percent local share, and it then must be signed off at the Federal level.

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Local and State government involvement is something we talk about all the time. Here is a program where it actually works. I hope that the amendment will be roundly defeated.

Mr. BUNNING. Mr. Chairman, I rise in support of funding for the Appalachian Regional Commission and in opposition to the Klug amendment.

The amendment cuts ARC highway funding, a key ingredient in the effort to move Appalachia into the Nation's economic mainstream.

But, ARC funding has already been cut by almost 50 percent over the past 2 years. There's no more blood to be taken from this stone.

ARC serves the poorest and neediest in the country. In Kentucky, it has helped us reach the lonely hollers. It has linked isolated communities.

Our interstate highway system largely bypasses areas like eastern Kentucky because of the cost of building roads over the mountains. Except for a few communities on the major east-west routes, most Appalachian communities have had a hard time competing for jobs because of poor access to national markets.

But, the Appalachian Development Highway System is helping to link our people with the outside world.

The facts speak for themselves. For instance, back in the 1980's, improved transportation and roads created over half a million jobs in local economies in Appalachia. And studies show that counties with major highways have three times the job growth than those without.

More and better jobs are helping to make a difference. Since 1960, ARC has helped cut the poverty rate in Appalachia by 50 percent. Infant mortality is down by two-thirds, high school graduations have doubled.

Now, over 75 percent of the Appalachian Highway Development System is either completed or under contract. But, key parts of it remain uncompleted.

To cut off spending now that we are three-quarters of the way finished just doesn't make sense.

Mr. Chairman, most of the poor isolated communities in Kentucky and other States served by ARC desperately need this funding. They are poor, and without it they won't be able to meet Federal match requirements or leverage State or private dollars. It's essential.

Passing the Klug amendment today would be a sad setback.

Even in these budget balancing times, I don't know many Government programs or agencies that have been cut in half. And certainly not many that have as strong a track record as the Appalachian Regional Commission.

Mr. Chairman, I've worked hard over the last 11 years in Congress, fighting wasteful Government spending and opposing programs that don't work.

But, ARC isn't one of those programs. In Kentucky ARC has made a difference for the poorest of the poor and for our neediest communities.

The Appalachian Regional Commission is one of those rare Government programs that works. It deserves our support.

I urge a "no" vote on the Klug amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KLUG. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 194, further proceedings on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] will be postponed.

Are there other amendments?

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKEY:

Insert at the end before the short title the following:

SEC. 502. (a) LIMITATION.—No funds shall be made available under this Act for—

(1) nuclear technology research and development programs to continue the study of treating spent nuclear fuel using electrometallurgical technology; or

(2) the demonstration of the electrometallurgical technology at the Fuel Conditioning Facility.

(b) REDUCTION.—Under the heading "Department of Energy-Energy Programs-Energy Supply" insert after the dollar figure the following "(reduced by $33,000,000)" and under the heading "Department of Energy-Atomic Energy Defense Activities-Other Defense Activities" insert after the dollar figure the following: "(reduced by $12,000,000)".

Mr. MARKEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MARKEY. Mr. Chairman, may I make an inquiry? What is the parliamentary procedure we are operating under now?

The CHAIRMAN. The 5-minute rule.

Mr. MARKEY. The 5-minute rule? There is no time limitation?

The CHAIRMAN. Not at this point. Would the gentleman request one?

Mr. MARKEY. Not at this time.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Chairman, this is an amendment which I am making with the gentleman from Connecticut [Mr. SHAYS] and the gentleman from Florida [Mr. FOLEY], along with the gentleman from South Carolina [Mr. SPRATT], the gentleman from Oregon [Mr. DEFAZIO], and the gentleman from New Jersey [Mr. ANDREWS]. It is an amendment that is going to attempt to deal with a technology which is called pyroprocessing, which is bad energy policy, bad environmental policy, bad budget policy, and bad nonproliferation policy.

Friends, colleagues, countrymen, lend me your ears. We come to bury pyroprocessing, not to praise it. The evil that dead government programs do lives after them, while the good is oft interred with their bones. So it is with pyroprocessing. Pyroprocessing is the last living remnant of one of the biggest budget-busting boondoggles in congressional history, the failed breeder reactor program.

Pyroprocessing is not exactly a household word. In fact, if Members do not have a degree in physics they may not understand what it is, but it is in fact a chemical procedure by which separation of plutonium and uranium is in fact achieved, and the building blocks of nuclear bombs are in fact made available to those who have the technology.

There is in fact a secondary definition in the Webster's Dictionary for pyroprocessing, which is a very efficient and fast way for burning money, taxpayers' money, with boondoggle projects that have been left over as remnants from nuclear projects of the 1970's and the 1980's.

This is an amendment which is endorsed by the Citizens for a Sound Economy, by the Taxpayers for Common Sense, by the League of Conservation Voters, by the Physicians for Social Responsibility, by the Natural Resources Defense Council, by the Friends of the Earth, and by arms control groups such as the Union of Concerned Scientists and the Nuclear Control Institute, and it is on the top 10 list of the Green Scissors wasteful, environmentally destructive programs that they believe should be cut out of the Federal budget.

What more do Members want? Just about every leading budget, environmental, energy, and nonproliferation group in America says this is a bad idea, but it lives on because in fact we need someplace, I guess, that we can have some of the leftover nuclear scientists who have been left behind from the nuclear arms age to continue to work.

Mr. Chairman, the reality here is that pyroprocessing, according to the Department of Energy, is a piece of equipment that is about the size of a bathtub. Its original purpose was to be attached to the back of the breeder reactor, a nuclear reactor that could create more plutonium and highly enriched uranium than it burned.

Pyroprocessing technology would reprocess the spent fuel and extract as much of the bomb-usable leftovers as possible. That way, reasoned the nuclear industry, we could produce lots and lots of cheap nuclear electricity and still make more nuclear fuel once we pyroprocess the uranium and plutonium out of the spent fuel.

We all know what an oxymoron the phrase "cheap nuclear energy" has become, and in 1994, after the Cold War ended, we found ourselves with 50 tons of extra plutonium that we did have to still get rid of. Congress decided that pouring more money into the multibillion-dollar sinkhole that was the breeder reactor program was just pointless, so we killed that program.

Pyroprocessing should have been terminated along with the nuclear breeder reactor, but instead it has metamorphosed into something new but just as deadly. It entered the Federal witless protection program, hiding out in a DOE safe house. Advocates contend that the new pyro identity was that the program would be a good way to treat DOE spent nuclear fuel before it went into permanent storage at Yucca Mountain. They said it was the only way to treat that fuel in order to make it stable for permanent burial. They said pyroprocessing would take care of everything. They were wrong.

Mr. FAWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition once again to the Markey amendment. I think this is about the third time. This amendment would zero out an appropriation of $20 million for a very important ongoing environmental nuclear waste reduction research program which is being conducted by the Department of Energy in Illinois and Idaho.

In addition, this amendment would, in the words of the Department of Energy, also, if passed, zero out an additional $25 million, and as a result, and I quote the Department of Energy, "end all activities by the Department of Energy to place the EBR II nuclear reactor in a radiologically and industrially safe condition."

In other words, it would end the shutdown of the EBR reactor, something which the gentleman from Massachusetts [Mr. MARKEY] and his allies have worked so hard to achieve 4 years ago, to kill that nuclear reactor.

I shall, however, refer primarily to the effect that this amendment would have in ending a very valuable and ongoing research program, the electrometallurgical treatment of DOE spent fuel. This is not commercial spent fuel, but spent fuel owned by the Federal Government.

Electrometallurgical treatment is the new technology which, if ultimately approved by the National Academy of Sciences and by the Department of Energy, will greatly reduce the volume and the toxicity of over 2,700 metric tons of more than 150 different types of spent nuclear fuel stored at the various Department of Energy sites around the Nation, in Idaho, Washington, Tennessee, South Carolina, and many other States.

It is a new and exciting research of the treatment of Department of Energy spent nuclear fuel which also locks up and makes inaccessible plutonium that all fuel, spent fuel, contains, thus eliminating the possibility of any proliferation of plutonium. It is locked up with all the hot actinides that are radioactive. If anybody touches it they are dead.

Any plutonium contained in this spent fuel would be bound up, as I have said, in highly radioactive fission waste products and then immobilized in a stable glass-ceramic waste form for burial. This is not a nuclear reactor we are talking about, it is not a breeder reactor. We are talking about burying spent nuclear fuel that is owned by the public.

All of this can be accomplished at greatly reduced cost, compared to what current technology is out there. Electrometallurgical treatment is a research program designed to take spent nuclear fuel and make it less in volume, less in toxicity and less threatening to the environment, and thus suitable for burial. I cannot understand how anybody could be afraid of that. It is environmentally sound and it does not pose a proliferation risk, and it is strongly endorsed by the administration and by the Department of Energy, who are not noted for being people who favor proliferation, by any means.

The National Research Council, composed of members from the National Academy of Sciences, the National Academy of Engineering and the Institute of Medicine, all support the continuation of this promising technology. In fact, the National Academy of Sciences is closely monitoring the feasibility of this technology upon request of the Department of Energy. They are doing a good job of monitoring it. They are critical in their judgments.

This latest finding of the National Research Council states that "The committee continues to support the overall recommendations of its July, 1995 report," concluding that the Department of Energy "should proceed with its development plan."

Mr. Chairman, 2,700 metric tons of nuclear waste poses a dire environmental responsibility of the Federal Government and of this Congress. It is not going to go away, no matter how much we might hate nuclear power, as some people unfortunately do. We need places in which to store spent nuclear waste. We need the technology to treat these wastes in order to lessen their volume and toxicity, and in order to assure their safe disposal in Yucca Mountain or wherever.

Indeed, the Department of Energy is obligated, under the Federal Facilities Compliance Act, to adequately prepare its spent nuclear fuel for burial and to comply with the Federal Environmental Protection Act. The Department of Energy, like all the rest of us, has to act. For Congress to zero out such research would be an act of irresponsibility.

Mr. Chairman, we debated the same kind of amendment last year and the year before that, and each time it was soundly defeated on a good, solid, bipartisan vote. I think it deserves the same fate today. I urge my colleagues to vote "no" on the Markey amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, pyroprocessing, also known as electrometallurgical treatment, is a relic of the budget-busting breeder reactor program which Congress killed in 1994 by terminating the Advanced Liquid Metal Reactor. According to a 1995 paper on pyroprocessing prepared by Argonne National Laboratory, the basic technology was developed for the integral fast reactor program, which until recently canceled, was the United States' nuclear research and development program for advanced liquid metal reactors.

The ALMR was to be a breeder reactor that was supposed to produce more plutonium than it consumed, and pyroprocessing was to be used in extracting the plutonium from the spent fuel to be reused for civilian or military purposes. Since termination of the ALMR, supporters of the pyroprocessing technology have, in effect, searched for a mission. Now they say the technology is being developed to prepare spent nuclear fuel for proper disposal.

However, according to the publication "Nuclear Fuel," the only thing certain about Argonne National Lab's effort to demonstrate whether pyroprocessing is a viable and versatile spent fuel management tool is that it will take longer and cost more to reach a conclusion on its potential than originally thought.

The review also states that completion of this development and demonstration program requires a proposed Argonne National Laboratory-West spent nuclear fuel processing program that would extend beyond fiscal year 2005, which is 6 years and at least $270 million behind schedule. The National Academy of Sciences says the DOE must clearly understand that additional funding will be necessary beyond the demonstration phase to achieve the program's objectives.

Nevertheless, it is unclear at best that pyroprocessing technology will ever meet its objective of simplifying disposal of certain types of Department of Energy spent fuel. For instance, the National Academy of Sciences has pointed out that the nuclear waste generated by pyroprocessing is probably unsuitable for Yucca Mountain. If the treated fuel is indeed stored at Yucca Mountain, radioactive materials could be released into the environment at very clear risk to health and safety.

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The fact is, pyroprocessing is not needed. In the 1980's, 59 cans containing 17 tons of DOE spent nuclear fuel was shipped from the Argonne National Laboratories to Rocketdyne in California, where the unstable elements were neutralized.

The question then arises: Why should Congress continue to fund a program that is not needed and will cost the U.S. taxpayers hundreds of millions of dollars when there is no guarantee that its objectives will ever even be met?

Mr. RUSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. Electrometallurgical treatment or pyroprocessing is finding answers to our most difficult nuclear fuel disposal problems. This process will greatly reduce the volume and the level of toxicity of spent fuel.

Spent nuclear fuel is not amenable to geological disposal because of its nature. It ignites upon contact with air and explodes upon contact with water. Pyroprocessing changes the composition of spent nuclear fuel so that it may be disposed of by safely separating the uranium and the plutonium contained in it. As a matter of fact, this process changes the spent fuel to sodium chloride, more commonly known as table salt.

Furthermore, the Department of Energy has stated that the plutonium produced by this process is not suitable for making nuclear weapons. DOE has further stated that the material produced from this process is not attractive to those who might want to make a weapon.

Pyroprocessing is entirely consistent with the administration's nonproliferation policies. This is not an issue of nuclear proliferation. It is about developing a process that will allow for safe disposal of nuclear wastes. Some wrongfully argue that the uranium produced as a result of this process could be used to build nuclear weapons. This could not be further from the truth.

Pyroprocessing changes the condition of uranium in such a way that it is no longer capable of being used in nuclear weapons. Some may argue that nuclear power should be done away with. Well, I am not here to argue the merits of that position, but I will make one point. I will point out that until such alternatives become reality, we must make every effort to ensure that waste produced by nuclear plants is disposed of safely. Pyroprocessing makes the disposal of spent fuel safer.

The National Research Council has stated that pyroprocessing is the result of well-established science that is technologically feasible. The National Research Council has further stated that this research has the capacity to become the basis for a larger global waste management plan. In light of these facts, it would be irresponsible for us to cut funding at this time.

Nuclear waste is a reality of our modern age. As responsible leaders, it is incumbent upon us to support innovation and technology which will benefit our constituents. Pyroprocessing is such a technology.

This is not corporate welfare. ET, electrometallurgical treatment, is being developed to deal with DOE's own spent fuels. The research is being performed by the nonprofit Argonne National Laboratory operated by the University of Chicago on behalf of the DOE. It seeks to carry out the congressionally authorized mission to clean up sites across this country that supported our Nation's defense missions and to protect human health and the environment now and in the future.

Mr. Chairman, I urge my colleagues to oppose this amendment

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. As some of my colleagues have said, it has come up before, it has been soundly defeated, but it seems, like a bad penny, to keep coming back.

Mr. Chairman, I support the chairman's mark for $20 million. The chairman, by the way, who along with the ranking member worked very hard to craft a bill that I think is a bill of substance. This $20 million for the electrometallurgical processing I think is vital. It is vital R&D, and it is a program that hopefully will enable the Department of Energy to treat its own, I am saying its own spent nuclear fuel and convert it to a form that is safe for final disposal.

It is important, I think, to understand that a portion of DOE's spent fuel is chemically reactive and it cannot, and I repeat, it cannot be disposed of in its present form.

In fact it is my understanding that some of this fuel is pyrophoric. I am not a chemist, but I do know what it means and I have been told by a number of experts that it will spontaneously ignite when exposed to air.

Mr. Chairman, this is not a program directed at research for the commercial nuclear industry. It is not corporate welfare. Nothing of the kind. The commercial industry does not need, does not even need this technology. But who does? DOE does and America needs it.

Nor is it an R&D effort that will result in technology to separate out the plutonium from the spent fuel. The plutonium remains suspended in the spent fuel. There are no valid proliferation issues associated with this technology. Rather, it is an R&D program that will render DOE's own inventory of spent fuel safe, while at the same time substantially reducing the volume of waste and the cost of characterization, handling, storage and ultimately, of course, disposal.

Mr. Chairman, this program is in its last year of funding. I urge Members to vote "no" on this amendment so that can be completed as requested by the department, and as recommended by the National Academy of Sciences.

Mr. Chairman, I believe, as has been done historically, this has been passed on a bipartisan basis two, three, four years going back. I think we should do it again, and I urge my colleagues to oppose this amendment.

Mr. DREIER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to join this stimulating debate that is taking place at 11:20 here on electrometallurgical treatment. I know that my colleagues are fascinated by it, but the fact of the matter is, it is a very serious and important matter.

Mr. Chairman, I strongly oppose, as I have in the past, the amendment being offered by the gentleman from Massachusetts [Mr. MARKEY], my very good friend, and I would like to associate myself with the words of my colleagues who have spoken in opposition.

The gentleman from Michigan [Mr. KNOLLENBERG], my friend from Bloomfield Hills, has just raised the issue of corporate welfare. The gentleman from Illinois [Mr. RUSH] also raised that issue. The fact of the matter is this is not corporate welfare. We are not talking about the disposal of fuels that are in any way related with anything other than direct government programs. We have the Department of Energy faced with this very serious question of how to deal with this spent fuel, and we have a very creative, positive solution which is being researched and developed at Argonne.

It seems to me that as we look at this problem which is looming and continues to grow, we have a responsibility to face it.

So Mr. Chairman, I urge my colleagues to join in strong opposition to the Markey amendment. I strongly encourage them to support the position that has been moved forward by the gentleman from Pennsylvania [Mr. MCDADE], chairman of the subcommittee, and the work of this subcommittee.

It seems to me that when we look at the challenges that loom ahead, we have a responsibility to look at every creative way that we can to deal with this pressing issue, because it is not going to be an issue that will in any way go away. It is one that is going to become greater and greater. That is why the work at Argonne must continue. We have got to have once again a very strong vote in opposition to the Markey amendment, and I urge my colleagues to join with us when we cast that vote tomorrow.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Markey amendment. A number of us are supporting it for a very real reason. We are very concerned about the proliferation of nuclear weapons. We are very concerned that, as the cold war has ended, we are in a different kind of war, the kind of war that will occur when terrorists or rogue nations get access to nuclear weapons.

Mr. Chairman, we can have long and extended debates about this issue, but the bottom line is that if we continue with pyroprocessing, we are going to be allowing a process to be developed that is quite simple, not complex, and nations that do not have a lot of resources will be able to get this type of technology because once we develop it, we cannot contain the knowledge. Once the knowledge is developed, it is there to share with everyone. Terrorists will get it. That is the bottom line.

We talk about this being a serious issue. It is a serious issue. The promoters of this technique, pyroprocessing, make it very clear that this process can be developed in a very small room. When we had dialog about it, they said it could not be developed in a small room because other ancillary services would be needed that would make this product show up and be visible to many.

But, Mr. Chairman, the fact is this is a process that can be developed in a small room. It is a process that separates uranium and can also lead to the separation of plutonium. The trusted scientists that we have spoken to make it very clear that while pyroprocessing does not separate plutonium, a slight change in the process can separate this item.

Mr. Chairman, I cannot speak strongly enough. I wish I could be more eloquent about my feelings, but this is, in my judgment, something that is important to Illinois and Idaho. It is important to these two States because it is a jobs program. But it is absolutely deadly for this Nation and the world. For that reason, I support the Markey amendment and hope that tomorrow we will have the good sense to pass it.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, there are so many red herrings that are tossed out in a debate like this that we might as well put an aquarium down in the well to contain them all as they are swimming around in this debate.

Mr. Chairman, this is a technology which makes it possible to extract highly enriched uranium. Highly enriched uranium can be used to make nuclear bombs. Terrorists can find the designs for the building of nuclear bombs on the Internet. It took me 10 minutes tonight to find the documents titled "Documentation and Design of an Atom Bomb" on the Internet; 10 minutes.

What are they missing? They are missing the enriched uranium. What this technology does is make it possible for enriched uranium to be extracted from a very small, very simple process that our Government is funding.

Now, we have had a 25-year policy in the United States against reprocessing, and it is a policy that we try to spread across the rest of the globe. Now, what do we gain by having this tiny project, for our purposes, be funded in the United States, having it be viewed by other countries in the rest of the world who view us as hypocrites for developing reprocessing technologies, and for the long-term not expect those countries then to seek to emulate us?

Mr. Chairman, if we are in fact going to be realistic about the post-cold war era that we live in, we live in a world of deregulation. The United States and Soviet Union can no longer control the rest of the world. So as a result these issues of nonproliferation loom larger in our future.

Do we voluntarily want to undertake policies that gut a 25-year message we have sent to the rest of the world that we are not going to reprocess spent fuel in a way that can create nuclear bomb grade material?

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Mr. Chairman, I think that is not the right direction for our country to be heading into the 21st century. That is why I urge a yes vote on the Markey amendment. We do this because for no other purpose we must begin to seriously discuss in our country the real threats of the 21st century, the threats of nuclear materials going from Russia into Iran, from China into Pakistan or into Iraq. We must begin to discuss what we ourselves can do to give the world leadership on this issue.

If we here tonight continue to fund a project which is nothing more than a leftover from the breeder reactor debates of the 1970s and 1980s, then yes, for a very short period of time we might be able vampirelike to allow this program to suck the budgetary life's blood out of the taxpayers' pockets. But, Mr. Chairman, we will also be sending a message to a couple of dozen countries in the world that there is a technology that perhaps they as well should start to think about availing themselves of, and this technology will come back to haunt us because the next ayatollah could in fact have nuclear weapons. The process that they use could very well be this process. The internet tells them how to build it.

We should not in any way send a message that we think is appropriate for it to be built. That is why I make this amendment this evening. That is why the gentleman from Connecticut [Mr. SHAYS] and the gentleman from Florida [Mr. FOLEY] make this amendment this evening. It is that we begin the process ourselves of giving the world leadership on an issue that for several decades the United States and Soviet Union turned their backs.

It is now time that we turn to this issue. We are never going to blow ourselves up, the United States and the Soviet Union. What is 10 times more likely to happen is that a terrorist or a Third World country will gain access to this technology and then we will reap the whirlwind. I thank the gentleman from New Jersey so much for yielding to me.

Mr. CRAPO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was going to talk about the proliferation risk at the end of my comments, but because of the impassioned speech we just heard and the debate that we have heard, I think I will bring that discussion to the forefront. In doing so, let me point out that this research has been requested by the Department of Energy, supported by the administration, authorized by both House committees of jurisdiction and is being supported and monitored by our Nation's premier science organization, the National

Academy of Sciences. I ask, do you believe that the Clinton administration with Vice President GORE heavily involved in these environmental matters would endorse the electrometallurgical technology if it constituted a proliferation risk? Would both the committees of Congress, would the National Academy of Sciences and the many other scientific groups and boards that have said this research is so critical support this if it were a proliferation risk? No, they would not.

The reason is because, even though we have had this same tired old debate on every nuclear research project for the last four years it has come up, it is always the same argument no matter what the research is on the floor at the particular time. It must be a proliferation risk because that seems to be the only thing that can be said by those who simply want to shut down nuclear research in this country.

The fact is this is not a proliferation risk. Plutonium is not and cannot be separated by this technology. The fact is that this technology blends down plutonium and binds it with other types of products so that it cannot be used in nuclear bombs. The chemistry and physics of the technology does not allow this. The plutonium is automatically bound together with fission products and other transuranic elements, and those materials make the plutonium unusable for weapons use.

Quite simply, this technology is self-protecting. And that is why this Nation, that is why this administration, that is why the committees of this Congress have endorsed it. And those who oppose it do so in my opinion because they do not support nuclear energy research and they do not want to have the beneficial results of this research to occur.

Independent nonpolitical scientific review boards convened in 1986, 1992 and 1994 have all confirmed that this technology does not present a proliferation risk. What is this technology? This technology that is currently being developed by Argonne National Laboratory is a research program designed to prepare spent nuclear fuel for proper disposal. It is interesting for me to note that many of those who oppose this technology are also opposing the legislation that will hopefully come on this floor later this year to provide for the permanent disposal of spent nuclear fuel. This technology has the potential to treat 2700 metric tons of DOE owned spent fuel, some of which has become seriously degraded, as other Members who have spoken tonight have explained.

It is important to me in Idaho not only because the research is being done there but because over the past few decades much of the spent nuclear fuel of this country has been stored in Idaho. And the State of Idaho recently in litigation with the Department of Energy has achieved a negotiated result enforced by a court order that says that the Federal Government has got to take that spent nuclear fuel, treat it and store it somewhere else. And those who would stop this research and those who would stop the implementation of storage facilities would force that spent fuel to stay in Idaho over the aquifer which we have fought so hard to assure that it must move to protect.

This research, as I said, has been supported by the administration, the committees of Congress, and the scientific review boards that have reviewed it have consistently supported it and said that it is needed research. And a special committee at the independent nonpolitical Academy of Sciences has reviewed this program extensively and is monitoring its progress.

In their report, the committee recommends that DOE assign high priority to electrometallurgical research at Argonne National Laboratory saying that it represents a promising technology for treating a variety of DOE spent fuels.

Mr. Chairman, the fact is that this research is critical to this Nation's nuclear research policy, regardless of whether one supports nuclear energy in the future, which I do, or whether one simply supports solving the problems of the existing spent nuclear fuel that needs to be handled. We must support this needed critical research and we must not listen to those who continually throw up the false argument of proliferation against every aspect of our nuclear program in this country.

Mr. FAZIO of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first of all let me say I think the gentleman from Massachusetts [Mr. MARKEY] in bringing this amendment to the floor even at this late hour, which I know is a frustration for him, does a service to the institution, to this committee in that he makes us rethink the position that I think most of us have come to; and that is that we must support the administration's nonproliferation goals and policies. He is obviously impassioned and deeply concerned about nonproliferation. I think his colorful rhetoric sometimes gives Members the impression that the gentleman from Massachusetts [Mr. MARKEY] just loves a fight. But we know in addition he is truly committed to keeping the pressure on in this country to make sure that we do not accidentally or without sufficient debate make decisions that we would live to regret.

I know his opposition stems from a very strong advocacy of nonproliferation and a fear that this technology could be used to reprocess spent fuel to separate out the plutonium. He believes, I am sure sincerely, that the department's research on this technology keeps the possibility of reprocessing alive.

Let me read to my colleagues what has helped convince me of the position that I take. It is a letter that was sent very recently by Terry Lash, Director of the Office of Nuclear Energy Science and Technology, writing to Chairman McDADE. He says,

> The electrometallurgical treatment technology is not reprocessing. It cannot be used or modified to separate pure plutonium. It is technically possible, he says, to modify it to separate a highly radioactive mixture of actinides including plutonium but this material would be extraordinarily difficult to make into a weapon.
>
> This material therefore is not at all attractive to those who might want to make a nuclear explosive. It is doubtful that a rogue nation or terrorist organization could do so even if it wanted to.

I think that when we hear from our colleagues speaking sincerely, the gentleman from Florida [Mr. FOLEY], the gentleman from Connecticut [Mr. SHAYS], talking about the rogue nation, the terrorist attack, we have to look to the people whose job it is to protect us at all times from that kind of threat. And we all know it is a greater threat, as the gentleman from Massachusetts [Mr. MARKEY] says, than the kind of nuclear exchange that dominated our thinking during all of the cold war years.

In addition, indicating to us that the pure recollection reprocessing is easier to use, cheaper to set up and that can fit any facility, probably the choice of those who would be rogue nations or terrorist organizations, this letter points out that electrometallurgical technology must be conducted in airless inert environments using advanced remote handling equipment that is technologically far more challenging than the conventional pure recollection reprocessing.

So I think we have seen a real debate within the administration. I think they have properly concluded that this is not the threat that some fear it to be. And I would hope that Members would act as we have in the last 2 years to defeat this amendment and support a rational policy which should be a bipartisan one. I think it will be reaffirmed as such this evening.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 194, further proceedings on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY] will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Energy and Water Development Appropriations Act, 1998".

AMENDMENTS OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer two amendments.

The CHAIRMAN. The Clerk will designate and report the amendments.

The text of the amendment is as follows:

Amendment offered by Mr. SOLOMON:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 502. None of the funds made available in this Act may be provided by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education, or subelement thereof, that is currently ineligible for contracts and grants pursuant to section 514 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (as contained in section 101(e) of division A of Public Law 104-208; 110 Stat. 3009-270).

The Clerk read as follows:

Amendment Offered by Mr. SOLOMON:

Page 35, after line 20, insert the following new section:

SEC. 502. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with a contractor that is subject to the reporting requirement set forth in subsection (d) of section 4212 of title 38, United States Code, but has not submitted the most recent report required by such subsection.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Is there objection to the gentleman from New York [Mr. SOLOMON] offering the amendments en bloc?

There was no objection.

Mr. SOLOMON. Mr. Chairman, I will not debate the amendments. I mentioned the title of the first, it being a requirement on the reporting requirements of hiring practices of veterans of the former armed forces of the United States of America. The other is an amendment that would require recruiters and ROTC units to be present on college campuses. Both of these amendments have been offered to numerous legislations and become law. I would appreciate if they could be accepted here tonight.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to compliment the gentleman from New York, the distinguished chairman of the Committee on Rules, on his amendments. We are pleased to accept them.

Mr. SOLOMON. Mr. Chairman, I want to thank the gentleman. I have nothing but praise for him and the ranking member and their staffs, for the outstanding job that they do on a very difficult Appropriations Subcommittee. We thank them very much for all of their efforts on behalf of the entire body.

Mr. FAZIO of California. Mr. Chairman, I move to strike the last word.

Given the fact that I had very little background or information about what was coming on this bill, what seems to be on the surface an extraneous amendment, I have been informed that we have supported this in the past. The House has overwhelmingly done so. I will not object. But I do find it a bit out of the ordinary.

Mr. Chairman, I will accept the gentleman's amendment.

However, as we go to conference, I would ask the gentleman to furnish the committee with a more detailed description of what his amendment will do and the problem that it seeks to address.

As I understand the gentleman's amendment, it would simply make contractors who do business with the Federal Government comply with existing Federal veterans' preference law.

I also understand that should such a contractor fail to comply with the reporting requirements in the law, the contractor would be denied Federal funds.

I certainly don't object to veterans preference, and I hope this will ensure that DOE and other agencies are fulfilling their responsibilities.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York [Mr. SOLOMON].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 502. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. McDADE. Mr. Chairman, I reserve a point of order on the pending amendment.

The CHAIRMAN. A point of order is reserved.

The Chair recognizes the gentleman from Nebraska [Mr. BEREUTER].

□ 2345

Mr. BEREUTER. Mr. Chairman, this common sense amendment is needed to ensure that the Corps of Engineers does not repeat its previous mistake, a proposal which would have devastated farms, businesses, landowners and countless communities along the Missouri River.

In 1994, the Corps issued its proposed changes to the Master Manual and made a colossal blunder by proposing to drastically increase the flow and water level of the Missouri River during the months of April, May and June. These, obviously, are the very months when States such as Nebraska, Iowa, Kansas and Missouri, especially in the area south of Plattsmouth, NE, are already most vulnerable to flooding due to snow melt and heavy rainfall in the internal watersheds that drain into the Missouri River.

It is bad enough that farmers and other landowners along the river have to contend with natural disasters, they should not be forced to deal with the kind of man-made disasters that would have been caused by the Corps' proposal. The floods and heavy spring rains of recent years offer clear and convincing proof that the proposal was seriously flawed.

At a series of two dozen hearings throughout the Missouri River Basin region, participants expressed very strong, even vociferous remarks and nearly unanimous opposition to a number of provisions in the Corps' preferred alternative. One of the most detested provisions was the increased spring rise.

Following this massive opposition to the proposed changes, the Corps acknowledged the flaws in the original proposal and expressed a willingness to reevaluate the issue. However, this Member believes this common sense amendment is desirably discussed each year to make absolutely certain that the Corps does not repeat this mistake.

Mr. Chairman, in conclusion, this Member again heard the strong concerns and objections to the current Missouri River bottomland flooding from affected landowners and farmers in Otoe County and Nemaha County at town hall meetings this Member held on Monday of this week in Nebraska City, NE, and Auburn, NE.

Some of these individuals have had their crops destroyed by flooding in 4 of the last 5 years. Their crop insurance costs are soaring and they are understandably suffering great economic losses which do threaten their survival. Therefore, Mr. Chairman, it is important that any changes in the Missouri River Master Water Control Plan alleviate this severe flooding problem and not accentuate it.

Finally, Mr. Chairman, this Member will attempt to address this subject throughout any appropriate authorizing committees.

I have had tremendous cooperation from the chairman and the ranking member on this subcommittee, and I am very much appreciative of it. I know that the rules, or the interpretation of the rules which made this amendment possible to be considered in the last two Congresses are different.

Mr. Chairman, I recognize that the gentleman from Pennsylvania has reserved a point of order and I would be willing to hear anything that he wishes to say to me at this point, and will end my remarks by conceding the point of order to the gentleman.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Pennsylvania.

POINT OF ORDER

Mr. McDADE. Mr. Chairman, I am grateful to my friend for conceding the point of order. I am constrained to put the language on the RECORD because, as the gentleman knows, he is attempting here to set a precedent, and so we need to make sure that the Parliamentarian makes a ruling.

Mr. Chairman, I object and make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and therefore violates clause 2(c) of rule XXI.

The rule States in pertinent part, and I quote:

> No amendment to a general appropriations shall be in order if changing existing law, including an amendment making the availability of funds contingent upon the receipt or possession of information not required by existing law for the period of the appropriation.

The amendment changes existing laws because it is based on receipt or possession of information not currently required under existing law and thereby imposes additional duties on a governmental official. This rule was changed for the 105th Congress to specifically prohibit this loophole, a technical loophole, which was used to circumvent the prohibition of legislating on an appropriation bill.

Mr. Chairman, I ask for a ruling from the chairman.

Mr. BEREUTER. Mr. Chairman, may I be heard?

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I want to reluctantly agree, as I said, to concede the point of order and express my general appreciation for the treatment this Member has had.

The CHAIRMAN. The Chair will proceed to rule.

The gentleman from Pennsylvania makes a point of order against the amendment offered by the gentleman from Nebraska [Mr. BEREUTER] that the amendment violates clause 2(c) of rule XXI, which precludes an amendment to an appropriation bill that changes existing law.

As the Chair ruled on July 15, 1997, clause 2(c) of rule XXI was amended in this Congress to include in the definition of an amendment "changing existing law" one that makes the availability of funds contingent upon the receipt or possession of information not required by existing law for the period of the appropriation. Precedents to the contrary from prior Congresses are no longer dispositive. The amendment thus constitutes a change in existing law and is in violation of clause 2(c) of rule XXI.

Accordingly, the point of order is sustained.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. PETRI:
>
> At the end of the bill, insert after the last section (preceding the short title) the following new section:
>
> SEC. . None of the funds made available in this Act may be used to pay the salary of any officer or employee of the Department of the Interior who authorizes, or implements the acquisition of land for, or construction of, the Animas-La Plata Project, in Colorado and New Mexico, pursuant to the Act of April 11, 1956 (43 U.S.C. 620 et seq.) and the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.).

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Chairman, this amendment provides that no money can be spent on land acquisition or construction of the Animas LaPlata Water Project in Colorado and New Mexico.

Although this Energy and Water Appropriations bill does not contain any additional funds for the Animas LaPlata project, there is approximately $8.2 million of previously appropriated and unobligated funds that remain, and the other body has appropriated an additional $6 million for this year. I believe the House of Representatives deserves an opportunity to restate its view on this important issue.

As Members know, last year the House voted against the project by a 221 to 200 vote, removing its money from last year's appropriations bill. Nine and a half million dollars was then inserted in the bill in conference.

Fortunately, the supporters to the project have agreed that the project as originally conceived cannot be built. Yet now they have recently presented an alternative which still costs hundreds of millions of dollars, still contains a number of objectionable features, is not in compliance with existing Federal laws and, most importantly, has not been authorized. This alternative is a new project and should be authorized before it goes forward.

We appreciate the fact that the bill contains no new money for the Animas LaPlata project, and we thank the chairman for that. Our concern is that the committee report language directs that existing funds continue to be spent on the project and that spending is not limited to studies of alternatives. We do not believe any funds should be committed to the construction of a project that everyone has abandoned or an unauthorized alternative under the guise of the old project until a new alternative has been developed and authorized.

There is, in fact, a negotiation process underway in the State of Colorado led by Governor Romer and Lieutenant Governor Schoettler discussing new alternatives and other possibilities. We support this negotiation process and hope it results in an acceptable alternative. But until it does so, it is completely premature to be appropriating and spending any more money for the construction of the old project or a new one.

I would just like to have the House be very clear that no funds should be used to start construction until Congress has authorized a new alternative, and that is what this amendment attempts to do.

I would ask all my colleagues to support this amendment.

Ms. DEGETTE. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentlewoman from Colorado.

Ms. DEGETTE. Mr. Chairman, I thank the gentleman for yielding to me. I have a question for the gentleman from Wisconsin.

As the gentleman knows, there are a number of controversies associated with this project, most notably environmental and cost concerns, and as he mentioned, there are currently negotiations underway attempting to address these problems and come up with an alternative that addresses both of these concerns. We are calling it the Romer-Schoettler process in Colorado and every place else.

What I am wondering is, if the gentleman's amendment would in any way prohibit any Department of Interior personnel from participating in the Romer-Schoettler process or in any way exclude or interfere with this resolution process?

Mr. PETRI. Mr. Chairman, reclaiming my time, as I have previously stated, the only limitation on the use of the funds would be on activities related to the acquisition of land for the construction of the project as originally authorized.

In fact, it has always been our intention that by eliminating the funds in this way, the funds would still be available for the study and planning of a reasonable alternative.

Ms. DEGETTE. Mr. Chairman, if the gentleman would continue to yield, just so that I may follow up, there are currently approximately $8.2 million in unobligated funds in the Animas LaPlata account. Under this amendment, could these funds be used for the continued involvement of Department of Interior personnel in the Romer-Schoettler negotiations or any other negotiations designed to develop an alternative that will resolve the environmental and cost concerns associated with this project?

Mr. PETRI. Mr. Chairman, that is right. As I have stated, the only limitation on the use of funds would be on activities related to the acquisition of lands for or construction of the project as originally authorized.

It has always been our intention that by eliminating the funds in this way, the funds would be still available for the study and planning of a reasonable alternative.

AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. PETRI

Mr. FAZIO of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FAZIO of California as a substitute for the amendment offered by Mr. PETRI:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

None of the funds made available in this act to pay the salary of any officer or employee of the Department of Interior may be used for the Animals-La Plata Project, in Colorado and New Mexico, except for (1) activities required to comply with the applicable provisions of current law; and (2) continuation of activities pursuant to the Colorado Ute Indian Water Rights settlement Act of 1988 (Pub. L. 100–585).

Mr. FAZIO of California. Mr. Chairman, I rise in opposition to the Petri amendment and in support of an amendment that I have just offered along with the gentlemen from Colorado [Mr. SKAGGS] and [Mr. MCINNIS] as a substitute on Animas LaPlata.

The gentleman from Wisconsin [Mr. PETRI] and the gentleman from Oregon [Mr. DEFAZIO], his colleague, have been really spoiling for a fight on this subject all year long, and I think what they are showing us tonight is they are not going to allow the lack of funding for the project in our bill to stand in the way of having that debate.

In a sense, our colleagues are really asking us to revote last year's amendment because this amendment, really, has to do with spending last year's funds. The effect of their amendment would be to prevent the Interior Department's agencies and employees from doing the one thing they have said to be seeking in the past, and that is a cost effective alternative to the full-blown Animas LaPlata project.

The effect of their amendment would also be to throw in enormous obstacles in the way of the successful Romer-Schoettler process. The tribes and their neighbors are cooperating in the process in good faith. Proposals, in fact, for changes in this project are due July 31, not very many days from now.

The tribes made their proposal a few weeks ago, and when it is advanced for authorization, we will have the opportunity to debate it on its merits.

The good faith of the tribes is demonstrated by their proposal, which cuts the project cost by $400 million, almost entirely because the non-Indian irrigation components have been removed, one of the great goals of the environmental movement through the years.

Shelving the irrigation features also eliminates any water quality concerns. Two-thirds of the water would go to the tribes and depletions are limited to 57,100 acre-feet, in full compliance with the Endangered Species Act.

All of these proposed changes respond in a responsible manner to concerns the amendment sponsors have raised in previous debates.

The tribes will not accept a buy-out of their water rights. That point was emphasized by Interior Secretary Bruce Babbitt during our committee hearings. The tribes want real water, wet water, not a paper right and the promise of cash.

The tribes have been cooperative and they have been remarkably patient.

The amendment I am offering with the gentlemen from Colorado [Mr. SKAGGS] and [Mr. MCINNIS] is a substitute to the language that would not permit construction to go forward immediately. But unlike the Petri amendment, it will allow the tribes' trustee, the Department of the Interior, to participate in a process which seeks a less expensive way to fulfill our obligation to the Colorado Ute tribes.

The substitute amendment is fair, I think it is evenhanded and, better yet, it, as my colleagues have heard, has the bipartisan support of the Colorado delegation, who know more than anyone how difficult this process has been and the type of balance that is finally being obtained through this process that has long alluded us.

This has been an issue that has been before this committee for as long as I have served on it, I believe 18 years. The substitute amendment is evenhanded and will permit this process that the governor and lieutenant governor engaged in to go forward. I do not think any of us want to interfere with the downsizing and the improvement of a project that obviously has cried out for change.

□ 2400

If we let this process proceed and agreement can be reached, we can move forward to complete a scaledown and improved project rather than have to leave it for future deliberation in a way that will only serve to meet the goals of those who want no project whatsoever and have no interest in compromise.

I hope the Members will accept this as a real step forward in lieu of the kind of amendment that was offered by the gentleman from Wisconsin [Mr. PETRI], which I think would put an end to the good-faith negotiations now underway.

Mr. PETRI. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN. The Chair will state that it is too late; the substitute has already been offered.

Mr. MCINNIS. Mr. Chairman, I move to strike the requisite number of words. I rise to address the substitute amendment.

Mr. Chairman, I think it is very important. First of all, let me thank the gentleman from California. The gentleman from California has been very cooperative. The gentleman from California understands the history of the Animas-La Plata project. The gentleman from California understands the importance of bipartisan support, which this project has had through a number of Congresses, through a number of Presidents, through a number of State legislatures.

This project is in compliance with an agreement made by the United States Government with the Indian tribes of this country. We gave the Native Americans our word that we would comply with an agreement if they simply would not sue us in the courts to get the water that we originally promised them.

Let me quote from an article from a good friend of mine, Bob Ewegen, from the State of Colorado. It involves a fellow named Otto Mears:

"'The Utes, for whom the San Juans had been home for generations, naturally resented the rush of the white man to the lands they considered their own. Otto Mears made removing the Indians to smaller reservations in the west his first order of business, thereby opening his area to settlement. He played a prominent role in drawing up the various treaties by which the Utes lost their lands. The first was the Brunot Treaty of 1873, named for Felix Brunot, the United States Indian Commissioner, in which the Utes gave up their San Juan area,' that is a massive area in the State of Colorado, 'for a payment of $25,000 a year.

"'. . In 1880 Mears was asked to serve as one of the five commissioners to make another treaty with the Utes. The government was prepared to pay $1.8 million to the Indians for the balance of their land, 11 million acres on the Western Slope' of Colorado. 'Mears had a better idea. He gave each Indian $2 to sign the treaty, thereby saving the government, the United States Government, practically the total sum that it expected to pay.'".

"Promise them $1.8 million. Give them two bucks. How typical of the

United States Government. Unfortunately, things haven't changed much since 1880. In 1988 Congress passed the Colorado Ute Indian Water Rights Settlement Act to honor water rights that were granted the Utes more than a century ago in 1868."

Ever since, we have worked hard to pass the Animas-La Plata water project in compliance with that agreement. "The only way that this would be is to convert these legal rights into 'wet water' that the tribes can actually use. But ALP, the Animas-La Plata, "has been blocked by a coalition of fiscal conservatives," theoretically, "and what I call 'theme park' environmentalists."

And the article goes on. The intent of the article is the reflection of the history, the sad history of the way that the Native Americans have been treated in this country. And once again, this Congress, through the amendment of the gentleman from Wisconsin [Mr. PETRI] is about again to add to that sad history, and that is to break the word that we gave to the Native Americans.

Now that water that we stole from them originally, we agreed to give the water back to them. We did not give it back to them, so they sued us. We asked them to drop the lawsuit. We promised them we would give them wet water, not money, not beads, not an ax handle. We would give them water, a water project.

We agreed to it. This Congress agreed to it. The previous Congress agreed to it. The previous Congress agreed to it. Previous Presidents agreed to it. And now, once again, here we are on the verge of breaking the word and the honor of the United States Government.

Do not support the amendment offered by the gentleman from Wisconsin, because all we do is put into effect a participatory breach of contract with the Native Americans. I urge everyone in the Chamber to support the substitute amendment of the gentleman from California. That is what is fair. That is what is just. And frankly, that is what keeps our word with the Native Americans.

Mr. SKAGGS. Mr. Chairman, I rise in support of the substitute amendment.

Mr. Chairman and Members, this Nation has a moral and legal obligation to meet the water right claims of the Ute and Mountain Ute Indian tribes in southwestern Colorado. We should recognize and stipulate to that.

The second thing that I think we all recognize, and the gentleman from Wisconsin [Mr. PETRI] in particular, that the existing authorized means of accomplishing that purpose and meeting that obligation, the original Animas-La Plata project, is excessive in cost and damage to the environment. It will not and should not be built as originally designed. But we cannot let that legitimate opposition to the old Animas-La Plata configuration cloud or compromise the vigor of our commitment to meet the Indian water rights claims that are at stake here.

Unfortunately, I am afraid that the amendment offered by the gentleman from Wisconsin will have that effect, and so I oppose it. There is an important effort underway now in Colorado that has already been discussed under auspices of Governor Romer and Lieutenant Governor Schoettler, a search for a compromise between proponents and opponents of the old Animas-La Plata project. I want to see that effort through to a successful conclusion if that is at all possible.

I believe the substitute makes clear that the Nation will not renege on its commitment to the tribes. Admittedly, I think this debate may be largely symbolic. I do not know that the substitute will have a significant effect on changing the legal landscape. I am not sure that the gentleman's original amendment will have much effect either. But I do believe, and regrettably, that there is a connection between this year's amendment by the gentleman from Wisconsin and last year's, which was, I think, a much more directed attempt to end this effort altogether, and therefore there is an understandable interpretation that this represents an effort to undermine that fundamental commitment to meet the tribes' water needs and their water rights. And for that reason, we cannot let that proceed.

Mr. Chairman, I am fully aware of the problems with the original project, serious environmental problems, serious problems with cost. But the fact is, as I said, that it is legally linked by law passed by Congress and signed by President Reagan to settlement of water rights to two Indian tribes. Killing the project without providing an adequate alternative to accommodate those rights would repudiate the settlement and I am afraid lead to costly litigation.

Let us let the Romer-Schoettler process go forward. Let us try to bring the parties together to a compromised solution if we possibly can. I hope that, therefore, we will support the substitute and reject the original amendment and allow this process to go forward.

Mr. PETRI. Mr. Chairman, I rise to speak against the substitute.

Mr. Chairman, first of all, I apologize to you and Members since I had not had an opportunity to read the amendment and it was not submitted to anyone or printed in the RECORD to stand to my feet to object. I have reserved a point of order and perhaps could have saved some time, because it appears to me, at least on the face of it, that it is legislating on appropriation and would not withstand a point of order.

Leaving that aside, nonetheless, it is somewhat of a symbolic argument in that the issue really here is pending the negotiations going on in Colorado to come up with a viable project that honors the Indian treaty rights and is environmentally sensible at the same time: Do we continue down the road of a roughly $750 million project that is a road to nowhere, at great expense to the taxpayers' spending, money that is in the pipeline; or do we stop what is being done now until we have a new project that in fact there is a consensus for?

We are arguing not to throw good money after bad. Let the negotiations go forward. Do not bias those negotiations by continuing to spend money on a project really to nowhere. And, therefore, I would oppose this amendment since it would encourage and permit the spending of money that might be wasteful

Mr. SKAGGS. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Chairman, I just want to assure the gentleman, I do not want to go down that road either. That is a road that has properly now, I think, been blocked. And progress that has already been made under the discussions convened by the Governor and Lieutenant Governor I think make that clear. But I want to assure the gentleman anyway of my opposition to that original overpriced, overblown project that would have had serious environmental consequences that I agree with him are uncalled for.

Mr. PETRI. Reclaiming my time, as I said, I have not had a chance to read the amendment completely, but as best I can tell, the basic difference between the amendment that I offered and the substitute is that ours would insert in the bill language to the effect that no activity can be conducted that would provide for implementing the acquisition of land for or the construction of the current Animas-La Plata project. And that would obviously be pending the negotiations and the new project coming forward.

This substitute amendment provides, yes, you can go ahead and continue spending money and engaging in activities pursuant to the Colorado Ute Water Settlement Act of 1988; in other words, biasing the negotiations that are now going on in Colorado. I think that would be a mistake, and I urge my colleagues to vote against the substitute and support the underlying amendment.

Mr. McINNIS. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Colorado.

Mr. McINNIS. Mr. Chairman, the concern that we have about the amendment that my colleague has placed out as his amendment, while there are negotiations going on in Colorado, the Romer negotiations, your amendment gives tremendous leverage to the opponents of the project. Our position is that we should maintain the status quo in the House and that if a compromise is reached by these parties, that that compromise be free to go forward.

We are under a time limitation, a contractual time limitation, to deliver this project to the Native Americans to avoid being in breach of contract.

Mr. PETRI. Reclaiming my time, there is mutual suspicion, obviously, in this. But the report language accompanying the bill that we are considering today does contain language providing for continued spending on the project.

My amendment was an effort to overcome that support language and provide for what we regard as a more neutral field. And, hopefully, there will be some discussions before this comes out of conference and maybe the whole thing can be resolved at that point, I think, we have identified the area of difference.

Mr. REDMOND. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, 41 years ago, when I was 2 years old, there were Native Americans in the American Southwest who were carrying water in buckets to their homes. Plenty of water ran through their land but there was no way to store it or transport it, and therefore, it was virtually useless.

The United States Government promised them a storage and delivery system which became known as the Animas-La Plata water project. For 41 years, this promised storage system has been studied and analyzed, and today our Native American brothers still carry water in buckets to their homes. Cost concerns have been raised and addressed, and still our Native American brothers carry water in buckets to their homes. Environmental concerns have been addressed and resolved, and still our Native American brothers carry water in their buckets to their homes.

In good faith, they have shared some of their water rights with their neighbors to entice this body to keep its word. Several weeks ago, Native American tribal leaders, local water officials, and members of the Colorado and New Mexico delegations came together to show their unified support for the Animas-La Plata reconciliation project. This significantly revised proposal cuts the cost of the original project by two-thirds. It satisfies the NEPA process, and it meets the requirements of the Indian Water Rights Settlement Act.

But tonight my colleagues, using dated information, are offering an amendment that not only prevents further funding of this project, it prevents even negotiation under the Romer-Schoettler process. The gentleman from Wisconsin [Mr. PETRI] and the gentleman from California [Mr. FAZIO] offer this amendment despite the fact that their concerns with the original project have been addressed.

My colleagues have long been opposed to this project for its cost. The revised proposal is two-thirds the original cost of the project. They claim the original plan does not satisfy the requirements of the Indian Water Rights Settlement Act, the revised plan does satisfy those claims, and the tribes are willing to sign an agreement stating such.

My colleagues oppose the old plan because they believe the construction time limitation would be exceeded. The new project will be completed by 2005, a date the tribes have agreed upon.

□ 0015

My colleagues claim that significant environmental concerns will be raised with the construction of this project. All National Environmental Policy Act requirements will be met.

Mr. Chairman, it is time to do the right thing. It is time to fulfill the promise that the U.S. Government made decades ago to the Colorado Ute Tribes. If this body does not act tonight to support this project, our native American brothers will settle this in the courts and they will most certainly win. When they win, the U.S. Government will not only pay for the construction of the Animas La Plata Water Project, it will pay for litigation costs and for damages as well. It is time to put an end to the days that our native American brothers must carry water in buckets to their homes. Let us keep our word.

I urge my colleagues to vote in favor of the Fazio amendment to the Petri-DeFazio amendment.

Mr. Chairman, I include the following article from Colorado for the RECORD:

TWO BUCKS FOR A BIRTHRIGHT

(By Bob Ewegen)

There's a stained glass window in the Colorado Senate honoring Otto Mears as: "The Pathfinder."

My wife would offer a blunter title for Mears: "The Scoundrel."

My wife, novelist Yvonne Montgomery, is part Cherokee and thus sympathizes with the Utes, who once owned almost all of Colorado's Western Slope—thanks to one of those famous treaties solemnly binding the Great White Father to protect his red children as long as the rivers run, the grass grows and the Broncos lose the Super Bowl.

In practice, those treaties lasted until Great White Father discovered something else he wanted to steal. Then the rivers would dry up, the grass would stop growing, and the Broncos, after losing to the Jaguars in the playoffs, would ask the taxpayers to buy them a new teepee. And the Indians would lose still more of their land and water.

U.S. Rep. Scott McInnis, who represents the Western Slope and Pueblo, reminded me of that sordid past last week by facing a chapter from a delightful book by Gladys R. Bueler, "Colorado's Colorful Characters," published by Pruett Press in Boulder.

Bueler notes that silver and gold were discovered in 1871 in the San Juan mountains, where Mears operated a freight business.

"The Utes, for whom the San Juans had been home for generations, naturally resented the rush of white men to lands they considered their own. Otto Mears made removing the Indians to smaller reservations to the west his first order of business, thereby opening this area to settlement. He played a prominent role in drawing up the various treaties by which the Utes lost their lands. The first was the Brunot Treaty of 1873, named for Felix Brunot, the U.S. Indian Commissioner, in which the Utes gave up their San Juan area for a payment of $25,000 a year.

". . . In 1880 Mears was asked to serve as one of the five commissioners to make another treaty with the Utes. The government was prepared to pay $1.8 million to the Indians for the balance of their land, 11 million acres on the Western Slope. Mears had a better idea. He gave each Indian $2 to sign the treaty, thereby saving the government practically the total sum it had expected to pay."

Promise them $1.8 million. Give them two bucks. How typical of the government. Unfortunately, things haven't changed that much since 1880. In 1988 Congress passed the Colorado Ute Indian Water Rights Settlement Act to honor water rights that were granted the Utes more than a century ago, in 1868. Ever since, McInnis and Sen. Ben Campbell have worked hard to pass the Animas-La Plata water project near Durango, the only way to convert those legal rights into "wet water" the tribes can actually use. But A–LP has been blocked by a coalition of fiscal conservatives and what I call "theme park" environmentalists.

Theme-park environmentalists are those souls, usually Easterners or transplants from the East, who profess to love the West. But what they really love is a fantasy image of the West as it never was—and they don't want the people who actually live in the real West to mess up their theme park by earning a living. They want us natives to remain in a quaint and colorful condition, ready to ferry our environmentalist overlords on their rare rafting trips or serve as their maids and bartenders at our ski resorts. But let a rancher graze a few cows in the high country, and the first yuppie backpacker to step in a cow pie will—what else?—have a cow.

The theme-park environmentalists have now replaced Otto Mears in the time-dishonored effort to cheat the Utes out of their legacy. In their latest scam, the theme parkers have promised that if the Utes will abandon their support for A–LP, the enviros will ask Congress to give them $167 million to buy up some land and water rights. Of course, the Utes already own plenty of such abstract water rights. What they need is a "bucket"—the Ridges Basin Reservoir—to store that water so the Utes can use it when they need it.

If the fiscal conservatives in the congressional coalition opposing A–LP are fair, they'll accept the offer the Utes made last week to slash the cost of the project from $714 million to $257 million. But if Congress won't even appropriate $257 million, why should it give the Utes $167 million? The fact is, the theme-park environmentalists are just following the path blazed by Otto Mears when he promised the Utes $1.8 million and delivered two bucks.

This time, the Utes should tell the Sierra Clubbers to keep their $2—and go jump in the lake. Specifically, into a Ridges Basin reservoir filled with Ute-owned water.

Mr. McDADE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Fazio amendment. I am happy to join my colleagues from Colorado, from New Mexico, and from California, indeed all the members of the subcommittee that heard the testimony with respect to this project. We think they have done yeoman work in attempting to meet the criticisms that were leveled on the much different project that was proposed some time ago. I congratulate them for a marvelous debate tonight in showing their concern for our native Americans and the need for the Government to live up to the water rights that have been agreed to. I hope the substitute amendment will be roundly accepted.

Mr. DELAY. Mr. Chairman, I rise in support of the Fazio substitute and in opposition to the Petri-DeFazio amendment. The effort to scuttle the Animas-La Plata project has arisen year after year with accusations of corporate welfare, antienvironmental impacts, and excessive cost.

But a good faith effort is being made to reach a compromise that addresses the high cost and eliminates water quality concerns. The concerns raised by the opponents of this project are being addressed.

But the Petri-DeFazio amendment would stop that effort in its tracks. It would freeze the Interior Department out of the only process that is examining alternatives to the full blown Animas-La Plata project.

Mr. Chairman, that's just not right. The Indian tribes involved in this effort, like it or not, have agreements with the Federal and State governments—the promise to meet the water supply needs of the Ute Tribes goes back over a century.

I urge my colleagues to support the Fazio amendment—it prohibits construction from going forward but allows the Interior Department to continue its role in working out a reasonable alternative to the current project. Hopefully, this approach will allow the Federal Government to fulfill the commitment it made to the Ute Indians so long ago.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FAZIO] as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. PETRI. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 194, further proceedings on the amendment offered by the gentleman from California [Mr. FAZIO] as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. PETRI] will be postponed.

Mr. McDADE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. McINNIS] having assumed the chair, Mr. OXLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, had come to no resolution thereon.

IMMIGRATION REFORM TRANSITION ACT OF 1997—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-111)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and ordered to be printed:

To the Congress of the United States:

I am pleased to submit for your immediate consideration and enactment the "Immigration Reform Transition Act of 1997," which is accompanied by a section-by-section analysis. This legislative proposal is designed to ensure that the complete transition to the new "cancellation of removal" (formerly "suspension of deportation") provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA; Public Law 104–208) can be accomplished in a fair and equitable manner consistent with our law enforcement needs and foreign policy interests.

This legislative proposal would aid the transition to IIRIRA's new cancellation of removal rules and prevent the unfairness of applying those rules to cases pending before April 1, 1997, the effective date of the new rules. It would also recognize the special circumstances of certain Central Americans who entered the United States in the 1980s in response to civil war and political persecution. The Nicaraguan Review Program, under successive Administrations from 1985 to 1995, protected roughly 40,000 Nicaraguans from deportation while their cases were under review. During this time the *American Baptist Churches v. Thornburgh* (ABC) litigation resulted in a 1990 court settlement, which protected roughly 190,000 Salvadorans and 50,000 Guatemalans. Other Central Americans have been unable to obtain a decision on their asylum applications for many years. Absent this legislative proposal, many of these individuals would be denied protection from deportation under IIRIRA's new cancellation of removal rules. Such a result would unduly harm stable families and communities here in the United States and undermine our strong interests in facilitating the development of peace and democracy in Central America.

This legislative proposal would delay the effect of IIRIRA's new provisions so that immigration cases pending before April 1, 1997, will continue to be considered and decided under the old suspension of deportation rules as they existed prior to that date. IIRIRA's new cancellation of removal rules would generally apply to cases commended on or after April 1, 1997. This proposal dictates no particular outcome of any case. Every application for suspension of deportation or cancellation of removal must still be considered on a case-by-case basis. The proposal simply restores a fair opportunity to those whose cases have long been in the system or have other demonstrable equities.

In addition to continuing to apply the old standards to old cases, from IIRIRA's annual cap of 4,000 cancellations of removal. It would also exempt from the cap cases of battered spouses and children who otherwise receive such cancellation.

The proposal also guarantees that the cancellation of removal proceedings of certain individuals covered by the 1990 ABC litigation settlement and certain other Central Americans with long-pending asylum claims will be governed by the pre-IIRIRA substantive standard of 7 years continuous physical presence and extreme hardship. It would further exempt those same individuals from IIRIRA's cap. Finally, individuals affected by the legislation whose time has lapsed for reopening their cases following a removal order would be granted 180 days in which to do so.

My Administration is committed to working with the Congress to enact this legislation. If, however, we are unsuccessful in this goal, I am prepared to examine any available administrative options for granting relief to this class of immigrants. These options could include a grant of Deferred Enforced Departure for certain classes of individuals who would qualify for relief from deportation under this legislative proposal. Prompt legislative action on my proposal would ensure a smooth transition to the full implementation of IIRIRA and prevent harsh and avoidable results.

I urge the Congress to give this legislative proposal prompt and favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 24, 1997.*

PERSONAL EXPLANATION

Mr. PALLONE. Mr. Speaker, due to a family emergency, I was absent for votes taken yesterday, Wednesday, July 23.

Had I been present on rollcall No. 300 I would have voted yes; on rollcall No. 301 I would have voted no; on rollcall No. 302 I would have voted yes; on rollcall No. 303 I would have voted yes; on rollcall No. 304 I would have voted yes; on rollcall No. 305 I would have voted no; and on rollcall No. 306 I would have voted no.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PALLONE (at the request of Mr. GEPHARDT] for Wednesday, July 23, on account of a family emergency.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 8 p.m., on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. REDMOND) to revise and extend their remarks and include extraneous material:)

Mr. DICKEY, for 5 minutes, on July 25.

Mr. BURR of North Carolina, for 5 minutes, on July 25.

Mr. LEACH, or 5 minutes, on July 25.

Mr. COBLE, for 5 minutes, on July 25.

Mr. UPTON, for 5 minutes, on July 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous matter:)

Mr. BROWN of California.
Mr. SKELTON.
Mr. MCGOVERN.
Mr. KENNEDY of Massachusetts.
Mr. ENGEL.
Mr. KILDEE.
Ms. MCCARTHY of Missouri.
Ms. FURSE.
Mr. DINGELL.
Mr. BLAGOJEVICH.
Mr. DAVIS of Illinois.
Mr. VISCLOSKY.
Mr. HILLIARD.
Mrs. MALONEY of New York.
Mr. GUTIERREZ.
Mr. KLECZKA.
Mr. BALDACCI.
Mr. YATES.
Mr. MILLER of California.

(The following Members (at the request of Mr. REDMOND) to revise and extend their remarks and include extraneous matter:)

Mr. ENSIGN.
Mr. LEWIS of Kentucky.
Mr. GINGRICH.
Mr. SMITH of New Jersey.
Mr. GILMAN.
Mr. MORAN of Kansas.
Mr. YOUNG of Alaska.
Mr. HANSEN.
Mr. SOLOMON.
Mr. ARCHER.
Mr. FRELINGHUYSEN.
Mr. TAYLOR of North Carolina.
Mr. SCHIFF.
Mr. BEREUTER.
Mr. SENSENBRENNER.
Mr. KIM.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 709. An act to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

H.R. 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

ADJOURNMENT

Mr. REDMOND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 23 minutes a.m.), the House adjourned until today, Friday, July 25, 1997, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4327. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Cymoxanil; Pesticide Tolerances for Emergency Exemptions [OPP–300514; FRL–5730–4] (RIN: 2070–AB78) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4328. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Pyriproxyfen; Pesticide Tolerances for Emergency Exemptions [OPP–300518; FRL–5731–9] (RIN: 2070–AB78) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4329. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Dimethomorph; Pesticide Tolerances for Emergency Exemptions [OPP–300513; FRL–5730–3] (RIN: 2070–AB78) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4330. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's "Major" final rule—Sodium Salt of Acifluorfen; Pesticide Tolerances for Emergency Exemptions [OPP–300516; FRL–5732–3] (RIN: 2070–AB78) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4331. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 11–97 requesting Final Authority (RFA) to conclude a Memorandum of Understanding (MOU) with Canada related to the Joint Strike Fighter (JSF) Preferred Weapon System Concept, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

4332. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Federal Employees Health Benefits Program: Opportunities to Enroll and Change Enrollment (RIN: 3206–AH46) received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4333. A letter from the the Clerk of the House of Representatives, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 2 U.S.C. 703(d)(1) and Rule XLIV, clause 1, of the House Rules; (H. Doc. No. 105–110); to the Committee on House Oversight and ordered to be printed.

4334. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska [Docket No. 961126334–7025–02, I.D. 071897A] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4335. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 071897B] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4336. A letter from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting the Department's final rule—Revision of Patent and Trademark Fees for Fiscal Year 1998 (Patent and Trademark Office) [Docket No. 970410086–7174–02] (RIN: 0651–AA92) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4337. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Acquisition of Citizenship; Equal Treatment of Women in Conferring Citizenship on Children Born Abroad [INS No. 1736–95] (RIN: 1115–AE19) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4338. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Notice of Safety Directive 97–1 (Federal Railroad Administration) (RIN: 2130–XX01) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4339. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Delaware Bay and River, Salem River, Christina River, and Schuylkill River (Coast Guard) [CGD 05–96–010] (RIN: 2115–AE84) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4340. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulation; Naval Air Station Whidbey Island Air Show, Puget Sound, Washington

(Coast Guard) [CGD13-97-019] (RIN: 2115-AA97) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4341. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (Coast Guard) [CGD 95-062] (RIN: 2115-AF26) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4342. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Radar Requirements for Towing Vessels 300 Gross Tons or More (Coast Guard) [CGD 97-034] (RIN: 2115-AF46) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4343. A letter from the Administrator, General Services Administration, transmitting an informational copy of the alteration prospectus for the Emmett J. Bean Center in Lawrence, IN, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

4344. A letter from the Acting Assistant Commissioner, Internal Revenue Service, transmitting the Service's final rule—Maquiladora Industry [Coordinated Issue Revision] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4345. A letter from the National Director, Tax Forms and Publications Division, Internal Revenue Service, transmitting the Service's final rule— Forms and instructions [Revenue Procedure 97-32] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COBLE: Committee on the Judiciary. H.R. 567. A bill to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes (Rept. 105-199). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 98. Resolution authorizing the use of the Capitol grounds for the SAFE KIDS Buckle Up Car Seat Safety Check (Rept. 105-200). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2005. A bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the Death on the High Seas Act to aviation incidents, (Rept. 105-201). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 197. Resolution providing for consideration of the bill (H.R. 2209) making appropriations for the legislative branch for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-202). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BALDACCI (for himself and Mr. LaFalce):

H.R. 2235. A bill to amend the Small Business Act to make permanent the microloan program, and for other purposes; to the Committee on Small Business.

By Mr. GILMAN:

H.R. 2236. A bill to suspend until January 1, 2000, the duty on Irganox 1520; to the Committee on Ways and Means.

H.R. 2237. A bill to suspend until January 1, 2000, the duty on Irganox 1425; to the Committee on Ways and Means.

H.R. 2238. A bill to suspend until January 1, 2000, the duty on Irganox 565; to the Committee on Ways and Means.

H.R. 2239. A bill to suspend until January 1, 2000, the duty on Irganox 1520LR; to the Committee on Ways and Means.

H.R. 2240. A bill to suspend until January 1, 2000, the duty on Irgacure 184; to the Committee on Ways and Means.

H.R. 2241. A bill to suspend until January 1, 2000, the duty on Darocure 1173; to the Committee on Ways and Means.

H.R. 2242. A bill to suspend until January 1, 2000, the duty on Irgacure 819; to the Committee on Ways and Means.

H.R. 2243. A bill to suspend until January 1, 2000, the duty on Irgacure 369; to the Committee on Ways and Means.

H.R. 2244. A bill to suspend until January 1, 2000, the duty on Irgacure 1700; to the Committee on Ways and Means.

H.R. 2245. A bill to suspend until January 1, 2000, the duty on Irgacor 252LD; to the Committee on Ways and Means.

H.R. 2246. A bill to suspend until January 1, 2000, the duty on Irgacor 1405; to the Committee on Ways and Means.

By Ms. MOLINARI (for herself and Mr. Shuster):

H.R. 2247. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. LEACH (for himself and Mr. Gonzalez):

H.R. 2248. A bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SENSENBRENNER (for himself and Mr. Brown of California):

H.R. 2249. A bill to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes; to the Committee on Science.

By Mr. ARCHER (for himself, Mr. Goss, Mr. Livingston, Mr. Spence, Mr. Stump, Mr. Young of Alaska, Mr. Spratt, Mr. Talent, Mr. Stenholm, Mr. Crane, Mr. Hefner, Mr. Frost, Mr. Porter, Mr. Hall of Texas, Mr. Hansen, Mr. McCollum, Mr. Shaw, Mr. Skeen, Mrs. Johnson of Connecticut, Mr. Oxley, Mr. Barton of Texas, Mr. Combest, Mr. Gordon, Mr. Duncan, Mr. McCrery, Mr. Pickett, Mr. Neal of Massachusetts, Mr. Stearns, Mr. Tanner, Mr. Walsh, Mr. Dooley of California, Mr. Camp, Mr. Cramer, Mr. Cunningham, Mr. Sam Johnson, Mr. Klug, Mr. Ehlers, Mrs. Fowler, Mr. Holden, Mr. Lewis of Kentucky, Ms. Pryce of Ohio, Mrs. Thurman, Mr. Baldacci, Mrs. Chenoweth, Mr. Coburn, Mrs. Cubin, Mr. Ehrlich, Mr. English of Pennsylvania, Mr. Ensign, Mr. Foley, Mr. Ganske, Mr. McIntosh, Mr. Nethercutt, Mr. Norwood, Mr. Shadegg, Mr. Thornberry, Mr. Sessions, Mr. Burton of Indiana, Mr. Saxton, and Mr. Gillmor):

H.R. 2250. A bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section; to the Committee on Commerce.

By Mr. DINGELL (for himself and Mr. Rahall):

H.R. 2251. A bill to extend authorities under the Middle East Peace Facilitation Act of 1995; to the Committee on International Relations.

By Ms. FURSE:

H.R. 2252. A bill to amend the Internal Revenue Code to provide that capital gains not be recognized if invested in certain small businesses; to the Committee on Ways and Means.

By Mr. GUTIERREZ (for himself, Mr. Evans, Mr. Filner, Ms. Waters, Ms. Brown of Florida, Mr. Leach, Mr. Peterson of Minnesota, Ms. Woolsey, Mr. Bonior, Ms. Slaughter, Mrs. Maloney of New York, Mr. Rodriguez, Mr. Manton, Mr. Matsui, Mr. Frost, Mrs. Mink of Hawaii, Mr. Clyburn, Mrs. Thurman, Ms. DeLauro, Ms. Roybal-Allard, Ms. Carson, Ms. Lofgren, Mr. McDermott, Mr. Pastor, Mr. Mascara, Mr. Stark, Mr. Capps, Mr. Kennedy of Massachusetts, Ms. Velázquez, Mr. Abercrombie, Mr. Underwood, Ms. Kilpatrick, Mr. Dellums, and Ms. Norton):

H.R. 2253. A bill to amend title 38, United States Code, to revise and improve the authorities of the Secretary of Veterans Affairs relating to the provision of counseling and treatment for sexual trauma experienced by veterans; to the Committee on Veterans' Affairs.

By Mr. KENNEDY of Massachusetts (for himself, Ms. Waters, Mr. Becerra, Mr. Bonior, Mr. Gonzalez, Mr. Barrett of Wisconsin, Ms. Brown of Florida, Mr. Brown of California, Ms. Carson, Mr. Coyne, Mr. Davis of Illinois, Mr. DeFazio, Mr. Faleomavaega, Mr. Fattah, Mr. Filner, Mr. Flake, Mr. Frank of Massachusetts, Mr. Gutierrez, Mr. Hinchey, Mr. Hinojosa, Mr. Jackson, Ms. Kilpatrick, Mr. McDermott, Ms. McKinney, Mr. Martinez, Mrs. Meek of Florida, Ms. Millender-McDonald, Mr. Olver, Ms. Roybal-Allard, Mr. Sanders, Mr. Scott, and Mr. Waxman):

H.R. 2254. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for equity investments in community development financial institutions; to the Committee on Ways and Means.

By Mr. KLECZKA:

H.R. 2255. A bill to provide that the firearms prohibitions applicable by reason of a domestic violence misdemeanor conviction do not apply to a government official engaged in official conduct while on duty; to the Committee on the Judiciary.

By Mr. SCHUMER:

H.R. 2256. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that States do not require registration of individuals convicted of an offense that involves consensual sexual activity between individuals 18 years of age or older; to the Committee on the Judiciary.

By Mr. STRICKLAND:

H.R. 2257. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to make modifications to the temporary housing assistance program; to the Committee on Transportation and Infrastructure.

By Mr. THOMAS (for himself, Mr. Matsui, Mr. English of Pennsylvania, Mr. Calvert, and Mr. Sensenbrenner):

H.R. 2258. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 2259. A bill to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, AK, and King Cove, AK, and for other purposes; to the Committee on Resources.

By Mr. HOYER (for himself, Mr. Hyde, Mr. Frank of Massachusetts, Mr. Berman, Mr. Sensenbrenner, Mr. Sabo, Mr. Pallone, and Mr. Skaggs):

H.J. Res. 88. A joint resolution proposing an amendment to the Constitution of the United States repealing the 22d article of amendment to the Constitution; to the Committee on the Judiciary.

By Mr. LEACH (for himself and Mr. Gonzalez):

H. Con. Res. 120. Concurrent resolution to authorize the use of the rotunda of the Capitol for a congressional ceremony honoring Ecumenical Patriarch Bartholomew; to the Committee on House Oversight.

By Ms. HARMAN:

H. Con. Res. 121. Concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran; to the Committee on International Relations.

By Mr. LANTOS:

H. Con. Res. 122. Concurrent resolution expressing the sense of the Congress regarding Israeli soldiers missing in action and calling upon governments and authorities in the Middle East to act to resolve these tragic cases; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. SCARBOROUGH introduced A bill (H.R. 2260) for the relief of Harold David Strother, Jr.; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. Rangel and Ms. Roybal-Allard.

H.R. 44: Mr. McGovern.

H.R. 51: Mr. Gibbons.

H.R. 65: Mr. McHale and Mr. McGovern.

H.R. 100: Mr. Conyers and Mr. McGovern.

H.R. 144: Ms. Stabenow.

H.R. 146: Mr. Hayworth.

H.R. 209: Mr. Manton and Mr. Deutsch.

H.R. 303: Mr. McGovern.

H.R. 332: Mr. Tiahrt.

H.R. 399: Mr. Pascrell and Mr. Luther.

H.R. 532: Mr. Aderholt, Mr. Barcia of Michigan, Mr. Clyburn, and Mr. Stump.

H.R. 563: Mr. Fox of Pennsylvania.

H.R. 622: Mr. Goode.

H.R. 623: Ms. Brown of Florida.

H.R. 659: Mr. Poshard.

H.R. 691: Mr. Frank of Massachusetts.

H.R. 695: Mr. Tierney, Mr. Klug, Mr. Jenkins, Mr. Condit, Mr. Hall of Texas, Mr. Bachus, Mr. Crane, Mr. Wamp, Mr. Castle, Mr. LaHood, Mr. Goodling, Mr. Shimkus, Mr. Serrano, Mr. Holden, Mr. Hobson, Mr. Rahall, Mr. Thompson, Mr. Thune, Mr. Clyburn, Mr. Hilleary, Mr. Deal of Georgia, Mr. Collins, Mr. Dan Schaefer of Colorado, and Mr. Thornberry.

H.R. 715: Mr. Boehlert and Mr. LaTourette.

H.R. 755: Ms. Dunn of Washington, Mr. Coble, and Mrs. Emerson.

H.R. 789: Mr. Graham.

H.R. 815: Mr. Fox of Pennsylvania.

H.R. 859: Mr. Hansen, Mr. Herger, Mr. Traficant, and Mr. Sam Johnson.

H.R. 899: Ms. Eshoo and Mr. Rothman.

H.R. 983: Ms. Christian-Green.

H.R. 986: Mr. Snowbarger.

H.R. 991: Mr. Diaz-Balart and Mr. Deutsch.

H.R. 1009: Mr. Kolbe.

H.R. 1047: Mr. Rush and Mr. Sherman.

H.R. 1108: Mr. Callahan.

H.R. 1126: Mr. Peterson of Minnesota.

H.R. 1151: Mr. Blunt, Mr. Becerra, Mr. Talent, and Mr. Owens.

H.R. 1165: Mr. Andrews.

H.R. 1260: Ms. Rivers, Mr. McHugh, Mr. McNulty, Mr. Scott, and Mr. Cox of California.

H.R. 1353: Mr. Tanner.

H.R. 1362: Mr. Peterson of Pennsylvania and Mr. Talent.

H.R. 1437: Mr. Abercrombie, Mr. Pallone, and Ms. Hooley of Oregon.

H.R. 1480: Mr. Rush.

H.R. 1539: Mr. Pappas.

H.R. 1541: Mr. Meehan.

H.R. 1544: Mr. Canady of Florida and Mr. Bonior.

H.R. 1570: Mr. Davis of Illinois.

H.R. 1608: Ms. Dunn of Washington, Mr. Hostettler, and Mr. Brown of Ohio.

H.R. 1614: Ms. Furse and Mr. Foley.

H.R. 1619: Mr. Baesler.

H.R. 1801: Mrs. Morella, Mr. Vento, Mr. Ehlers, Ms. Eddie Bernice Johnson of Texas, Mr. Hastings of Florida, and Mr. Torres.

H.R. 1824: Ms. DeGette and Mr. Maloney of Connecticut.

H.R. 1839: Mr. Peterson of Pennsylvania.

H.R. 1880: Mr. Olver.

H.R. 1903: Mr. Foley, Mr. English of Pennsylvania, Mr. Dan Schaefer of Colorado, and Mr. Doyle.

H.R. 1970: Mr. Davis of Illinois.

H.R. 1971: Ms. Norton.

H.R. 1972: Mr. McIntosh.

H.R. 1984: Mr. Bonilla, Mr. Latham, Mr. Ehrlich. Mr. Ganske, Mr. Borski, Mr. Neumann, Mr. Lipinski, Mr. Ortiz, Mr. Baker, Mr. Crapo, and Mr. Callahan.

H.R. 2040: Mr. Lewis of Kentucky.

H.R. 2064: Ms. Jackson-Lee.

H.R. 2118: Ms. Pelosi, Mr. Lewis of Georgia, Mr. Gutierrez, Ms. Lofgren, and Mr. Meehan.

H.R. 2122: Mr. Rothman.

H.R. 2129: Mr. Sawyer.

H.R. 2139: Mr. Condit, Ms. Kaptur, Mr. Stupak, Mr. Kind of Wisconsin, Mr. McHugh, Mr. Holden, Mr. Minge, Mr. Farr of California, Mr. Watkins, Mr. Kleczka, Ms. Sanchez, and Mr. Pomeroy.

H.R. 2173: Mr. Turner, Mr. Peterson of Minnesota, Mr. Solomon, and Mr. Sherman.

H.R. 2185: Mr. Towns.

H.R. 2190: Mr. King of New York.

H.R. 2195: Mr. Royce, Mr. Hunter, and Mr. King of New York.

H.R. 2198: Mr. Minge.

H.R. 2200: Mr. Lantos.

H.R. 2222: Mr. Lipinski.

H. J. Res. 70: Mr. Hefley and Mr. Cox of California.

H. Con. Res. 6: Mr. Green.

H. Con. Res. 80: Mr. Etheridge, Mr. Thompson, Mr. McNulty, Mr. King of New York, and Mr. McGovern.

H. Con. Res. 109: Mrs. Emerson, Mr. Rush, Mr. Spence, Mr. Hansen, Mrs. Meek of Florida, and Mr. DeFazio.

H. Res. 16: Mr. Cramer, Mr. Boswell, Mr. Vento, and Mr. Minge.

H. Res. 37: Mr. Houghton, Mr. Peterson of Minnesota; Mr. Schumer, Mr. Gordon, Mr. Neal of Massachusetts, Mr. Meehan, Mr. Tierney, and Mr. Edwards.

H. Res. 119: Mr. McHale.

H. Res. 166: Mr. Gilchrest.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXIIII, sponsors were deleted from public bills and resolutions as follows:

H.R. 695. Mr. Rothman.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2159

Offered By: Ms. McKinney

Amendment No. 55. Page 44, line 21, strike "and Liberia" and insert ", Liberia, and the Democratic Republic of Congo".

H.R. 2159

Offered By: Mr. Obey

Amendment No. 56: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 572. Section 301 of the Foreign Assistance Act of 1961 is amended by adding at the end the following new subsection:

"(i) Limitation Relating to Forced Abortions in the People's Republic of China.—Notwithstanding section 614 of this Act or any other provision of law, no funds may be made available for the United Nations Population Fund (UNFPA) in any fiscal year unless the President certifies that—

"(1) UNFPA has terminated all activities in the People's Republic of China, and the United States has received assurances that UNFPA will conduct no such activities during the fiscal year for which the funds are to be made available; or

"(2) during the 12 months preceding such certification there have been no abortions as the result of coercion associated with the family planning policies of the national government or other government entities within the People's Republic of China.

As used in this section, the term 'coercion' includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.".

H.R. 2159

Offered By: Mr. Payne

Amendment No. 57: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 572. Of the funds appropriated or otherwise made available by this Act under the heading "DEVELOPMENT ASSISTANCE" and under the heading "CHILD SURVIVAL AND DISEASE PROGRAMS FUND" (that are made available to the Administrator of the United States Agency for International Development for developing assistance activities), the amount made available to carry out chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) should be in at least the same proportion as the amount identified in the fiscal year 1998 United States Agency for International Development congressional presentation document for development assistance for sub-Saharan Africa is to the total amount requested for development assistance for such fiscal year.

H.R. 2159

Offered By: Ms. Pelosi

Amendment No. 58: In the matter proposed to be inserted by the amendment as a new subsection (h) of section 104 of the Foreign Assistance Act of 1961, strike the quotation marks and second period at the end of paragraph (3), and insert the following new paragraph:

"(4) Rule of construction.—The provisions of this subsection shall be effective only upon the enactment of a law (other than an appropriation law) that contains the same or substantially the same provisions as are contained in this subsection.".

H.R. 2159

Offered By: Ms. Pelosi

Amendment No. 59: In the matter proposed to be inserted by the amendment as a new subsection (h) of section 104 of the Foreign Assistance Act of 1961, strike the quotation marks and second period at the end of paragraph (3), and insert the following new paragraph:

"(4) Rule of construction.—The provisions of this subsection shall be effective only upon the enactment of a law (other than an appropriation law) that contains the same or substantially the same provisions as are contained in this subsection.".

In the matter proposed to be inserted by the amendment as a new subsection (i) of section 301 of the Foreign Assistance Act of 1961, insert before the quotation marks at the end the following new sentence:

The provisions of this subsection shall be effective only upon the enactment of a law (other than an appropriation law) that contains the same or substantially the same provisions as are contained in this subsection.

H.R. 2159

Offered By: Mr. Torres

Amendment No. 60: Page 24, line 8, insert the following after "propriations": ": *Provided further*, That none of the funds made available under this heading may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence to believe such unit has committed gross violations of human rights unless the Secretary determines and report to the Committees on Appropriations that the government of such country is taking steps to bring the responsible members of the security forces unit to justice".

H.R. 2159

Offered By: Mr. Torres

Amendment No. 61: Page 95, insert the following after line 3:

LIMITATION OF FUNDS BECAUSE OF HUMAN RIGHTS VIOLATIONS

Sec. 572. None of the funds made available under the heading "BILATERAL ECONOMIC ASSISTANCE, Department of State, international narcotics control" may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence to believe such unit has committed gross violations of human rights unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking steps to bring the responsible members of the security forces unit to justice.

H.R. 2203

Offered By: Mr. Bereuter

Amendment No. 5: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 502. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

H.R. 2203

Offered By: Mr. LaTourette

Amendment No. 6: Page 8, line 23, after the semicolon, insert the following:

sediment remediation projects under section 401(b) of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 110 Stat. 3763);

H.R. 2203

Offered By: Mr. Markey

Amendment No. 7: Insert at the end before the short title the following:

Sec. 502. (a) Limitation.—No funds shall be made available under this Act for—

(1) nuclear technology research and development programs to continue the study of treating spent nuclear fuel using electrometallurgical technology; or

(2) the demonstration of the electrometallurgical technology at the Fuel Conditioning Facility.

(b) Overall Amount.—To carry out subsection (a)—

(1) the amount otherwise appropriated in this Act for "Department of Energy-Energy Programs-Energy Supply" is reduced by $33,000,000; and

(2) the amount otherwise appropriated in this Act for "Department of Energy-Atomic Energy Defense Activities-Other Defense Activities" is reduced by $12,000,000.

H.R. 2203

Offered By: Mr. Markey

Amendment No. 8: Insert at the end before the short title the following:

Sec. 502. (a) Limitation.—No funds shall be made available under this Act for—

(1) nuclear technology research and development programs to continue the study of treating spent nuclear fuel using electrometallurgical technology; or

(2) the demonstration of the electrometallurgical technology at the Fuel Conditioning Facility.

(b) Reduction.—Under the heading "Department of Energy-Energy Programs-Energy Supply" insert after the dollar sign the following "(reduced by $33,000,000)" and under the heading "Department of Energy-Atomic Energy Defense Activities-Other Defense Activities" insert after the dollar sign the following: "(reduced by $12,000,000)".

H.R. 2203

Offered By: Mr. Solomon

Amendment No. 9: Page 35, after line 20, insert the following new section:

Sec. 502. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with a contractor that is subject to the reporting requirement set forth in subsection (d) of section 4212 of title 38, United States Code, but has not submitted the most recent report required by such subsection.

EXTENSIONS OF REMARKS

THE BEST GUESS U.S. CENSUS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. GINGRICH. Mr. Speaker, today I submit to the CONGRESSIONAL RECORD an important column on the topic of the 2000 census by Matthew J. Glavin, president of Southeastern Legal Foundation in Atlanta. Published in the July 15, 1997 edition of the Washington Times, Mr. Glavin's column is entitled, "The Best Guess U.S. Census?" Mr. Glavin points out that while Congress has delegated to the Commerce Department the census-taking responsibility, we have not given away the constitutional mandate that the census be an actual enumeration.

In addition to being inconsistent with the Constitution, statistical sampling techniques are open to partisan political manipulation of whichever administration is in charge of the Commerce Department at the time. We must not go down that path. I strongly commend Mr. Glavin's column to all my colleagues.

[From the Washington Times, July 15, 1997]

THE BEST-GUESS U.S. CENSUS?

(By Matthew J. Glavin)

The 19th century British Prime Minister Benjamin Disraeli warned, "There are lies, there are damn lies, and then there are statistics." Last month, Congress heeded the warning. One of the amendments to the Disaster Relief bill passed by Congress was a requirement that the Census Bureau suspend its plans to use statistical sampling and adjustment in the 2000 Census. It was a simple requirement, really—count actual people; don't fudge the numbers.

President Clinton, deriding the bill as a "political wish list," vetoed the package. Promising instead to "rectify" perceived inaccuracies among minorities in past Census-taking, the president's plan to use statistical sampling in the next Census flies in the face of one of the clearest mandates in our Constitution.

Article 1, Section 2 of the U.S. Constitution calls for the ten-year national census and demands an "actual Enumeration." The purpose was to ensure that all American citizens are properly represented by district in the U.S. House of Representatives. The Founders, aware of the keen competition among the states for power in the nation's Capital, required the "actual enumeration" of our shifting population to guarantee that no group, state or special interest could gain an undemocratic advantage. The Constitution delegated the power to conduct the Census to Congress, which has this year made clear its intent.

Now, the President and his Commerce secretary, William Daley, who supervises the Census Bureau, have proposed a so-called "dual estimation system" (DES) to redress perceived undercounting of certain minority groups—by some accounts as high as 4.8 percent in the black community. Under this system, the Bureau would make its "best guess" as to where the population count was imagined to be low, add a magical percentage to the head count for that area, and apply those statistical percentages to similar areas across the nation.

In the 1990 census, for example, the Census-takers' "best guess" demographic group was black women homeowners in their 20's in Chicago and Detroit. Under the Clinton/Daley DES program for the 2000 Census, this demographic group would be statistically "puffed," and the estimated figures would be applied to all similar urban areas across the nation. In addition to the fact that the estimates may not reflect real population figures, statistical sampling will unfairly lump individuals into stereotypical groups.

Presto, chango, "actual" Census figures are gone, replaced by the best guess of a bureaucrat in the Clinton Commerce Department. Still more unsettling is the fact that a "statistically estimated" Census is subject to the political agenda of the executive in power. The potential impact on congressional districts, particularly in those states containing large urban centers, is staggering.

The "no-statistics" rule vetoed by the president should be enforced. Lawmakers on Capitol Hill recognize that the power to call for a ten-year Census comes to them directly from the Constitution. While Congress has properly delegated the Census-taking responsibility to the Commerce Department, it has not given away, and indeed could not give away, the constitutional requirement that the census be an "actual enumeration." That requirement still applies no matter what administration implements the Census.

The Clinton administration's "best guess" plan lacks compassion, offers a poor solution to a real problem, and flies in the face of a clear constitutional mandate. Should the 2000 Census be comprehensive and accurate? Of course. Will it reflect the true population of our nation? By law, it must. "Actual" versus "estimated" enumeration is a distinction with significant legal consequences. As required by the Constitution, Congress has made clear its intent.

It may fall to the third branch of American government, our courts, to decide the fate of the Clinton "best guess" census plan. The politicization of the national census must be avoided. Real justice, and our Constitution, demand it.

CARL D. PERKINS VOCATIONAL TECHNICAL EDUCATION ACT AMENDMENTS OF 1997

SPEECH OF

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act:

Mr. BEREUTER. Mr. Chairman, this Member would like to express his concern about the Mink amendment offered to H.R. 1853, the Carl D. Perkins Vocational—Technical Education Act amendments and to make it clear why this Member felt compelled to vote against it on principle and in order to provide the necessary flexibility to the States to better meet the diverse requirements and conditions of their populations.

This Member supports the direction incorporated in H.R. 1853, which is to move away from Federal setasides and toward giving authority to States, local school districts, and post-secondary institutions to determine their own priorities for reform and funding. In addition to allowing for greater decisionmaking at the local level, this bill includes enforcement mechanisms that are necessary to ensure that special populations are accommodated under H.R. 1853. This bill requires States to provide vocational education opportunities for special populations including, specifically, displaced homemakers, single parents, and single pregnant women. If the State application fails to show how the State will ensure that the special populations meet or exceed State benchmarks, then enforcement mechanisms in H.R. 1853 require the Secretary of Education to reject the application. Further, if a State fails to meet its own benchmark for these special populations, then the Secretary and the U.S. Department of Education has the authority to intervene to bring the State up to a minimum adequate level of performance.

Mr. Chairman, H.R. 1852 already allows States and local communities to continue to fund programs for special populations such as displaced homemakers, single parents, and single pregnant women to ensure that they have the opportunity to participate in vocational education programs. States should have the flexibility to choose and set priorities for themselves and protect their own citizens without being given a Federal mandate.

This Member strongly believes that there is no reason to suspect that a State or local official will not make the right decision. This bill ensures that special populations will continue to receive vocational and technical education.

In addition, Mr. Chairman, this Member has a record of support for assisting displaced homemakers, single parents, and single pregnant women, to ensure that they have access to educational opportunities. For example, during the previous sessions of Congress, this Member supported an amendment offered by the gentlelady from Hawaii [Mrs. MINK] to the CAREERS Act to require States to include in their work force development and literacy plans a description of how the State will maintain programs for single parents, displaced homemakers, and single pregnant women, as well as programs designed to promote the elimination of sex bias.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Chairman, in closing, this Member would like to reiterate that States must have the flexibility to set priorities for themselves and protect their own citizens. This Member will continue to monitor the progress of this important legislation to reform the Carl D. Perkins Vocational-Technical Education Act. Further, this Member pledges his commitment to an effort to have his home State of Nebraska comply with this legislation and to continue to provide needed educational assistance to displaced homemakers, single parents, and single pregnant women.

SMALL BUSINESS MICROLOAN PROGRAM IMPROVEMENT ACT

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. BALDACCI. Mr. Speaker, in rural States such as Maine, small businesses are responsible for the large majority of economic growth and job creation. Approximately 99 percent of all businesses in Maine fall into the small business category, with a majority of those falling into the category of very small businesses, or microenterprises.

Unfortunately, it's often difficult, if not impossible, for such businesses to get financing through traditional means because it's not feasible for private lenders to make such small loans. Also, because many microborrowers are either startup or growth phase businesses, they are often unable to meet a lender's collateral or credit requirements. In response to this problem, Congress authorized the SBA, in 1992, to start a demonstration project to address the capital and technical assistance needs of microenterprises. The program targets underserved startup and existing small business owners who have the capacity to operate a successful small business, but may not be able to access credit.

While it has been a very successful and popular program, the authorization for this project ends on October 1. That is why I am introducing legislation today that will make the SBA's Microloan Demonstration Program permanent.

The microloan program is a partnership between the SBA and nonprofit intermediaries. The SBA provides funding to intermediaries, who in turn provide financing and technical assistance to very small businesses. They also furnish them with grant funding to provide microborrowers with technical assistance to ensure the business succeeds and the loans are repaid. The intermediaries provide microborrowers with small loans of up to $25,000, as well as the technical assistance.

The program is successful, and a fine example of cooperation between the government and private sector in efforts to help promising entrepreneurs. It is also low-risk for the Federal Government. According to a 1996 report from the SBA, they have made 182 loans to intermediaries totaling $68.9 million with no loss to the Federal Government.

Maine has a very strong entrepreneurial spirit. Our economy is dependent on very small businesses and microenterprises. My legislation will ensure that many of the underserved startup and existing small business owners who have the capacity to operate a successful small business will have the opportunity to do so.

THE 26TH ANNIVERSARY OF THE HARDIN COUNTY YOUTH THEATER

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to congratulate the Youth Theater of Hardin County, KY, on its 26th anniversary. The Youth Theater of Hardin County is now the oldest educating and performing community youth theater program in the Commonwealth of Kentucky. More than 1,275 students have participated in this program and over 3,000 students and adult volunteers have assisted in this endeavor. It has been an integral part in promoting and advancing theater among Kentucky's youth for over a quarter of a century. For that, it deserves special recognition.

The Youth Theater is composed of 7th through 12th grade students from Hardin County Schools, Elizabethtown's Independent Schools, and Fort Knox Community Schools. It is designed to educate students in the performing arts and to promote cultural growth and awareness with quality performances. In the process of putting together a production, students learn skills that are essential to a successful life. Skills such as team work, self-esteem, and the power of the human voice to stimulate and entertain audiences. In this regard, the Hardin County Youth Theater has been very successful.

The Youth Theater's impact on the arts community is being felt locally, nationally, and internationally. Several individuals and groups have won talent recognition at the local and State levels, as well as the Youth Talent International Competition. And the achievements don't stop after students leave.

Alumni from this distinguished Youth Theater are performing throughout the country and contributing to every aspect of the arts community. They are performing as equity and nonequity actors, singers, dancers, choreographers, technical directors, and technicians. Young, aspiring actors have left the Hardin County Youth Theater to perform on collegiate stages, regional stages, national stages, and even international stages. Several alumni have performed in off-broadway productions, and one has made an impact in Hollywood.

When students leave the Hardin County Youth Theater, they continue to give back to their communities in a variety of ways. Former students are working with regional and national entertainment parks as costume characters, live characters, singers, dancers, and technicians. One such student is now serving as an instructor to other aspiring performers with a multinational entertainment conglomerate. Another is the director of the Kentucky Governor's School for the Arts. The Youth Theater is, indeed, an integral part of our Nation's arts community.

Meanwhile, those students who do not choose to follow theatrical careers credit the Youth Theater with preparing them for the future. They credit their poise, responsibility, self-esteem, and their ability to work individually and with diverse groups directly to their participation in Youth Theater and its activities. These alumni have chosen a variety of different career fields. They are professionals, businessowners, white and blue collar workers, and even farmers. Regardless of profession, they contribute vastly to society.

The Hardin County Youth Theater has been successful in many regards. It has contributed to the arts community at all levels. It has given students the skills needed to lead a successful life. And it has encouraged its students to give back to their communities and leave them better than they found them. I congratulate the Hardin County Youth Theater on its 26th anniversary. Hardin County is better because of it, and the Commonwealth of Kentucky is proud to claim it. I look forward to its continued success, and I'm sure it will strive to reach even higher heights in the future.

SUPPORT FOR A MEANINGFUL REDUCTIONS IN CAPITOL GAINS TAX RATES

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. MORAN of Kansas. Mr. Speaker, I rise today to enter into the RECORD a letter from one of my constituents, Alan E. States of Hays, KS, which was recently published in USA Today. Mr. States lays out precisely what is wrong with a Tax Code that discourages entrepreneurship and savings. He writes,

> Twenty-five years ago, I purchased 80 acres of Kansas farmland for $10,000. The money came from my savings while in Vietnam, which, along with my Chevy, constituted my entire net worth. I was just glad to be alive, home again and ready to live the American dream.
>
> I used the 80 acres as a down payment on 400 additional acres and proceeded to build my own farm. I've been successful and now farm more than 4,000 acres. Much of it is rented.
>
> Now I have another business opportunity. I considered selling the farmland to raise the investment money. I could sell the 80 acres for $40,000. The federal capital gains tax would come to $8,400.
>
> The problem is that because of inflation since I purchased the land, my true basis on the land is $37,000. So my real gain on the sale is only $3,000. Therefore, the $8,400 tax represents a 280% tax on my actual gain. Is this what has become of the American dream? This is the system the President proposes we keep.
>
> The tax code makes no sense. Income and estate taxes for too long have tried to redistribute wealth. It hasn't worked. The code should have the sole purpose of raising revenue. If we are to tax income, it should be fair.
>
> To be fair, it must do four things: Tax all income; tax it the same without regard to source; tax it only once; and tax it only if it is real and not the result of inflation.
>
> What will I do under the current system? I certainly won't sell the land. I will borrow

> against it. I can borrow the land at 8.5%. I can deduct the interest as a business expense, reducing my rate to 5.2%. From that, I adjust for 3% inflation, and my effective rate of borrowing the money is only 2.2%. the tax code discourages savings and encourages debt.
>
> Rather than the Treasury making $1,200 on the sale of the asset, it now loses $1,300 because of my interest expense. Do some people really say we can't have tax reform because it will cost the Treasury too much?
>
> ALAN STATES,
> *Hays, KS.*

Mr. Speaker, the real tragedy is that stories such as this can be told by countless Americans struggling to build a better life for themselves and their children. To those who deride the Republican tax bill, I would challenge you to explain to Mr. States how a Tax Code that stifles investment, discourages savings, and destroys the American dream should not be reformed. I cannot give such an explanation. That is why I insist on meaningful reductions in capital gains tax rates.

INTRODUCTION OF THE TEACHING EXCELLENCE FOR ALL CHILDREN [TEACH] ACT OF 1997

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday July 24, 1997

Mr. MILLER of California. Mr. Speaker, I rise today to offer the Teaching Excellence for All Children [TEACH] Act of 1997.

This legislation addresses a longstanding concern that many of our Nation's school children are being taught by teachers who are not qualified to teach in their subject areas. This is a disservice to students, to parents, to the teachers themselves, and to taxpayers.

The problem, documented in several studies, will only get worse as the student population continues to rise along with the demand for ever more new teachers.

Parents have a right to know whether their children are being instructed by qualified teachers. And taxpayers have a right to expect Congress to do all it can to ensure that Federal education dollars are being spent in a responsible manner. I believe this legislation addresses both of those important demands.

Under this legislation, States receiving Federal education funds would set clear standards for teacher quality. The bill also will ensure accountability for federally supported teacher education, provide financial rewards to teachers who choose to teach in high-need schools and who pursue advanced teaching credentials, and establish local community partnerships to help to schools to recruit and retain qualified teachers.

TWO MILLION TEACHERS NEEDED OVER NEXT 9 YEARS

The number of elementary and secondary school students is expected to increase each successive year between now and the year 2006, from the current level of 51.7 million to an all time high of 54.6 million.

The need for qualified teachers will increase accordingly. Between now and 2006, enrollment and teacher retirement together will create demand for an additional 2 million teachers.

The shortage right now of qualified teachers to fill this demand is a significant barrier to students receiving an appropriate education.

TOO MANY TEACHERS ARE NOT FULLY QUALIFIED TO TEACH IN THEIR SUBJECT AREAS

Last September, the National Commission on Teaching and America's Future found that one-quarter of classroom teachers were already not fully qualified to teach their subject areas. An even newer report—forthcoming from the Department of Education—indicates that 36 percent of teachers have neither a major nor minor in their main teaching field. Both reports show that the problem is even more serious in academic subjects such as math and science and in schools with high numbers of low-income and minority children.

Research evidence suggests that teacher quality is probably the single most important factor influencing student achievement. Now is the time to redouble efforts to ensure that all teachers in our Nation's public schools are properly prepared and qualified and that they also receive the ongoing support and professional development they need to be effective educators.

A FAIR DEAL FOR TEACHERS

Teachers are among the hardest working people in our country and they certainly have one of the most important jobs in our country. The vast majority of teachers deserve our wholehearted admiration, respect, and gratitude.

Unfortunately, our public policies have not always reflected this attitude. As the Association for Supervision and Curriculum Development recently pointed out, "teacher education, which encompasses preservice preparation as well as ongoing professional development, has suffered a chronic lack of funding, resources, and status in the United States, particularly as compared to education in other professional fields."

In addition, the Teaching for America's Future report pointed out that: "Not only do U.S. teachers teach more hours per day but they also take more work home to complete at night, on the weekends and holidays." At the same time, the report goes on to say that "Other industrialized countries fund their schools equally and make sure there are qualified teachers for all of them by underwriting teacher preparation and salaries. However, teachers in the United States must go into substantial debt to become prepared for a field that in most States pays less than any other occupation requiring a college degree."

I think the public is willing to address these issues. Education tops the list of concerns in most public opinion polls. But at the same time, parents and taxpayers want greater accountability to ensure that any additional resources directed at improving teacher quality have a maximal impact on student achievement.

By coupling support for teachers with enhanced accountability, this bill is a win-win for all those involved: educators, parents, taxpayers, and, above all, our Nation's schoolchildren.

LET'S WORK TOGETHER

Last week, the President announced his intent to put the issue of teacher quality at the top of his educational agenda. With the issue of teacher qualifications receiving increased attention in Washington and across the Nation, I am more optimistic than ever that we can work together to achieve the goals set out in this legislation. I look forward to working with the President and my colleagues on this important issue.

TRIBUTE TO SUE NELSON

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. RIGGS. Mr. Speaker, I rise to congratulate Sue Nelson, a resident of my hometown of Windsor, CA. She was just recently selected as the Windsor Chamber of Commerce's 1997 "Business Person of the Year." The chamber made a very fitting selection.

Sue is a businesswoman of 20 years and is currently the president of the Brelje & Race, Sonoma County's largest engineering company. In that capacity she has been a dynamic force in the chamber's activities, placing her and the company's support firmly behind virtually every chamber event over the last several years.

She worked on the Windsor Map, the new town brochure put together with volunteers from the chamber. She also worked on the Windsor Festival.

Her community work has not been limited to the beneficial work of the chamber: She is a member and past president of the Windsor Rotary Club, as well as a trustee of the Boys and Girls Club.

It is the good work and dedicated community activism of individuals like Sue Nelson that builds and strengthens the communities in which our families and children live. I am particularly pleased that my hometown chamber of commerce has chosen such a deserving recipient for their annual honors. I offer my warm congratulations to Sue Nelson for a continuing job well done.

DEPENDENCY AND INDEMNITY COMPENSATION RESTORATION ACT OF 1997

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. SMITH of New Jersey. Mr. Speaker, on July 22, 1997 I introduced H.R. 2220, the Dependency and Indemnity Compensation Act of 1997, legislation that will begin to address an inherent unfairness under present law that affects the surviving widows of our Nation's veterans. As you know, many of these veterans gave their lives for our country, yet their surviving spouses are now being denied benefits that were promised to them.

In 1970, Congress enacted legislation that guaranteed widows of military veterans who died from service-connected disability that their dependency and indemnity compensation [DIC] benefits would be reinstated upon the termination of the widow's subsequent marriage(s) by death or divorce.

The apparent rationale behind this reinstatement policy was twofold: First, to encourage DIC widows to remarry, thereby removing them from the DIC rolls and saving the Federal Government money; and second, to bring Veterans' benefits statutes in line with other Federal survivor programs—e.g. Federal Civil Service employees, Social Security annuitants—which granted reinstatement rights in this instance.

However, in 1990, Congress passed the Omnibus Budget Reconciliation Act of 1990 which abruptly terminated DIC reinstatement rights for widows who lost these benefits upon remarriage. To make matters worse, the Department of Veterans Affairs never formally notified DIC widows of their loss of reinstatement rights, thereby relegating notice to be disseminated by word-of-mouth or by notices in publications of military and retiree organizations.

As you would suspect, many widows continued to apply to the VA for reinstatement of their benefits, only to learn for the first time that their benefits were being denied. Imagine the shock and surprise of these widows who were never notified of the change in the law, many making financial planning decisions under the mistaken assumption that they would be eligible for reinstatement if their subsequent marriage ended by death or divorce.

Mr. Speaker, my bill will reinstate DIC eligibility for widows who were remarried before November 1, 1990, and whose second or subsequent marriage is terminated by death or divorce. Recognizing the budget restraints under which Congress must operate, I initially have set the compensation rate at 50 percent of the current DIC rate. The bill would also require the Department of Veterans Affairs to notify all current and previously eligible DIC widows of the change.

I would also like to thank one of my constituents, Lt. Col. Raymond Russell—Ret. USAF—for his dedication to veterans' issues and his assistance with H.R. 2220. Lieutenant Colonel Russell is the legislative officer for the Joint Veterans Alliance of Burlington County; New Jersey State Council of Chapters—Retired Officers Association [ROA]; and Lakes and Pines Chapter—ROA.

I urge all of my colleagues to please consider supporting this bill.

WEIZMANN INSTITUTE FOR SCIENCE

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. YATES. Mr. Speaker, I rise today to share with the Members of this House an article that appeared in the July 3, 1997 edition of the USA Today concerning the new and novel research techniques that the Weizmann Institute for Science in Rehovot, Israel, has developed to help identify tumors as benign, or malignant, without invasive surgery.

Finding cancer without subjecting the individual to a traumatic procedure promises to increase the possibility of early detection and ultimately save lives.

Mr. Speaker, I ask that the full text of the article be placed in the RECORD so that my colleagues may have an opportunity to read about this revolutionary new procedure.

FINDING CANCER WITHOUT BIOPSIES

(By Steve Sternberg)

Researchers have found a novel way to peer beneath the surface of the intact human breast and tell benign lumps from malignant ones, according to a report out today.

The technique, if proven reliable in large-scale studies, promises to spare women with breast lumps the discomfort of a biopsy, during which doctors remove a bit of suspect tissue for close examination.

Although this research focuses on breast tumors, doctors say the method also may help diagnose other tumors and monitor treatment.

Hadassa Degani, lead author of a report appearing in today's *Nature Medicine*, says the method uses a standard diagnostic tool in a new way. The tool is known as magnetic resonance imaging (MRI), which detects magnetic oscillations deep within tissues.

With the help of a computer, MRI turns this information into images—a rapid sequence of them or one at a time. By taking individual frames, the researchers can obtain detailed images of the tissues' architecture, showing whether cells are densely or loosely packed and whether blood vessels are normal or riddled with leaks.

Degani, of the Weizmann Institute for Science in Rehovot, Israel, and colleagues inject the breast with a fluid that shows up in high contrast in an MRI image. They create one image before the fluid is injected and two afterward. Using three images, rather than a rapid sequence of them, guarantees clear resolution.

By carefully timing the three exposures, doctors can also observe dynamic changes as the contrast medium penetrates the breast tissues. Cancerous tissues show up as a wildly disorganized jumble of cells, with black regions of dead cells and tangles of leaky blood vessels. Normal tissues are more orderly and less compressed, with normal blood vessels.

Degani says that potentially "any abnormally can be diagnosed, monitored and assessed."

Mitchell Schnall, head of MRI at the University of Pennsylvania Medical Center, Philadelphia, praises her work. "She's done some careful studies to lay the groundwork for us to understand what we see in breast studies by MRI."

IN REMEMBRANCE OF DR. EUGENE SHOEMAKER AND DR. JURGEN RAHE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. BROWN of California. Mr. Speaker, we have all been enthralled by the exciting images we have been receiving from the Mars Pathfinder since its successful landing on the 4th of July. I think that we all would join in congratulating the team of scientists, engineers, and managers who made this amazing mission a reality.

Yet as we celebrate another success in the ongoing exploration of space, I believe that we also need to pause to honor the memory of two individuals who are no longer with us, but who have done much to help us better understand our solar system: Dr. Eugene Shoemaker and Dr. Jurgen Rahe. We had just begun to come to terms with the tragic loss last December of Dr. Carl Sagan, the distinguished astronomer and advocate for scientific reason, and now we have lost two more gifted space scientists. We mourn their deaths, but we also celebrate their accomplishments.

Dr. Shoemaker was a distinguished geologist and discoverer or co-discoverer of some 820 asteroids and comets. Perhaps his most famous discovery was that of the Shoemaker-Levy Comet, which was discovered by him, his wife Carolyn, and Mr. David Levy. I was that comet's spectacular collision with the planet Jupiter that stirred public interest in the possibility of comets or asteroids someday impacting the Earth with disastrous consequences.

However, Dr. Shoemaker had long been concerned with the potential for such impacts from his earliest days as a scientist when he was able to demonstrate that Arizona's meteor crater was likely the result of an impact by an asteroid. Throughout his career, he did much to increase public and scientific awareness of the potential threat posed by Earth orbit-crossing asteroids and comets, and he was a tireless champion of the need to detect and catalog those objects. I had come to rely on his insights and vision as Congress has attempted to come to grips with the public policy implications of a phenomenon that has a low probability of occurrence but that carries severe consequences for life on Earth. I shall miss him.

Dr. Rahe was also a distinguished scientist and a leading figure in NASA's solar system exploration program. I think that his impact on NASA's activities was well stated by Dr. Wesley Huntress, NASA's Associate Administrator for Space Science, when he said that under Dr. Rahe's leadership, "NASA's planetary exploration program was experiencing an almost unparalleled period of major discoveries at the same time that a number of new missions were being started and launched. His legacy to the exploration of space is large, and I like to think that Jurgen's ideas, hopes, and dreams are aboard many of the spacecraft now headed to the frontiers of our Solar System."

Both of these men were outstanding individuals in their profession. However, each also was a man with a strong sense of integrity and a love of life and of learning. Dr. Shoemaker and Dr. Rahe made the world a better place, and I know that all Members join me in expressing our deep sympathy to their families.

I include herewith obituaries of these two great scientists.

EUGENE SHOEMAKER DIES; DISCOVERED GIANT COMET

PHOENIX.—Eugene Shoemaker, 69, the geologist-astronomer who warned about the dangers of asteroids hitting Earth and who helped discover the giant Shoemaker-Levy 9 comet that slammed into Jupiter in 1994, died July 18 of injuries suffered in a car crash in outback Australia. He lived in Flagstaff, Ariz.

His wife, fellow Lowell Observatory astronomer Carolyn Shoemaker, suffered hip and chest injuries in the crash but was in stable condition at a hospital, authorities said. The car they were riding in collided head-on with another car on a dirt road about 310 miles north of Alice Springs, authorities said.

Dr. Shoemaker and his wife had discovered about 20 comets and 800 asteroids, but they were best known for the discovery with amateur astronomer David Levy of the comet Shoemaker-Levy 9, which broke up and smashed into Jupiter's gaseous atmosphere in 1994. The team had been searching the sky for new comets.

It was Dr. Shoemaker's fascination with asteroid impacts—such as the one that caused a Meteor Crater near his home—that drove most of his work.

A geologist by training, he was a leading expert on craters and the interplanetary collisions that caused them. He first proved to the scientific community that Meteor Crater was indeed the result of an asteroid impact, said University of Arizona planetary scientist Larry Lebofsky.

He also was the author of an influential paper in the early 1960s comparing Meteor Crater with a large crater on the moon.

Dr. Shoemaker, a Los Angeles native, was a 1947 graduate of the California Institute of Technology. He received a doctorate in geology from Princeton University. He worked for the U.S. Geological Survey from 1948 until retiring in 1993.

He founded the U.S. Geological Survey's Center of Astrogeology in Flagstaff in 1961 and served as the center's chief scientist. He also was involved in several U.S. space missions, including the Apollo moon missions. He lectured the Apollo astronauts on such topics as craters.

Dr. Shoemaker, who had wanted to be an astronaut but was rejected because of a medical problem, said in a 1996 interview that he hoped for more manned space missions soon—to nearby asteroids, if not to the planet Mars.

"I don't think I will live long enough to see us get to Mars," Dr. Shoemaker said.

In addition to his wife, 67, Dr. Shoemaker's survivors include two daughters, Linda Salazar and Christine Woodward of Los Angeles; and a son, Patrick, of Iowa.

NASA MOURNS DR. JURGEN H. RAHE, SOLAR SYSTEM EXPLORATION SCIENCE PROGRAM DIRECTOR

Dr. Jurgen H. Rahe, 57, Science Program Director for Exploration of the Solar System at NASA Headquarters, Washington, DC, died tragically June 18 in the Washington, DC, area. Dr. Rahe was killed during a severe storm when a large tree fell on his car as he was driving near his home in Potomac, MD.

Dr. Rahe had a distinguished career in NASA and in the field of astronomy and space exploration. In his most recent position, he was responsible for overall general management, budget, and strategic planning for NASA's Solar System Exploration programs, including the Galileo mission to Jupiter and several upcoming missions to Mars, including the July 4, 1997, landing of Mars Pathfinder.

"I am shocked and deeply saddened by the loss of Jurgen Rahe. He was a good friend and an extremely dedicated scientist," said Dr. Wesley T. Huntress, Jr., Associate Administrator for NASA's Office of Space Science, Washington, DC. "Under his leadership NASA's planetary exploration program was experiencing an almost unparalleled period of major discoveries at the same time that a number of new missions were being started and launched. His legacy to the exploration of space is large, and I like to think that Jurgen's ideas, hopes, and dreams are aboard many of the spacecraft now headed to the frontiers of our Solar System."

As a member of the Office of Space Science Board of Directors, Rahe also was responsible for the upcoming Cassini/Huygens mission to Saturn. NASA's low-cost Discovery missions and several upcoming missions to Mars. Dr. Rahe also was the editor of one scientific journal ("Astrophysics and Space Science") and a member of the editorial board of two others ("Earth, Moon, and Planets" and "Il Nuovo Cimento").

Dr. Rahe previously served as a Discipline Scientist, Chief Scientist for Planetary Astronomy, and Director of the Solar System Exploration Division at NASA Headquarters. Before joining Headquarters full-time in 1989, Dr. Rahe was a Staff Member at the California Institute of Technology/Jet Propulsion Laboratory in Pasadena, CA. He has also served as the Co-Leader of the International Halley Watch; Co-Investigator on the European space Agency's Giotto mission; Program Scientist for the Clementine, Rosetta, and NEAR (Near Earth Asteroid Rendezvous) missions; and as the Associate Program Scientist for the Hubble Space Telescope.

Previously, he was a Professor of Astronomy and Director at the Astronomical Institute of the University Erlangen-Nuremberg (Germany). During his tenured professorship, Dr. Rahe worked for extended periods as a Visiting Professor in several different countries. He has published many papers in scientific journals and books, edited more than a dozen books and conference proceedings, and served as President and/or member of three International Astronautical Union committees. He also served previously as the Director of the Remeis Observatory in Bamberg, Germany.

Rahe is survived by his wife and daughter, who live in Potomac, MD.

TRIBUTE TO CHARLES M. ALAFBERG

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. McGOVERN. Mr. Speaker, I rise today to congratulate Charles M. Alafberg, AFL–CIO Community Services Liaison for the United Way of central Massachusetts, on an outstanding and distinguished 27-year career in the labor movement.

Over the course of his career, Charlie Alafberg has made a demonstrable and eminently positive impact on the central Massachusetts community. Beginning his labor career organizing at the Wyman-Gordon Co. in North Grafton, MA, Charlie showed continued success as a union organizer between 1956–69, and was elected shop steward for Local 2285 in 1970. By 1978, Charlie moved steadily up the ranks—his peers' confidence in his leadership and organizing abilities rapidly growing—ascending to the position of union trustee and grievance committeeman. In 1986, Charlie was elected to the high office of president of Local 2285, representing the largest steelworkers local in the Third Congressional District with 1,400 active members.

In addition, since 1970 Charlie has held the position of delegate to the Worcester/Framingham Central Labor Council and serves as a labor representative on the Central Massachusetts Regional Employment Board. Always active in the local community, Charlie is an avid member of the Worcester Democratic City Committee. He is married to Diane Krikorian, and together they have four wonderful children—John Alafberg, Mary Alafberg, Kraig Krikorian, and Kimberly Krikorian, and two spritely grandchildren, John and Ashley.

Charlie Alafberg, through his strong commitment to serving the hard-working men and women of central Massachusetts and his genuine concern for others in his community, is an example of unwavering public service which will sorely be missed.

INTRODUCTION OF THE KING COVE HEALTH AND SAFETY ACT OF 1997

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing the King Cove Health and Safety Act of 1997. This legislation will for the first time provide residents of King Cove, AK, with a safe form of access to and from their community. Specifically, the legislation grants a right-of-way across certain Federal land in exchange for acquisition by the United States of land containing prime habitat owned by a Native corporation. Surface transportation made possible through the right-of-way will connect the city of King Cove, which has an ill-equipped airport, with Cold Bay, which has a modern, 24-hour all-weather airport and the State's third-largest runway.

King Cove, AK, is a remote community on the western end of the Alaska Peninsula, with a population of about 900. Most residents are of Aleut descent and have lived in the community long before Federal ownership of the surrounding area. Unfortunately, the only modes of transportation to and from this fishing community are by air and sea through some of the most extreme—and deadly—weather and topographic conditions in the world.

Weather conditions permitting, travel is done by small aircraft from King Cove's tiny dirt landing strip with no navigational aids to Cold Bay's modern facility, just 20 miles away. Because King Cove's landing strip is surrounded by mountains and experiences some of the harshest wind, snow, and dense fog found anywhere, residents do not have safely reliable transportation linking them with the modern airport facility in Cold Bay, from which access to the rest of the State and lower 48 States is available. People in King Cove are literally trapped in their community for days at a time during poor weather, and the risk of adverse conditions is present year round.

There have been several fatal accidents in the corridor between King Cove and Cold Bay. Even an attempted medivac during a life-and-death situation resulted in an accident, killing all aboard the aircraft. These accidents alone point to a need for a road between the cities.

In carrying out the land exchange, the bill specifically directs that the Secretary of Interior and the Aleutians East Borough, the municipal government representing King Cove and Cold Bay, to develop terms and conditions on use of the right-of-way to protect the lands and resources affected. This will assure that public and private interests in the lands surrounding the area are protected. In addition, the land acquired by the United States under the exchange is very high quality and maintains the quality of the public's resources.

In summary, this bill opens the way to safe, cost-effective access to King Cove and benefits the public, and it is my intent to move this legislation.

CONGRESSMAN KILDEE HONORS CHIEF MARLAN HILLMAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. KILDEE. Mr. Speaker, it is with great pleasure that I rise before you today to pay tribute to Chief Marlan Hillman who is retiring after 50 years of dedicated service to the Springfield Township Fire Department.

Since the establishment of the Springfield Township Fire Department in 1947, Chief Hillman has been a devoted firefighter and mentor. He has always taken the time to share his experience and wisdom with the dozens of firefighters he has worked with. Marlan Hillman is well known for his leadership, faith, and devotion to public service. At a very early age, Marlan was taught the importance of serving his community by his father, Charles, who served as Springfield's first fire chief. Marlan succeeded his father as fire chief in 1975 and has witnessed the growth of the fire department with the addition of two new fire stations and nine new fire trucks.

In Springfield Township, the name Hillman has become synonymous with firefighting. Chief Hillman's brother Elwyn, who is assistant fire chief, and his son-in-laws Charles Oaks and Earl Colloto are all members of the fire department. Chief Hillman is a hero not only for his lengthy and diligent service as a firefighter, but for the sacrifices he has made. He has missed only a few fire department meetings in 50 years, he has been called to the scene in the middle of the night, and he has missed a number of hot meals. Chief Hillman did this with a humble disposition and sense of duty. One of the legacies he has left is the sense of camaraderie which helped mold the firefighters into the close-knit group they remain today.

We owe Chief Hillman a debt of gratitude for the protection and stability he has provided for half a century. Without a doubt, our community is a much better place in which to live because of him. The people of Springfield Township have truly been blessed to have a man of Chief Hillman's caliber working on their behalf.

Mr. Speaker, I respectfully request that my colleagues in the House of Representatives join me in wishing Chief Hillman and his lovely wife Norma much joy in their retirement

OBSERVING THE ANNIVERSARY OF THE TURKISH INVASION OF CYPRUS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, on July 20, 1974, Turkish troops landed on the island of Cyprus. The ensuing 23-year occupation has been a tragedy for the people of Cyprus and an embarrassment to the NATO alliance.

The United States has a special responsibility to play a role in the resolution of the Cyprus dilemma. Twenty-three years ago, as Washington was paralyzed by the Watergate scandal, the administration turned a blind eye to the crisis that was mounting in the Eastern Mediterranean. For many years prior to 1974, Washington had ignored Turkey's overt threats against Cyprus. In 1974, we watched with cold indifference as Turkish troops invaded the island. Our failure to avert the Cyprus conflict and to achieve a diplomatic solution to the standoff helped seal the fate of the island for the next 23 years. It is for this reason that the United States has a duty to help achieve peace on Cyprus.

I commend President Clinton and my colleagues here in the House for turning the spotlight on the tragedy of Cyprus. Recent United States diplomatic initiatives and the appointment of Richard Holbrooke as Special Emissary for Cyprus give new hope that an old struggle may be resolved. The United Nations-sponsored talks between President Clerides and Mr. Denktash in New York City are another promising step. Congress must continue to support the President and the international community in this long-overdue effort.

We may not be able to bring back the Greek-Cypriots who perished and disappeared at the hands of Turkish troops. But we can take occasions such as this to remember those who have suffered, and we can continue to search for answers to the cases of missing persons. And we can honor them by working to help today's Cypriots realize their dreams of a free, unified Cyprus. In doing so, we may be able to secure lasting peace and economic security for a people who are so richly deserving of it.

TRIBUTE TO REV. CHARLES BROOKS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. BROWN of California. Mr. Speaker, I rise today to share in the thanks and praise being bestowed on Rev. Charles Brooks for his invaluable service to St. Paul African Methodist Episcopal Church and the community of San Bernardino. His 8-year dedication to this congregation as pastor will be fondly remembered and greatly missed. Since 1959, Reverend Brooks has undeniably touched the lives of hundreds with his positive and effective leadership.

The many awards and honors that have been bestowed on Reverend Brooks, including Life Time Achievement Awards for his dedication to civic affairs in the black community and for his diligent commitment to community service, do not begin to capsulize the contribution he has made to San Bernardino and communities abroad. Reverend Brooks is not only recognized for his contributions to a number of congregations, but in his capacity as teacher, administrator, and civic leader. His groundbreaking career, as the first black elected as president of the San Bernardino Clergy Association and the La Jolla Ministerial Association, will continue to serve as a leading example of excellence.

It is my honor to offer my congratulations and appreciation to such an outstanding pastor and leader at the arrival of his retirement. As he has given so greatly to San Bernardino and various other communities, it is my pleasure to wish him and his family the best in the years to come.

LINLITHGO REFORMED CHURCH OF LIVINGSTON, NY, CELEBRATES ITS 275TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. SOLOMON. Mr. Speaker, when French traveler Alexis de Tocqueville visited these shores in 1830 he noted something very special about the then-young United States. He noticed the importance of religion to Americans.

And he was right, Mr. Speaker. This is a religious Nation. And from the beginning, churches were among the first structures built, and they remain the center of American community life. I'd like to speak about a very special one today.

The Linlithgo Reformed Church of Livingston, NY, is celebrating its 275th anniversary this year, making it older than the Nation itself.

Mr. Speaker, this church can trace its existence to a July 4, 1722, organizational meeting. Robert Livingston, Jacob Vosburgh, and Cornelis Martensen were appointed elders, and Tobias Ten Broeck, Robert Van Deusen, and Willem Hallenbeck were named deacons.

Records are unclear, but we think the church building was completed on or about September 22, 1722. One interesting historical fact emerges from the records. The first pastor to be paid in money instead of corn or wheat was Jeremiah Romeyn in 1788.

Three years later, members of the consistory of the church voted to make it a corporate body. Finally, in 1813, the consistory voted to plan a new church, which was dedicated in 1815. The new church, still in operation today, was completed in 1855.

A reported low state of piety resulted in a January 3, 1840, day of fasting and prayer.

The 20th century history of the church resembled that of many others during this time. By 1921, the practice of renting pews was discontinued. During the World War II, many of the men of the congregation answered the call to service, as did many of the women on the home front.

Since then, the church has continued to grow and prosper, serving the spiritual and even the social needs of its people.

Mr. Speaker, I ask you and other Members to join me in expressing our best wishes to a very special institution, the Linlithgo Reformed Church of Livingston, NY, as it celebrates its 275th year of service to the community.

HONORING THE 150TH ANNIVERSARY OF THE MORMON PIONEERS ENTERING THE SALT LAKE VALLEY

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. HANSEN. Mr. Speaker, 150 years ago today, Brigham Young and the first Mormon pioneers descended into the Salt Lake Valley. They found a desolate, hostile land, covered by sagebrush and a vast lake of water with a salinity seven times greater than the ocean. Naysayer Jim Bridger offered $1,000 for the first bushel of corn raised in the Salt Lake Valley. But these stout-hearted souls were undaunted. Making "the desert blossom as the rose" was certainly not the first or greatest challenge these pioneers had faced.

The Mormon pioneers were no strangers to adversity. Their trek had begun long before their handcarts and wagons were nailed together in Nebraska. From the time the Church was organized in 1830, they had faced persecution and were driven out of Kirtland, OH; they had fled Independence, MO, in the face of an exterminator order; and they had been driven by angry mobs from the fair city of Nauvoo, IL, which they had built up out of the swamps of the Mississippi River. At last, their only choice was to move west, to a land no one else wanted, where they could worship God after the manner they desired.

Along the trail, they faced numerous hardships. While over 70,000 people made the journey to the Salt Lake Valley prior to the coming of the railroad, hundreds died on the journey west. Men, women, and children rode in covered wagons or walked pulling their scant belongings in handcarts along the thousand mile trail from Nebraska to Utah. Disease, starvation, fatigue, exposure to cold, took their toll on the lives of young and old alike. Many young children completed the journey orphaned.

It took great courage, faith, and commitment to make the trek west. These faithful pioneers have left a great legacy for our Nation. Their legacy is one of hard work; making the desert blossom as the rose. It is a legacy of commitment to religious freedom; although the U.S. Constitution did not protect them, the Mormons were willing to send a battalion to the Mexican-American War to fight for the freedoms it affords. And it is a legacy of American settlement of the West; over 500 communities were settled by early Mormons, from Canada to San Bernardino, CA, to Mexico.

I salute my own pioneer ancestors today, and honor all those who created this legacy of faith in every footstep.

THE CASE FOR MILITARY PREPAREDNESS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. SKELTON. Mr. Speaker, a few years ago, I discovered a speech made in 1923 by then Army Maj. George C. Marshall, that warned against a troubling pattern of failure in American history—a pattern which I fear we may be repeating today. Marshall, of course, later became one of the most distinguished American leaders of the century, serving as Chief of Staff of the Army in World War II, Secretary of State in the early years of the cold war, and Secretary of Defense during the war in Korea. "[F]rom the earliest days of this country," said Marshall in 1923, "[the Regular Army] was materially increased in strength and drastically reduced with somewhat monotonous regularity." Immediately following a war, he said, "every American's thoughts were centered on the tragedies involved in the lessons just learned," and the size of the standing Army was increased in an effort to prepare for future conflicts. But within a few months, Marshall lamented, "the public mind ran away from the tragedies of the War . . . and became obsessed with the magnitude of the public debt. . . . Forgetting almost immediately the bitter lesson of unpreparedness, [the public] demanded and secured the reduction of the Army."

The bitter lesson of unpreparedness, unfortunately, had to be relearned repeatedly through much of the rest of the 20th century. Each time the price was paid in the lives of young Americans ill-prepared for the missions thrust upon them—at Kasserine Pass in North Africa, where United States forces were decimated in their first large tank battle of World War II; at the start of the Korean war, where a poorly equipped United States holding force, called Task Force Smith, was almost destroyed; and at Desert One in Iran, where equipment failures and poor coordination doomed the hostage rescue mission.

Today, in contrast, America has built a military force that sets the standard for the rest of the world. It is equipped with modern weapons. It is well led and well trained. The military services are more able than ever to work cooperatively. It is, above all, a high quality force, made up of well-educated, carefully selected, disciplined volunteers. They have carried out an extraordinarily broad range of responsibilities in recent years in a fashion that has demonstrated their professionalism and their dedication to duty. The former Chairman of the Joint Chiefs, Colin Powell, often characterized the troops he led as an exquisite force—he was not exaggerating.

I am afraid, however, that we may once again be forgetting the costs of unpreparedness. A return to the unfortunate pattern of the past is reflected in several ways. First, now that the cold war is over, the rationale for maintaining U.S. military strength is being questioned even by many who ought to know better. Second, because of budget pressures, defense spending appears unlikely to rise in the foreseeable future, but budgets must grow modestly over time to maintain a capable force. Third, the quality of our Armed Forces depends on keeping quality people in the services, but the extraordinarily high pace of operations is putting too much pressure on military families and may lead many good people to leave. Consider each of these issues in turn.

Why we should remain strong: Today, a number of my congressional colleagues challenge me with a question that surely echoed through the halls of Congress in 1923 or in 1946—"What is the enemy?" I am asked. And with that question, there are many others. Why continue to support more spending for defense when the cold war is over? Why continue to pursue expensive, new, advanced weapons when U.S. technology was so dominant in Operation Desert Storm, and when no other nation is spending nearly what we do on military hardware?

If we look to the past, however, we have never been able to predict what military threats would arise in the future. In 1903, no one envisioned World War I. In 1923 we did not foresee World War II. In 1946, we did not anticipate the Korean war. In 1989, we did not expect the Persian gulf war. So a major reason for maintaining military strength is to hedge against the appearance of unexpected regional or global threats in the future.

But that is not the only reason. Today, our military strength is the foundation of a relatively secure international order in which small conflicts, though endemic and inevitable, will not decisively erode global stability. And as such our military strength is also a means of discouraging the growth of a new power that could, in time, constitute a threat to peace and evolve into the enemy we do not now foresee. Because of this, the very limited investment required to maintain our military strength—though somewhat larger than we are making right now—is disproportionately small compared to the benefits we, and the rest of the world, derive from it. My fellow Missourian, Harry S. Truman, stated the issue clearly: "We must be prepared to pay the price for peace, or assuredly we will pay the price of war."

Defense spending: As so often in the past, the United States again appears unwilling to pay the price of peace. Since the mid-1980's, the Department of Defense budget has declined by 40 percent in real, inflation-adjusted dollars, and the size of the force has been reduced by a third. Funding for weapons procurement has fallen even further—today we are spending just one-third as much on new weapons as we did in the mid-1980's. I do not believe that these levels of spending can be tolerated without critically weakening our military capabilities. And yet, there is all too little support for restoring even modest rates of growth in military spending. On the contrary, for long-term planning purposes, the Pentagon assumes that Defense budgets will be frozen at about $250 billion per year, in constant prices, as far as the eye can see.

We cannot, however, maintain a force of a stable size without at least modest growth in spending. For one thing, in order to keep quality people in the force, the quality of life in the military has to keep pace with the quality of life in the civilian sector. So pay, housing expenditures, facility maintenance accounts, and other related activities have to increase with the overall growth of the economy. Second, modern, advanced weapons grow in cost from one generation to the next, so budgets must grow to take advantage of evolving technology. Finally, sophisticated new weapons are more expensive to maintain, and they allow a higher, more costly pace of operations. Flat defense budgets, therefore, will entail further, strategically unwarranted cuts in the size of the force, declining military readiness, and a failure to exploit the rapid evolution of military technology. This is a prescription for the slow, steady, debilitating erosion of our military capabilities.

Pressures on people: Perhaps most importantly, even as the size of the force has declined in recent years, the pace of military operations—from Somalia, to Haiti, to Bosnia, to the Persian Gulf—has accelerated dramatically. Senior officers in all of the services worry that the pace of operations will sooner or later drive good people out of the military. To operate the modern U.S. military requires professional personnel with advanced skills that take years to learn. As a result, the services have to retain quality people after their initial enlistment run out. Older, skilled service members will get married, have children, struggle to make ends meet, worry about education, just like other citizens. Military personnel managers, therefore, often say that they enlist soldiers,but they retain families.

By its very nature, military life puts pressure on families. Service members are away from home for extended periods. Moves are frequent. Jobs are often very demanding, and job pressures grow as careers advance. Military personnel, of course, understand and accept these pressures, including regular deployments abroad, as part of the job. The pressures on military families have been greatly aggravated in recent years, however, by force reductions and by unplanned, irregular, temporary assignments to support military operations. If we are to keep skilled people in the service, we cannot afford to keep asking them to do more and more with less and less.

Were he here today, Major Marshall, I am afraid, would recognize all of this—a failure to appreciate the need for military strength, reluctance to pay the price of peace, asking too much of those who serve in the military—as familiar symptoms of our Nation's traditional attitude toward national defense. If we are to avoid the mistakes of the past, we need to reconsider sooner, rather than later, how to protect the exquisite military force that we have inherited.

BABY SAFETY SHOWER

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. FRELINGHUYSEN. Mr. Speaker, on July 21, 1997, I hosted an event in my district, the details of which I would like to share with you and my colleagues.

The event, a Baby Safety Shower, was developed by the Consumer Product Safety Commission to help good parents become even better parents, and good grandparents become even better grandparents. I was certainly pleased to have Ann Brown, Chair of the U.S. Consumer Product Safety Commission [CPSC], as my guest at Morristown Memorial Hospital to share some of her extensive knowledge of consumer product safety issues with new and expectant mothers, grandparents, pediatricians, and child care providers in New Jersey.

I can tell you that when I learned about the CPSC's Baby Safety Shower program, I decided immediately that it was something that I would like to share with my constituents. As I well know, as a parent myself, babies do not come with instruction manuals and even the best new parents need to learn how to take care of their babies.

We know how much new parents want this kind of information, and CPSC has already given out over a quarter million baby safety checklists, containing safety tips that can save a baby's life, to parents around the country. Most people don't know that many of the everyday items in their homes can be hazardous to a baby, nor do they realize the extent of harm that these hidden hazards can cause.

Ann Brown shared several of the most common items with us in her presentation. For example, many individuals would never think that an old crib with sentimental value could be deadly for a new baby. To the contrary, old and previously used cribs are involved in the deaths of about 50 infants each year. To prevent these unnecessary deaths, CPSC has an abundance of information that can be used to identify these hazards.

The event was cosponsored by the New Jersey Department of Health and Senior Services. Dr. Leah Ziskin, Deputy Commissioner of Child Health, served as my cohost and offered her expertise on child health issues. The Department of Health and Senior Services offered new mothers important information on lead poisoning prevention.

I chose to host the event at Morristown Memorial Hospital to add a health emphasis on the day as well. The 11th District has a wealth of talented pediatricians and Morristown Memorial Hospital has one of the finest pediatrics and maternal health programs in the area. I want to thank Morristown Memorial and their staff for all of their assistance in planning the event and making the day run smoothly, including Dick Oths, Jeanne McMahon, Carol Paul, Dr. Kathleen Baker, Dr. Abraham Risk, Alan Robinson, Marcus DePontes, and Vicki Allen.

I would like to also thank the hospital for their excellent and informative presentations on the "TraumaRoo" program, Sudden Infant Death Syndrome, the Women, Infants, and Children [WIC] nutrition program, and Childhood Immunizations. The new or expectant mothers that I spoke with at the event were thrilled with all of the information that was made available through these displays.

Further, the 11th District has a wealth of companies that manufacture important products to keep infants and children healthy. I would like to thank Johnson and Johnson, founding sponsor of the New Jersey State Safety Council and the New Jersey State Safe Kids Campaign, American Home Products, the Warner Lambert Co., and Discovery Toys for their generous contributions of products and information that they made available to all the attendees.

Finally, I consider myself and the 11th District privileged to work with Kathy Ross, executive director of Child and Family Resources, who was also a great help in coordinating the event, sharing information on the "Rethinking the Brain" campaign, and reaching out to parents and child care providers alike.

I am hopeful that the information that was made available at the Baby Safety Shower will prevent accidents and harm to infants and children in my State. I am also optimistic that the day's events will be replicated by some of the individuals in attendance so that these important points will reach even more new parents and grandparents in our area and around the country.

THE CLINICAL LABORATORY IMPROVEMENT ACT AMENDMENTS OF 1997

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. ARCHER. Mr. Speaker, I am introducing the Clinical Laboratory Improvement Act Amendments of 1997 [CLIA '97], a bill identical to H.R. 1386 which had 131 cosponsors in the 104th Congress. H.R. 1386 was included in the House passed Balanced Budget Act of 1995 but was dropped by the Senate on a budget point of order. Like its predecessor, this legislation exempts physicians' office laboratories from the Clinical Laboratory Improvements Act of 1988 [CLIA '88], reduces the burdens on physicians who perform laboratory tests in their offices and consequently improves patient care while lowering patient costs. Also like its predecessor, this legislation would continue the regulation of any laboratory that performs pap smear analysis.

CLIA '88 has created enormous barriers to quality medical services for millions of Americans. Thousands of physicians have had to discontinue all or some portion of essential office laboratory testing, including tests for pregnancy and rapid strep. This creates a barrier to patient compliance with treatment protocols and subsequently causes patient inconvenience. For example, in those offices which have discontinued testing, a patient must now be referred to an outside laboratory to have the specimen taken and tested. This poses a substantial hardship for many patients, most notably the elderly, the disabled, and families who live in underserved areas. Oftentimes these patients cannot travel to or find someone to take them to these facilities. The result is that they do not obtain the necessary test which may interfere with their treatment or they go to a hospital emergency room when they become sicker and where the costs of testing are much greater.

CLIA '97 is an essential part of the Congress' continued efforts to provide affordable and quality health care to millions of Americans. CLIA '88 has added billions of dollars to the cost of healthcare and has significantly increased the Federal Government's expenditures for laboratory services. In the first 5 years following the enactment of CLIA '88, Medicare expenditures for laboratory services increased $3.1 billion or 110 percent to $5.9 billion annually. Last year, an independent analysis conducted by the Health Care Financing Administration's [HCFA] former Chief Actuary, using HCFA's own methodology, found that the Federal Government could save $800 million to $1.4 billion over the next 7 years by exempting physician office testing from CLIA '88.

I hope that my colleagues, on both sides of the aisle, will join me in supporting this legislation which will reduce health care costs and improve the ability of patients to receive appropriate laboratory tests conveniently and in a timely fashion.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes:

Ms. KILPATRICK. Mr. Chairman, I rise in opposition to the Foley-Bachus-Miller amendment to freeze the community development financial institutions [CDFI] fund at fiscal year 1997 levels, that was considered recently in debate on VA/HUD appropriation bill and support the level reported by the committee.

The CDFI Program was established in 1994 at the request of President Clinton and received bipartisan support. Public money from the CDFI is leveraged with private capital to increase much needed investment in distressed urban and rural communities. The purpose of CDFI is to provide technical assistance, loans, and grants to institutions and programs such as micro-loan funds, venture capital funds, community development banks, and low income credit unions. These ventures are purely established for the purpose of serving underserved communities and populations and are filling the void left by traditional lenders in urban and rural communities.

The Bank Enterprise Act, [BEA] which receives one-third of the funds appropriated to CDFI, rewards traditional financial institutions that serve the credit needs of distressed communities. The money from CDFI is used to create new jobs, promote small businesses, and build affordable housing.

Congress authorized nearly $400 million for CDFI between fiscal year 1995 and fiscal year 1998. As part of the budget agreement, the President prevailed in increasing the authorization to $125 million for fiscal year 1998.

CDFI and BEA have issued one round of awards. Out of 268 applicants requesting over $300 million last year, CDFI selected 31 community development organizations to receive $35 million. BEA awarded 38 banks and thrifts $13.1 million. The demand for increased funding is evident by the level of interest that has been displayed by the increase in applicants and it is apparent that there is a lack of capital in the communities these institutions serve.

It has been alleged that the CDFI fund has no demonstrable record of success and raises questions about its practices in selecting grantees. After reviewing these allegations, the VA-HUD Appropriations Subcommittee and the full Appropriations Committee dismissed the charges. The subcommittee said in its report "the Committee wholeheartedly endorses the goals of the program" and voted to appropriate the full administration budget request.

I would like to further expand on the merits of the CDFI program by citing an example from the district which I represent. The Shore Bank Corp. received $3 million from the CDFI program that were matched with $8 million of private funds. These funds will go toward a new effort for a comprehensive community development bank holding company with a strategic plan to revitalize a well defined investment area on the east side of Detroit. This presents a promising approach to achieve large-scale community revitalization in Detroit.

The Detroit holding company, which is being established in stages, is designed to have three subsidiaries. One, a full service bank in the target area, is providing small business loans and housing loans to minority entrepreneurs and can leverage its equity many times over through deposits. The second a for-profit real estate development company, will initially focus on the development of 500 affordable houses to homeownership in a 30-square block area. The third, a nonprofit enterprise development affiliate, will have three functions—small business assistance to strengthen small manufacturers in the region and businesses in the target area, creation of a labor force development strategy to link potential workers with employers' skill needs, and homebuyer training and prepurchase services for first time homebuyers. Mr. Chairman, these services are much needed in my district, and in fact I wish I could have more financial institutions in my district with the same objective and purpose.

It has also been suggested that CDFI was making awards based on connections to the Clinton administration. In a letter to Secretary of the Treasury Robert Rubin, more than 220 CDFI's around the country said that recipients of the first round awards include "some of the strongest CDFI's in the field" and called the funds's evaluation process "exhaustive, competitive, and careful, assessing the management strength, systems, and business planning of each applicant."

Shore Bank has pioneered the field of community development finance, for over 25 years. Their work has attracted bipartisan national and international support. Mr. Chairman, I strongly urge all of my colleagues on both sides of the aisle to oppose the Foley-Bachus-Miller amendment.

AMERICAN CHEMICAL INDUSTRY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. GILMAN. Mr. Speaker, today, I am introducing 11 duty suspensions that should promote international commerce and improve the productivity of our American chemical industry. They include three general product categories. Four of the requests are in the category of antioxidant products which protect against heat damage during the manufacturing of finished products. Five are in the category of photoinitiators permitting the curing of varnishes and paints by ultraviolet light. And the remaining two are in the category of corrosion inhibitors.

OUTSTANDING HIGH SCHOOL SENIORS FROM THE FIRST CONGRESSIONAL DISTRICT OF NEW MEXICO

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. SCHIFF. Mr. Speaker, the following graduating high school students from the First Congressional District of New Mexico have been awarded the Congressional Certificate of Merit. These students have excelled during their academic careers and proven themselves to be exceptional students and leaders with their scholastic achievements, community service, and participation in school and civic activities. It is my pleasure to be able to recognize these outstanding students for their accomplishments. Their parents, their teachers, their classmates, the people of New Mexico and I are proud of them.

CERTIFICATE OF MERIT AWARD WINNERS 1997

Albuquerque Evening High School, Jonathan Baird. Bernalillo High School, Melissa Anne Martinez. Cibola High School, Rebecca Wong. Del Notre High School, Jay M. English. Estancia High School, William D. Neish. Freedom High School, Marcio Lujan. Hope Christian School, Geoffrey Luke McKinnon. Albuquerque High School, Albert Leija. Bernalillo High School, Jennifer M. Rivera. Sandia Preparatory School, Leslie Siegal. Eldorado High School, Matt Byers. Evangel Christian Academy, Amanda Brown. Highland High School, Matthew Sullivan. La Cueva High School, John B. Wenz. Los Lunas High School, Sarah Archer. Menaul High School, Jedidiah Garcia Glazener. Mountainair High School, Jessica Dawn Barber. Rio Grande High School, Anthony Baca. Menaul High School, Anna Chrzanowski. Menaul High School, Haven Annette Scogin. New Futures High School, Angelita Garcia. St. Pius X High School, Shabbon P. Walsh.

TRIBUTE TO AN ANGEL

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. PETERSON of Minnesota. Mr. Speaker, I rise today to pay tribute to an angel.

As you are aware, my district in Minnesota has been devastated by blizzards and floods for several months this past spring. The worst damage has occurred in East Grand Forks, the little city in the big flood. I was there when the dikes were breaking and we have been there ever since trying to help this brave community come back from this disastrous event.

The physical damage was an awesome sight and the water refused to recede for day after endless day. Mr. Speaker, I cannot begin to tell you the sadness we felt as we watched their hearts breaking, or the pride as we watched them struggle not to fall into despair.

And when circumstances were still at their bleakest, there appeared an angel. An anonymous donor of such generosity that all of us were astounded by her actions. A gentlewoman from another state gave the citizens of Grand Forks and East Grand Forks a total of $15 million, to be given out in the sum of $2,000 to each household that was evacuated by air raid sirens and lost property to the raging Red River. No other criteria. No strings attached. No delay allowed. She asked only that there be no redtape to the process and to remain anonymous.

I will always honor her wishes. So I use this forum to tell our angel, thank you. The impact was beautiful and immediate. The families were and remain moved to tears by your selfless actions. The community itself rose to a new level of courage and strength of purpose because of you. You fed their spirits and restored their souls.

This city will rise again, recover and rebuild and become a finer, stronger community. Of this there is no doubt in my mind. But it will not be because of a new downtown, or a new housing development, rebuilt schools, or a revitalized business sector. East Grand Forks will become a stronger community because you opened your heart to them in their darkest hour. You believed them worthy of a future. They will now believe it themselves. And they have learned from you, angel, they have learned that there is no shame in receiving help, and great joy in giving it. They will remember you for all their lives. As will I.

You have made a difference in our lives, and perhaps that is the highest achievement a person can attain on this earth. So I join the citizens of East Grand Forks in heartfelt thanks to you, our angel. We will never forget you.

PERSONAL EXPLANATION

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Ms. McCARTHY of Missouri. Mr. Speaker, on rollcall No. 307, I was unavoidably detained at the White House. Had I been present, I would have voted "nay."

INTRODUCTION OF LEGISLATION TO REAUTHORIZE THE NATIONAL EARTHQUAKE HAZARD REDUCTION ACT, H.R. 2249

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. SENSENBRENNER. Mr. Speaker, today I am introducing with my colleague on the House Science Committee, Mr. BROWN, legislation to reauthorize the National Earthquake Hazards Reduction Program [NEHRP]. Since its inception in 1977, NEHRP has contributed greatly to what we know about the science of earthquakes as well as to reducing our Nation's vulnerability to earthquakes. Earth science and seismological research performed through NEHRP has produced maps and seismic data from which we can determine seismic risks in a given location. And, NEHRP helped to develop the knowledge base that enables design and construction of new structures that are less likely to collapse during an earthquake.

The bill we are introducing today enables the program to continue its good work in earthquake research and hazards mitigation. Specifically, this legislation authorizes approximately $105 million in fiscal year 1998 and $107 million in fiscal year 1999 for the four NEHRP agencies, the Federal Emergency Management Agency [FEMA], the United States Geological Survey [USGS], the National Science Foundation [NSF], and the National Institute of Standards and Technology [NIST]. In addition, the bill provides $3 million in each of fiscal years 1998 and 1999 to the USGS for operation of the Global Seismic Network [GSN].

There are several provisions of this legislation which I would like to highlight which we believe will strengthen NERHP and provide for a more robust earthquake science and engineering research infrastructure into the next century: First, the legislation authorizes $8 million specifically for the USGS's external grants programs. This action is consistent with the Science Committee's ongoing efforts to recognize and support external programs within the science agencies. Second, this bill requires the Director of USGS to develop a seismic hazard warning system which will enable our Nation's vital lifelines such as electric utilities, gas lines, and high-speed railroads, to receive warnings in advance of an earthquake. It is hoped that these warnings will be provided in time to shut down the lifelines, thereby guarding against the catastrophic effects that occur when such facilities are ruptured or damaged by earthquakes. Third, this NEHRP reauthorization requires an assessment of regional seismic monitoring networks to determine the state of facilities and equipment. Fourth, the bill authorizes the Director of NSF to use funds to develop earth science teaching materials and to make them available to local schools. Fifth, the legislation directs the Director of USGS to improve hazards assessments of seismic zones in the United States. Sixth, the bill requires the Director of FEMA to assess and report on disaster training capabilities and programs offered by the agency. Seventh, finally, the bill requires the Director of NSF to work with the other NERHP agencies to develop a plan to effectively use earthquake engineering research facilities, which includes upgrading facilities and equipment and integrating innovative testing approaches.

Mr. Speaker, the legislation Mr. BROWN and I are introducing today is reflective of the Science Committee's bipartisan efforts on behalf of Federal science and technology programs. The bill is a manifestation of a jointly shared goal to ensure that the Nation has a vital earthquake research enterprise which will continue to greatly contribute to better earthquake awareness, more widespread and effective earthquake mitigation, and ultimately, a reduction in lives and property lost from this hazard.

NATIONAL PARENTS DAY

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. KIM. Mr. Speaker, I rise today to remind my colleagues that this coming Sunday we will celebrate National Parents Day. Unfortunately, because of our busy legislative schedule, I will not be able to attend National Parents Day ceremonies in my district this weekend.

The purpose of this annual celebration is to recognize the important role that parents play in the future of our country, based on how they bring up their children. At a time when we see more families where both parents are forced to work, we need to remind ourselves that it is not the Government's role to raise our children. Nor is it a teacher's responsibility to raise our children.

Parents need to take the primary responsibility for raising their children, instilling morals and teaching those values that we want our Nation to represent in the next century. Through active participation in all facets of their children's lives, parents can mold and shape their children into the type of citizens that can lead the United States into the 21st century.

Mr. Speaker, the positive influence that parents can play in the upbringing of a child is of the utmost importance, I am pleased we take the time to celebrate this occasion, and I salute groups like the National Parents Day Coalition, for hosting events to bring this to our attention.

FAITH IN EVERY FOOTSTEP

HON. JOHN E. ENSIGN

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. ENSIGN. Mr. Speaker, "Faith in Every Footstep" is the motto of the Mormon pioneer sesquicentennial year, which culminates today with a celebration of the 150th anniversary of the arrival of members of the Church of Jesus Christ of Latter-Day Saints in the Salt Lake Valley on July 24, 1847. I rise to recognize this historical milestone in the settlement of the West and important date in Nevada's early history.

Like many other western States, Nevada's initial settlements were established by Mormon pioneers—Genoa in northern Nevada in 1851, and Las Vegas in southern Nevada in 1855. In fact, Nevada was part of the Utah Territory before becoming the Nevada Territory. The Mormon pioneers of northern Nevada were led by Orson Hyde, while the pioneer group called to settle Las Vegas were led by William Bringhurst. On a warm day in mid-June of 1855, these courageous pioneers began to build a diamond in the desert. The old Las Vegas Mormon Fort is the oldest standing building in the State of Nevada.

Today, amid the bustle of the fastest growing city in the Nation, beautiful chapels and a temple grace the Las Vegas Valley while serving as a place of worship for over 100,000 Latter-Day Saints. Las Vegas has become a place where Latter-Day Saints have settled to raise their families and serve their community.

On behalf of all the citizens of my congressional district and throughout Nevada, I salute those early Mormon pioneers who blazed the trails of the rugged West and built a lasting heritage for themselves and the State of Nevada.

On Pioneer Day, we should remember and honor all those brave men, women, and children who answered the call to settle new lands, and through faith, courage, and sacrifice built hundreds of settlements throughout the Western United States and made the desert bloom.

FISCAL YEAR 1998 AGRICULTURE APPROPRIATIONS BILL

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Ms. FURSE. Mr. Speaker, yesterday, I was blocked from offering an amendment to the Agriculture appropriations bill by an unfair gag rule. This rule was written by the Republican leadership midway through debate on the Agriculture appropriations bill to change the rules for debate from an open amending process to a closed, undemocratic process.

Although we were told that no preprinting of amendments was required, the rule arbitrarily barred any amendments that weren't preprinted 2 days prior. This meant that by the time Members first heard of the new rule, it was already too late for them to meet its new restrictions. Unless, of course, you were one of the three chosen Republicans that were inexplicably grandfathered in as exceptions to the preprinting deadline.

The Agriculture Appropriations Subcommittee knew that I intended to offer this amendment. I had sent out four dear colleagues letters, including one bipartisan letter signed by six other Members. Nonetheless, I was unjustly muzzled; my opportunity to have a debate on an important policy issue was held hostage to a partisan power play.

The following paragraphs describe in detail the animal damage control amendment that I would have offered had I not been silenced by an unjust rule of the majority party.

The goal of my amendment is to reduce the Federal subsidy for a practice that many Americans believe is economically unfair, ineffective as a livestock protection method, unnecessary, inhumane, a waste of money, and harmful to the environment.

My amendment requires that those who benefit from the livestock protection services of the Animal Damage Control Program in the West pay for those services. This amendment is supported by more than 80 taxpayer and conservation organizations from across the country, including Taxpayers for Common Sense, the National Wildlife Federation, Defenders of Wildlife, the Humane Society, the U.S. Public Interest Research Group and the Green Scissors budget-cutting coalition.

My amendment is designed to eliminate the excessive, systematic, taxpayer-subsidized annual killing of hundreds of thousands of coyotes and other animals in the name of western livestock protection. Specifically, my amendment limits ADC funding for livestock protection efforts in the Western United States to $1.9 million. This amount is enough to provide $100,000 to each of the 19 States in ADC's Western region, which will allow them to continue predator control programs focusing on rancher education and nonlethal control techniques like guard dogs, shepherds, and the like.

By limiting expenditures for livestock protection to $1.9 million, we provide the American taxpayers with a savings of $11.3 million. I want to stress that this still leaves a total of $16.6 million in the ADC budget. I repeat, this amendment will not eliminate the Animal Damage Control Program, and will not affect ADC's other activities. The only portion of the ADC budget my amendment would touch is moneys for livestock protection in the Western United States. And I take a moderate approach. I do not cut the entire subsidy for these activities as many have advocated. My amendment would still provide Federal funding for each State to have a predator control program.

Let me take a moment to mention what this amendment would not do. This amendment would not take any of ADC's money away from measures to protect public health or safety. This includes ADC activities to prevent birds from causing problems at our Nation's airports or to prevent the spread of rabies. Nor would this amendment touch any ADC activities in the Eastern United States.

The ADC has seven categories of resources they protect: aquaculture, livestock, forest and range, crops, human health and safety, property and natural resources—which includes endangered species. Let me stress again that this amendment deals only with the livestock protection category, and only in the West.

Two ADC programs that protect endangered species warrant specific mention, if only to note that they will not be cut by this amendment. First, ADC plays an important role in wolf recovery by ensuring that problem wolves that prey upon livestock are immediately controlled. Almost all of ADC's wolf control activity takes place in Minnesota, which is in their Eastern region and therefore not affected by our amendment. What little wolf control activity that occurs in the Western region can easily be funded out of ADC's budget for threatened and endangered species, which is also untouched by my amendment. Second, ADC also plays an important role in preventing the brown tree snake from being introduced into Hawaii. I support the work ADC is doing on this issue and, again, would like to stress that my amendment does not reduce funds for this purpose.

This amendment focuses on the West for several reasons. First, 97 percent of ADC's livestock protection budget is spent in the West. Second, the objectionable and excessive mass-killing of coyotes and other predators takes place mostly in the Western States. Third, that region serves a livestock industry that is over-subsidized to the detriment of wildlife and other public land uses, such as outdoor recreation, including hunting and fishing. Fishing is harmed because the run-off from intense livestock grazing near streams reduces fish populations available for commercial and sport fishing. And, of course, subsidized coyote control may induce ranchers to increase their herds beyond environmentally sustainable levels. Fourth and finally, this ADC subsidy is unfair to the majority of livestock producers around the country, who do not benefit from this subsidy, even though their tax dollars help pay for it. This represents an unfair competitive disadvantage.

Let me take a moment to talk about the ADC program and what it does. Each year, ADC kills more than a hundred thousand coyotes, mountain lions, bears, and other predators. Thousands more are accidentally killed. In fact, between 1990 and 1994, ADC killed 7.8 million critters. A number of techniques are used, including leghold steel jaw traps—the method chosen for this ill-fated bobcat in the photo next to me, who died a slow painful death, aerial gunning, field hunting with dogs, snares, denning—which means gassing the mother and pups in their dens, and M-44s—a baited device that ejects cyanide poison into the animal's mouth. One frequent ADC technique is the preventative shooting of coyotes from aircraft to kill as many coyotes as possible before livestock is moved to a new range area, even though they haven't actually harmed any livestock. This practice is comparable to a dentist pulling out all of a patient's teeth as a way to prevent cavities.

In fact, we often see that the amount of wildlife killed by ADC bears little relation to the actual damage inflicted. In 1990, for example, ADC personnel in New Mexico spent more than 80 staff days killing 55 animals—including 22 non-target animals such as kit fox, deer, porcupines and badgers—in response to a single lamb killed by a coyote—a loss of only $83. This is not a wise use of taxdollars.

I would also point out that the ADC's predator control program is of very questionable effectiveness. Between 1983 and 1993, Federal appropriations to ADC increased 71 percent and the number of coyotes killed increased 30 percent—but the number of livestock losses to predators did not decline.

In addition, other factors such as weather, medical problems, poisoning and theft account for the majority of losses of both sheep, 60 percent, and cattle, 97 percent—not predators. Less than 3 percent of all cattle losses nationwide are the result of predation. Our money would be better spent on animal research on how to reduce these losses than on killing coyotes.

The finances of the program are equally questionable. The private ranching interests that benefit from this program contribute only 14 percent of the costs of the program, despite the fact that the Department of Agriculture is authorized to collect fees for ADC services. In every Western State in fiscal year 1995, ADC spent more money controlling predators than the value of the livestock allegedly lost to predators by ADC beneficiaries.

To add insult to injury, this program uses tax dollars to benefit some very wealthy ranchers who can more easily afford ADC's predator control services than the American taxpayers. I bring to your attention the front page story of the New York Post from March which highlights how ABC News correspondent Sam Donaldson, who makes $3 million annually, benefits from ADC. Sam's sheep ranch received 412 visits from ADC officers between 1991–1996, during which time they killed 74 coyotes and 3 bobcats. This is not an appropriate use of your constituents' tax dollars.

For years, official ADC policy has required ADC employees to try nonlethal methods of predator control before resorting to killing animals. Congress in fiscal year 1994 and fiscal year 1995 also directed that "non-lethal methods of control should be the practice of choice" for ADC personnel. Nonetheless, a 1995 GAO report found that ADC personnel still "used lethal methods in essentially all instances to control livestock predators." In essence, ADC is completely ignoring established congressional guidance, as well as their own internal directives.

Many cost effective, nonlethal control methods exist, such as the use of guard dogs and shepherds, confinement of sheep during the vulnerable lambing period, pasture rotation, removal of carcasses that attract predators, fencing and electronic guards, to name a few. The State of Kansas, which has spent less than $75,000 a year on its predator control program for the past 27 years, relies heavily on nonlethal techniques. In fact, Kansas has 20 times fewer reported predator problems than the State of Oklahoma, a State of comparable size and agriculture production which spends $1.3 million on predator control. We could learn a lesson or two from Kansas on this issue.

So, let me reiterate. My amendment would save American taxpayers $11.3 million. It does this by reducing funds for the killing of predators to protect private livestock operators in the Western United States. My amendment still leaves more than $16 million for other ADC activities and does not touch funding for the protection of human health and safety or endangered species. It does not impact moneys to clear birds from airport runways, to remove beavers or groundhogs that cause flooding, to control mountain lions that attack joggers or to prevent the spread of rabies by raccoons. My amendment does not impact any ADC activities in the Eastern United States at all.

While we struggle to scrape together moneys to continue the many important programs critical to the American people, the subcommittee has chosen to increase the fiscal year 1998 funding for the ADC subsidy by $1 million over the fiscal year 1997 appropriation and $4.25 million more than the President's budget. In fact, this program is consistently funded at an average of almost $3 million per year more than the administration requests for it. I would argue that our constituents wouldn't view this program as a priority use of their tax dollars.

Let me close by saying that I am a Westerner. I hail from a district that includes rural areas and livestock ranches. Not everyone in my district would be happy to lose their ADC subsidy. But if we're going to be serious about balancing the budget and cutting the fat out of Government spending, then we're going to have to be critical of the subsidies in our own backyards. We can't just cut the pork in our neighbor's district.

I'd like to end my statement by quoting from a letter written to the Governor of New Mexico from a Ph.D. rangeland scientist who just happens to be a senior fellow at the Cato Institute. The Cato Institute, as you know, is a well-respected, fiscally conservative, free market think tank. Karl Hess from Cato writes:

> ADC subsidies effectively shoulder what should be part of the costs of operating a business . . . ADC is a gross intervention in the market place. The wonderful feature of America is the freedom of opportunity each of us has to make it on our own merits and to do so in the arena of the free market. I am, as you might surmise, a fan of the free markets, just as I am a great believer in individual freedom. I am certain you are too. Let's make sure that ranchers can defend themselves against predators, but let's not ask taxpayers to pay the bill. It's only fair.

I couldn't have said it better myself. Please join me in reducing the animal damage control subsidy for private livestock owners in the West. Send the signal to ADC that they need to clean up their act. And give the American taxpayers a break.

Vote "yes" on the Furse amendment.

PERSONAL EXPLANATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. ENGEL. Mr. Speaker, I was necessarily absent during rollcall vote 307. If present, I would have voted "aye" on rollcall No. 307.

INTRODUCING A HOUSE RESOLUTION CONCERNING THE CRISIS IN CAMBODIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. GILMAN. Mr. Speaker, I am introducing today House Resolution 185 which addresses the current crisis in Cambodia and calls for definitive action to put that country back on the road to peace, democracy, and stability.

As you know, the Cambodian people suffered terribly through two decades of political conflicts, civil war, foreign invasion, protracted violence, and the horrific genocide perpetrated by the Khmer Rouge. The nightmare finally ended with the 1991 Paris peace accords which, through a massive and historic international effort, brought peace to Cambodia. The peace accords set the stage for a process of political accommodation, national reconciliation, and the founding of a nation based on democratic principles.

The successful national elections held in Cambodia in 1993 under U.N. supervision—in which over 90 percent of the eligible voters participated—demonstrated the firm commitment of the Cambodian people to democracy. Regrettably, earlier this month, a military coup by Second Prime Minister Hun Sen forcefully wrested democracy from the Cambodian people. This must not stand.

Since the signing of the peace accords and the completion of the 1993 elections, Cambodia has made considerable progress toward establishing a bright future based on economic freedom and democratic principles. This included the creation of a national constitution that guarantees fundamental human rights and liberties. With significant investment from the international donor community, including many millions of dollars in assistance from the United States, Cambodia appeared to be heading in the right direction toward democracy, peace, and freedom. The Association of Southeast Asian Nations [ASEAN] recognized this progress and recently extended membership privileges to Cambodia.

On July 5, 1997, Cambodia's bright future was shattered when Second Prime Minister Hun Sen deposed First Prime Minister Ranariddh in a violent military coup. Reportedly, over 40 opposition politicians have died or have been executed in the custody of Hun Sen's forces, some after having been tortured. Hundreds of others have been detained without cause due to their political affiliations and thousands have fled the country.

It is regrettable that we find ourselves on familiar ground once again—trying to restore peace and stability in Cambodia. The military coup d'etat orchestrated by Hun Sen marks an unfortunate return to the past—a past of fear and violence. The reports of executions, arrests, and other human rights abuses are cause for tremendous concern. Cambodia's once bright future is now clouded by the shadow of tyranny that darkens the countryside.

This forcible change to the duly-elected Government in Cambodia is illegal and unacceptable. This brutality violates not only Cambodia's own constitution but also all internationally respected norms of behavior. More tragically, Hun Sen's actions violate the mandate of the Cambodian people, as expressed in the 1993 elections.

We must not look the other way while violence and tyranny rule in Cambodia. The United States Government and the international community have made a significant investment in bringing peace to Cambodia and providing the Cambodian people with the opportunity to determine their own future through free and fair elections. We must remain committed to this ideal.

The United States must condemn—in the strongest terms possible—the undemocratic and forcible change in government and the use of violence to resolve political matters by all sides in Cambodia. So far, the administration has taken a cautious approach in addressing this crisis, failing to acknowledge that Hun Sen's actions constitute a military coup.

We must not renege on our role as a guarantor of the Paris peace accords and wait on the sidelines while the situation in Cambodia sorts itself out. The United States Government should demonstrate leadership to reverse the coup and restore democracy in Cambodia. We should work with the U.N. Security Council and the ASEAN member states to consider all options to return democracy, stability, and the rule of law to Cambodia.

The administration's decision to suspend assistance for 1 month is only a first step. This resolution calls for a continued suspension of direct assistance to the Cambodian regime until the violence ends and a democratically elected government is reconstituted. The legislation also encourages the international donor community to suspend aid as part of a multilateral effort to encourage respect for democratic processes and principles.

The United States Government should use its influence to ensure that Cambodian authorities hold free and fair national elections as scheduled in 1998. We also must assist Cambodia in depoliticizing its military and making the judicial system independent.

In addition, this resolution calls upon the Cambodian authorities to stop all political violence; restore all civil and political freedoms to the Cambodian people; investigate all extralegal actions that have taken place since fighting was renewed in July 1997; and, bring to justice those who are responsible for the human rights abuses that have occurred.

The Cambodian people have suffered enough. Let's work to get Cambodia back on the road to democracy. Accordingly, I urge my colleagues to support this resolution (H.R. 185).

H. RES. 185

Whereas during the 1970s and 1980s Cambodia was wracked by political conflict, civil war, foreign invasion, protracted violence, and a genocide perpetrated by the Khmer Rouge from 1975 to 1979;

Whereas the Paris Agreement on a Comprehensive Political Settlement of the Cambodia Conflict led to the end of 2 decades of civil war and genocide in Cambodia, demonstrated the commitment of the Cambodian people to democracy and stability, and established a national constitution guaranteeing fundamental human rights;

Whereas the 1991 Paris Peace Accords set the stage for a process of political accommodation, national reconciliation, and the founding of a state based on democratic principles;

Whereas the international donor community contributed more than $3,000,000,000 in an effort to secure peace, democracy, and stability in Cambodia following the Paris Peace Accords and currently provides over 40 percent of the budget of the Cambodian Government;

Whereas the Cambodian people clearly demonstrated their support for democracy when over 93 percent of eligible Cambodian voters participated in United Nations sponsored elections in 1993;

Whereas since the 1993 elections, Cambodia has made significant progress, as evidenced by the decision last month of the Association of Southeast Asian Nations to extend membership to Cambodia;

Whereas notwithstanding the notable societal and economic progress since the elections of 1993, concern has increasingly been raised regarding the fragile state of democracy in Cambodia, in particular the quality of the judicial system, which has been described in a United Nations report as thoroughly corrupt; unsolved attacks in 1995 on officials of the Buddhist Liberal Democratic Party; and the unsolved murders of journalists and political activists;

Whereas tensions within the Cambodian Government has erupted into violence in recent months;

Whereas on March 30, 1997, 19 Cambodians were killed and more than 100 were wounded in a grenade attack on a peaceful political demonstration in Phnom Penh;

Whereas in June 1997 fighting erupted in Phnom Penh between military and paramilitary forces loyal to First Prime Minister Prince Norodom Ranariddh and Second Prime Minister Hun Sen;

Whereas on July 5, 1997, Second Prime Minister Hun Sen deposed the First Prime Minister in a violent military coup d'etat;

Whereas at least several dozen opposition politicians have died in the custody of Hun Sen's forces, some after being tortured, and hundreds of others have been detained due to their political affiliation;

Whereas democracy and stability in Cambodia are threatened by the continued use of violence to resolve political differences;

Whereas the administration has suspended assistance to Cambodia for 1 month in response to the deteriorating situation in Cambodia; and

Whereas the Association of Southeast Asian Nations (ASEAN) has decided to delay indefinitely Cambodian membership: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the forcible assault upon the democratically elected Government of Cambodia is illegal and unacceptable;

(2) the recent events in Cambodia constitute a military coup against the duly elected democratic Government of Cambodia;

(3) the authorities in Cambodia should take immediate steps to halt all extralegal violence and to restore fully civil, political, and personal liberties to the Cambodian people, including freedom of the press, speech, and assembly, as well as the right to a democratically elected government;

(4) the United States should release the report by the Federal Bureau of Investigation concerning the March 30, 1997, grenade attack in Phnom Penh;

(5) the United States should press the authorities in Cambodia to investigate fully and impartially all abuses and extralegal actions that have occurred in Cambodia since July 4, 1997, and to bring to justice all those responsible for such abuses and extra-legal actions;

(6) the administration should immediately invoke section 508 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), as it is required to do;

(7) the United States should urgently request an emergency meeting of the United Nations Security Council to consider all options to restore peace in Cambodia;

(8) the United States should encourage the Secretary General of the United Nations to expand the monitoring operations of the United Nations Special Representative on Human Rights in Cambodia;

(9) the United States and the Association of Southeast Asian Nations (ASEAN) should coordinate efforts to restore democracy, stability, and the rule of law in Cambodia;

(10) direct United States assistance to the Government of Cambodia should continue to be suspended until violence ends, a democratically elected government is reconstituted, necessary steps have been taken to ensure that the election scheduled for 1998 takes place in a free and fair manner, the military is depoliticized, and the judiciary is made independent; and

(11) the United States should call for an emergency meeting of the Donors' Consultative Group for Cambodia to encourage the suspension of assistance as part of a multilateral effort to encourage respect for democratic processes, constitutionalism, and the rule of law.

EQUAL PARENTS WEEK

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. KIM. Mr. Speaker, I rise today to remind my colleagues that this coming Sunday signals the beginning of Equal Parents Week. Unfortunately, because of our busy legislative schedule, I will not be able to attend Equal Parents Week ceremonies in my district this weekend.

Equal Parents Week brings to the attention of our Nation the importance of both parents in the raising of a child, especially in cases of a divorce. Unfortunately, in many cases a divorce results in a custody battle that, in addition to severely hurting the child, renders one parent with fewer parental rights than the other.

As a result, the noncustodial parent loses a great deal of his or her parental rights, and is thus relegated to a position as a "second class" parent. I believe that, as long as it is in the best interest and safety of the child, parents should work together to make certain that both parents have an equal opportunity to play an active role in that child's upbringing.

Mr. Speaker, the positive influence that both parents can play in the upbringing of a child is of the utmost importance. I am pleased we take the time to celebrate this occasion each year, and I salute groups like the Coalition of Parent Support, for hosting events to bring this important issue to our attention.

LAW ENFORCEMENT OFFICIALS AND THE DOMESTIC VIOLENCE GUN BAN

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. KLECZKA. Mr. Speaker, the domestic violence gun ban amendment, included in last year's omnibus appropriations bill, was intended to protect victims of domestic abuse by prohibiting anyone convicted of a domestic violence misdemeanor from purchasing or possessing a handgun. Supporters of this provision wanted to ensure that if one spouse was convicted of this kind of offense, he or she could not then have access to a gun, which could increase the likelihood of deadly violence against the abused spouse in the future. However, I do not believe that this amendment also intended another consequence: taking away the livelihood of some Americans.

The domestic violence gun ban amendment would make it illegal for law enforcement officials to do their job, because it would prohibit them from carrying a gun during normal work hours.

There is a simple answer to this problem. My legislation would allow law enforcement officials with past domestic violence misdemeanor convictions to carry a handgun on duty while engaged in official police business. A police officer with a prior domestic violence conviction would pick up his or her gun when beginning a shift at work, and then turn in the weapon when they leave to go home. I believe that my legislation is a practical solution to allow law enforcement officers to continue to do their jobs, while also protecting victims of spousal abuse. I encourage my colleagues to support this legislation.

THE VETERANS SEXUAL TRAUMA TREATMENT ACT

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. GUTIERREZ. Mr. Speaker, I am pleased to rise in support of the Veterans Sexual Trauma Treatment Act, which I have introduced today with the support of 33 of my colleagues.

I want to begin by thanking four outstanding Veterans Service Organizations; the American Legion, Amvets, the Veterans of Foreign Wars and the Vietnam Veterans of America for their leadership on this issue. Their input on this legislation has been invaluable. I am very proud that they all strongly support this legislation and thank them for their work.

The Veterans Sexual Trauma Treatment Act provides very real help to veterans who experience the very real problem of sexual abuse or harassment while serving in our nation's military. The numbers are alarming. In 1996, approximately 190,000 women served in our armed services.

A Department of Defense survey of active duty women found that 5 percent of women had been the victim of a sexual assault. That is almost 10,000 women. These statistics—and news reports of incidents like those at Aberdeen—have made clear the existence of very serious problem in our Armed Forces and the need to move aggressively to end the tragedy of sexual abuse.

However, we must also take aggressive steps to help our veterans after this abuse or harassment has occurred. The pain and suffering that sexual abuse causes does not end when a person leaves the military. The physical, psychological and emotional effects are often just beginning.

That is why I believe the Veterans' Sexual Trauma Treatment Act is so important. This legislation strengthens existing Veterans Administration programs for aiding victims of sexual assault. Sadly, the current law is inadequate. It states that the VA may provide counseling and care to victims of sexual assault, and that the program must be reauthorized each and every year.

It excludes members of the reserves and National Guard—thereby denying care to some soldiers called to duty during the Gulf War. It also excludes any military personnel who separate before 2 years of duty with our armed forces. Finally, the VA has done a woeful job of notifying veterans of what services are available to them and how to access these services.

I don't believe these half-hearted provisions are acceptable for veterans who have made whole-hearted commitments to serving our Nation.

We know that problems exist. We should pass legislation that guarantees care.

Our bill assures a national commitment to our veterans. Our bill makes the provision of care to victims of sexual assault or harassment mandatory—and permanently authorize this care. It allows veterans who separate before they have completed 2 years of service to be eligible for care and counseling. This is vital, because often sexual assault is the very reason these people leave the military. It is illogical and unfair to deny them care.

The Veterans Sexual Trauma Act also makes reservists and National Guard members eligible for care.

It also ensures that health professionals—not VA administrators—make determinations about eligibility for care and guarantees that all appropriate medical care is made available to any eligible veteran.

Finally, it mandates that the VA aggressively promote the availability of this vital service and assure that veterans are aware of these counseling and care programs.

This is not a complicated bill, nor is it an expensive bill.

It is however, a vital bill.

Each year, more and more women make the decision to dedicate a portion of their lives to serving our Nation.

The increasing enlistment of females is a trend that should make our Nation proud—but we should be ashamed when any soldier faces sexual assault or harassment.

When Americans enlist in the military they make a promise to dedicate their lives to serving our Nation.

This legislation helps America keep its promise to our veterans—its promise to provide all necessary health care.

Care and counseling for victims of sexual abuse and trauma should be a basic and fundamental part of the health care services the VA makes available to our veterans. Today, it is not.

This legislation accomplishes this important goal. I urge all of my colleagues to support it and push for its quick passage.

SMALL BUSINESS JOB OPPORTUNITY ACT

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Ms. FURSE. Mr. Speaker, I rise today to introduce legislation that will promote investment in small business by cutting the tax on capital gains that are reinvested in American small businesses. By doing so, this bill will create jobs. I repeat—the only capital gains relief is for small business—where their profit is invested in companies doing business in America. That means jobs for Americans in America. Increasing the amount of capital available to American businesses will be extremely beneficial to our long-term economy.

Small businesses are the backbone of our economy and need extra capital to expand and compete in the increasingly international marketplace. In Oregon, over 95 percent of businesses earn less than five million dollars per year in gross receipts. These small businesses are the core to Oregon's success in trade in the Pacific Rim. In fact, many of my colleagues are surprised to learn that Japan is Oregon's largest trading partner. Most importantly, Oregon small businesses provide job opportunities for Oregon's working families.

During the debate over the capital gains tax cuts, Congress should embrace this bill as an opportunity to provide support to the small business community and benefit America's working families. Traditionally, capital gains tax cuts have been viewed as a tool for the wealthy, but by targeting investments in small business we are providing job opportunities for working families. Many middle-income Americans realize some type of capital gain and this is an opportunity for them to reinvest that gain in their community and help provide jobs for their neighbors.

The Pacific Northwest International Trade Association and Oregon Bankers Association have joined me in supporting this bill. Following are their letters of endorsement. I urge all my colleagues to support this important legislation.

OREGON BANKERS ASSOCIATION,
INDEPENDENT COMMUNITY BANKS OF OREGON,
Salem, OR, July 21, 1997.

Hon. ELIZABETH FURSE,
U.S. House of Representatives, Washington DC.

DEAR CONGRESSWOMAN FURSE: The Oregon Bankers Association wholeheartedly endorses your proposed "Capital gains small business reinvestment exemption". We shall support its passage in every way possible.

As we have previously discussed, Oregon has a large number of small businesses. As a matter-of-fact, most of our new job potential is in the small business sector.

We must create incentives and remove roadblocks to insure growth in this very key area of our economy.

Your proposal could be extremely valuable to the emerging Oregon small businesses and small businesses nationwide.

Sincerely,

FRANK E. BRAWNER,
President.

PACIFIC NORTHWEST INTERNATIONAL
TRADE ASSOCIATION, ONE WORLD
TRADE CENTER,
Portland, OR, July 21, 1997.
Hon. ELIZABETH FURSE,
U.S. House of Representatives, Washington, DC.

Re: Capital Gains Exemption for Small Business Reinvestment Act

DEAR CONGRESSWOMAN FURSE: PNITA commends you for introducing this bill which has our enthusiastic support. As a small business state we believe this legislation will help to encourage small businesses in general and specifically provide a greater opportunity for investment by people who own and operate small businesses.

We ask that your staff keep us informed as this bill is assigned to committee so that PNITA members may do whatever is necessary to insure its timely passage.

Again, we appreciate your continued support of the small business community. We know that your bill will help small businesses nationwide as the similar Oregon law has helped Oregon companies.

Sincerely,

STEVEN W. NEWMAN,
Executive Director.

INTRODUCTION OF THE SMALL BUSINESS JOB OPPORTUNITY ACT

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Ms. HOOLEY. Mr. Speaker, I am pleased to join my colleague, Representative ELIZABETH FURSE, in introducing legislation that will provide targeted capital gains tax relief to small business owners. Our bill would reward small business owners who reinvest their profits in American small businesses, and would demonstrate our national commitment to the health and welfare of our nation's entrepreneurs.

In the state of Oregon, small businesses are a crucial part of the growing economy. In fact, more than 95 percent of businesses in the state earn less than $5 million a year. These growing businesses are providing quality jobs and economic opportunity for working families across our state. But this experience is not unique to Oregon. Small businesses across this country are providing the new jobs and economic growth that are driving our strong economy.

As Congress continues to work toward balancing the budget and providing tax relief, it is essential that we maximize the benefit of tax reductions by targeting them to the people who need them most. This bill does just that by encouraging reinvestment in small business and creating a climate for continued growth and job creation.

I am also pleased that the Oregon Bankers Association and the Pacific Northwest International Trade Association have joined us in support of the legislation. I urge my colleagues to join us in support of this important small business legislation.

IN HONOR OF QUEENS SURFACE CORPORATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay a respectful tribute to Queens Surface Corporation, a company with an outstanding reputation of service in Queens, on the 60th anniversary of its founding. Now the largest privately owned transit company in New York City, Queens Surface plays an important role in the community of its headquarters in College Point, Queens.

Queens Surface Corporation has given significant amounts of financial support to the College Point community by helping such organizations as the College Point Ambulance Corp., the College Point Sports Association, the College Point Security Patrol, the College Point Little League and the College Point Athletic Club. The company has also given donations to the Poppenhusen Institute, Saint Mary's Foundation for Children, the American Diabetes Association, the American Lung Association, the American Cancer Society and Memorial Sloan Kettering.

For its service to and support for the community, Queens Surface Corporation has been awarded hundreds of awards and citations from cultural, religious and educational institutions. Since 1988, when the current owners, Robert and Myra Burke, bought the company, Queens Surface Corporation has continued to drive at community service, garnering 14 awards from a wide array of organizations.

Mr. Burke also gives his personal time to the community, serving on the board for Saint Patrick's Home for the Aged and Infirm, and holding positions as President of the Bus Association of New York State and Secretary/Treasurer of the Mass Transit Operations of New York. Most recently, Mr. Burke was the Grand Marshal of the 1997 College Point Memorial Day Parade.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to Robert and Myra Burke's company, Queens Surface Corporation, as it celebrates its 60th anniversary. I am honored to have in my district, a company which services over 80,000 riders daily while continuously contributing to its Queens community. Thank you

SENATE—*Friday, July 25, 1997*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, Sovereign of our land and source of courage, we thank You that You know our needs before we ask for Your help, but have ordained that in the asking we would find release from the anxiety of carrying the burdens of leadership on our own shoulders. Help us to remember that You are the instigator of prayer. It begins with You, moves into our hearts, gives us the clarity of knowing how to pray, and then returns to You in petitions You have refined and guided us to ask. We are astonished that You have chosen to do Your work through us and use prayer to reorient our minds around Your guidance for the issues we will face today. We say with the psalmist, "You are my rock and my fortress; therefore, for Your name's sake, lead me and guide me."—Psalm 31:3.

Suddenly, we see prayer in a whole new perspective. It's the method by which You brief us on Your plans and bless us with Your power. May this whole day be filled with magnificent moments of turning to You so that Your purposes, Your glory and honor in America, may be done through us. Give us vision to be dynamic leaders. In the all-powerful name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. HAGEL. Thank you, Mr. President.

SCHEDULE

Mr. HAGEL. Mr. President, for the information of all Members, this morning, the Senate will begin consideration of Senate Resolution 98, the global warming resolution. Under the consent agreement, there will be 2 hours for debate on that resolution, with two amendments in order. Senators can, therefore, expect a rollcall vote at approximately 11:30 a.m. It is also possible that following the disposition of Senate Resolution 98, there will be a cloture vote on the motion to proceed to S. 39, the tuna-dolphin bill. If an agreement is reached on that measure, that cloture vote may be vitiated. All Senators will be notified if that vote remains necessary.

I thank Members for their attention.

MEASURE PLACED ON CALENDAR—S. 1065

Mr. HAGEL. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1065) to amend the Ethics in Government Act with respect to appointment of an independent counsel.

Mr. HAGEL. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

EXPRESSING SENSE OF SENATE REGARDING U.N. FRAMEWORK CONVENTION ON CLIMATE CHANGE

The PRESIDING OFFICER. Under the previous order, the clerk will now report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 98) expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change.

The Senate proceeded to consider the resolution.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, the Framers of the Constitution gave the executive branch of our Government authority to negotiate treaties. But they also intended for the Senate's voice to carry weight in negotiations. This morning, the Senate is fulfilling its constitutional responsibility to give its advice to treaty negotiations.

Mr. KERRY. Mr. President, if my colleague will permit.

Mr. HAGEL. I yield to the Senator from Massachusetts.

Mr. KERRY. I want to inquire, are we now on the divided time, Mr. President?

The PRESIDING OFFICER. There is now 2 hours equally divided on the resolution.

Mr. KERRY. I understand that, and time for the proponents will be managed by the Senator from Nebraska, Senator HAGEL?

The PRESIDING OFFICER. That is correct.

Mr. KERRY. So we must yield time at this point?

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. I yield myself whatever time is necessary, Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, the pending resolution, Senate Resolution 98, with its 65 cosponsors, is intended to change the course of negotiations on the new global climate treaty now under discussion.

The need for this treaty is questionable, but the harm that it would cause is certain. Two articles in this Monday's Wall Street Journal, written by Jack Kemp and Dr. Fred Singer, are excellent summaries against the direction the administration is taking in negotiating this treaty. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 25, 1997]

A TREATY BUILT ON HOT AIR . . .

(By Jack Kemp)

In December, representatives of 150 nations will gather in Kyoto, Japan, to sign a successor treaty to the United Nations' Framework Convention on Climate Change. Today, in anticipation of this momentous event, the Senate is scheduled to debate the Byrd-Hagel resolution, a non-binding measure sponsored by 65 senators that will put that body on record against any treaty that would cause serious economic harm to the U.S. For more than a year the Clinton administration has been promising to provide its economic model of the treaty's effects, but last week it announced that it will not provide any formal estimate—a signal that the treaty won't meet the Byrd-Hagel criteria.

NO RELIABLE CONCLUSIONS

Everyone agrees that we need to keep our planet clean. Healthy plants and animals are valuable, but at the same time the U.S. has a solemn obligation to defend the rights of the people who inhabit our planet. It seems that the officials representing the U.S. in the treaty negotiations have lost sight of that duty.

The international negotiations focus on global warming, the theory that greenhouse gases in the Earth's atmosphere are steadily and dangerously warming the planet. Some of our leaders, most notably Vice President Al Gore, have bought into the theory even though scientists have reached no reliable conclusions about global warming (see story below). Yet the 150 nations involved in these talks are rapidly moving toward signing a treaty that would wreak havoc on the U.S. economy and, ironically, on our environment. U.S. negotiators appear to be asking American workers and families to foot the bill for massive reductions in greenhouse gases.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

This treaty would require a drastic and sudden cut in energy use that would be legally binding only on developed nations, not on major international trade competitors—including three of the 10 biggest carbon-dioxide producers, India, South Korea, and China. By excluding developing nations, not only will we be missing an opportunity to make further environmental gains, but we'll also be working against the very purpose of the treaty.

Studies show that the high-growth developing nations excluded from the proposed treaty's requirements are more likely to increase their greenhouse-gas emissions in order to pick up the demand left unmet by developed nations, where production would be restricted. The AFL–CIO's Executive Council has declared that an agreement that fails to bind developing nations to the same commitments made by the U.S. cannot possibly work.

The treaty's impact on America's workers and economy, meanwhile, could be severe. First, U.S. industry would face increased production costs for virtually all goods. The net cost just to stabilize U.S. emissions at 1990 levels could reach hundreds of billions of dollars annually, and many nations are pushing to reduce emissions below 1990 levels, at an even more oppressive cost. The resulting higher prices would make American products less competitive on the world market and less affordable at home.

Second, the treaty would send high-paying jobs in mining, manufacturing, transport and other important sectors abroad. Charles River Associates, an econometric modeling firm, has estimated that the administration's plans would increase U.S. unemployment by 0.25% and reduce the gross domestic product by 3.3%. The likely result: 250,000 American jobs lost.

Third, the treaty would saddle Americans with higher energy bills as we are forced to tax energy use. Some have estimated that such a "carbon tax" could increase the cost of gasoline by as much as 60 cents a gallon, and of home heating oil by 50%. What's more, as the AFL–CIO has recognized: "These taxes are highly regressive and will be most harmful to citizens who live on fixed incomes and work at poverty-level wages."

This burden of drastically increased heating, cooling and transportation costs could hardly come at a worse time for lower-income families. The working poor, and people just getting off welfare and beginning to pay their own way, are already challenged to make ends meet in today's economy. But our diplomatic negotiators have spared little attention for the potentially devastating consequences that their proposals would have for millions of lower-income Americans.

FAR PAST TIME

It is time for the American public to be told exactly what their government is proposing to give away in the global climate change treaty. It is far past time for the Clinton administration to give Congress a detailed economic analysis of the mandatory cutbacks in energy usage that our negotiators are offering on the altar of environmentalist politics. Until the public and the Congress are given the facts, the talk at the global conferences on greenhouse gas emissions will remain as little more than hot air.

. . . NOT SCIENTIFIC CONSENSUS

(By S. Fred Singer)

Yesterday, in opening a White House conference on global warming, President Clinton announced, "The overwhelming balance of evidence and scientific opinion is that it is no longer a theory but now a fact that global warming is real." In support of this contention, the president and other politicians have been busy citing the "2,500 scientists" who supposedly endorse the U.N.'s 1996 Intergovernmental Panel on Climate Change report, and thus a forecast of catastrophic global warming.

Actual climate observations, however, show that global warming is mostly a phantom problem. Perhaps that's why Mr. Clinton and Vice President Al Gore harp so much on a "scientific consensus"—which sounds so impressive to nonscientists. Yet science doesn't operate by vote.

How did the IPCC come up with 2,500 scientists? If one were to add up all contributors and reviewers listed in the three IPCC reports published in 1996, one would count about 2,100. The great majority of these are not conversant with the intricacies of atmospheric physics, although some may know a lot about forestry, fisheries or agriculture. Most are social scientists—or just policy experts and government functionaries. Every country in the world seems to be represented—from Albania to Zimbabwe—though many are not exactly at the forefront of research. The list even includes known skeptics of global warming—much to their personal and professional chagrin.

The IPCC report has some 80 authors for its 11 chapters, but only a handful actually wrote the Policymakers' Summary; most of the several hundred listed "contributors" are simply specialists who allowed their work to be cited, without necessarily endorsing the other chapters or the summary. Contrast these numbers with the nearly 100 climate scientists who signed the Leipzig Declaration in 1996, expressing their doubts about the validity of computer-driven global warming forecasts. It takes a certain amount of courage to do this—given that it could jeopardize research grants from U.S. government agencies that have adopted climate catastrophe as an article of faith, and managed to convince Congress to ante up about $2 billion a year.

Even some IPCC climate scientists, in the report itself or in a May 16 Science article headlined "Greenhouse Forecasting Still Cloudy," have expressed doubts about the validity of computer models and about the main IPCC conclusion, that "the balance of evidence suggests a discernible human influence on global climate"—whatever that ambiguous phrase may mean. A Dec. 20, 1995, Reuters report quoted British scientist Keith Shine, one of IPCC's lead authors, discussing the IPCC Policymakers' Summary: "We produce a draft, and then the policymakers go through it line by line and change the way it is presented. . . . It's peculiar that they have the final say in what goes into a scientists' report." The Science and Environmental Policy Project conducted a survey of IPCC scientific contributors and reviewers; we found that about half did not support the Policymakers' Summary. Parallel surveys by the Gallup organization and even by Greenpeace International produced similar results.

Of course, scientists do accept the existence of a natural greenhouse effect in the atmosphere, which has been known since the 19th century and is not to be confused with any influence from human activity. Another accepted fact is that greenhouse gases have been increasing as a consequence of an expanding world population: carbon dioxide from burning fossil fuels, for instance, and methane from raising cattle. But the climate warming of the past 100 years, which occurred mainly before 1940, in no way supports the results of computer models that predict a drastic future warming. Even IPCC Chairman Bert Bolin has admitted that the pre-1940 warming is likely a natural recovery from a previous, natural cooling. Most important, though, is the fact—not mentioned in the IPCC summary—that weather satellite observations, independently backed by data from balloon-borne sensors, have shown no global warming trend whatsoever in the past 20 years.

The discrepancy between calculated predictions of warming and the actual observations of no warming has produced a crisis for many scientists. Those who believe in global warming keep hoping that proof is just around the corner. Consider this passage from the May 16 Science article: "[M]any scientists say it will be a decade before computer models can confidently link the warming to human activities."

It is ironic that an environmental lobbying group, the Environmental Defense Fund, would admit in a brochure on global warming: "Scientists need to do considerably more work to sort out which [hypotheses] are most likely to be true." The EDF complains, however, that the "skepticism and constant questioning that lie at the heart of science" sometimes "cloud the debate." Perhaps so; but more often they advance the science.

PRIVILEGE OF THE FLOOR

Mr. HAGEL. Mr. President, I ask unanimous consent that the following members of my staff be granted the privilege of the floor during debate on Senate Resolution 98: Derek Schmidt, Ken Peel, Kent Bonham, David Kracman, and Tom McCarthy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, we have more than a dozen Senators on this side who want to speak on this issue. Under the time agreement, however, we have only 1 hour for proponents to debate. I, therefore, encourage Senators to insert their statements in the RECORD so they will be fully available to our negotiators before next week's meeting of the ad hoc group on the Berlin mandate in Bonn, Germany. I also hope to discuss this issue further on the Senate floor at a later date.

Mr. President, I thank the majority leader and the minority leader for their leadership in bringing this resolution before the Senate. I also thank the chairman and the ranking minority member of the Foreign Relations Committee for their leadership as well. I particularly thank the distinguished senior Senator from West Virginia. It has been a privilege for me to work on this important issue along side one of the Senate's giants.

We are here today to debate a very important issue, one which will have a major impact on the future of this country. How our Nation addresses the global climate issue may prove to be one of the most important economic and environmental decisions of the next century.

Let me say from the outset, this is not a debate about who is for or against the environment. We all agree on the need for a clean environment. We all want to leave our children a better, cleaner, more prosperous world. Nor is this debate about motives, personalities or politics. It is about finding the truth. What are the problems? If there are problems, what is the best solution? What are the costs? What are the consequences? And what do we need to do now?

The debate on the Senate floor today is about the path the administration is taking on this issue. I believe they are on the wrong path in their negotiations for any treaty to be signed in Kyoto, Japan, this December.

That is why my distinguished colleague from West Virginia and I have offered the Byrd-Hagel resolution. Senate Resolution 98, with its 65 cosponsors, puts the administration on notice that an overwhelming and bipartisan majority of the U.S. Senate rejects its current negotiating position on a proposed new global climate treaty. It is so important, as my friend, Senator BYRD, has repeatedly pointed out, that we in the U.S. Senate forcefully practice our constitutional role of advice and consent over these important negotiations. The credibility of the United States is not enhanced when the administration negotiates a treaty that has no hope of ratification in the U.S. Senate.

The Byrd-Hagel resolution is a strong bipartisan wake-up call to the administration. This resolution rejects the United Nations' current negotiating strategy of binding United States and other developed nations to legally binding reductions without requiring any new or binding commitments from 130 developing nations, such as China, Mexico, and South Korea. In addition, this resolution rejects any treaty or other agreement that would cause serious economic harm to the United States.

A simple reality of the current situation is that a core group of negotiators in the State Department has brought us near a point of no return. What this broad bipartisan coalition of 65 Senators is saying is "we need a new direction in these negotiations."

I approach this issue, Mr. President, believing that any action this serious that is undertaken by the United States must be based on sound science and common sense. This proposed treaty is based on neither.

If anything has become clear during congressional hearings on this issue, it is that the science is unclear, that the scientific community has not even come close to definitively concluding that we have a problem.

I mentioned earlier this morning, in the Wall Street Journal today, the very interesting article by Dr. Fred Singer about the science on this issue. Dr. Singer is professor emeritus of environmental sciences at the University of Virginia. I have already requested this be printed in the RECORD.

The science is inconclusive and contradictory, and predictions for the future range from no significant problem to global catastrophe. The subcommittee I chair, International Economic Policy Export and Trade Promotion, has held two hearings on this issue. In the first hearing, we heard testimony from Dr. Patrick Michaels, a very distinguished climatologist and professor of environmental sciences at the University of Virginia, who noted conditions in the real world simply have not matched changes projected by some computer models. Most of the warming of this century occurred in the first half of this century, before significant emissions of greenhouse gases began. And 18 years of satellite data actually shows a slight cooling trend in the world.

Before the Senate Environment and Public Works Committee Dr. Richard Lindzen, professor of meteorology at the Massachusetts Institute of Technology, testified that "a decade of focus on global warming and billions of dollars of research funds have still failed to establish that global warming is a significant problem."

At the same hearing, Dr. John Christy, an associate professor in the Department of Atmospheric Science at the University of Alabama, stated: "The satellite and balloon data show that catastrophic warming is not now occurring. The detection of human effects on climate has not been convincingly proven because the variations we now have observed are not outside of the natural variations of the climate system."

It is clear that the global climate is incredibly complex. It is influenced by far more factors than originally thought when some early crude computer models first raised alarms about the possible threat of imminent catastrophic global warming. The scientific community has simply not yet resolved the question of whether we have a problem with global warming.

I suggest, again, that common sense dictates you don't come up with a solution to a problem until you are certain that you have a problem. However, the Clinton administration has proceeded to negotiate a solution before we have a confirmation that there is a problem.

They have proposed that the United States and other developed nations submit to legally binding controls of greenhouse gas emissions. But they will not be asking for legally binding commitments from more than 130 "developing nations," including, as I mentioned before, China, Mexico, South Korea, India, Singapore, and others.

Mr. President, this makes no sense, no sense at all, given that these nations include some of the most rapidly developing economies in the world and are quickly increasing their use of fossil fuels. By the year 2015, China will surpass the United States as the largest producer of greenhouse gases in the world.

It is the United States and other developed nations who are currently doing the most to reduce greenhouse gas emissions. It is the developing nations that will be the biggest emitters of greenhouse gases during the next 25 years. It is complete folly to exclude them from legally binding emissions mandates. How could any treaty aimed at reducing global emissions of greenhouse gases be at all effective when it excludes these 130 nations? It won't. If these nations are excluded, greenhouse gas emissions will continue to rise, and we would see no net reductions in global greenhouse gas emissions. The exclusion of these nations is a fatal flaw in this treaty.

Some analysts have even cautioned that the unequal treaty being negotiated at the United Nations could increase the emission of greenhouse gases. As industries flee the United States and other industrialized countries, they would reestablish themselves in developing countries that have much weaker environmental standards, like our neighbor to the south, Mexico.

A draft economic report commissioned by this administration, this administration's Department of Energy, concluded that:

> Policy constraints placed on six large industries in the United States—petroleum refining, chemicals, paper products, iron and steel, aluminum and cement—would result in significant adverse impacts on the affected industries. Furthermore, they conclude: emissions would not be reduced significantly. The main effect of the assumed policy would be to redistribute output, employment, and emissions from participating to nonparticipating countries.

Therefore, the U.N. Global Climate Treaty as being negotiated now by the Clinton administration cannot pass the first test of Byrd-Hagel. It will not include legally binding commitments from the developing nations.

What about the second test of Byrd-Hagel, serious economic harm, serious economic harm to this country and our future generations? One of the notable aspects of this issue is that it has united American business, labor, and agriculture support. In my hearings, we heard testimony from the AFL–CIO, American Farm Bureau, National Association of Manufacturers, and many noted economists. They all agree on one very definite thing—the draft U.N. treaty now under consideration would have a devastating effect on American consumers, workers, farmers and businesses. Estimates of the proposed treaty's damage to our economy vary, mainly because the administration continually refused to offer its own economic assumptions. This, after the administration promised for more than a year to provide an economic model.

However, last week the Clinton administration threw in the towel and gave up on even attempting to provide an economic model.

At a hearing before the House Commerce Committee, Janet Yellen, chair of the Council of Economic Advisers for the President, admitted that the administration's long-awaited economic study had failed and claimed that it would be futile to attempt to assess the economic impacts of legally-binding emissions controls on our developed nations. So now the Clinton administration is proceeding to negotiate a treaty without any assessment of what it would do to the U.S. economy. That is incredible; absolutely stunning. But the bottom line is very clear. Even using conservative assumptions, Charles River Associates, a leading economic modeling firm, for example, has estimated that holding emissions at 1990 levels would reduce economic growth by 1 percent a year, rising to 3 percent in the later years, and that does not even consider Under Secretary of State Tim Wirth's long-term goal, which he stated during our hearings, of achieving a 70 percent reduction from current emissions levels.

What this means to everyday Americans is very clear. The AFL–CIO has estimated the treaty would mean the loss of 1.25 to 1.5 million jobs. Energy prices will rise dramatically. Individual Americans will pay for this treaty either in their electric bills, at the gas pump, or by losing their jobs. Jerry Jasinowski, president of the National Association of Manufacturers, testified that the proposed treaty:

> . . . would hurt America's manufacturers, workers and families with little or no environmental benefit since new restrictive policies in the U.S. simply would force the flight of U.S. investment to developing countries. Millions of Americans would lose their jobs and American manufacturers would take a severe hit in the marketplace.

What about the effects on American agriculture? It is little known that American agriculture produces 25 percent of our Nation's greenhouse gas emissions, which would make this critical sector of our economy vulnerable to the kind of major reductions envisioned by the U.N. global climate treaty. The American Farm Bureau has called the treaty a back-door Btu tax that would drive up fuel and overall energy costs as much as 50 percent. Again, this is outrageous. This would bankrupt many of our American farmers. Therefore the U.N. global climate treaty has no hope of satisfying the second test of Byrd-Hagel. It would clearly cause very serious economic harm to the United States.

Mr. President, beyond the fairness and economic harm issues that are addressed in Senate Resolution 98, I am also very concerned about any treaty that would bind our Nation's economy to control by some U.N. multilateral entity. Who will administer a global climate treaty? Who will police it? Will we have an international police force, an agency capable of inspecting, finding, possibly shutting down American companies? No one has addressed these questions. The implications are most serious for our national security interests, national sovereignty interests. One of the biggest users of fossil fuels is the U.S. military. How would this treaty affect our military operations and our national defense capabilities? There are serious national sovereignty issues and other issues that we have not even begun to touch.

I said at the outset that I believe any action taken by this Nation should be based on sound science and common sense. The current track of negotiations for the U.N. global treaty does neither. Why is this administration rushing headlong into signing a treaty in Kyoto this December? The scientific data is inconclusive, even contradictory. The economic costs are clear and devastating. This treaty would be a lead weight on our Nation's future economic growth, killing jobs and opportunities for generations of Americans to come.

We need to take global climate issues seriously. Obviously we agree with that. We in the United States have made tremendous strides in cleaning up our environment. We will continue to make progress in the future. We are all concerned about the state of the environment and what we leave to our children and our grandchildren. But when we take actions that will reduce our children's and our grandchildren's economic opportunities, we must ensure that the benefits are real and that they would justify this very real economic hardship that we would be passing on to these future generations.

I urge my colleagues to support Senate Resolution 98, the Byrd-Hagel resolution. I am grateful for the time that my colleagues have given this effort.

At this time, I yield the floor to my distinguished colleague, the senior Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my distinguished colleague, Mr. HAGEL, for his excellent statement. I thank him for joining with me in the preparation, development and promotion of this resolution. And I thank him for the time that he has yielded to me.

Mr. HAGEL and I, along with 63 other cosponsors, developed Senate Resolution 98, which was reported favorably from the Senate Foreign Relations Committee, and is pending before the Senate today. The resolution seeks to provide the Senate's views as to the global climate change negotiations now underway. These negotiations have, as a goal, a revision of the 1992 United Nations Framework Convention on Climate Change, known as the Rio Pact.

Mr. President, my years of recollection go back farther than that of most Senators. I am not a scientist, but I have lived long enough to see what I believe are some very definite changes in the climate pattern affecting our country. Droughts, floods, storms appear to me to be more erratic, more unpredictable, and more severe in these later years of my life than in my earlier years. I can remember when there were no air conditioning units in Washington or anywhere else where I lived. We have recently seen heat waves—severe. We have seen droughts—severe. They seem to be happening more frequently. So I believe in my own mind and heart that something is happening out there. Something is happening. Something is happening to our climate. As I say, I am not a scientist, but the majority of scientists who study climate patterns tell us that there apparently are changes going on in the climate pattern and that anthropogenic interference is probably the cause of some of this change.

All the data are not in, but I, for one, believe that there is sufficient evidence of, first, a probable trend toward increased warming of the Earth's surface resulting from human interference in natural climate patterns. I believe that a steady increase in accumulation of carbon dioxide and other greenhouse gases in the atmosphere is taking place. I believe that there is some relationship between the warming trend and such accumulations, enough to justify our taking some action and taking it now. The scientific foundation of this case is plausible enough, in my personal judgment, to put into motion a sound global program, because the trends and the effects are long term. Certainly the Senate, under the Constitution, is obligated to communicate its views and advice on the treaty negotiations. The Constitution, in outlining the powers of the President, says he—meaning the President—shall have power "by and with the Advice and Consent of the Senate, to make Treaties"; "by and with the Advice and Consent of the Senate, to make Treaties. . . ." It doesn't just use the word "consent" of the Senate. It also uses the word of "advice." All too often we let ourselves to be limited to consenting to or rejecting treaties. But we have an obligation to advise the administration as to the Senate's views concerning a treaty, especially this treaty which can have such far-reaching ramifications.

I do not think the Senate should support a treaty that requires only half the world—in other words, the developed countries—to endure the economic costs of reducing emissions while developing countries are left free to pollute the atmosphere and, in so doing, siphon off American industries. There are those who say that the United States is responsible for the situation that has developed. They claim that the United States should bear the brunt of the burden. But the time for pointing fingers is over. In this particular environmental game there are no winners; the world loses. And any effort to avoid the effects of global climate change will be doomed to failure from the start without the participation of the developing world, particularly those nations that are rapidly developing and will rapidly increase their carbon dioxide and other greenhouse gas emissions. Count me as a global environmentalist, who insists that all nations that spew forth major concentrations of carbon dioxide, or that will be spewing forth major concentrations of carbon dioxide, must step up to the plate in these negotiations and make good-faith, specific, binding commitments to control and reduce these emissions right from the start.

Industry is fueled, in large part, by fossil fuels, which are the primary—primary—cause of greenhouse gas emissions. Let us examine the role of China in that regard. As a percentage of total world consumption in the year 2015, China alone will account for 42 percent of all the coal burned worldwide while the United States will account for only 16 percent. The increase in China's use of coal should alarm every environmentalist who is concerned about global warming.

So, if you are a true environmentalist—I am not talking about fanatics—if you are a true environmentalist, as I am, then you should be alarmed about the situation that I have just mentioned with respect to China. And there are other countries, such as India, Mexico, Indonesia, Brazil, that are classified as developing countries. I say they need to step up to the plate, just as we do, just as the annex 1 countries do, just as the developed countries do, when the negotiations are taking place and make binding, specific commitments to reductions of greenhouse gases and to make those commitments to start now, not somewhere in the future.

From 1995 to 2015, China will increase its coal consumption by a huge 111 percent, compared to only 22 percent for the United States. Yet, despite its future role as the world's leading contributor to the problem of carbon emissions, China has indicated steadfast refusal to apply any type of binding obligations upon its own economy and industry. I believe that, if the treaty does not commit the developing nations like China to binding commitments, there will be no incentive for China and the other nations of the developing world to make responsible and environmentally sound choices as they develop.

The committee report that is before the Senate contains a brief but accurate summary of the history of the global change negotiations. Most of the nations of the world signed up at the Earth summit in Rio in 1992 to a Treaty that set voluntary goals for nations to start limiting their carbon dioxide emissions. Unfortunately, most nations of the world, ourselves included, failed to take the actions needed to meet those voluntary goals.

As a result of this failure, the parties met again in Berlin in 1995 and sought to impose a timetable whereby legally binding limits on national carbon dioxide reductions would be put into place. Unfortunately—unfortunately—a fundamental error—I would use the word "blunder"—a fundamental blunder was made in Berlin in that only the so-called developed nations, or Annex I nations, were to impose such a legally binding regime on themselves. Developing nations got a free pass.

The concept which is embodied in the Byrd-Hagel resolution is that developing country parties should join the developed world in making new specific scheduled commitments to limit or reduce greenhouse gas emissions within the same compliance period.

Now, does this mean that the Senate is insisting on commitments to identical levels of emissions among all the parties? Certainly not. The emissions limitations goals, to be fair, should be based on a country's level of development. The purpose is not to choke off Mexico's development or China's development. The purpose is to start addressing the greenhouse gas problem in the only meaningful way we can, that is, through globally and through binding commitments up front. The timeframe could be 5 years, 7 years, 10 years or whatever. The initial commitment to action, starting upon signature in Kyoto, could be relatively modest, pacing upwards depending upon various factors, with a specific goal to be achieved within a fixed time period. There are plenty of tools to encourage the developing world to make meaningful commitments.

The message to U.S. negotiators is that all nations—that is the message of this resolution—particularly those that are making and will in the future make a significant contribution to greenhouse gas emissions need to make commitments at Kyoto that unequivocally demonstrate a tangible action program—action, not just words—to tackle the problem of climate change; and the need to start with their best efforts to act on those commitments immediately, not 5 years down the road, not 10 years down the road but immediately, and not settle for vague promises to return to a future negotiation to get serious.

American industry has expressed concern that a treaty without developing country commitments would encourage capital flight and a loss of jobs in the United States. We do not as yet have available the administration's current best assessment of the economic impacts of various levels of emissions targets in the United States. However, preliminary work done by the Argonne Laboratory on this matter is worrisome in that its worst case scenario shows a very negative economic impact on American industry.

Mr. President, as I have said, we do not yet have a clearly articulated economic assessment by the administration, and so it is impossible to make specific judgments as to the economic impacts on particular industries and how they can be mitigated by other tools that could be included in the treaty. Dr. Janet Yellen, Chairman of the Council of Economic Advisers, stated in a hearing before the Environment Committee on July 17, the administration has not settled on a particular set of policies to reduce emissions and intends to engage all interested parties in a White House conference on climate change this fall.

The American people need to understand the situation and the actions to be taken. The President is committed to this major public education campaign, and I note that he yesterday convened a meeting of scientists at the White House to discuss the evidence regarding global warming and to begin that educational process.

There surely will be costs if the United States is to make the changes to our existing industrial base and to our lifestyle necessary to meet the goals of the treaty. Our smokestacks must be cleaner and our automobiles more efficient. There are many ways to achieve these goals, but we must be able to tell the American people what will be required to meet any proposed commitment.

The Senate is doing the right thing in addressing the negotiations in a principled way without attempting to micromanage those negotiations. It is possible that the Senate will have a binding revision to the Rio Pact presented to it within a year. Given the tremendous implications for this agreement, the Byrd-Hagel resolution also suggests that the leadership create a bipartisan group of Senators to monitor the negotiations and report periodically to the full Senate on the nature of the agreement as it is being shaped by our negotiators. The nations of the world are all in this global boat together. It is not a boat of which only half will sink while the other half stays afloat. Unless we all pull our oars in the same direction and plug the large leaks as well as the small leaks, our ship will flounder and surely sink. This resolution will give the Senate and the American people a seat at the negotiating table and add strength to our U.S. negotiating team.

I thank all Senators for their attention, and I hope the resolution will be adopted by a substantial majority.

Now, some of the Senators who have signed on to the resolution may have differing views about the treaty, but there is one thing that we are in agreement on—one or two things. These are set forth in the resolution beginning and concluding with the resolving clause. One, that all nations, all nations must take steps now, at the time of the signing of the treaty, to begin limiting their emissions of greenhouse gases. Mere promises will not be sufficient. Mere promises will not get by this Senate. A treaty will have to have the approval of a two-thirds supermajority in this Senate, and that is what we are telling the administration. We are letting the Administration know that this Senate is not just going to consent or not consent on a treaty. This Senate is going to fulfill its constitutional obligations not only to consent but also to "advise" and consent. And the resolution also provides that such a treaty must not result in serious harm to the economy of the United States.

So I suggest that all Senators read the resolution's resolving clause. That is where we come together. That is where Mr. HAGEL's views, my views, the views of others who are signatories of the resolution blend and constitute a consensus.

Mr. President, I thank my friend and I yield the floor.

Mr. HAGEL. Mr. President, I thank Senator BYRD very, very much.

I yield up to 5 minutes to my friend and distinguished colleague from Kentucky.

Mr. FORD. I thank the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, it is always good to work with my longtime friend, Senator BYRD, on a project that we both believe very strongly in, and it is good to work with a newfound friend. I have had an affection for people from Nebraska for a long time, and Jim Exon and I worked together as Governors and then here. I appreciate the Senator's friendship and getting to know each other. And so I thank him for his cooperation and help here this morning.

Mr. President, there is an old saying that when you run out of luck, you better get a new pair of dice. As far as I am concerned, we have lost every roll of the dice during the climate change negotiations, and we better get ourselves a new pair. Otherwise, American workers will be out of luck. That is why I rise today to support Senate Resolution 98 which Senator BYRD and Senator HAGEL now have before the Senate.

If you take a good look at the global climate change treaty currently being negotiated, you will discover that developing nations are the high rollers while the developed nations keep coming up with snake eyes and the big loser is the global environment. That is because only developed nations would be legally bound by the treaty hammered out by negotiators, the so-called "Berlin Mandate" produced back in 1995. Developing nations are off the hook.

That decision contained two glaring errors. First, negotiators agreed to complete negotiations for the post-2000 period by the artificial deadline of 1997 before they began implementation of the 1992 convention and before there was an understanding of the complexity of those negotiations.

Second, negotiators succumbed to the demands of China and other developing countries that any agreement reached in Kyoto in 1997 for post-2000 commitments must exempt Asian economies such as China and India and the rest of the developing world. Right now, developed nations and developing nations have about equal levels of carbon emissions, but within 5 years of the deadline developing nations will have more than 1½ times the 1990 level of the developing world.

So because of those bad rolls of the dice, the treaty is heavily weighted against America and especially against American workers. That is because the U.S. will have to make the steepest reductions and suffer the costliest and most damaging consequences. Preliminary estimates put the loss as high as 600,000 American jobs each year. And 600,000 jobs is probably a low estimate because the treaty creates an enormous incentive for American businesses to shift more and more jobs overseas to avoid the expensive emission reductions that U.S. businesses will have to meet.

The impact in Kentucky would be especially bad. Not only miners working in the coal fields of eastern and western Kentucky suffer job losses but many of the businesses and factories that have created a "golden triangle," as we refer to it, between northern Kentucky, Louisville and Lexington would be forced to close, and every single Kentuckian will experience and face higher electric bills and higher gas prices. The sad thing is we will not even get a cleaner environment. That is the sad thing. We will not stop global warming. We will not even reduce carbon emissions. That is because every ton of reduced emissions in the United States and other developed nations will be made up and then some in the developing world.

The way I see it we have been stuck in a game with loaded dice. You have a treaty with devastating consequences for the American economy. You end up with virtually no environmental benefit. It looks like nothing more than a massive foreign aid package paid for with American jobs.

It is clear that many American interests are being neglected by our negotiators and that we must come up with a better solution for the problem of global emissions. But time is limited for the Senate to send a message that the treaty as currently reported is not acceptable.

The answer is clearly not, as proposed by the State Department, a Kyoto protocol and then a second agreement of some kind after Kyoto in 2005 or even later. That scenario ignores the fact that we have no assurances China and other developing countries will become parties to any agreement with a commitment to simply start discussions for a third agreement.

I believe Senator BYRD's and Senator HAGEL's resolution is the right method. It sets commonsense parameters for our negotiators to work from and assures that any treaty meets the goal of reduced emissions without penalizing one country over another.

I hope my colleagues will join us in sending this important message, not only to our negotiators, but to the American people that both the global environment and our national interests must be protected.

I thank my friends and yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Massachusetts.

PRIVILEGE OF THE FLOOR

Mr. KERRY. Mr. President, I ask unanimous consent that Scott Bunton and Gregg Rothschild, of my staff, be permitted access to the floor during the resolution deliberation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I yield myself such time as I may consume.

Mr. President, I want to thank the Senator from Nebraska and the Senator from West Virginia for raising an issue of common sense and a very legitimate issue regarding the U.S. negotiating position with respect to global climate change.

I have not been a cosponsor up until this point of the resolution because I shared with Senator LIEBERMAN and Senator CHAFEE concerns about some of the phrasing and the meaning of some of the resolution with respect to the negotiating process. We thought it was important to seek clarification with respect to those points before having a vote.

As a member of the Foreign Relations Committee, I raised those concerns during the markup. I voted to send this resolution to the floor for consideration today. Pending the ultimate discussion that we have on the floor here today, it is my intention to vote for this resolution because I think it embraces common sense.

That common sense is the notion that if you are really going to do something to effect global climate change and you are going to do it in a fair-minded way that will permit you to build consensus in the country, which is important, and to build the necessary support to ratify a treaty, we are going to have to do this in a way that calls on everybody to share the burden of responding to this problem. That means that we need to have an agreement that does not leave enormous components of the world's contributors and future contributors of this problem out of the solution.

It is simply wrong to assume that facing the difficulties we have had since the Rio treaty, the agreement in Rio, which 155 nations signed, that we are going to be able to now face up to those greater responsibilities without bringing everybody into the solution. The notion that China or India or other enormously rapidly developing countries, who will before too long also be adding very significantly to this problem, and already are to some degree, are going to somehow later negotiate their participation I think is contrary to common sense. So I have joined in the notion that it is appropriate to reconsider the Berlin Mandate and to discuss how the U.S. Senate properly thinks we should approach these negotiations.

But let me also make it clear that, in this strange hybrid of Senators who have signed on as cosponsors to this resolution, there are some who do not want any treaty. There are some who do not think it is a problem. There are some who do not accept the science. There are some for whom the effort is one to really have nothing happen. I am pleased that Senator BYRD is not one of those and that many of those who will vote for this resolution, the sense-of-the-Senate resolution, join me and others in believing that this is a serious problem with science that supports it.

It is not my purpose to debate the science very deeply here this morning because the science is not at issue in this resolution. This resolution is a question of negotiating tactics. This resolution is about how we will approach the question of reducing greenhouse gases, not whether. It is a question not entirely based on science.

But nevertheless, the record ought to reflect as we approach these issues that the science overwhelmingly documents the notion that a phenomenon known as global warming is already occurring, it is occurring. There is no debate among scientists as to whether or not it is happening. There is some debate as to what the impacts will be. There is debate about the models and how much those models show with certitude it is going to happen in what part of the country.

Can we predict what will happen to Nebraska? The answer is no. Can we predict what will happen to my State of Massachusetts and the coastal zones? Well, to some degree some scientists are suggesting you can, but some people remain questioning that.

Let me make it very clear—someone raised the question about how the Panel on Climate Change now predicts the global warming of only 1 degree to 3.5 degrees Celsius over the coming century. People say that is not really that bad and it is hardly a cause for concern. Let me point out to my colleagues that the global average temperature has changed by less than a degree Celsius up or down for 10,000 years. We know that. So the projected warming is expected to exceed any climate change that has occurred during the history of civilization.

In addition, even apparently small global average temperature changes will be accompanied by much larger regional climate shifts. For example, a warming which is twice as large as the global average is projected to occur at high northern latitudes. Apparently, small global average changes have also led to very large climate shifts in the past.

Moreover, the Intergovernmental Panel on Climate Change, representing the consensus of climate scientists worldwide, has concluded:

> . . . the balance of evidence suggests that there is a discernible human influence on global climate. And the year 1995 matched 1990 as the hottest year on record.

What we know to a certainty also is that from the 1980's on we have been recording these increasingly heated periods. We then saw Mount Pinatubo's cooling effect. We saw that cooling effect begin to diminish as the impact of that volcanic disruption between the Sun's rays and the Earth dissipated. So we have begun to return to the high readings that we saw characteristic of the late 1980's. March through December of 1994 were the warmest periods on record according to the National Weather Service climate analysis.

I could go on. The National Academy of Sciences has reported that despite uncertainties, greenhouse warming poses a potential threat, "sufficient to merit prompt responses * * * Investment in mitigation measures acts as insurance protection against the great uncertainties and the possibility of dramatic surprises."

In addition, the panel suggested that substantial mitigation could be accomplished at very modest costs; in other words, insurance is cheap, they said.

Let me point out one other fact that was set forth at the hearings we had in the committee.

We know that we are the world's greatest emitter of greenhouse gases. We know that carbon dioxide is the most significant of those. We know that the oceans mitigate the increase of carbon dioxide that we put into the atmosphere. The oceans consume the carbon dioxide.

But what we have also learned as a matter of science is that there is some level at which there is this potential of saturation of the oceans. We do not know where that is. The oceans recirculate it. And the question remains whether or not you might have an extraordinary, dramatic impact because of the reaching of this saturation point.

Some people may want to tempt that. Some people may not feel any kind of generational responsibility or any kind of global responsibility and suggest that, well, all of these thousands of scientists, all of the consensus reached by 155 nations—they may want to choose to ignore it.

But when scientists tell me that the oceans are already rising and they are already rising at a discernible and measurable rate and that we are continuing a process of warming and that between now and the middle of the next century oceans will rise 1 to 3 feet and that the impact of that will be devastation on the coast of Florida, the loss of island nations, and the remarkable impact on wetlands all around the planet, I think we have a responsibility to say, well, we ought to try to think about that. And that is exactly what this effort to deal with global climate change is trying to do.

Now, I am not going to debate all of the science and the models and what can or cannot be done here. But it is clear that one of the chief sponsors of this resolution, Senator BYRD—and you have heard him speak—agrees, and Senator LIEBERMAN and CHAFEE and others do, that the prospect of human-induced global warming as an accepted thesis with adverse consequences for all is here, and it is real.

There are some Senators, as I have said, who want to debate that science; and so be it. That is not what this resolution is about. This resolution is a question of how our negotiators will negotiate. What we ought to be seeking in Kyoto, as we pursue what most people have decided, is a legitimate concern.

Senator BYRD's resolution makes a first step toward tackling the issue of changing the balance of how we approach this. As I have said, Senator LIEBERMAN, Senator CHAFEE, and I would have worded some things differently. But we are convinced in our discussions with Senator BYRD that the intent here is similar, which is to guarantee that our negotiators have a changed position, a tougher position, but a reasonable position in negotiating how we will come to agreement in Kyoto.

Let me point out a couple of those areas where we had some concerns. There is language in the resolution about the developing nations accomplishing their reductions within exactly the same compliance period as the developed nations. I have come to the conclusion that these words are not a treaty killer that some suggested it might have been.

I am encouraged to learn that Senator BYRD's objective is to support entering into a binding international agreement to address climate change, and he also agrees that all nations, developed and less developed, ought to participate in this significant effort. We both recognize that, as a matter of global and national environmental protection, the global warming issue is not going to be able to be addressed effectively if any major emitting nation or group of nations stays outside the agreement. So, ultimately, all major emitting nations will need to reduce greenhouse emissions if we are going to make significant progress on global warming.

I heard one of my colleagues talk earlier about who is going to police this, and how do you enter into this international agreement. Well, the fact is we enter into international agreements all the time. We have trade agreements. We have arms control agreements. We have environmental agreements. We police them by arriving at mutually agreeable means of being able to raise the issues with each of those nations that might be offending, and we have done so without ever giving up our sovereignty. So, that is just a red herring in this issue. We know that we can do that, and we will do that.

We also know that we are trying to seek an equilibrium with other nations so we are not losing jobs while other people are gaining some foothold in the marketplace. We understand that. We are not seeking to consciously enter into an arrangement that will disadvantage the United States of America and our economy.

On the other hand, every environmental agreement and every agreement we have reached so far requires some change in the way we do business. That change has generally produced more jobs, not less jobs. One of the fastest growing industries in Massachusetts has been environmental technology, as we develop new means of producing clean coal or scrubbers or as we create other kinds of mitigation for toxins or chemicals. I think that the same thing can happen here. If the United States is smart, we will be the provider of these technologies to the world.

There still appears to be a little bit of uncertainty as to what this phrase within the same compliance period actually means. But after a number of discussions with Senator CHAFEE's and Senator BYRD's staffs, I believe that we have reached an understanding that it means essentially that we want countries to begin to reduce while we are reducing, we want them to engage in a reasonable schedule while we are engaged in a reasonable schedule, but that if a developing nation needs more time to get a plan in place or needs to have more time to raise the funds and be able to purchase the technology and do the things necessary, that as long as there is a good-faith track on which they are proceeding, that if it took them a number of years, 2 years, 3 years, 5, or longer to be able to reach a particular goal, that certainly means within the same compliance period they are operating similarly to try to meet the standards that we want to set out. We believe that, given that less-developed countries are not currently projected to emit more emissions than industrial countries until at least the year 2015, it is reasonable to permit some flexibility in the targets and the timing of compliance while at the same time requiring all countries to agree to make a legally binding commitment by a date certain. That is reasonable. But I think most of my colleagues would agree that if some country simply doesn't have the capacity, the plan, the money, or the technology, it may be they have to take a little more time and we should want to be reasonable in helping them to do that because the goal here is to get everybody to participate, not to create a divisiveness that winds up with doing nothing.

There is a second issue here, and that is the issue of emissions trading. While this resolution includes provisions that address developing countries' participation, a number of us are critical of the fact that it is silent on the question of flexibility, a question of what market tools or what market access tools ought to be permissible for use by all countries. I believe that the record is clear that emissions trading is a vital market mechanism that will benefit the United States.

Emissions trading not only advantages the U.S. business, but it would provide developing countries with incentives to sign up to binding legal commitments that most people believe are important in this treaty. I would like to point out to my colleagues that, currently in the negotiations, Europe is trying to create a bubble over Europe itself, trying to create a separate agreement where Europe will be able to have emissions trading among European countries, but we and others would not be able to engage in that trading. The result would be that you might have Belgium required to do a 10-percent reduction in 2010 for CO_2 and CH_4 and NO_X. But at the same time, Greece would be able to increase by 30 percent. Spain would increase by 17 percent. Ireland would increase by 15 percent. Portugal would be able to increase by 40 percent. This is because they are trying to set up a structure where they can trade amongst each other for emissions without us having that same capacity.

Now, if anything disadvantages American industry, it would be to have Europe create a bubble for itself to the exclusion of the United States to be able to emissions trade. I am against that. I think that is anticompetitive and it is anti-United States. This is silent on that. I hope my colleagues will agree with me that we want the United States to be able to trade with one of these countries. We want the United States to be able to trade with one of the less developed nations so that we can do what we have done in the United States.

Let me point out, here is the impact. Referring to this chart, these are what we have done in the United States. This black line represents the actual SO_2 emissions in the United States, and this was the projected rate of reduction if we were to engage, under the Clean Air Act, in emissions trading, and this pink line was what we projected. But because emissions trading has been such an effective market tool, this yellow line represents the actual rate of reductions in SO_2 emissions. So we have had a phenomenal success through emissions trading in reducing emissions in our country. And it would be simply against common sense to have a negotiation which precluded the capacity of the United States to engage in this emissions trading.

This chart shows the growth indicators and emissions. The black line represents the gross domestic product increase of the United States of America from 1985 to 1995. The electricity demand in the United States is the pink line, and the electricity demand went up almost concomitantly with the gross domestic product. At the same time, because we engaged in these tradings within our States, here is what happened with the emissions trading effect. The SO_2 emissions dramatically went down, even as electricity demands went up.

So it is a proven tool, it is a market force tool, and it is one that will enhance the economic competitiveness of the United States. I am pleased that, in my discussions with Senator BYRD, he has indicated that there is nothing in this resolution that precludes the capacity of our negotiators to pursue this as a tool in our negotiations and, conceivably, as one of the ingredients of a Kyoto treaty.

Mr. HAGEL. Will the Senator yield?

Mr. KERRY. For what purpose?

Mr. HAGEL. I would like to respond, if I could.

Mr. KERRY. I will finish up, and then I want to reserve some time for Senator CHAFEE, and others. If I can complete, then and the Senator, on his time, can certainly ask any question that he wants to.

Let me just say that we believe very strongly that we need to put a structure in place that will provide incentives for nations and industries to reduce their emissions of greenhouse gases. And we believe, obviously, the developing world is poised to undertake a massive infrastructure investment in energy, transportation, and other potentially high-emitting sectors. These investments are going to have long-term capital stock lifetimes, and if we were to exclude that discussion of them being part of this, it would be an enormous error of judgment, I think, for the longrun of this effort.

One final comment I will make on the science. Even if we were to reduce our greenhouse gas emissions today to 1990 levels, you will still continue to have the greenhouse gas warming effect, because the life of these gases in the atmosphere will go on for 75 years, or longer, into the future and because of the cumulative effect and the lack of knowledge about where you may have a saturation point or a devastating impact, caution and common sense predicate that we should do everything possible in order to avoid the potential of that kind of catastrophe.

I reserve the balance of our time.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I yield myself whatever time I need. I just would like to make a quick response to my colleague. I noted that my colleague from Massachusetts keeps employing the name of Senator BYRD. I assume that Senator BYRD is going to have an opportunity to speak for himself on this.

First, let's be very clear. This is all interesting, but it does not at all have anything to do with the Byrd-Hagel resolution. That is No. 1. Two, I am saying—and I think much of what we are talking about on the resolution that legally binding commitments are pretty tough, and we want to understand about those legally binding commitments before anybody gets legally bound, regarding if we are talking about a European bubble, or whatever.

Mr. KERRY. Let me answer the Senator by saying we don't disagree with that at all.

Mr. HAGEL. This is interesting, I say to the Senator, but again it does not reflect on what the Byrd-Hagel resolution reflects.

Mr. KERRY. How doesn't it reflect on it?

Mr. HAGEL. We don't talk about the European bubble. More important, we don't talk about European trading and joint implementation. If Senator BYRD wants to say that, he can. This Senator wants to make it clear that I am not in favor of any sort or form of emissions trading or joint implementation.

Furthermore, any kind of implied United Nations bureaucracy with the power to come in and inspect and penalize and fine and shut down American companies, which obviously is the legitimate logical conclusion of this, I want to be on record right now in saying I oppose that. Obviously, Senator BYRD can speak for himself.

Mr. KERRY. To answer the Senator, since he wanted to engage in this discussion, no one has suggested any such thing, and I would be against that, also.

Second, the Senator would have to agree with me that this resolution is silent on the issue of emissions trading. That is what I said; I said it is silent.

Mr. HAGEL. That is what I have said. I said I could not support that, will not support that, and I want to make sure my colleagues understand that, and that we stay focused on this.

Mr. KERRY. We will let the Senator from West Virginia speak for himself. But it is my understanding that the Senator from West Virginia has a different view.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. HAGEL. Thank you, Mr. President. Senator KERRY, is it your intent to enter into a colloquy with the Senator from West Virginia on this issue?

Mr. KERRY. Mr. President, not necessarily. I am going to wait until I have had a moment to discuss this with Senator CHAFEE. But we can proceed with the debate. There are people on his side that would like to speak. I will reserve the balance of our time.

Mr. HAGEL. I thank the Senator. I would like to yield to my friend from Kansas 2 minutes for his comments on this issue as well.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, might I inquire of my distinguished colleague from Nebraska, was that 4 minutes or 2 minutes?

Mr. HAGEL. It is 2 minutes. It was 4 minutes 2 minutes ago, and I am sorry about that. I might add that we intend to continue this dialog and colloquy, hopefully, next week because as a result of the fact that we were given less time late last night than what was originally agreed to, even though I happen to be standing in this position, there is not much I can do with that. I live by the law. So that is why you have 2 minutes, and probably less.

Mr. ROBERTS. Mr. President, might I inquire whether that dialog came out of my time? I assume I have an additional 2 minutes. I was merely questioning the distinguished Senator from Nebraska on the time.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. ROBERTS. I thank the Chair. I am upset. Talking about global warming, I have a little global warming underneath the collar. Two minutes and one hour of debate for such a terribly, terribly serious question.

I rise in support of Senate Concurrent Resolution 98, and that is a fancy word that puts the Senate on record against any U.N.-sponsored, legally binding greenhouse treaty. I come to this issue as the former chairman of the House Agriculture Committee, where we spent years trying to address our emission policies with sound science, reasonable cost-benefit considerations, and I want to wake up farm country because that is not what is going to happen.

A U.N. scientific panel now blames agriculture, under the auspices of this plan, for 20 percent of human-caused greenhouse gas emissions. They propose the following things, Mr. and Mrs. Farmer, so get your pencil out, get your yellow tablet out. We don't have time to really discuss this—Senators want to leap on their airplanes at 12 o'clock—in terms of an issue that will affect every life and every pocketbook in America. But we are here talking about it, and I probably have 30 seconds.

Wake up. Mandatory increased fuel economy requirements. Phaseout of diesel fuel. How are our tractors going to run? I don't know. Limitations on production. Been there, done that. We passed a new farm bill. Mandate for no-till; no-till farming, forcing farmers to buy all sorts of new equipment. Here's a good one: Restrictions on livestock production to reduce methane emission for the United Nations. We are going to control what goes into the cow and now, evidently, we are going to have a U.N. observer trying to control what comes out of the cow. And restrictions on processing and transportation of food products.

This is uncalled for. Many of my colleagues joined to send a letter to the administration to say, how on Earth are we going to do this and still feed America in a troubled and hungry world? That answer has not been forthcoming. We recommended five considerations, and then we follow with the letter that was sent to the President last November by every major agriculture group.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 8, 1996.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Last summer, participants in the second Conference of Parties of the United Nations' Framework Convention on Climate Change (UNFCCC) agreed to negotiations for legally binding numeric limits on greenhouse gas emissions. This dramatic shift from voluntary to enforceable caps on greenhouse gases was led by the U.S. According to your spokespeople, there is now a consensus in the world scientific community which demands urgent action to reduce greenhouse gas emissions.

There is less than agreement outside the United Nation's scientific body. Furthermore, there is still a lively debate among respected scientists about the human versus natural sources of greenhouse gases and their effect on climate. Controversy notwithstanding, the climate change treaty is moving full-speed ahead with the Administration's enthusiastic support. A final agreement is scheduled to be completed in December of 1997, with ratification by individual countries beginning in 1998. If ratified by the U.S. Senate, the treaty will be binding on the U.S. and other developed countries and may be incorporated into U.S. law. However, developing countries will not have to comply.

Of great concern to agriculture are reports under consideration by the U.N. scientific panel which blame agriculture for more than 20 percent of human-caused greenhouse gas emissions. Specifically, we are concerned about proposals for the following: fuel economy requirements, reduction or phaseout of the use of diesel fuel, limitations on production per acre for some crops, requirements for "plowless" soil preparation, mandatory fallowing of crop land, limits and restrictions on livestock production to reduce methane emissions, restrictions on use of fertilizer, restrictions on timber harvesting, restrictions on processing, manufacturing and transportation of food products.

Unfortunately, these proposals ignore agriculture's positive role in reducing greenhouse gases by removing carbon dioxide from the atmosphere through photosynthesis. Most importantly, they cavalierly disregard the most valuable function of modern agriculture—feeding a hungry world. Ironically, rice production has been singled out as the number one culprit in human-caused methane emissions.

We are very concerned that these recommendations or similar ones will be incorporated in the final climate change agreement, ratified and imposed on U.S. farmers and ranchers through U.S. laws. Binding and enforceable controls would apply only to developed countries and would severely disadvantage U.S. farmers and ranchers in today's global markets.

Moreover, we are deeply concerned and surprised that the Administration has not actively consulted with agriculture as the agreement has been developed. We respectfully request that the Administration take the following actions:

(1) The Administration must fully and actively consult with agriculture. Agricultural interests have not been considered by the Department of State and other U.S. agencies which are closely involved with the development of the climate change agreement. The agreement must include an open and extensive public debate which involves agricultural producers and members of Congress, USDA and other agencies.

(2) The Administration should withdraw its support for legally binding and enforceable caps on emissions until here is a stronger consensus from the scientific community that they are justified. If it is determined that controls are justified, they should be accomplished voluntarily or in ways which minimize disruption of U.S. agricultural producers.

(3) The final climate change agreement, scheduled for completion in December of 1997, must be delayed to provide sufficient time for consultation with agriculture and for adequate risk, cost and benefit assessment.

Without proper scientific and economic analyses and assessment, U.S. farmers and ranchers may be placed at a serious disadvantage with agricultural producers in countries which do not plan to reduce greenhouse gases.

If the Administration does not adequately address the above concerns, we may raise them with Congress during the ratification process.

Sincerely,

American Farm Bureau Federation, American Crop Protection Association, American Sheep Industries Association, American Soybean Association, CENEX, National Association of Wheat Growers, National Cattlemen's Beef Association, National Corn Growers Association, National Cotton Council, National Food Processors Association, National Grange, National Milk Producers Federation, National Pork Producers Council, The Fertilizer Institute, United Agribusiness League, United Fresh Fruit and Vegetable Association, USA Rice, Western Growers Association.

Mr. ROBERTS. Mr. President, I am pleased to join a bipartisan majority of my colleagues today in support of Senate Resolution 98 that puts the Senate on record against any United Nations-sponsored global climate change treaty that would be binding on only developed nations.

It had been U.S. policy until last year that the United States would pursue voluntary programs to reduce greenhouse gas emissions to 1990 levels. This made sense, the science is not clear on global warming and no nation should risk their economic well being because of environmental extremism that ignores the call for sound science.

However, Deputy Secretary of State Tim Wirth last year at the Berlin meeting of the Conference of Parties of the U.N. Framework Convention on Climate Change suddenly changed the voluntary course of action. Under the White House's supervision, Deputy Secretary Wirth proposed global warming treaty language that would force the United States and smaller developed nations like Great Britain and Germany, to control their greenhouse gas emissions, but purposefully exempts so-called developing nations such as China, India, South Korea, Mexico, and Brazil, from the binding treaty language.

It is fact that China and India will exceed United States greenhouse gas emissions early next century, but they will be exempt from this U.N.-designed treaty. These developing nations will have no international authority regulating their industries or way of life. As a result, the White House is meekly declining to be forceful in its negotiations and would rather unilaterally disarm our economy that is based on power. If Deputy Secretary Wirth and others supporting this treaty are so concerned, perhaps they can tell me how stopping United States carbon dioxide emissions while letting China and India pollute will help their environmental cause. What is the benefit? There is none under this treaty if these nations are not brought into the same global scheme as the United States.

Mr. President we are really talking about a legally binding greenhouse gas treaty. Sounds like Washingtonese to Mr. and Mrs. America, but what it really means is the White House is telling the world that developed nations feel guilty about their strong and vibrant industrial base, therefore they must be causing global warming. Deputy Secretary of State Tim Wirth in his June 19 testimony before the Senate Foreign Relations Committee admitted that because the United States produces 20 percent of the world's carbon emissions and has only 4 percent of the world's population that Congress, without sound science on global warming, mandate that business and consumers stop using their cars, trucks, combines, trains, and boats, not to mention shutting down factories to ease the pain of others about our quality of life.

In 1990, the United States produced more than 26 percent of the world's goods and services, while producing only 20 percent of its carbon emissions. Deputy Secretary Wirth also failed to show that America's air is getting cleaner because in the Environmental Protection Agency's report National Air Quality and Emissions Trends Report, 1995 documented improvement in air quality over the past 9 years. This improvement in air quality seems to baffle the EPA and supporters of the binding treaty because our air quality keeps improving despite the growth of the U.S. population, more automobile use, not to mention the growth in our gross domestic product.

And, what are the particulars of this globally binding treaty? Perhaps they are reluctant to tell the folks in Dodge City, America, this treaty will establish a global greenhouse trading emissions system. This means some international body, probably the United Nations, will be responsible for tracking our use of fossil fuels in the United States. The United Nations will be required to know how much jet fuel and diesel the Marines, Air Force, Army, and Navy use. The White House has not even discussed the national security implications of this treaty with the Senate Armed Services Committee.

Wake up, farm country, the U.N. scientific panel blames agriculture for more than 20 percent of human-caused greenhouse gas emissions and has proposed the following proposals for agriculture:

Increased fuel economy requirements, meaning that pickups will be lighter and cannot carry as much feed and seed;

Phaseout of diesel fuel. What does the President propose we burn in tractors?

Limitations on production per acre; been there done that.

Mandate for no-till, forcing farmers to use planters that may not be right for their crops or soil;

Restrictions on livestock production to reduce methane emission. Evidently the United Nations does not like cow flatulence;

Restrictions on fertilizer; and

Restrictions on processing and transportation of food products.

This is uncalled for and I joined with my Senate colleagues on the Agriculture Committee in a letter to the

Vice President on March 14 expressing our deep concern that the White House greenhouse proposal was ignorant of the likely mandatory restrictions on the world's food and fiber supplier. Our agriculture policies are the responsibility of the U.S. Congress in consultation with the President. The United Nations should have no say whatsoever in planting, tilling, or harvesting. In our letter we asked the administration to analyze and brief us on the following points regarding agriculture.

First, the potential effect of climate change on U.S. agriculture and livestock production.

Second, the estimated greenhouse gas emission resulting from the production of crops and livestock in the United States.

Third, the net contribution of U.S. forests and crops soaking up greenhouse gases.

Fourth, actions and controls necessary to reduce agricultural greenhouse gas emissions to comply with obligations that may arise under the treaty and an economic analysis of their impact on U.S. farmers and ranchers.

Fifth, whether and to what extent greenhouse gas emission controls would disadvantage agriculture producers in this country compared to producers in other countries with fewer stringent emission controls or no controls at all.

The silence from the White House about our concern is evident that they are waiting until December when Congress is safely at home that they will reveal the treaty includes a carbon fuel tax. Fortunately, my astute colleagues in the Senate have been able to extract pieces of this plan through congressional hearings. The White House will impose a Btu tax on energy sources like gasoline, diesel, and electricity. According to congressional testimony by Dr. Janet Yellen, chairman of the President's Council of Economic Advisors, that a $100 tax for every ton of carbon produced from fossil fuels will be needed to reduce U.S. greenhouse gas emissions to 1990 levels. I know that some of my seasoned colleagues recall that this is the same administration that in 1993 proposed a complicated Btu tax on fossil fuels.

Mr. President, a Btu tax is unneeded and goes against everything the Congress and White House has been struggling for over the past 2 months, a balanced budget with income-tax breaks. What would this Btu tax cost the family, the small businessman, or farmer? Well, some economists believe that to reach the 1990 level of U.S. carbon dioxide emissions that the Btu tax would be comparable to an increase of at least a quarter, if not two, in the Federal gas tax. That's a lot of money for the pizza man or the single mother shuttling kids between school and soccer practice. The same thing happens on these folks' power bills every month because coal or natural gas is used to generate electricity that provides them a warm home in the winter and a cool house in the summer.

Coming from an energy-intensive State where we have to drive long ways to reach home or work, this tax is senseless. Specifically, it will hurt our farmers, who EPA Administrator Browner called earlier this week the "backbone of America." A Btu tax will dramatically affect the bottom line of farmers and ranchers. An analysis of the 1993 Btu tax proposal by the Kansas State University Department of Agriculture Economics determined that would have cost Kansas farmers from $1,311 to $4,531 depending on their location in the Sunflower State. That is a lot of money, and if the crops are bad, it hurts producers' bottom line even more.

Here are some specifics from the report that need to be closely examined because they will mirror what the White House will be proposing. A Rice County, KS, farmer planting continuous cropped wheat under the 1993 proposed Btu tax cost per acre would have increased by $1.45. For a northeast Kansas dryland milo farmer in Brown County, his cost per acre would have risen by $2.90. The same Brown County farmer growing corn, which Kansas is increasing its acreage under freedom to farm, would have paid $3.58 per acre for corn under a Btu tax. A Miami County farmer raising hay and alfalfa costs per acre would have gone up $2.91. why can't the White House give us this information about their treaty proposal?

What concerns me is that the administration is paying attention to the questionable science on global warming and is blindly putting the U.S. agriculture industry in an uneconomical production straitjacket that will do more harm on a global scale. The Kansas State University study determined that the majority of a Btu tax will be passed on in the price of fertilizer, ag chemicals, fuels, and grain drying costs. I would like to quote directly from the study: "[I]n return, the manager will not be able to pass these costs on in terms of higher commodity prices. Farm managers may reduce the use of energy-intensive inputs to some degree, resulting in smaller production and increased commodity prices." While I am never one to question higher wheat prices, I would if it meant forcing farmers from using diesel or fallowing fields because the United Nations suggested it to meet the treaty's requirement.

The study summary goes on. "An increase in the costs of production will reduce the supply of farm crops." We, the United States, who proudly supplies the rest of the world with wheat, corn and almost every imaginable natural product, probably cannot provide food to these developing nations clamoring for international food aid if our production costs increase. If our production goes down, our domestic market will become paramount and the United States may have to ignore the poor and hungry of other nations that we have been feeding for tens of years.

My colleagues, the administration was in the process of trying to develop a specific economic model to predict what the costs of this binding treaty would be on America, not only farms, but all industries. But, the administration told the Congress they specifically wanted the model to be peer reviewed to ensure there would be no questions about its results. However, when they presented it for peer review, the reviewers told the White House that their model did not work and, if they did find one, it would clearly show the treaty would substantially hurt the economy. The White House refuses now to speculate what the impacts would be. Could it be they are afraid of spooking Wall Street and its meteoric rise above 8,000? Why should companies invest in plants and people only to be taxed more here in the United States? As you can see, this treaty will cost jobs.

Mr. President, I urge my colleagues to oppose any weakening amendments to the resolution. This strongly worded sense of the Senate needs to be shared not only with the appropriate administration officials but world leaders in developed and developing nations. I know that there will be a meeting in Bonn, Germany, in several weeks and I hope the administration will reveal to the world that if they propose such a misguided treaty to the U.S. Senate, it will fail.

Mr. LOTT. Mr. President, I support Senate Resolution 98, the sense-of-the-Senate resolution on the Global Climate Change Treaty submitted by Senators BYRD and HAGEL and supported by nearly two-thirds of the Senate. Like many of my colleagues on both sides of the aisle, I have many serious concerns about the economic impact that this treaty would have on our Nation.

By adopting this amendment, the Senate will be exercising its constitutional role of advising the executive branch as part of a treaty process. The President should take this resolution as a serious and constructive step in the treaty process.

Before we take another step toward ratification, I believe that the Senate must insure that the economic impact and inequity of this international agreement be fully aired for the American people.

As written, this legally binding treaty would require the United States and other developed countries to reduce their carbon dioxide and greenhouse gas emissions to 1990 levels by the year 2010. In order to meet these targets, the United States would either have to issue new regulations or levy huge taxes on all fossil fuels in proportion to their carbon contents. Economists have suggested that stabilizing emissions at 1990 levels with a tax could cut America's gross domestic product by $350 billion. Further regulations would likely take even billions more from our economy.

And what would the developing nations contribute?

What would our neighbors in Mexico have to do to help stop global warming? Nothing.

What about other so-called developing nations like Korea, China, India, and Brazil?

The treaty lets them off the hook.

Mr. President, this is not an equitable international policy.

This is not a level playing field for the United States.

Simply put, I believe the United States should not ratify this treaty as it stands.

I do not believe that this Nation has been a bad actor when it comes to characterizing our environmental public policy. In fact, I believe America has already set the example. An example which all Americans have through their taxes and prices on many commodities has already paid for. Unless all the citizens of the globe are involved, there is a clear inequity.

Mr. President, this does not mean I do not want to address the issue of curtailing carbon emissions.

It means that we should only participate in a fair, balanced equitable agreement where all nations must participate.

Is there such a thing as global warming?

We must admit that there is no consensus among scientists about the validity of this theory. While some cry that the polar ice caps are melting as we speak, others point out that the lower atmosphere has shown no statistically significant warming in the past 19 years.

I do not believe this is the place to launch a debate on the quality of the scientific data. I simply point out that the science is not settled or certain. So why rush into signing a legally binding and economically damaging international agreement?

This much is certain—in order for America to reach the treaty's goal of reducing greenhouse gas emissions to 1990 levels by 2010, the United States will have to reduce their fossil fuel use by at least 25 percent.

How do those who advocate this treaty think this will impact our country?

Mr. President, let me give my colleagues some illustrations of what our Nation could face: First, energy taxes on energy use which would reduce economic growth by nearly 3 percent annually, increasing consumer costs by $110 billion; second, the loss of under 2 million American jobs, most of which will actually move overseas; and third, harm to the steel, basic chemicals, petroleum refining, aluminum, paper and cement industries, which would be targeted for severe restrictions by the treaty.

The Byrd-Hagel resolution states that the United States should not be a signatory to any agreement that "would result in serious harm to the economy of the United States." I believe this is a reasonable and responsible action.

Mr. President, this treaty imposes very serious burdens on our economy with little environmental gain. This is just not a sound public policy.

I have but one question for those who want to sign the treaty: How can America help the global environment by wreaking havoc and permanent harm on our own economy?

This administration says that the United States—all alone—should decrease its energy use for 40 years before the developing nations are required to participate. There is no guarantee that these developing nations will be any more interested in curtailing their energy use then than they are now. Today, China is accelerating its use of fossil fuels, and by 2015, will likely pass the United States in total carbon emissions. Is it fair to let them off the hook now while we are subject to such stringent regulation?

The Byrd-Hagel resolution would require developing nations to comply with the same regulations at the same time in the same treaty as the United States. This is not only equitable, it is the only way that there can be any real benefit to the global environment.

Mr. President, the debate over global warming is tremendously important to the future of all Americans. The threat of losing 2.5 percent of our GDP will impose enormous hardships on the average consumer. The treaty is essentially an attack on America's life style.

The United States has already spent more than a trillion dollars to clean the environment. American taxpayers must be assured that any new environmental programs actually provide benefits that outweigh their costs and that are grounded in sound science. At the same time, we must not enter into any international agreement that puts the United States at a significant disadvantage in the global arena.

Mr. President, I believe the Global Climate Change Treaty is unacceptable as it stands at the very least it needs the Byrd-Hagel correction.

I would like to thank and commend Senators BYRD and HAGEL for their dedicated efforts to educate our colleagues on this issue. I appreciate their leadership and thoughtful consideration of this important international environmental issue. Thank you, Senator BYRD and Senator HAGEL.

Mr. President, I urge my colleagues on both sides of the aisle to join me in supporting the Byrd-Hagel resolution.

Mrs. MURRAY. Mr. President, I rise in support of the Byrd resolution.

I will vote for this resolution, first, because the concerns of American workers and industry must be considered in any treaty into which this country enters. This resolution unequivocally sends that message.

Second, it should be without dispute that developing nations must control their emissions if we are to reduce greenhouse gas. This resolution strengthens our bargaining position to ensure real, attainable standards are established for developing countries, too.

I want to make it clear, however, that I support a negotiated global warming treaty. I believe science and common sense mandate that we work to reduce emissions and increase forest conservation to offset emissions.

Regarding the developed-developing nation debate, I believe it is also clear that we developed nations have historically emitted more greenhouse gases per capita than have developing countries. In addition, we are economically more able to absorb whatever increased costs occur based on the need to reduce emissions. Therefore, we should assist our neighbors through technology transfer, economic assistance, and joint ventures in meeting whatever emissions goals are established.

I offer my strong support to the administration as it continues negotiations to reduce greenhouse gases worldwide. I thank Senator BYRD for strengthening the American bargaining position with this resolution.

Mr. McCONNELL. Mr. President, I rise in support of the Byrd/Hagel resolution. This legislation expresses the sense of the Senate regarding the conditions for the United States to become a signatory to any international agreement on global climate change. Consideration of this legislation is critical to shaping the upcoming debate on global climate issues and amending the Framework Convention on Global Climate Change. An upcoming meeting in Kyoto, Japan, has the potential to cripple our economic potential, while allowing the emissions from less developed nations to grow unchecked.

The Rio Treaty signed by President Bush called for industrialized nations to voluntarily reduce greenhouse gas emissions to 1990 levels or lower by the year 2000. All but two countries will miss the goals, including the United States which missed the mark by 10 percent. The administration blamed this on low fuel prices and a strong economy. Mr. President, this is not a liability or something the United States should apologize for.

Nonetheless, in an effort to reverse this success, the Clinton administration signed on to the Berlin mandate in 1995. This is an agreement of industrialized nations to further reduce emissions after 2000. Unfortunately, this agreement exempts 130 developing countries from reductions or commitments in greenhouse gases. This enormous loophole will guarantee the failure of this agreement. In 1996, the administration decided that it would use the Berlin mandate to create a new treaty with legally binding mandates on emission levels.

Mr. President, I am very concerned with the administration's intention to sign an agreement that commits the United States to legally-binding emissions levels that will not achieve significant environmental gains. The fatal flaw of this agreement is that it exempts developing nations, including China which is estimated to exceed the United States in greenhouse gas emissions by 2015. By 2010, the share of U.S. global emissions will fall from 20 percent to just 10 percent as developing nations continue to grow in population and industrial capability. By the year 2100, developing nations are estimated to produce three-quarters of the total greenhouse gases.

In testimony before the Senate Foreign Relations Committee on July 21, Under Secretary Tim Wirth argued this agreement was like a row boat and the United States should "pull a heavier oar at the beginning; over time, we must all pull together."

Mr. President, anybody who has ever operated a rowboat knows that when you pull harder on one oar you end up going in circles. And that is precisely what this agreement will do. It won't achieve any net environmental gains and worse, will succeed in sending our economy into a tailspin.

Left unchanged, this agreement will provide a significant advantage to our competitors. In order to achieve lower emission levels, new energy costs and other costly regulatory burdens required to reduce energy use reduce our competitive advantage in all industries. It is likely to force our most energy-intensive industries like steel, aluminum, chemicals, refining, and paper production to move overseas. Mr. President, this is unacceptable.

Study after study has demonstrated that this agreement would cripple our economy. A DRI/McGraw Hill study shows our Nation's GDP would be reduced annually by 2 to 3 percent. According to the AFL–CIO, between 1.25 million and 1.5 million U.S. jobs would be lost. These jobs would reemerge in other countries where, as a result of the flawed agreement, emission levels and high energy taxes are not a concern. On top of this consumer costs would rise by $50 to $100 billion annually. Higher energy prices would mean increased costs on all goods including groceries, electricity, and gasoline.

Mr. President, I represent a State that this treaty puts right in the cross hairs. There are 25,000 people whose jobs are tied directly to the coal industry. Higher energy taxes, like the Btu tax proposed by this administration, hits coal harder than any other energy source. Thousands of well-paying jobs would be lost in my State as this administration seeks to eliminate coal as our primary energy source, while giving developing nations an unfair advantage.

It is important to keep in mind that coal provides over 50 percent of our power needs nationwide. This is the low cost fuel source that helps maintain this Nation's competitive edge and reduces increased dependency on foreign oil.

Not only would the Kentucky mining industry be devastated, but industries across my State would feel the impact of higher energy prices. As I noted earlier, industries like chemical, steel, paper, and aluminum would be greatly impacted. Three of our leading manufacturers General Electric, Ford and Toyota use significant amounts of energy. The 30,000 jobs at these facilities would all be threatened by our foreign competitors.

The Byrd/Hagel resolution addresses the unfairness in the agreement being considered by the administration. This resolution mandates specific scheduled commitments to limit or reduce greenhouse gas emission for developing nations, with the same compliance period.

If every nation doesn't agree to the same emission levels and timetables, what incentive will they have to negotiate in the future when they have an overwhelming competitive advantage? It is important that we not bargain away the economic advantages we have worked so hard to achieve.

Passage of this resolution will send a clear message to the administration when they begin negotiations in Kyoto. I am hopeful this will prevent the administration from signing an unacceptable agreement that puts the burden of cleaning up the environment on American workers just to have these gains wiped out by developing nations.

Mr. President, I urge my colleagues to join me in sending a strong message to the administration by voting for the Byrd/Hagel resolution. This is a vote for jobs and a vote for the environment.

Mr. BAUCUS. Mr. President, later this year the 166 countries that signed the 1992 climate change treaty will meet in Kyoto, Japan. They will be seeking stronger measures to control a potential threat to the future of our planet and to the lives of everyone living today and children yet to be born.

The threat is easy to understand, even if the science is complicated and a bit uncertain. In hearings before the Environment and Public Works Committee earlier this month, a panel of respected scientists gave us their assessment of the problem.

They told us that man-made emissions of greenhouse gasses, such as carbon dioxide, have led to a distinct warming of the Earth over the past 100 years. More troubling, however was their prediction.

If left unchecked, the continued growth in these emissions, which trap the sun's heat, will have potentially serious effects. These consequences include shifting climate patterns and more frequent violent weather events, such as floods and droughts.

Now most areas of the country experience extreme weather conditions from time to time. But permanent shifts in climate patterns can seriously alter our lives and our economy.

For instance, in an agricultural State, such as Montana, the prospect of more flooding and longer dry spells is a threat to the livelihood of our farming and ranching families and their communities. And, if weather patterns change, crop yields can be seriously decreased.

These kinds of threats to our future are serious enough that we must take action to avoid them. We can begin by controlling our greenhouse gas emissions. And if we start with modest steps now, instead of waiting, we will likely avoid any serious economic disruptions.

In 1992, the Rio summit asked developed countries to lead the way. The climate change treaty committed these countries to voluntarily reduce their emissions of carbon dioxide to 1990 levels by 2000.

Unfortunately, the voluntary actions didn't work. The good intentions of most countries never translated into concrete results. So if we are to control these emissions, the new treaty must contain binding limits on emissions.

However, we also need to make another change in the 1992 treaty.

We certainly need binding controls on developed countries, which currently emit about 60 percent of global greenhouse gases. But we also need them on developing countries, which are responsible for the remaining 40 percent.

We simply can't reach a solution by addressing only 60 percent of the problem. Furthermore, unless all countries participate, we run the risk of giving our economic competitors an unfair advantage.

Yet developing countries are resisting such efforts. So how can we change their thinking? Perhaps by broadening our own.

Let me take one country, China, as an example. Why China? For one, because over the next 20 years, China will be responsible for one-third of the increase in greenhouse gas emissions.

For another because the United States has a lot of issues to deal with China on. Trade, human rights, regional security, and environmental protection, to name a few.

So despite fundamental disagreements on some issues, we share many mutual interests, including climate change.

China has more people potentially at risk from rising sea levels and violent weather than any other nation. It also has an urgent need to increase its domestic energy supplies. If we consider the broad array of interests we share, I suspect we will find ways to gain their support on climate change issues.

After all, China is a growing part of the problem, it must be part of the solution.

Another aspect of encouraging developing nations to participate in new emission controls is to include in the treaty flexible, market-based strategies, such as joint implementation and emissions trading.

Market-based strategies have been very successful here at home. For instance, the acid rain program in the 1990 Clean Air Act included trading of sulfur dioxide emissions credits.

This program stimulated technological innovation. It also reduced sulfur dioxide emissions at a cost that was less than one-tenth that predicted by industry.

By including similar programs in a climate change treaty, we can achieve greenhouse gas reductions at the lowest possible cost. It gives U.S firms the flexibility to comply with emission targets in a way that makes the most sense for them. And it will protect our worldwide economic competitiveness.

For developing countries, emission trading can give them access to new technology and financial support that will make it easier for them to comply with their new obligations.

The language contained in Senate Resolution 98 will help achieve the goal of including all countries in the new treaty.

It requires that the treaty mandate new specific scheduled commitments to limit or reduce greenhouse gas emissions for developing country parties within the same compliance period as developed countries.

But since developing and developed nations are starting from different places, it makes sense to require different targets. Here again, the language crafted by Senator BYRD helps. It does not specify that developed and developing countries meet the same targets and timetables.

When Under Secretary of State Tim Wirth recently appeared before the Environment and Public Works Committee, he spoke in support of Senator BYRD's resolution. I believe he said it was "largely on the button." He added that the administration "very much agrees with the thrust of what [Senator BYRD] is saying related to developing country commitments."

So although the language of the resolution requires new commitments from developing countries, the administration should seek emission targets that are more consistent with their level of industrialization.

I plan to follow the treaty negotiations carefully to be sure that developing countries have agreed to commit to controlling their greenhouse gases.

And while the resolution unfortunately omits any mention of the need for market-based strategies to achieve the emissions targets, I believe the treaty must include them. They simply make much more sense for all countries than the command-and-control approach being advocated by some.

In closing, Mr. President, let me say that the toughest issues for democracies to handle are those in which the threat to society builds gradually, but inexorably, over time, such as with global climate change. We deal well with immediate crises.

My hope is that by debating this issue today, by passing this resolution, we will elevate the public discussion about climate change and avoid the need for a future crisis to spur us into action.

Mr. KYL. Mr. President, I take this opportunity to comment on the resolution now before the Senate. It is clear from the number of Members who are signatories to this resolution that the majority of this Chamber has significant reservations, as it should, about the ratification of any international agreement on greenhouse gas emissions under the U.N. Framework Convention on Climate Change. I intend to vote for the resolution, but I must say I believe it does not go far enough in bringing to light the faults of the convention. I'd like to amplify some points that are touched upon only briefly in the resolution.

I am very concerned about the call to move away from voluntary goals, as framed in the original convention, toward legally binding emissions-limitation targets and timetables for the United States, as well as the other developed, or annex I, countries that are party to the convention. The 1992 treaty, ratified by the Senate, called for the economically developed countries to undertake voluntary actions to aim to reduce their greenhouse gas emissions. Unfortunately, the only major developed nations that will meet this voluntary target of 1990 levels by 2000 are Britain—because it switched its fuel for electricity production from heavily subsidized coal to North Sea natural gas—and Germany—because it is able to count efficiency gains from replacing its ancient East German powerplants. Despite the fact that the United States is expected to miss its own target by about 10 percent, the administration, by signing the Berlin mandate in March of 1995, now believes it is a good idea to pursue additional emissions reduction targets after the year 2000. The Berlin mandate, which was not presented to the Senate for approval, sets up a process to negotiate a new treaty that will: First, commit the United States, and other developed countries to a legally binding agreement—contrary to the earlier approved agreement; and second, specifically exempt the 130 developing countries, including the emerging economies of China, Mexico, and Korea, from any additional commitments.

It does not make sense, either environmentally or economically, to focus on the nations which are already spending billions on pollution control and making substantial progress, while ignoring the so-called developing countries. U.S. companies, using the best available technology, are able to eliminate a great deal of pollution from their emissions. To achieve an additional increment of pollution reduction requires a much larger amount of money to be spent. Because of the law of diminishing returns, the costs will heavily outweigh any benefits. However, in developing countries, where the pollution control technology is not be as advanced or widespread as it is here in the United States, a dollar spent on pollution control will stretch much further and achieve far more significant reductions in overall pollution. Thus, the cost/benefit ratio favors significant pollution reduction in developing, not developed, countries.

In addition to the simple cost/benefit analysis, many scientists predict the greatest increase of future greenhouse emissions will come from developing countries like China, Mexico, Brazil, and Korea. As much as 60 percent of global carbon emissions are expected to come from such countries in the next few decades, with China becoming the single-largest emitter in the near future. Since these countries are expected to produce the bulk of future greenhouse emissions, exempting them will not reduce net global emissions. Both cost-benefit analysis and common sense say that the most effective way to reduce net global pollution is to reduce emissions in the developing nations.

While I presume many supporters of this resolution agree that under no circumstances should the United States be subjected to legally binding emissions limitations, I believe the resolution is somewhat unclear. As I read it, it says the United States will agree to legally binding emissions if "the protocol or other agreements also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for developing country parties within the same compliance period." Unfortunately, I believe this condition is not sufficient. As many of you know, it has been interpreted by different people in different ways. Some read it to mean that the Senate will not approve a treaty that does not include identical emissions level and target date requirements. Others, however, have read the same language and determined that it means any treaty must have equal commitments when it comes to setting time tables but not emissions levels. Unfortunately, it is easy to set developing countries on a time table and allow then to continue to pollute in any amount they desire. The emissions levels can be easily set so that the developed countries have very stringent, and perhaps unattainable levels, while the developing countries have very lax, easily reached goals—all the while, all countries are operating within the same timetable. The timetable alone does not determine the amount of pollution emitted; the emission level is more important. Setting the developing countries to the same timetables without meaningful emissions limitations will not preclude them from emitting larger amounts of greenhouse gases. This approach, I believe, defeats the purpose of the treaty ratified by the Senate, which is to voluntarily reduce greenhouse-gas emissions on a global scale. The original intent was not to legally bind the annex I countries to set timetables and emissions levels while only requiring the developing countries to comply with parallel timetables but not the same emissions standards.

Also of concern is the fact that the administration is basing its climate-change policy on questionable science. The science on climate change is very much an open inquiry into an as-yet-unconfirmed phenomenon over which the scientific community remains sharply divided. Discrepancies exist in the evidence now being considered. So, before the administration binds the United States legally to costly, and possibly unnecessary, standards and goals, shouldn't we allow for the science on this matter to first evolve and, in turn, allow for us to base our decision on facts?

Finally, there is the question of why the United States would embark on a course of action that many scientists say would do little environmental good. A report released in January of this year, January 10, 1997, by the Congressional Research Service poses the question: "Given the scientific uncertainties regarding the magnitude, timing, rate, and regional consequences of the potential climatic change, what are the appropriate policy responses?" I believe the appropriate response is to wait for the science to evolve; not to leap into legally binding emission limits that, if developed, would not necessarily improve the environment and would cost American citizens billions of dollars.

Confirming this approach, Dr. Robert C. Balling, Jr. of Arizona State University issued a report entitled "Global Warming: Messy Models, Decent Data, Pointless Policy." In it he states, "Global warming is presented as a crisis that can be stopped or minimized with appropriate policy actions. However, the evidence suggests that realistic policies are likely to have minimal climatic impact. Recent research also suggests that a delay in implementing policy responses will have little effect on the efficacy of global warming mitigation strategies." He continues: "It is absolutely imperative that the policies developed for the global warming issue be built on the best science." Mr. President, I could not agree more.

This December in Kyoto, Japan, the administration will further commit itself to the convention; it will be offering protocols to that instrument that lack the necessary support of the scientific community. Because we do not know enough to support these terms and allow for the administration to exploit the ends to justify the means for climate-change policy, the responsibility to ensure that the United States is not legally committed to reducing greenhouse-gas emissions will be placed in the hands of the U.S. Senate. We must preserve the right to question the validity of these protocols. Congressional oversight of the negotiations is crucial and any agreement reached in Kyoto must be brought before us for advice and consent. Once the science on this issue has evolved, we will then be able to base our laws on the science and avoid the costly mistake of basing the science on the laws.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Byrd resolution on global climate change and I urge my colleagues to support it. I am proud to be a cosponsor of this resolution.

This resolution explains what the ground rules should be if the United States is to become a signer of the United Nations Framework Convention on Climate Change. This resolution would prohibit the ratification of any treaty that would seriously threaten the economy of the United States. It says that both industrialized nations and developing countries must share the burden of any globally binding treaty on climate change equally.

I support the Byrd resolution for one simple, but very compelling reason—jobs. For those of you who thought you'd hear a vacuum sound pulling jobs overseas following NAFTA implementation—you ain't heard nothin' yet. The only thing this treaty will do, the way it is written now, is destroy American industry as we know it. I will not be a party to any treaty or agreement that sends American jobs overseas. Business won't have any incentive to maintain or build new factories in the United States.

Let me be clear: I support international efforts to improve the environment. But the effort must truly be international if we are to make any progress. I do not believe efforts to control or reduce global warming will be successful unless rapidly developing countries are forced to take the kind of tough steps that the United States will have to take.

We cannot be a part of a binding international agreement that lets countries such as China, South Korea, and India off the hook. Developing nations do contribute to global warming. If we exempt them from the restrictions mandated for the industrialized nations, we will simply see a shifting of pollution, not a reduction. This is not what anyone wants to see happen.

The objective of the treaty being negotiated is to curb global climate change. The United States has already taken steps to achieve this goal. At the beginning of President Clinton's first term, he released his administration's version of a domestic climate change action plan.

This plan relies on a comprehensive set of voluntary actions by industry, utilities, and other large-scale energy users. It also promotes energy efficiency upgrades through new building codes in residential and commercial sectors. Large-scale tree planting and forest reserves are encouraged, as well as increased use of hydroelectric power sources.

These are important steps which will have a positive impact on our global climate. We certainly must continue to research causes of global climate change, and come up with scientifically sound solutions. Our viability as a nation and planet depends on it.

But we cannot throw away American jobs based on a plan that could have only a marginal impact on climate change. Coming up with the right plan should have little effect on the American economy, because it will mean an overall sustainability of the global environment, and the continuation of the United States as a leader of technological and industrial innovation.

Once again, Mr. President, I support this commonsense resolution, which will simply ensure that American jobs won't be lost as we address the issue of global climate change. I am hopeful we can pass this resolution and move on to the next stage of protecting our global environment. I thank the Chair.

Mr. THOMAS. Mr. President, I rise today in strong support and, as an original cosponsor, of Senate Resolution 98, the Byrd-Hagel global warming resolution.

I want to thank the Senate leadership and Senators BYRD and HAGEL, for scheduling floor time for this important initiative before negotiators begin talks in Bonn, Germany.

The administration's current go-at-it-alone plan regarding global climate change is grossly unfair to the United States.

I am opposed to setting legally binding targets and timetables on the United States and other developed countries to reduce greenhouse gas emissions, while at the same time exempting China, Mexico, Brazil, South

Korea, and India from those identical regulations.

This will only worsen the problem the administration claims it wants to fix.

Developing countries are projected to continue increasing their use of fossil fuels.

And by the year 2015, China alone is expected to surpass the United States in total carbon emissions.

The Clinton administration's plan will also drive the economy down and send jobs overseas.

The AFL–CIO estimates that between 1.25 and 1.5 million American jobs would go overseas.

And the plan would put the United States at a severe competitive disadvantage and reduce our GDP by $200 billion.

Nevertheless, the administration—led by Under Secretary of State Tim Wirth—is on a mad rush to sign a legally binding treaty in Kyoto, Japan, this December.

This is in spite of:

Uncertain global warming science;

The administration's unwillingness to reveal its final targets and timetables for emissions reductions; and

The fact that they have now thrown out their economic analysis models, which were supposed to help guide policy makers.

The Byrd-Hagel resolution addresses these discrepancies.

It would direct the United States not to sign any agreement that would:

"Mandate new commitments to limit or reduce greenhouse gas emissions, unless it also mandates specific scheduled commitments to reduce gas emissions for developing countries within the same compliance period"; and

"Result in serious harm to the economy of the United States."

Sixty-four of my colleagues have cosponsored this initiative and I urge their support of this resolution.

Mr. President, I strongly encourage the administration to listen to the concerns being expressed by this Chamber.

Be honest with us and the American people, and realize that we will not ratify any treaty which commits the United States to one set of standards to reduce gas emissions, but will let China, India, Mexico, and other developing countries off the hook.

We ought to focus on bringing all of the countries of the world to the table. Everyone ought to contribute to the cause.

Asking all nations to contribute—within the same compliance period—will help the environment and help U.S. industries stay competitive.

Mr. KERREY. Mr. President, I rise today to voice my support for Senate Resolution 98 regarding the U.N. Framework Convention on Climate Change. Like my colleagues in the Senate, I too am concerned about the effects on the economy of any national or international agreements that the United States enters into. I am particularly concerned with any agreement that may impact the well-being of the American public and the ecological balance of this Nation. The U.N. Framework Convention on Climate Change has the potential to do both.

The United States is scheduled to join with leaders of 160 nations in Kyoto, Japan in December of this year to conclude negotiations on a global climate change treaty. The Kyoto summit is the latest in a series of meetings that have been held since this body ratified the U.N. Framework Convention on Climate Change in 1992. At Kyoto, the United States and other countries hope to adopt a protocol or legal instrument to deal with the threat of climate change in the post 2000 period.

It is my belief that the United States must take the leadership role in these negotiations, and steer the course to achieve an equitable, reasoned approach to global climate change mitigation, an approach that seeks inclusion of all countries and that offers a solution to the issue. While I believe the resolution before us will allow such an approach, I want to emphasize to the administration the essential nature of a negotiated framework to which all countries can accede.

Before I summarize my analysis of the need for global action, let me review the facts. First, global climate change is real. If it were not, 160 countries would not be meeting to address it. However, there are uncertainties about the effects of global climate change—uncertainties relative to the timing, the magnitude, and regional patterns of climate change. We must acknowledge these uncertainties, but acknowledge also that they do not justify inaction.

As stated recently by Dr. William Nordhaus of Yale University: "The results (of studies) definitely reject inaction; uncertainty alone cannot justify waiting for the revealed truth to act, particularly when the revealed truth, if it ever comes, is probably going to arrive at the point where the effects are irreversible."

Second, a leading indicator of climate change is increased emissions of global greenhouse gases. Concentrations of atmospheric carbon dioxide—the largest component of greenhouse gas emissions—are about 26 percent higher now than they were 100 years ago. Also, globally averaged air temperatures at the Earth's surface have warmed by nearly 1 degree Fahrenheit over the last 100 years.

Increased emissions of greenhouse gases are virtually entirely due to the activities of man. As a general rule, a country's greenhouse gas emissions rise in concert with increased industrialization. It is no surprise, then, that the United States is the greatest emitter of greenhouse gases, both in terms of gross and per capita emissions. However, the emissions of some developing countries are rapidly escalating, and the emissions of some are expected to surpass that of this country in the first quarter of the next century.

Which takes me back to my call for U.S. leadership. As the world's industrial leader, the United States should take a clear lead in negotiating a framework for all countries to participate in global climate change abatement. A global approach, and global participation, is requisite to a successful outcome. This approach may require a new framework and a fresh look at timetables and current directions. My understanding of the data is that we have time to do this—we have time to assess where we are and how best to craft equitable policies. But inaction is not appropriate.

The resolution before us requires commitments of developing countries to mitigate greenhouse gas emissions in the same timeframes as developed countries. This may resonate as promoting a policy that discourages the participation of many developing countries. However, the resolution will allow developing countries appropriate flexibilities in commitments to address global climate change abatement. The United States and other developed countries must accord newly developed and developing countries flexibilities and incentives to participate, and these need not create economic disadvantages to the United States or any other developed country.

I cannot emphasize enough the importance of this point. Without all countries on board, inaction becomes inevitable, because emission reductions achieved by one country will soon be offset by increased emissions from another.

An equitable approach that encourages commitments by all parties and that offers incentives to developing countries is needed. Market-based solutions to curb emissions will allow continued economic growth with minimal impacts. Developed countries are in a better position to implement emissions-curbing activities and technologies at low cost and impact, and to also transfer these abilities and technologies to developing countries and to aid in their economic advancement in a way that tempers emissions growth.

While measures to stabilize greenhouse gases at a certain level will inevitably lead to some energy price increases, an international emissions-trading scheme could substantially reduce the potential costs. What is needed, however, is a policy to ensure that incremental costs of reducing or stabilizing emissions are equalized across firms, across sectors, and across countries. This can only occur if we take into account the economies, emissions and abilities of countries to participate, and if we assign actions accordingly and in appropriate timeframes.

Market mechanisms can reduce cost impacts of emissions reductions agreements. A preferable policy would be to set short- and long-term goals to stabilize greenhouse gas emissions, and to set quantity limits on emissions that are linked to prices. Targets and timetables for emission limitations cannot operate independently of market prices. An international tradeable emissions permits system, with price caps and floors, would have revenue potential and would be cost-efficient.

Technology transfer and development is an important policy aspect for the abatement of global climate change. The United States and other developing countries have within our current capabilities technologies which can lead to dramatic reductions in greenhouse gas emissions. We can increase the efficiencies of industry, of transportation, of many energy-intensive activities, all with what we already know. By implementing these capabilities and by transferring these technologies to developing countries we can curb emissions significantly. Continued technology development is also necessary.

Lastly, and perhaps most importantly, we must continue to advance the science related to these policies, and to allow policy changes as the data warrant.

Mr. President, I conclude my remarks by repeating that I, too, am concerned about any agreements or policies that effect the well being of this country. However, I believe it is in our best interests and that of the world community to approach global climate change in an inclusive, proactive manner that seeks continued economic growth. That approach demands action, and global coalition building, and it is incumbent upon the United States to steer that course.

Mr. SHELBY. Mr. President, I rise in support of Senate Resolution 98. The negotiations on limiting post-2000 emissions of greenhouse gas emissions, which are scheduled to conclude in December in Kyoto, Japan, will have a significant impact on all Americans. This resolution addresses concerns that the administration has chosen to ignore while pursuing an international agreement that will bind the United States for decades to come.

Science should lead policy. Once again, the administration is pursuing an environmental policy that is based on insufficient research and analysis. Many in the scientific community believe that we are still years away from computer models that can confidently link global warming to human activity. Yet without strong scientific data, the administration is ready to commit the United States to binding actions that will impose economic and social burdens on every American.

Recently, the Department of Energy released a report by the Argonne National Laboratory containing several troubling findings on the effects of the proposed treaty on our economy. Among the conclusions, the study found that without requiring developing countries to meet the same emissions standards as the rest of the world, up to hundreds of thousands of U.S. jobs will move overseas to so-called developing countries that have refused to participate in any new climate agreement. Higher energy prices will lead manufactures to produce less at higher costs resulting in job loss, higher consumer prices and an inability to compete in a global marketplace. This will devastate our Nation. Yet, the administration is pushing to commit the American people to participate.

The developed countries should not shoulder the responsibility for reducing greenhouse gas emissions around the world. It seems obvious that in the long-run increasing emissions in developing countries will far outweigh any actions taken by the developed countries. Any binding actions by the United States must be accompanied by binding commitments from developing countries. I believe a majority of Americans would agree that devastating our Nation's economy by promoting industry flight overseas is not the answer to a global issue.

The public has a right to know how the administration's commitments requiring them to reduce fossil fuel energy will be accomplished and how their lives, jobs, and futures will be affected. I am greatly disturbed that the administration has not sought, and therefore has not received, support from Congress or the American public on this matter.

Mr. President, the American people deserve an open, objective and honest debate on the development of U.S. climate change policy. Without that, I can not and I will not support committing the United States to limiting post-2000 greenhouse gas emissions.

Mr. LIEBERMAN. Mr. President, I rise today in support of Senate Resolution 98. I believe climate change is a serious problem that requires credible action by the international community. Negotiations on an international agreement to limit greenhouse gas emissions will conclude this December in Kyoto, Japan. This is an essential step in the long-term, global efforts to deal with climate change. While I support Senate resolution's call for increased involvement of developing countries in the Kyoto agreement, the resolution does not take into account other key components of the treaty that are essential to its success, particularly for the United States' business community.

The scientific basis for moving forward with an international agreement to limit greenhouse gas emissions is compelling and significant. According to the Intergovernmental Panel on Climate Change—a group of 2,500 expert scientists representing more than 50 countries, the ever-increasing emissions of greenhouse gases from human activities are changing the global climate. Given the potential impacts of climate change predicted by the IPCC—more droughts, more floods, sea level rise, water scarcity, and increased incidence of infectious diseases—it is not surprising that nations of the world agreed to find more effective ways to understand and deal with the problem. If we don't agree to long-term greenhouse gas limits soon, and instead wait to see how our climate changes, it may be too late. Greenhouse gases remain in the atmosphere for decades to centuries, and there is a long lag time between when gases are emitted and when the climate consequences of those emissions appear. So we need to begin reductions soon to have any long-term effect. And, a new generation of energy-efficient technologies requires a long lead time for development and implementation. This won't happen without clear signals to the market that an international agreement on climate change would provide.

Senate Resolution 98 focuses on the role of developing countries in the Kyoto agreement. The principles expressed in the resolution regarding developing countries are on target. Climate change cannot be solved by the developed countries alone—we are indeed all in the same boat.

New commitments by developing countries regarding their performance under the Framework Convention on Climate Change, of course, need to be consistent with their historic responsibility for the problem, as well as their current capabilities. The ground rules for the negotiations—the Berlin mandate—recognize these common, but differentiated responsibilities.

It is clear that the Berlin mandate can be carried out in a way that is consistent with Senate Resolution 98. The resolution says that developing countries can start with a commitment that is lower relative to the industrialized countries at first. Over time, however, the commitments of developing and developed countries must become comparable to ensure that every country does its fair share to address the problem.

Senate Resolution 98 states that developing countries have to start making quantified emissions reductions objectives within the same compliance period as developed countries. This means that at a stage to be negotiated over the compliance period of the Kyoto agreement, developing countries must begin to make quantified emissions reductions objectives. Senate Resolution 98 says that it is entirely appropriate for industrialized countries to start making quantified emissions reductions first, as long as developing countries also commit to making quantified emissions reductions before the end of the time period worked out for the Kyoto agreement. I agree with this basic approach—the sooner developing countries take on quantified emissions reductions targets, the sooner we can achieve a global solution to the climate problem.

At the same time, I am concerned that the resolution does not take into account other key components of the treaty that are essential to protect U.S. competitiveness. I am concerned that elevating one issue to a level of importance that will overshadow other key matters may harm the United States' efforts to ensure that the climate agreement is realistic, achievable, and will not harm the U.S. economy. For example, the need for flexibility in implementing a treaty is critical to protect U.S. competitiveness. Some countries, such as members of the European Union, would prefer highly prescriptive policies and measures to meet reduction targets. The United States' negotiating team has made flexibility an absolute prerequisite for any agreement, and I want to commend them for this approach. I believe that, to be acceptable, our businesses must have the most flexibility possible to find the least-cost ways to reduce emissions. This means the agreement must contain provisions that are so important to our business community: emissions trading, joint implementation between nations, and appropriate credits for those countries that have already made certain emissions reductions. Senate Resolution 98 is silent regarding these provisions.

As we grapple with the human judgments and values that inevitably will determine how we handle climate change, we must base our actions on the facts—the scientific evidence of climate change, the physical effects that are likely to result from it, and the ways we can credibly address this problem on a global basis. While Senate Resolution 98 is only part of a bigger picture that needs to be addressed, it is a step toward adressing this global issue.

Mr. CONRAD. Mr. President, I rise today to express my strong support for the Byrd-Hagel resolution regarding global climate change. I was an original cosponsor of this bipartisan resolution, and I believe it sends an important, commonsense message that we cannot enter into a treaty that requires the United States to limit its emissions of greenhouse gases without requiring developing countries to also agree to limitations on their emissions. Such a proposal would not make environmental sense and it certainly would not make sense for our Nation's economy.

This resolution is very simple. It says that a treaty will not be ratified by the U.S. Senate if it does not include both developed and developing countries in binding timetables and emission limitations. It seems to me that the only way the world will be able to stabilize the concentration of greenhouse gases in the atmosphere is if every nation participates in a meaningful way in limiting its emissions. The resolution does not say that all countries must make identical emission reductions; only that they must be participants in limiting greenhouse gas emissions in the same timeframe as the developed world.

Mr. President, I fear that a treaty that requires us to place significant restrictions on our economy will only lead to a flight of jobs and capital from this country to nations that do not face greenhouse gas emissions limitations. That could be a potential disaster for our Nation's economy, for its workers, and for our long-term economic stability and growth. So the Byrd resolution also requires the administration to develop a detailed analysis of the potential financial costs and other impacts on our economy. That is not an unreasonable request. We would clearly need to know the potential consequences of any treaty on our Nation's economy before the Senate could be asked to ratify such a treaty.

Mr. President, the U.S. Senate has a constitutional duty to advise and consent on treaties negotiated by the administration with other nations. This is a responsibility I take very seriously, and I know every other Member of this body considers it one of our most important duties. I hope the administration will listen carefully to the debate on this resolution, and pay close attention to the guidance provided in the Byrd-Hagel resolution as it negotiates with other nations in preparation for a final meeting in December in Kyoto, Japan.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, does Senator KERRY wish to go forward? Is he prepared?

Mr. KERRY. Mr. President, might I inquire? How much time remains on our side?

The PRESIDING OFFICER. Thirty-five minutes.

Mr. KERRY. How much for the other side?

The PRESIDING OFFICER. The Senator from Nebraska has 16 minutes.

Mr. KERRY. Mr. President, if I may, I would like to ask if I might be able to enter into a colloquy with the Senator from West Virginia at this time.

Mr. HAGEL. May I ask? Point of inquiry. Is this on the time of the Senator from Massachusetts?

Mr. KERRY. Mr. President, this is on my time.

Mr. HAGEL. I thank the Senator.

Mr. KERRY. Mr. President, I would like to ask the views of the Senator from West Virginia on the proposal by the Europeans to erect the so-called European bubble, and its effect on U.S. competitiveness.

It appears to me that this proposal is driven more by economic considerations than concern for limiting carbon dioxide emissions.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. KERRY. I yield to the Senator for his views on that.

Mr. BYRD. Mr. President, I am glad the Senator has asked this question. Earlier he had indicated that we had agreed on certain things. We agreed on one thing: that we would enter into a colloquy. And I always reserve the right to express my own views on matters, and not necessarily agree to the expressions of others as to how they think and what they think I say.

May I say that I am only expressing a personal viewpoint here. The Senator said earlier that there were Senators in this body who signed onto the resolution who want to kill the treaty. That may be so. This Senator is not one of those. I am not out to kill the treaty.

But what I was out to say—and the reason I got behind this effort—was to send a message to the administration that if the Senate is not included in the takeoff, if the Senate is not included at the beginning, if the Senate is intended to be shut out of doing its constitutional responsibility of advising as well as consenting in making a treaty, then count me out.

If you want to really kill this treaty, abide by the Berlin Mandate and let the developing countries off the hook until some future time. That is what will surely kill the treaty, and I will join in stabbing it in the heart, if that is the case. If that treaty comes back here and the developing countries are left off the hook, count me in on the assassination of the treaty. It will be done in public view. It won't be behind a bush.

Mr. President, the Senator raised an important point. The Europeans have erected what they call a bubble, which is simply a mechanism for them to trade off emissions levels from one country to another so long as they honor overall an average which conforms to the treaty-imposed cap on developed country emissions. This is viewed by some, including me, as a technique to maximize the economic competitiveness of European countries by keeping emissions reductions to a minimum as a result of the trades that would be available under the bubble from one country to another within the European Union.

Mr. KERRY. Mr. President, let me just also say to the Senator that I agree completely with his notion, as I said earlier, of the importance of our advising here about the importance of other countries being part of the solution.

But I ask if the Senator would agree that the United States is placed at a disadvantage by this concept of the European bubble, and that the inclusion of free-market mechanisms in a treaty—particularly emissions trading schemes and so-called joint implementation—could be used to counter that challenge.

Mr. BYRD. Mr. President, if the Senator would yield.

Mr. KERRY. I yield to the Senator from West Virginia.

Mr. BYRD. I believe that if the United States is going to enter into binding commitments to limit or reduce our greenhouse gas emissions, we need to remain competitive vis-a-vis the Europeans, and everybody else, for that matter. Therefore, an emissions trading mechanism whereby we can exchange our higher level emissions by buying emissions credits from, let us say, Russia or other nations with lower emissions, is an example of one potential tool that the U.S. negotiators might explore in the climate change negotiations.

Mr. KERRY. Mr. President, will the Senator agree further that an emissions trading scheme also has the beneficial effect of easing the economic cost that might be incurred by U.S. industry as a result of a regime of binding commitments entered into at Kyoto?

Mr. BYRD. Mr. President, if the Senator will yield, I personally believe that it could have such an effect. There are a number of other tools that are under development, and these, in my judgment, should be further explored for inclusion in the proposed treaty in order that our own economic growth not be penalized by the treaty. These tools include joint implementation involving partnerships among industries in the developed and developing countries. There are, as well, many areas where other U.S. programs and initiatives could be enhanced to further the same objectives, such as cooperative technology ventures and enhanced research and development of both fossil fuel development technologies and alternate fuel technologies. These tools and programs may also have an advantage in encouraging the developing world to make meaningful binding commitments. So they should be explored as a natural companion to provisions establishing binding commitments.

The purpose would be to level the competitive playing field so that the United States is not placed at a disadvantage and to help insure that all the world's economies will share the responsibilities to tackle the global warming problem.

Mr. KERRY. Mr. President, I thank the Senator from West Virginia for his explanation and his views.

I believe that the administration must pursue the development of these tools and initiatives and their inclusion in any binding treaty that is arrived at in order to reduce any negative impact of higher energy prices on our economy. And I believe this would certainly enhance the prospects of Senate approval of any treaty that is arrived at.

Mr. BYRD. Mr. President, if the distinguished Senator will again yield, in general, I personally agree with this overall proposition, although I would note the administration has not yet settled on its specific policies regarding the negotiations, and it leads to further work on developing and explaining the workings of these market mechanisms so that they will be more fully understood.

Mr. KERRY. Mr. President, I thank the Senator from West Virginia for those views and for entering into this colloquy with me.

Mr. BINGAMAN. Mr. President, the issue of the extent to which human-induced global climate change is occurring, and the proper societal response to this change, is one of the most difficult public policy issues facing us today.

We are emitting into the atmosphere an unprecedented amount of the gases that we know trap heat in the Earth's atmosphere, and thus result in what is known as the greenhouse effect. At the same time, the connection between this artificial elevation of greenhouse gas levels and changes to the world's climate is only slowly coming into view. The global climate system is extremely complex, and we are still making major scientific discoveries about the components of that system. The consensus of the world's climate scientists on the human contribution to global climate change has recognized both these uncertainties and the growing evidence that there is a human fingerprint on climate change. The key conclusion of the most recent consensus report of the global change scientific community is as follows:

> Our ability to quantify the human influence on global climate is currently limited because the expected signal is still emerging from the noise of natural [climate] variability, and because there are uncertainties in key factors. These include the magnitude and patterns of long term natural variability and the time-evolving pattern of forcing by, and response to, changes in concentrations of greenhouse gases and aerosols, and land surface changes. Nevertheless, the balance of evidence suggests that there is a discernible human influence on global climate.

The current state of uncertainty should not be a cause for comfort. There is a substantial lag in global climate response, so even if we were to magically reduce our greenhouse gas emissions to zero tomorrow, the world's climate would still be responding, over the next few decades, to past emissions. It is also clear that the global climate system is not a well-behaved linear system, like traveling on a straight road over a gentle predictable hill. It is more like a wild mountainous road, full of unexpected curves and cliffs. In such a situation, ignorance of what might lie ahead is not bliss, and it is prudent to slow down until you have a better appreciation of what you are dealing with.

For this reason, we are engaged in international negotiations to discuss how the world might arrive at a joint international plan for slowing down the emissions of the principal greenhouse gas, carbon dioxide, into the atmosphere. Because of the central role that burning carbon plays in our energy, transportation, and economic systems, it is important that such discussions focus on sophisticated, as opposed to simple-minded, approaches to the problem.

I believe that the Clinton administration deserves credit for having put forth, in the current negotiation, what is easily the most complete and sophisticated proposal of any that has been advanced to date.

The administration's proposal rejects the command-and-control approaches put forward by many of the other parties.

The administration's proposal, instead, relies on market-based mechanisms for controlling the rate of future emissions of greenhouse gases, extending our successful experience to date in this country with such mechanisms for controlling emissions of sulfur dioxide.

The administration's proposal allows for maximum flexibility on the part of each participating country in designing and implementing greenhouses gas control measures that make economic sense for that country.

The administration's proposal encourages the development and use of advanced technologies.

These approaches—market-based mechanisms, individual flexibility, and more reliance on advanced technologies in place of command and control—are precisely the approaches that so many of my colleagues said should be at the basis of all regulatory policy, during consideration of the Dole-Johnston regulatory reform bill in the last Congress. It is commendable that the administration has made these approaches the foundation for its negotiating position.

The central issue for us today is the role that the United States and other developed countries will play in any effort to control greenhouse gas emissions, compared to the role that developing countries will play. Here, too, the administration has shown considerable sophistication, compared to other parties in the negotiations. All developing countries are not alike—there is a world of difference between South Korea and Gambia, despite the fact that both are non-annex-I countries.

The world should expect more from South Korea, which aspires to join the OECD in the near future, than it should from Gambia. But there should also be a minimum level of expectations mandated by the upcoming agreement, even for countries like Gambia.

I believe that a careful examination of the proposal put forward by the administration shows that it is trying to make these principles part of the protocol. We should go on record, in this resolution, in support of such principles. But we need to do so in a careful and sophisticated way, befitting the complexities of the problem of human-induced global climate change, and the international policy response to it.

I did not cosponsor the resolution that is now before us because of my concerns about how it expressed the relationship between what the United States should do and what the developing countries should do. It used the words "new commitments" for both developed and developing countries in a way that suggested to me, at least, that the intent of the resolution was that the United States should not agree to any commitment that was not also going to be agreed to and implemented simultaneously by the world's poorest countries. That would seem to be a rather simplistic approach. We shouldn't ignore legitimate differences between countries at vastly different stages of development.

I was greatly encouraged by the remarks on this issue made by the sponsor of this resolution, the senior Senator from West Virginia, when he testified before the Committee on Foreign Relations. At that time, he stated that countries at different levels of development should make unique and binding commitments of a pace and kind consistent with their industrialization, and that the schedule for these commitments should be aggressive and effective, but also consistent with a fair sharing of any burden. These are principles that I support, and the senior Senator from West Virginia and I have entered into a colloquy that seeks to establish that the explanation of the resolution on this point that he provided in his testimony is, in fact, the normative one for the administration to heed, once we pass the resolution. With this clarification, I believe that I can support the resolution now before us, and I urge my colleagues to do the same.

I would like to engage in a colloquy with the senior Senator from West Virginia regarding the correct interpretation of the language of the resolution on one particular point of importance. The resolution refers to "new commitments to limit or reduce greenhouse gas emissions for the Annex I Parties" as well as to "new specified scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties." Would it be correct to interpret the use of the words "new commitments" in both phrases as suggesting that the United States should not be a signatory to any protocol unless Annex I Parties and Developing Country Parties agree to identical commitments?

Mr. BYRD. That would not be a correct interpretation of the resolution. In my testimony before the Committee on Foreign Relations on June 19, I made the following statement and deliberately repeated it for emphasis: "Finally, while countries have different levels of development, each must make unique and binding commitments of a pace and kind consistent with their industrialization." I believe that the developing world must agree in Kyoto to binding targets and commitments that would begin at the same time as the developed world in as aggressive and effective a schedule as possible given the gravity of the problem and the need for a fair sharing of the burden. That is what the resolution means. The resolution should not be interpreted as a call for identical commitments between Annex I Parties and Developing Country Parties.

Mr. BINGAMAN. I thank the Senator. I agree with him that a fair sharing of responsibility for actions to address global climate change is crucial to any agreement, and that such commitments should reflect the pace and type of industrialization that those countries have achieved.

Mr. KERRY. Mr. President, I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, earlier this week I met with Senator BYRD to discuss Senate Resolution 98, which, of course, deals with climate change. In this measure, the Senator has identified one of the more important features required to address this global problem, namely, global participation.

Gradually, many have come to the conclusion that man is indeed contributing to changes in the global climate. Human activities—particularly the burning of fossil fuels—have increased atmospheric concentrations of carbon dioxide and other trace greenhouse gases. These gases, combined with the natural levels of CO_2 and water vapor, act like panes of a greenhouse and retain the Sun's heat around the Earth.

The burning of fossil fuels has continued to grow, at least in ever greater amounts of CO_2. Global carbon emissions from fossil fuels reached a record of just over 6 billion tons in 1995.

The Earth's climate has remained stable for the past 10,000 years. But, as Ambassador Paul Nitze said in the Washington Post earlier this month, "Global warming threatens the stability that fostered modern civilization."

What is being done about this threat? Of the 35 industrial countries that committed themselves under the 1992 Framework Convention on Climate Change in Rio, they agreed there to hold their greenhouse gas emissions to 1990 levels in the year 2000. In other words, by the year 2000 we would get the levels down to what they were in 1990.

But, regrettably, Mr. President, only a handful of the countries are expected to meet that target. The United States will miss its target by an estimated 13 percent. In some developing countries, emissions are on a course to nearly double between 1990 and 2000.

The failure by many industrialized countries to meet these voluntary aims is what is leading us to this debate today. This debate is over the imposition of legally binding greenhouse gas emissions reductions. In other words, should we enter something that is binding?

Because of the link between greenhouse gases and activities fundamental to industrialized and developing economies, many anticipate, or at least fear, that the costs of limiting their emissions will be high.

Unlike most other ambient air and water pollution problems, there is no pollution control technology for CO_2. In many of the emissions problems we have dealt with in the past, technology can reduce the amount of emissions. But we don't have that for CO_2. You either make CO_2 or you don't.

Some have argued that the United States and, indeed the entire world, should wait to address the looming threat of climate change. In other words, don't do anything. Let's wait awhile. The scientists are divided on this. How much has the temperature gone up? Has it indeed risen in the last 100 years by 1 degree Fahrenheit? There are arguments over that. "Time is on our side," some say, believing that if we simply wait long enough, new and inexpensive technologies will come along to make this solution painless.

But the citizens of my State, for example, have concerns. We are a sea-bordering State. There are possibilities of rises in the sea level which would affect us dramatically. Indeed, they would affect all but one major city in our country because all but one major city in our country occupies tidal shorelines. I know that if the Atlantic Ocean begins to warm and expands as it warms, rising sea levels will be with us for centuries.

I am also concerned about the economic consequences of actions to address global warming. Senator BYRD has addressed these, and I salute him for that. He is concerned about the issue of U.S. competitiveness in relation to developing countries. And I join with him in urging our negotiators to recognize that we are serious about the concerns Senator BYRD is expressing.

The position taken by the European Union is a major concern. As representatives of the Global Climate Coalition indicated to the Foreign Relations Committee last month, the prospect of European Union bubble, which was just addressed here, with no ability for the United States to address similar alliances with other nations, would permit the European Union to steal a competitive march on the United States.

This concerns me. In trade terms, our bilateral trade with the European Union, of course, is mammoth certainly when compared to the trade that we have with China. Last year we had $128 billion in exports to the European Union, more than 10 times of that going to China.

I believe our negotiators in Kyoto would fail us if they did not bring home an agreement with developing country commitments as described in the resolution and with the market-based tools of joint implementation emissions trading and emissions banking.

I want to say that many countries in the United States are already taking steps to address these problems. Farsighted companies like Tucson Electric are going ahead with a pilot joint implementation project in cooperation with the city of Sava in Honduras to display diesel-fired power generation with biomass fuels. Companies like American Electric Power, which is the largest electric utility in West Virginia, and British Petroleum are getting together with the Nature Conservancy and the Government of Bolivia to offset some of American Electric Power's coal-fired plant emissions by expanding parks and sustainable forests in Bolivia.

The Southern Co. has joined forces with State forestry commissions in planting 20 million trees in Georgia, Alabama, and the Florida Panhandle. These projects boost environmental protection while lowering costs. But on their own, the voluntary projects will not be sufficient to address the potential problem. We need legally binding measures to spur technological innovation that will be needed to solve the greenhouse problem.

The resolution makes clear that an exemption for developing countries would be inconsistent with the need for global action.

In light of the seriousness of the issue, Mr. President, I welcome the concern that Senator BYRD and others have shown for the twin goals of environmental protection and economic competitiveness.

Mr. President, I had a brief colloquy I was going to enter into with the distinguished Senator from West Virginia. It is as follows:

Senate Resolution 98 includes two important conditions for U.S. agreements to any future treaty to limit greenhouse gases.

Quoting directly from the text of the resolution—that is, Senator BYRD's resolution:

> The United States should not be a signatory to any protocol to, or other agreement regarding, the U.N. Framework Convention on Climate Change of 1992, at negotiations in Kyoto in December 1997, or thereafter, which would—(A) mandate new commitments to limit or reduce greenhouse gas emissions from the Annex I Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period, or (B) would result in serious harm to the economy of the United States.

Without losing my right to the floor, I wish to ask the primary sponsor of the resolution a couple of questions.

I am curious as to whether the Senator from West Virginia intends for his resolution to speak to the scientific understanding of global climate change.

Mr. BYRD. Mr. President, will the distinguished Senator yield with the understanding that the time——

Mr. CHAFEE. On my time.

Mr. BYRD. I use will not be charged against Mr. HAGEL.

Mr. CHAFEE. Absolutely.

Mr. BYRD. Mr. President, again, may I say that this resolution has been introduced and developed every step along the way with concurrence between Mr. HAGEL and myself. It just so happens that my name is at the beginning of what is called the Byrd-Hagel resolution. I have no problem if it is called the Hagel-Byrd resolution; we are both in this resolution. We both believe the words of the resolution, and we both believe that the resolution speaks for itself. And we also understand we may have different views as to specific questions. I respect the views of every Senator. So I will attempt to respond to the distinguished Senator from Rhode Island. I thank him for his statement which indicates that he is concerned, has studied the matter, and is a reasonable man.

I thank Mr. CHAFEE for this opportunity to discuss in greater detail the resolution that Mr. HAGEL and I and others of our colleagues have brought to the Senate. In response to the Senator's question, I will repeat a portion of the testimony I delivered on June 19 of this year before the Committee on Foreign Relations. There I stated that the resolution accepts the thesis, which is still the subject of some dispute, that the increasing release of carbon dioxide—CO_2—and its accumulation in our atmosphere are causing a very gradual heating of the globe which has many adverse consequences for us all and I am, indeed, convinced that climate change is a looming threat to the global environment. That is a statement I made at that time.

Mr. CHAFEE. I appreciate the Senator's fundamental candor on this point and agree with his assessment.

With regard to specific provisions contained in the resolution, I am interested in what the Senator intends—and I might say Senator HAGEL has been active in all of this. He is the chief cosponsor of the resolution.

The PRESIDING OFFICER (Mr. ROBERTS). Will the Senator suspend. The time allotted, the 10 minutes allotted to the Senator has expired.

Mr. CHAFEE. Could I have 2 more minutes?

Mr. KERRY. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Senator HAGEL has been active in all of this, and we have dealt with his folks, and wherever I refer to the Byrd resolution, I really should have referred to the Byrd-Hagel resolution and will attempt to make that change in the transcript.

With regard to specific provisions contained in the resolution, I am interested in what the Senators intend on page 4, lines 9 through 11 by the phrase "new specific scheduled commitments to limit or reduce greenhouse gas emissions for developing country parties."

Is it the Senators' intentions that the developing country parties, irrespective of the national incomes and greenhouse gas emission rates, be mandated to the very same commitments to limit or reduce greenhouse gas emissions for the annex 1 parties?

Mr. BYRD. Mr. President, if the Senator will yield, no, that is not my intention. That is not what the resolution says. I have stated previously that under this resolution the developing world must fully participate in the treaty negotiations and commitments and must play a meaningful role in effectively addressing the problem of global climate change. Such participation by the developing country parties could, in my judgment, come in a number of forms. As I stated before the Foreign Relations Committee, while individual countries have different levels of development, the resolution holds that each country must make unique and binding contributions of a pace and kind consistent with their industrialization. The developing world must agree in Kyoto to adopt some manner of binding targets and commitments which would begin during the same compliance period as the——

The PRESIDING OFFICER. The Chair would observe the 2 minutes allotted to the Senator from Rhode Island have expired.

Mr. KERRY. I yield an additional minute to the Senator.

Mr. BYRD. The developing world must agree in Kyoto to adopt some manner of binding targets and commitments that would begin during the same compliance period as the developed world in as aggressive and effective a schedule as possible, given the gravity of the problem and the need for a fair sharing of the burden.

Mr. CHAFEE. Because greenhouse gas emissions from the developing world will, on a cumulative basis, exceed those of the developed world sometime during the first quarter of the next century, the Senator's position appears quite sound on both environmental and economic grounds, and I thank the Senator very much.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. CHAFEE. I yield the floor.

Mr. KERRY. Mr. President, I reserve the remainder of our time.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. I yield 2 minutes to my colleague from Oklahoma, Senator INHOFE.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for up to 15 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, reserving the right to object.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. There is objection.

Mr. CRAIG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. INHOFE. Mr. President, as chairman of the Clean Air Subcommittee, we have had about 40 hours of hearings on this subject, on global warming as well as ambient air quality standard changes that have been proposed by this administration. I think it is unrealistic to try to condense that into 2 minutes. There is not any way it can be done.

I will just say, Mr. President, that as 1 of the 66 cosponsors of this resolution, I support it, although I would say also it doesn't go far enough. And I would also say that regardless of what happens—this is going to pass, but regardless of that, I am still going to oppose the ratification of this treaty. I am going to do so for two reasons. First, is that the science is not there. This is analogous to the proposal by the administration to lower the ambient air standards in both particulate matter and in ozone, unrealistically costing the American people billions and billions of dollars a year without any science to back it up.

Mr. President, I am going to read real quickly and enter the entire statement in the RECORD, but before my committee, Dr. John Christy of the Department of Atmospheric Science and Earth System Science Laboratory, University of Alabama, Huntsville, said—I don't think there is anyone who is considered to be a greater authority than he is—

> The satellite data show that catastrophic warming is not now occurring. The detection of human effects on climate has not been convincingly proven because the variations we have observed are not outside of the natural variations of the climate system.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. Could I have 1 more minute?

Mr. HAGEL. I yield 1 minute to the Senator.

Mr. INHOFE. The second reason is the administration has not been honest on this, as well as the ambient air, when they come along and they say, as Mary Nichols, Deputy Secretary, said yesterday, that the cost to the American people for the changes in the ambient air would be $9.1 billion when the President's own Council of Economic Advisers puts the price tag at something over $60 billion and the Reason Foundation out in California has it somewhere between $90 and $150 billion.

So anyway, Mr. President, it is not realistic to do this. I would also observe I can't imagine that anyone who would be opposed to the ratification of this treaty wouldn't also be opposed to the changes in the ambient air standards. We will be introducing legislation next week. It will be bipartisan. Senator BREAUX and I will be introducing legislation to reject these changes.

The PRESIDING OFFICER. Who seeks time?

Mr. HAGEL. I yield 2 minutes to my colleague from Wyoming, Senator ENZI.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

Mr. President, I rise today in support of the resolution offered by the senior Senator from West Virginia and the junior Senator from Nebraska, of which I am a cosponsor, and which concerns the issue of global warming in general and the impending related treaty specifically.

Mr. President, many of us are not surprised by the content of this proposed treaty. We saw the 1992 Framework Convention on Global Climate Change for what it was: The nose of the camel. And now, 5 years later and just as expected, we find ourselves face to face with the whole critter. He's in the tent, he's huge, and he's very frightening.

The agreement signed in Brazil 5 years ago was voluntary. It called for the economically developed nations to undertake voluntary actions to reduce greenhouse gas emissions to their 1990 levels by the year 2000. Now the administration wants a legally binding agreement that will require a handful of developed countries to reach 1990 levels of fossil fuels emissions by the year 2010. But here is the amazing part, Mr. President: Though the United States and several other developed countries will be subject to the new enforcement regime, the rest of the world will not. Utterly amazing. Where in the world did this administration learn to negotiate? I see a lot of give, but I am still looking for the take.

So we really believe we can place shackles on our economy, leave the economies of our trade competitors unaffected, and not lose countless jobs and industries overseas? It has been all we can do to stop the loss of jobs overseas under the best conditions. Every developing nation has cheaper labor costs than we do. Every developing nation has fewer environmental regulations than we do. Every developing nation has fewer worker protection expenses than we do. These nations are understandably concerned, first and foremost, with elevating the living conditions of their own people. Their leaders would be derelict if they weren't. Does anyone seriously believe they will not take advantage of the new regime at the expense of our workers? Is a little fairness too much to ask? Does the administration find the concept of simple equity so unreasonable?

The AFL–CIO is apoplectic at the prospect of this ill-advised treaty, and with good reason. They understand how many American jobs it will kill. As a representative from the largest coal producing State in the Nation, I know only too well just what it means for the people of my State. This resolution simply calls for all nations to share the burden in the effort to avoid an environmental problem, which, I might add, is supported by a scientific consensus that is generously referred to as unsettled.

This resolution, if adopted, would be a treaty enhancer, not a treaty killer. For this reason, if no other, the administration should embrace it. In its current form the treaty will most certainly not survive this body. We want a good treaty. We are not opposed to a global antipollution effort. But we want a fair treaty. You just cannot have the former without the latter. We need to bring developing countries on board in a responsible fashion. And if the Byrd-Hagel resolution is not adopted the administration will have missed a valuable opportunity to do so.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. HAGEL. I yield 2 minutes to the Senator from Michigan.

Mr. ABRAHAM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. I thank the Chair.

I would like to begin today by thanking the Senator from West Virginia for his leadership on this issue as well as the Senator from Nebraska. Citizens in my State are extraordinarily concerned about the potential treaty that has been in the media very much lately.

The people of Michigan care greatly about their environment and the ramifications of various emissions that are released into it. At the same time, I believe people of Michigan want agreements negotiated overseas and adopted in Washington to be based upon sound science and hard facts.

They also want those agreements to be ones that require all nations to work toward a common objective rather than singling out developed nations for all the pain while allowing developing nations to gain competitive advantages by continuing practices that might contribute to an international problem.

Mr. President, the people of Michigan are proud of their State, its natural resources, and the industry with which they have made Michigan's economy among the best in the Nation. They want to keep their jobs, to raise their families, and see their children grow and enjoy the opportunities our State provides.

By all accounts, Mr. President, Michigan would suffer disproportionately should a treaty go into effect that does not fairly bind all countries. Whether it is the business community, the agriculture community or organized labor, I have heard concerns from them all, Mr. President.

Therefore, I commend the Senators who have introduced this resolution. I am happy to be a cosponsor. I look forward to supporting it and seeing it passed today so that we might, as a country, work in a constructive way toward resolving these issues while avoiding a path that is detrimental to America and the interests of the hard-working men and women of my State.

I yield the floor.

Mr. HAGEL. I yield 2 minutes of my time to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I rise in strong support of the Byrd-Hagel resolution expressing the sense of the Senate on international agreements covering greenhouse gas emissions.

I wish to thank and commend my colleagues, Senator BYRD and Senator HAGEL, for their efforts in forging this bipartisan, common sense resolution. I was proud to join them as an original cosponsor.

The Energy and Natural Resources Committee, which I chair, has had significant interest and long involvement in the issue of greenhouse gas emissions and climate change because any attempt to address carbon emissions fundamentally affects energy investment, use, and policy.

Our committee has held a variety of hearings, seminars, and briefings on this subject for the benefit of members, staff, and the public.

Moreover, we have remained closely attuned to the negotiations toward a new climate treaty through close and regular contact with the principal State Department and Department of Energy officials.

My predecessor as chairman, Senator Bennett Johnston, also had a keen interest in this subject, and made it a centerpiece of the committee's oversight responsibilities.

So this is not a new issue to us.

Having said that, I believe Senators BYRD and HAGEL have done a superb job with this resolution expressing the Senate's aspirations and concerns with respect to any eventual climate treaty.

This resolution will strengthen the hand of our negotiators during upcoming meetings in August, October, and December.

Although this is not a binding resolution, it conveys the legitimate concerns of the Senate to other parties in the negotiations.

Our negotiators can use this resolution to inform other nations of the elements that must be contained in any new climate treaty that can be ratified by this body.

Turning now to the substance of the resolution, I have a letter from President Clinton, dated August 21, 1996, that contains a statement I very much agree with. And I quote:

> Establishing a sound framework is a critical first step in the negotiating process. We are already conducting additional analyses and technical assessments . . . our ultimate position will fully reflect economic considerations and our commitment to the principle that environmental protection and economic prosperity go hand-in-hand.

The President is right. Economic considerations are important. We must not proceed down a path that will bring adverse economic consequences, competitive disadvantages, and energy price increases.

The importance of economic considerations, as expressed by the President in his letter, are very much in line with this resolution.

This resolution simply says that any new climate treaty must not result in serious economic harm to the United States.

The Byrd-Hagel resolution also states that any new climate treaty must be global in its approach:

New commitments on the part of developed countries to limit or reduce greenhouse gas emissions must be accompanied by new commitments on the part of developing countries to do the same.

The issue of developing countries and their participation is critically important:

According to the Energy Information Administration, an arm of the Department of Energy, carbon emissions from China will exceed ours by the year 2015. Their greenhouse gas emissions are expected to grow 185 percent above 1990 levels.

Emissions from developing nations as a whole will also exceed those from industrialized nations by 2015.

Clearly, this is a global issue that requires a global approach. If further science confirms the fact that carbon emission do indeed have dangerous implications for the climate, then all nations must take meaningful steps.

The industrial nations simply do not have it in their power to do it alone, even if they wanted to.

But here is some good news: We have time to approach this issue in a careful, deliberative manner.

We gain nothing by getting ahead of the science. Indeed, we risk a great deal by moving too quickly:

According to economic analysis by the Stanford Energy Modeling Forum, an orderly, long-term strategy of achieving a scientifically-justified carbon emission reduction costs just one-fifth what it would cost to achieve the same reduction over the near-term.

In other words, you can get the same result 80 percent cheaper by taking a long-term view, and allowing capital equipment to be retired in an orderly fashion as new energy efficient technologies come on line.

Mr. President, there is simply no need to compel working American families to pay five times as much as they need to for the same eventual outcome.

Clearly, there is not a need for extreme actions such as carbon taxes, strict command and control regulations, and one-sided treaties that will impose economic harm.

Let's take the time to do the job right and enjoy tremendous economic savings.

Turning to the broader issue of climate change and climate science, let me say we should all be concerned about increasing concentrations of carbon dioxide and other greenhouse gasses in the atmosphere.

It is an indisputable scientific fact that concentrations of greenhouse gasses are on the rise.

Yet significant scientific uncertainties remain.

Some scientists believe that higher carbon dioxide concentrations will bring only moderate change, warmer winters, reduced energy demands, and longer growing seasons.

Virtually every climate scientist will tell you that the warming signal suggested by some data sets are all within the bounds of natural variability, and that climate change is the rule rather than the exception. Throughout the planet's history, the climate has changed.

I will confess to my own personal fascination with the Greenland ice core records that I first became familiar with when the University of Alaska removed an ice core record spanning the entire depth of the Greenland ice cap.

These ice cores are high-resolution records of climate which can be analyzed like the rings of a tree—only these records go back 100,000 years or more.

The Greenland ice core record tells us that the earth's climate has always changed and shifted, often dramatically and over surprisingly short periods of time.

Thus, the investments we've made in the U.S. Global Climate Change Research Program, approaching $2 billion per year and more, are expensive but worthwhile. Because there is much more scientific work to do.

The common refrain that I hear from climate scientists, virtually without exception, is this:

The climate system is remarkably complex, and exceedingly difficult to model.

Meanwhile, our current climate models are comparatively crude.

We lack sufficient data for model inputs, particularly information about the effects of clouds and water vapor.

And finally, as we have learned more and refined our computer models, estimates of future warming have fallen, not risen.

Clearly, the science is uncertain, and the scientific debate is not over. Nor should it be.

And that brings me to what I see as a troubling trend:

Some who have argued for immediate and urgent action to sharply reduce greenhouse gas emissions have claimed that the science arguing for quick action is unassailable, and that the scientists who express doubts are somehow extreme or out of the mainstream.

Frankly, talk such as that makes me cringe, because the scientific method itself is based on challenge and peer review.

Contrarians should not be shouted down for the sake of political correctness.

Whenever scientists are called out of the mainstream or extreme by a political leader or a journalist, you can bet that an attempted subversion of the scientific method is at hand.

We should condemn any subversion of the scientific method whenever we see it occur in the climate debate. Too much is at stake.

Continued investment in science will only enhance our understanding. We have invested billions in a climate change research program that is only now beginning to yield significant results.

We should not stake our economic future on partial information.

Since extreme, unilateral actions are unwarranted at this point, we have time to encourage developing nations such as China to participate in meaningful commitments.

The resolution before us states that new commitments on the part of developed countries to limit or reduce greenhouse gas emissions must be accompanied by new commitments on the part of developing countries to do the same.

I believe the Senate would have difficulty ratifying any new climate treaty that imposed legally binding greenhouse gas reduction targets and timetables, which are essentially energy quotas, only on the most developed nations.

Such an approach would be unfair, economically devastating, and ineffective.

To repeat: New energy quotas, imposed only on one set of nations, would be unfair, economically devastating, and ineffective. Let me explain:

One-sided energy quotas would be unfair:

They would allow some nations to gain tremendous competitive advantages over others by encouraging the movement of jobs, manufacturing and capital from nations that are subject to the energy quotas, to nations that are not.

One-sided energy quotas would be economically devastating:

They would require carbon taxes or regulation that would cost jobs, harm our economy, and diminish our standard of living.

One-sided energy quotas would be ineffective:

Because manufacturing, capital, jobs, and even emissions would move from nations that are subject to the energy quotas, to nations that are not, emissions would not diminish, they might even increase.

Moreover, because the total greenhouse gas emissions from developing nations will soon exceed those from developed nations, exempting developing nations wouldn't do anything to improve the problem. Greenhouse gases would still increase. We would suffer economic pain without environmental gain.

What I am saying here today has been confirmed by some of the administration's own economic analysis. A new study produced by the Department of Energy's Argonne National Laboratory contains some surprising and compelling findings. Let me cite some of them:

Increased energy and fuel prices in industrial nations resulting from a new climate treaty that does not contain meaningful commitments for developing nations such as India, China and South Korea would encourage a reallocation of investments away from industrial countries towards the developing countries. To the extent this occurs, emissions would simply be redistributed and could even increase.

Some 20 to 30 percent of the energy intensive basic chemical industry could move to developing countries over 15 to 30 years, with 200,000 jobs lost.

U.S. steel production could fall 30 percent with accompanying job losses of 100,000.

All primary aluminum plants in the United States could close by 2010.

Many petroleum refiners in the Northeast and Gulf Coast could close, and imports would displace more domestic production.

Mr. President, these are serious economic impacts, and I believe we can all agree that this is precisely what we must avoid.

That's what this resolution is about, and that's why I feel it should pass with a broad, bipartisan margin.

Some will argue that we cannot be successful in efforts bring developing nations along in the negotiations in time for the December 1997 meeting in Kyoto, Japan.

But I believe we should try. And if we cannot achieve a new treaty that includes developing nations in this timeframe, then perhaps Kyoto can at least produce a roadmap leading to meaningful commitments by all nations.

Mr. President, there is no need for a headlong rush toward rash policies.

The carbon problem didn't appear overnight. It won't be addressed overnight. We have time to devise and consider balanced approaches that can work.

Time will allow new energy and efficiency technologies to mature.

Time will provide for global solutions that include the developing nations.

Time will allow us to sharpen our science and better understand the true threat of climate change, if it is indeed a dangerous threat.

Yes, the climate issue is a serious one. But it's not a reason to panic.

This resolution helps our negotiators. It sends an important message that this is a global problem that requires the attention and participation of all nations.

I urge the Senate's adoption of the resolution, and I again commend Senators BYRD and HAGEL for their leadership and tireless efforts.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MURKOWSKI. As chairman of the Natural Resources Committee, I am vitally interested in this area because it is our responsibility. I thank my friends, the managers of the bill, and my good friend, Senator BYRD.

Mr. HAGEL. Mr. President, I yield the remainder of my time to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague for yielding, and let me thank Senator HAGEL and Senator BYRD for bringing this resolution to the floor in a timely manner. I know several of my colleagues wish they could have spent a longer period of time this morning debating the issue, and I can't blame them. Let me suggest to them that this is only the beginning of a long and very important debate for our country to become involved in. It also was very important, though, that the Senate of the United States, the ratifying body of our Government and our country, speak out clearly and boldly before the ad hoc climate change negotiating group convenes next Wednesday in Bonn, and carries their meetings through August 8. The reason it is important that the Senate speak out is because we do not believe the sky is falling. We are not sure if the sky is cracked, and if it is, maybe we need to build a superstructure to hold it up. But this country cannot commit itself to this kind of binding agreement unless the science is clearer and the understanding of the American people is fairly reached when it comes to this issue.

Let me speak for a few moments about my frustration that our President has decided to use his bully pulpit, in my opinion, to terrorize the American people into supporting the administration's quest for commitments for energy use reduction that are legally binding on the United States. The President has been quite frank about building a propaganda campaign about calamities of future global warming, beginning with yesterday's White House meeting on climate change. The President has indicated his propaganda drive will culminate in a White House conference on global warming in October. The conference is not likely to be a thoughtful roundtable. It may now be more thoughtful, because I think the administration has finally recognized that the Senate in fact will become engaged and must become engaged.

Why did I use the words I just used? Here is the reason. Here is the plan that our administration is now supporting: That they would cause us to enter into a binding agreement that the United States would be responsible for 48 percent of the world's obligation to reduce energy use. We said a long time ago that any climate change agreement that affects the United States should not be binding, but voluntary on the world. Is the administration's plan a dramatic departure from where we were? Here is where it is. It is dramatic because when we arrive at the year 2010, to achieve our 1990 levels, the United States will be contributing about 20 percent of the world's emissions, while the rest of the world will be contributing 80 percent. Yet China and India and other Asian nations and developing countries, by this administration's negotiations, would be exempt. That is why it is time we come to the floor to speak about this.

Senate Resolution 98, under the authorship of Senator BYRD and Senator HAGEL, says just that, that we cannot become involved unless we are all involved and that we should not become involved unless the science is sure, or so sure that we will commit this country and the rest of the world into a course that could bind us and reshape our economies and clearly design a different destiny for the American people than one that we might otherwise choose.

The President and the Vice President stand next to flooded homes in the Dakotas and suggest that this unfortunate event is a product of global warming. That is not fair, because the science doesn't prove it. So when I use the word "terrorize," or I use the word "propaganda," it is not by chance that I use those words. The science simply doesn't support the claims being made by this administration, it is important to understand that. Last year, in the Leipzig Declaration, 100 scientists from around the world, climate scientists—not politicians, but scientists—expressed their doubts about the validity of computer-driven warming forecasts. Why? You heard the Senator from Oklahoma just now say the reason is the science isn't bearing it up. People who watch our satellites say that our satellites tell us we are getting cooler. Yet people who watch our ground temperatures suggest we might be getting warmer. Instead of sponsoring a fair debate, the administration is only using part of the available science, while denegrating the other side.

What is so important for this country to understand, what is more important for the parliamentarians of the world to understand, is that the President does not necessarily speak for this Senate. But what is critically important is that this Senate will speak for itself. And it is, without question, the responsibility of the Senate of the United States to approve treaties. What we do not want to happen is the lifting of the level of expectation projected by the rhetoric and the selective science by an administration that would bring us into negotiations to produce a treaty in Kyoto in December that simply would not speak to the realities or the responsibilities that we ought to be engaged in.

The administration must realize that a strong American economy is essential to our Nation if we are going to spend upwards of $2 billion a year on climate change research, if we are going to adapt to changing climate, if needed, and if we are going to adjust our economy and our economic base for those purposes.

So, I am pleased to endorse, and I hope Senators will join with me in a strong endorsement, of Senate Resolution 98. It is important that we speak now. I view, as others do, that this is a preliminary statement in what will be a long and complex debate for all of us to become involved in, because I don't know where our science will lead us. But if it, in fact, can show us the way and clearly demonstrate that there is a climate change responsibility for this Nation, then all the rest of the nations in the world must participate. We cannot shoulder 48 percent of the burden for the rest of the world.

Mr. President, let me close with this last chart. If you were to turn the United States into a forest with no emissions whatsoever, by the year 2100 here is the problem with the rest of the world. The problem is that we want to be at 1990 levels by 2010. If you take the United States out of the equation, the total concentration of greenhouse gases hardly changes. Yet this administration, at least by their rhetoric of the last several months, would take China out of it, the other developing world nations out, and leave us to bear the burden. That is why S. Res. 98 is so critical for us today, for the world tomorrow, as we march toward Kyoto in December.

The PRESIDING OFFICER. The time of the Senator has expired. Who seeks time?

Mr. KERRY. Mr. President, I yield myself a couple of minutes before yielding to the Senator from Oregon.

Mr. President, we have heard a couple of Senators refer to the fact that the science somehow, because of satellite observations, does not indicate the kind of warming that others are arguing is taking effect. This is an example of how an individual scientific fact is used to distort the record here for one purpose or another. We will have time later to discuss all of those purposes. But the argument is made that, although thermometers located at the Earth's surface show an increase in temperature today higher than it has been for 130 years, people say the satellite measurements, which are thousands of feet above the surface, show a cooling since 1979.

That is true. That is the only part of this that is true. There is nothing in that fact that discredits the theory, the thesis, which has been accepted by scientists, with respect to the warming. Let me point out why. Thermometers in satellites and thermometers on the ground obviously measure temperatures at two very different places in the atmosphere, and it is not surprising, according to most scientists who interpret this, that there is a difference. At higher altitudes, temperatures fluctuate far more than they do at the surface due to natural climate influences like sunlight reflecting particles from volcanoes and other variabilities. What scientists called variability, or noise in the satellite record, obscures the warming trend due to the buildup of greenhouse gases that is apparent in the global surface temperature.

Furthermore, the depletion of the ozone layer, which has occurred mostly since 1979, has had a cooling effect on the atmosphere which is more marked at higher levels than it is at surface levels. The Earth's surface has warmed over the northern and the southern hemispheres, which totally negates the notion of any kind of heat effect from urban centers or otherwise.

There will be later times to discuss the science. But it is important to note that on June 22, 1997, the New York Times in an editorial said that the reason we had voluntary agreements out of Rio was science was somewhat murky. But in 1995, the U.N. Intergovernmental Panel on Climate Change, consisting of 2,500 scientists, concluded that there was a serious impact they could discern, and the science became certain.

So I think as time goes on Americans will come to understand that.

I yield 3 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I commend particularly Senator BYRD and Senator KERRY for their leadership in this area and say I come to the floor as a U.S. Senator from a State that is the first State in the country to put mandatory limits on carbon dioxide, the primary manmade source of global warming. We have shown in our home State that it is possible to have a thriving, prosperous economy and take steps to limit these environmental problems that our colleagues have talked about.

The fact is, our country can help play a leadership role in controlling global warming without causing an economic meltdown. There are, really, three approaches that the State of Oregon has used, as the first State in the country to have mandatory controls on carbon dioxide emissions.

First, as Senators BYRD and KERRY have talked about, we give great emphasis on market mechanisms. We are not talking about a big government approach. We are talking about using the market.

Second, we have taken steps to build these new approaches into new powerplant design. It is prospective, so that all those who are constructing our new powerplants understand the rules.

Third, we have given special rewards, credits, for innovative approaches such as proper management of our forests.

I conclude by saying that properly managed forests can be very effective in helping to capture greenhouse gases, carbon dioxide, and removing them from the air. Our Northwest forests are some of the very best carbon sinks in the world. The older forests are estimated to be two to three times as effective in capturing carbon dioxide emissions as new growth.

I have heard several of my colleagues talk about some of the alternatives. Carbon taxes——

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. WYDEN. I ask unanimous consent for 30 additional seconds?

Mr. KERRY. How much time is remaining?

The PRESIDING OFFICER. There remain 7 minutes 35 seconds.

Mr. KERRY. I yield the Senator an additional minute.

Mr. WYDEN. My last point is we know, for example, that properly managed forests are a cost-effective alternative to end-of-pipe emission controls or carbon taxes. There are alternatives out there. My home State has shown they can work, and I thank Senator KERRY for the extra time.

Mr. KERRY. Mr. President, I would like to just read that New York Times editorial and ask unanimous consent it be printed in the RECORD, and I yield myself such time as I use.

With respect to the science it says:

> One reason why the industrial nations opted for voluntary targets in Rio was that mainstream scientists simply couldn't agree whether manmade emissions have contributed to the small rise in global temperatures that began in the late 19th century. In 1995, however, the U.N. intergovernmental panel on climate change consisting of about 2,500 scientists concluded that they had. The language was cautious, their forecasts were gloomy. Unless the current rates of combustion of carbon-based fuels, coal, gas, oil, could be reduced, they warned, temperatures would rise between 1.8 and 6.3 degrees Fahrenheit over the next century. Temperature changes in the middle level of that scale could cause a 20-inch rise in sea levels that would flood coastal lowlands and tropical islands, an increase in weather extremes and global damage to forests and croplands. Despite challenges from businesses which have been attacking the science in tobacco industry fashion, the U.N. panel has not retreated from its basic findings.

So, Mr. President, we are going to have a good debate in this country in the next months on the science, and that is appropriate; we ought to have it. We ought to put to the test all of the theories. We should demand the most exacting models. We should press for the most certitude that we can gain. But there is no issue today scientifically about the fact that there is global warming taking place, about the fact that there is sea-level rise occurring, and that, if it continues at the current trend levels, the damages could be devastating.

We can quarrel about how much happens at what point in time, about what model is better at predicting the impact. I will acknowledge there are inherent uncertainties in that process. Clearly there are. But we know we are living in the midst of the most significant increase that we have seen in 130 years, and the evidence of the prognosis of our best scientists is that it is going to continue at a rate that is greater than anything we have known since humankind, since civilization has existed, civilization within the last 8,000 to 10,000 years on this planet. We owe it to ourselves and to common sense to try to make the best judgments about that.

This resolution today, I want to emphasize, is not about the science. This resolution is about how our team goes to Kyoto and how we negotiate in the next months.

I want to emphasize with respect to my comments about the Berlin mandate that there is nothing in this resolution today that I deem to be inconsistent with the mandate; nothing inconsistent. I do believe that this begins to alter appropriately how we begin to approach some of the negotiations in Kyoto, and I accept what the Senator from Nebraska has said, I accept what the Senator from West Virginia has said, and others. It is a matter of fairness and common sense that the United States should not be placed at a disadvantage and make a set of choices that don't bring others into the process of solving this.

So, Mr. President, thanking the Senator from West Virginia for the colloquy, clearly I am not calling my amendment up.

Mr. President, I have extra time. I will yield 2 minutes of my time to the Senator from West Virginia.

The PRESIDING OFFICER. The Chair observes that the Senator has 1 minute 45 seconds remaining.

Mr. KERRY. I yield 1 minute 45 seconds to the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may have an additional 30 seconds over and above the time referred to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, it was John Stuart Mill who said that "On all great subjects, much remains to be said." I think we will all be saying a good bit more than has been said here as the days come and go. We are not yet debating the treaty itself. But my distinguished friend, Mr. KERRY, has just said, in his judgment, there is nothing in this resolution that is inconsistent with the Berlin mandate.

Mr. President, that is not my view at all. I think we only have to read the resolution itself—it speaks for itself—and we will find that it is inconsistent with the Berlin Mandate, and I intended to say that.

Mr. President, I will try to elaborate on my view with a two-part observation. First, with respect to significant emitters, such as China, it makes no sense for the international community to begin this effort by agreeing to unchecked emissions growth from newly constructed, but inefficient, power-generating and industrial facilities. It is neither cost-effective nor environmentally beneficial to go back and retrofit dirty smokestacks.

We all know that China in particular has near-term plans to increase its power-generating capacity exponentially. We must anticipate the prospect of significant new industrial development in China and other places by providing incentives for deployment of new, cleaner technologies. In short, we must bring back from Kyoto some commitments that China and other large emitters will grow in a smart way.

I want to make it clear that the current approach of the State Department is not acceptable to this Senator under the terms of the resolution. Their approach will not work. A promise by the developing countries to only negotiate at a later date is simply unacceptable. Any agreement resulting from negotiations in Kyoto, or thereafter, that includes binding commitments for developed countries must also include serious, specific, and binding commitments by the developing world.

I thank all Senators.

The PRESIDING OFFICER. The Chair observes that all time has expired.

Mr. KERRY. Mr. President, I ask unanimous consent for 60 seconds to clarify the record and respond.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KERRY. Mr. President, I don't disagree with what Senator BYRD has just said. In a sense, I should correct my own comment when I talk about the Berlin mandate. Obviously, we are altering the way in which we are approaching the question of inclusiveness. When I say "nothing inconsistent," I am talking about in the fundamentals of how you might approach the issue of timetable or compliance. We have discussed that in the course of this debate, and that is what I intended to say.

I yield back any remaining time.

Mr. HAGEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Minnesota [Mr. GRAMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Nevada [Mr. BRYAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Iowa [Mr. HARKIN], and the Senator from Nevada [Mr. REID] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—95

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—5

Bryan
Feinstein
Grams
Harkin
Reid

The resolution (S. Res. 98) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 98

Whereas the United Nations Framework Convention on Climate Change (in this resolution referred to as the "Convention"), adopted in May 1992, entered into force in 1994 and is not yet fully implemented;

Whereas the Convention, intended to address climate change on a global basis, identifies the former Soviet Union and the countries of Eastern Europe and the Organization For Economic Co-operation and Development (OECD), including the United States, as "Annex I Parties", and the remaining 129 countries, including China, Mexico, India, Brazil, and South Korea, as "Developing Country Parties";

Whereas in April 1995, the Convention's "Conference of the Parties" adopted the so-called "Berlin Mandate";

Whereas the "Berlin Mandate" calls for the adoption, as soon as December 1997, in Kyoto, Japan, of a protocol or another legal instrument that strengthens commitments to limit greenhouse gas emissions by Annex I Parties for the post-2000 period and establishes a negotiation process called the "Ad Hoc Group on the Berlin Mandate";

Whereas the "Berlin Mandate" specifically exempts all Developing Country Parties from any new commitments in such negotiation process for the post-2000 period;

Whereas although the Convention, approved by the United States Senate, called on all signatory parties to adopt policies and programs aimed at limiting their greenhouse gas (GHG) emissions, in July 1996 the Under-Secretary of State for Global Affairs called for the first time for "legally binding" emission limitation targets and timetables for Annex I Parties, a position reiterated by the Secretary of State in testimony before the Committee on Foreign Relations of the Senate on January 8, 1997;

Whereas greenhouse gas emissions of Developing Country Parties are rapidly increasing and are expected to surpass emissions of the United States and other OECD countries as early as 2015;

Whereas the Department of State has declared that it is critical for the Parties to the Convention to include Developing Country Parties in the next steps for global action and, therefore, has proposed that consideration of additional steps to include limitations on Developing Country Parties' greenhouse gas emissions would not begin until after a protocol or other legal instrument is adopted in Kyoto, Japan in December 1997;

Whereas the exemption for Developing Country Parties is inconsistent with the need for global action on climate change and is environmentally flawed;

Whereas the Senate strongly believes that the proposals under negotiation, because of the disparity of treatment between Annex I Parties and Developing Countries and the level of required emission reductions, could result in serious harm to the United States economy, including significant job loss, trade disadvantages, increased energy and consumer costs, or any combination thereof; and

Whereas it is desirable that a bipartisan group of Senators be appointed by the Majority and Minority Leaders of the Senate for the purpose of monitoring the status of negotiations on Global Climate Change and reporting periodically to the Senate on those negotiations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should not be a signatory to any protocol to, or other agreement regarding, the United Nations Framework Convention on Climate Change of 1992, at negotiations in Kyoto in December 1997, or thereafter, which would—

(A) mandate new commitments to limit or reduce greenhouse gas emissions for the Annex I Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period, or

(B) would result in serious harm to the economy of the United States; and

(2) any such protocol or other agreement which would require the advice and consent of the Senate to ratification should be accompanied by a detailed explanation of any legislation or regulatory actions that may be required to implement the protocol or other agreement and should also be accompanied by an analysis of the detailed financial costs and other impacts on the economy of the United States which would be incurred by the implementation of the protocol or other agreement.

SEC. 2. Secretary of the State shall transmit a copy of this resolution to the President.

Mr. LOTT. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—S. 39

Mr. LOTT. Mr. President, I ask unanimous consent that the order entered July 24 with respect to S. 39, order No. 11, which is with regard to the tuna-dolphin issue, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that the majority leader, after consultation with the Democratic leader, may turn to S. 39, and one managers' amendment be in order, and time for the amendment and the debate on the bill be limited to 30 minutes, equally divided in the usual form, and following the conclusion or yielding back of time, the Senate proceed to vote on the amendment, to be followed by third reading and passage of S. 39, as amended, if amended.

Mrs. BOXER. Reserving the right to object, and I shall not object, I want to say to our majority leader that I thank him for his patience. I want to use this time in reserving my right to object, which I shall not, to thank the majority leader for his patience in allowing us the time we needed to come to what I think is a good compromise on this bill.

I want to say that Senator JOHN KERRY stepped into the breach at the moment we needed him to do so, and in working with Senator MCCAIN and Senator SNOWE, Senator BREAUX, Senator BIDEN, myself, Senator STEVENS—it was a big group of us, and a group that is pretty much known for some very strong opinions. I want to thank him. And the administration was at the table. It was not easy.

But in the end, what we are going to do basically is keep the label the way it is and give some time for a study to begin, put all the other wonderful parts of that bill into place, and then when the preliminary results are known, we will make a decision—the Secretary of Commerce will—on whether or not to change the definition of what constitutes "dolphin safe" tuna. So I think it is a victory for American consumers.

Just in concluding my brief remarks here—and I will not object to the unanimous-consent request—I want to thank the more than 44 Senators who stood with us, who were going to vote with us, so we were able to have the strength to negotiate this compromise.

I will not object to the request.

The PRESIDING OFFICER. Is there an objection?

Hearing none, without objection, it is so ordered.

Mr. LOTT. Let me wrap this up right quick because Senator MCCAIN needs to be able to comment on this, too.

For the information of all Senators, in light of this agreement with respect to the tuna-dolphin legislation, the cloture vote was vitiated; therefore, there will be no further votes to occur today. The next votes will occur in stacked sequence on Tuesday, July 29, beginning at 9:30 a.m.

I want to thank all Senators for their cooperation, especially the Senator from Maine, Senator SNOWE. She did outstanding work. She did not always receive the type of consideration she should have, but she has risen above that. Without her agreement, this would not have been possible. Also, of course, Senator MCCAIN has been diligent in his work, as always, and also Senator KERRY, who got involved to help us work this out.

I would like to make sure now that Senator MCCAIN has a chance to speak and put the proper perspective on all of this.

Mr. MCCAIN. Mr. President, I received a letter from the National Security Adviser. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 25, 1997.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I want to thank you for your hard work and support to find an acceptable compromise on S. 39 the International Dolphin Conservation Act. I am writing to inform you that we accept the agreement that has been struck between yourself and other Senators involved with the discussions on the legislation. I also want to inform you that we have consulted with the Government of Mexico and that they do not object to the agreement. They, in turn, are discussing this with the other signatories of the Panama Declaration in order to secure their acceptance of this compromise. I am hopeful that all the signatories will be able to accept this compromise as well.

Again, thank you for your efforts to bring about a successful conclusion to the discussions on S. 39.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President
For National Security Affairs.

Mr. MCCAIN. Mr. President, this letter indicates that negotiations we have entered into making changes to the legislation will keep the International Dolphin Conservation Program intact. That has been our sole objective. With the administration's assurance, I believe we are prepared to enter into a time agreement for final passage of the bill.

Again, President Clinton has asked us to pass this legislation. Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, the World Wildlife Fund; and the National Wildlife Federation have asked us to pass this bill. My only test for accepting changes to the bill is that the conservation agreement remains intact.

The agreement, which still must be put into legislative language, lifts the embargo on tuna from the eastern tropical Pacific, and would require the label change after the Secretary of Commerce makes a finding on implementation of the international agreement does not adversely affect dolphin in any substantial way, by a time certain. We have had months of negotiations on this issue.

Mr. President, I want to make one thing perfectly clear. This agreement would not be where it is today without the Senator from Maine, Senator SNOWE, the subcommittee chairperson, who conducted weeks and months of negotiations on this issue. The Senator from Maine is the one that made this happen. Whenever there is a victory, there are all kinds of people that like to take credit for it. The Senator from Maine, Senator SNOWE, entered into a months-long series of negotiations, and has accepted amendments and reservations that she would not otherwise want to. I am sorry that the thing that held up this agreement was extreme partisanship, which motivated people to vote for cloture on a bill that the administration and the environmental community supported, and the characterization of this bill as some kind of cave-in is wrong. We demanded that the international signatories would agree to any compromise that was made. That was done so in this bill. There will be, at a time certain, a labeling which will allow this Nation—and the other nations who are signatories—to have the importation of tuna into this country. I am sorry that these issues, which are really in the best interests of the Nation, somehow get politicized so much, as this issue has been. The Senator from Maine has refrained from that all along.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. KERRY. Mr. President, I ask unanimous consent that a fellow in my office, Tom Richey, be permitted access to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I want to make it clear that, from my perspective, this agreement on tuna-dolphin does not represent a cave-in. It doesn't represent one side sort of being bullied by another side. Also, I certainly don't think it represents a partisan effort because Senator BOB SMITH of New Hampshire, and a number of our colleagues across the aisle, were also very interested in the outcome of this and were prepared to join in a rigorous debate.

What I believe has happened is that, as it often does in the U.S. Senate, when contentious views are brought together and people have a chance to be able to air those views and work at it over time, we have been able to arrive at what I believe is a very good, sensible compromise—not a cave-in, a compromise. It is a compromise which I think takes the very best of what was proposed originally by Senator BREAUX and Senator STEVENS and helps to amalgamate it with other people's ideas about what would make it even stronger. It is going to be a strong conservation ethic. It is going to guarantee that we take the cooperation of other countries that we are respectful of and grateful for their cooperation and utilize that in a way which is going to strengthen our relationship in the hemisphere and, at the same time, provide for a strong conservation capacity with respect to the dolphin stocks.

I think everybody ought to be very pleased with the outcome. I am grateful to the Senator from Maine, Senator SNOWE, for her efforts on this. I regret that, yesterday, there were some misunderstandings during the course of it. But she has exhibited great strength and willingness to help provide for our ability to move forward. I thank her publicly for that.

I want to thank the chairman of the committee, Senator MCCAIN, for his efforts and patience, particularly. I think he allowed people to work through this in a way that got us here. I particularly thank Senator BOXER for her tireless, tireless energy in fighting for what she thought was right in this situation and for helping to create the ability to come to this compromise. So I think it is positive for all concerned, and I think everybody ought to feel good about it, without any sense of partisanship or any divisiveness.

I thank the Chair.

The PRESIDING OFFICER. Who seeks time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Chair. I rise to express my support for the agreement that ultimately was reached on this very important issue. I remind my colleagues that this was an issue that had been introduced in the last Congress by the Senator from Alaska, Senator STEVENS, and unfortunately, we weren't able to get it through in the last Congress, for a lot of political reasons. I hope now that people recognize that this represents a very strong step toward preservation and conservation of the species and, at the same time, an important agreement with 11 other nations on this issue, which I think ultimately will resolve the problems that we are facing with respect to tuna, as well as with dolphins.

So I hope that our colleagues will ultimately support this agreement. I want to commend Senator McCAIN, who certainly forged an effort to try to create this, as well as Senator BOXER and Senator KERRY. Truly, the leadership was exemplified by Senator STEVENS and Senator BREAUX, who originally introduced this legislation in the last Congress. So I hope that we will take the steps necessary to implement this legislation and, ultimately, will ratify the agreement that was reached by this administration with respect to this issue.

With that, I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks time?

MORNING BUSINESS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE STATE DEPARTMENT REPORT ON MFN

Mr. HUTCHINSON. Mr. President, Tuesday, the New York Times stated that the State Department would issue its first report on the worldwide persecution of Christians and this report would be sharply critical of China. That report was, in fact, released this past Wednesday, and I urge all of my colleagues in the U.S. Senate to read this report. This is the same report that the State Department originally promised to release to Congress on January 15, over 6 months ago. It is the same report that the State Department promised to release by the end of June, and the same report that the State Department promised to release before the House voted on China's most-favored-nation trading status.

On June 18 of this year, my good friend and colleague from Wisconsin, Senator FEINGOLD, and I sent a letter to both the President and to the Secretary of State, expressing our grave concerns about recent reports that suggested that the State Department was deliberately delaying the release of its findings on religious persecution throughout the world. It was my understanding that this report placed a specific focus on the persecution of Christians and other religious minorities around the world, and that the report singled out China for especially tough criticism.

It is, in fact, the case, as the report has been issued and as I have surveyed that report, that that criticism is even more scathing than what had been anticipated. As I have stated on this floor many times, the 1996 State Department's human rights report on China revealed that the Chinese authorities had effectively stepped up efforts to suppress expressions of criticism and protest. This report said that all public dissent had been effectively silenced by either exile, imposition of prison terms, or intimidation. This latest report from the State Department, issued this week, further underscores the seriousness of the situation in China and the severity of the crackdown that has been imposed upon those who would express any opinion contrary to that of the Communist government.

As an original cosponsor of the disapproval resolution on MFN to China, I believe serious human rights abuses persist in all areas of China today and that the continuous delay of this year's report on religious persecution raises the question as to this administration's willingness to engage in an open discussion of the effect of U.S. policy on human rights in China and around the world.

I urge that the State Department report be delivered in a timely manner to ensure its full disclosure and debate prior to a vote on the extension of MFN to China. It seemed to be only right, only proper that the House and my Senate colleagues would have an opportunity to see the latest and most accurate information as to what is going on in China. That information was denied the House and it was denied my colleagues in the Senate, as we voted on the sense-of-the-Senate resolution last week. I even publicly made a request on the Senate floor for that report to be issued prior to any MFN debate and MFN vote.

The State Department informed me that I would receive a copy of the report as soon as it was released. Mr. President, the fact was that the New York Times received a copy of this report before Congress did. This year's report states quite clearly that the Chinese Government has consistently violated its own constitutional guarantees of religious rights, cracking down on Catholic and Protestant groups, raiding worship groups meeting in private homes, and sometimes detaining and interrogating and even beating religious leaders. Furthermore, the report states:

> The government of China has sought to restrict all actual religious practice to government-authorized religious organizations. Some religious groups have registered, while others were refused registration.

I want to commend and express my appreciation to Senator ASHCROFT from the State of Missouri for his willingness to come to the floor of the Senate this week and express his own outrage at the continuing deterioration of human rights conditions in China.

Mr. President, I raise this question on the floor of the Senate today: Why was the State Department's report on religious persecution delayed, delayed, and delayed again, so that it was only released after all congressional votes and all congressional debate on MFN was history?

Mr. President, I have serious concerns that officials of this administration are not willing to engage in an open discussion about United States policy toward China, and I am deeply disturbed about the timing of this report, especially in light of the votes that have transpired in both the House and the Senate in recent weeks.

The revelation that human rights abuses continue to worsen in China, while our policy remains status quo, I believe, gives our own tacit consent to the terrible atrocities that are occurring in that great country.

To remain silent when evil is perpetrated and injustice is being inflicted, I think, is to become a participant in that evil. So I urge my colleagues to obtain a copy of this year's report issued this week, read it, study it, and decide what action we should take as a nation against this regime that continues to disregard basic human rights.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Pennsylvania.

INDEPENDENT COUNSEL

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on the issue of independent counsel.

Yesterday, I spoke about my view that independent counsel ought to be appointed and the fact that there appeared to be no chance of Attorney General Reno appointing an independent counsel, and then exploring the alternatives of litigation and the alternative of an amendment to the independent counsel statute. I stated at that time that I intended to pursue legislation to modify the independent counsel statute and had hoped to put it on the appropriations bill on Commerce, State, Justice, and the Judiciary, but would not do so if it would tie up the bill.

After consultation with the distinguished majority leader and others, it was apparent to me that such an amendment would tie up the bill and most probably provoke a filibuster on the other side, and that, in fact, a unanimous-consent agreement had been proposed which was conditional on tabling any amendment which I might offer.

In addition to the amendment on independent counsel, I was considering, along with my distinguished colleague, Senator HATCH, offering a sense-of-the-Senate resolution calling for the Attorney General to appoint independent counsel. But even a sense-of-the-Senate resolution would have provoked a likely filibuster to tie up the bill. So I did not proceed to do that, but instead filed at the desk yesterday legislation for independent counsel, after consultation with the majority leader, who said that if an opportunity presented itself that that matter might be called up as early as next week. That would not be certain because there are considerations as to what will happen with the reconciliation bill and the tax bill.

In the alternative, after discussions with Senator HATCH, the alternative has been considered to have a sense-of-the-Senate resolution perhaps acted on next week, if there is time. It is the last week before the recess. But that is problematical.

Mr. President, I ask unanimous consent that the text of the sense-of-the-Senate resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. . SENSE OF THE SENATE REGARDING APPOINTMENT OF INDEPENDENT COUNSEL.

(a) FINDINGS.—The Congress finds that—

(1) press reports appearing in the early Spring of 1997 reported that the FBI and the Justice Department withheld national security information the Clinton administration and President Clinton regarding information pertaining to the possible involvement by the Chinese government in seeking to influence both the administration and some members of Congress in the 1996 elections;

(2) President Clinton subsequently stated, in reference to the failure by the FBI and the Justice Department to brief him on such information regarding China: "There are significant national security issues at stake here," and further stated that "I believe I should have known";

(3) there has been an acknowledgment by former White House Chief of Staff Leon Panetta in March 1997 that there was indeed coordination between the White House and the DNC regarding the expenditure of soft money for advertising;

(4) the Attorney General in her appearance before the Senate Judiciary Committee on April 30, 1997 acknowledged a presumed coordination between President Clinton and the DNC regarding campaign advertisements;

(5) Richard Morris in his recent book, "Behind the Oval Office," describes his firsthand knowledge that "the president became the day-to-day operational director of our [DNC] TV ad campaign. He worked over every script, watched each ad, ordered changes in every visual presentation and decided which ads would run when and where;"

(6) there have been conflicting and contradictory statements by the Vice President regarding the timing and extent of his knowledge of the nature of a fundraising event at the Hsi Lai Buddhist Temple near Los Angeles on April 29, 1996;

(7) the independent counsel statute requires the Attorney General to consider the specificity of information provided and the credibility of the source of information pertaining to potential violations of criminal law by covered persons, including the President and the Vice President;

(8) the independent counsel statute further requires the Attorney General to petition the court for appointment of an independent counsel where the Attorney General finds that there is a reasonable likelihood that a violation of criminal law may have occurred involving a covered person;

(9) the Attorney General has been presented with specific and credible evidence pertaining to potential violations of criminal law by covered persons and there is a reasonable likelihood that a violation of criminal law may have occurred involving a covered person; and

(10) the Attorney General has abused her discretion by failing to petition the court for appointment of an independent counsel.

(b) It is the Sense of the Senate that the Attorney General should petition the court immediately for appointment of an independent counsel to investigate the reasonable likelihood that a violation of criminal law may have occurred involving a covered person in the 1996 presidential federal election campaign.

Mr. SPECTER. As if in morning business, Mr. President, I submit the sense-of-the-Senate resolution for introduction to be considered at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair. I yield the floor.

In the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

(The remarks of Mr. MURKOWSKI pertaining to the instroduction of S. 1069 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NATIONAL ENERGY SECURITY

Mr. MURKOWSKI. Mr. President, I would like to call attention to an extraordinary experience that occurred last weekend, involving several Members of this body who joined my wife and me in visiting our great State of Alaska: Senator HELMS and Mrs. Helms, the Senator from North Carolina; Senator JEFFORDS from Vermont, Senator INHOFE of Oklahoma, and Senator SMITH from Oregon. We left last Friday after the close of business Thursday night. We covered approximately 7,400 miles in about 64 hours. We visited eight cities and communities. I think we were in the airplane some 23 hours, spent 6 hours on a bus, and at least 10 hours visiting with people on the ground in Alaska. But for that relatively brief time, I think a great deal was learned.

The purpose of the trip, relative to aspects of the national energy security of the country, was to observe the oil development on the North Slope of Alaska at Prudhoe Bay, and to follow the pipeline 800 miles down to the terminus at Valdez.

We flew on Friday direct from Washington, DC, via Edmonton, Canada to Cordova, AK, in Prince William Sound, where we were met by Mayor Johnson, who gave us an overview of the impact of the Federal Government relations and the aftereffects of the *Exxon Valdez* oilspill at Bligh Reef.

We then got into smaller aircraft and flew around Prince William Sound. We viewed Colombia Glacier and at the area where the *Exxon Valdez* went aground—we observed the beaches closely. I am pleased to tell my colleagues that there was absolutely no sign of any residue from that terrible accident.

We then landed in Valdez, were met by a group of people, and boarded a bus to go around the harbor to the pipeline terminal, which is the largest oil terminal in the United States. A full 25 percent of our total crude oil production is dispatched on U.S.-flagged tankers that move it to Hawaii, to Los Angeles and San Francisco on the west coast, and to other areas.

It was remarkable to note that there were hundreds of tourists fishing for salmon, right next to the oil terminal, in small boats. We saw several fish being caught. These weren't shills, these were real people, real tourists out there, Mr. President.

We had an opportunity to inspect the terminal. We observed the major storage area. We actually went into one of the storage tanks that was being cleaned. The setting of the terminal—

that I remind my colleagues has the capability of supplying this Nation with 25 percent of its total crude oil—is really dramatic. It sits on a shelf across the harbor from Valdez, on solid rock, with a dramatic background of snowcapped peaks. More significant still is, I think, the technology that has been adopted there.

They are currently able to recapture any emissions from the loading tankers, that is, the fumes coming from loading the tankers, and put them back into a closed recovery process. So there are virtually no emissions coming out during the loading process. To protect against liquids, each ship has a boom around it while it is loaded to make sure that there is no oil can possibly escape. I think the oil spillage there in the last several years has totaled less than a gallon, to give you some idea of the safety and technology that has been adopted.

We next went back to Valdez by boat, met with community leaders and then got back on our airplane and flew to Fairbanks. In Fairbanks we were hosted at a dinner by the Arctic Slope Regional Corp., the Alaska Native corporation representing the North Slope area. Next morning we flew from Barrow to Fairbanks, about an hour-and-a-half flight. Point Barrow is the northernmost community in the United States. You can't go any further north without falling off the top.

There we met with a number of Native people, and they were very explicit in explaining to us the significant difference that energy development has made to their lives. One young man indicated that he used to come to school to keep warm, because there was not enough heat in his home. They had to scrounge on the beach for driftwood, driftwood that is not native to the area because Barrow is far north of the tree line, but would float in from the MacKenzie River 100 miles away to the east and wash up on the beach. He said things are different now. He went to a school that was built by the North Slope Borough government and funded by the Arctic Slope Regional Corp. It is one of the finest schools in the United States. It has everything—even indoor recess capability, a good idea in that climate. Really a magnificent facility. We also visited the local hospital and several other things.

But the point the resident brought out is that they prospered only as a consequence of having a tax base based on resource development—oil and gas. They were able to send their children to school. And it was not like the past when there were no economic benefits, no support base. I think everyone was very pleased at the presentation because it provided a point of view on energy development that is not often made.

We next flew in our airplane to Prudhoe Bay, the beginning of the 800-mile pipeline, to observe the oilfields. Then we went by bus to a site called Endicott. This is a field based on a man-made island about 11 miles offshore, made of gravel. It is the seventh largest producing oilfield in North America, and yet it has a footprint of only 54 acres. That's very significant when you consider the advancements in oil technology between Prudhoe Bay and Endicott, and realize they can develop oil using directional drilling from a very small platform—that is what Endicott means.

We then drove back to Prudhoe Bay, got in small aircraft and went east to the Canadian border. There, we were inside the Arctic National Wildlife Refuge—ANWR. We actually flew into the ANWR area to a village that is in the middle of ANWR called Kaktovik. We met with the villagers. They were out fishing. It was a beautiful day. There was virtually no wind. The icecap moved away from the shore, leaving blue waters. We saw maybe 10,000 caribou, and several hundred musk ox on the tundra.

The interesting thing is we saw where the proposed wells are going to be developed on the State's side of ANWR, and then we went near a well site that is very close to the edge of ANWR called Sourdough. This is a well on State land adjacent to ANWR and which may be the site of a major oil discovery.

The question there is whether this discovery extends into ANWR or is limited just to the State land next to it. Of course, this presents a problem and a question of responsibility for the Secretary of the Interior. Because he has public trust responsibility to determine if there is, in fact, a reservoir of oil on the Federal side. That's important because if the State allows drilling and the State pulls down the oil deposit under its well, a portion of that resource could belong to the Federal Government.

We went to a couple of other areas that were interesting. Some in the group asked, "Where are the pictures of the coastal plain that we see in the environmental magazines that portray the sensitive coastal plain area?" We took the group back into that area, a dramatically different region that is not in the same area as the coastal plain despite the pictures we see so often. We also observed a number of areas where they plan to drill on the State's side, and flew over the one exploratory well that had been drilled within the ANWR area. There was no evidence, other than you can see a discoloration of the tundra, of that well's existence—no structures of any kind.

What that well may or may not contain we still don't know because that information has never been released by the companies that did the drilling. It is somewhat academic at this point, because if there were substantial reserves there, there is no way to take them out because it's all Federal land. Without the ability to transfer the oil through a pipeline it is impractical and unreasonable to proceed until Congress resolves the issue of what to do with the 1002 area.

This is a unique area, part of ANWR, but just 1½ million acres out of the 19-million-acre total. The area of ANWR is basically made up of three parcels. About 8 million acres are in the wilderness, about 9 million acres are in what we call refuges. Only 1½ million acres are included in the so-called 1002 area, which was reserved for the Congress of the United States to decide whether or not it is in the national interest to open that area for oil and gas exploration.

To conclude with a brief description of the trip, I think my colleagues would agree, they saw a great big hunk of American real estate and got a feel for the sensitive areas. They got a feel for the advanced technology that is underway currently for oil and gas exploration and production. We saw foxes. We saw caribou running ahead of our bus on the roads in Prudhoe Bay.

Then after that day, we flew back to Fairbanks where we were hosted by the Alaska miners to a dinner. The next morning, the University of Alaska, on Sunday, hosted the Members to a breakfast at 8 o'clock. Then at 9 o'clock, we went out to the Fort Knox gold mine. This is the largest gold mine in Alaska producing from a new technology that gets the very fine gold and is able to recover it. It is operating 7 days a week, 24 hours a day with a shift of about 200 personnel, but the significance is that they brought in a bar of gold, a brick, a little bit bigger than a brick, very heavy. It was worth about $167,000. That is what one brick of gold is worth.

We drove back to Fairbanks, got in the airplane at noon on Sunday, and flew back the rest of the day, got in here at midnight, and went to work Monday morning.

I simply describe this as evidence, I think, of an opportunity for Members to see Alaska, such as Senator HELMS, Senator JEFFORDS, Senator INHOFE, Senator SMITH, the current occupant of the chair, and see for themselves what the issues are relative to the issue of ANWR and other aspects of the national energy security interests which Alaska contributes significantly to and address the dilemma associated with development on public land and talk to Alaskans who we feel are the best stewards of the land.

So I encourage my other colleagues to contact the Senators in question—Senators HELMS, JEFFORDS, INHOFE, and SMITH of Oregon, because we would like to host others in Alaska and let them see for themselves as they address many of the issues that are going to determine the manner in which Congress authorizes resource development on public lands in our Nation's largest State.

With that, I thank my colleague who has been patient, and I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

GLOBAL WARMING

Mr. SESSIONS. Mr. President, we just voted earlier today 95 to 0 to direct the President of the United States not to enter into treaties in Japan dealing with global warming at this time. Those of us who care about the Earth on which we live want to make sure we are good stewards of this planet that we are blessed to have and we care about it very deeply.

I have had the opportunity to serve on the Environment and Public Works Committee and have heard testimony from some of the Nation's most outstanding experts on the question of global warming. I am a new Senator, just having come here in January, and was very interested and fascinated by the possibility of trying to learn more about this problem that I have been reading about, as have so many Americans.

I must admit to you that I have been somewhat surprised by a number of things, including a lack of unanimity among scientists, a lack of data among scientists, and a serious disagreement among scientists. I am also somewhat surprised, despite the very strong feelings of people who study this, that the President continues to be determined to enter into treaties that could adversely affect the economic well-being of the United States.

Let me say first, in my simple way of thinking about this problem, a regulation is the equivalent of a tax. It would be no different for us than if we were to regulate the electric power industry and added costs to companies by mandating environmental controls in addition to the ones that they have implemented to preserve the environment for years. If we implement those controls, their customers are going to pay in terms of rate increases. Increases will be paid by the citizens who consume power, and every American consumes power.

So we have to understand that a regulation that imposes a burden on some big company, like a power company, is really a tax on all of us. It is a regulation that impacts all of us. It adds to the cost of doing business in America. Every small business that utilizes electricity will have to pay for that power at a higher cost. It will make them, therefore, less able to compete with other people around the world. I think that is a fundamental principle we must not look for.

The Atlantic Monthly recently had a most marvelous article about economic growth, progress, and technological advancement. Those, it said, are the greatest ways to fight pollution and to clean our environment. The areas that are most polluted, the areas that are least safe to live in and where people have the shortest lifespan are the undeveloped nations of the world. This article devastated the myth that progress and technological advancement imperil the environment. Indeed, just the opposite is the case. Improved technology and improved progress allow us to do more for less and improve our environment.

We do know, though, that we are already, as a nation, facing a difficult challenge around the world. We are having a difficult time protecting the jobs of working Americans in the face of lower-wage nations that are taking our jobs. Ross Perot, in running for President, used the phrase "a giant sucking sound," as he referred to jobs going overseas. The fact is, every day we place greater and greater burdens on the productive businesses in our Nation. At some point, the cumulation of those burdens reach a point that makes those businesses uncompetitive in the world and can severely damage the economic strength of this Nation. That is why the AFL–CIO and working unions all over America are questioning and opposing this treaty, because they see it will add one more burden to the United States and one more advantage to undeveloped nations who already have these low-wage rates to knock down and take away the productive capacity of American industry. I think it is a valid concern.

Second, Mr. President, my simple mind, as I have been here, has caused me to think about how many treaties I see that we are entering into. I have this vision in my mind of Gulliver among the Lilliputians lying there with strings tying the giant down where he couldn't get up. Hundreds of little threads tied him down, and he could not move.

We are a great nation, the greatest really on Earth, the greatest perhaps in the history of the world. We have great privileges and great requirements as a great nation. We ought not to lightly enter into treaties that bind us, keep us from being able to fully effectuate the capabilities that we have and enter into treaties with other nations, some of whom may not honor those treaties. It is one thing for them to sign up. We have seen nations sign up and say they won't use poison gas and then they have used poison gas, and nothing is done about it. What if we sign a global warming treaty and other nations who sign it do not comply? What will we do then? I suggest we will do nothing. We will honor that treaty, as we always do, because we take those things very seriously.

Let me make a couple of points. The first thing that I have learned in our committee hearing is just how small a part of the problem we are facing is caused from humankind. Look at this chart. It is a remarkable chart—CO_2 emissions, natural versus man-made.

Eighty to eighty-five percent of emissions that cause global warming are supposed to be CO_2. This is a big problem. 96.9 percent of the CO_2 emissions on this Earth come from natural causes; things which combustion and other things do not affect. The rest of the world contributes 3.1 percent. The U.S. contribution is less than 1 percent, .6 percent. If we eliminated all the production of CO_2 in the United States, we would only make a small dent in the overall problem of CO_2 emissions. That is why people are saying they are not sure what is causing global warming, if we have global warming at all. I think we have to know that. Those of us who are talking about imposing tremendous economic burdens on American industry place us in a position of not being able to remain competitive in the world, for a benefit perhaps nonexistent. I think this is a matter we have to consider seriously.

Do we have global warming? That is a matter that I know is a given—it is said. Some 2,000 scientists say it is, but many do not know why. There remains a lot of dispute about global warming. I am not sure what the real situation is. I am certain that there is some slight warming, but I must say that it is not clear.

Dr. Christy, a NASA contractor and a professor at the University of Alabama in Huntsville, a premier university in scientific research, has studied satellite data for 20 years. He has been able to ascertain from that data what the atmospheric temperatures are around the world, not just on one seashore where the gulf stream may affect it or some prevailing winds may have affected the temperature temporarily. This is a global change. He has studied this over 20 years, beginning in 1979.

Dr. Christy reached a remarkable conclusion based on his studies of temperature changes. As stated in his testimony before the full Senate Committee on Environment and Public Works, the level of the atmosphere he is testing should be warming, according to those who believe in the global warming models, because global warming caused by the greenhouse effect should be an atmospheric effect, but he found the atmosphere has not warmed. This black line reflects the temperature, and it has actually gone down during the almost 20 years that he studied.

No one has contradicted that evidence. It wasn't evidence that he went out and gathered. It was evidence that he just took from the satellite information that was already available to the public, and he made a comprehensive study of it.

What is interesting is, based on his information, we may not have global warming at all. As I said, that information has not been disputed in any way.

Not many years ago, the prediction was that we were going to show a 4-degree increase in climate temperature in the next 100 years; 4 degrees growth would be the average increase in temperature in the next 100 years.

Now, those numbers have dropped to 2 degrees. The experts have reduced those already just in the last few years to 2 degrees.

Dr. Patrick J. Michaels, professor of environmental sciences at the University of Virginia and senior fellow of environmental studies at the CATO Institute, testified before the Senate Foreign Relations Committee on June 26, 1997. This is what he said:

> Critics argued some years ago, as I did, [he said] that this would have to be a dramatic reduction in the forecast of future warming in order to reconcile fact with hypothesis.

In other words, he realized that the people who were predicting this 4-degree increase were wrong, and some time ago he predicted they would have to modify this.

> By 1995, [he said] in its second full assessment of climate change, the IPCC [the U.N. panel] admitted the validity of the critics' position [his position]. When increases in greenhouse gases only are taken into account, most climate models produce a greater warming than has been observed to date—

In other words, we predicted a greater warming than we were actually seeing, than nationally has been observed.

> unless closer climate sensitivity to the greenhouse effect is used.

In other words, we were predicting too high a sensitivity to the greenhouse effect.

The IPCC continued:

> There is growing evidence that increases in aerosols are partially counteracting the warming.

There are many things that are involved there.

Dr. Michaels then added this comment. I thought it was very instructive, Mr. President. He said:

> I believe the secular translation of this statement is that either it is not going to warm up as much as was previously forecast or something is hiding the warming. I predict every attempt will be made to demonstrate the latter before admitting that the former is true.

I thought it was interesting he used those words: "I believe the secular translation of that document." I thought about why he did that, why he used those phrases. He is a scientist, a University of Virginia scientist. Why would he say that? I think he is saying that because he senses in many of the people who are promoting this agenda almost a religious bent, a commitment beyond rationality, a commitment beyond science, a sort of supernatural belief that we have to clean this Earth, and nothing we do as human beings here is healthy, and it is all bad. It goes beyond rationality. I tend to agree that we have some things that are said, that I have observed on our committee, that would indicate that that is true.

Let me add one more thing before I conclude.

The other thing we have learned is that global warming is hard to fix obviously if 97 percent of—by far, the No. 1 problem of greenhouse gas—CO_2, is from natural causes. So we have a problem.

We had testimony recently from four scientists before our committee. And I would like to share with you one of the exchanges that took place there.

One professor thought that even though he was supporting the treaty, he thought we should take only modest steps at this time. And he believed that a significant tax on fuel and carbon products would be the way to do it. That is what he proposed. He said, "I think we need to start moving in that direction."

Dr. Richard S. Lindzen was a member of that panel. He is an Alfred P. Sloane Professor of Meteorology at the Massachusetts Institute of Technology. When testifying before the Senate Committee on Environment and Public Works on July 10, 1997, Dr. Lindzen said, "I'm saying more than that. I'm saying that Dale"—talking about the professor—"that what he's proposing, take the scenario that you expect, an increase of 4 degrees"—so Dr. Lindzen is saying, OK, let us assume that you are predicting a 4-degree increase in temperature in the next century, what affect would this tax, a significant tax on oil and all carbon products, have on our environment?

This is what he said, ". . . take the scenario that you expect an increase of 4 degrees, if we imposed his tax, that would knock the temperature down over 100 years to 3.95 degrees. Only five one-hundredths of a degree would be affected by a tax to reduce that kind of emission of gases."

We are dealing with a very serious problem. I am concerned about American economic growth. I want the American people to have good jobs and be competitive in the world. I want a healthy environment. I believe in that. I am willing to invest some money in that. But I am not willing to invest money in a project that will have almost no effect and perhaps is dealing with a problem that may not even exist.

We need more science, more study before we ask the people of this Nation to commit their resources into an effort that we could do somewhere else; $10 billion, $100 billion spent on this is $100 billion we could spend on child health care, emergency room admissions, and a lot of other things that we desperately need in this country.

So, Mr. President, I appreciate the opportunity to share those thoughts with you. I think we are dealing with an important issue. And I hope that the American people will pay close attention to it as we go forward.

I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

MILITARY SERVICE AND HOMOSEXUALITY

Mr. COATS. I want to take just a few moments to put something in the RECORD that has not really been high profiled recently but which is I believe important.

I picked up the Washington Post earlier this week and was reading through the Post, and in there was a small story detailing what the President's press secretary, Mike McCurry, had to say about an earlier statement made by the White House relative to the law which governs the service in the military of people with homosexual persuasion.

The administration had issued the comment in response to some court rulings that they thought that the law was working as intended. And then Mr. McCurry, after admitted pressure from the gay rights lobby, issued a clarification which changed the response or at least was intended to change the response. I quote from the Washington Post article which said:

> After protests from gay rights groups, McCurry yesterday said that contrary to an earlier statement, the Clinton administration does have concerns about how its [so-called] "don't ask, don't tell" policy ["so-called" is my emphasis] on homosexuality is being enforced in the military.

First of all, let me state that this, the current policy which is described by many as a "don't-ask, don't-tell policy," is not descriptive of the particular policy. Therefore, I think it is important that we understand that what we are dealing with here is a law enacted by this Congress on a bipartisan basis, signed into law by the current President of the United States, and not subject to different interpretations but subject to exactly what is printed in the statute.

Mr. McCurry needs to understand and the White House needs to understand that the prohibition against homosexuals serving in the military is a statutory requirement that was passed overwhelmingly by Congress and signed into law by the President, his President.

The true test of whether the Department of Defense is faithfully executing the law is whether those who have engaged in or who have a propensity to engage in homosexual conduct are being separated from military service. That is the statute. That is the intent of the statute. That is the intent of the Congress, as enacted into statutory language and signed by the President.

And that standard is that those who have engaged in or have a propensity to engage in homosexual conduct find themselves at a great inconsistency with longstanding military policy and are therefore eligible and should be separated from military service. That is the law of the land.

Just a little bit of history.

In January 1993, just days after his inauguration, President Clinton announced his intent to reverse the military's longstanding prohibition against homosexuals serving in the Armed Forces. That decision was uniformly opposed by our military commanders, and decisively overturned by the Congress after months of careful deliberation.

Just to reiterate here, the President, very shortly after taking office, reversed longstanding military policy, and even though the President serves in his constitutional capacity as Commander in Chief, the leaders of our military unanimously opposed, publicly opposed the President's position saying that it would undermine morale, undermine the cohesiveness, undermine the very essence of what the military was designed to do.

The Congress' consensus—after very considerable examination, hearings and debate—the Congress' consensus on the issue was clear, it was bipartisan, and it was broad. And the President ultimately signed a statutory prohibition against homosexuals serving in the military. He signed that into law.

The law clearly sustained the Department of Defense longstanding policy and was based on several key findings of fact by the Congress. Those findings of fact are also law. And I would like to repeat those so that there is no confusion in this administration about either what the intent of Congress was or what the law was that passed the Congress and was signed by the President and now is operative.

Let me just state some of these key findings.

> (1) Section 8, article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a navy, and make rules for the Government and regulation of the land and naval forces.

As the committee report noted:

> The framers of the Constitution expressly vested the powers to raise and regulate military forces [they vested this power and authority] in the Congress.

The statute goes on to say, with the findings:

> The President may supplement, but [he may] not supersede, the rules established by Congress for the Government and regulation of the Armed Forces.
>
> (2) There is no constitutional right to serve in the Armed Forces.

The committee amplified:

> The primary mission of the Armed Forces is to defend our national interests by preparing for and, when necessary, waging war. . .. Responsibility for the awesome machinery of war requires a degree of training, discipline, and unit cohesion that has no parallel in civilian society. . . . The Armed Forces routinely restrict the opportunities for service on the basis of circumstances such as physical condition, age, sex, parental status, educational background, medical history, and mental attitude. . . . The fundamental precept [is] that the rights of the individual service member must be subordinated to the needs of national defense.

And so in the instance, in the case where we formed our military, we do not follow the same rules, the same civil rights, the same rights that are available to Americans in other endeavors because of the unique function of the military, its unique calling and unique requirements for those individuals to serve in it. The many, many otherwise appropriate rights exercised by Americans are not rights granted to people who voluntarily agree to serve in the military or even if they are involuntarily called up, which we do not do anymore.

> (3) Pursuant to the powers conferred by section 8 of article I of the Constitution of the United States, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the Armed Forces.
>
> (4) The primary purpose of the Armed Forces is to prepare for and to prevail in combat should the need arise.
>
> (5) The conduct of military operations requires members of the Armed Forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.
>
> (6) Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

A critical element in this fact finding:

> (7) One of the most critical elements in combat capability is unit cohesion, that is the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members.
>
> (8) Military life is fundamentally different than civilian life in that the extraordinary responsibilities of the Armed Forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a special society; and the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.
>
> (9) The standards of conduct for members of the Armed Forces regulate a member's social life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the Armed Forces.
>
> (10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the Armed Forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.
>
> (11) The pervasive application of the standards of conduct is necessary because members of the Armed Forces must be ready at all times for worldwide deployment to a combat environment.
>
> (12) The worldwide deployment of the United States military forces, the international responsibilities of the United States, and the potential for involvement of the armed forces in actual combat routinely make it necessary for members of the Armed Forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.
>
> (13) The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service.
>
> (14) The Armed Forces must maintain personnel policies that exclude persons whose presence in the Armed Forces would create an unacceptable risk to the Armed Forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.
>
> (15) The presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

These are the facts as determined by the Senate Armed Forces Committee, by the Congress, both the House and the Senate, certified by us, written into law, signed into law by the President of the United States. These findings are as operative today as they were when they were passed. They are not subject to interpretation by the President. They are not subject to modification by the administration.

The law of the land is clear: Homosexuals may not serve in the military. That is the law of the land. That is not the opinion of this Senator from Indiana. That is not subject to the opinion of the President's press secretary or people in the administration. It is the law of the land. The military has always defined, and continues to define, a homosexual as one who is engaged in or has a propensity to engage in homosexual conduct. Unfortunately, while the law speaks clearly, its popular title, "don't ask, don't tell," is often confusing to the press and the public. It seems to imply that a homosexual may serve in the military as long as he or she is discrete. This is simply not the case and it misinterprets the law.

The Senate Armed Services Committee report language is clear about the intent of the law, and again I quote:

> It would be irrational to develop military personnel policies on the basis that all gays and lesbians will remain celibate or that they will not be sexually attracted to others.

Jamie Gorelick, then general counsel to the Department of Defense, testified:

> The military is not required to take the risk that you will not engage in the act.

At a later hearing, she stated further:

> When someone makes a statement, it is reasonable to conclude that they will act, and the military is not required to take the risk that someone will not restrain a propensity.

I want to remind the White House that its constitutional obligation is to enforce the law of the land. After a prolonged national debate on the question of homosexuals serving in the military, the President's position failed. Recognizing that defeat, he signed the National Defense Authorization Act of 1994 into law. In that act is the language now codified into law that clearly states the law of the land relative to homosexuals serving in the military. It is the obligation of the Department of Defense to separate those who engaged in, or have a propensity to engage in, homosexual conduct in the Armed Forces. Now, if the President wishes to reopen this debate, which I don't believe he does, he can look at modifying this law. But until that time, the administration has a constitutional duty to uphold that law, regardless of what pressure is politically applied upon the administration by any one group or number of groups or any one individual or group of individuals.

So I wanted to put this in the RECORD so there was no misunderstanding about what the Congress had done, what the President had signed into law, and what the current law of the land is. This was the result of extensive—perhaps some of the most extensive—hearings the Senate Armed Services Committee has ever held. There were hundreds of witnesses, thousands of pages of testimony, site visits, testimony from people on all sides of the issue, representing every perspective. This was a carefully fashioned conclusion that was presented, approved by the committee, presented to the Congress and overwhelmingly approved by the Congress on a bipartisan basis, sent to the White House and signed into law by the President.

I think it would behoove the President and the people speaking for him to understand clearly what this law is and to fulfill their constitutional responsibilities to uphold the law and not make vague clarifications of statements and policies simply because one or more particular group protested their particular position on the issue.

I yield the floor.

GLACIER BAY MANAGEMENT

Mr. MURKOWSKI. Mr. President, I have one more item, relating to legislation addressing several important aspects of the administration and management of Glacier Bay National Park in my State of Alaska.

As many of you know, Glacier Bay National Park, west of Juneau in southeastern Alaska, has been named as the No. 1 national park in our country's National Park System. It is a unique tourist destination. It can only really be reached by cruise ship. The season runs roughly from Memorial Day to Labor Day, the season for the cruise ships that visit southeastern Alaska.

For the most part, these are the same ships that traverse the Caribbean in the wintertime, then move to Vancouver, BC, in order to sail to Alaska in the summer. There are probably 30 ships. I believe the number of tourists who visit Alaska by cruise ship is somewhere in the area of 600,000 in that short 90-day period.

Because of the popularity of this unique tourist destination, the legislation I have introduced would encourage the continuation of the Park Service's ongoing efforts to work with concession operators to try to improve visitor services, as well as deal fairly and finally with the longstanding dispute over the status of the commercial and subsistence fishing that has gone on in that park from time immemorial.

The footprint that any of these activities leaves in this park is pretty insignificant in relationship to other parks, because the park is seen, for the most part, by visitors on a cruise ship. You might get an occasional candy wrapper blown overboard, but the ships are very good at keeping their impact to a minimum. The point is, compared to impressions left in other national parks by visitors, the footprint left by visitors who come to the park on a ship—and never get off—is extremely small. That's part of what makes the park so unique—access by cruise ship.

In any event, this bill reflects the progress of several years of discussion with local interests and the Park Service. The efforts, I think, are positive. But we have been hampered from achieving consensus by some groups who seem to be unwilling to compromise for reasons we can only guess at—perhaps they don't want to see other visitors during that short summer season.

Insofar as possible, this bill represents an attempt to stake out some reasonable, responsible middle ground that would respect the wishes of all concerned. The issue of commercial fishing is one where, historically, fishermen have plied the waters of Glacier Bay and the outer coast, the Gulf of Alaska area now included in the park, for over 100 years. Local Native villagers, the Huna Tlingit people, have been doing so for thousands of years. At no time have their activities damaged the park or its resources, nor have they harmed the area's wild and scenic qualities in any way. Their presence has provided a colorful backdrop to the mystique of the park, as a matter of fact. This simple fact I don't think can be overemphasized.

To put it another way, commercial fishing and local villagers have continually fished in Glacier Bay since long before it became a park or a monument. The fact that we value it so highly today is proof that they have not had an adverse impact on the species in the bay. Unfortunately, some interests do not seem to be concerned about fairness, or the obligation to the Native people of Alaska, and would like to see fishing and gathering banned, no matter how environmentally benign or how critical to the local livelihoods it may be.

On subsistence, this bill corrects inconsistencies in the Alaska National Interest Lands Conservation Act, known as ANILCA. Villagers living near Glacier Bay, whose ancestors have used the bay continually for at least 9,000 years, must be allowed to continue to use the bay's resources to feed their families, to fish for halibut, salmon, crabs, collect clams, seaweeds, berries, and other foods that are part of their traditional culture.

Let me emphasize, we are talking about a relative handful of families—most from the local Native village of Hoonah, which has a population of about 900 or so, and a few people from other nearby communities such as Elfin Cove, Gustavus, and Pelican. We are not talking about thousands of people. These Alaskans do not have the convenience of supermarkets or strip malls. They deserve consideration and respect. They deserve to have their historic use recognized and provided for by this Congress.

My bill also addresses commercial fishing in the park. For generations, commercial fishermen caught salmon, halibut and crabs in Glacier Bay and have fished the rich grounds of the outside coast as well. And there is no biological reason, none whatsoever, for restricting commercial fishing activity anywhere in the park. The fishery resources are healthy, they are diverse, they are closely monitored by the State of Alaska Department of Fish and Game, and they are very carefully regulated. It should also be noted that, of the park's approximately 3 million acres of marine waters, only about 500,000 are productive enough to warrant real, significant interest.

There are few anadromous streams in the park—that's streams where the salmon go up and spawn—because most of the fresh water that comes down comes down from the glaciers and there is simply no place for the salmon to spawn.

In any event, the fisheries are restricted both as to method as in the number of participants, and are carefully managed and controlled to assure continued abundance. There is nothing in the bill and there is no desire by the fishing industry to change these controls or increase the level of this sustainable activity. Alaska is a very careful steward of its resources. Commercial fishing does not harm the environment in any way. In spite of what you hear, Alaska fisheries are in very good shape. We have had record runs 8 of the last 11 years. Under Federal management, things got so bad there was one year when we only took 25 million salmon, but when we became a

State that began turning around. I think last year we put up 218 million. That's because we don't open our season until we have had adequate escapement, that is, enough fish to go up the streams to spawn so that we are guaranteed renewability of the resource.

So, in the grand scheme of things, and recognizing consideration of the Nation's economy, these fisheries are small potatoes. But to the fishermen, the natives who depend upon them, to the families of small remote communities in which they live, these fisheries are of the utmost importance. They are harm free. And those who partake in them deserve this Government's help, not the destruction of their simple lifestyle.

This bill authorizes traditional fishing throughout the park for subsistence users as well as historical commercial activities. However, because there are special, sensitive areas inside Glacier Bay itself, it also designates the waters inside the bay as a special reserve, in which a joint team of Federal and State scientists will make recommendations on where fishing should occur and at what level.

A further special provision is also included in one area where there is significant potential for conflict between fishermen and certain limited nonmotorized uses, such as kayaking, during the brief 3-month summer period.

This area is in the Beardslee Islands, near the entrance of the bay. Under this bill, the only commercial fishing that would be allowed in the Beardslees would be crab fishing, and that only in a very small area, by a very small number of people who historically are dependent on this fishing—less than a dozen people. This would only include people who can show both a significant history of participation and a real dependence on that fishery for their livelihoods. This privilege could be transferred to one successor, when the original fisherman retires, but will cease after that. And at any point the Park Service could eliminate all fishing in the Beardslees with a fair payment to the individual fisherman.

The reason for such a special rule in the Beardslees is simply that these fishermen have no other option than fishing in the Beardslees, due to the small size of their vessels and their reliance on this one fishery, and a few other factors.

So this bill will not contribute to any increase in fishing. In fact, over time the opposite may occur. It will simply provide for the scientifically sound continuation of an environmentally benign activity. Finally, I think it's important also to note that the continuation of both subsistence and commercial fishing enjoys wide support from local residents of Southeastern Alaska, including environmental groups such as the Southeastern Alaska Conservation Council.

I look to my colleagues for support on the merits of the bill.

Mr. President, I see no other Senators in the Chamber. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS

Mr. COVERDELL. Mr. President, we had a very unfortunate story appear in the Washington Post this morning by Helen Dewar.

The first paragraph:

> President Clinton had "some choice words" about the pace of Senate action on administration nominations during a Wednesday night meeting with Senate Democrats.

And then it quotes our distinguished minority leader:

> Daschle estimated there are 30 ambassadorial nominations awaiting action for countries that, according to a Senate list, include Britain, France, Canada, Saudi Arabia, Bosnia and, as of Tuesday, Mexico.

This is ill-placed and irresponsible criticism and does not serve the efficient management of these nominations. I read the article while I was conducting a hearing that we had hurried to deal with the nomination of the Ambassadors for Guyana and Paraguay. I have just left a meeting with the potential nominee for Ambassador to France, and I spent the better part of the last month doing everything we might do to get our Ambassador to Canada, which, I might add, has been without an ambassador for over a year and a half. We just received the nomination for that Ambassador on July 2—July 2—of this year. The vacancy began in April 1996—Canada. And there have been extended vacancies in Germany, Moscow, et cetera.

To clarify, this year, we have had 56 nominations received by the Foreign Relations Committee; 14 have been confirmed, 9 are pending on the Executive Calendar; 33 are pending in the committee. That sounds like a lot. But the issue is, 26 of the 44 we have just received in the last month. I repeat, there are 44 pending in the committee; 26 of them we have just gotten.

The problem here is not in the Senate, nor is it in the Foreign Relations Committee. The problem with ambassadorial nominations is at the other end of Pennsylvania Avenue.

I point out that Tokyo has been vacant since December, and we have no nominee. South Korea has been vacant since December, and we have no nominee. These are not just incidental relationships, I might add. We are talking about Japan and South Korea.

So, Mr. President, I think those were unfortunate words, and they paint an improper and inappropriate picture, and they do not help anything. I assume they are just ill-informed. But when you are going to make accusations of this kind, and you are the President of the United States, the word travels far. I think it would be more prudent to have your own description of the condition before you start hurling spears, because this kind of thing only confuses the process and makes the work of both the Senate and the administration much more complicated.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMBASSADORIAL NOMINATIONS

Mr. HELMS. Mr. President, partisan politics, I guess, is a game like football, baseball, or checkers, and that game has, no doubt, been played in the Senate for as long as there has been a Senate. In it, you win some, you lose some, and, as the saying goes, some are rained out. It has been suggested from time to time that maybe a time or two I have played a little bit of it myself, and I plead nolo contendere to the suggestion.

But the game, it seems to me, that the distinguished minority leader, Mr. DASCHLE, has been playing of late has sometimes been marked by a rather interesting degree of misstatements of fact—unintentional, I'm sure—and curious conclusions. That, too, has not been unknown heretofore in the history of the Senate. And I do not suggest that the minority leader's misstatements or insinuations are deliberate, and I am willing to assume that his errors are accidental and unintentional.

Just the same, my observations this afternoon are based on my incredulous reaction early this morning when I read an article in the Washington Post, page A21, under a headline reading "Confirmation Process Frustrates President." That was, of course, Mr. Clinton, with whom Senator DASCHLE says he met this past Wednesday night. It indicates that Senator DASCHLE confided to the Washington Post's very competent reporter, Helen Dewar, that—and I quote from Ms. Dewar's story—"The President . . . expressed probably the highest level of exasperation I've heard him express on the subject, Daschle said, making clear that he (Senator DASCHLE) shares Clinton's frustration."

Further, according to Ms. Dewar's report, "[Senator] Daschle estimated that there are 30 ambassadorial nominations awaiting action for countries that, according to a Senate list, include Britain, France, Canada, Saudi Arabia, Bosnia, and, as of Tuesday, Mexico."

Well, Mr. President, if Mr. Clinton and Mr. DASCHLE are suffering their "highest levels of exasperation," and if the President uttered the "choice words" attributed to him by Senator DASCHLE regarding the work of the Senate's Foreign Relations Committee, then I suggest that both gentlemen dismount their high horses, examine the true facts, and correct their joint misstatements about the excellent work of the Foreign Relations Committee, which I have the honor of serving as chairman, with Senator JOE BIDEN as the ranking member.

What the President is purported to have implied—and Mr. DASCHLE says he agrees with it—is nonsense, I say respectfully; it is nonsense regarding the work and cooperation of the staff of the Senate Foreign Relations Committee, of which Adm. "Bud" Nance is the Chief of Staff. Bud Nance is among the top chiefs of staff ever to serve the Senate's committees, and I believe Mr. Clinton's State Department will join me in that assessment of the committee staff members, both majority and minority.

Now, let's look at some specific things and respond to the President with what the actual facts are.

First, Thomas Pickering left the position of Ambassador to Russia on November 1, 1996. The Foreign Relations Committee received the nomination of James Collins to succeed Tom Pickering 7 months later, on June 2, 1997. Let me just remind anybody who may be interested that Russia is selling sophisticated weaponry to terrorist states, such as Iran, and Russia barely maintains control of its 20,000 warhead nuclear arsenal. Now, by Mr. Clinton's own choice, the position of Ambassador to Russia went vacant for 7 months. We didn't get a piece of paper from the White House. When we did get the nomination, we expedited the hearing process for this nomination, and we are prepared to send it to the full Senate—that is, the nomination of James Collins —next week.

Second, Charles Redman left the position of Ambassador to Germany on June 20, 1996, over a year ago. The Foreign Relations Committee received the nomination of John Kornblum for this position on May 22 of this year, 1997. Now, Mr. President, Germany is the most powerful country in Europe and is central to virtually every decision made by our European allies. By the White House's own choice, don't you see, the position of Ambassador to Germany was vacant for almost a full year. The committee scheduled a hearing after finally getting the papers on the nomination of Mr. Kornblum, and we are prepared to send the nomination to the Senate next week.

Third, John Menzies left the position of Ambassador to Bosnia in December 1996. The Foreign Relations Committee received the nomination of Richard Kauzlarich on July 8, 1997, just a couple of weeks ago. Now, it was the White House's choice that the position of Ambassador to Bosnia was vacant for more than 8 months before we got a scrap of paper from the White House in the Foreign Relations Committee. Of course, thousands of American soldiers have been kept in Bosnia for 8 months, but for 8 months the White House has delayed sending the nomination of the successor, Mr. Kauzlarich. The committee, again, has scheduled a hearing to consider this nomination. We are prepared to send it to the Senate next week.

Fourth, James Blanchard left the position of Ambassador to Canada in April 1996, over a year ago. The Foreign Relations Committee received the nomination of Gordon Griffin on June 26, 1997. The Foreign Relations Committee held a hearing on July 15, after we had gotten all of the papers prepared, and reported his nomination to the full Senate on July 17, where it is pending on the Executive Calendar of the Senate. The United States is engaged in foreign policy and trade disputes with Canada, ranging from the Pacific Northwest to Cuba, and the position to Ambassador to Canada was vacant—not the responsibility of the Foreign Relations Committee, but of the White House—the White House—for more than a year.

Fifth, the post of United States Ambassador to France has been vacant since the death of Ambassador Pamela Harriman. She died on February 5 of this year. And then, after that, there was a month-long public battle between several of President Clinton's political supporters and a career Foreign Service officer who wanted the post, and the President finally selected one of the substantial donors to the Democratic Party for this position. Now, that is not unusual. The point is that all this time elapsed. It was not the Foreign Relations Committee staff's fault. It was the White House's fault. Mr. DASCHLE is bound to have known that.

Let me say that the French leaders have opposed the United States on almost every foreign policy decision regarding United States-European relations, but by President Clinton's choice, the position of Ambassador to France, nevertheless, was vacant for just about 6 months.

The committee again has scheduled a hearing to consider the nomination next Tuesday, less than a week after the papers got up to us from the White House. So who is delaying all of these nominations, Mr. President? I think the facts speak for themselves.

Then there is the nomination of Philip Lader. I believe it came on July 22, just a few days ago. The committee has immediately scheduled a hearing for Mr. Lader for next Tuesday, less than a week after receiving this nomination.

Seventh, the President has yet to name ambassadors for Japan and South Korea. Now, these Embassies have been minus ambassadors since the end of last year, nearly 8 months—not the fault of the Foreign Relations Committee, not the fault of the Senate, not the fault of anybody in the Senate, but the White House.

Let me reiterate and emphasize that there has been a high degree of cooperation between the State Department and the Senators who serve on the Foreign Relations Committee and, I might add, between the excellent staff of the committee and the State Department staff. I think that the cooperation between the various entities has been remarkable and unheard of for several years prior to this year and last year. In fact, we have done our best to work with and consult with the White House.

Therefore, statements made by Senator DASCHLE are not acceptable. To the extent that the President has stated or has implied that any lag in the ambassadorial nomination process is the fault of the Senate Foreign Relations Committee, I have to say, no, sir; you are wrong.

Some time back the White House publicly identified a possible—a possible—nomination about which I had and still have a problem. I have tried to be as candid and up front about my position regarding that nomination since long before the nomination was made. When? Just this past week.

I feel that it will be useful to have the CONGRESSIONAL RECORD reflect the specific names, dates, and places involved in diplomatic nominations. Therefore, I ask unanimous consent, since I have discussed several specific nominations, the entire list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CLINTON ADMINISTRATION NOMINATIONS—JULY 25, 1997

HEARINGS HAVE BEEN SCHEDULED

James W. Pardew, Jr., (NC) for rank of Amb as U.S. Special Representative for Military Stabilization in the Balkans—referred 5/20; file complete 6/18; hearing scheduled for 7/29.

Anne Marie Sigmund (C) to be Amb to Krygzy Republic—referred 6/26; file complete 7/22; hearing scheduled for 7/29.

Keith C. Smith (C) to be Amb to Lithuania—referred 6/26; file complete 7/22; hearing scheduled for 7/29.

Richard D. Kauzlarich (C) to be Amb to Bosnia & Herzegovina—referred 7/8; file complete 7/22; hearing scheduled for 7/29.

Daniel V. Speckhard (C) to be Amb to Belarus—referred 6/26; file complete 7/22; hearing scheduled for 7/29.

HEARINGS TO BE SCHEDULED

Wyche Fowler, Jr., (NC) to be Amb to the Kingdom of Saudi Arabia—referred 2/25; file complete 3/6; hearing to be scheduled.

Richard W. Bogosian (C) for rank of Amb as Special Coordinator for Rwanda/Burundi—referred 1/9; file complete 2/4; hearing to be scheduled. (Left pending on Executive Calendar at end of 104th Congress.)

Brian Dean Curran (C) to be Amb to Mozambique—referred 4/16; file complete 4/22; hearing to be scheduled.

Susan E. Rice (NC) to be Assistant Secretary of State for African Affairs-referred 6/12; file complete 6/20; hearing to be scheduled.

Timberlake Foster (C) to be Amb to Islamic Republic of Mauritania—referred 6/11; file complete 6/24; hearing to be scheduled.

Amelia E. Shippy (C) to be Amb to Republic of Malawi—referred 6/11; file complete 6/24; hearing to be scheduled.

Donna Jean Hrinak (C) to be Amb to Bolivia—referred 7/8; file not complete 7/22; hearing to be scheduled.

FILES NOT COMPLETE

Stanley A. Riveles (C) for the rank of Amb during his tenure of service as U.S. Commissioner to the Standing Consultative Commission—referred 1/30; file not complete.

Nancy Jo Powell (C) to be Amb to Republic of Ugandas—referred 6/11; file not complete (in w/Patti for review).

Martin Indyk (NC) to be Assistant Secretary of State for Near Eastern Affairs—referred 6/23; file not complete (in w/Patti for review).

Curtis W. Kamman (C) to be Amb to Colombia—referred 6/26; file not complete (in w/Patti for review).

Felix G. Rohatyn (NC) to be Amb to France—referred 7/17; file not complete.

Philip Lader (NC) to be Amb to United Kingdom of Great Britain & Northern Ireland—referred 7/22; file not complete.

Harold C. Pachios (NC) to be Member, U.S. Advisory Commission on Public Diplomacy for term exp 7/1/99 (reappointment))referred 7/22; file not complete.

William F. Weld (NC) to be Amb to Mexico—referred 7/23; file not complete.

NOMINATIONS THAT COULD BE PLACED ON BUSINESS MEETING AGENDA IF NO OBJECTIONS HEARD

Marc Grossman (C) to be Assistant Secretary of state for European and Canadian Affairs—referred 5/22; file complete 6/18; hearing held 7/15. Wellstone questions (6) sent down 7/16; no reply. Helms' questions (4) FAX'd 7/18; no reply.

Stephen R. Sestanovich (NC) to be Amb at Large & Special Adviser to the Secretary of State for the New Independent States—referred 6/19; file complete 6/20; hearing held 7/15. Helms' questions (7) FAX'd 7/18; no reply.

John C. Kornblum (C) to be Amb to Fed Rep of Germany—referred 5/22; file complete 6/18; hearing held 7/15. Helms' questions (2) FAX'd 7/18; no reply.

James F. Collins (C) to be Ambassador to the Russian Federation—referred 6/2; file complete 6/20; hearing held 7/15. Helms' questions (2) sent down 7/18; no reply.

Stanley O. Roth (NC) to be Assistant Secretary of State for East Asian & Pacific Affairs—referred 5/22; file complete 6/18; hearing held 7/22. Questions all submitted 7/23: Wellstone (7); no reply. Ashcroft (5); no reply. Feingold (6); no reply. Helms (8); no reply. Lugar (4); no reply. Biden (16); no reply.

Bonnie R. Cohen (NC) to be Under Secretary of State for Management—referred 5/23; file complete 6/18; hearing held 7/24.

James P. Rubin (NC) to be Assistant Secretary of State for Public Affairs—referred 5/23; file complete 6/18; hearing held 7/24.

Edward William Gnehm, Jr., (C) to be Director General of the Foreign Service—referred 4/28; file complete 7/21; hearing held 7/24.

David Andrews (NC) to be Legal Adviser of the Department of State—referred 6/11; file complete 7/19; hearing held 7/24.

Wendy R. Sherman (NC) to be Counselor of the Department of State, with rank of Amb during tenure of service—referred 6/26; file complete 7/21; hearing held 7/24.

George Munoz (NC) to be President, Overseas Private Investment Corporation—referred 6/26; file complete 7/21; hearing held 7/24. Wellstone questions (5) FAX'd 7/24; no reply.

James F. Mack (C) to be Amb to Guyana—referred 6/26; file complete 7/24; hearing held 7/25.

Maura Harty (C) to be Amb to Paraguay—referred 6/26; file complete 7/24; hearing held 7/25.

NOMINATIONS PENDING ON EXECUTIVE CALENDAR

Jeffrey Davidow (C) to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 2002—referred 1/21; file complete 3/27; sent out by memo dated 3/27. Reported 5/8.

Marilyn E. Hulbert, a Career Member of the Foreign Service of the U.S. Information Agency, for promotion into the Senior Foreign Service to Class of Counselor. Reported 7/17.

FSO Promotion List, Swallow et al.—referred 4/25; file complete 7/16; (sent out by memo dated 6/20). Reported 7/17.

Ralph Frank (C) to be Amb to the Kingdom of Nepal—referred 6/11; file complete 6/18; hearing held 7/10. Helms' questions (1) sent down 7/11; reply recv'd 7/16. Additional Helms' questions (3) sent down 7/14; reply recv'd 7/16. Reported 7/17.

Karl F. Inderfurth (NC) to be Assistant Secretary of State for South Asian Affairs—referred 6/11; file complete 6/24; hearing held 7/10. Helms' questions (25) sent down 7/11; reply recv'd 7/16. Reported 7/17.

John C. Holzman (C) to be Amb to People's Republic of Bangladesh—referred 6/11; file complete 6/24; hearing held 7/10. Helms' questions (3) sent down 7/11; reply recv'd 7/16. Reported 7/17.

Linda Jane Zack Tarr-Whelan (NC) for rank of Amb as U.S. Representative to the Commission on the Status of Women of the Economic & Social Council of the United Nations—referred 4/15; file complete 6/18; hearing held 7/15. Reported 7/17.

Richard Sklar (NC) to be US Rep to the UN for UN Management and Reform, w/rank of Amb—referred 5/6; file complete 6/18; hearing held 7/15. Reported 7/17.

A. Peter Burleigh (C) to be Deputy U.S. Representative to the UN, w/rank of Ambassador—referred 5/20; file complete 6/18; hearing held 7/15. Reported 7/17.

David J. Scheffer (NC) to be Amb at Large for War Crimes Issues—referred 5/22; file complete 6/18; hearing held 7/15. Feinstein questions (12) transmitted 7/15; reply received 7/23. Reported 7/17.

Gordon D. Giffin (NC) to be Amb to Canada—referred 6/26; file complete 7/7; hearing held 7/15. Questions (5) sent down to State 7/16; reply recv'd 7/17. Reported 7/17.

NOTICE OF INTENT TO NOMINATE

Lange Schermerhorn (C) to be Amb to Djibouti—7/9/97.

Victor Marrero (NC) to be US Rep to Organization of American States, w/rank of Amb—7/15/97.

George E. Moose (C) to be US Rep to European Office of the UN, w/rank of Amb—7/16/97.

Mr. HELMS. Mr. President, I know I have delayed the recess of the Senate this afternoon. For that I apologize. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPREME COURT JUSTICE WILLIAM BRENNAN

Mr. DASCHLE. Mr. President, it is with great sadness that we mark the passing of William Brennan, who served so ably on the U.S. Supreme Court.

Appointed by President Dwight Eisenhower in 1956, the New Jersey judge soon rose to a position of intellectual leadership on the Court. Even his critics acknowledge that he has exercised a fundamental influence on the direction of American jurisprudence. He wrote almost 1,400 opinions and helped shape countless others, providing guidance on issues from civil liberties, race relations and privacy to criminal justice, economic fairness, and governmental power.

Justice Brennan believed deeply that law must protect human dignity and that the Founding Fathers recognized that principle when they drafted our Constitution. He saw the Constitution as a guarantee that our fundamental rights cannot be diminished or denied simply because that is the will of the majority.

During his 34 years on the Court, Justice Brennan did not waiver in his convictions, speaking out in his opinions and in public on the most important moral issues of the day. His deeply held beliefs and carefully crafted judicial opinions have had a profound influence upon us all.

Along with his distinction as a jurist, Justice Brennan was well known for his warmth and good humor, and he had friends from all parts of the political spectrum. I know that I speak for all of us in saying that he will be missed.

TRIBUTE TO JUSTICE WILLIAM J. BRENNAN, JR.

Mr. LAUTENBERG. Mr. President, it is with a sad and heavy heart that I rise to pay tribute to a great American and New Jerseyan, Justice William J. Brennan, Jr., who passed away yesterday at age 91. The thoughts and prayers of all the people of our State and country are with his wife Mary, his three children William J., III, Hugh, and Nancy, as well as his seven grandchildren.

Mr. President, during nearly 34 years on the Supreme Court, Justice Brennan had an enormous impact on this Nation's constitutional jurisprudence. Justice Brennan was a consistent champion of freedom of expression, of strict separation of church and state, and of equality for the poor, racial minorities, and women. In fact, he was a life-long defender of the freedoms of all Americans.

William Brennan's life was truly the epitome of the American Dream. He was born in Newark, NJ, on April 25, 1906, the second oldest of the eight children of an Irish immigrant who started as a laborer but rose through the ranks to become an important labor leader and the city's commissioner of public safety. "Everything I am," the justice later wrote, "I am because of my father."

He was an outstanding student at Barringer High School in Newark. He then went on to study at the University of Pennsylvania's Wharton School of Finance and Commerce. He was graduated with honors and won a scholarship to the Harvard Law School, from which he received a degree in 1931.

Upon graduation, Bill Brennan embarked upon a successful and distinguished career in private legal practice. He later served his country by entering active military service in 1942, eventually becoming a colonel and troubleshooter for Army procurement.

After returning from the war, he quickly emerged as a leader of the New Jersey bar, particularly his involvement in New Jersey's court reform movement under a nationally renowned Chief Justice Arthur Vanderbilt. His talents were widely recognized in the legal community, leading to his appointment to the New Jersey trial bench, from which he rapidly ascended to the State supreme court.

Mr. President, it was during this tenure on the New Jersey court that Justice Brennan first gained national attention. He was one of the first public figures to take on the infamous Senator Joseph McCarthy and the excesses of the McCarthy-era.

Specifically, in one famous speech at the Monmouth County Rotary Club, he boldly referred to certain congressional inquiries as modern counterparts to the Salem witch trials, sentiments very much ahead of his time.

After 8 years as a State judge, 4 on the State supreme court, Bill Brennan was nominated by President Dwight D. Eisenhower in 1956 to be an Associate Justice of the Supreme Court of the United States. Justice Brennan served on the Nation's highest court for 34 years before poor health forced him, at age 84, to retire in 1990. His tenure spanned those of eight Presidents. In the High Court's history, only William O. Douglas wrote more opinions.

In fact, Justice Brennan's own confirmation as an Associate Justice of the U.S. Supreme Court was opposed by some because of views that he had expressed about McCarthyism—the speeches that later caused Senator McCarthy to be the lone dissenting vote to President Eisenhower's nomination of Brennan to our Nation's High Court.

Mr. President, it is not his remarkable life or long tenure on the bench that made William Brennan a towering figure in our Nation's history. Rather, his true legacy is the preservation and expansion of the individual rights all Americans enjoy today. He was, in short, our country's strongest champion of the individual.

A recent survey of 96 scholars listed Justice Brennan as fifth in the list of all-time great Justices of the U.S. Supreme Court. Ahead of him ranked only John Marshall, Oliver Wendell Holmes, Jr., Earl Warren, and Louis Brandeis.

Justice Brennan crafted many landmark decisions associated with the Warren Court of the late 1950's and 1960's. His ruling led to the one-person, one-vote principle of political reapportionment, and empowered everyday citizens to use the courts to fight city hall.

In more than 1,200 opinions, Justice Brennan defined obscenity and broadened the rights of any person—including the poor, mentally handicapped, or imprisoned—to seek redress against the Government through the courts. He also gave news organizations first amendment protections in libel lawsuits.

During the Berger and Rehnquist years, he continued to champion the Bill of Rights and the 14th amendment. In all of his opinions and dissents, liberty and equality were his bywords.

Historian David Halberstam described the source of Justice Brennan's greatness. William Brennan, he wrote, never forgot where he came from. He never forgot his immigrant father shoveling coal for a living, courageously joining a union in an era when to do so could cost a man his livelihood, if not his life. Brennan grew up on a house that knew the meaning of layoffs and discrimination. He instinctively identified with the disadvantaged and the dispossessed.

Justice Brennan himself revealed the secret of his unfailing humanity, compassion and passion for individual freedom. He wrote that he always focused on the people behind the cases, always aware that the case before the Court was there because of "a person who cried out for nothing more than common human dignity. In each case, our Constitution intervened to provide the cloak of dignity."

Mr. President, through it all, Justice Brennan remained universally liked, even adored, by colleagues, law clerks, Court personnel, and virtually everyone who came in contact with him. He was always described as warm, gracious, and utterly without pretense.

I had the privilege and the honor to get to know Bill Brennan on a personal level. Although it was late in his tenure on the bench, he was remarkably alert, witty and warm, and I greatly enjoyed our conversations.

Mr. President, Bill Brennan's character, personality, and intellect were perfectly matched, each so unique so as to be totally unforgettable.

Despite the brevity of our personal relationship, every meeting that we had—perhaps a half-dozen in all—left me feeling like I had just seen a lifelong friend.

He stood for so much that he helped me stand taller for those I serve. Knowing him was one of my life's most treasured experiences. I deeply regret that our paths will not cross again.

In a tribute to Justice Brennan, his colleague Justice Byron White once remembered that Bill Brennan's creed was that a judge should proceed with "a sparkling vision of the supremacy of the human dignity of every individual."

Mr. President, that majestic statement is a fitting tribute to the life and work of Justice William J. Brennan, Jr.

SUPPORT THE ARMS TRANSFERS CODE OF CONDUCT

Mr. DORGAN. Mr. President, I rise in support of the bill introduced just yesterday by Senator KERRY of Massachusetts, the code of conduct on arms transfers.

Many of our colleagues will recall that Senator HATFIELD was the leader on this issue prior to his retirement last year. He introduced this bill as S. 1677 in the 103d Congress and S. 326 in the 104th Congress. I cosponsored both bills, and I was pleased to offer the code of conduct as an amendment to last year's foreign operations appropriations bill.

I am delighted that the Senator from Massachusetts is showing his usual leadership on arms control issues by authoring this bill in this Congress.

This is a particularly timely effort because the code of conduct is a part of the version of the State Department authorization bill approved by the House of Representatives, a bill that is now in conference between the House and the Senate. I hope that by introducing this bill we will encourage our Senate colleagues on the conference committee to support the House provision.

THE UNITED STATES LEADS IN ARMS SALES

This bill is also particularly timely because the end of the cold war has propelled the United States to the rank of the world's leading arms supplier.

During the last decade, U.S. arms sales have taken off. We now deliver 56 percent of all the world's arms exports, according to the Arms Control and Disarmament Agency. And in 1994 the United States supplied 43 percent of all weapons sold to the developing world—the countries who can least afford arms. We ranked first in arms shipments to developing nations from 1992 to 1995.

These countries have urgent domestic challenges, such as advancing public health, controlling disease, and achieving food self-sufficiency. Yet we are catering to their governments' appetite for the latest in high-technology weaponry.

OUR CUSTOMERS ARE UNSAVORY

It is bad enough that these governments have better things to do with their money than to buy American weapons. Still worse is what these governments do with our weapons once they receive them.

According to the State Department's own human rights reports, more than 75 percent of U.S. arms sales in 1993 went to governments that were undemocratic. And we supply aid to 72 percent of the countries that the State Department lists as authoritarian governments with serious human rights abuses.

Recent history tells a disturbing story of American weapons feeding ethnic conflict and instability around the globe. Of 48 ethnic conflicts underway in 1993, 39 involved forces that had U.S. weaponry. Indonesia used American weapons to occupy East Timor illegally, and Turkey used F-16 fighters in bombing raids against Kurdish rebels.

Countries that have cracked down on domestic dissent using U.S. arms include Thailand, Indonesia and Guatemala.

We are literally giving repressive regimes the means by which they maintain themselves in power. We must break ourselves of this habit.

THEY RESELL THE WEAPONS WE GIVE THEM

And what if these unsavory customers resell the weapons we send them? The answer is disturbing. We have too little effective control over what happens to our weapons once they leave our hands. The classic example of this is the Stinger missile, a highly portable, shoulder-launched anti-aircraft missile.

Stingers are actually very available on the international arms market. We sent about 1,000 Stingers to Afghan rebels during the 1980's. However, since the departure of Soviet forces from Afghanistan, the Afghan factions have been using Stingers to raise money and barter for other weapons for their civil war.

The CIA was so alarmed by this trend that it began a program to buy Stingers back from the Afghan rebels. But this program met with limited success, since the result was that the price that Stingers could command on the international arms market doubled or trebled.

And the CIA's efforts came too late. Media reports suggest that Iran, Libya, and North Korea now have Stinger missiles. These are the rogue states that pose the most immediate threat to our security and that of our allies.

OUR ARMS BOOMERANG AGAINST US

Mr. President, if those Stingers are ever used against us, the missiles we shipped abroad will have come full circle. It will be another example of what is known as the arms trade boomerang, the tragic pattern of our troops facing enemies armed with U.S. weapons and technology.

The last four times American troops have seen significant combat—in Panama, Iraq, Somalia, and Haiti—our weapons and military know-how boomeranged against us.

For example, in the 5 years before our occupation of Panama to bring druglord Manuel Noriega back to the United States for trial, the United States accounted for 44 percent of Panama's arms imports. From 1950 through 1987, we also trained 6,700 Panamanian military officers under the Pentagon's International Military Education and Training Program.

Worse than the Panama example is the fact that international arms merchants sold Iraq $400 million in United States-designed cluster bombs plus our technology for manufacturing howitzers. We apparently intended the cluster bombs to be used against Iranian "human wave" attacks during the Iran-Iraq war. Fortunately, our control of the airspace over Iraq during the Persian Gulf war meant that these cluster bombs were never used against American troops.

We sold Somalia 4,800 M-16 rifles, 84 106-millimeter recoilless rifles, 24 machine guns, 75 81-millimeter mortars, and land mines—the kind of weapons that Mohammed Farah Aideed's technicals would later use to kill 23 American soldiers. From 1985 to 1989, we sold Somalia 31 percent of its arms imports.

And as for Haiti, where we had the good fortune not to suffer major casualties, we had armed and trained Haiti's military. William Hartung of the World Policy Institute states that, "Total US arms deliveries to Haiti . . . from 1987 to 1991 exceeded 25 percent of total Haitian arms imports." The Duvalier regime faced no external threat, and we had no business arming such a hated dictatorship. Yet we did it anyway.

Mr. President, that is why we need the arms transfers code of conduct. We need to exercise self-restraint in the international arms bazaar.

CODE OF CONDUCT A COMMONSENSE APPROACH

The Code of Conduct on Arms Transfers Act is a commonsense approach to conventional arms control. It aims to block the arms trade boomerang, to prevent us from arming the wrong governments and to put a lid on ethnic conflict and instability.

In brief, the code would establish criteria for governments to be eligible for U.S. military assistance or arms transfers. To be eligible, a government must:

First, promote democracy through fair and free elections, civilian control of the military, the rule of law, freedom of speech and of the press, and strong civil society;

Second, respect human rights by not engaging in gross violations of internationally recognized human rights;

Third, observe international borders, and not be engaged in armed agression in violation of international law; and

Fourth, participate in the U.N. conventional arms registry, which provides transparency to the world arms market by listing major arms sales and transfers.

There are two exemptions for countries that do not meet these criteria. First, the President could determine that an emergency exists, and that it is vital in the emergency to provide arms and military aid to a government that does not meet all of the above criteria. This determination would waive the act's restrictions and enable the arms shipment or military aid to go forward.

Alternatively, the President could request an exemption from the Congress, certifying that it is in national interest of the United States to provide arms or military aid to a government that does not meet all of the above criteria. That exemption would take effect unless the Congress passes a law disapproving the request.

I believe that these two exemptions—the emergency waiver and the national security waiver—provide the President with appropriate flexibility.

AMERICAN LEADERSHIP NEEDED

Lastly, I would note that the code of conduct concept is an international effort that requires American leadership. The worldwide effort to control arms sales needs a positive sign from the U.S. Senate in order to come to fruition.

The newly elected Labor government in the United Kingdom has taken the first step by announcing on May 22 its intent to restrict arms sales. However, Britain's arms manufacturers are crying foul, because no other country has yet followed Britain's lead. British defense firms are losing out in the international arms market because Britain is out in front on this issue. We need to stand shoulder to shoulder with the United Kingdom on this critical issue.

It is important to note that if the U.S. Congress were to approve the code, the European Union would likely follow. The United States and the European Union between them account for at least 75 percent of the international arms market each year. Codes of conduct for American and European arms sales would go far toward establishing a worldwide conventional arms sales regime.

That is what Oscar Arias, Elie Wiesel, the Dalai Lama, and 12 other Nobel Peace Prize winners are working towards. A number of delegations to the United Nations, Germany's foremost among them, have been working toward a U.N. General Assembly vote on a code of conduct. This is an international campaign, but it needs American leadership to succeed.

Last year the Senator from Massachusetts offered a second-degree amendment to my Code of Conduct amendment making this very point. The code of conduct must be a multilateral effort for it to succeed. Otherwise, our defense firms will simply see foreign defense contractors grab our market share.

LET US SET A STANDARD THE WORLD CAN FOLLOW

In summary, I would like to congratulate the Senator from Massachusetts for his leadership on this matter. With his usual vision on arms control matters, has grasped a fundamental point. We must try to extend the concept of arms control to the international conventional arms market. The code of conduct is the right legislation for a world that has seen the end of the cold war.

Passing the code of conduct bill will help us save taxpayer dollars, protect the lives of American troops, prevent American weapons from going to repressive regimes, and safeguard innocent civilians from military violence.

Let us set a standard the world can follow. Let us show the European Union that we can exercise restraint—that we will not sell conventional arms to any government that asks for them. Once America leads, the nations will follow—to a safer world, for all of us.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, July 24, 1997, the Federal debt stood at $5,368,881,340,728.99. (Five trillion, three hundred sixty-eight billion, eight hundred eighty-one million, three hundred forty thousand, seven hundred twenty-eight dollars and ninety-nine cents)

One year ago, July 24, 1996, the Federal debt stood at $5,173,226,000,000. (Five trillion, one hundred seventy-three billion, two hundred twenty-six million)

Five years ago, July 24, 1992, the Federal debt stood at $3,989,786,000,000. (Three trillion, nine hundred eighty-nine billion, seven hundred eighty-six million)

Ten years ago, July 24, 1987, the Federal debt stood at $2,300,013,000,000. (Two trillion, three hundred billion, thirteen million)

Twenty-five years ago, July 24, 1972, the Federal debt stood at $434,436,000,000 (Four hundred thirty-four billion, four hundred thirty-six million) which reflects a debt increase of nearly $5 trillion—$4,934,445,340,728.99 (Four trillion, nine hundred thirty-four billion, four hundred forty-five million, three hundred forty thousand, seven hundred twenty-eight dollars and ninety-nine cents) during the past 25 years.

MESSAGES FROM THE HOUSE

At 11:49 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2160. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 709. An act to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

H.R. 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 2:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 123. Concurrent resolution providing for the use of the catafalque situated in the crypt beneath the rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William J. Brennan, former Associate Justice of the Supreme Court of the United States.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1119) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for the such fiscal year for the Armed Forces, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that the following Members as the managers of the conference on the part of the House:

From the Committee on National Security, for consideration of the House bill, and the Senate amendments, and modifications committed to conference: Mr. SPENCE, Mr. STUMP, Mr. HUNTER, Mr. KASICH, Mr. BATEMAN, Mr. HANSEN, Mr. WELDON of Pennsylvania, Mr. HEFLEY, Mr. SAXTON, Mr. BUYER, Mrs. FOWLER, Mr. MCHUGH, Mr. TALENT, Mr. EVERETT, Mr. BARTLETT, Mr. LEWIS of Kentucky, Mr. WATTS, Mr. CHAMBLISS, Mr. RILEY, Mr. DELLUMS, Mr. SKELTON, Mr. SISISKY, Mr. SPRATT, Mr. ORTIZ, Mr. PICKETT, Mr. EVANS, Mr. TAYLOR of Mississippi, Mr. ABERCROMBIE, Mr. MEEHAN, Ms. HARMAN, Mr. MCHALE, Mr. KENNEDY of Rhode Island, Mr. BLAGOJEVICH, Mr. SNYDER, and Mr. RODRIQUEZ.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. GOSS, Mr. LEWIS of California, and Mr. DICKS.

As additional conferees from the Committee on Commerce, for consideration of sections 344, 601, 654, 735, 1021, 3143, 3144, 3201, 3202, 3402, and 3404 of the House bill, and sections 338, 601, 663, 706, 1064, 2823, 3136, 3140, 3151, 3160, 3201, and 3402 of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. SCHAEFER of Colorado, and Mr. DINGELL:

Provided, That Mr. OXLEY is appointed in lieu of Mr. SCHAEFER of Colorado for consideration of sections 344 and 1021 of the House bill and section 2823 of the Senate amendment:

Provided further, That Mr. BILIRAKIS is appointed in lieu of Mr. SCHAEFER of Colorado for consideration of sections 601, 654, and 735 of the House bill, and sections 338, 601, 663, and 706 of the Senate amendment:

Provided further, That Mr. TAUZIN is appointed in lieu of Mr. SCHAEFER of Colorado for consideration of section 1064 of the Senate amendment.

As additional conferees from the Committee on Education and the Workforce, for consideration of sections 374, 658, and 3143 of the House bill, and section 664 of the Senate amendment, and modifications committed to conference: Mr. GOODLING, Mr. FAWELL, and Ms. SANCHEZ:

Provided, That Mr. RIGGS is appointed in lieu of Mr. FAWELL for consideration of section 658 of the House bill and section 664 of the Senate amendment.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of sections 322 and 3527 of the House bill, and sections 1068, 1107, 2811, and 3527 of the Senate amendment, and modifications committed to conference: Mr. BURTON, Mr. HORN, and Mr. WAXMAN.

As additional conferees from the Committee on House Oversight, for consideration of section 543 of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. NEY, and Mr. GEJDENSON.

As additional conferees from the Committee on International Relations, for consideration of sections 1101–111, 1202, 1204, 1205, 1207, 1210, and 1231–1234 of the House bill, and sections 1009, 1013, 1021, 1022, 1056, 1057, 1082, and 1085 of the Senate amendment, and modifications committed to conference: Mr. GILMAN, Mr. BEREUTER, and Mr. HAMILTON.

As additional conferees from the Committee on the Judiciary, for consideration of sections 374, 1057, 3521, 3522, and 3541 of the House bill, and sections 831, 1073, 1075, 1106, and 1201–1216 of the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. SMITH of Texas, and Mr. CONYERS.

As additional conferees from the Committee on Resources, for consideration of sections 214, 601, 653, 1021, 2835, 2901–2914, and 3404 of the House bill, and sections 234, 381–392, 601, 706, 2819, and 3158 of the Senate amendment, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. TAUZIN, and Mr. MILLER of California:

Provided, That Mr. HEFLEY is appointed in lieu of Mr. SAXTON for consideration of section 3404 of the House bill.

Provided further, That Mr. DELAHUNT is appointed in lieu of Mr. MILLER of California for consideration of sections 2901–2914 of the House bill, and sections 381–392 of the Senate amendment.

As additional conferees from the Committee on Science, for consideration of sections 214 and 3148 of the House bill, and sections 234 and 1064 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. CALVERT, and Mr. BROWN of California;

Provided, That Mr. ROHRABACHER is appointed in lieu of Mr. CALVERT for consideration of section 1064 of the Senate amendment.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of sections 345, 563, 601, 1021, 2861, and 3606 of the House bill, and section 601 of the Senate amendment, and modifications committed to conference: Mr. SHUSTER, Mr. GILCHREST, and Mr. BORSKI.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 751, 752, and 759 of the House bill, and sections 220, 542, 751, 752, 758, 1069, 1074, and 1076 of the Senate amendment, and modifications committed to conference: Mr. SMITH of New Jersey, Mr. BILIRAKIS, and Mr. KENNEDY of Massachusetts.

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar.

S. 1065. A bill to amend the Ethics in Government Act with respect to the appointment of an independent counsel.

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2160. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2598. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled "Civilian Health and Medical Program of the Uniformed Services" (RIN0720–AA36) received on July 24, 1997; to the Committee on Armed Services.

EC–2599. A communication from the Secretary of Defense, transmitting a notice of a retirement; to the Committee on Armed Services.

EC–2600. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a rule received on July 24, 1997; to the Committee on Environment and Public Works.

EC–2601. A communication from the Administrator of the U.S. General Services Administration, transmitting, pursuant to law, the report of an alteration prospectus; to the Committee on Environment and Public Works.

EC–2602. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Performance Improvement 1997: Evaluation Activities of the U.S. Department of Health and Human Services"; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 33. A concurrent resolution authorizing the use of the Capital Grounds for the National SAFE KIDS Campaign SAFE KIDS Buckle Up Car Seat Check Up.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON (for herself, Mr. COCHRAN, Mr. FAIRCLOTH, and Mr. NICKLES):

S. 1068. A bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI (for himself and Mr. WARNER):

S. 1069. A bill entitled the "National Discovery Trails Act of 1997."; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS:

S. 1070. A bill to provide for a regional education and workforce training system in the metropolitan Washington area, to improve the school facilities of the District of Columbia, and to fund such activities in part by an income tax on nonresident workers in the District of Columbia; to the Committee on Finance.

By Mr. D'AMATO (by request):

S. 1071. A bill to facilitate the effective and efficient management of the homeless assistance programs of the Department of Housing and Urban Development, including the merger of such programs into one performance fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY (for himself, Mr. LUGAR, Mr. HARKIN, and Mr. KERREY):

S. Con. Res. 43. A concurrent resolution urging the United States Trade Representative immediately to take all appropriate action with regards to Mexico's imposition of antidumping duties on United States high fructose corn syrup; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mr. COCHRAN, Mr. FAIRCLOTH, and Mr. NICKLES):

S. 1068. A bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section; to the Committee on Labor and Human Resources.

THE CLINICAL LABORATORY IMPROVEMENT ACT AMENDMENTS OF 1997

Mrs. HUTCHISON. Mr. President, I rise today to introduce legislation that is critically needed to reduce the regulatory burdens on our doctor's offices today.

In 1988, Congress passed the Clinical Laboratory Improvement Act as a reaction to reports about laboratories that inaccurately analyzed PAP smears. CLIA 1988 was intended to address the quality of laboratory test performance. Unfortunately, the regulations enacted as a result of the CLIA 1988 legislation did not reflect the intent of the act. What in effect happened following the passage of CLIA 1988 was a series of regulations that substantially increased the amount of paperwork to be performed in physician offices and now ultimately increases the cost of health care to the patients. There has been little, if any, documentation that the CLIA 1988 reforms resulted in an improvement in patient care.

In fact, a Texas Medical Association study showed that the annual cost of the labor and administrative overhead added by CLIA averages $4,435 per physician. This is in addition to the cost of registration, controls, proficiency testing, and inspection or accreditation. At a time when the entire health care industry is under pressure to control health care costs, the CLIA regulations not only subject physicians to increased administrative costs but also decrease the amount of time devoted to patient care.

One Texas physician describes his CLIA inspection as being left with a feeling that nothing of any real value was accomplished. Dr. McBrayer from the Texas Panhandle relates the inspection:

> We were written up for such monumental things as the fact that I had not signed the procedure manual for one of our lab machines. Therefore, everything done on that machine, including the training, was out of compliance. The fact that the manufacturer's rep had come and trained the staff was to no avail. Everything was out of compliance because I didn't sign it. It didn't matter that they had learned how to use it. That was irrelevant.

The CLIA amendments I am introducing will reduce the burdens on physicians who perform laboratory tests in their offices and thereby free up resources and time to dedicate to patient care. In Texas alone, of the physicians who provided testing services in their offices prior to CLIA, 27 percent have closed their office labs, and another 31 percent have discounted some type of testing, as a direct result of the CLIA 1988 reforms. This has resulted in some areas of Texas experiencing physician shortages. Many physicians are concerned about the possible consequences to patients caused by the decreased access to testing or the delay in obtaining results. In the wake of the health care reform debate, it is important to promote quality-driven cost-effective ways of delivery care.

Mr. President, the CLIA 1997 amendments will not jeopardize the quality of laboratory testing. This bill will exempt physician office lab tests from the CLIA 1988 restrictions that have caused many physicians to discontinue simple laboratory tests due to the excessive amounts of regulation involved in the performance of these tests. The CLIA 1997 amendments that I am introducing today in the Senate will have the narrow purpose of ensuring that essential laboratory testing performed by physicians remain a viable diagnostic option for physicians and their patients without the excessive rules and administratively complex requirements that currently exist, and, most importantly, eliminate the strain the CLIA 1988 legislation is placing on patients in rural areas who are losing access to necessary testing and care.

I hope that all my colleagues will join me in supporting this legislation, which will reduce health care costs and improve the ability of patients to receive laboratory tests in a timely fashion while providing the much needed regulatory relief to physicians all over the country.

By Mr. MURKOWSKI (for himself and Mr. WARNER):

S. 1069. A bill entitled the "National Discovery Trails Act of 1997"; to the Committee on Energy and Natural Resources.

THE NATIONAL DISCOVERY TRAILS ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today for the purpose of introducing legislation that I think is most significant. This legislation will particularly appeal to those who are inclined to enjoy the outdoors because it will establish our Nation's first coast-to-coast multiuse hiking trail. Take a moment and think about that. You will be able to hike from coast to coast on a hiking trail. That means off the highways, away from the roads, behind the freeways. A true outdoor experience.

Trails are one of America's most popular recreation resources. Millions of Americans hike, they ski, they jog, they bike, they ride horses, they drive snow machines and all-terrain vehicles, they observe nature, commute, and relax on trails throughout the country.

A variety of trails are provided nationwide, including urban bike paths, bridle paths, community greenways, historic trails, motorized trails, and long-distance hiking trails. This legislation will establish the American Discovery Trail, or ADT as it is commonly called. The ADT is a continuous coast-to-coast trail to link the Nation's principal north-south trails and east-west historic trails with shorter local and regional trails into a nationwide network.

Mr. President, by establishing a system of discovery trails, this new category will recognize that using and enjoying trails close to home is equally as important as traversing remote wilderness trails, of which we have many in my State of Alaska. Long-distance trails are used mostly by people living close to the trail and by weekenders. Backpacking excursions are normally a few days to a couple of weeks. As an example, of the estimated 4 million users of the Appalachian Trail, each year it is estimated that only about 100 to 150 walk the entire trail annually. This will be true of the American Discovery Trail as well, especially because of its proximity to urban locations throughout the country.

The ADT, the first of the discovery trails, will connect 6 of the national scenic trails, 10 of the national historic trails, 23 of the national recreation trails, and hundreds of other local and regional trails. Until now, the element that has been missing in order to create a national system of connected trails is that the existing trails, for the most part, are simply not connectable. With the ADT that will no longer be the case.

The ADT is about access. The trails will connect people to larger cities, small towns, urban areas and to mountains, forests, deserts and natural areas, incorporating regional, local, and national trails together.

What makes this so exciting is the way it has already brought people together. More than 100 organizations along the trail's 6,000 miles support the effort. Each State the trail passes through already has a volunteer coordination effort, and coordinators who lead an active ADT committee. A strong grassroots effort along with financial support from Backpacker magazine, Eco USA, The Coleman Companies and others, have helped make the ADT move from a dream to a reality.

Only one very more important step on the trail needs to be taken. Congress needs to authorize the trail as part of our national trail system. I invite my colleagues to join me in this effort.

The American Discovery Trail begins, or ends, when your two feet go into the Pacific at Point Reyes National Seashore, just north of San Francisco. Next are Berkeley and Sacramento before the climb to the Pacific Crest National Scenic Trail in Lake Tahoe in the middle of the Sierra Nevada Mountains.

Nevada offers historic Virginia City, home of the Comstock Lode, the Pony Express National Historic Trail, Great Basin National Park with Lehman Caves and Wheeler Peak.

Utah provides national forests and parks along with spectacular red rock country, which leads into Colorado offering Colorado National Monument with its 20,445 acres of sandstone monoliths and canyons. Then there is the Grand Mesa over Scofield Pass and Crested Butte, in the heart of the ski country as you follow the Colorado and Continental Divide Trails into Evergreen. I wish I was there myself this afternoon.

At Denver, the ADT divides and becomes the northern and southern Midwest routes. The northern Midwest route winds through Nebraska, Iowa, Illinois, Indiana, and Ohio; the southern Midwest route leaves Colorado and the Air Force Academy and follows the tracks and wagon wheel ruts of thousands of early pioneers through Kansas and Missouri as well as settlements and historic places in Illinois, Indiana, Kentucky until the trail joins the northern route in Cincinnati.

West Virginia is next, then Maryland and the C&O Canal. This leads to Washington, DC, where the trail passes The Mall, the White House, the Capitol, and then heads on to Annapolis. Finally, in Delaware, the trail reaches the eastern terminus at Cape Henlopen State Park and the Atlantic Ocean.

Between the Pacific and Atlantic Ocean, one will experience the most spectacular scenery in the world, thousands of historic sites, lakes, rivers and streams of every size. The trail offers an opportunity to discovery America from small towns, to rural countryside, to large metropolitan areas.

When the President signs the legislation into law, a 10-year effort will have been achieved. The American Discovery Trail will become a reality. The more people who use it, the better.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1069

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Discovery Trails Act of 1997".

SEC. 2. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

Section 3(a) of the National Trails System Act (16 U.S.C. 1242(a)) is amended by inserting after paragraph (4) the following:

"(5) National discovery trails, established as provided in section 5, which will be extended, continuous, interstate trails so located as to provide for outstanding outdoor recreation and travel and to connect representative examples of America's trails and communities. National discovery trails should provide for the conservation and enjoyment of significant natural, cultural, and historic resources associated with each trail and should be so located as to represent metropolitan, urban, rural, and back country regions of the Nation.". Any such trail may be designated on federal lands and, with the consent of the owner thereof, on any non federal lands: *Provided*, that such consent may be revoked at any time. The Congress does not intend for the establishment of a National Discovery Trail to lead to the creation of protective perimeters or buffer zones adjacent to a National Discovery Trail. The fact that there may be activities or uses on lands adjacent to the trail that would not be permitted on the trail shall not preclude such activities or uses on such lands adjacent to the trail to the extent consistent with other applicable law.

(2) FEASIBILITY REQUIREMENTS; COOPERATIVE MANAGEMENT REQUIREMENT.—Section 5 of such Act (16 U.S.C. 1244) is amended by adding at the end the following new subsection:

"(g)(1) For purposes of subsection (b), a trail shall not be considered feasible and desirable for designation as a national discovery trail unless it meets all of the following criteria:

"(A) the trail must link one or more areas within the boundaries of a metropolitan area (as those boundaries are determined under section 134(c) of title 23, United States Code). It should also join with other trails, connecting the National Trails System to significant recreation and resources areas.

"(B) The trail must be supported by a competent trailwide nonprofit organization. Each trail should have extensive local and trailwide support by the public, by user groups, and by affected State and local governments.

"(C) The trail must be extended and pass through more than one State. At a minimum, it should be a continuous, walkable route not including any non-federal property for which the owner had not provided consent for inclusion and use.

"(2) The appropriate Secretary for each national discovery trail shall administer the trail in cooperation with a competent trailwide nonprofit organization.".

(b) DESIGNATION OF THE AMERICAN DISCOVERY TRAIL AS A NATIONAL DISCOVERY TRAIL.—Section 5(a) of such Act (16 U.S.C. 1244(a)) is amended—

(1) by re-designating the paragraph relating to the California National Historic Trail as paragraph (18);

(2) by re-designating the paragraph relating to the Pony Express National Historic Trail as paragraph (19); and

(3) by adding at the end the following:

"(20) The American Discovery Trail, a trail of approximately 6,000 miles extending from Cape Henlopen State Park in Delaware to Point Reyes National Seashore in California, extending westward through Delaware, Maryland, the District of Columbia, West Virginia, Ohio, and Kentucky, where near Cincinnati it splits into two routes. The Northern Midwest route traverses Ohio, Indiana, Illinois, Iowa, Nebraska, and Colorado, and the Southern Midwest route traverses Indiana, Illinois, Missouri, Kansas, and Colorado. After the two routes rejoin in Denver, Colorado, the route continues through Colorado, Utah, Nevada, and California. The trail is generally described in Volume 2 of the National Park Service feasibility study dated June 1995 which shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, the District of Columbia. The American Discovery Trail shall be administered by the Secretary of the Interior in cooperation with a competent trailwide nonprofit organization and other affected land managing agencies. No lands or interests outside the exterior boundaries of federally administered areas may be acquired by the Federal Government solely for the American Discovery Trail. This trail is specifically exempted from the provisions of sections 7(e), 7(f), and 7(g).".

(c) COMPRENSIVE NATIONAL DISCOVERY TRAIL PLAN.—Section 5 of such Act (16 U.S.C. 1244) is further amended by adding at the end the following new subsection:

"(h) Within three complete fiscal years after the date of enactment of any law designating a national discovery trail, the administering Federal agency shall, in cooperation with a competent trailwide nonprofit organization, submit a comprehensive plan for the protection, management, development, and use of the federal portions of the trail, and provide technical assistance to states and local units of government and private landowners, as requested, for non-federal portions of the trail, to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary shall ensure that the comprehensive plan for the entire trail does not conflict with any existing agency direction and that the nonprofit organization consults with affected land managing agencies, the Governors of the affected States, county and local political jurisdictions, and local organizations maintaining components of the trail. Mandatory components of the comprehensive plan include—

"(1) specific objectives and practices to be observed in the administration and management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, model agreements necessary for joint trail administration among and between interested parties, and an identified carrying capacity of the trail and a plan for its implementation;

"(2) general and site-specific development plans including anticipated costs; and

"(3) the process to be followed by the nonprofit organization, in cooperation with the appropriate Secretary, to implement the trail marking authorities in section 7(c) conforming to approved trail logo or emblem requirements.". Nothing in this Act may be construed to impose or permit the imposition of any landowner on the use of any non federal lands without the consent of the owner thereof, which consent may be revoked at any time. Neither the designation of a National Discovery Trail nor any plan relating thereto shall affect or be considered in the granting or denial of a right of way or any conditions relating thereto.

SEC. 3. CONFORMING AMENDMENTS.

The National Trails System Act is amended—

(1) in section 2(b) (16 U.S.C. 1241(b)), by striking "scenic and historic" and inserting "scenic, historic, and discovery";

(2) in the section heading to section 5 (16 U.S.C. 1244), by striking "AND NATIONAL HISTORIC" and inserting ", NATIONAL HISTORIC, AND NATIONAL DISCOVERY";

(3) in section 5(a) (16 U.S.C. 1244(a)), in the matter preceding paragraph (1)—

(A) by striking "and national historic" and inserting ", national historic, and national discovery"; and

(B) by striking "and National Historic" and inserting ", National Historic, and National Discovery";

(4) in section 5(b) (16 U.S.C. 1244(b)), in the matter preceding paragraph (1), by striking "or national historic" and inserting ", national historic, or national discovery";

(5) in section 5(b)(3) (16 U.S.C. 1244(b)(3)), by striking "or national historic" and inserting ", national historic, or national discovery";

(6) in section 7(a)(2) (16 U.S.C. 1246(a)(2)), by striking "and national historic" and inserting ", national historic, and national discovery";

(7) in section 7(b) (16 U.S.C. 1246(b)), by striking "or national historic" each place such term appears and inserting ", national historic, or national discovery";

(8) in section 7(c) (16 U.S.C. 1246(c))—

(A) by striking "scenic or national historic" each place it appears and inserting "scenic, national historic, or national discovery";

(B) in the second proviso, by striking "scenic, or national historic" and inserting "scenic, national historic, or national discovery"; and

(C) by striking ", and national historic" and inserting ", national historic, and national discovery";

(9) in section 7(d) (16 U.S.C. 1246(d)), by striking "or national historic" and inserting "national historic, or national discovery";

(10) in section 7(e) (16 U.S.C. 1246(e)), by striking "or national historic" each place such term appears and inserting ", national historic, or national discovery";

(11) in section 7(f)(2) (16 U.S.C. 1246(f)(2)), by striking "National Scenic or Historic" and inserting "national scenic, historic, or discovery trail";

(12) in section 7(h)(1) (16 U.S.C. 1246(h)(1)), by striking "or national historic" and inserting "national historic, or national discovery"; and

(13) in section 7(i) (16 U.S.C. 1246(i)), by striking "or national historic" and inserting "national historic, or national discovery".

By Mr. JEFFORDS:

S. 1070. A bill to provide for a regional education and workforce training system in the metropolitan Washington area, to improve the school facilities of the District of Columbia, and to fund such activities in part by an income tax on nonresident workers in the District of Columbia; to the Committee on Finance.

THE METROPOLITAN WASHINGTON EDUCATION AND WORKFORCE TRAINING ACT OF 1997

Mr. JEFFORDS. Mr. President, I am introducing legislation today, pursuant to many recent discussions about the rescue plan for the District of Columbia, that reaffirms my strong belief that education must be the keystone of that plan and that fair and ready funding is available with no cost to the Federal Government.

Every Washington area citizen should keep a careful watch on what Congress is doing to rescue the Capital from its present plight. The chorus resounds, "we must get people to move back into the Capital! Its future depends on it!" But if we examine the present congressional and administration plans and overlay them onto the root causes for the plight, serious questions arise as to their effectiveness.

Studies indicate that the two leading causes, by far, that cause people to leave the District and keep them from living in the city are poor schools and high incidents of crime. Let's examine the plans that Congress has before it.

Only the Senate plan as currently outlined even mentions education and that is basically a symbolic gesture to help repair the crumbling school infrastructure. The administration does consider the crime problem, but only at the end game of taking over the prison system. The administration's plan has no mention of repairing the failing D.C. educational system; a system which is among the worst in the Nation.

The central administrative problem of the District's school system is not money, it is management chaos. But money is a serious concern in the area of school infrastructure, and D.C. has one of the worst school infrastructures in the Nation. In fairness to General Becton, the new chief executive officer for the schools, he is trying valiantly to upgrade overall standards but too much of his time is spent dealing with emergency school infrastructure repairs. Again this September, 43 schools will be threatened with closure at the outset of the academic year. Over $2 billion are needed just to fix building code violations.

Crime in the District is directly related to the public school system. Some 40 percent of D.C. children drop out of school between grades 7 and 12. National studies show that about 80 percent of prison inmates are school drop-outs. A plan to help D.C. must have a strong component to improve education. As will be shown below, this need not carry a significant dollar cost to the Federal Treasury. In fact it will save millions.

The President wants to be known as the Education President. Congress wants to be known as the Education Congress. Wouldn't the best demonstration of that intent be to start by improving the education system of the Nation's Capital?

The present plans for enhancing a middle-class tax base in the District are based on business tax incentives. But if you are a middle-class taxpayer with school-age children you currently have to factor in approximately $10,000 a year in private education fees to feel comfortable with the level of education and safety you are providing to your family—$10,000 a year, per child, is a huge barrier for most middle-class families.

The plans currently being considered in Congress that exclude discussion of schools may well create jobs. But jobs for whom? Even the promoters of those plans recognize that those jobs would primarily go to non-residents of the District. Projections show that two out of three jobs will go to non-residents. This will leave the District with more infrastructure demands and less money to deal with them—the exact status of the problems at present.

As stated in the recent Brookings Institution study on D.C. entitled "The Orphan Capital" taxing metropolitan area residents where they live instead of where they work creates a revenue boon for Maryland and Virginia and a revenue disaster for the District. D.C. is the only city in a multi-State configuration in the country that has an income tax but is not able to tax its non-resident workers. This situation has also led D.C. to have the highest income tax rate on its residents in the area. That income tax rate is another barrier to the middle-class return to the city.

The result is that $20 billion in wages leaves the District each year without being taxed, resulting in hundreds of millions of dollars flowing each year to the treasuries of Maryland and Virginia. Only 1 percent of this amount goes in the other direction—from D.C. residents working in the suburbs back in to D.C. This is a huge inequity that no other major city suffers.

The history of the tax inequity began in 1973 when D.C. was given home rule. An astute Virginia representative convinced Congress to prohibit the non-resident tax from being enacted. A brilliant move, perhaps justified at the time, but it is unjust now, particularly to the children of D.C. It is not unexpected that the Maryland and Virginia Senators object violently when changing this situation is suggested.

However, a win-win proposal for all D.C. metropolitan residents is possible. It will create high-paying job opportunities for high-school graduates through improved skill training. It will provide the needed repairs to the D.C. school infrastructure. It will provide funds to improve schools and other area training institutions.

A recent report issued by the Greater Washington Board of Trade indicates that there are approximately 50,000 high-paying jobs requiring information technology skills in the Washington metropolitan area. These jobs pay on average $40,000 a year. By filling these jobs the Board of Trade estimates an additional $3.5 billion annually would be injected into the economy of what we call 'the golden crescent'—the Washington metropolitan region that stretches from Annapolis, Maryland to Winchester, Virginia.

But actually, this labor market shortage is a national problem. There are an estimated 190,000 information technology jobs going begging in the Nation for lack of skilled workers. Congress is presently trying to pass legislation to revamp our workforce training laws. We have at this time a prime opportunity to solve the D.C. metropolitan problem and provide a national model to help correct the serious national skill training deficiencies. I am introducing legislation today to accomplish this "win-win" structure.

If the Washington metropolitan area were to become a model for the rest of the country we could jump start the rest of the country in solving this serious national problem. And this could be done with no additional Federal cost. But, of course, there is a hitch.

My plan would require a 3-percent non-resident income tax on D.C. commuter wages. But remember, it would cost the commuters nothing because of laws requiring mutual offsetting tax credits. There would be an offset against the State income taxes of Maryland and Virginia. This would allow the commuter dollars to stay within the metropolitan region instead of going to Richmond and Annapolis with the hope of it coming back.

One percent of this new revenue would be used to repair the D.C. school infrastructure. Bonds could then be amortized for the $2 billion needed. The other two percent would fund a trust overseen by metro-area school and business leaders to provide funding for regional skill training.

Benefits to the regional economy should more than offset any losses to the States. It is hard to argue against growing the local Maryland and Virginia metro-area economies by $3.5 billion a year. This and future gains would more than offset the 1 percent going solely to D.C.

And finally, this bill results in hundreds of millions of dollars in savings to the Federal Government; hundreds of millions of dollars of help to the suburbs surrounding the capital; the repair of the D.C. school system and the overall improvement of the regional school system; and potential revenue gains to Maryland and Virginia. Most importantly, it would make the congressional and administration plans sensible instead of senseless. We must not miss this opportunity.

By Mr. D'AMATO (by request):

S. 1071. A bill to facilitate the effective and efficient management of the homeless assistance programs of the Department of Housing and Urban Development, including the merger of such programs into one performance fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs

THE HOMELESSNESS ASSISTANCE AND MANAGEMENT REFORM ACT OF 1997

Mr. D'AMATO. Mr. President, as chairman of the Committee on Banking, Housing, and Urban Affairs, I introduce the Homelessness Assistance and Management Reform Act of 1997 at the request of the Secretary of the Department of Housing and Urban Development, the Honorable Andrew M. Cuomo.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 484

At the request of Mr. DEWINE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 484, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 755

At the request of Mr. CAMPBELL, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 1067

At the request of Mr. KERRY, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1067, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

SENATE CONCURRENT RESOLUTION 12

At the request of Mr. TORRICELLI, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from New York [Mr. D'AMATO], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of Senate Concurrent Resolution 12, a concurrent resolution expressing the sense of the Congress with respect to the collection of data on ancestry in the decennial census.

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Concurrent Resolution 39, a concurrent resolution expressing the sense of the Congress that the German Government should expand and simplify its reparations system, provide reparations to Holocaust survivors in Eastern and Central Europe, and set up a fund to help cover the medical expenses of Holocaust survivors.

SENATE CONCURRENT RESOLUTION 43—URGING THE U.S. TRADE REPRESENTATIVE TO PURSUE DISPUTE SETTLEMENT PROVISIONS WITH THE WTO

Mr. GRASSLEY (for himself, Mr. LUGAR, Mr. HARKIN, Mr. DASCHLE, and Mr. KERREY) submitted the following concurrent resolution, which was considered and agreed to:

S. CON. RES. 43

Whereas the North American Free Trade Agreement (in this resolution, referred to as "the NAFTA") was intended to reduce trade barriers between Canada, Mexico and the United States;

Whereas the NAFTA represented an opportunity for corn farmers and refiners to increase exports of highly competitive United States corn and corn products;

Whereas Corn is the number one U.S. cash crop with a value of $25,000,000,000;

Whereas U.S. corn refiners are highly efficient, provide over 10,000 non-farm jobs, and add over $2,000,000 of value to the U.S. corn crop;

Whereas the Government of Mexico has initiated an antidumping investigation into imports of high fructose corn syrup from the United States which may violate the antidumping standards of the World Trade Organization;

Whereas On June 25, 1997, the Government of Mexico published a Preliminary Determination imposing very high antidumping duties on imports of United States high fructose corn syrup;

Whereas there has been concern that Mexico's initiation of the antidumping investigation was motivated by political pressure from the Mexican sugar industry rather than the merits of Mexico's antidumping law: Now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Government of Mexico should review carefully whether it properly initiated this antidumping investigation in conformity with the standards set forth in the World Trade Organization Agreement on Antidumping, and should terminate this investigation immediately;

(2) if the United States Trade Representative considers that Mexico initiated this antidumping investigation in violation of World Trade Organization standards, and if the Government of Mexico does not terminate the antidumping investigation, then the United States Trade Representative should immediately undertake appropriate measures, including actions pursuant to the dispute settlement provisions of the World Trade Organization.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. HAGEL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 25, 1997, at 9:30 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HAGEL. Mr. President, I ask unanimous consent of behalf of the Governmental Affairs Committee Special Investigation to meet on Friday, July 25, at 10 a.m., for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HAGEL. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on pending legislation on July 25, 1997, at 10 a.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SUPPORT OF THE McCAIN/KYL INTERNATIONAL ADOPTION AMENDMENT

• Mr. KYL. Mr. President, last year, the Senate Judiciary Committee unanimously passed an amendment I sponsored to the Illegal Immigration Reform and Immigrant Responsibility Act that requires incoming immigrants to be immunized before they enter the United States.

The amendment makes public health sense. Between 800,000 and 1 million individuals emigrate from their home country to the United States every year. And, the Department of Health and Human Services has made immunization of the U.S. population against vaccine-preventable diseases one of its top health priorities. But before the passage of last year's Immigration Act, there was no Federal policy with regard to the immunization of foreign nationals seeking permanent residency in the United States. With passage of the Immigration Reform Act, we can be assured that incoming immigrants will be immunized against vaccine-preventable diseases.

There are special circumstances, however, when requiring an immigrant to be immunized in his or her home country before traveling to the United States doesn't make sense. The law allows the Attorney General the authority to waive the immunization requirement whenever the requirement "would not be medically appropriate" or when such immunizations "would be contrary to the alien's religious or moral convictions."

So, the Attorney General has complete authority to waive the immunization requirement. Some House and Senate offices, however, including mine, have heard from representatives of the international adoption community about the difficulties this requirement has caused for such parents and their children.

To address this issue, Senator MCCAIN and I offer this amendment to instruct the Attorney General "to exercise the waiver authority provided for in subsection (g)(2)(B) for any alien applying for an IR3 or IR4 category visa." That is, for any orphan in another country who is to be adopted by a U.S. citizen.

I have heard from adoptive parents and agencies in Arizona about the unique difficulties the immunization requirement is creating for some adoptive parents and their babies and young children. Their unique concerns focus on a number of issues, including:

Unavailable background Records: Children from orphanages, which comprise over 50 percent of international adoptions, often do not have health records on which to base recommendations for vaccinations.

Immunocompromised children: According to medical professionals, many children who have lived in orphanages exhibit significant immune defects. These immunocompromised children should not receive certain immunizations. Requiring such immunizations could cause the child to acquire the very disease the immunization is supposed to prevent.

The exact age of the child is unknown and, therefore, some children could be forced to receive age-inappropriate immunizations.

The adoptive parents often have limited time and resources to travel to the adoptee's home country. Forcing the child to undergo as many as five immunizations at one time, in order to reduce the amount of time and money a parent must spend in the child's home country, will drive up the cost of the adoption.

There is a danger that unsterile or reconstituted needles, or substandard immunizations, may be used to vaccinate children in some orphanages in some countries.

It is also important to ensure that any immigrant who has received a waiver be immunized once he or she has arrived in the United States. The McCain/Kyl amendment requires the Attorney General and Secretaries of HHS and State to report back in 6 months on how to establish an enforcement program to ensure that immigrants who receive waivers be immunized once they arrive in the United States. The enforcement program would not apply to immunizations that would not be medically appropriate in the foreign country or the United States or would be contrary to the alien's religious or moral convictions.

On July 22, 23 of my colleagues, including Senators ABRAHAM, KENNEDY, ALLARD, ASHCROFT, COATS, CONRAD, CRAIG, D'AMATO, DEWINE, DODD, DORGAN, DURBIN, FRIST, GRASSLEY, HUTCHINSON, INOUYE, KOHL, LANDRIEU, MCCAIN, MOYNIHAN, ROBB, GORDON SMITH, and SNOWE joined me in sending a letter to Attorney General Reno urging her to generously use her authority to provide waivers from the immunization requirement for these babies and children awaiting adoption. I am pleased that the Senate has adopted this timely amendment.•

DARRELL COLSON, HOOSIER HERO

• Mr. COATS. Mr. President, I rise today in recognition of a true Hoosier hero, Mr. Darrell Colson of Indianapolis. On July 15, 1997, Mr. Colson performed a heroic act. While getting ready to leave his apartment complex pool, he noticed that his neighbor, Orian Williams, who moments earlier was swimming laps, was now drowning at the bottom of the pool. After an attempt by Kim Williams, his fiancé, to rescue the young woman, Mr. Colson dove into the water and pulled Ms. Williams to safety. Once he was able to remove her from the water, Darrell Colson and Kim Williams performed CPR until the rescue team arrived. Orian Williams, who by then was in a coma, was rushed to a nearby community hospital where she regained consciousness after receiving medical treatment.

This is a remarkable act, by a remarkable individual. However, what makes Ms. Williams' rescue truly amazing is that Mr. Colson is a paraplegic. Four years ago, Mr. Colson suffered a tragic accident when he fell 40 feet from a tree; he is now confined to a wheelchair. To save Ms. Williams, Darrell Colson maneuvered his wheelchair to the pool, dove in, held onto her with one arm and used the other to swim her to the surface. Despite his condition, Mr. Colson found the courage to risk his own life for a fellow human being. Mr. Colson may not think of himself as special, but he is a hero to both Orian Williams and to all of us who look to his selfless example for inspiration.

I initiated the Hoosier Hero program in 1991 to recognize individuals who have made significant contributions to Indiana life, while at the same time serving as an inspirational example to the entire Nation. I cannot think of a more inspirational display of courage than saving the life of another individual. Last week, Mr. President, I was pleased to officially recognize Mr. Colson as a true Hoosier hero and awarded him a Hoosier Hero plaque.

Mr. Colson never expected to save a life that day while he was relaxing at the pool. Yet, he demonstrated how we all need to be prepared if we are called upon to help others.

Today I ask that my colleagues join me in commending Darrell Colson, whose actions not only saved a life but demonstrated extraordinary bravery and courage. I challenge others to follow the example of Darrell Colson and other heroes in our communities. They ask for no recognition, and no reward. For Darrell Colson, he just wanted to see Orian Williams awaken from her coma and walk out of the hospital. Fortunately, he got his wish, but also the recognition of a grateful community.•

ORDER FOR RECORD TO REMAIN OPEN

Mr. HELMS. Mr. President, I ask unanimous consent that the RECORD remain open until 3 p.m. for introduction of bills and submission of statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 99, S. 833; Calendar No. 126, S. 1000; and Calendar No. 127, S. 1043, en bloc, that the bills be considered read a third time and passed, the motions to reconsider be laid upon the table, and any statements relating to any of these bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOWARD M. METZENBAUM UNITED STATES COURTHOUSE

The Senate proceeded to consider the bill (S. 833) to designate the Federal building courthouse at Public Square and Superior Avenue in Cleveland, OH, as the "Howard M. Metzenbaum United States Courthouse."

Mr. LAUTENBERG. Mr. President, I am very pleased that today the Senate will recognize the contributions of my dear friend and former colleague, Howard Metzenbaum, by approving this bill designating the Federal Building Courthouse in Cleveland, OH as the "Howard M. Metzenbaum United States Courthouse." Ohio's two Senators, Senator GLENN and Senator DEWINE, were original cosponsors of this legislation, along with Senator HATCH, when I introduced on June 5, 1997.

Mr. President, I proposed naming a courthouse after Howard because a courthouse is a symbol of justice where all people can come and be treated equally under the law. Howard Metzenbaum deserves this honor because he was a dedicated public servant, who served his home State of Ohio for 18 years in the U.S. Senate. Howard's sense of fairness and equality for all Americans led one of his former colleagues to suggest that Howard would have made an exceptional U.S. Supreme Court Justice when he retired from the Senate in 1994.

Mr. President, naming a courthouse after Howard is only a small gesture in attempting to remember a man so committed to justice and fairness. Howard's contributions to the Senate are extraordinary, and we commemorate his unique contribution by passing this bill in celebration of his 80th year, his 18 years in the U.S. Senate, and also the special character he brought to our body.

I pay tribute today to a man who always stood up for what he believed was right, fighting hard to preserve opportunity for those for those yet to come. As a Senator, Howard had a broad range of interests and he pursued them with dogged perseverance, sincerity and clarity.

Howard and I worked on many issues together during our time in the Senate. Individual rights and environmental preservation were major concerns. He poured his energy into clean air protection, nuclear regulation, cleaning up superfund sites and recycling. Howard provided strong leadership on antitrust issues as chairman of the Subcommittee on Antitrust, Monopolies and Business Rights on the Judiciary Committee.

He was a persistent gun control advocate, taking the lead on many antigun initiatives in the Senate. He was one of the lead sponsors of the Brady bill handgun purchase waiting period, as well as the bans on assault weapons and plastic explosives.

But Howard's true passions lay with America's underprivileged and needy communities, which never had a bolder champion. His work on behalf of the poor, the disabled, and the elderly reflect his remarkable compassion for those members of society who face challenges that many of us cannot fully appreciate. He tirelessly defended their interests and fought for their protection. He was dedicated to eradicating discrimination, ensuring adequate health care to those in need and boosting public education. It has been said many times, but for good reason, that Howard brought not only his conscience to the Senate, but also the courage to act on his convictions.

Howard remains a good friend to me, but was also a mentor and a teacher during his years in the Senate. He gave me good advice and plenty of it. And, I might add, he continues to do so today, which I welcome! But more than that, his dedication to the office of United States Senator is an example by which to live. He stood tall for the little people.

Some will affectionately remember Howard as determined, argumentative, and even irascible. I cannot deny that those words come to my mind every now and then when describing Howard. He was always at his best then, and for good reason. I heard it said by one Senator, and not a good friend: "If there wasn't a Metzenbaum here, we'd have to invent one to keep us alert."

I have missed working with Howard Metzenbaum in this great institution, a place that has been truly enhanced by his presence. I salute him on celebrating his 80th year.

The bill (S. 833) was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF HOWARD M. METZENBAUM UNITED STATES COURTHOUSE.

The Federal building courthouse at Public Square and Superior Avenue in Cleveland, Ohio, shall be known and designated as the "Howard M. Metzenbaum United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building courthouse referred to in section 1 shall be deemed to be a reference to the "Howard M. Metzenbaum United States Courthouse".

ROBERT J. DOLE U.S. COURTHOUSE

The Senate proceeded to consider the bill (S. 1000) to designate the U.S. courthouse at 500 State Avenue in Kansas City, KS, as the "Robert J. Dole U.S. Courthouse."

Mr. ROBERTS. Mr. President, I am pleased the Senate has acted expeditiously on S. 1000, the legislation that Senator BROWNBACK and I introduced several weeks ago to designate the Kansas City, KS, Federal Courthouse after our Kansas colleague Senator Bob Dole. I appreciate the efforts of Senators CHAFEE and BAUCUS and the other members of the Environment and Public Works Committee in their effort to approve the bill for its consideration by the Senate before the August recess.

After the bill was introduced, Kansans contacted my office about Senator Dole and their recollections of his work, which he continues to do in behalf of Kansas. I thought it would be fitting to share an example with my colleagues. Mrs. Rose Coughlin of Kansas City, KS, shared with me her story about Senator Dole calling her just several weeks ago. Mrs. Coughlin, who suffers from polio, wrote to Senator Dole in mid-June just to pass along her deep appreciation and admiration of his perseverance during his legislative career on behalf of Kansas despite his permanent injuries sustained during World War II.

Much to her surprise, Senator Dole called her upon receiving the letter and talked with her at some length, inquiring about her condition. At the close of her letter to me she says, "Needless to say he made my day." Her letter is indicative of Senator Dole's commitment and caring for Kansans.

Mr. President, S. 1000 has been endorsed by Carol Marinovich, mayor of Kansas City, KS, the location of the soon-to-be Robert J. Dole U.S. Courthouse.

I look forward to joining Senator Dole along with proud Kansans in the near future for the dedication ceremonies.

The bill (S. 1000) was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ROBERT J. DOLE UNITED STATES COURTHOUSE.

The United States courthouse at 500 State Avenue in Kansas City, Kansas, shall be known and designated as the "Robert J. Dole United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Robert J. Dole United States Courthouse".

LLOYD D. GEORGE U.S. COURTHOUSE

The bill (S. 1043) to designate the U.S. courthouse under construction at the corner of Las Vegas Boulevard and Clark Avenue in Las Vegas, NV, as the "Lloyd D. George U.S. Courthouse," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF LLOYD D. GEORGE UNITED STATES COURTHOUSE.

The United States courthouse under construction at the corner of Las Vegas Boulevard and Clark Avenue in Las Vegas, Nevada, shall be known and designated as the "Lloyd D. George United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Lloyd D. George United States Courthouse".

REGARDING MEXICO'S IMPOSITION OF ANTIDUMPING DUTIES ON UNITED STATES HIGH-FRUCTOSE CORN SYRUP

Mr. HELMS. Now, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 43 submitted earlier today by Senators GRASSLEY, LUGAR, and HARKIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 43) urging the United States Trade Representative immediately to take all appropriate action with regard to Mexico's imposition of antidumping duties on United States high fructose corn syrup.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, today I am offering this resolution with my distinguished colleagues, the chairman and ranking member of the Senate Agriculture Committee, Senators LUGAR and HARKIN. The resolution addresses an antidumping investigation being conducted by the Government of Mexico, on the import of high-fructose syrup [HFCS] from the United States.

Mr. President, I have often come to the Senate floor to discuss the importance of international trade to our agricultural economy. American farmers have become more reliant on global markets for their income. The U.S. Department of Agriculture estimates that 31 percent of farmers' income will be derived from foreign markets by the end of the decade.

Because American farmers are the most efficient in the world we should not be frightened by this trend. But we must be more vigilant than ever when it comes to eliminating foreign trade barriers.

Both the North American Free Trade Agreement [NAFTA] and the Uruguay Round Agreement of GATT were successful for American farmers. They served to reduce or eliminate barriers to trade in agriculture products to a greater extent than any prior trade agreement. The implementation and enforcement of these agreements will be crucial to American farmers.

That is why the recent actions of the Mexican Government are so disturbing. The Mexican Government has imposed unreasonably high, preliminary tariffs on imports of HFCS from the United States. These tariffs are far in excess of what was negotiated under NAFTA. The justification for these tariffs is the antidumping action filed by the Mexican sugar industry.

I and my colleagues are very concerned with the propriety of this action. There have been questions raised as to whether the action meets the standards set forth in the World Trade Organization Agreement on Antidumping. I will submit for the Record a letter from the Deputy U.S. Trade Representative, Ambassador Jeff Lang, that outlines these serious concerns.

The resolution we introduced today is very simple. It says that if the antidumping action has not been conducted in accordance with WTO requirements, it should be terminated immediately. And all tariffs that have been imposed as a result of the action should be removed immediately.

If the Mexican Government refuses to do this, the United States Trade Representative is directed to request consultations with the Mexican Government, under the dispute settlement provisions of the WTO. This action will trigger a resolution of this dispute according to WTO procedures.

Finally, if the Mexican Government fails to accept our request for consultations, Congress directs the USTR to take any and all applicable actions under United States trade law.

Mr. President, I am a firm believer in free and open trade. It is never productive to engage in a trade war with one of our largest and most loyal trading partners. And that is certainly not the intent of this resolution.

However in order to have fair trade, we must insist that our trading partners live up to the obligations set forth in our trade agreements. This is vital to facilitating the free trade that will raise the standard of living for workers and consumers worldwide.

I urge my colleagues to support this resolution.

Mr. President, I ask unanimous consent that the letter I referred to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, June 4, 1997.

Alvaro Baillet,
Jefe De La Unidad, Secretaria de Comercio y Fomento Industrial, Av. Insurgentes Sur 1940 PISO II, Col. Florida, C.P. 01030 Mexico, D.F.

DEAR MR. BAILLET: The United States has recently been contacted by American producers of High Fructose Corn Syrup (HFCS) regarding the initiation of an antidumping investigation concerning their exports of HFCS to Mexico. Our producers are concerned that the applicable like product in the investigation is HFCS, that the investigation was initiated without the support of the Mexican producers of that like product, and that certain information about the Mexican producers of HFCS known to the Mexican authorities was not considered in the initiation notice.

We have reviewed information that indicates that HFCS was produced in Mexico during the 1996 period of investigation. We further understand that this information was available to SECOFI and the Mexican sugar chamber that submitted the application for this antidumping investigation prior to SECOFI's initiation of the investigation. The domestic producers of the like product on whose behalf the antidumping application was filed consequently would normally have included any such Mexican producers of HFCS. SECOFI's initiation notice, however, does not reference these producers. It merely states, without support, that HFCS is not produced in Mexico.

An investigation into allegations of dumping can be extremely time consuming, expensive and have commercial consequences even before a preliminary or definitive measure is in place. For this reason, and because the Antidumping Agreement is explicit about the need for the authorities to examine the accuracy and adequacy of the evidence provided in the application, including that pertinent to the industry support needed for initiation, we would appreciate your attention to this matter in time to minimize any unnecessary impediment to U.S. exports of HFCS.

Sincerely Yours,

JEFFREY LANG,
Deputy United States Trade Representative.

Mr. LUGAR. Mr. President, in my home State of Indiana, corn refining adds substantially to the value of our corn crop. On average, Indiana produces 800 million bushels of corn annually. It is estimated that corn refining—primarily through the production of high-fructose corn syrup—adds about $200 million to the value of Indiana's corn crop. In addition to enhancing the value of our corn crop, corn refining results in the direct employment of approximately 1,700 Hoosiers with an estimated payroll of over $70 million.

It is for the above reasons that I join Senators GRASSLEY, HARKIN, DASCHLE, and KERREY in introducing a concurrent resolution instructing the United States Trade Representative to take the appropriate actions in regards to a preliminary imposition of antidumping duties against United States exports of high-fructose corn syrup to Mexico. These duties were imposed on June 25 in response to a petition brought to the Mexican Government by the sugar producers' organization in Mexico.

Prior to our adoption of the North American Free-Trade Agreement [NAFTA], duties on high-fructose corn syrup were 15 percent. This year, under our negotiated agreements, with should have dropped to 9.5 percent. The preliminary antidumping finding has disrupted the planned program for the duty reduction on this important agricultural product. Duties now in effect because of this decision are as much as four to five times the pre-NAFTA levels.

Mr. President, this case involves important matters of international trade policy and the interests of U.S. agricultural producers. The preliminary finding of the Mexican Government appears to be in violation of the World Trade Organization Agreement on Antidumping. This agreement requires that governments fully investigate allegations brought by private parties before opening government investigations. In this case, Mexico's sugar industry stated that there was no production of high-fructose corn syrup in Mexico. This is inaccurate which means the Mexican sugar industry did not have standing under WTO rules to file this case.

Three years ago this chamber helped take a major step toward creating a growing free-trade area in the Western Hemisphere. Passage of NAFTA was not an easy matter, as you will recall. However, those of us from agricultural areas—with strong support from the U.S. corn industry—worked hard to achieve its passage.

With the passage of last years FAIR Act, we reduced price and income support for U.S. corn farmers. Increasing exports is the only alternative for U.S. farmers to maintain a stable level of farm income. One of the best ways to continue agricultures export performance is to ensure that unwarranted and unfair trade barriers are not erected. I hope you will join me in supporting this resolution.

Mr. HELMS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution (S. Con. Res. 43) follows:

S. CON. RES. 43

Whereas the North American Free Trade Agreement (in this resolution, referred to as "the NAFTA") was intended to reduce trade barriers between Canada, Mexico and the United States;

Whereas the NAFTA represented an opportunity for corn farmers and refiners to increase exports of highly competitive United States corn and corn products;

Whereas corn is the number one U.S. cash crop with a value of $25,000,000,000;

Whereas U.S. corn refiners are highly efficient, provide over 10,000 non-farm jobs, and add over $2,000,000 of value to the U.S. corn crop;

Whereas the Government of Mexico has initiated an antidumping investigation into imports of high fructose corn syrup from the United States which may violate the antidumping standards of the World Trade Organization;

Whereas on June 25, 1997, the Government of Mexico published a Preliminary Determination imposing very high antidumping duties on imports of United States high fructose corn syrup;

Whereas there has been concern that Mexico's initiation of the antidumping investigation was motivated by political pressure from the Mexican sugar industry rather than the merits of Mexico's antidumping law: Now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Government of Mexico should review carefully whether it properly initiated this antidumping investigation in conformity with the standards set forth in the World Trade Organization Agreement on Antidumping, and should terminate this investigation immediately;

(2) if the United States Trade Representative considers that Mexico initiated this antidumping investigation in violation of World Trade Organization standards, and if the Government of Mexico does not terminate the antidumping investigation, then the United States Trade Representative should immediately undertake appropriate measures, including actions pursuant to the dispute settlement provisions of the World Trade Organization.

ORDERS FOR MONDAY, JULY 28, 1997

Mr. HELMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday, July 28. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted.

It will be the majority leader's intention to then proceed to the consideration of S. 830 regarding the FDA reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I further ask that at 3 p.m. on Monday, there be 1 hour for morning business under the control of Senator DASCHLE or his designee, and at 4 p.m. there be 1 hour for morning business under the control of Senator COVERDELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HELMS. For the information of all Members, on Monday it will be the leader's intention to begin consideration of S. 830, the FDA reform bill. Following debate on that issue, there will be a period for morning business, to be followed by the Transportation appropriations bill beginning at 5 p.m.

By a previous consent, any votes ordered with respect to the Transportation bill will be postponed to occur at 9:30 a.m. on Wednesday. Therefore, no votes will occur in Monday's session of the Senate. However, it is the hope of the majority leader that the Senate could complete debate on the Transportation appropriations bill on Monday. And, in addition, as announced by the majority leader, the next votes will be a series of votes occurring on Tuesday at 9:30 a.m. on the Commerce, Justice, State Department appropriations bill.

ADJOURNMENT UNTIL MONDAY, JULY 28, 1997

Mr. HELMS. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:08 p.m., adjourned until Monday, July 28, 1997, at 12 noon.

HOUSE OF REPRESENTATIVES—*Friday, July 25, 1997*

The House met at 9 a.m.

The Reverend Bruce Mackenzie, First Congregational Church, Boulder, CO, offered the following prayer:

Oh God of a thousand names and faces, give light to our minds and hearts, fill our inmost depths with Your healing presence, wash what is soiled, heal what is painful, bend what is rigid, and lead us to fullness of life.

Today we offer special gratitude for our Nation: for its freedoms that allow each of us to express our faith in varieties of ways and yet encourages respect for those who express their faith in different ways, and for its continuing concern for our whole Earth and the sharing with equity the resources of the world.

Oh God with the vision of Your future, break us open to new ways of loving and caring for all Your children, so that Your kingdom may come on Earth. Amen.

CHAPLAIN'S 66TH BIRTHDAY

The SPEAKER. The Chair will note that today is the Chaplain's birthday and everyone in the House should offer him a happy birthday.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida [Mr. DIAZ-BALART] come forward and lead the House in the Pledge of Allegiance.

Mr. DIAZ-BALART led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minute speeches from each side.

WELCOMING THE REVEREND BRUCE MACKENZIE, GUEST CHAPLAIN

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, it is my personal privilege and honor to welcome this morning to the House of Representatives my pastor from Boulder, CO, the Reverend Bruce Mackenzie who just delivered the opening prayer. He is the senior minister at the First Congregational Church in Boulder. He is my pastor and my friend; he married me and my wife Laura some years ago. He has led our congregation in Boulder, CO now for 27 years and will be retiring from that post next month, leaving a grateful, if grieving, congregation.

He certainly exemplifies the kind of inspirational leadership that we wish for in our religious as well as our civic life. His entire congregation shares in this honor this morning and wishes him well in his retirement. We have all been the beneficiaries of his caring and joyful leadership.

A WARNING TO JAILERS OF CUBAN PRISONERS: THEY CAN RUN BUT THEY CANNOT HIDE

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIAZ-BALART. Madam Speaker, the Cuban tyrant is engaged in a Stalinist crackdown which is pretty typical of him, but it is nevertheless extraordinarily brutal. I have at this point six pages in my hands of names of opposition leaders and independent press people who have been arrested in the last 4 months alone, renowned leaders such as Vladimiro Roca, Marta Beatriz Roque, Felix Bonne Carcasses, and Rene Gomez Manzano have been arrested; youth leaders such as Nestor Rodriguez Lobaina, Heriberto Leyva Rodriguez, and Rafael Fonseca Ochsa.

As I say, I have six pages and they are growing the list by the day.

I just want to send a word to the jailers of these prisoners. To each of them who go so far as to lay a hand on any political prisoner in Cuba, take note: It does not matter how long it takes, it does not matter how many times they say that they are following orders, it does not matter where they go, the Cuban people will make certain that they will be found, and they will be taken to justice.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 1585. An act to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued United States postage stamps, and for other purposes.

TAX RELIEF FOR THE WEALTHY CONTRIBUTORS WHO HELPED THE REPUBLICANS WIN CONTROL OF CONGRESS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, Republicans have manipulated their tax bill to deliver as many tax breaks to the wealthy as possible, a new analysis shows. The Treasury Department this week released an analysis demonstrating that Republican tax breaks for the wealthy explode in cost in the outyears, posing a serious threat to the balanced budget which Republicans pretend to care so much about. The Treasury analysis found that the GOP tax package doubles in cost in the second 10 years to a staggering $790 billion, with nearly three-quarters of the tax cuts going to the wealthy.

It is time, Madam Speaker, for Republicans in Congress to come clean with the American people about their priorities and admit that their plan delivers tax relief not to the hard-working middle-income families who deserve it, but to the wealthy contributors who helped them win control of this Congress.

LONGSTANDING CAMPAIGN DEBTS REASON FOR MISTRUST OF MEMBERS OF CONGRESS

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Madam Speaker, it has recently been reported that a former Presidential candidate still has a campaign debt that was incurred in the 1980's, years ago.

At the conclusion of my first campaign for a seat in the Congress, I was saddled with a campaign debt. I promptly borrowed money and paid those to whom my campaign was indebted. To have done less, Madam Speaker, would have been inexcusable and without defense. Responsible people simply do not casually ignore debts.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Campaign reform is consistently discussed on Capitol Hill. Perhaps the time has come to direct attention to the propriety of paying off campaign debts rather than ignoring them.

Frequently we ask incredulously why the American people do not trust Members of Congress. Longstanding campaign debts that remain unpaid and ignored is one glaring reason.

ALBANIA COULD BECOME THE NEXT BOSNIA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, the former Yugoslav Republic of Macedonia is in turmoil. A new law limits the flying of the Albanian national flag. Infuriated Albanians gathered by the thousands in protest. In Macedonia police opened fire on their crowds, killing 4, wounding 70, and they have locked up 400 Albanians that have yet to be accounted for. Macedonia's actions are a clear violation of international law, and after all this the State Department has turned and looked the other way.

Shame on the State Department.

Albanians are being systematically persecuted. Albanians are subject to the next possible killing fields of the world. Madam Speaker, Albania needs help. Albania could become the next Bosnia.

The State Department should do its job, and I urge Congress to pass House Concurrent Resolution 36 sponsored by the gentleman from New York [Mr. GILMAN].

STOP TWISTING THE TRUTH ABOUT TAX RELIEF

Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Madam Speaker, David Gergen writing in this week's U.S. News & World Report says, and I quote, and David Gergen is a former Clinton administration adviser, he says it is time for the left to stop twisting the truth about tax relief.

Why is that important and why do we agree? And let me explain, because seniors in my district are starting to become confused because our liberal friends are talking about this imputed income scheme where we can take people with one income level and impute their income up to a different level.

Let me give my colleagues an example of a couple in my district. Their real income is $8,700 a year, but their home is paid for; of course they could rent that home out. They also have accrued value and some pension plans and other things, but they are living on $8,700 a year. Using the imputed income scheme of the Democrats we can take their income up to about $40,000 a year. So the question they have is if the Democrat tax plan passes, will they pay taxes on $40,000 a year or will they pay on $8,700 a year?

Madam Speaker, there is a big difference. Seniors are confused. We owe them the truth. I hope that we can pass our plan.

CAUSAL CONNECTION BETWEEN NO ACTION ON CAMPAIGN FINANCE REFORM AND FAST ACTION ON TAX BREAKS FOR THE WEALTHY

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Madam Speaker, I rise today to point out something that I think is pretty obvious around here, and that is the President was here earlier this year asking that this House deliver a campaign finance reform bill to him by July 4. We did not do it. We have had no hearings, we have had no votes, we have had no discussion; we have had a lot of effort to try to get a campaign bill on the floor.

Yet at the same time the tax bill, which gives incredible breaks to very wealthy people, moves through here like a knife through butter. Why is that? Why do we not move for campaign reform for the people but we can move very quickly for tax breaks for the rich? I think there is a causal connection.

Madam Speaker, just wait and see this next election period why we have not passed campaign reform under the Republican leadership and why there are big tax breaks for the rich under the Republican leadership.

THOSE WHO PAY 80 PERCENT OF THE TAX BURDEN SHOULD GET SOME TAX RELIEF

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Madam Speaker, when was the last time that we heard a liberal talk about who pays what share of the tax burden?

Now let us think about that for just a minute. I am very curious to know if anyone can think of a single instance in the past 84 years where a liberal Democrat has talked about who pays what share of the tax burden.

According to the IRS, and C-SPAN viewers can check these figures for themselves, the top 1 percent of income earners in this country pay 29 percent of the income taxes. Again, the top 1 percent pay 29 percent of the income tax burden.

How about this one? The top 25 percent of income earners pay 80 percent of the income taxes.

Madam Speaker, I leave it to my colleagues to decide. Are the wealthiest Americans paying their share? And do my colleagues think that maybe those who pay 80 percent of the tax burden ought to get some of the tax relief? My colleagues should decide.

□ 0915

WORKING AMERICANS DESERVE THE CHILD TAX CREDIT

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Madam Speaker, the other day I talked to a hard-working woman in my district. Sue has two children under the age of 18. Unfortunately, she is divorced and her ex-husband is not too reliable on his child support payments. Sue is a hard-working woman with a full-time job. She made $200 a week on her first job, and then got a better job that paid her $7 an hour, where she grosses $14,500 a year.

Every payday Sue pays her State taxes, Federal taxes, and her Social Security, FICA. When she filed her taxes, she received the earned income tax credit. She said the EITC helped her get caught up on her bills. It also in 1 year allowed her to buy tires so she could drive back and forth to work.

Sue has never received public assistance. Because Sue received the earned income tax credit, and would receive the $500-per-child credit under the Democratic tax cut plan, Republicans say she is looking for welfare. Republicans say she should not receive the $500-per-child tax credit. Democrats see Sue as a hard-working American, and we will stand with her and her two children and give her the $500-per-child tax credit.

A STIFLING TAX BURDEN

(Mr. RYUN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN. Madam Speaker, the great historian, Will Durant, wrote, and I quote,

> A great civilization is not conquered from without until it has destroyed itself within. The essential causes of Rome's decline lay in her people, her morals, her class struggle, her failing trade . . . her stifling taxes.

Madam Speaker, as in ancient Rome, our tax burden is stifling, and instead of working to reduce taxes, just as Members have heard, the Democrats are trying to promote class warfare. We should not be arguing over who is rich in this country; we should provide a $500-per-child tax credit for all Americans who honestly pay an income tax.

There are more than 130,000 children in my second district of Kansas whose families need this tax cut. These Kansans deserve relief from a crushing tax burden and an oppressive government that undermines the family unit.

Madam Speaker, when we balance the budget for the first time in 30 years and cut taxes for the first time in 16 years, we will come a step closer to the America envisioned by our Founding Fathers, where we have freedom, faith, and families that prosper.

A REPUBLICAN CONGRESS THAT HAS COMPASSION FOR BILLIONAIRES

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Madam Speaker, I must be missing something. One of the great things about this country was that we have been a compassionate country. My Republican friends seem to have incredible compassion for billionaires.

Let me explain the difference to Members about the concerns. When we cut taxes for the top 1 and 2 percent, yes, they can get their new Mercedes a couple of months earlier. They have to make choices. When we cut their taxes, they are able to make choices about yachts and trips and Mercedes.

When we talk about the people who work for a living and are at the bottom of the economic ladder, those people who we deprive of the $500-per-child tax credit because they pay other taxes, not just income taxes, these are people who are making decisions about putting clothes on their children's backs, feeding them nutritious meals, keeping the family together under a roof, and staying warm in the winter.

So it seems to me the compassion ought to start with those with the greatest need, not with the greatest greed.

PROVIDING FOR THE CONSIDERATION OF H.R. 2209, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1998

Ms. PRYCE of Ohio. Madam Speaker, by direction of the Committee on Rules I call up House Resolution 197 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 197

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2209) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1998, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302 or 308 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business: *Provided*, That the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore [Mrs. MORELLA]. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to my good friend, the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

GENERAL LEAVE

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution, and that I may be permitted to insert extraneous material into the RECORD following my remarks

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE of Ohio. Madam Speaker, House Resolution 197 makes in order the bill H.R. 2209, the fiscal year 1998 legislative branch appropriations bill, under a modified closed rule.

At the outset I would like to commend the chairman, the gentleman from New York, Mr. WALSH, and the ranking member, the gentleman from New York, Mr. JOSÉ SERRANO, and the rest of my colleagues on the Subcommittee on Legislative of the Committee on Appropriations for their hard work in bringing what has historically been a difficult bill to the floor.

During this year's bill, we will not be free of controversy, I am afraid. I am sure we will hear from our friends in the minority about their concerns. Unfortunately, the bill has been hampered by issues that are outside the control of the Committee on Rules. But given that there may be some folks who would go so far as to recommend zero funding for the legislative branch and send us all home to get jobs in the real world, I believe this is a very responsible rule for a responsible bill.

As the Reading Clerk has described for us, the rule waives a limited number of points of order against the consideration of the bill to permit timely consideration and to address some technical requirements with regard to the Congressional Budget Act, and transfers of funds within the bill.

The rule makes in order four amendments printed in the Committee on Rules' report to accompany this resolution, to be offered only in the order printed in the report, by the Member specified, and debatable for the time specified in the report. The amendments are to be considered as read and are not subject to amendment or to a demand for a division of the question in either the House or in the Committee of the Whole. In addition, all points of order against the amendments are waived.

Furthermore, the rule provides that the Chairman of the Committee of the Whole may postpone recorded votes on any amendment and that the Chairman may reduce voting time on a postponed question to 5 minutes, provided that the vote immediately follows another recorded vote, and that the voting time on the first in a series of votes is not less than 15 minutes.

Finally, the rule provides for one motion to recommit, with or without instructions, as is the right of the minority.

Madam Speaker, while the annual funding bill for the operations of the House, the Senate, and various congressional agencies is often a lightning rod for partisan conflict, we should not forget that the legislative branch appropriations bill has also been a prime vehicle for reforming this institution from within to make it more open, more effective, and more accountable to the people we serve. By adopting this fair rule, we continue those important reforms while further streamlining and updating the operations of this unique and historic institution.

As most of my colleagues know, this Congress has consistently emphasized the need to have a balanced Federal budget, and I am pleased to note that under this year's legislation funding for congressional operations will be $10 million less than last year's enacted level.

Now, that may not be a great amount of money, but it is important for our constituents back home to know that we are taking the task of cutting government very seriously here. We are looking at our own backyard. We are doing our part to contribute to the larger deficit reduction effort, and we have saved nearly $400 million since fiscal year 1996, the first year of the Republican majority.

This year, for example, H.R. 2209 cuts a total of 316 positions throughout the legislative branch, and since 1994 nearly 4,000 positions have been cut. The bill saves $1.6 million in House Information Resources by cutting funding for 20 unused positions, reducing costs for equipment replacement and generating greater savings from increased competition for telecommunications services.

It also funds the Joint Committee on Taxation at a level lower than was originally requested. I am also pleased to note that this year's bill includes funding for a modest cost-of-living increase for congressional staff. I commend the subcommittee for including this COLA, because in so many ways we are indebted to the hard work, dedication, and commitment of our staffs, who are dedicated public servants.

Finally, let me say a word or two about the amending process of this bill. The rule makes in order four amendments, two by Republican sponsors and two by Democrat sponsors. In addition to considering those amendments, any Member who is still opposed to the bill can offer a final amendment through the customary motion to recommit with instructions.

Madam Speaker, this resolution is the traditional structured rule that we have used in the past to debate funding for the legislative branch. We should keep in mind that the bill which this rule makes in order is about more than just appropriations. It is also about protecting the integrity of this institution, ensuring that we have the proper resources to legislate responsibly and efficiently, and to preserve the Capitol and its grounds for Americans and visitors to see and to enjoy.

Summer is the time when the Capitol Building plays host to thousands of vacation visitors who have come to see firsthand this hallowed shrine of history, democracy, and freedom. Throughout the year, these Halls of democracy echo with the sounds of adults, children, and youth alike who want nothing more than a front row seat to watch the democratic process in action. It is for their sake and for future generations of Americans who will want to experience their democratic heritage that we are considering this very important funding legislation today.

While a completely open rule may seem appealing, the operations of the Congress and the organizations that support our work are extremely vital, Madam Speaker. We should consider floor amendments in a very, very careful, measured way, something which is less likely to happen under an open rule. In other words, I believe it is beneficial to ourselves and to the people who sent us here to consider this bill in a disciplined manner.

Madam Speaker, this is a responsible rule for a very responsible and reasonable legislative branch spending bill that maintains our commitment to fiscal responsibility and to doing more with less.

Madam Speaker, I urge a "yes" vote, and I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this resolution is a modified closed rule. It allows for the consideration of H.R. 2209, the legislative branch appropriations bill for fiscal 1998. This bill funds the activities of Congress and other agencies in the legislative branch.

I will oppose the rule, Madam Speaker, and ask to defeat the previous question because it fails to make in order an amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] to prohibit the use of $7.9 million previously set aside in a contingency fund for use by House committees.

□ 0930

I am reluctant to oppose this rule because the bill which funds the Congress is critical for operating our national Government. Furthermore, I am reluctant on the grounds that just a single amendment has been denied. However, that single amendment is so important to the integrity of this institution that my side has no choice but to force a debate on the issue.

Madam Speaker, I believe that a woeful and gross violation of the House rules may have occurred in connection with the approval of $1.4 million out of the committee reserve fund for an investigation into labor laws and union activity. Even if such a violation did not occur, there has been an unmistakable breach in the commitments made on this House floor and a demonstration of contempt for the American taxpayers who will foot the bill for this unnecessary investigation.

On January 7, 1997, the House adopted an amendment to rule XI authorizing the creation of a reserve fund expressly for the use of unanticipated expenses of committees. There is no ambiguity in this language. The rules explicitly state that the expenses must be unanticipated.

On February 13, 1997, the Committee on Education and the Workforce adopted an oversight plan which included a project called the American Worker and the Department of Labor.

Four months later, the chairman of the Committee on Education and the Workforce submitted a similar proposal to the Committee on House Oversight and requested $1.4 million from the contingency funds. This time the proposal was called a continuation of the Education at a Crossroads project.

Let me quote from the original proposal, the American Worker and the Department of Labor, written February 13, and this is available on the Internet for all Americans to read: "The committee intends to initiate a systematic and comprehensive review of the Department of Labor, its programs and activities."

Let me read from the alleged unanticipated, emergency proposal, Education at a Crossroads project, 4 months later: "This will include a review of the Department of Labor and its programs, activities, and spending habits."

Now, quoting from the first proposal: "Among other things, the Committee hopes to review the DOL's activities in response to the Government Performance and Review Act."

Quoting from the so-called unanticipated, emergency proposal 4 months later: "The project, in particular, will examine agency submissions under the newly implemented Government Performance and Review Act."

If this is not a violation of the House rule, it certainly violates the spirit of the rule and the repeated assurances House Members were given when the contingency fund was established.

A statement by the chairman of the Committee on Rules from the CONGRESSIONAL RECORD when the rule was adopted on January 7 stated that the reserve fund is expected to be for use only in extraordinary emergency or high priority circumstances.

That statement was read back to the House by the vice chairman of the Committee on Rules on March 20 when the House took up a measure to put $7.9 million into that fund: "extraordinary, emergency, or high priority circumstances."

Again, on March 21, he reassured the House that the reserve fund would be fully accounted for and open to public scrutiny to cover unexpected funding emergencies.

The decision to spend $1.4 million of taxpayer money from the contingency fund was made by the House Committee on House Oversight. It was made at a stealth meeting on the evening of July 8 for which notice was given only the day before. The committee denied a request to postpone the meeting so that the ranking minority member who at the time was on official business with the President could attend. Of course details of the emergency funding request, such as they were, were provided barely 24 hours before the start of the meeting. The promised opportunity for public scrutiny never happened.

Now it is time to shed some sunshine on this decision.

Just what is the American taxpayer getting for this $1.4 million? Details are sketchy but one Member on the Republican leadership team told the newspaper Roll Call the study will look at the ways labor leaders are not representing workers and this will include using dues for political purposes.

I challenge any Member to come to this House floor and tell his colleagues that this funding request complies with the House rules because the project was unanticipated.

I challenge any Member to say with a straight face that the need to investigate the Labor Department is extraordinary or emergency. I challenge any Member to tell the American people that this $1.4 million boondoggle that they are paying for is a high priority circumstance.

If the previous question is defeated, I will offer an amendment to the rulemaking and order the Gejdenson amendment to put an end to the contingency fund and the wasteful spending it represents. A vote to defeat the previous question is a vote against spending millions of dollars on yet more endless investigations that no one really cares about. Cutting unnecessary spending is what our constituents elect us to do, so this is what we should do now. I would say oppose the rule, defeat the previous question.

Madam Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Madam Speaker, I yield such time as he may consume the distinguished gentleman from New York [Mr. WALSH], the subcommittee chairman.

Mr. WALSH. Madam Speaker, I would like to thank the gentlewoman from Ohio for yielding me time.

I would like to thank very much the Committee on Rules for the good solid rule that they provided us for consideration of this bill. Let me begin by stating that the Subcommittee on Legislative worked in a very bipartisan manner to produce this bill. My colleague, the gentleman from New York [Mr. SERRANO], was extremely thoughtful and helpful throughout the process, as was his staff.

The rule that was provided by the Committee on Rules is a modified closed rule. This is the traditional approach to the legislative branch, the reason being this is the budget that we use to govern and to fulfill our responsibilities as legislators. This is always an opportunity for mischief. I am sure that we will hear from a number of Members from the other side who are disappointed that certain amendments were not granted, but those amendments, Madam Speaker, had absolutely nothing to do with this bill. This bill funds the legislative branch. It also funds the other aspects of the legislative branch other than the House, which would include the Library of Congress, the Architect, Government Printing Office, General Accounting Office, Capitol Police, Botanic Garden, et cetera. It is important that we stick to those issues as laid out by the subcommittee.

We had a good solid bipartisan approach all the way along on this bill. And unfortunately, as we came through subcommittee to full committee, outside issues, as they have on other appropriations bills, have entered in and sort of poisoned the well somewhat.

I do think we have a good bill here. I think it is something that we can support on both sides of the aisle. But we will hear some weeping and gnashing of teeth about the amendments that were not allowed, and I would submit to my colleagues that they do not belong on this bill. I think the Committee on Rules exercised good judgment in providing us with a rule that allows for two amendments from Democrats, two amendments from Republicans.

I think every Member of the House should take a moment and look around at our complex, at this campus where we work and remind themselves of how fortunate we are to be working here. The bill that we will be debating later provides the needed funds to maintain this vast campus and the wonderful people who work here on a daily basis. It is not just our personal or committee staffs who make up the House. There are Capitol Hill Police, maintenance personnel, cafeteria workers, clerks, and a variety of services, elevator operators, countless people, the sea of faces that we see every day who make this place work. We have a responsibility to them also, not just to each other as legislators but to the people who work here and make this place work. We are very, very fortunate to have the degree of professionalism that we have.

We are also responsible for other offices I mentioned, General Accounting Office, Congressional Budget Office, Library of Congress, the greatest repository of information on Earth, Madam Speaker. We have a huge responsibility to make sure that not only we take care of the physical structure but also the wonderful, intelligent, thoughtful people who work in these institutions.

This bill continues a trend that was begun under the leadership of my predecessor, the gentleman from California [Mr. PACKARD] to downsize, to right size the legislative branch. The Federal Government has grown like Topsy over the past 20 or 25 years. The legislative branch since the gentleman from California [Mr. PACKARD] became chairman 2 years ago has exercised tremendous restraint.

We are leading the Federal Government in the effort to downsize Government. In fact, we have reduced staff on the legislative branch by almost 14 percent. No other branch of the Federal Government has done nearly as well, as the gentlewoman from Ohio [Ms. PRYCE] mentioned.

If this budget is adopted over these 3 years, we will have reduced Federal spending just in the legislative branch by almost $400 million. If every branch, if every bureau of the Federal Government did what the legislative branch has done, we would have a Federal Government surplus in the year 1998. We would not have to wait for a 5-year budget deal. We would not have a balanced budget. We would have a budget surplus of $183 billion, if we did what the legislative branch has done.

Madam Speaker, I am very proud of this bill. I am very proud of the way that we arrived at this bill. Unfortunately, there will be some carping today about the rule and about the bill, but overall I think in their heart of hearts everybody can agree that we did our best. This is the best bill we could bring forward. There is something here that we can all support.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Speaker, I cannot believe we are here again with this kind of a rule. We have just gone through a very frustrating and acrimonious period because the Committee on Rules chose to turn previously bipartisan bills reported out of the Committee on Appropriations into partisan war zones by the nature of amendments which they did and did not allow on appropriation bills.

It took us a long time to work out the arrangement last night on the foreign operations bill which ended that controversy, I had hoped.

Now apparently we are right back at it. It is important for the majority to understand that we have our responsibilities to manage these bills just as they have their responsibilities. And it is disruptive of the legislative process when on a routine basis the request of our party's bill managers on these bills is ignored and frustrated. We asked—and we gave them their choice—we asked that they make any one of three amendments in order which would allow us to eliminate or reduce the expenditure of public money under the Speaker's slush fund. And we were denied the opportunity to reach that problem with any of the amendments that we had before us.

I think that is a very basic mistake. The fundamental job of this House—we can argue about taxes, we can argue about all other authorizations—the fundamental job of this House, after all, is to get the basic work of the Government done through the appropriations process. Rules like this get in the way of that obligation. They extend the acrimony rather than shorten it. They extend the debate rather than shorten it. They make it more difficult for the House to complete its work in a timely fashion.

Most of all, with this rule the House has a clever way to sneak around the staff cuts which were provided in committees 2 years ago under the Republican contract and now under this, committees are able to get large amounts of additional funding for large amounts of additional staff without ever having taken a vote on that on the House floor. That is just plain wrong. They ought not to do this. They ought to listen to what witnesses before their committee said last night. I would hope that this episode will not be repeated on future appropriation bills or, again, the House will not be providing the leadership to this country that it ought to provide.

☐ 0945

Ms. PRYCE of Ohio. Madam Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, the last speaker is the ranking member of the Committee on Appropriations. It is a very important position in this body, and I personally have a great deal of respect for him.

But the gentleman used to be the chairman of the Committee on Appropriations, and when I hear statements like those just mentioned in the well a few minutes ago, it really disturbs me because we always have to be consistent.

I made a pledge when I became chairman of the Committee on Rules 3 years ago that we would be fair and open as much as possible, and at all times at least as fair and more fair than the Democrats treated us when we were in the minority.

And the gentleman comes to the well and he says that the majority, when he was chairman, never shut out the ranking members when they wanted to offer an amendment because, as the ranking member of the committee, they ought to have that opportunity. And I believe the gentleman is right. But the truth is, we have an example right now, we have the gentleman from New York [Mr. WALSH], who now is chairman of the Appropriations Subcommittee on Legislative, but he used to be the chairman of the Subcommittee on the District of Columbia, of which Madam Speaker has a lot of interest in.

And just in the last Congress, in other words the Congress that the Democrats controlled, on the bill that the gentleman from New York [Mr. WALSH] brought to the floor as the ranking member at that time, he requested at that time three amendments to be made in order. And the gentleman from Wisconsin [Mr. OBEY], who was chairman of the committee, recommended to the Committee on Rules they make none of those amendments in order. Yet he was the ranking member at the time and they shut him out.

I just saw the gentleman from Kentucky [Mr. ROGERS] walk through, who is chairman of the Subcommittee on Commerce, Justice, State, and Judiciary, and he had requested in that 103d Congress that he have amendments made in order, too, as the ranking member, and they just arbitrarily shut him out.

So let us be consistent around here. We are at all times trying to be fair. This rule that is on the floor now, because it does deal with our funding for the legislature, should be fair. And of the 8 or 9 or 10 amendments that were offered, we tried to consider all of the Democrat amendments that we could, and we ended up making in order 2 Democrat amendments and 2 Republican amendments. Yet we are in the majority. Now, how much more fair can we be than that?

And when we talk about closing down the rules, we have come under great criticism for putting out so many open rules. And we have heard Members on that side of the aisle and Members on our side of the aisle complain about all these open rules. They cannot get their planes, they cannot go home on Friday afternoon to be with their constituents and their families.

In the 103d Congress, the last time that the Democrats controlled this House, they had open rules about 40 percent of the time. Yet when we took over in the 104th Congress, we opened those rules up to 60 percent of the time. So when we talk about this, let us try to get some comity in the House.

We solved a big problem last night, tried to bring a compromise so that we could move the legislation which is so vital to the American people, and so let us not come down here and be critical of something that does not exist. We are here to try to move this legislation. We are under great deadlines because we do not want to get into a situation where we close down the Government because this Congress could not get together.

So let us move these appropriation bills. They have to be dealt with by September 30. We are going to be off for 3½ weeks in August for constituent work periods back home. There are very few legislative days left until September 30. It is imperative we move the legislation. So let us work together and let us move the legislation and have a free and fair and open debate on it.

Mr. HALL of Ohio. Madam Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Speaker, I want to correct the comments of the previous speaker.

If he will go back and review the history of the D.C. bill, what happened on that bill, and on several other occasions, is that the gentleman in question asked that the Committee on Rules make in order amendments which would otherwise not have been allowed under the rules. It would have been nongermane under House rules, and we asked under those circumstances to deny them.

I never said that there were not occasions when the wishes of the ranking minority member were not granted. Go back and read what I said. I never described that in any way. What I urged my colleagues to do was not on a routine basis turn down the request of ranking members.

I do not expect the committee to grant all of them, but I do expect them to grant a reasonable number. And the fact is that this year the Committee on Rules has routinely turned down the requests of the ranking minority members, and the record demonstrates that.

Ms. PRYCE of Ohio. Madam Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, the gentleman has just made my point. He has mentioned that the gentleman from New York [Mr. WALSH], the chairman, at the time the ranking member, wanted to offer amendments that would not otherwise have been in order unless he received a waiver.

And that is really what this whole argument started from at the beginning from our very good friend, the gentleman from Illinois [Mr. YATES], who I greatly admire and respect, he has been around here for so many years, on the NEA issue. Whether we are for or against it, the gentleman from Illinois wanted to offer an amendment that would otherwise not be allowed without waivers because the program had not been authorized, the same thing as was the situation with the gentleman from New York [Mr. WALSH].

So let us, again, put this aside, let us get down and really debate the issues. That is what is important. That is what all the American people watching us today want us to do.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Madam Speaker, the Gingrich Republicans have done it again. They have launched another sneak attack in their campaign to undermine the rights of working families, and this time they are using taxpayer dollars to do it.

I am talking about the Speaker's allocation of $1.4 million to investigate, intimidate, and to harass people and organizations that are standing up for fair wages, worker safety, decent pensions, and the freedom of speech. This partisan slush fund, which was rushed through the committee without any notice, without any substantive debate, is part of a broad Republican effort to silence the voices of anybody who disagrees with them on working issues. It is an effort to stifle the opposition, to muffle the ideas they do not like, to stuff a rag down liberty's throat.

And why would Republicans try to silence the voice of America's working families? Because they do not like what they are saying. They do not like what they are saying and they do not like the fact that these families, through their membership in unions, are able to speak with force and passion and clarity about their vision for a better America.

Madam Speaker, our parents and our grandparents fought, went to jail, were beaten, sometimes even died for basic rights that millions of working Americans now enjoy and, unfortunately, take for granted: The 40-hour workweek, the 8-hour day, maternity leave, paid sick leave, the weekend, secured pensions, safety laws in this country. They did not just happen. They happened because someone stood up and struggled and fought for them.

Now, the Speaker and his Republican colleagues are trying to take those basic rights away from us and they are trying to give big corporations unprecedented powers over our lives. All we have to do is look at the tax bill. The corporate minimum tax. They want to basically forgive corporations from paying Federal taxes. They have a $22 billion giveaway in their proposal to the large corporations, to go back to the 1980's when companies like AT&T and Boeing paid no Federal income tax and the rest of us picked it up. Their tax bill? Five percent of Americans, the richest 5 percent, get 60 percent of the benefits.

And, of course, they have made an all-out assault on the minimum wage in their bill through independent contracting, which would allow people to be paid below the minimum wage, would allow health benefits and pension benefits to be taken away.

So what they are doing with this slush fund, to silence workers and their unions as a voice to stand up for worker rights, is a pattern of attack on working families' basic rights. It fits this pattern they have been about. It is intending to intimidate and undermine labor's voice in the political process.

Vote "no" on the previous question, vote "no" on the rule, and let us make in order the Gejdenson amendment so we can get some justice in this institution. This is the wrong way to treat working people.

Mr. HALL of Ohio. Madam Speaker, I yield 2½ minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Madam Speaker, I have never voted against a rule on legislative branch before in all the years I have been a Member, and I have only voted against the conference report on one legislative branch bill because of the removal of the Office of Technology Assessment in that conference after this floor sustained it.

But I rise today in opposition to this rule and of this bill, and I do so ruefully because I have great respect for the gentlemen from New York, [Mr. WALSH] and [Mr. SERRANO]. I think they are going to make the institution proud. I think they will do an excellent job of taking one of the more important roles that we have, and that is to protect this institution and, by doing so, the rights of all Americans.

But what we are talking about today is a gag rule that does not permit this House to discuss the problems that are eating us alive, and I mean problems that are attendant to investigations, as the gentleman from Michigan [Mr. BONIOR] said, of labor, that are not voted by Members here on the floor but done in a back-room deal using a cookie jar fund that was put aside for the fun and pleasure of the Republican leadership.

More important, we are engaged in an investigation, supposedly of campaign finance violations, by another committee which is being run in the most partisan manner anyone has ever recognized in Washington. The similar investigation on the other side puts us to shame because of the bipartisan manner in which it is being conducted.

But we are also in the midst of another investigation that I think we all have to focus on, and that is a concerted effort to prolong the agony of one of our Members. The gentlewoman from California, Ms. LORETTA SANCHEZ, won, and has been certified as the winner by the California Secretary of State, a close race in what had been totally Republican Orange County. Today, we continue to prolong her agony by preventing her from being made a permanent Member of this institution.

I think we have to be very sensitive to what has been going on in this investigation. If her name were Smith and not Sanchez, we would not be investigating the Browns and the Joneses and the Littles, we would be investigating people who may have, perhaps, made some inappropriate decision about voting. But we would not be doing it by investigating the Rodriguezes and the Ortizes, because they happen to be Hispanic.

In my view, this investigation is out of bounds and over the line and ought to be ended. And we have no chance here today to express our frustration during the course of this debate. We should have and, therefore, we should defeat this rule.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding me this time.

I am pleased to follow my colleague from California. I do not know that there are any two more stronger supporters of the institution than the gentleman from California [Mr. FAZIO] and I. There are strong supporters on that side of the aisle as well, in particular the chairman of this committee. I believe and agree with the gentleman from California that he is going to be a strong supporter, and that he and the gentleman from New York [Mr. SERRANO] are going to make a team that will stand up for honest debate and honest policies with respect to the administration of the House of Representatives, the people's House.

☐ 1000

But I wanted to follow the gentleman from California [Mr. FAZIO] and I wanted to follow him with respect to this investigation that is going on with respect to one of our Members, an investigation that has now been going on for 8 months that is unprecedented.

First of all, it is the first time in history, the first time in history, under the Federal Contested Election Act, where a Member has ever been allowed to have subpoena power to subpoena organizations like Catholic Charities and ask for all their financial records. It is the first time in history that we have not disposed of a Federal Contested Election Act case either because it was withdrawn or because in a preliminary fashion we decided there was not sufficient evidence to move forward.

The gentlewoman from California [Ms. SANCHEZ]. It is the first time in history in any district in America that INS has been asked to compare the names of the voters with their lists. My colleagues, think of the message that we are sending. Think of the message that we are sending to those Americans; Americans, I stress, of Hispanic background.

I am a Danish-American. Never in history has anybody asked that we check on Danish-Americans through the INS. That is why I am against this rule, because they did not allow debate on this critical issue and recompense of $150,000 to the INS, as they should do.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WALSH], chairman of the subcommittee.

Mr. WALSH. Mr. Speaker, I thank the gentlewoman for yielding. This debate really is disintegrating, and it is really unfortunate. To wave the bloody shirt of ethnicity on a debate on the rule really demeans all of us. It really does.

I am chairman of the subcommittee. The gentleman from New York [Mr. SERRANO], the ranking member, is Hispanic. I do not think there is a Member in this body who I respect more than that gentleman. The points that were made I do not think reflect well on this body. They certainly do not reflect well on this rule.

To get back to the specifics of the request, $150,000 out of the legislative branch to give the Immigration Naturalization Service. They did not ask for this money. It takes money out of the operations of the legislative branch, which, as we all know, we have reduced 3 years in a row.

This amendment does not have anything to do with the legislative branch. It is an opportunity for the minority to vent. They are frustrated. We were frustrated when we were in the minority, too. It goes with the turf. But we have tried to be fair. This rule allows for amendments for Democrats and Republicans, but they have got to be germane to the bill. They should be fair. I think we have been fair. Fairness, obviously, is in the eyes of the beholder. But we really have done our best to give everybody their opportunity on this bill. And this idea of ethnicity really has absolutely nothing to do with this bill.

I am Irish-American. The gentleman from Maryland [Mr. HOYER] is Danish-American. There is room in this bill, in this Nation, for all of us.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise to express my deep concern about the subject being discussed and how some of the moneys in this bill could be appropriated.

Since the polls closed in November, one of our colleagues, the gentlewoman from California [Ms. SANCHEZ], has been subjected to unprecedented harassment. Her defeated opponent has been given subpoena power. He has used this power to harass not only the gentlewoman from California [Ms. SANCHEZ] and her family, but Catholic nuns, college students, and many others.

We are now 9 months into this ludicrous tantrum by this poor, disappointed man who lost. We have expended hundreds of thousands of dollars in this assault, and it is time for it to stop. I say to my colleagues in the majority, accept the word of the voters, cease this constant undermining of this Member, the gentlewoman from California [Ms. SANCHEZ]. Let her do what she came to Washington to do, to vote all her considerable intelligence, energy, judgment to the constituents who have sent her here.

I urge my colleagues, in the name of the gentlewoman from California [Ms. SANCHEZ], to oppose this rule.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentlewoman for yielding. I will be relatively brief. Actually, I am one who presented three amendments, which were turned down. But I rise in support of the rule.

My concern is, as it has been for some time, and this raises bipartisan hackles, I might add, is the use of the franking privilege. I believe that sometimes it is used in a political context, which concerns me a great deal. And I presented three amendments to address this.

But I must say that this Congress and this Committee on Rules, and particularly the gentleman from California [Mr. THOMAS], have really started to address these issues. And for this I have tremendous praise for them.

For example, we have gone from a high in 1988 of $113.4 million for frank mail to free mail, which is sometimes used for political reasons, to a low of $30 million in fiscal year 1995. I am convinced, after discussing this with the gentleman from California [Mr. THOMAS], chairman of the House Committee on Government Reform and Oversight, that we are going to try to address even additional areas with respect to this to make sure that our mail is used for the purposes of responding to our constituents and not for mass mail used in a political sense.

For that reason, I am here to report that even though my particular amendments, which I do not think we need to discuss now, are not being considered on the floor, the direction is good, the effort is good, the focus is there, Congress is going in the right direction. I just hope we can continue to do this.

Mr. Speaker, I am here today because I'd like you to make in order three amendments to the legislative branch appropriations bill. These amendments build upon the progress Congress has made in recent years to reduce the cost to taxpayers of the congressional franking privilege.

During the last decade, Congress spent from a high of $113.4 million in fiscal year 1988 to a low of $30 million in fiscal year 1995 on franked mail. This is an impressive reduction. Nevertheless, I believe improvements can still be made, notwithstanding the legitimate need Members have to respond to the inquiries and concerns of their constituents.

My first amendment will ban mass mailings during election years up to the general election. Use of the frank increases cyclically during every election year. During the 103d Congress, the House spent $24 million in 1993, and $42 million in 1994. During the 104th Congress, the House spent $24.5 million in 1995 and $27 million in 1996.

Currently, Members cannot send franked mass mail 90 days before a primary or general election. Since primaries occur on different dates in different States, Members are held to different mass mail standards depending on the dates of their primaries. My amendment will simplify the issue by banning all mass mailings prior to election day in election years. It will prevent House Members facing tough reelection campaigns from tapping into their official office accounts to flood constituents with self-promoting newsletters and mailings.

My second amendment addresses a relatively new issue, raised by changes in House rules which permit Members to use their Members Representational Allowance [MRA] to pay for radio advertisements. The cost of these advertisements are not counted against a Members's Official Mail Allowance, even though these radio advertisements are generally substituted for town meeting notices sent by mail. This oversight frees up additional funds for a Member to spend on unsolicited mass mailings. I believe that these advertisements should be counted against a Member's Official Mail Allowance to avoid this substitution affect and my second amendment does this.

My third amendment reduces the MRA by $5,674,000, the amount that the Appropriations Committee recommends as an increase in the Official Mail Allowance. This 27 percent increase over fiscal year 1997 funding is completely unjustifiable. Given the excellent work the Appropriations Committee has done in recent years to reduce taxpayer funding of franked mail, I believe this is the wrong approach to take.

I know that it is impossible to serve constituents well while spending relatively little on franked mail, because I represent the third largest congressional district in the country, and yet I am consistently among the lowest franked mail spenders. We are diligent, however, at responding to letters and phone calls from constituents, and we have a very organized, computerized system of tracking the mail we receive and send out. The way I accomplish this is by refusing to send my constituents unsolicited newsletters, questionnaires, or postcards using the franked mail privilege.

Last year, the Rules Committee made in order two franking disclosure amendments I offered, which were adopted on the floor and have been made permanent. Those were good reforms, and I appreciate your making the amendments in order. I believe that these amendments also make important reforms, and hope you will give them every consideration.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I want to thank the gentleman from Delaware [Mr. CASTLE] for his continued vigilance. Amendments made in the last Congress have moved us much along the path of making sure that the former tactic of having a sawed-tooth pattern of mail, oddly enough, the greatest expense during election years, has been smoothed out significantly. No longer is the old partisan pattern being followed. It is largely due to the continued vigilance of the gentleman from Delaware [Mr. CASTLE].

Mr. HALL of Ohio. Mr. Speaker, how much time does my side remaining?

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Ohio [Mr. HALL] has 11 minutes. The gentlewoman from Ohio [Ms. PRYCE] has 10 minutes.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time.

Mr. Speaker, 3 weeks ago, Republicans met behind closed doors and hatched a devious partisan political campaign with $1.4 million in public funds to harass and intimidate workers, union leaders, and the Department of Labor. Now under this rule, which prohibits amendments, Republicans want to deny Members of this House a vote to eliminate their $7.9 million slush fund from which this $1.4 million boondoggle was withdrawn. The Republican slush fund was supposed to be used, and I quote, for unanticipated expenses of committees.

Well, if there is one thing in this Congress that was not unanticipated, it is the continued Republican assault on the rights of working men and women. Time and time again, the leadership of this House attacks the rights of workers and then abuses House procedures to choke off dissent against their extremist agenda. By denying the vote on the Gejdenson amendment, the Republican majority is striking another blow against democracy.

Mr. Speaker, we should reject this rule.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time. I think we only have two speakers remaining.

Mr. HALL of Ohio. Mr. Speaker, I yield as much time as she may consume to the gentlewoman from Michigan [Ms. KILPATRICK].

Ms. KILPATRICK. Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL] for allowing me the opportunity to speak.

As a member of the House Committee on Government Reform and Oversight and a new Member of this Congress, as many Members and people of America may remember, on January 7 this Congress adopted budgets for the various committees of the Congress; and in that adoption, after some dismay, there was set aside a $7.9 million reserve fund, more commonly known as slush fund, that was supposed to be used for three purposes: high priority, emergencies, and extraordinary circumstances.

On July 8, with less than 24-hour notice, as the rules require, the House Committee on Government Reform and Oversight was called together and a $1.4 million deduction from that slush fund was had for an investigation of the Labor and Education Department. As a member of the House Committee on Government Reform and Oversight, I felt then, as I do now, that the rules had not been followed, that we did not have proper notice, that we were again going to spend another $1 million of the American people's money on another investigation.

Since 1996, over $10 million have been spent on investigations. Over the last 18 months, over $30 million has been spent on investigations.

I rise to oppose the rule. I rise to defeat the previous question, because I believe the American people want us to have the input and the exchange. That is why they sent us here. I believe the American people want us to debate the issues. And, therefore, because the Gejdenson amendments were not adopted yesterday, it would allow that opportunity. That is why we put it on the table, why this $1.4 was deducted, why the slush fund initially was incorporated, and why today we have before us another investigation.

The Labor Department is a fine department, and its employees do good work. It is unfortunate that we are here today to oppose the rule. It is unfortunate that we as elected representatives of the people cannot debate the question. Why? America, speak out. Do not let this Congress get away with again going after investigation and investigation. Let us get back to the people's work.

Mr. Speaker, oppose the rule, oppose the previous question.

Ms. PRYCE of Ohio. Mr. Speaker, I continue to reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL] for yielding.

I rise today in opposition to this rule because I believe when this House debates the legislative appropriations bill, each Member has a right to question the expenditures of this House. I believe that the prolonged investigation of the election of our colleague, the gentlewoman from California [Ms. SANCHEZ] is an issue that confronts the integrity of this House.

For the first time in the history of this Nation, voters, legitimate voters, have been put on a list and run through the INS register simply because they have ethnic last names, Hispanic, Asian. I think that is an affront. And that practice has been more or less authorized by this House if we do not inquire into it. It is a very, very specious way to conduct an investigation. And I believe the House has a right to go into it, inquire on the practice of this committee, and root out those that are beginning this kind of racist inquiry.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me offer my respect for the respective chairman and ranking member of this committee. Many of us hate to have to come before this body and oppose the rule and oppose the bill. Primarily we think that it is a question of dignity and respect. Already we understand that many of our Members on the side of the minority have not been allowed to address the attack on one of our Members, a Member who has been duly elected by her constituents, the gentlewoman from California [Ms. SANCHEZ].

In an instance where it was one of the largest victories that the Federal Election Contest Act has ever had to review, where a task force looking into it has said Dornan, who lost, really has no credible evidence that there has been any violations.

Independent scholars have already challenged Mr. Dornan on the constitutionality of his subpoenas. And, yes, a Los Angeles newspaper, the Los Angeles Times, said, "Yet a close review of Dornan's contentions shows them to be overstated and riddled with uncertainties."

What do we do in this House? Continue to comfort and pamper Mr. Dornan, while a working Member, a Hispanic woman, is attacked by the Republicans. I wish we would vote against this rule and vote against this bill.

□ 1015

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I would like to get back onto the issue here if I could. I rise in very strong support of this rule. The gentleman from Maryland [Mr. HOYER] was talking a few minutes ago about the number of people here who have a great deal of pride and reverence for this institution. I clearly consider myself to be among them. I am very proud of the work that the gentleman from California [Mr. THOMAS] has done to try and deal with reform of an institution which spent most of its time on legislative branch work simply trying to ensure the reelection of its Members. I am very proud of the work of the gentleman from New York [Mr. WALSH] and of so many others who have focused on ensuring that this institution expands the deliberative nature and that we are in fact accountable to the people who sent us here. I am very saddened to see this debate deteriorate to, as the gentleman from New York [Mr. WALSH] has said, a case of waving the bloody shirt of racism. I happen to like the gentlewoman from California [Ms. SANCHEZ]. She agrees with me on a number of issues like cutting the capital gains tax rate. I think she is a very decent, hardworking person. And I am very concerned about the prospect of seeing us in any way discriminate against Hispanic-Americans. I come from Los Angeles, CA. I am very sensitive to this issue. But the fact of the matter is there are many Hispanic Americans in my State who have said to me, we have to ensure that that very precious franchise, the right to vote, is not in any way jeopardized.

And so, Mr. Speaker, I think that the work that is being done to ensure that every single vote counts is correct work, and I believe that this rule is a very fair and balanced rule. As the gentleman from New York [Mr. WALSH] has said, it ensures that the consideration of both Democrats and Republicans is brought into the mix here. Let us support the previous question, let us support the rule, and let us support what I am convinced will be a very, very good legislative branch appropriations product that will emerge from this House.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, I rise in strong opposition to the rule. The Republican leadership is trying to fund its own partisan attack on their enemies while they are trying to deny Democrats the right to bring amendments to the floor. The Republicans are using the Committee on House Oversight to fund an unprecedented attack on the election of the gentlewoman from California [Ms. SANCHEZ]. They have spent over $300,000 of taxpayer money to attack a Hispanic woman and to intimidate Hispanic voters.

This is a clear attack on the voting rights of minorities and an utter abuse of power. The Republicans have even subpoenaed the INS to try to dig up dirt on immigrants.

Mr. Speaker, the Republican leadership must not be allowed to trample the rights of Latinos. They must not be allowed to use their power to prevent Democrats from bringing important amendments to a vote. Vote "no" on the rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, what has developed here over a number of years is class warfare. It is exhibited in almost every action taken by the Republican majority on the Sanchez matter. It did not start with SANCHEZ. In 1980, we watched men wearing black armbands descend upon polling places that have large minority populations trying to dissuade them from voting.

Any of us who are immigrants, who come here without all the guarantees of freedom and protection of law, know how easy it is to intimidate the poor and the new Americans from participating, how they can easily remember the fears of the countries they fled. The Republican majority opposes motor-voter and particularly opposes poor people having systems where the poor can get registered.

One of the members of the Committee on Appropriations in a discussion last week said that the real motive behind the Sanchez contest was not simply SANCHEZ, the reason for pursuing it was to get motor-voter. We have a right and an obligation to review elections. But the extent, the lack of due process that has occurred in this review is outrageous.

On the money side, $30 to $50 million of investigations have been initiated by those who claim to be careful with dollars. The outrageous slush fund and its use, to add over $1 million, $1.4 million to the Committee on Education and the Workforce is as if we have an in-house counsel, we had a lawyer that worked for our company and then when the lawyer actually did something, he said, "Wait, I've got to be paid again, I'm a lawyer."

The Committee on Education and the Workforce, all of what they have asked for is in their original jurisdiction. But it is one more attempt to get labor, to politicize the legislative process. We have a responsibility here to do our work, to try to stay in budget, but to make sure that what we do here really serves the best interests of the American people.

We have had sufficient funds appropriated to that committee so that we do not need to dip into this slush fund. This slush fund ought to be abandoned. It is a political tool directed by the Speaker to get people that are in his way.

When we take a look at what this committee has been doing, it has left the minority without rights. But we are not going to argue process. It has held meeting after meeting without notice. Let me tell my colleagues when I was a committee chair, my ranking Republican TOBY ROTH, we gave him everything as soon as we had it. We notified meetings weeks in advance.

When we take a look at what has happened here, we walk in, we do not see the language until we sit down to vote. But all that is secondary. The issues that are here and outrageous are the continued harassment of the gentlewoman from California [Ms. SANCHEZ] and the continued use of funds for political purposes out of this slush fund.

The Speaker basically gets to decide who he is going to go after by tapping into $7.9 million. The House does not get to look at those funds. You snuck that through early, got a nice party line vote to make sure you could have a slush fund to continue your political and partisan wars.

We are here today to say that is enough. Let us join together and reject this rule and go forward with a process that gives every Member of this House the right to cleanse the funding of that slush fund.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, millions of dollars for a partisan investigation into campaign finance abuses, millions of dollars for an investigation intended to intimidate organized labor, hundreds of thousands of dollars to harass and intimidate a Hispanic woman Member of Congress.

It is not right, it is not fair, it is a shame and a disgrace. Defeat the previous question and defeat this rule.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I think the Republicans are trying to do their very best job here. We heard a lot of screaming and yelling. I do not know if my colleagues remember exactly what happened, but when the Democrats were in charge, they were not exactly perfect. We had a lot of complaints, too. I think some of the complaints that we had were very legitimate. When I first came here, Jim Wright was the Speaker and Jim Wright had to leave and there were some problems there. We had a House bank scandal. We had a House post office scandal. We had all kinds of things going on. Republicans were screaming and yelling about it.

Today I have to tell my colleagues, after all these years, and with all due respect to my colleagues, I think we are working better together right now than we were back in those days. I will have to admit I was frustrated in those days. I was very frustrated and I was probably screaming. In fact most of my colleagues can remember me screaming and yelling in those days. But I think that we are actually working better now than we did when I first became a Member of the House. There is always room for improvement and I hope we will.

Mr. HALL of Ohio. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge my colleagues to join me in defeating the previous question to make in order the amendment by the gentleman from Connecticut [Mr. GEJDENSON] which was defeated in the Committee on Rules yesterday. The amendment would cap funds for committee expenses at the level identified for them in the committee funding resolution for the 105th Congress.

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote.

A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan.

It is a vote about what the House should be debating.

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. Speaker, I include the following material for the RECORD:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's "Precedents of the House of Representatives," (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership "Manual on the Legislative Process in the United States House of Representatives," (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

> Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's "Procedure in the U.S. House of Representatives," the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

> Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Ms. PRYCE of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from Bakersfield, CA [Mr. THOMAS], the chairman of the Committee of House Oversight.

Mr. THOMAS. Mr. Speaker, I thank the gentlewoman from Ohio very much for yielding me this time. I want to start by complimenting the gentleman from New York [Mr. WALSH]. As the new chairman of the Appropriations Subcommittee on the Legislative Branch, he is, in this proposal, building on the excellent record laid down by the gentleman from California [Mr. PACKARD], which showed between the Democratically controlled 103d Congress and the Republican-controlled 104th a dramatic reduction in expenses. After the dramatic work of Mr. PACKARD, the gentleman from New York, Mr. WALSH, follows him by additional reductions.

Anyone who needs to know what the Democrats did when they ran this place simply has to go out and look at the Botanical Gardens. It was falling apart for years. They would not fix things. What we have done is come in and in a businesslike way know that deferred maintenance is going to eventually cost us. It cost us. There is no roof on the Botanical Gardens. They were here for 40 years and the building collapsed. Come back in 3 years and under Republican control, you will see a rebuilt Botanical Gardens. We go to the foundation and build it back up. I want to compliment the gentleman from New York for doing that.

In terms of amendments, first of all, let me say that I am very, very saddened by the comments of the gentleman from California [Mr. FAZIO]. He has an amendment that has been made in order by the Committee on Rules. The gentleman's amendment seeks to cut staff. I will have to tell Members that in the years the gentleman from California was chairman of the Subcommittee on the Legislative Branch, he never ever offered an amendment to cut staff. In fact, he is known as a champion of making sure that there are enough helping hands around here to do the job. His amendment clearly is out of character. The reason, of course, is because his status changed from majority to minority. But I cannot understand, unless it is the demands of leadership and the pressure put on him by the outrageous elements within his party for him to come to this well and use the ethnic card, to try to argue that the gentlewoman from California [Ms. SANCHEZ] and her election is being investigated because her name is Sanchez.

I would ask my colleagues to reflect on the fact that the gentlewoman from California [Ms. SANCHEZ] is a Member of the House of Representatives. She had a certificate of election. When the Democrats ran the place, if your name was McIntyre and you had a certificate of election, you were not allowed to be seated.

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What the Democrats did was go in, set up a phony way of counting votes and then did not even follow the way they said they were going to count the votes to make sure that they stole that election.

What are we doing right now in the contested election? My colleagues heard all the racist comments from the Democratic side of the aisle. I will tell my colleagues what is going on. In Orange County today the District Attorney of Orange County is carrying out a criminal investigation preparatory to a trial against an organization called Hermandad Nacional because these people abused and misused Americans who wanted to become citizens. Legal aliens were used in illegal activities. That is the basis for our requiring by subpoena the Immigration and Naturalization Service to take those core names that Hermandad used for illegal purposes and put on the voter rolls without complying with the law.

The labor card was played once again. I just find it ironic that if one's party affiliation is Democrat, somehow you are with working people. Contrarily, if one's label is "R" you are somehow against working people.

My father, his lifetime job was a plumber. He belonged to Local 582, Plumbers and Pipefitters, and he went out and worked as a plumber his entire life. I was the first member of my family to complete college.

My colleagues should look at some of their backgrounds. What they do is exploit the labor union movement. These people never belonged to labor unions. All they do is play that cheap labor card over and over again.

Let me tell my colleagues about this investigation, this oversight vote that we are looking at. It was voted in committee. We have a 2-year budgetary process. When needs come up, we will vote the money, this time, $1.4 million. They get $433,000 out of that money. They have not mentioned that. We play a fair share game, $2 on our side, $1 on their side.

Mr. Speaker, they get $1 for every $2 that we have. When they ran the place, we got 10 cents on the dollar. But what they need to do is to hide behind racial epitaphs and abuse-of-class arguments to try to carry the day.

I know those people are upset they are not the majority anymore, but come on, grow up. More important, do not let the American people think that the way we are supposed to win is to not deal with facts, not face reality, but hide behind scapegoats and epitaphs which may allow them to get elected when they can sway people in their district but should not be allowed to be the basis for discussion on the floor of the House of Representatives.

So I would tell my colleagues as we examine this rule and the vote for the legislative branch appropriation that the work that the new majority is doing to continue to build to make sure that roofs are on buildings, that people who obtain the franchise illegally are not able to use it. Black, white, red, yellow, Hispanic, Welsh; illegal voters should not be on the rolls.

If illegal voters participate in an election, the American people have a right to know that their legal vote counts and illegal votes have to be removed from the rolls.

Support the rule, support the legislation.

Mr. HALL of Ohio. Mr. Speaker, I submit for the RECORD the following proposed amendment:

At the end of the resolution, add the following new section.

Section 2. Notwithstanding any other provision of the resolution, it shall be in order without intervention of any point of order to consider the following amendment by Mr. Gejdenson.

Page 8, insert after line 5 the following new section:

SEC. 106. None of the funds made available in this Act may be used for the expenses of any committee of the House of Representatives during any session of the One Hundred Fifth Congress in excess of the amounts specifically identified for and allocated to such committee under primary and supplemental expense resolutions, or to pay the salary of any officer or employee of the House of Representatives who certifies, approves, or processes any disbursement of funds from any reserve fund for unanticipated expenses of committees established pursuant to clause 5(a) of rule XI of the Rules of the House of Representatives.

Ms. HARMAN. Mr. Speaker, I rise in opposition to a rule and an appropriations bill which permits continued funding for a wasteful, spiteful, and pointless challenge to the duly-certified election of our colleague, LORETTA SANCHEZ.

I faced a similar challenge in the last Congress. After 9 months and taxpayer expenditures of approximately $100,000, that challenge was finally withdrawn.

The Sanchez challenge should be ended now before more taxpayer money and more Members' time is wasted. Moreover, Mr. Speaker, those of us from California—a State where a majority of our population will soon be Hispanic—should condemn the effort to intimidate legal Hispanic voters which is, in my view, a central goal of the ongoing Sanchez challenge.

The right way to challenge LORETTA SANCHEZ is the 1998 election. The wrong way is to use funding in this bill.

The SPEAKER pro tempore. All time for debate has expired.

Ms. PRYCE of Ohio. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 5 (b)(1) of rule XV the Chair may reduce to a minimum of 5 minutes the time for any electronic vote on the question of passage of the resolution.

The vote was taken by electronic device, and there were—yeas 222, nays 201, not voting 11, as follows:

[Roll No. 324]

YEAS—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NAYS—201

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-
McDonald
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Blumenauer
Crane
Gonzalez
Martinez
Miller (CA)
Molinari
Nussle
Schiff
Smith (NJ)
Stark
Young (AK)

□ 1053

Mr. HASTINGS of Florida and Mr. CLEMENT changed their vote from “aye” to “no.”

Mrs. CUBIN changed her vote from “no” to “aye.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PEASE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the Chair's previous announcement, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 218, noes 203, not voting 13, as follows:

[Roll No. 325]

AYES—218

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOES—203

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—13

Blumenauer
Crane
Gonzalez
Johnson, E.B.
Linder
Martinez
Miller (CA)
Molinari
Schiff
Smith (NJ)
Stark
Taylor (NC)
Young (AK)

□ 1106

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on rollcall No. 325, I was detained by constituents in my office. Had I been present, I would have voted "no."

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 194 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2203.

□ 1107

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2203] making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, with Mr. OXLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, July 24, 1997, the bill was open for amendment at any point.

Mr. FAZIO of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to divide the 5 minutes between myself and the gentleman from Oregon [Mr. DEFAZIO] in order to briefly discuss the amendment that is about to be voted on.

Mr. Chairman, I yield to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding to me.

Members will want to listen. This debate occurred late last night. It is confusing and they need to know what is happening. The gentleman from California [Mr. FAZIO] offered an amendment to the DeFazio-Petri amendment, which on its face would seem to restrict the expenditure of funds on the Animas-La Plata project, which a majority in this House voted last year to not fund.

The Animas-La Plata project, and many of my colleagues have heard of it, is a proposed $400 million plus water project with a .36 to 1 cost-benefit ratio. It is purported to provide a settlement to tribes. It does not. It is purported to do many other things it does not. But it does spend a lot of money.

What we did, Petri-DeFazio, last night was offered an amendment to say, no more funds should be expended on this project which has even been abandoned by its proponents. Its proponents have offered an alternative. The alternative has not had any hearings. It is not authorized. It has not been reviewed by the Bureau of Reclamation. That is progress. They have admitted this $440 million boondoggle should not go forward.

What the Fazio amendment actually does is require that that project go forward. If read carefully, it starts out with a limitation, but what it does is limit funds to be expended for current authorized purposes, which is the $440 million Animas-La Plata project, which even the proponents now admit should not go forward. There is almost $9 million unspent at the Bureau of Reclamation, more than enough to go forward with the planning process, more than enough to develop an alternative.

Surely it cannot cost more than $8 or $9 million to have a planning process and develop an alternative to this project that will meet the obligations to the tribes and be more responsible.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, just to summarize, the issue that we will be voting on is whether we should continue to spend money on this project pending an agreement on a new scaled back project, or whether we should suspend acquisition and just have money for planning until the new project is agreed on.

If Members do not want to spend money until we have a new project, vote against Fazio and then vote for the underlying amendment, Petri-DeFazio. If they want to keep spending money, even though we do not have agreement and negotiations are going on, then vote for the substitute.

I urge Members to vote against the substitute and for the underlying amendment.

Mr. DEFAZIO. Mr. Chairman, if the gentleman will continue to yield, the gentleman is correct. Anybody who last year voted in the majority to not appropriate further funds for Animas-La Plata will want to vote against Fazio, I know this is a little confusing, and then vote for DeFazio-Petri, Petri-DeFazio.

This obfuscation, the wording of the Fazio amendment is obfuscation. It starts out with a limitation but it limits nothing. Having the gentleman from California [Mr. FAZIO] be the principal sponsor is even more confusing, and Members should in principle vote "no" on the Fazio amendment.

Mr. FAZIO of California. Mr. Chairman, I think this debate will once and for all, contrary to a rumor circulating on the floor, this amendment is not an attempt to clarify the pronunciation of the gentleman's name and mine, but it is the Fazio substitute to the DeFazio-Petri amendment that we are about to vote on.

I am offering this on behalf of the gentleman from Pennsylvania [Mr. MCDADE] and on behalf of the gentleman from Colorado [Mr. SKAGGS] and the gentleman from Colorado [Mr. MCINNIS].

This is an attempt to allow a process undergoing success in Colorado, the so-called Roemer-Shoettler process, to downsize and change the Animas-La Plata water project. It will assuredly reduce the cost of this project by over $400 million. But we have ongoing responsibilities to the Ute and Mountain Ute Indian tribes.

□ 1115

Those tribal water rights need to be honored. We need to complete this process. We need to have a bill that can be supported broadly on this floor.

The gentlemen from Colorado, Mr. MCINNIS and Mr. SKAGGS, would not be supporting this if they did not believe this process was working to the benefit of their constituents.

My view is that this amendment, offered by the gentleman from Wisconsin [Mr. PETRI] and the gentleman from Oregon [Mr. DEFAZIO], will interfere with that process and not allow us to accept the results of it and move to completion of an endless legal hassle which has kept these native Americans from getting their water rights.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding to me, and I want to clear up the confusion between the two names and ask the gentleman a question.

If our side of the aisle wanted to help our newest Member from New Mexico, Mr. BILL REDMOND, we should vote for the Fazio substitute to the DeFazio amendment.

Mr. FAZIO of California. Reclaiming my time, Mr. Chairman, I think the gentleman from Colorado [Mr. MCINNIS] would agree with that.

Mr. MCINNIS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Colorado.

Mr. MCINNIS. Mr. Chairman, that is absolutely correct. Vote "yes" on the Fazio amendment.

Mr. HEFLEY. Mr. Chairman, I rise in strong opposition to this amendment.

This project seems to have become the poster child for all those who wish to show that they're environmentally sensitive though fiscally prudent. That though they're willing to make tough choices on spending, they still are moved by the sight of a tree or free-flowing water. In short, it is offered by people who have never been the Four Corners area of the Southwest and are not willing to know the history involved there.

This project is intended to deliver water to the Ute Mountain Ute Tribe and fulfill a treaty obligation between this country and that tribe.

Now it had been charged that the A–LP project would deliver more water to non-Indians than Indians and that this was all a smoke screen. So the people in that area changed the project. They cut the project's cost by $400 million. Two-thirds of the water will go to Indians. it will satisfy tribal water rights claims.

Naturally, A–LP opponents still don't like the project. They say they want more time to study the new plan but environmentalists have already criticized it. They can't see why the Indians can't buy water elsewhere and not build a project at all. Sure, let 'em buy Evian water.

Lt. Gov. Gail Shoettler has been trying to broker a compromise on the A–LP since January. This amendment would essentially block that from going forward. Which is what opponents want; they certainly don't want a settlement. Instead, they can say they've killed a water project.

But lost in all of this will be the Ute Mountain Utes. Their reservation is located in one of the most arid areas of the country. Mesa Verde National Park commemorates the ancient inhabitants of that site. Those inhabitants disappeared, probably because they ran out of water.

The Utes now live there and, I think, their tribal unemployment rate is 40 percent. They'd like this water to develop agriculture and improve their standard of living. So, basically this amendment says they should do without this water, just like their predecessors. It says they should be satisfied with tourism and handouts.

This amendment's supporters will say they want the Shoettler negotiations to go forward. But don't kid yourself; next year, we'll be back here for another amendment to kill what's left of this project. And its supporters can pat themselves on the back and say they've saved money.

But the reality is we'll have broken yet another promise to these Indians and, I suspect, left ourselves open to a lawsuit somewhere down the road.

Therefore, I strongly urge your opposition to this amendment.

Mr. FAZIO of California. Mr. Chairman, reclaiming my time, I urge Members to support the chairman, the gentleman from Pennsylvania [Mr. MCDADE], and myself.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 194, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

The amendment offered by the gentleman from Wisconsin [Mr. KLUG], the amendment offered by the gentleman from Massachusetts [Mr. MARKEY], and the amendment offered by the gentleman from California [Mr. FAZIO] as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. KLUG

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG:

Page 29, line 20, after the dollar amount, insert "(reduced by $90,000,000)".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 328, not voting 9, as follows:

[Roll No. 326]

AYES—97

Andrews
Archer
Armey
Barcia
Bass
Bereuter

Blagojevich
Camp
Campbell
Cannon
Castle
Chabot
Christensen
Coble
Coburn
Condit
Cox
Crane
Cunningham
Davis (FL)
DeGette
Delahunt
DeLay
Doggett
Dunn
Ehlers
Ehrlich
Ensign
Foley
Furse
Ganske
Goss
Hall (TX)
Harman
Hayworth
Hefley
Hill
Hooley
Hostettler
Hulshof
Inglis
Istook
Johnson, Sam
Kasich
Kennedy (MA)
Kind (WI)
Kingston
Kleczka
Klug
Largent
Luther
Maloney (CT)
Manzullo
Markey
McCarthy (MO)
McCollum
McIntosh
McKeon
Meehan
Miller (FL)
Minge
Morella
Neumann
Nussle
Oxley
Pappas
Paul
Paxon
Peterson (MN)
Porter
Ramstad
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Skaggs
Smith (MI)
Smith, Linda
Souder
Stearns
Sununu
Talent
Thune
Tiahrt
Upton
White
Wolf

NOES—328

Abercrombie
Ackerman
Aderholt
Allen
Bachus
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentsen
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Capps
Cardin
Carson
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Collins
Combest
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Danner
Davis (IL)
Davis (VA)
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Edwards
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKinney
McNulty
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Serrano
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stump
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—9

Blumenauer
Gonzalez
Martinez
Miller (CA)
Molinari
Schiff
Smith (NJ)
Stark
Young (AK)

□ 1134

Messrs. NETHERCUTT, BALDACCI, HOEKSTRA, and OLVER changed their vote from "aye" to "no."

Messrs. WOLF, SHERMAN, and MARKEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 194, the Chair announces that he will reduce to a minimum of 5 minutes the period within which a vote by electronic device will be taken on each additional amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. MARKEY

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MARKEY:

Insert at the end before the short title the following:

SEC. 502. (a) LIMITATION.—No funds shall be made available under this Act for—

(1) nuclear technology research and development programs to continue the study of treating spent nuclear fuel using electrometallurgical technology; or

(2) the demonstration of the electrometallurgical technology at the Fuel Conditioning Facility.

(b) REDUCTION.—Under the heading "Department of Energy-Energy Programs-Energy Supply" insert after the dollar figure the following "(reduced by $33,000,000)" and under the heading "Department of Energy-Atomic Energy Defense Activities-Other Defense Activities" insert after the dollar figure the following: "(reduced by $12,000,000)".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 134, noes 290, not voting 10, as follows:

[Roll No. 327]

AYES—134

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Blunt
Boehlert
Bonior
Borski
Boswell
Brown (OH)
Capps
Cardin
Castle
Chabot
Coble
Condit
Conyers
Coyne
Cunningham
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Doggett
Duncan
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foglietta
Foley
Ford
Frank (MA)
Franks (NJ)
Furse
Ganske
Gejdenson
Gephardt
Hall (OH)
Hefner
Hinchey
Hooley
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klug
Kucinich
LaFalce
Levin
Lewis (GA)
LoBiondo
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Menendez
Miller (FL)
Minge
Mink
Moakley
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Portman
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Roemer
Rothman
Roybal-Allard
Royce
Sabo
Sanchez
Sanders
Sanford
Scarborough
Schumer
Sensenbrenner
Serrano
Shays
Sherman
Skaggs
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Strickland
Sununu
Tierney
Velázquez
Vento
Walsh
Waxman
Wexler
Weygand
Woolsey

NOES—290

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Boehner
Bonilla
Bono
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan

Calvert
Camp
Campbell
Canady
Cannon
Carson
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Danner
Davis (IL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Flake
Forbes
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
King (NY)
Klink
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek
Metcalf
Mica
Millender-McDonald
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Poshard
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Rush
Ryun
Salmon
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Visclosky
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (FL)

NOT VOTING—10

Blumenauer
Gonzalez
Kaptur
Martinez
Miller (CA)
Molinari
Schiff
Smith (MI)
Stark
Young (AK)

□ 1144

Messrs. CUMMINGS, NEUMANN, FORBES, and MORAN of Virginia changed their vote from "aye" to "no."

Mr. MATSUI, Mr. WALSH and Ms. STABENOW changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. PETRI

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. FAZIO] as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. PETRI] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. FAZIO of California as a substitute for the amendment offered by Mr. PETRI:
>
> At the end of the bill, insert after the last section (preceding the short title the following new section:
>
> None of the funds made available in this act to pay the salary of any officer or employee of the Department of Interior may be used for the Animas-La Plata Project, in Colorado and New Mexico, except for (1) activities required to comply with the applicable provisions of current law; and (2) continuation of activities pursuant to the Colorado Ute Indian Water Rights settlement Act of 1988 (Pub L. 100-585).

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 201, not voting 10, as follows:

[Roll No. 328]

AYES—223

Abercrombie
Ackerman
Aderholt
Archer
Armey
Baesler
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Borski
Boyd
Brady
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Cannon
Carson
Chenoweth
Christensen
Combest
Conyers
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Emerson
English
Ensign
Everett
Ewing
Fattah
Fawell
Fazio
Flake
Foglietta
Ford
Fowler
Frelinghuysen
Frost
Furse
Gallegly
Gekas
Gibbons
Gillmor
Goodling
Gordon
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Holden
Hostettler
Hoyer
Hunter
Hyde
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Mascara
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Mica
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Nussle
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Sandlin
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stenholm
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Wise
Wolf
Wynn
Young (FL)

NOES—201

Allen
Andrews
Bachus
Barcia
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Blagojevich
Boehlert
Bonior
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Condit
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Duncan
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Foley
Forbes
Fox
Frank (MA)
Franks (NJ)
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Goode
Goodlatte
Greenwood
Gutierrez
Hall (OH)
Hastings (FL)
Hinchey
Hobson
Hoekstra
Hooley
Horn
Houghton
Hulshof
Hutchinson
Inglis
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
Kind (WI)
Kleczka
Klug
Kucinich
Lantos
Largent
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (FL)
Minge
Morella
Nadler
Neal
Neumann
Ney
Northup
Norwood
Oberstar
Obey
Olver

Owens
Pallone
Pappas
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Petri
Portman
Poshard
Price (NC)
Ramstad
Rangel
Riggs
Rivers
Roemer
Rothman
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sanford
Saxton
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sherman
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Souder
Stabenow
Stearns
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Thompson
Tierney
Torres
Towns
Upton
Velázquez
Vento
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Whitfield
Woolsey
Yates

NOT VOTING—10

Blumenauer
Buyer
Gonzalez
Kaptur
Martinez
Miller (CA)
Molinari
Schiff
Stark
Young (AK)

☐ 1153

Messrs. SMITH of Michigan, CLYBURN, FOX of Pennsylvania, and SMITH of New Jersey changed their vote from "aye" to "no."

Mr. JOHN changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. PETRI], as amended.

The amendment, as amended, was agreed to.

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this important legislation and want to take this opportunity to thank Chairman MCDADE for his continued support for projects like the Ramapo River at Oakland Flood project and the tritium production program that are so important to the residents of New Jersey.

As a long-time supporter of the U.S. Army Corps of Engineers' Oakland Flood Protection Project, I am committed to seeing that this project becomes a reality. Flooding along the Ramapo River has occurred 15 times in the past 24 years. The 330 families that live along the 3.3-mile stretch cannot continue to endure the repeated hardship and personal turmoil that the flood waters bring.

The principal problems along the Ramapo River are flooding caused by the backwater effect produced by the Pompton Lake Dam, the hydraulic constrictions produced by bridges crossing the river, and insufficient channel capacity.

The project is now ready to move into the construction stage. The overall cost of the project through construction is estimated at $12.2 million. This cost is shared by the Federal Government, 75 percent and the State, 25 percent.

Last year, $250,000 was included in the fiscal year 1997 appropriations bill to complete the planning phase of this project. But we now face the battle of getting past a project on paper and putting shovels into the ground.

The Army Corps of Engineers has indicated that it could use $3.5 million in fiscal year 1998. This capability would allow construction to advance by one year and substantially complete the first piece of the project. The completion of the first piece, the channel widening, would provide immediate flood reduction benefits to Oakland.

Flood protection is about more than money. The emotional price of being forced from your home by raging flood waters and returning only to find your most prized possessions ruined with mud and water goes far beyond the economic price.

I am acutely aware of how difficult it is to craft a balanced fair bill that meets not only the national needs but addresses various parochial demands. That is why I am so grateful for the $1.5 million included in the bill for my Oakland residents.

Finally, as we work with the other body to prepare a final bill for the President's signature, I would ask the chairman to support efforts to secure additional funds for this project. We must take the necessary steps to complete this project before the residents in Oakland are forced to endure yet another flood.

Mrs. MORELLA. Mr. Chairman, although I am very sensitive to the economic needs of our neighbors who live in the Appalachian corridor of Maryland, West Virginia, Virginia, and adjacent States, I support the Klug amendment to delete the money, $90 million, specifically targeted for highway construction in the Appalachian corridor. This program is duplicative, and it is more appropriately addressed when the House considers ISTEA funding.

In addition, there is convincing evidence that a highway corridor could have very severe environmental consequences to the region. A 100-mile corridor through the sparsely populated mountains in West Virginia would cross 41 streams, go through two national forests, impact two Civil War battlefields, and take some of the State's best farmland for sprawl development. This is not a wise investment.

I thank Congressman KLUG for offering this amendment and urge my colleagues to join me in support of it.

Mr. SABO. Mr. Chairman, I would like to bring to the attention of the House a matter that was not included in the energy and water appropriations bill, but which I believe deserves further consideration, perhaps in conference.

Our Nation's electrical transmission grid is strained to the point where blackouts and brownouts are occurring at critical times. This is a matter of life and death for older people and those in poor health, whose life can be threatened when faced with high temperatures and a lack of air-conditioning.

There is a potential solution to this transmission problem. A consortium of utilities and high technology companies have developed new transmission cables that can carry twice the electricity of today's cables, thereby alleviating the overload problem without having to install new rights-of-ways. The technology is called aluminum matrix composites, and I hope that the final bill will give the Department of Energy enough flexibility to consider funding this project.

Mr. OLVER. Mr. Chairman, I rise in support of the bill.

I congratulate the chairman and ranking member and their staffs for producing a solid bipartisan bill.

I would also like to thank the chairman and ranking member for the report language directing FERC [Federal Energy Regulatory Commission] to give priority to the processing of hydroelectric licenses for which there are compelling applications.

This language is important to the city of Holyoke to prevent any delay in FERC's review of competing dam license applications. Such a delay may place an undue burden on the city of Holyoke.

I would also ask that the chairman hold the House language in conference, as it is more precise then the language in the Senate bill.

Again, I thank the chairman for his assistance and I look forward to supporting the bill.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. OXLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes, pursuant to House Resolution 194, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 418, nays 7, not voting 9, as follows:

[Roll No. 329]

YEAS—418

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
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Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
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Woolsey
Wynn
Yates
Young (FL)

NAYS—7

Ensign
Gibbons
Klug
Paul
Royce
Sensenbrenner
Smith (MI)

NOT VOTING—9

Blumenauer
Gonzalez
Martinez
Meek
Miller (CA)
Molinari
Schiff
Stark
Young (AK)

☐ 1213

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McDADE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the further consideration of H.R. 2203, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE SUNDRY PRIVILEGED REPORTS

Mr. McDADE. Mr. Speaker, having cleared this with the minority, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, July 25, 1997, to file three privileged reports on bills making appropriations for the Department of Defense for fiscal year 1998; the Departments of Labor, Health, and Human Services, and Education, and related agencies for fiscal year 1998; and the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year 1998.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bills.

APPOINTMENT OF CONFEREES ON H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1119) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

> Mr. DELLUMS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 1119 be instructed to insist upon the provisions contained in section 1207 of the House bill relating to limitation on payments for cost of NATO expansion.

The SPEAKER pro tempore. The gentleman from California [Mr. DELLUMS] and the gentleman from South Carolina [Mr. SPENCE] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

During the House's deliberation on the bill, Mr. Speaker, H.R. 1119, the Defense Authorization Act for Fiscal Years 1998 and 1999, the House adopted an amendment offered by my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK]. That amendment now embodies the provisions contained in section 1207 of the bill.

Very briefly, let me describe that amendment and now the provisions of section 1207. It would place a limit on U.S. costs for handling the expansion of NATO to 10 percent of the total cost, or $2 billion, whichever is lesser, for fiscal years 1998 through 2010.

With respect to background, Mr. Speaker, Congress, the House especially, has for a long time expressed concern regarding the relative shares of meeting the burden of providing European and transatlantic security. It has passed provisions on several occasions to secure increases in European support for U.S. troop nonpersonnel costs, and has a provision, adopted again by overwhelming support on the floor in the House version of the 1998 Defense authorization act, the Frank amendment that I have alluded to earlier.

With NATO expansion looming on the horizon, concern exists regarding the understanding of both the scale of the costs associated with expansion and the distribution of those costs across new and current members of NATO, including the United States.

Let me quickly reiterate, Mr. Speaker, arguments in support of the provisions contained in section 1207, the subject of this motion to recommit conferees.

First, the United States provides disproportionate support for NATO in many capacities, making available naval forces as well as communications, transportation, and logistics capabilities, and strategic nuclear forces. As a result, it pays a substantially larger portion of its GDP on its military account than our European allies.

Second, several of our European allies are wealthy nations and can contribute more to the burdens of the alliance than they currently do.

Third, new members of NATO should be expected to contribute along the terms of existing members, and should not be admitted without the capabilities to contribute across the panorama of dimensions, that would include financial, military, political, and foreign policy, of current members of the alliance.

Fourth, the amounts contained in the amendment do indeed reflect the administration's current estimates of the probable U.S. share. The provisions contained in section 1207 would establish that in law for the period through the year 2010, after which a review can be made of the continuing appropriateness of that level of commitment or restraint.

Finally, Mr. Speaker, legislative initiatives have in the past provided important leverage, as it were, to the U.S. Government in negotiations with NATO partners on burdensharing arrangements.

Mr. Speaker, with those opening and explanatory remarks, I reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to instruct conferees of the gentleman from California [Mr. DELLUMS], the distinguished ranking member of the committee. This motion expresses support for section 1207 of H.R. 1119, a provision offered by the gentleman from Massachusetts [Mr. FRANK] that would ensure that the United States' share of the costs associated with the proposed expansion of NATO does not exceed the administration's projected estimates.

While I believe we want to closely examine the precise wording of this provision, I support its intent, as it addresses a very important aspect of the administration's NATO expansion policy: How much will this policy cost, and who will pick up the cost?

On this point, a recent letter from President Clinton to the committee states that "all NATO members will share in the cost of NATO enlargement, and the distribution of costs will be in accordance with long-standing financial principles."

However, at the recent NATO summit in Madrid, French President Chirac declared, and I quote, "France does not intend to raise its contribution to NATO because of the cost of enlargement." At a minimum, this development raises important questions that deserve continued attention and scrutiny by the Congress.

Mr. Speaker, regardless of where one might stand on the broader question of NATO expansion, I agree that the question of cost, how much, who pays, and by when, should be of universal concern. Therefore, I join the gentleman from California in supporting this motion, and look forward to working with him and the Members on all sides of the NATO expansion issue as we arrive at a proper statement of congressional policy on questions of cost.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the gentleman's remarks, the chairman of our Committee on National Security.

Mr. Speaker, I took part in a NATO summit meeting. We certainly are in support of NATO expansion, but I think burdensharing is an extremely important aspect of all of this. We want to make certain that the Congress and the American people fully understand what the burden of costs will be with regard to NATO expansion.

I am pleased to rise with the gentleman in support of the amendment of the gentleman from Massachusetts [Mr. FRANK].

Mr. SPENCE. Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to thank my distinguished colleagues, the gentleman from South Carolina [Mr. SPENCE] and the gentleman from New York [Mr. GILMAN] for their support of this motion to instruct conferees. It certainly gives this gentleman confidence that we will stand firmly and strongly in the context of the conference to bring this provision back.

I in a moment will yield to one of my distinguished colleagues from Massachusetts, the author of the amendment that is now the subject matter of section 1207, but I would first like to say, Mr. Speaker, that over the years there have been several Members very keenly interested in the issue of burdensharing. One of them who has loomed large in the context of our deliberations here in the Congress on the matter of burdensharing has been the distinguished gentleman from Massachusetts [Mr. FRANK], who has been unwavering and unrelenting in his concern about burdensharing.

I think it is a tribute to the gentleman that the Congress on more than one occasion has embraced the wisdom of my distinguished colleague, and that his work is now the subject matter of the motion to recommit conferees today.

Mr. Speaker, I yield such time as he may consume my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I am deeply grateful, Mr. Speaker, for the ranking minority member's words of praise, because he is among the most consistently thoughtful and serious Members of this body, and praise from him in this area means a great deal to me.

I am also grateful to the two chairmen who have spoken, the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations, and the gentleman from South Carolina [Mr. SPENCE], chairman of the Committee on National Security.

It is appropriate that we be speaking out with virtual unanimity, certainly great consensus. We are not here debating whether or not America ought to join NATO. Indeed, in its specific form, that will not come before us. It will come before the other body as a ratification of a treaty. This House voted on a resolution, a sense of Congress, in favor of the expansion of NATO. That is not at issue. There is a large majority in favor, although some may have questions.

The issue is what is an equitable sharing of the costs. I think it is important to note the history here. Fifty-two years ago, at the close of World War II, this Nation undertook as generous an approach to foreign nations as we have seen in the history of the world. From the Marshall plan through a whole range of other activities, the people of the United States went to the aid in particular of people in Europe who had been devastated by the war, in what is really quite an extraordinary example of national generosity and good sense. It was done in a bipartisan way by President Truman and a Republican Congress that came into power in 1946.

This country not only went to the aid of its former allies, but in what is really an example of the importance of a generosity of spirit and an appreciation of the value of reconciliation, we went to the aid of our former enemies. This country by the late 1940's was a partner in the rebuilding economically and politically of Germany and Japan. Germany and Japan today and for decades have been functioning democracies, and that is something about which we can be proud, our part in having that reaction.

I say that because no one can accuse this country of a lack of appreciation for international responsibilities when we say at this point, dealing with allies that are our equals in wealth, that an element of subsidy from us to them is no longer appropriate. That is what this amendment says.

This amendment says that when it comes to the expansion of NATO, which is, after all, primarily about Europe, although it is obviously going to benefit us as well, the wealthy European nations, and this is not an effort to impose more money on the Czech Republic or the people of Hungary or the people of Poland, but we are talking here about our wealthy European allies.

The chairman of the Committee on National Security correctly noted, I believe, the quotation from President Chirac of France. Remember, the French have two positions. One, more countries ought to be invited into NATO; two, they should not contribute a franc to that.

☐ 1230

That is obviously an untenable position. I regard this as strengthening the hands of the administration. The number we have here, $2 billion, is the upper end of the range that the President has told us this will cost. This is not an effort to force the administration to do with less than they have asked for. The President has said over this 12-year period it will cost $1.5 to $2 billion. We say $2 billion.

We realize he has got to be negotiating with our allies, allies who have refused to bear a common part of the burden, and questions have legitimately been raised. Why is that important? It is important because if they do too much or we get forced to do too much at the expense of other things, we are about to adopt, not with my vote, but it is going to be adopted, a budget agreement. It will very tightly constrain for the next 5 years at least both domestic and international spending, both military and civilian spending, the military spending itself will be tight according to those in charge of it. And it cannot, I think, sustain additional billions for NATO expansion without taking away from important categories that we need to worry about. So this simply takes the President at his word.

I would also point out two things: The chairman of the committee said quite correctly that he, and I appreciated this, agreed in concept but we would work on the wording. Of course, an instruction motion does not tie the hands of our conferees. It does not require them to vote ad infinitum for every word. It, I hope, will send them into negotiation with the other body with a powerful statement that some concern about cost has to be written in.

Second, what we are talking about people will say, suppose something unforeseen comes up there 4 or 5 years from now. The answer under the American Constitution is not that the President should have a blank check to deal with that but where we are talking about the spending power, the President should be required to return to the Congress of the United States and say, this has happened. There is this emergency. This threat has turned out to be worse than we thought. This expense is greater than we thought. There has been a collapse in one of our allies and we understand that they cannot bear the strain of that cost.

This House and the other body will certainly listen to that. This is not an absolute forever limitation. It is saying to the administration, this is what you say you need now and this is what we are going to give you. If circumstances arise which should require more, then under our Constitution you come back and ask because what we fear, many of us, is that our allies will cheer us on, urge us to expand to even more countries and continue the pattern of refusing to cooperate.

I include for the RECORD, Mr. Speaker, an article which was published in yesterday's Washington Post by two distinguished Republican Members of the other body:

[From the Washington Post, July 24, 1997]

THE MISSING NATO DEBATE

(By John Warner and Kay Bailey Hutchison)

Going into the NATO summit in Madrid, conventional wisdom had it that expanding the Alliance would be easy. We believe this perception is changing with the realization of what expansion will entail.

The plan—which would have Poland, the Czech Republic and Hungary come under the American security umbrella in just two years—seems to contradict the reality of declining defense budgets and general post-Cold War retrenchment that is taking place in all of the Western democracies. French President Jacques Chirac admitted as much at the recent NATO summit in Madrid, when he flatly declared that "France does not intend to raise its contribution to NATO because of the cost of enlargement."

One indication of this intensified scrutiny is the recent letter from 20 senators to the president outlining those areas that will be debated prior to NATO expansion. Signatories include senators from every region of the country and from across the political spectrum, from Jesse Helms (R–N.C.) to Paul Wellstone (D–Minn.).

These members have differing views of NATO expansion, from support to skepticism to outright opposition. But they share one concern: The decision to enter into a mutual defense treaty with three additional countries deserves more debate and inspection than it has thus far received.

Under Article 5 of the NATO Charter, the members make a commitment to treat an attack on one member as an attack on all. Are the American people willing to make that same commitment to the three countries in Central Europe being identified for NATO membership, and possibly more in the future? And at what price?

The cost of adding at least three members to NATO will entail increased training for the new members, enhanced command and control capabilities, communications and intelligence-gathering improvements, upgrading of facilities and the purchase of weapons that will bring the new members up to NATO standards.

The wide variations in the estimates for these improvements are of concern. The independent and respected Rand Corp. in 1995 fixed the cost of NATO expansion at $1 billion to $5 billion a year over 10 years, soaring as high as $10 billion or more should a strong threat to NATO reemerge.

The nonpartisan Congressional Budget Office has estimated that expanding the alliance (to the three plus Slovakia) would lead to U.S. costs ranging from $5 billion to $19 billion over 15 years. The CBO estimates the total cost of expansion at as much as $125 billion. The cost to the United States assumes, questionably, that the new members of the alliance would increase their own defense spending by 60 percent over the same period.

In stark contrast to these staggering cost assessments are the Clinton administration's rather modest estimates for adding three to five unnamed members to the alliance. In a February 1997 report to Congress, the administration concluded that the cost to the United States over 12 years would be just $150 million to $200 million a year, at best only one-fifth of the next highest estimate from an independent source. The same administration estimated the costs of the current U.S. operation in Bosnia at less than $2 billion. The actual cost will be $6.5 billion through June 1998, with that withdrawal date now in question.

The administration's February report is further troubling because of its assumptions about burden-sharing, or how much of the total cost of NATO enlargement will be borne by our European allies. According to the administration, the United States will pay just 15 percent or so of the direct enlargement costs. Other members will pay 50 percent, and the new members 35 percent.

The recent statement by President Chirac would seem to call this assumption into question. His statement is consistent with the trends of the last several years. Despite cuts in U.S. defense spending since the end of the Cold War, we still spend nearly 4 percent of our total wealth (gross domestic product) on defense. By comparison, France spends just 2.5 percent, Germany 1.5 percent and Poland 2.4 percent. It seems unlikely that these current and future allies will pay proportionately two or three times more than the United States for the costs of NATO expansion when they spend just half of what we do on general defense.

NATO expansion may well be a good idea, but the plan to bring it about must be based on hard realities, not feel-good perceptions. A heavy burden falls upon elected leaders to make a convincing argument to the American people that changes we make to the alliance are in our national interest and will strengthen the organization.

I cite this because it is, I will tell the Parliamentarian, directly relevant to the legislation under consideration. Under our rules we cannot just idly comment on the other body, but we can talk about things that are relevant. Two Members of the Senate, the Senator from Virginia, who is a senior member of their Committee on Armed Services, and the junior Senator from Texas have an interesting article about this problem. They talk about, for instance, when they list what the President of the United States has said this will cost us, the recent statement by President Chirac of France would seem to call this assumption into question.

His statement is consistent with the trends of the last several years. Despite cuts in U.S. defense spending since the end of the cold war, we still spend nearly 4 percent of our total wealth on defense. By comparison France spends just 2.5 percent; Germany, 1.5 percent. It seems unlikely that these current and future allies will pay two or three times more than the United States for the cost of NATO expansion when they spend just half of what we do on general defense.

There is one thing we can do about that. We can have this Congress say, yes, the great majority here in this House voted to support the concept of NATO expansion but not in a context in which the U.S. taxpayer has to reduce our contribution. Remember, the European nations have imposed on themselves, the leading NATO European nations are also the leading nations in the European Union. They have impressed on themselves the requirement that they get their budget deficits down to 3 percent of gross domestic product, far higher than ours. They are under pressure to make cuts and their military budgets are going to be cut.

Great Britain, another very important NATO member not in the EU currency union, just announced, under the new government, that they would be cutting defense. It is important for us to have a large vote for this so that our administration understands and is strengthened in negotiations with our allies and in insisting that the American taxpayer not be given an open-ended budgetary problem with the expansion of NATO.

Therefore, I am very grateful to my friend from California, my friend from South Carolina, the gentleman from New York and the others who I think are strengthening the hand of the U.S. Government in this negotiation.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I rise in support of the Frank motion. Let me stipulate, I am an internationalist. I for 10 years chaired the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations. In that capacity, I worked with many Members in this institution in initiating and then expanding American assistance to eastern Europe after the fall of the Berlin Wall and the collapse of the Soviet Union. I was deeply involved in ensuring that we had major debt relief for Poland without which Poland would not, in my view, have been able to make the transition from a captive Communist country to a now economically thriving incipient democracy.

I believe deeply in engagement with countries around the world, including those in Central Europe. But I think the gentleman from Massachusetts [Mr. FRANK] is absolutely correct. Uncle Sam cannot be Uncle Sucker. I think frankly, while the gentleman from Massachusetts [Mr. FRANK] said this debate is not about the expansion of NATO, I wish it were because frankly we have never really had a debate in this country about expansion of NATO. We have had a very lightly once over discussion in this House last year encouraging the administration to pursue the possibilities of expansion, something which no reasonable Member could oppose; but I do not believe that the expansion of NATO has occurred in the right way. I think that what the West has done and the way it has done it in expanding NATO has been one of the most culturally and politically, internationally politically arrogant acts that the West has undertaken.

I am concerned it will lead to some long-term problems because, first of all, I do not like the fact that, if you expand NATO selectively, we then leave the Baltic States exposed in a no-man's land. I think if we add three or four countries to NATO, we increase the vulnerability to the countries closest to Russia, Ukraine, Balkans, countries like that.

Second, we had in this country our own debate about who lost China more than a generation ago. It was not a healthy debate. I am concerned that the way in which we approach the expansion of NATO will add fuel to the fire and add to the capacity of the most hard-line rejectionist elements within Russia to some year down the road, when the economy starts to slide again, encourage them in their own who-lost-Eastern-Europe debate. I think that would operate to the disadvantage of democratic forces in Russia.

Last, and I think most importantly, as stewards of the taxpayers money, it is our obligation both to know and to be frank with the American people about the cost that will be associated with NATO expansion. I do not think that we have had that frankness and that openness. I doubt very much that, if the country knew that we are going to commit ourselves to the concept that an attack on, say, Budapest would be treated as an attack upon Washington, DC, I think the country would want a whole lot more debate about that than it has had to this point. And certainly it would want to know what that could cost us in this era of competing forces and scarce budgets.

So I wish we had had a more full debate on that subject, but given the fact that we have not, at least I believe that we certainly ought to do what the Frank amendment does, which is to take at their word what they say the cost to us of NATO expansion will be and to see to it that it does not rise above that ceiling because I believe that will at least force a stronger debate on the issue. If we are going to make this decision, it ought to be made with everybody's eyes open, after a full debate. That is the only way to strengthen rather than weaken the commitment of our society to involvement in international affairs. That is the only way that we can discourage rather than encourage isolationism.

That is why I think that the Frank amendment, while it does not come soon enough to generate a full-blown debate on what is happening in NATO, at least gives us an opportunity to be more frank about what it is we are doing, not meaning a pun there. I congratulate the gentleman and support his motion.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the chairman for yielding me the time.

At the outset let me just sing the praises of the chairman, the gentleman from South Carolina [Mr. SPENCE], and the gentleman from California [Mr. DELLUMS], ranking member and their staffs for the great job that they do on the most important committee in the entire Congress, even more important than our Committee on Rules. That takes a little bit for me to say that.

Let me also just point out that I rise in support of the concept of this amendment, if not the specifics. I am a little concerned about placing a percentage or a dollar figure in an amendment like this. But if we look at the Constitution of the United States, the primary purpose for forming this Republic of States into the United States of America was to provide for a common defense. And in providing for a common defense, that means in being able to have the capability of defending America's interests anywhere in the world in order to prevent an eventual attack on our sovereignty and our way of life and our democracy.

In doing that, we have responsibilities as leaders of the world. We have to look at the fact that twice we have been called into battle in the European continent. It has cost millions and millions and millions and millions of dollars and a million American lives during those two world wars. Then the cold war erupted when the Soviet Union became an entity and tried to force their atheistic philosophy down the throats of the entire world, and it became necessary to engage in that cold war at great financial expense to the American taxpayer. But it was money well spent because today instead of communism breaking out all over the world we now have democracy, the kind that we enjoy so much breaking out all over this world.

But that is a very, very fragile peace that we have today. The NATO alliance was the greatest defense alliance in the history of this world because, all during that cold war, it kept the peace. It kept this country and others from being annihilated from nuclear attack. And the way to keep that peace for the future is to expand NATO. We have an obligation in America to do that because we are the leader of the free world. We are the beacon of hope for all people throughout this world. We cannot just sit back and say, Europe, that is your responsibility because down the road it then could reflect back on us as a nation.

Therefore, we have to say to the rest of the world, and let me heap praise on the President of the United States of America, Bill Clinton, because before he went to Helsinki he met with me for an hour and discussed his philosophy and our Republican philosophy to make sure they were on line, that we were speaking the same philosophy; and that was that there would be an open door to all of those people who had been deprived of this thing we love so much, our sovereignty, and Bill Clinton lived up to his word.

I went to Madrid with the President and with others and we sat down. And over the objections of Jacques Chirac and even Helmut Kohl and many others, President Clinton stuck to his guns, and he said we will have an open door policy.

□ 1245

And, yes, we will bring in Poland and the Czech Republic and Hungary. And then tomorrow it will be Slovenia and Romania. And the next day or the next year or the year after it will be the Baltic States. And we wrote that into the communique. I actually had the opportunity to write it in, which included the Baltic States.

That means that all countries, regardless of size, regardless of geographic location, regardless of political problems that might affect Russia, that that door will be kept open. And that is why we must be a part of NATO.

And, yes, over the years the gentleman from South Carolina, Mr. FLOYD SPENCE, and myself, and the gentleman from Nebraska, Mr. DOUG BEREUTER, representatives to NATO, to the North Atlantic Assembly, along with Pat Schroeder, a former colleague of ours on the other side of the aisle, fought for burden sharing to make sure the other countries paid their fair share.

And, yes, we must do that today, but let us not be foolhardy in thinking that when we bring in a country like Slovenia, that has suffered so much, or Romania or the Baltics, who do not have the wherewithal, we must remember we have to help them in order to prepare for this, for an irreversible democracy.

These are the criteria for bringing these countries in: They must have moved to an irreversible democracy; they must believe in the free market system; they must believe in human rights for their own people within their boundaries and those without their boundaries as well; and then they must be able to participate militarily.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Nebraska, who has been so active in this over the years, and I am sorry to take so much time.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding to me and commend him for his remarks.

The gentleman, of course, is currently serving as one of the vice presidents of the North Atlantic Assembly. The gentleman from South Carolina [Mr. SPENCE], the gentleman from California [Mr. DELLUMS], and myself, we have all been involved, with others, for quite some period of time.

I recall my earliest involvement in this particular issue was back in 1982 or 1984, and it seems to me we have been pushing for burden sharing arrangements since that time, both on infrastructure and every other way. So before it became popular, we had been pushing for that, just as I continue to push for reasonable burden sharing on the United Nations.

But I do think we need to keep in mind, regardless of our support for the Frank amendment, that the overriding consideration for us being in NATO is because it is in our national interest. And the overriding reason for us encouraging and participating and actually providing the leadership for expansion of NATO into the Czech Republic and Hungary and Poland, and thereafter, as the gentleman said, to other countries, including Slovenia, Romania, and the Baltic States, is because of our national interest. And that ought to be the overriding factor.

We will push hard for burden sharing in every way. We expect the Europeans and Canada to bear their share of the cost, and especially the new countries, but I also think we need to be careful that we do not fall for the exaggerated cost. It is no longer reasonable for us to consider the full infrastructure we have in the front line states in NATO today, like we have in Germany, and these new states.

So inheriting the infrastructure in places like Hungary, some of which I have seen in good shape, we can have a dramatic improvement and a protected environment for the citizens of these three countries without extraordinary costs.

The defense industry, the opponents of NATO expansion, they put out some extraordinary costs that are not reasonable. But I do think that we need to take this step to try to push the Europeans to pay their share along with the Canadians, but I want to commend the gentleman for his statement and the chairman and the senior Democrat on the Committee on National Security for their comments here today, as well as the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I want to stress a couple of points of agreement between us.

First, I very much have in mind trying to get France and Germany and England and Belgium and Denmark and Norway, quite wealthy countries, to contribute. I agree with the gentleman that we should not be trying to get more out of Hungary and Poland and the Czech Republic.

Indeed, I think it is essential for these newer democracies, newer recently, not to put themselves at risk with their own people in terms of excessive demands here. So I am not trying to get more money out of the new members. I believe the problem is with the existing NATO members who have been doing so very well for so long. And that is the key point.

The second thing I would say, in agreement with the gentleman from Nebraska, I hope that those figures we have seen are exaggerated. That is why what this says is we will take the administration's figures at its word. And we always have the constitutional right as Congress, if it turns out there is some unforeseen problems, the way this works is we come back here and nobody doubts they would get very rapid consideration.

So I am not in dispute with the gentleman's views on the costs. Indeed, it is precisely those more moderate costs he described that are the fundamental premise of this amendment.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I thank the gentlemen, and let me thank also the gentleman from Nebraska [Mr. BEREUTER], who is a former vice president of the North Atlantic Assembly and has done such a great job representing us in that body over these many, many years. He has summed up my debate, so I will not have to go further other than to tell my good friend, the gentleman from Massachusetts [Mr. FRANK], he is absolutely on line and we are all in agreement.

As a matter of fact, we should be telling certain people like Jacques Chirac of France, who have done all they can to disrupt NATO over the years, they should either participate or get out. And having said that, I thank the gentleman, and I will be supporting his amendment.

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

First, I want to say to my distinguished colleague, the chairman of the committee, that I plan to make just a very few brief remarks. This will be the concluding comments on this side of the aisle, and then I will be more than happy then to yield back the balance of my time. I would also indicate that we will be asking for a rollcall vote.

Just in summary, let me conclude and underscore for emphasis a comment that the gentleman from Massachusetts made. First, what we are about here today is a motion to instruct conferees. That motion to instruct conferees simply says they should work as diligently as they can to preserve the integrity of section 1207, which places a limitation on the resources to be made available for the purposes of expansion of NATO to $2 billion or 10 percent, whichever is the lesser amount, between the fiscal year 1998 to the year 2010.

My distinguished colleague from New York clearly recognizes that if we are confronted with extraordinary extenuating circumstances, the Congress of the United States, in this Congress next year or new Congresses down the road, new administrations can revisit this matter. We can act. But what we are saying is at this particular moment this is the most prudent thing to do.

Finally, I would like to say when we listen to the comments offered by the gentleman from Massachusetts, Mr. FRANK, the gentleman from Wisconsin, Mr. OBEY, the gentleman from Nebraska, Mr. BEREUTER, and the gentlemen from New York, Mr. GILMAN and Mr. SOLOMON, it points out that this ought to be a beginning point for a debate that has not occurred in this country, a discussion that has not occurred in this country, and that is the efficacy and the appropriateness and the direction of NATO expansion.

In the context of this Republic, there ought to be an informed and enlightened discussion in America. There ought to be an informed and enlightened debate in the context of the Congress. And the comments that the gentlemen have made, to take the opportunity on this motion to instruct to discuss the merit or the lack thereof of the need for expansion, simply underscores the comments that many of us have made, that there ought to be a significant discussion and debate in America on this issue.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume, and will only add to this that the gentleman from California and myself, as chairman and ranking member of the Committee on National Security, wrote to our President raising some of these concerns that have been talked about here today and had a full, lengthy letter back from him explaining these different positions. We also had a hearing in our committee and we discussed these same matters today.

Mr. GILMAN. Mr. Speaker, I have been one of the strongest supporters in this House of the concept of NATO enlargement. I believe that it is only as a result of our efforts in the Congress that the Clinton administration and our NATO Allies came to the momentous decision earlier this month in Madrid to invite Poland, Hungary, and the Czech Republic to join NATO. And our efforts—most recently in the form of the European Security Act, passed by this House last month—helped make certain that NATO would keep the door open to other countries such as Slovenia, Romania, the Baltic States, and Bulgaria, that will want to join NATO in the future.

The amendment offered by Mr. FRANK, which now appears as section 1207 of the bill, was not offered in an effort to block NATO enlargement. Rather, it was offered in an effort to signal our continued concern about the issue of burdensharing within NATO. For this reason, I do not oppose the motion by Mr. FRANK to instruct our conferees on section 1207.

I am pleased to join Chairman SPENCE, however, in pointing out that there are very serious problems with section 1207 the way it is currently drafted. It would be most unwise to impose an inflexible, binding cap on the amount that the United States will pay for NATO enlargement. At this point, no one knows for certain just how much NATO enlargement will cost. But one thing is absolutely clear: We must make certain that the NATO security guarantee that we are about to extend to Poland, Hungary, and the Czech Republic is not any hollow guarantee. It must be a serious guarantee, one that we and our NATO Allies can back up in a crisis. Therefore it cannot be subject to any arbitrary cost ceiling.

I would also point out the limitation contained in section 1207 is not consistent with the administration's cost estimates for NATO enlargement. The administration's February 1997 cost study projected that our share of enlargement costs would be approximately 15 percent of the total, not 10 percent as provided in section 1207.

I am assured that the Committee of Conference will correct these defects in section 1207. With that understanding, I join Chairman SPENCE in urging my colleague to support the motion.

Mr. SPENCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. DELLUMS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DELLUMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 20, as follows:

[Roll No. 330]

YEAS—414

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Menendez

Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—20

Baker
Blumenauer
Buyer
Davis (VA)
Doggett
Gonzalez
Lipinski
Martinez
Meek
Miller (CA)
Molinari
Pelosi
Rogan
Ros-Lehtinen
Schiff
Snowbarger
Stark
Torres
Watkins
Young (AK)

□ 1312

Mr. HEFLEY changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, I regret that due to unforeseen circumstances I was unable to vote on H.R. 1119, Rollcall No. 330, and H.R. 1119, Rollcall call No. 331. If I had been present I would have voted "aye."

The SPEAKER pro tempore (Mr. LATOURETTE). Without objection, the Chair appoints the following conferees:

From the Committee on National Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. SPENCE, STUMP, HUNTER, KASICH, BATEMAN, HANSEN, WELDON of Pennsylvania, HEFLEY, SAXTON, BUYER, Mrs. FOWLER, and Messrs. MCHUGH, TALENT, EVERETT, BARTLETT of Maryland, LEWIS of Kentucky, WATTS of Oklahoma, CHAMBLISS, RILEY, DELLUMS, SKELTON, SISISKY, SPRATT, ORTIZ, PICKETT, EVANS, TAYLOR of Mississippi, ABERCROMBIE, MEEHAN, Ms. HARMAN, and Messrs. MCHALE, KENNEDY of Rhode Island, BLAGOJEVICH, SNYDER, and RODRIQUEZ.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVII:

Messrs. GOSS, LEWIS of California, and DICKS.

As additional conferees from the Committee on Commerce, for consideration of sections 344, 601, 654, 735, 1021, 3143, 3144, 3201, 3202, 3402, and 3404 of the House bill, and sections 338, 601, 663, 706, 1064, 2823, 3136, 3140, 3151, 3160, 3201, and 3402 of the Senate amendment, and modifications committed to conference:

Messrs. BLILEY, DAN SCHAEFER of Colorado, and DINGELL.

Provided that Mr. OXLEY is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of sections 344 and 1021 of the House bill and section 2823 of the Senate amendment.

Provided that Mr. BILIRAKIS is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of sections 601, 654, and 735 of the House bill, and sections 338, 601, 663, and 706 of the Senate amendment.

Provided that Mr. TAUZIN is appointed in lieu of Mr. DAN SCHAEFER of Colorado for consideration of section 1064 of the Senate amendment.

As additional conferees from the Committee on Education and the Workforce, for consideration of sections 374, 658, and 3143 of the House bill, and section 664 of the Senate amendment, and modifications committed to conference:

Mr. GOODLING, Mr. FAWELL, and Ms. SANCHEZ.

Provided that Mr. RIGGS is appointed in lieu of Mr. FAWELL for consideration of section 658 of the House bill and section 664 of the Senate amendment.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of sections 322 and 3527 of the House bill, and sections 1068, 1107, 2811, and 3527 of the Senate amendment, and modifications committed to conference:

Messrs. BURTON of Indiana, HORN, and WAXMAN.

As additional conferees from the Committee on House Oversight, for consideration of section 543 of the Senate amendment, and modifications committed to conference:

Messrs. THOMAS, NEY, and GEJDENSON.

As additional conferees from the Committee on International Relations, for consideration of sections 1101–1111, 1202, 1204, 1205, 1207, 1210, and 1231–1234 of the House bill, and sections 1009, 1013, 1021, 1022, 1056, 1057, 1082, and 1085 of the Senate amendment, and modifications committed to conference:

Messrs. GILMAN, BEREUTER, and HAMILTON.

As additional conferees from the Committee on the Judiciary, for consideration of sections 374, 1057, 3521, 3522, and 3541 of the House bill and sections 831, 1073, 1075, 1106, and 1201–1216 of the Senate amendment, and modifications committed to conference:

Messrs. HYDE, SMITH of Texas, and CONYERS.

As additional conferees from the Committee on Resources, for consideration of sections 214, 601, 653, 1021, 2835, 2901–2914 and 3404 of the House bill, and sections 234, 381–392, 601, 706, 2819, and 3158 of the Senate amendment, and modifications committed to conference:

Messrs. YOUNG of Alaska, TAUZIN, and MILLER of California.

Provided that Mr. HEFLEY is appointed in lieu of Mr. SAXTON for consideration of section 3404 of the House bill.

Provided that Mr. DELAHUNT is appointed in lieu of Mr. MILLER of California for consideration of sections 2901–2914 of the House bill, and sections 381–392 of the Senate amendment.

As additional conferees from the Committee on Science, for consideration of sections 214 and 3148 of the House bill, and sections 234 and 1064 of the Senate amendment, and modifications committed to conference:

Messrs. SENSENBRENNER, CALVERT, and BROWN of California.

Provided that Mr. ROHRABACHER is appointed in lieu of Mr. CALVERT for consideration of section 1064 of the Senate amendment.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of sections 345, 563, 601, 1021, 2861, and 3606 of the House bill, and section 601 of the Senate amendment, and modifications committed to conference:

Messrs. SHUSTER, GILCHREST, and BORSKI.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 751, 752 and 759 of the House bill, and sections 220, 542, 751, 752, 758, 1069, 1074, and 1076 of the Senate amendment, and modifications committed to conference:

Messrs. SMITH of New Jersey, BILIRAKIS, and KENNEDY of Massachusetts.

There was no objection.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. SPENCE. Mr. Speaker, pursuant to rule XXVIII, clause 6(a), I move that the conference committee meetings on the bill (H.R. 1119) to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes, be closed to the public at such times as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina [Mr. SPENCE].

Pursuant to clause 6(a) of rule XXVIII, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 1, not voting 24, as follows:

[Roll No. 331]

YEAS—409

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
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Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—1

DeFazio

NOT VOTING—24

Baker
Blumenauer
Boehner
Burton
Buyer
Chenoweth
Cubin
Gallegly
Gonzalez
Gordon
Herger
Lipinski
Martinez
Meek
Miller (CA)
Molinari
Neumann
Pelosi
Ros-Lehtinen
Schiff
Snowbarger
Stark
Watkins
Young (AK)

□ 1335

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I rise to inquire of the distinguished majority leader, the gentleman from Texas [Mr. ARMEY], of the schedule for the remainder of the week and next week.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am pleased to announce that we have had our last vote for the week. The House will next meet on Monday July 28 at 12:30 p.m. for morning hour and 2 p.m. for legislative business. Members should note that there will be no recorded votes before 5 p.m. next Monday evening.

On Monday the House will consider the following 11 suspensions:

H.R. 1855, establishing a moratorium on large fishing vessels in Atlantic herring and mackerel fisheries;

Sense of Congress regarding acts of illegal aggression by Canadian fishermen with respect to Pacific Salmon Fishery;

House Concurrent Resolution 98, Authorizing the Use of the Capitol for the Safe Kids Buckle Up Car Seat Safety Check;

H.R. 2005, Death on the High Seas Act;

H.R. 1596, Bankruptcy Judgeship Act of 1997;

H.R. 1953, To clarify State Authority to Tax Compensation Paid to Certain Employees;

House Concurrent Resolution 75, Sense of Congress that States Should Work More Aggressively to Attack the Problem of Repeat Criminals;

H.R. 103, the Private Security Officer Quality Assurance Act of 1997;

H.R. 1109, Regarding Citizenship for Children of U.S. Citizens Born Abroad;

H.R. 1348, Expanded War Crimes Act of 1997; and

We expect to concur to the Senate amendment to H.R. 1866, the Charitable Donation Antitrust Immunity Act.

The House will then resume consideration of H.R. 2209, the Legislative Branch Appropriations Act for Fiscal Year 1998, under a modified closed rule.

On Tuesday, July 29 and the remainder of the week, the House will consider the following bills all of which will be subject to rules:

The Department of Defense Appropriations Act for Fiscal Year 1998;

The Labor, Health and Human Services Appropriation Act for Fiscal Year 1998;

H.R. 2159, the Foreign Operations Appropriations Act for Fiscal Year 1998;

Commerce, Justice, State Appropriations Act for Fiscal Year 1998;

H.R. 2015, the Balanced Budget Act of 1997 Conference Report; and

H.R. 2014, the Taxpayer Relief Act of 1997 Conference Report.

Mr. Speaker, meeting times for next week are as follows:

On Tuesday, July 29, the House will meet at 9 a.m. for morning hour and 10 a.m. for legislative business.

On Wednesday, July 30, and Thursday, July 31, the House will meet at 10 a.m; and at 9 a.m. on Friday, August 1.

As Members may know, the annual bipartisan congressional baseball game will be held Tuesday night. I know that our stellar athletes, it says here, Mr. Speaker, stellar athletes, on this side of the aisle have been rising early in the morning to practice. We very much look forward to a victory on the diamond next week, and we will end voting early Tuesday evening in order to ensure adequate batting practice. However, as the August district work period approaches, we are faced with the usual legislative crush. As this is the case, it is difficult to predict with any certainty the get-away time for next Friday, August 1. Members should be prepared for votes throughout all of that day, and I thank the gentleman for yielding me this time.

Mr. BONIOR. Mr. Speaker, I would say to my friend from Texas, "If you want to ensure adequate batting practice, you're going to have to get us out of here a lot earlier than early Tuesday evening."

I would ask my friend from Texas, "Do you expect the House to complete its business by next Friday, and my sense is that you do from the schedule, and to begin the August recess as scheduled after Friday?"

Mr. ARMEY. If the gentleman will continue to yield, it is our expectation, as he knows, and as a longstanding tradition in the House that when we have important business, as it were, on the eve of the commencement of an extended recess period, that it is very difficult to predict the get-away time. But I would predict that some time Friday next we will complete that work that requires completion prior to that extended district work recess period.

Mr. BONIOR. And I also noticed in the gentleman's statement that he expects we will finish our conference reports both on the spending and tax reconciliation bills; is that correct? Does the gentleman expect we will finish those conference reports next week?

Mr. ARMEY. Again, if the gentleman would yield, that is our expectation. Conferees are meeting now. There is consultation with the White House that I think is progressing with general enthusiasm on the part of all parties. And so we have, I think, good reason to expect that we could complete that work and have it acted on by the House before we leave on Friday next.

Mr. BONIOR. I would also just thank the gentleman for accommodating the bipartisan events that are scheduled next week, the baseball game; as well, I think, the gym dinner is on Wednesday, and that does not pose too much of a problem to work through; but the baseball game is one that traditionally we have been able to work together on, and I thank the gentleman for his concerns there.

And one final question. Well, actually two. How late on Monday night? And the second question is, do we expect a motion to go to conference on the State Department authorization bill next week; and what day if we do?

Mr. ARMEY. Mr. Speaker, I thank the gentleman again for the inquiry, and if the gentleman would yield, we would hope to be able to go to conference on State Department Monday evening, and we would expect that probably, depending on how our work goes, we would complete work between 9 and 10 o'clock in the evening.

Mr. BONIOR. Mr. Speaker, I thank my colleague, and I wish him a good weekend.

Mr. Speaker, I yield to my friend, the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman for yielding. May I please respectfully request of the distinguished majority leader that he consider, although I know he cannot answer me now, that on Tuesday next it is anticipated that Justice Brennan's funeral will be held and several, indeed a considerable number of our colleagues, are desirous of attending that funeral; and if it will be possible to roll votes in the event votes are being had, I would ask the majority leader to please consider that.

Mr. ARMEY. Mr. Speaker, if the gentleman from Michigan will continue to yield, let me just say to the gentleman from Florida, perhaps after this colloquy we could talk a little bit about times and hours and see to what extent that is something we can accommodate, too, in the way we manage the floor on that day.

Mr. BONIOR. It is my understanding the funeral will be held in Washington, DC, so hopefully we can work something out.

Mr. ARMEY. Mr. Speaker, I would be happy to work with the gentleman and I appreciate the gentleman calling it to my attention.

AUTHORIZING USE OF CATAFALQUE IN U.S. CAPITOL IN CONNECTION WITH MEMORIAL SERVICES FOR THE LATE HONORABLE WILLIAM J. BRENNAN

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the concurrent resolution (H. Con. Res 123) providing for the use of the catafalque situated in the crypt beneath the rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William J. Brennan, former Associate Justice of the Supreme Court of the United States, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

□ 1345

The SPEAKER pro tempore [Mr. LATOURETTE]. Is there objection to the request of the gentleman from California?

Mr. HASTINGS of Florida. Mr. Speaker, reserving the right to object, though obviously I will not object, I yield to the gentleman from California [Mr. THOMAS] to explain his request.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, apropos the gentleman's earlier comments to the majority leader, it is unfortunate that Associate Justice Brennan has passed on. The administrative assistant to the Chief Justice has asked the Architect of the Capitol, as they did with former Chief Justice Warren Burger, if they might use the catafalque in the basement for memorial services over at the Supreme Court building.

It is entirely appropriate, given the former career of the gentleman from Florida, because he fully appreciates the focus of the Lincoln catafalque for an Associate Justice of the U.S. Supreme Court, and especially a Justice like William J. Brennan, appointed by a Republican President, with a very distinguished career in first amendment freedom protection.

Mr. HASTINGS of Florida. Reclaiming my time, Mr. Speaker, I fully concur with the gentleman's resolution and am entirely in support of same, reminding all of us that the Lincoln catafalque is reserved for giants in our history, as it was for former Chief Justice Warren Burger, retired, on June 28, 1995.

We anticipate that Justice Brennan will lie in repose at the family's request possibly for 24 hours, beginning on Monday, July 28, 1997. As we have indicated, the majority leader, working with the minority leader, we are hopeful that they will make arrangements for those of us desirous of attending the funeral.

One final thing is to join my colleague in saying that our Nation has lost a great leader, one who wrote over 1,200 opinions and shaped a large portion of the history of this country in the 1960's, particularly the one-person, one-vote decision of Justice Brennan.

On Monday night the Congressional Black Caucus and other interested Members are going to hold a special order, and I would ask all our colleagues to support the concurrent resolution and to participate in the special order, and as many as possible to attend the funeral.

Mr. THOMAS. If the gentleman will continue to yield, Mr. Speaker, the gentleman has eloquently indicated the reason why with pleasure, although with sadness, we will allow the Supreme Court to utilize the Lincoln catafalque.

Mr. HASTINGS of Florida. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 123

Resolved by the House of Representatives (the Senate concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Chief Justice of the United States the catafalque which is presently situated in the crypt beneath the rotunda of the Capitol so that such catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late honorable William J. Brennan, former Associate Justice of the Supreme Court of the United States.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON H.R. 695, AFFIRMING RIGHTS OF U.S. PERSONS TO USE AND SELL ENCRYPTION AND TO RELAX EXPORT CONTROLS ON ENCRYPTION

Mr. DICKEY. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tonight to file a report on H.R. 695.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

ADJOURNMENT TO MONDAY, JULY 28, 1997

Mr. DICKEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday, July 28, 1997, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DICKEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONORING THE LIFE OF TOM ROGERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. DICKEY] is recognized for 5 minutes.

Mr. DICKEY. Mr. Speaker, today I would like to honor the life of Tom Rogers. He passed away on August 24, 1994, in his hometown of Moline, IL, at the age of 60. He was the son of Howard and Helen Rogers and was survived by his wife Kera, who he married on July 12, 1992, and his brother, Jon Rogers.

This was all said in his obituary, but more needs to be said about his life and more needs to be said by three of us in this body who will stand on the floor of the House of Representatives today to say good things about Tom Rogers. Why? Because he was a special, special person who touched the lives of so many people and of us, and countless others. He even touched our lives as we watched him touching the lives of others.

He was not an elected official. He never ran for office. He never accomplished what we would call great things. He was not wealthy or rich, but he lived a life that was an example to all who knew him and knew people who knew him.

In September, 1953, at the age of 19 Tom Rogers contracted polio. He was paralyzed from the neck down and had serious respiratory problems. I knew Tom and our families were close. He was a 6 foot 2 strapping guy who had boundless energy, and had just finished his first year at Cornell University.

Since I was 6 years his junior, he was one of my heroes. But I did not know at that time what I would learn later, how brave he was, how determined, and what a great character this man would display in the next 41 years.

He set goals; he organized his life; he prepared for a new career. He adapted his life's philosophy. He signed on as a believer in God's son, Jesus Christ, and generally got on with his life, however bleak it looked back in the 1950's.

In the process he never was tempted to feel sorry for himself, and he could have in the following ways: Just within the next year after his contracting polio, the Salk vaccine was developed, but he never dwelt on "what if". He never complained that he could not walk, or talk without great effort, or function without mechanical aids or nurses.

He never talked about his condition, his disability, or his frustration. I know. I tried several times to get him to talk about those things, but he would not. The comments we made about his disability were deflected ever so graciously.

He was cheerful and inquisitive. As he continually deflected attention away from his condition, he constantly talked to others about what was important to them. Only one other person, in my opinion, was as good as Tom was in this regard, and his name was Sam Walton, a great man, also.

Tom's mind was both like a sponge and a steel trap. He was a person of good humor. As a young boy he came running into the house one day after having heard an orchestra and said to his mother, "Mom, I just heard a parade sitting down."

Tom became a successful investment banker, and in the context of the language of his profession, he once said that in the marriage corporation that he bought into with his lovely wife, Kera, that his 50 percent shares were all issued non-voting. In discussing his investment in the racehorse business, he stated once that what he found out early was that slow horses ate as much as fast ones.

He was smart and he loved children. My four kids came into contact with Tom in the summer days when they were little. A special time for them was when Tom came over to eat. After dinner he would line up pennies, nickels, dimes, and quarters, as well as my kids. He would then ask them history question after history question, deciding on the basis of difficulty as against the age of the child what level the rewards for a correct question might be. His knowledge of history was complete and far-ranging, and my children would be riveted on Tom and his command of the facts of history.

Tom built a constituency, which is a good term for politicians to use, with the people who helped him. He was completely paralyzed. Looking back, it was never a factor to us, but he was completely paralyzed. He could not move anything but his head, so he had to depend on people.

A good friend, after his death, started a list of all the people who pushed Tom's wheelchair, drove his van, typed for him, cooked for him, bathed him, combed his hair, placed calls for him, and other things. Seventy-five names went on the first list, each of those people all becoming his friend and admirer. He always left people better off than they were before—it was an incredible skill and gift.

One of his favorites of the pushers, as we called them, was Jim Rosborough, who is now an assistant basketball coach in the fabulously successful University of Arizona basketball program. He loved to see Jim on television, and Tom talked about him constantly. Jim's letter to me and to others after the funeral showed what Jim thought of Tom and how close and sincere that relationship was.

His politics: He seemed to be a Republican, but he was not a fanatic. On a letter 10 years before I entered politics he taped a dime to a sheet of paper and sent it to me as my first campaign contribution. He was always giving me advice, and reminding me that he had also elected to the House his close boyhood friend, Tom Railsback.

He was a bumper sticker lover, on his wheelchair, no less, first with mine, but after my election he put Representative RICHARD BURR's bumper sticker on top of mine, never getting my permission, of course. RICHARD was then elected, so Tom could say he elected two of his friends to the House.

He could also lay claim to electing the Honorable JIM LEACH of Iowa to the House. He spoke of JIM in the most respectful terms, and in some of the papers they found after his death this sentence was set out. "Had lunch with JIM LEACH, I am impressed. I will stuff ballot boxes for him whenever necessary." They say that only happens in the South.

Talking to Tom about his relationship with God was a little like talking to him about his polio. Not much did he say, but he lived a great deal of it.

As already stated, He had a relationship with God's son, Jesus Christ, and though he would never say so about his own life, a casual observer could readily see this in his actions. His life was led exactly as the Bible lays it out.

Now why are the three of us standing up here, taking floor time to speak of this man?

Maybe it's because we need to let Tom's life encourage more people, not only people who are disabled, but all people. If the United States—no, the world—could be inhabited by people like Tom Rogers, we would have less problems, we would have a world full of people who would want to work hard to prepare themselves, no matter what the obstacle, to be better each day. We would have more love, we would have more respect for good manners, and just plain decency. We would have more humor and laughter—much needed qualities in a much too serious world.

There's no way a person could know Tom Rogers and not love him and receive love from him.

Here's what he had to say about his life: "My life is close to perfection." "I would not have changed my life for anything."

Reminiscent of Lou Gherig when he stood at Yankee Stadium, his body dying from disease and said, "I consider myself the luckiest guy on the face of the earth!"

On August 24, 1994, my son Ted and I left a contested campaign to go to Tom's funeral, having been to that same church two year's earlier, also in the midst of a campaign for his wedding. We went to share the joy the first time and to show respect the second time. The people at his funeral were wonderful folks—laughing, telling stories about Tom and sharing the grief. What a tribute—but what was really significant was that inside the church right up front an orchestra was playing—a parade sitting down—only fitting.

A lot of the same people of Moline will gather in their city tomorrow to have a groundbreaking for the Thomas W. Rogers Visitor's Center on Sylvan Island, an island in the waters of the Mississippi. We hope today to add a little to their tribute and maybe bring a little to the expression of love for Tom that is wrapped up in this event.

Such pleasure in preparing this little talk; it has done me good just to reflect on his life.

The summers will never be the same for me and my family, for we will no longer see Tom on earth, but soon I will see him in Heaven, and he'll look like that strapping 19-year-old that I remember and he will probably say to me, "Dickey—that's the way they talk to people in the North—come on we got things to get done, don't think for a minute we sit still up here."

To join me in their remarks are Tom's good friend Representative JIM LEACH of Iowa and Representative RICHARD BURR of North Carolina.

The SPEAKER pro tempore. The time of the gentleman from Arkansas [Mr. DICKEY] has expired.

Mr. DICKEY. I ask unanimous consent for additional time.

The SPEAKER pro tempore. The Chair cannot entertain that request during the 5-minute period, so the gentleman's time has expired.

ORDER OF BUSINESS

Mr. BONIOR. Mr. Speaker, if the three gentlemen present are going to speak about the same gentleman during special orders, I do not have any objection that they can finish their remarks, and then we can come back. I ask unanimous consent that they be allowed to proceed.

The SPEAKER pro tempore. Without objection, the gentlemen speaking on the same subject may speak consecutively.

There was no objection.

TRIBUTE TO TOM ROGERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. BURR] is recognized for 5 minutes.

Mr. BURR of North Carolina. Mr. Speaker, I think what the gentleman from Arkansas, Mr. DICKEY, was about to say, the reason that himself, the gentleman from Iowa, Mr. JIM LEACH, and myself, the gentleman from North Carolina, Mr. RICHARD BURR, are here is to talk about a dear friend, to talk about somebody that touched the lives of not only the three of us, but who touched the lives of every person he met.

Mr. Speaker, I did not grow up with Tom Rogers and I was not a peer of Tom Rogers. I was a friend of Tom Rogers. Tom Rogers never met a person, though, that was not a friend. Tom was a unique individual. Tom had a love for life, but he also became friends with every individual he met. Tom loved children. He was fascinated by children and the time they would spend with him as an individual confined to a wheelchair, but that was what was so great about Tom Rogers.

□ 1400

Tom never saw himself confined to a wheelchair. He saw himself as an integral part of everybody's life, an integral part of his community, a family member, somebody who looked at what God had bestowed him with as only another challenge in life and not as a hurdle in life, and Tom was there to overcome that hurdle.

You see, he was a historian. He was not only a successful broker. Tom was one that loved to read. I can imagine every night what Tom must have gone through just to be moved from a wheelchair to a bed. What would be so tiring for most of us was an everyday occurrence for Tom Rogers. Just the thought that with his mouth and with a wand he could operate a computer and run the finances of many people in the community and across this country who he represented is just an amazing feat in itself.

I remember the story that, when Tom first went to the hospital, after polio, went into the ward where the iron lungs were and where many were stricken with polio, the first thing his mother said was that she was not going to let Tom Rogers die. Tom was also committed that he was not going to let polio change his life significantly, that he would be successful, he would win in the end. Tom was known for saying his greatest success was helping others see how lucky we all are, not just him.

In this day and age all too often we hurry through life without stopping to realize the gifts that we have all been given. Well, Tom Rogers knew the gift he had been given and more. He knew how to use these gifts to enjoy his life and to help others see their importance. Though obstacles were in his way, Tom gained more knowledge and love of life than most of us dream about.

Tom was successful in many ways. But he overcame every adversity, everything thrown at him, to truly teach so many so much.

Tom Rogers had the ability to take a stranger and treat him like family. He had the ability to take family and make them think that they were the most special thing in the world. Tom Rogers gave us a vision to take risks and to go out on a limb, encouraged us to test our outer limits. By following Tom's way of life, we learned more about ourselves and we gained more than we ever thought possible. There are few people who are able to accomplish so much while still having an intense love of life. I can truly say that Thomas Wallace Rogers saw life in a hopeful light with sincere friends and true leaders.

Mr. Speaker, it is an honor for me to be here as a tribute to Thomas Wallace

Will Rogers, a man that lived life to its fullest with every obstacle in his way and shared so much with so many across this country.

IN THE HONOR OF TOM ROGERS OF MOLINE, IL

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 5 minutes.

Mr. LEACH. Mr. Speaker, I want to thank my good friends, the gentleman from North Carolina [Mr. BURR] and the gentleman from Arkansas [Mr. DICKEY], for their wonderful accolades and the minority leader for agreeing to let the three of us without request speak in order.

Mr. Speaker, if ever an individual personified the ideal that the human condition can overcome any handicap, it was Tom Rogers. Tom was everybody's all-American boy. An active athlete and budding scholar, Tom left Moline in 1952 to attend Cornell University. At the end of his freshman year at the age of 19, just before the widespread introduction of the Salk vaccine, he was struck so severely with polio that he was paralyzed from the neck down. He came to be able to breathe only through the laborious technique of swallowing air. In a circumstance which would have led most of us to give up, to turn inward in bitterness, to be prone to shriveling up and spiritually dying, Tom took the opposite course. He determined that even though he could not move a finger, he would widen his horizons and become a functioning member of society.

Tom studied to become a stock analyst and broker and soon had as dedicated a following as anyone in his profession in the country. Using methods and machines he designed, he came to be able to read stacks of material and spreadsheets placed on a bookstand or reflected in magnification off the ceiling.

Tom's two principal avocations were bridge and travel. One of the most competitive bridge players I have ever known, he would call on his unsorted cards to be played from a specially made wooden tray placed on the table in front of his wheelchair. My mother, who was a life master many times over, used to tell me Tom was her favorite partner. Now and again during high school summers, I was privileged to be able to play against the two of them.

To watch Tom successfully defeat three no trump doubled was to watch the joyful triumph of an engaged mind. Despite his physical paralysis, he could precipitate action and when he won a hand, his eyes would impishly twinkle, causing his opponents to redouble their effort yet never begrudge being thumped by this remarkable soul.

The one Christmas card friends in the Quad cities waited for every year would be one Tom would send showing a cartoon of himself, his wheelchair and generally a reindeer or two boating the Mississippi, playing bridge, or standing against a vista or symbol of whatever State or city he had visited that year. One of my favorite memories was the trip Tom made to Washington in the van he had converted to indulge his love of travel.

I toured the Capitol with him and then we had lunch together in the Members dining room. Everyone who encountered Tom soon forgot the chair and brace, the interruptions in this conversation as he gulped to breathe, and saw and heard only the image and voice of a vibrant and captivating human being. Amelia Earhart once wrote, courage is the price that life exacts for granting peace. The soul that knows it not, knows no release from little things.

The little things we take for granted, even being able to breathe unaided, were very big things to Tom Rogers. But no one handled the big or small challenges of life with greater joy. I recently spoke with a former colleague and one of Tom's boyhood chums, Tom Railsback, and his dear friend and dedicated doctor, Lou Sears. Each could only describe in awe the emancipating cheerfulness of an individual who addressed each new day with such boundless optimism.

I am convinced that God gave us Tom Rogers because he wanted to provide a lesson in the preciousness of life and the need for perspective. There is no single person whoever came into contact with Tom who did not walk away murmuring, my troubles are vastly smaller but I pray to God I can learn to handle them with one hundredth of the courage and good nature as this man from Moline.

Tom's peace has finally been granted. His friends honor him this weekend with a groundbreaking of a nature center to be built in his honor on a beautiful island in the Mississippi. No friend could be more missed than Tom Rogers. He remains an inspiration to us all.

JUSTICE BRENNAN

The SPEAKER pro tempore (Mr. BURR). Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I rise this afternoon to read an editorial that I think aptly described the life of Justice William Brennan. It is entitled "Justice Brennan's Vision":

William J. Brennan, Jr., who died yesterday at the age of 91 brought to his long and productive career on the U.S. Supreme Court a tenacious commitment to advancing individual rights and the Constitution's promise of fairness and equality. He served for 34 years, a tenure that spanned eight Presidents.

Named to the court in 1956 by Dwight Eisenhower, Justice Brennan saw the law not as an abstraction but as an immensely powerful weapon to improve society and enlarge justice. As such, he was a crucial voice on the Warren Court of the 1960's, a body that boldly expanded the role of the Federal courts and the Constitution itself to protect individual liberties.

Yet even when the Court shifted in a more conservative direction under Chief Justices Warren Burger and, later, William Rehnquist, Justice Brennan was not content to play a marginal role as an eloquent dissenter. Armed with a keen intellect, a forceful personality, and a gift for building coalitions, he had surprising success in mustering narrow majorities to keep alive the legacy of the Warren Court and its core notion that the Constitution was a living document that could and should be interpreted aggressively.

There is no individual in this country, on or off the Court, who has had a more profound and sustained impact upon public policy in the United States for the past 27 years, said an article in the conservative journal National Review in 1984, and it is hard to disagree with that assessment. Justice Brennan was the author of 1,350 opinions, many of them landmark rulings that altered the political and social landscape.

He left his mark on a wide range of issues. Baker versus Carr, in 1962, asserted the one-person-one-vote doctrine that transformed democracy and, through reapportionment, the composition of the Nation's legislatures. His famous first amendment ruling in New York Times versus Sullivan in 1964 reconfigured the law of libel to give breathing space for free expression and the robust debate of public issues. In Goldberg versus Kelly, a 1970 ruling of which he was particularly proud, Justice Brennan initiated what turned out to be a steady expansion of the 14th amendment's guarantee of due process by ruling that a State could not terminate a welfare recipient's benefits without a hearing.

Over all, Justice Brennan's greatness was rooted in his vision of the law as a moral force and his understanding that the genius of the Constitution would be betrayed if the court insisted on the narrow, static doctrine of original intent, the notion that the Constitution can best be interpreted through the eyes of the Framers. This unique feature of the Constitution, he argued instead, was the adaptability of its great principles to cope with current problems and needs.

That vision and driving passion are not thriving in today's court. Like Justice Brennan himself, they are sorely missed.

I had the occasion, Mr. Speaker, to know Justice Brennan. He was a remarkable man. He will dearly be missed. He is one of the truly great Justices and great people of our times and we send our condolences and our best to his family.

USE OF THE INTERNET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes.

Mr. VENTO. Mr. Speaker, today I rise to speak with regard to the matter of personal privacy and the absolute vulnerability and risks and abuses that are taking place with regard to personal privacy. I specifically want to reference the use of the Internet, the Internet system, the online service providers and web sites that exist on the Internet. The Internet, of course, is accessible through our computers and the online services that we purchase.

Earlier this year, in fact last year, in 1996, I first introduced legislation that would require an affirmative action by the individual Internet user, the subscriber, to permit the use of personal information; that is to say, the telephone numbers, the e-mail address, and the profile that is possible. A service provider or for that matter a web site can in fact, through the information and activities that an individual uses on the Internet, can in fact make almost a complete profile of all the web sites that you visit and utilize.

They can do this, quite frankly, without the knowledge of an Internet user; that is, a subscriber or web site can in fact do that. It is as if you are walking down the street with $100 bills sticking out of your pocket and you are not aware of it. That is to say, we as individual Internet users are very vulnerable.

Of course, as I introduced that bill last September and reintroduced it this past January, H.R. 98, I hope some Members will join me in terms of requiring affirmative approval of a service provider or a web site to use personal information about an individual that is using the Internet.

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And this had been the subject this past June, and I might commend Commissioner Varney of the Federal Trade Commission for the work she had done at that time, she has since left the FTC, but this June she had a seminar and a series of meetings on, in fact, personal privacy on the Internet.

At that time some of the service providers, namely Netscape, the one that we use, incidentally, in the House of Representatives, and Microsoft pointed out they were going to make efforts to provide for personal privacy and some security. But 7 weeks after that, this week we picked up the paper, the Washington Post here yesterday in Washington, DC, and it says America Online, one of the service subscribers, will share the users' numbers for telemarketing.

Eight and a half million individuals are customers of America Online, and they were going to share their personal telephone numbers, and I assume their E-mail addresses, for sale. They were going to receive money back for this information. They were going to receive $150 million back for sharing the personal information, sharing the privacy, selling for profit the personal privacy of the users to the tune of $150 million.

Well, that is wrong. And the fact was that after this became public, this has been out for some time that they were going to do this but they did not share it, it was like looking for a needle in a haystack trying to discover what America Online was doing, but after that, after this happened, America Online, I am pleased to report, has backed off their plan to give out phone numbers.

I think what this does point out in living color and in graphic detail is the vulnerability, as suggested in the legislation I have introduced, H.R. 98, of individual Internet users to have the abuse, the involuntary sharing, even being unaware sharing of their personal information.

It is really unbelievable, as I said yesterday, that America Online would be cashing in for profit by selling the personal privacy of their users. The fact is that we need to correct this problem. We need to have some standards.

I think most of us are very leery of any type of censorship with regards to information. We do not want to thwart the development and limit the development or the availability of information, or the development for that matter and use of the Internet, but the risk we run here is that the Internet is going to be filled or be a great wasteland in the fact that it will not have any type of security.

There will not be the type of credibility and certainly not the responsibility on the part of the Internet user. We will not know when we purchase something whether we are participating in a transaction, whether, in fact, a communication or message, or just a complete absence of security or personal privacy.

So I urge my colleagues to join in sponsoring H.R. 98 after they have seen this graphic example of abuse by America Online with regards to personal privacy.

Mr. Speaker, I provide for the RECORD two articles covering the issue I have just been discussing.

[From the Washington Post, July 24, 1997]

AOL Will Share Users' Numbers for Telemarketing: Consumer Groups, Privacy Advocates Call Subscriber Notification Inadequate

(By Rajiv Chandrasekaran)

America Online Inc. plans to disclose the telephone numbers of its 8.5 million subscribers to certain business partners for telemarketing purposes, a decision that industry specialists say could generate a financial windfall for the online service but anger many of its customers.

AOL said it will make the subscriber information available to companies such as consumer-services firm CUC International Inc., which signed a $50 million marketing arrangement with AOL last month. Such agreements, which industry analysts say could become more common because of the telephone list, are an increasingly important source of revenue to AOL as it seeks to reduce its dependence on monthly user fees.

The new policy is outlined in AOL's revised user rules, which were posted online earlier this month and become effective on July 31. The policy allows users to request that their phone numbers not be disclosed to telemarketers.

The company's decision, however, has outraged consumer advocates, who say AOL members have not been adequately informed of the new policy, which as of yesterday evening had not been mentioned on any of the screens a user sees when logging on.

"Their disclosure is not good enough," said Jean Ann Fox, the director of consumer protection at the Washington-based Consumer Federation of America. "This sets a new low in turning subscribers into a commodity."

Although it is a fairly common practice for companies to sell customer information—AOL has long offered the names and addresses of its subscribers to direct-mail marketers—disclosing phone numbers is a rarer practice, industry experts said. "It's not at all common in the online world," said Patrick Keane, an analyst at market-research firm Jupiter Communications in New York.

AOL's decision comes just as the company largely has repaired customer relations frayed by widespread busy signals that occurred on the network in the winter and spring because the company failed to anticipate the demand a flat-rate pricing plan would generate. The new policy, some analysts said yesterday, risks re-opening old wounds.

"They're walking a fine line with a customer base that already has been nettled," Keane said.

AOL officials played down such concerns, saying they believed most subscribers would welcome the solicitations. "We're telemarketing to our members goods and services we see as benefits of their AOL membership," said spokeswoman Tricia Primrose.

Primrose said AOL does not plan to publicize the new policy before July 31, but will notify members before they begin to receive calls. "We're going to give them every opportunity to get off this list," she said.

Privacy advocates contend, however, that AOL customers should be asked in advance if they want to be on telemarketing lists. The advocates also say that as an online service, AOL should be held to a higher standard in protecting customer information than companies that don't do business in cyberspace.

"Many people who subscribe to AOL like the feature that they have a certain distance between their use of the keyboard and the outside world," said Robert Ellis Smith, editor of Privacy Journal in Providence, R.I.

"They don't have to give out a physical address or a home number. Now AOL is suddenly exposing these customers to intrusions at home during the day."

Initially, AOL plans to offer the phone number to two companies, CUC and Tel-Save Holdings Inc., a long-distance company with which AOL signed a $100 million marketing agreement earlier this year, Primrose said. CUC and Tel-Save do not plan to start telemarketing until later this year, she said.

AOL plans to screen the telemarketers' solicitations, Primrose said. The company now monitors mailings that are sent to its customers by firms who purchase its subscriber mailing lists, she said.

AOL's mailing lists include members' names and addresses, as well as demographic profiles, with information such as household income and past buying habits, that the company says it obtains from outside marketing databases.

[From the New York Times, July 25, 1997]

AMERICA ONLINE BACKS OFF PLAN TO GIVE OUT PHONE NUMBERS

(By Seth Schiesel)

Responding yesterday to consumer outrage and mounting concerns about privacy in cyberspace, America Online, the largest online service provider, abandoned its plans to begin providing lists of its customers' telephone numbers to telemarketers and other direct-sales peddlers.

The reversal came less than 24 hours after the plan became widely known through news accounts and on-line postings. America Online drew immediate fire from politicians and privacy-rights groups for the telemarketing venture, in part because the company for years had assured subscribers that it would not release their phone numbers and other personal information to outside parties.

Because America Online's eight million subscribers are already besieged by "junk" electronic mail, customers bemoaned the prospect of some of those same advertisers, or different ones, ringing the phone at home.

"That's the most obnoxious form of solicitation," said Camilla M. Herlevich, an environmental lawyer in Wilmington, N.C., an America Online subscriber. "They always call at dinner time. We call it the arsenic hour."

But the controversy goes beyond telephone numbers—and transcends America Online, for that matter.

For consumer-privacy advocates, the case illustrates the need for increased Government oversight of the buying and selling of the copious consumer information gathered in the course of everyday commerce. Savvy companies already mine the trove of available credit card information to find buying patterns that might lead to one more sale.

But with the advent of cyberspace commerce, marketers are able to track their quarry even more easily—tracking each click of the mouse, in some cases, as a user surfs the World Wide Web. So far, such efforts typically can identify no more than a user's computer, and not the identity of the individual operating the PC.

Experts predict, however, that personal identification will eventually be possible, making privacy difficult to protect—whatever the stated policies of companies collecting such data.

Like magazines and other businesses with valuable subscription lists, America Online has already been selling lists of its subscribers' names and addresses. But those lists do not include the corresponding E-mail addresses or customer phone numbers. A few weeks ago, however, America Online quietly proposed changing its longstanding policy to begin selling its telephone lists.

Privacy advocates said that adding phone numbers to the mix would allow marketers to cross-tabulate with additional sorts of information that people might not be aware they were exposing by simply signing up to an on-line service.

"The phone number is used as an identifier the way that the Social Security number is," said Evan Hendricks, the editor of Privacy Times, a privacy-rights newsletter. "They can use the phone number to look up the name and address and then you can find out about their house and how many kids they have."

Telemarketers and other direct-sales organizations have resisted Government regulation by agreeing to self-imposed privacy-protection guidelines that typically include provisions allowing consumers to request that their personal data not be sold to third parties. But the America Online episode is certain to raise new questions about whether the industry can continue to police itself.

"It's unbelievable really, that AOL would be cashing in for profit by selling the personal privacy of their users," said Representative Bruce F. Vento, Democrat of Minnesota, who has introduced a bill to regulate the use of consumer information on line. "It just boggles the mind that they would do it quite this boldly."

America Online would not reveal how many of its members called, faxed or sent electronic mail to the company to vent their displeasure. America Online executives insisted that they did not intend to "rent" the phone numbers. Instead, they said, America Online would provide the numbers to companies only as one part of an overall marketing deal.

"The only calls we intended for you to receive would have been from AOL and a limited number of quality-controlled AOL partners," said Stephen M. Case, the company's chief executive in a letter to subscribers yesterday.

Those partners would have included Tel-Save Inc., a discount long-distance telephone company that reached a $100 million marketing pact with America Online in February, and CUC International Inc., a telemarketing giant that made a $50 million deal with America Online last month.

America Online officials said yesterday that those pacts were broad based and would not be affected by scrapping the plan to share telephone lists.

"We said, 'It's so insignificant, just drop it,'" said Robert W. Pittman, chief executive of America Online's operating subsidiary. "For it to get this blown out of proportion says we really screwed up the communication.

"At the end of the day we didn't want to soil our reputation or confuse our members."

The members were certainly confused, or at least angry. Internet bulletin boards were ablaze with irate missives about the company, some of them profane. Many of the complaints stemmed from the fact that America Online had tucked its only notice of the proposed policy shift in an obscure corner of the service. The notice had been posted on July 1, but did not come to widespread attention until Tuesday.

"Unless you stumbled across it you wouldn't know unless you saw it on the evening news," said David Cassel, a freelance writer in Berkeley, Calif., who runs an Internet mailing list about America Online that has 12,000 subscribers. "People thought it was exploitative, deceptive and instrusive. People were outraged."

The Federal Trade Commission has been investigating marketing practices in cyberspace since last summer, most recently holding a series of four "workshops" with industry groups last month.

Yesterday, noting that credit cared companies often pitch services to their customers based on analysis of spending patterns, Commissioner Christine Varney said: "The difference in perception is that people believe that AOL knows a whole lot more about them or has the capacity to know a whole lot about them than American Express does. Presumably they can see where you go, what you do, where your email comes from, who you're sending it to."

Earlier this month the commission's staff sketched the outlines of a regulatory structure for Internet advertising when it determined that a World Wide Web site called KidsCom had probably engaged in deceptive practices when it collected personal information from children and used the data for marketing purposes without the consent of parents.

But the commission has not issued any regulation on Internet marketing aimed at adults, and is still leaning toward allowing the industry to police itself.

"It's about creating a dialogue with industry, and this marketplace is not going to work unless consumers have confidence in it," said Victoria Streitfeld, a commission spokeswoman. "The real effort has been to really not have Government come down on this emerging technology but to raise the issue."

ON ENERGY AND WATER APPROPRIATIONS BILL AND WHAT IT MEANS TO COMMUNITIES; TRIBUTE TO BISHOP N.H. HENDERSON, SR.; AND SYMPATHY TO FAMILY OF JUDGE NORMAN BLACK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am very delighted today that in an act of positive and effective bipartisanship the energy and water appropriations bill was passed by this body.

Now, many would ask what a technical bill like that has to do with the real nuts and bolts of the quality of life in this Nation. Well, first of all, it has to do with our highways and byways that are water directed. It has to do with protection of our communities against the tragedies of flooding. It has to do with the edification and beautification of our river banks and our bayous and, yes, it has to do with protecting us from the tragedies of the wrong type of disposal of nuclear waste, which in many instances is sometimes used for our medical care.

At the same time, this legislation was particularly special to a group of people in my community in the 18th Congressional District, and I would like to thank some community activists, ministers in and around the Sims

Bayou area, particularly around Martin Luther King and Cullen Boulevards, James Brooks a community activist, and Reverend Kyles, along with many other ministers and community leaders who for a long time, and continue to at this time, fought to get some response to the terrible flooding that was going on in their community.

I remember distinctly in 1994, as a city council member, traveling streets by boat that heretofore had not seen any more water than a slight puddle in a yard because it had been watered too much. But unfortunately, in a very heavy rainstorm, many of their homes were flooded out. Now, what I should most compliment is how that community came together, with churches opening their doors and with people gathering clothes and food. They rose up in the time of tragedy and adversity.

Another problem that they faced, however, was, unlike areas that flood regularly, many of those homes did not have flood insurance so many of the people were left devastated. That was 1994. And since that time, we have seen three or more times that that same area has flooded.

With their energy, we took the bull by the horns, and just this past winter, in a terrible flood, we were out there walking those bayous with the Army Corps of Engineers, the Harris County engineering group for flood control, and other local citizens and officials, and we said that this is something that we need to do a lot about.

Those community leaders were undaunted by the task of trying to get Federal funding, more of course, working with local government cooperatively and giving comfort to their citizens who one more time this past winter had been flooded again. Even as I walked the bayou, I could see fences that had been knocked down not by wind but by storm waters.

Now, after working with them and the Army Corps of Engineers, rather than go backward, we are very glad to have gone forward with the $3.5 million added as the completion of what the Army Corps of Engineers asked for to reach the particular area of concern around Cullen and Airport and Martin Luther King Boulevards, in particular in the 18th Congressional District. This $3.5 million will have us going forward and not backward.

But the tribute goes to those citizens who worked very hard. Many times we hear our constituency base ask, "I send money to Washington and it seems like it takes wings and goes off somewhere." Many times they complain about the spending that goes on in this body and elsewhere. The only spending that should go on, we hope, will be to enhance their quality of life.

I am delighted that these citizens maintained the course, and I will continue to work with them so that we can jump-start this project, so that it completes itself way before 2006. We will work with Harris County, we will work with the city of Houston, and we will work with these activists who have not sold their homes in desperation but they have continued to live there. And we will work with FEMA, who still has not been able to consider their claims. But most of all we will congratulate them on their hard work.

I would also at this time, Mr. Speaker, like to acknowledge another activist, but an activist in Christianity, in the Christian experience. Bishop N.H. Henderson, Sr. has served in the ministry for some 50 years, pastoring six churches. He now pastors Law Memorial in Houston.

He has shared his life with his wife, he has shared his life with his family, but most of all he has shared his life with his community. The community of Houston, particularly in the 18th Congressional District, owes Bishop N.H. Henderson, Sr. a great deal of gratitude for the 50 years that he has given to us, for the 77 years that he has lived, for the 60 years of his Christian experience, and for the 50 years of his gospel ministry.

Finally, Mr. Speaker, I would like to very quickly pay a special note of sympathy to the family of Judge Norman Black. We lost him this past week, a cheerful and thoughtful jurist, someone who gave of his life, but most of all treated all mankind and womankind with human dignity. My sympathy to his family and the community who mourn his death.

ON BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I rise today to talk about a very important issue facing this Nation: It is the growing debt that faces this country. Today our debt stands at $5.3 trillion, $20,000 for every man, woman, and child in the United States of America.

To begin this discussion, I think it is very important that we understand the difference between balancing the budget, that is, reducing the deficit to zero, and paying off the debt. The deficit is the part we talk about out here, and it is important to understand that the deficit is the overdrawn checkbook. When Washington talks about balancing the Federal budget, what they are actually talking about is not overdrawing their checkbook anymore.

What has been going on since 1969 is, every year the Government collects taxes out of the American people's pockets and it puts it in their checkbook and then the Government writes out checks. But it writes out checks for more money than they have in their checkbook. We all know in our houses that would not work and it does not work out here.

So what it is they do when the checkbook is overdrawn, is they go and borrow the amount of money the checkbook is overdrawn. The result of that borrowing is what is shown in this chart. It is the growing debt facing this great Nation that we live in.

From 1960 to 1980 the debt did not grow by very much, but from 1980 forward they started overspending by a lot, and they started borrowing lots of money, and that is why the debt is growing as fast as it is. And we can see it in this chart. As a matter of fact, right now, today, we are at about this point on the chart. And it brings to light how important it is that we deal with not only the deficit but that we stop the Government from spending more money than it has in its checkbook.

But after the deficit is dealt with we still have the $5.3 trillion debt, and we need to put a plan into place that also deals with that. I have recently introduced legislation called the National Debt Repayment Act. And what the National Debt Repayment Act is, it goes the next step beyond balancing the budget. After the budget is balanced, it says that we must start making payments on reducing the size of this debt.

I am a former home builder, so we set it up very much like we would when we borrow money to buy a house. We pay the loan off over a 30-year period of time. Under the plan, as the surplus is developed, one-third of the surplus would go to additional tax relief for the American people and two-thirds would go to start paying down this Federal debt.

A lot of people might ask, how did we get this debt this big and what is going on out here that would lead us to this size of a debt? I think it is important that we get a handle on what happened in this city before 1995.

Before 1995, this city, the people in Washington, continually made a series of promises to the American people. What I have on this chart is the Gramm-Rudman-Hollings promises of 1985, and then again in 1987. And one can see how they promised, and the blue line shows how the deficit was going to go to zero, they were going to stop overdrawing their checkbook. The red line shows what they actually did with the deficit. They made promises to the American people and they broke those promises.

Again, I would emphasize this is the past. This is pre-1995. Promises were made, the deficits exploded, the promises were broken.

In Washington, they figured out the logical thing to do if they could not keep their word was to make a new set of promises. So they made another set of promises, the Gramm-Rudman-Hollings II, and the blue line shows what they promised in that set. And again the deficit exploded and they did not keep their promises. They could not hit their targets.

The reason we have this debt is because, as these promises were made in the late 1980's and early 1990's, the people representing the United States of America, the people here in Washington, they were not able to keep their commitment to the American people.

In 1993, recognizing that they had broken all their promises, they got serious about this and they said, "We know what we can do about this, we will raise taxes. We will take more money out of the pockets of the American people. And maybe if we do that, we can stop overdrawing our checkbook." Because if they took more money out of the pockets of the American people and they put it in their checkbook out here, they would have more money to spend but they would be closer to a balanced checkbook.

So they raised taxes in 1993, and I would point out the tax increase passed the House of Representatives by a single vote. Not one single Republican voted for it. And it passed the Senate by a single vote.

So we have these broken promises before 1995, we have the tax increase of 1993, and we have the revolt of the American people in 1994. In 1994 the American people said, "Enough of this stuff, we do not want any more broken promises of a balanced budget, and we do not want these tax increases," and they put a new group of people, they put the Republicans in charge of both the House and the Senate.

Now, I think it is reasonable that the American people should ask are they any different. Is there any difference between the Democrats that were here before and this picture of broken promises and higher taxes, and the group of people that is now in Washington, DC, in control in the House and the Senate?

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I brought some charts along for that, because I think the answer to that question is very important. It is more than fair that the American people ask are they any different than what has happened since 1995, when we sent a new group there to control. I brought this chart along because this chart shows just how different things really are.

The red columns that one sees on this chart are our plan to balance the budget, too. When we got here in 1995, we made a promise to the American people that we were going to balance the budget too and preserve this Nation for our children. The red column shows the deficit numbers that we promised the American people.

This is very different than those last charts, though, however. Instead of missing the targets, in the first year of our plan, we not only hit the target but were ahead of schedule. The blue column shows what actually happened. So in year one, we were not only successful, but we were ahead of schedule. Along came year two. We were not only successful but we were ahead of schedule. We are now in year three of this plan; and, again, we are not only on schedule, we are ahead of schedule.

It now appears that, because of the success of this group since 1995, along with a strong economy, that we are in a position to balance the budget by next year. So we have not only hit our target of balancing by the year 2002 and keeping our promise, but it now appears that we will have a balanced budget as soon as 1998, 1999 at the latest, and that is great news for the American people.

Why is this happening? What is the message here? What is different? Well, this group curtailed the growth of Government spending to a point where we were able to hit our targets. No raise of taxes. No taking money out the pockets of the American people. Our vision was we should curtail the growth of Washington spending.

When Washington spends less money out of their checkbook, it is no different than in our household, their checkbook was overdrawn by a smaller amount. As a matter of fact, if we look at the year 1997, for example, they overdrew their checkbook by $100 billion less than what was expected. Well, what happened?

When Washington did not go into the private sector and borrow that $100 billion, that left the money available in the private sector. With $100 billion available out there in the private sector, of course that is more availability of money. More availability of money meant the interest rates stayed down. And this is where it now translates out of Washington and into the real world. In the real world, when the interest rates stayed down, it was very predictable what happened next. People started buying more houses and buying more cars.

This was our vision in 1995. If Washington could just stay within their means, could meet their targets and stay ahead of schedule, they would borrow less money out of the private sector. More money available would keep the interest rates down. And with the interest rates down, people would buy more houses and cars and they would do all the things to make this economy work. Because when they bought houses and cars, other people had to go to work. That meant they left the welfare rolls, took less money away from the Government, and started paying taxes in.

That is the working model that has led to this picture. Again, I cannot emphasize enough how different the picture is now than it was before. We are not only on track to balancing the budget, we are ahead of schedule.

I would like to also point out the success that we have had in terms of curtailing the growth of Government spending. This chart shows it the best I can. Before the Republicans got here in 1995, Government spending was going up at an annual rate of 5.2 percent.

We have heard a lot about draconian cuts. I would like to point out that, since the Republicans have been here, spending is still going up, much to the chagrin of some us out here, but it is going up at a much slower rate. What has actually happened is the growth of Government spending, growth of Washington programs has been slowed by about 40 percent.

Since Washington spending is not growing as fast, we are able to both reach a balanced budget and offer tax relief to the American people. What a wonderful situation this is that we have out here right now. We are now in a position because of this success that we can offer the American people both a balanced budget and tax relief, $500 per child; college tuition $1,500 for your kids going to college; capital gains being reduced from 28 percent to 20 percent; the death taxes, reform; the dream IRA has pulled into place. All of these good things are happening out here because Washington is no longer expanding like it was before. That is good news for the American people.

I had a conversation this morning and the person was talking and he said, "I have got two kids at home." And I said, "Good. January 1 of next year what you should do is you should walk in the door of your employer and you should tell your employer you wanted to keep $66 more in your paycheck in January that you were sending to Washington before. You just get to keep that money. It is his money anyhow."

And this person just simply has to walk in the door of his employer on January 1 next year and say, "I want to keep an extra 66 bucks a month of my own money," and he gets a $66 raise in one month simply by walking in and doing it because these tax cuts are put into place. Good news for America.

The logical question is, "What is next?" I think the logical question, we look at this picture, we look at the broken promises of the past and the tax increases of 1993 and the American people stepping forward and rejecting those broken promises and the tax increases, and they have now moved to a point where they put a group of people here that are going to both stay on track to balancing the budget and reduce the taxes at the same time, the logical question is, "Where do we go from here?"

I think the answer to that question goes back to kind of where we started tonight. Even after the budget is balanced, we still have this $5.3 trillion debt hanging over our head. For any of the viewers that have not seen this number, this is what the number looks like. It is staggering. It is $20,000 for every man, woman, and child in the United States of America. It is $100,000 for a family of five like mine. And the kicker is, a family of five pays $580 a month in interest only on the Federal debt.

Now a lot of people say, "I do not pay that much in taxes." Well, the reality is, you pay taxes all over the place. When you walk in the store and buy a loaf of bread and the store owner makes a profit on that loaf of bread, the store owner sends part of that profit to Washington, DC, to help pay the interest on that Federal debt. So they are paying it.

So the logical question is, "What next?" The logical answer to that question is after we balance the budget, we should start addressing this national debt. Recently I introduced a bill called the National Debt Repayment Act. And it does this. After the budget is balanced, we cap the growth of Washington spending at a rate 1-percent lower than the rate of revenue growth. That creates a surplus. Two-thirds of the surplus goes to paying down this debt. One-third of the surplus goes to additional tax cuts for the American people. I think it is real important that we point out, as this debt is repaid, the money that has been taken out of the Social Security trust fund by the people in Washington over the last 15 years gets put back into the Social Security trust fund so Social Security once again becomes solvent for our senior citizens. The people that are working today would get additional tax cuts; so for our seniors, solvency in the Social Security trust fund, security in the Social Security system for our seniors. For our working families, for people in the work force today, taxes is part of this bill.

I think most important of all, for future generations, for our children and for our grandchildren, we get to pass this great Nation on to our children debt-free. We pay off the Federal debt by the year 2026 under this bill, and we get to pass this great Nation on to our children debt-free. I think that is the message of the future, and I think that is the message of the Republican Party.

The past, the party that was here before us in control, the broken promises of the late 1980's and the early 1990's and the tax increases of 1993, that is gone. The American people sent a different party here to run Washington, DC. This party is in the third year of a plan to balance the Federal budget. We are on track. We are ahead of schedule. The budget should be balanced in 2002 but probably as early as next year or the year after, on track, ahead of schedule, by curtailing the growth of Washington spending so that we can provide both a balanced budget and lower taxes for the American people.

This vision for the future includes paying off the Federal debt, restoring the Social Security trust fund, and giving this great Nation that we live in to our children absolutely debt-free. I can think of no better vision for the future of our Nation.

Mr. Speaker, I yield back the balance of my time.

ACCOMPLISHMENTS OF A REPUBLICAN CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for the remainder of the majority leader's hour. That time would be 47 minutes.

Mr. GUTKNECHT. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. ETHERIDGE].

REGARDING TAX RELIEF FOR WORKING FARMERS.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman from Minnesota [Mr. GUTKNECHT] for yielding me the time.

Mr. Speaker, I rise today on behalf of the hard-working farmers of North Carolina. I want to thank my colleagues that voted yesterday to preserve crop insurance for tobacco farmers.

Defeating the amendment this week could not have come more timely. Just this week, rain and wind from Hurricane Danny damaged thousands of tobacco farms in North Carolina as farmers prepared to go to market. As insurance adjusters began to survey the damage, farmers will count on crop insurance to pay the bill as they try to salvage what they can.

If crop insurance were not available to these small farmers, not only would this year's crop be a near total loss for them, but others would be forced off the farm entirely. Many of these very farmers are still repairing the damage to curing barns, irrigation equipment, and other farm equipment received during Hurricane Bertha and Hurricane Fran just last year. Others are just now recovering to pay off farm loans and bank debts that they sustained during that period. And their families also faced damage from blue mold just last year on their tobacco.

Yesterday's vote was a huge victory for small farmers, especially poor, minority, and disadvantaged growers. Tobacco has been in the news a great deal lately. It has been the source of quite a bit of controversy. However, there is one fact about tobacco that is indisputable. The golden leaf has helped build the State of North Carolina, and it has helped transform the Tar Heel State into an international force in business, technology, education, research, medicine, and the arts.

Before the turn of the century, North Carolina was known as the Rip Van Winkle State, devoid of good education, economic wealth, and many other things that others enjoyed. Jobs were hard to come by, and a week's pay at a textile mill never seemed to be quite enough to pay the bills at the town general store.

Education was a privilege only for a very special few people. At the turn of the century, most children left school early to work on the farm or in a textile mill, and only a lucky few graduated from high school, and even less went on to college. Health care was atrocious. But because of the geography and climate, North Carolina farmers found that they could grow a variety of crops and especially one that turned a good crop, flue-cured tobacco.

Tobacco has helped educate our children, help establish our community college system, build our roads, and send thousands of young people to a public university system that is the rival of any in this Nation and around the world. Tobacco and the tax revenues and economic development it has generated has provided the State and local government the resources necessary to foster an environment of technological achievement in our State that would not have been deemed thinkable just a few decades ago.

North Carolina boasts the best research universities that exist anywhere. Our community college system is the model used by States all over the country. North Carolina boasts more miles of State maintained highways than any State in this Nation. And the Research Triangle Park has become a research technological manufacturing center that has put North Carolina ahead of the pack in the creation of new jobs and economic development opportunities as we look forward to the new millennium.

Just over 50 years ago, tobacco was the economy of North Carolina. And it remains an important part of our State today, but it is a less important part. North Carolina has a well-diversified, multifaceted economy, thanks to the sweat and toil of the farmers all over our State.

But tobacco is extremely vulnerable to the fury of nature. Hurricanes, tornadoes, floods, and other acts of nature that have visited North Carolina in recent years have devastated our family farmers. Crop insurance would have made it more difficult had farmers not had to insure themselves against nature's fury.

So let me thank my colleagues again for casting a vote on behalf of family farmers. I also want to thank my colleagues that voted to preserve the peanut program and the reforms that were made to it in the 1996 farm bill. Because had they not voted against the Neumann-Kanjorski amendment, peanuts would have been in trouble.

Peanuts have also played a big role in the agriculture economy of North Carolina. Before tobacco became the king crop, peanuts sustained the fragile economies in many of our poorest counties in North Carolina, as it still does today. Peanut farmers face many obstacles, as do others. Too much water turns them to mush. Too much drought turns them to dust.

Mr. Speaker, I again want to thank my colleagues for casting their vote to help our farmers yesterday.

The SPEAKER pro tempore [Mr. BURR]. The gentleman from Minnesota [Mr. GUTKNECHT] is recognized and has 42 minutes remaining.

Mr. GUTKNECHT. Mr. Speaker, I would like to talk a little bit about what has been happening over the last 40 years, what is happening in the Congress today, and sort of pursue some of the ideas that our colleague, the gentleman Wisconsin [Mr. NEUMANN], was talking about.

I am pleased to have joining me the gentleman from Florida [Mr. WELDON], who came in with me and the gentleman from Wisconsin [Mr. NEUMANN] in the class of 1994, to talk a little bit about what is happening with this budget, what is happening with taxes.

I want to mention something that our colleague, the gentleman from Wisconsin [Mr. NEUMANN], neglected to mention. I think it is a very important point.

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He said that we are ahead of goal, we are under budget, we are closer to a balanced budget today than we have been since I was in high school. I would like to talk a little bit about some of the things that are happening. We have eliminated something like 289 Federal programs. We have cut over $50 billion in discretionary spending. We have the first real welfare reform plan passed literally since 1965.

There is a lot of good news that goes along with this. As a matter of fact, 3 weeks ago when the President did his Saturday radio address, he said that there are 1,023,000 fewer families on welfare today than were on welfare when he signed the Republican welfare reform bill just a little over a year and a half ago. That is good news. It is saving money. But the goal of the welfare reform plan was not to save money. The goal of the welfare reform plan was to save people, and to save families and to save children from one more generation of poverty, dependency, and despair. We are making real progress in the areas of welfare reform, in the areas of Medicare reform, entitlement reform, downsizing the Federal bureaucracy, holding the Federal Government more accountable, squeezing more out of the taxpayers' dollars. We are limiting the growth in spending.

In fact, in 1995, when we passed our first 7-year budget plan in which we said we will balance the budget by 2002 and we will provide tax relief to working families in the United States, when we passed that original blueprint for balancing the budget, when we said in 1995 that in fiscal year 1997 we would spend $1,624 billion, that is how much we would spend in this fiscal year that we are in right now.

The truth of the matter is we are actually going to spend only $1,622 billion. This Congress is actually going to spend less money this year than we said we were going to spend just 2 years ago. That is good news. But I think the news is even better if we stop and analyze it, because in the intervening time because we have had stronger consumer confidence, we have stronger confidence in the business community, we have lower interest rates than even the Treasury estimated just 2 years ago, as a result of all of that, more people are buying homes, more people are buying cars, the economy is stronger, and the revenues coming into the Federal Government have actually increased by more than $100 billion. At the same time revenue has increased by over $100 billion, real spending by this Congress is less than we said it would be just 2 years ago.

I think that is great news for the American people, and it is particularly good news I think for our kids, because we are on the path now toward a balanced budget. There was a published report just a few weeks ago that said if the economy remains even relatively as strong as it is today, even close to where we are today, we could actually balance the budget as early as next year. I think that is great news.

Joining me is the gentleman from Florida [Mr. WELDON]. I welcome any comments he may have.

Mr. WELDON of Florida. I thank the gentleman for yielding. I wanted to rise and talk a little bit with the gentleman today and with the people viewing in the C-SPAN audience a little bit about who this tax cut package is really going to help. It is important for all our colleagues in the House of Representatives and everyone watching to understand exactly what this means for the families and their neighbors' families. Tax relief is about real people, real Americans. If the gentleman would allow me to come down there, I want to put up on that easel next to him a picture of one of those families.

Mr. GUTKNECHT. In fact, while the gentleman is bringing a chart down, I think he has made an excellent point and sometimes we forget because we get so bogged down in $1,624 billion and 2.3 percent and $100 billion and $200 million and all of these numbers. We sometimes talk about these kinds of things as if it were some kind of an accounting exercise when really this in the end is about real people and how it is going to affect their lives.

Mr. WELDON of Florida. Mr. Speaker, this is a picture of a family from my congressional district, specifically the town of Palm Bay, the town that I live in on Florida's east central coast, an area we call the Space Coast because of Kennedy Space Center and Cape Canaveral being there.

This is the Auger family, a middle-class family. Here we have Jim Auger. He is a plumber. We see him there with his wife and his three kids. They have a family income of less than $40,000. Jim juggles his roles as husband and plumber, and his wife, of course, is very busy with the household chores. I believe she also earns some extra income cutting hair. They have three kids. I want to talk a little bit about the kids.

The oldest boy is Christopher. There is Christopher there. Then they have Anthony and their daughter Denae. She is 10 years old. Of course also they have the two dogs, Bridget and Oreo.

Mr. GUTKNECHT. Which dog is which?

Mr. WELDON of Florida. I think this one is Oreo actually. I think I may have gotten that one wrong.

I want to talk a little bit about what the Republican tax cut package actually means for them and how it will specifically affect this family, because it means a lot to this family. In fact, it means a lot for all families like the Augers, and the importance of this vote cannot be overemphasized. Indeed, I think it may be one of the most important votes that we will cast in this Congress.

It is not always easy for Jim to look out for his family and to make ends meet, especially when so much of his hard earned money goes to the Federal Government. Indeed, like most middle class working American families, Jim sends more to the Federal Government than what he spends on food, clothing, and shelter combined, which is a very significant, important fact for many American families.

What they will receive with this middle-class tax cut package is very important. They will receive $500 for each child.

The gentleman from Minnesota has another picture of the family. I think what they are doing there is playing Pictionary at that particular moment. They are not trying to fill out their IRS forms and figure out how they are going to make ends meet. They are actually enjoying themselves there.

Mr. GUTKNECHT. I want to get back to an important point because I think this sometimes is lost. This typical American family, and this is not all that different from the family I grew up in during the 1950's. In fact, when I was growing up in the 1950's, the average family, the largest single payment that they made was for their house payment. Today the typical family, according to the National Taxpayers Union, pays more in taxes, we are talking about total taxes, they pay more in taxes than they do for food, clothing, and shelter combined. That is why the typical American family is being squeezed so much and why this tax relief package we are talking about is so important.

Mr. WELDON of Florida. The gentleman raises a very good point. The typical American family does not pay more in Federal income tax than they spend on food, shelter, and clothing. But when we add up the FICA, the Medicare tax, when we add up the property taxes, if they own their own home, their sales taxes and all the other taxes the families pay out, the typical American family is spending more money on taxes than anything else, and it is greater than food, clothing, and shelter combined.

This family is going to get the $500 per child tax credit. But because their oldest son is getting close to college age, they can also get a $1,500 a year eligibility for an IRA scholarship deduction which, if we do the math and translate it all out, this family will be saving in excess of $1,500 a year on their income taxes.

Mr. GUTKNECHT. That is money that they get to keep, and sometimes people misunderstand. They confuse credits with deductions. We are talking about $1,500 more that this family will have in their checkbooks to spend as they see fit rather than having that money being sent to Washington to be spent by Members of Congress and bureaucrats as they see fit.

Mr. WELDON of Florida. The gentleman is absolutely correct. An important point here that I would like to make is the Augers are not the only family in my congressional district who are going to benefit from this tax relief package. Indeed, the Heritage Foundation, a think tank here in Washington, DC, did a calculation for me indicating that 84,000 families in my congressional district will see their income taxes go down based on this Republican middle-class tax cut package. That will mean $39 million in the pockets of working families in my congressional district, which includes Brevard County, Indian River County, Osceola County, and portions of Polk County in Florida. I am sure in the gentleman from Minnesota's district, it is ditto. He has got thousands and thousands of families that will benefit from it.

This is a very important point: When we put more money in their pockets, in working families' pockets, it not only makes it easier for them to make ends meet, it not only makes it easier for them to be able to send their kids to college with the tuition tax credits that we are providing, but it is also going to be good for the local economy, it is going to be good for the local businessman. If you are a businessman and you own a hardware store or if you work in a barber shop or a restaurant, you are going to have more families with more spending money in their pocket, and that is going to in turn, well, Jim Auger here in this picture is a perfect example. He is a plumber. There are lots of families that are going to benefit that he does plumbing work for. How many families in my congressional district or in the congressional district of the gentleman from Minnesota [Mr. GUTKNECHT] have a leaking faucet that they would like to get fixed but they do not have the money, the end of the checkbook comes before the end of the month? What is going to happen, people will have more spending money and the spinoff benefit will not only be that it is going to be easier for him to send his kids to college; they are going to have more spending money. But as well, it may actually help his business because it is going to help the families that he does plumbing work for.

This is something that has the potential to help everybody in America. It will create jobs, it will make working families and families with kids better able to make ends meet, and probably most importantly, it is going to make it a lot easier for this mom and dad in this picture to send these three kids to college.

These kids are bright kids and their parents believe they are college material and that they should be able to succeed in college. But as everybody knows, it is not just the tuition. It is the room and the board and the books and paying the medical insurance while the kids are in college. So providing for a kid for another 4 years and seeing him through the process of college is very, very difficult on families. This family is going to be better able to send their kids to college. That is a big part of what this tax package is all about.

I am very, very pleased to rise today and join the gentleman in this special order and talk about not just the statistics and not just the numbers, but real flesh and blood people like the Augers and their three kids, because this is going to mean a real difference for their quality of life. For too long, American families like them have been bearing too much of the burden of government here in Washington. If we look at the facts and look back 40 years when my mom and dad and the gentleman from Minnesota's mom and dad were raising our families, I know I have my sister Carol visiting from Tennessee in the gallery up there listening to this speech. I have three sisters, Carol is the youngest, my sister Maryann, who is younger than me, and then my older sister Christine. When my parents were raising the four of us kids, my father was a postal clerk, working in the post office, they were sending about 2, 3, 4 percent of their income to Washington, DC. Now these families are sending 25 percent of their income to Washington, DC.

As I understand it, she likes to cut hair and she enjoys cutting hair. But there are a lot of working moms who would rather not be out in the workplace. They would rather be home with the kids. Particularly when the kids are really little, they would rather be home with them. This tax package is going to go a long way to helping a lot of those families.

One of the things that I think is most ironic is that not only has this been a very difficult process over the 3 years to get the administration to come along with us on a tax cut package, but as well it really is taking our initiative, the initiative of the Speaker, the majority leader, the leader in the other body as well as all the other Members, to really get the President of the United States to fulfill a pledge that he made in a campaign in 1992 to provide a middle-class tax break. So it is really a pleasure for me to join the gentleman.

Mr. GUTKNECHT. I will hold this picture up of this family, but I think if he flips to the next chart, let us talk a little bit about that. He is absolutely right that the President promised when he ran for office the first time a middle-class tax cut. He did not promise a lower income tax cut, he did not promise to cut taxes for people who pay no income taxes. He promised a middle-class tax cut.

In many respects, what we are doing is we are helping the President keep that promise. According to the Joint Committee on Taxation, which is a bipartisan committee and is the official scorekeeper of all tax bills, 76 percent of the tax relief in the package that passed this House, and we have not yet got the calculations on the bill that is being finalized in the conference committee, but my suspicion is it will be very close to the same number, at least three-quarters of the benefit of this tax package will go to families who earn less than $75,000 a year.

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And there are lots and lots of families in that category, and I yield to the gentleman.

Mr. WELDON of Florida. Yes, if the gentleman would yield, I appreciate it, thank you.

I just wanted to explain what this chart represents. And our tax cut package is about an $85 billion net tax cut, but actually its total amount is about $115 billion. This pie chart represents all of that money, the whole tax cut package, and we are looking at who does it go to. And this section in the yellow here represents 76 percent of that tax cut package, and it goes to families earning between $20,000 and $75,000.

That to me says a great deal. It says this truly is a middle-class tax cut. That is the working middle class.

Now some people may say well, gee, $50,000, $60,000, $70,000, where I live is not middle class, and that is true.

Where I am in Florida, making $65,000, $70,000 a year, some people would legitimately argue is not middle class anymore. But I can tell you in some of our more urban areas, places like New York City, Long Island, Los Angeles, there are a lot of families struggling to make ends meet on $65,000 a year because of the very, very high cost of housing where a house can cost $300,000 a year. And if you really look, that is the middle class in the United States of America, with incomes between $20,000 and $75,000 a year.

This pie chart shows you very, very clearly, 76 percent goes to those working middle-class families.

Mr. GUTKNECHT. That is what the President promised, and that is what we have delivered.

Perhaps we can flip to the next chart because this is another chart that was put together by the Joint Economic Committee on Taxation, again the people who actually are the official scorekeepers, and what you see in yellow is current law or pre- the tax cut package that has been agreed to by the House and Senate. And what you see are the five different, if you broke the economic groups into equal parts of one-fifth, the lowest one-fifth of taxpayers currently pay in the yellow there on the left, they currently pay 1 percent of all the taxes paid in the United States. The top or the lowest 20 percent of income earners in the United States currently pay 1 percent. Under this tax plan they would still pay 1 percent.

If you drop all the way over to the highest 20 percent, they currently pay 63 percent of all of the taxes paid in the United States. Under this tax plan they will still pay 63 percent. In fact, if you really are honest about the way the distribution of this tax cut goes, it really does little to change the differences between the wealthy and the poor.

The important point is, and one of the things that our friends on the left, they do two things with our tax bill that I think in some respects are incredibly disingenuous. One is they use what is called family economic income or otherwise imputed income. And by doing that you can literally take a family that is earning $47,000 a year, which currently is the median family income, that lives in their own home, that perhaps has accrued values of pensions, perhaps has an IRA that they could cash in, have some undeclared capital gains; in other words, they have got some stock perhaps that they inherited from Aunt Matilda. And if you put all those together using a very convoluted and tortured arithmetic developed by the Treasury Department, you can literally take that typical family, that median family with $47,000 of income, and you can say they have an imputed income of $80,000 a year. And that is what sometimes our friends on the left are referring to when they talk about tax cuts for the rich.

The other thing they do, which I do not think is completely fair or honest, is they talk about capital gains and they say capital gains are tax cuts for the rich. Well, in some respects there is some truth, and as a matter of fact if Bill Gates were to sell all of his Microsoft stock under this tax plan with the tax relief that we have included in that for capital gains sales, he would get a very large tax cut. That is a fact, OK? The likelihood is he is not going to do that. As a matter of fact, many wealthy people never sell their stock. They leave it to a trust; in fact, in my guess what probably will happen to Mr. Gates' stock in Microsoft is one day he will leave it to some foundation to build electronic libraries throughout the galaxy. That is what historically has happened with many very wealthy people. They create foundations, they create trusts, and so in some respects they really do not take advantage of these tax breaks anyway. But even if they did, that is their business, it is not the government's business, and he would still be paying billions of dollars worth of taxes.

But let us talk about normal people. Let us talk about farmers. Let us talk about small business people. Let us talk about families who save and invest for their future which, of course, is what ultimately I think we want people to do more of. One of the problems we have had with this Tax Code over the last 40 years is that it has discouraged personal responsibility by saying, you know if you save, if you invest, if you take care of your family, you will be punished. If you do not do those things, you will be rewarded. And what we are saying is we have got to reverse some of those perverse incentives.

But let us talk about tax cuts for the rich, because the truth of the matter is most people who pay a capital gains tax are rich for 1 day, the day they sell their farm, the day they sell their business or the day they sell some other asset or investment which in many cases they have been paying taxes on for many, many years.

So I happen to believe that we ought to encourage people to invest and save and that the real purpose of capital gains tax relief is not to help the wealthy. It is to help more people of modest means become wealthy and to help those people take better care of themselves and better care of their families, particularly in their retiring years.

So I strongly support capital gains tax reductions, and frankly I do not have any problem defending or discussing those back in my home district, particularly among small business people and farmers, because they understand that they live poor and they die rich because they have invested, saved and been prudent.

Mr. WELDON of Florida. I thank the gentleman, and I want to talk about one particular aspect of the capital gains reduction which is part of the tax package that is being discussed here in Washington right now.

The capital gains tax reduction, the reason why I support it and the reason why many of my colleagues on both sides of the aisle support it is because it stimulates jobs, it helps create jobs, and the way it does that is if you have made an investment and you realize some profit off that investment, if when you go to sell and the government takes slightly less, you are left with a little bit more. And most people who make an investment reinvest their money.

Now some people will use it for a vacation or a college education, but the majority of people reinvest their money right back into the economy in the form of stocks or bonds or business.

And so when you lower the rate of tax on capital gains, and you leave more money in people's pockets who are most likely to invest it, they are putting more money back into the economy, and then, as a consequence, they are creating jobs.

And what is probably most important about this is they are more often than not creating good, high-paying, quality jobs. Often it is in high-tech industries, the kind of industries that are clean, that are less polluting and that frequently are paying better salaries.

I want to make one other extremely important point. In our Republican tax cut package we do something called indexing capital gains, and I want to explain what that is. If you make an investment today, a thousand dollars, and 10 years from now your investment has doubled in value to $2,000, according to the current Tax Code you have got a capital gain on a thousand dollars.

But guess what? Inflation is such that 50 percent of your profit has been eaten up by inflation, so instead of really having an extra thousand dollars, because of inflation, the decline in value of the dollar, you maybe only have realized $500 in real profit.

Indeed, when inflation is going along very rapidly, if inflation was at, say, 7 percent, and your investment went from 1,000 to $2,000, you have made absolutely no profit because your $2,000 now only buys what a thousand dollars did years ago.

Well, in the current Tax Code, you pay taxes on that inflated money. You actually have to pay the Federal Government for the inflation, and I just think that is absolutely wrong, and one of the things I am most proud of in our tax cut package is we allow you to index it for inflation.

So if you made that thousand dollar investment and it is now worth $2,000, but the dollar has gone down in value slightly so your real capital gains is only $500, you pay capital gains tax on only $500.

What I have been most disappointed in is the President does not want this provision. He wants it eliminated, and he is going around this city, and he has his Treasury Secretary, Robert Rubin, going around saying that this will, quote, explode the deficit, trying to put fear in the hearts of the American people that this tax cut package is going to explode the deficit. In truth, it is going to do nothing at all like that. And in truth, what we are trying to do is just basic fairness. We are trying to take the family values that you are trying to raise your kids with every day, a fairness and honesty, and we are trying to apply it to the U.S. Tax Code. And believe me in this city it is very hard. But to have the President running around and saying it is going to explode the deficit, in my opinion, is to say the current system is the way we want to keep it, we want to tax you on your inflated dollars. Even if your $1,000 investment is worth $2,000 and inflation has eaten up half of that, we are going to tax you on all of that.

And I just think that is dead wrong, and it is just not fair. One of the things that I know that I have been striving for since I have been here in Washington, all the Members of our freshman class, particularly the freshman class of the last Congress and the people like Mr. GUTKNECHT, is to try to put fairness into the system, fairness in giving working families like the Augers, the people I showed earlier, more money to spend at the end of the month, more money for college education, better able to make ends meet, but also to put fairness into the law itself and have it make common sense.

Mr. Speaker, it does not make common sense if the dollar has gone down in value such that your investment is really not worth anything more, but then for the Federal Government to come along and tax you on that; well, my colleagues, let me tell you, you can end up losing money on your investments if the government is going to eat away all of it, even the gains that have been made purely on inflation. Your purchasing power can go down, and what happens when you live in a country like that where they are taxing you on everything and taxing you on your taxes, well, people will not make investments, and then you will not create good, high-paying, quality jobs, and then we all suffer.

So we want a Tax Code that makes sense, we want a Tax Code that is fair, we want a Tax Code that helps working families, we want a tax system that encourages families to be able to send their kids to college, and I am very, very pleased to be able to join the gentleman in this special order here.

Mr. GUTKNECHT. Mr. Speaker, I want to get back to a point the gentleman from Florida made, and this is one of the things that has been incredibly discouraging and frustrating in that we have the President and the Secretary of the Treasury, Mr. Rubin, and I want to talk specifically about the Treasury Department and their imputed income scheme and, even more importantly, to talk briefly about their notion of exploding, reducing capital gains, exploding the deficit. The real tragedy of that tale is they know that that is not true.

As a matter of fact, the Treasury now has updated numbers that shows by reducing capital gains at the levels that we are talking about in this tax bill, you actually increase revenue to the Federal Government over the next 10 years by an additional $25 billion. Yesterday there was an article written by one of the former Federal Governors who said reducing capital gains will actually increase revenues to the Federal Government by hundreds of billions of dollars more because it will encourage people to sell assets that they have been sitting on for a long time and convert those and allow other people to buy them. And as this happens, as we get more and more transactions, as we get more and more people investing in savings, as we encourage investments in savings, you increase the size of the pie.

You do not have to raise taxes to increase revenue. If you lower capital gains, even the Treasury Department now acknowledges, you actually increase revenue. You do not explode the deficit, you explode revenues, because the economic activity is growing and the biggest benefactors, and I think you said this, again are not the wealthy.

And I will just also quote, there was a gentleman in my office yesterday, and some people know him, he is the president of Godfathers Pizza, a remarkable human being, and I asked him that question about capital gains, and I asked him what kind of tax package would benefit low- and middle-income people the most. And you know what he said? Whatever tax package lowers total taxes the most.

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He said, do you know why? He said, because wealthy people already have all the toys they want. They already have the boats. They have the Gulfstream IV's, they have lots of toys. So if they have more of their money to spend, particularly as they sell investments, guess what they are going to do? They are going to reinvest it. They are going to invest it in new businesses and new opportunities and new job opportunities for people who need them the most.

So the real benefit of this package I think goes to people of modest means and to middle-income families, and that is the way it should be. Just because there may be some wealthy people who will benefit, that is no reason to play this class warfare.

I want to remind people and our Members who may be watching, it has not been that long ago that this Congress started to play this class warfare game. What happened? They passed something called the luxury boat tax. They were going to get those wealthy people who bought those cigarette boats and those wealthy people who bought yachts. They were somehow going to get them to pay more taxes. Do Members remember what happened?

Mr. WELDON of Florida. Mr. Speaker, I had or still have one of those boat companies in my district, Sea Ray, and it just about put them out of business. As I understand it, 20,000 working Americans who worked in the boating industry lost their jobs, and I know they laid off lots of people in my district, and it was a disaster because people stopped buying the boats, so they got absolutely no income into the Federal Treasury off of that tax.

And because they stopped buying boats, it put the boating industry in a tailspin. I know in my congressional district it hurt the company very, very badly, and people ended up losing their jobs. When people lose their jobs they go on unemployment, they may end up on welfare, they are not paying income tax anymore. So that luxury tax I think is an excellent case study. I am glad the gentleman brought it up.

Mr. GUTKNECHT. It underscores the real danger of playing this class warfare game. Abraham Lincoln warned many, many years ago that you cannot help the poor by hurting the rich. In other words, we are all in the same boat. You cannot sink half of them. When they tried to do it, when they tried the luxury boat tax, it had a net negative revenue consequence. That was bad. But what was worse, over 10,000 honest, hard-working Americans lost their jobs. That is the danger of playing this class warfare game.

I think we have to talk in the terms that President Kennedy talked about over 30 years ago. He said a rising tide lifts all boats. When he cut marginal tax rates across-the-board, guess who benefited the most? People with the highest incomes. But in the end who really benefitted in terms of more jobs, more economic activity, and a faster growing economy? It was people who needed the jobs worse.

President Kennedy understood the principle of a rising tide lifting all boats. Unfortunately, there are Members of this body today who seem to think that if you cannot pick winners and losers you should not do anything to try to improve the state of everybody. I think that is wrong. I think there are people here who unfortunately have gotten into this game that there always have been to be losers and we must always defend the losers. That is simply not true. We have to talk about expanding the pie for everybody. If we do, the American people understand this.

If the gentleman could put up this last chart, I know the gentleman wants to talk a little bit about the space race. There is an awful lot of cynicism, Mr. Speaker, and I absolutely understand it. A lot of times I tell people on my money it does not say, "in Republicans we trust," it does not say, in "Democrats we trust," it does not say "in Congress we trust." It says "in God we trust." I do not ask people to trust me, but I do ask them to trust themselves.

What we have put on here, and I hope people can see this chart, if they want to know how much this tax package will benefit them, we have a couple of web sites where people can actually call it up on their computer. There is a GOP tax calculator, and hopefully they can see that on their television. People can actually calculate the tax relief for themselves: What does this package mean to me?

Do not worry about what it might mean to some wealthy investor who may sell a large investment. Obviously they may get a tax break. But what people really want to know is, what will it do for me? What will it do for my family? If people look at this in those terms, they will decide it is a fair tax package, it is good for them, it is good for their family, and it helps them to save and invest for their future as well as take care of their kids. I am very proud of this tax package.

Let me say one other thing. I have just written a letter to the gentleman from Texas Mr. BILL ARCHER. The President and some of his friends are saying this gives too much tax benefits to the rich, and there are families at the lower-income levels who are working but yet would not receive tax relief under this package. What we have done is send a letter to the gentleman from Texas Mr. BILL ARCHER, and this is from a recommendation from a gentleman who called in on C-SPAN.

He said, "I understand what the Republicans are saying, only people who pay taxes are going to get tax relief. But I kind of understand what the President and some of the Democrats are saying, too, and that is there are teachers just starting out, fire fighters just starting out. Under the Republican plan they would not get much tax relief."

He offered what I think is a simple and sensible compromise solution. He said, "Why do we not just say, let each family decide which package gives them the best bang for the buck?" In other words, if right now they get a better deal under the earned income tax credit, they could take that. On the other side, if they thought they got a better bargain under the per child tax credit that the Republican conference committee has worked out, they should take that. They could either have the system under the earned income tax credit or the per child family tax credit. Give them the best of both worlds. They could choose one or the other.

I think that is a reasonable compromise. I would hope that the conferees would at least look at something like that to try and break this impasse, so that for the first time in 16 years we can actually provide working families with real tax relief.

I know the gentleman wants to talk a little bit about, and I want to give the gentleman a compliment, because he represents Cape Canaveral and the space industry down there, and the gentleman does it very admirably. Here recently we have heard a lot of interesting news about the space program, both with the Mir Space Station that is up there circling now, and we all hope and pray that that turns out for the better, but more interestingly, what has been happening on the planet Mars.

I know the gentleman has some great pictures that have come back from NASA, and I yield to the gentleman to discuss some of those projects that are currently going on at Cape Canaveral and with NASA in general. I yield to the gentleman from Florida.

Mr. WELDON of Florida. I thank the gentleman for yielding, and I thank him for being a space supporter. I know he has been fascinated by some of these issues.

I want to talk a little bit about our Nation's space program and the tremendous asset it is to America. We are a great Nation, 275 million people, 50 States, from sea to shining sea. It is a very variegated fabric of what makes up America. There are many great things that make our Nation great. Our number one asset is obviously our people and the people who make up so many of the great industries and institutions.

Of course, the space program has been getting a lot of attention lately, particularly as it relates to exploration of Mars. I wanted to talk a little bit about that.

Our space program is something that truly fascinates our children. Teachers in my district tell me, if you want to get kids excited about math and science and just why it is important and how it applies, just start talking about the space program and you will get their attention.

Why is that? I think there is something that burns in the heart of every human being, not just every American but every human being: a sense of curiosity, what is our destiny. We all know we have explored the world. There is much more to explore in this world, but we also know that much of it has been explored.

What is man's destiny? Is it just to reside here on planet earth, or is it to reach out and truly grasp the stars, to go to other planets, to visit other stars, to explore new worlds, to some day colonize other places in the universe?

If I could quote Neil Armstrong, his "one small step for man," we had a small step a few weeks ago with the Mars Pathfinder, an incredibly successful mission, a mission that was launched from Cape Canaveral in December of last year, and it arrived at the red planet, a successful landing of the Mars Pathfinder vehicle shown here in this diagram, or this is actually a photograph of Mars. This is a photograph taken of the Sojourner, the vehicle that is able to go out and explore around on the planet.

Mr. Speaker, I want to also show this very, very interesting photograph. The Sojourner rolled off of the Mars Pathfinder and then turned around and took a picture of the Mars Pathfinder, and here we can see the Mars Pathfinder, and these bags that are around it are actually deflated balloons.

The way that Pathfinder landed, once it came into the atmosphere balloons all around the Mars Pathfinder blew up, and the thing actually bounced on the surface something like 20 times and then came to rest. Slowly the air was let out of the balloons, and the thing opened up and out goes this rover.

Here we can actually see in this photograph the tracks that the rover made in the surface of the planet. So it is a fascinating vehicle. It is a tremendous success, something I think that everybody at NASA can be proud of, particularly the people at JPL.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURR of North Carolina). The Chair would remind all Members to refrain from references to occupants of the gallery.

FOREIGN POLICY ISSUES

Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I would like to use my time today, and I do not plan to use it all, but I would like to use the time that I have today to discuss some foreign policy issues. The first relates to south Asia and to India in particular.

I am the cochair of the India Caucus, and very much a supporter of the efforts by the Prime Ministers of India and Pakistan to bring their countries closer together, pursuant to the so-called Gujral Doctrine, which is named after the current Prime Minister of India.

Progress is being made by the two countries towards a peaceful settlement of their differences, as well as improved economic and trade relations, and a big part of this has been the discussions that have been held between the Prime Ministers and between officials in India and Pakistan at a level lower than the Prime Minister level.

But this progress is really one of the major reasons why I am concerned and very worried about a Senate initiative, an initiative by the other body that tilts, in my opinion, U.S. foreign policy again in favor of Pakistan and against India.

Mr. Speaker, I want to express today my strong opposition to an amendment that was passed in the other body, in the Senate last week, to the foreign operations appropriations bill, that lifts existing United States restrictions on military and economic assistance to Pakistan. This amendment would allow for the resumption of the Overseas Private Investment Corporation, the International Military Education and Training Program, the Trade and Development Assistance, as well as the democracy-building programs such as the National Endowment for Democracy in Pakistan.

These restrictions were imposed by the Glenn-Symington amendment a few years ago, which restricted the delivery of aid and bilateral programs to Pakistan because of Pakistan's continual development of a nuclear weapons program. The restrictions were in place due to Pakistan's externally aided nuclear weapons program.

What is troubling to me, Mr. Speaker, is that the Senate repealed the Glenn-Symington amendment among reports that Pakistan has recently fired and tested a Chinese-built M–11 missile, or an indigenously developed medium-range missile similar to the M–11. United States intelligence reports that Pakistan is building or has built, with the aid of the Chinese, a missile factory. These missiles can carry nuclear devices. This factory is not subject to international inspection.

Mr. Speaker, for those familiar with Pakistan's nuclear program, it is well known that for several years Pakistan has moved forward with an aggressive program of acquiring nuclear technology and weapons delivery systems, as well as providing arms and training to rogue nations and terrorist groups.

The intent of the Senate action last week may have been, I hope that was the intention, but may have been to encourage Pakistan to cap its nuclear program. However, I would contend that history has shown otherwise. In 1985, United States intelligence reported that Pakistan was receiving United States arms and was simultaneously developing a nuclear weapons program. In response, and with the support of Pakistan, Congress in 1985 enacted the Pressler amendment, to deny assistance to Pakistan if the President could not confirm that Pakistan did not have or was not developing a nuclear device.

But later, in 1990, a few years later, United States intelligence found via overwhelming evidence that Pakistan did indeed have the bomb. The Bush administration at the time invoked the Pressler amendment and restricted United States aid to Pakistan.

The invocation of the Pressler amendment by the Bush administration gave Pakistan an opportunity to make an important choice. Pakistan could either work with the United States and cap its nuclear program, or ignore the Pressler amendment and continue with its nuclear weapons program.

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Unfortunately, Mr. Speaker, Pakistan chose the latter course. In 1995, just 2 years ago, Congress amended the Pressler amendment with the so-called Brown amendment that allowed 370 million dollars' worth of previously embargoed conventional weaponry to be transferred to Pakistan.

Mr. Speaker, it is important to note that Pakistan did not agree to do anything in exchange for the equipment and no conditions on its nuclear program were imposed. Why do we keep rewarding Pakistan when it continues to work against our interests?

Nearly all of Pakistan's nuclear program is for military use with very little attention toward infrastructure and civilian use. In fact, in 1986, China and Pakistan signed a nuclear cooperation agreement. The details of that agreement are not known although intelligence reports show that the agreement includes the transfer of nuclear weapon technology in both the design of weapons and the enrichment of uranium fuel.

Mr. Speaker, we have to be very careful. We cannot allow this amendment, passed last week in the other body, to be viewed as support for Pakistan's nuclear program. Very little information exists with regard to Pakistan's nuclear program. Command and control systems that manage Pakistan's nuclear program are vague and really nonexistent.

A leading American think tank has stated that the primitive state of the Pakistan arsenal suggests that any Pakistan nuclear response could be haphazard and ill-managed. That is from the Institute for National Strategic Studies, a strategic assessment from 1997.

Furthermore, this amendment may hinder the progress, this Senate amendment may hinder the progress that has been made by talks between India and Pakistan over the last 6 months. This is really what I am concerned about.

I talked in the beginning about the Gujral doctrine and how these two countries are now working together toward peaceful solutions. This amendment passed in the other body, I think, could hinder these talks, because the Indian Government has already stated on the record that in light of the circumstances India will take the appropriate steps to safeguard India's security.

What is happening is that the traditional tilt toward Pakistan in United States foreign policy, which so many of us in the India caucus have been trying to reverse so that the United States is not partial toward Pakistan, this tilt is beginning to express itself again as a result of this amendment that was passed in the Senate. And I find it interesting that when India allegedly deployed the Prithvi missile, the United States quickly denounced the deployment. Yet when Pakistan continues to develop its nuclear program with the aid of the Chinese, we turn the other way. In fact, we reward them with aid.

Mr. Speaker, if we desire a peace in South Asia, we must work equally and fairly with all countries in the region. This amendment passed in the other body does not do this.

I know we are going to have discussions, we are going to have a vote here in the House next week on our foreign operations appropriations act. That bill will go to conference with the bill that passed the other body. My hope is, and I will certainly work toward taking out the amendment that was passed in the other body in conference so that when the conference bill eventually comes back to the two Houses, it does not include that amendment. I think that it is an amendment that again tilts United States foreign policy toward Pakistan, is not helpful in the overall effort to bring peace to the South Asia region and basically should not survive the conference, if there is anything that we can do in this House about that.

Mr. Speaker, I would like to turn now to another matter that is also important in terms of United States foreign policy toward India. When I visited India earlier this year, I had the opportunity to talk to the then-Prime Minister Gowda, who expressed continued concern that the United States has not prioritized India as part of its foreign policy.

Mr. Gowda stressed that an important gesture could be made in that regard if President Clinton was able to travel to India in conjunction with the 50th anniversary celebration which begins this August 15. There are many members of our congressional caucus on India, including myself, that have contacted the White House over the last few months in order to convince the President that he should travel to India this year. We know that the White House has given serious consideration to this request, and we want to reiterate our plea collectively today now that August 15 is drawing close.

The majority of our 90-member India caucus signed a letter today to the

President, and I would like to just take some time now to read that letter for my colleagues.

It says, Dear Mr. President, as members of the congressional caucus on India and Indian Americans, we urge you to visit in India next month to celebrate the 50th anniversary of India's independence.

The United States and India, the world's two largest democracies, have many areas of common interest that have not been developed to the degree that they could be. The end of the cold war, combined with the historic opening of the Indian economy, forced us to significantly reassess our strategies and priorities with regard to Asia. There is substantial room to build on the current Indo-U.S. partnership and the political, diplomatic, economic, and security spheres.

Under the auspices of our India caucus, we have had a number of opportunities in the past few years to interact with leaders from India's Government and private sector. Further, some of us have had the opportunity to travel to India recently. These direct contacts have convinced us that relations with India must take on a far greater prominence in United States foreign policy considerations as we move toward the 21st century.

At the same time we have seen that the Indo-U.S. relationship has at times been strained, often unnecessarily so, and owing in many cases to the lack of a firm foundation in relations between our two great nations.

Although many Americans may not recognize it, there is a rich tradition of shared values between the United States and India. Just as the United States proclaimed its independence from the British colonial order, so was India born of the struggle for freedom and self-determination. India derived key aspects of her constitution, particularly its statement of fundamental rights, from our own Bill of Rights. The Indian independence movement, under the inspired leadership of Mahatma Gandhi, had strong moral support from American intellectuals, political leaders, and journalists. In turn, Dr. Martin Luther King, in his struggle to make the promise of American democracy a reality for all of our citizens, derived many of his ideas of nonviolent resistance to injustice from the teachings of Gandhi. Thus we see a clear pattern of Indian and American democracy inspiring and enriching one another at every historical turn.

August 15 marks this historic occasion. A visit by an American President is long overdue. The last President to visit India was the Honorable Jimmy Carter. There is no doubt in our minds that a visit by an American President will improve and strengthen relations between the world's two largest democracies.

Mr. Speaker, this was signed by over 60 Members today alone. Many of us really feel very strongly that it would be a great thing if Pakistan could take the opportunity, either by August 15 or sometime after August 15, in this year of independence, which begins August 15, to visit India as a gesture, an important gesture really, of its priority in terms of United States foreign policy.

Mr. Speaker, I would like to turn now to another foreign policy issue to a different part of the world. I would like to basically take this opportunity, if I could, to express my opposition to a state visit that will occur next week, a state visit to Washington, to the President, to the Congress, that will occur next week by President Aliyev of the Republic of Azerbaijan.

Mr. Speaker, while I recognize that our President must from time to time receive foreign leaders with whom we have differences, in the case of the visit of President Aliyev, I have grave reservations based on both the past actions and the current policies that Mr. Aliyev has pursued and is pursuing.

I would hope that this visit would offer an opportunity for our President and our administration to express our concerns about the lack of democracy and basic rights and freedom in Azerbaijan. I would especially hope the message would be sent to President Aliyev in no uncertain terms that Azerbaijan should immediately lift its blockades of Armenia and Nagorno-Karabagh.

Finally, I hope that President Clinton would stress to President Aliyev American support for a freely negotiated settlement of the Nagorno-Karabagh conflict that recognized the self-determination within secure borders of the people of Nagorno-Karabagh.

I am circulating a letter, Mr. Speaker, today that I have circulated today when we were in session, along with my colleague, the gentleman from Illinois [Mr. PORTER]. We are the cochairs of the Armenia caucus. Our letter to Pakistan expresses our concerns about the visit of President Aliyev.

Most of the members of our House Caucus on Armenia have signed the letter, and I would hope, I sincerely would hope that we can make something positive come out of this visit by President Aliyev. Unfortunately, Mr. Speaker, I am afraid that the direction which U.S. foreign policy is headed in the caucuses region does not bode well for the positive outcome that we seek.

The United States is in a unique position to be able to bring about a fair settlement of the Nagorno-Karabagh situation and to help promote the long-term security and economic development of that region. But that is not the way things are going.

The OSCE, the Organization for Security and Cooperation in Europe, established the Minsk conference to mediate a settlement of the Karabagh conflict. The United States, along with France and Russia, is a cochair of the Minsk group. However, I am concerned that the United States not use its position to force a settlement that does not allow Nagorno-Karabagh to adequately protect its land and its people in the future.

I am working with my colleagues to bring an official from the administration, the State Department, to come up to the Hill next week, hopefully to bring us up to date on the status of negotiations and for us to have an opportunity to impress upon the State Department the importance we attach to the self-determination of the people of Nagorno-Karabagh.

Mr. Speaker, Azerbaijan has some pretty powerful allies in its corner, including former top administration officials from both the Democratic and Republican parties. This was documented in a recent front page story in the Washington Post. Basically what the Post described is an effort, a big money influence effort being driven by oil money. In this case Azerbaijan has proven oil reserves in the Caspian Sea basin off Azerbaijan, some of the richest oil reserves in the world. And many U.S. oil companies are interested in getting into this region.

I want to stress that I have no problem seeing these petroleum reserves developed. Indeed, I would encourage construction of an oil pipeline from the Caspian Sea to the Mediterranean via Armenia. That would actually improve cooperation and the economic prospects of the entire caucuses region.

But, Mr. Speaker, the big problem that many of us have is that these oil companies and the former top United States Government officials that are working for their interests are essentially lobbying for United States foreign policy to ignore the unacceptable behavior of Azerbaijan in order to curry favor with the regime and gain access to the oil reserves.

Mr. Speaker, on the eve of President Aliyev's visit, I want to inform our colleagues about the type of leader this man is. The reason that so many of us oppose his coming here and are concerned about what it means is that he is coming here on a state visit, that Aliyev has a long record of human rights violations that date back to his four decades as an official of the Soviet KGB. During the 1960's, he orchestrated the depopulation of Armenians from their homes in Nakhichevan.

As the Communist party leader of Azerbaijan during the 1970's, he violently suppressed all nationalist and democratic dissent. His ardent support, and I stress his ardent support, for the Soviet invasion of Afghanistan earned him a seat on the Soviet Politburo under Leonid Brezhnev where he served until he was removed by Mikhail Gorbachev in 1987, for having engaged in widespread corruption.

Since his return to power through a military coup in 1993, President Aliyev has suppressed democracy in Azerbaijan and committed widespread violations of human rights in that country, which have been documented by the State Department.

I am also concerned that this visit to Washington by President Aliyev at this critical stage in the negotiations over Nagorno-Karabagh threatens to harm the peace process by undermining confidence in the role of the United States as an impartial mediator.

Many of my colleagues know that section 907 of the Freedom Support Act prohibits direct United States Government aid to Azerbaijan because of the Assyrian blockade of Armenia and Nagorno-Karabagh.

The administration continues to advocate against section 907 and this further reinforces the Azerbaijani perception that the United States, since the most recent OSCE summit in Lisbon has tilted toward Azerbaijan.

What we are saying, Mr. Speaker, is that this visit, this state visit by President Aliyev now could serve to encourage Azerbaijan to further harden its negotiating stance in negotiating a peaceful settlement of the Karabagh conflict.

This encouragement is particularly dangerous given President Aliyev's pattern of unacceptable behavior including his use of oil as a weapon against Armenia and Nagorno-Karabagh, his blockades of Armenia and Karabagh, his rapidly expanding military capabilities, his threats of force and intimidation tactics and his refusal to negotiate directly with the democratically elected representatives of Nagorno-Karabagh.

Mr. Speaker, I just wanted to say, in conclusion, that I would urge my colleagues to join the gentleman from Illinois [Mr. PORTER] and me in letting President Clinton know of our concerns about his upcoming meeting with President Aliyev and to push our State Department toward a fair solution to the very difficult Nagorno-Karabagh conflict.

Mr. Speaker, I was in Armenia and in Nagorno-Karabagh earlier this year and believe me, there are no countries and no people that are more supportive of the United States and love and see the United States as such a great example of democracy and a market economy.

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Armenia and Karabagh are Democratic nations. They are capitalistic nations. They really honestly believe that we are on their side. And we should be. Because they are on the side of what is right. They simply want to retain their own independence, their own freedom and exercise their own self-determination.

I think the U.S. policy should at least be neutral in this conflict. Unfortunately, there are many indications that it is not, and particularly our concern and my concern is that President Aliyev's visit is going to give the impression once again that the United States and our State Department tilt towards Azerbaijan.

But we will continue our efforts to raise the issue and to make sure that the United States takes a neutral position with regard to negotiations over Karabagh and, hopefully, we will be heard at the White House and in the State Department, if not now at some point in the future.

THE SPACE PROGRAM

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise again to talk about our Nation's space program. I rose earlier in a special order with the gentleman from Minnesota [Mr. GUTKNECHT] to talk about our Republican tax package and how it was going to help working families, and I talked at great length about a particular working family in my congressional district that was going to be helped tremendously by our tax package.

It was going to help them in many, many different ways. The $500 per child tax credit was going to help them, because they had three kids, and it was going to give them an extra $1,500 a year. But probably also, more importantly, the education tax credits were going to help them to be better able to send their kids to college.

This is the Auger family I was talking about, and they had one young man 15 years old, their oldest son, college material, and they were looking at some very, very serious financial strain. They had a family income of about a little less than $40,000 a year, but trying to raise three kids and send them to college was a real strain.

I was pleased to get up and to be able to talk about them, but I did want to talk a little more about our Nation's space program. I represent an area of our country that most people have heard a great deal about. We call it in the Space Coast of Florida. It is where Cape Canaveral and Kennedy Space Center is located.

We have a lot of men and women in our community that work in our Nation's space program, and I wanted to rise today and salute them and talk about the role that they have played in really forming a whole part of our American fabric.

We are a great Nation, extending from the bustling cities of our Northeast to the beautiful beaches of Southern California, from the beautiful northern Pacific coast to our sunny beaches in Florida.

There is a lot that goes into making up America and what makes this Nation the great Nation that it is, and a big part of it, in our modern era, is our Nation's space program, and it is something that all Americans, I believe, are very proud of.

What we have today was really built on a lot of the hard work of the people that began the program, the early pioneers, so to speak, in our Nation's space program. One important point I want to make is these people were risktakers. We all know some of the hardships and, indeed, that actually people have lost their lives in our Nation's space program. So going up in space and exploring space has its risks. But I believe it is well worth the price.

I think there is something that beats in the hearts of every human being, not just Americans but all people all over the world, but particularly Americans, because we are a nation of pioneers. We all, except for our native Americans, we were all raised with the knowledge that our parents came to this country. They were either brought as slaves or their ancestors came from Europe or from Asia.

We are a nation of pioneers, people who ventured out into the unknown, and that desire that beats in the hearts of all people, and particularly all Americans, I think, is encapsulated in our space program and what our space program is.

We have had tremendous successes. Of course, we began with the Mercury program and the early astronauts, one of whom is a Senator in the other body to this day, and then it continued with the Gemini program, and, of course, on to the Apollo program, something that all schoolchildren today learn about, how the United States took part in the great space race with the Russians and we were able to succeed and win and get to the moon first.

But now we are in a new era, a new era of space exploration, and I wanted to talk a little about that. I have some really wonderful photographs I wanted to show. This, of course, is a photo of our space shuttle, the current reusable launch vehicle that we use to bring men and women up into space.

It has been a tremendously successful program. For those who have never seen one take off, I would highly encourage all Americans to try to get down there to the Kennedy Space Center area for a launch. You cannot get any closer than 3 miles, but even at 3 miles away, when this thing takes off, your shirt actually shakes from the power of the thing taking off.

It is 11 million pounds of thrust putting this thing into orbit, and what is amazing about it, it is the only reusable launch vehicle. It comes back, lands on a runway, and then can be reconfigured and restacked and cycled again, and they go up and they come back. What is truly amazing about this program is not only the amazing technology of the program, but that this is actually 25-year-old technology.

What I think is very, very exciting is a program that we are working on today in NASA, which is the new reusable launch vehicle. And I wanted to take a little time to talk about this program, because it is really in its infancy, but this artist's rendering of what it will look like, I think, encapsulates it very nicely.

This shows the new replacements for the shuttle that we are currently doing the early design work and engineering on, and it shows, obviously somewhere over our desert West, maybe California or Arizona, hypothetically coming in for a landing. Because it would take off going straight up, the vehicle would then land on a runway like our current shuttle does.

The important thing about this is that the whole idea with the new reusable launch vehicle to replace the space shuttle is to reduce the costs of putting payloads into orbit. Even though the shuttle program is a tremendous success, it is still costly to go up into space. It actually comes down to about, I believe it is $10,000 a pound for each pound that we put up into orbit. That is a considerable cost.

So our idea here in the Congress and the Senate, and the President supports this program, is to come up with new technologies and new designs for a new vehicle to replace our Nation's space shuttle that, hopefully, we can deploy sometime in the next decade and, most importantly, that it would reduce the cost of getting payloads into orbit by a factor of ten, reducing the costs from $10,000 per pound down to $1,000 per pound.

This could create a tremendous revolution in space travel. It would allow us to put satellites in orbit more cheaply. It would also allow us to put men and women in orbit at a lower cost.

I want to talk a little about that, because we have another very exciting program that is well ahead of this program. This program will be on line, hopefully, sometime later in the next decade. We have a program called the international space station that I wanted to talk about and share with those listening.

This is an artist's rendering of the future international space station. This is a tremendously exciting program. Most people are aware of the Russian space station that is up there right now, it is called the Mir. It has been up there for many years. There have been recently some serious problems with the Mir, and it is probably ready for retirement now, but it most certainly will be ready for retirement soon.

What we have in the international space station is an effort to have our international partners, the Europeans, the Japanese, the Canadians, and as well the Russians, come together and form a consortium to truly build a true international space station that would have people from different countries participating in.

This program is so exciting for so many reasons, and I wanted to talk about that a little bit. One of the biggest reasons, I think, why it is so exciting is the tremendous amount of research that will be possible on the space station.

I am a physician. Prior to being elected to the Congress, I practiced medicine, and I was able to see on a daily basis the spin-off benefits of our space program in terms of helping people on earth. I took care of a lot of heart patients, people with cardiac conditions, for example, and the technologies that we use in things like pacemakers, in imaging technologies, like used in the cardiac catheterization lab, as well as imaging technologies like MRI scanning and CAT scanning, these are all spin-off benefits of our space program.

There have been a tremendous number of other spin-off benefits, such as breakthroughs in material science. What is very, very exciting for me as a physician about the kinds of research that can be done on the space station is the tremendous breakthroughs that are a potential to be made in the area of pharmaceuticals.

Because so many of the new drugs that they want to design and develop, there are problems with trying to work with them in the gravitational environment here on earth. But because of the weightlessness of the space station, they will be able to do tremendous amounts of additional research in this area, particularly in the area of crystal growth and understanding molecular structures better. So this has the potential of tremendous benefits for people all over the world.

This shows the space station orbiting, and it is going to be orbiting at about 200 miles above the surface of the Earth. And I believe it is showing the space station orbiting over Greenland, I believe is what that is supposed to be.

We can see those solar panels here. They will be generating the electricity to run the environmental systems that provide oxygen and clean the carbon dioxide out of the system, but as well provide the lighting and the cooling and the heating systems. But additionally, these solar panels will generate the electricity for the labs that will actually do the scientific research.

□ 1600

You can see here, this module right here shows the European research area, and this module over here shows the Japanese research area. You cannot really see it very well, but the U.S. module is back in here where the U.S. scientists will be doing their research.

As somebody who has followed the shuttle program very closely and the tremendous amounts of scientific research that have come out of the shuttle programs, what amazes me is the amount of breakthroughs they have made in science and our understanding of technology. But the shuttle was only up there for 2 weeks. But in this program, the astronauts doing the research will be able to be up there for months and months at a time.

Indeed, this is projected to be orbiting above the Earth for more than a decade, a decade and a half, possibly longer. So this is one of the ways we are heading in our space program, a cooperative effort. There are some problems that lie ahead with the space station program. In particular, I want to talk a little bit about the Russians.

One of the critical partners in the program are the Russians. And they have not been paying for their components that go into the Space Station. I have been asking the administration, particularly the Vice President, to do their best to try to work with the Russians. I went over to Russia in February of this year to meet with the Russians and talk with them about the importance of them having the financial resources to continue to invest to make sure that our space station program is a success.

But to just get back to the next replacement to the space shuttle, the reusable launch vehicle, or RLV, as it is shown, or X-33 shown in this picture, someday the shuttle program will be phased out in the future and, hopefully, this will be replacing the shuttle and, importantly, will be dramatically reducing the cost of getting payloads into orbit. And that will have a tremendous number of additional spin-off benefits. I want to talk a little bit about that.

Why do we want to reduce the cost of getting payloads into orbit? Well, there are a lot of reasons. One of them is to be able to better service the space station. But there are a lot of new, exciting technologies that are coming forward that could have tremendous benefits for people on Earth, and one of them is in the area of power generation. And I wanted to just talk a little bit about that.

We all know we are very, very dependent in our modern society on electricity. Electricity is critical for not only our lighting and heating and running air conditioning systems, but, as well, it is critical for industry. Every business runs on electricity. We all know that there are basically three sources of electricity. Hydroelectric power, of course, is a clean and nonpolluting way to get electricity. But we rely predominantly on power generation from burning fossil fuels and from nuclear power.

There are two major concerns that are involved with both of those power sources. One of them is greenhouse gases and burning fossil fuels and burning oil and burning coal, it puts a lot of carbon dioxide into the atmosphere. And the potential long-term consequences of that are of concern to everybody, the impact on the environment, the possibility that it could cause temperatures on Earth to rise slowly over time exists.

And then, of course, with nuclear power, there is the concern about what do we do with the spent nuclear fuel. After the fuel has burned and generated electricity in the nuclear power plant, what do you do with that nuclear waste? Nobody wants it in their backyard. Well, there is another solution available and that, of course, is solar power. But solar power has had its problems. One of the problems with it is just weather. If we put solar panels on our roof, we can generate a lot of electricity, but not on cloudy days.

Another problem area is we cannot generate electricity at night with solar power. Well, it turns out that the technology is available to us today to put solar collectors up in space and to generate electric power up there and to transmit that electric power to Earth, using microwaves, and then collecting those microwaves on the surface of the Earth using a special type of antenna called a rectifying antenna, or rectenna, and then converting it back to electricity.

One of the first concerns everybody is worried about when they hear about this is, are not those microwaves going to be dangerous? Well, it actually turns out they will have only 25 percent of the energy of sunlight. So actually a bird could fly right through the microwave beams and it would have absolutely no effect on them. So they are very environmentally friendly.

It turns out that one of the problems with putting solar collectors in orbit is gradually over time they will tend to descend down into the atmosphere, so you have to keep reboosting them. But an efficient way to do it would be to actually put the solar collectors on the Moon.

In this photo that I show here, it shows people, men and women, working on the Moon, possibly in some kind of a base that would be doing something like collecting solar power. And there are scientists in this country today who believe that not only is the technology here and available now but that if we are willing to make the investment, that we could actually produce electricity for less money than what it costs. Indeed, some argue that it could be as cheaply as 3 cents a kilowatt.

This is why we need to develop a replacement for the shuttle that reduces the cost of getting payloads into orbit, and this is why we need to learn by working in space and our space station about what are the problems associated with long-term exposure in space and what is it like to have to be able to construct something large like that in space; because the technology and the science will help us to possibly be able to move on to something like this, actually generating power in space and the potential benefits that this could have for all of mankind to be able to produce more cheaply not only for the United States but possibly for all people all over the world and produce it without any pollution.

But there is another aspect to space exploration that I want to talk about, and it is not just the practical side. I have spent a lot of time this afternoon talking about the practical applications of space exploration, the practical benefits of going up in terms of breakthroughs in medical science and engineering and our understanding of technology. But there is just more to it than that. There is a desire, and I talked about this earlier in my comments, there is a desire that is burning in the heart of all people to explore and find out new things, to go places where you have never been before.

I want to talk a little bit about the possibility of going to Mars. We have heard a lot recently about Mars in the news, the Mars Pathfinder mission and the tremendous success that was and how important that was for a better understanding of Mars. We have learned a great deal, for example, that Mars indeed may have once had an atmosphere much more like Earth's and that there may have been abundant amounts of water. And one of the big questions, of course, has life evolved on Mars in some form, some microscopic form? Some day we may be able to go to Mars.

I wanted to show one more diagram. This artist's rendering shows what it would be like to possibly send a man to the Moon. And this involves using new technologies that are being researched right now at NASA. This would be a habitation module. This right here would possibly be a module where you would actually grow possibly plants in a controlled atmosphere; because the atmosphere out here is mostly carbon dioxide but you could create an environment inside a plastic shell like this where you would put oxygen and you would possibly be able to grow plants to be able to feed the men and women that would be working in this environment. And this, of course, shows what would be their return vehicle. Is this practical? Can we do it?

Well, there are some people who argue that it would be just too expensive. There are some people who have argued that a trip to Mars could cost as much as $500 billion and, therefore, it is just too prohibitively expensive.

Well, recent research has shown that it may be possible to do it for substantially less, possibly as little as one-tenth that cost. And this is why it is so important, I believe, for the cooperative effort like we are seeing with the international space station. If our international partners can come together and people like the Europeans, the Japanese, the United States, the Russians, work together successfully on the space station program, it may indeed be possible then afterwards for us to come together as a people from all over the world and cooperatively fund something like this so that we could be able to send a manned expedition to Mars.

We just do not know what we will find out, what we will discover. The Mars Pathfinder sent an unmanned rover vehicle to Mars, and we are discovering a lot from that. But imagine the tremendous amount of discoveries that we could make if we were able to send men and women to Mars driving around in a vehicle like that, people who could actually get out and look at the rocks and dig for things and try to discover. We have no idea what science and technology breakthroughs could come from this and what we could learn as a people by exploring Mars and sending men and women to Mars.

I do not believe that is where it will end. I believe Mars may just be one more step. We went to the Moon. Some day we may go on to Mars. Some day we may go beyond our own solar system. We may be able to find other planets that potentially could be colonized by men and women.

And it all began back in the 1960's. It began with a challenge, a challenge made really by an American President, John F. Kennedy. And I wanted to just dwell on something that he said that I think is very important. He said that we go to the Moon not because it is easy, but because it is hard. He accepted the challenge and knew it was going to be difficult, but he also knew that if we applied ourselves and God's will was with us and good fortune, that we would be able to succeed. But he knew that there were going to be risks.

□ 1615

Mr. Speaker, today we are at that same kind of a threshold. We are on the verge of getting our international space station up and running. We are on the verge of a newer, less expensive, more efficient replacement vehicle for the shuttle. There is the possibility of returning to the Moon, of going on to Mars. But yet there are always people in this body rising up and saying, "No, no, no, we shouldn't do it, we should spend money elsewhere on something else." There were people back then during the Jefferson administration who were saying the same exact thing: "Let's not do it."

I want to talk about one other aspect of that book that I found fascinating. Not only were there Congressmen who did not want to fund the program, that did not think we should be going forth into the unknown, but the program ran over budget. When it ran over budget, there were those who were harshly critical of the Lewis and Clark expedition. Such is the case today. Every time any one of these space programs run even this much over budget, there are people who come forward and say, "No, no, no, we need to end the program, it's not worth the cost, we need to turn back from the future." That is really what this is about, the future. It is about our kids.

I talked earlier this afternoon about an amazing thing that teachers tell me in my congressional district, that when they want to motivate children to learn science and math, the thing that motivates them the most is to talk about our space program and to talk about how knowledge of science and math can be applied in the space program. It opens their eyes and it motivates them to get involved and be educated more in those areas. Those are crucial areas. Not every one of those kids who gets motivated is going to end up working in the space program, but we all know that many of them will be working in areas where science, engineering, math, and technology are critical for the United States to be able to continue to maintain and be the world's leader. I believe it is critical for us to continue to try to make these investments in the future. That is what it is really about when we talk about space and exploring space. It is about our kids, it is about the future.

Are we going to turn our backs on the future? Are we going to turn our back on exploration? The history books are filled with the stories of nations and peoples who turned their backs on the future, who stopped exploring and stopped looking into the unknown. Those nations no longer continue to thrive and grow. I do not believe that will ever happen to the United States. I believe there will always be a majority in this body that will continue to support our space program and supporting the future. That is to so great a degree what our space program is about, looking on ahead into the future, taking the risks and willing to look on into the unknown.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 198

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of H.R. 198.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BLUMENAUER (at the request of Mr. GEPHARDT), for today, on account of the death of a family friend.

Mr. MARTINEZ (at the request of Mr. GEPHARDT), for today, on account of official business.

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT), for today, on account of constituent business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BONIOR) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. VENTO, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. DICKEY) to revise and extend their remarks and include extraneous material:)

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DICKEY) and to include extraneous matter:)

Mr. LATOURETTE.

Mr. COBLE.

Mr. HORN.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. BLUMENAUER.

Mr. WEYGAND.

Mr. HASTINGS of Florida.

Mr. BLAGOJEVICH.

Mr. BENTSEN.

Mr. KLECZKA.

Mr. THOMPSON.

(The following Members (at the request of Mr. WELDON of Florida) and to include extraneous matter:)

Mr. BOB SCHAFFER of Colorado.

Mr. MCINNIS.

Mr. FARR of California.

Mr. GOODLATTE.

Mr. SOLOMON.

Mrs. KENNELLY of Connecticut.

Mr. PACKARD.

Mr. LANTOS.

Mr. PORTMAN.

Mr. MENENDEZ.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 40. Concurrent resolution expressing the sense of Congress regarding the OAS–CIAV Mission in Nicaragua; to the Committee on International Relations.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On July 9, 1997:

H.R. 173. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties.

H.R. 649. An act to amend sections of the Department of Energy Organization Act that are obsolete or inconsistent with other statutes and to repeal a related section of the Federal Administration Act of 1974.

On July 14, 1997:

H.R. 1901. An act to clarify that the protections of the Federal Tort Claims Act apply to the members and personnel of the National Gambling Impact Study Commission.

On July 25, 1997:

H.R. 709. An act to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

H.R. 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

ADJOURNMENT

Mr. WELDON of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Monday, July 28, 1997, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4346. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Turkey (Transmittal No. 22-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4347. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Greece (Transmittal No. 23-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4348. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Turkey (Transmittal No. 21-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4349. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Turkey (Transmittal No. 20-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4350. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Greece (Transmittal No. 15-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4351. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Greece (Transmittal No. 14-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4352. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Greece (Transmittal No. 13-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4353. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Greece (Transmittal No. 12-97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

4354. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services (Transmittal No. 97-29), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4355. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services (Transmittal No. 97-28), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4356. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services (Transmittal No. 97-26), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4357. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 97-31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4358. A letter from the Secretary of Defense, transmitting Semi-Annual Report on Program Activities to Facilitate Weapons Destruction and Nonproliferation in the Former Soviet Union, April 1, 1996 through September 30, 1996, pursuant to 22 U.S.C. 5956; to the Committee on International Relations.

4359. A letter from the Director, Office of Public/Private Initiatives, International Trade Administration, transmitting the Administration's final rule—International Buyer Program (Formerly known as the Foreign Buyer Program); Support for Domestic Trade Shows [Docket No. 970702162-7162-01] received July 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4360. A letter from the Mayor, District of Columbia, transmitting the actuaries review of benefit changes to the police officers and firefighters retirement programs, pursuant to D.C. Code section 1-722(d)(1); to the Committee on Government Reform and Oversight.

4361. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska [Docket No. 961126334-7025-02; I.D. 070397F] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4362. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation making technical amendments to the Immigration and Nationality Act of 1952, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and the Antiterrorism and Effective Death Penalty Act of 1996, in order to clarify and correct the provisions therein; to the Committee on the Judiciary.

4363. A letter from the General Counsel of the Department of Defense and Assistant Attorney General of the United States, transmitting a report of the Advisory Committee on Criminal Law Jurisdiction over Civilians Accompanying the Armed Forces in Time of Armed Conflict; jointly to the Committees on National Security and the Judiciary.

4364. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Maritime Terrorism: A Report to Congress," for Calendar Year 1996, pursuant to 46 U.S.C. app. 1802; jointly to the Committees on International Relations and Transportation and Infrastructure.

4365. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and Inspector General, pursuant to 31 U.S.C. 1110; jointly to the Committees on Science and Government Reform and Oversight.

4366. A letter from the Secretary of Health and Human Services, transmitting the final report on the 3-year Staff-Assisted Home Dialysis Demonstration; jointly to the Committees on Ways and Means and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GILMAN: Committee on International Relations. H.R. 695. A bill to amend title 18, United States, to affirm the rights of U.S. persons to use and sell encryption and to relax export controls on encryption; with an amendment (Rept. 105-108 Pt. 2). Ordered to be printed.

Mr. HYDE: Committee on the Judiciary. H.R. 1953. A bill to clarify State authority to tax compensation paid to certain employees (Rept. 105-203). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 1348. A bill to amend title 18, United States Code, relating to war crimes; with an amendment (Rept. 105-204). Referred to the Committee of the Whole House on the State of the Union.

Mr. PORTER: Committee on Appropriations. H.R. 2264. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-205). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. H.R. 2266. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-206). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROGERS: Committee on Appropriations. H.R. 2267. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-207). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TALENT (for himself and Mr. LaFalce):

H.R. 2261. A bill to reauthorize and amend the programs of the Small Business Act and the Small Business Investment Act, and for other purposes; to the Committee on Small Business.

By Mr. CRANE:

H.R. 2262. A bill to make certain modifications with respect to overtime pay and premium pay of customs officers; to the Committee on Ways and Means.

By Mr. McHALE (for himself, Mr. Cunningham, Mr. Gibbons, Mr. King of New York, Ms. Brown of Florida, Mr. Boehlert, Mr. Skelton, Mr. Davis of Virginia, Mr. Horn, Mr. McInnis, Mr. Pomeroy, Mr. Sisisky, Mr. Weldon of Pennsylvania, Mr. Watts of Oklahoma, Mr. Taylor of Mississippi, Mr. Ehrlich, Mr. Pallone, Mr. Mascara, Mr. Spratt, Mr. Buyer, Mrs. Clayton, Mr. Frost, Mr. Holden, Mr. Weller, Mr. Weldon of Florida, Mr. Talent, Mrs. Emerson, Mrs. Kelly, Mr. Dooley of California, Mr. Burton of Indiana, Mr. Quinn, Mr. Klink, Mr. Skeen, Mr. Fox of Pennsylvania, Mr. Bob Schaffer, Mr. Ackerman, Mr. Poshard, Mr. McDade, Mr. Adam Smith of Washington, Mr. Hinchey, Mr. Olver, Mr. Hall of Texas, Mrs. Maloney of New York, Mr. Gilman, Mr. Hefner, Mr. Goode, Mr. Borski, Mr. Abercrombie, Mr. Reyes, Mr. Gilchrest, Mr. Jones, Mr. Kennedy of Rhode Island, Mrs. Chenoweth, Mr. Clyburn, Mr. Blagojevich, Mr. Blunt, Mr. Wamp, Mr. Baldacci, Mr. Cramer, Mr. Ney, Mr. Farr of California, Ms. Harman, Mr. Goss, Mr. Bass, Mr. Sandlin, Mr. Weygand, Mr. Turner, Mr. Foley, Mr. Pastor, Mr. Coble, Mr. Calvert, Mr. Istook, Mr. Bateman, Mr. Neumann, Mr. McIntyre, Mr. Walsh, Mr. Goodling, Mr. Fattah, Mr. Petri, Mr. McNulty, Mrs. Thurman, Mr. Condit, Mr. Murtha, Mr. Lipinski, Mr. McKeon, Mr. Hinojosa, Mr. Bono, Mr. Ensign, Mr. Ortiz, Mr. Rahall, Mr. Spence, Mr. Sherman, Mr. Rohrabacher, Mr. Klug, Mr. Young of Florida, Mr. Franks of New Jersey, Mr. Livingston, Mr. Wise, Mr. Allen, Mr. Bachus, Mr. Hyde, Mr. Sam Johnson, Mr. FAWELL, Mr. HAMILTON, Mr. SCHUMER, Mr. STUPAK, Mr. RODRIGUEZ, Mr. KANJORSKI, Mr. PETERSON of Minnesota, Mr. LARGENT, Mr. BARCIA of Michigan, Ms. SLAUGHTER, Mr. CANADY of Florida, Mr. DEAL of Georgia, Mr. BARRETT of Wisconsin, Mr. BAESLER, Mr. BONIOR, Mr. COYNE, Ms. DELAURO, Mr. DEUTSCH, Mr. DOYLE, Mr. EDWARDS, Mr. ENGLISH of Pennsylvania, Mr. FOGLIETTA, Mr. GORDON, Mr. MORAN of Virginia, Mr. NEAL of Massachusetts, Mr. MEEHAN, Mr. PARKER, Mr. ROEMER, Mr. SAXTON, Mr. SOLOMON, Mr. STUMP, Mr. TANNER, Mr. VISCLOSKY, Mr. HAYWORTH, Mr. MALONEY of Connecticut, Mr. CLEMENT, Mr. WICKER, Mr. HUNTER, Mr. ARMEY, and Mr. PACKARD):

H.R. 2263. A bill to authorize and request the President to award the congressional Medal of Honor posthumously to Theodore Roosevelt for his gallant and heroic actions in the attack on San Juan Heights, Cuba, during the Spanish-American War; to the Committee on National Security.

By Mr. GOODLATTE (for himself, Mr. COBLE, Mr. FRANK of Massachusetts, and Mr. CANNON):

H.R. 2265. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes; to the Committee on the Judiciary.

By Mr. COBLE:

H.R. 2268. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

H.R. 2269. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

H.R. 2270. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

H.R. 2271. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts (for himself, Mrs. LOWEY, Mr. EVANS, Mr. STARK, Ms. WOOLSEY, Ms. RIVERS, Mr. TORRES, and Ms. NORTON):

H.R. 2272. A bill to amend title 18, United States Code, to eliminate the prohibitions on the transmission of abortion related matters, and for other purposes; to the Committee on the Judiciary.

By Mr. JEFFERSON (for himself, Mr. FRANK of Massachusetts, Mr. NADLER, Mr. HILLIARD, Ms. LOFGREN, Mr. FROST, Mr. RAHALL, Mr. FILNER, Mrs. LOWEY, Mr. HALL of Ohio, Mr. WYNN, Mrs. MINK of Hawaii, Ms. FURSE, Mr. LATOURETTE, Mr. TRAFICANT, Mr. SCHIFF, Mr. NEY, Mr. HAYWORTH, Mr. BROWN of California, Mr. DELLUMS, Mr. LIPINSKI, Mr. NEAL of Massachusetts, Mr. BONIOR, Mr. DELAHUNT, Mr. MATSUI, Mr. EVANS, Mr. RANGEL, Mr. THOMPSON, Ms. CARSON, Mr. ABERCROMBIE, Mr. ENGLISH of Pennsylvania, Mr. STARK, Mr. ACKERMAN, Mr. MANTON, Mr. CLYBURN, Mr. RUSH, Mr. OLVER, Mr. GEJDENSON, Mr. DAVIS of Illinois, Mr. STRICKLAND, Mr. DIXON, Mr. CONYERS, Mrs. CLAYTON, Ms. KILPATRICK, Mr. FLAKE, Mr. CUMMINGS, Mr. PAYNE, Mr. LEWIS of Georgia, Ms. BROWN of Florida, Ms. JACKSON-LEE, Mrs. MEEK of Florida, and Mr. BERMAN):

H.R. 2273. A bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200; to the Committee on Ways and Means.

By Mr. LAZIO of New York:

H.R. 2274. A bill to amend the Housing Act of 1949 to reauthorize certain programs for rural housing assistance; to the Committee on Banking and Financial Services.

By Mrs. LOWEY (for herself and Mr. LAZIO of New York):

H.R. 2275. A bill to prohibit discrimination in employment on the basis of genetic information, and for other purposes; to the Committee on Education and the Workforce.

By Mr. STUPAK:

H.R. 2276. A bill to prohibit the use of Federal funds for official travel after Election Day of members of Congress who will not serve as members during the next Congress; to the Committee on House Oversight.

By Mr. THOMAS:

H. Con. Res. 123. Concurrent resolution providing for the use of the catafalque situated in the crypt beneath the rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William J. Brennan, former Associate Justice of the Supreme Court of the United States; to the Committee on House Oversight.

By Mr. YOUNG of Alaska (for himself and Mr. SAXTON):

H. Con. Res. 124. Concurrent resolution expressing the sense of the Congress regarding acts of illegal aggression by Canadian fishermen with respect to the Pacific salmon fishery, and for other purposes; to the Committee on Resources, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTKNECHT (for himself, Mr. LAMPSON, Mr. DEAL of Georgia, Mr. WALSH, Mr. FROST, Mr. HORN, Ms. PRYCE of Ohio, Mr. LIPINSKI, Mr. DIAZ-BALART, Mr. NEY, Mr. PETERSON of Minnesota, Mr. MCINTOSH, Ms. MOLINARI, Mr. DAVIS of Virginia, Ms. STABENOW, Mr. SCHIFF, Mr. LUTHER, Mr. BALDACCI, Mr. BENTSEN, Mr. FAZIO of California, Mr. DEUTSCH, Ms. LOFGREN, Mrs. ROUKEMA, Mrs. KELLY, Ms. CARSON, Mr. CRAMER, Mr. SANDLIN, Ms. MILLENDER-MCDONALD, Mr. CASTLE, Mr. UNDERWOOD, Mr. GRAHAM, and Mr. FOX of Pennsylvania):

H. Con. Res. 125. Concurrent resolution expressing the sense of the Congress that each State should enact legislation regarding notification procedures necessary when a sexually violent offender is released; to the Committee on the Judiciary.

By Mr. LIPINSKI (for himself, Mr. STUMP, Mrs. MORELLA, Ms. LOFGREN, Mr. SKEEN, Mr. WATTS of Oklahoma, Mr. CAMPBELL, Mrs. MALONEY of New York, Mr. UNDERWOOD, Mr. TOWNS, Mr. ROHRABACHER, Mr. GREEN, Mr. HILL, Mr. ETHERIDGE, Mr. ACKERMAN, and Mr. YATES):

H. Con. Res. 126. Concurrent resolution expressing the sense of Congress concerning the war crimes committed by the Japanese military during World War II; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FARR of California introduced a bill (H.R. 2277) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Manawanui*; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 59: Mr. GIBBONS, Mr. RYUN, and Mr. FAWELL.

H.R. 108: Mr. COOK.

H.R. 145: Mr. BARTON of Texas and Mr. LAFALCE.

H.R. 176: Mr. WYNN.

H.R. 195: Mr. PAPPAS.

H.R. 304: Mr. RUSH and Mrs. MALONEY of New York.

H.R. 306: Mr. MCNULTY, Mr. PETERSON of Minnesota, Mr. KENNEDY of Rhode Island, and Mr. MCHALE.

H.R. 404: Ms. KAPTUR, Mr. WALSH, Mr. RAMSTAD, Mr. MASCARA, Mr. LEWIS of Georgia, and Mr. RUSH.

H.R. 424: Mr. WEXLER.

H.R. 484: Mr. BILBRAY and Mr. UPTON.

H.R. 519: Ms. LOFGREN.

H.R. 536: Mrs. ROUKEMA.

H.R. 731: Mr. ETHERIDGE.

H.R. 758: Mr. RYUN, Mr. SKEEN, Mr. ROHRABACHER, and Mr. WHITFIELD.

H.R. 768: Mr. HOSTETTLER and Mr. GOODE.

H.R. 820: Mr. MCGOVERN.

H.R. 866: Mr. DEAL of Georgia.

H.R. 900: Mr. FORD.

H.R. 950: Mr. LAFALCE.

H.R. 981: Mrs. MEEK of Florida.

H.R. 989: Mr. LUTHER.

H.R. 1010: Mr. PACKARD and Mr. PICKETT.

H.R. 1018: Ms. CARSON.

H.R. 1036: Mr. WICKER, Mr. HORN, Mr. DREIER, Mr. GOODE, and Mr. WAMP.

H.R. 1070: Mr. COOKSEY, Mr. BARRETT of Wisconsin, Ms. PRYCE of Ohio, and Ms. SLAUGHTER.

H.R. 1104: Ms. HOOLEY of Oregon and Mr. ADAM SMITH of Washington.

H.R. 1194: Mr. YATES.

H.R. 1195: Mr. YATES.

H.R. 1231: Mr. OLVER.

H.R. 1232: Mr. BROWN of Ohio.

H.R. 1247: Mr. SOUDER and Mr. GRAHAM.

H.R. 1270: Mr. SUNUNU and Mr. KIND of Wisconsin.

H.R. 1279: Mrs. FOWLER.

H.R. 1346: Mr. HANSEN, Mr. GOODLING, Mr. MCDADE, and Mr. DREIER.

H.R. 1353: Ms. WOOLSEY.

H.R. 1453: Mr. BONIOR, Mr. EHLERS, Ms. ROYBAL-ALLARD, and Mr. VENTO.

H.R. 1493: Mr. CANNON, Mr. DEAL of Georgia, and Mr. BERMAN.

H.R. 1515: Mr. RILEY, Mrs. NORTHUP, and Ms. GRANGER.

H.R. 1524: Mr. GILCHREST, Mr. PETERSON of Pennsylvania, Mr. GOODE, Mr. JENKINS, Mr. LATOURETTE, and Mr. BOSWELL.

H.R. 1531: Mr. KING of New York, Mr. PAYNE, Mr. LANTOS, Ms. BROWN of Florida, Mrs. KELLY, and Mr. FRANK of Massachusetts.

H.R. 1534: Mr. BUNNING of Kentucky, Mr. KIM, Mr. HILLIARD, Mr. HAYWORTH, Mrs. NORTHUP, Mr. DEAL of Georgia, Mr.

CHRISTENSEN, Mr. PACKARD, Mr. PICKERING, Mr. GEKAS, Mr. MCHUGH, Mr. GILMOR, Mr. HEFLEY, Mr. COOKSEY, Mr. MCKEON, Mr. SALMON, Mr. ROGAN, and Mr. SMITH of Oregon.

H.R. 1614: Mr. RIGGS.

H.R. 1636: Mr. WATT of North Carolina and Mrs. TAUSCHER.

H.R. 1710: Mr. STENHOLM, Mr. KIND of Wisconsin, Mr. TANNER, Mr. DREIER, Ms. DANNER, Mr. PASCRELL, Ms. BERNICE JOHNSON of Texas, Mr. MINGE, Mr. PICKERING, Mr. MENENDEZ, Mrs. KELLY, Ms. DUNN of Washington, Mr. GRAHAM, Mr. BUNNING of Kentucky, Mr. ROTHMAN, Mr. ETHERIDGE, Mr. PACKARD, Mr. HOEKSTRA, Mr. HANSEN, and Mr. COOK.

H.R. 1711: Mr. BRADY and Mr. HALL of Texas.

H.R. 1719: Mr. CALVERT.

H.R. 1741: Ms. HOOLEY of Oregon.

H.R. 1788: Mrs. LOWEY.

H.R. 1839: Mr. TANNER and Mr. DELLUMS.

H.R. 1872: Mr. BURR of North Carolina, Mr. GANSKE, and Mr. SHAYS.

H.R. 1972: Mr. BLAGOJEVICH.

H.R. 1984: Mr. SENSENBRENNER, Mr. GILLMOR, Ms. GRANGER, Mr. CAMP, and Mr. PORTMAN.

H.R. 1987: Mr. KENNEDY of Massachusetts.

H.R. 2022: Mr. KOLBE.

H.R. 2064: Mr. KING of New York and Mr. MARTINEZ.

H.R. 2094: Mr. LOBIONDO, Mr. BONIOR, Mr. EVANS, Mr. STARK, Mr. RUSH, Mr. SMITH of New Jersey, and Ms. WOOLSEY.

H.R. 2121: Mr. JACKSON and Mr. BERMAN.

H.R. 2129: Mr. NEY, Mr. STRICKLAND, Mr. KUCINICH, Mr. BOEHLERT, Mr. PARKER, Mr. HALL of Ohio, and Mr. LATOURETTE.

H.R. 2173: Mr. BURTON of Indiana.

H.R. 2183: Mr. FOLEY.

H.R. 2185: Mr. CLYBURN and Ms. CARSON.

H.R. 2198: Mr. TORRES and Mrs. THURMAN.

H.R. 2221: Mr. COBURN, Mr. HOEKSTRA, Mr. PAUL, and Mr. GEKAS.

H. Con. Res. 65: Mr. PRICE of North Carolina, Mr. SKELTON, Mr. WEYGAND, Mr. BUNNING of Kentucky, Mr. SISISKY, Mr. SCHUMER, Ms. RIVERS, Mr. CRAMER, Mr. MCNULTY, Mrs. MCCARTHY of New York, Mr. RILEY, and Ms. CARSON.

H. Con. Res. 80. Mr. SAWYER, Mr. CRAMER, Mr. BOSWELL, and Mr. HEFNER.

H. Con. Res. 83: Mr. KING of New York.

H. Con. Res. 100: Mr. CONDIT.

H. Con. Res. 106: Mr. MCGOVERN.

H. Con. Res. 107: Mr. PACKARD.

H. Con. Res. 114: Ms. NORTON, Mr. MCHALE, Mr. LIPINSKI, Mr. SHERMAN, Mr. HINCHEY, Ms. LOFGREN, Mr. LANTOS, Mr. MCGOVERN, Mr. PORTER, Mr. FROST, and Ms. ESHOO.

H. Res. 37: Ms. LOFGREN.

H. Res. 157: Mrs. CUBIN and Mr. FALEOMAVAEGA.

H. Res. 183: Mr. DELLUMS, Mr. ENGEL, Mrs. MALONEY of New York, Mr. PAYNE, Mr. OLVER, Ms. WATERS, Mr. CLAY, Mr. THOMPSON, Mr. DIXON, Mr. DAVIS of Illinois, Mr. FROST, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MANTON, Ms. KILPATRICK, Mrs. MEEK of Florida, Mr. STOKES, Ms. CARSON, Mr. SCOTT, Mr. RUSH, Mr. FILNER, Mr. FLAKE, Mrs. KENNELLY of Connecticut, Mr. LAMPSON, Mr. BISHOP, and Mr. OWENS.

H. Res. 188: Mr. ROYCE, Mr. SAM JOHNSON, Mr. SHADEGG, Mr. SPENCE, Mr. HUNTER, Mr. GIBBONS, Mr. MCINTOSH, and Mr. KING of New York.

H. Res. 195: Mr. ROHRABACHER and Mr. SALMON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 198: Mr. TOWNS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2159

OFFERED BY: MR. FORBES

AMENDMENT NO. 62: At the end of the bill, insert after the last section (preceding the short title) the following new section:

LIMITATION ON ASSISTANCE FOR THE P.L.O., THE PALESTINIAN AUTHORITY

SEC. 572. (a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Palestine Liberation Organization (hereafter the "P.L.O.") should do far more to demonstrate an irrevocable denunciation of terrorism and to ensure a peaceful settlement of the Middle East dispute, and in particular it should—

(1) submit to the Palestinian Council for formal approval the necessary changes to those specified articles of the Palestinian National Charter which deny Israel's right to exist or support the use of violence;

(2) to the maximum extent possible, preempt acts of terror, discipline violators, publicly condemn all terrorist acts, actively work to dismantle other terrorist organizations, and contribute to stemming the violence that has resulted in the deaths of over 230 Israeli and United States citizens since the signing of the Declaration of Principles on Interim Self-Government Arrangements (hereafter the "Declaration of Principles") on September 13, 1993, at the White House;

(3) prohibit participation in the P.L.O. or the Palestinian Authority or its successors of any groups or individuals which promote or commit acts of terrorism;

(4) cease all anti-Israel rhetoric, which potentially undermines the peace process;

(5) confiscate all unlicensed weapons and restrict the issuance of licenses to those with legitimate need;

(6) transfer and cooperate in transfer proceedings relating to any person accused by Israel or the United States of having committed acts of terrorism against Israeli or United States nationals; and

(7) respect civil liberties, human rights and democratic norms as applied equally to all persons regardless of ethnic, religious, or national origin.

(b) LIMITATION ON ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, funds appropriated or otherwise made available by this Act may be obligated for assistance, directly or indirectly, for the P.L.O., the Palestinian Authority, only for the period beginning 3 months after the date of the enactment of this Act and for 6 months thereafter, and only if—

(A) the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect; and

(B) in addition to the requirements contained in such Act or other legislation, the President prepares and transmits to the Congress a report described in paragraph (2).

(2) REPORT.—A report described in this paragraph is a report containing the following:

(A) A description of all efforts being made to apprehend, prosecute, or have extradited to the United States Mohammad Deif (allegedly responsible for the death of Nachshon Wachsman, a United States citizen), Amjad Hinawi (allegedly responsible for the death of David Boim, a United States citizen), Abu Abbas (responsible for the death of Leon Klinghoffer, a United States citizen), Amid al-Hindi (allegedly responsible for the death of David Berger, a United States citizen), and Nafez Mahmoud Sabih (who helped plan the February 1996 attack on a Jerusalem bus in which Jewish Theological Seminary students Sara Duker and Matthew Eisenfeld, both United States citizens, were murdered).

(B) An official, updated, and revised copy of the Palestinian National Charter (Covenant) showing which specific articles have been rescinded by the decision taken on April 24, 1996 by the P.L.O. Executive committee.

(C) A description of all actions being taken by the Palestinian Authority to eradicate and prevent the use of the map of Israel to represent "Palestine".

(D) A certification that the Palestinian Authority has established a court system that respects due process requirements, including the right to a lawyer, the right to confront witnesses, the right to be informed of the charges under which one is accused, and the right to a jury trial.

(E) A certification that the Palestinian Authority has established humane prison conditions.

(F) A certification that the Palestinian Authority has taken all measures to rescind the death penalty imposed for the sale of land to Jews, has eliminated the practice of incarcerating real estate agents for the sale of land to Jews or Israelis, and has actively sought the perpetrators of such actions.

H.R. 2266

OFFERED BY: MR. DEFAZIO

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in this Act may be obligated or expended for the public printing or binding of Government publications in contravention of measures established by the Joint Committee on Printing pursuant to section 103 of title 44, United States Code.

H.R. 2267

OFFERED BY: MR. CUMMINGS

AMENDMENT NO. 1: Under the heading "RELATED AGENCIES—LEGAL SERVICES CORPORATION" insert after the first dollar sign the following: "(increased by $199,000,000)".

Under the heading "DEPARTMENT OF STATE—RELATED AGENCIES—INTERNATIONAL BROADCASTING OPERATION" insert after the first dollar sign the following: "(reduced by $199,000,000)".

EXTENSIONS OF REMARKS

IN HONOR OF GEORGE GRENDA

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to thank George Grenda for his dedication to the 4–H Club community of northern Cook County, IL. George Grenda was born in 1938, raised in Chicago and suburban Cook County and has been employed by Country Co., as an insurance agent, for many years. His current office is in Palatine, IL.

George has participated in 4–H activities for over 20 years in north suburban Cook County. He and his wife Zola first became involved with 4–H when they chaperoned a group of 4–H'ers in an exchange with West Virginia.

Since 1991, George has served on the Chicago-County 4–H Foundation Board of Trustees. In 1994, he was elected to the position of vice president, Financial Development. In that capacity he has regularly encouraged 4–H volunteer trustees to raise money by making calls even if it meant taping the phone to their hand until the job was done. He related that he made himself do just that when starting out as an insurance salesman.

In the late eighty's when George was president of the North Cook County 4–H Fair Board, he always auctioned off cakes made by 4–H'ers to raise money at a Knight of Columbus event. Because George would try to raise the amount by bidding on the cakes himself, he always got stuck buying at least one or two of the cakes.

Another one of George's presidential duties during his 6-year tenure, was to provide leadership in running the annual lemonade stand at the 4–H Fair. Needless to say, George was very good at first, carrying water; two squeezing lemons; three mixing lemonade; and four collecting money.

In 1996, George acted as chairman of FORE for 4–H Foundation Golf Tournament to raise money for the 61,000 4–H'ers in Cook County. George was credited with spearheading this successful event which netted over $5,000 for 4–H youth in Cook County.

For his countless hours committed to youth, their families, and communities, I would like to join all of the many volunteers and 4–H Staff in thanking George for his distinguished service and unmatched effort.

TRIBUTE TO THE STATE OF ALABAMA

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. HILLIARD. Mr. Speaker, one of the nation's most well kept secrets is the state of Alabama. Few people know of the wonderful splendors and rich history contained within this state. Staff writer James T. Yenckel, of the Washington Post, recently tapped into this secret and embarked upon a 700-mile exploration into northeastern Alabama. He wrote about his experiences in a June 15th article entitled "Well, I've Come From Alabama With a Brand New Point of View: The State Has a Lot to Offer." In his article Yenckel recognizes the historical richness of Alabama, as well as glorifies its natural beauty.

The state of Alabama deserves great acclaim for its natural beauty. The state contains about 24 state parks and over 12 major rivers. Northern Alabama also lies on the foothills of the Appalachian Mountains. Yenckel discusses his visits to several of these state parks and national monuments. Among those included is Little River Canyon National Preserve, which offers a breathtaking drive along the rock-filled canyon and a view of the waterfall which spills down the cliff side. Guntersville State Park is located in the northeastern corner of the state. Guntersville is a small town surrounded on three sides by the beautiful Lake Guntersville. Here travelers can enjoy swimming, fishing, hiking and golfing amount other things. Other parks, such as Desoto Caverns and the Talledega National Forest offer wonderful natural beauty which can only be property appreciated up close and personal.

From a historical standpoint, Alabama has done a wonderful job of preserving landmarks and monuments. Throughout Guntersville you may hike along the actual trails that the Cherokee Indians used when the land was theirs. Russell Cave is a giant cave carved into the side of a cliff. Thousands of years ago Indians used this cave to escape from the cold. There are human skeletal remains in this cave which date back more than 6,000 years. Yenckel mentions the visitor's center which displays tooth ornaments, bone needles, shell beads, and bone fishhooks, along with other artifacts. Along the same lines, visitors can encounter Horseshoe Bend National Military Park. This site contains the battlefield on which Andrew Jackson defeated the Creek Nation in 1814, and ensured himself a position as president of the United States.

The most profound historical significance in the state of Alabama lies in the history of the Civil Rights Movement. The state is developing a civil rights trail which would identify key sites and individuals associated with the movement. One of the nation's largest Civil Rights museums is the Civil Rights Institute located in Birmingham, Alabama. In central Alabama, visitors have the opportunity to visit historical Tuskegee Institute. Here, tourists learn of the lives of two men pivotal to African-American history, Booker T. Washington and George Washington Carver. Both men devoted a large part of their lives toward the improvement of living and working conditions of rural southerners, especially blacks. The George Washington Carver Museum and the Oak's, the home of Washington when he served as president of Tuskegee, are both historic sites located on the campus of Tuskegee University. Tours and movies are used to enlighten visitors on the lives and works of these two great men.

As Yenckel discovered, it does not take long for Alabama to win the hearts of those who enter her borders. The people of Alabama are friendly and courteous. Tourists can enjoy fresh seafood from the Gulf of Mexico. The state offers a quiet alternative to your usual vacation spot. Fish on the banks of one of the many rivers and lakes in Alabama, or hike through the numerous forests enjoying the natural splendor, or party in the downtown area of the Magic City. Alabama has a little something for everyone!

I am including the Washington Post article for your reading pleasure.

[From the Washington Post, June 5, 1997]

WELL, I'VE COME FROM ALABAMA—WITH A BRAND NEW POINT OF VIEW: THE STATE HAS A LOT TO OFFER

(By James T. Yenckel)

I was lost, plain and simple. Somewhere on the empty, scenic back roads of northeastern Alabama, I'd made a wrong turn. My map yielded no help, and I'd even lost my sense of direction. Then I spotted a delivery truck headed toward me, and I decided to flag the driver down to ask for directions. But he was slowing anyway, and as he pulled to a stop he asked, "Where am I?" I laughed and admitted I wanted to know the same myself. We joked briefly about our predicament, and then drove off in opposite directions.

Getting lost can be annoying and even frightening, but it's also comforting to find that America still offers odd nooks where getting lost remains possible. And Alabama definitely is one of them, as I discovered on a five-day driving trip last month through lovely lake and mountain country, stopping at several fascinating national historical sites.

Why Alabama? I doubt it has ever ranked high on many vacation lists—mine included, in part because of lingering memories of the angry clashes that marked the civil rights movement within the state. But I really wanted to put this past in the past and learn what the Alabama of today offers visitors. I often find that offbeat pocket of America—their local lore and geography—offer many more rewards than disappointments. Northeastern Alabama proved no exception.

Much of the landscape here is surprisingly mountainous—dotted with plentiful lakes that obviously attract a lot of fisherman. I saw them everywhere, casting from shore or putt-putting about in their small motorboats. One afternoon, I drove on the rim of the 35-mile-long Little River Canyon, a near-wilderness where waterfalls cascade down the cliffside into the splashing Little River. At one point, I watched a group of kayakers preparing to launch into the rapids. Recently made a national parkland, the canyon is one of the deepest east of the Mississippi.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

My 700-mile itinerary took me to Russell Cave National Monument, where a short hike leads to two large limestone caverns in which archaeological digs have revealed human habitation dating back more than 8,000 years; to Horseshoe Bend National Military Park, the battlefield on which Andrew Jackson defeated the Creek Nation in 1814 and put himself on the road to the presidency; and to Tuskegee Institute National Historic Site, which honors Booker T. Washington, the predominantly black college's founding president, and George Washington Carver, its famed agricultural scientist.

Tuskegee made the news last month when President Clinton apologized on behalf of the American government for a misguided study there of untreated syphilis in black men that began in 1932 and continued for years. The historic site, however, highlights a more inspirational story out of the institute—one in which Washington and Carver dedicated their lives to improving the living conditions and surroundings of Southern farm and rural people.

The message is compelling, and I lingered on the campus for hours absorbing as much as I could. Perhaps its upbeat nature accounts for recent visitor statistics that put Tuskegee at the top of Alabama's list of most popular attractions, beating out even the U.S. Space and Rocket Center in Huntsville. Regardless of the history, the campus is a pretty place of stately red-brick buildings and rolling, tree-shaded hills. Washington's imposing home, built by the institute's students and faculty, is open to tours.

From the outset, I found the quiet lake views and winding, wooded roads along my route appealing, and I quickly rearranged my plans to skirt Alabama's biggest cities and stick to the countryside. I spent three of my four nights on the road in two state park lodges, where my rooms—both quite reasonably priced at less than $65—provided pleasant lakeside panoramas. At sunset one evening, two geese waddled past my patio, trailing a string of goslings.

I tend to favor trendy restaurants with innovative menus, but in rural Alabama, I was out of luck. Nonetheless, I dined nicely on simple, old-fashioned Southern cooking—much of it fried: fried pork chops, fried shrimp and fried catfish, to be exact. I did opt for wine over the South's inevitable iced tea, however, which boosted the price of each dinner to about $20, including tax and tip. This trip was definitely easy on the budget.

Eager as I was to visit a part of the country unknown to me, I still felt a certain trepidation. Alabama's sometimes brutal resistance to integration during the civil rights battles remains a vivid picture in my mind. Would I, a Northerner from the nation's capital, be unwelcome? One value of travel is that it exposes the foolishness of such fears. Everyone I met—without exception—proved friendly and helpful.

In the little lakeside town of Guntersville, I stood in line at the checkout counter at the local Foodland discussing spring allergies—a problem the woman in line in front of me, the sweet little gray-haired clerk and I discovered we shared. This has been a particularly bad spring, we agreed. And then, as the clerk handed me my sinus medication, she reached over the counter and patted the back of my hand in a most grandmotherly fashion. That spontaneous, sympathetic gesture instantly won my heart. I like the Alabamians I met.

Guntersville, a quiet little town wrapped on three sides by Lake Guntersville, was my first stop. About an hour's drive south from the Huntsville airport, it nestles in the rolling green foothills of the Appalachian Mountains. I'd booked two nights at the 100-room State Lodge at Lake Guntersville State Park, an appropriately woodsy structure of stone and timber perched on a high, forested bluff overlooking the lake. It made a pleasant spot from which to tour the surrounding countryside. And awaiting my return in the afternoon was a sandy swimming beach and woodland hiking trails that two centuries ago may have guided the Cherokee Indians whose land this once was.

My primary sightseeing goal in this corner of the state was Russell Cave National Monument, a relaxed two-hour drive northeast along the scenic west bank of Guntersville Lake and the Tennessee River, which feeds it. The monument's historical significance is reason enough to go, but the views are especially agreeable, too. Limestone cliffs, dripping in verdant foliage, soar above a tumbling stream that gushes from an underground spring and then, moments later, disappears into the deep, labyrinthine cavern adjacent to Russell Cave. The setting, at the end of a remote five-mile-long valley called Doran Cove, looks as if it has changed little over the ages.

Russell Cave itself is like a giant arched room, 26 feet high, carved into a cliffside. More than 8,500 years ago, bands of Indians began using the cave as shelter from the winter cold, according to archaeological studies. Human skeletal remains dating back more than 6,000 years have been found buried inside, and the monument's visitor center displays bear tooth ornaments, bone needles, shell beads, a bone fishhook and other artifacts uncovered there. Few sites anywhere in North America offer such a long record of occupancy.

Along with the history lessons, visitors are invited to climb the nature trail over Montague Mountain, which highlights the ecology of a typical Southeastern forest. The climb is steep, and signs warn to beware of rattlesnakes—I stomped noisily several times so as not to surprise any. But in May the wildflowers were in glorious bloom, and I appreciated the little informational signs pointing out beech, hickory, oak and other varieties of trees. The Indians used oak for their fires, the signs explained, and hickory for their spear shafts, because the branches grow straight.

En route back to Guntersville, I crossed the Tennessee River and headed for the Little River Canyon National Preserve, another national parkland located just east of the town of Fort Payne. Purchased by the National Park Service five years ago, the preserve still provides only a minimum of facilities. Nevertheless, the Canyon Rim Drive yields the sort of spectacular, rock-filled canyon vistas more often seen in the West. At several overlooks, soon to be paved, the roar of rushing water echoes from between the canyon walls. A waterfall here and there spills down the cliffside.

The canyon and its tumbling stream attract canoeists, kayakers and rafters, but the park service warns this is territory safely navigated only by the very experienced. Less adventurous visitors can splash in a stream pool at the just rebuilt Canyon Mouth Park, a picnic area at the southern tip of the preserve, where there is a sandy beach. Perhaps because the preserve is so little known yet, I had it almost to myself for the afternoon.

I had hoped to stay at the lodge at DeSoto State Park Resort, just north of the preserve, but a refurbishing project had been temporarily delayed, and the lodge wasn't yet open for the season. Ah well, I was quite content to spend a second night in my room with a view at Lake Guntersville State Park. This evening, I dined nicely on a heaping plate of deep-fried butterfly shrimp from the Gulf of Mexico. And, yes, I could manage a slice of pecan pie, heated and served with a big scoop of vanilla ice cream.

Leaving Guntersville behind the following day, I drove south through Anniston to the Talladega National Forest, which is traced for 23 miles by the officially designated U.S. Forest Service Talladega Scenic Drive. A two-lane highway, it wiggles along the crest of Horseblock Mountain presenting splendid valley panoramas to the left and right, much like Shenandoah National Park's Skyline Drive in Virginia. Atop the ridge, Cheaha State Park Resort offers more woodsy lodgings with a view.

My particular interest on this leg of my trip, however, was Horseshoe Bend National Military Park, the now quiet, shady site of the bloody 1814 battle in which Andrew Jackson's militia army swept to easy victory over the defending Creek Nation. On this day, the battlefield, located south of the Talladega forest in the midst of rolling farmland, seemed altogether unmilitary. Instead of combatants, I came upon a large flock of wild turkeys.

The visitor center tells the story well. During the War of 1812, the Creek Nation, occupying much of what is now Georgia and Alabama, became divided over whether to fight the encroachment of white settlers or try to coexist with them. In the upheaval, the militant Creeks attacked Fort Mims, just north of Mobile, and killed 250 settlers; in response, Andrew Jackson called out the Tennessee militia. The Creeks gathered on a 100-acre peninsula formed by a horseshoe bend of the Tallapoosa River, fortifying the peninsula's open end with a log barricade.

Their strategy is easily understood and the geography readily viewed. The militants expected the river, encircling them on three sides, to provide protection behind them while they formed a strong defense of the log barricade. Jackson bombarded the barrier, but his quick victory came when his Cherokee allies—along with accommodating Creeks—crossed the Tallapoosa in canoes and attacked from the rear. The militants lost 800 of their force of 1,000; the Creeks were forced to cede 20 million acres of their ancestral lands to the U.S. government (out of which the state of Alabama was created in 1819)—and Jackson took a giant step forward on his road to the presidency.

A short driving tour and a nature trail loop onto the peninsula, passing a line of white stakes that mark the site of the barricade and approaching the river at several points. On the day I was there, the river, from 200 to 600 feet wide, flowed high, fast and muddy. Under similar conditions, I wondered, would Jackson's stealthy canoes have been able to maneuver across so successfully?

Although I had to drive an hour or so out of my way, I had been so pleased with my accommodations at Guntersville State Park that I headed farther to the south for the night to Lakepoint Resort State Park just north of Eufaula, where I enjoyed another room with a fine lake view. After an early dinner of barbecued pork ribs and lemon meringue pie, I strolled along the lakeshore watching a bright orange sunset. Some of the local folks had cast lines into the water. "The crappie have been biting good here," an elderly fisherman informed me.

In today's world of seemingly unrelenting sleaze, I found that my spirit welcomed the noble stories of Booker T. Washington and George Washington Carver, who dedicated their lives to improving the living and working conditions of rural Southerners—in large part black Southerners. The tales are told with dignity and respect at Tuskegee National Historic Site.

Born a slave, Washington became the founding president of Tuskegee Institute in 1881, literally building it from scratch. Located on the outskirts of the small farm community of Tuskegee, the campus has grown to a major complex occupying more than 5,000 acres and enrolling more than 5,000 students. Carver, also born a slave, was invited by Washington in 1896 to head the school's new agriculture department, bringing fame and honor to Tuskegee with his practical research. He developed countless profitable new uses for local crops, including peanuts.

The national historic site, a part of the campus, maintains the George Washington Carver Museum, which details the achievements of both men; the Oaks, Washington's home as president, where hourly escorted tours are offered; the graves of Washington and Carver, situated on a shady slope next to the Chapel; and a self-guided walking tour of 27 historic buildings.

In the museum, I was intrigued by the Agriculture School on Wheels, a large brown van that toured the Alabama countryside, bringing knowledge of new agricultural techniques to farmers who could not attend the institute. In the beginning, Carver got about in a horse-drawn carriage. At the Oaks, ranger Christine Biggers, the tour leader, noted that Washington always dined formally—and on campus during his tenure, student meals also were formal occasions. In this way, she said, the institute trained the young people in "manners, social skills and personal hygiene."

The visitor center at the museum presents two movies, one focusing on Washington and the other on Carver, and neither should be missed. Under Washington, as the movies point out, a major objective at Tuskegee was to train students in practical skills they could market in the rural South. As part of their instruction, they helped build the campus, which meant making the red bricks used there. But for a time this goal—and Washington himself—became a target of sharp dissent in the black community because, the critics argued, it (and he) slighted the students' intellectual growth.

As we stood on the porch of the Oaks after the tour, I asked Biggers, who is black, what today's students, a majority of whom are black, now think about Washington and his and Carver's work. She answered without a pause: "They think what he did was great." I couldn't have asked for a more upbeat ending to my Alabama drive.

ALABAMA WAYS & MEANS

GETTING THERE: To explore northeastern Alabama, I flew into Huntsville and out of Montgomery. But to save on the cost of a rental car drop-off charge, you could easily plot a loop drive covering the same territory from either Huntsville, Birmingham or Montgomery—depending on which destination gives you the best air fare.

Huntsville is served from the Washington area by American, Delta, Northwest and US Airways. US Airways, which offers some nonstop commuter flights out of Washington National, currently is quoting a round-trip fare of $209, based on a 21-day advance purchase.

WHEN TO GO: Spring through fall. I enjoyed early May, because days were sunny and mild and I avoided the summer crowds.

WHERE TO STAY: In northeastern Alabama, four state parks—Lake Guntersville, DeSoto, Cheaha and Lakepoint—offer attractive, moderately priced and conveniently located accommodations in scenic settings. Depending on the resort, you can choose to stay in a hotel room, a chalet or a cabin.

Lake Guntersville and Lakepoint are lake parks with fishing, boating, tennis and a swimming beach. Lake Guntersville, the fanciest of the four, also boasts an 18-hole golf course. DeSoto and Cheaha are mountain parks, although Cheaha does feature a swimmable lake. All four parks operate swimming pools and other resortlike facilities.

Depending on the park, a hotel room for two ranges from $44 to $60 a night. For information or reservations, call 1-800-ALA-PARK (1-800-252-7275).

WHERE TO EAT: I ate breakfast and dinner daily in the park dining rooms. At Lake Guntersville and Lakepoint, where I stayed, the decor proved surprisingly elegant and the picture window views were great. Menus stuck to standard fare—steaks, chops, fried chicken, local fish and pasta—simply but tastily prepared. Wine and beer are available. A full meal with salad, dessert, two glasses of wine, tax and tip came to about $20 to $22 per person. A fully country breakfast (juice, two eggs, sausage, hash browns, toast, coffee), tax and tip included, was less than $6 per person.

TRIBUTE TO HOOSIER BOYS' TOWN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my pleasure to extend my sincere congratulations to Hoosier Boys' Town as it celebrates its 50th anniversary. In particular, I would like to congratulate Hoosier Boy's Town Executive Director, Anita Dygert-Gearheart, board of directors, staff, and volunteers, who should be proud of the outstanding service their efforts have provided the young people of Indiana's First Congressional District. Hoosier Boys' Town is beginning its 4-day anniversary celebration today on its campus in Schererville, IN. The Hoosier Boys' Town Board of Directors, residents, staff, former residents, friends, and volunteers, have invited the general public to join them in celebrating the organization's 50 years of service and commitment to the communities of northwest Indiana.

Founded in July 1947, Hoosier Boys' Town was established by a beloved priest from East Chicago, IN, Msgr. Michael Compagna, in an effort to help disadvantaged youth fully utilize "their God-given potential." Msgr. Compagna's vision was to create a village composed of small cottages, with facilities offering emotionally disturbed boys a supportive and loving family environment. After 3 years of internal debate, Hoosier Boys' Town became a reality as it opened in the form of a home for disadvantaged boys, where Father Compagna's mission of providing a healthy environment for children in need materialized through the administration's guiding beliefs in individual worth and the value of education and community.

Over the years, Hoosier Boys' Town has upheld Monsignor Campagna's mission through its continued devotion to children at risk of failing in society. The organization currently administers an array of programs geared toward children experiencing problems of neglect, abuse, chemical dependency, abandonment, and learning disability. Countless youths and their families find a caring haven in the community-based residential, educational, and treatment centers of Hoosier Boys' Town, which focus on the enhancement of body, mind, and spirit. Hoosier Boys' Town success in positively changing the lives of young people has not gone unnoticed, for the organization has recently received accreditation of its services by the Council on Accreditation of Services for Families and Children, Inc. Accreditation attests that the services provided by Hoosier Boys' Town fulfill the community's needs in a safe, professional, and quality-conscious manner.

While the progress Hoosier Boys' Town has made from the time of its inception is apparent, the organization is fully aware that a vision for the future is necessary for continued growth and service. Hoosier Boys' Town's vision includes the expressed goal of becoming the premier residential treatment facility in northwest Indiana for children and their families. In order to achieve this goal, the organization is launching its first ever Capital Campaign, which is expected to raise the $2.5 million needed to build a multipurpose building, serving as both an education and dining facility. Currently, Hoosier Boys' Town educate 40 to 50 young people each day and serves approximately 400 meals daily.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending Hoosier Boys' Town on the occasion of its 50th anniversary celebration. The hard work and dedication everyone involved with this distinguished organization has put forth is truly inspirational.

IMMEDIATE REAUTHORIZATION OF THE MIDDLE EAST PEACE FACILITATION ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. DINGELL. Mr. Speaker, the United States has acted boldly in the pursuit of Middle East peace for several years under two administrations. The Middle East Peace Facilitation Act of 1993 [MEPFA], which allows our Government to recognize the Palestinians, work with them, and provide them the help they need to establish security and work for a peaceful existence with Israel, will expire on August 12.

At this moment, there are quiet efforts to resume constructive diplomacy between the Israelis and the Palestinians. The United States is trying to bridge differences and refocus talks on the true goals first agreed to in the Oslo Accords. However, within the next few days this body is likely to let MEPFA expire while considering whether to cut off all United States assistance to the Palestinians, leaving no incentive to work with our Government to achieve peace. In fact, the expiration of MEPFA will mean that any United States contact with the Palestinian Authority is illegal after August 12.

Rather than completely obstructing our administration at this most crucial stage by punishing the Palestinians, I believe it is in our own best interest to extend MEPFA for another 180 days so we do not risk the loss of peace—or worse yet—the resumption of war.

I am, therefore, introducing a bill with Representative RAHALL to extend MEPFA for 6 months. I urge my colleagues to cosponsor this bill, and if at all possible, for this body to extend MEPFA before we leave for the August recess.

MEPFA was approved by Congress to allow the administration to have the tools it needs to promote peace. It has twice been extended. We must not let this authority lapse.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes:

Ms. ROYBAL-ALLARD. Mr. Chairman, I congratulate Chairman LEWIS and Ranking Member STOKES on producing a bipartisan bill with broad support in the House.

However, Mr. Chairman, I would like to highlight the multi-Family Preservation Program in the hopes that the HUD–VA Conference Committee will appropriate funding for this essential program. This program is very important to low-income communities not only in my congressional district but throughout the Nation because it is critical to maintaining our country's dwindling affordable rental housing supply.

The Preservation Program keeps housing affordable for low-income families, the disabled and the elderly by allowing private owners to transfer their rental properties to tenant-endorsed nonprofits who will continue to serve this vulnerable residential population. As a consequence of HUD's Preservation Program, over 800,000 units of affordable housing have been preserved.

Currently, there are 260 projects nationwide, consisting of more than 29,000 units, that need funding to avoid their conversion to market-rate rentals and prevent the displacement of thousands of low-income tenants.

The Preservation program continues to have solid bipartisan support. As recently as June 20th, I joined 27 of my California colleagues from both sides of the aisle in sending a letter of support for the Preservation Program. In our letter, we stressed that California alone has 25 percent of the country's unfunded preservation properties. This represents approximately 5,000 units awaiting preservation funding in California alone.

The Preservation program has been criticized as being too expensive and many references have been made to a pending GAO report, which is critical of the program. While there have been some high costs associated with the program, the fact is that it is relatively inexpensive. In its findings, GAO cities almost exclusively the high cost preservation projects, which are not representative of the entire group of properties in the national queue. While I have no doubt that the GAO findings are accurate for the small sample studied, this report does not mean that Congress should make hasty or ill-advised conclusions about the program's overall true costs to the taxpayer based on an unrepresentative sampling.

It is important to note that temporary enhanced vouchers—which are being proposed to mitigate the loss of housing for thousands of displaced low income families and the elderly—are not a viable or cost-effective substitute for this important housing stock. Vouchers will not protect the physical housing stock, nor will they guarantee the current residents any long-term security because it is dependent on annual congressional appropriations.

The HUD–VA Conference Committee has consistently recognized the value of the Preservation Program and provided adequate funds over the past 2 years. I rise to ask the conference committee to mirror the sensible and cost-effective efforts of past years and fund the Preservation Program at a level of $350 million for fiscal year 1998.

TRIBUTE TO COL. WILLIAM D. CUMMINGS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. COBLE. Mr. Speaker, I rise to recognize the dedication, public service, and patriotism of Col. William D. Cummings, U.S. Air Force, on the occasion of his retirement after a career of faithful service to our Nation. Col. Bill Cummings' strong commitment to excellence will leave a lasting impact on the vitality of our modern warfighters, commanding admiration and respect from his military and civilian colleagues as well as Members of Congress.

Colonel Cummings of Summerfield, NC, is a graduate of East Carolina University. He is serving his last assignment in the Air Force as Deputy for Program Integration and Congressional Activities, Deputy Chief of Staff, Air and Space Operations, in the Pentagon.

After earning his pilot's wings at Vance Air Force Base, OK in 1968, Colonel Cummings worked as a C–130 pilot at Sewart Air Force Base in Tennessee. As an AC–130A gunship aircraft commander in Thailand, Colonel Cummings accumulated 118 combat missions during the Vietnam War with the 8th Tactical Fighter Wing. After returning to the United States he was assigned as a tactical airlift director, and in June 1982 he was selected to command the 375th Transportation Squadron.

Just 4 years after he was named senior airlift controller, Colonel Cummings became vice commander for the 322d Airlift Division at Ramstein AB, Germany in 1991. As commander of the 621st Air Mobility Support Group, he directed strategic airlifts in 12 countries through Europe and Saudi Arabia. Upon his return to the United States he assumed his current responsibility of Deputy for Program Integration and Congressional Activities for Deputy Chief of Staff, Air and Space Operations.

The colonel is a command pilot with over 3,000 flying hours. His military decorations include the Legion of Merit, the Distinguished Flying Cross with one oak leaf cluster, the Defense Meritorious Service Medal, the Meritorious Service Medal with three oak leaf clusters, the Air Medal with seven oak leaf clusters, and the Air Force Commendation Medal. He has also received the Outstanding Unit Award with "V" for valor and five oak leaf clusters, the Organizational Excellence Award, the Combat Readiness Medal, the Vietnam Service Medal with two service stars, and the Republic of Vietnam Gallantry Cross with palm.

Our Nation, the Department of Defense, the U.S. Air Force, and his family can truly be proud of the colonel's many accomplishments. He is a man of extraordinary talent and integrity. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Col. William D. Cummings. On behalf of the citizens of the Sixth District of North Carolina, we wish him all the best in his future endeavors.

SUPPORT VICTIMS OF FLOODS IN POLAND

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

Mr. BLAGOJEVICH. Mr. Speaker, today I rise to bring news of the severe flooding that has ravaged Poland. As we speak, the people of Poland and much of Eastern Europe are struggling bravely to resist the brute forces of nature as the flood waters continue their unrelenting rise. So far, dozens of innocent people have died in what is being described as Eastern Europe's worst tragedy since Chernobyl. As survivors of the floods can tell you, the worst part is the wait; the slow, anguished wait as the flood waters slowly consume these peoples' homes, their businesses, their property. The wait as an entire life sinks below the muddy ripples of the flood.

Thankfully, compassion is not dead in our society, and countless concerned Americans, many of Polish descent, have heeded Poland's desperate cries for help. In my own home town of Chicago, churches and community organizations have responded to the call for flood relief. I have been happy to be able to assist local leaders and communities in the effort to get disaster relief to those who need it most.

While the response so far has been impressive, the need is still greater. Congress cannot stand idly by in Poland's time of need. It has been less than a decade since Poland threw off the shackles of communism. The damage from these floods threatens the gains Poles have made in building a free and prosperous society.

The Polish American Congress Charitable Foundation as well as the American Red Cross are spearheading efforts to channel relief from America to needy families in Poland. These contributions will help provide food, medicine and shelter to victims of the flooding. Please call the Polish American Congress at (773) 763–9944, or the American Red Cross at 1–800–435–7669 (1–800–HELP–NOW), to find out what you can do to help. I urge all Americans to heed the urgent call for disaster relief in Poland.

A DEMOCRATIC VIEW ON HONG KONG

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. SOLOMON. Mr. Speaker, over the past month, we have been subjected to a barrage of Communist Chinese propaganda on the reversion of Hong Kong to China. The Communist Chinese view was amply covered in the Western media. And in New York City, the Communist Chinese were allowed to put on a parade which glorified the takeover.

I would like to submit for the RECORD a viewpoint on Hong Kong by a democratic Chinese individual, who happens to be the President of Taiwan. President Lee has eloquently described in USA Today how democratic Taiwan, and not totalitarian Communist China, represents the model for the future of Hong Kong and indeed, China itself.

[From the USA Today, June 30, 1997]

TAIWAN YIELDS MODEL FOR A FREE HONG KONG

(By Lee Teng-hui)

Today, the era of colonial rule will come to an end in Hong Kong. This is a proud event for all Chinese wherever they are, and offers a new opportunity for creating a democratic Chinese nation. We earnestly hope that the Beijing authorities will be able to maintain the prosperity and stability of Hong Kong, and will ensure that the people of Hong Kong continue to enjoy freedom, democracy and basic human rights. This is the only way to act in accord with the joint values and trends of mankind today, regional peace and development, and the common dignity and interests of all Chinese people.

Taiwan's experience offers reason for optimism.

A little more than one year ago, the Republic of China successfully held a direct presidential election on Taiwan, completing a crucial objective of our political reform. At the time, the concept of constitutional government stressed by Americans over two-hundred years ago kept coming to my mind: ". . . all Men are created equal, . . . they are endowed by their Creator with certain unalienable Rights, . . . among these are Life, Liberty and the Pursuit of Happiness . . . to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Government."

Indeed, with the joint effort of the entire populace and their government, the Republic of China has upheld the principle of popular sovereignty on Taiwan, and has succeeded in lifting martial law, liberalizing the formation of political parties, realizing the practice of free speech, re-electing all national parliamentarians who had been in office for a long time, and carrying out a direct presidential election. Through these endeavors, the Republic of China has undergone profound change, and has become a fullfledged democracy.

However, we cannot overlook the fact that still over 20 percent of the world's population, most of whom live on the Chinese mainland, have no way to enjoy these rights. The Chinese on both sides of the Taiwan Strait share the same cultural and racial heritage. Thus, there is no reason why we cannot jointly build a system of democracy and freedom, and fully exercise our God-given rights.

In 1979, before material law was lifted in Taiwan, a number of protesters demonstrating against government censorship of their magazine were arrested and jailed in what became known as the Kaohsiung Incident. At the same time, the Chinese communists authorities arrested the human rights activist Wei Jingsheng. Today, many of those involved in the Kaohsiung Incident have redeemed themselves through the ballot box and have become important elected political leaders on Taiwan. However, Mr. Wei remains in jail. The marked differences in systems and values between the two sides are the fundamental reason why each of the two parts of the China we all want to see reunified one day still remain separate political entities.

Democracy has become a world trend, and is without doubt the greatest achievement of mankind this century. One reason civilization continues to progress is that we have the courage to realize our dreams, and we have the heart to care about each other and provide mutual support. We must continue to uphold this spirit and sentiment, so that democracy ultimately becomes the common way of life of all humanity. May people living in every corner of the global village enjoy democracy!

Thus, we cherish the young buds of democracy of the Chinese mainland. Certain forms of election in rural townships and villages have spread on the mainland in recent years. We are happy to see it succeed and call on the Chinese mainland authorities to show the courage and determination to boldly take the grand route to democracy. Join with us and bring democracy to all of Chinese society, seeking everlasting well-being and peace for the Chinese people!

Unquestionably, if Taiwan can achieve democracy, then Hong Kong should be able to maintain democracy, and there is no reason why the Chinese mainland can not do everything possible to head in that direction. This is the true way to solve the China problem.

In the 21th century, Mankind will certainly prove that "All roads lead to Democracy!

HONORING DR. ALFRED M. BEETON, ACTING CHIEF SCIENTIST OF NOAA, UPON HIS RETIREMENT

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. LATOURETTE. Mr. Speaker, I rise today to acknowledge and pay tribute to a scientist who has worked tirelessly for over 40 years to learn and teach about the Great Lakes environment. Dr. Alfred M. Beeton earned his post-secondary degrees in zoology at the University of Michigan and continued to conduct and direct research in the Great Lakes region until his appointment as acting chief scientist for the National Oceanographic and Atmospheric Administration [NOAA] in 1996. This brief statement can scarcely touch upon the depth and breadth of Dr. Beeton's career accomplishments, but I shall try to highlight some representative achievements.

Dr. Beeton's work has spanned time beyond that of his personal career, from investigations into the evolution of the Great Lakes to recommendations for the future of policy affecting large lakes. In over 100 publications and speeches addressing scientists and policy makers, Dr. Beeton has touched on the most pressing issues affecting the quality of the Great Lakes. Some of the topics to which he has added his knowledge and insight include human factors affecting water quality, thermal pollution from powerplants, basic ecology of fish and other aquatic organisms, and how policy can begin to address these and other issues.

Dr. Beeton's legacy will live on long after his retirement in August. Throughout his career as a professor at the Universities of Michigan and Wisconsin, Wayne State University, and Oregon State University, he trained hundreds of undergraduates and over 30 graduate students in aquatic science. In testimony before the Senate, Dr. Beeton helped to shape policies that initiated the restoration of the Great Lakes. He served for 10 years as director of the Great Lakes Environmental Research Lab [GLERL] in Ann Arbor, MI, helping to shape NOAA's mission on the United States' fourth coast.

It was during his tenure as GLERL's director that I came to know Al Beeton personally. My district in Ohio is entirely within the Great Lakes basin, and includes the largest portion of Ohio's Lake Erie shoreline of any Ohio congressional district. Thus, the quality of the Great Lakes environment is inextricably tied to the quality of life for my constituents. Dr. Beeton has served as the embodiment of institutional memory for Great Lakes environmental issues. Al Beeton has been the person my staff could always turn to for an honest assessment of the status of our great natural resource.

During the past several years of fiscal restraint, GLERL has faced a flat Federal contribution to its budget. This has meant a loss of staff and reprioritization of the lab's research programs. At the same time, interest in the restoration of Great Lakes resources has steadily increased. Threats to the Great Lakes from invading species and persistent toxins have been a continuous scourge and are not made less serious by Congress' intent to control the Federal budget. Throughout this period, Dr. Beeton has successfully led GLERL's efforts to study problems as large as the control of zebra mussels and the instantaneous forecasting of weather on the coastlines. As a result, we have a much better handle on how to protect the lakes and live safely on their shores than a decade ago.

In 1996, Dr. Beeton planned to retire from his long and successful career and perhaps to enjoy the fruits of his labor while sailing. The Commerce Department tapped Dr. Beeton to serve as Acting Chief Scientist of NOAA and he began this new chapter in his life on June 21, 1996. In this position, he has coordinated with other NOAA administrators to establish the agency's scientific policy and to provide guidance to NOAA managers on scientific and technology issues. Among other things, the Office of the Chief Scientist is responsible for coordinating NOAA activities to implement the National Environmental Policy Act, managing NOAA's technology transfer program, and administering the National Climate Program.

The appointment of a Great Lakes scientist to the highest scientific office in the Nation's ocean-oriented agency is an indication of the recognition of the fourth coast as an important aquatic resource. Al Beeton has brought prominence to a natural resource which was once treated more like a sewer than the national treasure it is. His efforts have been integral to the restoration of the lakes and we owe him our gratitude. Dr. Beeton will retire from his post as Acting Chief Scientist in August, and with this I bid him a fond farewell.

A TRIBUTE TO DOROTHY DANZIS BIER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the life of Mrs. Dorothy Danzis Bier, a New Jersey resident, who died on July 8, at the age of 91. Throughout most of her life, she was deeply tied to the 13th Congressional District of New Jersey; and those ties continue to enrich this area of New Jersey.

Mrs. Bier was born in Newark, delivered by her uncle, Dr. Max Danzis, a founding physician of Newark Beth Israel Medical Center. Her youth was spent growing up in Highland Park, Bayonne, and Newark, where she graduated from Newark's South Side High School in 1922. After graduating from the Newark Normal School, which is now Kean College, Mrs. Bier received her teaching certificate and taught in the Newark school system.

In 1929, Mrs. Bier married David Bier and, shortly thereafter, the couple settled in Jersey City. Their only child Marcia was born at Beth Israel Medical Center in 1930.

Mr. and Mrs. Bier owned and operated Mother Bier's Bakery at 121 Madison Street in Hoboken until the mid-1960's when poor health forced Mr. Bier to close the business. At that time, although in her 60's, Mrs. Bier returned to the education field and taught preschool children in Jersey City from 1965 until 1970 under the Head Start Program. She retired in 1970 and moved to Millburn, NJ, to be near her daughter, son-in-law Cyril Greenstein; and her beloved grandchildren, Scott and Randy. She moved once again, to Miami, FL, in 1987 where her daughter and son-in-law had relocated.

Surviving her are her daughter and son-in-law of Aventura, FL; her grandsons, Scott Greenstein, M.D., of Middlebury, CT; and Randy Greenstein of Rockville, MD. She was also the great-grandmother of Max and Jesse Greenstein of Middlebury, CT; and a nephew, Alan Danzis of Berkeley Heights, NJ. Her husband David passed away in 1969; and her only sibling, Leo Danzis of Elizabeth, NJ, and vice president of the Ketchum Pharmaceutical Co., died in 1977.

Mr. Speaker, Mrs. Bier was a unique woman; witty, intelligent, and politically astute throughout her life. I know that she was adored by her family; and that she adored them. I extend my condolences to her daughter and her grandsons. They lost the matriarch of their family. New Jersey lost a beloved daughter who truly has left my area poorer for her passing.

"THWARTING OUR IMMIGRATION LAWS"

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. PACKARD. Mr. Speaker, this administration has proved once again that they are soft on illegal immigration. Two weeks ago, I was outraged when Attorney General Janet Reno had defied the clear will of Congress and halted the deportation of thousands of illegal aliens. Mr. Speaker, the very person appointed to uphold the laws passed by this legislative body is now trying to find ways around them. I find that absolutely unacceptable.

Yesterday, the Clinton administration presented to this Congress a proposal to weaken the immigration reform law the President signed less than a year ago. They claim there are special circumstances for some that should allow them to stay in this country beyond what the law allows. Mr. Speaker, I believe there may be a heart-wrenching story behind every man, woman or child that wishes to enter this country and tries to do so illegally. But we cannot begin to arbitrarily pick winners and losers. I urge my colleagues to reject this and any other proposal to revisit this issue and weaken our immigration laws.

Last year, we purposely raised the bar on those seeking to enter this country by means of political asylum because we knew the process was being abused. It was not an oversight and it was not done secretly. If the administration had an objection, it should have been addressed at that time. To come back to this argument is not only a mistake, but a breach of the delicate relationship between Congress and the administration. To use the Attorney General of the United States to undermine the laws we pass is unacceptable.

Mr. Speaker, several of my colleagues and I have sent a letter to the Attorney General urging her not to find ways to break our laws for the political will of the President. I hope my colleagues will stand with us in blocking any attempt to try and weaken our immigration laws by either stopping deportations by an administrative order or by new legislation. It is not just a violation of what this Congress passed less than a year ago, it is an act of defiance against those citizens who have suffered from the effects of illegal immigration. Mr. Speaker, this is just one more way in which this President and his administration have tried to weaken what it means to be a citizen of the United States.

STATE DEPARTMENT REPORT ON U.S. POLICIES IN SUPPORT OF RELIGIOUS FREEDOM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. LANTOS. Mr. Speaker, earlier this week, our Assistant Secretary of State for Human Rights, John Shattuck, appeared before a meeting of the Congressional Human Rights Caucus to present to the Members of Congress the State Department Report "United States Policies in Support of Religious Freedom: Focus on Christians." This report is an indepth summary of the particular measures taken by the administration to address the issue of Christian persecution as an element of U.S. Government policy to fight against religious persecution and discrimination around the world.

This report, Mr. Speaker, was prepared by the Department of State in response to a request by the Congress in the statement that accompanied the Omnibus Consolidated Appropriations Act for fiscal year 1997. That request is principally the effort of our colleague from Virginia, Congressman FRANK WOLF, who is one of the most active of our Members in leading the fight against religious persecution around the world.

Mr. Speaker, I commend the administration for its efforts in dealing with the problem of religious persecution. The State Department's annual "Country Reports on Human Rights Practices" provides indepth information about religious freedom issues, and in the most recent editions of this important human rights document, Secretary Shattuck singled out religious persecution as an area of special attention and concern. Last year, then-Secretary of State Warren Christopher established the Advisory Committee on Religious Freedom Abroad, with a membership of some 20 prominent Americans representing a wide range of religious groups and nongovernmental organizations. This group has had an auspicious beginning to its work, and I look forward to its recommendations and activities in support of religious liberty around the world. I applaud Secretary Shattuck and our Secretary of State, Madeleine Albright, for their commitment to human rights and to dealing with religious liberty.

Mr. Speaker, Secretary Albright was particularly eloquent in her foreword to the report in expressing the commitment and the reasons for the commitment of the United States to the principles of religious freedom. I would like to quote for the benefit of my colleagues her statement in the introduction of the report:

> Religious liberty, the freedom to proclaim a religious identity and practice it without fear, is an aspiration and an inalienable right of people everywhere. When practiced with tolerance, it can be one of the keys to a stable, productive society. But generations of hatred may be sown when it is delayed or denied. It is central to the strength of free peoples. Its protection and promotion are important elements of America's support for human rights around the globe.
>
> First, because the right to profess and practice one's religion is basic to the life of every human being and is recognized in the Universal Declaration of Human Rights.
>
> Second, people who are free to profess their beliefs without fear and to live by them without impediment will do more to enrich their societies than people held back by prejudice. Where the rights of persons of any faith are not secure, no one's rights are secure. And violent persecution that begins with one group all too often engulfs whole nations in conflict.
>
> And third, freedom of religion is central to American history and identity. Because our country has chosen ever since its creation to stand for universal principles of tolerance and liberty, free people around the world have chosen to stand with us.
>
> That is why our commitment to religious liberty is even more than the expression of American ideals: it is a fundamental source of our strength in the world. We simply could not lead without it. We would be naive to think we could advance our interests without it.

Mr. Speaker, I wholeheartedly endorse this statement by our distinguished Secretary of State. Freedom of religion is a fundamental principle of human rights, a fundamental aspect of our foreign policy, and I welcome the support of the administration for this fundamental right.

Mr. Speaker, Secretary John Shattuck made an outstanding presentation regarding the administration's report to the members of the Human Rights Caucus yesterday. Secretary Shattuck, as always, was well prepared, articulate, and concise. The report deals primarily with the restrictions and persecution against Christians, although as I and my colleagues in the Congressional Human Rights Caucus have repeatedly emphasized, human rights are indivisible. A government that abuses ethnic minorities is also likely to restrict religious freedom, and a government that abuses its Jewish or its Muslim or its Baha's believers is also a government that is likely to persecute members or portions of its Christian community as well. The death, imprisonment, and persecution of Christians for their religious beliefs affects some 150 million people around the world. The violation of the rights of Christian believers include discrimination in employment, political harassment, restrictions on the exercise of political rights, the imposition of harsh prison sentences, torture and inhumane conditions in prison, and in some cases the enslavement of women and children.

Mr. Speaker, I would like to call to the attention of my colleagues some of the countries which are serious violators and which were identified in the State Department report. China is one of the principal violators of freedom of religion, despite its own constitutional promises of freedom of belief. The report notes: "The government of China has sought to restrict all actual religious practice to government-authorized religious organizations and registered places if worship." In a classic catch–22 situation, Roman Catholic church organizations which recognize the authority of the Pope will not be registered because they recognize and owe spiritual allegiance to an authority out of China. Any Vatican-affiliated Catholics are considered unregistered.

The Government in Beijing has cracked down on unregistered Roman Catholic and Protestant groups, and it has raided and closed down groups that simply gather to worship in each other's homes. Religious leaders of these groups have been detained and been subjected to lengthy interrogation and in some cases beating and physical abuse.

A number of other countries were identified in the report because of official policies limiting or prohibiting freedom of religious expression. In Sudan religious persecution of Christians has reached incredible levels, including torture, outrageously long prison sentences, and enslavement of women and children. Similar problems exist in a number of Islamic countries. Saudi Arabia prohibits public and private religious observances by members of all non-Muslim religions. Countries which recognize Islamic Shari's Court rulings also have a serious record of violations of religious freedom. A Lebanese Christian, Elie Dib Ghalib, was arrested in the United Arab Emirates some 18 months ago in connection with his marriage to a Muslim woman. A Shari's Court ruled that the marriage was null and void, their relationship was determined to be immoral, and he was sentenced to 39 lashes and a year of imprisonment.

Mr. Speaker, even some of our closest allies have legislation and government practices which are surprisingly restrictive of religious freedom. Greece, a country widely acclaimed as "the birthplace of democracy," has a religious registration law that is surprisingly restrictive for all non-Orthodox religious communities. Similar serious problems exist in Russia and other republics of the former Soviet Union, where post-Communist governments are dealing with demands of existing religious organizations to limit other, primarily Christian groups, from establishing a presence in these newly independent countries.

In this context, Mr. Speaker, I was most encouraged by the decision, announced the day of our briefing with Secretary Shattuck, by Russian President, Boris Yeltsin to veto the highly restrictive law on religions that was passed by the Russian Duma and Federation Council a few weeks ago. His action took great political courage, and I welcome his action.

I do want to call the attention of my colleagues to some countries where governments have taken action to assure religious freedom, despite strong pressures against such policies. In striking contrast with the restrictive practices of the Government of the People's Republic of China, the Government of the Republic of China on Taiwan has shown tolerance for religious diversity and respect for religious liberty. India, a country with strong indigenous religious traditions, has also shown considerable understanding of the importance of assuring freedom of religion.

Mr. Speaker, I urge my colleagues to give careful consideration to this important document on U.S. Policies in Support of Religious Freedom. The Department of State has compiled an excellent report on the current status of religious liberty around the world. We must continue to work together with the administration and intensify our efforts to assure that governments around the world respect the religious rights of their citizens. As Secretary Albright noted in quoting Thomas Jefferson: "It behooves all who value liberty of conscience for themselves to resist invasions of it in the case of others; or that case may, by change of circumstances, become their own."

MCDADE AND FAZIO INVESTORS IN AMERICA

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. HORN. Mr. Speaker, with these late night sessions, I have had the opportunity to read the report of the Appropriations Subcommittee on Energy and Water Development. Chairman JOE MCDADE and Ranking Democrat VIC FAZIO, and their subcommittee colleagues, have crafted a document which invests in America.

Our Nation has a variety of problems concerning energy and water development throughout the land. Whether flood control, environmental problems, nuclear waste disposal, or electric power—among other key priorities—they have been judicious in their decision making.

I am particularly grateful that the Subcommittee, and now the House, have recognized the flood dangers along the Los Angeles, Rio Hondo, and San Gabriel rivers in southeastern Los Angeles County. Five hundred thousand residents live and work in 177,000 structures which are at risk of flooding. The committee's decision to increase the funding needed to implement the largest urban flood control project in the United States is deeply appreciated.

FAMILY FEST: A COMMUNITY EVENT TO HELP IMPROVE EDUCATION

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. BLAGOJEVICH. Mr. Speaker, I rise today to recognize an outstanding community event that has occurred in my district for the past 10 years. Madonna High School's Family Fest is a 5-day outdoor festival that brings families together while improving educational opportunities for young women in the city of Chicago. Offering a wide array of family-oriented activities, the festival raises an average of $12,000 a year in scholarships and financial aid for young women hoping to attend the Madonna High School. To date, proceeds have been able to provide 37 percent of the study body at Madonna High School with financial aid.

As Abraham Lincoln said in 1832, "Upon the subject of education . . . I can only say that I view it as the most important subject which we as a people may be engaged in." These sentiments on education expressed by President Lincoln 165 years ago still hold true today. Caring teachers, motivated students, and an involved community are the essential components to improving education in our country. Family Fest should serve as a model to the rest of the Nation on how community values and hard work can help improve our system of education, and ensure a brighter future for America.

Family Fest is proof positive that a community can come together to achieve a common goal. I can think of few goals more worthy of our support than improving educational opportunities for our young people. I commend the parents, staff, and students of Madonna High School for their hard work and dedication to this cause, and wish them continued success with this outstanding program.

HONORING PROF. JOHN BRITTAIN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise today to honor one of Connecticut's most outstanding citizens, a brilliant lawyer and a warrior for justice, John Brittain. Professor Brittain has been a member of the faculty of the University of Connecticut law schools since 1977. For those two decades, he has been a constant presence in my State, a voice of conscience that is heard whenever the rights of individuals are at stake.

John Brittain knows that the Nation's promise of equality under the law must never be allowed to become mere words. That promise is the central tenet of American life, and it must be kept for the sake of all our future generations. So John Brittain has made it his cause to see that the promise is kept—even when it is difficult and even when it is uncomfortable.

In 1989, Professor Brittain, among others, filed Sheff versus O'Neill, the landmark case challenging the racial, economic, and educational segregation between Hartford and the surrounding schools districts as a denial of a student's fundamental right to an equal education under the Connecticut Constitution. After 7 years of litigation, the Connecticut Supreme Court issued a precedent-setting ruling, finding, in July 1996, that Hartford students were being denied equal educational opportunity. Although the State has not yet determined how best to address this, it is certain that Professor Brittain's efforts will only result in improving education, not only in Hartford but throughout the State.

Professor Brittain will soon join the faculty at Texas Southern University's Thurgood Marshall School of Law, writing what I am sure will be a fascinating book about his involvement in the Sheff case. I know I join with his Connecticut friends and colleagues in wishing him well in this latest chapter of his extraordinary life, and hoping that we will some day welcome him back to our State.

AMERICA ONLINE NEEDS TO OFFER ITS SUBSCRIBERS INFORMED CONSENT ON TELEMARKETING ISSUE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to urge America Online [AOL] to be up front with its customers over the issue of informed consent for telemarketing purposes.

An AOL subscriber myself, I was outraged when I learned the company planned to market its 8.5 million customers' telephone numbers to scores of telemarketing hucksters, without informing them or getting their consent. Under a siege of protests, the Internet provider canceled that plan but instituted another that still breaks faith with its subscribers, Now it plans to allow its own employees to make the telemarketing calls.

AOL still doesn't get it. Families sitting down to dinner do not want to be disturbed by unsolicited vendors. The company needs to make it clear to its customers up front what use it plans to make of their private information and then give them an easy option for protecting themselves from the unauthorized use of that data. And I emphasize "easy." If you've ever tried to opt out of AOL's marketing gimmicks, you know how hard it is. Good luck in even finding the option on the company's Web site.

What AOL should do is display a pop-up notification box informing subscribers of any new marketing schemes using customers' phone numbers and other personal information. This notification box should contain a simple yes or no option for customers to inform AOL of their decision whether to allow the company to release their personal information, or to permit AOL's own employees to market other companies' products to them.

AOL also needs to call itself to a higher standard. Originally, it said it was collecting its subscribers' phone numbers so it could call them if their account was tampered with or if their credit card was stolen—not for telemarketing purposes. Its revised plan amounts to a bait-and-switch tactic.

This whole saga is another example of how an incredibly useful and powerful medium can abuse the public trust. With power must come responsibility. And if online companies aren't willing to police themselves, Congress may very well do it for them.

I have sponsored a bipartisan bill to safeguard the privacy of citizens' Social Security numbers and other personal information by restricting their marketability by credit bureaus, departments of motor vehicles, and the Internet. I urge my colleagues to cosponsor H.R. 1813, the Personal Information Privacy Act.

THANK YOU, SISTER CARLA DOLCE

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. THOMPSON. Mr. Speaker, I rise to recognize a champion of the poor and disenfranchised in Mississippi, Sister Carla Dolce. Sister Carla was born in New Orleans, LA, where she served as a co-director of the New Orleans Training Center for Community Organizers, School Administrator and Teachers. She has served as president of three high schools in Dallas, TX; St. Louis, MO; and Alton, IL.

Sister Carla began her work as a community developer in Tunica, MS, through the Sacred Heart Southern Mission. She was the catalyst for the Tunica Organization of Women [TOW] an organization of women of color. TOW, together with five other northern Mississippi women's groups, formed the North Mississippi Leadership Network which is associated with other groups in a regional and technical network.

Sister Carla was also instrumental in forming the Tunica Citizens Committee for Education, a biracial group to support public education in Tunica. She has also supported education by working with Northwest Community College, the YOU (alternative education) Program, developing a credit union workshop and parent participation mini conference sponsored by TOW in partnership with the Education for the Mid-South and the Agriculture Extension Services.

Sister Carla has served as the eyes, ears, and body of support for the ill-housed in Tunica. Working tirelessly to see that maximum of government programs and funds are delivered to Tunica residents. Together Sister Carla and I worked with the State and national offices of Rural Development to provide over $600,000 in housing loans for new construction and repairs. In general, Sister Carla's efforts were to support movement for change that worked to assist the people in their efforts to bring benefits equitably to all citizens. Sister Carla Dolce, teacher, motivator, and bridge-builder is now leaving Mississippi to bring her love and attention to those in need in Illinois. We will miss her greatly. Mississippi's loss is Illinois' gain.

IN TRIBUTE TO AND IN MEMORY OF DR. ROBERT C. WEAVER

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to pay tribute to a great American and civil rights pioneer who died last Thursday. Mr. Speaker, Robert C. Weaver, had a life of many firsts. The great-grandson of a slave, and the son of a postal worker, Robert Weaver earned undergraduate, masters and doctoral degrees in economics from Harvard University. Dr. Weaver served as a college president, State rent administrator, this Nation's first Secretary for Housing and Urban Development—and first black member of any Cabinet—Presidential adviser, and chairman of the National Association for the Advancement of Colored People.

Before the landmark decades of civil rights advances, Weaver was one of a small group of African-American officials in the New Deal era who, as part of the "Black Cabinet," pressured President Franklin D. Roosevelt to strike down racial barriers in Government employment, housing, and education. Working for the U.S. Department of the Interior, and copious experience as an educator and economist led to Weaver's appointment as New York State rent administrator, making him the first African-American with a State cabinet rank.

Through a host of government and private jobs, Weaver emerged as a preeminent candidate to head a national cabinet department. But when President John F. Kennedy sought congressional support to create the Housing and Urban Development Department in 1961, and named Weaver to head it, the President encountered strong southern opposition and the plan was shelved.

From the time he became an aide to Interior Secretary, Harold Ickes in 1933, through his tenure at Housing and Urban Affairs in the late 1960's, Dr. Weaver was a crusader for civil rights, housing, and education. He was regarded as an intellectual, both pragmatic and visionary, who worked to improve the lives of blacks and other Americans both by expanding their opportunities and by bettering their communities.

After being a catalyst in the Kennedy and Johnson administrations, Dr. Weaver turned to education in 1968. He taught at Hunter College, Carnegie-Mellon University, New York University, and even became president at Baruch College. He was honored for his hard work and dedication with at least 30 honorary degrees from elite institutions like Columbia University, the University of Michigan, and the University of Pennsylvania.

Dr. Weaver was known as a man who was only interested in doing his job, rather than promoting himself. His lifelong toil got urban legislation on the books and nurtured our country's first commitment to improve the quality of life in our Nation's cities. All of us who believe we can build an even greater society, are forever indebted to him.

Dr. Weaver served as a beacon of light, wisdom, and fairness. His appointments paved the path for numerous African-Americans and were monumental to many other African-Americans who found lower barriers and increased opportunity in the last third of the 20th century. He will always be remembered as a distinguished public servant, having always used his keen intellect and common sense to attack complex social problems. For this, Mr. Speaker, the entire country will mourn Robert Weaver's passing, but we will also celebrate his extraordinary life.

THE NO ELECTRONIC THEFT [NET] ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. COBLE. Mr. Speaker, I am pleased to be an original cosponsor of the No Electronic Theft Act, also known as the NET Act. I commend the bill's author and my good friend, Representative BOB GOODLATTE of Virginia, for his leadership on this important copyright issue. As chairman of the Subcommittee on Courts and Intellectual Property, I cannot overemphasize the importance of this legislation; in fact, I plan to schedule a hearing on the NET Act and the broader subject of copyright piracy later in the fall.

Industry groups estimate that counterfeiting and piracy of intellectual property—especially computer software, compact discs, and movies—cost the affected copyright holders roughly $20 billion last year. Regrettably, the problem has great potential to worsen. The advent of digital video discs, similar to conventional compact discs but capable of storing far more material while rendering perfect secondhand copies, will only create additional incentive for copyright thieves to steal protected works.

The legislation introduced by Representative GOODLATTE will deter copyright piracy by further criminalizing the act in a firm but fair manner. The NET Act constitutes a legislative response to the so-called LaMacchia case, a 1994 decision authored by a Massachusetts Federal court. In LaMacchia, the defendant encouraged lawful purchasers of copyrighted software and computer games to upload these works via a special password to an electronic bulletin board on the Internet. The defendant then transferred the works to another electronic address and encouraged others with access to a second password to download the materials for personal use without authorization by or compensation to the copyright owners. While critical of the defendant's behavior, the court precluded his prosecution under a Federal wiretap statute, stating that this area of law was never intended to cover copyright infringement. The court's dicta indicated that Congress has tread cautiously and deliberately in amending the Copyright Act, especially when devising criminal penalties for infringement.

It is self-evident, Mr. Speaker, that this transgression—the unauthorized access to a company's products—has even greater potential to ruin small, start-up companies. Let us not forget that small businesses still comprise that sector of our national economy which provides the most employment opportunities for American citizens. Thousands of independent hackers motivated like LaMacchia will cause harm to our Nation's workers and the small businesses which employ them. LaMacchia's behavior was not trivial; it deserves to be criminalized.

Accordingly, the NET Act would proscribe the willful act of copyright infringement, either for "commercial advantage or private financial gain"; or by reproducing or distributing one or more copies of copyrighted works which have a retail value of $5,000 or more. In direct response to LaMacchia, the legislation specifically encompasses acts of reproduction or distribution that occur via transmission, or computer theft. In addition, "financial gain" is defined as receiving "anything of value, including the receipt of other copyrighted works." This change would enable the Department of Justice to pursue a LaMacchia-like defendant who steals copyrighted works but gives them away—instead of selling them—to others. The legislation includes maximum statutory penalties of up to $250,000 in fines and prison terms of 6 years.

Mr. Speaker, the public must come to understand that intellectual property rights, while abstract and arcane, are no less deserving of protection than personal or real property rights. The intellectual property community will continue its work in educating the public about these concerns, but we in the Congress must do our job as well by ensuring that piracy of copyrighted works will be treated with an appropriate level of fair but serious disapproval. Again, I congratulate Representative GOODLATTE for his leadership in this regard, and I look forward to working with him and other interested colleagues as we consider the NET Act in the near future.

A TRIBUTE TO WILLIAM SHAW

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. FARR of California. Mr. Speaker, I rise today to pay tribute to a dear friend and a real talent. William Shaw, who helped shape the world around him for most of his 73 years, passed away recently. I know he will be sorely missed by all.

To me and my family, Will will be remembered as an especially close friend. Together with my father, former California State Senator Fred Farr, and the renowned photographer Ansel Adams, he established the Foundation for Environmental Design in the early 1960's. "We have art critics, music critics, theater critics, but we don't have any environmental critics. We need them badly, and I guess that's what you call us," Will is quoted as remarking in press reports at the time.

Indeed, a superb environmentalist and architect, Will is responsible for some of the most beautiful manmade scenery our Nation has. The recipient of the renowned Prix de Rome, Will's portfolio includes the school or architecture at Cal Poly in San Luis Obispo as well as the Buddhist Temple in Seaside and the restoration of the Highlands Inn and the Custom House. He was an outstanding member of his community and country.

Born William Vaughn Shaw in Los Angeles on August 12, 1924, Will had lived in Monterey since 1954, and for the past 13 years in Pebble Beach. He was cofounder and past president of the Big Sur Foundation as well as the local chapter of the American Institute of Architects. In addition, Will was past president of the Monterey History and Art Association and the Community Foundation of Monterey County.

During this difficult hour, Mr. Speaker, my entire family wishes his wife, Mary, and half-brother, Steven the very best. Will will always remain in our hearts.

TRIBUTE TO YALTA DUNBAR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. McINNIS. Mr. Speaker, today I would like to recognize Yalta Dunbar of Gunnison, CO, who will turn 100 on August 9 of this year. Ms. Dunbar has been a longtime resident of Gunnison and her knowledge and experience is a source of wisdom and guidance for all those around her. Her loving family will be putting on a celebration in her honor which will be held at the Elks Club in Gunnison.

Mr. Speaker, I would like to thank Ms. Dunbar for the many years of service she has provided to her community and hope she serves as an inspiration to all of us.

Ms. Dunbar is the embodiment of hard work and healthy living which we pride ourselves on the western slope of Colorado. I wish her the very best on this special day and congratulate her on 100 fantastic years.

RECOGNITION OF ELDERLY NUTRITION PROGRAMS

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. WEYGAND. Mr. Speaker, elderly nutrition programs are crucial to the senior citizens in the State of Rhode Island and throughout our country. These programs, either at meal sites or through home delivery, serve many important roles. In addition to providing meal recipients with a balanced meal, these nutrition programs often offer seniors the chance to socialize with their peers and provides them with much-needed personal contact with caring and dedicated volunteers of all ages.

Annually, in my State of Rhode Island, nearly 17,000 seniors receive healthy, balanced, and nutritious lunches at 1 of the 72 local meal sites spread throughout the State. Over 5,000 seniors also receive meal assistance from the home delivery program, operated in Rhode Island by Rhode Island Meals on Wheels.

One woman, who lives in my district in Warwick, RI, recently shared with me her feelings on the importance of one of these elderly nutrition programs. Virginia, who will be 80 years old this month, receives a meal from Meals on Wheels and feels that it is one of the finest services around.

She recently wrote to me saying:

> I depend on and must have well-balanced food. The lunches I receive from the Meals on Wheels Program enable me to eat nutritiously and have given me a way to recover from my recent surgery.
>
> The volunteers who deliver the luncheons are so kind, friendly and the hour I hear them in their van and my doorbell rings, it makes my otherwise sedentary life brighten up!
>
> The food selections for the entire month are left at the beginning of the month, so I can anticipate my favorites. The noon hour is the highlight of my day, thanks to the friendly and kind volunteers who deliver my lunch.

She completes her letter by letting me know that she is concerned about the future of this program. She prays that she will never receive a notice that says, "Sorry, there will be no Meals on Wheels until further notice."

On behalf of the people who depend upon the elderly nutrition programs, I commend my colleagues for recognizing the importance of elderly nutrition programs by approving additional funding for elderly nutrition programs during debate on the Agriculture Appropriations bill. Furthermore, I respectfully request the conference committee to maintain and strengthen this commitment to our Nation's seniors by making sure critical funding for these programs does not dry up.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

SPEECH OF

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes:

Mr. GOSS. Mr. Chairman, I rise in strong support of the Klug amendment to cut $90 million in duplicate road funding from ARC.

Mr. Chairman, I want to be clear from the start—I believe that we should eliminate all funding for the Appalachian Regional Commission. In many ways, the economic development projects that ARC funds are more egregious than the highway projects. Absent elimination, though, I believe the Klug approach makes sense for both sides, as it only cuts a small portion of duplicate funding from the program.

The passionate statements of ARC supporters today serves to underscore what Reader's Digest had to say about ARC just a few years ago —"You can't kill a good giveaway!" A look at ARC's past funding shows that the money largely follows important legislators, rather than needy constituents.

An excellent example is the Corridor H program in West Virginia. A proposed 114 mile Federal four-lane highway through the scenic West Virginia mountains, Corridor H would cost $1.1 billion, with 80 percent of the money coming from Federal taxpayers. The costs of carving through 4,000 foot mountains contribute to a $10 million per mile project cost. The West Virginia Department of Transportation's own traffic projections do not support the need for this project and over 90 percent of residents from neighboring Virginia opposed Corridor H in public hearings. Yet, the beat goes on for this Federal pork, partly due to millions of dollars of annual ARC funding.

The ARC was founded over 30 years ago on the "Field of Dreams" proposition that, if you build a massive highway system with Federal bucks, economic growth would ride into town. Under that assumption, two-thirds of all ARC money spent since 1965 has gone into highway construction. The original estimated cost to Federal taxpayers was $840 million, yet the 26 highway system is now slated to cost $9 billion and won't be completed until 2060.

Mr. Chairman, this debate especially hits home for growth States like Florida struggling to get their fair share of highway funds. While Florida has seen dramatic increases in its population, ARC has rewarded States that are losing people with more and more Federal funds. According to their own annual reports, $872 million in ARC grants for highways, out of a total of $1.1 billion, has been spent in West Virginia between 1980 and 1992, despite the fact that the State experienced a population loss of 7.2 percent over that time. As we struggle to make ends meet with limited transportation funds, this type of largesse is simply unacceptable.

Mr. Chairman, I am not a fan of the ARC program. I believe that Great Society relics like ARC need to be shelved altogether. But if we are going to provide funding for ARC, we should at least extract some savings for the American taxpayer. We should at least prohibit States from double dipping when other States are struggling to make ends meet. The Klug amendment is a responsible, conservative approach that recognizes the reality of our limited resources while striking a blow for fairness. I urge its adoption.

TRIBUTE TO DR. MORTIMER ELKIND

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today in honor of Dr. Mortimer Elkind. Dr. Elkind is receiving the prestigious Enrico Fermi Award for his valuable contributions to cancer research. He is a cell biologist at Colorado State University in Fort Collins, which is in the Fourth Congressional District of Colorado. The Enrico Fermi Award recognizes extraordinary scientific research and is awarded through the U.S. Department of Energy.

Dr. Mortimer Elkind was born in Brooklyn, NY, and earned his Ph.D. in physics from the Massachusetts Institute of Technology. He worked at the National Cancer Institute in Bethesda, MD, and the Donner Laboratory at the University of California at Berkeley. He also worked at the Brookhaven National Laboratory from 1969 to 1973, and then worked at Argonne National Laboratory until 1981. He was also Professor of Radiology at the University of Chicago. He is currently University Distinguished Professor at Colorado State University's Department of Radiological Health Sciences.

Dr. Elkind worked conjunctively with another Fermi Award winner, Dr. Withers to research the response of normal and malignant cells to ionizing radiation. Collectively, their work established a scientific basis for radiation therapy for cancer. Their work produced the "fractional hypothesis" which demonstrated the value of spreading out the radiation dose treatment over time for the best effects. Dr. Elkind's work has significantly contributed to cancer treatment affecting almost 50 percent of cancer patients today in assisting them with care. This extraordinary work has tremendously impacted cancer research and I am proud of this service to the American people through his association with Colorado State University.

The effects of cancer on our society are extremely devastating, so it is Dr. Elkind's kind of dedication to research and mankind that illuminates the human spirit in America. Dr. Elkind is truly an American pioneer and I ask the Congress to join me in thanking him for his remarkable contributions to this country.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

SPEECH OF

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes:

Mr. ADERHOLT. Mr. Chairman, I rise today in opposition to the Klug amendment. As has already been stated, there are no funds for Appalachian highways in the Transportation appropriations bill that passed the House earlier this week.

This bill today, the Energy and Water appropriations bill, which has been so well crafted by the chairman, JOSEPH MCDADE and the ranking member VIC FAZIO, includes $160 million for the Appalachian Regional Commission [ARC]. This bill represents a cut below the President's request and is less than half the amount appropriated 15 years ago. If non-Defense discretionary programs had been reduced like this, we would have a balanced budget this year.

It is important to note that since the ARC was created over 30 years ago, the economic condition in the Appalachian Region has significantly improved. Poverty rates have been cut in half, infant mortality has been reduced by two-thirds, and good paying jobs have been created through infrastructure improvements.

But our job is not done. Businesses are closing and others refusing to locate in northern Alabama due to the lack of a four-lane highway to connect the cities of Atlanta, Birmingham, and Memphis.

For job creation and safety issues this is an unacceptable omission from our National Highway System.

Economic growth is hampered because it is so difficult to transport goods and services between Birmingham and Memphis and throughout the northerwestern part of Alabama.

The current inadequate two-lane route is extremely dangerous with a traffic incident or fatality occurring every month for the last 50 months.

The ARC provides needed funds for highways located in the Appalachian Region like Corridor X, which is the proposed four-lane route from Memphis to Birmingham. These funds do not take resources away from the transportation trust funds, and are matched by each State.

I understand the concern of the gentleman from Wisconsin and support eliminating Federal programs that are inefficient and wasteful. However, a closer look at the facts will demonstrate that funding for the ARC is crucial for the infrastructure and economic development of many rural areas including my congressional district.

I urge my colleagues to defeat the Klug amendment and support H.R. 2203.

INTRODUCTION OF THE NO ELECTRONIC THEFT [NET] ACT OF 1997

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce the No Electronic Theft [NET] Act of 1997, along with three of my colleagues from the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary, Representatives COBLE, FRANK, and CANNON. I would like to thank not only Chairman COBLE and ranking member FRANK for supporting this important legislation, but also a new and very valuable member of the subcommittee, CHRIS CANNON of Utah.

This legislation will close a loophole in our Nation's criminal copyright law, and will give law enforcement the tools it needs to bring to justice individuals who steal the products of America's authors, musicians, software producers, and others. Additionally, the bill will promote the dissemination of creative works online and help consumers realize the promise and potential of the Internet.

The Internet is a tremendous opportunity. Its growth and development are contributing to the economic expansion we have enjoyed in the last few years. Its true potential, however, lies in the future, when students and teachers can access a wealth of high quality information through the click of a computer mouse, and businesses can bring the benefits of electronic commerce to consumers. Before this can happen, creators must feel secure that when they use this new medium, they are protected by laws that are as effective in cyberspace as they are on main street.

The NET Act of 1997 clarifies that when Internet users or any other individuals sell pirated copies of software, recordings, movies, or other creative works, use pirated copies to barter for other works, or simply take pirated works and distribute them broadly even if they do not intend to profit personally, such individuals are stealing. Intellectual property is no less valuable than real property. As an example of the problems that creators are currently facing, I have attached an article from the Electronic Engineering Times, discussing the theft of recordings on the Internet.

Pirating works online is the same as shoplifting a video tape, book, or computer program from a department store. Through a loophole in the law, however, copyright infringers who pirate works willfully and knowingly, but not for profit, are outside the reach of our Nation's law enforcement officials. This bizarre situation has developed because the authors of our copyright laws did not and could not have anticipated the nature of the Internet, which has made the theft of all sorts of copyrighted works virtually cost-free and anonymous.

The Internet allows a single computer program or other copyrighted work to be illegally distributed to millions of users, virtually without cost, if an individual merely makes it available on a single server and points others to the location. Other users can contact that server at any time of day and download the copyrighted work to their own computers. It is unacceptable that today this activity can be carried out by individuals without fear of criminal prosecution.

Imagine the same situation occurring with tangible goods that could not be transmitted over the Internet, or an individual making millions of photocopies of a best-selling book and giving them away. Imagine copying popular movies onto hundreds of blank tapes and passing them out on every street corner, or copying your personal software onto blank disks and freely distributing them throughout the world. Few would disagree that such activities are illegal—that they amount to theft and should be prosecuted. We should be no less vigilant when such activities occur on the Internet. We cannot allow the Internet to become the "Home Shoplifting Network".

The NET Act of 1997 makes it a felony to willfully infringe a copyright by reproducing or distributing 10 or more copyrighted works, with a value of at least $5,000, within a 180-day period, regardless of whether the infringing individual realized any commercial advantage or private financial gain. It also clarifies an existing portion of the law that makes it a crime to willfully infringe a copyright for profit or personal financial gain. It does so by specifying that receiving other copyrighted works in exchange for pirated copies—bartering, essentially—is considered a form of profit and is as unlawful as simply selling pirated works for cash. In other words, if you take a pirated work, such as a software program, and trade it on the Internet and eventually barter to the point where you have a $5,000 portfolio of software, the bill considers such bartering to be a criminal act—just as if you had sold the stolen software for $5,000. In addition, the NET Act expressly calls for victim impact statements during sentencing and directs the sentencing commission to determine a sentence strong enough to deter these crimes.

Mr. Speaker, the United States is the world leader in intellectual property. We export billions of dollars' worth of creative works every year in the form of software, books, video tapes, sound recordings, and other products. Our ability to create so many quality products has become a bulwark of our national economy. By closing this loophole in our copyright law, the NET Act sends the strong message that we value the creations of our citizens and will not tolerate the theft of our intellectual property.

HAPPY 100TH BIRTHDAY TO COL. THOMAS DICKINSON OF BROWN COUNTY, OH

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1997

Mr. PORTMAN. Mr. Speaker, Brown County, OH will celebrate the 100th birthday of its oldest veteran, Col. Thomas Dickinson, tomorrow at the American Legion Hall in Georgetown. Colonel Dickinson has been an active member of the American Legion for 65 years and is a past commander of the Georgetown Post. His life story is a truly remarkable example of patriotism and service.

Colonel Dickinson tried for 18 months to enlist in the Army during World War I, but was told by Army doctors that his flat feet and bad heart would keep him out of the service. Nonetheless, he kept trying, and was finally allowed to enlist as a private in 1940—at the age of 43. He served in Europe during the war, in 1946, became Commissioner of Foreign Claims for Berlin. After leaving the military in 1947, he was recalled in 1949 and was sent to Korea in 1951, where he served as a public information officer. During his service in World War II and Korea, he earned 15 service medals, including the Bronze Star.

He retired from active duty in 1955, and began work as a legal adviser with the Army Corps of Engineers in 1960. His work with the Corps brought him to Georgetown, and he has kept his home in Brown County ever since, where he and his wife, Eloise, live on U.S. 52 along the Ohio River. I wish him an enjoyable 100th birthday and many more to come.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

Mr. WEYGAND. Mr. Chairman, I rise today in support of the transportation appropriations bill. First, I thank Chairman WOLF and Ranking Member SABO for their excellent work and dedication to the transportation needs of our country and my State.

I would like to address an issue important to my State. In Rhode Island we are in the process of rebuilding our economy. Restructuring our transportation system is critical to the success of that rebuilding. The funding provided in this bill will help Rhode Island in developing a world-class transportation system that includes rail, road, and air transportation.

I would like to mention one project that will have a positive impact on my State and New England. The project is the re development of Quonset Point/Davisville, a 3,000-acre former naval facility in North Kingstown, RI, into a major industrial center in the Northeast.

The Quonset Point/Davisville project is of utmost importance to the economic development of my State and the region. The development of Quonset Point has broad-based support from business leaders, government officials, and the voters of Rhode Island.

Completion of the Rhode Island Rail Development project is a crucial component to providing adequate freight access to Quonset Point/Davisville. The funding provided in this bill along with a recently passed State bond agreement will go a long way to making sure that Rhode Island and New England will have adequate access to rail.

Again, I thank Chairman WOLF and Ranking Member SABO for their work in producing a bipartisan bill.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

SPEECH OF

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2203) making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes:

Mr. LATOURETTE. Mr. Chairman, it has recently come to my attention that the Army Corps of Engineers is planning to restructure its Great Lakes and Ohio River Division by first severely reducing the number of employees, particularly those with decision-making authority, at its Chicago office and eventually closing it down entirely. This plan is documented in an internal Army Corps memo that I have obtained from the International Federation of Professional and Technical Engineers Local 777. This plan would leave the Great Lakes region with only one office, in Cincinnati, and would obliterate the institutional memory that is so vital to Army Corps operations in this region. Losing the Chicago division office to Cincinnati will mean that the Great Lakes will most likely lose resources, funds, and priority consideration for projects in this region.

Last year, when this Congress passed the Energy and Water Development Appropriations Act for fiscal year 1997, the Army Corps was directed to reduce its divisions to no less than six and no more than eight. The Department of the Army's Office of Civil Works submitted a plan to the Congress which detailed the restructuring plan, approved by the Secretary. This plan stated that, "The Great Lakes districts of the North Central Division will be combined with the districts of the Ohio River Division to form the Great Lakes and Ohio River Division. Division headquarters will remain in both Chicago and Cincinnati, each with a regional deputy commander and SES."

The closure of the Chicago office would affect my State as well as the entire Great Lakes region, and I am troubled by this action on the part of the Army Corps. When the Appropriations Committee wrote the language directing the Army Corps to reduce its overall division structure, I do not believe that it was the Committee's intention that a region with projects as important as those in the Great Lakes should suffer disproportionately. The operations directed at the Chicago office are vital to projects conducted on the Great Lakes, and its closure would impede progress on many projects that my colleagues in the Great Lakes and I consider important.

Mr. Speaker, I would like to include for the RECORD two documents that are the basis for my concern. The first is a January 22, 1997, outline of the plan submitted by the Army Corps and approved by the Secretary of the Army to reorganize its division structure pursuant to the Energy and Water Development Appropriations Act of fiscal year 1997. This plan clearly indicated that the Army Corps intended to maintain dual Division headquarters offices in both Chicago and Cincinnati, each with decision-making staff. The second document that I am submitting for the RECORD was provided by the International Federation of Professional and Technical Engineers Local 777 in Chicago, IL. It includes an internal Army Corps memorandum from the Commander of the Great Lakes and Ohio Division regarding Division restructuring dated May 27, 1997. This memo states clearly the Army Corps' intention to severely reduce and eventually to close the Chicago Division office of the Great Lakes and Ohio Division. Mr. Speaker, thank you for allowing me this opportunity to bring this matter to my colleagues' attention.

DEPARTMENT OF THE ARMY, OFFICE
OF THE SECRETARY OF THE ARMY,
Washington, DC.

Information for Members of Congress

The Energy and Water Development Appropriations Act of fiscal year 1997 (PL 104–206) requires that the Secretary of the Army develop a plan that reduces the number of U.S. Army Corps of Engineers divisions to no less than six and no more than eight, with each division responsible for at least four district offices. The Secretary has approved such a plan; the purpose of this paper is to inform you of its provisions.

An outline of the plan is attached. The key elements of this plan are as follows:

1. The Corps will convert New England Division to district status and assign it under the North Atlantic Division.

2. The Alaska District will be transferred from the North Pacific Division to the Pacific Ocean Division (POD). POD headquarters will remain in Honolulu.

3. The Great Lakes districts of the North Central Division (NCD) will be combined with the districts of the Ohio River Division to form the Great Lakes and Ohio River Division. Division headquarters offices will remain in both Chicago and Cincinnati, each with a regional deputy commander and SES.

4. The districts of the North Pacific Division (less Alaska) will be combined with the districts of the Missouri River Division to form the Northwestern Division. Division headquarters offices will remain in both

Portland and Omaha, each with a regional deputy commander and SES.

5. Two districts located along the Mississippi River (currently assigned to NCD) will be combined with the districts currently assigned to the Lower Mississippi Valley Division. The division will be renamed as the Mississippi Valley Division.

6. One district will be transferred from the Southwestern Division to the South Pacific Division.

A briefing on the components of this plan will be provided, if desired. Please contact the Director of Civil Works, Headquarters, U.S. Army Corps of Engineers at (202) 761-0108 to request such a briefing.

Furnished by: Office, Assistant Secretary of the Army (Civil Works)

U.S. ARMY CORPS OF ENGINEERS DIVISION RESTRUCTURING PLAN, Jan. 22, 1997

Current alignment	Final configuration
Engineering and Support Center, Huntsville, Alabama.	No change.
Transatlantic Programs Center, Winchester, VA..	No change.
Transatlantic Programs Center (Europe).	
South Atlantic Division.	
Mobile, Jacksonville, Savannah, Charleston, Wilmington.	No change.
North Pacific Division.	
Alaska, Portland, Seattle, Walla Walla.	North Pacific and Missouri River divisions combined to form the Northwestern Division. Alaska District transferred to POD. Division HQ offices retained in Omaha and Portland, each with regional deputy commander and SES.
Missouri River Division.	
Omaha, Kansas City.	Omaha, Portland, Seattle, Kansas City, Walla Walla.
Pacific Ocean Division.	
Honolulu, Far East (Korea), Japan.	Pacific Ocean Division. Honolulu, Far East (Korea), Japan, Alaska.
New England Division	Division functions eliminated; renamed New England District (office remains in Waltham). Assigned to North Atlantic Division.
North Atlantic Division.	
New York, Philadelphia, Baltimore, Norfolk.	North Atlantic Division: New York, Philadelphia, Baltimore, Norfolk, New England.
Southwestern Division.	
Little Rock, Albuquerque, Fort Worth, Galveston, Tulsa.	Southwestern Division: Albuquerque District transferred to South Pacific Division. Little Rock, Fort Worth, Galveston, Tulsa.
South Pacific Division.	
San Francisco, Sacramento, Los Angeles.	South Pacific Division: San Francisco, Sacramento, Los Angeles, Albuquerque.
North Central Division.	
Chicago, St. Paul, Rock Island, Detroit, Buffalo.	Ohio River and North Central divisions combined to form the Great Lakes and Ohio River Division. St. Paul and Rock Island districts transferred to Mississippi Valley Division. Division HQ offices retained in Chicago and Cincinnati, each regional deputy commander and SES.
Ohio River Division.	
Louisville, Huntington, Pittsburgh, Nashville.	Louisville, Chicago, Pittsburgh, Nashville, Buffalo, Huntington, Detroit.
Lower Mississippi Valley Division.	
Memphis, Vicksburg, New Orleans, St. Louis.	Mississippi Valley Division: Memphis, Vicksburg, New Orleans, St. Louis, Rock Island, St. Paul

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INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS,

Chicago, IL, July 21, 1997.

MS. ROCHELLE STURTEVANT,
Great Lakes Task Force, Office of Senator J. Glenn, U.S. Senate, Washington, DC.

DEAR MS. STURTEVANT: The employees of the former North Central Division are extremely grateful for the support provided by Senator Glenn and the other representatives within the Great Lakes Region. We are remiss in not passing that sentiment on sooner. We waited because many feared what General Ballard outlined was not what would occur. Unfortunately, this appears to be the case.

I want to share with you some correspondence with significant implications for any continued presence, let alone a full service, functional and decision making Great Lakes Regional Office in Chicago.

The first is a memo from the Chief of Engineers Lieutenant General Joe Ballard, dated 27 May 1997, which approved the Chicago Division Office as the Great Lakes Regional Office under the Great Lakes and Ohio River Division (LRD). It includes a request that the LRD Commander personally contact LTG Ballard on designation of functional chiefs (where the functional chiefs, i.e., Planning, Engineers, Construction who will have most decision-making authority, will be located). Note that the Chief made at least two of the decisions himself.

The second item is Permanent Orders No. 29-1, from the Headquarters Chief of Staff, dated 10 June 1997, which directs that LRD will INITIALLY maintain two Division Regional Headquarters, one of which is Chicago (emphases added). Note that the Great Lakes Regional Office has its own Unit Identification Code (UICs) while the Ohio River Regional Headquarters has the same UICs as the Great Lakes and Ohio River Division Office. That identifies that the Ohio River Regional Headquarters and the Division Office are one and the same.

The third item is a memo from Colonel Jasen, the Acting Commander of LRD, dated 23 June 1997. This memo formalizes his decision designating the division POC's. Thirteen of the functional chiefs are Cincinnati employees. Only two are Chicago employees, Mr. Dwight Beranek and Mr. Mike Lee. Mr. Beranek is an SES and could be transferred on short notice. Mr. Lee is the contract administrator and does not make decisions approving studies or projects. We question the legality of creating a new division office and staffing it non-competitively, with the only apparent qualification being the state of residency.

The last item is a May 7 e-mail memo from General Jeo Ballard to General Albert Genetti in response to my May 2 e-mail message. Note that one month after implementation, the Chief of Engineers already identifies that the two regional office concept "would not last forever."

Despite what we have been told, it appears that all future decisions will be stacked against the Chicago office. The decision making for the LRD will be controlled from Cincinnati, and our ability to influence decisions on Great Lakes projects and funding diminished. The number of Great Lakes Regional Office employees will be reduced to 20-25. It is questionable if we can be effective as such a small staff, and it is probable that the Chicago Division office will ultimately close. The new LRD Commander, General Van Winkle, assumes command this week. He could reverse or at least postpone the decision made by Colonel Jansen.

We believe that the whole dual Regional Office concept was simply a sham to allow the Chief of Engineers to transfer half of our workload, and slash our budget allotment. It also allowed time to drive employees out of our office with cash incentives to retire or take early retirements. These actions were taken before any consideration was given to what mission this office would accomplish or what competencies would be required. Our staff is being used to reduce the impact to Ohio employees caused by the loss of Ohio's military workload. By the time the truth becomes obvious to others, the destruction of this office's capability to function will be destroyed to the point that it will be irreversible. Of course, the true intentions are more obvious to those of us that see the continual indications of betrayal.

For several years, the Great Lakes Region has fought to keep this office open. Congress has rejected earlier plans prepared by General Williams and his deputy, General Genetti, as well as others. Congressional representatives were duped into acceptance of a plan that had no facts to substantiate it other than "trust me" we'll do what's right. At our Townhall meeting, General Ballard proudly proclaimed that he had no Corps experience. He was briefed on this issue by General Williams and other HQUSACE staff members that had long supported our closure. He made his decision in about one month. General Genetti is currently General Ballard's Deputy and is still available to continue to influence decisions. General Genetti is also a former Ohio River Division Commander and an excellent conduit to Colonel Jansen his former deputy. General Van Winkle also has no Corps experience and was briefed by his predecessor Colonel Jansen. The deck was stacked from the start.

We are looking to Senator Glenn, the Great Lakes Congressional Task Force and Great Lakes Commission for counsel on how we should proceed. Perhaps the Corps should be asked to brief certain Representatives or staff, perhaps slowing down the process while we collectively develop language to be added to the next COE appropriations. The language could note that the intention of Congress is to preserve a functional, full service, decision making Corps Division-level presence in Chicago to service the Great Lakes.

Thank you for your time.

DUANE A. KOWALSKI,
President.

CECG, 27 May 1997.

Memorandum for Commander, Great Lakes and Ohio River Division.

Subject: Division restructuring.

1. Reference:

a. Public Law 104-206.

b. HQUSACE CECG memo dated 31 March 1997; Division Restructuring Implementation Guidance.

c. U.S. Army Corps of Engineers Great Lakes and Ohio River Division Implementation Plan for Division Restructuring, dated 2 May 1997.

2. This headquarters has completed its review of the restructuring plan submitted in reference 1c. Your plan is approved for execution consistent with the comments which follow.

3. General comments for all division commanders:

a. The pace of change. Each commander has presented a timeline which aggressively implements the new organizational structure. I appreciate the work that went into developing your plans and commend all of you for the personal support you are investing to ensure the plan becomes a reality. However, I want to emphasize that there is no need to rush into this restructuring. It is my intent that the pace of transition to this new structure be deliberate and measured. I want you to ensure we are properly taking care of our people who may be impacted by these changes as well as keep interested parties informed of our progress. So pace yourself to do this right; it is more important that we do this smart rather than fast.

b. Resourcing. I also want to make it clear that I expect real savings in General Expenses (GE) funding, GE full time equivalent

(FTE) staffing, and Operations and Maintenance, Army (OMA) funding to emerge from this restructuring. Some commanders have asked for staff increases. I am willing to consider modest increases in specific situations where individual division staff workload has truly been increased. But these increases will be made in a zero-sum environment, achieved through cross leveling throughout the Corps. There will be no net increase in overall Corps staffing levels. You need to understand and plan for the fact that division staffs will likely decrease in size even more over the next few years. Further guidance is provided in paragraph 4 below.

c. Information management. The alignment of our automated information systems (AIS) within the new organizational structure is the most complex aspect of this restructuring. We have identified 36 separate, Corps-wide systems that require changes. Many of these are interconnected, sharing data with external Department of Army systems and other Corps systems. Converting these systems to the new EROC, UIC, and office symbols will be time consuming and will directly impact your execution timelines. I have appointed a task force to determine the best way to accomplish this. This task force will publish a detailed conversion schedule by mid-June. Other AIS issues:

(1) The CEAP cap and billing algorithm will remain as currently structured for the remainder of FY97. The FY98 guidance will align billing with the new Division structure. CEAP circuit relocations and upgrades will be based on individual requirements of impacted Divisions.

(2) For distress transferring from one division to another, the transfer of FY97 AIS data and other electronic records will be made to the gaining division. For divisions giving up districts, plans must be developed to archive prior year AIS data and electronic records at the current location (to include the regional Omaha and Chicago offices). These plans will be submitted along with the plan for records management as requested in CEIM–IR memo, dated 4 April 1997, subject: Division Restructuring Implementation—Records Management Impact.

(3) POC for information management issues is Ms. Cathy Sheridan, CEIM–L, (202) 761–0468.

d. FY99 Civil Works Operations and Maintenance roll-up. AIS systems will not be converted to the new structure in time to meet the FY99 Civil Works O&M Budget submittal suspense of 20 June. Consequently, districts who now report to a new division headquarters will prepare their submittals in coordination with that new division. Submittals will be made, however, according to the old MSC structure. District and MSC offices are currently engaged in putting their budget submittals into the O&M Automated Budget System (ABS). The budget will be arranged according to the new MSC organizational structure by HQUSACE after the division budget submittals have been received.

4. Resourcing:

a. Operations and Maintenance, Army (OMA): Fiscal Year 1997 OMA funds for division office staffing were distributed to the MSCs at the beginning of the fiscal year. There are no funds remaining in the headquarters for that purpose, nor were any additional OMA funds appropriated specifically for MSC restructuring. Further, Fiscal Year 1998 budget guidance issued earlier this year depicts a 20 percent overall reduction in funding compared with Fiscal Year 1997. Every effort must be made to constrain operating costs within current budgetary guidance. Any requirements over and above the current budgetary guidance must be accommodated through the Unfinanced Requirement (UFR) process through Resource Management channels.

b. General Expenses (GE): Fiscal Year 1998 GE funding and staffing guidance has been developed based on headquarters review of division restructuring plans, the President's Budget request of $148 million, and projected outyear funding levels. This FY 98 funding guidance as well as a five-year resourcing plan will be provided under separate cover.

c. Restructuring Costs ($000): Restructuring implementation costs totaling $2.6 million Civil (GE) and $1 million Military (OMA) were submitted. In some cases, requests for funds duplicated or referred to requirements identified in the joint GE/OMA Mid-Year Review. In other cases, requirements were not clearly related to the restructuring effort, and will require further review and coordination with your staff to determine the appropriate source and level funding needed as events unfold. The amounts shown for FY 97 will be allocated shortly, any additional requirements for FY 97 and FY 98 will require further justification incrementally as funds are needed, such as the actual number and cost of approved VERA/VSIPs, prior to allocation of funds. However, to the extent funds are available, valid restructuring and related costs will be funded. Additional requests should be presented to the Directorate of Resource Management. ATTN: CERM-B, for review and coordination.

d. LRD specific GE and OMA staffing and restructuring funding guidance:

	FY 97		FY 98	
	FTE	$000	FTE	$000
Requested GE	N/A	209	145	650
Approved GE	....	[1] 160	121	[1] 650
Requested other civil	N/A	....	20	....
Approved other civil	....	....	TBD	....

[1] Costs for ADP upgrades, new equipment purchases in FY 97 totaling $149K and $500K for VERA/VSIPs in FY 98 need further review and justification prior to funding. FY 97 amount excludes $97.3K requested for HR VSIP/VERA actions, which are to be funded as part of the Mid-Year Review.

e. The lead for coordinating FY98 FTE allocations to districts being transferred to a new division is the commander of the gaining division in coordination with the commander of the losing division. Responsibility for reallocation transfers to the gaining commander.

f. POC for resourcing issues is Mr. Bronel Jerrell, CERM-B, (202) 761–1104.

5. Division specific issues.

a. Dam safety: The plans do not discuss the activities required for the transfer of division level Dam Safety responsibilities. Since dam safety is an important function a detailed dam safety transfer plan should be developed at the earliest possible date and a copy of the plan furnished to the HQUSACE Dam Safety Officer for information. The detailed plan should address the 11 dams in the former North Central Division that are being transferred to this division. A portion of the plan should also address the 60 dams in the St. Paul and Rock Island Districts that are being transferred from the former North Central Division to the Mississippi Valley Division. CECW-EP is available to assist as required. POC is Mr. Charles Pearre, (202) 761–4531, or Mr. Robert Bank, (202) 761–1660.

b. Functional office chiefs. We have discussed the issue of how and when to designate chiefs for your various functional areas. Request you contact me personally to review your plans for operating as one staff located in two locations.

c. The Director of Resource Management will coordinate and integrate the timing and structure of EROC code changes to reflect the future division. Our short term policy will be to retain separate EROC codes for each of the regional headquarters. Our long term policy will be to move toward one EROC code per commander for division headquarters. The AIS team will recommend a time line which will coordinate and integrate these changes with all of the other interrelated AIS systems.

6. POC, this headquarters, MG Russ Fuhrman, (202) 761–0099 or COL Rick Mogren, (202) 761–0108.

JOE N. BALLARD,
LIEUTENANT GENERAL, USA,
Commanding.

DEPARTMENT OF THE ARMY,
U.S. ARMY CORPS OF ENGINEERS,
Washington, DC, June 10, 1997.

Permanent Orders
No. 29–1

Restructure within the U.S. Army Corps of Engineers.

Following organization/unit action directed:

1. Action: Great Lakes and Ohio River Division (LRD) LTCs; CEW072AA and CEW2SMAA. restructure will initially maintain two Division Regional Headquarters: Great Lakes Regional Headquarters (located in Chicago). UICs; CEW02208 and CEW2SM08 and, Ohio River Regional Headquarters (located in Cincinnati, UIC, CEW072AA and CEW2SMAA.

Assigned to: Great Lakes and Ohio River Division, U.S. Army Corps of Engineers.

2. Action: Northwestern Division (NWD) UICs; CEW071AA and CEW2SJAA restructure will initially maintain two Division Regional Headquarters: North Pacific Regional Headquarters (located in Portland), UICs; CEW071AA and CEW2SJAA and, Missouri River Regional Headquarters (located in Omaha), UICs; CEW07107 and CEW2SJ08. Assigned to: Northwestern Division, U.S. Army Corps of Engineers

Mission: Not Applicable
Effective Date: 2 June 1997
Military Structure Strength: NA
Military Authorized Strength: NA
Civilian Structure Strength: NA
Civilian Authorized Strength: NA

Accounting Classification: as provided by separate directive.

Authority: Public Law 104–206 and SECARMY approval of Division Restructuring Plan.

Special Instructions: EROCs and UICs will remain as assigned in the initial implementation guidance until conversion to one EROC and UIC for the division.

Format: 740

For the Commander.

OTIS WILLIAMS,
Colonel Corps of Engineers,
Chief of Staff.

JUNE 23, 1997.

Memorandum for Record.

Subject: Commander's action on VSIP/VERA for CELRD regional offices, June 1997.

1. The following records the Division Commander's decisions and guidance related to granting of VSIP and VERA to employees of the division regional offices in Chicago and Cincinnati, and related matters as made in a meeting with key staff on 12 June 1997.

2. Decisions on VSIP and VERA.

a. The effective date for all approved NLT 3 October 1997 unless otherwise indicated.

Extension of effective dates for those approved for VERA to 3 October 1997 is made under the delegation of this authority.

b. HQUSACE. CEHR-E memorandum, 5 April 1995 subject: DOD Voluntary Early Retirement Authority (VERA).

b. Specific actions.

(1) Great Lakes Regional Office. Chicago.

AITLAND, Esther: VSIP approved. Effective date not later than 3 January 1998, earlier if possible. Mr. Beranek to attempt to negotiate earlier date. Aitland's position is to be abolished.

BOCHANTIN, Bernard: VSIP and VERA approved. Bochantin's position is to be abolished.

CAVINESS, Marie: VSIP approved. Caviness's position is to be abolished.

CHIN, Bing: VSIP approved. Effective date not later than 3 January 1998, or earlier on Mr. Beranek's decision. Chin's position is to be abolished.

GILLILAND, Betty: VSIP approved. Mr. Beranek to determine position to be abolished from within GL DETS. Surplus HR employee is not to be placed in GL DETS or elsewhere in GL Regional Office as a result of this VSIP; need to get total numbers down, not moved around internally. See additional guidance below.

HAIDINYAK, Julie: VSIP approved. Haidinyak's position is to be abolished.

KANDL, Gregory: VSIP and VERA approved. Kandl's position is to be abolished.

KOWALKOWSKI, Lorraine: VSIP approved. Kowalkowski's position is to be abolished.

Subject: Commander's action on VSIP/VERA for CELRD Regional Offices, 1998.

LATORUNEY, Paul: VSIP approved. Latourney's position is to be abolished.

LEINTZ, Barbara: VSIP and VERA approved. Leintz's position is to be abolished.

LEONARD, Donald: VSIP approved. Mr. Beranek to make recommendation to division commander on how to structure Chicago office for future end-state structure. However, the Chief of DETS Engineering Division will be in OR Regional Office, Mr. Beranek will be the division Director of Engineering and Technical Services.

LISUZZO, Gactano: VSIP and VERA approved. Lisuzzo's position is to be abolished.

METZ, Anada: VSIP and VERA approved. Metz's position is to be abolished.

MUELLER, Jewell: VSIP approved. Mueller's position is to be abolished.

OKONSKI, Jerome: VSIP approved. Effective date not later than 3 January 1998. Okonski's position is to be abolished. Director of Program Management to make recommendation of division commander on future end-state structure. Director of Program Management will be in OR Regional Office and will be director for division.

ORDONEZ, Jose: VSIP approved. Ordonez's position is to be abolished.

PRITCHARD, Barry: VSIP approved. Pritchard's position is to be abolished. Mr. Steiner will be the Planning Division Chief for the division.

SMITH, Robert: VSIP approved. Smith's position is to be abolished.

SORENSON, Rosa: VSIP and VERA approved. Sorenson's position is to be abolished.

WESTALL, William: VSIP approved. Westall's position is to be abolished.

(2) Ohio River Regional Office, Cincannati.

EBERHARDT, Berry Mae: VSIP approved. Eberhardt's position is to be abolished.

EMMERICH, John: VSIP approved. Emmerich's position is to be abolished.

GOLLADAY, Walter: VSIP and VERA approved. IM staff (between two offices, to be reduced by one.)

GREGORY, Phyllis: Disapproved. Key position as CEFMS coordinator, cannot afford to lose her expertise at this critical time.

HUGENBERG, Thomas: VSIP and VERA approved. Effective date not later than 21 November 1997. Hugenberg's position is to be abolished.

JAMES, Jackie: Disapproved. Chief of Audit position will be in end-state structure in all likelihood. As both Chief Auditors have applied, under DOD policy the one with the senior Service Computation Date must be approved first. Therefore VSIP and VERA were approved for Mr. Batburney and disapproved for Mr. James.

PERRY, Norman: VSIP approved. Mr. Mello's position is to be abolished and be reassigned to Mr. Perry's position. Effective date to be not later than 3 January 1998.

STRACHN, Donna: VSIP and VERA approved. Effective date to be not later than 3 January 1998. Strachn's position is to be abolished and duties to be combined with Executive Liaison position, to include supervision over Public Affairs Specialists in both regional offices.

SUPPLE, Mary: VSIP approved. Ms. Rosario's position in Resource Management is to be abolished. Messrs. Basham, Gibson, and White to decide how duties being performed by Ms. McAlister, Rosario and Supple to be combined into remaining positions in the trade directorates.

TOWNSEND, John: VSIP and VERA approved. Townsend's position is to be abolished.

3. Other commander's decisions guidance:

a. As the above actions are effected, the remaining staff principles will be designated as the division staff officer for both regions and all seven districts. This includes the following directors/office chiefs: (RM action to officially designate)

Programs Management—Mr. Michael White (pending assignment/selection of an SES to the position).

Engineering and Technical Services—Mr. Dwight Beranek; Planning Division—Mr. Daniel Steiner, Engineering Division—To be recruited with duty location in Ohio River Regional Office, Cincinnati, Real Estate Division—Mr. Dominick Lijoi.

Audit—Mr. Jackie James.

Contracting—Mr. Michael Lee (Chicago).

Division Counsel (approved by the Chief of Engineers)—Mr. Terry Kelley.

Equal Employment Opportunity Officer—Ms. Juleana Frierson.

Human Resources—Mr. William St. John.

Information Management—Mr. Walter Golladay.

Logistics Management—Mr. Gary Thomson.

Provost Marshal/Inspector General—MAJ Joanne Dewberry.

Public Affairs—Ms. Donna Strachn (until retirement, then combined as indicated above).

Resource Management (as approved by the Chief of Engineers)—Mr. Paul Gibson.

c. I previously made the decision to abolish all Human Resources (HR) positions in the former NCD operating HR office and conduct a Reduction in Force (RIF); HR employees in that office will be afforded bump and retreat rights under RIF to occupied positions only. All positions in the Great Lakes Regional Office which are not presently permanently encumbered by an employee will be officially abolished along with those indicated above.

d. Mr. Michael Loesch from GL Regional Office is to be offered the position in OR DETS, Construction-Operations Division vice Sherm Gee.

e. Mr. Timothy Monteen is to be offered a management directed reassignment to the OR DETS, Construction-Operations position vice Dave Patuson.

ALEXANDER R. JANSEN,
Colonel, Corps of Engineers,
Commanding.

GENERAL BALLARD: I am writing regarding a problem that has developed during the writing of the Corps' division restructuring plans. The problem is the perception that Regional Offices in Chicago and Omaha are subservient to their co-regional office.

The perception is caused by a general lack of information or communication to the divisions, and HQUSACE staff. The staff in Cincinnati has not had a Town Hall meeting to explain the dual regional office concept or the transition plan. One staff member was reported as saying something to the effect of "We have 90 new employees and don't know what to do with them". The transition teams have worked together to prepare a plan that should be acceptable to all.

However our sense of well being falters when we hear statements that are opposite of what we heard from you. What is even worse, is receiving correspondence from HQUSACE that does not exhibit the intent of the restructuring plan. One such example was the 31 Mar 1997 memo on Restructuring Implementation Instructions which identified Office Symbols, EROC's and UIC's for Corps offices. There was no organizational element identified as the Ohio River Regional Office. We understand that those concerns were heard, understood and being acted upon.

The worst example of HQUSACE insensitivity to this issue is the Corps' Home Page on the Internet. Again, there is a Great Lakes Regional Office in Chicago. But, no mention of a Regional Office in Cincinnati, only the Great Lakes Ohio River Division Office.

We have taken you at your word and hope that these are only errors of ignorance, and that the Home Page has not been corrected due to other IM efforts required to implement your restructuring plan. Perhaps a few words to the HQUSACE Chief of Information Management would clarify the perception the Home Page gives to all that see it, and identify it as a high priority item.

Thank you for your assistance.

DUANE A. KOWALSKI,
President,
Local 777, IFPTE.

SENATE—*Monday, July 28, 1997*

The Senate met at 12 noon, and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, source of enabling strength, we thank You that You have promised that, "As your days so shall your strength be." As we begin a new week it is a source of both comfort and courage that You will be with us to provide power to finish the work to be accomplished before the August recess. Help us to trust You each step of the way, hour by hour, issue after issue. Free us to live each moment to the fullest. We commit to Your care any personal worries that might cripple our effectiveness. Bless the negotiations with the administration on tax and spending bills. We ask that agreement may be reached.

Father, be with the Senators. Replace rivalry with resilience, party prejudice with patriotism, weariness with well-being, anxiety with assurance, and caution with courage. We claim that magnificent promise through Isaiah, "But those who wait on the Lord shall renew their strength; they shall mount up with wings of eagles, they shall run and not be weary, they shall walk and not faint."—Is. 40:31. May it be so for the Senators all through this week. In the name of the Lord and Saviour. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 1997.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate majority leader.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, it is my hope that the Senate will be able to make a great deal of progress this week. We have a number of votes that already have been agreed to and we have several bills that we may be able to consider before the week is out.

Today it had been my understanding that we would be able to begin consideration of S. 830, the Food and Drug Administration reform bill. I understand that there would be an objection to proceeding to that measure at this time. I certainly regret that. I don't understand why that is the case. I had been told on Friday that, after a lot of laborious negotiations, agreement had been reached.

Certainly we need to pass this legislation. There are very few organizations in this city that are more in need of reform than the FDA which, for years, has been bureaucratic; it has been dilatory; it has delayed access for the American people to medical procedures that clearly should have been approved earlier, that are available in other countries, including Great Britain; they delayed approval of drugs that could mean a great deal of comfort to Americans. At the same time, they have been over trying to push into other areas where they really have no business. So, to say the least, I have a very low regard for the FDA, and they are long overdue for reform.

This legislation has been pending in the Senate both last year and this year. The chairman of the committee of education and labor has reported that bill out. Negotiations have been underway with a number of Senators, including Senator MACK, Senator FRIST, Senator KENNEDY, and I presume Senator DURBIN, and I thought that all had come to resolution. But it appears now that we will not be able to go forward with it at this time. But we will continue to look for an opportunity to get that done this week.

As all Senators are aware, this is the last week of legislative business prior to the August adjournment for our State work periods. There are a number of important issues that will be considered this week, including the conference reports on the budget, Balanced Budget Act of 1997, and the Tax Relief Act. I get a lot of inquiries about that, will we do it or not? Have we reached an agreement with the administration or not?

Negotiations continue; they continued throughout the weekend. There were communications on Friday, meetings on Saturday, a number of communications back and forth between the Congress and the administration all through the day yesterday, all the way up until about 9:15 or 9:30 last night, and there are negotiations underway now with the exchange of paperwork as to exactly what these issues may mean. Some of them are pretty complicated, in terms of the formulas that will be used—how do you define a benefits package where the States and the Governors and the legislators have the maximum flexibility in providing the services for the needs of the children in their respective States? But I would have to say, I think we are very close. I continue to be relatively optimistic.

I must say, this agreement on both the spending bill and the tax relief package is worth having. I hope we will continue to try to come to a conclusion today, if at all possible.

We will be completing work also this week on the Commerce, State, Justice appropriations bill as well as the Department of Transportation appropriations bill.

Previous agreement was entered into also last week to complete action on S. 39, the tuna-dolphin bill, early this week. So we expect that sometime in the next 2 days we will have a 30-minute time for debate and possibly a recorded vote, but a vote of some sort on the compromise that was worked out on that issue last Friday.

At 5 p.m. this afternoon, the Senate will begin consideration of the Transportation appropriations bill. We hope to get most of the work done on that appropriations bill tonight, done tonight. There will be no rollcall votes today.

Tomorrow morning the Senate will be scheduled to have a series of votes, or we were scheduled to have a series of votes with debate beginning at 8:30 and votes occurring, I believe, beginning at 9:30, on the Commerce, State, Justice appropriations bill, but we understand that there is a memorial service for Justice Brennan that will be held on Tuesday morning, so it may be necessary to delay these votes and, as always, Members will be notified exactly when that will be. There will be some stacked votes, I don't know right now whether it's 2, 3, or 4, with relation to Commerce, State, Justice. But it will be later in the morning or in the early afternoon, so we can accommodate Senators who would like to attend the memorial service. Then we can complete action on the bill.

I had hoped we would have agreement on the spending and on the tax relief bill early enough that we could actually get started on it on Tuesday morning. It looks like we will not be able to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

do that, but we still want to get the final votes on the State, Justice, Commerce appropriations bill as soon as we can and be prepared to move swiftly to the budget agreements once they are reached.

I thank all Senators for their cooperation. I know this will be, again, a hectic week. But I believe we can complete 2 more appropriations bills which will put us at 10, leaving only 3 that we would have to work on when we return in September. That is an incredible pace, and I am very pleased with the cooperation that we have had in getting that done. I hope we can continue that. We also, again, hope to complete action on two or three other bills; most important, the budget agreements. When that is completed, of course, we would then have an opportunity to turn to the Executive Calendar also.

Mr. President, I would like to hear from the distinguished Senator from Vermont as to what is the state of negotiations regarding the Food and Drug Administration reform package. I know he has worked very hard on it. We hope to get that done this week. I would be glad to hear his impressions of how we are going to do that.

Mr. JEFFORDS. Mr. President, I would be happy to enlighten the body as to where we stand. It is my understanding we have an agreement. However, it appears an objection will be raised if we try to move forward at this time. So, I would just alert everyone that I believe we have an agreement and that we will be able to move forward this week.

There are, as is always the case when you go to bring a measure forward, people who decide suddenly they want to be involved in the process. We will try to accommodate them. I know there are several Members who are out of the country right now and will be back later today. So, I don't intend to call up the FDA Act at this time, but I will, with the indulgence of the President, move forward, I suppose as in morning business, and discuss where we are on the bill.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. If there is no objection, there will now be a period of morning business.

The Senator from Illinois.

FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997

Mr. DURBIN. Mr. President, I would like to say at the outset that I have the highest respect for the Senator from Vermont. The Senator has done a great deal of work on one of the most important pieces of legislation which we will consider during the course of this Congress. Although I am not a member of his committee, I have an abiding interest in the Food and Drug Administration. For 12 years in the House I was a member of the subcommittee which funded the Food and Drug Administration. I was called on many times to get involved in issues related to this important agency.

It is an extraordinary agency. By Federal standards it is tiny. About $1 billion each year out of our $1.6 trillion budget is spent on the budget of the Food and Drug Administration. Yet every one of us, every American family, depends on the Food and Drug Administration. Many of the products which we take for granted are reviewed by them for safety so that our families can use them and feel confident that the product is safe for that use. Thus, when there have been efforts to reform the Food and Drug Administration, I have been very attentive. Some people are looking to reform the Food and Drug Administration for selfish reasons. Others are looking to reform the Food and Drug Administration for the right reasons. I believe the Senator from Vermont falls in the latter category. I believe he is trying to reform the FDA for the right reasons.

He and I may have a few differences of opinion, I think very few, and I hope that we have a chance, when this bill comes to the floor, to actually address them and perhaps, in the quiet of an off-the-floor conversation, we may come to an agreement on each of these items that I would like to discuss. But I salute him for the hard work which he has done in a bipartisan fashion to bring this matter to the floor.

It is my understanding, perhaps the Senator from Vermont could enlighten us, that the bill itself was not ready for consideration, was actually in draft form for Members' offices to read, until this weekend. And, if that is the case, although I would like to see us move on it this week, I'm sure we would all like at least a few moments to go through it and to reflect on the different changes that are proposed and the impact that they would have on this important agency.

Mr. JEFFORDS. If the Senator will yield?

Mr. DURBIN. I would be happy to yield for a question.

Mr. JEFFORDS. The bill itself has been ready for about a month and has been under examination for a month. In order to be able to proceed most efficiently and effectively in the amendment process, we have been working with Members—and you have asked us to do so today—to take into consideration possible changes in the bill. We had many requests of that nature over the past month, and we have accommodated, to my knowledge, every one of those requests and have been and are ready to proceed, with the understanding that certain amendments would be offered. Some of those amendments would be accepted and some of those would be disagreed with.

But we are under the exigencies of time here. This is such an important bill. We started negotiations, the Senate did, last year, under Senator Kassebaum. The bill was voted out of the committee by a very substantial vote. However, there were strong objections raised to it and problems with the House. So we started again this year with the bill and we have been working for several months, now, ironing out these difficulties and problems.

It was my understanding we had a consensus. That is why we are here on the floor this afternoon. On the other hand, now we understand that some others have reasons that they would like to participate. We have no problem with that. The problem is not ours, in the sense of the committee. The problem is time on the floor. We have just 1 week left before we go into recess in order to accomplish the major bills, the reconciliation and budget matters, and we will have only a limited amount of time. So, for us to proceed and get this finished by the end of the week, which is important, it is going to take agreement by those who now want to participate in order to have a timely process where we can bring this to conclusion.

I look forward to working with my colleague—I know he will cooperate with us so that this very important piece of legislation can get passed out. The House is waiting to move until we move. Also connected with it is the Prescription Drug User Fee Act, PDUFA, which is very important to get passed because that expires at the end of September. So we must move ahead. I thank the Senator for giving his time.

Mr. DURBIN. If the Senator from Vermont will continue to yield for the purpose of a question, then it is my understanding we will not proceed to the bill itself today, that we will wait?

Mr. JEFFORDS. I am not proceeding to the bill at this time. I am hopeful and wait patiently with great expectations that at some point after having discussed with you and perhaps communicated with the minority leader that we will be able to move forward with the bill in a way that will utilize the time today effectively so that we can complete this bill by the end of the week. But I do not intend to call it up at this particular moment.

Mr. DURBIN. I thank the Senator from Vermont and pledge my cooperation to consider any amendments which might be necessary to be debated on the floor in a timely manner, sensitive to the limited time we have this week. He is correct, that if we do not move on this user fee question, it will expire and create great problems and complications at this important agency. We don't want that to happen. I share with him the belief that we can and should move this bill forward this week, and I look forward to working with him.

PRIVILEGE OF THE FLOOR

Mr. DURBIN. Mr. President, I ask unanimous consent that Anne Marie Murphy of my staff be accorded the privilege of the floor for the duration of debate, when it starts, on S. 830, the Food and Drug Administration Modernization and Accountability Act of 1997.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Sean Donohue and Chris Loso, fellows with the Committee on Labor and Human Resources, be permitted the privilege of the floor during all Senate consideration of S. 830, the Food and Drug Modernization and Accountability Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, as we have just discussed, I am going to proceed so that my colleagues and those interested in this legislation can better understand the nature of this legislation and the importance of it, and, hopefully, later in the day, we will be able to proceed in an orderly manner through the amendment process.

The legislation is to modernize the Food and Drug Administration, and we authorize the Prescription Drug User Fee Act, which will, upon enactment, streamline the FDA's regulatory procedures. This modernization will help the agency review medical devices and drugs more expeditiously and will let the American public have access sooner to newer, safer and more effective therapeutic products.

I am disappointed that some of my Democratic colleagues are not desirous of proceeding at this time, but I will do my best to accommodate them and also to move forward on this bill. I am especially chagrined, given the months of bipartisan negotiating that has led to this bill. Each major provision—all of the drugs and medical device provisions of this measure—represents long-sought agreements with the minority and with the FDA itself. I do not understand this continued delay.

In particular, Senator KENNEDY has played a key role in reaching this agreement, and I wish to applaud his willingness and tenacity in working through several difficult issues to reach a consensus on this legislation.

In addition, Secretary Shalala and the FDA itself has worked diligently to reach reasonable, sensible agreements. This is a good, bipartisan measure that represents moderate yet real reform. It has been agreed to by the minority and the administration.

There is no reason for further delay, and I am going forward today with the expectation that before the end of the day, we will be moving forward on this bill.

On June 11, prior to the committee markup of S. 830, I received a letter from Secretary Shalala outlining the Department's key concerns. This was sometime ago. In her letter, the Secretary stated:

> I am concerned that the inclusion of non-consensus issues in the committee's bill will result in a protracted and contentious debate.

Before and since our committee markup, we have worked hard to achieve a consensus bill. The measure before us today accomplishes that goal. Bipartisan staff and Members have worked diligently with the agency to address each of the significant nonconsensus provisions raised by the Secretary.

In her letter, Secretary Shalala expressed her feeling that the legislation would lower the review standard for marketing approval. Key changes have been made to the substitute to address these concerns. With respect to the number of clinical investigations required for approval, changes were made to assure that there is not a presumption of less than the two well-controlled and adequate investigations, while guarding against the rote requirement of two studies.

We made it very clear you don't have to do two, although it is quite acceptable for you to do two, but you shouldn't look at it as being required. It is not necessary.

The measure clarifies that substantial evidence may, when the Secretary determines that such data and evidence are sufficient to establish effectiveness, consist of data with one adequate and well-controlled clinical investigation and confirmatory evidence.

Concerns were raised also about allowing distribution of experimental therapies without adequate safeguards to assure patient safety or completion of research on efficacy. Changes to accommodate those concerns were made. They are in the substitute. We tighten the definition of who may provide unapproved therapies and gave FDA more control over the expanded access process.

Other changes will ensure that use of products outside of clinical trials will not interfere with adequate enrollment of patients in those trials and also give the FDA authority to terminate expanded access if patient safeguard protections are not met. The provision allowing manufacturers to charge for products covered under the expedited access provision was deleted also.

In mid-June, the Secretary argued that S. 830 would allow health claims for food and economic claims for drugs and biologic products without adequate scientific proof. In response, Senator GREGG agreed to changes that would allow the FDA 120 days to review a health claim and provide the agency with the authority to prevent the claim from being used in the marketplace by issuing an interim final regulation.

In addition, the provision allowing pharmaceutical manufacturers to distribute economic information was modified to clarify that the information must be based on competent and reliable scientific evidence and limited the scope to claims directly related to an indication for which the drug was approved.

This bill was further changed to accommodate the Secretary's opposition to the provision that would allow third-party review for devices.

Products now excluded from third-party review include Class III products. These are products that are implantable for more than 1 year, those that are life sustaining or life supporting, and also products that are of substantial importance in the prevention of impairment to human health.

In addition, a provision advocated by Senator HARKIN has been incorporated that clarifies the statutory right of the FDA to review records related to compensation agreements between accredited reviewers and device sponsors.

I want to point out that we have been working hard with Members, the Secretary, and others who brought problems to us, and we believe we have all of those taken care of, but we understand now we will have to do some more work today.

Finally, the Secretary was concerned about provisions that she felt would burden the agency with extensive new regulatory requirements that would detract resources from critical agency functions without commensurate enhancement of the public health. This legislation now gives FDA new powers to make enforcement activity more efficient, adds important new patient benefits and protections, and makes the review process more efficient.

First, we give FDA new powers and clarify existing authority, including mandatory foreign facility registration, seizure authority for certain imported goods, and a presumption of interstate commerce for FDA-regulated products. Those are all important changes to help clarify the powers of the FDA.

Second, to assist patients with finding out about promising new clinical trials, we established a clinical trials database registry, accessed by an 800 number. Patients will also benefit from a new requirement that companies report annually on their compliance with agreements to conduct postapproval studies on drugs. This was an important provision that we added, working with Senator KENNEDY.

Third, FDA's burden will be eased by provisions to make the review process more collaborative. Collaborative reviews will improve the quality of applications for new products and reduce the length of time and effort required to review products. We also expressly allow FDA to access expertise at other science-based agencies and contract with experts to help with product reviews. This is very important to bring about more efficient and effective utilization of resources.

Lastly, by expanding the third-party review pilot program for medical devices, we build on an important tool for the agency to use in managing an increasing workload in an era of declining Federal resources.

In closing, I echo another part of Secretary Shalala's June 11 letter:

> I want to commend you and the members of the committee on both sides of the aisle on the progress we have made together to develop a package of sensible, consensus reform provisions that are ready for consideration with reauthorization of the Prescription Drug User Fee Act . . . a protracted and contentious debate . . . would not serve our mutual goal of timely reauthorization of PDUFA and passage of constructive, consensus bipartisan FDA reform.

I can't tell you how pleased I am that we have been able to work with the Secretary and come to this point now where we have few—I don't believe we have any disagreements—with the Secretary. Although we have some further matters we may have to discuss.

From the beginning of this process, all of the stakeholders have been committed to producing a consensus measure, and we have accomplished that goal. There is agreement on this bill, and I urge my Democratic colleagues to allow this important measure to move forward.

Before yielding the floor, I would like to commend the members of the committee. I have never worked with a group that has worked as hard as the members of my committee have to bring about a consensus. This has been night-and-day work for weeks. We have some outstanding Members on both sides of the aisle that have done outstanding work to bring us to this point. I could name them all, and I will eventually as we go forward, but I know standing and ready to go is one of those who has been of invaluable service to this committee. That is Senator FRIST. With his knowledge as a physician, his intelligence and ability to communicate in a way that brings about consensus, we have moved forward on some incredibly important goals for being able to assist our doctors in their pursuance of good health for all of us.

With that, Mr. President, I yield the floor.

Mr. FRIST addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak on the issue of a bill which I am very hopeful will be considered shortly, and that is the Food and Drug Administration Modernization and Accountability Act of 1997. I came to the floor expecting, as we all had anticipated, that this bill would be considered today in the bipartisan spirit that has, in many ways, been reflected by working together over the past 2 years on a bill that will modernize the FDA, will strengthen the FDA and will, what I guess I care most about, improve patient care for the thousands, for the hundreds of thousands of people who will benefit from having speedier access to effective drugs, to effective therapies, to effective devices.

I am very excited about the bill, yet I am very disappointed now that my colleagues on the other side of the aisle have presented a situation where this bill cannot be considered today.

I am hopeful that over the course of today we will be able to reach some sort of agreement. I had thought we had reached that agreement, but obviously we have not, much to my disappointment and, I think, to the detriment of the United States and all those people who could benefit from having a strengthened FDA.

A comment was made earlier that the bill has not really been considered by a number of people. Again, that is a bit disappointing. The bill before us today really represents over 2 years of work conducted in committee and with people off of the committee that we just heard our distinguished chairman mention—2 years of work with one objective; that is, to modernize the Food and Drug Administration. I do want to emphasize the bipartisanship in committee, in the Human Resources Committee.

This bill was considered, was marked up, and the bill, with a 14 to 4 vote, passed out of committee to be taken to the floor. Throughout this process, our distinguished chairman, who we just heard from on the floor, has worked with the minority staff, with the minority Senators as well as the majority. Both Senator JEFFORDS and the majority, and Senator KENNEDY and the minority on the committee have negotiated in good faith to move forward.

During the months—and really this has gone on for months, in effect, for 2 years as we debated and discussed a very similar bill—but during the months leading up to committee passage—again, it has gone through the committee with a vote of 14 to 4—and continuing up to today, there have been a series of meetings between the FDA, between industry, between the administration and the committee staff, all gathered together in a bipartisan spirit, legislative and executive branch, working together to clarify provisions, to outline and to resolve those concerns between the various parties. And with a bill that is this major, that will impact every single American both in the current generation and in the next generation, it takes that working together, negotiating across the table, listening to everybody's concerns.

I am delighted—up at least, I thought, until 15 or 20 minutes ago—that those provisions had been discussed, that the debate had been outlined with negotiations and compromise carried out to where we have a very strong bill that will benefit all Americans.

The chairman of the committee, through which this passed again with a strong bipartisan vote, pointed out the importance of passing FDA reform over the next 6 to 7 days, or I guess the remaining 5 days now, when he referred to the expiring authorization of what is called PDUFA. This is favored.

The reauthorization, which is expiring—the authorization is expiring—the reauthorization is supported by the FDA, it is supported by the U.S. Congress, it is supported by the administration, and it is supported by industry. This law has been a great success. It must and will be extended for another 5 years. It is an integral part of the FDA reform and modernization bill that I hope will be introduced this week.

If in some way this aspect of the bill is blocked, despite the fact that both sides—that all sides—want it to move forward, there is the potential that as many as 600 FDA reviewers that are employed because of PDUFA, which speeds up, which accelerates the approval process to get drugs out to the American people, could be at jeopardy. That must be addressed this week. Furthermore, patients awaiting the drugs that will be approved at an expedited rate of PDUFA will wait and wait and wait if this is not continued.

PRIVILEGE OF THE FLOOR

Mr. President, at this juncture, I ask unanimous consent that privileges of floor be granted to a member of my staff, Dr. Clyde Evans, during the period between now and 3 p.m., Monday July 28.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I would like to speak to a specific aspect of the bill that reflects, I think, the bipartisan spirit, the working together to the benefit of individual patients or future patients, to the benefit of children today, of hard-working men and women across this country. It has to do with the whole topic of dissemination of scientific medical information. This aspect of the Food and Drug Administration Modernization and Accountability Act of 1997 is a very important one, but one that has been contentious in many ways and in many people's minds has been the most contentious part of the FDA bill.

It all stems back to legislation that was introduced by my distinguished colleague from Florida, Mr. MACK, and myself 2 years ago. It focuses on the fundamental aspect which is so important to the practice of medicine today, to the delivery of care today, and that is to allow a free flow of good, accurate information that can be used to benefit people who need health care and health care services. It focuses on the dissemination of scientific medical peer-reviewed information to physicians and other health care providers.

As I said, this is an important aspect of the bill which I hope will be introduced. It will result in more scientific information on uses of FDA-approved drugs in an off-label or extra-label manner. Again, these are products that have already been approved by the FDA, but they are used very commonly in fields such as pediatric medicine, the practice of delivering care to children today while they are in the hospital, used very commonly in the treatment of cancer therapy. As much as 90 percent of all of the uses of drugs in oncology or the treatment of cancer are used in what is called an off-label or extra-label manner.

These provisions, which are a part of the underlying bill, represent a lot of hard work, as was implied by the distinguished chairman, a lot of bipartisan support which has been demonstrated especially over the last 2 months but really over the last 6 months.

Specifically, I want to thank my colleagues on both sides of the aisle, Senator MACK, who I mentioned, Senator DODD, Senator WYDEN and Senator BOXER, all of whom have remained throughout committed to this issue and have demonstrated real leadership in their bipartisan working together to come up with a piece of legislation that will be to the benefit of all Americans. I, too, want to express my appreciation to Secretary Shalala for her willingness to work, along with Senator KENNEDY, on what had been considered, as I mentioned, one of the most contentious issues initially of FDA reform. Now we have a bipartisan consensus agreement among all parties in this body with the FDA and with the administration.

The information dissemination provisions do represent a compromise, a balanced compromise, but they really ultimately respect the importance of physicians receiving up-to-date, independently derived scientific information, as well, at the same time to pursue, when possible, getting those prescribed uses ultimately approved on the label by the FDA. Thus, we have to address the dissemination of information. But what we have come to by these very careful, balanced negotiations is this linkage to actually improving and reforming the supplemental application process. The goal among almost all of us is to get as many of these uses today on the label.

Now, what does off-label mean? Off-label scares people. As a physician, as someone in my thoracic oncology practice, as someone who routinely every week treated cancer patients, I have some responsibility to define for my colleagues what off-label means. Off-label scares people. Is it somebody going in some secret closet and pulling out a medicine and using it? No, it is not. That is why extra-label is probably a better term. But right now off-label is something that we in the medical profession understand is used routinely in the pediatric population and, as mentioned earlier, for inpatient hospitalization. Probably 50 percent of all pediatric drugs prescribed are off-label. So it is not a term to be scared of or to fear.

In off-label use, it is simply the use of a drug which has been approved by the Food and Drug Administration in a way that has not yet specifically been indicated on the label. It might be using that drug in a combination with other drugs for an intended benefit. It might be a different dosage of that drug. It really comes down to the standpoint that the halflife of medical knowledge is moving quickly. We all know that.

We know how fast science is moving, how fast medical information is changing. That change is skyrocketing and accelerating over time. Clearly, you have an FDA which, and appropriately to some extent, has to be very careful, has to rely on large clinical trials, and has not been as good historically in the past as we would like for it to be in terms of approving over time. That FDA cannot approve every single use of every single drug in the field of health and science which is moving at skyrocketing speed, accelerating speed.

An example, aspirin, has been used off-label for years to prevent heart attacks. People generally know today taking a baby aspirin today or an aspirin every other day is effective in preventing heart attacks in certain populations. But right now, if you read on the label, there are certain limitations as to the use of aspirin. It is not specified that aspirin can be used prophylactically to prevent heart attacks today.

Another example which reflects the importance of off-label or extra-label use in a world where science is moving very quickly is that of the use of tetracycline. When I was in medical school, even 10 years ago, the whole theory of ulcer disease was based on a component of acid. Acid clearly plays a very important role, but what we did not know—in fact when I first heard it myself when I was a resident, I said, "No way; impossible." But what was figured out is that antibiotics can help cure ulcers because the etiology of ulcer disease, of certain types of ulcer disease, is based on a bacterium.

Well, we know that today. Yet tetracycline and the use of tetracycline, a very common antibiotic which is used for many other reasons, does not have an on-label use for the treatment of ulcers. Yet there are thousands of people right now taking tetracycline to treat their ulcer disease—that is an extra-label use, an off-label use—under the law, of course. With 90 percent of my oncology patients using off-label-use drugs, with 50 percent of my pediatric patients using off-label drugs, with tetracycline, physicians are allowed legally, of course, to use and prescribe drugs for off-label uses.

In addition to being a thoracic oncologist—and I will have to add that I was codirector of the thoracic, which is chest, oncology cancer treatment; and lung cancer is the No. 1 cause of cancer death in women today—that for the medical treatment of thoracic cancers, of lung cancer, well over 95 percent of the treatment is off-label today.

In my field of heart and lung transplant surgery, many of my patients are alive today, of the hundreds of patients whom I have transplanted, because of the off-label uses of FDA-approved drugs. Then, in my routine heart surgery practice, where I have put hundreds of mechanical valves in patients over the last several years, there is another great advantage of off-label drugs.

About 40 years ago, the first mechanical heart valves were put in to replace defective valves scarred by rheumatic heart disease. These mechanical valves are replaced routinely. This started in the early 1960's, about 40 years ago. But it was not until March 31, 1994, just 3 years ago, that the off-label use of Coumadin, the blood thinner which all these patients are on and have been on for the last 35 years, that it was ultimately approved for on-label use, according to FDA.

It has been clear in the literature and among my colleagues that Coumadin, this blood thinner, is not only important, but lifesaving for those who have received medical valves. So dissemination of information is important. It is important for physicians to be able to have the latest information, to have the free flow of information. Why? In order to best treat, using the latest techniques and the most effective therapy, the patients who come through their door that they treat in the hospital. Dissemination of information, with appropriate balance and disclosure, will allow sharing of this type of information with physicians and with other people who can take advantage of it.

Let me just close with one further explanation about why it is important. We are talking about this information going to people who are trained to consider this information. Right now, there are barriers there, which means if I were a physician practicing in rural Tennessee, I am not likely to be going to Vanderbilt or the local academic health center and participating in conferences every week. If I am in rural

Tennessee, where do I get my information? I get it from what I learned in medical school, but there is a problem with that because we already said the half-life of medical knowledge is shorter and shorter, with the great discoveries that we have today. I am most likely to read medical journals. Yes, there are many, many journals that it is important for me to read to keep in touch with. I could search the Internet. But to be honest with you, your typical physician is so busy today delivering care, it is very unlikely that they are going to sit down at a computer terminal in rural Tennessee and go to the Internet and get information.

In fact, last year, in testimony before the Labor Committee, Dr. Lindberg at the National Library of Medicine testified before the committee, and explained how vast this literature is out there. He was talking about MEDLINE, which is the primary medical database that is used, in which all of the peer-reviewed journals are placed on this computerized data base. He explained the challenge that physicians have today in the following way:

> MEDLINE contains more than 8 million articles from 1966 to the present. It grows by some 400,000 records annually. If a conscientious doctor were to read two medical articles before retiring every night, he would have fallen 550 years behind in his reading at the end of the first year.

Now, in medicine, where one's health and one's life is in the hands of the physician, I don't see how people can argue about free and appropriate dissemination of information to best benefit that patient, to take care of you as an individual. Yet, there are barriers there. We, probably unintentionally, over time, have created barriers that now we need to take down, to allow the appropriate and balanced dissemination of information to be to the benefit of that physician who is going to be seeing my colleagues, their children and their spouses in the future. More information, I feel, is better, as long as it's balanced, peer-reviewed, and safeguards are built in to make sure that it is not used for promotion.

Mr. President, I will yield the floor soon. This is an issue that I really want to just underscore this day because it represents bipartisanship, working together with the distinguished colleagues on both sides of the aisle. It started from a bill that was introduced in the Senate by the Senator from Florida [Mr. MACK], and myself. It has been greatly improved. How? By sitting around the table with the administration, with the FDA, with colleagues on both sides of the aisle to the point that we, when we pass the overall bill, will be able to improve the health care of individuals across this country.

I feel this is one of the most important aspects of this bill. Again, I call on my colleagues on both sides of the aisle to come together so that we can bring up the underlying bill and pass it to the benefit of all Americans.

I yield the floor.

Mr. WYDEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I strongly urge my colleagues to join today in bipartisan support for this important piece of legislation. In doing so, I want to commend Chairman JEFFORDS, in particular, and Members on both sides of the aisle, because this bill, in my view, meets the central test for good FDA reform legislation. An FDA reform bill ought to keep the critical safety mission for the Food and Drug Administration, while at the same time encouraging innovation—innovation that is going to produce new therapies and save lives. This bill meets that twin test.

This bill is a result of, as several of our colleagues have noted, much debate and an extraordinary effort to build consensus. I am proud to have played some part in that effort as a Member of both the House of Representatives and the U.S. Senate, having introduced, more than 2 years ago, H.R. 1472, the FDA Modernization Act, which contains several of the key ingredients of the legislation before us today.

Mr. President, from the time we get up in the morning until the time we go to bed at night, we live, work, eat, and drink in a world of products that are affected by decisions made at the Food and Drug Administration. Perhaps no other Federal agency has such a broad impact in the daily lives of average Americans.

Food handling and commercial preparation often occurs under the agency's scrutiny. Over-the-counter drugs and nutritional supplements, from vitamins to aspirin, are also certified by the agency.

Life-saving drugs for treatment of cancer, autoimmune deficiency, and other dreaded diseases, are held to its rigorous approval standards.

Medical devices ranging from the very simple to the complex, from tongue depressors to computerized diagnostic equipment, all have to meet quality standards at the FDA.

These products that are overseen by the FDA are woven deeply into the fabric of our daily lives, and the agency's twin missions of certifying their safety and effectiveness is supported by the vast majority of Americans.

Yet, balancing those missions against the time and expense required by companies to navigate the FDA approval system has often been difficult and controversial. In the last Congress, radical transformation of the agency, even ending the agency as we know it and replacing it with a panel of private sector, expert entrepreneurs, became a goal of some.

At the very least, reforming the Food and Drug Administration at the beginning of the last Congress looked to be an exercise fraught with partisan political turmoil, and destined for ongoing gridlock.

But while there was focus on the extreme ends of the argument—those folks arguing for no changes against Members demanding wholesale dismemberment of the agency—a broad, bipartisan group of Members of Congress developed.

With the help of Vice President GORE's Reinventing Government Program, Members of Congress from both political parties developed practical, bipartisan solutions to the critical management issues that the FDA approval process presents.

I sought to mobilize this bipartisan movement with H.R. 1472, introduced in June 1995. Some in my party thought I had gone too far, too fast. But I am gratified that many of the elements of this legislation, strengthened in this legislation, are going to be considered by the Senate.

These include, first, a streamlining of approval systems for biotechnology product manufacturing. It is clear that the rules for biotechnology, so central to health care progress, have not kept up with the times. This legislation will allow biotechnology to move into the 21st century with a realistic framework of regulation.

The bill allows approval of important new breakthrough drugs on the basis of a single, clinically valid trial.

It creates a collaborative mechanism allowing applicants to confer constructively with the FDA at critical points in the approval process.

It sets reasonable, but strict, timeframes for the approval of decision-making.

It reduces the paperwork and reporting burden now facing so many small entrepreneurs when they make minor changes in the manufacturing process.

It establishes provisions for allowing third-party review of applications at the discretion of the Secretary.

It allows manufacturers to distribute scientifically valid information on uses for approved drugs and devices, which have not yet been certified by the Food and Drug Administration.

Each of those areas, Mr. President, was in the legislation that I introduced more than 2 years ago, and with the bipartisan efforts that have been made in this bill, each of them has been strengthened. I am especially pleased that Senators MACK, FRIST, DODD, BOXER, KENNEDY, and I could offer the provisions of this legislation relating to the dissemination of information on off-label uses of approved products.

This provision will allow manufacturers to distribute scientifically and clinically valid information on such uses following a review by the Food and Drug Administration, including a decision that I proposed more than 2 years ago, which may require additional balancing material to be added to the packet.

Here is why that is important. Manufacturers with an approved drug for ovarian cancer may have important, but not yet conclusive, information from new trials that their drug also may reduce brain or breast cancers. That data, while perhaps not yet of a grade to meet supplemental labeling approval, may be critically important for an end-stage breast cancer patient whose doctor has exhausted all other treatments.

That doctor and that doctor's patient have the absolute right to that information. It is time for this policy of censorship at the Food and Drug Administration to end. I believe that, with the legislation that will come before the Senate, it will be possible for health care providers to get this critical information and do it in a way that protects the safety of all of our citizens.

This legislation is going to save lives, not sacrifice them. It is going to mean that more doctors and their patients will have meaningful access to life-saving information about drugs that treat dread diseases like HIV and cancer.

It will mean that biologic products will have a swifter passage through an approval process which no longer will require unnecessarily difficult demands with regard to the size of a startup manufacturing process.

It will mean that breakthrough drugs that offer relief or cures for deadly diseases, for which there is no approved therapy, are going to get to the market earlier on the basis of a specially expedited approval system.

Mr. President, legislation, indeed laws, are only words on paper. Mr. President, we must also have a new FDA Commissioner who is committed to the changes in S. 830, just as committed to those changes as former Commissioner David Kessler was committed to the war on teenage smoking.

This bill goes a long way to making sure that the Food and Drug Administration is prepared to meet the challenges of the 21st century. But we also need to make sure that at the FDA, at that agency, there is a new commitment at every level to carry out these changes.

I believe that it is possible to keep the mission of the Food and Drug Administration—that all-critical safety mission, a mission that Americans rely on literally from the time they get up in the morning until the time they go to bed at night—while still ensuring that there are opportunities for innovation in the development of cures for dread diseases.

Mr. President, I also want to conclude by thanking a member of my staff, Mr. Steve Jenning. For several years now, he has toiled on many of these provisions with Members of Congress on both the House side and the Senate side, to help bring about this legislation. He has, in my view, done yeoman work, and I want to make sure that the Senate knows about his efforts. I know my colleagues in the House are very much aware of him.

So we all look forward, on a bipartisan basis, to seeing S. 830 come to the floor. It is a bill that is going to make a difference in terms of saving lives. The Senate needs to pass it and needs to pass it this week.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first of all, I want to thank the Senator from Oregon for his support and for his very effective presentation. I know there are so many of us here who want to work together. In fact, just about everybody does. That is why it is of such concern to me that we now find ourselves in a position where we can't proceed. I know of the Senator's immense assistance in helping us in this matter, and I appreciate what he has said.

Mr. President, I think it would be wise at this point, while we are biding time in the hopes of being able to move forward, to answer the questions that many people have: Why are we here? What is the big deal? What is so important? Why are we anxious to get moving and to get this piece of legislation passed?

I would like to go through some of the problems that we have right now with the FDA because it is our lives and our health that are at stake here. The time delays that occur because of the various problems at the FDA that we are trying to correct mean that new therapies that would be essential to your life and health, proceed so slowly that many, many people are deprived of the hopes and dreams we all have of a good health and a good life.

Let me provide some examples. By law, FDA is required to review and act on applications for approval on drugs within 180 days. Now, that 180 days was not just pulled out of the air. That was looking at the normal processes you would be able to do it in 180 days. According to FDA's own budget justification for fiscal year 1998, it takes the agency an average of 12 months longer than the statute allows to complete this process. It takes, on average, a year and a half for a process that should take 6 months.

Since the 1960's to the 1990's, complete clinical trials, that is, the time required by FDA to show for efficacy of drugs, has increased from 2.5 to nearly 7 years. Between 1990 and 1995, the FDA average approval time, that is, the time after the clinical trials have been completed, was about 2.3 years.

Today, only 1 in 5,000 potential new medicines is ever approved by the FDA. According to a recently published study, from the beginning of the process to the end, it takes an average of 15 years and costs in the range of $500 million to bring a new drug to market.

Why does this process take so long? Before FDA even gets involved in the process, innovators spend an average of 6½ years in early research and preclinical testing in the laboratory and with animal studies. Long before human tests begin, a summary of all the preclinical results is submitted to the FDA. This document, known as the investigational new drug application, or IND, contains information on chemistry, manufacturing data, pharmacological test results, safety testing results and a plan for clinical testing in people.

If the FDA judges the potential benefits to humans to outweigh the risks involved, the stage is set for three phases of clinical trials to begin. Taken together, the three phases of clinical trials in human populations average about an additional 6 years.

Phase I clinical trials focus on safety. During about a 1-year period, very low doses of compound are administered to small groups of healthy volunteers. Gradually, they are increased to determine how the bodies react to the different levels.

Phase II clinical trials last about 2 years; that is, 2 additional years. They involve 100 and 300 patient volunteers, and focus on the compounds effectiveness. These are blinded trials that are held in hospitals around the country where they compare the innovator compound with a so called placebo—that is the control group is not given anything. The effect of the innovator drug is compared with effect on those who received the placebo. Three out of four prospective drugs drop out of the picture as a result of the data collected during these phase II trials.

Phase III trials involve one or more clinical trials where researchers aim to confirm the results of earlier tests in a larger population. Phase III lasts from 2 to 5 years and can involve between 3,000 and 150,000 patients in hundreds of hospitals and medical centers. These tests provide researchers with a huge database of information on the safety and efficacy of the drug candidate to satisfy FDA's regulatory requirements.

The amount of data required to file for the next new phase, new drug application, or NDA, is staggering. The application for new drugs typically runs to hundreds of thousands of pages in length. For example, in 1994, the NDA for a groundbreaking arthritis medication contained more than 1,000 volumes of documentation that weighed 3 tons. It included data from clinical tests in roughly 10,000 patients, some of whom had been taking new medication 5 years.

During the NDA review process—which can last an additional 2½ years, Government officials have extensive contact with the company. They visit the research facilities and talk to the doctors and scientists involved in the research. In addition, FDA officials visit and approve the manufacturing facilities and review and approve all the labeling, packaging and marketing that will accompany the product.

Well, that is good and we want the FDA to be thorough, but things can be done more efficiently and more effectively. If we cannot reduce these times based on the consensus agreements in this bill—then a lot of people will lose the timely availability and the utilization of these breakthroughs.

What does this reducing of overall time mean for Americans? If we can reduce this overall time, it means quicker access to safe and effective lifesaving drugs.

I want to point out that the FDA, when it reviewed priority applications, has been able to make breakthroughs in AIDS and elsewhere by just being more efficient.

Also, for instance, to give you an example of review process delay, over 12 million type-2 diabetics had to wait almost 2 years for a new machine to be approved. Almost 2 million American women with breast cancer had to wait almost 2 years in excess of what should have been required for this review process.

So when that you have that kind of delay, you know you have to have reform, and that is why we are here. Some may argue that the long period of review and approval time is the price we pay for ensuring drug safety and efficacy. But that long delay does not hold true for all drugs. We know the FDA can significantly reduce its approval times because it has already done it. We have, for instance, with respect to the AIDS therapies, the so-called protease inhibiters that were approved in a matter of months. FDA can do more to ensure that they receive timely attention, and S. 830 will help FDA do so for all promising therapies. FDA is aware of this, and that is why they have been working to help simplify the law, simplify the process, simplify the procedures, so that we can get these drugs to market on time without in any way infringing upon the necessity to protect the health of our people.

So as we proceed, I will review these issues in a more definitive manner. But as we await removal of an objection to proceed, I just wanted to remind people that there are real, valid, deep concerns that we are facing here. Our goal is to make sure the health of our Nation can improve and that people will be able to have access to the innovative therapies that will benefit their lives.

Mr. President, I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Tennessee.

Mr. FRIST. Again, I would like to commend the chairman of the Labor and Human Resources Committee for the outstanding work he has done in shepherding through the committee and now, hopefully, later today bring to the floor an act which will modernize and strengthen the FDA and will be to the real benefit of all Americans to make sure that health care services are given in an expeditious way to the American people.

As I mentioned in my earlier comments in the Chamber, a central aspect of health care today is the dissemination of information to physicians, to health care providers so that both will know, understand and have access to and be able to use appropriately that information to serve their patients, the so-called off-label or extra-label provisions I introduced this morning, and I want to share once again my delight in the fact that in a bipartisan way, working with Senators KENNEDY, WYDEN, BOXER, MACK, myself, and the distinguished chairman, we have come together and worked with the administration and the FDA to address this very important issue of dissemination of information.

As I mentioned, off-label uses are really prominent in health care today. The American Medical Association estimates the off-label or extra-label use of drugs that have already been approved by the FDA to be in the range of 40 percent to 60 percent of all prescriptions. Of all prescriptions written today, 40 to 60 percent are estimated by the American Medical Association to be off-label, and there have been very few problems associated with this off-label appropriate use. In treating hospitalized children, it has been estimated that over 70 percent of the drugs are prescribed to be off-label, and that can vary anywhere from 60 to as high as 90 percent, and for diseases such as cancer the figure can be as high as 90 percent.

As a lung cancer surgeon—I mentioned earlier the treatment of lung cancer today—the medical treatment of lung cancer involves well over 80, more in the range of 90, percent of all medical treatment being off-label. And that is that the drugs already approved by the FDA are used either in a dosage or in a combination with other drugs that have not yet been approved or studied through the FDA process. That can be improved in lots of ways and that is part of the underlying bill, to strengthen the FDA by making the approval process more efficient. People ask me frequently, why aren't all uses of drugs, if they are really effective, if they are really valuable, if they really improve patient care, why aren't they on the label?

A goal of all of us, I think, is to get as many on the label as possible. But in answering that question, I first cite the American Medical Association's Council on Scientific Affairs, which met this spring to consider all of these issues and to make recommendations regarding information dissemination and what we call the supplemental approval process; that is, a drug has been approved for a specific indication at a specific dose and if it is discovered through medical science that a different dose or another medication is in order, why can't you get that in a supplemental way on the label. The AMA's Council on Scientific Affairs, in explaining why there are currently so many medically accepted, commonly used, unlabeled uses of FDA-approved drugs, states:

> The simple answer is that FDA-approved labeling does not necessarily reflect current medical practice.

In their comments, they go on to explain that manufacturers may not seek FDA approval for all useful indications for a whole range, a whole host of reasons, including:

> The expense of regulatory compliance may be greater than the eventual revenues expected—e.g. if patent protection for the drug product has expired or if the patient population protected by the new use is very small.

The point is, if you have a drug in your pharmaceutical company and you know it is good, yet it will benefit very few people in a population and you know it is going to cost you millions and millions of dollars and years and years of trying to put through these clinical trials, what incentive do you have when the benefit is to such a few number of patients out there? Thus, we need to lower that barrier, make the supplemental approval process for these extra-label or off-label uses easier, lower that barrier.

Patent protection. Once a manufacturer has invested a lot of money and time in clinical trials and meeting the regulatory requirements of the Food and Drug Administration, they are protected for a period of time through the patent, but once the patent expires, what then is their incentive to go out and get this off-label use put on the label when they have to go through so many hoops, through what all of us know is an inefficient process today?

The good news is that the underlying bill addresses the supplemental process. It links off-label use or dissemination of information about off-label use to a future application.

Now, the supplemental process—and what I am even more excited or equally excited about is it makes that supplemental process more efficient, with more incentives for the manufacturers to seek what is called a supplemental new drug application.

Going back to the AMA's Council on Scientific Affairs, they say:

> A sponsor also may not seek FDA approval because of difficulties in conducting controlled clinical trials. ([For example,] for ethical reasons, or due to the inability to recruit patients).

"Finally," and again I am quoting them:

> . . . even when a sponsor does elect to seek approval for a new indication, the regulatory approval process for the required [Supplemental New Drug Application] is expensive and may proceed very slowly.

In fact, they continue to explain a little bit later, that the past review performance for SNDA's, Supplemental New Drug Applications, is

> . . . unexpected because the SNDA should be much simpler to review than the original [New Drug Application], and suggests the FDA gave much lower priority to reviews of SNDAs.

The point is, we need to improve the underlying supplemental new drug application process and this bill does that as well. I am very hopeful that this bill can be brought to the floor because you can see the number of good things that are in this bill that will speed and make more efficient the overall approval process with safeguards built in that will protect the American people from dangerous drugs, the unnecessary side effects of drugs or devices.

The underlying bill, again pointing to the real advantages of getting this bill to the floor, includes additional incentives for manufacturers to seek supplemental labeling, including added exclusivity for those seeking pediatric labeling. Again, encouraging—and we know, if you look back historically, we as a nation have not done very well, in terms of aiming labeling for the pediatric population, a place where these drugs are so critical, are so crucial for our children, my children, your children. We need to do better there and this bill addresses that.

Also, the underlying bill requires that the FDA publish performance standards for the prompt review of supplemental applications. It requires the FDA issue final guidance to clarify the requirements and facilitate the submission of data to support the approval of the supplemental application. And it requires the FDA to designate someone in each FDA center who will be responsible for encouraging review of supplemental applications and who will work with sponsors to facilitate the development of—and to gather the data to support—these supplemental new drug applications. Moreover, the Secretary, as specified in the bill, will foster a collaboration between the Food and Drug Administration and the NIH, the National Institutes of Health, and the professional medical societies and the professional scientific societies, and others to identify published and unpublished studies that could support SNDA, a supplemental new drug application. The point is to improve tha communication, that working together. Finally, in the bill, the Secretary is required to encourage sponsors to submit SNDA's or conduct further research based on all of thes studies.

Again, this drives home the point that the underlying value of this bill dictates that it be brought forward to the floor, that it be debated, that it ultimately be passed and taken to the American people—all of these provisions which I cited—to improve the FDA's commitment to the SNDA process, to improve the agency's communication with manufacturers regarding the requirements for SNDA's, and the requirements that in most cases the manufacturers submit approved clinical trial protocols and commit to filing a SNDA before disseminating scientific information about off-label uses—all will improve the number of supplemental indications pursued by manufacturers.

To be certain of the impact of all of these provisions, the dissemination provisions sunset after a completion of a study by the Institute of Medicine to review the scientific issues presented by this particular section, including whether the information provided to health care practitioners by both the manufacturer and by the Secretary is useful, the quality of such information, and the impact of dissemination of information on research in the area of new uses, indications, or dosages. Again, special emphasis in the bill is placed on rare diseases and is placed on pediatric indications.

Indeed, limiting information dissemination to off-label uses undergoing the research necessary to get it on label has been a real subject of negotiation and compromise in this bipartisan discussion with the FDA and the administration and representatives from Congress. However, the point is that we have done that. It is now ready to be brought to the floor, to be talked about among all of our colleagues if they so wish. Those negotiations and those compromises have been carried out. It is time now to bring that to the floor. We have worked to accommodate many other concerns of our fellow colleagues in the U.S. Senate, concerns among the FDA and other organizations. The provisions outlined in the amendment have changed a great deal from the original bill that was proposed by Senator MACK and myself during the 104th Congress, and it makes it a better bill, a stronger bill, one that I think will benefit all Americans.

In general, in the bill, manufacturers will be allowed to share peer-reviewed medical journal articles and medical textbooks about off-label uses with health care practitioners only if they have made that commitment to file for a supplemental new drug application within 6 months, or if the manufacturer submits the clinical trial protocol and the schedule for collecting the information for this new drug application, this supplemental new drug application. If those criteria are met, manufacturers will be allowed to share peer-reviewed medical journal articles and medical textbooks.

I have to comment on peer review because it is important. That means the types of materials that are submitted, that a manufacturer may submit to a physician—remember the physician already has 4 years of medical school, several years of residency, is trained to at least read that peer-reviewed article. If that peer-reviewed article is sent, that dissemination of information will facilitate, I believe, the overall care of patients—broadly.

In addition, the FDA will review whatever proposed information is to be sent out by a manufacturer to a physician. They will have 60 days to review that peer-reviewed article or that chapter out of a textbook. The manufacturer—and it is spelled out in the bill—must list the use, the indications—the indication, or the dosage provisions that are not on the label. The manufacturer must also disclose any financial interest. The manufacturer must also submit a bibliography of previous articles on the drug or the device. And, then, after all that submission, if the Secretary determines that more information is needed, she may require the manufacturer to disseminate other information in order to present an objective view. In other words, we are not allowing manufacturers to send out articles which have any sort of bias or conflict of interest. These are peer-reviewed articles with safeguards built in to make sure that there is not an undue bias.

The safeguards against abuse also ensure that the information is accurate; it is unbiased when it is presented to that practitioner. Manufacturers must inform the Secretary of any new developments about the off-label use, whether those developments are positive or whether they are negative. And, in turn, the Secretary may require that new information be disseminated to health care practitioners who previously received information on a new use. This really should go a long way to ensure that health care practitioner—the person who is in rural Tennessee—is fully informed, with peer-reviewed articles, cleared of any conflicts of interest, with the FDA having had 60 days to make sure that balance is there.

There are a number of benefits to this amendment. Patients will gain from better and safer health care because their physician will be more knowledgeable about potential treatments. That is the most important thing for a physician. Again, as I am in this body I want to keep coming back, again and again, to what is important to physicians and to our health care system. It is simply one thing and that is the patient; that the patient has access to the very best health care, the very best device to treat their cancer, to treat their underlying heart disease, to provide the patient with the very best possible care.

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

There will be a number of charges, and there have been in the past, about this freedom of information, allowing dissemination of extra-label information. One is—and we heard it last year and we built into the process, I think, very strong provisions to prevent this—but critics would say if you allow people to use drugs and devices off-label—remember, that's the standard of care right now—but if you allow information to be disseminated by a manufacturer, then what incentive does that manufacturer have to go out and jump the hurdles of a SNDA, the supplemental new drug application process?

Pharmaceutical companies are going to be committed to completing a SNDA in this bill. They have a greater incentive to continue research and clinical trials on their projects. The additional benefits of receiving approval for new indications include product reimbursement. Frequently you are not reimbursed for a medicine unless it is FDA approved. The incentive to get that approval is there if we have an appropriate barrier. Another is less product liability. Many people believe if it is on the label and you use that drug, that gives you some protection from product liability and therefore these manufacturers have an incentive to get that supplemental new drug application approved. Also, active promotion of the product for the new use.

I also heard in the debate last year before the committee this whole idea of what peer review is. It is misunderstood by people broadly, but the concept of peer review is that I, as an investigator, submit my data and my studies to the experts in the world who are not necessarily—who are not, in fact—at my institution, not a part of my research team. They are objective. There is no conflict of interest. They review the study, they review the protocol, they review how the study was carried out, and decide is this good science or is this bad science. And that is what peer review is. Typically, journals that are peer-reviewed have objective boards that look at this data and either put on their stamp of approval—they don't necessarily have to agree with everything, but they have to say it is good science and the study was conducted in an ethical and peer-reviewed manner.

So peer review is important. We have worked, again in a bipartisan way, in this bill, with the American Medical Association's Council on Scientific Affairs to agree on the definition of a quality peer-reviewed journal article in order to ensure that high scientific standards are guaranteed; if a manufacturer sends out an article, it has been peer reviewed. And we spell out in the bill that manufacturers will only be allowed to send out peer-reviewed articles from medical journals listed in the NIH, the National Institutes of Health, National Library of Medicine's Index Medicus. These medical journals must have an independent editorial board, they must use experts in the subject of the article, and must have a publicly stated conflict of interest policy. Again, building in, as much as possible, the concept of educated scientifically objective peer review.

Last, manufacturers will not be allowed to advertise the product. They will not be allowed to make oral presentations. They will not be allowed to send free samples to health care practitioners. In other words, sending a health care practitioner, a physician, an independently derived, scientifically significant peer-reviewed journal article is not promotion. As a physician, I know, reading a peer-reviewed article—you see a lot of peer-reviewed articles—does not necessarily change my prescribing habits. As a physician, I am trained through medical school and residency and my years of practice to assimilate that information, reject what I don't agree with or what I don't think is good science and use, if I think it is in the best interests of my patient, what is suggested.

In closing, let me simply say that I am disappointed that an objection has been made to bringing to the floor the large bill that will strengthen the FDA. It is important that we do so. It is important that we extend PDUFA, which is the approval process supported by the private sector, working hand in hand with the public sector, which has been of such huge benefit to patients. We should do so because we will be able to get better, improved therapies for the treatment of cancer, pediatric diseases, blood-borne diseases, to the American people in a more expeditious way, and that translates into saving lives.

We need to bring this bill to the floor now. We have bipartisan support. We have debated it. It was approved in a bipartisan way through the Labor and Human Resources Committee. If we do so, we will be doing a great service to the American people.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I, again, want to thank Doctor—Senator FRIST who is a cosponsor of this bill and has lent his incredible expertise to this effort. I especially thank him for his leadership, with Senators MACK, BOXER, and WYDEN, for their work in solving the off-labeling provision. Their collaboration shows the broad base of support this provision now has. Off-labeling was one of the most contentious provisions in the last Congress. To come up with a solution of that issue is a tremendous step forward. I want to talk a little bit, before I wind things up here, about the broad base of support we have.

Senator DEWINE, for instance, joined with Senator DODD in offering important amendments to establish incentives for the conduct of research into pediatric uses of existing and new drugs.

Senator HUTCHINSON had an amendment to establish a national framework for pharmacy compounding with respect to State regulations which allowed us to move forward on another very contentious and important issue.

I also want to praise and thank Senator MIKULSKI for being a cosponsor of this legislation, and the importance of her help on PDUFA, of which she was a primary sponsor. We all benefit from Senator MIKULSKI's determination to bring FDA into the 21st century, not just for the benefit of her own constituents, but for all of us.

I also would like to point out that we had contributions by Senator DODD in the area of patient databases. He worked very closely with Senator SNOWE and Senator FEINSTEIN. We are grateful for their leadership in these areas. Senator DODD has been a tremendous asset in helping to enact broad-based reform this year. He has been of steady, continual assistance to us.

Also, the tremendous difficulties that we had with third-party review provisions during the last Congress have undergone substantial revision since it was first debated. Senator COATS in particular has shown incredible leadership on this issue. This was a very difficult area and Senator COATS has been magnanimous in his willingness to spend many hours in bringing about consensus. I certainly appreciate his work.

Senator WELLSTONE's contributions to the area of reforming medical device reviews shows the breadth of the philosophical collaboration we had on these issues. Senator WELLSTONE introduced his own legislation to reform the medical devices approval process and many of his provisions are included in this bill.

Also, of course, Senator KENNEDY has been of incredible help, as he has been on so many issues. He has worked hard and I thank him for the number of hours that he and his staff put into this bill to make sure we arrived at a consensus.

I also thank Senator GREGG for working so hard on radio-pharmaceuticals, on streamlining the process for reviewing health claims based on Federal research, and on establishing uniformity in over-the-counter drugs and cosmetics. The latter issue—cosmetic uniformity—is still giving us some trouble.

But Senator GREGG has just been incredibly hard-working and effective with this bill in handling four different issues.

Also, the two amendments that Senator HARKIN had on the third-party review for medical devices and also his work in other areas has been a very great help and a demonstration of the broad philosophical support that we have and how we are working together to bring about a consensus, hopefully, before the end of the day on the remaining issues.

Mr. President, before I cease, I would like to take care of a couple of housekeeping matters here.

PROVIDING FOR THE USE OF THE CATAFALQUE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 123, which was received from the House and is agreed upon by both parties.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 123) providing for the use of the catafalque situated in the crypt beneath the rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William J. Brennan, former Associate Justice of the Supreme Court for the United States.

The Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statement relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 123) was agreed to.

AUTHORIZING USE OF CAPITOL GROUNDS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 130, Senate Concurrent Resolution 33.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 33) authorizing the use of the Capitol Grounds for the National SAFE KIDS Campaign SAFE KIDS Buckle Up Car Seat Check Up.

The Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 33) was agreed to, as follows:

S. CON. RES. 33

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL SAFE KIDS CAMPAIGN SAFE KIDS BUCKLE UP SAFETY CHECK.

The National SAFE KIDS Campaign and its auxiliary may sponsor a public event on the Capitol Grounds on August 27 and August 28, 1997, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police.

(b) EXPENSES AND LIABILITIES.—The National SAFE KIDS Campaign and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the National SAFE KIDS Campaign and its agents are authorized to erect upon the Capitol Grounds any stage, sound amplification devices, and other related structures and equipment required for the event authorized under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any other reasonable arrangements as may be required to plan for or administer the event.

RECESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3 p.m.

There being no objection, at 1:37 p.m., the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. COLLINS).

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, there will now be a period of morning business. The first hour of morning business is under the control of the Democratic leader or his designee.

In my capacity as a Senator from the State of Maine, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I ask unanimous consent to speak for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRADE WITH CHINA

Mr. BAUCUS. Madam President, this week the United States Trade Representative will conduct a set of talks on China's accession to the World Trade Organization. Their results will have a great effect on our trade policy for years to come. So this afternoon I want to take a few minutes to discuss the reason these talks are important, the state of United States-China trade, and a strategy that can help improve the situation.

The reason these talks are important is simple. China is a big market, a big exporter, and a country with which we have a large and difficult trade agenda. By virtue of population, only India equals China as a potential export market. And China's economic growth, at nearly 10 percent a year throughout this decade, is unmatched in the world.

Much of this growth has come from trade. Twenty years ago, China barely participated in world trade. It is now the world's sixth largest trader and is now our third largest source of imports after Canada and Japan. If you count Hong Kong together with China, the figures are even more impressive.

But our American export performance to China is very poor. The Commerce Department reports $11.7 billion in goods exported in 1995, $12 billion in 1996, and on track for the same level this year. Adding exports of services, the total is about $2 billion larger, but the trends are no better.

By contrast, our exports to the rest of the world have grown by 18 percent since 1995. So despite China's size, despite China's economic growth, our export performance is weak and China's importance as an export market relative to other countries is rapidly declining.

We should be doing much better than this. There are two reasons for our weak performance. The first is that many of our own policies appear designed to cut our exports to China. And the second, larger problem, is Chinese protectionism.

We will start with the first point. Because while bringing down trade barriers takes a lot of work and hard negotiations, we can fix our own mistakes pretty easily. And let me offer three examples.

First, we bar trade promotion programs like the Trade Development Agency, OPIC, and sometimes the Eximbank from operating in China. The Senate took a good step forward by passing my amendment last week showing the Asian Environmental Partnership to work in China, but we have a very, very long way to go.

We refuse to sell nuclear powerplants to China. This is foolish enough when we see that France and Japan are pushing nuclear powerplant exports in our absence. And it is almost surreal when you consider that we are actually giving nuclear powerplants to North Korea.

We have an antiproliferation law that embargoes electronics exports if China sells missiles. That is, if China misbehaves, we sanction ourselves. This will not work. If we are serious about reducing the trade deficit, if we want a trade policy that creates jobs in America, we cannot routinely prevent ourselves from exporting.

That is part of the solution, but not the whole solution. Because while fixing our mistakes are important, structural economic issues and Chinese trade barriers do much more to cut our exports.

To date, we have used our own domestic trade law to solve our problems, section 301 and Special 301, to bring down trade barriers, the antidumping and countervailing duty laws to fight dumping and subsidies. This policy won some results, and if necessary we should continue using it into the future. But it is a slow and frustrating policy which addresses individual, specific problems rather than the full spectrum of trade barriers. We need a more comprehensive approach. And we have it in China's application to enter the World Trade Organization.

WTO rules address most of our China trade problems, from tariffs and quotas to subsidies and distribution. If China accepts these rules, our trade future may be much brighter than the present. So I regard these discussions in Geneva as critically important and view China's entry to the WTO on commercially acceptable grounds as very much in our national interest.

But these talks come with risks. If we sign a bad agreement, whatever we miss will stay there a long time. In that case, we should never expect much from the China market. And we would set a dangerous precedent for other reforming communist countries from Russia to Ukraine to Vietnam which hope to enter the WTO.

To this point, China has not made acceptable offers. And if they will not do it this week, we need to be patient. We need to hold out for a good deal. And a good deal basically means four things.

First, it means market access. Today, Chinese tariffs rise to 120 percent for cars and 80 percent on beef. They must go down, way down. We need much less restrictive quotas, abolition of unscientific barriers to agricultural products, like the unfounded claims about "TCK smut" on our wheat, an end to unpublished quotas and regulations, no more unfair inspection rules, and an open market for services.

Second, we need an agreement by China to accept basic standards of trading behavior. Trade regulations must be the same in every port and province all across China. Intellectual property must be protected and technology transfer requirements outlawed. Restrictions on national treatment must go. The government must abandon policies requiring investors to export all or part of their product rather than selling it to the Chinese. And restrictions on trading rights must end.

Third, there are subsidies. We need clear and visible separation between ministries, officials, and public taxes on the one hand and private business on the other. And we need to preserve our safeguards against export subsidies and dumping. Our antidumping law has special rules that calculate dumping from noncompetitive economies. This is the right policy, given the present state of economic reform in China, and we need to keep it in place.

Fourth, results and enforcement. China, as a large partially reformed economy, presents questions the GATT and WTO have never encountered. So we ought to have some benchmarks to measure success, including objective measures of Chinese imports, and a prearranged system of consultation if we see things going wrong. And when problems arise, if they do, we must be ready to enforce our rights.

Of course, a good WTO accession works in both directions. And that brings me to the third part of a better China trade strategy.

As GATT and WTO members, we have always, as Americans, accepted one basic commitment; that is, MFN for all members, permanently and without conditions. If China agrees to a good WTO deal, the Chinese have the right to expect us to fulfill this commitment to them. It is good policy on the merits. It is also the fair and honorable thing to do.

The right trade policy toward China is clear. We must end restrictions on export promotion. We should bring down China's trade barriers through a fair WTO accession agreement, if we can, and through laws like Section 301, if China is not ready to make a good offer. When China does make a good offer, we should live up to our own responsibilities by making MFN status permanent. It can begin this week.

Thank you, Madam President.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I ask unanimous consent that I be allowed to speak for as much time as I consume as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNIVERSAL SERVICE FUND

Mr. DORGAN. Madam President, it is Monday today, and somewhere deep in the bowels of this Capitol building, the budget people are meeting to finalize a budget agreement in something called the reconciliation bill, which deals with both spending and taxes. These are the budgeteers, the people that come from the Budget Committees, and they work on the budget; they know the budget. They deal in almost a foreign language, speaking to each other in a language that most Americans would not understand. Somewhere down in the recesses of this building, they are now meeting, finalizing two reconciliation bills—one on spending and one proposing tax cuts.

The issue that brings me to the floor today for a moment will also bring me to the floor tomorrow morning on an amendment that I have offered. It deals with something that most Americans will not recognize; it is called the universal service fund. Somewhere in this room, where these budgeteers are working, they have a hole in their budget plan. In other words, it doesn't quite add up. So when something doesn't quite add up, what do you do? Well, in this case you get a different adding machine. You can actually build an adding machine that adds it up the way you want. So they plug this hole with a plug number, and the plug number they use in their budget hole is called the universal service fund. I want to describe what it is and why what they are doing is fundamentally wrong and will lead us down the wrong path and cause a great deal of trouble for a lot of Americans.

We have something called the universal service fund in this country because we wanted to provide telephone service to all Americans at an affordable price. How do we do that? Well, it costs a substantial amount of money to provide telephone service for a very small town because you have to have the same infrastructure, and you have to spread the costs over very few telephones. I come from a town of 300 people, so I know what that is about. It is much different than the cost of providing a telephone in a city like New York, where you have literally hundreds of thousands, or millions of telephones, and you spread the fixed costs over millions of telephone instruments.

So we decided in this country we would offset the cost of telephone services for those very high cost areas, where it might otherwise cost people $50, $100, $200 a month to have a telephone. We would offset the cost to make it affordable for everybody by charging everybody a little bit that goes into a universal service fund, and that is used to drive down the telephone costs in the very small areas.

Why did we decide that was important as a country? Because the presence of every telephone makes every other telephone more valuable. If the folks in the big cities could never call people in small towns because the people in small towns found that telephone cost was too expensive and therefore they didn't have a telephone, the system would not work, would it? That is why we have the fund.

A year and a half ago the Congress passed the Telecommunications Act. It was the first time in nearly 60 years that Congress had reformulated the laws on telecommunications. The Congress also changed the universal service fund some. Now, this is not money that comes into the Government or goes out of the Government. It is a fund that is established that is administered and set up privately, or on a quasi-private basis at least.

What we have today is a new budget deal that is being put together in which the budgeteers are taking the universal service fund money—some of it—and bringing it into the Federal budget and then spending it out again and using it to manipulate their numbers to plug a $2 to $4 billion hole that will show up sometime in the year 2002.

If this sounds like foreign language to most Americans, I can understand that. But it won't sound like foreign language if the manipulation and misuse of the universal service fund means that, in the longer term, people in small areas, in small towns and rural areas, end up paying much higher monthly telephone bills because of it.

There is no excuse, no excuse at all, for people who are now negotiating today on this budget deal to be talking about manipulating or misusing the universal service fund. It doesn't belong to the Federal Government, doesn't come into the Federal Treasury, and is not to be used or misused by the people who are putting this budget deal together.

Now, I raised this issue last week, and it doesn't mean a thing, apparently. You know, there are some people who apparently just can't hear. I think the budgeteers are in a soundproof room and don't hear. The Senator from Alaska, Senator STEVENS, has raised objections to this. Senator McCAIN has raised objections to it. Senator HOLLINGS has raised objections to it. I have raised objections to it. Others on the floor of the Senate have raised objections. It doesn't seem to mean a thing. They just do their thing in this room. And the White House is negotiating with the Republican leadership in Congress. That is why the deal is being struck. Somehow there will be some immaculate conception announced from some room here in the Capitol in the coming hours, maybe later today, tomorrow, or Wednesday. There is no chance to get into that deal and pull something out that is as egregious a mistake or an abuse as this is, because then we will only have a certain number of hours, and we will be able to vote "yes" or "no" on the construct of this deal.

The reason I came to the floor is to say that if there are people who are putting this together and if they are in fact listening, listen carefully and listen closely: You are doing the wrong thing. You are making a mistake. This money doesn't belong to you. This money ought not to be used to plug a hole in the budget. If you are going to add something up, add it up honestly. If you come up short, find an honest way to cover the shortfall. Do not misuse or manipulate the universal service fund.

I saw on television once a program by a fellow named David Copperfield, a great illusionist, and he provided marvelous entertainment, creating these wonderful illusions for his television audience. Most people, like me, understood it was a trick. The wonderment was, how did they do that trick? I don't understand it. But with respect to illusions performed by Mr. Copperfield, I suppose everybody understands it's trickery.

Why don't we understand in Congress when we create an illusion like this in the budget, it is also trickery, and trickery doesn't belong in these budget agreements. It doesn't belong here, and they ought not bring to it the floor, using the universal service fund—or I should say misusing those funds.

We will vote on that tomorrow. I offered an amendment last week, which is scheduled for decision in the morning. We will, if we are not too late, send a message to the budgeteers: Do not do this. It is the wrong thing.

I said on Thursday that I recall at a motel in Minneapolis near the airport, they had a little sign where the manager parked. It was near the front door, so I suppose everybody wanted to park there. It said, "manager's parking space." Then below it, it said, "don't even think about parking here." I thought, wow, I bet no one thinks about parking there. That is what this Congress ought to say to the people negotiating these deals: Don't even think about doing something like this. It is not the right thing to do. It misuses funds that are not yours. Don't even think about it.

FAST-TRACK TRADE AUTHORITY

Mr. DORGAN. Madam President, because the Senate has very little business today, I wanted to come to the floor to talk about the universal service fund issue. But because we don't have much else to do, I need to unburden myself on a couple of other issues.

This deals with a subject discussed by my colleague from Montana, Senator BAUCUS, on the issue of trade. He was discussing one small issue with respect to China and the WTO. I want to talk about another issue that is going to be the subject of substantial debate in the month of September. When we get back from the August recess, which Congress will take, we are told that the administration will request from this Congress something called fast-track authority for trade negotiations.

Fast-track authority, again, is a term that doesn't mean much, perhaps, to most. Everything with fast seems to me to connote something that is kind of interesting. There is fast food, fast talk, fast track. It all kind of connotes doing something unusual, not taking time to prepare. Fast track means that somebody can go negotiate a trade agreement someplace, bring it back to Congress, and once they bring it to Congress nobody in Congress has the right to offer amendments. That is fast track. To me that is undemocratic. But it is called fast track.

We have negotiated several trade agreements under fast track. All of them have been abysmal failures, terrible failures. We were told that we should grant fast track authority once again so our trade negotiators can go abroad and negotiate new trade agreements with other countries.

Let me review for just a moment what this has gotten us, and why I and some others in this Chamber intend in September to come and aggressively oppose both the President and those in this Chamber who want to extend fast-track trade authority. We asked for fast-track trade authority for negotiating a trade agreement with Mexico, our neighbor to the south. Do you know that just before we negotiated a trade agreement with Mexico under fast track that we had a trade surplus with Mexico? In other words, our trade balance was to our favor—not much, but a trade surplus. So we negotiated a trade agreement with Mexico.

Guess what happens? Now we have an enormous trade deficit with Mexico. What has happened to American jobs? They go to Mexico.

Do you know that we import more cars from Mexico into the United States of America than the United States exports to all of the rest of the world? Think of that. We import more cars from Mexico to our country than we export to the rest of the world. We were told that if we would just do this trade deal with Mexico, all it would mean is that the products of low-skilled labor would come into this country from Mexico but certainly not high-skilled labor.

What comes from Mexico? Cars, car parts, electronics—exactly the opposite kinds of products given the assurances that we were given when the deal was done with Mexico. I didn't support the North American Free-Trade Agreement—this so-called free-trade agreement with Mexico. They attached a free-trade handle to this agreement. That is another name thing—free trade; free lunch. There is no free lunch. The fact is there is nothing free about free trade.

You would think our trade negotiators ought to be able to go out and negotiate a trade agreement that we would win from time to time. Why is it that our trade negotiators seem to lose every trade agreement that they enter into?

Then there is Canada. We had a free-trade agreement with Canada. Now the trade deficit with Canada has gotten much worse. We have a peculiar and difficult circumstance with our Canadian border up in the North Dakota area with the flood of unfairly subsidized Canadian grain coming south across our border.

How about Japan or China? We have massive trade deficits every single year with these countries. And the trade deficit doesn't diminish. It doesn't get smaller. It doesn't improve. These trade deficits are abiding deficits every single year.

What does it mean to our country when you have a long-term trade deficit? With China it has gone from $10 million up to $40 billion in a dozen years. As a result, our country has become a cash cow for China's hard currency needs. It is fundamentally unfair to our workers in our country, and it is unfair to our factories and our producers in our country.

People say, "Well, but those of you who do not like these trade agreements, you just do not understand. You do not have the breadth and the ability to see across the horizon. You do not see the world view here." What we do see is this country's interests.

I am all for expanding our trade. I am all for fair trade. But I will be darned if we ought to stand in this country for a trade relationship—the one we have with Japan, the one we have with China, the one we have with Mexico, or Canada for that matter, and others—that allows our producers and our workers to be put in a position where they cannot compete against unfair trade.

We cannot and should not have to compete in any circumstance with any country that produces a product using 14-year-old kids working 14 hours a day, being paid 14 cents an hour, and then ships their product to Toledo, Fargo, Denver, and San Francisco. Then we are told, "You compete with that, America. You compete with that." We shouldn't have to compete with that.

When we put people in our factories, we have a child labor law. When we put people in our factories, we have a minimum wage. When our people work in our factories, we have air pollution laws against polluting air and against polluting water.

Then a producer says to us, "Well, that is fine if you want to do that. If you want to protect children, pay a decent wage and protect your air and water, we will go elsewhere. We will produce elsewhere. We will produce in China, Sri Lanka, Bangladesh, and Mexico. We will produce elsewhere where we are not nearly as encumbered by the niceties of production such as child labor laws or minimum wages." We shouldn't have to put up with that.

The point I am making is this: Those who come to us in September and say, "Give us fast-track trade authority so we can go out and negotiate new trade agreements," ought to understand that some of us believe that you ought to correct the old trade agreements you have first. You ought to correct the problems that are causing massive deficits with Mexico, massive trade deficits with China, and massive deficits with Japan.

I am not saying that we want to close our markets to them. Instead we need to be saying to them, "When you want to buy things, then you buy from us." We say to China, "If you have a $40 billion trade deficit with us, when you want to buy airplanes, you buy them from us. When you want to buy wheat, you come shop in this country."

Instead, China shops around the world for wheat. When it needs airplanes, it says to one major American airplane company, "By the way, we would like to buy your airplanes, but we want you to manufacture them in China."

That doesn't work. It is not fair trade. It is not the way the trade system ought to work.

Those of us who feel that way in September are going to be here on the floor saying fast-track trade authority ought not be extended. What we ought to do to the extent that we have the energy is to fix the trade problems that now exist—yes, in NAFTA, in GATT, and in bilateral trade relationships with Japan and China and others. That is the job we should be doing. Congress has the responsibility to insist the administration does it, and Congress itself needs to be involved in doing it.

I know what will happen when we do that in September when the administration asks for fast-track authority and some of us stand up and say, "Wait a second; we wonder whether this is in the interests of our country." We will have people immediately jump up and say, "Yes, you people are against free trade. You are a bunch of xenophobic, isolationist stooges who simply don't understand this world now is a smaller world. We from day to day and minute to minute have trade relationships with each other all around the globe, and you don't understand that. You never have gotten it, and you don't get it now." We hear those discussions virtually always when we raise the question of trade.

On the other hand, I think maybe those who view us in such a cavalier way will have to deal with the insistence of some of us that we finally must as a country insist on fair trade relationships. Perhaps they will begin to understand these abiding and long-term trade deficits. Incidentally, the largest trade deficits in the history of our country are occurring now. We currently have the largest merchandise trade deficits in our history. Maybe they will come to understand that these trade deficits will retard this country's long-term economic growth and hurt this country and we must do something about them.

There is great anxiety in this Chamber—and has been for a long while—about the budget deficit. We have made enormous progress in reducing that budget deficit. But there has not been a whisper in this Chamber about suggesting we do something about the largest trade deficit in American history. That trade deficit relates to jobs, economic opportunities, and the future of this country as well. It is long past the time when we do something about it.

MEDICARE WASTE, FRAUD, AND ABUSE

Mr. DORGAN. Madam President, I would like to make comments on one additional subject today, a subject that many of us are working on in both the Republican and Democratic caucuses, and one that is also very important to our country.

The inspector general about a week and a half ago in Health and Human Services released a report on the Medicare Program, and indicated to us in Congress and to the American people that they felt that as much as $17 billion to $23 billion a year is essentially wasted in the area of Medicare, for a range of reasons and a range of areas—waste, fraud, and abuse. They describe bills that were inappropriate, bills that were erroneous, services billed for that were never provided, and some fraud.

The reason that is an important report is that it follows on the heels of the Government Accounting Office, the inspector for the Congress, the GAO, which also had indicated that it felt somewhere in the neighborhood of $20 billion to $23 billion a year is wasted in the area of Medicare. By "wasted," I mean waste, fraud, and abuse.

A good number of people have tried to tackle this subject at one time or another and with some limited success.

The American people would look at Medicare and probably conclude that it was a very important program. I happen to be a supporter of Medicare. I think it was a very important program for this country to develop.

Prior to the 1960's, when this country developed the Medicare Program, far fewer than half of the American senior citizen population had any health insurance at all—and that was for obvious reasons. There are not insurance companies formed in this country to run around seeing if they can provide unlimited insurance to people who are reaching an age of retirement and where they are going to need more and more health care in older age. It is not the way insurance companies make money. Insurance companies search for that healthy 25-year-old who is not going to need any health care and sign them up to pay health insurance premiums. All of us know that. That is where insurance companies make money. Do you know of an insurance company that says, "Our mission in life is to make a profit by searching out old folks and seeing if we can provide insurance to old folks"? I don't think so. That is not the way it works. In order to have health insurance for people at any age, they would have to charge so much that most people couldn't afford it. The result was that in 1955, 1960, 1962 fewer than half of America's senior citizens had any health care coverage at all.

We passed Medicare and made certain that the fear of reaching retirement age and not having health care coverage would be gone forever. Medicare guaranteed those citizens who reached that age—age 65—that they were going to have health insurance coverage. And it has been a marvelous program in many ways. After health care was provided for senior citizens in the early 1960's in the Medicare Program, 99 percent of the senior citizens in this country have coverage for health care—99 percent. That is a remarkable success.

Something else has happened in this intervening period, and it is also called success. People are living longer and living better. Medical breakthroughs extend life in a very significant way. One-hundred years ago at the turn of this century, if you were alive, you were expected on average to live to be 48 years of age. One century later, you have a reasonable expectancy to live to be 78 years of age—from 48 to 78 in one century. That is progress. These days, on average, you live to 77 or 78 years of age. You have a bad knee, replace the knee; a bad hip, replace the hip; cataracts, get surgery, and you can see again. Plug up your heart muscle for over 50 or 60 years, open the chest and unplug the heart muscle with open-heart surgery. I have been to meetings where people have stood up at a meeting and said, "You know, I have a new knee. I have a new hip. I had cataract surgery and had some blockages removed with heart surgery," and then said, "and we are sick of the Government spending money."

Well, all of that cost money in Medicare. It is remarkable. It is breathtaking. It is wonderful that people live longer and medical breakthroughs allow them the opportunity to walk when they couldn't have previously walked and see when they couldn't have seen—and to do other things that give them a better life. But it is also very costly. It has costs with expanded Medicare payments, and all of us must understand that.

This program has grown largely because of success. The life span increases with breakthroughs in medical care. All of that spells more money in Medicare. We understand that. I think the American people accept that as a success story, except no one will believe it is a success story to have a program that has up to $20 billion a year of waste in the program. When the American people hear the stories that for a bottle of saline solution that you can go down to the drug store and buy for $1.03 and Medicare pays $7.90 for it, they have a right to say, "What on Earth is going on here?" Medicare will pay $211 for a home diabetes monitor used by diabetics to test their blood sugar levels. You can buy the same one not for $211 but for $39 at the local store; or the gauze pad that Medicare paid $2.33 for that you can buy for 23 cents. The American people have every right to say, "What on Earth is going on? If you can't run a program, get a crowd in here that can run a program." Or, "If the Congress can't pass the laws to make sure it is run the right way, then get somebody else to pass the laws to make sure it is run the right way."

We ought to aggressively pursue fraud. When we see people committing fraud in Medicare, we ought to send them to jail, arrest them and prosecute them, and say, "You commit fraud against the American people, your address is going to be your jail cell to the end of your term." When we see overbilling and overcharges, when we see administration that is not competent, we need to take action.

The inspector general report of a week and a half ago sends another warning to this Congress that we must take action to prevent this kind of Medicare waste, fraud, and abuse.

Mr. President, $20 billion a year is outrageous. If we are going to continue the support that is necessary for a Medicare Program that is important for this country, this Congress has to take action and take action soon.

There are some remedies in the reconciliation bill that will come to the floor this week but not enough. We must do much, much more. I know there are Republicans and Democrats in this Congress anxious to work together on this problem to hopefully prevent there from ever again being another GAO report or inspector general report that provides this kind of awful news about a Federal program that is so important to so many Americans.

Madam President, with that I conclude my remarks.

The PRESIDING OFFICER. Will the Senator withhold any suggestion of a quorum call for an announcement by the Presiding Officer?

Mr. DORGAN. Yes, of course.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under a previous order, the Senate just having received H.R. 2203, the energy and water appropriations bill, all after the enacting clause of the House bill is stricken and the text of S. 1004, as passed by the Senate, is inserted in lieu thereof. The Senate insists on its amendment, requests a conference with the House, and the Chair is authorized to appoint conferees.

The PRESIDING OFFICER (Ms. COLLINS) appointed Mr. DOMENICI, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. REID of Nevada, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. KOHL, and Mr. DORGAN conferees on the part of the Senate.

The PRESIDING OFFICER. Under a previous order, the passage of S. 1004 is vitiated and the bill is indefinitely postponed.

Mr. DORGAN. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, July 25, 1997, the Federal debt stood at $5,369,530,452,476.10. (Five trillion, three hundred sixty-nine billion, five hundred thirty million, four hundred fifty-two thousand, four hundred seventy-six dollars and ten cents).

One year ago, July 25, 1996, the Federal debt stood at $5,181,309,000,000 (Five trillion, one hundred eighty-one billion, three hundred ninety million).

Twenty-five years ago, July 25, 1972, the Federal debt stood at $434,583,000,000 (Four hundred thirty-four billion, five hundred eighty-three million) which reflects a debt increase of nearly $5 trillion—$4,934,967,452,476.10 (Four trillion, nine hundred thirty-four billion, nine hundred sixty-seven million, four hundred fifty-two thousand, four hundred seventy-six dollars and ten cents) during the past 25 years.

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, there will now be 1 hour for morning business under the control of the Senator from Georgia, [Mr. COVERDELL].

A BALANCED BUDGET ACT AND TAX RELIEF

Mr. COVERDELL. Mr. President, I have just returned from my home State and I can certify that the issue of a balanced budget act and tax relief is on the minds of a lot of Americans. Everywhere I went, whether it was stepping out for lunch or meeting with various groups, somebody would come up and say: Get this done. Hold firm. Stay the course.

America wants this to happen. America wants a balanced budget act to pass and be signed by the President. It will be the first one in nearly 30 years. That is hard to believe, that we have so abused our financial health that this will be the first balanced budget we will be passing in 30 years. And they want the tax relief. I don't think I have met a citizen that didn't, in some way, start calculating, like the young county commissioner I met who is a farmer and a full-time county commissioner, and he has two children. He said, "If that measure passes, that's going to save my family $1,000, $500 per child." Or the elderly couple who are concerned about maybe selling their home and relocating, who are concerned about the capital gains tax that currently rests against that property. Or the family that talked about the onerous nature of death taxes in America, the kinds of decisions and pressures it puts on small businesses and family farms. They really do want this done. I hope, as I said last week, the President will set aside the partisan nature of this issue, and trying to one-up somebody else, and just get it done.

I was reading in today's Washington Post, it says:

> Congressional Republican leaders said last night they were on the verge of a final budget and tax agreement with the White House after making a major concession on the proposed $500-per-child family tax credit and dropping their insistence on "indexing" a reduction in the capital gains tax.

Or, in the New York Times, Monday, July 28:

> Budget Deal Down To "Small Issues," Gingrich Declares. Spokesman for President Says Assessment Is Premature—Meetings Continue.

This is something that both the leaders of our House and Senate and President should really come forward on, get it done, and make a statement that we have, in a bipartisan way, produced major policy. I would revisit, once again, the fact that if the leadership of both parties in the Senate, the leadership of the Finance Committee, both parties, the leadership of the Budget Committee, both parties, if they all could find a balanced budget act and a tax relief act on which they could agree, it ought to send a pretty powerful message to the President and his administration. Remember that 73 Members of the Senate, a majority of both parties' conferences, voted for the Balanced Budget Act, and 80 of them voted for the Tax Relief Act.

I don't know what more proof you could have that these proposals are well-founded, evenly distributed, and essentially fair. Perfect? No. That's not possible in this environment. But anything that can get that kind of support of the leadership, as I said, of both parties, that is a powerful statement and I hope the President would take note of it.

I would like to take just a few minutes and put these two major pieces of legislation in context. I think it would explain why somewhere between 60 and 75 percent of the American public wants this to happen. Let's just go back to the beginning of this decade, 1990. In 1990, under the Bush administration, a historically high tax increase was passed in August 1990. In round numbers, about $250 billion of new tax burden were put on American workers and their families. A lot of people feel that had much to do with President Bush being defeated in the following election, in 1992. I think there were a lot of issues involved, but many feel that was the turning point.

On top of that, his opponent, soon-to-be-President Clinton, was campaigning across the country that he was going to lower taxes, pointing to that tax increase of 1990. "The middle class needs a break," he said. He was elected in 1992 and came to Washington as the new President. However, before he had moved into the White House, he had discarded that promise, and, by August 1993, in his first year in office, instead of lowering taxes on the middle class, he raised them. He raised taxes to an all-time—in an all-time historical—in the size of the tax increases, it was even larger than the previous one which occurred in the Bush administration. It was over $250 billion. So, between 1990 and 1993, the American workers and their families suddenly were carrying a half a trillion in new taxes, and they were paying the highest tax levels they had ever paid.

It is little wonder there is so much anxiety in middle America and their families. Even with the economy in reasonably good shape, the enthusiasm is less than wondrous. I decided about 2-years ago to take a look at that family. That family in Georgia, and I think this would be true in most of our States, earned about $40,000 a year in gross income. Typically, both parents work today, as you know. And when President Clinton came to Washington, they were only keeping about 53 percent of their paychecks. After they paid for State taxes, local taxes, and Federal taxes, cost of Government and their share of higher interest rates because of a $5.4 trillion national debt, they were keeping 53 cents on the dollar. Unfortunately, today they are only keeping 47 cents on the dollar. The decline in their disposable income marches on.

These families, in my view, have been pressed to the wall, and we have made it exceedingly difficult for these families to do what we have always depended on the American family to do, that is, educate, house, provide for health, transportation, get the country up in the morning and off to work and school, and prepare their families and children for stewardship when it is their time to lead. In a situation where they are paying more in taxes than housing, education, and food combined, we have a problem in America. If the forefathers were here and could see what we have been confiscating and taking out of the checking accounts, and taking away from those who earned their income, they would be stunned. They would think this was a violation of the essential premises upon which the Nation was founded, which included economic freedom.

Let me put this in another context. My mother and father, born in 1912 and 1916, kept 80 percent of their lifetime paychecks to do the things I mentioned a moment ago: raise the family—me and my sister—educate, house, provide for health and prepare for stewardship. My sister is 10 years younger than I. She will keep about 50 percent of her lifetime paycheck, and her daughter, my niece, who has just begun her career under the current scheme of things, will only keep about a third of her lifetime paychecks.

My niece is not going to be free, by the American definition I understand, if 70-plus percent of her paycheck is going somewhere else and she is left with a third of the money she earns to do her job in life. Her options have been severely constrained from those of her grandmother and grandfather. Those options that my dad and my mom had are the very things that made America what it is.

My dad began his career as a coal truck driver. Had he been born in the sphere of the Soviet bloc, I am convinced he would have died a coal truck driver. But, instead, he lived a life of entrepreneurial spirit and dreams and visions, creating businesses and jobs, the very things that economic freedom have done for our country. The genesis of all American glory is our freedom, and one of the cornerstones of that freedom is economic freedom, economic choices that families and workers in America can make that families and workers in many countries around the world could not.

Which brings me to the point I am trying to make about the importance of this tax relief proposal. Keep in mind what I said a moment ago. In 1990, $250 billion in new taxes were laid on the backs of American workers and families. In 1993, though promised tax relief, they got another $250 billion in taxes. So we now have, in 3 years, a half a trillion in new taxes. This proposal we are talking about is really only a first step. The net tax relief is $85 billion and you have to stand that against the $500 billion new tax burden.

It really only represents relief of about 20, 25 percent of the taxes that have been put on the backs of these people in the last 36 months.

In the last Congress, the new Republican majority tried to refund the President's tax increase. We sent the President a tax relief package, about $245 billion, but he vetoed it. So he kept that tax burden in place and on the back of every worker and every working family.

We have been through another election. We had a President who said the era of big Government is over. We had a Republican majority in the Senate and the House committed to reining in the size of Government, committed to balancing our budgets, committed to lowering taxes and, finally, the convergence of these two agree to a minimalist—what this is—a minimalist tax relief. But nevertheless, it is moving in the right direction. It is moving in the right direction, and it will be significant to millions of American families. I hope that it is but the first step and that a healthier economy would produce yet a new opportunity to lower the tax burden.

From my perspective, a worker in America ought to, at a minimum—at a minimum—keep two-thirds of their paycheck. Just two-thirds. It ought to be more. Getting to a position where they can keep two-thirds is a herculean task. They are currently keeping 47 to 50. On an average basis, that means this Congress, this President ought to be working to keep $8,000 per year—$8,000 per year—in the checking account of every average family across America.

Just think what those families could do with that resource in the context of education, health insurance, housing, recreation, savings. American families don't save anything. They can't save for the rainy day. They can't save for education upfront. They are having a hard time saving for retirement.

What can you save, Mr. President, after the Government has marched through your checking account and walked off with over half of it? Talk about freedom. I sort of look at it this way. If somebody marches through my checking account and takes over half of what I earn, they—it—has more to do with my life than I do. In family after family across our land, that is what is happening today, and that is why this tax relief proposal is on target and correct, and the President needs to come forward, meet, as is being endeavored here of the leadership of the Congress trying to meet him halfway—just like what happened between the Democrat and Republican leadership here in the Senate—and get this done. Get this done for those average checking accounts and start finding a way to get that $8,000 back into the average checking account of the average working family across our country.

There is one feature in the Senate proposal that we sent across to the House. We added it in the debate here. As you know, the President has called for $35 billion of the tax relief should be in tax advantages that occur against tuition and higher education and tax credits that occur for families who have students in higher education. That is a huge piece of the $85 billion, I might add. He and his colleagues are arguing that this tax relief for families that have students in higher education is the most important component of it, in his mind.

There are some critics of that. I can support that, because it at least is leaving those dollars in the checking accounts of those families. I personally believe it should be broader based. I think if a family wants that tax relief to buy a new home, if a family wants that tax relief to deal with other problems—health—they ought to have the option. It ought not to be just tax relief only if you are a family that has a child confronting the cost of higher education. That is fine, too, but it ought to have been broader. But in the series of compromises with the President, we will probably come very close to honoring his request.

In my view, while cost of higher education is critical, the problem in American education is in grades 1 through 12. It is at the elementary level. It is in high school. Look at the data. Somewhere between 50 and 60 percent of the students coming to college this September will not be able to read proficiently.

Look at the comparison of our reading skills, our math skills, our science skills against the other industrialized nations. And I am talking about the students that are coming out of our elementary and secondary schools getting ready for college, and we don't look very well. Everybody knows it. We are at the bottom of the list time and time again. One through 10, we will be 10.

So I think the President's proposal was weak on the failure to address issues at the elementary level, and I offered an amendment, along with our colleagues, which said that the savings accounts that were created also for higher education, in the version that came from the Senate Finance Committee, said you could take after-tax dollars, up to $2,000, and put them in a savings account and the buildup would be tax-free.

So when you took it out to pay for costs of higher education, you would not pay taxes on the interest that had accrued. That is a good idea. But my amendment took it down to grade one and said you could use the buildup to pay for costs associated with elementary and high school. We said you could take it out for home schooling. We said you could take it out for transportation. We said that you could take it out for computers or tutoring. We said you could take it out for tuition. If you, the family, decided that you wanted your child to go to some other type of school, you could use these funds to help pay for that.

If you put the maximum contribution in, by the time the child was ready for first grade, you would have $15,000 in that account to help deal with decisions that were important to that family regarding education at the elementary level and high school level.

Mr. President, the administration has voiced concerns about this, and they are beyond me. What would be the logic of denying a family the opportunity to have this savings account and to draw on it for computers, home schooling, tutoring, transportation, or tuition? I find it most difficult to understand how we could object to that at the elementary and high school level.

Do we not have confidence in these parents that they can make decisions about how to improve the situation for their children at the level of education that is certifiably the most troubling in America, that is producing data that has every American across our land worried and bothered, that we are not competing at this level with students of the industrialized nations around the world? Why wouldn't we want to focus, why wouldn't we allow that tax credit to go into a savings account once it has been put in place, which you could also add to this savings account?

Mr. President, as I said, there have been objections raised regarding this very simple and, I think, straightforward and clean proposal. I am pleased to say that as of the hour of 4:30 on Monday, July 28, after a series of conferences, first between the Senate and the House to come to a congressional agreement, which has been done and that is important—the House and Senate have met and concurred and they have agreed that this position shaped by the Senate should be in the congressional proposal, and it is. I thank the conferees, and I thank the Speaker, in particular, for fighting to keep this proposal in the mix.

So we are now down to a point that the only opposition to this concept would be the President, who would be, I guess, saying it's not a good idea for families to be able to have savings accounts that accrue resources that would allow families to make prudent decisions about how to help students, their children, confront the one arena in American education that is so troubling, that is having so much difficulty, that is sending youngsters to college who are having trouble with the basic skills of reading and writing and arithmetic. The ABC's, the things that every student who is going to be successful in college, who is going to be successful in their career must know. We are not getting that job done. This is but a small step in allowing this kind of opportunity or this one more option, one more ability to deal with this troubling arena in American education.

So I am very hopeful, and I call on the President and his administration to agree to the education IRA to be used for a child's education, grades 1 through 12, and leave this in the tax relief package that we hope will ultimately be done and hopefully done this week.

What a great message to send America as it enters into the final month of the vacation summer to begin the aggressive era of the fall to say, "We, the Congress and the President, came together and have secured a balanced budget the first time in 3 decades, and we, Congress and the President, have obtained a tax relief act first in a decade and a half." It would be a powerful message to send to our country and the world at this time.

I have a little bit more to say about that, but I see that we have been joined by the distinguished Senator from Washington. And I yield as much time as the Senator requires to comment on these subjects of balanced budgets and taxes.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we here in the Congress and the White House seem at this point to be on the verge of an agreement which will pay two magnificent dividends to the American people.

The first is the promise of a balanced budget, not just one time, not just on a touch-and-go basis, but perhaps with a sufficient number of reforms on spending policies so that we can reasonably expect a balanced budget for a considerable period of time in the future.

Even the promise of that balanced budget, Mr. President, a promise made 2 years ago by the first Republican Congress, has been largely responsible for interest rates, on average, to be 1½ percentage points lower than they were when that Congress came into being. For a middle-class family with an $80,000 mortgage and $15,000 automobile loan, that means $100 more a month for the family to use or to save or to spend on its own rather than on interest payments.

Beyond that, Mr. President, it means that the United States will have substantially ended the practice of spending money that it did not have year after year after year, borrowing that money and sending the bill to our children and to our grandchildren.

The second wonderful dividend which we seem about to present to the American people is tax relief. Just 4 years ago, perhaps to the month, we were here debating—and on this side of the aisle opposing unsuccessfully—what turned out to be the largest tax increase, measured in dollars, in the history of the United States.

Today, that debate, that idea is buried, if not forgotten. And we have changed the entire direction of the debate here from how much more can we spend and how much more can we tax to how can we limit the spending habits of the Government of the United States and what kind of dividend in the form of tax relief can we return to the American people.

We now talk about tax relief rather than about tax increases. The debate over what kind of tax relief, Mr. President, has obscured the profound nature of the change in this debate. It is all too easy to forget that it has only been for the last 2 years that we have seriously been debating tax relief. My friend and colleague from Georgia just pointed out, quite accurately, that this will be the first tax relief for the American people in more than a decade and a half.

Mr. President, many may say that this tax relief proposal is modest. And modest it is. It is perhaps one-third as large as the 1993 tax increase. And so it is only a first step, at least as far as we here on this side of the aisle are concerned. But there will be very real tax relief for hard-working, middle-class citizens of the United States, families with children, very real tax relief from the burden of capital gains taxation, a form of tax relief which will certainly increase savings and investment and career opportunities for Americans today and for future generations of America as well, with tax relief in the field of estate taxation, a particularly vicious form of taxation that penalizes success, breaks up small businesses, requires farms to be sold and undercuts some of the most important bases upon which a successful American economy has been built.

No, Mr. President, since we began this campaign, this crusade with the new Republican Congress just a little bit more than 2 years ago, interest rates have declined, real hourly wages are moving up after 2 years of decline at the beginning of the first Clinton administration, millions of new jobs are in existence, unemployment is as low as it has been in decades.

Mr. President, it is appropriate to say that we are on the verge of success because we have been able to work together. We have listened to the demand that the American people made by their votes less than a year ago that a Republican Congress work with a Democratic President in order to see to it the budget was balanced and tax relief was made available to the American people.

We, on this side of the aisle, are delighted at our success in changing the nature of the debate from how much more Government shall we have and how much more shall we pay for it, to how can we discipline the Government's demand for money and how can we provide tax relief for the American people.

One success, however, Mr. President, I submit, has a real opportunity to lead to another. And so I trust that this quiet Monday will lead to a challenging week, and that by the end of the week a promise made more than 2 years ago on a balanced budget and tax relief for the American people will have been fulfilled.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator from Washington for his comments regarding these important topics.

At this time I yield up to 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you very much.

And let me thank the Senator from Georgia for bringing us to the floor this afternoon to discuss what hopefully by the end of this week will be a bit of history. And I believe it will be the right kind of history, written by the House and the Senate and the White House, that deals with significant tax relief for the American taxpayer and some very major budget reform.

I have had the privilege of now serving in the Senate a good number of years and also in the U.S. House. And since the early 1980s, I became an outspoken advocate for a balanced budget. I watched as our debt and deficit grew, becoming increasingly alarmed that somehow we would pass on to our children and their children a legacy of debt that would be almost insurmountable, that could cripple the economy of this country and lead us down a road to economic deterioration and a second- or third-rate Nation.

Because of concern, shared by many here in the Congress, and by a growing number of American taxpayers, throughout the decade of the 1980s and into the early 1990s, we continued that drumbeat to where it is without question a majority sentiment among the American people today, such an overwhelming majority sentiment that in 1994 they changed the character of the U.S. Congress, and they significantly altered the attitude of a President who came to town not to balance the budget and not to give tax relief but to be able to do quite the opposite, to increase the Federal dominance over the American character, to raise taxes, and to continue a liberal Democratic legacy of an ever-increasingly larger Government taking an ever-increasingly larger chunk of the American worker's paycheck. Thanks to Americans, thanks to Republicans, thanks to conservatives, that message got altered.

Throughout the last several weeks, because of a budget proposal and a tax proposal put together by the Republican leadership and this President, voted on with the substantial bipartisan support of the U.S. Senate, the White House, the Finance Committees, the Budget Committees, along with the leadership, have been in internal negotiations to bring that about, again, reducing the overall size of Government, moving us toward a balanced budget, and for the first time in 16 years giving tax relief to the American people.

That agreement is not at hand yet, but we are told that that could well become the case this week. And I hope it is. I hope it gives to the American working family the kind of relief they deserve during a period when they are being taxed at the highest rate ever, that it gives to the American investor an opportunity to change the character of his or her investment to create even more jobs, to keep the economy even stronger than it is today for a longer and a more sustained period of time and that says to the less fortunate in our country, you too will benefit, you too will benefit by being able to keep more of your hard-earned dollars. And it says to those who are concerned about education, you can put a little more away to provide for that day when you will want to help your children gain a higher level of education so they can advance themselves in our society.

All of that is historic. We may, while serving here on a day-to-day, year-to-year basis, lose that perspective, but I do not think the American people will, because we are saying to them, we heard you, we heard you loudly and clearly. And while a marathon race is not won by a single lap around the track, or the Super Bowl is not won by a single victory at the beginning of the season, this is in itself a victory, a significant victory in that long march away from an ever-larger Government that takes more and more away from the average taxpayer, both in his or her earnings and in his or her freedoms.

So I hope that the work that has gone on the last 2 weeks, in fact, bears fruit. I am excited about the opportunity to debate these issues on the floor of the Senate this week and to vote by week's end on a historic budget package that continues to bring us toward a balanced budget and a historic tax package that offers tax relief to the average taxpayer again for the second time in 16 years.

So let me again thank the Senator from Georgia for his continued leadership on this issue, coming to the floor day after day to inform the American people about what we are about and what we are striving to achieve, oftentimes behind closed doors because of the nature of the kind of negotiations that have gone on, but must require ultimately in the end to be made public. So let me thank my colleague from Georgia.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I thank the Senator from Idaho for the contributions he has made, not only here today but throughout this Congress, with regard to balancing budgets and tax relief.

At this time I yield to the distinguished Senator from Texas for up to 10 minutes on the subject of the balanced budget and tax relief.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Georgia for wanting to talk about this very important issue, because, as we speak on the floor here today, I hope that the negotiations are about to come to an end and we will give the American family the first tax break they have had in 16 years.

I think it is an incredible thing to say that we haven't had a real tax cut in this country for 16 years. As hard-working Americans have tried to improve their quality of life, it just seems like their expenses have gone up so much that we now find that the spouses are working more, sometimes just to pay taxes. That is not what we want in this country. We want spouses to have the option of staying home, if they want to, and not make them work because they can't make ends meet. If we are going to continue the American dream of increasing our quality of life with each generation, we are going to have to pare Government down, balance the budget, make sure that people are not paying any more taxes than we have to have to run a Government.

I think the time has come for us to take a leadership role. In fact, that is what Congress is trying to do. We came into power in this Congress, starting after the elections of 1994, with very clear goals: to make Government smaller; to let people keep more of the money they earn; to stop talking about money in Washington as if it belongs to us, but to understand that, no, it belongs to the people who work so hard to earn it, and let's let people have that money back to spend the way they would like to, rather than the way people in Washington dictate. These are the things that we came in to do.

We are very close. I hope we will be able to close this loop by the end of this week so that the people of America will be able to feel that they have more of the money they earn in their pocketbooks, rather than writing a check to the IRS in Washington.

Fifty years ago—just 50 years ago—Americans sent 2 cents of every dollar to Washington. Today, they send 25 cents of every dollar they earn to Washington, and that is just the Washington part. If you add their State and local taxes on top of that, most Americans pay 40 percent of what they earn; 40 cents of every dollar goes to the Government.

Now, Mr. President, I think that is wrong. I think that means Government is too big, and I think the time has come to do something about it. I hope the President will agree with us, agree with the leadership that Congress is providing on this issue and has been providing for the last 3 years, to try to correct the inequity in our tax laws.

The bill that we have passed in Congress, which we hope the President will sign, will give tax relief to Americans who are paying income taxes; if they have children, a $500 per child tax credit—not deduction, but credit. That is something that they will get right off the top—$500 per child. If you have two children, you would get $1,000 right off the top. That is going to cut most people's taxes in this country by a lot.

When I have asked my constituents in newspaper articles what they would like to see changed, No. 1 is death tax reform. Most people don't think that death taxes are American, because the American dream is that, if you work hard, you should be able to pass what you have accumulated on to your children to give them a little bit better start. That is the American dream. Why should people be taxed on money they have accumulated and already paid taxes on? Why should they be taxed again when they pass what they have worked so hard for to their children?

The worst thing is when their children have to sell part of the family farm, or all of it, just to pay inheritance taxes. That is not right, Mr. President, and we are trying to change that. In the agreement we are trying to get with the President, we would raise that inheritance tax credit to $1 million. We are going to try to keep people from having to sell assets that are not readily salable, because when you tell people that family farm is worth $500,000 or $1 million, but they can't earn enough to feed their family or to make life better for their family, it is very hard to tell them that they have inherited $1 million when it is land that is really unproductive. So we are trying to raise that, so that you will not have to sell equipment in a small business or a family farm that you could not possibly sell on the open market for $1 million.

So we are going to try to make a dent in that death tax. We are going to try to make it easier for people to sell their homes, which is most people's biggest asset, without having to pay the huge taxes that they now do. We are going to try to cut the capital gains tax to 20 percent.

Today, 41 percent of American families own stock. They own stock in a pension plan or a mutual fund. That is how they are investing for their retirement security. We want people to be able to have a capital gains tax cut so that if they need to sell a stock, they will not have to pay a 28-percent tax rate on the capital gain. In fact, more than 83 percent of capital gains are reported by households with less than $100,000 in income; 56 percent of capital gains are reported by families with less than $50,000 in income; nearly one-third of capital gains are reported by senior citizens. This will help the senior citizens, particularly those that are having a hard time getting by. If that senior citizen could sell their home or sell their stock without being penalized so heavily, it would give them a little bit better quality of life.

We are trying to give more help to people who want to save for their retirement futures with individual retirement accounts. A lot of people say an individual retirement account is not really a retirement plan. But I want to just give you one example, because I worked very hard for homemakers to be able to set aside $2,000 a year for their retirement security, and they can do that now. They are able to set aside $2,000 a year, just as those who work outside the home. I want people to know that if a couple starts, at the age of 25, setting aside $2,000 a year per person, by the time they are 65, they will have over $1 million in their retirement nest egg. That is a retirement plan. If a couple can just save $2,000 a year per person, starting at the age of 25, they can have $1 million for their retirement security. That is another reason that we want to do away with that death tax, because we want middle-income people to be able to save enough for real retirement security and not have it taxed away when they die, so that their children will not be able to have that little bit extra.

Our bill will even make IRA's better because it will make them deductible in most instances, and it will make it easier for people to set aside this $2,000 a year. So if we can do that, if we can have a better savings rate in this country, if we can make people more secure in their retirement, if we can give a capital gains tax cut and a death tax cut and $500 per child tax credit, not only will we have kept our promise to the American people, but we will have provided, for middle-income Americans who are working so hard to do better for their children, an opportunity in which they can say, yes, I can see the difference, I can see this tax relief. That is what we are working for in this Congress.

I hope the President will not stop us from giving tax relief to hard-working, middle-income Americans, because if he does, he will be making a great mistake for the prosperity of our country.

Thank you, Mr. President. I yield the floor.

Mr. COVERDELL. Mr. President, I thank the Senator from Texas for outlining the various important aspects of this proposed tax relief. At this point, I turn to my colleague from Michigan and yield him—how much time do I have remaining?

The PRESIDING OFFICER. The Senator has just over 4 minutes remaining.

Mr. COVERDELL. I yield the remainder of that time to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I may not use all of that time. I thank the Senator from Georgia. This is not the first time in which he has come to the floor and led a special order to discuss these issues that are now before us, which we hope will be resolved this week. I think it should be noted that, for the better part of the last 3 years, it has been with the leadership of the Senator from Georgia and the Senator from Texas who just spoke. Others have spoken today from the leadership on the Republican side, which has been advancing the cause of tax relief for the working families of our country.

As we come into the final stages of these negotiations, we are very optimistic that we will be able to realize the objective that many of us came here to achieve: to finally bring an end to higher taxes in Washington and begin, finally, to roll back some of those taxes on the American people.

In recent years, the percentage of the Nation's income, our gross domestic product, consumed by Washington in the form of taxes has gone up and up and up. Indeed, today the percentage is virtually as high as it has ever been in the history of this country—as high as it was during World War II, as high as during Vietnam, as high as during the Depression, and as high as it has been during any of the sort of crises that you might expect to produce record levels of taxation. Today, in the absence of such crises, we nonetheless have had a tax rate reach 21 percent above the Nation's income.

So, Mr. President, the Republican efforts to reduce the tax burden are timely, they are needed, and they are on target. As the Senator from Texas just indicated, whether it is the spousal IRA or the family tax credit of $500 per child or the growth incentives to create jobs and opportunities, such as reducing the capital gains tax rate, the Republican tax plan that was passed in this Chamber by a 80–18 vote addresses the concerns of America's taxpayers in a targeted way that will produce both a chance for working families to keep more of what they earn and be able to do more for themselves, on the one hand, and an opportunity for those who create jobs and opportunities to create more such jobs, higher paying jobs, and more opportunities as we move into the next century.

So for all of those reasons, we are optimistic that our 3-year-long effort is about to pay dividends and that, by the end of this week, with a little bit more effort, we can bring this tax cut to the American people.

To all of those who have been in the leadership of this effort, I offer my thanks because, a few years ago, I don't think anybody in my constituency in Michigan would have expected they would see their taxes go down. This week, we have the best chance in decades—literally, 15 years—to see that occur. So I want to thank and congratulate the leaders on our side who have kept the pressure on. I hope that, by the end of the week, we will achieve our goals, and I hope we will go one step further and prevent any extraneous revenues generated by these tax cuts from being used for anything but more tax cuts or to reduce the national deficit.

We just saw, as the budget negotiations began, that the revenues to the Federal Government were exceeding that which had been projected by the budgeteers in recent years. We were bringing in over $225 billion beyond what had been projected just a few months ago. Well, I think the same is going to happen as a result of the tax cuts included in this budget resolution and in the tax bill we pass.

Mr. President, I think it is imperative that any additional revenues raised beyond that which we expect here in Washington ought to go back to the American people, either in the form of reducing the deficit or more tax cuts for the working families. If we do that, then we can make this tax bill extra special, Mr. President, by truly making it a long-term tax reduction plan for the American people.

Mr. President, I thank the Chair and yield the floor.

Mr. COVERDELL. Mr. President, is there any time remaining on our hour of control?

The PRESIDING OFFICER. All of the Senator's time has expired.

Mr. COVERDELL. In that case, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. What is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998.

The PRESIDING OFFICER. Under the previous order, the hour of 5 p.m. having come and gone, the Senate will now proceed to the consideration of S. 1048, which the clerk will please report.

The bill clerk read as follows:

A bill (S. 1048) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, I ask unanimous consent that the following list of individuals be given full floor privileges during the consideration of S. 1048: Wally Burnett, Joyce Rose, Reid Cavnar, George McDonald, Kathy Casey, Peter Rogoff, Michael Brennan, Liz O'Donoghue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I ask unanimous consent that the following list also be given floor privileges during consideration of S. 1048: Tom Young, Alan Brown, Carole Geagley, and Mitch Warren.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I am pleased this evening to present the fiscal year 1998 Department of Transportation and related agencies appropriations bill. The subcommittee's allocation was $12.157 billion in nondefense discretionary budget authority, and $36.893 billion in nondefense discretionary outlays.

The bill I am presenting today, along with my colleague from New Jersey, Senator LAUTENBERG, is within those allocations and is consistent with our determination to achieve a balanced budget. This bill will also contribute to a safer and more efficient transportation system in this country and therefore contribute to economic growth and a better quality of life for all Americans.

This bill provides $30.1 billion for investment in infrastructure that the public uses, that is, highways, transit, airports, and railroads. That represents an 8 percent increase over the administration's request.

The bill includes a Federal-aid highway obligation limitation of $21.8 billion for investment in our Nation's highways. This is a record high level. And $1.63 billion above the President's amended budget request. The actual distribution of that obligation authority among the States will depend on reauthorization of ISTEA, also known as the Intermodal Surface Transportation Efficiency Act of 1991, which has provided authorization of our Federal surface transportation programs for the past 6 years and which, as the Presiding Officer knows, expires at the end of this fiscal year.

This increase of almost $3 billion over the obligation limitation in place for this year will almost certainly mean more Federal highway spending for each of our States. I want to illustrate for Senators what this increase might mean for them even though I must caution my colleagues this evening that no one can predict now how highway funds will be distributed among the States next year.

I ask unanimous consent that this table comparing State-by-State distribution of highway obligation authority in the current fiscal year to the distribution of the highway obligation authority in our bill for the fiscal year 1998, assuming the same apportionments of contract authority among the States as this year, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ACTUAL FY 1997 OBLIGATION LIMITATION & ESTIMATED FY 1998 OBLIGATION LIMITATION

[In thousands of dollars]

State	Total FY 1997 obligation limitation[1]	Est. FY 1998 limitation based on FY 1997 actual apportionments	Delta
Alabama	342,557	396,091	53,535
Alaska	195,784	231,059	35,276
Arizona	244,117	285,850	41,733
Arkansas	205,115	244,592	39,477
California	1,513,221	1,801,124	287,903
Colorado	192,727	229,249	36,522
Connecticut	342,128	407,185	65,056
Delaware	74,967	89,241	14,274
Dist. of Col.	77,307	93,231	15,924
Florida	757,510	869,277	111,767
Georgia	560,549	620,305	59,756
Hawaii	117,861	140,413	22,552
Idaho	103,597	125,018	21,421
Illinois	638,487	759,358	120,871
Indiana	393,703	470,604	76,900
Iowa	191,366	227,597	36,232
Kansas	198,323	236,001	37,678
Kentucky	308,464	343,085	34,621
Louisiana	261,004	312,517	51,513
Maine	88,442	105,102	16,660
Maryland	261,931	306,085	44,154
Massachusetts	663,051	782,793	119,742
Michigan	510,281	610,265	99,984
Minnesota	239,327	278,865	39,539
Mississippi	201,721	241,881	40,160
Missouri	391,755	470,538	78,783
Montana	146,156	169,351	23,195
Nebraska	134,539	160,125	25,585
Nevada	101,072	120,184	19,112
New Hampshire	82,749	98,474	15,724
New Jersey	462,907	550,465	87,558
New Mexico	161,983	190,795	28,812
New York	1,010,508	1,202,370	191,862
North Carolina	447,701	532,817	85,116
North Dakota	98,670	117,360	18,690
Ohio	601,766	732,224	130,458
Oklahoma	258,618	309,756	51,138
Oregon	202,318	241,238	38,920
Pennsylvania	676,649	812,481	135,832
Rhode Island	80,354	92,228	11,874
South Carolina	273,300	314,160	40,860
South Dakota	107,686	128,097	20,411
Tennessee	375,667	451,035	75,368
Texas	1,204,819	1,404,097	199,278
Utah	122,674	144,653	21,979
Vermont	75,942	90,381	14,438
Virginia	390,933	464,221	73,288
Washington	312,109	369,628	57,519
West Virginia	153,425	182,354	28,929
Wisconsin	336,942	402,433	65,491
Wyoming	107,621	128,057	20,436
Puerto Rico	73,656	87,690	14,034
Subtotal	17,076,061	20,174,002	3,097,942
Administration	551,192	558,440	7,248
Federal Lands	440,000	440,000	0
Reserve	627,558	627,558	0
Total	18,694,811	21,800,000	3,105,190

[1] Does not include an estimated $264 million in bonus limitation yet to be distributed.

Mr. SHELBY. If our limitation becomes law by the end of September, the States will be apportioned an average of 18 percent more—18 percent more—highway obligation limitation for 1998 than they were apportioned at the beginning of last fiscal year. That is some improvement in the money.

In addition, we have included $300 million for Appalachian Development Highway System investment consistent with existing authorization. The Federal Government made a commitment to improve these highways which run through economically undeveloped areas in 13 of our States, and our bill helps to keep that commitment. This investment will pay off not only in economic development in areas that are in much need of it but also in lives saved since these highways in mountainous areas are often high-accident locations in our country.

As most Senators know, Federal investment in airport development has been declining in recent years, and the administration proposed a further cut for the coming year. Our committee could not agree with that proposal at a time when air travel is increasingly in demand and air safety is uppermost in the minds of travelers. We have included $1.7 billion for the airport improvement program.

Transit formula and discretionary accounts, including funding for Washington Metrorail construction, all of which are for capital investment in our bill, are funded at $4.56 billion, $311 million above fiscal year 1997.

The bill provides $273 million for continued improvements on Amtrak's Northeast corridor between Washington and Boston. For other Amtrak capital expenditures, the bill makes a contingent appropriation, Mr. President, of $641 million to be funded from the intercity passenger rail fund, which would be established by S. 949, the Revenue Reconciliation Act of 1997. The Amtrak capital appropriation in this bill will be triggered when a final reconciliation bill including the passenger rail fund is enacted into law and the transportation subcommittee's 602(b) allocation is adjusted upward to cover the additional appropriation.

Safety was a top priority as we developed this bill. It provides $5.376 billion for the FAA operations account, including funds for an increase of 235 aviation safety inspectors and 500 additional air traffic controllers. Our appropriations for FAA operations is 99.8 percent of the administration's request. The committee was able to fund the FAA's operation account at this level without imposing $300 million in new user fee taxes proposed in the administration's request.

The toll of deaths and injuries on our highways, we believe, is too high and our bill addresses that. It funds the National Highway Traffic Safety Administration Program at $333.5 million. That is a $33 million increase above the fiscal year 1997 enacted levels and slightly higher than the administration's request.

This bill provides $50.7 million for the National Transportation Safety Board, 8 percent above the President's request, to support the NTSB's investigatory mission and to expedite the development of safety recommendations.

The Coast Guard, as you know, Mr. President, also plays a critical role in the safe operation of our Nation's waterways. Its operations funding of $2.73 billion as provided in this bill is an increase of $112 million above fiscal year 1997. This level is consistent with the administration's request for operating expenses and will continue congressional support for a streamlined Coast Guard.

Coast Guard funding includes an increase of $53 million for antidrug activities, which are coordinated by the Office of National Drug Control Policy. The committee has provided the Commandant of the Coast Guard the discretion and the flexibility to manage this funding but has encouraged the Department to look at these activities as areas that would benefit from the development of performance measures.

The bill funds the Coast Guard's capital program at $412 million, an increase of $33 million above the administration's request. This provides the Coast Guard with the equipment, ships, and aircraft to complete their multiple missions. The Coast Guard's capital needs, especially for replacing aging vessels and facilities, will increase dramatically in the years ahead and the committee's recommendation focuses on those acquisition programs that can be accelerated now to provide room in the outyears to replace these assets.

I note for the benefit of the Senators from States that depend on the Saint Lawrence Seaway, that this bill assumes enactment of the administration's proposal to convert the Saint Lawrence Seaway Development Corporation to a performance-based organization and to move its financing from appropriated funds to an automatic annual performance-based payment. No funds are included in this bill for the Seaway Corporation, but if the legislative proposal fails, we will ensure in conference that the Seaway Corporation is funded.

The Senate has taken the lead in past years in promoting management reform at the Department of Transportation, especially at FAA. This bill continues that direction by refraining from micromanagement of the Department, even as we look for improved results. The committee report, for example, offers guidance to the Secretary of Transportation on improving on DOT's draft strategic plan which is required by the Government Performance and Results Act. It also avoids artificial caps on the efforts of the Department to act in a more businesslike way, but it directs the DOT Inspector General to study whether in fact DOT's new entrepreneurial service organization is provided cost-competitive, high-quality service.

But, even as we addressed infrastructure investment and safety in this bill, we have been very mindful of the priorities that Senators had for this bill. We receive more than 900 requests for projects and provisions to be included in this bill. We have reviewed those requests very closely and accommodated them to the extent that we could. In some cases, available funding was not sufficient to fund all requests, and we had to make some tough choices. But we have tried to be as fair as possible to all Senators on both sides of the aisle.

Many Senators wanted funds for highway projects of special interest to them in their States. This year, ISTEA reauthorization is providing a vehicle for special project funding, especially in the House where there is very active consideration of such funding. But I want to assure my colleagues this evening that I believe the Congress has at least as legitimate a role in designating funding for specific highway projects as it does in designating new transit projects that will be funded. I intend to review the situation after enactment of ISTEA reauthorization legislation and to work with my Senate and my House colleagues in the year ahead to ensure that we have an opportunity to designate funding for highway projects of special interest to our States and to our communities.

I am proud, overall, of what we have been able to accomplish in this bill. It will benefit all Americans as it helps to improve transportation services in this country so that the economy and personal mobility are better served. I commend my colleague, the ranking Democrat on the committee and the former chairman on this committee, Senator LAUTENBERG, for all the hard work he has put in in this effort.

At this time I yield to the ranking member, Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first, I want to say thank you to my colleague from Alabama, the chairman of the Subcommittee on Transportation of Appropriations, for the manner in which we have been able to work together to resolve problems on this bill. I support the leadership he has provided in getting us to this point where we are able to present the Transportation and related agencies appropriations bill for fiscal 1998. This bill was reported by the Appropriations Committee just this past Tuesday, a week ago.

I don't believe that we give sufficient importance to our investment in transportation infrastructure in this country. There is hardly a State, that I am aware of as I talk to my colleagues, that is satisfied with its ability to deal with congestion, its ability to move people and goods from place-to-place efficiently. But I will say this. In view of the sparseness of budget dollars, this bill went quite well. It is the culmination of a very long and arduous effort to reestablish transportation as a priority in our Federal budget.

As the senior Democrat on the Senate Budget Committee, I, along with Senator DOMENICI and several other members, spent a great deal of time and energy trying to ensure that transportation would be treated as we like to see it, as a priority under the budget resolution. That is where it all starts, the allocation of funds in the budget resolution to the various functions of Government.

Transportation was not one of the priorities that the administration brought to the table. It was a congressional priority. The Congress decided we needed more money for transportation, and we have succeeded in getting it. We are interested in a balanced transportation network. I think the bill now before the Senate does exactly that.

Our efforts on the budget resolution are well reflected in the sizable funding increases contained in this bill for critical transportation infrastructure programs. I want to thank the chairman of the Appropriations Committee, Senator STEVENS for the funding allocation he granted to this subcommittee. He is serving as chairman of the Appropriations Committee for the first time this year and he is doing an excellent job. He and Senator BYRD, the ranking Democrat, worked hard to grant the Transportation Subcommittee an allocation that was consistent with the priority that was placed on transportation when we did the budget resolution.

Mr. President, this bill has gone through a steady series of improvements as it moved through the process. In the view of this Senator, the bill that was presented to the subcommittee on July 15 just did not go far enough in reflecting the needs of all transportation modes as well as the needs of all regions of the country. The bill had very sizable increases for important national programs such as the

Federal-aid highway obligation ceiling and airport grants. However, the bill also provided a freeze on formula funding for mass transit and included insufficient funding for Amtrak's operating subsidy. This funding shortfall in Amtrak could have rapidly brought about the bankruptcy of the railroad very early in the coming fiscal year.

There are very few countries that have, frankly, as insufficient intercity rail service as does the United States. When you look at the major developed countries of the world other than the United States, all of them, without a doubt, whether it be Japan's bullet train or the French TGV or trains in Germany or other parts of the world that zip along at 180 miles an hour—all of them depend on sizeable operating subsidies from the government.

I am not sure, nor is the chairman, whether everybody would want to get to Washington in an hour and a half from New York, but we at least ought to make it possible. We could certainly do that and save time waiting at airports. But we must continue to invest, in Amtrak to make that happen. They have new equipment ordered that will accelerate the pace at which passengers can go from Boston to Washington.

But we needed the cooperation of the chairman, Senator SHELBY, and we were able to work together to boost Amtrak's operating subsidy by $154 million above the level originally presented to the subcommittee. The funding level now stands at the level that was requested by the administration. We were also able to provide an additional $200 million in transit formula grants at full committee markup so the percentage boost for transit formula assistance would begin to approach the percentage increases provide for highway formula assistance and for airport grants.

What we are saying with these important adjustments is that we salute a balanced transportation system in this country that includes highways, includes aviation, includes rail, includes all of the modes of mass transit so we can have the kind of efficiency in our transportation system that we need.

These adjustments in the bill were made through careful negotiations between Chairman SHELBY and myself. They were made without the need for a rollcall vote in either the subcommittee or the full committee. That fact is indicative of the cooperation and fair-minded spirit that the chairman has brought to this bill.

With these changes now included in the transportation funding bill, I am pleased to recommend this bill to the entire Senate. It is a balanced bill that provides desperately needed funds to our States and communities to address the crushing problem of congestion in our cities and towns. As a matter of fact, in our region they are about to celebrate the initiation of another technological improvement in the collection of tolls. Some people do not support the rapid collection of tolls. They want to hang onto their money as long as possible. But the choice, Mr. President, is to sit in traffic for 15 minutes, 20 minutes, or a half hour at the toll gate. I drove, on Sunday, through one of what they call the easy pass tollgates. I want to tell you, it was a pleasure. They had a little thing on the windshield and when we got to the gate, up went the gate, down went my $4. But the fact of the matter is, it does improve the way we move ahead.

That is the kind of improvements that we need. We have to continue to present technological innovation to improve the way our highways, our airports, and our railroads function.

So, I think it is fair to say that this funding will accelerate our efforts to address improvements in our transportation infrastructure, which is deteriorating faster, frankly, than we can replace it. The bill will also provide critically needed funding, as you heard from the chairman, to maintain safety in all our transportation modes. I want to point out, there is still one significant hole in this bill, and that is the funding for Amtrak's capital account. Those are the investments necessary to build the infrastructure, buy the equipment, update the rail signals, to upgrade the trackage that we have down there. We need more investment in the capital account so that we can operate more efficiently.

The bill does not include any funding for Amtrak's capital needs because we believe the chairman of the Finance Committee, Senator ROTH, is currently seeking to provide for these needs through the reconciliation process. I know the chairman and I have a commitment that this is going to be taking place. I would only point out Senator SHELBY's decision not to put any more capital funding in this bill was because he, as I said earlier, believed that Senator ROTH was going to take care of it in the finance package. I hope that that ultimately gets to be the case, because that would provide Amtrak with a stable source of funding to address their capital needs over a period of several years, get that railroad up to the level that it ought to be in a country as great as ours.

Last, Mr. President, I commend my colleague and friend, Senator SHELBY, for his excellent work in his first year as chairman of this subcommittee. He quickly gained a great deal of knowledge about how the committee functions.

I offered to take over the chairmanship temporarily to show him how, but he said, no, he would take care of it. We worked together, with our fine staff—the names of whom Senator SHELBY mentioned—to get it done.

When it comes to the distribution of funds for the Member-specific projects, those projects they put forward as being critical in nature to their States, Senator SHELBY has been fairminded in his allocation of funds. He sought to accommodate Members' priorities to the best of the subcommittee's ability, and he has continued to operate that way.

I must say, I tip my hat to the fact that he is determined and has shown in this first chairmanship year that he can deal in a bipartisan fashion, and everybody got along. We occasionally had to face up to some tough discussions, but we always did it in an amicable way and we got a good bill.

That has been the tradition with the Transportation Subcommittee, and that is do it in a bipartisan way. The American people don't want to see us bickering. They want to see us getting things done. They want to see us function as we are supposed to function. Disagree, if you will, make the points you have to make, but get the job done. I think it is fair to say that the Appropriations Committee, on which both of us have sat for some time, is maintaining almost a revolutionary pace in terms of getting the job done this year, and I am proud to be part of it and proud to work with my colleagues on the committee.

With that, Mr. President, I hope we can move this bill with expediency. I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 1022

(Purpose: To direct a transit fare study)

Mr. SHELBY. Mr. President, I send to the desk an amendment offered on behalf of the Senators from New York, Senator D'AMATO and Senator MOYNIHAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. D'AMATO, for himself and Mr. MOYNIHAN, proposes an amendment numbered 1022.

Mr. SHELBY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Out of the funds made available under this Act to the New York Metropolitan Transportation Authority through the Federal Transit Administration, the New York Metropolitan Transportation Authority shall perform a study to ascertain the costs and benefits of instituting an integrated fare system for commuters who use both the Metro North Railroad or the Long Island Rail Road and New York City subway or bus systems. This study shall examine creative proposals for improving the flow of passengers between city transit systems and commuter rail systems, including free transfers, discounts, congestion-pricing, and other positive inducements. The study also must include estimates of potential benefits to the environment, to energy conservation and to revenue enhancement through increased commuter rail and transit ridership, as well as other tangible benefits. A report describing the results of this study shall be submitted to the Senate Appropriations Committee within 45 days of enactment of this Act.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I see the distinguished manager of the legislation, Senator SHELBY, here. And I would like to take this opportunity to engage in a brief colloquy with the distinguished Senator from Alabama.

Mr. SHELBY. I will be glad to comply.

Mr. CHAFEE. I want to start off, Mr. President, by saying to Senator SHELBY that I am very pleased that this legislation has come to the Senate floor. I would like to take this opportunity to briefly discuss a project of great importance to my home State of Rhode Island.

Included within S. 1048 is $10 million for the Rhode Island freight rail development project commonly known as the Third Track. I would like to express my gratitude to the subcommittee chairman, the manager of the bill, Senator SHELBY, who has agreed to include this funding in his subcommittee's bill. And I see the distinguished ranking member of the committee, and I would also like to express my thanks to him likewise for support of this legislation.

Earlier this year Senator SHELBY was kind enough to take time to listen to Rhode Island's Governor, Lincoln Almond, Senator REED from Rhode Island, and myself as we outlined the benefits of the Third Track project. And, Mr. President, I would like to take this opportunity to say that Senator REED has been very interested and very supportive of all efforts in connection with this Third Track.

The Third Track is a $120 million project that will upgrade 22 miles of rail line between Quonset Point-Davisville, and Central Falls, RI. It is needed to accommodate two impending changes that are occurring on this rail line: First, the increased passenger rail traffic and more passenger trains that will result from Amtrak's New Haven-Boston electrification project—that is the first problem that has arisen—and, secondly, the larger freight cars that will operate along the line.

The Third Track represents a tremendous potential for economic growth and job creation in Rhode Island. It plays a vital role in the State's development of the Quonset-Davisville Industrial Park and making that into a premier commerce park and international cargo point.

Mr. President, let us take a brief look at recent developments associated with this Third Track. In just the past year, some 19 new tenants and four others have expanded their operations and have invested over $16 million and brought 500 new jobs to the Quonset-Davisville Industrial Park.

It is conservatively estimated that development of the port and of the park will yield in excess of 15,000 good-paying jobs to Rhode Island. The Third Track is a key element in what is not surprisingly one of our State's most promising economic development projects.

To date, Congress has appropriated $13 million for the Third Track. Another $42 million is budgeted over the next 4 years, including the $10 million within the bill before the Senate today.

Rhode Island's voters, on their part, in order to fulfill the State's 50–50 funding matching requirement, passed a bond referendum last November allocating $50 million to this Third Track. I might say, Mr. President, a $50 million bond issue is a substantial one for our small State of little fewer than a million people.

The Third Track represents great hope for economic growth in Rhode Island at a time when our manufacturing job base continues to erode.

I again thank Chairman SHELBY for his support and also thank the distinguished ranking member of the committee, Senator LAUTENBERG, for his support, and urge my colleagues to vote in favor of this bill.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I would like to respond to that.

First of all, I want to acknowledge the work of the distinguished senior Senator from Rhode Island, Senator CHAFEE, in bringing to my attention—and also to Senator LAUTENBERG's attention—the needs of his State in dealing with this economic development project.

I did have the opportunity, at Senator CHAFEE's request, to meet with Senator CHAFEE, the Governor, and the junior Senator, Senator REED, regarding this project. I also met with Senator CHAFEE on numerous occasions as we talked about, "Would funding for this project be included in the bill?" I assured him that it would, and for a good reason.

This is a sound project for the people of Rhode Island. We investigated it on the committee and found that it makes a lot of sense. And as Senator CHAFEE has pointed out, the people of Rhode Island are also putting up a lot of money through a bond issue of $50 million. And $50 million is a lot of money for a State of around 1 million. And I want to acknowledge his work in this regard and say that we are pleased that we have been successful in identifying resources for this project. And I believe it is going to be very, very positive for the State of Rhode Island.

I look forward to working with the distinguished Senator from Rhode Island in the future.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I am pleased also, Mr. President, to support this project. And I have reviewed the plans several times over these last couple of years. It increases the ability of that port to function and to expedite the movement of freight from the port into the main line system. Otherwise, there are some problems with heights and of the cars that can pass underneath the bridges, so it needs some work. And we hope that Rhode Island will get this completed.

We all know that essential to our economic development is the capacity to get people and goods to and from the business opportunities that either exist or want to be developed. So this one sounds like a pretty good idea.

Senator SHELBY said it. He said we have heard from Senator CHAFEE periodically, regularly. We have heard from the Governor of the State who, if I remember, is about 6' 4", something of that nature. They made sure they brought him in. We got the message, Mr. President. Senator REED was also involved. So it is a unified delegation. And they are working hard to get it done. And we want to help wherever we can.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Again, I do want to thank the two distinguished managers of the legislation, the bill. The chairman of the subcommittee, Senator SHELBY, has been very, very helpful, and as I indicated, very responsive. And we are very appreciative. And likewise, Senator LAUTENBERG, as mentioned, we have—I have to be careful in my use of words. I was going to say "pestered" him, but we have implored him or spent a good deal of time pointing out the virtues of this project. And the way they both have responded makes us very grateful.

And I say to Senator SHELBY, I want to thank you for your kind remarks and the work you have done on this, and Senator LAUTENBERG likewise.

So, if nobody else seeks the floor——

Mr. SHELBY. Mr. President, if I could add a few more comments to the remarks made by the distinguished Senator from Rhode Island. The Senator from Rhode Island is a distinguished veteran of the Senate. He has been here and has made his presence felt. He chairs a very important committee in the Senate—the Environment and Public Works Committee. I have had the privilege and the pleasure of working with him on a number of issues both on and off this committee. I can tell you, he has been the catalyst for the money for Rhode Island here in the Senate. Let us set the record straight. Thank you.

Mr. LAUTENBERG. Mr. President, we can't let this opportunity go without saying that we know that the Senator from Rhode Island is very much engaged in discussions of ISTEA. And New Jersey likes ISTEA.

Mr. SHELBY. Absolutely.

Mr. LAUTENBERG. We like it in the summer and we like it in the winter. We want to help the State of Rhode Island, the important State that it is despite its tiny size. My State is only a wisp larger, and we have about eight times the number of people. But we know that the good Senator from Rhode Island will remember Alabama and New Jersey and how we all work together to get things done. Thank you.

Mr. CHAFEE. Mr. President, this is getting more and more expensive. So if nobody else seeks the floor at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I rise today in support of the Transportation appropriations bill and to engage in a colloquy with the distinguished chairman of the Appropriations subcommittee, Senator SHELBY, about the ability of the State of Maine to use funding from this legislation to conduct a National Environmental Protection Act study for improving the travel corridor from Houlton to Fort Kent, ME.

Under S. 1048, as approved by the Senate Appropriations Committee, the State of Maine is expected to receive a much-needed increase of almost $17 million for vital highway programs. This will bring the total for the next fiscal year to approximately $105 million. This additional funding—the $17 million—will enable the Maine Department of Transportation to fund a number of high-priority transportation projects, including the NEPA study, which will help my State tremendously.

I want to commend both the chairman and the ranking minority member of the subcommittee for their hard work and leadership in ensuring that significant transportation funding increases are available, at a time when setting priorities for scarce tax dollars has never been more challenging. For large rural States like my home State of Maine, the funding in this legislation provides the money necessary to build, repair, maintain, and improve our roads, which are absolutely essential to expanding our economy and to providing our citizens with better job opportunities into the 21st century.

In fact, in Maine, studies have shown that approximately 80 percent of all economic development has occurred within 10 miles of our interstate highway. Consequently, it is not surprising that economic activity in central and northern Aroostook County, where I am from, which is not served by the Interstate Highway System, has lagged far behind those areas of the State with access to the four-lane interstate.

Earlier this year, the State of Maine completed an initial feasibility study that evaluated several different options for improving the travel corridor between Houlton and Fort Kent, a distance of roughly 125 miles. The initial study was funded by Congress with an appropriation of $800,000 about 3 years ago.

Now, the State is prepared to take the next step in this process, which is to conduct a NEPA study on the various options. This study will, among other things, analyze the traffic demand for preliminary design engineering, assess the noise and air quality impact, develop and review alternatives within the corridor, update the construction cost analysis, and prepare an environmental impact statement.

The need for this funding, Mr. President, is crystal clear. Upgrading the transportation infrastructure in Aroostook County, the largest county in my State, is essential to strengthening its economy. For example, in order to compete effectively, Aroostook County potato farmers and lumber industries need to improve their ability to transport goods efficiently from northern Maine to their markets.

Upgrading the transportation system will also spur new economic development and business investment. The tourism industry, particularly snowmobiling, has absolutely exploded in recent years. But if it is to continue to grow, this promising industry needs an improved road system to bring more snowmobilers to Aroostook County.

Similarly, the people of Aroostook County are moving forward in their efforts to redevelop the site of the former Loring Air Force Base in Limestone, ME. An enhanced highway system is absolutely vital to their ability to attract new economic investment that can best utilize the base's outstanding facilities and help to replace the thousands of jobs that were lost when the base closed.

Proceeding with this additional study at this time will help us determine how best to improve the travel corridor, and it ultimately will make it easier for northern Maine to compete for new business investments, to find new market opportunities for agricultural, manufactured, and timber-related products, and to produce increased tourism opportunities, as well.

I just want to take this opportunity to confirm with the chairman of the subcommittee my understanding that the State of Maine, which has included this project as part of its 20-year statewide transportation plan, can use a portion of the roughly $17 million in higher Federal highway funding from this legislation to pursue and conduct the NEPA study.

Mr. President, at this point, I will yield the floor to the chairman of the subcommittee so that he may respond to my inquiry.

Mr. SHELBY. Mr. President, Senator COLLINS has been in touch with our subcommittee throughout the year as we prepared the 1998 Transportation appropriation bill. She has talked to us more than once. In particular, the Senator from Maine has made clear that securing available sources of funding for the NEPA study is a very high priority for her and the people in the northern part of her State of Maine. The Senator has also been a strong supporter of higher funding in fiscal year 1998 to meet other necessary transportation priorities on behalf of the State of Maine as well.

Mr. President, I want to take this opportunity to confirm the inquiry of the Senator and to reiterate that the State of Maine is clearly able to use highway funds provided in this act, subject to ISTEA reauthorization, to conduct a NEPA study. I believe that the Senator from Maine has made a compelling case for moving ahead with this study and, in fact, I believe that the NEPA study would be a good use of a portion of Maine's highway funding.

Mr. President, Senator COLLINS has made it very clear to the subcommittee how important improving the travel corridor in northern Maine is, and I share her view that this NEPA study would be a very high priority for funding in 1998.

Ms. COLLINS. Mr. President, I thank the chairman for his assurances and express my gratitude and thanks to him and his staff for their assistance in this matter.

I also want to again applaud his efforts to ensure that we have adequate funding for our transportation infrastructure, which is so vital to this Nation's prosperity.

Thank you, Mr. President.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I ask unanimous consent that the following be the only first-degree amendments in order to S. 1048 other than the pending amendments, and that they be subject to relevant second-degree amendments. I send the list to the desk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The list is as follows:

Bob Smith: Section 127 of title 23.
Hollings: Relevant.
Hollings: Relevant.
Graham: Transit.
Daschle/Johnson: Relevant.

MANAGERS PACKAGE

Shelby amendment.
Lautenberg amendment.
Durbin: Relevant.
Graham/Levin Sense-of-Senate: Relevant.
Byrd: Relevant.
Stevens: Relevant.
Kerrey: Relevant.
Boxer: Railroad.
Chafee: Relevant.
Chafee: Relevant.
Warner: Relevant.
Warner: Relevant.
Specter: Relevant.
Enzi: Relevant.
Enzi: Relevant.
Mack: ISTEA reauthorization.
Abraham: Relevant.
D'Amato: Relevant.
Frist: Relevant.
Gorton: Relevant.
Bond: Relevant.
Brownback: Relevant.
Moseley-Braun: Motorcycle helmets.

Mr. SHELBY. Mr. President, I further ask that when all of the above amendments have been disposed of, S. 1048 be advanced to third reading and the Senate immediately turn to H.R. 2169, the House companion bill, all after the enacting clause be stricken and the text of S. 1048, as amended, be inserted, H.R. 2169 be immediately advanced to third reading, and the Senate proceed to vote on passage, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Finally, I ask that following the vote on passage of the transportation appropriations bill, the Senate insist on its amendments, request a conference with the House, the Chair be authorized to appoint conferees on the part of the Senate, and S. 1048 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I further ask unanimous consent that the Senate resume consideration of S. 1048 immediately following the stacked votes at 2:15 on Tuesday.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SHELBY. For the information of all Senators, the managers intend to remain in session until all amendments are offered and debated with respect to the Transportation bill. Therefore, Members should expect final disposition of the Transportations appropriations bill on Wednesday morning.

Mr. LAUTENBERG. Mr. President, if I may say to my colleague, the chairman, I will just take the floor for a couple minutes and say that we have now been here 2 hours. It was the understanding when we left last week that the Transportation Subcommittee's bill would be up this evening with an opportunity to offer amendments and consider the business of the bill. We have had hardly a response.

I do not have to lecture my colleagues, certainly, but this is the last week before we adjourn for August and get home to do the things we have to do with our constituents. I hope we can help move the process along. We ask our colleagues to join in to get the business of the people done, to get those amendments up here as quickly as we can tomorrow.

We intend—and I discussed this with Senator SHELBY—to be here long enough to get the work done, but we cannot do it unless people offer their amendments and take advantage of the opportunity to make those suggestions that they think improve the bill.

So I send out this plea, Mr. President, probably to those who are just turning off their TV sets around the Capitol and say that we hope you will remember the bill will be open again tomorrow after the votes which are now listed and that we can get to work on passing the appropriations bill for 1998, one that we can send over to the House and get a conference on. We are moving along at a very good pace with our appropriations bills for next year, and we ought to continue to help that pace, get done, and let the people across the country know the appropriate investments are going to be made in the things that are included in this bill.

With that simple admonition, Mr. President, I yield the floor.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent at this time there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting treaties, a withdrawal, and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ENTITLED "THE POLICY ON PROTECTION OF NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACK"—MESSAGE FROM THE PRESIDENT—PM 56

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services.

To the Congress of the United States:

Pursuant to section 1061 of the National Defense Authorization Act for Fiscal Year 1997, attached is a report, with attachments, covering Policy on Protection of National Information Infrastructure Against Strategic Attack.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1997.*

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2203. An act making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2303. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report under the Inspector General's Act for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC-2304. A communication from the Federal Co-Chairman, Appalachian Regional Commission, transmitting, pursuant to law, a report under the Inspector General's Act for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC-2305. A communication from the Chairman and General Counsel, U.S. Government National Labor Relations Board, transmitting, pursuant to law, a report for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC-2306. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to the period ending March 31, 1997; to the Committee on Governmental Affairs.

EC–2307. A communication from the Secretary of Energy, transmitting, pursuant to law, sixteen reports to the period of October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2308. A communication from the Public Printer, U.S. Government Printing Office, transmitting, pursuant to law, a report relative to the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2309. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules including a rule entitled "Correction of Implementation Plans" (FRL5847–8, 5848–4, 5844–3) received on June 23, 1997; to the Committee on Environment and Public Works.

EC–2310. A communication from the Regulatory Policy Official, National Archives and Records Administration, transmitting, pursuant to law, a report of a rule relative to Reproduction Fee Schedule (RIN3095–AA71), received on June 17, 1997; to the Committee on Governmental Affairs.

EC–2311. A communication from the Regulatory Policy Official, National Archives and Records Administration, transmitting, pursuant to law, a report of a rule entitled "Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives" (RIN3095–AA55), received on June 17, 1997; to the Committee on Governmental Affairs.

EC–2312. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report relative to the period of October 1, 1996 to March 31, 1997; to the Committee on Governmental Affairs.

EC–2313. A communication from the Inspector General, U.S. Office of Personnel Management, transmitting, pursuant to law, a report relative to the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2314. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled "Homelessness Assistance and Management Reform Act of 1997"; to the Committee on Banking, Housing, and Urban Affairs.

EC–2315. A communication from the Acting General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, five rules entitled "HOME Investment Partnership Program" (FR–3962), received on June 23, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–2316. A communication from the Director, U.S. Office of Personnel Management, transmitting, a draft of proposed legislation relative to judicial review to protect the merit system; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SMITH of Oregon:

S. 1072. A bill to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself, Mr. MACK, Mr. HELMS, and Mr. GRAHAM):

S. 1073. A bill to withhold United States assistance for programs for projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD:

S. 1074. A bill to amend title IV of the Social Security Act to reform child support enforcement procedures; to the Committee on Finance.

S. 1075. A bill to provide for demonstration projects to establish or improve a system of assured minimum child support payments; to the Committee on Finance.

By Mr. MACK (for himself, Mr. GRAHAM, and Mr. KENNEDY) (by request):

S. 1076. A bill to provide relief to certain aliens who would otherwise be subject to removal from the United States; to the Committee on the Judiciary.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 1077. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BINGAMAN, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. GLENN, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. KEMPTHORNE, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. MACK, Mr. MCCAIN, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REID, Mr. ROTH, Mr. SANTORUM, Mr. SMITH of Oregon, Ms. SNOWE, Mr. STEVENS, and Mr. THURMOND):

S.J. Res. 36. A joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope; to the Committee on Veterans Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself and Mr. SPECTER):

S. Con. Res. 44. A concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself, Mr. MACK, Mr. HELMS, and Mr. GRAHAM):

S. 1073. A bill to withhold United States assistance for programs for projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on Foreign Relations.

THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) ACCOUNTABILITY AND SAFETY ACT OF 1997

Mr. TORRICELLI. Mr. President, I rise today to join with my colleagues, Senators MACK, HELMS, and GRAHAM, in introducing the International Atomic Energy Agency [IAEA] Accountability and Safety Act of 1997.

This legislation will withhold from the International Atomic Energy Agency [IAEA] a proportional share of United States assistance for programs or projects of that Agency in Cuba. It seeks to discourage the IAEA from technical assistance programs or projects that would contribute to the maintenance or completion of the Juragua Nuclear Power Plant near Cienfuegos, Cuba and/or to nuclear research or experiments at the Pedro Pi Nuclear Research Center.

Our legislation makes clear to Cuba and to the international community that the United States considers the existence of nuclear facilities under the control of a government on the list of terrorist countries that has not ratified the fundamental agreements on the nonproliferation of nuclear weapons a threat to the national security of the United States. As such, the United States seeks to discourage all other governments and international agencies from assisting the efforts of the Cuban Government to maintain or complete the Juragua Plant or to advance nuclear research at the Pedro Pi facility.

United States funds would be made available to the IAEA to discontinue, dismantle, or conduct safety inspections of nuclear facilities and related materials in Cuba, or to inspect or undertake similar activities designed to prevent the development of nuclear weapons by Cuba.

The withholding of funds from the IAEA would be obviated if: Cuba ratifies the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco); negotiates full-scope safeguards of the IAEA within two years of ratifying; and adopts internationally accepted nuclear safety standards.

The legislation also requests reports on the activities of the IAEA in Cuba.

By Mr. DODD:

S. 1074. A bill to amend title IV of the Social Security Act to reform child support enforcement procedures; to the Committee on Finance.

S. 1075. A bill to provide for demonstration projects to establish or improve a system of assured minimum child support payments; to the Committee on Finance.

CHILD SUPPORT LEGISLATION

Mr. DODD. Mr. President, today I'm introducing two pieces of legislation intended to address the ongoing and utter failure of our Nation's child support efforts.

Last week, the General Accounting Office released a long-awaited report on efforts to collect child support throughout the country. It paints a picture of a broken child support system:

One where four out of five parents legally required to pay child support simply ignore court orders to do so; one where nearly three in four custodial parents—and their children—who receive no child support live in poverty (as of 1991); and one where a staggering $34 billion in child support payments remain uncollected.

The current system of child support is not just a failure by the States to collect money. It's a nationwide failure to care for America's children.

Imagine what parents could do for their kids with these billions in unpaid child support obligations. Currently, Congress and the President are engaged in a heated debate over how to provide health insurance to the 10½ million kids who don't currently have it. We might not be having that debate if the child support system was working.

Imagine how much better parents could prepare their children to get the right start in life. With each passing day, we are learning about how incredibly important the first years, months, even days of life are to a child's future well-being. Most importantly, they need what money can't buy: Love, affection, and attention—preferably by two parents rather than one. But they also need wholesome food, a clean and safe neighborhood, child care that nurtures rather than warehouses, and early learning that stretches young minds. Yet, nearly two in three—64 percent—of children under the age of 6 who live only with their mothers live in poverty.

For two decades, the Federal Government has tried to help States crack down on deadbeat parents. For two decades they have, by and large, failed to get the job done. It's time now to try a different approach.

In 1975, we established the child support enforcement program, which paid the majority of the administrative and operating costs incurred by States in enforcing child support rules.

In 1980, we passed legislation to help States pay to computerize child support orders.

In 1988, we passed a law requiring States to establish computer registries, and committed $2.6 billion to the effort.

We set a deadline of 1995 for implementation and certification of those registries. But only a handful of States met that deadline.

So in 1995, we extended the deadline 2 years, to October 1, 1997. Yet, at this moment, only 15 States have met the requirements of certification. And GAO predicts many will not meet them by October 1—a result of mismanagement, interagency squabbles, and a failure to accurately assess the cost and complexity of computerizing child support enforcement.

Note that Connecticut at the moment is conditionally certified. That's a nice way of saying that it's close to meeting the requirements of certification, but not there yet. And while there has been some improvement in enforcement efforts, overall our State's performance is weak by any standard. Some $663 million in child support obligations remain unpaid and uncollected. The child support payment rate in our State—the percentage of payments that are on time and in full—is only 16 percent. That's below the national average.

My legislation will do several things.

First, and most importantly, it will federalize the child support system. It will make paying child support as much of an obligation as paying taxes. Instead of 50 or more entities struggling to create a coherent system of collection, we'll have one collector: the IRS. People may not like the IRS—but that's partly because it gets the job done. This bill creates a new child support enforcement division within the IRS, and allows the IRS to use its normal tax collection methods to collect child support. My legislation would also allow the use of Federal courts to enforce child support orders—which will immensely help track deadbeat parents across State lines. And it preserves the role of States in determining paternity and establishing child support orders in the first place.

Second, this legislation tries a new approach to help States do a better job in child support enforcement. It's an approach that a number of States have tried with considerable success. It's called child support assurance. The bill I introduce today would provide demonstration grants to three, four, or five States. Those States would in turn guarantee child support payments each month to children and custodial parents. When this approach was tried in New York, a number of positive developments occurred. First, children got the support they needed. Second, welfare payments dropped. Third, New York could devote more resources to enforcing child support orders because it had to worry less about caring for parents and kids who weren't receiving child support payments. Overall, New York saved $10 for every $1 it invested in this program.

Last week's GAO report demonstrates that it's time for our Nation to take a new approach in efforts to enforce child support obligations. This legislation can work. And now is the time to try it.

Mr. President, I ask unanimous consent that these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Support Reform Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—NATIONAL CHILD SUPPORT GUIDELINES COMMISSION

Sec. 101. National Child Support Guidelines Commission.

TITLE II—CENTRALIZED CHILD SUPPORT ENFORCEMENT

Sec. 201. Establishment of the Office of the Assistant Commissioner for Centralized Child Support Enforcement.
Sec. 202. Use of Federal Case Registry of Child Support Orders and National Directory of New Hires.
Sec. 203. Division of Enforcement.
Sec. 204. State plan requirements.
Sec. 205. Definitions.

TITLE III—EFFECTIVE DATES

Sec. 301. Effective dates.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) an increasing number of children are raised in families with only one parent present, usually the mother, and these families are 5 times as likely to be poor as 2-parent families;

(2) the failure of noncustodial parents to pay their fair share of child support is a major contributor to poverty among single-parent families;

(3) in 1990, there was a $33,700,000,000 gap between the amount of child support that was received and the amount that could have been collected;

(4) in 1991, the aggregate child support income deficit was $5,800,000,000;

(5) as of spring 1992, only 54 percent, or 6,200,000, of custodial parents received awards of child support, and of the 6,200,000 custodial parents awarded child support, 5,300,000 were supposed to receive child support payments in 1991;

(6) of the custodial parents described in paragraph (5), approximately ½ of the parents due child support received full payment and the remaining ½ were divided equally between those receiving partial payment (24 percent) and those receiving nothing (25 percent);

(7) as a result of the situation described in paragraphs (5) and (6), increasing numbers of families are turning to the child support program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) for assistance, accounting for an over 40 percent increase in the caseload under that program during the 1991 to 1995 period;

(8) during the 1991 to 1995 period, the percentage of cases under the title IV-D child support program in which a collection was made declined from 19.3 percent to 18.9 percent;

(9) the Internal Revenue Service has improved its performance in making collections in cases referred to it by the title IV-D child support program, moving from successfully intercepting Federal income tax refunds in 992,000 cases in 1992 to successfully intercepting Federal income tax refunds in 1,200,000 cases in 1996;

(10) in cases under the title IV-D child support program in which a collection is made,

approximately ⅓ of such cases are cases where some or all of the collection is a result of a Federal tax refund intercept;

(11) in 1995, the average amount collected for families in which the Internal Revenue Service made a collection through the Federal tax refund intercept method was $827 for families receiving Aid to Families with Dependent Children and $847 for other families; and

(12) State-by-State child support guidelines have resulted in orders that vary significantly from State to State, resulting in low awards and inequities for children.

(b) PURPOSE.—It is the purpose of this Act to—

(1) provide for the review of various State child support guidelines to determine how custodial parents and children are served by such guidelines;

(2) increase the economic security of children, improve the enforcement of child support awards through a more centralized, efficient system; and

(3) improve the enforcement of child support orders by placing responsibility for enforcement in the Internal Revenue Service.

TITLE I—NATIONAL CHILD SUPPORT GUIDELINES COMMISSION

SEC. 101. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Child Support Guidelines Commission" (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—The Commission shall study and evaluate the various child support guidelines currently in use by the States, identify the benefits and deficiencies of such guidelines in providing adequate support for children, and recommend any needed improvements.

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION.—In making the recommendations concerning guidelines required under subsection (b), the Commission shall consider—

(1) matters generally applicable to all support orders, including—

(A) the relationship between the guideline amounts and the actual costs of raising children; and

(B) how to define income and under what circumstances income should be imputed;

(2) the appropriate treatment of cases in which either or both parents have financial obligations to more than 1 family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(3) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(4) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(5) the appropriate duration of support by 1 or both parents, including

(A) support (including shared support) for post-secondary or vocational education; and

(B) support for disabled adult children;

(6) procedures to automatically adjust child support orders periodically to address changed economic circumstances, including changes in the consumer price index or either parent's income and expenses in particular cases; and

(7) whether, or to what extent, support levels should be adjusted in cases in which custody is shared or in which the noncustodial parent has extended visitation rights.

(d) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1998, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(f) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a final assessment of how States, through various child support guideline models, are serving custodial parents and children.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

TITLE II—CENTRALIZED CHILD SUPPORT ENFORCEMENT

SEC. 201. ESTABLISHMENT OF THE OFFICE OF THE ASSISTANT COMMISSIONER FOR CENTRALIZED CHILD SUPPORT ENFORCEMENT.

(a) IN GENERAL.—For purposes of locating absent parents and facilitating the enforcement of child support obligations, the Secretary of the Treasury shall establish within the Internal Revenue Service an Office of the Assistant Commissioner for Centralized Child Support Enforcement which shall establish not later than October 1, 1997, a Division of Enforcement for the purpose of carrying out the duties described in section 203.

(b) COORDINATION.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services shall issue regulations for the coordination of activities among the Office of the Assistant Commissioner for Centralized Child Support Enforcement, the Assistant Secretary for Children and Families, and the States, to facilitate the purposes of this title.

SEC. 202. USE OF FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS AND NATIONAL DIRECTORY OF NEW HIRES.

Section 453(j)(2) of the Social Security Act (42 U.S.C. 653(j)(2)) is amended to read as follows:

"(2) INFORMATION COMPARISONS.—

"(A) IN GENERAL.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(i) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(ii) within 2 business days after such a comparison reveals a match with respect to an individual, report the information to the Division of Enforcement for centralized enforcement.

"(B) CASES REFERRED TO DIVISION OF ENFORCEMENT.—If a case is referred to the Division of Enforcement by the Secretary under subparagraph (A)(ii), the Division of Enforcement shall—

"(i) notify the custodial and noncustodial parents of such referral,

"(ii) direct the employer to remit all child support payments to the Internal Revenue Service;

"(iii) receive all child support payments made pursuant to the case;

"(iv) record such payments; and

"(v) promptly disburse the funds—

"(I) if there is an assignment of rights under section 408(a)(3), in accordance with section 457, and

"(II) in all other cases, to the custodial parent.".

SEC. 203. DIVISION OF ENFORCEMENT.

(a) IN GENERAL.—With respect to the Division of Enforcement, the duties described in this section are as follows:

(1) Enforce all child support orders referred to the Division of Enforcement—

(A) under section 453(j)(2)(A)(ii) of the Social Security Act (42 U.S.C. 653(j)(2)(A)(ii));

(B) by the State in accordance with section 454(35) of such Act (42 U.S.C. 654(35)); and

(C) under section 452(b) of such Act (42 U.S.C. 652(b)).

(2) Enforce a child support order in accordance with the terms of the abstract contained in the Federal Case Registry of Child Support Orders or the modified terms of such an order upon notification of such modifications by the Secretary of Health and Human Services.

(3) Enforce medical support provisions of any child support order using any means available under State or Federal law.

(4) Receive and process requests for a Federal income tax refund intercept made in accordance with section 464 of the Social Security Act (42 U.S.C. 664).

(b) FAILURE TO PAY AMOUNT OWING.—With respect to any child support order being enforced by the Division of Enforcement, if an individual fails to pay the full amount required to be paid on or before the due date for such payment, the Office of the Assistant Commissioner for Centralized Child Support Enforcement, through the Division of Enforcement, may assess and collect the unpaid amount in the same manner, with the same powers, and subject to the same limitations applicable to a tax imposed by subtitle C of the Internal Revenue Code of 1986 the collection of which would be jeopardized by delay.

(c) USE OF FEDERAL COURTS.—The Office of the Assistant Commissioner for Centralized Child Support Enforcement, through the Division of Enforcement, may utilize the courts of the United States to enforce child support orders against absent parents upon a finding that—

(1) the order is being enforced by the Division of Enforcement; and

(2) utilization of such courts is a reasonable method of enforcing the child support order.

(d) Conforming Amendments.—

(1) Section 452(a)(8) (42 U.S.C. 652(a)(8)) is repealed.

(2) Section 452(c) (42 U.S.C. 652(c)) is repealed.

SEC. 204. STATE PLAN REQUIREMENTS.

(a) In General.—Section 454 of the Social Security Act (42 U.S.C. 654) is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting "; and", and by inserting after paragraph (33) the following new paragraph:

"(34) provide that the State will cooperate with the Office of the Assistant Commissioner for Centralized Child Support Enforcement to facilitate the exchange of information regarding child support cases and the enforcement of orders by the Commissioner.".

(b) Conforming Amendment.—Section 455(b) of the Social Security Act (42 U.S.C. 655(b)) is amended by striking "454(34)" and inserting "454(33)".

SEC. 205. DEFINITIONS.

Any term used in this title which is also used in part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) shall have the meaning given such term by such part.

TITLE III—EFFECTIVE DATES

SEC. 301. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this Act or subsection (b), the amendments made by this Act take effect on the date of enactment of this Act.

(b) Special Rule.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

S. 1075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Assurance Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Increasingly, children are raised in families with only 1 parent present, usually the mother, and these single-parent families are 5 times as likely to be poor as 2-parent families.

(2) The failure of noncustodial parents to pay their fair share of child support is a significant contributor to poverty among single-parent families.

(3) In 1990, there was a $33,700,000,000 gap between the amount of child support that was received and the amount that could have been collected.

(4) In 1991, the aggregate child support income deficit was $5,800,000,000.

(5) As of spring 1992, only 54 percent, or 6,200,000, of custodial parents received awards of child support. Of the 6,200,000 custodial parents awarded child support, 5,300,000 were supposed to receive child support payments in 1991. Approximately ½ of the parents due child support received full payment; the remaining ½ were divided equally between those receiving partial payment (24 percent) and those receiving nothing (25 percent).

(6) Custodial parents who are poor are much more likely to receive no child support. Of the 3,700,000 custodial parents who were poor in 1991, over ¾ received no child support. Only 34 percent of poor custodial parents had child support awards and were supposed to receive child support payments in 1991. Of those parents, only 40 percent received full payment, 29 percent received partial payment, and 32 percent received nothing.

(7) The percentage of poor women who were awarded child support in 1991, 39 percent, was significantly lower than the 65 percent award rate for nonpoor women.

(8) Families fare better with child support than without that support. In 1991, 43 percent of custodial parents who did not have child support orders were poor.

(9) In 1991, the average total money income of custodial parents receiving child support due was 21 percent higher than that received by parents who did not receive child support due and was 45 percent higher than that received by custodial parents with no child support award at all.

(b) Purposes.—The purposes of this Act are to enable participating States to establish child support assurance systems in order to improve the economic circumstances of children who do not receive a minimum level of child support in a given month from the noncustodial parents of such children, to strengthen the establishment and enforcement of child support awards, and to promote work by custodial and noncustodial parents.

SEC. 3. DEFINITIONS.

In this Act:

(1) Child.—The term "child" means an individual who is of such an age, disability, or educational status as to be eligible for child support as provided for by law.

(2) Eligible child.—The term "eligible child" means a child—

(A) who is not currently receiving cash assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(B) who meets the eligibility requirements established by the State for participation in a project administered under this section; and

(C) who is the subject of a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p)), or for which good cause exists, as determined by the appropriate State agency under section 454(29)(A) of such Act (42 U.S.C. 654(29)(A)), for not having or pursuing a support order.

(3) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. ESTABLISHMENT OF CHILD SUPPORT ASSURANCE DEMONSTRATION PROJECTS.

(a) Demonstrations Authorized.—The Secretary shall make grants to not less than 3 and not more than 5 States to conduct demonstration projects for the purpose of establishing or improving a system of an assured minimum child support payment to an eligible child in accordance with this section.

(b) Application and Selection.—

(1) Application requirements.—An application for a grant under this section shall be submitted by the Chief Executive Officer of a State and shall—

(A) contain a description of the proposed child support assurance project to be established, implemented, or improved using amounts provided under this section, including the level of the assured minimum child support payment to be provided and the agencies that will be involved;

(B) specify whether the project will be carried out throughout the State or in limited areas of the State;

(C) specify the level of income, if any, at which a recipient or applicant will be ineligible for an assured minimum child support payment under the project;

(D) estimate the number of children who will be eligible for assured minimum child support payments under the project;

(E) contain a description of the work requirements, if any, for noncustodial parents whose children are participating in the project;

(F) contain a commitment by the State to carry out the project during a period of not less than 3 and not more than 5 consecutive fiscal years beginning with fiscal year 1998; and

(G) contain such other information as the Secretary may require by regulation.

(2) Selection criteria.—The Secretary shall consider geographic diversity in the selection of States to conduct a demonstration project under this section, and any other criteria that the Secretary determines will contribute to the achievement of the purposes of this Act.

(c) Use of Funds.—A State shall use amounts provided under a grant awarded under this section to carry out a child support assurance project that is designed to provide a minimum monthly child support payment for each eligible child participating in the project to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) Treatment of Child Support Payment.—Any assured minimum child support payment received by an individual under this Act shall be considered child support for purposes of determining the treatment of such payment under—

(1) the Internal Revenue Code of 1986; and

(2) any eligibility requirements for any means-tested program of assistance.

(e) Duration.—A demonstration project conducted under this section shall commence on October 1, 1997, and shall be conducted for not less than 3 and not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in compliance with the terms of the application approved by the Secretary under this section.

(f) Evaluations and Reports.—

(1) State evaluations.—

(A) In general.—Each State administering a demonstration project under this section shall—

(i) provide for evaluation of the project, meeting such conditions and standards as the Secretary may require; and

(ii) submit to the Secretary reports, at the times and in the formats as the Secretary may require, and containing any information (in addition to the information required under subparagraph (B)) as the Secretary may require.

(B) Required information.—A report submitted under subparagraph (A)(ii) shall include information on and analysis of the effect of the project with respect to—

(i) the amount of child support collected for project recipients;

(ii) the economic circumstances and work efforts of custodial parents;

(iii) the work efforts of noncustodial parents;

(iv) the rate of compliance by noncustodial parents with support orders;

(v) project recipients' need for assistance under means-tested assistance programs other than the project administered under this section; and

(vi) any other matters that the Secretary may specify.

(C) Methodology.—Information required under this paragraph shall be collected through the use of scientifically acceptable sampling methods.

(2) Reports to congress.—The Secretary shall, on the basis of reports received from States administering projects under this section, submit interim reports, and, not later than 6 months after the conclusion of all projects administered under this section, a final report to Congress. A report submitted under this paragraph shall contain an assessment of the effectiveness of the State projects administered under this section and any recommendations for legislative action that the Secretary considers appropriate.

(g) Funding Limits; Pro Rata Reductions of State Matching.—

(1) Funds available.—There shall be available to the Secretary, from amounts made available to carry out part D of title IV of the Social Security Act, for purposes of carrying out demonstration projects under this section, amounts not to exceed—

(A) $27,000,000 for fiscal year 1998;

(B) $55,000,000 for fiscal year 1999; and

(C) $70,000,000 for each of fiscal years 2000 through 2003.

(2) Pro rata reductions.—The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this section as necessary to comply with the funding limitation specified in paragraph (1).

SEC. 5. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR TANF RECIPIENTS.

Section 466(a)(10) of the Social Security Act (42 U.S.C. 666(a)(10)) is amended—

(1) in subparagraph (A)(i), by striking "or, if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent,"; and

(2) by adding at the end the following:

"(D) Mandatory 3-year review for part A assignments.—Procedures under which the State shall conduct the review under subparagraph (A) and make any appropriate adjustments under such subparagraph not less than every 3 years in the case of an assignment under part A.".

By Mr. MACK (for himself, Mr. GRAHAM, and Mr. KENNEDY) (by request):

S. 1076. A bill to provide relief to certain aliens who would otherwise be subject to removal from the United States; to the Committee on the Judiciary.

THE IMMIGRATION REFORM TRANSITION ACT OF 1997

Mr. MACK. Mr. President, today I join my friends Senator GRAHAM and Senator KENNEDY in introducing a bill which would ease the transition into implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [IIRAIRA] for certain Central American immigrants. This legislation, which has been requested by President Clinton, is designed to ensure that those immigrants who were in the administrative pipeline at the time IIRAIRA took effect will have their cases decided under the set of rules in place before enactment of IIRAIRA. This legislation will by no means grant amnesty to anyone; it will ensure that each individual will have their application for suspension of deportation given full and fair consideration.

This legislation is a matter of freedom, justice, human rights and fundamental fairness. During consideration of IIRAIRA, I maintained that those immigrants who were already in this country should not have the rules changed on them midstream. Many Central American immigrants have planted deep roots in the United States and are valued members of their communities. They should be free from the fear of deportation without a full consideration of their request for suspension of that deportation under the set of rules in place at the time that they applied.

Ten years ago, in the mountains of Nicaragua, I spoke to thousands of young men who were fighting for freedom. I told them then that we would not forget them, and I tell them now that we will not forget them.

I urge the Senate's expedient consideration and passage of this legislation.

Mr. GRAHAM. Mr. President, today I am honored to join my colleague and friend Senator CONNIE MACK in introducing the Immigration Reform Transition Act of 1997.

This is a bipartisan, humane solution to concerns that were raised by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Thousands of families, hard-working, law-abiding, taxpaying individuals who had followed every rule and regulation up to the passage of the immigration bill last year now live in fear of deportation.

Working together, and working swiftly, Congress has the opportunity to correct this injustice.

The families that we are helping came to our Nation in the 1980's. Our own Government encouraged them to flee the Communist regimes and civil unrest of Central America at that time.

Our Nation's foreign policy gave them a safe haven; our Immigration Service allowed for their work authorization and they settled in to our American society.

Ten or fifteen years later, these families have homes here. They have U.S. citizen children. They have jobs; they pay taxes, and they make tremendous contributions to our local communities.

The Illegal Immigration and Immigrant Responsibility Act of 1996 severely restricted the avenues of relief that were traditionally available to aliens who have resided in the United States on a long-term basis.

Then, on February 20 of this year, the Board of Immigration Appeals interpreted a section of the immigration bill as applying, in all essence, retroactively.

Forty thousand Nicaraguans in Miami alone who, under the old law, would have qualified for suspension of deportation, would now be deportable because of Board's decision.

Families would be torn apart. Close-knit communities would evaporate. Businesses would suffer. In my heart, I don't believe this was the intent of Congress when the immigration bill was passed last year.

Janet Reno made an important step toward fairness and justice on July 11, when she agreed to review the Board of Immigration Appeal's decision. I supported her action, and appreciate her help in finding a humane and reasonable solution to these concerns.

In her July 11 press release, the Attorney General informed Congress that legislative action would be necessary to fully resolve this specific issue.

I am pleased to work with her, and my Senate colleagues, today to take the first step in accomplishing our legislative goal.

This legislation is crafted very narrowly. It recognizes the special circumstances in which Nicaraguans, and other Central Americans, came to the United States during a specific period of time—when they were fleeing the unrest created by the Communist governments of the era.

It allows this specific group of individuals and families to complete the process that they may have started 10 or 15 years ago—and importantly—to complete the process under the same set of rules that they started with.

Critics may say that we are undoing the immigration bill of last year. We are not. The 4000-per-year cap on suspensions of deportation is still intact, we are just not applying it to this specific group of individuals.

The stronger standards to qualify or suspension of deportation still remain current law. We are just allowing this group to go through the process without changing the rules in midstream.

Also important: this is not an amnesty bill. Each request will be decided on a case by case basis. If someone has been of bad moral character, they will not qualify. If someone has not been here the required amount of time, they will not qualify.

We are saying that those who played by the rules will have a fair opportunity to have their case heard by an immigration judge.

I welcome comments from the broader community on this legislation, and look forward to the opportunity to work with the Senate Judiciary Committee and Immigration Subcommittee to ensure its future success.

I ask my Senate colleagues to join with me today in this bipartisan effort to ensure fairness to hard working families.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator MACK and Senator GRAHAM in introducing the Immigration Reform Transition Act of 1997 proposed by President Clinton.

Without this legislation, thousands of Central American refugee families who fled death squads and persecution in their native lands would be forced to return. Republican and Democratic administrations alike promised them repeatedly that they will get their day in court to make their claims before an immigration judge to remain in the United States.

But last year's immigration law turned its back on that commitment and closed the door on these families. This legislation reinstates the promise and guarantees these families the day in court they deserve.

Virtually all of these families fled to the United States in the 1980's from El Salvador, Nicaragua, or Guatemala. Many were targeted by death squads and faced persecution at the hands of rogue militias. They came to America to seek safe haven and freedom for themselves and their children.

The Reagan administration, the Bush administration, and the Clinton administration assured them that they could apply to remain permanently in the United States under our immigration laws. If they have lived here for at least 7 years and are of good moral character, and if a return to Central America will be an unusual hardship, they are allowed to remain.

Last year's immigration law eliminated this opportunity for these families by changing the standard for humanitarian relief.

President Clinton has promised to find a fair and reasonable solution for these families, and the administration will use its authority to help as many of them as possible. But Congress must do its part too, by enacting this corrective legislation.

These families are law-abiding, taxpaying members of communities in all parts of America. Their children have grown up here. In fact, many of their children were born here and are U.S. citizens by birth. They deserve this chance.

Mr. President, it is my hope not only that we can move on this legislation—and move quickly—but also that certain issues can be addressed as the Senate considers it. In particular, I believe that the limitations on judicial review contained in the administration's bill are both unnecessary and unwise. There are already substantial limitations on judicial review contained in last year's immigration law that would also apply in this instance. We should not add to them in this legislation. Instead, we should ensure that, if mistakes are made, the courts can correct them.

Again, I commend the administration for this important initiative and am pleased to join Senator MACK and Senator GRAHAM in cosponsoring the legislation.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 1077. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1997

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator INOUYE, is sponsoring the Indian Gaming Regulatory Act Amendments Act of 1997. I want to associate myself with Senator INOUYE'S, remarks regarding this legislation and the issue of Indian gaming. I commend Senator INOUYE for his outstanding leadership over the years on this complex issue. This legislation is intended to stimulate discussion in the Congress and among the tribes on this important issue.

The bill I am introducing today would provide for a major overhaul of the Indian Gaming Regulatory Act of 1988. It will provide for minimum Federal standards in the regulation and licensing of class II and class III gaming as well as all of the contractors, suppliers, and industries associated with such gaming. This will be accomplished through the Federal Indian Gaming Regulator Commission which will be funded through assessments on Indian gaming revenues and fees imposed on license applicants.

In addition, the bill is consistent with the 1987 decision of the U.S. Supreme Court in the case of California versus Cabazon Band of Mission Indians in that it neither expands nor further restricts the scope of Indian gaming. The laws of each State would continue to be the basis for determining what gaming activities may be available to an Indian tribe located in that State.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. Indian gaming is now estimated to yield gross revenues of about $6 billion per year and net revenues are estimated at $750 million. There are about 160 class II bingo and card games in operation and over 145 tribal/State compacts governing class III gaming in 2 States. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprises about 36 percent of all gaming, and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the largest source of economic activity for some Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas, and minerals are about $230 million and Indian forestry revenue are estimated at $61 million. Gaming revenues now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations, gaming has meant the end of unemployment rates of 90 to 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act of 1988, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social services, education, and health needs of the Indian tribes. Schools, health facilities, roads and other vital infrastructure are being built by the Indian tribes with the proceeds from Indian gaming.

In the years before enactment of the 1988 act, and even since its enactment, we have heard concerns about the possibility of organized criminal elements penetrating Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind associated with Indian gaming. Some of our colleagues have suggested that no one would know if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the Federal Government in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to generate increased revenues. The legislation I am introducing today provides for the development of strict minimum Federal standards based on the recommendations of Federal, State and tribal officials. While Indian tribes or States, or both, will continue to exercise primary regulatory authority, their regulatory standards must meet or exceed the minimum Federal standards. In the event that the Federal Indian Gaming Regulatory determines that the minimum Federal standards are not being met, then the Commission may directly regulate the gaming activity until such time as Federal standards are met. In addition, the Commission is vested with authority to issue and revoke licenses as well as to impose civil fines, close Indian gaming facilities or seek enforcement of the act through the Federal courts.

In the course of our work on the gaming issue in the two previous Congresses, Senators CAMPBELL, INOUYE and I advanced various formal and informal proposals for Federal legislation to resolve the scope of gaming issue. In addition, proposals were developed by State and Tribal officials. However, we were never able to develop a consensus on any one proposal. While the Committee on Indian Affairs remains open to suggestions on this issue, it is apparent that obtaining a consensus may not be possible. This may be an area of the law best left to resolution through the courts.

Mr. President, I am sure that we may find many ways to improve this legislation as it moves through the Senate. However, I believe that it provides a good foundation for our further consideration of this important issue. This legislation is essentially the same as the bill that was reported favorably for the Committee on Indian Affairs during the last Congress by a vote of 14 to 2. I want to emphasize that this bill is intended to stimulate discussion. I am looking forward to hearing from all interested parties with regard to their constructive suggestions for ways to improve the bill and move it forward. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Gaming Regulatory Act Amendments Act of 1997".

SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGULATORY ACT.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended—

(1) by striking the first section and inserting the following new section:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Indian Gaming Regulatory Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Congressional findings.
"Sec. 3. Purposes.
"Sec. 4. Definitions.
"Sec. 5. Establishment of the Federal Indian Gaming Regulatory Commission.
"Sec. 6. Powers of the Chairperson.
"Sec. 7. Powers and authority of the Commission.
"Sec. 8. Regulatory framework.
"Sec. 9. Advisory Committee on Minimum Regulatory Requirements and Licensing Standards.
"Sec. 10. Licensing.
"Sec. 11. Requirements for the conduct of class I and class II gaming on Indian lands.
"Sec. 12. Class III gaming on Indian lands.
"Sec. 13. Review of contracts.
"Sec. 14. Review of existing contracts; interim authority.
"Sec. 15. Civil penalties.
"Sec. 16. Judicial review.
"Sec. 17. Commission funding.
"Sec. 18. Authorization of appropriations.
"Sec. 19. Application of the Internal Revenue Code of 1986.
"Sec. 20. Gaming on lands acquired after October 17, 1988.
"Sec. 21. Dissemination of information.
"Sec. 22. Severability.
"Sec. 23. Criminal penalties.
"Sec. 24. Conforming amendment.";

(2) by striking sections 2 and 3 and inserting the following new sections:

"SEC. 2. CONGRESSIONAL FINDINGS.

"Congress finds that—

"(1) Indian tribes are—

"(A) engaged in the operation of gaming activities on Indian lands as a means of generating tribal governmental revenue; and

"(B) licensing the activities described in subparagraph (A);

"(2) clear Federal standards and regulations for the conduct of gaming on Indian lands will assist tribal governments in assuring the integrity of gaming activities conducted on Indian lands;

"(3) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong Indian tribal governments;

"(4) while Indian tribes have the right to regulate the operation of gaming activities on Indian lands, if those gaming activities are—

"(A) not specifically prohibited by Federal law; and

"(B) conducted within a State that as a matter of public policy permits those gaming activities,

Congress has the authority to regulate the privilege of doing business with Indian tribes in Indian country (as that term is defined in section 1151 of title 18, United States Code);

"(5) systems for the regulation of gaming activities on Indian lands should meet or exceed federally established minimum regulatory requirements;

"(6) the operation of gaming activities on Indian lands has had a significant impact on commerce with foreign nations, among the several States and with the Indian tribes; and

"(7) the Constitution vests Congress with the powers to regulate Commerce with foreign nations, and among the several States, and with the Indian tribes, and this Act is enacted in the exercise of those powers.

"SEC. 3. PURPOSES.

"The purposes of this Act are—

"(1) to ensure the right of Indian tribes to conduct gaming activities on Indian lands in a manner consistent with the decision of the Supreme Court in California et al. v. Cabazon Band of Mission Indians et al. (480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987)), involving the Cabazon and Morongo bands of Mission Indians;

"(2) to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development, tribal self-sufficiency, and strong Indian tribal governments;

"(3) to provide a statutory basis for the regulation of gaming activities on Indian lands by an Indian tribe that is adequate to shield those activities from organized crime and other corrupting influences, to ensure that an Indian tribal government is the primary beneficiary of the operation of gaming activities, and to ensure that gaming is conducted fairly and honestly by both the operator and players; and

"(4) to declare that the establishment of independent Federal regulatory authority for the conduct of gaming activities on Indian lands and the establishment of Federal minimum regulatory requirements for the conduct of gaming activities on Indian lands are necessary to protect that gaming.";

(3) in section 4—

(A) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(B) by striking paragraphs (1) through (6) and inserting the following new paragraphs:

"(1) APPLICANT.—The term 'applicant' means any person who applies for a license pursuant to this Act, including any person who applies for a renewal of a license.

"(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Advisory Committee on Minimum Regulatory Requirements and Licensing Standards established under section 9(a).

"(3) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

"(4) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Federal Indian Gaming Regulatory Commission established under section 5.

"(5) CLASS I GAMING.—The term 'class I gaming' means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.";

(C) by striking paragraphs (9) and (10); and

(D) by adding after paragraph (7) (as redesignated by subparagraph (A) of this paragraph) the following new paragraphs:

"(8) COMMISSION.—The term 'Commission' means the Federal Indian Gaming Regulatory Commission established under section 5.

"(9) COMPACT.—The term 'compact' means an agreement relating to the operation of class III gaming on Indian lands that is entered into pursuant to this Act.

"(10) GAMING OPERATION.—The term 'gaming operation' means an entity that conducts class II or class III gaming on Indian lands.

"(11) GAMING-RELATED CONTRACT.—The term 'gaming-related contract' means—

"(A) any agreement for an amount of more than $50,000 per year under which an Indian tribe or an agent of any Indian tribe procures gaming materials, supplies, equipment, or services that are used in the conduct of a class II or class III gaming activity; or

"(B) any agreement or contract that provides for financing of an amount more than

$50,000 per year for the construction or rehabilitation of any facility in which a gaming activity is to be conducted.

"(12) GAMING-RELATED CONTRACTOR.—The term 'gaming-related contractor' means any person who enters into a gaming-related contract with an Indian tribe or an agent of an Indian tribe, including any person with a financial interest in such contract.

"(13) GAMING SERVICE INDUSTRY.—The term 'gaming service industry' means any form of enterprise that provides goods or services that are used in conjunction with any class II or class III gaming activity, in any case in which—

"(A) the proposed agreement between the enterprise and a class II or class III gaming operation, or the aggregate of such agreements is for an amount of not less than $100,000 per year; or

"(B) the amount of business conducted by such enterprise with any such gaming operation in the 1-year period preceding the effective date of the proposed agreement between the enterprise and a class II or class III gaming operation was not less than $250,000.

"(14) INDIAN LANDS.—The term 'Indian lands' means—

"(A) all lands within the limits of any Indian reservation; and

"(B) any lands—

"(i) the title to which is held in trust by the United States for the benefit of any Indian tribe; or

"(ii)(I) the title to which is—

"(aa) held by an Indian tribe subject to a restriction by the United States against alienation;

"(bb) held in trust by the United States for the benefit of an individual Indian; or

"(cc) held by an individual subject to restriction by the United States against alienation; and

"(II) over which an Indian tribe exercises governmental power.

"(15) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians that—

"(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(B) is recognized as possessing powers of self-government.

"(16) KEY EMPLOYEE.—The term 'key employee' means any individual employed in a gaming operation licensed pursuant to this Act in a supervisory capacity or empowered to make any discretionary decision with regard to the gaming operation, including any pit boss, shift boss, credit executive, cashier supervisor, gaming facility manager or assistant manager, or manager or supervisor of security employees.

"(17) MANAGEMENT CONTRACT.—The term 'management contract' means any contract or collateral agreement between an Indian tribe and a contractor, if such contract or agreement provides for the management of all or part of a gaming operation.

"(18) MANAGEMENT CONTRACTOR.—The term 'management contractor' means any person entering into a management contract with an Indian tribe or an agent of the Indian tribe for the management of a gaming operation, including any person with a financial interest in that contract.

"(19) MATERIAL CONTROL.—The term 'material control' means the exercise of authority or supervision or the power to make or cause to be made any discretionary decision with regard to matters which have a substantial effect on the financial or management aspects of a gaming operation.

"(20) NET REVENUES.—The term 'net revenues' means the gross revenues of an Indian gaming activity reduced by the sum of—

"(A) any amounts paid out or paid for as prizes; and

"(B) the total operating expenses associated with the gaming activity, excluding management fees.

"(21) PERSON.—The term 'person' means an individual, firm, corporation, association, organization, partnership, trust, consortium, joint venture, or entity.

"(22) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.";

(4) by striking sections 5 through 19 and inserting the following new sections:

"SEC. 5. ESTABLISHMENT OF THE FEDERAL INDIAN GAMING REGULATORY COMMISSION.

"(a) ESTABLISHMENT.—There is established as an independent agency of the United States, a Commission to be known as the Federal Indian Gaming Regulatory Commission. Such Commission shall be an independent establishment, as defined in section 104 of title 5, United States Code.

"(b) COMPOSITION OF THE COMMISSION.—

"(1) IN GENERAL.—The Commission shall be composed of 3 full-time members, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) CITIZENSHIP OF MEMBERS.—Each member of the Commission shall be a citizen of the United States.

"(3) REQUIREMENTS FOR MEMBERS.—No member of the Commission may—

"(A) pursue any other business or occupation or hold any other office;

"(B) be actively engaged in or, other than through distribution of gaming revenues as a member of an Indian tribe, have any pecuniary interest in gaming activities;

"(C) other than through distribution of gaming revenues as a member of an Indian tribe, have any pecuniary interest in any business or organization that holds a gaming license under this Act or that does business with any person or organization licensed under this Act;

"(D) have been convicted of a felony or gaming offense; or

"(E) have any pecuniary interest in, or management responsibility for, any gaming-related contract or any other contract approved pursuant to this Act.

"(4) POLITICAL AFFILIATION.—Not more than 2 members of the Commission shall be members of the same political party. In making appointments to the Commission, the President shall appoint members of different political parties, to the extent practicable.

"(5) ADDITIONAL QUALIFICATIONS.—

"(A) IN GENERAL.—The Commission shall be composed of the most qualified individuals available. In making appointments to the Commission, the President shall give special reference to the training and experience of individuals in the fields of corporate finance, accounting, auditing, and investigation or law enforcement.

"(B) TRIBAL GOVERNMENT EXPERIENCE.—Not less than 2 members of the Commission shall be individuals with extensive experience or expertise in tribal government.

"(6) BACKGROUND INVESTIGATIONS.—The Attorney General shall conduct a background investigation concerning any individual under consideration for appointment to the Commission, with particular regard to the financial stability, integrity, responsibility, and reputation for good character, honesty, and integrity of the nominee.

"(c) CHAIRPERSON.—The President shall select a Chairperson from among the members appointed to the Commission.

"(d) VICE CHAIRPERSON.—The Commission shall select, by majority vote, 1 of the members of the Commission to serve as Vice Chairperson. The Vice Chairperson shall—

"(1) serve as Chairperson of the Commission in the absence of the Chairperson; and

"(2) exercise such other powers as may be delegated by the Chairperson.

"(e) TERMS OF OFFICE.—

"(1) IN GENERAL.—Each member of the Commission shall hold office for a term of 5 years.

"(2) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made for the following terms:

"(A) The Chairperson shall be appointed for a term of 5 years.

"(B) One member shall be appointed for a term of 4 years.

"(C) One member shall be appointed for a term of 3 years.

"(3) LIMITATION.—No member shall serve for more than 2 terms of 5 years each.

"(f) VACANCIES.—

"(1) IN GENERAL.—Each individual appointed by the President to serve as Chairperson and each member of the Commission shall, unless removed for cause under paragraph (2), serve in the capacity for which such individual is appointed until the expiration of the term of such individual or until a successor is duly appointed and qualified.

"(2) REMOVAL FROM OFFICE.—The Chairperson or any member of the Commission may only be removed from office before the expiration of the term of office by the President for neglect of duty, malfeasance in office, or for other good cause shown.

"(3) TERM TO FILL VACANCIES.—The term of any member appointed to fill a vacancy on the Commission shall be for the unexpired term of the member.

"(g) QUORUM.—Two members of the Commission shall constitute a quorum.

"(h) MEETINGS.—

"(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission.

"(2) MAJORITY OF MEMBERS DETERMINE ACTION.—A majority of the members of the Commission shall determine any action of the Commission.

"(i) COMPENSATION.—

"(1) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) OTHER MEMBERS.—Each member of the Commission (other than the Chairperson) shall be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) TRAVEL.—All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(j) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"SEC. 6. POWERS OF THE CHAIRPERSON.

"(a) CHIEF EXECUTIVE OFFICER.—The Chairperson shall serve as the chief executive officer of the Commission.

"(b) ADMINISTRATION OF THE COMMISSION.—

"(1) IN GENERAL.—Subject to subsection (c), the Chairperson—

"(A) shall employ and supervise such personnel as the Chairperson considers to be necessary to carry out the functions of the Commission, and assign work among such personnel;

"(B) shall appoint a General Counsel to the Commission, who shall be paid at the annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code;

"(C) shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service;

"(D) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule;

"(E) may request the head of any Federal agency to detail any personnel of such agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act, unless otherwise prohibited by law;

"(F) shall use and expend Federal funds and funds collected pursuant to section 17; and

"(G) may contract for the services of such other professional, technical, and operational personnel and consultants as may be necessary for the performance of the Commission's responsibilities under this Act.

"(2) Compensation of staff.—The staff referred to in paragraph (1)(C) shall be paid without regard to the provisions of chapter 51 and subchapters III and VIII of chapter 53 of title 5, United States Code, relating to classification and General Schedule and Senior Executive Service Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for ES–5 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"(c) Applicable Policies.—In carrying out any of the functions under this section, the Chairperson shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.

"(a) General Powers.—

"(1) In general.—The Commission shall have the power to—

"(A) approve the annual budget of the Commission;

"(B) promulgate regulations to carry out this Act;

"(C) establish a rate of fees and assessments, as provided in section 17;

"(D) conduct investigations, including background investigations;

"(E) issue a temporary order closing the operation of gaming activities;

"(F) after a hearing, make permanent a temporary order closing the operation of gaming activities, as provided in section 15;

"(G) grant, deny, limit, condition, restrict, revoke, or suspend any license issued under any licensing authority conferred upon the Commission pursuant to this Act or fine any person licensed pursuant to this Act for violation of any of the conditions of licensure under this Act;

"(H) inspect and examine all premises in which class II or class III gaming is conducted on Indian lands;

"(I) demand access to and inspect, examine, photocopy, and audit all papers, books, and records of class II and class III gaming activities conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

"(J) use the United States mails in the same manner and under the same conditions as any department or agency of the United States;

"(K) procure supplies, services, and property by contract in accordance with applicable Federal laws;

"(L) enter into contracts with Federal, State, tribal, and private entities for activities necessary to the discharge of the duties of the Commission;

"(M) serve or cause to be served, process or notices of the Commission in a manner provided for by the Commission or in a manner provided for the service of process and notice in civil actions in accordance with the applicable rules of a tribal, State, or Federal court;

"(N) propound written interrogatories and appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, propound written interrogatories, and require testimony under oath;

"(O) conduct all administrative hearings pertaining to civil violations of this Act (including any civil violation of a regulation promulgated under this Act);

"(P) collect all fees and assessments authorized by this Act and the regulations promulgated pursuant to this Act;

"(Q) assess penalties for violations of the provisions of this Act and the regulations promulgated pursuant to this Act;

"(R) provide training and technical assistance to Indian tribes with respect to all aspects of the conduct and regulation of gaming activities;

"(S) monitor and, as specifically authorized by this Act, regulate class II and class III gaming;

"(T) establish precertification criteria that apply to management contractors and other persons having material control over a gaming operation;

"(U) approve all management and gaming-related contracts; and

"(V) in addition to the authorities otherwise specified in this Act, delegate, by published order or rule, any of the functions of the Commission (including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting on the part of the Commission concerning any work, business, or matter) to a division of the Commission, an individual member of the Commission, an administrative law judge, or an employee of the Commission.

"(2) Statutory construction.—Nothing in this section may be construed to authorize the delegation of the function of rulemaking, as described in subchapter II of chapter 5 of title 5, United States Code, with respect to general rules (as distinguished from rules of particular applicability), or the promulgation of any other rule.

"(b) Right To Review Delegated Functions.—

"(1) In general.—With respect to the delegation of any of the functions of the Commission, the Commission shall retain a discretionary right to review the action of any division of the Commission, individual member of the Commission, administrative law judge, or employee of the Commission, upon the initiative of the Commission.

"(2) Vote needed for review.—The vote of 1 member of the Commission shall be sufficient to bring an action referred to in paragraph (1) before the Commission for review, and the Commission shall ratify, revise, or reject the action under review not later than the last day of the applicable period specified in regulations promulgated by the Commission.

"(3) Failure to conduct review.—If the Commission declines to exercise the right to a review described in paragraph (1) or fails to exercise that right within the applicable period specified in regulations promulgated by the Commission, the action of any such division of the Commission, individual member of the Commission, administrative law judge, or employee, shall, for all purposes, including any appeal or review of such action, be deemed an action of the Commission.

"(c) Minimum Requirements.—Pursuant to the procedures described in section 9(d), after receiving recommendations from the Advisory Committee, the Commission shall establish minimum Federal standards—

"(1) for background investigations, licensing of persons, and licensing of gaming operations associated with the conduct or regulation of class II and class III gaming on Indian lands by tribal governments; and

"(2) for the operation of class II and class III gaming activities on Indian lands, including—

"(A) surveillance and security personnel and systems capable of monitoring all gaming activities, including the conduct of games, cashiers' cages, change booths, count rooms, movements of cash and chips, entrances and exits to gaming facilities, and other critical areas of any gaming facility;

"(B) procedures for the protection of the integrity of the rules for the play of games and controls related to such rules;

"(C) credit and debit collection controls;

"(D) controls over gambling devices and equipment; and

"(E) accounting and auditing.

"(d) Commission Access to Information.—

"(1) In general.—The Commission may secure from any department or agency of the United States information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

"(2) Information transfer.—The Commission may secure from any law enforcement agency or gaming regulatory agency of any State, Indian tribe, or foreign nation information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of any State or tribal law enforcement agency shall furnish such information to the Commission.

"(3) Privileged information.—Notwithstanding sections 552 and 552a of title 5, United States Code, the Commission shall protect from disclosure information provided by Federal, State, tribal, or international law enforcement or gaming regulatory agencies.

"(4) Law enforcement agency.—For purposes of this subsection, the Commission shall be considered to be a law enforcement agency.

"(e) Investigations and Actions.—

"(1) In general.—

"(A) Possible violations.—The Commission may, at the discretion of the Commission, and as specifically authorized by this Act, conduct such investigations as the Commission considers necessary to determine whether any person has violated, is violating, or is conspiring to violate any provision of this Act (including any rule or regulation promulgated under this Act). The

Commission may require or permit any person to file with the Commission a statement in writing, under oath, or otherwise as the Commission may determine, concerning all relevant facts and circumstances regarding the matter under investigation by the Commission pursuant to this subsection.

“(B) ADMINISTRATIVE INVESTIGATIONS.—The Commission may, at the discretion of the Commission, and as specifically authorized by this Act, investigate such facts, conditions, practices, or matters as the Commission considers necessary or proper to aid in—

“(i) the enforcement of any provision of this Act;

“(ii) prescribing rules and regulations under this Act; or

“(iii) securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

“(2) ADMINISTRATIVE AUTHORITIES.—

“(A) IN GENERAL.—For the purpose of any investigation or any other proceeding conducted under this Act, any member of the Commission or any officer designated by the Commission is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission considers relevant or material to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing.

“(B) REQUIRING APPEARANCES OR TESTIMONY.—In case of contumacy by, or refusal to obey any subpoena issued to, any person, the Commission may invoke the jurisdiction of any court of the United States within the jurisdiction of which an investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.

“(C) COURT ORDERS.—Any court described in subparagraph (B) may issue an order requiring such person to appear before the Commission or member of the Commission or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by such court as a contempt of such court.

“(3) ENFORCEMENT.—

“(A) IN GENERAL.—If the Commission determines that any person is engaged, has engaged, or is conspiring to engage, in any act or practice constituting a violation of any provision of this Act (including any rule or regulation promulgated under this Act), the Commission may—

“(i) bring an action in the appropriate district court of the United States or the United States District Court for the District of Columbia to enjoin such act or practice, and upon a proper showing, the court shall grant, without bond, a permanent or temporary injunction or restraining order; or

“(ii) transmit such evidence as may be available concerning such act or practice as may constitute a violation of any Federal criminal law to the Attorney General, who may institute the necessary criminal or civil proceedings.

“(B) STATUTORY CONSTRUCTION.—

“(i) IN GENERAL.—The authority of the Commission to conduct investigations and take actions under subparagraph (A) may not be construed to affect in any way the authority of any other agency or department of the United States to carry out statutory responsibilities of such agency or department.

“(ii) EFFECT OF TRANSMITTAL BY THE COMMISSION.—The transmittal by the Commission of evidence pursuant to subparagraph (A)(ii) may not be construed to constitute a condition precedent with respect to any action taken by any department or agency referred to in clause (i).

“(4) WRITS, INJUNCTIONS, AND ORDERS.—Upon application of the Commission, each district court of the United States shall have jurisdiction to issue writs of mandamus, injunctions, and orders commanding any person to comply with the provisions of this Act (including any rule or regulation promulgated under this Act).

“SEC. 8. REGULATORY FRAMEWORK.

“(a) CLASS II GAMING.—For class II gaming, Indian tribes shall retain the exclusive right of those tribes to, if the exercise of that right is made in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

“(1) monitor and regulate such gaming; and

“(2) conduct background investigations and issue licenses to persons who are required to obtain a license under section 10(a).

“(b) CLASS III GAMING CONDUCTED UNDER A COMPACT.—For class III gaming conducted under the authority of a compact entered into pursuant to section 12, an Indian tribe or a State, or both, as provided in a compact or by tribal ordinance or resolution, shall, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

“(1) monitor and regulate gaming;

“(2) conduct background investigations and issue licenses to persons who are required to obtain a license pursuant to section 10(a); and

“(3) establish and regulate internal control systems.

“(c) VIOLATIONS OF MINIMUM FEDERAL STANDARDS.—

“(1) CLASS II GAMING.—

“(A) IN GENERAL.—In any case in which an Indian tribe that regulates or conducts class II gaming on Indian lands substantially fails to meet or enforce minimum Federal standards for that gaming, after providing the Indian tribe notice and reasonable opportunity to cure violations and to be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems relating to class II gaming conducted by the Indian tribe.

“(B) EXERCISE OF EXCLUSIVE AUTHORITY.—The Commission may excercise exclusive authority in carrying out the activities specified in subparagraph (A) until such time as the regulatory and internal control systems of the Indian tribe meet or exceed the minimum Federal standards concerning regulatory, licensing, or internal control requirements established by the Commission for that gaming.

“(2) CLASS III GAMING.—In any case in which an Indian tribe or a State (or both) that regulates class III gaming on Indian lands fails to meet or enforce minimum Federal standards for class III gaming, after providing notice and reasonable opportunity to cure violations and be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems relating to class III gaming conducted by the Indian tribe. That authority of the Commission may be exclusive until such time as the regulatory or internal control systems of the Indian tribe or the State (or both) meet or exceed the minimum Federal regulatory, licensing, or internal control requirements established by the Commission for that gaming.

“SEC. 9. ADVISORY COMMITTEE ON MINIMUM REGULATORY REQUIREMENTS AND LICENSING STANDARDS.

“(a) ESTABLISHMENT.—The President shall establish an advisory committee to be known as the ‘Advisory Committee on Minimum Regulatory Requirements and Licensing Standards’.

“(b) MEMBERS.—

“(1) IN GENERAL.—The Advisory Committee shall be composed of 8 members who shall be appointed by the President not later than 120 days after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, of which—

“(A) 3 members, selected from a list of recommendations submitted to the President by the Chairperson and Vice Chairperson of the Committee on Indian Affairs of the Senate and the Chairperson and ranking minority member of the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, shall be members of, and represent, Indian tribal governments involved in gaming covered under this Act;

“(B) 3 members, selected from a list of recommendations submitted to the President by the Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives, shall represent State governments involved in gaming covered under this Act, and shall have experience as State gaming regulators; and

“(C) 2 members shall each be an employee of the Department of Justice.

“(2) VACANCIES.—Any vacancy on the Advisory Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(c) RECOMMENDATIONS FOR MINIMUM FEDERAL STANDARDS.—

“(1) IN GENERAL.—Not later than 180 days after the date on which all initial members of the Advisory Committee have been appointed under subsection (b), the Advisory Committee shall develop and submit to the entities referred to in paragraph (2) recommendations for minimum Federal standards relating to background investigations, internal control systems, and licensing standards (as described in section 7(c)).

“(2) RECIPIENTS OF RECOMMENDATIONS.—The Advisory Committee shall submit the recommendations described in paragraph (1) to the Committee on Indian Affairs of the Senate, the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, the Commission, and to each federally recognized Indian tribe.

“(3) FACTORS FOR CONSIDERATION.—The minimum Federal standards recommended or established pursuant to this section may be developed taking into account for industry standards existing at the time of the development of the standards. The Advisory Committee, and the Commission in promulgating standards pursuant to subsection (d), shall, in addition to considering any other factor that the Commission considers to be appropriate, consider—

"(A) the unique nature of tribal gaming as compared to non-Indian commercial, governmental, and charitable gaming;

"(B) the broad variations in the scope and size of tribal gaming activity;

"(C) the inherent sovereign right of Indian tribes to regulate their own affairs; and

"(D) the findings and purposes set forth in sections 2 and 3.

"(d) REGULATIONS.—Upon receipt of the recommendations of the Advisory Committee, the Commission shall hold public hearings on the recommendations. After the conclusion of the hearings, the Commission shall promulgate regulations establishing minimum Federal regulatory requirements and licensing standards.

"(e) TRAVEL.—Each member of the Advisory Committee who is appointed under subparagraph (A) or (B) of subsection (b)(1) and who is not an officer or employee of the Federal Government or a government of a State shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Advisory Committee while away from the home or the regular place of business of that member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(f) TERMINATION.—The Advisory Committee shall cease to exist on the date that is 10 days after the date on which the Advisory Committee submits the recommendations under subsection (c).

"(g) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—All activities of the Advisory Committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

"SEC. 10. LICENSING.

"(a) IN GENERAL.—A license issued under this Act shall be required of—

"(1) a gaming operation;

"(2) a key employee of a gaming operation;

"(3) a management contractor or gaming-related contractor;

"(4) a gaming service industry; or

"(5) a person who has material control, either directly or indirectly, over a licensed gaming operation.

"(b) CERTAIN LICENSES FOR MANAGEMENT CONTRACTORS AND GAMING OPERATIONS.—Notwithstanding any other provision of law relating to licenses issued by an Indian tribe or a State (or both) pursuant to this Act, the Commission may require licenses of—

"(1) management contractors; and

"(2) gaming operations.

"(c) GAMING OPERATION LICENSE.—

"(1) IN GENERAL.—No gaming operation shall operate unless all required licenses and approvals for the gaming operation have been obtained in accordance with this Act.

"(2) WRITTEN AGREEMENTS.—

"(A) FILING.—Prior to the operation of any gaming facility or activity, each management contract for the gaming operation shall be in writing and filed with the Commission pursuant to section 13.

"(B) EXPRESS APPROVAL REQUIRED.—No management contract referred to in subparagraph (A) shall be effective unless the Commission expressly approves the management contract.

"(C) REQUIREMENT OF ADDITIONAL PROVISIONS.—The Commission may require that a management contract referred to in subparagraph (A) include any provisions that are reasonably necessary to meet the requirements of this Act.

"(D) INELIGIBILITY OR EXEMPTION.—The Commission may, with respect to an applicant who does not have the ability to exercise any significant control over a licensed gaming operation—

"(i) determine that applicant to be ineligible to hold a license; or

"(ii) exempt that applicant from being required to hold a license.

"(d) DENIAL OF LICENSE.—The Commission, in the exercise of the specific licensure power conferred upon the Commission by this Act, shall deny a license to any applicant who is disqualified on the basis of a failure to meet any of the minimum Federal standards promulgated by the Commission pursuant to section 7(c).

"(e) APPLICATION FOR LICENSE.—

"(1) IN GENERAL.—Upon the filing of the materials specified in paragraph (2), the Commission shall conduct an investigation into the qualifications of an applicant. The Commission may conduct a nonpublic hearing on such investigation concerning the qualifications of the applicant in accordance with regulations promulgated by the Commission.

"(2) FILING OF MATERIALS.—The Commission shall carry out paragraph (1) upon the filing of—

"(A) an application for a license that the Commission is specifically authorized to issue pursuant to this Act; and

"(B) such supplemental information as the Commission may require.

"(3) TIMING OF HEARINGS AND INVESTIGATIONS AND FINAL ACTION.—

"(A) DEADLINE FOR HEARINGS AND INVESTIGATIONS.—Not later than 90 days after receiving the materials described in paragraph (2), the Commission shall complete the investigation described in paragraph (1) and any hearings associated with the investigation conducted pursuant to that paragraph.

"(B) DEADLINE FOR FINAL ACTION.—Not later than 10 days after the date specified in subparagraph (A), the Commission shall take final action to grant or deny a license to the applicant.

"(4) DENIALS.—

"(A) IN GENERAL.—The Commission may disapprove an application submitted to the Commission under this section and deny a license to the applicant.

"(B) ORDER OF DENIAL.—If the Commission denies a license to an applicant under subparagraph (A), the Commission shall prepare an order denying such license. In addition, if an applicant requests a statement of the reasons for the denial, the Commission shall prepare such statement and provide the statement to the applicant. The statement shall include specific findings of fact.

"(5) ISSUANCE OF LICENSES.—If the Commission is satisfied that an applicant is qualified to receive a license, the Commission shall issue a license to the applicant upon tender of—

"(A) all license fees and assessments as required by this Act (including any rule or regulation promulgated under this Act); and

"(B) such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act (including any rule or regulation promulgated under this Act).

"(6) BONDS.—

"(A) AMOUNTS.—The Commission shall, by rules of uniform application, fix the amount of each bond that the Commission requires under this section in such amount as the Commission considers appropriate.

"(B) USE OF BONDS.—The bonds furnished to the Commission under this paragraph may be applied by the Commission to the payment of any unpaid liability of the licensee under this Act.

"(C) TERMS.—Each bond required in accordance with this section shall be furnished—

"(i) in cash or negotiable securities;

"(ii) by a surety bond guaranteed by a satisfactory guarantor; or

"(iii) by an irrevocable letter of credit issued by a banking institution acceptable to the Commission.

"(D) TREATMENT OF PRINCIPAL AND INCOME.—If a bond is furnished under this paragraph in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the Commission, but any income shall inure to the benefit of the licensee.

"(f) RENEWAL OF LICENSE.—

"(1) IN GENERAL.—

"(A) RENEWALS.—Subject to the power of the Commission to deny, revoke, or suspend licenses, any license issued under this section and in force shall be renewed by the Commission for the next succeeding license period upon proper application for renewal and payment of license fees and assessments, as required by applicable law (including any rule or regulation promulgated under this Act).

"(B) RENEWAL TERM.—Subject to subparagraph (C), the term of a renewal period for a license issued under this section shall be for a period of not more than—

"(i) 2 years, for each of the first 2 renewal periods succeeding the initial issuance of a license pursuant to subsection (e); and

"(ii) 3 years, for each succeeding renewal period.

"(C) REOPENING HEARINGS.—The Commission may reopen licensing hearings at any time after the Commission has issued or renewed a license.

"(2) TRANSITION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Commission shall, for the purpose of facilitating the administration of this Act, renew a license for an activity covered under subsection (a) that is held by a person on the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997 for a renewal period of 18 months.

"(B) ACTION BEFORE EXPIRATION.—The Commission shall act upon a timely filed license renewal application prior to the date of expiration of the then current license.

"(3) FILING REQUIREMENT.—Each application for renewal shall be filed with the Commission not later than 90 days prior to the expiration of the then current license, and shall be accompanied by full payment of all license fees and assessments that are required by law to be paid to the Commission.

"(4) RENEWAL CERTIFICATE.—Upon renewal of a license, the Commission shall issue an appropriate renewal certificate, validating device, or sticker, which shall be attached to the license.

"(g) HEARINGS.—

"(1) IN GENERAL.—The Commission shall establish procedures for the conduct of hearings associated with licensing, including procedures for issuing, denying, limiting, conditioning, restricting, revoking, or suspending any such license.

"(2) ACTION BY COMMISSION.—Following a hearing conducted for any of the purposes authorized in this section, the Commission shall—

"(A) render a decision of the Commission;

"(B) issue an order; and

"(C) serve the decision referred to in subparagraph (A) and order referred to in subparagraph (B) upon the affected parties.

"(3) REHEARING.—

"(A) IN GENERAL.—The Commission may, upon a motion made not later than 10 days after the service of a decision and order,

order a rehearing before the Commission on such terms and conditions as the Commission considers just and proper if the Commission finds cause to believe that the decision and order should be reconsidered in view of the legal, policy, or factual matters that are—

“(i) advanced by the party that makes the motion; or

“(ii) raised by the Commission on a motion made by the Commission.

“(B) ACTION AFTER REHEARING.—Following a rehearing conducted by the Commission, the Commission shall—

“(i) render a decision of the Commission;

“(ii) issue an order; and

“(iii) serve such decision and order upon the affected parties.

“(C) FINAL AGENCY ACTION.—A decision and order made by the Commission under paragraph (2) (if no motion for a rehearing is made by the date specified in subparagraph (A)), or a decision and order made by the Commission upon rehearing shall constitute final agency action for purposes of judicial review.

“(4) JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the licensing decisions and orders of the Commission.

“(h) LICENSE REGISTRY.—The Commission shall—

“(1) maintain a registry of all licenses that are granted or denied pursuant to this Act; and

“(2) make the information contained in the registry available to Indian tribes to assist the licensure and regulatory activities of Indian tribes.

“SEC. 11. REQUIREMENTS FOR THE CONDUCT OF CLASS I AND CLASS II GAMING ON INDIAN LANDS.

“(a) CLASS I GAMING.—Class I gaming on Indian lands shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

“(b) CLASS II GAMING.—

“(1) IN GENERAL.—Any class II gaming on Indian lands shall be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

“(2) LEGAL ACTIVITIES.—An Indian tribe may engage in, and license and regulate, class II gaming on Indian lands within the jurisdiction of such tribe, if—

“(A) that Indian gaming is located within a State that permits that gaming for any purpose by any person; and

“(B) the class II gaming operation meets or exceeds the requirements of sections 7(c) and 10.

“(3) REQUIREMENTS FOR CLASS II GAMING OPERATIONS.—

“(A) IN GENERAL.—The Commission shall ensure that, with regard to any class II gaming operation on Indian lands—

“(i) a separate license is issued by the Indian tribe for each place, facility, or location on Indian lands at which class II gaming is conducted;

“(ii) the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any class II gaming activity, unless the conditions of clause (ix) apply;

“(iii) the net revenues from any class II gaming activity are used only—

“(I) to fund tribal government operations or programs;

“(II) to provide for the general welfare of the Indian tribe and the members of the Indian tribe;

“(III) to promote tribal economic development;

“(IV) to donate to charitable organizations;

“(V) to assist in funding operations of local government agencies;

“(VI) to comply with the provisions of section 17; or

“(VIII) to make per capita payments to members of the Indian tribe pursuant to clause (viii);

“(iv) the Indian tribe provides to the Commission annual outside audit reports of the class II gaming operation of the Indian tribe, which may be encompassed within existing independent tribal audit systems;

“(v) each contract for supplies, services, or concessions for a contract amount equal to more than $50,000 per year, other than a contract for professional legal or accounting services, relating to such gaming is subject to such independent audit reports and any audit conducted by the Commission;

“(vi) the construction and maintenance of a class II gaming facility and the operation of class II gaming are conducted in a manner that adequately protects the environment and public health and safety;

“(vii) there is instituted an adequate system that—

“(I) ensures that—

“(aa) background investigations are conducted on primary management officials, key employees, and persons having material control, either directly or indirectly, in a licensed class II gaming operation, and gaming-related contractors associated with a licensed class II gaming operation; and

“(bb) oversight of the officials referred to in item (aa) and the management by those officials is conducted on an ongoing basis; and

“(II) includes—

“(aa) tribal licenses for persons involved in class II gaming operations, issued in accordance with sections 7(c) and 10;

“(bb) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment or licensure; and

“(cc) notification by the Indian tribe to the Commission of the results of a background investigation conducted under item (bb) before the issuance of any such license;

“(viii) net revenues from any class II gaming activities conducted or licensed by any Indian tribal government are used to make per capita payments to members of the Indian tribe only if—

“(I) the Indian tribe has prepared a plan to allocate revenues to uses authorized by clause (iii);

“(II) the Secretary determines that the plan is adequate, particularly with respect to uses described in subclause (I) or (III) of clause (iii);

“(III) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved;

“(IV) the per capita payments to minors and other legally incompetent persons are disbursed to the parents or legal guardians of the minors or legally incompetent persons referred to in subclause (III) in such amounts as may be necessary for the health, education, or welfare of each such minor or legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

“(V) the per capita payments are subject to Federal income taxation and Indian tribes withhold such taxes when such payments are made;

“(ix) a separate license is issued by the Indian tribe for any class II gaming operation owned by any person or entity other than the Indian tribe and conducted on Indian lands, that includes—

“(I) requirements set forth in clauses (v) through (vii) (other than the requirements of clause (vii)(II)(cc)), and (x); and

“(II) requirements that are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located; and

“(x) no person or entity, other than the Indian tribe, is eligible to receive a tribal license for a class II gaming operation conducted on Indian lands within the jurisdiction of the Indian tribe if that person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

“(B) TRANSITION.—

“(i) IN GENERAL.—Clauses (ii), (iii), and (ix) of subparagraph (A) shall not bar the continued operation of a class II gaming operation described in clause (ix) of that subparagraph that was operating on September 1, 1986, if—

“(I) that gaming operation is licensed and regulated by an Indian tribe;

“(II) income to the Indian tribe from such gaming is used only for the purposes described in subparagraph (A)(iii);

“(III) not less than 60 percent of the net revenues from such gaming operation is income to the licensing Indian tribe; and

“(IV) the owner of that gaming operation pays an appropriate assessment to the Commission pursuant to section 17 for the regulation of that gaming.

“(ii) LIMITATIONS ON EXEMPTION.—The exemption from application provided under clause (i) may not be transferred to any person or entity and shall remain in effect only during such period as the gaming operation remains within the same nature and scope as that gaming operation was actually operated on October 17, 1988.

“(C) LIST.—The Commission shall—

“(i) maintain a list of each gaming operation that is subject to subparagraph (B); and

“(ii) publish such list in the Federal Register.

“(c) PETITION FOR CERTIFICATE OF SELF-REGULATION.—

“(1) IN GENERAL.—Any Indian tribe that operates, directly or with a management contract, a class II gaming activity may petition the Commission for a certificate of self-regulation if that Indian tribe—

“(A) has continuously conducted such activity for a period of not less than 3 years, including a period of not less than 1 year that begins after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997; and

“(B) has otherwise complied with the provisions of this Act.

“(2) ISSUANCE OF CERTIFICATE OF SELF-REGULATION.—The Commission shall issue a certificate of self-regulation under this subsection if the Commission determines, on the basis of available information, and after a hearing if requested by the Indian tribe, that the Indian tribe has—

“(A) conducted its gaming activity in a manner which has—

“(i) resulted in an effective and honest accounting of all revenues;

“(ii) resulted in a reputation for safe, fair, and honest operation of the activity; and

“(iii) been generally free of evidence of criminal or dishonest activity;

“(B) adopted and implemented adequate systems for—

“(i) accounting for all revenues from the gaming activity;

“(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

“(iii) investigation, enforcement, and prosecution of violations of its gaming ordinance and regulations;

“(C) conducted the operation on a fiscally and economically sound basis; and

“(D) paid all fees and assessments that the tribe is required to pay to the Commission under this Act.

“(3) Effect of certificate of self-regulation.—During the period in which a certificate of self-regulation issued under this subsection is in effect with respect to a gaming activity conducted by an Indian tribe—

“(A) the Indian tribe shall—

“(i) submit an annual independent audit report required under subsection (b)(3)(A)(iv); and

“(ii) submit to the Commission a complete résumé of each employee hired and licensed by the Indian tribe subsequent to the issuance of a certificate of self-regulation; and

“(B) the Commission may not assess a fee under section 17 on gaming operated by the Indian tribe pursuant to paragraph (1) in excess of ¼ of 1 percent of the net revenue from that activity.

“(4) Rescission.—The Commission may, for just cause and after a reasonable opportunity for a hearing, rescind a certificate of self-regulation issued under this subsection by majority vote of the members of the Commission.

“(d) License Revocation.—If, after the issuance of any license by an Indian tribe under this section, the Indian tribe receives reliable information from the Commission indicating that a licensee does not meet any standard established under section 7(c) or 10, or any other applicable regulation promulgated under this Act, the Indian tribe—

“(1) shall immediately suspend that license; and

“(2) after providing notice, holding a hearing, and making findings of fact under procedures established pursuant to applicable tribal law, may revoke that license.

“SEC. 12. CLASS III GAMING ON INDIAN LANDS.

“(a) Requirements for the Conduct of Class III Gaming on Indian Lands.—

“(1) In general.—Class III gaming activities shall be lawful on Indian lands only if those activities are—

“(A) authorized by—

“(i) a compact that—

“(I) is approved pursuant to tribal law by the governing body of the Indian tribe having jurisdiction over those lands;

“(II) meets the requirements of section 11(b)(3) for the conduct of class II gaming; and

“(III) is approved by the Secretary under paragraph (4); or

“(ii) the Secretary under procedures prescribed by the Secretary under paragraph (3)(B)(vii);

“(B) located in a State that permits that gaming for any purpose by any person; and

“(C) conducted in conformance with—

“(i) a compact that—

“(I) is in effect; and

“(II) is entered into by an Indian tribe and a State and approved by the Secretary under paragraph (4); or

“(ii) procedures prescribed by the Secretary under paragraph (3)(B)(vii).

“(2) Compact negotiations.—

“(A) In general.—Any Indian tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the State in which those lands are located to enter into negotiations for the purpose of entering into a compact governing the conduct of gaming activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

“(B) Approval by the secretary.—Any State and any Indian tribe may enter into a compact governing class III gaming activities on the Indian lands of the Indian tribe, but that compact shall take effect only when notice of approval by the Secretary of that compact has been published by the Secretary in the Federal Register.

“(3) Actions.—

“(A) In general.—The United States district courts shall have jurisdiction over—

“(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a compact under paragraph (2) or to conduct such negotiations in good faith;

“(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any compact entered into under paragraph (2) that is in effect; and

“(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

“(B) Procedures.—

“(i) In general.—An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the expiration of the 180-day period beginning on the date on which the Indian tribe requests the State to enter into negotiations under paragraph (2)(A).

“(ii) Burden of proof.—In any action described in subparagraph (A)(i), upon introduction of evidence by an Indian tribe that—

“(I) a compact has not been entered into under paragraph (2); and

“(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith,

the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a compact governing the conduct of gaming activities.

“(iii) Failure to negotiate.—If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a compact governing the conduct of gaming activities, the court shall order the State and the Indian tribe to conclude such a compact within a 60-day period beginning on the date of that order. In determining in such an action whether a State has negotiated in good faith, the court—

“(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing gaming activities; and

“(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

“(iv) Procedure in the event of failure to conclude a compact.—If a State and an Indian tribe fail to conclude a compact governing the conduct of gaming activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents the last best offer of the Indian tribe and the State for a compact. The mediator shall select from the 2 proposed compacts the proposed compact that best comports with—

“(I) the terms of this Act;

“(II) any other applicable Federal law; and

“(III) the findings and order of the court.

“(v) Submission of compact to state and indian tribe.—The mediator appointed under clause (iv) shall submit to the State and the Indian tribe the proposed compact selected by the mediator under clause (iv).

“(vi) Consent of state.—If a State consents to a proposed compact submitted to the State under clause (v) during the 60-day period beginning on the date on which the proposed compact is submitted to the State under clause (v), the proposed compact shall be treated as a compact entered into under paragraph (2).

“(vii) Failure of state to consent.—If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures—

“(I) that are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this Act, and the applicable provisions of the laws of the State; and

“(II) under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction.

“(4) Approval by secretary.—

“(A) In general.—The Secretary is authorized to approve any compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

“(B) Disapproval by secretary.—The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

“(i) any provision of this Act;

“(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands; or

“(iii) the trust obligation of the United States to Indians.

“(C) Failure of the secretary to take final action.—If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the expiration of the 45-day period beginning on the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act.

“(D) Publication of notice.—The Secretary shall publish in the Federal Register notice of any compact that is approved, or considered to have been approved, under this paragraph.

“(E) Effect of publication of compact.—Except for an appeal conducted under subchapter II of chapter 5 of title 5, United States Code, by an Indian tribe or by a State associated with the publication of the compact, the publication of a compact pursuant to subparagraph (D) or subsection (c)(4) that permits a form of class III gaming shall, for purposes of this Act, be conclusive evidence that such class III gaming is an activity subject to negotiations under the laws of the State where the gaming is to be conducted, in any matter under consideration by the Commission or a Federal court.

"(F) Effective date of compact.—A compact shall become effective upon the publication of the compact in the Federal Register by the Secretary.

"(G) Duties of commission.—Consistent with the provisions of sections 7(c), 8, and 10, the Commission shall monitor and, if specifically authorized, regulate and license class III gaming with respect to any compact that is published in the Federal Register.

"(5) Provisions of compacts.—

"(A) In general.—A compact negotiated under this subsection may include provisions relating to—

"(i) the application of the criminal and civil laws (including any rule or regulation) of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity in a manner consistent with sections 7(c), 8, and 10;

"(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws (including any rule or regulation);

"(iii) the assessment by the State of the costs associated with such activities in such amounts as are necessary to defray the costs of regulating such activity;

"(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

"(v) remedies for breach of compact provisions;

"(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing, in a manner consistent with sections 7(c), 8, and 10; and

"(vii) any other subject that is directly related to the operation of gaming activities and the impact of gaming on tribal, State, and local governments.

"(B) Statutory construction with respect to assessments.—Except for any assessments for services agreed to by an Indian tribe in compact negotiations, nothing in this section may be construed as conferring upon a State or any political subdivision thereof the authority to impose any tax, fee, charge, or other assessment upon an Indian tribe, an Indian gaming operation or the value generated by the gaming operation, or any person or entity authorized by an Indian tribe to engage in a class III gaming activity in conformance with this Act.

"(6) Statutory construction with respect to certain rights of Indian tribes.—Nothing in this subsection impairs the right of an Indian tribe to regulate class III gaming on the Indian lands of the Indian tribe concurrently with a State and the Commission, except to the extent that such regulation is inconsistent with, or less stringent than, this Act or any laws (including any rule or regulation) made applicable by any compact entered into by the Indian tribe under this subsection that is in effect.

"(7) Exemption.—The provisions of sections 2 and 5 of the Act of January 2, 1951 (commonly referred to as the 'Gambling Devices Transportation Act') (64 Stat. 1134, chapter 1194, 15 U.S.C. 1172 and 1175) shall not apply to any class II gaming activity or any gaming activity conducted pursuant to a compact entered into after the date of enactment of this Act or conducted pursuant to procedures prescribed by the Secretary under this Act, but in no event shall this paragraph be construed as invalidating any exemption from section 2 or 5 of the Act of January 2, 1951, for any compact entered into prior to the date of enactment of this Act or any procedures for conducting a gaming activity prescribed by the Secretary prior to such date of enactment.

"(b) Jurisdiction of United States District Court for the District of Columbia.—The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the Secretary, the Commission, a State, or an Indian tribe to enforce any provision of a compact under subsection (a) that is in effect or to enjoin a class III gaming activity located on Indian lands and conducted in violation of such compact that is in effect and that was entered into under subsection (a).

"(c) Revocation of Ordinance.—

"(1) In general.—The governing body of an Indian tribe, in its sole discretion, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

"(2) Publication of revocation.—An Indian tribe shall submit any revocation ordinance or resolution described in paragraph (1) to the Commission. Not later than 90 days after the date on which the Commission receives such ordinance or resolution, the Commission shall publish such ordinance or resolution in the Federal Register. The revocation provided by such ordinance or resolution shall take effect on the date of such publication.

"(3) Conditional operation.—Notwithstanding any other provision of this subsection—

"(A) any person or entity operating a class III gaming activity pursuant to this subsection on the date on which an ordinance or resolution described in paragraph (1) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation, ordinance, or resolution is published under paragraph (2), continue to operate such activity in conformance with an applicable compact approved or issued under subsection (a) that is in effect; and

"(B) any civil action that arises before, and any crime that is committed before, the expiration of such 1-year period shall not be affected by such revocation ordinance, or resolution.

"(d) Certain Class III Gaming Activities.—

"(1) Compacts entered into before the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997.—

"(A) In general.—Subject to subparagraph (B), class III gaming activities that are authorized under a compact approved, or procedures prescribed, by the Secretary under the authority of this Act prior to the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997 shall, during such period as the compact is in effect, remain lawful for the purposes of this Act, notwithstanding the Indian Gaming Regulatory Act Amendments Act of 1997 and the amendments made by such Act or any change in State law enacted after the approval or issuance of the compact.

"(B) Compact or procedures subject to minimum regulatory standards.—Subparagraph (A) shall apply to a compact or procedures described in that subparagraph on the condition that any class III gaming activity conducted under the compact or procedures shall be subject to all Federal minimum regulatory standards established under this Act and the regulations promulgated under this Act.

"(2) Compact entered into after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997.—Any compact entered into under subsection (a) after the date specified in paragraph (1) shall remain lawful for the purposes of this Act, notwithstanding any change in State law enacted after the approval or issuance of the compact.

"SEC. 13. REVIEW OF CONTRACTS.

"(a) Contracts Included.—The Commission shall, in accordance with this section, review and approve or disapprove—

"(1) any management contract for the operation and management of any gaming activity that an Indian tribe may engage in under this Act; and

"(2) unless licensed by an Indian tribe consistent with the minimum Federal standards adopted pursuant to section 7(c), any gaming-related contract.

"(b) Management Contract Requirements.—The Commission shall approve any management contract between an Indian tribe and a person licensed by an Indian tribe or the Commission that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

"(1) adequate accounting procedures that are maintained, and verifiable financial reports that are prepared, by or for the governing body of the Indian tribe on a monthly basis;

"(2) access to the daily gaming operations by appropriate officials of the Indian tribe who shall have the right to verify the daily gross revenues and income derived from any gaming activity;

"(3) a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs;

"(4) an agreed upon ceiling for the repayment of any development and construction costs;

"(5) a contract term of not to exceed 5 years, except that, upon the request of an Indian tribe, the Commission may authorize a contract term that exceeds 5 years but does not exceed 7 years if the Commission is satisfied that the capital investment required, and the income projections for, the particular gaming activity require the additional time; and

"(6) grounds and mechanisms for the termination of the contract, but any such termination shall not require the approval of the Commission.

"(c) Management Fee Based on Percentage of Net Revenues.—

"(1) Percentage fee.—The Commission may approve a management contract that provides for a fee that is based on a percentage of the net revenues of a tribal gaming activity if the Commission determines that such percentage fee is reasonable, taking into consideration surrounding circumstances.

"(2) Fee amount.—Except as provided in paragraph (3), a fee described in paragraph (1) shall not exceed an amount equal to 30 percent of the net revenues described in such paragraph.

"(3) Exception.—Upon the request of an Indian tribe, if the Commission is satisfied that the capital investment required, and income projections for, a tribal gaming activity, necessitate a fee in excess of the amount specified in paragraph (2), the Commission may approve a management contract that provides for a fee described in paragraph (1) in an amount in excess of the amount specified in paragraph (2), but not to exceed 40 percent of the net revenues described in paragraph (1).

"(d) Gaming-Related Contract Requirements.—The Commission shall approve a gaming-related contract covered under subsection (a)(2) that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

"(1) grounds and mechanisms for termination of the contract, but such termination shall not require the approval of the Commission; and

"(2) such other provisions as the Commission may be empowered to impose by this Act.

"(e) Time Period for Review.—

"(1) In general.—Except as provided in paragraph (2), not later than 90 days after the date on which a management contract or other gaming-related contract is submitted to the Commission for approval, the Commission shall approve or disapprove such contract on the merits of the contract. The Commission may extend the 90-day period for an additional period of not more than 45 days if the Commission notifies the Indian tribe in writing of the reason for the extension of the period. The Indian tribe may bring an action in the United States District Court for the District of Columbia to compel action by the Commission if a contract has not been approved or disapproved by the termination date of an applicable period under this subsection.

"(2) Effect of failure of commission to act on certain gaming-related contracts.—Any gaming-related contract for an amount less than or equal to $100,000 that is submitted to the Commission pursuant to paragraph (1) by a person who holds a valid license that is in effect under this Act shall be deemed to be approved, if by the date that is 90 days after the contract is submitted to the Commission, the Commission fails to approve or disapprove the contract.

"(f) Contract Modifications and Void Contracts.—The Commission, after providing notice and a hearing on the record—

"(1) shall have the authority to require appropriate contract modifications to ensure compliance with the provisions of this Act; and

"(2) may void any contract regulated by the Commission under this Act if the Commission determines that any provision of this Act has been violated by the terms of the contract.

"(g) Interests in Real Property.—No contract regulated by this Act may transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists, all necessary approvals for such transfer or conveyance have been obtained, and such transfer or conveyance is clearly specified in the contract.

"(h) Authority of the Secretary.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) shall not extend to any contract or agreement that is regulated pursuant to this Act.

"(i) Disapproval of Contracts.—The Commission may not approve a contract if the Commission determines that—

"(1) any person having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, any individual who serves on the board of directors of such corporation, and any of the stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock—

"(A) is an elected member of the governing body of the Indian tribe which is a party to the contract;

"(B) has been convicted of any felony or gaming offense;

"(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded by the Commission; or

"(D) has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

"(2) the contractor—

"(A) has unduly interfered or influenced for its gain or advantage any decision or process of tribal government relating to the gaming activity; or

"(B) has attempted to interfere or influence a decision pursuant to subparagraph (A);

"(3) the contractor has deliberately or substantially failed to comply with the terms of the contract; or

"(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

"SEC. 14. REVIEW OF EXISTING CONTRACTS; INTERIM AUTHORITY.

"(a) Review of Existing Contracts.—

"(1) In general.—At any time after the Commission is sworn in and has promulgated regulations for the implementation of this Act, the Commission shall notify each Indian tribe and management contractor who, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, entered into a management contract that was approved by the Secretary, that the Indian tribe is required to submit to the Commission such contract, including all collateral agreements relating to the gaming activity, for review by the Commission not later than 60 days after such notification. Any such contract shall be valid under this Act, unless the contract is disapproved by the Commission under this section.

"(2) Review.—

"(A) In general.—Not later than 180 days after the submission of a management contract, including all collateral agreements, to the Commission pursuant to this section, the Commission shall review the contract to determine whether the contract meets the requirements of section 13 and was entered into in accordance with the procedures under such section.

"(B) Approval of contract.—The Commission shall approve a management contract submitted for review under subsection (a) if the Commission determines that—

"(i) the management contract meets the requirements of section 13; and

"(ii) the management contractor has obtained all of the licenses that the contractor is required to obtain under this Act.

"(C) Notification of necessary modifications.—If the Commission determines that a contract submitted under this section does not meet the requirements of section 13—

"(i) the Commission shall provide the parties to such contract written notification of the necessary modifications; and

"(ii) the parties referred to in clause (i) shall have 180 days after the date on which such notification is provided to make the modifications.

"(b) Interim Authority of the National Indian Gaming Commission.—

"(1) In general.—Notwithstanding any other provision of this Act, the Chairman and the associate members of the National Indian Gaming Commission who are holding office on the day before the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997 shall exercise the authorities described in paragraph (2) until such time as all of the initial members of the Federal Indian Gaming Regulatory Commission are sworn into office.

"(2) Authorities.—Until the date specified in paragraph (1), the Chairman and the associate members of the National Indian Gaming Commission referred to in that paragraph shall exercise those authorities vested in the Federal Indian Gaming Regulatory Commission by this Act (other than the authority specified in section 7(a)(1)(A) and any other authority directly related to the administration of the Federal Indian Gaming Regulatory Commission as an independent establishment, as defined in section 104 of title 5, United States Code).

"(3) Regulations.—Until such time as the Commission promulgates revised regulations after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, the regulations promulgated under this Act, as in effect on the day before the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, shall apply.

"SEC. 15. CIVIL PENALTIES.

"(a) Amount.—Any person who commits any act or causes to be done any act that violates any provision of this Act or any rule or regulation promulgated under this Act, or who fails to carry out any act or causes the failure to carry out any act that is required by any such provision of law shall be subject to a civil penalty in an amount equal to not more than $50,000 per day for each such violation.

"(b) Assessment and Collection.—

"(1) In general.—Each civil penalty assessed under this section shall be assessed by the Commission and collected in a civil action brought by the Attorney General on behalf of the United States. Before the Commission refers civil penalty claims to the Attorney General, the Commission may compromise the civil penalty after affording the person charged with a violation referred to in subsection (a), an opportunity to present views and evidence in support of such action by the Commission to establish that the alleged violation did not occur.

"(2) Penalty amount.—In determining the amount of a civil penalty assessed under this section, the Commission shall take into account—

"(A) the nature, circumstances, extent, and gravity of the violation committed;

"(B) with respect to the person found to have committed such violation, the degree of culpability, any history of prior violations, ability to pay, the effect on ability to continue to do business; and

"(C) such other matters as justice may require.

"(c) Temporary Closures.—

"(1) In general.—The Commission may order the temporary closure of all or part of an Indian gaming operation for a substantial violation of any provision of law referred to in subsection (a).

"(2) Hearing on order of temporary closure.—

"(A) In general.—Not later than 30 days after the issuance of an order of temporary closure, the Indian tribe or the individual owner of a gaming operation shall have the right to request a hearing on the record before the Commission to determine whether such order should be made permanent or dissolved.

"(B) DEADLINES RELATING TO HEARING.—Not later than 30 days after a request for a hearing is made under subparagraph (A), the Commission shall conduct such hearing. Not later than 30 days after the termination of the hearing, the Commission shall render a final decision on the closure.

"SEC. 16. JUDICIAL REVIEW.

"A decision made by the Commission pursuant to section 7, 8, 10, 13, 14, or 15 shall constitute a final agency decision for purposes of appeal to the United States District Court for the District of Columbia pursuant to chapter 7 of title 5, United States Code.

"SEC. 17. COMMISSION FUNDING.

"(a) ANNUAL FEES.—

"(1) IN GENERAL.—The Commission shall establish a schedule of fees to be paid to the Commission annually by gaming operations for each class II and class III gaming activity that is regulated by this Act.

"(2) LIMITATION ON FEE RATES.—

"(A) IN GENERAL.—For each gaming operation regulated under this Act, the rate of the fees imposed under the schedule established under paragraph (1) shall not exceed 2 percent of the net revenues of that gaming operation.

"(B) TOTAL AMOUNT OF FEES.—The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall be equal to not more than $25,000,000.

"(3) ANNUAL FEE RATE.—The Commission, by a vote of a majority of the members of the Commission, shall annually adopt the rate of the fees authorized by this section. Those fees shall be payable to the Commission on a monthly basis.

"(4) ADJUSTMENT OF FEES.—The fees imposed upon a gaming operation may be reduced by the Commission to take into account any regulatory functions that are performed by an Indian tribe, or the Indian tribe and a State, pursuant to regulations promulgated by the Commission.

"(5) CONSEQUENCES OF FAILURE TO PAY FEES.—Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to regulations promulgated by the Commission, be grounds for revocation of the approval of the Commission of any license required under this Act for the operation of gaming activities.

"(6) SURPLUS FUNDS.—To the extent that revenues derived from fees imposed under the schedule established under paragraph (1) exceed the limitation in paragraph (2)(B) or are not expended or committed at the close of any fiscal year, those surplus funds shall be credited to each gaming activity that is the subject of the fees on a pro rata basis against those fees imposed for the succeeding year.

"(b) REIMBURSEMENT OF COSTS.—The Commission may assess any applicant, except the governing body of an Indian tribe, for any license required pursuant to this Act. That assessment shall be an amount equal to the actual costs of conducting all reviews and investigations necessary for the Commission to determine whether a license should be granted or denied to the applicant.

"(c) ANNUAL BUDGET.—

"(1) IN GENERAL.—For the first full fiscal year beginning after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, and each fiscal year thereafter, the Commission shall adopt an annual budget for the expenses and operation of the Commission.

"(2) REQUEST FOR APPROPRIATIONS.—The budget of the Commission may include a request for appropriations authorized under section 18.

"(3) SUBMISSION TO CONGRESS.—Notwithstanding any other provision of law, a request for appropriations made pursuant to paragraph (2) shall be submitted by the Commission directly to Congress beginning with the request for the first full fiscal year beginning after the date of enactment of this Act, and shall include the proposed annual budget of the Commission and the estimated revenues to be derived from fees.

"SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

"Subject to section 17, there are authorized to be appropriated $5,000,000 to provide for the operation of the Commission for each of fiscal years 1998, 1999, and 2000, to remain available until expended.

"SEC. 19. APPLICATION OF THE INTERNAL REVENUE CODE OF 1986.

"(a) IN GENERAL.—The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act in the same manner as such provisions apply to State gaming and wagering operations. Any exemptions under those provisions to States with respect to taxation of that gaming or wagering operation shall be allowed to Indian tribes.

"(b) EXEMPTION.—The provisions of section 6050I of the Internal Revenue Code of 1986 shall apply to an Indian gaming establishment that is not designated by the Secretary of the Treasury as a financial institution pursuant to chapter 53 of title 31, United States Code.

"(c) STATUTORY CONSTRUCTION.—This section shall apply notwithstanding any other provision of law enacted before, on, or after, the date of enactment of this Act unless such other provision of law specifically cites this subsection.

"(d) ACCESS TO INFORMATION BY STATE AND TRIBAL GOVERNMENTS.—Subject to section 7(d), upon the request of a State or the governing body of an Indian tribe, the Commission shall make available any law enforcement information that the Commission has obtained pursuant to such section, unless otherwise prohibited by law, in order to enable the State or the Indian tribe to carry out its responsibilities under this Act or any compact approved by the Secretary."; and

(5) by striking section 20(d).

SEC. 3. CONFORMING AMENDMENTS.

(a) TITLE 10.—Section 2323a(e)(1) of title 10, United States Code, is amended by striking "section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4))" and inserting "section 4(14) of the Indian Gaming Regulatory Act".

(b) TITLE 18.—Title 18, United States Code, is amended—

(1) in section 1166—

(A) in subsection (c), by striking "a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act that is in effect" and inserting "a compact approved by the Secretary of the Interior under section 12(a) of the Indian Gaming Regulatory Act that is in effect or pursuant to procedures prescribed by the Secretary of the Interior under section 12(a)(3)(B)(iii) of such Act"; and

(B) in subsection (d), by striking "a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act" and inserting "a compact approved by the Secretary of the Interior under section 12(a) of the Indian Gaming Regulatory Act or pursuant to procedures prescribed by the Secretary of the Interior under section 12(a)(3)(B)(iii) of such Act,";

(2) in section 1167, by striking "pursuant to an ordinance or resolution approved by the National Indian Gaming Commission" each place it appears; and

(3) in section 1168, by striking "pursuant to an ordinance or resolution approved by the National Indian Gaming Commission," each place it appears.

(c) INTERNAL REVENUE CODE OF 1986.—Section 168(j)(4)(A)(iv) of the Internal Revenue Code of 1986 is amended by striking "Indian Regulatory Act" and inserting "Indian Gaming Regulatory Act".

(d) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 3701(2)—

(A) by striking "section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5))" and inserting "section 4(15) of the Indian Gaming Regulatory Act"; and

(B) by striking "section 4(4) of such Act (25 U.S.C. 2703(4))" and inserting "section 4(14) of such Act"; and

(2) in section 3704(b), by striking "section 4(4) of the Indian Gaming Regulatory Act" and inserting "section 4(14) of the Indian Gaming Regulatory Act".

Mr. INOUYE. Mr. President, I rise today to join my distinguished colleague, Senator JOHN MCCAIN, as a cosponsor of legislation to amend the Indian Gaming Regulatory Act of 1988.

It is my understanding that this measure is substantially identical in most respects to the bill, S. 487, that was reported by the Committee on Indian Affairs in the last session of the Congress.

Mr. President, over the years, in our various capacities as Members, chairman, and vice chairman of the Committee on Indian Affairs, Senator MCCAIN and I have worked together on the complex and challenging issues which have typically loomed large on the horizons of Indian gaming.

We have learned, from sometimes bitter experience, that in this arena, one most definitely cannot satisfy even some of the people some of the time—but we have continued to explore a range of solutions that might hold the potential for finding acceptance amongst the relevant parties in interest.

Mr. President, it is my hope that in the days ahead, the chairman of the Indian Affairs Committee and I will be able to introduce a measure to amend the Indian Gaming Regulatory Act that will build upon this initiative, and the work that the Indian Affairs Committee has been engaged in—over the last 7 months.

We are in the process of updating some of the provisions of the 1988 act—as well as identifying areas that may require a whole new approach.

In the interim, of this we can be certain—there will be much discussion and a renewed round of debate on the merits of the measure that is being introduced today—but I commend my colleague for his continuing commitment to Indian country, and his efforts to address some of the more challenging issues of our times.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BINGAMAN, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. GLENN, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. KEMPTHORNE, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. MACK, Mr. MCCAIN, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REID, Mr. ROTH, Mr. SANTORUM, Mr. SMITH of Oregon, Ms. SNOWE, Mr. STEVENS, and Mr. THURMOND):

S.J. Res. 36. A joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope; to the Committee on Veterans' Affairs.

LEGISLATION TO CONFER STATUS AS AN HONORARY VETERAN OF THE U.S. ARMED FORCES TO LESLIE TOWNES (BOB) HOPE

Mr. SPECTER. Mr. President, it is with a particular sense of privilege that I introduce legislation today to confer the status of honorary veteran of the U.S. Armed Forces to Leslie Townes (Bob) Hope. If any person in this country merits such an unprecedented honor—and Mr. President, it is my understanding that no person has ever before been conferred the status of honorary veteran—surely, it is Bob Hope.

Bob Hope's contributions to this Nation—and, particularly, to its soldiers, sailors, marines, and airmen—are well known to all of our citizens. Less well known to many is the fact that Bob Hope is a naturalized U.S. citizen, having emigrated to this country from England when Bob was just a boy. I am the son of a naturalized American—an immigrant who walked across Europe with barely a ruble in his pocket so that he could make his way to this country. So I know first hand that a person of humble origins can scale the heights of this country. Few, though, have scaled the heights that Bob Hope has scaled.

When I say Bob Hope has scaled the heights, I am not referring to his success as an actor, a comedian, or businessman—though his success in all three areas has been considerable. When I say Bob Hope has scaled the heights, I am thinking of his place in the hearts of his adopted countrymen.

Who in this country is more beloved by a broader spectrum of his fellow citizens than Bob Hope—people of all ages, races, religions, and beliefs? Perhaps, none more than Bob Hope. For the past 50 years, this country's fighting men and women could count on Bob Hope to lift their spirits and morale when they faced the prospect of making the ultimate sacrifice. In World War II, in Korea, in Vietnam and, most recently, in the Persian Gulf, Bob Hope and his troupe were there to entertain the troops. More importantly, they were there to remind our fighting men and women that they were not forgotten, that their suffering was appreciated. Bob Hope was always with the troops—especially during the holidays—enduring hardship, and often significant physical danger, so that he might encourage those facing greater hardship and danger. Three generations of veterans will never forget how much he cared.

Those three generations of veterans wonder how they might properly recognize Bob Hope. He is already a recipient of the Nation's highest civilian decorations, the Congressional Gold Medal and the Presidential Medal of Freedom. President Carter hosted a White House reception in honor of his 75th birthday. President Clinton bestowed upon him the Medal of the Arts. He has received more than 50 honorary doctorates, and innumerable awards from civic, social, and veterans organizations. But Bob Hope cannot say that he is a veteran—in my mind, one of the most honorable appellations one can carry. This legislation will remedy that.

I ask that all of my colleagues join me in supporting legislation to designate Bob Hope an honorary veteran. And I thank the former Commandant of the U.S. Marine Corps and the current president of the USO, Gen. Carl Mundy, for spearheading this effort.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 36

Whereas the United States has never before conferred status as an honorary veteran of the United States Armed Forces on an individual, and such status is and should remain an extraordinary honor not lightly conferred nor frequently granted;

Whereas the lifetime of accomplishments and service of Leslie Townes (Bob) Hope on behalf of United States military servicemembers fully justifies the conferring of such status;

Whereas Leslie Townes (Bob) Hope is himself not a veteran, having attempted to enlist in the Armed Forces to serve his country during World War II, but being informed that the greatest service he could provide the Nation was as a civilian entertainer for the troops;

Whereas during World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War and throughout the Cold War, Bob Hope traveled to visit and entertain millions of United States servicemembers in numerous countries, on ships at sea, and in combat zones ashore;

Whereas Bob Hope has been awarded the Congressional Gold Medal, the Presidential Medal of Freedom, the Distinguished Service Medal of each of the branches of the Armed Forces, and more than 100 citations and awards from national veterans service organizations and civic and humanitarian organizations; and

Whereas Bob Hope has given unselfishly of his time for over a half century to be with United States servicemembers on foreign shores, working tirelessly to bring a spirit of humor and cheer to millions of servicemembers during their loneliest moments, and thereby extending for the American people a touch of home away from home: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) extends its gratitude, on behalf of the American people, to Leslie Townes (Bob) Hope for his lifetime of accomplishments and service on behalf of United States military servicemembers; and

(2) confers upon Leslie Townes (Bob) Hope the status of an honorary veteran of the United States Armed Forces.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. TORRICELLI, his name was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 173

At the request of Mr. DEWINE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 173, a bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

S. 621

At the request of Mr. D'AMATO, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 621, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1997, and for other purposes.

S. 623

At the request of Mr. INOUYE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 623, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philipines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 648

At the request of Mr. GORTON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 648, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 763

At the request of Mr. HELMS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 763, a bill to amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to expel a student determined to be in possession of an illegal drug, or illegal drug paraphernalia, on school property, in addition to expelling a student determined to be in possession of a gun.

S. 766

At the request of Ms. SNOWE, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 830

At the request of Mr. JEFFORDS, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 830, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 859

At the request of Mr. KYL, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 859, a bill to repeal the increase in tax on social security benefits.

S. 932

At the request of Mr. GRAMM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 932, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to require the Secretary of Agriculture to establish a National Advisory and Implementation Board on Imported Fire Ant Control, Management, and Eradication and, in conjunction with the Board, to provide grants for research or demonstration projects related to the control, management, and possible eradication of imported fire ants, and for other purposes.

S. 1056

At the request of Mr. BURNS, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1056, a bill to provide for farm-related exemptions from certain hazardous materials transporation requirements.

S. 1067

At the request of Mr. KERRY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1067, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

SENATE CONCURRENT RESOLUTION 44—RELATIVE TO A POSTAGE STAMP

Mr. LAUTENBERG (for himself and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 44

Whereas the Jewish War Veterans of the United States of America, an organization of patriotic Americans dedicated to highlighting the role of Jews in the United States Armed Forces, celebrated 100 years of patriotic service to the Nation on March 15, 1996;

Whereas thousands of Jews have proudly served the Nation in times of war;

Whereas thousands of Jews have died in combat while serving in the United States Armed Forces;

Whereas, in World War II alone, Jews received more than 52,000 awards for outstanding service in the United States Armed Forces, including the Medal of Honor, the Air Medal, the Silver Star, and the Purple Heart;

Whereas, in World War II alone, over 11,000 Jews died in combat while serving in the United States Armed Forces;

Whereas members of the Jewish War Veterans of the United States of America have volunteered over 10,000,000 hours at veterans' hospitals; and

Whereas honoring the sacrifices of Jewish veterans is an important component of recognizing the strong and patriotic role Jews have played in the United States Armed Forces: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America; and

(2) the Citizens' Stamp Advisory Committee of the United States Postal Service should recommend to the Postmaster General that such a postage stamp be issued.

Mr. LAUTENBERG. Mr. President, today I am submitting legislation expressing the sense of Congress that the Postal Service should issue a postage stamp should be issued to commemorate the 100th anniversary of the Jewish War Veterans of the United States of America. I am pleased to be joined by my distinguished colleague from Pennsylvania and chairman of the Committee on Veterans' Affairs, Senator SPECTER.

The Jewish War Veterans of the United States was founded in 1896, earning it the distinction of being the oldest veterans organization in the United States. The goal of its founders was to counter criticism in some of the major national publications of the day that suggested that Jewish Americans were unpatriotic and had not served in the Civil War. Not only did many Jews serve with distinction in the Civil War, but thousands have honorably served their country in subsequent military conflicts. More than 250,000 Jews served in World War I. During World War II, approximately 11,000 Jews were killed and 40,000 were wounded.

Today, the Jewish War Veterans organization continues its mission of fighting anti-Semitism, promoting religious tolerance and defending the first amendment. Moreover, through its National Museum of American Jewish Military History and other activities, it educates the public about the contributions Jews have made to the defense of our Nation. The organization also serves a vital role of advocating on behalf of adequate treatment of all war veterans.

My legislation is identical to legislation submitted to the 103d Congress. Senate Concurrent Resolution 60, which I was proud to cosponsor along with 62 of my colleagues. This legislation overwhelmingly passed the Senate on August 11, 1994. Unfortunately, despite the Senate's wishes, the Postal Service has refused to issue a commemorative stamp honoring this worthy organization. Thus, I believe that it is time to reaffirm the Senate's position of this important matter. I urge my colleagues to join in cosponsoring this legislation.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 1022

Mr. SHELBY (for Mr. D'AMATO, for himself and Mr. MOYNIHAN) proposed an amendment to the bill, S. 1048, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

Out of the funds made available under this Act to the New York Metropolitan Transportation Authority through the Federal Transit Administration, the New York Metropolitan Transportation Authority shall perform a study to ascertain the costs and benefits of instituting an integrated fare system for commuters who use both the Metro North Railroad or the Long Island Rail Road and New York City subway or bus systems. This study shall examine creative proposals for improving the flow of passengers between city transit systems and commuter rail systems, including free transfers, discounts, congestion-pricing and other positive inducements. The study also must include estimates of potential benefits to the environment, to energy conservation and to revenue enhancement through increased commuter rail and transit ridership, as well as other tangible benefits. A report describing the results of this study shall be submitted to the Senate Appropriations Committee within 45 days of enactment of this Act.

SMITH OF NEW HAMPSHIRE AMENDMENT NO. 1023

(Ordered to lie on the table.)

Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill, S. 1048, supra; as follows:

On page 51, after line 25, add the following:

SEC. 3 . FEDERAL VEHICLE WEIGHT LIMITATIONS.

No funds made available under this Act shall be used to levy penalties on the States of New Hampshire and Maine based on noncompliance with Federal vehicle weight limitations under section 127 of title 23, United States Code, prior to the date of enactment of an Act extending funding for programs established under that title.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, July 29, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is improving educational opportunities for low-income children. For further information, please call the committee, 202/224–5375.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, July 30 and Thursday, July 31, 1997 at 2:30 p.m. each day to hold a business meeting on the status of the investigation into the contested Senate election in Louisiana.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff at 224–3448.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Thursday, September 4, 1997, at 9 a.m., in SR–328A. The purpose of this hearing is to examine rural and agricultural credit issues.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Monday, July 28, at 2 p.m. for a nomination hearing on George Omas to be Commissioner, Postal Rate Commission, and Janice Lachance, to be Deputy Director, Office of Personnel Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Monday, July 28, at 4:30 p.m. for a closed hearing on campaign finance related matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on July 28, 1997 at 1 p.m. for the purpose of a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. COVERDELL. The Subcommittee on Technology, Terrorism, and Government Information, of the Senate Committee on the Judiciary, will hold a hearing on Monday, July 28, 1997, at 9:30 a.m. in room 226 of the Senate Dirksen Office Building, on "The Atlanta Olympics Bombing and the FBI Interrogation of Richard Jewell."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Monday, July 28, 1997, at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: "S. 474, the Internet Gambling Prohibition Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO THE LATE SEUVA'AI MERE TUIASOSOPO-BETHAM

• Mr. INOUYE. Mr. President, it was a sad day in our Nation's history, and more significantly, to its southernmost territory in the South Pacific, the islands of Tutuila and Manu'a known also as American Samoa, when a grand lady, a woman of great courage, a longtime educator, passed away peacefully in Honolulu, HI, on June 13, 1997. She was the late Hon. Seuva'ai Mere Tuiasosopo-Betham, former associate judge of the high court of American Samoa and former director of the American Samoa Department of Education. She was 65 years of age.

"Mere" as she was popularly known, was born to the late High Chief Orator Mariota Tiumalu Tuiasosopo I of Vatia who was one of the signatories of the Deed of Cession between the islands of Tutuila and Manu'a and the United States of America in 1900. Her mother was the late Venise Pulefa'asisina-Tuiasosopo of the village of Amanave. During the islands' naval administration in 1950, Mere graduated as the only female out of 16 students in the first graduating class of the Amerika Samoa High School. High Chief Orator Tuiasosopo, a staunch educator and an influential person in Mere's life, who firmly believed in the vast opportunities offered by the new mother country, encouraged his daughter to study abroad. She attended Geneva College in Pennsylvania and experienced the lessons of life to persevere and be disciplined while thousands of miles away from her home in the South Pacific.

After becoming one of the first Samoans ever to successfully complete college in 1954 and earning her teaching credentials, Mere returned to Samoa upon her parents wishes and delved into education, becoming one of the first teachers in the American Samoan educational system. Over four decades, Mere dedicated her life to the teaching of Samoan students. She began as a classroom teacher, then an adviser, a vice principal, a principal, and eventually rose to the prestigious position of assistant director of the Department of Education at a time when very few Samoans held administrative positions in government and the territory's chief executive was still appointed by the Secretary of Interior. In 1978, when American Samoa elected its first Samoan Governor, Mere was appointed as the first Samoan female to hold a cabinet office serving as director of the Education Department.

Since the inception of formal education in American Samoa, Mere's name has been synonymous with its development. She initiated the local capacity building concept that involved efforts for staff development and the bilingual/bicultural education which consolidated the best in both Samoan and Western curricula. Her local capacity building grew out of the need to upgrade the total teaching force in American Samoa which was nearly 90 percent Samoan. She once said, that,

> . . . for every child to be able to learn well, he must be taught well . . . our people are our greatest and only valuable natural resource, it is imperative that we invest heavily in their development at all levels. In doing so, we invest in our country's future stability, growth, health and security.

Inherent in Mere's insistence on local capacity building was her conviction that the only way citizens in a developing country like Samoa can ensure their survival amidst the influxes of the Western world, was to remain the masters of their land and development, and continue to reaffirm confidence in their ability to determine their own destiny. It is also the mechanism, she believed, the Samoan culture and American democracy could merge enabling Samoans to continue to live in peace and harmony.

Mere's conceptualization, development, and materialization of the bilingual/bicultural educational system of American Samoa was an innovative approach to reconcile the fervent desire of Samoans to maintain their identity as a cultural entity while educating their people to meet the demands of the Western world. She held this notion for nearly 40 years and firmly ingrained it in all of her students, many of whom attest to the immense influence this great Samoan lady has had in their lives.

Mrs. Betham received numerous awards as a leading educator in the Pacific. She received the Samoan Educator of the Year award presented to her by former U.S. Secretary of Education, Dr. Terrell H. Bell. He thanked her for her efforts to improve educational opportunities in the Pacific Basin saying, "Progress in education (reform) depends most of all on the activities of leaders in each of our states and territories, and your example to the people of American Samoa has been bright * * *"

In 1991, Mere was appointed to the all-male high court of American Samoa which included seven Samoan associate judges who dealt mainly with land and "matai" [chieftain] title laws. Her wisdom and knowledge of the "fa'a-Samoa" [Samoan culture] was fiercely sought by many of the territory's leaders to help preserve the integrity and uniqueness of their Samoan heritage at the same time dispensing American justice. As part of the criteria of being an associate judge, Mere was initiated into her village's "Nu'u o Ali'i," the council of chiefs, traditionally all-male in most Samoan villages. She was bestowed the Talking Chief title "Seuva'ai," descriptive of one surging forward with determination but cognizant of her native surroundings and what the benefits will be to everyone.

Mere epitomized the true legacy of an educator, who throughout her lifetime set precedents for Samoan people and especially for Pacific island women, teaching by example. As her island home developed under the guidance of the United States of America for almost a century now, she never forgot her role as an educated Samoan to maintain her indigenous culture.

Judge Betham is survived by her husband of over 40 years, James "Rusty" M. Betham, five of her six children, five grandchildren, her 83-year-old mother-in-law, a number of brothers and sisters, and a large extended family in her native Samoa and the world over. She will be missed by all those who knew and loved her.•

THOMAS BROS. GRASS, LTD.

• Mr. FRIST. Mr. President, I rise today to commend Thomas Bros. Grass, Ltd., being named Entrepreneur of the Year by the Dallas Business Journal. Thomas Bros. began in the 1970's, with 10 acres of undeveloped land and a dream. E.A. Thomas and his four sons Ike, Mark, Mike, and Emory, took those 10 acres and started a small business with the desire to produce a wide variety of quality sod for golf courses, athletic fields, and residential properties. Over the years, that small sod farm has blossomed into a successful 2,000-acre family-owned business, with sod operations in three States.

While their headquarters are located in Texas, Thomas Bros. has two sod farms in my home State of Tennessee. The farms in Taft and Nashville have not only strengthened the economies of these communities, they have brought with them the Thomas family spirit of teamwork and community well-being. Not only are they well established as experts in sod production and installation, they have achieved a reputation for quality and efficient service. That reputation makes them standouts in their field, and has earned the family work in major arenas throughout the country, like the Cotton Bowl in Dallas and the Kansas City Chiefs football club.

Mr. President, Thomas Bros.' team approach and home grown commitment to customer satisfaction has certainly benefited the State of Tennessee and is worthy of this recognition as Entrepreneur of the Year. I congratulate them and wish them continued success in future endeavors.•

REAUTHORIZING THE PRESCRIPTION DRUG USER FEE PROGRAM AND CERTAIN FOOD AND DRUG ADMINISTRATION REFORMS

• Mr. WYDEN. Mr. President, I strongly urge my colleagues to support S. 830, the FDA Modernization and Accountability Act.

This bill deserves support for one primary reason. It preserves the FDA's essential mission of validating the safety and effectiveness of new drugs and medical devices, while encouraging innovation and the commercialization of new, life-saving therapies.

This bill is the result of much debate, and tremendous consensus building over the last two Congresses. I'm proud to have played some part in this as a Member of both the House and the Senate, having introduced more than 2 years ago H.R. 1472, the FDA Modernization Act of 1995, which contains several of the key ingredients of the legislation before us today.

From the time we get up in the morning until the time we go to bed at night, we live, work, eat, and drink in a world of products affected by FDA decisionmaking.

Perhaps no other Federal agency has such a broad impact in the daily lives of average Americans.

Food handling and commercial preparation often occurs under the agency's scrutiny. Over-the-counter drugs and nutritional supplements, from vitamins to aspirin, also are certified by the agency.

Life-saving drugs for treatment of cancer, autoimmune deficiency, and other dread diseases are held to its rigorous approval standards.

Medical devices ranging from the simple to the complex, from tongue depressors to computerized diagnostic equipment, must meet FDA quality standards.

These products overseen by the FDA are woven deeply into the fabric of our daily lives, and the agency's twin missions of certifying their safety and effectiveness is supported by the vast majority of Americans.

Yet, balancing those missions against the time and expense required by manufacturers to navigate the FDA approval system has been difficult and controversial. In the last Congress, radical transformation of the agency, even ending the agency as we know it and replacing it with a panel of private-sector, expert entrepreneurs, became a goal of some.

At the very least, reforming the FDA at the beginning of the 104th Congress looked to be an exercise fraught with partisan political turmoil, and destined for gridlock.

But while there was focus on the extreme ends of the argument, those folks arguing for no changes against members demanding wholesale dismemberment of the agency, a broader, bipartisan middle developed.

And with the help of Vice President's GORE's Reinventing Government Program, Members of Congress from both political parties developed practical, bipartisan solutions to the critical process and management problems in the FDA approval process.

I sought to mobilize this bipartisan movement with H.R. 1472 introduced in June 1995. Some in my own party thought I had gone to far, too fast, But I am gratified that many of the elements of that legislation have been retained and strengthened in the legislation and managers amendment we expect to have before us this week.

These include: It streamlines approval systems for biotechnology product manufacturing; it allows approval of important, new breakthrough drugs on the basis of a single, clinically valid trial; it creates a collaborative mechanism allowing applicants to confer constructively with the FDA at critical points in the approval process; it sets reasonable but strict timeframes for approval decisionmaking; it reduces the paperwork and reporting burden now facing manufacturers when they make minor changes in their manufacturing process; it establishes provisions for allowing third-party review of applications at the discretion of the Secretary; and it allows manufacturers to distribute scientifically valid information on uses for approved drugs and devices which may not yet be certified by the FDA.

I am especially pleased that Senators MACK, FRIST, DODD, BOXER, KENNEDY, and I could offer the provisions of this legislation relating to the dissemination of information on off-label uses of approved products.

This provision will allow manufacturers to distribute scientifically and clinically valid information on such uses following a review by the FDA, including a decision by the agency which may require additional balancing material be added to the packet.

Here's why that's important: Manufacturers with an approved drug for ovarian cancer may have important, but not yet conclusive information from new trials that their drug also may reduce brain or breast cancers. That data, while perhaps not yet of a grade to meet supplemental labeling approval, may be important for an end-stage breast cancer patient whose doctor has exhausted all other treatments.

That doctor, and her patient, has the absolute right to that information.

This legislation will save lives, not sacrifice them.

It will mean that more doctors and their patients will have meaningful access to life-saving information about drugs that treat dread diseases like AIDS and cancer.

It will mean that biologic products will have a swifter passage through an approval process which no longer will require unnecessarily difficult demands with regard to the size of a start-up manufacturing process.

It will mean that break-through drugs which offer relief from, or curses of deadly disease for which there is no approved therapy will get into the marketplace earlier, on the basis of a special expedited approval system.

But legislation, indeed laws, are only words on paper.

Mr. President, we must also have a new FDA Commissioner who is as committed to these changes as former Commissioner David Kessler was committed to the war on teenage smoking.

The pharmaceutical industry is a robust, risk-taking, technology-driven business. But by measure of total U.S. employment growth in this industry is stalling out. While sales by U.S.-based concerns continue to increase, more of the industry's manufacturing—its jobs—is migrating overseas. Part of the reason is rising domestic development costs. According to Tufts University, the average development time for a new drug is now up to 7 years. And the cost of such developments now figures out at something close to $360 million per product. We shouldn't kid ourselves about who foots the bill for these high development and approval costs—it's the consumer, and it comes via the extraordinary high prices we pay on drugs which can spell the literal difference between life and death.

S. 830 significantly reforms that regime, recognizing that we all—government, industry, and consumers—have a real stake in cutting the explosive costs of bringing new medical products to the marketplace, and in making available break-through, life-saving therapies more quickly, and at a lower price.

Along with these important reforms, S. 380 also reauthorizes for 5 years the Prescription Drug User Fee Act, a very successful program that has helped swiftly approve scores of new life-saving therapies.

Let me also point out that while this bill makes substantial and far-reaching improvements, it distinctly moderates last year's reform effort.

So-called hammers that would have caused the agency to lose jurisdiction over the approval process if tight decision-making deadlines were not met have been eliminated.

Also missing is last year's provision requiring the agency to approve products previously approved in Europe.

My colleagues should understand that this bill is the result of efforts to reach a true common ground on many tough issues. Many more issues were gray, than they were black or white. Extremists on neither side of the debate can claim an advantage, or a victory.

The real victory, I believe, will be realized by the American consumer.●

ORDERS FOR TUESDAY, JULY 29, 1997

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Tuesday, July 29.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period for the transaction of morning business until the hour of 11:30 a.m. with Senators permitted to speak for up to 5 minutes, with the following exceptions: Senator LOTT or his designee, 45 minutes; Senator DASCHLE or his designee, 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I also ask unanimous consent that at 11:30 a.m. the Senate resume consideration of S. 1022, the Commerce, Justice, State appropriations bill, with Senator WELLSTONE being recognized as permitted under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I further ask unanimous consent that from 12:30 p.m. to 2:15 p.m. the Senate recess for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I ask unanimous consent that the votes relative to S. 1022 scheduled to begin at 9:30 a.m. now begin at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SHELBY. For the information of all Senators, tomorrow the Senate will be in a period of morning business until the hour of 11:30 a.m. By previous order, at 11:30 a.m., the Senate will resume consideration of S. 1022, the Commerce, Justice, State appropriations bill. Under the order, Senator WELLSTONE will be recognized to debate these two amendments to the bill. Also, as under the previous order, at 2:15 p.m., following the weekly policy luncheons, the Senate will proceed to a series of votes on the remaining amendments in order to S. 1022, the State, Justice, Commerce appropriations bill, including final passage.

Also, by previous consent, following those votes at 2:15 p.m., the Senate will resume the Transportation appropriations bill. Therefore, additional votes could occur.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SHELBY. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Tuesday, July 29, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1997:

DEPARTMENT OF ENERGY

JOHN C. ANGELL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE DERRICK L. FORRISTER, RESIGNED.

DEPARTMENT OF EDUCATION

MARSHALL S. SMITH, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE MADELEINE KUNIN.

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 28, 1997, withdrawing from further Senate consideration the following nomination:

NATIONAL INSTITUTE OF BUILDING SCIENCES

NIRANJAN S. SHAH, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1998, VICE JOHN H. MILLER, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 1997.

HOUSE OF REPRESENTATIVES—*Monday, July 28, 1997*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. GUTKNECHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 28, 1997.

I hereby designate the Honorable GIL GUTKNECHT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 833. An act to designate the Federal building courthouse at Public Square and Superior Avenue in Cleveland, Ohio, as the "Howard M. Metzenbaum United States Courthouse";

S. 1000. An act to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse";

S. 1043. An act to designate the United States courthouse under construction at the corner of Las Vegas Boulevard and Clark Avenue in Las Vegas, Nevada, as the "Lloyd D. George United States Courthouse"; and

S. Con. Res. 43. Concurrent resolution urging the United States Trade Representative immediately to take all appropriate action with regards to Mexico's imposition of antidumping duties on United States high fructose corn syrup.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. VISCLOSKY] for 5 minutes.

BALANCING THE BUDGET

Mr. VISCLOSKY. Mr. Speaker, the most important thing that we can do for our children and their children is to balance the Federal budget. Unfortunately, I fear that we will snatch defeat from the jaws of victory by enacting expensive new tax cuts before the budget is actually balanced.

Mr. Speaker, it is clear to me that the best tax cut we can give to the American people is to balance the Federal budget. It has been shown that by balancing the budget we can stimulate economic growth and reduce interest rates on everything from home mortgages to car loans. Keeping these considerations in mind, I firmly believe that we must resist the destructive idea of granting tax cuts at this time.

There is little question that we have made tremendous progress in reducing the deficit in the past 5 years. From a record high of $290 billion in 1992, projections cited last week indicate that the deficit may fall below $45 billion by the end of this year.

Unfortunately, this body missed a golden opportunity last week to make sure that we would finally reach a balanced budget by the year 2002. By rejecting a commonsense measure that would have applied enforcement procedures to the budget resolution, both parties put other interests above that of balancing the budget. This raises serious questions about a real willingness to make the tough choices needed to get us to a balanced budget.

Given the failure of the House to enact enforcement legislation, it is now more important than ever to keep our eyes on the goal of balancing the budget and finishing the job. Achieving this goal can only happen one step at a time. The first step should be to reduce spending by reforming entitlement programs.

With America's population aging and people living longer, the number of beneficiaries in programs such as Medicare is growing much faster than the working population. For this reason, Medicare and other entitlement programs are projected to run out of money early in the next century unless we make basic reforms to these programs right now.

Secondly, if no changes are made to Medicare and other spending programs, all the progress we have made in reducing the deficit will be in vain.

It should also be pointed out that the enormous growth of entitlement spending is threatening the discretionary programs that allow us to invest in the future of this country. Estimates from the Congressional Budget Office show that by the year 2002 mandatory spending will consume 70 percent of the Federal budget.

We depend on discretionary programs for building roads, putting more police officers on the street, and making our economy more productive. We must use the opportunity before us to slow the growth of mandatory spending and achieve a more sustainable balance.

While cutting spending is the first step in balancing the budget, I believe we will take a giant leap backward if we compound our current fiscal problems by granting significant new tax cuts that will increase the deficit. Studies show that the cost of the tax bill approved by the House on June 26 is heavily backloaded, hiding the bill's true cost and threatening to unbalance the budget shortly after it is designed to be balanced.

It is clear to me that many Members of this body are only interested in using the balanced budget debate as a pretense to grant expensive new tax cuts. We are now so close to finally balancing the budget, it makes absolutely no sense to me to start moving in the opposite direction with tax measures that will drive up the deficit.

If we would simply pass the spending reforms called for by this year's budget resolution, and do no harm by enacting new tax cuts, we would balance the budget before the end of the century and achieve a surplus of at least $20 billion in the year 2002. This, I believe, is the wisest course of action because it allows us to invest for the future needs of this country, and ensure that we do not produce a budget that is a 1-year wonder, balancing in the year 2002, but becoming unbalanced shortly thereafter.

Mr. Speaker, now more than ever it is imperative that Members of both parties, along with the President, come together in a unified effort. We must take this opportunity to pass meaningful entitlement reform, hold off on granting expensive tax cuts until we can afford them, and keep our promise to balance the budget once and for all.

THE SPECTRUM GIVEAWAY IS A MISNOMER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. STEARNS] is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, you might title my 5 minutes this afternoon "The Spectrum Giveaway is a Misnomer." The spectrum issue has

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

generated a lot of misinformation, and as a member of the Subcommittee on Telecommunications, Trade and Consumer Protection, I feel obliged to clear up the confusion. Some pundits and politicians have the notion that providing broadcasters access to the digital spectrum represents a massive giveaway. They are not understanding the point.

But first let us talk about what the spectrum is. It is broadcast airwaves, a series of frequencies for transmitting signals. The spectrum had no impact on human life until Mr. Farnsworth developed broadcast television. I might add, Mr. Speaker, that there is a statue of Mr. Farnsworth in Statuary Hall here in the Capitol.

Almost literally, something was made from nothing. Over the years, the media have invested billions of dollars to put the previously idle analog spectrum to productive use. As a Nation, we have benefited from these broadcasts through weather alerts, political debates and coverage of the first Moon walk.

With the advent of high definition technologies, the broadcasters need access to a new spectrum, the digital spectrum. Again, the broadcasters will invest billions of dollars to deliver free TV over these frequencies. Individual stations will also have to convert at a cost of up to $20 million each.

Now, obviously, this is a huge cost, particularly for most broadcasters in small- and medium-sized markets like many in my home State of Florida, where they have assets under $10 million. However, there are many who want broadcasters to give up the old analog spectrum, spend billions of dollars on new equipment to convert to digital TV, and then continue to deliver free TV and pay for the digital spectrum all together. Well, it cannot be done.

Mr. Speaker, heaping auction costs on top of this transition cost will make it virtually impossible for many local broadcasters to provide free, over-the-air programming in the digitized world. It does not take a genius to figure out that if enough broadcasters are forced out of these auctions by these costs, consumers will have fewer choices in their viewing options.

Mr. Speaker, I do not agree with those advocating the up-front auction of the digital spectrum loaned to broadcasters. These advocates should look at this issue in the proper context. In the 1980's, the government and broadcasters developed an understanding to develop and promote high definition television over digital transmissions. The Federal Communications Commission, with the endorsement of Congress, agreed to provide broadcasters an additional 6 megahertz of spectrum. This added 6 megahertz of spectrum is necessary to assure that the old analog transmissions, current over-the-air TV, is not disrupted in the transition to digital transmission.

This does not mean that I support a government giveaway to the media. We can still, Mr. Speaker, generate government revenue from this exchange, and let me explain.

Once the transition from analog to digital is completed, we can then auction off the analog spectrum for cellular and other transmissions. In addition, the government may charge broadcasters a fee if they provide ancillary service such as paging or faxing in the new digital spectrum.

Last week William Safire, a leading columnist, called this exchange a sweet payoff to broadcasters and compared it with the prospect of, "giving Yellowstone National Park to the timber companies." Mr. Speaker, I wish to offer a different analogy this afternoon: The Homestead Act of 1862.

Mr. Speaker, through this act, the Federal Government parceled out billions of acres of what it considered worthless western land. Now a settler received a 160-acre plot of land and the government got a pledge that the land would be cultivated and put to productive use. What was then considered the "great American desert" is now among the most valuable land in the world.

My position is that a rational approach providing a win-win situation for all should be involved. The government wins because its coffers will be filled with analog action proceeds and fees from supplemental digital services. Those who care about free, over-the-air broadcasting win because television will not be interrupted in the transition from analog to digital. Broadcasters win because they will remain competitive in the new information age. But above all, consumers win with continued free access to news and information and more competition among information and entertainment providers.

The up-front auction of the digital spectrum could be a roadblock to the new era of communications. Combined with other technologies, digital TV will yield a single box sitting in our living rooms; one device functioning as our TV, telephone, computer, modem, radio, and VCR. Mr. Speaker, let us not let misguided policies stand in the way of progress.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 42 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. GOODLATTE] at 2 p.m.

PRAYER

The Chaplain, Rev. James David FORD, D.D., offered the following prayer:

O God, as You have brought us together from many backgrounds and diverse traditions, so we may strive to demonstrate a unity of spirit that reflects the solidarity You have given us at creation. We are grateful that we are blessed by our diversity and we learn from each other. We accept the challenge of celebrating our own heritage even as we celebrate the heritage of others. We thank You, gracious God, for our history as we pray that Your spirit will lead and guide us in the days ahead. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida [Mr. HASTINGS] come forward and lead the House in the Pledge of Allegiance.

Mr. HASTINGS of Florida led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

DEMOCRATS AND TAX CUTS

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, when the Democrats on the other side make their arguments explaining why they oppose our tax cut package, I listen to them. It is not fun, but I do listen.

The problem is their arguments are extremely weak. The first argument is that most of the benefits go to the rich. My response to that argument is that they speak as if there is a pot of money that is distributed to people, that the Government divides up some amount of benefits and decides where the benefits go.

This is simply wrong. A tax cut simply means that the Government will take less. It will take less from upper income people. It will take less from lower income people. And let us please try to remember, it is their money to begin with; no one is giving them anything.

The second argument is that the tax credit should apply to the working poor who pay no income taxes but who do pay payroll and other taxes. But low-income workers already receive a subsidy for the payroll taxes through the EITC, and payroll taxes are for Medicare and Social Security anyway, for which they will also get a subsidy. So that is why their arguments simply do not add up.

LAKE TAHOE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, Mark Twain once described Lake Tahoe as the fairest picture the whole Earth affords. But with an estimated 30 percent of Lake Tahoe surrounding forests that are dead and dying and the lake losing a foot of clarity each year, many vital environmental changes must be made to ensure that we pass on to our children the same wonderful gift of nature in the same pristine fashion as which we once found it.

A very important first step in this battle was taken when the President hosted the Lake Tahoe environmental summit this weekend. As a result of these meetings, $48 million in Federal funds were committed to the Lake Tahoe Basin for cleanup and conservation efforts. But most important, the majority of these dollars will be made available to the people of Lake Tahoe and not to a Federal bureaucratic agency.

Mr. Speaker, the agreement reached at Lake Tahoe is a shining example that the concerns of environmentalists and private property owners are not mutually exclusive. I applaud all those involved in this weekend's activities.

CHILDREN'S HEALTH CARE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, as budget negotiators work to finalize the details of our historic agreement, we must make bolstering children's health coverage for low-income children a top priority. It is unconscionable that the most developed country in the world has 10 million uninsured children, including 167,000 in my State of Maryland.

I strongly urge my conference committee colleagues to adopt the Senate bill's provisions which contain an additional $24 billion for children's health and the guarantee that the funds cannot be used for other purposes. We must also insist on a meaningful benefits package, including vision and hearing coverage. It is about time we used an increased tobacco tax to fund children's health insurance. Smoking dramatically affects children's health and drains our health care system. Raising cigarette taxes is one of the best ways to keep children from smoking, which translates into fewer deaths later in life from smoking-related illnesses.

Mr. Speaker, 90 percent of uninsured children have working parents, and oftentimes these parents must choose between paying rent or buying private insurance or quitting their jobs to qualify for Medicaid. Let us seize this opportunity.

POLITICIZATION OF THE JUDICIARY

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, before coming to Congress I spent 7½ years as a circuit court judge in Tennessee. I tried the felony criminal cases, the murders, the rapes, the armed robberies, burglaries, drug cases, the attempted murder of James Earl Ray, many serious cases.

I have several years of experience with our criminal justice system. Yet never have I seen such a partisan political use of our legal system as is presently going on.

The worst is the action being taken against the gentleman from Indiana [Mr. BURTON], the chairman. His committee subpoenaed records from the Justice Department on July 8. Then his campaign records were subpoenaed just 3 days later. Blatant political retribution just because he was trying to do his job.

The Justice Department should not be used as a tool for partisan political purposes. Attorney General Reno should be embarrassed by this politicization of her department, and she should not allow to it proceed any further.

The White House enemies list from many years ago was just talk and did not come close to the partisan political use of our legal system that is being done against the gentleman from Indiana [Mr. BURTON] today, or, I might add, the political IRS audits of the Heritage Foundation and 11 other conservative think tanks while no similar action is being taken against liberal think tanks.

FOUR YEARS' DIFFERENCE

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, what a difference 4 years can make. Four years ago, with the other team in charge, they were about to vote on the largest tax increase in American history, while the other problems of welfare and Medicare reform were being ignored. The Congressional Budget Office was projecting $200 billion deficits as far as the eye could see. As we speak, negotiators are putting the finishing touches on a plan that will guarantee the first balanced budget in a generation and the first tax relief for working families in more than 16 years.

We have reformed welfare, and 1.3 million families are on payrolls rather than on the welfare rolls. Medicare is being saved. Mr. Speaker, what a difference 4 years have made.

MEDICARE

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, I call all my colleagues' attention to the Medicare spending graph I have here. In 1995, this is what the President said. He said the plan of the Republicans was excessive, and he vetoed our bill because of these excessive cuts.

Now in 1997, he says, this budget over here keeps our fundamentals intact, protects Medicare for our parents, preserves and protects the program. Notice that this program is less spending than the one he vetoed in 1995. Let us review, Mr. Speaker. He vetoed a welfare bill three times, calling it extreme; yet he signed the identical welfare bill and tries to take credit. Then he goes on and talks about this Medicare program, this one with less spending, and says it protects our seniors whereas this one, which he vetoed, says it is extreme.

Now he goes on to say, our tax cuts are excessive and will blow a hole in the deficit. Mr. Speaker, I think the President has credibility problems. Let us remember this history in this budget debate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at a later time.

MORATORIUM ON LARGE FISHING VESSELS IN ATLANTIC

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1855) to establish a moratorium on large fishing vessels in Atlantic herring and mackerel fisheries, as amended.

The Clerk read as follows:

H.R. 1855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MORATORIUM.

(a) IN GENERAL.—Notwithstanding any provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), no large fishing vessel may engage in fishing for Atlantic herring or Atlantic mackerel within the United States exclusive economic zone until—

(1) the National Marine Fisheries Service has completed a new population survey into the abundance of the discrete spawning stocks of Atlantic herring and Atlantic mackerel; and

(2) the Secretary of Commerce has approved and implemented fishery management plans developed by the appropriate regional fishery management council for Atlantic herring and Atlantic mackerel, which specifically allow large fishing vessels to participate in those fisheries.

(b) LARGE FISHING VESSEL DEFINED.—In this section, the term "large fishing vessel"—

(1) except as provided in paragraph (2), means a fishing vessel (as that term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) of the United States that is equal to or greater than 165 feet in length overall and has an engine of more than 3,000 horsepower; and

(2) does not include such a vessel that engages only in processing fish harvested by fishing vessels of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Hawaii [Mr. ABERCROMBIE] each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume. Let me just begin my very brief remarks by thanking the gentleman from Hawaii for his ardent and helpful effort with regard to moving this bill swiftly through the committee and bringing it here to the floor. The gentleman from Hawaii [Mr. ABERCROMBIE] and I have worked very closely together and I want to express my deep appreciation to him at this point.

Mr. Speaker, I rise in strong support, obviously, of H.R. 1855, a simple and straightforward measure that will place a moratorium on large fishing vessels in the Atlantic mackerel and herring fisheries.

Why is congressional intervention and management of these two species needed? Well, herring and mackerel are the two fisheries on the east coast that have not been fished to death yet. Mackerel, the mackerel world market and the prices have increased substantially because the eastern European countries can no longer depend on Government support and because the demand for mackerel and herring in those societies has grown to an unprecedented level.

This has created an economic reason to fish on these two species and it has created therefore new fishing pressure.

Herring has just recently recovered from being badly overfished. This recovery caused serious pain among the New England fishermen who had to find an alternative source of fish in order for them to survive. They increasingly turned to cod and haddock at Georges Bank, which has since been overfished and that fish stock has now crashed. Now herring is being targeted once again.

Now it looks as though the Atlantic herring and mackerel fisheries are faced with a new disastrous threat. Large fishing vessels are poised to enter these fisheries. High prices and the apparent abundance of these species has attracted the attention of fishermen and businessmen throughout the world who have responded by investing in large fishing vessels to harvest this American resource for sale overseas because there is no market here. The market is overseas.

The capacity of each of these vessels exceeds 50 metric tons per year. That is a large fishing vessel, to say the least. One such vessel plans to begin harvesting this fall. It is therefore imperative that we establish safeguards to prevent another fishing disaster like those suffered by redfish, shark, striped bass, as well as cod and haddock, which I mentioned before.

There are a number of things that we need to point out. Fact No. 1, we do not know with any certainty how many fish, that is, mackerel and herring, there are. The National Marine Fisheries Service, which we know as NMFS, has not done a stock assessment specifically on herring and mackerel stocks. The only information we have on these species is from a complex large pelagic survey that was done and incidentally, just incidentally, mentions herring and mackerel. Therefore, fact No. 1 is that we do not know how many fish there are.

Fact No. 2, the moratorium is temporary in nature but it is also an emergency measure. The moratorium on large fishing vessels will only last as long as it takes the National Marine Fisheries Service to do a separate stock assessment on herring and mackerel to find out how many fish there are, two tremendously important east coast fisheries. Imagine that, knowing how many fish there are before we begin to take them in large numbers.

□ 1415

So fact No. 2, we need to do stock assessments before additional fishing pressure is brought to bear on these species.

Fact No. 3, the councils that care for these fisheries or regulate these fisheries are moving quickly to preserve them as well, but they need more time. The mid-Atlantic and New England fisheries management councils have passed resolutions and motions to protect these fisheries from overharvest. The councils need the time to react to what could be a sudden unsustainable increase in the harvest. This bill gives them the time to develop fishery management plans which do not exist at this time.

Fact No. 4, the National Marine Fisheries Service has guessed that the mackerel fishery can sustain only about 150,000 metric tons of annual harvest. Three of these large vessels, which are poised to enter this fishery, could easily meet and possibly exceed this harvest within a single year. It is not clear that the resource can withstand this fishing effort and remain healthy and viable. Therefore, we need to take care of the management plan before this fishing pressure starts.

The National Marine Fisheries Service seems content to wait until the stocks crash before taking action to protect these fisheries. That is why we need this moratorium. As someone who has witnessed the pain and suffering experienced by fishermen from New England, I do not believe that we should fish now and pay later. We must end this cycle of destroying our resources without knowing how much fishing pressure they can endure. Help to conserve the Atlantic herring and mackerel stocks by voting "yes" on this bill, H.R. 1855.

Mr. Speaker, I reserve the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I begin, I would like to thank the gentleman from New Jersey [Mr. SAXTON] for his kind remarks. I would like, in addition, to cite the work of the staff with regard to this and other bills, Mr. Speaker. It is outstanding work always.

Mr. Speaker, the remarks of the gentleman from New Jersey are such that I think they make a compelling case in and of themselves. I would like not to reiterate them but to amplify them somewhat.

The temporary moratorium on the entry of large fishing vessels into these two fisheries will provide the East Coast councils the opportunity they need to develop management plans to protect the resources without the threat of overcapitalization. I think that the gentleman from New Jersey has made a clear and compelling case in that regard.

Too many fisheries in the United States are already overcapitalized, and seasons that used to last for months are now over in days. In New England, coastal communities have been devastated by the crash of cod and haddock stocks. Mackerel and herring will be the only healthy fisheries if they can survive the next several years, but not if those stocks are suddenly being harvested by an influx of large vessels. Four or five of these boats could eliminate the opportunities for fishermen that have little else to depend upon.

It is time that we learn from the mistakes of the past and encourage the proactive approach by the councils to the problems of overcapitalization. This bill does that by giving the councils the time to do their job. It will be good for the fishing industry and the fish, and I urge Members to support the bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I thank the gentleman from Hawaii [Mr. ABERCROMBIE] for yielding me this time, I thank the gentleman from New Jersey [Mr. SAXTON] for his leadership on this issue, and I thank both of them on behalf of fishermen all throughout the State of Maine.

Mr. Speaker, I rise today as an original cosponsor of H.R. 1855. This bill establishes a moratorium on the introduction of large fishing vessels into the Atlantic Coast herring and mackerel fisheries until comprehensive studies are conducted on the health of the spawning stocks.

Several initiatives financed by foreign countries have surfaced which focus on the use of very large offshore factory trawlers on the Atlantic Coast to catch and process large quantities of mackerel and herring. This is of great concern to local fishermen in Maine, Massachusetts, Rhode Island, and New Jersey who are working to develop these fisheries locally.

We are all aware of the devastating effect overfishing has had on our ecosystem. European stocks have been severely overfished, accounting for world interest in U.S. stocks. While our stocks are considered to be strong, stocks of mackerel and herring, many in the industry do not believe they are robust enough to withstand the take of large factory trawlers. There is no Federal fishery management plan for herring and the scientific information on the abundance of both species is questionable.

Mr. Speaker, we simply cannot repeat the mistakes of the past by overfishing and overcapitalizing our marine resources. This is responsible legislation and I urge its passage.

Mr. ABERCROMBIE. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

Mr. DELAHUNT. Mr. Speaker, I want to extend my gratitude to the chairman of the subcommittee, who has really provided some leadership in this matter that concerns us all here.

More than 20 years ago my predecessor, Gerry Studds, in this Chamber helped enact landmark legislation to ensure that foreign fleets would no longer be allowed to deplete fish stocks off our coasts. Well, here we go once more. Unless we vote today to approve H.R. 1855, factory trawlers will return and will bring with them an updated high-tech version of overfishing aimed at two of the few healthy stocks we still have left, Atlantic herring and mackerel.

As the House deliberates today, at least one displaced factory trawler is being retrofitted in Norway in preparation to set sail for the waters off the New England coast. This one vessel alone is capable of harvesting 50,000 metric tons of mackerel in 1 year, one-third of the maximum sustainable yield for the whole Atlantic coast, not to mention the likely impact of by-catch on haddock and scores of other marine species.

We just do not know enough about the population dynamics of herring and mackerel to risk placing such enormous new pressures on these species, species on which the industry, marine mammals, coastal communities and the entire coastal ecosystem depend. Without this bill, we stand to repeat the mistakes of the past.

In the late 1960's and 1970's, large Russian and Polish vessels plied our shores and threatened to decimate our fishing industry and our stocks. It took the passage of the Magnuson Act to push them from our waters, leaving what we thought was plenty of fish to go around.

Meanwhile, however, we allowed our own industry to expand. Soon it was vastly overcapitalized, putting renewed pressures on groundfish. We are all too aware of the consequences.

Yet less than a year after reauthorizing the Magnuson Act, we are watching factory trawler vessels again prepare to invade our fisheries. New England fishermen, stressed by declining stocks, higher prices and a shortened season, face bleak times as we await the slow process of rebuilding groundfish stocks.

Already, we have too many boats chasing too few fish and far too many vessels that will never again go to sea at all. Without this bill, local fleets trying to diversify their interests will be rewarded only by drastic levels of new competition that will remain with us forever.

For the sake of both fish and the fishermen, it is my own hope that the Fisheries Council will develop and implement management plans that make further congressional action unnecessary. I strongly support H.R. 1855 because it encourages the council to complete this important work and because it shows that we can learn from our mistakes.

Mr. ABERCROMBIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TIERNEY].

Mr. TIERNEY. Mr. Speaker, I want to thank the ranking member for yielding me this time, and also the chairman, who was kind enough to carry through on his pledge made to me during the subcommittee hearings in addressing my concerns with the unintended loopholes that were originally in the legislation.

Mr. Speaker, before I comment on the present status of the issue, or even the future, I feel it is important to take a look back at the recent history of the fishing history in the United States, specifically in the New England area.

It was barely 20 years ago that we faced the decimation of fishing stocks because of overfishing. We face the prospect of repeating that mistake. This time, however, the threat could be much larger.

While I respect my colleagues from the west coast who might oppose this legislation, it is, in fact, the very current condition of the North Pacific Pollock Fishery, located off the west coast, that leads me to be concerned about the havoc these trawlers could wreak on the herring and mackerel fisheries found in the Atlantic.

Mr. Speaker, we are trying to ensure the viability of our fishing industry in the Northeast by preventing the factory trawlers from overfishing the waters at the expense of fishermen whose very livelihoods depend on a well-plenished fishery. While the herring and mackerel stock are currently thriving, my concern is shared with the gentleman from Massachusetts [Mr. DELAHUNT] that by allowing these factory trawlers in the area, we will place the smaller fishing boats at risk once again. And these are, in fact, the same sized fishing boats that suffered the blunt of the depleted stocks that occurred in the 1970's.

Once these factory boats are in our waters, it would be extremely difficult to control the size and scope of their catch. Our fishing industry will never survive if we make that mistake.

Protecting the natural resource is intelligent public policy, whether we are talking about the industry's interest or the public interest or the interest of the conservation community. I support this moratorium to allow the National Marine Fisheries Service and the Department of Commerce time to complete the requirements as outlined in the bill.

Mr. Speaker, many of my constituents up in Gloucester, as well as other areas of my district, are extremely concerned about this issue. In fact, I know many of these people who have worked tirelessly on the issue and support this bill are now watching the debate at this very moment. I join them in pressing for the necessary protection to continue the fishing tradition that has been passed down from family to family, from generation to generation. It is my hope that we will not inherit from a previous generation the problem of depleting these much-needed resources.

Again, I thank the ranking member and the chairman for providing me a chance to have input in this process.

Mr. ABERCROMBIE. Mr. Speaker, may I inquire as to how much time is remaining?

The SPEAKER pro tempore. The gentleman from Hawaii [Mr. ABERCROMBIE] has 10 minutes remaining and the gentleman from New Jersey [Mr. SAXTON] has 14 minutes remaining.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. BALDACCI].

□ 1430

Mr. BALDACCI. Mr. Speaker, I thank the gentleman from Hawaii [Mr. ABERCROMBIE] for yielding me the time.

Mr. Speaker, I rise today in support of H.R. 1855. As a cosponsor of this legislation, I know that it is going to establish a moratorium on entry of large fishing vessels in the Atlantic for herring and mackerel fisheries.

Herring have provided a living for Mainers for well over 100 years. From sardines and exports to lobster bait, the fishery continues to play a prominent role in the economies of coastal communities. Estimates and anecdotes suggest that a large herring fishery exists, but the resource is poorly understood.

The National Marine Fisheries Service has not yet done a stock assessment. While the resource appears to have potential, it is of grave concern to most of the maritime community that there is no fishery management plans in place and that there is no way to ensure that the harvest is conducted at a sustainable rate.

The absence of sound science clearly impacts the ability of the councils to develop or amend the appropriate fishery management plans. It is clear that the councils are moving in that direction. I believe that it is essential to develop the research that will serve as the foundations for sound plans. This bill does just that. It calls for the science to be conducted. It gives the councils the breathing room necessary to develop solid plans.

What makes congressional action necessary is the prospect that fishing efforts for the two species may rapidly overdevelop and include very large freezer trawlers. This troubling scenario is compounded by the very real possibility that this could all occur before comprehensive plans are in place.

I would add that the moratorium would be temporary. It would remain in place until the completion of population survey and the approval of management plans. I urge my colleagues to support H.R. 1855.

Mr. ABERCROMBIE. Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, yielding myself such time as I may consume, as has been stated here with regard to the species in question, there is a significant population of herring and mackerel, and we believe that it is important that we maintain a balance within the ocean ecosystem and that this species should be protected from overharvesting.

We do not want, in other words, history to repeat itself, as it did with the shark population, when the National Marine Fishery Service, in the 1980's, declared it an underutilized species. The species was fished on with very, very heavy fishing pressure. And by 1993, the National Marine Fisheries Service had to declare the shark fishery an endangered fishery.

As with regard to other historical precedents, red fish in the Gulf of Mexico, in 1980 it was declared an underutilized species, and by 1986, with the taking of more than 10 million tons a year, the species became overutilized, overfished, and endangered.

Another example is with regard to an international problem with regard to the Atlantic blue fin tuna. During the 1970's, blue fin were abundant all over the north Atlantic and the south Atlantic, as well. Today, the blue fin population, because of overfishing, is just 13 percent of what it was back in those years.

So, in order to avoid this occurrence with regard to herring and mackerel, I urge passage of this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is will the House suspend the rules and pass the bill, H.R. 1855, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 123. Concurrent resolution providing for the use of the catafalque situated in the crypt beneath the rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William J. Brennan, former Associate Justice of the Supreme Court of the United States.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 33. Concurrent resolution authorizing the use of the Capitol Grounds for the National SAFE KIDS Campaign SAFE KIDS Buckle Up Car Seat Check Up.

NEW MEXICO STATEHOOD AND ENABLING ACT AMENDMENTS OF 1997

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 430) to amend the act of June 20, 1910, to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds.

The Clerk read as follows:

S. 430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT TRUST FUNDS OF THE STATE OF NEW MEXICO.

(a) SHORT TITLE.—This Act may be cited as the "New Mexico Statehood and Enabling Act Amendments of 1997".

(b) INVESTMENT OF AND DISTRIBUTIONS FROM PERMANENT TRUST FUNDS.—The Act of June 20, 1910 (36 Stat. 557, chapter 310), is amended—

(1) in the proviso in the second paragraph of section 7, by striking "the income therefrom only to be used" and inserting "distributions from which shall be made in accordance with the first paragraph of section 10 and shall be used";

(2) in section 9, by striking "the interest of which only shall be expended" and inserting "distributions from which shall be made in accordance with the first paragraph of section 10 and shall be expended"; and

(3) in the first paragraph of section 10, by adding at the end the following: "The trust funds, including all interest, dividends, other income, and appreciation in the market value of assets of the funds shall be prudently invested on a total rate of return basis. Distributions from the trust funds shall be made as provided in Article 12, Section 7 of the Constitution of the State of New Mexico.".

(c) CONSENT OF CONGRESS.—Congress consents to the amendments to the Constitution of the State of New Mexico proposed by Senate Joint Resolution 2 of the 42nd Legislature of the State of New Mexico, Second Session, 1996, entitled "A Joint Resolution proposing amendments to Article 8, Section 10 and Article 12, Sections 2, 4 and 7 of the Constitution of New Mexico to protect the State's permanent funds against inflation by limiting distributions to a percentage of each fund's market value and by modifying certain investment restrictions to allow optimal diversification of investments", approved by the voters of the State of New Mexico on November 5, 1996.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 430 is identical to H.R. 1051, a bill introduced by my colleague, the gentleman from New Mexico [Mr. SKEEN]. S. 430 is a result of very hard work by the gentleman from New Mexico [Mr. SKEEN] and the entire New Mexico delegation and has no opposition from the Administration. Furthermore, this bill is very beneficial to citizens of New Mexico.

I would also like to commend my other colleague, the gentleman from New Mexico [Mr. SCHIFF], who has added his support to the bill. S. 430 would amend the New Mexico Enabling Act of June 20, 1910, in order to protect the permanent trust funds of the State of New Mexico from erosion due to inflation by modifying the basis on which distributions are made from those funds and by loosening the current investment restrictions. The modifications include changing the payout to a fixed percentage of the fund, thereby allowing a portion of the interest and dividend income received to be reinvested. This bill would also loosen investment restrictions and allow broader investments options and opportunities.

Mr. Speaker, this bill has already been overwhelmingly endorsed by the voters of New Mexico, has been passed by the Senate, and I urge my colleagues to support S. 430.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 430 is an important housekeeping measure that amends the act of June 20, 1910, which provided statehood to the territory of New Mexico. The bill changes the manner in which State permanent funds are invested and also changes the distribution formula for fund revenues.

Mr. Speaker, the voters of New Mexico approved these changes to the New Mexico State Constitution in 1996 in an effort to maximize the returns of the funds, which are used for education and the care of the poor and needy in the State of New Mexico. Since the revenues in the two New Mexico funds are derived from activities that occur on former Federal lands granted to the State under the Enabling Act of 1910, it is necessary to obtain the consent of Congress before the State's constitutional amendments can be implemented.

The Subcommittee on National Parks and Public Lands held a hearing on H.R. 1051, the House companion bill to S. 430, on June 17, 1997. The legislation is supported by the entire New Mexico congressional delegation. The administration has no objection to the measure, and I am not aware of any controversy associated with this bill. I support S. 430 and recommend that the House approve this proposed legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN], the author of the House bill, who has worked untiringly to bring this bill to the floor, and my gratitude to the gentleman from New Mexico [Mr. SKEEN] for the hard work that he has pursued on this measure.

Mr. SKEEN. Mr. Speaker, I thank the gentleman from New Jersey [Mr. SAXTON] for yielding me the time. Also, I want to thank majority and minority groups for the rapidity with which they have responded to an emergency situation insofar as this kind of enabling act is concerned. I want to express the greatest appreciation to the majority and minority leadership for their help in expediting the consideration, and I also want to express my sincere thanks to the leadership of the House of Representatives committee and their staffs.

Members on both sides of the aisle have gone out of their way to help New Mexico, and I want to express our greatest appreciation to all of them for doing this in a timely fashion. I am not going to spend a lot of time on this because I think the responses from the two gentleman that are handling the bill today indicates the nature and why it is here before us.

And once again, I will say it over and over again, this proves that this body can move rapidly to a situation and with much appreciation for the rapidity in which they have done this because it was becoming an emergency kind of situation for New Mexico.

Thanks once again to the entire body and members of the staff and those folks who support this bill.

Mr. Speaker, I am here today to support passage of S. 430, a bill amending the New Mexico Statehood and Enabling Act of 1910. The entire New Mexico delegation supports this legislation as well as Gov. Gary Johnson and the State legislature.

I do want to express our State's greatest appreciation to the majority and minority leadership for their help in expediting the consideration of the legislation. I also want to express my sincere thanks to the leadership of the House Resources Committee and their staffs.

Members on both sides of the aisle have gone out of their way to help New Mexico and I want to express our appreciation.

This legislation is identical to H.R. 1051 which was cosponsored by Representative STEVE SCHIFF and Representative BILL REDMOND. The Parks and Public Lands Subcommittee of the House Resources Committee held a hearing on the legislation June 17. There is no opposition to the legislation and the administration has no objection to the legislation. S. 430 passed the Senate on May 22, 1997.

Basically the issue behind this legislation involves the manner in which the State of New Mexico invests its money and how it then disperses the funds to our public schools, higher education, State hospitals, the School for the Visually Handicapped, the School for the Deaf, and others. The Enabling Act has governed the distribution of State investment funds and related activities since statehood. However as investment patterns changed it became apparent to New Mexico that the system no longer was keeping pace with modern investment strategies. Following an intensive review the issue was placed before the voters last year as an amendment to the New Mexico Constitution. The amendment passed by a 2 to 1 margin. All this legislation does is amend the New Mexico Statehood and Enabling Act so it is in conformity with this new change in the New Mexico Constitution.

In 1957 Congress amended the Enabling Act to allow State permanent fund investments in corporate stocks for the first time. However, that amendment made no provision regarding how distributions were to be made from investment returns from the stock. So in fact it was ruled that only dividends from stocks could be distributed which has the effect that no significant investments were made in stocks. The real impact meant that investments were in fact basically limited to investments that were income based.

Mr. Speaker, New Mexico's budget year begins on July 1. Passage of this legislation now will allow the State to disburse last year's earnings for the benefit of meeting the educational needs of the State's children. It is important that the New Mexico permanent fund be managed in a modern and effective manner. These changes will allow that to happen and further it will allow the State to preserve the two permanent funds the State maintains for future generations. In closing I once again want to thank everyone involved in helping New Mexico gain passage of this important legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I too certainly would like to commend the gentleman from New Mexico [Mr. SKEEN] as the chief sponsor of this piece of this legislation. I am sure that on a bipartisan basis we are able to work very well in getting this piece of legislation through this Chamber. I thank the gentleman for being here and for the comity on the work that both subcommittee members have tried earnestly to get this legislation through.

Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am in support of the bill at hand, but I really got up because I would like to speak on H.R. 1855, which I know just passed. I am very pleased over the fact that it did. This is an important bill, H.R. 1855, that protects an important resource to fishermen in my district from overutilization and depletion.

I would like to just summarize by saying that H.R. 1855 serves to prohibit large fishing vessels from engaging in the harvest of Atlantic herring and Atlantic mackerel within our EEZ waters. Mr. Speaker, these large vessels should be temporarily restricted from the Atlantic herring and Atlantic mackerel fishery until accurate information has been collected. To date, no ship of this size has fished this vulnerable fishery.

I must inform this Chamber that I am not concerned as to whether NMFS has declared these stocks to be fully utilized or even underutilized. These vessels have the potential of making any fishery overutilized in a short period of time. Large fishing trawlers are highly efficient and can catch five to six times more than any vessel currently registered with NMFS on the Atlantic coast. Furthermore, the processing capacity of large vessels is so great that they can fill quotas. As a result, these ships will compromise the Atlantic herring and the Atlantic mackerel fishing seasons.

As members of our committee are aware, stock quotas are spread over a number of ships and are not meant to be filled by a small percentage of ships. My fear is that a large, highly efficient ship could close a fishery and reduce its stock simply because of the number of fish it can catch. I am concerned with NMFS's ability to react if overutilization occurs and this fishery needs to be shut down. If we allow a ship of this size into a forage fishery and we are mistaken as to the size of the stock, we will have a problem. And I would prefer that we err on the side of conservation, not exploitation.

In the past, we have encouraged highly efficient gears to fish underutilized stocks. I do not want to get into examples. But I have to say that in the 1980's we encouraged the fishing gears to redirect efforts toward the shark species. At the time, sharks were considered to be underutilized. Since then, we have witnessed a drop in various shark species as a result of this redirected effort.

Mr. Speaker, we should learn from that mistake and be cautious of redirecting any highly efficient gear. I want to say, Mr. Speaker, that a vote in favor of H.R. 1855 is a vote for protecting one of our Nation's largest public resource. We have the opportunity to save the fish stock not only for those fishermen who depend on this resource along the Atlantic coast, but for future generations of fishermen as well. That is why I strongly urge my colleagues to support and pass H.R. 1855.

I want to thank the gentleman from New Jersey [Mr. SAXTON] for all the work that he has done on this legislation.

I would also like to note that with the depleted state of the North Atlantic groundfish, and restrictions on other fisheries, certain New England fishermen have been forced into the mackerel and herring fishery. It is my belief that this highly efficient gear will most likely compromise their needs and whatever relief these fishermen have experienced through herring and mackerel fisheries.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers at this time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, we have no additional speakers at this time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the Senate bill, S. 430.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS REGARDING ACTS OF ILLEGAL AGGRESSION BY CANADIAN FISHERMEN WITH RESPECT TO PACIFIC SALMON FISHERY

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 124), expressing the sense of the Congress regarding acts of illegal aggression by Canadian fishermen with respect to the Pacific salmon fishery, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 124

Whereas Pacific salmon migrate across international boundaries, allowing United States salmon stocks and Canadian salmon stocks to intermingle as they travel through the waters of the North Pacific Ocean;

Whereas after many years of negotiations, in 1985 the United States and Canada signed the Pacific Salmon Treaty based on a primary principle of conservation and a secondary principle of equity;

Whereas the United States and Canada formed the Pacific Salmon Commission to implement the Pacific Salmon Treaty;

Whereas the Pacific Salmon Commission does not regulate the Pacific salmon fishery, but provides regulatory advice and recommendations to the United States and Canada;

Whereas since the signing of the Pacific Salmon Treaty, the United States and Canada have not agreed on the definition of "equity" for purposes of the principle of equity underlying the Treaty, and this disagreement has created a rift between the 2 governments and the regional stakeholders of the Pacific salmon fishery;

Whereas Pacific salmon fishery regulatory regimes have not been in place since 1994 because of a lack of agreement;

Whereas an illegal fee in violation of international agreements was assessed on the United States fishermen traveling to Alaska, and neither the United States Government nor United States fishermen have been reimbursed for that fee;

Whereas since 1994, the United States and Canada have used special negotiators, a mediation process, and the current stakeholders process to attempt to resolve past disputes and negotiate annual and long-term Pacific salmon fishery regimes;

Whereas the good faith efforts of the United States in attempting to resolve differences under the Pacific Salmon Treaty have not been matched, as demonstrated in particular by the rejection of continued attempts by the United States to reach agreement and the withdrawal from negotiations in June 1997 when an agreement seemed imminent;

Whereas Canadian fishermen have been frustrated with their own government's effort to resolve the Pacific Salmon Treaty disputes and have used the harassment of United States citizens as a way to get attention;

Whereas Canadian fishermen, in protest over the lack of an agreement regarding various issues under the Pacific Salmon Treaty, recently undertook acts of illegal aggression against United States citizens by blocking the passage of a United States vessel, and there was a failure to act quickly to end those acts; and

Whereas those acts and that failure should be condemned: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the recent acts of illegal aggression by Canadian fishermen with respect to the Pacific salmon fishery and the slow response to those acts should be condemned;

(2) the President should immediately take steps to protect the interests of the United States with respect to the Pacific salmon fishery and should not tolerate threats to those interests;

(3) the President should use all necessary and appropriate means to prevent any further illegal or harassing actions against the United States or its fishermen with respect to the Pacific salmon fishery; and

(4) negotiations with the stakeholders with respect to the Pacific salmon fishery should resume in good faith in the fall following the 1997 fishing season.

The SPEAKER pro tempore. Pursuant to the rule the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Hawaii [Mr. ABERCROMBIE] each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

□ 1445

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 124 is introduced in response to illegal actions taken by Canadian fishermen on the weekend of July 19, 1997. Two hundred and fifty Canadian fishermen illegally blockaded an Alaskan ferryboat leaving from Prince Rupert, British Columbia. By taking these actions, Canada has escalated the Pacific salmon treaty negotiations beyond the scope of the treaty.

The gentleman from Alaska [Mr. YOUNG], the chairman of the Committee on Resources, has referred to the blockade as goon squad tactics. While I do not go quite that far, I find the blockade very unfortunate and very disruptive to negotiations, negotiations which are extremely important to another species, several species actually, of the Northwest salmon population.

House Concurrent Resolution 124 asks the President to use all necessary and appropriate means to compel the Government of Canada to prevent any further illegal actions. In addition, the resolution urges Canada to return to the negotiations this fall after the fishing season has ended. I would also like to urge Canada to return to the negotiations without further incidents.

Mr. Speaker, this is an extremely important matter. It affects the livelihood and the lives of American citizens, many of whom live in the State of Alaska. It is also important because this House, along with the other House and our Government, and I am sure the Canadian Government as well, would like to take appropriate and necessary steps to provide for the rebuilding of salmon stock in the Northwest. This incident that occurred just a few days ago stands in the way of that process. We believe that it should be brought to a hasty end.

Mr. Speaker, House Concurrent Resolution 124 was originally referred to the Committee on Resources and the Committee on International Relations. The version we are taking up today under the suspension of the rules has been modified to address concerns raised by the Committee on International Relations and is now referred solely to the Committee on Resources. I urge my colleagues to support this timely and much needed resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New Jersey [Mr. SAXTON] has referred to the gentleman from Alaska [Mr. YOUNG], our great chairman, and in the context of his remarks quoted one or two of them from the gentleman from Alaska.

Mr. Speaker, I am sure it is known that the gentleman from Alaska [Mr. YOUNG] has a well-deserved reputation for being blunt and direct. It remains for the gentleman from New Jersey [Mr. SAXTON] and myself to take up the diplomatic mantle with respect to our committee and those elements expressed to us by the Committee on International Relations.

May I say in any context, Mr. Speaker, that the Canadian Government is indeed fortunate that the gentleman from Alaska [Mr. YOUNG] is in the process of recuperating and recovering from a recent operation, and I am sure all Members join with me in wishing the gentleman from Alaska a speedy recovery and a quick return to us here in the Congress. We need his leadership. We need his dynamism here.

In this particular instance, Mr. Speaker, the long-running debate over the Pacific salmon treaty has been contentious without a doubt. But both the United States and Canada share responsibility for the continuing impasse. As such, the recent blockade of an Alaskan ferryboat, as referred to by the gentleman from New Jersey [Mr. SAXTON], by Canadian fishermen was not only illegal, it was counterproductive to the ongoing negotiations.

This resolution condemns the actions of the Canadians, but, more importantly, it urges them to return to the bargaining table that they abandoned this past June. Proper conservation and management of the Pacific salmon is more important to both the United States and Canada than confrontation. We cannot reach a meaningful agreement unless both sides are willing to come to the table and negotiate in good faith.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to close by saying that on the domestic side in the United States and on the Canadian side in Canada, it is extremely important that we reach agreement internally in this country as well as in Canada and between our two countries on a plan that will reverse the decline in the population of the Northwest Pacific salmon. We are working diligently with Members from four northwestern States to try to arrive at an American plan. We are working with the gentleman from Alaska [Mr. YOUNG] because a very important part of the salmon stock comes from Alaska. And we are hopeful that the folks in British Columbia will be able to put in place a conservation plan for that part of the stock.

But it goes without saying that unless we have not only domestic cooperation, and, incidentally, we have tentatively scheduled a hearing in Idaho on this very matter during the break, during the August break for, I believe, the 15th of the month, and so we are diligently doing what we can to try to reverse the population decline of this species.

I personally appeal to the Canadian Government and to others who may be aware of our discussions here today to move as rapidly as we possibly can on an international basis to bring this very important conservation matter to a conclusion. We care about American fishermen, we care about Canadian fishermen, and we care about the salmon stock very much. That is why we are moving so diligently to try to accomplish the goals outlined here today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say only in conclusion that the gentleman from Alaska [Mr. YOUNG] is a man of resolute purpose, and so I advise both Governments that they should take this opportunity to come to a quick conclusion. Otherwise, I think when the gentleman from Alaska gets back, he will be happy to volunteer to solve the whole problem all by himself.

The remarks of the gentleman from New Jersey [Mr. SAXTON] are well-taken, Mr. Speaker, and I trust that both Governments will take this opportunity, particularly over the break that we have coming, and bring the issue to a conclusion.

Mr. DICKS. Mr. Speaker, I rise in strong support of the resolution being presented by the gentleman from Alaska.

This resolution is necessary because of an unfortunate and unacceptable situation that took place 2 weeks ago, when certain Canadian fishermen took the law into their own hands through an act of aggression aimed at the United States commercial fishing industry, allegedly in retaliation and frustration over the lack of progress in the renegotiation of the United States-Canada Pacific Salmon Treaty.

Specifically, 2 weeks ago in Prince Rupert, British Columbia, more than 150 Canadian fishing vessels surrounded the Alaskan ferry *Malaspina*, forming a blockade and would not let the ferry leave port for 3 days, stranding 300 innocent passengers, and disrupting a key transportation link on the Alaska Marine Highway. The fishermen conducting the illegal blockade of the ferry claimed that they were conducting the disruptive act of aggression to bring attention to their government because of their frustrations and claims that Alaska is overharvesting sockeye salmon headed for spawning waters in the Fraser River.

As outrageous as this act was by the Canadian fishermen, equally unacceptable was the slow response by the Canadian Government to enforce its own laws. Canada allowed this situation to go on for 3 days. Even after a Canadian Federal judge ordered the blockade ended, Royal Canadian Mounted Police took no immediate action to enforce the order and end the blockade.

Canada is our neighbor and valued ally. We respect her sovereignty, and we support a free trade relationship that benefits the long-term stability and growth of both our nations' economies. This is why I have been a strong supporter of the North American Free Trade Agreement [NAFTA]. My State borders Canada, and my State benefits from open access to Canadian markets. My State also has a significant fishing industry as a component of its economy, and this industry has been hard hit by a variety of unfortunate factors such as endangered species listings and El Nino conditions that have closed and reduced access to key fisheries. Many fishermen have gone out of business and the survivors are struggling.

Our fishermen recognize that the migratory patterns of salmon means that Canada, Alaska, and the Pacific Northwest States have a shared responsibility for the conservation and management of salmon populations moving through adjacent waters. Progress and completion of a new United States-Canada Treaty is the best insurance possible to provide stability for the commercial fishing industry on both sides of the border.

Our fishermen are frustrated as well. They want progress and they want results. But they have respected the rule of law, and have communicated their concerns through the administration and their elected officials. Canadian fishermen are going to have to do the same, and the Canadian Government is going to have to discourage future illegality by moving swiftly to enforce its own laws.

We encourage the President to join us in condemning the actions taken by Canadian fishermen 2 weeks ago, and urge the Canadian Government to condemn such acts as well.

I believe that Canada should be justifiably criticized for the deterioration of the present situation regarding progress on treaty negotiations. It was Canada that walked out on negotiations this past June, when the United States side was making significant moves toward a resolution. The only way that this situation is going to be resolved is if everyone stays at the table.

Our side is working to make progress and I urge the Canadians to work to do the same. Regarding the southern issues involved in the Pacific Salmon Treaty, the last United States proposal on coho, built on detailed scientific analysis, would have provided for sound conservation and rebuilding of the depleted coho stocks by reducing the harvest rate by approximately 50 percent. It would also have provided a west coast Vancouver Island coho troll fishery approximately three times as large as the United States fishery, and would have enabled Canada to intercept approximately 30 percent more United States-origin coho than United States fishers take in Washington and Oregon. In contrast, State Department negotiators indicate that the proposal that Canada put on the table failed to meet even the minimum requirements necessary to conserve coho.

Regarding sockeye, the last proposal put on the table by the United States would have assured Canada received more than 80 percent of the Fraser River sockeye harvest. To accomplish this, the United States negotiators proposed a major restructuring of the sockeye fleet to reduce the nontreaty commercial fishery by 40 percent. This would have led to significant sacrifice on the United States side, but Canada would not recognize this and accept the proposal, and instead pushed for an even greater reduction.

The point is that our side has been trying and is continuing to push for an overall renegotiation of the treaty that benefits both nations. I believe that Mary Beth West, the lead U.S. negotiator on the treaty, is working in good faith to reach an expeditious resolution to the major sticking points in the negotiations. Recently, she appointed former EPA Director and Washington resident William Ruckelshaus, to serve as a mediator to help get the negotiations back on track.

We all want to see progress and a long-term resolution to problems associated with the extension of the United States-Canada Pacific Salmon Treaty. However, illegal acts and attempts at blackmail are not the way to make the situation better and to move us forward. The negotiations are complex, the underlying issues have enormous economic implications for the commercial and recreational fishing industry on both sides of the border. But we must deal with these matters and resolve tensions through good faith negotiations.

The Canadian fishermen were wrong to blockade the Alaskan ferry *Malaspina*, and the Canadian Government was wrong not to act to enforce laws against that illegal action.

I support this resolution condemning these events and urge Canada to return to good faith negotiations on the Pacific Salmon Treaty.

Mr. YOUNG of Alaska. Mr. Speaker, I have introduced House Concurrent Resolution 124 to respond to what I call goon squad tactics taken by Canadian fishermen on the weekend of July 19, 1997.

Canadian fishermen, frustrated with their Government's effort to resolve Pacific Salmon Treaty disputes, further escalated the salmon strife by illegally blockading the M/V *Malaspina*, an Alaskan ferry, in Prince Rupert, British Columbia. What I find most reprehensible, is the failure of the Canadian Government to enforce a court order to end the blockade. Innocent passengers were held hostage while the Government of Canada turned a blind eye.

This isn't the first time the Government of Canada has condoned illegal actions. In 1994, 258 United States fishermen were unfairly charged an illegal transit fee by the Canadian Government to transit from Washington to Alaska through the Inside Passage. U.S. fishermen have only two choices when traveling from Washington to Alaska. The safe route is through the Inside Passage, while the alternate is traveling in the treacherous waters of the Pacific Ocean. This illegal fee forced U.S. vessels to either risk their safety or be illegally fined.

In 3 years, the Canadian Government or its citizens have purposefully ignored and violated international law and harassed United States citizens. How many times are we supposed to put up with Canada's disregard for international law? House Concurrent Resolution 124 asks the President to use all necessary and appropriate means to compel the Government of Canada to prevent any further illegal actions.

Mr. Speaker, Canada's past actions are serious and I would hope that Congress and the administration can work together to develop and implement measures to help protect the interests of the United States with respect to the Pacific salmon fishery. The United States should not tolerate threats to those interests from the action or inaction of a foreign government or its citizens.

Mr. ABERCROMBIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 124, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the legislation just considered, H.R. 1855, S. 430 and House Concurrent Resolution 124.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING USE OF CAPITOL GROUNDS FOR SAFE KIDS BUCKLE UP CAR SEAT SAFETY CHECK

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 98) authorizing the use of the Capitol Grounds for the SAFE KIDS Buckle Up Car Seat Safety Check.

The Clerk read as follows:

H. CON. RES. 98

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS.

The National SAFE KIDS Campaign (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event, the SAFE KIDS Buckle Up Car Seat Safety Check, on the Capitol grounds on August 27 and 28, 1997, or on such other dates as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the sponsor may erect upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment, and may take such other actions, as may be required for the event authorized to be conducted under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board may make such additional arrangements as may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. KIM] and the gentleman from Texas [Mr. LAMPSON] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 98, authorizing the use of the Capitol Grounds for the Safe Kids Car Seat Check on August 28, 1997. This event is sponsored by the National Safe Kids Campaign. This campaign will educate families about the importance of the proper installation and use of car seats for children. Parents will have the opportunity to have an expert inspect car seats for proper installation.

There is a nationwide effort to conduct these inspections. This campaign is a grassroots effort intended to deliver important safety messages through more than 200 Safe Kids Coalitions and other private service organizations nationwide. This event is open to the public and free of charge and will be arranged not to interfere with the needs of Congress under the conditions prescribed by the Architect of the Capitol and the Capitol Police Board.

I urge my colleagues to support this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LAMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the gentleman from California [Mr. KIM] and other members of the Committee on Transportation and Infrastructure in bipartisan support for House Concurrent Resolution 98, which would authorize use of the Capitol Grounds for the Safe Kids Buckle Up program. The event is scheduled for August 28 and is part of a national effort to assist parents in protecting young children from the leading cause of unintentional death of children, which is motor vehicle injury.

Each year, approximately 1,400 children die as motor vehicle passengers and more than 280,000 are seriously injured. I am deeply saddened to report that in my State of Texas, Mr. Speaker, 86 children age 8 and under died in motor vehicle crashes in 1995. Because many of those children were completely unrestrained, many of those deaths could have been prevented.

This event will focus on proper installation of car seats and provide other important preventive tips to reduce injury and increase child safety. Educating our families is critical to protecting our children from becoming national statistics. It is a very worthwhile event. It deserves our support. Mr. Speaker, it could prove to save lives.

I also want to thank the gentleman from California [Mr. KIM] and the gentleman from Pennsylvania [Mr. SHUSTER] as well as the gentleman from Minnesota [Mr. OBERSTAR] for their expeditious handling of this matter.

In closing, I would like to thank both the gentleman from Maryland [Mr. HOYER] and the gentlewoman from Maryland [Mrs. MORELLA] for their introducing the resolution and for focusing national attention on the importance of child safety seat use. Unfortunately the gentleman from Maryland [Mr. HOYER] could not come here this afternoon because of his involvement with the Committee on Appropriations.

Mr. Speaker, I reserve the balance of my time.

Mr. KIM. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I appreciate the opportunity to bring House Concurrent Resolution 98 to the House floor. This resolution will allow the National Safe Kids Campaign to use a small portion of the Capitol Hill Grounds to conduct a car seat safety check.

I particularly want to thank the gentleman from California [Mr. KIM], the subcommittee chairman. I want to thank also the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the Committee on Transportation and Infrastructure, and the gentleman from Minnesota [Mr. OBERSTAR], the ranking member, for their leadership and support in moving this bill through the House in a timely manner.

The Safe Kids Buckle Up initiative is a joint project between the National Safe Kids Campaign and General Motors Corp. to educate all families across America about the importance of buckling up on every ride. Child passenger safety is on the minds of citizens nationwide.

This program will provide parents and care givers with essential information about properly securing children in an automobile. It is not an insignificant issue, Mr. Speaker. Motor vehicle crashes are the leading cause of unintentional injury-related death to children ages 14 and under. Yet 40 percent of children are still riding unrestrained.

More disturbing is the fact that of children who are buckled up, 8 out of 10 are restrained incorrectly. Each year, more than 1,400 children die as motor vehicle passengers and an additional 280,000 are injured. Tragically, most of these injuries could have been prevented. Car seats are proven life savers, reducing the risk of death by 69 percent for infants and 47 percent for toddlers.

Since 1990, the National Highway Traffic Safety Administration has reported that 43 children have died as a result of air bag deployment. This is a statistic that has prompted nationwide concern about air bags. But let me tell my colleagues the rest of the story. Thirty-nine of these children would have lived if they had been properly restrained in a child safety seat in the rear of their car. Eleven of those children were infants placed in the front seat of a car in a rear-facing child seat, and 27 of those children were totally unrestrained, while two others were only wearing their lap belts.

It will take a nationwide effort to combat this problem. Safe Kids Buckle Up is a grassroots effort that will disseminate key safety messages through more than 200 Safe Kids Coalitions, health and education outlets like hospitals and community health centers, and GM dealerships in all 50 States. In addition, educational workshops and car seat checkup events will be available at participating GM dealerships.

The car seat checkup will be the highlight of the program which will take place at the foot of the Capitol on Thursday, August 28, to kick off the Labor Day weekend, one of the busiest travel weekends of the year. Federal employees, congressional Members and staff, and parents from the metropolitan area are all invited to participate. I am honored to say that I am supporting this event and the overall program along with the gentleman from Maryland [Mr. HOYER], the other chief sponsor of this legislation.

□ 1500

We urge everyone to support this concurrent resolution allowing this event to take place. Protecting our children is a national issue that deserves national attention.

Mr. JONES. Mr. Speaker, I rise in support of House Concurrent Resolution 98, authorizing the use of the Capitol for the safe kids buckle-up car seat safety check.

I have always believed, that it is of the utmost importance, that we protect those who are unable to protect themselves—our Nation's children.

Sadly, in 1995, in North Carolina alone, 39 children, ages 8 and under died, as occupants in motor vehicle accidents. Of these, only nine, were restrained in child safety seats, and six were restrained by seat belts. Twenty-two of these children were completely unrestrained.

In other words, many of these deaths could have been prevented, by proper child safety precautions.

The safe kids buckle-up car seat safety check will help parents learn the importance of child safety seats, and it will help them ensure that the seats are used properly, so that we can prevent such tragic deaths in the future.

This program will save children's lives.

As a member of the bipartisan Missing and Exploited Children's Caucus, working for the safety of America's children, I strongly support House Concurrent Resolution 98.

Mr. Speaker, I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning in support of House Concurrent Resolution 98, legislation authorizing the use of Capitol grounds for the safe kids buckle-up car seat safety check.

The car seat safety check is an excellent program worthy of our support. At the event, parents will be able to bring their cars and have an expert verify that their car seat is properly installed. This service is performed free of charge so that it will be accessible to all families regardless of their income level.

The car seat safety check will be sponsored by the National Safe Kids Campaign and by General Motors Corp. and is scheduled to be held on August 28. With a "yes" vote today we can ensure that it is held here on Capitol grounds thereby reinforcing the critical importance of properly restraining and protecting our Nation's children.

It is a tragic fact that motor vehicle crashes are the leading cause of unintentional injury related death among children ages 14 and under in the United States, accounting for more than 40 percent of all unintentional injury related deaths. In 1995, 2,900 children ages 14 and under died, and more than 330,000 were injured, in motor-vehicle-related crashes. Children ages 4 and under account for nearly 40 percent of all childhood motor vehicle occupant deaths and nearly 30 percent of injuries. In my home State of Texas, 86 children, ages 8 and under, died as occupants in motor-vehicle-related crashes in 1995. Of these only 10 were restrained in child safety seats.

The majority of these deaths and injuries are preventable. For while motor vehicle safety features are designed for the comfort and protection of an adult-sized body, these same devices may place children at greater risk. Child safety seats and seat belts, however, when correctly used and installed, can prevent injury and save children's lives.

Child safety seats when correctly installed and used, reduce the risk of death by 69 percent for infants under age 1 and by 47 percent for toddlers ages 1 to 4. In fact, it is estimated that if all child passengers ages 4 and under were restrained, 200 of those children could be saved from death and an additional 20,000 from injury a year. Sadly, however, almost 40 percent of children ride unrestrained by either child car seats or seat belts, and even when installed, 8 out of 10 car seats are installed improperly.

I urge my colleagues to vote with me this afternoon in support of House Concurrent Resolution 98 and the safe kids buckle-up car seat safety check. This is a vote for our children's lives. Thank you.

Mr. KIM. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. LAMPSON. Mr. Speaker, I have no further speakers either, so I yield back the balance of my time.

The SPEAKER pro tempore [Mr. GOODLATTE]. The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 98.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 98.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONCERNING THE CRISIS IN CAMBODIA

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 195) concerning the crisis in Cambodia, as amended.

The Clerk read as follows:

H. RES. 195

Whereas during the 1970s and 1980s Cambodia was wracked by political conflict, civil war, foreign invasion, protracted violence, and a genocide perpetrated by the Khmer Rouge from 1975 to 1979;

Whereas the Paris Agreement on a Comprehensive Political Settlement of the Cambodia Conflict led to the end of 2 decades of civil war and genocide in Cambodia, demonstrated the commitment of the Cambodian people to democracy and stability, and established a national constitution guaranteeing fundamental human rights;

Whereas the 1991 Paris Peace Accords set the stage for a process of political accommodation, national reconciliation, and the founding of a state based on democratic principles;

Whereas the international donor community contributed more than $3,000,000,000 in an effort to secure peace, democracy, and stability in Cambodia following the Paris Peace Accords and currently provides over 40 percent of the budget of the Cambodian Government;

Whereas the Cambodian people clearly demonstrated their support of democracy when over 93 percent of eligible Cambodian voters participated in United Nations sponsored elections in 1993;

Whereas since the 1993 elections, Cambodia has made significant progress, as evidenced by the decision last month of the Association of Southeast Asian Nations to extend membership to Cambodia;

Whereas notwithstanding the notable societal and economic progress since the elections of 1993, concern has increasingly been raised regarding the fragile state of democracy in Cambodia, in particular the quality of the judicial system, which has been described in a United Nations report as thoroughly corrupt; unsolved attacks in 1995 on officials of the Buddhist Liberal Democratic Party; and the unsolved murders of journalists and political activists;

Whereas tensions within the Cambodian Government have erupted into violence in recent months;

Whereas on March 30, 1997, 19 Cambodians were killed and more than 100 were wounded in a grenade attack on a peaceful political demonstration in Phnom Penh;

Whereas preliminary reports by eyewitnesses and reports in Phnom Penh to the FBI of witness intimidation indicate that forces loyal to Hun Sen were involved in the March 30, 1997, grenade attack;

Whereas in June 1997 fighting erupted in Phnom Penh between military and paramilitary forces loyal to First Prime Minister Prince Norodom Ranariddh and Second Prime Minister Hun Sen;

Whereas on July 5, 1997, Second Prime Minister Hun Sen deposed the First Prime Minister in a violent military coup d'etat;

Whereas at least several dozen opposition politicians have died in the custody of Hun Sen's forces, some after being tortured, and hundreds of others have been detained due to their political affiliation;

Whereas democracy and stability in Cambodia are threatened by the continued use of violence to resolve political differences;

Whereas internal Cambodian Government reports and investigations by United States drug enforcement agencies have reported that Hun Sen and his forces have received millions of dollars in financial and material support from major international drug dealers; that Hun Sen has publicly threatened violence against any Cambodian official who attempts to arrest alleged drug barons Teng Bumma and Mong Rethy; and in a July 23, 1997, press conference in Cambodia Teng Bunma admitted to providing $1,000,000 to Hun Sen to fund the ongoing coup and is providing his personal fleet of helicopters flown by Russian pilots to ferry Hun Sen's troops to suppress democratic forces in western Cambodia;

Whereas representatives of the United Nations and the Government of Thailand estimate at least 30,000 Cambodian refugees (including wounded civilians and malnourished children) displaced by the ongoing fighting are massed, without assistance, in northwest Cambodia near the border of Thailand;

Whereas the administration has suspended assistance to Cambodia for 1 month in response to the deteriorating situation in Cambodia; and

Whereas the Association of Southeast Asian Nations (ASEAN) has decided to delay indefinitely Cambodian membership: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the forcible assault upon the democratically elected Government of Cambodia is illegal and unacceptable;

(2) the recent events in Cambodia constitute a military coup against the duly elected democratic Government of Cambodia;

(3) the authorities in Cambodia should take immediate steps to halt all extralegal violence and to restore fully civil, political, and personal liberties to the Cambodian people, including freedom of the press, speech, and assembly, as well as the right to a democratically elected government;

(4) the United States should release the report by the Federal Bureau of Investigation concerning the March 30, 1997, grenade attack in Phnom Penh;

(5) the United States should declassify and release all reports by the United States Drug Enforcement Agency related to Cambodia that were compiled between 1994 and the present;

(6) the United States should press the authorities in Cambodia to investigate fully and impartially all abuses and extralegal actions that have occurred in Cambodia since July 4, 1997, and to bring to justice all those responsible for such abuses and extralegal actions;

(7) the administration should immediately invoke section 508 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), as it is required to do;

(8) the United States should urgently request an emergency meeting of the United Nations Security Council to consider all options to restore peace in Cambodia;

(9) the United States should encourage the Secretary General of the United Nations to expand the monitoring operations of the United Nations Special Representative on Human Rights in Cambodia;

(10) the United States and the Association of Southeast Asian Nations (ASEAN) should coordinate efforts to restore democracy, stability, and the rule of law in Cambodia;

(11) direct United States assistance to the Government of Cambodia should continue to be suspended until violence ends, a democratically elected government is reconstituted, necessary steps have been taken to ensure that the election scheduled for 1998 takes place in a free and fair manner, the military is depoliticized, and the judiciary is made independent;

(12) at least a substantial share of previously appropriated United States assistance to the Government of Cambodia should be redirected to provide humanitarian assistance to refugees and displaced persons in western Cambodia through nongovernmental agencies or through Cambodian civilian, political, or military forces that are opposing the coup; and

(13) the United States should call for an emergency meeting of the Donors' Consultative Group for Cambodia to encourage the suspension of assistance as part of a multilateral effort to encourage respect for democratic processes, constitutionalism, and the rule of law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. KIM] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution, House Resolution 195.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, earlier this month the world watched in disbelief as violence erupted once again in Cambodia. On July 5, Second Prime Minister Hun Sen and his forces loyal to him ousted the democratically elected First Prime Minister in a classic coup d'etat.

The chairman of our committee, the gentleman from New York [Mr. GILMAN], together with the ranking minority member, the gentleman from Indiana [Mr. HAMILTON], along with several of their colleagues, introduced House Resolution 195 to express our deep concern about the tragic events that have unfolded in Cambodia. On behalf of the gentleman from New York [Mr. GILMAN], the chairman of the committee, and I express my appreciation to the gentleman from Indiana [Mr. HAMILTON] as well as to the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from California [Mr. BERMAN], the chairman and ranking Democrat respectively on the Subcommittee on Asia and the Pacific, in seeing that this resolution was able to move to the floor.

The resolution expresses the sense of the House that the forcible change of the democratically elected government in Phnom Penh is illegal and unacceptable. The resolution also urges the administration to take specific decisive actions to return peace, stability and democracy to the Cambodian people.

We also call upon the Cambodian authorities from all political factions to halt the violence and extralegal actions, bring to justice those people responsible for the reported abuses and restore all personal and civic freedoms to the Cambodian people.

As the leader of the free world, the United States must take resolute action whenever and wherever tyranny threatens to destroy democracy. Cambodia has taken a regrettable, but hopefully temporary turn off the path to democracy, peace and prosperity. It must not stand idly by while liberty is threatened in Southeast Asia.

I urge my colleagues to support this timely and most important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations, and the gentleman from Indiana [Mr. HAMILTON], the Democratic ranking member, for introducing this timely measure concerning the deplorable crisis in Cambodia. I also would like to state that I am also an original cosponsor of this resolution.

Mr. Speaker, I wanted to join my colleagues of the Subcommittee on Asia and the Pacific, the chairman, the gentleman from Nebraska [Mr. BEREUTER], the gentleman from California [Mr. BERMAN], the gentleman from Iowa [Mr. LEACH], and the gentleman from Illinois [Mr. PORTER] as original cosponsors of this House Resolution 195. Like many of our colleagues in Congress and those watching around the world, I was shocked, appalled and saddened by the return to violence in Cambodia, a small nation still wracked by the scars of the Khmer Rouge genocidal killings of a million Cambodians and a civil war that raged for 2 decades.

As everyone knows, Mr. Speaker, the co-Prime Minister Mr. Hun Sen has ousted Prince Ranariddh from Cambodia's government, destroying the fragile democracy brokered by the 1991 Paris Peace Accords. The Paris peace plan, backed by the United States, China, the Soviet Union, Japan, Vietnam, the Asean countries, France, the United Kingdom, India, Australia and other members of the United Nations was designed to bring to an end the decades of conflict in Cambodia. Since the Paris agreement and the U.N. supervised elections in 1993, Cambodia has enjoyed relative peace and prosperity, with an economy expanding at a 7-percent rate.

During the last 6 years, the international community has invested more than $3 billion to bring about this peace and stability in Cambodia. The United States alone has contributed over $300 million, increasing foreign assistance to Cambodia to $38.4 million in 1997, with an administration request for $38.6 million for fiscal year 1998.

With the outbreak of violence again in Cambodia where scores of Cambodians have been killed, hundreds wounded and executions and torture widely used by Hun Sen's forces, it begs the question, Mr. Speaker, whether anything has changed in that country and whether the international community has achieved anything by the massive investment of time and resources in Cambodia.

Given the serious setbacks to Cambodia's democracy, I support the administration's freeze of United States assistance to Cambodia and applaud the cutoff and reduction in aid from Germany and Australia.

As to Japan, Cambodia's top donor of aid, I hope they eventually will heed our call for the international community to suspend assistance until the return of law and democratic government in Cambodia. With foreign aid paying for half of Cambodia's budget, cutting off assistance sends the strongest and most effective statement of objection to Hun Sen's military rule in Phnom Penh.

Likewise, the decision of the Asean nations to stop Cambodia's entry into Asean this month is an appropriate condemnation of Hun Sen's resort to violence.

I applaud Secretary of State Albright's appointment of Stephen Solarz as her special envoy to Cambodia and am confident that our former colleague, a greatly respected Asia-Pacific policy expert, shall work with Secretary of State Albright and the Asean ministers delegation to mediate a political solution to Cambodia's crisis.

Mr. Speaker, while I am hopeful that these efforts of the international community will help in bringing peace and stability back to Cambodia, ultimately the matter will have to be decided by the Cambodian people themselves. I would hope that we learned that from our tragic experience in Vietnam, which resulted from shortsighted United States foreign policy. In the end it is the will of the people in the country that will determine whether democracy is to prevail.

Mr. Speaker, I would ask my colleagues to adopt this worthy legislation before us, which calls for our Nation and the international community to support efforts leading to the resolution of peace, the rule of law and the democratic government in Cambodia.

Mr. Speaker, I reserve the balance of my time.

Mr. KIM. I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I rise in strong support of this resolution and thank the gentleman from New York [Mr. GILMAN] and the original cosponsors for introducing this important legislation.

Several months ago a number of Cambodian emigres, now my constituents, approached me with their concerns about Second Prime Minister Hun Sen and the fragility of democracy in Cambodia. When I asked the State Department about this, I was informed that in their view the allegations that had been brought to my attention against Mr. Sen were, quote, merely part of the partisan bickering between the parties. History, I am sad to say, has now proven my constituents correct, certainly more knowledgeable than those in the State Department who downplayed the concern.

This resolution makes it clear that the United States will not tolerate the violence that has hit Cambodia or the anti-democratic actions of Hun Sen. Mr. Sen's killing spree, directed against those who would oppose him or who would seek to bring to light his relations with the narcotic trade, has resulted in the murder of hundreds of Cambodians.

Last fall I had the privilege of meeting in San José, at home, a number of prominent Cambodian ministers, including the Minister of the Interior Hou Sok. The Minister of the Interior has now been murdered by Hun Sen forces because of the reporting that he did linking Sen to drug lords who are, it is reported, bankrolling the new regime and trying to turn Cambodia, to quote the Washington Post, into a narco state.

Mr. Speaker, the rampages in the killing fields of Cambodia have gone on for far too long. We must stand firm to prevent history from repeating itself yet again. I support the suspension of the assistance to Mr. Sen's regime, I support the call for the U.N. Security Action to take some action. I strongly support the calls for justice and democracy in Cambodia.

For the sake of the Minister of the Interior who has now been murdered and the others who have already died and for the victims of torture, I urge my colleagues to support this resolution. I hope this marks merely the first of many actions this Congress will take on this vital issue. We do know that the Cambodian people love peace and democracy. We must support their efforts, and we must not tolerate or entertain the notion that Hun Sen, who is the perpetrator of a coup, could play a part in democratic Cambodia any more than his predecessor Pol Pot could do so.

Mr. LEACH. Mr. Speaker. I rise in strong support of this important and timely resolution. I would just offer a few thoughts on the very disturbing recent events in Cambodia.

First, there should be no doubt the United States and the international community have important interests at stake in Cambodia. The United States helped lead the negotiations among the Permanent Five members of the U.N. Security Council leading up to the Cambodian peace agreement. We did so in order to create a legitimate and internationally recognized government, to reduce foreign interference, advance regional peace and stability, and avert the return to power of the genocidal Khmer Rouge. It remains in the U.S. interest to see that those objectives are met.

Second Prime Minister Hun Sen's coup d'etat in Cambodia—and there can be no doubt this was a coup, a sudden and decisive exercise of force in politics—and subsequent resort to murder, torture, and political intimidation has betrayed the hopes for peace and prosperity by the Cambodian people. It has undermined the interests of the United States and the broader international community in a politically and economically stable Cambodia in which fundamental human rights are respected. It has set back Cambodia's efforts to join ASEAN and hindered its re-integration into the world community. Vietnam's role, if any, in this affair may be troubling for regional stability. The coup also raises the specter of civil war. Tragically, it may also very well help resuscitate the Khmer Rouge at a moment of maximum peril for the movement, when it appeared that its collapse was imminent, and that Pol Pot and other senior leaders—evidently now under house arrest—might be turned over to an international tribunal for crimes against humanity.

Hence it is paramount that the United States, ASEAN, Japan, and other parties to the Paris accords promptly engage in a full court press to make Hun Sen—and other leaders within the CPP—understand that no Cambodian Government will not receive significant international support if it uses political intimidation and violence against its opponents. Until very recently, I have been less than impressed by the vigor and determination that the administration has brought to bear on this issue.

Hun Sen and his colleagues in the CPP, as well as Prince Ranariddh and his supporters, need to understand that their mutual miscalculations and zero-sum struggle for political supremacy has driven a stake in the heart of a Cambodia's economic recovery and reconstruction.

Prior to the recent deterioration in the political and security environment, Cambodia's prospects were brighter than at any time in the last 25 years. But unless the political process created by the Paris accords is sustained, marcroeconomic instability, inflation, heightened levels of already widespread corruption, and a substantial decrease in aid from bilateral donors as well as the international financial institutions are likely to result. Without foreign external assistance, foreign investment, or significant revenues from tourism, Cambodia's already difficult external debt situation will be exacerbated. In short, the Cambodian economy will be seriously set back. These consequences need to be very carefully considered by the Hun Sen and his colleagues in Phnom Penh.

The deteriorating situation in Cambodia has occasioned much criticism of the U.N. peacekeeping effort in Cambodia. Some of this criticism is well-founded, but much of it is not. Perhaps the biggest flaw in the U.N. effort was the failure to assert control over the security apparatus of Hun Sen in the run up to the election. As to the failure to disarm the parties, I would remind Members that disarmament and demobilization did not occur because the Khmer Rouge did not live up to their obligations. There was no support from any of the countries providing peacekeeping troops for a U.N. mandate that encompassed forcible disarmament. There was and is no NATO-like coalition that could accomplish this task. And while this Member has long favored a modest U.N. standing force to fulfill some of these objectives, such a force did not then and does not now exist.

But there is also much to be proud of in what was then an unprecedented peacekeeping effort. Over 350,000 refugees were repatriated. Over five million Cambodians were registered to vote. Despite Khmer Rouge attempts to derail the election, a secret ballot was held in which the overwhelming majority of Cambodians exercised their right to vote. In the wake of the election an active opposition press sprung up, over 100 foreign and indigenous NGO's operated freely throughout the country, and the once-feared Khmer Rouge gradually diminished as a military force and began to turn in on itself. Despite tremendous poverty, and serious human rights and democracy concerns, there can be no doubt the people of Cambodia were moving forward toward better days and a better life.

The egregious failure of Cambodia's leaders to pursue the national interest instead of self-interest, most particularly on the part of Hun Sen, severely jeopardizes the hopes and dreams of the Cambodian people. The international community needs to act now to prevent a fait accompli, to use its very substantial diplomatic and economic leverage to stave off the total collapse of prospects for a peaceful and prosperous Cambodia. After 25 years of civil war, genocide, and national destruction, the people of Cambodia deserve better.

Mr. PORTER. Mr. Speaker, I rise today to express my strong support for the resolution offered by the gentleman from New York, [Mr. GILMAN] and to urge all Members to give this matter their attention. As an original cosponsor of House Resolution 195, I am pleased that the House has moved quickly to consider this resolution and to take a firm and principled position regarding the violent, anti-democratic coup which recently took place in Cambodia.

In April of this year, I sent a letter to Secretary of State Madeleine Albright expressing grave concerns about events that were going on in Cambodia at that time. A copy of this letter follows these remarks. Second Prime Minister Hun Sen, who gained his position in the Cambodian Government not through elections but by threatening violence, appeared to be orchestrating a parliamentary coup by attempting to split the governing coalition which had won the U.N.-sponsored 1993 elections. This letter followed an earlier one which seven of my colleagues and I sent to the co-prime ministers after the tragic March 30th grenade attack on Sam Rainsy and the Khmer National Party during a peaceful demonstration calling for judicial reform. It was my hope that Secretary Albright would visit Cambodia during her trip to the region and, in her trademark manner, "tell it like it is" when she met with Hun Sen and First Prime Minister Ranariddh, urging them to renounce political violence and work together to prepare for democratic elections in 1998.

Unfortunately, Secretary Albright's trip to Cambodia never happened and, just days after she had been scheduled to visit, Cambodia again plunged into armed conflict. This country, which has suffered so much, went from euphoria over reports that Pol Pot had been captured and might soon be brought to trial, to the despair of another strongman taking power through illegitimate means. Cambodia's fragile democracy was being dismantled by armed thugs and political assassination. While this is an old story for the people of Cambodia, we had hoped it would be one that remained in their past.

The United States and the international community have been implicit in allowing this latest tragedy. In 1993, the royalist-led democratic coalition decisively won the first elections held in Cambodia, soundly defeating Hun Sen's formerly communist Cambodian People's Party. These elections were marked by high voter turnout, despite the deadly political violence which preceded them. The people of Cambodia spoke out strongly in favor of democratic self-government, but the international community denied their aspirations by allowing the loser of these elections—Hun Sen and the CPP—to threaten and bully its way into maintaining a large share of power in the new government. I believe this decision was the root cause of this latest assault on Cambodian democracy because it sent the message to Hun Sen that we are not willing to back up democracy in the face of force, and it was just a matter of time before he could discard with impunity the democratic structures we were building.

Now, our Government is preparing to make the same mistake again. Since 1993, we have allowed Hun Sen to build a legacy of intimidation and corruption, and to strengthen his hold on power, by ignoring belligerent and antidemocratic tendencies on his part. Our administration has refused to call Hun Sen's power grab by its proper name—a coup. They have suspended assistance to Cambodia for 30 days to sort things out, but have not yet tied resumption of assistance to the restoration of the legitimate government, as the law would if this had been declared a coup.

I welcomed Secretary Albright's strong words to ASEAN over the weekend and I hope that this signals a firm resolve to stand with and for the people and the democratic forces in Cambodia. That is certainly the intention of the Congress by passing this resolution today. This resolution lays out a fair and flexible approach to this difficult situation by calling for actions which send the right message not only to Hun Sen, but also to those others who would choose violence and thuggery over democracy and the rule of law. I want to especially commend my friend, the chairman of the International Relations Committee, for including in this resolution a statement concerning the redirection of assistance away from the Cambodian Government to those who are in need as a result of this conflict. This is certainly the least our Government can do after failing the Cambodian people so miserably up to this point.

I believe that we have a duty to the Cambodian people, perhaps like no others, as a result of our involvement in so much that has gone wrong in the recent history of the Cambodian state. We owe the people of Cambodia our moral support and strength. I am hopeful that 1998 will bring free and fair elections where the Cambodian people can again express their longing for democracy, freedom, and a brighter future. I am also hopeful that the international community, led by the United States, will give them this opportunity and respect their choices by defending them from the threat of violence, rather than giving in to it.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 23, 1997.
Secretary MADELEINE ALBRIGHT,
U.S. Department of State, Washington, DC.

DEAR MADELEINE: I am writing to express my grave concerns about recent and emerging events in Cambodia, and to urge that the United States take all appropriate actions to ensure that the situation there does not deteriorate further.

It is my understanding that the situation in Phnom Penh is extremely tense at this time, and that Hun Sen seems to be attempting to orchestrate some sort of parliamentary coup in an effort to wrest control of the Cambodian government from the present coalition. It is also my understanding that parliamentarians from the FUNCINPEC coalition are currently in hiding at the home of First Prime Minister H.R.H. Prince Ranariddh, and that there are credible reports that FUNCINPEC members have been kidnapped by military units loyal to Hun Sen.

If accurate, such developments are extremely disturbing, particularly in light of the recent violent attack on Sam Rainsy during a Khmer National Party rally. It would appear that certain parties are refusing to maintain their commitments to the democratic political process, and thereby seriously jeopardizing the very future of the Cambodian nation. I urge the administration in the strongest possible terms to call on the parties to renounce political violence and manipulation, and to use peaceful, democratic means to settle any disputes.

The United States has invested a great deal in the retrieval of the Cambodian state. Should events continue to unfold as they are presently doing, our efforts would most likely be completely lost. We cannot afford, from a financial or moral perspective, to allow this to happen. I thank you for your attention to this extremely urgent matter, and I would appreciate your keeping me apprised of events and U.S. actions in the wake of this volatile situation.

Sincerely,
JOHN EDWARD PORTER,
Member of Congress.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers, so I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and agree to the resolution, House Resolution 195, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

DEATH ON THE HIGH SEAS ACT

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2005) to amend title 49, United States Code, to clarify the application of the act popularly known as the Death on the High Seas Act to aviation incidents, as amended.

The Clerk read as follows:

H.R. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION AMENDMENT

(a) IN GENERAL.—Section 40120(a) of title 49, United States Code, is amended by inserting "(including the Act entitled 'An Act relating to the maintenance of actions for death on the high seas and other navigable waters', approved March 30, 1920, commonly known as the Death on the High Seas Act (46 U.S.C. App. 761–767; 41 Stat. 537–538))" after "United States".

(b) APPLICABILITY.—The amendment made by subsection (a) applies to civil actions commenced after the date of the enactment of this Act and to civil actions that are not adjudicated by a court of original jurisdiction or settled on or before such date of enactment.

SEC. 2. FAMILY ASSISTANCE TASK FORCE REPORT.

Section 704(c) of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 41113 note; 110 Stat. 3269) is amended by striking "model plan" and inserting "guidelines".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee [Mr. DUNCAN] and the gentleman from Illinois [Mr. LIPINSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this legislation was introduced on June 20 by our very distinguished colleague from Pennsylvania [Mr. MCDADE], along with 40 bipartisan colleagues. The gentleman from Pennsylvania [Mr. MCDADE] introduced this legislation in response to the TWA 800 tragedy last year.

Let me just add that the gentleman from Pennsylvania [Mr. MCDADE] has been reelected time and time again because he really cares about his constituents and tries to help them in every way that he can. This legislation is another example of that because many young people from his district died tragically in the TWA 800 crash. But this legislation will help people all over this Nation, and it could help families years from now if, God forbid, we have another similar crash in the ocean.

Mr. Speaker, this legislation is designed simply to clarify that application of the Death on the High Seas Act to aviation accidents. This issue arises because the Supreme Court last year decided in the case of Zuckerman versus Korean Airlines that the Death on the High Seas Act applies to lawsuits that arise out of an aircraft crash in the ocean more than 3 miles from land. The effect of this decision is to treat families differently depending on whether their relative died in an aircraft that crashed into the ocean or one that crashed on land. I think it is fair to say almost no one in the aviation or legal communities believed this Death on the High Seas Act would apply to the TWA crash until the recent decision in the Zuckerman case.

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However, as a matter of simple fairness and equity, a 1920 maritime shipping law should not apply to the victims of the TWA crash, and this is the injustice that this legislation will correct if we pass this bill.

As of now, if we do not enact the bill of the gentleman from Pennsylvania [Mr. MCDADE], if a plane crashes into the ocean, the Death on the High Seas Act applies. This act denies families the ability to seek compensation in a court of law for the loss of companionship of a loved one, their relatives' pain and suffering, or punitive damages. Basically, they are limited to recovering only lost wages.

Thanks to the Zuckerman decision and this law, it means that parents will receive almost no compensation in the death of a child. On the other hand, if a plane crashes on land, State tort laws apply. These would permit the award of nonpecuniary damages such as loss of companionship and pain and suffering.

Simply put, Mr. Speaker, H.R. 2005 amends the Federal Aviation Act so the Death on the High Seas Act does not apply to airline crashes. It would accomplish this by specifically stating that the Death on the High Seas Act is one of the navigation and shipping laws that do not apply to aircraft.

With this legislation, we will ensure that all families will be treated the same, regardless of whether a plane crashes into the ocean or onto land.

Again, Mr. Speaker, let me thank the gentleman from Pennsylvania [Mr. McDADE] for his very swift response in introducing this legislation, which will help a number of constituents in his district, and others across the Nation who were devastated by the loss of their loved ones in the TWA Flight 800 tragedy.

Let me also thank the distinguished chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his outstanding leadership on this legislation, as well as the ranking member, the gentleman from Minnesota [Mr. OBERSTAR], and especially my good friend, the gentleman from Illinois [Mr. LIPINSKI], the ranking member of the Subcommittee on Aviation.

This is a good bill, and I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 10, 1997, the Subcommittee on Aviation held a very emotional hearing regarding TWA Flight 800. Family members of the victims were there to tell the stories of their loved ones and how, 1 year later, they are still struggling with their loss. The family members' main objective that day was to bring to our attention the gross inadequacy that is created when the Death on the High Seas Act is applied to aviation accidents.

As Chairman DUNCAN said, if a plane crashes into the ocean more than 3 miles from land, as did TWA Flight 800, the Death on the High Seas Act applies. This act denies families the ability to win noneconomic damages in a lawsuit. This means that a family member could not be compensated, for example, for the loss of companionship of a loved one; parents could not be compensated for the loss of their teenaged sons and daughters; sons and daughters could not be compensated for the loss of their elderly parents. However, if a plane crashed on land, State tort law or the Warsaw Convention would apply. Both permit the award of noneconomic damages.

The effect of applying the Death on the High Seas Act to aviation accidents is a threat to families, definitely depending on whether their loved ones died in an air crash into the sea or one that crashed on land. This is obviously absurd and unfair. The value of an individual's life does not change depending on where the plane happens to come down. H.R. 2005, as amended, intends to correct this critical flaw of the Death on the High Seas Act.

First, the bill simply adds the act to the list of shipping laws that do not apply to aviation.

Second, the bill makes this change applicable to all cases still pending in the lower courts, which includes the family members of the victims of TWA Flight 800.

I strongly urge all Members to support this bill. It is a simple piece of legislation that will fix the harmful inadequacies that result when the Death on the High Seas Act is applied to aviation disasters.

I want to congratulate the gentleman from Tennessee [Mr. DUNCAN] for spearheading this bill through the subcommittee and the full committee, and I want to state once again, it is an honor and privilege to work with him. His cooperation is always outstanding.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Illinois [Mr. LIPINSKI] again for his very kind remarks. I do not know of any other subcommittee in the entire Congress where the chairman and the ranking member have a better relationship than do the gentleman from Illinois [Mr. LIPINSKI] and I, and I know that I treasure that relationship personally.

Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from Pennsylvania [Mr. McDADE], author of this important legislation.

Mr. McDADE. Mr. Speaker, I rise in strong support of H.R. 2005, the Airline Disaster Relief Act. I want to thank my friends, Chairman SHUSTER, subcommittee Chairman DUNCAN, the ranking members, the gentleman from Minnesota, Mr. OBERSTAR, and the gentleman from Illinois, Mr. LIPINSKI, for their hard work and leadership in bringing this bill to the floor.

The measure was introduced by myself and a 40-member bipartisan coalition only 26 working days ago. The Subcommittee on Transportation and Infrastructure's swift consideration of the measure is greatly appreciated by my cosponsors, by me, and, most of all, by the families who had lost loved ones in TWA Flight 800.

Today, in my opinion, we are doing what the people sent us here to do; that is, to craft laws of pressing and immediate importance which justly empower the people from which this body's power is derived. This bill, Mr. Speaker, fulfills this mission.

On July 17, 1996, 230 people lost their lives in the tragic crash of TWA Flight 800. Included among them were 21 people from Montoursville, PA, a small community in my district. The people of Montoursville were brutally impacted by this air disaster, facing the sudden loss of 16 high school students, members of the French Club, and five chaperones, who were on their way to France to enrich their educational experience.

For the families of the victims aboard TWA Flight 800, the tragedy was made even worse by the application of an antiquated 1920 maritime law, which my colleagues have referred to, known as the Death on the High Seas Act. The act would prevent the families of TWA victims from receiving just compensation, which they would be entitled to under State law.

Ironically, the Death on the High Seas Act was passed in 1920 to help widows and orphans of sailors who were lost at sea but limits the compensation to income. The effect of that arcane statute is that claimants must appear before a district judge without the benefit of a jury and can receive compensation only for loss of income, not companionship, not pain and suffering, none of the other tort applications that exist in the State courts.

Today, when State tort laws have progressed to a point where value is placed on human life, the application of this skewed statute is inequity, unfair and inhumane. This is particularly true in the death of children, for they are generally not economic providers for their families, and thus, family members would receive virtually no compensation for the loss of a loved one who is not a wage earner.

The Death on the High Seas Act is invoked when a disaster occurs 3 miles out to sea, the old 1 league measurement from antiquity. No parent ought to be told by our Nation's legal system that longitude and latitude will determine the value of their children or determine their rights in a court of law.

For this reason, I introduced this bill, which will negate the application of the Death on the High Seas Act. It will amend the Federal Aviation Act so airline disasters at sea, as my friend, the gentleman from Illinois [Mr. LIPINSKI], just said, are treated the same as incidents on land.

The gross injustice of the Death on the High Seas Act must be changed. No law should make a loved one valueless because an aviation disaster occurs at sea and not on land. Where a plane crashed ought not to dictate a person's rights in a court of law.

Both the Supreme Court and the White House Commission on Aviation Safety and Security recommended that the Congress correct these inequities. Additionally, the CBO, in examining this legislation, points out it does not have any budgetary impact.

Mr. Speaker, it is time to bring justice to the application of Federal laws which regulate airline disaster claims. Passage of this act will be an important step in achieving this objective.

I want to thank again the distinguished chairman of the subcommittee, the gentleman from Tennessee [Mr. DUNCAN], one of the ablest Members of this body, and my friend, the gentleman from Illinois [Mr. LIPINSKI], for their cooperation.

I urge Members to overwhelmingly approve this bill.

Mr. LIPINSKI. Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me conclude by just saying that not only will this bill make changes that most people thought were in effect already, but it will correct potentially a great injustice that would have been done to the families of these victims of the TWA Flight 800 crash and change a law that should have been changed many years ago. This will potentially help families for many years to come.

This is good legislation. As the gentleman from Pennsylvania [Mr. MCDADE] said, I likewise would like to urge our colleagues to pass this legislation overwhelmingly.

Mr. ROTHMAN. Mr. Speaker, last July 17, 230 people died when TWA flight 800 exploded 9 miles off the coast of Long Island. This was and continues to be a national tragedy. For almost 1 year, the families of those who perished have had to deal with more than the pain of losing a loved one. They endured sitting for hours after the crash, waiting for the final passenger list that would confirm their worst fears. They waited anxiously for any indication that someone might have survived the fiery crash. To this day they continue to wait for an explanation for the disaster. Until questions begin to be answered, it is impossible to complete the healing process.

This tragedy is made all the worse by an outdated law that prevents survivors from suing in State court, in front of a jury, for damages like pain and suffering and loss of companionship that are traditionally available under the tort law system. Had the plane crashed seconds earlier—when the plane was only 2 miles off of New York's coast—this would not be an issue. However, at 9 miles out, the 1920 "Death on the High Seas Act" governs. This outdated law dictates that lawsuits arising from aviation accidents that occur more than 3 miles off of the United States shoreline be brought in Admiralty Court and limits recovery of damages for * * * survivors to lost income only. While this may have been an appropriate law 77 years ago, in 1997 it is nothing short of outrageous today.

A constituent of mine, Carol Ziemkiewicz, lost her daughter, Jill, on that flight. Jill's lifelong dream of becoming a flight attendant became a reality when she completed her training at TWA and began her work on TWA domestic flights. After only 1½ months Jill was assigned to her first international flight. She would be going to Paris, where she was eager to visit the Garden of Versailles. An hour before TWA flight 800 left to take Jill to Paris, she called her mother and summed up her anticipation—her last words to her were "I'm psyched."

Jill was only 23 years old. Her life, along with everyone else on the plane, was ended too early. But the 230 people who died in that crash were not the only victims on that fateful night. Those victims left behind families, friends, and loved ones; people who continue to live but whose lives will never be the same because of this tragedy.

I am a proud cosponsor of H.R. 2005. H.R. 2005 will help to ensure that Carol Ziemkiewicz and the hundreds of other surviving family members like her know that the lives of their loved ones had value—that what happened to them was a tragedy and we all must do what we can to ease their pain and suffering. They have been through enough. I urge my colleagues to support H.R. 2005.

Mrs. ROUKEMA. Mr. Speaker, as an original cosponsor of H.R. 2005, the Airline Disaster Relief Act, I want to commend my colleague, Congressman MCDADE, for introducing this important bill. This is must-pass legislation that will ensure equitable treatment for those families who suffer the agonizing loss of a loved one resulting from international aviation disasters.

Currently, various laws exist which impact the ability of family members to seek retribution for the death of a loved one. Specifically, in 1920, the Disaster on the High Seas Act was enacted for the immediate family of sailors lost at sea to obtain compensation for lost income. This act is applicable when the aviation accidents occurs more than 3 miles from the shoreline. Because TWA 800 crashed 9 miles off the Long Island coast, the Supreme Court has ruled, in similar cases, that the High Seas Act would apply.

What that means for family members of the TWA 800 air disaster is that they will only be allowed to receive minimal compensation from TWA because this antiquated law restricts compensation to loss of income. Under the 1920 act, plaintiffs are not entitled to damages for pain and suffering, loss of companionship, or loss to society. In fact, those families that lost children, like the 16 students from Montoursville High School in Montoursville, PA, who were participating in a long-awaited French Club trip to France, would receive almost no compensation because children do not contribute any income to the family. Senior citizens fall into the same category as children. Moreover, victims' family members would be restricted from having a jury trial and would have to present their claim to a judge under maritime law.

Justice Scalia stated that the Supreme Court feels the law is antiquated but it's up to Congress to change it. Furthermore, the White House Commission on Aviation Safety and Security has stated:

> Certain statutes and international treaties, established 50 years ago, historically have not provided equitable treatment for families of passengers involved in international aviation disasters. Specifically, the Death on the High Seas Act of 1920, although designed to aid families of victims of maritime disasters, have inhibited the ability of family members of aviation disasters to obtain fair compensation.

At a time when so many Americans are traveling abroad, either taking part in the global economy or seeing the sights of other country's cultures, it is important that Americans know that their court system is accessible to them should the unthinkable happen.

Over 200 families lost loved ones on TWA flight 800. It is unconscionable that those families will not be provided the same access and compensation available to the families involved in the Value-Jet tragedy. This despite the fact that both disasters happened roughly the same time after take off and the same distance from the respective airports. The only difference being that TWA 800 was past the 3-mile limit allowed by the 1920 act. Finally, it is interesting to note that this 1920 act was designed to address maritime disasters and was enacted at a time when there were no transoceanic flights. However, it is being applied to circumstances relating to airline disasters.

I would like to take this opportunity to pay tribute to two of my constituents, Robert Miller and his wife of 30 years Betty were two of the 230 people aboard flight TWA 800. Robert Miller had been Tenafly's popular and affable borough administrator for almost 5 years, and his wife was a school teacher in Dumont. While this legislation will not ease the pain of their loss, it will provide their daughter the same access and compensation available to other families involved in similar tragedies.

In addition, I would like to commend one of my constituents who has worked hard to see that this legislation received the attention it so deserves. Mr. Hans Ephraimson-Abt. lost a 23-year-old daughter when a Soviet fighter plane disabled Korean Airline Flight 007. Since that personal tragedy, Mr. Ephraimson has devoted himself to assisting other families involved in similar tragedies. He has served as the chairman of the American Association for Families of KAL 007 Victims, a support group that has extended its activities to assist families involved in other air accidents to cope better with their tragedies' aftermath.

He has been an active participant in the efforts to improve after-crisis management, as well as to update and modernize laws and treaties. In that regard, yesterday, Mr. Ephraimson testified before the U.S. Department of Transportation's Task Force on Assistance to Families of Aviation Disasters. Year after year he has continued to fight for the rights and needs of families who have suffered as a result of airline disasters. He has pushed for comprehensive regulations, and to improve domestic and international civil aviation.

It is through the hard work and diligence of people like Mr. Ephraimson that we have learned of the need to change the provisions of the 1920 act to make it more applicable to today's modern disasters. He and others like him are to be commended for their unselfish dedication to making all of our lives better and safer, and he is to be commended for his tireless dedication to helping ease the pain of those that have suffered a family tragedy due to an airline disaster.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from Tennessee [Mr. DUNCAN] that the House suspend the rules and pass the bill, H.R. 2005, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the 'Death on the High Seas Act' to aviation incidents, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 2005, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CONCERNING THE SITUATION BETWEEN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA AND THE REPUBLIC OF KOREA

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 74) concerning the situation between the Democratic People's Republic of Korea and the Republic of Korea, as amended.

The Clerk read as follows:

H. CON. RES. 74

Whereas the Korean demilitarized zone remains extremely tense 44 years after the ending of the Korean War, as evidenced most recently by a mortar attack and exchange of gunfire on July 17, 1997;

Whereas with more than 1,000,000 soldiers in the Democratic People's Republic of Korea and 600,000 soldiers in the Republic of Korea, both militaries are on a constant high alert;

Whereas the threat of North-South military confrontation between the Democratic People's Republic of Korea and the Republic of Korea is of grave concern to the United States;

Whereas 37,000 United States troops are stationed on the Korean Peninsula;

Whereas the United States and the Republic of Korea have long had a close relationship based on mutual respect, shared security goals, and shared interests;

Whereas as a result of an invitation extended last year by President Clinton and Republic of Korea President Kim Young Sam, four-party preparatory talks involving the United States, the Republic of Korea, the Democratic People's Republic of Korea, and the People's Republic of China are likely to begin in August 1997 to determine timing, venue, level of representation, and broad agenda categories for forthcoming talks;

Whereas the participation of China is integral to the success of any agreement; and

Whereas it will be impossible to resolve the conflict on the Korean Peninsula and fashion a lasting solution unless the Democratic People's Republic of Korea and the Republic of Korea engage in direct dialogue, without depending on other parties to act as intermediaries: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports United States troops who have faithfully served the interests of the United States by ensuring stability on the Korean Peninsula;

(2) supports our Republic of Korea allies who have made good faith efforts to resolve this conflict; and

(3) supports four-way talks between the United States, China, the Republic of Korea, and the Democratic People's Republic of Korea to peacefully and permanently resolve the conflict between the two Koreas.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. KIM] and the gentleman from Indiana [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KIM. Mr. Speaker, the Korean peninsula remains one of the world's most heavily militarized regions, a hot spot of potential confrontation that has endured for more than 40 years. The mortar attacks and exchange of gunfire between the North and South Korean forces that occurred on July 17, 1997, highlight the extremely tense situation that exists every day along the so-called Demilitarized Zone.

As demonstrated by the presence of 37,000 American troops on the Korean peninsula, the United States is formally committed to maintaining stability and security in the region. Our strong support for the four-party talks is a further proof that the United States Government wants to see improved relations between North and South Korea, which will hopefully bring a final and lasting peace to the peninsula.

The distinguished gentleman from Florida [Mr. HASTINGS] has introduced a timely and well-fashioned concurrent resolution that reemphasizes the support of the Congress for our brave service men and women stationed in the peninsula and for continued diplomatic efforts to bring the two parties together to resolve the conflict. House Concurrent Resolution 74 also, quite properly, recognizes our South Korean allies for their good-faith efforts at achieving peace.

I fully support the passage of House Concurrent Resolution 74 and commend the gentleman from Florida [Mr. HASTINGS] for his leadership in authorizing this resolution.

I thank the gentleman from Nebraska [Mr. BEREUTER], the chairman of the Subcommittee on Asia and the Pacific, for his prompt consideration of this measure in his subcommittee, and the ranking Democrat on the full committee, the gentleman from Indiana [Mr. HAMILTON], and on the subcommittee, the gentleman from California [Mr. BERMAN], for their cooperation in advancing it to this point.

Mr. Speaker, I reserve the balance of my time.

□ 1530

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the resolution.

First I want to express my appreciation to the gentleman from Florida who I think was the original cosponsor or the original sponsor of this resolution, along with the gentleman from Nebraska [Mr. BEREUTER]. The Korean peninsula, I think, is the most dangerous place in the world today. Yet American troops working in close partnership with our South Korean friends and allies have helped maintain the peace there for over 44 years. So all of us owe a debt of gratitude to those who gave their lives during the Korean war and to those who stand guard today along the demilitarized zone separating North and South Korea.

This resolution gives voice to our gratitude, expresses our strong backing for both American troops in Korea and our stalwart South Korean allies. The resolution also supports the four-way talks between the United States, China, the Republic of Korea, and the democratic People's Republic of Korea to peacefully and permanently resolve the conflict between the two Koreas. I think this legislation deserves our support. I ask my colleagues to vote "yes" on the resolution.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. HASTINGS], the chief sponsor of this resolution.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

I would like to thank the gentleman from California [Mr. KIM], the gentleman from Nebraska [Mr. BEREUTER], my friend and colleague, and the gentleman from California [Mr. BERMAN] as well for their expeditious handling of this matter in the Subcommittee on Asia and the Pacific.

I especially point to the gentleman from California [Mr. KIM], my good friend, for this resolution was conceived by me when the gentleman from California [Mr. KIM] and myself and other Members of the House, along with the Speaker of the House, visited South Korea. It was a moving experience to go there and to go there with the gentleman from California [Mr. KIM], who obviously understands and understood the dynamics in that area better than any of us could.

It really is just a sense of the Congress expressing our support for and encouragement of four-party talks between the United States, South Korea, North Korea, and China. Since the Korean peninsula was divided at the end of World War II, between the North and South, repeated attempts at reunification have failed. The 1950 through 1953 Korean war ended in an armistice agreement which altered hostilities but left the two sides technically at war, divided by a heavily fortified demilitarized zone that the gentleman from California [Mr. KIM] and myself and others had an opportunity to visit recently.

Since 1970 there have been several attempts to replace the 1953 armistice agreement with a peace deal that could lead to a unified Korean peninsula. But as you know, Mr. Speaker, these attempts have been fragile if not precarious, yet at times the dialogue between North and South Korea has produced cooperation in various forms such as cultural exchanges, a unified sports team, reunions of separated families and limited trade.

With this resolution, it is our hope that the nothing ventured nothing gained outlook prevails at the four-party talks initiated by the United States and our stalwart ally, South Korea. Without the participation of each and every one of the invited parties, these talks will become moot. This resolution loudly and clearly states that the U.S. Congress strongly encourages all parties to come to the table and stay there until a formal peace treaty is developed.

For its part, North Korea is already plagued by food shortages and economic mismanagement. Most nations avoid the North because its leaders can be and at most times are unreliable. It has no legal system. Its roads and railways are crumbling. Its work force is starving and its huge military is a constant threat to peace and stability in that region.

By encouraging these four-party talks, our goal is to alleviate the immense threat that a dangerous, unstable region poses to our ally, South Korea. Yet we must do so in a manner which does not necessarily condemn North Korea. Rather, our solution must relieve the pain and suffering in the region by replacing it with peace and security.

Forty-four years after the ending of the Korean war, the border between the two countries remains extremely tense. The border remains extremely tense as evidenced by the recent mortar attack and gunfire exchange on July 17. Last August, when the gentleman from California [Mr. KIM] and others and I traveled to South Korea with Speaker GINGRICH, we stood on that border and visited our troops stationed at the demilitarized zone.

This amendment is also about American soldiers and South Korean soldiers. It is an expression of support for the men and women stationed over there with the hope that these four-party talks will lead to a unified Korea, eliminating the need for their deployment.

Reunification is a goal claimed by both North and South Korea. Let us encourage this ambition by making reunification a sincere goal of our foreign policy. I urge all of our colleagues to support this resolution. I thank the gentleman, once again, for yielding me the time.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

Mr. Speaker, I rise this afternoon in strong support of the resolution introduced by our colleague from Florida [Mr. HASTINGS], which supports our U.S. troops who faithfully served the interests of the United States by ensuring stability on the Korean peninsula and the four-way talks between the United States, China, South Korea and North Korea.

Mr. Speaker, I represent a very unique American community. The American citizens of Guam live in the Asia-Pacific region, and Guam is the closest American community to the events occurring on the Korean peninsula and would be a crucial part of any effort to deal with any hostilities on the peninsula.

Mr. Speaker, as part of my ongoing work in the Committee on National Security, I have traveled to Korea for onsite briefings and witnessed firsthand our challenge there. As America remains engaged in the effort to peacefully settle the conflict between North and South Korea, we must commend and vigorously support the recent efforts to begin the four-way talks. These talks will contribute to greater security in the Asia-Pacific region and are of tremendous importance to Guam and the rest of the United States.

Mr. Speaker, this House has taken many steps in directing United States policy in Korea. At a time of severe starvation and growing internal strife in North Korea, we must resolve to act on our commitments and demonstrate international leadership.

Passage of this resolution will again reassure Koreans that we in the United States are working to establish a concrete and lasting peace on the Korean peninsula by living up to our responsibility as a signer of the armistice agreement. As we support the resolution, let us not forget the distinguished service of our men and women in uniform who have been the main force for peace in that part of the world.

I urge this body to pass this very important resolution.

Mr. KIM. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROYCE], a member of the Subcommittee on Asia and the Pacific, my good friend.

Mr. ROYCE. Mr. Speaker, I want to thank my colleague, the gentleman from California [Mr. KIM], for yielding to me this time. I want to commend the gentleman from Florida [Mr. HASTINGS] for offering this resolution.

This resolution makes an important statement that the House of Representatives supports our troops on the Korean peninsula. We support our friends and allies in the Republic of Korea and we support the proposed North-South four-party talks that at long last seem to be moving forward.

We are all hopeful that the recent agreement of the North Korean Government to sit down and agree to the final details of four-party talks will lead to substantive negotiations. Now more than ever, it is important to have such channels of communication open to discuss the future of North Korea, and future relations between the North and South. And I really want to take this opportunity to urge all of my colleagues to support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I rise to support House Concurrent Resolution 74, as introduced by my good friend and colleague, the gentleman from Florida [Mr. HASTINGS].

Mr. Speaker, after that terrible conflict commonly known as the Korean war, for some 44 years now our Nation has had to maintain an effective presence in the demilitarized zone that is separating North Korea from South Korea. Even until now, Mr. Speaker, the crisis in the Korean Peninsula remains one of the most tense in the world. North Korea has an army of over 1 million soldiers, compared to South Korea's 600,000 sailors and soldiers.

Mr. Speaker, history has demonstrated several times that all the bullets, the guns, the cannons, and all other manner of military weapons are not worth a dime if the country cannot feed its soldiers. Recent reports indicate, Mr. Speaker, that there is currently a shortfall of approximately 2.3

million tons of grain in North Korea. What this simply means is that the North Korean people are starving and there is serious concern if the crisis has been alleviated or do we expect more problems in the future.

Mr. Speaker, I believe it is only proper that the People's Republic of China, our Nation, and the two Koreas should engage in meaningful dialog.

Mr. Speaker, I have been to South Korea, and I was very impressed with its economic and political developments in recent years. With South Korea's development in technology and industrialization, and with the tremendous potential of resources available to North Korea, a unified Korea could really become a great nation to provide for the needs of some 60 million people living in both North and South Korea.

I want to commend the gentleman from California [Mr. KIM], my good friend, for also being a part of the management of this legislation. I urge my colleagues to support this piece of legislation.

Mr. HAMILTON. Mr. Speaker, I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 74, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING CONCERN OVER VIOLENCE IN REPUBLIC OF CONGO

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 175) expressing concern over the outbreak of violence in the Republic of Congo and the resulting threat to scheduled elections and constitutional government in that country, as amended.

The Clerk read as follows:

H. RES. 175

Whereas President Pascal Lissouba defeated former President Denis Sassou-Nguesso in a 1992 election that was determined to be free and fair;

Whereas losing candidates raised questions concerning the results of the 1993 legislative election and used those concerns to cast doubt on the entire democratic process in the Republic of Congo and as the rationale for creating private militias;

Whereas thousands of citizens of the Republic of Congo have been killed in intermittent fighting between Government soldiers and private militiamen since 1993;

Whereas there are concerns about the unfinished census and resulting electoral list to be used in the scheduled July 27 election;

Whereas the recent fighting resulted from the Government's attempt to disarm former President Sassou-Nguesso's "Cobra" militia in advance of the scheduled July 27 election;

Whereas the fighting and uneasy peace has caused serious loss of life and diminished ability to care for those who are without access to adequate medical care or food and water;

Whereas the fighting between Government troops and militiamen have forced the evacuation from the country of foreign nationals and endangered refugees from both Rwanda and the former Zaire; and

Whereas African governments have attempted to bring about a negotiated settlement to the current crisis: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the current fighting and urges the warring parties to reach a lasting ceasefire that will allow for humanitarian needs to be addressed as soon as possible;

(2) calls on all private militia to disarm and disband immediately to end the continuing threat to peace and stability in the Republic of Congo;

(3) commends African leaders from Gabon, Equatorial Guinea, Cameroon, Benin, Central African Republic, Senegal, and Chad for their efforts to negotiate a peaceful settlement and encourages their continuing efforts to find a sustainable political settlement in this matter;

(4) supports the deployment of an African peacekeeping force to the Republic of Congo if deemed necessary;

(5) urges the Government of the Republic of Congo, in cooperation with all legal political parties, to resolve in a transparent manner questions concerning the scheduled elections and to prepare for open and transparent elections at the earliest feasible time; and

(6) encourages the United States Government to provide technical assistance on election related matters if requested by the Government of the Republic of Congo.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. ROYCE], and the gentleman from Indiana [Mr. HAMILTON], each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. ROYCE].

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Since violence in the Republic of Congo escalated several weeks ago, an estimated 3,000 lives have been lost there. What started as an effort by Congo President Pascal Lissouba to safeguard upcoming elections by neutralizing the so-called Cobra militia, operated by a political rival, has degenerated into ethnic cleansing.

All this has developed beneath the media's radar. As the world watched the unraveling of the Mobutu regime in the neighboring country then known as Zaire, the Republic of Congo was seen as a safe haven for refugees from that collapsing nation.

But today nearly a quarter of the population of the city of Brazzaville has left town to avoid being caught in the fighting. Unfortunately, these refugees have found themselves stopped along the way and killed if they belong to the wrong ethnic group. This resolution is a reinforcement of our Government's commitment to the democratic process in Congo-Brazzaville. It calls for a disengagement of forces and a lasting cease-fire and applauds the African efforts to resolve this crisis. It unanimously passed the Committee on International Relations several weeks ago.

□ 1545

Mr. Speaker, when this resolution was before the House last week, there was some confusion over whether it called for an international peacekeeping force. Let me say clearly that this resolution calls for any such force to be an African force.

Mr. Speaker, a resolution of the crisis in Congo-Brazzaville is not only a priority for regional strategic reasons, but the example of a democracy unraveling is a poor one for other African nations. I ask for my colleagues' support.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume and I rise in support of the resolution.

Mr. Speaker, I support the resolution because I believe it does draw attention to an explosive situation in central Africa, and I want to express my appreciation for the leadership of the distinguished gentleman from California [Mr. ROYCE], for his sponsorship of the resolution and for putting the resolution forward.

I do think the gentleman's explanation is important to notice. There was a misunderstanding on the floor of the House last week. This resolution supports the deployment of an African peacekeeping force to the Republic of Congo, and only supports it if it is deemed necessary. I think the resolution was not fully understood at the time of the vote last week.

This resolution reflects the views of the U.S. Congress on the importance of this issue. I hope the resolution will encourage the parties to maintain the current cease-fire and to reach a political solution in the ongoing talks. I urge the adoption of the resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself the balance of my time to thank the gentleman from Indiana [Mr. HAMILTON] and ask my colleagues to support this resolution, which sends an important message to the region.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from California [Mr. ROYCE] that the House suspend the rules and agree to the resolution, H. Res. 175, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution as amended, was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

BANKRUPTCY JUDGESHIP ACT OF 1997

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1596) to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes.

The Clerk read as follows:

H.R. 1596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bankruptcy Judgeship Act of 1997".

SEC. 2. PERMANENT JUDGESHIPS.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the central district of California, by striking "21" and inserting "25";

(2) in the item relating to the district of Maryland, by striking "4" and inserting "5";

(3) in the item relating to the district of New Jersey, by striking "8" and inserting "9"; and

(4) in the item relating to the western district of Tennessee, by striking "4" and inserting "5".

SEC. 3. TEMPORARY JUDGESHIPS.

(a) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) 1 additional bankruptcy judgeship for the eastern district of California.

(2) 1 additional bankruptcy judgeship for the southern district of Florida.

(3) 1 additional bankruptcy judgeship for the district of Maryland.

(4) 1 additional bankruptcy judgeship for the eastern district of Michigan.

(5) 1 additional bankruptcy judgeship for the southern district of Mississippi.

(6) 1 additional bankruptcy judgeship for the eastern district of New York.

(7) 1 additional bankruptcy judgeship for the northern district of New York.

(8) 1 additional bankruptcy judgeship for the southern district of New York.

(9) 1 additional bankruptcy judgeship for the eastern district of Pennsylvania.

(10) 1 additional bankruptcy judgeship for the middle district of Pennsylvania.

(11) 1 additional bankruptcy judgeship for the eastern district of Virginia.

(b) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in subsection (a) which—

(1) results from the death, retirement, resignation, or removal of a bankruptcy judge, and

(2) occurs 5 years or more after the appointment date of a judge appointed under subsection (a), shall not be filled.

SEC. 4. EXTENSION.

The temporary bankruptcy judgeship position authorized for the district of Delaware by section 3(a)(3) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) is extended until the first vacancy occurring in the office of a bankruptcy judge in that district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 10 years or more after October 28, 1993. All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship position.

SEC. 5 TECHNICAL AMENDMENT.

The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: "Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentlewoman from California [Ms. LOFGREN] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1596.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in favor of this legislation, the Bankruptcy Judgeship Act of 1997, and urge its adoption by the House.

We would think it is an anomaly, Mr. Speaker, to have a request for new bankruptcy judges at a time when the gross national product seems to be in good shape and inflation is down and the economy is in fairly good shape, yet the evidence is sound that bankruptcies, personal and otherwise, are on the rise. Therefore, the Judicial Conference, on whom we rely in the Committee on the Judiciary for the general themes of what we can best do to serve the Federal judiciary, has requested that these new judgeships be created.

There would be 7 permanent new judges and 11 temporary judges across the 14 Federal judicial districts. It would extend one temporary judgeship already in existence in another district.

Because I personally put so much stock in the findings of the Judicial Conference, those findings have formed the basis for the hearings that we held in this regard over the last two terms and the reports on which we based some of our recommendations.

The bill that is in front of us has been cosponsored by Members on both sides of the aisle. The gentleman from Illinois [Mr. HYDE], the chairman of the full Committee on the Judiciary, and the gentleman from Michigan [Mr. CONYERS] the ranking member on the minority, as well as the gentleman from New York [Mr. NADLER] the subcommittee ranking member, and this individual, all of us have cosponsored and have urged the passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass the bill, H.R. 1596, the Bankruptcy Judgeship Act of 1997.

This legislation is both urgently necessary and long overdue. Although bankruptcies continue to rise, over 1 million filings in 1996, Congress has failed to provide the necessary resources to do the job. We have not provided for any new bankruptcy judgeships since 1992. When the cases pile up in bankruptcy court, businesses that are owed money are left holding the bag, families trying to straighten out their lives face delay, and many cases will receive less attention than they merit.

I would note that this year the Administrative Office of the U.S. Courts has recommended an increase in the number of permanent bankruptcy judgeships in the Central District of California by four and the addition of a temporary bankruptcy judgeship in the Eastern District of California.

This bill also reflects the improved method instituted by the Administrative Office of the U.S. Courts for measuring the work required to adjudicate the huge chapter 11 cases. Until recently, the largest unit of measure used for the purpose of calculating judicial workload was a $1 million chapter 11.

Under that system of measuring judicial workload, a case involving $1 million worth of debt was statistically indistinguishable from a $1 billion case. By failing to measure the actual workload in these cases, the Administrative Office of the U.S. Courts consistently failed to recommend adequate resources for courts that heard the massive chapter 11 cases. This bill reflects the newer and more accurate measure.

We cannot afford to have debtors and creditors held up in court because there are not enough judges to hear the cases. H.R. 1596 is a measured response to the need for additional bankruptcy judges. I urge its adoption and join with the chairman in pointing out that this is indeed a measure that has received bipartisan support among its sponsors and on the committee.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of the bill, H.R. 1596, and I want to thank the gentleman from Pennsylvania [Mr. GEKAS] for yielding me time to speak on the personal bankruptcy crisis in America.

In 1996 alone over one million cases for bankruptcy were filed, an increase of 27 percent over the 1995 filings, which equaled 926,000. In 1997 bankruptcy filings have exceeded 100,000 per month across the country.

While the entire Nation needs additional bankruptcy judges to help manage the increased caseload, H.R. 1596 is targeting areas most in need for additional assistance, with temporary judgeships to be authorized for the Eastern District of California, the Southern District of Florida, the District of Maryland, the Eastern District of Michigan, the Southern District of Mississippi, the Eastern District of New York, the Northern District of New York, the Southern District of New York, the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the Eastern District of Virginia.

Also, the legislation calls for an additional four permanent judges to be authorized for California, Maryland, New Jersey, and Tennessee.

Why are we in a personal bankruptcy crisis in America? A recent study conducted by SMR Research Corp. in Hackettstown, NJ, looked at the bankruptcy crisis and found that while there is no single prime cause of bankruptcy, there is a connection between bankruptcy and gambling.

That study states, and I quote, Mr. Speaker,

> It now appears that gambling may be the single fastest growing driver of bankruptcy. Once limited to Nevada and New Jersey, casino gambling has spread very rapidly through many States. Indian reservation casinos have been one new mode for this growth, and riverboat and coastal gambling boats have been added.

This is a fascinating and enlightening study which I will submit for the RECORD for all our colleagues to read.

When we look at the areas where H.R. 1596 targets the need for additional bankruptcy court assistance, we can see a link to the areas where gambling has proliferated in recent years. The SMR Research study states, and I quote,

> The bankruptcy rate was 18 percent higher in counties with one gambling facility and was 35 percent higher in counties with five or more gambling establishments.

The study continues, and I quote again, Mr. Speaker,

> The effect of gambling on bankruptcy seems quite clear when you look at a map. Among all the counties in Nevada, for instance, we find that the closer you come to Las Vegas and Reno, the higher the bankruptcy rate. In California the two counties with the highest bankruptcy rates are Riverside and San Bernadino. They also happen to be the two counties closest to Las Vegas. The fourth highest bankruptcy rate in California is in Sacramento County, which is closest to Reno.

If we look at H.R. 1596, we see the Central District of California will be authorized four additional permanent bankruptcy judges and the Eastern District of California will be getting an additional temporary judge to handle the swelling number of bankruptcy filings.

Mr. Speaker, I will not belabor the point, but I urge our colleagues to read the SMR Research report. We see Congress must be educated on the effects of gambling in our society. We are acting today to increase bankruptcy judgeships, which I believe can be linked to the proliferation of gambling today, but we just cannot continue to add more and more judges to solve this crisis. Getting to the heart of the problem is a challenge not only facing this Congress but the newly established National Gambling Impact Study Commission.

Mr. Speaker, the SMR information I referred to earlier follows:

THE PERSONAL BANKRUPTCY CRISIS, 1997

(Published by SMR Research Corporation)

THE PURPOSE OF THIS STUDY

In 1996, SMR Research issued a 56-page study on the causes of wildly rising personal bankruptcy filings. We knew the subject was timely, but little did we imagine the media coverage that would follow.

The 1996 study was mentioned in major newspapers and magazines across the land, on television, and even became the subject of two stories in the Wall Street Journal.

Fate is strange. Publicity is nice, but the 1996 study was not exactly a typical SMR production. The explosion in bankruptcies had caused a lot of demand for information from our lending industry clients, especially unsecured lenders. We put together the 56-page piece as a section of our 1996 annual credit card market study, and later offered the bankruptcy section by itself to non-credit card issuers.

Although 56 pages might look big to some folks, it was the shortest research study we have done since 1985. We found ourselves making conclusions in the 1996 study with some statistical backing, but not always definitive proof.

This study, by contrast, is indeed a standard SMR Research work. The scope is much greater, and allows us to cover the subject completely, with a meaty section on solving (or at least mitigating) the personal bankruptcy dilemma. Where the 1996 study focused solely on some of the core causes of bankruptcy, this study covers the full nature of the problem.

We look at the common misperceptions about bankruptcy and provide the statistics that show why they are such vast over-statements. Unemployment is not the primary driver of bankruptcy, nor is the overall consumer debt load. Lender marketing and easy credit also are not the prime cause.

In fact, there is no single prime cause of bankruptcy. In this study, you'll see coverage of many things that result in bankruptcy, with some quantification of which ones are in the worst. The additional space allows us to cover things we couldn't cover last year, like the connection between bankruptcy and gambling—perhaps the fastest-growing problem of all.

In addition, this study, for the first time we know of, shows the demographics of bankruptcy, using our county-level statistical database that goes back to 1989.

Regarding solutions to the problem, they are not easy. The bankruptcy spike is based at least in part on serious, intransigent, worsening, socio-economic problems. This underlying core puts upward pressure on filings, and the upward pressure really explodes when you throw lawyer advertising and bankruptcy's loss of social stigma into the mix.

Still, we are quite confident that there are steps available to creditors to help control their own bankruptcy loss exposure. We think the best solution of all may be the most radical, which is for creditors to adopt some of the risk-control techniques of the insurance industry. This would mean using actual geographic loss statistics as a supplemental aid in credit scoring, pricing, and marketing. This material appears starting on Page 157.

SMR has been following the bankruptcy subject, and has been building its database of filings, for eight years. After all that time, we finally have created a research study that we believe addresses all the central issues in the bankruptcy crisis.

We appreciate your patronage and hope you get good value from the research.

GAMBLING AND BANKRUPTCY

It now appears that gambling may be the single fastest-growing driver of bankruptcy.

Once limited to Nevada and New Jersey, casino gambling has spread very rapidly through many states. Indian reservation casinos have been one new mode for this growth, and riverboat and coastal gambling boats have added more.

If you have not been tracking the spread of gambling, you may be in for a shock about how pervasive gambling facilities have become.

Note that in the state of Nevada, there are only 17 counties (most of them very large). But across the nation, there are now 298 counties that have at least one major legal gambling facility: a casino, a horse or dog racing track, or a jai alai game. That's the count in one recent guide to U.S. gambling facilities, and it does not include such things as places where state lotteries or bingo parlors are available. The lotteries and bingo parlors tend to involve small-ticket gambling, whereas the other facilities obviously involve the larger dollars per customer.

The three addictions & changed mores

When we published our shorter study on the causes of bankruptcy in 1996, we had suspicions about gambling. But we had not yet put together enough solid data and information to make conclusions, therefore we said little about the subject.

Actually, since we were looking at events that can cause insolvency, we were suspicious in 1996 about all three of the serious addiction problems in America: alcoholism and drug and gambling addiction. We remain suspicious about all three of those problems. But of the three, it's quite clear that gambling is the fastest-growing phenomenon.

For those who make and supply alcohol, drugs, and gambling, all are very large businesses. But you don't have to be a sociologist to see that societal mores are changing most rapidly on gambling. Over the last 20 years, state governments themselves have entered the gambling business with lotteries. We see no states as yet that have gone into the heroin trade or where the government itself advertises Jim Beam. So, the concept of gambling now has the tacit blessing of government.

Meanwhile, private entrepreneurs have created dazzling and sophisticated facilities that have eliminated the "sleazy" from gambling and turned it into a recreation. Las Vegas is now a city-sized adult theme park with attractions for the kids, too. American Indians, operating on reservations beyond the authority of state laws, have seized on casinos as a new method to generate cash and improve their standard of living Cruise ships of all sorts have set up table games and slot machines.

Hard-bitten gamblers of old played poker at tables in a friend's kitchen or sat in cold bleachers to watch the horses. Today's gamblers only enjoy the fines food, free drinks, the best entertainment, super-quality hotels, and the widest variety of gambling adventures that have ever been available. And, of course, all of this now happens at places much closer to most of the larger population centers. Gambling can indeed be fun these days—but some smallish percentage of gamblers do develop problems that translate into bankruptcy.

STATISTICS, GAMBLING, AND BANKRUPTCY

As in so many aspects of bankruptcy, perfect data related to the gambling problem don't exist. No one has asked all the bankruptcy filers if gambling contributed to their financial problems, and we strongly suspect that if filers were asked that question, many would be too embarrassed to answer honestly.

But we can look at evidence in many other ways. Recently, for example, we input into our county-level records the number of gambling places that exist in each county, if any. We obtained the information, covering more than 800 casinos, race tracks, and jai alai "frontons" from the 1997 edition of The Gaming Guide: Where to Play in the US of A, published by Facts on Demand Press of Tempe, AZ. The directory provides street addresses and zip codes for the gaming establishments. We used the zips against SMR's Zip Code/County Matching database to put the right numbers of facilities in the right counties.

Then, we aggregated the bankruptcy rates of those places and compared them to those of counties that have no gambling at all. The bankruptcy rate was 18% higher in counties with one gambling facility and it was 35% higher in counties with five or more gambling establishments.

This exercise probably understates the seriousness of the problem, since many counties that have gambling facilities also have very small populations, and actually draw their customers from other places.

So, when we look only at counties .with more sizable resident populations and gambling facilities, we see even greater evidence of the problem.

A look at the map

The effect of gambling on bankruptcy seems quite clear when you look at a map. Among all the counties in Nevada, for instance, we find that the closer you come to Las Vegas and Reno, the higher the bankruptcy rate.

In New Jersey, casinos are permitted only in Atlantic City—and that's also where the resident population has by far the highest bankruptcy rate. Generally speaking, the closer you come to Atlantic City, the higher the bankruptcy rate in New Jersey. One exception to this rule is Cape May County, just south of Atlantic City, where the bankruptcy rate is not so high. But Cape May also is a big retirement place with high average age in the population. As shown in our demographics section, high-age populations do not have high bankruptcy rats.

In California, the two counties with the highest bankruptcy rates are Riverside and San Bernardino. They also happen to be the two counties closest to Las Vegas. The fourth-highest bankruptcy rate in California is in Sacramento County, which is closest to Reno.

In Connecticut, the map hardly matters. Connecticut is so tiny that everyone has access to the gambling parlors in the middle of the state. This is a state that used to have a bankruptcy rate far below the national average. But Indian casino gambling is now huge and well-entrenched. The smaller of the Indian casinos, the Mohican Sun in Uncasville, boasts 3,000 slot machines. In Connecticut, the bankruptcy rate per capita has risen more than twice as fast as the national rate of increase since 1990.

WHAT THE EXPERTS SAY: SCOPE OF THE PROBLEM, AND THE CREDIT CARD CONNECTION

Aside from these observations, we set out this year to interview many of the leading U.S. experts on gambling, gambling addiction, and the financial impact of gambling.

Their studies have suggested, fairly consistently, that more than 20% of compulsive gamblers have filed for bankruptcy as a result of their gambling losses. They also show that upwards of 90% of compulsive gamblers had used their credit card lines to obtain funds for gambling and then lost. The same studies show that problem gamblers have a lot of credit cards on which to draw.

"One of the things we know about problem gamblers is that they tend to have lots and lots of credit cards and those credit cards have been maxed out in terms of their credit limits," said Rachel Volberg, one of the leading researchers into problem gambling in the U.S. and internationally. Volberg is president of Gemini Research, a consulting firm in Roaring Spring, PA. She is a frequent "expert witness" on the problem in state legislative hearings and has done research under contract for various government units in Oregon, Colorado, New York, California, Michigan, Mississippi, Georgia, Louisiana, Iowa, Connecticut, and Canadian provinces.

Volberg is not the only researcher to note the connection with credit cards. "It's not unusual for problem gamblers to have eight to 10 credit cards," adds Henry Lesieur, professor of criminal justice at the University of Illinois, Normal, another leading authority on compulsive gambling.

The amount gamblers owe is quite large. According to studies of Gamblers Anonymous members in Illinois conducted in 1993 and 1995 by Lesieur, the median average lifetime gambling debt of those surveyed was $45,000, and the median amount owed at the time they entered GA was $18,000. The median is the midpoint of a list of numbers, with 50% of the numbers being higher and the other 50% being lower.

However, the mean average debts of problem gamblers were far higher than the median amounts. The mean average lifetime gambling debt of those surveyed was $215,406, with three people saying they owed $1 million or more. The mean debt upon entering GA was $113,640, including one person who said he owed $1 million and another admitting to owing an incredible $7.5 million.

In another study dated April 1996 by the University of Minnesota Medical School, a survey of problem gamblers in Minnesota found the average lifetime gambling debt was $47,855, although individual amounts ran into the hundreds of thousands of dollars. The median amount was $19,000. Recent debts—those accumulated in the past six months—averaged $10,008, while the median amount was $4,500.

In late 1995, the Minneapolis Star Tribune examined 105 bankruptcy filings made in that city in which it was determined that gambling was a factor. The results of the study appeared in a five-part series that ran in the paper in December 1995.

The newspaper found that of the $4.2 million of total debt declared by the 105 filers, $1.14 million—or 27%—was comprised of gambling losses. Almost half of the 105 filers—52, to be exact—claimed they had gambling losses. Their average debt was $40,066, which was more than the average annual income of $35,244. The average gambling loss was more than $22,000. Filers carried an average of eight credit cards, although many had 10 or 15 cards and one person had 25. And heavy debts were being carried on each card.

Counties with gambling have higher bankruptcy rates

Let's return to the county-level data. In the table that follows, we divided up the country among counties with gambling facilities and those without. The differences in bankruptcy rates between them are striking. It's quite clear that those counties with legal big-ticket gambling have higher bankruptcy rates than those counties that don't have gambling, and those counties with many gambling houses have higher bankruptcy rates than those places with just a few.

We examined more than 3,100 counties. For the entire United States, the personal bankruptcy filing rate per 1,000 population in 1996 was 4.20. But the national rate for purposes of comparison to counties was 4.22 (using 1996 bankruptcies divided by 1995 populations; the 1996 county populations were not available when we did this analysis). For the 2,844 counties without gambling, the bankruptcy rate was lower, at 3.96.

According to The Gaming Guide, there were 298 counties that had legalized gambling within their borders. In these counties, the bankruptcy filing rate in 1996 was 4.67, or 18% higher than for those counties with no gambling. When we subdivide the universe of counties with gambling between those with five or more locations and those with four or less, we learn more. The places with the most gambling facilities have a much higher bankruptcy rate.

Of the 298 counties with gambling, 275 had only one to four facilities. Their combined 1996 bankruptcy filing rate was 4.53 per 1,000 residents, or 14% greater than the 3.96 rate among counties without gambling. However, in the 23 other counties with five or more gambling facilities, the combined bankruptcy rate was 5.33, a whopping 26% higher than the 4.22 national bankruptcy rate and 35% higher than at counties with no gambling at all. Many of these counties with 5+ gambling facilities are in Nevada, but most of them are not.

BANKRUPTCY FILING RATES IN U.S. COUNTIES WITH GAMBLING FACILITIES [1] VERSUS COUNTIES WITH NO GAMING ESTABLISHMENTS

	Number of counties	Aggregate population	1996 bankruptcy filings	1996 filings/1000
All counties with gaming facilities	298	97,385,935	454,384	4.67
Counties with 5+ gaming facilities	23	16,391,661	87,435	5.33
Counties with 1–4 gaming facilities	275	80,994,274	366,949	4.53
Counties with no gaming facilities	2,844	166,526,572	658,724	3.96
All U.S. counties	3,142	263,912,507	1,113,108	4.22

[1] Gambling facilities include land, tribal, and boat casinos; dog, horse, and harness race tracks, and jai alai frontons.

Again, these data tell only part of the story, since some gambling parlors (especially tribal casinos) are located in thinly populated places and draw almost all their customers from other places.

So, it's important to also look at more populous areas located very near to gaming facilities. Indeed, not only do many gambling facilities draw from other nearby population centers within the U.S., but in addition there are many legal casinos in several Canadian provinces. These often are located just beyond the U.S. border and cater to American gamblers in the Detroit area, upstate New York, and other northern states.

Thus, we believe many counties have high bankruptcy rates tied in part to gambling, yet the county doesn't register in our table as a "gambling" county. If we included counties contiguous to those places with legalized gambling, we're sure the numbers would show an even stronger correlation between high bankruptcy rates and gambling. The following mini study of the Memphis, TN, area illustrates our point.

Las Vegas East: Would you believe it's Tunica County, MS?

In the table below, we show the 24 counties in the U.S. with the worst U.S. bankruptcy filing rates in 1996 (10.0 or more filings per thousand residents) and where the population is greater than 25,000.

A significant number of these worst places share one trait—all are within easy reach of major gambling casinos. This is true of just about all of the counties on the list that are located in Tennessee, Mississippi, and Arkansas.

Neither Tennessee nor Arkansas has legal casino gambling within its borders. In fact, neither state even has a lottery, for that matter. Yet, several of their biggest counties are located near the 10 major riverboat casinos in Tunica County, MS. Tunica is located in the extreme northwest corner of Mississippi, just south of Memphis, TN. According to The Gaming Guide, Mississippi has the largest amount of "gaming area"—that is, square feet of casino gambling—in any state outside Nevada. And most of that gaming is centered in Tunica County. Major casinos are also located in the Biloxi-Gulfport area on the Gulf of Mexico.

The profusion of super-high bankruptcy rates among the counties located near the Mississippi River casinos in Tunica County is quite remarkable. Indeed, the counties in the tristate area within the Memphis metropolitan area have some of the highest personal bankruptcy rates in the nation. We view their close proximity to the Tunica casinos as very meaningful.

Shelby County, TN, where Memphis is situated, easily had the highest county bankruptcy rate in the nation in 1996, at 17.28 per 1,000 population—more than four times the national average. It's also by far the biggest county in terms of population among the most bankrupt counties. Memphis also happens to be the headquarters of Harrah's, one of the biggest casino operators.

Also on the list of worst counties are two Mississippi counties. DeSoto, with a December 1996 filing rate of 10.65, borders Tunica County. Marshall County, at 11.47, is adjacent to DeSoto. Tunica County itself, the likely source of some of this trouble, has a population of just 8,132 souls, and a bankruptcy rate of just 5.78, less than the state average of 6.16.

Also high on the list of most bankrupt counties is Crittenden County, AR, at 11.16. It's the county located just across the Mississippi River from Shelby County. Tipton County, TN, at 10.96, is adjacent to Shelby County on the north. Madison County, TN, at 10.73, is located just east of Shelby. But other counties located near Shelby in Tennessee sport high bankruptcy rates, including Haywood, Lauderdale, Fayette, and Crockett, to name a few. These counties don't appear on our list of worst counties because their populations were less than 25,000.

The Tunica casinos aren't the only ones catering to Tennessee residents. There's also a casino located upriver in Caruthersville, MO, in that state's southeastern panhandle. It may be part of the reason for the 10.56/1,000 bankruptcy rate in Dyer County, TN, which is located just across the river. Also, Gibson County, TN, just east of Dyer, had a bankruptcy filing rate of 10.12. It's worth mentioning that both Dyer and Gibson Counties are also both within a two-hour drive of the Tunica casinos.

The next table shows that 9 of the 24 U.S. counties with the highest bankruptcy rates in 1996 also were places located very close to three gambling sites.

COUNTIES WITH HIGHEST BANKRUPTCY FILING RATES, 1996

[Minimum population 25,000]

County name	Population	Filings	Filings/1000
Shelby, County, TN [1]	865,058	14,952	17.28
Coffee County, GA	32,697	432	13.21
Jefferson County, AL	657,827	8,124	12.35
Bibb County, GA	155,066	1,912	12.33
Troup County, GA	57,882	705	12.18
Walker County, GA	60,654	705	11.62
Marshall County, MS [1]	32,078	368	11.47
Crittenden County, AR [1]	49,889	557	11.16
Clayton County, GA	198,551	2,209	11.13
Liberty County, GA	58,749	650	11.06
Coweta County, GA	72,021	789	10.96
Tipton County, TN [1]	43,423	476	10.96
Murray County, GA	30,032	325	10.82
Madison County, TN [1]	83,715	898	10.73
Baldwin County, GA	41,854	448	10.70
DeSoto County, MS [1]	83,567	890	10.65
Dyer County, TN [2]	35,900	379	10.56
Manassas City, VA	32,657	333	10.20
Gibson County, TN [2]	47,728	483	10.12
Scott County, MS [3]	25,042	253	10.10
Rhea County, TN	26,833	271	10.10
Talladega County, AL	76,737	774	10.09
Spalding County, GA	57,306	575	10.03
Ware County, GA	35,589	357	10.03

[1] Located near casinos in Tunica County, MS.
[2] Located near casino in Caruthersville, MO.
[3] Located near casino in Philadelphia, MS.

MORE EXAMPLES

Of course, scenarios like this can be seen in other areas of the country. Atlantic County, NJ, is a leading example. It is home to all of that state's legalized gambling casinos, and the 1996 bankruptcy rate was 7.10 filings per 1,000 residents. That was 71% higher than the state average bankruptcy rate of 4.16. And most of the time, counties located closest to Atlantic had higher bankruptcy rates than others further away.

Of course, Atlantic City draws customers from all kinds of places, including many from New York City. Our point is that the resident population in a gambling county has the easiest and most frequent opportunity to use the facilities, therefore we should expect to see some result in the per capita bankruptcy rate.

Similarly, the 1996 bankruptcy rate in Nevada is more than 50% higher than the national average. In Clark County, where Las Vegas is located and where more than half of the state's more than 300 casinos are based, we see the highest bankruptcy rate within the state. Nor is it surprising that the two counties with the highest bankruptcy rates in California are those just across the border from Las Vegas, San Bernardino (7.04) and Riverside (6.77). Those two counties also now have tribal casinos of their own.

Moving to Maryland, Prince Georges County has by far the highest bankruptcy rate among counties in that state—6.72 filings per 1,000 population in 1996, almost 50% higher than the state average of 4.57. By way of comparison, the next highest county bankruptcy rate in Maryland is 5.27, a significantly lower figure. What's going on in Prince Georges?

The answer is that Prince Georges is the only county in Maryland where casino gambling is legal. Legal casinos are located at charitable organizations, such as Elks and Knights of Columbus halls and volunteer fire departments. These casinos have strict limits on operating hours and betting and don't have the glitz of Las Vegas or Atlantic City, yet they do now exist and the casinos are used. Prince Georges County also has harness racing.

Gambling & low-bankruptcy States: Would they be even better without it?

All of the prior information is highly suggestive that gambling influences bankruptcy. Yet, as all the rest of this study shows, there are many other bankruptcy drivers. Therefore, the correlation between bankruptcy and the physical location of gambling facilities is certainly imperfect.

There are some states, for instance, where there are gambling facilities, yet the bankruptcy rates are reasonably low. These states include South Dakota, Minnesota, and Iowa—all located in the moderate bankruptcy "corridor" of the upper Midwest.

It's hard to tell in these areas whether gambling has no effect on bankruptcy, or if, on the other hand, bankruptcy would be even less of a problem without the casinos. The Minnesota university study referenced earlier in this section suggests that bankruptcies in that state are caused at times by gambling.

Indeed, the notion that gambling is a major negative for bankruptcy in all geographies is supported by information from our interviews and from a lot of local newspaper articles we have reviewed. The actual gambling debts may have become credit card debts prior to the filer entering bankruptcy court, but that doesn't change the cause of the financial trouble. The following material will add more from this review of experts and news articles.

QUANTIFYING THE PROBLEM

10% of Filings Might Be Linked to Gambling; 20% of Problem Gamblers Go Bankrupt

Articles we studied, often quoting attorneys who specialize in personal bankruptcy, suggested that about 10% of bankruptcy filings are linked to gambling losses. That figure could be higher depending on location. Most of the debt is racked up on credit cards.

According to the experts on compulsive gambling with whom we talked, no comprehensive national study on problem gambling has been conducted in the U.S. since the early 1970s. However, several state studies have been done, all concluding that 20% or more of compulsive gamblers were forced to file for bankruptcy protection because of the losses they had incurred.

In the April 1996 study of compulsive gamblers in Minnesota conducted by two professors at the University of Minnesota Medical School, the researchers reported that 21% of the people in the study had filed for bankruptcy. In addition, a disturbing 94% said they had at least one gambling-related financial problem in their lifetime. Furthermore, 9 out of 10 of the subjects said they had borrowed from banks, credit cards, and loan companies to finance their gambling. And, 77% said they had written bad checks to finance gambling sprees.

The University of Illinois in Normal conducted two surveys of members of Gamblers Anonymous in 1993 and 1995. The combined results found that 21% had filed for bankruptcy, and that another 17% had been sued for gambling-related debts. Additionally, 16% said their gambling led to divorce—another big driver of bankruptcy filings—and another 10% said it led to separation. Compulsive gamblers also have very high rates of attempted suicides, higher even than for drug addicts, the experts said.

Rachel Volberg, the Pennsylvania-based compulsive gambling consultant we referenced earlier, told us that a study in Wisconsin had found that 23% of compulsive gamblers had filed for bankruptcy, and that 85% of the gamblers said they had used credit cards for gambling money. She also said a study conducted in the Canadian province of Quebec found that 28% of problem gamblers there had sought bankruptcy protection.

One of the really scary things about these studies is that they are conducted only with people who had sought out professional help for gambling addiction. So, there may be other problem gamblers at risk, too.

According to several lawyers specializing in bankruptcy who were quoted in newspaper articles that we studied, 10% to 20% of their clients did so due to gambling debts they couldn't pay. These lawyers were located in areas near casinos, so the 10% to 20% figures probably doesn't hold for the U.S. population at large. Nevertheless, it's probably not a stretch to say that at least in those areas near major casinos, gambling-related bankruptcies account for a good 10% to 20% of the filings.

The Explosion in Iowa

It's also not a stretch to say that the number of people with financial problems stemming from gambling is on the rise, tracking the spread of legalized gambling.

Tom Coates, executive director of the nonprofit Consumer Credit Counseling Services of Des Moines, IA, told us that 10% to 15% of the people his agency counsels have financial problems "directly related to gambling." That's up dramatically from 2-3% when the agency opened its doors 10 years ago, before casino gambling was legalized in Iowa. Coates also told us that his service's business is up 30-40% over a year ago, at a time when Iowa's unemployment rate is at an all-time low and its economy stronger than the nation's at large. He blames gambling for much of the surge.

Probably, much of what we've reported about problem gamblers will not surprise the experienced credit executive. People with gambling addiction are rather obviously at risk to lose a lot of money. But how many such people exist? And how many gamble occasionally? Let's take a look at the numbers, below.

2.6 million adults may have a gambling problem

According to the most recent statistics released by the American Gaming Association, the casino industry's trade group, U.S. households made 154 million visits to casinos in 1995. That number was up 23% from the previous year and up an astounding 235% from 1990.

The AGA said 31% of U.S. households gambled at a casino in 1995, up from just 17% in 1980. "Gambling households," as the AGA calls them, also made an average 4.5 trips to casinos in 1995, up from 3.9 times the year before and 2.7 in 1990.

Of course, it is difficult to pinpoint how many of these people have a problem or compulsion—terms that can be a matter of degree or interpretation. Most estimates range from 1% of the adult population to as high as 7%.

The University of Minnesota study estimated that 1% of the state's entire population were "problem pathological gamblers," meaning that they lose control and continue gambling in spite of adverse consequences. If this 1% figure were true for the entire U.S. population, it would represent about 2.7 million people at risk.

The gaming industry itself says that 2% to 4% of practicing gamblers develop compulsion problems. Since 31% of households gambled at a casino in 1995, the 2% to 4% range would yield numbers very similar to the Minnesota study. (31% of 265 million people 82.15 million 3% = 2.5 million compulsive gamblers.)

Needless to say, people don't become compulsive gamblers until they're first exposed to gambling. Therefore, the rapid spread of casino gambling right now is a major concern.

Coates, the credit consultant, told us that Iowa commissioned a study of problem gambling in 1989, two years before the state's first riverboat and Indian casinos opened. In that study, it was estimated that 1.7% of the state's adult population were compulsive gamblers.

In 1995, by which time many casinos had dotted the state, Iowa did a similar study. Using the same methodology, the second study found that 5.4% of the state's entire adult population—not just the population that gambles—were problem or compulsive gamblers, a more than tripling of the rate in just six years.

Losing everything is common

For creditors, another problem with gambling-driven bankruptcy is that it is highly likely to result in total loss.

Even though most bankruptcy filings will represent near-total loss of amounts owed to unsecured creditors, the gambling-driven bankruptcies may be the worst. That's because addicted gamblers tend to "tap out" completely on debt and deplete savings, leading them into Chapter 7 liquidation.

These are logical observations, but also are supported by findings in a July 1996 study conducted in Wisconsin. We reviewed this study.

DEALING WITH THE GAMBLING ISSUES

Like so many of the drivers of bankruptcy, gambling is a frustratingly tough problem to solve.

Casino gambling is spreading rapidly in part because so many people enjoy it. Most gamblers also are responsible and know their limits. People like gambling and most do it safely, so how do you argue against the further spread of casinos?

The central problem for bankruptcy is that gambling adds another socio-economic minority group to the high-risk mix.

Bankruptcy is always driven by socio-economic and demographic minority groups. Most people have health insurance, but the 40 million Americans who don't are a large high-credit-risk minority. Most people don't get divorced, but the 10% of adults who are divorced are a sizeable at-risk minority. If there also are 2.6 million compulsive gamblers, this is just another high-risk group to throw in—and perhaps the most rapidly growing group. Bankruptcies are rising in part because, when you add up all these at-risk minority groups, you end up with a very large number that's no longer minor.

Still, we believe that much could be done by active creditors to combat the level of the risk. At the moment, if anything, creditors enable and even encourage the problem gambler to go too far. And some state governments seem even more eager than the casino themselves to encourage irresponsible gambling behavior—as we'll see in a moment in New Jersey.

Here are some of our thoughts on combatting the gambling/bankruptcy problem:

1. Make it tougher for customers to obtain cash advances at gambling casinos

According to the gaming industry itself, more than half of the money that gamblers play with at casinos is not money they brought with them. It is money they obtained inside the casino or close by from automated teller machines, cash advances from credit card terminals, and the like.

"It is no secret in the casino industry that patrons will continue to play a game until their cash runs out. What some operators have discovered, however, is if a consumer is provided with efficient and easy ways to access cash, often a 'last time' player will wager for longer than he or she originally planned," states a recent article about cash advances in International Gaming & Wagering Business, a gaming industry monthly magazine. In addition, the article says, "credit customers tend to be more liberal money-users."

Credit card issuers have been very accommodating to gamblers, making it easy for them to get their hands on large sums of money very quickly. And it may well be that most of this business is profitable for the card issuers. But that may be changing now. In an era of very rapidly increasing bankruptcies, it does not take long for the net losses from bankruptcy filers to exceed the profits from gamblers who responsibly use their cash advances.

Here is some admittedly over-simplified card issuer math: Let's hypothesize that 1,000 gamblers have used credit card cash advances to obtain $1,000 each. Total receivables for this group will be $1 million. At a 1.5% return on assets, this $1 million will generate $15,000 of net income.

But the gaming industry itself says that 2% to 4% of these gamblers have an addiction problem. If the average is 3%, then 3%

of the 1,000 gamblers we've just looked at are very high risk. This will be 30 people. If, as the earlier data suggests, 20% of these 30 people will file for bankruptcy, then 6 of the original 1,000 gamblers will wind up in bankruptcy court. Against the $15,000 of net income, what will the loss be from the 6 bankrupt compulsive gamblers? Probably, it will be more than $15,000—or at least close enough to make this little piece of the credit card business insufficiently profitable.

This tells us that card issuers and the ATM associations they partially control may want to reconsider their placement of so many cash machines in casino hotels. Or, at least, card issuers may need to institute new early warning indicators specific to those locations. The heavy users of casino hotel cash machines should be the ones stopped sooner.

"If I were a credit guy, I would check better on the ATM transactions," said Edward Looney, executive director of the Council on Compulsive Gambling of New Jersey. "Banks ought to immediately pick up on someone in trouble. You can tell just from the transactions." Coates was quoted in the Des Moines Register newspapers in late 1995 claiming that banking sources told him that eight of the 10 busiest ATMs in Iowa were located at the casinos.

2. Help defeat actions in states that would make it easier for gamblers to get credit card cash advances on casino floors

Here is perhaps the craziest credit risk story yet.

In New Jersey last September, the state Casino Control Commission passed a regulation that would allow casino patrons to utilize ATM and credit card cash advance machines placed right at the Atlantic City gaming tables.

Previously, customers had to walk to a different part of the building to use these machines. Under the new proposal, borrowing for blackjack would be faster than ordering a drink from a cocktail waitress. Not even Las Vegas casinos allow this. And, the Atlantic City casinos themselves don't support the measure, which they believe would lead to increased gambling compulsion and would tarnish the industry's reputation.

In other words, the state government is more eager to push money into the gamblers' hands than the casinos who would profit most in the short run. What's wrong with the New Jersey regulators—and why didn't the banking industry object?

So far, no Atlantic City casino has taken advantage of the rule change, nor is any likely to in the future, said Keith Whyte, director of research at the American Gaming Association, the industry's trade group.

"We definitely opposed in principle New Jersey's regulatory rule change that would let casinos put ATM card swipes right at the table. And in fact no casinos are doing that, and none will, I can almost guarantee you," Whyte told us. "It wasn't a casino-initiated thing. Everybody [in the industry] realized that is probably not a step we would want to take."

According to Looney, the New Jersey Compulsive Gambling Council chief, not a single credit card or banking industry representative raised any objection to this rule when it was being debated. Yet, Atlantic City has the highest concentration of big casinos outside Las Vegas and serves millions of gamblers per year. You get the feeling no one in the credit community is paying close attention to gambling's effect on bankruptcy.

3. Maybe cash machines should be moved out of the casino hotels entirely

Many of the experts we talked to for this study agreed that the worst thing for a compulsive gambler to have is immediate access to cash when he's on a binge. To the extent that banks control or influence where cash machines are placed, it may be time to reconsider their currently wide availability around the casino hotels.

If the gambler had to walk down the street to get cash, no doubt some would. But some of the people we interviewed strongly contend that the walk itself would impose a "cooling off" period that would stop some compulsive gambling losses.

"It's a vulnerable thing for a compulsive gambler to get credit," said Looney of the New Jersey council and himself a recovering gambling addict. "They will be so focused on their gambling that they will gamble everything they can, including all the credit cards they have in their possession. It is important to have ATM and credit card terminals at least some distance from where gambling actually takes place. To some this might seem a small point, but to those of us who deal with compulsive gamblers, this is huge. For many compulsive gamblers, just being forced to walk a couple of hundred feet away from where the gambling is actually taking place is sufficient time for them to rethink whether they really want to gamble any further. That break from gambling is a crucial time for many."

4. Challenge more aggressively those bankruptcy filings where it appears that gambling losses are the main reason why the person is filing

Inside the bankruptcy court, at least some folks contend, creditors should be even tougher on gamblers than they already are.

"I think lenders should push for slightly different treatment [in bankruptcy court] for someone who has been shown to run up his debts for gambling," said Tom Coates, the Des Moines credit counselor. Credit card lenders would not only be helping themselves but doing the problem gambler a favor, too, he noted.

Coates, who recently testified before the National Bankruptcy Commission, tried to impress on the panel that discharging gambling debts through a bankruptcy filing doesn't do the gambler any good. "I tried to impress on the Commission that the compulsive, problem gambler is living in a fantasy world and to go ahead and discharge this debt in bankruptcy court continues to propagate this atmosphere of fantasy land. It will abort the recovery process for that individual. The process of recovery is to bring that person out of their fantasy world into the world of reality, and by discharging those debts, none of it seems real to them."

Indeed, in a recent article in the St. Louis Post-Dispatch about gambling and bankruptcy, one gambler was quoted counseling another with money troubles: "Go file bankruptcy. Then you'll have money to gamble with."

U.S. credit card issuers should consider lobbying to change U.S. bankruptcy laws to make it illegal for people to discharge gambling debts in bankruptcy court. That is the current law in Australia, according to Henry Lesieur, the University of Illinois professor. Of course, the card issuers would have to be able to prove that a card cash advance was used for gambling purposes, which might often be difficult. On the other hand, if the law were changed, perhaps filers who lie about gambling losses would risk penalties, so at least some might be honest.

5. Finance research into problem gambling and finance help for compulsive gamblers

From time to time, creditors provide funds to all sorts of charitable outfits. If they helped finance research into compulsive gambling, such spending would play a dual role. It would be a public contribution, and it would help creditors learn more about the seriousness of the tie between gambling and bankruptcy.

Quite a bit of money is spent on alcohol and drug addiction research and rehabilitation. Both of those problems are viewed (at least by some people) as medical. Apparently, the public view toward gambling addiction is quite different. There's no drug involved, and little is spent on research or rehab. Yet, gambling addiction can indeed be viewed as a form of emotional or metal illness—and it's the one addiction that is growing most quickly in its impact on creditors.

In our research for this study, we found very little new research being conducted on compulsive gambling. The experts we interviewed said that no national survey of compulsive gamblers has been done in more than 20 years; only a handful of studies have been done by various states from time to time. Much of the available research has been done in academia with modest financial support, and it gets little followup attention.

Card issuers spend millions on sporting events, the Olympics, and even on the Smithsonian museums (Discover Card). These expenditures have a marketing value. A fractional amount diverted to gambling research could have an even better bottom line impact.

Ms. LOFGREN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ROTHMAN].

Mr. ROTHMAN. Mr. Speaker, I thank the gentlewoman from California for yielding me this time.

Mr. Speaker, I rise today in support of H.R. 1596, the Bankruptcy Judgeship Act of 1997. I come to the floor today to speak not only as a Member of Congress but as a former county surrogate court judge. I am very concerned about the bankruptcy system in the United States, not that it does not work but that with the sheer number of cases being filed, Americans cannot be assured of speedy bankruptcy filings.

As the gentlewoman from California said, that means that individuals and businesses who are owed money by individuals and companies that take advantage of our bankruptcy laws, they will not receive their just compensation in a timely enough fashion. So as Members of Congress, as legislators, it is our responsibility to equip the judiciary with the tools they need to ensure fair and speedy bankruptcy trials for Americans.

In 1996 there were over a million bankruptcy filings in the United States. This was an increase of 27 percent over 1995 and more than triple the number filed since 1984. In my home State of New Jersey there were more than 34,000 filings in 1996, up almost 23 percent from the previous year.

While this number continues to rise, one thing has not changed. Since 1992, no new bankruptcy judges have been added. New Jersey's 34,000 bankruptcy cases were handled by only eight bankruptcy judges. It is, therefore, unreasonable to think that eight judges can adequately handle 34,000 cases, and that turns out to be the fact.

This number is too high. We cannot expect cases of this number to be heard expeditiously as well as thoroughly and fairly and creditors to be paid promptly if the number of judges does not increase. It is unfair for all of the parties involved.

We will be increasing with H.R. 1596 the number of new bankruptcy judges by 6 percent over 1992, even though the caseload went up 30 percent. I think that this is a good start, Mr. Speaker. H.R. 1596 puts into action the Judicial Conference's recent recommendation to add 7 permanent and 11 temporary judgeships nationwide, and I strongly urge my colleagues to vote for H.R. 1596.

Mr. HOYER. Mr. Speaker, I rise in enthusiastic support of H.R. 1596, the Bankruptcy Judgeship Act of 1997.

Spurred by credit card debt, bankruptcy claims in the United States have escalated by more than 20 percent over the past 5 years, increasing from 971,000 in 1992 to 1.2 million in 1996. This has translated into expanding caseloads for U.S. bankruptcy courts and placed a substantial added burden upon bankruptcy judges and staff. The district of Maryland is among those jurisdictions affected most severely by the rise in bankruptcy filings, experiencing a staggering 35.8 percent jump in the last year, and an astounding 544 percent increase over the 12-year period beginning December 31, 1984, and ending December 31, 1996.

The Bankruptcy Judgeship Act will help to alleviate the mounting stress on the most severely overburdened U.S. bankruptcy courts by establishing an additional 7 permanent and 11 temporary bankruptcy judgeships in various jurisdictions around the country. Under H.R. 1596, Maryland would receive one permanent and two temporary bankruptcy judgeships.

I would like to commend the bill's lead sponsor, Mr. Gekas, chairman of the Judiciary Subcommittee on Commercial and Administrative law, and the rest of my colleagues on the Judiciary Committee, including Chairman Henry Hyde, ranking member John Conyers, and the ranking member of the subcommittee, Mr. Nadler, for taking this action to help bankruptcy courts meet the challenge of rapidly expanding caseloads.

Enactment of this legislation will bring much-needed relief to the U.S. bankruptcy court system and more expeditious adjudication of bankruptcy claims. I strongly encourage all of my colleagues to support this important and timely legislation.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. LOFGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gekas] that the House suspend the rules and pass the bill, H.R. 1596.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1600

CLARIFYING STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN EMPLOYEES

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1953) to clarify State authority to tax compensation paid to certain employees.

The Clerk read as follows:

H.R. 1953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON STATE AUTHORITY TO TAX COMPENSATION PAID TO INDIVIDUALS PERFORMING SERVICES AT FORT CAMPBELL, KENTUCKY.

(a) In General.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"§115. Limitation on State authority to tax compensation paid to individual performing services at Fort Campbell, Kentucky

"Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(b) Conforming Amendment.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.".

(c) Effective Date.—The amendments made by this section shall apply to pay and compensation paid after the date of the enactment of this Act.

SEC. 2. CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN FEDERAL EMPLOYEES.

(a) In General.—Section 111 of title 4, United States Code, is amended—

(1) by inserting "(a) General Rule.—" before "The United States" the first place it appears, and

(2) by adding at the end the following:

"(b) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Columbia River.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Columbia River, and

"(3) portions of which are within the States of Oregon and Washington,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

"(c) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Missouri River.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Missouri River, and

"(3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to pay and compensation paid after the date of the enactment of this Act.

The SPEAKER pro tempore [Mr. Goodlatte]. Pursuant to the rule, the gentleman from Pennsylvania [Mr. Gekas] and the gentlewoman from California [Ms. Lofgren] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Gekas].

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania [Mr. Gekas]?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of this piece of legislation. For several years now, we heard of this very unique, very peculiar situation that exists where, on borders between two States, there happens to be a facility in which residents and nonresidents alike, each from one of the States, happen to work in that facility. Some of the States are taxing nonresidents on income taxes where nonresidents in their own State might not have to pay that kind of tax. So this has caused a kind of conflict.

We are grateful to the Members of the House from the various States which were affected to give us insight and to give testimony at the hearings that we have held on this very touchy subject. The border between Oregon and Washington comes into play, as my colleagues will hear from the representatives from that area; the border between Tennessee and Kentucky, as well, where Fort Campbell is located. Of late, we had a similar situation arise, which was brought to our attention, between South Dakota and Nebraska.

So my colleagues will hear how this has affected the people who live and work in those areas. We believe that the legislation that is before us cures this very unfortunate situation and allows the nonresidents, as it were, in these six States to have a sense of certainty about to whom they have to pay taxes and where to file, et cetera.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume and I rise in support of the motion to suspend the rules and adopt H.R. 1953.

Mr. Speaker, many responsibilities have devolved to the States in the last several years. At the same time, there has been less assistance from the Federal Government. State governments must deal with each of these new challenges while balancing their budgets every year.

Congress should only, with the greatest reluctance, interfere with the prerogative of States to tax economic activity within their borders. The three cases before us, however, present unique, narrowly defined instances in which the equities clearly argue for some relief for the very small number of workers affected. In fact, the very small number of individuals involved here probably have something to do with the fact they have been unable to find relief in the appropriate source, State governments.

In each case, a small number of workers enter a Federal facility from their home States. Because these facilities are bisected by State boundaries, their work takes them over the State line and brings them under the taxing authority of the neighboring State. As a result, they must pay income taxes to that neighboring State, even though they never actually use the roads or other State services.

Finally, unlike most States, the two neighboring States lack reciprocal tax agreements to give residents the ability not to be taxed by their home State on income taxed in the neighboring State. These are highly unusual cases. They are not simply cases of people working in neighboring States who do not want to pay taxes to that State.

The combination of these many unusual circumstances: The failure of the States to work out an equitable reciprocity agreement, along with the fact that these workers can be said to have worked in the neighboring State only in the narrowest and most technical sense, makes this legislation merited.

This legislation is in line with the very few previous instances in which Congress has taken similar actions. We are exercising a Federal power that must be used only with the greatest of care; and I believe this legislation does that, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I might consume just to remark that the gentleman from New York, who is the ranking member on the subcommittee in charge of these proceedings, was very helpful from an insight that he has drawn as a member of the New York State Legislature, so that he was able to present to us a certain facet of this type of legislation which he has helped to craft in the language here to help us provide the proper vehicle for what we are attempting to do here.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. BRYANT] such time as he may consume. The gentleman has been very helpful right from the beginning, and his perseverance is in no small measure responsible for the appearance of this bill on the floor here today.

Mr. BRYANT. Mr. Speaker, I thank the chairman from Pennsylvania [Mr. GEKAS] for yielding me the time.

While I fully support all the provisions in this legislation, I want to speak for just a moment on the section which would prevent the State of Kentucky from unfairly taxing the workers who live in Tennessee but who work on the Kentucky side of Fort Campbell. This is a unique situation.

Fort Campbell is the only military installation which is located in two States. In fact, over 80 percent of the base is located in Tennessee, and it might interest my colleagues to know that the only reason we call this base Fort Campbell, KY, is that the post office is on the Kentucky side.

Because of its location, if a Tennessee resident working on the base is assigned to work on the Kentucky side, she must pay Kentucky State income taxes. Reciprocal agreements between two States normally would prevent this double taxation. However, because Tennessee does not impose an income tax on its State residents, a reciprocal agreement does not exist between Tennessee and Kentucky.

Mr. Speaker, passage of this legislation will not set a precedent for Federal preemption of State income tax laws because of the uniqueness of this case and the other two cases. Because this is a military installation, everyday benefits that would normally be provided by Kentucky in return for these taxes paid by Tennesseans are actually provided by either the State of Tennessee or by the military.

For example, a person who has been assigned to work on the Kentucky side of the post does not ever have to use a Kentucky road, since these roads have been paid for by the military and the post can be entered from the Tennessee side. The same is true in the case of fire and police protection.

This is an issue of fairness for the 2,200 Tennessee residents who are seeing their annual income reduced simply because they were assigned to work in a section of the base which is located in Kentucky.

Mr. Speaker, I also want to take a moment at this time to thank my colleagues on the subcommittee, the gentleman from Pennsylvania [Mr. GEKAS], the chairman, and the gentleman from New York [Mr. NADLER], the ranking member, for working with me on this issue.

Consideration of this legislation on the House floor represents a real victory for those who have worked so hard on the issue. For the last 10 years, legislation to correct this inequity has been introduced in the House, only to die at the end of each session of Congress due to inaction. This effort was first begun by then-Representative and now-Governor Don Sundquist, a friend of mine. And I am happy to have an opportunity to carry on this fight with him.

Ms. LOFGREN. Mr. Speaker, I would just further add that, in the last Congress, this issue was discussed on the floor of the House and there was a great deal of distress and opposition from various State officials that is not presented today. This change is worth emphasizing because this is a very narrow exception that is not a precedent for telecommuting or anything broader than the very narrow circumstances that face us here today. I think we have done a good job of moving this forward. I commend the chairman.

Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington, Mrs. LINDA SMITH, who herself has been instrumental in keeping this committee focused on the special problem that she and the other Members have faced on that border between Oregon and Washington.

Mrs. LINDA SMITH of Washington. Mr. Speaker, sometimes we have a law that seems insignificant because it only affects a few people. But this particular day, it is very important to many people in Washington and Oregon, especially those that live in Washington, because for many years, they have been told there are not enough of them for Congress to pay attention. So I would like to commend the gentleman from Pennsylvania [Mr. GEKAS], the chairman, for caring about justice for the few.

What has happened over the years is we have what is called a no man's land in Washington State and Oregon called a very wide river. It has many dams on it, and Federal employees work on that river. Over the years, one of the States, the State of Oregon, has decided that there is an imaginary line in the middle of the river and that they will have folks that get up each morning and pack their lunch and go to work never ever going to the State of Oregon, living in Washington, keep track of the hours as they go throughout the day, the hours that they walk onto the side of the river that Oregon has decided is their land. This has become a bone of contention over the years.

And I often hear taxation without representation. We hear this often. But really, sometimes people use it because they do not want to pay their share or they do not want to pay for services. These folks never drive on an Oregon road. They are never protected by Oregon law. There is never a fire engine that comes to protect their home. There is no service. There is nothing, except they walk across a Federal project part of the way through the day and then usually are required to pay about 10 percent tax on 50 percent of their income, without ever getting any service.

So today what we have is just common sense, but it is also justice for the few. And that is what America is about. We protect the rights of each individual. And the right to not have taxation without representation is just something we know is American.

So today I thank the chairman again and all the other Members, especially the gentleman from Washington [Mr. HASTINGS], who I am sure is on a plane coming home, if he is like so many Members, he is coming back here today because he has diligently brought it to the Chair, brought it to the committee, brought it to the limelight. And he has several of those dams, as I do, on the Columbia River, and his folks need to understand that he has been a bulldog on this. Even though it was only a few people, the gentleman from Washington [Mr. HASTINGS] has cared deeply about the few.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume to allow the RECORD to reflect what the gentlewoman from Washington, Mrs. LINDA SMITH, has said that the gentleman from Washington [Mr. HASTINGS] too has been important in the promulgation of the legislation which is now before us. And he, I believe it was almost 2 years ago, was the first who brought this matter to our attention. And here we are today in full fruition of the solution of the problem that he brought then to the floor.

We now turn to another border, South Dakota and Nebraska.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. THUNE] to explain how that has occurred and how that was added to our legislation, because it reflected so much of the similarity between it and the other States in question.

Mr. THUNE. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GEKAS], the chairman, for yielding and for working with us on this important issue. This is something that is a very commonsense bill. It helps South Dakota families.

In fact, one of the things in South Dakota that we pride ourselves on is the fact that we are a low-tax State, and we like to attract economic development and people to come to our State because we have a low-tax environment. This is something that I think addresses an issue which works against that very principle.

In fact, in this particular case, this bill will save 35 families in my State of South Dakota $1,000 a year. These are people that live in South Dakota but work on a Federal project outside the taxing authority of Nebraska and South Dakota.

South Dakota residents work at Gavins Point, which is a Federal project on the Missouri River. They do not need Nebraska roads, facilities, goods, or services to access their worksite. In fact, these 35 families receive no benefits whatsoever for the tax dollars that they pay to the State of Nebraska. They cannot vote down there, and they cannot use Nebraska services.

We just heard previously from other speakers an important principle on which this country was founded, and that is the principle that you should not have taxation without representation. That is an inequity that has certainly cost the families of my State of South Dakota a substantial amount of tax revenues over the years.

So we are very pleased that the chairman and other Members of this body are willing to work with us to address this inequity and bring some fairness to the respective tax laws that we have.

I would just simply close by saying that those of us that live in South Dakota like the State of Nebraska. Many of us are Nebraska Cornhusker fans, but we would rather live in South Dakota. And that is where we want to live and pay taxes. And since we do not have a State income tax, it does have a significant economic impact on these families. And this bill addresses that. So I thank the chairman for working with us on this.

Mr. HASTINGS of Washington. Mr. Speaker, I rise in strong support of H.R. 1953, a bill to tax more fairly workers at Federal facilities which border two States. This bill incorporates legislation I introduced earlier in this Congress to end the double taxation of Army Corps of Engineers employees working on dams across the Columbia River between Washington and Oregon.

Mr. Speaker, these Federal employees are currently being forced to pay income taxes to a State in which they do not work, live, vote, or receive benefits. For example: These workers can enter their dams from Washington State and need not use Oregon bridges or roads; workers paying taxes to Oregon have been denied Oregon unemployment benefits when they are laid off; they and their children are denied in-State tuition at Oregon universities; and they do not qualify for in-State fees for fishing and hunting licenses. Nor are they eligible for Oregon's comparatively inexpensive vehicle registration fees.

In short, these citizens never receive a single benefit from the taxes they are compelled to pay to the State of Oregon.

Beside the burden of paying taxes to two States, these workers must also bear the administrative burden of recording the percentage of their work day spent on each half of the dam. This is an unreasonable burden on these employees, who must frequently walk back and forth across their dams to carry out routine tasks. Furthermore, this costs the American taxpayers who must pay these Federal employees to track their time and movements when they might otherwise be doing the actual work for which they were hired.

H.R. 1953 would settle this problem in a manner consistent with previous legislation. In the Amtrak Act of 1990, Congress determined that railway employees who frequently cross State lines should only be required to pay income taxes to their State of legal residence. In the 104th Congress we passed the source tax bill which stipulated that pension benefits should be taxes only in the recipient's State of legal residence. In both cases, Congress intervened to clarify an interstate tax issue.

The administration has stated that congressional action is needed. The Human Resources Department of the Army Corps of Engineers in Portland has informed their employees that: "Congressional action will be required if we are to get this situation fixed." You may recall that the House debated this issue last fall. Since that time hearings have been held, and we have worked with the Oregon delegation to address the concerns expressed earlier about this situation.

Mr. Speaker, I would like to commend the excellent work of Mr. GEKAS, the chairman of the Subcommittee on Commercial and Administrative Law—together with Mr. NADLER, the ranking minority member of the subcommittee—in introducing H.R. 1953. Following hearings on this issue in April of this year, Mr. GEKAS prepared a bill which addresses double-taxed workers in Washington, Tennessee, and South Dakota, while preserving the right of States to collect taxes within their borders. This is an excellent bill, and deserving of all of our support.

I urge my colleagues to support this bipartisan, commonsense measure which protects working people and their families from unfair taxation.

□ 1615

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the bill, H.R. 1953.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PRIVATE SECURITY OFFICER QUALITY ASSURANCE ACT OF 1997

Mr. BARR of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 103) to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

The Clerk read as follows:

H.R. 103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Security Officer Quality Assurance Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) the private security industry provides numerous opportunities for entry-level job applicants, including individuals suffering from unemployment due to economic conditions or dislocations;

(3) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are only supplemented by private security officers who provide prevention and reporting service in support of, but not in place of, regular sworn police;

(4) given the growth of large private shopping malls, and the consequent reduction in the number of public shopping streets, the American public is more likely to have contact with private security personnel in the course of a day than with sworn law enforcement officers;

(5) regardless of the differences in their duties, skill, and responsibilities, the public has difficulty in discerning the difference between sworn law enforcement officers and private security personnel; and

(6) the American public demands the employment of qualified, well-trained private security personnel as an adjunct, but not a replacement for sworn law enforcement officers.

SEC. 3. BACKGROUND CHECKS.

(a) IN GENERAL.—An association of employers of private security officers, designated for the purpose of this section by the Attorney General, may submit fingerprints or other methods of positive identification approved by the Attorney General, to the Attorney General on behalf of any applicant for a State license or certificate of registration as a private security officer or employer of private security officers. In response to such a submission, the Attorney General may, to the extent provided by State law conforming to the requirements of the second paragraph under the heading "Federal Bureau of Investigation" and the subheading "Salaries and Expenses" in title II of Public Law 92-544 (86 Stat. 1115), exchange, for licensing and employment purposes, identification and criminal history records with the State governmental agencies to which such applicant has applied.

(b) REGULATIONS.—The Attorney General may prescribe such regulations as may be necessary to carry out this section, including measures relating to the security, confidentiality, accuracy, use, and dissemination of information and audits and recordkeeping and the imposition of fees necessary for the recovery of costs.

(c) REPORT.—The Attorney General shall report to the Senate and House Committees on the Judiciary 2 years after the date of enactment of this bill on the number of inquiries made by the association of employers under this section and their disposition.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that States should participate in the background check system established under section 3.

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "employee" includes an applicant for employment;

(2) the term "employer" means any person that—

(A) employs one or more private security officers; or

(B) provides, as an independent contractor, for consideration, the services of one or more private security officers (possibly including oneself);

(3) the term "private security officer"—

(A) means—

(i) an individual who performs security services, full or part time, for consideration as an independent contractor or an employee, whether armed or unarmed and in uniform or plain clothes whose primary duty is to perform security services, or

(ii) an individual who is an employee of an electronic security system company who is engaged in one or more of the following activities in the State: burglar alarm technician, fire alarm technician, closed circuit television technician, access control technician, or security system monitor; but

(B) does not include—

(i) sworn police officers who have law enforcement powers in the State,

(ii) attorneys, accountants, and other professionals who are otherwise licensed in the State,

(iii) employees whose duties are primarily internal audit or credit functions,

(iv) persons whose duties may incidentally include the reporting or apprehension of shoplifters or trespassers, or

(v) an individual on active duty in the military service;

(4) the term "certificate of registration" means a license, permit, certificate, registration card, or other formal written permission from the State for the person to engage in providing security services;

(5) the term "security services" means the performance of one or more of the following:

(A) the observation or reporting of intrusion, larceny, vandalism, fire or trespass;

(B) the deterrence of theft or misappropriation of any goods, money, or other item of value;

(C) the observation or reporting of any unlawful activity;

(D) the protection of individuals or property, including proprietary information, from harm or misappropriation;

(E) the control of access to premises being protected;

(F) the secure movement of prisoners;

(G) the maintenance of order and safety at athletic, entertainment, or other public activities;

(H) the provision of canine services for protecting premises or for the detection of any unlawful device or substance; and

(I) the transportation of money or other valuables by armored vehicle; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia [Mr. BARR] and the gentlewoman from California [Ms. LOFGREN] each will control 20 minutes.

The Chair recognizes the gentleman from Georgia [Mr. BARR].

GENERAL LEAVE

Mr. BARR of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARR of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in this great body in support of passage of the Private Security Officer Quality Assurance Act. I introduced this legislation along with the gentleman from California [Mr. MARTINEZ] at the beginning of this Congress. The gentleman from California has championed this bill not only in this Congress but in the previous Congresses as well.

This bill, Mr. Speaker, is identical to the bill that passed this House last Congress by a vote of 415 to 6. This bill will help ensure that private security officers undergo thorough and timely criminal background checks. It is straightforward and simple. It proposes an expedited procedure similar to those in use by the financial and parimutuel industries today to match the fingerprints of job applicants against records maintained by the FBI's Criminal Justice Services Division.

Mr. Speaker, there are more than 1.5 million private security officers in the United States. The security industry is dynamic and there is great pressure to meet the ongoing need to hire qualified personnel as vacancies occur. Thorough reviews of job applicants' backgrounds are critical to employers, both to protect assets and to ensure protection for the public. Employers must depend on State and Federal agencies for criminal history information. They need this information promptly, but under existing law this process can take from 3 to 18 months.

Thirty-nine States now require security contractors to conduct background checks of their personnel, usually requiring fingerprint matches. To obtain a review of the FBI records, a cumbersome, unwieldy process is used, leading to lengthy delays.

Today an employer must submit prints to the State police agency which in turn forward them to the Bureau where they are processed. This so-called rap sheet is then sent back to the police agency, which then sends these results to the State's agency charged with regulating the industry. That agency then must judge the fitness of the applicant for employment and a decision might then be made. At that point, if a permit is issued, it is sent to the applicant.

The existing system for private security employers to learn whether an applicant's criminal history disqualifies that person is often cumbersome and almost always time consuming. The typical transaction provides many opportunities for the process to bog down. With State agencies commonly stretched thin by tight budgets, the time required for staff to forward an applicant's fingerprints to the FBI sometimes consumes months.

Still further delays can and do occur after the FBI completes the check and returns the results to the State. As I stated earlier, in many States the results of the background check review then go to a law enforcement agency, then to a separate regulatory agency responsible for security officers, thereby lengthening the process even further. The bottom line is that in some instances an employer may wait more than a year, sometimes well over a year, before learning whether an applicant has a serious criminal record.

Financial institutions, Mr. Speaker, were authorized by Congress under Public Law 92–544 to obtain criminal records directly from the FBI. Under this system, the American Banking Association has indicated the process is reduced to about 20 business days.

Congress created another so-called express lane for obtaining criminal record information in the enactment of Public Law 100–413, the Parimutuel Licensing Simplification Act of 1988. This is a similar process to the one used by the American Bankers Association [ABA], but the rap sheet is sent back to the State regulatory agency, not the employer. The system approximates that proposed in H.R. 103.

This bill will authorize the Attorney General to name an association to aggregate, or collect, fingerprint cards, screen them for legibility, and then forward them to the FBI. The results of the records search will then be forwarded back to the appropriate State officials. By sending the records to State officials rather than to employers, we avoid, Mr. Speaker, potential concerns about privacy rights of job applicants. By eliminating several steps from the process, this system should result in a far more efficient system of background checks.

This system has been endorsed by the National Association of State Security and Investigative Regulators. As under current law, fees will be assessed to compensate the FBI for their costs, and there will be no net cost to the Government for this expedited procedure. We have made that clear in the language of the bill, Mr. Speaker.

Moreover, the bill contains absolutely no mandates for the States. The States are not required to participate in any part of a proposed bill if they elect not to. I strongly urge this Congress to join in support of H.R. 103, the Private Security Officer Quality Assurance Act.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill. This bill would permit associations representing private security firms to request FBI criminal history background checks on prospective security employees. This is a worthwhile bill because private security officers are entrusted with safety matters and it makes sense, good sense, to take advantage of the available resources to ensure that security firms do not unknowingly hire someone with a criminal background.

I do, however, want to sound two notes of caution about the bill and potentially unintended outcomes. First, I want to be absolutely clear that I do not believe private security officers are a substitute for sworn law enforcement officers. Private officers are generally less well trained, they are not sworn to protect the public, and constitutional protections do not operate with respect to them to the same degree as with police officers. There has been a trend toward private companies and even residential communities hiring more private officers as local governments are forced by budget constraints to scale back on their police forces. If this legislation were to encourage that trend, I believe we would come to regret it and would need to review and take action in the future should that unintended and unexpected outcome be the result.

Second, I do want to note that the FBI is concerned about the possible burden of dealing with hundreds of different private security firms requesting background checks. I share that concern and would urge the security firms if this bill is enacted to coordinate their background check requests through one or two trade associations that can provide a point of contact for the FBI. Again, if the firms fail to operate in a way that works best for the FBI, Congress would have to step back in and review this situation. And so I think it would be very wise for the private security firms to take every possible step to avoid adversely impacting the Federal Bureau of Investigation.

With those two caveats about potential concerns, I would like to note that I do and Democrats on the committee did support this bill. The gentleman from California [Mr. MARTINEZ], as the gentleman from Georgia noted, has introduced this bill for several Congresses and it is good to see a bipartisan team coming together in support of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BARR of Georgia. Mr. Speaker, I yield myself such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM], distinguished chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. MCCOLLUM. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to simply congratulate the gentleman from Georgia for this bill. I think it is a very important piece of legislation in terms of trying to make sure that when we have security officers in private concerns, and we do all over the country, that they get their backgrounds checked. It really does not make sense to open the door for criminal behavior and conduct even in private concerns when people are supposed to be involved with highly sensitive matters and they have some kind of background that would say to the people who are hiring that we would not do that if we had known that was there.

Mr. Speaker, I think the gentleman has made an enormously valuable contribution to safety and security in this country by this bill and I strongly support it and urge its adoption.

Mr. Speaker, H.R. 103, the Private Security Officer Quality Assurance Act, represents a legislative effort to expedite and improve background checks for private security guards. Congressman BARR brought this issue to Congress' attention last year, and his bill passed overwhelmingly in the House. Unfortunately, it was not taken up by the Senate before final adjournment, and I commend him for his continuing dedication to this issue.

Mr. Speaker, the private security industry is large and continually growing. It is estimated that, by the year 2000, private security officers will outnumber sworn law enforcement officers nearly 3 to 1.

Private security guards wear uniforms much like law enforcement uniforms. Some carry guns or other weapons. They give every appearance of authority, and many citizens trust them implicitly. The public deserves some assurances that the security guards they see at the malls, or in the parking lots, or at the office buildings are all qualified individuals who do not have criminal records.

H.R. 103 directs the Attorney General to designate an association of employers of private security officers who would submit fingerprints to the Attorney General on behalf of any applicant for a private security officer position. The Federal Bureau of Investigation will then conduct the background checks on those applicants. The legislation gives the Attorney General authority to prescribe such regulations as may be necessary to implement this process, including regulations relating to confidentiality of information and the imposition of fees necessary for the recovery of costs.

This legislation does not supplant any current State background investigation process for private security officers, it simply creates a new avenue for more efficient investigations of national criminal history files. H.R. 103 will make it much more difficult for persons with criminal histories to cloak themselves with the legitimacy of a security uniform, and I urge my colleagues to support it.

Mr. BARR of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is also important to keep in mind that just a few days ago we celebrated, if that is the proper word, or at least recognized the first anniversary of the tragic bombing at Olympic Park in Atlanta. With the fact that there was a great deal of private security at those events and with the events surrounding Mr. Jewel, I cannot help but think that this is a very appropriate time to bring this bill forward to the floor because it will, I think, Mr. Speaker, go a great distance toward improving the caliber of private security officers in our community.

I would like to commend the gentlewoman from California for noting very appropriately and to remind all of our colleagues that the bill itself recognizes in its terms that despite the important role as an assistance or an adjunct to law enforcement, the role played by private security officers, they are not viewed in any way, shape or form by this legislation nor by myself or my cosponsor the gentleman from California [Mr. MARTINEZ] as usurping the authorities and duties of law enforcement officers. But that is a very important concern and one which we addressed specifically in the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise today in support of H.R. 103, the Private Security Officer Quality Assurance Act. I believe this legislation will help ensure that only qualified individuals are hired as private security officers, thereby improving the important public service these individuals provide.

H.R. 103 is not broad in scope. It seeks modest changes that would simply expedite the process by which States and employers can check the backgrounds of individuals applying for private security jobs.

The bill would accomplish this in two basic ways. First, it would allow the Attorney General to establish an association of private security guard employers. This association would in turn serve as an industry clearinghouse that would submit applicant information to the Federal Bureau of Investigation for purposes of doing individual background checks. This would help ensure that both the States and the employers would quickly receive important background information concerning individuals seeking to become private security officers.

Second, the bill includes provisions expressing the sense of Congress that the States should participate in the background check system.

The Private Security Officer Quality Assurance Act passed the House on September 26, 1996 by a vote of 415 to 6. The Senate, however, did not act upon the measure before the 104th Congress adjourned. Thus the gentleman from Georgia [Mr. BARR] reintroduced the identical bill this year as H.R. 103.

I would note that H.R. 103 was referred to the Committee on Education and the Workforce and, in addition, to the Committee on the Judiciary. While the Committee on Education and the Workforce has not reported H.R. 103, the Committee on the Judiciary did in fact order the bill favorably reported by a voice vote on June 18, 1997.

In light of the fact that H.R. 103 is identical to legislation passed overwhelmingly by the House last September, I agree with the gentleman from Pennsylvania [Mr. GOODLING], my committee chairman, that there is no reason to slow the legislative process. However, I also share his view that these actions should hold no precedence regarding the interest that the Committee on Education and the Workforce has regarding our jurisdiction with respect to issues raised in the bill. The committee retains its jurisdiction with respect to issues raised in the bill should its provisions be considered in a conference with the Senate.

Mr. Speaker, I would urge passage of this legislation that will help ensure the quality of the individuals who work as private security officers and help improve public safety.

Mr. GOODLING. Mr. Speaker, I rise today in support of H.R. 103, the Private Security Officer Quality Assurance Act. Modest though it may be, I believe this legislation can provide a valuable first step toward assuring that only qualified individuals are hired as private security officers.

H.R. 103 would accomplish two basic goals. First, it would allow the Attorney General to establish an association of private security guard employers that would, in turn, serve as a clearinghouse for submitting applicant information to the Federal Bureau of Investigation for purposes of doing individual background checks. This would help ensure that both the States and employers would more quickly receive important background information concerning individuals seeking to become private security officers. Second, the bill includes a sense of the Congress that simply says that the States should participate in this background check system.

I am pleased to note that H.R. 103 reflects the changes that were made to the bill in the 104th Congress at the suggestion of Members of my committee. H.R. 103 is a vast improvement over the version introduced in the 104th Congress, which included lengthy provisions declaring the sense of the Congress that States should enact statutes imposing numerous certification and training requirements on employers of private security officers. While I strongly support the notion of thoroughly checking the background of all applicants for private security officer positions, the bill's focus on achieving these improvements through proscriptive and cumbersome mandates—imposed on either the States or employers—was troubling to me as well as to other members of my committee. For that reason, I am pleased that the bill before us today does not include those provisions.

The Private Security Officer Assurance Act passed the House on September 26, 1996 by a vote of 415 to 6. The Senate, however, did not act upon the measure before the 104th Congress adjourned. Thus, Representative BARR of Georgia reintroduced the identical bill this year as H.R. 103.

Finally, I would note that H.R. 103 was referred to the Committee on Education and the Workforce, and in addition, to the Committee on the Judiciary. While the Committee on Education and the Workforce has not reported H.R. 103, the Judiciary Committee did, in fact, order the bill favorably reported by a voice vote on June 18, 1997. In light of the fact that H.R. 103 is identical to legislation passed overwhelmingly by the House last September, we saw no reason to slow the legislative process. However, these actions should hold no precedence regarding the interest that the Committee on Education and the Workforce has regarding our jurisdiction with respect to issue raised in the bill. The committee retains its jurisdiction with respect to issues raised in the bill should its provisions be considered in a conference with the Senate.

Mr. MARTINEZ. Mr. Speaker, I am once again delighted to join the gentleman from Georgia in support of the Private Security Officer Quality Assurance Act, a bill we jointly introduced earlier this year. Representative BOB BARR deserves enormous credit for his diligence, skill, and hard work in bringing this important, bipartisan measure to the floor.

I would like to take a moment to give special thanks to Chairman GOODLING and Representative CLAY for waiving committee jurisdiction over H.R. 103, and allowing this measure to be considered today.

In the waning days of the 104th Congress, the same bill that we are considering this afternoon was overwhelmingly passed by the House. The Senate simply ran out of time and adjourned before they could act on this bipartisan bill. So here we are again.

Mr. Speaker, the public deserves the assurance that the security guard they meet in the mall, the bank, or at school is not a felon or a person who has a history of violent behavior. Virtually every year the press reports on tragedies which occur when inadequate background checks are made—tragedies that involve security guards who commit murder, rape, and theft.

There are now thousands of security companies employing close to 1.8 million guards. The vast majority of these security guards are professionals, many acting heroically in performing their duties. However, right now, we cannot be sure that the security officers that we meet in virtually every facet of our lives are not armed and dangerous.

H.R. 103 will provide an expedited procedure for State officials to check the backgrounds of applicants for guard licenses. A similar procedure is in place for the banking and parimutuel industries. By establishing an expedited procedure for State regulators of security guards to receive FBI background checks, H.R. 103 will greatly improve the safety of the public.

In some States it can take up to 18 months to complete background checks for security guards. This bill can reduce that time to the approximately 3 weeks it takes for banks to get results under their expedited procedure.

H.R. 103 contains no mandates of any kind. No State or individual is compelled to use it. Fees will be paid by the applicants or their employers. There is no cost to the FBI.

H.R. 103 has broad support, most notably from the National Association of Security and Investigative Regulators and representatives of the guard, alarm, and armored car industries.

Security should not be a partisan issue. I am therefore delighted by the bipartisan support for this bill, which was so soundly reflected last September by the House vote for the Private Security Officer Quality Assurance Act.

Mr. Speaker, I strongly urge my colleagues to support this straightforward, modest, and reasonable bill that will greatly improve public safety.

Vote for common sense. Vote for public safety. Vote for H.R. 103.

Ms. LOFGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARR of Georgia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia [Mr. BARR] that the House suspend the rules and pass the bill, H.R. 103.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT STATES SHOULD WORK MORE AGGRESSIVELY TO ATTACK PROBLEM OF REPEAT CRIMINALS

Mr. MCCOLLUM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 75) expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences.

The Clerk read as follows:

H. CON. RES. 75

Whereas a disturbing number of law-abiding citizens believe they are prisoners in their own homes because of increasing violence in our society;

Whereas law-abiding citizens have the right to be fearful knowing that violence offenders only serve on average 48 percent of the sentence they received

Whereas more than ⅔ of persons under correctional supervision are currently on parole and not incarcerated;

Whereas 1 in 3 offenders admitted to State prisons were on probation or parole violators;

Whereas the Federal Government eliminated parole in 1984 and prisoners convicted of Federal crimes now serve at least 85 percent of their sentences;

Whereas under current Federal law, States are eligible for prison construction funds if they keep felons in prison for at least 85 percent of their sentence;

Whereas in 1996, at least 25 States, among them Arizona, California, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, and Washington, have laws that meet the 85 percent of sentence served requirements set forth in the 1994 crime bill; and

Whereas the National Association of Police Organizations, the International Chiefs of Police, the Fraternal Order of Police, the National Association of Chiefs of Police, the National District Attorney's Association, and the Safe Streets Coalition support the concept of an 85 percent minimum length of service for violent criminals: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) Congress commends Arizona, California, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, and Washington for their existing efforts with respect to prison time served by criminal offenders;

(2) Congress encourages all remaining States to adopt as quickly as possible legislation to increase the time served by violent felons; and

(3) with respect to Federal crimes, Congress reemphasizes its support for the requirement that individuals who commit violent crimes should serve at least 85 percent of their sentence.

☐ 1630

The SPEAKER pro tempore (Mr. GOODLATTE). Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from Michigan [Mr. CONYERS] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 75, introduced by the gentleman from Michigan [Mr. BARCIA], expresses the sense of Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders. It reemphasizes Congress' support for the principle that individuals who commit violent crimes should serve at least 85 percent of their sentences. It also commends the States which have enacted truth-in-sentencing legislation and encourages the remaining States to adopt such legislation.

Let us remember why we passed truth-in-sentencing legislation in the first place. Members were tired of continually hearing from frustrated and angry American citizens who knew, or were themselves, the victims of violent crimes of criminals who already had violent criminal history records. Congress recognized 2 years ago that the revolving door of justice must be stopped. Truth-in-sentencing legislation was a response to the small but deadly group of criminals who get arrested, convicted and released back into the community before they have served even half their sentences.

In fact, one of the most astonishing cases I have ever heard about: Four Milwaukee men were arrested last year for a crime spree which included two murders. Between them they had 92 prior arrests. The charges ranged from armed robbery and arson to theft and battery. In the group one 24-year-old man had 51 arrests alone. The police chief of Milwaukee was frustrated by the fact that his department was, as he told reporters, "arresting the same individuals over and over again."

In fiscal year 1996, 25 States met the requirements for a truth in sentencing grant award under legislation that we passed in Congress. According to the Department of Justice, several more States are attempting to pass such laws during the current legislative session. The fact that so many States have enacted truth-in-sentencing legislation since Congress took action in 1995 demonstrates clearly that incentive grants in that legislation has worked.

Mr. Speaker, let us consider the actual use of these funds. A large number of States have indicated in their fiscal year 1997 applications that they are planning to use some of the grant funds to build or expand juvenile facilities for violent juvenile offenders. In fact, four States have indicated that their entire grant award will be used for juvenile facilities. Additionally, at least 13 States plan to make a portion of the 1997 grant funds available for local jail projects. Four other States are exploring the use of grant funds for privatization of correctional facilities. This was Congress' clear intention, to allow the States some flexibility in determining where and how to spend the money necessary to fight violent crime.

States have responded positively to Congress' leadership on this issue and every citizen has benefited because more violent criminals remain where they belong, behind bars. The incentives grants are effective, and Congress must use every means possible to give this message out to those remaining States which have not yet passed truth-in-sentencing legislation. There were about 6 or 7 States that had truth-in-sentencing legislation that required at least 85 percent of the time to be served that is given somebody in the sentence who commits a violent crime before we passed our truth-in-sentencing grants, and now we have almost 25, but there are still another 25 or so that have not passed such legislation.

The bill of the gentleman from Michigan [Mr. BARCIA] expresses the sense of Congress that all the remaining States should adopt as quickly as possible legislation to require an increase in the time served by violent felons, and I concur completely. Law-abiding citizens have the right to feel safe, and ensuring that violent criminals serve at least 85 percent of their sentences is one very effective way to do it.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the committee.

Ms. LOFGREN. Mr. Speaker, this resolution simply expresses the sense of the Congress that violent criminals should face severe penalties for their behavior. I think the resolution gives us an opportunity to reflect on one of the biggest success stories in memory, which is the huge decrease in the crime rate, an astonishing 34 percent reduction since 1991, and it is continuing to fall. I think it is important to realize that there are different elements contributing to the falling crime rate.

First and foremost, I think it has been aggressive community based policing, the 100,000 new cops on the beat program. Second, I agree with the gentleman from Florida [Mr. MCCOLLUM] that repeat violent offenders do need to be kept from their potential victims and that efforts to keep violent criminals incarcerated for most of their sentence have played a role in the falling crime rate.

Third, gun control efforts that we have enacted, including the Brady bill and the ban on assault weapons have done a lot to make our communities safer. Last but not least is the role of prevention programs. I would say of the four elements of a balanced program, it is prevention that has been most starved for attention and for resources. The cumulative effect, however, of the four balances, community policing, career repeat violent offenders being incarcerated, as well as the gun control, and then, finally, prevention programs has yielded this result.

I thank the gentleman from Michigan [Mr. BARCIA] for his resolution. I think it is absolutely appropriate that we recognize one of the four elements on our balanced approach, and I would also ask us to reflect that it is not just that one of the four elements, but the prevention measures and the other that have helped achieve the success that we are now starting to achieve.

Mr. MCCOLLUM. Mr. Speaker, I have no further requests for time, but I know the gentleman from Michigan [Mr. CONYERS] may.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of House Concurrent Resolution 75, and I want to thank my good friend from Michigan, the distinguished gentleman from Detroit [Mr. CONYERS] and of course the gentleman from Florida [Mr. MCCOLLUM], the very distinguished chair of the subcommittee, who has been a strong leader on the issue of victim's rights in this Congress and previous sessions. His leadership has resulted in a number of success stories, I think, in our control of violent crime especially, and I want to thank him and the gentleman from Illinois [Mr. HYDE], the full committee chair, and the very dedicated staff of the subcommittee and committee for allowing this resolution to come before the House.

The American public is losing confidence in our judicial system. When two-thirds of convicted felons are on parole and not incarcerated they have every right to feel that way. When a small group of criminals who are responsible for a majority of the violent crimes serve substantially abbreviated sentences, the American public has a right to be concerned for their safety. Mr. Speaker, law abiding citizens deserve to feel safe, and when we keep this small but deadly group of criminals incarcerated for appropriate sentences, our streets are safer for both our citizens and for police officers as well. It is a commonsense approach to a recurring problem.

Since 1984, the Federal Government has required Federal criminals to serve 85 percent of their terms. In 1994 and again in 1995, the U.S. House of Representatives approved incentives to reward States that passed legislation to keep violent criminals imprisoned for at least 85 percent of their sentences. Any State that reaches that benchmark is eligible for Federal funds for prison construction. In 1995, only five States achieved that goal. Today some 25 States, including my home State of Michigan, have put into place harsher prison sentences for those citizens who flagrantly disregard the law and threaten our safety.

I introduced this resolution 2½ years ago to commend those States who have adopted longer sentences and to encourage the remaining States to more aggressively attack the problem of violent crime committed by repeat offenders and criminals serving abbreviated sentences.

One of my constituents, Sherry Swanson, was the victim of a cruel act by a violent repeat offender. Sherry was a vibrant 19-year-old with a bright future. Her life was drastically altered as a result of the actions of a violent repeat offender who has not only a disrespect for the law but also a disrespect for life. The predator that attempted to end Sherry's life had in the 10 months following his early release committed three sexual batteries, armed robbery, two kidnapings and two first degree murders. That was just in 10 months.

Mr. Speaker, a person with this record should not have been allowed back on the streets to commit yet another series of heinous crimes. If this habitual criminal had remained in custody, two people would be alive today. Two people would not be suffering from the results of the kidnaping, one person would not be terrified of another robbery, three people would not have been sexually abused, and a young woman, Sherry Swanson, would not be partially paralyzed.

Numerous studies have already proven that longer sentences for those who repeatedly ignore the law result in safer streets for all of our citizens. Yes, there are inequities in our judicial system. They must be corrected. But are we willing to sacrifice the rights of victims? The victim does not deserve only part of their fear or part of their injury. Why should the violent criminal serve only a small part of their penalty?

We need to send a strong message to the public that we are working hard to end the arrogance of criminals who know that they will not be punished for taking a life. We are working hard to end the ability of violent criminals to return to the streets after only serving one-third of their sentence, to strike again, taking a husband away from a wife, a child from a mother, or a father from his children. We must send a strong message to the States that not only are the incentives and financial assistance available, but the American public demands safer streets.

Lastly, we must send a strong message to criminals that they will not be able to return to the streets and that the sentence handed down will be the sentence served. We must send a message that our justice system is not a flea market where there is always a bargain to be had. Mr. Speaker, justice is not a commodity for haggling; just ask the victims.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a problem with this sense-of-the-Congress resolution because most of the supporters of this are the conservative Members of Congress who came to Congress talking about States rights, the rights of States to take care of their own business, and frequently the Federal Government was considered to be meddling when it imposed their requirements on the States. That is what we are continuing to do today. We ask that States rights be considered on welfare matters, on civil rights matters, on the environment; that is what my colleagues were saying, I was not saying that, and that the States know best; that is what my colleagues were saying, I was not saying that. And now we have this sense-of-the-Congress resolution in which we tell the States that we know best.

Does anybody care to explain why we have this bifurcated policy when it comes to criminal matters that all of a sudden we know better than the States who write their own State criminal laws, and we who write our own Federal criminal laws, we are not telling the States that they ought to shape up and join the other 16 States and abolish parole.

Why?

OK, silence.

Mr. BARCIA. Mr. Speaker, would the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I would just respond to the gentleman from Michigan's concerns and say that of course the Congress cannot mandate to the States increases in the length of sentences for violent predators, however the concept, of course, due to the leadership of the gentleman from Florida [Mr. McCOLLUM] and others, the gentleman from Illinois [Mr. HYDE] in the House of Representatives who were advocates on behalf of victims rights saw legislation incorporated into the Omnibus Crime Bill of 1994, which many of us supported, which in fact would reward States with financial incentives if, in fact, they would agree to keep their violent criminals, not all criminals, but violent criminals, those who cause a serious threat to the public and to innocent citizens.

Mr. CONYERS. But how is it we knew better what they should do with their State criminals than they did?

□ 1645

Mr. BARCIA. Mr. Speaker, I think in some cases, I would say to the gentleman from Michigan [Mr. CONYERS], it was a condition where severe financial pressures at the State level allowed for overcrowding of the prison system without adequate facilities to house all of those people who were sentenced to terms in prison. So some States were actually paroling violent criminals after serving only 20 or 25 percent of their sentence, and these criminals were going out and engaging in repeat behavior, again causing great trauma and violence to other citizens that might not have been exposed had they not been paroled early in the first place.

Mr. CONYERS. That was not going on in Michigan, and the gentleman knows it. So why did the gentleman persuade Governor Engler of Michigan, who does not know particularly much about criminal law at the State or Federal level, to do something like this?

Mr. BARCIA. Mr. Speaker, we did have several instances in Michigan, I would say to the gentleman from Michigan [Mr. CONYERS], one that I can think of when I was a State legislator back in Lansing, in which a person had committed two second degree murders, served 4 years on the first sentence, 8 years or about 6 years before he was paroled to a halfway house in Lansing on the second offense, and then also continued, and strangled and raped a young lady in east Lansing and killed a police officer. As he was driving her car through downtown, he committed a small traffic infraction, was pulled over by a Lansing police officer, and was shot. The corrections department in that case had paroled him a bit earlier. By mistake, the computer had credited him with too much good time. But I was a member of the State senate when that family brought a lawsuit against the Michigan Department of Corrections because of their losses, and the losses in two families could have been prevented had he been incarcerated for the full length of his sentence.

Mr. CONYERS. I would ask the gentleman, Mr. Speaker, is that a reason to eliminate parole for everybody in the State of Michigan? I yield to the gentleman for a response.

Mr. BARCIA. Mr. Speaker, I do not believe it totally eliminates parole. It says if you receive a determined number of years as your sentence, you shall serve 85 percent of that. In other words, if you receive a 10-year sentence, you should serve 8½ years before you are paroled back on the streets.

Mr. CONYERS. Has the gentleman examined what criminal justice authorities say about this kind of draconian addition of time to people who are incarcerated who may be rehabilitatable, and that this works in a very onerous way upon people who, as the gentleman may know, are receiving longer and longer sentences than ever before?

In other words, it may be considered counterproductive to the very thing that the gentleman is trying to accomplish. This includes the concept of three-strikes-and-you-are-out, which is another throw-the-baby-out-with-the-bath-water situation.

We are paying States to go along with us, and now the gentleman is passing a sense-of-the-Congress resolution asking the States that have not jumped in on the cash-flow, which, by the way, is $800 million so far, and I know the gentleman is concerned about balancing the budget, but we have to fight crime at all costs.

Does the gentleman have a little concern that maybe all of these impositions of more and more time, mandatory minimums, 85 percent, we pay people, States, hundreds of millions of dollars to build more facilities, since they cannot afford it anymore themselves, we have three-strikes-and-you-are-out at the Federal level, three-strikes-and-you-are-out at the State level, does the gentleman not have any sense that maybe we could be more efficient and effective in reducing crime than just piling on sentence upon sentence upon sentence?

I yield to the gentleman for a response.

Mr. BARCIA. Mr. Speaker, I would again emphasize to the distinguished ranking member of the Committee on the Judiciary that, in fact, we are not mandating in this resolution nor in the Federal law that was passed in 1994 that States must do this, but for them to consider that.

I do not know if we have a total, I would say to the gentleman, on what the effect or what the impact of violent crime is across the country, if we were ever to total up the cost. But in the case of Ms. Sherry Swanson, who is now 28 years old, and she was shot twice in the head when she was 20 years old working at a convenience store during a robbery attempt, and I know that her medical bills exceeded $1 million, plus her life has been forever changed.

So yes, $800 million is a significant amount of money, and of course, as the gentleman knows, and the gentleman noted, I am a supporter of the balanced budget amendment and balancing our spending with our revenues in the Federal Government. I think we, as policymakers in this body, must make tough decisions on how we apportion out those limited resources that we have and certainly decide the priorities in terms of Federal spending. But I think violent criminals who are in and out of prison and hurting our fellow citizens are worthy of our attention and our resources.

Mr. CONYERS. I thank the gentleman, Mr. Speaker. Those are legitimate sentiments that are held by many in this body.

Could I ask my dear friend, the gentleman from Michigan, and we are friends, and this is a friendly discussion, does he believe that we should continue to deprive judges of the discretion necessary to fashion criminal sentences in individual cases appropriate to the persons standing before them in the court?

I yield to the gentleman for his comments.

Mr. BARCIA. I thank the gentleman for continuing to yield to me, Mr. Speaker.

Mr. Speaker, I would say that, as a State legislator, I have supported determinant sentencing with a number of years prescribed for a type of crime that is committed. However, I am very respectful of the ability for a member of the judiciary to mete out a sentence that is fair and to take into account all the circumstances of a particular crime.

Mr. CONYERS. I thank the gentleman.

Mr. Speaker, is the gentleman aware that in the three strikes legislation in California, in particular, it has clogged the courts, the processes, so much that neither the prosecutors nor the defense lawyers bother with it anymore, because employing it makes it absolutely unworkable? Does the gentleman have any knowledge on that?

Mr. BARCIA. Yes. I do not have any knowledge on how the three-strikes-and-you-are-out language is impacting across the country, but I have generally supported that, especially for violent crimes.

I know we saw some instances, I think, of a minor theft out in Oregon or the State of Washington, I cannot remember which, in which a person stole a slice of pizza and was prosecuted under that law. I think in that case probably the prosecutors were overzealous and should be allowed discretion in terms of their judgment as to which of those offenses to pursue on the three-strikes-and-you-are-out provision.

But, of course, not being a member of the Committee on the Judiciary, I do not profess to be an expert on the specific language that has been adopted by this House and Senate and signed by our President in an attempt to get a greater grasp of crime in this country.

Mr. CONYERS. I appreciate the gentleman's knowledge on the subject so far. He is doing pretty well, better than, I will not say than some people on Judiciary, but he is holding his own very, very well.

What if the gentleman found out that the three strikes provision does not carry any discretion, and that little incident that you talked about, and I have some more in which the third offense being a violent offense, that is it, for the rest of your natural life? Does that, or is that something we might want to go back and hold hearings on, for example, to see if it might be corrected?

I yield to the gentleman from Michigan for a response.

Mr. BARCIA. Of course, I do not want to second-guess our leadership, neither the gentleman's nor the distinguished chair's and subcommittee chair's, on that very distinguished committee in this House. But it would be my impression as a layperson, not being a graduate of law school, that there ought to be discretion between misdemeanors and felonies on the three-strikes-and-you-are-out. That may be an issue we will revisit at some point in the future.

But I can tell the Members that this resolution involves truth-in-sentencing, and I know my good friend, the gentleman from Michigan, Mr. CONYERS, supported that crime bill here in the House, which contained the same provision for Federal offenses.

What we are trying to do is see the same treatment of violent offenders at the State level, because many of the truly violent crimes, such as rape and homicide, unless there are extenuating circumstances, they are in fact infractions of State law and not Federal law. That is why we are attempting to pass this resolution.

Mr. CONYERS. I thank the gentleman very much, because he has been very helpful.

Mr. Speaker, this is the gentleman's House concurrent resolution on truth in sentencing, is that correct, I would ask the gentleman? The gentleman is the author of this sense-of-the-Congress?

Mr. BARCIA. Yes, I am.

Mr. CONYERS. If the gentleman had known that I had voted against the crime bill of 1994, would that have slowed down the gentleman's enthusiasm for anything we have done or said here today?

I yield to the gentleman for a response.

Mr. BARCIA. I have to correct myself. I was mistaken. I know the gentleman is a strong supporter of gun control, and I assumed that with the strong gun control provisions in the 1994 bill——

Mr. CONYERS. Was the gentleman not?

Mr. BARCIA. Pardon me?

Mr. CONYERS. I said, was the gentleman not?

Mr. BARCIA. Mr. Speaker, I would say to the gentleman, I voted for the first version but not the final version.

Mr. CONYERS. The gentleman voted against the crime bill of 1994, too?

Mr. BARCIA. Yes. We agreed on that issue in the final analysis, but probably for different reasons.

Mr. CONYERS. I thank the gentleman for his colloquy with me. It has been very helpful.

Mr. Speaker, I hope that the States that have not jumped on the bandwagon requiring that offenders serve at least 85 percent of their sentence pay very close attention to House Concurrent Resolution 75, which rereminds them that they are really missing out; if they would join in, they could be getting Federal money, if they would only listen to us a little bit more. We cannot make the States impose these sentences.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to respond very, very briefly. I will not take the chair's time or the Members' time very long. A couple of points the gentleman from Michigan [Mr. CONYERS] made I feel deserve a little response.

One of them is with respect to the truth-in-sentencing legislation, to begin with. It was designed to provide a reward in part to those States that chose to, by their own voluntary commitment, make this 85-percent rule imposed upon those who commit violent crimes in their State, to make sure they serve at least 85 percent of their sentence. It was not anything mandatory.

What Members of the Republican party on this side of the aisle have complained about over the years, in particular, are mandates on the States, unfunded mandates in particular, that have been involved in a lot of legislation that past Congresses have enacted.

We have not complained about incentive grants, per se. We have been very concerned about the multiplicity of grant awards that are out there that say, you can only get *x* dollars if you apply in the prevention area for crime for this program or that program or the other program.

We have insisted that where there is Federal money involved and there are grant programs out there, that there be a wide variety of discretion at the local and State level, preferably in the form of block grants or very limited targeted grants.

This truth-in-sentencing law we passed in 1994 and revised after our party took over the majority is shaped in such a fashion that it allows maximum flexibility to the States to provide for how they spend the money in prison construction, if they choose to apply for it. They can build some jails with it at the local level, they can build juvenile facilities, they can build major State prisons with it.

The States, all States, are eligible for half the grant money, half the $400 million that has been appropriated each year, but those States which actually enact truth-in-sentencing laws that require at least 85 percent of a violent felon's sentence to be served are eligible for the other half that has been put aside. I think that makes eminent sense. I do not think that is in any way inconsistent with the philosophy that most of us have expressed in devolving as much power as possible to the States.

This resolution today that expresses the sense of the Congress is the right of free speech. We are not telling the States to do anything. We are simply saying, as legislators looking at this matter, as the gentleman from Michigan [Mr. BARCIA] so ably pointed out, we think it would be a good idea if they take another look. If they have not become eligible or not applied for the second half of the grant programs for building prisons and jails in their State, it does require as a form of eligibility that they impose an 85-percent service time that violent felons serve on violent felons, and that they do so because it makes good sense for public safety. No, we do not know best, but we hope they will join us in that comment.

The last I would point out on the three-strikes-and-you-are-out, at least at the Federal level, the three strikes requirement, in order to get a life sentence mandated, requires there be two underlying violent or serious drug offenses committed either at the State or Federal level.

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The third one has to be a violent Federal crime. Then you go away for life. I think most of us in this body have supported that. California is a little different, and debating California law, I do not see the merits of in this bill. I think this resolution is a sound one, as I said before. I urge its adoption.

Mrs. KELLY. Mr. Speaker, I rise today in strong support for the passage of House Concurrent Resolution 75, a concurrent resolution expressing the sense of Congress regarding States' efforts against repeat criminals. I was pleased to join my friend and colleague, Congressman BARCIA, in introducing this bill because it highlights one of the most dramatic problems in our Nation's war on crime—namely it is estimated that 80 percent of all violent crime committed in the United States is committed by only 7 percent of the population. That is a very telling statistic that sheds some light on the problem of crime in the United States.

In the last 20 years, we have seen the war on crime take on new and ominous proportions with an innovative criminal element devising new and ever more violent crimes such as with carjackings and drive by shootings. How do we battle that 7 percent of the population to ensure our safety? One of the best ways is to guarantee that the criminals who repeatedly commit violent crimes serve at least 85 percent of their sentences as House Concurrent Resolution 75 states in no uncertain terms.

In my home State of New York, we have had some of the worst reports of a criminal element at work, and only in recent years, we have been able to see a reduction in our crime rate through community policing and a get tough approach on lesser crimes. While it sounds troublesome and tedious to have the police crack down on petty crimes, the recent case of John Royster demonstrates the value of this practice. Mr. Royster was arrested by police and fingerprinted for jumping a New York subway turnstile. It was his only recorded offense. Three months later, the same prints were reportedly found to match those at a drycleaning business on Park Avenue where the owners had been beaten to death. It was because of this match that Mr. Royster confessed to four brutal attacks including a highly publicized attack in Central Park that left a woman in a coma. Now the next step for Mr. Royster is punishment—hard time in a State penitentiary. I will work with my colleagues, both here and in the New York State House, to make sure that Royster stays in prison.

Putting away violent, repeat offenders like John Royster is essential if we are to make successful inroads lowering crime and strengthening our communities. I thank Congressman BARCIA for his work on this problem and ask for all of my colleagues, from both sides of the aisle, to join us in strong support for this important resolution.

Mr. LEVIN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 75 of which I am an original sponsor. This important legislation commends those States that have already adopted truth-in-sentencing laws and encourages the remaining States to do the same.

Most Americans believe that convicted violent offenders serve their full sentences; sadly this is not the case.

According to the Bureau of Justice statistics, violent criminals—those who commit murder, rape, assault, or armed robbery—serve only an average of 48 percent of their sentences, and one out of every three offenders admitted to State prisons were either on probation or parole for a previous offense at the time. According to the committee report accompanying this bill, on any given day there are three convicted offenders on probation or paroles for every one convicted felon in prison.

To turn this trend around over 25 States, including my home State of Michigan, and the Federal Government have truth-in-sentencing laws on the books. Under this concept, convicted violent offenders are required to serve at least 85 percent of their sentences.

Both the 103d and 104th Congresses passed legislation providing financial incentives in the form of prison construction funds to States if they adopt laws requiring criminals to serve at least 85 percent of their prison terms. Unfortunately, 25 States still have not adopted such laws.

Law-abiding citizens have the right to know that those who commit the most hideous of crimes in our society serve the time their sentences require.

The resolution before us today is simple. It asks that those who commit violent crimes do the time that the law requires of them. I wish there was not a need for this type of resolution, but until then, I hope all my colleagues vote to encourage States to do the right thing.

Mr. DAVIS of Florida. Mr. Speaker, I rise in strong support of House Concurrent Resolution 75, which expresses the Sense of the Congress that States should work aggressively to ensure that violent offenders serve at least 85 percent of their prison sentences. As a cosponsor of this legislation, I commend the gentleman from Michigan, [Mr. BARCIA], for this hard work and leadership on this issue and ask all my colleagues to support this important resolution.

Although the most recent statistics on violent crime indicate that we are beginning to make progress in our fight for safer neighborhoods, we must remain vigilant in our efforts to ensure public safety and recognize the achievements of States such as Florida which have taken strong steps to attack the problem of repeat violent offenders. Only with continued cooperation between Federal, State, and local officials can we hope to maintain the downward trend in violent crime rates.

This resolution commends Florida and 24 other States which have taken steps to ensure that violent felons serve at least 85 percent of their prison sentences. Nationwide, violent offenders serve an average of only 48 percent of the sentences they receive—a statistic which is unacceptable and greatly erodes Americans' confidence in our justice system. House Concurrent Resolution 75 applauds those States which have taken proactive steps to prevent the problem of repeat violent offenders and encourages other States to follow their lead in enacting strict sentencing guidelines. While guidelines alone will not solve our Nation's crime problem, they have proven an effective tool in ensuring that violent felons remain off our streets.

Mr. Speaker, I applaud the efforts of those States listed in this legislation, including my home State of Florida, and urge all of my colleagues to support this important resolution which recommits this Congress to the fight for safer communities.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Florida [Mr. McCOLLUM] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 75.

The question was taken.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING THE IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1109) to amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States.

The Clerk read as follows:

H.R. 1109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF CERTIFICATE OF CITIZENSHIP TRANSITION RULE APPLICABLE TO CERTAIN CHILDREN.

(a) IN GENERAL.—Section 102 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4307) (as amended by section 671(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–1856)) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. McCOLLUM] and the gentlewoman from California [Ms. LOFGREN], each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1109, which I introduced with my colleague, the gentleman from California [Mr. BERMAN], to correct an error that was part of last year's immigration bill, the Illegal Immigration Reform and Immigrant Responsibility Act.

H.R. 1109 would make a technical change regarding requirements for citizenship for people born overseas.

I want to say that I am particularly appreciative of the gentleman from Texas [Mr. SMITH], who is the chairman of the Subcommittee on Immigration and Claims, that deals with this product, for bringing it forward and recognizing the fact that we need it today.

Unfortunately his commitments kept him from being here to be a party to this discussion. I am very happy to handle it for him today.

The gentleman from California [Mr. BERMAN] and I had the pleasure of working together in 1994 on this issue. The Immigration and Nationality Technical Corrections Act of 1994 granted Americans abroad the possibility of obtaining U.S. citizenship for their minor children who had not acquired citizenship at birth. It allows certificates of citizenship to be granted to a child of a U.S. citizen if the child is under 18 and if either the American parent or the American parent's parent, that is, the American grandparent, has spent 5 years in the United States with two of those five being after the age of 14.

There were no policy problems brought before Congress with regard to this. However, the immigration bill in the last Congress included a change in this policy buried in the technical corrections part of the bill. This was most likely an innocent attempt to clean up an admittedly complicated statute, but this cosmetic change is doing harm. The change doubles the amount of time the parent or grandparent must have been in the United States for children born before November 14, 1986. That means for children between 11 and 18, the parent and grandparent must have 10 years in the United States with 5 after the age of 14. Children born after November 14, 1986 are under the old 5 and 2 rule.

There is no need for the distinction. Not only is this unfair to many families who may have one child eligible for citizenship and another who is not, but it is also an administrative nightmare for the Immigration and Naturalization Service. The correction included in H.R. 1109 needs to be enacted as soon as possible to make the situation right. The legislation has bipartisan support. I strongly urge an aye vote on it.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1109 is a technical amendment bill introduced by the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from California [Mr. BERMAN]. I understand that the Senate recently passed S. 670, which is an identical piece of legislation, and that we will be calling up S. 670 at the end of our debate on H.R. 1109 so that the legislation may go directly to the President when and if it passes.

Section 322 of the Immigration and Nationality Act was amended last year to make it more difficult for certain children of U.S. citizens living abroad to receive certificates of citizenship. Section 322 previously provided that a foreign born or adopted child of an American living abroad was eligible to receive a certificate of U.S. citizenship if he or she was under 18 years old and had an American parent or grandparent who spent a total of 5 years in the United States, at least 2 of which were after age 14.

The amendment, placed a special restriction on children born before November 14, 1986. For those children to be eligible to receive a certificate of U.S. citizenship, the American parents or grandparents are required to have been physically present in the United States for a total of 10 years, at least 5 of which were after age 14.

Unfortunately, last year's conference committee meetings were closed. I have not been able to find anybody who can fully explain how this change came about or why it came about. It certainly does impose burdens on Americans that are unwise and that on a bipartisan basis we object to. I think it is one example again of how haste in these matters can end up producing bills that have consequences no one wanted. I would urge adoption of this measure as a sensible revision for what I think was a mistake made in the last Congress.

Mr. BERMAN. Mr. Speaker, I rise in support of H.R. 1109 which Mr. MCCOLLUM of Florida and I introduced on March 18th, 1997. This bill is a technical correction of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 (Public Law 104–208). Let me explain the history behind this legislation.

Section 322 of the Immigration and Nationality Act (INA) establishes the criteria for citizenship of children born to U.S. citizens living abroad. Prior to 1986, for a U.S. citizen parent to transmit U.S. citizenship to his or her foreign-born or adopted child (before eighteen years of age), the American parent or grandparent had to have lived in the U.S. for 10 years, 5 of which had to be after age fourteen.

The Immigration Reform and Control Act of 1986 (IRCA) amended these requirements to five years of U.S. residency, two after the age of fourteen. Because the change in IRCA applied prospectively, some families had siblings subjected to different standards. Hence, section 102 of the Immigration and National Technical Corrections Act of 1994 (Public Law 103–416) was introduced to amend Section 322 of the INA and apply these lower standards retroactively.

IIRIRA amended Section 322 by placing a special restriction on children born before November 14, 1986. For those children to be eligible for U.S citizenship, the American parent or grandparent was once again required to have been physically present in the U.S. for a total of ten years, at least five of which were after the age fourteen.

IIRIRA has inadvertently created the same problem that the 1994 amendment to the INA was designed to cure, as siblings may once again find themselves subjected to different standards. The enactment of H.R. 1109 will simply repeal this error and restore Section 322 to its pre-IIRIRA status. The bill will also eliminate the extensive administrative confusion created by last year's immigration bill.

There is no opposition to this legislation. I hope we can give favorable consideration to this technical correction of IIRIRA and I urge my colleagues to support it.

Ms. LOFGREN. Mr. Speaker, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MCCOLLUM] that the House suspend the rules and pass the bill, H.R. 1109.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 670) to amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Ms. LOFGREN. Reserving the right to object, Mr. Speaker, I shall not object, and I yield to the gentleman from Florida [Mr. MCCOLLUM] to explain the purpose of the request.

Mr. MCCOLLUM. Mr. Speaker, the purpose of the request is to cull out the identical Senate bill to the bill we just passed, which is H.R. 1109, and pass it so the legislation may go directly to the President after today. It is the identical bill. It just has a different Senate number on it instead of the House number.

Ms. LOFGREN. Mr. Speaker, continuing my reservation of objection, I will not object. I just wanted Members of the House to understand what we are doing here.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF CERTIFICATE OF CITIZENSHIP TRANSITION RULE APPLICABLE TO CERTAIN CHILDREN.

(a) IN GENERAL.—Section 102 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416; 108 Stat. 4307) (as amended by section 671(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–1856)) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1109) was laid on the table.

EXPANDED WAR CRIMES ACT OF 1997

Mr. JENKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1348) to amend title 18, United States Code, relating to war crimes.

The Clerk read as follows:

H.R. 1348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expanded War Crimes Act of 1997".

SEC. 2. DEFINITION OF WAR CRIMES.

Section 2441 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "grave breach of the Geneva Conventions" and inserting "war crime";

(2) in subsection (b), by striking "breach" each place it appears and inserting "war crime"; and

(3) so that subsection (c) reads as follows:

"(c) DEFINITION.—As used in this section the term 'war crime' means any conduct—

"(1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party;

"(2) prohibited by Articles 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907;

"(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or

"(4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee [Mr. JENKINS] and the gentleman from Michigan [Mr. CONYERS], each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. JENKINS].

GENERAL LEAVE

Mr. JENKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. JENKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last year the House passed and President Clinton signed into law our colleague's, the gentleman from North Carolina [Mr. JONES], War Crimes Act of 1996.

That bill fulfilled the obligation the United States undertook in 1955 when the Senate ratified the Geneva Conventions for the Protection of Victims of War. The Conventions require that signatory countries enact legislation punishing grave breaches of the Conventions.

The Jones bill created a new section 2441 of title 18. The section provides that the perpetrator of a grave breach of the Geneva Conventions taking place inside or outside the United States shall be fined, imprisoned or, where death results, subject to the penalty of death.

The section grants jurisdiction to Federal courts where the perpetrator or the victim is a member of the armed forces of the United States or a national of the United States.

Today we are considering the Jones followup legislation. At a hearing the Immigration and Claims Subcommittee held last Congress, the State Department and noted scholars of international law urged that we modify the Jones bill by expanding the criminalization of war crimes to cover a number of other offenses. That is what the present Jones bill, H.R. 1348, does.

As recommended by the State Department, H.R. 1348 would expand section 2441 to cover violations of common article 3 of the Geneva Conventions and articles 23, 25, 27, and 28 of the Hague Convention of 1907 Respecting the Laws and Customs of War. The United States is a signatory to all those conventions.

These provisions forbid atrocities occurring in both civil wars and wars between nations. They cover atrocities that have been recognized by the civilized world as abhorrent such as the torture or murder of civilians and prisoners of war, the use of weapons that cause unnecessary suffering, the bombardment of undefended towns, the unnecessary bombardment of hospitals or religious structures and the pillaging of towns.

Also, H.R. 1348 would expand section 2441 to cover other offenses at such time in the future that the United States ratifies the underlying treaties. These would include certain violations of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and other Devices, currently before the Senate.

Violations would include the willful killing or serious injuring of civilians as a result of the deployment of land mines in civilian areas with no military justification or the booby-trapping of wounded or dead soldiers or of medical supplies.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I rise in support of H.R. 1348, the Expanded War Crimes Act of 1997. This is a companion bill to legislation passed last year establishing Federal jurisdiction over war crimes.

I think that every Member of this body agrees that we must actively and aggressively support civility, that we must oppose oppression and war crimes and that we need to bring those to justice who commit crimes against humanity. During the Holocaust, the killing fields of Cambodia, the civil war in Bosnia and the massacres in Rwanda, many perpetrators acted without fear of retribution, and we must do more to change this attitude.

This bill expands the definition of war crimes to include violations of any convention signed by the United States, including the Hague Convention, an important source of international humanitarian law, and I urge support of this legislation.

I would like to note that, although there was strong support on both sides of the aisle for this bill, there are those in this House who on principle oppose the death penalty. I am not among those Members but I do respect those whose religious beliefs have led them to the conclusion that they cannot support the death penalty. I think that we ought to respect those differences of opinion among us and also understand that even those who feel that the death penalty is an inappropriate sanction because of their own religious beliefs still do condemn war crimes and still do believe that we ought to do our very best to oppose crimes against humanity and war crimes throughout the world.

Mr. JENKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], sponsor of this legislation.

Mr. JONES. Mr. Speaker, I would like to take a moment to thank the gentleman from Texas [Mr. SMITH] and his committee members and their staff for their work and efforts to bring this important legislation to the floor of the House.

Last year this body passed the original War Crimes Act of 1996. It was quickly considered by the Senate and signed into law. The bill enhanced U.S. authority to prosecute certain war crimes and further U.S. implementation of the 1949 Geneva Convention.

□ 1715

It was an important time in United States history as we finally gave our men and women in uniform serving our country overseas the protection of the United States judicial system. While the passage of the original war crimes bill was a significant step for the United States in the protection of victims of war, today we have another opportunity to make an equally important step.

This bill which is before the House today reaches beyond the grave breaches of the Geneva Convention. Specifically, H.R. 1348 expands the definition of war crimes to include a more general category of war crimes, to include important sections of the fourth Hague Convention respecting laws and customs of war and land; Common Article 3 of the Geneva Convention dealing with noninternational armed conflict; and Protocol II on landmines.

This expansion will allow U.S. courts to fully protect victims of war by including these additional conventions and protocols which the United States has signed.

Mr. Speaker, it is important to note that President Clinton called for Congress to further strengthen the law in this area by enacting the very expansion proposed in this bill before us today. In fact, the Department of Defense, the State Department, the Department of Justice and the American Red Cross have also voiced their support for this expansion of the original War Crimes Act of 1996.

Mr. Speaker, this is a strong bipartisan bill which will rectify the existing discrepancies between our Nation's intolerance for war crimes and our inability to prosecute all war criminals.

Again, I would like to thank the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary, and the Members on both sides of the aisle for their support. This bill is supported by the President of the United States, and over 50 Members of the House have signed this bill. I urge my fellow Members to support this important bill and pass H.R. 1348.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with the conservatives in the House reminding me that the President supports this bill, what am I here for? That is about it, once the Democrats and the Republicans put their arms around a measure.

There are only a couple of things I want to point out, with all due respect to the author of the bill and the gentleman from Tennessee who brings it to the floor today.

In expanding the definition of war crimes in this bill to include not only grave breaches of the Geneva Convention but also breaches of any other convention or protocol to which the U.S. is or becomes a signatory, this becomes prospective. Maybe somebody can explain this to me. Why are we writing legislation to cover protocols and agreements into the future, maybe long beyond the time any of us might be serving in this distinguished body? Do any of my colleagues know the answer to that?

I will research it for us and get back to my colleagues on that.

Now, this companion piece of legislation establishes jurisdiction over the war crimes, and it became law in the last Congress. It includes a provision which permitted the imposition of the death penalty in cases where the victim of the war crime was killed, and therein lies the problem. We support our war crime legislation, but we do not believe such legislation should include a death penalty in order to be effective.

Does anybody here disagree with that? In other words, if we had left the death penalty out, we would not be here today. We would be saying President Clinton, the Republicans and the gentleman from Michigan are all in agreement.

So we want to make it clear, as the gentlewoman from California did, that we are not against war crimes legislation. We are against the implementation of the death penalty wherever it appears.

So my question number two is, would my colleagues have blown a gasket if the death penalty was not in there? And I assume the answer is no, they would not have.

In effect, then, our limited objection is to the net effect of this measure broadening the scope of the death penalty. That is our only problem with this legislation. And so a number of us on the Committee on the Judiciary have opposed it and we continue to oppose it.

Why do we oppose it? Well, because the death penalty is frequently applied racially; race plays a role in the imposition of the death penalty, according to the studies that we keep looking at year in and year out. It has been like that for a long time.

So it is because of that, for some of us. Some people would probably oppose the death penalty even if it were not racially discriminatory. But that is the big hangup inside the United States where the death penalty is law and in certain instances and in certain places. We oppose it because we have seen the racial bias that can occur.

I would like to draw the attention of the author of the bill and the Member from Tennessee that is moving this, that is managing it on the floor, to the fact that the Death Penalty Information Center, which has put out a report that is called "Innocence and the Death Penalty: The Increasing Danger of Mistaken Executions," describes 69 instances since 1973 in the United States in which condemned prisoners had to be released from death row because mistakes had led to their wrongful conviction in the first place.

Now, of course, we do not know how many people went to their death despite their innocence and because no one got to them in time. And by the way, my colleagues know also that frequently many people of less financial means are not able to get the lawyers that can make sure all these kinds of technicalities are adhered to in the courts.

So this is the reason we oppose the death penalty, because of the racial implications in the administration of the death penalty. My lawyer colleagues will be pleased to know that the American Bar Association this year passed a resolution declaring that the system for administering the death penalty in the United States is unfair and lacks adequate safeguards. The resolution further declared that the executions ought to be stopped until a greater degree of fairness and due process can be achieved, which is exactly what the Supreme Court said in an earlier period in the Furman versus Georgia death penalty case, in which they suspended the death penalty at the Federal level.

Now, it is that same problem, Mr. Speaker, that we have seen in the experience of the United States, that we can see in the context of international justice. The tribunal in the Hague which prosecutes war crimes against Bosnians has received excellent resources and quite a bit of attention. But in Africa, the Rwandan War Crimes Tribunal in Zimbabwe is poorly staffed and has not been able to prosecute a single case.

I think it is fair to say that millions of people have been assassinated, prosecuted, oppressed over there in their very troubled situation. The war crimes against Africans in an international context seem to be less pressing than the war crimes against Europeans. I am not trying to extrapolate in generalities, but there is a stunning similarity about how the death penalty is imposed, even in the international arena as well as domestically.

Now, here is question number three for my conservative friends in the Congress. How many of my colleagues would like to be allied with Cuba, Syria, Iraq, Iran, China and Libya? Let us raise our hands. Not all at once.

The only issue that binds us, the United States, to Cuba, Syria, Iraq, Iran, China and Libya is that we are the only nations that impose the death penalty. The only ones. Now, I am embarrassed by that. Some of my colleagues are proud of that. Some of my colleagues are happy to join with America's friends from these countries and support our death penalty, as they support their own death penalty, if there were democracies in any of those countries. But everywhere else there is not a death penalty.

So I just ask my colleagues to think about this with me and join with me, and let us vote down this resolution and go back and take out the death penalty. Let us keep war crimes legislation but remove the death penalty.

Could my colleagues go along with me on that? That is the fourth and last question. If they can, I think my colleagues will sleep better in their beds at night.

Mr. Speaker, I reserve the balance of my time.

Mr. JENKINS. Mr. Speaker, I yield myself such time as I may consume to note that the gentleman from Michigan referred to the remarks of the gentlewoman from California, and I think she appropriately pointed out that there are many people in this country who have deep-seated feelings in opposition to capital punishment.

I respect those feelings and I respect the feelings of the gentleman from Michigan. But I believe in, and have always supported, capital punishment, as a legislator in a State legislative body. And I believe that there are occasions when society requires the imposition of the death penalty for certain crimes.

I believe that a majority of the people who serve in this House of Representatives agree with that. I believe that a vast majority of Americans across this land support capital punishment in some instances.

I would simply say, in respecting the viewpoint of the gentleman from Michigan, that I would disagree. I believe that it is appropriate in some circumstances, and in this circumstance, the circumstance contemplated by this bill, that there be the imposition of the death penalty.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I wanted to make a brief comment because of the tenor of this discussion.

As someone who has reached a conclusion that there are occasions when capital punishment is appropriate, I am aware that other people have reached a different conclusion. I can respect those people. And this is a first time as a Member of this body that I have heard this discussion without the implication that those who have reached a different conclusion are somehow less concerned about crime or less opposed to wrongdoing. I wanted to note that and thank the gentleman from Tennessee for understanding that we can have different beliefs and yet be united in opposition to crime.

☐ 1730

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. LAHOOD]. The question is on the motion offered by the gentleman from Tennessee [Mr. JENKINS] that the House suspend the rules and pass the bill, H.R. 1348, as amended.

The question was taken.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

APPOINTMENT OF CONFEREES ON H.R. 1757, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999, AND EUROPEAN SECURITY ACT OF 1997

Mr. BALLENGER. Mr. Speaker, by direction of the Committee on International Relations, pursuant to House Rule XX, I move to take from the Speaker's table the bill (H.R. 1757) to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organization [NATO] proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina? The Chair hears none and, without objection, appoints the following conferees:

For consideration of the House bill (except title XXI) and the Senate amendment, and modifications committed to conference:

Messrs. GILMAN, GOODLING, LEACH, HYDE, BEREUTER, SMITH (NJ), HAMILTON, GEJDENSON, LANTOS, and BERMAN.

For consideration of title XXI of the House bill, and modifications committed to conference:

Messrs. GILMAN, HYDE, SMITH (NJ), HAMILTON, and GEJDENSON.

There was no objection.

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days on which to revise and extend their remarks on the bill (H.R. 2209) making appropriations for the legislative branch for the fiscal year ending September 30, 1998, and for other purposes, and that I may include tabular and extraneous material and charts therein.

The SPEAKER pro tempore [Mr. BALLENGER]. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore [Mr. BALLENGER]. Pursuant to House Resolution 197 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 2209.

☐ 1733

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2209) making appropriations for the legislative branch for the fiscal year ending September 30, 1998, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York [Mr. WALSH] and the gentleman from New York [Mr. SERRANO] each will control 30 minutes.

The Chair recognizes the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, it gives me great pleasure to bring to the floor H.R. 2209, the fiscal year 1998 legislative appropriations bill. This is the first year I have had the pleasure of chairing this subcommittee.

The gentleman from California [Mr. PACKARD], the former chairman of the subcommittee, has set a very high standard for us to follow. I want to recognize the members of the Subcommittee on Legislative who have assisted me in bringing this bill to the floor.

First, let me thank the gentleman from California [Mr. CUNNINGHAM], the vice-chairman of the subcommittee. In addition, the gentleman from Florida [Mr. YOUNG], the gentleman from Tennessee [Mr. WAMP], and the gentleman from Iowa [Mr. LATHAM] all have contributed to the work on this bill.

My colleague and good friend, the gentleman from New York [Mr. SERRANO], the other part of New York, downstate New York, is the ranking minority member. He is a great friend and has worked with me on a bipartisan basis throughout the process.

In addition, the gentleman from California [Mr. FAZIO] and the gentlewoman from Ohio [Ms. KAPTUR] have helped shape this bill and have maintained the bipartisan spirit of the subcommittee. Also, the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations, and the gentleman from Wisconsin [Mr. OBEY], the ranking minority member of the full committee, have fully participated in the subcommittee's deliberations.

Mr. Chairman, H.R. 2209 provides $1,711,417,000 in new budget authority.

This bill is $10 million below the 1997 bill. If I could repeat that, it is 0.6 percent lower than last year's appropriation, Senate excluded. This continues a 3-year trend of making the legislative branch smaller and indeed leading the way toward smaller government.

The Congressional Research Service, in consultation with the Congressional Budget Office, has calculated that if the entire Federal budget were to be reduced in the same proportion as we have downsized the legislative branch, the entire Federal budget would show a surplus of $183 billion for fiscal year 1998.

Here are a few general points about the bill:

We have continued the program begun in the 104th Congress to right-size the legislative branch. This is producing a more efficient, smaller work force by using technology wherever possible. The bill does not fund certain personnel costs, such as within-grade, promotion or merit pay increases. Legislative agencies will absorb these costs, just as the executive branch does.

The legislative branch work force is cut by an additional 316 positions. Since 1994, we have reduced FTE's, or full time equivalent positions, by over 3,800 positions. That is a reduction of almost 14 percent of the entire legislative branch work force. The FTE cut does not reduce agency programs. The current level of FTE's used by agencies has been maintained. However, funds for unused FTE's have been removed.

Some of the details in the bill include:

For the House of Representatives, $708 million is provided. The Members' representational allowance appropriation has been increased to cover staff cost of living allowances. Committee funds have been increased by $6.7 million and are extended through December 31, 1998. House administrative offices, the Clerk, Sergeant at Arms, CAO, and others are funded at a net reduction of $2 million. Within the CAO, HIR operational costs are reduced $1.6 million.

For joint items, $86.8 million is provided. The Joint Economic and Printing Committees are funded at the level requested in the budget submission. The Joint Tax Committee has been provided funds for five additional staff to accommodate an expanded workload.

The Capitol Police cost-of-living allowances are funded with the additional funds pending authorizing committee approval. An administrative provision establishes a unified pay and leave procedure for House and Senate details. For the Architect of the Capitol, $122.9 million is provided.

Mr. Chairman, the Capitol buildings belong to the people of the United States. We have an obligation to keep up the maintenance needed to keep the buildings and grounds in working order and suitable for the work of Congress and to accommodate the millions of taxpayers and others who visit each year.

The Architect has estimated that the cost of maintenance and improvements over the next 5 years will require an additional $254 million. This need must be addressed, although perhaps not the full amount. This bill begins to address the long-term Capitol investment program articulated by the new Architect of the Capitol, Mr. Alan M. Hantman, and we welcome him.

We must exercise judgment, however. In the bill, 68 percent of priority-one projects are funded. Safety and Americans with Disabilities Act work continues, including fire alarms, sprinklers, access doors, etc.

The initial funding for the rehabilitation of the Capitol dome has been provided. Mr. Chairman, there is no more important symbol of the American Nation than that Capitol dome. Funding is also provided to commence replacement of the deteriorated floors of the parking garage in the Cannon Building. The Library of Congress, including CRS, is funded at $342 million. We have also added $160 million in other resources to the Library. The bill funds the current FTE level. The initial phase of the new bibliographic system is funded as is additional playback equipment for talking books for the blind.

For the Government Printing Office, almost $100 million is provided. Congressional printing is funded at the fiscal year 1997 level, including an $11 million transfer from the working capital fund, a transfer back to this account of funds paid out earlier to cover costs of non-congressional printing.

For the General Accounting Office, $323.5 million is provided. This will allow 85 additional FTE positions over the current level. The Emergency Supplemental Act of 1997 provided GAO authority to enter into multiyear contracts. We have been told that up to $8.4 million of funds requested for fiscal year 1998 may be obligated in fiscal year 1997 with this new authority. That provision enabled us to reduce the fiscal year 1998 appropriation by that amount.

Just a couple of notes, in summary, Mr. Chairman, and my colleagues. The budget authority compared to the 1997 operating level: we are $10 million, at 0.6 percent below. That is a reduction under 1997 appropriations. It is $143 million less than the President's request for the legislative branch, and it is $2.6 million below our 602(b) allocations.

Last, Mr. Chairman, on a note that does not get an awful lot of attention, but I think it shows that we lead by example, not only in reducing the size of legislative branch. In the area of recycling, it should be noted that the House of Representatives recycling program has been operating for 6 years now.

A pilot test was done in 1990. The House-wide program was begun in 1993. It should also be noted that the program has been producing results. We have all heard of the rumors that we take our waste and we throw fine paper in one basket and we throw the sorted paper in another basket and then the cleaning people come up in at night and throw them all into one coffer. That is not the case.

I want to dispel that rumor. In fact, we have recycled 12,000, almost 13,000 tons of waste, including cans, bottles, and paper. The Architect has estimated that we have avoided over $900,000 in landfill costs due to recycling waste. And here is the key point: We have also been told by the Architect of the Capitol that 1,977 tons of House trash and waste were recycled by a recycling contractor last year. That represents over 57 percent of the waste generated by House offices. That is a remarkable number, given the fact that the goal for the Federal Government is a 50-percent level of recycling. We are doing 57 percent, higher, to my knowledge, higher than any other branch of the Federal Government.

So, once again, Mr. Chairman, we are leading by example. We have shown that we are willing to lead in terms of recycling, but more importantly, that we continue to make government smaller, more efficient and saving money along the way.

LEGISLATIVE BRANCH APPROPRIATIONS BILL (H.R. 2209)

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - CONGRESSIONAL OPERATIONS					
HOUSE OF REPRESENTATIVES					
Payments to Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	267,200	....	....	-267,200	....
Salaries and Expenses					
House Leadership Offices					
Office of the Speaker	1,535,000	1,625,000	1,590,000	+55,000	-35,000
Office of the Majority Floor Leader	1,526,000	1,566,000	1,626,000	+100,000	+60,000
Office of the Minority Floor Leader	1,534,000	1,574,000	1,652,000	+118,000	+78,000
Office of the Majority Whip	957,000	983,000	1,024,000	+67,000	+41,000
Office of the Minority Whip	949,000	975,000	998,000	+49,000	+23,000
Speaker's Office for Legislative Floor Activities	376,000	378,000	397,000	+21,000	+19,000
Republican Steering Committee	664,000	680,000	736,000	+72,000	+56,000
Republican Conference	1,130,000	1,161,000	1,172,000	+42,000	+11,000
Democratic Steering and Policy Committee	1,191,000	1,222,000	1,277,000	+86,000	+55,000
Democratic Caucus	603,000	619,000	631,000	+28,000	+12,000
Nine minority employees	1,127,000	1,133,000	1,190,000	+63,000	+57,000
Subtotal, House Leadership Offices	11,592,000	11,916,000	12,293,000	+701,000	+377,000
Members' Representational Allowances					
Expenses	363,313,000	405,450,000	379,789,000	+16,476,000	-25,661,000
Committee Employees					
Standing Committees, Special and Select (except Appropriations)	80,222,000	90,310,000	86,268,000	+6,046,000	-4,042,000
Committee on Appropriations (including studies and investigations)	17,580,000	18,276,000	18,276,000	+696,000	....
Subtotal, Committee employees	97,802,000	108,586,000	104,544,000	+6,742,000	-4,042,000
Salaries, Officers and Employees					
Office of the Clerk	15,074,000	14,715,000	16,804,000	+1,730,000	+2,089,000
Office of the Sergeant at Arms	3,638,000	3,598,000	3,564,000	-74,000	-34,000
Office of the Chief Administrative Officer	55,209,000	59,688,000	50,727,000	-4,482,000	-8,961,000
Office of Inspector General	3,954,000	4,344,000	3,808,000	-146,000	-536,000
Office of the Chaplain	126,000	126,000	133,000	+7,000	+7,000
Office of the Parliamentarian	1,036,000	1,129,000	1,101,000	+65,000	-28,000
Office of the Parliamentarian	(786,000)	(861,000)	(852,000)	(+66,000)	(-9,000)
Compilation of precedents of the House of Representatives	(250,000)	(268,000)	(249,000)	(-1,000)	(-19,000)
Office of the Law Revision Counsel	1,767,000	1,881,000	1,821,000	+54,000	-60,000
Office of the Legislative Counsel	4,687,000	4,824,000	4,827,000	+140,000	+3,000
Corrections Calendar Office	....	441,000	791,000	+791,000	+350,000
Other authorized employees	768,000	1,024,000	780,000	+12,000	-244,000
Former Speakers	(594,000)	(855,000)	(594,000)	....	(-261,000)
Technical Assistants, Office of the Attending Physician	(174,000)	(169,000)	(186,000)	(+12,000)	(+17,000)
Subtotal, Salaries, Officers and Employees	86,259,000	91,770,000	84,356,000	-1,903,000	-7,414,000
Allowances and Expenses					
Supplies, materials, administrative costs and Federal tort claims	2,374,000	2,977,000	2,225,000	-149,000	-752,000
Official mail (committees, leadership, administrative and legislative offices)	1,000,000	1,000,000	500,000	-500,000	-500,000
Document management system	....	1,500,000	....	....	-1,500,000
Reemployed annuitants reimbursements	71,000	71,000	....	-71,000	-71,000
Government contributions	120,779,000	128,451,000	124,390,000	+3,611,000	-4,061,000
Miscellaneous items	641,000	662,000	641,000	....	-21,000
Subtotal, Allowances and expenses	124,865,000	134,661,000	127,756,000	+2,891,000	-6,905,000
Total, salaries and expenses	683,831,000	752,383,000	708,738,000	+24,907,000	-43,645,000
Total, House of Representatives	684,098,200	752,383,000	708,738,000	+24,639,800	-43,645,000

LEGISLATIVE BRANCH APPROPRIATIONS BILL (H.R. 2209)—Continued

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
JOINT ITEMS					
Joint Committee on Inaugural Ceremonies of 1997	950,000			-950,000	
Joint Economic Committee	2,750,000	2,750,000	2,750,000		
Joint Committee on Printing	777,000	807,000	804,000	+27,000	-3,000
Joint Committee on Taxation	5,470,000	6,126,000	5,907,000	+437,000	-219,000
Office of the Attending Physician					
Medical supplies, equipment, expenses, and allowances	1,225,000	1,266,000	1,266,000	+41,000	
Capitol Police Board					
Capitol Police					
Salaries:					
Sergeant at Arms of the House of Representatives	33,437,000	35,507,000	34,118,000	+681,000	-1,389,000
Sergeant at Arms and Doorkeeper of the Senate	35,919,000	38,428,000	36,837,000	+918,000	-1,591,000
Subtotal, salaries	69,356,000	73,935,000	70,955,000	+1,599,000	-2,980,000
General expenses 1/	6,032,000	5,401,000	3,099,000	-2,933,000	-2,302,000
Subtotal, Capitol Police	75,388,000	79,336,000	74,054,000	-1,334,000	-5,282,000
Capitol Guide Service and Special Services Office	1,991,000	1,991,000	1,991,000		
Statements of Appropriations	30,000	30,000	30,000		
Total, Joint items	88,581,000	92,306,000	86,802,000	-1,779,000	-5,504,000
OFFICE OF COMPLIANCE					
Salaries and expenses	2,609,000	2,600,000	2,479,000	-130,000	-121,000
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	24,532,000	24,995,000	24,797,000	+265,000	-198,000
ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol					
Salaries	8,454,000			-8,454,000	
Travel (limitation on official travel expenses)	(20,000)			(-20,000)	
Contingent expenses	100,000			-100,000	
Subtotal, Office of the Architect of the Capitol	8,554,000			-8,554,000	
Capitol Buildings and Grounds					
Capitol buildings, salaries and expenses 2/	23,505,000	42,064,000	36,827,000	+13,322,000	-5,237,000
Capitol grounds	5,020,000	6,618,000	4,991,000	-29,000	-1,627,000
House office buildings	32,556,000	39,403,000	37,181,000	+4,625,000	-2,222,000
Capitol Power Plant	34,749,000	37,771,000	36,032,000	+1,283,000	-1,739,000
Offsetting collections	-4,000,000	-4,000,000	-4,000,000		
Net subtotal, Capitol Power Plant	30,749,000	33,771,000	32,032,000	+1,283,000	-1,739,000
Subtotal, Capitol buildings and grounds	91,830,000	121,856,000	111,031,000	+19,201,000	-10,825,000
Total, Architect of the Capitol	100,384,000	121,856,000	111,031,000	+10,647,000	-10,825,000
LIBRARY OF CONGRESS					
Congressional Research Service					
Salaries and expenses	62,641,000	66,830,000	64,603,000	+1,962,000	-2,227,000
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	81,669,000	84,025,000	70,652,000	-11,017,000	-13,373,000
(Transfer from revolving fund)			(11,017,000)	(+11,017,000)	(+11,017,000)
Total, title I, Congressional Operations	1,044,514,200	1,144,995,000	1,069,102,000	+24,587,800	-75,893,000

1/ FY 1997 enacted includes $3,250,000 provided in P.L. 104-208, Title V.

2/ FY 1997 enacted includes $250,000 provided in P.L. 104-208, Title V.

LEGISLATIVE BRANCH APPROPRIATIONS BILL (H.R. 2209)—Continued

	FY 1997 Enacted	FY 1998 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE II - OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	36,402,000	11,662,000	1,771,000	-34,631,000	-9,891,000
LIBRARY OF CONGRESS					
Salaries and expenses	216,007,000	232,058,000	223,507,000	+7,500,000	-8,551,000
Authority to spend receipts	-7,869,000	-7,869,000	-7,869,000		
Net subtotal, Salaries and expenses	208,138,000	224,189,000	215,638,000	+7,500,000	-8,551,000
Copyright Office, salaries and expenses	33,402,000	35,787,000	34,361,000	+959,000	-1,426,000
Authority to spend receipts	-22,269,000	-22,507,000	-22,426,000	-157,000	+81,000
Net subtotal, Copyright Office	11,133,000	13,280,000	11,935,000	+802,000	-1,345,000
Books for the blind and physically handicapped, salaries and expenses	44,964,000	48,025,000	45,936,000	+972,000	-2,089,000
Furniture and furnishings	4,882,000	4,882,000	4,178,000	-704,000	-704,000
Total, Library of Congress (except CRS)	269,117,000	290,376,000	277,687,000	+8,570,000	-12,689,000
ARCHITECT OF THE CAPITOL					
Library Buildings and Grounds					
Structural and mechanical care	9,753,000	15,755,000	10,073,000	+320,000	-5,682,000
GOVERNMENT PRINTING OFFICE					
Office of Superintendent of Documents					
Salaries and expenses	29,077,000	30,477,000	29,264,000	+187,000	-1,213,000
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	338,425,000	368,828,000	330,924,000	-7,501,000	-37,904,000
Offsetting collections	-5,905,000	-7,404,000	-7,404,000	-1,499,000	
Total, General Accounting Office	332,520,000	361,424,000	323,520,000	-9,000,000	-37,904,000
Total, title II, Other agencies	676,869,000	709,694,000	642,315,000	-34,554,000	-67,379,000
Grand total	1,721,383,200	1,854,689,000	1,711,417,000	-9,966,200	-143,272,000
TITLE I - CONGRESSIONAL OPERATIONS					
House of Representatives	684,098,200	752,383,000	708,738,000	+24,639,800	-43,645,000
Joint items	88,581,000	92,306,000	86,802,000	-1,779,000	-5,504,000
Office of Compliance	2,609,000	2,600,000	2,479,000	-130,000	-121,000
Congressional Budget Office	24,532,000	24,995,000	24,797,000	+265,000	-198,000
Architect of the Capitol	100,384,000	121,856,000	111,031,000	+10,647,000	-10,825,000
Library of Congress: Congressional Research Service	62,641,000	66,830,000	64,603,000	+1,962,000	-2,227,000
Congressional printing and binding, Government Printing Office	81,669,000	84,025,000	70,652,000	-11,017,000	-13,373,000
Total, title I, Congressional operations	1,044,514,200	1,144,995,000	1,069,102,000	+24,587,800	-75,893,000
TITLE II - OTHER AGENCIES					
Botanic Garden	36,402,000	11,662,000	1,771,000	-34,631,000	-9,891,000
Library of Congress (except CRS)	269,117,000	290,376,000	277,687,000	+8,570,000	-12,689,000
Architect of the Capitol (Library buildings and grounds)	9,753,000	15,755,000	10,073,000	+320,000	-5,682,000
Government Printing Office (except congressional printing and binding)	29,077,000	30,477,000	29,264,000	+187,000	-1,213,000
General Accounting Office	332,520,000	361,424,000	323,520,000	-9,000,000	-37,904,000
Total, title II, Other agencies	676,869,000	709,694,000	642,315,000	-34,554,000	-67,379,000
Grand total	1,721,383,200	1,854,689,000	1,711,417,000	-9,966,200	-143,272,000

The committee report contains language which stresses the need for improving the waste recycling program operated by the Architect of the Capitol. The language in the report makes clear that the Architect should contact each Member, committee, and staff office to elicit cooperation and compliance. It also stresses the importance of continued training of the Architect's workforce in implementing this program.

It should be noted that the House Recycling Program has been operating for 6 years now. A pilot test was done in 1990. The Housewide program was begun in 1993.

It should also be noted that the program has been producing results. Since 1993, 12,886 tons of House and Senate waste cans, bottles, and paper have been recycled. The Architect has estimated that we have avoided over $900,000 (936,518) in landfill costs due to the recycling waste transferred to recycling contractors. Over the past 3 years, almost $600,000 of cost avoidance is due to waste material collected and recycled from House offices, at a cost of $378,000.

That's a 1.6 to 1 benefit/cost ratio. That is a benefit/cost ratio that indicates that recycling is paying off. It is saving taxpayer funds and is contributing to a cleaner environment.

We have also been told by the Architect of the Capitol that 1,977 tons of House trash and waste were recycled by our recycling contractor last year. That 1,977 tons represents about 57 percent of the waste stream generated by House offices.

The Office of Waste Management at the General Services Administration has informed us that GSA itself only recycles 30–35 percent of their waste stream. According to GSA, the Government-wide goal is 50 percent.

So, I would say to those who are concerned about the effort being made, there is a great deal being accomplished. And we are exceeding the Government-wide standard.

Recycling of House waste products is working, but like all similar programs, it requires monitoring and follow-up. We should strive to improve our record.

In that context, the subcommittee decided to include the report language. We have asked the Architect of the Capitol to renew his efforts and to enlist the cooperation of all House offices.

Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first say that my colleague, the gentleman from New York [Mr. WALSH], deserves quite a bit of praise for this bill. This is a good bill, and it is a bill that was put together by the work that the gentleman from New York [Mr. WALSH] has done and the way in which he has treated the members of the committee.

He has been very fair to this ranking member, and he has been very fair to the members on our side. And for that, we thank him and we look, in spite of some present difficulties, to a future working relationship that will improve as time goes on.

I also would like to take this opportunity to thank the gentleman from Wisconsin [Mr. OBEY], our ranking member, for the work that he has done in support of my work on the committee, and also to thank the other members of the committee, the gentleman from California [Mr. FAZIO] and the gentlewoman from Ohio [Ms. KAPTUR], and a special thanks to the gentleman from California [Mr. FAZIO], who set a track record here in this House for this kind of work. Once again, I thank the gentleman.

And I thank the gentleman from New York [Mr. WALSH] for being the kind of person that he is and for the work that he has done on this committee.

□ 1745

Mr. Chairman, the difficulty of today's discussion is the fact that while this bill starts out as a good bill, outside problems, problems that do not belong really within the committee but then become part of the committee, have taken a hold of this process.

I am speaking specifically about the fact that the minority party feels very much that fairness is not being applied in the dealings with amendments not only on this committee but throughout the committees in the House and that a lack of civility has grown in the institution to the point where the minority party in no way on our side of the aisle feels that we are being treated fairly and properly.

In addition, on this particular bill, we asked for some amendments which were denied. They were amendments, in our opinion, that belong as part of this discussion, because they speak as to how the majority party is running the House and how some things are being done.

While some may argue that the amendments specifically do not speak to the bill, they certainly do speak to the running of the House, they speak to the way in which business is being conducted, and in that sense we have some very serious problems with those issues. We asked for those amendments to be presented.

We were very much concerned, for instance, with the fact that $1.4 million is being spent on an investigation of organized labor in this country. We are concerned also with the fact that a Member of Congress who has been duly elected has been harassed and her campaign and her campaign results continue to be questioned. I speak about the gentlewoman from California [Ms. SANCHEZ]. It is improper, in our opinion, to continue to harass her and harass the results of her campaign.

We particularly feel very nervous about the fact and very concerned about the fact that in carrying out, as we feel, this harassment, that some people have been targeted throughout the country, namely Hispanic surname Americans, for special negative treatment.

We are also very much concerned about the fact that, in general, when we ask for amendments, amendments are either denied or they are rewritten by the Committee on Rules before they are presented in the House, and that is something that has been of great concern to us.

With that in mind, we will hear Members today on our side of the aisle speak about these issues, and it is with much displeasure that I once again inform my friend the gentleman from New York [Mr. WALSH], and I mean that sincerely, my friend, that it is not the intent of this side to vote for this bill when final passage comes.

There will be some amendments that we will deal with, we will try to make our point, but I am hoping that the gentleman from New York will continue to understand or at least try to understand, if he does not already, that this is a very difficult time in terms of the behavior of this House, and our side of the aisle is trying to very strongly make the point that this has to change, that it has to end, and that a new day has to be born in this House.

With that in mind, I once again commit myself to working with the gentleman from New York. I look forward to the day, pretty soon, when these issues are put aside and we continue to build on this work that he has put forth.

Mr. Chairman, let me close with this thought. When I had an opportunity in the Committee on Appropriations to either go back on the Education subcommittee or choose this subcommittee, I chose this one with the understanding that I personally have such respect for this institution that I do not have a problem in dealing with this particular bill year after year, that I do not have a problem in working with the gentleman from New York [Mr. WALSH] in building the institution up.

I am concerned that some of the issues we will discuss today are indeed targeting the work that we do, because if other parts of the House and other behavior are not being carried out properly, then it really does not matter how much we try to protect the institution, the institution will always be in danger and our ability to deal with each other and conduct business will be in danger. I look forward to this type of behavior coming to an end, and I look forward to the debate that we will have today.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we will soon entertain a number of amendments that were granted by the rule. I would just like to point out for the record that the rule is a modified closed rule. This is the traditional way that this rule has been structured for consideration of this bill.

As my colleagues might imagine, there are lots of opportunity for mischief on this bill. I think while we were in the minority, we certainly respected the majority's view of protecting the institution by using the rule process. We have tried to do exactly the same thing.

In the process of devising this rule, with the help of the chairman of the Committee on Rules who has been very, very helpful, we allowed for four amendments, two from Republicans and two from Democrats. There were two very contentious amendments on each side, one Republican and one Democrat, that were not granted under the rule. I think that is about as fair as one could ask.

There are issues that swirl about the Congress that are not of the gentleman from New York [Mr. SERRANO] and my making. We have, I think, a very good relationship. We work very well together. Philosophically, we are not what one would call twins, but we do understand the need to protect the institution, and we are both trying to do that. So we are being affected by issues that are outside of the purview of our subcommittee.

I would ask that once everybody has their opportunity to make their case and to take their best shot and to vote for or against their amendment, that we could get a bipartisan vote on this bill. I think traditionally it is the majority's responsibility to deliver the votes on the legislative branch, but there has always been at least some semblance of bipartisanship on final passage of the bill. It strengthens our hand when we go to the Senate in the conference to make sure that we protect our side of this very important Capitol building.

I would end my comments right now by saying, let us have our debate, let us be as civil as we can with each other, and when it is all said and done, let us come together and vote bipartisanly for this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I rise in opposition to the bill today because of the irresponsible way in which the Republican leadership has conducted itself.

I consider the three investigations that I am going to mention nothing more than partisan witch-hunts. This year, the Republican leadership is wasting millions of taxpayers' dollars on three separate investigations. These investigations are mean-spirited, duplicative, and wholly unnecessary. So far, they have absolutely nothing to show for their efforts.

I would like to begin with the Committee on House Oversight's investigation into the election of the gentlewoman from California [Ms. SANCHEZ]. The gentlewoman from California [Ms. SANCHEZ] defeated incumbent Bob Dornan in an election that was certified by the Republican Secretary of State in California.

In spite of this, Mr. Dornan, who was defeated, can still command the will of the Republican Caucus and orchestrate a kangaroo court to investigate his loss. However, 9 months later, Bob Dornan still has not proven that he won. Instead, he intends to punish the gentlewoman from California [Ms. SANCHEZ] under an avalanche of subpoenas and a mountain of legal bills, and no matter that the burden of proof to prove wrongdoing is on Bob Dornan as the accuser and he has failed again. Mr. Chairman, the Republican leadership should stop using taxpayer money to harass the gentlewoman from California [Ms. SANCHEZ] in order to satisfy Mr. Dornan's craving for revenge.

Turning to the second witch-hunt, we have the three-ring circus of the gentleman from Indiana [Mr. BURTON] in the Committee on Government Reform and Oversight. In spite of the fact that there is a credible bipartisan investigation currently being conducted in the Senate, the gentleman from Indiana [Mr. BURTON] is determined to go forward with an investigation that is being conducted so shabbily that high-level Republican staffers have resigned from the committee. To date, this investigation has cost American taxpayers over $2 million and there has not been one hearing, not one deposition that has produced any result. That is $2 million spent and, again, nothing to show for it.

Finally, now we have the third investigation. The House Republican leadership has decided to tap into the Speaker's slush fund and spend $1.4 million on an investigation into the political activities of labor groups. For what, Mr. Chairman? For another political score to settle at the taxpayers' expense.

Mr. WALSH. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. CUNNINGHAM], the vice chairman of the subcommittee.

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank the gentleman from New York [Mr. WALSH]. I think from the different committees that I have served on and my colleagues on both sides of the aisle, there is no more of an evenhandedness of the issues or of the bill. The gentleman will bend over backward to help.

I would like to address the last speaker's words on Mr. Dornan and the gentlewoman from California [Ms. SANCHEZ]. Many of us feel that the Sanchez-Dornan seat was stolen. I will be specific. I will give my colleagues a classic example.

In the city of San Diego, they had 5,000 new citizens sworn in. At that time, a gentleman from the Republican Party asked the INS if they could establish tables like they always have, but this was an extra large one and they were told no, that this was so large that they were not going to allow anyone to register new citizens in either party. The Republican Party went down there the day of, anyway, and there were 12 Democrat tables set up and no Republican tables had been allowed in.

Then we have the case of the pushing in of new citizens and waiving background checks to the point where we have thousands, thousands, of people that were let in as new citizens that were felons. I am not talking just little felons, I am talking rapists, murderers, and so on. The recent newspaper articles on Conair, where they are actually shifting out people in different areas, is prevalent, also.

All Mr. Dornan is asking is to get the records to see if there was an injustice or if there were any peculiarities in that particular district that affected voting. That is a fair question: Do you have American citizens voting?

What they found to date, especially one activist group encouraged people that were going to be citizens to vote. Even though they had not become citizens, they had done so. It is a felony for people to register before they have become citizens, and there is a great number of those. At the same time, there were numbers of illegals that had registered.

What we need to do, Mr. Chairman, is to take a look at motor-voter, the practices of the INS, the practices of registration in different States. It is not just Mr. Dornan at stake. If we look at all of the border States and the infusion of illegals coming across, we even had hearings in San Diego that the Border Patrol stepped forward and said that they were ordered to let illegals come through, not us, not the Republicans, but the Border Patrol members themselves.

We need to get to the heart of this. When Mr. Dornan asks to have the records looked at by appropriate sources, by Republicans and Democrats, by the judicial system, I think that is fair.

Mr. SERRANO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO], a man who set the tone for me to follow, and it is very difficult.

Mr. FAZIO of California. I thank the gentleman for yielding me this time.

Mr. Chairman, I expressed my feelings on the rule on the issue that was just brought to us by the gentleman from California [Mr. CUNNINGHAM]. But my reason for rising at this point is to separate myself from the debate on the overall behavior of the majority versus the minority in the institution, to pay tribute to the gentleman from New York [Mr. WALSH] and the gentleman from the city of New York [Mr.

SERRANO] for the excellent job that they have done in bringing the bill to this point.

As the chairman has indicated, we are obviously confronted with other issues when we come to the floor that sometimes transcend the work that is done in the subcommittee and in the full committee, and that is once again the case here. Members will feel differently about the vote on final passage today, perhaps based on factors that have influenced our thinking in the general manner in which the House is being administered. But I think that if we are not careful, we will overlook the fine work that has been done by these two gentlemen, and I hope all Members will pay attention to and honor the effort they have made getting us to this point.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I think one of the great frustrations here, of course, is that not only have we violated all the traditions of the House in the Sanchez case, changing the rules, having the committee kind of being the adversary for an elected Member of Congress, but we have focused in on a community that the majority Republican Party has made a serious effort trying to intimidate away from the polls. Not just in this instance, going as far back as races in New Jersey in the early 1980's, when we had polling security people show up trying to intimidate new Americans from voting.

□ 1800

The reality is we cannot use the Sanchez situation to try to review every piece of legislation on the books. We remember from when motor-voter was passed, the Republicans did not want to have poor people register. They wanted to keep it out of places where poor people went. They did not want to do it at welfare offices. We think everybody ought to vote. Frankly, I think it is too hard to get people in this country to vote. If someone is an American they ought to vote.

If there is something wrong with the Sanchez race, then under the law it is Mr. Dornan's responsibility to come forward and show that. He has come forward so many times with so many accusations, he just keeps stretching the process, and now the committee has taken over. First, he was worried about a house. There were 10 or 12 people living in that house, and I think they all had different last names. Yes; there were nuns living in that house. Then he found a second house that seemed awfully dangerous, and there were like 18 people living in that house; 1 address, 18 people, all different names. Lo and behold, it turned out to be a Marine barracks.

As my colleagues know, Mr. Dornan spent a lot of time on this floor talking about how tough he was, what a military campaigner he was. He ought to take this like an honorable politician. The evidence is clear. She won the race. Were there some problems? Yes. They do not measure up to her margin. If he has got proof, he ought to come forward with it. It is 9 months since the election. It starts to look like they are trying to drain her of resources and intimidate Hispanics from voting.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS], the chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Chairman, following the statement of the gentleman from Connecticut [Mr. GEJDENSON], some of my colleagues might be surprised to find out that I was an original cosponsor of the motor-voter bill, and in fact we think it is a good idea to reach out and get as many people as we can on the rolls. But they fail to understand one fundamental point. Get all the people on the rolls who legally should be on, get all the people off who should not be on.

What we are doing now in Orange County, and the attorney for the gentlewoman from California [Ms. SANCHEZ] has finally admitted, there were people who voted in that contest who should not have voted. They were registered illegally, and they participated in the election illegally. The question is not if; the question is how many. We are in the process of determining how many. It is interesting that the minority already knows there were not enough to make a difference in the election.

What we try to do on our side of the aisle with the new majority is investigate the facts and then come to a conclusion rather than coming to a conclusion based upon what they want the end result to be. We are working with the Immigration and Naturalization Service. It has been very difficult. We had to subpoena them to go through their records to provide us with the thousands of names. We will determine how many people voted illegally, not in an attempt to deal with this election, but in an attempt to get every American who casts a vote legally to have a comfort level that their vote would not have been canceled by someone who voted illegally.

We believe it is fundamental. We believe we have to get to the bottom of it. No amount of protesting on their side will deter us from making sure that every legal voter believes no illegal vote canceled them out.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, regardless of what is being said here, over $200,000 in funds provided by this bill is being committed to a witch hunt against one of our colleagues, the gentlewoman from California [Ms. SANCHEZ], for the sake of partisan games. This is an unprecedented attack which many of us believe has much more to do with the growing political power of Hispanics in this country. The committee has allowed a pattern of actions by both Mr. Dornan, the loser in that contest, and the committee itself which are an outrage to the Latino community.

The violation of privacy rights that people have a right to expect when they apply to the INS; that is why they had to subpoena them, to violate their privacy rights, and future voter intimidation and voter suppression of the Hispanic community are outrageous and will never be tolerated by us.

The voters of the 46th District of California elected the gentlewoman from California [Ms. SANCHEZ] in an election certified by the Republican Secretary of State last November, uncontested in any California court. For the first time since 1969 Republicans forced a hearing on the merits, a procedure that is available here. That hearing, held in the district of the gentlewoman from California [Ms. SANCHEZ], was a media circus that produced no credible evidence of changing the election outcome.

Unprecedented subpoena powers have been given to Mr. Dornan, now a private citizen, to harass Hispanic Americans and organizations that have helped them, like Catholic Charities, 20,000 students at Rancho Santiago Community College and even, as Mr. Dornan admitted, the Carpenters Union. Why? Because they had a large contingent of immigrant workers.

Add to all of these facts the admissions that we have already heard here and by one of the senior Republican Committee on Appropriations members that the real reason for pursuing the gentlewoman from California [Ms. SANCHEZ] is to kill motor-voter, and we have a Republican plan that is crystal clear.

So what is that plan? Attack the underpinnings of Hispanic empowerment by attacking a Hispanic woman elected to Congress, give unprecedented subpoena powers to a private citizen to intimidate Hispanic individuals, violate their privacy rights at the INS, create fear in the community, and by doing so create a chilling effect on voters, thereby intimidating them and suppressing their enjoyment of the right to vote, and, as a by-product, let us create the base for getting rid of motor-voter.

And that reminds me of the Republican motivated ballot security program that happened in my State of New Jersey in 1980, which were brought to Federal Court, and we will do it again if we have to.

We should not permit the use of taxpayer funds for such a biased political witch hunt, we should not accept and we will not accept this treatment as a community. We are here to stay, and so is the gentlewoman from California [Ms. SANCHEZ]. Get it over with, stop wasting our money, and we should register a vote of protest on this bill.

Mr. WALSH. Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I rise in strong opposition to this bill. The Republican leadership is using the Committee on House Oversight, funded by this appropriation bill, to harass a Hispanic woman Member of Congress. Three hundred thousand dollars of the taxpayers' money has been used to try to deny the gentlewoman from California [Ms. SANCHEZ] the congressional seat that she won fair and square. And this is not just about the gentlewoman from California, this is about the growing influence, political influence, of Latinos in this country. This is about sharing power.

As if that were not enough, the Republicans have forced the INS to launch an investigation against the gentlewoman from California [Ms. SANCHEZ] without providing the funding to do so. They have literally given subpoena power to the loser in the race, Bob Dornan.

The Republicans are trying to say that the gentlewoman from California [Ms. SANCHEZ] did not win her seat fairly. There is only one problem. They cannot prove it. Instead, they are wasting taxpayers' money to harass a Member of Congress. It is outrageous, and it has got to stop.

Vote no on this bill.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I listened to this debate. I had to rise because I am familiar with a lot of the facts with respect to the investigation as to illegal voters voting in the Sanchez-Dornan race, and this is not about the gentlewoman from California [Ms. SANCHEZ], it is not about Bob Dornan; it is about a very simple American fundamental value that is known as one man or one woman and one vote, and that means that no matter where one comes from, no matter how long they have been in America, no matter whether they are rich or poor, they get one vote.

And there was an investigation in Orange County, and one organization that is supported by taxpayer dollars, by our dollars, registered to vote over 300 people who were not legal voters. That has been established. That is the basis for the ongoing investigation.

I think it does a disservice for people that come from all over the world to be Americans to somehow give them the idea that the system that they left, the system where the ballots are counted on Sunday before the Tuesday election, the ballots where some people get five votes and other people get no votes, is somehow something that should be pursued here.

Now one of the two candidates, Mr. Dornan or the gentlewoman from California [Ms. SANCHEZ], got the most votes by legal voters in Orange County. The person who got the most votes wins. That is what this is about, and everybody who is involved in this is willing to let the chips fall where they may. If Ms. SANCHEZ when the smoke clears and the illegal votes have been taken away has the most votes, then she wins; if when the smoke clears the person who got the most votes on election day is Mr. Dornan, then he wins; and if it is unclear as to who wins, then we have a new election.

That is America, and I might say to my colleagues that is why people come to America. That is not bad, and that is not any kind of an insult to anybody. The Republicans do a lot of registering of new citizens, we have our card tables right there at the new citizens' swearing in programs for Hispanic Americans, Filipino Americans, Vietnamese Americans after they become citizens.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, the gentlewoman from California [Ms. SANCHEZ] was certified the winner of the 1996 congressional election in California's 46th Congressional District by a Republican registrar of voters and the Republican secretary of State by 979 votes after a recount of every ballot. I rise today to urge my colleagues to vote against this bill.

The Republican leadership has spent 9 months and $300,000 investigating the election of our colleague, the gentlewoman from California [Ms. SANCHEZ], and it is now time for this to stop. This is clearly a partisan attempt to steal an election that the gentlewoman from California [Ms. SANCHEZ] won fair and square.

I am sorry to break it to my Republican colleagues, but Bob Dornan lost the election and, yes, he even lost to a Democratic Hispanic woman. The Republicans have also given Bob Dornan, an average citizen, not a Member of the House of Representatives, the power to subpoena. He has used this authority to harass his political enemies by forcing them to spend thousands of dollars in legal bills to comply with his subpoena. Republicans are using taxpayer funds to finance a partisan political investigation. They are using race baiting tactics to scare new citizens from exercising their constitutional right to vote.

It is time to bring an end to this investigation. Let the gentlewoman from California [Ms. SANCHEZ] do what she is doing very well in representing the people of California's 46th district. Let us get back to the business of the American people, let us call off this witch hunt on a partisan political basis, and finally, let us just stop wasting taxpayers' dollars.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume just to respond to this issue.

The gentleman from New Jersey earlier suggested that the contesting of an election such as this is unprecedented. Well, there is very strong precedent: the McIntyre case in Indiana. And nobody on this side suggested that that was an anti-Irish decision.

☐ 1815

Let us try to stick to the issues. This really does not fall on this committee. This falls on another committee. Let us try to keep this debate within the constraints of this committee.

Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, the gentlewoman from California, Ms. LORETTA SANCHEZ, is a Member of this body. She has been seated. That is the rightful course of action.

Again, I want to point out, as I did last week, that I have had my disagreements here when the Democrats were in charge, but when they were in charge and there was a contested election where a Republican was declared the victor, as the gentleman just mentioned, the Republican was not seated.

In fact, we are not in any way disrupting the right of the gentlewoman from California, Ms. LORETTA SANCHEZ, to act as a Member of Congress, but we owe it to the American people to see that that election was a fair election, and if it was not, if it was determined by illegal votes, it should be overturned. Otherwise, it is a crime against the American people.

Mr. Chairman, my colleagues on the other side of the aisle are complaining that the contested election task force investigation is going on and has been dragging on too long. The fact is, this reflects something of a pattern.

What we see is, on the other side of the aisle and with the administration, a stalling, a stonewalling, and just dragging its feet. No matter how or what way they can do it, they are trying to elongate this, and then coming before the body complaining that we are putting the gentlewoman from California, Ms. LORETTA SANCHEZ, through a travail because it is lasting so long.

Mr. Chairman, this is pure politics. I, for one, would hope that we would not be calling each other names and then, especially, trying to suggest that the motives over here are malicious. We need to get to the bottom of this.

The task force is working. It is trying to determine how many votes were illegal. Already they have found 300 votes in the 46th district since the gentlewoman from California, Ms. LORETTA SANCHEZ, was seated that were improperly cast. The Secretary of State in California has determined that. The State registrar declared another 120 absentee ballots invalid. Together, that calls into question one-third of the 98-vote margin of the gentlewoman from California [Ms. SANCHEZ].

However, with the INS dragging its feet and all the administration representatives out there not going along and trying to stonewall this, we now are faced with having to go through 5,000 votes that appear to be or there is a potential that these votes were cast by people who were not legally entitled to vote.

Mr. Chairman, this is, as the gentlewoman from California, Ms. LORETTA SANCHEZ, moves on, and we are not intimidating her, she is a Member of Congress, but it is just and right for us to determine whether that election was stolen, and if it was, she should be removed from that seat, because she did not win it.

A Democratic Party activist in Orange County was convicted several years ago, and I come from Orange County, of registering illegal aliens intentionally. He was arrested and convicted of that crime. We cannot have this going on.

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think what some of my colleagues on the other side of the aisle have to try to understand is the process which has been used in dealing with this issue. No one argues with the fact that if one party feels aggrieved in any way, they can bring up an issue, and that is what we have the court system for and we have rules of the House.

But I can tell the Members that I have been on the short side of a couple of elections in my life where I thought there had been some problems on the other side, and there were different communities involved in that vote, not only different regions of a county, but certain different ethnic groups and political persuasions. I do not recall that anyone on my side ever suggested that the way to deal with this issue was to single out one particular group and to target those surnames and to go through the books and just make a mockery of the whole system.

Mr. Chairman, let me also say that if you are a member of the Hispanic community and are involved in the political process, you know that for the last 25 or 30 years, 40 years, you have been working hard to try to get people registered to vote, to get people interested in the political system, and in the cases of immigrants, to get them to understand in this country you can participate and not be afraid that someone is going to do a number on you.

I do not think that my colleagues on the other side of the aisle understand, and some may understand and not care, the chilling effect that this has on legitimate individuals who are here, who want to vote, who want to participate, and now are feeling that somehow, somehow they are being targeted.

Let me conclude by saying that I know this subject well. I know this area well. It is so difficult on the receiving end to have one community targeted, to have people's last names be the issue of the day, and not what in fact happened in the election. That is not the right way to do it.

What does that mean now, that every time there is an election throughout the country where there is a question, whatever your political persuasion is, that is the only group you are going to target? That could happen in all 50 States. That is not the proper way to do it. There are people on that side that know that is not the proper way. That is why we are making an issue of it today, because the gentlewoman from California [Ms. SANCHEZ] has won. She should continue to sit here, and this investigation should come to an end.

Mr. Chairman, I yield 4½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to say to my friends that, as a member of the task force, I have followed this case very closely, quite obviously.

I want to say to my friend, the gentleman from New York [Mr. WALSH], who is inadvertently involved in this discussion, certainly he has none of the responsibility for the angst that is being discussed. First of all, let me say to my friend, the gentleman from California [Mr. ROHRABACHER], who has left, he said this is pure politics. Let me say that it may be politics, but it is not pure.

My friend, the gentleman from New York [Mr. WALSH] said that in the McIntyre-McCloskey case, which of course was not a Federal contested election case, that obviously is a sore point with many, and I understand that and do not mean to get into that, but the fact of the matter is, it was not. There was no question about the Irish vote. That is correct. The INS was not prepared to see if Irish perhaps had registered improperly.

That was not surprising, the McIntyre case, because by that time the Irish had been here in big numbers for a long time and very active in politics. As somebody who came into politics because of John Fitzgerald Kennedy, I am thankful for that.

At no time in Boston did anybody ever go to the INS, in the 1920's or the 1930's or the 1940's, and say, we want the Irish checked through your records to see whether or not they are legally registered.

Mr. Chairman, in Providence, RI, into which the Italian community moved in great numbers, at no time in the 1920's or 1930's or 1940's did anybody repair to the INS and say, notwithstanding the fact of the machine politics of Boston or the machine politics of Providence or the machine politics of New York, when many Jews moved into the city of New York, at no time, I tell my friends, did anybody suggest that the INS check on every voter.

Notwithstanding the fact in Chicago, when the Polish community moved in, in great numbers, nobody, notwithstanding the fact that there were allegations repeatedly as to whether or not there was fair voting, asked the INS to check on every Polish citizen; no, I tell my friend, the gentleman from New York, this is unprecedented; not McIntyre, not Tunno versus Veysey, which was the first case under the Federal Contested Election Act.

And guess what, that was a case in which the Democratic majority said to a Democratic challenger of a Republican incumbent, no, you have not met the test, and we reject the Democratic challenge of the Republican incumbent, which we have done time and time and time again in seating Republicans who have been challenged by Democratic nonincumbents. Democrats rejected their claim and, in fact, never allowed their case to go as far as this one has.

So yes, I say to my friend, the gentleman from New York, this is historically a brand new and different attack. It is not an attack, frankly, being made by Mr. Dornan, per se, it is the committee that is pursuing this; also unusual, I tell my friend.

It is time to bring this matter to a close. It is time, and I say to my friend, if they have additional votes, 300, let us say, who is to say? At no time can anybody on this floor get up and say, I say to my friend from California, that those 300 votes were not equally divided, 150 for Dornan and 150 for the gentlewoman from California [Ms. SANCHEZ].

Why do I say that? Because uncontested testimony at the hearing was that the leader, Herman Dodd, said he was a friend and close to Bob Dornan and could not get involved in a campaign against Mr. Dornan; uncontested testimony. I do not know whether that is the fact. But I say to my friends, it is time to end this investigation.

Mr. WALSH. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I do not intend to become part of this dispute, but let me try to set the record straight, if the gentleman from New York will allow me, or both gentlemen.

Mr. Chairman, the INS is checking every voter in that election, not one particular group. They are checking every voter to see if they were naturalized and what the date of naturalization was, whether you are of German descent or Irish descent or whatever. They are checking everyone. They are not singling out any particular group. That is my understanding.

I say that because my subcommittee funds the INS. We have checked into this, I say to the gentleman from Maryland [Mr. HOYER]. If it were otherwise, I would join the gentleman in his outrage. That is just not the case. They are checking every single voter in that election, and the naturalization date, and if you are a natural born citizen, of course, you would not show up.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Maryland.

Mr. HOYER. One of the problems, Mr. Chairman, as the gentleman perhaps knows, is, first of all, the committee asked for all of Orange County, not just the 46th District, all of Orange County. That is where the 500,000 came from. So they have done a much broader search than would be called for by this contested election.

Mr. ROGERS. No single group is picked out.

Mr. SERRANO. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding time to me.

At first I thought this contest was about a difficult loss, Mr. Chairman. After all, Mr. Dornan served in the House for many years. But 9 months and $300,000 later, no contested election has ever taken this long or gone this far in the history of this country. The gentlewoman from California, Ms. LORETTA SANCHEZ, won the election fair and square. The Latinos and other citizens of Orange County spoke, and there are some in this House who would like to silence them.

Mr. Chairman, the women and the Hispanics and the Democrats in this House will not tolerate the silencing of any man's or woman's vote. The gentleman from Maryland [Mr. HOYER] was absolutely correct when he said this has gone too far. It is time to end this investigation. It is undemocratic. Vote against this rule.

Mr. WALSH. Mr. Chairman, I yield 3½ minutes to the levelheaded and very fair-minded gentleman from Michigan [Mr. EHLERS], chairman of that House task force.

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am the chairman of the task force investigating this election. I have to say that the comments I have heard from the other side of the aisle bear no resemblance whatsoever to the activity of the task force.

The point has been raised that the gentlewoman from California [Ms. SANCHEZ] won the election fair and square. We have not in any way said that she had cheated in the election. We are simply trying to determine if noncitizens voted in the election, and that would be illegal if they did. But we are not saying that she instigated this in any way whatsoever.

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I also point out that my parents were immigrants. I grew up in an immigrant culture in a small town in Minnesota where a majority of people were immigrants. I would also point out that this Congress, the Republican majority, seated the gentlewoman from California [Ms. SANCHEZ], which is a practice not followed by the Democrats in the case of a famous election in 1984 when they did not seat Mr. McIntyre and eventually denied him a seat on very poor grounds, and seated his opponent.

I would also point out that we have not delayed in determining this. We are working as rapidly as possible. The other task force on which I served in the previous session of Congress, that of Mr. Charlie Rose of North Carolina, did not resolve the issue until September of the following year. We certainly hope to resolve this one before that amount of time elapses. We are certainly not dilly-dallying on this one, or delaying, or conducting an investigation of a type that has not been done before.

A comment has been made that for the first time the committee has allowed subpoenas to be issued. We did not allow them. Mr. Dornan read the law and discovered that he could issue them. So he proceeded to issue them. It was a question raised in court by the Sanchez attorneys, and the court said: That is fine, Mr. Dornan can issue those subpoenas under the law.

We have not had any involvement with that activity. The only subpoenas issued by the committee have been those on the INS which unfortunately proved necessary because the INS was not willing to release its computer tapes to the committee without subpoenas. Fortunately they have been cooperating since that time.

As the gentleman from Kentucky [Mr. ROGERS] has mentioned, we are checking all names, and my colleagues might be surprised at the results, since all the discussion here has been about those with Spanish surnames. The number of Vietnamese names is very, very large on the list in question, and other nationalities appear as well.

It appears that there may have been an organization in Orange County, which is why we are looking at all of Orange County, that deliberately encouraged noncitizens to register to vote. In other words, this organization may have been using noncitizens in citizenship classes and encouraging them to register to vote before they could legally do so. That is one area we are investigating.

The problem we have encountered is that subpoenas issued to that organization and to the gentlewoman from California [Ms. SANCHEZ] and to other organizations have not been honored. They have not even responded to them. They refuse to give the information. The U.S. attorney has been asked to rule on that and has not yet done so. But it appears the only way we could get the information would be through committee subpoenas. We have not done that as yet, but we may be forced to.

This is not a new type of attacks as stated here. We are using the procedures under the act as it was written by this Congress and signed into law. We are simply using them properly for the first time in the history of the act. No one can accurately accuse us of subverting the process in any way.

Mr. SERRANO. Mr. Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman from New York [Mr. SERRANO] has 4½ minutes remaining, and the gentleman from New York [Mr. WALSH] has 3½ minutes remaining.

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume.

Let me once again extend my appreciation to the gentleman from New York [Mr. WALSH], even during this debate, for the gentlemanly way in which he conducts himself and treats the Members on this side of the aisle.

As I have said at the outset, it was difficult to stand up in opposition to this bill at first because of the fact that we understood well that outside issues had come into play. But as we listened to this debate, I think we can come to the conclusion that, while they may have started out as outside issues, they are in fact very much a part of this bill because this bill sets out to run the House, to pay the bills for the House, if you will. And when those bills are paid to harass people and those bills are paid to bring pain on the institution, then I do not think it is improper to bring it up during this debate. So we have done so.

Let me just say that much of the discussion was around the Sanchez case. That is a very crucial case. It is not, in my opinion, crucial because it speaks about a seat in Congress, although I tell my colleagues I love my seat and I know how important that is. It is crucial because it speaks about a much broader issue. And it is the treatment of a community.

The last gentleman who spoke clearly said that other communities had been investigated but there are many people who feel that the target was specifically the Hispanic community that presents to some people a political threat.

Let me also tell my colleagues that I come from a district in the Bronx where at times we hear and deal with information regarding people who are not in this country with documents, as some would say, illegal. Well, the fact of life is that their behavior is one of hiding in the shadows of society, of never coming out in front. So the whole idea that people in large numbers were registered to vote to steal this election goes, runs contrary to everything we know about the behavior of people who are not citizens yet. Those people hide. We cannot get them sometimes into a clinic for help because they are afraid somehow somebody will find them out.

That is a fact of life. I do not know where all of a sudden this one county came up with the boldest of undocumented aliens who now want to be out front, sign up and be deported in the process.

This is not the way it is. My side will vote against this bill tonight, and we will hope that in the process we will discuss other issues which will make it easier for the gentleman from New York [Mr. WALSH] and I to present next year's bill and any changes thereof on this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard an awful lot today about the contested race in southern California. That is an issue of obvious importance to many but it has absolutely nothing to do with this bill. Our responsibility, the gentleman from New York [Mr. SERRANO] and mine, and our subcommittee's and the Committee on Appropriations' is to provide the resources that this body needs to function. I think we have done that.

I think we have continued the trend toward cutting the budget, cutting expenses, reducing staff, working smarter, faster, better like American businesses have done to make them globally competitive. We have continued that trend. But our role ends there. We appropriate the funds to make sure that the legislative branch can do its work. Then the legislative branch, the democratic process takes over. And the majority will prevails. In this case the majority will is to proceed with this task force. The minority digresses from that view. That is their right. They can say it as loud and as long as they like, but the fact is that when they were in the majority, their will prevailed and we expressed our reservations and they continued on their path.

The American public decided that this party would have the majority for these 2 years and they would have the minority, that those are the facts.

Our job today has nothing to do with that. It is to provide the resources needed for the legislative branch of Government. We have done that. We have done a good job, and it has been a bipartisan job and we should be proud of that. There is plenty in this bill for all of us to support.

Mr. Chairman, I will finish by just asking once again, reach across the aisle, ask the Democratic Members of the Congress to set the issues aside, once we have completed the work on this bill, and vote bipartisanly for support.

Mr. POSHARD. Mr. Chairman, I rise today to register my strong opposition not only to the FY 98 Legislative Branch Appropriations bill, H.R. 2209, but to the way in which the Leadership of this House continues to thwart progress and ignore fairness in order to advance a partisan agenda. This has resulted in the Democrats being effectively shut out of what had the potential to be a legislative session characterized by bipartisanship and productivity.

I am particularly angered at what I feel is an egregious waste of taxpayer money to fund investigative hearings designed to attack and intimidate organized labor. The Speaker of the House has access to nearly $8 million, euphemistically referred to as the "Speaker's Reserve Fund," which is intended for use in case of emergency. Yet $1.4 million of this slush fund was recently used to launch investigative hearings into labor activities, without the consultation of minority members of the House. I find this pattern of shutting out the minority to be entirely mean-spirited, petty and unfair to the American people, especially when it is their hard-earned tax dollars that are being used to advance these partisan goals. There is no excuse for circumventing the established and equitable procedures of the House, simply to avoid debate and discussion of issues that deserve, and indeed require, such serious consideration and bipartisan debate.

The Republican attack on labor, and on the minority members of this House, has gone too far, and I cannot support a bill to appropriate funds which will allow this type of partisan, unwarranted investigation to continue. It is certainly unfortunate that such considerations must continue to interfere with the business of the House, and I had held out great hope at the beginning of the appropriations process that we might be able to get our work done effectively, efficiently and fairly. It saddens me that this view has proven to be overly optimistic. I will therefore be forced to vote against this bill, and I must urge my colleagues to do the same.

Mr. BLUMENAUER. Mr. Chairman, I am very pleased that the Subcommittee on Legislative Appropriations included report language urging the Architect of the Capitol to conduct a feasibility study for the installation of adequate shower and locker facilities for congressional staff. Currently, there are only 14 shower heads for more than 7,000 employees.

The employees of the House of Representatives are one of the hardest working, most dedicated corps of staff I have had the pleasure to work with. House facilities are designed to cater to these long hours, with food service, banks, post offices, a barber shop and a beauty salon available within the House complex so that errands can be taken care of with minimal time away from work. Adequate facilities to accommodate those who wish to exercise during the day or bike or run to work are not perks—they are important in helping our employees become more efficient and effective and they could actually save us money. Encouraging our employees to bike to work or exercise has several benefits:

Health and Productivity.—Recent studies ranking adult physical activity levels in U.S. cities concluded that Washington, DC, has the highest per capita rate of sedentary adults in the country. At the same time, we are learning more every day about the importance of regular exercise and its impacts on overall health, productivity, and longevity. I know many of our fellow Members believe they are more effective when they exercise regularly—I see them every day in the Members' locker room.

Time.—How many people will sit in their cars this evening, stuck in traffic on their way to ride a stationary bike or run on a treadmill? Combining the daily commute with exercise is an effective way to work out without taking extra time from already full days. Riding, skating, or running to work can actually take less time than driving from some parts of the District. Showers would make it possible for staff to use these modes.

Congestion.—The Washington metro area has some of the most congested roadways in the country. Local traffic congestion may seem like an intractable problem, but by making it possible for our employees to ride or run to work, or at least to avoid that extra trip to the health club, we can do something to relieve traffic congestion.

A Harris Poll conducted in 1990 showed that 43.5 percent of bike riders would ride to work if trip-end facilities—showers, lockers, and bike parking—were available, and in my district, where a 1992 survey found that 21 percent of bike riders would be motivated to ride to work if they had showers and parking, response to these improvements is enthusiastic. Private companies and public agencies around the country are retrofitting their buildings with these facilities to accommodate their workers. We should acknowledge the wisdom of these companies and take up their example.

I look forward to working with the Office of the Architect to design this study, and again I thank the committee for their consideration.

Mr. WAXMAN. Mr. Chairman, the legislative branch appropriations bill for fiscal year 1998 cuts the funding level for the General Accounting Office by $9 million from the fiscal year 1997 funding level. This cut is unwise and unfair and should be reversed in Conference.

Two years ago, the GAO and House and Senate appropriators reached an agreement on a two-year plan to reduce GAO's budget. As part of that agreement, GAO's budget has been reduced by 25 percent and its staffing has dropped below 3,500—its lowest level in almost 60 years. These cuts have taken a heavy toll. Hiring and promotions have been frozen for a long time. Staff reductions have diminished expertise in key areas. And needed investments in information technology have been placed on hold. Additional cuts now are not only a violation of that agreement, they will result in a loss of morale and a further loss in staff expertise as the agency's future is cast in doubt.

Instead of pursuing this foolish course of action, the House should have honored the agreement over funding for the GAO. It could easily have made up for the revenue difference by refusing to fund the Government Reform and Oversight's partisan witch-hunt into campaign fundraising practices. The budget for that "investigation" is an extravagant waste of taxpayers' money. The Senate is doing a better, and fairer, job while the House's investigation is in a shambles. We are wasting millions of dollars on a mistake-plagued House investigation which duplicates the more comprehensive and bipartisan efforts of the Senate. Instead of funding partisan investigations in the Government Reform and Oversight Committee, let's give money to those than can really use it, the professional auditors and investigators of the GAO.

The Senate has also taken a much wiser approach to GAO's funding, and kept faith with the agreement reached two years ago. By funding GAO at their requested level, the Senate has provided less than a 2 percent increase; not enough for any staff or program increases, just enough to continue current operations at their present levels. In essence it is a cost of living increase. This is certainly the least Congress should provide for the GAO, our own investigative arm. The cuts in the House bill are penny wise and pound foolish because the GAO remains an excellent investment for the American taxpayer. The financial benefits from its work in the last five years alone total over $103 billion.

If we in Congress are to continue doing our jobs well, we need a strong and effective General Accounting Office. I urge my colleagues on the House Appropriations Committee to carefully consider these issues during the conference with the Senate on this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 2209 is as follows:

H.R. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

Salaries and Expenses

For salaries and expenses of the House of Representatives, $708,738,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $12,293,000, including: Office of the Speaker, $1,590,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,626,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,652,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $1,024,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $998,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $397,000; Republican Steering Committee, $736,000; Republican Conference, $1,172,000; Democratic Steering and Policy Committee, $1,277,000; Democratic Caucus, $631,000; and nine minority employees, $1,190,000.

Members' Representational Allowances Including Members' Clerk Hire, Official Expenses of Members, and Official Mail

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $379,789,000.

Committee Employees

Standing Committees, Special and Select

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $86,268,000: *Provided*, That such amount (together with any amounts appropriated for such salaries and expenses for fiscal year 1997) shall remain available for such salaries and expenses until December 31, 1998.

Committee on Appropriations

For salaries and expenses of the Committee on Appropriations, $18,276,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount (together with any amounts appropriated for such salaries and expenses for fiscal year 1997) shall remain available for such salaries and expenses until December 31, 1998.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $84,356,000, including: for salaries and expenses of the Office of the Clerk, including not more than $3,500, of which not more than $2,500 is for the Family Room, for official representation and reception expenses, $16,804,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than $750 for official representation and reception expenses, $3,564,000; for salaries and expenses of the Office of the Chief Administrative Officer, $50,727,000, including $27,247,000 for salaries, expenses and temporary personal services of House Information Resources, of which $23,210,000 is provided herein: *Provided*, That of the amount provided for House Information Resources, $8,253,000 shall be for net expenses of telecommunications: *Provided further*, That House Information Resources is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such reimbursement shall be deposited in the Treasury for credit to this account: for salaries and expenses of the Office of the Inspector General, $3,808,000, of which $1,000 shall be for the release of the Inspector General's Report on Management and Financial Irregularities—Office of the Chief Administrative Office: *Provided further*, That all names of persons making favorable or unfavorable statements in the report shall be expunged; for the Office of the Chaplain, $133,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,101,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,821,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,827,000; for salaries and expenses of the Corrections Calendar Office, $791,000; and for other authorized employees, $780,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $127,756,000, including: supplies, materials, administrative costs and Federal tort claims, $2,225,000; official mail for committees, leadership offices, and administrative offices of the House, $500,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, $124,390,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $641,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

Administrative Provisions

Sec. 101. The provisions of House Resolution 7, One Hundred Fifth Congress, agreed to January 7, 1997, establishing the Corrections Calendar Office, shall be the permanent law with respect thereto. The provisions of House Resolution 130, One Hundred Fifth Congress, agreed to April 24, 1997, providing a lump sum allowance for the Corrections Calendar Office, shall be the permanent law with respect thereto.

Sec. 102. The funds and accounts specified in section 107(b) of the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 123b note) shall be treated as categories of allowances and expenses for purposes of section 101(a) of the Legislative Branch Appropriations Act, 1993 (2 U.S.C. 95b(a)).

Sec. 103. (a) Section 109(a) of the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 60o(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "who is separated from employment,";

(2) in the matter preceding paragraph (1), by striking "employee" the second place it appears and inserting "employee or for any other purpose"; and

(3) in paragraph (1)(B), by striking "the amount" and inserting "in the case of a lump sum payment for the accrued annual leave of the employee, the amount".

(b) The amendments made by subsection (a) shall apply to fiscal years beginning on or after October 1, 1997.

Sec. 104. (a) Section 104(c)(2) of the House of Representatives Administrative Reform Technical Corrections Act (2 U.S.C. 92(c)(2)) is amended by striking "in the District of Columbia".

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning on or after October 1, 1997.

Sec. 105. (a) Section 204(11)(A) of the House of Representatives Administrative Reform Technical Corrections Act (110 Stat. 1731) is amended by striking out "through 'respective Houses' and" and inserting in lieu thereof the following: "through 'respective Houses' the second place it appears and".

(b) The amendment made by subsection (a) shall take effect as of August 20, 1996.

JOINT ITEMS

For Joint Committees, as follows:

Joint Economic Committee

For salaries and expenses of the Joint Economic Committee, $2,750,000, to be disbursed by the Secretary of the Senate.

Joint Committee on Printing

For salaries and expenses of the Joint Committee on Printing, $804,000, to be disbursed by the Secretary of the Senate.

Joint Committee on Taxation

For salaries and expenses of the Joint Committee on Taxation, $5,907,000, to be disbursed by the Chief Administrative Officer of the House.

For other joint items, as follows:

Office of the Attending Physician

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Office of the Attending Physician; (3) an allowance of $500 per month to one assistant and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistants; and (4) $893,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the appropriations from which such expenses incurred for staff and equipment are payable and shall be available for all the purposes thereof, $1,266,000, to be disbursed by the Chief Administrative Officer of the House.

Capitol Police Board

Capitol Police

salaries

For the Capitol Police Board for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, $70,955,000, of which $34,118,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Chief Administrative Officer of the House, and $36,837,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

general expenses

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than $2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and $85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, $3,099,000, to be disbursed by the Chief Administrative Officer of the House of Representatives: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1998 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

Administrative Provisions

Sec. 106. Amounts appropriated for fiscal year 1998 for the Capitol Police Board for the Capitol Police may be transferred between the headings "salaries" and "general expenses" upon the approval of—

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms of the House of Representatives under the heading "salaries";

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms and Doorkeeper of the Senate under the heading "salaries"; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of other transfers.

Sec. 107. (a)(1) The Capitol Police Board shall establish and maintain unified schedules of rates of basic pay for members and civilian employees of the Capitol Police which shall apply to both members and employees whose appointing authority is an officer of the Senate and members and employees whose appointing authority is an officer of the House of Representatives.

(2) The Capitol Police Board may, from time to time, adjust any schedule established under paragraph (1) to the extent that the Board determines appropriate to reflect changes in the cost of living and to maintain pay comparability.

(3) A schedule established or revised under paragraph (1) or (2) shall take effect only upon approval by the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate.

(4) A schedule approved under paragraph (3) shall have the force and effect of law.

(b)(1) The Capitol Police Board shall prescribe, by regulation, a unified leave system for members and civilian employees of the Capitol Police which shall apply to both members and employees whose appointing authority is an officer of the Senate and members and employees whose appointing authority is an officer of the House of Representatives. The leave system shall include provisions for—

(A) annual leave, based on years of service;

(B) sick leave;

(C) administrative leave;

(D) leave under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.);

(E) leave without pay and leave with reduced pay, including provisions relating to contributions for benefits for any period of such leave;

(F) approval of all leave by the Chief or the designee of the Chief;

(G) the order in which categories of leave shall be used;

(H) use, accrual, and carryover rules and limitations, including rules and limitations for any period of active duty in the armed forces;

(I) advance of annual leave or sick leave after a member or civilian employee has used all such accrued leave;

(J) buy back of annual leave or sick leave used during an extended recovery period in the case of an injury in the performance of duty;

(K) the use of accrued leave before termination of the employment as a member or civilian employee of the Capitol Police, with provision for lump sum payment for unused annual leave; and

(L) a leave sharing program.

(2) The leave system under this section may not provide for the accrual of either annual or sick leave for any period of leave without pay or leave with reduced pay.

(3) All provisions of the leave system established under this subsection shall be subject to the approval of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate. All regulations approved under this subsection shall have the force and effect of law.

(c)(1) Upon the approval of the Capitol Police Board, a member or civilian employee of the Capitol Police who is separated from service, may be paid a lump sum payment for the accrued annual leave of the member or civilian employee.

(2) The lump sum payment under paragraph (1)—

(A) shall equal the pay the member or civilian employee would have received had such member or employee remained in the service until the expiration of the period of annual leave;

(B) shall be paid from amounts appropriated to the Capitol Police;

(C) shall be based on the rate of basic pay in effect with respect to the member or civilian employee on the last day of service of the member or civilian employee;

(D) shall not be calculated on the basis of extending the period of leave described under subparagraph (A) by any holiday occurring after the date of separation from service;

(E) shall be considered pay for taxation purposes only; and

(F) shall be paid only after the Chairman of the Capitol Police Board certifies the applicable period of leave to the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate.

(3) A member or civilian employee of the Capitol Police who enters active duty in the armed forces may—

(A) receive a lump sum payment for accrued annual leave in accordance with this subsection, in addition to any pay or allowance payable from the armed forces; or

(B) elect to have the leave remain to the credit of such member or civilian employee until such member or civilian employee returns from active duty.

(4) The Capitol Police Board may prescribe regulations to carry out this subsection. No lump sum payment may be paid under this subsection until such regulations are approved by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives. All regulations approved under this subsection shall have the force and effect of law.

(d) Nothing in this section shall be construed to affect the appointing authority of any officer of the Senate or the House of Representatives.

Capitol Guide Service and Special Services Office

For salaries and expenses of the Capitol Guide Service and Special Services Office, $1,991,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than forty individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

Statements of Appropriations

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the first session of the One Hundred Fifth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $2,479,000.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93–344), including not more than $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $24,797,000: *Provided*, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

SALARIES AND EXPENSES

For salaries for the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment, including not more than $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance and operation of a passenger motor vehicle; and for attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $36,827,000, of which $6,450,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $4,991,000, of which $25,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $37,181,000, of which $8,082,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $32,032,000, of which $550,000 shall remain available until expended: *Provided*, That not more than $4,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1998.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $64,603,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further*, That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $81,669,000, of which $11,017,000 shall be derived by transfer from the Government Printing Office revolving fund under section 309 of title 44, United States Code: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1998".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $1,771,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $223,507,000, of which not more than $7,869,000 shall be derived from collections credited to this appropriation during fiscal year 1998, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150): *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,869,000: *Provided further*, That of the total amount appropriated, $8,845,000 is to remain available until expended for acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $34,361,000, of which not more than $17,340,000 shall be derived from collections credited to this appropriation during fiscal year 1998 under 17 U.S.C. 708(d), and not more than $5,086,000 shall be derived from collections during fiscal year 1998 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than $22,426,000: *Provided further*, That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than $2,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $45,936,000, of which $12,319,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $4,178,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount of not more than $194,290, of which $58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 205. Of the amount appropriated to the Library of Congress in this Act, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices.

SEC. 206. (a) For fiscal year 1998, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $97,490,000.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $10,073,000, of which $710,000 shall remain available until expended.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $29,264,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $150,000: *Provided further*, That amounts of not more than $2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for 1996 and 1997 to depository and other designated libraries.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not more than $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,550 workyears: *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15: *Provided further*, That expenses for attendance at meetings shall not exceed $75,000.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries; $323,520,000: *Provided*, That not more than $1,000,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1998: *Provided further*, That an additional amount of $4,404,000 shall be made available by transfer from funds previously deposited in the special account established pursuant to 31 U.S.C. 782: *Provided further*, That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office and remain available until expended, and not more than $2,000,000 of such funds shall be available for use in fiscal year 1998: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Oversight and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 1998 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 306. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of Public Law 104–1 to pay awards and settlements as authorized under such subsection.

SEC. 307. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed $1,500.

SEC. 308. (a) Section 713(a) of title 18, United States Code, is amended by inserting after "Senate," the following: "or the seal of the United States House of Representatives, or the seal of the United States Congress,".

(b) Section 713 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

"(d) Whoever, except as directed by the United States House of Representatives, or the Clerk of the House of Representatives on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

"(e) Whoever, except as directed by the United States Congress, or the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Congress, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.".

(c) Section 713(f) of title 18, United States Code (as redesignated by subsection (b)(1)), is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) in the case of the seal of the United States House of Representatives, upon complaint by the Clerk of the House of Representatives; and

"(4) in the case of the seal of the United States Congress, upon complaint by the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly.".

(d) The heading of section 713 of title 18, United States Code, is amended by striking "**and the seal of the United States Senate**" and inserting the following: "**the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress**".

(e) The table of sections for chapter 33 of part I of title 18, United States Code, is amended by amending the item relating to section 713 to read as follows:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress.".

This Act may be cited as the "Legislative Branch Appropriations Act, 1998".

The CHAIRMAN. No amendment shall be in order except those printed in House Report 105–202, which may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, shall be debated for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in House Report 105–202.

AMENDMENT NO. 1 OFFERED BY MR. DAVIS OF VIRGINIA

Mr. DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. DAVIS of Virginia:

Page 8, insert after line 5 the following new section:

SEC. 106. Section 104(a) of the Legislative Branch Appropriations Act, 1987 (as incorporated by reference in section 101(j) of Public Law 99–500 and Public Law 99–591) (2 U.S.C. 117e) is amended—

(1) in the second sentence of paragraph (2), by striking "A donation" and inserting "Except as provided in paragraph (3), a donation";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) In the case of computer-related equipment, during fiscal year 1998 the Chief Administrative Officer may donate directly the equipment to a public elementary or secondary school of the District of Columbia without regard to whether the donation meets the requirements of the second sentence of paragraph (2), except that the total number of workstations donated as a result of this paragraph may not exceed 1,000.

"(B) In this paragraph—

"(i) the term 'computer-related equipment' includes desktops, laptops, printers, file servers, and peripherals which are appropriate for use in public school education;

"(ii) the terms 'public elementary school' and 'public secondary school' have the meaning given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

"(iii) the term 'workstation' includes desktops and peripherals, file servers and peripherals, laptops and peripherals, printers and peripherals, and workstations and peripherals.

"(C) The Committee on House Oversight shall have authority to issue regulations to carry out this paragraph.".

The CHAIRMAN. Pursuant to House Resolution 197, the gentleman from Virginia [Mr. DAVIS] and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

This amendment is fairly simple and straightforward. The schools in our Nation's Capital are in a state of crisis. The dropout rate in the school system is over 40 percent. We have a very low percentage of these students going on to college. There are safety issues and management issues, but worst of all there is a technology revolution that is engulfing the beltway, creating thousands and thousands of jobs in the Metro D.C. area and the District of Columbia. And the students who come out of its public schools have not really been able to participate in a meaningful way in this revolution.

This amendment addresses this human tragedy by making surplus congressional information technology equipment available at no cost to the city's public elementary and secondary schools. Specifically the amendment would authorize the Chief Administrative Officer of the House to transfer surplus equipment without charge to the District of Columbia public school system during fiscal year 1998.

My amendment is limited to the District of Columbia schools because of the special responsibility that the Congress has to the residents of this Federal District under the Constitution.

The Committee on Rules has made this in order. I hope my colleagues will support it. We have other Members who would like to address it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition to the Davis amendment?

Mr. SERRANO. I do, Mr. Chairman, not in opposition.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. SERRANO] is recognized for 5 minutes and may proceed in support of the amendment.

There was no objection.

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume. I think it is a wonderful amendment. I would like, however, if possible to ask the chairman of the subcommittee, the gentleman from New York [Mr. WALSH], if he would allow me to ask him a question. I am very much in favor of this notion and I am very much supportive of it. But, as we know, in the past I have discussed the possibility of Members being able to do this in their own districts. I would hope that we do this as a 1-year situation, which I support wholeheartedly and that next year the subcommittee look at possibilities, that Members in their own districts can accomplish what the gentleman from Virginia [Mr. DAVIS] is accomplishing for the great city of Washington, DC.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, I think it is a very good amendment. I think the gentleman's amendment has merit. I would certainly support it. I am delighted that in my role as chairman of the Subcommittee on Legislative I am still able to reach back and help out my former constituents in the District of Columbia.

In response to the gentleman's question, this is something that we have talked about, that we both support the concept of allowing Members to use their used equipment in their district offices to provide to local school districts. I am sure the Committee on House Oversight would like to take a look at this before we appropriators try to make a determination, but I would certainly go with the gentleman from New York to the chairman and members of the House oversight subcommittee and urge that this be considered very strongly for next year.

Mr. SERRANO. Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me the time, and I thank the chairman and the ranking member of the subcommittee for their generosity.

I do not think we have to look far to see the crying need for the gentleman's amendment. I especially appreciate that in his role as chairman of the D.C. committee he has looked far and wide and always dealt with the District in a bipartisan manner. I would like to make a suggestion to the ranking member because I can understand his concern as well. As to these computers in the District of Columbia, the cost of shipping will probably be more than the computers would be worth, but there are Federal agencies in all the large cities; and it seems to me the same kind of situation could be worked out with the Federal agencies in cities like New York who would also have, it seems to me, excess technology equipment of this kind. It said that the District needs a billion dollars in school repairs.

In that respect, it is clear that we will not get to computers for an awfully long time. Bell Atlantic is wiring the schools of the District free. That will be done by April. General Becton in his budget this year asked for $20 million for technology, and of course it had to be cut. The District came into compliance a year ahead of time, into balance a year ahead of time in order to qualify for the President's plan to relieve it of some State functions.

□ 1845

While the District is getting its act together, I do not think that the children should suffer. The Speaker has said that if we put a lap-top in the lap of every kid in the city, we would see changes, if not overnight, then very soon.

The gentleman from Virginia is clearly trying to get us close to that by at least putting a computer in every school. I thank him for it, and I urge this amendment be adopted.

Mr. DAVIS of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I want to compliment the gentlewoman from the District of Columbia.

We can support this right now, for all States, for all congressional districts, but just in a little different way. The Century 21 high-technology bill, which is in the budget under Ways and Means, today the President is looking at it and he accepts some portions of that.

Right now he is insisting that all $35 billion go toward higher postsecondary education. If that is the case, this will be cut out of all of our districts, and it is one in which we accommodate industry that develops and puts into the classrooms high-technology equipment like computers, like scientific gear.

The next phase of this, I think, should be the libraries, and we are asking for just a small portion of that $35 billion goes through K through 12. We think when our education system in some areas, and we have good teachers, my wife is one of them, but in some areas needs help, that we do it in the K through 12 and not spend it all on postsecondary education.

Mr. DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I note there are over 19,000 high-technology jobs available right now that we cannot fill in the greater Washington area. This amendment, with a donation from the House of surplus computers, we have over 644 PC's available today, plus a number of printers, modems and other IT equipment, going to the school system, can allow the city of Washington, DC, the District of Columbia and the students therein, to share in the economic benefits of this region and to allow them to be trained to fill some of these jobs.

I think it is a good amendment. I thank very much the chairman of the committee for allowing us to offer this, the gentlewoman from the District of Columbia [Ms. NORTON], the gentleman from Florida [Mr. FOLEY], who has helped in arranging this as well, and I hope my colleagues will support it.

The District of Columbia public schools are in desperate need of information technology infrastructure in their classrooms. By supporting the Davis of Virginia amendment to the legislative branch appropriations bill, scheduled for consideration this evening. Congress will allow hundreds of surplus computers, printers, modems, and other IT equipment to be donated to the D.C. public schools.

This amendment authorizes the Chief Administrative Officer [CAO] of the House to transfer surplus computer equipment to elementary and secondary D.C. public schools during fiscal year 1998. Current laws constrain the donation of surplus equipment, allowing disposal only through the General Services Administration [GSA] except for equipment with no recoverable value. The CAO estimates that there are hundreds of high end computers, printers, and modems currently available for use but not needed by the Congress or GSA. While the Senate Sergeant at Arms and Doorkeeper have successfully donated surplus computers and related equipment to the schools, the House lags far behind. To the thousands of D.C. students, 40 percent of whom are at risk of dropping out of school, this equipment correlates into more effective and dynamic learning opportunities.

The Congress has a unique constitutional relationship to the District of Columbia. Supporting the Davis amendment to the legislative branch appropriations bill is a direct and efficient method that will inject much needed technology into the D.C. public schools. Speaker GINGRICH, Representatives MARK FOLEY, JOHN BOEHNER, and ELEANOR HOLMES NORTON have all been extremely helpful in moving this concept forward.

I thank my colleague, for their support of this commonsense measure.

Mrs. MORELLA. Mr. Chairman, as a longtime advocate of providing telecommunications services to our public classrooms, I rise in support of the Davis amendment. This amendment would allow the Chief Administrative Officer [CAO] of the House to transfer surplus computers, printers, modems, and other technological equipment to schools in the District of Columbia.

Many of the classrooms in the District are housed in buildings that are falling apart. Classrooms are ill-equipped with resources that will leave students behind in this rapidly evolving technological revolution. The Davis amendment would provide the District with an infusion of much-needed technology that will afford students the opportunity to succeed in this new, information age.

The statistics on the performance of students in the D.C. public schools are dismal. Only 22 percent of fourth-grade students in the D.C. public schools scored at or above basic reading achievement levels in 1994. Over the last 3 years, 53 percent of students dropped out or left the school system after 10th grade. The cumulative grade point average for current 12th grade students is 1.5 on a 4.0 scale, and wide disparities exist in student performances among wards.

Information technology can excite young minds and provide all children in the District access to the same rich learning resources, regardless of where they live. Telecommunications would close the gap between the have and have-not communities within the District and help provide a level playing field for all students to utilize the information superhighway. In a nation rich in information, teachers, and students in the D.C. public schools can no longer rely on the skills of the industrial age.

I applaud Congressman DAVIS for his efforts to bring technology into D.C. classrooms in a direct and efficient manner, and I urge a "yes" vote on the Davis amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. DAVIS].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105-202.

AMENDMENT NO. 2 OFFERED BY MR. FAZIO OF CALIFORNIA

Mr. FAZIO of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FAZIO of California:

Page 8, line 18, strike "5,907,000" and insert "$5,624,000".

The CHAIRMAN. Pursuant to House Resolution 197, the gentleman from California [Mr. FAZIO] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume. I rise in support of this amendment to freeze positions at the Joint Committee on Taxation.

My colleagues, I am sure, remember that the regular committee funding resolution managed by the Committee on House Oversight was a source of major contention this year. The dispute was not just because of Democratic objections but also because of Republican objections to proposed committee increases. Yet the funding assumption of that resolution was still a freeze on the number of committee positions, the Speaker's so-called employment caps.

The one exception, as I am sure many remember, was the proposed increase in the Committee on Government Reform and Oversight's allocation, and those increases provoked a significant fight here on the floor that I am sure we have already noted continues even up to this day.

Now the majority is trying to accomplish, I believe indirectly, what they could not accomplish directly, and that is increases in committee staff levels. The Legislative Appropriations Subcommittee originally went along with the request by the Joint Committee on Taxation to increase its funding by 20 percent, a total of 12 positions, from 61 to 73 positions. But because of objections by Democrats on the committee, the bill was changed at the full Committee on Appropriations to add five positions to the Joint Committee on Taxation. My amendment would eliminate that increase and hold the Joint Committee on Taxation to the current year's staffing level of 61 positions.

The majority received significant credit at the beginning of this 104th Congress for reducing committee staff by one-third. It was a significant reduction, and one that we are reminded about constantly. In fact, we were reminded of it as recently as Friday's debate on the rule for this bill.

So one question is whether the Joint Committee on Taxation, which does not clear through the regular committee funding process for the standing committees of the House, will be singled out for special treatment while other committees with important jurisdictions and heavy workloads are given no increase in staffing.

I think it is also suspect that the Joint Committee on Taxation would make this extraordinary request for fiscal year 1998 funds but make it for the year after we are scheduled to complete consideration of major tax legislation. In fact, the buzz all over the Capitol tonight is that we have reached agreement on a major tax bill for the long haul. If that is the case, and I certainly anticipate it will occur this week, there is absolutely no way in which the Joint Committee on Taxation's increased staff will have any major tax bill before it in the near future.

The rationale given for significant new duties by the chairman, the gentleman from Texas [Mr. ARCHER], in making his request to the committee, was for unfunded mandates and line item veto. It just does not hold water, Mr. Chairman. Those are responsibilities that are chiefly handled by the Congressional Budget Office.

Line item vetoes are far more likely to be applied to the appropriations bill. In fact, there is even a question as to whether it will apply to a tax bill. And unfunded mandates, as we know, are far more likely to be included in authorizing legislation.

In fact, the gentleman from Texas said, "If the Joint Committee's responsibilities are expanded in any further way, I will find it necessary to request an additional increase."

But perhaps the most important point is the highly politicized complexion that the Joint Committee on Taxation has assumed under Republican control, in sharp departure from its traditional low profile. The staff director, Kenneth Kies, was singled out for a profile in the Wall Street Journal that appeared in April. Here is a quote from that article:

"But Mr. Kies is breaking the mold, wielding his clout in some surprising ways and taking all-expense-paid trips to speak to groups, many of which have large stakes in the tax code. Mr. Kies does not get paid for speaking, but last year he accepted more in travel expenses than any other congressional staffer," and this is what I think my colleagues are most interested in hearing, "more than any of the 535 Members of Congress, according to an analysis done by the Associated Press."

The Washington Post editorial a few days ago had this to say about the Joint Committee on Taxation: "The JCT was once the great redoubt of integrity in such matters. It has been converted into a political parrot." The New York Times, in an editorial about the 1995 budget bill said " Congress relied on misleading estimates by its tax analysts," and "The Republican distribution tables are distorted in at least four ways."

So adding positions to the Joint Committee on Taxation when its fairhandedness is being called into question makes absolutely no sense. The simple fact is the Joint Committee on Taxation has not made a compelling case for these additional positions. They should not get special treatment.

Our precious committee resources should not be going to highly politicized staff operations that will merely be used to advance a partisan agenda here in the House instead of providing the nonpartisan estimates that we have come to expect in the past.

I think this is an opportunity for us to show that we are going to be fair across the board. I think it is an opportunity to indicate that we like people to work for us in these different and very essential committees who do not bring their own personal profile or who serve the House in a traditional manner, one that emphasizes the role of the Members and not of the staff in making policy.

I think we ought to treat this committee the same way we are treating most agencies, and that is give the existing staff a cost-of-living adjustment. That is what this amendment would allow; and, therefore, I ask for a "yes" vote on my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment will eliminate the five additional staff positions that we have appropriated for the Joint Committee on Taxation. The chairman of the Joint Committee on Taxation, the gentleman from Texas [Mr. ARCHER], who also chairs the Committee on Ways and Means of the House, testified that he needed 12 new positions to do the additional work that was mandated on the Joint Committee's staff. The committee bill only allows five.

We removed seven of those positions during the full committee consideration of the bill, after the gentleman from California and the gentleman from Wisconsin and others raised this issue. They felt that it was too large an increase at one time. That would have only, by the way, brought us up to the level where the Democratic majority had it when they lost control of the House, so we are still substantially below that level.

We offered an amendment not to eliminate the total increase but to reduce it to five. So we went more than halfway to show a reasonable approach to try to develop compromise. They wanted the whole loaf instead of half of the loaf.

The fact is the chairman of the House Ways and Means and the chairman of the Committee on Finance in the Senate both felt that this is essential to their work. The Joint Committee on Taxation does the very important work of providing technical support to the Committee on Ways and Means and the Senate Committee on Finance.

As we know, this work is highly technical in nature and requires very high skills in tax law and economics. The staff is called upon to make several thousand revenue estimates each session for Members and those estimates are highly regarded.

In addition, the Joint Committee on Taxation has new responsibilities that staff resources are needed for: a new requirement imposed by the House to make dynamic scoring estimates in major tax legislation, to determine unfunded mandates contained in revenue legislation, and to determine limited tax benefits subject to the line item veto act. These are all new responsibilities.

With all due respect to the gentleman from California, under the rules of the House these are required of the Joint Committee on Taxation. It is their responsibility.

They also will have, we are told, the added responsibility of reviewing options for a comprehensive review of the Tax Code. What a monumental challenge that would be without additional staff.

There are many in this country who feel that the current Tax Code is unfair, it is antiquated, and it creates tremendous amounts of work and expense to individuals and to businesses. So many of us feel that there needs to be a review, and the Joint Committee on Taxation would have that responsibility.

The bill provides funding for a staff level of 66 employees, or FTEs. It puts the FTEs back to the level they were funded at in 1988. We are now working on the 1998 appropriations bill. We are asking for an increase to 66, and that is still seven positions below the level it was funded at by the Democrats in 1988.

So we are doing this added responsibility, doing it better, smarter, and faster. All we have done is to put them back where they were 10 years ago.

I heard the gentleman's concerns in the full committee and I offered an amendment that reduced the subcommittee's mark of 12 positions to 5. The Committee on Appropriations heard the gentleman, considered the prudence of restraint, accepted a staff level of a decade ago and reported the bill with those limited resources. We have met the gentleman more than halfway.

I oppose the amendment and urge all to oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume to respond to the gentleman. If the gentleman would look at the transcript of the hearing on the Joint Committee on Taxation on February 13, the statement of the chairman of the Joint Committee, the gentleman from Texas, Mr. BILL ARCHER, makes no reference to dynamic scoring.

There is not any reference because, I believe, dynamic scoring is something that is still a controversial issue here, and I am not sure there is any mandate to the committee to handle that task. Dynamic scoring may, in fact, be what the committee needs additional staff for, but if we look at what was cited as the justification for the increase, I could not find it.

□ 1900

A lot of committees would like to go back to the staffing level they were at in the past. That is the very point I am trying to make. This committee is being given the opportunity to go back because suddenly it is determined that there is work for them to do. Well, there are many other committees that have additional work they would like to do, but they are not being give this kind of latitude, they are not being given this kind of assistance.

Also, part of my concern is I believe much of the help for this committee will be given to the Committee on Ways and Means staff. Certainly, the members of the Committee on Ways and Means benefit greatly from the work of the joint committee. But I am not sure that is going to be handed out in any 2-to-1 ratio. I am not sure it is going to be available to Democrats as much as to Republicans.

In fact, I think that the issue of dynamic scoring is something that is quite partisan within that committee in terms of how they would like to have the long-range effects of tax bills analyzed and factored into the way in which we project future deficits, for example.

So I think that the comments of the gentleman from New York [Mr. WALSH], while certainly appreciated in a rebuttal sense, do not hold weight.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I would be happy to yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, I thank the gentleman for yielding.

Just to clarify on this one point, under the rules of the House, this is rule XIII, paragraph (e)(1) of clause 7, regarding dynamic scoring:

> A report from the Committee on Ways and Means on a bill or joint resolution designated by the majority leader (after consultation with the minority leader) as major tax legislation may include a dynamic estimate of the changes in Federal revenues expected to result from enactment of the legislation.

So, clearly, the rules of the House do provide that responsibility to the joint committee.

Mr. FAZIO of California. Mr. Chairman, I reserve the balance of my time. But before I do so, Mr. Chairman, I would simply say, the fact that it is cited in the rules and yet not mentioned by the chairman as a justification for additional staff is, perhaps, the point. It is not one of the reasons the gentleman from Texas [Mr. ARCHER] has asked for additional help.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield myself as much time as I may consume.

The point of the gentleman from California [Mr. FAZIO] was that these responsibilities are not covered by the Rules of the House. Quite clearly, they are covered by the Rules of the House. Not to pick nits, but the responsibility is theirs. Thus, the need for additional staffing.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. THOMAS] of the Committee on House Oversight, also a member of the Committee on Ways and Means.

Mr. THOMAS. Mr. Chairman, I thank the gentleman from New York [Mr. WALSH] for yielding me the time.

I find it almost fascinating that the gentleman from California [Mr. Fazio], the former chairman of the Subcommittee on Legislative of the Committee on Appropriations is offering an amendment to allow no additional staff. The gentleman indicated that perhaps this particular committee could learn from what occurred to other committees.

Let me recite some dollars and cents and numbers for my colleagues. There is one committee in the House of Representatives that is not responsive to House Oversight and the rest of the Members in determining its budget. It is not the Joint Committee on Taxation. It is not the Committee on Ways and Means. It is not the Committee on Agriculture. It is not the Committee on Commerce. It happens to be the Committee on Appropriations. That committee alone determines its own staff and its own budget.

Let us return to 1994. The budget for Appropriations was $14.7 million. The budget for the Committee on Ways and Means was $8.1 million. The budget for the Joint Committee on Taxation is $5.7 million. Let us leap ahead 4 years and look at the fiscal year 1998 budget of Appropriations, $18.2 million. From $14.7 million to $18.2 million. That is a 25-percent increase in the budget that the gentleman from California [Mr. FAZIO], behind closed doors, determines what is appropriate to do their job.

The Committee on Ways and Means, at $8.1 million in 1994. In 1998, it is $5.5 million. In 1994, Ways and Means, $8.1 million. In 1998, $5.5 million. That is a decrease of 32 percent.

The new majority willingly took on themselves savings of taxpayers' dollars. The Joint Committee on Taxation goes from $5.7 million to $5.9 million. That is an increase. That is a 3-percent increase. The gentleman from California [Mr. FAZIO] focuses on staffing. In the 103d Congress, the Joint Committee, under Democratic leadership, had 77 staff. Currently there are 59.

On the Committee on Appropriations, there are 60 members. There are 155 staff; 52 of them are called associate staff. They get a staffer for virtually every member of the committee. The Committee on Ways and Means, we do not get that kind of staffing. We have to rely on the Joint Committee on Taxation.

Why is it called the Joint Committee on Taxation? Because that committee serves not only the 39 members of the Committee on Ways and Means, but it serves the 20 members of the Senate as well. There are 59 members who utilize the services of the Joint Committee on Taxation. Is it not interesting there are also 59 staffers? That means, on the Joint Committee on Taxation, there is one staffer for every member.

On the Committee on Appropriations, on the committee that the gentleman from California [Mr. FAZIO] believes should not get even five new staffers, the ratio for staffers is 2.6; 1.0 for the Joint Committee; 2.6 for Appropriations.

But frankly, the Joint Committee should not be compared to any committee here in the House. We have to go down and look at Treasury and we have to look at the Office of Management and Budget, because the Joint Committee is for Congress. The Office of Management and Budget, for the President, has 503 staff.

The Treasury, focusing on the issues that the Joint Committee focuses on, has 113. Get your translating dictionary. When they were in the majority, the staff was bipartisan. When they are in the minority, the staff is partisan. Understand, the Joint Committee works for all of us. They need five new staffers to do our work. Vote down the Fazio amendment.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

First of all, I really think it is not my place to protect or defend the majority on the Committee on Appropriations and the way in which they have allocated the funds. This is not a debate between the Committee on Ways and Means and the Committee on Appropriations. This is a question of how much we should provide the Joint Committee on Taxation.

I know the gentleman from California [Mr. THOMAS] is proud of some of the reductions that have been made. But if we look at the Committee on Government Reform or the Committee on Education and the Workforce, we see an increase from 1997 and 1998 of 26 percent for Government Reform and 22 percent for Education and the Workforce.

I guess the gentleman from California [Mr. THOMAS] feels that a 20-percent increase that was originally intended for the Joint Committee on Taxation is consistent with those overwhelming increases in the staffing of those committees.

But I have confidence in the gentleman from New York [Mr. WALSH] and the gentleman from New York [Mr. SERRANO]. I do not think the Committee on Appropriations has been treated any better than any other committee. In fact, I think we set an example. And, so, I guess I rise to defend the majority from the majority.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. ENGLISH], a member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, briefly, I rise as a member of the Committee on Ways and Means and as the former principal tax staffer for the Senate Republicans in Pennsylvania in strong opposition to this amendment.

We have to realize that these revenue estimates that are done by the Joint Committee on Taxation are critical to our policymaking and critical for the minority and the majority. There have been 2,000 revenue requests per year heaped on the Joint Committee, and so far they only have the staff resources to process about 50 percent of them.

In the last 2 years, we have asked the Joint Committee to assume additional responsibilities in connection with the Line Item Veto Act and unfunded mandates legislation. We adopted a new House rule that requires the Joint Committee on Taxation to analyze the macroeconomic effects of such proposed legislation, and we have added additional responsibilities.

The lack of revenue estimates stifles tax policy, it reduces input from rank and file Members. Because, let us face it, members of the tax committee have, in all probability, easier access to revenue estimates from the Joint Committee.

Also, I think it is fair to say that this gives the minority a better shot at getting revenue estimates. Let us understand that revenue estimates are important and that a vote for this amendment by reducing access to revenue estimates is a vote against tax relief, in my view. And more importantly, it is also a vote against tax reform, which is something that I hope the Committee on Ways and Means will have an opportunity to take up during this Congress. It will require many revenue estimates because it is going to be extremely complicated.

In my view, if any Member of this body strongly supports tax reform, tax simplification, streamlining our tax system, they should vote against this amendment.

Mr. FAZIO of California. Mr. Chairman, I continue to reserve at this time.

Mr. WALSH. Mr. Chairman, I have no further requests for time.

Does the gentleman from California [Mr. FAZIO] have the opportunity to close?

The CHAIRMAN. The gentleman from New York has the right to close.

Mr. WALSH. Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield such time as he may consume to the ranking member of the subcommittee, the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Chairman, I thank the gentleman from California [Mr. FAZIO] for yielding me the time.

The gentleman from California [Mr. THOMAS] has made some very interesting points. But the one that touches me the most, for someone who just became the ranking member of this committee and who has been on the Committee on Appropriations for a shorter time than most members on that committee, is his understanding and my understanding that what we are trying to do here is, through the back door, increase a committee at the same time that we are sending out press releases talking about the fact that we are cutting staff.

And indeed, we are cutting staff in many committees. And, in fact, the whole House has felt the need at times to deal with this issue. And here we single out one committee, one committee that in our opinion has become a very political instrument to use in this House, not necessarily one that simply deals with the facts and figures; and we, through the back door, are trying to increase this committee.

Now, I know the difficulty that we face, the gentleman from New York [Mr. WALSH] and I, in my case being supportive of his decisions to make some changes in the committee structure. But the fact of life is that no matter how we present this, there is no other way to present it but to admit the fact that this committee is being increased.

The gentleman from California [Mr. FAZIO] has made that point clearly. Anyone that votes against the Fazio amendment is in fact admitting to the fact that one committee was singled out for an increase, while other committees we gladly yell and scream are being cut. So we cannot have it both ways. We cannot cut an increase and then deny it.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

How much time does remain, if I may ask?

The CHAIRMAN. The gentleman from New York [Mr. WALSH] has 4¾ minutes remaining. The gentleman from California [Mr. FAZIO] has 4 minutes remaining.

Mr. WALSH. Mr. Chairman, I will just say that our responsibility on the subcommittee is to allocate resources. There are times when some committees have more responsibilities than others, and that is what we have tried to do. There was a request by the chairman, and this is unusual, too, because this is one of the rare places where the Senate and the House have to come to agreement on something that they mutually share. Both chairmen asked for this increase. We are going to provide that increase if the committee agrees.

So I would again urge defeat of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I will just close and yield back any remaining time simply to say, if there was a justification based on a major tax bill, straining the resources of the Joint Tax Committee would have been in this fiscal year.

This is the year that we probably would find that committee spending long hours and putting in extra time trying to meet the needs of both the Senate and the House as we put together probably one of the largest tax bills we will see in this decade. But of course, this request comes in after the fact. It does not go into effect until the 1st of October.

But I think, in addition, we have to keep in mind the Joint Committee's stature here. The Senate has chosen not to make the kind of reductions in staffing that have been so prominently discussed ad nauseam in the House of Representatives. We did make sizable reductions, eliminating essentially a third of our staffing, most of which of course were majority staff of the former majority Democrats when the new majority took over. We understand that decision. We understand that it has been made. And I believe it should apply across the board.

It seems to me the people who need this committee from the other side of the Capitol are among those who need it least, because they have done absolutely nothing to track the reductions that have been made in this body.

So the joint committee is available, obviously, to the Committee on Ways and Means. It is an additional staffing assistance to them. And we understand why all those who come to the well today to defend this increase are on that committee. They will benefit.

□ 1915

But I think most of the other Members of the House on a bipartisan basis want to be standing tall for equal treatment, to make sure that all of the bodies that assist us in our analysis of legislation of all sorts are treated equally. Therefore, Mr. Chairman, I would ask my colleagues to defeat this increase in personnel and simply give the existing staff a cost of living adjustment.

Mr. Chairman, I yield back the balance of my time.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume. First of all let me thank the gentleman from California for his stirring defense of not only the Committee on Appropriations, which I strongly endorse, but also his stirring defense of the majority. Any time I have him on my side in an argument, I feel pretty confident. However, on this amendment I do disagree substantively.

The House is about to enter into a major tax reduction agreement with the President, an historic agreement. This is something that was part of the Contract With America. This is something that we worked all the last 2 years and now 6 more months to come to. A capital gains tax cut, an estate tax cut, a $500 per child tax cut for all Americans with children under 18. This is a monumental victory for all of us in this country. This is not the end of the tax cuts. If we have our say, this is only the beginning of tax cuts for the American public. We want to make sure that the Joint Committee can do a good job of determining what the impacts of these tax cuts are and help to lead the way, to show us the way toward further reducing the oppressive tax burden that has piled up on the American public over the last 40 years. What we are seeing is a major change of direction here by the legislature. We have seen the markets respond to it, we are seeing the deficit being reduced at an exorbitant clip. We are seeing the deficit estimates go down. Why? Because the country and the markets are responding to the Republican tax cuts. We want to make sure that we have the support of the Joint Tax Committee when we look at the next round of tax cuts in the next Congress.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FAZIO].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FAZIO of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 197, further proceedings on the amendment offered by the gentleman from California [Mr. FAZIO] will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 105–202.

AMENDMENT NO. 3 OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. Klug:

Page 29, line 13, strike "3,550 workyears" and insert "3,200 workyears".

The CHAIRMAN. Pursuant to House Resolution 197, the gentleman from Wisconsin [Mr. KLUG] and a Member opposed, the gentleman from New York [Mr. SERRANO] each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment has to do with the Government Printing Office which the Federal Government has actually run and the House of Representatives has been involved with since well before the Civil War in this country. Since the mid-1800's, we have been running a printing office. There are 100,000 private printers across the United States, all of them, I think, quite capable of doing the printing work now being done by the United States Government. If I ran the world, we would actually figure out a way to end the Government Printing Office and instead simply turn it into a procurement agency. But that is not the option in front of us today. What we are going to try to do is to further reduce the staffing levels at the Government Printing Office in order to at a minimum help the Government Printing Office operate in the black rather than in the red.

The General Accounting Office will tell us in a study ironically printed by the Government Printing Office that every time we print a document in the Government Printing Office it is roughly 2 times what it would cost us to do if we did it in the private sector. In 1991, the Government Printing Office lost $1.2 million; in 1992 it lost $5 million; in 1993 it lost $14 million; in 1994 it lost $21 million. We began to squeeze the Government Printing Office down about the time we took over the majority, and in 1995 the loss was $3 million, but I have to tell my colleagues with some embarrassment this year it ballooned up to $16.9 million, nearly $17 million. This year through June of 1997 we are losing an additional $4 million.

This amendment quite simply cuts the staffing at the Government Printing Office by less than 10 percent, about 350 slots. If my colleagues will do the arithmetic on that and translate it all out, 350 staffers at about $50,000 a slot, when we include benefits, it results in savings to taxpayers at $17,500,000, virtually equivalent to what the Government Printing Office is expected to lose in this current operating year.

I think in the long run we have to ask ourselves why it is that the Federal Government has been involved in the printing business for more than 130 years and especially today with web sites and Internet pages across the country beginning to replace hard documents and reliance on paper, the squeeze on the Government Printing Office I think will become even more extraordinary in the next several years, at a time when a single CD rom can replace hundreds of volumes of printed documents like the appropriations text that we are considering right now done by the Government Printing Office.

My amendment makes good sense because of changing technology, my amendment makes good sense for the taxpayers of the United States, and it takes us one step further to where we want to be, I think, in the long run which is a government procurement office which uses the private sector and which saves money rather than a Government Printing Office which continues to run printing presses for the Federal Government in order to print government documents in an emergency, which as soon as I discover what a government emergency is, I will be glad to share it with my colleagues, and an operation at this point which loses unfortunately tens of millions of dollars a year for United States taxpayers.

Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have with me a letter that is being sent to all Members of the House in a bipartisan fashion by the gentleman from Connecticut [Mr. GEJDENSON], the gentleman from Virginia [Mr. MORAN], the gentleman from Maryland [Mr. HOYER], the gentlewoman from Maryland [Mrs. MORELLA], the gentleman from Virginia [Mr. WOLF] and the gentleman from Virginia [Mr. DAVIS]. They clearly point to the fact that the Klug bill is not a good idea. In fact, the subcommittee had recommended a cut of 50 positions as part of the ongoing work that we are doing in the House. Yet this particular amendment goes way overboard in asking for 350 position cuts.

Let me just make one other quick comment. The gentleman did mention the fact that the web pages are opening all over the Nation. That is not reaching everyone. In fact, that is an issue for another day. But not everyone in this country and some communities are totally being left behind in this technology. To suggest that this is a way to reach them is totally improper at this time. I understand that the gentleman has a reputation for being one who likes to cut the budget and we applaud him at times for that. But I think this particular time he is making a drastic mistake and we should all join in defeating this amendment.

Mr. KLUG. Mr. Chairman, at this point let me suggest that it is not such a drastic cut, and to bolster the case let me yield 1 minute to the gentleman from New York [Mr. WALSH], the chairman of the subcommittee.

Mr. WALSH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the gentleman's amendment reduces the FTE staff level at the Government Printing Office from 3,550 to 3,200. GPO is currently staffed at a level of 3,600. This amendment will require a reduction in force. Even though the GPO continues to lose money at a rate of about $1 million a month, their costs remain high. They tell us that is because they have to maintain a capability to do the daily job of printing the CONGRESSIONAL RECORD, our hearings, bills, reports and other congressional documents.

The long-run solution to this problem is a rewrite of the printing statutes. The Government Printing Office needs to have their mission reevaluated. The Executive Branch and the Legislative Branch are using modern desk-top publishing technologies and withdrawing much of their work from the printing plant. The situation cries out for a more substantive solution than annual limitations on their workforce.

With that caveat, I will accept this amendment, but I want to stress that we need help from the authorizing committees on this matter. I know the chairman of that committee is dedicated to that task, and I want to work with him and others to bring it about.

Mr. Chairman, I have no objection to this amendment.

Mr. SERRANO. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the gentleman for yielding me this time.

Mr. Chairman, GPO, the Government Printing Office, has reduced their staff by 25 percent over the last 4 years, meaning a reduction of more than 1,000 full-time equivalents. The Klug amendment, although well intentioned, is extreme.

Time and time again Members searching for easy deficit reduction targets turn to Federal employees. Indeed, that is what this amendment does. Already the bill before us today will reduce the Government Printing Office by 50 full-time equivalents. The additional cuts contained in this amendment would reduce GPO by another 350 FTEs.

Such a draconian reduction would hinder their ability to produce the documents that we depend on in a timely fashion, including the CONGRESSIONAL RECORD, bills, reports, hearing transcripts, official documents. Furthermore, such a large cut would lead to expensive RIFs; let us consider that.

Please join me in opposing this amendment. The GPO is making excellent progress moving into the 21st century with advanced technology and a leaner staff. Let us not set them back in time.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman from New York for yielding me this time, and I rise in opposition to this amendment.

Mr. Chairman, this amendment is not new. The gentleman from Wisconsin offers this amendment every year. This is his annual amendment of how we gut the GPO. Annually we say, "Oh, it's not going to be a problem." The fact of the matter is that this is an over 10 percent reduction. It is going to be approximately 50 plus 350, 400. It is going to require RIFs.

I regret that the chairman, somewhat in my opinion, cavalierly accepts this amendment. This is not a small cut. This is a cut on top of, as the gentlewoman from Maryland indicated, 1,000 employees out of 4,500 employees over the last 4 years.

They are not dairy farmers. So if we no longer stop buying milk or have price supports or anything of that nature, who cares? But these people are going to be put out on the street. We have gone from 8,000 down to 3,600 in 20 years. We have done 25 percent of that in the last 4 years.

The fact of the matter is, if we want GPO to do something different, then let us pass legislation and mandate that. If we want them to be, I tell my chairman, financially solvent, then have the Congress pay its bills. Have the Congress pay fair market value for the product it gets from GPO and I guarantee that they will show a profit.

I ask my chairman to go over to GPO. They have as modern a capability in information technology as there is in Washington. Period. They are on line and on top of it.

I urge my colleagues to reject this amendment. This amendment, I will tell the chairman, will cost the government money. It costs approximately $25,000 to $35,000 per RIFed employee. This amendment will cost us, not save us. Reject the Klug amendment.

Mr. KLUG. Mr. Chairman, I yield myself the balance of my time. Let me wrap up this debate, if I could.

To my colleague from Maryland, let me point out to him that my farmers in Wisconsin actually would be delighted to eliminate the milk marketing orders because they discriminate against the upper Midwest. I would be more than willing to work with him on that in the future.

Let me make a few closing points. Here are a few facts about the Government Printing Office: Over 50 percent of idle machine hours; GPO operated and paid overtime on at least one weekend day of 50 of 52 weekends; paper waste average 40 percent higher than most industry standards, 1989 estimated waste totaled $7 million.

Fact after fact, study after study tracing all the way back to 1989 through 1997 reaches one simple conclusion: The Government Printing Office continues to lose money. The gentleman from New York [Mr. WALSH] is absolutely correct. We need to redefine the mission for the Government Printing Office, but in the interim we are going to lose $17 million this year.

The long-run solution is to outsource the Government Printing Office and use the experts that are there today. The short-run solution is to begin to stop the bleeding and have the Government Printing Office break even in the current year operation. That is the intent of this amendment.

Mr. SERRANO. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland [Mr. WYNN].

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Mr. WYNN. Mr. Chairman, I also rise in opposition to the Klug amendment. I believe it is ill-considered. The fact of the matter is that GPO has been reducing its work force. Since 1993 they reduced by 25 percent, from 4,800 to 3,600. This year's appropriation request is for 3,500.

But the gentleman wants to go further, and in going further he would have us make 400 RIFs; that is, 400 people thrown out in the street, within about 65 days, and that will cost the Government money.

Mr. Chairman, I would like to close on something that the gentleman from New York said in accepting the amendment. He said the fact of the matter is we need to evaluate GPO. But rather than evaluate first and then make policy, the Klug amendment would make policy in the absence of any study, any evaluation, and just throw people out on the street.

If GPO's mission needs to be reevaluated, we have it within our power to do it. That is the responsible approach. This is a meat ax approach. It ignores the progress that GPO has already made in reducing its work force, and it does not make sound public policy.

Mr. Chairman, I urge a strenuous rejection of the Klug amendment.

The CHAIRMAN. All time on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] has expired.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KLUG. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 197, further proceedings on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] will be postponed.

It is now in order to consider Amendment No. 4 printed in House Report 105–202.

AMENDMENT NO. 4 OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ROEMER: PAGE 37, INSERT BEFORE LINE 1 THE FOLLOWING NEW SECTION:

SEC. 309. Any amount appropriated in this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 1998. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

The CHAIRMAN. Pursuant to House Resolution 197, the gentleman from Indiana [Mr. ROEMER] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, first of all, I want to thank the gentleman from Michigan [Mr. CAMP] for his help in cosponsoring the legislation that we have turned into this amendment. Simply put, Mr. Chairman, this amendment requires unexpended congressional office funds from the salaries and expenses of Members representational account allowances not to be respent, not to be shifted into a Speaker's slush fund or spent on marble elevator floors, but to instead go directly to the U.S. Treasury to reduce the deficit.

Now we have been working on this for several years, Mr. Chairman. Last year we voice voted this amendment. The year before we had 403 Members, Democrats and Republicans, agree to pass this legislation. We think that this is fair.

In the context of this week we are debating maybe the most important legislation to balance the budget that we have considered in this body since the balanced budget amendment or since we balanced the budget in 1969. We are considering how to share and sacrifice to get to a balanced budget, and certainly that sharing and sacrificing should start here in the House of Representatives.

There are two reasons why my colleagues should support this Roemer-Camp amendment. One is that instead of this money going back to be respent, we have the money go to reduce the deficit. Second, this encourages better management in individual offices. If my colleagues decide not to do a number of newsletters, if my colleagues decide to implement a new management technique on buying office equipment and technology, if my colleagues come up with better ways to motivate their staff and they do not hire as many people in their district office, why should that money automatically be respent in somebody else's account? That money should go to reduce the deficit.

I encourage Members to support this bipartisan legislation.

Mr. CAMP. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the cosponsor of the amendment, the gentleman from Michigan.

Mr. CAMP. Mr. Chairman, I thank the gentleman from Indiana for yielding this time to me, and I thank him for his leadership on this issue and would associate myself with his remarks, and, Mr. Chairman, I rise in support of the Roemer-Camp amendment.

We all know the Federal Government is drowning in a sea of red ink. The Roemer-Camp amendment would help in a very small way at least to stem that tide. It would allow unspent office funds to be used specifically for deficit reduction.

As my fellow Members know, every office has provided funds to meet office expenses. The funds are not specific to each Member, but Members draw upon the account up to a certain level as needed.

This amendment would reaffirm our commitment to eliminating the Federal debt and send a strong message to the American people that we, too, are willing to sacrifice and to put our fiscal house in order.

If every Member saved only $50,000 a year, over $21 million would be returned to the Treasury to reduce the

Federal debt. This amount obviously will not eliminate the Federal debt, but it will show the American people that Congress will do more with less in order to provide our children with a future that is free of debt and rich with opportunity.

I urge a vote in favor of the Roemer-Camp amendment.

Mr. WALSH. Mr. Chairman, I claim the time in opposition to the amendment, but I rise in support.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have the gentleman's amendment. This is the same amendment we have carried for the past 2 years in the bill.

As we understand the amendment, it would require that any amount remaining in the Members' representational allowances account after all payments are made under such allowances be deposited in the Treasury for deficit reduction.

As the gentleman knows, the bill does not make representational allowances available to specific Members of the House. The calculation of how much each Member may spend for staff salaries, office expenses, and official mail is determined by law and is under the regulation of the Committee on House Oversight.

That committee notifies each Member of the allowance available for each session of Congress. The amounts available are not given to the Member. They do not receive a check or a funds transfer. They are only given an allowance to draw upon.

Likewise, the appropriations bill does not make a funds transfer to any Member. No MRA amount in this bill is assigned to any specific Member. The bill only provides an overall appropriation for the combined amount of the MRA's which may be charged against the Treasury.

And the committee bill does not full fund this amount. The bill contains $379.8 million—$379,789,000—for the sum total of MRA's during fiscal 1998. That amount is $17 million below the total amount authorized to be spent by the Committee on House Oversight.

So the committee bill has already economized on this item. We know that many Members will underspend this allowance. We are saving the $17 million.

This amendment says that what is left over after the end of the fiscal year will be deposited in the Treasury. That is true in concept but I would point out that these unspent funds never leave the Treasury to begin with.

Since this is a fiscal year appropriation, all unspent funds will lapse. That is, they will not be available to be spent after the conclusion of the fiscal year. So the terms of the bill meet the requirements of the amendment.

It is good to stipulate this fact and that is why I have no problem with this amendment.

So, with that understanding, I have no problem accepting this amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Chairman, I thank the original sponsor and also the gentleman from Michigan [Mr. CAMP] for their persistence every year bringing this back up to the full House. We need their persistence out there. It is a great commonsense idea. I am delighted the gentleman has just accepted the amendment himself. It is a very commonsense idea to save the taxpayers a little money and also encourages Members to lead by example, and it is a very simple question really. When Members spend less on their office, should it go to this fund where it can be reprogrammed into other uses on Capitol Hill, which as I understand is a three-year fund, or should it go for deficit reduction?

As my colleagues know, the answer is quite simple. It actually should probably go pro rata to the constituents and taxpayers of the district the Member represents because they are the ones who in a sense have made the sacrifice. Because that is probably not too practical, at least at this point, then I guess it should go to deficit reduction and as soon as possible.

So I want to again commend both of these gentleman for raising this issue again, for bringing to the floor and for a little common sense in our legislative appropriations bill this year.

Mr. ROEMER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Indiana has one-half minute remaining.

Mr. ROEMER. Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota [Mr. MINGE], who has been very helpful with the legislation.

Mr. MINGE. Mr. Chairman, we have worked for many years in this institution to try to gain the credibility of the American people that when we talk about deficit reduction and when we take steps as Members to actually implement what we believe in that that effort is actually recognized in terms of what happens to this Nation's finances. And I would like to urge all Members to join with us in supporting this measure because indeed this measure allows us in the administration of our offices to actually implement what we are urging on the Government and the American people.

I urge all Members to support the Roemer amendment.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Indiana [Mr. ROEMER].

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 197, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 2, offered by the gentleman from California [Mr. FAZIO], and Amendment No. 3 offered by the gentleman from Wisconsin [Mr. KLUG].

AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. FAZIO] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 17-minute vote followed by a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 199, noes 213, not voting 23, as follows:

[Roll No. 332]

AYES—199

Abercrombie
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefley
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hulshof
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Largent
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Royce
Sabo
Sanders
Sandlin
Sawyer
Schaffer, Bob
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman

Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Whitfield
Wise
Woolsey
Wynn

NOES—213

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Brown (CA)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thune
Tiahrt
Traficant
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wolf
Young (FL)

NOT VOTING—23

Ackerman
Boucher
Forbes
Gonzalez
Harman
Johnson (WI)
Lantos
McDermott
McInnis
Metcalf
Rush
Sanchez
Schiff
Smith (MI)
Spratt
Thornberry
Torres
Towns
Upton
Wexler
White
Yates
Young (AK)

☐ 1958

Mr. SAXTON, and Mr. BATEMAN changed their vote from "aye" to "no."

Mr. HALL of Texas changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JOHNSON of Wisconsin. Mr. Chairman, on rollcall No. 332, the Fazio amendment, I was delayed and unable to vote because my air flight was detained because of weather. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Chairman, on rollcall No. 332, I was delayed and unable to vote because my air flight was detained because of weather. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 197, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. KLUG

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 170, noes 242, not voting 22, as follows:

[Roll No. 333]

AYES—170

Aderholt
Archer
Armey
Bachus
Ballenger
Barr
Barrett (NE)
Bass
Bereuter
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehner
Bonilla
Boswell
Brady
Bryant
Burr
Burton
Buyer
Callahan
Camp
Campbell
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cooksey
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Ganske
Gekas
Gibbons
Goode
Goodlatte
Goodling
Goss
Granger
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Houghton
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jones
Kaptur
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Kolbe
LaHood
Largent
Latham
Lazio
Leach
Linder
LoBiondo
Luther
Manzullo
McCarthy (NY)
McCollum
McIntosh
Meehan
Mica
Miller (FL)
Minge
Myrick
Nethercutt
Neumann
Norwood
Nussle
Oxley
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Porter
Pryce (OH)
Quinn
Ramstad
Riggs
Riley
Rogan
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Taylor (MS)
Taylor (NC)
Thomas
Thune
Tiahrt
Turner
Walsh
Wamp
Watts (OK)
Weller
Whitfield

NOES—242

Abercrombie
Allen
Andrews
Baesler
Baker
Baldacci
Barcia
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Boehlert
Bonior
Bono
Borski
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Calvert
Canady
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Cook
Costello
Coyne
Cramer
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gordon
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Hoyer
Hunter
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Knollenberg
Kucinich
LaFalce
Lampson
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
Lofgren
Lowey
Lucas
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCrery
McDade
McGovern
McHale
McHugh
McIntyre
McKeon
McKinney
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pombo
Pomeroy
Poshard
Price (NC)
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers
Rothman
Roybal-Allard
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Sherman
Shuster

Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spence
Spratt
Stabenow
Stark
Stokes
Stupak
Tanner
Tauscher
Tauzin
Thompson
Thurman
Tierney
Traficant
Velázquez
Vento
Visclosky
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weygand
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOT VOTING—22

Ackerman
Boucher
Forbes
Gonzalez
Harman
Lantos
McDermott
McInnis
Metcalf
Portman
Rush
Sanchez
Schiff
Smith (MI)
Thornberry
Torres
Towns
Upton
Wexler
White
Yates
Young (AK)

☐ 2007

Ms. DANNER, and Mr. MORAN of Kansas changed their vote from "aye" to "no."

Mrs. LINDA SMITH of Washington, Mr. SCARBOROUGH, and Mr. HASTERT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Chairman, on rollcall No. 333, my air flight was detained because of weather. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. PORTMAN. Mr. Chairman, because I was unavoidably detained, I was absent for rollcall vote No. 333. Had I been in attendance, I would have voted "aye".

PERSONAL EXPLANATION

Mr. UPTON. Mr. Speaker, sadly a number of us sat on an airplane for 6 hours in Detroit. We unfortunately missed two previous votes today. Had I been here, I would have voted "aye" on both the Klug amendment as well as the Fazio amendment.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. COLLINS) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2209) making appropriations for the legislative branch for the fiscal year ending September 30, 1998, and for other purposes, pursuant to House Resolution 197, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEJDENSON. Yes, I am, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEJDENSON moves to recommit the bill H.R. 2209 to the Committee on Appropriations with instructions to report the same back to the House with an amendment to ensure that all funds in the bill to support the Reserve Fund providing for the hiring of additional committee staff and other related expenses pursuant to clause 5(a) of rule XI are deleted.

Mr. GEJDENSON. Mr. Speaker, I think that if we look at the issues that have brought tension to this House and this Congress, this issue is clearly among the most important.

I would like Members of the minority and the majority to take a look at the history of how we got here. Pursuant to the rules of the House, the reserve fund was established of $7.9 million. At that time I referenced this reserve fund as a slush fund. A number of Members on the Republican side of the aisle objected.

In section 5(a) of the reserve fund it was established for unanticipated expenses. Well, the request from the committee, the first request was to review the Department of Labor and its programs, activities, and spending habits. They got some of the slush fund money.

The original jurisdiction of the committee was to review those very same programs, the Department of Labor, its programs, and its activities. It was also requested to review the focus of the program which had little past review in terms of impact on employees and employers. That was also the original description of the committee's $10 million worth of funding. So now if this is not a slush fund in the worst of its connotations for purely political purposes, the committee would have come up with some unanticipated challenges, some new scope where they had to go in and review a situation that was not anticipated, that was not able to be covered in their $10 million.

What we found was very anticipated concerns were immediately used to get additional funding into this committee. It is a slush fund. If Members want to make things a little better here, let us have a chance to give some money back to the voters. Let us cut the $7.9 million.

If the committees have a legitimate need, let them come to the Congress of the United States and in front of the American people ask for that money. The Republican majority has in the range of $50 million worth of investigations going on. I dare say not one American will be better off as a result of these investigations.

☐ 2015

The taxpayers will simply lose some of their funds and we will not gain new information or, indeed, information on issues that were unanticipated.

It is a $7.9 million slush fund used for political agendas, and they cannot come to this Congress and tell us that they are trying to run it better when they failed in almost every category and now, in the utmost political venture on this floor, they have established an almost $8 million fund to be used to go after those who have stood up to them.

Where do they start? They start with labor, with working men and women. They take some of that slush fund and they are going to try to go after them. The question is, if we allow them to continue with this kind of slush fund, which group of Americans will be next? Who will they try to intimidate with this $8 million fund, investigating citizens of this country who have every right to exercise their own political activity?

Again, Mr. Speaker, I go to the words of the committee and the rules of the House. "Unanticipated expenditures." Nothing in the expenditures that have been taken from this slush fund were unanticipated. It is simply a political attack on the adversaries of the majority party.

Mr. Speaker, I hope we can just get 10 Republicans to join us to put an end to this slush fund. There are people on the other side of the aisle that say they want comity, they went to Hershey trying to make friendship. Friendship is designed by peoples' actions. Vote for this motion to recommit. Get rid of the $7.8 million, $7.9 million, save the taxpayers' money and start building a trusting relationship in this House.

Mr. WALSH. Mr. Speaker, I rise in strong opposition to this motion.

Mr. Speaker, let me be clear. This motion is tantamount to killing this bill. It sends the bill back to committee, it eliminates all the work that the subcommittee, full committee and this House has done to this point, and I strenuously oppose any restrictions on the use of the reserve fund.

Mr. Speaker, just because it is said loudly, does not mean it is true. This amendment would repeal an action taken earlier this year in the committee funding resolution. The House has worked its will on this issue. It does not belong in debate on the legislative appropriations bill.

The reserve fund is designed to provide funding flexibility to take care of the unanticipated expenses that may arise during the 2-year term of this Congress. The committee funding resolution is a 2-year funding bill. And I think that in any project to have some unanticipated expense funds available is a very proper thing to do.

The reserve fund is a separate and distinct fund. All expenditures will be detailed explicitly to the taxpayer. This is a role for the Committee on House Oversight which has been adopted by recorded vote in the House and is consistent with the rules of the House. I oppose any attempt to limit the ability of the committees of the House to do their routine oversight work. I strongly oppose the motion, and I strongly urge its defeat.

The SPEAKER pro tempore (Mr. COLLINS). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. GEJDENSON. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. GEJDENSON. Mr. Speaker, it was stated that if the motion carries it kills the bill, and it is my understanding that it only sends it back. My inquiry is, it is my understanding under the rules it does not kill the bill, it simply sends it back to committee to take that particular action and return to the House.

The SPEAKER pro tempore. The Chair advises the gentleman the bill would be recommitted to committee.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GEJDENSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were— yeas 198, nays 220, not voting 16, as follows:

[Roll No. 334]

YEAS—198

Abercrombie
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers

Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta

Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski

Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez

Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Sabo
Sanders

Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn

NAYS—220

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier

Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston

Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan

Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus

Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas

Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—16

Ackerman
Boucher
Forbes
Gonzalez
McDermott
McInnis

Metcalf
Rush
Sanchez
Schiff
Torres
Towns

Wexler
White
Yates
Young (AK)

☐ 2036

Mr. PETERSON of Minnesota changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 214, nays 203, not voting 17, as follows:

[Roll No. 335]

YEAS—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin

Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler

Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood

Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (FL)

NAYS—203

Abercrombie
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Coburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hulshof
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
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Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sanford
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn

NOT VOTING—17

Ackerman
Boucher
Forbes
Gonzalez
Houghton
McDermott
McInnis
Meek
Metcalf
Sanchez
Schiff
Torres
Towns
Wexler
White
Yates
Young (AK)

□ 2054

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MODIFICATION IN APPOINTMENT OF CONFEREES ON H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

The SPEAKER. Pursuant to clause 6 of rule X the Chair announces the following modification to the conference appointment to the bill, H.R. 1119:

Mr. McKEON is added to the panel from the Committee on National Security to follow Mr. BARTLETT of Maryland.

The first proviso to the panel from the Committee on Resources is stricken.

The Clerk will notify the Senate of the change in conferees.

REPORT ON POLICY ON PROTECTION OF NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACK—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on National Security:

To the Congress of the United States:

Pursuant to section 1061 of the National Defense Authorization Act for Fiscal Year 1997, attached is a report, with attachments, covering Policy on Protection of National Information Infrastructure Against Strategic Attack.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1997.*

□ 2100

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CALLING ON HCFA TO STOP RESTRICTING USE OF MULTIDEX BY DENYING REIMBURSEMENT WHEN IT IS USED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. Duncan] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, every year 54,000 Americans lose a foot or a leg to diabetes. As terrible as this is, one thing that makes this statistic especially heartbreaking is that many thousands of these amputations could have been prevented were it not for Federal redtape. Two-thirds of all amputations in diabetic patients are precipitated by traumatic foot ulceration, which could have been prevented with proper care and modern medical products that are already available.

However, Federal bureaucrats at the Health Care Financing Administration, HCFA, are restricting FDA-approved dressings which have been proven to heal these types of wounds. If this is not a scandal, I do not know what is, people who are having amputations thanks to our own Federal bureaucracy.

Just think how wonderful it will be if we could prevent up to two-thirds of these 54,000 diabetic amputations each year. Sadly, it seems that the Medicare system sometimes gives little or no incentives to doctors, nursing homes, or hospitals to help their patients get better quickly because as long as they are treating patients they are getting payments from the Government. There are better ways to treat patients, Mr. Speaker, especially diabetic patients.

To get more specific, Mr. Speaker, there is a product approved by the FDA which has been shown through repeat success to have healed repeatedly diabetic ulcerations and to have eliminated the need for amputations. This product is called Multidex. HCFA, however, is restricting the use of Multidex through bureaucratic redtape and needless Government road blocks. The way they are restricting the use of Multidex is by routinely denying reimbursement to providers who use it on patients.

If ever there was an effective way to stop the use of a medicine or a medical product, this is it. This is because most of the patients who have these amputations are senior citizens who are on Medicare. Between the ages of 65 and 74, nearly 17 percent of the U.S. white population, 25 percent of African-Americans, and more than 33 percent of Hispanic-Americans have diabetes. Each year we are spending $1.5 billion on diabetic amputations. Within 3 years of a major amputation 30 to 50 percent of diabetic patients will die, yet many thousands of these amputations could be prevented with proper care, and this product Multidex, which is being restricted by HCFA, is the most effective treatment available today for these diabetic ulcerations.

I would like to show four pictures, Mr. Speaker, which demonstrate the effectiveness of Multidex, and I apologize for the graphic nature of these pictures, and while these pictures all show the same foot at different stages, and these are the same case, huge numbers of pictures and tests and data have been presented to HCFA from many, many other cases showing similar results.

This first photograph shows the foot of a 75-year-old diabetic patient with a massive ulcer of the right foot. It is a stage four wound with heavy infection, gangrene, and amputation of the left toe. The second photograph shows the same foot 19 days after treatment with Multidex has begun. The infection has cleared, and the healing has begun. The third photograph shows the same foot 25 days after the treatment with Multidex has begun. It is obvious that the treatments are working. The final photograph shows the same foot at the time of discharge. Without Multidex or some similar product this foot would probably never have healed. The foot might have had to have been amputated if Multidex had not been used.

This is obviously a situation where the system has broken and needs fixing. Clearly helping the body to heal itself is a much better choice than amputation from both a quality-of-life point of view and a cost-of-Medicare point of view.

If any part of the Federal Government needs reinventing, Mr. Speaker, it is Medicare. Here is a vital Government service where artificial barriers need to be broken down and effective products like Multidex need to get to these desperately ill patients. I call on HCFA to stop restricting the use of Multidex by denying reimbursement when it is used. It is a scandal of major proportions to think that thousands of senior citizens might have to have amputations in the next few months because of this bureaucratic redtape.

USDA ACCOUNTABILITY AND EQUITY ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, when the history of this century is written, it is my hope that the year 1997 will be recorded as significant in the effort to change the course and the culture of the U.S. Department of Agriculture.

Known as the People's Department, USDA was established when President Lincoln signed the law on May 15, 1862. It is ironic that the very Department created by the President who signed the Emancipation Proclamation today faces widespread and documented charges of unfair and unequal treatment to socially disadvantaged and minority farmers.

Farmers and ranchers are invaluable resources to all of us. The farmers and ranchers of America, including minority and limited resource producers through their labor sustain each and every one of us and maintain the lifeblood of our Nation and the world. These people do not discriminate. Their products are for all of us. Therefore, it is important that we do all within our power to ensure that each and every producer is able to farm without the additional burden of institutional discrimination rearing its ugly head.

It greatly concerns me, Mr. Speaker, that in my home State of North Carolina there has been a 64-percent decline in minority farmers just over the last 15 years, from 6,996 farms in 1978 to 2,498 farms in 1992.

There are several reasons as to why the number of minority and limited resource farmers are declining so rapidly, but one that has been documented time and time again is the discriminatory environment present in the Department of Agriculture, which was the very agency established by the U.S. Government to accommodate and to assist the special needs of all farmers and ranchers.

Mr. Speaker, the issue was first raised in 1965, when the U.S. Commission on Civil Rights established that USDA discriminated both in internal employee action and external program delivery activities. An ensuing USDA employee focus group in 1970 reported the USDA was callous in their institutional attitude and demeanor regarding civil rights and equal opportunity.

In 1982, the U.S. Commission on Civil Rights examined this issue a second time and published a report entitled "The Decline of Black Farming in America." The Commission concluded that there were widespread prejudicial practices in loan approval, loan servicing, and farm management assistance as administered by the Farmers Home Administration.

However, as no improvement was forthcoming, in 1990 the House Committee on Government Operations, chaired by my colleague, the gentleman from Michigan [Mr. CONYERS] investigated this matter again. In their report entitled "The Minority Farmer: A Disappearing Resource; Has the Farmers Home Administration Been the Primary Catalyst?", the same conclusion was reached in 1990 as had been reached in 1982. That conclusion was that, "Ironically, the Farmers Home Administration had been a catalyst in the decline of minority farming."

In 1997, the General Accounting Office published yet another report on the matter, entitled "Farm Programs: Efforts to Achieve Equitable Treatment to Minority Farmers." While much of the report was inconclusive due to its limited scope, the GAO did find instances of discrimination. Two cases out of the 28 closed in fiscal year 1995 and 1996. The GAO also found that the disapproval rate for loans was 6-percent higher for minority farmers than the 10-percent rate for the nonminority farmer.

The very next month, two additional reports were released: The Office of Inspector General Evaluation report for the Secretary on Civil Rights Issues and the Civil Rights Action Team report. The authors of these hard-hitting reports came to the identical conclusion that those who had looked at this issue 32 years previously, there are significant problems with discrimination within the Department of Agriculture.

On February 28, 1997, the Civil Rights Action Team report was issued and entitled "Civil Rights at the United States Department of Agriculture." It was done by the Civil Rights Implementation Team at USDA, and it documents the decades of discrimination against minorities and women within the Department. Ninety-two recommendations for change were made in the report, 13 which require legislation action.

I have introduced the bill, H.R. 2185, that seeks to implement most of those legislative recommendations within the CRAT report. The bill is entitled the "USDA Accountability and Equity Act of 1997." It consists of three titles; title I, Program Accountability, making changes to the structure of the county committees as well as to the status of county committee employees. County committees are retained, and the tenure of county committee employees is preserved and protected. Title II, Program Equity, makes provisions for those producers who are of marginal financial standing to continue to participate in USDA loans and programs. These provisions recognize the financial hardship created by USDA.

It is my hope, Mr. Speaker, that through this legislation and other efforts we will continue with steady movement toward an emancipation proclamation for socially disadvantaged farmers and minority farmers.

REVISED 602 ALLOCATIONS AND REVISED ALLOCATIONS IN NEW BUDGET AUTHORITY FOR THE HOUSE COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, pursuant to the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, Public Law 104–193, I hereby submit revised 602 allocations and other appropriate budgetary levels. Subsection 211(d)(5) of Public Law 104–193 amends section 103(b) of the Contract with America Advancement Act of 1996, Public Law 104–121, which provided for an adjustment in the various budgetary levels established by budget resolutions to accommodate additional appropriations for conducting continuing disability reviews [CDR's] under the supplemental security income program.

Public Law 104–121 directed the chairman of the Committee on the Budget to revise the discretionary spending limits, 602(a) allocations, and the appropriate budgetary aggregates when the Appropriations Committee reports an appropriations measure that provides additional new budget authority and additional outlays to pay for the costs of continuing disability reviews.

The Committee on Appropriations has reported H.R. 105–2264, a bill making appropriations for the Departments of Health & Human Services, Labor, and Education, and related agencies for fiscal year 1998. This legislation provides $245,000,000 in budget authority for continuing disability reviews. The resulting outlays are $232,000,000.

The revised allocations and other budgetary levels are as follows:

COMMITTEE ON APPROPRIATIONS

[In millions of dollars]

Discretionary	Current allocation		Change		Revised allocation	
	BA	0	BA	0	BA	0
General Purpose	520,657	549,376	+245	+232	520,902	549,608
Violent Crime Reduction Trust Fund	5,500	3,592			5,500	3,592
Total	526,157	552,968	+245	+232	526,402	553,200

The aggregate levels for budget authority and outlays for fiscal year 1998 are increased as follows:

[In millions of dollars]

	Current aggregates		Change		Revised aggregates	
	BA	0	BA	0	BA	0
	1,386,700	1,372,000	+245	+232	1,386,945	1,372,232

Pursuant to House Concurrent Resolution 84, The concurrent resolution on the budget for fiscal year 1998, I hereby submit for printing in the CONGRESSIONAL RECORD a revised allocation for the House Committee on Appropriations to reflect $100,000,000 in additional new budget authority and $98,000,000 in additional outlays for payment of international arrearages.

Section 206 of House Concurrent Resolution 84 states that:

> * * * after the reporting of an appropriation measure * * * that includes an appropriation for arrearages for international organizations * * * the Chairman of the Committee on the Budget shall increase the appropriation allocations, * * * by an amount provided for that purpose in that appropriation measure.

The House Committee on Appropriations has reported H.R. 105–2267, a bill making appropriations for the Departments of Commerce Justice, and State, the Judiciary, and related agencies for fiscal year 1998 which includes $100,000,000 in budget authority and $98,000,000 in outlays for international arrearages.

The adjustments are as follows:

COMMITTEE ON APPROPRIATIONS

[in millions of dollars]

Discretionary	Current allocation		Change		Revised allocation	
	BA	0	BA	0	BA	0
General Purpose	520,902	549,608	+100	+98	521,002	549,706
Violent Crime Reduction Trust Fund	5,500	3,592			5,500	3,592
Total	526,402	553,200	+100	+98	526,502	553,298

The aggregate levels for budget authority and outlays for fiscal year 1998 are increased as follows:

[in millions of dollars]

	Current aggregates		Change		Revised aggregates	
	BA	0	BA	0	BA	0
	1,386,945	1,372,232	+100	+98	1,387,045	1,372,330

THE BALANCED BUDGET AGREEMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I rise tonight, and we are in really the final hours of the budget negotiations with the balanced budget and tax cut plan close at hand, and as the final details are worked out concerning a number of issues, I want to, on the one hand, talk about some of the major achievements that I believe Democrats have succeeded in accomplishing if this budget agreement is finally concluded also talk about some of the things that I think that Democrats and the President need to continue to stand firm on to make sure that this balanced budget agreement, when it is concluded, is something that helps the average American, the average working American family.

One of the things that I am most proud about is the fact that the President indicated very strongly today that the final agreement will contain $24 billion to expand health insurance for kids. Those of us who have been involved with this issue for a number of months, actually more than a year now, know that a few months ago when the initial budget agreement was struck, the proposal was for a $16 billion plan that would guarantee coverage for about half or 5 million of the 10 million uninsured children that we have in this country. Because of the addition of the tobacco tax, which appears to be included in the final budget agreement, and the additional 8 cents that would be devoted to kids' health care in that, we now have a larger part of money, $24 billion, and this could actually accomplish, if it is used properly, providing insurance for even more than the 5 million kids that were initially promised.

But I have to say that in order to make sure that that money goes to pay for kids' health care we have to make sure that the money is used by the States for insurance, that there is a good benefit package and that there are not ways for States to basically take the money and use it for other purposes.

□ 2115

In that regard, as the final details are worked out concerning children's health care, I just wanted to urge my colleagues to stand behind the stronger Senate proposal that covers more children, not only because it has the extra money available, but because it offers a real benefits package and insures that all the money set aside for children's health will in fact be used to provide children with health care coverage.

Unlike the House Republican plan, which falls short on kids, the Senate plan uses the additional monies from the tobacco tax increase to cover probably twice as many kids. While Democrats see this legislation only as a first step in covering the 10 million uninsured children, a majority of the House Democrats joined me in signing a letter to the conferees and to the President outlining the same principles that the Senate language embodies.

Republicans often cite the need to balance the budget for our children, and I urge them not to turn their backs on the Nation's uninsured kids. Let us support the Senate language. Let us make sure we have a good benefits package. Let us make sure we do not have a direct service option or a high direct service option that lets the money be used for purposes other than kids. Let us make sure that the States have to provide insurance for the kids and have to spend at least as much money as they have in the past, if not more, to make sure that there is adequate coverage for kids.

The other thing on the tax side that I would like to talk about before I yield to one of my colleagues who has been here, the gentlewoman from Texas [Ms. SHEILA JACKSON-LEE], who has been here almost every night with me and on other occasions, talking about this balanced budget to make sure it includes the Democratic provisions, and to make sure it covers and provides tax cuts and benefits for the average working family.

As I think many Members have heard, as my colleagues have heard, one of the Democrats' main concerns on the tax side of this balanced budget bill is that families that have children who are working but at the lower end, if you will, of the economic spectrum, but still paying taxes, still paying income taxes, still paying payroll taxes, that they get the advantage of the $500 per child tax credit.

Again, it appears that the negotiators, in coming to a final agreement, are about to make sure that there is a guarantee that those middle-income families, those working families that pay income taxes or pay payroll taxes, that they will still get the child tax credit, even though they are also getting the earned income tax credit.

This has really been one of the more divisive issues in the budget negotiations, and I just want to urge the White House once again to stand firm in defense of the Democrats' position on this. It really goes right to the core of what each party believes is the right thing to do.

Just very briefly, Democrats believe that the right thing to do is to provide tax breaks to those who need them. With respect to the earned income tax credit, that means extending the proposed $500 per child tax credit to the 24 million working families that the Republican bill excluded. Under the tax plan that was pushed by the GOP, families with children that make less than $30,000 a year would not qualify for a $500 per child tax credit. The Republicans fashioned this tax plan so that would exclude these families from eligibility for such a tax credit because they do not make enough money. It is like a reverse Robin Hood doctrine. They would penalize the poor to benefit the rich.

On the other hand, in the Republican plan we had major reductions in capital gains taxes, in indexing. We had major efforts to cut estate taxes for wealthy Americans. We also had the corporate alternative minimum tax that basically allows corporations to avoid tax liability.

I think what is happening now is that the Democratic proposal that says that those families making less than $30,000 a year should be able to get the child tax credit, it looks like we are finally convincing our Republican colleagues, and the President is standing firm on that, but we have to keep repeating the point as we go down to the final days and hours of these negotiations.

I yield to the gentlewoman from Texas [Ms. JACKSON-LEE], who has been here, as I said, almost every night talking about why it is important to make sure that this budget deal is good for the average working family.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New Jersey [Mr. PALLONE] for his leadership. This has been a team effort in being persistent and consistent dealing with some very crucial issues that deal with Democratic constituency all over this Nation. In fact, I would like to say that this deals with what America stands for.

The gentleman's commitment has been much appreciated. I have been delighted to join the gentleman on this, as well as to join the gentleman, along with my Democratic colleagues, on the letter written to the President to ask him to stand firm.

As we speak, rumors are abounding that a deal has been cut. Many people ask why we are engaging in this discussion. It is this kind of discussion night after night and time after time that I believe brought this deal to where it is tonight. Whoever may think that closure is here, let me remind everyone that a vote has to be taken. We will continue to fight until we find out in final form that these issues are in these documents, concise and safe on behalf of all people in need in all of America.

Let me also acknowledge ranking members, the gentleman from South Carolina [Mr. SPRATT] and the gentleman from New York [Mr. RANGEL], who worked with the President and the administration, because the gentleman is right, the gentleman from New Jersey. As we reminded the conferees and reminded the Republicans, we are not going to stand by and see kids' health care cut. We are not going to stand by and watch 10 million children who are uninsured continue to be unempowered and in jeopardy because they have no health care, and continue to jeopardize young families who had no other resource to provide for their children.

How many times did we hear the stories of young families saying, I could not have my children play in sports, or, I was afraid for them to play on the playground or do the normal things children do, because I simply did not have any child health insurance?

I am very proud that we can emphasize as our victory the difference between 5.5 million children and 13 million children. It was the Democratic effort, the Democratic fight, the Democratic plan, that pushed the Republicans for a more expanded child tax credit, moving them from a mere 3.9 million families benefiting who made under $30,000, resulting only in 5.5 million children being impacted by the $500 per child tax credit, to a whopping 8.78 million families, but a whopping 13 million children that now would benefit by getting this tax credit. I think that is something that is directly attributable to the Democratic efforts.

There is something very important to my community. I want to emphasize or at least raise this point because I am still going to be looking for the refinement of this issue. One is that we certainly had talked about capital gains, and there are some benefits here in bringing down the percentages from 28 to 20 percent. But there was a lot of discussion, particularly with the Black Caucus, about taking some of these funds and reinvesting in inner cities and rural communities. I hope we will still have an opportunity to talk about reinvestment, for we are better when the infrastructure is as good as one's neighbor. I think we should not leave that point.

Another point that I think is key is this whole question of welfare to work. We are very, very gratified that $3 billion has been set aside but, more importantly, that it will be controlled by the Department of Labor. People need to understand the distinction. That means we will not have any dipping in the pot.

We voted on welfare to work, we voted on having Americans move from welfare to work, but we had our hands thrown up in the air because, of course, in the Republican plan there was not a sufficient amount of protection and cover and help for those who needed to move from welfare to work, some sort of support system.

This system, I believe we can make it work. The Department of Labor, which is a job-generating department, with its commitment to moving women from welfare to work, and other recipients, and now that particular pot of money, controlled by cities where the welfare impact is most felt, that means that through the formula, the 75 percent formula process and 25 percent competitive, we can actually see on the ground efforts moving and helping these young mothers and other welfare recipients become independent, but through a dignified process, and not a process where their whole self-esteem is undermined.

I have some concerns. I would like to raise these, too. I hope we can continue this discussion.

As I said, for those who do not hear any joy in my voice, I have joy, but I recognize there is a vote coming up. We cannot advocate and abandon these issues before we get the final vote. I am gratified on the kids' health, gratified on the $30,000 a year families who will benefit from this tax credit who would not have benefited if we had not held to the line and fought the fight.

But I am concerned that Texas is going to be unevenly impacted. My colleague, the gentleman from Texas, Mr. GENE GREEN, has worked very hard. I have joined him on this issue. That deals with privatization of welfare by giving it to large corporations, a very sensitive process with trained professionals.

The law even states that this decision-making on who receives welfare or who does not is a governmental process, not a corporate process. Through the badgering of leadership in Texas, we now have been unfortunately driven in this legislation, the budget reconciliation and tax plan, to accept privatization in Texas.

I am not willing to capitulate at this point. I am willing to continue to fight. We need to look at this language. We need to make sure that the large cities that are going to be so severely impacted by decisionmaking outside of the Government arena, in the hands of private entities, are not going to impact poor children and elderly citizens, the disabled, unfairly. I want the word to go out that we will continue to fight and ask the White House for language so we can look and see how we can solve this problem.

Then finally, let me say that something the gentleman from New Jersey [Mr. PALLONE] and I worked on together, that is the disproportionate share that not only Texas but many other States, and New Jersey as well, a lot of folk do not understand DSH as having any great impact on them, but it really does. It means that the fastest-growing States sometimes are penalized for their share of Medicaid dollars in terms of the structuring that has gone on.

We have tried to work with both the administration and the conferees. I think we have moved in the direction where we are seeing sort of a 3.5 percent response to this. Of course, everyone may not be made happy, but I think it is important that we do not unfairly burden those States that are growing and trying to receive their share of Medicaid dollars to help their public hospital systems.

I have in my district a large share of the public hospital system in Houston. I know the service it renders. I know the budget constraints it is under. I realize that this process is extremely important. That is why I say this is an issue that we must keep under advisement and study over the next 48 hours, that we can ensure that we have a fairness in the DSH, or the disproportionate share of Medicaid distribution.

All in all, as I see my colleague, the gentleman from Michigan [Mr. BART STUPAK,] as well has joined us, and I know how hard he has worked, but I think that clearly sometimes these voices of ours may sound as if they are ringing in a hollow tunnel. I am glad we kept ringing, and the reason is because there is no doubt that this legislation that is now at the precipice of a deal would not have been where it is today if we had not continued to pound and pound and emphasize that we were not going to sell out to special interests, but we were going to get those folk who could not be inside the circle, could not get a bus ticket or an airplane ticket to get up here to Washington and talk about hard working citizens, teachers, and police officers who make $30,000 a year or less, I am glad we stood on their side, along with those families trying to get their young people to college, with the HOPE scholarship.

It is a better deal because of the Democratic alternative. I want it to be the best deal, and I think we need to keep working and fighting the fight until this gets final closure on the floor of the U.S. House of Representatives.

Mr. Speaker, I thank the gentleman for the fight we have waged together, along with our Democratic colleagues, on this very important piece of legislation.

Mr. PALLONE. Mr. Speaker, I just wanted to thank the gentlewoman.

I was just looking at some of the worst features of the House and Senate Republican bills that we have been fighting against for the last 2 or 3 months. Based on the reports that we have heard today about what the agreement finally will be, we do not know for sure, but we really have, as the gentlewoman said, made some major achievements in fighting against some of these worst provisions.

Just briefly to give an example, the $500 per child tax credit, which we mentioned, really was not going to go to most families below $30,000 in income. Now it will go to them. If they are paying income taxes or they are paying payroll taxes, they will still be able to take advantage of that $500 per child tax credit.

Capital gains and indexing, if the gentlewoman will remember all the discussions we had about how the indexing provision caused the revenue loss to explode, and all this money going to wealthy corporations and families that would really explode the deficit, the indexing has been dropped.

Education tax assistance, the GOP plans were far short of the $35 billion in tax assistance that the President and Democrats had talked about now. They have agreed to that.

Another example is with regard to the minimum wage. I think the gentlewoman mentioned that with the independent contractors, where people would be taken off their pensions and their benefits and not be eligible for minimum wage anymore because they were classified as independent contractors.

□ 2130

That is gone. Really important, with regard to Medicare, we had the Senate provisions that raised the age eligibility to 67, that had the means testing in part B, that had the home health copayment, these things are all gone. Most important, what we already mentioned with the kids health care, that we shall now have a program that has a real possibility of insuring the majority of those 10 million uninsured kids.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think something very important that we do not tend to be associated with as Democrats, I hope all the small business owners and family farmers really pay attention to this legislation, because there is no doubt that on the budget and on the tax plan, the tax bill, that the Democrats came out on the side of small family farms and small businesses.

I had my small business owners speak to me in the district and say, would we be willing to stand with them. We did, because the relief that we are getting for them comes much earlier than the relief proposed initially for them out of the Republican plan. I believe we have got it moved up to 1.1 million.

I think that was something that the Democrats worked on, and I think it is important to note that we are standing up for those who really make this country run. They are the engine of this country, small businesses, family farms. That is an important aspect of what we have worked on and what we can certainly take credit for, for helping those who did not have a real voice.

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman.

I yield to the gentleman from Michigan [Mr. STUPAK]. He has been here most nights arguing in favor of the average working family, both on the tax cuts as well as the entitlement provisions.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding to me.

It is great to join the gentlewoman from Texas [Ms. JACKSON-LEE] tonight as we talk, hopefully within the few nights we have left we can move on to another subject, not that the subject is not important, but I think we are putting together a package, we are finally putting together a package, and I think probably within the next 24 or 48 hours we will have some agreement.

I could not help but notice as I walked over the storm clouds are brewing over there over the Washington Monument. It is starting to rain a little bit. I hope, and I truly hope, that as we move forward with this spending bill and also a tax cut bill, we are not going to let the rain come falling down in the next 5 years, we have a 5-year plan and the outyears, it is a 10-year plan, where we have huge deficits like we have seen.

This has to be a fiscally responsible and a disciplined budget, or we are going to be back to where we were when I came here in 1993. We had a caucus tonight. We had a little bit of an outline of the tax cuts and also some of the spending reductions. Our friend from Texas is very correct on the DSH payments, disproportionate share, those are hospitals who serve people who do not have insurance or the elderly who are on Medicaid or Medicare.

So we, the Federal Government, give them extra money to pay for the cost that is not captured by Medicare and Medicaid or the no insurance. And States like Texas which have a high DSH payment structure, really get hurt hard, at least in the first spending bill we have seen. So I am glad you are watching that closely. You are correct, Mr. Green has been working with us in the Committee on Commerce to make sure that happens.

As we look at this in the next 48 hours or 24–48 hours, I really hope we will not rush through this legislation. I really do not want us to go back to the days of spending money we do not have, giving tax breaks to corporations and other people that we really cannot afford.

I just cannot say enough, that if we could get it structured, targeted so we do have children's health credit and it is children's health coverage, there are 10 million children in this country that do not have health care. And the original proposal was to make sure at least we got half of them covered with this proposal.

The bill that went through the House only did 500,000, the Republican bill, 1/20 of what we were trying to do or 5 percent. And with the agreement or the discussions about maybe putting the tobacco tax back on, which would capture some more money so we can pay for the practice program, that is the way we have to do it. We have to pay for programs. We have to do it with new sources of revenue and not tap old sources so we do not start running a deficit.

On education, you have the HOPE scholarships, the President has stood firm with the Democrats. We are going to try to put some money in there. But the $500 per child tax credit is really going to be sort of the hallmark.

We have been here for a number of nights trying to argue that the people on the earned income tax credit deserve that tax credit. The Republican Party has said that those people who are on the earned income tax credit should not get a $500 per child, because all they are looking for is another welfare payment.

Let me tell you, I have a person in my district who called me the other night. She has two children under the age of 18. Unfortunately, she is divorced. Her ex-husband is not real prompt on his child support payments. But she is a very hard working woman, works a full-time job. When she first got divorced, the best she could do was a $4.95 an hour job, 40 hours a week. That is not even $200 gross per week. Then she got a better job where she made $7 an hour. Even at $7 an hour, that is only $14,560 per year. Every time, whether it was the $4.95 job or the $7 job, every time she got a paycheck, what did we take from that paycheck?

We took State taxes. We took Federal taxes. We took Social Security out, FICA to pay for the Medicare. So she was taxed as she went along. At the end of the year, if she was fortunate enough when she filed her income tax, she got the earned income tax credit which basically says, if you are below a certain level, we will give you back some money. It is usually about a $1,000 to $1,500, depends on where you fall on your wages.

What did it do? She said, I resent the Republican Party saying I am looking for a welfare handout. I was never on public assistance, even though I had two children. I was supporting them. My ex-husband was not real prompt on his child support payments, but I never went on public assistance. I worked. And I got a little helping hand from the Government. Not a handout, but a helping hand. And what it allowed me to do, she said, I remember 1 year very distinctly. She now has a good job and does not qualify for the earned income tax credit. She said, I remember 1 year, I usually used that EITC to catch up on my bills, but 1 year I used it, caught up on a couple bills, but I bought four tires for my car so I could travel back and forth to work so I could continue working so I could stay off public assistance.

So I advised this young lady that we, the Democrats, would stand with her. And night after night we are going to be down here advocating that everybody who has a child should be entitled to that $500 per child tax credit, if you are making less than $75,000. That is the Democratic plan. We hope we will stand with her.

But as I came over, I mentioned the storm clouds on the horizon. That is the way I see this budget. If you go back, I know the gentlewoman from Texas [Ms. JACKSON-LEE] came after me and the gentleman from New Jersey [Mr. PALLONE] was here before me, I came in in 1992. That was the year, if you remember 1992, the first year President Bill Clinton was elected. What happened in 1992. Remember that?

In 1992, we inherited an economy that had barely grown. There were very few jobs being created. The deficit had hit a record level. Mr. Boskin, who was Mr. Bush's economic advisor, I still have the report, the week before President Clinton took office Mr. Boskin predicted the deficit would be $322 billion.

Real business investment in equipment and everything else was way down. It was growing at only about 2 percent a year. Savings and investment was down. Consumer confidence in the economy was down. Interest rates were rising. A 30-year Treasury note was over 7.5, almost 8 percent in 1992. Unemployment was higher than it had been in the 1990–1991 recession. Incomes were stagnant. Real average hourly earnings fell about 7 percent in this country. Remember, it is the economy, stupid, that is what they told us in 1992.

So what did we do? We got Mr. Boskin's report. Those of us who came in in 1993 with the new President, January of 1993, when President Bill Clinton took office, the deficit was $322 billion. We said, we have got to get at this. We would like to give the middle class a tax break, but right now we have to get our fiscal house in order. In 1993, he worked with Congress to enact an economic program which would lower our deficits and put more investment in hard-working Americans in this country. The plan was passed in Congress with only Democratic support.

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the gentleman will continue to yield, that is an excellent point. That was a very hard time. There had to be believers in order to come to grips with a very difficult decision. That is, a tax increase.

We can now look back and say the words "tax increase," nobody wants to say that, and not a tax cut. Now some 4 years later, we are standing on, you made a very valid point, we have to be very cautious, we cannot throw caution to the wind, but we are standing on an economy smart. We said the economy stupid, but we are standing on an economy smart. I think that is an important point, one that is growing and that we have to watch.

Mr. STUPAK. In the 1993 budget vote, probably those of us who lived through it probably know it better than any of them, there were 60 some Democrats who came in with me, and after that vote my class now has maybe 40 Democrats left. We lost about half our Democrats. It was a tough vote. We did raise taxes on those whose gross income was more than $180,000. I can tell my colleagues, in my district in northern Michigan, that is 1,170 families, with the money we taxed, those we asked to pay more, the higher income folks. Over 32,000 families in my district got the earned income tax credit that I spoke of a little earlier. So we taxed those, we asked those who could give us a little more to give it. We helped invest in our people.

Since then the deficit has fallen dramatically. In fact, at the start of this year it was about $70 billion. When we close our books here on September 30, 1997, it will be approximately, some people predict, as low as $35 billion, basically no deficit whatsoever. So we have cut the deficit with the help of the President and just Democratic votes by over 90 percent in less than 5 years.

We have the smallest deficits since 1980. And as a percentage of our gross domestic product, it is the smallest it has been since 1974. In fact, the deficit is less than 1 percent of our gross domestic product here in 1997.

So if you take a look at it, this deficit reduction was based on the Democratic plan. Now the GOP gets up, the Republican party gets up and says, we passed these budgets and that is what got everything down. Since they have taken over majority party, they have not passed one budget yet. We have been living on continuing budget resolutions, continuing on the same budget, the same plan that the Democrats passed in 1993.

They have not passed a budget yet. I predict this year, even with this budget agreement, we probably still will not pass a budget because we will get hung up on some things. As you take a look at it, what has really happened? Not only did we raise some revenues and invest it in people here in this country, but we also, the public sector is much smaller.

We moved forward to cut over 350,000 Federal employees with early retirements. We have the smallest Government since the days of John F. Kennedy in 1960. Since 1960, our people in this country, 130 million people, we are now over 260 million people so we doubled the number of people in this country who rely on services from the Federal Government, but we have the smallest Federal work force serving twice as many people since the days of John Kennedy. So we really did a yeoman job in doing this.

But I am concerned that having done 90 percent of the work, we need to finish the job. And I do not want to rush into this agreement that is being put together, because we have to take the opportunity now to finally eliminate not just the deficit but the structural deficit so that we will be able to run surpluses in good economic times instead of deficits like we still are today and stay at least in a balanced budget during times of recessions.

If you look at it, we have got to make sure any agreement makes very important investments in policy choices for our Nation's economic future. We need the savings and reforms that are in the spending bills, whether it is DSH payments or whatever it might be, to address the Nation's long-term budgetary challenge, past the 1998 election, past the election of 2000. If it is going to be a 10-year plan, let us look at it for a full 10 years and make sure we address our Nation's long-term budgetary challenges and needs.

We are within striking distance of a zero deficit, a balanced budget the first time since 1969. It is not time now to abandon the responsible, effective strategy we put together in 1993. It cost us. It cost us Members and a lot of people questioned what we were doing. But it has worked, and it has worked well.

So as we go here in the next 24, 48 hours and reach this agreement, let us reflect on where we have been for the last 4 or 5 years. Let us reflect on those days of the high deficits of, again, when President Bush left office, 322 billion, and how did we get it down here and make sure that the fiscal responsibility that was put in place in 1993 continues not just for today but for tomorrow and for our future.

I am very pleased to join my colleagues here tonight and hope those folks who are Members in their offices and around this country listening to us tonight, ask that question, where is this agreement going to be in 4 or 5 years? Let us make sure it does not explode out.

□ 2145

As I walked over, I could see those storm clouds. And I could also see those storm clouds in this budget. And we have to be cautious in how we do it. We have a line item veto. The first time ever the President has had a line item veto. That has been challenged in the courts. We have a number of issues that could turn this economic plan on its ear, and it is our responsibility, those of us who have the vote, to make sure it does the right thing.

So I am very pleased the President is standing tough, that we are going to provide some health care for children in this country, education, and give them some hope to get a college education, and a $500-per-child tax credit, including those people who earn the earned income tax credit.

I am proud to stand with the gentleman. And those are our parameters on the budget cuts, and let us make sure the future is just as bright as tomorrow is with this budget agreement.

I thank the gentleman once again for his leadership on this issue.

Mr. PALLONE. Well, I thank the gentleman, and I wanted to follow up on some of the points that the gentleman from Michigan made, and that is with regard to the President.

If my colleague would remember, I think it was a week or two ago when the Treasury Secretary, Robert Rubin, who appeared before our caucus, also sent a letter to those who were negotiating the budget in the final weeks, and he outlined four key tasks for any tax bill.

Just to go over those briefly, one was no exploding deficits. Of course, the indexing for capital gains is a big factor, and that is now gone from what we hear. Then he talked about a fair balance of benefits for working Americans. And, again, we have been pushing for the child tax credit to be available to the majority of those people who are working, who are under $30,000 but they are working and paying taxes.

And the third one, and I wanted to just mention this because I know the gentleman from Michigan and the gentlewoman from Texas have talked in the past quite a bit about the education tax aspect of this, he said in the letter that the tax cuts have to encourage economic growth. He stressed that the most important point in that regard was to make sure that our children are well educated in an ever-increasing global economy as we approach the 21st century, and that that was a Democratic priority, and that the Republican proposal neglects the commitment to education and instead offers broad-based tax breaks to wealthy buddies who want to make a killing in the stock and bond market.

Well, one of the things the President insisted on and the Democrats insisted on was that this $35 billion be available as part of the tax package for education tax credits. And that, from what I understand in terms of what the negotiators have agreed to, is part of the final agreement.

It was interesting, because today in my local newspaper, this is a syndicated column that I am sure appears in various papers around the country. Actually, it is not, it is written by Robert Reich and John Donahue. Robert Reich, of course, was the Secretary of Labor, and John Donahue was counsel to Reich in the first Clinton administration.

It says, "What should be first in line for tax breaks: education, capital gains or estates?" And it says "the Clinton administration is sticking to the late-spring deal it struck with Congress: $35 billion earmarked for incentives linked to education."

And why? I just thought it was very interesting, just briefly here, because it says that "While there's no consensus on the effects of preferential tax rates for capital gains, the best prediction is little, maybe no, net increase in savings and investment, a lot of maneuvering by accountants and lawyers to relabel income as capital gains and a sharp rise in the after-tax income of a tiny, wealthy slice of the population." But the benefits of education tax incentives are focused on working families.

And basically what we are choosing between is middle class tax relief that rewards and encourages investments in America's earning power, as opposed to these sterile tax breaks that will deepen the divide between the very wealthy and the rest of us.

I think it was very important throughout these negotiations that the President and the Democrats insisted on these education tax breaks because of the investment aspect, because of what it means to the future of the country, and I know both my colleagues have talked about this in the past.

Mr. STUPAK. If the gentleman would yield on that point, even if we put it in everyday terms, we have to remember the HOPE Scholarship is not just going to 4 year colleges but 2-year colleges or to go in some worker training program. An individual can get up to $1,500 underneath the President's HOPE Scholarship plan.

I have two sons, my oldest son, Ken, will be graduating here in 1999, and he is a smart young man and he is going to do quite well in college and forward. But if we take a look at it, when he starts working in his adult life, it is estimated that he will have to change jobs at least eight times in his working career. Eight times.

He is a very smart young man. Nothing wrong with his ability to learn. But the technology is moving so fast that those who begin employment in the year 2000, their jobs will become outdated. Outmoded. Technology is moving so fast, the job that people have today will be outdated and gone tomorrow. So they will need the education skills along with the social skills to adapt in an ever-changing society.

So education is an investment. It is an investment in our future. And our children will need those educational skills, whether they are going to 2-year colleges or some other training programs or worker incentive program or worker enhancement programs so they can stay ahead of the curve. So as their job is outdated because of technology, they can adapt to tomorrow's world and continue to be a breadwinner and help out their family and pay their taxes and everything else.

I say that half jokingly, but why has this economy done so well? Because people pay their taxes and we have revenues coming in, and, again, going back to that budget plan. So investing in the future is really a current investment in today's education, and will prepare us for tomorrow in that ever-changing world and the technology that will outdate our jobs, because the jobs that we have today will be outdated tomorrow.

So it is a good point the gentleman makes, and I wanted to bring it more into the workplace setting, that education that we will need. Anything we can do at the Federal level, we should and we must.

Mr. PALLONE. I am glad the gentleman brings that up, and if I can quickly just mention that job training is just as important an aspect of that. What it points out in this article, again, this is in my home paper, the Asbury Park Press, is that most students still are paying a majority of their tuition bills with their own money. So when we talk about these tax incentives or tax credits, they really make a difference.

My understanding is, based on what we are hearing, and again we do not have a final document, but what I understand is that of this $35 billion which is now agreed to, that the President insisted on we have a credit of 100 percent of the first $1,000 tuition and fees, and that is in the first 2 years, and then 50 percent of the next $1,000 in 1998 through 2002.

And if a student is not eligible for the HOPE Scholarship but is pursuing a postsecondary degree or a certificate or enrolled in a job skills program, a 20 percent credit for tuition and fees up to $5,000 through the year 2000 and $10,000 thereafter is granted.

I think the agreement also adopts the student loan interest deduction. So there are a lot of incentives in there for people paying for tuition out of their own pocket, which most people still do.

Mr. STUPAK. On the tuition part, is the gentleman saying there is going to be a look-back provision for those who already have a guaranteed student loan or who are paying off their college loans? Even if they are not in college now, let us say they graduated last year, are they going to be allowed to look back and at least take off that interest?

Mr. PALLONE. No, I cannot say that, but I think what the gentleman is seeing here is not only the HOPE Scholarship but also this 20 percent credit for tuition and fees, and then they will be able to deduct the interest on a student loan.

Mr. STUPAK. Interest on the future loans?

Mr. PALLONE. I think so.

Mr. STUPAK. I know that is a part that is not clear in the budget agreement. Hopefully, it is something we can look at. I am sure when the gentleman gets back in his district, as in my district, a working class district, many people ask me, "My son just graduated or my daughter just graduated from college, and, geez, I have all these loans and paying interest on it, can I at least get that deduction?"

So far I have not seen it, and I just thought maybe I missed something at the caucus today and thought maybe the gentleman picked up on that.

Mr. PALLONE. Again, as the gentleman knows, we do not know what is in the final agreement, but my understanding is the President insisted on those provisions and that they are in there.

Ms. JACKSON-LEE of Texas. If the gentleman would yield, I would like to challenge sometimes the interpretation made globally about the Democrats and their fight for those who make less than $50,000 a year.

I am proud of that fight, but I think it is important when we discuss the issue of capital gains and who gets capital gains to sort of put this whole issue in perspective, particularly around this very explosive and booming economy, because that is what it is.

Just a couple of weeks ago the headlines read that the Dow had reached 8,000 points. So I do not think that we should in any way feel intimidated about allegations that the Democrats are not respecting those who have invested in this country and helped by their wealth to make this country great. The atmosphere and the economic climate has helped to make those who are in business strive and thrive and be prosperous.

It is important, then, that we emphasize the importance of the great equalizer, and that is an education. The distinction between how we started out with the HOPE Scholarship versus the Republican plan, which was to say to those who were already wealthy, "It is all right, you can do an IRA, a savings account, and you can then take a tax deduction when your children are ready to go to college."

That does not fare well for the average teacher, the working bus driver, police officer, who, by the best of what they can do, they have to spend as they go. So there is a time when their youngsters come up to the time for college and they are looking for monies. They do not have savings.

This HOPE Scholarship, what we fought so hard for, says to them that they get that right then and there. They do not have to save the $1,000, they do not have to have put away that money in an IRA. It simply says that they will get a HOPE Scholarship. And in particular, having given the graduation speech to our Houston community college system, where almost a thousand graduates graduated in 1997, this $1,000 dollars for the first year and $500 for the next year or $1,500 is a real boost for working class families.

I think that when we debate the bill as it ultimately may come to the floor, I think it is key that we understand the principles by which the Democrats have been guided, and that is kids' health, not $16 billion but $24 billion for those 10 million uninsured children who are in every one of our districts all over this Nation; and then to recognize something very important, that this welfare plan that came unsupported with compensation to make it work, now we have a real commitment to expend $3 billion in and around our communities.

I hope our churches, and I see that there are members here from the National Church Usher Convention from Houston, TX, and I know how hard our churches have worked with me, and they have worked in order to help their members who are falling on hard times move from dependence to independence. We now have $3 billion that makes the welfare-to-work program actually work. It actually gives training a leg up. I hope that our communities will be taking advantage of this money that will come down to help train individuals to let them work.

One thing that was really, I think, a tragic reflection on our respect for working people was this whole concept of independent contractors that took away from individuals the benefits of the various coverage that one gets when they are working in their job. If they were an independent contractor, they had no health benefits, they had no vacation time, they had no overtime.

We were able to get that out. I think that is extremely positive for working Americans. They did not realize what was getting ready to hit them. They might move in jobs eight to ten times, but I can tell my colleagues that if we were an independent contractor and did not really have a job that was secure, we would not feel very good about being able to protect our families.

So I think that we can take great comfort in things that working Americans can be gratified for, and that is, of course, the health care, the welfare-to-work and certainly the HOPE Scholarship.

And in taking up my colleague's admonition that we must be cautious, I do believe that we should watch the storm clouds that are off to the side, and that is why I said that we have 48 hours to ensure that when we ultimately cast a vote, these items that we have mentioned here this evening, DSH, and I will mention it again, protecting our county hospital systems and the individuals who go to these systems, who are unable to pay the extra cushion that is needed in order to provide the money so that they can have coverage by Medicare and Medicaid, if they do not have health insurance, and that is still a lot of people.

And then just for Texas, this whole question of privatizing health care and not allowing those sensitive social workers and government employees who have been working on this to be able to make the determination of our citizens, whether they are deserving of welfare in times when they have fallen on hard times, and putting it into computerization, that will be a fight that I will continue because I do not see any sunshine at the end of the tunnel.

□ 2200

But I do think that this fight has been one that we can claim at the juncture a quiet victory until we get the last and final word. We have been able to stand up for those working families.

I feel proud that families who have made a commitment to stay off welfare may be making $30,000 collectively, two wage earners, that we have taken the terminology, the accusations that they are on welfare and do not deserve these tax cuts, we have taken that out of the mouths of Republicans. We have removed that sort of cancer that was really impacting this debate, and acknowledge that these citizens making $30,000 or under $50,000 deserve our respect and appreciation because they help to build this country and they deserve a $500 a year tax credit for their children. And I am very proud to stand up and say it was because of our fight that they got that tonight.

So I want to thank the gentleman from New Jersey [Mr. PALLONE] again for his leadership on this issue and, likewise, will join him tomorrow in debate and over the next 48 hours to ensure that the clock does not turn back on the fights that we have made over these last couple of months. There has been some hard fights, but I think we ought to applaud the conferees, the gentleman from South Carolina [Mr. SPRATT], the ranking member, and the gentleman from New York [Mr. RANGEL], members of the Committee on Commerce, and all others who have continued in this fight to ensure that we never slip for a moment.

So I thank the gentleman from New Jersey [Mr. PALLONE] clearly for his efforts, and I look forward to working with him as we watch these next 4 hours.

Mr. PALLONE. Mr. Speaker, reclaiming my time, I want to thank the gentlewoman from Texas [Ms. JACKSON-LEE], and I know that both she and the gentleman from Michigan [Mr. STUPAK] stress the fact that we do have to watch what is going on here in the next 48 hours.

One of the things that we both talked about tonight and we are very happy about is the kids' health care initiative, because now it is up to $24 billion because of the addition of the tobacco tax. But I have to say that in discussions, in debate over the last several months on the kids' health care issue, one of the major concerns of House Democrats, including myself, and we have a health care task force amongst our Democratic Caucus that has articulated this, one of the major concerns is that this money not be drained away and used for purposes unrelated to insuring kids.

In one of the aspects of this that we will be discussing and we will be insisting on, and I believe that the White House has been insisting on, is to make sure that built into this program to insure these children at the cost of $24 billion that there are safeguards so that in fact the money is used to insure kids.

The Senate version of this bill was a lot better than the House version, and particularly the House version that the Republicans reported out of the committee, the Committee on Commerce, and many Commerce Democrats were very critical of the lack of safeguards for how this pot of money would be used for kids' health care.

Just to give some examples, there was in the House version what we call a direct services option that would have allowed the pot of money available for kids' health care when it went to the States to be used not to actually insure kids but to be used for certain services that they may or may not use.

For example, money could have gone to children's hospitals but there may have been a lot of the uninsured kids that never went to the hospital or never were able to take advantage of the services of that particular hospital, and they would not be insured pursuant to this direct services provision but just get services for certain purposes of the hospital.

Well, that was not acceptable to many of us, and we kept insisting on the Democratic side that the direct services option be eliminated or certainly curtailed. My understanding is that it has been curtailed. I do not know exactly if there is talk that it may be as low as 10 percent at this point. I still think that is too much. But nonetheless, by eliminating or cutting back on the direct services option, we are at least moving in the direction of what the Democrats have said needs to be done.

The Senate language actually says that States have to provide insurance either through the traditional Medicaid program or through an alternative State insurance program and that they have to do what we call maintenance of effort, meaning that States have to at least provide as much money to pay for kids' health care as they have in the past.

Well, if those provisions are in the final bill that we vote on here in the next few nights, and we are told that the Democrats and the White House have been pushing for that and that is likely to be the case, then we will at least know there are safeguards built in that most of this money will go towards actually insuring children.

Another major issue was the benefits package. We can say we are going to have $24 billion available to insure children, and we can say that they have to be insured in some way; but if we do not have an adequate benefits package, then a lot of them may not get certain services. Our understanding is that the White House has insisted on the benefits package similar to what was in the Senate version, which is similar essentially to what Federal employees get.

So a lot of the devil, so to speak, is in the details. We do have to make sure over the next 48 hours or so that these safeguards are built into the kids' health care program so that this money is actually spent to insure kids. These are the types of things that we have been talking about all along on a number of the tax cut provisions, as well as the spending provisions, the balanced budget agreement.

I just must say that, although we are still weary about what finally results, Democrats can take a great deal of pride in the provisions with regard to kids' health care with the coverage now for the child tax credit, with the education tax credits, and with so many of the other things that we have been talking about all along that should be included in this tax cut package and in this spending bill to make sure that the benefits go to the average working American.

Mr. Speaker, I yield back the balance of my time.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2266, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 105–213) on the resolution (H.Res. 198) providing for consideration of the bill (H.R. 2266) making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2264, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT, 1998

Mr. DIAZ-BALART, from the Committee on Rules, submitted a report (Rept. No. 105–214) on the resolution (H. Res. 199) providing for consideration of the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered printed.

HUMAN RIGHTS VIOLATIONS IN CUBA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. DIAZ-BALART] is recognized for 60 minutes as the designee of the majority leader.

DOW JONES AVERAGE UP SINCE REPUBLICANS TOOK CONTROL OF CONGRESS

Mr. DIAZ-BALART. Mr. Speaker, I wish, before I begin speaking about the subject that brings me to the well this evening, to insert into the RECORD a note made available to us here in Congress today by our dear colleague, the gentleman from Tennessee [Mr. DUNCAN].

Mr. Duncan points out, among other things, that the Dow Jones Industrial Average, on Election Day 1994, when the Republicans took the majority in this House and in Congress, both Houses, for the first time in 40 years, was 3,830 points. And since Republicans took control of Congress, the Dow Jones Average has gone up by more than 4,000 points, breaking all records. And that that was due, to a great degree, because of the fact that the majority here, the Republicans, brought the leadership to the Congress to bring Federal spending under control and stop the growth of taxes and regulations and that, finally, the belief took hold in the economy and in the world in this international economy of today that the United States of America would finally balance its budget.

And, so, I think that that is something that was important to bring out. And I thank the gentleman from Tennessee [Mr. DUNCAN] for having done so. So I would like to insert the following into the RECORD, if I could, Mr. Speaker:

The Dow Jones Industrial Average closed at 3830.74 on election day, 1994.

Since Republicans took control of Congress, the Dow Jones average has gone up by more than 4,000 points—mainly thanks to Republican success in bringing Federal spending under control and stopping the growth of taxes and regulations.

Mr. Speaker, I come this evening to the floor, to the well, to discuss a matter that for the last 4 months has worried me on a daily basis in increased fashion. It has been typical of the tyrant in Cuba, who has ruled for 38 long and destructive and painful and extraordinarily gruesome years, it has been typical for him to engage in Stalinist crackdowns. But for the last 4 months, he has been clearly engaged in another such Stalinist crackdown the effects of which have come to my attention on a daily basis.

And, so, I have been thinking it appropriate for some time now to come to the well to give an update to my colleagues and to the American people through C-SPAN, the millions of citizens who watch through television, by way of television, an update on the dreadful human rights situation and the details, as I know them, of that Stalinist crackdown engaged in by the tyrant of Havana, only 90 miles away from the United States.

And, so, I would like to read a list, and I acknowledge from the beginning that it is a partial list, of human rights violations in Cuba for the last 4 months. And with that acknowledgment, I would like to begin to get into it and then discuss some other aspects of the reality of Cuba today.

March 29, a Danish tourist, there have been a number of incidents recently with tourists in Cuba where the government has shown, the regime has shown its paranoia and its apprehension about its security situation as it has related to tourists, a Danish tourist, Joachim Loevschall, somehow mistakenly wandered into a restricted military zone and he was shot to death. That was March 29.

Then began the month of April. And Ramon Rodriguez, father of a well-known activist, Nestor Rodriguez, president of Young People for Democracy, was arrested.

Also, on April 1, Rafael Ibarra Rogue, president of the Democratic Party 30 November, Frank Pais, who is currently serving a sentence of 20 years in the infamous prison known as Kilo 8, according to relatives, was told that he would be denied from having any contact with his family or any religious visits. That was April 1.

April 8, Nestor Rodriguez Lobaina, president of Youth for Democracy, a group that has become more well-known recently and has developed already a number of very impressive young leaders, Youth for Democracy, president Nestor Rodriguez Lobaina was arrested and charged with "crimes against the state." He had previously been arrested in June 1996 and sentenced to 12 months in prison and an additional 6 months of internal exile for the crimes of resistance to authorities and disrespect of the revolution. He was sentenced to 18 months in April and is currently being held in the Guantanamo Prison.

Today, July 28, Nestor Rodriguez Lobaina has begun a hunger strike that he has announced will last during the days that something called the 14th World Festival of Youth and Students lasts. That festival has begun also today in Havana. It is a splurge that Castro gives to Communists who come from throughout the world to party in Cuba, young Communists, while the Cuban people are subjected to the apartheid system and the rationing cards that have been imposed upon the people since 1962.

So Nestor Rodriguez Lobaina says that during the duration of this party, called the 14th World Festival of Youth and Students, he, as a youth leader, is going to fast in protest.

Of course, he and Cuban students who want to speak out in favor of democracy are not allowed to participate in that youth movement festival in that party that Castro organizes with funds that the Cuban people are denied for international young Communists and revelers and partyers.

□ 2215

April 11. Miguel Angel Aldana, member of the Executive Committee of the Concilio Cubano and president of the Martian Civic League, arrived in the United States after being forcefully expelled from Cuba. He was initially handcuffed, dragged out, and arrested while attending a mass in memory of the Brothers to the Rescue pilots who were shot down by the Cuban Air Force on February 24, 1996.

April 22. Israel Feliciano Garcia, representative of the Democratic Solidarity Party in the Province of Villa Clara was arrested in his home. His wife Arelis Reyes Garcia was also detained for pointing out to the police that they did not have a warrant.

April 30. Radames Garcia de la Vega, vice president of Youth for Democracy, is arrested and charged with showing, "contempt for the commander in chief," Mr. Castro. Since last year Mr. Garcia de la Vega had been held in house arrest. On April 30 he was sentenced to 18 months imprisonment.

Rafael Fonseca Ochoa, a member of Young People for Democracy as well, was arrested. May 1.

May 1 also. Ana Maria Agramonte, a member of the Movimiento Accion Nacionalista is arrested for "contempt of the authorities."

May 1. Jesus Perez Gomez, Lorenzo Pescoso Leon, and Aguileo Cancio Chong were arrested by State Security and held without charge in Havana. Aguileo Cancio Chong was beaten at the time that he was arrested.

May 14, 2 weeks later. Cuba Moises Castaneda Rangel, opposition activist with the Workers Union Movement and a member of the Seventh Day Adventists and his family were subjected to an act of repudiation at their home in Villa Clara.

It might be worthwhile to talk a minute about what an act of repudiation is. Government-sponsored mobs are sent to the home of an independent journalist or an opposition leader, a dissident, and there they throw stones and insults, and if someone comes in and out of the house, they physically often attack the people, spit upon them. Those are acts of repudiation organized by this system in Havana.

Ana Maria Agramonte, May 15, a member of Movimiento Accion Nacionalista, was sentenced to 18 months in jail for contempt of the authorities and resisting arrest.

May 25. We go back to Cuba Moises Casteneda Rangel who had been subjected, he and his family to the act of repudiation May 14, was arrested, interrogated, and subjected to psychological torture.

May 27 was the beginning of Eduardo Gomez Sanchez' third year at the Kilo 8 prison. Sanchez was sentenced to 20 years, 20 years, for the crime of illegal exit from the country. He suffers from a severe liver condition and according to relatives probably has cancer.

June 10. Leonel Morejon Almagro, the elected leader of Concilio Cubano, delivered a message to one of Castro's offices demanding the right to hold a peaceful public meeting of his group. Morejon Almagro, who was just released from prison where he served 15 months, was beaten by State Security agents shortly after delivering the letter to Castro's offices.

Amelo Rodriguez, June 10 also, a well-known member of the opposition movement, was arrested by State Security and charged with an unspecified, "act of rebellion."

June 16. Nilda Malera Pedraza, a 34-year-old professor of music in Guantanamo was fired for "deviating from official political thought." Professor Joaquin Lozano was also fired for being "politically unreliable."

June 17. Luvia Bonito Lopez, the daughter of independent news journalist Ana Luisa Lopez Baeza, was detained and interrogated. Again she was detained 3 days later, June 20.

June 22. Teresa Plateros Rodriguez, a member of the Pro-Human Rights Party, was arrested.

June 23. Hector Peraza Linares, codirector of the Havana Press, independent press people, and his wife were arrested, held without charge.

June 24. Dr. Dessy Mendoza Rivero of the dissident Independent Medical Association of Santiago was arrested by State Security after reporting the epidemic of dengue fever that is sweeping Cuba. She was charged with reporting false information. Thousands of people have gotten the dengue virus. It is imperiling the health of people throughout the island of Cuba and nearby countries and this brave doctor who simply let the world know of the fact that there was dengue fever sweeping through the island was arrested for "reporting false information."

June 25. Edillo Barrero, a 25-year-old farmer, was detained without charge by State Security, severely beaten, and died in custody.

June 28. Orlando Merchante Ricart of the 13th of July Movement was expelled from his job after doing an interview with the U.S. Information Agency, Radio and Television Marti. The next day he was beaten and stripped of his clothing.

July 1. Luis Alberto Hernandez Suarez of the Democratic Youth Union Movement is arrested.

July 1. Orestes Rodriguez Omuitiner, vice president of Seguidores de Chibas, human rights group, is arrested in Santiago.

July 1. The home of Nancy de Varona, president of the 13th of July Movement, is placed under constant State Security surveillance and her phones were disconnected.

July 1. Juan Antonio Gonzalez Dalmau, member of the Cuban Civic Current, is detained by State Security.

July 2. The home of Ileana Someillan, a member of the opposition, is searched by State Security.

July 3. Julio Grenier, another activist in the dissident movement, is detained, his house searched, and various items confiscated.

July 3 as well. Busy day for Castro this July 3. Carlos Raul Jimenez of the Nationalist Agenda Movement opposition group, detained by State Security.

July 3 Marta Beatriz Roque, member of the Internal Dissidence Working Group, perhaps the most prestigious economist in Cuba today, received a death threat from State Security officers.

July 3. Mercedes Sabourni Lomar of the Nationalist Agenda Movement, detained and questioned twice that day by State Security.

July 3. The home of Vladimiro Roca of the Internal Dissidence Working Group and president of the Social Democratic Party is stoned by a government-organized mob. Acts of repudiation as we talked about earlier. His home was placed under constant surveillance by State Security. That is July 3, this busy day for the tyrant. Got a lot of pleasure this day, did he not?

July 3. The wife of Vladimiro Roca, because of her husband's activities, is delivered a summons to appear before State Security for questioning. She is threatened with exile.

July 3. Luis Alberto Hernandez Suarez of the Democratic Youth Union Movement is arrested by State Security in Pinar del Rio.

July 3. Jose Orlando Rodriguez Bridon of the Democratic Workers Confederation detained by State Security after leaving the home of Marta Beatriz Roque.

July 3. Odilia Valdes Collazo, President of the Pro Human Rights Party and member of the Internal Dissidence

Working Group, detained by State Security.

July 3. Orestes Rodriguez Brea, Vice President of the 13th of July Movement, detained by State Security, placed under house arrest.

July 3. Dr. Frank Hernandez Loveira, Dr. Elias Vicent and Ana Maria Caballero, members of the 13th of July Movement, are visited and threatened by State Security.

July 3. Manual Fernandez Rocha, President of the Historical Studies Forum and lawyer for the Agramonte Current opposition group, detained by State Security.

July 3. Mercedes Sabourni Lomar, Secretary of the Nationalist Agenda Movement opposition group, receives two summons to appear before State Security.

Fourth of July. Jorge Gonzalez Puentes of the 13th of July Movement, detained by State Security, his old typewriter confiscated, and ordered to stay in his home until August.

July 4. Juan Ruiz Armenteros, Vice President of the Assistance Committee of the Internal Dissidence Working Group, Arnaldo Ramos Lauzurique of the Cuban Independent Economists Institute, and Georgina de las Mercedes Gonzalez Corbo of the Cuban Civic Current all threated by State Security at their homes, told not to leave.

July 4. Felix Bonne Carcasses of the Internal Dissidence Working Group is followed and threatened by State Security.

July 4. Juan Antonio Gonzalez Dalmau of the Cuban Civic Current opposition group, detained for questioning by State Security.

July 5. John Mendez Diaz and Osvaldo Caballero, a former political prisoner, both of the 13th of July Movement, detained by State Security.

July 5. Rafael Garcia Suarez of the Democratic Workers Confederation, arrested by State Security.

July 5. Raul Pimentel, President of an independent environmental group and opposition activist, arrested by State Security.

July 6. Raul Rojas, member of the Democratic Youth Movement, detained by State Security after leaving the home of Marta Beatriz Roque, the economist. He is currently staging a hunger strike in prison.

July 6. Manuel Sanchez, member of the Internal Dissidence Working Group, threatened by State Security.

July 6. Nancy Gutierrez Perez, member of the Democratic Pacifist Movement, visited twice by State Security and threatened. "Stop your activities," they told her.

July 7. Lazaro Lazo, an independent journalist and director of the Independent Press Bureau of Cuba, is threatened with attack by State Security, unless he immediately abandons his independent press activities.

July 10. Nicolas Rosario Rozabal, a correspondent for the independent Havana Press in Santiago was arrested by State Security.

July 11. Osvaldo Paya Sardinas, President of the Christian Liberation Movement, and fellow opposition activist Rene Montes de Oca are detained. Montes de Oca remains in detention.

July 12. Dr. Augusto Madrigal Izaguirre, director of the Cuban Independent College of Medicine, detained and questioned by State Security. Dr. Madrigal Izaguirre is active with the independent medical movement.

Lorenzo Paez Nunez, July 12, an independent journalist, sentenced to 18 months in prison for "disrespecting Cuba's national police."

July 12. Nancy de Varona, President of the July 13 Movement, is arrested. In addition, all of the executive committee members of the group are questioned by State Security that day.

July 13 was coming, the anniversary.

July 12. Juan Carlos Vasquez Garcia, a 26-year-old author from Cienfuegos, arrested by State Security.

July 13, the third anniversary of the sinking of the tug boat where over 70 refugees were trying to flee that hell which is Castro's Cuba and they were sunk pursuant to the orders of the tyrant, and more than 40 refugees died, including more than 20 children. That is July 13, the third anniversary, 3 years ago.

That day this year, Herbiberto Leyva Rodriguez, a member of Young People for Democracy, was detained and he is still being held at the provincial headquarters of the National Police in Palma Soriano in Santiago. He has been charged with, quote, disrespect to a judge, because at the end of the trial of Randames Garcia de la Vega, he exclaimed, "This is proof that in Cuba there is no freedom or democracy." So he is still being held in prison for that.

July 16. Marta Beatriz Roque, the head of the independent economists that I referred to earlier, Feliz Bonne Carcaces, Vladimiro Roca and Rene Gomez Manzano, all leaders of the Internal Dissidence Working Group, were arrested. At that time they were taken to State Security headquarters at Villa Marista.

The four of them, the rest of those four leading opposition leaders is the only incident, Mr. Speaker, all these human rights violations 90 miles away that I have referred to, that our local newspaper here, the Washington Post, has reported. A very large article here in the Washington Post. Page A22, July 18.

Key Dissidents Arrested in Cuba

The Cuban government said today that 4 dissidents are under arrest and are being investigated on suspicion of counterrevolutionary activities. Foreign Ministry spokesman Miguel Alfonso confirmed the arrests, reported by diplomatic and dissident sources, at a weekly briefing. Vladimiro Roca, Martha Beatriz Roque, Felix Bonne Carcasses and Rene Gomez Manzano, who lead the Working Group of Internal Dissidence, were arrested by State Security Wednesday, the sources said. It is extremely unusual for authorities to comment on arrests of Cuba's small and illegal dissident groups.

There has been a tyranny 38 years in Cuba. It allows no opposition. It reiterates that it will never hold elections while this tyrant is alive and never intends to unless it is forced to. It is engaged in a Stalinist crackdown that I have begun to describe and we see here the extent of coverage by the national media, the Washington Post, page A22, July 18.

Historians will have to describe why this reality exists that for some reason this tyrant can murder and imprison and use medicines for psychological torture and engage in electroshock therapy of political prisoners, and the reality of that regime is simply not covered by the national or international media. In fact, there have to be bombs placed in the hotels where Ms. Lucia Newman is of CNN in order for her to report that there are incidences of opposition to the regime.

It is so sad, Mr. Speaker. But it is a reality.

□ 2230

July 16, Luis Lopez Prendes, a journalist with the Independent Press Bureau of Cuba, is arrested by State security. He was among the first to report the bombings that I just referred to in tourist hotels in Havana on July 12.

July 17, Edel Jose Garcia Diaz is a journalist with the independent press agency Centro Norte del Pais, subjected to a government sponsored act of repudiation at his home.

July 17, Porfirio Batista Rodriquez, a member of the Pro Human Rights Party, is detained and interrogated by state security in Santa Clara.

July 17, Marilis Blazques Aparicio, member of the internal opposition and widow of former political prisoner Reynaldo Jimenez Herrera, is detained, interrogated and warned to abandon her counterrevolutionary activities.

July 17, David Flores Diaz, a member of the Democratic Solidarity Party in Villa Clara, is detained and interrogated by state security.

July 17, Cuba Moises Castaneda Rangel, member of the opposition Workers Union Movement and an active Seventh Day Adventist, is arrested and held in handcuffs in an underground blackout cell 48 hours and charged with "dangerousness."

July 19, State Security agents visit Ledonel Morejon Almagro and his wife Zohiris Aguilar Callejas at their home, where they are interrogated and threatened from 10 p.m. until 2 a.m. regarding their peaceful opposition activities within Concilio Cubano and Alianza Nacional Cubana. State Security warned Morejon Almagro that if he proceeds with this activism he will be sentenced to 25 years in prison, not 15 months like he was sentenced in 1996, but 25 years.

Similar visits were received by other signers of a document that I have here in my possession asking Castro to permit a plebescite like Pinochet, the dictator of Chile, permitted a few years ago. For that they were visited and said you will get 25 years if you continue with this, not 15 months like last time.

Also visited that night, July 19, Reinaldo Cozano Leon, Aguileo Cancio Chong, Ibrain Carrillo Fernandez, Neri Gorortiza Campoalegre, Jose Pastor Leon and Cecilia Zamora Cabrera.

July 20, Amnesty International issues a 13-page report titled Medical Concerns, where Amnesty International indicates their concern that political prisoners are not receiving adequate medical care in Cuba, and citing international sources, Amnesty International states that many political prisoners already suffer from malnutrition and excessive weight loss due to poor nutrition, which leads to anemia, diarrhea, parasite infections. Some of the most serious conditions developed include optic neuropathy, tuberculosis, beriberi and leptospirosis. Amnesty International also states that the conditions and solitary confinements of Cuban prisoners are brutally inhumane, lacking beds and mattresses and even natural or artificial lights. Political prisoners are also sent to prisons, according to Amnesty International, hundreds of miles away from their families, which makes family visits and contact practically impossible.

Amnesty International has also issued urgent action appeals for the arrests of the four leaders of the internal dissidents movement and also for Heriberto Leyva Rodriguez and the other leaders of the Young People for Democracy. I would like to at this point, Mr. Speaker, insert into the RECORD Amnesty International's urgent action appeal.

AMNESTY INTERNATIONAL USA'S,
URGENT ACTION APPEAL

July 18, 1997.

Further information on EXTRA 106/96 issued 11 July 1996 and re-issued 24 September 1996 and 3 June 1997 Legal concern/Ill-treatment and new concerns: harassment/prisoner of conscience/possible POC.

CUBA: Nestor Rodriguez Lobaina, Radamés Garcia de la Vega, Ramón Rodriguez, Rafael Fonseca Ochoa, new name: Heriberto Leyva Rodriguez.

Amnesty International is concerned at further developments relating to members of an unofficial youth group called Jóvenes por la Democracia, Young People for Democracy, which has been campaigning for, amongst other things, changes in the Cuban university system. Radamés Garcia de la Vega, who was detained on 30 April 1997, was reportedly tried on 17 June 1997 and sentenced to 18 months' imprisonment, charged with "desacato a la figura del Comandante en Jefe", "disrespect to the Commander in Chief", i.e. President Fidel Castro.

Heriberto Leyva Rodriguez, also a member of the group, Young People for Democracy, was reportedly detained on 13 July 1997 and is being held at the provincial headquarters of the National Police in Palma Soriano, Santiago de Cuba province. He has been charged with "desacato a un juez", "disrespect to a judge", reportedly because, at the end of the trial of Radamés Garcia de la Vega, he exclaimed "Esto es una prueba de que en Cuba no existe libertad ni democracia", "This is proof that in Cuba there is no freedom or democracy".

Nestor Rodriguez Lobaina, President of the group, remains imprisoned in the Combinado de Guantánamo Prison. He had been sentenced in April 1997 to 18 months' imprisonment, charged with "resisting authority" and "disrespect".

There is no new information about Nestor Rodriguez' father, Ramón Rodriguez, or Rafael Fonseca Ochoa, also a member of Young People for Democracy, who were both threatened with arrest in April and May 1997 respectively.

Amnesty International is seeking the immediate and unconditional release of prisoners of conscience, Nestor Rodriguez Lobaina, Radamés Garcia de la Vega and Heriberto Leyva. The organization believes they have been detained solely for peacefully exercising their rights to freedom of expression, association and assembly.

Further recommended action: Please send telegrams/telexes/faxes/express/airmail letters: urging that Nestor Rodriguez Lobaina, Radamés Garcia de la Vega and Heriberto Leyva Rodriguez be immediately and unconditionally released, on the grounds that they are prisoners of conscience, detained solely for peacefully exercising their rights to freedom of expression, association and assembly; urging that Heriberto Leyva Rodriguez be granted immediate access to a lawyer of his choice; urging that no reprisals be taken against relatives and others who try to make these cases public.

Appeals to: (1) Attorney-General: (Salutation) (Sr Fiscal General/Dear Attorney General).

Dr. Juan Escalona Reguera, Fiscal General de la República, Fiscalia General de la República, San Rafael 3, La Habana, Cuba, [Telegrams: Fiscal General, Havana, Cuba], [Telex: 511456 fisge].

(2) Minister of Foreign Affairs: (Señor Ministro/Dear Minister), Sr Roberto Robaina González, Ministro de Relaciones Exteriores, Ministerio de Relaciones Exteriores, Calzada No. 360, Vedado, La Habana, Cuba, [Telegrams: Ministro Relaciones Exteriores, Havana, Cuba], [Telex: 511122/511464/512950], [Fax: 011 53 7 333085/011 53 7 335261].

(3) Minister of the Interior: (Señor Ministro/Dear Minister), General Abelardo Colomé Ibarra, Ministro de Interior, Ministerio del Interior, Plaza de la Revolución, La Habana, Cuba, [Telegrams: Ministro Interior, Havana, Cuba].

(4) Department of State Security: (Señor Director/Dear Sir), Sr Director, Departamento de Seguridad del Estado, Versalles, Santiago de Cuba, Cuba [Telegrams: Director, Seguridad del Estado, Santiago de Cuba, Cuba].

COPIES TO: *National Union of Jurists:* Unión Nacional de Juristas, Apartado 4161, La Habana 4, Cuba.

Editor of Granma (daily newspaper), Sr Jacinto Granda de Laserna, Granma, Apdo 6260, La Habana, Cuba.

For Urgent Action participants in the United States: Cuba has no embassy in the U.S. at present. To contact its interest in the U.S., write: Cuban Interests Section Mr. Fernando Remirez de Estenoz, 2630-16th St. NW, Washington, DC 20009.

Please send appeals immediately. Check with the Colorado office between 9:00 a.m. and 6:00 p.m., Mountain Time, weekdays only, if sending appeals after August 29, 1997.

July 22, 4:55 p.m. while dictating news to international news services, Lazaro Lazo and Cruz Lima, directors of the Agencia Patria news organizations in Camaguey and Ciego de Avila provinces, were detained and taken to an unknown destination.

July 22, Pascual Escalona Naranjo, National Coordinator of the Movimiento Pro Derechos Humanos Golfo de Guacanayabo, was detained under charges of dangerousness. His wife, Mirta Leyva Lopez, was threatened that she and her husband would lose custody of their 2 children by socially and morally deforming them and planting ideas in them contrary to those of a Communist education.

I think it is important to repeat what I just said. On July 22, when 2 dissidents were rounded up, they were told, the wife of Pascual Escalona Naranjo was told, that her 2 children, aged 10 and 8, would be taken from them because of their advocacy of democracy, their peaceful advocacy of democracy. Their children will be taken, your children will be taken away from you because of socially and morally deforming them. They say implanting ideas in them contrary to those with communist education.

This is unprecedented and unparalleled in history. Often people ask me why is it that Castro has lasted 38 years? There are many factors. But where in the world are peaceful pro democracy activists told that they are going to lose their children if they advocate democracy? Ninety miles away from the United States, in that land that the national media does not report what is going on. That is going on in Cuba, unprecedented and totally unconscionable.

July 24, Ricardo Gonzalez and Juan Antonio Sanchez Rodriguez, journalists for the independent news bureau Cuba Press, were assaulted by Cuban State Security. During the assault State Security agents stole their computer.

Today, July 28, my office received information that Jorge Garcia Perez Antonez and Jesus Chamber Ramirez have been transferred from the infamous Kilo 8 prison to unknown locations where their families cannot visit them, families do not know where they are. No one knows where they are.

Now, Mr. Speaker, a phenomenon that is common among Cuban political prisoners is the highest rate of cancer of prison population in the entire world.

When Leonel Morejon Almagro was first sentenced to the 15-month prison term in 1996 during which, by the way, around 70 of us here in the House, and I thank my colleagues who joined in that marvelous petition, so full of dignity seeking the Nobel Peace Prize for this young lawyer and pro democracy activist in Cuba, Leonel Morejon

Almagro. When he was first sentenced to 15 months, last time in 1996, he was placed in the same prison cell where the renown political prisoner, Sebastian Arcos, was previously placed. Arcos, that man who is such an exemplary leader and who now is in exile and very sick in Miami, was denied medical attention for cancer while being confined in that cell for 3 years.

Now, Mr. Speaker, during these days that I have mentioned in this survey with the partial, very limited list of human rights violations that have reached me, the thousands of others, the thousands of other Cuban political prisoners, continued suffering the same savage brutality that they, in fact, continue to suffer to this very moment.

Col. Enrique Labrada continues to receive electroshock torture at the Mazorra Institution for the mentally ill. Labrada was sent there after staging a pro democracy protest on June 21, 1995. Sergio Aguiar Cruz, Francisco Chaviano, Omar del Poso, Jose Miranda, Jesus Chamber Ramirez, and so many others remain in dungeons in the 176 known prisoners, 176 known prisons where pro democracy political prisoners are kept in the enslaved Island of Cuba.

Now I want to thank at this point the American Bar Association for naming 2 of these Cuban human rights activists as winners of the prestigious ABA Litigation Section International Human Rights Award, Rene Gomez Manzano and Leonel Morejon Almagro. Of course Almagro is today in prison, and Manzano, who served his 15 months sentence, has just been told that if he continues in his activities, I am sure he will continue in because he is extraordinarily brave and admirable, he has been threatened for those peaceful activities by the regime, as I have just stated, to 25, that he will be sentenced to 25 years.

I would like to insert at this point in the RECORD the award given by the ABA to these 2 distinguished Cuban lawyers and human rights activists, Mr. Speaker.

TWO CUBAN LAWYERS NAMED WINNERS OF PRESTIGIOUS ABA LITIGATION SECTION INTERNATIONAL HUMAN RIGHTS AWARD

CHICAGO, July 9—Two Cuban lawyers who have represented dissidents in human rights cases, and founded independent organizations seeking to promote the rule of law in Cuba, will receive the annual International Human Rights Award from the American Bar Association Section of Litigation, during the ABA Annual Meeting in San Francisco next month.

Rene Gomez Manzano and Leonel Morejon Almagro are the 1997 award recipients. ABA Section of Litigation Chair Barry F. McNeil will present the awards during a noon luncheon on Tuesday, Aug. 5, in the California West room of the Westin St. Francis Hotel. Michael Tigar, past chair of the Litigation Section and defense attorney for Oklahoma City bombing suspect Terry Nichols, will deliver the keynote address.

Gomez Manzano and Morejon Almagro are expected to attend the ceremony to accept their awards, provided they are allowed to travel to San Francisco and return to Cuba.

Gomez Manzano is the founder of Corriente Agramontista, an independent professional organization of lawyers in Cuba. Morejon Almagro is one of the founders of the Concilio Cubano, an umbrella organization of lawyers, journalists, accountants, economists and human rights activists.

The theme for the Litigation Section Meeting is, "Bridge to the Future: Advocacy in a High-Tech World." The Section's meeting is held in conjunction with the ABA 1997 Annual Meeting, July 31–Aug. 6.

"Award recipients have pursued the highest ideals of our profession in the face of extraordinary adversity," said Christopher Wall, chair of the nomination process. "These individuals face persecution for advocating rights we too often take for granted in the United States. We hope the award will provide international recognition that will help protect the award recipients from government reprisals."

The Section of Litigation award annually recognizes lawyers and judges who have made extraordinary contributions in foreign countries to the causes of human rights, the rule of law, and promotion of access to justice.

"These courageous lawyers should be commended for their tireless efforts, and for holding to the belief that all individuals have a right to a fair and unbiased judicial process. We are proud to honor Dr. Gomez Manzano and Dr. Morejon Almagro for their dedication and commitment to promoting justice for Cuban citizens."

In particular, the award recognizes the following contributions:

Rene Gomez Manzano, a Cuban lawyer, has worked for years defending cases involving human rights violations. He has openly criticized irregularities in court proceedings, and has been arrested and detained many times with no charges brought against him. He has been banned from the Supreme Court and expelled from his lawyers' collective. In 1990, Gomez Manzano helped organize the Corriente Agramontista, a group of lawyers willing to litigate political cases against the state. He has tried to register the organization as an independent law office responsible only to its clients and not the Cuban government. This request has been ignored, and meetings have been disrupted or prevented from taking place. The Corriente Agramontista seeks to reform Cuba's judicial system from within requiring the Cuban government to obey its own laws. Its 1991 manifesto calls for the establishment of a developed rule of law, an independent judiciary, and the democratization and decentralization of the system of state run law offices. In an article that appeared in the July 19, 1995, issue of American Lawyer, Gomez Manzano described the group's philosophy: "We are not of one political current. We are a movement at the service of the whole country, whether Socialist, Christian Democratic or whatever. We are simply lawyers, professionals."

Leonel Morejon Almagro, a Cuban lawyer, has faced repeated harassment for defending clients in cases against the government. In 1995 he was instrumental in establishing the Concilio Cubano, an umbrella organization composed of approximately 140 groups, including the Corriente Agramontista. The group's mission is to "promote a peaceful transition to a democratic constitutional state and the establishment of a legal framework to guarantee the observance of universally accepted human rights." The Concilio Cubano has sought legal recognition from the government, which has been denied. The government has engaged in a campaign of harassment against the organization and its members since its inception. This campaign intensified after the Concilio Cubano formally requested authorization from the Cuban government to hold a national meeting in February 1996. Morejon Almagro was arrested, tried without due process, and sentenced to 15 months in prison for "disrespect." During his detention, human rights organizations called for his release, and 57 congressmen signed a letter nominating him for the Nobel Peace Prize. Since his release only a few months ago, the Concilio Cubano has again petitioned the Cuban government requesting that the organization be allowed to meet, and Morejon Almagro has again been assaulted by government agents.

The Litigation Section of the American Bar Association includes approximately 60,000 trial lawyers, judges and others involved in all aspects of litigation and the dispute resolution process. The Litigation Section is dedicated to promoting justice both domestically and internationally and enhancing public understanding of and respect for the legal profession.

Also a brilliant and very impacting and important document named The Homeland, or The Nation, I guess, would be a better translation, the Nation Belongs To All, precisely by the four leaders of the Cuban dissidents task group. This statement is, as I say, of extraordinary importance. I thank Freedom House, commend Freedom House, for its translation and would encourage all my colleagues and those listening, watching through C–SPAN, to read this document.

Mr. Speaker, as I mentioned briefly before, July 13 was the third anniversary of perhaps the most heinous, cold-blooded crime, if it is possible to pinpoint any one crime of the Cuban tyrants in 38 years, the sinking of a boat full of refugees, and I do not think, I surely have never done this, I would like to read the names. There were four of the refugees who were missing, who are missing and are unaccounted for. Their names are not known. But 37 of the lost at sea that day are accounted for, and I would like to read their names and their ages.

These people, as I say, they had gone into a tugboat and were seeking to leave in 1994, July 13, and the order was given to sink them, and of course with power hoses they started trying to—that was how the aggression was first committed before these steel, other modern steel tugboats ran them and finally cracked opened the hull and this old tugboat sank, killing over 40 people.

But at the time that the power hoses began to be used against the refugees the refugees lifted some of the babies up so that they could see with the reflectors that they had children on board. That did not stop them. They continued with the power hoses, and of course then sank them, and more than 40 died. I insert these names into the RECORD, Mr. Speaker.

TUGBOAT MARCH 13

PASSENGER'S LIST, JULY 13, 1994

Juan Mario Gutierrez Garcia, age 11.
Giselle Borges Alvarez, age 4.
Eliesser Suarez, age 11.
Cindy Rodriguez Hernandez, age 2.
Jose Carlos Nicle Anaya, age 3.
Angel Rene Abreu Ruiz, age 3.
Caridad Leyva Tacoronte, age 4.
Yousel Eugenio Perez Tacoronte, age 11.
Gelen Martinez Enrique, age 6 months.
Yasel Perodin, age 11.
Liset Alvarez Guerra, age 24.
Lazaro Borges Briel, age 34.
Guillermo Cruz Martinez, age 46.
Joel Garcia Suarez, age 20.
Ernesto Alfonso Loureiro, age 25.
Amado Gonzalez Raices, age 50.
Fidencio Ramel Prieti Hernandez, age 50.
Rigoberto Peud Gonzalez, age 31.
Jorge Balmaseda Castillo, age 24.
Eduardo Suarez Esquivel, age 39.
Estrella Suarez Esquivel, age 45.
Omar Rodriguez Suarez, age 29.
Miralis Hernandez, age 26.
Rosa Maria Alcalde Puig, age 47.
Marta Carrasco, age 44.
Yaltamira Anaya, age 22.
Julia Caridad Ruiz Blanco, age 35.
Jorge, Arquimides Lebrigido Flores, age 28.
Leonardo Notario Gongora, age 27.
Marta Caridad Tacoronte Vega, age 36.
Mayulis Mendez Tacoronte, age 16.
Odalis Muños Garcia, age 20.
Mydalis Sanabria Cabrera, age 19.
Reynaldo Marrero, age 45.
Yuliana Enriquez Carrazana, age 23.
Pilar Almanza Romero, age 30.
Manuel Sanchez Gallol, age 59.
Mylena Labrada Tacoronte, age 3.
Susana Rojas Martinez, age 8.
Daney Estevez Martinez, age 3.
Yandi Gustavo Martinez Hidalgo, age 9.
Sergio Perodin, age 7.
Maria Victoria Garcia Suarez, age 28.
Mayda Tacoronte Vega, age 28.
Deysi Martinez Fundora, age 27.
Jusanny Tuero Sierra, age 20.
Janet Hernandez Gutierrez, age 19.
Jorge Luis Cuba Suarez, age 23.
Ivan Prieto Suarez, age 26.
Dariel Prieto Suarez, age 22.
Gustavo Guillermo Martinez Gutierrez, age 37.
Juan Gustavo Bargaza del Rino, age 39.
Juan Fidel Gonzalez Salinas, age 35.
Daniel Erik Herrera Diaz, age 21.
Eugenio Fuentes Diaz, age 28.
Arquimides Lebrrigido Gamboa, age 52.
Jorge Alberto Hernandez Avila.
Raul Ernesto Munos Garcia, age 23.
Reynaldo Marrero Carrazana.
Roman Lugo Martinez, age 36.
Sergia Perodin Almanza, age 38.
Frank Gonzalez Vazquez, age 20.
Modesto Almanza Romero, age 28.
Jose Fabian Valdez Coton, age 17.
Julio Cesar Dominguez Alcalde, age 32.
Pedro Francisco Crespo Galego, age 31.
Juan Bernardo Varela Amaro.
Armando Morales Piloto, age 37.

☐ 2245

They remain at the bottom of the sea about 7 miles out of Havana Harbor. The Cuban Government has never permitted anyone to go and seek the remains, to give them proper burial. Despite numerous requests from people within Cuba, as well as in the international community, for the Government to bring someone to justice, it has not, and of course it cannot, because it is the tyrant himself, the evidence dictates beyond all shadow of any doubt, who gave the order. So that is something that is going to have to be dealt with as soon as possible.

I would like to at this point also mention an article that did not come out in the press here, but did come out in the press in Madrid in the ABC newspaper, which is one of the most prestigious and oldest newspapers in Madrid.

A doctor in Cuba in charge of the AIDS center in Santiago, Las Vegas, near Havana, has admitted that over 100 young people in Cuba have been injected with the AIDS virus in an experiment; that 90 percent of them have died; that they were told that, at the time they were injected, that there was a good chance that there would be a vaccine, a cure, developed before anything would happen to them, and that in the interim, they would be in a five-star luxury resort.

This is an admission by Dr. Jorge Perez, the director of the AIDS treatment center at Santiago Las Vegas in Havana. I have heard nothing from the national media in the United States, nothing on CNN, and yet an admission from this Cuban doctor was published in the ABC newspaper, this monstrosity.

The doctor said, "We sinned from paternalism by presenting the AIDS detention center as a paradise." This monstrosity is something that I think the media has an obligation to bring to the international community and that the national media in the United States has an obligation to bring to the American people.

What we have, Mr. Speaker, is a tyrant whose jokes continue to be laughed at and his beard caressed by even some of our colleagues who go and visit there occasionally and laugh at his jokes, while his crimes are not even reported. The American people are not told about what he is doing.

Nevertheless, the instinct, the sense that the American people have about the fact that that tyrant is an enemy of the United States and a hater of his own people, is very strong and something that I think that history will see as a distinguishing characteristic of the American people, that ever wise, deeply wise American people.

Of course, the Cuban people will always be grateful for the sense of solidarity that has always come in that distinctive way from the people of this great Nation, the United States of America. I want to thank Assistant Secretary Jeffrey Davidow for stating, and I read it today, his remarks: "The hemisphere cannot reach its potential, cannot become whole, cannot be fully democratic, cannot fully confront the realities of economic globalism or meet the challenges of crime, narcotics, human rights abuses, and other transnational issues, when one nation, Cuba, remains undemocratic."

I thank him for that statement. It rings out as distinctive in this world, which demonstrates consistently such lack of solidarity and such lack of care, such lack of concern, such lack of awareness toward what is happening in the holocaust occurring 90 miles to that unarmed people, the Cuban people.

I think that obviously much more must be said, but, nevertheless, the statements of Secretary Davidow are to be commended and thanked. We will continue speaking, Mr. Speaker, on the reality of the Cuban tyranny, on human rights violations, on the fact that there is a cover-up going on by the Government, President Clinton, against the drug smuggling activities that the Cuban tyrant has engaged in.

My colleagues, the gentleman from Indiana, Mr. DAN BURTON, and the gentlewoman from Florida, Ms. ILEANA ROS-LEHTINEN, and I wrote a letter to General McCaffrey, the director of the Office of National Drug Control Policy, back in November, with page after page of evidence, and including other unclassified evidence that we have of Castro's participation in the drug trade.

We were very disappointed with his lack of response and also the lack of response of other agencies. There should be no contradiction between what the field people in south Florida tell us, and they have told us on tape of the fact that over 50 percent of the cocaine that comes into the United States in the Caribbean comes through or by Castro's Cuba, and the cover-up that we see time and time again from the top of the DEA and the White House.

That is unacceptable, and we are going to continue to talk about that, and we are going to have another Special Order soon specifically limited to this evidence that is being covered up of Castro's participation in the drug trade.

This is poisoning the youth of America, and for whatever reasons, of appeasement, of not wanting to confront Castro, a fear that he will release refugees, or whatever the fear is caused by, that appeasement is caused by, it is simply inexcusable that there is a cover-up of that dictatorship's participation in the drug trade.

So we will have another of these Special Orders in the next weeks, specifically on the evidence of Castro's participation in the drug trade and, thus, the cover-up that is occurring by the administration of the evidence that it knows, it has, of Castro's participation in the drug trade.

Suffice it to say at this point that there is an indictment ready to be filed by the U.S. attorney in the Southern District of Florida charging the Cuban Government as a racketeering enterprise, and 15 members of the hierarchy of the Cuban dictatorship, charging them with cocaine trafficking into the United States, and that because of a political decision, that indictment was put into a drawer and it has been hidden. It has not been authorized to be issued.

In addition to that, a drug trafficker who was arrested last year not only implicated Castro personally in multiple drug deals but agreed to go in under surveillance and do another deal with Castro, and the administration has shut that up as well.

So we will continue to talk about these subjects. The American people deserve it.

THE DANGERS OF THE PROPOSAL OF THE U.S. FISH AND WILDLIFE SERVICE TO INTRODUCE GRIZZLY BEARS INTO IDAHO

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Idaho [Mrs. CHENOWETH] is recognized for approximately 35 minutes, half the remaining time until midnight.

Mrs. CHENOWETH. Mr. Speaker, I am taken with the comments of my colleague, the gentleman from Florida [Mr. DIAZ-BALART]. He truly is a freedom-fighter, and I am very pleased that he brought these comments to the attention of the American people.

I want to speak on an entirely different issue, in an entirely different area of the world. I would like to begin my comments tonight, Mr. Speaker, with a joke. Members may have heard the joke. A preacher was being chased down the mountain by a grizzly bear. Just as the bear was about to catch him, the preacher fell to his knees and made a plea to God. He said, Oh, Lord, I implore you to make a Christian out of this bear. Shortly after this prayer, the grizzly bear immediately fell to his knees and proclaimed, Dear Lord, please bless this food I am about to eat.

Mr. Speaker, that was a joke, but, unfortunately, what I am about to share with Members tonight is not a joke, it is reality. I rise this evening to speak about the proposed introduction of these man-eating animals in my State.

Yes, that is true. I would say to my colleagues who are listening, if they have ever wondered why many Members in the West like me have real concerns about the current implementation of the Endangered Species Act, I beseech them to listen attentively to my comments. I think only then Members will begin to understand the sense of sometimes the absurd manner in which this act is being carried out by the Federal agencies. If there ever was an example of how out of touch our extreme environmental policies have become, this is it.

Quite simply, the U.S. Fish and Wildlife Service has actually prepared a plan to introduce grizzly bears, known by their Latin name as ursus horribilis, into a huge portion of my district.

Mr. Speaker, let me explain to the Members what the implications are of this proposal to the management policies of a significant portion of the State of Idaho. To help illustrate my point, I would like to draw Members' attention to this rather large map of Idaho that has marked in it the area that the Fish and Wildlife Service has designated as the recovery area for the grizzly bear under their plan to introduce the bear back into the State.

As we can see, this is an enormous area. It is almost 28.5 million acres. It includes 14 counties populated by nearly a quarter of a million people and has at least 13.2 million visitors a year. It is over one-third of the State of Idaho.

The grizzly bear recovery area runs very close to Boise, ID. It includes an area that has our University of Idaho in it. It has many populated areas in this area. Just to give Members an idea about how big this area is, let me give a comparison. In this area we could fit the States of Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, Vermont, and Rhode Island, into this area that we see colored in red on this map, plus have over 1 million acres to spare.

How would the introduction of the grizzly bear affect this massive area? The grizzly bear, in terms of management, is unlike any other species. In short, it is a huge and dangerous animal, and that is a huge and dangerous problem for us. The grizzly bear is, by its nature, a large predatory mammal that, provoked or unprovoked, can move very quickly to viciously attack a human or an animal. In addition, the grizzly has special dietary needs and requires a vast amount of area for its habitat, which can range between 10 square miles and 168 square miles, depending on the availability of food.

The Wildlife Management Institute states in its book "Big Game of North America, Ecology and Management," that, and I quote, "For most species, protection is an uncomplicated and effective method of preservation. When bears are totally protected, however, some individual bears can be aggressive towards people or cause damage to livestock and property, which makes imperative a different form of management."

The book cites several distinct human-related activities grizzly bear management needs to address in favor of the grizzly bear. These management considerations include the construction of town sites and populated areas, which by the way, already exist; campgrounds, which already exist; trails; roads; storage of food or bait, and garbage disposal; the allowance of too many people into prime bear habitat for a multitude of activity, such as simple living, hiking, fishing, hunting, camping, livestock management, and the allocation of space for forage, and other resources in areas heavily used by both bears and humans.

In essence, what introducing the unpredictable grizzly bear under the full protection of the Endangered Species Act means is that this large area that we see blocked in this map will experience a complete change in its lifestyle. People will not be able to behave or work in the way they used to in this area, in this part of Idaho. Roads normally open will be shut down. Hiking trails will be restricted. Camping areas will be closed. Hunting will be restricted. Livestock and logging practices will be dramatically altered.

All in all, in order for the bears to survive and diminish human risk, hundreds of square miles at any given time, depending on where the bear roams, would either have to be shut down or have human activity severely restricted.

Let me quote from a very interesting book about the behavior of grizzly bears, in a book titled "Alaska Bear Tales." The book states that, "A bear's nature is definitely interesting and different. They have their own individuality. No two bears will do the same thing in a given situation, and a bear may not do the same thing twice. But then again, though there will always be exceptions to the last statement, it would serve us well to commit it to memory."

I ask Members, Mr. Speaker, if every individual bear's behavior is so different, how in the world can the bureaucrats begin to come up with any workable management scheme for bears? It is just not going to work.

How does the Fish and Wildlife Service intend to answer that question? Their only answer is, and I will tell the Members straight out, it is by shutting down human activity in the area that we see on this colored map.

□ 2300

The changes would result from the existence of protected grizzly bears that would dramatically alter the management of this area in Idaho and some in Montana. This is an absolute perversion of the Endangered Species Act. This is a perfect example of how the legitimate goals of the act, once supported by almost everyone, have been twisted to fit the whims of a few who have a different view on how our land should be managed. It is a ploy that those who are directly affected by this misapplication of the act have come to resent.

Mr. Speaker, I would like to expound further on a very important element of the grizzly bear introduction and that is the danger these predators present to human beings. This aspect brings the grizzly bear introduction into a whole new realm of incomprehensibility of purpose and unmeasured cost.

Mr. Speaker, it is an undisputed fact that the grizzly bears tend to possess a propensity of violence toward humans and animals. As the Fish and Wildlife Service well documents, grizzly bears were almost exterminated from the lower 48 States, and this was not because there was a market for their fur or for their meat, because there was not, but simply because individuals who settled in the Great Plains in Idaho, Montana and California, whose flags bear the picture of an emblem of the grizzly bear, they all sought protection for their families and their domestic animals from what in their minds was the most terrifying of all animals in America.

While settlers may have recognized the majesty of these animals, they realized the horrible threat that they were, and there was no Federal act that stopped them from taking action to eliminate this threat. Thank goodness. Lewis and Clark described in their journals the absolute terror that they and the Indians had for these animals, the extreme frustration that they felt when they could not successfully kill the animals, even with several shots fired from their 18th century guns.

Mr. Speaker, I think that it is important in looking at this issue to share just how vicious the grizzly bears are to human beings. Let me warn you, what I am going to speak about is a bit gruesome but it is a real factor in this issue and it needs to be laid out there.

An adult grisly can weigh as much as 450 pounds. It can run up to 40 miles an hour over irregular terrain. It has a keen sense of hearing and an even keener sense of smell. The teeth are large and very, very sturdy, especially the canines, and although they are not particularly sharp, the power of the jaw muscles allow them to readily penetrate deep into soft tissues and to fracture facial bones and bones of the hand and forearm with ease.

The resulting trauma is characteristically a result of punctures with sheering, tearing, and crushing force. Claws on the front pads can be as long as human fingers and can produce significant soft tissue damage in a scrapping maneuver that results in deep parallel gashes. The bear paw is capable of delivering powerful forces, resulting in significant blunt trauma, particularly to the head and the neck region, the rib cage and the abdomen.

In many reported cases bears attack and then they begin to back off and wait and watch and again resume mauling the victim, sometimes going for the head, especially if they see movement.

The bears then wait and watch, once again, and then swipe claws across the genital areas to test signs of life. And this is typical. An unarmed person's only defense, say the experts, is to play dead and whatever, the experts advise, do not move. Unfortunately, if a bear is hungry or angered or if you happen to be between a bear and a cub or a pile of food, you may not have time to get down and play dead. When one studies bear attacks, it is easy to see why humans have developed a healthy fear of these animals.

Let me also note that while it is an unusual occurrence, grizzly bear attacks on humans do continue on a regular basis in areas where the bear exists. That is why we do not want it to exist in Idaho.

Grizzly bears have not become kinder and gentler with age. In fact, in the past few years, because more people are recreating in our forests and lands, documented attacks have increased.

Let me share with you some of these recent occurrences. In early September 1996, an individual hunting elk in an area a few miles north of Yellowstone was attacked without provocation. He was with another hunter, questioning the notion that bears only attacked individuals who are alone, and had part of his biceps bitten off.

In Alaska, where grizzly bear attacks occur on a regular basis, recently a woman and her husband were backpacking in a wilderness area near Fairbanks. The woman was attacked by a grizzly which resulted in her facial bones being smashed, her nose missing, her scalp shredded or gone, massive wounds in her legs and buttocks.

Also an American woman is suing the Canadian Government because of emotional and physical scars left from a grizzly rampage at a Canadian park campgrounds in 1995. A number of unreported bear encounters occurred shortly before the ranger and friends had their tents ripped through and were attacked by grizzly bears early in the morning, and the attack left the ranger with a number of disfiguring scars.

In August 1996, a man on a hiking trip was killed by a grizzly bear in Alaska. The man and his friends had taken all the suggested precautions in going into known bear country, such as wearing bear bells and making noise while they hiked through the brush. The attack was quick and the man was killed very rapidly.

In June 1996, an elderly man hiking a common trail in Glacier National Park while taking a rest was attacked by a grizzly bear leaving a gash in his scalp, a trail of holes down his back, and a broken leg bone. Park officials determined that the man had inadvertently invaded the bear's space and, therefore, it did not need to be relocated or killed.

In August 1996, an experienced backpacker was killed in the Yukon Territory by a grizzly bear. And in October 1995, a man hiking in British Columbia was attacked by a bear after taking off his shoes and socks near a stream. Also in October 1995, two hunters were killed by three grizzly bears in British Columbia and they were carrying out a carcass of elk. You cannot possibly expect to hunt, dress out game, and pack it out without having blood on your hands, blood on your clothes, an immediate attraction for grizzly bears.

In August 1996, a 9-year-old, 550-pound grizzly bear near the Yellowstone area was finally destroyed by park officials after killing dozens of cattle, preying on 10 calves alone in the 2 weeks before it was put to death. Since 1990, there have been 17 grizzly bear maulings in Glacier National Park, 5 maulings in Yellowstone Park.

One very compelling story is that of an 18-year-old boy, living not far from my district in Broadus, MT. His name is Bram Shaffer. He was hunting near Horseshoe Mountain, 10 miles north of Yellowstone, and he was walking along quietly, not calling out and certainly no bear calls, keeping his eyes mostly on the ground, when he stepped out of the stand of trees to find a grizzly bear already charging him. The 18-year-old had time to take four desperate steps, trying to get out of the way, when Bram's head was suddenly in the bear's mouth and then Bram later wrote, she threw me to the ground and started chewing on me like I was a big dog bone. She had my left thigh in her mouth, and she was shaking me around like a dog would a dish towel.

When it was over, Bram was alone in the woods. It was getting dark and beginning to rain. The temperature near freezing. The bear had bitten a chunk of meat from his right side under his arm about the size of a football. One hand and wrist were chewed up. The scalp was open to the bone. He was covered with blood but worst of all was his left thigh. It looked like someone had taken an axe to it again and again. Most of the big muscle that runs down the front of the thigh was hanging out of his jeans, peeled back from his leg for much of its length.

Most of us would have fainted at that sight but Bram tucked the muscle back in his jeans as best he could and tied it up with his hunting vest. He got up and he found that while he could not bend the leg, he could walk stiff legged using his wounded left knee as kind of a peg. He could not go uphill but he could go downhill and he had his rifle and 9 rounds so he knew he could fire signal shots and he knew they would come looking for him. Even after rescue, many hours later, his nightmare was not over. He waged a war against gangrene. As his doctors explained a bear's mouth is notoriously foul, especially one that had been feeding on intestines. But Bram managed to survive and after three operations expert surgeons managed to save his leg. About 35 percent of his thigh is simply gone. He walks with the help of crutches and will likely have a severe limp for the rest of his life.

Mr. Speaker, when I presented these types of concerns about human risk to the Fish and Wildlife Service at a recent hearing I held in the House Subcommittee on Forest and Forest Health, I was quite dumbfounded at the response that I was given by the officials in charge of this program. I asked them if they knew that there was a known killer in the forest, would they allow that killer to remain there to cause harm to human life and limb?

They, too, recognized the danger of grizzly bears. However, they brushed the threat off as being rare and part of the thrill of being in the wild. They rationalized that putting grizzly bears in the woods only makes it a part of the other natural dangers that anyone must contend with when they venture out into the wide open. Even with their plan they estimate that there could be about one human injury or death each year.

Let me repeat, the Fish and Wildlife Service is planning for about one human injury that could result in death due to the grizzly every single year.

Mr. Speaker, I have to say that I was mystified by that response. I ask this House, Mr. Speaker, is introducing this predator, one that is not threatened with extinction, worth the cost of even one human life? Is it worth even the cost Bram Shaffer and his family have had to pay for his injuries?

Mr. Speaker, using this same logic introducing the grizzlies into Idaho is like pouring toxic substance into a water supply. It may only kill one in 10,000 or so, but it still is not a good thing to do. And in addition, knowingly doing this makes one liable for serious personal injury claims involving negligent disregard for human life and safety. I would like to share with you how a dangerous instrumentality is defined by law. Keep in mind that these are the types of definitions created through case law that are used when liability cases are considered in court.

The Black's Law Dictionary defines a dangerous instrumentality as anything which has the inherent capacity to place people in peril, either in itself or by careless use of it. Due care must be used to avoid injury to those reasonably expected to be in proximity. And it goes on to say, "in certain cases absolute liability may be imposed."

Mr. Speaker, based on what I have described to you, can introducing the deadly grizzly bear into the human environment be construed to mean anything differently than the inherent capacity to place people who are in the proximity in peril? I think not.

What this clearly means to me is that introducing a dangerous predator in a human environment will undoubtedly open up the prospect of making the Government or its personnel liable in courts from any resulting death or injury. This could potentially be very costly to the taxpayers.

Let me say for the record, Mr. Speaker, not one human death or injury resulting from a grizzly bear attack is acceptable to this Congressman. In fact, it should not be accepted by anyone who values human life. I do not want to have to stand up before a spouse, a parent, a child, brother, or sister who have lost their loved one because of a rare occurring brutal grizzly bear attack and explain that this tragedy would not have occurred had we not introduced this dangerous animal into Idaho in the first place.

☐ 2315

In addition, for those who visit and work in this beautiful area, the threat of abrupt death or injury, no matter how unlikely it may seem, will also always be in the back of their minds. When we hike on our trails, when we sleep in our tents or go about our business, we will always have to contend with the possibility that we have accidentally stepped in the pathway between a mother grizzly and her cub, an often fatal error.

Mr. Speaker, with all of the concerns that I have shared tonight, and believe me this is not an easy special order speech to give because it is so unpleasant, but it should come as no small wonder that the opposition in Idaho against this misguided proposal is overwhelming and decisive. In fact, every single elected official in Idaho, and that includes the entire congressional delegation, the Governor, the entire State House, the Attorney General, every State legislator, with the exception of one who voted against a resolution opposing the grizzly bear introduction, all the county commissioners, the sheriffs, so on and so forth, are adamantly opposed to the introduction of grizzly bears even as an experimental population.

And, remember, Mr. Speaker, they are not in danger of extinction. Even the head of the Idaho Fish and Game Department has publicly stated that, under the direction of the Governor, he will not issue permits to allow the bears into this State, and yet the program goes on. This is utter arrogance, utter nonsense, and a total misexpenditure of the American taxpayer.

In addition, 90 percent of the people who live, recreate and work in the affected area are dead set against this proposal. Campers and hikers are concerned, for obvious safety reasons, and because many of the trails in areas would be made off limits. Hunters are also concerned about dramatic reductions in the game animal population. Ranchers are concerned about loss of cattle and road closures, and private property owners are deeply concerned about bears foraging too close to their homes.

Overall, people are not only afraid of the immediate threat, and I mean afraid of the immediate threat of having bears in their backyards, but also being subject to severe restrictions in accessing the forest and lands both for recreational and industrial purposes.

Mr. Speaker, what part of "no" does the Fish and Wildlife not understand about this crazy program? Amazingly, despite being fully aware of the State's solidarity against their proposal, the Fish and Wildlife Service is moving forward with their plans to introduce these bears. What is even more incredible and even more unbelievable is that the way they are addressing the State's concerns.

The preferred alternative for the introduction of the bear is to turn the day-to-day management of these animals over to the State and community as part of a citizens management committee. I can tell my colleagues the State does not want them. But what that really means is that the management and enforcement of an ill-advised and hazard-filled program will be passed to individuals, some of whom have strenuously opposed the very idea of introduction from the beginning.

On its face, it is utterly preposterous. How will the local citizens feel when their county government has to close numerous roads and trails because it is bear habitat, grizzly bear habitat? Will the local governments be able to handle the cost of litigation coming from groups seeking costs of damages caused by the bear, or from environmental groups who feel that there are not enough restrictions on land use?

How will local law enforcement deal with the dilemma of prosecuting a rancher who has killed one of the bears to protect his livestock? My colleagues may say the Endangered Species Act allows for ranchers to protect their property or their life. Well, ask John Schuler, a rancher in Montana, who early one February morning was awakened to the unmistakable sound of a grizzly bear in his sheep pens. He got up and went outside and fired a couple of shots and, sure enough, a couple of grizzlies bounded out of the sheep pens, and the sheep were piling up on one end.

Well, John Schuler stayed out there for 2 or 3 hours with the sheep and he did not see any more signs of the grizzly so he decided to go back to get an hour or so of sleep before dawn. As he was going back to his house, suddenly out of the dark rose a grizzly bear with his paws in the air and he growled. John Schuler did what any human being would do with a gun in his hand: He shot the bear.

Well, the bear came down, and there was no stirring or movement, so John Schuler went on and went ahead to his home to get a couple of winks of sleep, deciding he would take care of the carcass, notify the proper agencies in the morning, and so he did. But when he came out in the morning the grizzly bear was gone and all there was was a trail of blood into the woods.

Well, John Schuler got his gun and dogs and went into the woods. He had not been there long when a wounded grizzly bear charged him, bent on killing John Schuler. Well, this time John Schuler shot the bear and made sure that the bear was dead. He notified the agencies and they came out and did the necessary investigation. And lo and behold, Fish and Wildlife Service sued John Schuler for the intentional taking of an endangered species.

One might think that case would be easy to defend. In fact, one of America's finest litigating organizations, the Mountain States Legal Foundation, defended John Schuler. But in the lower court they lost, and that issue is on appeal now. But they lost and John Schuler was fined.

The judge reasoned that when John Schuler shot the bear, when the bear rose up and growled at him when he was going back to his home, the judge reasoned that that was a greeting; a greeting, Mr. Speaker. And what about when the bear came out of the bushes bent on killing John Schuler? Did he not have a right to defend his life? Well, the judge reasoned that the bear was provoked by John Schuler's actions the night before, and so the bear was doing only what bears normally do when they are provoked: They kill humans.

No, we must do something in this Congress to make sure that we begin to put the Endangered Species Act back on a stable and focused plan.

I would like to make one last point, Mr. Speaker, that even makes this whole idea absurd. The introduction of the grizzly bear into Idaho is not even necessary, as I have said before, for their survival or even the recovery of the species. Let me say that again. For the fourth time, the introduction of the grizzly bear in Idaho is not even necessary for their survival or even the recovery of the species.

The agency has arbitrarily chosen this area to introduce grizzly bears, not because the species is in danger of extinction but because they have determined this area is suitable habitat and historically inhabited by grizzly bears.

Just wait, Mr. Speaker, until they try to introduce the grizzly bear into the Great Plains or California. Keep in mind, Mr. Speaker, grizzly bears currently inhabit and are beginning to thrive in such areas as Yellowstone Park and the Cabinet-Yaak Mountains in Montana, and are already currently protected by the Endangered Species Act. In addition, the grizzly bear numbers in the tens of thousands in Canada and Alaska.

In other words, Mr. Speaker, where ursus horribilis exists, there is no threat of extinction. However, because they are not where the Government thinks they may have possibly existed, and where the Government thinks in their misguided wisdom that they should be now, which according to the Fish and Wildlife Service is most of the Western United States, the Endangered Species Act requires them to expend taxpayer resources to eventually return them to these areas, or so they think the ESA requires them.

This, in my opinion, is not an appropriate utilization of the act or taxpayers' money. In fact, I would like to read from the act itself, the section that delineates the process of introducing experimental populations which the Service is citing as their authority for this proposed action.

It states: "Before authorizing the release of any experimental population, the Secretary shall by regulation identify the population and determine, on the best available information, whether or not such a population is essential to the continued existence of an endangered species or a threatened species."

Mr. Speaker, is the introduction of the grizzly bear into the Bitterroot area in Idaho essential to the continued existence of the grizzly bear as required by this section? Clearly, Mr. Speaker, it is not.

Further, it might surprise my colleagues to know that when ESA was reauthorized in 1978, the Congress was concerned about the unnecessary expansion, back then, 9 years ago, the unnecessary expansion of the grizzly bear habitat in the West, and even addressed this concern in the committee report that accompanied the act.

That is surprising, is it not? Allow me to read from the 1978 congressional report.

"The committee is particularly concerned about the implications of this policy where extremely large land areas are involved in a critical habitat designation. For example, as much as 10 million acres of Forest Service land is involved in a critical habitat being proposed for the grizzly bear in the Western United States. Much of the land involved in this proposed designation is not habitat that is necessary for the continued survival of the bear."

We do not have just 10 million acres, Mr. Speaker, that they are proposing here. We can set five eastern States inside this area. Clearly, the agency is ignoring what the congressional intent is and what the Congress specifically addressed in 1978, and clearly Congress had in mind the unnecessary expansion of grizzly habitat when it reauthorized the Endangered Species Act in 1978.

The real question is why the agencies blatantly disregard the explicit congressional intent in this matter and have moved forward in designating this massive area in Idaho and Montana for the grizzly bear, driven on by special interest national environmental groups.

Mr. Speaker, I would venture to say that any Member of this Chamber, whether they are Democrat or Republican, eastern or western, conservative or liberal, if faced with the possibility of having ursus horribilis introduced into their district, I would be happy if they would stand up, as I have, and vigorously object to this. If there is one in this body who feel that they could defend having the bears in their district, please see me and I think we can arrange something. Somehow, I doubt that there is such a Member.

If Members are among those who would oppose this action in their district, then I would implore them, any of the Members of this body, to join me in stopping this completely unnecessary and costly action from happening in my district. They can do so by cosponsoring H.R. 2162, a bill that I have introduced that simply would prohibit the reintroduction of grizzly bears into the Bitterroot ecosystem in east central Idaho.

With my colleagues' help we can stop this nonsense by the Fish and Wildlife Service and work on a more legitimate use of the Endangered Species Act. Continuing these efforts to introduce dangerous predators where millions of people live and work will only serve to give ESA another black eye and turn more people against the environmental policies of this administration.

I hope that in my speech tonight, that I have been able to educate my colleagues with some very strong evidence of how the policies instituted under the Endangered Species Act have completely gone adrift. I also hope that it will drive my colleagues, as it has me, to come together and to rein in this extreme environmental policy that we now see running rampant in some of our agencies, and come up with one that addresses the real needs of our environment, while at the same time respecting the lives and livelihoods of those who are affected by our environmental policies.

It can be done, Mr. Speaker. It must be done. And with all of our help, working together, it will be done.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORBES (at the request of Mr. ARMEY), for today and the balance of the week, on account of his father's death.

Mr. SCHIFF (at the request of Mr. ARMEY), for today and the balance of the week, on account of medical reasons.

Ms. EVANS (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. YATES (at the request of Mr. GEPHARDT), for today after 7 p.m., on account of personal reasons.

Mr. GONZALEZ (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical reasons.

Mr. RUSH (at the request of Mr. GEPHARDT), for today, on account of airline cancellation due to inclement weather.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at the request, of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. HUTCHINSON, for 5 minutes, on July 29.

Mr. HILL, for 5 minutes, on July 29.

Mr. GIBBONS, for 5 minutes, on July 29.

Ms. ROS-LEHTINEN, for 5 minutes, on July 29.

Mr. KASICH, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, on July 29.

Mr. GOSS, for 5 minutes, on July 29.

Mr. DUNCAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. CLAYTON) and to include extraneous matter:)

Mr. DEFAZIO.
Mr. HAMILTON.
Mr. BENTSEN.
Mr. LANTOS.
Mr. MILLER of California.
Mr. CLEMENT.
Mrs. CARSON.
Mr. JOHNSON of Wisconsin.
Mr. CONYERS.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. FORBES.
Mr. SOLOMON.
Mr. SCHIFF.
Mr. LEWIS of California.
Mr. BILIRAKIS.
Mr. RAMSTAD.

(The following Members (at the request of Mrs. CHENOWETH) and to include extraneous matter:)

Mr. COSTELLO.
Mr. BALLENGER.
Mr. PACKARD.
Mr. GREEN.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 833. An act to designate the Federal building courthouse at Public Square and Superior Avenue in Cleveland, Ohio, as the "Howard M. Metzenbaum United States Courthouse"; to the Committee on Transportation and Infrastructure.

S. 1000. An act to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse"; to the Committee on Transportation and Infrastructure.

S. 1043. An act to designate the United States courthouse under construction at the corner of Las Vegas Boulevard and Clark Avenue in Las Vegas, Nevada, as the "Lloyd D. George United States Courthouse"; to the Committee on Transportation and Infrastructure.

S. Con. Res. 43. Concurrent resolution urging the United States Trade Representative immediately to take all appropriate action with regards to Mexico's imposition of antidumping duties on United States high fructose corn syrup; to the Committee on Ways and Means.

□ 2330

ADJOURNMENT

Mrs. CHENOWETH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 29, 1997, at 9 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4367. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Sheep Promotion, Research, and Information [No. LS–97–002] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4368. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Popcorn Promotion, Research, and Consumer Information Order [FV–96–706FR] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4369. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Carolina and Certain Other Marketing Areas; Order Amending the Orders [Docket No. AO–388–A9, et al.; DA–96–08] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4370. A letter from the Acting Administrator, Agricultural Research Service, transmitting the Service's final rule—National Arboretum [7 CFR Part 500] received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4371. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—User Fees; Agricultural Quarantine and Inspection Services [Docket No. 96–038–3] (RIN: 0579–AA81) received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4372. A letter from the Administrator, Cooperative State Research, Education, and Extension Service, transmitting the Service's final rule—1890 Institution Capacity Building Grants Program; Administrative Provisions (RIN: 0524–AA03) received July 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4373. A letter from the Administrator, Cooperative State Research, Education, and Extension Service, transmitting the Service's final rule—Higher Education Challenge Grants Program; Administrative Provisions (RIN: 0524–AA02) received July 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4374. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Pesticide Tolerances for Emergency Exemptions [OPP–300510; FRL–5729–3] (RIN: 2070–AB78) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4375. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Lambda-cyhalothrin; Time-Limited Pesticide Tolerance [OPP–300509; FRL–5728–8] (RIN: 2070–AB78) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4376. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid; Pesticide Tolerances for Emergency Exemptions [OPP–300511; FRL–5729–4] (RIN: 2070–AB78) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4377. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Vinclozolin; Pesticide Tolerance [OPP–300507; FRL–5727–9] (RIN: 2070–AB78) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4378. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Azoxystrobin; Pesticide Tolerances [OPP–300508; FRL–5728–3] (RIN: 2070–AB78) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4379. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Fomesafen; Pesticide Tolerances for Emergency Exemptions [OPP–300512; FRL–5729–5] (RIN: 2070–AB78) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4380. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Disaster Set-Aside Program—Second Installment Set-Aside [Workplan No. 96–051] (RIN: 0560–AE98) received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4381. A letter from the Acting Executive Director, U.S. Commodity Futures Trading Commission, transmitting the Commission's final rule—Interpretation Regarding Use of Electronic Media by Commodity Pool Operators and Commodity Trading Advisors for Delivery of Disclosure Documents and Other Materials [17 CFR Part 4] received July 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4382. A letter from the Secretary of Agriculture, transmitting a report of a technical violation of the Anti-Deficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4383. A letter from the Director, Defense Finance and Accounting Service, transmitting notification that the Defense Finance and Accounting Service (DFAS) is modifying the scope of the cost comparison study of accounting functions supporting the Defense Commissary Agency (DeCA), pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

4384. A letter from the Assistant Secretary, Department of the Navy, transmitting notification of the Secretary's intent to study a commercial or industrial type function performed by 45 or more civilian employees for possible outsourcing, pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

4385. A letter from the Secretary of Defense, transmitting the Secretary's certification that the current Future Years Defense Program (FYDP) fully funds the support costs associated with the H-60 multiyear program through the period covered by the FYDP, pursuant to 10 U.S.C. 2306b(i)(1)(A); to the Committee on National Security.

4386. A letter from the Acting Comptroller General, General Accounting Office, transmitting a report entitled "FINANCIAL AUDIT: Panama Canal Commission's 1996 and 1995 Financial Statements" [GAO/AIMD-97-92] July 1997, pursuant to 31 U.S.C. 9106(a); to the Committee on National Security.

4387. A letter from the Director, Administration and Management, Department of Defense, transmitting the Department's final rule—Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Extension of the Active Duty Dependents Dental Plan to Overseas Areas [DoD 6010.8–R] (RIN: 0720–AA36) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

4388. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Truth in Negotiations and Related Changes [DFARS Case 95–D708] received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

4389. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting the annual report of the National Advisory Council on International Monetary and Financial Policies for fiscal year 1992, pursuant to 22 U.S.C. 284b, 285b(b), 286b(b)(5), 286b–1, 286b–2(a), and 290i–3; to the Committee on Banking and Financial Services.

4390. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Procedure for Imposing Assessments on the FHLBanks [No. 97–42] (RIN: 3069–AA51) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

4391. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 514(a) of the Housing Act of 1949 to expand the entities eligible for farm labor housing loans to include limited partnerships, in which the general partners are nonprofit entities; to the Committee on Banking and Financial Services.

4392. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 173, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

4393. A letter from the Secretary of Education, transmitting Final Regulations—Direct Grant Programs, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

4394. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Direct Grant Programs (RIN: 1880–AA76) received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4395. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the Energy Information Administration's Annual Report to Congress 1996, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Commerce.

4396. A letter from the Executive Vice President and Chief Operating Officer, Corporation for Public Broadcasting, transmitting the annual report on the provision of services to minority and diverse audiences by public broadcasting entities and public telecommunications entities, pursuant to Public Law 100–626, section 9(a) (102 Stat. 3211); to the Committee on Commerce.

4397. A letter from the Acting General Counsel, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products; Fluorescent and Incandescent Lamp Test Procedures [Docket No. EE–RM–220–IF] (RIN: 1904–AA61) received July 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4398. A letter from the Acting General Counsel, Department of Energy, transmitting the Department's final rule—Acquisition Regulations; Department of Energy Management and Operating Contracts [1991–AB–28] received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4399. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to Criteria for Municipal Solid Waste Landfills [FRL–5275–3; FRL–5865–3] (RIN: 2050–AE24) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4400. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Revisions to the Tennessee SIP Regarding Prevention of Significant Deterioration and Volatile Organic Compounds [TN189–1–9730(b); TN194–1–9731(b); TN198–1–9732(b); FRL–5859–7] received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4401. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; 15% Rate of Progress Plan and Contingency Measures for the Cecil County Nonattainment Area [MD 038–3016; FRL–5864–9] received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4402. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Minnesota [MN44–01–7269a; FRL–5861–6] received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4403. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of State Implementation Plans; Vermont: PM10 Prevention of Significant Deterioration Increments [VT–01–015–01–1217(a); A–1–FRL–5859–9] received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4404. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Wisconsin [WI66–01–7242; FRL–5861–8] received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4405. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service [CC Docket No. 97–21; CC Docket No. 96–45] received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4406. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Radiological Criteria for License Termination (RIN: 3150–AD65) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4407. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Performance Improvement 1997: Evaluation Activities of the U.S. Department of Health and Human Services," pursuant to section 241(b) of the Public Health Service Act; to the Committee on Commerce.

4408. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 08–97 for U.S. involvement in the NATO Tactical Communications (TACOMS) in the Land Combat Zone Post-2000, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

4409. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Taiwan (Transmittal No. DTC–83–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4410. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Russia, Ukraine and Norway (Transmittal No. DTC–16–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4411. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Japan (Transmittal No. DTC–43–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4412. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Turkey (Transmittal No. DTC–64–96), pursuant to 22

U.S.C. 2776(c); to the Committee on International Relations.

4413. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Turkey (Transmittal No. DTC-61-97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4414. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Turkey (Transmittal No. DTC-25-97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4415. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the Federation of Bosnia and Herzegovina (Transmittal No. DTC-66-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

4416. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

4417. A letter from the Administrator, U.S. Agency for International Development, transmitting the policy justification for a proposed transfer of funds from the Development Assistance account to the account for Operating Expenses of the U.S. Agency for International Development, pursuant to section 652 of the Foreign Assistance Act of 1961; to the Committee on International Relations.

4418. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List [97-014] received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4419. A letter from the Director of Benefits, Farm Credit Bank of Texas, transmitting the annual report for the Farm Credit Bank of Texas Pension Plan for 1996, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

4420. A letter from the Director, Office of Personnel Management, transmitting a report on Physicians Comparability Allowances, pursuant to Public Law 103-114; to the Committee on Government Reform and Oversight.

4421. A letter from the Administrator, Small Business Administration, transmitting the semiannual report on activities of the Inspector General for the period October 1, 1996, through March 31, 1997, and the semiannual report of management on final actions, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

4422. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Final Rule for 13 Plant Taxa from the Northern Channel Islands, California (RIN: 1018-AD39) received July 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4423. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 1997 Closure [Docket No. 970612136-7136-01; I.D. 071797B] received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4424. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System [Docket No. 970623152-7152-01; I.D. 061897A] (RIN: 0648-AJ57) received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4425. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's final rule—Final Guidelines for Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (RIN: 1105-AA50) received July 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4426. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Mandatory English-as-a-Second Language Program [BOP-1013-F] (RIN: 1120-AA19) received July 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4427. A letter from the Acting Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting the Department's final rule—Danger Zone, Pacific Ocean, Naval Air Weapons Station, Point Mugu, Ventura County, California [33 CFR Part 334] received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4428. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Streamlined Procedures for Modifying Approved Publicly Owned Treatment Works Pretreatment Programs [FRL-5859-8] (RIN: 2040-AC57) received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4429. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Veterans Education: Approval of Training by Independent Study, Including Television (RIN: 2900-AI34) received July 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4430. A letter from the Secretary of Commerce, transmitting the Annual Report of the Secretary of Commerce to the Congress for the fiscal year ending September 30, 1996, pursuant to 15 U.S.C. 1519; jointly to the Committees on Commerce, Ways and Means, Government Reform and Oversight, the Judiciary, Science, Transportation and Infrastructure, Banking and Financial Services, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GEKAS: Committee on the Judiciary. H.R. 1596. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes (Rept. 105-208). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1855. A bill to establish a moratorium on large fishing vessels in Atlantic herring and mackerel fisheries; with an amendment (Rept. 105-209). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 29. A bill to designate the Federal building located at 290 Broadway in New York, NY, as the "Ronald H. Brown Federal Building" (Rept. 105-210). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 824. A bill to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the "Howard T. Markey National Courts Building" (Rept. 105-211). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 1851. A bill to designate the U.S. courthouse located at 200 South Washington Street in Alexandria, VA, as the "Martin V. B. Bostetter, Jr. United States Courthouse" (Rept. 105-212). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 198. Resolution providing for consideration of the bill (H.R. 2266) making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-213). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 199. Resolution providing for the consideration of the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-214). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SANDERS:

H.R. 2278. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and to provide for an increase in such wage based on the cost of living; to the Committee on Education and the Workforce.

By Mr. SANDERS (for himself, Mr. LEWIS of Georgia, Mr. HILLIARD, Ms. NORTON, Mr. OWENS, Mr. BARRETT of Wisconsin, Ms. FURSE, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. WOOLSEY):

H.R. 2279. A bill to amend title 10, United States Code, to establish limitations on taxpayer-financed compensation for defense contractors; to the Committee on National Security.

H.R. 2280. A bill to establish limitations on the ability of a Federal agency to pay a contractor under a contract with the agency for the costs of compensation with respect to the services of any individual; to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLEMENT (for himself, Mr. DUNCAN, Mr. ETHERIDGE, Mr. HALL of Ohio, Mr. WOLF, Ms. LOFGREN, and Mr. SMITH of New Jersey):

H. Con. Res. 127. Concurrent resolution expressing the sense of the Congress that the Nation must place greater emphasis on helping young Americans to develop habits of good character that are essential to their own well-being and to that of our communities; to the Committee on Education and the Workforce.

By Mr. PETERSON of Pennsylvania (for himself, Mr. ENGLISH of Pennsylvania, Mr. MURTHA, Mr. DOYLE, and Mr. COYNE):

H. Con. Res. 128. Concurrent resolution recognizing and honoring the crew members of the U.S.S. Pittsburgh for their heroism in March 1945 rendering aid and assistance to the U.S.S. Franklin and its crew; to the Committee on National Security.

By Mr. DINGELL (for himself, Mr. MARKEY, and Ms. LOFGREN):

H. Res. 200. Resolution expressing the sense of the House of Representatives that the Federal Government should not withhold universal service support payments; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

156. The SPEAKER presented a memorial of the Senate of the State of Nevada, relative to Senate Joint Resolution No. 18 urging Congress to reform the Food and Drug Administration to ensure that health care products, therapies and cures are available to the public in a timely manner; to the Committee on Commerce.

157. Also, a memorial of the Senate of the State of Nevada, relative to Senate Joint Resolution No. 16 urging interested public and private entities to work cooperatively for the establishment and operation of public shooting ranges and recreational facilities in Clark County, Nevada; to the Committee on Resources.

158. Also, a memorial of the Senate of the State of Nevada, relative to Senate Joint Resolution No. 13 urging Congress to provide for a bridge with four traffic lanes to serve as a bypass to the existing highway over Hoover Dam; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 15: Mr. TURNER.

H.R. 26: Mr. LUCAS of Oklahoma, Mr. GEKAS, Mr. OBERSTAR, Mr. CHRISTENSEN, Mr. PETRI, Mrs. EMERSON, and Mr. LOBIONDO.

H.R. 40: Mr. WATT of North Carolina.

H.R. 55: Mr. LAZIO of New York and Mrs. MCCARTHY of New York.

H.R. 58: Mr. TURNER and Mr. FOX of Pennsylvania.

H.R. 291: Ms. KILPATRICK, Mr. GONZALEZ, Mr. JACKSON, Mr. OBERSTAR, Mr. MCGOVERN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GUTIERREZ, Mr. MCDERMOTT, Mr. WYNN, Ms. MILLENDER-MCDONALD, and Mr. BECERRA.

H.R. 648: Ms. RIVERS.

H.R. 693: Mr. SESSIONS.

H.R. 715: Mr. MCCOLLUM and Ms. SANCHEZ.

H.R. 836: Mrs. THURMAN.

H.R. 859: Mr. CANADY of Florida.

H.R. 922: Mr. GUTKNECHT.

H.R. 923: Mr. GUTKNECHT.

H.R. 983: Mr. BONIOR.

H.R. 1049: Mr. LEWIS of Georgia.

H.R. 1059: Mr. HOEKSTRA and Mr. WELDON of Florida.

H.R. 1060: Mr. METCALF, Mr. GORDON, Mr. GREEN, Mr. KLINK, Mr. JOHN, Mr. WHITE, Mr. FARR of California, Mr. FOX of Pennsylvania, Mrs. CLAYTON, Mr. INGLIS of South Carolina, Mr. SNYDER, and Mr. COOKSEY.

H.R. 1063: Mr. LEWIS of Georgia and Mr. FRANKS of New Jersey.

H.R. 1079: Ms. RIVERS, Mr. FALEOMAVAEGA, Mr. ALLEN, Mr. POSHARD, Mr. VISCLOSKY, Ms. VELÁZQUEZ, Mr. STRICKLAND, Mr. MCHALE, Mr. BARCIA of Michigan, Mr. FILNER, and Mr. UNDERWOOD.

H.R. 1140: Mr. BOYD.

H.R. 1159: Mr. DELLUMS.

H.R. 1166: Mrs. THURMAN, Ms. SLAUGHTER, Mr. RUSH, Mr. CALVERT, Mr. DEUTSCH, and Mr. RIGGS.

H.R. 1175: Mr. KIM.

H.R. 1283: Mr. ADAM SMITH of Washington.

H.R. 1289: Mr. JEFFERSON, Mr. MATSUI, Mr. KILDEE, Mr. FOLEY, and Mr. NEAL of Massachusetts.

H.R. 1311: Mr. LEWIS of Georgia.

H.R. 1329: Ms. CARSON.

H.R. 1349: Mr. LEWIS of Georgia.

H.R. 1355: Mr. LEWIS of Georgia.

H.R. 1356: Mr. FRANK of Massachusetts and Mr. SMITH of Oregon.

H.R. 1357: Mr. FRANK of Massachusetts.

H.R. 1363: Mr. DAVIS of Illinois, Mr. BROWN of California, Ms. LOFGREN, and Mr. DELLUMS.

H.R. 1364: Mr. DAVIS of Illinois, Mr. BROWN of California, Ms. LOFGREN, and Mr. DELLUMS.

H.R. 1398: Mr. WOLF and Mr. BURTON of Indiana.

H.R. 1410: Mrs. KELLY.

H.R. 1425: Mr. LEWIS of Georgia.

H.R. 1428: Mr. SHAW.

H.R. 1437: Mr. ROTHMAN.

H.R. 1450: Mr. MANTON.

H.R. 1524: Mr. BARR of Georgia.

H.R. 1542: Mr. ENSIGN, Mr. CALVERT, and Mr. BOYD.

H.R. 1596: Mr. KIM.

H.R. 1616: Mr. WAXMAN, Mr. RUSH, Mrs. CLAYTON, and Mr. FILNER.

H.R. 1628: Mr. WEYGAND, Mr. KENNEDY of Rhode Island, Mr. MCGOVERN, and Mr. CALVERT.

H.R. 1665: Mr. STUMP, Mr. BARRETT of Wisconsin, and Mr. FILNER.

H.R. 1679: Mr. MURTHA.

H.R. 1766: Mr. STENHOLM.

H.R. 1773: Mr. STENHOLM.

H.R. 1799: Mr. MCHUGH and Mr. NEY.

H.R. 1836: Mr. GILMAN and Mr. SOUDER.

H.R. 1880: Mr. PASCRELL, Mr. PETRI, and Mrs. MINK of Hawaii.

H.R. 1885: Mr. BORSKI.

H.R. 1903: Mr. BARCIA of Michigan and Mr. CAPPS.

H.R. 1913: Mr. SNYDER and Mr. KANJORSKI.

H.R. 2072: Mr. BARTON of Texas, Mr. SMITH of Texas, and Mr. FROST.

H.R. 2103: Mr. RYUN.

H.R. 2112: Mr. MURTHA.

H.R. 2116: Mr. VENTO, Mrs. MALONEY of New York, Mr. RANGEL, Mr. SPRATT, Mr. MARTINEZ, Mr. DAVIS of Illinois, Mr. WATTS of Oklahoma, Mr. DAN SCHAEFER of Colorado, and Mr. SAWYER.

H.R. 2129: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. COSTELLO, Mr. SABO, Mr. STOKES, Mr. PORTMAN, Mr. COLLINS, and Mr. GILLMOR.

H.R. 2135: Mr. VISCLOSKY, Mr. UNDERWOOD, and Mr. EVANS.

H.R. 2162: Mr. GOODE, Mr. STUMP, and Mr. CRAPO.

H.R. 2174: Mrs. KELLY, Mr. MENENDEZ, and Mr. ACKERMAN.

H.R. 2198: Mrs. MINK of Hawaii.

H.R. 2221: Mr. BURTON of Indiana.

H.R. 2263: Mr. STENHOLM.

H.J. Res. 78: Mr. BEREUTER and Mr. DAN SCHAEFER of Colorado.

H. Con. Res. 6: Mr. LAFALCE and Ms. ROYBAL-ALLARD.

H. Con. Res. 55: Mr. KIM.

H. Con. Res. 80: Mrs. KENNELLY of Connecticut, Mr. BLUMENAUER, Mr. SKAGGS, Mr. YATES, and Mr. KIM.

H. Con. Res. 98: Mrs. EMERSON.

H. Con. Res. 124: Mr. MILLER of California and Mr. DICKS.

H. Res. 37: Ms. WOOLSEY.

H. Res. 131: Ms. HOOLEY of Oregon.

H. Res. 170: Mr. CALVERT and Ms. WOOLSEY.

H. Res. 171: Mr. CASTLE, Mr. MILLER of California, Mr. MARTINEZ, and Mr. ROTHMAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2159

OFFERED BY: MR. CAMPBELL

AMENDMENT NO. 63: Page 13, line 4, after "$2,400,000,000" insert "(reduced by $50,000,000)".

Page 25, line 4, after "$650,000,000" insert "(increased by $50,000,000)".

H.R. 2159

OFFERED BY: MR. FOX

AMENDMENT NO. 64: Page 1, strike line 1 and all that follows and insert the following:

SEC. 572. None of the funds made available under the heading "DEVELOPMENT ASSISTANCE" may be used to directly support or promote trophy hunting or the international commercial trade in elephant ivory, elephant hides, or rhinoceros horns.

H.R. 2159

OFFERED BY: MR. FOX

AMENDMENT NO. 65: Page 1, beginning on line 10, strike "to directly finance" and all that follows through "Species Act" on line 14 and insert the following: "to directly support or promote trophy hunting or the international commercial trade in elephant ivory, elephant hides, or rhinoceros horns".

H.R. 2159

OFFERED BY: MR. FOX

AMENDMENT NO. 66: Page 30, line 23, insert after "Act" the following:

: *Provided further*, That, of the funds appropriated by this paragraph, $51,100,000 shall be available for the program established under section 203(a) of Public Law 103–447

Page 81, line 12, insert after "maturities" the following:

: *Provided further*, That, of the funds appropriated by this paragraph for the cost of direct loans, $20,000,000 shall be available for the program established under section 203(a) of Public Law 103–447

H.R. 2159

OFFERED BY: MR. GILMAN

AMENDMENT NO. 67: In the matter proposed to be inserted by the amendment as a new subsection (h) of section 104 of the Foreign Assistance Act of 1961—

(1) in paragraph (1)(B), insert before the period at the end the following: ", or to organizations that do not promote abortion as a

method of family planning and that utilize these funds to prevent abortion as a method of family planning"; and

(2) in paragraph (2)(A), strike "or engage" and insert the following: "or (except in the case of organizations that do not promote abortion as a method of family planning and that utilize these funds to prevent abortion as a method of family planning) engage".

In the matter proposed to be inserted by the amendment as a new subsection (i) of section 301 of the Foreign Assistance Act of 1961, insert before the quotation marks at the end the following sentence. "If the President is unable to make the certification required by paragraph (1) or (2) with respect to a fiscal year, the funds appropriated for the UNFPA for such fiscal year shall be transferred to the Agency for International Development for population planning activities or other population assistance.".

H.R. 2159

Offered By: Mr. Pitts

Amendment No. 68: Page 6, line 3, after "$650,000,000" insert "(increased by $100,000,000)".

Page 6, line 24, after "$1,167,000,000" insert "(decreased by $100,000,000)".

Page 52, line 4, after "$385,000,000" insert "(decreased by $100,000,000)".

H.R. 2159

Offered By: Ms. Ros-Lehtinen

Amendment No. 69: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 572. None of the funds appropriated or otherwise made available by this Act may be made available to any Caribbean Basin Initiative country if such country offers provisional, permanent, or any other form of membership to the Government of Cuba into CARICOM.

H.R. 2159

Offered By: Ms. Ros-Lehtinen

Amendment No. 70: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 572. (a) Limitation.—None of the funds appropriated or otherwise made available by this Act may be provided to any foreign government that provides assistance for, or engages in nonmarket-based trade with, the Government of Cuba.

(b) Waiver.—The President may waive the requirements of subsection (a) with respect to a foreign government if the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that it is vital to the national security of the United States to do so.

H.R. 2264

Offered By: Mr. DeFazio

Amendment No. 1: Page 43, after line 13, insert the following:

COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT (INCLUDING TRANSFERS OF FUNDS)

For carrying out title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) as amended by section 121 of the Child Abuse Prevention and Treatment Act Amendments of 1996 (Pub. L. 104-235), to be derived from amounts provided in this title for "National Institutes of Health" (consisting of $10,835,000 from "Office of the Director" and $23,000,000 from "Buildings and Facilities"), $33,835,000.

H.R. 2264

Offered By: Mr. Engel

Amendment No. 2: Page 74, line 3, after the dollar amount insert "(increased by $100,000)".

H.R. 2264

Offered By: Mr. Evans

Amendment No. 3: Page 2, line 15, after "reimbursements," insert "of which $10,000,000 shall be available for purposes of carrying out section 738 of the Stewart B. McKinney Homeless Assistance Act (relating to homeless veterans' reintegration projects);"

H.R. 2264

Offered By: Mr. Goodling

Amendment No. 4: In the item relating to "DEPARTMENT OF EDUCATION—EDUCATION REFORM", after the first dollar amount, insert the following: "(reduced by $35,000,000)".

In the item relating to "DEPARTMENT OF EDUCATION—SPECIAL EDUCATION", after the each of the 2 dollar amounts, insert the following: "(increased by $155,526,000)".

In the item relating to "DEPARTMENT OF EDUCATION—HIGHER EDUCATION", after the first dollar amount, insert the following: "(reduced by $6,900,000)".

In the item relating to "DEPARTMENT OF EDUCATION—EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT"—

(1) after the first dollar amount, insert the following: "(reduced by $113,626,000)"; and

(2) after the second dollar amount, insert the following: "(reduced by $50,000,000)".

H.R. 2264

Offered By: Mr. Goodling

Amendment No. 5: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec.   . (a) Prohibition of Funds for National Testing in Reading and Mathematics.—None of the funds made available in this Act may be used to develop, plan, implement, or administer any national testing program in reading or mathematics.

(b) Exceptions.—Subsection (a) shall not apply to the following:

(1) The National Assessment of Educational Progress carried out under sections 411 through 413 of the Improving America's Schools Act of 1994 (20 U.S.C. 9010-9012).

(2) The Third International Math and Science Study (TIMSS).

H.R. 2264

Offered By: Mr. Kennedy of Massachusetts

Amendment No. 6: Page 44, line 5, after the dollar amount, insert the following: "(increased by $14,045,000)".

Page 73, line 15, after the first dollar amount, insert the following "(reduced by $14,045,000)".

HR 2264

Offered By: Mr. Nadler

Amendment No. 7: At the end of Title II, insert after the last section (preceding the short title) the following section:

"Sec. 213. (a) No funds made available under this Act may be used under Title XI, XVIII or XIX of the Social Security Act to pay any insurer if such insurer—

"(1) offers monetary rewards or penalties, or other inducements to a licensed health care professional to influence his or her decision as to what constitutes medically necessary and appropriate treatments, tests, procedures or services; or

"(2) conditions initial or continued participation of the health care professional in a health insurance plan on the basis of the health care professional's decisions as to what constitutes medically necessary and appropriate treatments, tests, procedures or services.

"(b) For the purposes of this section, the term "insurer" means an insurance company, insurance service, or insurance organization licensed to engage in the business of insurance in a State, a health maintenance organization, a preferred provider organization, and a provider sponsored organization.

"(c) For the purposes of this section, the term "health care professional" means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with State law.

HR 2264

Offered By: Mr. Nadler

Amendment No. 8: At the end of Title II, insert after the last section (preceding the short title) the following section:

"Sec. 213. (a) No funds made available under this Act may be used under Title XI, XVIII or XIX of the Social Security Act to pay any insurer unless under health care coverage provided by such insurer—

"(1) the determination of what is medically necessary and appropriate within the meaning of the insurance contract is made only by the treating health care professional in consultation with the patient; and

"(2) the insurer covers the full cost of all treatment, tests, procedures and services deemed to be medically necessary and appropriate by the treating health care professional in consultation with the patient, subject to any deductibles, co-payments, or percentage limitations provided in the insurance contract.

"(b) For the purposes of this section, the term "insurer" means an insurance company, insurance service, or insurance organization licensed to engage in the business of insurance in a State, a health maintenance organization, a preferred provider organization, and a provider sponsored organization.

"(c) For the purposes of this section, the term "treating health care professional" means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with State law, who is personally and directly involved in the care of said patient.

"(d) Nothing in this paragraph shall be construed as requiring the provision of coverage for benefits not otherwise covered.

HR 2264

Offered By: Mr. Nadler

Amendment No. 9: At the end of Title II, insert after the last section (preceding the short title) the following section:

"Sec. 213. (a) No funds made available under this Act may be used under Title XI, XVIII or XIX of the Social Security Act to pay any insurer if—

"(1) the provisions of any contract or agreement, or the operation of any contract or agreement, between such insurer and a health care professional prohibit or restrict the health care professional from engaging in medical communication with his or her patient; or

"(2) such insurer penalizes (through contract termination, financial penalty or otherwise) a health care professional for engaging in medical communication with his or her patient.

"(b) For the purposes of this section, the term "medical communication" means a communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of the patient) with respect to—

"(1) the patient's health status, medical care, or legal treatment options;

"(2) any utilization review requirements that may affect treatment options for the patient; or

"(3) any financial incentives or penalties that may affect the treatment of the patient.

"(c) For the purposes of this section, the term "insurer" means an insurance company, insurance service, or insurance organization licensed to engage in the business of insurance in a State, a health maintenance organization, a preferred provider organization, and a provider sponsored organization.

"(d) For the purposes of this section, the term "health care professional" means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with State law.

H.R. 2264

Offered By: Ms. Pelosi

Amendment No. 10: At the end of title II, insert after the last section (preceding the short title) the following section:

Sec. . The amount otherwise made available in this title under the heading "CENTERS FOR DISEASE CONTROL AND PREVENTION—DISEASE CONTROL, RESEARCH, AND TRAINING" is increased by the amount derived through the following amendment: Section 510(d) of the Social Security Act is amended by striking "1998" and inserting "1999".

H.R. 2264

Offered By: Ms. Pelosi

Amendment No. 11: At the end of title , insert after the last section (preceding the short title) the following section:

Sec. . Section 510(c) of the Social Security Act is amended by adding at the end the following:

"(3) The Secretary may accept an application from a State for a allotment under subsection (a) only if the application is submitted by the State health agency responsible for the administration, or supervision of the administration, of the State program carried out with allotments under section 502(c) (relating to the maternal and child health servcies block grant); only if the programs carried out with the allotment under subsection (a) provide information that is recognized as medically accurate and relevant; only if the funds from such allotment are dispersed at the discretion of the chief executive officer of the State (except to the extent inconsistent with the law of the State, including applicable judicial precedents); and only if the application is developed by or in consultation with the State agency for maternal and child health.".

H.R. 2264

Offered By: Mr. Riggs

Amendment No. 12: In the item relating to "DEPARTMENT OF EDUCATION—EDUCATION REFORM", after the first dollar amount, insert the following: "(reduced by $25,000,000)".

In the item relating to "DEPARTMENT OF EDUCATION—SCHOOL IMPROVEMENT PROGRAMS", after the first dollar amount, insert the following: "(increased by $25,000,000)".

H.R. 2264

Offered By: Mr. Riggs

Amendment No. 13: In the item relating to "DEPARTMENT OF EDUCATION—EDUCATION REFORM", after the first dollar amount, insert the following: "(reduced by $10,000,000)".

In the item relating to "DEPARTMENT OF EDUCATION—SCHOOL IMPROVEMENT PROGRAMS", after the first dollar amount, insert the following: "(increased by $10,000,000)".

H.R. 2264

Offered By: Mr. Riggs

Amendment No. 14: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. . (a) Limitation on Penalties under IDEA.—None of the funds made available in this Act may be used by the Department of Education to investigate, or to impose, administer, or enforce any penalty, sanction, or remedy for, a State's election not to provide special education and related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to individuals who are 18 years of age or older and are incarcerated in adult State prisons.

(b) Exception.—Subsection (a) shall not apply to any withholding of financial assistance to a State by the Department of Education pursuant to the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

H.R. 2266

Offered By: Mr. DeFazio

Amendment No. 2: Page 9, line 19, insert after the dollar amount the following: "(reduced by $25,000,000)".

Page 18, line 9, insert after the dollar amount the following: "(increased by $25,000,000)".

H.R. 2266

Offered By: Mr. DeFazio

Amendment No. 3: Page 9, line 19, insert after the dollar amount the following: "(reduced by $15,000,000)".

Page 32, line 25, insert after the dollar amount the following: "(increased by $15,000,000)".

H.R. 2266

Offered By: Mr. Kennedy of Massachusetts

Amendment No. 4: Page 100, after line 15, insert the following new section:

Sec. 8103. (a) None of the funds appropriated or otherwise made available by this Act for the Department of Defense specimen repository described in subsection (b) may be used for any purpose except in accordance with the requirement in paragraph numbered 3 of the covered Department of Defense policy memorandum that specifically provides that permissible uses of specimen samples in the repository are limited to the following purposes:

(1) Identification of human remains.

(2) Internal quality assurance activities to validate processes for collection, maintenance and analysis of samples.

(3) A purpose for which the donor of the sample (or surviving next-of-kin) provides consent.

(4) As compelled by other applicable law in a case in which all of the following conditions are present:

(A) The responsible Department of Defense official has received a proper judicial order or judicial authorization.

(B) The specimen sample is needed for the investigation or prosecution of a crime punishable by one year or more of confinement.

(C) No reasonable alternative means for obtaining a specimen for DNA profile analysis is available.

(b) The specimen repository referred to in subsection (a) is the repository that was established pursuant to Deputy Secretary of Defense Memorandum 47803, dated December 16, 1991, and designated as the "Armed Forces Repository of Specimen Samples for the Identification of Remains" by paragraph numbered 4 in the covered Department of Defense policy memorandum.

(c) For purposes of this section, the covered Department of Defense policy memorandum is the memorandum of the Assistant Secretary of Defense (Health Affairs) for the Secretary of the Army, dated April 2, 1996, issued pursuant to law which states as its subject "Policy Refinements for the Armed Forces Repository of Specimen Samples for the Identification of Remains".

H.R. 2266

Offered By: Mr. Nadler

Amendment No. 5. Page 32, line 11, after the dollar amount, insert the following: "(reduced by $420,000,000)".

H.R. 2266

Offered By: Mr. Nadler

Amendment No. 6: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 8103. (a) Limitation on Use of Funds.—Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Air Force", not more than $1,651,000,000 shall be available for engineering and manufacturing development of the F-22 aircraft program.

(b) Corresponding Reduction in Funds.—The amount otherwise provided by this Act for "Research, Development, Test and Evaluation, Air Force", is hereby reduced by $420,000,000.

H.R. 2266

Offered By: Mr. Sanders

Amendment No. 7: Page 9, line 19, insert after the dollar amount the following: "(increased by $2,000,000)".

Page 32, line 11, insert after the dollar amount the following: "(reduced by $2,000,000)".

H.R. 2266

Offered By: Mr. Sanders

Amendment No. 8: Page 87, after line 18, insert the following new paragraph (and redesignate the subsequent paragraph accordingly):

(3) not less than 50 percent of the allowable costs for which reimbursement is provided are directly related to services and benefits for employees of a defense contractor who were separated or otherwise adversely affected by the business combination, and

H.R. 2266

Offered By: Mr. Shays

Amendment No. 9: Page 100, after line 15, insert the following new section:

Sec. . The total amount obligated from new budget authority provided in this Act may not exceed $244,046,478,000.

EXTENSIONS OF REMARKS

PERSONAL EXPLANATION

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. FORBES. Mr. Speaker, on Thursday, July 17, 1997, I appreciated being granted an excused absence due to a serious illness in my family. Due to that absence, I missed several rollcall votes.

Had I not been unavoidably absent on June 11, I would have voted in the following manner pertaining to H.R. 2160, the Agriculture Appropriations Act: "Aye" on rollcall vote No. 285, a motion for the Committee to rise; "no" on rollcall vote No. 284, a motion for the Committee to rise; "no" on rollcall vote No. 283, a motion for the Committee to rise; "aye" on rollcall vote No. 282, a motion to table the motion to reconsider the vote; "aye" on rollcall vote No. 281, a motion to resolve into Committee of the Whole House on the State of the Union.

NATO ENLARGEMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues' attention my monthly newsletter on foreign affairs from July 1997 entitled "NATO Enlargement."

I ask that this newsletter be printed in the CONGRESSIONAL RECORD.

The newsletter follows:

NATO ENLARGEMENT

At an early July summit in Madrid, President Clinton and leaders from the 16 member states of the North Atlantic Treaty Organization (NATO) invited the Czech Republic, Hungary, and Poland to enter talks to join the Alliance. The goal is to complete negotiations in 1997 and treaty ratification by 1999, so that these three countries can join in time for NATO's 50th anniversary.

A decision to forge a new system of international security by enlarging NATO has been long in coming—but came as no surprise. NATO established a program of cooperation with former Warsaw Pact countries in 1994, the Partnership for Peace, and President Clinton made clear at that time that the question was when—not if—NATO would expand. NATO outlined a strategy for enlargement in a 1995 report, and announced in 1996 that invitations would be extended to new members in 1997. Two months ago, Presidents Clinton and Yeltsin signed the NATO-Russia Founding Act. This document spells out future relations between NATO and Russia, sets up a Joint Council for regular consultation, and seeks to ally Russia's concerns about enlargement. The Founding Act paved the way for Madrid, where there were some differences between the U.S. and its allies about those not invited to join NATO (Romania and Slovenia)—but no suspense about the three invited.

The spotlight on enlargement now shifts to parliaments and public opinion. So far, the U.S. debate on NATO enlargement has been a narrow one, attracting little interest outside of ethnic communities. The President's task now is to persuade the American people that it is in our national interest to defend the countries of Central Europe.

From my perspective, there are five major questions about NATO enlargement—commitments, costs, relations with Russia, what happens to countries not invited to join, and the impact of enlargement on the Alliance itself.

Commitments.—Twice in this century Europe exploded into world wars because of events in Central Europe. The United States intervened in 1917 and 1941 to protect its vital interests on the European continent, and formed NATO in 1949 to protect western Europe against the Soviet threat. The question now is whether countries in Central Europe should have the same security guarantee as current NATO members. This guarantee, which requires NATO allies to treat an armed attack against one as an attack against all, would come at a time when U.S. troop levels in Europe have been cut from 300,000 to 100,000 in the past six years. The threat to peace in Europe today is remote, but NATO enlargement means a pledge to intervene in tomorrow's unforeseen crises. The bet is that the promise of sending NATO troops to defend countries in Central Europe will make it unnecessary to do so.

Cost estimates of NATO enlargement vary widely, from $5 billion to $125 billion. The Pentagon's own estimate is $27 to $35 billion spread over 13 years, with a U.S. share of up to $2 billion. There is reason for skepticism about all cost estimates, because military budgets across Europe have been declining. The three countries invited to join NATO spend a total of $4 billion annually on defense, or less than Belgium spends. Current NATO members see little threat, and most are under pressure to cut spending to meet budget targets for European Monetary Union. If Europe won't pay, the U.S. Congress also will be reluctant to pay. More burdensharing disputes with Europe are likely.

Relations with Russia.—Opponents of a larger NATO stress that expansion will provide hostile reaction from Russia, creating a new line of division across Europe. Russia opposes enlargement, but has acquiesced in its initial stages. It remains to be seen how enlargement will impact on key U.S. interests in Russia's ratification of the START II nuclear arms reduction treaty and the Chemical Weapons Convention, or the future of reform in Russia. Much of the success of NATO enlargement will depend on how the U.S. manages relations with Russia.

Those Not Invited To Join.—Twelve countries emerging from communism applied to join NATO, and only three got what they wanted in Madrid. The challenge ahead for NATO is to enhance military and political cooperation with non-members. The Alliance has also made clear that the door is open to future members. No one knows how far NATO enlargement will go, but the first wave will not be the last. The toughest question here will be the Baltic States.

Impact of Enlargement on the Alliance.—There is a tension between keeping NATO's door open, and keeping the Alliance functional. NATO decisions require unanimity, and so far the Alliance has been able to function well on the basis of consensus. It is an open question whether this round, or future rounds of enlargement, will affect the cohesion and integrity of the Alliance and its decision-making process.

CONCLUSIONS

NATO enlargement is going to happen. I still have many questions about it, and we have not had sufficient debate or consideration of its impact. Yet the risks of proceeding with NATO enlargement are less than the risk of not going forward. Sixteen governments cannot take a decision of this magnitude and then reverse course. The alternative to expansion—freezing NATO in its cold war membership—also carries risks of irrelevance or even dissolution.

NATO enlargement can increase the security of all of Europe, and decrease the chances of future wars. NATO enlargement certainly will assure new democracies in Central Europe and reinforce their democratic reforms. If done right, it can bring Russia into a cooperative relationship with Europe. The President needs to answer questions and address lingering doubts. If he articulates the case forcefully, the President can win the support of the American public—and the advice and consent of the Senate—for NATO enlargement.

A RESOLUTION TO PROMOTE THE VIRTUES OF OUR NATION'S YOUTH

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. CLEMENT. Mr. Speaker, I rise today to join Representatives DUNCAN, ETHERIDGE, HALL of Ohio, and WOLF in introducing House Concurrent Resolution 127.

Traditionally, colleges and universities were founded on the premise of developing intellectual minds and moral character. Today, colleges and universities continue to play a vital role in these areas. Some of these institutions have been applauded for their success in fostering high moral values. However, we must not rest until all schools place proper focus on character.

Parents should be the primary developers of character in our Nation's children, but the role of education in character-building becomes increasingly important with every divorce, drug deal, juvenile crime, and teen-age pregnancy, which continue to undermine our Nation's moral code. The fact is, most Americans support the teaching of core values and basic

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

morals such as trustworthiness, respect for self and others, responsibility, fairness, compassion, and citizenship. It is time for Congress to encourage these activities in our Nation's schools.

I would like to thank the John Templeton Foundation for its leadership and efforts on the subject of character-building in education across our Nation. The foundation has been a leading proponent of this issue since 1989, when it began sponsoring the "Honor Roll for Character-Building Colleges" guide book. This annual publication recognizes superior character-development in post-secondary institutions. I am grateful for the foundation's voice on this pressing issue.

Our children will shape our future. Society must work to ensure that their moral foundation does not crumble. I call on all people who care about our future to promote the virtues of our Nation's youth and support this resolution.

COMMENDING SHERWOOD KERKER ON HIS UNIQUE CONTRIBUTIONS TO LABOR JOURNALISM

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. COSTELLO. Mr. Speaker, I rise today in recognition of Sherwood Kerker's retirement from the St. Louis/Southern Illinois Labor Tribune.

The editor of the *Labor Tribune* has received several awards from the International Labor Communications Association for journalistic excellence, and is acknowledged for 40 years of loyalty in serving the members and families of the trade union movement throughout the Greater St. Louis/Southern Illinois Region.

Publisher Edward M. Finkelstein and the staff of the *Labor Tribune* will honor Sherwood Kerker at a "We Love You Sherwood" retirement luncheon to be held in St. Louis, MO, on August 28, 1997. I ask my colleagues to join me in commending Sherwood Kerker's unique contributions to labor journalism.

THE NEW MEXICO STATEHOOD AND ENABLING ACT OF 1997

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. SCHIFF. Mr. Speaker, I would like to thank my colleagues on both sides of the aisle, as well as in the other body, for passage of S. 430 the New Mexico Statehood and Enabling Act of 1997.

This bill, introduced and supported by the entire New Mexico delegation, approves the changes made to the State constitution by the voters of New Mexico on November 6, 1996, which are specific to the New Mexico Land Grant Permanent Fund—established by the enabling act of 1910.

With these changes in place, New Mexico will be able to safeguard against the eroding effects of inflation to ensure that the fund will be able to help us meet tomorrow's educational needs.

This fund, which has grown to be the third largest educational endowment in the world, now comprises almost 14 percent of our State budget, and is a critical part of a better future for our children. So again, Mr. Speaker, I'd like to take this opportunity to thank my colleagues for their support.

A TRIBUTE TO CHARLES M. SPRAFKA

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to a stellar public servant who passed away recently.

Charles M. Sprafka, a native of Detroit Lakes, MN, and the associate Hennepin County administrator for human resources, died on June 24 following a long and courageous battle with pancreatic cancer.

Mr. Speaker, Chuck's career in public service was varied and characterized by the pursuit of excellence in every way. The people of my home county in Minnesota were well served by his stewardship and great desire to help people in their time of need.

President John F. Kennedy in his inaugural address on January 20, 1961, just outside this Chamber, declared: "Ask not what your country can do for you—ask what you can do for your country." Chuck Sprafka did a great deal for his country, Mr. Speaker, and today I want to celebrate a dedicated public servant's inspiring commitment to his country and the people of Hennepin County he served so well.

Chuck Sprafka was named Hennepin County personnel director in 1984. In 1994, he was named associate county administrator for human resources, which made him a member of the Hennepin County administration's executive team.

Mr. Speaker, Chuck's record in public service was exemplary. In 1995, he was named recipient of the Twin Cities Personnel Association's "Award of Excellence." In May of this year, Hennepin County created an employee recognition award in his name.

His fellow workers in Hennepin County called Chuck The Rock. That's because, whenever there was a great challenge to be overcome, everyone turned to Chuck. His pioneering efforts produced a program called Quality Partnership Initiatives, a new county approach to improving the quality of service.

Quality is the theme that comes first to mind when you summarize the career of Chuck Sprafka for he truly represented the best in public service.

Mr. Speaker, Chuck was also very active in a numerous community and professional organizations, including the Industrial Relations Center Advisory Council, Minnesota Chapter of the International Personnel Management Association, and the national and Minnesota Public Employer Labor Relations Associations. He was also a member of the Human Resources Executive Council.

Chuck was a great high school athlete at Detroit Lakes High School, one of the best skaters in that school's history. He loved the outdoors, and was an avid sportsman. After receiving a bachelor's degree in mathematics and chemistry from Bemidji State University in 1968, he had a successful career in the business world. He then returned to school and earned a master's degree in industrial relations from the University of Minnesota in 1972, after which he went to work for Hennepin County, Minnesota's most populous county and one of the largest employers in the state. During his tenure at the county, he did graduate work in public administration at Harvard University.

Above all, Mr. Speaker, Chuck Sprafka was a dedicated and loving husband and father. As his lifelong friend Jon Boisclair put it, "Chuck's family meant the world to him, and he loved them dearly." Chuck will forever be missed by his loving wife, Jeannie, and his children, Collette, Rachelle, and Nicholas.

Mr. Speaker, Chuck Sprafka stood for all that's right with America, and his legacy will live on in the hearts and minds of all who were fortunate enough to know him.

ENVIRONMENTAL SLEIGHT OF HAND IN REPUBLICANS' BUDGET DEAL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. MILLER of California. Mr. Speaker, once again the Republican leadership of the Congress has demonstrated its very strong hostility to policies to promote a strong environmental policy for this country.

I am sure that every Member of this House remembers that when the budget agreement was signed by the congressional leadership and President Clinton, it included at the President's insistence sufficient funding to acquire lands threatened with ruinous development that would present severe dangers to California's ancient redwood forest and to our first national park, Yellowstone. These development plans could result in the cutting of some of the most significant trees in North America—one of the very last ancient stands—and in the locating of a massive mine just upstream of Yellowstone Park.

Now, we included in the budget agreement sufficient moneys to acquire these lands, and then to provide additional acquisitions from the Land and Water Conservation Fund. As you know, some $900 million each year comes into that fund from offshore oil and gas development on Federal lands, and that money by law is to be used for land acquisition. Instead, the Congress has refused to appropriate sufficient funding to keep up with the need to protect our national resources, and a $12 billion surplus has developed in the fund.

The President thought he had struck a deal with the Republican leadership to provide $65 million for the New World Mine lands, and another $250 million for the Headwaters redwood grove, and then an additional $295 million for other long-awaited acquisitions. That was an important part of the budget deal. And, frankly, I would have thought that a party whose environmental reputation is as justifiably low as the Republican Party's would have honored its commitment and its promise.

But instead, the Republicans have reneged on their agreement and, in the midst of the summer when tens of millions of Americans are enjoying our parks and other public lands, the Republicans in Congress have repudiated their commitment. The House bill provides no funding for these high priority park purchases, and the Senate bill is hardly better, adding additional, unnecessary bureaucratic steps that everyone knows will doom the funding.

I hope the public understands this Republican sleight of hand that clarifies once again that leadership's utter indifference to our national parks and other public lands. And I would like to enter into the RECORD an editorial from today's New York Times that correctly challenges the Republicans in Congress for their failure to keep their promises on environmental protection.

ENVIRONMENTAL PROMISES TO KEEP

As part of their budget agreement with President Clinton last May, Republican leaders in Congress pledged to provide funds to protect several particularly vulnerable pieces of the American landscape from further degradation. They would give Mr. Clinton enough money to carry forward the largest environmental rescue operation ever undertaken—the restoration of Florida's Everglades. They would also approve generous funds for Federal land acquisition that would allow Mr. Clinton to purchase a potentially ruinous gold mining operation near Yellowstone National Park and to acquire California's Headwaters Redwood Grove from a private lumber company.

So far, Congress has not lived up to its end of the bargain. This puts a special obligation on senior Republicans like the Senate majority leader, Trent Lott, and Senator Pete Domenici, who helped negotiate the budget deal, to remind their colleagues that their party may suffer if they break good-faith commitments. It also means that the Administration cannot relax its vigil. Indeed, Mr. Clinton might think about threatening to veto any spending bills that do not contain the promised funds—a weapon he used to good effect in the last Congress when Republican conservatives tried to dynamite the country's basic environmental laws.

The Yellowstone and Headwaters projects are especially at risk. The House has refused to provide a penny of the $700 million in extra money promised for land acquisitions, including $65 million for the mine and $250 million for the redwoods. The Senate appropriations committee approved the $700 million but then added a caveat that could doom the Yellowstone and Headwaters purchases. The purchases cannot be consummated, it said, until Congress passes separate legislation specifically authorizing them. That would throw the matter back to the Senate's Energy and Natural Resources Committee, which is full of people eager to deny the President an environmental triumph.

The truth is that no separate authorizing legislation is required. The Interior Department and the Forest Service, which would carry out the deals, have pre-existing authority to make the acquisitions as long as the money is there. Mr. Lott and Mr. Domenici must see this mischievous and unnecessary language for what it is—an opening for anticonservationist Republicans to torpedo Mr. Clinton—and make sure it is removed when the bill comes to a floor vote.

The news about the Everglades is much better, at least so far. The appropriations committees in both houses have provided full funding for the Interior Department's Everglades Restoration Fund—a $100 million program aimed primarily at creating buffer zones between the Everglades and two of its greatest threats, the agricultural regions to the north and the exploding urban populations to the east. This is only a small down payment on the Federal share of a restoration effort that may eventually cost $3 billion to $5 billion. But it is an important start.

At the same time, however, both the Senate and House have denied the Administration more than half the $120 million it requested for restoration projects to be undertaken by the Army Corps of Engineers in South Florida. The corps plans a massive replumbing project aimed at replicating the historic flow of clean water from Lake Okeechobee southward to the Everglades and Florida Bay. This is a vital part of the overall scheme and for that reason was specifically promised in the budget agreement. To honor their word, Mr. Lott, Mr. Domenici and their counterparts on the House side. should make sure that these funds are restored.

The Republicans keep saying that they want to spruce up their environmental credentials. Breaking pledges on matters of transcendent interest to environmentalists is not the way to go about it.

A TRIBUTE TO THE CITY OF HIGHLAND

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. LEWIS of California. Mr. Speaker, I am proud to bring to your attention "Ten Years of Success", an anniversary celebration for the proud city of Highland, CA. On November 24, 1997, many people will be preparing to give thanks and commemorate our Nation's history of the day of Thanksgiving. The cold autumn air will bring in another different reason for the people of Highland to celebrate, as they will reach a great milestone in their own history, and ring in 10 years of existence as a city.

Do you believe in miracles?

The community and citizens of Highland certainly do. Many people, especially the so-called experts, warned in 1987 against incorporation of the community because they believed the proposed city was financially infeasible and would be bankrupt within the first 2 years of existence. I am more than pleased to report that the experts were wrong and the city of Highland is flourishing and growing with intensity. More importantly, the city is in relatively sound fiscal condition.

The future of the city of Highland, along with the successful maintenance of its fiscal approach, looks bright. If the past is any indication of the future, those who believe in the miracle and call the city of Highland home will be able to do so for many more years to come. May the next 10 years be even better than the past for the citizens of this great community.

Mr. Speaker, I ask that you join me, our colleagues, and the many proud people who call the city of Highland their home, in recognizing a decade of success. This November all of us will recognize that miracles never cease to flourish in the city of Highland.

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. BALLENGER. Mr. Speaker, had I been present for rollcall votes 298 and 299 on July 22, I would have voted "yea." In addition, I would have voted "nay" on rollcall vote 319 and "yea" on rollcall vote 320 which occurred on July 24.

HONORING JEAN WILLIAMSON'S DEDICATION TO VOLUNTEER NURSING

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. BILIRAKIS. Mr. Speaker, I rise today to recognize a remarkable woman. Jean Williamson has been a nurse at the Clearwater Free Clinic in Clearwater, FL, for 5 years. The clinic provides critical health services to many of my constituents in the ninth congressional district who otherwise would be unable to afford them. In fact, the clinic was able to treat over 7,000 patients last year alone—and that number is expected to rise this year.

In 1996, Jean earned the title "Volunteer of the Year," for her tireless efforts on behalf of the patients she serves. Perhaps not surprisingly, she is again likely to receive this accolade.

This year, Jean gave up her summer to serve as the interim executive director of the clinic. She was compelled to do so after the previous director resigned to take a national office. This selfless act has permitted the clinic's board to carefully search for the right replacement and has made the transition period far smoother than it otherwise would have been.

However, I believe the greatest tributes come not from the words of outsiders, but from those who work closely with Jean. One of her colleagues described her as, "one of the most dedicated and conscientious volunteers anywhere . . . she has set an example few can follow." It was because of people like Jean that Congress recently passed H.R. 911, legislation to protect volunteers from frivolous lawsuits which arise out of their service. I am pleased to have been a cosponsor of this important bill to protect people like the volunteers of the Clearwater Free Clinic.

Mr. Speaker, in an age when volunteerism has declined, I would like very much to congratulate Jean for her unselfish and outstanding work at the Clearwater Free Clinic. She serves as a shining example for other volunteers around the country. I would ask that our colleagues join me in wishing her continued success with her work at the clinic and, indeed, with all of her future endeavors.

IN MEMORY OF U.S. DISTRICT JUDGE NORMAN BLACK OF HOUSTON

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. BENTSEN. Mr. Speaker, on behalf of my Houston colleague Mr. GENE GREEN and myself, I rise to honor the memory of a valued and respected member of the Federal judiciary and a constituent, Senior U.S. District Judge Norman W. Black, and chief judge emeritus of the southern district of Texas, who passed away on July 23, 1997. As much as the community of Houston loved and respected Judge Black, his family has suffered an even greater loss.

Judge Black was an institution in Houston, a city he truly loved. He was born and raised in Houston, attending the city's public schools before attending the University of Texas for his bachelor and law degrees. He was an active citizen of the Houston community, a member of several civic and professional organizations including the Houston Philosophical Society, Congregation Beth Israel, and many, many more. His legacy of good work will be missed.

Judge Black was recommended to the bench by my uncle, Senator Lloyd Bentsen, and appointed by President Carter in 1979. He had previously served as a Federal magistrate in Houston for 3 years and had practiced law before that. He stepped down from his post of chief judge of the southern district last December, as required, upon turning 65. But he remained active, maintaining senior status in order to remain on the bench to handle his own cases and fill in as needed for other judges around the district.

Judge Black will be remembered not only for his position, but for the manner in which he served. He was a Texas gentleman, presiding on the bench as an even-tempered and courteous man of justice. He was one of the best-liked jurists on the Federal bench. He consistently received the highest ratings in the Houston Bar Association's annual poll. He will be remembered for his legal mind as well as his duty to the people he served. he had the compassion and understanding to recognize how his decisions impacted the lives of real people. He was, indeed, one of our very best.

Judge Black revered the law and recognized its importance. As an instructor at the University of Houston Law School and an adjunct professor at South Texas School of Law, he taught students to show respect and dignity for the law. He criticized "Rambo-type" attorneys who fought endlessly over minor points and impugned the integrity of their colleagues, calling them bad role models for young lawyers. He always recalled that when he began practicing law in the 1950's, young lawyers strove to be more like "Perry Mason"—polite, dignified and dedicated to serving their client.

Judge Black was more than just a great judge; he was also a great Texan, a loyal friend, a devoted husband, father, and grandfather. We offer our sincere condolences to his wife, Berne, his two daughters, Elizabeth Berry of Houston and Diane Smith of Austin, and his entire family. We feel their loss as we mourn the passing of Judge Norman Black.

JOHN BRADEMAS ADDRESSES CYPRUS ISSUE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. HAMILTON. Mr. Speaker, for the first time in a long while there is reason for guarded optimism in Cyprus.

A few weeks ago Cyprus President Clerides and Turkish Cypriot Leader Ruff Denktash met in New York under the auspices of the United Nations. Another round of face-to-face talks, the first in over 2 years, is planned for later this summer.

The Clinton administration's appointment of Richard Holbrooke as U.S. Special Envoy for Cyprus is the best signal yet that the administration intends to give high priority this year to a settlement in Cyprus and moving Greek-Turkish relations forward.

It has always been my firm belief that only high-level and sustained United States attention will convince all parties to try to resolve the Cyprus issue.

In this context, I believe that Members will read with interest an excellent speech on "The Cyprus Problem: U.S. Foreign Policy and the Role of Congress" by our distinguished former colleague in the House of Representatives, Dr. John Brademas.

I ask that a portion Dr. Brademas' cogent remarks, delivered in London, England, on July 10, 1997, be inserted in the CONGRESSIONAL RECORD. The address follows:

"THE CYPRUS PROBLEM: US FOREIGN POLICY & THE ROLE OF CONGRESS"

(By Dr. John Brademas)

THE ROLE OF CONGRESS

Before I address myself to the issue of Cyprus, I must say a word about certain fundamental factors that characterize the American form of government. You may all be familiar with them but I assure you that many Americans are not.

First, we have a separation of powers constitution; second, our parties are decentralized. that is to say, by comparison with parties in a parliamentary system, undisciplined.

People know the phrase, "separation of powers," but too few understand its meaning. Some think that in the American system, Congress exists to do whatever a president wants it to do. But this is not the way the Founding Fathers intended the government of the United States to work and, you must all be aware, that in both domestic and foreign policy, Congress has in recent decades reasserted the separation of powers principle.

Another factor complicates matters: Presidents and Congresses are elected separately, by different constituencies and for different periods of service. The President, each Senator—there are 100—and each member of the House of Representatives—there are 435—has his own mandate and sense of responsibility to the people.

In our system, as distinguished from yours, the chief executive is not chosen from the legislative majority and, indeed, often does not even belong to the party controlling Congress. This is, of course, precisely the situation today with a Democrat in the White House and Republicans in control of both the Senate and House of Representatives.

THE AMERICAN WAY OF GOVERNING

So the American way of governing was not designed for peaceful coexistence between the executive and legislative branches. The result has been a process, over two centuries long, of conflict and accommodation, dispute and detente—and this is the case even when, as I shall illustrate with Cyprus, the president and both bodies of Congress are controlled by the same party.

Although service on the Education and Labor Committee meant that most of my legislative energies were directed to domestic concerns, I continued my interest of student days in foreign policy. As Majority Whip of the House of Representatives, I joined Speaker Thomas P. "Tip" O'Neill, Senate Majority Leader Robert Byrd and other Congressional leaders for breakfast at the White House every other week with President Carter, Vice President Mondale and the president's top aides to discuss the entire range of issues facing the president and Congress, including foreign affairs.

Yet it was during the administration of President Lyndon Johnson that I became personally engaged in a foreign policy question: I made clear my strong objection to the military junta in Greece that came to power in 1967. Although then the only Member of Congress of Greek origin (and a Democrat), I testified against the Administration's request for United States military aid to Greece which, I reminded the House Foreign Affairs Committee, was a member of the North Atlantic Treaty Organization. The NATO Charter was created to defend nations that adhere to democracy, freedom and the rule of law; the military dictatorship ruling Greece, I asserted, supports none of these principles. The United States should, therefore, not provide Greece military assistance. During the years of the junta, I refused to visit Greece or to set foot in the Greek Embassy in Washington.

INVASION OF CYPRUS

In 1974, however, I found myself deeply involved in American policy toward Greece. In July of that year, the colonels engineered an unsuccessful coup against the President of Cyprus, Archbishop Makarios. Although the coup precipitated the fall of the military regime and triggered the restoration of democracy in Greece, it was also the pretext for an invasion by Turkish military forces of Cyprus. The initial invasion, in July, was followed, in August, by Attila II, a massive intervention of 40,000 Turkish troops.

Because the Turkish forces were equipped with weapons supplied by the United States, Turkey's government was in direct violation of US legal prohibitions on the use of American arms for other than defensive purposes. And because American law mandated an immediate termination of arms transfers to any country using them for aggressive purposes, I led a small delegation of Congressmen to call on Secretary of State Kissinger to protest the Turkish action and insist that he enforce the law, i.e., order an immediate end to further shipments of American arms to Turkey. Kissinger apparently did not take us seriously and neither he nor President Gerald R. Ford took any action in response to our admonition.

TURKISH ARMS EMBARGO

Consequently, several of us in Congress, notably the late Congressman Benjamin S.

Rosenthal of New York, then Congressman Paul S. Sarbanes of Maryland and I in the House of Representatives and Senator Thomas Eagleton of Missouri led a successful effort in late 1974 to impose, by Congressional action, an arms embargo on Turkey. We were strongly supported not only by other Democrats but by a number of leading Republicans.

In this unusual episode, my colleagues and I had active allies outside Congress. Not only did we, understandably, have the help of Greek American and Armenian American persons and groups across the country but also of many others who shared our commitment to the rule of law. The reasons my colleagues and I prevailed were straightforward: We were better organized politically both within Congress and in the country at large and we had a superior case, both legally and morally. It was this combination of factors that brought what was a remarkable victory.

THE CURRENT SITUATION

President Clinton's appointment last month as his Special Envoy for Cyprus of Richard Holbrooke, architect of the Dayton Accords and a diplomat of wide experience, is, I believe, a significant indication of the priority the President and Secretary of State Madeleine Albright have assigned to Cyprus.

Indeed, last month, before talks in Washington with Cypriot Foreign Minister Ioannis Kasoulides, Secretary Albright said, "In our meeting today . . . I will assure the Minister of America's interest in seeing the people of Cyprus achieve a lasting settlement to the intercommunal dispute on their island. There could be no more dramatic a demonstration of that commitment than the President's decision to name Ambassador Richard Holbrooke as our special emissary to promote the Cyprus settlement. . . ." She continued: " . . . What we see is the unification of Cyprus. We believe that the division of the island is unacceptable. . . . [We] continue to support the establishment of a bizonal, bi-communal federation. We will do everything we can to bring the process forward."

POTENTIAL FOR A CYPRUS SETTLEMENT

Now, given the impasse of a near quarter century and in light of the current instability of the Turkish political scene, I think it would be a mistake to expect a breakthrough in the short term. Holbrooke himself has said, "This is going to be a long haul. It's not going to be a short, intense negotiation like Dayton was."

As you know, Ambassador Holbrooke has said he would not "do anything specific" until after this week's UN-sponsored talks between President Clerides and Mr. Denktash.

I add that the distinguished British diplomat who has been working on the issue, Sir David Hannay, welcomes Ambassador Holbrooke's intervention as does the US Congress, which has been concerned with the lack of progress on Cyprus.

And if there is agreement between the Executive Branch and Congress on the need to intensify efforts for a settlement on Cyprus, there is also, especially in the House of Representatives, bipartisan agreement. The International Relations Committee of the House, chaired by Ben Gilman, Republican of New York, joined by the senior Democrat on the Committee, Lee Hamilton of Indiana, on June 25 favorably reported their resolution urging "a United States initiative seeking a just and peaceful resolution of the situation on Cyprus." The measure includes a call for "the demilitarization of Cyprus and the establishment of a multinational force to ensure the security of both communities."

ELEMENTS OF A SETTLEMENT

As we meet tonight during the week of the Clerides-Denktash talks, I believe I can best contribute to a discussion of the Cyprus issue by telling you what, on the basis of my conversations in recent weeks with a number of persons, some in government and some not but all at senior levels and from the various countries concerned, seem to be factors fundamental, 23 years after the events of the summer of 1974, both to understanding the Cyprus problem and to forging a viable, realistic and just settlement of it.

Many in this room are far more knowledgeable than I about Cyprus and, of course, are free to disagree with me on any or all of these points, some matters of fact, others normative.

1. Greek-Turkish Relations

First, I would assert that a normalization of relations between Greece and Turkey depends upon a resolution of the issue of Cyprus. Indeed, a senior Turkish diplomat made this same point to me a few months ago even as I heard this view echoed in Istanbul in May during a Carnegie Endowment for International Peace Forum. The Forum, composed of seven Greeks, seven Turks and seven Americans, of whom I am one, involves academic, business and political leaders from all three countries, including two former Greek and two former Turkish foreign ministers and senior retired military officers from the two countries.

At a dinner one night in Istanbul, a leading Turkish business figure asked me what I thought was the most important action to improve Greek-Turkish relations. I replied, "Cyprus." He said, "I agree. And what you [Americans] must do is help us [Turks] get out graciously and without humiliation."

I must tell you that it is my impression—reinforced by the comments of others—that the forces in Turkey pressing most vigorously for moderation, modernization and democracy there and for better relations with Greece are these top Turkish businessmen. We must encourage them.

2. Turkey's National Interest

Second, Turkish political and military leaders must be persuaded that resolving the Cyprus question is in the national interest of Turkey. I certainly think that is true.

In economic terms, for example, Ankara's officially acknowledged aid to Turkish-occupied Cyprus this year totals $250 million, not including the cost of keeping 35,000 Turkish troops there.

Here I would offer another argument for this proposition: Turkish armed forces on the island are now considerable, of such size and nature that to protect them adds further to the security commitments of Turkish military commanders. It is a burden that Turkish leaders have taken on themselves, and one must ask, from a Turkish point of view, is it a wise one?

But much more important than economic reasons, there is a powerful political rationale for Turkey to move, at long last, toward a Cyprus settlement. Consider the present situation in Turkey. Beleaguered by economic troubles, pressures from the military, hostility between Islamists and secularists, widespread criticism on human rights and dealing with the Kurds, thoughtful Turkish leaders know that the occupation of Cyprus is not only a continuing financial burden but a huge obstacle to Turkish ambitions for stronger ties with Europe.

Even this week the new government led by Melsut Yilmaz declared, in a statement of its hope for eventual membership in the European Union, "Turkey will ensure its rightful place in the new Europe that is being drawn up." Yet it must be clear that even putting aside demands from the European Parliament concerning democracy and human rights, so long as the Cyprus question goes unresolved, Turkish membership in the EU is not possible.

Here I note the recent statements of Greek Foreign Minister Pangalos and Undersecretary Kranidiotis that if political objections can be overcome, Greece has no philosophical or dogmatic objection to Turkish accession to the European Union. This posture, coupled with Greek removal of a veto on Turkish participation in the Customs Union with the EU, means that the Greeks are saying, "We're not the obstacle to Turkish entry into Europe." Yet if membership in the European Union is not on the immediate horizon, enhancement of the relationship with the EU can be a significant incentive for a Turkey that seeks to be in Europe.

3. Cyprus and the European Union

Third, another basic ingredient in the search for a solution, the prospect of membership by Cyprus in the EU, was described by Holbrooke as the "the biggest new factor in the 30-year stalemate."

With the commitment of the Council of Ministers of the EU in 1995, following approval of the Customs Union with Turkey, to start negotiations with the Republic of Cyprus on its accession to the EU within six months of the end of the Intergovernmental Conference (just concluded in Amsterdam), no longer is Cyprus to be held hostage for membership to Ankara. Certainly neither the Turkish government nor Mr. Denktash should be allowed to block accession by Cyprus, and the United States should continue to support Cyprus membership.

In light of Turkish objections to accession by Cyprus to the EU, incentives to both Turks and Turkish Cypriots to greater involvement in Europe should vigorously be explored.

4. Security on Cyprus

Fourth, the matter of security—for both Greek and Turkish Cypriots—is obviously among the factors indispensable to a solution. For it seems to me that in any settlement acceptable to both sides and to Greece and Turkey, there must be, following departure of foreign troops, provisions for a multinational peacekeeping force to assure such security for all Cypriots.

Such a force might well be a NATO operation for NATO is, aside from the UN, of course, the one organization where Greece and Turkey are on the same level. From my perspective, it would be wise for such a force to include troops from the United States as well as other members of NATO. Even a modest commitment of US forces would represent a powerful demonstration of the seriousness with which American leaders of both parties in both the Administration and Congress regard the importance of defusing what Dick Holbrooke has rightly described as "a time bomb."

5. A United Cyprus

Fifth, I turn to the matter of the constitutional arrangements for a united Cyprus.

The United Nations, the European Union, the United States and the Republic of Cyprus are all agreed that there must be on the island a bizonal, bicommunal federation, with a single sovereignty.

I remind you here of successive Security Council resolutions, including Resolution 1092, adopted on December 23, 1996, which declares that any settlement, "must be based on a state of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities . . . in a bicommunal and bizonal federation, and that such a settlement must exclude union in whole or in part with any other country or any form of partition or secession. . . ."

The goal now will be to negotiate an agreement that provides for such a single sovereign state within which Greek Cypriots will accord a significant degree of self-government to Turkish Cypriots who, in turn, must agree to territorial compromises that will enable them to share in the economic growth that both reunification and membership in the EU would entail. After all, everyone is aware that there is a huge gap in per capita annual income between Greek Cypriots—$12,000—and the North—$4,000.

The challenge here must be to take into account the fears and apprehensions of both Greek and Turkish Cypriots so that both communities will feel they are dealt with fairly.

I observe, by way of suggesting an example of the tone or attitude that one hopes would characterize a federation that can command the support of both communities on the island and both Greece and Turkey, that the proposal of my friend Costa Carras for cross-voting should be given serious consideration. Rather than voting only for candidates of their own community as before, Greek Cypriots and Turkish Cypriots would vote twice, all citizens casting ballots in the elections of both communities. In this way, candidates and legislators from each community would for the first time acquire a stake in appealing to the other.

Let me add that a significant result of accession to the EU by a united Cyprus would be that Turkish Cypriots would then be part of a Cypriot delegation to Brussels, one way of ensuring that Cyprus would not be hostile to Turkey.

Now, I believe most of us would agree that it is unlikely—one never says "never"—that there will be a sudden accord on an issue that for so long has eluded resolution by so many. Moreover, a breakthrough is probably not possible until after the elections in Cyprus in February. Nonetheless, it is important to begin laying the groundwork now, and UN Secretary General Kofi Annan's talks with Clerides and Denktash are part of this process as Sir David Hannay observed in a thoughtful essay in yesterday's International Herald Tribune ("At Long Last, Cyprus Should Seize the Chance to Heal Itself"). For we must build bridges today for action next spring.

NORMALIZING GREEK-TURKISH RELATIONS

With the end of the Cold War has come the possibility of resolution of many long-simmering conflicts. As we observe in the Middle East and Northern Ireland, however, not to speak of the on-going drama in the former Yugoslavia, it is not easy. Nonetheless, the rest of the world is moving toward solving difficult problems. The North Koreans have agreed to four-power talks aimed at formally ending the Korean War. The Indians and Pakistanis are discussing Kashmir. Formerly Communist states are being brought into NATO. China may be beginning to communicate with the United States in more rational terms.

Surely it is time for Greece and Turkey to normalize their relationship even as did France and Germany under de Gaulle and Adenauer, thereby paving the way to progress for both.

The report that this past Tuesday (July 8), Greece and Turkey, in what the Financial Times described as "the biggest breakthrough in their strained relations for a decade . . . pledged to respect one another's sovereign rights and renounce the use of force in dealing with each other" is solid evidence of what the FT also called "strong pressure from the US." The statement by Greek Prime Minister Constantine Simitis and Turkish President Suleyman Demirel, the consequence of Secretary Albright's determined efforts, concluded the FT, "set a favourable tone for the high-level talks over the future of Cyprus which start near New York today."

And surely, I reiterate, key to the relationship between Greece and Turkey is Cyprus. Settlement, during the year ahead, of an issue over two decades old would obviously be a major triumph for US foreign policy, for Europe, for Greece, and, most important, for all the people of Cyprus.

A CENTER FOR DEMOCRACY AND RECONCILIATION IN SOUTHEASTERN EUROPE

Now, if I have not exhausted you, I must tell you briefly of one other development that I believe relates directly to what I have been saying but goes still farther.

My own involvement in this effort is spurred in large part by my chairing the National Endowment for Democracy.

The National Endowment for Democracy, or NED, as we call it, is one of the principal vehicles through which American Presidents, Senators and Representatives of both political parties seek to promote free, open and democratic societies. Founded in 1983 by a Republican president, Ronald Reagan, and a Democratic Congress, the National Endowment for Democracy is a nonpartisan, nongovernmental organization that, through grants to private entities in other countries, champions, like your Westminster Foundation, the institutions of democracy. NED grants are made to organizations dedicated to promoting the rule of law, free and fair elections, a free press, human rights and the other components of a genuinely democratic culture.

A planning group for the center

The project of which I want to say a particular word is the Center for Democracy and Reconciliation in Southeastern Europe, which my colleagues and I hope to establish beginning in early 1998.

In cooperation with my friend known to many of you, Costa Carras, a businessman and historian of much wisdom and a deep sense of public responsibility, and Matthew Nimetz, a distinguished lawyer who served as Counselor and Under Secretary of State during the Carter Administration and as President Clinton's Special Envoy in the 1994–1995 mediation between Greece and the Former Yugoslav Republic of Macedonia (FYROM), I convened last year a group to draw up plans to create what we called a Center for Democracy and Reconciliation in Southeastern Europe.

Following earlier discussions of the idea of such a center at conferences in Thessaloniki; Washington, D.C.; New York City; and at Ditchley Park, our group met last November in Lyon. The Planning Group, chaired by Ambassador Nimetz, is composed of persons from Southeastern Europe, Western Europe and the United Staets, nearly all of whom have expert knowledge of the region as well as experience in business and government. Unlike other organizations active in the Balkans, the Center will be directed by a board a majority of whose members are from the region itself. That people from Greece, Turkey, Romania, FYROM, Serbia and elsewhere are joining to establish the Center will give it credibility and relevance that US or West European based organizations cannot attain.

Mission of the center

The Center will devote attention to the fields of education and market institutions as well as to the practices of a pluralist democratic society, such as a strong and independent judiciary, free and responsible media, vigorous nongovernmental organizations, and effective and accountable central administrations—with active parliamentary institutions—and local governments.

We anticipate that the Center will have its administrative headquarters in Thessaloniki, Greece, which has excellent transportation and communication facilities, making it easily accessible throughout the region. The Center will eventually sponsor programs in all the countries of Southeastern Europe, including Cyprus, where a program on governance is planned, and Turkey, where a program on environmental issues will be established. The Center's programs are intended to be multinational in scope, bringing together participants from the several countries of the region.

The purpose of the Center's multinational approach is to foster greater interchange and understanding among the peoples of the area and to develop networks among individuals and groups committed to the democratic and peaceful development of Southeastern Europe.

Programs of the center

First, we intend to forge links with other nongovernmental organizations (NGOs) in the region to cooperate on specific projects and in some cases will establish offices in other countries to focus on a particular issue or theme. More broadly, the Center can be a forum to champion NGOs as essential components of a civil society, particularly important, of course, in Southeastern Europe where such organizations are relatively new phenomena, especially in former state-controlled societies.

We want also to support development of a lively, responsible and independent press, again free of state control.

The Center plans to support projects on the writing of school textbooks and improving pedagogy at all levels in the countries of Southeastern Europe.

The Center will also address concerns of parliamentary and local governments and we hope to sponsor exchanges of parliamentarians.

Economic development clearly offers opportunities for regional cooperation and interchange. Independent business associations can be an integral part of a vibrant civil society.

Environmental challenges also open doors for cooperative endeavors throughout the region. Indeed, while in Istanbul last month, Matthew Nimetz and I called on His Holiness, Bartholomew, the Ecumenical Patriarch of Constantinople, who told us that he will shortly be leading an effort to deal with environmental problems in the Black Sea, an initiative that will involve Turkish government officials and business leaders as well.

CONCLUSION

I have told you of my own involvement in Cyprus as a Member of the United States Congress and of my continuing interest in improving relations between Greece and Turkey.

I have offered a list of what seems to me to be some of the factors essential to success in the on-going search for a just and enduring settlement of a problem—the tragedy of a divided Cyprus—that should affront the consciences of all who live in civilized, democratic societies.

I have expressed gratification that the United States is now moving toward much more intensive involvement in the issue.

And I have told you of an effort, in the form of the Center for Democracy and Reconciliation in Southeastern Europe, that although modest at the outset, can, in time, in a troubled part of the world, sow seeds of hope rather than despair.

How splendid it would be if, even before the start of the next millennium, we can see a united Republic of Cyprus, in which all its citizens enjoy the fruits of freedom, democracy and the rule of law!

THE 39TH OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. SOLOMON. Mr. Speaker, it is with a deep sense of personal conviction and pride that I submit for the RECORD an authoritative proclamation on Captive Nations Week, the 39th Observance, based on Public Law 86–90 and reflected in proclamations and observances of States and cities across our Nation this past third full week of July, 20–26.

In personal conviction, I am fully convinced that P.L. 86–90—which is uniquely vindicated by the historic changes these past 8 years in Central/East Europe, Central Asia, Africa, and Central America—will be completely vindicated as freedom forces in the world's democracies concentrate on the remaining captive nations under Communist party dictatorships in the People's Republic of China, Vietnam, Laos, North Korea, and Cuba. Unresolved issues also remain in the Russian Federation, to mention Chechenia as only one example.

In humble pride, it is a source of satisfaction that I have been playing a role in this nearby 40-year tradition begun by the 86th Congress and President Eisenhower and indelibly imprinted in our history by President Reagan and the "evil empire" concept. In short, for our own well-being and peace, a tradition of America's dedication to expressive freedom, democracy, free market economy, human rights, national independence, and the surcease of empires and imperial "spheres of influence".

Definitely certain that all who commemorated this 39th observance share these convictions and civic pride, I deem it an honor to submit the proclamation and the list of its distinguished supporters:

CAPTIVE NATIONS WEEK PROCLAMATION

Whereas, the Captive Nations Week Resolution, which Congress passed in 1959 and President Eisenhower signed into Public Law 86-90, has been proclaimed by every president since, with identical support by Governors and Mayors across our Nation; and

Whereas, reflecting the foresight of that Congress and supports, Public Law 86-90 has been uniquely vindicated by the demise of the Soviet Union and the liberation of the most captive nations in Central and East Europe, Central Asia, Africa, and Central America; and

Whereas, in the total picture and for our national interest, it is imperative to recognize the reality of numerous other captive nations still remaining under totalitarian, communist party dictatorship and the residual Russian Federation structure of imperial control: among others, Mainland China, North Korea, Vietnam, Cuba, Idel-Ural (Tatarstan), Chechenia, the Far Eastern Republic; and

Whereas, like the former USSR and with a long record of massive human rights violations, the People's Republic of China is in essence an empire under communist party rule, consisting of the Chinese, Tibetan, divided Turkestan, and Inner Mongolian captive nations; and

Whereas, with its own unresolved cases of non-Russian and Siberyak self determination drivers, the Russian Federation, centered in Moscow, continues to strive imperially for a "sphere of influence" in eastern Europe, causing former captive nations like Poland, Lithuania, geopolitical strategic Ukraine, and others to seek their preserved independence and full integration in a free Europe through our assistance in the forms of NATO, aid, and investment; and

Whereas, in the true spirit that crucial foreign issues are not foreign to our world leadership, economic well-being, and even American lives, Congress by unanimous vote passed P.L. 86-90, establishing the third full week in July each year as "Captive Nations Week," and inviting our people to observe in that true spirit the week with appropriate prayers, ceremonies, and activities in support of the just aspirations of the still remaining captive nations and the preservation of the freedom of the former captive nations,

Received as of today, July 25, 1997 the following Governors and Mayors have issued proclamations of the week: The Hon. Paris N. Glendening of Maryland; The Hon. Fife Symington of Arizona; The Hon. Christine Todd Whitman of New Jersey; The Hon. John Engler of Michigan; The Hon. George Allen of Virginia; The Hon. Tommy Thompson of Wisconsin; The Hon. Frank O'Bannon of Indiana; The Hon. Frank Keating of Oklahoma; The Hon. Lawton Chiles of Florida; The Hon. Terry E. Brandstad of Iowa; The Hon. Bob Miller of Nevada; The Hon. Lincoln Almond of Rhode Island; The Hon. Mel Carnahan of Missouri; The Hon. Gary E. Johnson of New Mexico; the Hon. Pete Wilson of California; The Hon. Zell Miller of Georgia; The Hon. William Weld of Massachusetts; The Hon. Tom Ridge of Pennsylvania and the Mayors; Rudolph Giuliani of New York; Richard Reardon of Los Angeles; and Edward Rendell of Philadelphia.

CUTS IN MEDICARE

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. DEFAZIO. Mr. Speaker, hundreds of my constituents have contacted me about the severe cuts in Medicare reimbursement for home oxygen therapy. As the House and Senate conferees deliberate over the extent of these cuts, I would like them to consider the lives of seniors receiving home oxygen services. The following letter was given to me by Laurie Keiper of Springfield, OR.

TO CONGRESS AND THE SENATE OF THE UNITED STATES: I am an oxygen home therapy patient on 3-4 liters, 24 hours each day. I am a wife of a research vessel boatswain mate who is not home every night. He is gone most of the summer and fall.

I am a care giver also, taking care of my grandson, most of his 14 years. He will be starting 9th grade in the fall.

Without oxygen, I can not take care of my grandson, do for my family, or take care of myself. Instead you will pay more for child care, hospital and for nursing facility care. Most likely my 5 years of life expectancy will be shortened to 2 to 3 years or less. Oxygen is 1 percent of the total medicare budget. If you cut it by 40 percent what will it cost you?

40 percent increase in hospital stays.

40 percent increase in dependent payments, especially without parental guidance look at all the options—drugs, alcohol, runaways etc.

40 percent increase in home health and/or nursing facility payments.

40 percent increase in death benefit burial payments.

It does not seem fiscally prudent to make this cut. Look for fake bills, bad doctors, people who aren't supposed to be on Medicare. When someone says they question a bill—follow up on it. Cut cost that way!

LAURIE KEIPER.

TRIBUTE TO THE U.S.S. "INDIANAPOLIS"

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Ms. CARSON. Mr. Speaker, I would like to take a brief moment to personally pay tribute to those who served so selflessly aboard the U.S.S. *Indianapolis.* A reunion was held in Indianapolis this weekend for those veterans who served on the U.S.S. *Indianapolis,* a heavy cruiser sunk by enemy torpedo on July 30, 1945.

My pride and admiration, for the service of these men know no bounds.

I am proud to report that I have been honored with appointment to the Veterans' Affairs Committee of Congress, an opportunity to be of special service to those who sacrificed so much for our Nation. In that work I find regular occasion to remember and to admire our citizen veterans and to help secure to them full measure of our Nation's respect for their contributions in time of peace and in the horror that is war.

I am prouder still to join my voice with those who spoke to honor the men who served with such valor aboard the U.S.S. *Indianapolis*—those with us still and those lost in the Pacific vastness somewhere west of Guam. For their service and sacrifice in the highest tradition of our country, our respect must be eternal.

MEDICARE REFORM PROPOSAL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. PACKARD. Mr. Speaker, this year Congress is faced with one of its toughest challenges yet. A program that for three decades has helped pay the medical bills for America's senior citizens is in drastic need of reform. Credited with alleviating the problem of the uninsured senior citizens and reducing the health problems of the disabled, Medicare is now in need of a major overhaul if it is to continue providing for seniors.

We are working hard to ensure that Medicare remains viable for present and future beneficiaries. By addressing the impending bankruptcy of this program now, we will be able to strengthen and improve it while expanding benefits for all participants. Through a combination of savings and structural reforms, the Republican plan to reform our health care program will extend the solvency of the Medicare trust fund for at least 10 years.

The House Medicare proposal increases the choices available to Medicare beneficiaries, so that they can select from among the same kinds of health plan options that are available to the rest of the population. The plan calls for new systems of payment to address the problems in areas where the growth in costs is unsustainable. Finally, our proposal achieves savings by restraining future increases in costs, while also providing important new preventive care benefits.

I am proud of the progress we have made toward reforming Medicare. I firmly believe that Medicare can be preserved, protected, and improved without jeopardizing health care for the most vulnerable populations, and I am confident that together we can make this goal a reality.

IN MEMORY OF WILLIAM N. KEMP

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. GREEN. Mr. Speaker, I rise today to honor the memory of William N. Kemp, who passed away on July 15, 1997, in Houston, TX. Dr. Kemp was a self-employed optometrist for 41 years in the North Shore area of Houston and was the founder of the firm Drs. Kemp and Peterson, Optometrist. He was past president of both the Harris County Optometric Society and the Texas Optometric Association.

Dr. William Kemp was born August 21, 1925, in Wharton, TX, where he lived until entering the Navy for 3 years of service during World War II. He attended Texas A&I University in Kingsville for 3 years and was graduated from the Illinois College of Optometry in Chicago. Upon graduation, he moved to the North Shore area of Houston and was active in the community for many years, especially in the Lions International.

Dr. Kemp was active in politics where he served as president of the North Shore Democrats and skillfully represented Houston alongside with Congresswoman Barbara Jordan at the Democratic National Convention in Chicago in 1968. In 1972, Dr. Kemp was elected to the Texas State Board of Education, district 8, where he served for 11 years.

Dr. Kemp is survived by his wife of 41 years, Kathryn Lourene Kemp; three sons, Paul Davis Kemp, George William Kemp, and Robert Harris Kemp; two granddaughters, Kimberley Shae Kemp and Toni Louise Kemp; and one grandson, Matthew W. Kemp.

William Kemp will be remembered as a leader in his community whose ideas reached far and wide. His genuine enthusiasm for his community prompted people of all ages to become interested and involved in improving their community. Because I experienced Dr. Kemp's vitality and wisdom firsthand, I have no doubt that this tireless role model made Houston, TX, a richer place to live.

As friends and family reflect on his lifetime of contribution, it is only fitting that we also pay tribute to this great man and good friend.

THE PASSING OF A HERO

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. CONYERS. Mr. Speaker, on Thursday, July 24 a great constitutional scholar and advocate of social justice passed away. Supreme Court Justice William J. Brennan, Jr. served the highest branch of our judicial system from 1956 until 1990. His scholarship was at the forefront of an intellectual and moral frontier that began in the pre-civil-rights era.

Justice Brennan shaped our law and touched our lives in countless ways. In the area of voting rights he authored Baker versus Carr, 1962, which was one of the cornerstone of voting rights case law. It lead to one-person one-vote reapportionment cases. On the issue of affirmative action he authored Metro Broadcasting versus the Federal Communications Commission, 1990, which upheld two affirmative action programs aimed at increasing African-American ownership of radio and television stations. In Texas versus Johnson, 1989, Brennan declared, "If there is a bedrock principle underlying the first amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." And continuing in his tradition of protecting the most vulnerable, in Goldberg versus Kelly, 1970, he established that it was a violation of the 14th amendment's guarantee of due process under law for a State to cut off a welfare recipient's benefit without a hearing.

Mr. Speaker, I rise today to honor this great drum major for justice of the 20th century. I submit for the CONGRESSIONAL RECORD two articles from the Washington Post which I believe capture some of the spirit and letter of his contributions to our great system of justice.

[From the Washington Post, July 25, 1997]

THE BIGGEST HEART IN THE BUILDING

(By Joan Biskupic)

Supreme Court Justice William J. Brennan Jr. was remembered yesterday as a bulwark of liberal activism whose effects on America is so great—and his personality so compelling—that even those who disagreed with his views said much of his legacy will endure.

Brennan "played a major role in shaping American constitutional law," said conservative Chief Justice William H. Rehnquist. "He was also a warm-hearted colleague to those of us who served with him."

"He had the biggest heart of anyone in the building" said Thurgood Marshall Jr., son of the late justice. "Justice Brennan was not just my father's closest and dearest partner, but his hero in the pursuit of equality and justice."

Marshall, President Clinton's Cabinet secretary, said his father and Brennan could not have been more different as people, given the backgrounds from which they emerged. "But they both believed fervently in the very same ideals."

News of Brennan's death, coming shortly after noon yesterday, spread quickly among former colleagues and friends. He was known for the force of his opinions—more than 1,000—that embodied the notion that the federal courts should actively seek to right society's wrongs. He was venerated yesterday for his persuasive approach and good humor, and for a charisma that will help him be remembered for generations.

"There are few people who are truly extraordinary and we don't always know the reasons why they rise above the rest of us. But he did," U.S. appeals court judge Richard S. Arnold of Little Rock, who was a law clerk to Brennan in 1960, said yesterday. "His chief characteristics were kindness and love—to everybody."

Brennan, who retired from the court in 1990 and initially kept up professional and personal contacts, had been in poor health in recent months. He died at a nursing home in Arlington, where he had been rehabilitating after he broke his hip in November.

A court spokeswoman said Brennan's body would lie in state from 10:30 a.m. until 10 p.m. Monday at the Supreme Court Building. His funeral is set for 10 a.m. Tuesday at St. Mathews Catholic Church in the District.

All quarters of government reacted to word of Brennan's death. Clinton, who said Brennan's devotion to the Bill of Rights inspired millions of Americans and countless young law students, including myself," ordered flags flown at half-staff at government buildings, military facilities and U.S. embassies worldwide.

In addition to Rehnquist, three other of Brennan's former court colleagues issued statements of admiration yesterday.

Justice John Paul Stevens, who sat with Brennan for 15 years and shared some of his liberal views , said, "The blend of wisdom, humor, love and learning that Justice Brennan shared with his colleagues—indeed with all those privileged to know him—was truly unique. He was a great man and a warm friend."

"Justice Brennan's death means the passing of an era in the history of the Supreme Court," Justice Sandra Day O'Connor said. "In addition to the remarkable legal legacy he left behind, he left a legacy of friendship and good will wherever he went."

Justice Anthony M. Kennedy said, "Justice Brennan was one of the great friends of freedom, freedom for those who have it and freedom for those who yet must seek it."

Justice Antonin Scalia, who strongly disagreed with Brennan's liberal approach, nonetheless once called Brennan "probably the most influential justice of the century" and "the intellectual leader of the movement that really changed, fundamentally, the court's approach toward the Constitution."

Joshua E. Rosenkranz, a 1987-88 clerk who is now executive director of the Brennan Center for Justice at New York University, said, "I would be willing to bet that there is not a single person in our nation who hasn't been touched by Justice Brennan's legacy, whether they know it or not."

Attorney General Janet Reno said she was sad to hear Brennan had died and added:

"Justice Brennan stood up for people who had no choice. He devoted his long, rich life to helping the American justice system live up to its ideals. He made a difference, and he will be remembered always by all Americans who prize the rule of law."

JUSTICE BRENNAN, VOICE OF COURT'S SOCIAL REVOLUTION, DIES

Former Supreme Court Justice William J. Brennan Jr., the progressive voice of the modern court and a justice unequaled for his influence on American life, died yesterday. He was 91.

During his 34 years on the court, Brennan pushed his colleagues to take on a variety of social issues and was widely recognized as the chief strategist behind the court's civil rights revolution.

He was the architect of rulings that expanded rights of racial minorities and women; led to reapportionment of voting districts guaranteeing the ideal of "one person, one vote," and enhanced First Amendment freedom for newspapers and other media.

A slight man with a ready Irish grin, Brennan was recognized across the political spectrum not only for his legal mastery but as a defender of individual liberty and a voice of civility. Poor health forced his retirement from the court in 1990.

"He was a remarkable human being, one of the finest and most influential jurists in our nation's history," President Clinton said yesterday upon learning of Brennan's death. "The force of his ideas, the strength of his leadership and his character have safeguarded freedom and widened the circle of equality for every single one of us."

Justice David H. Souter has said of the man he succeeded on the court: "One can agree with the Brennan opinions and one may disagree with them, but their collective influence is an enormously powerful defining force in the contemporary life of this republic."

What distinguished Brennan was his ability to forcefully articulate a liberal vision of judging. It was a vision that found the essential meaning of the Constitution not in the past but in contemporary life, prized individual rights beyond what was explicitly written in the text, and compelled him to reach out to right perceived wrongs. He called the Constitution "a sparkling vision of the supreme dignity of every individual," and employed it as a tool of racial equality and social justice.

"The genius of the Constitution rests not in any static meaning it may have had in a world that is dead and gone," he wrote in an essay published in 1997, "but in the adaptability of its great principles to cope with current problems and present needs."

In the confines of the court's conference room and chambers, Brennan was renowned for his cunning and persistence, and relentlessness in winning votes for his side. If a justice initially turned him down, Brennan would begin with gentle persuasion, then offer grounds for compromise, then pull out all the stops to try to win another vote. If he lost, he would pursue the justice in the hope he would win on an issue the next time around.

In a May 1995 tribute to Brennan to inaugurate the Brennan Center for Justice at New York University School of Law, former appeals judge Abner J. Mikva defined "a Brennanist" as "one who influences his colleagues beyond measure." Retired Justice Harry A. Blackmun said Brennan operated in "quiet but firm tones."

Brennan was appointed to the court by President Dwight D. Eisenhower in 1956, three years after Earl Warren became chief justice. And Brennan's unmatched ability to build consensus made him a central figure in the Warren Court and a key participant in its most celebrated decisions.

He is considered the primary writer of the 1958 Cooper v. Aaron decision that forced school officials to accelerate classroom integration in the face of mass resistance.

Brennan also was the author of a 1962 decision that permitted federal courts for the first time to hear constitutional challenges to a state's distribution of voters, a ruling that brought new fairness to the sharing of political power between rural and urban America. He broadly interpreted the Constitution's guarantee of due process for criminal defendants, in cases, for example, that protected state defendants against self-incrimination and gave prisoners greater access to federal courts to challenge convictions. "In a civilized society," he wrote in the latter, "government must always be accountable to the judiciary for a man's imprisonment."

He led the majority to bolster the right of free speech, including a 1964 opinion that requires public figures who sue for libel to prove "actual malice" on the part of the media.

To the consternation of his conservative critics, Brennan was not afraid to cross boundaries into areas previously considered off-limits for federal courts. "Our task," Brennan once said, "is to interpret and apply the Constitution faithfully to the wisdom and understanding of the Founding Fathers. But often it is impossible to make a constitutional decision without basing certain findings on data drawn from the social sciences, from history, geography, economics and the like."

When Warren was succeeded as chief justice by Warren E. Burger and then William H. Rehnquist, the court began to move gradually to the right, and many of the rulings from the Warren era were reversed. But several Brennan decisions endured. Among the most important is Baker v. Carr, a 1962 opinion that gave federal courts the power to ensure the fairness of voting districts, reshaped politics and broadened participation in democracy.

Even as he found himself increasingly on the losing side in the 1980s, Brennan remained on good terms with his fellow justices. "Brennan brought to the work of the court a personal warmth and friendliness which prevented disagreements about the law from marring the good personal relations among the justices," Rehnquist once wrote.

The chief justice also remarked after Brennan had retired that "the enduring legacy of Justice Brennan—the high value which he placed on claims of individual constitutional rights asserted against the authority of majoritarian self-government—is in no danger of being forgotten or disregarded simply because he has left the bench."

Georgetown University law professor Mark V. Tushnet, who has read through the private papers of several former justices, said Brennan's winning personal style added tremendously to his effectiveness. "If you look at the tone with which people responded to his suggestions for changing an opinion, Brennan made it easy. He was friendly and had a tone of accommodation."

A minor stroke and related poor health forced Brennan to retire suddenly in 1990, but he remained active in liberal causes. In 1994, a national anti-death penalty project was begun in his name. A year later, he was the inspiration for a free speech award given periodically by the Thomas Jefferson Center for the Protection of Free Expression in Charlottesville, Va.

Brennan said he hoped to continue effecting change and affecting lives.

"Justice Brennen has an abiding belief in the power of thoughts, thoughtful words and good will to reach understanding and solutions that more contentious methods cannot," Vernon E. Jordan, Jr., the civil rights leader and Washington lawyer, said in 1995 when a group of Brennan's admirers dedicated the Brennan Center.

Brennan was born in Newark on April 25, 1906, the second-oldest of eight children of Irish immigrant parents. His father worked as a laborer in a brewery and became a union leader and local politician.

Brennan was an honors student at the University of Pennsylvania's Wharton School of Finance and received a scholarship to Harvard Law School. Upon graduation in 1931, he joined a Newark law firm, Pitney, Hardin & Skinner, practicing there until he entered the Army in 1942. While in the military, he handled labor disputes on the staff of the undersecretary of war.

He returned to his law firm and began specializing in labor law, representing several large manufacturing enterprises, before being appointed to the New Jersey bench. In 1949 Republican Gov. Alfred E. Driscoll named him to the state superior court. Three years later, Driscoll elevated him to the New Jersey Supreme Court, and Brennan became a reliable lieutenant to Chief Justice Arthur Vanderbilt.

Brennan's nomination to the high court apparently came as a surprise. Then U.S. Attorney General Herbert Brownell Jr. telephoned him late one afternoon in his New Jersey chambers and asked that he meet Eisenhower at the White House the next day.

Brennan thought nothing of the request and even stopped at Union Station for a hot dog to bide his time, according to Robert M. O'Neil, who would become one of Brennan's first law clerks. "He didn't expect to get dinner at the White House," O'Neil said.

University of Virginia law professor John C. Jeffries Jr. wrote in his biography of Brennan's colleague, Lewis F. Powell Jr. that Brennan's shot at the high court was owed to chance.

"In 1956 the chief justice of New Jersey, Arthur Vanderbilt, was scheduled to give the keynote address at a large Washington conference on the problem of overburdened courts. Two days before the meeting, Vanderbilt fell ill, and Brennan went in his place. His speech impressed U.S. Attorney General Herbert Brownell, who, when a Supreme Court vacancy opened four months later, contemplated the electoral advantages to President Eisenhower of appointing Irish Catholic Democrat from the Northeast and recommended Brennan."

Brennan later said no one in the Eisenhower administration asked him a single question about his politics or judicial philosophy. And indeed, Eisenhower's choice for the high court marked the third time Brennan had been appointed or elevated to a court by a Republican official. The ability to bridge differences would distinguish his early career on the high court.

Brennan succeeded Justice Sherman Minton, who was retiring because of failing health, and initially received a recess appointment on Oct. 16, 1956. He was confirmed by the Senate March 19, 1957 on a voice vote. The only audible dissent came from Sen. Joseph R. McCarthy (R-Wis.), who said he was convinced that Brennan was "hostile" to congressional investigations of communism.

Brennan had given a speech in 1954 in which he said "there are some practices in the contemporary American scene which are reminiscent of Salem witch hunts."

Brennan was 50 at the time of his appointment, the youngest member of a court that included William D. Douglas, Hugo L. Black and Felix Frankfurter. In 1962 Frankfurter who taught Brennan at Harvard and was a strong advocate of limiting judicial power, told Look magazine: "I taught my students to think for themselves, but sometimes I think that Bill Brennan carries it too far."

Brennan formed an immediate relationship with Warren, becoming a close ally and developing the legal justifications for the decisions that would result in a social revolution.

The Warren Court broadly interpreted the Constitution to provide greater protections for individual rights. It demanded, for example, that states abide by most of the provisions of the Bill of Rights, a document originally interpreted to safeguard individuals only from the hand of the federal government. Essentially a political actor of the era, the court actively addressed society's problems, accelerating the civil rights movement, bringing fairness to reapportionment and reforming police practices.

When he saw a litigant in need, Brennan's litmus test for offering legal protection was whether anything in the Bill of Rights explicitly prevented him from doing so. He favored the individual and put the burden on the government to show that something in the Constitution disallowed protection. (The opposite, "judicial restraint" approach asks whether anything in the Constitution or in the court's precedents explicitly permits it to extend protection to an individual.)

Brennan and the other Warren-era judges crossed boundaries into areas previously considered off-limits for the federal courts. Before 1962, for example, the question of whether legislative voting districts were drawn fairly was considered a "political question," that is, the business of elected officials, not judges. But Brennan said the fairness question was constitutional, not political. Warren would later call the ruling in Baker v. Carr the "most important" of his time on the court. The decision broke rural America's lock on political power and gave urban voters equal representation to fulfill the principle of one person, one vote, as articulated in later voting rights cases.

Brennan also led the court in increasing protections against sex discrimination, writing in 1972, "distinctions between the sexes often have the effect of invidiously relegating the entire class of females to inferior legal status without regard to the actual capabilities of its individual members."

SPEECH RULINGS OFTEN ENGENDERED POLITICAL OUTRAGE

He had argued that laws treating men differently from women could be justified only by a compelling governmental interest—the strictest constitutional test for a law. He failed to win a majority of his colleagues to that standard but eventually succeeded in getting them to agree to an "intermediate" standard of scrutiny still in place. Until these rulings, states could, and did, treat women differently from men in a variety of ways, imposing different requirements for everything from beer drinking to alimony.

In another area of equal rights, Brennan was a strong advocate of affirmative action. In the 1979 United Steelworkers of America v. Weber, he wrote for the court that federal anti-discrimination law does not bar employers from adopting race-based affirmative action programs to boost the number of blacks in the work force and management.

In 1990, his last term, Brennan was the author of a decision upholding Congress's preferential treatment of blacks and other racial minorities in awarding broadcast licenses.

The court said the affirmative action program was justified by Congress's interest in broadcast diversity. The case, Metro Broadcasting Inc. v. Federal Communications Commission, was overturned in 1995 as the court increased its scrutiny of federal affirmative action programs.

When the court invalidated state death penalty laws in 1972 in Furman v. Georgia, Brennan wrote, "Death is an unusually severe and degrading punishment; there is a strong probability that it is inflicted arbitrarily." A court should determine "whether a punishment comports with human dignity. Death, quite simply, does not."

Four years later, when a majority reinstated the death penalty with a requirement for safeguards on its imposition. Brennan and his colleague and judicial soul mater, Justice Thurgood Marshall, dissented. Toward the end of their tenures on the court (Marshall retired in 1991 and died in 1993), they were alone in opposition to capital punishment as cruel and unusual punishment.

One of Brennan's best-known opinions is his 1964 New York Times v. Sullivan, which made it harder for public officials to sue the media.

In it, he referred to "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."

Like many of his path-breaking opinions, Brennan's free speech decisions often engendered political outrage. Such was the case for his majority opinions in 1989 and 1990 decisions striking down bans on flag burning. Said Brennan, "the government may not prohibit expression simply because it disagrees with the message."

In the area of religion, Brennan favored a high wall of separation between church and state. Appeals Judge Richard Arnold of Little Rock, Ark., who as a young lawyer clerked for Brennan, once summed up Brennan's view: "In short, religion is too important to be co-opted by the state for political or governmental ends. . . . As Justice Brennan understands, public and ostentatious piety can be the enemy of true religion."

Brennan was the author of a 1987 decision, Edward v. Aguillard, that invalidated a Louisiana requirement that any public school teacher who taught evolution also teach "creation science." In the related area concerning the free exercise of religion, Brennan penned a majority opinion in 1963 that only a compelling state interest could justify limitations on religious liberty. Rehnquist, who was often on the opposite side of Brennan, wrote after he retired that "Brennan's abilities as a judicial craftsman, and his willingness to accept 'half a loaf' if that were necessary to obtain a court opinion, played a large part in translating what had at first been dissenting views into established jurisprudence."

Brennan first married in 1928 to Marjorie Leonard. They had two sons and a daughter. Marjorie Brennan died of cancer in 1982 after a lengthy illness. The following year, Brennan married Mary Fowler, his secretary of more than 20 years. They announced the news of their wedding to the rest of the court with a memorandum that said: "Mary Fowler and I were married yesterday and we have gone to Bermuda."

In addition to his wife, he is survived by his three children, William J. III, Hugh Leonard, and Nancy, and grandchildren.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 29, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 30

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on the regulation of international satellites.
SR–253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Environment and Public Works
To hold hearings on S. 1059, to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System.
SD–406

Indian Affairs
Business meeting, to mark up S. 569, to amend the Indian Child Welfare Act of 1978 to provide for retention by an Indian tribe of exclusive jurisdiction over child custody proceedings involving Indian children and other related requirements; to be followed by an oversight hearing on the Bureau of Indian Affairs Special Trustee's strategic plan to reform the management of Indian trust funds.
SD–106

10:00 a.m.

Banking, Housing, and Urban Affairs
Financial Services and Technology Subcommittee
To resume hearings to review information processing challenges of the Year 200 for certain financial institutions.
SD–538

Foreign Relations
Business meeting, to consider the Agreement between the Government of the

United States and the Government of Hong Kong for the Surrender of Fugitive Offenders signed at Hong Kong on December 20, 1996 (Treaty Doc. 105–3), S. Con. Res. 39, expressing the sense of the Congress that the German Government should expand and simplify its reparations system, provide reparations to Holocaust survivors in Eastern and Central Europe, and set up a fund to help cover the medical expenses of Holocaust survivors, and pending nominations.

SD–419

Governmental Affairs

To resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

To resume hearings to examine certain issues with regard to the proposed Global Tobacco Settlement which will mandate a total reformation and restructuring of how tobacco products are manufactured, marketed and distributed in America.

SD–226

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings to review the management and operations of concession programs within the National Park System.

SD–366

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

2:30 p.m.

Rules and Administration

Business meeting, to consider the status of the investigation into the contested Senate election in Louisiana.

SR–301

JULY 31

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine how trade opportunities and international agricultural research can stimulate economic growth in Africa, thereby enhancing African food security and increasing U.S. exports.

SR–332

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 268, to regulate flights over national parks.

SR–253

Energy and Natural Resources

To hold oversight hearings to examine the organizational structure, staffing, and budget of the Forest Service for the Alaska region.

SD–366

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to mark up S. 1026, authorizing funds for the Export-Import Bank of the United States.

SD–538

Governmental Affairs

To continue hearings to examine certain matters with regard to the committee's special investigation on campaign financing.

SH–216

Judiciary

Business meeting, to consider pending calendar business.

SD–226

2:00 p.m.

Judiciary

Immigration Subcommittee

To hold hearings to review annual refugee admissions.

SD–226

2:30 p.m.

Rules and Administration

Business meeting, to consider the status of the investigation into the contested Senate election in Louisiana.

SR–301

AUGUST 1

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for July.

1334 Longworth Building

10:00 a.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to review the operation of the FBI crime laboratory.

SD–226

2:00 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine the negative impact of bankruptcy on local education funding.

SD–226

POSTPONEMENTS

JULY 29

10:00 a.m.

Judiciary

To hold hearings to examine the copyright infringement liability of on-line and Internet service providers.

SD–226

SENATE—*Tuesday, July 29, 1997*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, help us to live beyond the meager resources of our adequacies and learn that You are totally reliable when we trust You completely. You constantly lead us into challenges and opportunities that are beyond our erudition and experience. We know that in every circumstance You provide us with exactly what we need.

Looking back over our lives, we know that we could not have made it without Your intervention and inspiration. And when we settle back on a comfortable plateau of satisfaction, suddenly You press us on to new levels in the adventure of leadership. You are a disturber of false peace, the developer of dynamic character, and the ever-present Deliverer when we attempt what we could not do on our own. Thank You for the tangible evidence of Your answer to our prayers for an agreement on the budget.

May this be a day in which we attempt something beyond our human adequacy and discover that You are able to provide the power to pull it off. Give us a fresh burst of excitement for the duties of this day so that we will be able to serve courageously. Indeed, we will attempt great things for You and expect great things from You. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Kansas, is recognized.

SCHEDULE

Mr. ROBERTS. Mr. President, today the Senate will be in a period of morning business until 11:30 a.m. Following the morning business period, at 11:30 a.m., the Senate will resume consideration of S. 1022, the Commerce, Justice, State appropriations bill. Under the order, Senator WELLSTONE will be recognized for 1 hour, equally divided, to debate his two amendments to the bill.

In addition, from 12:30 to 2:15 p.m., the Senate will recess for the weekly policy luncheons to meet. And by consent, at 2:15 p.m., the Senate will then proceed to a series of votes on the remaining amendments in order to S. 1022, the State, Justice, Commerce appropriations bill, including final passage.

Also, by previous consent, following the votes at 2:15 p.m., the Senate will resume the Transportation appropriations bill. As previously announced, all amendments to the Transportation appropriations bill must be offered and debated during today's session. Therefore, additional votes can be anticipated throughout today's session of the Senate.

I thank my colleagues for their attention.

It appears to me that perhaps we do not have a quorum. As a matter of fact, I suggest to you, Mr. President, the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1022

Mr. ROBERTS. I ask unanimous consent, Mr. President, that the votes scheduled to begin at 2:15 p.m. today now begin at 3:30 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2015

Mr. ROBERTS. Mr. President, I further ask unanimous consent that the Senate begin consideration of the conference report to accompany H.R. 2015 at 12 noon, Wednesday, regardless of the receipt of the papers from the House.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak up to 5 minutes each.

Mr. REID. I ask unanimous consent that I be allowed to speak for 10 minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAKE TAHOE PRESIDENTIAL FORUM

Mr. REID. Mr. President, approximately 1 year ago I asked President Clinton to convene a summit on the environmental problems facing Lake Tahoe. He did convene a summit in Lake Tahoe this past Friday and Saturday. Vice President GORE and President Clinton both came to Lake Tahoe.

Mr. President, Mark Twain said that Lake Tahoe is "the fairest picture the whole Earth affords." I think Mark Twain was right. That beautiful lake, that is shared by the States of Nevada and California, is the fairest place in all the Earth.

That beautiful piece of real estate is also shared with the Federal Government because the Federal Government owns about 75 percent of the land mass within the Tahoe basin.

The reason, Mr. President, that the President was asked to come to Lake Tahoe is because that beautiful resource is in distress. Approximately 50 percent of the trees in the basin are dead or dying. Erosion is taking away the beautiful clarity of that lake. The clarity of that lake is leaving at the rate of over a foot a year because of erosion and pollutants going into that lake. Additionally, we have tremendous fear, through the whole basin, of forest fires.

Lake Tahoe is clearly the crown jewel of our national treasures and it must be preserved.

Mr. President, we should all be proud of what took place there these past several months. The planning and execution of the summit involved over 1,000 local people. We had four Cabinet officers who came to the area on more than one occasion. The workshops and the forums that were held prepared the Vice President and the President for their visits. It was not the result of the President coming and saying, "Here's what we are going to do."

In fact, what the President decided to do was based upon what the thousand people said should be done. It was not possible to determine who was speaking, whether it was an environmentalist, an owner of a business in the area, or a local government official. They were all speaking as if they

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

were singing from the same sheet of music.

In fact, the President said that one of the most remarkable things is that this summit, this Presidential forum set the pattern of how disputes should be resolved all around the world, not only in our own country, because he felt that people joined together for a common cause and decided that the environment could be taken care of and the economy could still grow. The people said that unanimously. At Lake Tahoe, there is no false choice between the economy and the environment. Each depends upon the other.

The people of the Tahoe Basin and the States of California and Nevada agree that something must be done. They asked for a partnership with the Federal Government, and they got that partnership.

Holding such a forum at this time is critical: If we continue our current path for another 10 years, the damage already done would become irreversible. If we continue on our current path for 30 years, Lake Tahoe will be no better than any other lake. It will be just an average lake. This would be devastating to the people of this country.

Lake Tahoe is not just another lake and we must not let it become one.

We have tens of millions of visitors each year that visit the lake. We can no longer let the lake be treated the way it has been in the past. History will not be kind to us if we let this jewel slip away. We have been given a gift, and we must provide adequate stewardship over this gift.

I have indicated that 75 percent of the land in the basin is federally owned. There is a Federal responsibility to do our share.

Mr. President, when the President came, he not only acknowledged that there was a problem with the lake, but this was more than a photo opportunity. The President came and signed an Executive order indicating that all Federal agencies would have to work together to save the lake.

The first chairman of the Federal task force is Secretary Glickman. The first work being done as a result of the President's visit started yesterday. Some of the things being done I think are significant. I am not going to mention the 28 different action items that the President initiated that have dollar signs attached to them, but it is about $50 million worth over two years, a doubling of the current effort.

One of the things that so impressed me is that the President said that this year 29 miles of old logging roads will be obliterated. Some of the roads have been in existence for more than 100 years going back to the days of the Comstock when they took away all the forests in the area to satisfy the voracious appetite of the mines in the Virginia City area. After 10 years, all the old roads will be gone. These roads have added significantly to the erosion that has taken place in that lake over these many years.

In addition to that, Mr. President, there will be work done on watershed assessments so that people will understand what we are dealing with there. Two million dollars will be used to clear dead brush and deadwood from the more than 3,500 federally owned lots. These lots have been purchased as a result of Federal lands being sold 500 miles away in the Las Vegas area. These lots now need to be cleaned up. As a result of the action of the President, they will be cleaned up.

The Forest Service also, Mr. President, will begin a program immediately of prescribed burns. We spend about $1 billion a year fighting fires in this Nation. We are now going to spend part of these moneys starting controlled fires. It is the only way that that forest around Lake Tahoe can be regenerated and made safe. In the past we have burned about 100 to 200 acres a year. This will be an increase of up to 1,000 acres a year which will be burned carefully and on purpose.

The Forest Service will also use prescribed fires, and other means, to reduce fuels on another 4,000 acres per year. This will be 4,000 acres a year that will become a much better, safer place.

Mr. President, the work that was done these past 3 months is something that I think we should all be proud of. It shows that the Federal Government can work with State and local governments in a nonadversarial way. I think what took place here is an indication of what can take place in the future in other areas around the country.

It is possible, I repeat, that you can grow the economy and protect and preserve the environment, as indicated with the work that has taken place in the Lake Tahoe area during the last 3 months. Lake Tahoe and the area around there is only 26 percent registered Democrats. But it was impossible to determine, these past 3 months, who was a Democrat and who was a Republican. Everyone joined together to recognize that this great lake is in trouble and that we all need to work together—a Democratic President and a Republican Congress.

I hope, Mr. President, that the American people realize that we can work together, as indicated by the budget agreement that has been worked out around here these past few weeks, and that we can work together on difficult problems, not only environmental problems, but economic problems.

So, I'm very happy that the President accepted my invitation to come to Lake Tahoe. I think that his coming there was a home run for the economy and the environment and government in general.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Thank you, Mr. President.

THE BUDGET AGREEMENT

Mr. DORGAN. Mr. President, today, we learned that last evening the White House and congressional leaders reached agreement on a budget and tax cut proposal. I think that will be good news for the American people.

I have been in Congress for some long while, as has been the Presiding Officer, and we have seen budgets and more budgets. We have seen claims and counterclaims. We have seen good times and bad times. We have seen economies that are expanding and economies that are contracting.

I remember the action taken in 1993 by this Congress, at a point in time in 1993 when the budget deficit was swelling in an almost uncontrolled manner and the budget deficit was, in the unified budget, over $290 billion—if you count all the money the way you ought to, it was well over $300 billion—and then in 1993, with that deficit out of control, this Congress took action. By one vote here in the Senate and one vote in the other body, this Congress passed what should be called the Balanced Budget Act. We then called it a deficit reduction bill. And it has worked.

From 1993 until now, we have seen the budget deficit go down, down, down and way down. That has allowed, I think, the American people to be more confident about this Congress' willingness and ability to deal with fiscal policy in a responsible way. The economy has blossomed and provided more economic growth, and because of that, unemployment has gone down, way down; inflation is down, way, way down; and because all the economic indicators are good and because economic growth has been up, we have seen the budget deficit now nearly disappear.

As a result of this economic boom, Members of Congress, working with the President, have reached a budget accord on not only spending issues for the coming 5 years, but also the question of what kind of tax reductions should be made available.

The one thing that is certain about all of us is that none of us will be around here 100 years from now; 100 years from now, we will all be gone. We will be faint memories. And 100 years from now, if someone wanted to look and evaluate what was this Congress about, what were the American people about, what did they hold dear and what did they think was important, they could look back a century at the budget of the United States of America 100 years prior to that time and evaluate what that Congress and the American people felt they should spend their money on, what they felt they should invest in. So 100 years from now, if they look back and evaluate what it is we held most dear, what we thought was most important, they could look into this budget agreement and evaluate what, in July 1997, motivated these men and women, what did they think was important.

The reason I came to the floor this morning is I think a number of the impulses in this budget agreement and the tax agreement are precisely the right kind of impulses for this Congress and for the American people to act on. First of all, I have, over time, tended to categorize the policy issues as kids, jobs and values; working on the issues of kids, jobs and values. Somehow the threading of those issues together in providing the right kinds of policy initiatives gives us the right direction.

Well, let's take a look at what's in this budget agreement and the proposal on tax reductions relative to kids, jobs and values.

First of all, what has happened in this agreement is the President pushed, and we pushed, and we pushed some more, and we have in an agreement a substantial new investment in education, $35 billion worth of tax relief targeted for education. This agreement says to the American people that when you send your kids to college, you are going to get a tax credit that is an inviting and important tax credit for you.

Why is that important? Because there is no substitute for education. A society, a country that is not educated is not going to improve and advance. Thomas Jefferson once said, "Those who believe a country can be both ignorant and free believe in something that never was and never could be."

So this agreement, thanks to the President, thanks to many of us in Congress who pushed and pushed and pushed and would not quit, says to parents who are going to send their kids to school, there is $35 billion for investment in education in the form of tax credits, a 100 percent tax credit for the first $1,000 you spend in sending your child to college, and 50 percent of the second $1,000 in the first 2 years of postsecondary education. This agreement says education is important. That is the one that says kids and their future represent the future of this country.

Also, child health. Twenty-four billion dollars in this agreement is dedicated to insure more children in this country who are now uninsured. Of the 10 million children who have no health insurance and no health coverage, 5 million of those children will be able to see the benefits of health insurance under this piece of legislation. That is a priority. That represents the kids portion of what we deem important here in this Congress and in our country. For poor children, 5 million poor children, the question of whether they get health care will no longer be a function of whether their parents have money. Health care for those sick children ought to be a right. And this budget agreement—again, thanks to this President and to many of us in Congress who pushed very hard to say children's health is important; when we have 10 million children without health coverage, we had to do something about it—moves a giant step in that direction.

Jobs, values. Well, this proposal on the budget and on taxes also is a proposal that says that saving is important. Savings and investment are important. It manifests that by the tax incentives; it says that we want the American people to have the incentives to save and to invest by providing tax incentives for that purpose. My grandmother, who is gone now, bless her soul, once said to me, "You know, Byron, I never hear anybody talking about saving up to buy anything anymore because the whole economy is to say, 'Come over here and buy this, we will give you a rebate and give you the product, and you don't have to make the first payment for 6 months.'" That is the whole economy these days.

But the fact is, our economic strength and future economic growth rests on the ability to promote savings and, therefore, investment. Savings is critically important, and this budget agreement provides incentives, more tax incentives, for savings.

Home ownership. This tax agreement provides substantial tax help for those who sell their home and who now will no longer be paying any kind of capital gains tax on the value of that home sale.

Most importantly, with respect to children again, is the children's tax credit, a $500 tax credit. It is phased in in different ways. But the fact is, for those families who have children and who are struggling to make ends meet and pay bills and go to work every day and provide for their children's needs and send their kids to school, this provides a $500 child tax credit. The President pushed for that, the Congress pushed for that. That is also part of this agreement.

Now, we had a big fight about who is going to get that and should some children be left out because their parents don't make enough money—both parents working, both at minimum wage, neither of which pay much income taxes, but both of which pay a substantial payroll tax, and the payroll tax is the tax that has been increasing.

This agreement, as I understand it from last evening, does move in the direction of saying, yes, you are a taxpayer, if you make $25,000 a year and don't pay much in income tax but if you are paying a payroll tax, we consider you a taxpayer, and we think you deserve some tax reduction as well. So this $500 per child tax credit is going to be very beneficial to a good number of families who feel the pinch of the burden of taxes that they would like to be relieved of if they could in order to better provide for themselves and their families.

Now, I happen to think that the first goal and the first objective of eliminating the budget deficit is the important one. I want to go back to 1993, which is where I started this discussion. In 1993, when we passed on the floor of this Senate a budget agreement which we thought of as the Deficit Reduction Act. I voted for it. It wasn't the popular thing to do and certainly wasn't the political thing to do. There was nothing but political heartache and headache as a result of voting for that. It passed by only one vote. Some of my colleagues are no longer in this Chamber because they voted for it. They were defeated or they left.

I think, in retrospect, that history will show that, in 1993, this Congress turned the corner and made a U-turn and said to the American people: we want to tell you something. We are committed to deficit reduction and we are willing to make the tough choices and demonstrate that to you. And we passed the Deficit Reduction Act, which should really be called the Balanced Budget Act, because that is what has created the confidence in this country by the American people that Congress was willing to head in the right direction.

We have all these economists in the country who explain to us what has happened and what will happen. Most of them don't have the foggiest notion of either what happened or what will happen. I used to teach economics for a couple of years in college. I think economics is principally psychology pumped up with a little helium. All these economists tell us what is going to happen. Well, in 1993, we had this what I call the Balanced Budget Act, which I voted for. We had people here, some of whom were economists, stand up and say, "If you pass this legislation, this economy is going to go in the tank. We are going to have a recession, or a depression, and joblessness." I mean, the predictions were very dire.

In fact we passed that legislation and we have had unemployment go straight down, new jobs go straight up, inflation go straight down, and the deficit go straight down. The unified budget deficit was $290 billion in 1992. This year it may end up at less than $40 billion. The economy is on better footing. Why? Because it is not the economists that understand what is going on.

This economy rests on a cushion of confidence. If the American people are confident about what we are doing and the direction in which this country is heading, then they make the right decisions. "We are confident about the future," they say, so they buy the next washer and dryer or the next car and make the decision to purchase a home.

If they are not confident, they make the other decision. "We will defer the purchase. We will not buy the car. We won't buy the home. We won't buy the washer and dryer. We won't buy the refrigerator." And, as a result, the economy contracts.

But this economy is expanding. Why? Because in 1993 this Congress made the right decision—the tough decision—to put this country on the right course. It allows us now, in 1997, to make some other decisions. Yes, to make budget choices that are the right choices in many cases and to make tax reduction decisions that will be good decisions for many families in this country.

Are there some things in this piece of legislation that I don't like? Sure. There are probably some of them I don't yet know about.

Watching this crowd work on budget issues is a lot like taking your car to a garage. Once they lift your hood and tell you what they are charging you for, you do not have the foggiest idea what they are talking about. Some of that same mentality can certainly be true about the budget negotiations here in Congress because they are down there outside the regular committee process making deals. And I am sure that I will discover things that give me heartburn and stomach ache with respect to what they have put in this legislation. So, will there be some things that I don't like? Yes.

But, in the main, have we succeeded in pushing and pushing the kind of agenda that is important for this country? Have we expanded health insurance for 5 million kids? Have we provided a $500 tax credit that goes to working families—yes, all working families? Have we improved your ability to pass on a family farm or a small business to your sons and daughters who want to run it with the estate tax changes that are in this piece of legislation that Senator DASCHLE from South Dakota worked on and that I worked and others have worked on? Have we helped you to more easily send your kid to college and get tax credit for doing so, helped working families so that their kids have the opportunity to go to college? Have we done all of these things? The answer is: yes, we have.

Are they going to be helpful? I think so.

So I come to the floor today feeling that we are moving in the right direction and we are making the right decisions. Frankly, I am one who believes that the ability for the Republicans and Democrats to get together and work together and have common goals together for the future of this country is good for this country. Sometimes we should fight over things, and we do. We fought, for example, over the question of whether a family that is going to make $25,000 a year working full time should have access to the $500-per-child tax credit. Some in Congress said, absolutely not, because they are not paying much of an income tax. We said absolutely that they should get it, because they are paying taxes—significant payroll taxes. So we fight about those things.

But I am pleased to say that in the main much, much more of what we fought for is going to be in this conference agreement. I think the joining of the issues today on these range of issues in this budget agreement will spell good news for this country.

Let me finally mention one additional point. As we proceed to do these things on both the spending side and the tax side of this budget reconciliation agreement, it is very, very important that all of us decide that the budget deficit still matters, and at the first sign of ratcheting up a budget deficit once again, this Congress must take action. What we hope will happen is that this agreement will continue the economic growth we have had, and to the extent it does, that we will have a balanced budget not only in the year 2002 and perhaps even before, but also in subsequent years thereafter.

But when and if it appears that expenditures will exceed revenues—that we will run a deficit—then this Congress must be prepared to take action to stop it, because balanced budgets are important.

Now we have some room to provide some capability of tax cuts and some other things in the budget agreement that makes some sense for the American families. But American families most of all understand that balancing the budget is what will give them confidence in this economy. They know that balancing the budget is what will give this country the chance to grow and to provide jobs and to provide hope for all Americans, now and in the years to come.

Mr. President, I yield the floor, and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESULTS OF THE 1993 BUDGET PLAN

Mr. CONRAD. Mr. President, I rise to comment briefly on the agreement that has now been reached between negotiators on the budget and tax package. That agreement will soon be before us.

I would like to put what has happened in some historical perspective. I have been reading and listening to the commentary over the last several days of how we got to the position we are in today, in which we can consider significant tax relief and continue on a path to balance the unified budget by the year 2002.

I think we have to go back to 1993 when President Clinton came into office and faced a $290 billion deficit he had inherited from the year before. I think we have to go back to the economic plan that he laid on the table to get our fiscal house in order and to lay the basis for strong economic growth.

When we go back to that period, I think we remember the situation we confronted. Deficits had been growing, were out of control. There were many who wondered if the best years of the United States were behind us.

The President put out an economic plan that proposed cutting spending. It also proposed higher taxes on the wealthiest among us, asking the wealthiest 1 percent in this country to pay higher income taxes. That plan passed the Congress. In fact, it passed in this body only because the Vice President of the United States broke a tie and voted in favor. There were those on the other side of the aisle who said this plan, which was going to raise taxes on the wealthiest and was going to have spending cuts, was going to crater the economy. They said at the time it was going to increase unemployment; it was going to reduce economic growth. All these bad things were going to happen.

Now we can look back and see what has really happened. None of the bad things came true. Instead, what we have seen is really a remarkable economic record.

Just with respect to the deficit, the so-called unified deficit, it was $290 billion in 1992 and came down every year under that economic plan. This year, the most recent projection was $67 billion, but even that is now outdated. We are now told that the deficit this year may be $45 billion, or may be as little as $30 billion.

So the fact is that the economic plan which passed in 1993, a 5-year plan, has exceeded every expectation. The deficit has come down each and every year under that economic plan and come down sharply. In fact, we are close to balancing the unified budget without any additional action. According to the Office of Management and Budget, if one looks at long term savings, what one sees is the savings from the 1993 deficit reduction package are $2 trillion over 1994–2002. The budget agreement that the Senate will consider tomorrow is about $200 billion, about one-tenth as much. So if we go back and look at what made a difference here, the 1993 economic plan is the reason we have seen such dramatic deficit reduction and is the reason why we are in a position now to have tax relief for hard-pressed American taxpayers.

It is very interesting to go back and review the record of what has happened in this economy since that 1993 economic plan was adopted. By the way, it is the only economic plan that was adopted during that period. It was adopted without any help from the other side, and now we can look at the record.

The misery index. We used to talk a lot about the misery index. That is the combined rate of unemployment and inflation. The combined rate on July 14, 1997: 8.7 percent, the lowest average since the Johnson administration. That is a long time. Inflation: 2.8 percent per year, the lowest average since the Kennedy administration.

Employment. Our friends on the other side of the aisle said when we passed the 1993 plan—it is still ringing in my ears—I remember a Senator on the other side of the aisle saying this was going to crater the economy. It was going to increase unemployment. It was going to reduce economic growth. It was going to be devastating. Well, we can now look back and see what happened. Employment has increased by 12.5 million new jobs—the only administration to exceed 11 million in our history.

Deficit reduction. I have already talked about that. We have seen the unified deficit go from $290 billion to this year perhaps as little as $45 billion. Maybe even less. Business investment has grown at 10.5 percent a year, the fastest growth since the Kennedy administration.

The stock market. We all know what has happened to the stock market. It has gone from 3,242 on January 20, 1993, when this President took office, to 7,922 on July 11 of this year. Now we know it is over 8,000—the fastest growth since World War II.

And the poverty rate. The poverty rate in this country has declined from 15.1 percent in 1993 to 13.8 percent in 1995—the largest drop since the Johnson administration. Median family income has gone up $1,600 between 1993 and 1995—the fastest growth since the Johnson administration.

Mr. President, I recall this history because I think it is important. It is important to understand what has worked in terms of economic policy. Some said in 1993, if you raise taxes on anybody in this country, that will have a devastating economic impact.

They were wrong. They were simply wrong. I believe the reason they were wrong is because the benefits of deficit reduction to the economy far outweighed any negative consequences. No question, when you raise taxes that creates some drag in the economy. But it also had a beneficial component. The beneficial component was that deficit reduction took pressure off interest rates because we really did reduce the deficit.

The fact there was a move to ask the wealthiest 1 percent in this country to pay more in income taxes combined with the spending cuts of the 1993 plan meant the deficits came down. That meant there was less Government borrowing. That took pressure off of interest rates. Interest rates came down. In fact, we know every 1 percent reduction in interest rates takes $128 billion a year off this economy. That is lower borrowing costs for businesses, lowering borrowing costs for farmers, lowering borrowing costs for individuals. And that made a profound difference in this economy. It helped this economy reignite. And, again, since 1993, we see the results—not only this dramatic decline in the deficit as a result of that economic plan, but also a remarkable resurgence of economic growth, savings, and investment. We've seen the lowest level of core inflation in 31 years, and in May the lowest unemployment rate in 24 years. That is a remarkable economic record.

Some who are listening will say, well, Senator, you can't attribute this all to the 1993 plan. Fair enough. You cannot attribute it all to the 1993 plan because economic conditions are a result of not only fiscal policy but monetary policy as well. But make no mistake, the accommodative monetary policy we have had as a result of Federal Reserve Board decisions, follows the fiscal policy decisions that were made in 1993. That is not just my opinion. Alan Greenspan, the head of the Federal Reserve, says that himself. He has indicated that much of the strength we have seen in the economy can be attributed directly to the 1993 economic plan.

I think if one is fair and objective one would say, no question, this economic resurgence in terms of Government policy is a combination of fiscal policy that was passed by Congress in 1993 and the monetary policy that the Federal Reserve Board has followed since that time. But what made possible those Federal Reserve decisions was the fact that we bit the bullet, that we took action to reduce the deficit. Because we took that action in fiscal policy and the Federal Reserve Board responded with accommodative monetary policy, the result has been this remarkable economic resurgence.

There are other factors as well, but in terms of Government policy, what Government can do to affect outcomes, there is no question. The record is absolutely clear. The 1993 economic plan worked and worked remarkably well to strengthen this economy.

Mr. President, I look forward in the coming days to discussing this economic package that has now been agreed to by negotiators. I look forward to talking about the spending side of the ledger as well as the tax side of the ledger, the agreement that will be before us tomorrow.

I yield the floor, Mr. President, and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, what is the pending business?

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. The clerk will report S. 1022.

The assistant legislative clerk read as follows:

A bill (S. 1022) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kerry amendment No. 992, to provide funding for the Community Policing to Combat Domestic Violence Program.

Gregg (for Kyl) amendment No. 995, to provide for the payment of special masters for civil actions concerning prison conditions.

Gregg (for Coverdell) amendment No. 996, to require the Attorney General to submit a report on the feasibility of requiring convicted sex offenders to submit DNA samples for law enforcement purposes.

Hollings (for Dorgan) amendment No. 997, to express the sense of the Senate that the Federal government should not withhold universals service support payments.

Hollings (for Biden) amendment No. 998, to provide additional funds for the Violent Crime Reduction Trust Fund.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

SANTA CLAUS IN JULY

Mr. HOLLINGS. Mr. President, pending the approach to this Chamber of our distinguished chairman and the original sponsors of some amendments, including the Senator from Minnesota, let me note the environment of Santa Claus in July.

It seems a lot of us are not here this morning. Instead, they are out selling their homes so they can make that $500,000 and go back home and live comfortably. We have the so-called agreement for a balanced budget. What a wonderful instrument. Everyone with a home can make up to $500,000 from this agreement. Couples in the $110,000 bracket and below would get $600. And, of course, the rich will all get richer with the capital gains tax reduction.

My comment is to bring a note of reality. It is somewhat like when you are up to your neck in the swamp with the alligators and the original intent was to drain the swamp. Here, the original intent, of course, is to balance the budget and get us out of the red and into the black. And, of course, let's see exactly where we are at the present time. I ask unanimous consent that the CBO estimates be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS' BUDGET REALITIES

[In billions of dollars]

Pres. and year	U.S. budget	Borrowed trust funds	Unified deficit with trust funds	Actual deficit without trust funds	National debt	Annual increases in spending for interest
Truman:						
1945	92.7	5.4	−47.6	....	260.1	....
1946	55.2	−5.0	−15.9	−10.9	271.0	....
1947	34.5	−9.9	4.0	+13.9	257.1	....
1948	29.8	6.7	11.8	+5.1	252.0	....
1949	38.8	1.2	0.6	−0.6	252.6	....
1950	42.6	1.2	−3.1	−4.3	256.9	....
1951	45.5	4.5	6.1	+1.6	255.3	....
1952	67.7	2.3	−1.5	−3.8	259.1	....
1953	76.1	0.4	−6.5	−6.9	266.0	....
Eisenhower:						
1954	70.9	3.6	−1.2	−4.8	270.8	....
1955	68.4	0.6	−3.0	−3.6	274.4	....
1956	70.6	2.2	3.9	+1.7	272.7	....
1957	76.6	3.0	3.4	+0.4	272.3	....
1958	82.4	4.6	−2.8	−7.4	279.7	....
1959	92.1	−5.0	−12.8	−7.8	287.5	....
1960	92.2	3.3	0.3	−3.0	290.5	....
1961	97.7	−1.2	−3.3	−2.1	292.6	....
Kennedy:						
1962	106.8	3.2	−7.1	−10.3	302.9	9.1
1963	111.3	2.6	−4.8	−7.4	310.3	9.9
Johnson:						
1964	118.5	−0.1	−5.9	−5.8	316.1	10.7
1965	118.2	4.8	−1.4	−6.2	322.3	11.3
1966	134.5	2.5	−3.7	−6.2	328.5	12.0
1967	157.5	3.3	−8.6	−11.9	340.4	13.4
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	0.3	3.2	+2.9	365.8	16.6
Nixon:						
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
Ford:						
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
Carter:						
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	503.5	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
Reagan:						
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.5	−212.3	−252.8	1,817.5	178.9
1986	990.3	81.9	−221.2	−303.1	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
Bush:						
1989	1,143.2	114.2	−152.5	−266.7	2,868.3	240.9
1990	1,252.7	117.4	−221.2	−338.6	3,206.6	264.7
1991	1,323.8	122.5	−269.4	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
Clinton:						
1993	1,408.2	94.3	−255.0	−349.3	4,351.4	292.5
1994	1,460.6	89.2	−203.1	−292.3	4,643.7	296.3
1995	1,514.6	113.4	−163.9	−277.3	4,921.0	332.4
1996	1,560.0	154.0	−107.0	−261.0	5,182.0	344.0
1997	1,622.0	110.0	−70.0	−180.0	5,362.0	359.0

Historical Tables, Budget of the US Government FY 1998, Beginning in 1962 CBO's 1997 Economic and Budget Outlook, May 19, 1997.

Mr. HOLLINGS. Mr. President, it was projected on May 19 by the Congressional Budget Office that the actual deficit for this fiscal year would be $180 billion. Now, I hasten to add that the picture has improved. We find that the revenues are coming in even better than what was originally anticipated. So the actual deficit, if it stays on course, would be down to $140 billion and, if it continues, let's say it would be right at $100 billion next year. That is what I was told this morning by those at the Congressional Budget Office.

Now, the unified deficit that everyone refers to is down to under $40 billion and could be balanced next year. The term "unified" is, of course, just a shibboleth for, "don't bother, we are just running around spending all the pension funds, which we made illegal in 1990." We are spending the pension funds to allocate against the deficit itself.

So what is really happening is that we are on the course, under the unified deficit, toward getting into the black. But it is not on account of passing anything here this week in the midst of this wonderful jubilation atmosphere that everybody won this morning with the agreement last night. The truth of the matter is that we are on course as a result of the 1993 budget plan, whereby we on this side of the aisle, without a single vote on the other side of the aisle, voted for real deficit reduction that worked. I emphasize the fact that it was this side of the aisle, because we were told that if we increased the Social Security tax, they would be hunting us down like dogs in the street and shooting us. I am one of the dogs to be shot in the street. They said that we were going to have a catastrophe and a depression, not just a recession, and all sorts of other things, which were totally off-base.

Without a single vote on the other side, we cut some $255 billion in spending, increased taxes $241 billion. We increased taxes on the highest income tax bracket. We increased gasoline taxes. We increased Social Security taxes. We eliminated over 250,000 Federal jobs and reduced the size of the Government itself, and it is working. I guess, by way of emphasis, the point is that the thrust here today and last night is to stop the bickering and to show that we can get together. This Senator would say, in the extreme, of course, let's continue the bickering because, with the bickering, we are bound to get, under a unified budget, the Government back into the black. Stay the course.

In fact, I offered an amendment earlier this year to not cut any taxes and not increase any spending. Now, what has been done in this particular agreement? Well everybody admits we are spending more than $100 billion more than we are taking in. If that's the case, what you want to do is cut spending and increase your revenues. Instead, we increased spending some $52 billion, under this agreement last night, and we cut the revenues—instead of $85 billion, we cut the revenues some $90 billion.

So, as a result of the 1993 budget agreement and enactment, we are momentarily on course, having reduced the deficit each year for 5 years. Yet you are hearing shouts in the halls that, "this is the first tax cut since 1981." We ought to say we got the first tax cut since the disaster of 1981, because the result of 1981, of Reaganomics, is that we are still spending over $100 billion more than we are taking in. So we are still in the red. The debt increases, the interest costs increase. So, under this so-called balanced budget agreement, the debt continues to grow, and our Government continues to borrow more and more money.

We are talking now about how we helped families with the child credit and by cutting taxes, but, in actuality, we have increased the taxes for children because we, the senior citizens, are going to move right along and leave them with the bill.

My distinguished chairman is here. I will be able to elaborate, Mr. President, in a more appropriate fashion at an appropriate time. I think there ought to be a note of sobriety with the "Santa Claus in July" that we are now experiencing here this morning that everybody won. The truth of the matter is that we have changed course, once again, to cutting taxes and increasing spending. Under a budget of that kind, there is no way for us to get really into the black and start reducing that debt and the carrying charges that are some $285 billion more than back in 1981. We are spending $285 billion more in interest costs than we were in 1981 for absolutely nothing.

As the chairman of the Appropriations Committee, the distinguished Presiding Officer, would realize, if we had that $285 billion, we could satisfy every subcommittee chairman on the 602(b) allocation, we could build many bridges, we could do all the research at NIH we need, we could double the President's request on education; we could have better housing, highways, and everything else of that kind. So that is not the case. I think what we ought to do is look at the reality.

I yield the floor.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

AMENDMENTS NOS. 1024 THROUGH 1031, EN BLOC

Mr. GREGG. Mr. President, I send a managers' package to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], proposes amendments numbered 1024 through 1031, en bloc.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1024

(Purpose: To improve the bill)

On page 77, line 16, strike "$1,995,252,000" and insert $1,999,052,000".

On page 77, line 16, after "expended", insert the following: ", of which not to exceed $3,800,000 may be made available to the Secretary of Commerce for a study on the effect of intentional encirclement, including chase, on dolphins and dolphin stocks in the eastern tropical Pacific Ocean purse seine fishery".

On page 77, line 26, strike "$1,992,252,000" and insert "$1,996,052,000".

On page 100, line 24, strike "75,000,000" and insert "105,000,000".

AMENDMENT NO. 1025

(Purpose: To improve the bill)

At the appropriate place, insert the following:

Notwithstanding any other provision of law and pursuant to the fiscal year 1997 Emergency Supplemental Act (Public Law 105–18) Subsection 2004, funding for the following projects is to be made available from prior year carryover funds: $200,000 for the Ship Creek facility in Anchorage, Alaska; $1,000,000 for the construction of a facility on the Gulf Coast in Mississippi; and $300,000 for an open ocean aquaculture project and community outreach program in Durham, New Hampshire.

AMENDMENT NO. 1026

(Purpose: To require the Attorney General to submit a report on the feasibility of requiring convicted sex offenders to submit DNA samples for law enforcement purposes)

At the appropriate place in title I of the bill, insert the following:

SEC. . REPORT ON COLLECTING DNA SAMPLES FROM SEX OFFENDERS.

(a) Definitions.—In this section—

(1) the terms "criminal offense against a victim who is a minor", "sexually violent offense", and "sexually violent predator" have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a));

(2) the term "DNA" means deoxyribonucleic acid; and

(3) the term "sex offender" means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) Report.—From amounts made available to the Department of Justice under this title, not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) Plan Requirements.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of DNA samples from any sex offender;

(B) the analysis of the collected samples for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with the mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

AMENDMENT NO. 1027

(Purpose: To express the Sense of the Senate that the Federal government should not withhold universal service support payments)

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD NOT MANIPULATE UNIVERSAL SERVICE SUPPORT PAYMENTS TO BALANCE THE FEDERAL BUDGET.

The Congress finds that:

(A) it reaffirmed the importance of universal service support for telecommunications services by passing the Telecommunications Act of 1996;

(B) the Telecommunications Act of 1996 required the Federal Communications Commission to preserve and advance universal service based on the following principles:

(1) Quality services should be available at just, reasonable, and affordable rates;

(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation;

(3) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advance telecommunications

and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services;

(4) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service;

(5) There should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; and

(6) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services;

(C) Federal and state universal contributions are administered by an independent, non-federal entity and are not deposited into the Federal Treasury and therefore not available for Federal appropriations;

(D) the Conference Committee on the Balanced Budget Reconciliation Act of 1997, is considering proposals that would withhold Federal universal service funds in the year 2002; and

(E) the withholding of billions of dollars of universal service support payments may result in temporary rate increases in rural and high cost areas and may delay qualifying schools, libraries, and rural health facilities discounts directed under the Telecommunications Act of 1996:

Now, therefore, it is the Sense of the Senate that the Balanced Budget Reconciliation Act of 1997 should not manipulate, modify, or impair universal service support as a means to achieve a balanced Federal budget or to achieve Federal budget savings.

Mr. DASCHLE. Mr. President, I commend my colleague from North Dakota for highlighting the case against including the Universal Service Fund in our budget reconciliation process. This is bad public policy. It is unfair to the residents of rural America. I hope that today the Senate will take a strong stand against it.

The Universal Service Fund is comprised of private fees assessed to our Nation's telecommunications carriers. Over the last 60 years, this fund has made it possible for every resident in the United States to have access to telecommunications services. It represents a national guarantee that wherever you decide to live and work and raise a family—even if it is in one of the most remote areas of our country—telecommunications services will be affordable.

Although universal service is a Federal guideline, there are no Federal tax dollars involved in the Universal Service Fund. Moreover, the fund is administered by a nongovernmental agency that operates on the simple notion that carriers in low cost urban areas contribute more so that carriers who serve residents of high cost rural areas can provide affordable service. The administration of this fund has worked so well that most Americans do not even know it exists and take for granted the low rates for basic telephone service we all currently enjoy.

The principle of universal service represents one of our Government's most sacred and successful agreements with the American people. It guarantees those who live in rural areas the same access to telecommunications services as those who live in urban areas and is a major contributor to the rapid development and growth our rural areas are currently experiencing. Many parts of my home State of South Dakota, quite frankly, may not have been settled were it not for this guarantee, and I am very concerned that the budget deal may inadvertently undermine the Universal Service Fund.

Under the budget agreement concluded last night, the Universal Service Fund will be used to mask a $2 billion hole in the Federal deficit in fiscal year 2002. This sets a dangerous precedent. This private fund should not be incorporated into the Federal budget process, and the affordable rates it guarantees should not be left vulnerable to budget whimsy.

Throughout the past year, I have worked closely with Senator DORGAN and many other colleagues to impress upon the administration the value of ensuring equitable and affordable access to telecommunications services in rural areas. While administration officials have been largely receptive to this argument, the decision to put the USF on budget raises questions about some policymakers' understanding of rural concerns.

I am greatly troubled that placing the Universal Service Fund on budget will create a dangerous precedent that could raise rates in rural America and endanger our Government's 60 year promise of affordable telecommunications service to all areas of this country. The principle of universal service represents a sacred agreement between the Government and its citizens. It must not be undermined by budget games.

The Dorgan amendment puts the Senate on record that the use of these funds in the budget process is wrong, and I strongly urge its approval.

Mr. KERREY. Mr. President, I rise in support of the Dorgan Amendment, which expresses the view of the Senate that the universal service support system which keeps telephone service affordable; should not be turned into a piggy bank which can be raided to produce an illusory deficit reduction.

The Conferees working on the Reconciliation Conference report are considering legislation which for the first time would manipulate the universal service support system for budgetary gains. This would be a terrible precedent which could drive up phone rates, especially for rural Americans.

In 1996, the Congress enacted dramatic reform in the laws which govern the organization of America's telecommunications markets. The law was intended to introduce competition into all telecomm markets and preserve universal service.

The bargain was that competition would replace regulation but that all carriers would share the responsibility for providing universal service.

The idea of Universal Service is profound. It is one of the most fundamental principles of telecommunications law and economics. The concept was introduced in the original Communications Act of 1934 which promised "to make available to all Americans a rapid, efficient, nationwide and world-wide wire and radio communications service . . ."

From 1934 to 1996, regulation and monopoly were the primary means of ensuring telephone services to all Americans. In 1996, the Congress embraced the idea that competition would best deliver telecommunications services to all Americans at affordable rates.

The Congress also recognized that there were some markets which competitive companies would not serve and some areas where costs are so high that rates would drive citizens off of the phone network. In those markets, universal service support would keep comparable services and comparable rates available in rural and urban areas.

The principle of universal service is that all Americans should have modern, efficient and affordable communications services available to them regardless of where they live.

In the aftermath of the break-up of AT&T, a system of intercompany payments were established to assure that competition in long distance services did not drive prices for local phone service through the roof, especially in rural areas.

Universal service support is not a subsidy, and it is not a tax. It is a shared cost of a national telecommunications network.

What makes the American phone network valuable is that almost anyone can be reached. Affordable phone service is not just important to the citizens of rural America, it is of value to the citizens who live in urban areas who need and want to reach Americans in rural areas.

The basic bargain of the Telecommunications Act of 1996 was that the gates of competition would open, provided all telecommunications carriers contribute to the support of universal service. Under the act, support would be sufficient, predictable, and the burdens would be shared in a nondiscriminatory manner.

To assure that all Americans shared in the benefits of the information revolution, the Congress also adopted the Snowe-Rockefeller-Exon-Kerrey amendment which provided for discounts to schools, libraries, and rural health care facilities. The bottom line, Mr. President was that no American would be left behind.

If certain budget negotiators have their way, many Americans will be left behind.

The precedent that the reconciliation conferees have under consideration is dangerous because it attempts to undermine the promise of sufficient and predictable support for universal service. It does so to gain a mere bookkeeping advantage in the effort to reach a balanced budget by 2002.

If the universal service support system is manipulated for this purpose, consumers lose. They will get higher rates and lower service.

By adopting the Dorgan amendment, the Senate can send a clear message to conferees that affordable phone service is important to all Americas. The very system which assures affordability should not be jeopardized by an attempt to avoid the real choices necessary to produce a balanced budget by the year 2002.

Thank you, Mr. President.

AMENDMENT NO. 1028

(Purpose: To improve the bill)

At the end of the section in title I regarding the "WAIVER OF CERTAIN VACCINATION REQUIREMENTS", insert the following new subsection:

"(b) REPORT.—The Attorney General, in conjunction with the Secretaries of Health and Human Services and State, shall report to Congress within 6 months of the date of enactment of this Act on how to establish an enforcement program to ensure that immigrants who receive waivers from the immunization requirement pursuant to section 212 of the Immigration and Nationality Act comply with the requirement of that section after the immigrants enter the United States, except when such immunizations would not be medically appropriate in the United States or would be contrary to the alien's religious or moral convictions."

AMENDMENT NO. 1029

At the appropriate place, insert the following:

SEC. . EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) for fiscal year 2001, $4,355,000,000; and

"(8) for fiscal year 2002, $4,455,000,000.

Beginning on the date of enactment of this legislation, the discretionary spending limits contained in Section 201 of H.Con.Res. 84 (105th Congress) are reduced as follows:

for fiscal year 2001, $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

for fiscal year 2002, $4,455,000,000 in new budget authority and $4,485,000,000 in outlays.

Mr. BIDEN. Mr. President, this amendment extends the crime law trust fund through 2002 at the funding levels of the budget agreement.

This amendment has the same effect as the Biden-Gramm-Hatch amendment passed by the Senate 98 to 2 on June 27, 1997.

Let me point out just one practical effect of my amendment. The Senate Judiciary Committee reported major youth violence legislation last week—this Hatch-Sessions bill calls for $1.5 billion from the crime law trust fund in 2001 and 2002—this is almost one-half of the dollars to fund a new Republican youth violence block grant.

Now, I do not agree with many of the specifics of this block grant and I look forward to debating these issues on the floor.

But, the bottom line is real simple—if we do not pass this amendment, there will be no trust fund in 2001 and 2002, and so, there will be no youth violence block grant in 2001 and 2002—no matter what form this block grant ultimately takes.

And, it is the same for prisons, 100,000 cops, and violence against women. If we do not pass my amendment, there will be no trust fund in 2001 and 2002, and there will be no more funding for prisons and no more to fight violence against women.

I also want to point out to my colleagues that I believe that there are Budget Act points of order which could be lodged against my amendment. I say that just so all of us are clear about my amendment. I would move to waive such a point of order were it raised. I just want my colleagues to understand this fact as we pass this amendment.

I urge my colleagues to support my amendment.

AMENDMENT NO. 1030

(Purpose: To provide funding for the Community Policing to Combat Domestic Violence Program)

On page 29, line 18, insert "That of the amount made available for Local Law Enforcement Block Grants under this heading, 10,000,000 shall be for the Community Policing to Combat Domestic Violence Program established pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968: *Provided further*," after "*Provided*,".

AMENDMENT NO. 1031

On page 65, on line 25 after "expenses" insert the following: *Provided further*, That the number of political appointees on board as of May 1, 1998, shall constitute not more than fifteen percentum of the total full-time equivalent positions at the Office of the United States Trade Representative."

Mr. GREGG. Mr. President, I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Withholding, and I do not intend to object, I understand it is pretty well worked out, but there was one language inclusion.

Mr. GREGG. It is all done.

Mr. HOLLINGS. No objection.

The PRESIDING OFFICER. The amendments are agreed to.

The amendments (Nos. 1024–1031), en bloc, were agreed to.

Mr. GREGG. Mr. President, we are going to have some further discussion on this bill, the Commerce, State, Justice appropriations bill, and I understand there are at least a couple of votes. This package of amendments has eliminated four of the votes. In fact, I ask unanimous consent to withdraw amendments Nos. 992, 996, 997, and 998.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 992, 996, 997, and 998) were withdrawn.

Mr. GREGG. Mr. President, just for the information of the Members, we are now down to what appears to be final passage, plus potentially four votes. Hopefully, we can reduce that further. We are certainly going to work on that. And then we can complete the bill. I understand we are going to proceed to these votes and final passage around 3:15. That is the plan presently.

THE BUDGET AGREEMENT

Mr. GREGG. Mr. President, let me speak briefly on the budget agreement which was reached late last night, and mention my thoughts on this. This agreement is obviously not everything that everybody wanted. But it is a giant step in the right direction. It is especially a giant step on the issue of cutting taxes for the working American family, or that group of Americans in the middle-income brackets who are struggling with the costs of raising children and sending those children to college.

For a family whose income is in the range of $32,000 or $35,000, this tax cut could well represent a tax cut of almost 50 percent for a family of four. That is a big tax cut. For that same family, should they have a child who is headed off to college, this could represent a tax cut of up to 75 percent. That is a huge tax cut.

In addition, if you are in a working family situation and you are trying to make ends meet, you are going to be able to take advantage of this child credit coming to you to help you support the cost of raising your children—$500 per child. And all of these tax cuts that I am talking about are directed at middle-income Americans. In fact, almost all of them phase out as you get into incomes over $100,000.

Further, if you are a family where one of the spouses is staying at home to try to raise your children, under today's law, you can't have an IRA account that is deductible. That stay-at-home spouse can't have an IRA account that is deductible. Under this bill, the mother that is home raising the children will have the opportunity to have an IRA account that will be deductible and safe for her retirement. That is a major step forward.

In addition, there is a significant estate tax savings, especially for small business people and for farmers. Estate tax savings, which means that when somebody works all their life to build up a grocery store, a restaurant, or a gas station business, or some other small business, they are not going to lose that business to taxes when they die. They are going to be able to pass on that business to their children. That is very important.

So this is a major step forward. It is the first significant tax cut—it is the first tax cut for middle-income Americans in 16 years. It should have been done a long time ago. But it has taken a Republican Congress and a commitment of a Republican Congress to have this as our No. 1 goal, and a commitment to accomplishment. While we have accomplished this tax cut, we have at the same time put in place a spending pattern which controls the rate of growth of Federal spending so that we can reach a balanced budget by the year 2002. We may even reach it before that, according to present estimates. But that was another major goal of this Republican Congress—to balance the budget.

So we have done two very significant things here. We have balanced the budget, and we managed to cut taxes for working Americans, and especially for working Americans who have families to raise. That is good news. Is it everything we want? Of course not. I would like to see more action in the area of Medicare, for example. But the will wasn't there—both at the White House and, unfortunately, in the other body. But as a practical matter, the spending restraints in this bill are very significant.

The rate of growth in spending in this bill is approximately one-half of 1 percent over the next 5 years in discretionary nondefense accounts—one-half of 1 percent. That is the lowest rate of growth of spending that has occurred in the last 20 years in this Government in the area of discretionary accounts. That is significant. Because we have that low rate of growth of spending on the discretionary side of the ledger, we are able to bring into balance the budget agreement of this Government by the year 2002. We will have to go back and we will have to revise the issue of Medicare. There is no question about that. That remains a big issue of public policy. But within the Medicare accounts we made some very substantive and positive changes in this bill.

In the spending package is the proposal for Choice Care. Choice Care gives seniors approximately the same type of options which we as Members of Congress have—the ability to go out into the marketplace and choose from a variety of different health care plans. The practical effect of that is to bring the market forces into play to control the rate of growth of the cost of Medicare and, at the same time, give seniors much more choice, many more options, in the way they get their health care provided. Choice Care is a very positive, substantive, long-term reform for the Medicare system, and it is in this bill. So there were significant steps taken in that account, too.

But, most importantly, you have to return to the fact that not only do we balance the budget, but we give these very significant tax cuts to working Americans—especially working Americans who are trying to raise a family. Isn't it about time? This is relief that is long overdue. As this Government finally gets its fiscal house in order, as we move toward a balanced budget, who should be the recipient of that positive event, of that good fiscal management? Well, the people who paid for the Government should be the recipient of that.

That is what this bill essentially does. It turns back to those folks who are paying the cost of the Government some of their hard-earned dollars so that they can make the decision as to how they are spent rather than having that decision made here in Washington. We do not happen to believe, those of us who support this tax cut, that the Federal Government is a better manager of your dollars if you are running a household than you are. We think that if you have money to decide how you want to raise your children and to use it on spending for your children's education, you are going to do a better job of spending that in educating your children than if the Federal Government takes your money, brings it here to Washington, and then redistributes it to you.

So this tax cut is a very important event, and a big win—a big win—for the working American family. Thus, I am certainly hopeful that we will pass this package later this week and make that major step forward, or that significant step forward, in assisting families in this country meet the costs of raising kids and see that at the same time we move this Government toward a balanced budget.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. GREGG. Mr. President, we are here to consider the Commerce, State, Justice bill.

I ask of the Chair, how is the time being allocated relative to the Wellstone amendment?

The PRESIDING OFFICER. Under the order on the Wellstone amendments, they are entitled to 30 minutes equally divided on each of the two amendments.

Mr. GREGG. So the time is still available, the full 30 minutes on each amendment?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

THE BUDGET COMPROMISE

Mr. HOLLINGS. Mr. President, the distinguished Senator from Minnesota has now arrived.

Let me just remind colleagues once again. When we look at the concurrent resolution on the budget for fiscal year 1998—we wouldn't put that entire conference report in the RECORD, obviously. But I ask unanimous consent that section 5 on page 4, which only contains some seven lines, be printed in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1998: $5,593,500,000,000.

Fiscal year 1999: $5,841,000,000,000.

Fiscal year 2000: $6,088,600,000,000.

Fiscal year 2001: $6,307,300,000,000.

Fiscal year 2002: $6,481,200,000,000.

Mr. HOLLINGS. Mr. President, it shows the public debt for the fiscal year 2001 at $6,307,300,000,000, and it shows for fiscal year 2002 the public debt has increased to $6,481,200,000,000, an increase of $173.9 billion. It does not show a balanced budget. It does not show, I emphasize, a balanced budget in the fiscal year 2002. We all know from the agreement last evening that rather than cutting taxes only $85 billion, it was a net tax cut of $90 billion. So we have increased the loss of revenue some $5 billion. We also know that the spending under the particular 1998 budget agreed to last evening increased some $52 billion.

So what we have done since we made that agreement—and the conference report was adopted last month—is to actually increase spending more, and reduce the revenues more. So we know that come the year 2002, we will not have the first balanced budget in 33 years. The document itself shows it is in deficit because the debt increases that last year. Why will the debt increase if we had a balanced budget?

It is quite obvious that we have not taken significant steps for the middle class or the working Americans as has been described here. If we really wanted to help working Americans, we could have cut payroll taxes. But the truth of the matter is that we cut capital gains taxes for the rich. We cut the inheritance tax for the rich. So we didn't do it for working Americans. We kept that high payroll tax up. We left out the working Americans, and we agreed on both sides to call it balance, which is a total fraud.

I yield the floor.

APPOINTMENT OF CONFEREES—H.R. 2209

The PRESIDING OFFICER. Under a previous agreement, the Chair is authorized to appoint conferees on H.R. 2209.

The Presiding Officer appointed Mr. BENNETT, Mr. STEVENS, Mr. CRAIG, Mr. COCHRAN, Mr. DORGAN, Mrs. BOXER, and Mr. BYRD conferees on the part of the Senate.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, first of all, I ask unanimous consent that Elise Gould, a fellow in my office, be granted the privilege of the floor during today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1032

(Purpose: To clarify the income eligibility requirements for victims of domestic violence)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk in behalf of myself, Senator TORRICELLI, Senator LANDRIEU, and Senator AKAKA.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. TORRICELLI, Ms. LANDRIEU, and Mr. AKAKA, proposes an amendment numbered 1032.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . For fiscal year 1998 and subsequent fiscal years, in establishing the income or assets of an individual who is a victim of domestic violence, under section 1007(a)(2) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)), to determine if the individual is eligible for legal assistance, a recipient described in such section shall consider only the assets and income of the individual, and shall not include any jointly held assets.

Mr. WELLSTONE. Mr. President, I understand that this amendment will be accepted. I am very pleased. I think there is strong bipartisan support for it. We worked very hard to make sure it was kept in conference.

I would like to thank Senator HOLLINGS and Senator GREGG for their support, and Senator TORRICELLI who is out here on the floor.

Mr. President, let me briefly summarize this amendment. This amendment essentially ensures that no one who is a victim of domestic violence will be denied legal representation because of the economic status of her or his abuser.

Mr. President, I am saddened to have to really on the floor of the Senate make the point that what we have right now in the country is something close—it is a staggering problem. We have an estimated 4 million American women who experience a serious assault by a husband or boyfriend each year. In 1993 alone, over 1,300 women were reportedly killed by abusive partners or former partners.

I want to make it clear that Legal Services has done a wonderful job. They have handled over 250,000 cases involving domestic violence; 50,000 of those cases involved clients seeking protection from abusive spouses.

The problem is that all too often those on the receiving end of grants in some cases—I know in Minnesota this happens—they really do everything they can and extend the rules or figure out ways of providing legal representation. Most of the time it is for a woman. But sometimes what happens in other situations is they don't because it is a horrible catch-22 situation where the income of the husband or assets of the husband which are the assets of the household makes this woman who has been abused and beaten up ineligible for any legal representation. By the same token, she can't afford to have legal representation on her own, in which case she is without protection. This is critically important. I actually don't think that this is an exaggeration to say that this quite often is a life or death situation.

So when we are talking about obtaining orders of protection, child support, and other kinds of protection, this is critically important.

I again thank both of my colleagues for their support of this amendment. I want to thank Senator TORRICELLI who has been very active and a real leader in this area for his support.

This is an important clarification. One more time, and I will finish.

The legal services community in the country is doing the very best job. But, if we had a debate, I would have brought out to the floor many examples—very telling examples—of women who have not been able to receive the protection. Legal Services lawyers want to provide it but are not at all clear that they can because of the income of the husband and sometimes the income of a wife. This is a tragedy.

This is a huge step forward. It is a very significant amendment. I thank both of my colleagues for their support.

Mr. GREGG. Mr. President, I think it is an excellent amendment, and it is an appropriate amendment. We have no objection to it.

I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I know that we have amendments. But I yield some time to my colleague from New Jersey, who has been a real leader in this area.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, I thank the Senator from Minnesota for yielding. And I want to offer my thanks to Senator HOLLINGS and Senator GREGG for agreeing to this amendment.

Mr. President, this is not the first time that I have joined with Senator WELLSTONE in legislation to help women who are the victims of domestic violence.

In the last Congress we successfully led an effort to deny access to handguns to people who have convictions of domestic violence. We return here today because the plague of domestic violence has not abated. It is believed that there are 3 to 4 million women every year in America who are subjected to domestic violence. Every 18 seconds another victim is struck. Indeed, during the course of a lifetime, half of the women in this country will be abused by a husband or a boyfriend or someone with whom they live.

One of the tragic ironies of this terrible situation is that in the moment when women need the help of the law the most they are denied. The Legal Services Corporation last year handled a quarter of a million cases of domestic violence and yet those women who may have needed the help the most could not get Legal Services assistance because the income of their husbands, the very people who might be striking them, the person from whom they are seeking a restraining order or a divorce, made them ineligible.

The amendment we offer today would eliminate this tragic contradiction. I believe it is a good statement by this Senate, a realistic recognition of a terrible national problem and the ending of this real dilemma for American women, that in the future it can be said any woman, regardless of her husband's income, will be able to get legal assistance because of her own vulnerability, based on her own lack of resources. So she gets the protection she needs.

I am very pleased to be offering this amendment with Senator WELLSTONE today and once again offer my thanks to Senator GREGG and Senator HOLLINGS for their support.

I yield the floor.

Mr. WELLSTONE. Mr. President, I think we can go forward with the vote. I thank my colleague from New Jersey.

Please, I say to both of my other colleagues, this is a very important amendment. It really is connected to many people's lives, and many of them are women—some men but I am sad to say mainly women. This is an extremely important protection that we are now providing to these women with children. I hope we will keep this in conference committee.

I thank, Mr. President, the National Task Force on Violence Against Women and NOW Legal Defense and Education Fund, for their help on this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I yield back the remainder of our time and ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is agreed to.

The amendment (No. 1032) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1033

(Purpose: To require the Legal Services Corporation to conduct a study regarding persons prohibited from receiving legal representation regarding efforts to reform welfare systems)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. KENNEDY, proposes an amendment numbered 1033.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . The Legal Services Corporation shall—

(1) conduct a study to determine the estimated number of individuals who were unable to obtain assistance from its grantees as a result of the enactment of section 504(a)(16) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (Public Law 104–134:110 State. 1321–55), during the six month period commencing with the enactment of this Act; and

(2) not later than 30 days thereafter, submit to Congress a report describing the results of the study conducted under paragraph (1).

Mr. WELLSTONE. Mr. President, I can be very brief on this. This is really just a study.

Basically, what this amendment asks is that as we go forward with the welfare bill and it is implemented in States around the country, the Legal Services Corporation compile data on what kinds of appeals might be made by women and their families dealing with the welfare law as it is implemented.

It is simply a study to document numbers of people who come to them with a variety of different grievances so that we get a clear record of what is happening. Right now, in many cases, these lawyers are not able to take up these cases.

This does not mandate anything. It just simply calls for a study.

I thank my colleagues for their support.

Mr. GREGG. Mr. President, I ask unanimous consent the amendment be agreed to, and I yield back the remainder of our time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1033) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I thank my colleagues.

Is the amendment agreed to?

The PRESIDING OFFICER. The amendment is agreed to.

Mr. WELLSTONE. As to this amendment, I think what we want to make sure of, whatever differences we have about the welfare bill, what I think is a kind of bipartisan consensus is that it work well as it gets implemented at the State level. And so whether it is food-nutrition programs or whether it is a mother trying to find child care or whether someone who is in a job training program and trying to stay in that program or whether it is an issue of public transportation, we want to make sure that all of our citizens, even if they are poor, even if they are women and children, have legal representation and that the due process rights are maintained. I think this study will give us a clearer picture as to where we are in relation to these issues.

I thank both my colleagues.

Mr. President, I would also like to thank them for their patience. I was at Justice Brennan's service and that is why I was a little late in getting back.

Mr. President, I yield back the remainder of my time.

RESTRICTIONS ON INS FINGERPRINTING IN THE CJS APPROPRIATIONS BILL

Mr. ABRAHAM. Mr. President, I would like to raise with the distinguished chairman of the Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary, an important issue related to restrictions included in the CJS bill that reform the taking and processing of fingerprints by the Immigration and Naturalization Service for criminal background checks. At the outset, I would also like to thank Senator GREGG for his work on this issue, which has been of significant concern to me as chairman of the Immigration Subcommittee. I know it is also of great concern to the ranking member on our Subcommittee, Senator KENNEDY.

In fact, I chaired a hearing on this issue earlier this Congress and am considering legislation to address some of the very serious faults in the INS's conduct of criminal background checks. I have also raised this issue with the Director of the Federal Bureau of Investigation, who expressed serious concerns—in terms of both quality and integrity—with the INS's use of outside entities to take fingerprints. Accordingly, I am pleased that the CJS bill will take us away from the current system, although I know that much remains to be done in this area.

The language in the manager's package will permit fingerprints for INS purposes to be taken only by offices of the INS or by law enforcement agencies, which may collect a fee for the service of taking and processing the fingerprints. The INS has indicated that it is moving to a new fingerprint processing system under which it would take all of the fingerprints at INS offices, and has indicated that it can do so without unduly delaying the naturalization process. However, the INS will not be able to bring its new system up and running by the start of the next fiscal year. Even with the ability to also utilize the services of law enforcement agencies, I believe that a delayed effective date of 9 to 12 months will be required so there can be an orderly transition to the new system and so that the processing of naturalization applications can continue without complete disruption to the system.

Mr. KENNEDY. I agree wholeheartedly with the chairman of the Immigration Subcommittee, and I share his concerns. The backlog in citizenship applications continues to grow. Without a significant delay in the effective date, we will have serious and possibly irreversible disruption in the naturalization process.

Mr. ABRAHAM. I thank the distinguished Senator from Massachusetts for his remarks. I would simply like to confirm with Senator GREGG my understanding that the effective date will be looked at in conference so that the effect of this provision can be delayed—I would hope in the range of 9 to 12 months—to an appropriate point.

Mr. GREGG. Yes. In conference, we will certainly examine the effective date of this provision and modify it as needed to make this transition work.

Mr. ABRAHAM. I thank the chairman in advance for his careful consideration of this issue in conference, and for the modifications to the provision that he has already made. I look forward to continuing to work with him in addressing the very serious problems in the INS's processing of citizenship applications.

U.S./ISRAEL SCIENCE AND TECHNOLOGY COMMISSION

Mr. HOLLINGS. Mr. President, I would like to clarify report language on page 65 concerning the committee's willingness to permit the technology administration to undertake certain international economic development initiatives, particularly as it affects the United States/Israel Science and Technology Commission. I have long been a supporter of the work of the Commission, a binational program that promotes economic and technological collaboration between the United States and Israel that has already provided numerous benefits to both countries. It was not our intention to affect in any way the current or future activities and operations of the Commission, and I would like to clarify with the chairman of the subcommittee that it was not his intention either.

Mr. GREGG. The Senator is correct.

TEENS, CRIME AND THE COMMUNITY FUNDING

Mr. HOLLINGS. Mr. President, I would like the attention of my colleagues to point out what I see as an unintentional omission. Last year's Commerce, Justice, State appropriations' conference report contained language which provided $1.0 million for the National Crime, Prevention Council's Teens, Crime, and the Community Program otherwise known as TCC. The Senate supported this provision last year and it was my intention that it be included in this year's bill. Unfortunately, it was inadvertently left out of the committee report. For my part, I believe it should be the Senate's intent that funding for the Teens, Crime, and the Community Program be included when the bill reaches conference.

Mr. GREGG. Would the Senator yield?

Mr. HOLLINGS. I yield to the distinguished chairman.

Mr. GREGG. I appreciate the ranking member, Senator HOLLINGS, bringing this oversight to the Senate's attention. Last year, I supported including this program in the conference report, and, I agree with the Senator from South Carolina, it should be included in this fiscal year 1998 bill.

Mr. HOLLINGS. I appreciate the Senator's support and would point out that the TCC Program provides a unique curriculum to educate young people about crime risks and prevention with the aim of reducing or eliminating specific crime problems in their school or community. Over 500,000 young people in over 1,000 different schools and communities all across the country have participated in the program. It has proven to be an effective strategy for reducing crime, preventing delinquency, and involving youth in community crime prevention efforts.

Mr. GREGG. Let me conclude by saying that in conference we will seek to get the House to agree to provide $1.0 million of juvenile justice and delinquency prevention funds for this worthwhile program. I yield the floor.

SOUTH DAKOTA EMERGENCY AND LAW ENFORCEMENT ASSISTANCE

Mr. DASCHLE. Mr. President, I would like to thank the chairman of the Subcommittee on Commerce, Justice, State, and Judiciary, Mr. GREGG, and the ranking member, Mr. HOLLINGS, for their excellent work on the fiscal year 1998 Commerce, Justice, State, and judiciary appropriations bill. They and their staffs have put together an excellent bill and should be commended for their leadership.

Let me take a brief moment to explain my intentions regarding amendment 1004. Its purpose is twofold. First, it makes $100,000 available for a grant to Roberts County, SD.

It is clear from my discussions with law enforcement personnel in rural areas of South Dakota that few greater priorities exist than to ensure that South Dakotans have immediate access to emergency services when necessary. Unfortunately, many rural counties in South Dakota do not have the resources to purchase equipment for a 911 system to provide this capability. It is my intention that these funds be used for the purchase of that equipment and any other functions that must necessarily take place for the establishment of a 911 system in Roberts County. It is my further hope that in coming years Congress and the Department of Justice will continue to address the urgent need for assistance in the purchase of equipment to provide 911 services.

The second purpose of the section is to provide $900,000 to the South Dakota Division of Criminal Investigation [DCI]. The DCI requires an immediate upgrade of computer and telecommunications equipment in its field offices, new equipment for its forensics lab, and new radio equipment to address problems in law enforcement radio transmissions. These funds will be of significant assistance in the provision of this equipment for the DCI, and I am pleased that I have been able to work with the committee to meet this need.

Once again, I thank the chairman and ranking member for their assistance with these important matters.

FTE INCREASES

Mrs. MURRAY. Mr. President, the appropriation measure before us includes $363 million for the National Marine Fisheries Service. In addition, the Committee recommendation allows for the administration's proposed increased of 58 full-time equivalents [FTE's] for the National Marine Fisheries Service [NMFS]. The Committee directs the NMFS to use as many available FTE's as are needed to ensure the full and timely implementation of the Magnuson-Stevens Fishery Conservation and Management Act. The Magnuson-Stevens Act was reauthorized in the 104th Congress after a long and difficult process of negotiation and compromise. It includes many new provisions to improve the conservation and management of this Nation's fishery resources. I appreciate the tremendous task the NMFS faces in fully implementing all of the new provisions and requirements we placed on the NMFS and share the committee's desire to see adequate FTE's allocated to this important task.

I am also concerned, however, about the very real need for FTE's to implement the requirements of the Endangered Species Act [ESA], particularly in the Pacific Northwest. With several salmon species already listed under the ESA and an elaborate recovery plant currently being implemented with a critical decision point rapidly approaching, with habitat conservation plans being negotiated with public utility districts in central Washington, and additional ESA listings likely coming in the future, the NMFS is in desperate need of both resources and personnel to meet its obligations. I appreciate the committee's willingness to fund NMFS efforts in these areas at or above the President's requested levels. These funds will go along way toward salmon recovery efforts throughout the entire Pacific coast. I would like to emphasize the need for adequate FTE's to be provided to this important effort. While the committee has correctly directed FTE's to the implementation of the Magnuson-Stevens Act, this allocation should not come at the expense of the agency's ability to undertake salmon recovery efforts in the Pacific Northwest. Both of these responsibilities of the NMFS are vitally important to Washington State and the Pacific Northwest. I urge the NMFS to meet the real need for FTE's in both of these areas.

TIIAP-FUNDING FOR FISCAL YEAR 1998

Mr. KERREY. Mr. President, I am pleased to note that Senate appropriators have restored $10.5 million to the Telecommunications Information Infrastructure Assistance Program [TIIAP]. TIIAP is a highly competitive, merit-based, grant program that provides seed money for innovative, practical technology projects across the United States.

TIIAP grants help our communities utilize the information technologies that play an increasingly important role in the world economy. Without access to advanced telecommunications services that deliver education, healthcare, social services, and news, individuals and sometimes entire communities are relegated to second-class economic status. Rural and low income regions that already face difficult economic hurdles are pushed even farther behind because they lack the resources to join the information revolution. The Federal assistance provided by TIIAP has already helped many of these areas transition into the information economy.

In my home State of Nebraska, TIIAP has helped the city of Crete purchase computers to build an access center where adults are taught computer skills and are given assistance to apply those skills to new jobs. Through the Nebraska Network for Children and Families, a TIIAP grant provides funding for the Ideas Network. The Ideas Network is an interactive place where Nebraska families and professionals involved in the human services system may find information, dialog opportunities, education resources, advocacy information, and supportive relationships. Specifically, this valuable network is devoted to Nebraska's foster families, subsidized adoptive families, families of children with special needs, and human service professionals.

TIIAP is a matching grant program. Since 1994, $79 million in Federal grant funds generated investment of $133 million of local funds. Underfunding this productive program would have been a tremendous mistake. Without the seed money provided by TIIAP, valuable community building projects such as the Ideas Network would not be possible. This innovative program is an important component of better education, health care and improved community relations.

JACOB WETTERLING ACT

Mr. DEWINE. I wish to ask my colleague from New Hampshire a question. It is my understanding that the Senator from New Hampshire has authored language in this appropriations bill that amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act?

Mr. GREGG. Yes, I have worked hard to address some technical changes to this act that I believe will improve the procedure for the registration of sex offenders, and raise States' compliance with its provisions.

Mr. DEWINE. I appreciate your leadership on this important issue, and believe that you have improved this important law. However, the attorney general of Ohio has raised an issue shared by a majority of States that I am compelled to address.

Current law under the Jacob Wetterling Act requires that States create a special State board. This board must be composed of experts in the field on the behavior and treatment of sexual offenders, victims' rights advocates, and representatives of law enforcement to determine when someone is a sexually violent predator. Currently, according to the Department of Justice, 37 States would not meet this requirement.

Mr. GREGG. Yes, that is my understanding. States are given 2 years to establish such a board.

Mr. DEWINE. Mr. President, it is also my understanding the Senator from New Hampshire is working with the Department of Justice to assure that your proposed language in the bill before us would provide a waiver for impacted States, such as Ohio, who for differing reasons, may not specifically meet the requirements of having a special State board. My State, as well as many others, however, have alternative methods that fairly, efficiently, and scientifically make the determination when someone is a sexual predator. Is that correct?

Mr. GREGG. The Senator from Ohio is correct.

Mr. DEWINE. Is it my friend from New Hampshire's intention that his language would allow for States like Ohio and New Hampshire a waiver by the attorney general in these types of situations?

Mr. GREGG. That is correct. It is certainly my intention that the U.S. Department of Justice would be as flexible as possible in working with States to determine compliance on this matter.

Mr. DEWINE. I thank my colleague from New Hampshire for his fine work to ensure States have the administrative flexibility to meet the goal of the Jacob Wetterling law.

Mr. BURNS. Mr. President, I rise today to support the $1,675,000 request for the Experimental Program to Stimulate Competitive Technology [EPSCoT] Program reported in the Senate appropriations bill, S. 1022. EPSCoT, which is part of the Commerce Department's Technology Administration, is an important program for our Nation's rural States. Its aim is to help foster regional technology-based economic growth in the 18 States that are traditionally underrepresented in Federal research and development funding.

EPSCoT evolved during the 104th Congress from a series of discussions between the Technology Administration and the Senate Subcommittee on Science, Technology, and Space which I chaired along with Senator ROCKEFELLER, the ranking minority member. Dr. Mary Good, who retired as the Undersecretary of Technology in June, recognized the importance of initiating, maintaining, and enhancing research development and technology in all States of this Nation. Using the highly successful National Science Foundation Program to Stimulate Competitive Research [EPSCoR] as its model, EPSCoT was originated to serve as its technology counterpart. The States are ready to proceed since they can use their existing EPSCoR State network to now help build a strong technology infrastructure throughout this country.

This program receives bipartisan support. While EPSCoT will be a competitive, cost-shared, merit-based grants program, the actual details are now being worked out through a series of public meetings with representatives from State and local government, regional organizations, small businesses, and universities. In June, we held one of three regional policy forums in Billings, MT. We heard from the people that will be participating in this program. They provided the feedback and advice about how EPSCoT should be designed to meet their unique needs to develop and sustain a long-term technology-based economic infrastructure in the region.

A successful EPSCoT program could also provide a mechanism to relieve some of the concerns raised in opposition to the Advanced Technology Program [ATP]. I believe that ATP plays an important role in the development of emerging and enabling technologies critical for sustaining a strong economy. However, it has been viewed as providing too much support to large companies and, as a result of the way industry is now clustered, limiting the support to a few specific regions within the country. There is a strong call for wider participation and greater diversity of partnerships in the Department of Commerce.

In Montana, 98 percent of the businesses are considered small businesses. Generally, small businesses do not have the capacity or the resources necessary to undertake or maintain the research and support activities which larger businesses and industries maintain as part of their on-going activities. To the extent that such support exists in these States, it usually comes from local universities. EPSCoT is a vehicle to assist the largely rural States to develop regional clusters, spin-off companies, and other small high technology companies. It will help small businesses and industries which are emerging in Montana and other rural States to be successful and globally competitive. This program, with sufficient support, will be successful in stimulating technology development and transfer. EPSCoT will foster the scientific and technological infrastructure necessary for job creation and economic growth.

Mr. President, for these reasons, I strongly support the funds provided to launch EPSCoT. This is an investment to spur economic growth in rural areas that are key to an overall healthy American economy.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, I wanted to take a moment to commend the members of the Commerce, Justice, State Appropriations Subcommittee for including $1,675,000 for the Experimental Program to Stimulate Competitive Technology [EPSCoT] in the fiscal year 1998 appropriations request. This program model is based on the successful National Science Foundation's Experimental Program to Stimulate Competitive Research [EPSCoR].

EPSCoR has a strong track record in helping to promote quality research in States, like West Virginia, that are traditionally under represented in Federal research and development funding. EPSCoT is intended to promote similar activities for technology transfer.

This is a wise investment with bipartisan support. Senator BURNS and I have discussed this concept and its potential, and we have sought the comments of leaders in our states and regions.

Technology plays a vital role in economic growth. According to the Congressional Research Service, experts widely believe that technological progress is responsible for up to one-half of the growth of the U.S. economy and is one principal driving force in long-term economic expansion and increases in our Nation's standard of living. Given this compelling point, it is essential to ensure that technology is successfully transferred to business and industry in every region, including those regions which historically are under served. Our Nation will not thrive if some regions are left behind in the key sectors of R&D or technology transfer.

The National Science Foundation's EPSCoR program has considerably helped States enhance their capacity for research and development. The Department of Commerce is now looking to use this successful model for technology transfer. It is important to note that this initiative has been debated and considered for quite some time. Commerce officials have worked closely with Governors and U.S. Innovation Partnership.

As a longstanding advocate for EPSCoR, I am enthusiastic about the potential for this new Commerce initiative, EPSCoT, to effectively build partnerships at the State level and promote technological advances that will lead to long-term growth in regions of our country that traditionally have been left behind. I am confident that West Virginia and other States can benefit enormously by such a targeted incentive program. This appropriations is a good start in the right direction on technology transfer.

FUNDING OF THE PATENT AND TRADEMARK OFFICE

Mr. HATCH. Mr. President, let me just take a moment to discuss the important issue of the funding of the Patent and Trademark Office [PTO] that is contained in the Commerce, Justice, State, and Judiciary appropriations bill that the Senate will vote on later today. As my colleagues know, Mr. President, the PTO has been entirely funded by user fees for several years now. Not one cent of general taxpayer money goes to the operation of that vital office. Thus, it is my belief that all the money generated by the user fees should be available for use by the PTO.

Unfortunately, in the last few years, increasingly large amounts of money have been diverted from the PTO. The patent surcharge, which was instituted to make the PTO self-funding, has been the target of this diversion. That is why I was very pleased when the surcharge, which is scheduled to expire after fiscal year 1998, was not renewed. I had advocated that it not be renewed and, with the support of Senators DOMENICI and LAUTENBERG, the chairman and ranking member of the Budget Committee, it was not.

In addition to the surcharge, this bill contains new PTO funding issues. First, the bill set aside $20 million to fund an office called the Under Secretary of Commerce for Intellectual Property Policy, should such an office be created. This office does not yet exist but is advocated by the administration, which seeks to add it to my Omnibus Patent Act, S. 507. I am negotiating with the administration with regard to the possible creation of such an office. But one thing seems clear: if that office is created, it will not need a budget of $20 million. Thus, I cosponsored an effort by Senator LAUTENBERG to reduce that amount.

I want to thank both Senator LAUTENBERG for his efforts and Senator GREGG for agreeing to modify that provision. Instead of $20 million, the bill now sets aside an amount up to 2 percent of the PTO budget. That is a maximum of about $14 million. That is a more realistic number, and, I suspect that, should the office be created, it would not even need that much.

The second new issue raised by this legislation deals not with the surcharge, but with the base fees. In the past, the PTO has been permitted to collect and spend whatever amount of base fees is generated in a given year. This is logical, since increased filings will increase work for the PTO but also generate more money with which to do that work. But this bill sets a cap on the base fees that PTO may not exceed, regardless of how much they collect. This is of serious concern to me, Mr. President, as it risks leaving the PTO with an increased workload but with insufficient funds to conduct proper patent examinations and trademark registrations.

The House Appropriations Committee did not set a similar cap. Rather, the House has continued the standard practice of allowing the PTO to spend whatever the base fees happen to generate. Mr. President, the language in the Senate version risks leaving the PTO unable to perform its vital task of protecting the work of Utahns and all other American inventors. I urge the conference committee to adopt the House language and not impose a new cap on the Patent and Trademark Office.

Mr. President, I led the fight for the balanced budget amendment. In balancing the budget, it is unjust to force American inventors to bear a greater burden than the ordinary taxpayer.

Mr. MOYNIHAN. Mr. President, this morning I learned from the mayor of the Village of Owego of a problem he is having with the village's share of the local law enforcement block grant. As we are concluding the debate on the Commerce, State, Justice appropriations bill today, I thought it might be appropriate to bring the matter to the attention of the Senator from New Hampshire and the Senator from South Carolina. I intend to pursue the matter with the Justice Department, but I may need to ask their help at some point.

Mayor Hogan informs me that after recently receiving a letter from the director of the Bureau of Justice Assistance concerning the application process for fiscal year 1997 funds, and while filling out the fiscal year 1997 application, village officials discovered that 1996 funds had been available to them. They had never been notified. A Bureau official then told them that some requests for applications had been sent to incorrect addresses. Village officials contacted the supervisor of the nearby Town of Owego, who remembered receiving the application notice meant for the village. However, the application deadline passed 9 months ago. The village lost out on $10,840 through no fault of its own.

Mr. President, $10,840 may not seem to be a large sum these days, but for the Village of Owego it is. It constitutes three-quarters of 1 percent of the village tax base. If three-quarters of 1 percent of the total Federal receipts for 1998 were at stake, we would be talking about $11.7 billion, and that would have our attention. I hope the Senators from New Hampshire and South Carolina will consider assisting in this matter if necessary.

Mr. GREGG. I would certainly like to be kept informed about the situation, and I hope the Senator from New York will do so.

Mr. HOLLINGS. I too would like to know if the Bureau of Justice Assistance can help.

Mr. BYRD. Mr. President, I would like to express my congratulations to the distinguished Chairman, Senator GREGG, and Ranking Member, Senator HOLLINGS, for a very thorough, fair, and bipartisan Commerce, Justice, State, the Judiciary, and Related Agencies Appropriation Bill. It is my understanding that Chairman GREGG was most respectful of his ranking member's concerns in drafting this legislation. It is my further understanding that Chairman GREGG and his staff have embraced Senator STEVENS' philosophy as chairman of our full committee that embodies open disclosure, full cooperation, and respect for the interests of the members of both sides of the aisle. As a result, we have before us an excellent bill, drafted in the spirit of bipartisanship with the best interest of our Nation at heart.

The appropriation bill before us provides $31.6 billion dollars for the Departments of Commerce, Justice, State, the Judiciary, and related agencies. This is an increase of $1.4 billion over current levels. It is about one-half a billion dollars below the President's request, excluding the administration's request for advanced appropriations. Again, the committee has demonstrated its commitment toward fighting crime and supporting law enforcement initiatives by providing the Department of Justice with $17.3 billion in appropriations. When taking offsetting collections from fees into account, the Department's total resources made available in this bill are about $19.3 billion. Within this amount many important programs are funded, including the President's COPS on the Beat Program, 1,000 more border patrol agents in the Immigration and Naturalization Service, a new block grant program to address juvenile crime and related programs, and an increased budget for initiatives addressing violence against women. Also included is $3.075 billion for the Federal Bureau of Investigation, an increase of $238 million above the current year. Funding increases are provided to complete the new forensics laboratory at Quantico, VA, and to combat child exploitation on the Internet. A total of $1.091 billion is provided for the Drug Enforcement Administration and $332 million for the Immigration and Naturalization Service.

Mr. President, we have before us a good bill that I will join Senators HOLLINGS and GREGG in supporting. In closing, I commend the work of committee staff. On the majority staff, I acknowledge and thank Jim Morhard, Paddy Link, Kevin Linskey, and Dana Quam for their professionalism and spirit of bipartisanship. On the minority side, I thank Scott Gudes and Emelie East for their many hours of work on this bill.

Mr. KOHL. Mr. President, I just wanted to thank Senator GREGG and Senator HOLLINGS and their staff for their hard work on this bill and especially for their efforts in the area of crime prevention. Since the passage of the Crime Act in 1994, I have worked here in the Appropriations Committee and on the Senate floor to provide funding for proven crime prevention programs and to maintain a reasonable balance between law enforcement and prevention. During that time, Senator GREGG and I have had our differences over the need for these programs. This year, however, I was very pleased to work with Senator GREGG on this issue and these discussions resulted in a total of $75 million for a new program that expands upon the Juvenile Justice Act's title V. This program gives local communities broad discretion to fund a variety of crime prevention efforts, while guaranteeing that not all of our anticrime effort goes to law enforcement alone. Consistent with this initiative, the Judiciary Committee reauthorized title V in the juvenile crime bill reported out of committee last week.

While this is a large step in the right direction, some small but effective crime prevention efforts that were funded in last year's bill have, unfortunately, been eliminated this year—including the President's Crime Prevention Council. I look forward to working with Senator GREGG and Senator HOLLINGS to address these problems as we move forward with this bill.

In closing, I would like to reiterate my thanks to Senator GREGG and Senator HOLLINGS for their support of significant crime prevention funding. In communities across the Nation, their efforts will make a difference in the lives of millions of young people.

FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1997

Mr. GREGG. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 1757.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 1757) entitled "An Act to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organizations (NATO) proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes.", and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate insist on its amendments, agree to the request of the House for a conference, and further the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it so ordered.

The PRESIDING OFFICER. (Mr. THOMAS) appointed Mr. HELMS, Mr. COVERDELL, Mr. HAGEL, Mr. GRAMS, Mr. BIDEN, Mr. SARBANES, and Mr. DODD conferees on the part of the Senate.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HOLLINGS. As I understand from my distinguished chairman, we are awaiting the leader's approval of resuming proceedings as if in morning business because on our particular bill, State, Justice, Commerce, there has been an agreement that we vote at 3:30. There could be a couple of amendments that have a couple minutes a side to explain prior to the vote. So pending the approval there, I would ask unanimous consent for just a couple of minutes for comments to be connected with the earlier comments I made on the budget. Is that all right?

The PRESIDING OFFICER. Without objection, it is so ordered.

SMOKE AND MIRRORS OF THE BUDGET

Mr. HOLLINGS. I wanted to comment with respect to the usual smoke and mirrors of this year's budget. I wish, of course, our distinguished chairman of the Appropriations Committee, the distinguished Senator from Alaska [Mr. STEVENS], was still in the Chamber because he initiated the actual spectrum auctions discussion for the simple reason that we have pretty well drained the pot there.

On our last auctions, billions were expected, but we only received millions. Some of those bidding have now been put into receivership and have not responded to their particular bid. So we know now that under this particular agreement, when it calls for some $26.3 billion to come from spectrum actions, we will be lucky to get half of that amount. There again is more smoke and another mirror.

Specifically, they who designed it agreed that it was smoke and it was a mirror in that they then backed it up with the universal service fund provision. This, of course, is a private fund, gotten together by the particular entities in communications where they measure each month the amount of traffic that they have had and the amount necessary to go into the universal service fund. It is a private fund, and there is a question legally whether you can even account for it. I don't know how CBO would score it, but we know that the agreement between the President and the leadership last evening leaves this space blank. Because, whatever is needed and is not allowed by the Congressional Budget Office in its measurement with respect to spectrum auctions, they then put into that particular blank space, whether it is $3 billion, $4 billion, $5 billion or otherwise.

The entitlement cuts, of course, are back loaded with 75 percent of the entitlement cuts to occur the last 2 years.

And, of course, the most smoke and the biggest mirror of all is using, if you please, pension funds to make the budget appear balanced. Actually, we spend the money out of the pension funds. We spend the money out of Social Security; we spend the money out of the military retirees' fund; we spend the money out of the civil service retirees' fund; we spend money out of the airport and airways trust fund; we spend money out of the highway trust fund, and allocate that in the accounting to what they call a unified budget to make it look or appear balanced.

That is the most smoke, that is the biggest mirror, that is the biggest shibboleth that is accepted by the free press. I don't know whether those in journalism ever had an arithmetic course, but the question is whether are you spending more than you are getting in each year in Government. At the State level, we measured it more specifically. We had to not only to balance the budget but also have reserves before Moody's and Standard & Poor's and other groups would give us our AAA credit rating. We have that in my particular State, but no such approach is used here at the Federal level. They use, continually, the smoke, the mirrors, and the biggest one of all which is to include, by the year 2000, over $100 in trust fund surpluses to make the budget appear balanced.

So I think this completes my comments on the reality of this particular budget agreement that is called balanced when the very authors themselves know there is no chance of it being balanced.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 28, 1997, the federal debt stood at $5,369,966,109,620.66. (Five trillion, three hundred sixty-nine billion, nine hundred sixty-six million, one hundred nine thousand, six hundred twenty dollars and sixty-six cents)

Five years ago, July 28, 1992, the federal debt stood at $3,993,518,000,000. (Three trillion, nine hundred ninety-three billion, five hundred eighteen million)

Ten years ago, July 28, 1987, the federal debt stood at $2,299,649,000,000. (Two trillion, two hundred ninety-nine billion, six hundred forty-nine million)

Fifteen years ago, July 28, 1982, the federal debt stood at $1,088,071,000,000. (One trillion, eighty-eight billion, seventy-one million)

Twenty-five years ago, July 28, 1972, the federal debt stood at $435,641,000,000 (Four hundred thirty-five billion, six hundred forty-one million) which reflects a debt increase of nearly $5 trillion—$4,934,325,109,620.66 (Four trillion, nine hundred thirty-four billion, three hundred twenty-five million, one hundred nine thousand, six hundred twenty dollars and sixty-six cents) during the past 25 years.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as Senator from Wyoming, asks that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:29 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. The Senate will resume consideration of S. 1048, the Department of Transportation appropriations bill, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1048) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Shelby (for D'Amato-Moynihan) amendment No. 1022, to direct a transit fare study in the New York City metropolitan area.

AMENDMENT NO. 1022

The PRESIDING OFFICER. Pending is amendment No. 1022 to the bill offered by Senator SHELBY on behalf of Senator D'AMATO.

Mr. HUTCHINSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 1022, offered by the Senator from Alabama on behalf of the Senator from New York, Senator D'AMATO, to bill number S. 1048.

Mr. SHELBY. I ask unanimous consent that we temporarily set that amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, we are now resuming consideration of the fiscal year 1998 Transportation appropriations bill under a unanimous-consent agreement reached last evening. I believe this is important legislation that will have very significant effects on every State in this Union. It sets a record-high obligation ceiling on Federal highway spending. It provides the resources for the Federal Aviation Administration and the U.S. Coast Guard to operate our Nation's airways and waterways safely and efficiently.

Mr. President, it increases, again, our commitment to improving highway safety in this Nation. We want to finish our deliberations on this bill and pass it, if we can, and I ask now for the cooperation of all my colleagues in the Senate who have the option to offer amendments under the consent agreement and have not yet brought them to our attention. I would like for them to come to the floor with their amendments.

Later, I intend to seek a unanimous-consent agreement that all amendments must be offered this evening, that we debate any amendments on which there is disagreement this evening, and that we have a final vote tomorrow. Accordingly, I encourage all Members desiring to speak on the bill on any of the amendments that they propose to come to the floor as soon as possible.

Further, Mr. President, I ask unanimous consent that the following amendments—we have a list of amendments and some of them we have worked out and will be stricken. If I could, I would like to go through the list of the ones that we worked on and we will not have to consider. First is the Hollings amendment on the list; the Graham transit amendment; the Durbin amendment; two amendments by Senator ENZI; the Mack amendment; one of the Abraham amendments; the Bond amendment—two of the Bond amendments. I believe that would take care of a number of them. Some of the other amendments still will be before us, we hope, in some form soon or will be disposed of in some way.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, this has been cleared on this side. Therefore, we have no objection.

The PRESIDING OFFICER. No objection is heard to the agreement.

Mr. BYRD. Mr. President, I rise in strong support of S. 1048, the Transportation appropriations bill for fiscal year 1998.

The Transportation appropriations bill may be the most important of all the appropriations bills. It establishes the Federal investment level in our Nation's highways, airports, passenger, rail, and mass transit systems. I have spoken many times on the Senate floor regarding the importance of maintaining and improving the Nation's physical infrastructure. Our economy is highly dependent on the efficient movement of goods and people. Congestion and capacity constraints on our Nation's highways and delays at our airports cost the U.S. economy billions of dollars each year in lost productivity. But while the estimated costs associated with congestion grow each year, our Federal investment in infrastructure has continued to decline significantly.

Indeed, since 1980, our national investment in infrastructure has declined, both as a percentage of our gross domestic product and as a percentage of our Federal budget. The bill before the Senate today seeks to reverse the destructive trend of Federal disinvestment. Most importantly, as far as this Senator is concerned, the Federal aid highway obligation ceiling will rise to a historic high of $21.8 billion, an increase of more than $3 billion, or 17 percent. Our Nation's airports will enjoy a 16-percent increase in Federal funding for critical capital and safety improvement projects, an increase of $260 million.

Now, Mr. President, these additional highway funds are sorely needed in all States of the Nation. Indeed, the historic $3 billion increase is still only one-fifth the size of the increase that the Federal Highway Administration estimates would be necessary to cease deterioration in the condition of our National Highway System. Put another way, if we wanted to see a net improvement in the condition of our roads and bridges, we would be required to provide an increase in excess of $15 billion in the bill, or a total of almost $37 billion. Unfortunately, the restrictions that have been placed on domestic discretionary spending through the Federal budget process preclude us from providing such an increase through this bill. But I still want to commend the managers for making our Federal investment in highways a priority in the development of this bill.

These highway funds are not the only critical investments in this bill. The Transportation appropriations bill includes our entire annual investment in critical safety programs in all modes of transportation. These include investments to maintain and modernize our air traffic control system, programs for the prevention of drunk driving, funding for rail safety inspectors and motor carrier inspectors, as well as programs of the National Highway Traffic Safety Administration and the National Transportation Safety Board.

Mr. President, when one considers the costs to society in terms of the thousands of lives lost each year through accidents involving our transportation system, the devastation is great. Whether it be highway deaths, or airline disasters, or train accidents, it matters little to those who lose their lives, or to those who are permanently disabled, or to their families, as to which mode of transportation was involved. We simply must do all that we can to reduce the death and the destruction that occurs annually in our various transportation systems.

In doing so, we not only save lives, we also save the billions of dollars that these accidents cost the economy each year in terms of property damage and lost productivity, as well as the health care costs—and they are often long-term—associated with these tragedies.

I believe it is necessary to point out, Mr. President, that it will require a two-step process for us to get increased highway construction funding, as well as highway safety funding to our States. This appropriations bill is the first step, but it will be equally essential for us to pass the surface transportation authorization bill in the very near future. Our major Federal highway construction, highway safety, and mass transit programs are set to expire in less than 10 weeks' time. As has been the usual convention, the annual appropriations bill sets an obligation limitation on these highway construction, highway safety, and mass transit programs.

But it is the responsibility of the authorizing committees—the Committees on Environment and Public Works and Commerce and Banking—to provide the necessary contract authority so that these programs will continue beyond September 30. I know it has been the stated desire of the majority leader to bring such an authorization bill before the Senate as soon as possible. And I am one of many Senators who anxiously await an opportunity to debate a new surface transportation authorization bill on the Senate floor.

Mr. President, I commend Senator SHELBY for his excellent work in his first year as chairman of the Transportation Subcommittee. He held a thorough and informative set of hearings at the beginning of the year. I was pleased to have had the opportunity to participate in some of them. And I also commend Senator LAUTENBERG, the ranking member of the Transportation Subcommittee, who, as ranking member of the Budget Committee, toiled diligently to ensure that the budget resolution treated transportation as an important budget priority for the coming year.

Senator SHELBY and Senator LAUTENBERG have continued to act in the cooperative bipartisan fashion that has always characterized the workings of the Transportation Subcommittee.

Mr. President, these Senators, who act as managers of a bill as important as this is, put an immense amount of time into their work. They conduct thorough hearings. They work with able staff. They conduct markups on the bill at the subcommittee level, and the bill is generally approved by the Appropriations Committee. The bill has usually emanated from the subcommittee, and seldom does the full committee make changes in those subcommittee actions that go into the formulation of the bill.

I know that Senator SHELBY has worked hard, and he has done a good job, as did Senator LAUTENBERG when he was chairman of the Transportation Subcommittee. They are both highly dedicated to their work, and they are both very well respected. And I want to commend both of these Senators. They are working in the best interests of the Nation. They are working in the best interests of the States that make up the Nation. And they are working in the best interests of the future and the people who will depend upon adequate modes of transportation today and in the future.

I also want to thank the Presiding Officer. I note that he listens to what Senators are saying. And that is important. He is alert to what is going on, on the floor. He is alert to what is being said. He is not working crossword puzzles. He is not signing his mail. He is not reading a book. He is busily engaged in the business of presiding. So I compliment all of these whose names I have mentioned.

As I think of the work that is done by Senator SHELBY and Senator LAUTENBERG, I used to be the chairman of the Transportation Appropriations Subcommittee a good many years ago. I was instrumental years ago in helping to get the first appropriations for the metropolitan transit system here. That was before most Senators were Members of this body. But I saw the need for a transportation system in the District of Columbia to serve the metropolitan area, and I supported mass transit throughout the years. When I was chairman of the full committee, I did not come to bury mass transit. I came to praise mass transit and to save mass transit and to help mass transit. I am sorry to say that I have not been accorded the same reciprocity toward highways, especially from some of the Members of the other body. I don't mention names because that is against the Senate rules.

But we are all working for the Nation. And when we work to improve the transportation of the Nation, we work to build the Nation's prosperity. We work for the increased safety of those who travel, and we work for the young men and women who will be the leaders of the Nation in years to come.

It reminds me of a bit of verse by Will Dromgoole. One might think that that author was a man. The name is Will, but it was a woman.

An old man traveling a long highway
Came at evening, cold and gray
To a chasm vast and wide and steep,
With waters rolling cold and deep.
The old man crossed in the twilight dim;
The sullen stream held no fears for him.
But he turned, when he reached the other side.
And he built a bridge to span the tide.
"Old man," said a fellow pilgrim standing near.
"You are wasting your strength in building here.
Your journey will end with the passing day,
And you never again will travel this way.
You have crossed the chasm deep and wide;
Why build you a bridge at eventide?"
The builder lifted his old gray head.
"Good friend, in the path I have come," he said,
"There followeth after me today
A youth whose feet must pass this way.
This chasm, which was but naught to me,
To that fair youth might a pitfall be.
He, too, must cross in the twilight dim.
Good friend, I am building this bridge for him."

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent I be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. STATE OF READINESS

Mr. INHOFE. Mr. President, I saw a very interesting article in Friday's Washington Times that has brought to surface the truth that is so often avoided around here concerning our state of readiness in our Nation' defense system.

As the chairman of the readiness subcommittee of the Senate Armed Services Committee, I have had occasion to visit many, many of the installations around the country. I have been in the European theater, most of the installations in England, Italy, Hungary, and, of course, several times to Bosnia, Camp Lejeune Marine Corps Base; Fort Hood, TX; Fort Bragg, NC; Corpus Christi Navy Air Base, and several others. What I am finding is that there are very serious problems they are facing.

Mr. President, I know you are aware, as chairman of the personnel subcommittee, of some of these problems and how they are affecting our state of readiness. One of the contributing factors, of course, is our contingency operations. We have two serious problems with contingency operations. First of all, they are very expensive. We had occasion to narrowly lose our resolution of disapproval in order to keep our troops from being sent over to Bosnia here back in December 1995—only by four votes. And one of the determining factors was they said it would be a 12-month operation, which we all knew better, but they also said that the cost of the operation would not exceed $2 billion, it would be somewhere between $1.5 and $2 billion. At that time we felt, with mission creep and the fact it was easy to go in and very difficult to come out, that it would cost more.

Well, sure enough. We are up there now, close to $7 billion it is going to cost us.

Where does that money come from, Mr. President? It comes from our readiness accounts. This has become a very serious problem.

The other problem is that it is using up our troops, keeping them from being able to be trained properly should an emergency come along, should some type of war operation become necessary to face. I have been going around, and they have been bringing out problems such as equipment is wearing out well before its projected lifetime, excessive usage of spare parts, pushing our people so hard they no longer have time to train. At almost every unit I saw maintenance personnel cannibalizing perfectly good, new equipment to keep other equipment working, which may solve the problem for today but it is very labor intensive by the time they get the machines working again.

An Air Force maintenance officer told me, "Our lack of spares has caused us to cannibalize perfectly good engines to keep others operating, requiring my maintenance troops to work even more hours to keep our planes flying. Our normal workweek is now 50 to 56 hours a week."

With regard to OPTEMPO—when we talk about OPTEMPO, we are talking about the tempo of operations—an F-18 squadron commander told me, "The high OPTEMPO at which our personnel are operating is definitely causing a strain on our people's families and the strain also affects my pilots' job performance."

We know our retention is low. In my State of Oklahoma, we will spend—we actually save $86,000 a primary student. That is the savings. Imagine what it costs to put someone in training. Right now the airlines are coming along and taking some of our very best. And the ones I talked to, Mr. President, do not want to leave. They want to stay in. They are soldiers, they are fighters, but they have to do it. And their family situation is demanding that they do.

An Air Force F-16 squadron commander said, "The number of days we fly to support Bosnia doesn't leave us with enough time to train. The only areas where we get training from our Bosnia missions is in reconnaissance and close air support. The rest of our training areas are suffering."

This goes on and on. An Air Force C-130 squadron commander told how they are now up to 160 days in their TDY as opposed to their goal of 120.

Now, what does this do? It is quite obvious. When you talk to the services, you give them choices. You say, well, if you are going to have to take money to put in these contingency operations, it is going to either have to come out of force strength, readiness, quality of life, or modernization. Those are the only four areas over which we have control. And I can tell you that each one of the chiefs has said we cannot take any more money out of any of these areas.

Now, there is an assumption around here that somehow we have a state of readiness that would allow America to protect itself in two regional contingencies. I can tell you right now that this is not the case. In fact, it has been stated by most of the chiefs now that we could not fight today the Persian Gulf war.

I will just read a couple excerpts from the article that came out Friday morning. It is the first time I have seen it in print. It was in the Washington Times Friday morning. It said, "The Air Force is suffering from pilots who have lost faith in their generals, jet engines that still don't work after repairs, and maintenance depots with little quality of work being produced. Pilots complain of poorly equipped fighter wings, too much time away from their families, and air patrol types of missions that do little to hone their air combat skills." And it goes on and on.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the article of Friday morning be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. In conclusion, Mr. President, right now I think we are facing a very serious threat. I know there are people in this Chamber who would like to believe that the cold war is over and that there is no longer any real serious threat out there when, in fact, as I have said several times before, I am not the only one who looks back wistfully at the days of the cold war; at least then we had two superpowers and we had an idea of what the Soviet Union at that time had. We could predict what they were going to do. They have a more predictable type of personality. Our intelligence knew more about what their capabilities were. Today we have 25 or 30 nations out there, run by the type of people who murder their own grandchildren, and here we are in a position where we could very easily be challenged in two geographic areas.

So, Mr. President, I hope as we progress here and as we follow through the rest of the year we can change some of the attitudes in this Chamber and over in the other Chamber and in the White House as concerns our ability to defend America.

EXHIBIT 1

AIR FORCE LEADERS LOSE PILOTS' FAITH—PENTAGON MEMO DETAILS LOW MORALE, SHODDY WORK

(By Rowan Scarborough)

The Air Force is suffering from pilots who have lost faith in their generals, jet engines that still don't work after repairs and maintenance depots with "little quality or quantity of work being produced," according to an internal Defense Department memorandum.

The draft memo, a copy of which was obtained by the Washington Times, paints a troubling picture of the state of American air power.

It says Air Force pilots are in the dumps, fleeing the service at a rate higher than aviators in the Army, Navy or Marines.

"Many pilots expressed great distrust of the senior leadership," said the memo prepared for Louis Finch, deputy undersecretary of defense for readiness. The memo calls the Air Force cadre of instructor pilots "a very disgruntled group."

The memo didn't spell out why the senior leadership, including Air Force Secretary Shelia Widnall and Gen. Ronald Engleman, the chief of staff, has failed in the eyes of pilots.

But the service has been hit by a series of public-relations disasters, including the Khobar Towers terrorist bombing that killed 19 service members and the attempted court-martial of Lt. Kelly Flinn. Pilots complain of poorly equipped fighter wings, too much time away from their families and air patrol-type missions that do little to hone air-combat skills.

"Discussions with fighter pilots reveal a great deal of dissatisfaction with the ongoing deployments," the memo says. "There is no training, they are not doing what they are trained to do, they are simply 'boring holes in the sky.' Combining this lack of mission satisfaction with increased airline hiring makes civilian life much more attractive."

In what should be a troubling finding for safety officials, the memo states that nearly two-thirds (65 percent) of engines for the giant C-5 cargo jet are returning from repair shops still malfunctioning.

It says two major depots in California and Texas are caught up in the battle between Congress and President Clinton over whether they should stay open. A nonpartisan base-closure commission recommended closing the air-logistics centers in Sacramento, Calif., and San Antonio and transferring the work elsewhere.

But last year Mr. Clinton, making what critics say was a political decision to garner votes in two large states, said the bases would be handed over to civilian companies.

Said the Pentagon memo, "Due to the ongoing political contest regarding privatization, there is little quality or quantity of work being produced. Both workers and plants are underutilized. Further, the operational units are not satisfied with the products received from the depots."

It is the San Antonio depot that is sending out malfunctioning C-5 jet engines, the memo states. "Currently, there is a 65 percent reject rate of the engines coming back from [San Antonio]," it states. "The quality is getting better though."

Dated yesterday, the memo seems to bolster complaints from pro-defense conservatives in Congress. They contend the Clinton administration is underfunding the armed forces at the same time it deploys troops at a high rate around the world.

Robert Maginnis, a retired Army lieutenant colonel, said the report shows the negative effects of cutting defense spending by more than 30 percent the past five years.

"The sad state of Air Force readiness can be blamed on the Clinton administration, which treats the military as a toy to be deployed for meals-on-wheels-type missions without due consideration for its impact on readiness," said Mr. Maginnis, an analyst at the conservative Family Research Council.

"Depots are caught in never-never land between privatization, base closures and status quo," he said. "The results are devastating."

Maj. Monica Aloisio, a Pentagon spokeswoman, said the memo is a "trip report" periodically done on all four branches. The Pentagon readiness office uses such reports in making budget recommendations.

The Air Force declined comment, saying the report is still in draft form.

The report was based on site visits by defense officials in June to warplane squadrons, repair depots, the Air Force entry-level pilot school and an air-refueling unit.

It draws a particularly negative portrait of pilot morale at the Air Education and Training Command at Randolph Air Force Base, Texas.

The inspection report calls Randolph a "poor training ground for future pilots."

"The instructor pilots at Randolph are sick of high 'OPTEMPO' [operational tempo]," says the memo. "Most said that they came to Randolph as a three-year break from being gone from home too much on deployment. Most of the pilots also said that they will be getting out of the Air Force as soon as their commitment is over.

"The pilots liked the quality of the mid-level leadership, but totally disliked their senior leadership. They stated that they did not trust senior leadership and that things are getting worse. In general they felt they were lied to, betrayed and treated very poorly."

Officers at the 940th Air Refueling Squadron complained of excessive training.

"Everyone complained that the number of days of mandatory training per year should be capped and purged of everything that is not mission essential or job critical," the memo said. "All of the politically correct, brainwashing, propaganda and white laboratory mouse training should be purged from the curriculum."

Mr. INHOFE. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be allowed to speak for about 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair and thank my colleague from West Virginia.

The PRESIDING OFFICER. The Senator from Minnesota.

THE BUDGET AGREEMENT

Mr. WELLSTONE. Mr. President, just a few thoughts about the budget agreement. There is still a lot of drafting going on, so to a certain extent I think all of us are at a little bit of a disadvantage in that we have not seen all of the specifics, but I would like to raise a couple of questions about this agreement, and I raise these questions given what I think is the important standard of fairness.

First of all, I hope that all Senators, Democrats and Republicans, will have before them the distributional data, that is to say some understanding as to who will benefit from these tax cuts, before we are asked to vote on the tax-cut part of this bill. It seems to me this is kind of a prerequisite for good public policy. I remain very skeptical that, indeed, these tax cuts, when you look at who is really going to benefit with each passing year, will not disproportionately go to those people who are least in need of any assistance. At the same time, I see a tradeoff that seems quite unacceptable. Every single time it looks like low-income and moderate-income families get the short end of the stick. I think we should set the bar at a higher level, and I think those families should count. Let me just give but a couple of examples.

Mr. President, the child credit, we are now hearing from the White House, will go to families with incomes under $30,000 a year or under $28,000 a year, the argument being that, indeed, these families pay Social Security taxes and they should receive a child credit as well as those families with incomes over $30,000 a year. But, as it turns out, families with incomes under $16,000 a year are not going to receive any child care credit. I have had a chance to travel some around the country and visit with poor children, visit with low-income families. I don't understand how in the world we could be talking about fairness if, in fact, those families are not going to receive any of the child care credits, those families most in need.

Another example is on the higher education piece. I have said this over and over again, and I hope I am wrong, but I don't think I am. I was a teacher for 20 years. I spent a lot of time at the community colleges. Mr. President, if the tax credits are not refundable, then those students or those families with incomes under $28,000 a year or $27,000 a year, that are not going to have any tax liability, they are not going to receive any of the assistance. So when it comes to those students who have been least able to afford higher education, they are still going to be waiting for some of this assistance.

Add to that some of the concerns that I think all of us have to have about the cuts or reductions in payment in Medicare and medical assistance, in particular those of us—and I come from such a State—where we have strong rural communities. We have to worry about the negative impact this is going to have on rural health care providers. If we don't have hospitals or clinics, then we are not able to deliver the care out in our communities. We have to have concerns about the disproportionate effect this is going to have on our children's hospitals and public hospitals that have received a disproportionate amount of medical assistance because they serve a disproportionate number of low-income and moderate-income people.

So, the question really becomes: Where is the standard of fairness if the tax cuts still, in the main, go to the very top of the economic population and at the same time the benefits don't go to many, many hard-pressed families? We have not invested, in this budget agreement, one penny in rebuilding crumbling schools. As it turns out, families with incomes under $16,000, with children, receive no help by way of the child credit. Those students from families with incomes $23,000, $24,000, $25,000 a year are not going to benefit from the Hope scholarship unless it's a refundable tax credit. We are not investing in the schools, and at the same time we don't even have the distributional data on who exactly is going to benefit from these tax cuts.

So I count myself as a skeptical Senator. And if I was going to be voting today, I would vote against this package. I do not think it meets the Minnesota standard of fairness. I think we should do better.

Mr. President, I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, what is the pending business before the Senate?

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. The pending business of the Senate is to resume consideration of Senate bill 1022.

The Senate continued with the consideration of the bill.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 995

Mr. GREGG. Mr. President, I ask unanimous consent that the yeas and nays on the Kyl amendment No. 995 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I rise in support of the amendment of my friend from Arizona.

As a preliminary matter, I should say that I would have hoped that this amendment would not be necessary. I do not believe there is any real difficulty in reconciling the provision from last year's omnibus appropriations bill prohibiting the use of judiciary's funds to pay for special masters appointed pre-PLRA with the PLRA's requirement that masters be paid only with such funds. I believe this can easily be done without violating the intent of the PLRA's authors, including my friend from Arizona and myself, that the PLRA's compensation and other requirements be applied to pre-PLRA masters.

The way to reconcile them is clear: the court can either proceed without a special master, or it can appoint a new one—or reappoint an old one—in the manner specified by the PLRA, thereby making the master eligible for payment under the terms of last year's rider. Indeed, in a discussion at the end of the last Congress, the distinguished chairman of the CSJ Appropriations Subcommittee and I agreed that this was the intended interpretation of the appropriations provision.

Nevertheless, some courts have instead used this provision as one basis for concluding that the compensation requirements, and even special masters provisions other than the compensation requirements, do not apply to masters appointed pre-PLRA, or even in some instances to masters appointed post-PLRA in pre-PLRA cases.

Let's look at the continuing saga of the Rikers Island jail in the Benjamin versus Jacobson case. The basic issue there is whether, as a result of the PLRA, the court will allow Rikers to store its mops right side up or upside down, and whether the jail has to use Borax in a particular concentration to clean certain public areas or whether it should be allowed to use a different concentration, or even a different detergent. Or to put the question a little more seriously, the issue there is whether within the constraints of the Constitution, New York City will be allowed to run its jail according to what it, rather than an unelected special master, believes is sound prison policy.

This year, Judge Baer—whose earlier handling of the central aspects of this case was frankly a model of judicial restraint—issued an order requiring New York City to continue to fund the special master's office at approximately $275,000 a year, pay for office space, and provide a car and a parking space. The order even specified that the car had to be of a certain type and quality.

Judge Baer had earlier held that the PLRA required dissolution of the consent decree that had been governing Riker's for years, but the court of appeals stayed that order pending appeal. Thus, the order retaining the special master on the old terms was issued in a case that predated the PLRA, but where it was clear by its own terms that the order appointing the master had expired. Moreover Judge Baer had previously upheld the constitutionality and retroactivity of the other provisions of the act.

For all these reasons one would have thought it clear that even if last year's prohibition were construed to allow the court to impose the costs of pre-PLRA-appointed masters on the States, the act's limitations on special masters should be applied to the reappointment of this one. Nevertheless, without holding the special masters limitations unconstitutional, Judge Baer simply declined to follow them on the theory that the court of appeals stay of his original order upholding the other provisions of the PLRA was a mandate for him to preserve the status quo in all respects.

I think the real lesson of this and many other decisions regarding the PLRA's limitations on prospective relief, as well as many of the decisions concerning the new habeas provisions, is that judges, like other human beings, tend to resist change. What, after all, is the old maxim that statutes in derogation of the common law shall be strictly construed, if not a fairly blunt statement that courts will construe any ambiguity in favor of their own ways of doing things?

By clearing up what may seem to some an ambiguity, the amendment of my friend from Arizona removes one possible source of authority to which a court can turn in an effort to exercise broad powers through a special master while making the State or locality whose powers are being usurped foot the bill.

Accordingly, I am pleased to support his amendment.

Mr. LEAHY. Mr. President, this amendment applies to only a few States that have been found liable for violations of civil rights or constitutional rights of prisoners in their prisons before enactment of the Prison Litigation Reform Act of 1995. There are about 35 special masters supervising prison conditions that might be affected by this amendment, although the Administrative Office of the Courts expects that number to be reduced to 28 by October 1.

Why should Congress and Federal taxpayers be required to bail out these few States for their poor prison conditions, unconstitutional treatment, and history of noncompliance with their own consent decrees?

The Congressional Budget Office and Administrative Office of the Courts estimate that this amendment will cost the Federal Treasury about $3 million this year. Why should U.S. taxpayers bail out a few States for one of the costs of bringing their state prison conditions up to constitutional standards? Will we next be asked to pay for the other remedial aspects of the decrees that have been agreed to by State officials? If States want flexibility to use some of the billions of dollars for prisons that the Federal Government has made available to the States since passage of the Violent Crime Control and Law Enforcement Act of 1994 to help defray these costs and expenses, I would support that.

This amendment raise constitutional concerns because it retroactively and statutorily seeks to overturn consent decrees where States have agreed to foot the bill for a special master to monitor their poor prison conditions and implementing remedies to bring them up to constitutional standards. Why should Congress overturn decrees already agreed to by the States involved in these lawsuits over poor prison conditions? Why should Congress intervene when these matters are already being reviewed by newly assigned judges in these cases?

The Prison Litigation Reform Act, which was included in last year's omnibus spending bill, has been construed by the courts not to be retroactive in order for it not to be held unconstitutional. This amendment crosses that line and seeks to extend certain questionable provisions of that law back in time and have them apply to cases that it was not designed or intended to cover. It will lead to additional constitutional challenges.

This amendment would bail out a few States by taking money from the Federal Judiciary's administrative account. That account pays for improvements in computers in courtrooms, teleconferencing, and other services that make the administration of justice more effective and efficient. Why are we taking money away from improving the administration of justice to bail out these few States?

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment No. 995 offered by the Senator from Arizona be agreed to.

Mr. HOLLINGS. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 995) was agreed to.

AMENDMENT NO. 1034

Mr. GREGG. Mr. President, I ask unanimous consent that, notwithstanding the previous order, it be in order to send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I send the amendment to the desk at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 1034.

Mr. GREGG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

Notwithstanding any other provision in this Act the amount for the Department of State "capital investment fund" shall be $105,000,000.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1034) was agreed to.

Mr. GREGG. Mr. President, I suggest the regular order is the vote on final passage.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi, [Mr. COCHRAN] is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Cochran

The bill (S. 1022), as amended, was passed as follows:

S. 1022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $79,373,000; of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $7,860,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 1997: *Provided further*, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and $4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $29,450,000 to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: *Provided*, That funds provided under this section shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $20,007,000.

VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, $59,251,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,211,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $5,009,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses, necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $437,178,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the funds available in this appropriation, not to exceed $24,555,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further*, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That not to exceed 4 permanent positions and 5 full-time equivalent workyears and $470,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986 as amended, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, $7,969,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $82,447,000: *Provided*, That notwithstanding any other provision of law, not to exceed $70,000,000 of offsetting collections derived from fees collected for pre-merger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1998, so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at not more than $12,447,000: *Provided further*, That any fees received in excess of $70,000,000 in fiscal year 1998, shall remain available until expended, but shall not be available for obligation until October 1, 1998.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental and cooperative agreements, $986,404,000; of which not to exceed $2,500,000 shall be available until September 30, 1999, for (1) training personnel in debt collection, (2) locating debtors and their property, (3) paying the net costs of selling property, and (4) tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That not to exceed $8,000,000 for the design, development, and implementation of an information systems strategy for D.C. Superior Court shall remain available until expended: *Provided further*, That not to exceed $2,500,000 for the operation of the National Advocacy Center shall remain available until expended: *Provided further*, That not to exceed $10,000,000 shall remain available until expended to support Violent Crime Task Forces in United States Attorneys Offices, of which $5,000,000 shall be available for the expansion of several existing Task Forces into regionally-diverse demonstration projects, including inter-governmental, inter-local, cooperative, and task-force agreements, however denominated, and contracts with State and local prosecutorial and law enforcement agencies engaged in the investigation and prosecution of violent crimes, including bank robbery and carjacking, and drug trafficking: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,652 positions and 8,936 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

For activities authorized by sections 40114, 130005, 190001(b), 190001(d) and 250005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, and section 815 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), $46,128,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $11,408,000 shall be available for Southwest Border Control and $9,747,000 for expeditious deportation of denied asylum applicants.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), $116,721,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That notwithstanding any other provision of law, $116,721,000 of offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 1998, so as to result in a final fiscal year 1998 appropriation from the Fund estimated at $0: *Provided further*, That any such fees collected in excess of $116,721,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $1,226,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, $471,786,000, as authorized by 28 U.S.C. 561(i); of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which not to exceed $4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system, and not to exceed $2,200,000 to support the Justice Prisoner and Alien Transportation System, shall remain available until expended: *Provided*, That, for fiscal year 1998 and thereafter, the service of maintaining and transporting State, local, or territorial prisoners shall be considered a specialized or technical service for purposes of 31 U.S.C. 6505, and any prisoners so transported shall be considered persons (transported for other than commercial purposes) whose presence is associated with the performance of a governmental function for purposes of 49 U.S.C. 40102: *Provided further*, That not to exceed 6 permanent positions and 6 full-time equivalent workyears and $350,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, $25,553,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $405,262,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $75,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure, automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000: *Provided*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to this paragraph shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (F), and (G), as amended, $23,000,000, to be derived from the Department of Justice Assets Forfeiture Fund.

Radiation Exposure Compensation

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,000,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $4,381,000.

Interagency Law Enforcement

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $294,967,000, to remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

Federal Bureau of Investigation

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,094 passenger motor vehicles, of which 2,270 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,837,268,000, of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed $1,000,000 for undercover operations shall remain available until September 30, 1999; of which not less than $257,601,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $84,400,000 for the automation of fingerprint identification services and related costs and not to exceed $14,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided*, That not to exceed $60,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed 59 permanent positions and 59 full-time equivalent workyears and $5,470,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) as amended ("the 1994 Act"), and the Antiterrorism and Effective Death Penalty Act of 1996 ("the Antiterrorism Act"), $179,121,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $102,127,000 shall be for activities authorized by section 190001(c) of the 1994 Act and section 811 of the Antiterrorism Act; $57,994,000 shall be for activities authorized by section 190001(b) of the 1994 Act; $4,000,000 shall be for training and investigative assistance authorized by section 210501 of the 1994 Act; $9,500,000 shall be for grants to States, as authorized by section 811(b) of the Antiterrorism Act; and $5,500,000 shall be for establishing DNA quality-assurance and proficiency-testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210501 of the 1994 Act: *Provided*, That notwithstanding any other law relating to employee classification, pay, and performance, the Director, Federal Bureau of Investigation may, with the approval of the Attorney General, design and implement a system of personnel management providing for the classification, pay, and performance of non-Senior Executive Service employees of the Federal Bureau of Investigation. Except as otherwise provided by law, no employee compensated under this system may be paid in excess of the rate of basic pay payable for Level IV of the Executive Schedule. Payments to employees under this system shall be subject to the limitation on payments to General Schedule employees set forth in section 5307 of title 5, United States Code.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $59,006,000, to remain available until expended.

Drug Enforcement Administration

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,602 passenger motor vehicles, of which 1,410 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $639,265,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $10,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed $2,000,000 for laboratory equipment, $4,000,000 for technical equipment, and $2,000,000 for aircraft replacement, retrofit and parts, shall remain available until September 30, 1999; and of which not to exceed $50,000 shall be available for official reception and representation expenses: *Provided*, That not to exceed 29 permanent positions and 29 full-time equivalent workyears and $2,134,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 180104 and 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, and section 814 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), and for the purchase of not to exceed 1,602 passenger motor vehicles, of which 1,410 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year, $441,117,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $10,500,000, to remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police type use (not to exceed 2,574, of which 1,711 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; and for the care and housing of Federal detainees held in the joint INS and United States Marshals Service's Buffalo Detention Facility; $1,430,199,000, of which not to exceed $400,000 for research shall remain available until expended; of which not to exceed $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; and of which not to exceed $5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That the Attorney General may reallocate to the INS training program from other INS programs such amounts as may be necessary for direct expenditure for immigration officer basic training: *Provided further*, That none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service may be used to accept, process, or forward to the Federal Bureau of Investigation any FD–258 fingerprint card, or any other means used to transmit fingerprints, for the purpose of conducting a criminal background check on any applicant for any benefit under the Immigration and Nationality Act unless the applicant's fingerprints have been taken by an office of the Immigration and Naturalization Service or by a law enforcement agency, which may collect a fee for the service of taking and forwarding the fingerprints: *Provided further*, That none of the funds available to the INS shall be available to pay any employee overtime pay in an amount in excess of $25,000 during the calendar year beginning January 1, 1998, except in such instances when the commissioner determines that enforcing this overtime provision would harm enforcement activities: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further*, That the Land Border Fee Pilot Project scheduled to end September 30, 1996, is extended hereafter, for projects on both the northern and southern borders of the United States, except that no pilot program may implement a universal land border crossing toll: *Provided further*, That not to exceed 20 permanent positions, of which not less than 11 permanent positions are caseworkers, and 20 full-time equivalent workyears and $1,737,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 130002, 130005, 130006, 130007, and 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, and section 813 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), $719,898,000, to remain available until expended, which will be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $73,559,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 834, of which 599 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,933,900,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $90,000,000 for the activation of new facilities shall remain available until September 30, 1999: *Provided further*, That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)), FPS may enter into contracts and other agreements with private entities for periods of not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, $6,135,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $267,833,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: *Provided further*, That of the total amount appropriated, not to exceed $2,300,000 shall be available for the renovation and construction of United States Marshals Service prisoner-holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,042,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $160,165,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524); of which, $25,000,000 is for the National Sexual Offender Registry.

For an additional amount, $23,000,000, to remain available until expended; of which $5,000,000 shall be for Local Firefighter and Emergency Services Training Grants as authorized by section 819 of the Antiterrorism and Effective Death Penalty Act of 1996 ("the Antiterrorism Act"); of which $14,000,000 shall be for development of counterterrorism technologies to help State and local law enforcement combat terrorism, as authorized by section 821 of the Antiterrorism Act; and of which $4,000,000 shall be for specialized multi-agency response training.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $451,500,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524), of which $75,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, of which $6,200,000 shall be for the National Center for Missing and Exploited Children, of which $2,000,000 shall be for National Neighborhood Crime and Drug Abuse Prevention Programs, of which $2,097,000 shall be available to the Executive Office of United States Attorneys to support the National District Attorneys Association's participation in legal education training at the National Advocacy Center, of which $100,000 shall be available for a grant to Roberts County, South Dakota, for establishment of a 911 emergency system; and of which $900,000 shall be available for a grant to the South Dakota Division of Criminal Investigation for the procurement of equipment for law enforcement telecommunications, emergency communications, and the State forensic laboratory.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $2,154,650,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $503,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, of which $25,000,000 shall be for grants to States for programs and activities to enforce State laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors: *Provided*, That of the amount made available for Local Law Enforcement Block Grants under this heading, $10,000,000 shall be for the Community Policing to Combat Domestic Violence Program established pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968: *Provided further*, That for the purpose of eligibility for the Local Law Enforcement Block Grant Program in the State of Louisiana, parish sheriffs and district attorneys are to be considered the unit of local government under section 108 of H.R. 728: *Provided further*, That no funds provided under this heading may be used as matching funds for any other Federal grant program: *Provided further*, That $2,400,000 of this amount shall be for discretionary grants for State and local law enforcement to form specialized cyber units to investigate and prevent child sexual exploitation: *Provided further*, That $20,000,000 of this amount shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided further*, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers; of which $45,000,000 shall be for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; of which $128,500,000 shall be available as authorized by section 1001 of title I of the 1968 Act to carry out the provisions of subpart 1, part E of title I of the 1968 Act notwithstanding section 511 of said Act for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; of which $350,000,000 shall be for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; of which $740,500,000 shall be for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the 1994 Act, of which $150,000,000 shall be available for payments to States for incarceration of criminal aliens, of which $35,000,000 shall be available for the Cooperative Agreement Program, and of which $5,000,000 shall be reserved by the Attorney General for fiscal year 1998 under section 20109(a) of subtitle A of title II of the 1994 Act; of which $7,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; of which $2,000,000 shall be for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; of which $160,000,000 shall be for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act; of which $59,000,000 shall be for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; of which $25,000,000 shall be for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; of which $7,000,000 shall be for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act; of which $1,000,000 shall be for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act; of which $2,750,000 shall be for national stalker and domestic violence reduction, as authorized by section 40603 of the 1994 Act; of which $61,200,000 shall be for grants for residential substance abuse treatment for State prisoners as authorized by section 1001(a)(17) of the 1968 Act; of which $15,000,000 shall be for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; of which $900,000 shall be for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act; of which $3,800,000 shall be for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; of which $40,000,000 shall be for Drug Courts, as authorized by title V of the 1994 Act; of which $1,000,000 shall be for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; and of which $2,000,000 shall be for public awareness programs addressing marketing scams aimed at senior citizens as authorized by section 250005(3) of the 1994 Act: *Provided further*, That funds made available in fiscal year 1998 under subpart 1 of part E of title I of the 1968 Act may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions: *Provided further*, That section 20105(c) of subtitle A of title II of the 1994 Act (42 U.S.C. 13705(c)) is amended to read as follows "Notwithstanding any other provision of this subtitle, States may use grant funds to build or expand State or local juvenile correctional facilities and boot camps, for violent and nonviolent juvenile offenders.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $33,500,000, which shall be derived from discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

COMMUNITY ORIENTED POLICING SERVICES

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act") (including administrative costs), $1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: *Provided*, That not to exceed 270 permanent positions and 228 full-time equivalent workyears and $24,669,000 shall be expended for program management and administration.

In addition, for activities authorized by the 1994 Act, $40,000,000 for the Police Corps program to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $230,922,000, to remain available until expended, as authorized by section 299 of part I of title II, as amended by Public Law 102–586, of which (1) notwithstanding any other provision of law, $5,922,000 shall be available for expenses authorized by part A of title II of the Act, $86,500,000 shall be available for expenses authorized by part B of title II of the Act, and $29,500,000 shall be available for expenses authorized by part C of title II of the Act; (2) $12,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $12,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $75,000,000 shall be available for the Anti-Truancy, School Violence and Crime Intervention Program.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $4,500,000, to remain available until expended, as authorized by sections 214B of the Act.

JUVENILE BLOCK GRANTS

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Juvenile Justice Block Grant Program, $145,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund: *Provided*, That none of the funds appropriated or otherwise made available by this Act for "Juvenile Block Grants" may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of a subsequent Act.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340); and $2,000,000 for the Federal Law Enforcement Education Assistance Program, as authorized by section 1212 of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Authorities contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (Public Law 96–132, 93 Stat. 1040 (1979)), as amended, shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided*, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 108. Section 524(c)(8)(E) of title 28, United States Code, is amended by striking the year in the date therein contained and replacing the same with "1997 and thereafter".

SEC. 109. The Director, Federal Bureau of Investigation, is authorized to carry out a 2-year demonstration project showing the viability for the defensive arming of select non-agent personnel: *Provided*, That the Director, Federal Bureau of Investigation, may authorize to carry firearms not more than 50 non-agent investigative specialists assigned to special surveillance groups supporting investigations, counterintelligence and counterterrorism activities: *Provided further*, That personnel designated under this authority shall meet selection criteria established by the Director, Federal Bureau of Investigation, and successfully complete training for firearms proficiency, defensive tactics, and deadly force policy: *Provided further*, That personnel designated under this authority shall not be deemed law enforcement officers under Title 5, United States Code, for pay, retirement, position classification, or other purposes: *Provided further*, That the Director, Federal Bureau of Investigation, shall submit to the Committees on the Judiciary of both the House and the Senate, by March 31, 1999, a report on the viability of the defensive arming demonstration project along with recommendations for permanent authority for non-agent personnel or discontinuance of the demonstraton project.

SEC. 110. The Immigration and Nationality Act of 1952, as amended, is further amended—

(a) by striking entirely section 286(s);

(b) in section 286(r) by—

(1) adding ", and amount described in section 245(i)(3)(b)" after "recovered by the Department of Justice" in subsection (2);

(2) replacing "Immigration and Naturalization Service" with "Attorney General" in subsection (3); and

(3) striking subsection (4), and replacing it with, "The amounts required to be refunded from the Fund for fiscal year 1998 and thereafter shall be refunded in accordance with estimates made in the budget request of the President for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after Congressional reprogramming notification in accordance with the reprogramming guidelines for the applicable fiscal year."; and

(c) in section 245(i)(3)(B), by replacing "Immigration Detention Account established under section 286(s)" with "Breached Bond/Detention Fund established under section 286(r)".

SEC. 111. Section 506(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (8 U.S.C. 1182 note, 1255 note) is amended by deleting everything after "1994".

SEC. 112. (a) SHORT TITLE.—This section may be cited as the "Philippine Army, Scouts, and Guerilla Veterans of World War II Naturalization Act of 1997".

(b) IN GENERAL.—Section 405 of the Immigration and Nationality Act of 1990 (8 U.S.C. 1440 note) is amended—

(1) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

"(B) who—

"(i) is listed on the final roster prepared by the Recovered Personnel Division of the United States Army of those who served honorably in an active duty status within the Philippine Army during the World War II occupation and liberation of the Philippines,

"(ii) is listed on the final roster prepared by the Guerilla Affairs Division of the United States Army of those who received recognition as having served honorably in an active duty status within a recognized guerilla unit during the World War II occupation and liberation of the Philippines, or

"(iii) served honorably in an active duty status within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946:";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3)(A) For purposes of the second sentence of section 329(a) and section 329(b)(3) of the Immigration and Nationality Act, the executive department under which a person served shall be—

"(i) in the case of an applicant claiming to have served in the Philippine Army, the United States Department of the Army;

"(ii) in the case of an applicant claiming to have served in a recognized guerilla unit, the United States Department of the Army or, in the event the Department of the Army has no record of military service of such applicant, the General Headquarters of the Armed Forces of the Philippines; or

"(iii) in the case of an applicant claiming to have served in the Philippine Scouts or any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946, the United States executive department (or successor thereto) that exercised supervision over such component.

"(B) An executive department specified in subparagraph (A) may not make a determination under the second sentence of section 329(a) with respect to the service or separation from service of a person described in paragraph (1) except pursuant to a request from the Service."; and

(3) by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, for purposes of the naturalization of natives of the Philippines under this section—

"(A) the processing of applications for naturalization, filed in accordance with the provisions of this section, including necessary interviews, shall be conducted in the Philippines by employees of the Service designated pursuant to section 335(b) of the Immigration and Nationality Act; and

"(B) oaths of allegiance for applications for naturalization under this section shall be administered in the Philippines by employees of the Service designated pursuant to section 335(b) of that Act.

"(2) Notwithstanding paragraph (1), applications for naturalization, including necessary interviews, may continue to be processed, and oaths of allegiance may continue to be taken in the United States.".

(c) REPEAL.—Section 113 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1440 note), is repealed.

(d) EFFECTIVE DATE; TERMINATION DATE.—

(1) APPLICATION TO PENDING APPLICATIONS.—The amendments made by subsection (b) shall apply to applications filed before February 3, 1995.

(2) TERMINATION DATE.—The authority provided by the amendments made by subsection (b) shall expire February 3, 2001.

SEC. 113. (a) Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant—

"(i) who is present in the United States without having been admitted or paroled, or who has been paroled into the United States by the Attorney General specifically for the purpose of obtaining special immigrant status pursuant to this subparagraph;

"(ii)(I) who has been declared dependent on a juvenile court located in the United States if the dependency order is issued pursuant to a request made on behalf of the alien, the court notifies the Attorney General of the request for the order, and the Attorney General expressly consents to the court hearing the request; or

"(II) whom the juvenile court has legally committed to, or placed under the custody of, an agency or department of a State and who has been deemed eligible by that court for long-term foster care, except that while the alien is in the actual or constructive custody of the Attorney General, the court shall have jurisdiction to determine the custody status of the alien only if the Attorney General expressly consents to that jurisdiction; and

"(iii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.".

(b) ADJUSTMENT OF STATUS.—Section 245(h) of the Immigration and Nationality Act (8 U.S.C. 1255(h)) is amended by striking the period at the end and inserting the following: ", unless the alien was paroled into the United States by the Attorney General specifically in order to apply for such special immigrant status. Nothing in this subsection or section 101(a)(27)(J) shall be construed to require the Attorney General to parole into the United States any alien specifically for this purpose.".

SEC. 114. (a) Section 1402 of the Victims of Crime Act of 1984, (42 U.S.C. 10601), is amended in subsection (d) by—

(1) replacing "judicial branch administrative costs; grant program percentages" in the heading with "grant programs";

(2) striking paragraph (1);

(3) replacing "the next" in paragraph (2) with "The first"; and

(4) redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(b) Any unobligated sums hitherto available to the judicial branch pursuant to the paragraph repealed by section (a) shall be deemed to be deposits into the Crime Victims Fund as of the effective date hereof and may be used by the Director of the Office for Victims of Crime to improve services for the benefit of crime victims, including the processing and tracking of criminal monetary penalties and related litigation activities, in the federal criminal justice system.

SEC. 115. Not to exceed $200,000 of funds appropriated under section 1304 of title 31, United States Code, shall be available for payment pursuant to the Hearing Officer's Report in United States Court of Federal Claims No. 93-645X (June 3, 1996) (see 35 Fed. Cl. 99 (March 7, 1996)).

SEC. 116. (a) IN GENERAL.—Section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "with a designated State law enforcement agency"; and

(B) in subparagraph (B), by striking "with a designated State law enforcement agency"; and

(2) by striking paragraph (2), and inserting the following:

"(2) DETERMINATION BY STATE BOARDS.—

"(A) IN GENERAL.—A determination that a person is a sexually violent predator or a determination that a person is no longer a sexually violent predator for purposes of this section shall be made by the sentencing court, after considering—

"(i) the recommendations of the appropriate State board or boards under subparagraph (B)(iii); or

"(ii) with respect to a State described in subparagraph (C), the recommendations of the State, which shall be made in accordance with the procedures described in that subparagraph.

"(B) STATE BOARDS.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), not later than 2 years after the date of enactment of the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Improvements Act of 1997, each State shall establish 1 or more State boards in accordance with this subparagraph.

"(ii) MEMBERSHIP.—Each State board established under this subparagraph shall be composed of—

"(I) experts in the behavior and treatment of sex offenders;

"(II) victims' rights advocates; and

"(III) representatives of law enforcement agencies.

"(iii) RECOMMENDATIONS.—Upon the request of a sentencing court, a State board established under this subparagraph shall make a recommendation to the sentencing court regarding whether a person is a sexually violent predator or whether a person is no longer a sexually violent predator for purposes of this section.

"(C) WAIVER.—The Attorney General of the United States may waive the requirement that a State establish 1 or more boards in accordance with subparagraph (B), if the State demonstrates to the satisfaction of the Attorney General that the State—

"(i) has established alternative procedures for making recommendations to a sentencing court for purposes of subparagraph (A); and

"(ii) will make a recommendation described in clause (i) with respect to any person, upon the request of the sentencing court.".

(b) REQUIREMENTS UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—Section 170101(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)) is amended—

(1) in paragraph (1)—

(A) by striking the paragraph designation and heading and inserting the following:

"(1) DUTIES OF RESPONSIBLE OFFICIALS.—";

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "or in the case of probation, the court" and inserting "a designated State agency, the court, or other responsible official";

(ii) in clause (ii), by striking "give" and all that follows before the semicolon and inserting "report the change of address as provided by State law"; and

(iii) in clause (iii), by striking "shall register" and all that follows before the semicolon and inserting "shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence"; and

(C) in subparagraph (B), by striking "or the court" and inserting ", the designated State agency, the court, or other responsible official";

(2) by striking paragraph (2) and inserting the following:

"(2) TRANSFER OF INFORMATION TO FEDERAL BUREAU OF INVESTIGATION AND TO STATE.—

"(A) IN GENERAL.—A designated State agency, the court, or other responsible official, shall forward the registration information to the agency responsible for registration under State law, in accordance with State procedures that meet the requirements of subparagraph (B).

"(B) STATE PROCEDURES.—State procedures shall ensure that, as promptly as practicable—

“(i) the registration information is provided and made available to a law enforcement agency having jurisdiction where the person expects to reside;

“(ii) the registration information is entered into the appropriate State records or data system; and

“(iii) conviction data and fingerprints for registered persons are transmitted to the Federal Bureau of Investigation.”;

(3) in paragraph (3)(A)—

(A) in the matter preceding clause (i), by inserting after “(a)(1)” the following: “with respect to any person required to register under subsection (a)(1)(A), State procedures shall provide for verification of address not less than annually. Such verification may be effected by providing that,”;

(B) in clause (i), by striking “The designated State law enforcement” and inserting “A designated”;

(C) in clause (ii), by striking “State law enforcement”;

(D) in clause (iii), by striking “to the designated State law enforcement agency”; and

(E) in clause (iv), by striking “State law enforcement”;

(4) in paragraph (4), by striking “section reported” and all that follows before the period at the end and inserting “section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is provided promptly to a law enforcement agency having jurisdiction over the location at which the person will reside and that the information is entered into the appropriate State records or data system”;

(5) in paragraph (5), by striking “shall register” and all that follows before the period at the end and inserting “and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration”; and

(6) by adding at the end the following:

“(7) OFFENDERS CROSSING STATE BORDERS.—

“(A) IN GENERAL.—

“(i) REGISTRATION UNDER LAWS OF CERTAIN STATES.—Any person who is required to register in that person's State of residence under this section shall also register in accordance with the law that governs the registration, verification, and notification of sex offenders of each State in which that person is—

“(I) employed or carries on a vocation; or

“(II) enrolled as a student.

“(ii) DEFINITIONS.—In this subparagraph—

“(I) the term ‘employed or carries on a vocation’ includes employment that is full-time or part-time, for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit; and

“(II) the term ‘student’ includes any person who is enrolled on a full-or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

“(B) NOTIFICATION REQUIREMENTS.—The State authority responsible for the registration of sex offenders in each State shall ensure that each person who is required to register under this paragraph is notified of the requirements of this paragraph and the potential consequences of a failure to comply with those requirements.

“(8) RELOCATING STATE PROBATIONERS AND PAROLEES.—

“(A) IN GENERAL.—Notwithstanding any conflicting terms of a probation, parole, or transfer agreement, any person who is serving a sentence of probation, parole, or other supervised release for conviction of an offense that requires registration under this section, and who is residing in any State other than the State in which that person was sentenced for that offense, shall register in accordance with the law of the State of residence of the offender that governs the registration and notification of sex offenders, regardless of any registration or notification obligation under the law of the State in which that person was sentenced for the offense.

“(B) EFFECT OF FAILURE TO COMPLY.—A person required to register under subparagraph (A) who knowingly fails to comply with this paragraph, not later than 10 days after the date on which the person establishes residence in a State other than the State in which the person was sentenced as described in subparagraph (A)—

“(i) shall be subject to punishment by a State with respect to which the person is registered under subparagraph (A); and

“(ii) shall be guilty of an extraditable offense, for which a Federal warrant for unlawful flight to avoid prosecution is available.

“(C) NOTIFICATION REQUIREMENTS.—Each State authority responsible for the registration of sex offenders who reside in that State—

“(i) shall ensure, during the course of verification of registration information, that each person who is required to register under this paragraph is notified of the requirements of this paragraph and the potential consequences of a failure to comply with those requirements; and

“(ii) whether the relocation of a sex offender described in this paragraph occurs under courtesy supervision or otherwise, shall—

“(I) notify the authority responsible for sex offender registration and notification in the State of relocation of the pending arrival of the offender in that State of relocation; and

“(II) provide the authority responsible for sex offender registration and notification in the State of relocation with information relating to the sex offender, including—

“(aa) the social security number, physical description, criminal record, terms of supervision, and any alias of the sex offender; and

“(bb) the address, telephone number, and any place of employment of the sex offender in the State of relocation.

“(9) REPORTING REQUIREMENT.—Not later than July 1, 1999, a State shall submit a report to the Attorney General that sets forth existing or proposed laws, including penalty provisions, regarding stalking crimes against individuals 16 years of age or younger.”.

(c) RELEASE OF INFORMATION.—Section 170101(d)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(d)(3)) is amended—

(1) by striking “the designated” and all that follows through “State agency” and inserting “the State or any agency authorized by the State”;

(2) by inserting “to be disclosed only for criminal justice purposes” after “private data”; and

(3) by adding at the end the following: “The sale or exchange of such information for profit or remuneration is prohibited and shall be subject to prosecution under State law.”.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Section 170101(e) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(e)) is amended by striking “and State officials” and inserting “independent contractors acting at the direction of those agencies, and State officials”.

(e) FEDERAL OFFENDERS AND MILITARY PERSONNEL.—Section 170102(g)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072(g)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and indenting each clause 2 ems to the right;

(2) by striking “A person” and inserting the following:

“(A) IN GENERAL.—A person”; and

(3) by adding at the end the following:

“(B) FEDERAL OFFENDERS.—

“(i) IN GENERAL.—A person who is released from prison, or placed on parole, supervised release, or probation—

“(I) who is convicted under Federal law of—

“(aa) a criminal offense against a victim who is a minor; or

“(bb) a sexually violent offense; or

“(II) who has been determined to be a sexually violent predator,

shall, in addition to complying with the registration requirement in paragraph (2), register in accordance with the law of the State of residence of that person.

“(ii) NOTIFICATION REQUIREMENTS.—The Director of the Bureau of Prisons shall ensure that each person who is required to register under this subparagraph is notified of the requirements of this subparagraph and the potential consequences of a failure to comply with those requirements.

“(C) MILITARY PERSONNEL.—

“(i) IN GENERAL.—

“(I) REGISTRATION UNDER LAWS OF STATE OF RESIDENCE.—A member of the Armed Forces of the United States who has—

“(aa) been convicted of a criminal offense against a victim who is a minor;

“(bb) been convicted of a sexually violent offense; or

“(cc) been determined to be a sexually violent predator,

by a court of the United States, a court of a State, or a court-martial under the Uniform Code of Military Justice, shall register with the entities referred to in subclause (II).

“(II) ENTITIES.—The entities referred to in this subclause are—

“(aa) the FBI; and

“(bb) the State of residence of the member, and if different from the State of residence, the State in which the member is permanently assigned.

“(III) DETERMINATION OF STATE OF RESIDENCE.—For purposes of subclause (II)(bb), the State of residence of a member of the Armed Forces of the United States is—

“(aa) in the case of a member whose permanent duty station is in a State (including such a member who resides on a military installation or is serving aboard a vessel at sea), the State where the member resides whenever the member is present at that permanent duty station; and

“(bb) in the case of a member whose permanent duty station is outside the United States, the State of the member's home of record (as determined under regulations prescribed by the Secretary of the military department concerned).

“(ii) EFFECT OF FAILURE TO COMPLY.—A person who is required to register under this subparagraph and who knowingly fails to comply with this section may be punished—

"(I) under section 170102(i)(1);

"(II) under the Uniform Code of Military Justice; or

"(III) in accordance with the applicable laws of the State with respect to which that person is registered.

"(iii) NOTIFICATION REQUIREMENTS.—The Secretary of Defense shall ensure that each member of the Armed Forces of the United States who is required to register under this paragraph is notified of the requirements of this paragraph and the potential consequences of a failure to comply with those requirements.".

(f) SENSE OF SENATE.—It is the sense of the Senate that each State should have in effect a law that makes it a crime to stalk an individual under the age of 16 without requiring that such individual be physically harmed before a stalker is restrained or punished.

SEC. 117. (a) IN GENERAL.—Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153; Public Law 102-395) is amended—

(1) by striking "300" and inserting "3,000"; and

(2) by striking "five years" and inserting "seven years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall be deemed to have become effective on October 6, 1992.

SEC. 118. The Director of the United States Marshals Service shall provide a magnetometer and not less than one qualified guard at each entrance to the real property (including offices, buildings, and related grounds and facilities) that is leased to the United States as a place of employment for Federal employees at 625 Silver, S.W., in Albuquerque, New Mexico.

SEC. 119. Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) The Administrator may exercise the authority under subparagraph (A) with respect to such surplus real and related property needed by the transferee or grantee for—

"(I) law enforcement purposes, as determined by the Attorney General; or

"(II) emergency management response purposes, including fire and rescue services, as determined by the Director of the Federal Emergency Management Agency.

"(ii) The authority provided under this subparagraph shall terminate on December 31, 1999.".

SEC. 120. Of the amounts made available under this title under the heading "OFFICE OF JUSTICE PROGRAMS" under the subheading "STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than 90 percent of the amount otherwise to be awarded to an entity under the Local Law Enforcement Block Grant Program shall be made available to that entity, if it is made known to the Federal official having authority to obligate or expend such amounts that the entity employs a public safety officer (as that term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide, an employee who is public safety officer and who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are otherwise paid by the entity to a public safety officer at the time of retirement or separation.

SEC. 121. PUBLIC DISCLOSURE OF COURT APPOINTED ATTORNEYS' FEES.—Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (4) and inserting the following:

"(4) DISCLOSURE OF FEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court's approval of the payment.

"(B) PRE-TRIAL OR TRIAL IN PROGRESS.—If a trial is in pre-trial status or still in progress and after considering the defendant's interests as set forth in subparagraph (D), the court shall—

"(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

"(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

"(I) Arraignment and or plea.

"(II) Bail and detention hearings.

"(III) Motions.

"(IV) Hearings.

"(V) Interviews and conferences.

"(VI) Obtaining and reviewing records.

"(VII) Legal research and brief writing.

"(VIII) Travel time.

"(IX) Investigative work.

"(X) Experts.

"(XI) Trial and appeals.

"(XII) Other.

"(C) TRIAL COMPLETED.—

"(i) IN GENERAL.—If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant's interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

"(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.—If the court determines that defendant's interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

"(D) CONSIDERATIONS.—The interests referred to in subparagraphs (B) and (C) are—

"(i) to protect any person's 5th amendment right against self-incrimination;

"(ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;

"(iii) the defendant's attorney-client privilege;

"(iv) the work product privilege of the defendant's counsel;

"(v) the safety of any person; and

"(vi) any other interest that justice may require.

"(E) NOTICE.—The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant's interests set forth in subparagraph (D) will be compromised.".

SEC. 122. (a) Section 1(d) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(d)) is amended by inserting after "The term 'agent of a foreign principal'" the following: "(1) includes an entity described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 that receives, directly or indirectly, from a government of a foreign country (or more than one such government) in any 12-month period contributions in a total amount in excess of $10,000, and that conducts public policy research, education, or information dissemination and that is not included in any other subsection of 170(b) (1)(A), and (2)".

(b) Section 3(d) of such Act (22 U.S.C. 613(d)) is amended by inserting ", other than an entity referred to in section 1(d)(1)," after "Any person".

SEC. 123. The Administrative Office of the United States Courts, in consultation with the Judicial Conference, shall conduct a study of the average costs incurred in defending and presiding over Federal capital cases from the initial appearance of the defendant through the final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on Appropriations and the Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, with constitutional requirements.

SEC. 124. The Attorney General shall review the practices of United States Attorneys' Offices and relevant investigating agencies in investigating and prosecuting Federal capital cases, including before the initial appearance of the defendant through final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees oh Appropriations and the Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, consistent with constitutional requirements, and outlining a protocol for the effective, fiscally responsible prosecution of Federal capital cases.

SEC. 125. There shall be no restriction on the use of Public Safety and Community Policing Grants, authorized under title I of the 1994 Act, to support innovative programs to improve the safety of elementary and secondary school children and reduce crime on or near elementary or secondary school grounds.

SEC. 126. Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows—

"(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.".

SEC. 127. WAIVER OF CERTAIN VACCINATION REQUIREMENTS. (a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

"(p) The Attorney General should exercise the waiver authority provided for in subsection (g)(2)(B) for any alien orphan applying for an IR3 or IR4 category visa.".

(b) REPORT.—The Attorney General, in conjunction with the Secretaries of Health and Human Services and State, shall report to Congress within 6 months of the date of enactment of this Act on how to establish an enforcement program to ensure that immigrants who receive waivers from the immunization requirement pursuant to section 212 of the Immigration and Nationality Act comply with the requirement of that section after the immigrants enter the United

States, except when such immunizations would not be medically appropriate in the United States or would be contrary to the alien's religious or moral convictions.

SEC. 128. Section 233(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking "1 year after the date of enactment of this Act" and inserting "October 1, 1999".

SEC. 129. REPORT ON COLLECTING DNA SAMPLES FROM SEX OFFENDERS. (a) DEFINITIONS.—In this section—

(1) the terms "criminal offense against a victim who is a minor", "sexually violent offense", and "sexually violent predator" have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a));

(2) the term "DNA" means deoxyribonucleic acid; and

(3) the term "sex offender" means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) REPORT.—From amounts made available to the Department of Justice under this title, not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) PLAN REQUIREMENTS.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of DNA samples from any sex offender;

(B) the analysis of the collected samples for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with the mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

SEC. 130. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND. (a) Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following—

"(7) for fiscal year 2001, $4,355,000,000; and

"(8) for fiscal year 2002, $4,455,000,000.

(b) Beginning on the date of enactment of this legislation, the discretionary spending limits contained in section 201 of H. Con. Res. 84 (One Hundred Fifth Congress) are reduced as follows—

(1) for fiscal year 2001, $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

(2) for fiscal year 2002, $4,455,000,000 in new budget authority and $4,485,000,000 in outlays.

SEC. 131. SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS. Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

"(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—"; and

(2) in paragraph (4)—

(A) by inserting "(A)" after "(4)";

(B) in subparagraph (A), as so designated, by adding at the end the following: "In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009-201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995."; and

(C) by adding at the end the following:

"(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321-165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.".

This title may be cited as the "Department of Justice Appropriations Act, 1998".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $22,092,000, of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses: *Provided further*, That the number of political appointees on board as of May 1, 1998, shall constitute not more than fifteen percentum of the total full-time equivalent positions at the Office of the United States Trade Representative.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $41,000,000 to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $280,736,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $43,126,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $250,000,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $22,028,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $27,811,000.

Economic and Information Infrastructure

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $47,917,000, to remain available until September 30, 1999.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by sections 1, 2, and 4 of Public Law 91–412 (15 U.S.C. 1525–1527) and, notwithstanding section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912), charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $138,056,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $520,726,000, to remain available until expended.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $16,574,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That hereafter, notwithstanding any other provision of law, NTIA shall not authorize spectrum use or provide any spectrum functions pursuant to the NTIA Organization Act, 47 U.S.C. §§ 902–903, to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $25,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further*, That, notwithstanding any other provision of law, the Pan-Pacific Education and Communication Experiments by Satellite (PEACESAT) Program is eligible to compete for Public Broadcasting Facilities, Planning and Construction funds.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $11,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391: *Provided further*, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services.

Patent and Trademark Office

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office or any successor organization, $656,320,000, to remain available until expended: *Provided*, That $629,320,000 of offsetting collections shall be assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 and shall be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1998, so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at $27,000,000: *Provided further*, That should legislation establishing an Office of the Under Secretary of Commerce for Intellectual Property Policy be enacted, such funds as are necessary, not to exceed 2 percent of projected annual revenues of the Patent and Trademark Office, shall be made available from the sum appropriated in this paragraph for the staffing, operation, and support of said office once a plan for this office has been submitted to the House and Senate Committees on Appropriations pursuant to section 605 of this Act.

Science and Technology

Technology Administration

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $8,800,000.

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $276,852,000, to remain available until expended, of which not to exceed $500,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $111,040,000, to remain available until expended, of which not to exceed $300,000 may be transferred to the "Working Capital Fund": *Provided*, That notwithstanding the time limitations imposed by 15 U.S.C. 278k(c) (1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce to Regional Centers for the transfer of Manufacturing Technology ("Centers"), such Federal financial assistance for a Center may continue beyond six years and may be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center's total annual costs, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center is in the best interest of the Regional

Centers for the transfer of Manufacturing Technology Program: *Provided further*, That the Center's most recent performance evaluation is positive, and the Center has submitted a reapplication which has successfully passed merit review.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, $200,000,000, to remain available until expended, of which not to exceed $500,000 may be transferred to the "Working Capital Fund."

CONSTRUCTION OF RESEARCH FACILITIES

For renovation of existing facilities of the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $16,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 299 commissioned officers on the active list as of September 30, 1998; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,999,052,000, to remain available until expended, of which not to exceed $3,800,000 may be made available to the Secretary of Commerce for a study on the effect of intentional encirclement, including chase, on dolphins and dolphin stocks in the eastern tropical Pacific Ocean purse seine fishery: *Provided*, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1998, so as to result in a final general fund appropriation estimated at not more than $1,996,052,000: *Provided further*, That any such additional fees received in excess of $3,000,000 in fiscal year 1998 shall not be available for obligation until October 1, 1998: *Provided further*, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, $62,381,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed $2,000,000. Notwithstanding any other provision of law and pursuant to the fiscal year 1997 Emergency Supplemental Act (Public Law 105–18) section 2004, funding for the following projects is to be made available from prior year carryover funds: $200,000 for the Ship Creek facility in Anchorage, Alaska; $1,000,000 for the construction of a facility on the Gulf Coast in Mississippi; and $300,000 for an open ocean aquaculture project and community outreach programs in Durham, New Hampshire.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed $7,800,000, for purposes set forth in sections 308(b)(2)(A), 308(b)(2)(B)(v), and 315(e) of such Act.

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $88,000,000, to remain available until expended.

FLEET MAINTENANCE AND PLANNING

For expenses necessary for the repair, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $15,823,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $200,000, to be derived from receipts collected pursuant to subsections (b) and (f) of section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $953,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627), and the American Fisheries Promotion Act (Public Law 96–561), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $189,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost of guaranteed loans, $338,000, as authorized by the Merchant Marine Act of 1936, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That none of the funds made available under this heading may be used to guarantee loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $28,490,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $20,140,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce, shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedure set forth in that section.

SEC. 207. The Secretary may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

SEC. 208. There is hereby established the Bureau of the Census Working Capital Fund, which shall be available without fiscal year limitation, for expenses and equipment necessary for the maintenance and operation of such services and projects as the Director of the Census Bureau determines may be performed more advantageously when centralized: *Provided*, That such central services shall, to the fullest extent practicable, be used to make unnecessary the maintenance of separate like services in the divisions and offices of the Bureau: *Provided further*, That a separate schedule of expenditures and reimbursements, and a statement of the current assets and liabilities of the Working Capital Fund as of the close of the last completed fiscal year, shall be prepared each year: *Provided further*, That notwithstanding 31 U.S.C. 3302, the Working Capital Fund may be credited with advances and reimbursements from applicable appropriations of the Bureau and from funds of other agencies or entities for services furnished pursuant to law: *Provided further*, That any inventories, equipment, and other assets pertaining to the services to be provided by such funds, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize the Working Capital Fund: *Provided further*, That the Working Capital Fund shall provide for centralized services at rates which will return in full all expenses of operation, including depreciation of fund plant and equipment, amortization of automated data processing software and hardware systems, and an amount necessary to maintain a reasonable operating reserve as determined by the Director.

SEC. 209. None of the funds made available in this Act for fiscal year 1998 may be used by the Department of Commerce to make irreversible plans or preparation for the use of sampling or any other statistical method (including any statistical adjustment) in taking the 2000 decennial census of population for purposes of the appropriationment of Representatives in Congress among the States.

SEC. 210. (a) Section 401 of title 22, United States Code, is amended—

(1) in subsection (a), by adding after the first sentence the following: "The Secretary of Commerce may seize and detain any commodity (other than arms or munitions of war) or technology which is intended to be or is being exported in violation of laws governing such exports and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been used or is being used in exporting or attempting to export such articles."; and

(2) in subsection (b), by adding the following after "and not inconsistent with the provisions hereof."—

"However, with respect to seizures and forfeitures of property under this section by the Secretary of Commerce, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary of Commerce or, upon the request of the Secretary of Commerce, by any other agency that has authority to manage and dispose of seized property."

(b) Section 524(c)(11)(B) of title 28, United States Code, is amended by adding at the end thereof "or pursuant to the authority of the Secretary of Commerce".

SEC. 211. Notwithstanding any other provision of law, the Economic Development Administration is directed to transfer funds obligated and awarded to the Butte-Silver Bow Consolidated Local Government as Project Number 05-01-02822 to the Butte Local Development Corporation Revolving Loan Fund to be administered by the Butte Local Development Corporation, such funds to remain available until expended.

SEC. 212. The Office of Management and Budget shall designate the Jonesboro-Paragould, Arkansas Metropolitan Statistical Area in lieu of the Jonesboro, Arkansas Metropolitan Statistical Area. The Jonesboro-Paragould, Arkansas Metropolitan Statistical Area shall include both Craighead County, Arkansas and Greene County, Arkansas, in their entirety.

SEC. 213. In addition to funds provided elsewhere in this Act for the National Telecommunications and Information Administration Information Infrastructure Grants program, $10,490,000 is available until expended: *Provided*, That this amount shall be offset by proportionate reductions in appropriations provided for the Department of Commerce in title II of this Act: *Provided further*, That no reductions shall be made from any appropriations made available in this Act for the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology and the National Telecommunications and Information Administration Public Broadcasting Facilities, Planning and Construction program.

SEC. 214. SENSE OF THE SENATE WITH RESPECT TO SLAMMING. (a) STATEMENT OF PURPOSE.—The purposes of this statement of the sense of the Senate are to—

(1) protect consumers from the fraudulent transfer of their phone service provider;

(2) allow the efficient prosecution of phone service providers who defraud consumers; and

(3) encourage an environment in which consumers can readily select the telephone service provider which best serves them.

(b) FINDINGS.—The Congress finds the following:

(1) As the telecommunications industry has moved toward competition in the long distance market, consumers have increasingly elected to change the company which provides their long-distance phone service. As many as fifty million consumers now change their long distance provider annually.

(2) The fluid nature of the long distance market has also allowed an increasing number of fraudulent transfers to occur. Such transfers have been termed "slamming", which constitutes any practice that changes a consumer's long distance carrier without the consumer's knowledge or consent.

(3) Slamming is now the largest single consumer complaint received by the Common Carrier Bureau of the Federal Communications Commission. As many as one million consumers are fraudulently transferred annually to a provider which they have not chosen.

(4) The increased costs which consumers face as a result of these fraudulent switches threaten to rob consumers of the financial benefits created by a competitive marketplace.

(5) The Telecommunications Act of 1996 sought to combat this problem by directing that any revenues generated by a fraudulent transfer be payable to the company which the consumer has expressly chosen, not the fraudulent transferor. Recently the Federal Communications Commision has exercised its proper authority to implement this rule. Eliminating the financial incentive to slam will reduce this problem.

(6) While the Federal Communications Commission has proposed and promulgated regulations on this subject, the Commission has not been able to effectively deter the practice of slamming due to a lack of prosecutorial resources as well as the difficulty of proving that a provider failed to obtain the consent of a consumer prior to acquiring that consumer as a new customer. Commission action to date has not adequately protected consumers.

(7) The majority of consumers who have been fraudulently denied the services of their chosen phone service vendor do not turn to the Federal Communications Commission for assistance. Indeed, section 258 of the Communications Act of 1934 directs that State commissions shall be able to enforce regulations mandating that the consent of a consumer be obtained prior to a switch of service.

(8) It is essential that Congress provide the Federal Communications Commission, law enforcement, consumers, and consumer agencies with the ability to efficiently and effectively prosecute those companies which slam consumers, thus providing a deterrent to all other firms which provide phone services.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Communications Commission should, within 12 months of the date of enactment of this Act, promulgate regulations, consistent with the Communications Act of 1934 which provide law enforcement officials dispositive evidence for use in the prosecution of fraudulent transfers of presubscribed customers of long distance and local service; and

(2) the Senate should examine the issue of slamming and take appropriate legislative action in the One Hundred Fifth Congress to better protect consumers from unscrupulous practices including, but not limited to, mandating the recording and maintenance of evidence concerning the consent of the consumer to switch phone vendors, including a requirement for third-party verification, establishing higher civil fines for violations, approving the Federal Communications Commission's exercise of its authority to provide by rule for slammed consumers to be exempt from any payment requirement, and establishing a civil right of action against fraudulent providers, as well as criminal sanctions for repeated and willful instances of slamming.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1998".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $28,903,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $6,170,000, of which $3,620,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $15,796,000.

United States Court of International Trade

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,478,000.

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retire from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,789,777,000 (including the purchase of firearms and ammunition); of which not to exceed $16,530,000 shall remain available until expended for space alteration projects; and of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,450,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended; the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); $308,000,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i): *Provided*, That the annual incremental cost of each capital representation shall not exceed $63,000: *Provided further*, That if the annual incremental cost of any capital representation exceeds $63,000, the costs in excess of $63,000 shall be paid equally out of funds appropriated or otherwise made available to the administrative units supporting the prosecutor and presiding judge.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $68,252,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $167,883,000, of which not to exceed $26,962,000 shall remain available until expended for security systems, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

Administrative Office of the United States Courts

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $53,843,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

Federal Judicial Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,495,000; of which $1,800,000 shall remain available through September 30, 1999, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

Judicial Retirement Funds

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $25,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,400,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $1,800,000.

United States Sentencing Commission

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $9,480,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

General Provisions—The Judiciary

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 303. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 304. Section 612 of title 28, United States Code, shall be amended by striking out subsection (l).

SEC. 305. (a) SHORT TITLE.—This section may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 1997".

(b) NUMBER AND COMPOSITION OF CIRCUITS.—Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking "thirteen" and inserting "fourteen";

(2) in the table, by striking the item relating to the ninth circuit and inserting the following new item:

"Ninth .... California, Nevada.";

and

(3) between the last 2 items of the table, by inserting the following new item:

"Twelfth .... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.".

(c) NUMBER OF CIRCUIT JUDGES.—The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following new item:

"Ninth .... 15";

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... 13".

(d) PLACES OF CIRCUIT COURT.—The table in section 48 of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following new item:

"Ninth .... San Francisco, Los Angeles.";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... Portland, Seattle, Phoenix.".

(e) ASSIGNMENT OF CIRCUIT JUDGES AND CLERKS OF THE COURT.—Each circuit judge in regular active service of the former ninth circuit whose official station on the day before the effective date of this section—

(1) is in California or Nevada is assigned as a circuit judge on the new ninth circuit;

(2) is in Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon or Washington is assigned as a circuit judge on the twelfth circuit; and

(3) two co-equal clerks of the court for the twelfth circuit shall be located in two co-equal circuit seats which shall be located in Phoenix, Arizona, and Seattle, Washington, respectively.

(f) ELECTION OF ASSIGNMENT BY SENIOR JUDGES.—Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this section may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

(g) SENIORITY OF JUDGES.—The seniority of each judge—

(1) who is assigned under subsection (e); or

(2) who elects to be assigned under subsection (f); shall run from the date of commission of such judge as a judge of the former ninth circuit.

(h) APPLICATION TO CASES.—The provisions of the following paragraphs of this subsection apply to any case in which, on the day before the effective date of this section, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this section had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this section been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this section, or submitted before the effective date of this section and decided on or after the effective date as provided in paragraph (1) of this subsection, shall be treated in the same manner and with the same effect as though this section had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this section had not been enacted.

(i) DEFINITIONS.—For the purposes of this section, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this section;

(2) "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by subsection (b)(2);

(3) "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by subsection (b)(3).

(j) ADMINISTRATION.—The court of appeals for the ninth circuit as constituted on the day before the effective date of this section may take such administrative action as may be required to carry out this section. Such court shall cease to exist for administrative purposes on July 1, 1999.

(k) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on October 1, 1997.

SEC. 306. Pursuant to section 140 of Public Law 97–92, justices and judges of the United States are authorized during fiscal year 1998, to receive a salary adjustment in accordance with 28 U.S.C. 461.

SEC. 307. Section 44(c) of title 28, United States Code, is amended by adding at the end thereof the following sentence: "In each circuit (other than the Federal judicial circuit) there shall be at least one circuit judge in regular active service appointed from the residents of each state in that circuit.".

This title may be cited as "The Judiciary Appropriations Act, 1998".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration; $1,727,868,000: *Provided*, That of the amount made available under this heading, not to exceed $4,000,000 may be transferred to, and merged with funds in, the "Emergencies in the Diplomatic and Consular Service" appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, not to exceed $125,000 shall be available only for the Maui Pacific Center: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), fees may be collected during fiscal year 1998 and each fiscal year thereafter under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); and in addition not to exceed $1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553), as amended, and in addition, as authorized by section 5 of such Act $490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $363,513,000.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $105,000,000, to remain available until expended, as authorized in Public Law 103–236: *Provided*, That section 135(e) of Public Law 103–236 shall not apply to funds available under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,495,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96–465), as it relates to post inspections.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,100,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $7,900,000, to remain available until September 30, 1999.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $420,281,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $5,500,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $607,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $14,490,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $129,935,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $957,009,000, of which not to exceed $54,000,000 shall remain available until expended for payment of arreages owed the United Nations: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated or otherwise made available by this Act for "Contributions to International Organizations", including payment of arrearages owed to the United Nations, may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of the Foreign Affairs Reform and Restructuring Act of 1997: *Provided further*, That notwithstanding section 402 of this Act, not to exceed $10,000,000 may be transferred from the funds made available under this heading to the "International Conferences and Contingencies" account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security $200,320,000, of which not to exceed $46,000,000 shall remain available until expended for payment of arrearages: *Provided*, That none of the funds appropriated or otherwise made available by this Act for "Contributions for International Peacekeeping Activities", including payment of arrearages, may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of the Foreign Affairs Reform and Restructuring Act of 1997.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $10,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $18,200,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,463,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,010,000, of which not to exceed $9,900 shall be available for representation expenses incurred by the International Joint Commission: *Provided*, That of the amount made available under this heading, not to exceed $40,000 shall be available only for the Bering Straits Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $14,549,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $5,000,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided for arms control, nonproliferation, and disarmament activities, $32,613,000 of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

INTERNATIONAL INFORMATION PROGRAMS

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by section 801 of such Act of 1948 (22 U.S.C. 1471), and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)); $427,097,000: *Provided*, That not to exceed $1,400,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085): *Provided further*, That not to exceed $6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other law, fees from student advising and counseling: *Provided further*, That not to exceed $920,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $10,000,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $200,000,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): *Provided*, That not to exceed $500,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475a).

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1998, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1998, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $339,655,000, of which not to exceed $10,000,000 shall be available only on a dollar-for-dollar basis when matched with the proceeds of sales of advertising air time, of which not to exceed $16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1747(3)), not to exceed $35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, not to exceed $250,000 from fees as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e), to remain available until expended for carrying out authorized purposes; and in addition, notwithstanding any other provision of law, not to exceed $1,000,000 in monies received (including receipts from advertising, if any) by or for the use of the United States Information Agency from or in connection with broadcasting resources owned by or on behalf of the Agency, to be available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $22,095,000, to remain available until expended.

RADIO CONSTRUCTION

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), $32,710,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $22,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $3,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds hereafter appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 404. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 405. None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1998 or any fiscal year thereafter may be obligated or expended to pay for any cost incurred in—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995;

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating as of July 11, 1995; or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam in excess of the total number of personnel assigned to the posts as of July 11, 1995, unless the President certifies within 60 days of the beginning of each fiscal year the following:

(A) Based upon a formal assessment of all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

SEC. 406. (a)(1) For purposes of implementing the International Cooperative Administrative Support Services program in fiscal year 1998, the amounts referred to in paragraph (2) shall be transferred in accordance with the provisions of subsection (b).

(2) Paragraph (1) applies to amounts made available by title IV of this Act under the heading "ADMINISTRATION OF FOREIGN AFFAIRS" as follows:

(A) $108,932,000 of the amount made available under the paragraph "DIPLOMATIC AND CONSULAR PROGRAMS".

(B) $3,530,000 of the amount made available under the paragraph "SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS".

(b) Funds transferred pursuant to subsection (a) shall be transferred to the specified appropriation, allocated to the specified account or accounts in the specified amount, be merged with funds in such account or accounts that are available for administrative support expenses of overseas activities, and be available for the same purposes, and subject to the same terms and conditions, as the funds with which merged, as follows:

(1) Appropriations for the Legislative Branch—

(A) for the Library of Congress, for salaries and expenses, $500,000; and

(B) for the General Accounting Office, for salaries and expenses, $12,000.

(2) Appropriations for the Office of the United States Trade Representative, for salaries and expenses, $302,000.

(3) Appropriations for the Department of Commerce, for the International Trade Administration, for operations and administration, $7,055,000.

(4) Appropriations for the Department of Justice—

(A) for legal activities—

(i) for general legal activities, for salaries and expenses, $194,000; and

(ii) for the United States Marshals Service, for salaries and expenses, $2,000;

(B) for the Federal Bureau of Investigation, for salaries and expenses, $2,477,000;

(C) for the Drug Enforcement Administration, for salaries and expenses, $6,356,000; and

(D) for the Immigration and Naturalization Service, for salaries and expenses, $1,313,000.

(5) Appropriations for the United States Information Agency, for international information programs, $25,047,000.

(6) Appropriations for the Arms Control and Disarmament Agency, for arms control and disarmament activities, $1,247,000.

(7) Appropriations to the President—

(A) for the Foreign Military Financing Program, for administrative costs, $6,660,000;

(B) for the Economic Support Fund, $336,000;

(C) for the Agency for International Development—

(i) for operating expenses, $6,008,000;

(ii) for the Urban and Environmental Credit Program, $54,000;

(iii) for the Development Assistance Fund, $124,000;

(iv) for the Development Fund for Africa, $526,000;

(v) for assistance for the new independent states of the former Soviet Union, $818,000;

(vi) for assistance for Eastern Europe and the Baltic States, $283,000; and

(vii) for international disaster assistance, $306,000;

(D) for the Peace Corps, $3,672,000; and

(E) for the Department of State—

(i) for international narcotics control, $1,117,000; and,

(ii) for migration and refugee assistance, $394,000.

(8) Appropriations for the Department of Defense—

(A) for operation and maintenance—

(i) for operation and maintenance, Army, $4,394,000;

(ii) for operation and maintenance, Navy, $1,824,000;

(iii) for operation and maintenance, Air Force, $1,603,000; and

(iv) for operation and maintenance, Defense-Wide, $21,993,000; and

(B) for procurement, for other procurement, Air Force, $4,211,000.

(9) Appropriations for the American Battle Monuments Commission, for salaries and expenses, $210,000.

(10) Appropriations for the Department of Agriculture—

(A) for the Animal and Plant Health Inspection Service, for salaries and expenses, $932,000;

(B) for the Foreign Agricultural Service and General Sales Manager, $4,521,000; and

(C) for the Agricultural Research Service, $16,000.

(11) Appropriations for the Department of Treasury—

(A) for the United States Customs Service, for salaries and expenses, $2,002,000;

(B) for departmental offices, for salaries and expenses, $804,000;

(C) for the Internal Revenue Service, for tax law enforcement, $662,000;

(D) for the Bureau of Alcohol, Tobacco, and Firearms, for salaries and expenses, $17,000;

(E) for the United States Secret Service, for salaries and expenses, $617,000; and

(F) for the Comptroller of the Currency, for assessment funds, $29,000.

(12) Appropriations for the Department of Transportation—

(A) for the Federal Aviation Administration, for operations, $1,594,000; and

(B) for the Coast Guard, for operating expenses, $65,000.

(13) Appropriations for the Department of Labor, for departmental management, for salaries and expenses, $58,000.

(14) Appropriations for the Department of Health and Human Services—

(A) for the National Institutes of Health, for the National Cancer Institute, $42,000;

(B) for the Office of the Secretary, for general departmental management, $71,000; and

(C) for the Centers for Disease Control and Prevention, for disease control, research, and training, $522,000.

(15) Appropriations for the Social Security Administration, for administrative expenses, $370,000.

(16) Appropriations for the Department of the Interior—

(A) for the United States Fish and Wildlife Service, for resource management, $12,000;

(B) for the United States Geological Survey, for surveys, investigations, and research, $80,000; and

(C) for the Bureau of Reclamation, for water and related resources, $101,000.

(17) Appropriations for the Department of Veterans Affairs, for departmental administration, for general operating expenses, $453,000.

(18) Appropriations for the National Aeronautics and Space Administration, for mission support, $183,000.

(19) Appropriations for the National Science Foundation, for research and related activities, $39,000.

(20) Appropriations for the Federal Emergency Management Agency, for salaries and expenses, $4,000.

(21) Appropriations for the Department of Energy—

(A) for departmental administration, $150,000; and

(B) for atomic energy defense activities, for other defense activities, $54,000.

(22) Appropriations for the Nuclear Regulatory Commission, for salaries and expenses, $26,000.

SEC. 407. NATIONAL ENDOWMENT FOR DEMOCRACY.—For grants made by the United States information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended. The language on page 119, line 15 to wit, "$105,000,000" is deemed to be "$75,000,000". This shall become effective one day after enactment of this Act.

SEC. 408. SENSE OF THE SENATE REGARDING THE EXEMPLARY SERVICE OF JOHN H.R. BERG TO THE UNITED STATES. (a) FINDINGS.—

(1) John H.R. Berg began his service to the United States Government working for the United States Army at the age of fifteen after fleeing Nazi persecution in Germany where his father died in the Auschwitz concentration camp; and

(2) John H.R. Berg's dedication to the United States Government was further exhibited by his desire to become a United States citizen, a goal that was achieved in 1981, 35 years after he began his commendable service to the United States; and

(3) Since 1949, John H.R. Berg has been employed by the United States Embassy in Paris where he is currently the Chief of the Visitor's and Travel Unit. And, this year has supported over 10,700 official visitors, 500 conferences, and over 15,000 official and unofficial reservations; and

(4) John H.R. Berg's reputation for "accomplishing the impossible" through his dedication, efficiency and knowledge has become legend in the Foreign Service; and

(5) John H.R. Berg has just completed 50 years of outstanding service to the United States Government with the United States Department of State.

(b) SENSE OF SENATE.—Therefore it is the sense of the Senate that John H.R. Berg deserves the highest praise from the Congress for his steadfast devotion, caring leadership, and lifetime of service to the United States Government.

SEC. 409. Not to exceed $2,000,000 may be made available for the 1999 Women's World Cup Organizing Committee cultural exchange and exchange related activities associated with the 1999 Women's World Cup.

SEC. 410. Notwithstanding any other provision in this Act the amount for the Department of State "CAPITAL INVESTMENT FUND" shall be $105,000,000.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1998".

TITLE V—RELATED AGENCIES

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies, as authorized by the Merchant Marine Act, 1936, as amended, $135,000,000, to remain available until expended.

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $35,000,000, to remain available until expended: *Provided*, That these funds will be available only upon enactment of an authorization for this program.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $69,000,000: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $29,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $4,000,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99-83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,740,000: *Provided*, That not to exceed $50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

Commission on Immigration Reform

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $459,000 to remain available until expended.

Commission on Security and Cooperation in Europe

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; not to exceed $27,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $242,000,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

Federal Communications Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $185,949,000, of which not to exceed $300,000 shall remain available until September 30, 1998, for research and policy studies: *Provided*, That $162,523,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1998 so as to result in a final fiscal year 1998 appropriation estimated at $23,426,000: *Provided further*, That any offsetting collections received in excess of $162,523,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998.

Federal Maritime Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,300,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

Federal Trade Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $108,000,000: *Provided*, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further*, That notwithstanding any other provision of law, not to exceed $70,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1997, so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $28,000,000, to remain available until expended: that not more than $10,000,000 shall be available from prior year unobligated fee collections: *Provided further*, That any fees received in excess of $70,000,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998: *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285): *Provided further*, That, for a period of one year, none of the funds made available to the Federal Trade Commission shall be spent on an administrative proceeding concerning the merger of two hospitals where the Commission has already sought injunctive relief under 15 U.S.C. 53(b), and prior to July 9, 1997, a Court of Appeals has affirmed the denial of the injunctive relief requested by the Commission unless further review overturns the decision by the court of appeals.

Legal Services Corporation

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $300,000,000, of which $273,070,000 is for basic field programs and required independent audits; $2,019,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; $7,911,000 is for management and administration; and $17,000,000, to remain available until expended, is for pro se legal education demonstration projects.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) CONTINUATION OF COMPETITIVE SELECTION PROCESS.—None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity except through a competitive selection process conducted in accordance with regulations promulgated by the Corporation in accordance with the criteria set forth in subsections (c), (d), and (e) of section 503 of Public Law 104–134 (110 Stat. 1321–52 et seq.).

(b) INAPPLICABILITY OF NONCOMPETITIVE PROCEDURES.—For purposes of the funding provided in this Act, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

(c) ADDITIONAL PROCEDURES.—If, during any term of a grant or contract awarded to a recipient by the Legal Services Corporation under the competitive selection process referred to in subsection (a) and applicable Legal Services Corporation regulations, the Legal Services Corporation finds, after notice and an opportunity for a hearing to the recipient, that the recipient has failed to comply with any requirement of the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), this Act, or any other applicable law relating to funding for the Legal Services Corporation, the Legal Services Corporation may terminate the grant or contract and institute a new competitive selection process for the area served by the recipient, notwithstanding the terms of the grant or contract of the recipient.

SEC. 502. (a) CONTINUATION OF REQUIREMENTS AND RESTRICTIONS.—None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of—

(1) sections 501, 502, 505, 506, and 507 of Public Law 104–134 (110 Stat. 1321–51 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions as set forth in such sections, except that all references in such sections to 1995 and 1996 shall be deemed to refer instead to 1997 and 1998, respectively; and

(2) section 504 of Public Law 104–134 (110 Stat. 1321–53 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such section, except that—

(A) subsection (c) of such section 504 shall not apply;

(B) paragraph (3) of section 508(b) of Public Law 104–134 (110 Stat. 1321–58) shall apply with respect to the requirements of subsection (a)(13) of such section 504, except that all references in such section 508(b) to the date of enactment shall be deemed to refer to April 26, 1996; and

(C) subsection (a)(11) of such section 504 shall not be construed to prohibit a recipient from using funds derived from a source other than the Corporation to provide related legal assistance to—

(i) an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or

(ii) an alien whose child has been battered or subjected to extreme cruelty in the

United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty.

(b) Definitions.—For purposes of subsection (a)(2)(C):

(1) The term "battered or subjected to extreme cruelty" has the meaning given such term under regulations issued pursuant to subtitle G of the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1953).

(2) The term "related legal assistance" means legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described in such subsection.

Sec. 503. (a) Continuation of Audit Requirements.—The requirements of section 509 of Public Law 104–134 (110 Stat. 1321–58 et seq.), other than subsection (l) of such section, shall apply during fiscal year 1998.

(b) Requirement of Annual Audit.—An annual audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act shall be conducted during fiscal year 1998 in accordance with the requirements referred to in subsection (a).

Sec. 504. (a) Debarment.—The Legal Services Corporation may debar a recipient, on a showing of good cause, from receiving an additional award of financial assistance from the Legal Services Corporation. Any such action to debar a recipient shall be instituted after the Legal Services Corporation provides notice and an opportunity for a hearing to the recipient. The decision regarding the debarment shall not be subject to Section 1011 of the Legal Services Corporation Act (42 U.S.C. 2996j).

(b) The Legal Services Corporation shall promulgate regulations to implement this section.

(c) In this section, the term "good cause", used with respect to debarment, includes—

(1) prior termination of the financial assistance of the recipient, under part 1640 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling);

(2) prior termination in whole, under part 1606 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling), of the most recent financial assistance received by the recipient, prior to the date of the debarment decision;

(3) substantial violation by the recipient of the statutory or regulatory restrictions that prohibit recipients from using financial assistance made available by the Legal Services Corporation or other financial assistance for purposes prohibited under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or for involvement in any activity prohibited by, or inconsistent with, section 504 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, section 502(a)(2) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, or section 502(a)(2) of this title;

(4) knowing entry by the recipient into a subgrant, subcontract, or other agreement with an entity that had been debarred by the Corporation; or

(5) the filing of a lawsuit by the recipient, on behalf of the recipient, as part of any program receiving any federal funds, naming the Legal Services Corporation, or any agency or employee of a federal, state, or local government, as a defendant.

Marine Mammal Commission

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,240,000.

Gambling Impact Study Commission

SALARIES AND EXPENSES

For necessary expenses of the National Gambling Impact Study Commission, $1,000,000, to remain available until expended: *Provided*, That funds made available for this purpose shall be taken from funds made available on page 23, line 16.

Securities and Exchange Commission

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $285,412,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (1) such incidental expenses as meals taken in the course of such attendance, (2) any travel and transportation to or from such meetings, and (3) any other related lodging or subsistance: *Provided*, That fees and charges authorized by section 6(b)(4) of the Securities Act of 1933 (15 U.S.C. 77f(b)(4)) and 31(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78ee(d)) shall be credited to this account as offsetting collections: *Provided further*, That not to exceed $249,523,000 of such offsetting collections shall be available until expended for necessary expenses of this account: *Provided further*, That the total amount appropriated from the General Fund for fiscal year 1998 under this heading shall be reduced as all such offsetting collections are deposited to this appropriation so as to result in a final total fiscal year 1998 appropriation from the General Fund estimated at no more than $35,889,000.

Small Business Administration

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103–403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $246,100,000, of which $16,500,000 shall be available to fund technical assistance grants in fiscal year 1998 as authorized by section 7(m) of the Small Business Act, as amended: *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further*, That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: *Provided further*, That $75,800,000 shall be available to fund grants for performance in fiscal year 1997 or fiscal year 1998 as authorized by section 21 of the Small Business Act, as amended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11, as amended by Public Law 100–504), $10,600,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of guaranteed loans, $181,232,000, as authorized by 15 U.S.C. 631 note: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during fiscal year 1998, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(n)(2)(B) of the Small Business Act, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $94,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 7(b) of the Small Business Act, as amended, $173,200,000, including not to exceed $500,000 for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program, and said sums may be transferred to and merged with appropriations for Salaries and Expenses and Office of Inspector General.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $3,500,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Sec. 505. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

State Justice Institute

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $13,550,000, to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1997, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1997, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS. —It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 610. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 611. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

SEC. 612. The second proviso of the second paragraph under the heading "OFFICE OF THE CHIEF SIGNAL OFFICER." in the Act entitled "An Act Making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June thirtieth, nineteen hundred and one", approved May 26, 1900 (31 Stat. 206; chapter 586; 47 U.S.C. 17), is repealed.

SEC. 613. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE BEEN INVOLVED IN EXTRAJUDICIAL AND POLITICAL KILLINGS IN HAITI. (a) GROUNDS FOR EXCLUSION.—None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was a member of the Haitian presidential security unit who has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Pastor Antoine Leroy and Jacques Fleurival, or who was suspended by President Preval for his involvement in or knowledge of the Leroy and Fleurival killings on August 20, 1996;

(4) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(5) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(6) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not

later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 614. SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD NOT MANIPULATE UNIVERSAL SERVICE SUPPORT PAYMENTS TO BALANCE THE FEDERAL BUDGET. (a) FINDINGS.—The Congress finds that—

(1) it reaffirmed the importance of universal service support for telecommunications services by passing the Telecommunications Act of 1996;

(2) the Telecommunications Act of 1996 required the Federal Communications Commission to preserve and advance universal service based on the following principles:

(A) Quality services should be available at just, reasonable, and affordable rates.

(B) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

(C) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services.

(D) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

(E) There should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service.

(F) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services.

(3) Federal and State universal contributions are administered by an independent, non-Federal entity and are not deposited into the Federal Treasury and therefore not available for Federal appropriations.

(4) The Conference Committee on the Balanced Budget Reconciliation Act of 1997, is considering proposals that would withhold Federal universal service funds in the year 2002.

(5) The withholding of billions of dollars of universal service support payments may result in temporary rate increases in rural and high cost areas and may delay qualifying schools, libraries, and rural health facilities discounts directed under the Telecommunications Act of 1996.

(b) SENSE OF THE SENATE.—Therefore, it is the sense of the Senate that the Balanced Budget Reconciliation Act of 1997 should not manipulate, modify, or impair universal service support as a means to achieve a balanced Federal budget or to achieve Federal budget savings.

SEC. 615. For fiscal year 1998 and subsequent fiscal years, in establishing the income or assets of an individual who is a victim of domestic violence, under section 1007(a)(2) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)), to determine if the individual is eligible for legal assistance, a recipient described in such section shall consider only the assets and income of the individual, and shall not include any jointly held assets.

SEC. 616. The Legal Services Corporation shall—

(1) conduct a study to determine the estimated number of individuals who were unable to obtain assistance from its grantees as a result of the enactment of section 504(a)(16) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–55), during the six month period commencing with the enactment of this Act; and

(2) not later than 30 days thereafter, submit to Congress a report describing the results of the study conducted under paragraph (1).

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading on September 30, 1997, $30,310,000 are rescinded.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998".

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, at this point, I certainly want to thank Senators for their cooperation on the passage of the Commerce, State, Justice bill. I, obviously, especially thank the Senator from South Carolina without whose expertise and input we could not have moved this bill in such an aggressive and bipartisan manner. He has a huge institutional knowledge, which he used in a most constructive and effective way in allowing us to pull together a bill that can work and that has passed with an exceptionally strong vote. I thank him for all his assistance.

Mr. HOLLINGS. Mr. President, as we say at home, let the record speak. I have been with this bill 26 years and, as the distinguished Senator from New Hampshire said, it was the first time we ever passed the bill unanimously. I thank the Senator for his cooperation and wonderful help on both sides.

Mr. GREGG. It could not have been done without the Senator's efforts and especially the assistance of the staff, which worked overtime on both sides of the aisle.

I especially want to thank Scott Gudes, who is the minority staff leader, and his assistants, Emily East and Karen Swanson Wolf, for their exceptional work on our side of the aisle. We had a wonderful team that worked literally hundreds of hours and did an exceptional job: Jim Morhard, who is the clerk, Kevin Linskey, Paddy Link, Carl Truscott, Dana Quam, and Vasiliki Alexopoulos. I can't say enough about the extraordinary effort that these people put in, and it certainly reflects in their expertise.

I would have to say that actually I am not sure we had a majority that passed this bill at one point earlier this year. So, the fact that it was passed in this way reflects the fact that a lot of extraordinary work went into it.

Again, I thank everyone for their participation.

Mr. HOLLINGS. Mr. President, I want to thank again the distinguished chairman, Senator GREGG, from New Hampshire. He has worked these issues very hard and studied these programs with great deliberation. He has done a really, really superb job on this State, Justice, and Commerce bill. He has put this bill together in a bipartisan fashion, considering Members' interests from both sides of the aisle.

You know that is the way appropriations bills have worked in the past. Mr. President, that is the way they are supposed to work. It has enabled us to pass this bill through committee with overwhelming support. It has enabled us to quickly complete action in just a little more than 1 day. And, I believe that this spirit of bipartisanship will be reflected shortly in the vote on final passage.

Of course, I would also like to recognize the support and guidance from our new Committee Chairman TED STEVENS and his right hand man, our committee staff director Steve Cortese. They are getting the trains to run on time. In fact, we are way ahead of the House, which hasn't even taken up the State, Justice, and Commerce bill. Steve Cortese has taken on the job of running our full Appropriations Committee as well as continuing to serve as staff director of the Defense Subcommittee. That is incredible. And, we, of course, very much appreciate the support of our leader, Senator BYRD and his staff director, Jim English. Senator BYRD and Jim English know these 13 appropriations bills thoroughly. They work tirelessly and continue to watch out for our committee and for our Senate as an institution.

Mr. President, I would like to take a minute to recognize the subcommittee staff. On the majority side they are led by Jim Morhard. Jim is level headed and experienced. He knows appropriations and how to put together legislation and build consensus. I can tell you that Chairman STEVENS and Senator GREGG know they can rely on Jim's counsel. His staff includes Paddy Link, Kevin Linskey, Dana Quam, Vasiliki Alexopoulos, and Carl Truscott, who is on detail from the U.S. Secret Service. These individuals have been working night and day putting together this bill. They are all new this year to the subcommittee. Jim Morhard moved over from military construction appropriations; Paddy Link joined us from the Commerce, Science, and Transportation Committee; and Kevin Linskey worked for the distinguished former leader, Senator Dole. They each bring unique backgrounds and perspectives to their positions. And, they have each had to learn about the agencies and programs in this very diverse and important State, Justice, and Commerce appropriations bill. They have had to be quick studies. They have done a truly outstanding job, and they have done a real service for the committee and the Senate.

I especially want to recognize Paddy Link for her dedication. I have known Paddy for years. She was, of course, Larry Pressler's chief of staff on the Commerce, Science, and Transportation Committee. She has experience over in the House Science Committee and during the Reagan and Bush administrations Paddy was at Commerce and served as director of legislative affairs at NOAA. During the same week that this bill went before the subcommittee, Paddy's father suffered a severe stroke and tragically passed away. Paddy continued to lend a hand even under such trying circumstances. I think she knows that all the Members' hearts go out to her and her family in their loss. She went far beyond the call of duty to help out in the production of this bill. It is a tribute to her sense of public service and professionalism.

Finally, I want to recognize the staff on our side. Scott Gudes, our subcommittee staff director, has been with me now for almost 7 years after 4½ years on Defense appropriations. He has been with me so long that I've got him automatically thinking of USC as meaning the University of South Carolina instead of another institution in his native southern California. Karen Swanson Wolf, who is on detail to us from the National Oceanic and Atmospheric Administration, has been doing a great job for the subcommittee. She has been dealing with justice and judiciary issues, and has been working on patent and trademark issues. And, finally, Emelie East who helps out this subcommittee as well as the Defense, Military Construction and Foreign Operations Subcommittees. Senator BYRD has picked a winner there. Every subcommittee, even the majority staff, keep putting in requests for Emelie to help out in markup, on the floor, and in conference. She is our utility player on the Appropriations Committee going from one bill to another. And, with this bill she will be seeing her fourth get through the Senate and be sent to the House of Representatives. Ms. East is as professional as they get and we all appreciate the outstanding work she does day in and day out.

So Mr. President, I just wanted to recognize these fine public servants. We don't do that enough around here. I, for one, appreciate their hard work.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HUTCHISON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 2266

The PRESIDING OFFICER. Under the previous order, the Chair appoints conferees on H.R. 2266.

The Presiding Officer appointed Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mrs. HUTCHISON, Mr. INOUYE, Mr. HOLLINGS, Mr. BYRD, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, and Mr. DORGAN conferees on the part of the Senate.

Mr. ALLARD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1022

Mr. SHELBY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 1022 to S. 1048, the Transportation appropriations bill.

Mr. SHELBY. Mr. President, I know of no further discussion on amendment No. 1022.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1022) was agreed to.

AMENDMENTS NOS. 1035 THROUGH 1044, EN BLOC

Mr. SHELBY. Mr. President, I send a managers' package of amendments to the desk and ask that they be considered, agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 1035 through 1044, en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 1035 through 1044) were agreed to, as follows:

AMENDMENT NO. 1035

(Purpose: To extend the expiration date of a general provision from the fiscal year 1997 transportation appropriations act)

On page 52, at line 1, insert the following:

SEC. 339. Subsection (d)(4) of 49 U.S.C. 31112 is amended by striking "September 30, 1997" and inserting "February 28, 1998".

AMENDMENT NO. 1036

(Purpose: To make technical corrections to sec. 332 of the bill and to make minor funding changes to the bill)

On page 12, line 19, strike "$286,000,000" and insert: "$190,000,000".

On page 23, line 10, strike "$90,000,000" and insert: "$190,000,000".

On page 24, line 8, strike "$2,310,000" and insert: "$2,210,000".

On page 24, line 10, strike "$2,310,000" and insert: "$2,210,000".

On page 24, line 19, strike "$2,000,000,000" and insert: "$2,008,000,000".

On page 25, line 5, strike "$780,000,000" and insert: "$788,000,000".

On page 46, line 16, strike the word "persons" and insert: "passengers".

On page 46, line 18, strike "363,000" and insert: "300,000".

On page 26, before line 20, insert the following: "$4,645,000 for the Little Rock, Arkansas Junction Bridge project;".

AMENDMENT NO. 1037

(Purpose: To recognize transit bus projects)

At the appropriate place in title III, insert the following:

SEC. 340. Of funds made available under this Act for discretionary grants for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, up to $20,000,000 may be provided to the State of Michigan and $12,000,000 to the State of Illinois.

AMENDMENT NO. 1038

(Purpose: To provide for a study of the metropolitan planning process in Denver)

On page 24, line 3, strike the period at the end of the line and insert the following: ": *Provided*, That within the funds made available under this head, $500,000 may be made available to the Colorado Department of Transportation to study the metropolitan planning process and organization in the Denver metropolitan area. The study shall be based on a scope of work agreed to by Douglas County (on behalf of selected Denver regional county governments and municipal governments), the Denver Regional Council of Governments, and the Colorado Department of Transportation. Within 24 months of enactment of this Act, the recommendations of this study will be transmitted to the Senate and House Committees on Appropriations."

AMENDMENT NO. 1039

(Purpose: To make a technical correction relating to the Right-or-Way Revolving Fund)

On page 15, line 4, after the word "loans" insert: "to be repaid with other than Federal funds".

AMENDMENT NO. 1040

(Purpose: To clarify Sec. 335 of the bill)

On page 50, line 11, insert the following:

(D) Nothing in this Act shall be construed to affect any existing statutes of the several States that define the obligations of such States to native Hawaiians, native Americans, or Alaskan natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy any such obligations.

AMENDMENT NO. 1041

(Purpose: To facilitate the application of the pilot record-sharing provisions of title 49, United States Code, added by the Federal Aviation Reauthorization Act of 1996, to air carriers operating non-scheduled operations under part 135 of the FAA regulations)

At the appropriate place in title III, insert the following:

SEC. 3 . PILOT RECORD SHARING.

The Administrator of the Federal Aviation Administration shall—

(1) work with air carriers conducting non-scheduled operations under part 135 of the Federal Aviation Administration's regulations (14 C.F.R. 135.1 et seq.) to implement the requirements of section 44936(f) of title 49, United States Code, effectively and expeditiously; and

(2) implement those requirements with respect to such air carriers not later than February 1, 1998, or sooner if, in working with such air carriers, the Administrator determines that the provisions of that section can be effectively implemented for such air carriers.

AMENDMENT NO. 1042

(Purpose: To require the Secretary of Transportation to exercise the exemption authority under section 41714 of title 49, United States Code, with respect to certain air service between slot-controlled airports subject to that authority and nonhub points, within 120 days after receiving a request for such an exemption)

At the appropriate place in title III, insert the following:

SEC. 3 . EXEMPTION AUTHORITY FOR AIR SERVICE TO SLOT-CONTROLLED AIRPORTS.

Section 41714 of title 49, United States Code, is amended by adding at the end thereof the following:

"(i) EXPEDITIOUS CONSIDERATION OF CERTAIN EXEMPTION REQUESTS.—Within 120 days after receiving an application for an exemption under subsection (a)(2) to improve air service between a nonhub airport (as defined in section 41731(a)(4)) and a high density airport subject to the exemption authority under subsection (a), the Secretary shall grant or deny the exemption. The Secretary shall notify the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committee on Transportation and Infrastructure of the grant or denial within 14 calendar days after the determination and state the reasons for the determination.".

AMENDMENT NO. 1043

(Purpose: To express the sense of the Senate concerning the imminent expiration of highway and mass transit spending authorizations and the function of this bill)

On page 51, after line 25, add the following:

SEC. . SENSE OF THE SENATE CONCERNING REAUTHORIZATION OF HIGHWAY AND MASS TRANSIT PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) on October 1, 1997, authorization for most of the programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), including mass transit programs, will expire;

(2) States, local governments, and the national economy depend on Federal investment in the transportation infrastructure of the United States;

(3) it is the duty of Congress to reauthorize the programs to ensure that the investment continues to flow and that there is no interruption of critical transportation services or construction; and

(4) the public and Congress should have a substantial opportunity to review, comment on, and comprehensively debate committee-reported proposals to reauthorize the programs well in advance of their expiration to ensure that the programs adequately reflect the needs of the United States and the contributions of the States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this Act should not be considered to be a substitute for a comprehensive measure reauthorizing highway and mass transit spending programs and should not be interpreted to authorize or otherwise direct the distribution of funds to the States under expiring formulas under title 23 or 49, United States Code, in fiscal year 1998.

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of this important sense of the Senate. It should help to dispel any concerns that Members may have had regarding the Transportation appropriations bill and its potential effect on the ongoing reauthorization process for highway and transit funding. This measure puts the Senate's intention on record that none of the funds in S. 1048 are to be distributed according to the old, unfair formulas.

Mr. President, the State of Michigan has long been contributing more into the highway trust fund than it receives in Federal money for highways or mass transit, due to the old discriminatory formulas. The changes to previous law included the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] slightly improved Michigan's return. Unfortunately, it largely continued the decades-old unfair pattern of sending significantly more to small States than they contributed without any valid justification. My State's problem has been further compounded by limitations on obligations through the appropriations process that reduce our total dollar return. As a result, our average ratio of contributions to obligations for highway funding under ISTEA has been approximately 80.5 percent, while mass transit has been even worse with an average ratio of 42.3 percent.

I am pleased that the committee's bill provides nearly a $3 billion higher obligation limitation on highway spending. Unfortunately, a chart has been included in the RECORD at the beginning of debate on this bill which implies that those funds will be distributed according to the old, expiring ISTEA formulas. That is incorrect and the subcommittee chairman has stressed that the chart was for illustrative purposes only and not intended to direct these funds. I encourage Members to ignore that distribution. Michigan would, because of the increased obligation limitation, receive at least an additional approximately $100 million in fiscal year 1998, if ISTEA's average formula distribution was still in effect, over last year. It would be difficult for any State not to get an increase when the obligation limitation is raised, as it has been in the bill before us.

However, I encourage my colleagues not to focus on the formulas of the past. There are at least five major reauthorization proposals to be considered for fiscal year 1998 and beyond. Of those five, Michigan would do best under the Transportation Empowerment Act [TEA–2] and could have approximately $175 million more in obligation authority available in fiscal year 1998 assuming this bill's obligation limitation than in fiscal year 1997. Next best would be the STEP–21 proposal providing about $141 million more in fiscal year 1998. ISTEA does not work for Michigan and many other States, and Members should analyze these other proposals to determine whether they provide more fairness.

Mr. President, this sense of the Senate makes it very clear that S. 1048 does not reauthorize highway or mass transit spending programs. The Senate is still waiting for the Environment and Public Works, and the Banking Committees, to produce fair bills that will allow the continued flow of infrastructure investment dollars to the States from the funds provided in S. 1048. These bills need to be provided to the full Senate well in advance of the October 1, 1997, authorization expiration of these programs. No Member of the Senate or the public should be precluded from the opportunity to fully and carefully review the proposals reported by the committees.

Recently, I received a letter from the president of the American Association of State Highway and Transportation Officials [AASHTO], who is very concerned that Congress' "delay [in moving a reauthorization bill] will negatively impact our Nation's transportation system and our economy." He is right to be concerned. There is no committee-reported proposal for the Senate to consider and we are about to recess until September. Unless, by some miracle, a fair and equitable bill is reported the first day we return, Congress is very unlikely to meet the October 1 deadline. No Senator should be placed in the position of supporting an unfair bill to meet that deadline because the committees have failed to act punctually.

Mr. President, I urge my colleagues to support the resolution.

AMENDMENT NO. 1044

(Purpose: To provide for the development and operation of the Nationwide Differential Global Positioning System)

On page 4, line 11, strike the numeral and insert "$2,435,400,000".

At the appropriate place in title III, insert the following:

SEC. 3 . (a) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation, acting for the Department of Transportation, may take receipt of such equipment and sites of the Ground Wave Emergency Network (referred to in this section as "GWEN") as the Secretary of Transportation determines to be necessary for the establishment of a nationwide system to be known as the "Nationwide Differential Global Positioning System" (referred to in this section as "NDGPS").

(b) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation may establish the NDGPS. In establishing the NDGPS, the Secretary of Transportation may—

(1) if feasible, reuse GWEN equipment and sites transferred to the Department of Transportation under subsection (a);

(2) to the maximum extent practicable, use contractor services to install the NDGPS;

(3) modify the positioning system operated by the Coast Guard at the time of the establishment of the NDGPS to integrate the reference stations made available pursuant to subsection (a);

(4) in cooperation with the Secretary of Commerce, ensure that the reference stations referred to in paragraph (3) are compatible with, and integrated into, the Continuously Operating Reference Station (commonly referred to as "CORS") system of the National Geodetic Survey of the Department of Commerce; and

(5) in cooperation with the Secretary of Commerce, investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration.

(c) The Secretary of Transportation may—

(1) manage and operate the NDGPS;

(2) ensure that the service of the NDGPS is provided without the assessment of any user fee; and

(3) in cooperation with the Secretary of Defense, ensure that the use of the NDGPS is denied to any enemy of the United States.

(d) In any case in which the Secretary of Transportation determines that contracting for the maintenance of 1 or more NDGPS reference stations is cost-effective, the Secretary of Transportation may enter into a contract to provide for that maintenance.

(e) The Secretary of Transportation may—

(1) in cooperation with appropriate representatives of private industries and universities and officials of State governments—

(A) investigate improvements (including potential improvements) to the NDGPS;

(B) develop standards for the NDGPS; and

(C) sponsor the development of new applications for the NDGPS; and

(2) provide for the continual upgrading of the NDGPS to improve performance and address the needs of—

(A) the Federal Government;

(B) State and local governments; and

(C) the general public.

Mr. DEWINE. Mr. President, I would like to take a moment to commend the chairman of the Appropriate Subcommittee on Transportation, Senator SHELBY, for the work he has done on this bill. It is not easy to balance the competing interests in any appropriations bill, but I think it is even more difficult on transportation appropriations. I would also like to call attention to one area of the Senate's bill which is very different than the House version.

The Federal Automated Surface Observing System [ASOS] program, which began in the late 1980's, is sponsored by the Federal Aviation Administration [FAA], the National Weather Service [NWS], and the Department of Defense [DOD] and currently includes approximately 860 ASOS units. For its part, the FAA has completed procurement of its 539 baseline ASOS network. Of these units, 476 were installed, yet only 129 systems had been commissioned as of December 21, 1996.

Specifically, the Senate bill would provide $24.85 million for the Automated Surface Observing System [ASOS]. This amount is $10 million more than the Federal Aviation Administration [FAA] requested. According to the committee report, $14.85 million is to be used to commission systems that have already been purchased.

The $14.85 million requested by the administration would pay for getting these systems on-line, providing essential weather services to airports that now have them. The House language on this system is similar. I think it makes sense to do this. After all, the Federal Government purchase these units. They might as well be used.

Where the House and Senate language differ is in the use of the funds that the administration did not request. The House bill would provide $7.5 million for procurement of additional weather observing systems and direct the FAA to compare costs and capabilities of similar systems and to purchase new systems only after full and open competition between all qualified vendors.

In contrast, the Senate report provides FAA with an additional $10 million to purchase 50 new ASOS units. If the past is an accurate indicator, these units will sit idle until FAA finds the funds to get them running. In essence, what we are doing is purchasing technology with great potential but fraught with high maintenance costs and unusable for a number of years for every airport that needs a weather observation system, when many airports can use off-the-shelf technology that can be used immediately.

In 1995, the General Accounting Office [GAO] released a report on ASOS. I would like to highlight some of their findings. First, GAO found that six of the eight sensors in the ASOS system do not meet key performance specifications. Second, ASOS shortfalls are caused by contractor failure to deliver products that meet specifications and Government failure to furnish sufficient equipment. Third, the NWS does not have adequate personnel or integrated information systems for it to isolate and correct ASOS failures at FAA sites. Fourth, ASOS does not satisfy the weather observational needs of many users. And, finally ASOS users state that incorrect ASOS observations could risk aviation efficiently and safety. I don't believe that Congress should force the FAA to purchase more ASOS units until the problems with the ones they already have can be worked out.

For this reason, I believe the House language on weather observation systems is a better option for airports. I hope my friend from Alabama will examine carefully the House approach on this issue and I urge him to opt for the House's approach to maximize airport safety.

Mr. SHELBY. I thank the Senator from Ohio for his statement. I have listened with interest to his remarks and recognize his concerns. The Senator from Ohio has raised very compelling arguments and I will carefully consider his request during the conference committee deliberations.

CHILD SIZE CRASH TEST DUMMIES

Mr. SPECTER. Mr. President, I wish to address the distinguished chairman of the subcommittee regarding the issue of funding for an innovative research project aimed at developing a child size crash test dummy which will be undertaken by a collaborative private sector group that includes several Pennsylvania universities.

The project will develop a new crash test dummy particularly suited for research on automobile occupant safety because it will generate data on children's unique biological features and the behavior of children under crash conditions.

I am advised that the House has provided $100,000 for this purpose within the budget for the National Highway Traffic Safety Administration. Would the distinguished chairman be willing to work with me and our House counterparts to explore funding for this important safety initiative?

Mr. SHELBY. Mr. President, the Senator from Pennsylvania correctly notes that this will be an issue we address in conference with the House and I would be glad to work with him on exploring funding possibilities for an initiative which could protect our children from injuries sustained in automobile accidents.

Mr. DURBIN. Mr. President, I rise today in order to engage the chairman of the Transportation Appropriations Subcommittee, Senator SHELBY, in a brief colloquy regarding the Northeast Illinois Regional Commuter Railroad Corporation—Metra. I commend both

Senators SHELBY and LAUTENBERG for their tireless efforts on behalf of our Nation's transportation systems. And I congratulate them on bringing this bill to the floor.

Mr. President, as Senator SHELBY knows, Metra is the second largest commuter rail system in the country, carrying over 270,000 riders a day. Metra's 12 rail lines serve more than 100 towns and municipalities with 238 stations and a stop at O'Hare International Airport. It maintains a 97 percent on time performance while operating over 500 route miles. In short, Metra is an effective, first-class transit system that fills an enormous commuter need in the Northern Illinois/Chicago region.

Metra anticipates that by the year 2020, the population of its service territory will grow by 25 percent and employment in that area will increase 37 percent. In order to prepare for this growth and meet additional needs, Metra plans to expand and upgrade service on three lines. Specifically, Metra plans to upgrade and expand North Central Service and the Metra Milwaukee West Line; upgrade and extend the South West Service to Manhattan, Illinois; and upgrade and extend the Union Pacific line to LaFox and Elburn, IL. The total cost of this project is $301 million over 6 years.

The House included $5 million in the fiscal year 1998 Transportation appropriations bill for engineering and design on tracks, signals, bridges, and earthwork associated with this project.

Mr. President, I would like to ask Senator SHELBY if he considers Metra to be a priority new start transit project and if he and Senator LAUTENBERG would be willing to work to include the House language in conference.

Mr. SHELBY. I thank the Senator from Illinois. As Senator DURBIN knows, the committee has worked with him over the years to fund various Metra expansion projects, most recently a new service line—the North Central Service. I appreciate his leadership on this project.

Metra expansion is vitally important to the Chicago/Northern Illinois service region. The Metra project is certainly a priority new start transit project that is worthy of Federal funding.

I will work with Senator LAUTENBERG and our House colleagues in the conference committee to make sure that the Senator's interests in this important project are represented at the conference committee.

I look forward to working with Senator DURBIN on this project in the years to come.

Mr. DOMENICI. Mr. President, I rise in support of the Department of Transportation and Related Agencies appropriations bill for fiscal year 1998.

I congratulate the distinguished chairman of the subcommittee, Senator SHELBY, for bringing his first transportation appropriations bill to the full Senate. I commend the chairman for bringing the Senate a balanced bill.

As all Members know, transportation spending was a priority area within the bipartisan budget agreement. With passage of this bill, we begin to increase funding for our Nation's infrastructure as we promised during negotiations on the balanced budget agreement.

The Senate-reported bill provides $12.6 billion budget authority [BA] and $13.2 billion in new outlays to fund the programs of the Department of Transportation, including Federal-aid highways, mass transit, aviation activities, the U.S. Coast Guard, and transportation safety agencies.

When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $12.7 billion in budget authority and $37.6 billion in outlays for fiscal year 1998.

The reported bill is $0.2 billion in budget authority and $3 million in outlays below the subcommittee's section 602(b) allocation.

This spending is $0.5 billion in budget authority below the President's fiscal year 1998 budget request for the subcommittee, and $0.15 billion in outlays above the president's request.

The Senate-reported bill is $0.6 billion in discretionary BA and $0.2 billion in outlays below the House version of the bill.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring on this bill be inserted in to the RECORD.

I support the bill and urge its adoption.

S. 1048, TRANSPORTATION APPROPRIATIONS, 1998, SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 1998, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	—	11,957	—	698	12,655
Outlays	59	36,890	—	665	37,614
Senate 602(b) allocation:					
Budget authority	—	12,157	—	698	12,855
Outlays	59	36,893	—	665	37,617
President's request:					
Budget authority	300	12,173	—	698	13,171
Outlays	299	36,502	—	665	37,466
House-passed bill:					
Budget authority	300	12,217	—	698	13,215
Outlays	299	36,855	—	665	37,819
SENATE-REPORTED BILL COMPARED TO—					
Senate 602(b) allocation:					
Budget authority	—	(200)	—	—	(200)
Outlays	—	(3)	—	—	(3)
President's request:					
Budget authority	(300)	(216)	—	—	(516)
Outlays	(240)	388	—	—	148
House-passed bill:					
Budget authority	(300)	(260)	—	—	(560)
Outlays	(240)	35	—	—	(205)

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. SMITH of New Hampshire. Mr. President, I would like to engage in a discussion with the bill manager on an amendment that I filed yesterday. Will the Senator from Alabama yield for a question?

Mr. SHELBY. Yes, I will yield to the Senator from New Hampshire.

Mr. SMITH of New Hampshire. As the Senator knows, I filed an amendment yesterday that I hope will not be necessary. The issue concerns truck weight limitations on interstate highways and potential sanctions on the States of New Hampshire and Maine.

Last year's appropriations legislation for the Department of Transportation included an amendment sponsored by Senators COHEN, SNOWE, GREGG, and myself which established a moratorium on the Department of Transportation's authority to withhold highway funds from New Hampshire and Maine because of their allowance of heavier trucks on Interstate 95. That moratorium is set to expire on September 1, 1997.

Under section 127 of our surface transportation law, States may not allow trucks over 80,000 pounds on the Interstate System without risking the loss of highway funds, even though many State roads allow 100,000-pound trucks, as is the case in New Hampshire and Maine. While I do not wish to get into a policy discussion on truck weights, there is a safety argument to be made in keeping these heavier trucks on the Interstate System, which is built to higher standards. That debate should be appropriately reserved for ISTEA reauthorization, currently under way in the Environment and Public Works Committee. It is there that we will debate any proposed changes to Federal truck weight limits.

Nevertheless, we are faced with the expiration of the sanctions moratorium on September 1 and the fact that the Environment and Public Works Committee has not yet dealt with this issue in ISTEA. It is for these reasons that I now seek assurances from the Transportation Department that sanctions would not be imposed before ISTEA is reauthorized and fiscal year 1998 apportionments are released.

Is it the Senator's understanding that the Department of Transportation would not have the authority to withhold highway funds from New Hampshire and Maine for the remainder of this fiscal year or until such time as the highway program is reauthorized and fiscal year 1998 funds are apportioned to the States?

Mr. SHELBY: Yes, that is correct. There would not be an opportunity for sanctions under section 127 of our surface transportation law until fiscal year 1998 highway funds are apportioned, which would not occur until Congress reauthorizes the surface transportation programs.

Mr. SMITH of New Hampshire. I want to thank the manager of this bill for that clarification. I yield the floor.

Mr. LEVIN. Mr. President, I would like to engage the chairman of the Transportation Appropriations Subcommittee in a brief colloquy on the matter of guidance for the distribution of fiscal year 1998 highway and transit appropriations provided by the bill before us.

It is my understanding that S. 1048 would not, if it became law, direct or otherwise assume that the allocation and apportionment of highway obligation authority to the States from the highway trust fund shall be distributed under the expiring ISTEA formulas or any other distribution scheme. Would the chairman confirm that understanding?

Mr. SHELBY. The Senator from Michigan is correct. This bill simply provides an overall limitation on States' highway obligations from the highway trust fund of $21.8 billion and is completely silent on its distribution among the States.

Mr. LEVIN. So, just to be clear, there is no way to accurately determine what share or total that any State can expect to receive of that $21.8 billion in fiscal year 1998. Is that correct?

Mr. SHELBY. Again, the Senator from Michigan is correct. That distribution will be determined when Congress works out whatever transportation law will replace ISTEA.

Mr. LEVIN. As a Senator from a donor State, I appreciate the Senator's remarks. I am looking forward to improving Michigan's return on gas tax dollars contributed into the highway trust fund and wanted to be certain that Senate action on this bill did not preclude or prejudge that debate.

From my review of the mass transit provisions in the bill, it appears that the committee has assumed the old distribution formulas and allocation method. This is a problem for Michigan, and perhaps the chairman's State too, since Michigan is a significant donor State in terms of receipts of transit grants versus contributions to the mass transit account of the highway trust fund. In fact, the Michigan Department of Transportation calculates that Michigan's return at approximately $.53 on the gas tax dollar. According to the Community Transportation Association of America, Alabama receives approximately $.16 per gas tax dollar.

I am particularly concerned about section 49 U.S.C. 5309(m), which treats bus and bus facilities very poorly in relation to other categories. And, I believe that section 5307 and related sections should be modified to more accurately reflect States' contribution into the mass transit account. These expiring sections and others in title 49 need to be rewritten to provide greater fairness to States that do not have subways or major fixed guideway facilities.

Does the Committee's bill assume that funds appropriated in this bill for mass transit grant and loan formulas and other mass transit program will be distributed according to the authorizations in title 49 that expire on October 1, 1997?

Mr. SHELBY. We have assumed current law with respect to transit programs, until such time as a reauthorization bill is enacted. With respect to formula and discretionary grants, the bill sets obligation limitations on contract authority for both programs and appropriates $190 million for formula grants. It is our understanding that the only significant amount of contract authority for transit programs that is expected to carry over into fiscal year 1998 is $392 million for transit new start projects. In the absence of a reauthorization bill, the only significant new funding for transit formula and discretionary grant programs next year would be the amount appropriated for formula grants in this bill and the amount remaining available for new start projects. The Federal Transit Administration would apportion the appropriated funds for formula grants according to current formulas, and the new start funding would be distributed based on statutory direction in this bill. Both those distributions would be revisited when reauthorization legislation has been enacted and, presumably, has created new contract authority for these programs.

Mr. LEVIN. I thank the Chairman for his willingness to clarify these matters, though the mass transit situation is very unfortunate from an equity point of view. This is obviously not the best situation. We need to move an authorization bill for both highway and mass transit programs before October 1, 1997. Debate and resolution of that matter is long overdue. I realize these are difficult and significant matters and that the balanced budget agreement has locked in a lower level of spending on transportation than most of us would have liked, but we will need sufficient time to analyze and debate whatever bill that the Senate Environment and Public Works, and the Banking Committees report to the Senate. It would be very, very unfortunate, if there is an attempt to present a bill to the Senate without adequate time to consider it before the October 1 deadline.

SAINT LAWRENCE SEAWAY

Mr. KOHL. Let me take this opportunity to thank both the chairman and ranking member of the subcommittee, Senators SHELBY and LAUTENBERG, and their staffs, for all their hard work in putting together the transportation appropriations bill. Every Member of the Senate should greatly appreciate the bipartisan and good faith manner in which they tackled the daunting task of meeting our Nation's infrastructure priorities.

There are many transportation programs and priorities funded by this bill that are important to my State of Wisconsin and the Great Lakes region. I would like to take a moment to discuss one particular Great Lakes priority, the Saint Lawrence Seaway Development Corporation [SLSDC].

Mr. President, since its creation in 1959, SLSDC has provided safe, efficient, and reliable commercial shipping and lockage services through the Saint Lawrence Seaway. The Seaway serves as the gatekeeper for all oceangoing vessel traffic coming to and from the Great Lakes. As such, SLSDC's work is vital to the Great Lakes region, which is responsible for nearly half of America's industrial and agricultural output. That output translates into iron ore for America's steel miles, low-sulphur coal for public utilities and Midwestern export grain for the world market. Simply put, the economic viability of the Great Lakes and the country depends on the efficient operation of the Seaway and SLSDC. Of equal importance are the environmental and safety functions performed through the Seaway.

As you know, the administration has proposed that SLSDC be restructured as a performance-based organization [PBO]. I have endorsed this proposal as a critical and innovative step in ensuring the long-term stability of commercial shipping in the Seaway System and throughout the Great Lakes region, and am currently working with other Great Lakes' Senators to prepare the necessary authorizing legislation.

Last year, in the transportation appropriations bill for fiscal year 1997, the Senate included a sense-of-the-Senate amendment that the Congress should consider such legislation in the 105th Congress. We are hopeful that the Senate will approve the PBO legislation before the end of this session, although we recognize that there's much work left to be done.

As you know, one of the unique features of the PBO initiative is the financing mechanism, which would link SLSDC's funding level to performance—that is, the annual funding level would be calculated according to average tonnage figures through the Seaway. Thus, the PBO initiative authorizing legislation will move SLSDC financing from appropriated funds to an automatic, annual, performance-based payment. The administration's budget request reflected this distinction by not including a request for appropriated funds for SLSDC. I bring this up for discussion simply to avoid confusion as to the appropriations level included in the Senate transportation appropriations bill for fiscal year 1998.

Mr. SHELBY. I'm glad the Senate brought this matter to the attention of the full Senate. Although you and I discussed this matter during committee consideration of the bill, I am pleased to have the opportunity to explain this matter to the rest of our Senate colleagues. Many details of this new proposed agency performance based organization structure will have to be sorted out in the authorization process, including the funding proposal. In order to give the authorizing committees as much time as possible before making a final decision regarding this proposal, the Senate Appropriations Committee did not include any appropriated funds or bill language for the SLSDC for fiscal year 1998.

Mr. KOHL. I appreciate your fair and unbiased assessment of the PBO initiative, Mr. Chairman. We have every hope of moving the authorizing legislation this session. However, as you and I both know, Congress can be unpredictable. Sometimes we advance ideas quickly, and other times, our work is frustratingly slow. For this reason, I want to reiterate our understanding that if Congress does not enact PBO authorizing legislation for SLSDC by the beginning of fiscal year 1998, the Senate will ensure in conference with the House that SLSDC will be funded.

Mr. SHELBY. Yes, the Senate will ensure that the SLSDC is adequately funded and has the resources it needs to operate effectively and efficiently, whether or not the PBO legislation is enacted into law.

Mr. KOHL. I thank the Chairman.

INTERSTATE 4–R PROGRAM

Ms. MIKULSKI. Mr. President, I have a question for the distinguished Senator from Alabama and the distinguished Senator from New Jersey concerning discretionary funding for the Interstate 4–R Program. The report accompanying S. 1048 includes language recognizing certain projects that should receive priority attention when the Federal Highway Administration awards discretionary grants.

In Frederick, MD, there is a project to upgrade Interstate 70 at its conjunction with Interstate 270, U.S. 15, U.S. 40, and U.S. 340. The complicated interchanges of these two expressways and the other U.S. highways have numerous ramp movements which need to be reconstructed and upgraded in order to provide efficient and safe access. The current interchange forces traffic onto local streets jeopardizing safety for local residents.

I ask my colleagues whether they believe the upgrading of I–70 in Frederick would qualify as a project that might receive funds under the Interstate 4–R Program.

Mr. SHELBY. Yes, I believe that the project, as the Senator describes it, would be an excellent example of the type of work intended to be funded under this program.

Mr. LAUTENBERG. I agree, Mr. President. The I–70 interchange in Frederick, MD, is the type of project that is worthy of funding under the 4–R Program.

Mr. SARBANES. Mr. President, I want to join with my colleague, Senator MIKULSKI, in endorsing the inclusion of I–70/I–270 in Frederick, MD, on the priority list for discretionary highway funding. Anyone who drives on I–70 or I–270 in Frederick knows what a serious traffic and safety problem we have in this area. The highway narrows from 6 lanes to 4 lanes creating a bottleneck. There are missing interchanges with I–270 and U.S. 15, forcing cars and trucks onto city streets and adding to existing congestion; and the substandard condition of the highway and resulting congestion means accidents and delays for commuters, interstate truckers, tourists, businesses, and employers alike. With traffic volumes in the area projected to more than double in the next 20 years, there has been a clear need to address this problem. I want to thank the distinguished managers of the bill for their assurances.

Ms. MIKULSKI. I also want to thank the managers for the courtesy and their leadership on this legislation.

HARTSFIELD INTERNATIONAL AIRPORT

Mr. COVERDELL. Would the distinguished chairman of the Senate Appropriations Subcommittee on Transportation yield?

Mr. SHELBY. I would be happy to yield to the senior Senator from Georgia?

Mr. COVERDELL. The city of Atlanta and Hartsfield International Airport have requested a $150 million letter of intent, commonly referred to as an LOI, from the FAA in connection with the construction of a commuter runway. Atlanta's Hartsfield International Airport is the second busiest airport in the country and a critical link in our national air transportation system. A major airline headquarted in Atlanta alone has over 600 flights per day out of Atlanta. Over the past several years, there has been an increase in delays at the airport. When Atlanta has a problem with congested air traffic, the effects ripple throughout the national system. Delays at Hartsfield create waves of delay across the country. I strongly believe this project should receive priority consideration from the FAA for an LOI and would ask the chairman and the ranking member, the senior Senator from New Jersey, to support this request.

Mr. CLELAND. Would my colleague from Georgia yield?

Mr. COVERDELL. The distinguished chairman was gracious enough to yield me time. I would be happy to yield to my colleague from Georgia if it is acceptable to the chairman.

Mr. SHELBY. Certainly, it is my pleasure to yield to the junior Senator from Georgia.

Mr. CLELAND. I thank the chairman. I wholeheartedly agree with my colleague from Georgia. Hartsfield is operating beyond its capacity during peak departure and arrival times. This produces excessive delays, inconveniences passengers, disrupts flight schedules, and increases operational cost for Hartsfield's carriers.

Commuter, typically turboprop, and other prop aircraft operations compose approximately 18 percent of the airport's activity. These aircraft weigh much less than air carrier jets. During final approach, additional intrail separation must be used when a turboprop is behind an air carrier jet due to wake turbulence. This additional separation imposes delay to aircraft behind the turboprop, delaying passengers and increasing costs resulting from the downwind portion of flight. By removing the vast majority of commuter aircraft from both the downwind and final approach segments of flight, delay is reduced for both air carrier and commuter aircraft. Thus, an additional runway to handle turboprops and light commuter jets would provide many benefits to all Hartsfield carriers.

I support priority consideration by the FAA and urge the FAA to issue an LOI for Atlanta. Would the chairman and the ranking member agree with me and the senior Senator from Georgia that this project should receive priority consideration by the FAA?

Mr. SHELBY. Yes, on behalf of the subcommittee, I would agree that the efficiency of Atlanta's Hartsfield International Airport is important to the Nation and vital to the Southeast. The FAA should issue an LOI for construction of a commuter runway at Hartsfield.

Mr. LAUTENBERG. I concur with my colleague and support the request. This project is an important investment not only for Atlanta, but for the national air transportation system.

Mr. COVERDELL. I appreciate the chairman's and ranking member's support for this project, which is vital to the city of Atlanta and Hartsfield International Airport. Would you be willing to include language in the conference report to the fiscal year 1998 Transportation appropriations bill which indicates that this project should receive priority consideration by the FAA?

Mr. SHELBY. Yes, I would be happy to work with both Senators from Georgia and try to include such language in the conference report.

Mr. LAUTENBERG. I also would be willing to work with the chairman and both Senators from Georgia.

Mr. COVERDELL. I would like to thank the chairman, the ranking member, and my colleague from Georgia for their help in this matter. I yield the floor.

Mr. CLELAND. I would also like to thank the chairman, the ranking member, and my colleague from Georgia for their help. I yield the floor.

STRUCTURE RESEARCH

Mr. LEVIN. Mr. President, I would like to engage the subcommittee chairman in a brief colloquy regarding a small, but important project underway in Michigan. As he may know, the State of Michigan and the Federal Highway Administration are working together in the use of advanced carbon and glass composites as reinforcements for concrete to replace steel in the manufacture of prestressed bridge beams and bridge decks. The House Appropriations Committee report encourages FHWA, through its structures research program, to assist the State in designing and deploying monitoring protocols and systems. I would hope that the Senator from Alabama would be able to support that language in conference.

Mr. SHELBY. I am aware of the structure research that the Senator from Michigan has described and will work with him to ensure that his interests are recognized during conference committee consideration of this matter.

Mr. LEVIN. I thank the chairman for his assistance.

Mr. BROWNBACK. First of all, I would like to thank the Senator from Alabama for his hard work on this bill and to commend him for his diligence in furthering this important legislation.

I would like to talk about a provision that is a part of the House counterpart to this bill and which addresses issues related to the impact in Wichita, KS, of the Union Pacific and Southern Pacific merger. At this time, I ask unanimous consent that the report language included in the House bill be inserted for the RECORD.

Mr. President, the impact of this merger is of great importance to the community of Wichita, KS. Since the railroad runs through the center of the city, the increased train traffic resulting from the merger may affect significantly the flow of traffic through the city. Various alternatives to mitigate this impact are currently being considered, including the building of grade separations through the city or the building of a bypass around the city. The Surface Transportation Board is currently evaluating the feasibility of each of the alternatives, and is expected to release its recommendations for easing the impact of the additional trains in early September. The language that I am requesting to be included in the RECORD would simply state that the STB should revisit its recommendations if any substantial changes are made in the assumptions used to complete this study. This would include assumptions in the number of trains that are expected to pass through the city or the speed at which the trains travel. I would also like to point out that not only will this provisions not have any current budgetary impact, it will help to ensure that the Federal Government will not finance costly bailout in the future because of faulty planning.

I would like to get assurances from the Senator from Alabama that he will pay close attention to the concerns of the community of Wichita during the Conference Committee consideration of this issue.

Mr. SHELBY. I thank the Senator from Kansas for his interest in this issue. I understand that the impact of the Union Pacific-Southern Pacific merger will continue to be a concern to the community of Wichita. I assure the Senator from Kansas that I will work with him during the House-Senate Conference Committee consideration of this issue.

Mr. BROWNBACK. I thank the Senator from Alabama.

Mr. MCCAIN. Mr. President, the Senate has now completed action on 9 of the 13 annual appropriations bills that fund the Government and we are now nearing the close of debate on the Transportation appropriations bill. We have completed action on those bills in record time, for which I congratulate the managers of those measures.

These bills contain many good provisions and generally provide appropriate levels of funding to continue the necessary functions of the Federal Government.

But, Mr. President, by my reckoning, in the process of acting on these 10 measures, the Senate will have wasted almost $10 billion on wasteful, unnecessary, low priority, pork-barrel projects. This is an appalling waste of taxpayers dollars—almost a billion dollars for every appropriations bill we have considered so far, and we still have three more appropriations bills to go.

This bill is typical of the types of earmarks and set-asides that members add to the multi-billion-dollars bills.

This bill and report earmark billions of dollars for specific highways, railroads, bridges, boats, hangers, and even a covered bridge. Yes, a covered bridge. The report earmarks $2 million of Federal highway funds to restore a covered bridge in Vermont.

The report directs the Coast Guard to buy twice as many coastal patrol boats from the Bollinger Machine Shop and Shipyard in Louisiana as were requested by the Coast Guard—at a cost of $68.1 million for 15 boats.

Another $4 million is earmarked to renovate a hanger at the Kodiak, AK Coast Guard facility, a project which was not included in the budget request.

The bill earmarks $26 million to repair three bridges in Hawaii, Louisiana, and Georgia.

But these are ordinary earmarks of relatively small amounts of money. Let me take a moment to highlight some of the larger set-asides in this bill.

All of the $76.65 million provided for testing of intelligent transportation systems, none of which was requested, is earmarked; 24 projects in 18 States are listed in the report to receive a share of this $76 million.

A total of $300 million is earmarked for Appalachian development highway systems—$100 million more than requested by the administration.

All but $2 million of the $440 million for bus and bus facility discretionary grants is earmarked for specific projects in specific States; 35 States will receive these grants, with Alabama, Missouri, New York, and West Virginia getting more than $25 million each.

All but $5.8 million of the $780 million for new mass transit facilities is earmarked; 26 of the 40 projects for which funds are specifically set-aside were not even requested by the administration. Of these unrequested projects, Washington State will receive $24 million for a commuter light-rail system; Orlando, FL, will receive another $31.8 million for its light-rail system, in addition to the $2 million provided last year; and New York City will get $50 million for an East Side access project.

Mr. President, I am pleased to note that the $23.45 million earmarked in this bill for the Pennsylvania Station redevelopment project in New York City will complete the Federal funding share of this project. I would certainly hope that $100 million would be enough to ask the Federal taxpayers to contribute to this $300-plus million project. I strongly suspect, however, that there will be unexpected costs and final details to be completed, and we will see another several million earmarked for this project in next year's bill.

Finally, the report contains language earmarking just $450,000 for a "transportation emergency preparedness and response demonstration project on the threat of tornadoes in the Southern and Midwestern States." The report also establishes a requirement that $400,000 of this money is to be used to assist in the "construction and establishment of an underground emergency transportation management center utilizing satellite communications."

This sounds to me like a good idea in general, but I am concerned about two things. First, how can this center be established for just $450,000? And second, why did the Committee find it necessary to add a specification that the center "shall be located in a region that is susceptible to tornadoes and at an elevation of over 1,300 feet above sea level * * * and be within reasonably close proximity to military, space and/or nuclear facilities to provide rapid response time (but far enough away to be safe from disaster impacts)." I wonder why the Committee felt it was necessary to be so specific about the location for the center. Why not just put in motion the process to establish a tornado emergency preparedness center, and allow it to be built at the best site to carry out its mission?

These are only a few of the earmarks and special projects contained in this measure, but I will not waste the time of the Senate going over each and every earmark.

Mr. President, it is difficult for me to see the logic of wasting $9.9 billion in these 10 appropriations bills, and then hastening to pass a Balanced Budget reconciliation bill to reduce Federal spending. If we could just avoid pork-barrel spending in the first place, we would not have to go through the painful process of eliminating it in later years.

I hope my colleagues on the Appropriations Committee will not bring appropriations bills back from conference with all of the earmarks and add-ons of both Houses, or we may well find ourselves negating any progress we have made in the reconciliation process toward a balanced Federal budget.

I ask unanimous consent that a list of objectionable provisions in this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OBJECTIONABLE PROVISIONS IN FISCAL YEAR 1998 TRANSPORTATION APPROPRIATIONS BILL

U.S. COAST GUARD

Report earmarks $146,500 for the Marine Fire and Safety Association, a private association (Columbia River area in OR & WA).

Report provides $30.8 million more for acquisition of 7 more coastal patrol boats than requested, which are built by Bollinger Machine Shop & Shipyard in Louisiana.

Report earmarks $4 million to renovate a hanger at the Coast Guard Kodiak, Alaska facility, which was not included in the budget request.

Bill and report provide $26 million to repair 3 bridges under the Truman-Hobbs Act: $5.0 million for the Sand Island Road Tunnel in Honolulu, HI; $3.0 million for the Florida Avenue Bridge in New Orleans, LA; and $18.0 million for the Sidney Lanier Bridge in Brunswick, GA. These projects should be funded from the FHWA discretionary bridge program, not the Coast Guard.

FEDERAL AVIATION ADMINISTRATION

Directs the FAA Administrator to meet the authorized staffing levels for all air traffic control facilities in the New York/New Jersey region by the dates identified in the pending agreements with the pertinent employee organizations. Directs the Administrator to inform the Appropriations Committee immediately if it appears that those deadlines will not be met.

Directs the FAA to study air traffic at the airports in New Bern (NC), Hickory (NC) and Salisbury (MD). If those airports meet or are projected to meet FAA's benefit/cost criteria for contract tower operations within the next two years, or if tower operations could be justified under a cost-sharing arrangement, directs the FAA to open contract towers at those airports for service during FY98.

Earmarks $400,000 to provide a low-earth orbit (LEO) satellite communication system at Anchorage (AK), to augment present communications systems.

Earmarks $970,000 to demonstrate infrared heating for aircraft deicing at the Rhinelander/Oneida County Airport (WI).

Earmarks $1,700,000 to establish new remote communication outlets in five Alaska sites.

Earmarks $2 million for the Alaska Volcano Observatory for equipment and data transmission facilities on suspect volcanoes across the Alaska peninsula and the Aleutian Islands.

Earmarks $5 million for a new control tower at North Las Vegas (NV) and $3 million for a new control tower at Martin State Airport (MD).

Earmarks $875,000 to improve the Rutland (VT) State airport instrument approach by reducing the ceiling and visibility minima.

Earmarks $80,000 to install a standard omnidirectional approach lighting system (ODALS) under the approach to Runway 9 at Cordova Airport (AK).

Earmarks $10 million to procure 10 new tactical landing systems (TLS). Intends for the systems to be installed and tested at regional airports that exhibit requirements for improved economic development and safety of operation including, but not limited to, the Pullman-Moscow Regional Airport (WA), the Friedman Memorial Airport (ID), and at rural airports in Brigham City (UT), Logan (UT), Wendover (UT), and Tooele (UT).

Earmarks $5 million for the precision approach path indicator (PAPI) navigational aid systems, with 10 directed to be installed at remote Alaskan airport locations.

Earmarks $3.5 million for two wind profilers currently leased at the Juneau (AK) airport along with new computers and navigational aids, and to install anemometers, and for the costs to calibrate the new equipment.

Earmarks $4 million to accelerate replacement of existing, nonsupportable engine generators and to replace FAA's electrical distribution system at Cold Bay (AK) with an underground electrical distribution system.

Earmarks $18.9 million for FAA aircraft fleet modernization, and directs the FAA to exercise the option presently in place for the acquisition of one new modified Learjet 60 flight inspection and airways calibration aircraft under the contract presently in force between the FAA and E-Systems.

Earmarks $750,000 for additional training equipment for the Rocky Mountain Services Training Center (RMESTC).

Earmarks $1.25 million for the continued development of an alternative explosives detection technology that uses a neutron probe, which determines the number and ratio of atoms of hydrogen, carbon, nitrogen and oxygen in small volumes throughout a suitcase and uses that information to identify contraband substances such as explosives and drugs.

Priority consideration for AIP discretionary grants for 35 specified airports (report p. 73), and priority consideration for new Letters of Intent (LOI) that establish multi-year obligations of AIP funds for 5 specified airports (report p. 80).

FEDERAL HIGHWAY ADMINISTRATION

Report earmarks $1.2 million for research into high performance materials and bridge systems and "strongly recommends" that FHWA conduct the research during the Interstate 15 reconstruction project and other transportation projects in the Salt Lake Valley, Utah.

Report directs FHWA to work with an unnamed academic and industry-led national consortium and fund with available money an advanced composite bridge project to demonstrate the applications of an all-composite bridge for civil infrastructure purposes.

Report earmarks $100,000 for FHWA's participation in an assessment of methodologies needed for estimating emissions of particulate matter, the sources and composition of particulate matter from roadway construction and heavy truck activity in the San Joaquin Valley of California.

Report directs DOT to continue a cooperative agreement with the National Center for Physical Acoustics to identify scientific issues which impede accurate noise prediction. (Last year the Committee earmarked $250,000 for the Center for this purpose.)

Report earmarks $2 million for an assessment of the Red River corridor transportation infrastructure of the five-State area.

Earmarks all of the $76.65 million appropriated for Intelligent Transportation Systems operational tests, none of which was requested, as follows:

$2.3 million for Southeast Michigan snow and ice management

$7 million for Intelligent transportation systems in Utah

$2 million for intermodal common communications technology in Kansas City, Missouri

$3.75 million for intelligent transportation systems in Reno, Nevada

$500,000 for intelligent transportation systems in Yosemite Valley, California

$1.5 million for the Western Transportation Institute in Bozeman, Montana

$10 million for traffic management in Barboursville-ONA, West Virginia

$600,000 for the advanced traffic analysis center at North Dakota State University

$800,000 for advanced transportation weather information systems in North Dakota

$1 million for an emergency weather system in Sullivan County, New York

$250,000 for the Urban Transportation Safety Systems Center in Philadelphia, Pennsylvania

$2.1 million for toll plaza scanners in New York City

$2 million for a computer integrated transit maintenance environment project in Cleveland, Ohio

$1.4 million for the intermodal technology demonstration project in Santa Teresa, New Mexico

$3 million for hazardous materials emergency response software for Operation Respond

$750,000 for radio communication emergency call boxes in Washington State

$2.5 million for statewide roadway weather information systems in Washington

$400,000 for Texas Department of Transportation Intelligent Transportation System (ITS) research

$9.2 million for Milwaukee, MONITOR, and Wisconsin rural ITS

$2.1 for the I-95 multistate corridor coalition

$12 million for truck safety improvements on I-25 in Colorado

$2.2 million for traffic integration and flow control in Tuscaloosa, Alabama

$8 million for Pennsylvania Turnpike Commission ITS

$1.3 million for Alaska cold weather ITS sensing

Report directs FHWA to fund a study on the impact of establishing a road link from Wrangell, Alaska, to the Canadian border along a proposed Bradfield Road alignment.

Bill provides $300 million ($200 million was requested) for Appalachian development highway systems.

Report directs FHWA to give priority to funding for specific projects, including 5 bridge projects, 4 interstate rehabilitation projects, 3 federal lands highway projects, and 5 ferry projects.

Report earmarks $2 million for a covered bridge restoration program in Vermont.

Report earmarks $6.4 million of the $18 million provided for ferryboats and ferryboat facilities program for the Hollis-Craig-Ketchikan Ferry.

Reports directs FHWA to give priority consideration to the safety improvement program on Highway 101 around the Olympic Penisula in Washington State.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Report earmarks $300,000 for emergency medical personnel guidelines for treating severe head injuries and NHTSA is encouraged to work with the Aitken Neuroscience Institute on the guidelines.

FEDERAL RAILROAD ADMINISTRATION

Report earmarks $4 million for the first of four installments for a positive train control demonstration project on the Alaska Railroad.

Report earmarks $23.45 million to complete the Federal funding share for the Pennsylvania Station redevelopment project in New York City.

Report earmarks $5 million for New York State to use to leverage private financing of high-speed trainsets between New York City and Buffalo.

Report earmarks $4 million for improving grade crossings in the 92-mile Charlotte to Greensboro, North Carolina high-speed railcorridor.

Report earmarks $500,000 to a State department of transportation (unnamed) to establish a consortium of States and other participants to advance high-speed rail.

Bill provides $17 million for the Alaskan Railroad, which was not requested.

FEDERAL TRANSIT ADMINISTRATION

Report earmarks $1 million for continued development of low-speed magnetic levitation technology for a downtown urban area shuttle in Pittsburgh, Pennsylvania.

Report expresses support for Federal funding for a 2-year effort by the city and county of Honolulu to undertake an analysis to develop mobility alternatives for Honolulu's primary urban corrider from Ewa to east Honolulu.

Of the $440 million provided for bus and bus facility discretionary grants, all but approximately $2 million is earmarked for the following projects. Projects indicated by ** received FY 97 funds in the amount contains in brackets.

Alabama ($39 million): Birmingham/Jefferson County buses, $12 million; Huntsville Intermodal Center, phase I, $10 million; Mobile Southern Market historic intermodal center, $1 million; Mobile Municipal Pier intermodal waterfront access rehabilitation project, $2 million; Mobile bus replacement, $3 million; Birmingham downtown intermodal transportation facility, phase 2, $6 million; Montgomery bus replacement, $3 million; Tuscaloosa bus replacement, $2 million

California ($17.7 million): Riverside County transit vehicle ITS communications, $1 million; Rialto MetroLink depot, $2.2 million; Modesto bus maintenance facility, $3.5 million; Foothills bus maintenance facility $9 [$4.75 million], and ATTB bus project, $2 million. [$3.173 million]

Colorado: ($11 million): Colorado Association of Transit Agencies, buses and equipment

Connecticut ($7.5 million): Bridgeport intermodal center [$1 million]

District of Columbia ($4 million): Fuel cell bus facilities

Florida ($14 million): Lakeland transit buses $1 million; Volusia County buses $2 million [$1.5 million]; Palm Beach buses $2 million; Metro Dade Transit buses and facilities $5 million; LYNSX Central Florida Regional Transportation Authority buses and bus facilities $4 million [$4 million].

Georgia ($5 million): Atlanta MARTA compressed natural gas buses [$2 million]

Hawaii ($10 million): Honolulu buses and facilities

Indiana ($4 million): Indianapolis Public Transportation buses [$1 million]

Iowa ($8 million): Statewide bus and bus facility projects, $5.5 million [$3.72 million] and Sioux City park and ride facility, $2.5 million.

Kansas ($2 million): Johnson Co. Bus maintenance/operations facility [$2.2 million]

Louisiana ($8 million): Statewide bus and bus facility projects, $5 million [$16.5 million]; New Orleans TRA central maintenance facility, $3 million

Maryland ($10 million): Mass Transit Administration buses and facilities [$5 million]

Massachusetts ($4 million): Springfield intermodal center, $1 million; Worcester Union Station intermodal center $3 million [$3 million]

Minnesota ($3 million): St. Paul, Snelling bus garage

Mississippi ($4 million): Jackson bus facility [$3 million]

Missouri ($32 million): Kansas City buses and fare bus collection system, $7 million [$2.65 million]; Kansas City Union Station intermodal center, $9 million [$6.5 million]; OATS rural bus programs, $16 million

Nevada ($8 million): Las Vegas transit system vehicles [$3.3 million]

New Jersey ($12 million): NJ transit alternative fuel buses

New Mexico ($11.8 million): Sante Fe buses and facilities, $1 million; Demonstration of universal electric transportation subsystems [DUETS], $1.3 million; statewide bus and bus facilities, $7.5 million; Las Cruces and Albuquerque park and ride, $1 million [$1 million]; Albuquerque uptown transit center, $1 million [$1 million]

New York ($47.05 million): Poughkeepsie intermodal facility, $4 million; Suffolk County buses, $4.3 million; Rensselaer County Intermodal facility, $3.750 million; Westchester County buses, $10 million; Nassau Co. Natural gas buses, $10 million, New York City natural gas buses, $15 million [$10 million]

North Carolina ($8.6 million): Chapel Hill University buses, $1.6 million; statewide bus and bus facilities, $7 million [$27.5 million]

Ohio ($12.5 million): Statewide bus and bus facilities [$27 million]

Oregon ($2 million): Salem and Corvallis bus and bus facilities, $2 million; Lane Transit District bus system in Eugene, $1 million. [$2.55 million]

Pennsylvania ($15 million): Philadelphia Eastwick intermodal center ($2 million) [$1 million]; SEPTA small buses, $2 million; Wilkes-Barre intermodal facility, $3 million; statewide bus and bus facility projects, $8 million

South Carolina ($11 million): Columbia buses and facilities, $3 million; Pee Dee Regional Planning Authority buses and facility, $7 million; Virtual Transit Enterprise, integration of transit information processing systems, $1 million

South Dakota ($4.5 million): Sioux Falls maintenance facility

Tennessee ($15 million): Statewide bus and bus facilities projects, [$2.5 million]

Texas ($23.9 million): Galveston Transit alternatively fueled buses, $3 million; Corpus Christi Transit Authority facilities and dispatching system, $3.9 million [$1 million]; Brazos Transit Authority transit facilities and buses, $4 million [$1.35 million]; Austin Capital Metro buses, $6 million, rural Texas bus replacement program, $5 million, and Fort Worth buses, $2 million.

Utah ($13.4 million): Utah Transit Authority Olympic park and ride lots, $4 million; Park City transit buses, $.4 million; Salt Lake City Utah transit authority bus acquisition, $4 million [$5.6 million]; Salt Lake City, Utah Transit Authority Olympic intermodal transportation centers, $5 million [$5.5 million]

Vermont ($4.750 million): Burlington multimodal facility, $3 million [$1.5 million]; statewide bus and bus facilities projects, $1.750 million [$4 million]

Virginia ($2 million): Richmond multimodal center [$10 million]

Washington ($22 million): Chelan-Douglas multimodal center, $2 million; Community Transit, Kasch Park facility, $3 million; Olympic Penisula International Gateway Transportation Center, $1 million; Whatcom Transportation Authority facilities, $3 million, King County metro commuter intermodal connector, $3 million [$4 million]; King County park and ride lots, $10 million

West Virginia ($28 million): Huntington intermodal facility and buses, $9.5 million; statewide buses and bus facilities, communications and computer systems, $18.5 million

Wisconsin ($15 million): Milwaukee rail station rehabilitation, $2 million; Wisconsin transit system buses, $13 million [$11.9 million]

Of $780,000,000 provided for New Mass Transit Facilities Discretionary Assistance and all but $5.8 million is earmarked in the bill. The Administration requested $634,000,000, all of which was earmarked to fund the federal share of the 14 projects with regional transit operator systems having Full Funding Grant Agreements with the Federal Transit Administration. The 14 projects are in, or ready to begin, construction. The Committee increased the administration requests for four projects, providing:

$30 million for Denver's project instead of $21.3 million

$35 million for MARC commuter instead of $26.9 million

$64 million for Hudson-Bergen, NJ instead of $54.7 million, and

$84 million for Salt Lake City's South light rail transit project instead of the $42.7 requested.

The Committee earmarked funds for 26 projects for which NO funds were requested, as follows. Projects marked with ** received FY 97 funding in the amount shown in parentheses.

$1 million for Austin Capital Metro

$2 million for Boston urban ring

** $8 million for Burlington-Essex, Vermont commuter rail ($1 million)

$800,000 for Canton-Akron-Cleveland commuter rail

$3 million for Charleston, SC monobeam rail project

$500,000 for Cincinnati Northeast/Northern Kentucky rail line project

$5 million Clark County Nevada rapid transit commuter fixed guideway

** $14 million for DART north central light rail extension ($11 million)

$50 million for the East Side access project in New York

** $12 million for Florida tricounty commuter rail ($9 million)

$4 million for the Galveston rail trolley system

$2 million for the Griffin light rail project in Hartford, CT

$1.5 million for the Indianapolis northeast corridor

** $3 million for the Jackson, Mississippi intermodal corridor ($5.5 million)

** $1 million for the Memphis regional rail plan ($3.03 million)

$500,000 for the Nassau hub rail link environmental impact statement

** $4 million for the New Orleans Desire streetcar line reconstruction ($2 million)

** $14 million for North Carolina Research Triangle Park ($2 million)

** $6 million for Northern Indiana South Shore commuter rail ($500,000)

** $2 million for Oklahoma city MAPS corridor transit system ($2 million)

** $31.8 million for Orlando Lynx light rail project ($2 million)

** $8 million for the Pittsburgh busway projects ($10 million)

$2 million for Roaring Fork Aspen Valley rail

$8 million for Salt Lake City regional commuter systems

$24 million for Seattle-Tacoma light rail and commuter rail, and

$500,000 for Springfield-Branson, MO commuter rail

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

$450,000 is earmarked for a "transportation emergency preparedness and response demonstration projects on the threat of tornadoes in the Southern and Midwestern States. Of the total, $400,000 is to be used to assist in "the construction and establishment of an underground emergency transportation management center utilizing satellite communications." According to the report, the center "shall be located in a region that is susceptible to tornadoes and at an elevation of over 1,300 feet above sea level . . . and be within reasonably close proximity to military, space and/or nuclear facilities to provide rapid response time."

The bill contains a general provision prohibiting any funds in the bill from being expended unless Buy American Act provisions are complied with.

TERMINAL AUTOMATED RADAR DISPLAY AND INFORMATION SYSTEM AT PAINE FIELD IN WASHINGTON STATE

Mr. GORTON. Mr. President, I commend the chairman of the Appropriations Subcommittee on Transportation for the excellent job he has done on this bill, and in particular for the priority he has given to airports. The chairman has been very accommodating in looking out for the interests of Washington State. There is one program, however, that we did not address in this bill, and I would like to seek the chairman's assistance in seeing that the issue can be raised in conference. Paine Field in Everett, WA, is currently the third busiest airport in the State. In addition to being the airport from which Boeing tests its 747, 767, and 777 aircraft, I understand that a commercial airline has indicated its interest in operating from Paine Field. Despite the growing traffic, Paine Field does not have a radar system, and air traffic controllers currently use binoculars and reports from pilots to determine the positions of aircraft relative to each other.

I understand that while most radar air traffic control systems can be quite expensive, there is a new system that is far less costly and could be appropriate for testing at airports like Paine Field. This technology, called the terminal automated radar display and information system, or TARDIS, essentially reproduces in the air traffic control tower, radar images generated elsewhere. In the case of Paine Field, the data may be obtained from nearby Fort Lawton.

While it remains to be seen whether this TARDIS system is, in fact, appropriate for Paine Field, I would appreciate the chairman's assistance in revisiting this issue in conference with an eye to including report language urging the FAA to give full consideration to installing a TARDIS system at Paine Field.

Mr. SHELBY. I thank the senior Senator from Washington for his kind words, and assure him that I look forward to working with him during conference on the issue of TARDIS at Paine Field, and other issues of interest to Washington State.

APPALACHIAN DEVELOPMENT HIGHWAY

Mr. McCONNELL. Mr. President, I have come to the floor today to raise a matter that is of great concern to me and that is the inequitable repayment policy of the Appalachian Development Highway System [ADHD] Program. States like Kentucky, Tennessee, Georgia, Mississippi, and New York, which have prefinanced Appalachian road projects, are reimbursed at a 70-percent Federal match, while States expending funds for new mileage receive an 80-percent match.

Unfortunately, this error will cost Kentucky at least $7 million if it isn't corrected. Kentucky is one of five States to prefinance Appalachian development highway projects. According to the Appalachian Regional Commission, this error will cost those States up to $30 million.

It is my understanding that this inequity is due to clerical error that occurred during consideration of the Surface Transportation Assistance Act of 1978. Language amending subsection (f) regarding regular highway funding was included, but subsection (h) on prefinancing was inadvertently left out. Both the Carter and Reagan administrations attempted to fix this inequity, but not of the efforts have succeeded.

I have requested the assistance of both the bill managers in correcting the problem. I have also sought the advice of Senator JOHN WARNER, the chairman of the Subcommittee on Transportation, which has the responsibility of authorizing this program. I appreciate their willingness to assist me in finding a solution to this problem.

Mr. President, I would like to ask the chairman of the subcommittee, Senator SHELBY his views on this matter.

Mr. SHELBY. Mr. President, the committee is aware that States have prefinanced construction projects authorized under the Appalachian highway program are reimbursed at 70 percent Federal share, while those States expending funds for the new mileage receive an 80-percent Federal share. The committee recognizes that this provision treats those States that have taken the initiative to prefinance these needed road projects differently and urges the appropriate authorizing committee to consider correcting this funding inequity over the period during which funds are made available to complete the ADHS.

Mr. McCONNELL. Mr. President, I would like to ask Senator WARNER if he agrees with my assessment of the problem and would help me correct this error in the reauthorization of the surface transportation bill, which is set to expire on September 30.

Mr. WARNER. Mr. President, I would like to thank the gentleman from Kentucky, Mr. McCONNELL, for his leadership in raising this matter. I agree that this inequitable reimbursement rate for States who prefinance construction projects should be addressed. As the chairman of the Transportation and Infrastructure Subcommittee of the Committee on Environment and Public Works, I will bring this matter to the attention of my committee colleagues and work to correct this problem in the surface transportation reauthorization bill.

Mr. INOUYE. Mr. President, I rise to expound upon a provision in the Transportation appropriations bill to forgive the State of Hawaii from its obligation to repay $30 million owed to the Airport Revenue Fund for ceded land payments to the Office of Hawaiian Affairs [OHA].

Current law states that airport revenues can only be used for airport purposes. The U.S. Department of Transportation's inspector general found in September of 1996, that the approximately $30 million in ceded land payments made from the Hawaii Airport Revenue Fund were not in compliance with the law. In April of this year, the U.S. Department of Transportation affirmed the decision, and is seeking the repayment of those moneys.

A continuation of the status quo—continued ceded land payments from the Airport Revenue Fund—was not possible. It was counter to the U.S. Department of Transportation's position and policy. I did not have the support of my colleagues to legislate its continuation. At this time, forgiveness of the $30 million debt was possible and achievable. I thank my colleagues for allowing for the congressional forgiveness of an airport revenue diversion in order to aid the State of Hawaii and the Office of Hawaiian Affairs.

However, I would like to make clear that as a result of the U.S. Department of Transportation ruling and the pending legislation, the removal of the Airport Revenue Fund for use by the State of Hawaii as a source of compensating the Office of Hawaiian Affairs for use of ceded lands upon which the airports sit, should not equate to a like reduction in the State's obligation to OHA under State law. This forgiveness provision should not be construed as a forgiveness of the State's obligation to OHA.

The airports continue to sit on ceded lands. The State's obligation to compensate OHA for the use of the land upon which the airports sit should also continue. The only difference would now be the source the State will draw upon to satisfy its obligation. I have viewed my role as aiding in alleviating the accumulated debt to reduce the pressure, and thereby allow the State and OHA to return to the negotiating table to work toward a mutually acceptable course of action that accepts as a premise, the existence of an obligation.

To ensure that my intent is clear in this regard, I have requested the inclusion of the following provision in section 335:

> Nothing in this Act shall be construed to affect any existing statutes of the several states that define the obligations of such states to Native Hawaiians, Native Americans or Alaskan Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy any such obligations.

Mr. President, in light of the unique history of Hawaii's ceded lands and the obligations that flow from these lands for the betterment of the native Hawaiian people, I believe that this is more than a fiscal matter, this is a fiduciary matter—one of trust and obligation. Section 335 ensures that the State of Hawaii and OHA would not be required to return funds already in their possession. It is my expectation that this will calm the waters and clear the way for reasoned negotiations as the State, in good faith, looks to satisfy its obligations from other sources.

Mr. SHELBY. Mr. President, I know of no further amendments to S. 1048 at this time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The clerk will report the House companion bill.

The legislative clerk read as follows:

> A bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The PRESIDING OFFICER. All after the enacting clause is stricken and the text of S. 1048, as amended, is inserted.

Under the previous order, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill was read the third time.

Mr. SHELBY. I ask unanimous consent that the vote occur on passage of H.R. 2169 immediately following the vote with respect to S. 39, the tuna-dolphin bill, which will occur tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, rule XII is waived as well.

MEASURE READ FOR FIRST TIME—S. 1085

Mr. LAUTENBERG. Mr. President, it is my understanding that S. 1085, introduced earlier by Senator WELLSTONE, is at the desk. I ask for its first reading under rule XIV.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1085) to improve the management of the Boundary Waters Canoe Area Wilderness, and for other purposes.

Mr. LAUTENBERG. Mr. President, I now ask for a second reading and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREGNANCY-BASED SEX DISCRIMINATION IN MEXICO'S MAQUILADORA INDUSTRY

Mr. LEAHY. Mr. President, I want to bring to the attention of the Senate that Human Rights Watch, the International Labor Rights Fund, and Mexico's National Association of Democratic Lawyers have asked the U.S. National Administrative Office [U.S. NAO] to investigate reports of widespread pregnancy-based sex discrimination in Mexico's maquiladora industry.

These organizations report that maquiladoras routinely administer pregnancy exams to prospective female employees in order to deny them work, in blatant violation of their privacy. Female employees face invasive questions about contraceptive use, sexual activity, and menses schedules. In some cases, women who become pregnant after being hired are forced to resign. Maquiladora owners fear that pregnant women will reduce production standards and that legally mandated maternity benefits will drain industry money. The report concludes that the Mexican Government has failed to investigate these discriminatory practices in violation of their own laws and NAFTA.

The request for an investigation is the first of its kind that has been brought before the U.S. NAO. The case represents an important opportunity to convey to our trading partners and United States corporations who have operations in Mexico that sex discrimination is intolerable, illegal, and in violation of NAFTA.

As we consider expanding NAFTA benefits to the Caribbean Basin and other South American countries, the United States should demonstrate to our trading partners that we take labor rights violations seriously. I hope the U.S. NAO will consider this case expeditiously and I look forward to its report. The priviledge of free trade and its economic benefits should be conditional upon the trading partners abiding by the same labor and environmental laws.

THE SHAW'S SUPERMARKET LABOR CONTROVERSY

Mr. KENNEDY. Mr. President, for the past 2 days, 6,500 workers have been on strike at the Shaw's Supermarket chain in southeastern Massachusetts and Rhode Island. These workers are members of the United Food and Commercial Workers Union. For months, they negotiated in good faith with their employer in an effort to reach a collective bargaining agreement fair to both sides.

But no agreement could be reached. The company insisted on cutting health care benefits and requiring the employees to pay part of the premium. The company also proposed to reduce sick leave and cut back on job security protections. In addition, the company would not even consider the wage increase that the workers are seeking.

The company left workers no choice but to go on strike when their current contract expired—and at midnight last Sunday they did so.

Many of the affected employees earn less than $6 an hour. All of them count on health benefits for themselves and their families. These employees include Marilyn and Donnie Henderson, a husband and wife from Easton, MA. They began working at Shaw's over 15 years ago, when the company was a family-owned business. Now it is owned by a corporation based in Britain. Donnie Henderson suffers from emphysema. He needs the health insurance. So do the couple's children, one of whom is disabled.

The Hendersons and thousands like them are hardworking, dedicated employees of Shaw's. They went on strike only as a last resort, because they can't afford to take the cuts the company demanded.

Today, it appears that the company and union have reached a tentative settlement of their dispute. Union members will vote tomorrow on whether to ratify the agreement. Employees could be back on the job by this weekend.

All of us agree that labor disputes are best resolved when the parties themselves can reach agreement. I am hopeful that this is what has happened between Shaw's and its employees.

But, if the matter is not resolved, and workers are forced to continue to walk picket lines, I am concerned that the company might again turn to the use of replacement workers. Shaw's used replacements from the beginning of this strike, and I regret that. This tactic is hostile to loyal workers like the Hendersons, and hostile to the collective bargaining process. In strikes where permanent replacements are used, workers lost the most, but studies show that everyone else loses as well. Employers suffer, too, because strikes are prolonged.

According to a study of the period from 1935 to 1973, the average duration of a strike was seven times longer in cases where permanent replacements were used.

Another study found that, where employers neither announced an intention to hire permanent replacements nor actually hired them, the average length of strikes was 27 days, but it soared to 84 days when permanent replacements were hired.

The ability to hire permanent replacements tilts the balance unfairly in favor of businesses in labor-management relations. Hiring permanent replacements encourages management intransigence in negotiating with labor. That practice encourages employers to replace current workers with new workers willing to settle for less—to accept smaller paychecks and other benefits.

This tradeoff is unacceptable for the 6,500 striking workers at Shaw's Supermarkets, and it is unacceptable for working men and women across the country. Therefore, if the tentative settlement between Shaw's and its employees breaks down, and Shaw's tries to hire replacement workers again, I intend to offer legislation to prohibit this practice. The Workplace Fairness Act will ensure that the right to join a union and bargain over wages and employment conditions remains a meaningful right, instead of a hollow promise. The bill reaffirms our commitment to the collective bargaining process, and to a fair balance between labor and management.

I am hopeful that employees and Shaw's management will resolve all their differences this week. But if they do not, and replacement workers appear at the supermarkets again, I intend to offer a bill to outlaw that tactic, and will urge my colleagues to approve it.

WILLIAM J. BRENNAN, JR., GUARDIAN OF THE CONSTITUTION

Mr. MOYNIHAN. Mr. President, current Supreme Court Justice David Souter captured the legacy of jurisprudence left behind by William J. Brennan Jr., when he said: "Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have."

In an era when no institution is more embattled than the U.S. Constitution, we must make special note of the passing of such ardent guardians. In a manner that endeared him equally to friend and foe, Justice Brennan matched the importance of his decisions with literary acumen. With language that could be compared to the authors of the Constitution, Justice Brennan guarded the constitutional principles—most especially the freedom to criticize one's government.

Madison's original version of the first amendment submitted on June 8, 1789, provided that: "The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable." Justice Brennan's identification of Madison's inviolable protection was crucial during the civil rights movement when members of the press were being figuratively gagged for their criticism of public officials. Thus, Brennan wrote in The New York Times versus Sullivan:

> We consider this case against the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials. * * *
>
> A rule compelling the critic of official conduct to guarantee the truth of all his factual assertions—and to do so on pain of libel judgments virtually unlimited in amount—leads to a comparable "self censorship." Allowance of the defense of truth, with the burden of proving it on the defendant, does not mean that only false speech will be deterred. * * *
>
> Under such a rule, would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so. They tend to make only statements which "steer far wider of the unlawful zone." The rule thus dampens the vigor and limits the variety of public debate. It is inconsistent with the 1st and 14th Amendments.

In 1789, James Madison warned that, "If we advert to the nature of republican government, we shall find that the censorial power is in the people over the government, and not in the government over the people." Exactly 200 years later, Brennan expanded this underlying premise of constitutionally protected forms of free expression in the case, Texas versus Johnson, 1989:

> If there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable. * * *
>
> There is, moreover, no indication—either in the text of the Constitution or in our cases interpreting it—that a separate juridical category exists for the American flag alone. Indeed, we would not be surprised to learn that the persons who framed our Constitution and wrote the amendment that we now construe were not known for their reverence for the Union Jack.
>
> The first amendment does not guarantee that other concepts virtually sacred to our Nation as a whole—such as the principle that discrimination on the basis of race is odious and destructive—will go unquestioned in the marketplace of ideas.
>
> We decline, therefore, to create for the flag an exception to the joust of principles protected by the First Amendment. * * *
>
> The way to preserve the flag's special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong * * * We can imagine no more appropriate response to burning a flag than waving one's own. * * *

Justice Brennan came to embody the defense of a Madisonian concept of the first amendment. We shall not soon forget his legacy, nor the critical mantle he has left behind.

I ask unanimous consent that an Editoral from the New York Times of July 25, and an article by Anthony Lewis of July 28, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUSTICE BRENNAN'S VISION

William J. Brennan Jr., who died yesterday at the age of 91, brought to his long and productive career on the United States Supreme Court a tenacious commitment to advancing individual rights and the Constitution's promise of fairness and equality. He served for 34 years, a tenure that spanned eight Presidents.

Named to the Court in 1956 by Dwight Eisenhower, Justice Brennan saw the law not as an abstraction but as an immensely powerful weapon to improve society and enlarge justice. As such, he was a crucial voice on the Warren Court of the 1960's, a body that boldly expanded the role of the Federal courts and the Constitution itself to protect individual liberties.

Yet even when the Court shifted in a more conservative direction under Chief Justices Warren Burger and, later, William Rehnquist, Justice Brennan was not content to play a marginal role as an eloquent dissenter. Armed with a keen intellect, a forceful personality and a gift for building coalitions, he had surprising success in mustering narrow majorities to keep alive the legacy of the Warren Court and its core notion that the Constitution was a living document that could and should be interpreted aggressively.

"There is no individual in this country, on or off the Court, who has had a more profound and sustained impact upon public policy in the United States for the past 27 years," said an article in the conservative journal National Review in 1984, and it is hard to disagree with that assessment. Justice Brennan was the author of 1,350 opinions, many of them landmark rulings that altered the political and social landscape.

He left his mark on a wide range of issues. Banker v. Carr, in 1962, asserted the one-person-one-vote doctrine that transformed democracy and, through reapportionment, the composition of the nation's legislatures. His famous First Amendment ruling in New York Times v. Sullivan in 1964 reconfigured the law of libel to give "breathing space" for free expression and the robust debate of public issues. In Goldberg v. Kelly, a 1970 ruling of which he was particularly proud, Justice Brennan initiated what turned out to be a steady expansion of the 14th Amendment's guarantee of due process by ruling that a state could not terminate a welfare recipient's benefits without a hearing.

Over all, Justice Brennan's greatness was rooted in his vision of the law as a moral force and his understanding that the "genius of the Constitution" would be betrayed if the Court insisted on the narrow, static doctrine of original intent, the notion that the Constitution can best be interpreted through the eyes of the Framers. The unique feature of the Constitution, he argued instead, was "the adaptability of its great principles to cope with current problems and needs."

That vision and driving passion are not thriving in today's Court. Like Justice Brennan himself, they are sorely missed.

ABROAD AT HOME

(By Anthony Lewis)

REASON AND PASSION

MINNEAPOLIS.—William J. Brennan Jr. once said, in conversation, that every Supreme Court justice with whom he had served was as committed as he was to the Constitution. It was not just an idle remark. He meant that he respected his colleagues' faith in their differing understandings of what the Constitution requires.

Justice Brennan's extraordinary influence on the Court, his ability to shape majorities, was often ascribed to his personal charm and kindness. But those qualities would not have persuaded men and women of strong views. I think, rather, that his colleagues felt his respect for them—and felt in him an intellectual force that was the stronger because it was accompanied not by arrogance but by modesty.

Justice Brennan's character won him affection on the Court across ideological lines. Justice Antonin Scalia, calling him "probably the most influential justice of the century," said. "Even those who disagree with him the most love him." Justice David Souter, who was appointed to the Court on Justice Brennan's retirement in 1990, was pressed at his confirmation hearing to distance himself from the expansive Brennan view of human dignity and freedom. He said: "Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have."

Outside the Court, Justice Brennan's critics on the political right denounced him in extravagant terms, calling him an "activist" who invented constitutional protections of liberty. But even in their own terms those critics missed the point.

In the great decisions with which he is especially linked, Justice Brennan was passionately faithful to the principles that the Framers expressed in the spacious phrases of the Constitution: "the freedom of speech," "due process of law" and the rest. What he did was to apply those principles to changed conditions.

Thus James Madison, drafter of the First Amendment, intended it to protect Americans' right to criticize their rulers—however harshly, even falsely. At the time, civil libel actions did not menace that freedom. But when Southern politicians began using libel, in the 1960's, as a way to threaten press reporting of the civil rights movement. Justice Brennan saw that libel suits, too, must conform to Madison's principle. That was the thrust of his majestic opinion in New York Times v. Sullivan.

Again, the courts over many years kept hands off the issue of legislative districting. But when state legislatures came to be controlled by small numbers of voters in rural districts, and the legislators in power refused to redistrict, Justice Brennan grasped the challenge to democracy. His remarkable opinion in Baker v. Carr in 1962—one that no other justice could have made the Court's—opened the way for a judicial scrutiny that is now universally accepted.

More broadly, Justice Brennan saw that the Constitution's guarantees must be applied to the reality of the vast expansion of government in modern times. In Goldberg v. Kelly in 1970, he wrote for the Court that government benefits—on which so many now depend—could not be withdrawn without notice and a hearing.

He "translated from the level of principle to legal reality," Justice Stephen Breyer said, adding: "That is an enormous contribution."

We have a more conservative Supreme Court now, and it has overturned some of Justice Brennan's opinions. But the heart of his legacy remains. Part of that legacy is in the institution itself.

Here in Minneapolis the other day, at the Eighth Circuit Judicial Conference, Justice Clarence Thomas spoke movingly of the Court and Justice Brennan. "I don't think there was a more decent or more brilliant human being," he said. He described how well the justices get along today despite their differences; he said he hoped Americans would get over "the presumption that all is wrong with our institutions" and realize that "they are working and those in them deserve our respect."

Justice Brennan left us his vision of American freedom. Just before his retirement he wrote the Court's opinion in the second flag-burning case. "We are aware," he said, "that desecration of the flag is deeply offensive to many." But "punishing the desecration of the flag dilutes the very freedom that makes this emblem so revered, and worth revering."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ENTITLED "U.S. ARCTIC RESEARCH PLAN, BIENNIAL REVISION: 1998–2002"—MESSAGE FROM THE PRESIDENT—PM 57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 4108(a)), I transmit herewith the fifth biennial revision (1998–2002) to the United States Arctic Research Plan.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 29, 1997.*

MESSAGES FROM THE HOUSE

At 11:25 a.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 103. An act to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

H.R. 1596. An act to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes.

H.R. 1855. An act to establish a moratorium on large fishing vessels in Atlantic herring and mackerel fisheries.

H.R. 1953. An act to clarify State authority to tax compensation paid to certain employees.

H.R. 2005. An act to amend title 49, United States Code, to clarify the application of the Act popularly known as the "Death on the High Seas Act" to aviation incidents, and for other purposes.

H.R. 2209. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1998, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con Res. 74. Concurrent resolution concerning the situation between the Democratic People's Republic of Korea and the Republic of Korea.

H. Con. Res. 98. Concurrent resolution authorizing the use of the Capitol grounds for the SAFE KIDS Buckle Up Car Seat Safety Check.

H. Con. Res. 124. Concurrent resolution expressing the sense of the Congress regarding acts of illegal aggression by Canadian fishermen with respect to the Pacific salmon fishery, and for other purposes.

The message further announced that the House has passed the following bills, without amendment:

S. 430. An act to amend the Act of June 20, 1910, to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds.

S. 670. An act to amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States.

The message also announced that pursuant to clause 6 of rule X, the Speaker announced the following modifications to the conference appointment to the bill (H.R. 1119) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

Mr. McKEON is added to the panel for the Committee on National Security to follow Mr. BARTLETT.

The first proviso to the panel from the Committee on Resources is stricken.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1757) to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and ensure that the enlargement of the North Atlantic Treaty Organization [NATO] proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes, and requests a conference with the Senate on the disagreeing votes of the two Houses thereon;

And appoints the following Members as the managers of the conference on the part of the Houses:

For the consideration of the House bills (except title XXI) and the Senate amendment, and modification committed to conference: Mr. GILMAN, Mr. LEACH, Mr. HYDE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, and Mr. BERMAN.

For the consideration of title XXI of the House bill, and modifications committed to conference: Mr. GILMAN, Mr. HYDE, Mr. SMITH of New Jersey, Mr. HAMILTON, and Mr. GEJDENSON.

At 5:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 75. Concurrent resolution expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1348. An act to amend title 28, United States Code, relating to war crimes.

H.R. 2266. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1348. An act to amend title 18, United States Code, relating to war crimes; to the Committee on the Judiciary.

H.R. 1596. An act to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

H.R. 1855. An act to establish a moratorium on large fishing vessels in Atlantic herring and mackerel fisheries; to the Committee on Commerce, Science, and Transportation.

H.R. 1953. An act to clarify State authority to tax compensation paid to certain employees; to the Committee on Governmental Affairs.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 74. Concurrent resolution concerning the situation between the Democratic People's Republic of Korea, and for other purposes; to the Committee on Foreign Relations.

H. Con Res. 75. Concurrent resolution expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals servicing abbreviated sentences; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following measures were read the first and second times by unanimous consent and placed on the calendar:

H Con. Res. 98. Concurrent resolution authorizing the use of the Capitol Grounds for the SAFE KIDS Buckle Up Car Seat Safety Check.

H. Con. Res. 124. Concurrent resolution expressing the sense of the Congress regarding acts of illegal aggression by Canadian fishermen with respect to the Pacific salmon fishery, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2617. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, a rule regarding debt collection received on July 23, 1997; to the Committee on Finance.

EC-2618. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 97-31 received on July 22, 1997; to the Committee on Finance.

EC-2619. A communication from the Assistant Commissioner (Examination), Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Maquiladora Industry Coordinated Issue Revision" received on July 23, 1997; to the Committee on Finance.

EC-2620. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule received on July 21, 1997; to the Committee on Finance.

EC-2621. A communication from the National Director, Tax Forms and Publications Division, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report relative to Revenue Procedure 97-32 received on July 22, 1997; to the Committee on Finance.

EC-2622. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to agricultural quarantine and inspection services (RIN0579-AA81), received on July 24, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2623. A communication from the Administrator, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to building grants program (RIN0524-AA03), received on July 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2624. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to limited ports, received on July 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2625. A communication from the Administrator, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to Higher Education Challenge Grants Program (RIN0524-AA02), received July 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2626. A communication from the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to popcorn promotion, received on July 23, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2627. A communication from the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to Federal milk orders, received on July 23, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2628. A communication from the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to sheep promotion, research, and information, received on July 23, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2629. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to brucellosis in cattle, received on July 22, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2630. A communication from the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to onions grown in south Texas, received on July 17, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2631. A communication from the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to almonds grown in California, received on July 16, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2632. A communication from the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to amending the marketing order of almonds in California on July 16, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2633. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the Farm Credit Administration's report for calendar year 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2634. A communication from the Administrator, Farm Service Agency, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to Inventory Property Management Provisions (RIN0560–AE88); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2635. A communication from the Secretary of Agriculture, transmitting, pursuant to law, framework for hiring welfare recipients; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2636. A communication from the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of a rule relative to soybean promotion and research, received on July 15, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2637. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to farm labor housing loans; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2638. A communication from the Director, Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report of four rules including one relative to sodium salt of aciflourfen, received on July 24, 1997 to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 1078. A bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 1079. A bill to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment; to the Committee on Indian Affairs.

By Mr. AKAKA (for himself, Mr. CRAIG, Mr. LEAHY, and Mr. DASCHLE):

S. 1080. A bill to amend the National Aquaculture Act of 1980 to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Mr. KENNEDY):

S. 1081. A bill to enhance the rights and protections for victims of crime; to the Committee on the Judiciary.

By Mr. BIDEN (for himself and Mr. HAGEL):

S. 1082. A bill to authorize appropriations to pay for United States contributions to certain international financial institutions; to the Committee on Foreign Relations.

By Mr. MACK (for himself, Mr. HUTCHINSON, and Mr. ASHCROFT):

S. 1083. A bill to provide structure for and introduce balance into a policy of meaningful engagement with the People's Republic of China; to the Committee on Foreign Relations.

By Mr. INHOFE (for himself and Mr. BREAUX):

S. 1084. A bill to establish a researh and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WELLSTONE:

S. 1085. A bill to improve the management of the Boundary Waters Canoe Area Wilderness, and for other purposes; read the first time.

By Mr. HELMS:

S. 1086. A bill to support the autonomous governance of Hong Kong after its reversion to the People's Republic of China; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GLENN:

S. Con. Res. 45. Concurrent resolution commending Dr. Hans Blix for his distinguished service as Director General of the International Atomic Energy Agency on the occasion of his retirement; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 1078. A bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on the Judiciary.

THE GUAM WAR RESTITUTION ACT

Mr. INOUYE. Mr. President, for nearly 3 years, the people of Guam endured war time atrocities and suffering. As part of Japan's assault against the Pacific, Guam was bombed and invaded by Japanese forces within 3 days of the infamous attack on Pearl Harbor. At that time, Guam was administered by the United States Navy under the authority of a Presidential Executive order. It was also populated by then American nationals. For the first time since the War of 1812, a foreign power invaded United States soil.

In 1952, when the United States signed a peace treaty with Japan, formally ending World War II, it waived the rights of American nationals, including those of Guamanians, to present claims against Japan. As a result of this action, American nationals were forced to seek relief from the Congress of the United States.

Today, I rise to introduce the Guam War Restitution Act, which would amend the Organic Act of Guam and provide restitution to those who suffered atrocities during the occupation of Guam in World War II. There are several key components to this measure.

The Restitution Act would establish specific damage awards to those who are survivors of the war, and to the heirs of those who died during the war. The specific damage awards would be as follows: First, $20,000 for death; second, $7,000 for personal injury; and third, $5,000 for forced labor, forced march, or internment.

The Restitution Act would also establish specific damage benefits to the heirs of those who survived the war, who made previous claims but have since died. The specific damage benefits would be as follows: First, $7,000 for personal injury; and second, $5,000 for forced labor, forced march, or internment. Payments for benefits may either be in the form of a scholarship, payment of medical expenses, or a grant for first-time home ownership.

This act would also establish a Guam trust fund from which disbursements will be made. Any amount left over in the Fund would be used to establish the Guam World War II Loyalty Scholarships at the University of Guam.

A nine-member Guam Trust Fund Commission would be established to adjudicate and award all claims from the Trust Fund.

The United States Congress previously recognized its moral obligation to the people of Guam and provided reparations relief by enacting the Guam Meritorious Claims Act on November 15, 1945 (Public Law 79–224). Unfortunately, the Claims Act was seriously flawed and did not adequately compensate Guam after World War II.

The Claims Act primarily covered compensation for property damage and limited compensation for death or personal injury. Claims for forced labor, forced march, and internment were never compensated because the Claims Act excluded these from awardable injuries. The enactment of the Claims Act was intended to make Guam whole. The Claims Act, however, failed to specify postwar values as a basis for computing awards, and settled on prewar values, which did not reflect the true postwar replacement costs. Also, all property damage claims in excess of $5,000, as well as all death and injury claims, required congressional review and approval. This action caused many eligible claimants to settle for less in order to receive timely compensation. The Claims Act also imposed a 1-year time limit to file claims, which was insufficient as massive disruptions still existed following Guam's liberation. In addition, English was then a second language to a great many Guamanians. While a large number spoke English, few could read it. This is particularly important since the Land and War Claims Commission required written statements and often communicated with claimants in writing.

The reparations program was also inadequate because it became secondary to overall reconstruction and the building of permanent military bases. In this regard, the Congress enacted the Guam Land Transfer Act and the Guam Rehabilitation Act (Public Laws 79–225 and 79–583) as a means of rehabilitating Guam. The Guam Land Transfer Act provided the means of exchanging excess Federal land for resettlement purposes, and the Guam Rehabilitation Act appropriated $6 million to construct permanent facilities for the civic populace of the island for their economic rehabilitation.

Approximately $8.1 million was paid to 4,356 recipients under the Guam Meritorious Claims Act. Of this amount, $4.3 million was paid to 1,243 individuals for death, injury, and property damage in excess of $5,000, and $3.8 million to 3,113 recipients for property damage below $5,000.

On June 3, 1947, former Secretary of the Interior Harold Ickes testified before the House Committee on Public Lands relative to the Organic Act, and strongly criticized the Department of the Navy for their "inefficient and even brutal handling of the rehabilitation and compensation and war damage tasks." Secretary Ickes termed the procedures as shameful results.

In addition, a committee known as the Hopkins Committee was established by former Secretary of the Navy James Forrestal in 1947 to assess the Navy's administration of Guam and American Samoa. An analysis of the Navy's administration of the reparation and rehabilitation programs was provided to Secretary Forrestal in a March 25, 1947 letter from the Hopkins Committee. The letter indicated that the Department's confusing policy decisions greatly contributed to the programs' deficiencies and called upon the Congress to pass legislation to correct its mistakes and provide reparations to the people of Guam.

In 1948, the United States Congress enacted the War Claims Act of 1948 (Public Law 80–896), which provided reparation relief to American prisoners of war, internees, religious organizations, and employees of defense contractors. The residents of Guam were deemed ineligible to receive reparations under this Act because they were American nationals and not American citizens. In 1950, the United States Congress enacted the Guam Organic Act (81–630), granting Guamanians American citizenship and a measure of self-government.

The Congress, in 1962, amended the War Claims Act to provide for claimants who were nationals at the time of the war and who became citizens. Again, the residents of Guam were specifically excluded. The Congress believed that the residents of Guam were provided for under the Guam Meritorious Claims Act. At that time, there was no one to defend Guam, as they had no representation in Congress. The Congress also enacted the Micronesian Claims Act for the Trust Territory of the Pacific Islands, but again excluded Guam in the settlement.

In 1988, the now inactive Guam War Reparations Commission documented 3,365 unresolved claims. There are potentially 5,000 additional unresolved claims. In 1946, the United States provided over $390 million in reparations to the Philippines, and over $10 million to the Micronesian Islands in 1971 for atrocities inflicted by Japan. In addition, the United States provided over $2 billion in postwar aid to Japan from 1946 to 1951. Further, the United States government liquidated over $84 million in Japanese assets in the United States during the war for the specific purpose of compensating claims of its citizens and nationals. The United States did not invoke its authority to seize more assets from Japan under Article 14 of the Treaty of Peace, as other Allied Powers had done. The United States, however, did close the door on the claims of the people of Guam.

A companion measure to my bill, H.R. 2200, was introduced in the House of Representatives by Representative ROBERT UNDERWOOD. The issue of reparations for Guam is not a new one for the people of Guam and for the United States Congress. It has been consistently raised by the Guamanian government through local enactments of legislative bills and resolutions, and discussed with congressional leaders over the years.

The Guam War Restitution Act cannot fully compensate or erase the atrocities inflicted upon Guam and its people during the occupation by the Japanese military. However, passage of this Act would recognize our Government's moral obligation to Guam, and bring justice to the people of Guam for the atrocities and suffering they endured during World War II. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guam War Restitution Act".

SEC. 2. AMENDMENT TO ORGANIC ACT OF GUAM TO PROVIDE RESTITUTION.

The Organic Act of Guam (48 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 35. RECOGNITION OF DEMONSTRATED LOYALTY OF GUAM TO UNITED STATES, AND SUFFERING AND DEPRIVATION ARISING THEREFROM, DURING WORLD WAR II.

"(a) DEFINITIONS.—For purposes of this section:

"(1) AWARD.—The term 'award' means the amount of compensation payable under subsection (d)(2).

"(2) BENEFIT.—The term 'benefit' means the amount of compensation payable under subsection (d)(3).

"(3) COMMISSION.—The term 'Commission' means the Guam Trust Fund Commission established by subsection (f).

"(4) COMPENSABLE INJURY.—The term 'compensable injury' means one of the following three categories of injury incurred during and as a result of World War II:

"(A) Death.

"(B) Personal injury (as defined by the Commission).

"(C) Forced labor, forced march, or internment.

"(5) GUAMANIAN.—The term 'Guamanian' means any person who—

"(A) resided in the territory of Guam during any portion of the period beginning on December 8, 1941, and ending on August 10, 1944, and

"(B) was a United States citizen or national during such portion.

"(6) PROOF.—The term 'proof' relative to compensable injury means any one of the following, if determined by the Commission to be valid:

"(A) An affidavit by a witness to such compensable injury;

"(B) A statement, attesting to compensable injury, which is—

"(i) offered as oral history collected for academic, historic preservation, or journalistic purposes;

"(ii) made before a committee of the Guam legislature;

"(iii) made in support of a claim filed with the Guam War Reparations Commission;

"(iv) filed with a private Guam war claims advocate; or

"(v) made in a claim pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582).

"(7) TRUST FUND.—The term 'Trust Fund' means the Guam Trust Fund established by subsection (e).

"(b) REQUIREMENTS FOR CLAIMS AND GENERAL DUTIES OF COMMISSION—

"(1) REQUIRED INFORMATION FOR CLAIMS.—Each claim for an award or benefit under this section shall be made under oath and shall include—

"(A) the name and age of the claimant;

"(B) the village in which the individual who suffered the compensable injury which is the basis for the claim resided at the time the compensable injury occurred;

"(C) the approximate date or dates on which the compensable injury occurred;

"(D) a brief description of the compensable injury which is the basis for the claim;

"(E) the circumstances leading up to the compensable injury; and

"(F) in the case of a claim for a benefit, proof of the relationship of the claimant to the relevant decedent.

"(2) GENERAL DUTIES OF THE COMMISSION TO PROCESS CLAIMS.—With respect to each claim filed under this section, the Commission shall determine whether the claimant is eligible for an award or benefit under this section and, if so, shall certify the claim for payment in accordance with subsection (d).

"(3) TIME LIMITATION.—With respect to each claim submitted under this section, the Commission shall act expeditiously, but in no event later than 1 year after the receipt of the claim by the Commission, to fulfill the requirements of paragraph (2) regarding the claim.

"(4) DIRECT RECEIPT OF PROOF FROM PUBLIC CLAIMS FILES PERMITTED.—The Commission may receive proof of a compensable injury directly from the Governor of Guam, or the Federal custodian of an original claim filed with respect to the injury pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582), if such proof is contained in the respective public records of the Governor or the custodian.

"(c) ELIGIBILITY.—

"(1) ELIGIBILITY FOR AWARDS.—A claimant shall be eligible for an award under this section if the claimant meets each of the following criteria:

"(A) The claimant is—

"(i) a living Guamanian who personally received the compensable injury that is the basis for the claim, or

"(ii) the heir or next of kin of a decedent Guamanian, in the case of a claim with respect to which the compensable injury is death.

"(B) The claimant meets the requirements of paragraph (3).

"(2) ELIGIBILITY FOR BENEFITS.—A claimant shall be eligible for a benefit under this section if the claimant meets each of the following criteria:

"(A) The claimant is the heir or next of kin of a decedent Guamanian who personally received the compensable injury that is the basis for the claim, and the claim is made with respect to a compensable injury other than death.

"(B) The claimant meets the requirements of paragraph (3).

"(3) GENERAL REQUIREMENTS FOR ELIGIBILITY.—A claimant meets the requirements of this paragraph if the claimant meets each of the following criteria:

"(A) The claimant files a claim with the Commission regarding a compensable injury and containing all of the information required by subsection (b)(1).

"(B) The claimant furnishes proof of the compensable injury.

"(C) By such procedures as the Commission may prescribe, the claimant files a claim under this section not later than 1 year after the date of the appointment of the ninth member of the Commission.

"(4) LIMITATION ON ELIGIBILITY FOR AWARDS AND BENEFITS—

"(A) AWARDS.—

"(i) No claimant may receive more than 1 award under this section and not more than 1 award may be paid under this section with respect to each decedent described in paragraph (1)(A)(ii).

"(ii) Each award shall consist of only 1 of the amounts referred to in subsection (d)(2).

"(B) BENEFITS.—

"(i) Not more than 1 benefit may be paid under this Act with respect to each decedent described in paragraph (2)(A).

"(ii) Each benefit shall consist of only 1 of the amounts referred to in subsection (d)(3).

"(d) PAYMENTS.—

"(1) CERTIFICATION.—The Commission shall certify for payment all awards and benefits that the Commission determines are payable under this section.

"(2) AWARDS.—The Commission shall pay from the Trust Fund 1 of the following amounts as an award for each claim with respect to which a claimant is determined to be eligible under subsection (c)(1):

"(A) $20,000 if the claim is based on death.

"(B) $7,000 if the claim is based on personal injury.

"(C) $5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

"(3) BENEFITS.—The Commission shall pay from the Trust Fund 1 of the following amounts as a benefit with respect to each claim for which a claimant is determined eligible under subsection (c)(2):

"(A) $7,000 if the claim is based on personal injury.

"(B) $5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

"(4) REDUCTION OF AMOUNT TO COORDINATE WITH PREVIOUS CLAIMS.—The amount required to be paid under paragraph (2) or (3) for a claim with respect to any Guamanian shall be reduced by any amount paid under the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582) with respect to such Guamanian.

"(5) FORM OF PAYMENT.—

"(A) AWARDS.—In the case of a claim for an award, payment under this subsection shall be made in cash to the claimant, except as provided in paragraph (6).

"(B) BENEFITS.—In the case of a claim for a benefit—

"(i) IN GENERAL.—Payment under this subsection shall consist of—

"(I) provision of a scholarship;

"(II) payment of medical expenses; or

"(III) a grant for first-time home ownership.

"(ii) METHOD OF PAYMENT.—Payment of cash under this subsection may not be made directly to a claimant, but may be made to a service provider, seller of goods or services, or other person in order to provide to a claimant (or other person, as provided in paragraph (6)) a benefit referred to in subparagraph (B).

"(C) DEVELOPMENT OF PROCEDURES.—The Commission shall develop and implement procedures to carry out this paragraph.

"(6) PAYMENTS ON CLAIMS WITH RESPECT TO SAME DECEDENT.—

"(A) AWARDS.—In the case of a claim based on the compensable injury of death, payment of an award under this section shall be divided, as provided in the probate laws of Guam, among the heirs or next of kin of the decedent who file claims for such division by such procedures as the Commission may prescribe.

"(B) INDIVIDUALS PROVING CONSANGUINITY WITH CLAIMANTS FOR BENEFITS.—Each individual who proves consanguinity with a claimant who has met each of the criteria specified in subsection (c)(2) shall be entitled to receive an equal share of the benefit accruing under this section with respect to the claim of such claimant if the individual files a claim with the Commission by such procedures as the Commission may prescribe.

"(7) ORDER OF PAYMENTS.—The Commission shall endeavor to make payments under this section with respect to awards before making such payments with respect to benefits and, when making payments with respect to awards or benefits, respectively, to make payments to eligible individuals in the order of date of birth (the oldest individual on the date of the enactment of this Act, or if applicable, the survivors of that individual, receiving payment first) until all eligible individuals have received payment in full.

"(8) REFUSAL TO ACCEPT PAYMENT.—If a claimant refuses to accept a payment made or offered under paragraph (2) or (3) with respect to a claim filed under this section—

"(A) the amount of the refused payment, if withdrawn from the Trust Fund for purposes of making the payment, shall be returned to the Trust Fund; and

"(B) no payment may be made under this section to such claimant at any future date with respect to the claim.

"(9) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Awards paid to eligible claimants—

"(A) shall be treated for purposes of the internal revenue laws of the United States as damages received on account of personal injuries or sickness; and

"(B) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

"(e) GUAM TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Guam Trust Fund, which shall be administered by the Secretary of the Treasury.

"(2) INVESTMENTS.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code.

"(3) USES.—Amounts in the Trust Fund shall be available only for disbursement by the Commission in accordance with subsection (f).

"(4) DISPOSITION OF FUNDS UPON TERMINATION.—If all of the amounts in the Trust Fund have not been obligated or expended by the date of the termination of the Commission, investments of amounts in the Trust Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Trust Fund, and any unobligated funds remaining in the Trust Fund shall be given to the University of Guam, with the conditions that—

"(A) the funds are invested as described in paragraph (2);

"(B) the funds are used for scholarships to be known as Guam World War II Loyalty Scholarships, for claimants described in paragraph (1) or (2) of subsection (c) or in subsection (d)(6), or for such scholarships for the descendants of such claimants; and

"(C) as the University determines appropriate, the University shall endeavor to award the scholarships referred to in subparagraph (B) in a manner that permits the award of the largest possible number of scholarships over the longest possible period of time.

"(f) GUAM TRUST FUND COMMISSION.—

"(1) ESTABLISHMENT.—There is established the Guam Trust Fund Commission, which shall be responsible for making disbursements from the Guam Trust Fund in the manner provided in this section.

"(2) USE OF GUAM TRUST FUND.—The Commission may make disbursements from the Guam Trust Fund only for the following uses:

"(A) To make payments, under subsection (d), of awards and benefits.

"(B) To sponsor research and public educational activities so that the events surrounding the wartime experiences and losses of the Guamanian people will be remembered, and so that the causes and circumstances of this event and similar events may be illuminated and understood.

"(C) To pay reasonable administrative expenses of the Commission, including expenses incurred under paragraphs (3)(C), (4), and (5).

"(3) MEMBERSHIP.—

"(A) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members who are not officers or employees of the United States Government and who are appointed by the President from recommendations made by the Governor of Guam.

"(B) TERMS.—

"(i) Initial members of the Commission shall be appointed for initial terms of 3 years, and subsequent terms shall be of a length determined pursuant to subparagraph (F).

"(ii) Any member of the Commission who is appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(C) PROHIBITION OF COMPENSATION OTHER THAN EXPENSES.—Members of the Commission shall serve without pay as such, except that members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner that persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

"(D) QUORUM.—5 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

"(E) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

"(F) SUBSEQUENT APPOINTMENTS.—

"(i) Upon the expiration of the term of each member of the Commission, the President shall reappoint the member (or appoint another individual to replace the member) if the President determines, after consideration of the reports submitted to the President by the Commission under this section, that there are sufficient funds in the Trust Fund for the present and future administrative costs of the Commission and for the payment of further awards and benefits for which claims have been or may be filed under this title.

"(ii) Members appointed under clause (i) shall be appointed for a term of a length that the President determines to be appropriate, but the length of such term shall not exceed 3 years.

"(4) STAFF AND SERVICES.—

"(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

"(B) ADDITIONAL STAFF.—The Commission may appoint and fix the pay of such additional staff as it may require.

"(C) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The Director and the additional staff of the Commission may be appointed without regard to section 5311 of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the minimum rate of basic pay payable for GS–15 of the General Schedule under section 5332(a) of such title.

"(D) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(5) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of funds, services, or property for uses referred to in paragraph (2). The Commission may deposit such gifts or donations, or the proceeds from such gifts or donations, into the Trust Fund.

"(6) TERMINATION.—The Commission shall terminate on the earlier of—

"(A) the expiration of the 6-year period beginning on the date of the appointment of the first member of the Commission; or

"(B) the date on which the Commission submits to the Congress a certification that all claims certified for payment under this section are paid in full and no further claims are expected to be so certified.

"(g) NOTICE.—Not later than 90 days after the appointment of the ninth member of the Commission, the Commission shall give public notice in the territory of Guam and such other places as the Commission deems appropriate of the time limitation within which claims may be filed under this section. The Commission shall ensure that the provisions of this section are widely published in the territory of Guam and such other places as the Commission deems appropriate, and the Commission shall make every effort both to advise promptly all individuals who may be entitled to file claims under the provisions of this title and to assist such individuals in the preparation and filing of their claims.

"(h) REPORTS.—

"(1) COMPENSATION AND CLAIMS.—Not later than 12 months after the formation of the Commission, and each year thereafter for which the Commission is in existence, the Commission shall submit to the Congress, the President, and the Governor of Guam a report containing a determination of the specific amount of compensation necessary to fully carry out this section, the expected amount of receipts to the Trust Fund, and all payments made by the Commission under this section. The report shall also include, with respect to the year which the report concerns—

"(A) a list of all claims, categorized by compensable injury, which were determined to be eligible for an award or benefit under this section, and a list of all claims, categorized by compensable injury, which were certified for payment under this section; and

"(B) a list of all claims, categorized by compensable injury, which were determined not to be eligible for an award or benefit under this section, and a brief explanation of the reason therefor.

"(2) ANNUAL OPERATIONS AND STATUS OF TRUST FUND.—Beginning with the first full fiscal year ending after submission of the first report required by paragraph (1), and annually thereafter with respect to each fiscal year in which the Commission is in existence, the Commission shall submit a report to Congress, the President, and the Governor of Guam concerning the operations of the Commission under this section and the status of the Trust Fund. Each such report shall be submitted not later than January 15th of the first calendar year beginning after the end of the fiscal year which the report concerns.

"(3) FINAL AWARD REPORT.—After all awards have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

"(A) the total amount of compensation paid as awards under this section, broken down by category of compensable injury; and

"(B) the status of the Trust Fund and the amount of any existing balance thereof.

"(4) FINAL BENEFITS REPORT.—After all benefits have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

"(A) the total amount of compensation paid as benefits under this section, broken down by category of compensable injury; and

"(B) the final status of the Trust Fund and the amount of any existing balance thereof.

"(i) LIMITATION OF AGENT AND ATTORNEY FEES.—It shall be unlawful for an amount exceeding 5 percent of any payment required by this section with respect to an award or benefit to be paid to or received by any agent or attorney for any service rendered in connection with the payment. Any person who violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

"(j) DISCLAIMER.—No provision of this section shall constitute an obligation for the United States to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States, and the suffering and deprivation arising therefrom, during World War II.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from sums appropriated to the Department of the Interior, such sums as may be necessary to carry out this section, including the administrative responsibilities of the Commission for the 36-month period beginning on the date of the appointment of the ninth member of the Commission. Amounts appropriated pursuant to this section are authorized to remain available until expended.".

SEC. 3. RECOMMENDATION OF FUNDING MEASURES.

Not later than 1 year after the date of the submission of the first report submitted under section 35(h)(1) of the Organic Act of Guam (as added by section 2 of this Act), the President shall submit to the Congress a list of recommended spending cuts or other measures which, if implemented, would generate sufficient savings or income, during the first 5 fiscal years beginning after the date of the submission of such list, to provide the amount of compensation necessary to fully carry out this section (as determined in such first report).

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 1079. A bill to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment; to the Committee on Indian Affairs.

OIL AND GAS DEVELOPMENT AT FORT BERTHOLD RESERVATION LEGISLATION

Mr. DORGAN. Mr. President, today I am introducing legislation, along with my good friend and colleague Mr. CONRAD. that will promote economic development on the Fort Berthold Indian Reservation in our State.

Economic development must be among our top priorities in Indian country, and our Federal policies should support, not hinder, the creation of new employment opportunities on our Nation's Indian reservations. This bill is aimed at addressing a provision in Federal law that is unnecessarily hampering the economic development efforts of Three Affiliated Tribes in North Dakota and has the support of the Tribes' Business Council.

The Fort Berthold Indian Reservation has been working for years to develop partnerships with the oil industry to explore the development of oil and gas resources on its tribally owned or allotted lands. The Fort Berthold Reservation covers about 1 million acres of land in the middle of the proven oil-rich Williston Basin. There has been active oil and gas exploration and development on the lands surrounding the reservation, but Three Affiliated Tribes itself and its members have been able to participate in this activity in only a very limited way because of a Federal requirement that 100 percent of all tribal members with ownership in an allotment agree to the leasing of that allotment. Some of the allotted land tracts on this reservation are owned by up to 200 individuals, and if even one of these owners will not sign the lease, the exploration cannot proceed. This outmoded 100-percent requirement makes it virtually impossible for tribes and its members to pursue this kind of economic development, even if a vast majority of allottees are supportive.

This legislation, which is narrowly drawn and applies only to the Fort Berthold Reservation, would allow a leasing agreement to go forward if more than 50 percent of those with an interest in specific allotted lands agree. By keeping in place a majority requirement for the leasing of mineral rights, the rights of individual landowners would still be protected. The Secretary of the Interior would also still have to review and approve a proposed leasing agreement.

The economic implications of this legislation for Three Affiliated Tribes are enormous. The drilling of just 1 well would create 50 to 100 jobs, so clearly, this bill can help the Indian people on Fort Berthold Reservation to move away from welfare dependency to economic independence. I look forward to working with my colleagues to enact this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASES OF ALLOTTED LANDS OF THE FORT BERTHOLD INDIAN RESERVATION.

(a) In General.—

(1) Approval by Secretary of the Interior.—

(A) In general.—Notwithstanding any other provision of law (including the Act of March 3, 1909 (35 Stat. 783, chapter 263; 25 U.S.C. 396) and the regulations issued under that Act), the Secretary of the Interior or a designee of the Secretary may approve mineral leases of an allotment described in paragraph (2) in any case in which the Indian owners of that allotment have executed leases to more than 50 percent of the mineral estate of that allotment.

(B) Benefits of leases.—At such time as mineral leases on an allotment have been approved for all Indian ownership interests pursuant to this section, all Indian owners of the allotment shall be entitled to the benefits of the leases.

(2) Allotments.—An allotment described in this paragraph is an allotment that—

(A) is located in the Fort Berthold Indian Reservation, North Dakota; and

(B) is held in trust by the United States.

(b) Rules of Construction.—This Act supersedes the Act of March 3, 1909 (35 Stat. 783, chapter 263; 25 U.S.C. 396) only to the extent provided in subsection (a).

Mr. CONRAD. Mr. President, I am pleased to introduce, along with my distinguished colleague from North Dakota, legislation to increase opportunities for oil and gas leasing on the Fort Berthold Indian Reservation in North Dakota.

Mr. President, as a member of the Senate Select Committee on Indian Affairs, I understand the importance of increasing economic development in Indian country, in particular, development that creates high-paying, skilled employment. Members of the Three Affiliated Tribes at Fort Berthold have been working on a plan to create jobs and increase revenue through oil and gas development on the Fort Berthold Reservation, which lies within the oil-rich Williston Basin.

At present, there are only seven oil-producing wells on land owned by the Three Affiliated Tribes or tribal members. The Tribal Business Council is considering possibilities for development of oil and gas reserves of its tribally owned land and allotted lands of its members and is pursuing approval by the Bureau of Indian Affairs of an exploration and development agreement under the Mineral Development Act.

The fractionated ownership of allotted lands complicates the leasing and exploration process. The Bureau must approve tribal oil and gas leases, and in order for the Bureau to approve a lease of Indian lands, all who have an interest in the land must agree to the particular oil and gas lease. The number of people who have an undivided interest in various land allotments grows larger each year and now involves hundreds of people. Thus, for an oil and gas exploration to commence, hundreds of oil and gas leases for small allotments of land would have to be executed. If any one person with an interest—no matter how small—in the land objects, the lease agreement would fail. Present law creates a nearly insurmountable barrier to this type of oil and gas development, even in the face of overwhelming support by allotted landowners.

The legislation we are introducing today—which applies only to the Fort Berthold Indian Reservation—would allow an oil and gas lease to become effective if those individual owners of 50 percent or more of the interests in a particular tract of mineral acres agree to the lease. The bill also includes safeguards to ensure that all Indian owners of the allotments are entitled to the benefits of the leases.

This legislation is an important step for oil and gas development on the Fort Berthold Indian Reservation; it is supported by the Tribal Business Council of the Three Affiliated Tribes. I believe the bill can also serve as a model for addressing other problems in Indian country that have arisen as a result of fractionated heirship, and a first step toward a more comprehensive solution.

By Mr. AKAKA (for himself, Mr. Craig, Mr. Leahy and Mr. Daschle):

S. 1080. A bill to amend the National Aquaculture Act of 1980 to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NATIONAL AQUACULTURE DEVELOPMENT, RESEARCH, AND PROMOTION ACT

Mr. AKAKA. Mr. President, today I am introducing the National Aquaculture Development, Research, and Promotion Act. Senators Craig, Leahy, and Daschle have joined me in introducing the bill.

This legislation is not merely a reauthorization of an expiring law. It will help establish a coordinated national aquaculture policy. It will stimulate the fastest growing segment of U.S. agriculture.

The ever-growing demand for fish and fish products is a driving force behind the decline of our fisheries. Aquaculture can help satisfy demand for fishery products and, at the same time, reduce pressure on wild stocks. The bill will also provide a framework for sustainable aquaculture development by encouraging best management practices for aquaculture at the State level.

The National Aquaculture Development, Research, and Promotion Act addresses the most pressing needs of aquaculture farmers, such as research, aquacultural credit, and production and market data.

For too long aquaculture farmers have suffered from the absence of a consistent and unified Federal policy to aid the development of aquaculture. My bill promotes policies to allow our country to become more competitive in the expanding global market for aquaculture products.

The world market for aquaculture is vast, and the United States has the potential to lead future aquaculture production and technology. Efforts to expand the U.S. aquaculture industry will not go unrewarded. The United States imports 60 percent of its seafood, which results in a $3.5 billion annual trade deficit for fish products. Reducing our seafood trade deficit by one-third through expanded aquaculture production would create 25,000 new jobs.

World production of aquaculture in 1995 was 21,300,000 metric tons. The U.S. contributed less than 3 percent to world output, however.

With global seafood demand projected to increase 70 percent by 2025, and harvests from capture fisheries stable or declining, aquaculture production will have to increase by 700 percent, a total of 77 million metric tons annually, to meet future demand. The important question is whether U.S. aquaculture will share in this explosive growth.

This bill is about creating jobs, expanding food production, and achieving sustainable aquaculture development. America has outstanding institutions for conducting aquaculture research. A coordinated effort, with appropriate Federal support, can advance aquaculture development and promote significant economic growth. Aquaculture has an important advantage because it can be conducted successfully on lands that are marginal for other forms of agriculture.

Aquaculture is a diverse industry that affects all regions of the country. More than 30 States produce at least two dozen commercially important aquaculture species. Yet the United States ranks 9th among nations in the value of its production. China, Japan, India, Indonesia, Norway, Thailand, and Korea all enjoy a larger share of the global aquaculture market. In addressing the problem of our balance of trade, aquaculture can be part of the solution.

Nowhere is the opportunity for aquaculture more promising than in Hawaii. We have a skilled labor force, access to Asian and North American markets, a climate that allows harvesting throughout the year, and a 1500-year tradition of aquaculture farming.

Aquaculture supports more jobs per acre than other forms of agriculture, so it can strengthen our employment base at a time when other areas of Hawaiian agriculture are declining. Our tradition of aquaculture that operates in harmony with the environment will help assure that its growth and development is sustainable.

However, the legislation I have introduced today was not designed merely to promote aquaculture in Hawaii. The bill was drafted with one basic principle in mind: to assist all segments of the aquaculture industry equally. It would be wrong to promote one segment of the industry, whether it is marine or freshwater aquaculture, or a particular species of fish or shellfish, over another.

The United States can be a world leader in aquaculture in the same way that it leads in agriculture. This bill is an important step in achieving that goal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Aquaculture Development, Research, and Promotion Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.
Sec. 4. National aquaculture development plan.
Sec. 5. National Aquaculture Information Center.
Sec. 6. Coordination with the aquaculture industry.
Sec. 7. Aquaculture commercialization research.
Sec. 8. National policy for private aquaculture.
Sec. 9. Authorization of appropriations.
Sec. 10. Eligibility of aquaculture farmers for farm credit assistance.
Sec. 11. International aquaculture information and data collection.
Sec. 12. Aquaculture information network report.
Sec. 13. Implementation report.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 2 of the National Aquaculture Act of 1980 (16 U.S.C. 2801) is amended by striking subsection (a) and inserting the following:

"(a) FINDINGS.—Congress finds the following:

"(1)(A) The wild harvest or capture of certain seafood species exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food.

"(B) The Food and Agriculture Organization of the United Nations has identified aquaculture as one of the world's fastest growing food production activities.

"(C) The world production of aquaculture doubled from 10,000,000 metric tons in 1984 to 21,300,000 metric tons in 1995, with a value of approximately $40,000,000,000.

"(D) The United States produced 666,000,000 pounds of aquaculture products in 1994, less than 3 percent of the world output.

"(E) The United States is a major importer of aquaculture products.

"(2)(A) To satisfy the domestic market for aquatic food, the United States imports more than 59 percent of its seafood.

"(B) This dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies and product quality.

"(3)(A) Although aquaculture currently contributes approximately 17 percent by weight of world seafood production, less than 9 percent by weight of current United States seafood production results from aquaculture.

"(B) As a result, domestic aquaculture production has the potential for significant growth.

"(4) Aquaculture production of aquatic animals and plants is a source of food, industrial materials, pharmaceuticals, energy, and aesthetic enjoyment, and can assist in the control and abatement of pollution.

"(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquaculture technology.

"(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

"(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many scientific, economic, legal, and production factors, such as—

"(A) inadequate credit;

"(B) limited research and development and demonstration programs;

"(C) diffused legal jurisdiction;

"(D) inconsistent interpretations between Federal agencies;

"(E) the lack of management information;

"(F) the lack of supportive policies of the Federal Government;

"(G) the lack of therapeutic compounds for treatment of the diseases of aquatic animals and plants;

"(H) the lack of reliable supplies of seed stock; and

"(I) the availability of additional species for commercial production.

"(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies and regulations that do not adequately consider the potential for aquaculture and may inhibit the development of aquaculture.

"(9) In 1994, the United States ranked only ninth in the world in aquaculture production based on total value of products.

"(10) Despite the current and increasing importance of private aquaculture to the United States economy and to rural areas in the United States, Federal efforts to nurture aquaculture development have failed to keep pace with the needs of fish and aquatic plant farmers.

"(11) The United States has a premier opportunity to expand existing aquaculture production and develop new aquaculture industries to serve national needs and the global marketplace.

"(12) United States aquaculture provides wholesome products for domestic consumers and contributes significantly to employment opportunities and the quality of life in rural areas in the United States.

"(13)(A) Aquaculture is poised to become a major growth industry of the 21st century.

"(B) With global seafood demand projected to increase 70 percent by 2025, and harvests from capture fisheries stable or declining, aquaculture will have to increase production by 700 percent, a total of 77 million metric tons annually, to meet that projection.

"(14)(A) In 1983, United States aquaculture production was 308,400,000 pounds with a farm gate value of $261,000,000.

"(B) In 1994, the industry produced 666,000,000 pounds with a farm gate value of $751,000,000.

"(C) Aquaculture accounted for approximately 6 percent of the total United States fish and shellfish harvest in 1994.

"(15)(A) In 1994, per capita consumption of aquatic foods in the United States was 15 pounds per person per year.

"(B) Demand is projected to double by 2025.".

(b) Purpose.—Section 2(b) of the National Aquaculture Act of 1980 (16 U.S.C. 2801(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) establishing private aquaculture as a form of agriculture for the purposes of programs of the Department;";

(2) in paragraph (3), by striking "and" at the end; and

(3) by inserting after paragraph (4) the following:

"(5) establishing cultivated aquatic animals, plants, microorganisms, and their products produced by private persons and moving in commodity channels as agricultural livestock, crops, and commodities; and

"(6) authorizing the establishment of a National Aquaculture Information Center within the Department to support the United States aquaculture industry;".

SEC. 3. DEFINITIONS.

Section 3 of the National Aquaculture Act of 1980 (16 U.S.C. 2802) is amended—

(1) in paragraph (1), by striking "the propagation" and all that follows through the period at the end and inserting "the controlled cultivation of aquatic plants, animals, and microorganisms, except that the term does not include private, for-profit ocean ranching of Pacific salmon in a State in which the ranching is prohibited by law.";

(2) in paragraph (3), by inserting before the period at the end the following: "or microorganism";

(3) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively;

(4) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(5) by inserting after paragraph (4) the following:

"(5) Department.—The term 'Department' means the United States Department of Agriculture."; and

(6) by inserting before paragraph (9) (as redesignated by paragraph (3)) the following:

"(8) Private aquaculture.—The term 'private aquaculture' means the controlled cultivation of aquatic plants, animals, and microorganisms other than cultivation carried out by the Federal Government or any State or local government.".

SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

Section 4 of the National Aquaculture Act of 1980 (16 U.S.C. 2803) is amended—

(1) in subsection (b)(3)(B), by adding at the end the following: "including the development of best management practices for maintaining water quality,";

(2) in subsection (e)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) the identification of efforts of States to improve water quality through the development of best management practices."; and

(3) by adding at the end the following:

"(f) Accomplishments in Aquaculture Programs.—Not later than December 31, 1998, the Secretary, in collaboration with the Secretary of Commerce and the Secretary of the Interior, shall submit to Congress a report evaluating the actions taken in accordance with subsection (d) with respect to the Plan, and making recommendations for updating and modifying the Plan. The report shall also contain a compendium on Federal regulations relating to aquaculture.".

SEC. 5. NATIONAL AQUACULTURE INFORMATION CENTER.

Section 5 of the National Aquaculture Act of 1980 (16 U.S.C. 2804) is amended—

(1) in subsection (c)(1)(B)—

(A) by striking "Secretary shall—" and inserting "Secretary—";

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively;

(C) by striking clause (i) and inserting the following:

"(i) may establish within the regional centers of aquaculture established under section 1475(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(d)), or within the institutions affiliated with the regional centers, a means of electronically compiling and accessing information for the National Aquaculture Information Center;

"(ii) may establish, within the Department, a National Aquaculture Information Center that shall—

"(I) serve as a repository and clearinghouse for the information collected under subparagraph (A) and other provisions of this Act;

"(II) carry out a program to notify organizations, institutions, and individuals known to be involved in aquaculture of the existence of the Center and the kinds of information that the Center can make available to the public; and

"(III) make available, on request, information described in subclause (I) (including information collected under subsection (e));";

(D) in clause (iii) (as redesignated by subparagraph (B))—

(i) by inserting "shall" before "arrange"; and

(ii) by striking the comma and inserting a semicolon; and

(E) in clause (iv) (as redesignated by subparagraph (B)), by inserting "shall" before "conduct"; and

(2) in the first sentence of subsection (d), by striking "Interior,," and inserting "Interior,".

SEC. 6. COORDINATION WITH THE AQUACULTURE INDUSTRY.

Section 6(b) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(b)) is amended—

(1) in paragraph (4), by inserting before the semicolon at the end the following: ", including information on best management practices for maintaining water quality";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(7) facilitate improved communication and interaction among aquaculture producers, the aquaculture community, the Federal Government, and the coordinating group, establish a working relationship with national organizations, commodity associations, and professional societies representing aquaculture interests.".

SEC. 7. AQUACULTURE COMMERCIALIZATION RESEARCH.

The National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 7 through 11 as sections 9 through 13, respectively; and

(2) by inserting after section 6 the following:

"SEC. 7. AQUACULTURE COMMERCIALIZATION RESEARCH.

"(a) Assistance and Coordination.—

"(1) In general.—The Secretary may make grants and enter into contracts with any person or governmental agency to support the market development and commercialization of aquaculture research and technology that—

"(A) demonstrates strong potential for accelerating the transfer to the marketplace of aquaculture products, processes, and technologies that can improve profitability, production, efficiency, and sustainability of existing and emerging aquaculture sectors;

"(B) will help the United States aquaculture industry to be more competitive in the global marketplace; and

"(C) will facilitate the commercialization of promising research and technologies deriving from existing aquaculture research programs.

"(2) Cost share.—

"(A) Federal share.—Except as provided in subparagraph (B), the Federal share of the cost of a grant or contract under this section shall be 80 percent.

"(B) Remaining share.—The remaining share of the cost of a grant or contract under this section may be—

"(i) in the form of cash or in-kind payments; and

"(ii) partially comprised of funds made available under other Federal programs, except that the non-Federal share may not be less than 10 percent of the cost of the grant or contract.

"(b) Priorities.—In making grants or awarding contracts under subsection (a), the Secretary shall give a higher priority to—

"(1) highly focused, applied aquaculture research;

"(2) investigations of new aquaculture products or processes that demonstrate a high potential for commercialization;

"(3) market development programs for new or improved aquaculture products or processes;

"(4) activities that have a strong potential to create employment opportunities involving aquaculture;

"(5) other activities that accelerate the commercialization of promising aquaculture technologies;

"(6) the extent to which the proposal promotes sustainable aquaculture development; and

"(7) the extent to which the proposal includes participation with a private aquaculture farm or business that supplies products or services that are necessary for aquaculture farming.

"(c) Competitive Review.—

"(1) In general.—To be eligible to receive a grant or enter into a contract under subsection (a), a proposal shall be competitively reviewed under procedures established by the Secretary.

"(2) Competitive review panels.—A competitive review panel shall be composed of individuals appointed by the Secretary, at least 50 percent of whom work in private aquaculture or have a demonstrated competence to objectively evaluate the likelihood of a proposal being economically successful or promoting economic success within the aquaculture industry.

"(3) Evaluation.—The competitive review shall be based on an evaluation of—

"(A) the quality of the proposal and the research methodology;

"(B) the capability of the participating organization to perform the proposed work;

"(C) the amount of matching funds provided by the participating organization or obtained from non-Federal sources;

"(D) in the case of a noncommercial entity, the existence of a cooperative arrangement with a commercial entity; and

"(E) such other factors as the Secretary determines to be appropriate.

"(d) LIMITATIONS.—

"(1) REGIONAL AQUACULTURE CENTERS.—Not less than 40 percent of the amounts made available to carry out this section for a fiscal year shall be used to carry out projects that will facilitate the commercialization of research or investigations funded or coordinated by regional aquaculture centers established under section 1475(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(d)).

"(2) ADMINISTRATIVE EXPENSES.—Not more than 3 percent of the amounts made available to carry out this section for a fiscal year may be used by the Secretary to pay the expenses of administration and information collection and dissemination.

"(3) CONSTRUCTION COSTS.—None of the funds made available under this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

"(e) REPORTS.—An eligible entity that receives a grant or enters into a contract with respect to a project carried out under this section shall submit an annual progress report, and a final report, to the Secretary that describes project activities and commercial and economic accomplishments and impacts.

"(f) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this section.".

SEC. 8. NATIONAL POLICY FOR PRIVATE AQUACULTURE.

The National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) is amended by inserting after section 7 (as added by section 7(2)) the following:

"SEC. 8. NATIONAL POLICY FOR PRIVATE AQUACULTURE.

"(a) REQUIREMENT.—In collaboration with the Secretary of Commerce and the Secretary of the Interior, the Secretary shall coordinate and implement a national policy for private aquaculture in accordance with this section.

"(b) DEPARTMENT OF AGRICULTURE AQUACULTURE PLAN.—

"(1) IN GENERAL.—The Secretary shall develop and implement a Department of Agriculture Aquaculture Plan (referred to in this section as the 'Department Plan') for a unified aquaculture program of the Department to support the development of private aquaculture.

"(2) ELEMENTS.—The Department Plan shall address—

"(A) programs of individual agencies of the Department related to aquaculture that are consistent with Department programs applied to other areas of agriculture, including livestock, crops, products, and commodities under the jurisdiction of agencies of the Department;

"(B) the treatment of commercially cultivated aquatic animals as livestock and commercially cultivated aquatic plants as agricultural crops; and

"(C) means for effective coordination and implementation of aquaculture activities and programs within the Department, including individual agency commitments of personnel and resources.

"(c) NATIONAL AQUACULTURE INFORMATION CENTER.—In carrying out section 5, the Secretary may maintain and support a National Aquaculture Information Center at the National Agricultural Library as a repository for information on national and international aquaculture.

"(d) TREATMENT OF AQUACULTURE.—The Secretary shall treat—

"(1) private aquaculture as agriculture for the purpose of programs of the Department; and

"(2) commercially cultivated aquatic animals, plants, and microorganisms, and products of the animals, plants, and microorganisms, produced by private persons and transported or moved in standard commodity channels as agricultural livestock, crops, and commodities, respectively.

"(e) PRIVATE AQUACULTURE POLICY COORDINATION, DEVELOPMENT, AND IMPLEMENTATION.—

"(1) RESPONSIBILITY.—The Secretary shall coordinate, develop, and carry out policy and programs of the Department related to private aquaculture.

"(2) DUTIES.—The Secretary shall—

"(A) coordinate all intradepartmental functions and activities of the Department relating to private aquaculture; and

"(B) establish procedures for the coordination of functions, and consultation with, the coordinating group.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 12 of the National Aquaculture Act of 1980 (as redesignated by section 7(1)) is amended by striking the first sentence and inserting the following: "There is authorized to be appropriated to carry out this Act (including the functions of the Joint Subcommittee on Aquaculture established under section 6(a)) $3,000,000 for each of fiscal years 1998 through 2002.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) take effect on October 1, 1997.

SEC. 10. ELIGIBILITY OF AQUACULTURE FARMERS FOR FARM CREDIT ASSISTANCE.

Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by striking "fish farming" both places it appears in paragraphs (1) and (2) and inserting "aquaculture (as defined in section 3 of the National Aquaculture Act of 1980 (16 U.S.C. 2802))".

SEC. 11. INTERNATIONAL AQUACULTURE INFORMATION AND DATA COLLECTION.

(a) IN GENERAL.—Section 502 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692) is amended by adding at the end the following:

"(d) INTERNATIONAL AQUACULTURE INFORMATION AND DATA COLLECTION.—

"(1) IN GENERAL.—The Secretary is authorized to establish and carry out a program of data collection, analysis, and dissemination of information to provide continuing and timely economic information concerning international aquaculture production.

"(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall consult with the Joint Subcommittee on Aquaculture established under section 6(a) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(a)), and representatives of the United States aquaculture industry, concerning means of effectively providing data described in paragraph (1) to the Joint Subcommittee and the industry.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) take effect on October 1, 1997.

SEC. 12. AQUACULTURE INFORMATION NETWORK REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall report to Congress on the feasibility of expanding current information systems at regional aquaculture centers established by the Secretary under section 1475(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(d)), universities, research institutions, and the Agricultural Research Service to permit an on-line link between those entities for the sharing of data, publication, and technical assistance information involving aquaculture.

SEC. 13. IMPLEMENTATION REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall report to Congress on the progress made in carrying out this Act and the amendments made by this Act with respect to policies and programs of the Department of Agriculture.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) a description of all programs and activities of the Department of Agriculture and all other agencies and Departments in support of private aquaculture;

(2) the specific authorities for the activities described in paragraph (1); and

(3) recommendations for such actions as the Secretary of Agriculture determines are necessary to improve recognition and support of private aquaculture in each agency of the Department of Agriculture.

Mr. CRAIG. Mr. President, I rise today to join my colleagues and friend from Hawaii, Senator AKAKA, in the introduction of the National Aquaculture Development, Research, and Promotion Act of 1997.

This important piece of legislation is designed to help make the United States competitive in the expanding world market for aquaculture products. The United States is poised to become the world leader in aquaculture, yet it remains far beyond other nations, including many with fewer resources and less developed infrastructure.

Already there are more than 1,000 Idahoans whose jobs are either directly or indirectly connected to aquaculture. They represent a $92 million industry for my home State: An industry committed to a cleaner environment, a safer food supply, and community development.

However, much more lies ahead of us if the United States is to become a world leader in this growing industry. Despite recent growth, America's annual trade deficit in seafood remains stable at approximately $3 billion—a reduction of which could mean a stronger domestic industry, more jobs, and less dependency on others for our food supply.

Mr. President, it is for these reasons I am pleased to join my colleague in introducing this measure today.

By Mr. LEAHY (for himself and Mr. KENNEDY):

S. 1081. A bill to enhance the rights and protections for victims of crime; to the Committee on the Judiciary.

THE CRIME VICTIMS ASSISTANCE ACT

Mr. LEAHY. Madam President, during National Crime Victim Rights Week, I said that it was important to focus attention on the needs and rights of crime victims not just during that week of special ceremonies, but throughout the year. I am, therefore, pleased to have this opportunity to introduce legislation with my good friend from Massachusetts, Senator KENNEDY. Our Crime Victims Assistance Act represents the next step in our continuing efforts to afford dignity and recognition to victims of crime.

My involvement with crime victims began more than three decades ago when I served as State's attorney for Chittenden County, VT, and witnessed first hand the devastation of crime. I have worked ever since to ensure that the criminal justice system is one that respects the rights and dignity of victims of crime, rather than one that presents additional ordeals for those already victimized.

I am proud that Congress has been a significant part of the solution to provide victims with greater rights and assistance. Over the past 15 years, Congress has passed several bills to this end. These bills have included:

The Victims and Witness Protection Act of 1982; the Victims of Crime Act of 1984; the Victims' Bill of Rights of 1990; the 1994 Violent Crime Control and Law Enforcement Act; and the Justice for Victims of Terrorism Act of 1996.

Just this March, Congress passed the Victim Rights Clarification Act of 1997, which I cosponsored with Senators NICKLES, INHOFE and HATCH. That legislation reversed a presumption against crime victims observing the fact phase of a trial if they were likely to provide testimony during the sentencing phase of that trial.

As a result of that legislation, not only were victims of the Oklahoma City bombing able to observe the trial of Timothy McVeigh, all those who were able to witness the trial and were called as witnesses to provide victim impact testimony at the sentencing phase of that trial were able to do so.

Also, on the first day of this session, we introduced S.15, a youth crime bill. In that legislation, which we have identified as a legislative priority for the entire Democratic caucus, we included provisions for victims of juvenile crime so that their rights to appear, to be heard, and to be informed would be protected. Those provisions have now been incorporated in the juvenile crime bill ordered reported by the Judiciary Committee last week along with added protections against witness intimidation.

The legislation that we introduce today, the Crime Victims Assistance Act, builds upon this progress. It provides for a wholesale reform of the Federal rules and Federal law to establish additional rights and protections for victims of federal crime. Particularly, the legislation would provide crime victims with an enhanced: Right to be heard on the issue of pretrial detention; right to be heard on plea bargains; right to a speedy trial; right to be present in the courtroom throughout a trial; right to give a statement at sentencing; right to be heard on probation revocation; and right to be notified of a defendant's escape or release from prison.

The legislation goes further than other victims rights proposals that are currently before Congress by including: Enhanced penalties for witness intimidation; an increase in Federal victim assistance personnel; enhanced training for State and local law enforcement and officers of the court; the development of state-of-the-art systems for notifying victims of important dates and developments in their cases; and the establishment of ombudsman programs for crime victims.

These are all matters that can be considered and enacted this year with a simple majority of both Houses of Congress. They need not overcome the delay and higher standards necessitated by proposing to amend the Constitution. They need not wait the hammering out of implementing legislation before making a difference in the lives of crime victims.

I look forward to continuing to work with the administration, victims groups, prosecutors, judges, and other interested parties on how we can most effectively enhance the rights of victims of crime. Congress and State legislatures have become more sensitive to crime victims rights over the past 20 years and we have a golden opportunity to make additional, significant progress this year to provide the greater voice and rights that crime victims deserve.

In my State, Vermont, there are many individuals who have made a difference by dedicating themselves to serving the needs of crime victims. Individuals, such as Lori Hayes from the Vermont Center for Crime Victims Services, have joined in leading the Nation on issues pertaining to crime victims. I congratulate Lori on the results of the Justice Department's recent site visit of Vermont's Victims of Crime Act programs. The Justice Department concluded that

> Vermont's programs are setting the standard for outreach to under served populations and service coordination among providers and allied professionals * * * Other States interested in improving their services and advocacy for crime victims would do well to study the model created by Lori Hayes, her staff, and other victims advocates in Vermont.

Without the commitment of people like Lori, we would not be making the progress that we are.

I would like to acknowledge several others who have been extremely helpful with regards to the legislation that we are introducing today: The Office for Victims of Crime at the Justice Department, the National Network to End Domestic Violence, the NOW Legal Defense Fund, the National Clearinghouse for the Defense of Battered Women, Professor Lynne Henderson from Indiana Law School, the National Organization for Victim Assistance, Roger Pilon, director of the Center for Constitutional Studies at the Cato Institute, the National Victim Center, and many others.

While we have greatly improved our crime victims assistance programs and made advances in recognizing crime victims rights, we still have more to do. That is why it is my hope that Democrats and Republicans, supporters and opponents of a constitutional amendment on this issue will join Senator KENNEDY and me in advancing this important legislation through Congress. We can make a difference in the lives of crime victims right now, and I hope Congress will make it a top priority and pass the Crime Victims Assistance Act before the end of the year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Victims Assistance Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—VICTIM RIGHTS

Subtitle A—Amendments to Title 18, United States Code

Sec. 101. Right to be notified of detention hearing and right to be heard on the issue of detention.
Sec. 102. Right to a speedy trial and prompt disposition free from unreasonable delay.
Sec. 103. Enhanced right to order of restitution.
Sec. 104. Enhanced right to be notified of escape or release from prison.
Sec. 105. Enhanced penalties for witness tampering.

Subtitle B—Amendments to Federal Rules of Criminal Procedure

Sec. 121. Right to be notified of plea agreement and to be heard on merits of the plea agreement.
Sec. 122. Enhanced rights of notification and allocution at sentencing.
Sec. 123. Rights of notification and allocution at a probation revocation hearing.

Subtitle C—Amendment to Federal Rules of Evidence

Sec. 131. Enhanced right to be present at trial.

Subtitle D—Remedies for Noncompliance

Sec. 141. Remedies for noncompliance.

TITLE II—VICTIM ASSISTANCE INITIATIVES

Sec. 201. Increase in victim assistance personnel.

Sec. 202. Increased training for State and local law enforcement, State court personnel, and officers of the court to respond effectively to the needs of victims of crime.
Sec. 203. Increased resources for State and local law enforcement agencies, courts, and prosecutors' offices to develop state-of-the-art systems for notifying victims of crime of important dates and developments.
Sec. 204. Pilot programs to establish ombudsman programs for crime victims.
Sec. 205. Amendments to Victims of Crime Act of 1984.
Sec. 206. Technical correction.
Sec. 207. Services for victims of crime and domestic violence.
Sec. 208. Pilot program to study effectiveness of restorative justice approach on behalf of victims of crime.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "Attorney General" means the Attorney General of the United States;

(2) the term "bodily injury" has the meaning given that term in section 1365(g) of title 18, United States Code;

(3) the term "Commission" means the Commission on Victims' Rights established under section 204;

(4) the term "Indian tribe" has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(5) the term "Judicial Conference" means the Judicial Conference of the United States established under section 331 of title 28, United States Code;

(6) the term "law enforcement officer" means an individual authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, and includes corrections, probation, parole, and judicial officers;

(7) the term "Office of Victims of Crime" means the Office of Victims of Crime of the Department of Justice;

(8) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(9) the term "unit of local government" means any—

(A) city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; or

(B) Indian tribe;

(10) the term "victim"—

(A) means an individual harmed as a result of a commission of an offense; and

(B) in the case of a victim who is less than 18 years of age, incompetent, incapacitated, or deceased—

(i) the legal guardian of the victim;

(ii) a representative of the estate of the victim;

(iii) a member of the family of the victim; or

(iv) any other person appointed by the court to represent the victim, except that in no event shall a defendant be appointed as the representative or guardian of the victim; and

(11) the term "qualified private entity" means a private entity that meets such requirements as the Attorney General may establish.

TITLE I—VICTIM RIGHTS

Subtitle A—Amendments to Title 18, United States Code

SEC. 101. RIGHT TO BE NOTIFIED OF DETENTION HEARING AND RIGHT TO BE HEARD ON THE ISSUE OF DETENTION.

Section 3142 of title 18, United States Code, is amended by adding at the end the following:

"(k) Notification of Right To Be Heard.—

"(1) In general.—In any case involving a defendant who is arrested for an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, in which a detention hearing is scheduled pursuant to subsection (f)—

"(A) the Government shall make a reasonable effort to notify the victim of the hearing, and of the right of the victim to be heard on the issue of detention; and

"(B) at the hearing under subsection (f), the court shall inquire of the Government as to whether the efforts at notification of the victim under subparagraph (A) were successful and, if so, whether the victim wishes to be heard on the issue of detention and, if so, shall afford the victim such an opportunity.

"(2) Limitation.—Upon motion of either party that identification of the defendant by the victim is a fact in dispute, and that no means of verification has been attempted, the Court shall use appropriate measures to protect integrity of the identification process.

"(3) Address.—With respect to any case described in paragraph (1), the victim shall notify the appropriate authority of an address to which notification under this subsection may be sent.

"(4) Definition of victim.—In this subsection, the term 'victim' means any individual against whom an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, has been committed and also includes the parent or legal guardian of a victim who is less than 18 years of age, or incompetent, or 1 or more family members designated by the court if the victim is deceased or incapacitated.".

SEC. 102. RIGHT TO A SPEEDY TRIAL AND PROMPT DISPOSITION FREE FROM UNREASONABLE DELAY.

Section 3161(h)(8)(B) of title 18, United States Code, is amended by adding at the end the following:

"(v) The interests of the victim (or the family of a victim who is deceased or incapacitated) in the prompt and appropriate disposition of the case, free from unreasonable delay.".

SEC. 103. ENHANCED RIGHT TO ORDER OF RESTITUTION.

Section 3664(d)(2)(A)(iv) of title 18, United States Code, is amended by inserting ", and the right of the victim (or the family of a victim who is deceased or incapacitated) to attend the sentencing hearing and to make a statement to the court at the sentencing hearing" before the semicolon.

SEC. 104. ENHANCED RIGHT TO BE NOTIFIED OF ESCAPE OR RELEASE FROM PRISON.

Section 503(c)(5)(B) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(5)(B)) is amended by inserting after "offender" the following: ", including escape, work release, furlough, or any other form of release from a psychiatric institution or other facility that provides mental health services to offenders".

SEC. 105. ENHANCED PENALTIES FOR WITNESS TAMPERING.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "as provided in paragraph (2)" and inserting "as provided in paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Whoever uses physical force or the threat of physical force, or attempts to do so, with intent to—

"(A) influence, delay, or prevent the testimony of any person in an official proceeding;

"(B) cause or induce any person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; and

"(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3)."; and

(D) in paragraph (3)(B), as redesignated, by striking "in the case of" and all that follows before the period and inserting "an attempt to murder, the use of physical force, the threat of physical force, or an attempt to do so, imprisonment for not more than 20 years"; and

(2) in subsection (b), by striking "or physical force".

Subtitle B—Amendments to Federal Rules of Criminal Procedure

SEC. 121. RIGHT TO BE NOTIFIED OF PLEA AGREEMENT AND TO BE HEARD ON MERITS OF THE PLEA AGREEMENT.

(a) In General.—Rule 11 of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

"(i) Rights of Victims.—

"(1) In general.—In any case involving a defendant who is charged with an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault—

"(A) the Government, prior to a hearing at which a plea of guilty or nolo contendere is entered, shall make a reasonable effort to notify the victim of—

"(i) the date and time of the hearing; and

"(ii) the right of the victim to attend the hearing and to address the court; and

"(B) if the victim attends a hearing described in subparagraph (A), the court, before accepting a plea of guilty or nolo contendere, shall afford the victim an opportunity to be heard on the proposed plea agreement.

"(2) Address.—With respect to any case described in paragraph (1), the victim shall notify the appropriate authority of an address to which notification under this subsection may be sent.

"(3) DEFINITION OF VICTIM.—In this subsection, the term 'victim' means any individual against whom an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, has been committed and also includes the parent or legal guardian of a victim who is less than 18 years of age, or incompetent, or 1 or more family members designated by the court if the victim is deceased or incapacitated.

"(4) MASS VICTIM CASES.—In any case involving more than 15 victims, the court, after consultation with the Government and the victims, may appoint a number of victims to serve as representatives of the victims' interests.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims of offenses involving death or bodily injury to any person, the threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, to be heard on the issue of whether or not the court should accept a plea of guilty or nolo contendere.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendment made by subsection (a), then the amendment made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendment made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendment made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the United States Sentencing Commission under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 122. ENHANCED RIGHTS OF NOTIFICATION AND ALLOCUTION AT SENTENCING.

(a) IN GENERAL.—Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking subparagraph (D) and inserting the following:

"(D) a victim impact statement, identifying, to the maximum extent practicable—

"(i) each victim of the offense (except that such identification shall not include information relating to any telephone number, place of employment, or residential address of any victim);

"(ii) an itemized account of any economic loss suffered by each victim as a result of the offense;

"(iii) any physical injury suffered by each victim as a result of the offense, along with its seriousness and permanence;

"(iv) a description of any change in the personal welfare or familial relationships of each victim as a result of the offense; and

"(v) a description of the impact of the offense upon each victim and the recommendation of each victim regarding an appropriate sanction for the defendant;"; and

(B) by adding at the end the following:

"(7) VICTIM IMPACT STATEMENTS.—

"(A) IN GENERAL.—Any probation officer preparing a presentence report shall—

"(i) make a reasonable effort to notify each victim of the offense that such a report is being prepared and the purpose of such report; and

"(ii) provide the victim with an opportunity to submit an oral or written statement, or a statement on audio or videotape outlining the impact of the offense upon the victim.

"(B) USE OF STATEMENTS.—Any written statement submitted by a victim under subparagraph (A) shall be attached to the presentence report and shall be provided to the sentencing court and to the parties.";

(2) in subsection (c)(1), by adding at the end the following: "Before sentencing in any case in which a defendant has been charged with or found guilty of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, the Government shall make a reasonable effort to notify the victim (or the family of a victim who is deceased) of the time and place of sentencing and of their right to attend and to be heard."; and

(3) in subsection (f), by inserting "the right to notification and to submit a statement under subdivision (b)(7), the right to notification and to be heard under subdivision (c)(1), and" before "the right of allocution".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims of offenses involving death or bodily injury to any person, the threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, to participate during the presentencing phase of the criminal process.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments made by subsection (a), then the amendments made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the United States Sentencing Commission under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 123. RIGHTS OF NOTIFICATION AND ALLOCUTION AT A PROBATION REVOCATION HEARING.

(a) IN GENERAL.—Rule 32.1 of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

"(d) RIGHTS OF VICTIMS.—

"(1) IN GENERAL.—At any hearing pursuant to subsection (a)(2) involving one or more persons who have been convicted of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, the Government shall make reasonable effort to notify the victim of the offense (and the victim of any new charges giving rise to the hearings), of—

"(A) the date and time of the hearing; and

"(B) the right of the victim to attend the hearing and to address the court regarding whether the terms or conditions of probation or supervised release should be modified.

"(2) DUTIES OF COURT AT HEARING.—At any hearing described in paragraph (1) at which a victim is present, the court shall—

"(A) address each victim personally; and

"(B) afford the victim an opportunity to be heard on the proposed terms or conditions of probation or supervised release.

"(3) ADDRESS.—In any case described in paragraph (1), the victim shall notify the appropriate authority of an address to which notification under this paragraph may be sent.

"(4) DEFINITION OF VICTIM.—In this rule, the term 'victim' means any individual against whom an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, has been committed and a hearing pursuant to subsection (a)(2) is conducted, including—

"(A) a parent or legal guardian of the victim, if the victim is less than 18 years of age or is incompetent; or

"(B) 1 or more family members or relatives of the victim designated by the court, if the victim is deceased or incapacitated.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to ensure that reasonable efforts are made to notify victims of offenses involving death or bodily injury to any person, or the threat of death or bodily injury to any person, of any revocation hearing held pursuant to rule 32.1(a)(2) of the Federal Rules of Criminal Procedure.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendment made by subsection (a), then the amendment made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendment made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendment made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the United States Sentencing Commission under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

Subtitle C—Amendment to Federal Rules of Evidence

SEC. 131. ENHANCED RIGHT TO BE PRESENT AT TRIAL.

(a) IN GENERAL.—Rule 615 of the Federal Rules of Evidence is amended—

(1) by striking "At the request" and inserting the following:

"(a) IN GENERAL.—Except as provided in subsection (b), at the request";

(2) by striking "This rule" and inserting the following:

"(b) EXCEPTIONS.—Subsection (a)";

(3) by striking "exclusion of (1) a party" and inserting the following: "exclusion of—

"(1) a party";

(4) by striking "person, or (2) an officer" and inserting the following: "person;

"(2) an officer";

(5) by striking "attorney, or (3) a person" and inserting the following: "attorney;

"(3) a person";

(6) by striking the period at the end and inserting "; or"; and

(7) by adding at the end the following:

"(4) a person who is a victim (or a member of the immediate family of a victim who is deceased or incapacitated) of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, for which a defendant is being tried in a criminal trial, unless the court concludes that—

"(A) the testimony of the person will be materially affected by hearing the testimony of other witnesses, and the material effect of hearing the testimony of other witnesses on the testimony of that person will result in unfair prejudice to any party; or

"(B) due to the large number of victims or family members of victims who may be called as witnesses, permitting attendance in the courtroom itself when testimony is being heard is not feasible.

"(c) DISCRETION OF COURT; EFFECT ON OTHER LAW.—Nothing in subsection (b)(4) shall be construed—

"(1) to limit the ability of a court to exclude a witness, if the court determines that such action is necessary to maintain order during a court proceeding; or

"(2) to limit or otherwise affect the ability of a witness to be present during court proceedings pursuant to section 3510 of title 18, United States Code.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall become effective as provided in paragraph (3).

(2) ACTION BY JUDICIAL CONFERENCE.—

(A) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall submit to Congress a report containing recommendations for amending the Federal Rules of Evidence to provide enhanced opportunities for victims of offenses involving death or bodily injury to any person, or the threat of death or bodily injury to any person, to attend judicial proceedings, even if they may testify as a witness at the proceeding.

(B) INAPPLICABILITY OF OTHER LAW.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference under this paragraph.

(3) CONGRESSIONAL ACTION.—Except as otherwise provided by law, if the Judicial Conference—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments made by subsection (a), then the amendments made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) APPLICATION.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the United States Sentencing Commission under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

Subtitle D—Remedies for Noncompliance

SEC. 141. REMEDIES FOR NONCOMPLIANCE.

(a) GENERAL LIMITATION.—Any failure to comply with any amendment made by this Act shall not give rise to a claim for damages, or any other action against the United States, or any employee of the United States, any court official or officer of the court, or an entity contracting with the United States, or any action seeking a rehearing or other reconsideration of action taken in connection with a defendant.

(b) REGULATIONS TO ENSURE COMPLIANCE.—

(1) IN GENERAL.—Notwithstanding subsection (a), not later than 1 year after the date of enactment of this Act, the Attorney General and the Chairman of the United States Parole Commission shall promulgate regulations to implement and enforce the amendments made by this title.

(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

(A) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice (including employees of the United States Parole Commission) who willfully or repeatedly violate the amendments made by this title, or willfully or repeatedly refuse or fail to comply with provisions of Federal law pertaining to the treatment of victims of crime;

(B) include an administrative procedure through which parties can file formal complaints with the Department of Justice alleging violations of the amendments made by this title;

(C) provide that a complainant is prohibited from recovering monetary damages against the United States, or any employee of the United States, either in his official or personal capacity; and

(D) provide that the Attorney General, or the designee of the Attorney General, shall the ultimate arbiter of the complaint, and there shall be no judicial review of the final decision of the Attorney General by a complainant.

TITLE II—VICTIM ASSISTANCE INITIATIVES

SEC. 201. INCREASE IN VICTIM ASSISTANCE PERSONNEL.

There are authorized to be appropriated such sums as may be necessary to enable the Attorney General to—

(1) hire 50 full-time or full-time equivalent employees to serve victim-witness advocates to provide assistance to victims of any criminal offense investigated by any department or agency of the Federal Government; and

(2) provide grants through the Office of Victims of Crime to qualified private entities to fund 50 victim-witness advocate positions within those organizations.

SEC. 202. INCREASED TRAINING FOR STATE AND LOCAL LAW ENFORCEMENT, STATE COURT PERSONNEL, AND OFFICERS OF THE COURT TO RESPOND EFFECTIVELY TO THE NEEDS OF VICTIMS OF CRIME.

Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the "False Claims Act"), may be used by the Office of Victims of Crime to make grants to States, units of local government, and qualified private entities, to provide training and information to prosecutors, judges, law enforcement officers, probation officers, and other officers and employees of Federal and State courts to assist them in responding effectively to the needs of victims of crime.

SEC. 203. INCREASED RESOURCES FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES, COURTS, AND PROSECUTORS' OFFICES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING VICTIMS OF CRIME OF IMPORTANT DATES AND DEVELOPMENTS.

(a) IN GENERAL.—Subtitle A of title XXIII of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2077) is amended by adding at the end the following:

"SEC. 230103. STATE-OF-THE-ART SYSTEMS FOR NOTIFYING VICTIMS OF CRIME OF IMPORTANT DATES AND DEVELOPMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Victims of Crime of the Department of Justice such sums as may be necessary for grants to State and local prosecutors' offices, State courts, county jails, State correctional institutions, and qualified private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue.

"(b) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section.".

(b) VIOLENT CRIME REDUCTION TRUST FUND.—Section 310004(d) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14214(d)) is amended—

(1) in the first paragraph designated as paragraph (15) (relating to the definition of the term "Federal law enforcement program"), by striking "and" at the end;

(2) in the first paragraph designated as paragraph (16) (relating to the definition of the term "Federal law enforcement program"), by striking the period at the end and inserting "; and"; and

(3) by inserting after the first paragraph designated as paragraph (16) (relating to the definition of the term "Federal law enforcement program") the following:

"(17) section 230103.".

SEC. 204. PILOT PROGRAMS TO ESTABLISH OMBUDSMAN PROGRAMS FOR CRIME VICTIMS.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Victims of Crime.

(2) OFFICE.—The term "Office" means the Office of Victims of Crime.

(3) QUALIFIED PRIVATE ENTITY.—The term "qualified private entity" means a private entity that meets such requirements as the Attorney General, acting through the Director, may establish.

(4) QUALIFIED UNIT OF STATE OR LOCAL GOVERNMENT.—The term "qualified unit of State or local government" means a unit or a State or local government that meets such requirements as the Attorney General, acting through the Director, may establish.

(5) VOICE CENTERS.—The term "VOICE Centers" means the Victim Ombudsman Information Centers established under the program under subsection (b).

(b) PILOT PROGRAMS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Attorney General, acting through the Director, shall establish and carry out a program to provide for pilot programs to establish and operate Victim Ombudsman Information Centers in each of the following States:

(A) Iowa.

(B) Massachusetts.

(C) Ohio.

(D) Tennessee.

(E) Utah.

(F) Vermont.

(2) AGREEMENTS.—

(A) IN GENERAL.—The Attorney General, acting through the Director, shall enter into an agreement with a qualified private entity or unit of State or local government to conduct a pilot program referred to in paragraph (1). Under the agreement, the Attorney General, acting through the Director, shall provide for a grant to assist the qualified private entity or unit of State or local government in carrying out the pilot program.

(B) CONTENTS OF AGREEMENT.—The agreement referred to in subparagraph (A) shall specify that—

(i) the VOICE Center shall be established in accordance with this section; and

(ii) except with respect to meeting applicable requirements of this section concerning carrying out the duties of a VOICE Center under this section (including the applicable reporting duties under subsection (c) and the terms of the agreement) each VOICE Center shall operate independently of the Office; and

(C) NO AUTHORITY OVER DAILY OPERATIONS.—The Office shall have no supervisory or decisionmaking authority over the day-to-day operations of a VOICE Center.

(c) OBJECTIVES.—

(1) MISSION.—The mission of each VOICE Center established under a pilot program under this section shall be to assist a victim of a Federal or State crime to ensure that the victim—

(A) is fully apprised of the rights of that victim under applicable Federal or State law; and

(B) participates in the criminal justice process to the fullest extent of the law.

(2) DUTIES.—The duties of a VOICE Center shall include—

(A) providing information to victims of Federal or State crime regarding the right of those victims to participate in the criminal justice process (including information concerning any right that exists under applicable Federal or State law);

(B) identifying and responding to situations in which the rights of victims of crime under applicable Federal or State law may have been violated;

(C) attempting to facilitate compliance with Federal or State law referred to in subparagraph (B);

(D) educating police, prosecutors, Federal and State judges, officers of the court, and employees of jails and prisons concerning the rights of victims under applicable Federal or State law; and

(E) taking measures that are necessary to ensure that victims of crime are treated with fairness, dignity, and compassion throughout the criminal justice process.

(d) OVERSIGHT.—

(1) TECHNICAL ASSISTANCE.—The Office may provide technical assistance to each VOICE Center.

(2) ANNUAL REPORT.—Each qualified private entity or qualified unit of State or local government that carries out a pilot program to establish and operate a VOICE Center under this section shall prepare and submit to the Director, not later than 1 year after the VOICE Center is established, and annually thereafter, a report that—

(A) describes in detail the activities of the VOICE Center during the preceding year; and

(B) outlines a strategic plan for the year following the year covered under subparagraph (A).

(e) REVIEW OF PROGRAM EFFECTIVENESS.—

(1) GAO STUDY.—Not later than 2 years after the date on which each VOICE Center established under a pilot program under this section is fully operational, the Comptroller General of the United States shall conduct a review of each pilot program carried out under this section to determine the effectiveness of the VOICE Center that is the subject of the pilot program in carrying out the mission and duties described in subsection (c).

(2) OTHER STUDIES.—Not later than 2 years after the date on which each VOICE Center established under a pilot program under this section is fully operational, the Attorney General, acting through the Director, shall enter into an agreement with 1 or more private entities that meet such requirements the Attorney General, acting through the Director, may establish, to study the effectiveness of each VOICE Center established by a pilot program under this section in carrying out the mission and duties described in subsection (c).

(f) TERMINATION DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a pilot program established under this section shall terminate on the date that is 4 years after the date of enactment of this Act.

(2) RENEWAL.—If the Attorney General determines that any of the pilot programs established under this section should be renewed for an additional period, the Attorney General may renew that pilot program for a period not to exceed 2 years.

(g) FUNDING.—Notwithstanding any other provision of law, an aggregate amount not to exceed $5,000,000 of the amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the "False Claims Act"), may be used by the Director to make grants under subsection (b).

SEC. 205. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) CRIME VICTIMS FUND.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking "and" at the end;

(B) in paragraph (4), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(5) any gifts, bequests, and donations from private entities or individuals."; and

(2) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

"(1) All unobligated balances transferred to the judicial branch for administrative costs to carry out functions under sections 3611 and 3612 of title 18, United States Code, shall be returned to the Crime Victims Fund and may be used by the Director to improve services for crime victims in the Federal criminal justice system."; and

(B) in paragraph (4), by adding at the end the following:

"(C) States that receive supplemental funding to respond to incidents or terrorism or mass violence under this section shall be required to return to the Crime Victims Fund for deposit in the reserve fund, amounts subrogated to the State as a result of third-party payments to victims.".

(b) CRIME VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended—

(1) in subsection (a)—

(A) in each of paragraphs (1) and (2), by striking "40" and inserting "60"; and

(B) in paragraph (3), by inserting "and evaluation" after "administration"; and

(2) in subsection (b)(7), by inserting "because the identity of the offender was not determined beyond a reasonable doubt in a criminal trial, because criminal charges were not brought against the offender, or" after "deny compensation to any victim".

(c) CRIME VICTIM ASSISTANCE.—Section 1404 of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking the comma after "Director";

(ii) by inserting "or enter into cooperative agreements" after "make grants";

(iii) by striking subparagraph (A) and inserting the following:

"(A) for demonstration projects, evaluation, training, and technical assistance services to eligible organizations;";

(iv) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(v) by adding at the end the following:

"(C) training and technical assistance that address the significance of and effective delivery strategies for providing long-term psychological care."; and

(B) in paragraph (3)—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(E) use funds made available to the Director under this subsection—

"(i) for fellowships and clinical internships; and

"(ii) to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects."; and

(2) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

"(1) the term 'State' includes—

"(A) the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and any other territory or possession of the United States; and

"(B) for purposes of a subgrant under subsection (a)(1) or a grant or cooperative agreement under subsection (c)(1), the United States Virgin Islands and any agency of the government of the District of Columbia or the Federal Government performing law enforcement functions in and on behalf of the District of Columbia.";

(B) in paragraph (2)—

(i) in subparagraph (C), by striking "and" at the end; and

(ii) by adding at the end the following:

"(E) public awareness and education and crime prevention activities that promote, and are conducted in conjunction with, the provision of victim assistance; and

"(F) for purposes of an award under subsection (c)(1)(A), preparation, publication, and distribution of informational materials and resources for victims of crime and crime victims organizations.";

(C) by striking paragraph (4) and inserting the following:

"(4) the term 'crisis intervention services' means counseling and emotional support including mental health counseling, provided as a result of crisis situations for individuals, couples, or family members following and related to the occurrence of crime;";

(D) in paragraph (5), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(6) for purposes of an award under subsection (c)(1), the term 'eligible organization' includes any—

"(A) national or State organization with a commitment to developing, implementing, evaluating, or enforcing victims' rights and the delivery of services;

"(B) State agency or unit of local government;

"(C) tribal organization;

"(D) organization—

"(i) described in section 501(c) of the Internal Revenue Code of 1986; and

"(ii) exempt from taxation under section 501(a) of such Code; or

"(E) other entity that the Director determines to be appropriate.".

(d) COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OF MASS VIOLENCE.—Section 1404B of the Victims of Crime Act of 1984 (42 U.S.C. 10603b) is amended—

(1) in subsection (a), by striking "1404(a)" and inserting "1402(d)(4)(B)"; and

(2) in subsection (b), by striking "1404(d)(4)(B)" and inserting "1402(d)(4)(B)".

SEC. 206. TECHNICAL CORRECTION.

Section 233(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking "1 year after the date of enactment of this Act" and inserting "October 1, 1999".

SEC. 207. SERVICES FOR VICTIMS OF CRIME AND DOMESTIC VIOLENCE.

Section 504 of Public Law 104–134 (110 Stat. 1321–53) shall not be construed to prohibit a recipient (as that term is used in that section) from using funds derived from a source other than the Legal Services Corporation to provide related legal assistance to any person with whom an alien (as that term is used in subsection (a)(11) of that section) has a relationship covered by the domestic violence laws of the State in which the alien resides or in which an incidence of violence occurred.

SEC. 208. PILOT PROGRAM TO STUDY EFFECTIVENESS OF RESTORATIVE JUSTICE APPROACH ON BEHALF OF VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the "False Claims Act"), may be used by the Office of Victims of Crime to make grants to States, units of local government, and qualified private entities for the establishment of pilot programs that implement balanced and restorative justice models.

(b) DEFINITION OF BALANCED AND RESTORATIVE JUSTICE MODEL.—In this section, the term "balanced and restorative justice model" means an approach to criminal justice that promotes the maximum degree of involvement by a victim, offender, and the community served by a criminal justice system by allowing the criminal justice system and related criminal justice agencies to improve the capacity of the system and agencies to—

(A) protect the community served by the system and agencies; and

(B) ensure accountability of the offender and the system.

Mr. KENNEDY. Madam President, It is a privilege to join in introducing the Crime Victims Empowerment Act. I commend Senator LEAHY and Congresswoman McCARTHY for their effective leadership on this important issue, and the many organizations who share our concern, especially the National Network to End Domestic Violence, the National Clearinghouse for the Defense of Battered Women, and the NOW Legal Defense Fund.

Too often in the past, the victims of crime have been the forgotten citizens in the criminal justice system. The legislation we are introducing today is an attempt to redress the balance and to guarantee that victims of crime are not victimized a second time by the criminal justice system.

First, the bill establishes new statutory rights for victims of Federal crimes, including expanded rights to participate in all phases of the criminal justice process, from trial through sentencing. Expanded rights are created for victims during trial proceedings.

Second, the bill includes a number of important measures to assist victims of crimes under State laws. A key step here is to provide additional training and resources to State officials. Although most State judges and prosecutors are conscientious, there are too many cases in which the rights and needs of victims are ignored.

Too often, for example, victims of assaults or other violent crimes learn about developments in their case by reading the newspaper, or watching the news on television. Victims should not have to learn about the release of their assailants in these ways. Our bill offers resources to local authorities to take this step and other basic steps to ensure that victims are not left out of the criminal justice provisions in obvious ways like this.

To take another example, there is a critical shortage of victim advocates to provide services and support to crime victims. Our bill addresses this shortage by authorizing the hiring of additional personnel.

These initiatives will not raise the deficit. They are financed by civil penalties paid under the False Claims Act.

There is no need to amend the Constitution to protect the rights of victims of crime. We can accomplish our goal by statute, and ensure that victims are treated with the dignity and respect they deserve. I look forward to early action on this legislation, and to taking the long overdue steps to improve the quality of justice in our society by protecting the rights of victims.

By Mr. MACK (for himself, Mr. HUTCHINSON, and Mr. ASHCROFT):

S. 1083. A bill to provide structure for and introduce balance into a policy of meaningful engagement with the People's Republic of China; to the Committee on Foreign Relations.

THE UNITED STATES-PEOPLE'S REPUBLIC OF CHINA NATIONAL SECURITY AND FREEDOM PROTECTION ACT

Mr. MACK. Mr. President, just over 1 week ago, Congressman CHRIS COX, together with many other Members of the House of Representatives, including BEN GILMAN, GERALD SOLOMON, DUNCAN HUNTER, TILLIE FOWLER, CHRIS SMITH, ED ROYCE, BILL McCOLLUM, HENRY HYDE, and ILEANA ROS-LEHTINEN introduced an 11-point legislative plan to address our Nation's failure to truly engage the People's Republic of China. Senator TIM HUTCHINSON and I joined in the unveiling of the House proposals to show our support for the good work done by our House colleagues and endorse the leadership of Congressman

COX. I also promised at that time to introduce companion legislation in the Senate.

Mr. President, I rise today to offer that bill, the United States-People's Republic of China National Security and Freedom Protection Act. I am proud to say that Senator HUTCHINSON and Senator ASHCROFT are joining me in introducing this bill today.

Mr. President, I also want to congratulate Senator ABRAHAM for his interest and work on developing a China policy. He has played an instrumental role in advancing the debate on this important issue.

Mr. President, I come to this discussion of China policy following my 7 years of involvement with the people of Hong Kong and their commitment to freedom and democratic reforms. As Senate cochair of the congressional caucus on Hong Kong, I traveled to Hong Kong and China in late March of this year with the Democratic cochair, Senator JOE LIEBERMAN.

I must confess that on this recent trip, my concerns for the people of China and the future United States-People's Republic of China relationship increased. I was struck by the dichotomy between the people and the leadership in China. People's Republic of China officials expressed the view that people made governing difficult, as if the people exist for the benefit of the government. This fundamentally opposes my belief that people know what is best for themselves, and that government is for the benefit of the people. The official People's Republic of China view puts people at odds with government.

Mr. President, in China, I attended church and visited with people at the Forbidden City, and saw in the eyes of children and parents throughout China the same thing I see here in America. I saw children full of hope and wonder, and parents full of pride and ambition for their children.

I fear that these differences between the United States and China will lead us toward conflict unless we have a sound policy for which we can actively work toward improving relations. The administration calls their policy "strategic engagement." I call it appeasement. Any policy which does not allow Americans to address their concerns with the People's Republic of China will prove irresponsible. I am introducing this bill today so that the children of China and the United States can grow up in peace, benefiting from each others' freedom and prosperity.

Mr. President, this bill takes root in a belief that our China policy must contain five essential elements.

First, United States policy should seek liberalization of the People's Republic of China Government, responsible behavior by the People's Republic of China, and integration of the People's Republic of China into the community of nations. United States interests are best served in China, as they are everywhere, when they are defined by the United States national security strategy: in the proliferation of democracy and the liberalization of authoritarian forms of government.

Second, United States policy should continue to maintain a strong presence and commitment to leadership and involvement in the Asian Pacific region. The policy should be regionally and globally integrated. The United States shares a stake in China's future with the people of China, the region, and the world.

Third, United States policy should encourage friendship between our nations while protecting national interests and acting on national values. The People's Republic of China does not today, and will not for the foreseeable future, pose a direct military threat to the United States. The People's Republic of China is not an enemy of the United States and should not be made out as such.

Fourth, United States policy toward China should contain resolute and straight-forward toughness. United States policy toward China must not paper over issues which make China feel uncomfortable, but these issues should not dominate the relationship either. United States policy should seek to overcome these differences with the People's Republic of China. The People's Republic of China expects the United States to act honestly and directly, and the American people require a foreign policy which is honest and direct.

And finally, United States policy should be a policy of meaningful engagement which includes the mechanisms of this act. In order to fulfill a meaningful policy with respect to the People's Republic of China, more tools are needed to address American interests beyond those available in the current policy.

Mr. President, this bill provides a broad and positive context for dealing with the People's Republic of China and encouraging China's democratic development.

It is divided into three main sections: national security, human rights, and trade. It uses targeted sanctions and increased diplomacy as its primary tools. Economic sanctions are imposed against the People's Liberation Army, which is banned from operating commercially in the United States. Political sanctions are imposed against human rights violators by denying entry into the United States to those responsible for religious persecution, coercive family planning practices, and political oppression. The act also calls for military sanctions as provided for in the Gore-McCain Nonproliferation Act.

The sanctions are complemented by additional advocacy and reporting requirements placed upon United States diplomatic and customs officers in the People's Republic of China. The act provides for additional authorizations to meet these requirements, as well as to improve the broadcasting effectiveness of Radio Free Asia. To demonstrate support for Taiwan and clarity in our Taiwan policy, the Act requires a bilateral study assessing the need for and feasibility of providing TMD to Taiwan.

The bill concludes with a title calling for review of the mechanisms called for in this act based upon China's behavior.

Mr. President, perhaps within our lifetimes, and almost certainly in the lives of our children, China will become a premier Asian power. Whether that is a threat or a promise depends in large part on whether we rise to the occasion by asserting our values and interests while at the same time helping China meet its new responsibilities. Continuing down a policy track which offers choices only between inadequate engagement or quixotic containment is a journey that will end as it began, in frustration without alternatives. We cannot allow that to be our legacy.

By Mr. WELLSTONE:

S. 1085. A bill to improve the management of the Boundary Waters Canoe Area Wilderness, and for other purposes; read the first time.

THE BOUNDARY WATERS CANOE AREA WILDERNESS EXPANSION, PROTECTION, AND ACCESS ACT OF 1997

Mr. WELLSTONE. Mr. President, I ask unanimous consent that S. 1085, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Boundary Waters Canoe Area Wilderness Expansion, Protection, and Access Act of 1997".

SEC. 2. MOTORIZED PORTAGES.

Section 4 of Public Law 95-495 (16 U.S.C. 1132 note; 92 Stat. 1650) is amended by striking subsection (g) and inserting the following:

"(g) MOTORIZED PORTAGES.—

"(1) IN GENERAL.—Subject to paragraph (2), nothing in this Act shall prevent the operation of a motorized vehicle and associated equipment that is necessary to assist in the transport of a boat across Prairie Portage from the Moose Lake chain to Basswood Lake, and from Lake Vermilion to Trout Lake across the Trout Lake Portage.

"(2) CLEAN AND EFFICIENT VEHICLES.—A vehicle operated as permitted under paragraph (1)—

"(A) may not exceed the dimensions of a ¾ ton pickup truck; and

"(B) shall be a clean-emission and energy-efficient vehicle, as determined by the Secretary.

"(3) NEW TECHNOLOGY.—The Secretary may require the use of vehicles under paragraph

(1) that utilize appropriate cost-effective new technology allowing for a cleaner and quieter motorized vehicle as soon as practicable, as determined by the Secretary.

"(4) REMOVAL OF TOW BOATS.—Not later than 30 days after the date on which the operation of motorized vehicles begins under paragraph (1), the Secretary shall terminate any special use permit for a tow boat in Basswood Lake or South Farm Lake.

"(5) INCREASE IN MOTORBOAT PERMITS.—The Secretary shall allow an appropriate increase in the number of motorboat permits for September on Basswood Lake to take into account the removal of commercial tow boats on Basswood Lake.

"(6) NO ADDITIONAL FACILITIES.—Nothing in this subsection permits the building of an overnight facility, building, road, or amenity at a portage site.

"(7) NO SUBSIDY.—The costs of operating a motorized vehicle under this subsection shall be borne by a concessionaire without subsidy from any government.

"(8) CONTINUED OPERATION.—If there is no operation of a motorized vehicle under this subsection by a concessionaire for a significant portion of the ice-free season for 3 consecutive years, this subsection shall cease to have effect.".

SEC. 3. LAND ADDITIONS TO THE WILDERNESS.

Section 3 of Public Law 95-495 (16 U.S.C. 1132 note; 92 Stat. 1649) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) ADDITIONAL LAND.—

"(1) IN GENERAL.—The wilderness shall include the land designated on the map entitled 'Boundary Waters Canoe Area—Expansion Proposal', dated July 29, 1997, comprising approximately 21,700 acres.

"(2) ON FILE.—The map referred to in paragraph (1) shall be on file and available for public inspection in the offices of the Chief of the Forest Service and the Supervisor of the Superior National Forest.

"(3) DETAILED LEGAL DESCRIPTION AND MAP.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a detailed legal description and map showing the new boundaries of the wilderness.

"(B) FILING WITH CONGRESS.—The Secretary shall file the legal description and map described in subparagraph (A) with the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources of the House of Representatives.

"(C) FORCE OF LAW.—The legal description and map described in subparagraph (A) shall have the same force and effect as if included in this Act.

"(D) CLERICAL AND TYPOGRAPHICAL ERRORS.—The Secretary may correct clerical and typographical errors in the legal description and map described in subparagraph (A) at any time.

"(4) TIMBER ACCESS ROADS.—Any timber access road in the land described in paragraph (1) that is in existence on the date of enactment of this subsection that is needed for operations under a timber sale contract in existence on that date shall remain open only until such time as the operations are completed and the timber sale contract expires.

"(5) LAND EXCHANGES.—Not later that 2 years after the date of enactment of this subsection, the Secretary shall identify and convey to the State or a county, in exchange for land owned by the State or county in the wilderness area described in paragraph (1), Federal land of approximately comparable value, taking into consideration factors such as the timber species, the volume of timber, and the accessibility of timber on the land.".

SEC. 4. MOTORBOATS ON CANOE LAKE.

Section 4(c)(2) of Public Law 95-495 (16 U.S.C. 1132 note; 92 Stat. 1650) is amended by striking "; Canoe, Cook County".

SEC. 5. USE OF PISTON BULLY.

Section 4(i) of Public Law 95-495 (16 U.S.C. 1132 note; 92 Stat. 1652) is amended by adding at the end the following: "The Secretary shall allow the use of a piston bully or similar device to groom the portion of the maintained ski trail on the east end of Flour Lake.".

SEC. 6. PERMIT RESERVATION SYSTEM.

Section 4 of Public Law 95-495 (16 U.S.C. 1132 note; 92 Stat. 1652) is amended by adding at the end the following:

"(j) PERMIT RESERVATION SYSTEM.—It is the sense of Congress that the Secretary should take steps, if feasible, to move the permit reservation system for the wilderness to northeastern Minnesota. In taking such steps, the Secretary should give preference to a contractor located in a county in which part of the wilderness lies.".

SEC. 7. ANNUAL GRANTS.

Section 16 of Public Law 95-495 (16 U.S.C. 1132 note; 92 Stat. 1658) is amended by adding at the end the following:

"(c) ANNUAL GRANTS.—Of the amounts made available under section 21, the Secretary shall make a portion available each year to the State of Minnesota to be used by the Department of Natural Resources to be used to pay the costs of providing employees and equipment in the wilderness (in addition to the employees and equipment being provided before the date of enactment of this subsection) for activities such as—

"(1) campsite restoration;

"(2) trail and campsite maintenance;

"(3) law enforcement;

"(4) monitoring of the management plan described in section 20;

"(5) user education; and

"(6) other appropriate activities, as determined by the Secretary.".

SEC. 8. AIRSPACE RESERVATION.

The provisions of Executive Order No. 10092 (14 Fed. Reg. 7637) shall be applicable to the areas depicted as wilderness on the map referred to in the amendments made by section 3.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 21 of Public Law 95-495 (16 U.S.C. 1132 note; 92 Stat. 1659) is amended to read as follows:

"SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

"In addition to any other funds authorized to be appropriated for the wilderness, there are authorized to be appropriated to carry out this Act—

"(1) $3,500,000 for fiscal year 1998; and

"(2) such sums as are necessary for each fiscal year thereafter.".

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on January 1, 1998.

ADDITIONAL COSPONSORS

S. 322

At the request of Mr. FEINGOLD, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 322, a bill to amend the Agricultural Market Transition Act to repeal the Northeast Interstate Dairy Compact provision.

S. 348

At the request of Mr. MCCONNELL, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 348, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 489

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 489, a bill to improve the criminal law relating to fraud against consumers.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 507

At the request of Mr. HATCH, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 751

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 751, a bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes.

S. 770

At the request of Mr. NICKLES, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 770, a bill to encourage production of oil and gas within the United States by providing tax incentives, and for other purposes.

S. 950

At the request of Mr. MCCONNELL, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 950, a bill to provide for equal protection of the law and to prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex in Federal actions, and for other purposes.

S. 952

At the request of Mr. MCCONNELL, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 952, a bill to establish a Federal cause of action for discrimination and preferential treatment in Federal actions on the basis of race, color, national origin, or sex, and for other purposes.

S. 953

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 953, a bill to require certain Federal agencies to protect the right of private property owners, and for other purposes.

S. 1002

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1002, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

S. 1029

At the request of Mr. DEWINE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1029, a bill to provide loan forgiveness for individuals who earn a degree in early childhood education, and enter and remain employed in the early child care profession, to provide loan cancellation for certain child care providers, and for other purposes.

S. 1067

At the request of Mr. KERRY, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 1067, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. MOYNIHAN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Concurrent Resolution 39, a concurrent resolution expressing the sense of the Congress that the German Government should expand and simplify its reparations system, provide reparations to Holocaust survivors in Eastern and Central Europe, and set up a fund to help cover the medical expenses of Holocaust survivors.

SENATE RESOLUTION 102

At the request of Mr. SPECTER, the names of the Senator from Illinois [Mr. DURBIN], the Senator from Ohio [Mr. DEWINE], the Senator from Rhode Island [Mr. REED], the Senator from Louisiana [Ms. LANDRIEU], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Hawaii [Mr. INOUYE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Michigan [Mr. LEVIN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 102, a resolution designating August 15, 1997, as "Indian Independence Day: A National Day of Celebration of Indian and American Democracy."

SENATE CONCURRENT RESOLUTION 45—TRIBUTE TO HANS BLIX

Mr. GLENN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 45

Whereas Dr. Hans Blix is nearing the completion of 16 years of distinguished service as Director General of the International Atomic Energy Agency and is retiring from that position;

Whereas Director General Blix has pursued the fundamental safeguards and nuclear cooperation objectives of the International Atomic Energy Agency with admirable skill and professional dedication; and

Whereas Director General Blix has earned international acclaim for his contributions to world peace and security: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on behalf of the people of the United States—

(1) commends Dr. Hans Blix for his untiring efforts on behalf of world peace and development as the Director General of the International Atomic Energy Agency; and

(2) wishes Dr. Blix a happy and fulfilling future.

Mr. GLENN. Mr. President, I rise today to submit and speak on behalf of my proposed concurrent resolution to honor Dr. Hans Blix, who will soon be retiring after 16 years of service as the Director General of the International Atomic Energy Agency [IAEA].

Unfortunately, it is probably true that many Members of Congress do not fully understand what the IAEA is, what it does, and how it serves our national security interests. I think it is appropriate, therefore, to take just a few minutes to describe the agency that Dr. Blix has directed over these many years of distinguished service.

I would like to begin by discussing what the IAEA is not. The agency is not an organization that specializes in public relations or advertising to herald its achievements. Its officials tend not to be flamboyant. It is not any appendage or puppet of the U.S. Government, though it surely does serve the national security and foreign policy interests of the American people. It is not a police force. It has no army. It has no clandestine intelligence service. It has no ability to finance its operations by raising tax revenues. Indeed, it has absolutely no guarantee that adequate funds will be available to pay for the agency's complex and ever-growing responsibilities. And like many other international organizations composed of diverse members—including some countries that do not even exchange diplomatic relations—it is not an agency that is immune to political conflict or controversy.

So what then is the IAEA?

The IAEA is a highly specialized agency in the United Nations system. It was created back in 1957, largely as a result of the Atoms for Peace initiative launched by President Dwight Eisenhower. Since its establishment, the IAEA has performed two basic tasks. First, it implements a system of safeguards over the peaceful uses of nuclear energy around the world. These safeguards consist of inspections, accounting measures, and material verification controls intended to ensure—in the words of the IAEA statute—"* * * that special fissionable and other materials, services, equipment, facilities, and information made available by the agency or at its request or under its supervision or control are not used in such a way as to further any military purpose".

After the Treaty on the Non-Proliferation of Nuclear Weapons [NPT] entered into force a quarter of a century ago, the parties to that treaty established a system of nuclear safeguards whose objectives were "* * * the timely detection of diversion of significant quantities of nuclear material from peaceful nuclear activities to the manufacture of nuclear weapons or of other nuclear explosive devices or for purposes unknown, and deterrence of such diversion by the risk of early detection" (IAEA, INFCIRC 153, para. 28).

After the war in 1991 to expel Iraq from Kuwait, the UN Security Council gave the IAEA the responsibility of ensuring that Iraq was complying with the Council's resolutions concerning the dismantling of Iraq's nuclear weapons capability, a mission that the agency continues to perform today.

But the agency does not just implement safeguards. Its second key mission is to promote the peaceful uses of nuclear energy in such fields as agriculture, medicine, nuclear safety, and the generation of electricity. Today, more than 90 countries receive nuclear technical assistance from the IAEA. This assistance typically comes in the form of equipment, expert services, and training activities. Funding for these activities comes primarily from member states' voluntary contributions. The United States, which played such an essential role in the creation of this agency, contributes about a quarter of the IAEA's regular budget, which in 1996 came to $63 million of the agency's $219 million budget.

Now having just described what the agency is not, and having reviewed briefly what the agency is, it should be quite apparent that any individual who can lead such an organization for 16 years, win numerous reelections, inspire the confidence of members of the world community—some of whom are not even talking to each other—enhance the technical competence of the agency, and accomplish all of the above on a limited budget, is no ordinary individual indeed. And that describes Dr. Blix about as best as I can describe him. He is a remarkable public servant.

I would like to add on a personal note that I have had the privilege of meeting with Dr. Blix many times during his frequent trips to this country. I know the kinds of political, organizational, and funding problems he has had to handle over his long tenure of office. I appreciated both his candor and his extensive knowledge about the workings of the agency that has done more than any other to protect the world community against the nightmare of loose nukes. I will miss both his good humor and his wise counsel about the challenges facing the agency as it grapples with some of the world's most difficult international security problems.

Though I wish Dr. Blix well in his retirement, I also look forward to working with his successor as Director General, Dr. Mohamed El Baradei. And as I prepare for my own retirement next year, I hope that all of my colleagues with responsibilities in the field of international nuclear affairs will miss no opportunity to educate themselves about this important international agency and the vital contributions it makes to the security of all Americans and, indeed, to the security of the world community as a whole.

It is important for us all to understand not just where this agency has been but where it may be heading in the years ahead.

We must recognize that safeguards do not implement themselves and will never suffice as a permanent guarantee against the illicit uses of nuclear materials. We must face the fact that some nuclear activities—such as large-scale reprocessing of plutonium or commercial uses of highly-enriched uranium—are probably unsafeguardable in the strict sense of the term and should therefore be discouraged internationally or, if economic reason and security considerations are allowed to prevail, phased out all together.

We must acknowledge that nuclear power offers no panacea for either the Greenhouse Effect or the world's ever-growing demand for electricity.

We must beware of efforts in the world community to expand the missions of this agency without also giving it the resources it needs to perform those responsibilities.

We must understand that IAEA member countries that comply with their safeguards agreements and international nonproliferation treaty obligations are entitled to receive technical assistance from the agency—and that the United States has ample foreign policy tools available to influence its adversaries rather than turning the IAEA into a diplomatic playing card, a punching bag, or an arena for gladiatorial combat.

If we recognize the strengths and limitations of the agency, I believe it will continue to serve the positive roles it has played over many decades in the service of world peace, security, and prosperity. And if the legacy of Dr. Blix continues to inspire the leadership of that agency in the years ahead, as I have every reason to believe it will, then the future of the IAEA will be bright indeed.

I ask all my colleagues to join me today in congratulating Dr. Blix for his long and dedicated service in the pursuit of a safer world. Let us salute him and his agency for a job well done.

AMENDMENTS SUBMITTED

THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

GREGG (AND HOLLINGS) AMENDMENT NO. 1024

Mr. GREGG (for himself and Mr. HOLLINGS) proposed an amendment to the bill (S. 1022) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 77, line 16, strike "$1,995,252,000" and insert "$1,999,052,000".

On page 77, line 16, after "expended", insert the following: ", of which not to exceed $3,800,000 may be made available to the Secretary of Commerce for a study on the effect of intentional encirclement, including chase, on dolphins and dolphin stocks in the eastern tropical Pacific Ocean purse seine fishery".

On page 77, line 26, strike "$1,992,252,000" and insert "$1,996,052,000".

On page 100, line 24, strike "75,000,000" and insert "105,000,000."

GREGG AMENDMENT NO. 1025

Mr. GREGG proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of law and pursuant to the fiscal year 1997 Emergency Supplemental Act (Public Law 105-18) Subsection 2004, funding for the following projects is to be made available from prior year carryover funds: $200,000 for the Ship Creek facility in Anchorage, Alaska; $1,000,000 for the construction of a facility on the Gulf Coast in Mississippi; and $300,000 for an open ocean aquaculture project and community outreach programs in Durham, New Hampshire.

COVERDELL AMENDMENT NO. 1026

Mr. GREGG (for Mr. COVERDELL) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. . REPORT ON COLLECTING DNA SAMPLES FROM SEX OFFENDERS.

(a) DEFINITIONS.—In this section—

(1) the terms "criminal offense against a victim who is a minor", "sexually violent offense", and "sexually violent predator" have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)));

(2) the term "DNA" means deoxyribonucleic acid; and

(3) the term "sex offender" means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) REPORT.—From amounts made available to the Department of Justice under this title, not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) PLAN REQUIREMENTS.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of DNA samples from any sex offender;

(B) the analysis of the collected samples for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with the mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

DORGAN (AND OTHERS) AMENDMENT NO. 1027

Mr. GREGG (for Mr. DORGAN, for himself, Mr. HOLLINGS, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. BURNS, Mr. KERREY, Mr. KERRY, Mr. JOHNSON, and Mr. WELLSTONE) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD NOT MANIPULATE UNIVERSAL SERVICE SUPPORT PAYMENTS TO BALANCE THE FEDERAL BUDGET.—

The Congress finds that:

(A) it reaffirmed the importance of universal service support for telecommunications services by passing the Telecommunications Act of 1996;

(B) the Telecommunications Act of 1996 required the Federal Communications Commission to preserve and advance universal service based on the following principles:

(1) Quality services should be available at just, reasonable, and affordable rates;

(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation;

(3) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably compared to rates charged for similar services;

(4) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service;

(5) There should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; and

(6) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services;

(C) Federal and State universal contributions are administered by an independent, non-Federal entity and are not deposited into the Federal Treasury and therefore not available for Federal appropriations;

(D) the Conference Committee on the Balanced Budget Reconciliation Act of 1997, is considering proposals that would withhold Federal universal service funds in the year 2002; and

(E) the Withholding of billions of dollars of universal service support payments may result in temporary rate increases in rural and high cost areas and may delay qualifying schools, libraries, and rural health facilities discounts directed under the Telecommunications Act of 1996:

Now, therefore, it is the sense of the Senate that the Balanced Budget Reconciliation Act of 1997 should not manipulate, modify, or impair universal service support as a means to achieve a balanced Federal budget or to achieve Federal budget savings.

McCAIN (AND KYL) AMENDMENT NO. 1028

Mr. GREGG (for Mr. McCAIN, for himself and Mr. KYL) proposed an amendment to the bill, S. 1022, supra; as follows:

At the end of the section in title I regarding the "WAIVER OF CERTAIN VACCINATION REQUIREMENTS", insert the following new subsection:

"(b) REPORT.—The Attorney General, in conjunction with the Secretaries of Health and Human Services and State, shall report to Congress within 6 months of the date of enactment of this Act on how to establish an enforcement program to ensure that immigrants who receive waivers from the immunization requirement pursuant to section 212 of the Immigration and Nationality Act comply with the requirement of that section after the immigrants enter the United States, except when such immunizations would not be medically appropriate in the United States or would be contrary to the alien's religious or moral convictions."

BIDEN AMENDMENT NO. 1029

Mr. GREGG (for Mr. BIDEN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) for fiscal year 2001, $4,355,000,000; and

"(8) for fiscal year 2002, $4,455,000,000."

Beginning on the date of enactment of this legislation, the discretionary spending limits contained in Section 201 of H. Con. Res. 84 (105th Congress) are reduced as follows:

for fiscal year 2001, $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

for fiscal year 2002, $4,455,000,000 in new budget authority and $4,485,000,000 in outlays.

KERRY AMENDMENT NO. 1030

Mr. GREGG (for Mr. KERRY) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 29, line 18, insert "That of the amount made available for Local Law Enforcement Block Grants under this heading, $10,000,000 shall be for the Community Policing to Combat Domestic Violence Program established pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968: *Provided further*," after "*Provided*,".

GREGG (AND HOLLINGS) AMENDMENT NO. 1031

Mr. GREGG (for himself and Mr. HOLLINGS) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 65, on line 25 after "expenses" insert the following: "*Provided further*, That the number of political appointees on board as of May 1, 1998, shall constitute not more than fifteen percentum of the total full-time equivalent positions at the Office of the United States Trade Representative."

WELLSTONE (AND OTHERS) AMENDMENT NO. 1032

Mr. WELLSTONE (for himself, Mr. TORRICELLI, Ms. LANDRIEU, Mr. AKAKA, and Mr. DASCHLE) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . For fiscal year 1998 and subsequent fiscal years, in establishing the income or assets of an individual who is a victim of domestic violence, under section 1007(a)(2) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)), to determine if the individual is eligible for legal assistance, a recipient described in such section shall consider only the assets and income of the individual, and shall not include any jointly held assets.

WELLSTONE (AND KENNEDY) AMENDMENT NO. 1033

Mr. WELLSTONE (for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . The Legal Services Corporation shall—

(1) conduct a study to determine the estimated number of individuals who were unable to obtain assistance from its grantees as a result of the enactment of section 504(a)(16) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (Public Law 104-134:110 State. 1321-55), during the six month period commencing with the enactment of this Act; and

(2) not later than 30 days thereafter, submit to Congress a report describing the results of the study conducted under paragraph (1).

GREGG AMENDMENT NO. 1034

Mr. GREGG proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert:

Notwithstanding any other provision in this act the amount for the Department of State "Capital Investment Fund" shall be $105,000,000.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

KERREY (AND HAGEL) AMENDMENT NO. 1035

Mr. SHELBY (for Mr. KERREY, for himself and Mr. HAGEL) proposed an amendment to the bill, S. 1048, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 52, at line 1, insert the following:

SEC. 339. Subsection (d)(4) of 49 U.S.C. 31112 is amended by striking "September 30, 1997" and inserting "February 28, 1998".

SHELBY (AND LAUTENBERG) AMENDMENT NO. 1036

Mr. SHELBY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill, S. 1048, supra; as follows:

On page 12, line 19, strike "$286,000,000" and insert: "$190,000,000".

On page 23, line 10, strike "$90,000,000" and insert: "$190,000,000".

On page 24, line 8, strike "$2,310,000" and insert: "$2,210,000".

On page 24, line 10, strike "$2,310,000" and insert: "$2,210,000".

On page 24, line 19, strike "$2,000,000,000" and insert: "$2,008,000,000".

On page 25, line 5, strike "$780,000,000" and insert: "$788,000,000".

On page 46, line 16, strike the word "persons" and insert: "passengers".

On page 46, line 18, strike "363,000" and insert: "300,000".

On page 26, before line 20, insert the following: "$4,645,000 for the Little Rock, Arkansas Junction Bridge project;".

ABRAHAM (AND OTHERS) AMENDMENT NO. 1037

Mr. SHELBY (for Mr. ABRAHAM, for himself, Mr. LEVIN, Ms. MOSELEY-BRAUN, and Mr. DURBIN) proposed an amendment to the bill, S. 1048, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 340. Of funds made available under this Act for discretionary grants for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, up to $20,000,000 may be provided to the State of Michigan and $12,000,000 to the State of Illinois.

CAMPBELL (AND ALLARD) AMENDMENT NO. 1038

Mr. SHELBY (for Mr. CAMPBELL, for himself, and Mr. ALLARD) proposed an amendment to the bill, S. 1048, supra; as follows:

On page 24, line 3, strike the period at the end of the line and insert the following: ": *Provided*, That within the funds made available under this head, $500,000 may be made available to the Colorado Department of Transportation to study the metropolitan planning process and organization in the Denver metropolitan area. The study shall be based on a scope of work agreed to be Douglas County (on behalf of selected Denver regional county governments and municipal governments), the Denver Regional Council of Governments, and the Colorado Department of Transportation. Within 24 months of enactment of this Act, the recommendations of this study will be transmitted to the Senate and House Committees on Appropriations."

SHELBY (AND LAUTENBERG) AMENDMENT NO. 1039

Mr. SHELBY (for himself, and Mr. LAUTENBERG) proposed an amendment to the bill, S. 1048, supra; as follows:

On page 15, line 4, after the word "loans" insert: "to be repaid with other than Federal funds".

INOUYE AMENDMENT NO. 1040

Mr. SHELBY (for Mr. INOUYE) proposed an amendment to the bill, S. 1048, supra; as follows:

On page 50, line 11, insert the following:

(D) Nothing in this Act shall be construed to affect any existing statutes of the several States that define the obligations of such States to native Hawaiians, native Americans, or Alaskan natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy any such obligations.

HOLLINGS AMENDMENT NO. 1041

Mr. SHELBY (for Mr. HOLLINGS) proposed an amendment to the bill, S. 1048, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3 . PILOT RECORD SHARING.

The Administrator of the Federal Aviation Administration shall—

(1) work with air carriers conducting nonscheduled operations under part 135 of the Federal Aviation Administration's regulations (14 C.F.R. 135.1 et seq.) to implement the requirements of section 44936(f) of title 49, United States Code, effectively and expeditiously; and

(2) implement those requirements with respect to such air carriers not later than February 1, 1998, or sooner if, in working with such air carriers, the Administrator determines that the provisions of that section can be effectively implemented for such air carriers.

FRIST AMENDMENT NO. 1042

Mr. SHELBY (for Mr. FRIST) proposed an amendment to the bill, S. 1048, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. 3 . EXEMPTION AUTHORITY FOR AIR SERVICE TO SLOT-CONTROLLED AIRPORTS.

Section 41714 of title 49, United States Code, is amended by adding at the end thereof the following:

"(i) EXPEDITIOUS CONSIDERATION OF CERTAIN EXEMPTION REQUESTS.—Within 120 days after receiving an application for an exemption under subsection (a)(2) to improve air service between a nonhub airport (as defined in section 41731(a)(4)) and a high density airport subject to the exemption authority under subsection (a), the Secretary shall grant or deny the exemption. The Secretary shall notify the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committee on Transportation and Infrastructure of the grant or denial within 14 calendar days after the determination and state the reasons for the determination.".

LEVIN (AND GRAHAM) AMENDMENT NO. 1043

Mr. SHELBY (for Mr. LEVIN, for himself and Mr. GRAHAM) proposed an amendment to the bill, S. 1048, supra; as follows:

On page 51, after line 25, add the following:

SEC. . SENSE OF THE SENATE CONCERNING REAUTHORIZATION OF HIGHWAY AND MASS TRANSIT PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) on October 1, 1997, authorization for most of the programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240), including mass transit programs, will expire;

(2) States, local governments, and the national economy depend on Federal investment in the transportation infrastructure of the United States;

(3) it is the duty of Congress to reauthorize the programs to ensure that the investment continues to flow and that there is no interruption of critical transportation services or construction; and

(4) the public and Congress should have a substantial opportunity to review, comment on, and comprehensively debate committee-reported proposals to reauthorize the programs well in advance of their expiration to ensure that the programs adequately reflect the needs of the United States and the contributions of the States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this Act should not be considered to be a substitute for a comprehensive measure reauthorizing highway and mass transit spending programs and should not be interpreted to authorize or otherwise direct the distribution of funds to the States under expiring formulas under title 23 or 49, United States Code, in fiscal year 1998.

JOHNSON (AND DASCHLE) AMENDMENT NO. 1044

Mr. SHELBY (for Mr. JOHNSON, for himself and Mr. DASCHLE) proposed an amendment to the bill, S. 1048, supra; as follows:

On page 4, line 11, strike the numeral and insert "$2,435,400,000".

At the appropriate place in title III, insert the following:

SEC. 3. (a) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation, acting for the Department of Transportation, may take receipt of such equipment and sites of the Ground Wave Emergency Network (referred to in this section as "GWEN") as the Secretary of Transportation determines to be necessary for the establishment of a nationwide system to be known as the "Nationwide Differential Global Positioning System" (referred to in this section as "NDGPS").

(b) As soon as practicable after the date of enactment of this Act, the Secretary of Transportation may establish the NDGPS. In establishing the NDGPS, the Secretary of Transportation may—

(1) if feasible, reuse GWEN equipment and sites transferred to the Department of Transportation under subsection (a);

(2) to the maximum extent practicable, use contractor services to install the NDGPS;

(3) modify the positioning system operated by the Coast Guard at the time of the establishment of the NDGPS to integrate the reference stations made available pursuant to subsection (a);

(4) in cooperation with the Secretary of Commerce, ensure that the reference stations referred to in paragraph (3) are compatible with, and integrated into, the Continuously Operating Reference Station (commonly referred to as "CORS") system of the National Geodetic Survey of the Department of Commerce; and

(5) in cooperation with the Secretary of Commerce, investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration.

(c) The Secretary of Transportation may—

(1) manage and operate the NDGPS;

(2) ensure that the service of the NDGPS is provided without the assessment of any user fee; and

(3) in cooperation with the Secretary of Defense, ensure that the use of the NDGPS is denied to any enemy of the United States.

(d) In any case in which the Secretary of Transportation determines that contracting for the maintenance of 1 or more NDGPS reference stations is cost-effective, the Secretary of Transportation may enter into a contract to provide for that maintenance.

(e) The Secretary of Transportation may—

(1) in cooperation with appropriate representatives of private industries and universities and officials of State governments—

(A) investigate improvements (including potential improvements) to the NDGPS;

(B) develop standards for the NDGPS; and

(C) sponsor the development of new applications for the NDGPS; and

(2) provide for the continual upgrading of the NDGPS to improve performance and address the needs of—

(A) the Federal Government;

(B) State and local governments; and

(C) the general public.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee markup of the Agriculture Research bill as well as the nominations of:

Mr. August Schumacher to be Under Secretary of Agriculture for Farm and Foreign Agriculture Services and a Member of the Board of Directors for the Commodity Credit Corporation;

Dr. Catherine E. Woteki to be Under Secretary of Agriculture for Food Safety;

Dr. I. Miley Gonzalez to be Under Secretary of Agriculture for Research, Education, and Economics; and

Ms. Shirley Watkins to be Under Secretary of Agriculture for Food, Nutrition, and Consumer Services and a Member of the Commodity Credit Corporation.

The business meeting will take place in SR–328A, at 9 a.m., on Wednesday, July 30, 1997.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. president, I wish to announce that the Committee on Rules and Administration will hold a business meeting, at 2:30 p.m., on Wednesday, July 30, 1997, on the status of the investigation into the contested Senate election in Louisiana at which the committee could consider and vote upon a resolution, or resolutions, prescribing the future course of action to be taken by the committee.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a business meeting, at 9:30 a.m., on Thursday, July 31, 1997, on the status of the investigation into the contested Senate election in Louisiana at which the committee could consider and vote upon a resolution, or resolutions, prescribing the future course of action to be taken by the committee.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a business meeting, at 9:30 a.m., on Friday, August 1, 1997, on the status of the investigation into the contested Senate election in Louisiana at which the committee could consider and vote upon a resolution, or resolutions, prescribing the future course of action to be taken by the committee.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, July 29, 1997, at 9:30 a.m. In SR–328A to examine price volatility issues in the post farm bill setting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 29, 1997, to conduct an oversight hearing on automated teller machine networks.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 29, 1997, at 10:30 a.m. on global settlement of tobacco litigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 29, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 967, a bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act, and for other purposes, and S. 1015, a bill to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 29, 1997, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 29, 1997, at 10:30 a.m., to hold a House/Senate Conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Tuesday, July 29, at 10 a.m., for a business meeting on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on improving educational opportunities for low-income children during the session of the Senate on Tuesday, July 29, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 29, 1997, at 2 p.m., to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, Federalism, and Property Rights, of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, July 29, 1997, at 2 p.m., to hold a hearing in room 226, Senate Dirksen Building, on: "Judicial Activism: Potential Responses."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PLANT PATENT AMENDMENTS ACT OF 1997

• Mr. SMITH of Oregon. Mr. President, yesterday I introduced a bill, S. 1072, that corrects an unintended loophole in the Plant Patent Act of 1930 dealing with the coverage of plant parts. The 1930 act covers the whole plant but did not address plant parts, resulting in a loophole whereby some growers, particularly in foreign nations that do not have plant breeders' rights laws, are reproducing U.S. patent-protected varieties without authorization. They then export the harvested materials—plant parts—such as flowers and fruits, to the United States. The loophole has been created by new production and transportation capabilities unforeseen 67 years ago.

As a result, American plant breeders are losing royalty income that supports continued research and breeding of new and improved varieties. Domestic growers who are paying legitimate royalties are also finding themselves at an unfair disadvantage to foreign growers producing patented varieties illegally.

The Plant Patent Act of 1930 has historically offered a strong incentive for research and breeding activities, which is the foundation for a progressive and growing U.S. horticultural industry.

This legislation amends the Plant Patent Act to expressly cover plants and plant parts by inserting at the end of 35 U.S.C. 163, the words "or any parts thereof.'' This solution provides relief to U.S. breeders and growers, and would help ensure that the United States remains an international leader in the development of new and useful plant varieties. It will enable plant and patent holders the opportunity to protect their patent rights and continue investing in research and development. S. 1072 is also consistent with the 1991 International Union for the Production of New Varieties of Plants, which extends plant breeders' rights protection to harvested material.

Mr. President, I ask that the text of the legislation be printed in the Record.

The text of the bill follows:

S. 1072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Plant Patent Amendment Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress makes the following findings:

(1) The protection provided by plant patents under title 35, United States Code, dating back to 1930, has historically benefited American agriculture and horticulture and the public by providing an incentive for breeders to develop new plant varieties.

(2) Domestic and foreign agricultural trade is rapidly expanding and is very different from the trade of the past. An unforeseen ambiguity in the provisions of title 35, United States Code, is undermining the orderly collection of royalties due breeders holding United States plant patents.

(3) Plant parts produced from plants protected by United States plant patents are being taken from illegally reproduced plants and traded in United States markets to the detriment of plant patent holders.

(4) Resulting lost royalty income inhibits investment in domestic research and breeding activities associated with a wide variety of crops—an ares where the United States has historically enjoyed a strong international position. Such research is the foundation of a strong horticultural industry.

(5) Infringers producing such plant parts from unauthorized plants enjoy an unfair competitive advantage over producers who pay royalties on varieties protected by United States plant patents.

(b) Purposes.—The purposes of this Act are—

(1) to clearly and explicitly provide that title 35, United States Code, protects the owner of a plant patent against the unauthorized sale of plant parts taken from plants illegally reproduced;

(2) to make the protections provided under such title more consistent with those provided breeders of sexually reproduced plants under the Plant Variety Protection Act (7 U.S.C. 2321 et. seq.), as amended by the plant Variety Protection Act Amendments of 1994 (Public Law 103-349); and

(3) to strengthen the ability of United States plant patent holders to enforce their patent rights with regard to importation of plant parts produced from plants protected by United States plant patents, which are propagated without the authorization of the patent holder.

SEC. 3. AMENDMENT TO TITLE 35, UNITED STATES CODE.

(a) Rights in Plant Patents.—Section 163 of title 35, United States Code, is amended to read as follows:

''§ 163. Grant

''In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.''.

(b) Effective Date.—The amendment made by subsection (a) shall apply to any plant patent issued on or after the date of the enactment of this Act.●

WIPO IMPLEMENTING LEGISLATION

● Mr. LEAHY. Mr. President, yesterday, the administration transmitted its legislative proposal for implementing the two new treaties adopted in December 1996 by the World Intellectual Property Organization [WIPO]. Over the past few months, I have spoken and written to Secretary Daley of the Department of Commerce urging him to transmit this proposal without delay. The legislative package we received yesterday is an excellent start for moving forward. I commend the administration, Secretary Daley and, in particular, Assistant Secretary Bruce Lehman of the Patent and Trademark Office for their hard work on this proposal.

I understand that the administration's proposal will be introduced in the House of Representatives today. Along with Senator HATCH, I am reviewing the proposal. I hope we will be able to introduce the legislation this week so that we can take this matter up for hearings and further deliberation and action promptly when we return in September.●

JIM GAUPP

● Mr. FAIRCLOTH. Mr. President, Jim Gaupp was a fine American whose life touched many people. He was devoted to his family, and committed to his community. The following is an excerpt from the program at Jim's funeral, held at the Pinecrest Presbyterian Church in Hendersonville, NC:

Psalm 121

I will lift up mine eyes unto the hills, from whence cometh my help.
My help cometh from the Lord, which made heaven and earth.
He will not suffer thy foot to be moved; he that keepeth thee will not slumber.
Behold, he that keepeth Israel shall neither slumber nor sleep.
The Lord is thy keeper: the Lord is thy shade upon thy right hand.
The sun shall not smite thee by day nor the moon by night.
The Lord shall preserve thee from all evil; he shall preserve thy soul.
The Lord shall preserve thy going out and thy coming in from this time forth, and even for evermore.

James Louis Gaupp was born in Elk City, OK. In time, Jim moved to Columbus, OH, where he worked for Williams & Co., the metals warehouse. During his 47 years with Williams, Jim worked his way through the ranks and retired as a district manager and vice president. Jim Gaupp's commitment was to be a ''Christian businessman and father.''

In Columbus, OH, Jim Gaupp was very active in community service. He was very active in his church, in the chamber of commerce, and in the Kiwanis Club.

Jim and Betty Gaupp moved to Hendersonville in 1982, and quickly became vital parts of the Pinecrest Church. At Pinecrest, Jim served as an elder, Sunday school teacher, and faithful member.

In the Kiwanis Club of Hendersonville, Jim Gaupp was faithful; 51 years of perfect attendance at various Kiwanis Clubs was a record attained by Jim.

Jim Gaupp was an outstanding Christian gentleman. Jim was an ardent student of the Bible—entrusting large portions of Scripture to memory. Jim was a great man of prayer. As much as anything else, Jim Gaupp was a great example and model for the sake of Christ in our midst. In many ways, Jim Gaupp will be missed.

Jim Gaupp is survived by his devoted wife, Betty, two daughters, one son, and several grandchildren.

Jim's life was an example to all, and he deserves a great deal of recognition. He has enriched our lives with his many contributions to our community. Jim will certainly be missed.●

A TRIBUTE TO JERI WARE

● Mrs. MURRAY. Mr. President, Washington State lost a visionary leader, a passionate advocate, and a remarkable woman with the passing of Jerline Ware. As a citizen activist and as a public servant, Jeri Ware worked tirelessly for social justice and to ensure a brighter future for our community's children.

Jeri Ware may best be remembered as the chairwoman of the Seattle Human Rights Commission. This position gave her the opportunity to do in an official capacity what she had done her entire life: fight against discrimination and for equality and human rights. She never gave up believing in a just society and never shied away from speaking out for those who had been wronged. Just last December, the Seattle Human Rights Commission honored Jeri for her tireless commitment and dedication.

Jeri's other passion was our community's young people. She recognized that the future well-being of our community depended on our having a shared sense of responsibility for all our children and giving them the best possible start in life. She put this conviction into action by working in the tutorial program at the University of

Washington and as a parent coordinator at Seattle's Leschi School.

We will miss not only Jeri Ware the activist and community leader, but also Jeri Ware the friend. She was a woman who was always willing to open her heart and home.

Jeri leaves her husband of 49 years, John, sons Anthony Muhammed and John Ware, daughters Joan Ware and Falicia Green, six grandchildren and two great-grandchildren; to whom our thoughts go out.

Jeri Ware's passing at the all-too-young age of 73 leaves a great void. However, her courage, commitment and unending faith in a just society will continue to be an inspiration to all those who share her vision.•

GLOBAL CLIMATE CHANGE

• Mr. DORGAN. Mr President, our Nation has an obligation to its citizens and to the world community to be a leader in working toward improvement of the global environment. Coming from an agricultural State, I am particularly concerned about the potential impacts of global climate changes on our ability to produce the food that is so vitally needed, both at home and abroad. However, if we are going to be effective in achieving our goals for a better global environment, we not only have to do what is necessary to reduce emissions here in our own country, we must also take the lead in negotiating agreements that will require the reduction of greenhouse gases in other countries around the world.

Frankly, I am deeply concerned over the negotiations related to the United Nations Framework Convention on Climate Change in which the United States and other countries are discussing the reduction of the emission of greenhouse gases. These negotiations are currently headed in a direction that will ask those who have already made great progress in reducing emissions to reduce them even further, while at the same time allowing those who have made no serious attempt to reduce the emission of greenhouse gases to do virtually nothing to comply.

I'm proud to say that my State, North Dakota, was the first State in America to comply with the Clean Air Act. We have taken the responsibility of reducing emissions in my home State and throughout these United States very seriously. Even though we have doubled our use of energy in the past 20 years in this country, we now have cleaner air. Have we done all we could? No, we can do more and we will. But, everybody needs to do their fair share.

The question in these negotiations is an issue of fairness. Is it fair to our economy to impose stringent controls that will cost substantial money to get a small margin of additional environmental benefit, when other have not even really started? Is it fair when we have already made significant strides in reducing emissions to exempt other countries, whose economies are competing with ours, from any meaningful compliance?

In recent trips to China, I have observed the degradation of that country's air shed because of the lack of meaningful laws or enforcement restricting the emissions of greenhouse gases. Yet, these negotiations would effectively allow China, India and other countries in similar situations a free ride. They would have virtually no significant requirements to clean up their act in any reasonable time period.

I refuse to accept negotiations that impose a burden on ourselves that we are unwilling to require of others, particularly when we have made progress and others have not. This reminds me of our negotiations on international trade in which we unilaterally have opened our markets to foreign goods, while allowing foreign markets to remain closed to our goods. While we bear the burden, others reap the profits. Unfortunately, we have not been willing to require other countries to take the reciprocal actions to achieve fair trade.

I see exactly the same mentality in these negotiations on the reduction of air emissions. Our country once again appears willing to impose burdens on our own economy that we will not require of others. Even if we were not competing with these other economies, this would not make good sense.

I want to make it clear that I think our country has done the right thing by insisting that part of the costs of producing a product includes the costs associated with reducing pollution and preventing the degradation of our air or water. I am proud that our country has been a leader on these environmental issues.

As we move forward in establishing and developing compliance with global environmental standards that will protect the Earth's environment, we must do so in a fair and evenhanded way that does not put America at a significant disadvantage with its trading partners.

For example, if we are competing with the Chinese in the production of goods and we are required to assume a burden in compliance with emissions standards that the Chinese are not required to follow, then we are imposing a penalty of fewer jobs and slower economic growth on our own economy. I think that's unfair to this country.

The administration should not mistake the concern that we have in Congress about this issue as one of weakness on environmental issues. That is simply not the case. In fact, the Congress has demonstrated its strong support for environmental cleanup for more than two decades.

If the administration intends to negotiate global requirements for environmental compliance, then this Congress will insist that these requirements are fair. We will insist that the negotiations do not impose burdens on our own country, while other countries are exempted from their enforcement responsibilities. This is a matter of fairness and doing what is right for our Nation and our planet.•

THE 85TH ANNIVERSARY OF CHESTER HOSE COMPANY

• Mr. LIEBERMAN. Mr. President, I rise today to honor the Chester Hose Company on their 85th anniversary. On September 7 they will be honored by the town of Chester and the Chester Historical Society with a Chester Hose Company Day celebration.

For the past 85 years this dedicated group of men and women have strived to ensure the safety of the community of Chester, CT. Their dedication is evident in their unshakable commitment to self-sacrifice for the security of their friends, families, and neighbors. Indeed, some have given the ultimate sacrifice, giving their lives while trying to protect their fellow citizens.

This organization's dedication and commitment to the town of Chester can be seen not only through the company's actions, but also in the great confidence and respect the residents of Chester place in these men and women. These are ordinary citizens asked to perform extraordinary tasks, and never asking what was in it for them. The community's faith in their company has not wavered in its first 85 years and will undoubtedly continue through the next century.

The Chester Hose Company has been an important stone in the foundation of the town of Chester. The people of Connecticut thank them for their service, dedication, and contribution to their community.•

URGING APPOINTMENT OF SPECIAL PROSECUTOR FOR CAMPAIGN FINANCE ABUSES

• Mr. ALLARD. Mr. President, I rise today to offer my support to the request for a special prosecutor to look into the campaign finance abuses of the last election.

It comes as a shock to me that I even have to give this speech. It is so clearly necessary to have a nonpartisan, noncoercible investigator looking into these issues that the failure to appoint one in itself looks suspicious. The current troubles over election funding are just the sort of situation the special prosecutor idea was created for. The problem is a far reaching, bi-partisan scandal involving two branches of Government. It is also a scandal where those being investigated have the ability and possibly the desire to curb or even block efforts to fully unearth all the relevant facts.

And let me make this clear—it is not a potential scandal, Mr. President, it is a scandal. It is a scandal we see unfolding on TV, in the papers, and in the Hart Committee room with Senator THOMPSON's hearings.

And by the word scandal, I don't mean it's a little bit of gossip the media can pick over, but a scandal in that the situation is an illegal, unethical, and glaringly blatant violation of what the American people expect from their elected officials. There needs to be a full scale investigation into the entire finance problem, and a special prosecutor is the best way to accomplish this.

I admire Senator THOMPSON. I admire what he is doing. I have the utmost respect for his investigatory powers, and I truly believe he can do what he says he is going to do. His committee is fairly and bravely shining the public light of inquiry into the darker corners of election funding, and for that he deserves all the kudos he can be given. But the fact remains that a special prosecutor is needed.

Senator THOMPSON's hearings should serve as the springboard from which a special prosecutor's investigation is launched. He has called attention to the problem, he has let our colleagues from both sides of the aisle have a chance to look into the abuses of fundraising and soft money, and he has helped greatly to awaken the American people to the travesties done in an attempt to win their votes. Now, from this solid base, a solid legal case can be built against those who have abused our—admittedly—easily abusable system.

A special prosecutor investigation has more mobility, more leeway and more time than a Senate committee. It also is not troubled with partisan bickering and posturing. I know that Senator THOMPSON has done his best to curtail any partisanship, and he has done an excellent job, but the special prosecutor was created for just this reason—to avoid the clash between parties in a wide ranging investigation.

Honestly, how can there be any doubt that we need a special prosecutor in this case?

Not only the chairman, but also the ranking member of the committee looking into campaign finance abuses, Senator GLENN, admits that the evidence before the committee supports the conclusion that attempts were made by foreign powers to buy our elections.

There are those who say that the Justice Department could handle any illegalities associated with campaign abuse, if indeed any are found. Well, the Justice Department faces a conflict of interest trying to investigate up its chain of command. Anyone who thinks differently is kidding themselves. The Justice Department lawyers looking into this are careerist, and they report to political appointees.

For instance—the FBI claims they have not been able to find Charlie Trie, but Tom Brokaw was not only able to find him, he was able to interview him. I know that the American media are good, but better than the combined powers of our Federal police forces? More likely, there is a restraining force on the Justice Department. They are not to blame. Nobody should have to investigate their boss, and nobody should have to investigate the people who find them.

A special prosecutor has not been appointed because the Attorney General says that there is not enough proof to warrant one. I am not sure, exactly, where to begin to refute that idea. The abuses we have been made aware of are so glaring and so blatant and so widespread that I am almost thinking that the Attorney General is kidding. She herself, according to the press, has created a tax force inside the Justice Department and convened a grand jury to look into allegations.

Now, the special prosecutor's system has taken some hits lately. But we can insure that any prosecutor appointed is given a clear, specialized and fixed mandate to investigate the election funding issue. We can set guidelines that do not curb the power of the prosecutor, but insure a very narrow and specific investigation.

I urge the appointment of a special prosecutor. I urge the investigation of the election fundraising abuses. I urge a fair and just conclusion to this stain on our democratic election system.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105-16 AND TREATY DOCUMENT NO. 105-17

Mr. GORTON. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on July 28, 1997, by the President of the United States:

Extradition Treaty with Cyprus, Treaty Document No. 105-16, and WIPO Performances and Phonograms Treaty (WPPT) (1996) and WIPO Copyright Treaty (WCT) (1996), Treaty Document No. 105-17.

I further ask unanimous consent that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Cyprus ("the Treaty"), signed at Washington on June 17, 1996.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

This Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of both countries. It will thereby make a significant contribution to international law enforcement efforts.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1997.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the World Intellectual Property Organization Copyright Treaty and the World Intellectual Property Organization Performances and Phonograms Treaty, done at Geneva on December 20, 1996, and signed by the United States on April 12, 1997. Also transmitted is the report of the Department of State with respect to the Treaties.

These Treaties are in the best interests of the United States. They ensure that international copyright rules will keep pace with technological change, thus affording important protection against piracy for U.S. rightsholders in the areas of music, film, computer software, and information products. The terms of the Treaties are thus consistent with the United States policy of encouraging other countries to provide adequate and effective intellectual property protection.

Legislation is required to implement certain provisions of the Treaties. Legislation is also required to ensure that parties to the Treaties are granted, under U.S. copyright law, the rights to which they are entitled under the Treaties. That legislation is being prepared and is expected to be submitted shortly.

I recommend, therefore, that the Senate give early and favorable consideration to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, and give its advice and consent to ratification, subject to a declaration under Article 15(3) of the WIPO Performances and Phonograms Treaty described in the accompanying State Department report.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1997.*

ORDERS FOR WEDNESDAY, JULY 30, 1997

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m., Wednesday, July 30. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period for the transaction of morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator GRASSLEY, 30 minutes; Senator DASCHLE or his designee, 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. Mr. President, tomorrow, following morning business, it will be the intention of the majority leader to consider S. 39, the tuna-dolphin bill. Following the 30 minutes for debate on that measure, the Senate will proceed to a vote on passage of S. 39, to be followed by a vote on passage of the Department of Transportation appropriations bill. Senators can, therefore, expect at least two rollcall votes tomorrow morning, hopefully around 11 a.m.

At noon on Wednesday the Senate will begin debate on the conference report to accompanying the Balanced Budget Act of 1997. Under the statute, there are 10 hours on debate on that conference report. And as always, Members will be notified as to when that rollcall can be expected.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:14 p.m., adjourned until Wednesday, July 30, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 29, 1997:

DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED UNDER PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 152:

To be general

GEN. HENRY H. SHELTON, 4698

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be lieutenant colonel

FRANKLIN D. MCKINNEY, JR., 3578

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AND ASTERISK (*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 531:

To be lieutenant colonel

RICHARD W. ALDRICH, 1064
STEVEN E. BARRETT, 2437
LAURA E. BATTLE, 3592
AMY M. BECHTOLD, 3639
BONNIE J. BLAIR, 8539
RAY T. BLANK, 9394
GARY D. BOMBERGER, 3635
WILFRED R. BRISTOL, 7994
REGINALD T. CLEVELAND, 5477
CARL P. DENNIS, 4387
ARIANE L. DESAUSSURE, 5566
JEFFRY A. DULL, 7146
THEODORE R. ESSEX, 2968
DAVID M. FILLMAN, 6576
MICHAEL A. FLEMING, 6522
GARY R. GARVEY, 7716
TERRIE M. GENT, 1854
MICHAEL PAUL HARTZHEIM, 2733
THOMAS J. HASTY, III, 8914
ROBERT S. HOCHREITER, 9759
THOMAS C. JASTER, 0453
EUGENE J. KIRSCHBAUM, 6191
JOSEPH S. KUAN, 2111
MARK R. LAND, 8927
RITA A. LEMONS, 2367
DENNIS R. LOCKARD, 0959
BYRON E. LUCKETT, JR., 7204
WILLIAM J. MARSHALL, 3976
PAUL D. MCHUGH, 7951
GERALD H. MEADER, 5043
HILARION A. MIKALOFSKY, 7680
JOSEPH L. MILLER, 8183
THOMAS J. MINOR, 7702
ROBERTA MORO, 0489
JEROME D. MUELLER, 0609
KATHLEEN L. NESSER, 1321
STEWART L. NOEL, 2160
RICHARD D. OBERHEIDE, 5356
GREGORY E. PAVLIK, 3506
MARY V. PERRY, 1541
GORDON W. PIPPIN, 6648
VINCENT J. RAFFERTY, JR., 8117
RONALD M. REED, 4878
JEFFREY L. ROBB, 6864
WARREN R. ROBNETT, 4268
DANIEL E. ROGERS, 3633
LEON E. SAVAGE, JR., 4656
KLAUS W. J. SIRIANNI, 0949
KEN J. STAVREVSKY, 1498
PAMELA D. STEVENSON, 3597
PAUL C. STEWART, 7555
LAWRENCE W. STUNKEL, 7216
STEPHEN D. SUETTERLEIN, 3922
ROBERT B. TAUCHEN, 5907
RONALD E. TODD, 0502
MALDEGHEM PAUL E. VAN, 3771
WALLY G. VAUGHN, 4567
CURTIS D. WALLACE, 6825
BRIAN J. WELSH, 1741
GEORGE A. WOLUSKY, 8561

To be major

WENDELL L. BRENNEMAN, 2876
PAUL L. CANNON, 5349
GREGORY B. CUNNINGHAM, 8648
DAVID F. CZARTORYNSKI, 1947
NORMAN DESROSIERS, JR., 9850
*IRA M. FLAX, 8076
ROBERT A. GALLAGHER, 3905
DANA E. GROVER, 2145
RICHARD M. HALL, 5337
DENNIS P. HANLEY, 7188
MARK S. HOBBS, 2925
JEFFREY A. JAMES, 8612
RAYMOND J. LAMY, 6880
MICHAEL J. LOVETT, 7991
FREDERICK MCFARLAND, 6031
ANTONIO O. MORENO, 1462
JOHN H. NOLAN, JR., 5284
STEVEN A. SCHAICK, 0260
STEVEN C. SIEFKES, 0850
MICHAEL J. STACY, 5512
DENNIS G. VOLMI, 8407
EDDIE L. WALTERS, 7436
CHERRI S. WHEELER, 4712
*ANTHONY C. WILLIAMS, 0235
*FRANK A. YERKES, JR., 0141

HOUSE OF REPRESENTATIVES—*Tuesday, July 29, 1997*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mrs. EMERSON].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 29, 1997.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to not to exceed 5 minutes, but in no event shall continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Minnesota [Mr. GUTKNECHT] for 5 minutes.

WHAT A DIFFERENCE 4 YEARS MAKES

Mr. GUTKNECHT. Madam Speaker, what a difference 4 years has made. If we look back just 4 years ago, this Congress, under the leadership of the other team, was debating the largest tax increase in American history. They were attempting to dismantle the greatest health care system the world has ever known. Welfare reform was being ignored, and the Medicare trust fund was moving toward bankruptcy and was being ignored as well. The Congressional Budget Office was predicting $200 billion deficits for as far as the eye could see. What a difference 4 years has made.

Now, we have actually reformed the welfare system, and as a net result, there are 1.3 million American families who were on the welfare rolls who are now on payrolls. I have often said that the real benefit of the welfare reform system that we passed in this Congress 2 years ago was not that it will save money, but it will save people, it will save families, and it will save children from one more generation of dependency and despair.

What a difference 4 years has made. We now have agricultural reform so that farmers are starting to farm for the market rather than for the Government. What a difference 4 years has made as it relates to taxes and spending. As I say, 4 years ago the Congressional Budget Office was telling us that we would have $200 billion deficits for as far as the eye could see, and today, I am happy to report, as a result of some tough negotiations and work with this President, we are on the verge of passing the first balanced budget since I was in high school.

That is great news for the American people; it is great news for our future. We are reducing the rate of growth in Federal spending by half. Some of us would say that Federal spending will still be going up too much under this balanced budget agreement, but the good news is, we are balancing the budget, we are keeping our promises, and we are doing what the American people have asked the Congress to do for so long.

What a difference 4 years has made. As I said earlier, 4 years ago they were debating the largest tax increase in American history. Now we are going to debate a significant amount of tax relief for working families, and they will begin to notice that next year. Everyone who has an income of less than $110,000 and has children is going to get tax relief, the per child tax credit. It will only be $400 next year, but then it goes to $500. That is real money for real families that will make a real difference in their lives, and it is about allowing them to keep more of what they earn so that they can spend and save it as they see fit.

There is real tax relief for small business people and farmers as well. As a matter of fact, perhaps the biggest benefactors of the program that was agreed to last night by the White House and congressional leaders will be small business people and farmers. And I represent an awful lot of farmers back in my district in southeastern Minnesota. For example, they will see real capital gains tax relief, over a 30-percent cut over the next 5 years. Small business people and farmers understand what capital gains are all about, because so many of them live poor and die rich.

Speaking of death, as a matter of fact, this is one other area where I am very happy with the agreement that was reached between the White House and the Congress. The exemption on death taxes will be increased immediately for small business people and farmers, from $600,000 to $1,300,000 per person, so that a couple, that husband and wife who are working the family farm, it is going to mean that they can pass that farm along to their kids, and that is great news for the American people as well.

One of the other things that I have worked on for many years that is good news in this tax package that has been agreed to is that we will finally have 100 percent deductibility for health care expenses for small business people and farmers. That is great news. In fact, that may be one of the most important health care reforms this Congress has passed in a long time.

But as we look at all of the things that are in this tax package, I think it is good news for the American people, and I think we will have set the stage for long-term economic growth.

As we look at some of the other elements that are in this package, if parents have kids that are going to college, and I speak now as a baby boomer, and I have one in college, and one just finished high school and will be going to vocational school next year, and I have one in high school. When we look at educational expenses particularly baby boomer families are having right now, there is over 31 billion dollars' worth of tax relief for those families. That is great news. We are going to make it easier for those families to send those kids on to higher education.

So as we look at this package, there are lots of things in there that I think all sides can take credit for. We are going to expand the availability of health care for kids. The Kid Care Program, $24 billion will be committed to that program over the next 5 years. We want to say to all children that they ought to have the right to get the health care that they deserve.

So this is good news for the American people. It is good news for American families, and it demonstrates what a difference 4 years has made.

PRESIDENT ALIYEV'S HUMAN RIGHTS ABUSES SHOULD NOT BE IGNORED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning hour debates for 5 minutes.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. PALLONE. Madam Speaker, today the President of the Republic of Azerbaijan arrives in Washington, and during his official visit to our Nation's capital, the President of this former Soviet republic will be honored at the White House and will brief Members on Capitol Hill.

Madam Speaker, as an article in this Sunday's Washington Post noted, "The visiting head of state who will have lunch with President Clinton this week and stay at Blair House as an honored guest has an unusual background: A former general in the KGB security forces who was dismissed from the Politburo for alleged corruption a decade ago." As the article goes on to point out, Azerbaijan, this former Soviet republic on the Caspian Sea has been "propelled into the forefront of U.S. interests by oil and geography."

That is what this is really all about, oil interests. While our State Department has cited serious abuses of human rights in Mr. Aliyev's regime, it is clear that human rights are a secondary interest. His country's territory happens to be sitting on some of the world's major oil reserves. U.S. oil companies are interested in exploiting this resource, so apparently we just look the other way about Mr. Aliyev's unsavory regime, wine and dine him in Washington, and let him stay as an honored guest at Blair House at the American taxpayers' expense.

On the eve of Mr. Aliyev's visit, I want to inform our colleagues about the type of leader this man is. President Aliyev has a long record of human rights violations dating back to his four decades as an official of the Soviet KGB. During the 1960's, he orchestrated the depopulation of Armenians from their homes in Nakhichevan. As the Communist Party leader of Azerbaijan during the 1970's, he violently suppressed all nationalists and democratic dissent. His ardent support for the Soviet invasion of Afghanistan earned him a seat on the Soviet Politburo under Leonid Brezhnev, where he served until removed by Mikhail Gorbachev in 1987 for having engaged in widespread corruption. Since his return to power through a military coup in 1993, President Aliyev has suppressed democracy and committed widespread violations of human rights, which have been documented by the State Department.

Madam Speaker, as I mentioned, I believe that the effort to try to sanitize Mr. Aliyev's regime has everything to do with oil interests. I have nothing against the extraction of Caspian Sea oil reserves, but the question that we must confront this week is, what price do we pay to curry favor with the Azerbaijani Government? Must we court this most undemocratic leader on his terms? And what price do we pay for being so generous to President Aliyev?

The result of this policy of appeasement, Madam Speaker and my colleagues, is the continued oppression of the people of Azerbaijan and the continued threats to the people of Mr. Aliyev's neighbors, Armenia and Nagorno Karabagh.

I would hope that this visit would offer an opportunity for our President and our administration to express American concerns about the lack of democracy and basic rights and freedom in Azerbaijan. I would especially hope the message could be sent to President Aliyev in no uncertain terms that Azerbaijan should immediately lift its blockades of Armenia and Nagorno Karabagh.

Finally, I would hope that President Clinton would stress to President Aliyev American support for a freely negotiated settlement of the Nagorno Karabagh conflict that recognizes the self-determination within secure borders of the people of Nagorno Karabagh.

I am circulating a letter along with my colleague, the gentleman from Illinois [Mr. PORTER] to President Clinton expressing our concerns about the visit of President Aliyev, and I hope that we can make something positive come out of this visit by President Aliyev.

Also this evening, Madam Speaker, I will be participating in a demonstration across from the Willard Hotel here in Washington to protest Mr. Aliyev's visit. The demonstration is being organized by the Armenian National Committee of America with the support of the Armenian Assembly of America and the entire Armenian community. There will be other demonstrations coinciding with President Aliyev's visit. I urge Members to support and participate in these demonstrations.

Although President Aliyev is probably not familiar with the right to free assembly and free expression, he should know that this is how we do things in a democracy. He must not mistake the red carpet treatment he is getting in official Washington as a signal of approval by the American people for his policies of aggression toward his neighbors and oppression of his own people.

Unfortunately, Madam Speaker, I am afraid that the direction in which United States policy is headed in the Caucasus region does not bode well for the outcome that we seek. The United States is in a unique position to be able to bring about a fair settlement of the Nagorno Karabagh situation and to help promote the long-term security and economic development of the region, but that is not the way things are going. The United States, along with France and Russia, is the cochair of the Minsk Group, and I believe that we should maintain our neutrality while exerting strong leadership to bring the parties together.

I am working with my colleagues to bring an official from the administration, the State Department, to come up to the Hill to bring us up to date on the status of negotiations in Nagorno, and for us to impress upon them the importance we attach to protecting the self-determination of the people of Karabagh.

Madam Speaker, Azerbaijan has some pretty powerful allies in its corner, including former top administration officials from both parties. We have to fight to make sure that the concerns of the people of Nagorno Karabagh are met here in the Congress and here in Washington.

I am working with my colleagues to bring an official from the administration, the State Department, to come up to the Hill to bring us up to date on the status of negotiations and for us to impress upon them the importance we attach to protecting the self-determination of the people of Karabagh.

You know, Mr. Speaker, Azerbaijan has some pretty powerful allies in its corner, including former top administration officials from both parties. This was documented in a recent front-page story in the Washington Post. This effort, this big-money influence, is being driven by oil money—the Caspian Sea basin off Azerbaijan has some of the richest oil reserves in the world, and many U.S. oil companies are interested in getting into this region.

But, Mr. Speaker, the big problem that many of us have is that the oil companies, and the former top U.S. Government officials working for those interests, are essentially lobbying for U.S. foreign policy to ignore the unacceptable behavior of Azerbaijan in order to curry favor with the regime and gain access to the oil reserves.

I'm also concerned that the visit to Washington by President Aliyev, at this critical stage in the Karabagh negotiations, threatens to harm the peace process by undermining confidence in the role of the United States as an impartial mediator. Section 907 is a provision of the Freedom Support Act of 1992 which prohibits direct U.S. Government Aid to Azerbaijan because of the Azeri blockade of Ameria and Nagorno Karabagh. The administration's advocacy against Section 907, further reinforces the Azerbaijani perception that the United States, since the most recent OSCE summit in Lisbon, has tilted toward Azerbaijan.

The visit by President Aliyev could serve to encourage Azerbaijan to further harden its negotiating stance. This encouragement is particularly dangerous given President Aliyev's pattern of unacceptable behavior, including his use of oil as a weapon against Armenia and Nagorno Karabagh, his blockades of Armenia and Nagorno Karabagh, his rapidly expanding military capabilities, his threats of force and intimidation tactics, and his refusal to negotiate directly with the democratically elected representatives of Nagorno Karabagh.

Mr. Speaker, I urge my colleagues in joining Mr. PORTER and me in letting President Clinton know of our concerns about his upcoming meeting with President Aliyev and to push our State Department toward a fair solution to the very difficult Nagorno Karabagh conflict.

EXCITING TAX CUTS FOR AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New York [Mr. SOLOMON] is recognized during morning hour debates for 5 minutes.

Mr. SOLOMON. Madam Speaker, what a difference 4 years makes. Four years ago, this Congress was raising taxes on the American people, they were increasing spending, they were bankrupting Medicare, they were trying to socialize medicine, and they were expanding welfare. What a difference 4 years makes.

What is going to happen in the next 2 days is so exciting, because in the next 2 days we are going to cut taxes for every single working American in this country. What a difference 4 years makes. We will cut spending; we will get a handle on many of these entitlement programs that have been running rampant; we will save Medicare from bankruptcy; and, more than that, Madam Speaker, we will stay on that glide path to a balanced budget, which is going to mean there is going to be a country, this United States, for my children and my five grandchildren, six grandchildren, excuse me, we just had another one, and that is what is so exciting about it, because we have been able to come together with the White House, with the Senate, and with this body and do what the American people finally want us to do. I am just so excited, I can hardly stand it. Let us get on to it. In the next 48 hours, we are going to do exactly what I have just outlined.

DEMOCRATS STAND FIRM FOR FAIR TAX TREATMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized during morning hour debates for 5 minutes.

Ms. JACKSON-LEE of Texas. Madam Speaker, it is particularly appropriate to have the gentlewoman from Missouri [Mrs. EMERSON] this morning presiding over these Chambers, because I believe that this tax bill reflects those individuals of goodwill who have worked so very hard to ensure that America's working women realize tax relief.

Let me just simply talk about credit. This is not about who did what, but as long as we are in the credit column, let me emphasize where the work was really done.

I am proud of this tax relief plan because it goes to the core of what America stands for: Our children. As the chairperson of the Congressional Children's Caucus, I can assure my colleagues of the hard work that the Democrats persisted on to ensure that $24 billion, $24 billion, a plan that was not in the initial Republican offering of tax relief, will now be given for children who are uninsured, $24 billion.

Actually, we do not even know how many dollars will be saved by providing children who are uninsured some $10 million plus with preventative care for working families who do not have the option of insuring their children through their work. Madam Speaker, $24 billion.

Then there is a story that I think needs to be told, and that is one that I am not going to hide. There is no actual evidence whatsoever that showed that the Republican plan was going to give any consideration to families making under $50,000 a year, none whatsoever, none, absolutely none, until the Democrats persisted time after time after time after time.

I am gratified that when the Republicans started with their 3.9 million families, resulting in 5.5 million that were going to get the $500 a year tax credit, Democrats again, time after time after time, in negotiations and on the floor of the House, refused to compromise. What do we have now? Coverage of 8.7 families and 13 million children will receive the benefit of the $500 a year tax credit. I do not know about my colleagues, but that is one thing that we are not going to step away from.

Is this a balanced tax plan? It has its ups and downs, but it does respond to working men and women, the schoolteacher, the bus driver, the rookie police officer, many of the folk who are not able to get to the U.S. Congress and even sit in these august bodies or even sit in the gallery and watch as we debate this issue, individuals who may not have had a vacation in the last 10 years or 5 years, individuals who did not get benefits from their work, but they paid payroll taxes. And that was the accusation that was being made by our Republican friends, that they were on welfare because they did not pay tax or they got the earned income tax credit, which we all know they had to pay for.

I am proud of what the Democrats have done in this now tax relief, that is truly one that responds to all Americans.

Welfare to work? Yes, we passed the welfare bill. I happen to have voted for one that had more meaning than what we ultimately passed. Right now in our cities, we are seeing people cut off with nowhere to go, but we insisted, as Democrats, to provide $3 billion for a real welfare-to-work program, a program that would be governed by our cities and also the Department of Labor who believes in increasing and encouraging work. This will give real meaning to welfare to work, moving young mothers and young families that heretofore did not have training into training and provide them with jobs.

What is the sense of moving people off of welfare when companies around the Nation will not hire them because they have no work experience or they have had no training? Democrats who have been down in the trenches with these individuals who represent these urban centers and rural communities understand and sympathize with what it is like to be someone who needs something. I am very gratified that it was the Democrats who stood here and fought to ensure that we had the kind of plan that we could stand up and be proud of.

Let me say this for those who have small family farms and small businesses, many of whom spoke to me in my district. There is nothing I am going to be ashamed about there as well, because Democrats forced the $1.1 billion, forced it to occur in a sooner period of time in terms of relief for estate and small business farmers in order to ensure that they were included in the loop.

Yes, there are capital gains taxes, and I am going to be watching to see how that drives the economy, because in fact the 1993 budget bill and tax bill is the one that made this economy what it was, and that was under a President that was a Democrat and a Congress that was Democrat. We are thriving in this economy right now today because of the 1993 vote that all Democrats took who are here in this U.S. Congress.

We have many things to still fix: Disproportionate share in the State of Texas, where we have to pay for our Medicaid as opposed to other States. We must work on that across the board. But I can assure my colleagues that this tax bill is what it is because Democrats stayed in the fight and we will continue to fight to make sure that this is a tax bill for working Americans.

HEATED DEBATE CONTINUES ON NAFTA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Ohio [Mr. BROWN] is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Madam Speaker, as the President prepares to ask Congress for fast track negotiating authority, heated debate continues on the economic effects of the North American Free Trade Agreement. There is no debate, however, on the serious threat that NAFTA poses to food safety in the United States.

In an effort to increase trade with Mexico, NAFTA limits border inspections of food, it allows Mexican trucks to enter the United States with limited inspection. As a result, NAFTA is directly responsible for a significant increase in imports of contaminated foods into the United States.

These lax inspection procedures contributed to a sharp increase in food imports from Mexico. Imports of Mexican fruit have increased 45 percent, and vegetable imports have increased 31 percent. More than 70 percent of these imports are carried into the United States by truck.

As the General Accounting Office recently documented, these trucks, many of which have been identified as dangerous themselves, pass through the border uninspected, bringing increasing amounts of food tainted with diseases and unhealthy pesticides. In fact, the GAO found that over 99 percent of Mexican trucks coming into the United States were never inspected, and of those that were inspected, almost half of them were found to be unsafe.

We were alarmed earlier this year when 179 Michigan schoolchildren contracted hepatitis after eating tainted Mexican strawberries. In order to prevent similar incidents in the future, the United States should, first, renegotiate the provisions in NAFTA which relate to border inspections and food safety and ensure that any future requests for fast track authority include strong food safety protections; second, increase the funding for border inspections or, alternatively, limit the increasing rate of food imports to ensure the safety of our food supply in this country so what happened in Michigan does not happen in other States across the country; and third, begin an aggressive program to label all foodstuffs, including fresh and frozen fruits, vegetables, and meats with their country of origin.

We must work with the President to address these serious deficiencies in our trade policy and to ensure that these same mistakes are not made in the future. Let us get off the fast track for unsafe foods. The health of our families is too important to go fast. Let us slow down on negotiating fast track. Let us slow down and craft trade agreements that contain meaningful food safety protections.

Again, remember these numbers: More than 99 percent of trucks that come into the United States from Mexico have never been inspected. Of those that are inspected, almost half of them have been found to be unsafe, and only about 1 percent of food that is coming into the United States, fruits and vegetables, frozen and fresh, are inspected. That is what is so important as we debate fast track authority in September for the coming year. It is important that we include those food safety elements in the fast track agreement.

BIPARTISAN AGREEMENT ON TAX RELIEF FOR AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Iowa [Mr. GANSKE] is recognized during morning hour debates for 5 minutes.

Mr. GANSKE. Madam Speaker, Congressmen and women from both sides of the aisle are just getting the details on the balance-the-budget plan and the tax cut plan that has been agreed to by the congressional leadership and the administration. The details look good, and I am happy to see this morning that we are getting bipartisan support for this tax cut bill and for this spending bill.

There will be a lot of important things in this bill for the average citizen in this country. One of the details I heard about last night was that we will move up the deductibility of our health insurance for the self-employed to 100 percent. I do not have the details to tell over what period of time, whether that will be immediate or not, but I know that this is part of the budget.

As a physician, I have been very much concerned about making health care more affordable for the average citizen, and by making 100 percent of one's premium deductible will help people afford health insurance. This will put an awful lot of people back on to health insurance that are not on it now.

One of the other issues that is in the tax bill that affects people in my district, where I have a large farming community, is that they will be able to income-average over 3 years. People who farm know that some years they have good years and some years they have bad years, but over a period of time is how one sets aside funds for one's retirement, one's pension. By being able to income-average over 3 years, one will be able to smooth out those bumps and those lows, and I think it will be a good thing for farm communities and farmers.

When we look at children's health, we are adding a lot more dollars into that to enable people to pick up health insurance for their children. There will be a number of ways for flexibility for people and States to implement that additional funding.

People say, well, look, why did we not come to this agreement earlier? Part of the reason is that a decision had to be made on where to find the funding. Part of that additional funding comes from an increased tax on tobacco. I favor that. As a physician, I have treated people who smoke who have had lung cancer and throat cancer, mouth cancer. It also increases heart disease. Tobacco is not good for our health; everyone recognizes that. An increase of 10 cents per pack will get some additional moneys back into the health system, and to help people afford health insurance I think is the right way to go.

When we look back over the last 4 years, we have had some immense battles here on the floor, but today and last night, as the administration, as Congress have come together on a bipartisan agreement, I think we are getting past that, we are getting on with the Nation's business. We are going to help save Medicare, we are going to provide tax cuts for working families, we are going to save Medicare for our senior citizens, and I think we are going to balance the budget.

Let us keep our fingers crossed that the economy goes well over the next 5 or 6 years. But by moving toward a balanced budget, we are going to help ensure that the economy does well, and by freeing up capital with capital gains, we are going to increase jobs and help the economy grow.

Madam Speaker, I think that we have made a lot of progress. I think we will see the rhetoric lowered on this floor, and I think the vast majority of people from the House and the Senate are going to support this piece of legislation, and I am very happy to be a Member of Congress today.

NAFTA HAS FAILED THE ENVIRONMENTAL TEST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. FILNER] is recognized during morning hour debates for 5 minutes.

Mr. FILNER. Madam Speaker, I rise today to join my colleagues in a discussion of NAFTA, the North American Free Trade Agreement, because it is of significant importance, not only to our country, but to my district in particular.

NAFTA's rationales of the global economy, world trade and environment, are really local issues for those of us, as I do, that live along the United States-Mexico border. I represent part of the city of San Diego; I represent a good part of the California-Mexican border; and I will tell my colleagues that from our observation on the scene, NAFTA has failed the environmental test. NAFTA has failed the environmental test.

The region that I represent includes Tijuana, the fastest growing city in Mexico, thanks to NAFTA and the Maquiladora program. In Tijuana, over 100,000 people work at approximately 1,000 of these plants that we call maquiladoras. Most of them are United States-owned. These factories range from low-tech to very-high-tech. They produce televisions and VCR's, electric components and metals, automotive parts, textiles, and furniture. The four largest manufacturing sectors exist in Tijuana, and these are also the largest users of toxic chemicals.

Having such a large number of industries in a relatively small area poses a real threat to residents not only in Mexico but on the United States side of the border as well. NAFTA supporters promised that industrial growth would occur throughout Mexico, but in fact the majority of growth continues to be concentrated along our border.

In 1993, before NAFTA was passed, I had the opportunity to tour Tijuana, along with several of my congressional colleagues. We visited abandoned lead smelters, new industrial parks, and nearby residential areas. We witnessed the very poor environmental health conditions that existed at that time. Many of us, including myself, fought hard to ensure that NAFTA included detailed strategies to improve the environmental and labor conditions faced by people who lived along the border region.

However, despite the side agreements and the mechanisms which were promised to solve these issues, the situation has simply not improved. Industry continues to grow in areas with little or no infrastructure to support the environmental health and safety needs of the working people and the residents in these areas.

Just a few weeks ago, Madam Speaker, there was a tremendous hazardous waste fire in Tijuana, an unfortunate example of the many environmental hazards which NAFTA did not address. That fire, at a United States-owned plant called Pacific Treatment, which is a transfer station for hazardous industrial waste, ignited a mixture of chemical substances. Firebombs exploded over the neighboring residential areas and factories adjacent to what we call the Otay Mesa Industrial Park. Not only did the Pacific Treatment facility lack the necessary emergency systems, such as sprinklers, but the entire industrial park, filled with manufacturing and chemical storage plants, contained not one fire hydrant.

This industrial park is located only a few miles south of the United States-Mexico border. Over 200 tons of hazardous waste burned in the blaze, including organic solvent such as toluene, acetone, paint dust, and xylene, just to name a few. The blaze released a dark cloud of toxic fumes that blew directly in the residential neighborhood less than 300 yards away.

Nearby residents complained of strong odors during the fire, and in the days that followed, they reported headaches, vomiting, eye and skin irritation. We all know that exposure to the chemicals released can lead to long-term health repercussions ranging from reproductive problems to damage of internal organs and the nervous system.

The Tijuana Emergency Response Team was also put at risk by their dire shortage of equipment and inadequate preparation. They arrived on the scene with only 44 breathing apparatuses for 200 fire fighters. As a result, 50 firefighters suffered from smoke inhalation and 5 were hospitalized.

No one should be surprised by this calamity. We are only lucky it was not worse. There are many changes that we need to make to protect both the United States and Mexican sides of the border. NAFTA must be revisited to address these environmental issues. NAFTA should not be expanded without first making sure that adequate infrastructure is in place to handle the resulting industrial growth. NAFTA's environmental side agreements should be brought back to the table and amended to include such items as, No. 1, that the United States and Mexico must create a truly effective system to track hazardous materials and waste from beginning to end, providing freedom of access to both countries' data.

Madam Speaker, I include for the RECORD my remaining recommendations and look forward to a further discussion of the issues of NAFTA. NAFTA has failed the environmental test.

The United States and Mexico must create a truly effective system to track hazardous materials and waste from beginning to end, providing freedom of access to both countries' data so that industry is more accountable and people are aware of the hazardous materials in their neighborhoods; the current HAZTRAKS system fails to meet these requirements.

We must also create a binational emergency response system so when disasters such as the pacific Treatment fire occur, the impact of dangerous chemicals can be mitigated.

The binational efforts currently in place, such as the Border XXI Program, have had no real impact on the border region. Let's not continue to just study the problems, but instead let's take action. The money currently spent on Border XXI studies and conferences should be spent on cleaning up known contaminated sites and preventing new disasters.

Mr. Speaker, the environmental, health and safety problems that existed before NAFTA have not gone away. In fact, many of the conditions we witnessed three years ago have worsened. More people are at risk, more people are suffering the effects of industrialization without an adequate infrastructure. That is why we must not expand NAFTA. We must solve the very real health and safety problems that exist along the United States-Mexico border before we consider expansion of this trade policy.

NAFTA IS COSTING AMERICA TOO MUCH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997 the gentleman from Ohio [Mr. KUCINICH] is recognized during morning hour debates for 5 minutes.

Mr. KUCINICH. Madam Speaker, the news from the latest assessment of NAFTA's effects is bad. They reported bad news for northern Ohio, where I represent the west side of the city of Cleveland and the surrounding suburbs. The story there is repeated around the country's auto-dependent regions.

The latest report reveals that United States exports to Mexico are inconsequential. Mexico is not the consumer market the NAFTA cheerleaders promised that it would be. Mexico has been increasingly an export platform for vehicles sold in the United States. United States auto imports from Mexico are more than 10 times the value of United States exports to Mexico. The United States auto trade deficit has grown since NAFTA by about 400 percent, $14.6 billion from $3.6 billion.

The report is silent about jobs lost to Mexico. The report's authors claim that they can only estimate the number of jobs gained in the United States through exports but they cannot estimate the number of jobs lost due to increased imports. Well, that defies common sense. The Department of Labor's own figures of jobs lost due to NAFTA estimate over 120,000 jobs lost. Respectable academic estimates of jobs lost due to NAFTA put the number of jobs lost at about 420,000. The report can estimate only 90,000 to 160,000 jobs supported by NAFTA-associated exports to Mexico.

What the assessment did not say is how NAFTA has affected the American worker and the American way of life. The bad news is that NAFTA has cost the American people jobs, it has cost American families their stability, NAFTA has cost American people their homes, NAFTA has cost people health care benefits, and NAFTA has cost American parents an ability to help provide a college education for their children.

The report does not address the fact that NAFTA has made a big impact on the American workplace. NAFTA has strengthened employers' hands to take back wages and to crush collective bargaining in the United States. According to a Cornell University researcher, manufacturing and transportation firms have threatened to close the plant 62 percent of the time workers are either trying to form a union or trying to negotiate a new contract once they have a union.

Let me give a case in point. NTN Brower in Macomb, IL, used threats to scare workers. The company circulated a leaflet with the headline: "With the UAW, your jobs may go south for more than the winter." Now, against a map of the United States, a large arrow pointed south to Mexico, and it reads: "There are Mexicans willing to do your jobs for $3 to $4 an hour. Free trade treaty allows" this. This is right from the literature that was passed out in the plant.

Let me give another case in point: ITT Automotive in Michigan, where the company parked 13 flatbed trailers loaded with shrink-wrapped production equipment in front of the plant for the duration of a union organizing drive. The trucks had these large signs posted which said, "Mexico Transfer Job."

So it is clear that people are making threats against workers ever time workers try to claim their rights.

The report makes no mention of health hazards or food hazards of the transporter trucking problem. NAFTA opened the floodgates to tainted food from Mexico. U.S. border inspectors are absolutely overwhelmed. Fewer than 1 percent of the 3.3 million trucks entering the United States each year are inspected. In about 6 weeks, Madam Speaker, this Congress will be deciding whether to spread NAFTA's poor performance over the entire hemisphere.

This is the meaning of the fast track vote. What we know about NAFTA's first 3 years does not justify spreading it throughout the hemisphere. As recently as March 18, 1997, a top official at the U.S. Trade Representative's Office said in a debate with me on national television that they could back up job growth estimates with specific companies, specific cities and towns where the growth has occurred, but they have not.

I think supporters of NAFTA should go back to the drawing board and report accurately and fully the effects of NAFTA. Congress should not give the President special fast track authority to expand NAFTA. We should look for ways to protect the American worker, protect American jobs, and assure that our economy will have the ability to prepare America for the new century.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 38 minutes a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. PRYCE of Ohio) at 10 a.m.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We know, O God, that the lives of people are filled with all the emotions of the human heart, from the joy and gladness of love and peace to the disappointments and frustrations that cloud the day and trouble the soul. Yet, O gracious God, whatever our mood or whatever our situation in life, You are constant in Your grace and faithful in Your promises. For these gifts and all the confidence You bring to us and to all people, we offer these words of thanksgiving and gratitude. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arizona [Mr. SALMON] come forward and lead the House in the Pledge of Allegiance.

Mr. SALMON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 2203. An act making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2203) "An Act making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOMENICI, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. REID, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. KOHL, and Mr. DORGAN, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minutes from each side.

LANDMARK OCCASION

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, this is the dawn of good news for the hard-working taxpaying Americans.

Madam Speaker, I rise today to commend the budget team, the negotiators from both sides of the aisle, both Democrat and Republican, for reaching a tentative budget agreement. As is the case with all compromise, the negotiated tax package does not contain everything or every provision that I would like. It does, however, contain many provisions that will dramatically improve the lives of hard-working men and women throughout this country.

Starting next year, the death tax exemption will jump to 1.3 million for small businesses and family farms, making it easier for parents to pass the family business onto their children. Most importantly, Madam Speaker, this budget agreement exemplifies the Republican message that working men and women in America should be allowed to keep more of their hard-earned money to spend as they see fit. This is a landmark occasion, and I urge my colleagues to support it, the tax relief bill tomorrow, when it comes to the floor.

DEMOCRATS CAN BE PROUD

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, I am proud of the role the Democrats took in this budget deal to guarantee that working families got their fair share of the tax cuts. While the Republicans were fighting for Wall Street, the capital gains or estate tax breaks, Democrats were fighting for Main Street, the education and child tax credits. We wanted to make sure that the education and child tax credits went to all working Americans, including those with incomes less than $30,000, who the Republicans wanted to cut out of the child tax credit.

Democrats also fought the battle and won to provide health insurance to the majority of the Nation's 10 million uninsured children. President Clinton wisely insisted on an increase in the tobacco tax to provide a larger amount, $24 million to insure kids; and Democrats in the House, including our health care task force, pushed to close loopholes so the money could not be siphoned away for other purposes and would provide an adequate benefit package.

Madam Speaker, we still have to look at the details before we crow too much, but the general outlines of the agreement show that Democrats can be proud of their fight to stand up for the interests of working families.

COACH RON POLK

(Mr. PICKERING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKERING. Madam Speaker, I rise today to take notice of a very special man, Coach Ron Polk. He served as the head baseball coach at Mississippi State University for 20 years, where he led his Bulldogs to the college world series five times.

Coach Polk has compiled an incredible record at Mississippi State with a record 888 wins. Last February, he became only the 16th coach in college baseball history to reach the 1,000 win pinnacle.

He has been selected as the National Coach of the Year on two separate occasions and coached the U.S. Olympic baseball team three times. Coach Polk has taught and coached 18 all-Americans and 98 players who have gone on to the ranks of professional baseball.

In addition, tonight he is serving as the honorary coach of the Republican congressional baseball team. We hope to have one more victory for his record tonight. He arrived last night just in time for the budget deal to be reached, and we hope that that is a good omen that, as he comes to town, we do good things in Congress for the American people and hopefully we will win one for him tonight.

It is with great honor that I recognize his achievements. The king of college baseball, he has served Mississippi State and college baseball with great distinction.

HOUSE DEMOCRATS FOUGHT FOR WORKING FAMILIES

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Madam Speaker, what a difference a few weeks can make. The tentative agreement to balance the budget and cut taxes sure is different, and better, than the Republican proposals we voted on last month.

Even last week the other side was describing hard-working, low-income Americans as receiving welfare if they got a $500 per child tax credit to offset their payroll taxes.

House Democrats fought to ensure that they were covered. This is a victory for those working families.

House Democrats fought for some new initiatives to cover some of the 10.5 million children in this country who do not have health insurance. This agreement has $24 billion for children's health care. This is a victory for them.

Tax credits for education, support for families, cutting capital gains taxes for home sellers and investors, this is a victory for fairness and the American people.

We still need to see the revenue projections to be sure that this agreement is fiscally sound, but it is much fairer than the Republican proposals this House passed in June. This is a victory for all of us.

USE OF GOATS AT MILLS COLLEGE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, the Teamsters Union recently accused Mills College in Oakland, CA, of violating its union contract by hiring 500 goats to clear brush from college property rather than using unionized maintenance workers. According to press accounts, in filing a grievance against the school, the local Teamster boss suggested that the college should require the 500 goats to become union members.

Madam Speaker, I do not want to make the Teamsters a scapegoat in this saga, but we know how John Sweeney, the ultimate union boss in Washington, plans to make good on his promise to increase union membership through renewed emphasis on organizing. By golly, if you cannot convince real live human beings to join your local neighborhood union, let us sign up some farm animals.

Madam Speaker, I would caution, however, that this scheme might have its share of problems. For one, the Supreme Court's Beck decision says that workers have the right to object to the payment of union dues not used for collective bargaining purposes. No matter how this caper finally gets resolved, Madam Speaker, I wish to urge Mills College to stand their ground and not let the Teamsters get their goats.

CHARLIE TRIE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, if you thought John Huang was something, get a load of Charlie Trie. This Little Rock restaurant owner, who has suddenly mysteriously disappeared, did not mess around. Charlie Trie went right to the Bank of China; $1 million was wired from the Bank of China, directly to Charlie Trie's bank account that happened to end up in the Democrat National Committee.

Let us tell it like it is. When money from the Bank of China ends up in a Presidential campaign, it is not about fundraising anymore, Madam Speaker, it is destroying our national security. Truth is, when it comes to power politics, Chinese money literally grows on trees. Beam me up, Madam Speaker. There should be more investigation into this Chinese money business.

REPUBLICANS STICK BY THEIR GUNS

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Madam Speaker, 4 years ago the Democrats in this Congress passed the largest tax hike in U.S. history. They told us that tax relief for middle-class Americans was out of the question. That is why every Republican voted against their budget.

Three years ago, Democrats opposed the balanced budget amendment and the balanced budget in 7 years. They said it would wreck the economy. Yet our budget is going to balance in the next few years. Two years ago, Democrats spent millions and millions of dollars attacking the Republicans for trying to save Medicare. Keep it alive for another generation. Today, they signed onto our plan to save Medicare. We will not even spend a cent against them demagoguing.

This past year, we were told time and time again by liberals that tax cuts were out of the question. Well, we stuck by our guns and because of it the American people will have the first tax relief plan in 18 years.

Madam Speaker, I am proud we stuck by our guns, I am glad we stuck with our fight. I am glad that the American people will be the beneficiaries of the Republican Party standing up for what is best for them.

BEN HOGAN

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Madam Speaker, today Fort Worth, TX, says goodbye to one of its own, golf legend Ben Hogan. As a youngster growing up in Forth Worth in the 1950's, I realized Ben Hogan was something special. He was spoken about with reverence in our city.

Only later, when I tried with little success to play golf, did I realize how very special he was.

One of the greatest golfers to ever play the game, Ben Hogan began his career as a caddie at the Glen Garden Country Club in Forth Worth when he was 11 years old. When he was 16, his mother urged him to do something more productive with his life.

Ben, displaying the determination that would characterize his play later, responded by saying, Mama, some day I am going to be the greatest golfer in the world. Ben Hogan won nine major tournaments and in 1953 won the U.S. Open, the Masters, and the British Open in the same year, something no other golfer has ever done. All told, he won 63 tournaments and displayed a quiet dedication and grace that were the envy of everyone who ever played the game.

Now the starter at the Celestial Golf Club has called Ben Hogan to the first tee for his next round. I expect that Ben will master that course as well.

AMERICAN PEOPLE ARE THE TRUE WINNERS

(Mr. SALMON asked and was given permission to address the House for 1 minute.)

Mr. SALMON. Madam Speaker, what a pleasure it is to be here today. This year has been a very emotional roller coaster for me. I have had my highs and lows. I have been called irreverent. I have been called a rebel. I have been called an agitator. I had an epiphany along the way just a few days ago. As bad as things seem to get sometimes and as slow as things really change, it could have been worse.

I could have been here when the other party was in charge. I could have been here when deficits were spiraling. I could have been here when tax cuts not only would never even make it out of committee, they would never even see the light of day.

Today, we are passing a substantial tax cut, something that the Democrats have chided and fought against for years and years and years because they believe in government. We believe in people.

Today, the American people are the true winners. In spite of the fact that change still does not come fast enough, here we are. And there is a major change in Washington. Government is shrinking and the American people are truly the victors.

BUSINESS AS USUAL

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Madam Speaker, we have got the great bipartisan budget deal, a balanced budget with generous tax cuts. If it seems too good to be true, do you know what? It is.

This is not a new day in Washington, DC. This is business as usual. Cutting up a fat hog, made wildly optimistic assumptions about the economy and revenues, cut social programs a little. Do not take a penny out of the Pentagon and give a host of generous tax cuts slanted toward the most wealthy in America and the largest corporations. A deal written behind closed doors announced last night; no written copies available to Members of Congress, nothing available for review, but it will be voted on tomorrow night, just to be certain that no one knows the details before the details leak out and it begins to stink like the Potomac in August.

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TRIBUTE TO HAP BAKER

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, yesterday in Carroll County, MD, we laid to rest a great American, Hap Baker. Hap was the inventor of the guidance system for the Patriot missile. He was proud of that. But he was probably proudest of this little button which he was never without for the past several years: "Politically incorrect, and proud of it.".

Hap felt that he was politically incorrect because he had an undying commitment to the great principles of limited government and individual rights set forth in the Constitution. Hap was aghast that a profligate Congress passes law after law and never questions the constitutional authority. He was particularly supportive of second amendment rights.

But first and foremost, he was a conservationist. Hap understood that even in a perfect world, the Lord asked Adam and Eve to dress and keep the garden, and Hap wanted to help. We miss you Hap, and we will not forget you and what you stood for: "Politically incorrect, and proud of it." God bless.

BALANCED BUDGET AND TAX AGREEMENT

(Mr. ROEMER asked and was given permission to address the House for 1 minute.)

Mr. ROEMER. Madam Speaker, I rise in strong support of the bipartisan balanced budget and tax agreement. This proposal achieves two long-sought-after objectives. One, it will balance the budget in a fair and equitable manner. And, second, it creates new programs for children's health, education, and modest tax relief for hard-working Americans.

Now, with this recently-agreed-to budget proposal, we have $24 billion for children, we have tax relief for small farmers, small businesses and, yes, low-income people at $25,000 a year; we have educational help for people in college.

Madam Speaker, this permanently rejects the tax-and-spend label on Democrats. And, yes, it will continue to say the Democrats come up with new ideas that work effectively for hard-working people in America.

AMERICAN PEOPLE ARE WINNERS IN BALANCED BUDGET AGREEMENT

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Madam Speaker, and my colleagues, it is really going to happen, the first balanced budget in a generation, the first tax cut from Washington in 16 years, and a program to strengthen and preserve Medicare.

Members from both sides of the political aisle worked together; the White House worked with us honestly to bring about these achievements. So there are a lot of people going to be claiming credit today and a lot of people claiming who the winners really are. The real winners in this agreement are the American people, the American people who sent us here to do their bidding and to do their work.

Over the last 2½ years, it has not just been this balanced budget and this tax cut and this preservation of Medicare that we have accomplished, it has been welfare reform, a generation of politicians trying to come to grips with this issue, illegal immigration reform, health care reform, elimination of over 300 Federal Government programs, saving over $50 billion.

This Congress continues to do what the American people are demanding, a smaller, less costly, less intrusive government here in Washington, moving power back home so Americans can make more decisions about their own lives.

IN SUPPORT OF BALANCED BUDGET AGREEMENT

(Ms. STABENOW asked and was given permission to address the House for 1 minute.)

Ms. STABENOW. Madam Speaker, it is my pleasure today to rise in support of the balanced budget agreement that we will be voting on later this week.

Before I entered the House in January, we had a Congress that was shutting the Government down, not once but twice. We now have new faces. We now have the President's leadership in bringing together people on both sides to create a bipartisan agreement. This is an agreement that when it first came before the House I could not support because it very much gave relief to those at the top, hoping that those at the middle somehow would receive it through trickle-down economics.

But what we have now is very different. The efforts, the hard work of the last few weeks have made a tremendous difference. We now see middle-class families, small businesses, family-owned farms receiving the kind of relief that we have been fighting for. Education is now a top priority; children's health care for families that work but do not have insurance.

This is a dramatically different proposal than the one that passed a few weeks ago. The hard work paid off. The folks that have been communicating their concerns for middle-class America have made a difference.

OVERSEAS PRIVATE INVESTMENT CORPORATION

(Mr. ROYCE asked and was given permission to address the House for 1 minute.)

Mr. ROYCE. Madam Speaker, the Overseas Private Investment Corporation, known as OPIC, provides loans and insurance to corporations operating overseas and at below-market cost. It is a subsidy. OPIC competes with private banks and insurers, only OPIC operates outside of the market, with the full faith and credit of the American taxpayer behind it. The American taxpayers are at risk.

The Royce-Andrews-Kasich amendment, which will come up on Thursday, is a modest proposal. It calls for spending no more than $20.8 million on this program. We are asking that OPIC live within the administrative expenses budgeted for it in 1994, when its current authorization level was established.

In this time of corporate downsizing and shrinking budgets, is it really so much to keep OPIC's budget from growing by $12 million, or 50 percent? I do not think so. I urge my colleagues to vote "yes" for this amendment on Thursday.

IN SUPPORT OF ROYCE-ANDREWS-KASICH AMENDMENT

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACKSON of Illinois. Madam Speaker, I rise today in support of the Royce-Andrews-Kasich amendment, which is a bipartisan amendment that reduces the administrative appropriation for the Overseas Private Investment Corporation, OPIC, from $32 million to $20.8 million. OPIC uses taxpayer money to provide direct loans and risk insurance to Fortune 500 companies, who in turn are firing American workers.

One year ago, Congress and the President put an end to the six-decade floor beneath the aid to families with dependent children, or AFDC, a minimus program justified on the basis of simple humanity and basic morality, yet the corporations want to continue their AFDC program, Aid For Dependent Corporations. With their record profits and management salary and benefits, they have no such humanitarian or moral claim. The cost to American taxpayers and workers cannot be justified.

With the destabilizing effects of corporate downsizing on American workers and their families, we should not be providing incentives for America's corporate giants to invest abroad, taking advantage of low wage cost, lower standards, and often exploitative working conditions of Third World countries rather than reinvesting and creating jobs at home. We need to raise the developing country standards, not lower our own in an ever-increasing global economy.

PERSONAL EXPLANATION

Mr. JENKINS. Mr. Speaker, on June 24, on rollcall 311, I am recorded as not voting. I recall vividly being in the Chamber. It was on the agricultural appropriations bill. I feel that I voted but I was inadvertently not recorded on that vote. Had I been recorded on that vote, I would have voted "aye."

PROVIDING FOR CONSIDERATION OF H.R. 2266, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 198 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 198

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2266) making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(1)(6) of rule XI, clause 7 of rule XXI, or section 306 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. COBLE). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate on this issue only.

Mr. Speaker, House Resolution 198 is an open rule, as is customary for appropriations measures. The rule provides for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Appropriations.

The rule waives points of order against consideration of the bill for failing to comply with 2(L)(6) of rule XI, the 3-day requirement for availability of the report. The rule also waives points of order against consideration of the bill for failure to comply with clause 7 of rule XXI, the 3-day requirement for availability of printed hearings on appropriations bills. Given the schedule we had have before us and the bipartisan manner with which this bill has been brought forward to the House, I think these waivers are entirely reasonable and fair.

In addition, this rule waives points of order under section 306 of the Budget Act of 1974, which prohibits consideration of bills containing matters within the jurisdiction of the Committee on the Budget. In the Committee on Rules we heard no objection from the Committee on the Budget on this point, so I do not believe this caused anybody any trouble either.

In addition, Mr. Speaker, the rule waives points of order against provisions in the bill which do not comply with clause 2 of rule XXI, prohibiting unauthorized appropriations and legislation on general appropriations bills, as well as clause 6 of rule XXI, prohibiting transfers of unobligated balances. Again, I wish to advise my colleagues that these waivers have been reviewed by the authorizing committee and we have heard no objection to them.

Mr. Speaker, as we have done frequently in the recent past to bring greater awareness to the membership of potential amendments, the rule grants priority in recognition of those Members who have caused their amendments to be preprinted in the CONGRESSIONAL RECORD.

The rule also provides that the Chairman of the Committee of the Whole may postpone votes on any amendment and that the chairman may reduce voting time on postponed questions to 5 minutes, provided that the voting time on the first in a series of questions is not less than 15 minutes, usual procedure. This is a useful time management tool, one that may be especially welcome during these last hectic days as we seek to conclude the historic budget agreement before the August work period.

Lastly, Mr. Speaker, the rule provides for one motion to recommit, with our without instructions.

That sounds like a fairly complicated rule, but actually it is a fairly straightforward open rule for appropriations that has gone through all the proper process. I believe it has been done in a bipartisan spirit.

I wish to commend the gentleman from Florida [Mr. YOUNG], the subcommittee chairman, and the gentleman from Pennsylvania [Mr. MURTHA], the ranking member, for the extraordinary work they have done in crafting this bill. We sometimes resort to large adjectives and hyperbole in describing work here. In this case, I definitely mean it. This is a very good work product, and an awful lot of hard work has been put into it.

These are lean budget times, as we as know. It is even more difficult to make tough choices about national security under such circumstances. When we find ourselves in occasions such as we have today, we find sometimes tensions and breakdown in communications. Things go wrong. But to the credit of both men, the gentleman from Florida [Mr. YOUNG] and the gentleman from Pennsylvania [Mr. MURTHA], that has not happened, and instead we have a bipartisan bill, as we should with something so important as our national security.

On a personal note, as chairman of the Permanent Select Committee on Intelligence, which authorizes programs within this appropriations subcommittee's jurisdiction, I am most grateful for the level of cooperation, attention, and support we have from the appropriators.

☐ 1030

The system of congressional oversight does work. It has worked very well in this area, and I am very proud of our effort.

Mr. Speaker, none of us wants to consider the possibility of threats to our national security, the risks we face overseas, along our borders, and even here at home that seem to come from an ever increasing variety of threats. But in fact, I would say many Americans, especially the younger generations where there is no firsthand experience with war, seem willing to succumb to sort of a wishful thinking that the world is actually a safe place. This is dangerous and wrong. The world is not a safe place. While the type of threat has changed and the face of the enemy certainly looks different, we must never forget there are organizations, governments, and individuals who actively wish us harm.

Just in a short attention span, if we will focus on the tragedy of Pan Am 103 and take it through the bombing of Khobar Towers and think of all that has happened in between, and we will understand, whether it is civilian or military, whether here or there, there are threats to America and American interests and there are casualties and there are tragedies and victims, and we must pay attention. We must remain vigilant and protect ourselves against threats.

The spending bill before us makes the tough choices to live within the balanced budget agreement, while ensuring that crucial defense programs like missile defense are properly funded, and other programs that are not so spectacular.

Frankly, this bill lays out a challenge to the administration to reverse dangerous trends of below adequate spending in some areas. This bill also provides unquestionable support to our troops, most of the men and women doing the hard work of peace at home and overseas every day on our behalf.

We must never allow our budgetary concerns to tempt us to cut corners when it comes to troop readiness or ensuring our fighting forces have the equipment they need, when they need it, and where they need it.

Lastly, this bill makes an important statement about our missions in Bosnia. We are all so proud of the work the American troops have done in that very difficult and uncertain environment, no matter how we feel about the policy questions. But we do not want their mission to be extended indefinitely, and so this bill includes language to enforce a June 30, 1998, deadline.

To those who think it fashionable or politically useful to cut defense, may I suggest a visit to our troops in Bosnia? I think that Members' minds would be changed. May I suggest a review of the action in Desert Storm, of the work that was done by our military? May I suggest a trip to visit the remains of Khobar Towers, if one thinks it is not dangerous work?

Mr. Speaker, this is a good bill. It is a fair rule. I urge my colleagues to support both.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of this open rule on H.R. 2266, the Department of Defense appropriation for fiscal year 1998.

The appropriations in H.R. 2266 provide for our Nation's security and for our defense. Thus, they are critical to ensuring that the United States remains the world's leader. The funds recommended in this bill closely track the authorization levels passed by the House and reflect the major policy decisions which were decided in that legislation.

While the funding levels in this bill do fail to keep pace with inflation, they reflect the reality of budgetary restraints and, consequently, the dollar figures in this bill are those that reflect the overall spending levels agreed upon by both the President and the Congress.

Mr. Speaker, the cold war may be over, but we do not enjoy a peacetime that allows our military forces to stand down. Instead, they are being called upon to perform both military and peacekeeping roles all around the world. The soldiers, sailors, airmen, and marines who serve our country are being stretched to the limit, but they are up to the task and their performance under these trying circumstances should make us all very proud.

Mr. Speaker, longer rotations and longer family separations and more work with fewer people is taking a toll on our men and women in uniform and their families. I commend the committee for putting our troops first by providing for the pay raise recommended by the President, improved housing and for quality of life initiatives. The Congress has an obligation to these men and women who serve us, and I hope the continuing commitment to those improvements will be a top priority for both the authorizing committee and the appropriating committee.

Mr. Speaker, the rule provides for waivers of points of orders against the consideration of the bill for failure to comply with clause 2 of rule XXI. This waiver is necessary, of course, because the authorization bill has not yet been signed into law. But as every Member knows, the House has done its work and has passed the authorization, and the provisions of this appropriation closely track that bill.

This is especially true with reference to the major policy decisions and acquisitions in the authorization. I am pleased that the committee has provided funding for the B–2 stealth bomber at the level agreed to by the House in the authorization bill, at a level which will allow those parts of the production line, which had been shut down, to start. The B–2 will continue to serve the Air Force well into the next century and, by providing adequate funding for advance procurement, the Congress will ensure that production of this effective weapons system continues in future years.

In addition, Mr. Speaker, the bill provides $81 million for advanced procurement of the F–22, the fighter of the 21st century, as well as funding for acquisition of seven V–22 tiltrotor aircraft. Important components in the ability of the particular marines and special forces to deliver combat troops safely and effectively. The bill rightfully concentrates on important operations and maintenance accounts, but also looks toward the future by funding important research and development programs.

A combination of quality of life initiatives, procurement, operations and maintenance, along with research into the future of our military needs, makes this an excellent bill in light of the cutbacks required by our need to balance the Federal budget.

Mr. Speaker, this is a fair rule. It allows any Member to contest the spending levels recommended in the bill, but it does not permit the consideration of legislative issues which have already been decided by the House in the authorization bill.

I commend this rule and the bill to my colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, NY [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank my good friend, the gentleman from Sanibel, FL, Mr. PORTER GOSS, the manager of this rule, for yielding me this time, and as the gentleman from

Florida and the gentleman from Texas [Mr. FROST], have adequately described the rules of debate, I will not get into that except to say that, obviously, it is a fair and open rule.

On the bill itself, Mr. Speaker, let me just again congratulate the chairman, the gentleman from Florida, Mr. BILL YOUNG, and the ranking member, the gentleman from Pennsylvania [Mr. MURTHA], and the entire Committee on Appropriations and their staffs, for once again putting together an excellent piece of legislation under very, very difficult circumstances.

The defense appropriation bill, along with the companion authorization bill, probably is the most important thing we do around here, Mr. Speaker. It is absolutely imperative that this bill contain adequate funding for all of the military personnel in all branches of service who are right now out in the field standing vigilant on behalf of the American Government and the American people.

It is imperative that this bill contain enough quality of life incentives to retain and recruit the best people we can for our military. It is imperative this bill contain enough funding for operations and maintenance, so that our troops can be as highly trained as possible in case they are called into battle. It is imperative this bill contain adequate funding for weapons procurement and for research and development so that our troops can fight and defend themselves with only the very best equipment and technology that money can buy.

Mr. Speaker, to the best extent possible, I think this bill does all of that, considering the funds that are available. At $248 billion, the bill adds over $4 billion to President Clinton's wholly inadequate request. The bill adds $3.9 billion to the President's request for procurement, which is so important, and $770 million for research and development over and above what the President had asked for.

These accounts contain adequate funding for the weapon systems of tomorrow, some of which were mentioned a minute ago, such as the F–22 stealth fighter, the B–2 bomber, the Marine Corps V–22 troop carrier, and the next generation of aircraft carriers and submarines.

These accounts also contain funding to bring us one step closer to developing and deploying defenses against ballistic missiles, something for which, and I guarantee my colleagues, we will all be grateful for some day.

This bill contains a 2.8-percent pay raise for our soldiers and adds a significant funding increase for barracks, for family housing, and for child care centers, keeping in mind, Mr. Speaker, that when I served in the military, some 45 years ago, most of us were single. Today, most of them are married and we need adequate barracks, adequate family housing and child care centers in order to continue to attract a real cross section of America. That is so terribly important, especially in an all-volunteer military such as we have.

Despite all of these excellent provisions in this bill, let me go on the record right now to say that we continue to provide inadequate, yes, inadequate funds for this Nation's defenses. This bill will represent the 13th straight year of inflation adjusted cuts to the defense budget. No other account in the Federal budget has been cut so much. Weapons procurement, which has been cut by nearly 70 percent since 1985 alone, remains at least $14 billion below where the Joint Chiefs of Staff said we need to be in order to retain our technology advantage over potential adversaries.

Our military is vastly smaller and older than just 6 years ago during Desert Storm. Most experts agree today that such a mission would simply be impossible to undertake. Keep in mind, for instance, in 1991 we had 18 Army divisions and used 7 of them in Desert Storm. Eighteen Army divisions, seven used in Desert Storm. Today, we have only 10 divisions, not 18, and we are heading toward 9. Now, think about that, my fellow colleagues.

As former Secretary of Defense William Perry said, we are already at the minimum force structure level that we need in order to retain our role as a global power. Think about that.

Of course, this is not the fault of the Committee on Appropriations. As I said before, they have operated under severe constraints, and they have done one tremendous job with the dollars that they have had available to them. Those constraints are the balanced budget resolution this Congress has passed and, more importantly, the repeated unwillingness of this administration to pay adequate attention to our Nation's defenses.

Despite his State of the Union pledge a number of years ago, President Clinton continues to cut national defense funding in his budgets that he presents to this body and has fought our defense increases tooth and nail. If we had not persevered, think where we would be today.

Mr. Speaker, that is a scandal, but it is one we can overcome by voting for this rule and for this bill today and then working together to find additional moneys for the No. 1 constitutional duty of this House. And if my colleagues read the Constitution, that constitutional duty is providing for a national defense for all Americans. That is the reason we formed this republic of States, 200 some years ago. And to do that, it is imperative that we give our young men and women the very best.

Some people, Mr. Speaker, would criticize the military. They would criticize serving in the military. But it is one of the most honorable careers that anyone could ever pursue. Anyone. Today, when our young men and women go in our all-volunteer military, first of all they come from a cross section of America. They are the finest. They are young men and women looking for a career. And when they serve, whether it is for 3 years or 5 years or 20 years, they learn a trade but, more importantly, they learn things like the words "pride" and "patriotism" and "volunteerism" and "community." They learn how not to use drugs.

Did my colleagues know that back in the early 1980's that 25 percent of the military personnel were admittedly using some kind of illegal drugs. And because of drug testing that was implemented by this Congress, a bill that I introduced and Ronald Reagan's Executive order, that through random drug testing of every single buck private all the way up to every general and admiral, that the use of drugs in our military today has dropped 82 percent, and now less than 4 percent are using drugs? If we could only do that with the rest of America, we would solve this drug problem.

Yes, they do learn words like "pride" and "patriotism," and they learn words like "discipline" and how terribly important that is. Many of them come from broken homes, where they do not have a father and a mother, and they do not have a mother that is there during the daytime to help teach them some discipline. Today, they learn words like "courtesy" and "respect," and they even get a little "religion."

Mr. Speaker, serving in the all-volunteer military today is an honorable and respectable career, and that is why we must do everything we can to give these young men the very best if we are going to put them in harm's way someday. And that is why this particular budget is so important here today and why I again just take off my hat to the chairman, the gentleman from Florida, and to the ranking member, the gentleman from Pennsylvania, and their entire committee and staff for the great work they have done in putting this together.

Mr. Speaker, I commend them, and I urge support of this rule and the bill that will follow it.

☐ 1045

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Ohio [Ms. PRYCE], a member of the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for yielding me this time, and I rise in strong support of this open rule.

Providing for the national defense is one of the few Federal duties that is very, very clearly defined in our Constitution. As such, we have the responsibility to ensure that the men and women of our Armed Forces have the training and resources that they need to defend our Nation from the global threats that still remain.

Make no mistake about it, Mr. Speaker. Despite the end of the cold war, there are many threats still out there that require the United States to be vigilant and ready for conflict in the sad event it should arise.

The bill which this open rule makes in order is a sound effort to put balance back into our defense priorities. I commend the chairman and the ranking minority member of the Subcommittee on National Security of the Committee on Appropriations for crafting a bill that addresses the many competing challenges facing our military establishment in a very responsible manner.

As in the past, this bill focuses on enhancing quality of life, especially for military families, addressing shortfalls in readiness and training, modernizing our fighting force, and downsizing our Armed Forces overall. And it does so while staying true to the bipartisan goal of balancing the Federal budget.

Most importantly, H.R. 2266 puts the troops first and recognizes that the heart and soul of our defense is the all-volunteer army. By providing the funding for improved military housing, child development centers and even programs like breast cancer detection and treatment, this bill respects the hard work and sacrifices made by our military personnel and attempts to give them the quality of life and standard of living that they deserve.

Mr. Speaker, the safety and prosperity of the American people depend on safeguarding our national security in a changing world. We simply cannot afford to let the gains we have made for freedom and democracy be jeopardized by any insufficient defense strategy. Under this open rule we will have full and fair debate on preparing our military for the next century. I would urge a yes vote on both measures.

Mr. FROST. Mr. Speaker, I have no further requests for time. I urge adoption of the rule, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume. I would simply say that I believe this is No. 8 of the appropriations bills. We have cleared seven in the House. This is the eighth. The Committee on Rules has cleared 2 others, which will make 10. I think there are three left. We are chugging along on schedule doing the work of America. I urge our colleagues to support this rule.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 2266) making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes, and that I may be permitted to include tabular and extraneous material.

The SPEAKER pro tempore (Mr. COBLE). Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore. Pursuant to House Resolution 198 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2266.

□ 1049

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2266) making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. YOUNG] and the gentleman from Pennsylvania [Mr. MURTHA] each will control 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I yield myself such time as I may consume. We are pleased to bring before the committee today what I think is an outstanding bipartisan national defense appropriations bill. The security of our Nation and the protection of our troops and those who serve in uniform should be nonpolitical. It should be bipartisan. This bill reflects that.

This is a bipartisan bill. It was put together with the strong cooperation of the gentleman from Pennsylvania [Mr. MURTHA], the ranking member on the subcommittee, and all of the members of the subcommittee and the staff who worked with us. We have presented a bill that is reflective of the needs of the military, reflective of the various threats that exist and potential threats that exist in the world, and it has been done in a very bipartisan fashion.

This bill today, Mr. Chairman, is within the constraints and the agreements on the part of the President, on the part of the House, and on the part of the Senate as we dealt with our budget agreement.

We are basically in agreement with the authorizing bills as passed by the House, from the Committee on National Security and also the Permanent Select Committee on Intelligence, both of which committees we appropriate for their authorization.

This bill includes some $4.4 billion over the request of the President but, as I said, with the budget agreement that he has agreed to, that obviously is acceptable. This bill goes directly to the heart of our national security requirements. About 70 percent of the money appropriated in this bill goes for the personnel and the operations and maintenance of the force, salaries, allowances, housing, medical care, et cetera, et cetera. We have increased the medical allowances because there was a shortfall. The administration recognized that and asked for an increase; we provided that.

We have made some very specific recommendations and changes in the bureaucracy in the Pentagon, and as we work toward making the Pentagon a triangle, we have been able to reduce funding for civilian consultants, funding for the civilian bureaucracy, and have reduced funding for military bureaucracy where it was duplicative and, in the opinion of the members of the subcommittee, was really not necessary.

Mr. Chairman, all in all, we bring to this House an excellent bill. I think we can move it through here quickly. The authorizing bill from the Committee on National Security received a very large vote. The authorizing bill for Intelligence was passed by this House with a voice vote, and we expect that we should be able to move this bill quickly as well, because it pretty much tracks the contents of those two authorizing bills.

Mr. Chairman, I include the following tabular material:

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL (H.R. 2266)

	FY 1997 Enacted 3/	FY 1998 Estimate 2/	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I					
MILITARY PERSONNEL					
Military Personnel, Army	20,633,998,000	20,492,257,000	20,445,381,000	-188,617,000	-46,876,000
Military Personnel, Navy	16,986,976,000	16,501,118,000	16,504,911,000	-482,065,000	+3,793,000
Military Personnel, Marine Corps	6,111,728,000	6,147,599,000	6,141,635,000	+29,907,000	-5,964,000
Military Personnel, Air Force	17,069,490,000	17,154,556,000	17,044,874,000	-24,616,000	-109,682,000
Reserve Personnel, Army	2,073,479,000	2,024,446,000	2,045,615,000	-27,864,000	+21,169,000
Reserve Personnel, Navy	1,405,606,000	1,375,401,000	1,377,249,000	-28,357,000	+1,848,000
Reserve Personnel, Marine Corps	388,643,000	381,070,000	391,953,000	+3,310,000	+10,883,000
Reserve Personnel, Air Force	783,697,000	814,936,000	814,772,000	+31,075,000	-164,000
National Guard Personnel, Army	3,266,393,000	3,200,667,000	3,245,387,000	-21,006,000	+44,720,000
National Guard Personnel, Air Force	1,296,490,000	1,319,712,000	1,331,417,000	+34,927,000	+11,705,000
Total, title I, Military Personnel	70,016,500,000	69,411,762,000	69,343,194,000	-673,306,000	-68,568,000
TITLE II					
OPERATION AND MAINTENANCE					
Operation and Maintenance, Army	17,519,340,000	17,049,484,000	17,078,218,000	-441,122,000	+28,734,000
(By transfer - National Defense Stockpile)	(50,000,000)	(50,000,000)	(50,000,000)		
Operation and Maintenance, Navy	20,061,961,000	21,508,130,000	21,779,365,000	+1,717,404,000	+271,235,000
(By transfer - National Defense Stockpile)	(50,000,000)	(50,000,000)	(50,000,000)		
Operation and Maintenance, Marine Corps	2,254,119,000	2,301,345,000	2,598,032,000	+343,913,000	+296,687,000
Operation and Maintenance, Air Force	17,263,193,000	18,817,785,000	18,740,167,000	+1,476,974,000	-77,618,000
(By transfer - National Defense Stockpile)	(50,000,000)	(50,000,000)	(50,000,000)		
Operation and Maintenance, Defense-Wide	10,044,200,000	10,390,938,000	10,066,956,000	+22,756,000	-323,982,000
Operation and Maintenance, Army Reserve	1,119,436,000	1,192,891,000	1,207,891,000	+88,455,000	+15,000,000
Operation and Maintenance, Navy Reserve	886,027,000	834,711,000	924,711,000	+38,684,000	+90,000,000
Operation and Maintenance, Marine Corps Reserve	109,667,000	110,366,000	119,266,000	+9,599,000	+8,900,000
Operation and Maintenance, Air Force Reserve	1,496,553,000	1,624,420,000	1,635,250,000	+138,697,000	+10,830,000
Operation and Maintenance, Army National Guard	2,254,477,000	2,258,932,000	2,313,632,000	+59,155,000	+54,700,000
Operation and Maintenance, Air National Guard	2,716,379,000	2,991,219,000	2,995,719,000	+279,340,000	+4,500,000
Overseas Contingency Operations Transfer Fund	1,140,157,000	1,467,500,000	1,855,400,000	+715,243,000	+387,900,000
United States Court of Appeals for the Armed Forces	6,797,000	6,952,000	6,952,000	+155,000	
Environmental Restoration, Army	339,109,000	377,337,000	377,337,000	+38,228,000	
Environmental Restoration, Navy	287,788,000	277,500,000	277,500,000	-10,288,000	
Environmental Restoration, Air Force	394,010,000	378,900,000	378,900,000	-15,110,000	
Environmental Restoration, Defense-Wide	36,722,000	27,900,000	27,900,000	-8,822,000	
Environmental Restoration, Formerly Used Defense Sites	256,387,000	202,300,000	202,300,000	-54,087,000	
Overseas Humanitarian, Disaster, and Civic Aid	49,000,000	80,130,000	55,557,000	+6,557,000	-24,573,000
Former Soviet Union Threat Reduction	327,900,000	382,200,000	284,700,000	-43,200,000	-97,500,000
Quality of Life Enhancements, Defense	600,000,000			-600,000,000	
Total, title II, Operation and maintenance	79,163,222,000	82,280,940,000	82,925,753,000	+3,762,531,000	+644,813,000
(By transfer)	(150,000,000)	(150,000,000)	(150,000,000)		
TITLE III					
PROCUREMENT					
Aircraft Procurement, Army	1,348,434,000	1,029,459,000	1,541,217,000	+192,783,000	+511,758,000
(By transfer - National Defense Stockpile)		(133,000,000)			(-133,000,000)
Missile Procurement, Army	1,041,867,000	1,178,151,000	771,942,000	-269,925,000	-406,209,000
Procurement of Weapons and Tracked Combat Vehicles, Army	1,470,286,000	1,065,707,000	1,332,907,000	-137,379,000	+267,200,000
Procurement of Ammunition, Army	1,127,149,000	890,902,000	1,062,802,000	-64,347,000	+171,900,000
Other Procurement, Army	3,172,485,000	2,455,030,000	2,502,886,000	-669,599,000	+47,856,000
Aircraft Procurement, Navy	7,027,010,000	5,951,965,000	6,753,465,000	-273,545,000	+801,500,000
(By transfer - National Defense Stockpile)		(134,000,000)			(-134,000,000)
Weapons Procurement, Navy	1,389,913,000	1,136,293,000	1,175,393,000	-214,520,000	+39,100,000
Procurement of Ammunition, Navy and Marine Corps	289,695,000	336,797,000	423,797,000	+134,102,000	+87,000,000
Shipbuilding and Conversion, Navy	5,613,665,000	7,438,158,000	7,628,158,000	+2,014,493,000	+190,000,000
Other Procurement, Navy	3,067,944,000	2,825,500,000	3,084,485,000	+16,541,000	+258,985,000
Procurement, Marine Corps	569,073,000	374,306,000	491,198,000	-77,875,000	+116,892,000
Aircraft Procurement, Air Force	6,404,980,000	5,684,847,000	6,386,479,000	-18,501,000	+701,632,000
(By transfer - National Defense Stockpile)		(133,000,000)			(-133,000,000)
Missile Procurement, Air Force	2,297,145,000	2,557,741,000	2,320,741,000	+23,596,000	-237,000,000
Procurement of Ammunition, Air Force	293,153,000	403,984,000	414,884,000	+121,731,000	+10,900,000
Other Procurement, Air Force	5,944,680,000	6,561,253,000	6,588,939,000	+644,259,000	+27,686,000
Procurement, Defense-Wide	1,978,005,000	1,695,085,000	2,186,669,000	+208,664,000	+491,584,000
National Guard and Reserve Equipment	780,000,000		850,000,000	+70,000,000	+850,000,000
Total, title III, Procurement	43,815,484,000	41,585,178,000	45,515,962,000	+1,700,478,000	+3,930,784,000
(By transfer)		(400,000,000)			(-400,000,000)
TITLE IV					
RESEARCH, DEVELOPMENT, TEST AND EVALUATION					
Research, Development, Test and Evaluation, Army	5,062,763,000	4,510,843,000	4,686,427,000	-376,336,000	+175,584,000
Research, Development, Test and Evaluation, Navy	8,208,946,000	7,611,022,000	7,907,837,000	-301,109,000	+296,815,000
Research, Development, Test and Evaluation, Air Force	14,499,606,000	14,451,379,000	14,315,456,000	-184,150,000	-135,923,000
Research, Development, Test and Evaluation, Defense-Wide	9,362,800,000	9,069,680,000	9,494,337,000	+131,537,000	+424,657,000
Developmental Test and Evaluation, Defense	282,038,000	268,183,000	268,183,000	-13,855,000	
Operational Test and Evaluation, Defense	24,968,000	23,384,000	32,684,000	+7,716,000	+9,300,000
Total, title IV, Research, Development, Test and Evaluation	37,441,121,000	35,934,491,000	36,704,924,000	-736,197,000	+770,433,000

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL (H.R. 2266)—Continued

	FY 1997 Enacted 3/	FY 1998 Estimate 2/	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE V					
REVOLVING AND MANAGEMENT FUNDS					
DBOF/Defense Working Capital Funds	947,900,000	33,400,000	971,952,000	+24,052,000	+938,552,000
Military Commissary Fund, Defense	....	938,552,000	....	....	-938,552,000
National Defense Sealift Fund:					
Ready Reserve Force	266,000,000	302,000,000	302,000,000	+36,000,000	....
Acquisition	1,162,002,000	889,426,000	897,926,000	-264,076,000	+8,500,000
Total	1,428,002,000	1,191,426,000	1,199,926,000	-228,076,000	+8,500,000
Total, title V, Revolving and Management Funds	2,375,902,000	2,163,378,000	2,171,878,000	-204,024,000	+8,500,000
TITLE VI					
OTHER DEPARTMENT OF DEFENSE PROGRAMS					
Defense Health Program:					
Operation and maintenance	9,937,838,000	10,027,582,000	10,035,682,000	+97,844,000	+8,100,000
Procurement	269,470,000	274,068,000	274,068,000	+4,598,000	....
Total, Defense Health Program	10,207,308,000	10,301,650,000	10,309,750,000	+102,442,000	+8,100,000
Chemical Agents & Munitions Destruction, Defense: 1/					
Operation and maintenance	478,947,000	472,200,000	472,200,000	-6,747,000	....
Procurement	191,200,000	82,200,000	67,200,000	-124,000,000	-15,000,000
Research, development, test, and evaluation	88,300,000	66,300,000	56,300,000	-32,000,000	-10,000,000
Total, Chemical Agents	758,447,000	620,700,000	595,700,000	-162,747,000	-25,000,000
Drug Interdiction and Counter-Drug Activities, Defense	807,800,000	652,582,000	713,082,000	-94,718,000	+60,500,000
Office of the Inspector General	139,157,000	138,380,000	142,980,000	+3,823,000	+4,600,000
Total, title VI, Other Department of Defense Programs	11,912,712,000	11,713,312,000	11,761,512,000	-151,200,000	+48,200,000
TITLE VII					
RELATED AGENCIES					
Central Intelligence Agency Retirement and Disability System Fund	196,400,000	196,900,000	196,900,000	+500,000	....
Intelligence Community Management Account	129,164,000	122,580,000	125,580,000	-3,584,000	+3,000,000
Transfer to Dept of Justice	(27,000,000)	(27,000,000)	(27,000,000)	....	....
Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund	10,000,000	10,000,000	10,000,000	....	....
National Security Education Trust Fund	5,100,000	2,000,000	2,000,000	-3,100,000	....
Total, title VII, Related agencies	340,664,000	331,480,000	334,480,000	-6,184,000	+3,000,000
TITLE VIII					
GENERAL PROVISIONS					
Additional transfer authority (sec. 8005)	(2,000,000,000)	(2,500,000,000)	(2,000,000,000)	....	(-500,000,000)
Disposal & lease of DOD real property (sec. 8037)	26,565,000	64,000,000	64,000,000	+37,435,000	....
Overseas Military Fac Investment Recovery (sec. 8041)	1,000,000	30,000,000	30,000,000	+29,000,000	....
National Science Center, Army (sec. 8048)	120,000	....	....	-120,000	....
Export loan guarantee PGM	1,000,000	1,000,000	....	-1,000,000	-1,000,000
Rescissions (sec. 8055)	-137,108,000	....	-160,100,000	-22,992,000	-160,100,000
Coast Guard transfer	300,000,000	....	....	-300,000,000	....
Excess funded carryover	-150,000,000	....	....	+150,000,000	....
RDT&E general reduction	-680,552,000	....	....	+680,552,000	....
Air Force DBOF pass through	-194,500,000	....	....	+194,500,000	....
FFRDC's/consultants (sec. 8031)	-154,572,000	....	-141,300,000	+13,272,000	-141,300,000
Weapons of Mass Destruction	100,000,000	....	....	-100,000,000	....
Anti-terrorism, counter-terrorism, and security enhancement activities:					
Emergency funding, FY 1997	230,680,000	....	....	-230,680,000	....
General reduction	-230,680,000	....	....	+230,680,000	....
RDT&E, Def-Wide dual-use program	100,000,000	2,000,000	2,000,000	-98,000,000	....
Fisher Houses (sec. 8088)	....	1,000,000	1,000,000	+1,000,000	....
Travel Cards (sec. 8089)	....	5,000,000	5,000,000	+5,000,000	....
Warranties (sec. 8095)	....	....	-50,000,000	-50,000,000	-50,000,000
Excess inventory (sec. 8093)	....	....	-100,000,000	-100,000,000	-100,000,000
Shared Cleanup Costs (sec. 8094)	....	....	-73,000,000	-73,000,000	-73,000,000
Total, title VIII	-788,047,000	103,000,000	-422,400,000	+365,647,000	-525,400,000
Effect of P.L. 105-18:					
Rescissions, FY93 - FY96	-464,102,000	....	....	+464,102,000	....
Rescissions, FY 1997	-1,270,050,000	....	....	+1,270,050,000	....
Emergency funding	1,846,200,000	....	....	-1,846,200,000	....
Non-emergency funding	76,800,000	....	....	-76,800,000	....
Net total effect of P.L. 105-18	188,848,000	....	....	-188,848,000	....
Grand total	244,466,406,000	243,523,541,000	248,335,303,000	+3,868,897,000	+4,811,762,000
(By transfer)	(177,000,000)	(577,000,000)	(177,000,000)	....	(-400,000,000)

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL (H.R. 2266)—Continued

	FY 1997 Enacted 3/	FY 1998 Estimate 2/	Bill	Bill compared with Enacted	Bill compared with Estimate
BUDGET SCOREKEEPING ADJUSTMENTS					
Adjustment for unapprop'd balance transfer (Stockpile)	150,000,000	550,000,000	150,000,000		-400,000,000
Stockpile collections (unappropriated)	-150,000,000	-150,000,000	-150,000,000		
Emergency funding for anti-terrorism (sec. 8137)	-230,680,000			+230,680,000	
ICMA transfer to Dept of Justice	(27,000,000)			(-27,000,000)	
Emergency funding (P.L. 105-18)	-1,846,000,000			+1,846,000,000	
Total adjustments	-2,076,680,000	400,000,000		+2,076,680,000	-400,000,000
Total, Department of Defense:					
Bill total	244,466,406,000	243,523,541,000	248,335,303,000	+3,868,897,000	+4,811,762,000
Scorekeeping adjustments	-2,076,680,000	400,000,000		+2,076,680,000	-400,000,000
Grand total	242,389,726,000	243,923,541,000	248,335,303,000	+5,945,577,000	+4,411,762,000
RECAPITULATION					
Title I - Military Personnel	70,016,500,000	69,411,762,000	69,343,194,000	-673,306,000	-68,568,000
Title II - Operation and Maintenance	79,163,222,000	82,280,940,000	82,925,753,000	+3,762,531,000	+644,813,000
(By transfer)	(150,000,000)	(150,000,000)	(150,000,000)		
Title III - Procurement	43,815,484,000	41,585,178,000	45,515,962,000	+1,700,478,000	+3,930,784,000
(By transfer)		(400,000,000)			(-400,000,000)
Title IV - Research, Development, Test and Evaluation	37,441,121,000	35,934,491,000	36,704,924,000	-736,197,000	+770,433,000
Title V - Revolving and Management Funds	2,375,902,000	2,163,378,000	2,171,878,000	-204,024,000	+8,500,000
Title VI - Other Department of Defense Programs	11,912,712,000	11,713,312,000	11,761,512,000	-151,200,000	+48,200,000
Title VII - Related agencies	340,664,000	331,480,000	334,480,000	-6,184,000	+3,000,000
Title VIII - General provisions	-788,047,000	103,000,000	-422,400,000	+365,647,000	-525,400,000
(Additional transfer authority)	(2,000,000,000)	(2,500,000,000)	(2,000,000,000)		(-500,000,000)
Net effect of P.L. 105-18	188,848,000			-188,848,000	
Total, Department of Defense	244,466,406,000	243,523,541,000	248,335,303,000	+3,868,897,000	+4,811,762,000
Scorekeeping adjustments	-2,076,680,000	400,000,000		+2,076,680,000	-400,000,000
Grand total	242,389,726,000	243,923,541,000	248,335,303,000	+5,945,577,000	+4,411,762,000

1/ Included in Budget under Procurement title.

2/ FY 1998 budget request reflects a budget amendment to cover a shortfall in the DHP, as follows:
Military Personnel -$62,000,000; O&M -$199,000,000 and Defense Health Program +$261,000,000.

3/ FY 1997 enacted reflects new budget authority of $1,923,000,000 and rescissions of $1,734,152,000, as enacted in P.L. 105-18.

Mr. YOUNG of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. MURTHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a bipartisan bill. We did not have a vote in subcommittee, a few votes in full committee, but the results of this bill are very closely aligned to the authorization bill which also, as I understand it, was a bipartisan bill, as it should be. Our defense of this Nation should be bipartisan.

A couple of things that we concentrated on. Quality of life is always something that we work on, trying to make sure that the medical care of the dependents of the families is taken care of. We try to stress extra things that the services have not thought of or do not think they have enough money for.

One of the things we have stressed is chemical and biological attack and the fact that we are vulnerable to that in this Nation and we need to set up a system. We have suggested to the Defense Department they use the National Guard for this system, so that if anything like that were to happen, a terrorist attack using either of these weapons, the National Guard would be prepared to respond to that. Right now we have responses by local government, we have responses by one team of Marines, but it is not nearly enough to really respond to the ultimate problem.

Overall, we feel we do not have enough money for defense. Procurement has come down from $120 to $40 billion and it has been a very, very delicate balance to make sure we modernize the forces, we keep the readiness up, we increase the O&M. The Senate has taken money out of O&M. We have increased O&M. We hope we will be able to convince them that readiness is absolutely essential. The quality of our forces is the best I have ever seen. We continue to visit them. But when we start cutting back, when we start having a heavy tempo of operations as we do, we have to get the money from someplace.

The Bosnia operation has hurt us as far as the amount of money goes for modernization. It has also hurt us in some of the problems we have had in the recruit depots. At the recruit depots, at some of them they have less training time, they have less supervisors, they have less people to do the training. Consequently, we are going to run into a substantial problem. We hope that the services have changed that. We hope that the Army in particular has addressed that and that in the end this problem will go away.

Mr. Chairman, I join the gentleman in saying that this is a bipartisan bill and look forward to passing the bill and addressing the amendments.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I rise in strong support of the bill and urge my colleagues as they did on the authorization bill to defeat any amendment to strike out funding for the B-2.

During that debate during the authorization bill, we were told repeatedly by the Defense Department that there was no money in the out years for funding for anything in the procurement area. I want my colleagues to know that the staff of the committee, working with me, found an account, $20 billion in DOD modernization reserve. This money was characterized by the Comptroller as a bishop's fund for the new Secretary of Defense to fund things that would come out of the Quadrennial Defense Review.

Mr. Chairman, in the Quadrennial Defense Review, they did not obligate all of this money. There is still a substantial amount of money, $13 billion of the $20 billion that has not been committed. I would urge my colleagues today that that $13 billion is just about the exact amount of money that we need to go ahead and procure additional B-2 bombers.

For those people who got up here and said over and over again that this is a zero sum game, it is a zero sum game, plus $20 billion in funding in the out years. I want my colleagues to be aware of this. We are going to have a spirited debate later on the B-2, but there is $20 billion out there.

I would also point out that in the past, Congress, this very Congress has insisted that certain things be done in the name of national defense. Our subcommittee forced the Pentagon to build 27 additional F-117's. The F-117 stealth aircraft were the centerpiece of the success in the war in the gulf. Stealth worked and smart weapons worked. We saved American lives.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DICKS. Mr. Chairman, I ask the gentleman for 1 additional minute.

Mr. MURTHA. I may have to change my vote on the B-2.

Mr. DICKS. Mr. Chairman, I ask the gentleman for 30 seconds.

Mr. Chairman, will the gentleman from Florida yield me a minute?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURTHA. I yield the gentleman 30 additional seconds.

Mr. DICKS. Mr. Chairman, the F-117 was the star weapon in the gulf war and it was Congress that insisted that we buy it. The gentleman from Pennsylvania and the gentleman from Florida were the two principal proponents of that amendment. We also added money for sealift at the urging of the gentleman from Pennsylvania [Mr. MURTHA], then chairman. That turned out to be absolutely crucial.

Under the Constitution of the United States, the ultimate responsibility for defense rests with the Congress. That is why today I think we again need to stand up, tell the Pentagon they are wrong, look at the modernization reserve, and keep the money in for the B-2.

Mr. MURTHA. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY] who wishes that I would have had to yield more time to the gentleman so I could have changed my vote on the B-2.

Mr. OBEY. Mr. Chairman, I rise to express dissenting views to those which apparently generally prevail in this House on this legislation.

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We are about to vote on the largest appropriations bill that comes before us this year. We will do it in very little time, with very little debate and with very little protest, if you please, about what I consider to be some of the misguided efforts of this Congress in dealing with military budget.

Mr. Chairman, I would simply point out that I heard during the discussion on the rule that there was alarm because there had been a number of years during which we have had a significant real reduction in the military budget. I would point out that is because we have had a significant reduction in the military threats facing this country. The fact is that since the collapse of the Soviet empire we have had about an 80-percent drop in Russian military spending. We have not seen a concurrent reduction in our own military spending to nearly that degree over that same period of time.

I would also say that there have been a number of warnings that we are in effect, by what we are buying in the military budget, that we are again getting ready to fight the last war and not getting ready to fight the kind of war we could be facing in the future. Everyone who has studied the military budget knows that we are buying far too many high cost weapon systems in order to fit into the overall budget ceilings which we are being asked to comply with over the next 5 years under the budget agreement. No one who studies the military budget can come away without an understanding that we are going to have to stop the purchase of one and probably two expensive military weapon systems if we want to be able to maintain the level of readiness that will be needed over the coming years and, if we want to, at the same time, actually live within the budgets that are being set by these agreements that are being trumpeted around this town over the last couple of months and, in fact, couple of days.

I will be offering two amendments today, one to eliminate the funding for additional B-2's that the Congress has decided that the Government ought to purchase despite the fact that over 20 studies through the years have indicated that we do not need those weapons and, in fact, that we even had the

Defense Department itself conclude that it would be counterproductive in terms of maximizing the use of our defense dollars.

I will also be offering an amendment which precludes the sale of the F-22 abroad so that we do not get into the ludicrous position of selling our most sophisticated military technology around the world and then using that as an excuse to build yet more sophisticated planes in the future.

Mr. MURTHA. Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to compliment, in addition to the gentleman from Pennsylvania [Mr. MURTHA], the members of our subcommittee, the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Louisiana [Mr. LIVINGSTON], who is chairman of the full committee, because while there have been some differences, we have been able to deal with these in a very, very responsible and mature way, and I appreciate the leadership of the chairman of the full committee and ranking member, who have cooperated with us.

With that, Mr. Chairman, I would just like to say this is a good bill. There will be several amendments that we will agree to, others that we will have to oppose, but all and all it is a good bill. It provides, within the budget limits, it provides the best that we can for the members of the military, and we are getting a lot for the dollar.

Mr. FORBES. Mr. Chairman, I rise in support of H.R. 2266 the Department of Defense Appropriations Act for Fiscal Year 1998, and I applaud the hard work of Members on both sides of the aisle who crafted a truly bipartisan agreement that strengthens our Armed Forces at home and abroad. But, I was disappointed to see that the Department of Defense's peer-reviewed breast cancer research program was funded at only $125 million. Whereas the Senate wisely chose to fund this program at $175 million for fiscal year 1998.

Mr. Speaker, breast cancer remains the most common cancer in women. Last year, close to 200,000 women were diagnosed with breast cancer and nearly 50,000 died of the disease. Women continue to face a 1 in 8 chance of developing breast cancer during their lifetimes. Thankfully the breast cancer death rate for U.S. women has fallen about 5 percent in recent years, dropping from 27.5 per 100,000 women in 1989 to 25.9 in 1993. Officials with the National Cancer Institute attribute the drop, in part, to a rapid increase in mammography and public awareness of the disease. But, research remains our most valuable and indispensable instrument in combating this devastating disease.

There is no better argument in favor of more research than my own district on eastern Long Island. Suffolk County, Long Island, which ranks fourth in breast cancer mortality rates among the 116 largest counties in the United States. This extremely high rate of incidence of breast cancer has prompted the establishment of the Long Island Breast Cancer Study Project, a 5 year effort to identify the possible environmental factors that can contribute to the development of breast cancer.

Over the past several years, number of significant research advances have been made regarding the basic biology of breast cancer that offer a glimmer of hope to women and their families. These advances are enabling researchers to better focus on areas that hold future promise for research. The Department of Defense's peer-reviewed program has become renowned for its innovative and efficient use of resources. Over 90 percent of program funds go directly to research grants. This program is critical and deserves increased funding. I urge my colleagues in the House to adopt the Senate's funding level of $175 million so that the Department of Defense can continue its vital work in fighting breast cancer. Mr. Speaker, too many of our mothers, daughters, and sisters have been afflicted with this destructive disease. We must do more. Thank you.

Mr. UNDERWOOD. Mr. Chairman, I want to commend Chairman YOUNG and Congressman MURTHA for their considerable work on the Department of Defense Appropriations. The bill before the House today appropriates $248.3 billion for defense programs. In this process we have taken several positive steps, but we have also neglected our responsibilities at times.

As many of my colleagues know, I am a supporter of the Ballistic Missile Defense program. I am encouraged by the $3.7 billion provided to the Ballistic Missile Defense Organization. Though an unlikely target, my island, Guam, is an American community among other nations. We must strive to establish a program that protects all American communities should a country develop the capabilities and possess the will to pose a missile threat to the United States. We must endeavor to develop a system and deploy it in conjunction with the capabilities of any potential adversary. Now is the time to ensure these programs are headed in the direction to ensure our safety.

Mr. Chairman, this bill also rectifies a failure to provide proper health care for our military members. This House has seen the need to ensure quality health care and the impact this has on the quality of life for our service members by appropriating $10.3 billion for the Defense Health Program. In addition, Mr. Chairman this bill takes major steps to ensure we equip our service members with the best and most advanced weaponry and equipment. One item of concern to me was the Marine Corps need for the V-22 Osprey. The increase in funding for the V-22 will provide a valuable tool to the Marine Corps and I am encouraged that my colleagues have supported this effort. Mr. Chairman, this bill takes several positive steps, but everything is not beneficial.

Mr. Chairman, I am disappointed by the Department of Defense's handling of appropriations for the Department of Defense Education Activity. These appropriations support the Department of Defense Overseas Schools and Domestic Dependent Elementary and Secondary Schools. This bill recommends an increase of $4 million over the budget request and an increase of $20 million to be applied to the backlog of real property maintenance. Let me explain to my colleagues why there are problems with how the DOD Education Activity handles its funds. As some of my colleagues may know, the Department of Defense has taken on an initiative to open DOD schools on Guam. This may be the first time domestic schools were established not in a combined effort with the local community but in complete disregard for the local community. To highlight this effort, in February of this year the DOD comptroller, the person that is crucial to the budget development, testified before the House Appropriations Committee, Subcommittee on Military Construction that no DOD schools would be established in Guam. Yet, the Defense Department swiftly moved to establish schools and to accomplish this reprogrammed funds. As I was briefed yesterday, funds were reprogrammed from within the DOD Education Activity and from other operations and maintenance accounts. What we have done by giving a blanket increase in funding is allowed DOD to disregard the proper appropriations process. I hope these reprogramming efforts do not result in a lack of funding for those schools that are established and were reflected in the budget process.

Mr. NETHERCUTT. Mr. Chairman, I rise as a member of the House Appropriations Subcommittee on National Security to express my strong support for H.R. 2266, the fiscal year 1998 Defense appropriations bill.

As my colleagues have mentioned, this bill adds $4.4 billion to the President's original request for fiscal year 1998, although the Secretary of Defense and the services subsequently informed Congress of several shortfalls which require funding above the President's budget. I am pleased that Congress insisted upon, and President Clinton now supports, an increase in the defense budget for fiscal year 1998. The President's original request severely underfunded a number of key defense priorities, including health care and modernization, and additional funding has helped the Appropriations Committee correct those shortfalls.

H.R. 2266 also includes several provisions which promote greater efficiency and reforms in the way the Department of Defense operates and spends public funds. According to the nonprofit defense reform group Business Executives for National Security, between 60 and 70 percent of the defense budget is consumed by support personnel and infrastructure, such as logistics, maintenance, and travel supervision, while only 30 to 40 percent goes to fund actual combat forces. H.R. 2266 addresses this problem by reducing expenditures for personnel and operations to reflect over $500 million in savings from increased outsourcing, privatization, and other reforms. For example, this bill saves $50 million in taxpayer dollars because the Department of Defense will no longer be required to purchase warranties for new weapons unless it makes sense to do so.

I am also glad this bill improves on the administration's request for military research and procurement, which is essential if America is going to remain a world leader in the next century. H.R. 2266 increases funding for defense modernization by $4.7 billion over the President's budget. Let me mention a few ways these funds will be used to prepare our forces for warfare in the next century:

First, this bill will accelerate research and development on theater and national missile defense systems. Our troops and citizens are currently virtually defenseless against ballistic missile attack, including missiles armed with nuclear, biological, or chemical warheads. During the gulf war, Iraqi Scud's demonstrated the military and political danger of this vulnerability, yet we are still behind in our efforts to provide our troops with effective missile defense. H.R. 2266 addresses this problem.

Let me single out one specific missile defense program I strongly support: the airborne laser. This program, which is actually in the Air Force budget, would load a high powered laser into a Boeing 747, which would patrol near enemy territory and shoot down enemy missiles immediately after their launch, which means that any noxious payloads on those missiles would fall back on enemy territory. Gen. Thomas Moorman, the Undersecretary of the Air Force, has described this project as "the most revolutionary weapon in the DOD budget today", and I am proud to support it.

Second, H.R. 2266 provides over $100 million to improve the DOD's ability to defend against chemical and biological attack with better technology, equipment, and training. Chemical and biological weapons are a primary new threat to American forces and the American people. They are relatively inexpensive and easy to build, so terrorists and less advanced nations view these horrible weapons as a means to compensate for the conventional superiority of American forces.

I also want to express my support for a provision suggested by my colleague from Washington State, Congressman DICKS, which would require the Department of Defense to report on alternatives to current theater combat simulations. The Department of Defense is still using combat models which were developed decades ago to simulate warfare between huge land armies fighting in Europe. These models are inappropriate for the kind of conflict U.S. forces have seen in the 1990's and will see in the next century, yet they are used to choose the shape of U.S. military forces and to evaluate revolutionary weapons systems. These models fail to adequately consider the innovations of aircraft stealth and precision munitions, or the selective bombing tactics used by the Air Force to render Iraqi forces in the gulf war ineffective.

Revising the DOD's theater combat simulation tools will not only improve the ability of the DOD to incorporate advanced weaponry and tactics into defense planning. Better models will help the United States plan for unconventional challenges which face future U.S. forces, such as chemical and biological weapons, attacks on defense and civilian computer networks, cruise and ballistic missile attacks, and competition for control of space.

Finally, I am glad that the National Security Subcommittee provided for a $274 million shortfall in military health care funding. Thousands of military families and retirees in my district rely upon military health care facilities and the TRICARE network, and this drastic cut in health care in the President's budget would have significantly reduced access to health care in eastern Washington. I support the additional committee funding for health care to make up this shortfall and keep faith with this Nation's military retirees and military families.

One of the health care provisions with which I was personally involved is a research program to look at innovative diabetes detection, prevention, and care techniques. Diabetes affects over 16 million Americans, including thousands of military beneficiaries. Many of the health consequences and costs of diabetes can be avoided through effective diabetes screening and early treatment. A project reflecting these goals was described in testimony presented to the House National Security Appropriations Subcommittee, which would conduct a two-region experiment in conjunction with the Veterans Administration. I look forward to seeing this project go forward and benefit the military families and retirees who are at risk from this disease.

I encourage all Members of the House to support this legislation. H.R. 2266 includes funding for important military priorities, promotes increased efficiency at the Department of Defense, and provides health care to military beneficiaries.

Ms. LOFGREN. Mr. Chairman, I want to inform the House that the ranking member of the subcommittee, Mr. MURTHA has informed me that the Appropriations Committee has reviewed allegations with respect to the Navy and the low-bid awardee of a contract to provide cockpit video recording systems for the F/A–18, and that the committee has found the Navy's conduct and the performance of the contractor to comply with all applicable laws and regulations. This should put this issue to rest.

Mr. BROWN of California. Mr. Chairman, during consideration of the bill, H.R. 2266, the Defense appropriations bill, the House adopted an amendment that would eliminate the participation of the Defense Department in a valuable program of international scientific cooperation, the Man and the Biosphere program.

This amendment was not about money. Indeed, the Air Force participation has been voluntary and they have usually provided only about $50,000 each year. This amendment would bar them from participating in this interagency program and that money would simply be spent elsewhere. The cost of offering and debating this amendment is likely far greater than anything the taxpayer would see in savings.

This amendment is about policy, however—a very bad policy. This amendment says that Congress believes that there is no link between environmental stewardship and national security. It says that we intend that the Federal agencies should withdraw from any international leadership role in demonstrating how sustainable development and economic growth can be made compatible.

One need only look at emerging political strife in countries such as Nigeria to see the direct relationship between the environment and the ability of Third World nations to work toward democracy. For this reason, the State Department has begun to make environmental concerns an integral piece of our foreign policy and national security strategy. This amendment would negate that progress.

There have been a great many arguments made against the Man and the Biosphere program over the past several months. Opponents have characterized it as a U.N. plot to take over our sovereign lands, that it degrades property values, and that the executive branch lacks legal authority to carry out this program. All of these arguments are based on severe distortions of fact.

What is true, and a matter I have personally sought to address, is that the Congress has never enacted organic legislation that spells out exactly what the Man and the Biosphere program should do and what it should not do. Unfortunately, my bill, H.R. 1801, has not been brought to the floor and there is no indication that it will be.

This is not unusual, however, most of the programs Congress appropriates money for lack such a statutory basis. It is unreasonable to assert that the Congress should enact an organic bill for each program in the Federal Government. The sheer cost and complexity of this would be staggering.

Earlier this year, the House narrowly voted to eliminate this program in the Interior appropriations bill. Fortunately, the other body had explicitly rejected the House position. I hope it will continue to do so for other bills containing this limitation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Clerk will read.

The Clerk read as follows:

H.R. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402

note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,445,381,000.

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $16,504,911,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $6,141,635,000.

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,044,874,000.

Reserve Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $2,045,615,000.

Reserve Personnel, Navy

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,377,249,000.

Reserve Personnel, Marine Corps

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $391,953,000.

Reserve Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $814,772,000.

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $3,245,387,000.

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,331,417,000.

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,437,000, can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $17,078,218,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided*, That of the funds appropriated in this paragraph, not less than $300,000,000 shall be made available only for conventional ammunition care and maintenance.

Operation and Maintenance, Navy

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,011,000, can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $21,779,365,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided*, That of the funds appropriated in this paragraph, $406,666,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $2,598,032,000: *Provided*, That of the funds appropriated in this paragraph, $216,787,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Air Force

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,362,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,740,167,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

Operation and Maintenance, Defense-Wide

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $10,066,956,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $28,850,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That of the funds appropriated in this paragraph, $36,899,000 shall not be obligated or expended until authorized by law.

AMENDMENT NO. 3 OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer amendment No. 1 which was preprinted.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. DEFAZIO: Page 9, line 19, insert after the dollar amount the following: "(reduced by $15,000,000)".

Page 32, line 25, insert after the dollar amount the following: "(increased by $15,000,000)".

PARLIAMENTARY INQUIRY

Mr. YOUNG of Florida. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. YOUNG of Florida. Mr. Chairman, we had expected that this was amendment No. 3.

Mr. DEFAZIO. Mr. Chairman, I called it 1 when I handed it to them. It is the $15 million one, which is for the cooperative research program, VA cooperative research.

The CHAIRMAN. The Chair will state that this is amendment No. 3 as printed in the RECORD.

The gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Chairman, I shall not use the entire time.

Every year since 1987, the VA medical and prosthetics research appropriation has been supplemented by funds transferred to the VA under a cooperative agreement between the DOD and the Department of Veterans Affairs. The DOD–VA cooperative medical research program supports vital research covering a broad spectrum of health, science, and medical research focusing on conditions that impact both active duty and veterans. Among the programs funded are posttraumatic stress disorder research, cardiovascular fitness, combat casualty care, bone healing replacement, skin repair, vascular repair, spinal cord injury. This is an excellent program. I know times are tough, but I believe that we should be able to find the funds within the budget to fund this program at the modest level of $15 million.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we have no problem on this side with the amendment.

Mr. YOUNG of Florida. Mr. Chairman, would the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would like to point out to the gentleman that we have funded this program in the past, and one reason we did not include it in the bill for this year was the fact that the other body did include it, and we expect that it will be a conference item. But we do support the program, and we are prepared to accept the amendment.

Mr. DEFAZIO. Mr. Chairman, I just wanted to be absolutely certain that we get the funding into this program, it did not get lost in conference. I appreciate the support of the gentleman from Florida and the gentleman from Pennsylvania.

The CHAIRMAN. Does any other Member wish to speak on the amendment?

If not, the question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The amendment was agreed to.

The CHAIRMAN. Are their there other amendments to this portion of the bill?

AMENDMENT NO. 7 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SANDERS:

Page 9, line 19, insert after the dollar amount the following: "(increased by $2,000,000)".

Page 32, line 11, insert after the dollar amount the following: "(reduced by $2,000,000)".

Mr. SANDERS. Mr. Chairman, the amendment that I am bringing forth is a very simple amendment. It is a chance for Members in the House to support their National Guard to increase funding for an educational program that represents just the kind of policy initiatives we need for young people in this country.

Mr. Chairman, this amendment, which is endorsed by the National Guard Association of the United States, will increase funding by $2 million for the National Guard star based program, bringing the program up to the President's request of $4 million. The star based public outreach program is administered by the National Guard and targets youth in grades 4 through 6, it is the fourth, fifth, and sixth grades, to learn, hands on, with Guard pilots and technicians about math, science, and technology and to stay off of drugs.

Mr. Chairman, the star based program, my amendment brings funding for the National Guard star based program up to the $4 million requested by the President. This is, I think, exactly what we want to do in our communities. We talk a whole lot about asking kids to stay off of drugs. What this program does is have people from the National Guard interact with young people, explain to them the planes in the air work for certain reasons and get young kids excited in math and science, and the studies that have been done on the results of this program are excellent. More and more kids have an interest in math, they have an interest in science. It is a wonderful program for the National Guard, and it has been very successful.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Vermont.

Mr. YOUNG of Florida. Mr. Chairman, offering the same explanation that I did on the previous amendment, we are happy to accept this amendment.

Mr. SANDERS. Mr. Chairman, I thank the gentleman from Florida very much and I thank the gentleman from Pennsylvania very much.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there further discussion on this amendment?

If not, the question is on the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The amendment was agreed to.

Mr. BRADY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Florida [Mr. YOUNG].

As the gentleman was aware, the Senate-passed defense authorization bill for fiscal year 1998 recommends $5 million for the Secretary of Defense to conduct a pilot program to determine if hydrocarbon fuels can be tagged for analysis and identification.

Mr. YOUNG of Florida. Mr. Chairman will the gentleman yield?

Mr. BRADY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would respond to his question by saying that is my understanding.

Mr. BRADY. Mr. Chairman, it is anticipated that this program will deter theft, aid in the investigation of fuel theft and aid in determining the source of surface and underground pollution and locations where the Department of Defense and civilian companies maintain separate fuel storage facilities.

Mr. Chairman, I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would say the gentleman is correct in his description of this program.

Mr. BRADY. Mr. Chairman, it is also my understanding that this pilot program could also be funded through title II of the pending bill in the operation and maintenance defense-wide account.

Mr. YOUNG of Florida. Mr. Chairman, again if the gentleman will yield, I would say that he is correct on the likely source of funding for this pilot program.

Mr. BRADY. Mr. Chairman, I look forward to learning the results of this pilot program and thank the gentleman from Florida for his leadership and assistance.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,207,891,000: *Provided*, That of the funds appropriated in this paragraph, $5,000,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $924,711,000: *Provided*, That of the funds appropriated in this paragraph, $75,000,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $119,266,000: *Provided*, That of the funds appropriated in this paragraph, $8,900,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,635,250,000: *Provided*, That of the funds appropriated in this paragraph, $6,130,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,313,632,000: *Provided*, That of the funds appropriated in this paragraph, $47,200,000 shall not be obligated or expended until authorized by law.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,995,719,000: *Provided*, That of the funds appropriated in this paragraph, $9,750,000 shall not be obligated or expended until authorized by law.

Overseas Contingency Operations Transfer Fund

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces; $1,855,400,000: *Provided*, That the Secretary of Defense may transfer these funds only to operation and maintenance accounts within this title, and working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act: *Provided further*, That of the funds appropriated in this paragraph, $387,900,000 shall not be obligated or expended until authorized by law.

United States Court of Appeals for the Armed Forces

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces; $6,952,000, of which not to exceed $5,000 can be used for official representation purposes.

Environmental Restoration, Army

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $377,337,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Navy

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $277,500,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Air Force

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $378,900,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Defense, $27,900,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Formerly Used Defense Sites

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $202,300,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Overseas Humanitarian, Disaster, and Civic Aid

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code); $55,557,000, to remain available until September 30, 1999: *Provided*, That of the funds appropriated in this paragraph, $5,557,000 shall not be obligated or expended until authorized by law.

Former Soviet Union Threat Reduction

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components, and weapons technology and expertise; $284,700,000, to remain available until September 30, 2000.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,541,217,000, to remain available for obligation until September 30, 2000: *Provided*, That of the $309,231,000 appropriated in this paragraph for the procurement of UH-60 helicopters, $253,231,000 shall be available only for the procurement of 26 such aircraft to be provided to the Army National Guard and $56,000,000 shall be available only for the procurement of four such aircraft to be reconfigured as CH-60 helicopters and provided to the Navy Reserve: *Provided further*, That of the funds appropriated in this paragraph, $5,953,000 shall not be obligated or expended until authorized by law.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $771,942,000, to remain available for obligation until September 30, 2000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,332,907,000, to remain available for obligation until September 30, 2000.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,062,802,000, to remain available for obligation until September 30, 2000.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,502,886,000, to remain available for obligation until September 30, 2000.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $6,753,465,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $580,515,000 shall not be obligated or expended until authorized by law.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $1,175,393,000, to remain available for obligation until September 30, 2000.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $423,797,000, to remain available for obligation until September 30, 2000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $7,628,158,000, to remain available for obligation until September 30, 2002: *Provided*, That additional obligations may be incurred after September 30, 2002, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That none of the funds in this paragraph for advance procurement for the overhaul of CVN-69 may be obligated unless the overhaul includes installation of cooperative engagement capability and the ship self-defense system: *Provided further*, That none of the funds in this paragraph for production of DDG-51 destroyers may be obligated unless at least four of the twelve ships in the multiyear contract for fiscal years 1997 to 2001 are to be delivered to the Government with cooperative engagement capability and theater ballistic missile defense capability installed when the ships are commissioned.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 194 passenger motor vehicles for replacement only; and the purchase of one vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $275,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,084,485,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $11,053,000 shall not be obligated or expended until authorized by law.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 40 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; $491,198,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $48,391,000 shall not be obligated or expended until authorized by law.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $6,386,479,000 to remain available for obligation until September 30, 2000: *Provided*, That of the amounts provided under this heading, $20,000,000 is available only to initiate phase II of the Department of Defense plan to acquire and install upgraded navigation and safety equipment for passenger and troop carrying aircraft.

□ 1115

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

Page 27, line 23, after the dollar amount, insert the following: "(reduced by $331,000,000)".

Page 31, line 2, after the dollar amount, insert the following: "(increased by $105,000,000)".

Page 35, line 18, after the dollar amount, insert the following: "(increased by $12,000,000)".

Page 35, line 19, after the dollar amount, insert the following: "(increased by $12,000,000)".

Mr. OBEY. Mr. Chairman, I am offering this amendment on behalf of myself and a number of other Members, including the gentleman from California [Mr. DELLUMS]. I know there are other Members who will be speaking on it as well. This amendment essentially cuts 331 million from the bill to prevent the production of 9 B–2's that the Pentagon has not even asked for. It would reduce the deficit by $214 million. It would add $105 million for the air National Guard KC–135 reengining and it would add $12 million for Army breast cancer research. It would also remove a major veto threat to this bill and we would wind up spending less money.

What I am trying to do is to remove a $27 billion fiscal time bomb which is tucked into this bill. I want to simply point out that the cost of these B–2 bombers by the time they are fully purchased, by the time they are fully equipped, will drive the rest of the defense budget into a squeeze which I do not believe thoughtful Members will want to see it experience.

To put this in perspective, this is a bomber which has been turned down by some 20 different studies. Five different times the proponents of proceeding with the B–2 have asked for studies to try to object to the fact that four different Secretaries of Defense have tried to limit the number of B–2's that we are buying to 20. Each time the studies wound up saying that the decisions made by the Secretaries of Defense were the correct decisions and that we should not be proceeding to build more than the number of bombers asked for by the Pentagon.

To put this in perspective, just 2 years ago the cost of one of these B–2 bombers was expected to be about $1.2 billion. That is enough to pay the undergraduate tuition for every single student at the University of Wisconsin for the next 11 years. Yet the Congress is being asked to buy 9 additional B–2's that the Pentagon does not want, that the President does not want, and that the Defense Department has indicated would cause a veto.

I want to read from the statement of administration policy. It says: "Overall, for the reasons stated below, the Secretary of Defense would join the President's other senior advisors in recommending that the President veto the bill if it were presented to him in its current form."

It goes on to say about the B–2: "The administration firmly opposes the $331 million increase to the President's request for B–2 production." And it goes on to say that "this life cycle cost of over $20 billion would weaken the ability of the Air Force to acquire other urgently needed weapons systems and that these resources should be allocated to higher priority requirements."

Now, what I am trying to do today is to remove that veto threat.

I would also like to read from Secretary Cohen's QDI report which says as follows: "The B–2 would not provide the full range of war fighting and shaping capabilities offered by the forces it would replace * * *. It goes on to say the B–2 "did not provide the same weaponry delivery capacity per day as the forces that would have to be retired to pay for the B–2's." And then it concludes by saying there "would be a loss in war fighting capability during the decade or more between when the outgoing forces were retired and all the B–2's were delivered."

It seems to me that indicates that we ought to not proceed to make this very expensive purchase.

Instead what we are trying to do is to use a good portion of this for deficit reduction and then to provide some funding so that we can increase the reengining of KC–135's for the Air National Guard which are crucial to our refueling procedures around the world. Basically we have a number of older planes with very low-flying hours which are in very good shape. We can reengine those planes, use them for refueling operations and save a good amount of money, over $105 million in the process.

Third, we would add $12 million to the Army breast cancer research and treatment program, bringing that up above the level provided in the bill. That program has recently received a very good evaluation when it has been peer reviewed.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, I would simply say that what is at issue here is not whether we ought to have a strong defense or not. It is not whether we ought to provide our troops with the best equipment money can buy or not. Obviously we need a strong defense and obviously we need to provide the best weaponry that money can buy for our troops. The question is, do we really need to buy nine additional bombers that the Pentagon is saying we do not need, the Secretary of Defense is saying we do not need, especially when we have other higher priority items in the military budget. I think the answer to that question is no. I think we ought to heed those some 20 studies that have been conducted on this matter. This amendment is supported on a bipartisan basis and I would urge the House to adopt it.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word, and I rise to oppose the amendment.

Mr. Chairman, I appreciate the chairman yielding. I rise reluctantly to oppose the position of the ranking member of the full committee, for I understand how carefully he has reviewed this matter. But frankly, just a couple of years ago I had taken a position that was not dissimilar. I was responding to the administration's direction that perhaps we could get by with two squadrons, that is, 20 B–2's. In spite of the fact that the trend around the Congress was to say to DOD that we were going to begin to withdraw our troops from the world, close foreign bases and have most of our military assets located in to the continental United States.

Then during the midst of the campaign when candidate Bob Dole was going to southern California just the day before he arrived at a location, Pico Rivera, where many of these employees who deal with the B–2 work, the President announced that he was going to support the 21st B–2. That is, I gathered he was supporting the third squadron or at least moving in that direction. Recognizing that if we are going to be withdrawing troop force around the world and still need, as the leader of the free world, to project force, that indeed we had to have enough assets available to be able to deliver force with great strength at long distance and at relatively low cost. Such a force, for example, would be quickly available to stop a rogue nation that was going to cross its neighbor's boarders and strike it heavily. Our B–2 force could be present quickly and then give us time to get personnel, ships and other assets into the region.

There is little doubt that a third squadron is very necessary if we are going to play that sort of role in this hopefully growing more peaceful world. The B–2 is fundamental to America's continued leadership as we recognize that fewer of our overall assets are going to be available for national defense.

There is little doubt that we are on the right track to develop a third squadron. It will save us money over time. But probably most importantly Mr. Chairman, it is a fundamental asset in all of our desire to maintain peace and freedom in the world. I strongly oppose the gentleman's amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman from California, who has been one of our most steadfast supporters on the B–2 over the years. I want to point out to my colleagues in the House that there was a very positive statement in the Quadrennial Defense Review which said that in the halt phase, when you are trying to stop the enemy from coming in, like Saddam was coming into Kuwait, that there is nothing that the United States military possesses that can do what the B–2 bomber will be able to do once we get the smart conventional submunitions on it like sensor fused weapon.

Going back to the gulf war, Iran did assimilation against Saddam's division moving south and with a small number of B–2 bombers, with sensor fused weapon, they destroyed 46 percent of the mechanized vehicles in that division and rendered it destroyed in the field.

That is an incredible new capability. We have never had that capability before to stop a mechanized division once it is under way.

I believe that this bomber is absolutely essential to our national security. I believe that this is one of the greatest mistakes ever made by a country in its history in not funding something that will give us an asymmetrical advantage over every conceivable adversary. Because a stealth bomber with these smart weapons can attack a nation's capital, all of its industrial facilities, all of its military at the same time, if you have enough of these bombers. That is the problem. Twenty-one simply does not do the job.

Mr. LEWIS of California. Reclaiming my time, Mr. Chairman, the gentleman makes several very important points. As we conventionalize the B–2, there is little doubt that it provides an asset that indeed allows America to extend its force very cheaply relative to other assets that are available to us. Indeed if America is going to defend freedom from our continental base, indeed if we are going to continue to close down bases around the world, there is little doubt that we need to be able to strike quickly and safely, deliver force that will stop a would-be aggressor.

□ 1130

It is very fundamental to the policy presently in place, and I strongly support procuring nine additional B–2's.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are gathered here in this Chamber on a very historic opportunity, an historic day, to balance the Federal budget, to bring about some fiscal sanity in this Nation, to tell the American taxpayers we are finally, after many decades, becoming more responsible with their money.

Not a day goes by that we do not open the newspaper and see a story of more fraud, waste, and abuse in our Federal Government. Medicare: Report indicates $24 billion in wasteful fraudulent spending—$23 billion.

A report the other day, commissioned by the Air Force, indicates that several of our current fleet are rusting away, are dangerous planes to fly.

Today, I rise to support the gentleman from Wisconsin [Mr. OBEY] and the gentleman from California [Mr. DELLUMS] in their effort to cut the B–2 bomber, cut $331 million from the bill to start production of nine more B–2's.

Let us tell the whole story. They indicate it will cost $27 billion to continue to build this plane, not $331 million. That is the start-up price. That is to get a foot in the door. That is to keep the production line going.

I commend the gentleman from Wisconsin because he did something today that I am very much in support of: reducing the deficit by $214 million, using the cuts to reduce the deficit. Fiscal sanity. Changing priorities. Finding a way to make ends meet.

How can we, in good conscience, let this opportunity go by us? We can balance the budget, but we can do more. The economy is going in our direction. We are reducing spending in so many areas. We are increasing revenues. But, my fellow colleagues, the deficit still hovers at $5.3 trillion.

By the year 2002, when we finally balance, maybe before, we will be $6 trillion in debt. In spending on interest alone on the deficit, $285 billion going out of the coffers of the American taxpayers into the pockets of the bond holders, not doing anything for society, not rebuilding infrastructure, not making a difference in our inner cities, not improving education for our children—$285 billion on spending for interest alone.

It is like paying a 30-year mortgage and never touching the principal. At the end of 30 years we still owe the same amount we did when we bought the house.

My fellow colleagues, it is a simple analogy. We have plenty of B–2 bombers. The Pentagon says the current fleet of 21 B–2 bombers is sufficient to meet the two war scenario, the ability to fight and win two wars at the same time.

The massive Deep-Attack Weapons Mix Study conducted by the Pentagon concluded that it would not be more cost effective to buy B–2 bombers. Republican appointee Defense Secretary Cohen, appointed by the President, a member of my party from Maine, does not want any more B–2 bombers. I have to trust the Secretary of Defense in making judgments and determinations.

The Pentagon has told us they do not want any more B–2 bombers. Military generals have told us they do not want any more B–2 bombers. But we sit here with the Nation's checkbook and say we will have our will in this House, we will insist on buying more B–2 bombers. We do not care what the experts tell us, we will waste taxpayers' dollars to please some defense contractors. It is time to stop that kind of wasteful spending.

Again, the Congressional Budget Office, the one CBO that we held up as the model of efficiency and accuracy when we debated the tax measures, the CBO projects that to build and operate nine additional B–2 bombers over the next 20 years could cost over $27 billion—$27 billion.

Mr. Chairman, I urge my colleagues to come to this floor prepared to make a sacrifice for the American taxpayers today, to support the Obey amendment to strike the B–2 bomber, to save $331 million today, $27 billion over the life of this project, to reduce the deficit by $214 million, add $105 million for the Air National Guard KC–135 re-engining and add $12 million for Army breast cancer research, one of the most accurate groups that has been working on detecting breast cancer and curing breast cancer, the Army breast cancer research program. It also removes a major veto threat the President has indicated.

I am not concerned about veto threats. The President makes them on almost every bill. But on this one I particularly agree with him. I agree with him because I think he is making a good point on saving the fiscal sanity of this Nation. And, again, I have supported, as a Member of Congress from Florida, most defense spending on new weapon systems. This one has to go. Eliminate it and support the Obey amendment.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the chairman, the gentleman from Florida [Mr. YOUNG], and the ranking member, the gentleman from Pennsylvania [Mr. MURTHA], for an excellent bill. Over the years I think they have given us better bills than many times what we have supported.

I, for one, want to thank them for the language that assures the inspector general to conduct random audits on these so-called micro purchases of foreign-made goods, and also for the language that deals with reciprocity when foreign countries do not allow our companies to bid on their products; that this would in fact rescind the blanket waiver of the Buy American Act. That language makes a lot of sense in this bill.

I rise today because in the past I have voted to slow down defense building. But we just did not slow down defense building, we have really whacked away at the defense budget. I would just like to say that probably our major role here is to protect our national security, in Congress. We cannot protect the national security of our great Nation with a neighborhood crime watch.

Defense is expensive, and B–2 is a weapon of strength. Ronald Reagan once made a statement that made a lot of sense to me. He said you always negotiate from a position of strength. B–2 is absolute stone cold strength.

Without talking about Captain O'Grady, without talking about a great need, it, in fact, boggles my mind that we continue to discuss B–2 with its great stealth strength opportunities for us. If we cannot see it, we cannot hear it, it cannot be detected by radar, and we should not talk about it, how will they know how many we really have? But the greatest weapon of all war is the weapon of deterrence, and the greatest weapon of strength we now have in our arsenal is the B–2.

I am standing today supporting this bill, and I would also like to add that I believe we have cut too far and we are beginning to weaken, weaken long-term national security interests through our zeal to what many call this cutting back on this bloated budget. I believe we are underfunded for defense now and, intelligently, we should move the program forward.

We should stand here, Mr. Chairman, and support B–2. B–2 is strength. We have always negotiated from a position of strength, and we should always be prepared to protect our national security from that position of strength.

Mr. Chairman, I appreciate the chairman and the ranking member including those Buy American issues, those reciprocity issues, those micro purchase issues, foreign-made goods, addressing them intelligently in this bill.

Mr. HEFNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would be remiss if I did not congratulate the chairman, the gentleman from Florida, [Mr. BILL YOUNG]. I have been serving on this Subcommittee on National Security of the Committee on Appropriations for a long, long while, and he has conducted this markup in the committee in a way that is absolutely exemplary. He has shown a side that very few of us can say that we have exhibited here, his compassion for research, cancer research, bone marrow, head injuries; and the ranking minority member, the gentleman from Pennsylvania [Mr. JACK MURTHA].

This has just been a joy to work with this committee this year because of the fairness of it, and I just want to congratulate the gentleman from Florida on bringing to the floor today a bill that I believe is responsible and deserves the overall support of every Member of this House, and for the staff who have worked very closely with us on some very critical issues.

Again, Mr. Chairman, I want to thank him for his work on this bill and for his leadership that has brought us here to the House floor today, and I would recommend an "aye" vote on the entire bill.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Wisconsin, [Mr. OBEY] to strike $331 million to begin advance procurement for nine additional B–2 bombers.

Now, I have listened to the debate thus far and, first, let me establish hopefully some bona fides in this debate. I am now completing my 27th year in the House of Representatives, nearly 25 of them serving on what in the past had been referred to as the House Armed Services Committee, and now the House Committee on National Security, authorizing committee, where we debate these matters substantively on the basis of policy. In that regard, I would like to say that while this is the appropriations bill, this is indeed the appropriate opportunity for us to end this madness.

Now, first of all, Mr. Chairman, how many times have we in this country heard of the ultimate weapon? How many times has this Nation been in search of the ultimate weapon to prevent war? And the ultimate weapon, I would suggest, does not root itself in some technology built in some particular State in some particular district, deriving billions of dollars in that area. That is not our greatest strength. That is not the ultimate weapon.

Our ultimate weapon is our capacity to use our minds to deter war, as we sit around a table to negotiate nonviolently and politically and diplomatically how we will live with each other. Our future is not vested in some B–2 bomber. That is absurd, ludicrous and ridiculous, and we need to abandon that mentality that in some way the future of our children and our children's children is locked in some technology built by some manufacturer that ultimately will derive billions of dollars to do it.

Now, what is the bottom line, Mr. Chairman? The bottom line is that this is not about B–2's. I underscore, it is not about B–2's. We have B–2's. We have 21 of them. Where on Earth do we need to fly more than 21 B–2's?

Mr. Chairman, I would remind my colleagues that when President Bush went to war in the Persian Gulf, he told the American people he was moving against the fourth largest army in the world. Within a matter of hours, we had conquered airspace and conquered these people. We never used one B–2.

Where, Mr. Chairman? The Soviets have reduced their military budget by 80 percent, as the gentleman from Wisconsin [Mr. OBEY] already pointed out. If we are going to do battle with China, it will be economics, it will not be firing missiles at each other. I would like to think we have moved beyond that bizarre and absurd set of ideas. We have 21 of these planes. That is more than enough.

Now, one of my colleagues said that when the President funded the 21st plane that meant we were starting down the road toward the third squadron. I would suggest, at a bare minimum, that that is hyperbole.

How did we get to the 21st plane? Mr. Chairman, we had a prototype B–2 plane. A prototype. The first prototype B–2, hand built. It was not operational. A decision was made, rightly or wrongly, to take several hundred million dollars to make that 21st prototype nonoperational plane operational. Nothing was said that we will take this plane and move down the road toward 30 of them.

Now, if Members want to argue that, they are arguing that from self-interest, a little bit disingenuous, because it was never stated and never said. This is not about B–2's. We have them. It is about what the Congressional Budget Office refers to as a $27 billion, not million, $27 billion program.

□ 1145

It is $13.6 billion of it that is in procurement; $13.2 billion of it in operation, maintenance equipment, et cetera, $26.8 billion.

The Comptroller, Office of the Pentagon determines it as close to $21 billion. In the letter that talks about vetoing this bill, if the B–2 is in it, they refer it as a $20 billion expenditure.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. So this is not about B–2. We have them. It is about an extraordinary amount of money.

Now, as I said, the CBO costed out at $27 billion to build nine. The Comptroller, $21 billion. Let us look at the budget. Mr. Chairman, if you will recall, the budget resolution that we are about to agree to, all the newspaper headlines, great deal, balanced budget is now being addressed. In that balanced budget, there was $17.5 billion of additional money for the Department of Defense over and above the President's request during the 5 years of this so-called balanced budget, $17.5 billion.

Now, the unbudgeted Quadrennial Defense Review has already claimed the $17.5 billion and will claim the entire portion of it. My distinguished colleague, the gentleman from Washington [Mr. DICKS], earlier in the context of the debate on the rule, pointed out that there was some $20 billion slush fund, referred to as the weapon procurement reserve fund, that they could magically take this $13.6 billion out of that fund to fund this additional B–2.

But they say nothing about where they are going to get the 13.2 down the road. But let us talk about the 13.6. This was an item placed in the 5-year defense plan that would not appear in the budget next year because what this fund was established to do was to look at the problems of underfunding in the weapon procurement account that would come about as a result of the Quadrennial Defense Review.

Now let us look at how they are going to spend this money. Listen up, people. The V–22. How many people in this Chamber have been telling the marines, we are committed to the V–22? Part of this money goes to fund the V–22. How many people?

The second item, the Army 21 force program, how many officers have said to the Army, we agree with you on the force 21 program. Part of this money is to defund that. Full funding for the national missile defense. How many times have we paraded into these Chambers to discuss national missile defense? It was part of the Contract With America. Numerous discussions and debate about funding the national missile defense.

The administration came before our committee and said that we are between $2 billion and $3 billion underfunded minimally in our national missile defense program. Part of that money is going to come out of this program. They even, in response to a question of mine, "Will the program be fully funded if we give you the $2.7 or $2.8 billion?" They said, "maybe not." So they made some additional play for those who have frightened the American people about national missile defense, where do you think the funding is going to come in that program? Right out of this fund that you are getting ready to get committed to spend for nine additional B–2's.

For those who think that we ought to be demilitarizing these chemical weapons, how many millions of American people live around these weapons around the country that we ought to be demilitarizing because they are dangerous? That program will be fully funded as a result of taking money out of this reserve fund. So this is no slush fund.

Medical programs. For those who believe that weapons of mass destruction and the proliferation of weapons of mass destruction is one of the most dangerous issues that we confront, and we know that is the case, anyone who is diligently about their job in the Congress of the United States knows that proliferation of weapons of mass destruction and terrorism are the two major issues confronting us today, that program will be funded out of this account.

Let us move forward. What are the trade-offs? Mr. Chairman, what are the trade-offs? I did mention on numerous occasions that, in the context of a balanced budget, the world has changed. This is not some magical fund. I would like to think that I have spoken to that and prepared to speak to it even further. But let us talk about the reality that the gentleman from Florida [Mr. FOLEY] spoke of.

This is a balanced budget environment. And when we have a balanced budget and we are talking about $13.6 billion in that 5 years, ultimately $27 billion but $13.6 billion in the 5 years, and we are pushing that money in the budget, we have got to push something out of the budget. So what are the trade-offs?

The B–2 proponents recommending trading off tack air, F–22, FA–18 and the joint strike fighter.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. YOUNG of Florida. Mr. Chairman, reserving the right to object, under our reservation, I would like to point out to my very distinguished friend that we have made these arguments time after time after time after time, and the business of the House is being delayed now.

There are other Members who want to speak. And I am not going to object, but I think we all ought to pay attention to the fact that the gentleman has already used 10 minutes now. He controlled considerable time when we had this debate on the authorization bill, where he is the ranking member. And I just think that we really ought to be considering a time limitation, because nothing new is being said. We are rehashing the same arguments over and over again. And while I will not object to this additional request for time, I would put the Members on notice that I will object to other Members who would ask for additional time over and above their 5 minutes.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. Further reserving the right to object, I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I think we have to be fair here now in terms of the time. I would hope that my colleague is going to let the other side at least have a chance to have the time, at least myself, the same amount of time that the gentleman from California [Mr. DELLUMS] had, because he had made a lot of accusations here today, some of which are true, and I would like a chance to rebut them.

Mr. YOUNG of Florida. Mr. Chairman, my suggestion is, and it is something that I suggested earlier, that we set a specific amount of time, have it managed and controlled by the proponents and the opponents, so we can get to the end of this debate sometime today.

Mr. DICKS. Mr. Chairman, the proponents had time to go here for 10 minutes, a lot more time than the opponents thus far. So I would like us to balance it out before we go to a time agreement, if the gentleman would possibly agree to that.

Mr. YOUNG of Florida. Mr. Chairman, let me ask the author of the amendment if he would be interested in discussing a possible time limitation with the time managed?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me simply say that we are being asked to spend about $300 billion. And it seems to me that this is not out of line to spend approximately half an hour listening to the arguments against the expenditure of the item under review on this amendment.

I would simply say that I know that the manager of this bill would like to see the House finish this bill with very little debate, but the fact is this is an appropriation bill, the Congress is exercising the power of the purse. We may make one decision on an authorization bill when real dollars are not in hand, but when we are on an appropriation bill, this is when we actually get to see what the tradeoffs are.

It seems to me that it is not too much to expect. I mean, as far as I know, there are only about four speakers against this. They are going to win the amendment. But it seems to me that we have a right to have a reasonable amount of time to make the arguments against it.

The gentleman from California [Mr. DELLUMS] is only the ranking member on the authorizing committee. He only knows more about this than probably anyone else on the floor. And given the fact that we have spent hours and hours on the legislative appropriations bill and other appropriation bills, I see no harm in spending less time on this bill in the end than we would have spent on virtually every other appropriations bill.

Mr. YOUNG of Florida. I do not know. So I assume the gentleman's answer is negative on limiting time?

Mr. OBEY. If the gentleman will yield, I know of only one other speaker on our side of the aisle.

Mr. YOUNG of Florida. Mr. Chairman, I will not object to this time extension. But I think we need to make sure that both sides get fair treatment on time. And we want to say again, under our reservation, we have debated this over and over and over again. And the gentleman from California [Mr. DELLUMS] has spent at least half an hour himself during the last debate. And the gentleman is correct, he is very knowledgeable on the issues. Although he is wrong most of the time, he is very knowledgeable on these national defense issues.

Mr. Chairman, I may suggest this time limitation depending on how this plays out.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] is recognized for 5 additional minutes.

Mr. DELLUMS. Mr. Chairman, first of all, I appreciate the gentleman's gratuitous shot.

Second, one point on which I agree with the gentleman, we ought to all be paying attention. I have been in this Congress where we debated for days on emotional amendments, $5 million amendments, $1 million amendments. Here is an amendment that has a $27 billion tail, and suddenly we do not have time to deal with it.

That is why I am getting paid. We ought to be debating these issues, rightly or wrongly. We talk out here about America being a place where different points of view clash with each other. I believe in the integrity of the process. We may have different politics. I accept your politics, and I accept my colleague's. That is how we got elected to be here. But one place where we ought to be all coming together is that the process ought to have integrity and we ought to be able to slow this train down to be able to debate.

The gentleman from Wisconsin [Mr. OBEY] pointed out, this is a multi-hundred-billion-dollar deal. So we want to rush it through for convenience because it is a nice and neat package? And then we will run home to our town meetings and talk about how diligent we are as we carry out our fiduciary responsibilities. How obscene.

We need to slow this process down and debate each other, talk with these issues. I am prepared to debate. Five studies most recently did not make a case for the B–2. Five studies, all independent most recently. The B–1 bomber can fly as far as the B–2. We have gone through all of that.

The gentleman talks about crisis responsibility. Listen to this: This weapons system, these additional nine B–2's are going to be so important? Do my colleagues know how long it would take us to build nine B–2's to get them into the inventory? Ten years.

So my colleagues make this frightening, scary case to the American people, but they do not tell them it is going to take 10 years. So if this is such an important insurance policy, this is going to save so many people, then what do we do over the 10-year period? Do we pray?

Let us not be so disingenuous. Additional B–2's are going to take 10 years. Here is a plane in search of a problem. We have 21 of them. B–1's can reach any place in the globe without being locked out for want of a forward base. And look, we have 95 of them. Some of the 95 B–1 bombers are so brand new that the tires have maybe only hit the ground once or twice.

We spent $20 billion, $20.5 billion building 100 B–1 bombers. And all of a sudden, we do not want to talk about the B–1. That is the stealthiest plane in the inventory. Nobody wants to talk about them. We talk about the B–52 and the B–2, as if the B–1 is not there. My colleagues have argued and made the case and we bought 100 of them. We have 95 of them. It is not the platform, it is the weapon. It is not the platform, it is the weapon. We put smart weapons on a B–1, smart weapons on 21 B–2's. We do not need to buy additional expensive platforms that will cost each platform in excess of a billion dollars.

How many children can we educate for over $1 billion? How many people can we save for over $1 billion? What can we do with $27 billion? It staggers the imagination to talk about the brilliance and genius and compassion of what we can do with $27 billion. But, no, we want to sink it into nine B–2 bombers, as if that is God's gift to the planet. Bizarre and extreme.

Finally, some people say we need to build nine more B–2's, Mr. Chairman, because we must reserve the industrial base. An absurd notion. There is no such thing as a bomber industrial base. The people that built the B–2 did not build the B–1. The people that built the B–1 did not build the B–52. The people that built the B–52 did not build the bomber before that. All we have to do is be able to build a plane and we can build a bomber.

So what is all this about? This is about jobs. This is a restart, not an industrial base preservation. Air Force sources have estimated that the production capability for the B–2 is no more than 30 percent today. Only 16 percent of the personnel, 16 percent of the personnel, required to produce nine B–2's are currently on the program. This is according to contractor data.

□ 1200

Finally, many vendors and suppliers began exiting this program in 1992. They are gone, they have left the place. This is to reassemble.

If we want to generate jobs in America, how many jobs could we generate with $27 billion? Incredible. Absolutely extraordinary, Mr. Chairman. But we do not do it with nine more B–2's. I ask my colleagues to support this amendment, oppose nine additional B–2's. It is the rational, sane, and fiduciary thing to do.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I served on the Committee on National Security my first three terms here and served with the gentleman from California [Mr. DELLUMS]. He is an honorable man. We disagree on issues, but he has always been fair and he debates well. That is not my issue.

The issue is how I see it on why we need not only the B–2 but the defense structure that we have. I do not expect to change the opponents' minds by my 5 minutes. But I would like to express to them why I feel that it is important and at least have them have that understanding.

First of all, I think it is fair to say, why did we order the B–2 in the first place? Was there a perceived mission for it? Did the Air Force want the airplane? The answer is yes.

Second, is there still today a perceived mission for the B–2 and the B–1? The answer is yes. And is there one in the future? I also say yes. I will be specific in just a moment. I think if we take a look at what the threat is today in the areas that we could have gone into, whether it is Desert Storm, whether it is North Korea, whether it is different areas, without having to cost the additional expense of massing forces, when Saddam Hussein rattles his ugly sword and makes a strike, can we do that effectively and save billions of dollars by using a B–2 strike instead of having to mass all of our forces and then back away if nothing happens? The answer is yes.

Second, if we do not build the B–2 today, then what? The cost of then-year dollars, the R&D dollars out into the future is so expensive to build a new airplane and to invest in a new airplane, it would cost much more.

Russia today, I would say to my friend, not tomorrow, is building today a first strike nuclear site under the Ural Mountains the size of inside the beltway in Washington D.C. Why, when they already have one to the northeast? A nuclear threat to the United States, supposedly an ally. Anyone who would think Russia is our ally or China is our ally is mistaken, in my opinion.

Second, let us look at what the real threat is to our aviators who are going to be asked to fly in those particular airplanes. I have some charts. These are the nations where fighters are proliferated. These airplanes right here, the SU–27, the SU–35, and the SU–37. Let us take a scenario of taking a Strike Eagle, an F–15 Strike Eagle. By the way, the Air Force has not bought a new fighter in 25 years, while the development of all of these countries are advancing their procurement and their R&D. They have advanced farther than we have, in stealth and in missile technology and airframe.

If we take a Strike Eagle or an F–14D, two of our best fighters, and match them up with an SU–27, an SU–35, or a –37 that has a big radar, their radar sees those airplanes first. They have big giant radars. They are very fast. They are very maneuverable. The AA–12 missile gets there faster and further than our AMRAAM. Our guys are going to die. That is why we need the F–22.

Let us take a F–22 that they do not see as well because it is more stealthy, or the B–2. We get inside that envelope, we get first shot, and the bad guys are going to die first. These are the countries that have those airplanes.

Let us take an F–22 flying with a B–2 or a B–1. This bad guy over here is going to tell exactly where our fighters are because that B–2 is going to tell him it is a big aluminum fog in the sky and he is going to see it, he is going to know where we are. Again, our pilots are going to die, not the bad guys. If we take the B–2 with an F–22, he gets in unobserved, can get to the target, can knock it out or the B–2 can get in there by himself and save billions of dollars.

These again are the countries that have the missiles, the AA–12. I have flown most of these airplanes. If Members want to talk about the maneuverability, go to the Paris Air Show and look at the SU–37 and take a look at the vector thrust. They are better than our fighters, the B–2's and the threat of the bombers are better than ours, and we need to know.

Mr. Chairman, I include the following material for the RECORD:

COUNTRIES WITH ADVANCED AAM IN 2005

AMRAAM, MICA, AA–12

Russia
Belgium
France
Malaysia
Spain
Turkey
Germany
Netherlands
Sweden
UK
China
Israel
Norway
Switzerland
Denmark
Taiwan
Finland
Japan
South Korea
U.A.E.

COUNTRIES WITH ADVANCED SAM'S IN 2005

Patriot, SA–10, or SA–12 SAM's by 2005

Azerbaijan
Belarus
China[1]
Cyprus
Czech Republic
Kazakhstan
Bulgaria
India
Kuwait
Italy
Iran
Russia[1]
Ukraine[1]
Germany[1]
Israel
Moldova
Netherlands
Japan[1]
Saudi Arabia
Serbia
South Korea
Syria[1]
Turkmenistan

[1] Countries projected to have more than one type.

Source: Jane's, Aviation Week, DMS Market Intel.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Obey amendment.

Mr. Chairman, let me just give a little perspective on this. First of all, the gentleman from California says that nobody supports this. I do not quite agree with that. We have seven former Secretaries of Defense, Melvin Laird, Jim Schlesinger, Donald Rumsfeld, Harold Brown, Caspar Weinberger, Frank Carlucci, and Dick Cheney, who wrote the President a letter on January 4, 1995. In that letter they said this:

> The B–2 was originally conceived to be the Nation's next generation bomber, and it remains the most cost effective means of rapidly projecting force over great distances. Its range will enable it to reach any point on earth within hours after launch while being deployed at only 3 secure bases around the world. Its payload and array of munitions will permit it to destroy numerous time sensitive targets in a single sortie and, perhaps most importantly, its low observable characteristics will allow it to reach intended targets without fear of interception. The logic of continuing low rate production of the B–2 thus is both fiscal and operational. It is already apparent that the end of the Cold War was neither the end of history nor the end of danger. We hope it will also not be the end of the B–2. We urge you to consider the purchase of more such aircraft while the options still exist.

Mr. Chairman, what bothers me about the administration's program is this: They want to invest $300 billion for TAC air and zero for bombers. That just does not make any sense. The B–2 was just used in terms of operational testing using GATS/GAM, and they can hit targets day, night, all weather, without lasers, from 41,000 feet. That is a remarkable capability.

In the future when we get the smart submunitions like sensor-fused weapon, GATOR mine, et cetera, combined effects munition, I believe we will have the potential for conventional deterrence. I want to explain that. I think frankly nuclear weapons are only good for nuclear deterrence. We saw Saddam Hussein come south. We had 18 Trident submarines. He still came south. But if we have a bomber that can go a third of the way around the world with one aerial refueling and can be utilized immediately to stop the enemy from coming into, say, Kuwait, that is conventional deterrence. President Bush could have deployed the B–2's to Diego Garcia, they could have been operational immediately.

What does that mean? It means that we stop the enemy from achieving his objectives. That is what the halt phase is all about. If we can do that, then we could have saved the taxpayers the $10 billion it cost us to move 500,000 troops out to the gulf and we could have saved the $60 billion that we spent, we and our allies, on funding the war in the gulf. And the B–2, to purchase these additional nine airplanes will be somewhere between $11 billion and $13 billion. I think it is a wise, prudent investment.

The gentleman from California makes the strongest argument about why we should do it now. He says that if we do now, it is going to take 10 years to build these aircraft. You just do not go out and immediately get additional B–2's. It takes a long time to do a new bomber R&D program and it is very, very expensive.

So we want to buy the right number of planes while the line is still open, and the line is still open in southern California. Sometimes the gentleman makes it sound like it is in Bremerton, WA, but it is not. It is in southern California. That is why I think that we ought to do it now. We can get the planes for less money, they will be less expensive and I think it is the right thing to do.

The gentleman also talks like the war in the gulf was a slam dunk. The war in the gulf was not a slam dunk. The gentleman from Pennsylvania [Mr. MURTHA] is sitting here, our ranking member. He saw an errant Scud missile kill a number of his constituents. Had they had accurate Scud missiles in the gulf, our 500,000 American troops would have been vulnerable. They would have been vulnerable to attack either by chemical, biological weapons, nuclear weapons; they could have been destroyed in the field.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 5 additional minutes.)

Mr. DICKS. Mr. Chairman, the reason they could have been destroyed in the field is because of those Scuds. With the F–22 and the B–2, we finally will have a capability using Link-16 from space, from our satellites, to immediately target those Scud launchers. We will be able to go after them and we will be able to destroy them. We still need to do theater missile defense. That is the other critical component in order to protect our troops in the field.

I think this new revolution in stealth gives us an advantage. Why is 21 the wrong number? Twenty-one is the wrong number because in the early going, in that first 2 weeks of any war, it is sortie rate, it is how fast we can take that bomber, fly it in, drop those 16 smart bombs or those smart submunitions on the enemy and fly back out.

With 21 we simply cannot generate enough sorties to take advantage of the capability, and utilize the potential of this stealthy, long-range bomber with smart inexpensive weapons. So getting up to a higher level gives us more capability. We would be able to commit 20 to a major regional contingency; we would have 10 in reserve for a second major regional contingency.

I want to say something else. This Congress should never be ashamed to stand up to the Pentagon and say they are wrong. We did it on the F–117's. The gentleman says the B–2's were not there. General Hoerner said if they had been there, and it was because they were not ready to be deployed yet, if they had been there, he would have used them just as he used the 117's.

We had 27 additional 117's because this Congress had the guts to stand up and do what was right for the country. Under the Constitution of the United States that is our responsibility, not to just take what they give us. We have stood up to them before. We made them buy additional Sealift. They would not have had any roll-on/roll-off ships to go to the gulf if it had not been for Congress and this committee. That is why we have to from time to time stand up and do what is right for the security of this country.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. CUNNINGHAM. Let me even add to that point. When I worked in the Pentagon, the Navy never ordered A–6's. They prayed that Congress would add them just to keep the line on so we could perpetuate it. Members can talk to General Fogleman or the Air Force generals, they pray that we will add this.

Yes, there are budgetary constraints. They asked for the B–2 in the first place because it had a mission. With the White House and other constraints cutting defense, there are limited dollars. But they want the B–2 for the mission because they know it is applicable and it is going to save pilots' lives.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California, the distinguished chairman of the Subcommittee on Military Procurement of the Committee on National Security.

☐ 1215

Mr. HUNTER. Mr. Chairman, I think the point that we need to be able to have a large inventory of long-range aircraft is very, very essential in this debate. In 1962, we had 81 major overseas air bases that we could fly short-range aircraft out of. That 81 major overseas air base inventory is now down to 14.

Just a couple of weeks ago, the Japanese diplomats were hedging on whether they would allow us to use Japanese air bases for a second Korea contingency. Now if we overlay that fact, the shrinking bases overseas, with the fact that we are going to spend $350 billion on short-range aircraft, and the administration zeroing B–2 has not a dime for long-range aircraft, it does not make any sense. We have got to have the ability to strike from the United States.

And last, I would say to my colleague I thought the most dramatic speech in the debate, the lengthy debate we had in the authorization process, was when SAM JOHNSON, POW in Hanoi, looked out through the Hanoi Hilton and saw three B–52's in Operation Linebacker. That is when we struck the North Vietnamese in 11 days and brought them to the negotiating table; he watched three B–52's destroyed, blown up in midair. Those are the planes that the administration is going to rely on for the next 40 years. According to their plan, they are going to use aircraft that were vulnerable 30 years ago.

So we have to ask the question what is the alternative. There is not an alternative to the B–2.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, I will not request any additional time, and I wanted to say to my colleague from California, both colleagues from California, this last statement is the most important one. What we really have here is a wonderful opportunity to save American lives in the future.

Again the gentleman from California makes the case when he says it was easy with air power in the gulf to defeat the enemy once we stopped them, but Saddam stopped himself. What if he had not stopped? We need a capability to stop him which the B–2 will give us because it can react and go anywhere in the world without having to have escort aircraft.

But when it gets right down to it, when those marines came in and the RPV's were there and the guys came running out to surrender to our RPV's, what it meant was they had been bombed into oblivion because we had total control of the air and we had the right bombers. The B–2's give us greater accuracy, they give us greater capability. It is a much more lethal bomber than the B–52 and the B–1 because it can operate by itself.

And so my point is what this is really about is saving American lives in the future, and that is why this is so important, and that is why this Congress cannot fold under pressure from a Pentagon that simply wants to take care of the services. We need some real thinking about the future. We need to take advantage of our technological advantage—the B–2 represents that advantage.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. CUNNINGHAM. Small point: The gentleman from Texas, Mr. SAM JOHNSON, saw three B–52's blow up. Those were shot down by SA–2 Fansong radar in an old technology, post-Korean vintage. Today they have got SA–3 surface-to-air missile, all the way through about 19, and the advanced technology. We were successful in Desert Storm with the 117 because we could go over downtown Baghdad and not be seen. That is what the B–2 brings to this, instead of the loss of lives, much more efficiency, not only the cost of training pilots, but aircraft and our effectiveness in combat, and that is what we call national security.

Mr. DICKS. I thank the gentleman for his contribution.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was actually in my office listening to this debate, and it took me back to the research project I did when I was first in Congress about 2 years ago and then the request for briefing after briefing on all the technology, all the smart weapons, we might say, and I learned to admire many of my colleagues who had worked so hard to make sure that those smart weapons were there, smart weapons like the B–2, and the B–2 being one that does not risk as many American lives, gets in, gets the job done.

But then I got to the point of finding out how many are enough, and I have listened to the debate, and I think the important thing for me was I looked back to the original debate over how many B–2's would be enough from the beginning. It was 10, then it was 20. We have now 21 in some level of construction, not all of them done, most of them not ready for flight, and we are already starting to say we need 9 more. I have been told they are needed because we want to keep some of the construction on, and these will be the ones we begin in 2002.

As I look at the priorities before us, it has been real hard for me because I have since the early 1980's, unlike some of my colleagues arguing for this amendment, I have been a hawk; I am very strong, very strong pro defense. I was a Democrat turned Republican over the peace through strength movement in the early 1980's, came in because of Ronald Reagan. And so when I looked at this I thought is America going to be stronger, safer? Are we going to be able to save more American lives if we have 9 on top of the 21?

My briefings did not show me that we needed another nine; very hard when I stand here with people I admire so much who have fought so strong for a national defense, but I have to respectfully disagree.

When it comes to priorities and balancing the budget, I believe we have to have a strong America, but we have to balance the budget. I believe that this amendment simply says that some of the money, a very small amount, $50 million, will be there for breast cancer research in the military department.

In looking at this particular program as someone that does not necessarily believe just because we give somebody money they are going to do something good with it, I found it is the most effective, the most efficient, good for the military families, and this is somewhere else I go. I believe that good strong military medical, good strong research for America, all ties together. It does not have to be more bombers.

So with that I would conclude and just say I support this amendment because I just have to respectfully disagree. I believe right now we are on the verge of discovering more about breast cancer and cancer, and the research has been sorely underfunded. This could save lives immediately, not maybe after 2002; and by the way, it takes a long time to develop those planes. We are way into 2010 before we start talking about anything being used. If we had a war, it is many, many years before we would use them if we ever needed them, but breast cancer is killing people right now.

So with that, I would ask Members to support this amendment and support a strong national defense.

Mr. YOUNG of Florida. Mr. Chairman, I ask unanimous consent that all time remaining in the discussion on this amendment be limited to 20 minutes, 10 minutes to be controlled by the gentleman from Wisconsin [Mr. OBEY] and 10 minutes to be controlled by myself.

The CHAIRMAN. Does the gentleman include all amendments thereto?

Mr. YOUNG of Florida. Including any amendments thereto.

The CHAIRMAN. Is there objection to request of the gentleman from Florida?

Mr. SANDERS. Reserving the right to object, Mr. Chairman, if I might, I would just ask the gentleman from Wisconsin [Mr. OBEY] if he thinks that is enough time to accommodate this side to make their presentations.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I think it is enough time. I mean we cannot give everyone who wants to speak 5 minutes, but we can give them a good amount of time to speak. I think it is adequate. I only know of two people who want to speak on our side.

Mr. SANDERS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. YOUNG] and the gentleman from Wisconsin [Mr. OBEY] each will control 10 minutes.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, as I understand the amendment, the gentleman takes some of the money out of this account and makes it available for breast cancer research. I was just wondering does that prohibit other kinds of cancer research, in the case of prostate cancer research, and does the bill allow for that?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would point out the bill already contains a small appropriation for prostate cancer research as well, and I would certainly have no objection if in conference this is reallocated so we can provide additional funding for both breast cancer research and prostate research.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman, and I rise in strong support of the amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I want to start by thanking the distinguished chairman of the subcommittee and thank him for the way he has conducted this debate.

Mr. Chairman, let me issue my dissent, my objection, to what I think is one of the cruelest tradeoffs that can ever been offered on the House floor, and it has been offered here, and that is the idea that if we do not build B–2's, somehow we are going to spend the money on a lot of happy areas like breast cancer research and other attractive areas that all of us, as Members of Congress, want to fund. That is a tradeoff of guns for butter.

As my colleagues know, I am reminded, when I visit my aunt and uncle's house in Fort Worth, TX; there is a picture on the mantle, and that picture is one of my second cousins who was killed in Korea, Son Stillwell. He was killed in Korea, one of some 50,000 KIA there in a war that we were not prepared to fight because a previous Congress, a Congress after World War II, did not want to spend the money for a strong national defense, and we had all the same answers that have been given here today as to why we do not need a robust B–2 force.

Things are going well. No enemy on the horizon. In those days we said we have a nuclear weapon, we will never see another military take us on, certainly the North Koreans and the Chinese would not take us on.

If my colleagues read the then Secretary of Defense's testimony a few months before the North Koreans invaded, we had all of the happy talk about a smaller downsized force; only Omar Bradley had the guts to come before Congress and say, "We can't win a major war."

Mr. Chairman, as my colleagues know, we do not serve our people well, all those people who are interested in breast cancer research, and a good life and educational opportunities, unless we defend them.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, just in case somebody does not think there is money in this bill, there is $125 million in this bill for breast cancer research already.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for his point, and it is a good point. We have taken care of many of these other areas that have been discussed that have been offered up as an attractive alternative to having some bomber power.

But as my colleagues know, General Fogleman is going out. One of his sins in Washington, DC, I think, was being extremely candid. I asked him in a hearing whether the B–2 was valuable because the word coming from the other side, from the political side, of the administration was we do not want B–2's, and being good soldiers, all of our chiefs then go down the line, they sit in front of us at the dais, and they stand behind the administration's political position on any particular weapon system. And he said this. He said:

"I didn't say the B–2 wasn't valuable. The B–2 is extremely valuable, especially in the halt phase of a war, that you stop the enemy before you have a lot of casualties, before you send home a lot of your people in body bags."

And then he hesitated, and he said:

"In fact it is valuable in all phases of the war."

And I said, "General Fogleman, would it save American lives to have a robust B–2 force?"

And he said, "Yes."

So the point is there is not a body of military opinion over there that says this is not a valuable system. It is a valuable system. We need to support this important program.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

□ 1230

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would urge the Members of Congress to take a hard look at reality, at what really is going on in this country. Do we want the United States to have the strongest military in the world? I think we do. Do we already have that capability? Have we already, along with our other NATO allies, greatly, greatly, many times overspent all of our potential enemies? And the answer is yes.

I ask my friends who are opposing the Obey-Dellums amendment to think about priorities. If they want the strongest military in the world, OK; but are they happy with the fact that we have by far the highest rate of childhood poverty in the industrialized world? Is that something that Members of this Congress should be proud of? Should we be talking about spending over a period of years $27 billion more for B–2 bombers, and then telling millions of kids who are ill-fed, ill-housed, ill-educated, that in this great Nation we do not have the resources to help them, but we can build B–2 bombers? My answer is, no, those are absurd priorities.

There are people here who day after day talk about the national debt and our deficit. They say we have to cut back on Medicare and Medicaid and education. Let me tell them, spending $27 billion for B–2 bombers also runs up the national debt. That is real money.

Recently we have been talking about major cutbacks in Medicare, $115 billion. There are some who say we should charge low-income senior citizens $5 for every home health care visit, which can amount to some $700 a year for a low-income senior citizen trying to get by on $9,000 a year. People say, yes, that is what we have to do to balance the budget. Then the next thing, they come back and say, oh, yes, but we can spend $27 billion for B–2 bombers. I think those are very false priorities.

Let us talk about job creation. All of us want job creation in America. Do Members know how we can do it? We can do it by putting more money into school construction. We can do it by building roads and bridges and protecting our infrastructure, which is falling apart all over America. We can do this by educating more people.

When we talk about national priorities, let us understand, there are millions of middle-class families who today cannot afford to send their kids to college. What we are saying to those people is no, we do not have enough money to make sure that your kids can go to college so they can make it into the middle class, but yes, no problem, over a period of time we can build nine more B–2 bombers that the Pentagon says they do not want, for a cost of $27 billion.

Mr. Chairman, I would urge my colleagues to understand that we are playing with a zero-sum game. We just cannot print more and more money. Let us get our priorities straight. Let us support the Dellums-Obey amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. McKEON].

Mr. McKEON. Mr. Chairman, I want to thank the chairman for yielding time to me, and thank him for the good work he has done on bringing this bill to the floor and on this ongoing debate that we constantly have on the B–2 bomber.

I have not yet heard the other side, those in opposition, who are so strong in their opposition to this plane, what they figure we would use if we did not have this plane. I know there has been some talk of possibly another kind of bomber somewhere down the road, but there has been, what, $15 billion, $20 billion spent on R&D on this plane. I cannot see anyone here in this body that would begin to propose $15 billion to $20 billion R&D to build a new aircraft. This is the cheapest plane we could buy at this time.

This is the only plane that has a production line, even though it is now being closed up, that does have a production line, one that the manpower is there, the technology is there; and we are in the process of taking this apart, wasting all of that money that was spent. I think that is something that really, it would be wonderful if we could look into the future and say no, we will never need another long-range bomber. We need to stand up and defend this plane to defend our service people.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank my colleague for yielding time to me.

First, Mr. Chairman, let me say this: This has not been a debate. This is a very complex issue. It takes some time to lay the basis of the foundation of the arguments on either side. But once we spend enough time laying down the basis of our respective positions, allowing us to clash and debate with each other, someone jumps up and says we spent too much time. This has not been a debate. We end up with a triumph of process over substance. I think that is tragic. These are dark days in the Congress when we cannot engage each other in constructive and important debate.

Mr. Chairman, with the time that I have remaining, let me just make a few rebuttal arguments. First, I would like to remind my colleagues, we are building 21 of these planes. It is not zero. We are building 21 of these planes. For anyone to attempt to suggest to the American people that there is great magic in going from 21 to 30 is bizarre in the extreme, particularly when that step takes us $27 billion down the road.

Do we have an inventory of bombers? Yes, sir. We have 95 B–1's, extraordinarily well equipped. In fact, they can take more of these precision-guided smart weapons than even the B–2 can, plus 21 B–2's, plus additional upgraded B–52 bombers. So we have a major bomber force out there. Where are we going to fly them? Who are we flying them against?

We talk as if we have zero. We are the greatest superpower standing. Our military budget equals the military budget of every other Nation on the face of the Earth combined. When we put our allies into that equation, America and its friends outspend the rest of the world 4 to 1. That is reality.

Mr. Chairman, another point. Former Secretary of Defense William Perry, the father of the B–2 bomber, opposed additional B–2's because he knew what we were giving up in order to purchase more B–2's. Former Secretary of Defense Cheney was the one that struck the deal on 20.

The next point, people keep walking up to the microphone saying, we have had this debate over and over. It was supposed to be over at 20. This gentleman did not start the debate. It is the people who represent the contractors who want to keep bringing this weapon system forward. The administration is not asking for it, the Joint Chiefs are not asking for it. Nobody is asking for it except the contractors and a few Members of Congress; so few willing to spend so much money, Mr. Chairman.

Finally, I would ask my colleagues to approach this matter with a degree of fiduciary responsibility that is required by the moment. This is a balanced budget environment. This is a zero-sum game. You cannot create money out here. If you push this program in, you are going to push something out. You are going to hurt some people. I urge my colleagues to support this amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. DICKS].

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding to me. I would just like to respond by way of comment to the question of the gentleman from California [Mr. DELLUMS].

I, too, thought the question was over at 20, and then just before the election the President asked for the 21st. I thought he was getting a new understanding that a third squadron might be helpful, so it seems to me we ought to revisit this issue. I appreciate my colleague raising the question.

Mr. DICKS. Mr. Chairman, let me say this: This debate on the B–2 has been a long, difficult debate. I can understand my colleagues who think it is going to hurt something. But my view of this is that of everything we are doing at the Pentagon today, not one other weapons system has the potential capability to deter war as does the B-2. Take this platform that is stealthy, that can go one-third of the way around the world and stop the enemy from achieving their objectives, and that is a remarkable capability.

What are the weapons we are going to use on this? J-DAMS at $13,000. If we do not have the B-2's, then we have to use the B-52's with standoff cruise missiles that cost $1.2 million per weapon—16 times $13,000 is $208,000, versus $1.2 million. You get 16 weapons on a B-2 for the cost of one-sixth of one cruise missile. It is ridiculous. This will save us money over time. And you can fly in over the target and knock out 16 separate targets in one sortie. In World War II, it took 3,000 sorties in order to be able to achieve that objective.

This is a revolution in technology. What it gives us is an asymmetrical capability to stop the enemy before they achieve their objective. What does that mean? It saves American lives. It saves American lives.

Unfortunately, Mr. Chairman, I say to my friend, the gentleman from California, I supported the B-1, but the B-1 is not stealthy. It has to have escort aircraft. It cannot go out the first day without being vulnerable to being shot down, just as the B-52's will be shot down. That is why we have to have some number of long-range stealthy bombers to stop aggression, whether it is North Korea, whether it is Iran, whether it is Iraq, whether it is something in China. We do not know what the future holds, but every time we have been weak before, we have gotten ourselves into trouble. Here is a capability that gives us an advantage that no other country possesses.

Yet, we are going to walk away from it and say well, we have enough. We do not have enough. Every expert who has looked at this, all independent studies, Rand, Jasper Welch, all say 40 to 60 is the right number. We are saying 30 is all we can afford at this point. I urge the House to reject this amendment. This is a great moment for us to stand up and set our defense priorities for the future.

Mr. OBEY. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, let me simply say, in response to the last comment, keep in mind this is a weapon which is a cold war weapon. It was designed originally to drop nuclear weapons upon the enemy. There is a substantial question about whether or not, when it is converted to conventional use and you have to use it on repeated missions, whether or not the stealth capability of this weapon can be retained under those kinds of battle conditions. I think people need to remember that.

Second, let me simply summarize, this weapon is not being driven on the merits, in my view, it is contractor-driven. We have had a lot of comments about the necessity to make the right decision militarily for the country. Does anybody on this floor believe that the existing Secretary of Defense, an honorable Republican from the Senate, does anyone believe that he is not going to try to make the decisions which he believes will save the most American lives and meet the greatest defense needs of the United States? I do not know of anybody who believes that about him.

I simply want to read what his own summary said on this weapon: "First, the B-2 would not provide the full range of warfighting and shaping capabilities offered by the forces it would replace". It then goes on to say, "For example, missions such as air superiority, reconnaissance, and forward presence would suffer. Second, the additional B-2's did not provide the same weapons delivery capacity per day as the forces that would have to be retired to pay for the B-2's."

It then concludes by saying, "* * * existing forces would have to be retired immediately to pay for the additional B-2's. Even then, the savings from retiring the forces are not enough to offset the large up-front investment for the B-2's * * * and there would be a loss in warfighting capability during the decade or more between when the outgoing forces were retired and all the B-2's were delivered."

□ 1245

I think that is pretty clear. What we are simply asking Members to do is to save the $331 million in this bill for nine planes which the Pentagon does not want because it wants other greater defense capability. By doing that, we avoid making a down payment on a $27 billion expenditure that we cannot afford and instead we use that $331 million, we use two-thirds of it to cut the deficit. We use 12 million of it to increase breast cancer research in the Pentagon medical operation, and we use $105 million of it to strengthen the tanker capability of our Armed Forces which, as everyone knows, needs upgrading. That is what we do with the money.

This amendment strengthens, not weakens, the defense of the country. It follows the recommendations of the Pentagon itself. It helps avoid a veto, which the Pentagon has indicated they will recommend if this amendment does not pass.

If Members are interested in the best possible defense for the country and the best use of taxpayer dollars at the same time, they will vote for this amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, several questions have been raised that really have not been answered. The question about how many B-2's does the Pentagon want or did the Pentagon want, I remind my colleagues that in the beginning of the B-2 program, the Defense Department wanted 132 B-2's. When funding was obviously difficult, they reduced it to 75. And funding was even more difficult, they reduced it to 20. And as my colleague from California pointed out, when it became politically advantageous, the 20 went up to 21.

So the Department of Defense has been all over the board on how many B-2's they wanted. The Congress is of the opinion as we voted on the armed services authorization bill last month, that there should be nine additional B-2's to make it a three squadron force.

Where would the money go? The amendment would take this money from the B-2 line and put it into KC-135 reengining. In that account we are already $152 million over the budget. The breast cancer program that most all of us support, the administration has never asked for it in the defense appropriations bill, but we have for years have funded it, and this year this bill is $125 million over what the President's budget was. That was a big zero.

The gentleman from Vermont [Mr. SANDERS] talked about how we outspend everybody else in the world, and there is a lot of reason for that. One reason is we are an all-volunteer force. We do not have a draft. We do not require that people serve in the military of the United States. We believe that those who do volunteer and that those who do serve should have a decent quality of life, that they should not have to live in hovels, that they should not have to live on food stamps. So we include in this bill a pay raise. We include in this bill additional money to repair barracks. We include in this bill additional money for medical care for those who serve in the military and their families.

In fact about 70 percent of the money appropriated in this bill goes for those types of items, not to buy airplanes or ships or guns or tanks but to take care of our troops.

Then, Mr. Chairman, if I were Saddam Hussein or a would-be Saddam Hussein, a would-be dictator and I saw that the United States has something as effective and powerful as a B-2, I would be very careful before I agitated or did something to bring the wrath of the United States against me.

It is difficult to prove a negative. But because of the effectiveness of the B-2 and the deterrent value that it brings to our force, how many wars, how many battles will we not have to fight?

It is hard to tell. But if we just did not have to fight one battle because we had something like the B-2, how many American lives would we save?

That is what we are talking about, accomplishing the mission and saving the lives of the Americans who do it.

Mr. DELAY. Mr. Chairman, I rise in opposition of this amendment.

It is no surprise that some Members would oppose a defense program that actually works to defend this Nation.

Some Members simply believe that our defense needs are secondary to social spending.

I disagree.

I believe that the highest value this Federal Government has is defending our people against external threats.

Some Members believe that those threats to our Nation's survival are in permanent decline.

This is wishful thinking.

We live in an age when dictators are alive and well. They are busy stockpiling nuclear, biological, and chemical weapons.

We must prepare to defend ourselves against these very real threats, and the B–2 has proven time and again to be a potent and effective defensive weapon.

The notion that the B–2 is needlessly extravagant is simply wrong. The Air Force has estimated that a B–2 with two crewmembers could conduct an attack normally involving 75 tactical aircraft and 147 crewmembers.

The procurement and life-cycle costs of 75 tactical aircraft approaches $7.5 billion. The comparable cost for one B–2 is $1.1 billion.

Clearly, the B–2 provides us with the best opportunity to protect U.S. interests at the lowest cost and with the best possible technology.

I hope that my colleagues will make the right choice tonight.

A vote against keeping the B–2 line open and operational is shortsighted and we simply cannot afford to make such ill-considered, shortsighted choices.

I urge a "no" vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OBEY. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 198, further proceedings on the amendment offered by the gentleman from Wisconsin [Mr. OBEY] will be postponed.

The point of no quorum is considered withdrawn.

The Clerk will read.

The Clerk read as follows:

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $2,320,741,000, to remain available for obligation until September 30, 2000.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $414,884,000, to remain available for obligation until September 30, 2000.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 196 passenger motor vehicles for replacement only; the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $232,340 per vehicle; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $6,588,939,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph $14,843,000 shall not be obligated or expended until authorized by law.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 381 passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,186,669,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds appropriated in this paragraph, $349,680,000 shall not be obligated or expended until authorized by law.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $850,000,000, to remain available for obligation until September 30, 2000: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component: *Provided further*, That of the funds appropriated in this paragraph, $154,895,000 shall not be obligated or expended until authorized by law.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $4,686,427,000, to remain available for obligation until September 30, 1999.

Mr. HAYWORTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I claim this time for purposes of entering into a colloquy with the distinguished chairman, the gentleman from Florida, of the Subcommittee on National Defense.

I would like to bring the DRAGONFLY program to the gentleman's attention. The DRAGONFLY program will demonstrate the revolutionary flight potential of the canard rotor/wing or CRW high speed vertical takeoff and landing concept and to assess and validate CRW's characteristics and capabilities using unmanned aircraft technology.

Details on this revolutionary program came to my attention too late to be included in the defense appropriations bill now under consideration. I understand that the Defense Department plans to pursue this technology. However, due to budgetary constraints, funds could not be included in this year's budget request.

Mr. Chairman, I respectfully request that the gentleman's subcommittee consider the funding requirements for the DRAGONFLY program during conference on the defense bill.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would say to the gentleman that I agree that the DRAGONFLY technology appears promising and that the committee will consider the gentleman's request during the conference and address this issue during that time.

Mr. HAYWORTH. Mr. Chairman, I thank the gentleman for his consideration and assistance.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $7,907,837,000, to remain available for obligation until September 30, 1999: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique requirements of the Special Operations Forces.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $14,315,456,000, to remain available for obligation until September 30, 1999: *Provided*, That of the funds made available in this paragraph, $4,000,000 shall be only for development of coal-derived jet fuel technologies.

AMENDMENT NO. 5 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows.

Amendment No. 5 offered by Mr. NADLER:

Page 32, line 11, after the dollar amount, insert the following: "(reduced by $420,000,000)".

Mr. YOUNG of Florida. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes and that the time be equally divided and controlled by the gentleman from New York [Mr. NADLER] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. NADLER] and the gentleman from Florida [Mr. YOUNG], each will control 15 minutes.

The Chair recognizes the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering an amendment to reduce the appropriation for the F–22 fighter plane program in an effort to demonstrate our concern over the continued cost growth for this program. This year the Air Force is requesting $2 billion for research and development of the F–22. Last year the Air Force estimated that the 1998 cost would be $1.65 billion, the amount set by my amendment. This amendment is a modest reduction in funding, not a cancellation of the costly F–22 program.

Many Members of Congress have expressed support for the F–22 program. I for one oppose it. But if we are going to spend tens of billions of dollars on it, if we are going to spend $27 billion on it, we had better make sure the money is properly spent. Senator COATS of Indiana has recognized this and championed a similar amendment to this in the Senate defense authorization bill. This amendment therefore should enjoy at least some bipartisan support in both Houses.

The F–22 is one of three different types of tactical aircraft being developed for future deployment. The estimated total program cost of the three tactical air programs in the President's budget, the F–22, the F/A–18E/F and the Joint Strike Fighter will be well over $350 billion.

The Committee on National Security reports that, quote: "the long-term costs associated with DOD's modernization plan are staggering." At a time of fiscal restraint, developing three planes concurrently, three tactical airplanes at the same time seems duplicative and wasteful. While we are asking taxpayers to make sacrifices, we must be vigilant in our duty to guard against unnecessary spending. These dollars could be used to greater benefit.

We heard some of the better uses to which they could be put in the debate on the previous amendment. The F–22 program has been plagued by cost overruns and poor project management. Both the Air Force and the cost analysis and improvement group in DOD estimated increased cost for F–22 production above and beyond what was previously authorized. In testimony prior to the National Defense Act for Fiscal Year 1997, the Air Force informed the Senate Committee on Armed Services restructuring the program had been costly in the past and had resulted in future cost escalations.

This program is a poster child for Defense Department waste. We cannot allow these costs to keep creeping upward unchecked.

This year's request for a funding increase is based in part on the cancellation of four preproduction vehicles, foregoing production of 54 operational aircraft and transferring those funds into the engineering and manufacturing development account. So this transfer of funds means the number of planes produced will be decreased while the costs will continue to increase.

The Air Force therefore appears to be asking to do less with more rather than the opposite of what we usually hear that we ought to require government departments to do.

According to the GAO, the F–15E, which the F–22 is designed to replace, will continue to be the premier tactical aircraft in the world at least until 2010. Events in the Persian Gulf suggest that current tactical aircraft are more than able to counter any likely threat to United States forces. The United States may need one new fighter program for the years after 2010 but not three at the same time. We must reduce this program now and make it very clear that defense contractors will not be rewarded for high costs.

It is time we looked at our defense programs with a little more scrutiny. We must not simply rubber stamp a bloated defense budget that includes billions of dollars in excessive funding simply because we fundamentally believe, as we all do, in providing for a strong defense.

We must have the moral strength to reduce funding for defense projects even if they are built in Marietta, GA, and other reasons represented by powerful Members of the House. To ignore these cost overruns and do nothing would be a gross disservice to the American people. To increase funding under such circumstances for an expensive program with a poor record of financial restraint would be an extreme case of protecting special interests at the expense of hard-working taxpayers.

It is a disservice to the American people that year after year we refuse to open the size and scope of our defense budget. I urge my colleagues to join me in fighting to keep costs under control even if those costs appear in a defense bill. The Defense Department should not be immune from our normal cost-paring efforts.

Again, this amendment will simply reduce the R&D for this development of this fighter plane to the amount that the Air Force requested a year ago that they would request for this year. Again, in the situation in which we develop three tactical aircraft at the same time, I think this is a very modest request, a very modest amendment, and I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM], who is from the Vietnam era, an aviation ace who has flown against these aircraft, who has had them fly against him. He has been shot at and he shot them down. I think he is an expert on this subject.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding me this time.

I understand part of the gentleman's amendment, that when we have a lot of different programs that we have to buy, then there is limited dollars. But I would also tell the gentleman that that has been created not artificially but by this very body. When we keep cutting defense, procurement, about 70 percent, when we have additional BRACC rounds and that takes, base closing rounds and that takes additional dollars, when we increase the operations tempo higher, higher than during the Vietram conflict, which wears out our equipment, then we cannot put the money in research and development. We want to take money and advance the procurement for a carrier, which would save $600 million. But if we take money out of that carrier from, say, the F–22, we take it from any of the other programs, then those costs go up.

□ 1300

So, eventually, we override the costs and we cannot even buy smart.

Those that are proponents of reducing defense, and they have that right, I disagree with that. But those that do, cost us not only national security but we cannot even buy smart because we cannot buy and keep a line open. We have to shut down a line, and we have to open it. We have to lay off workers and bring them back on. That is very costly.

But I want to talk tactically. These are some of the aircraft that the F–22 would have to go out and fight. I have flown most of what we have in the United States inventory and most of what the Soviets have. I can tell my colleagues their capabilities. I can tell my colleagues about their radars, their missiles, their maneuverability, what their electronic warfare equipment is, all the different tactical applications.

The F–22 will have a much different mission, say, than the FA–18EF. It will be more of a hunter-killer, flying with four to eight aircraft protecting B–2's, or actually on what we call a Mig cap, going in prior to going into a target and sweeping the area and having blue water and fleet air defense, as well as air superiority. As General Fogleman says, we need air dominance. We had air superiority in Desert Storm.

But as we go in, I would ask my colleagues to take a look at the reasons that we need these airplanes. The F–22, a lot of it is for the same reason that we needed the B–2. The F–22 is one of the new stealthy airplanes that we have to go in against a target and that the enemy, all those fighters that I showed my colleagues previously, do not know that they are there.

When we close in on a fighter and he does not know we are there, we get first shot, he does not. Right now, most of those airplanes on that other chart have missiles that will go farther than ours, they go faster and they detect us first. With the F–22, they do not detect us. It allows our shorter range missile to get inside so that we can fire and launch and leave, and now our guys are going to live. That is the value of the F–22.

Now, it is an Air Force airplane. I flew in the Navy. Why would I support an Air Force airplane? Because it is part of national security and it is part of the defense of this country. In this humble Member's opinion it is an aircraft that we need.

I agree there are not enough dollars to go around, and we could buy other programs, but when we take from one to give to the other, then the additional costs go up and that is not effective.

I would say to my friend that in this other chart, the aircraft of tomorrow are here today, only the United States does not have them. I am alive today because I had better training than the enemy. I am alive today because the airplane, the F–4 Phantom in Vietnam was better than the Mig-21. The missiles I had, the Sparrow and the Sidewinder, were better than the Aphid and the Apex, but that is no longer true.

This is the research and development. And I will be happy to take my colleagues up on the fourth floor where we can talk about the secure programs, the black programs that exist in this airplane, that are star wars technology that none of the other airplanes have and none of the other countries have. This will be an airplane for the future. This is an airplane that will mean the difference between life and death for our aviators, our men and women.

Mr. NADLER. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I rise in support of the gentleman's amendment, and let me explain why.

I do not think there are many Members of this House who are more greatly respected than the gentleman from California [Mr. CUNNINGHAM]. I think he is respected both as a legislator and for his past service to this country in his military capacity, and because he is a genuinely nice person to know. But I want to say, nonetheless, that I think on the merits this amendment has the better of the argument.

I make that statement for this reason. The Pentagon is going to be buying three new tactical aircraft. One of them is the F–22. We are supposed to purchase them to replace the F–15. The F–15 is probably the finest fighter the United States has ever known. We have over 700 of them. The problem with this is that the cost of the F–22 has apparently been escalating by about 20 percent, if we take a look at the latest information, and that means it is going to cost about $85 billion to buy 438 of these babies.

Now, the Congress hires the GAO, the General Accounting Office, to try to give us the best possible advice about how we ought to spend our money to get the biggest bang for it. And what they indicate is that the F–15, which is the plane that the F–22 is designed to replace, will last us at least until the year 2015.

They indicate, therefore, that they believe the purchase of the F–22, which is in this bill, is at least 7 years premature. They think there will be at least a 7-year overlap between the use of the F–22 and the F–15. So they, therefore, suggest that we slow down the purchase of the F–22's so that we do not run up the cost of this program any more than is necessary. I think that is the correct thing to do.

I would also point out that people say, "Well, we have a huge threat that we have to respond to." They do not point out that many of the countries that possess the planes that we are worried about are countries such as France, which the last time I looked was our ally. They do not point out that the Rand Corp. says this about the threat to the United States: "The air power forces of the former Soviet Union are fragmented and their recovery would take many years. The air fleets fielded by other potential adversaries are small and aging."

Another Rand study concludes that China will retire about half of its fighters and tac aircraft within the next 10 years and that they cannot afford to replace them. And if we ask the Defense Department, they will tell us that they believe that there will be few purchases of high performance fighter aircraft by any potential U.S. adversaries any time soon.

So I think the gentleman's amendment is a perfectly reasonable one. We all know we are going to have this plane some day, and it will, by all accounts, be a magnificent airplane. But the fact is we have competing needs in this defense budget and, once again, I tell my colleagues that this budget contains nothing but false promises if it continues to pretend that it can live under the existing 5-year budget ceilings that are established for it and still buy all of the new weapon systems, including tactical aircraft, which people are hoping to buy.

There just is not going to be enough room in that bag to buy everything that we are scheduled to buy. Sooner or later we will have to make a decision about which purchases we are going to eliminate, or else admit that the 5-year budget ceilings that are talked about in this new budget agreement are nothing but a public lie.

Now, that is the hard choice of it, and the sooner Congress faces up to it, the better off we will all be, and that is why I think the gentleman is correct in pursuing his amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, first of all, I want to rise in opposition to the Nadler amendment. As I understand it, we would be cutting $420 million out of the F–22 procurement.

Now, what this would do would be to slow down this program.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I would advise the gentleman it is $420 million for the R&D, not procurement.

Mr. DICKS. Excuse me, Mr. Chairman, reclaiming my time, $420 million from the R&D account, not the procurement account. I wish we were in procurement, but we are not there yet. We are still in R&D.

What that will do is to slow down this program rather substantially. I think this is a program that has already been stretched out to such an extent that one has to be concerned about how much money we are going to spend on R&D to get this program into procurement.

Now, the F–22 is the Air Force's No. 1 priority. Now, anyone who listened to the earlier debate, I might have a different set of priorities for the Air Force, but they believe that the F–22, the air superiority fighter, is absolutely essential for the United States to be able, as we did in the gulf war, to be able to gain air superiority once a war starts.

Of course, this is the airplane that will be involved in coming in, attacking other aircraft, attacking surface-to-air missiles, Scud launchers, and it will be very, very important in the early going in order to gain air superiority and to be able to cap the enemy so that they cannot get their aircraft off the ground.

Once we do that, then we can bring in all the nonstealthy assets that we currently possess, like the F-15's, the F-16's, the F-18's, et cetera. But it is the enabler. That is why stealth is so important, not just for bombers but also for our fighter aircraft. So I believe that this is one of the two or three most important programs we are involved in.

I think if we put together the F-22's and the B-2's, we get a tremendous synergism with an airplane that can give us air superiority and another one that can take advantage of that, to go in and knock out a variety of enemy targets and to ultimately allow us to win the war in such a way that we save American lives.

So I would argue strongly against slowing down the F-22, and that is what this amendment will do by cutting back R&D funding. I would assume it would slow it down for at least 1 year, maybe even more. It would have a devastating effect on the program itself.

Every time Congress gets up and does this, we adjust these programs, then the money is cut back, and then the contractors have to go back and readjust their entire schedule for developing the plane. So I feel very strongly that this program has already been interrupted and we should not do it again with this amendment.

Mr. Chairman, I urge a "no" vote on the Nadler amendment.

Mr. NADLER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I would like to simply take this minute to say that I agree with one point the gentleman has just made. I think it is a mistake for us to stretch out the purchase time for every large weapon system that we buy because it does raise the per unit cost.

But if we agree with that, then we have to face up to the choice that we have to cut out one or more of these weapon systems. And that is why, it seems to me, that the Congress is making a grave mistake if we do not eliminate one of the three tac air systems which the Pentagon is supposed to buy under this bill.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would say to the gentleman that one area we did not look at, that was not looked at in the Quadrennial Defense Review, is our nuclear weapons. I would argue we could make a reduction ourselves in nuclear weapons and use that money to fund these conventional programs which are usable.

I am a believer that nuclear weapons are there for deterrence and only deterrence, and we really do not get a hell of a lot of military capability out of them.

Mr. OBEY. Mr. Chairman, I do not argue with that, but unless we are willing to cut the number of systems we buy, then the only choice we have is to pursue what the gentleman is pursuing.

Mr. NADLER. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from New York [Mr. NADLER] has 4 minutes remaining, and the gentleman from Florida [Mr. YOUNG] has 7 minutes remaining.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas [Ms. GRANGER].

Ms. GRANGER. Mr. Chairman, I rise today in strong opposition to the amendment offered by the gentleman from New York. The F-22 will be the Air Force's air superiority fighter for the first part of the 21st century. The Air Force needs the F-22 as soon as possible.

Right now the Air Force relies on the F-15 to fly its air superiority missions. The F-15 has served our Nation well and has been critical to ensuring that no American ground troop has been killed by enemy aircraft in over 40 years. But the F-15 is aging. Much of its technology was developed back in the 1970's and even the 1960's.

□ 1315

Though it was far superior than anything in the world when it was introduced, the rest of the world has slowly but surely caught up with the F-15. We still might have an edge in air superiority, but it is a slight edge at best.

The effect of the adoption of the amendment of the gentleman from New York [Mr. NADLER] would be to continue to rely on this old technology for years to come and to just get by. We would keep on flying the aging F-15 and hope that the world does not completely catch up with us before we unleash the F-22 fighter wings.

Mr. Chairman, we cannot afford to compromise our national security interests, as well as the safety and security of the brave men and women who serve our country, by just getting by. Proponents of cutting the F-22 argue that the world is a safe place and that we face no imminent dangers that justify immediate production of the F-22. But one of the main reasons that we face no dangers today, and I stress today, is that any potential enemies recognize the superiority of American technology and fighting strength.

But the longer we delay incorporating 21st century technology into our military, the more we invite potential foes to take the chance that they can match us in battle. Investing in technology like the F-22 Raptor today will, therefore, save us in the long run. War will be much less likely to occur if our enemies and potential enemies understand that engaging our military in battle is a guaranteed losing proposition.

The costs of war, even the cost of a brief and successful war like Desert Storm, are much greater than the cost of peace. But more important than the ultimate economic savings we will reap from preventing wars with investing in the F-22 are the lives of fighting men and women that will be saved. By preventing as many conflicts as possible and then by thoroughly dominating those few in which we might have to engage, the F-22 Raptor will minimize harm to our troops in the field. The mothers and fathers of our men and women in uniform will be able to sleep better at night knowing that their children are less likely to be in harm's way.

Mr. Chairman, the F-22 is needed, and it is needed without any additional delay in production.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a number of arguments are made against this amendment. The argument is made by the gentleman from California, who we all respect, is that we have to have air superiority, which we all agree with, and that if we do not have the F-22, we will not have air superiority, and that American fighters in some future war, therefore, will, God forbid, die from lack of the superiority in the technical equipment.

The argument ignores two facts. First, we heard the gentleman from Wisconsin [Mr. OBEY] refer to the Rand Commission reports. The Rand Commission says the air fleets of potential adversaries are small and aging. They are not coming up with new technology fighters. We do not see the Russians doing the research and spending the money to produce the next generation of fighters. The Chinese Air Force is going to be retired and not replaced because they are not doing it either.

So with whom are we competing for this great new technology? The French, our allies? The Defense Department says they see few high performance aircraft any time soon anywhere else in the world, other than perhaps in France, our allies.

Second, we are not opposing the F-22. We are saying stretch out the time before the procurement, do not reduce the procurement time, stretch out the time before the procurement so that there is not a 7-year overlap with the

F–15. We will have the aircraft when we need it. But we do not need three separate tactical aircraft programs at the same time.

Finally, let me say, again the gentleman from Wisconsin [Mr. OBEY] alluded to this, in this 5-year budget agreement that everyone is talking about today, we have Defense Department caps for each year. We are not going to be able to maintain them if we keep buying every weapon on system, if we need more B–2's, if we need three new tactical aircraft systems.

So what are we doing? We are penny pinching in operations and training and personnel, when we ought to be spending more money, instead of procuring large numbers of new weapons systems which we cannot possibly afford in the future and which we do not need. Some of them we need. But we have to make choices. Governing is about making choices.

This amendment is about making a choice, about reducing the cost overruns in this program, and hopefully giving us time to reconsider whether we need three tactical aircraft programs as a follow-on to the F–15, which, last time I looked, was one aircraft.

So I urge the adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself the balance of the time, and I rise in opposition to the Nadler amendment. I understand that it is well-intentioned. Even though the program has already been slowed down with the agreement of the Congress, it is the No. 1 priority for the United States Air Force.

The phrase "air superiority" has been used during this debate several times. Let me tell you what air superiority is. Air superiority is the ability of our pilots flying our airplanes to go into the war zone and to deny access to the air by the enemy planes, either to shoot them down or, as we did in Desert Storm, to scare them so that they run when they see our airplanes.

The other part of air superiority is the soldier on the ground. The soldier on the ground, when he looks up, he wants to see an American airplane in control of the sky, he wants to know that the airplane up there is not going to drop a bomb or some kind of munition on him. That is why air superiority is so important.

The F–22 will guarantee us air superiority and control of the skies in the world as we know it today. But as the gentleman from California [Mr. CUNNINGHAM] pointed out earlier, many other countries are building new and outstanding technology aircraft. We have got to be able to keep up with that.

In the year 2015, a date that has been mentioned when the F–22 might be fully capable, fully operational, the F-15, which is a tremendous airplane, will be 45 years old. My 10-year-old son has told me repeatedly that he wants to be a fighter pilot. Well, if that should happen and he cannot fly the F–22 until the year 2015, he can be flying a 45-year-old airplane. I do not want that to happen, and I do not want anybody else that is going to be flying a combat aircraft to have to fly a 40-year-old airplane.

It is just not right because it takes away his advantage, it takes away his edge over the enemy. All of us pray to God that we never have to send another pilot to war or another soldier to a ground war. But unfortunately that may not be the case. But we have got to go with the best equipment, the best technology, the best training that we possibly can so that our soldiers in the air, on the ground, our sailors on the sea, under the sea have the best training, the best equipment, the best technology possible so that they can, No. 1, accomplish their mission, Mr. Chairman, but No. 2, give themselves some protection while they are at it.

That is what this F–22 will do. It will help accomplish the mission and give our pilots protection and the ability to come home in their airplane, rather than come home as a POW or come home in a body bag. That is why this investment is a good investment and we ought to deny this amendment and allow the F–22 program to continue.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. NADLER].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Research, Development, Test and Evaluation, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment; $9,494,337,000, to remain available for obligation until September 30, 1999: *Provided*, That not less than $444,898,000 of the funds appropriated in this paragraph shall be made available only for the Sea-Based Wide Area Defense (Navy Upper-Tier) program: *Provided further*, That funds appropriated for the Dual-Use Applications Program under section 5803 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104–208), shall remain available for obligation until September 30, 1998.

Developmental Test and Evaluation, Defense

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $268,183,000, to remain available for obligation until September 30, 1999.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $32,684,000, to remain available for obligation until September 30, 1999: *Provided*, That of the funds appropriated in this paragraph, $9,300,000 shall not be obligated or expended until authorized by law.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For the Defense Working Capital Funds; $971,952,000.

National Defense Sealift Fund

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744); $1,199,926,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all ship-board services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive these restrictions on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That of the funds appropriated in this paragraph, $18,300,000 shall not be obligated or expended until authorized by law.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; $10,309,750,000, of which $10,035,682,000 shall be for Operation and maintenance, of which not to exceed three percent shall remain available until September 30, 1999, and of which $274,068,000, to remain available for obligation until September 30, 2000, shall be for Procurement: *Provided*, That of the funds appropriated in this paragraph, $55,300,000 shall not be obligated or expended until authorized by law.

Chemical Agents and Munitions Destruction, Defense

For expenses, not otherwise provided for, necessary for the destruction of the United

States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $595,700,000, of which $472,200,000 shall be for Operation and maintenance, $67,200,000 shall be for Procurement to remain available until September 30, 2000, and $56,300,000 shall be for Research, development, test and evaluation to remain available until September 30, 1999.

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $713,082,000: *Provided*, That funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further*, That of the funds appropriated in this paragraph, $51,411,000 shall not be obligated or expended until authorized by law.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; $142,980,000, of which $141,180,000 shall be for Operation and maintenance, of which not to exceed $600,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $1,800,000, to remain available until September 30, 2000, shall be for Procurement: *Provided*, That of the funds appropriated in this paragraph, $4,600,000 shall not be obligated or expended until authorized by law.

TITLE VII

RELATED AGENCIES

Central Intelligence Agency Retirement and Disability System Fund

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $196,900,000.

Intelligence Community Management Account

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account; $125,580,000, of which $39,011,000 for the Advanced Research and Development Committee and the Environmental Intelligence and Applications Program shall remain available until September 30, 1999: *Provided*, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2000, and $3,000,000 for Research, development, test and evaluation shall remain available until September 30, 1999.

Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law; $10,000,000, to remain available until expended.

National Security Education Trust Fund

For the purposes of title VIII of Public Law 102–183, $2,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. (a) None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Family of Medium Tactical Vehicles.

(b) None of the funds provided in this Act and hereafter may be used to submit to Congress (or to any committee of Congress) a request for authority to enter into a contract covered by those provisions of subsection (a) that precede the first proviso of that subsection unless—

(1) such request is made as part of the submission of the President's Budget for the United States Government for any fiscal year and is set forth in the Appendix to that budget as part of proposed legislative language for appropriations bills for the next fiscal year; or

(2) such request is formally submitted by the President as a budget amendment; or

(3) the Secretary of Defense makes such request in writing to the congressional defense committees.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 1998, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 1999 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1999 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1999.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 3015(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

(TRANSFER OF FUNDS)

SEC. 8014. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8015. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8016. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8017. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8018. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by Executive Agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 1999 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such Executive Agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the

Senate thirty days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8020. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8023. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 8024. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8025. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8026. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8027. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8028. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8029. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8030. Of the funds made available in this Act, not less than $27,200,000 shall be available for the Civil Air Patrol, of which $22,702,000 shall be available for Operation and maintenance.

SEC. 8031. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) LIMITATION ON COMPENSATION.—No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, may be compensated for his or her services as a member of such entity, or as a paid consultant, except under the same conditions, and to the same extent, as members of the Defense Science Board: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 1998 may be used by a defense FFRDC, through a fee or other payment mechanism, for charitable contributions, for construction of new buildings, for payment of cost sharing for projects funded by government grants, or for absorption of contract overruns.

(d) Notwithstanding any other provision of law, the Secretary of Defense shall reduce the total amounts appropriated in titles II, III, and IV of this Act by $55,000,000: *Provided*, That the total amounts appropriated in titles II, III, and IV of this Act are hereby reduced by $55,000,000 to reflect savings from the use of defense FFRDCs by the Department.

(e) Within 60 days after enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report presenting the specific amounts of staff years of technical effort to be allocated by the department for each defense FFRDC during fiscal year 1998: *Provided*, That, after the submission of the report required by this subsection, the department may not reallocate more than five percent of an FFRDC's staff years among other defense FFRDCs until 30 days after a detailed justification for any such reallocation is submitted to the congressional defense committees.

(f) The Secretary of Defense shall, with the submission of the department's fiscal year 1999 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(g) The total amounts appropriated to or for the use of the department in title II of this Act are hereby further reduced by $86,300,000 to reflect savings from the decreased use of non-FFRDC consulting services by the department.

(h) No part of the reductions contained in subsections (d) and (g) of this section may be applied against any budget activity, activity group, subactivity group, line item, program element, program, project, subproject or activity which does not fund defense FFRDC activities or non-FFRDC consulting services within each appropriation account.

(i) Not later than 90 days after enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report listing the specific funding reductions allocated to each category listed in subsection (h) above pursuant to this section.

SEC. 8032. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8033. For the purposes of this Act, the term "congressional defense committees" means the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the subcommittee on Defense of the Committee on Appropriations of the Senate, and the subcommittee on National Security of the Committee on Appropriations of the House of Representatives.

SEC. 8034. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8035. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1998. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8036. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8037. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2) (A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8038. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided*, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further*, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

SEC. 8039. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

SEC. 8040. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters: *Provided*, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Defense Working Capital Funds if such an item would not have been chargeable to the Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 1999 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1999 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 1999 procurement appropriation and not in the Supply Management Activity Group or any other area or category of the Defense Working Capital Funds.

SEC. 8045. None of the funds provided in this Act and hereafter shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided*, That this prohibition shall not apply to safety modifications: *Provided further*, That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the United States to provide such waiver and so notifies the congressional defense committees in writing.

SEC. 8046. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1999.

SEC. 8047. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8049. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency, or to increase the number of personnel assigned to a field operating agency of a headquarters activity; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the Department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes.

SEC. 8054. Notwithstanding any other provision of law, for resident classes entering the war colleges after September 30, 1998, the Department of Defense shall require that not less than 20 percent of the total of United States military students at each war college shall be from military departments other than the hosting military department: *Provided*, That each military department will recognize the attendance at a sister military department war college as the equivalent of attendance at its own war college for promotion and advancement of personnel.

(RESCISSIONS)

SEC. 8055. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"Aircraft Procurement, Army, 1997/1999", $10,000,000;

"Procurement of Ammunition, Army, 1997/1999", $5,000,000;

"Other Procurement, Army, 1997/1999", $46,000,000;

"Aircraft Procurement, Navy, 1997/1999", $24,000,000;

"Other Procurement, Navy, 1997/1999", $2,200,000;

"Aircraft Procurement, Air Force, 1997/1999", $27,000,000;

"Shipbuilding and Conversion, Navy, 1996/2000", $35,600,000;

"Other Procurement, Navy, 1996/1998", $3,300,000;

"Research, Development, Test and Evaluation, Army, 1997/1998", $7,000,000.

SEC. 8056. None of the funds provided in this Act may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation at a rate in excess of $250,000 per year.

SEC. 8057. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8058. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8059. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602 (a)(2) and (b)(2) of title 10, United States Code.

SEC. 8060. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence support to Unified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the General Defense Intelligence Program and the Consolidated Cryptologic Program: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8061. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 1997 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8062. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning, design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,218,000,000.

SEC. 8063. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8064. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8065. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8066. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa: *Provided*, That notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8067. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8068. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8070. During the current fiscal year, the Army shall use the former George Air Force Base as the airhead for the National Training Center at Fort Irwin: *Provided*, That none of the funds in this Act shall be obligated or expended to transport Army personnel into Edwards Air Force Base for training rotations at the National Training Center.

SEC. 8071. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SEC. 8072. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8073. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8074. None of the funds provided in title II of this Act for "Former Soviet Union Threat Reduction" may be obligated or expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

SEC. 8075. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the one percent limitation shall apply to the total amount of the appropriation.

SEC. 8076. Notwithstanding 31 U.S.C. 1552(a), not more than $14,000,000 appropriated under the heading "Aircraft Procurement, Air Force" in Public Law 102–396 which was available and obligated for the B–2 Aircraft Program shall remain available for expenditure and for adjusting obligations for such Program until September 30, 2003.

SEC. 8077. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to one percent of the total appropriation for that account.

(TRANSFER OF FUNDS)

SEC. 8078. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/2000":

SSN–688 attack submarine program, $3,000,000;

DDG–51 destroyer program, $1,500,000;

LHD–1 amphibious assault ship program, $8,000,000;

T–AO fleet oiler program, $3,453,000;

AOE combat support ship program, $3,600,000;

For craft, outfitting, and post delivery, $2,019,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/2000":

SSN–21 attack submarine program, $21,572,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/2001":

DDG–51 destroyer program, $1,060,000;

LHD–1 amphibious assault ship program, $1,600,000;

LSD–41 cargo variant ship program, $2,666,000;

AOE combat support ship program, $7,307,000;

For craft, outfitting, and post delivery, $12,000,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/2001":

SSN–21 attack submarine program, $24,633,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":

LHD–1 amphibious assault ship program, $5,592,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":

SSN–21 attack submarine program, $5,592,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1994/1998":

LHD–1 amphibious assault ship program, $400,000;

DDG–51 destroyer program, $1,054,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/1999":

For craft, outfitting, and post delivery, conversions, and first destination transportation, $715,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":

LHD–1 amphibious assault ship program, $17,513,000;

For craft, outfitting, and post delivery, conversions, and first destination transportation, $878,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2001":

For craft, outfitting, and post delivery, conversions, and first destination transportation, $3,600,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1997/2001":

DDG-51 destroyer program, $24,160,000;

From:

Under the heading, "Aircraft Procurement, Air Force, 1997/1999", $73,531,000;

To:

Under the heading, "Research, Development, Test and Evaluation, Air Force, 1997/1998", $73,531,000.

SEC. 8079. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 1998 a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 1999 budget request was reduced because Congress appropriated funds above the President's budget request for that specific activity for fiscal year 1998.

SEC. 8080. (a). None of the funds available to the Department of Defense under this Act may be obligated or expended to reimburse a defense contractor for restructuring costs associated with a business combination of the defense contractor that occurs after the date of enactment of this Act unless—

(1) the auditable savings for the Department of Defense resulting from the restructuring will exceed the costs allowed by a factor of at least two to one, or

(2) the savings for the Department of Defense resulting from the restructuring will exceed the costs allowed and the Secretary of Defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to the Department, and

(3) the report required by Section 818(e) of Public Law 103-337 to be submitted to Congress in 1997 is submitted.

(b) Not later than April 1, 1998, the Comptroller General shall, in consultation with the Inspector General of the Department of Defense, the Secretary of Defense, and the Secretary of Labor, submit to Congress a report which shall include the following:

(1) an analysis and breakdown of the restructuring costs paid by or submitted to the Department of Defense to companies involved in business combinations since 1993;

(2) an analysis of the specific costs associated with workforce reductions;

(3) an analysis of the services provided to the workers affected by business combinations;

(4) an analysis of the effectiveness of the restructuring costs used to assist laid off workers in gaining employment;

(5) in accordance with section 818 of Public Law 103-337, an analysis of the savings reached from the business combination relative to the restructuring costs paid by the Department of Defense.

(c) The report should set forth recommendations to make this program more effective for workers affected by business combinations and more efficient in terms of the use of Federal dollars.

SEC. 8081. Funds appropriated in title II of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8082. (a) The Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement to fully recover the costs for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray all costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8083. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8084. In accordance with section 1557 of title 31, United States Code, the following obligated balance shall be exempt from subchapter IV of chapter 15 of such title and shall remain available for expenditure without fiscal year limitation: Funds obligated by the Army for contract number DAK F 40-92-H-5001 from funds made available in the Department of Defense Appropriations Act, 1992 (Public Law 102-172) under the heading "Operation and Maintenance, Army".

SEC. 8085. In accordance with section 1557 of title 31, United States Code, the following obligated balance shall be exempt from subchapter IV of chapter 15 of such title and shall remain available for expenditure without fiscal year limitation: Funds obligated by the Economic Development Administration for EDA Project No. 04-49-04095 from funds made available in the Department of Defense Appropriations Act, 1994 (Public Law 103-189).

SEC. 8086. None of the funds provided by this Act may be used to pay costs of instruction for an Air Force officer for enrollment commencing during the 1998-1999 academic year in a postgraduate degree program at a civilian educational institution if—

(1) the degree program to be pursued by that officer is offered by the Air Force Institute of Technology (or was offered by that institute during the 1996-1997 academic year);

(2) the officer is qualified for enrollment at the Air Force Institute of Technology in that degree program; and

(3) the number of students commencing that degree program at the Air Force Institute of Technology during the first semester of the 1998-1999 academic year is less than the number of students commencing that degree program for the first semester of the 1996-1997 academic year.

SEC. 8087. Of the funds provided in this Act under the heading, "Environmental Restoration, Air Force", $10,400,000 shall be deposited into the Foreign Military Sales Trust Fund to the credit of the Canadian Government pursuant to the exchange of notes between the Governments of the United States and Canada concerning environmental cleanup at former United States' military installations in Canada.

SEC. 8088. During the current fiscal year, the amounts which are necessary for the operation and maintenance of the Fisher Houses administered by the Departments of the Army, the Navy, and the Air Force are hereby appropriated, to be derived from amounts which are available in the applicable Fisher House trust fund established under 10 U.S.C. 2221 for the Fisher Houses of each such department.

SEC. 8089. During the current fiscal year, refunds attributable to the use of the Government travel card by military personnel and civilian employees of the Department of Defense may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8090. During the current fiscal year, not more than a total of $60,000,000 in withdrawal credits may be made by the Marine Corps Supply Management activity group of the Navy Working Capital Fund, Department of Defense Working Capital Funds, to the credit of current applicable appropriations of a Department of Defense activity in connection with the acquisition of critical low density repairables that are capitalized into the Navy Working Capital Fund.

SEC. 8091. Notwithstanding 31 U.S.C. 3902, during the current fiscal year interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8092. At the time the President submits his budget for fiscal year 1999, the Department of Defense shall transmit to the congressional defense committees a budget justification document for the active and reserve Military Personnel accounts, to be known as the "M-1", which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel in any budget request, or amended budget request, for fiscal year 1999.

SEC. 8093. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $100,000,000 to reflect savings due to excess inventory, to be distributed as follows: "Operation and Maintenance, Army", $15,000,000; and "Operation and Maintenance, Navy", $85,000,000.

SEC. 8094. The amount otherwise provided in this Act for "Environmental Restoration, Army" is hereby reduced by $73,000,000, to reflect funds carried by the Army as a result of shared cleanup costs.

SEC. 8095. Notwithstanding any other provision in this Act, the total amount appropriated in title III of this Act is hereby reduced by $50,000,000 to reflect savings from repeal of Section 2403 of title 10, United States Code.

SEC. 8096. None of the funds in this or any other Act may be used by the National Imagery and Mapping Agency for any mapping, charting, and geodesy activities unless contracts for such services are awarded in accordance with the qualifications based selection process in 40 U.S.C. 541 et seq. and 10 U.S.C. 2855: *Provided*, That an exception shall be provided for such services that are critical to national security after a written notification has been submitted by the Deputy Secretary of Defense to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 8097. During the current fiscal year, the Secretary of Defense may award contracts for capital assets having a development or acquisition cost of not less than $100,000 of a Working Capital Fund in advance of the availability of funds in the Working Capital Fund for minor construction, automatic data processing equipment, software, equipment, and other capital improvements.

SEC. 8098. The Secretary of Defense shall submit to the congressional defense committees not later than November 15, 1997 an aviation safety plan outlining an appropriate level of navigational safety upgrades for all Department of Defense aircraft and the associated funding profile to install these upgrades in an expeditious manner.

SEC. 8099. The Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and Senate, not later than April 15, 1998, a report on alternatives for current theater combat simulations: *Provided*, That this report shall be based on a review and evaluation by the Defense Science Board of the adequacy of the current models used by the Department of Defense for theater combat simulations, with particular emphasis on the tactical warfare (TACWAR) model and the ability of that model to adequately measure airpower, stealth, and other asymmetrical United States warfighting advantages, and shall include the recommendations of the Defense Science Board for improvements to current models and modeling techniques.

SEC. 8100. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8101. The budget of the President for fiscal year 1999 submitted to Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as "subactivities") in the operation and maintenance accounts of the military departments and other appropriation accounts, as may be necessary, to separately identify all costs incurred by the Department of Defense to support the expansion of the North Atlantic Treaty Organization. The budget justification materials submitted to Congress in support of the budget of the Department of Defense for fiscal year 1999, and subsequent fiscal years, shall provide complete, detailed estimates for the incremental costs of such expansion.

Mr. YOUNG of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title VIII, through page 96, line 21, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Page 96, after line 7, insert the following new sections:

SEC. 8100A. It is the sense of the Congress that all member nations of the North Atlantic Treaty Organization (NATO) should contribute their proportionate share to pay for the costs of the Partnership for Peace program and for any future costs attributable to the expansion of NATO.

SEC. 8100B. None of the funds in this Act may be used to pay for NATO expansion not authorized by law.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, the amendment states that members of NATO should contribute their fair share for any expansion of NATO in Europe. It also states that funds in this bill shall be used for those which are authorized by the Congress. Very straightforward and simple.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania, the distinguished ranking member.

Mr. MURTHA. The chairman and I have discussed this at length, and we will fall on our sword trying to get what the gentleman from Ohio [Mr. TRAFICANT] wants. We will do everything we can to take care of the gentleman from Ohio.

Is that not right, Mr. Chairman?

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I would say that we agree completely with what this amendment is trying to accomplish. We do have a little concern about how this language might fit in with the President's signing of the bill. But we do appreciate the gentleman making some changes in the language that were recommended.

With that, we prepared to accept the amendment with the understanding that if we hear from the administration, we may have to come back and see if there would be additional changes that the gentleman might be agreeable to.

Mr. TRAFICANT. Mr. Chairman, I yield to the gentleman from Washington [Mr. DICKS], the distinguished linebacker from the University of Washington.

Mr. DICKS. Mr. Chairman, I want to say to my friend, the gentleman from Ohio [Mr. TRAFICANT], I read his amendment. I think it is a good amendment. We will work hard with him with the administration, and I hope the House will support his amendment.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, in closing out here, we need not have a black sinkhole hole for money going to protect Europe folks. All we say is, let us go by which we authorize. The Congress and people govern. We do not have governance through the White House.

Mr. Chairman, I urge an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment, and I ask unanimous consent that it be considered at this time although it addresses a portion of the bill not yet read for amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mrs. CLAYTON:

Page 100, after line 15, insert the following new section:

SEC.   . The Secretary of the Army may reimburse a member of the Army who was deployed from the United States to Europe in support of operations in Bosnia and who incurred an out-of-pocket expense for shipment of a personal item to or from Europe during the period beginning on October 1, 1996, and ending on May 30, 1997, if the shipment of that item, if made after May 30, 1997, would have been provided by the Department of the Army through the Temporary Change of Station (TCS) weight allowance under the Joint Travel Regulation, as in effect after that date.

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Mrs. CLAYTON. Mr. Chairman, I have spoken both with the ranking minority member and the chairman of the subcommittee, so they are aware what the basis of this amendment is. This is an equity issue. It is a fairness issue. By approving this amendment, we will authorize the Department of the Army to pay for the shipment of personal items which the Department itself has paid for before and which now, after some persuasion, are again providing for.

Mr. MURTHA. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, the gentlewoman came to us with this amendment today. We talked to the staff and we know there has been an injustice here. If the gentlewoman will withdraw her amendment, we will do everything we can to work this thing out in conference.

Mrs. CLAYTON. I do plan to withdraw it because we do have the commitment from both sides to work it out; but if I may proceed, just to give the equity reason for it. I wanted our colleagues to know what this committee will be doing to try to rectify this issue.

This is an issue that was caused because there was an administrative procedure change which meant that we did not reimburse the National Guard or the Army Reserve that went to Bosnia when we had before. So there were a number of individuals, National Guard Members who came to me saying they had no way of getting their moneys back because there was no authority to reimburse them for sending their personal items back home.

What this means: That those men and women serving in our military in Bosnia would have to pay it out of their own pockets unless the committee works this out. I am delighted that the committee sees the value and the equity of ensuring that those who serve us in our Armed Forces are not required to take on an extra burden. In the light of their cooperation, not only the 125 Reservists and National Guardsmen in my district, but some 4,280 throughout the Nation had to pay for it out of their pockets. With this committee correcting this, this will mean that more than 4,000 people will now be able to have these expenses reimbursed and they will not have to assume the obligation of the American people and defending our country out of their pocket. I want to thank both the chairman and the ranking member for providing the leadership.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

Mr. POMEROY. Mr. Chairman, I move to strike the last word. I rise to engage the gentleman from Florida [Mr. YOUNG], the chairman of the subcommittee, in a colloquy.

Mr. Chairman, I am deeply concerned about the Pentagon's plan to retire 23 B–52 bombers, roughly 25 percent of the B–52 fleet. In light of the uncertain prospects for Russian ratification of START II and the continuing need for long-range conventional airpower, I believe it would be unwise to make unilateral reductions in the only battle-tested, dual-capable bomber in the U.S. inventory. I would ask the subcommittee chairman if he shares my concerns about the proposed reduction in the B–52 fleet.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. As the gentleman knows, in each of the last 4 years, the subcommittee has supported additional funding to maintain the full fleet of B–52's. But I am sure that he is also aware that the Senate has included additional funds to keep all 94 B–52's in the active inventory. Although the House authorization committee did not authorize this for this fiscal year, the action taken by the Senate is consistent with this subcommittee's recommendation in recent years.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Washington.

Mr. DICKS. I rise to express my strong support for maintaining the full fleet of 94 B–52's. In the last decade, over $4 billion has been invested to thoroughly modernize the B–52 bomber. The B–52 not only supports the air-leg of the nuclear triad, but it is also a potent conventional weapon able to carry the complete inventory of smart weapons. I assure the gentleman from North Dakota that I will work to see that the necessary funding is provided in conference to keep all 94 B–52's in the active inventory. I have discussed this with the gentleman from Pennsylvania [Mr. MURTHA] as well.

Mr. POMEROY. I thank the gentleman from Florida and I thank the gentleman from Washington. I look forward to working with them as this bill moves into conference.

AMENDMENT OFFERED BY MR. OBEY

The CHAIRMAN. Pursuant to House Resolution 198, the pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin [Mr. OBEY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 222, not voting 12, as follows:

[Roll No. 336]

AYES—200

Abercrombie
Allen
Andrews
Baldacci
Ballenger
Barrett (WI)
Barton
Bass
Becerra
Bereuter
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brown (OH)
Burr
Camp
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Coble
Coburn
Combest
Condit
Conyers
Costello
Coyne
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Doggett
Doyle
Duncan
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Flake
Foley
Ford
Frank (MA)
Franks (NJ)
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Goode
Goodlatte
Goodling
Gordon
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hilliard
Hoekstra
Hooley
Houghton
Jackson (IL)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klug
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pickett
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Rivers
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schumer
Scott
Sensenbrenner
Serrano
Shays
Shuster
Sisisky
Skaggs
Slaughter
Smith (MI)
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Tierney
Towns
Upton
Velázquez
Vento
Wamp
Watt (NC)
Waxman
Weldon (PA)
Weygand
White
Wise
Woolsey
Wynn
Yates

NOES—222

Ackerman
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Barcia
Barr
Barrett (NE)
Bartlett
Bateman
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Borski
Brady
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Clyburn
Collins
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dreier
Dunn
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Filner
Fowler
Fox
Frelinghuysen
Frost
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Holden
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klink
Knollenberg
LaHood
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Matsui
McCollum
McCrery
McDade
McHugh
McIntosh
McIntyre
McKeon
Meek
Metcalf
Mica
Millender-McDonald
Mollohan
Moran (KS)
Murtha
Myrick

Nethercutt
Neumann
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Pickering
Pitts
Pombo
Pomeroy
Radanovich
Redmond
Reyes
Riggs
Rodriguez
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Sanchez
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Sherman
Shimkus
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Turner
Visclosky
Walsh
Waters
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—12

Cummings
Dingell
Foglietta
Forbes
Gonzalez
LaTourette
McInnis
Ney
Riley
Schiff
Wexler
Young (AK)

☐ 1355

Messrs. BRADY, BONO, PITTS, Ms. WATERS, and Mrs. JOHNSON of Connecticut changed their vote from "aye" to "no."

Mr. STENHOLM changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GALLEGLY. Mr. Chairman, unfortunately on rollcall 336, I did not verify the electronic vote. It was my intention to vote "no" on the Obey amendment as a strong supporter of the B-2 and I either inadvertently or incorrectly voted "yes."

PERSONAL EXPLANATION

Mr. LATOURETTE. Mr. Chairman, I was unfortunately detained for rollcall vote No. 336 to the Department of Defense Appropriations Act. Had I been present I would have voted "yes". As my voting record will reflect, I have consistently voted against additional B–2 funding.

I was not present for the vote because I was testifying before the National Capital Memorial Commission in support of my legislation, H.R. 1608, the Pyramid of Remembrance Act. As you know, H.R. 1608 would establish a memorial in the District of Columbia or its surrounding areas for soldiers who died in undeclared military conflicts and training exercises. I am proud to report that the idea for this bill came from high school students at Riverside High School in my district. Since its introduction, the bill has gained bipartisan support in the House of Representatives. I am looking forward to working with the leadership in moving the bill through the legislative process so that the lives of these brave and selfless soldiers are not forgotten.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 8102. (a) Limitation.—Funds appropriated or otherwise made available for the Department of Defense for any fiscal year may not be obligated for the deployment of any ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after—

(1) June 30, 1998; or

(2) such later date as may be specifically prescribed by law after the date of the enactment of this Act, based upon a request from the President or otherwise as the Congress may determine.

(b) Exceptions.—The limitation in subsection (a) shall not apply to the extent necessary to support (1) a limited number of United States diplomatic facilities in existence on the date of the enactment of this Act, and (2) noncombat military personnel sufficient only to advise the commanders North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina.

(c) Construction of Section.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(d) Limitation on Support for Law Enforcement Activities in Bosnia.—None of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended after the date of the enactment of this Act for the conduct of, or direct support for, law enforcement activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life.

(e) Presidential Report on Political and Military Conditions in Bosnia.—(1) Not later than December 15, 1997, the President shall submit to Congress a report on the political and military conditions in the Republic of Bosnia and Herzegovina (hereafter in this subsection referred to as Bosnia-Herzegovina). Of the funds available to the Secretary of Defense for fiscal year 1998 for the operation of United States ground forces in Bosnia-Herzegovina during that fiscal year, no more than 60 percent may be expended before the report is submitted.

(2) The report under paragraph (1) shall include a discussion of the following:

(A) An identification of the specific steps taken by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to European allied nations or organizations.

(B) A detailed discussion of the proposed role and involvement of the United States in supporting peacekeeping activities in the Republic of Bosnia and Herzegovina following the withdrawal of United States ground forces from the Republic of Bosnia and Herzegovina pursuant to subsection (a).

(C) A detailed explanation and timetable for carrying out the President's commitment to withdraw all United States ground forces from Bosnia-Herzegovina by the end of June 1998, including the planned date of commencement and completion of the withdrawal.

(D) The date on which the transition from the multinational force known as the Stabilization Force to the planned multinational successor force to be known as the Deterrence Force will occur and how the decision as to that date will impact the estimates of costs associated with the operation of United States ground forces in Bosnia-Herzegovina during fiscal year 1998 as contained in the President's budget for fiscal year 1998.

(E) The military and political considerations that will affect the decision to carry out such a transition.

(F) Any plan to maintain or expand other Bosnia-related operations (such as the operation designated as Operation Deliberate Guard) if tensions in Bosnia-Herzegovina remain sufficient to delay the transition from the Stabilization Force to the Deterrence Force and the estimated cost associated with each such operation.

(G) Whether allied nations participating in the Bosnia mission have similar plans to increase and maintain troop strength or maintain ground forces in Bosnia-Herzegovina and, if so, the identity of each such country and a description of that country's plans.

(3) As used in this subsection, the term "Stabilization Force" (referred to as "SFOR") means the follow-on force to the Implementation Force (known as "IFOR") in the Republic of Bosnia and Herzegovina and other countries in the region, authorized under United Nations Security Council Resolution 1008 (December 12, 1996).

☐ 1400

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Defense Appropriations Act, 1998".

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman. I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solomon:

Page 100, after line 15, insert the following new section.

Sec. 8103. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with a contractor that is subject to the reporting requirement set forth in subsection (d) of section 4212 of title 38, United States Code, but has not submitted the most recent report required by such subsection for 1997 or a subsequent year.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, I will not take 5 minutes. Discrimination in America is wrong. It goes against everything we stand for as a nation. What is especially ugly is discrimination against disabled veterans, and Vietnam veterans, in particular. Mr. Chairman, we owe these men and women the best of the very best, fair and open consideration for employment.

A couple of years ago we passed a program called Vet 100, which requires contractors to report their hiring practices of veterans, disabled veterans, and Vietnam veterans. Since that time, there were 25,000 contractors across this Nation that were either intentionally or unintentionally in noncompliance for this law. After an amendment we passed last year, we brought 8,000 of those contractors, simply because they were made aware of it, into compliance in the program.

We are asking now that this be attached to this particular bill so that it will bring notice to all of the contractors and make them aware so they can again comply with this law, so we can begin to hire these disabled American veterans, along with Vietnam veterans.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the very distinguished gentleman from Florida [Mr. YOUNG], the chairman of the Subcommittee on National Security of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, as the gentleman has stated, last year we did accept this amendment. We thought it would work fine. It has worked partially. I think it is important that we continue this language. The chairman of the Committee on Rules, the very distinguished chairman, has worked with us on writing the language in such a way I think as will be very effective. I am very, very happy to accept this amendment. I think it is something that ought to be done.

Mr. SOLOMON. I certainly thank the gentleman, Mr. Chairman. With him having said that, I am getting a signal from the very distinguished ranking member of the subcommittee, a great former marine.

Mr. Chairman, I ask consideration on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

Page 100, after line 15, insert the following new section:

SEC. 8103. None of the funds made available in this Act may be used to approve or license the sale of F–22 advanced tactical fighter to any foreign government.

Mr. OBEY. Mr. Chairman, this country is going to spend $85 billion to build a new generation of fighter aircraft, the F–22, and we are told that the reason we must do that is because we have sold so many of our F–16's around the world, and so many of our F–15's, that we now have to stay ahead of the capability of other countries. So we are told that in order to do that we have to make this large expenditure.

Mr. Chairman, all this amendment says is that if we are going to go ahead and spend that $85 billion, that we ought not to make the same mistake we made in the past. That is why this amendment says that no F–22's can be sold abroad.

The reason I am urging that we adopt this amendment is that the contractor, Lockheed, has already been quoted several times saying that they fully plan to market the F–22 abroad, and the Air Force is also indicating they are looking at foreign sales as a means of reducing the overall cost of the program.

Everything that we know about this plane tells us it is going to be a technological marvel. I would like to know why on Earth we would even consider selling this plane abroad if the purpose of building it in the first place is to react to the fact that we have sold abroad so many sophisticated fighters in the past that we now have to build this new plane in order to stay ahead of the people we have sold it to.

Very simply, all I am saying is that we have to make a choice. We either stand up for America's interest and support this amendment, or stand up for the contractor's interest and oppose it, because this is an argument between those of us who believe that if we are going to spend $85 billion, we ought to keep that technology at home, versus those who say, "Well, sorry, but we have not learned a thing from the last round. So even though we are being told we have to build this plane because we have sold so many sophisticated aircraft around the world, we are willing to ignore past history and do it all over again."

So I think the purpose of the amendment is self-evident. I cannot imagine, I cannot imagine any reason for turning down this amendment except that the contractor wants to sell these planes abroad, and has therefore convinced people that we ought to make the same mistake over again.

Anybody who is paid what we are is being paid enough to avoid a stupid mistake like that. I would urge support for the amendment.

Mr. KASICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is the first I have heard of this amendment. I will probably vote for this amendment. I will tell the Members why. This will really fundamentally fall on a lot of deaf ears in this House, and maybe it will make a few people yawn. I have to tell the Members that I think one of the most serious things that is going on in the world today is the unregulated, the unprecedented level of arms sales that exists in the world today.

I support the F–22 because I think it is absolutely essential that we maintain air superiority in any time of trouble for the United States and our allies. I think the F–22 is essentially the next leap of technology that allows us to maintain air superiority. I, of course, do not share that view on the necessity of the stealth bomber, but I do share that view on tactical aircraft.

But frankly, if we are going to develop a sophisticated tactical aircraft, to develop the next level of sophisticated fighter aircraft designed to give the United States clear air superiority, then to turn around and sell that technology to other countries forces us into the next level of tactical aircraft at great cost.

Look, Republicans and Democrats on both sides of the aisle, do Members not understand what we are doing in the world with the sale of all this sophisticated weaponry, designed to a large degree to preserve assembly lines? What we do is we give enemies weapons with hair-trigger mechanisms that allow each side to have more lethality, to have more power, more quickness, less warning time. Whenever conflicts arise, it denies us the time we want in order to resolve those conflicts without death.

I also would point out that the greatest fear I have for our children in my lifetime is the proliferation of weapons of mass destruction. I worry that some day, at some point, some world leader or some group of terrorists will get their hands on these lethal weapons of mass destruction that can be used without the consideration of loss of flesh and blood of people on any part of this globe. I worry that at some point in our lifetime we will wake up one morning and find out that two brutal enemies have used these weapons against one another.

I do not know whether it is true, the article that was written in one of the magazines several years ago about the almost conflict between India and Pakistan. But I do not want to wake up one morning, having armed these enemies to the teeth with increasingly effective weapons with increased lethality, to find out that somehow we played a role in it. That does not mean we do not need to develop the sophisticated weapons to guarantee the national security of the United States and our allies, but it does mean we need to be careful with this technology.

I wish we would all step back for a second and think about what our policies are on arms sales, what our commitment is to protect those elements that contribute to the weapons of mass destruction, to deny them from individuals in this world who would use them against the cause of order and peace and humanity.

I would urge everybody to march to this floor today and deny the ability of the defense industry to begin to sell this weapon of sophistication that the United States needs. Let us protect that technology. Let us slow down the arms race. Let us do it for our children. Let us not just do it for ourselves, let us also do it for our children.

I would hope that on a bipartisan basis, we could begin to get a handle on this problem of proliferation of weapons and of sky-high arms sales. There are better ways in this world to make money, to make profits, than to allow this seemingly free flow of technology. Let us stand up for national security, but let us also stand up for peace.

Mr. MURTHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my original thought was, and the gentleman from Texas Mr. MARTIN FROST, was quite concerned about this amendment, but actually when we look at the facts, it really would not have any impact because this is a 1-year bill. Certainly we have to send a message that when we have a technological superiority, it is something we want to look at very closely.

Mr. Chairman, I would, with reservations, accept this amendment, and hope we could work something out in conference.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have talked to the gentleman from Wisconsin [Mr. OBEY] about this. He made several changes that we thought were important to make to this so it applied properly to the bill. Having done that, we have been prepared to accept this amendment, and we are happy to hear from the gentleman from Ohio, but we are prepared to accept the amendment.

From the leadership of the subcommittee, we accept the amendment, Mr. Chairman.

Mr. CUNNINGHAM. I move to strike the requisite number of words, Mr. Chairman.

Mr. Chairman, I will only speak for a short amount of time. Mr. Chairman, I understand what the gentleman from Wisconsin [Mr. OBEY] is attempting to do here. I would caution him, and I will support the amendment, one of the most troubling times I had in my military career was being outspoken about letting F–14's go to the Shah of Iran.

□ 1415

I made a statement that we were being blackmailed at the time. This was at a time when there was an oil embargo. We remember the long gas lines we had in this country because of the shortage. I said, now, Iran is not Arabic and it is the Arabs that were holding us hostage over oil. Iran is Persian. But yet they will not have to pay for one single one of those F–14's because all they have to do is raise the price of oil by a cent and they get them free.

I said the second point is that as a fighter pilot, I do not want to have to look down the barrels of those F–14's if the shah ever falls. Well, I felt like Billy Mitchell after that happened because we did look down the barrels of those F–14's.

So I understand the intent of the gentleman and support it. But in future language, I would ask the gentleman to be very cautious because there are countries that I have flown with, like South Korea, some of our allies that have F–16s, England, I would not give them to France, personal opinion. They sell arms to every one of our enemies. There are socialists and Communists there now, and I would not give them a dime or any weapons. But there are countries that I think that, if we are flying there in a conflict and some of the NATO countries that would ally, and I do not care if it is a British pilot taking a Mig off my tail or someone else, then I would like that support. But I support the gentleman's amendment and I understand the merit behind it.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me thank the gentleman for supporting the amendment and say that I recognize that there are some countries I would not mind providing sophisticated weapons to, but I think we need a policy ahead of time before we build these systems so that we know exactly who is going to get them and that we are assured that they are going to be provided on as limited a basis as possible around the world.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong opposition to the Nadler amendment to cut important funding for the F–22 fighter. The F–22 is the Air Force's next generation premier fighter and is intended to replace the aging F–15 fighter which has been in use for nearly 30 years. The next generation aircraft will have both air-to-air and air-to-ground fighter capabilities and will ensure our air superiority in the 21st century.

A cut of the size proposed by this amendment would have a devastating effect on the development and production of the F–22. In fact, the Air Force estimates that a $420 million cut in the program would result in a major program restructure and actually result in an increase of costs in the out years of $7.7 billion because of the restructuring of the current development and production timeline.

Let me close by quoting Gen. Ronald Fogelman, the Chief of Staff of the Air Force:

> The F–22 will continue to ensure our continued dominance of the aerial arena and protect our forces across the entire spectrum of conflict. No United States soldier has been lost to enemy air power on over 40 years, and the F–22 will continue to uphold that record.

I urge my colleagues to oppose this amendment, and support our continued aerial dominance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COBURN:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

UNITED STATES MAN AND THE BIOSPHERE PROGRAM LIMITATION

SEC. 8079. None of the funds appropriated or otherwise made available by this Act may be made available for the United States Man and the Biosphere Program, or related projects.

Mr. COBURN. Mr. Chairman, it is my hope that this will not take any time. The purpose of this amendment just simply to limit DOD funds to not be spent on a totally unauthorized, never approved program from this Congress or any other Congress. We have voted now four times in this body to uphold this policy. This is simply an amendment that would extend that policy to the Department of Defense. It is my understanding the chairman as well as the ranking member have accepted this amendment.

I yield to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I would say that we are very familiar with this issue. We do support the amendment. We hope that it will be agreed to.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, just briefly, 47 of these biosphere reserves were established before the public even knew what was happening. One of these was established in the northern part of the congressional district I represent in the Adirondack Mountains without me or any local government officials ever knowing about it. That was outrageous. These biosphere reserves violate individual property rights, and they give executive branch political appointees the authority to make property decisions in place of these individual landowners or even local zoning ordinances. I think that is outrageous. I am so happy that the gentleman is offering the amendment.

Mr. COBURN. Mr. Chairman, I would ask the body to support the Coburn-Peterson amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. COBURN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KENNEDY of MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KENNEDY of Massachusetts: Page 100, after line 15, insert the following new section:

SEC. 8103. (a) None of the funds appropriated or otherwise made available by this Act for the Department of Defense specimen repository described in subsection (b) may be used for any purpose except in accordance with the requirement in paragraph numbered 3 of the covered Department of Defense policy memorandum that specifically provides that permissible uses of specimen samples in the repository are limited to the following purposes:

(1) Identification of human remains.

(2) Internal quality assurance activities to validate processes for collection, maintenance and analysis of samples.

(3) A purpose for which the donor of the sample (or surviving next-of-kin) provides consent.

(4) As compelled by other applicable law in a case in which all of the following conditions are present:

(A) The responsible Department of Defense official has received a proper judicial order or judicial authorization.

(B) The specimen sample is needed for the investigation or prosecution of a crime punishable by one year or more of confinement.

(C) No reasonable alternative means for obtaining a specimen for DNA profile analysis is available.

(D) The use is approved by the Assistant Secretary of Defense (Health Affairs) after consultation with the Department of Defense General Counsel.

(b) The specimen repository referred to in subsection (a) is the repository that was established pursuant to Deputy Secretary of Defense Memorandum 47803, dated December 16, 1991, and designated as the "Armed Forces Repository of Specimen Samples for the Identification of Remains" by paragraph numbered 4 in the covered Department of Defense policy memorandum.

(c) For purposes of this section, the covered Department of Defense policy memorandum is the memorandum of the Assistant Secretary of Defense (Health Affairs) for the Secretary of the Army, dated April 2, 1996, issued pursuant to law which states as its subject "Policy Refinements for the Armed Forces Repository of Specimen Samples for the Identification of Remains".

Mr. KENNEDY of Massachusetts (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I rise to offer an amendment which simply aligns our funding priorities with the current Department of Defense policies that protect the information in its DNA data bank for soldiers. The Department of Defense operates the Armed Forces repository specimen samples for identification of remains.

This DNA data bank currently holds millions of blood samples for both active and inactive personnel. This pool of genetic data is one of the largest in the entire world. Health, life and disability insurers might soon try to flex some muscle in obtaining sensitive information. Heightened concerns have been raised over the last year about the many ways that people can be discriminated against based on their genetic profile. Soldiers were not free from those same worries regarding blood samples in this DNA data bank.

The Pentagon has always maintained that such information was collected only to identify the remains of soldiers killed in combat. But many of my colleagues may recall that last year two marines were court-martialed for refusing to provide blood samples to the DNA data bank. They were fearful of inadequate privacy protections for the sensitive information being obtained from their DNA. The Pentagon as a result took the proper steps to revise its policy and instituted several new conditions on the use of DNA in the data bank, including limiting them to identify human remains, investigate crimes, purposes for which the donor and next of kin provide consent, plus an approved use by the Assistant Secretary of Defense and health.

I had spoken to the chairman of the committee, the gentleman from Florida [Mr. YOUNG], as well as to the ranking member. I believe that this amendment will be accepted. But I just would like to mention, the truth is that the current rules and regulations that determine how your DNA data is going to be utilized at the Department of Defense is really at the discretion of the secretary.

I would urge both the chairman as well as the ranking member to take actions, I hope, in the conference to make certain that this does not become an arbitrary policy. This kind of data can be used by private companies or others at the decision of the secretary that could have devastating consequences for any of the soldiers who happen to be ordered to provide those DNA samples.

I would hope that the chairman would be willing to institute a policy where no variation other than the specific purposes which are currently in this year's bill, could be varied without the consent of the Congress of the United States and the signing into law by the President. I think that this is an entirely, it is a new issue, but it is one that is very, very important for the personal privacy of the soldiers that choose to serve this country.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, as the gentleman and I have discussed earlier, we are happy to accept this amendment as we did last year, and the new issue that he raises I think is a legitimate issue. We would be more than happy to address it during the conference.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. KENNEDY].

The amendment was agreed to.

Mr. CARDIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to request a colloquy with the gentleman from Florida [Mr. YOUNG] regarding the fate of the Advanced Self Protection Jammer radar system.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I am very happy to address the concerns of the gentleman from Maryland about this program.

Mr. CARDIN. Mr. Chairman, I am concerned that the bill does not include funding for the Advanced Self Protection Jammer which is recognized as the finest self-protection jamming system in production today. Following the 1995 shootdown of the Navy pilot Scott O'Grady in Bosnia, ASPJ were deployed in aircraft in the Bosnian theater to correct the self protection deficiency under which our pilots were operating.

Mr. Chairman, the ASPJ proved to be an effective tactical aircraft countermeasure in the Bosnian theater.

Additional purchases of the system were recently authorized by the Committee on National Security. Shortage of the ASPJ's means that the Navy cannot equip all of its F–14D and F/A–18C/D planes with this system widely demanded by the Navy and Marine Corps pilots. Most of these planes, which will be in the fleet well into the next century, are now vulnerable. The Navy can only equip 72 aircraft with the ASPJ, although it has a requirement for deployment of this system on over 500 F–14D's and F/A–18C/D's. I hope the chairman will consider providing the Navy and Marine Corps with the funds necessary to equip the forward-deployed F–14D and F/A–18C/D squadrons with this system.

Mr. YOUNG of Florida. Mr. Chairman, if the gentleman will continue to yield, I appreciate the gentleman's concern for the system and its potential benefits for the pilots. The ASPJ is a valuable system. I share the gentleman's concern and will work with my colleagues on the committee and with the Department of Defense on this issue as this bill moves forward.

Mr. CARDIN. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MRS. MALONEY OF NEW YORK.

Mrs. MALONEY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MALONEY of New York:

At the end of the bill add the following new section:

SEC. . In the paragraph entitled "Operation and Maintenance, Defense-Wide," after "$10,066,956,000" insert "(increased by $1,000,000) (reduced by $1,000,000).".

Mrs. MALONEY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. MALONEY of New York. Mr. Chairman, in 1988, Congress passed and the President signed into law a requirement that the Department of Defense report details of crimes, including rape and sexual assault, committed within their jurisdiction to the Federal Bureau of Investigation.

However, the Department of Defense has failed to comply with this law. That means that there are thousands of crimes committed on base and off base by members of the armed services and others that are never reported to the FBI. I would like, Mr. Chairman, to put in the RECORD a letter from the general counsel of the Department of Defense and other press articles on this which state that they are looking at this, that they would like to proceed forward, but that there is a problem with funding.

My amendment provides $1 million to the Department of Defense so that they could collect and report these statistics. The money comes from the operation and maintenance budget. I hope that my amendment will be considered in the conference report. I thank the gentleman from Florida and the gentleman from Pennsylvania for their support and their commitment to work on this in conference.

Mr. Chairman, I include for the RECORD the following:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, May 27, 1997.

Hon. CAROLYN B. MALONEY,
House of Representatives,
Washington, DC.

DEAR MRS. MALONEY: This further responds to your letter to the Secretary of Defense, dated February 26, 1997. In my interim reply, dated March 11, 1997, I informed you that I had asked the Judge Advocate General of the Army to provide me information on certain cases you mentioned in your letter. I now have this information and am prepared to respond to your questions.

On October 24, 1995, then-Representative Dornan wrote the Secretary of Defense requesting an investigation of allegations made by Mr. Russell Carollo in a series of articles in the Dayton Daily News. After review by the Service Judge Advocates General and my office, I replied to Mr. Dornan on April 23, 1996. Your February 26 letter asks follow-up questions based on my reply to Mr. Dornan. I will address your questions in the same order as I replied to Mr. Dornan's inquiry.

Do many accused sex offenders avoid prosecution or escape criminal punishment? You have asked whether the Department of Defense disputes the validity of the "hard facts or statistics" in Mr. Carollo's articles. Mr. Carollo was highly selective in the statistical data he chose to publish. Mr. Carollo's published figures on sex crime complaints included cases where the perpetrators were unknown and involving civilian suspects who were not subject to the jurisdiction of the military justice system. In those cases, it was not possible for a complaint to result in a court-martial conviction. Also, the offense "titled" on a complaint form or investigation report is often not the same offense that is formally charged. The decision on what title to use is made by an investigator at an early stage of the investigation. A formal charge, however, is preferred after full investigation and proof analysis by a military prosecutor. A formal charge is only referred to a court-martial after additional legal review, and this review may produce other changes. Even assuming that a court-martial charge reflects the same offense in the complaint, there may be a court-martial conviction for a lesser (but nonetheless serious) crime. For example, an accused may be acquitted of a rape charge, but found guilty of attempted rape or assault with intent to commit rape. Acquittal of a principal charge, but conviction of a lesser one, is a process that goes on every day in every jurisdiction in the United States, where each element of any charged offense must be proven beyond reasonable doubt.

The military does not prosecute rape charges in "misdemeanor courts" or administrative hearings. If a complaint of rape is not prosecuted at a general court-martial, there is a reason and that reason is grounded in the evidence. A case may begin with a rape allegation, but end in another, lesser charge prosecuted at a special court-martial, nonjudicial punishment action, or other administrative action. In another case, the quality of the evidence may persuade military authorities to accept an accused's offer to separate from the Service (with an Under Other Than Honorable Conditions Discharge) rather than face a court-martial. If one of these actions happens, it is because particular circumstances make it appropriate. If a rape charge is supported by sufficient evidence for conviction, that charge is referred to a general court-martial as is fitting for a crime of that seriousness.

In Mr. Carlo's articles and associated correspondence, we have seen many comparisons of the military justice system with the "civilian judicial system" that reflect a misunderstanding of both. A monolithic "civilian judicial system" does not exist. There are fifty-one such systems in the United States, the Federal system (including the commonwealths and territories) and one for each state. In none of these systems does a complaint of rape automatically result in a trial, conviction, and long prison sentence for the defendant. In each of the civilian systems, just as in the military, prosecutors must make decisions based on the quality of the evidence before them. If a case is prosecuted as a rape, a civilian court must determine guilt based on the evidence before it. In doing so, the court applies a "beyond reasonable doubt" standard of proof, just like a court-martial. If there is a conviction for rape, or of a lesser offense, a civilian court then determines a sentence based on the particular circumstances of the crime and the offender, just as a court-martial does.

One significant difference between the military justice system and its civilian counterparts concerns the availability of alternative actions when there is insufficient evidence to prosecute in court. In any civilian jurisdiction, if a prosecutor or grand jury decides not to prosecute, nothing happens to the alleged offender. In the military, if the evidence is insufficient for a court-martial prosecution, commanders still have several options, any of which may result in significant sanction. The use of these options should not be cited as evidence that the military does not take crimes as seriously as in civilian jurisdictions, when these actions are not even available to civilian authorities.

In your February 26 letter, you discussed several Army cases at Fort Carson, Colorado, and Fort Leonard Wood, Missouri. According to information provided by the Judge Advocate General of the Army, much of what you have been told about these cases is incorrect. Moreover, these cases are excellent illustrations of how, in any system, each case must be judged on its own specific facts.

Your letter states that Army investigators at Fort Carson "found substantial evidence for claims of rape against 13 soldiers in 1995 and 1996," yet only two were tried and five others received nonjudicial punishment. According to the Army Judge Advocate General's information, this statement is not accurate. Of the thirteen cases, in one the subject was a civilian, over whom the military had no jurisdiction, and in another the perpetrator was never identified. Of the remaining eleven cases, the State of Colorado assumed jurisdiction of two. In one of these, the State treated it as a domestic violence case. Of the remaining nine, in three cases the alleged victims either recanted their accusations or refused to cooperate after making an initial statement. In one of these, however, a soldier received nonjudicial punishment for consensual sodomy with another soldier's wife, an offense to which he confessed in his statement to investigators. The other two cases resulted in no disciplinary action. Of the remaining six cases, Army prosecutors determined the evidence was insufficient to go forward with trial in three cases, and three cases went to court-martial. Of the three soldiers who were tried, one was acquitted of rape, but convicted of consensual sodomy and indecent acts, and sentenced to hard labor without confinement. Two soldiers were convicted of rape. One of these was sentenced to 28 years. In the other, the accused (First Sergeant David Medeiros) received a sentence of only reduction to staff sergeant (two pay grades).

Of the thirteen Fort Carson cases, the only apparent anomaly is the Medeiros case. I will not speculate as to the reasons for such a light sentence for the crime of rape, as I was not at the trial and do not have detailed knowledge of the evidence. However, you should be aware that the alleged victim in the Medeiros case later recanted her trial testimony and claimed her sex with Medeiros was consensual.

Concerning the Fort Leonard Wood cases, your letter states that the post commander, Major General Ballard, reversed the "sexual assault" convictions of three soldiers, substituting administrative discharges. You asked "[w]hat right did [General] Ballard have to reverse convictions?"

General Ballard had the powers and duties of a general court-martial convening authority, conferred by Congress under several articles of the Uniform Code of Military Justice. As convening authority, General Ballard had "authority . . . to modify the findings and sentence of a court-martial [as] a matter of command prerogative involving [his] sole discretion. . . ." Art. 60(c)(1), UCMJ, 10 U.S.C. §860(c)(1). The Judge Advocate General of the Army informs me that General Ballard exercised his discretion in these three cases, after legal advice from his staff judge advocate, to reach what he thought was an appropriate result under unusual circumstances.

The three Fort Leonard Wood cases are connected. None involved "sexual assault." They involved three young soldiers dating, and having consensual sex with, three underage teenage girls. Two of the girls were not living at home, but had taken up with a local "biker gang." In the other case, the girl's mother had introduced her daughter to the soldier in a bar. All the sexual conduct occurred off-post, but the local Missouri prosecutor declined to prosecute. However, the Army prosecuted the soldiers at special courts-martial for "carnal knowledge," that is, consensual sex with a minor. See Art. 120(b), UCMJ, 10 U.S.C. §920(b). Each soldier's court-martial sentenced him to reduction in grade, forfeiture of pay, and restriction to post, but did not impose either confinement or a bad-conduct discharge. General Ballard, using his powers under law as a convening authority, determined the best interests of the Army would be served by approving administrative discharges in lieu of the court-martial convictions. In each case, the soldier received an Under Other Than Honorable

Conditions Discharge, which deprives the soldier of entitlement to many benefits administered by the Department of Veterans Affairs. Such a discharge also carries a social stigma.

I also invite your attention to data available from the United States Disciplinary Barracks at Fort Leavenworth, Kansas. The USDB is the central facility for long-term confinement for prisoners from all Services. Of the 1,023 inmates at the USDB, 495 are serving sentences for sex crimes—almost half the prison population and nearly double the next category (homicide, 256 inmates). The Army reports that 1,392 soldiers have been tried by courts-martial for sex crimes since 1991. Of these, 870 have been convicted, with an average confinement sentence of just over 6.5 years. Of these, 253 were convicted of rape, with an average confinement sentence of 12.2 years.

I hope this discussion has shown that statistics and anecdotes do not necessarily tell an accurate story, especially when the statistics are incomplete and the anecdotes are, at best, one-sided or, at worst, wrong. Mr. Carollo's fundamental premise is that the military lets an unacceptably high number of sex offenders off (either completely or with light punishment) out of apathy, investigative incompetence, and/or prosecutorial indifference. As I emphasized in my letter to Mr. Dornan, nothing could be further from the truth. The truth is that military investigators, prosecutors, convening authorities, judges, and court-martial members deal with real cases, in real time, involving real people as accused and alleged victims. Every case is different and every decision must be made on its own merits.

Does the military fail to report many criminal records to the FBI as required by law? In my letter to Mr. Dornan, I acknowledged that the Services' investigative arms had not consistently complied with Department of Defense Inspector General Memorandum 10, dated March 25, 1987, which requires submission of fingerprint cards to the FBI in certain cases. I also described an evaluation of Memorandum 10 compliance by the Inspector General, as mandated by section 555 of the National Defense Authorization Act for Fiscal Year 1996. That evaluation is now complete and the Inspector General's report is available. That study confirmed that the Services have not done well in complying with Memorandum 10.

In November 1996, the Inspector General replaced Memorandum 10 with another memorandum clarifying the Services' reporting requirements. Moreover, the Inspector General intends to replace this memorandum with a Department of Defense instruction. A draft instruction is presently in the coordination process within the Department of Defense. When issued, the instruction will clearly state required actions by Department of Defense law enforcement organizations.

In a related area, you have also asked about the Department's progress providing Uniform Crime Reports (UCR) statistics to the FBI. The UCR is part of the National Incident-Based Crime Reporting System (NIBRS). The Department is now implementing the Defense Incident-Based Reporting System (DIBRS). NIBRS information will be reported by DIBRS along with other information of special significance to the Department of Defense. On October 15, 1996, the Deputy Secretary of Defense signed DoD Directive 7730.47, Defense Incident-Based Reporting System. While many DIBRS issues are still under review, we expect the Services will begin reporting this year and hope to have the system fully on-line by early 1998.

Your letter also states that you "understand that the military can expunge criminal records from the FBI's database," and asks for information about such expungements. The military has no authority to "expunge" any record from the FBI database. However, a Military Department can correct an erroneous record and inform the FBI of that correction, causing a corresponding correction in the FBI database.

Department of Justice regulations permit a person, on request and verification of identity, to review his or her information in a Department of Justice criminal history record information system. If a person believes the system contains incorrect or incomplete information, he or she may submit a correction or update. An individual usually applies to the agency that contributed the questioned information. A person may also make a request for correction to the FBI Identification Division, which will forward the request to the concerned agency. If the agency agrees that the record should be corrected, it notifies the FBI and the FBI will make the necessary changes.

Do victims of violent crime continue to be victimized by the military justice system? As I described to Mr. Dornan, the process of a criminal trial in any court is a difficult one, especially for victims and their families. This is particularly true with respect to sex crimes, which often involve intensely personal facts. While no court system intentionally seeks to harm victims, such harm is often a regrettable result. Recognizing this, each Service has a victim assistance program that compares favorably with federal civilian and state programs.

Concerning your suggestion to create an "ombudsman" for servicemembers, comment at this time would be premature. As you know, one aspect of the Secretary of Army's pending inquiry into sexual harassment is the mechanism for reporting complaints. When the Army's inquiry is complete, the Department of Defense will review its recommendations for application to all Services.

Is the military's judicial system plagued by sketchy records, secret proceedings, and abuse of discretionary power given commanders? I respectfully disagree with your characterization of my reply to this question from Mr. Dornan as "terse" and "contradict[ing] the facts shown by the Dayton Daily News." As I explained to Mr. Dornan, a court-martial is a public trial unless closed for a specific lawful reason (such as to prevent public disclosure of classified information). I also reiterate that military law and Service regulations provide for records of trials. As for records of nonjudicial and administrative proceedings, there continues to be a misunderstanding that I hope I can resolve here.

The Privacy Act of 1974 prohibits disclosure of personnel records except under specified circumstances. This is not military "secrecy," but a law that the Department of Defense, including the Military Departments, is bound to follow just like other federal agencies. Nonjudicial and administrative actions are evidenced in personnel records covered by the Privacy Act and, unless an exception applies, may not be released under the Freedom of Information Act. As required by the Privacy Act, the Services did not disclose information about such actions to Mr. Carollo when he was researching his articles. It appears that Mr. Carollo then characterized these personnel records as "secret" as a literary device to imply that something sinister was going on in the military. Unless the Congress amends the Privacy Act to exempt military personnel records, such records may not be released except under the limited circumstances provided in the Privacy Act. As I emphasized in my reply to Mr. Dornan, it is wrong to label these personnel records as "secret" and imply that nondisclosure of personnel records is unique to the military.

Did the Navy fail to take appropriate action against personnel involved in the 1992 incident in Sitka, Alaska? In referring to my response to Mr. Dornan, you stated, "I agree with the DoD's response in that the Navy [sailors] were not punished for their transgressions." You then declined further comment because the case was in litigation. I wish to clarify an apparent misunderstanding concerning my response and inform you of recent developments in the Sitka cases.

My reply to Mr. Dornan was not intended as an opinion that the sailors were not properly punished for misconduct. While I provided Mr. Dornan a summary of the incidents at Sitka involving sailors from the USS DUNCAN, I expressly reserved comment on whether the actions taken were justified. That was because there was an ongoing civilian prosecution against two DUNCAN sailors, one of whom was still in the Navy. That prosecution concluded in January 1997, when the Alaska Superior Court dismissed the indictments against both men.

The Sitka cases involved two separate incidents. In the first incident, two underage girls admitted lying to two enlisted sailors that they were over 16, the age of consent for sexual intercourse under both military law and Alaska law. After an investigation, the Alaska state's attorney declined to prosecute the sailors, as did the DUNCAN commanding officer. There has been no further action concerning this incident. The second incident, however, eventually produced state indictments.

As described in my letter to Mr. Dornan, the second incident involved sexual contact with two underage girls by two members of the DUNCAN crew. No intercourse occurred. A commissioned officer, although an ensign (the most junior commissioned officer grade), participated in these acts in the presence of an enlisted sailor. Both men knew the girls were underage. After the incident was reported and investigated, the girls' parents did not want to press charges, and the Alaska state's attorney declined to prosecute. Under the circumstances, the DUNCAN commanding officer determined that disciplining the enlisted sailor was inappropriate because his participation had been encouraged by a commissioned officer. The Navy took action against the ensign that eventually resulted in his separation from the Navy in lieu of trial by court-martial.

Although the ensign's request for separation in lieu of court-martial was approved, it resulted in an Under Other Than Honorable Conditions Discharge. As discussed previously, this character of discharge deprives the recipient of entitlement to any veterans' benefits to which he would otherwise be eligible and carries with it a significant social stigma. For the ensign's transgressions, he lost his job, any possibility of a military career, and present and future entitlements to veterans benefits. He will also endure the lifetime of disgrace associated with an Under Other Than Honorable Conditions Discharge. I am aware of no civilian authority that can impose administrative sanctions of such severity and permanence. I still decline to comment on the appropriateness of these actions, as I was not there and am not in a position to pass judgment on the officers who made these decisions. However, any perception that this ensign escaped punishment is not accurate.

You have concluded from Mr. Carollo's allegations and "recent military sexual misconduct scandals" that there is a need to reexamine the military justice system. The only things proven by Mr. Carollo's articles are that sex crime allegations make hard cases and the military justice system adjudicates them one at a time. It is ironic that recent "scandals" have been cited as evidence that the military justice system is failing in comparison to the civilian system. To the contrary, these events have proven the worth of the military justice system. Please examine Mr. Carollo's anecdotes and find out how many were cases that civilian authorities declined to prosecute or had no interest in from the start.

In the military justice system, if a particular allegation has resulted in a lesser charge, conviction of a lesser offense, punishment that may seem lenient, or exoneration, that is because someone made a hard decision. The same is true if an allegation has produced a conviction as charged and a severe sentence. In all cases, the decisions are made by those who, under the law, have the power and duty to do so, based on the applicable law and the evidence before them.

I will close by assuring you, as I did Mr. Dornan, that the military justice system is fair and efficient. I reaffirm my rejection of any allegation that service members live and work in a culture that officially condones sex crime or shelters sex offenders. To anyone who is genuinely familiar with the military and the military justice system, that notion is nonsense.

Thank you for your letter. I hope this reply has been helpful in addressing your concerns.

Sincerely,

JUDITH A. MILLER.

ARMY PROBE TO FOCUS ON TOP LEVELS; INQUIRY TO EXAMINE LEADERS' RESPONSIBILITY IN SEXUAL MISCONDUCT

(By Dana Priest, Washington Post Staff Writer)

The Army's civilian leader has ordered a wide-ranging investigation into the chain of command's responsibility in the sexual abuse scandal at Maryland's Aberdeen Proving Ground and into the management of the headquarters for all the Army's training centers.

The inquiry is the first high-level look at the possible role of senior officers in fostering the wrong atmosphere or otherwise contributing to a scandal that has so far mostly involved lower-level, noncommissioned personnel, such as sergeants.

In addition, the Pentagon acknowledged yesterday it does not know how many female service members are victims of sexual violence each year because it does not collect the information, even though Congress passed a law ordering it to do so in 1988.

"The department admits its deficiency," Defense Department spokesman Kenneth Bacon said.

Pentagon officials said Army Secretary Togo D. West Jr. plans to announce today that he has asked the Army's inspector general to find out what the commanders at the Aberdeen Proving Ground ordnance training center knew about the alleged incidents of sexual abuse, which include multiple rapes. The probe also will look at whether the commanders contributed to creating an atmosphere that permitted or fostered such misconduct.

West also has asked the inspector general to assess the management of the Training and Doctrine Command, which has control over Aberdeen and other Army training centers.

"It's an order to look top-to-bottom," a Pentagon official said.

West could not be reached for comment yesterday.

Asked the day the Aberdeen allegations became public whether the problem involved a few "bad apples" or was the result of more systemic problems, Maj. Gen. Robert D. Shadley, commander of Aberdeen, replied, "I think it's a combination of both."

Five drill instructors at Aberdeen are alleged to have had improper, and illegal, relationships with female trainees under their charge. Three of the five have been charged with criminal offenses and the other two have received administrative punishment. Another 15 trainers still are under investigation. The more egregious offenses include assault, rape and threatening to kill or harm the victims if they disclosed the attacks.

Sexual misconduct, including assault by drill instructors, is not a new problem in the Army, but has come to public attention because of the gravity of the Aberdeen charges. The Army made the Aberdeen cases public because it did not want to be accused of a coverup.

Most of the Army's other major training posts report numerous cases of sexual misconduct by drill sergeants, who have near-complete control over their young recruits and trainees.

Holly Hemphill, a Washington attorney and chairwoman of a defense advisory panel on women in the armed services, known as DACOWITS, said Defense Secretary William J. Perry asked the group to visit Army training posts and conduct informal interviews with female soldiers.

Also yesterday, spokesman Bacon said the Defense Department had not complied with a 1988 federal law that required the Pentagon to create a uniform system for reporting all crimes, including sexual crimes, in the military.

Some of the services do not keep centralized statistics on sexual crimes such as rape and indecent assault, according to service officials interviewed recently.

Hemphill said the advisory committee had tried many times to get the services to give it information on sexual violence against female soldiers but "we kept getting the wrong information." She said the services collect statistics on spouse abuse, but not abuse of their female members. "We recommended in October that the department expand [its database] to include violence against military women. * * * It detracts from productivity and readiness, which is a huge understatement."

Bacon said one problem was that Congress had not given the department any money to create the new database. Congress, he added yesterday, still had not come up with any new funds "but basically, after this hadn't been done for awhile, somebody decided that it was time to do [it], and we're in the process of doing that now." He said the directive was issued Oct. 15.

The information in the new Defense Incident Base Reporting System also will be shared with the Justice Department. Other federal agencies are under the same mandate to report crime in their ranks to the Justice Department, but many have not complied either, Pentagon officials noted yesterday. The Army also has set up a military-civilian panel to review its efforts to combat sexual harassment.

House Speaker Newt Gingrich (R-Ga.) sent a letter Wednesday telling Rep. Floyd Spence (R-S.C.), chairman of the House National Security Committee, that Congress should monitor closely all the military services' reviews of sexual harassment prevention programs.

Gingrich urged all House members to visit Aberdeen.

A group of congresswomen, mostly Democrats, plans to visit the base in mid-December.

DEFENSE INCIDENT-BASED REPORTING SYSTEM [DIBRS]

Potential Question: What is DIBRS?

The Defense Incident-Based Reporting System (DIBRS) is a data collection system and repository designed to meet the Department's needs for oversight of law enforcement activities. DIBRS collects and reports violations of the Unified Code of Military Justice (UCMJ). It will permit the Department to respond to requests for statistical data on criminal offenses and other high-interest issues including suicide, sudden infant death syndrome, fraternization, and sexual harassment. When finished, DIBRS will provide a standard data system that tracks, criminal incidents from initial allegation to final disposition through the law enforcement, criminal investigation, command action, judicial and corrections phases.

Potential Question: What is DIBRS' relationship to the Uniformed Crime Reporting Act of 1988, the Victims Rights and Restitution Act of 1990, and the Brady Handgun Violence Protection Act of 1994?

Answer: Data requirements for the Uniformed Crime Reporting Act and the Brady Handgun Violence Protection Act are part of DIBRS. These data will be extracted from the DIBRS data based and transmitted to the FBI as required by statute. DIBRS also permits us to monitor and measure compliance with the Victims Rights and Restitution Act.

The Uniformed Crime Reporting Act established the National Incident-Based Reporting System (NIBRS), the national counterpart of DIBRS (see attachment). NIBRS collects and annually reports statistics on crime in the United States. At present only ten states and no federal agencies are fully compliant with the provisions of NIBRS.

Under the Victim Rights and Restitution Act, victims and selected witnesses must be notified of their rights at certain phases of a case from the time of initial contact by law enforcement through the investigation phase, prosecution phase, and if the case results in confinement, of change in confinement status. The confinement authority must advise the victim or witness of an inmate's status, to include length of sentence, anticipated earliest release date, place of confinement, the possibility of transfer, the possibility of parole or clemency, release from confinement, escape, and death.

Under the Brady Handgun Violence Protection Act, the DoD must report to the FBI:

Persons who are under indictment for, or have been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year,

Persons who are fugitives from justice;

Persons who are unlawful users of, or addicted to, any controlled substance;

Persons who have been adjudicated as mental defectives or who have been committed to a mental institution; and,

Persons who have been separated from the Armed Forces with a dishonorable discharge.

Potential Question: Will DIBRS report all instances of Sexual Harassment in the Services?

Answer: DIBRS will report only those incidents of sexual harassment that are reported to DoD law enforcement personnel or adjudicated via the UCMJ. This would include incidents investigated by equal opportunity advisors and subsequently referred for action under the UCMJ. Sexual harassment complaints that are reported to and investigated by equal opportunity advisors and determined to be unfounded would not necessarily be forwarded as DIBRS reportable incidents. This distinction between DIBRS reportable incidents is necessary to protect the identities of both alleged victims and alleged offenders, as well as preserving the integrity of service equal opportunity organizations as alternative means of reporting, investigating, and resolving interpersonal disputes.

Potential Question: How much does DIBRS cost?

Answer: Approximately $30 million. This figure includes Army: $3.9 Million, excluding Judge Advocate; Navy: $11.5 Million; Marine Corps: $5.5 million; and Air Force: $5.1 million.

These figures are still approximate, as we are attempting to accelerate development of this much-needed system into this Fiscal Year.

Potential Question: When does the Department expect to have DIBRS completed?

Answer: DoD Manual 7730.47, which the USD(P&R) signed on November 29, 1996, directed the Air Force to begin reporting within 90 days of that date (March 1, 1997). The Navy and Marines were next at the 270 day point (August 26). The Army had 360 days to achieve compliance. The Defense Manpower Data Center, the DoD repository for DIBRS, has begun working with Air Force and Marine Corps data.

Potential Question: Why did it take so long to develop DIBRS?

Answer: Work on DIBRS began in FY 1994. The Directive for DIBRS was in coordination and revision for over one year. That Directive and its accompanying manual are now signed and implementation is underway. This year, we expect to be the first Federal agency to join the ten states who currently are reporting NIBRS data to the FBI.

Mr. MURTHA. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we will work out something that will force the Defense Department to adhere to what we suggested last year and what the gentlewoman is suggesting here. They should come up with figures which are reasonable. We will certainly try to work something out.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. FILNER

Mr. FILNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FILNER:

Page 100, after line 15, insert the following new section:

SEC. . None of the funds provided in this Act may be used to transfer any of the Marine Corps helicopters and associated support personnel located at El Toro Marine Corps Base, California, and Tustin Marine Corps Base, California, to Miramar Naval Air Station, California.

Mr. FILNER. Mr. Chairman, this is a bill affecting the national security of the United States. I thank the Chair and the ranking member for all the work on this bill.

I have an amendment which pertains to my home town of San Diego, an amendment which I believe will protect the citizens of my city by preventing the serious negative impacts to their health, safety, and environment associated with the arrival of a Marine Corps helicopter fleet.

Mr. Chairman, the 1995 Base Realignment and Closure Commission, as we call BRACC, specifically eliminated the mention of Miramar Naval Air Station as a receiving base for the helicopters under discussion. That is to say, this amendment has nothing to do with a BRACC decision. The BRAC Commission realigned Miramar Naval Air Station to Miramar Marine Corps Station, but said nothing about these helicopters. So we are not in this amendment interfering with any BRACC decision.

□ 1430

Miramar Air Station is situated in the middle of a populated area of San Diego, a populated area now scheduled to receive up to 163 of these helicopters, 163 huge 99-foot CH–53 Super Stallions, CH–46 Sea Knight transport helicopters.

Now, I have heard from some folks that such amendments should not micromanage what the Defense Department is doing.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding to me.

My colleague mentioned that this was not designed to interfere with any base closure recommendation, and I agree with his position. But let me remind the gentleman as well as the House that in the initial base closure go-round where this recommendation was made, the commission actually recommended that the very helicopters the gentleman is talking about leave Orange County and go to 29 Palms, CA, to a marine base where they would welcome these helicopters. Frankly, I cannot understand why they shifted that decision, except maybe some people want to live near the beach.

In the meantime, if the gentleman would consider somewhere along the line amending this a bit to look at 29 Palms, I probably would not be offended.

Mr. FILNER. Mr. Chairman, reclaiming my time, I would be happy with a friendly amendment from the gentleman. I agree with the gentleman there seem to be better places for these helicopters.

I have been asked by several people why I am micromanaging a Defense Department decision. I do not call a decision which affects over 600,000 residents, thousands of businesses, and 154 schools micromanaging. These helicopters will fly at 1,500 feet or below. The potential for loss of civilian life and property is great.

Just recently, Mr. Chairman, in Okinawa, Japan, the Pentagon said to the Japanese, who had concerns about these helicopters in their area, they will build a floating heliport to separate the helicopters from jet fighters, saying it would be extremely difficult to control the traffic of the slower choppers with fixed wing aircraft. It was a safety concern.

If the Pentagon is willing to spend money in Japan to significantly reduce the burdens and threat to the people in Okinawa, why will they not do the same thing for my constituents in San Diego? We are being treated differently, and I do not know for what reason.

These helicopters will discharge 1,600 tons of air pollutants per year. That significantly affects our quality of life but, even more importantly, may bring the city of San Diego into a worse classification in terms of our air quality and, therefore, bring restrictions which will slow our economic growth. We should not allow such environmental impacts to affect our economic growth.

Most of the residents near this Miramar Naval Air Station oppose the relocation of helicopters. They believe the Navy misrepresented the facts in their environmental impact statement. One resident said to me, "What is going on here? These marine helicopters are noisy, dangerous, polluting weapons of war. They have no business flying over densely populated areas. They are a disaster waiting to happen. The Pentagon's thinking is inexplicable."

Now, Miramar Naval Air Station is not directly in my own district, but my constituents will be affected by the pollution, by the potential slowing of economic growth because of that pollution and, equally important, I have in my district a naval helicopter station now. We understand that to somehow meet the concerns of the folks who live around the Miramar Naval Air Station, they might want to conduct some of their flight training in my district.

So bringing these helicopters in affects the noise levels of tens of thousands of people, it affects the quality of life, it affects our environment, it affects the safety. This is not a decision that ought to be ratified by this Congress, and my amendment would prevent any funds from being used to transfer those helicopters.

Mr. CUNNINGHAM. Mr. Chairman, I rise in opposition to the gentleman's amendment.

I do not disagree with anything my colleague from California has said. In the very first BRACC, before this was even a concern, this Member sought to try and put fixed-wing aircraft with fixed-wing aircraft at Miramar. It is much more efficient. We lost that fight.

During the second BRACC, when they decided to close El Toro and Hawaii and some other bases and move helicopters, I also opposed helicopters coming to Miramar for some of the same reasons my colleague from California mentioned.

We went through the study of noise, we went through environmental, we went through the Secretary of the Navy. They said no. We went to General Krulak. The Marine Corps said the helicopters are coming. We went to the Secretary of the Navy. They said the helicopters were coming.

My colleague and I even went to the White House to try to get support from then Chief of Staff Leon Panetta, and after an extensive study, the Chief of Staff said the helicopters are coming. The President said the helicopters are coming.

It is my responsibility to my constituents in whose area these helicopters are coming to be truthful and to point out to them when there is, A, merit, which I think there is merit in the gentleman's amendment. But the chance of the amendment getting through is very, very small. It is like telling an MIA family that there are MIA's alive. We get their hopes up and then when it does not happen, it goes down. We have been through this year after year after year.

I would say, Mr. Chairman, I have gone back and asked General Krulak, I have asked Jay Johnson in the Navy, I have asked the Secretary of Defense, and all the way up to the President, and they said that, no, this does interfere with the BRACC decision and that it will not happen.

So instead of getting my constituents all in hopes that they are not coming, I would like to work with my colleague to make sure, first of all, the I–15 corridor that goes up and down, which has Scripts' Ranch and Rancho Bernardo, and a lot of the affected area. The FAA has been very forthcoming, and the administration has helped us with this, which I am very thankful for, but if it is IFR, under instrument flight rules, we have limited the number of flights that go up and down the I–15 corridor. If it goes to the east, over a certain departure, we have actually altered the departure route for that so it does not overfly much of the population.

I cannot tell the gentleman the difficulty it took or takes to change airways, because it affects everything.

The third thing we have done is change the altitudes. They were going to go out a thousand feet. I would also like to work with the chairman. I live out here at the marina, and those helicopters are coming by every morning and every night at 0-dark-hundred in the morning from the White House, and I want them stopped because they are noisy. And those things are about 200 feet over the top of my boat, and it is going to stop.

But I also want to point out that we have also lost, Mr. Chairman, six marines in car accidents that have been forced to travel up and down the corridor. Military construction for the base. And I think the helicopters are coming, I would say to my colleague, and we need to do everything that we can to make sure that, A, the military is welcome; that, B, we do everything we can to appease our citizens in South Bay and my district as well, and to work together on this issue.

But I do not think the amendment will pass and I think the actual potential of it ever making it through is zero. So for that reason I would oppose the gentleman's amendment.

Mr. FILNER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from California.

Mr. FILNER. Mr. Chairman, I appreciate the gentleman's kind words. The gentleman has been fighting this for longer than I, and we have fought together. I would just suggest to the gentleman that with his support we could get it through.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, I would say that I will support the amendment, but I do not think it will pass. The reason I am hesitant in doing that is because if it gets my constituents' hopes up, I think they will get dashed.

I will support the gentleman's amendment, but I do not think it will pass.

Mr. FILNER. Mr. Chairman, I would hope with the gentleman's support, he can get his side, I will get my side, and we will get it passed.

Mr. PACKARD. Mr. Chairman, I move to strike the last word, and to reluctantly oppose my friend, but very forcefully so.

The claim of the maker of the amendment is that this is not a BRACC issue. It really is a BRACC issue. It was in the BRACC in 1993 to make the transfer, to close El Toro and to transfer the helicopters. This was a fixed wing, and the noise has always been at Miramar. The helicopters replaced fixed wing but the noise will still be there. It will be a different noise, and I understand that, but that is not the real issue.

In 1988 we established the BRACC process specifically to prevent the President and the Congress from meddling in the closing of bases and from politicizing it. We have very, very carefully adhered to that purpose. We do not want to open up the process to where we can make changes in the BRACC.

It is my subcommittee that finances the closing of bases. We just completed voting on my bill that funds the final stage of closing El Toro and transferring the helicopters to Miramar and constructing the facilities to accommodate the transfer. $375 million has been appropriated to close the base and to transfer the helicopters. All but $48 million of it is being spent and has been appropriated.

The $48 million final part is in this year's military construction bill. We voted on that just 3 weeks ago here on the floor of the House. All but 14 Members of the House voted for it, including the maker of this amendment, which had $48 million to complete the transfer of the helicopters to Miramar. The gentleman has already voted on it and voted in favor of it.

Aside from that, let me read carefully the amendment. "None of the funds provided in this act," in this bill before us today. There are no funds in this bill today to transfer the helicopters. So the amendment really has nothing to do with this bill. It will not eliminate, add to, or change the allocation of this bill whatsoever.

So I would suggest that the gentleman withdraw the amendment, because it has absolutely no bearing upon this bill and, to be very honest with my colleagues, as the gentleman from California [Mr. CUNNINGHAM] outlined, it has gone through review after review after review, all the way to the President, and in every case the answer came back exactly the same, no change. No change in the BRACC.

The last thing this Congress ought to do today is open up the chance of changing BRACC, because that is what we established BRACC to do. I had probably half a dozen to a dozen requests to alter the BRACC process in my bill 3 weeks ago. I rejected every one of them. Because the moment we open that door, that is the moment that the whole BRACC process will unravel. And the last thing I want to do is to reject my colleagues in Florida and here and there throughout the country of making a change in BRACC, and then find one right next door to my district and say, well, I tend to agree that we should change that one. Absolutely not.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I agree with the gentleman partially, except that I intentionally put in the language that would allow this to happen. The only problem is that every source we have gone to has said no, it will not happen.

The gentleman is correct, there is no money to make it happen. And we tried every effort, whether it was 29 Palms or whether it was March or what, we thought it was a better avenue. I still do. The language is in there that would allow it, but none of the sources that would allow us to do that at this time will allow it to happen.

Mr. PACKARD. Mr. Chairman, reclaiming my time, I appreciate the gentleman's comments. I urge my colleagues to vote against the amendment, primarily from the standpoint of not the parochial issue but the fact that we do not want to meddle in the BRACC process. That would be a precedent that I think would be unacceptable.

And I strongly urge my colleagues, if this comes to a vote, to vote against it. I would hope that the gentleman would withdraw the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. FILNER. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. FILNER. Mr. Chairman, I thank the gentleman for yielding to me. I do not want to prolong this debate beyond a couple more minutes. I want to point out to my good friend from California, Mr. PACKARD, here is a copy of the BRACC report. It specifically says, "and change a previous recommendation that says that these helicopters may be moved to other air stations consistent with operational requirements."

That is, the BRACC report opens the door to several other alternatives. Those alternatives do exist. We have heard the gentleman from California [Mr. CUNNINGHAM] saying that was his change. My other colleague, the gentleman from California [Mr. LEWIS] has suggested other alternatives, and other communities who are negatively affected by base closures want these helicopters. It is not inconsistent with BRACC.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I thank the gentleman from Massachusetts for yielding to me.

The point the gentleman from California [Mr. CUNNINGHAM] brought out, though, was that the very decision of transferring the helicopters, not any other part of the decision of transferring the helicopters to Miramar, was reviewed time and time again by every agency, all the way up to the President, and they all came back with the same decision: The helicopters should go to Miramar.

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Mr. FILNER. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. FILNER. I understand that. But this authority has not yet passed on it. Many of those decisions were based on an environmental impact statement, which is being challenged in court right now as being, at the least, dishonest and, at the worst, deliberately misrepresenting the facts in terms of the environmental impacts. So other authorities have ruled. I would like this Congress to rule.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FILNER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAYS:

Page 100, after line 15, insert the following new section:

SEC. . The total amount obligated from new budget authority provided in this Act may not exceed $244,415,000,000.

Mr. SHAYS. Mr. Chairman, this is a freeze amendment. This is an amendment that says we are going to spend no more next year than we spent this year on defense. It is a recognition on the part of this Congress that we are slowing the growth of entitlements, we are truly cutting parts of domestic spending, and we are saying that the defense budget, which constitutes basically half of what we vote out and appropriate, should be under the same basic scrutiny.

It is a recognition on the part of this Congress that we need to look at the fact that the cold war has ended and we are waging a different type of warfare. In many cases, it is an economic warfare. In many cases, it is a warfare against terrorism. This amendment is a recognition that we need to look at all our weapon systems and determine that some need to go forward and some need to be discontinued in terms of research and development but not deployment. It is a recognition that this Republican Congress will realize that a freeze is not a cut, as we have said when we have argued against domestic spending. It is a freeze. It is a recognition that we need to look at our defense budget with the same kind of scrutiny and desire that we have looked at other parts of the budget. It is a recognition that, if we are going to get our country's financial house in order, we cannot allow the defense budget to go up.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. FRANK], a cosponsor of this amendment. We have a number of cosponsors, but he is the primary partner.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman from Connecticut [Mr. SHAYS] for yielding.

Let me anticipate one argument. This is not an across-the-board cut. This would, if it passed, have the Subcommittee on Appropriations, in conference, have the authority to allocate where to reduce what they ask for. And if they have trouble fingering places, I will suggest some: Funds for Bosnia; the funds for the expansion of NATO beyond our fair share. Maybe they are even talking about not sending 100 officers over here to help us do our job.

The point is that we are talking about the largest single operational budget in the Federal Government, and we are saying, at a time of great austerity, at a time when we are admittedly cutting back on programs that are of great value in a number of areas, we would ask the Defense Department to participate.

A number of Members here have said that they think we are overextended. We have passed legislation in this House that has said to the administration, cut back, you are overextended here, you do not belong over there.

They will continue to ignore those with absolute impunity until this House does the one thing it can do to restrain excessive interventionism, and that is reduce the funding. We know that from our history. What this bill then says is to Members who think we are excessively engaged here or there, we will trust the appropriations subcommittee. They will tell us with false modesty that this will be a job much too hard for them. But I have more confidence in their ingenuity than that.

Given the mandate from this House to make this relatively small cut to bring it back to a freeze, they would have the option of restraining the administration from entering into or continuing efforts which we do not think they should be in. They could crack down on waste. We could get serious about telling our allies in Europe that it is their turn to pick up some of the tab.

Indeed, if we forced the Europeans to do just a little bit of what they ought to be doing, we could easily afford this cut. This at this point, because we are in a fire wall situation, would not be available for domestic spending. I wish it would. In later years, it might be.

What we are talking about is another $3-plus billion of deficit reduction. I must say, as I look at how that deal is working out, which I do not happen to be a fan of, some of my colleagues who are voting for it may need a little extra deficit reduction, because that deal is going to be a deficit increase for a while.

So those of my colleagues who are planning to vote for the deal and claim credit for getting the deficit down might want to borrow our $3½ billion, because they are going to need it, as I do the arithmetic, in the next year.

But, in any case, it would be a very grave error to continue spending at the level that the committee asked for, increasing spending by a couple percentage points, continuing to fund excessive intervention, continuing to fund the subsidy of our Western European allies. All we do in this amendment is say to the Appropriations Subcommittee we have confidence that you, if you ask for a fair shake for America in the world, can make this small saving at a time when we are in fact putting the crunch to program after program after program.

I thank the gentleman from Connecticut [Mr. SHAYS] for his leadership, and I yield back to him.

Mr. SHAYS. Mr. Chairman, in conclusion, we urge adoption of this freeze amendment to the defense budget.

Mr. YOUNG of Florida. Mr. Chairman, I rise in opposition to the amendment.

I reluctantly oppose my good friend, the gentleman from Connecticut [Mr. SHAYS], because he is such a gentleman and is always so accommodating when there are legislative matters before the House. But I have to respond to some of the comments he made.

He said we cannot allow defense spending to continue to go up. This, Mr. Chairman, is the 13th year in a row that defense investment has gone down. In the last 10 years, the active duty forces have declined by 714,000 uniform personnel. The civilian work force has declined 318,000 personnel. The Guard and Reserve have been reduced by 267,000 uniform personnel.

In constant fiscal year 1998 dollars, the defense budget has declined by $120 billion in the last 10 years. In constant fiscal year 1998 dollars, the procurement budget has declined by $65.7 billion, or 70 percent, in the last 10 years. The budget request for procurement is the lowest since before the Korean war. So this defense budget has not been continuously going up. It has been continuously going down. And we are trying to level it off. This amendment would cut $4 billion out of this bill.

The number in this bill is consistent with the defense numbers agreed to in the budget agreement. It is consistent with the House-passed budget resolution. It is consistent with the House-passed defense and intelligence authorization bills. This amendment, Mr. Chairman, would undermine all of those agreements that have been agreed to by the House.

Besides, this amendment would leave it to the administration or the Pentagon to determine where the cuts would be. I do not think the Members of the Congress want to allow that to happen. We are the ones that are supposed to make these kinds of decisions.

The gentleman has suggested that the defense bill should have the same scrutiny as all other budgets. Let me point out, most of the other budgets have gone up. The defense budget has gone down, as I just said. But if Members will read the report published by this subcommittee, they will learn that we have scrutinized every one of these budgets. We have killed off some of the programs. We have reduced some of the programs. And we have accelerated some of the programs, as the gentleman from Connecticut [Mr. SHAYS] has suggested. So we have done that.

This is a good bill. To cut $4 billion out of this bill, let me tell my colleagues what it would take. This would take it down to the President's budget number, basically. We added $60 million above the President's budget for housing allowances for members of the military. We added medical research and operations increases above the budget request for $370 million, including $125 million for breast cancer research that we talked about so much today. We provided $79 million, a 25-percent increase over last year's level, for the DOD programs dealing with gulf war illness. We provided $99 million above the budget for combat training programs; $622 million above the budget for Navy and Air Force shortfalls in flying hours and spare parts related to flying hours, training. We provided $925 million above the budget for real property maintenance, including barracks repair and renovation.

We added $184 million above the budget for the Guard and Reserve forces operation and maintenance programs; $473 million above the budget request for depot maintenance. We provided $713 million, $60 million over the President's budget, or nearly 10 percent above the budget request, for DOD counterdrug and drug interdiction programs.

This list goes on and on, Mr. Chairman. Which of those programs do my colleagues want to cut? If the Shays-Frank amendment is agreed to, those will all have to be cut and a whole lot more. I just do not think the Members of this House want to do that.

As we prepared to go to markup, we had requests for adds above the President's budget of $20 billion. By the time we found the duplications and where several requests included the same request, we got it down to about $12 billion above the budget request. The subcommittee worked through this problem, and we bring a bill today that is above the President's budget request but it is in line with our budget resolution, the authorization bills.

We ought to defeat this amendment out of hand because it would make such a slash, a drastic meat ax cut in the defense funding for the next fiscal year. Oppose this amendment.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Frank-Shays amendment. This would make this year's Pentagon spending equal to that of last year's. This year we are accomplishing a very historic task, we are bringing the Federal budget into balance in the next 5 years. But what that means is that we have to now begin to set some sensible budget priorities.

I do not think it is sensible to continue cold war spending priorities. I think we have heard a lot of figures, but maybe I could simplify this by talking about the fact that there are in fact two budgets. One is a discretionary budget. The other is entitlements. I have a picture here of the discretionary budget so that the American people will understand what we are talking about because pictures really are probably easier than all these figures.

What it shows in this picture is that the discretionary budget of this historic agreement, 52 percent goes to the Pentagon and 48 percent of discretionary spending goes to everything else. Well, what does everything else include? Agricultural, commerce, community development, education, energy Federal retirement, health, international, justice, natural resources, science, transportation, and veterans. All those things are funded out of the 48 percent that is left over.

So I would say that these are misplaced priorities. It is time to change the focus of the priorities to reflect on the fact that national security means more than outdated cold war systems, it means providing our children with a quality education.

How wonderful it would be if national security would include access to health care for our families and for everyone a safer place to live and to learn. Now recent reports show that our children, the children of America, are at more risk than their contemporaries in any other industrialized nation in the world.

We are first, however, in military technologies in preparedness, in expenditures. But we are 18th in infant mortality, 17th in low birth weight babies, and we are the last in protecting our children against gun violence. We spend more on the military than do the next eight countries combined.

There are several weapons systems in this appropriations bill that were initiated during the cold war for the purpose of fighting the Soviet Union. If we were to cancel these, we would save over $500 billion.

I would like to quote from an admiral of the U.S. Navy, Adm. Eugene Carroll, retired, who says, "For 45 years of the Cold War, we were in an arms race with the Soviet Union. Now it appears we are in an arms race with ourselves."

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If we can go home and brag about balancing the budget when all the pain comes from non-Pentagon spending, I think our constituents have something to ask us about. I urge my colleagues, support this sensible amendment. Begin to set our priorities straight.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am delighted to hear those figures offered by the gentlewoman that just preceded me. I think she might be interested in looking at a chart that I have been carrying around for some time. We all remember the days of Camelot, the days of Jack Kennedy when all was good and peaceful and it never rained except at night. In those days, in the peak of the cold war, the United States spent half, not of the discretionary budget but of its entire budget on the defense of this Nation, because Jack Kennedy thought it was important to protect the American people against the onslaught of the Communist menace. Half of everything we spent is depicted in this lower yellow portion of the discretionary budget. I might add, the nondefense discretionary was roughly a third of that remaining.

In today's chart, which I do not have in front of us, the picture has entirely changed. Defense has dropped from half of the entire budget to roughly one-sixth of the entire budget. Yet the portion of nondefense discretionary stayed effectively the same. It has grown with the budget. The budget has grown from $106 billion to $1.6 trillion today and nondefense discretionary is roughly the same. Entitlements have grown from what was a quarter to about 55, 56 percent of what we spend today, and interest on the debt has grown from a mere 6 percent of the budget back in Jack Kennedy's day to as much as we spend on the defense of this Nation, within $2 billion to $5 billion. We spend as much on interest to service the debt that we have accumulated in the last 25 years as we spend on the defense of this Nation. The fact is the one big declining portion of the budget since Jack Kennedy's day has been defense. Defense has shrunk and everything else has grown astronomically. Since 1985 procurement for new weapons systems has declined between 75 and 80 percent.

This administration has troops deployed to more corners of the world than perhaps any other preceding President, in peacetime. He did not want to pay for them because over the last 2 or 3 budgets he actually asked for between 7 to $12 billion in cuts in the defense budget. We did not do it. We froze the defense budget in real dollars, but the fact was when we count inflation, the budget shrank. Each and every year after inflation, the budget for the Defense Department shrank. In fact it has shrunk consistently since 1985.

I want to commend the gentleman from Florida [Mr. YOUNG], the chairman, and the gentleman from Pennsylvania [Mr. MURTHA] for doing an outstanding job in putting together a bill that makes up for some of the shortfalls proposed by this administration. This bill pays for the Reserve forces pay accounts, makes up for the shortfalls in the Defense Health Program, pays for the Army's successful breast cancer research effort, pays and fully funds the Air Force and Navy flying hour and spare parts shortfalls, pays for the real property maintenance backlogs where we have young troops, young sailors, young marines, young airmen living in barracks that were built in World War II and are in deplorable condition. This bill pays for drug interdiction program, Guard and Reserve equipment, and missile defense program shortfalls.

If we agree to this amendment, the fact is that we would go from what used to be one-half of the full budget, now is one-sixth of the budget, to a significantly smaller portion of the budget and in fact we would leave our troops underfunded and our country underdefended. I think that is an appalling lapse and I just do not think we can do it any more. We have shrunk enough.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to associate myself with the gentleman's remarks. The height of the Reagan buildup ended in 1985. We have cut this budget in defense every single year. We have cut it by over $100 billion. I believe that we are now down at a point if we cut it any further, we are going to cause real problems in the military which has been deployed more than any military during the cold war. These numbers are absolutely accurate and defense spending has been cut too far.

Mr. LIVINGSTON. Reclaiming my time, I appreciate the gentleman's comments. The fact is that between uniformed military and defense-related industry personnel, we have shrunk the whole defense establishment of this country by over 1 million people. If any portion of this budget has given since 1962, the defense portion of the budget has paid more than its share. I urge the defeat of this amendment.

Mr. RAMSTAD. Mr. Chairman, I move to strike the requisite number of words.

(Mr. RAMSTAD asked and was given permission to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Chairman, I rise today in strong support of the bipartisan Shays-Klug-Ramstad-Frank-Hinchey-Luther amendment to freeze fiscal year 1998 defense spending at fiscal year 1997 levels.

As we continue our efforts to balance the budget and reduce the Federal debt, each and every Government program, including defense, must be scrutinized for potential savings.

By freezing the defense budget we force the Pentagon to cut wasteful and duplicative programs and to live within their means, like every American family and business must do every day.

This freeze is a modest reduction. In other words, this reduces the defense budget by only 1.7 percent or $4.3 billion.

While I fully understand and strongly support the need for a strong national defense, I believe freezing defense appropriations at last year's level will produce further Pentagon cost savings reforms, without endangering our national security.

Above all, it will show the American people that Congress treats all parts of the Federal budget fairly when it comes to cutting programs, balancing the budget and reducing the deficit.

I strongly urge you to support this amendment.

Mr. DELAHUNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate the gentleman from Louisiana who just spoke. He managed to point out to the membership that since John Kennedy became President, we created the Medicare Program.

It is true in 1962 defense was a much higher percentage of the total spending. We had no Medicare Program. But that was not John Kennedy's fault. He wanted one. It is true that we had no environmental spending. So the argument from 1962 in terms of percentages is built on the fact that in 1962 we had no environmental program, we had no Medicare Program, we had no Medicaid Program, and it is true that they have now reduced the total percentage.

But it also has nothing to do with a rational decision about how much to spend. The point of defense spending is to be far stronger than your enemies. One thing has changed even more since 1985 than the defense number and that is the nature of our enemy in the world. No one I know of thought at the time that the Soviet Union and its allies in the Warsaw Pact were not the major focus of our defense spending. There were other enemies, there was North Korea, there was Iran, but the major focus of our defense in every way, shape and form in terms of nuclear and conventional was the Soviet Union and the Warsaw Pact. That has disappeared.

There is no area of government where the objective situation has changed so greatly in our favor. Yes, we do have a potential problem with China. We have Iran and Iraq and Libya. We had those then. So, of course, we have cut spending some since 1985. If what had happened to the Soviet Union between 1985 and now had happened to cancer, we would not have a National Cancer Institute. There has been a total collapse, a disappearance of the major enemy.

The question is, do we need to spend at the current level to be secure against Iraq and Libya, et cetera? The answer seems to me to be clearly no. Of course, we should be the strongest Nation in the world. It is much cheaper to be. The gentleman from Florida, the chairman of the committee, said this is what the budget agreement called for, this is what the authorization called for. The gentleman knows that those are ceilings, not floors. The budget resolution, the authorization, they set ceilings. We are told at the time, this is the ceiling, this is the maximum. The notion that we always must appropriate up to every penny of the authorizing and budget resolutions is clearly one this House rejects.

The gentleman also inaccurately stated that this amendment would give the President the authority to make the changes. Nothing could be clearer. If this amendment were to pass, the bill would go to conference and the conferees would have entire authority to change the spending priorities.

The gentleman says, well, we would have to cut breast cancer, we would have to cut this. No. How about enforcing this House's vote that said we should be withdrawing from Bosnia? This bill funds, and let us be clear about this, this bill funds a full 12 months in Bosnia despite the fact that this House voted that the Bosnia enterprise should end June 30. This bill is inconsistent because it gives the administration the money to keep the troops in Bosnia in July and August and September over the vote of the House.

This bill continues the practice of saying to France and Germany and England and Norway and Italy and Belgium, "You are objects of our charity." The worst example of cultural lag in the history of the world is that the United States taxpayers through this bill will be continuing to subsidize our NATO allies. We have voted several times to say they do not do enough. Their percentage of their spending of their GDP on defense far lags ours.

Yes, defending Western Europe is in our interest, but let me make a statement that I hope is accepted. While defending Western Europe is in our interest, it is at least as much in the interest of the Western Europeans. Let me make it a 50-50 proposition. It is at least as important to Belgium and France and Italy that we defend Belgium and France and Italy as it is to the United States. But we would not know that from looking at the figures or from looking at the appropriations, because while people in those countries have health care, people in those countries have much better unemployment compensation, their American equivalents may find themselves without health care, without unemployment compensation, without other things that we could use because we are subsidizing their defense, because we spend in many cases twice as much of our gross domestic product on defending them.

So I say to the Committee on Appropriations, work a little at it. Tell the administration that we are serious about withdrawing from Bosnia on June 30. We would save a billion or two there. They can do it if they put their minds to it.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did want to mention that it has been my privilege as a member of this subcommittee to sit for endless hours in the hearings of the appropriations subcommittee that handles our national security, and I rise simply to express my deep appreciation to the gentleman from Florida [Mr. YOUNG] and to the gentleman from Pennsylvania [Mr. MURTHA] for the phenomenal job that the two together have done in developing a highly bipartisan product that reflects the broad needs of our country.

To say the least, even though it involves $4 billion or so, an across-the-board cut, the very authors of this amendment know, is the worst way to govern. You do not take a machete and go across the board. You end up in that process by hurting the very people you say you support, the young men and women who live in conditions that are considerably less than we would have them live in, the circumstances that impact the quality of life in terms of housing on the bases that are involved. Across-the-board cuts are the wrong way. Indeed, defense has paid the price over a number of years of shrinking budgets. This indeed is a very, very well-developed, well-balanced bipartisan, almost nonpartisan measure. I commend the committee for its work.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment presented by the gentleman from Connecticut [Mr. SHAYS]. We have the highest standard of living in the world and have had for generations now not only because we have wonderful people in this country working hard every day but because of our military and because of the strength of our Defense Department. To propose a cut in spending on our military at this time would be a huge mistake. This money does not just provide the necessary weapons we need to maintain our freedom and liberty around the world but it provides money for training, very important training that must go on regardless of whether we are in peacetime or war. It also provides for the maintenance necessary to keep our planes running and keep the tanks running, keep the trucks going, keep all of those things ready in the event we do have a problem. All of this affects readiness.

The reason that we are at peace right now is because the strength of the military through these processes keeps us at a level where no one wants to mess with us and threaten our quality of life. Quality of life is what I started out talking about a moment ago. In this country regardless of our income bracket, whether we are at the top or bottom, the biggest concern we generally have these days is whether or not we are going to be able to watch the video of our choice this weekend or what clothes we are going to be wearing this Saturday night or whether or not we are going to be able to get a cell phone to use in our car. All of those things are a great, great accomplishment and a great testament to our quality of life in this country because our military allows us to maintain that standard of living. We are also talking about health care for our military troops and for retirees. There are situations in this country right now where retirees cannot get in to see a doctor when necessary because of the funding cuts over the years.

□ 1515

This bill tries to address all of these needs.

It is a crime in this country when a military retiree has to wait 5 weeks to see a doctor. We are talking about people who saved the world in situations like World War II and saved the country. How can we not provide them the funds necessary to see a doctor?

This also includes money for pay raises, very important. We have still too many people serving in the military that are on food stamps, and it is a sad commentary on having that occur in this country in this day and age when our quality of life is so high in the civilian sector.

The other thing that this affects greatly for those who support peacekeeping missions, and I do not, it threatens the ability for our military to serve in peacekeeping missions around the country and for situations like Haiti. Haiti has turned out to be a fiasco. Whether we had a peacekeeping mission there or not, the government is about to fall apart, and we have wasted probably $3 billion in Haiti.

Mr. Chairman, those who support peacekeeping on the other side ought to be able to stand up and say, "Well, we can't be gutting the military at this time because we need to pay for these peacekeeping missions as well."

So all of these things make a big difference. To stand up here and say that the military ought to be the first place we ought to look to make cuts are very misguided. Let us enjoy our peacetime. Let us continue to enjoy it providing the military the funds that they need to do the job right not only for this generation, but for generations to come.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am delighted to see other Members here to join this debate. We are talking about the largest single appropriation. It seems to me appropriate that we ought to fully air it.

First of all, I was disappointed my friend from California had to rush off the floor and could not yield to me because he, I do not think, and he is back, good; he did not perhaps read the amendment when he said it is an across-the-board cut. It simply is not. An across-the-board cut, as we all know, means we cut every item by the same percentage. This amendment does not do that, and I am flattered that he apparently thinks the real amendment would be hard to criticize so he criticized a nonexisting amendment. And I would join him in opposing that nonexisting across-the-board amendment, if offered.

This amendment clearly says the total amount obligated cannot exceed X, and if it passes without question it is then within the province of the appropriations subcommittee in conference to comply with it. It would be entirely their choice. The President would have nothing to say. He would get a bill that would have to be this total, but what the components were would be entirely up to them. And so they would not have to cut these other things.

They could, as I have said before, enforce this House's view about Bosnia, and let us be clear we had a large majority that said we want to pull out of Bosnia by June 30. Why then is the Committee on Appropriations fully funding them to stay there for 12 months?

We have had the House say that we are picking up a disproportionate share in Europe. My friend from Massachusetts who yielded to me noted we ought to compare what the average worker gets in health benefits and unemployment compensation and tuition for higher education. In every case they get a better deal than the American because the American gets to pay for Germany's defense and Belgium's defense and France's defense because the percentage that we pay far exceeds theirs, and this appropriations bill funds a continuation of that inequitable pattern.

That is what we are telling the Committee on Appropriations: Instead of all this talk about burden sharing you are the ones who can enforce it because you are the ones who can say to our European allies, "You will have to pay some more on your own."

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. Mr. Chairman, I yield now to a man who has been genuine in his consistent interest in reducing the deficit, the author of the amendment, the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, could I just inquire how much time the gentleman is yielding to me?

The CHAIRMAN. The gentleman had 5 minutes, and he has 2½ minutes remaining.

Mr. SHAYS. Mr. Chairman, the gentleman from Massachusetts [Mr. FRANK] has been totally consistent for years on the fact that we need to get our Defense budget in line with the other parts of our budget, and that is why I am more than happy to participate in this bipartisan amendment to have this Congress, this Republican Congress, realize that we have waste, fraud, and abuse, believe it or not, in Defense budget as much as we have it in domestic programs.

We have had hundreds of hearings on the waste and the fraud and the abuse and mismanagement that we see in domestic programs. We have hardly had any hearings on the waste and fraud and abuse that exists in the Defense budget. The gentleman from Massachusetts [Mr. FRANK] and I and the sponsors of this amendment want a strong national defense. We want in fact a stronger national defense than we have now. We do not feel though we can commit to so many programs, spread ourself so thinly and then come back to Congress and say we have to keep spending more.

This is truly a freeze amendment. We are going to be spending about $244.4 billion this year, and we are saying that we should spend about that amount next year. We are not cutting, we are not increasing; we are freezing. It is very disingenuous for people, particularly my own side of the aisle, to start talking about the fact that adjusting for inflation in this amendment is actually a cut and not a freeze. Well, if we say that, then let us be consistent with all the other programs that we say we are not cutting.

Mr. Chairman, I am asking that we treat the Defense budget like we would treat any other budget.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Chairman, to say the gentleman made a very good point. When we find fraud or waste in other programs, our impulse is to cut those programs to penalize them. Where we have found in the intelligence budget, which is part of this appropriation; remember, this includes the intelligence budget, the people who have the disappearing $4 billion that they got to keep. Our approach is when we find a waste in the national security area to give them more money to make up for what they wasted. The incentive for efficiency in this area is zero, the incentive to cut back in overextended interventions is zero, and the incentive this budget gives the administration to make our allies, our wealthy allies, pay a fairer share is also zero. That is what the freeze would accomplish.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment, and I just wanted to say before I will yield, and I am going to yield to my distinguished chairman; but before I yield, I just want to say that as my colleagues know, we have always had in this House a bipartisan coalition of Democrats and Republicans who have supported national defense and national security throughout the years.

One of the reasons we won the cold war: Because Congress steadfastly stood behind the administration, whether it is Democrat or Republican, and we continued to fund an adequate program for national security. We have cut that budget by $100 billion since 1985. I think that is too deep. The Chairman of the Joint Chiefs, all the Joint Chiefs, wrote a letter to Perry saying we are $60 billion short. We need to get up to a level of $60 billion a year in procurement. We are well below that still.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Florida [Mr. YOUNG], who has done a great job, he and the gentleman from Pennsylvania [Mr. MURTHA], in bringing this bill to the floor.

Mr. YOUNG of Florida. I just wanted to say, Mr. Chairman, that it is obvious to me that the sponsors of this amendment, as well meaning as they are, have not read our report because in this report we explain how we cut over 200 programs from this bill, which is, by the way, the 13th appropriations bill for national defense, 13th one in a row that is less than the year before in actual purchasing ability. We cut over 200 programs. They are described in this report, and we targeted the Pentagon bureaucracy and their overhead. The QDR recommended certain reductions for next year; we took them for this year, $325 million worth. Other headquarters reductions, we took $149 million; civilian personnel overbudgeting, we took $245 million; for consultants and advisory services, we took $210 million; for defense dual use and commercialization programs, we took $188 million. We stopped certain programs. JASSM; $140 million, we took out of the program. In appropriating budgeting and working capital funds, we took out $111 million; automated data processing programs, excess growth in the programs, we took out $110 million; excess defense supply inventory, we took out $100 million, the Joint Aerostat Program, we could not find anybody that supported it so we terminated it, $93 million; the improper use of RDT&E funding for using RDT&E money for procurement, we stopped that, $71 million we took out; growth in federally financed research centers, $55 million we took out; growth in civilian employee travel, $52 million we took out.

The list goes on and on. We took out a lot of money that we did not think was being spent wisely. We have scrutinized this bill probably better than any other appropriations bill that has been on this floor. We have scrutinized every section of it, and we have come up with a bill that has been agreed to by the authorizers, both intelligence and the House Committee on National Security, a bipartisan coalition of the appropriation subcommittee, the Committee on Appropriations, all of the votes on the House. This is a good bill, and to try to cut it by $4 billion just takes away things that are important to those who serve in our military.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, let me say the gentleman noted that the defense budget had gone up to 385, as I understand it, which I thought was too high then, but he said we have cut it $100 billion. That is what; about a 30-percent cut? I would ask the gentleman from Washington this:

Given the collapse of the Soviet Union and the switch of sides of so many leading nations in the Warsaw Pact to where they are now about to join NATO, would he say there has been at least a 30-percent reduction in the physical threat faced by the United States since 1985?

Mr. DICKS. Regaining my time, I would say this to the gentleman from Massachusetts.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 1 additional minute.)

Mr. DICKS. Mr. Chairman, I would say to the gentleman that what we have in the Soviet Union today is in many respects a more dangerous situation than we faced before.

Mr. FRANK of Massachusetts. Would the gentleman yield, because I want to congratulate him for keeping a straight face?

Mr. DICKS. I cannot yield because I want to finish my statement. I would say that when we look at their nuclear weapons, when we look at the instability in their society, when we look at the organized crime and the Mafia, I worry about the future of Russia, and they still have nuclear weapons, and those nuclear weapons are not pointed at anybody else. We may have them off target for 5 minutes.

All I would say is and then we look at Iran, Iraq, we look at North Korea, look at emerging China, and I would tell the gentleman I think, and if he looks at the program we are trying to fund and sending these kids everywhere in the world, to Haiti, to Bosnia, and to everything else, we are, the military today is more deployed than it has been, and we have cut the money by $100 billion.

Now we cannot have it both ways. We cannot ask these kids to go out there and not adequately train them, adequately equip them, and I think it would be a great mistake to cut this $4 billion out in a meat ax approach here on the floor when we have got people who have always been opposed to defense, who were opposed to it during the cold war.

Mr. MURTHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to make a couple comments since we are talking about the changes, and I have to say to the gentleman who is a gentleman that I do not reluctantly oppose, I strongly oppose the gentleman's amendment.

But in review of the Department of Defense program on breast cancer research, an advance copy that we received from the Institute of Medicine; now, as the Soviet Union declined, we in the defense subcommittee, the Subcommittee on National Security, tried to change the emphasis in the Defense Department.

□ 1530

We tried to initiate programs which were important to quality of life. One of them was breast cancer. I personally started the breast cancer research program with $35 million several years ago. It must have been 5 years ago. Since that time, we have spent $500 million in breast cancer research. There have been questions on both sides of the aisle whether this was a good program, whether NIH should be handling the program and not the Defense Department.

Here are the conclusions of the National Academy of Sciences:

> The committee concluded that USAMRMC has succeeded in establishing a fair peer review system, a broad-based research portfolio, by stimulating scientists from a wide range of disciplines to participate as applicants, reviewers, and advisors.

We are talking about the cancer program in the Department of Defense.

> The committee commends the Army for developing such a program under the serious time constraints and fluctuations in funding that have characterized the program to date. Moreover, the program fills a unique niche among public and private funding sources for cancer research. It is not duplicative of other programs and is a promising vehicle for forging new ideas and scientific breakthroughs in the Nation's fight against breast cancer. Among the most outstanding features of the program are the flexible approaches for setting priorities annually, the involvement of breast cancer advocates and the consumers in the giant peer review process, and the level of commitment and diligence of the individuals who serve the program in various capacities.

Mr. Chairman, this program started because of women, spouses, dependents in the Defense Department who came to me. I presented the program to the subcommittee. They agreed wholeheartedly something ought to be done. When we first presented it to the Department of the Army, they could not figure out what to do with the money. Finally, they started the program, which has received these rave reviews.

We have started also an ovarian cancer program. We started a program on ovarian cancer, on prostate cancer. The chairman of the committee, the gentleman from Florida [Mr. BILL YOUNG], started a bone marrow program which has had a phenomenal success in indexing people who have had the possibility of being able to transfer bone marrow from one person to another.

We have tried over the years to expand the programs away from the past and to take care of quality of life, because the tempo of operations has been so high and because we know quality of life is so important. We have troops that have spent three or four Christmases away from home. We have troops that have to get out of the service because the families have been left alone so much. We have a real recruitment problem. We have tried to put money in those resources.

Mr. Chairman, there is no question in my mind, the cuts that have been made in defense have been so severe with the tempo of operations that we are talking about, that we are having a real problem with attracting the kind of people we want into the service.

A couple of years ago I reported to the committee that I did not have the number of people applying to the academies that I had had in the past. As a matter of fact, we had to have a couple hundred. Now it is down to 40 or 50. That is disappointing and discouraging. I realize the economy is in competition. I recognize the fact that many, many people can make more money on the outside but are not willing to make the sacrifices. The quality of the troops is absolutely essential to the success of the military and the success of these deployments.

I would hope the Members of Congress would oppose this amendment to cut 1 percent, or $4 billion, out of the defense budget. I would hope they would have confidence that we have already passed a distribution which we do not think is enough but which we are abiding by, and that they will support the committee in our transition, in moving away.

We cut procurement from $120 to $40 billion over the last few years. We have a problem in modernization, so we are trying to keep readiness up. We ask the support of the House so we can go forward with these quality-of-life programs.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first, I would like to indicate that I rise in support of the

Shays-Frank amendment. The practical effect of this amendment is that it would freeze military expenditures to last year's level, deriving $3.9 billion in cuts. In supporting that amendment, I would like to make a few comments.

First, the gentleman from Washington, in the context of his remarks, used the term "those people who are always opposed to defense."

Mr. Chairman, our position has been over the years, without fail, that we need to spend what is necessary on defense, but let us have an honest, rational, intelligent debate over what is, indeed, necessary. There is nothing very bright, very intelligent, very intellectual, to use phrases like "I am strong on defense."

What does that mean? It is a bumper sticker slogan. We are supposed to be here to rationally and intelligently engage each other. Just because people rise to cut the budget does not mean they are opposed to defense. That is bizarre and extreme, and I challenge anyone to come to the mike and really make that case.

Mr. Chairman, having said that, let me go to the second point. A number of my colleagues have marched into the well and argued that we have already cut the budget, we have already cut defense. Let us put that in its proper context. In the heyday of the height of the cold war, during the period of the 1980's, we spent in excess of $300 billion per year, during the decade of the 1980's, which means in that 10-year period we spent over $3 trillion on the military budget.

The cold war is now over, Mr. Chairman. During the period we were spending $300 billion a year, 70 percent, extrapolating mathematically, that means $210 billion per year of that $300 billion, was designed to prepare us to fight a war either with the Soviet Union or the Warsaw Pact. Like magic, Mr. Chairman, the Soviet Union no longer exists. Communists cannot be elected President of the Soviet Union. It no longer exists. A democrat is now President of Russia. The Warsaw Pact no longer exists.

Do Members have to be brilliant rocket scientists to understand that if we are spending $300 billion a year, 70 percent of that money designed to fight two enemies that no longer exist, that we certainly can reduce the military budget? No, we do not have to be very bright, just to have what my grandmother used to call mother wit, street sense, modest intelligence, and we can understand that we can bring down the military budget.

Mr. Chairman, I would assert that we are much more likely to be engaged in the Haitis, the Somalias, the Rwandas, and the Bosnias of the world than we are to engage in major war; peacekeeping, as opposed to warfighting. That has enormous implications.

For those who argue that now that the Soviet Union no longer exists, the Warsaw Pact no longer exists, suddenly the world is more dangerous, that is making an extreme and bizarre set of arguments. There are dangers there, but we ought to be intelligent enough to talk about the reality of those dangers and the parameters of those dangers, not on 30-second sound bites, not on bumper sticker comments, and not on comments that do not challenge people to think, to be rational, and to be intelligent, like "I am strong on defense," as if that suddenly means something. We are strong on defense, but we ought to have a debate on what that means.

Mr. Chairman, one of my colleagues got up and talked about how far this budget is cut. If Members listen very carefully to all the lists of the things that were cut, what did we cut? Consultant fees. Big challenge when you are cutting consultant fees. Everybody in here can cut consultant fees. Or we are going to cut bureaucrats. Gee, it takes great courage to cut bureaucrats. It takes great courage to cut an agency. But have Members seen anybody stand up and say, we have cut somebody's weapons system? No. In here, we buy each other's toys, no matter how many billions of dollars it costs to buy those toys.

Just a few moments ago, we rejected an effort that would have saved $27 billion. We walked away from that. But we can cut consultant fees and we can cut a few bureaucrats.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, let us talk about where we can cut. First, our whole approach to our force structure, our readiness levels, our modernization schedule, et cetera, are all based on a bible that was generated as a result of the Persian Gulf War. Remember, Mr. Chairman, when Saddam Hussein went into Kuwait, we did not within 48 hours suddenly put our troops out there and start to wage war. We built up troops. The first thing we did was we put 4,000 troops in Kuwait to show resolve. Secondly, we put an aircraft carrier in the area, and then for several months, about 7 months, we built up forces, 500,000 troops. Then we said, now we are going to fight Saddam Hussein.

After that was all over, we then created a Bible that said, you have to be on location to wage a war within 48 hours. Now, stop and think about the implications: for the forward deployment, billions of dollars; force structure, billions of dollars; inventory, billions of dollars.

All Members have to do is slow down the response time from 48 hours to a more reasonable amount of time and they can save billions of dollars; no radical idea, just sound planning and thoughtful tactical and strategic approaches. We can bring down the readiness level, we can gear the readiness. Everyone does not have to be at level one, so it costs billions of dollars for that. We can bring down the level of the force structure, the deployment schedule becomes different. We can save tremendous amounts of money.

Second, Mr. Chairman, if we got rid of cold war weapons, weapons that were designed to fight the cold war, and now that the cold war is no longer with us, we are now in this new post-cold-war environment, we can stop weapons designed to fight in a cold war situation that no longer exists. Again, we do not have to be too bright to get to that position. If we designed weapon systems for an area that no longer exists, take the weapons system off the table and generate weapon systems that are designed, that are much more purposeful for the era that you are evolving yourselves into.

The B-2 is the classic example. This was a weapon that was supposed to drop nuclear weapons in the Soviet Union and rearrange the rubble after a nuclear war started. But look, Mr. Chairman, that weapons system gets built in somebody's district, built in somebody's State, so they have to try to find a mission to solve the problem of building more of these planes. But that era is over, so now we are trying to find a conventional environment to fly a plane that was designed for the cold war.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has again expired.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. YOUNG of Florida. I have to object to that, Mr. Chairman. The gentleman has used a lot of time today. He has extended his time numerous times. I am constrained to object.

The CHAIRMAN. Objection is heard.

Mr. SKEEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding to me, and I rise to close the debate on this amendment today.

I would like to say to my friend, the gentleman from California [Mr. DELLUMS], who has spent a lot of time telling us what the world is like today but obviously spent very little time listening to some other things that were said on the floor, he said, no one has said——

Mr. DELLUMS. Point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. YOUNG] has the time.

Mr. DELLUMS. Mr. Chairman, I am making a point of order.

Mr. Chairman, I move that the gentleman's words be taken down. I am listening. I have tried to listen here as much as anyone in these Chambers.

Mr. YOUNG of Florida. Is the gentleman through?

Mr. DELLUMS. I would ask the gentleman to withdraw that comment about listening, because I am one person that is prepared to listen all day, Mr. Chairman.

Mr. YOUNG of Florida. If the gentleman would let me continue, I would like to clarify that statement.

The CHAIRMAN. The gentleman from Florida will suspend. The Clerk will report the words.

Mr. DELLUMS. I ask to withdraw that request, Mr. Chairman.

☐ 1545

Mr. YOUNG of Florida. Mr. Chairman, what I was trying to say was the gentleman stood there just a few minutes ago and said no one came to the floor to talk about any weapons systems that were terminated or cancelled or stopped. That is not true. Because just a few minutes before that, I talked about Aerostat, a program that we stopped. I talked about JASSM, a program that we stopped despite the fact that there were many in the outside world who wanted to have these programs go forward. We did stop the programs. We made many cuts in the requests that we had received from all sources. I apologize to the gentleman if he is offended by my comment, but his comment offended me somewhat because we have made a list of numerous cuts and they are all listed in this report. I referred to it several times.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, the gentleman knows for over a decade, the quarter of a century I have been here, I have never tried to impugn anyone's integrity. It was not designed to challenge the gentleman. I am always prepared to debate on the substance. I thank the gentleman for his apology. My effort was not designed to challenge him in any personal way. I think everyone in this Chamber knows me by my reputation in that regard.

Mr. YOUNG of Florida. Mr. Chairman, if the gentleman will continue to yield, I think they know both of us in that regard, I would say to my distinguished friend from California.

Mr. Chairman, the arguments about how much we spend and invest in our national security versus the rest of the world, that argument has been made many, many times today. What is not mentioned in those debates is that we have an all-volunteer force. Unlike the Russians, unlike the Soviets had, unlike the Iranians, unlike the Chinese, unlike the North Koreans, we have an all-volunteer force.

We pay the members of our military far more substantially than these other nations pay theirs. They pay theirs almost as if it is slave labor. In fact at one point we were asked to provide funding to provide housing for Russian soldiers, which we did not do, by the way, but we were asked to do that. The point is that an all-volunteer service is very costly.

Approximately 70 percent of the money appropriated by this bill does not go to buy weapons. It does not go for RDT&E or things of that nature. It goes to provide salaries and allowances and clothing and housing and medical care and training for the members of the military and their families. We are trying to do a better job in that regard. We are trying to take those lower ranked people who live in barracks that really are not fit, in my opinion, I would not want one of my children to live there. We are trying to repair those and renovate them and make the quality of life better.

We are trying to get to the point that, if a mother brings her daughter into a military hospital while the husband is overseas on deployment, they do not have to wait four or five hours with a child in pain from an infected ear or something like that. Those are the things that we are trying to do in this bill. The dollars for procurement, the Joint Chiefs, the war fighters will tell you that even this bill does not provide anywhere near the modernization or procurement dollars that they, the war fighters, think that they need. I am not talking about the folks in the Pentagon. I am not talking about the budget office. I am talking about the war fighters who are deployed around the world, the commanders of those units that understand what the shortages are.

There are real shortages. I know some Members get tired of me rolling out this scroll. I will not roll it out today. But it could go from one side of this well to the other listing items that are never written about in the news media or reported on radio or television. They are never the subject of some great committee hearing. But what they are are items like flashlights and compasses and small arms ammunition and things of this nature, communications gear, communications cable that need to be purchased to keep the infrastructure working. They are listed here. On this scroll it is hard to tell, but some of them have been outlined in blue ink that means we have taken care of those items that are essential.

The ones that have not been outlined in blue still need to be taken care of. We do not need to cut this budget by this bill by $4 billion. We ought to go ahead and defeat this amendment and then pass the bill and get onto other business.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman for yielding to me. I would like to finish my remarks with respect to where we can save money. I mentioned about the time factor slowing that down, save billions of dollars, not a radical idea. Moving away from cold war weapons, saving billions of dollars, not a radical idea.

Mr. Chairman, the third place where we can save money is to reduce our nuclear forces, our nuclear weapons and reduce the inventory that supports our nuclear weapons. We all know that we are going to move to Start III. We ought to anticipate moving to Start III. None of us in this room would put money in a base that is going to be closed. We know that we are going to Start III. Why do we put money in this budget for D–5 missiles for the deployment on Trident submarines when we know eventually we are going to reduce the number of submarines, reduce the number of weapons, thereby saving billions of dollars?

By reducing our nuclear arsenal for our children and our children's children, and reducing the infrastructure designed to support those nuclear weapons, we can indeed reduce, save billions of dollars.

Fourth, on the question of presence, we deploy nuclear aircraft carrier task force around the world for the purposes of presence. I have asked on numerous occasions, why do you need a task force as muscular as a nuclear carrier task force in order to simply show presence? Can you not show presence with a task force that is much less muscular than a nuclear task force? That can save you billions of dollars. In terms of the ships you deploy, in terms of the personnel, in terms of the planes, et cetera, et cetera. Billions of dollars.

Finally, we cannot talk, Mr. Chairman, about the intelligence budget, but there are many of us here who have intimate knowledge about the intelligence budget. I can assure you that there are places that the intelligence budget can be cut. At the end of the day, what we are saying with this amendment is that the committee can determine where they want to make these cuts. This simply says, go back to last year. What I tried to lay out for Members is that there are clearly places where we can save billions of dollars; $3.9 billion does not suddenly throw the United States from being the only peg standing, the only superpower in existence at this point into some Third World position. We are an extraordinary military power with extraordinary military capability.

I would ask this rhetorical question. If we had the mightiest military force on the face of the earth and our cities were deteriorating, our children not being adequately educated, people who need to work not able to work, drugs creating problems in our various communities, violence overtaking some of our communities, what are we out there defending? What this budget, what this does is save us some money. At the end of the day I think that redounds to the benefit of the country.

Finally, on a personal note, I would say to the gentleman from Florida, he and I walked in the door together. I have never objected to the gentleman's comments. Here it is very difficult to make complex arguments on multibillion-dollar amendments in 5-minute segments. It is just difficult to do. I have never, I have sat there in a position of chair of the committee and have never ever once objected to anyone standing up debating, because I think that is why we get paid here, is to debate.

Sometimes we get upset when people are debating who have something to say and are prepared to challenge them in a fundamental way. I am not trying to challenge anyone's intellect here. I am simply saying, let us rise to a level that allows us to understand these issues at a profound enough level to make us make the right decision.

I think the Shays-Frank amendment is the proper decision. I think that is what we can do. I believe that we can cut money from the military budget and the world goes on. The Nation goes on. Our children do not die. Our children's children are not threatened. I think that is hyperbole and overstatement, Mr. Chairman.

I appreciate the opportunity that the gentlewoman gave me to conclude my remarks. I am simply saying that I think we ought to support this amendment, and exaggerated comments to the contrary notwithstanding, I think this is a reasonable amendment. I think it can be accomplished and I would urge my colleagues to support it.

Ms. WOOLSEY. Mr. Chairman, I would like to say that I support also the Shays-Frank-Klug-Hinchey-Ramstad-Luther amendment. It makes sense. Let us cut wasteful defensive spending and let us invest in our children and their education.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. SHAYS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAYS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 137, noes 290, not voting 7, as follows:

[Roll No. 337]

AYES—137

Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blumenauer
Bonior
Brown (CA)
Brown (OH)
Camp
Campbell
Capps
Carson
Castle
Chabot
Clay
Clayton
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
Dellums
Doggett
Doyle
Duncan
Ehlers
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Filner
Foley
Fox
Frank (MA)
Franks (NJ)
Furse
Ganske
Green
Greenwood
Gutierrez
Gutknecht
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Hooley
Jackson (IL)
Jackson-Lee (TX)
Kanjorski
Kelly
Kennedy (MA)
Kilpatrick
Kind (WI)
Kleczka
Klug
Kucinich
LaFalce
Lantos
Leach
Levin
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McDermott
McGovern
McKinney
McNulty
Meehan
Metcalf
Miller (CA)
Minge
Mink
Morella
Nadler
Neal
Neumann
Nussle
Oberstar
Obey
Olver
Owens
Paul
Payne
Pelosi
Peterson (MN)
Petri
Porter
Portman
Poshard
Ramstad
Rangel
Riggs
Rivers
Rohrabacher
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Stabenow
Stark
Stokes
Stupak
Tierney
Upton
Velázquez
Vento
Waters
Watt (NC)
Waxman
Woolsey
Yates

NOES—290

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Cannon
Cardin
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehrlich
Emerson
Etheridge
Everett
Ewing
Fawell
Fazio
Flake
Ford
Fowler
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kennedy (RI)
Kennelly
Kildee
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek
Menendez
Mica
Millender-McDonald
Miller (FL)
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Northup
Norwood
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riley
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Ryun
Salmon
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (FL)

NOT VOTING—7

Davis (FL)
Foglietta
Forbes
Gonzalez
Ney
Schiff
Young (AK)

□ 1612

Mr. BILBRAY and Mr. CHRISTENSEN changed their vote from "aye" to "no."

Ms. CARSON and Mr. PORTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NEY. Mr. Chairman, on rollcall Nos. 336 and 337, I was unavoidably detained in Columbus, OH, at an Elections Hearing. Had I been present, I would have voted "yes" on 336, and "yes" on 337.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

□ 1615

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MCHUGH] having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2266), making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for the other purposes, pursuant to House Resolution 198, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore [Mr. McHUGH]. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

REDUCING TO 5 MINUTES VOTES ON POSTPONED SUSPENSIONS

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that following passage of H.R. 2266, the DOD appropriations, the two votes on suspensions debated Monday, July 28, 1997, House Concurrent Resolution 735 and H.R. 1348, be 5 minutes each.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 322, nays 105, not voting 7, as follows:

[Roll No. 338]

YEAS—322

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Cannon
Capps
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Etheridge
Everett
Ewing
Farr
Fawell
Fazio
Flake
Foley
Ford
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Reyes
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Ryun
Salmon
Sanchez
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (FL)

NAYS—105

Ackerman
Baldacci
Barrett (WI)
Becerra
Berry
Blumenauer
Bonior
Bono
Brown (CA)
Brown (OH)
Camp
Campbell
Cardin
Clay
Conyers
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
Dellums
Dingell
Doggett
Doyle
Ehlers
Engel
English
Eshoo
Evans
Fattah
Filner
Frank (MA)
Franks (NJ)
Furse
Ganske
Gephardt
Gutierrez
Hilliard
Hinchey
Hoekstra
Hooley
Jackson (IL)
Johnson (WI)
Kennedy (MA)
Kilpatrick
Kind (WI)
Kleczka
Klug
Kucinich
LaFalce
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Markey
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Miller (CA)
Minge
Morella
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Owens
Paul
Payne
Pelosi
Peterson (MN)
Rahall
Ramstad
Rangel
Riggs
Rivers
Roukema
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Sensenbrenner
Serrano
Shays
Smith (MI)
Stabenow
Stark
Stupak
Torres
Towns
Upton
Velázquez
Vento
Watt (NC)
Waxman
Yates

NOT VOTING—7

Coburn
Foglietta
Forbes
Gonzalez
Hunter
Schiff
Young (AK)

□ 1632

Ms. STABENOW changed her vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2266, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that in the engrossment of H.R. 2266, the Clerk be authorized to correct section numbers, punctuation, cross references, and to make other conforming changes as may be necessary to reflect the actions of the House today.

The SPEAKER pro tempore [Mr. McHUGH]. Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2200

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from H.R. 2200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule 1, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed from Monday, July 28, 1997, in the order in which that motion was entertained.

Votes will be taken in the following order:

House Concurrent Resolution 75, by the yeas and nays; and

H.R. 1348, by the yeas and nays.

Pursuant to the order of the House of today, the Chair will reduce to 5 minutes the time for both electronic votes in this series.

EXPRESSING SENSE OF CONGRESS THAT STATES SHOULD WORK MORE AGGRESSIVELY TO ATTACK PROBLEM OF REPEAT CRIMINALS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 75.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. McCOLLUM] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 75, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 400, nays 24, answered "present" 1, not voting 9, as follows:

[Roll No. 339]

YEAS—400

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—24

Carson
Clay
Conyers
Cummings
Dellums
Hilliard
Jackson (IL)
Kilpatrick
Lewis (GA)
McDermott
Oberstar
Olver
Payne
Rangel
Rush
Sabo
Sanders
Scott
Serrano
Stark
Stokes
Towns
Velázquez
Watt (NC)

ANSWERED "PRESENT"—1

Snyder

NOT VOTING—9

Coburn
DeFazio
Foglietta
Forbes
Gonzalez
Schiff
Smith, Linda
White
Young (AK)

□ 1644

So (two-thirds having voted in favor thereof) the rules were suspended, and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPANDED WAR CRIMES ACT OF 1997

The SPEAKER pro tempore [Mr. McHUGH]. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1348, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee [Mr. JENKINS] that the House suspend the rules and pass the bill, H.R. 1348, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 391, nays 32, not voting 11, as follows:

[Roll No. 340]

YEAS—391

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon

Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pascrell
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—32

Carson
Clay
Conyers
Cummings
Davis (IL)
Delahunt
Dellums
Frank (MA)
Jackson (IL)
Kanjorski
Kilpatrick
Kucinich
Lewis (GA)
Markey
McDermott
McGovern
McKinney
Miller (CA)
Murtha
Olver
Pappas
Paul
Payne
Rangel
Rush
Scott
Serrano
Tierney
Towns
Velázquez
Waters
Watt (NC)

NOT VOTING—11

Abercrombie
Bonior
Coburn
Foglietta
Forbes
Gonzalez
Scarborough
Schiff
Thomas
White
Young (AK)

□ 1653

Mr. MEEHAN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. METCALF. Mr. Speaker, because of weather problems at Dulles Airport my flight was delayed and I missed all the rollcall votes yesterday. Had I been present, on rollcall votes 332, 333, and 334, I would have voted "no." On rollcall vote 335, I would have voted "yes."

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Speaker, like the previous gentleman, due to weather problems here in D.C. I missed all four votes. On rollcall vote 332, I would have voted "yes," on rollcall vote 333, I would have voted "no," on rollcall vote 334, I would have voted "yes," and on rollcall vote 335, I would have voted "no."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HAROLD SCHUITMAKER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 5 minutes.

Mr. UPTON. Mr. Speaker, I rise today to honor a dedicated and devoted community leader and a dear friend, Mr. Harold Schuitmaker of Paw Paw, MI. Harold has been very active in our community, lending his hand wherever he can to help our neighbors. As a Rotarian, United Way board member, an Elk, an advocate for children, an active member of his church, Harold has always been there for the community of Paw Paw.

I talked to a few of our neighbors, and they all agree when it comes to this community Harold has never said no. In fact, I first got to know Harold through his fine work with the child and family services organization.

Harold has also been an active leader in our Republican Party. For as long as anyone can remember he has been at the helm of the Republican Party in the Sixth District serving as its Chair, and at convention after convention, whether it be on the local, State, or national level, Harold has exhibited the kind of leadership that is both admired as well as respected.

But his efforts are about a lot more than just working for today. One of the indelible images of Harold that sticks out in everyone's mind is him holding his 2-year-old grandson Jordan at every event, the get-togethers, Harold brings his grandson Jordan. He starts early showing the next generation what leadership and service and dedication are all about, and he also helps to remind us what we are working for as well here in this House.

Mr. Speaker, I would like to thank Harold for all his efforts. I would also like to thank a special woman in his life and for everyone's life for that matter, Zoe, for her dedication. Thanks, Harold. The whole community joins me in thanking you for your fine work. You have made a difference for all of us.

□ 1700

THE PROBLEM OF CAMPAIGN FINANCES IN AMERICA

The SPEAKER pro tempore (Mr. MILLER of Florida). Under a previous order of the House, the gentleman from Maine [Mr. ALLEN] is recognized for 5 minutes.

Mr. ALLEN. Mr. Speaker, I rise tonight to talk about the problem of campaign finances in this country. Today is a good day to be talking about this subject, because we have an agreement, a budget agreement, entered into by the President and by the Republican leadership, and that budget agreement and tax agreement has drawn strong support across the aisles today.

The problem I want to discuss today is an area where we also have some bipartisan agreement. I have been the cochair of a freshman task force with the gentleman from Arkansas, Mr. ASA HUTCHINSON. This freshman task force has spent 5 months working on the issue of campaign finance reform. I want to speak a few words about the problem, and then describe a little bit what we have been going through.

All of the freshmen went through the experience in 1996 of going through a different kind of an election, an election where there was a vast amount of money spent in our races to influence our races, either by the national parties or by outside groups that were not connected with our campaigns. So in many ways, we felt as if we did not have the same kind of role in the campaign that candidates had had in the past. In short, there was too much money in politics. Soft money was a big part of the problem. Soft money is the $100,000, the $500,000, the $1 million contributions that go to national parties for so-called party-building activities.

A long time ago, when this provision was created, the thought was that this money would go to help get out the vote, to help build the party organizations. In 1996 we saw that money flowing down into districts around the country to be used for negative advertisements. That simply has to stop, because every individual contributor, every voter, every citizen is diminished when that kind of big money contribution is part of the political process.

Our task force that I cochaired with the gentleman from Arkansas, Mr. ASA HUTCHINSON, worked for 5 months on this particular issue. The gentleman from Florida, Mr. ALLEN BOYD, the gentlewoman from California, Ms. ELLEN TAUSCHER, the gentleman from New Jersey, Mr. BILL PASCRELL, the gentleman from Texas, Mr. NICK LAMPSON, and the gentleman from Wisconsin, Mr. RON KIND, were members of that task force.

We learned together. We held hearings. We had participants, groups that had made contributions, that had run ads, come in and testify. We had advocates for all sorts of change come in and testify. We went through a 5-month process to try to work out on a bipartisan basis what would be the kind of campaign reform that would be significant reform but would also be practical, that could be passed this particular year.

We have a bill. It is the Bipartisan Campaign Integrity Act of 1997. I am proud to be an original sponsor of that bill. It does three particularly important things. First, it bans soft money. It takes the biggest of the big money out of politics. Second, it provides that those groups that want to advertise will have to undergo a further disclosure than they have in the past. They will have to identify who the group is and they will have to identify what they are spending their money on, if they spend more than $25,000 in a district, or an aggregate of $100,000 around the country. Third, we will have faster reporting by candidates of their contributions, and electronic reporting in many cases, and more disclosure than we have had in the past.

Mr. HUTCHINSON. Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Arkansas.

Mr. HUTCHINSON. Mr. Speaker, I wanted to say to my friend, the gentleman from Maine [Mr. ALLEN] that it has been a pleasure to work with him on this task force. I think he has done an outstanding job with his colleagues. I want to commend him for his work on this. I will say more later, but I just wanted to say what a joy it has been to work in a bipartisan fashion with the gentleman and his colleagues.

Mr. ALLEN. Mr. Speaker, I thank the gentleman very much. We have had a good time. We have learned a lot. We have learned that, among other things, a group of freshmen new to this Chamber can come into this Chamber and learn to work together across the aisles. The gentleman from Arkansas [Mr. HUTCHINSON] has been an extraordinary leader in this endeavor, and other members, Republican members of the task force, have really done an outstanding job.

Mr. Speaker, I just want to address a couple of things, in addition. We have critics. No surprise. There are always critics. There are those who say we have not gone far enough. They want candidate limits or they want public financing.

To them I say whatever their agenda, however important further reform may be, the fact is that if we are going to act this year, we have to ban soft money. We have to take the biggest of the big money out of politics. There may be unfinished business for other times, but at least we must do that much.

EXPRESSING SUPPORT OF THE BIPARTISAN CAMPAIGN INTEGRITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, it is my pleasure today to rise in support of the Bipartisan Campaign Integrity Act. I like that name, because that is what we need to have in our campaign system these days is simple integrity.

About 6 months ago, as my friend, the gentleman from Maine [Mr. ALLEN] indicated, a group of Members, we called it the Bipartisan Freshman Task Force, met together, six freshman Republicans, six freshman Democrats, and we called it, I called it an experiment in bipartisanship to see if we could really work together to accomplish something, to accomplish the job people sent us here to do.

We worked together. We held hearings. We listened to each other. We decided what we could agree upon. As the gentleman from Maine [Mr. ALLEN] suggested, we set aside the extremes and said what could we do for the American people that would improve our system. We focused ourselves on one primary concern, and that was the huge problem of soft money that runs in our system today.

I think the issue that faces the U.S. Congress this year, in 1997, is can we, do we have the courage, to do something about the problem with soft money. That is the overriding issue. I hope that the answer is a resounding yes. I have been encouraged recently by what I have heard from leaders from both sides of the aisle, from the public, and I dearly hope we can do that this session of Congress.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Arkansas.

Mr. SNYDER. Mr. Speaker, one of the issues that has come up is why are freshmen seeming to have such an early impact on this race. I am a Democrat from Arkansas, a freshman, and the gentleman is a Republican from Arkansas, and it seemed to me that the ugly races were ones for open seats. Both the gentleman and I from Arkansas had different political perspectives, but it was ugly because of the presence of soft money.

I loved the line the gentleman from Maine [Mr. ALLEN] used, getting rid of the biggest of the big money. These are not the $1,000 donations we are talking about, but the $50,000 or $100,000 to the party that have so distorted the system. I commend the gentleman and the gentleman from Maine [Mr. ALLEN] for his work. It truly is a bipartisan effort. I thank the gentleman for his effort.

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman. I certainly concur that this has been a good effort we put forth. The gentleman and I had an opportunity in Arkansas when he was in the General Assembly, we worked in separate parties on election reform in Arkansas, and I am delighted we can set the example here in our Nation's Capital, and I hope we can have the same success as well.

If Members look at this bill, and my friend, the gentleman from Maine, described the elements of this bill, it focuses on soft money. It bans soft money, and any serious reform has to start with that. But it also increases disclosure.

I believe we need to provide information to the American public so they will know who is spending what in a campaign, and that they can find out that information in a timely fashion. That is what our bill does this year. It does those two things.

In addition, Mr. Speaker, our bill, besides providing a ban on soft money and increasing disclosure, I think it is unique because it is a product of bipartisanship, and because it has come through in that fashion I believe it has the best chance for success this year.

I believe that the timing is right, and that momentum is gathering for campaign finance reform for a couple of reasons. First of all, the Senate hearings have focused the American public's attention on the problem of soft money. I hope that the American public who is listening today, that they will write in, that they will encourage their Congressmen to address this serious issue.

Second, I have been encouraged by the response of leaders from both sides of the aisle, with a growing sense that we need to do something about this. The gentleman from California, Mr. BILL THOMAS, chairman of the Committee on House Oversight that will have the hearings on campaign finance has indicated a willingness to hold hearings. I commend him for that. He is a critical part of this effort, and I hope we can have those hearings this fall so we can move this legislation forward.

Finally, we have had encouragement even from leaders like the gentleman from Texas, Mr. DICK ARMEY, who has indicated that the freshmen are going in the right direction, that he is anxious to hear more details about this plan, and I was delighted to hear this.

Most importantly, the encouragement comes from the voters, from letters from constituents who say their voice is being diminished by the vastness, the millions of dollars in corporate and labor money that flows to the parties. They say, where is our voice? Where is the voice of the average voter, the voter out there who works day in and day out, the contributor, the small contributor to a campaign?

I was delighted also that this last week we had encouragement from very significant leaders from both parties. Former President George Bush, former President Jimmy Carter, and former President Gerald Ford all indicated support for campaign finance reform.

I like what former President George Bush said in his letter of June 19, 1997. He said, "We must encourage the broadest possible participation by individuals in financing elections. Whatever reform is enacted should go the extra mile in demanding fullest possible disclosure for all campaign contributions.

"I would favor getting rid of so-called 'soft money' contributions but this principle should be applied to all groups including Labor."

Speaking from this side of the aisle, I certainly believe that the soft money ban should include not only corporations but also labor. It does that. It does that, because that is the ban that is needed. It is equal and fair to all sides.

Mr. Speaker, I will enter the three letters from the former Presidents into the RECORD.

The letters referred to are as follows.

JULY 10, 1997.

Hon. NANCY KASSEBAUM BAKER,
Washington, DC.

DEAR SENATOR KASSEBAUM: Our system in financing federal election campaigns is in serious trouble. To remedy these failings requires prompt action by the President and the House and Senate. I strongly hope the Congress in cooperation with the White House will enact Campaign Reform legislation by the forthcoming elections in 1998.

Public officials and concerned citizens. Republicans and Democrats alike, have already identified important areas of agreement. These include (1) the need to end huge uncontrolled "soft money" contributions to the national parties and their campaign committees, and to bar solicitation of "soft money" from all persons, parties and organized labor by federal officeholders and candidates for any political organizations; (2) the need to provide rapid and comprehensive disclosure of contributions and expenditures in support of, or opposition to, candidates for federal office, and (3) the need to repair the system of campaign finance law enforcement by assuring that it is effective and independent of politics.

A significant bi-partisan effort across party lines can achieve a legislative consensus in campaign reforms that will help to restore the confidence of our citizens in their federal government.

I commend you and former Vice President Mondale for your leadership on behalf of campaign reform.

Sincerely,

GERALD R. FORD.

JULY 17, 1997

Hon. WALTER MONDALE,
Minneapolis, MN.

TO VICE PRESIDENT WALTER MONDALE: I am pleased to join former Presidents Bush and Ford in expressing hope that this Congress will enact meaningful campaign finance reform legislation. For the future of our democracy, and as our experience may be emulated by other nations, prompt and fundamental repair of our system for financing federal elections is required.

The most basic and immediate step should include an end to "soft money," whether in the form of corporate or union treasury contributions to federal campaign, or large and unregulated contributions from individuals. The initial step should also include measures that provide for complete and immediate disclosures of political contributions and expenses.

To accomplish these and other needed reforms and to lay the basis for future ones, we also need to develop a strong national consensus about the objectives of reform. It will take more than just the action of this Congress, but fundamental reform is essential to the task of repairing public trust in government and in our leaders. We must take significant steps to assure voters that public policy is determined by the exercise of their franchise rather than a broken and suspect campaign finance system.

Please extend to Senator Nancy Kassebaum Baker my appreciation for the work that she has undertaken with you to advance the essential cause of bipartisan campaign finance reform.

Sincerely,

JIMMY CARTER.

JUNE 19, 1997.

Senator NANCY KASSEBAUM BAKER,
Washington, DC.

DEAR SENATOR KASSENBAUM, First let me commend you and the former Vice President, Ambassador Mondale, for taking a leadership role in trying to bring about campaign reform.

I hope the current Congress will enact Campaign Reform legislation.

We must encourage the broadest possible participation by individuals in financing elections. Whatever reform is enacted should go the extra mile in demanding fullest possible disclosure of all campaign contributions.

I would favor getting rid of so called "soft money" contributions but this principle should be applied to all groups including Labor.

I congratulate you for working for better campaign finance law enforcement.

With my respects to you and Vice President Mondale I am, sincerely,

GEORGE BUSH.

URGING COLLEAGUES TO JOIN IN SUPPORT OF BIPARTISAN CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KIND] is recognized for 5 minutes.

Mr. KIND. Mr. Speaker, this is truly an historic day in our Nation's history. Both parties recognize the challenges we face as far as recurring structural deficits. They came together and through some hard-fought negotiations, some compromises, some give-and-takes, it was announced today that we have reached an agreement on a balanced budget plan that will bring the books finally in balance for the first time since 1969, when I was in the first grade.

Yet, just to strike a cautionary note, this does provide the largest expansion of educational programs in the Nation's history, the largest expansion of children's health care since 1965, when Medicaid was passed. But I have always viewed this as the first step of a two-step process.

The second step that we have to begin working on right away is some long-term fixes with the entitlement programs, Medicare, Social Security, which according to all the demographics and all the analyses are due to explode starting early next century when the baby boomers start to retire.

That is the second step as far as maintaining the fiscal responsibility and the discipline started today, and that will continue into the next century.

We also face other challenges in this country and before this Congress. One of the big issues I came to Congress on and which I feel there is no bigger issue that we should be dealing with in trying to find a resolution is the role of big money in the political system.

That is why I was proud when I was called and I joined the Bipartisan Task Force on Campaign Finance Reform, working with my five freshman Republican colleagues and six Democratic colleagues. I commend the gentleman from Maine [Mr. TOM ALLEN] and the gentleman from Arkansas [Mr. ASA HUTCHINSON] for the leadership they have shown during the course of this process, which has been educational for all of us.

It has been very difficult. There were internal and outside forces doing everything they could to try to scuttle what we were trying to accomplish, because anyone who is a student of this institution realizes that nothing significant has ever been achieved without some bipartisan cooperation.

So it was with that attitude that we joined the task force, trying to work out a compromise, finding common areas of agreement and, as freshmen, proposing our own campaign finance reform bill. This is incremental in every sense of the word. This is not the type of comprehensive overhaul that I personally would have liked to have seen, but it is probably the best chance we have of passing anything in this session of Congress. What it does do is it targets the biggest, as the gentleman from Maine [Mr. ALLEN] said, the biggest of the big contributions in the political system, the soft money contributions.

Just to highlight the problem we have with soft money contributions right now, I am holding up a chart that shows the growth of soft money to the political parties, both Republican and Democrat, over the last three election cycles.

As everyone can see, in 1996, it exploded soft money contributions, close to $140 million being contributed to the Republican Party, a little over $120 million to the Democratic Party. I submit, this is just the tip of the iceberg. We really have not seen anything yet until we are able to take some action in this session of Congress.

That is why I am very proud of the product we have produced in the course of the negotiations. I am very proud, in a bipartisan fashion, of the atmosphere in which we came together to try to do what we feel is really in the best interests of the country.

I would encourage my colleagues to get behind this piece of legislation. We are already seeing a lot of support within the freshman class on both sides of the aisle, but obviously it is not until some of the more senior Members start to weigh in on this legislation that we will see any true hope of getting this thing scheduled for the House floor, having it debated, and finally, calling a vote on what I think is a crucial and vitally important issue facing our country today.

□ 1715

I encourage the leadership in the House to give it due consideration. I think it will be a great victory if we can at least bring it to the House floor. I ask Americans around the country who are listening in tonight to start calling in, start writing letters and hold their Representatives' feet to the fire on this very simple and incremental approach to campaign finance reform.

I believe that if Members in this Congress cannot get behind this, cannot cast a vote in favor of what the freshman bipartisan task force is proposing in the course of this finance reform, then really they are really not interested in true campaign finance reform.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. KIND. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, I would just like to say that the gentleman from Wisconsin [Mr. KIND] has been one of the leaders in our task force and has done an absolutely superb job. Mr. KIND makes a very good point. That point is this. If this Congress, if this Congress spends months investigating potential campaign finance abuses, almost all of which are traceable to the amount and influence of soft money and then fails to act, we will all be embarrassed. I know that is why you are here, RON, and it is why I am here. We do not want to be embarrassed. We want to legislate, not just investigate. I thank the gentleman for yielding.

Mr. KIND. Mr. Speaker, hopefully something good will come out of the investigations that we are seeing on Capitol Hill that will highlight the problem of soft money in the political process. If there was not any soft money in the last election cycle, we would not be having these investigations today focussing on the role of soft money in the campaigns.

I think it is vitally important that not only the Members here have the courage to step up and recognize the problem facing the country but people back home start weighing in on this issue and start letting their voices, their concerns be heard on this form of legislation so that we can finally have it up for a debate and a vote in this session.

SOFT MONEY

The SPEAKER pro tempore (Mr. MILLER of Florida). Under a previous order of the House, the gentleman from Montana [Mr. HILL] is recognized for 5 minutes.

Mr. HILL. Mr. Speaker, I want to join with my colleagues tonight to congratulate the gentleman from Arkansas [Mr. HUTCHINSON] and the gentleman from Maine [Mr. ALLEN] to provide the outstanding leadership on the bipartisan freshman task force in developing the Bipartisan Campaign Integrity Act, which I am proud to be a cosponsor.

I think it is important for folks to understand there are a lot of problems with campaign funding and the methods that we use to raise funds for campaigns. Campaigns cost too much money. Candidates spend far too much time raising money. There is a perception out there, a perception of abuse. There is a perception that large contributions come from corporations, that come from labor unions and large contributions from wealthy individuals are corrupting the system.

Mr. Speaker, I would point out that this is a bipartisan problem. Both political parties, Democrat and Republican Party alike, have a problem with regard to the amount of soft money that has gone into the system. As Members have mentioned earlier, this started out as a relatively small amount of money that was supposed to be used for building political parties. But in the last two political cycles, 1992 to 1996, the amount of soft money has quadrupled in the system. Today both, or last cycle, both political parties raised nearly $130 million of soft money. Again, what is this money?

This is money that comes from corporations. This is money that comes from labor unions or this is money that comes from wealthy individuals who have exceeded the normal contribution limits. What this bill does is it eliminates, it bans soft money that is going to the national parties. The reason that I am so supportive of this measure is I believe that, if we are going to change the campaign process, the fundraising process, it is our responsibility to start at home. It is our responsibility to deal with our own political parties. It is our responsibility to require them to clean up their act first.

Let me say this, there are some things that this does not do. I think it is important for our colleagues to be aware of the things that this does not do. It does not initiate a system of public financing for congressional campaigns. There are many who might support that. There are many who would be opposed to that. This bill does not do that. It does not put spending limits on how much money can be spent in a political campaign.

There are those who would argue that that is simply a benefit to incumbents. And it does not restrain the ability of independent parties to speak out about candidates or officeholders. In fact it very clearly establishes their right to do that. But what it does do is this: It eliminates soft money, those large contributions. It eliminates competition between the political parties and their candidates. Oddly enough, in the current campaign financing laws we have created a mechanism where people can give money to the party or give money to candidates, but it makes it difficult for them to do both. It eliminates that competition. It actually expands the role that parties can play in helping their candidates. The goal there is to allow candidates to work more closely with their parties rather than seeking support of special interest groups.

Mr. Speaker, I would just urge all of my colleagues to examine this bill. This is an incremental process, but it is the first step in restoring integrity to a system that the American public clearly believes is broken. I would urge all of my colleagues to examine this bill and support it as it moves through the process.

Mr. KIND. Mr. Speaker, will the gentleman yield?

Mr. HILL. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, I just want to commend and congratulate my colleague, the gentleman from Montana [Mr. HILL], in his role in this whole process. I do not think anyone in the task force had more energy and more analysis and insight on what we were trying to accomplish than the gentleman from Montana [Mr. HILL] did. It was a pleasure working with him, attending the meetings with him.

There were some difficult times as there always is in the course of give and take in negotiations and that, but as far as anyone exhibiting and displaying a true depth of knowledge, regarding a very complex and a very difficult issue, the gentleman from Montana [Mr. HILL] ranked right up there at the top. I commend him and just wanted to tell the American people what a fine job and what a pleasure it has been to work with him in the course of this process.

Mr. HILL. Mr. Speaker, I thank the gentleman. I would just comment that I believe that everyone who worked on this task force came with a commitment to wanting to reform the system and to make it work to restore the integrity of the system and the belief of the American people. The gentleman from Wisconsin played an outstanding role in that.

I enjoyed very much working with him and all the Members of the task force. It was surprising to me how well we came together because we focused on those values that we all agree upon. We found so many of those values that we agree upon because we want to restore integrity to the system. I thank the gentleman and again I would urge my colleagues to support the bill.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada [Mr. GIBBONS] is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, first I would like to join in my colleagues in the previous speaker's comments about the accolades and plaudits of my colleagues on this bipartisan freshman task force, the gentleman from Maine [Mr. ALLEN], of course, and the gentleman from Arkansas [Mr. HUTCHINSON] and the fine work and leadership that they demonstrated in this process.

In fact I was very honored to be a part of what I think is a very historic freshman task force in an effort to reform campaign finances in our country. Yes, the subject was controversial. As a freshman for the first time, we all have recent and very personal encounters with the campaign finance laws of this Nation. To augment our experience, we had several hearings with groups and individuals with a variety of expertise in this area. It was very constructive for myself personally and for the rest of the Members. It became an environment in which we got to know not just the other Members of the other party and Members in our own class, but we got to know the subject matter a great deal and a lot better than we had before we entered.

Almost all of us agreed to one conclusion after this, that the system is broken. Those disagreements that we may have had, and they developed around some of the parts and the existing parts, but we all agreed that the system and how it is broken has a high priority in our consideration for solutions.

We want equitable solutions and we want solutions to States which have varying sizes and varying populations, varying mixes in the media and the media markets. Several facets of this issue that bore close scrutiny included soft money, as we have already heard, campaign finance disclosure, campaign spending limits, limits on individual and political action committees and their contributions. Also we considered free or reduced-cost TV rates for candidates.

It was interesting to watch our legislation evolve from a broad-based, cure all, almost certain to fail, too narrow specific language that contained no poison pills. We think our product, the Bipartisan Campaign Integrity Act of 1997, contains something for everyone. It is not so broad based that it will die of its own weight. I think that our bill, although it does not solve all of the problems nor solve all of the campaign finance ills, at least makes an honest attempt and a start at it, to correct what is wrong.

The fact that some of our leaders in each party have expressed problems with it means, and this means to me that this legislation is truly bipartisan. There are some elements that, yes, I would probably want to polish around the edges of the margins, but I am satisfied this bill as a whole is a good one. It satisfies several fundamental problems and it does deserve passage.

I am personally in favor of totally eliminating soft money. Of course this means making other sources of funding available such as increasing Federal contribution limits and/or removing coordinated limits between parties and candidates. I also think that most of the money in a campaign ought to come from the district in which the person is elected. This would mean that the people who have a vested interest, for example, in Nevada's Second District would have a greater influence in its politics rather than some outsider. With the population in Nevada so spread out, it can be costly to run a campaign, either as an incumbent or as a challenger. There have been much smaller districts with elections pending, over $6 million for each candidate. That is far too much money to be elected to the House of Representatives.

The amount of money any one individual or PAC can contribute ought to be limited. Too frequently, large donors are allowed greater access to influence than is ordinarily afforded most regular constituents.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, I would just like to say that the gentleman from Nevada [Mr. GIBBONS] has been an outstanding member of this task force. It has been a pleasure working with him. I agree with him. As he described the process that we went through, he made a very important point. He talked about all the different, some of the different ideas that are out there and he recognized what we did, which was essentially agree on what we could agree on, and not try to do the big comprehensive reforms that may be good in some people's eyes but cannot generate the support to pass this Congress this year. I really think that is a critical point.

As I say, it has been a pleasure working with the gentleman. We still have more work to do before we are done but I want to thank the gentleman for his dedication to this subject.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for his remarks. They are very appropriate to this occasion. I agree totally that there is a lot more things we could have done, a lot of things a lot of us would have liked to have done. But we came together as a body of both Democrats and Republicans, and I think we came out with what could be the most important bill of this Congress. I would like to thank the gentleman again, the gentleman from Maine, Mr. ALLEN, for his dedication on this.

ZORA NEALE HURSTON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, "Their Eyes Were Watching God," Zora Neale Hurston, published first in 1937.

Mr. Speaker, I rise today to speak about a bill that I am introducing that honors one of America's major voices in the 20th century, Zora Neale Hurston. Hurston is one of America's most famous writers and interpreters of southern rural African-American culture. This bill recommends that the U.S. Postal Service issue a stamp that recognizes Hurston's contribution to American literature.

Born in 1891, Zora grew up in Eatonville, FL. That is my district, the Third Congressional District, the first official African American township in the United States. She attended the Morgan Academy, which is now Morgan State University, and Howard University and became the first African-American woman to graduate from Barnard College in 1919. The dominant female voice of the Harlem Renaissance period, 1919 through 1995, Zora Neale Hurston produced two works of folklore: "Of Men and Mules", and "Tell My Horse".

Using the talk of the rural southern African-American peasant, Hurston lifted the language of these folks to a level of poetry and fine literature. Through her style of writing and the subject of the African-American experience, she attracted international followers and the interest of feminists who transcend gender, race. Her life and work have inspired the founding of the Zora Neale Hurston Society at Morgan State University and the annual festival of arts and humanities in her home town of Eatonville.

□ 1730

Since her death in 1960, respect for her writings has increased along with their popularity. The recent discovery of plays by the Library of Congress has also revived interest in her writings.

Mr. Speaker, I hope that all my colleagues will join me in celebrating the accomplishments of the life of this inspirational American. By cosponsoring this legislation, we will encourage more Americans to learn about Hurston and perhaps influence that one child to become the next American author.

Issuing a commemorative stamp in 1998 and unveiling it at the 10th annual festival scheduled in 1999 would rightfully honor this famous American who has changed the landscape of American literature.

Before I conclude, Mr. Speaker, I wish to thank the 36 Members who have already cosigned on this bill as original cosponsors. I hope that more of my colleagues will sign on in the near future in support of Zora Neale Hurston.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentlewoman for yielding, and I am so proud of the fact that she represents Eatonville, FL. I would tell the gentlewoman that I was born and raised in Altamonte Springs, FL, 8 miles from where Ms. Hurston, who the gentlewoman so rightly seeks commemoration of, was born.

I had the good fortune of having had a grandmother, who has since deceased, like Ms. Hurston, who was a very good friend of hers and went to boarding school at the same place that Zora Neale Hurston did. I did not know it as a child, but my mother did, and other members of my family, but she was a giant of a woman, not only in size, but as the gentlewoman has appropriately indicated, in the magnitude of literature that she produced in her era and in her genre.

For that I compliment the gentlewoman, and ask, as she does, that all of our colleagues go forward and commemorate her with this stamp that we can present, and I hope to be there with the gentlewoman in 1999 when it is done.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I rise to day to speak about a bill that I would like to offer that honors one of America's major literary voices of the 20th century: Zora Neale Hurston. Hurston is one of America's most famous writers, folklorists, and interpreters of Southern rural African-American culture. This bill recommends that the U.S. Postal service issue a stamp that recognizes Hurston's contributions to American literature.

Born in 1891, Zora grew up in Eatonville, FL, the first incorporated African-American township in the United States, which is in the Third Congressional district of Florida. One of her favorite retreats was "the lying porch" of Joe Clarke's store. Years of stories and tall-tales that were told there, later became a part of Zora's works. As Zora grew older, her writing took shape as she found a way to express herself.

It wasn't until college when Zora's writing began to flourish. She attended Howard University and, in 1924, she had her first work published. The short story "Drenched in Light" appeared in Opportunity, an Urban League publication.

Attracted to the Harlem Renaissance of New York City, Zora moved to New York to further her writing career. In 1925, she won the Urban League's literary contest short story and one-act play categories. This distinction led to her association with artists and poets like the famous African-American poet Langston Hughes. In a short time, Zora Neale Nurston became the predominant female literary voice of the Harlem Renaissance.

Zora continued her college education with a scholarship to Barnard College. There she changed her focus on English to anthropology and graduated with a background in folklore of Harlem and the American South. It is this combination of Zora's writing style and the subject of the African-American experience for which she is so well known.

Through her lifetime, Hurston produced numerous works of fine quality that include an autobiography, "Dust Tracks On A Road;" novels like "Jonah's Gourd Vine," "Man of the Mountain," and "Seraph on the Sewanee;" folklore such as "Of Men and Mules" and "Tell My Horse"; short stories, articles, and plays. But Zora's best work which I have here, is "Their Eyes Were Watching God." It is in her most popular work that Zora introduces the character of Janie Crawford who represents the prototype of the 20th century women searching for her own identity.

Besides publishing many works, Zora was also a teacher, a Hollywood scriptwriter, and a newspaper columnist. Later in her life, Zora received fellowships to continue her anthropology research in the South, the West Indies, and Haiti.

Since Zora's death in 1960, respect for her writings has increased along with their popularity. The recent discovery of plays by the Library of Congress has also revived interest in Zora Neale Hurston and her writings. She has attracted an international following and the interest of feminists who transcend race and ethnicity. Modern day poets and authors such as Nobel Laureate Toni Morrison, world-renown poet Maya Angelou, and Pulitzer Prize winner Alice Walker all mention Hurston as a major influence on their writings as well. She has been listed in "Black Female Playwrights," inducted into the Women's Hall of Fame and the Florida's Writer's Hall of Fame. Her writings have also inspired a Zora Neale Hurston Society, an annual festival in Eatonville, and a biography of her life by Robert Hemenway, who has placed her in history as the major, undiscovered literary voice of this century.

Mr. Speaker, I hope that you and all of my colleagues will join me in celebrating the accomplishments and the life of this inspirational American. By cosponsoring this legislation, we will encourage more Americans to learn about Zora Neale Hurston and perhaps influence that one child to become the next great American author.

Issuing a commemorative stamp in 1998 and unveiling it at the 10th Annual Zora Neale Hurston Festival—scheduled in 1999—would rightfully honor this famous American who has changed the landscape of American literature.

Before I conclude, I would like to thank the 35 Members who have already signed on to this bill as original cosponsors. I hope that more of my colleagues will sign on in the near future in support of Zora Neale Hurston.

GOVERNMENT SHUTDOWN PREVENTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, everyone is pleased that the budget agreement has been reached between the White House and the Congress, and that does call for applause across the Nation, but there still looms the possibility of a shutdown in Government, I hasten to say, and that kind of shutdown can do more to unravel the budget agreement that we have reached than any other single event that I can conceive at this stage of the budget proceedings.

Now, I have been trying for almost 10 years now to convince the Congress that we ought to have in place a permanent solution to the possibility of a Government shutdown; namely, that at the end of the fiscal year, September 30, if the appropriations process has not been completed, those bills that have not yet been finally formulated would simply turn over the next day and adopt last year's instant replay type of figures so that we would have last year's budget go into effect until a new budget can be prepared and adopted. This instant replay would prevent a Government shutdown.

It was outrageous, in my judgment, to have heard on the floor, when this proposition passed during the disaster relief fiasco that we underwent, the claim that if we passed the Gekas antishutdown legislation it would mean the cutting of funds. I have just finished saying, Mr. Speaker, that if my bill would be adopted, at the end of the fiscal year, if we do not have a budget, last year's figures would obtain.

So there would be no cutting of funds. It would be maintaining the same funds as last year, and then the negotiators proceed on their merry way to prepare a new budget. At any given time after September 30 a new budget could go into place, and that vitiates the instant replay that would have gone into place.

The other outrageous claim that has been made against our bill is that it creates a disincentive to negotiate. But the truth of the matter is that both sides need a new budget, so that at the end of September 30, those who want increased spending will have a chance to negotiate, those who want to cut spending will have a chance to negotiate, but in the meantime, last year's figures will obtain.

What is wrong with my proposition, I fear, is that it makes good sense. Therefore, it has very little chance of passing this Chamber on its own. But I do believe that now that we have passed this budget, or that we have reached a budget agreement, and that there would no longer be the disincentive to reach a budget because we have reached a budget agreement, that perhaps we can begin to focus on the antishutdown legislation as a permanent solution.

Not just for 30 days as a continuing resolution, not for 6 months or a year, but to put it in place for all time, so that every year when the budget looks like it will go down in flames around September 30, that we will have this fallback lifesaving mechanism to prevent a Government shutdown and all the bad consequences that flow.

After all, Mr. Speaker, this is a truism as well; that risking a Government shutdown really does cut back on funds. Cuts funds. Why? If the Government shuts down, all the mechanisms that get the Social Security checks out, the visas, the national parks, all the services that our constituents rightfully demand, all of those come to a halt. Indeed, then there is a cut in services, a cut in funding, a cut in appropriations.

That is the real risk that we have; that the Government will shut down. Not the risk that some appropriations will be less than last year's, but rather whether or not we shall have Government continue to present the benefits that are necessary to maintain the budget and to maintain what is expected of us by our constituents.

Mr. Speaker, I hope to continue to raise this issue at every convenient forum between now and September 30, and I hope that the leadership and the President see fit to reconsider the matter at a time to be set aside in the month of September. After all, the President, even as he vetoed this legislation, said that the goal of preventing Government shutdown is an admirable one. I hope that he will sign such a shutdown prevention piece of legislation to meet that goal.

THE 50TH ANNIVERSARY OF THE CIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I rise today to commemorate the 50th anniversary of the founding of the Central Intelligence Agency. On September 18, 1947, the National Security Act went into effect creating the CIA.

As America entered the cold war, that act recognized the critical need for intelligence about our foreign adversaries, while attempting to balance that with a constitutional mandate that an intelligence service remain within the bounds of democracy.

In 1977, in order to monitor and safeguard that critical balance, this House established the Permanent Select Committee on Intelligence, which I have the honor to chair today. By its very nature, much of the work done by the agency will remain anonymous, but we must not make the mistake of interpreting that anonymity to mean that the CIA has had no triumphs, nor can we allow ourselves to forget the men and women who have served there and know much sacrifice and even tragedy.

Out at Langley at the headquarters of the CIA is a small courtyard under the oak trees that contains three panels of the Berlin Wall. On the eastern side of those panels there is nothing but the cold, gray face of cement, but on the western side there is color, vibrancy, and the inscription "and the wind cries freedom."

Those panels and that wall, Mr. Speaker, never had to be toppled by the tread of our Nation's tanks or stained by the blood of our infantry; they were, instead, breached throughout the cold war by our Nation's eyes and ears, the CIA. Through their bravery and creativity, the officers of the CIA carved a window through that wall that this Nation used during the perilous times of the cold war and ultimately relied upon to bring down the wall's demise.

The contribution of CIA officers to our national security, however, has come with a significant cost, because at the entrance to Langley is another less well-known wall on which there are now 70 gold stars. These stars, Mr. Speaker, are for those officers of the CIA who died while serving our Nation as our eyes and ears, in Vietnam, Latin America, Europe, Eurasia, Africa and elsewhere during the cold war.

We can acknowledge publicly the dedication and sacrifice of some of those officers, such as Bob Ames, who was killed in the bombing of our Embassy in Beirut, tragically, or Bill Buckley, who died in Lebanon under torture by the terrorists. The work and lives of others must remain anonymous stars on that wall and be remembered privately. Those stars, Mr. Speaker, are a measure of the courage and cost required to keep our Nation informed of the threats against it.

The end of the cold war has required the CIA to undergo a tremendous shift. New methods and focuses are needed to meet the challenge before us today. While no transition of this magnitude is ever without its bumps in the road, from my vantage point as chairman of the body's oversight committee, I am pleased to report the CIA is responding quickly and ably to the new threats of the post-cold-war world.

Since the Berlin Wall came down, those threats against our Nation have multiplied. Narcotics traffickers ship ever-increasing amounts of cocaine and heroin into the United States; rogue states continue to acquire the components of weapons of mass destruction; foreign terrorists now target Americans at home as well as abroad; and indigenous forces threaten U.S. soldiers on multilateral missions abroad.

To address these threats, the CIA has helped the Colombian Government break up the Cali drug cartel, and enabled United States law enforcement authorities to intercept drug shipments. It has discovered several attempts by rogue states to acquire weapons of mass destruction and supported diplomatic efforts to foil those attempts. It has helped law enforcement authorities around the world identify and, in some cases, arrest several notorious terrorists, including Carlos the Jackal in Sudan, the alleged trade center bombers in the Philippines, the head of the Shining Path in Peru, and those involved in the bombing of Pan Am 103; and supported United States Forces in Panama, as well as the Persian Gulf, Somalia, Rwanda, Haiti, Bosnia, and other places.

So, Mr. Speaker, CIA officers performed vital and often perilous service as our eyes and ears during the cold war, and continue to do so in our efforts today against foreign drug lords, rogue states, foreign terrorists and those who would harm U.S. troops abroad and those of us at home.

The panels of the Berlin Wall at Langley are a recognition of the contribution of these officers. The stars on the entrance wall there are a reminder of the cost of their contribution. The officers of CIA serve their country and make their sacrifices with no expectation whatsoever of public acclaim. For the 50th anniversary of the founding of the CIA, Mr. Speaker, I am proud to commemorate their lives and their work with these few humble words.

SPECIAL ORDER CONCERNING THE VISIT OF PRESIDENT HEYDAR ALIYEV OF AZERBAIJAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, tonight I have requested some time to bring to the attention of my colleagues an important visit to Washington which is taking place right now. Tomorrow President Heydar Aliyev of Azerbaijan will meet with President Clinton at the White House to discuss United States-Azeri relations and the ongoing negotiations concerning the situation in the Caucasus. This visit has serious implications for our policies and interests in the region, and I am hopeful that it will be used to further the interests of peace.

Azerbaijan is rich in oil and natural gas resources and there are numerous United States companies which are actively seeking to assist in the development of these resources. I believe very strongly that United States companies have the technology and know-how to bring about this development in a way that ultimately would be most beneficial to the Azeri people. But these companies, and their representatives in Washington, have been pushing very hard to reshape U.S. policies in this region. I am very concerned that in their efforts to improve the relative position of Azerbaijan, they would tilt United States involvement in this very sensitive and important region in a way that will have a serious negative impact on negotiations which are currently underway in the region. I have watched with dismay as a campaign to repeal section 907 of the Freedom Support Act has been undertaken by our administration and by those with economic interests in the region, because I believe that this approach is counterproductive—indeed dangerous—to negotiations regarding the future of Nagorno Karabakh. In this regard, the House Foreign Operations subcommittee has worked to provide an evenhanded framework for United States policy which recognizes the need for objective dealings and for improving the climate for democracy in the region. If we tip the scale in favor of Azerbaijan, they will no longer have an incentive to negotiate in good faith on a permanent solution to the Nagorno Karabakh situation. This would be a great tragedy, because the termination of the negotiations brought on by a change of United States policy would almost certainly bring a return of armed hostilities between Armenian and Azeri. The world was horrified by the brutality of the last round of fighting in this tiny enclave, and we as a nation have invested a great deal in efforts to avoid a repeat of that bloodshed.

As the Minsk Group negotiations on the Nagorno Karabakh conflict continue, we must press upon all parties that inherent benefits they will receive from working together and establishing normal relations with one another. I firmly believe that it is in the long-term interests of these countries to find solutions that they can live with, where there will be peace, security, and prosperity for everyone in the region. The building of an oil pipeline in the region could be a tremendous positive force which brings these two old adversaries together and causes them to deal with each other in a mutually beneficial way. Azerbaijan cannot realize its full promise as a source of energy resources or as a legitimate player in the region until it makes peace with its neighbors and develops a better reputation for fair dealing. Armenia cannot wean itself from foreign assistance or fully develop its economy until the blockades it currently suffers under are gone and better relations are established with its neighbors to the East and Southwest. Moreover, both Russia and Iran stand ready to fill the political vacuums in both of these countries that will doubtlessly arise if there are not soon permanent solutions to the problems which plague them both.

Azerbaijan and Armenia both have everything to gain from better relations with one another. The United States must be an honest broker in the region, and must take into account the history of this conflict in evaluating the posture it should adopt toward each of these countries, both in the context of the Minsk Group talks and in one-on-one communications. The time has come for both countries to disregard the old zero sum game mentality that has been thoroughly discredited in the post-cold-war world. This would be a win-win situation for both Azerbaijan and Armenia, if only they will look for creative ways to solve their problems and work together. For its part, the United States should continue to push both countries to make appropriate concessions and to work on internal problems which are effecting their external disputes.

I believe both of these countries are important to U.S. interests in the region and we must do all that we can to bring them together, not only for our benefit but for the benefit of the parties as well. I believe that the language we have included in the Foreign Operations bill will bring us closer to this goal by providing for humanitarian assistance to all needy people in the region and allowing democracy building assistance to go to Azerbaijan for the first time. These are important steps in the right direction. I hope that tomorrow when President Clinton speaks with Mr. Aliyev, he will deliver some straight talk about the need to compromise and be a responsible player at home and abroad. I also hope that this visit by President Aliyev will be followed by an invitation to President Ter Petrossian of Armenia. Finally, I hope that in the end, the policies we adopt and implement, and the agreement which is reached by the parties, are driven by concepts of justice, fairness, international law, and an understanding by the parties that such a settlement is ultimately their best hope for the future.

THANKING COLLEAGUES FOR SUPPORTING HOUSE RESOLUTION 191

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise to thank my colleagues for the bipartisan 416-to-2 vote in favor of my bill, House Resolution 191, last week. This overwhelming vote was certainly a factor in the European Community's decision to accept Boeing's final offer.

House Resolution 191 made clear that any European Community disapproval of the Boeing McDonnell Douglas merger would have constituted an unprecedented and unwarranted interference in a United States business transaction. It would have threatened thousands of jobs immediately and many thousands more if a trade war had resulted.

Thus, their action raises a disturbing question: How did a foreign consortium get to the point that it felt it had the authority to tell two wholly owned U.S. corporations what they could or should not do?

The House Committee on Transportation and Infrastructure will hold a hearing on this whole issue on Friday to look into this specific foreign involvement; whether it was improper and what we must consider if such a situation occurs again. I hope the hearing will be in depth and complete, as these questions demand definite answers.

WAIVING A REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. SOLOMON (during the special order of Mr. EHRLICH) from the Committee on Rules, submitted a privileged report (Rept. No. 105–216) on the resolution (H. Res. 201) waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered printed.

□ 1745

ACCORD ON TAX CUTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Maryland [Mr. EHRLICH] is recognized for 60 minutes as the designee of the majority leader.

Mr. EHRLICH. Mr. Speaker, I rise today with my good friend, the gentleman from Indiana [Mr. MCINTOSH], who will be joining us shortly on the floor. The gentleman from Indiana [Mr. MCINTOSH] and I certainly extend an invitation to our colleague, the gentleman from Washington [Mr.

METCALF] as well to join us in a very important day, Mr. Speaker.

We have an agreement. We just came off the steps of the House of Representatives and told the American people a lot of the things that we have been debating over the last 3 years in this town.

I notice I am joined now by my colleague, the gentleman from Indiana [Mr. MCINTOSH], my good friend.

Mr. Speaker, days like today get us thinking about where we came from and where we are and where we are going. Because in politics, Mr. Speaker, you cannot always get what you want. Sometimes you can get what you need, to paraphrase the rock and roll song.

Today, people of different political philosophies came together and signed an accord. Included in that accord are many things we have debated on this House floor over the last 3 years, many items in the Contract with America, many items that brought the last couple of freshman classes to this town, particularly the 104th freshman class, of which the gentleman from Indiana [Mr. MCINTOSH] and I are members.

I cannot help but thinking about President Reagan and President Bush today, tax cuts from President Reagan. President Bush was the victim of some demagoguery of such class warfare rhetoric about cutting capital gains for rich people and the class warfare we see on this floor time and time again on a daily basis. Yet, we bring the American people a significant capital gains tax cut.

Is it zero? No. Should it be zero? In my view, and in the view of many of us, yes. But is 28 down to 20 a step in the right direction? You better believe it. And that is the nature of dividing government. The folks that control this Congress are pretty much to the right of center philosophically. The folks that control that big house down the street are to the left of center.

We have vastly different views of the role of government in our lives. We have a vastly different philosophical orientation. Yet today, we have come before the American people with an agreement.

I am really happy to be joined by my really good friend, the gentleman from Indiana [Mr. MCINTOSH], one of the leaders of this Congress, 105th Congress. I keep thinking of the 104th Congress. And we are going to talk about a few specific items, a few specific initiatives in this particular package.

I know my friend from Indiana [Mr. MCINTOSH] wants to make a few words of introduction, as well.

Mr. MCINTOSH. Mr. Speaker, today is a tremendous day. We have seen people from all generations of politics come together for an agreement where the American people are the winners.

The gentleman from Maryland [Mr. EHRLICH] and I were fortunate enough to come in in the 1994 elections with that freshman class, now sophomore class. The gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, has been here quite a bit longer. But all of us can celebrate.

Frankly, I think we do need to say thank you to President Clinton for agreeing to sign this legislation, thank you to Speaker GINGRICH, thank you to leader TRENT LOTT, and thank you to the gentleman from Texas [Mr. ARCHER] and the others who have worked to negotiate out this bill.

It is the American people who are the winners in the bottom line. We came here with the promise to cut taxes and shrink Government. We came here with the promise to change the way Washington does business. I do not want to tell my colleagues that we have accomplished everything in this bill. But we have made a tremendous step forward. In particular, I was delighted to see that we are now going to have the $500 tax credit for children become part of the law in this land so that families who need that money will be able to benefit from that.

I would like to share with my colleagues, if I may, Mr. Speaker, an example of a family that I know from my hometown of Muncie. It is a young man and his wife who have worked hard to get ahead in this country, Gerald Hunt and Debra Darnall. They make about $30,000 a year. Gerald and Debra work in their own independent business. He is a contractor. They will benefit from this plan because they have two daughters and their daughters will qualify them to get $1,000 more each year in their take-home pay because the Government will not be taking it in taxes.

What does that mean for the Darnalls? It means a lot, I will tell my colleagues that. It means six bags of groceries each week will be paid for by this tax cut that we are going to pass this week, 2 months' worth of groceries in all, real dollars to fill their gas tanks. At about 20 bucks a week, that is 50 weeks, the whole year, that they can put gas in their gas tanks because the Government is not taking that money out the Darnalls' paycheck; new school clothes for Kellie and Ashlee, who will grow out of their school clothes every year and need that $1,000 in order to help them. Or if the Darnalls decide to start saving today in order to send their two daughters to college, we now have a new savings plan that will allow them to put aside money for those two girls to go to college and not have to pay taxes on the interest that that money earns in that savings account.

This new IRA for education will mean that literally millions of Americans can afford to send their children to college who may not have had any hope to do that for a better future. I am very proud of what we have done today. Those are just a few of the details in our tax bill.

I look forward in the next hour to working with the gentleman from Maryland [Mr. EHRLICH] in explaining to the American people what all of us, Democrats, Republicans, all Americans can be proud of the work that is being done today in Washington to finally cut taxes for working families in this country.

I look forward to having a discussion with the gentleman from Maryland [Mr. EHRLICH] now about the details of that.

Mr. EHRLICH. It is easy to discuss these issues with the gentleman from Indiana [Mr. MCINTOSH] because we agree and it is nice.

Mr. MCINTOSH. If the gentleman would yield, the great thing, though, is that President Clinton is going to sign this bill and our colleagues across the aisle are going to help us pass it. So it is not going to be a partisan rancor. We won the day, I think, on some of these issues. We are going to have a tax cut finally, but we won by joining together and all sides agreeing to go do that for the American people.

Mr. EHRLICH. Reclaiming my time, could we have received odds on this tax cut being signed 6 months ago, I think the odds would have been very long. I think the American people will wake up tomorrow somewhat surprised that this deal got done, and not only that there was an agreement made, but that the agreement was made with numbers that are not phoney, real numbers and real tax cuts and real entitlement reform and real policy initiatives, not the phoney stuff we see coming out of this town so often.

There are two taxes that I know are near and dear to the heart of my friend from Indiana [Mr. MCINTOSH], and they have been near and dear to my heart. We have campaigned on these taxes, as two Members who pride themselves on championing the merits of small business people, small business men and small business women, who, it is a cliche these days but it is a fact, they are the backbone of the American economy. We create jobs, small business people.

What two tax issues, what two tax initiatives have been so important to that small business group? Capital gains and estate taxes. As I said earlier, President Bush, and I hope he is on the golf course today, it is a great day and he probably is, and he deserves it. But I hope he is smiling, Because he has been vindicated.

When I think back to all the class warfare and negative ads and all the silly stuff that had been brought out in President Bush in his elections, against the Republican freshmen, against the Republican conference in the 1996 elections, against the conservative Democrats, I think back to all that sort of rhetoric and I am no longer frustrated today because we are making progress.

A few facts for the gentleman from Indiana [Mr. MCINTOSH]. As he knows, we are cutting capital gains from 28 to 20 for upper income taxpayers, 10 percent for lower income taxpayers, 10 percent. Housing exemptions, I know the gentleman wants to talk about this in a bit, $500,000 for joint filers, $250,000 for single filers. No longer will they be punished for making a good economic decision in life, buying a house.

But I have a few facts I want to run by the gentleman from Indiana [Mr. MCINTOSH]. First, as of 1995, American households have more equity invested in stock markets than their homes. Think about that. Americans now put more of their savings into stocks than into their savings accounts.

According to the Federal Reserve, about 70 cents of every dollar saved by American households in the first 6 months of last year went into mutual funds. Stock ownership has doubled in the last 7 years. Listen to this, 43 percent of all adults in this country today are now investors; 47 percent of those folks are women and the clear majority are under 50 years of age.

With respect to the class warfare demagoguery, of which I am tired, my colleague is tired, the country is tired, let us get over it. Two-thirds of individuals reporting capital gains had incomes of less than $50,000, incomes of less than $50,000.

Mr. MCINTOSH. If the gentleman would yield, two points that he just made need to be repeated. First of all, over 40 percent of the investors are women. This is not a tax cut for the white male club in this country, for the rich male club. This is a tax cut for the average American person who is trying to save and get ahead and save for their family, save for their future investment, save for their retirement, and take advantage of a stock market that is just skyrocketing, without having to fear that they are going to be punished by the tax man if they actually succeed in investing and get a return on the investment.

I think my colleague's point is that 40 percent of the investors who benefit from tax cuts are women; 50 percent of the investors make less than $50,000 a year. This is a tax cut for the middle class. And I am glad that the gentleman from Maryland [Mr. EHRLICH] is pointing out that the demagoguery that this is a tax cut for the rich just does not stand up under the scrutiny of the examination of the facts.

Mr. EHRLICH. Mr. Speaker, reclaiming my time, but it is not just the middle class. It is a tax cut for every stage of life.

Getting back to capital gains for just a moment. The elderly realize a disproportionate amount of capital gains. In 1993, think about this, those over age 65 realized 40 percent of all capital gains. All those folks make up just 12 percent of the population. Tax relief for every stage of life. It is a cliche, it is a theme, but it is real when it comes to this tax package.

I know there is another tax initiative near and dear to the heart of my friend, the gentleman from Indiana [Mr. MCINTOSH], family-owned small businesses and farms, estate taxes, the death tax, or, as we like to call it around here, the tax-on-success tax.

I know my colleague is very familiar with the history of estate taxes in this country. Only 3 years ago, the minority leader in this House was talking about lowering the threshold from $600,000 to $300,000. That was actually debated in this House.

Today, we stand before the American people and we talk about an immediate exclusion up to $1.3 million for small businesses and family farms, those folks who are not surviving to the second generation, let alone the third generation. And that is un-American. It is very un-American, in my view, and in the view of the majority of folks in the Second District of Maryland, that the Federal Tax Code penalizes folks because they happen to be successful small business people. They are the backbone of the economy, as we have discussed. They are the folks that should not be punished for our Tax Code.

My friend, the gentleman from Indiana [Mr. MCINTOSH] knows very well of the estate tax. It came about early on to get at the very wealthy in this country. Today, it serves as a disincentive for folks to pass on their small businesses and their farms through their own family. That is not right. Third generation small businesses in this country have a survival rate of 10 percent in this country. That is wrong. That is immoral. This bill has, at least, a pretty good start toward a real remedy.

Mr. MCINTOSH. If the gentleman would yield further, let me talk a little bit more about those death taxes and the reforms that we are going to have as a result of this compromise with President Clinton.

Two provisions are very important for family farms, for family farms and small businesses. There is an immediate exclusion of $1.3 million from their estate. The people might say that sounds like a lot of money. But when somebody has worked 50 years in their life farming a farm that they inherited from their parents and they find that land prices have gone up, they will often discover that, although they do not have a lot of cash on hand, they are considered to be millionaires by the government when they pass away and try to hand on the family farm to the next generation.

□ 1800

I wanted to share with the gentleman and my colleagues a story about a family in my district. Gerald Hunt of Hagerstown, IN, is a family farmer. He owns 160 acres of land that was purchased in 1948. He is getting ready to retire, starting to think about passing on that farm to the next generation. He has a son Niles and a daughter Claudia. But he is afraid that under the current law, if he tries to pass on the farm to that generation, they will have to sell it just to pay the taxes, the death taxes that are in our Tax Code. Fortunately our reform will help Gerald Hunt with immediate tax relief so that he can pass on the family farm to his two children. This is another step in tax relief for the average American that is in this tax bill.

Mr. EHRLICH. The gentleman raises a great point. I think we need to talk about this to the American people because they hear numbers like $600,000, $1.3 million. "My God, they're rich people." But he made the point, and it needs to be repeated time and again, many of these small businesses have no cash, no liquidity. They literally have to take apart what their parents have built up in order to pay Uncle Sam just to pass the business on from one generation to another. It is not fair. It is immoral.

Mr. MCINTOSH. Oftentimes the community is the loser. If it is a small business and they have to sell the assets to pay the tax bill, then we lose the jobs. That business goes out of business. People who worked with them, maybe 10, 12, 20 people who worked in that family business, are out on the street looking for a new job.

Mr. EHRLICH. What is also a potential loser is open space, because when farmers sell, that land gets developed. We need farmers in this country. I know we both represent a lot of farmers. We need farmers to stay in business. We have to stop punishing them for being successful in life.

Mr. MCINTOSH. Frankly, I like the fact that people want to pass on to the next generation the rewards of their hard work. Families are the institutions that have made this country great, and we should reward families who work and stay together and try to do that.

If I could interject a minute on another part of the tax cuts that I find very, very important, I live in the town of Muncie, IN. We have a State university there, Ball State University. Most of the students who go there are first generation college attendees. Their parents have to scrape and save in order to pay the tuition, on average about $2,000 a year, plus room and board and books, and they are quite frankly a lot of times having to really struggle in order to stay in college. I have talked to a lot of those students when I go up to campus and visit with them about their concerns.

This tax bill, and again I think we do have to give credit where credit is due on this one, President Clinton proposed the HOPE Scholarships. He campaigned on it in the last election. We were not quite sure what it meant on the Republican side of the aisle, but we have come together to write the HOPE Scholarships into law, and I think it is a good provision for those college students and for their families.

Here is the way it would work. Up to 50 percent of the first $3,000 of tuition will be a tax credit for people who are paying taxes and paying that tuition. That means effectively the first $1,500 of that tuition will be paid out of the money that would otherwise go to Uncle Sam. That helps a lot in a family budget when they are trying to send one, two, maybe three students to college at the same time.

I think it is also important that we have been able to extend that to vocational school, where 75 percent of the first $2,000 will be credited in taxes, and for people who extend that beyond the first 2 years to their third and fourth year of education.

The other aspect of this that I find very appealing is the tax-free IRA that parents can now establish and take benefit of the fact that they will be saving their money in advance of sending their children to college, without having to pay taxes on those savings and the return on that investment. My State recently passed a bill that would encourage parents to do that in order to send students to the State colleges in Indiana.

I have to brag about them. IU has a great basketball team, also a great liberal arts school, Purdue has one of the best engineering and science schools in the country. Ball State, that I mentioned earlier, is a great teachers' training college and architecture school. These are fine institutions.

But unfortunately more and more people are struggling in order to be able to attend those institutions. Today if you find yourself with having a new baby arrive and thinking, "Gosh, in 18 years, I'm going to have to pay out a lot of money to send that child to college," we want to increase the incentive for parents to start saving right now to send their children to school. These new college tuition IRA's, which will allow them to save over time, build up the cost of that tuition and then deduct it in order to pay for the tuition without having to pay taxes, are a tremendous way to allow families to plan to send their children to college.

As you and Kendel know, Ruthie and I are expecting our first child this October. I have to tell the gentleman it has already started to change my thoughts on how things should be done in the McIntosh household. But one thing I can tell the gentleman we are going to do is start up one of these IRA's so that our young child will have a chance to go to school and we will be able to afford to pay it without asking for a pay increase here in Congress.

Mr. EHRLICH. I hope that does not get the gentleman a negative ad in his next campaign, by the way. As the gentleman knows, his wife is a special person to us. I congratulate him prematurely. She is a wonderful lady.

I know that there is so much in this agreement we would like to talk about, and time is short. We have reform of the earned income tax credit, very important. We have the alternative minimum tax relief, very important for capital-intensive small businesses. I work with the printers a lot in my district and they need to invest so much in capital, in new machines, in a very competitive industry. We have exempted small corporations from the alternative minimum tax, a very important provision. Welfare privatization, an experiment in Texas, very important.

But there is one thing I think we really need to talk about before we leave today, and I know my friend from Indiana has something else he wants to say, but I just cannot resist talking about entitlement reform.

The gentleman saw the ads. How many ads were run in the 1996 campaign?

Mr. McINTOSH. Hundreds of millions of dollars of ads.

Mr. EHRLICH. Hundreds of millions of dollars of ads were run to scare seniors, with one purpose, to get votes. Forget facts, forget what the Medicare trustees had told the Congress and the American people. Forget what people knew about how in trouble the system was at the time and is today. But in order to generate resentment for votes, let us scare seniors. That was a very important tactic in some campaigns in the 1996 elections.

Here we come today, in late July of 1997, a mere, what, 7 months later, 8 months later, and the President is signing a package containing almost all of the provisions in the package from 1995 that gave rise to those negative ads. I congratulate AARP, I congratulate the Seniors Coalition, I congratulate the over 60 folks, I congratulate all the senior groups who had the guts and the determination to be honest with the American people and their membership, which sometimes does not pay, as we know in politics, but to be honest with the American people about the problems with Medicare and particularly in the trust fund, part A.

Here we have $115 billion in savings over 5 years. We have extended the trust fund, the part A trust fund to the year 2007. We have MSA's. We remember how horrible MSA's were and all the ads about medical savings accounts. We have PSO's giving freedom to physicians and hospitals to form their own networks to compete in the private marketplace. Freedom of choice is breaking out for our seniors. We are saving Medicare. I do not see one ad on TV today. Why?

Mr. McINTOSH. Nobody seems to want to benefit politically from telling the truth at this point.

Mr. EHRLICH. That is the right answer.

Mr. McINTOSH. I wanted to share with the gentleman a story that happened to me over the summer. Ruthie and I were at a family reunion with her family, the McManis family, and her grandmother Ruth McManis stopped me and said, "I'm reading things about Medicare again. Can you tell me what's happening?" They are in their eighties, they are retired, they are in good health, thank God, but they are worried that if something should happen and they need to go to the hospital or they need to see their doctor, will Medicare be there for them?

I could reassure Ruth at that point that we are going to save Medicare. We are going to put it on a sound financial footing by getting rid of the fraud, by getting rid of the excess payments, and by giving seniors more choice, so that if they want to keep Medicare exactly as it is now, they can do that. If they want to go into an HMO or some other managed care unit where they do not have to pay the monthly payment because they cannot afford it, they can do that. If they want to go outside Medicare and hire their own doctors and take out their own insurance plan, they can now do that with this bill.

But we are going to make sure that senior citizens like Ruth and Lester McManis, my wife's grandparents, and senior citizens all over this country, are going to be able to count on Medicare being there so that they can have their health care needs taken care of.

The gentleman is right. We do need to point out that it was used politically in the last election. But I think we also, and this is becoming a recurring theme, my constituents will wonder what happened to me, because I have criticized President Clinton a lot. But now that he has agreed to do what I think is right, I do think we ought to say thank you to him as well.

Mr. EHRLICH. I agree.

Mr. McINTOSH. That he did put politics aside in order to pass this bill.

Mr. EHRLICH. I congratulate the President as well, and I join my colleague in that. I just hope that the American people do not have such a short memory that the stuff that we saw, and I do mean stuff that we saw in 1996, is not repeated anytime again. Because it is one thing to engage in real debate about real policy with legitimate philosophical differences between the parties. I love that, I know the gentleman loves that. That is why we do this.

But to have to contend with a lot of the stuff that we saw, some people tried to sell the American people last campaign in order to create class warfare and generational, and that is what we are talking about, generational warfare here, turning grandparents against grandchildren. It does not work.

I think that was one of the lessons in the 1996 campaign. I think the White

House learned it, we learned it, the folks on the other side of the aisle learned it, that when we stop that stuff and actually negotiate for the common good of the American people, we can make progress. That is what this budget agreement represents.

That is why I am happy to join with my good friend from Indiana today to talk about this. I am not going to use the term "historic," but I am going to use the term "important budget agreement," and I leave the last word to the gentleman from Indiana.

Mr. McINTOSH. Mr. Speaker, a lot of people have asked me the question, where do we go from here, what happens next? I would like to mention one thing that I think is critical in this, and that is, as we look at these tax cuts, and I have been a strong advocate of these tax cut provisions in the Contract With America from the very first day, they are not everything that we would want.

The gentleman from Maryland [Mr. EHRLICH] mentioned we would like to go to a zero capital gains tax on investment and savings. One other issue that I want to just mention because I think it is important, and I have gotten assurance from the Speaker and the gentleman from Texas [Mr. ARCHER], we will bring another tax bill forward in this Congress. One issue that I am going to really beg that we put on the table because I think it is so important for American families is the marriage penalty in our Tax Code.

One of our classmates, the gentleman from Illinois [Mr. WELLER] sits on the Committee on Ways and Means. He told me today he is going to make abolition of that marriage tax one of his top priorities on that committee. But I wanted to share with the gentleman a letter that I got, and I have talked on this floor before about this letter. It moved me and it is something that I will never forget in my career here in Congress. It is a letter from Sharon Mallory and Darryl Pierce.

"Dear Representative McIntosh, my boyfriend Darryl Pierce and I would very much like to get married." Sharon goes on to explain she works for about $8 an hour at the Ford electronics plant in Connersville, IN, and then she says, "I can't tell you how disgusted we both are over this tax issue. If we get married, not only would I forfeit my $900 refund check, we would be writing a check to the IRS for $2,800 in taxes. This amount was figured for us by an accountant at the local H and R Block office in New Castle."

She then says, "Now there is nothing right about this. After we continually hear the government preach to us about family values. I don't understand how the Government can ask such questions as single? Married? Dependents? Darryl and I would very much like to be married and I must say it broke our hearts when we found out we can't afford it. We hope someday the Government will allow us to get married by not penalizing us."

I wanted to share with folks today at home a picture of Sharon and Darryl, because they are the American people who will not benefit as much from this tax cut because they are not yet married, they do not have children.

☐ 1815

So our next tax cut has to help them overcome that marriage penalty so that we can strengthen families in this country and they can have their fondest dream of once finally becoming a couple come true.

So our work is still ahead of us, but today is a day to celebrate because this is a very, very important tax bill for the American people, and I thank the gentleman from Maryland for allowing me to participate in this time with him. It is very important that we get this message out.

Mr. EHRLICH. The bottom line is, my friend, when you empower families, when you return money to people, when you stop the ability of government to always, always, always grow, you hardly ever go wrong, and that is the bottom line to this package. I thank my friend from Indiana, Mr. McINTOSH.

HOUSE LEADERSHIP QUESTIONED IN CONGRESSIONAL ELECTION INVESTIGATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from New York [Ms. VELÁZQUEZ] is recognized for 60 minutes as the designee of the minority leader.

Ms. VELAZQUEZ. Mr. Speaker, there is an unprecedented attack currently under way in this Congress. Right now Republicans are engaging in a war on women, on Hispanics and on the gentlewoman from California [Ms. SANCHEZ].

Last November the gentlewoman from California [Ms. SANCHEZ] was elected to the House of Representatives for the 46th District of California, fair and square. The loser, Bob Dornan and the Republicans, have refused to concede defeat. The story about how far they will go to defeat this woman, Hispanic Member of Congress, is shameful. After 9 months and after spending $300,000 of the taxpayers money, they still have not given up. They have issued subpoenas at Bob Dornan's request, they have forced the gentlewoman from California [Ms. SANCHEZ] to prove that the people who voted for her had the right to vote.

Mr. Speaker, this is not only unprecedented, it is wrong. The burden of proof is on the loser. The Washington Post agrees. Yesterday they said that the burden of proof falls on the plaintiff, in this case Bob Dornan. The Post takes it further. They said that there is no credible evidence to change the outcome of this race. The message is clear: admit defeat and give up.

That has not stopped the Republicans from harassing law abiding citizens though. They have subpoenaed INS records, and the result is that the INS offices has been spending all their time responding to the subpoenas and are unable to do their real work.

But that is not all. The Republicans have used this so-called investigation as a way of harassing their political enemies. They have harassed Catholic Charities, they have examined the records of 20,000 community college students, and they have admitted targeting unions that employed immigrant workers. This kind of behavior is just outrageous. The Republican leadership is using the Committee on House Oversight to try to throw out the election of a Member of Congress without being able to prove any wrongdoing.

Mr. Speaker, the gentlewoman from California [Ms. SANCHEZ] should be allowed to do what she does best, represent the people of the 46th district of California. Instead she has been forced to bear the burden of proof of her innocence. This is a total abuse of power by the Republicans.

This is not just a personal attack on the gentlewoman from California [Ms. SANCHEZ]. This is an attack on women, and it is a clear attack on Latinos. By using this opportunity to crosscheck voting records with records of the INS, the Republicans are trying to intimidate Hispanics and trying to keep them from voting.

Mr. Speaker, I have news for the Republicans. Hispanics are here to stay. They are a growing economic force, and, as the Republicans are finding out, they are a growing political force.

I will give the Republicans a bit of free advice: If they want to win elections, the best way to do it is to respond to the needs of the voters. Instead of trying to show that every Latino is an illegal and trying to deny them the right to vote, they should listen to what Latinos have to say. Instead of trying to intimidate women, they should listen to what they have to say.

Mr. Speaker, instead of learning their lesson when they lose an election, as most people do, the Republicans are using their power to distort the democratic process. Is that what the American people want? Is that what the democratic process is all about? I do not think so.

Now I will yield to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I am known here in the House as someone who is not a ranter and a raver, if I can use that phrase. I like to work whenever possible in a bipartisan manner to find common ground and to achieve real progress for the American people.

I think all of us were sent here to do this and to make a difference in that way.

But I find myself unable to remain silent any longer about the Sanchez race. You know, I am mindful that the investigation that has been going on has now consumed more time than the entire campaign and election did from filing to election date, and I think there is something wrong when an investigation that produces nothing continues throughout what looks to be a plan to consume the entire term of the person's office.

Now if there was any evidence of behavior that would affect the outcome, perhaps we could be more patient with this, but as the Washington Post has pointed out and as a matter of longstanding law as well as precedents of this House, the burden of proof is on the plaintiff in this case, and there is no credible evidence that has been brought forward that would lead any objective observer to the conclusion that the outcome of this election will be changed in any way through additional investigations.

As the gentlewoman from New York knows, I am a member of the House Committee on the Judiciary, and in that capacity I serve on the House Subcommittee on Immigration and Naturalization. I regret to report that the state of the records of the Immigration Service is so poor that the information being asked for frankly is not going to be able to be delivered in any kind of timely fashion. And by way of example, when the first request was made to the Immigration Service to match up names with INS records was delivered, 500,000 names came back, nearly, well, almost the entire population of a congressional district from all over the United States. Obviously this proves nothing. The numbers are now down to such a short percentage that there is no way the outcome could possibly be affected.

Now I have heard Members on the other side of the aisle stand here in this well and become highly enraged and distressed and upset at the concept that this investigation would be perceived as racist and would be perceived as sexist and would be perceived as partisan, and I believe that those individuals who spoke in that manner did so in good faith and honorably. But I am here to say that if you continue after today, you are warned that in fact it will be taken in that manner by people of good-faith, not only in California and Ms. SANCHEZ' district but throughout this country, because Sanchez is as American a name as Lofgren or Smith or Wong, and yet the only individuals being looked at are Americans with names like Velázquez and Sanchez.

And that is being taken very poorly in those sectors and, I think, rightfully so. We are not asking to see the naturalization papers of any Flahertys or Clintons, and I think that the voters and Americans in California have got it about right as to the impact of this investigation.

I have come to know Congresswoman SANCHEZ as a very strong, forceful voice for ordinary working people in her district. I think it is important for the Republican Party to put this matter to one side to allow Congresswoman SANCHEZ to do her job, and we will have another election just next year. Candidates can run and voters can choose. That is the way to settle this at this point.

And I would just urge that Members in good faith, Members of this House who take their oath of office seriously, will step back, ditch the partisanship, let the gentlewoman from California [Ms. SANCHEZ] do her job.

Ms. VELÁZQUEZ. Does the gentlewoman know the demographics of LORETTA SANCHEZ' district?

Ms. LOFGREN. Yes, I do.

Ms. VELÁZQUEZ. And what type of message are we sending to the Hispanic community when the names that have been checked with the INS only are those of Hispanic Americans?

Ms. LOFGREN. Well, you know it reminds me, Congresswoman, of an incident that happened, and I have only been in this Congress now for 32 months, but I served in local government in California for a number of years, and several years ago the Republican Party in southern California hired guards and posted them around the polls but only in sections of town that were primarily Latino. And, in fact, the Republican Party was sued over that and the court found that it was discriminatory and the Republicans were fined.

Many people in California are likening this investigation to that more egregious, and, I would say, intentional, effort to try and discourage Americans who are of Hispanic descent from exercising their franchise, as every other American should do. It is certainly, I think, the wrong message for America, the wrong message for our children to see.

We are living in a country, fortunately, where what defines your Americanism is not where your parents or grandparents came from, it is not whether your name is Smith, Wong, or Sanchez, it is not the color of your skin. It is your belief in freedom, it is your belief in the ideals of this country that make you. It is your willingness to stand up for your country that make you an American in belief, and the separating out of Hispanic Americans I think is terribly wrong.

And I will make this prediction as well, that in the end Latino Americans in California have taken great offense at this, and I think are certainly registering to vote in much greater numbers than historically has been true, and I think what I am hearing from my constituents or Latinos is that they now understand in quite a different way which party is on their side, and I have recently heard that from other Americans whose parents immigrated from places other than Europe, including friends in the Korean-American business community and others.

So I think in the end this will all be resolved, but for now I think it is important for us to step back. I have heard people say, well, in 1984 something happened that the Democrats did that was wrong. I was not here then. If the Democrats did something wrong, they should not have done it, but we should not do a bad thing. We should do what our oath of office requires us to do, what is right for America, what is right for this House and hold up our heads proudly.

Ms. VELÁZQUEZ. Now I yield to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, I am glad to comment for a minute and then yield here for a colloquy with my friends because I think why we are here tonight is to stand on the floor of the House of Representatives in defense of this institution and criticizing essentially the attack that has been made upon this institution.

□ 1830

It has been an attack on this institution, because it is an attack on a particular Member, the gentlewoman from California, Ms. LORETTA SANCHEZ, who got elected to this House. She was declared the vote winner by the Secretary of State of the State of California, entered this House, took the oath of office. And now there is a witch hunt to say that because she had a close election, she won by 984 votes, that therefore, and because her name is SANCHEZ, and because she lives in southern California, and because many people in southern California have Latino names, that people voted in that election who should not have voted.

Mr. Speaker, I think there are probably people in most elections in America who voted who should not have voted. There are illegal votes cast in this country. But to say that they were all cast in one congressional district is ridiculous.

The reason that I am so upset about it, if indeed Members want to go after close elections, the election of the gentlewoman from California, Ms. LORETTA SANCHEZ, ranked fifth. Listen to the names ahead of her: The gentleman from Pennsylvania, Mr. JON FOX, the gentleman from Massachusetts, Mr. JOHN TIERNEY, the gentleman from Washington, Mr. ADAM SMITH, the gentlewoman from Washington, Mrs. LINDA SMITH. All of those people, Members of this House, won by lesser votes than she did.

So, essentially, the gentleman from Pennsylvania, Mr. JON FOX, won by 84 votes. Did anybody challenge that election and say there were illegal voters in his election, or in the election of the gentleman from Massachusetts, Mr. JOHN TIERNEY? Did the Canadians come in and illegally vote in the election of the gentleman from Massachusetts, Mr. JOHN TIERNEY, or the gentleman from Washington, Mr. ADAM SMITH, and the gentlewoman from Washington, Mrs. LINDA SMITH? How many Canadians are they challenging?

No, they are picking out one race, one congressional district in all of the United States, one that came in fifth from the bottom, and going after that. Why? Because of a very controversial former Member of this Congress who has decided ad hocly not to give up his title, but to use his color of title to go after the person who won. So I engage my colleagues in a colloquy about this, and certainly would ask the gentlewoman from Connecticut (Ms. DELAURO), for a comment on it as well.

Ms. DELAURO. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I just want to say, I think my colleague is right. My colleagues who have spoken are right. I think there is an important point. First of all, the point the gentleman brought out was that there are several people who had more narrowly determined races on whom nothing is being challenged. No list of ethnic names are being addressed and none are being requested.

I think what is important to note, and the gentleman talked about it, the gentlewoman from California (Ms. LORETTA SANCHEZ), was certified the winner of this election. It was by a Republican registrar of voters, and a Republican secretary of State.

That was after, which is even a second piece of this, which is because we had some other races that in fact were more narrowly defined, but there was a recount of every single ballot, and the gentlewoman from California (Ms. LORETTA SANCHEZ), was determined and certified the winner by 979 votes. So I think that is what the point is.

When we look at this issue, what we need to wonder about is is this a politically motivated attempt to steal an election? Is it, by virtue of the requests that have been made from the Immigration and Naturalization Service about the thousands and thousands of Hispanic names to be reviewed, is it anti-Hispanic? And third, given what we know, again, about the certification and other races that were not looked into, that the nature of the hearings, are they not in fact a waste of taxpayers' dollars?

Ms. LOFGREN. Mr. Speaker, if the gentlewoman will yield, does the gentlewoman from Connecticut happen to know the amount of money that has been spent on this investigation by the House so far?

Ms. DELAURO. I will be happy to tell my colleagues. First, we have spent 9 months at this effort and over $300,000 in taxpayers' funds investigating this election.

Ms. LOFGREN. Does that include the cost incurred by the Immigration Service to comply with all these many requests that have yielded nothing?

Ms. DELAURO. It does not. As a matter of fact, in our Committee on Appropriations process, the gentleman from Maryland (Mr. HOYER), asked that the INS be reimbursed the money that they have had to put out to do this, and the answer came back from the committee as a no, that we would not reimburse them for doing that. So out of the INS budget there is that money, in addition to the $300,000 that has already been spent.

Ms. ROYBAL-ALLARD. Mr. Speaker, if the gentlewoman will yield further, I just wanted to make one more point. Although the contested election is about the result of the 46th Congressional District, in which 93,000 people voted, Mr. Dornan and his Republican allies sanctioned the INS to pry into the records of all of 1.3 million Orange County voters. This means that the Republican-led Committee on House Oversight ordered the INS to go through the records of hundreds of thousands of people not associated with the results of this contested election. Most of these people could not have cast a vote either for or against the gentlewoman from California, Ms. LORETTA SANCHEZ, or Bob Dornan because they were not even living in that district.

So it is definitely unfair, it is unethical, and an invasion of privacy for these registered voters to be subjected to the antics and the subpoenas of this private citizen, Dornan.

Ms. DELAURO. Mr. Speaker, I think it is important to set the record straight here. Bob Dornan, a former Member of the House of Representatives, no longer a Member of this body, a private citizen, if you will, he has been given the power to subpoena. That is unheard of. It is unprecedented. He has used this authority to truly harass his political enemies, forcing them to spend thousands and thousands of dollars. That is a terrific point. I think it is important for people to know he has no standing and no jurisdiction as a Member of this body.

Mr. FARR of California. In the election next door, the gentleman from California, Mr. GEORGE BROWN, he won with 17 more votes than the gentlewoman from California, Ms. LORETTA SANCHEZ, 17 more votes; the same type of mix of ethnic populations. Is anyone going after the voters in his district and suggesting that that election was a fraud? No. This is absolutely the first time in the history of this country, in this House, when they have used the powers of the INS, the Immigration Service, to go back and question people how they became legal citizens.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentlewoman yield?

Mr. VELÁZQUEZ. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the gentleman raised a very valid point. Let me just add my voice to my colleagues who are here tonight. I will be brief.

As a member of the Committee on the Judiciary, we have certainly been watching from a distance, because subpoenas are extremely sacred or a very special procedural tool for which one must document and provide safeguards. You cannot just randomly go out. It is amazing to us that we would have a subpoena process by a private citizen whom this House is allowing to proceed against a sitting Member of Congress, who is duly representing 550,000 citizens.

If we do nothing more than to ask this Republican Congress to cease and desist in allowing that sort of infraction of rights because we cannot find any basis, and as the gentlewoman from California said, utilizing the INS, I do not want to say in its innocence, but in its responsibility, misusing its responsibility.

I think it is appalling, I think it is outrageous, and I do think today as we stand here, on July 29, it is time now to say, end it forever and forever, to allow the gentlewoman from California, Ms. LORETTA SANCHEZ, who has been ably serving, to serve her constituents and not to be operating under a false cloud of taintedness that has been represented by someone who has simply lost their election.

Mr. MINGE. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Minnesota.

Mr. MINGE. Mr. Speaker, I represent an area in Minnesota that is quickly seeing the ethnic composition of the population change. It has been dramatic. I know that quite often there is a suspicion that if we have a new family in town, maybe it is not documented, maybe it has come into our country illegally, or an individual. There is also a suspicion as people move in and out of apartments, large numbers of people may be living under one roof or at the same address, and do we have illegal residents.

One thing that really struck me about this case in California was the fact that it went beyond just worrying about this, but apparently there are accusations that have been made that if people live at the same address, they must be registering fraudulently to vote.

I have learned that many of these people are, say, residents at a senior housing project; or in one case, it was nuns that were part of an order, a Catholic order, and it was suspected that the nuns were illegal residents; or that military personnel, somebody at the same address, because they were at an Air Force base or a naval base, were registered illegally.

I think it borders on paranoia, and I think it is unfortunate that a colleague of ours, whether it is a Republican or a Democrat, were to have to spend vast sums of money to answer allegations which really appear to be baseless and participate in a fishing expedition.

I really think it would behoove our body if there would be some way that this investigation could be promptly brought to an end, honorably, so really the divisive characteristic of this investigation can be put behind us. Because we certainly have, as this week indicates, some very large issues to struggle through. The budget agreement that was negotiated last spring and the legislation which is now being drafted is where we ought to be focusing our attention. I think all of us should spend most of our time on this. This is just sort of a brief interlude where we have taken deep concern in one of our colleagues' situations.

Ms. LOFGREN. Mr. Speaker, I know the gentleman represents an area more in the interior of the country, but the gentleman and I are members of a very small group here in the House, the Scandinavian Caucus. As I think back in listening to the gentleman speak about his district, I am reminded of my own grandfather who was an immigrant, and he had his naturalization certificate and he hung it on the wall, he was so proud of it.

As the gentleman is talking about newcomers coming in, I do not recall ever a time when people of Scandinavian descent were hunted down to see if there was proof of their citizenship. Yet he was an immigrant, much more than many of the Latinos in California whose families have lived in California for generations, long before my family arrived.

I wonder whether in the gentleman's experience there has ever been these issues raised about what are the Scandihoovians doing there, and are they legit?

Mr. MINGE. Mr. Speaker, I think each wave of immigration has brought with it a certain resentment on the part of the folks who are already there against the newcomers. I think even Scandinavians, unfortunately, face some of that.

But I look back in reading Minnesota history with some interest to learn that ballot instructions in my State were once printed in nine languages, including three Scandinavian languages, as well as Spanish. This was at the turn of the century, about 100 years ago. So I think when we did have these large waves of immigration from Europe, we tried to somehow fit our voting and our citizenship process to be as inclusive as possible.

I think here we see sometimes what borders on xenophobia, and it is very unfortunate. Certainly none of us want to encourage illegal immigration, but I think folks who are in our country, who are legal residents of our country, they have gone through the steps of naturalization and become citizens, they are valued members of our community. We ought to treat them with respect and we ought to welcome them into the political process and make sure they are full participants, because we need, as all of us know, as broad a participation as possible in the political process. We are constantly trying to encourage people to join with us, whether they be on our side of the aisle or not, just to be a part of the debate.

Mr. DAVIS of Illinois. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Illinois.

Mr. DAVIS of Illinois. I think the gentleman makes a very valid point, Mr. Speaker, given the fact that we really ought to be trying to find ways to bring people into the process; that is, to encourage people to participate.

We always talk about the greatness of this democracy of ours, and that people should be involved. Here we are in a situation that is actually doing just the opposite, trying to intimidate people, suggesting to them that they ought not participate.

□ 1845

I think it is horrendous. It is unbelievable. That is why I am so pleased that I decided to come over this evening and join with all of my colleagues as they all say that enough is enough. When are we going to quit it? When are we going to cut it out?

I have looked at at least 15 or 20 newspaper clippings, all indicating that the investigations are turning up absolutely nothing.

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the gentlewoman will continue to yield, I know how hard the gentleman has worked in an era of civil rights, not because of age but because of commitment. Is it not interesting that we are talking about civil rights for now a new immigrant group, Hispanics, when in the Deep South and many other places there was a chilling effect for African-Americans to vote, 1950's and 1940's and 1960's. There was the poll tax and intimidation.

Why are we in 1997 carrying on sort of the same traditions of intimidating people from voting by using INS officers coming to your door investigating nuns? It looks like this country would recognize that with Scandinavians, with new immigrants, with Asians, with Hispanics, African-Americans, I come from an immigrant background, that everyone deserves a chance to participate. It looks like that is what the gentlewoman from California [Ms. SANCHEZ] stands for.

Mr. DAVIS of Illinois. Mr. Speaker, I agree with that, because if it is Hispanics today, Latinos, then it is African-Americans, Scandinavians, Greeks, it is somebody else tomorrow. We all stand with the gentlewoman from California [Ms. SANCHEZ] and want to make sure that she does not have to keep going through this unnecessary hassle.

Mr. TIERNEY. Mr. Speaker, if the gentlewoman will continue to yield, I came in a little bit late but I, like yourself, came down here when I saw that this was the topic this evening. I have been watching this scenario unfold for some period of time.

Let me not go away permanently from the issue of civil rights, which I think is important. I come from the Irish minority, which is not much of a minority around here, but we had our history and we had our difficult times getting into the electoral process. I am proud of the fact that we are very much engaged in it now and that we contribute so much.

Let me take it to a political level. I think that is something that we have to be mindful of here. This is not only a recount that is going on out in California. I was the subject of a recount in my district. I know from past experience, working on other people's recounts over the years, that when those votes are counted, one by one, you have got a real definite idea of how the vote resulted.

At the end of that recount, Ms. Sanchez was declared the winner by almost 1,000 votes. That is a significant margin of victory in a recount situation.

Now I think we take it to the political level. This is not about just civil rights. It is about politics. This is about how can the Republican Party get behind a candidate who will not let go, a person who lost and now knows he lost, if he has any touch with reality, will not let go of the situation? And they come on and they get behind it and let this situation keep unfolding so that we have a Member of Congress, who represents almost 600,000 people, that has to come here and do the business for those people and represent those people on some very significant and important issues and at the same time, because the party chooses not to let it go, because they, I think, perhaps would like to see a Democrat in that position, allow that situation to unfold so that not only does LORETTA SANCHEZ have to do the business here; she has to be mindful of what is going on back at home.

As my colleague from Chicago just said, back home it is clear in the papers there is nothing going on of any substance there except for this obsession with the lack of reality that goes on and on.

Let me just say that I think the voters back in Orange County should be significantly proud of the work LORETTA SANCHEZ does in spite of what has been going on back there and the way it must be some sort of distraction, but you would never know it for the fine work she is doing here.

Mr. FARR of California. Mr. Speaker, the gentleman had a closer election than LORETTA SANCHEZ?

Mr. TIERNEY. It was a 360 vote margin. At the end of the election we had a recount and I won by 371 votes, which in that case was significant enough that a recount could not change that. Yet LORETTA SANCHEZ' was so much larger than that.

Mr. FARR of California. She won by 900 votes. So you have a very close election, and yet they are not going after you and doing a witch hunt in your district in Massachusetts. After all, you are close to Canada, you could have had some Canadians sneak over and vote for you.

Mr. TIERNEY. We counted every vote, and there was a reality in my district. The voters knew the first time. They certainly knew after the recount.

Mr. FARR of California. The point is here is an election that is closer than the one that you were talking about in Orange County, a lot closer. There is no purge or going through and suggesting that the people in that election were all voting illegally because they were not properly registered. I think that this is obviously a witch hunt. There is 21 races that you say were close, that won by 6,000 votes or less, 21 in the 435 Members of Congress. And of these top 21, there is only one that they are going after, and there is only one in that whole group of 21 that has a Hispanic name, SANCHEZ.

I think that this is a witch hunt. It is embarrassing to this institution and ought to be called off. And it would not have been done had she not beaten Representative Bob Dornan, who everybody knows is a bulldog of every stripe and was here dominating this time usually in the evening on special orders about these issues.

Ms. ROYBAL-ALLARD. Mr. Speaker, I have a question for the gentleman. During your recount or during any recount that you may know of, has there ever been a case such as this one where, in addition to the votes in your particular district, thousands and thousands of votes and thousands of voters' records were subpoenaed and looked into that had nothing to do with your particular election like in this case approximately 1.3 million Orange County voters had the INS go and look at their records?

Mr. TIERNEY. No, certainly not. I suspect that this is what the American public has to hear. This is not about a recount to see if they are going to turn the seat over. I think everybody with both feet on the ground or both oars in the water knows that this election is over, that LORETTA SANCHEZ has won. Never in my experience, either as an attorney representing people, my own recounts and other recounts, has anybody found the need to go outside. Most State officials would not let it happen.

Certainly most Federal officials would not pursue it to go on. I think there should be some shame on the Members in this institution for allowing it to go on. To the extent they are participating in it, egging on and absolutely doing away with the rights of an individual, no longer do they make the person who is making the challenge prove the case. In this situation they would like LORETTA SANCHEZ to prove a negative.

Ms. VELÁZQUEZ. On the question of the gentlewoman from California, the fact of the people who were, their files were requested to be with the INS, those surnames were Latino surnames. What kind of message are we sending to our Latino community? And yesterday on this floor there was the debate on the legislative branch where some of the Republicans were accusing us, the Democrats, of playing the race card. But how could you explain that, of all those who vote in California, the only names, the only voters that were requested to be proved by the INS were of Latino surnames?

Mr. TIERNEY. I think that is a good point here. What we ought to be focusing on is why are we not having some explanation from the Members that are Members of this House that are driving this situation as to why this continues on. Why is there not some prospect here that a responsible leadership in this House would call on those Members to get down here and say why is it that this committee and this House would allow the kind of subpoena power to go on that has been going on when constitutional authorities have questioned it? Why would they allow this situation to go on when it has this overtone in terms of race? Why would they do that without coming down and explaining? If they say that is not the way it is, if they say there is some valid reason for this process to continue, I think the American people have to a right to hear about it.

More specifically, I think the people in that particular district have a reason to know why they are inundated with this sort of nonsense day in and day out, article after article indicating this is nothing but a witch hunt, has no basis in reality, and there ought to be an answer given. I would suspect that there ought to be Members on this floor standing up explaining themselves.

Ms. VELÁZQUEZ. I would like to add that this is the first time where I see that the burden of proof is not on the loser. They are forcing LORETTA SANCHEZ to prove that the people who voted for her had, in fact, the right to vote. That is not only wrong, it is shameful.

Mr. CAPPS. Mr. Speaker, if the gentlewoman will continue to yield, I had a point very much in keeping with what we have been saying here, pertaining to the spirit of this place at this very time. Right now, as we are talking about this situation, many of our colleagues are demonstrating the spirit of bipartisanship by having a baseball game. And that sends all kinds of signals out to the American people.

On a more substantive matter, this week the House will probably overwhelmingly pass a bipartisan budget, tax relief bills that will in my judgment be of enormous benefit to Americans all over this great land. But in the midst of all this, in the midst of this spirit of bipartisanship, we must rise this evening to protest these wrongs that are being brought upon my friend and fellow Californian LORETTA SANCHEZ. Others have focused on the bipartisan nature of this investigation. I want to talk about another aspect of it.

First of all, I want to express my support of the gentlewoman from California [Ms. SANCHEZ] but also to say that the real losers in this debate are the hundreds of thousands of Orange County residents whom she represents.

I know from experience that being a freshman, a new Member, especially in a district previously in the hands of the majority, is a very difficult job. It is difficult to concentrate on legislative issues, constituent service, communities projects, without facing the constant drumbeat of electoral charges that have been rained down upon a very able Representative, the gentlewoman from California [Ms. SANCHEZ].

My colleague has been forced to expend so much of her time, her energy and her resources on what I would call a misguided inquisition, and it is to her credit that she has managed to become an effective Representative in this kind of working context. So it it is certainly time for the investigation to end. It is time to bring the same civility, the same spirit of civility that characterizes our current legislative breakthroughs to this issue. It is time to give the people of Orange County the same constitutional right to full-time representation as all Americans deserve. I want to say that I stand with LORETTA SANCHEZ in tonight's very important special order.

Ms. VELAZQUEZ. Mr. Speaker, I yield to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I just wanted to add, sometimes people think that we stand here and on some of these issues that it is our view, it is our opinion. I said earlier today that the gentleman who lost this race, Bob Dornan, who is an ordinary citizen today, has been given tremendous power by being able to subpoena people. It is just not hearsay on my part about what he is willing to do, quite frankly, what kind of inaccuracies that he is engaged in. I think it is important that it be part of the record to note that his claims are proven time and time again to be baseless and to be without merit.

In April, the Los Angeles Times wrote, and I quote, that a close review of Dornan's contentions shows them to be overstated and riddled with inaccuracies.

So you have someone who is out there being bestowed with this tremendous power who is saying and doing, quite frankly, whatever he wants to do; and in trying to contravene what the people, the people of the 46th District of California said and they stated. And LORETTA SANCHEZ is trying to represent them in this body and is doing a good job of representing them every single day with having to concern herself first and foremost with the job that she was elected to do.

People put their trust and their faith in us when we come to this body. She is trying to carry out their wishes, what their interests are for themselves and for their families, as I said, doing a good job of that effort; and at the same time having to struggle with a whole lot of potentially and, as it is listed here in the Los Angeles Times and others, some baseless statements of fact and being forced to have to raise hundreds of thousands of dollars to be able to counteract legal fees.

The fact of the matter is, it is enough. In Italian there is a saying which is "basta," enough. We have looked at this. There has been a certification. Let us allow the gentlewoman from the 46th District to continue to do the work on behalf of her constituents.

Ms. ROYBAL-ALLARD. Mr. Speaker, I just want to add and emphasize something that I feel is extremely important. Not only was the subpoena power given to an ordinary citizen, but the power that was given to subpoena far beyond the district election that was being contested so that the constitutional rights of thousands of other Orange County voters who had nothing to do with this particular election, their records were also subpoenaed. So it is extremely frightening, the fact that, No. 1, this leadership would give subpoena power to an everyday citizen and, second, that that power is extended far beyond the contest in question.

Ms. VELÁZQUEZ. Mr. Speaker, I would like to add by asking the gentleman from Massachusetts, based on his case where there was a recount, who had to prove that the voters who voted had the right to vote on his case?

Mr. TIERNEY. The challenger. The challenger has the obligation and burden to overcome the results that are there and that are certified. In this instance, it is an even additional burden on that because there they are certified. The recount has been done. Again, I do not mean to contradict my colleagues here, but I like to keep bringing the focus back to this institution and this leadership that is allowing this to continue.

□ 1900

We can talk about a private individual having too much authority, a private individual getting subpoena power that no other private individual has, but we have to come back to this institution and wonder why our colleagues on the other side of the aisle, that have elected that leadership to this body, are allowing them to do to a Member of this body what has never been done before, and ought not to have been done in the first place, and ought not to be done, period, in this body, because it is a blight on this entire situation, it is a blight on the membership of this organization.

We have an institution here that has to be protected, we have Members that have rights, and we have to go back to the voters and explain to them why it is that this body and this leadership is disregarding the Constitution, disregarding the rights of a Member, disregarding the rights of people living in that district and of the American public in general, and making a mockery of the electoral process.

I think there should be some explanation for that. Because no matter how much we want to blame the individual who does not seem to be willing to let go, I think we have to blame the people in this institution who are driving this as a partisan matter.

I know everybody likes bipartisanship and everybody likes to talk about how well we can get along down here. I do not necessarily subscribe to that. I think a good healthy dose of partisanship is what this place needs, but the right kind of partisanship.

It is healthy for us to stand up and to debate our differences. It is healthy for us to set forth what our policies are and our principles, debate them, have a deliberative process, argue them, and come out and have a vote on them in this body. That is the kind of partisanship that the public has a right to expect and probably desires. What they do not need is petty bickering and petty partisanship where a majority in this body, through its leadership, would actually allow this kind of atrocity to go on.

This type of a situation, where no one in their right mind believes it is allowable or acceptable to continue on, to harass a Member and to particularly make their life miserable, with no prospects of ever winning, and to take on an entire class of people that have done nothing wrong except go to the ballot box and exercise their right to a constitutional privilege to vote. And that is who we should have down in this body now, is that leadership, that group of people that are allowing this to continue. They should have to answer to the American public. They should have to answer to the people in the district of the gentlewoman from California, Ms. LORETTA SANCHEZ.

Ms. ROYBAL-ALLARD. Mr. Speaker, I certainly agree with my colleague, and again I wish to point out that all of this has been at a tremendous cost to taxpayers. Over $300,000 has been spent on an election that has been duly certified by the Republican Orange County registrar and the Republican Secretary of State.

So this is money that has been thrown away, and in spite of all the money and time and the violations and things that we have talked about on this floor, Dornan is no more closer to getting the election than he was on November 5. It has been a total waste of money, of taxpayers' money, and it really is a black mark on the leadership for allowing this to happen.

Ms. DELAURO. If the gentlewoman would yield, I would say, look, it is difficult to lose. Anyone who has run for public office understands that it is hard to lose. But when you have lost, and when there has been a recount of every single vote and there has been a certification of the election, quite frankly, after months and months of deliberation, 9 months, $300,000 in cost, there is a point in time where you have to say, "I have lost this election. I don't feel good about it, maybe I can come back again as part of the process, but I have lost this election."

It really is a part of the leadership of this institution to take in hand their friend, Bob Dornan, and say enough is enough. This is concluded. We have checked it, we have rechecked it, we have asked our questions, and we too are sorry that you lost, and we will have to pick up another day and maybe go out and try to win that district back again, but we have lost for the time being. Let us get on and let the gentlewoman from California, Ms. LORETTA SANCHEZ, get on with her work.

Mr. TIERNEY. That is, of course, if we are assuming that this is all about friendship and all about trying to do the right thing by their friend. I think we all know it is something else.

I think this thing smells to high heaven and that people understand there is another motive and another goal here for people, and they ought, and again, I am going to close because I have to leave, but they ought to be on this floor explaining to the gentlewoman from California, Ms. LORETTA SANCHEZ, her constituents, the State of California, and the people of America as well as every Member of this body why they are allowing this to continue.

Ms. VELÁZQUEZ. Mr. Speaker, I would just like to say not only have we spent $300,000 of taxpayers' money, but also the INS has spent over $50,000, and just one office only is dedicated to dealing with this issue.

Mr. TIERNEY. If I can interrupt, this is the same group of individuals who fought us on spending money to insure children. These are the people that could not find the money to insure as many people as we wanted to insure, young people in this country, who can find $300,000 to argue a cause that is long lost.

Again, I think this just goes to the point there is another motive here, another avenue that is strictly political partisan bickering, and they should get beyond it.

Ms. DeLAURO. If the gentleman would yield, and to be specific, a program that a number of us came down here to support and through actually shaming the other side we added money to the WIC program, Women, Infants and Children. We are talking about cereal, formula and healthy food for women, infants and children, and we were told that there was not enough money to do this.

In fact, what we have done with the INS is to say they have to do this; they have to spend the money for this, in addition to $300,000 as a cost, when there are so many needs. My colleague, the gentleman from California [Mr. CAPPS], said we spent a long time coming to a conclusion on a balanced budget agreement and trying to look at how we can be fiscally responsible.

So in fact we do have other motivation which underlies this issue, and quite frankly, I think when this sees the light of day, the American public, the way they saw what we ought to be doing was the right thing with the Women, Infants and children program, will understand what is going on with this program. And I think that we ought to continue the debate and the dialogue so that, in fact, the public knows all about this.

Mr. CAPPS. If the gentlewoman would yield, she makes a very good point that it is not easy to lose, and when people lose there is a natural reaction.

But there is another fact here that we should consider, and that is, how many people have had the privilege of serving in this House since the beginning? There have been about 11,500, maybe 11,800 people who have served in the House from the beginning of this people's House.

It is more difficult to get in here if one is of a certain characteristic. That is, how many women have served in this House? I think 165 out of the 11,800?

I do not have all the math down with precision, but I think one-third of the women who have ever served here in the long history of our country, one-third of all these women are here now.

How many African-Americans have served in this House? Less than 100. Less than 100 out of the close to 12,000 people that have been here. How many Members of the Latino community have served in this House? Very, very few. Proportionately very few. And I would think that the majority of those from the Latino community who have served in the House are here at the present time.

What does this say? Clearly, if the Congresswoman's name was not SANCHEZ, this would not be going on. This would not be going on. We need to call that to the attention of the American people because that is wrong. That is immoral. And we are not going to have full democracy in this House when it is so difficult for certain segments of the population to be elected. I think we should call it what it is.

Ms. DeLAURO. I think the gentleman is right. I think that the more one takes a look at this, the more one hears about what names are being requested and how many and in what volume.

And I think my colleague, the gentlewoman from California, Ms. LUCILLE ROYBAL-ALLARD, has said they have gone well beyond the 46th District. This is Orange County, and people who in no way are engaged or involved in this particular election, and that it speaks volumes, I think, about what the nature and what the tendencies are. And that is wrong. It really is. It is wrong and it is divisive in this country.

We have a difficult enough time with people coming together and wanting people to be together. We have a bona fide, certified election in the 46th District of California, and we ought to acknowledge that and not put people's ethnicity at the center of what our electoral process is all about. That really is wrong. It takes us back years and years and years. That is not forward looking, it is backward looking in this country.

Ms. VELAZQUEZ. At some point, the chairman of the Committee on House Oversight, months ago, announced that not only would they be going after the district of the gentlewoman from California, Ms. LORETTA SANCHEZ, but he mentioned three more districts, all of them represented by Latinos.

They get upset when we bring this issue onto the floor and they say we are playing the race card, but I was elected and I was sworn in and no one contested my race. Why did he have to mention the 12th Congressional District? Why did he have to mention three other districts represented by Latinos who were not contested by any opposition from their own districts?

Mr. EHLERS. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Michigan.

Mr. EHLERS. I thank the gentlewoman for yielding, and I did not come here to rain on her parade. I understand what my colleagues are doing. But I do have to simply rise and voice some concern about the language and the words which were used. And, frankly, I take them personally, to the point almost of wishing to raise a point of personal privilege.

The term "witch hunt" was used to describe this. I am the chairman of the task force attempting to resolve the issue of the contested election in the 46th District. I have tried my very, very best to keep this fair and honorable. We did not initiate it, Mr. Dornan initiated it. We have a responsibility to pursue it.

The issue was raised by the gentleman from California [Mr. CAPPS] that if the name of the gentlewoman from California was not SANCHEZ, this would not have happened. I do not happen to believe that is true, but at any rate that is immaterial to the discussion.

Ms. VELÁZQUEZ. Mr. Speaker, I take back the balance of my time.

On that point, I would say, then, how could the gentleman address the fact that subpoena powers have been given to a private citizen? How does the gentleman explain the fact that the chairman of the Committee on House Oversight in a press conference said that he would go after three other districts that have been duly elected, where Latino representatives were elected? How would the gentleman explain that?

Ms. DeLAURO. The gentlewoman is absolutely right, there is no explanation for the direction that this investigation has taken. I have a high regard for the gentleman, but the fact of the matter is that we are 9 months into an investigation. We have spent $300,000, $150,000 of the INS's money, going well beyond the 46th District, calling into question hundreds of thousands of Latino, Hispanic names, done nowhere else in this country. Unprecedented. And providing powers to an ordinary average citizen who lost an election.

People win and lose elections every single year, and when we lose, it is tough, but what we have to do is to get over it. And there is a responsibility on the part of the leadership, whether they chair a subcommittee, whether they serve as Speaker, majority leader, or whatever position they serve in this body, to look at these events and say enough is enough.

We had an election process. We have a certified number, after a recount, bipartisan officials who, quite frankly, those officials have done their job. They took a look at this, they counted every ballot, and they said the gentlewoman from California, Ms. LORETTA SANCHEZ, represents the 46th District. And this body, in response to a former member who says that he lost for some reason, has given him subpoena powers, and that is truly outrageous that this has happened. Again, unprecedented in the history of this institution.

This is a noble institution. My colleague, the gentleman from California [Mr. CAPPS] said only 11,500 people have served in this body. These elections are sacred.

□ 1915

The people's vote is sacred.

Mr. EHLERS. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Michigan.

Mr. EHLERS. I will not take any more of the gentlewoman's time. I just want to say that I will continue this in the next special order. But I do invite all of my colleagues to remain for that. And I will be happy to explain and answer for my colleagues and give the facts of the situation.

Ms. ROYBAL-ALLARD. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentlewoman from California.

Ms. ROYBAL-ALLARD. If, in fact, we are going to be hearing the facts, I would also like to ask the question that, if we are talking about 93,000 voters in the 46th district that cast votes for the Sanchez-Dornan election, then why were 1.3 million Orange County voters' records subpoenaed and why were they all Latino names?

Ms. VELÁZQUEZ. Mr. Speaker, I want to thank all of my colleagues for coming here and debating this issue and raising the awareness of the American people in this country. I know that the Republican leadership will have a public relations battle ahead of them. They are going to lose this one, the same way they lost the WIC battle and they lost the disaster relief package debate.

A GREAT DAY IN WASHINGTON, DC

The SPEAKER pro tempore (Mr. HOBSON). Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I would like to begin tonight almost with an apology. This is one of the greatest days in American history, and what we need to be talking about this evening is not partisan bickering back and forth. What we need to be talking about is the great things that have happened out here today.

It truly is an amazing day. It is a day when we look at both sides of Pennsylvania Avenue. The President and the Republicans down here in the House and the Senate, in a bipartisan way, have reached an agreement to balance the Federal budget probably as soon as next year, lower taxes on the American people, something that we all look forward to being able to talk about, and Medicare is restored so our senior citizens, once again for a full decade, can count on their Medicare going into the future. It truly is, for a change, a great day in Washington, DC. We really have some good things to talk about.

But before I get into taking my special order, I would be happy to yield to my good friend, the honorable gentleman from Michigan [Mr. EHLERS].

SANCHEZ-DORNAN ELECTION

Mr. EHLERS. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. NEUMANN] for yielding and simply want to make a few comments about the discussion which just ended.

I was disappointed in the tone of the conversation and disappointed to hear the results, particularly disappointed that all the speakers whom I invited to stay to hear the explanation have decided to leave the Chamber rather than to hear the facts.

In particular, I respond to the last question which was asked; and that is, why were 1.3 million records in Orange County subpoenaed and why were they all Latino? The answer is, they were not subpoenaed and they were not all Latino. How can I respond to questions such as that which totally misstate it?

As I said earlier, this is not a witch-hunt. This is following the law that was established by the U.S. Congress and signed into law by the President of the United States. This is not an attempt to discredit the gentlewoman from California [Ms. SANCHEZ], who was certified as having won the election. And we did seat her, and she has served since that time and is serving her district to the best of her ability.

This is not a partisan attempt. It is simply a response. I wish the previous speakers had remained to hear some of the details of the law. The issuing of subpoenas is not unprecedented. It is the first time it has been done under the current law. But if we look over the 200-year history, we will find that in fact subpoenas have been issued a number of times in contested elections.

Furthermore, I would point out that in the last election we had five contested elections. What is unusual about this year is that we have only one. Of the five that were filed last year, two I think were serious challenges. The committee dealt with those and, after due examination, dismissed all of them. But the last one was not dismissed for over 20 months. It took that long to verify that the election had been won. But in the meantime, that individual had sat in Congress, had served Congress and, after it was dismissed, continued to serve in Congress.

I certainly want to clarify that this is not an attack on Latinos. As I mentioned in the discussion yesterday, a large number of the names that have emerged are Vietnamese. There are other nationalities present as well. And the names we are holding confidential, at the request of the INS.

We do not at this point know whether this investigation will proceed or how far the investigation will proceed. We are simply following the process that has been outlined. Mr. Dornan filed the contest. The committee did not file the contest. My task force did not file the contest. Mr. Dornan chose to file it, just as five individuals chose to file contests in the previous election 2 years ago. It is not the choice of the Congress as to whether or not a contest is to be filed. It is a choice of the losers in the election.

The subpoena power was not given by the committee. In fact, the committee restricted the subpoenas which were issued to Mr. Dornan by the court. He went to court and asked for the power to send out subpoenas. The first time a magistrate said yes. The opposition to Mr. Dornan went to court and said you are not supposed to do that. The judge ruled, yes, the magistrate should not have issued those subpoenas. And the judge said that he would issue those but under his conditions.

He attached those conditions. We were then asked as a committee to review those by the judge. We did quash some subpoenas. We restricted some subpoenas, and others we let stand. I would point out, also, that the majority of the subpoenas have not been honored. And, therefore, the comments that people have been harassed by this is simply not true. They are simply giving a response in several cases, and particularly the largest cases, saying we do not plan to honor this, or have simply ignored it.

These are some of the facts and I felt it incumbent to present to this body after the previous discussions some of the facts that we are dealing with. I will be happy to answer questions which are addressed to my office about this to try to clarify it as much as possible. But let me emphasize once again, I take personal umbrage at the reference to this as a witch-hunt. It clearly is not.

One might use that term to apply to the 1984 election, which is quite a different situation. I would also point out that there is a Democrat on the task force, the gentleman from Maryland [Mr. HOYER], and my colleagues can check with him as to whether or not I am attempting to run this task force as fairly as possible and in a bipartisan fashion.

My colleagues can also ask those who attended the hearing we held in Orange County. I received many comments afterward from the audience and participants commending me for running it in a fair fashion, without trying to discredit either party or to shame either one.

Obviously, we asked tough questions of those who appeared before us, including the gentlewoman from California [Ms. SANCHEZ]. Former Congressman Dornan also appeared but very, very briefly and did not give us much opportunity for questioning.

I want to thank the gentleman from Wisconsin [Mr. NEUMANN] once again for yielding and for the opportunity to set the record straight on some of these issues.

Mr. NEUMANN. Mr. Speaker, I rise this evening to talk about some very good news for the future of this country. What a great day this is here in Washington. And I truly have not said that very often.

I came here as part of the class of 1995. We came here because we were like many people in this country, we were sick and tired of the tax increases. We were sick and tired of promises of a balanced budget whose words just plain rang hollow because they had no meaning. We had heard so many times it was going to happen and it did not happen. Then there were new promises made and it did not happen again. And then taxes were raised.

What a great day it is here to bring the news of what has happened out in Washington and how different it is from 1995, looking at 1997. I am here today to talk about what has happened in Washington. It is the budget is balanced. We reach a bipartisan agreement, credit to the Republicans, to the gentleman from Ohio [Mr. KASICH], to the gentleman from Georgia [Mr. GINGRICH], to the leadership here in the House, and to the Senate, also to the President, who could have threatened veto, could have put his feet in the ground and said, we are not going to do any of this stuff, we are not going to listen, we are going to continue infighting.

But credit should be spread all around. It is important we start with the fact that the budget will be balanced by 2002 or sooner. I would like to go on record here and now this evening saying that, if we do not go into a major recession in the next 12 months, the budget is balanced not in the year 2002, but the budget is balanced in 1998.

It is very important to begin with that discussion. Because with that discussion in mind, we will understand how reasonable it is to talk about providing tax relief. Tax relief without a balanced budget effectively means we are borrowing more money from our children's future and letting people keep it and spend it today and not being responsible for what is happening. But when we understand that, in all probability, the budget will be balanced probably in 1998, 1998 at the latest, short of a major recession, we can also provide tax relief to the American people and do it in good conscience.

I would like to spend a little bit of time talking about that tax relief tonight and going through some of the different aspects of it. Some of them are pretty well known. Some of them are not very known at all. I would like to start perhaps with the most well-known part of the tax cut package, and that is the $500 per child tax cut.

Let me be very clear on this. It starts January 1 of next year. It is $400 per child in the first area and $500 in the years after that. What does this mean to a working family out there in America? Well if you are earning less than $110,000 a year for a couple and you have got two kids, or let us say you have got three kids in your house, if you are earning less than $110,000 a year and you have got three kids, what you need to do is next year, on January 1, you need to walk into your employer's office and tell your employer you want $100 more in your paycheck starting January of next year and you want to keep that money that they were sending out to Washington before.

This is not Washington jargon or Washington nonsense. This is actually what happened out here today in Washington, DC. So a family with three kids should walk in the door next January 1 to their employer and tell their employer they want to keep $100 a month. That is $400 per child, times three, is $1,200 a year, or $100 a month that they should keep in their own paycheck instead of sending it down here to Washington, DC.

Is it not a great day in Washington when we can talk about that, instead of the 1993 discussion about which taxes we should raise and how high we should raise them. Things have changed out here in Washington, DC. And again I emphasize that this discussion is going on in light of and in addition to a balanced budget probably 3, maybe even 4 years ahead of schedule. What a great day it is here to be talking about these issues.

So, again, for a family of three kids earning less than $110,000 a year, January 1 next year you walk into your employer and you tell him that you want to keep a hundred bucks more of the money they have been sending out here to Washington, DC. Because the job that they sent us here to do in 1995 is in fact done, and it is good news for the American people.

I want to go on to some of the other things that are in here. The other one that has been well publicized is the capital gains tax reduction. I would like to be pretty explicit on this. There are some different details of this that are necessary for the American people to know about.

If you are a senior citizen and you have a pension that accumulated while you were in the work force and you are now in a position where you are taking money out of that pension and the money, of course, you put in during the past years has raised in value, you will be paying capital gains on that money.

Before, for every $100 you made in that pension fund, for every $100 of capital gains, Washington took $28 away from you. Starting now, they will only take $20. So you keep an extra $8 of your own money. It is not Washington's money. It is your money. You keep an extra $8 for every $100 of profit that you made. For every $100 of profit you made, you keep an extra $8 in your own home instead of sending it on out here to Washington, DC.

Let me be very clear about that. The capital gains tax rate is going from 28 percent, that it currently is, down to 20 percent for virtually all investments. The only exception to that rule, and if you own real estate, you want to pay particular attention to this exception, if you own real estate and you purchased a building, let us say, for $50,000 and you have depreciated the building $10,000, and then you go and sell the building, and let us hope you made a profit, let us hope you sold it for $65,000, well, the money you depreciated from the purchase price, the $50,000 down to $40,000, that is called recapture.

On the recapture portion, you will be paying a 25-percent tax. That tax is lower than it used to be too. I wish it was 20 percent across the board. If I had my way, it would be. But the bottom line is, that portion of the tax is going from 28 to 25. The rest of the tax, the appreciation in the property value, is going from 28 percent down to 20.

So good news for capital gains if you bought stocks and your stocks have appreciated in value, if you bought a piece of real estate and your real estate has appreciated in value and you sell that real estate, then when you report your capital gains, when you report your profit, you pay 20 percent tax instead of the 28 percent that you used to pay.

There are a couple more portions of this that have not been very well publicized that are important to an awful lot of people. And again I will go to the real estate portion of this because there is a very significant change that has occurred in the real estate portion as far as the capital gains tax cut is concerned.

Before, if you owned your own home and you were under the age of 55 and you sold that home, for whatever reason, job transfer or you decided to live in an apartment and save money instead, or your kids have grown and gone away and you are 45 and your last child just left home and the home is now too big for you, so you decide to sell it and own a smaller home. But at any rate, you own this home and you sell it but you are under the age of 55. In the past you paid capital gains. If you bought a home 15 years ago for $30,000 and you are selling it today for $90,000, that would be a $60,000 appreciation. And in the past, if you were not 55 years old, you would have paid capital gains tax on $60,000.

Let me make it very clear. This Tax Code changes that. Even if you are not 55 years old, you will no longer pay capital gains on the profit of the sale of your principal residence.

□ 1930

This is very, very significant to a lot of folks. If you are in a high-priced area in the country and you move to a lower-priced real estate area, you may not take all the money out of the higher-priced real estate that you own in one job; you take a job promotion into an area where home prices are lower, there may be a difference between what you sold and what you keep. You no longer pay taxes on that under this bill. As long as you have been in your home for 2 years and you sell the home, you do not pay taxes on whatever the appreciated value was. Very, very significant change for a lot of people.

One other group of people that this affects that I have been hearing from off and on during the day. I have heard from some empty nesters whose kids are either grown and gone or folks that have not had kids for whatever reason, they decided not to or have not had them yet. This empty nester provision, or this provision where you can be in your principal residence and sell it 2 years later and not pay taxes on the profit affects lots and lots of those people, for what we call empty nesters, those people whose kids are grown and gone but have not yet reached the age of 55. That empty nester can now sell their home and move into a smaller home, if that is what they want to do, they can then put some of the money, the profit away for retirement instead of sending it on out here to Washington, D.C., a very significant change in the Tax Code for a lot of people in this country.

Another portion of the Tax Code that is changed, and some people have been hearing about it, the estate tax has been changed, the exclusion for family businesses and family farms being passed on. If you are a farmer out there in our district and your farm has been in your family for generations, as many of them have in southeastern Wisconsin, all across Wisconsin, and you wish to pass that farm on to the next generation, the exclusion has been raised now to $1.3 million. And if there are two people in the family, you could pass on up to $2.6 million total to the next generation. That goes for a small business and that goes for the farms. The $600,000 exclusion is going up to $1 million over a period of time.

I want to jump from there to another provision that has been talked about but I am not sure the details have been very well described on it, and that is the education tax credit. I happen to be very familiar with the cost of education. I have one who is going to be a junior in college this year, another one going to be a freshman in college, another one is a freshman in high school. When I think about these provisions and I think about making the payments every year on these college tuition bills, I know this provision is going to be important to many, many, many people across this country.

Let me start with your first 2 years of college. In your first 2 years of college you get a deduction; this is a tax credit of up to $1,500 per year, provided you spend $3,000 total on your college costs. If your college costs are over $3,000, you will get a $1,500 tax credit.

It is very important that we talk about the difference between a tax deduction and a tax credit. A tax credit means that if your taxes were $10,000 before and you get a $1,500 credit, that means your taxes go down to $8,500. It literally is a dollar-for-dollar deduction in your taxes.

So the good news is as we look at college students, in your first 2 years it is up to $1,500 per year in additional help to go to college. Some people do not like this provision in the bill, and I guess I have to look at this and say, well, anything that we can do here in Washington to allow the people to keep more of their own money instead of sending it on out here to Washington I think is a good provision, and I think about all the families across Wisconsin and across America that this provision is going to help, allowing those students to go off to college, and I just think it is a good move in the right direction.

I want to add one more thing in the college tuition part here. In our house, before my kids talk to me about my helping them by signing a note or whatever for them to go to college, they first have to earn $3,000 and bring it to the table. So in our house, before we start talking about help from other sources, whether it be the government or mom and dad or wherever, first the kids are expected to do something to provide for themselves. If there is one thing I would encourage every parent in the United States of America to do who has students who are either in college or thinking of going to college, I think the best thing that we can do as parents for our kids is to ask them to pay part of the cost of college themselves, because it will teach them many of the things they need to know after college and in some ways it will provide an education that is equally as important as college.

I have found in America today, at least in Wisconsin where we are from, that it is very possible for a student to earn $3,000 over the course of a year, during the summer, where there are 10, 12, 14 weeks available, and during the school year it does not hurt to work a few hours a week if necessary to make up for the addition. So I would encourage the parents to ask the students first to do something on their own to provide for their own education, but after they reach that point I am happy to say that Washington is going to let parents keep more of their own money to apply some of that money to a college education.

Let me kind of sum up where we are so far. If you are a family with three kids, you have got one of those children in college and you have got two of them still at home, you are earning less than $110,000 a year, January 1, next year, I am back to that magic date again, January 1 of next year, if you have got one in college, two still at home, you should go into your employer and not ask for $100 extra a month to keep in your own paycheck instead of sending it to Washington, you should at that point walk in the door and ask to keep $200 a month extra because you would get the $1,500 for the college help; in addition to that you would get $800 more, $400 per child in the first year, so just under $200 a month you keep instead of sending it on out here to Washington.

I smile when I say this, I have a lot of confidence in the people in this great Nation. I know they can do a better job spending their own money than the people here in Washington. This is a great day in Washington, DC.

I want to go on to a couple of other things that are maybe not quite as well publicized out there. One is the individual retirement, the IRA, the expansion of the availability of IRAs. Under the new provisions, for individuals if you earn $60,000 and up to $100,000, you will be eligible to start your own IRA. I think that is very important. I heard a lot from the young couples with no children that somehow the Tax Code did not affect them. I would like those people to know that you can open an IRA now and you will be permitted under this American dream IRA to withdraw money that you have saved up, tax free, for purposes of purchasing a home. You will be permitted to put money into this American dream IRA, aftertax dollars; but the accumulation of interest and all the rest on those aftertax dollars that you have put in there, that money stays in there untaxed. And if you are saving to buy your first home, you can take that money out tax free to buy your first home, a great provision for young folks who are looking forward to living the American dream, purchasing their first home. I think it is a very important part of this overall tax package.

The one other part that I want to just mention is the home office deduction availability for a lot of people has been increased. In the day and age that we live in, it is time that we recognize that there are many parents, single parents in particular, who are learning to make their living out of their own home so that they can both be home with their children, see their kids off to school and at the same time earn some of that money. The home office deduction that has been so hard to claim in the past has been put back and there have been some significant changes in that area to help people be able to accept that.

I have been summarizing what has happened out here today. It truly is a great day in Washington, DC. I think this is the first time I have ever been on the floor that I said it is truly a great day in Washington. I have to admit when I came here 2 years ago, I was not sure that I would ever stand on the floor of the House of Representatives and say that it has been a great day in Washington, DC. But to be able to stand here and talk about accomplishing so many things that we were sent here to do, the balanced budget, and we are not talking about 2002 now, although that is the outer bounds of when it may be balanced, the reality of this picture is that if we can finish what is in this budget agreement and hold those spending caps, we are looking at the balanced budget in 1998, in 1999 at the latest, on track, ahead of schedule.

What a magnificent change we have had since 1995 and what a magnificent change it is for the future of this great Nation we live in.

Having said that, I would like to talk a little bit about the past, and then how we got to where we are today, and then where we are going in the future. Let me start just briefly with a little bit about the past.

I almost hate to talk about this on a great day like today because when I do talk about the past, we get a picture of what has been going on out here before the American people rejected what was happening in 1994 and sent a new group out here to control Washington, DC. It is important we understand the difference between a checkbook and borrowing money to buy a house, between Federal deficit spending which is the checkbook, and Federal debt which is the amount of money that gets borrowed. Every year since 1969, this government has spent more money than it had in its checkbook. It reached into your pockets, the pockets of the American people, it collected tax dollars, it put those dollars in a checkbook, then it started writing out checks. But they have not been paying very close attention to how many checks they write out because at the end of the year they overdrew their check book each year. That is called the deficit.

When they talk about balancing the budget in Washington, what they mean is they are going to stop overdrawing their checkbook every year. But when you think about overdrawing your checkbook every year since 1969, it is not hard to figure out that the debt has started to explode. The debt is when they go and borrow money to cover their overdrawn checkbook. It is no different than sitting around your own kitchen table writing out checks to pay your bills and overdrawing your checkbook. Well, that does not work. You have to get the money from somewhere.

What Washington has been doing is they have been borrowing it. This chart shows the growth of the Federal debt, it shows how year after year after year as they overspent their checkbook, they borrowed more and more and more money. I would point out that around about 1980 is when this thing really started climbing. I know all the Democrats out there go, "That's the year that Republican President Reagan took over" and all the Republicans go, "Yeah, that's the year the Democrat Congress spent way too much money." We blame each other out here. It is time we get past blaming each other and it is time we accept the fact that this is a problem facing our Nation and do something about it, and in fact that is what has happened since 1995.

I would also point out that we are about here on this chart right now. The debt facing our Nation has grown to huge proportions. Remember, this is the part that is like borrowing money to buy your house. I have brought another chart that shows how big this number actually is. I am a former math teacher. We used to do these problems in my math classrooms. The debt currently stands at $5.3 trillion. Even when we are through the euphoria of today, the good news that we have reached a balanced budget and we are lowering taxes, we still have this $5.3 trillion debt hanging over our heads; $5.3 trillion divided up amongst the people in the country, if every person were to pay just their share of the Federal debt, it would be $20,000 for every man, woman and child in the United States. Let me put this another way. This government, the people in Washington, DC, especially before 1995, saw fit to spend $20,000 of our children's money more than what they collected in taxes from our generation. For a family of five like mine, they spent $100,000. They have literally borrowed $100,000 on behalf of every group of five people in the United States of America. Here is the kicker. A family of 5 in America today is paying $580 a month to do nothing but pay their share of the interest on this Federal debt.

A lot of people say, "Well, I don't pay $580 a month in taxes, so how could I possibly be paying $580 a month to pay our share on that Federal debt?" The reality is when you walk in a store and you buy a new pair of jeans or when you walk in a store and you buy a loaf of bread, the store owner makes a small profit on the sale of that loaf of bread to the person that walked in and bought it. Part of that profit gets sent out here to Washington, DC. When you add up all the different parts of the taxes that you pay through society, every family of five in America today or every group of five people is paying $580 a month to do nothing but pay the interest on the Federal debt. It is staggering.

In spite of the fact we had a great day, we are getting to a point where we are at least balancing our budget, we are not going to keep adding to that Federal debt as we go forward. In spite of the fact that we have had a great day out here today and we have moved in the right direction, this debt is still hanging over our head after we reach a balanced budget.

It would seem logical to ask how in the world did we get into this kind of a mess. How did we get to a point where a family of five is in debt on behalf of their Government $100,000? I think that is the next logical thing that should be looked at.

To do that, I would like to refer back to what was going on in the late 1980's and the early 1990's in Washington, DC. This is before what I call the revolt of the American people in 1994, because remember it was 1994 where the American people said, "Enough is enough, we've had it with the tax increases, the broken promises, we're going to try a new party in control in the House of Representatives and in the Senate." First time in 40 years they did that. This is the late 1980's and the early 1990's. This is the Gram-Rudman-Hollings promises first of 1985 to balance the budget by 1991.

The blue line shows the promises that they made. The red line shows the actual deficits. It is not hard to see in this picture that the promises made were not what they did out here in Washington, DC. So even though they made these promises to the American people, they broke them. When they found out they could not hit these targets, they did what all good people in Washington do; they made a new set of promises. It is no wonder the American people got so cynical about what is being said out of this city. They made a whole new set of promises.

The blue line shows what they promised the second time and the red line shows the broken promises again. It is not hard to figure out why the American people are so cynical. When I call home to my district and I say, "Hey, guess what, the budget's balanced probably next year, maybe the year after at the latest, but certainly before 2002," sometimes people do not believe us. It is not hard for me to figure out why they do not believe it because when I look at the track record of what went on out here in Washington before 1995, it is very easy to see these broken promises. So what happened? Well, they broke the promises; 1993 came and went, there was no balanced budget. But in 1993, a very significant happening occurred. The people in Washington said, "We're going to get serious about balancing the budget, we know how to do it, we're going to raise taxes on the American people because if we just collect enough money out of the pockets of the American people, if we get enough money out here in Washington, we'll know how to spend it best for the people and then we can balance the budget." That was 1993. The tax increase passed by a single vote in the House of Representatives, the tax increase passed by a single vote in the

Senate, not a single Republican in either body voted for the bill, the tax increase went through.

That was the best thing that ever happened in a lot of ways. Let me explain why. The American people looked at this picture and the broken promises and they looked at the tax increases of 1993, and they said, "Enough is enough, we're going to change what is going on in Washington, DC" and in 1995 an amazing thing happened. They elected a new group to control it. They put the Republicans in control of both the House and the Senate.

□ 1945

And interesting things happened, things changed. The Republicans got here, and much like the people that were in control in the past, they gave a set of promises to the American people, too. They said we are going to balance the budget by the year 2002 and not only that, we are going to cut your taxes while we are doing it. And they laid a plan out. I think it is more than fair that at this point the American people should say: "Look, 1995 is 2 years ago you're really in the third year of your 7-year plan to balance the budget. How you doing?"

And I think that is a fair question, and I think it deserves an answer because it helps people see how different things are from how they were before.

The red in this chart, the red columns show the promises made in 1995 by the Republicans when they took over. This is our plan to balance the budget by the year 2002, and in this chart you will notice that in the year 2002 it zeros out, that it is a balanced budget.

This is our promises that we made back in 1995. We are now in the third year. Let us see how we are doing.

Well, the first year came and went. We promised the deficit would be lower than $154 billion, it came in at $107 billion. First year, on track ahead of schedule.

Think back to those Gramm-Rudman-Hollings charts I had up here a minute ago. What a change, on track, ahead of schedule.

Second year came. Second year we promised deficits below $174 billion. This shows $67 billion. The good news is this is probably going to be $30 billion. This is great news for America. We are over a $100 billion ahead.

How in the world did that happen? Well, it is pretty straightforward. We had this working model that we put into place back in 1995. Here is our theory:

Our theory was that if we curtailed the growth of the American spending, we left the money in the pockets of the people, we did not want to hear about tax increases. Instead we curtailed the growth of Government spending. If we curtailed the growth of Government spending, that meant Washington was going to spend less, so they would borrow less. When they borrowed less that meant more money available in the private sector.

Well, if there is more money available in the private sector, more money available means lower interest rates. Lower interest rates would mean people would buy more houses and cars, and if they bought more houses and cars, other people would have to go to work building the houses and cars and that would be a long ways toward solving the welfare problems because of course they would leave the welfare rolls, go to work and start paying taxes.

The bottom line is that theory, that working theory of curtailing the growth of Government spending so Washington borrows less, leaving more available in the private sector, keeping the interest rates down so people will buy more houses and cars, so others will have job opportunities building those houses and cars, the model worked, and that is why we are so far ahead of schedule here in the second year.

It led to a booming economy, and we hear in the news now that the economy is booming and making us all work absolutely. Part of this is the booming economy that is making it work. Part of the reason the economy is booming is because the interest rates have stayed down, and here is part of the picture why.

Well, that was the second year, on track, ahead of schedule. We are now in the third year. The third year we promised a deficit below $139 billion, and I would like to make a projection here now tonight. My chart shows $90 billion deficit next year or in the fiscal year we are now working in. I would like to predict that that number is going to read zero. I would like to suggest that in fact we are going to find out in the next few months that the budget is going to be balanced in fiscal year 1998, fiscal year 1999 at the latest, if we just stay with the economy the way it is now. No big boom, no massive downturn, if it just stays just the way it is right now and we continue to hold spending in check, we will have a balanced budget as soon as next year.

Folks, we are not only on target, we are in the third year of a 7-year plan to balance the Federal budget, and we are not only on track, but we are significantly ahead of schedule to the point where we can both balance the budget and provide tax relief for the American people. Great news for America and, like I said, it is just great to look at these numbers and be able to talk positive about what has happened out here in spite of all the rest of the stuff.

If you were tuned in earlier and you saw the bickering that went on on this floor just before we got here and took over for this hour, all of the partisan bickering aside, everything else that has happened out here, the bottom line is if we look at the war, the war to balance the Federal budget and preserve this Nation for the future generations, we are winning the war right now and it is almost over.

Now I have heard a lot in the news media that the only thing going on is the economy is booming, and in fact there is a lot of folks that would like to say, well, Washington is still so fouled up and the only thing going on is the economy is booming.

Well, I brought a chart with me to help see that in fact there are two parts to this thing working; one is the economy, and certainly we do not want to take anything away from that, but the other one is again things have changed since 1995. In the 7 years before Republicans took over in 1995 the average growth in spending for the Federal Government was 5.2 percent. Since Republicans have taken over and in the first 7 years of the Republicans, including the balance of 4 years have not yet occurred, growth is 3.2 percent. So under the first 7 years of Republican control, 3.2 percent growth. Under the last 7 years, Democrat control, 5.2 percent growth.

Now what does this really mean? There is a couple of things that are pretty significant in this chart.

First, the American people have been told repeatedly that there are draconian cuts in Washington. Well, the first thing I would point out is that there are no cuts. Spending in Washington is still going up by 3.2 percent. But the growth in Government spending has been curtailed by 40 percent. That is about a 40-percent reduction in the growth of Government spending.

That is good news, and that is part of what has led us to success.

On the other side we see in real dollars or inflation-adjusted dollars before we got here was going up about 1.8 percent per year and it is now going up about 0.6, so it has been about a two-thirds reduction in the growth of Government spending.

The idea that there are massive, draconian cuts in Washington programs is nonsense. In fact, do we still have a long ways to go to get the growth of Government spending completely under control? Yes is the answer to that question. We still have a way to go.

There is a lot of very conservative Republicans who are saying the budget agreement is no good because, and you can fill in the blank for what they put in. They would like this blue area to read zero. They would like absolutely no growth in Government spending, and if I were perfectly honest about it, I probably fall into that category. I would prefer less growth in Government spending and let the people keep more of their own money and decide how to spend it themselves. But I do not think that means we should look away from the progress that has been made, and there clearly has been progress made reducing the growth in Government spending, putting us in the third year of a 7-year plan to balance the Federal budget and being on track and ahead of schedule. That is not all bad, that is good, and we are on the right track. We have turned a very significant corner for the future of this great Nation that we live in.

I would like to put this all in perspective another way. If when we came to Washington, DC instead of doing our jobs we played basketball and golf, what would have happened? And that is what this chart shows. This is what we found when we got to Washington in 1995, when the American people made that change, the revolt of 1994, rejecting the tax increases of 1993, rejecting the broken promises of the early 1990's and late 1980's. This is what we found.

The deficit was about $175-, $180 billion at that point, and this red line shows you what would have happened had we decided to play basketball and golf and not done our job out here.

But instead of doing that in the first 12 months we made some progress, and it was—there was no bullets fired but it was just short of a war. Some folks remember what was called a government shutdown and all the negative "cutting Medicare" stuff and all of the negative misinformation that was put out of this city.

We did go through a war. At the end of 12 months this yellow line shows how far we would come if we quit at that point. We could not quit at that point because the job was not done.

The green line shows the plan that we laid in place to balance the Federal budget and again thinking back to the Gramm-Rudman-Hollings and how they never hit their targets. The blue line shows you where we actually are today. This is how much progress has been made. This is what would have happened if we did nothing. This is what did happen in the first 12 months' progress that was made. We did not quit. This is the plan and this is where we are.

What great news for America: We are winning this war. We are winning the war to preserve the future of this Nation. What other Nations could not do with military power we almost did to ourselves by running up such a huge debt that we would have no ability to repay it.

This is not the end of the picture, and again I point out where we had this discussion a little bit after the budget is balanced, when we reach zero, when we are no longer overdrawing our checkbook, the job is not done. We still have a $5.3 trillion debt staring us in the face, and the logical question is: What are you going to do about that?

Well, before we answer that question I think we ought to pause long enough to applaud the progress that has been made. There has not been a balanced budget in this community since 1969. There has not been a tax cut in this community since 1982. There has been a lot of tax increases, but no tax cuts.

So before we go on to what is next let us at least pause long enough to recognize that from 1995 forward things have changed in this community, and I would encourage anyone watching tonight, and I would encourage my colleagues to congratulate each other on what has happened out here in Washington and the change that has occurred since 1995.

It should be a tribute to the American people is who it should be a tribute to because had they not changed what was going on in Washington by electing different people, the same stuff would be going on again. There is no reason to believe anything different.

What is next? Well, we still have a $5.4 trillion debt staring us in the face.

We introduced last week a bill called the National Debt Repayment Act, and what the National Debt Repayment Act does is it recognizes that we are soon going to have a balanced budget, and after we balance the budget it caps the growth in Government spending at a rate 1 percent lower than the rate of revenue growth. By capping the growth in Government spending 1 percent lower than the rate of revenue growth, that creates a surplus. The surplus is taken two-thirds to pay down the debt and one-third to further reduce taxes. It is the National Debt Repayment Act. I am happy to say there is currently about 100 cosponsors in the House of Representatives: NEWT GINGRICH, JOHN KASICH, JERRY SOLOMON, BOB LIVINGSTON, BILL PAXON, a large group of the Republican leadership is already on board as cosponsors. I am happy to say that the Democrats have joined us. It is a bipartisan bill doing what is good for the future of our country. GARY CONDIT, DAVE MINGE, Mr. GOODE from Virginia, a large group, a good number of Democrats have joined us as well, and I am happy to report that we also have the support of one of the Nation's leading Independents in Ross Perot.

So when you start looking at this bill with Republican House leadership on board, Democrats from the House on board, Independents on board, it is time for the rest of the people in this community.

To my colleagues, I encourage you to call our office tomorrow, join us as cosponsors on this bill to repay the Federal debt so that we can give this Nation to our children debt free.

Now with that, I would like to open another topic because there is another very important topic that is directly related to this debt, and that is Social Security. When we repay the Federal debt, we are also restoring the Social Security trust fund, and I think it is significant that we understand what is happening in Social Security.

Every year the Federal Government is going into the paychecks of working Americans and collecting Social Security tax. Well, they are collecting more in tax dollars than what they are paying back out to our seniors in benefits. That is creating a surplus in Social Security. That surplus is supposed to be set aside into the Social Security trust fund; $75 billion this year alone is supposed to go into the Social Security trust fund.

Now it should be no big surprise to anyone out there thinking back to before 1995 that in Washington, DC when they got this surplus in their hands, they spent all the money. So there is no money left. What they do with that surplus is they put it in their Government checkbook, they spend it in other Government programs, and they then write an IOU for the Social Security trust fund.

So the system is working today, they are collecting more money than they are paying back out in benefits. That extra money though, and that is where the system breaks down, is supposed to be put into Social Security trust fund. Instead, it goes into the big government checkbook, it then gets spent on other government programs. Since there is no money left in the checkbook at the end, they put IOUs down the trust.

And I have got a picture to help see that.

When we think about balancing the budget in Washington, DC, because of the way they are doing it with Social Security, when we say the budget in Washington is balanced, we are effectively getting rid of the reported deficit. What we report to the American people from Washington of a deficit is this blue area on the chart. What we do not tell the American people is that in addition to that we are taking the money out of the Social Security trust fund.

In 1996, for example, the deficit was reported at $107 billion, and there was $65 billion more taken out of the Social Security trust fund. Well, the real deficit was $172 billion, so if we had reported the real deficit, it would have been much larger, and of course when we say we are going to balance the budget, this is my last chart of the evening, but when we say we are going to balance the budget, what we mean is we are going to take that blue area and make it disappear. In the year that we balance the budget we will still be taking $104 billion out of the Social Security trust fund to make our budget look balanced.

Now we have had all good news here tonight, we have made huge progress in the right direction, but I think we need to understand that we still have a huge problem with the Social Security trust fund.

What is going on is that extra money that is coming in is being used to make the budget appear balanced. We need to enact a bill called the Social Security Preservation Act, and again I would encourage our colleagues if you have not already joined us on this join us on it. The Social Security Preservation Act would require that this extra money, the money for the Social Security trust fund, actually be put into the Social Security trust fund.

Now if out in America that sounds like common sense, I have to admit it sounds like common sense to me, too. In our business had we taken our pension money, spent it on other parts of the business and put IOU's in the pension they would have literally locked me up in jail. It would have been illegal and against the rules. This practice needs to be stopped, and the logical next step after we get to a balanced budget is to stop the practice of taking the Social Security trust fund money.

How does this all tie together? Well, the National Debt Repayment Act, as we are repaying the Federal debt, we would also be putting real dollars back in place of these IOU's that are put in here. This was money that was taken out, for example, last year. That all becomes part of the $5.3 trillion debt. So as we are paying down the Federal debt we would also be restoring or putting this money back that has been taken out and spent in other Government programs.

□ 2000

It brings us back to the National Debt Repayment Act. Under the National Debt Repayment Act we would start running surpluses after we reached a balanced budget. We would cap the growth of government spending at least 1 percent below the rate of revenue growth, thereby creating a surplus. With that surplus, one-third goes to additional tax cuts, two-thirds go to paying back the debt.

When we are paying back the debt, it is very, very significant for our senior citizens to understand that we would also be putting the money back into the Social Security trust fund that has been taken out over the last 15 years.

If there are senior citizens paying attention this evening that get angry at this, they are not alone. There are a lot of people in this country that are very upset when they find out that the money that was supposed to be set aside for Social Security has actually been set aside for other programs. I would not say they are surprised, but they are very upset that the process is going on that way.

I am happy to say that either passing the Social Security Preservation Act, a bill we introduced about 2 months ago, or the National Debt Repayment Act, either one of these bills will solve this problem and restore the Social Security trust fund.

So why should our colleagues join us in the National Debt Repayment Act? Good news out of Washington today; turn on any network TV you want to see and you will find that the Republicans and the Democrats have reached agreement on a balanced budget. They are still saying 2002. I am here to tell the Members if we do not go into a major recession, it could be next year, it could be the year after.

The national debt repayment answers the question of what next. What next is after we reach a balanced budget, we start repaying the Federal debt. When we repay the Federal debt, three things happen: First and most important, we get to pass this Nation on to our children debt free. By the year 2026, the entire Federal debt would be repaid and we could give this Nation to our children debt free.

The second thing that happens under this, for the people that are in the work force today, we started with the children and let us go to the next generation up, for people in the work force today, under the National Debt Repayment Act one-third of all surpluses guarantee additional tax cuts.

Just think about this. Instead of a tax cut once every 16 years, under the National Debt Repayment Act there is a guaranteed tax cut every year from now on, unless we fall into a recession, in which case the bill kicks out. So we are now looking at a debt-free Nation for our children, additional tax reductions for the people in the work force today.

Now we turn to seniors. For our senior citizens, the National Debt Repayment Act means that the Social Security trust fund is restored and they can once again look forward to receiving Social Security. The solvency of the Social Security trust fund becomes real under the National Debt Repayment Act. The IOU's are repaid with real assets.

The Social Security trust fund, by the way, is bankrupt by the year 2012 if this sort of bill is not put into place. Either the Social Security Preservation Act or our National Debt Repayment Act will restore the Social Security trust fund and make it solvent beyond the year 2002.

That is a lot of different information. I have gone through a lot of charts here tonight. I think it would be reasonable to summarize this whole thing by maybe starting with the past, what happened before, summarizing where we are today, and then just a brief review on the future of where we go to next.

The past: Gramm-Rudman-Hollings, promises of a balanced budget that were regularly broken. The late 1980's, early 1990's: promises of targets, we would reach a balanced budget, but no balanced budget. The American people became somewhat cynical. They stopped believing in the people they sent to Washington, and when they told them that they were going to have a balanced budget, the American people quit believing it because they had been misled so many times. That is the past, the late 1980's, the early 1990's.

The American people finally revolted after 1991, the tax increase. That is the past. Broken promises of a balanced budget, the past; tax increases, giving Washington more money so Washington can maintain its programs and still try and balance the budget. The past is tax increases, the past is more Washington.

The present, a very different place. In the present, we are in the third year of a 7-year plan to balance the Federal budget. We are not only on track but we are ahead of schedule, to a point where we may very well have a balanced budget next year for the first time since 1969. We are in a position where, because of the theory of 1995, the theory of curtailing the growth of Washington spending, Washington not having spending growth as high means they borrow less money. There is more money in the private sector. More money in the private sector means lower interest rates. Lower interest rates mean more houses and cars are sold. More house and car sales means more job opportunities for people who build them.

That is the working model of 1995. It is in place and it is working. We are in the third year of a 7-year plan to balance the budget. We are not only on track, we are ahead of schedule. The good news is there are tax cuts coming for the American people virtually across the board.

I would like to just review a little bit those tax cuts, because it is such good news. If you have children in your household and are earning less than $110,000 a year, on January 1 of next year take the number of children times 400 and divide by 12, and then ask your boss to keep that much of your own money instead of sending it here to Washington.

If you have three kids in your house, 3 times 400 is $1,200. Divide that by 12, because are 12 months in the year, one-twelfth of that is $100. On January 1 of next year if you have three kids in your house, walk in to your employer and tell your employer you want to keep $100 more of your own money instead of sending it to Washington; get your pay raise January 1 of next year, do not wait. You might as well get the money then, instead of sending it out to Washington. The good news, the 400 number goes to 500 the following year.

Capital gains. If you are a senior drawing out of your pension fund and your pension made a profit, if you own stocks that have appreciated in value and wish to sell them, if you own real estate and you are going to transfer ownership, the 28 percent you used to pay in capital gains, it goes to 20 percent for all capital gains with the exception of real estate that has been depreciated, and on that portion of real estate that you have depreciated, it is called the recapture portion, it remains at 25 percent. So it is a 3-percent reduction on that area, it is an 8 percent across-the-board reduction on the rest.

And again, let me translate this. If you are a senior citizen and you get money out of your pension fund and that money has appreciated in value over the last 20 years because you saved up to take care of yourself, called personal responsibility, if you are that senior citizen, and you take $100 of profit out, instead of sending $28 to Washington, you only send 20, and you keep the extra 8 in your own house. It is your money.

So I am happy to say in the present we are in the third year to balance the budget. We are on track. We are ahead of schedule. The budget will be balanced probably next year, 1999 at the latest. The good news is you should expect additional tax cuts in the not too distant future.

If anyone out there can figure out a way they are not affected by this tax cut, they need to let us know so in the next round we can make sure anybody missed in the first round gets picked up. If anyone is upset about the tax cuts, I would just encourage them to think back to 1993 when the discussion was about tax increases, and think what a wonderful privilege it is to be here having a fight about which taxes to cut and how far to cut them.

The future, even after we get to a balanced budget we still have some problems facing our country. The problems are a $5.3 trillion debt. The problems are the money that has been taken out of the Social Security trust fund. The good news is the National Debt Repayment Act.

What is next? We are going to pay off that Federal debt by capping the growth of Government spending, hear this clearly, not reaching into the pockets of the American people and taking out more tax dollars, but by controlling the growth of Government spending in Washington.

We cap the growth of Government spending at least 1 percent below the rate of revenue growth. That creates a surplus. Two-thirds of the surplus goes to repaying the debt, one-third goes to additional tax cuts. As we repay the debt, the money that has been taken out of the Social Security trust fund is also put back in.

What a great vision for the future of this Nation: a balanced budget, lower taxes, the debt repaid so our children get this Nation debt free, and the Social Security trust fund restored so our seniors can once again be confident as they look forward to their future in the great Nation that we live in.

Mr. HOEKSTRA. Mr. Speaker, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for yielding. I think it is good news, the amount of progress we have made. I came in 1993. We were looking at $260 billion deficits as far as the eye could see. We were looking at increasing taxes. We were looking at proposals that said to stimulate the economy we have to spend in Washington.

Now, 4 years later, we are in double digits in the deficit.

Mr. NEUMANN. I would ask the gentleman, there is a real important distinction to be made. I ran as a Republican, even though in the past I had voted both Democrat and Republican. I ran as a Republican because the "we" the gentleman was talking about was on the other side of the aisle. Not a single solitary Republican voted for that tax increase in 1993. That was passed with Democrat votes. I think that distinction is very important.

Mr. HOEKSTRA. I thank the gentleman for adding that clarity. He is right, it was passed by Democratic votes, by one vote, I think, in both the House and Senate. But it is a much different vision than what we have now. We are in double digits with the deficit, we are maybe as low as $20 to $30 billion very soon, within the next year or 2. We are looking at a surplus budget.

I think my colleague would agree that getting to a surplus budget is really going to free us now to take a look at paying off the debt, paying it down, building a better future for our kids, building a better future and a more secure future for our seniors.

The surplus budget I think will not only enable us to talk about tax breaks for people who have missed out in this one, but I do think tax breaks the way Republicans believe they should happen, across-the-board tax cuts, rather than picking out winners and losers and carving out these things, which much of this has. But it is very, very good and very broad-based in this tax bill.

But where we want to go is to go to a simpler tax system, a fairer tax system that has lower rates for everyone, so for those that want to invest in a small business or a farm or education or whatever, they make those choices, rather than that heavy inducement from Washington saying, you really ought to go and do this, or, this is what we want you to do. Let people explore their own potential.

I know in my own State, with the automobile industry, we need kids in college, we need high-tech people. We also need the journeyman, the machinists who are now working on high-tech million-dollar machines, making the tool and die equipment we are going to need after the year 2000.

Mr. NEUMANN. Mr. Speaker, we need young people who are going to dream about the future of America, and their dream is not going to be so influenced by Washington control that they can once again open their own minds to think about what they can do, work hard, achieve, get ahead, live the American dream. We need our young people to once again look at this great Nation and see that they have the opportunity, if they work hard, take care of themselves, to get ahead in our country.

That is what made America great in the first place is people who were able to look not with government influence and not to Washington, but were able to reach down deep inside of themselves and figure out what it was that was going to make themselves and their Nation a better place. That is what we need. We need people who are willing to dream again.

Mr. HOEKSTRA. If the gentleman will yield further, Mr. Speaker, I think getting this American dream alive and giving people the opportunity to design and choose for their own future is where we are headed. That is why the decisions and the bills and the legislation that we will pass in the next couple of days are only an initial step for smaller government, more freedom, lower taxes, and enabling people to make decisions that impact their lives, rather than Washington making those decisions for them.

So yes, from 1993, boy, we have turned this ship around. We are headed in the right direction, but this is only the first step, and we have a lot of steps to go to get us to where we need to be and where we want to be, which I think will be a much better place, a much better place for our kids, a much better place for families. I think it will be an exciting place, because when you take the strains off, people will blossom, they will grow, and we will relive and we will rekindle the entrepreneurial spirit hopefully in every American.

Mr. NEUMANN. Mr. Speaker, one thing that happens out here, and I used to coach basketball, and we would have games like back to back. We would win the first game, and we would right away turn our focus to the next game, and we would forget to stop long enough to realize that we had just won the first game. It was almost like, wow, we won. Let us get going to the next game.

I do think it is important that on a day like today we do pause and we do recognize that we do not have broken promises of a balanced budget; we actually have a balanced budget. We do not have broken promises of lower taxes; we actually have a tax cut and it is very real. It is so real that on January 1 of next year people can walk into their place of employment and reduce the amount of money that they are sending to Washington, DC. It is so real that if they are selling stocks or bonds or drawing pensions today and paying that capital gains tax on that pension money, they can reduce the amount they are sending to Washington and keep more in their own homes right now, today.

We need to pause long enough to realize that we just won this basketball game before we go into the next game. It is a long season ahead, I agree. We have a long ways to go. But each one of these games that we win along the way, they are really not games, it is the future of America we are talking about here. But each time we make one of these significant days, days like today, we do need to pause long enough to acknowledge the successes that have occurred. Sometimes in Washington we forget that.

Mr. HOEKSTRA. If the gentleman will continue to yield, Mr. Speaker, there are a significant number of things in here.

A couple of weeks ago we were debating about the National Endowment for the Arts. I gave a presentation on that. I did not really think Washington should pick winners and losers for what art gets funded and what does not get funded.

We gave this presentation and talked to a group of people in the arts community who said, you know, if you really want to help the arts community, give us the home office deduction, because for many of us our homes are our studios, and that would be a big help to us. Plus then you are not choosing, all of us would benefit from that, so we are not competing for this little grant.

The other thing they said to us, give us a 100 percent tax deduction for health care. We are self-employed. We are entrepreneurs. We are not part of a large group or a large corporation. We need health insurance. We need health care. Let us buy this.

This tax bill will have that in there, both of those features in there for them.

Mr. NEUMANN. Mr. Speaker, would the gentleman go into a little more detail, because I did not cover that very well before about the health deduction for business owners. If you are self-employed and you are buying your own insurance, it used to be that you could not write off the cost of your insurance, but if you worked for a big company somewhere and got it as a benefit, it was a tax-free benefit. Would the gentleman explain that a little more?

Mr. HOEKSTRA. Sure. The gentleman is exactly right. I worked for a Fortune 500 company before I came here in 1993. The company bought health insurance for me and my family. It was tax deductible. If I would have been an entrepreneur, I could not have deducted a comparable cost of buying insurance for myself.

We have modified that. Did we do it last year? I think we did it with the Contract With America, and we said we are going to phase in the tax deductibility. I think we went all the way up to 85 percent over a period of time.

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Now, with this bill, we are going to say that as an entrepreneur, as a small business person, as an individual we will be able to fully deduct 100 percent of our health care premiums just like the large Fortune 500 companies do for their employees.

I am not sure of exactly the time line, but it is going to happen and we will get to 100 percent tax deductibility.

Mr. NEUMANN. I was on the other side of that fixture, I was the entrepreneur out there starting my own business and working hard, and it was infuriating that many of the people we were selling homes to were allowed to have that deduction tax free, but somehow individuals out there trying to make it on their own, they were not eligible for the same treatment under the Tax Code.

I am happy to say, I guess if I were to pick one area that I want to go to next personally, where I would like to see additional tax cuts, and what a great discussion this is, where do we go next, what taxes do we cut? How different from 1993 when they were talking about tax increases. I would like to see the marriage tax penalty eliminated.

In our Nation today, if four people are working all at the same job, earning the same money, and two of those people are married to each other and two are not, the two people that are not married to each other pay less taxes than the two people in the same job earning the same money who are married to each other. And that does not seem fair. That is my top target next.

Mr. HOEKSTRA. Just in closing, I think the gentleman is right, the exciting days are in front of us. We will get to a surplus budget. When we get there, we will have a whole new range of options, debates and issues and new directions that we can talk about and that, I think, is going to be very exciting. I thank the gentleman for doing this special order and thank him for allowing me to participate.

Mr. NEUMANN. Mr. Speaker, I want to close out my time this evening by paying tribute to so many people that are involved in this, from our families and kids who spend time without us so this can get done, to all the people across this Nation who elected a group of people in 1995 that were going to come here to Washington, change what was going on, provide the Nation with a balanced budget, lower taxes, and Medicare restored.

That is what this is all about, and I want to close tonight by paying tribute to all the people that have been involved in this process.

GENERAL LEAVE

Ms. WATERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore [Mr. METCALF]. Is there objection to the request of the gentlewoman from California?

There was no objection.

CIVIL RIGHTS TRIBUTE TO FORMER SUPREME COURT JUSTICE WILLIAM J. BRENNAN, JR.

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from California [Ms. WATERS] is recognized for 60 minutes.

Ms. WATERS. Mr. Speaker, I rise this evening to begin a special tribute by the members of the Congressional Black Caucus for the late Justice William J. Brennan, Jr., one of the most influential and visionary jurists in our Nation's history.

Before I take time, I would like to yield the first of this hour to one of the leaders of the Congressional Black Caucus, who immediately upon the passing of Justice Brennan said it was important for the Congressional Black Caucus to take this floor and pay tribute to, give honor to the man who assisted this Nation in our civil rights efforts.

With that, I would like to yield to the gentleman from Florida, [Mr. ALCEE HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, I am deeply grateful to the chairwoman of the Congressional Black Caucus, the gentlewoman from California, Ms. MAXINE WATERS, my good friend, for yielding to me to begin this special order this evening.

Today, many of us in the Black Caucus and others of our colleagues here in the House and in the other body had the good fortune to be able to go the homegoing celebration of Justice Brennan. Because of the lateness of the hour, a significant number of our colleagues who wanted to be with us have seen fit to contribute their remarks in the RECORD, and they did, in fact, including the gentlewoman from Florida, Mrs. MEEK, and the gentlewomen from Texas, Ms. EDDIE BERNICE JOHNSON and Ms. JACKSON-LEE, as three that I know.

Mr. Speaker, I rise today to pay special tribute to the life and career of former Supreme Court Justice William J. Brennan, a man who, and I might add I learned today for the first time that that "J" stood for Joseph, a man who epitomized the word "liberal."

As I stand today, I am kind of propelled by the question, what is a liberal? Often we hear that here in this body, the question put, what is a liberal? And we hear it in negative terms when one is identified in that manner.

As I confront with my colleagues the myriad assaults on the liberal causes of equality and justice, and the homilist today, the Reverend John O'Hara, at Saint Matthews Church, at the funeral of Justice Brennan, cited the fact that not only did he stand for equality and justice, but he also brought to that civility. These ideas which most of us in the Black Caucus and many Members of this body have devoted entire careers pursuing, this question then is obviously of paramount importance.

What is a liberal? There are a lot of definitions. Let me offer one. A liberal is someone who is guided by principles of fairness and equality and civility, even when such principles are unpopular. A liberal is someone who stands up for justice and fairness regardless of public opinion. A liberal fights for the rights of individuals, no matter their social, economic, racial or religious circumstance, and often because of them.

A liberal believes that the U.S. Constitution was adopted to expand, not limit, individual freedoms. A liberal would give her or his life to eliminate all forms of second-class citizenship, understanding that until all are free, none are free. Justice Brennan was a liberal, Mr. Speaker.

As a member of the Congressional Black Caucus, a lawyer and a former judge, I am especially proud to honor this distinguished jurist. It is apropos that I rise today. Justice Brennan's belief in the ideal of one person, one vote, and his relentless support of the protection of voting rights for all Americans directly led to a fairer reapportionment of congressional districts.

As I look around this body when it is in full bloom, which more accurately reflects the American people today than it did half a decade ago, I am reminded of the quote, and I learned today at the funeral that the Justice had asked the homilist, Reverend O'Hara, to make sure at his funeral that it be short; and, No. 2, that they play some Latin songs. I did not know of his fondness, and so I looked up a quote: "Si monumentum requires circumspice." If you would see his monument, look around you.

Justice Brennan's monument is all around us in this great country, and he, through his legacy, has contributed to the diversity of this great body. In the area of civil rights, Justice Brennan joined the late Justice Thurgood Marshall, his judicial soulmate, as the court's most outspoken advocates for affirmative action.

We are about to undertake that debate here. And it would be healthy if all of our colleagues had had the good fortune to read some of the 1,360 opinions that William Joseph Brennan authored as a member of the United States Supreme Court.

For example, in United States Steel Workers of America versus Weber, Justice Brennan wrote that it would be ironic "if a law triggered by a Nation's concern over centuries of racial injustice and intended to improve the lot of those who had been excluded from the American dream for so long, prohibited all voluntary race-conscious efforts to abolish racial segregation and hierarchy."

Justice Brennan understood that we still, in America and in the world, live as persons infected with various forms of racism and prejudice. Mr. Speaker, he understood that the only way to remedy the evils of the past would be to take affirmative action to eliminate its ugly and devastating impact on those today.

As all of my colleagues in the Black Caucus who come today to pay tribute to this giant have fought for equality and fairness under the law, I fought for it along with my colleagues, from the courthouse to the statehouse and in the U.S. House. I was certainly, as all of our colleagues are in this Nation, saddened by the departure of Justice Brennan from the court.

Today, however, I remain encouraged that his legacy of individual freedom will be evanescent. As someone who had an opportunity to practice under those decisions, I, for one, am grateful for his legacy.

I must pause briefly, Mr. Speaker, to thank the chairwoman of the Congressional Black Caucus and the members of the Congressional Black Caucus for their efforts here this evening to honor Justice Brennan. I have already pointed to the appropriateness of this special order.

The chairwoman immediately set in motion the request for the Black Caucus and all our colleagues to have this opportunity to recognize a giant who helped all Americans. Justice Brennan shared our ideals, our principles, and our hope for a colorblind society. He shared our vision for racial equality and social justice and, indeed, civility. He believed as we do in the supreme dignity of every individual.

We will continue to build upon that vision as we in the Black Caucus and in Congress fight for the rights of every American, especially the poor, as Justice Brennan did; the disadvantaged, as Justice Brennan did; and the mistreated, as Justice Brennan did. As long as people are treated unfairly, as long as people sit on death row, as long as there is one person who deserves another chance or just a better chance at the American dream, the spirit of William Joseph Brennan will be with us, and for that we, as a Nation, are in his eternal debt.

Today, in a magnificent organ recital during the course of the procession to his place of committal, the Schola from Requiem in paradisum was "May the angels lead you into paradise; may the martyrs receive you, and lead you into the holy city of Jerusalem. May the choir of angels receive you, and with Lazarus, who was once poor, may you enjoy eternal rest," Justice Brennan.

Ms. WATERS. Mr. Speaker, I would like to take the first portion of my remarks to thank the gentleman from Florida who so eloquently expressed our fine appreciation for Justice Brennan. I think it could not have been done better, and I am delighted that the gentleman from Florida [Mr. HASTINGS] saw fit to immediately call me and focus us on the fact of the death of Justice Brennan, and to say that the Congressional Black Caucus must indeed take the leadership in paying tribute to this giant of a human being.

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He said to me, this is important that we take this leadership; and I immediately understood why. Justice Brennan represented our struggle, he represented our hope for what America could be and what it should be. And so, I open this special tribute this evening and I share this time with other members of the Congressional Black Caucus who are here and some who have left their statements, and I do so with great pride.

Justice Brennan was laid to rest this afternoon. However, he placed an indelible mark on many of this Nation's laws. The famous Brennan decisions serve as the underpinnings and guideposts for the advancement of civil rights in this Nation. During his 34 years on the United States Supreme Court, Justice Brennan was described as "the chief strategist behind the court's civil rights revolution."

Justice Brennan was considered a liberal. We heard the gentleman from Florida [Mr. HASTINGS] pay tribute to liberalism. How proud I am, also, this evening to pay tribute to this liberal. Liberals have been demonized by those who set out to limit the power and the ability of the poor, to limit the power and the ability of people of color and people who are powerless, limit the ability of all of these to be active decisionmakers and participants in this democracy.

This democracy has set forth in the Declaration of Independence, which states, and I will remind folks as I quote this, we hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness.

Justice Brennan was a student of the Constitution and a believer in the Declaration of Independence. He cherished first amendment rights, and he acted on his beliefs. He worked hard to construct the arguments and convince his fellow justices that this could and should be a Nation that protects the rights of all individuals and groups. He actively worked to make the Constitution a vibrant living document. He called the Constitution, and I quote him, "a sparkling vision of the dignity of every individual."

Witness the great Brennan decisions. Baker versus Carr, 1962. This case allowed Federal courts to hear constitutional challenges to the way States drew their legislative districts. The case forced reapportionment of previously discriminatory districts and enforcement of one-person one-vote principle.

NAACP versus Button, 1963. This case struck down a State law that prevented civil rights organizations from soliciting plaintiffs for desegregation cases stating that such restrictions violated the first amendment right of association. What a great decision.

Do my colleagues understand that literally what the State has said was we do not care how much someone has been discriminated against, we do not care how representative this is of wrongs in our society; you cannot go out and solicit and find them and get them to be a plaintiff. Thank you, Justice Brennan.

United Steelworkers of America versus. Weber, 1979. This case ruled that Federal anti-discrimination law does not prevent employers from adopting voluntary race-conscious affirmative action programs.

Well, we are in a great debate in this Nation about affirmative action. In a matter of days, perhaps, and certainly if not in a matter of days, when we come back in September, we will be fighting in the Brennan way against an attempt to turn this decision on its head. We will be fighting against a bill that will attempt to do away with all affirmative action. And it has been branded a civil rights role acting in just the opposite way that Brennan intended affirmative action to operate.

Furman versus. Georgia, 1972. This case invalidated State death penalty laws as cruel and unusual punishment. I know, it is not political to be against the death penalty. People do not want to run for office for re-election without trying to make the people believe that they are absolutely protecting them by supporting the right for a free people in a democracy to kill in the name of justice.

Well, I suppose the death penalty is riding high now and it is very unpopular to be against the death penalty. I submit to my colleagues, a society that attempts to right wrongs by doing worse than the person they would point to that committed the wrong is a society headed in the wrong direction. A State, a Nation that kills in the name of justice will be held accountable for that in so many ways.

Metro Broadcasting versus. Federal Communications Commission, 1990. This case upheld minority preferences for FCC broadcast licenses. Some people say, "Well, what is important about that?" I will tell you what is important about that. As we watch attempts now by the rich and the powerful to buy up everything, radio stations, television stations, what happens when you have the powerful owning the voices that you hear on radio and television able to talk to people day in and day out, expressing certain points of view, without any real opportunity to hear the minority point of view, to hear the other point of view?

In a democracy, we should never allow monopolies, the rich and the powerful, to have control of our airwaves, to have control of what our children hear, to have control of what goes on in every household. It is one of the most dangerous things that could happen in a democracy.

We live in a democracy where we ought to feel free enough and strong enough to let everybody say what they need to say. But if minorities do not have the right to own, do not have the ability to own, do not have the capital to own, you will shut down the voices oftentimes of opposition. And so this was a powerful decision.

It is quite clear that Justice Brennan was a rare and talented human being whose clarity of thought and commitment to justice and equality guided his work and his vision for America.

Justice Brennan will long be remembered. The legacy of Justice Brennan will not be lost or simply overturned or forgotten. His work was too profound, too impeccable, too undeniable. No matter the attack on liberalism, no matter the winds that blow toward the right, in the final analysis, the humanity demonstrated by his leadership can stand tall and strong against the most inhumane attacks, the most intolerant voices, the most misguided and ignorant in our society who would have the powerful just trample on the rights of the powerless and the majority simply ignore the pleas of the minority.

Justice Brennan, you make me so proud to stand here tonight branded a liberal. It is because of you and the powerful in high places who served with principled dignity and who continue to serve with principled dignity that I am able to be here in the hallowed halls of Congress imploring my colleagues to serve as you served, care as you cared, and to do as you did, serve all the people all of the time, upholding the Constitution of the United States of America and fighting for justice and equality for all.

Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I want to congratulate the chairman of the Congressional Black Caucus and others of my colleagues that saw fit to hold this special order as a tribute to Justice Brennan. His funeral was held today, and I think that the tributes to him will go on for a long time to come.

I think it is important to note that one of the people who spoke at his funeral today said that his passing represented an end of the era, that the era of liberal government and liberal court opinions was over. I do not agree. I think that one important thing about this tribute is to hold up and let the general public see in a highly visible manner what that era was all about through the opinions of Justice Brennan.

Justice Brennan has not really been given due credit for a number of things that he has accomplished, and many people do not realize the scope of his opinions. They are very much in harmony with the basic beliefs of Thomas Jefferson, very much in harmony with the very dramatic gesture of Abraham Lincoln in setting the slaves free, very much in harmony with the belief that individuals have certain inalienable rights.

He struck at the heart of an attempt to corrupt that process by refusing to go along with the States' attempt to cling to power for rural areas, unpopulated or slightly populated areas, and use the compromise that had been made at the time of the founding of our own Constitution.

Our Constitution is based on a compromise. We had a Senate and House of Representatives, the House of Representatives based on population and the Senate was a compromise. That body established that any State, no matter how small the State was or what the population of it was, any State would have two Members. And State legislatures were using that kind of reasoning to justify various formulas for holding on to power without a one-man, one-vote situation.

And of course, Justice Brennan, kind of late in the life of our Nation, I think it was 1966, that late in the history of the Nation, he applied the common sense of the Constitution that if we are really equal, then we cannot allow a situation to be perpetuated at the State level where the balance of power was maintained by a minority through this kind of playing with the notion that we could have two Houses and State legislature and one could not follow the rule of one man, one vote in terms of population.

So he had the guts to deal with it in 1966. And somehow no one has bothered to challenge it since then. The power of the common sense of it, the harmony of it with the thinking of the Founders and the whole thrust of our Constitution was so great, that has not been challenged. The one-man, one-vote theory definitely is there and in place.

There is another very fundamental decision that he made which very few people have talked about and very few people may even know that he had anything to do with it, but I think it is very much indicative and relevant of our present era, where we tend to put people down. All men are created equal. All Americans are equal. But, somehow, lately we have been looking at welfare recipients or poor people, or people who have not made it, as not being exactly equal. And there is a raging debate right now about WEP workers, people who are on welfare, people who must go to work in order to work off their welfare grants, them not being equal enough to be able to have representation. They cannot have an organization and that organization talk to the people in Government who put them to work. They cannot have an organization which says we need gloves if we are out in the park picking up all kinds of trash and we need some kind of gear on our heads if we are out there in the sun or we need some brightly colored jackets if we were working in areas where the trash is heavy, we need the same things other workers need.

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Nobody can even have a conversation in the New York WEP program because they are not allowed to organize and they are not allowed to have spokespersons, because, after all, they are not protected by the labor laws. We just had a fight here on the floor, not on the floor but we had a fight here via negotiations, where an attempt has been made to take away the protection of the Fair Labor Standards Act and take away the minimum wage, or any of the things in our labor law which applies to workers is going to be denied to welfare workers who have to go to work. We have just beaten that back temporarily. I understand it is taken out of the budget bill and the tax package that we will be voting on in a few days.

But it is very interesting that Brennan ruled, in a case which has not been that celebrated, he ruled that if you are going to take away the welfare benefits from somebody, you have got to give them a hearing. That is not known. In 1970, as late as 1970, an opinion for the court in Goldberg versus Kelly, a case little known by the general public. In that case he declared that it was a violation of the 14th Amendment guarantee of due process of law for a State to cut off a welfare recipient's benefits without a hearing. Something as simple as a hearing, an individual deserved.

As a prescription for governmental behavior, the holding in Goldberg versus Kelly appeared modest enough, but the opinion proved to be a watershed of constitutional interpretation, a key building block to what came to be known as the due process revolution. A series of decisions that followed erected a constitutional shield for the ordinary citizen against the arbitrary or standard misuse of governmental power in many contexts.

In 1987, in a New York speech which he entitled "Reason, Passion and the Progress of the Law," Brennan talked about the importance of a simple requirement that government officials meet a citizen face-to-face before taking adverse action. I end with this quote by Justice Brennan:

"Due process asks whether government has treated someone fairly, whether the individual's dignity has been honored, whether the worth of an individual has been acknowledged. If due process values are to be preserved in the bureaucratic state of the late 20th century, it may be essential that officials possess passion: The passion that puts them in touch with the dreams and disappointments of those with whom they deal, the passion that understands a pulse of life beneath the official version of events."

His opinion in Goldberg versus Kelly, he said, can be seen as injecting passion into a system whose abstract rationality had led it astray, and he applied those same principles to the death penalty. To the very end he was opposed to the death penalty because that individual on death row also deserved the same kind of passion, the same kind of interaction with society as a whole, as an individual who deserved equal treatment.

Ms. WATERS. Mr. Speaker, I yield to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Speaker, first of all let me commend and congratulate the gentlewoman from California, chairperson of the Congressional Black Caucus, and the gentleman from Florida [Mr. HASTINGS] for putting together this tribute. I rise today and join with my colleagues to pay tribute to one of this Nation's finest justices, one who has a progressive reputation and one who has demonstrated that you can be relevant and you can hold true.

Justice Brennan departed this life Thursday, July 24, at the age of 91. While he may have physically departed, he leaves a legacy that will endure for generations to come. Through his personal and professional life, Justice Brennan effected change and affected the lives of people in a real way. Justice Brennan was an ordinary man who possessed extraordinary courage, tenacity, and perseverance.

He was appointed to the Supreme Court in 1956 by then President Dwight Eisenhower. At the time of his appointment, America was engulfed with the question of what to do about civil rights and equal rights for blacks, Hispanics, women and other minorities. He dared to be different despite the dictates of the times. In his daring to be different, he lifted the lots of poor people, minorities, and the disenfranchised. He challenged the Constitution to live up to its ideals of equality and justice for all people.

He saw the law not as an abstraction but as a weapon to protect individual liberties. In speeches he often urged State courts to thrust themselves into a position of prominence in the struggle to protect people of our Nation from government intrusions on their individual freedoms.

In his 34-year tenure on the Supreme Court, he wrote more than 1,300 opinions which helped to significantly change the landscape of constitutional law. Some of his legendary opinions include Baker versus Carr, the landmark 1962 opinion that opened the doors to reapportionment of legislatures and congressional districts under strict one person, one vote standards. This decision reshaped politics and broadened participation in democracy. In 1964 he authored New York Times versus Sullivan, which enhanced First Amendment protections for press critics of public officials. And in 1970 he authored Goldberg versus Kelly, which required States to give welfare recipients notice and a right to a hearing before their welfare benefits could be cut.

Justice Brennan was a strong advocate of affirmative action and equal participation for everyone in America. Although he went to one of the elite schools of America, he was a very common, caring, sensitive, down-to-earth man of reason. His life was an embodiment of love, liberty and law. He was a champion of the underdog. He saw beyond Jim Crow segregation, discrimination, and saw an America that could live up to its promises of equal justice under the law. His ability to build consensus and help safeguard freedom broadened the circle of equality for every single American.

And so it is indeed my pleasure to join with all of my distinguished colleagues who have already so eloquently stated the case that when it comes to equality, justice, and the fight for freedom, no man, no woman could be Justice Brennan's peer.

Ms. WATERS. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE. Mr. Speaker, let me first of all thank the chairlady of the Congressional Black Caucus, keeping the theme of the Caucus since its inception, the conscience of the Congress, to call this special order, this special program tonight after the call from our former distinguished Federal jurist, the gentleman from Florida [Mr. HASTINGS] who in his judicial thinking immediately responded by requesting that this special order be held, and for him we are very thankful.

We are here tonight to celebrate the life of William Joseph Brennan, Jr. Last Thursday, Mr. Speaker, this country lost a bold and spirited champion of civil liberties. The city of Newark, NJ lost a warm and generous son. Justice William Joseph Brennan, Jr. stands today as one of the most beloved and respected jurists ever to sit on the high court in this Nation. As the great Chief Justice Earl Warren once remarked, "In the entire history of the court, it would be difficult to name another justice who wrote more important opinions."

I was deeply moved this morning at St. Matthew's Church here in Washington where the funeral services were conducted for Justice Brennan and there were very moving tributes by the President of the United States, Justice Douglas, Justice Souter, William Brennan III, other members of the clergy and his family. Yet this prodigious man whom we laid to rest today at Arlington Cemetery traced his childhood roots back to a simple 3-family house in the Vailsburg section of my hometown of Newark, NJ.

Born on April 25, 1906, William Brennan grew up, one of eight children, in a large Irish-Catholic family. His father William Sr. shoveled coal at the old Ballentine Brewery, a place I knew well, Mr. Speaker, as I would later work there myself in that factory where many of the working families of Newark had the privilege to work.

William Sr. worked at the brewery until 1917 when he was chosen as the union representative for all of the workers at the brewery, giving William Sr. an early start in city politics.

As a young boy, young William Jr. lived on Parker Street which as he later described in the Newark Star-Ledger divided the people of means in the neighborhood. With Park Avenue on one side, the big money, he said, was on the other side of Bloomfield Avenue, he recalled. I also lived close to him in the North Ward on that other side of the dividing line.

While his father worked at the brewery, William Jr. attended the Alexander Street Elementary School and then went on to Barringer High School, the same high school that I attended many years later. We heard of Justice Brennan, at that time an outstanding lawyer, as one of the outstanding graduates of our high school. While he was in high school, he worked many odd jobs, worked on weekends to help his father make ends meet for a family of many mouths and little money.

After graduating from the Wharton School of Business and the Harvard Law School, the future justice returned home to Newark in the midst of the depression to practice labor law at the forerunner of what is now one of New Jersey's oldest law firms, Pitney, Harden & Skinner. He helped in the process of creating a new constitution for the State of New Jersey in 1948 and a year later was named to the State Superior Court.

In 1952 our Republican Governor, at that time Alfred Driscoll, appointed him to the State Supreme Court where he sat with the famed Arthur Vanderbilt. Finally, in 1956, another Republican, this time President Dwight D. Eisenhower, selected William Brennan, Jr. to sit on the Supreme Court of the United States.

The city of Newark, while it feels a deep sense of loss today at the departing of a beloved native, also feels a great sense of pride at the monumental achievements of this man who never forgot his roots. Over 34 years and through eight successive Presidents, Justice Brennan stood as a voice for those without a voice of their own on the highest tribunal of justice in this land. He believed in interpreting the Constitution as a living charter of human rights, dignity, and self-determination, and thus he believed that it was precisely the most vulnerable, forgotten and castoffs within our society for which its protections were designed. He reshaped the contours of American constitutional law by time and time again forging new consensus on the court in defense of minorities, immigrants, death row inmates, political protesters and the poor. His decision in Baker versus Carr as we have heard already established Federal constitutional jurisdictions over legislative apportionment, helping to establish the principle of "one person, one vote" and countermanding the process that had traditionally led to discriminatory racial gerrymandering in the drawing of electoral districts. Today we have 38 Members of the House of Representatives as a result of Justice Brennan in those early days.

□ 2100

His decision in New York Times versus Sullivan defended the right of the NAACP to criticize southern segregationists and established a standard of uninhibited, robust and wide open debate in the American body politic.

Finally, before a shift in the composition of the Court overturned it, his decision in Furman versus Georgia initiated a 4-year moratorium on the imposition of the death penalty in America, ruling that capital punishment simply did not comport with human dignity.

The life of Justice William Brennan, Mr. Speaker, will long stand as a profound testament to the power of well-articulated thoughts and ideas to ally the forces of reason behind the passions of the human heart and thereby to change forever the course of society. But his career also reminds us, as the framers of the Constitution warned, that the cost of liberty is a struggle of eternal vigilance.

Even in his lifetime Justice Brennan saw many of his important achievements rolled back by an increasing conservative majority on the Supreme Court, a majority that underestimates the need for vigilance in the defense of liberty. "We do not yet have justice for all who do not partake in the abundance of American life," wrote the late justice.

Just this past year we are still striving towards that goal and doubtless it will be an eternal quest. Therefore, Mr. Speaker, as we celebrate the life of a great man and grieving his passing, let us realize his quest as our quest and push America always onwards toward the realization of the most noble promise of liberty and human dignity.

Ms. WATERS. Mr. Speaker, I yield to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Speaker, first of all, I want to thank the chairwoman of the Congressional Black Caucus for yet another example of her sterling and illuminating leadership, her commitment to the cause of freedom, justice and equality here in America, and let me also extend my thanks to the gentleman from Florida [Mr. HASTINGS], whose spirit and whose words today certainly pay tribute in a most eloquent way to Justice Brennan. The gentleman from Florida [Mr. HASTINGS] certainly embodies the spirit of Justice Brennan, and I say thank you for this special order.

I rise today to pay tribute to the late William Joseph Brennan, Jr., former Supreme Court Justice. Mr. Justice Brennan's progressive voice was heard for 34 years on the Court, spanning eight Presidential administrations. He was widely recognized as a chief strategist behind the Court's civil rights revolution. Most, if not all, Americans have been touched by the legacy of Justice Brennan's rulings.

His vision was that the essential meaning of the Constitution was not found in the past but in the current everyday life of America. He championed human rights, he championed individual rights beyond what was spelled out in the text of the Constitution. He called the Constitution, "a sparkling vision of the supreme dignity of every individual." I repeat: "a sparkling vision of the supreme dignity of every individual." He used it as a tool for social justice and racial equality.

Justice Brennan's litmus test for offering legal protection was simple. His litmus test was whether the bill of rights explicitly prevented him from doing so. My, my, what a simple yet profound litmus test.

He always favored the individual and put the burden on the Government to show that something in the Constitution disallowed protection.

Justice Brennan and his friend, colleague, and as mentioned earlier, judicial soul mate, Justice Thurgood Marshall, were often outvoted, and they were usually on the defensive. Though he was frequently in dissent, his role on the Court transcended that of a defender of the liberal faith. Term after term he defied the odds in his ability to pull together majorities, though often narrow majorities, for sustaining or even advancing the principles in which he so strongly believed.

In civil rights cases Justice Brennan's decisions enforced schools' desegregation plans, upheld affirmative action programs designed to help minorities overcome past discrimination and sought to ensure constitutional equality for women. Additionally, his rulings established rights for welfare recipients and illegal aliens and created the one-man, one-vote rule for representation in voting districts which is indeed a landmark opinion which, as stated earlier, opened the doors for so many to be seated in this Chamber today.

My predecessor, former Congressman from the first district of Illinois, former appeals judge and former White House Counsel, Abner Mikva, defined what he called a Brennaness as one who influences his colleagues beyond measure. A Brennaness is one who influences his colleagues beyond measure.

His ability to bridge differences through good will distinguished Justice Brennan's career on the high Court. Justice Brennan had an unmatched ability to build a consensus. His knack for compromise and his ability to hold legal decisions that were acceptable to his colleagues regardless of their judicial philosophies was and is his legacy.

Although he never served as Chief Justice, Justice Brennan was a pivotal force in his three plus decades on the Court. He authored milestone opinions and was a prime mover behind many others. When he did not prevail, his voice in dissent was strong and illuminating.

Justice William J. Brennan, Jr., should be and will be remembered for the enduring constitutional principles he so fervently championed during his three plus decades on the U.S. Supreme Court.

Again, Mr. Speaker, I am honored, privileged and pleased to be a part of this special order honoring our friend, our champion, the former Supreme Court Justice William Joseph Brennan, Jr., and again I thank my colleagues.

Ms. WATERS. I yield to the gentleman from Florida [Mr. HASTINGS] to enter something into the RECORD.

Mr. HASTINGS of Florida. I thank the gentlewoman, and I ask that at the appropriate stage the Mass of Christian Burial of Justice Brennan be included in the RECORD.

That said, I would like to thank the gentlewoman and all of our colleagues, those who are here and those who entered their written words into the RECORD commemorating this great justice.

I said earlier that it was important that we take at least from the program the presidium that was offered, and I read it.

At the beginning of today's funeral for Justice Brennan the Ludwig van Beethoven tune "Ode to Joy" was sung in the entirety of its four refrains. Because of the lateness of the hour I wish to commend to all who are listening the final of the refrains.

Mortals join the mighty chorus, Which the morning stars began;
God's own love is reigning o'er us, Joining people hand in hand.
Ever singing, march we onward, Victors in the midst of strife;
Joyful music leads us sunward, In the triumph song of life

This gentleman sang a mighty tune for all of us.

Ms. WATERS. Mr. Speaker, I would like to thank all of the members of the Congressional Black Caucus who are here this evening and those who submitted statements for the RECORD.

I again would like to thank the gentleman from Florida, Congressman HASTINGS, for his foresight and his vision and helping to get us all here to make sure we do what we must do.

There are those who will look at us and say, "So they are there celebrating this liberal justice and I guess they must all be liberals." And sometimes, because again liberals have been demonized, people do not know what a liberal is. They do not look behind the label to try and discover the philosophy of those of us who come to this House and implore our colleagues to do the right thing by all human beings.

We are a people whose people were brought to these shores in slavery. We are a people whose ancestors were tarred and feathered and hung without a court. We were a people whose ancestors did not have an opportunity to offer a defense, no one to speak up. We are a people who were not able to access jobs and opportunities.

Our history is such that we have to have champions, and they came from many directions. Of course, everybody knows of the great histories of the African Americans who fought and died. Many people do not know the great histories of those who were not African Americans, such as Justice Brennan, who joined us in this struggle for justice, equality and freedom. They do not know that he was driven by the ideals embodied in the Constitution and the Declaration of Independence, those great documents that helped to drive a people to these shores seeking justice and freedom from the mother land of Great Britain.

And so when we take to the floor to honor him and to praise him, we cannot be anything but liberal in thought, liberal in philosophy. It is that kind of philosophy and thinking that have gotten us and our people to this point in history.

We wish it was all over and we did not need to have to struggle. We wish we did not have to sit here and stand here and wish that we could get some more Justice Brennans on the Court. We wish we did not have to be worried about a Canady bill. We wish we did not have to be worried about some of those who sit on the Supreme Court today. But we must, and what must be understood, because of who we are, from whence we came, because of our love for freedom, our love for justice and equality, we will not go away. We will be fighters and struggling in this cause for as long as we breathe.

If someone else said "You don't have to do this; we'll pay you not to do this; we'll give you all the riches in the world if you would just shut up," we could not do it if we wanted to.

Thank you, Justice Brennan, for joining with the many who love this country, who love those great documents that have held us in good stead. We honor you this evening and we do it proudly. Thank you for being a liberal.

MASS OF CHRISTIAN BURIAL—THE HONORABLE WILLIAM JOSEPH BRENNAN, JR., APRIL 25, 1906—JULY 24, 1997

(Tuesday, July 29, 1997, Cathedral of Saint Matthew the Apostle, Washington, DC)

FAITH IN ORDINARY PEOPLE

"The Dream though old is never old, like the Poor Old Woman in Yeats' play *Cathleen Ni Hoolihan:*

"'Did you see an old woman going down the path?' asks Bridget. 'No, I did not;' replies Patrick, who had just arrived after the old woman left. 'But I saw a young girl' he said, 'and she had the walk of a queen.'"—The Honorable William Joseph Brennan, Jr.

MINISTERS OF THE LITURGY

Reverend Milton E. Jordan: Principal Celebrant.

Reverend John T. O'Hara: Homilist.

Reverend Monsignor W. Ronald Jameson: Rector of the Cathedral.

Priests of the Cathedral, Visiting Priests: Concelebrants.

Reverend Mr. Ulysses S. Rice, Reverend Mr. Lawrence C. Gordon, Reverend Mr. Bart Merella: Deacons.

Reverend James D. Watkins, Reverend Charles V. Antonicelli: Masters of Ceremonies.

Associate Justices of the Supreme Court of the United States: Honorary Pallbearers.

Law Clerks to Justice Brennan: Richard Arnold, Owen Fiss, Merrick Garland, John McInespie, Daniel O'Hern, Daniel Rezneck, E. Joshua Rosenkranz, Clyde Szuch, Paul Washington: Pallbearers.

Hugh Brennan, Nancy Brennan: Lectors.

William Joseph Brennan IV: Reader of the Intercessions.

Mary Anne Gaffney, Constance Phelps: Giftbearers.

Extraordinary Ministers of the Eucharist of the Cathedral.

Seminarians of the Archdiocese of Washington, Altar Servers of the Cathedral: Servers.

Ushers of the Cathedral: Ministers of Hospitality.

Jay R. Rader, Cathedral Organist, Conductor; Jennifer Muller, Cantor; Ann Kramschuster, Assistant Organist; Members of the Cathedral of Saint Matthew the Apostle Chorale: Ministers of Music.

THE ORDER OF CELEBRATION

Prelude

Jesu dulcis memoria (Jesus, the sweet thought of you)—Tomás Luis de Victoria.

O taste and see.—Ralph Vaughan Williams.

Entrance Procession

Joyful, Joyful, We Adore You.—Henry Van Dyke; Ludwig van Beethoven; Tune: Ode to Joy:

Joyful, joyful, we adore you, God of glory, Lord of love;
Hearts unfold like flowers before you, Opening to the sun above.
Melt the clouds of sin and sadness; Drive the dark of doubt away;
Giver of immortal gladness, Fill us with the light of day!

All your works with joy surround you, Earth and heav'n reflect your rays,
Stars and angels sing around you, Center of unbroken praise;
Field and forest, vale and mountain, Flowery meadow, flashing sea,
Chanting bird and flowing fountain, Praising you eternally!

Always giving and forgiving, Ever blessing, ever blest,
Wellspring of the joy of living, Ocean depth of happy rest!
Loving Father, Christ our brother, Let your light upon us shine;
Teach us how to love each other, Lift us to the joy divine.

Mortals join the mighty chorus, Which the morning stars began;
God's own love is reigning o'er us, Joining people hand in hand.
Ever singing, march we onward, Victors in the midst of strife;
Joyful music leads us sunward In the triumph song of life.

INTRODUCTORY RITES

Greeting and Sprinkling with Holy Water.
Opening Prayer.

LITURGY OF THE WORD

First Reading

Responsorial Psalm

General Intercessions

LITURGY OF THE EUCHARIST

Preparation of the Altar and the Gifts

Preface Acclamation

Memorial Acclamation

Great Amen

From Mass of Creation by Marty Haugen.

COMMUNION RITE

Lord's Prayer

Sign of Peace

Breaking of the Bread

Agnus Dei

Music During the Communion Procession

How lovely is thy dwelling place—from Requiem by Johannes Brahms.

Prayer After Communion

Eulogies

FINAL COMMENDATION

Invitation to Prayer

Song of Farewell: Come to His Aid—Dennis C. Smolarski, S.J., Louis Bourgeois; Tune: Old Hundredth.

Come to his aid, O saints of God;
Come, meet him, angels of the Lord.
Receive his soul, O holy ones;
Present him now to God, Most High.

May Christ, who called you, take you home,
And angels lead you to Abraham.
Receive his soul, O holy ones;
Present him now to God, Most High.

Give hime eternal rest, O Lord.
May light unending shine on him.
Receive him now, O holy ones;
Present him now to God, Most High.

I know that my Redeemer lives;
The last day I shall rise again.
Receive him now, O holy ones;
Present him now to God, Most High.

Prayer of Commendation

PROCESSION TO THE PLACE OF COMMITTAL

In paradisum—from Requiem by Gabriel Fauré.

May the Angels lead you into paradise;
may the martyrs receive you,
and lead you into the holy city of Jerusalem.
May the choir of Angels receive you,
and with Lazarus, who was once poor,
may you enjoy eternal rest.

Postlude

Carillon—Louis Vierne.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening to express my deepest regrets for the loss of a legal giant. Supreme Court Justice William J. Brennan, Jr. His life, and his legacy of tireless public service, are forever encapsulated in the brilliant discourse of his many seminal legal opinions. Justice Brennan's opinions were penned with the keen mind of a social framer, a man dedicated to the proposition of crafting a better society for all, that would be shaped faithfully by the strokes of justice. Brennan was appointed to the Supreme Court by President Eisenhower in 1956, and with such, Justice Brennan began an unprecedented judicial record of unwavering liberal activism.

From *Baker* v. *Carr,* 369 U.S. 186 (1962), the case that forever placed the concept of "one man (person), one vote" in the psyche of American popular culture. To the unfailing standard for all cases testing the tort of defamation, *New York Times* v. *Sullivan,* 376 U.S. 254 (1964), Justice Brennan, did not simply help to shape the laws that govern our lives, but rather he formatively shaped the lives of the people affected by the law. New York versus Sullivan, at its time, was a hotbed of political controversy about a young, African-American minister in the South named Martin Luther King, Jr., and how his followers were trying to combat social injustice in the press through the criticism of prejudiced public officials. Brennan's opinion did not simply protect people from frivolous defamatory suits, but it helped to protect a delicate social movement, driven by the desire to establish the equal rights and treatment of all Americans without exception.

Baker versus Carr, a case which contains another seminal Brennan opinion, is no different in this regard. The case also asserted the necessity of individual liberty operating in equilibrium with social equality at a critical time in our history. These were the kind of decisions that could have caused a lesser man or woman to shrink before the awesome possibilities and implications that a case like this could hold for our Nation and its unresolved future. But Brennan, in these times, was our solid rock, the indefatigable defender of American liberty. It was for these reasons that Lawrence Tribe of the Harvard Law School called Brennan, "The Chief architect of the Federal judiciary's protection of individual rights."

Although like Thurgood Marshal, many of us remember that his final years on the Court were filled with a acerbic dissents, only time itself will truly allow us all to appreciate this great man and the magnitude of his social contribution. But let me be one of the first to say, as an African-American, as a woman, as an American, thank you, Justice Brennan, thank you for all of us. You are one of the few that it can be said about, that your life made the world, particularly this country, a better place to live in.

Mrs. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to ask my colleagues to remember and reflect upon the life of a great leader. His faithful service to the judicial system and to our Nation's citizens benefited the lives of those he came in contact with and the Americans that were affected by his landmark decision makings. He played a pivotal role in the Brown versus Board of Education bringing an end to the falsely named separate but equal political and economic status for African-Americans. I speak of none other than the Honorable Justice William J. Brennan, a man who secured his place in the pantheon of this Nation's greatest Supreme Court Justices.

Overcoming the stigma and prejudice that came with being born to an immigrant family, Justice Brennan began his service to the community as a humble laborer. Through hard work and perseverance he became an influential labor leader and the city commissioner of public safety. After graduating in 1931 from Harvard Law School, he began practicing law in Newark, NJ, before being named to the State's judiciary system. His excellence and commitment to justice placed him on the New Jersey Supreme Court, where he faithfully served before being nominated to the Supreme Court by President Eisenhower.

Those who knew Justice Brennan admired him as a man of great principle and an unwavering commitment to the welfare of all citizens, regardless of race, creed, gender or economic status. His legal theories and writings provided the foundation for the most progressive aspects of our present-day legal system. He will be remembered as a man whose sole responsibility was defending the rights of all individuals, including the poor, the disenfranchised and the vulnerable. Justice Brennan fought for the rights of those individuals who did not have a voice in the legal system, and who were subject to inequitable treatment in our country's courts.

I am deeply grateful to Justice Brennan for his years of hard work and struggle, particularly during his latter years on the Supreme Court when his voice was one of the few that cried out against reactionary judicial activism. Justice Brennan's legacy is epitomized by the Frederick Douglass quote, "Without struggle there is no progress." Thanks to the dedication of Justice Brennan to truth and justice, we are making progress in perfecting our system of justice and individuals are realizing something that is rightfully theirs—justice. Goodbye and God speed, Justice Brennan.

Mrs. MEEK of Florida. Mr. Speaker, Justice Brennan served on the Supreme Court for 34 years, from 1956 through 1990. By the general public he is remembered for his concern in protecting the rights of individuals who were not powerful. I will speak of that in a moment. But first I want to speak about him as a person.

I never met the Justice, but I think I would have liked him as a person. Let me give you one anecdote about him as a person. His office had a manual, and one item in the manual concerned the Justice's coffee. It said that every morning one clerk should prepare a cup of decaffeinated coffee with no milk or sugar and give it to him at 9 a.m. Every day he would say "wonderful." One day the office coffee machine broke, and so the Justice and his clerks went to the cafeteria to get morning coffee. The Justice poured himself a cup of caffeinated coffee and put milk and sugar in it. His clerks said they thought he liked his coffee decaf black with no sugar. And he replied, "no. I always take it this way." He had never told anyone in his office for more than 8 years about how he really wanted his coffee.

His decisions were controversial when he wrote them. Now they are accepted as being obvious. Look at just two of them.

In 1962, in Baker versus Carr, he changed the political landscape by declaring that Federal courts could review State legislative decisions on the boundaries of legislative districts so that everyone's vote would get equal weight in the legislative process.

Look at the facts as presented in that case. Since 1901 the Tennessee legislature had rejected every legislative attempt to change the boundaries of its own legislative districts. During that 60-year period Tennessee's population had grown and its distribution among the counties had shifted.

In 1946 the Supreme Court had decided, in Colegrove versus Green, that Federal courts should not enter the "political thicket." So the lower Federal court told the Tennessee plaintiffs that the Federal courts could not help them.

Justice Brennan persuaded six of his colleagues that the lower Federal court was wrong to throw out this particular case. He said that the failure to adjust the Tennessee political boundaries to reflect the changes in population since 1901 violated the equal protection clause of the 14th amendment.

We know that the rich and powerful have their interests amply represented in the legislative process. All that the poor have is their vote. Letting the legislature set the boundaries for its own districts, without anyone looking over their shoulder, perpetuated the balance of political power from long ago.

Let me turn now to the second example of his concern for those without political power. In 1970, in Goldberg versus Kelly, his opinion for the Supreme Court held that welfare beneficiaries could not lose their benefits without first getting both a notice telling them why they would lose their benefits and a hearing where they could present their side of the conflict.

This city is full of lawyers and lobbyists who make sure that no wealthy person or corporation loses his Federal benefits without first being able to present his case—even if that takes years of litigation. Justice Brennan merely said that poor people should have some of the same rights as the wealthy. Yet back in 1970 this notion was so new that he could only persuade four of his colleagues—a bare majority of the Supreme Court.

In conclusion, Mr. Speaker, these two decisions were, when they were made, controversial. But now we realize that they improved the quality of life for ordinary people, and the Nation did not come apart. In fact, the Nation is stronger because of Justice Brennan's having served this country.

Mrs. CLAYTON. Mr. Speaker, last week, this Nation suffered a great loss.

And because of that loss, those who favor freedom and believe in individual rights and civil rights will not soon recover.

However, while we lament the loss of Justice William Brennan, Jr., we also rejoice in his life—a life during which he spent more than three decades on the United States Supreme Court.

This son of Irish-Catholic immigrants, Justice Brennan worked as a waiter to pay for his last year of law school.

Born of modest means, he refused to accept mediocrity. He had hopes and dreams. He had goals. He had vision. He dared to be different and determined to make a difference.

His classmates at a Newark, NJ, public school complained that because he took home so many of the academic awards, there were none left for others.

His zeal for learning and his zest for excellence carried him through college—the University of Pennsylvania—and Harvard Law School, and those qualities characterized his entire legal career.

But, despite his Ivy League education, he never lost touch with the average person.

To him, every ordinary person was special, and every special person was ordinary.

Perhaps it was because his father once worked as a coalheaver in the brewery, or because matters of concern to labor were central to his upbringing, but Mr. Justice Brennan had a way with words that gave life and meaning to the Constitution of the United States.

It was Brennan who authored the important and far-reaching decision in the case of Goldberg versus Kelly, the welfare reform mandate of the 1970's.

Congress can learn much from that 30-year-old decision.

In Goldberg, the Court rules that even those on welfare were entitled to due process rights—even those on welfare had the same Constitutional protections as everybody else.

We could have used Brennan's wisdom and insight when we considered welfare reform.

He also wrote the Court's opinion in Johnson versus Transportation Agency, a decision that brilliantly outlined the need and value of affirmative action.

But, I remember him most for the case of Baker versus Carr.

In North Carolina, my State, some argued to the Court where Brennan spent much of his adult life that the very document that gives us rights—the United States Constitution—somehow takes those rights away.

Sometimes, Mr. Speaker, I wonder, what the Court would do with the redistricting cases if it still had the magnetism, the persuasiveness, the foresight, the imagination, the ability to see beyond what is immediately in front, that Mr. Justice Brennan, the author of the principle of one person, one vote had.

I wonder what the state of Federal elections would be today if the Supreme Court still had among its Justices, the very man who believed and convinced a majority of others, that traditional practices must give way to individual principles.

Mr. Speaker, Mr. Justice Brennan distinguished himself as a jurist, making his mark in many places, leaving his permanent imprint on the sands of time.

Tirelessly, he was a role model for role models, and a champion for all.

He has left us, but I believe he has gone to another place, not to quit, but to fight another fight, to write another opinion, to run another race.

Mr. Justice Brennan, we will miss you, but, we know you will not be far away. Your written opinions, like the philosophy shared with you by your father, will one day inspire another Justice of your fabric, of your intellect, of your quality.

□ 2115

THE BUDGET AGREEMENT AND THE SITUATION FOR ORGANIZED LABOR AND WORKING FAMILIES UNDER THE 105TH CONGRESS

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of January 7, 1997, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, today, July 29, is being celebrated as a day when a bipartisan compromise reached its climax in the 105th Congress. We have agreement on a tax bill, an agreement on an expenditure bill, and probably before we recess on August 1 we will vote on those two agreements, and there is a great deal of joy in both the majority and minority camp about this. I am not certain that I join the celebration wholeheartedly. There are some great disappointments. But nevertheless, it does demonstrate that it is possible to achieve a bipartisan consensus on some very complex matters.

We must remember that the majority party closed down the Government in 1995 over the matter of the budget and the tax package. The Speaker's statement that politics is war without blood was on everybody's lips at that time. We went to war.

So we have achieved by negotiation instead of political war a great compromise; and whereas that compromise leaves some of us disappointed on some things like the school construction, which has been left out completely, the President's initiative for school construction was a measley $5 billion over a 5-year period, nothing like the $120 billion that we need across the country to replace infrastructure in schools, but it was a beginning. Even that small beginning of $5 billion over a 5-year period was left out, and I am disappointed by that.

I am heartened by the fact that at least empowerment zones for inner-city communities was left in, is left in. I do not know the details at this point. I would like to see the details before I rejoice too loudly, but that is in. So there is reason to applaud a negotiated compromise.

I would like to appeal to the majority party to follow suit and let us have a negotiated set of processes related to the way organized labor is treated. The one place where there appears to be no hope of negotiation, no hope of civility in this 105th Congress is when it comes to the attack on organized labor and working families and the means that working families have to fight for themselves.

Nothing has changed since the last Congress. The 105th Congress is as bad as the 104th Congress. I would like to make an appeal that we lay down our guns and stop the war, and let us come to some kind of way of dealing with the working families and their needs, as we have with the tax package for the rich and some other important items that have recently been negotiated.

Mr. Speaker, I sit as the ranking member of the Subcommittee on Workforce Protection, so I am on the firing line with the hearings and the preparations for more wars and the attack on the Department of Labor. I am right there where I see that the 105th Congress' strategy is the same as the 104th Congress when it comes to labor.

We have seen already a passage of the TEAM Act, we have seen already passage in this House of the bill to eliminate overtime, cash payment for overtime. There is a change in the Fair Labor Standards Act, a radical change, taking away the dollars that working people need and offering comp time instead, and giving the power certainly to the employer to decide whether you get paid in comp time or get paid in cash. So that was certainly a blow to working families.

Fortunately, that has not passed in the other body yet. We hope it will never pass, or if it passes, the President will veto it. But that is out there. It was the first bill that they led off with in terms of an attack on working people. Of course, since then there has been a new threat in terms of a large amount of money; $1.4 million was voted to investigate labor unions.

There was some other language used to describe what was intended, but out of a slush fund that we always objected to of $7.5 million, I think, more than $7 million was set aside in the legislative budget to take care of emergencies. It turns out that the definition of one emergency was an effort to go after labor unions and restrict their political activities.

We know what that means because we had at least two hearings already, which have demonstrated that the majority party wants to place restrictions on labor unions that are not placed on other organizations in America. No other entities are asked to do the kinds of things that they are trying to make labor unions do. We do not ask corporations to do the kinds of things with respect to their political positions that we are now demanding that labor unions do.

The thrust of it is that no labor union will be able to take a political position and use the funds that are at their disposal without having the approval of every member of the union. Each member would have a chance to withdraw his money if he disagrees with the position taken by the leadership of the union.

What other organization in America operates that way? You have majorities, you have votes, you have leadership elected, you have positions taken, and the minorities in organizations have to abide by those positions. So why should labor unions be treated any differently?

The thrust of this special fund for investigation of the labor unions will be to find ways to penalize them and intimidate them to backing down on taking a strong political position. That is just another battlefield that they will not leave in peace is the effort to destroy the Davis-Bacon Act and all the benefits that the Davis-Bacon Act has brought to us.

Davis-Bacon was attacked in the 104th Congress. There was a relentless war waged against Davis-Bacon. We hoped it sort of would not flare up again in the 105th Congress. We hoped that something had been learned about working people and what you have to do to support working families.

Part of what you have to do to support working families is to hold onto legislation and protections like the ones that are provided in the Davis-Bacon Act. But no, the attacks have come again and there is an attempt to go after the Department of Labor, the way it enforces Davis-Bacon, as an attempt to saddle the Department with numerous burdens related to the Davis-Bacon Act.

At the same time they are cutting the budget and reducing the number of employees. They generate a crisis and then they take advantage of the crisis generated by having an evaluation of the situation, an accounting, an audit, finding things wrong, and then blaming the system and the act itself as the generator of the things that have gone wrong.

We have a case in Oklahoma being blown out of proportion. Very few fraud cases have ever been found during the history of Davis-Bacon, but now we have a case that is being taken as a cause celebre and blown up out of proportion to make it appear that all of Davis-Bacon is corrupted. That is not true at all.

Davis-Bacon was enacted in 1931. It is a simple act requiring that contractors on federally funded construction projects pay their workers no less than the wage rates that prevail in the local area on the same type of construction. The act does not require contractors to employ the local work force, and it does not require that the work force be paid in accordance with local labor standards. It does what it says. It requires that they be paid at wage rates which are in keeping with the wage rates that are paid at the local level.

Davis and Bacon were two legislators who were both Republicans. They were Republicans seeking to do what all of us claim we think is important, is a priority. That is, protecting our working families. Davis-Bacon developed the legislation because they saw workers moving about from one part of the country to the other, following big Federal contracts and employing labor gangs to maximize the profits of the contractors on these big Federal jobs, and they threw out of kilter the wage structure at the local level when they did that. They drove down the wage structure of the local level. They threatened workers and families. They threatened the stability of certain communities.

So these middle-class legislators, Republicans, developed a sensible law to stop the exploitation of the big Government contract by greedy contractors. The same goal that was realized in 1931 is the goal that Davis-Bacon still realizes when it is applied in 1997. Repealing Davis-Bacon would result in lower wages for half a million Americans. The attempt now is to repeal Davis-Bacon.

One of the reasons that the school construction initiative had a problem here in the House of Representatives was that certain people attacked the school construction initiative through their attacks on Davis-Bacon. They charged that any new school construction would be out of proportion, would be higher costs than necessary because if it was federally assisted, they would have to use the Davis-Bacon Act to cover the workers, and that will drive up the costs.

We have studies that show that that is not the case at all. There is no proof that the cost of building schools goes up as a result of paying prevailing wages under Davis-Bacon. In fact, there is some evidence that shows, some studies, that show that the cost is less when you use Davis-Bacon prevailing wage workers. You get a different quality of workers, you get a different productivity, you get a different efficiency, and as a result, the cost actually sometimes goes down.

Nevertheless, there are those who said, we want to repeal Davis-Bacon, and they make it appear that construction workers who are covered by Davis-Bacon are earning large sums of money, out of proportion to their worth. The truth of the matter is that construction workers who have some of the most difficult jobs in terms of just hard labor, in terms of danger, they are the ones who have benefited most from the establishment of OSHA, the Occupational Safety and Health Administration.

The safety factors have changed radically as a result of Federal intervention in the workplace to establish certain safety standards, so construction workers are much safer today than they were before, but it is still a risky job. Construction workers, they work on risky jobs, they work on dirty jobs, they work on jobs that have not benefited a great deal from automation.

On a hot day when they have to go out and work in the construction industry, there is no way you can press a button and have a computer take the place of a human being in that hot sun. There is no way you can press a button and have a computer take the place of a worker that is called upon to make a difficult haul into some tight quarters and deliver some kind of heavy load. There are all kinds of situations in the construction industry that probably never will be automated.

Nevertheless, despite the fact that the danger still persists, the wages have gone down. The stagnation of American wages at the lower levels, workers have experienced stagnation, and it has impacted on construction workers a great deal. So they do not earn any more money than they did 10 or 20 years ago. Relatively speaking, they have lost.

They will lose even more if we repeal the Davis-Bacon Act. It is estimated that more than one-half million construction workers in the United States have received prevailing wages under the Davis-Bacon Act. Because the Federal Government must put primary emphasis in awarding contracts on the lowest bid, market forces would put contractors to lower wages in order to try to make the lowest bid, driving wages down, if you did not have the Davis-Bacon regulations.

A study by the University of Utah indicates that repeal of the Davis-Bacon Act would lower the wages of construction workers, which in constant 1982 dollars have been on a downward trend anyhow since 1972. They would be lowered by 5 percent if we repeal the Davis-Bacon Act. All construction workers would go down. For construction workers who have annual average earnings of $27,500, this could result in the loss of nearly $1,400 in income annually.

□ 2130

Construction workers have an annual average earning of $27,500. This means that when we lump the bricklayers, plasterers and the sheet metal workers and all of them together, that is what they come out with, an average of $27,500 annual earning, which is very low considering the kind of work they are called upon to do. It is quite low. They have not moved and kept up with the inflation rate as it is. And if we have a further impact on those wages, they would go down even further.

Davis-Bacon has brought some stability but it has not really been a factor which has led to some kind of increase in the wage rates of the workers. At least the stability is there, to some degree, and they have not been eroded further.

There are those who say Davis-Bacon is a discriminatory act which certainly has hurt minorities a great deal. This is a widespread belief among the minority community, that Davis-Bacon has some impact on the problem that minorities have had in the construction industry.

Minorities have had problems in the construction industry, that is true, for various reasons that should be dealt with one by one. There is a long history of a fight to get justice in various construction unions, and that is one fight. Davis-Bacon really did not contribute to that very much.

Davis-Bacon was designed to stop traveling labor gangs who would underbid the local workers. Many of those traveling labor gangs were not minorities. The notion they would bring in minorities is not true at all, because bricklayers and steam fitters and a number of other crafts and trades were not even allowed to practice in the South. A black could not become an electrician, so black electricians could not go north and underbid white electricians.

It was not a black-white situation that was corrected or held in check by Davis-Bacon. It was a situation where underbidding was taking place without regard to race. So Davis-Bacon did not exacerbate or contribute at all to discrimination in the construction industry.

What it has done over the years has been a positive benefit, often a positive benefit to minorities. The intent of the Davis-Bacon Act was to protect workers and employees by giving local labor and local contractors a fair opportunity to obtain Federal construction projects. Davis-Bacon benefits minority workers by seeking to ensure that all employees, regardless of race, shall be paid at least the locally prevailing wage.

According to former Secretary of Labor Ray Marshall, the workers most often victimized by unscrupulous contractors are minority workers. Davis-Bacon is an integral part of ensuring a decent life for the hard working men and women in the construction industry.

I do agree that minorities are the ones who are victimized the most by unscrupulous contractors, and the most unscrupulous contractors are those who are fighting to get rid of Davis-Bacon. They are also fighting to get rid of unions at the same time.

Davis-Bacon also lessens the exploitation of unskilled and semiskilled labor, of which 35 percent are women and minorities. It ensures if these workers are paid less than the prevailing wage, they must be enrolled in an apprenticeship or training program that will help them develop their skills and increase their marketability.

According to former Secretary of Labor John T. Dunlop, formal training programs are essential to recruit and train minorities for the construction industry. If Davis-Bacon were repealed, contractors would have less incentives to enroll workers in training programs.

I cannot stress that too much. I know of numerous situations where unions that were closed 10 years ago to minorities in New York City have been open for some time through their apprenticeship programs and now they actively recruit minorities. In fact, I think there is a bit of a boom on right now and they cannot find enough apprentices.

If Davis-Bacon were repealed, contractors would have less incentives to enroll workers in training programs. In fact, there are other studies that show the contractors that do not want Davis-Bacon, who really would like to have a free-for-all, the contractors who are most anti-union are the ones who have phony apprenticeship programs. They either have no apprenticeship programs or they deliberately enroll people as apprentices and do not bother to provide any training. When they do not provide training, the apprentices drop out and they just hire more people and exploit them also.

The enactment of some 60 related statutes since the passage of the Davis-Bacon Act of 1931 provides strong evidence that Congresses and Presidents of both parties believe that the Davis-Bacon Act provides beneficial and nondiscriminatory protections.

Historically, as I said before, this was a Republican initiative, has been supported by Democratic Congresses, Democratic Presidents, and we would like to get back to having the majority party understand that in their war against labor, maybe they should cease the whole war, but certainly there are certain battles that should not be fought, and the battle against Davis-Bacon is one of those battles that ought to cease immediately.

Available data simply refutes the argument that Davis-Bacon operates in a manner that discriminates against minorities and women. In fact, there is no difference in the employment of minorities and women by Federal construction contractors and contractors which do not do Federal work. Davis-Bacon does not have any impact on the number or the percentage of minorities employed by contractors.

By the way, Davis-Bacon has been endorsed by various civil rights organizations, including the NAACP.

Now, Davis-Bacon also represents something that the majority party repeatedly claims they want to see happen. They argue in the TEAM Act, the TEAM Act, in my opinion, is an attempt to establish company unions, but in the opinion of the majority Republicans the TEAM Act is an attempt to get better labor relations between management and labor.

They argue for that in the case of OSHA. Instead of OSHA being an enforcement agency which hands down decisions about safety on the workplace, they want the relationship between employers and their employees to be paramount in deciding what is safe and what is not safe, how it is reported, what is enforced. They want a partnership with OSHA in working out these kinds of agreements.

And it all seems quite reasonable, and it has some merit, but when it comes to recognizing that Davis-Bacon has achieved a harmony between workers and contractors, and we have a situation now where here is a Federal program which is supported by both contractors and the workers, it is supported by both contractors and the unions. One intent of the Davis-Bacon was to ensure that local contractors have a chance to obtain Federal construction work.

So contractors understand that they are put in a better position. This is contractors who really want to do the right thing; contractors who care about workers, contractors who care about their local neighborhoods and their local communities, contractors who want to establish stability, contractors who want to do quality work and who want to make certain that their reputations are not ruined by slipshod work or maybe dangerous kinds of construction. These kinds of contractors have a chance as a result of Davis-Bacon regulations.

If Davis-Bacon did not exist, many local contractors would not be able to compete with outside contractors who use less costly labor from outside of the community, and they are able to underbid them. They did come in and do often shoddy work or less credible work, but that is only known afterward.

In my community there is a parkway which runs down almost the center of my district, and Eastern Parkway, in the renovation and the rebuilding of Eastern Parkway we had the streets dug up at least three times. One contractor did such shoddy work, he had to go back and redo it. And in the process of trying to redo it, he went bankrupt and we had to get a third contractor to come in and actually complete the job. It went on and on for three times as long as it should have gone on because of the fact that we had this contractor coming in who did not know what he was doing. This was a situation which was compounded by the fact that the contractor and his workers were not qualified.

If Davis-Bacon did not exist, many local contractors would not be able to compete. And in certain kinds of situations, this would be happening all the time.

At congressional hearings on the Davis-Bacon Act, we have had in the past year many contractors who expressed support for Davis-Bacon. They say that Davis-Bacon leads to high productivity. For example, one contractor stated that he found that the Davis-Bacon Act,

> By eliminating wages as a competitive factor, creates a level playing field in which to compete for government contracts that provides an opportunity for companies like mine to compete with large and small contractors on the basis of our management ability and high productivity.

I think that I have established the fact last year in discussions that we have a positive union worker-management relationship fighting to keep a program that provides better construction for us in America. It really is something to consider.

I think we also better consider the fact that the quality of the labor force has been hard hit by this drop in construction wages relative to other wages that have gone up. We may have a crisis created soon if we do not have Davis-Bacon contractors who are stabilizing the situation, mainly by their relationship to their apprentices and training programs, and are serious about developing people who can take the places of the journeymen and being able to continue high quality work.

The Davis-Bacon Act does not automatically increase the cost of construction for the Federal Government. This is a myth that goes on and on. And as I said before, studies have shown this has not happened. Lowering wages does not necessarily lead to lower costs.

The people who underbid the Davis-Bacon contractors are the contractors who do not mind Davis-Bacon and who are in many cases using union labor. They come in and they are able to employ people at lower wages, but they end up having to employ more people or they end up having to redo the work that they did and they end up creating situations which are more costly.

Equating wage reductions with dollar-for-dollar savings is inaccurate because it fails to take into account other factors that may affect cost, such as the relationship between productivity and wages. This is a crude methodology at best. The Congressional Budget Office states that higher wage rates do not necessarily increase cost. If these differences in wages were offset by hiring more skilled and productive workers, no additional construction costs would result.

So the people who fight Davis-Bacon, the contractors who are well organized in trying to at this point get a repeal of Davis-Bacon, are people who use the crudest kind of cost savings, employing low-cost workers, but they end up having to pay more anyhow in other ways; redoing the work or hiring more workers, et cetera.

Davis-Bacon does not require payment of union wage rates. One charge that the majority party is making, one charge that we have to deal with on the Subcommittee on Workforce Protections repeatedly is that Davis-Bacon contractors and the unions are in cahoots with the Labor Department, and this all is designed to keep up high wage rates as a part of a union conspiracy.

Davis-Bacon wage determinations apply to over 3,000 U.S. counties and they apply to four types of construction: building, heavy, highway, and residential. And of the 12,500 wage schedules issued by the Department of Labor, only 29 percent require Federal contractors to pay collectively bargained rates across the board; 48 percent of the wage schedules establish minimum rates that are all nonunion, and some are a mix of union and nonunion rates that make up the remaining 23 percent.

Perception that the Davis-Bacon rate is usually the union rate is a carryover from the days more than a decade ago when the prevailing rate was set based on the rate paid to 30 percent of the workers of a classification. Since 1983, however, union rates are found prevailing only when the rate is paid to 50 percent of the workers in a particular classification.

These are myths that are deliberately continued. I am repeating myself from last year because in a new Congress they continue to try to push these myths forward.

The myth that the Davis-Bacon Act requires that all contractors must pay union wages even when the average wage in an area is below the union rate is a myth that is deliberately kept going and they know it is false.

□ 2145

Of the 12,500 prevailing wage schedules issued, only 40 percent of the wage schedules are non-union. Mixed schedules are 23 percent, as I said before. There is also another myth, that the Davis-Bacon Act is inflationary, it adds billions of dollars to the Federal budget. The payment of prevailing wages does not inflate costs. It does prevent costs from being cut at the expense of the employees' wages.

The director of the Congressional Budget Office, as I said before, has stated that higher wages do not necessarily mean higher costs. A 1992 study commissioned by the International Union of Operating Engineers compared the average cost per mile of highway and bridge construction in five high-wage States to five low-wage States and found that the construction costs per mile were actually lower in the high-wage States. This is a 1992 study.

There is another study that was done in 1994 in New Mexico which talked about the charge that school construction costs are driven up by Davis-Bacon, and I am going to discuss that study in a minute. It shows the same thing that the highway studies showed, that it does not drive up the cost. The school construction study actually shows that the cost under Davis-Bacon was lower in many cases, and they give square footage costs that are pretty dramatic.

The Davis-Bacon Act is poorly administered and the wage determinations are woefully out of date. That is the latest and strongest charge that the Department of Labor is kind of under siege to change its method of doing its studies, and probably there is room for a lot of improvement. The biggest improvement would come if we had more funds devoted to the wage and hour administration and they can hire more staff.

The same majority party that is attacking the Department of Labor, driving down its budget wants more and more improvements in the way they do carry out all of their functions. But in this particular function in particular, certainly they do better if they had better staff. There are some attempts underway to reengineer the way they do the studies. At the same time, there is consideration that the Bureau of Labor Statistics may take a greater role in this.

All of that is positive. Why not let it take place without having it take place under the pressure of the war against Davis-Bacon? Let us negotiate. Let us have a truce. Let us have a period of a couple of years to work out these matters and not use a battering ram to try to force the repeal of Davis-Bacon by highlighting every little detail that has gone wrong in the administration of it.

The wage and hour administration made a number of improvements in the administration of the Davis-Bacon Act over the last few years, including making wage determinations available on line through Federal World, a computerization of the wage determination updating system, and improved training and outreach efforts of wage and hour would like to be able to conduct more surveys. However, the resources are limited. Thus, the survey program is carefully planned to target those areas where the most Federal construction is planned and where there is evidence that wage patterns have changed.

They have to pick and choose carefully because they have limited resources. One way to deal with this problem is if you are really concerned about updating and making more effective and efficient the wage and hour approach to setting the Davis-Bacon wage levels, then you should provide more funding for this activity in the Department of Labor.

To the extent that wage rates are out of date, that usually results in wage rates that are too low rather than too high. We are moving on all the time in determination of the cost of living. When we do not do these studies that set the wage rates on a regular basis, then what we are doing is hurting the workers and not driving up the cost of production. We might be helping the profits of the contractors. Wage and hour explore new ways to reinvent the process to make it work even better.

The purpose for the Davis-Bacon Act is as great today as when the act was first passed. The competition for working in the construction industry remains intense. The aftermath of the Los Angeles earthquake, for example, construction workers and contractors from outside the area sought to bid for the extensive work by offering lower rates. Unlike private industry, the Federal Government and most Federal assisted entities must place primary emphasis in awarding construction contracts to the lower bidder. And it is difficult, if not impossible, for an agency to award to the contract slightly higher because the contractor does better work. The Davis-Bacon Act encourages contractors to compete based on efficiency and equality rather than the one who pays the lowest wages.

As I said before, if you link all of this attack on Davis-Bacon and the attack on labor unions to some of the developments that are taking place here in the Congress today, then I think that one of the best linkages would be the failure of the school construction initiative that the President puts forth to pass a mere $5 billion over 5 years did not make it in this present package. And one of the reasons was that there was a great attack on the school construction initiative because of certain powerful groups charging that Davis-Bacon regulations would drive up the costs of school construction.

A study done completed in 1994 by Professor Peter Phillips of the University of Utah Economics Department shows that it is not only not true, just the opposite may be true. This study compares public square foot construction costs in five southwestern intermountain States that have State prevailing wage laws with four other States in the same region that do not have State prevailing wage laws.

For example, the five have-law States that do have prevailing wage laws are New Mexico, Texas, Oklahoma, Wyoming, and Nevada. At the time of this study, Oklahoma still had a prevailing wage law at the State level. The four no-law States, these are States that do not have State prevailing wage laws, obviously, I guess you know that if it is a federally assisted project, then it would have to have the Davis-Bacon Act, the Federal prevailing wage laws applies. But many States have their own laws; and Arizona, Utah, Idaho, and Colorado are States that at that time did not have such laws.

These States, often used by New Mexico, which is one of the have-law States in making other kinds of comparisons in their education system. For example, teachers' salaries are compared with these States. So they decided to compare the physical facility cost.

During the time period of the study, which ended in 1994, they found that elementary schools cost $6 per square foot less in the five States that had prevailing wage laws, the elementary school construction was $6 per square foot less. Middle school construction cost was $11 per square foot less in the States with prevailing wage laws. And high school costs were also $11 per square foot in the States with prevailing wage laws. Warehouse costs, they noted, I suppose in connection with schools they need to have warehousing for equipment, et cetera, warehouses $35 per square foot less in the States with prevailing wage laws. This is a summary of what the study found. It is a very thorough study which talks about various aspects of the Davis-Bacon law as it was applied in these situations. And I think it is important to note, because those of us who feel that the school construction initiative was important are not going to give up. We have to come back and wage the war to get these school construction initiatives back into the Federal budget.

Now, of course, the Federal budget should not take care of the building of schools at all levels. The Federal Government should not foot the total cost, and nobody has said that at all. States and localities will have to pay the bulk of the school construction costs.

Right now there is consideration in the New York State Legislature of a bond issue, it probably is going to be on the ballot in November, to build schools. It has popularity throughout the entire State, both the big cities and the rural areas, and upstate, downstate, throughout New York State there is a feeling that we have got to have some help in constructing some new schools, repairing some other schools. The process cannot go forward unless we have a new infusion of money. I think $1.5 million is the amount that is going to be on the ballot in New York State.

Across the country, other States will have to take initiatives. Localities will have to take initiatives. But there is need to have help from the Federal Government, also. The initiative proposed by the President of $5 billion over 5 years was a small one but it was a stimulant and it would encourage. Because the way that was going to operate, part of it required that you have matching funds at the local and State level.

There was some hope that part of it would be an outright grant that big cities like New York, Philadelphia, big inner-city communities with horrendous problems in their facilities would be able to get some outright grants. However it is fashioned, the Federal initiative is still needed. And it is a great tragedy that part of the reason that an initiative was left out of the budget and has gone down temporarily is the fact that charges were levied at it, that it would be very costly to have schools constructed with Federal money involved because Davis-Bacon prevailing wage regulations would apply.

That is not true. It would not drive up the cost of school construction automatically. In fact, one of the few studies, thorough studies on record demonstrate that that is not the case. This is the study that I am reading from by Professor Peter Phillips of the University of Utah. And I quote from a section of Professor Phillip's work where he quotes another professor's summary of a study done at North Carolina State University by another professor, Steven G. Allen, who is published in the Quarterly Journal of Economics, an article entitled Unionized Construction Workers Are More Productive.

In this study, Mr. Allen is quoted as follows: "Apprenticeship training in hiring halls probably raise union productivity compared to non-union workers, while jurisdictional dispute and restricted work rules lower that same productivity. Using broad methodology, and union productivity measured by value added employee is 44 to 53 percent higher than non-union."

Let me repeat that. "Union productivity measured by value added employee is 44 to 53 percent higher than non-union." The estimate declines to 17 to 22 percent when estimates of inter-area construction price differences are used to deflate the value added.

Basically, there is an increase in the value of the productivity of the union workers over the non-union workers. In other words, prior to adjusting for differences in regional cost of living and differences in regional construction material cost, union construction labor in the 1970's, which was the period of the Allen study, was roughly 50 percent more productive than non-union labor.

The wage rates and the material costs of the BLS in regional cost study were not altered to factor in the effect of differences in regional cost of living. Thus the, BLS study is quite consistent with Allen's work and their conclusions are similar. Wage rate differences are 50 percent across regions with differences in productivity and cost of living may not alter labor costs as a percent of total cost. Within a region such as New Mexico, for example, or intermountain west, where the cost of living and the material cost of construction are similar, 20 percent differences in wage rates and construction can be offset by differences in productivity between union and non union labor. Union contractors have greater economies of scale. This gives them a cost advantage in large commercial office buildings. But in school and hospital construction, non union contractors have lower cost at all output levels. Despite the cost differences, profits of non-union contractors and school and hospital construction are no higher than those for union contractors because the burden of higher contractor costs have shifted.

There are some other quotes in here about training. In the study done by Professor Phillips. He says that because of the non-union employer prices, new hands, and discounted wages that shield the employer from investing in human capital of new workers, the employer does not screen new workers extensively to forestall subsequent turnover.

□ 2200

"Failure to preselect new workers for aptitudes and attitudes consistent with a long-term attachment to construction work adds to the turnover among nonunion construction apprentices. In contrast, the joint apprenticeship boards of unions and union contractors do considerable preselection for both aptitude and attitude before letting a candidate into an apprenticeship program. This is because both the union contractors and the unions will invest in the union apprentices' training. Not wanting to lose their up-front investment, they seek to eliminate exit once the apprenticeship is begun.

"In the nonunion sector, workers may also leave apprenticeships if it becomes apparent that the employer offering training at a discounted wage is not delivering on the training that he promised to provide. Because employers are able to discount wages of apprentices below their current worth to the employer, it is tempting to engage in bait-and-switch tactics whereby training is promised but not delivered. Unscrupulous nonunion employers and contractors regularly do a bait-and-switch tactic by promising training and not delivering it. By saving on training costs, the employer can earn an additional profit from employing green hands at discounted wages. In the union sector, because employers and union journeymen invest in the training of apprentices, bait-and-switch tactics are less attractive. Because the apprentices' wage is not discounted as much below what they can earn elsewhere, the apprentices are not tempted to leave. Thus, economic theory predicts the observed pattern whereby the nonunion sector must begin training five apprentices to graduate one journeyman while the ratio in the union sector is close to one to one. Their investment can be as low as one to one.

"In basic terms, nonunion contractors have difficulty training because, one, the relationship between the contractor and the construction worker is often brief. This leads to a free-rider problem. Why should I train you when you are likely to go down the road and work for my competitor? I would just be helping him out and not myself. And, two, without an apprenticeship coordinator, there is no one policing the training to insure that on-the-job training takes place and is of decent quality." Thus, some contractors are tempted into what I said before was bait-and-switch, where they swindle apprentices out of their labor.

Let me just conclude my quotes from this study with this last statement on plausible savings on total construction costs. I am reading from a study that relates to Square Foot Construction Costs for Newly-Constructed State and Local Schools. I am reading from this because of the fact that the charge has been made that Davis-Bacon will inflate school construction costs and that charge was made so effectively until it helped to defeat in the negotiation the President's initiative on school construction funding. That initiative would have provided $5 billion over a 5-year period. Let me just quote from the study on plausible savings on net total construction cost.

"A plausible scenario is to assume that generally on public works projects, total compensation as a percent of net total construction costs range somewhere between 20 and 30 percent. That is total compensation, wages, no higher than 30 percent. If you repeal the prevailing wage laws, you would probably drive wage rates down by around 10 percent. On the face of it, this would result in a 2 to 3 percent total cost savings on a public works construction. However, as total compensation declines, the crew mix is likely to shift to a less skilled labor force. Now it takes more workers to complete the same job. Indeed, some proponents of prevailing wage law repeals make that argument explicitly."

Some people say that it is better to have more construction employment by not having prevailing wages. But that backfires in terms of the quality of the work.

"Because crew size will rise as wage rates fall, net total cost savings will not fall as the wage rates fall." The important point they are making here is that "the true potential cost savings will be much smaller than the fall in the wage rates, and it may be negligible. The only way to know is to measure in practice comparative construction costs under legal environments with and without prevailing wage laws, controlling for other factors such as building type and regional differences in cost-of-living."

But the basic statement here is that it is not true. Wages are only between 20 to 30 percent of cost of construction of schools. Period. If you attempt to lower those costs by eliminating Davis-Bacon, all you do is lower the wage rate for the workers without really lowering the costs any more than 3 percent, if at all. What you do is run the risk of shoddy construction.

I would not want my children to go to a school that was built by a greedy contractor using nonunion labor, cutting corners, and not only having to use more workers but using workers who are basically careless and do not particularly care about what they are doing. I think that the danger of things happening with that building, that school building, are far greater, of dangerous kinds of accidents happening, faulty connections with the wiring, the water system being poorly connected. There have been cases where we have had the system in the bathroom connected to the drinking water; all kinds of mishaps have happened because of unscrupulous practices of contractors trying to save money by using the lowest paid labor.

What I am saying is that the war against organized labor, the battle against Davis-Bacon certainly should be waged without destroying the school construction initiative. I think we should cease the war, we should have a truce. Just as we have come to some kind of bipartisan agreement on taxes and on the budget, let us come to an agreement that working families are not going to be put under the gun by the majority Republicans. Working families are not going to have to face situations where already stagnant wages in the construction industry are going to be pushed down further by the assault on Davis-Bacon. Working families should not have to face the assault on OSHA where the safety in the workplace, including construction workers, is lessened because of the assault on the Government agency responsible for enforcing safety regulations.

There was a study done, released a few days ago by a totally objective, highly credible body, the American Medical Association, which shows that 70,000 people were killed or injured in the workplace last year. Seventy thousand people were killed or injured in the workplace. Those figures are very close to the figures that are offered by the Department of Labor. The figures offered by the Department of Labor through OSHA are disputed. The majority Republicans on the Subcommittee on Workforce Protections insist that these figures are not valid, and they want to discount them. Here we have somebody totally out of the loop. I do not think the Department of Labor is biased toward unions or biased toward anybody. They are Government civil servants who do a good job and their figures are always accepted as being as close to the truth as you can get. However, here is another body, the American Medical Association, that has come up with a set of figures which is even greater. I think the Department of Labor statistics were still in the 65,000, 68,000 range. Here the American Medical Association has published figures which show 70,000. Their figure is about $110 billion was lost in the workplace as a result of safety problems and health problems. This is the American Medical Association, not the Department of Labor, not the AFL–CIO, they have their own figures; but the American Medical Association.

Let us stop the war on OSHA. There are good reasons to stop the war on OSHA. Let us stop the war on Davis-Bacon, stop the war on OSHA, stop the war against workers' overtime. Let us have a truce and let workers be paid in cash, those that want to be paid in cash, and if you want to go for upper middle income or the upper income, and they want time off, we can arrange to give them time off without jeopardizing the overtime payment in cash for people who are lower down.

We can stop the war on labor by not going forward with this $1.4 million slush fund that has been set up to investigate labor unions. Let us stop the war on labor in terms of trying to drive them into a situation where they have to go to their membership and get approval from every single member before they can take a political position. The political positions do relate to the welfare of the workers. If they are in a union and they vote to elect officers and the majority rules and whatever the majority decides to do, then that majority ought to be supported; or at least you cannot have a revolution of a minority of a few people dictating what positions that the majority takes. We do not do that in corporations, we do not do that with any other organization in our society; churches. Nobody is required to have total unanimity on positions before they can take a position, political or otherwise.

We should stop the war on Davis-Bacon by blowing up out of proportion a few incidents that relate to fraud and abuse. We have an Oklahoma case as I mentioned before, a single incident in Oklahoma is being used as an ongoing investigation to condemn an entire system based on an investigation involving only three possible fraudulent wage submittals. These allegations of widespread fraud have no single shred of proof. They have not been able to document any widespread fraud.

It is important to note that since the inception of Davis-Bacon, approximately six cases of fraud have been alleged and brought to the attention of the Department of Labor. During the last 33 years, prior to the new Oklahoma allegations, not one fraud-related survey case was brought to the Department of Labor for investigation. Since 1992 only one formal request for reconsideration of a wage decision has been received by the Department of Labor.

A recent GAO investigation showed that there have been many mistakes made in the surveys done by the Department of Labor but none of them were done intentionally. They have no evidence of fraud. By the way, many of the mistakes were made by employers who had payrolls and payroll sheets in front of them and they were supposed to get data from those sheets, and they made mistakes in submitting that data, not the unions and the workers as has been alleged.

Let me conclude by saying that it is unfortunate that the war against Davis-Bacon and the war against working families resulted in a casualty in the budget, the School Construction Act. There is a cause and effect there that I insist exists, that the overwhelming sentiment among the American people is that they want to do things for education. They would like to see schools revitalized. A flimsy charge that the cost of school construction would be driven up by Davis-Bacon and therefore we should not have Federal assistance with school construction would not survive unless it was pushed very intentionally, prosecuted and pushed very intentionally by the majority. Let us have a truce, let us do what we have done in the case of taxes and the budget and have a bipartisan approach to working out labor-management problems. Let us end the attack on labor, let us retire the slush fund and use it for some better purpose, and by all means let us not continue to perpetrate the myths that Davis-Bacon is an evil, that Davis-Bacon has not benefited not only the workers in construction but also the communities where they work as well as the American people as a whole.

A HISTORIC ACHIEVEMENT

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of January 7, 1997, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes.

Mr. SHAYS. First let me thank the gentleman from Washington [Mr. METCALF], Speaker pro tempore, as we have the opportunity to address this Chamber for continuing to serve at a late hour here. I do not intend to take anywhere near the hour that would be allotted to me. I do know the House is going to be in session tonight as we wait for the rules, so our staff will be staying around for a bit. But I have not really had much opportunity to address this Chamber in a special order. Tonight is a night I am really grateful to have this opportunity.

I am grateful to have this opportunity because I think of the historic achievement that has been agreed to between this President, a Democrat President, and this Congress, a Congress controlled by Republicans, a Congress filled with 435 men and women of both parties, but a party in control of this Congress, the Republican Party.

□ 2215

I think in terms of my history as I was growing up and as a student in high school and college and thinking about our Founding Fathers, and they designed quite a system. They designed a system where you would not only have competing interests in a Chamber and in another Chamber, the Senate, and this check and balance with the judiciary, but you would have an executive who would not have the ability to do everything he or she wanted, a Congress that does not have the ability to do everything it, the majority party, wants. This is a system designed by our Founding Fathers, and they wanted it to be exactly what it is, a system that does not allow one unit, one branch, to gain too much power or one group within a branch to gain too much power.

So what did we have after the 1996 election? We elected a Democrat President. Frankly, by an overwhelming number the American people elected such a President, and they elected a Republican Congress, maybe not by the same margin, and they said very clearly in their message that they wanted us to work together.

Mr. Speaker, we have worked together, and we have a historic agreement, and it is for real, and it is not an agreement that is unable to take place because of a rosy scenario. This is an agreement where either the President and our own Congress said we would use inflated numbers and anticipate revenues that simply would be far in addition to what they would be in actual fact. This is an agreement that anticipates revenue growing at 2.1 percent a year. Now it is growing much faster now than that, but maybe in the fourth or fifth year it will not grow as much.

There are a number of us, certainly on our side of the aisle, who anticipate a very robust economy for the next year or two, and we intend to have that move us toward balancing the budget sooner than 5 years. Five years is the outer limit. There are many of us who feel we need to get our country's financial house in order sooner.

I know for one, as a Member of this body, finishing now by the end of this week my 10th year; I won in a special election and started in September 1987. I was elected in August, and I remember that for me, a State legislator at the time, I was amazed that Congress would continue to spend and spend and spend when we did not have the revenue to pay for it and we would continue to have our national debt go up and up and up.

Mr. Speaker, it has gone up tenfold in less than 22 years, 10 times, not double or triple, 10 times, and so there were Members such as myself, particularly Members more on this side of the aisle, who said we need to get our country's financial house in order. I am thinking of one Member in particular. It is our colleague, the gentleman from Ohio, JOHN KASICH, the chairman of the Committee on the Budget, and I will never forget walking into the room, this Chamber, as the machine had closed for Mr. KASICH's amendment to begin to balance the budget.

Mr. Speaker, the year was 1989, and there were 38 Members, mostly Republicans, some Democrats, who supported JOHN KASICH and his effort to get our country's financial house in order.

I use the gentleman from Ohio, JOHN KASICH, and his effort as kind of the benchmark of what happened over time. Every year when JOHN KASICH introduced his amendment he got more people to sponsor it and more people to vote on it. It started out at 38, then it went to 50, then it went to 80 the year after, then it went to close to 100, then it went over 100, then it got closer to the middle range between 100 and 200, and then we got to a point where Tim Penny and JOHN KASICH teamed together. Republican JOHN KASICH and Tim Penny, a Democrat, were on a major amendment to save $90-plus billion in savings, in appropriated expenditures in particular. He got over 200. Every year there was progress.

So as one Member of this Chamber, I know that as a Republican you should not be surprised I would speak for another Republican, but this Republican deserves really the thanks of the American people, and he deserves the thanks of Republicans and Democrats alike because he truly helped steer us in the direction for what we have today.

Now people talk about the effort that he made over the last 7 months to balance the budget, to reduce the size of Government, to control the growth of entitlements and to have meaningful tax cuts to make this Government smaller and give the American people more of what they have been giving this Government. Seven months is just a little part of that story. The real story is his long journey in 1989, when more and more people sponsored and supported his efforts. He truly has been a leader in this Congress, and he will go down in history as a major part of this historic agreement.

I also want to thank the Speaker of the House, NEWT GINGRICH. I want to thank him, as unpopular as he may be in some areas, but I am not surprised because frankly a lot of good leaders are unpopular when they seek to do what needs to happen. NEWT GINGRICH, the Speaker of the House, is the first leader in my entire political career, and I have been in public office since 1974, when I served in the State house for 13 years, he is the first leader who has ever really truly asked a conference, a group of people, to do heavy lifting, to truly get our country's financial house in order.

So when we adopted the Contract With America, and almost all of us who got elected on the Republican side of the aisle had said we want to move forward with these 10 major reforms on the opening day of the session and 10 major reforms in the first 100 days, that commitment, that was a true effort to do some major things.

But we did not, for instance, just vote for a balanced budget amendment. In 1994, after the election and when we took over in 1995, we sought to balance the budget by making tough decisions in a whole host of programs to slow the growth of entitlements and to save them.

For instance, Medicare was losing too much money each year. The trust fund, we were told by the President's own people in charge of the trust fund on Medicare; that is, health care for the elderly and the disabled, that it would run out of money around the turn of the century because too much money was flowing out of the fund. We slowed the growth of the program so we admittedly in 7 years under our old plan had spent 60 percent more over 7 years than 50 percent per beneficiary. But we were slowing the growth to try to get a handle on a program that is very important to all Americans.

I guess what I really want to say because I do not want to speak too much longer: I am very proud to be part of this Congress, I am very proud the Republicans and Democrats could work together, I am very proud that this President recognized that he needed, frankly, to take some of his old legislative leaders out of this mix; Mr. DASCHLE and Mr. GEPHARDT were not part of the budget agreement because they clearly did not want an agreement, and he sought to have a true budget agreement with this Republican Congress.

So we are finally getting our country's financial house in order and balancing the Federal budget. We are saving our trust funds at least for the next 10 years, particularly in Medicare. And we are doing something very important, we are transforming this caretaking, social and corporate and agricultural welfare state into what I call a care and opportunity society. We are trying with all the power that we have to be a caring Government rather than a caretaking Government.

I salute the Republican Party for being determined to rein in entitlements and to cut taxes $91 billion net, but actually more than that. I salute the President for some of his spending priorities, but recognizing the President seemed to feel he won when he spent more and we seem to feel we would win when we slowed the growth of entitlements and cut taxes and made Government smaller.

But some of what the President wanted to spend more on, on education, health, the environment and housing, I happen to agree with; I think a good number of the constituents I represent, in the urban areas in particular, in Stanford, in Norwalk, and Bridgeport, the three major urban areas I represent.

I think this is a better agreement than most people ever expected, and for those who might be listening tonight and saying, you know, I will believe the tax cuts when I see them; well, turn on your TV set tomorrow and the next day. You will learn that we are going to lower the top rate of the capital gains from 28 to 20 percent, effective May 7, 1997. We are going to have that rate drop to 18 percent for any asset held more than 5 years, effective in the year 2001. We are going to have a $500 child tax credit, and excuse me; let me first say another capital gains exemption.

If you have a gain, and this was something the President wanted. It seems pretty high, but this is something the President wanted, along with the Members of Congress, a $500,000 exemption for capital gains in housing. If you hold a house for 1½ years and you have a gain of $200,000, you pay no tax. That is your home. You pay no gain on that. We have an estate tax that would go through that that basically increases the exemption from $600 to $1 million over the next 10 years, but if you have a family-owned farm or a family-owned small business, the exemption is going to rise immediately to $1.3 million. If you own a farm, if you own a small business, the child tax credit, you will see tomorrow and the next day, a $500 tax credit for kids 16 and younger beginning in 1999, $400 beginning in 1998, up to families of incomes of $110,000, and if you are single, up to $75,000.

You will see additional IRA's. You will see additional $31 billion of loss in revenue, of tax benefits for individuals choosing to send their children to the first 2 years of college, $1,500 off each year. The key is to make sure the colleges do not just increase their tuition, but it actually goes to the families and the kids. You will see businesses that will be able to benefit from the alternative minimum tax. You will see a slight increase in the tobacco tax, but it is going for health care.

We are finally getting a handle on Medicare, we are finally getting a handle on some other entitlements, and we are going to save this country not just for our kids, but our kids' kids.

I am very proud to be part of this Republican majority, I am proud of the work that JOHN KASICH has done, I am proud of the work that NEWT GINGRICH has done under tremendous criticism over his time as Speaker during the last 2½ years. It is a privilege to serve in the House of Representatives and represent the people of the Fourth Congressional District. It is a privilege to be on the Committee on the Budget and to serve with JOHN KASICH. It is a privilege to have NEWT GINGRICH as the Speaker of this House. I know many have been critical of his tenure over the last 2½ years, but I think history will be a very kind judge of NEWT GINGRICH.

U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following Message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science:

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 4108(a)), I transmit herewith the fifth biennial revision (1998–2002) to the United States Arctic Research Plan.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 29, 1997.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 30 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0314

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. METCALF) at 3 o'clock and 14 minutes a.m.

CONFERENCE REPORT ON H.R. 2015, BALANCED BUDGET ACT OF 1997

Mr. HOBSON submitted the following conference report and statement on the bill (H.R. 2015) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998:

CONFERENCE REPORT (H. REPT. 105–217)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2015), to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1997".

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Food Stamp Provisions
Title II—Housing and Related Provisions
Title III—Communications and Spectrum Allocation Provisions
Title IV—Medicare, Medicaid, and Children's Health Provisions
Title V—Welfare and Related Provisions
Title VI—Education and Related Provisions
Title VII—Civil Service Retirement and Related Provisions
Title VIII—Veterans and Related Provisions
Title IX—Asset Sales, User Fees, and Miscellaneous Provisions
Title X—Budget Enforcement and Process Provisions
Title XI—District of Columbia Revitalization

TITLE I—FOOD STAMP PROVISIONS

SEC. 1001. EXEMPTION.

Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)(D), by striking "or (5)" and inserting "(5), or (6)";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) 15-PERCENT EXEMPTION.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CASELOAD.—The term 'caseload' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

"(ii) COVERED INDIVIDUAL.—The term 'covered individual' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

"(I) is not eligible for an exception under paragraph (3);

"(II) does not reside in an area covered by a waiver granted under paragraph (4);

"(III) is not complying with subparagraph (A), (B), or (C) of paragraph (2);

"(IV) is not receiving food stamp benefits during the 3 months of eligibility provided under paragraph (2); and

"(V) is not receiving food stamp benefits under paragraph (5).

"(B) GENERAL RULE.—Subject to subparagraphs (C) through (G), a State agency may provide an exemption from the requirements of paragraph (2) for covered individuals.

"(C) FISCAL YEAR 1998.—Subject to subparagraphs (E) and (G), for fiscal year 1998, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in fiscal year 1998, as estimated by the Secretary, based on the survey conducted to carry out section 16(c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

"(D) SUBSEQUENT FISCAL YEARS.—Subject to subparagraphs (E) through (G), for fiscal year 1999 and each subsequent fiscal year, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by the Secretary under subparagraph (C), adjusted by the Secretary to reflect changes in the State's caseload and the Secretary's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (4).

"(E) CASELOAD ADJUSTMENTS.—The Secretary shall adjust the number of individuals estimated for a State under subparagraph (C) or (D) during a fiscal year if the number of food stamp recipients in the State varies from the State's caseload by more than 10 percent, as determined by the Secretary.

"(F) EXEMPTION ADJUSTMENTS.—During fiscal year 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted an exemption by a State agency under this paragraph to the extent that the average monthly number of exemptions in effect in the State for the preceding fiscal year under this paragraph is lesser

or greater than the average monthly number of exemptions estimated for the State agency for such preceding fiscal year under this paragraph.

"(G) Reporting requirement.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.".

SEC. 1002. ADDITIONAL FUNDING FOR EMPLOYMENT AND TRAINING.

(a) In General.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended by striking paragraph (1) and inserting the following:

"(1) In general.—

"(A) Amounts.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available until expended, from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $75,000,000;

"(ii) for fiscal year 1997, $79,000,000;

"(iii) for fiscal year 1998—

"(I) $81,000,000; and

"(II) an additional amount of $131,000,000;

"(iv) for fiscal year 1999—

"(I) $84,000,000; and

"(II) an additional amount of $131,000,000;

"(v) for fiscal year 2000—

"(I) $86,000,000; and

"(II) an additional amount of $131,000,000;

"(vi) for fiscal year 2001—

"(I) $88,000,000; and

"(II) an additional amount of $131,000,000; and

"(vii) for fiscal year 2002—

"(I) $90,000,000; and

"(II) an additional amount of $75,000,000.

"(B) Allocation.—

"(i) Allocation formula.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula, as determined and adjusted by the Secretary each fiscal year, to reflect—

"(I) changes in each State's caseload (as defined in section 6(o)(6)(A));

"(II) for fiscal year 1998, the portion of food stamp recipients who reside in each State who are not eligible for an exception under section 6(o)(3); and

"(III) for each of fiscal years 1999 through 2002, the portion of food stamp recipients who reside in each State who are not eligible for an exception under section 6(o)(3) and who—

"(aa) do not reside in an area subject to a waiver granted by the Secretary under section 6(o)(4); or

"(bb) do reside in an area subject to a waiver granted by the Secretary under section 6(o)(4), if the State agency provides employment and training services in the area to food stamp recipients who are not eligible for an exception under section 6(o)(3).

"(ii) Estimated factors.—The Secretary shall estimate the portion of food stamp recipients who reside in each State who are not eligible for an exception under section 6(o)(3) based on the survey conducted to carry out subsection (c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

"(iii) Reporting requirement.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.

"(C) Reallocation.—If a State agency will not expend all of the funds allocated to the State agency for a fiscal year under subparagraph (B), the Secretary shall reallocate the unexpended funds to other States (during the fiscal year or the subsequent fiscal year) as the Secretary considers appropriate and equitable.

"(D) Minimum allocation.—Notwithstanding subparagraph (B), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 for each fiscal year.

"(E) Use of funds.—Of the amount of funds a State agency receives under subparagraphs (A) through (D) for a fiscal year, not less than 80 percent of the funds shall be used by the State agency during the fiscal year to serve food stamp recipients who—

"(i) are not eligible for an exception under section 6(o)(3); and

"(ii) are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2).

"(F) Maintenance of effort.—To receive an allocation of an additional amount made available under subclause (II) of each of clauses (iii) through (vii) of subparagraph (A), a State agency shall maintain the expenditures of the State agency for employment and training programs and workfare programs for any fiscal year under paragraph (2), and administrative expenses described in section 20(g)(1), at a level that is not less than the level of the expenditures by the State agency to carry out the programs and such expenses for fiscal year 1996.

"(G) Component costs.—The Secretary shall monitor State agencies' expenditure of funds for employment and training programs provided under this paragraph, including the costs of individual components of State agencies' programs. The Secretary may determine the reimbursable costs of employment and training components, and, if the Secretary makes such a determination, the Secretary shall determine that the amounts spent or planned to be spent on the components reflect the reasonable cost of efficiently and economically providing components appropriate to recipient employment and training needs, taking into account, as the Secretary deems appropriate, prior expenditures on the components, the variability of costs among State agencies' components, the characteristics of the recipients to be served, and such other factors as the Secretary considers necessary.".

(b) Report to Congress.—Not later than 30 months after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding whether the amounts made available under section 16(h)(1)(A) of the Food Stamp Act of 1977 (as a result of the amendment made by subsection (a)) have been used by State agencies to increase the number of work slots for recipients subject to section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) in employment and training programs and workfare in the most efficient and effective manner practicable.

SEC. 1003. DENIAL OF FOOD STAMPS FOR PRISONERS.

(a) State Plans.—

(1) In General.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by striking paragraph (20) and inserting the following:

"(20) that the State agency shall establish a system and take action on a periodic basis—

"(A) to verify and otherwise ensure that an individual does not receive coupons in more than 1 jurisdiction within the State; and

"(B) to verify and otherwise ensure that an individual who is placed under detention in a Federal, State, or local penal, correctional, or other detention facility for more than 30 days shall not be eligible to participate in the food stamp program as a member of any household, except that—

"(i) the Secretary may determine that extraordinary circumstances make it impracticable for the State agency to obtain information necessary to discontinue inclusion of the individual; and

"(ii) a State agency that obtains information collected under section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) pursuant to section 1611(e)(1)(I)(ii)(II) of that Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)), or under another program determined by the Secretary to be comparable to the program carried out under that section, shall be considered in compliance with this subparagraph.".

(2) Limits on disclosure and use of information.—Section 11(e)(8)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(E)) is amended by striking "paragraph (16)" and inserting "paragraph (16) or (20)(B)".

(3) Effective Date.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date that is 1 year after the date of enactment of this Act.

(B) Extension.—The Secretary of Agriculture may grant a State an extension of time to comply with the amendments made by this subsection, not to exceed beyond the date that is 2 years after the date of enactment of this Act, if the chief executive officer of the State submits a request for the extension to the Secretary—

(i) stating the reasons why the State is not able to comply with the amendments made by this subsection by the date that is 1 year after the date of enactment of this Act;

(ii) providing evidence that the State is making a good faith effort to comply with the amendments made by this subsection as soon as practicable; and

(iii) detailing a plan to bring the State into compliance with the amendments made by this subsection as soon as practicable but not later than the date of the requested extension.

(b) Information Sharing.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(q) Denial of Food Stamps for Prisoners.—The Secretary shall assist States, to the maximum extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners described in section 11(e)(20)(B) from participating in the food stamp program as a member of any household.".

SEC. 1004. NUTRITION EDUCATION.

Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C. 2020(f)) is amended—

(1) by striking "(f) To encourage" and inserting the following:

"(f) Nutrition Education.—

"(1) In general.—To encourage"; and

(2) by adding at the end the following:

"(2) Grants.—

"(A) In general.—The Secretary shall make available not more than $600,000 for each of fiscal years 1998 through 2001 to pay the Federal share of grants made to eligible private nonprofit organizations and State agencies to carry out subparagraph (B).

"(B) Eligibility.—A private nonprofit organization or State agency shall be eligible to receive a grant under subparagraph (A) if the organization or agency agrees—

"(i) to use the funds to direct a collaborative effort to coordinate and integrate nutrition education into health, nutrition, social service, and food distribution programs for food stamp participants and other low-income households; and

"(ii) to design the collaborative effort to reach large numbers of food stamp participants and other low-income households through a network of organizations, including schools, child care centers, farmers' markets, health clinics, and outpatient education services.

"(C) Preference.—In deciding between 2 or more private nonprofit organizations or State agencies that are eligible to receive a grant under subparagraph (B), the Secretary shall give a preference to an organization or agency that conducted a collaborative effort described

in subparagraph (B) and received funding for the collaborative effort from the Secretary before the date of enactment of this paragraph.

"(D) FEDERAL SHARE.—

"(i) IN GENERAL.—Subject to subparagraph (E), the Federal share of a grant under this paragraph shall be 50 percent.

"(ii) NO IN-KIND CONTRIBUTIONS.—The non-Federal share of a grant under this paragraph shall be in cash.

"(iii) PRIVATE FUNDS.—The non-Federal share of a grant under this paragraph may include amounts from private nongovernmental sources.

"(E) LIMIT ON INDIVIDUAL GRANT.—The Federal share of a grant under subparagraph (A) may not exceed $200,000 for a fiscal year.".

SEC. 1005. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to implement the amendments made by this title.

(b) EFFECTIVE DATE.—The amendments made by sections 1001 and 1002 take effect on October 1, 1997, without regard to whether regulations have been promulgated to implement the amendments made by such sections.

TITLE II—HOUSING AND RELATED PROVISIONS

SEC. 2001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE II—HOUSING AND RELATED PROVISIONS

Sec. 2001. Table of contents.

Sec. 2002. Extension of foreclosure avoidance and borrower assistance provisions for FHA single family housing mortgage insurance program.

Sec. 2003. Adjustment of maximum monthly rents for certain dwelling units in new construction and substantial or moderate rehabilitation projects assisted under section 8 rental assistance program.

Sec. 2004. Adjustment of maximum monthly rents for non-turnover dwelling units assisted under section 8 rental assistance program.

SEC. 2002. EXTENSION OF FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE PROVISIONS FOR FHA SINGLE FAMILY HOUSING MORTGAGE INSURANCE PROGRAM.

Section 407 of The Balanced Budget Downpayment Act, I (12 U.S.C. 1710 note) is amended—

(1) in subsection (c)—

(A) by striking "only"; and

(B) by inserting ", on, or after" after "before"; and

(2) by striking subsection (e).

SEC. 2003. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR CERTAIN DWELLING UNITS IN NEW CONSTRUCTION AND SUBSTANTIAL OR MODERATE REHABILITATION PROJECTS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The third sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

SEC. 2004. ADJUSTMENT OF MAXIMUM MONTHLY RENTS FOR NON-TURNOVER DWELLING UNITS ASSISTED UNDER SECTION 8 RENTAL ASSISTANCE PROGRAM.

The last sentence of section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by inserting before the period at the end the following: ", and during fiscal year 1999 and thereafter".

TITLE III—COMMUNICATIONS AND SPECTRUM ALLOCATION PROVISIONS

SEC. 3001. DEFINITIONS.

(a) COMMON TERMINOLOGY.—Except as otherwise provided in this title, the terms used in this title have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section.

(b) ADDITIONAL DEFINITIONS.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(1) by redesignating paragraphs (49) through (51) as paragraphs (50) through (52), respectively; and

(2) by inserting after paragraph (48) the following new paragraph:

"(49) TELEVISION SERVICE.—

"(A) ANALOG TELEVISION SERVICE.—The term 'analog television service' means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulations (47 C.F.R. 73.682(a)).

"(B) DIGITAL TELEVISION SERVICE.—The term 'digital television service' means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(d) of its regulations (47 C.F.R. 73.682(d)).".

SEC. 3002. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) IN GENERAL.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that—

"(i) are used to protect the safety of life, health, or property; and

"(ii) are not made commercially available to the public;

"(B) for initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

"(C) for stations described in section 397(6) of this Act.";

(B) in paragraph (3)—

(i) by inserting after the second sentence the following new sentence: "The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round.";

(ii) by striking "and" at the end of subparagraph (C);

(iii) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(E) ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—

"(i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and

"(ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.";

(C) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(F) prescribe methods by which a reasonable reserve price will be required, or a minimum bid will be established, to obtain any license or permit being assigned pursuant to the competitive bidding, unless the Commission determines that such a reserve price or minimum bid is not in the public interest.";

(D) in paragraph (8)(B)—

(i) by striking the third sentence; and

(ii) by adding at the end the following new sentence: "No sums may be retained under this subparagraph during any fiscal year beginning after September 30, 1998, if the annual report of the Commission under section 4(k) for the second preceding fiscal year fails to include in the itemized statement required by paragraph (3) of such section a statement of each expenditure made for purposes of conducting competitive bidding under this subsection during such second preceding fiscal year.";

(E) in paragraph (11), by striking "1998" and inserting "2007"; and

(F) in paragraph (13)(F), by striking "September 30, 1998" and inserting "the date of enactment of the Balanced Budget Act of 1997".

(2) TERMINATION OF LOTTERY AUTHORITY.—Section 309(i) of the Communications Act of 1934 (47 U.S.C. 309(i)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) GENERAL AUTHORITY.—Except as provided in paragraph (5), if there is more than one application for any initial license or construction permit, then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection."; and

(B) by adding at the end the following new paragraph:

"(5) TERMINATION OF AUTHORITY.—(A) Except as provided in subparagraph (B), the Commission shall not issue any license or permit using a system of random selection under this subsection after July 1, 1997.

"(B) Subparagraph (A) of this paragraph shall not apply with respect to licenses or permits for stations described in section 397(6) of this Act.".

(3) RESOLUTION OF PENDING COMPARATIVE LICENSING CASES.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is further amended by adding at the end the following new subsection:

"(l) APPLICABILITY OF COMPETITIVE BIDDING TO PENDING COMPARATIVE LICENSING CASES.—With respect to competing applications for initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997, the Commission shall—

"(1) have the authority to conduct a competitive bidding proceeding pursuant to subsection (j) to assign such license or permit;

"(2) treat the persons filing such applications as the only persons eligible to be qualified bidders for purposes of such proceeding; and

"(3) waive any provisions of its regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on the date of enactment of the Balanced Budget Act of 1997.".

(4) CONFORMING AMENDMENT.—Section 6002 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subsection (e).

(5) EFFECTIVE DATE.—Except as otherwise provided therein, the amendments made by this subsection are effective on July 1, 1997.

(b) ACCELERATED AVAILABILITY FOR AUCTION OF 1,710-1,755 MEGAHERTZ FROM INITIAL REALLOCATION REPORT.—The band of frequencies located at 1,710-1,755 megahertz identified in the initial reallocation report under section 113(a) of the National Telecommunications and Information Administration Act (47 U.S.C. 923(a)) shall, notwithstanding the timetable recommended under section 113(e) of such Act and section 115(b)(1) of such Act, be available in accordance with this subsection for assignment for commercial use. The Commission shall assign licenses for such use by competitive bidding commenced after January 1, 2001, pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(c) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Commission shall complete all actions necessary to permit the assignment by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies that—

(A) in the aggregate span not less than 55 megahertz;

(B) are located below 3 gigahertz;

(C) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923);

(iii) been allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305);

(iv) been designated for reallocation under section 337 of the Communications Act of 1934 (as added by this Act); or

(v) been allocated or authorized for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. Part 15), if the operation of services licensed pursuant to competitive bidding would interfere with operation of end-user products permitted under such regulations;

(D) include frequencies at 2,110–2,150 megahertz; and

(E) include 15 megahertz from within the bands of frequencies at 1,990–2,110 megahertz.

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the electromagnetic spectrum;

(B) consider the cost of relocating existing uses to other bands of frequencies or other means of communication;

(C) consider the needs of existing public safety radio services (as such services are described in section 309(j)(2)(A) of the Communications Act of 1934, as amended by this Act);

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

(3) USE OF BANDS AT 2,110-2,150 MEGAHERTZ.—The Commission shall reallocate spectrum located at 2,110-2,150 megahertz for assignment by competitive bidding unless the Commission determines that auction of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce greater receipts. If the Commission makes such a determination, then the Commission shall, within 2 years after the date of enactment of this Act, identify an alternative 40 megahertz, and report to the Congress an identification of such alternative 40 megahertz for assignment by competitive bidding.

(4) USE OF 15 MEGAHERTZ FROM BANDS AT 1,990-2,110 MEGAHERTZ.—The Commission shall reallocate 15 megahertz from spectrum located at 1,990-2,110 megahertz for assignment by competitive bidding unless the President determines such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference, and that allocation of other spectrum (A) better serves the public interest, convenience, and necessity, and (B) can reasonably be expected to produce comparable receipts. If the President makes such a determination, then the President shall, within 2 years after the date of enactment of this Act, identify alternative bands of frequencies totalling 15 megahertz, and report to the Congress an identification of such alternative bands for assignment by competitive bidding.

(5) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt to accommodate incumbent licensees displaced under this section by relocating them to other frequencies available for allocation by the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

(A) specific information on the incumbent licensee;

(B) the bands the Commission considered for relocation of the licensee;

(C) the reasons the licensee cannot be accommodated in such bands; and

(D) the bands of frequencies identified by the Commission that are—

(i) suitable for the relocation of such licensee; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(d) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—

(1) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923) is amended by adding at the end thereof the following:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3002(c)(5) of the Balanced Budget Act of 1997, the Secretary shall prepare and submit to the President, the Commission, and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the licensees identified in the Commission's notice. The Commission shall, not later than one year after receipt of such report, prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment of such frequencies under the 1934 Act to incumbent licensees described in the Commission's notice.

"(g) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the commercial use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept from any person payment of the expenses of relocating the Federal entity's operations from one or more frequencies to another frequency or frequencies, including the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, or regulations incurred by that entity. Such payments may be in advance of relocation and may be in cash or in kind. Any such payment in cash shall be deposited in the account of such Federal entity in the Treasury of the United States or in a separate account authorized by law. Funds deposited according to this paragraph shall be available, without appropriation or fiscal year limitation, only for such expenses of the Federal entity for which such funds were deposited under this paragraph.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band that has been allocated for mixed Federal and non-Federal use, or that has been scheduled for reallocation to non-Federal use, may submit a petition for such relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license within 6 months after receiving the petition if the following requirements are met:

"(A) the person seeking relocation of the Federal Government station has guaranteed to pay all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) all activities necessary for implementing the relocation have been completed, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use);

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes; and

"(D) NTIA has determined that the proposed use of the spectrum frequency band to which the Federal entity will relocate its operations is—

"(i) consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests; and

"(ii) suitable for the technical characteristics of the band and consistent with other uses of the band.

In exercising its authority under clause (i) of this subparagraph, NTIA shall consult with the Secretary of Defense, the Secretary of State, or other appropriate officers of the Federal Government.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal entity demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person who filed the petition under paragraph (2) for such relocation shall take reasonable steps to remedy any defects or pay the Federal entity for the expenses incurred in returning the Federal Government station to the spectrum from which such station was relocated.

"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified in any reallocation report under this section shall, to the maximum extent practicable through the use of the authority granted under subsection (g) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use.

''(i) DEFINITION.—For purposes of this section, the term 'Federal entity' means any department, agency, or other instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305).''.

(2) Section 114(a) of such Act (47 U.S.C. 924(a)) is amended—

(A) in paragraph (1), by striking ''(a) or (d)(1)'' and inserting ''(a), (d)(1), or (f)''; and

(B) in paragraph (2), by striking ''either'' and inserting ''any''.

(e) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—

(1) SECOND REPORT REQUIRED.—Section 113(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(a)) is amended by inserting ''and within 6 months after the date of enactment of the Balanced Budget Act of 1997'' after ''Act of 1993''.

(2) IN GENERAL.—Section 113(b) of such Act (47 U.S.C. 923(b)) is amended—

(A) by striking the caption of paragraph (1) and inserting ''INITIAL REALLOCATION REPORT.—'';

(B) by inserting ''in the initial report required by subsection (a)'' after ''recommend for reallocation'' in paragraph (1);

(C) by inserting ''or (3)'' after ''paragraph (1)'' each place it appears in paragraph (2); and

(D) by adding at the end thereof the following:

''(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a band or bands of frequencies that—

''(A) in the aggregate span not less than 20 megahertz;

''(B) are located below 3 gigahertz; and

''(C) meet the criteria specified in paragraphs (1) through (5) of subsection (a).''.

(3) CONFORMING AMENDMENT.—Section 113(d) of such Act (47 U.S.C. 923(d)) is amended by striking ''final report'' and inserting ''initial report''.

(4) ALLOCATION AND ASSIGNMENT.—Section 115 of such Act (47 U.S.C. 925) is amended—

(A) by striking ''the report required by section 113(a)'' in subsection (b) and inserting ''the initial reallocation report required by section 113(a)''; and

(B) by adding at the end thereof the following:

''(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—

''(1) PLAN AND IMPLEMENTATION.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than one year after receipt of the second reallocation report required by section 113(a), prepare, submit to the President and the Congress, and implement, a plan for the immediate allocation and assignment under the 1934 Act of all such frequencies in accordance with section 309(j) of such Act.

''(2) CONTENTS.—The plan prepared by the Commission under paragraph (1) shall consist of a schedule of allocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.''.

SEC. 3003. AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

''(14) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM.—

''(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—A television broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond December 31, 2006.

''(B) EXTENSION.—The Commission shall extend the date described in subparagraph (A) for any station that requests such extension in any television market if the Commission finds that—

''(i) one or more of the stations in such market that are licensed to or affiliated with one of the four largest national television networks are not broadcasting a digital television service signal, and the Commission finds that each such station has exercised due diligence and satisfies the conditions for an extension of the Commission's applicable construction deadlines for digital television service in that market;

''(ii) digital-to-analog converter technology is not generally available in such market; or

''(iii) in any market in which an extension is not available under clause (i) or (ii), 15 percent or more of the television households in such market—

''(I) do not subscribe to a multichannel video programming distributor (as defined in section 602) that carries one of the digital television service programming channels of each of the television stations broadcasting such a channel in such market; and

''(II) do not have either—

''(a) at least one television receiver capable of receiving the digital television service signals of the television stations licensed in such market; or

''(b) at least one television receiver of analog television service signals equipped with digital-to-analog converter technology capable of receiving the digital television service signals of the television stations licensed in such market.

''(C) SPECTRUM REVERSION AND RESALE.—

''(i) The Commission shall—

''(I) ensure that, as licenses for analog television service expire pursuant to subparagraph (A) or (B), each licensee shall cease using electromagnetic spectrum assigned to such service according to the Commission's direction; and

''(II) reclaim and organize the electromagnetic spectrum in a manner consistent with the objectives described in paragraph (3) of this subsection.

''(ii) Licensees for new services occupying spectrum reclaimed pursuant to clause (i) shall be assigned in accordance with this subsection. The Commission shall complete the assignment of such licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.

''(D) CERTAIN LIMITATIONS ON QUALIFIED BIDDERS PROHIBITED.—In prescribing any regulations relating to the qualification of bidders for spectrum reclaimed pursuant to subparagraph (C)(i), the Commission, for any license that may be used for any digital television service where the grade A contour of the station is projected to encompass the entirety of a city with a population in excess of 400,000 (as determined using the 1990 decennial census), shall not—

''(i) preclude any party from being a qualified bidder for such spectrum on the basis of—

''(I) the Commission's duopoly rule (47 C.F.R. 73.3555(b)); or

''(II) the Commission's newspaper cross-ownership rule (47 C.F.R. 73.3555(d)); or

''(ii) apply either such rule to preclude such a party that is a winning bidder in a competitive bidding for such spectrum from using such spectrum for digital television service.''.

SEC. 3004. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY SERVICES LICENSES AND COMMERCIAL LICENSES.

Title III of the Communications Act of 1934 is amended by inserting after section 336 (47 U.S.C. 336) the following new section:

"SEC. 337. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY SERVICES LICENSES AND COMMERCIAL LICENSES.

''(a) IN GENERAL.—Not later than January 1, 1998, the Commission shall allocate the electromagnetic spectrum between 746 megahertz and 806 megahertz, inclusive, as follows:

''(1) 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

''(2) 36 megahertz of that spectrum for commercial use to be assigned by competitive bidding pursuant to section 309(j).

''(b) ASSIGNMENT.—The Commission shall—

''(1) commence assignment of the licenses for public safety services created pursuant to subsection (a) no later than September 30, 1998; and

''(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) after January 1, 2001.

''(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY SERVICES.—

''(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY SERVICES.—Upon application by an entity seeking to provide public safety services, the Commission shall waive any requirement of this Act or its regulations implementing this Act (other than its regulations regarding harmful interference) to the extent necessary to permit the use of unassigned frequencies for the provision of public safety services by such entity. An application shall be granted under this subsection if the Commission finds that—

''(A) no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use;

''(B) the requested use is technically feasible without causing harmful interference to other spectrum users entitled to protection from such interference under the Commission's regulations;

''(C) the use of the unassigned frequency for the provision of public safety services is consistent with other allocations for the provision of such services in the geographic area for which the application is made;

''(D) the unassigned frequency was allocated for its present use not less than 2 years prior to the date on which the application is granted; and

''(E) granting such application is consistent with the public interest.

''(2) APPLICABILITY.—Paragraph (1) shall apply to any application to provide public safety services that is pending or filed on or after the date of enactment of the Balanced Budget Act of 1997.

''(d) CONDITIONS ON LICENSES.—In establishing service rules with respect to licenses granted pursuant to this section, the Commission—

''(1) shall establish interference limits at the boundaries of the spectrum block and service area;

''(2) shall establish any additional technical restrictions necessary to protect full-service analog television service and digital television service during a transition to digital television service;

''(3) may permit public safety services licensees and commercial licensees—

''(A) to aggregate multiple licenses to create larger spectrum blocks and service areas; and

''(B) to disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

''(4) shall establish rules insuring that public safety services licensees using spectrum reallocated pursuant to subsection (a)(1) shall not be subject to harmful interference from television broadcast licensees.

''(e) REMOVAL AND RELOCATION OF INCUMBENT BROADCAST LICENSEES.—

"(1) CHANNELS 60 TO 69.—Any person who holds a television broadcast license to operate between 746 and 806 megahertz may not operate at that frequency after the date on which the digital television service transition period terminates, as determined by the Commission.

"(2) INCUMBENT QUALIFYING LOW-POWER STATIONS.—After making any allocation or assignment under this section, the Commission shall seek to assure, consistent with the Commission's plan for allotments for digital television service, that each qualifying low-power television station is assigned a frequency below 746 megahertz to permit the continued operation of such station.

"(f) DEFINITIONS.—For purposes of this section:

"(1) PUBLIC SAFETY SERVICES.—The term 'public safety services' means services—

"(A) the sole or principal purpose of which is to protect the safety of life, health, or property;

"(B) that are provided—

"(i) by State or local government entities; or

"(ii) by nongovernmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and

"(C) that are not made commercially available to the public by the provider.

"(2) QUALIFYING LOW-POWER TELEVISION STATIONS.—A station is a qualifying low-power television station if, during the 90 days preceding the date of enactment of the Balanced Budget Act of 1997—

"(A) such station broadcast a minimum of 18 hours per day;

"(B) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station; and

"(C) such station was in compliance with the requirements applicable to low-power television stations.".

SEC. 3005. FLEXIBLE USE OF ELECTROMAGNETIC SPECTRUM.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(y) Have authority to allocate electromagnetic spectrum so as to provide flexibility of use, if—

"(1) such use is consistent with international agreements to which the United States is a party; and

"(2) the Commission finds, after notice and an opportunity for public comment, that—

"(A) such an allocation would be in the public interest;

"(B) such use would not deter investment in communications services and systems, or technology development; and

"(C) such use would not result in harmful interference among users.".

SEC. 3006. UNIVERSAL SERVICE FUND PAYMENT SCHEDULE.

(a) APPROPRIATIONS TO THE UNIVERSAL SERVICE FUND.—

(1) APPROPRIATION.—There is hereby appropriated to the Commission $3,000,000,000 in fiscal year 2001, which shall be disbursed on October 1, 2000, to the Administrator of the Federal universal service support programs established pursuant to section 254 of the Communications Act of 1934 (47 U.S.C. 254), and which may be expended by the Administrator in support of such programs as provided pursuant to the rules implementing that section.

(2) RETURN TO TREASURY.—The Administrator shall transfer $3,000,000,000 from the funds collected for such support programs to the General Fund of the Treasury on October 1, 2001.

(b) FEE ADJUSTMENTS.—The Commission shall direct the Administrator to adjust payments by telecommunications carriers and other providers of interstate telecommunications so that the $3,000,000,000 of the total payments by such carriers or providers to the Administrator for fiscal year 2001 shall be deferred until October 1, 2001.

(c) PRESERVATION OF AUTHORITY.—Nothing in this section shall affect the Administrator's authority to determine the amounts that should be expended for universal service support programs pursuant to section 254 of the Communications Act of 1934 and the rules implementing that section.

(d) DEFINITION.—For purposes of this section, the term "Administrator" means the Administrator designated by the Federal Communications Commission to administer Federal universal service support programs pursuant to section 254 of the Communications Act of 1934.

SEC. 3007. DEADLINE FOR COLLECTION.

The Commission shall conduct the competitive bidding required under this title or the amendments made by this title in a manner that ensures that all proceeds of such bidding are deposited in accordance with section 309(j)(8) of the Communications Act of 1934 not later than September 30, 2002.

SEC. 3008. ADMINISTRATIVE PROCEDURES FOR SPECTRUM AUCTIONS.

Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for frequencies assigned under this title (or amendments made by this title) shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act (47 U.S.C. 309(d)(1)), the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.

TITLE IV—MEDICARE, MEDICAID, AND CHILDREN'S HEALTH PROVISIONS

SEC. 4000. AMENDMENTS TO SOCIAL SECURITY ACT AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 4000. Amendments to Social Security Act and references to OBRA; table of contents of title.

Subtitle A—Medicare+Choice Program

CHAPTER 1—MEDICARE+CHOICE PROGRAM

SUBCHAPTER A—MEDICARE+CHOICE PROGRAM

Sec. 4001. Establishment of Medicare+Choice Program.

"PART C—MEDICARE+CHOICE PROGRAM

"Sec. 1851. Eligibility, election, and enrollment.
"Sec. 1852. Benefits and beneficiary protections.
"Sec. 1853. Payments to Medicare+Choice organizations.
"Sec. 1854. Premiums.
"Sec. 1855. Organizational and financial requirements for Medicare+Choice organizations; provider-sponsored organizations.
"Sec. 1856. Establishment of standards.
"Sec. 1857. Contracts with Medicare+Choice organizations.
"Sec. 1859. Definitions; miscellaneous provisions.
Sec. 4002. Transitional rules for current medicare HMO program.
Sec. 4003. Conforming changes in medigap program.

SUBCHAPTER B—SPECIAL RULES FOR MEDICARE+CHOICE MEDICAL SAVINGS ACCOUNTS

Sec. 4006. Medicare+Choice MSA.

CHAPTER 2—DEMONSTRATIONS

SUBCHAPTER A—MEDICARE+CHOICE COMPETITIVE PRICING DEMONSTRATION PROJECT

"Sec. 4011. Medicare prepaid competitive pricing demonstration project.
"Sec. 4012. Administration through the Office of Competition; advisory committee.
"Sec. 4013. Project design based on FEHBP competitive bidding model.

SUBCHAPTER B—SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

"Sec. 4014. Social health maintenance organizations (SHMOs.)

SUBCHAPTER C—MEDICARE SUBDIVISION DEMONSTRATION PROJECT FOR MILITARY RETIREES

"Sec. 4015. Medicare subvention demonstration project for military retirees.

SUBCHAPTER D—OTHER PROJECTS

"Sec. 4016. Medicare coordinated care demonstration project.
"Sec. 4017. Orderly transition of municipal health service demonstration projects.
"Sec. 4018. Medicare enrollment demonstration project.
"Sec. 4019. Extension of certain medicare community nursing organization demonstration projects.

CHAPTER 3—COMMISSIONS

"Sec. 4021. National Bipartisan Commission on the Future of Medicare.
"Sec. 4022. Medicare Payment Advisory Commission.

CHAPTER 4—MEDIGAP PROTECTIONS

"Sec. 4031. Medigap protections.
"Sec. 4032. Addition of high deductible medigap policies.

CHAPTER 5—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

"Sec. 4041. Tax treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Prevention Initiatives

"Sec. 4101. Screening mammography.
"Sec. 4102. Screening pap smear and pelvic exams.
"Sec. 4103. Prostate cancer screening tests.
"Sec. 4104. Coverage of colorectal screening.
"Sec. 4105. Diabetes self-management benefits.
"Sec. 4106. Standardization of medicare coverage of bone mass measurements.
"Sec. 4107. Vaccines outreach expansion.
"Sec. 4108. Study on preventive and enhanced benefits.

Subtitle C—Rural Initiatives

"Sec. 4201. Medicare rural hospital flexibility program.
"Sec. 4202. Prohibiting denial of request by rural referral centers for reclassification on basis of comparability of wages.
"Sec. 4203. Hospital geographic reclassification permitted for purposes of disproportionate share payment adjustments.
"Sec. 4204. Medicare-dependent, small rural hospital payment extension.
Sec. 4205. Rural health clinic services.

Sec. 4206. Medicare reimbursement for telehealth services.
Sec. 4207. Informatics, telemedicine, and education demonstration project.

Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity

CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

Sec. 4301. Permanent exclusion for those convicted of 3 health care related crimes.
Sec. 4302. Authority to refuse to enter into medicare agreements with individuals or entities convicted of felonies.
Sec. 4303. Exclusion of entity controlled by family member of a sanctioned individual.
Sec. 4304. Imposition of civil money penalties.

CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

Sec. 4311. Improving information to medicare beneficiaries.
Sec. 4312. Disclosure of information and surety bonds.
Sec. 4313. Provision of certain identification numbers.
Sec. 4314. Advisory opinions regarding certain physician self-referral provisions.
Sec. 4315. Replacement of reasonable charge methodology by fee schedules.
Sec. 4316. Application of inherent reasonableness to all part B services other than physicians' services.
Sec. 4317. Requirement to furnish diagnostic information.
Sec. 4318. Report by GAO on operation of fraud and abuse control program.
Sec. 4319. Competitive bidding demonstration projects.
Sec. 4320. Prohibiting unnecessary and wasteful medicare payments for certain items.
Sec. 4321. Nondiscrimination in post-hospital referral to home health agencies and other entities.

CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES

Sec. 4331. Other fraud and abuse related provisions.

Subtitle E—Provisions Relating to Part A Only

CHAPTER 1—PAYMENT OF PPS HOSPITALS

Sec. 4401. PPS hospital payment update.
Sec. 4402. Maintaining savings from temporary reduction in capital payments for PPS hospitals.
Sec. 4403. Disproportionate share.
Sec. 4404. Medicare capital asset sales price equal to book value.
Sec. 4405. Elimination of IME and DSH payments attributable to outlier payments.
Sec. 4406. Increase base payment rate to Puerto Rico hospitals.
Sec. 4407. Certain hospital discharges to post acute care.
Sec. 4408. Reclassification of certain counties as large urban areas under medicare program.
Sec. 4409. Geographic reclassification for certain disproportionately large hospitals.
Sec. 4410. Floor on area wage index.

CHAPTER 2—PAYMENT OF PPS-EXEMPT HOSPITALS

SUBCHAPTER A—GENERAL PAYMENT PROVISIONS

Sec. 4411. Payment update.
Sec. 4412. Reductions to capital payments for certain PPS-exempt hospitals and units.
Sec. 4413. Rebasing.
Sec. 4414. Cap on TEFRA limits.
Sec. 4415. Bonus and relief payments.
Sec. 4416. Change in payment and target amount for new providers.
Sec. 4417. Treatment of certain long-term care hospitals.
Sec. 4418. Treatment of certain cancer hospitals.
Sec. 4419. Elimination of exemptions for certain hospitals.

SUBCHAPTER B—PROSPECTIVE PAYMENT SYSTEM FOR PPS-EXEMPT HOSPITALS

Sec. 4421. Prospective payment for inpatient rehabilitation hospital services.
Sec. 4422. Development of proposal on payments for long-term care hospitals.

CHAPTER 3—PAYMENT FOR SKILLED NURSING FACILITIES

Sec. 4431. Extension of cost limits.
Sec. 4432. Prospective payment for skilled nursing facility services.

CHAPTER 4—PROVISIONS RELATED TO HOSPICE SERVICES

Sec. 4441. Payments for hospice services.
Sec. 4442. Payment for home hospice care based on location where care is furnished.
Sec. 4443. Hospice care benefits periods.
Sec. 4444. Other items and services included in hospice care.
Sec. 4445. Contracting with independent physicians or physician groups for hospice care services permitted.
Sec. 4446. Wavier of certain staffing requirements for hospice care programs in nonurbanized areas.
Sec. 4447. Limitation on liability of beneficiaries for certain hospice coverage denials.
Sec. 4448. Extending the period for physician certification of an individual's terminal illness.
Sec. 4449. Effective date.

CHAPTER 5—OTHER PAYMENT PROVISIONS

Sec. 4451. Reductions in payments for enrollee bad debt.
Sec. 4452. Permanent extension of hemophilia pass-through payment.
Sec. 4453. Reduction in part A medicare premium for certain public retirees.
Sec. 4454. Coverage of services in religious nonmedical health care institutions under the medicare and medicaid programs.

Subtitle F—Provisions Relating to Part B Only

CHAPTER 1—SERVICES OF HEALTH PROFESSIONALS

SUBCHAPTER A—PHYSICIANS' SERVICES

Sec. 4501. Establishment of single conversion factor for 1998.
Sec. 4502. Establishing update to conversion factor to match spending under sustainable growth rate.
Sec. 4503. Replacement of volume performance standard with sustainable growth rate.
Sec. 4504. Payment rules for anesthesia services.
Sec. 4505. Implementation of resource-based methodologies.
Sec. 4506. Dissemination of information on high per discharge relative values for in-hopsital physicians' services.
Sec. 4507. Use of private contracts by medicare beneficiaries.

SUBCHAPTER B—OTHER HEALTH CARE PROFESSIONALS

Sec. 4511. Increased medicare reimbursement For nurse practitioners and clinical nurse specialists.
Sec. 4512. Increase medicare reimbursement for physician assistants.
Sec. 4513. No x-ray required for chiropractic services.

CHAPTER 2—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

Sec. 4521. Elimination of formula-driven overpayments (FDO) for certain out patient hospital services.
Sec. 4522. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 4523. Prospective payment system for hospital outpatient department services.

CHAPTER 3—AMBULANCE SERVICES

Sec. 4531. Payments for ambulance services.
Sec. 4532. Demonstration of coverage of ambulance services under medicare through contracts with units of local government.

CHAPTER 4—PROSPECTIVE PAYMENT FOR OUTPATIENT REHABILITATION SERVICES

Sec. 4541. Prospective payment for outpatient rehabilitation services.

CHAPTER 5—OTHER PAYMENT PROVISIONS

Sec. 4551. Payments for durable medical equipment.
Sec. 4552. Oxygen and oxygen equipment.
Sec. 4553. Reduction in updates to payment amounts for clinical diagnostic laboratory tests; study on laboratory tests.
Sec. 4554. Improvements in administration of laboratory tests benefit.
Sec. 4555. Updates for ambulatory surgical services.
Sec. 4556. Reimbursement for drugs and biologicals.
Sec. 4557. Coverage of oral anti-nausea drugs under chemotherapeutic regimen.
Sec. 4558. Renal dialysis-related services.
Sec. 4559. Temporary coverage restoration for portable electrocardiogram transportation.

CHAPTER 6—PART B PREMIUM AND RELATED PROVISIONS

SUBCHAPTER A—DETERMINATION OF PART B PREMIUM AMOUNT

Sec. 4571. Part B premium.

SUBCHAPTER B—OTHER PROVISIONS RELATED TO PART B PREMIUM

Sec. 4581. Protection under the medicare program for disabled workers who lost benefits under a group health plan.
Sec. 4582. Government entities eligible to elect to pay part B premiums for eligible individuals.

Subtitle G—Provisions Relating to Parts A and B

CHAPTER 1—HOME HEALTH SERVICES AND BENEFITS

SUBCHAPER A—PAYMENTS FOR HOME HEALTH SERVICES

Sec. 4601. Recapturing savings resulting from temporary freeze on payment increases for home health services.
Sec. 4602. Interim payments for home health services.
Sec. 4603. Prospective payment for home health services.
Sec. 4604. Payment based on location where home health service is furnished.

SUBCHAPTER B—HOME HEALTH BENEFITS

Sec. 4611. Modification of part A home health benefit for individuals enrolled under part B.
Sec. 4612. Clarification of part-time or intermittent nursing care.
Sec. 4613. Study on definition of homebound.
Sec. 4614. Normative standards for home health claims denials.
Sec. 4615. No home health benefits based solely on drawing blood.

Sec. 4616. Reports to Congress regarding home health cost containment.

CHAPTER 2—GRADUATE MEDICAL EDUCATION

SUBCHAPTER A—INDIRECT MEDICAL EDUCATION

Sec. 4621. Indirect graduate medical education payments.
Sec. 4622. Payment to hospitals of indirect medical education costs for Medicare+Choice enrollees.

SUBCHAPTER B—DIRECT GRADUATE MEDICAL EDUCATION

Sec. 4623. Limitation on number of residents and rolling average FTE count.
Sec. 4624. Payments to hospitals for direct costs of graduate medical education of Medicare+Choice enrollees.
Sec. 4625. Permitting payment to nonhospital providers.
Sec. 4626. Incentive payments under plans for voluntary reduction in number of residents.
Sec. 4627. Medicare special reimbursement rule for primary care combined residency programs.
Sec. 4628. Demonstration project on use of consortia.
Sec. 4629. Recommendations on long-term policies regarding teaching hospitals and graduate medical education.
Sec. 4630. Study of hospital overhead and supervisory physician components of direct medical education costs.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

Sec. 4631. Permanent extension and revision of certain secondary payer provisions.
Sec. 4632. Clarification of time and filing limitations.
Sec. 4633. Permitting recovery against third party administrators.

CHAPTER 4—OTHER PROVISIONS

Sec. 4641. Placement of advance directive in medical record.
Sec. 4642. Increased certification period for certain organ procurement organizations.
Sec. 4643. Office of the Chief Actuary in the Health Care Financing Administration.
Sec. 4644. Conforming amendments to comply with congressional review of agency rulemaking.

Subtitle H—Medicaid

CHAPTER 1—MANAGED CARE

Sec. 4701. State option of using managed care; change in terminology.
Sec. 4702. Primary care case management services at State option without need for waiver.
Sec. 4703. Elimination of 75:25 restriction on risk contracts.
Sec. 4704 Increased beneficiary protections.
Sec. 4705. Quality assurance standards.
Sec. 4706. Solvency standards.
Sec. 4707. Projections against fraud and abuse.
Sec. 4708. Improve administration.
Sec. 4709. 6-month guaranteed eligibility for all individuals enrolled in managed care.
Sec. 4710. Effective dates.

CHAPTER 2—FLEXIBILITY IN PAYMENT OF PROVIDERS

Sec. 4711. Flexibility in payment methods for hospital, nursing facility, ICF/MR, and home health services.
Sec. 4712. Payment for center and clinic services.
Sec. 4713. Elimination of obstetrical and pediatric payment rate requirements.
Sec. 4714. Medicaid payment rates for certain medicare cost-sharing.
Sec. 4715. Treatment of veterans' pensions under medicaid.

CHAPTER 3—FEDERAL PAYMENTS TO STATES

Sec. 4721. Reforming disproportionate share payments under State medicaid programs.
Sec. 4722. Treatment of State taxes imposed on certain hospitals.
Sec. 4723. Additional funding for State emergency health services furnished to undocumented aliens.
Sec. 4724. Elimination of waste, fraud, and abuse.
Sec. 4725. Increased FMAPs.
Sec. 4726. Increase in payment limitation for territories.

CHAPTER 4—ELIGIBILITY

Sec. 4731. State option of continuous eligibility for 12 months; clarification of State option to cover children.
Sec. 4732. Payment of part B premiums.
Sec. 4733. State option to permit workers with disabilities to buy into medicaid.
Sec. 4734. Penalty for fraudulent eligibility.
Sec. 4735. Treatment of certain settlement payments.

CHAPTER 5—BENEFITS

Sec. 4741. Elimination of requirement to pay for private insurance.
Sec. 4742. Physician qualification requirements.
Sec. 4743. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 4744. Study and report on EPSDT benefit.

CHAPTER 6—ADMINISTRATION AND MISCELLANEOUS

Sec. 4751. Elimination of duplicative inspection of care requirements for ICFS/MR and mental hospitals.
Sec. 4752. Alternative sanctions for noncompliant ICFS/MR.
Sec. 4753. Modification of MMIS requirements.
Sec. 4754. Facilitating imposition of State alternative remedies on non-compliant nursing facilities.
Sec. 4755. Removal of name from nurse aide registry.
Sec. 4756. Medically accepted indication.
Sec. 4757. Continuation of State-wide section 1115 medicaid waivers.
Sec. 4758. Extension of moratorium.
Sec. 4759. Extension of effective date for State law amendment.

Subtitle I—Programs of All-Inclusive Care for the Elderly (PACE)

Sec. 4801. Coverage of PACE under the medicare program.
Sec. 4802. Establishment of PACE program as medicaid State option.
Sec. 4803. Effective date; transition.
Sec. 4804. Study and reports.

Subtitle J—State Children's Health Insurance Program

CHAPTER 1—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Sec. 4901. Establishment of program.

"TITLE XXI—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Sec. 2101. Purpose; State child health plans.
Sec. 2102. General contents of State child health plan; eligibility; outreach.
Sec. 2103. Coverage requirements for children's health insurance.
Sec. 2104. Allotments.
Sec. 2105. Payments to States.
Sec. 2106. Process for submission, approval, and amendment of State child health plans.
Sec. 2107. Strategic objectives and performance goals; plan administration.
Sec. 2108. Annual reports; evaluations.
Sec. 2109. Miscellaneous provisions.
Sec. 2110. Definitions.

CHAPTER 2—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID

Sec. 4911. Optional use of State child health assistance funds for enhanced medicaid match for expanded medicaid eligibility.
Sec. 4912. Medicaid presumptive eligibility for low-income children.
Sec. 4913. Continuation of medicaid eligibility for disabled children who lose SSI benefits.

CHAPTER 3—DIABETES GRANT PROGRAMS

Sec. 4921. Special diabetes programs for children with Type I diabetes.
Sec. 4922. Special diabetes programs for Indians.
Sec. 4923. Report on diabetes grant programs.

Subtitle A—Medicare+Choice Program

CHAPTER 1—MEDICARE+CHOICE PROGRAM

Subchapter A—Medicare+ Choice Program

SEC. 4001. ESTABLISHMENT OF MEDICARE+ CHOICE PROGRAM.

Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—MEDICARE+CHOICE PROGRAM

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICARE+CHOICE PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, each Medicare+Choice eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through the original medicare fee-for-service program under parts A and B, or

"(B) through enrollment in a Medicare+ Choice plan under this part.

"(2) TYPES OF MEDICARE+CHOICE PLANS THAT MAY BE AVAILABLE.—A Medicare+Choice plan may be any of the following types of plans of health insurance:

"(A) COORDINATED CARE PLANS.—Coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without point of service options), plans offered by provider-sponsored organizations (as defined in section 1855(d)), and preferred provider organization plans.

"(B) COMBINATION OF MSA PLAN AND CONTRIBUTIONS TO MEDICARE+CHOICE MSA.—An MSA plan, as defined in section 1859(b)(3), and a contribution into a Medicare+Choice medical savings account (MSA).

"(C) PRIVATE FEE-FOR-SERVICE PLANS.—A Medicare+Choice private fee-for-service plan, as defined in section 1859(b)(2).

"(3) MEDICARE+CHOICE ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'Medicare+Choice eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a Medicare+Choice plan may continue to be enrolled in that plan.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare+Choice plan offered by a

Medicare+Choice organization only if the plan serves the geographic area in which the individual resides.

"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that a plan may offer to all individuals residing in a geographic area the option to continue enrollment in the plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides that individuals exercising this option have, as part of the basic benefits described in section 1852(a)(1)(A), reasonable access within that geographic area to the full range of basic benefits, subject to reasonable cost sharing liability in obtaining such benefits.

"(2) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP OR ELIGIBLE FOR VETERANS OR MILITARY HEALTH BENEFITS, VETERANS.—

"(A) FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in an MSA plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(B) VA AND DOD.—The Secretary may apply rules similar to the rules described in subparagraph (A) in the case of individuals who are eligible for health care benefits under chapter 55 of title 10, United States Code, or under chapter 17 of title 38 of such Code.

"(3) LIMITATION ON ELIGIBILITY OF QUALIFIED MEDICARE BENEFICIARIES AND OTHER MEDICAID BENEFICIARIES TO ENROLL IN AN MSA PLAN.—An individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a qualified disabled and working individual (described in section 1905(s)), an individual described in section 1902(a)(10)(E)(iii), or otherwise entitled to medicare cost-sharing under a State plan under title XIX is not eligible to enroll in an MSA plan.

"(4) COVERAGE UNDER MSA PLANS ON A DEMONSTRATION BASIS.—

"(A) IN GENERAL.—An individual is not eligible to enroll in an MSA plan under this part—

"(i) on or after January 1, 2003, unless the enrollment is the continuation of such an enrollment in effect as of such date; or

"(ii) as of any date if the number of such individuals so enrolled as of such date has reached 390,000.

Under rules established by the Secretary, an individual is not eligible to enroll (or continue enrollment) in an MSA plan for a year unless the individual provides assurances satisfactory to the Secretary that the individual will reside in the United States for at least 183 days during the year.

"(B) EVALUATION.—The Secretary shall regularly evaluate the impact of permitting enrollment in MSA plans under this part on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds under this title.

"(C) REPORTS.—The Secretary shall submit to Congress periodic reports on the numbers of individuals enrolled in such plans and on the evaluation being conducted under subparagraph (B). The Secretary shall submit such a report, by not later than March 1, 2002, on whether the time limitation under subparagraph (A)(i) should be extended or removed and whether to change the numerical limitation under subparagraph (A)(ii).

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) COORDINATION THROUGH MEDICARE+CHOICE ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare+Choice plan offered by a Medicare+Choice organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare+Choice plan offered by a Medicare+Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(3) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the original medicare fee-for-service program option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary may establish procedures under which an individual who is enrolled in a health plan (other than Medicare+Choice plan) offered by a Medicare+Choice organization at the time of the initial election period and who fails to elect to receive coverage other than through the organization is deemed to have elected the Medicare+Choice plan offered by the organization (or, if the organization offers more than one such plan, such plan or plans as the Secretary identifies under such procedures).

"(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) the Medicare+Choice plan with respect to which such election is in effect is discontinued or, subject to subsection (b)(1)(B), no longer serves the area in which the individual resides.

"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) PROVISION OF NOTICE.—

"(A) OPEN SEASON NOTIFICATION.—At least 15 days before the beginning of each annual, coordinated election period (as defined in subsection (e)(3)(B)), the Secretary shall mail to each Medicare+Choice eligible individual residing in an area the following:

"(i) GENERAL INFORMATION.—The general information described in paragraph (3).

"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the Medicare+Choice plans that are (or will be) available to residents of the area and information described in paragraph (4) concerning such plans. Such information shall be presented in a comparative form.

"(iii) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated, to the extent practicable, with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY ELIGIBLE MEDICARE+CHOICE ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 30 days before the beginning of the initial Medicare+Choice enrollment period for an individual described in subsection (e)(1), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted using language that is easily understandable by medicare beneficiaries.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of Medicare+Choice plans and the benefits and Medicare+Choice monthly basic and supplemental beneficiary premiums for such plans.

"(3) GENERAL INFORMATION.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS UNDER ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the benefits covered under the original medicare fee-for-service program under parts A and B, including—

"(i) covered items and services,

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and

"(iii) any beneficiary liability for balance billing.

"(B) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(C) RIGHTS.—A general description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program and the Medicare+Choice program and the right to be protected against discrimination based on health status-related factors under section 1852(b).

"(D) INFORMATION ON MEDIGAP AND MEDICARE SELECT.—A general description of the benefits, enrollment rights, and other requirements applicable to medicare supplemental policies under section 1882 and provisions relating to medicare select policies described in section 1882(t).

"(E) POTENTIAL FOR CONTRACT TERMINATION.—The fact that a Medicare+Choice organization may terminate its contract, refuse to renew its contract, or reduce the service area included in its contract, under this part, and the effect of such a termination, nonrenewal, or service area reduction may have on individuals enrolled with the Medicare+Choice plan under this part.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a Medicare+Choice plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered under the plan, including the following:

"(i) Covered items and services beyond those provided under the original medicare fee-for-service program.

"(ii) Any beneficiary cost sharing.

"(iii) Any maximum limitations on out-of-pocket expenses.

"(iv) In the case of an MSA plan, differences in cost sharing, premiums, and balance billing under such a plan compared to under other Medicare+Choice plans.

"(v) In the case of a Medicare+Choice private fee-for-service plan, differences in cost sharing, premiums, and balance billing under such a plan compared to under other Medicare+Choice plans.

"(vi) The extent to which an enrollee may obtain benefits through out-of-network health care providers.

"(vii) The extent to which an enrollee may select among in-network providers and the types of providers participating in the plan's network.

"(viii) The organization's coverage of emergency and urgently needed care.

"(B) PREMIUMS.—The Medicare+Choice monthly basic beneficiary premium and Medicare+Choice monthly supplemental beneficiary premium, if any, for the plan or, in the case of an MSA plan, the Medicare+Choice monthly MSA premium.

"(C) SERVICE AREA.—The service area of the plan.

"(D) QUALITY AND PERFORMANCE.—To the extent available, plan quality and performance indicators for the benefits under the plan (and how they compare to such indicators under the original medicare fee-for-service program under parts A and B in the area involved), including—

"(i) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(ii) information on medicare enrollee satisfaction,

"(iii) information on health outcomes, and

"(iv) the recent record regarding compliance of the plan with requirements of this part (as determined by the Secretary).

"(E) SUPPLEMENTAL BENEFITS.—Whether the organization offering the plan includes mandatory supplemental benefits in its base benefit package or offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(5) MAINTAINING A TOLL-FREE NUMBER AND INTERNET SITE.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare+Choice options and the operation of this part in all areas in which Medicare+Choice plans are offered and an Internet site through which individuals may electronically obtain information on such options and Medicare+Choice plans.

"(6) USE OF NON-FEDERAL ENTITIES.—The Secretary may enter into contracts with non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A Medicare+Choice organization shall provide the Secretary with such information on the organization and each Medicare+Choice plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION IF MEDICARE+CHOICE PLANS AVAILABLE TO INDIVIDUAL.—If, at the time an individual first becomes entitled to benefits under part A and enrolled under part B, there is one or more Medicare+Choice plans offered in the area in which the individual resides, the individual shall make the election under this section during a period specified by the Secretary such that if the individual elects a Medicare+Choice plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(2) OPEN ENROLLMENT AND DISENROLLMENT OPPORTUNITIES.—Subject to paragraph (5)—

"(A) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT THROUGH 2001.—At any time during 1998, 1999, 2000, and 2001, a Medicare+Choice eligible individual may change the election under subsection (a)(1).

"(B) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 6 MONTHS DURING 2002.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 6 months of 2002, or, if the individual first becomes a Medicare+Choice eligible individual during 2002, during the first 6 months during 2002 in which the individual is a Medicare+Choice eligible individual, a Medicare+Choice eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE.—An individual may exercise the right under clause (i) only once. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under the first sentence of paragraph (4).

"(C) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 3 MONTHS IN SUBSEQUENT YEARS.—

"(i) IN GENERAL.—Subject to clause (ii), at any time during the first 3 months of a year after 2002, or, if the individual first becomes a Medicare+Choice eligible individual during a year after 2002, during the first 3 months of such year in which the individual is a Medicare+Choice eligible individual, a Medicare+Choice eligible individual may change the election under subsection (a)(1).

"(ii) LIMITATION OF ONE CHANGE DURING OPEN ENROLLMENT PERIOD EACH YEAR.—An individual may exercise the right under clause (i) only once during the applicable 3-month period described in such clause in each year. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special enrollment period under paragraph (4).

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 2000), the month of November before such year.

"(C) MEDICARE+CHOICE HEALTH INFORMATION FAIRS.—In the month of November of each year (beginning with 1999), in conjunction with the annual coordinated election period defined in subparagraph (B), the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform Medicare+Choice eligible individuals about Medicare+Choice plans and the election process provided under this section.

"(D) SPECIAL INFORMATION CAMPAIGN IN 1998.—During November 1998 the Secretary shall provide for an educational and publicity campaign to inform Medicare+Choice eligible individuals about the availability of Medicare+Choice plans, and eligible organizations with risk-sharing contracts under section 1876, offered in different areas and the election process provided under this section.

"(4) SPECIAL ELECTION PERIODS.—Effective as of January 1, 2002, an individual may discontinue an election of a Medicare+Choice plan offered by a Medicare+Choice organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or plan's certification under this part has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of the individual's enrollment on the basis described in clause (i) or (ii) of subsection (g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual (including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards); or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other exceptional conditions as the Secretary may provide. Effective as of January 1, 2002, an individual who, upon first becoming eligible for benefits under part A at age 65, enrolls in a Medicare+Choice plan under this part, the individual may discontinue the election of such plan, and elect coverage under the original fee-for-service plan, at any time during the 12-month period beginning on the effective date of such enrollment.

"(5) SPECIAL RULES FOR MSA PLANS.—Notwithstanding the preceding provisions of this subsection, an individual—

"(A) may elect an MSA plan only during—

"(i) an initial open enrollment period described in paragraph (1),

"(ii) an annual, coordinated election period described in paragraph (3)(B), or

"(iii) the month of November 1998;

"(B) subject to subparagraph (C), may not discontinue an election of an MSA plan except during the periods described in clause (ii) or (iii) of subparagraph (A) and under the first sentence of paragraph (4); and

"(C) who elects an MSA plan during an annual, coordinated election period, and who never previously had elected such a plan, may revoke such election, in a manner determined by the Secretary, by not later than December 15 following the date of the election.

"(6) OPEN ENROLLMENT PERIODS.—Subject to paragraph (5), a Medicare+Choice organization—

"(A) shall accept elections or changes to elections during the initial enrollment periods described in paragraph (1), during the month of November 1998 and each subsequent year (as provided in paragraph (3)), and during special election periods described in the first sentence of paragraph (4); and

"(B) may accept other changes to elections at such other times as the organization provides.

"(f) EFFECTIVENESS OF ELECTIONS AND CHANGES OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING CONTINUOUS OPEN ENROLLMENT PERIODS.—An election or change of coverage made under subsection (e)(2) shall take effect with the first day of the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—An election or change of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election or change of coverage made during any other period under subsection (e)(4) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a Medicare+Choice organization shall provide that at any time during which elections are accepted under this section with respect to a Medicare+Choice plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a Medicare+Choice organization, in relation to a Medicare+Choice plan it offers, has a capacity limit and the number of Medicare+Choice eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate, on a basis described in section 1852(b), among the individuals (who seek to elect the plan).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a Medicare+Choice organization may not for any reason terminate the election of any individual under this section for a Medicare+Choice plan it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare+Choice organization may terminate an individual's election under this section with respect to a Medicare+Choice plan it offers if—

"(i) any Medicare+Choice monthly basic and supplemental beneficiary premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of such premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part in the area in which the individual resides.

"(C) CONSEQUENCE OF TERMINATION.—

"(i) TERMINATIONS FOR CAUSE.—Any individual whose election is terminated under clause (i) or (ii) of subparagraph (B) is deemed to have elected the original medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) TERMINATION BASED ON PLAN TERMINATION OR SERVICE AREA REDUCTION.—Any individual whose election is terminated under subparagraph (B)(iii) shall have a special election period under subsection (e)(4)(A) in which to change coverage to coverage under another Medicare+Choice plan. Such an individual who fails to make an election during such period is deemed to have chosen to change coverage to the original medicare fee-for-service program option described in subsection (a)(1)(A).

"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each Medicare+Choice organization receiving an election form under subsection (c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—

"(1) SUBMISSION.—No marketing material or application form may be distributed by a Medicare+Choice organization to (or for the use of) Medicare+Choice eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material or form to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material or form.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of any material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material or form that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing material or form under paragraph (1)(B) with respect to a Medicare+Choice plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization except with regard to that portion of such material or form that is specific only to an area involved.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare+Choice organization shall conform to fair marketing standards, in relation to Medicare+Choice plans offered under this part, included in the standards established under section 1856. Such standards—

"(A) shall not permit a Medicare+Choice organization to provide for cash or other monetary rebates as an inducement for enrollment or otherwise, and

"(B) may include a prohibition against a Medicare+Choice organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(i) EFFECT OF ELECTION OF MEDICARE+CHOICE PLAN OPTION.—

"(1) PAYMENTS TO ORGANIZATIONS.—Subject to sections 1852(a)(5), 1853(g), 1853(h), 1886(d)(11), and 1886(h)(3)(D), payments under a contract with a Medicare+Choice organization under section 1853(a) with respect to an individual electing a Medicare+Choice plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

"(2) ONLY ORGANIZATION ENTITLED TO PAYMENT.—Subject to sections 1853(e), 1853(g), 1853(h), 1857(f)(2), and 1886(d)(11), and 1886(h)(3)(D), only the Medicare+Choice organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Except as provided in section 1859(b)(3) for MSA plans, each Medicare+Choice plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services (other than hospice care) for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional benefits required under section 1854(f)(1)(A).

"(2) SATISFACTION OF REQUIREMENT.—

"(A) IN GENERAL.—A Medicare+Choice plan (other than an MSA plan) offered by a Medicare+Choice organization satisfies paragraph (1)(A), with respect to benefits for items and services furnished other than through a provider or other person that has a contract with the organization offering the plan, if the plan provides payment in an amount so that—

"(i) the sum of such payment amount and any cost sharing provided for under the plan, is equal to at least

"(ii) the total dollar amount of payment for such items and services as would otherwise be authorized under parts A and B (including any balance billing permitted under such parts).

"(B) REFERENCE TO RELATED PROVISIONS.—For provision relating to—

"(i) limitations on balance billing against Medicare+Choice organizations for non-contract providers, see sections 1852(k) and 1866(a)(1)(O), and

"(ii) limiting actuarial value of enrollee liability for covered benefits, see section 1854(e).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) BENEFITS INCLUDED SUBJECT TO SECRETARY'S APPROVAL.—Each Medicare+Choice organization may provide to individuals enrolled under this part, other than under a MSA plan, (without affording those individuals an option to decline the coverage) supplemental health care benefits that the Secretary may approve. The Secretary shall approve any such supplemental benefits unless the Secretary determines that including such supplemental benefits would substantially discourage enrollment by Medicare+Choice eligible individuals with the organization.

"(B) AT ENROLLEES' OPTION.—

"(i) IN GENERAL.—Subject to clause (ii), a Medicare+Choice organization may provide to individuals enrolled under this part supplemental health care benefits that the individuals may elect, at their option, to have covered.

"(ii) SPECIAL RULE FOR MSA PLANS.—A Medicare+Choice organization may not provide, under an MSA plan, supplemental health care benefits that cover the deductible described in section 1859(b)(2)(B). In applying the previous sentence, health benefits described in section 1882(u)(2)(B) shall not be treated as covering such deductible.

"(C) APPLICATION TO MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS.—Nothing in this paragraph shall be construed as preventing a Medicare+Choice private fee-for-service plan from offering supplemental benefits that include payment for some or all of the balance billing amounts permitted consistent with section 1852(k) and coverage of additional services that the plan finds to be medically necessary.

"(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare+Choice organization may (in the case of the provision of items and services to an individual under a Medicare+Choice plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under a law, plan, or policy described in such section—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1853(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a Medicare+Choice organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual Medicare+Choice capitation rate under section 1853 included in the announcement made at the beginning of such period, then, unless otherwise required by law—

"(A) such determination shall not apply to contracts under this part until the first contract

year that begins after the end of such period, and

“(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i)(1) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period.

“(b) ANTIDISCRIMINATION.—

“(1) BENEFICIARIES.—

“(A) IN GENERAL.—A Medicare+Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

“(B) CONSTRUCTION.—Subparagraph (A) shall not be construed as requiring a Medicare+Choice organization to enroll individuals who are determined to have end-stage renal disease, except as provided under section 1851(a)(3)(B).

“(2) PROVIDERS.—A Medicare+Choice organization shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This paragraph shall not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

“(c) DISCLOSURE REQUIREMENTS.—

“(1) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A Medicare+Choice organization shall disclose, in clear, accurate, and standardized form to each enrollee with a Medicare+Choice plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

“(A) SERVICE AREA.—The plan's service area.

“(B) BENEFITS.—Benefits offered under the plan, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is an MSA plan, a comparison of benefits under such a plan with benefits under other Medicare+Choice plans.

“(C) ACCESS.—The number, mix, and distribution of plan providers, out-of-network coverage (if any) provided by the plan, and any point-of-service option (including the supplemental premium for such option).

“(D) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan.

“(E) EMERGENCY COVERAGE.—Coverage of emergency services, including—

“(i) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

“(ii) the process and procedures of the plan for obtaining emergency services; and

“(iii) the locations of (I) emergency departments, and (II) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

“(F) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including—

“(i) whether the supplemental benefits are optional,

“(ii) the supplemental benefits covered, and

“(iii) the Medicare+Choice monthly supplemental beneficiary premium for the supplemental benefits.

“(G) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

“(H) PLAN GRIEVANCE AND APPEALS PROCEDURES.—All plan appeal or grievance rights and procedures.

“(I) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

“(2) DISCLOSURE UPON REQUEST.—Upon request of a Medicare+Choice eligible individual, a Medicare+Choice organization must provide the following information to such individual:

“(A) The general coverage information and general comparative plan information made available under clauses (i) and (ii) of section 1851(d)(2)(A).

“(B) Information on procedures used by the organization to control utilization of services and expenditures.

“(C) Information on the number of grievances, redeterminations, and appeals and on the disposition in the aggregate of such matters.

“(D) An overall summary description as to the method of compensation of participating physicians.

“(d) ACCESS TO SERVICES.—

“(1) IN GENERAL.—A Medicare+Choice organization offering a Medicare+Choice plan may select the providers from whom the benefits under the plan are provided so long as—

“(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

“(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

“(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

“(i) the services were not emergency services (as defined in paragraph (3)), but (I) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and (II) it was not reasonable given the circumstances to obtain the services through the organization,

“(ii) the services were renal dialysis services and were provided other than through the organization because the individual was temporarily out of the plan's service area, or

“(iii) the services are maintenance care or post-stabilization care covered under the guidelines established under paragraph (2);

“(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services; and

“(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

“(2) GUIDELINES RESPECTING COORDINATION OF POST-STABILIZATION CARE.—A Medicare+Choice plan shall comply with such guidelines as the Secretary may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after the enrollee has been determined to be stable under section 1867.

“(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

“(A) IN GENERAL.—The term ‘emergency services’ means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

“(i) are furnished by a provider that is qualified to furnish such services under this title, and

“(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

“(B) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term ‘emergency medical condition’ means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

“(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

“(ii) serious impairment to bodily functions, or

“(iii) serious dysfunction of any bodily organ or part.

“(4) ASSURING ACCESS TO SERVICES IN MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS.—In addition to any other requirements under this part, in the case of a Medicare+Choice private fee-for-service plan, the organization offering the plan must demonstrate to the Secretary that the organization has sufficient number and range of health care professionals and providers willing to provide services under the terms of the plan. The Secretary shall find that an organization has met such requirement with respect to any category of health care professional or provider if, with respect to that category of provider—

“(A) the plan has established payment rates for covered services furnished by that category of provider that are not less than the payment rates provided for under part A, part B, or both, for such services, or

“(B) the plan has contracts or agreements with a sufficient number and range of providers within such category to provide covered services under the terms of the plan, or a combination of both.

The previous sentence shall not be construed as restricting the persons from whom enrollees under such a plan may obtain covered benefits.

“(e) QUALITY ASSURANCE PROGRAM.—

“(1) IN GENERAL.—Each Medicare+Choice organization must have arrangements, consistent with any regulation, for an ongoing quality assurance program for health care services it provides to individuals enrolled with Medicare+Choice plans of the organization.

“(2) ELEMENTS OF PROGRAM.—

“(A) IN GENERAL.—The quality assurance program of an organization with respect to a Medicare+Choice plan (other than a Medicare+Choice private fee-for-service plan or a non-network MSA plan) it offers shall—

“(i) stress health outcomes and provide for the collection, analysis, and reporting of data (in accordance with a quality measurement system that the Secretary recognizes) that will permit measurement of outcomes and other indices of the quality of Medicare+Choice plans and organizations;

“(ii) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

“(iii) evaluate the continuity and coordination of care that enrollees receive;

“(iv) be evaluated on an ongoing basis as to its effectiveness;

“(v) include measures of consumer satisfaction;

“(vi) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure the quality of care provided under this part;

“(vii) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

“(viii) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

“(ix) have mechanisms to detect both underutilization and overutilization of services;

"(x) after identifying areas for improvement, establish or alter practice parameters;

"(xi) take action to improve quality and assesses the effectiveness of such action through systematic followup; and

"(xii) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate).

"(B) ELEMENTS OF PROGRAM FOR ORGANIZATIONS OFFERING MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS AND NON-NETWORK MSA PLANS.—The quality assurance program of an organization with respect to a Medicare+Choice private fee-for-service plan or a non-network MSA plan it offers shall—

"(i) meet the requirements of clauses (i) through (vi) of subparagraph (A);

"(ii) insofar as it provides for the establishment of written protocols for utilization review, base such protocols on current standards of medical practice; and

"(iii) have mechanisms to evaluate utilization of services and inform providers and enrollees of the results of such evaluation.

"(C) DEFINITION OF NON-NETWORK MSA PLAN.—In this subsection, the term 'non-network MSA plan' means an MSA plan offered by a Medicare+Choice organization that does not provide benefits required to be provided by this part, in whole or in part, through a defined set of providers under contract, or under another arrangement, with the organization.

"(3) EXTERNAL REVIEW.—

"(A) IN GENERAL.—Each Medicare+Choice organization shall, for each Medicare+Choice plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary to perform functions of the type described in sections 1154(a)(4)(B) and 1154(a)(14) with respect to services furnished by Medicare+Choice plans for which payment is made under this title. The previous sentence shall not apply to a Medicare+Choice private fee-for-service plan or a non-network MSA plan that does not employ utilization review.

"(B) NONDUPLICATION OF ACCREDITATION.—Except in the case of the review of quality complaints, and consistent with subparagraph (C), the Secretary shall ensure that the external review activities conducted under subparagraph (A) are not duplicative of review activities conducted as part of the accreditation process.

"(C) WAIVER AUTHORITY.—The Secretary may waive the requirement described in subparagraph (A) in the case of an organization if the Secretary determines that the organization has consistently maintained an excellent record of quality assurance and compliance with other requirements under this part.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare+Choice organization is deemed to meet requirements of paragraphs (1) and (2) of this subsection and subsection (h) (relating to confidentiality and accuracy of enrollee records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization, as a condition of accreditation, applies and enforces standards with respect to the requirements involved that are no less stringent than the standards established under section 1856 to carry out the respective requirements.

"(f) GRIEVANCE MECHANISM.—Each Medicare+Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with Medicare+Choice plans of the organization under this part.

"(g) COVERAGE DETERMINATIONS, RECONSIDERATIONS, AND APPEALS.—

"(1) DETERMINATIONS BY ORGANIZATION.—

"(A) IN GENERAL.—A Medicare+Choice organization shall have a procedure for making determinations regarding whether an individual enrolled with the plan of the organization under this part is entitled to receive a health service under this section and the amount (if any) that the individual is required to pay with respect to such service. Subject to paragraph (3), such procedures shall provide for such determination to be made on a timely basis.

"(B) EXPLANATION OF DETERMINATION.—Such a determination that denies coverage, in whole in part, shall be in writing and shall include a statement in understandable language of the reasons for the denial and a description of the reconsideration and appeals processes.

"(2) RECONSIDERATIONS.—

"(A) IN GENERAL.—The organization shall provide for reconsideration of a determination described in paragraph (1)(B) upon request by the enrollee involved. The reconsideration shall be within a time period specified by the Secretary, but shall be made, subject to paragraph (3), not later than 60 days after the date of the receipt of the request for reconsideration.

"(B) PHYSICIAN DECISION ON CERTAIN RECONSIDERATIONS.—A reconsideration relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician with appropriate expertise in the field of medicine which necessitates treatment who is other than a physician involved in the initial determination.

"(3) EXPEDITED DETERMINATIONS AND RECONSIDERATIONS.—

"(A) RECEIPT OF REQUESTS.—

"(i) ENROLLEE REQUESTS.—An enrollee in a Medicare+Choice plan may request, either in writing or orally, an expedited determination under paragraph (1) or an expedited reconsideration under paragraph (2) by the Medicare+Choice organization.

"(ii) PHYSICIAN REQUESTS.—A physician, regardless whether the physician is affiliated with the organization or not, may request, either in writing or orally, such an expedited determination or reconsideration.

"(B) ORGANIZATION PROCEDURES.—

"(i) IN GENERAL.—The Medicare+Choice organization shall maintain procedures for expediting organization determinations and reconsiderations when, upon request of an enrollee, the organization determines that the application of the normal time frame for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

"(ii) EXPEDITION REQUIRED FOR PHYSICIAN REQUESTS.—In the case of a request for an expedited determination or reconsideration made under subparagraph (A)(ii), the organization shall expedite the determination or reconsideration if the request indicates that the application of the normal time frame for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

"(iii) TIMELY RESPONSE.—In cases described in clauses (i) and (ii), the organization shall notify the enrollee (and the physician involved, as appropriate) of the determination or reconsideration under time limitations established by the Secretary, but not later than 72 hours of the time of receipt of the request for the determination or reconsideration (or receipt of the information necessary to make the determination or reconsideration), or such longer period as the Secretary may permit in specified cases.

"(4) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve in a timely manner reconsiderations that affirm denial of coverage, in whole or in part.

"(5) APPEALS.—An enrollee with a Medicare+Choice plan of a Medicare+Choice organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying subsections (b) and (g) of section 205 as provided in this paragraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Insofar as a Medicare+Choice organization maintains medical records or other health information regarding enrollees under this part, the Medicare+Choice organization shall establish procedures—

"(1) to safeguard the privacy of any individually identifiable enrollee information;

"(2) to maintain such records and information in a manner that is accurate and timely, and

"(3) to assure timely access of enrollees to such records and information.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare+Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PROVIDER PARTICIPATION.—

"(1) PROCEDURES.—Insofar as a Medicare+Choice organization offers benefits under a Medicare+Choice plan through agreements with physicians, the organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under such a plan. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing such adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare+Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) PROHIBITING INTERFERENCE WITH PROVIDER ADVICE TO ENROLLEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a Medicare+Choice organization (in relation to an individual enrolled under a Medicare+Choice plan offered by the organization under this part) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of

whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

"(B) CONSCIENCE PROTECTION.—Subparagraph (A) shall not be construed as requiring a Medicare+Choice plan to provide, reimburse for, or provide coverage of a counseling or referral service if the Medicare+Choice organization offering the plan—

"(i) objects to the provision of such service on moral or religious grounds; and

"(ii) in the manner and through the written instrumentalities such Medicare+Choice organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization or plan adopts a change in policy regarding such a counseling or referral service.

"(C) CONSTRUCTION.—Nothing in subparagraph (B) shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

"(D) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the Medicare+Choice plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(4) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—No Medicare+Choice organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare+Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(5) LIMITATION ON PROVIDER INDEMNIFICATION.—A Medicare+Choice organization may not provide (directly or indirectly) for a health care professional, provider of services, or other entity providing health care services (or group of such professionals, providers, or entities) to indemnify the organization against any liability resulting from a civil action brought for any damage caused to an enrollee with a Medicare+Choice plan of the organization under this part by the organization's denial of medically necessary care.

"(6) SPECIAL RULES FOR MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS.—For purposes of applying this part (including subsection (k)(1)) and section 1866(a)(1)(O), a hospital (or other provider of services), a physician or other health care professional, or other entity furnishing health care services is treated as having an agreement or contract in effect with a Medicare+Choice organization (with respect to an individual enrolled in a Medicare+Choice private fee-for-service plan it offers), if—

"(A) the provider, professional, or other entity furnishes services that are covered under the plan to such an enrollee; and

"(B) before providing such services, the provider, professional, or other entity —

"(i) has been informed of the individual's enrollment under the plan, and

"(ii) either—

"(I) has been informed of the terms and conditions of payment for such services under the plan, or

"(II) is given a reasonable opportunity to obtain information concerning such terms and conditions, in a manner reasonably designed to effect informed agreement by a provider.

The previous sentence shall only apply in the absence of an explicit agreement between such a provider, professional, or other entity and the Medicare+Choice organization.

"(k) TREATMENT OF SERVICES FURNISHED BY CERTAIN PROVIDERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled under this part with a Medicare+Choice organization described in section 1851(a)(2)(A) shall accept as payment in full for covered services under this title that are furnished to such an individual the amounts that the physician or other entity could collect if the individual were not so enrolled. Any penalty or other provision of law that applies to such a payment with respect to an individual entitled to benefits under this title (but not enrolled with a Medicare+Choice organization under this part) also applies with respect to an individual so enrolled.

"(2) APPLICATION TO MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS.—

"(A) BALANCE BILLING LIMITS UNDER MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLANS IN CASE OF CONTRACT PROVIDERS.—

"(i) IN GENERAL.—In the case of an individual enrolled in a Medicare+Choice private fee-for-service plan under this part, a physician, provider of services, or other entity that has a contract (including through the operation of subsection (j)(6)) establishing a payment rate for services furnished to the enrollee shall accept as payment in full for covered services under this title that are furnished to such an individual an amount not to exceed (including any deductibles, coinsurance, copayments, or balance billing otherwise permitted under the plan) an amount equal to 115 percent of such payment rate.

"(ii) PROCEDURES TO ENFORCE LIMITS.—The Medicare+Choice organization that offers such a plan shall establish procedures, similar to the procedures described in section 1848(g)(1)(A), in order to carry out the previous sentence.

"(iii) ASSURING ENFORCEMENT.—If the Medicare+Choice organization fails to establish and enforce procedures required under clause (ii), the organization is subject to intermediate sanctions under section 1857(g).

"(B) ENROLLEE LIABILITY FOR NONCONTRACT PROVIDERS.—For provision—

"(i) establishing minimum payment rate in the case of noncontract providers under a Medicare+Choice private fee-for-service plan, see section 1852(a)(2); or

"(ii) limiting enrollee liability in the case of covered services furnished by such providers, see paragraph (1) and section 1866(a)(1)(O).

"(C) INFORMATION ON BENEFICIARY LIABILITY.—

"(i) IN GENERAL.—Each Medicare+Choice organization that offers a Medicare+Choice private fee-for-service plan shall provide that enrollees under the plan who are furnished services for which payment is sought under the plan are provided an appropriate explanation of benefits (consistent with that provided under parts A and B and, if applicable, under medicare supplemental policies) that includes a clear statement of the amount of the enrollee's liability (including any liability for balance billing consistent with this subsection) with respect to payments for such services.

"(ii) ADVANCE NOTICE BEFORE RECEIPT OF INPATIENT HOSPITAL SERVICES AND CERTAIN OTHER SERVICES.—In addition, such organization shall, in its terms and conditions of payments to hospitals for inpatient hospital services and for other services identified by the Secretary for which the amount of the balancing billing under subparagraph (A) could be substantial, require the hospital to provide to the enrollee, before furnishing such services and if the hospital imposes balance billing under subparagraph (A)—

"(I) notice of the fact that balance billing is permitted under such subparagraph for such services, and

"(II) a good faith estimate of the likely amount of such balance billing (if any), with respect to such services, based upon the presenting condition of the enrollee.

"PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS

"SEC. 1853. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f) and section 1859(e)(4), the Secretary shall make monthly payments under this section in advance to each Medicare+Choice organization, with respect to coverage of an individual under this part in a Medicare+Choice payment area for a month, in an amount equal to $^1/_{12}$ of the annual Medicare+Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment to a Medicare+Choice organization with respect to classes of individuals determined to have end-stage renal disease and enrolled in a Medicare+Choice plan of the organization. Such rates of payment shall be actuarially equivalent to rates paid to other enrollees in the Medicare+Choice payment area (or

such other area as specified by the Secretary). In accordance with regulations, the Secretary shall provide for the application of the seventh sentence of section 1881(b)(7) to payments under this section covering the provision of renal dialysis treatment in the same manner as such sentence applies to composite rate payments described in such sentence.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare+Choice organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.

"(3) ESTABLISHMENT OF RISK ADJUSTMENT FACTORS.—

"(A) REPORT.—The Secretary shall develop, and submit to Congress by not later than March 1, 1999, a report on the method of risk adjustment of payment rates under this section, to be implemented under subparagraph (C), that accounts for variations in per capita costs based on health status. Such report shall include an evaluation of such method by an outside, independent actuary of the actuarial soundness of the proposal.

"(B) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require Medicare+Choice organizations (and eligible organizations with risk-sharing contracts under section 1876) to submit data regarding inpatient hospital services for periods beginning on or after July 1, 1997, and data regarding other services and other information as the Secretary deems necessary for periods beginning on or after July 1, 1998. The Secretary may not require an organization to submit such data before January 1, 1998.

"(C) INITIAL IMPLEMENTATION.—The Secretary shall first provide for implementation of a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payments by no later than January 1, 2000.

"(D) UNIFORM APPLICATION TO ALL TYPES OF PLANS.—Subject to section 1859(e)(4), the methodology shall be applied uniformly without regard to the type of plan.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than March 1 before the calendar year concerned—

"(A) the annual Medicare+Choice capitation rate for each Medicare+Choice payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (1) for a year, the Secretary shall provide for notice to Medicare+Choice organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1), the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that Medicare+Choice organizations can compute monthly adjusted Medicare+Choice capitation rates for individuals in each Medicare+Choice payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICARE+CHOICE CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, subject to paragraphs (6)(C) and (7), each annual Medicare+Choice capitation rate, for a Medicare+Choice payment area for a contract year consisting of a calendar year, is equal to the largest of the amounts specified in the following subparagraph (A), (B), or (C):

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) the area-specific percentage (as specified under paragraph (2) for the year) of the annual area-specific Medicare+Choice capitation rate for the Medicare+Choice payment area, as determined under paragraph (3) for the year, and

"(ii) the national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national Medicare+Choice capitation rate, as determined under paragraph (4) for the year,

multiplied by the budget neutrality adjustment factor determined under paragraph (5).

"(B) MINIMUM AMOUNT.—12 multiplied by the following amount:

"(i) For 1998, $367 (but not to exceed, in the case of an area outside the 50 States and the District of Columbia, 150 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area).

"(ii) For a succeeding year, the minimum amount specified in this clause (or clause (i)) for the preceding year increased by the national per capita Medicare+Choice growth percentage, described in paragraph (6)(A) for that succeeding year.

"(C) MINIMUM PERCENTAGE INCREASE.—

"(i) For 1998, 102 percent of the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the Medicare+Choice payment area.

"(ii) For a subsequent year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1998, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1999, the 'area-specific percentage' is 82 percent and the 'national percentage' is 18 percent,

"(C) for 2000, the 'area-specific percentage' is 74 percent and the 'national percentage' is 26 percent,

"(D) for 2001, the 'area-specific percentage' is 66 percent and the 'national percentage' is 34 percent,

"(E) for 2002, the 'area-specific percentage' is 58 percent and the 'national percentage' is 42 percent, and

"(F) for a year after 2002, the 'area-specific percentage' is 50 percent and the 'national percentage' is 50 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICARE+CHOICE CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), subject to subparagraph (B), the annual area-specific Medicare+Choice capitation rate for a Medicare+Choice payment area—

"(i) for 1998 is, subject to subparagraph (D), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) for the area, increased by the national per capita Medicare+Choice growth percentage for 1998 (described in paragraph (6)(A)); or

"(ii) for a subsequent year is the annual area-specific Medicare+Choice capitation rate for the previous year determined under this paragraph for the area, increased by the national per capita Medicare+Choice growth percentage for such subsequent year.

"(B) REMOVAL OF MEDICAL EDUCATION FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

"(i) IN GENERAL.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 1998), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to exclude from the rate the applicable percent (specified in clause (ii)) of the payment adjustments described in subparagraph (C).

"(ii) APPLICABLE PERCENT.—For purposes of clause (i), the applicable percent for—

"(I) 1998 is 20 percent,

"(II) 1999 is 40 percent,

"(III) 2000 is 60 percent,

"(IV) 2001 is 80 percent, and

"(V) a succeeding year is 100 percent.

"(C) PAYMENT ADJUSTMENT.—

"(i) IN GENERAL.—Subject to clause (ii), the payment adjustments described in this subparagraph are payment adjustments which the Secretary estimates were payable during 1997—

"(I) for the indirect costs of medical education under section 1886(d)(5)(B), and

"(II) for direct graduate medical education costs under section 1886(h).

"(ii) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that an annual per capita rate of payment for 1997 described in clause (i) reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.

"(D) TREATMENT OF AREAS WITH HIGHLY VARIABLE PAYMENT RATES.—In the case of a Medicare+Choice payment area for which the annual per capita rate of payment determined under section 1876(a)(1)(C) for 1997 varies by more than 20 percent from such rate for 1996, for purposes of this subsection the Secretary may substitute for such rate for 1997 a rate that is more representative of the costs of the enrollees in the area.

"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICARE+CHOICE CAPITATION RATE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national Medicare+Choice capitation rate for a Medicare+Choice payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(i) the national standardized annual Medicare+Choice capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of

such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary may, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED ANNUAL MEDICARE+CHOICE CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual Medicare+Choice capitation rate' for a year is equal to—

"(i) the sum (for all Medicare+Choice payment areas) of the product of—

"(I) the annual area-specific Medicare+Choice capitation rate for that year for the area under paragraph (3), and

"(II) the average number of medicare beneficiaries residing in that area in the year, multiplied by the average of the risk factor weights used to adjust payments under subsection (a)(1)(A) for such beneficiaries in such area; divided by

"(ii) the sum of the products described in clause (i)(II) for all areas for that year.

"(C) SPECIAL RULES FOR 1998.—In applying this paragraph for 1998—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii)—

"(I) for part A services shall be the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1997 to the total national average annual per capita rate of payment for parts A and B for 1997, and

"(II) for part B services shall be 100 percent minus the ratio described in subclause (I);

"(iii) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 40 percent shall be adjusted by the index described in clause (iii); and

"(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older and who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1999.

"(5) PAYMENT ADJUSTMENT BUDGET NEUTRALITY FACTOR.—For purposes of paragraph (1)(A), for each year, the Secretary shall determine a budget neutrality adjustment factor so that the aggregate of the payments under this part shall equal the aggregate payments that would have been made under this part if payment were based entirely on area-specific capitation rates.

"(6) NATIONAL PER CAPITA MEDICARE+CHOICE GROWTH PERCENTAGE DEFINED.—

"(A) IN GENERAL.—In this part, the 'national per capita Medicare+Choice growth percentage' for a year is the percentage determined by the Secretary, by March 1st before the beginning of the year involved, to reflect the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual entitled to benefits under part A and enrolled under part B, reduced by the number of percentage points specified in subparagraph (B) for the year. Separate determinations may be made for aged enrollees, disabled enrollees, and enrollees with end-stage renal disease.

"(B) ADJUSTMENT.—The number of percentage points specified in this subparagraph is—

"(i) for 1998, 0.8 percentage points,

"(ii) for 1999, 0.5 percentage points,

"(iii) for 2000, 0.5 percentage points,

"(iv) for 2001, 0.5 percentage points,

"(v) for 2002, 0.5 percentage points, and

"(vi) for a year after 2002, 0 percentage points.

"(C) ADJUSTMENT FOR OVER OR UNDER PROJECTION OF NATIONAL PER CAPITA MEDICARE+CHOICE GROWTH PERCENTAGE.—Beginning with rates calculated for 1999, before computing rates for a year as described in paragraph (1), the Secretary shall adjust all area-specific and national Medicare+Choice capitation rates (and beginning in 2000, the minimum amount) for the previous year for the differences between the projections of the national per capita Medicare+Choice growth percentage for that year and previous years and the current estimate of such percentage for such years.

"(7) ADJUSTMENT FOR NATIONAL COVERAGE DETERMINATIONS.—If the Secretary makes a determination with respect to coverage under this title that the Secretary projects will result in a significant increase in the costs to Medicare+Choice of providing benefits under contracts under this part (for periods after any period described in section 1852(a)(5)), the Secretary shall adjust appropriately the payments to such organizations under this part.

"(d) MEDICARE+CHOICE PAYMENT AREA DEFINED.—

"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'Medicare+Choice payment area' means a county, or equivalent area specified by the Secretary.

"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the Medicare+Choice payment area shall be a State or such other payment area as the Secretary specifies.

"(3) GEOGRAPHIC ADJUSTMENT.—

"(A) IN GENERAL.—Upon written request of the chief executive officer of a State for a contract year (beginning after 1998) made by not later than February 1 of the previous year, the Secretary shall make a geographic adjustment to a Medicare+Choice payment area in the State otherwise determined under paragraph (1)—

"(i) to a single statewide Medicare+Choice payment area,

"(ii) to the metropolitan based system described in subparagraph (C), or

"(iii) to consolidating into a single Medicare+Choice payment area noncontiguous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall initially (and annually thereafter) adjust the payment rates otherwise established under this section for Medicare+Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare+Choice payment areas in the State in the absence of the adjustment under this paragraph.

"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single Medicare+Choice payment area, and

"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single Medicare+Choice payment area.

"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(e) SPECIAL RULES FOR INDIVIDUALS ELECTING MSA PLANS.—

"(1) IN GENERAL.—If the amount of the Medicare+Choice monthly MSA premium (as defined in section 1854(b)(2)(C)) for an MSA plan for a year is less than $^1/_{12}$ of the annual Medicare+Choice capitation rate applied under this section for the area and year involved, the Secretary shall deposit an amount equal to 100 percent of such difference in a Medicare+Choice MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICARE+CHOICE MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under an MSA plan, no payment shall be made under paragraph (1) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a Medicare+Choice MSA (as defined in section 138(b)(2) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one such Medicare+Choice MSA, has designated one of such accounts as the individual's Medicare+Choice MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP-SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing an MSA plan effective beginning with a month in a year, the amount of the contribution to the Medicare+Choice MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare+Choice organization under this section for individuals enrolled under this part with the organization and payments to a Medicare+Choice MSA under subsection (e)(1) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title. Monthly payments otherwise payable under this section for October 2000 shall be paid on the first business day of such month. Monthly payments otherwise payable under this section for October 2001 shall be paid on the last business day of September 2001. Monthly payments otherwise payable under this section for October 2006 shall be paid on the first business day of October 2006.

"(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a Medicare+Choice plan offered by a Medicare+Choice organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare+Choice plan or the original medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a Medicare+Choice organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare+Choice organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"(h) SPECIAL RULE FOR HOSPICE CARE.—

"(1) INFORMATION.—A contract under this part shall require the Medicare+Choice organization to inform each individual enrolled under this part with a Medicare+Choice plan offered by the organization about the availability of hospice care if—

"(A) a hospice program participating under this title is located within the organization's service area; or

"(B) it is common practice to refer patients to hospice programs outside such service area.

"(2) PAYMENT.—If an individual who is enrolled with a Medicare+Choice organization under this part makes an election under section 1812(d)(1) to receive hospice care from a particular hospice program—

"(A) payment for the hospice care furnished to the individual shall be made to the hospice program elected by the individual by the Secretary;

"(B) payment for other services for which the individual is eligible notwithstanding the individual's election of hospice care under section 1812(d)(1), including services not related to the individual's terminal illness, shall be made by the Secretary to the Medicare+Choice organization or the provider or supplier of the service instead of payments calculated under subsection (a); and

"(C) the Secretary shall continue to make monthly payments to the Medicare+Choice organization in an amount equal to the value of the additional benefits required under section 1854(f)(1)(A).

"PREMIUMS

"SEC. 1854. (a) SUBMISSION OF PROPOSED PREMIUMS AND RELATED INFORMATION.—

(1) IN GENERAL.—Not later than May 1 of each year, each Medicare+Choice organization shall submit to the Secretary, in a form and manner specified by the Secretary and for each Medicare+Choice plan for the service area in which it intends to be offered in the following year—

"(A) the information described in paragraph (2), (3), or (4) for the type of plan involved; and

"(B) the enrollment capacity (if any) in relation to the plan and area.

"(2) INFORMATION REQUIRED FOR COORDINATED CARE PLANS.—For a Medicare+Choice plan described in section 1851(a)(2)(A), the information described in this paragraph is as follows:

"(A) BASIC (AND ADDITIONAL) BENEFITS.—For benefits described in 1852(a)(1)(A)—

"(i) the adjusted community rate (as defined in subsection (f)(3));

"(ii) the Medicare+Choice monthly basic beneficiary premium (as defined in subsection (b)(2)(A));

"(iii) a description of deductibles, coinsurance, and copayments applicable under the plan and the actuarial value of such deductibles, coinsurance, and copayments, described in subsection (e)(1)(A); and

"(iv) if required under subsection (f)(1), a description of the additional benefits to be provided pursuant to such subsection and the value determined for such proposed benefits under such subsection.

"(B) SUPPLEMENTAL BENEFITS.—For benefits described in 1852(a)(3)—

"(i) the adjusted community rate (as defined in subsection (f)(3));

"(ii) the Medicare+Choice monthly supplemental beneficiary premium (as defined in subsection (b)(2)(B)); and

"(iii) a description of deductibles, coinsurance, and copayments applicable under the plan and the actuarial value of such deductibles, coinsurance, and copayments, described in subsection (e)(2).

"(3) REQUIREMENTS FOR MSA PLANS.—For an MSA plan described, the information described in this paragraph is as follows:

"(A) BASIC (AND ADDITIONAL) BENEFITS.—For benefits described in 1852(a)(1)(A), the amount of the Medicare+Choice monthly MSA premium.

"(B) SUPPLEMENTAL BENEFITS.—For benefits described in 1852(a)(3), the amount of the Medicare+Choice monthly supplementary beneficiary premium.

"(4) REQUIREMENTS FOR PRIVATE FEE-FOR-SERVICE PLANS.—For a Medicare+Choice plan described in section 1851(a)(2)(C) for benefits described in 1852(a)(1)(A), the information described in this paragraph is as follows:—

"(A) BASIC (AND ADDITIONAL) BENEFITS.—For benefits described in 1852(a)(1)(A)—

"(i) the adjusted community rate (as defined in subsection (f)(3));

"(ii) the amount of the Medicare+Choice monthly basic beneficiary premium;

"(iii) a description of the deductibles, coinsurance, and copayments applicable under the plan, and the actuarial value of such deductibles, coinsurance, and copayments, as described in subsection (e)(4)(A); and

"(iv) if required under subsection (f)(1), a description of the additional benefits to be provided pursuant to such subsection and the value determined for such proposed benefits under such subsection.

"(B) SUPPLEMENTAL BENEFITS.—For benefits described in 1852(a)(3), the amount of the Medicare+Choice monthly supplemental beneficiary premium (as defined in subsection (b)(2)(B)).

"(5) REVIEW.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall review the adjusted community rates, the amounts of the basic and supplemental premiums, and values filed under this subsection and shall approve or disapprove such rates, amounts, and value so submitted.

"(B) EXCEPTION.—The Secretary shall not review, approve, or disapprove the amounts submitted under paragraph (3) or subparagraphs (A)(ii) and (B) of paragraph (4).

"(b) MONTHLY PREMIUM CHARGED.—

"(1) IN GENERAL.—

"(A) RULE FOR OTHER THAN MSA PLANS.—The monthly amount of the premium charged to an individual enrolled in a Medicare+Choice plan (other than an MSA plan) offered by a Medicare+Choice organization shall be equal to the sum of the Medicare+Choice monthly basic beneficiary premium and the Medicare+Choice monthly supplementary beneficiary premium (if any).

"(B) MSA PLANS.—The monthly amount of the premium charged to an individual enrolled in an MSA plan offered by a Medicare+Choice organization shall be equal to the Medicare+Choice monthly supplemental beneficiary premium (if any).

"(2) PREMIUM TERMINOLOGY DEFINED.—For purposes of this part:

"(A) THE MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly basic beneficiary premium' means, with respect to a Medicare+Choice plan, the amount authorized to be charged under subsection (e)(1) for the plan, or, in the case of a Medicare+Choice private fee-for-service plan, the amount filed under subsection (a)(4)(A)(ii).

"(B) MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly supplemental beneficiary premium' means, with respect to a Medicare+Choice plan, the amount authorized to be charged under subsection (e)(2) for the plan or, in the case of a MSA plan or Medicare+Choice private fee-for-service plan, the amount filed under paragraph (3)(B) or (4)(B) of subsection (a).

"(C) MEDICARE+CHOICE MONTHLY MSA PREMIUM.—The term 'Medicare+Choice monthly MSA premium' means, with respect to a Medicare+Choice plan, the amount of such premium filed under subsection (a)(3)(A) for the plan.

"(c) UNIFORM PREMIUM.—The Medicare+Choice monthly basic and supplemental beneficiary premium, the Medicare+Choice monthly MSA premium charged under subsection (b) of a Medicare+Choice organization under this part may not vary among individuals enrolled in the plan.

"(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare+Choice organization shall permit the payment of Medicare+Choice monthly basic and supplemental beneficiary premiums on a monthly basis, may terminate election of individuals for a Medicare+Choice plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i), and may not provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(e) LIMITATION ON ENROLLEE LIABILITY.—

"(1) FOR BASIC AND ADDITIONAL BENEFITS.—In no event may—

"(A) the Medicare+Choice monthly basic beneficiary premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with a Medicare+Choice plan described in section 1851(a)(2)(A) of an organization with respect to required benefits described in section 1852(a)(1)(A) and additional benefits (if any) required under subsection (f)(1)(A) for a year, exceed

"(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a Medicare+Choice organization for the year.

"(2) FOR SUPPLEMENTAL BENEFITS.—If the Medicare+Choice organization provides to its members enrolled under this part in a Medicare+Choice plan described in section 1851(a)(2)(A) with respect to supplemental benefits described in section 1852(a)(3), the sum of the Medicare+Choice monthly supplemental beneficiary premium (multiplied by 12) charged and the actuarial value of its deductibles, coinsurance, and copayments charged with respect *to such benefits may not exceed the adjusted community rate for such benefits (as defined in subsection (f)(3)).*

"(3) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the actuarial value under paragraph (1)(A) or (2), the Secretary may determine such amount with respect to all individuals in same geographic area, the State, or in the United States, eligible to enroll in the Medicare+Choice plan involved under this part or on the basis of other appropriate data.

"(4) SPECIAL RULE FOR PRIVATE FEE-FOR-SERVICE PLANS.—With respect to a Medicare+Choice private fee-for-service plan (other than a plan that is an MSA plan), in no event may—

"(A) the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled under this part with such a plan of an organization with respect to required benefits described in section 1852(a)(1), exceed

"(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B if they were not members of a Medicare+Choice organization for the year.

"(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each Medicare+Choice organization (in relation to a Medicare+Choice plan, other than an MSA plan, it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify) in a value which the Secretary determines is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under section 1853 for the plan at the beginning of contract year, exceeds

"(ii) the actuarial value of the required benefits described in section 1852(a)(1)(A) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (3) (as reduced for the actuarial value of the coinsurance, copayments, and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (2).

"(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan.

"(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare+Choice organization from providing supplemental benefits (described in section 1852(a)(3)) that are in addition to the health care benefits otherwise required to be provided under this paragraph and from imposing a premium for such supplemental benefits.

"(2) STABILIZATION FUND.—A Medicare+Choice organization may provide that a part of the value of an excess amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare+Choice plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(3) ADJUSTED COMMUNITY RATE.—For purposes of this subsection, subject to paragraph (4), the term 'adjusted community rate' for a service or services means, at the election of a Medicare+Choice organization, either—

"(A) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare+Choice plan under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare+Choice coverage, or Medicare+Choice eligible individuals in the area, in the State, or in the United States, eligible to elect Medicare+Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience to determine an average of the capitation payments to be made under this part at the beginning of a contract period or to determine (in the case of a newly operated provider-sponsored organization or other new organization) the adjusted community rate for the organization, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part and may determine such a rate using data in the general commercial marketplace.

"(g) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to payments to Medicare+Choice organizations under section 1853.

"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICARE+CHOICE ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1855. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), a Medicare+Choice organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare+Choice plan.

"(2) SPECIAL EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of a provider-sponsored organization that seeks to offer a Medicare+Choice plan in a State, the Secretary shall waive the requirement of paragraph (1) that the organization be licensed in that State if—

"(i) the organization files an application for such waiver with the Secretary by not later than November 1, 2002, and

"(ii) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (B), (C), or (D) has been met.

"(B) FAILURE TO ACT ON LICENSURE APPLICATION ON A TIMELY BASIS.—The ground for approval of such a waiver application described in this subparagraph is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(C) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—The ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application and—

"(i) the standards or review process imposed by the State as a condition of approval of the license imposes any material requirements, procedures, or standards (other than solvency requirements) to such organizations that are not generally applicable to other entities engaged in a substantially similar business, or

"(ii) the State requires the organization, as a condition of licensure, to offer any product or plan other than a Medicare+Choice plan.

"(D) DENIAL OF APPLICATION BASED ON APPLICATION OF SOLVENCY REQUIREMENTS.—With respect to waiver applications filed on or after the date of publication of solvency standards under section 1856(a), the ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable solvency requirements and—

"(i) such requirements are not the same as the solvency standards established under section 1856(a); or

"(ii) the State has imposed as a condition of approval of the license documentation or information requirements relating to solvency or other material requirements, procedures, or standards relating to solvency that are different from the requirements, procedures, and standards applied by the Secretary under subsection (d)(2).

For purposes of this paragraph, the term 'solvency requirements' means requirements relating to solvency and other matters covered under the standards established under section 1856(a).

"(E) TREATMENT OF WAIVER.—In the case of a waiver granted under this paragraph for a provider-sponsored organization with respect to a State—

"(i) LIMITATION TO STATE.—The waiver shall be effective only with respect to that State and does not apply to any other State.

"(ii) LIMITATION TO 36-MONTH PERIOD.—The waiver shall be effective only for a 36-month period and may not be renewed.

"(iii) CONDITIONED ON COMPLIANCE WITH CONSUMER PROTECTION AND QUALITY STANDARDS.—The continuation of the waiver is conditioned upon the organization's compliance with the requirements described in subparagraph (G).

"(iv) PREEMPTION OF STATE LAW.—Any provisions of law of that State which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

"(F) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete waiver application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

"(G) APPLICATION AND ENFORCEMENT OF STATE CONSUMER PROTECTION AND QUALITY STANDARDS.—

"(i) IN GENERAL.—A waiver granted under this paragraph to an organization with respect to licensing under State law is conditioned upon the organization's compliance with all consumer protection and quality standards insofar as such standards—

"(I) would apply in the State to the organization if it were licensed under State law;

"(II) are generally applicable to other Medicare+Choice organizations and plans in the State; and

"(III) are consistent with the standards established under this part.

Such standards shall not include any standard preempted under section 1856(b)(3)(B).

"(ii) INCORPORATION INTO CONTRACT.—In the case of such a waiver granted to an organization with respect to a State, the Secretary shall incorporate the requirement that the organization (and Medicare+Choice plans it offers) comply with standards under clause (i) as part of the contract between the Secretary and the organization under section 1857.

"(iii) ENFORCEMENT.—In the case of such a waiver granted to an organization with respect to a State, the Secretary may enter into an agreement with the State under which the State agrees to provide for monitoring and enforcement activities with respect to compliance of such an organization and its Medicare+Choice plans with such standards. Such monitoring and enforcement shall be conducted by the State in the same manner as the State enforces such standards with respect to other Medicare+Choice organizations and plans, without discrimination based on the type of organization to which the standards apply. Such an agreement shall specify or establish mechanisms by which compliance activities are undertaken, while not lengthening the time required to review and process applications for waivers under this paragraph.

"(H) REPORT.—By not later than December 31, 2001, the Secretary shall submit to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate a report regarding whether the waiver process under this paragraph should be continued after December 31, 2002. In making such recommendation, the Secretary shall consider, among other factors, the impact of such process on beneficiaries and on the long-term solvency of the program under this title.

"(3) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an organization is licensed in accordance with paragraph (1) does not deem the organization to meet other requirements imposed under this part.

"(b) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare+Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds such aggregate level as the Secretary specifies from time to time,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(c) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR UNLICENSED PSOS.—

"(1) IN GENERAL.—Each Medicare+Choice organization that is a provider-sponsored organization, that is not licensed by a State under subsection (a), and for which a waiver application has been approved under subsection (a)(2), shall meet standards established under section 1856(a) relating to the financial solvency and capital adequacy of the organization.

"(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR PSOS.—The Secretary shall establish a process for the receipt and approval of applications of a provider-sponsored organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such a certification application not later than 60 days after the date the application has been received.

"(d) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized, and operated, by a health care provider, or group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary in accordance with paragraph (2)) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which the affiliated providers share, directly or indirectly, substantial financial risk with respect to the provision of such items and services and have at least a majority financial interest in the entity.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(B), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for providing—

"(i) significantly more than the majority of the items and services under the contract under this section through its own affiliated providers; and

"(ii) most of the remainder of the items and services under the contract through providers with which the organization has an agreement to provide such items and services,

in order to assure financial stability and to address the practical considerations involved in integrating the delivery of a wide range of service providers;

"(B) shall take into account the need for such an organization to provide a limited proportion of the items and services under the contract through providers that are neither affiliated with nor have an agreement with the organization; and

"(C) may allow for variation in the definition of substantial proportion among such organizations based on relevant differences among the organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986,

"(C) each provider is a participant in a lawful combination under which each provider shares substantial financial risk in connection with the organization's operations, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection, the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"ESTABLISHMENT OF STANDARDS

"SEC. 1856. (a) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in section 1855(c)(1) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

"(B) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers,

"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care, and

"(iii) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

"(C) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the Medicare+Choice organization's debts in the event of the organization's insolvency.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this section.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be April 1, 1998.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than January 1, 1998, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before 1 month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than 1 month before the target date of publication.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target date of publication. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target date of publication.

"(b) ESTABLISHMENT OF OTHER STANDARDS.—

"(1) IN GENERAL.—The Secretary shall establish by regulation other standards (not described in subsection (a)) for Medicare+Choice organizations and plans consistent with, and to carry out, this part. The Secretary shall publish such regulations by June 1, 1998. In order to carry out this requirement in a timely manner, the Secretary may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

"(2) USE OF CURRENT STANDARDS.—Consistent with the requirements of this part, standards established under this subsection shall be based on standards established under section 1876 to carry out analogous provisions of such section.

"(3) RELATION TO STATE LAWS.—

"(A) IN GENERAL.—The standards established under this subsection shall supersede any State law or regulation (including standards described in subparagraph (B)) with respect to Medicare+Choice plans which are offered by Medicare+Choice organizations under this part to the extent such law or regulation is inconsistent with such standards.

"(B) STANDARDS SPECIFICALLY SUPERSEDED.—State standards relating to the following are superseded under this paragraph:

"(i) Benefit requirements.

"(ii) Requirements relating to inclusion or treatment of providers.

"(iii) Coverage determinations (including related appeals and grievance processes).

"CONTRACTS WITH MEDICARE+CHOICE ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a Medicare+Choice plan offered by a Medicare+Choice organization under this part, and no payment shall be made under section 1853 to an organization, unless the Secretary has entered into a contract under this section with the organization with respect to the offering of such plan. Such a contract with an organization may cover more than 1 Medicare+Choice plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not enter into a contract under this section with a Medicare+Choice organization unless the organization has—

"(A) at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, or

"(B) at least 1,500 individuals (or 500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization if the organization primarily serves individuals residing outside of urbanized areas.

"(2) APPLICATION TO MSA PLANS.—In applying paragraph (1) in the case of a Medicare+Choice organization that is offering an MSA plan, paragraph (1) shall be applied by substituting covered lives for individuals.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; or

"(C) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under an MSA plan be effective before January 1999 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare+Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) PERIODIC AUDITING.—The Secretary shall provide for the annual auditing of the financial records (including data relating to medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the Medicare+Choice organizations offering Medicare+Choice plans under this part. The Comptroller General shall monitor auditing activities conducted under this subsection.

"(2) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract, and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the Medicare+Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(3) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(4) DISCLOSURE.—

"(A) IN GENERAL.—Each Medicare+Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of

a Medicare+Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare+Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each Medicare+Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(5) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(e) ADDITIONAL CONTRACT TERMS.—

"(1) IN GENERAL.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(2) COST-SHARING IN ENROLLMENT-RELATED COSTS.—

"(A) IN GENERAL.—A Medicare+Choice organization shall pay the fee established by the Secretary under subparagraph (B).

"(B) AUTHORIZATION.—The Secretary is authorized to charge a fee to each Medicare+Choice organization with a contract under this part that is equal to the organization's pro rata share (as determined by the Secretary) of the aggregate amount of fees which the Secretary is directed to collect in a fiscal year. Any amounts collected are authorized to be appropriated only for the purpose of carrying out section 1851 (relating to enrollment and dissemination of information) and section 4360 of the Omnibus Budget Reconciliation Act of 1990 (relating to the health insurance counseling and assistance program).

"(C) CONTINGENCY.—For any fiscal year, the fees authorized under subparagraph (B) are contingent upon enactment in an appropriations act of a provision specifying the aggregate amount of fees the Secretary is directed to collect in a fiscal year. Fees collected during any fiscal year under this paragraph shall be deposited and credited as offsetting collections.

"(D) LIMITATION.—In any fiscal year the fees collected by the Secretary under subparagraph (B) shall not exceed the lesser of—

"(i) the estimated costs to be incurred by the Secretary in the fiscal year in carrying out the activities described in section 1851 and section 4360 of the Omnibus Budget Reconciliation Act of 1990; or

"(ii)(I) $200,000,000 in fiscal year 1998;

"(II) $150,000,000 in fiscal year 1999; and

"(III) $100,000,000 in fiscal year 2000 and each subsequent fiscal year.

"(f) PROMPT PAYMENT BY MEDICARE+CHOICE ORGANIZATION.—

"(1) REQUIREMENT.—A contract under this part shall require a Medicare+Choice organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to enrollees pursuant to the contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier (or in the case of a Medicare+Choice private fee-for-service plan, if a claim is submitted to such organization by an enrollee).

"(2) SECRETARY'S OPTION TO BYPASS NONCOMPLYING ORGANIZATION.—In the case of a Medicare+Choice eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers (or, in the case of a Medicare+Choice private fee-for-service plan, amounts owed to the enrollees) for covered services and supplies furnished to individuals enrolled under this part under the contract. If the Secretary provides for the direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and the Secretary's costs in making the payments).

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a Medicare+Choice organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled under this part in excess of the amount of the Medicare+Choice monthly basic and supplemental beneficiary premiums permitted under section 1854;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the applicable requirements of section 1852(j)(3) or 1852(k)(2)(A)(ii); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare+Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of civil money penalty procedures by the Secretary during which the deficiency that is the basis of a determination under subsection (c)(2) exists.

"(C) Suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) CIVIL MONEY PENALTIES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (2) or (3) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(h) PROCEDURES FOR TERMINATION.—

"(1) IN GENERAL.—The Secretary may terminate a contract with a Medicare+Choice organization under this section in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2); and

"(B) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.

"(2) EXCEPTION FOR IMMINENT AND SERIOUS RISK TO HEALTH.—Paragraph (1) shall not apply if the Secretary determines that a delay in termination, resulting from compliance with the procedures specified in such paragraph prior to termination, would pose an imminent and serious risk to the health of individuals enrolled under this part with the organization.

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICARE+CHOICE ORGANIZATIONS.—In this part—

"(1) MEDICARE+CHOICE ORGANIZATION.—The term 'Medicare+Choice organization' means a

public or private entity that is certified under section 1856 as meeting the requirements and standards of this part for such an organization.

“(2) PROVIDER-SPONSORED ORGANIZATION.—The term ‘provider-sponsored organization’ is defined in section 1855(d)(1).

“(b) DEFINITIONS RELATING TO MEDICARE+CHOICE PLANS.—

“(1) MEDICARE+CHOICE PLAN.—The term ‘Medicare+Choice plan’ means health benefits coverage offered under a policy, contract, or plan by a Medicare+Choice organization pursuant to and in accordance with a contract under section 1857.

“(2) MEDICARE+CHOICE PRIVATE FEE-FOR-SERVICE PLAN.—The term ‘Medicare+Choice private fee-for-service plan’ means a Medicare+Choice plan that—

“(A) reimburses hospitals, physicians, and other providers at a rate determined by the plan on a fee-for-service basis without placing the provider at financial risk;

“(B) does not vary such rates for such a provider based on utilization relating to such provider; and

“(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established by the plan.

“(3) MSA PLAN.—

“(A) IN GENERAL.—The term ‘MSA plan’ means a Medicare+Choice plan that—

“(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of an annual deductible (described in subparagraph (B));

“(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B, and that would have been payable by the enrollee as deductibles, coinsurance, or copayments, if the enrollee had elected to receive benefits through the provisions of such parts; and

“(iii) provides, after such deductible is met for a year and for all subsequent expenses for items and services referred to in clause (i) in the year, for a level of reimbursement that is not less than—

“(I) 100 percent of such expenses, or

“(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

“(B) DEDUCTIBLE.—The amount of annual deductible under an MSA plan—

“(i) for contract year 1999 shall be not more than $6,000; and

“(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national per capita Medicare+Choice growth percentage under section 1853(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

“(c) OTHER REFERENCES TO OTHER TERMS.—

“(1) MEDICARE+CHOICE ELIGIBLE INDIVIDUAL.—The term ‘Medicare+Choice eligible individual’ is defined in section 1851(a)(3).

“(2) MEDICARE+CHOICE PAYMENT AREA.—The term ‘Medicare+Choice payment area’ is defined in section 1853(d).

“(3) NATIONAL PER CAPITA MEDICARE+CHOICE GROWTH PERCENTAGE.—The ‘national per capita Medicare+Choice growth percentage’ is defined in section 1853(c)(6).

“(4) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM; MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The terms ‘Medicare+Choice monthly basic beneficiary premium’ and ‘Medicare+Choice monthly supplemental beneficiary premium’ are defined in section 1854(a)(2).

“(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE+CHOICE PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under a medicaid plan under title XIX with those provided under a Medicare+Choice plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such plan.

“(e) RESTRICTION ON ENROLLMENT FOR CERTAIN MEDICARE+CHOICE PLANS.—

“(1) IN GENERAL.—In the case of a Medicare+Choice religious fraternal benefit society plan described in paragraph (2), notwithstanding any other provision of this part to the contrary and in accordance with regulations of the Secretary, the society offering the plan may restrict the enrollment of individuals under this part to individuals who are members of the church, convention, or group described in paragraph (3)(B) with which the society is affiliated.

“(2) MEDICARE+CHOICE RELIGIOUS FRATERNAL BENEFIT SOCIETY PLAN DESCRIBED.—For purposes of this subsection, a Medicare+Choice religious fraternal benefit society plan described in this paragraph is a Medicare+Choice plan described in section 1851(a)(2)(A) that—

“(A) is offered by a religious fraternal benefit society described in paragraph (3) only to members of the church, convention, or group described in paragraph (3)(B); and

“(B) permits all such members to enroll under the plan without regard to health status-related factors.

Nothing in this subsection shall be construed as waiving any plan requirements relating to financial solvency.

“(3) RELIGIOUS FRATERNAL BENEFIT SOCIETY DEFINED.—For purposes of paragraph (2)(A), a ‘religious fraternal benefit society’ described in this section is an organization that—

“(A) is described in section 501(c)(8) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Act;

“(B) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches;

“(C) offers, in addition to a Medicare+Choice religious fraternal benefit society plan, health coverage to individuals not entitled to benefits under this title who are members of such church, convention, or group; and

“(D) does not impose any limitation on membership in the society based on any health status-related factor.

“(4) PAYMENT ADJUSTMENT.—Under regulations of the Secretary, in the case of individuals enrolled under this part under a Medicare+Choice religious fraternal benefit society plan described in paragraph (2), the Secretary shall provide for such adjustment to the payment amounts otherwise established under section 1854 as may be appropriate to assure an appropriate payment level, taking into account the actuarial characteristics and experience of such individuals.”.

SEC. 4002. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) AUTHORIZING TRANSITIONAL WAIVER OF 50:50 RULE.—Section 1876(f) (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (1)—

(A) by striking “Each” and inserting “For contract periods beginning before January 1, 1999, each”; and

(B) by striking “or under a State plan approved under title XIX”;

(2) in paragraph (2), by striking “The Secretary” and inserting “Subject to paragraph (4), the Secretary”, and

(3) by adding at the end the following:

“(4) Effective for contract periods beginning after December 31, 1996, the Secretary may waive or modify the requirement imposed by paragraph (1) to the extent the Secretary finds that it is in the public interest.”.

(b) TRANSITION.—

(1) RISK-SHARING CONTRACTS.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsections:

“(k)(1) Except as provided in paragraph (2)—

“(A) on or after the date standards for Medicare+Choice organizations and plans are first established under section 1856(b)(1), the Secretary shall not enter into any risk-sharing contract under this section with an eligible organization; and

“(B) for any contract year beginning on or after January 1, 1999, the Secretary shall not renew any such contract.

“(2) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1998, may continue enrollment in such organization in accordance with regulations described in section 1856(b)(1).

“(3) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1998) shall be computed—

“(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1853(a) for the payment rates otherwise established under section 1876(a), and

“(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

“(4) The following requirements shall apply to eligible organizations with risk-sharing contracts under this section in the same manner as they apply to Medicare+Choice organizations under part C:

“(A) Data collection requirements under section 1853(a)(3)(B).

“(B) Restrictions on imposition of premium taxes under section 1854(g) in relating to payments to such organizations under this section.

“(C) The requirement to accept enrollment of new enrollees during November 1998 under section 1851(e)(6).

“(D) Payments under section 1857(e)(2).”.

(2) REASONABLE COST CONTRACTS.—

(A) PHASE OUT OF CONTRACTS.—Section 1876(h) (42 U.S.C. 1395mm(h)) is amended by adding at the end the following:

“(5)(A) After the date of the enactment of this paragraph, the Secretary may not enter into a reasonable cost reimbursement contract under this subsection (if the contract is not in effect as of such date), except for a contract with an eligible organization which, immediately previous to entering into such contract, had an agreement in effect under section 1833(a)(1)(A).

“(B) The Secretary may not extend or renew a reasonable cost reimbursement contract under this subsection for any period beyond December 31, 2002.”.

(B) REPORT ON IMPACT.—By not later than January 1, 2001, the Secretary of Health and Human Services shall submit to Congress a report that analyzes the potential impact of termination of reasonable cost reimbursement contracts, pursuant to the amendment made by subparagraph (A), on medicare beneficiaries enrolled under such contracts and on the medicare

program. The report shall include such recommendations regarding any extension or transition with respect to such contracts as the Secretary deems appropriate.

(c) ENROLLMENT TRANSITION RULE.—An individual who is enrolled on December 31, 1998, with an eligible organization under section 1876 of the Social Security Act (42 U.S.C. 1395mm) shall be considered to be enrolled with that organization on January 1, 1999, under part C of title XVIII of such Act if that organization has a contract under that part for providing services on January 1, 1999 (unless the individual has disenrolled effective on that date).

(d) ADVANCE DIRECTIVES.—Section 1866(f) (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "1855(i)," after "1833(s),", and

(B) by inserting ", Medicare+Choice organization," after "provider of services"; and

(2) in paragraph (2)(E), by inserting "or a Medicare+Choice organization" after "section 1833(a)(1)(A)".

(e) EXTENSION OF PROVIDER REQUIREMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(1) by striking "in the case of hospitals and skilled nursing facilities,";

(2) by striking "inpatient hospital and extended care";

(3) by inserting "with a Medicare+Choice organization under part C or" after "any individual enrolled";

(4) by striking "(in the case of hospitals) or limits (in the case of skilled nursing facilities)"; and

(5) by inserting "(less any payments under sections 1886(d)(11) and 1886(h)(3)(D))" after "under this title".

(f) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(g) IMMEDIATE EFFECTIVE DATE FOR CERTAIN REQUIREMENTS FOR DEMONSTRATIONS.—Section 1857(e)(2) of the Social Security Act (requiring contribution to certain costs related to the enrollment process comparative materials) applies to demonstrations with respect to which enrollment is effected or coordinated under section 1851 of such Act.

(h) TRANSITION RULE FOR PSO ENROLLMENT.—In applying subsection (g)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) to a risk-sharing contract entered into with an eligible organization that is a provider-sponsored organization (as defined in section 1855(d)(1) of such Act, as inserted by section 5001) for a contract year beginning on or after January 1, 1998, there shall be substituted for the minimum number of enrollees provided under such section the minimum number of enrollees permitted under section 1857(b)(1) of such Act (as so inserted).

(i) PUBLICATION OF NEW CAPITATION RATES.—Not later than 4 weeks after the date of the enactment of this Act, the Secretary of Health and Human Services shall announce the annual Medicare+Choice capitation rates for 1998 under section 1853(b) of the Social Security Act.

(j) ELIMINATION OF HEALTH CARE PREPAYMENT PLAN OPTION FOR ENTITIES ELIGIBLE TO PARTICIPATE AS MANAGED CARE ORGANIZATION.—

(1) ELIMINATION OF OPTION.—

(A) IN GENERAL.—Section 1833(a)(1)(A) (42 U.S.C. 1395l(a)(1)(A)) is amended by inserting "(and either is sponsored by a union or employer, or does not provide, or arrange for the provision of, any inpatient hospital services)" after "prepayment basis".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to new contracts entered into after the date of enactment of this Act and, with respect to contracts in effect as of such date, shall apply to payment for services furnished after December 31, 1998.

(2) MEDIGAP CONFORMING AMENDMENT.—Effective January 1, 1999, section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking ", during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1995,".

SEC. 4003. CONFORMING CHANGES IN MEDIGAP PROGRAM.

(a) CONFORMING AMENDMENTS TO MEDICARE+CHOICE CHANGES.—

(1) IN GENERAL.—Section 1882(d)(3)(A)(i) (42 U.S.C. 1395ss(d)(3)(A)(i)) is amended—

(A) in the matter before subclause (I), by inserting "(including an individual electing a Medicare+Choice plan under section 1851)" after "of this title"; and

(B) in subclause (II)—

(i) by inserting "in the case of an individual not electing a Medicare+Choice plan" after "(II)", and

(ii) by inserting before the comma at the end the following: "or in the case of an individual electing a Medicare+Choice plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the Medicare+Choice plan or under another medicare supplemental policy".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3)(B)(i)(I) (42 U.S.C. 1395ss(d)(3)(B)(i)(I)) is amended by inserting "(including any Medicare+Choice plan)" after "health insurance policies".

(3) MEDICARE+CHOICE PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "or a Medicare+Choice plan or" after "does not include".

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MSA PLANS AND PRIVATE FEE-FOR-SERVICE PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) It is unlawful for a person to sell or issue a policy described in paragraph (2) to an individual with knowledge that the individual has in effect under section 1851 an election of an MSA plan or a Medicare+Choice private fee-for-service plan.

"(2)(A) A policy described in this subparagraph is a health insurance policy (other than a policy described in subparagraph (B)) that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the MSA plan.

"(B) A policy described in this subparagraph is any of the following:

"(i) A policy that provides coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(ii) A policy of insurance to which substantially all of the coverage relates to—

"(I) liabilities incurred under workers' compensation laws,

"(II) tort liabilities,

"(III) liabilities relating to ownership or use of property, or

"(IV) such other similar liabilities as the Secretary may specify by regulations.

"(iii) A policy of insurance that provides coverage for a specified disease or illness.

"(iv) A policy of insurance that pays a fixed amount per day (or other period) of hospitalization.".

Subchapter B—Special Rules for Medicare+Choice Medical Savings Accounts

SEC. 4006. MEDICARE+CHOICE MSA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. MEDICARE+CHOICE MSA.

"(a) EXCLUSION.—Gross income shall not include any payment to the Medicare+Choice MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MEDICARE+CHOICE MSA.—For purposes of this section, the term 'Medicare+Choice MSA' means a medical savings account (as defined in section 220(d))—

"(1) which is designated as a Medicare+Choice MSA,

"(2) with respect to which no contribution may be made other than—

"(A) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(B) a trustee-to-trustee transfer described in subsection (c)(4),

"(3) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account, and

"(4) which is established in connection with an MSA plan described in section 1859(b)(3) of the Social Security Act.

"(c) SPECIAL RULES FOR DISTRIBUTIONS.—

"(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—In applying section 220 to a Medicare+Choice MSA—

"(A) qualified medical expenses shall not include amounts paid for medical care for any individual other than the account holder, and

"(B) section 220(d)(2)(C) shall not apply.

"(2) PENALTY FOR DISTRIBUTIONS FROM MEDICARE+CHOICE MSA NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a Medicare+Choice MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the Medicare+Choice MSA plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 220(f)(4) shall not apply to any payment or distribution from a Medicare+Choice MSA.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all Medicare+Choice MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a Medicare+Choice MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 220(f)(2) and paragraph (2) of this subsection shall not apply to any trustee-to-trustee transfer from a Medicare+Choice MSA of an account holder to another Medicare+Choice MSA of such account holder.

"(d) SPECIAL RULES FOR TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—In applying section 220(f)(8)(A) to an account which was a Medicare+Choice MSA of a decedent, the rules of section 220(f) shall apply in lieu of the rules of subsection (c) of this section with respect to the spouse as the account holder of such Medicare+Choice MSA.

"(e) REPORTS.—In the case of a Medicare+Choice MSA, the report under section 220(h)—

"(1) shall include the fair market value of the assets in such Medicare+Choice MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations.

"(f) COORDINATION WITH LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—Subsection (i) of section 220 shall not apply to an individual with respect to a Medicare+Choice MSA, and Medicare+Choice MSA's shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded.".

(b) TECHNICAL AMENDMENTS.—

(1) The last sentence of section 4973(d) of such Code is amended by inserting "or section 138(c)(3)" after "section 220(f)(3)".

(2) Subsection (b) of section 220 of such Code is amended by adding at the end the following new paragraph:

"(7) MEDICARE ELIGIBLE INDIVIDUALS.—The limitation under this subsection for any month with respect to an individual shall be zero for the first month such individual is entitled to benefits under title XVIII of the Social Security Act and for each month thereafter.".

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 138. Medicare+Choice MSA.
"Sec. 139. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

CHAPTER 2—DEMONSTRATIONS

Subchapter A—Medicare+Choice Competitive Pricing Demonstration Project

SEC. 4011. MEDICARE PREPAID COMPETITIVE PRICING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT OF PROJECT.—The Secretary of Health and Human Services (in this subchapter referred to as the "Secretary") shall establish a demonstration project (in this subchapter referred to as the "project") under which payments to Medicare+Choice organizations in medicare payment areas in which the project is being conducted are determined in accordance with a competitive pricing methodology established under this subchapter.

(b) DESIGNATION OF 7 MEDICARE PAYMENT AREAS COVERED BY PROJECT.—

(1) IN GENERAL.—The Secretary shall designate, in accordance with the recommendations of the Competitive Pricing Advisory Committee under paragraphs (2) and (3), medicare payment areas as areas in which the project under this subchapter will be conducted. In this section, the term "Competitive Pricing Advisory Committee" means the Competitive Pricing Advisory Committee established under section 4012(a).

(2) INITIAL DESIGNATION OF 4 AREAS.—

(A) IN GENERAL.—The Competitive Pricing Advisory Committee shall recommend to the Secretary, consistent with subparagraph (B), the designation of 4 specific areas as medicare payment areas to be included in the project. Such recommendations shall be made in a manner so as to ensure that payments under the project in 2 such areas will begin on January 1, 1999, and in 2 such areas will begin on January 1, 2000.

(B) LOCATION OF DESIGNATION.—Of the 4 areas recommended under subparagraph (A), 3 shall be in urban areas and 1 shall be in a rural area.

(3) DESIGNATION OF ADDITIONAL 3 AREAS.—Not later than December 31, 2001, the Competitive Pricing Advisory Committee may recommend to the Secretary the designation of up to 3 additional, specific medicare payment areas to be included in the project.

(c) PROJECT IMPLEMENTATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall for each medicare payment area designated under subsection (b)—

(A) in accordance with the recommendations of the Competitive Pricing Advisory Committee—

(i) establish the benefit design among plans offered in such area, and

(ii) structure the method for selecting plans offered in such area; and

(B) in consultation with such Committee—

(i) establish methods for setting the price to be paid to plans, including, if the Secretaries determines appropriate, the rewarding and penalizing of Medicare+Choice plans in the area on the basis of the attainment of, or failure to attain, applicable quality standards, and

(ii) provide for the collection of plan information (including information concerning quality and access to care), the dissemination of information, and the methods of evaluating the results of the project.

(2) CONSULTATION.—The Secretary shall take into account the recommendations of the area advisory committee established in section 4012(b), in implementing a project design for any area, except that no modifications may be made in the project design without consultation with the Competitive Pricing Advisory Committee. In no case may the Secretary change the designation of an area based on recommendations of any area advisory committee.

(d) MONITORING AND REPORT.—

(1) MONITORING IMPACT.—Taking into consideration the recommendations of the Competitive Pricing Advisory Committee and the area advisory committees, the Secretary shall closely monitor and measure the impact of the project in the different areas on the price and quality of, and access to, medicare covered services, choice of health plans, changes in enrollment, and other relevant factors.

(2) REPORT.—Not later than December 31, 2002, the Secretary shall submit to Congress a report on the progress under the project under this subchapter, including a comparison of the matters monitored under paragraph (1) among the different designated areas. The report may include any legislative recommendations for extending the project to the entire medicare population.

(e) WAIVER AUTHORITY.—The Secretary of Health and Human Services may waive such requirements of title XVIII of the Social Security Act (as amended by this Act) as may be necessary for the purposes of carrying out the project.

(f) RELATIONSHIP TO OTHER AUTHORITY.—Except pursuant to this subchapter, the Secretary of Health and Human Services may not conduct or continue any medicare demonstration project relating to payment of health maintenance organizations, Medicare+Choice organizations, or similar prepaid managed care entities on the basis of a competitive bidding process or pricing system described in subsection (a).

(g) NO ADDITIONAL COSTS TO MEDICARE PROGRAM.—The aggregate payments to Medicare+Choice organizations under the project for any designated area for a fiscal year may not exceed the aggregate payments to such organizations that would have been made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by section 4001, if the project had not been conducted.

(h) DEFINITIONS.—Any term used in this subchapter which is also used in part C of title XVIII of the Social Security Act, as amended by section 4001, shall have the same meaning as when used in such part.

SEC. 4012. ADVISORY COMMITTEES.

(a) COMPETITIVE PRICING ADVISORY COMMITTEE.—

(1) IN GENERAL.—Before implementing the project under this subchapter, the Secretary shall appoint the Competitive Pricing Advisory Committee, including independent actuaries, individuals with expertise in competitive health plan pricing, and an employee of the Office of Personnel Management with expertise in the administration of the Federal Employees Health Benefit Program, to make recommendations to the Secretary concerning the designation of areas for inclusion in the project and appropriate research design for implementing the project.

(2) INITIAL RECOMMENDATIONS.—The Competitive Pricing Advisory Committee initially shall submit recommendations regarding the area selection, benefit design among plans offered, structuring choice among health plans offered, methods for setting the price to be paid to plans, collection of plan information (including information concerning quality and access to care), information dissemination, and methods of evaluating the results of the project.

(3) QUALITY RECOMMENDATION.—The Competitive Pricing Advisory Committee shall study and make recommendations regarding the feasibility of providing financial incentives and penalties to plans operating under the project that meet, or fail to meet, applicable quality standards.

(4) ADVICE DURING IMPLEMENTATION.—Upon implementation of the project, the Competitive Pricing Advisory Committee shall continue to advise the Secretary on the application of the design in different areas and changes in the project based on experience with its operations.

(5) SUNSET.—The Competitive Pricing Advisory Committee shall terminate on December 31, 2004.

(b) APPOINTMENT OF AREA ADVISORY COMMITTEE.—Upon the designation of an area for inclusion in the project, the Secretary shall appoint an area advisory committee, composed of representatives of health plans, providers, and medicare beneficiaries in the area, to advise the Secretary concerning how the project will be implemented in the area. Such advice may include advice concerning the marketing and pricing of plans in the area and other salient factors. The duration of such a committee for an area shall be for the duration of the operation of the project in the area.

(c) SPECIAL APPLICATION.—Notwithstanding section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.), the Competitive Pricing Advisory Commission and any area advisory committee (described in subsection (b)) may meet as soon as the members of the commission or committee, respectively, are appointed.

Subchapter B—Social Health Maintenance Organizations

SEC. 4014. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS).

(a) EXTENSION OF DEMONSTRATION PROJECT AUTHORITIES.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (1), by striking "1997" and inserting "2000", and

(2) in paragraph (4), by striking "1998" and inserting "2001".

(b) EXPANSION OF CAP.—Section 13567(c) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "12,000" and inserting "36,000".

(c) REPORT ON INTEGRATION AND TRANSITION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under section 2355 of the Deficit Reduction Act of 1984 and under the amendment made by section 4207(b)(3)(B)(i) of OBRA–1990, respectively) and similar plans as an option under the Medicare+Choice program under part C of title XVIII of the Social Security Act.

(2) PROVISION FOR TRANSITION.—Such plan shall include a transition for social health maintenance organizations operating under demonstration project authority under such section.

(3) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

Subchapter C—Medicare Subvention Demonstration Project for Military Retirees

SEC. 4015. MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR MILITARY RETIREES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) (as amended by sections 4603 and 4801) is amended by adding at the end the following:

"MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR MILITARY RETIREES

"SEC. 1896. (a) DEFINITIONS.—In this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means the Secretary and the Secretary of Defense acting jointly.

"(2) DEMONSTRATION PROJECT; PROJECT.—The terms 'demonstration project' and 'project' mean the demonstration project carried out under this section.

"(3) DESIGNATED PROVIDER.—The term 'designated provider' has the meaning given that term in section 721(5) of the National Defense Authorization Act For Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2593; 10 U.S.C. 1073 note).

"(4) MEDICARE-ELIGIBLE MILITARY RETIREE OR DEPENDENT.—The term 'medicare-eligible military retiree or dependent' means an individual described in section 1074(b) or 1076(b) of title 10, United States Code, who—

"(A) would be eligible for health benefits under section 1086 of such title by reason of subsection (c)(1) of such section 1086 but for the operation of subsection (d) of such section 1086;

"(B)(i) is entitled to benefits under part A of this title; and

"(ii) if the individual was entitled to such benefits before July 1, 1997, received health care items or services from a health care facility of the uniformed services before that date, but after becoming entitled to benefits under part A of this title;

"(C) is enrolled for benefits under part B of this title; and

"(D) has attained age 65.

"(5) MEDICARE HEALTH CARE SERVICES.—The term 'medicare health care services' means items or services covered under part A or B of this title.

"(6) MILITARY TREATMENT FACILITY.—The term 'military treatment facility' means a facility referred to in section 1074(a) of title 10, United States Code.

"(7) TRICARE.—The term 'TRICARE' has the same meaning as the term 'TRICARE program' under section 711 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1073 note).

"(8) TRUST FUNDS.—The term 'trust funds' means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.

"(b) DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Defense, from the trust funds, for medicare health care services furnished to certain medicare-eligible military retirees or dependents in a military treatment facility or by a designated provider.

"(B) AGREEMENT.—The agreement entered into under subparagraph (A) shall include at a minimum—

"(i) a description of the benefits to be provided to the participants of the demonstration project established under this section;

"(ii) a description of the eligibility rules for participation in the demonstration project, including any cost sharing requirements;

"(iii) a description of how the demonstration project will satisfy the requirements under this title;

"(iv) a description of the sites selected under paragraph (2);

"(v) a description of how reimbursement requirements under subsection (i) and maintenance of effort requirements under subsection (j) will be implemented in the demonstration project;

"(vi) a statement that the Secretary shall have access to all data of the Department of Defense that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project;

"(vii) a description of any requirement that the Secretary waives pursuant to subsection (d); and

"(viii) a certification, provided after review by the administering Secretaries, that any entity that is receiving payments by reason of the demonstration project has sufficient—

"(I) resources and expertise to provide, consistent with payments under subsection (i), the full range of benefits required to be provided to beneficiaries under the project; and

"(II) information and billing systems in place to ensure the accurate and timely submission of claims for benefits and to ensure that providers of services, physicians, and other health care professionals are reimbursed by the entity in a timely and accurate manner.

"(2) NUMBER OF SITES.—The project established under this section shall be conducted in no more than 6 sites, designated jointly by the administering Secretaries after review of all TRICARE regions.

"(3) RESTRICTION.—No new military treatment facilities will be built or expanded with funds from the demonstration project.

"(4) DURATION.—The administering Secretaries shall conduct the demonstration project during the 3-year period beginning on January 1, 1998.

"(5) REPORT.—At least 60 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) to the committees of jurisdiction under this title.

"(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable Department of Defense medical appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year during which the payment is received.

"(d) WAIVER OF CERTAIN MEDICARE REQUIREMENTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), the demonstration project shall meet all requirements of Medicare+Choice plans under part C of this title and regulations pertaining thereto, and other requirements for receiving medicare payments, except that the prohibition of payments to Federal providers of services under sections 1814(c) and 1835(d), and paragraphs (2) and (3) of section 1862(a) shall not apply.

"(B) WAIVER.—Except as provided in paragraph (2), the Secretary is authorized to waive any requirement described under subparagraph (A), or approve equivalent or alternative ways of meeting such a requirement, but only if such waiver or approval—

"(i) reflects the unique status of the Department of Defense as an agency of the Federal Government; and

"(ii) is necessary to carry out the demonstration project.

"(2) BENEFICIARY PROTECTIONS AND OTHER MATTERS.—The demonstration project shall comply with the requirements of part C of this title that relate to beneficiary protections and other matters, including such requirements relating to the following areas:

"(A) Enrollment and disenrollment.

"(B) Nondiscrimination.

"(C) Information provided to beneficiaries.

"(D) Cost-sharing limitations.

"(E) Appeal and grievance procedures.

"(F) Provider participation.

"(G) Access to services.

"(H) Quality assurance and external review.

"(I) Advance directives.

"(J) Other areas of beneficiary protections that the Secretary determines are applicable to such project.

"(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

"(f) VOLUNTARY PARTICIPATION.—Participation of medicare-eligible military retirees or dependents in the demonstration project shall be voluntary.

"(g) TRICARE HEALTH CARE PLANS.—

"(1) MODIFICATION OF TRICARE CONTRACTS.—In carrying out the demonstration project, the Secretary of Defense is authorized to amend existing TRICARE contracts (including contracts with designated providers) in order to provide *the medicare health care services to the medicare-eligible military retirees and dependents enrolled in the demonstration project consistent with part C of this title.*

"(2) HEALTH CARE BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to medicare-eligible military retirees or dependents enrolled in the plan. Those benefits shall include at least all medicare health care services covered under this title.

"(h) ADDITIONAL PLANS.—Notwithstanding any provisions of title 10, United States Code, the administering Secretaries may agree to include in the demonstration project any of the Medicare+Choice plans described in section 1851(a)(2)(A), and such agreement may include an agreement between the Secretary of Defense and the Medicare+Choice organization offering such plan to provide medicare health care services to medicare-eligible military retirees or dependents and for such Secretary to receive payments from such organization for the provision of such services.

"(i) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Defense for services provided under the demonstration project at a rate equal to 95 percent of the amount paid to a Medicare+Choice organization under part C of this title with respect to such an enrollee. In cases in which a payment amount may not otherwise be readily computed, the Secretary shall establish rules for computing equivalent or comparable payment amounts.

"(2) EXCLUSION OF CERTAIN AMOUNTS.—In computing the amount of payment under paragraph (1), the following shall be excluded:

"(A) SPECIAL PAYMENTS.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

"(B) PERCENTAGE OF CAPITAL PAYMENTS.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

"(3) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

"(A) on a periodic basis consistent with the periodicity of payments under this title; and

"(B) in appropriate part, as determined by the Secretary, from the trust funds.

"(4) CAP ON AMOUNT.—The aggregate amount to be reimbursed under this subsection pursuant to the agreement entered into between the administering Secretaries under subsection (b) shall not exceed a total of—

"(A) $50,000,000 for calendar year 1998;

"(B) $60,000,000 for calendar year 1999; and

"(C) $65,000,000 for calendar year 2000.

"(j) MAINTENANCE OF EFFORT.—

"(1) MONITORING EFFECT OF DEMONSTRATION PROGRAM ON COSTS TO MEDICARE PROGRAM.—

"(A) IN GENERAL.—The administering Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for medicare-eligible military retirees or dependents during the period of the demonstration project compared to the expenditures that would have been made for such medicare-eligible military retirees or dependents during that period if the demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require any participating military treatment facility to maintain the level of effort for space available care to medicare-eligible military retirees or dependents.

"(B) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the administering Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

"(2) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

"(A) IN GENERAL.—If the administering Secretaries find, based on paragraph (1), that the expenditures under the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

"(i) to recoup for the medicare program the amount of such increase in expenditures; and

"(ii) to prevent any such increase in the future.

"(B) STEPS.—Such steps—

"(i) under subparagraph (A)(i) shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds; and

"(ii) under subparagraph (A)(ii) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under subsection (i)(1).

"(k) EVALUATION AND REPORTS.—

"(1) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the demonstration project, and shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

"(A) Any savings or costs to the medicare program under this title resulting from the demonstration project.

"(B) The cost to the Department of Defense of providing care to medicare-eligible military retirees and dependents under the demonstration project.

"(C) A description of the effects of the demonstration project on military treatment facility readiness and training and the probable effects of the project on overall Department of Defense medical readiness and training.

"(D) Any impact of the demonstration project on access to care for active duty military personnel and their dependents.

"(E) An analysis of how the demonstration project affects the overall accessibility of the uniformed services treatment system and the amount of space available for point-of-service care, and a description of the unintended effects (if any) upon the normal treatment priority system.

"(F) Compliance by the Department of Defense with the requirements under this title.

"(G) The number of medicare-eligible military retirees and dependents opting to participate in the demonstration project instead of receiving health benefits through another health insurance plan (including benefits under this title).

"(H) A list of the health insurance plans and programs that were the primary payers for medicare-eligible military retirees and dependents during the year prior to their participation in the demonstration project and the distribution of their previous enrollment in such plans and programs.

"(I) Any impact of the demonstration project on private health care providers and beneficiaries under this title that are not enrolled in the demonstration project.

"(J) An assessment of the access to care and quality of care for medicare-eligible military retirees and dependents under the demonstration project.

"(K) An analysis of whether, and in what manner, easier access to the uniformed services treatment system affects the number of medicare-eligible military retirees and dependents receiving medicare health care services.

"(L) Any impact of the demonstration project on the access to care for medicare-eligible military retirees and dependents who did not enroll in the demonstration project and for other individuals entitled to benefits under this title.

"(M) A description of the difficulties (if any) experienced by the Department of Defense in managing the demonstration project and TRICARE contracts.

"(N) Any additional elements specified in the agreement entered into under subsection (b).

"(O) Any additional elements that the Comptroller General of the United States determines is appropriate to assess regarding the demonstration project.

"(2) REPORT ON EXTENSION AND EXPANSION OF DEMONSTRATION PROJECT.—Not later than 6 months after the date of the submission of the final report by the Comptroller General of the United States under paragraph (1), the administering Secretaries shall submit to Congress a report containing their recommendation as to—

"(A) whether there is a cost to the health care program under this title in conducting the demonstration project, and whether the demonstration project could be expanded without there being a cost to such health care program or to the Federal Government;

"(B) whether to extend the demonstration project or make the project permanent; and

"(C) whether the terms and conditions of the project should be continued (or modified) if the project is extended or expanded.".

(b) IMPLEMENTATION PLAN FOR VETERANS SUBVENTION.—Not later than 12 months after the start of the demonstration project, the Secretary of Health and Human Services and the Secretary of Veterans Affairs shall jointly submit to Congress a detailed implementation plan for a subvention demonstration project (that follows the model of the demonstration project conducted under section 1896 of the Social Security Act (as added by subsection (a)) to begin in 1999 for veterans (as defined in section 101 of title 38, United States Code) that are eligible for benefits under title XVIII of the Social Security Act.

Subchapter D—Other Projects

SEC. 4016. MEDICARE COORDINATED CARE DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects for the purpose of evaluating methods, such as case management and other models of coordinated care, that—

(A) improve the quality of items and services provided to target individuals; and

(B) reduce expenditures under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for items and services provided to target individuals.

(2) TARGET INDIVIDUAL DEFINED.—In this section, the term "target individual" means an individual that has a chronic illness, as defined and identified by the Secretary, and is enrolled under the fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.; 1395j et seq.).

(b) PROGRAM DESIGN.—

(1) INITIAL DESIGN.—The Secretary shall evaluate best practices in the private sector of methods of coordinated care for a period of 1

year and design the demonstration project based on such evaluation.

(2) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall implement at least 9 demonstration projects, including—

(A) 5 projects in urban areas;

(B) 3 projects in rural areas; and

(C) 1 project within the District of Columbia which is operated by a nonprofit academic medical center that maintains a National Cancer Institute certified comprehensive cancer center.

(3) EXPANSION OF PROJECTS; IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—

(A) EXPANSION OF PROJECTS.—If the initial report under subsection (c) contains an evaluation that demonstration projects—

(i) reduce expenditures under the medicare program; or

(ii) do not increase expenditures under the medicare program and increase the quality of health care services provided to target individuals and satisfaction of beneficiaries and health care providers;

the Secretary shall continue the existing demonstration projects and may expand the number of demonstration projects.

(B) IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—If a report under subsection (c) contains an evaluation as described in subparagraph (A), the Secretary may issue regulations to implement, on a permanent basis, the components of the demonstration project that are beneficial to the medicare program.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the Secretary implements the initial demonstration projects under this section, and biannually thereafter, the Secretary shall submit to Congress a report regarding the demonstration projects conducted under this section.

(2) CONTENTS OF REPORT.—The report in paragraph (1) shall include the following:

(A) A description of the demonstration projects conducted under this section.

(B) An evaluation of—

(i) the cost-effectiveness of the demonstration projects;

(ii) the quality of the health care services provided to target individuals under the demonstration projects; and

(iii) beneficiary and health care provider satisfaction under the demonstration project.

(C) Any other information regarding the demonstration projects conducted under this section that the Secretary determines to be appropriate.

(d) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(e) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—

(i) STATE PROJECTS.—Except as provided in clause (ii), the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t), in such proportions as the Secretary determines to be appropriate, of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(ii) CANCER HOSPITAL.—In the case of the project described in subsection (b)(2)(C), amounts shall be available only as provided in any Federal law making appropriations for the District of Columbia.

(B) LIMITATION.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary would have paid if the demonstration projects under this section were not implemented.

(2) EVALUATION AND REPORT.—There are authorized to be appropriated such sums as are necessary for the purpose of developing and submitting the report to Congress under subsection (c).

SEC. 4017. ORDERLY TRANSITION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989 and section 13557 of OBRA–1993, is further amended—

(1) by inserting "(a)" before "The Secretary", and

(2) by adding at the end the following: "Subject to subsection (c), the Secretary may further extend such demonstration projects through December 31, 2000, but only with respect to individuals who received at least one service during the period beginning on January 1, 1996, and ending on the date of the enactment of the Balanced Budget Act of 1997.

"(b) The Secretary shall work with each such demonstration project to develop a plan, to be submitted to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate by March 31, 1998, for the orderly transition of demonstration projects and the project participants to a non-demonstration project health care delivery system, such as through integration with a private or public health plan, including a medicaid managed care or Medicare+Choice plan.

"(c) A demonstration project under subsection (a) which does not develop and submit a transition plan under subsection (b) by March 31, 1998, or, if later, 6 months after the date of the enactment of the Balanced Budget Act of 1997, shall be discontinued as of December 31, 1998. The Secretary shall provide appropriate technical assistance to assist in the transition so that disruption of medical services to project participants may be minimized.".

SEC. 4018. MEDICARE ENROLLMENT DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—

(1) ESTABLISHMENT.—The Secretary shall implement a demonstration project (in this section referred to as the "project") for the purpose of evaluating the use of a third-party contractor to conduct the Medicare+Choice plan enrollment and disenrollment functions, as described in part C of title XVIII of the Social Security Act (as added by section 4001 of this Act), in an area.

(2) CONSULTATION.—Before implementing the project under this section, the Secretary shall consult with affected parties on—

(A) the design of the project;

(B) the selection criteria for the third-party contractor; and

(C) the establishment of performance standards, as described in paragraph (3).

(3) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—The Secretary shall establish performance standards for the accuracy and timeliness of the Medicare+Choice plan enrollment and disenrollment functions performed by the third-party contractor.

(B) NONCOMPLIANCE.—In the event that the third-party contractor is not in substantial compliance with the performance standards established under subparagraph (A), such enrollment and disenrollment functions shall be performed by the Medicare+Choice plan until the Secretary appoints a new third-party contractor.

(b) REPORT TO CONGRESS.—The Secretary shall periodically report to Congress on the progress of the project conducted pursuant to this section.

(c) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of part C of title XVIII of the Social Security Act (as amended by section 4001 of this Act) to such extent and for such period as the Secretary determines is necessary to conduct the project.

(d) DURATION.—A demonstration project under this section shall be conducted for a 3-year period.

(e) SEPARATE FROM OTHER DEMONSTRATION PROJECTS.—A project implemented by the Secretary under this section shall not be conducted in conjunction with any other demonstration project.

SEC. 4019. EXTENSION OF CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, demonstration projects conducted under section 4079 of the Omnibus Budget Reconciliation Act of 1987 may be conducted for an additional period of 2 years, and the deadline for any report required relating to the results of such projects shall be not later than 6 months before the end of such additional period.

CHAPTER 3—COMMISSIONS

SEC. 4021. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicare (in this section referred to as the "Commission").

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(2) identify problems that threaten the financial integrity of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under that title (42 U.S.C. 1395i, 1395t), including—

(A) the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) the extent to which current medicare update indexes do not accurately reflect inflation;

(3) analyze potential solutions to the problems identified under paragraph (2) that will ensure both the financial integrity of the medicare program and the provision of appropriate benefits under such program, including methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals and trends in employment-related health care for retirees;

(4) make recommendations to restore the solvency of the Federal Hospital Insurance Trust Fund and the financial integrity of the Federal Supplementary Medical Insurance Trust Fund;

(5) make recommendations for establishing the appropriate financial structure of the medicare program as a whole;

(6) make recommendations for establishing the appropriate balance of benefits covered and beneficiary contributions to the medicare program;

(7) make recommendations for the time periods during which the recommendations described in paragraphs (4), (5), and (6) should be implemented;

(8) make recommendations regarding the financing of graduate medical education (GME), including consideration of alternative broad-based sources of funding for such education and funding for institutions not currently eligible for such GME support that conduct approved graduate medical residency programs, such as children's hospitals;

(9) make recommendations on modifying age-based eligibility to correspond to changes in age-

based eligibility under the OASDI program and on the feasibility of allowing individuals between the age of 62 and the medicare eligibility age to buy into the medicare program;

(10) make recommendations on the impact of chronic disease and disability trends on future costs and quality of services under the current benefit, financing, and delivery system structure of the medicare program;

(11) make recommendations regarding a comprehensive approach to preserve the program; and

(12) review and analyze such other matters as the Commission deems appropriate.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, of whom—

(A) four shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party;

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party; and

(D) one, who shall serve as Chairman of the Commission, appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed by not later than December 1, 1997.

(3) TERMS OF APPOINTMENT.—The term of any appointment under paragraph (1) to the Commission shall be for the life of the Commission.

(4) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(5) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(6) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy and shall not affect the power of the remaining members to execute the duties of the Commission.

(7) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairman shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF HCFA.—

(A) The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than March 1, 1999, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of only those recommendations, findings, and conclusions of the Commission that receive the approval of at least 11 members of the Commission.

(g) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund under title XVIII of the Social Security Act (42 U.S.C. 1395i, 1395t).

SEC. 4022. MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT ADVISORY COMMISSION

"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Advisory Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

"(A) review payment policies under this title, including the topics described in paragraph (2);

"(B) make recommendations to Congress concerning such payment policies;

"(C) by not later than March 1 of each year (beginning with 1998), submit a report to Congress containing the results of such reviews and its recommendations concerning such policies; and

"(D) by not later than June 1 of each year (beginning with 1998), submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(2) SPECIFIC TOPICS TO BE REVIEWED.—

"(A) MEDICARE+CHOICE PROGRAM.—Specifically, the Commission shall review, with respect to the Medicare+Choice program under part C, the following:

"(i) The methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas.

"(ii) The mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries.

"(iii) The implications of risk selection both among Medicare+Choice organizations and between the Medicare+Choice option and the original medicare fee-for-service option.

"(iv) The development and implementation of mechanisms to assure the quality of care for those enrolled with Medicare+Choice organizations.

"(v) The impact of the Medicare+Choice program on access to care for medicare beneficiaries.

"(vi) Other major issues in implementation and further development of the Medicare+Choice program.

"(B) ORIGINAL MEDICARE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(i) the factors affecting expenditures for services in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees,

"(ii) payment methodologies, and

"(iii) their relationship to access and quality of care for medicare beneficiaries.

"(C) INTERACTION OF MEDICARE PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically, the Commission shall review the effect of payment policies under this title on the delivery of health care services other than under this title and assess the implications of changes in health care delivery in the United

States and in the general market for health care services on the medicare program.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under this title, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title as may be requested by such chairmen and members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(B) INCLUSION.—The membership of the Commission shall include (but not be limited to) physicians and other health professionals, employers, third-party payers, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under this title shall not constitute a majority of the membership of the Commission.

"(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sixty percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Advisory Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w-1).

(B) ELIMINATION OF CERTAIN REPORTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(i) by striking subparagraph (F) of subsection (d)(2),

(ii) by striking subparagraph (B) of subsection (f)(1), and

(iii) in subsection (f)(3), by striking "Physician Payment Review Commission,".

(C) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Advisory Commission" each place it appears in subsections (c)(2)(B)(iii), (g)(6)(C), and (g)(7)(C).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Advisory Commission (in this subsection referred to as "MedPAC") by not later than September 30, 1997.

(2) TRANSITION.—As quickly as possible after the date a majority of members of MedPAC are first appointed, the Comptroller General, in consultation with the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), shall provide for the termination of the ProPAC and the PPRC. As of the date of termination of the respective Commissions, the amendments made by paragraphs (1) and (2), respectively, of subsection (b) become effective. The Comptroller General, to the extent feasible, shall provide for the transfer to the MedPAC of assets and staff of the ProPAC and the PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or the PPRC for any period shall be available to the MedPAC for such period for like purposes.

(3) Continuing responsibility for reports.—The MedPAC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MedPAC) by the ProPAC and the PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MedPAC, to refer to the MedPAC.

CHAPTER 4—MEDIGAP PROTECTIONS

SEC. 4031. MEDIGAP PROTECTIONS.

(a) Guaranteeing Issue Without Preexisting Conditions for Continuously Covered Individuals.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "this subsection",

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The issuer of a medicare supplemental policy—

"(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C) that is offered and is available for issuance to new enrollees by such issuer;

"(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

"(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

"(B) An individual described in this subparagraph is an individual described in any of the following clauses:

"(i) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide all such supplemental health benefits to the individual.

"(ii) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C, and there are circumstances permitting discontinuance of the individual's election of the plan under the first sentence of section 1851(e)(4).

"(iii) The individual is enrolled with an eligible organization under a contract under section 1876, a similar organization operating under demonstration project authority, effective for periods before April 1, 1999, with an organization under an agreement under section 1833(a)(1)(A), or with an organization under a policy described in subsection (t), and such enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of section 1851(e)(4) and, in the case of a policy described in subsection (t), there is no provision under applicable State law for the continuation or conversion of coverage under such policy.

"(iv) The individual is enrolled under a medicare supplemental policy under this section and such enrollment ceases because—

"(I) of the bankruptcy or insolvency of the issuer or because of other involuntary termination of coverage or enrollment under such policy and there is no provision under applicable State law for the continuation or conversion of such coverage;

"(II) the issuer of the policy substantially violated a material provision of the policy; or

"(III) the issuer (or an agent or other entity acting on the issuer's behalf) materially misrepresented the policy's provisions in marketing the policy to the individual.

"(v) The individual—

"(I) was enrolled under a medicare supplemental policy under this section,

"(II) subsequently terminates such enrollment and enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under part C, any eligible organization under a contract under section 1876, any similar organization operating under demonstration project authority, or any policy described in subsection (t), and

"(III) the subsequent enrollment under subclause (II) is terminated by the enrollee during any period within the first 12 months of such enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e)).

"(vi) The individual, upon first becoming eligible for benefits under part A at age 65, enrolls in a Medicare+Choice plan under part C, and disenrolls from such plan by not later than 12 months after the effective date of such enrollment.

"(C)(i) Subject to clauses (ii) and (iii), a medicare supplemental policy described in this subparagraph is a medicare supplemental policy which has a benefit package classified as 'A', 'B', 'C', or 'F' under the standards established under subsection (p)(2).

"(ii) Only for purposes of an individual described in subparagraph (B)(v), a medicare supplemental policy described in this subparagraph is the same medicare supplemental policy referred to in such subparagraph in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in clause (i).

"(iii) Only for purposes of an individual described in subparagraph (B)(vi), a medicare supplemental policy described in this subparagraph shall include any medicare supplemental policy.

"(iv) For purposes of applying this paragraph in the case of a State that provides for offering of benefit packages other than under the classification referred to in clause (i), the references to benefit packages in such clause are deemed references to comparable benefit packages offered in such State.

"(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual under this paragraph, and obligations of issuers of medicare supplemental policies, under subparagraph (A).".

(b) Limitation on Imposition of Preexisting Condition Exclusion During Initial Open Enrollment Period.—Section 1882(s)(2) (42 U.S.C. 1395ss(s)(2)) is amended—

(1) in subparagraph (B), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) In the case of a policy issued during the 6-month period described in subparagraph (A) to an individual who is 65 years of age or older as of the date of issuance and who as of the date of the application for enrollment has a continuous period of creditable coverage (as defined in 2701(c) of the Public Health Service Act) of—

"(i) at least 6 months, the policy may not exclude benefits based on a pre-existing condition; or

"(ii) less than 6 months, if the policy excludes benefits based on a preexisting condition, the policy shall reduce the period of any preexisting condition exclusion by the aggregate of the periods of creditable coverage (if any, as so defined) applicable to the individual as of the enrollment date.

The Secretary shall specify the manner of the reduction under clause (ii), based upon the rules used by the Secretary in carrying out section 2701(a)(3) of such Act.".

(c) Conforming Amendment.—Section 1882(d)(3)(A)(vi)(III) (42 U.S.C. 1395ss(d)(2)(A)(vi)(III)) is amended by inserting ", a policy described in clause (v)," after "Medicare supplemental policy".

(d) Effective Dates.—

(1) Guaranteed issue.—The amendment made by subsection (a) shall take effect on July 1, 1998.

(2) Limit on preexisting condition exclusions.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1998.

(3) Conforming amendment.—The amendment made by subsection (c) shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(e) Transition Provisions.—

(1) In general.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC standards.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) Secretary standards.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) Date specified.—

(A) In general.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) Additional legislative action required.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1999 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1999. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(f) CONFORMING BENEFITS TO CHANGES IN TERMINOLOGY FOR HOSPITAL OUTPATIENT DEPARTMENT COST SHARING.—For purposes of apply section 1882 of the Social Security Act (42 U.S.C. 1395ss) and regulations referred to in subsection (e), copayment amounts provided under section 1833(t)(5) of such Act with respect to hospital outpatient department services shall be treated under medicare supplemental policies in the same manner as coinsurance with respect to such services.

SEC. 4032. ADDITION OF HIGH DEDUCTIBLE MEDIGAP POLICIES.

(a) IN GENERAL.—Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(1) in paragraph (2)(C), by inserting "plus the 2 plans described in paragraph (11)(A)" after "exceed 10"; and

(2) by adding at the end the following:

"(11)(A) For purposes of paragraph (2), the benefit packages described in this subparagraph are as follows:

"(i) The benefit package classified as 'F' under the standards established by such paragraph, except that it has a high deductible feature.

"(ii) The benefit package classified as 'J' under the standards established by such paragraph, except that it has a high deductible feature.

"(B) For purposes of subparagraph (A), a high deductible feature is one which—

"(i) requires the beneficiary of the policy to pay annual out-of-pocket expenses (other than premiums) in the amount specified in subparagraph (C) before the policy begins payment of benefits, and

"(ii) covers 100 percent of covered out-of-pocket expenses once such deductible has been satisfied in a year.

"(C) The amount specified in this subparagraph—

"(i) for 1998 and 1999 is $1,500, and

"(ii) for a subsequent year, is the amount specified in this subparagraph for the previous year increased by the percentage increase in the Consumer Price Index for all urban consumers (all items; U.S. city average) for the 12-month period ending with August of the preceding year.

If any amount determined under clause (ii) is not a multiple of $10, it shall be rounded to the nearest multiple of $10.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect the date of the enactment of this Act.

(2) TRANSITION.—The provisions of section 4031(e) shall apply with respect to this section in the same manner as they apply to section 4031.

CHAPTER 5—TAX TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 4041. TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853(e) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Prevention Initiatives

SEC. 4101. SCREENING MAMMOGRAPHY.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 39.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iii), to read as follows:

"(iii) In the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed."; and

(2) by striking clauses (iv) and (v).

(b) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and" before "(4)", and

(2) by inserting before the period at the end the following: ", and (5) such deductible shall not apply with respect to screening mammography (as described in section 1861(jj))".

(c) CONFORMING AMENDMENT.—Section 1834(c)(1)(C) (42 U.S.C. 1395m(c)(1)(C)) is amended by striking ", subject to the deductible established under section 1833(b),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4102. SCREENING PAP SMEAR AND PELVIC EXAMS.

(a) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(1) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(2) by inserting "or vaginal" after "cervical" each place it appears;

(3) by striking "(nn)" and inserting "(nn)(1)";

(4) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(5) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means a pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has had a test described in this subsection during any of the preceding 3 years that indicated the presence of cervical or vaginal cancer or other abnormality; or

"(B) is at high risk of developing cervical or vaginal cancer (as determined pursuant to factors identified by the Secretary).".

(b) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by section 4101(b), is amended—

(1) by striking "and" before "(5)", and

(2) by inserting before the period at the end the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn))".

(c) CONFORMING AMENDMENTS.—Sections 1861(s)(14) and 1862(a)(1)(F) (42 U.S.C. 1395x(s)(14), 1395y(a)(1)(F)) are each amended by inserting "and screening pelvic exam" after "screening pap smear".

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by striking "and (4)" and inserting "(4) and (14) (with respect to services described in section 1861(nn)(2))".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4103. PROSTATE CANCER SCREENING TESTS.

(a) COVERAGE.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraphs (N) and (O), and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and"; and

(2) by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo)(1) The term 'prostate cancer screening test' means a test that consists of any (or all) of the procedures described in paragraph (2) provided for the purpose of early detection of prostate cancer to a man over 50 years of age who has not had such a test during the preceding year.

"(2) The procedures described in this paragraph are as follows:

"(A) A digital rectal examination.

"(B) A prostate-specific antigen blood test.

"(C) For years beginning after 2002, such other procedures as the Secretary finds appropriate for the purpose of early detection of prostate cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.".

(b) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(c) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking "and" at the end,

(B) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(G) in the case of prostate cancer screening tests (as defined in section 1861(oo)), which are performed more frequently than is covered under such section;"; and

(2) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)), as amended by section 4102, is amended by inserting ", (2)(P) (with respect to services described in subparagraphs (A) and (C) of section 1861(oo)(2)," after "(2)(G)" *(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2000.*

SEC. 4104. COVERAGE OF COLORECTAL SCREENING.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by section 4103(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (P);

(ii) by adding "and" at the end of subparagraph (Q); and

(iii) by adding at the end the following new subparagraph:

"(R) colorectal cancer screening tests (as defined in subsection (pp)); and"; and

(B) by adding at the end the following new subsection:

"Colorectal Cancer Screening Tests

"(pp)(1) The term 'colorectal cancer screening test' means any of the following procedures furnished to an individual for the purpose of early detection of colorectal cancer:

"(A) Screening fecal-occult blood test.

"(B) Screening flexible sigmoidoscopy.

"(C) In the case of an individual at high risk for colorectal cancer, screening colonoscopy.

"(D) Such other tests or procedures, and modifications to tests and procedures under this subsection, with such frequency and payment limits, as the Secretary determines appropriate, in consultation with appropriate organizations.

"(2) In paragraph (1)(C), an 'individual at high risk for colorectal cancer' is an individual who, because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease, or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer, or other predisposing factors, faces a high risk for colorectal cancer.".

(2) DEADLINE FOR PUBLICATION OF DETERMINATION ON COVERAGE OF SCREENING BARIUM ENEMA.—Not later than the earlier of the date that is January 1, 1998, or 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish notice in the Federal Register with respect to the determination under paragraph (1)(D) of section 1861(pp) of the Social Security Act (42 U.S.C. 1395x(pp)), as added by paragraph (1), on the coverage of a screening barium enema as a colorectal cancer screening test under such section.

(b) FREQUENCY LIMITS AND PAYMENT.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY LIMITS AND PAYMENT FOR COLORECTAL CANCER SCREENING TESTS.—

"(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

"(A) PAYMENT AMOUNT.—The payment amount for colorectal cancer screening tests consisting of screening fecal-occult blood tests is equal to the payment amount established for diagnostic fecal-occult blood tests under section 1833(h).

"(B) FREQUENCY LIMIT.—No payment may be made under this part for a colorectal cancer screening test consisting of a screening fecal-occult blood test—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) FEE SCHEDULE.—With respect to colorectal cancer screening tests consisting of screening flexible sigmoidoscopies, payment under section 1848 shall be consistent with payment under such section for similar or related services.

"(B) PAYMENT LIMIT.—In the case of screening flexible sigmoidoscopy services, payment under this part shall not exceed such amount as the Secretary specifies, based upon the rates recognized for diagnostic flexible sigmoidoscopy services.

"(C) FACILITY PAYMENT LIMIT.—

"(i) IN GENERAL.—Notwithstanding subsections (i)(2)(A) and (t) of section 1833, in the case of screening flexible sigmoidoscopy services furnished on or after January 1, 1999, that—

"(I) in accordance with regulations, may be performed in an ambulatory surgical center and for which the Secretary permits ambulatory surgical center payments under this part, and

"(II) are performed in an ambulatory surgical center or hospital outpatient department,

payment under this part shall be based on the lesser of the amount under the fee schedule that would apply to such services if they were performed in a hospital outpatient department in an area or the amount under the fee schedule that would apply to such services if they were performed in an ambulatory surgical center in the same area.

"(ii) LIMITATION ON DEDUCTIBLE AND COINSURANCE.—Notwithstanding any other provision of this title, in the case of a beneficiary who receives the services described in clause (i)—

"(I) in computing the amount of any applicable deductible or copayment, the computation of such deductible or coinsurance shall be based upon the fee schedule under which payment is made for the services, and

"(II) the amount of such coinsurance is equal to 25 percent of the payment amount under the fee schedule described in subclause (I).

"(D) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening flexible sigmoidoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening flexible sigmoidoscopy but shall be made for the procedure classified as a flexible sigmoidoscopy with such biopsy or removal.

"(E) FREQUENCY LIMIT.—No payment may be made under this part for a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 47 months after a previous screening flexible sigmoidoscopy.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) FEE SCHEDULE.—With respect to colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer (as defined in section 1861(pp)(2)), payment under section 1848 shall be consistent with payment amounts under such section for similar or related services.

"(B) PAYMENT LIMIT.—In the case of screening colonoscopy services, payment under this part shall not exceed such amount as the Secretary specifies, based upon the rates recognized for diagnostic colonoscopy services.

"(C) FACILITY PAYMENT LIMIT.—

"(i) IN GENERAL.—Notwithstanding subsections (i)(2)(A) and (t) of section 1833, in the case of screening colonoscopy services furnished on or after January 1, 1999, that are performed in an ambulatory surgical center or a hospital outpatient department, payment under this part shall be based on the lesser of the amount under the fee schedule that would apply to such services if they were performed in a hospital outpatient department in an area or the amount under the fee schedule that would apply to such services if they were performed in an ambulatory surgical center in the same area.

"(ii) LIMITATION ON DEDUCTIBLE AND COINSURANCE.—Notwithstanding any other provision of this title, in the case of a beneficiary who receives the services described in clause (i)—

"(I) in computing the amount of any applicable deductible or coinsurance, the computation of such deductible or coinsurance shall be based upon the fee schedule under which payment is made for the services, and

"(II) the amount of such coinsurance is equal to 25 percent of the payment amount under the fee schedule described in subclause (I).

"(D) SPECIAL RULE FOR DETECTED LESIONS.—If during the course of such screening colonoscopy, a lesion or growth is detected which results in a biopsy or removal of the lesion or growth, payment under this part shall not be made for the screening colonoscopy but shall be made for the procedure classified as a colonoscopy with such biopsy or removal.

"(E) FREQUENCY LIMIT.—No payment may be made under this part for a colorectal cancer screening test consisting of a screening colonoscopy for individuals at high risk for colorectal cancer if the procedure is performed within the 23 months after a previous screening colonoscopy.".

(c) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)(1)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to section 1834(d)(1), the Secretary".

(3) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 4103(c), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)), as amended by sections 4102 and 4103, is amended by inserting "(2)(R) (with respect to services described in subparagraphs (B) , (C), and (D) of section 1861(pp)(1))," before "(3)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4105. DIABETES SELF-MANAGEMENT BENEFITS.

(a) COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a) and 4104(a), is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (Q);

(ii) by adding "and" at the end of subparagraph (R); and

(iii) by adding at the end the following new subparagraph:

"(S) diabetes outpatient self-management training services (as defined in subsection (qq)); and"; and

(B) by adding at the end the following new subsection:

"Diabetes Outpatient Self-Management Training Services

"(qq)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished (at such times as the Secretary determines appropriate) to an individual with diabetes by a certified provider (as described in paragraph

(2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to ensure therapy compliance or to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is a physician, or other individual or entity designated by the Secretary, that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) a physician, or such other individual or entity, meets the quality standards described in this paragraph if the physician, or individual or entity, meets quality standards established by the Secretary, except that the physician or other individual or entity shall be deemed to have met such standards if the physician or other individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by an organization that represents individuals (including individuals under this title) with diabetes as meeting standards for furnishing the services.".

(2) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) as amended in sections 4102, 4103, and 4104, is amended by inserting "(2)(S)," before "(3),".

(3) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848 of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including such organizations representing individuals or medicare beneficiaries with diabetes.

(b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(1) INCLUDING STRIPS AND MONITORS AS DURABLE MEDICAL EQUIPMENT.—The first sentence of section 1861(n) (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes blood-testing strips and blood glucose monitors for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes or to the individual's use of insulin (as determined under standards established by the Secretary in consultation with the appropriate organizations)".

(2) 10 PERCENT REDUCTION IN PAYMENTS FOR TESTING STRIPS.—Section 1834(a)(2)(B)(iv) (42 U.S.C. 1395m(a)(2)(B)(iv)) is amended by adding before the period the following: "(reduced by 10 percent, in the case of a blood glucose testing strip furnished after 1997 for an individual with diabetes)".

(c) ESTABLISHMENT OF OUTCOME MEASURES FOR BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations, shall establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of medicare beneficiaries with diabetes mellitus.

(2) RECOMMENDATIONS FOR MODIFICATIONS TO SCREENING BENEFITS.—Taking into account information on the health status of medicare beneficiaries with diabetes mellitus as measured under the outcome measures established under paragraph (1), the Secretary shall from time to time submit recommendations to Congress regarding modifications to the coverage of services for such beneficiaries under the medicare program.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to items and services furnished on or after July 1, 1998.

(2) TESTING STRIPS.—The amendment made by subsection (b)(2) shall apply with respect to blood glucose testing strips furnished on or after January 1, 1998.

SEC. 4106. STANDARDIZATION OF MEDICARE COVERAGE OF BONE MASS MEASUREMENTS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a), 4104(a), and 4105(a), is amended—

(1) in subsection (s)—

(A) in paragraph (12)(C), by striking "and" at the end,

(B) by striking the period at the end of paragraph (14) and inserting "; and",

(C) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively, and

(D) by inserting after paragraph (14) the following new paragraph:

"(15) bone mass measurement (as defined in subsection (rr)).''; and

(2) by inserting after subsection (qq) the following new subsection:

"Bone Mass Measurement

"(rr)(1) The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on a qualified individual (as defined in paragraph (2)) for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual who is (in accordance with regulations prescribed by the Secretary)—

"(A) an estrogen-deficient woman at clinical risk for osteoporosis;

"(B) an individual with vertebral abnormalities;

"(C) an individual receiving long-term glucocorticoid steroid therapy;

"(D) an individual with primary hyperparathyroidism; or

"(E) an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.

"(3) The Secretary shall establish such standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this title.".

(b) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)), as amended by sections 4102, 4103, 4104 and 4105, is amended—

(1) by striking "(4) and (14)" and inserting "(4), (14)" and

(2) by inserting "and (15)" after "1861(nn)(2))".

(c) CONFORMING AMENDMENTS.—Sections 1864(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)) are amended by striking "paragraphs (15) and (16)" each place it appears and inserting "paragraphs (16) and (17)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bone mass measurements performed on or after July 1, 1998.

SEC. 4107. VACCINES OUTREACH EXPANSION.

(a) EXTENSION OF INFLUENZA AND PNEUMOCOCCAL VACCINATION CAMPAIGN.—In order to increase utilization of pneumococcal and influenza vaccines in medicare beneficiaries, the Influenza and Pneumococcal Vaccination Campaign carried out by the Health Care Financing Administration in conjunction with the Centers for Disease Control and Prevention and the National Coalition for Adult Immunization, is extended until the end of fiscal year 2002.

(b) AUTHORIZATION OF APPROPRIATION.—There are hereby authorized to be appropriated for each of fiscal years 1998 through 2002, $8,000,000 for the Campaign described in subsection (a). Of the amount so authorized to be appropriated in each fiscal year, 60 percent of the amount so appropriated shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

SEC. 4108. STUDY ON PREVENTIVE AND ENHANCED BENEFITS.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, and as appropriate in conjunction with the United States Preventive Services Task Force, to analyze the expansion or modification of preventive or other benefits provided to medicare beneficiaries under title XVIII of the Social Security Act. The analysis shall consider both the short term and long term benefits, and costs to the medicare program, of such expansion or modification.

(b) REPORT.—

(1) INITIAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the findings of the analysis conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

(2) CONTENTS.—Such report shall include specific findings with respect to coverage of at least the following benefits:

(A) Nutrition therapy services, including parenteral and enteral nutrition and including the provision of such services by a registered dietitian.

(B) Skin cancer screening.

(C) Medically necessary dental care.

(D) Routine patient care costs for beneficiaries enrolled in approved clinical trial programs.

(E) Elimination of time limitation for coverage of immunosuppressive drugs for transplant patients.

(3) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 1998 and 1999, the Secretary shall provide for such funding as the Secretary determines necessary for the conduct of the study by the National Academy of Sciences under this section.

Subtitle C—Rural Initiatives

SEC. 4201. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of 1 or more rural health networks (as defined in subsection (d)) in the State;

"(ii) promotes regionalization of rural health services in the State; and

"(iii) improves access to hospital and other health services for rural residents of the State; and

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least 1 rural health network (as defined in subsection (d)) in the State; and

"(B) at least 1 facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate 1 or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is a nonprofit or public hospital and is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital, or another facility described in this subsection; or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 (or, in the case of a facility under an agreement described in subsection (f), 25) acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present;

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1); and

"(III) the inpatient care described in clause (iii) may be provided by a physician assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of section 1861(aa)(2)(I).

"(d) DEFINITION OF RURAL HEALTH NETWORK.—

"(1) IN GENERAL.—In this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital; and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems; and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least—

"(i) 1 hospital that is a member of the network;

"(ii) 1 peer review organization or equivalent entity; or

"(iii) 1 other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the provision of extended care services, so long as the total number of beds that may be used at any time for the furnishing of either such services or acute care inpatient services does not exceed 25 beds and the number of beds used at any time for acute care inpatient services does not exceed 15 beds. For purposes of the previous sentence, any bed of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital shall not be counted.

"(g) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (b) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (b)(1) and paragraph (3) of that subsection.

"(h) GRANDFATHERING OF CERTAIN FACILITIES.—

"(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Act of 1997 shall be deemed to have been certified by the Secretary under subsection (e) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (c).

"(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

"(i) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part D as are necessary to conduct the program established under this section.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (g), $25,000,000 in each of the fiscal years 1998 through 2002.".

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall submit to Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Secretary) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(c)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395i–4(c)(2)(B)(iii)), as added by subsection (a) of this section.

(c) CONFORMING AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) and title XVIII of that Act (42 U.S.C. 1395 et seq.) are each amended by striking "rural primary care" each place it appears and inserting "critical access".

(2) DEFINITIONS.—Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(3) PART A PAYMENT.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended—

(A) in subsection (a)(8), by striking "72" and inserting "96"; and

(B) by amending subsection (l) to read as follows:

"Payment for Inpatient Critical Access Hospital Services

"(l) The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(4) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting "as in effect on September 30, 1997" before the period at the end; and

(B) in clause (v)—

(i) by inserting "as in effect on September 30, 1997" after "1820(i)(1)"; and

(ii) by striking "1820(g)" and inserting "1820(d)".

(5) PART B PAYMENT.—Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(6) TRANSITION FOR MAF.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall provide for an appropriate transition for a facility that, as of the date of the enactment of this Act, operated as a limited service rural hospital under a demonstration described in section 4008(i)(1) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–1 note) from such demonstration to the program established under subsection (a). At the conclusion of the transition period described in subparagraph (B), the Secretary shall end such demonstration.

(B) TRANSITION PERIOD DESCRIBED.—

(i) INITIAL PERIOD.—Subject to clause (ii), the transition period described in this subparagraph is the period beginning on the date of the enactment of this Act and ending on October 1, 1998.

(ii) EXTENSION.—If the Secretary determines that the transition is not complete as of October 1, 1998, the Secretary shall provide for an appropriate extension of the transition period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1997.

SEC. 4202. PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.

(a) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which has ever been classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—

(1) IN GENERAL.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year.

(2) BUDGET NEUTRALITY.—The provisions of section 1886(d)(8)(D) of the Social Security Act shall apply to reclassifications made pursuant to paragraph (1) in the same manner as such provisions apply to a reclassification under section 1886(d)(10) of such Act.

SEC. 4203. HOSPITAL GEOGRAPHIC RECLASSIFICATION PERMITTED FOR PURPOSES OF DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—For the period described in subsection (c), the Medicare Geographic Classification Review Board shall consider the application under section 1886(d)(10)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(C)(i)) of a hospital described in 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B)) to change the hospital's geographic classification for purposes of determining for a fiscal year eligibility for and amount of additional payment amounts under section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)).

(b) APPLICABLE GUIDELINES.—The Medicare Geographic Classification Review Board shall apply the guidelines established for reclassification under subclause (I) of section 1886(d)(10)(C)(i) of such Act to reclassification by reason of subsection (a) until the Secretary of Health and Human Services promulgates separate guidelines for such reclassification.

(c) PERIOD DESCRIBED.—The period described in this subsection is the period beginning on the date of the enactment of this Act and ending 30 months after such date.

SEC. 4204. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,"; and

(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after October 1, 1997, and before October 1, 2001,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2001,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding after clause (iii) the following new clause:

"(iv) with respect to discharges occurring during fiscal year 1998 through fiscal year 2000, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1998, fiscal year 1999, or fiscal year 2000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 4205. RURAL HEALTH CLINIC SERVICES.

(a) PER-VISIT PAYMENT LIMITS FOR PROVIDER-BASED CLINICS.—

(1) EXTENSION OF LIMIT.—

(A) IN GENERAL.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking "independent rural health clinics" and inserting "rural health clinics (other than such clinics in rural hospitals with less than 50 beds)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to services furnished on or after January 1, 1998.

(2) TECHNICAL CLARIFICATION.—Section 1833(f)(1) (42 U.S.C. 1395l(f)(1)) is amended by inserting "per visit" after "$46".

(b) ASSURANCE OF QUALITY SERVICES.—

(1) IN GENERAL.—Subparagraph (I) of the first sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended to read as follows:

"(I) has a quality assessment and performance improvement program, and appropriate procedures for review of utilization of clinic services, as the Secretary may specify,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1998.

(c) WAIVER OF CERTAIN STAFFING REQUIREMENTS LIMITED TO CLINICS IN PROGRAM.—

(1) IN GENERAL.—Section 1861(aa)(7)(B) (42 U.S.C. 1395x(aa)(7)(B)) is amended by inserting before the period ", or if the facility has not yet been determined to meet the requirements (including subparagraph (J) of the first sentence of paragraph (2)) of a rural health clinic".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to waiver requests made on or after January 1, 1998.

(d) REFINEMENT OF SHORTAGE AREA REQUIREMENTS.—

(1) DESIGNATION REVIEWED TRIENNIALLY.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking "and that is designated" and inserting "and that, within the previous 3-year period, has been designated"; and

(B) by striking "or that is designated" and inserting "or designated".

(2) AREA MUST HAVE SHORTAGE OF HEALTH CARE PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as amended by paragraph (1), is further amended in the second sentence, in the matter in clause (i) preceding subclause (I)—

(A) by striking the comma after "personal health services"; and

(B) by inserting "and in which there are insufficient numbers of needed health care practitioners (as determined by the Secretary)," after "Bureau of the Census)".

(3) PREVIOUSLY QUALIFYING CLINICS GRANDFATHERED ONLY TO PREVENT SHORTAGE.—

(A) IN GENERAL.—Section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended in the third sentence by inserting before the period "if it is determined, in accordance with criteria established by the Secretary in regulations, to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic".

(B) PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended to read as follows:

"(C) in the case of services described in clause (i) of section 1861(s)(2)(K), payment shall be made to either (i) the employer of the physician assistant involved, or (ii) with respect to a physician assistant who was the owner of a rural health clinic (as described in section 1861(aa)(2)) for a continuous period beginning prior to the date of the enactment of the Balanced Budget Act of 1997 and ending on the date that the Secretary determines such rural health clinic no longer meets the requirements of section 1861(aa)(2), for such services provided before January 1, 2003, payment may be made directly to the physician assistant; and".

(4) EFFECTIVE DATES; IMPLEMENTING REGULATIONS.—

(A) IN GENERAL.—Except as otherwise provided, the amendments made by the preceding paragraphs take effect on the date of the enactment of this Act.

(B) CURRENT RURAL HEALTH CLINICS.—The amendments made by the preceding paragraphs take effect, with respect to entities that are rural health clinics under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on the date of the enactment of this Act.

(C) GRANDFATHERED CLINICS.—

(i) IN GENERAL.—The amendment made by paragraph (3)(A) shall take effect on the effective date of regulations issued by the Secretary under clause (ii).

(ii) REGULATIONS.—The Secretary shall issue final regulations implementing paragraph (3)(A) that shall take effect no later than January 1, 1999.

SEC. 4206. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1999, the Secretary of Health and Human Services shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) in accordance with the methodology described in subsection (b) for professional consultation via telecommunications systems with a physician (as defined in section 1861(r) of such Act (42 U.S.C. 1395x(r)) or a practitioner (described in section 1842(b)(18)(C) of such Act (42 U.S.C. 1395u(b)(18)(C)) furnishing a service for which payment may be made under such part to a beneficiary under the medicare program residing in a county in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)), notwithstanding that the individual physician or practitioner providing the professional consultation is not at the same location as the physician or practitioner furnishing the service to that beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 1988), the findings of the report required under paragraph (c), and any other findings related to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall be establish a methodology for determining the amount of payments made under subsection (a) within the following parameters:

(1) The payment shall be shared between the referring physician or practitioner and the consulting physician or practitioner. The amount of such payment shall not be greater than the current fee schedule of the consulting physician or practitioner for the health care services provided.

(2) The payment shall not include any reimbursement for any telephone line charges or any facility fees, and a beneficiary may not be billed for any such charges or fees.

(3) The payment shall be made subject to the coinsurance and deductible requirements under subsections (a)(1) and (b) of section 1833 of the Social Security Act (42 U.S.C. 1395l).

(4) The payment differential of section 1848(a)(3) of such Act (42 U.S.C. 1395w–4(a)(3)) shall apply to services furnished by non-participating physicians. The provisions of section 1848(g) of such Act (42 U.S.C. 1395w–4(g)) and section 1842(b)(18) of such Act (42 U.S.C. 1395u(b)(18)) shall apply. Payment for such service shall be increased annually by the update factor for physicians' services determined under section 1848(d) of such Act (42 U.S.C. 1395w–4(d)).

(c) SUPPLEMENTAL REPORT.—Not later than January 1, 1999, the Secretary shall submit a report to Congress which shall contain a detailed analysis of—

(1) how telemedicine and telehealth systems are expanding access to health care services;

(2) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications;

(3) the quality of telemedicine and telehealth services delivered; and

(4) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas.

(d) EXPANSION OF TELEHEALTH SERVICES FOR CERTAIN MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report to Congress that examines the possibility of making payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for professional consultation via telecommunications systems with such a physician or practitioner furnishing a service for which payment may be made under such part to a beneficiary described in paragraph (2), notwithstanding that the individual physician or practitioner providing the professional consultation is not at the same location as the physician or practitioner furnishing the service to that beneficiary.

(2) BENEFICIARY DESCRIBED.—A beneficiary described in this paragraph is a beneficiary under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who does not reside in a rural area (as so defined) that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)), who is homebound or nursing homebound, and for whom being transferred for health care services imposes a serious hardship.

(3) REPORT.—The report described in paragraph (1) shall contain a detailed statement of the potential costs and savings to the medicare program of making the payments described in that paragraph using various reimbursement schemes.

SEC. 4207. INFORMATICS, TELEMEDICINE, AND EDUCATION DEMONSTRATION PROJECT.

(a) PURPOSE AND AUTHORIZATION.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary of Health and Human Services shall provide for a demonstration project described in paragraph (2).

(2) DESCRIPTION OF PROJECT.—

(A) IN GENERAL.—The demonstration project described in this paragraph is a single demonstration project to use eligible health care provider telemedicine networks to apply high-capacity computing and advanced networks to improve primary care (and prevent health care complications) to medicare beneficiaries with diabetes mellitus who are residents of medically underserved rural areas or residents of medically underserved inner-city areas.

(B) MEDICALLY UNDERSERVED DEFINED.—As used in this paragraph, the term "medically underserved" has the meaning given such term in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3)).

(3) WAIVER.—The Secretary shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (d).

(4) DURATION OF PROJECT.—The project shall be conducted over a 4-year period.

(b) OBJECTIVES OF PROJECT.—The objectives of the project include the following:

(1) Improving patient access to and compliance with appropriate care guidelines for individuals with diabetes mellitus through direct telecommunications link with information networks in order to improve patient quality-of-life and reduce overall health care costs.

(2) Developing a curriculum to train health professionals (particularly primary care health professionals) in the use of medical informatics and telecommunications.

(3) Demonstrating the application of advanced technologies, such as video-conferencing from a patient's home, remote monitoring of a patient's medical condition, interventional informatics, and applying individualized, automated care guidelines, to assist primary care providers in assisting patients with diabetes in a home setting.

(4) Application of medical informatics to residents with limited English language skills.

(5) Developing standards in the application of telemedicine and medical informatics.

(6) Developing a model for the cost-effective delivery of primary and related care both in a managed care environment and in a fee-for-service environment.

(c) ELIGIBLE HEALTH CARE PROVIDER TELEMEDICINE NETWORK DEFINED.—For purposes of this section, the term "eligible health care provider telemedicine network" means a consortium that includes at least one tertiary care hospital (but no more than 2 such hospitals), at least one medical school, no more than 4 facilities in rural or urban areas, and at least one regional telecommunications provider and that meets the following requirements:

(1) The consortium is located in an area with a high concentration of medical schools and tertiary care facilities in the United States and has appropriate arrangements (within or outside the consortium) with such schools and facilities, universities, and telecommunications providers, in order to conduct the project.

(2) The consortium submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the consortium would apply any amounts received under the project and the source and amount of non-Federal funds used in the project.

(3) The consortium guarantees that it will be responsible for payment for all costs of the project that are not paid under this section and that the maximum amount of payment that may be made to the consortium under this section shall not exceed the amount specified in subsection (d)(3).

(d) COVERAGE AS MEDICARE PART B SERVICES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, services related to the treatment or management of (including prevention of complications from) diabetes for medicare beneficiaries furnished under the project shall be considered to be services covered under part B of title XVIII of the Social Security Act.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to paragraph (3), payment for such services shall be made at a

rate of 50 percent of the costs that are reasonable and related to the provision of such services. In computing such costs, the Secretary shall include costs described in subparagraph (B), but may not include costs described in subparagraph (C).

(B) COSTS THAT MAY BE INCLUDED.—The costs described in this subparagraph are the permissible costs (as recognized by the Secretary) for the following:

(i) The acquisition of telemedicine equipment for use in patients' homes (but only in the case of patients located in medically underserved areas).

(ii) Curriculum development and training of health professionals in medical informatics and telemedicine.

(iii) Payment of telecommunications costs (including salaries and maintenance of equipment), including costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in subsection (c)(1).

(iv) Payments to practitioners and providers under the medicare programs.

(C) COSTS NOT INCLUDED.—The costs described in this subparagraph are costs for any of the following:

(i) The purchase or installation of transmission equipment (other than such equipment used by health professionals to deliver medical informatics services under the project).

(ii) The establishment or operation of a telecommunications common carrier network.

(iii) Construction (except for minor renovations related to the installation of reimbursable equipment) or the acquisition or building of real property.

(3) LIMITATION.—The total amount of the payments that may be made under this section shall not exceed $30,000,000 for the period of the project (described in subsection (a)(4)).

(4) LIMITATION ON COST-SHARING.—The project may not impose cost sharing on a medicare beneficiary for the receipt of services under the project in excess of 20 percent of the costs that are reasonable and related to the provision of such services.

(e) REPORTS.—The Secretary shall submit to the Committee on Ways and Means and the Committee Commerce of the House of Representatives and the Committee on Finance of the Senate interim reports on the project and a final report on the project within 6 months after the conclusion of the project. The final report shall include an evaluation of the impact of the use of telemedicine and medical informatics on improving access of medicare beneficiaries to health care services, on reducing the costs of such services, and on improving the quality of life of such beneficiaries.

(f) DEFINITIONS.—For purposes of this section:

(1) INTERVENTIONAL INFORMATICS.—The term "interventional informatics" means using information technology and virtual reality technology to intervene in patient care.

(2) MEDICAL INFORMATICS.—The term "medical informatics" means the storage, retrieval, and use of biomedical and related information for problem solving and decision-making through computing and communications technologies.

(3) PROJECT.—The term "project" means the demonstration project under this section.

Subtitle D—Anti-Fraud and Abuse Provisions and Improvements in Protecting Program Integrity

CHAPTER 1—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

SEC. 4301. PERMANENT EXCLUSION FOR THOSE CONVICTED OF 3 HEALTH CARE RELATED CRIMES.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended—

(1) in subparagraph (A), by inserting "or in the case described in subparagraph (G)" after "subsection (b)(12)";

(2) in subparagraphs (B) and (D), by striking "In the case" and inserting "Subject to subparagraph (G), in the case"; and

(3) by adding at the end the following new subparagraph:

"(G) In the case of an exclusion of an individual under subsection (a) based on a conviction occurring on or after the date of the enactment of this subparagraph, if the individual has (before, on, or after such date) been convicted—

"(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

"(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.".

SEC. 4302. AUTHORITY TO REFUSE TO ENTER INTO MEDICARE AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.

(a) MEDICARE PART A.—Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense which the Secretary determines is detrimental to the best interests of the program or program beneficiaries.".

(b) MEDICARE PART B.—Section 1842(h) (42 U.S.C. 1395u(h)) is amended by adding at the end the following new paragraph:

"(8) The Secretary may refuse to enter into an agreement with a physician or supplier under this subsection, or may terminate or refuse to renew such agreement, in the event that such physician or supplier has been convicted of a felony under Federal or State law for an offense which the Secretary determines is detrimental to the best interests of the program or program beneficiaries.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply to the entry and renewal of contracts on or after such date.

SEC. 4303. EXCLUSION OF ENTITY CONTROLLED BY FAMILY MEMBER OF A SANCTIONED INDIVIDUAL.

(a) IN GENERAL.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (b)(8)(A)—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii), by striking the dash at the end and inserting "; or"; and

(C) by inserting after clause (ii) the following:

"(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—"; and

(2) by adding at the end the following new subsection:

"(j) DEFINITION OF IMMEDIATE FAMILY MEMBER AND MEMBER OF HOUSEHOLD.—For purposes of subsection (b)(8)(A)(iii):

"(1) The term 'immediate family member' means, with respect to a person—

"(A) the husband or wife of the person;

"(B) the natural or adoptive parent, child, or sibling of the person;

"(C) the stepparent, stepchild, stepbrother, or stepsister of the person;

"(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;

"(E) the grandparent or grandchild of the person; and

"(F) the spouse of a grandparent or grandchild of the person.

"(2) The term 'member of the household' means, with respect to any person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 45 days after the date of the enactment of this Act.

SEC. 4304. IMPOSITION OF CIVIL MONEY PENALTIES.

(a) CIVIL MONEY PENALTIES FOR PERSONS THAT CONTRACT WITH EXCLUDED INDIVIDUALS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by adding "or" at the end; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f)), for the provision of items or services for which payment may be made under such a program;".

(b) CIVIL MONEY PENALTIES FOR KICKBACKS.—

(1) PERMITTING SECRETARY TO IMPOSE CIVIL MONEY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (a), is amended—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6), by adding "or" at the end; and

(C) by adding after paragraph (6) the following new paragraph:

"(7) commits an act described in paragraph (1) or (2) of section 1128B(b);".

(2) DESCRIPTION OF CIVIL MONEY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by paragraph (1), is amended in the matter following paragraph (7)—

(A) by striking "occurs)." and inserting "occurs; or in cases under paragraph (7), $50,000 for each such act)."; and

(B) by inserting after "of such claim" the following: "(or, in cases under paragraph (7), damages of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose)".

(c) EFFECTIVE DATES.—

(1) CONTRACTS WITH EXCLUDED PERSONS.—The amendments made by subsection (a) shall apply to arrangements and contracts entered into after the date of the enactment of this Act.

(2) KICKBACKS.—The amendments made by subsection (b) shall apply to acts committed after the date of the enactment of this Act.

CHAPTER 2—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

SEC. 4311. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) INCLUSION OF INFORMATION REGARDING MEDICARE WASTE, FRAUD, AND ABUSE IN ANNUAL NOTICE.—

(1) IN GENERAL.—Section 1804 (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

"(c) The notice provided under subsection (a) shall include—

"(1) a statement which indicates that because errors do occur and because medicare fraud,

waste, and abuse is a significant problem, beneficiaries should carefully check any explanation of benefits or itemized statement furnished pursuant to section 1806 for accuracy and report any errors or questionable charges by calling the toll-free phone number described in paragraph (4);

"(2) a statement of the beneficiary's right to request an itemized statement for medicare items and services (as provided in section 1806(b));

"(3) a description of the program to collect information on medicare fraud and abuse established under section 203(b) of the Health Insurance Portability and Accountability Act of 1996; and

"(4) a toll-free telephone number maintained by the Inspector General in the Department of Health and Human Services for the receipt of complaints and information about waste, fraud, and abuse in the provision or billing of services under this title.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to notices provided on or after January 1, 1998.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1805 (as added by section 4022) the following new section:

"EXPLANATION OF MEDICARE BENEFITS

"SEC. 1806. (a) IN GENERAL.—The Secretary shall furnish to each individual for whom payment has been made under this title (or would be made without regard to any deductible) a statement which—

"(1) lists the item or service for which payment has been made and the amount of such payment for each item or service; and

"(2) includes a notice of the individual's right to request an itemized statement (as provided in subsection (b)).

"(b) REQUEST FOR ITEMIZED STATEMENT FOR MEDICARE ITEMS AND SERVICES.—

"(1) IN GENERAL.—An individual may submit a written request to any physician, provider, supplier, or any other person (including an organization, agency, or other entity) for an itemized statement for any item or service provided to such individual by such person with respect to which payment has been made under this title.

"(2) 30-DAY PERIOD TO FURNISH STATEMENT.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been made, a person described in such paragraph shall furnish an itemized statement describing each item or service provided to the individual requesting the itemized statement.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized statement in accordance with subparagraph (A) shall be subject to a civil money penalty of not more than $100 for each such failure. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

"(3) REVIEW OF ITEMIZED STATEMENT.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized statement furnished under paragraph (1), an individual may submit a written request for a review of the itemized statement to the Secretary.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized statement shall identify—

"(i) specific items or services that the individual believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF SECRETARY.—The Secretary shall, with respect to each written request submitted under paragraph (3), determine whether the itemized statement identifies specific items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under this title.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall take all appropriate measures to recover amounts unnecessarily paid under this title with respect to a statement described in paragraph (4).".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 203 of the Health Insurance Portability and Accountability Act of 1996 is repealed.

(3) EFFECTIVE DATES.—

(A) STATEMENT BY SECRETARY.—Paragraph (1) of section 1806(a) of the Social Security Act, as added by paragraph (1), and the repeal made by paragraph (2) shall take effect on the date of the enactment of this Act.

(B) ITEMIZED STATEMENT.—Paragraph (2) of section 1806(a) and section 1806(b) of the Social Security Act, as so added, shall take effect not later than January 1, 1999.

SEC. 4312. DISCLOSURE OF INFORMATION AND SURETY BONDS.

(a) DISCLOSURE OF INFORMATION AND SURETY BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) DISCLOSURE OF INFORMATION AND SURETY BOND.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis—

"(A) with—

"(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest; and

"(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

"(B) with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000.

The Secretary may waive the requirement of a bond under subparagraph (B) in the case of a supplier that provides a comparable surety bond under State law.".

(b) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(o) (42 U.S.C. 1395x(o)) is amended—

(A) in paragraph (6), by striking "and" at the end;

(B) by redesignating paragraph (7) as paragraph (8);

(C) by inserting after paragraph (6) the following new paragraph:

"(7) provides the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000; and"; and

(D) by adding at the end the following: "The Secretary may waive the requirement of a surety bond under paragraph (7) in the case of an agency or organization that provides a comparable surety bond under State law.".

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is amended—

(A) in clause (i), by striking "the financial security requirement described in subsection (o)(7)" and inserting "the surety bond requirement described in subsection (o)(7) and the financial security requirement described in subsection (o)(8)"; and

(B) in clause (ii), by striking "the financial security requirement described in subsection (o)(7) applies" and inserting "the surety bond requirement described in subsection (o)(7) and the financial security requirement described in subsection (o)(8) apply".

(3) REFERENCE TO CURRENT DISCLOSURE REQUIREMENT.—For additional provisions requiring home health agencies to disclose information on ownership and control interests, see section 1124 of the Social Security Act (42 U.S.C. 1320a-3).

(c) AUTHORIZING APPLICATION OF DISCLOSURE AND SURETY BOND REQUIREMENTS TO OTHER HEALTH CARE PROVIDERS.—Section 1834(a)(16) (42 U.S.C. 1395m(a)(16)), as added by subsection (a), is amended by adding at the end the following: "The Secretary, at the Secretary's discretion, may impose the requirements of the first sentence with respect to some or all providers of items or services under part A or some or all suppliers or other persons (other than physicians or other practitioners, as defined in section 1842(b)(18)(C)) who furnish items or services under this part.".

(d) APPLICATION TO COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES (CORFS).—Section 1861(cc)(2) (42 U.S.C. 1395x(cc)(2)) is amended—

(1) in subparagraph (H), by striking "and" at the end;

(2) by redesignating subparagraph (I) as subparagraph (J);

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) provides the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000; and"; and

(4) by adding at the end the following flush sentence:

"The Secretary may waive the requirement of a surety bond under subparagraph (I) in the case of a facility that provides a comparable surety bond under State law.".

(e) APPLICATION TO REHABILITATION AGENCIES.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended—

(1) in paragraph (4)(A)(v), by inserting after "as the Secretary may find necessary," the following: "and provides the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000,", and

(2) by adding at the end the following: "The Secretary may waive the requirement of a surety bond under paragraph (4)(A)(v) in the case of a clinic or agency that provides a comparable surety bond under State law.".

(f) EFFECTIVE DATES.—

(1) SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—The amendment made by subsection (a) shall apply to suppliers of durable medical equipment with respect to such equipment furnished on or after January 1, 1998.

(2) HOME HEALTH AGENCIES.—The amendments made by subsection (b) shall apply to home health agencies with respect to services furnished on or after January 1, 1998. The Secretary of Health and Human Services shall modify participation agreements under section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) with respect to home health agencies to provide for implementation of such amendments on a timely basis.

(3) OTHER AMENDMENTS.—The amendments made by subsections (c) through (e) shall take effect on the date of the enactment of this Act and may be applied with respect to items and services furnished on or after January 1, 1998.

SEC. 4313. PROVISION OF CERTAIN IDENTIFICATION NUMBERS.

(a) Requirements To Disclose Employer Identification Numbers (EINS) and Social Security Account Numbers (SSNs).—Section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1)) is amended by inserting before the period at the end the following: "and supply the Secretary with the both the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing entity, each person with an ownership or control interest (as defined in subsection (a)(3)), and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest.

(b) Other Medicare Providers.—Section 1124A (42 U.S.C. 1320a–3a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) including the employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986) and social security account number (assigned under section 205(c)(2)(B)) of the disclosing part B provider and any person, managing employee, or other entity identified or described under paragraph (1) or (2)."; and

(2) in subsection (c)(1), by inserting "(or, for purposes of subsection (a)(3), any entity receiving payment)" after "on an assignment-related basis".

(c) Verification by Social Security Administration (SSA).—Section 1124A (42 U.S.C. 1320a–3a), as amended by subsection (b), is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Verification.—

"(1) Transmittal by HHS.—The Secretary shall transmit—

"(A) to the Commissioner of Social Security information concerning each social security account number (assigned under section 205(c)(2)(B)), and

"(B) to the Secretary of the Treasury information concerning each employer identification number (assigned pursuant to section 6109 of the Internal Revenue Code of 1986),

supplied to the Secretary pursuant to subsection (a)(3) or section 1124(c) to the extent necessary for verification of such information in accordance with paragraph (2).

"(2) Verification.—The Commissioner of Social Security and the Secretary of the Treasury shall verify the accuracy of, or correct, the information supplied by the Secretary to such official pursuant to paragraph (1), and shall report such verifications or corrections to the Secretary.

"(3) Fees for verification.—The Secretary shall reimburse the Commissioner and Secretary of the Treasury, at a rate negotiated between the Secretary and such official, for the costs incurred by such official in performing the verification and correction services described in this subsection.".

(d) Report.—Before the amendments made by this section may become effective, the Secretary of Health and Human Services shall submit to Congress a report on steps the Secretary has taken to assure the confidentiality of social security account numbers that will be provided to the Secretary under such amendments.

(e) Effective Dates.—

(1) Disclosure requirements.—The amendment made by subsection (a) shall apply to the application of conditions of participation, and entering into and renewal of contracts and agreements, occurring more than 90 days after the date of submission of the report under subsection (d).

(2) Other providers.—The amendments made by subsection (b) shall apply to payment for items and services furnished more than 90 days after the date of submission of such report.

SEC. 4314. ADVISORY OPINIONS REGARDING CERTAIN PHYSICIAN SELF-REFERRAL PROVISIONS.

Section 1877(g) (42 U.S.C. 1395nn(g)) is amended by adding at the end the following new paragraph:

"(6) Advisory opinions.—

"(A) In general.—The Secretary shall issue written advisory opinions concerning whether a referral relating to designated health services (other than clinical laboratory services) is prohibited under this section. Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(B) Application of certain rules.—The Secretary shall, to the extent practicable, apply the rules under subsections (b)(3) and (b)(4) and take into account the regulations promulgated under subsection (b)(5) of section 1128D in the issuance of advisory opinions under this paragraph.

"(C) Regulations.—In order to implement this paragraph in a timely manner, the Secretary may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

"(D) Applicability.—This paragraph shall apply to requests for advisory opinions made after the date which is 90 days after the date of the enactment of this paragraph and before the close of the period described in section 1128D(b)(6).".

SEC. 4315. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES.

(a) Application of Fee Schedule.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(s)(1) The Secretary may implement a statewide or other areawide fee schedule to be used for payment of any item or service described in paragraph (2) which is paid on a reasonable charge basis. Any fee schedule established under this paragraph for such item or service shall be updated each year by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the preceding year, except that in no event shall a fee schedule for an item described in paragraph (2)(D) be updated before 2003.

"(2) The items and services described in this paragraph are as follows:

"(A) Medical supplies.

"(B) Home dialysis supplies and equipment (as defined in section 1881(b)(8)).

"(C) Therapeutic shoes.

"(D) Parenteral and enteral nutrients, equipment, and supplies.

"(E) Electromyogram devices

"(F) Salivation devices.

"(G) Blood products.

"(H) Transfusion medicine.".

(b) Conforming Amendment.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and (P)" and inserting "(P)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (Q) with respect to items or services for which fee schedules are established pursuant to section 1842(s), the amounts paid shall be 80 percent of the lesser of the actual charge or the fee schedule established in such section;".

(c) Effective Dates.—The amendments made by this section to the extent such amendments substitute fee schedules for reasonable charges, shall apply to particular services as of the date specified by the Secretary of Health and Human Services.

(d) Initial Budget Neutrality.—The Secretary, in developing a fee schedule for particular services (under the amendments made by this section), shall set amounts for the first year period to which the fee schedule applies at a level so that the total payments under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for those services for that year period shall be approximately equal to the estimated total payments if such fee schedule had not been implemented.

SEC. 4316. APPLICATION OF INHERENT REASONABLENESS TO ALL PART B SERVICES OTHER THAN PHYSICIANS' SERVICES.

(a) In General.—Paragraphs (8) and (9) of section 1842(b) (42 U.S.C. 1395u(b)) are amended to read as follows:

"(8)(A)(i) The Secretary shall by regulation—

"(I) describe the factors to be used in determining the cases (of particular items or services) in which the application of this part (other than to physicians' services paid under section 1848) results in the determination of an amount that, because of its being grossly excessive or grossly deficient, is not inherently reasonable, and

"(II) provide in those cases for the factors to be considered in determining an amount that is realistic and equitable.

"(ii) Notwithstanding the determination made in clause (i), the Secretary may not apply factors that would increase or decrease the payment under this part during any year for any particular item or service by more than 15 percent from such payment during the preceding year except as provided in subparagraph (B).

"(B) The Secretary may make a determination under this subparagraph that would result in an increase or decrease under subparagraph (A) of more than 15 percent of the payment amount for a year, but only if—

"(i) the Secretary's determination takes into account the factors described in subparagraph (C) and any additional factors the Secretary determines appropriate,

"(ii) the Secretary's determination takes into account the potential impacts described in subparagraph (D), and

"(iii) the Secretary complies with the procedural requirements of paragraph (9).

"(C) The factors described in this subparagraph are as follows:

"(i) The programs established under this title and title XIX are the sole or primary sources of payment for an item or service.

"(ii) The payment amount does not reflect changing technology, increased facility with that technology, or reductions in acquisition or production costs.

"(iii) The payment amount for an item or service under this part is substantially higher or lower than the payment made for the item or service by other purchasers.

"(D) The potential impacts of a determination under subparagraph (B) on quality, access, and beneficiary liability, including the likely effects on assignment rates and participation rates.

"(9)(A) The Secretary shall consult with representatives of suppliers or other individuals who furnish an item or service before making a determination under paragraph (8)(B) with regard to that item or service.

"(B) The Secretary shall publish notice of a proposed determination under paragraph (8)(B) in the Federal Register—

"(i) specifying the payment amount proposed to be established with respect to an item or service, "(ii) explaining the factors and data that the Secretary took into account in determining the payment amount so specified, and

"(iii) explaining the potential impacts described in paragraph (8)(D).

"(C) After publication of the notice required by subparagraph (B), the Secretary shall allow not less than 60 days for public comment on the proposed determination.

"(D)(i) Taking into consideration the comments made by the public, the Secretary shall publish in the Federal Register a final determination under paragraph (8)(B) with respect to the payment amount to be established with respect to the item or service.

"(ii) A final determination published pursuant to clause (i) shall explain the factors and data that the Secretary took into consideration in making the final determination.".

(b) CONFORMING AMENDMENT.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(1) by striking "For covered items furnished on or after January 1, 1991, the" and inserting "The";

(2) by striking "(other than subparagraph (D))"; and

(3) by striking all that follows "payments under this subsection" and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4317. REQUIREMENT TO FURNISH DIAGNOSTIC INFORMATION.

(a) INCLUSION OF NON-PHYSICIAN PRACTITIONERS IN REQUIREMENT TO PROVIDE DIAGNOSTIC CODES FOR PHYSICIAN SERVICES.—Paragraphs (1) and (2) of section 1842(p) (42 U.S.C. 1395u(p)) are each amended by inserting "or practitioner specified in subsection (b)(18)(C)" after "by a physician".

(b) REQUIREMENT TO PROVIDE DIAGNOSTIC INFORMATION WHEN ORDERING CERTAIN ITEMS OR SERVICES FURNISHED BY ANOTHER ENTITY.—Section 1842(p) (42 U.S.C. 1395u(p)), is amended by adding at the end the following new paragraph:

"(4) In the case of an item or service defined in paragraph (3), (6), (8), or (9) of subsection 1861(s) ordered by a physician or a practitioner specified in subsection (b)(18)(C), but furnished by another entity, if the Secretary (or fiscal agent of the Secretary) requires the entity furnishing the item or service to provide diagnostic or other medical information in order for payment to be made to the entity, the physician or practitioner shall provide that information to the entity at the time that the item or service is ordered by the physician or practitioner.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

SEC. 4318. REPORT BY GAO ON OPERATION OF FRAUD AND ABUSE CONTROL PROGRAM.

Section 1817(k)(6) (42 U.S.C. 1395i(k)(6)) is amended by inserting "June 1, 1998, and" after "Not later than".

SEC. 4319. COMPETITIVE BIDDING DEMONSTRATION PROJECTS.

(a) GENERAL RULE.—Part B of title XVIII (42 U.S.C. 1395j et seq.) is amended by inserting after section 1846 the following new section:

"SEC. 1847. DEMONSTRATION PROJECTS FOR COMPETITIVE ACQUISITION OF ITEMS AND SERVICES.

"(a) ESTABLISHMENT OF DEMONSTRATION PROJECT BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall implement not more than 5 demonstration projects under which competitive acquisition areas are established for contract award purposes for the furnishing under this part of the items and services described in subsection (d).

"(2) PROJECT REQUIREMENTS.—Each demonstration project under paragraph (1)—

"(A) shall include such group of items and services as the Secretary may prescribe,

"(B) shall be conducted in not more than 3 competitive acquisition areas, and

"(C) shall be operated over a 3-year period.

"(3) CRITERIA FOR ESTABLISHMENT OF COMPETITIVE ACQUISITION AREAS.—Each competitive acquisition area established under a demonstration project implemented under paragraph (1)—

"(A) shall be, or shall be within, a metropolitan statistical area (as defined by the Secretary of Commerce), and

"(B) shall be chosen based on the availability and accessibility of entities able to furnish items and services, and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in such area.

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services described in subsection (c) for each competitive acquisition area established under a demonstration project implemented under subsection (a).

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any entity under the competition conducted pursuant to paragraph (1) to furnish an item or service unless the Secretary finds that the entity meets quality standards specified by the Secretary that the total amounts to be paid under the contract are expected to be less than the total amounts that would otherwise be paid.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

"(4) LIMIT ON NUMBER OF CONTRACTORS.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts.

"(c) EXPANSION OF PROJECTS.—

"(1) EVALUATIONS.—The Secretary shall evaluate the impact of the implementation of the demonstration projects on medicare program payments, access, diversity of product selection, and quality. The Secretary shall make annual reports to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the evaluation described in the preceding sentence and a final report not later than 6 months after the termination date specified in subsection (e).

"(2) EXPANSION.—If the Secretary determines from the evaluations under paragraph (1) that there is clear evidence that any demonstration project—

"(A) results in a decrease in Federal expenditures under this title, and

"(B) does not reduce program access, diversity of product selection, and quality under this title,

the Secretary may expand the project to additional competitive acquisition areas.

"(d) SERVICES DESCRIBED.—The items and services to which this section applies are all items and services covered under this part (except for physicians' services as defined in section 1861(s)(1)) that the Secretary may specify. At least one demonstration project shall include oxygen and oxygen equipment.

"(e) TERMINATION.—Notwithstanding any other provision of this section, all projects under this section shall terminate not later than December 31, 2002.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) where the expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an entity other than an entity with which the Secretary has entered into a contract under section 1847(b) for the furnishing of such an item or service in that area, unless the Secretary finds that the expenses were incurred in a case of urgent need, or in other circumstances specified by the Secretary.".

(c) STUDY BY GAO.—The Comptroller of the United States shall study the effectiveness of the establishment of competitive acquisition areas under section 1847(a) of the Social Security Act, as added by this section.

SEC. 4320. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Section 1861(v) (42 U.S.C. 1395x(v)) is amended by adding at the end the following new paragraph:

"(8) ITEMS UNRELATED TO PATIENT CARE.—Reasonable costs do not include costs for the following—

"(i) entertainment, including tickets to sporting and other entertainment events;

"(ii) gifts or donations;

"(iii) personal use of motor vehicles;

"(iv) costs for fines and penalties resulting from violations of Federal, State, or local laws; and

"(iv) education expenses for spouses or other dependents of providers of services, their employees or contractors.".

SEC. 4321. NONDISCRIMINATION IN POST-HOSPITAL REFERRAL TO HOME HEALTH AGENCIES AND OTHER ENTITIES.

(a) NOTIFICATION OF AVAILABILITY OF HOME HEALTH AGENCIES AND OTHER ENTITIES AS PART OF DISCHARGE PLANNING PROCESS.—Section 1861(ee)(2) (42 U.S.C. 1395x(ee)(2)) is amended—

(1) in subparagraph (D), by inserting before the period the following: ", including the availability of home health services through individuals and entities that participate in the program under this title and that serve the area in which the patient resides and that request to be listed by the hospital as available"; and

(2) by adding at the end the following new subparagraph:

"(H) Consistent with section 1802, the discharge plan shall—

"(i) not specify or otherwise limit the qualified provider which may provide post-hospital home health services, and

"(ii) identify (in a form and manner specified by the Secretary) any entity to whom the individual is referred in which the hospital has a disclosable financial interest (as specified by the Secretary consistent with section 1866(a)(1)(S)) or which has such an interest in the hospital.".

(b) MAINTENANCE AND DISCLOSURE OF INFORMATION ON POST-HOSPITAL HOME HEALTH AGENCIES AND OTHER ENTITIES.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R), and

(3) by adding at the end the following new subparagraph:

"(S) in the case of a hospital that has a financial interest (as specified by the Secretary in regulations) in an entity to which individuals are referred as described in section 1861(ee)(2)(H)(ii), or in which such an entity has such a financial interest, or in which another entity has such a financial interest (directly or indirectly) with such hospital and such an entity, to maintain and disclose to the Secretary (in a form and manner specified by the Secretary) information on—

"(i) the nature of such financial interest,

"(ii) the number of individuals who were discharged from the hospital and who were identified as requiring home health services, and

"(iii) the percentage of such individuals who received such services from such provider (or another such provider).".

(c) DISCLOSURE OF INFORMATION TO THE PUBLIC.—Title XI is amended by inserting after section 1145 the following new section:

"PUBLIC DISCLOSURE OF CERTAIN INFORMATION ON HOSPITAL FINANCIAL INTEREST AND REFERRAL PATTERNS

"SEC. 1146. The Secretary shall make available to the public, in a form and manner specified by the Secretary, information disclosed to the Secretary pursuant to section 1866(a)(1)(S).".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to discharges occurring on or after the date which is 90 days after the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall issue regulations by not later than the date which is 1 year after the date of the enactment of this Act to carry out the amendments made by subsections (b) and (c) and such amendments shall take effect as of such date (on or after the issuance of such regulations) as the Secretary specifies in such regulations.

CHAPTER 3—CLARIFICATIONS AND TECHNICAL CHANGES

SEC. 4331. OTHER FRAUD AND ABUSE RELATED PROVISIONS.

(a) REFERENCE CORRECTION.—(1) Section 1128D(b)(2)(D) (42 U.S.C. 1320a–7d(b)(2)(D)), as added by section 205 of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "1128B(b)" and inserting "1128A(b)".

(2) Section 1128E(g)(3)(C) (42 U.S.C. 1320a–7e(g)(3)(C)) is amended by striking "Veterans' Administration" and inserting "Department of Veterans Affairs".

(b) LANGUAGE IN DEFINITION OF CONVICTION.—Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by striking "paragraph (4)" and inserting "paragraphs (1) through (4)".

(c) IMPLEMENTATION OF EXCLUSIONS.—Section 1128 (42 U.S.C. 1320a–7) is amended—

(1) in subsection (a), by striking "any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h))" and inserting "any Federal health care program (as defined in section 1128B(f))"; and

(2) in subsection (b), by striking "any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program" and inserting "any Federal health care program (as defined in section 1128B(f))".

(d) SANCTIONS FOR FAILURE TO REPORT.—Section 1128E(b) (42 U.S.C. 1320a–7e(b)), as inserted by section 221(a) of the Health Insurance Portability and Accountability Act of 1996, is amended by adding at the end the following:

"(6) SANCTIONS FOR FAILURE TO REPORT.—

"(A) HEALTH PLANS.—Any health plan that fails to report information on an adverse action required to be reported under this subsection shall be subject to a civil money penalty of not more than $25,000 for each such adverse action not reported. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.

"(B) GOVERNMENTAL AGENCIES.—The Secretary shall provide for a publication of a public report that identifies those Government agencies that have failed to report information on adverse actions as required to be reported under this subsection.".

(e) CLARIFICATION OF TREATMENT OF CERTAIN WAIVERS AND PAYMENTS OF PREMIUMS.—Section 1128A(i)(6) (42 U.S.C. 1320a–7a(i)(6)) is amended—

(1) in subparagraph (A)(iii)—

(A) in subclause (I), by adding "or" at the end;

(B) in subclause (II), by striking "or" at the end; and

(C) by striking subclause (III);

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(3) by inserting after subparagraph (A) the following:

"(B) any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

(2) FEDERAL HEALTH PROGRAM.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) SANCTION FOR FAILURE TO REPORT.—The amendment made by subsection (d) shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle E—Provisions Relating to Part A Only

CHAPTER 1—PAYMENT OF PPS HOSPITALS

SEC. 4401. PPS HOSPITAL PAYMENT UPDATE.

(a) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (XII), and

(2) by striking subclause (XIII) and inserting the following:

"(XIII) for fiscal year 1998, 0 percent,

"(XIV) for fiscal year 1999, the market basket percentage increase minus 1.9 percentage points for hospitals in all areas,

"(XV) for fiscal year 2000, the market basket percentage increase minus 1.8 percentage points for hospitals in all areas,

"(XVI) for each of fiscal years 2001 and 2002, the market basket percentage increase minus 1.1 percentage point for hospitals in all areas, and

"(XVII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

(b) TEMPORARY RELIEF FOR CERTAIN NON-TEACHING, NON-DSH HOSPITALS.—

(1) IN GENERAL.—In the case of a hospital described in paragraph (2) for its cost reporting period—

(A) beginning in fiscal year 1998 the amount of payment made to the hospital under section 1886(d) of the Social Security Act for discharges occurring during such fiscal year only shall be increased as though the applicable percentage increase (otherwise applicable to discharges occurring during fiscal year 1998 under section 1886(b)(3)(B)(i)(XIII) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)(XIII))) had been increased by 0.5 percentage points; and

(B) beginning in fiscal year 1999 the amount of payment made to the hospital under section 1886(d) of the Social Security Act for discharges occurring during such fiscal year only shall be increased as though the applicable percentage increase (otherwise applicable to discharges occurring during fiscal year 1999 under section 1886(b)(3)(B)(i)(XIII) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)(XIII))) had been increased by 0.3 percentage points.

Subparagraph (A) shall not apply in computing the increase under subparagraph (B) and neither subparagraph shall affect payment for discharges for any hospital occurring during a fiscal year after fiscal year 1999. Payment increases under this subsection for discharges occurring during a fiscal year are subject to settlement after the close of the fiscal year.

(2) HOSPITALS COVERED.—A hospital described in this paragraph for a cost reporting period is a hospital—

(A) that is described in paragraph (3) for such period;

(B) that is located in a State in which the amount of the aggregate payments under section 1886(d) of such Act for hospitals located in the State and described in paragraph (3) for their cost reporting periods beginning during fiscal year 1995 is less than the aggregate allowable operating costs of inpatient hospital services (as defined in section 1886(a)(4) of such Act) for all such hospitals in such State with respect to such cost reporting periods; and

(C) with respect to which the payments under section 1886(d) of such Act (42 U.S.C. 1395ww(d)) for discharges occurring in the cost reporting period involved, as estimated by the Secretary, is less than the allowable operating costs of inpatient hospital services (as defined in section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) for such hospital for such period, as estimated by the Secretary.

(3) NON-TEACHING, NON-DSH HOSPITALS DESCRIBED.—A hospital described in this paragraph for a cost reporting period is a subsection (d) hospital (as defined in section 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B))) that—

(A) is not receiving any additional payment amount described in section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) for discharges occurring during the period;

(B) is not receiving any additional payment under section 1886(d)(5)(B) of such Act (42 U.S.C. 1395ww(d)(5)(B)) or a payment under section 1886(h) of such Act (42 U.S.C. 1395ww(h)) for discharges occurring during the period; and

(C) does not qualify for payment under section 1886(d)(5)(G) of such Act (42 U.S.C. 1395ww(d)(5)(G)) for the period.

SEC. 4402. MAINTAINING SAVINGS FROM TEMPORARY REDUCTION IN CAPITAL PAYMENTS FOR PPS HOSPITALS.

Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following: "In addition to the reduction described in the preceding sentence, for discharges occurring on or after October 1, 1997, the Secretary shall apply the budget neutrality adjustment factor used to determine the Federal capital payment rate in effect on September 30, 1995 (as described in section 412.352 of title 42 of the Code of Federal Regulations), to (i) the unadjusted standard Federal capital payment rate (as described in section 412.308(c) of that title, as in effect on September 30, 1997), and (ii) the unadjusted hospital-specific rate (as described in section 412.328(e)(1) of that title, as in effect on September 30, 1997), and, for discharges occurring on or after October 1, 1997, and before September 30, 2002, reduce the rates described in clauses (i) and (ii) by 2.1 percent.".

SEC. 4403. DISPROPORTIONATE SHARE.

(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (i) by inserting "and before October 1, 1997" after "May 1, 1986";

(2) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount"; and

(3) by adding at the end the following new clause:

"(ix) In the case of discharges occurring—

"(I) during fiscal year 1998, the additional payment amount otherwise determined under clause (ii) shall be reduced by 1 percent;

"(II) during fiscal year 1999, such additional payment amount shall be reduced by 2 percent;

"(III) during fiscal year 2000, such additional payment amount shall be reduced by 3 percent;

"(IV) during fiscal year 2001, such additional payment amount shall be reduced by 4 percent;

"(V) during fiscal year 2002, such additional payment amount shall be reduced by 5 percent; and

"(VI) during fiscal year 2003 and each subsequent fiscal year, such additional payment amount shall be reduced by 0 percent.".

(b) Report on New Payment Formula.—

(1) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains a formula for determining additional payment amounts to hospitals under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)).

(2) Factors in Determination of Formula.—In determining such formula the Secretary shall—

(A) establish a single threshold for costs incurred by hospitals in serving low-income patients, and

(B) consider the costs described in paragraph (3).

(3) The costs described in this paragraph are as follows:

(A) The costs incurred by the hospital during a period (as determined by the Secretary) of furnishing hospital services to individuals who are entitled to benefits under part A of title XVIII of the Social Security Act and who receive supplemental security income benefits under title XVI of such Act (excluding any supplementation of those benefits by a State under section 1616 of such Act (42 U.S.C. 1382e)).

(B) The costs incurred by the hospital during a period (as so determined) of furnishing hospital services to individuals who receive medical assistance under the State plan under title XIX of such Act and are not entitled to benefits under part A of title XVIII of such Act (including individuals enrolled in a managed care organization (as defined in section 1903(m)(1)(A) of such Act (42 U.S.C. 1396b(m)(1)(A)) or any other managed care plan under such title and individuals who receive medical assistance under such title pursuant to a waiver approved by the Secretary under section 1115 of such Act (42 U.S.C. 1315)).

(c) Data Collection.—In developing the formula described in subsection (b), the Secretary of Health and Human Services may require any subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) receiving additional payments by reason of section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) to submit to the Secretary any information that the Secretary determines is necessary to develop such formula.

SEC. 4404. MEDICARE CAPITAL ASSET SALES PRICE EQUAL TO BOOK VALUE.

(a) In General.—Section 1861(v)(1)(O) (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) in clause (i)—

(A) by striking "and (if applicable) a return on equity capital";

(B) by striking "hospital or skilled nursing facility" and inserting "provider of services";

(C) by striking "clause (iv)" and inserting "clause (iii)"; and

(D) by striking "the lesser of the allowable acquisition cost" and all that follows and inserting "the historical cost of the asset, as recognized under this title, less depreciation allowed, to the owner of record as of the date of enactment of the Balanced Budget Act of 1997 (or, in the case of an asset not in existence as of that date, the first owner of record of the asset after that date).";

(2) by striking clause (ii); and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) Effective Date.—The amendments made by subsection (a) apply to changes of ownership that occur after the third month beginning after the date of enactment of this section.

SEC. 4405. ELIMINATION OF IME AND DSH PAYMENTS ATTRIBUTABLE TO OUTLIER PAYMENTS.

(a) Indirect Medical Education.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(b) Disproportionate Share Adjustments.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by inserting ", for cases qualifying for additional payment under subparagraph (A)(i)," before "the amount paid to the hospital under subparagraph (A)".

(c) Cost Outlier Payments.—Section 1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is amended by striking "exceed the applicable DRG prospective payment rate" and inserting "exceed the sum of the applicable DRG prospective payment rate plus any amounts payable under subparagraphs (B) and (F)".

(d) Effective Date.—The amendments made by this section apply to discharges occurring after September 30, 1997.

SEC. 4406. INCREASE BASE PAYMENT RATE TO PUERTO RICO HOSPITALS.

Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(1) in the matter preceding clause (i), by striking "in a fiscal year beginning on or after October 1, 1987,",

(2) in clause (i), by striking "75 percent" and inserting, "for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)", and

(3) in clause (ii), by striking "25 percent" and inserting, "for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987 and September 30, 1997, 25 percent)".

SEC. 4407. CERTAIN HOSPITAL DISCHARGES TO POST ACUTE CARE.

Section 1886(d)(5) (42 U.S.C. 1395ww(d)(5)) is amended—

(1) in subparagraph (I)(ii) by inserting "not taking in account the effect of subparagraph (J)," after "in a fiscal year, "; and

(2) by adding at the end the following new subparagraph:

"(J)(i) The Secretary shall treat the term 'transfer case' (as defined in subparagraph (I)(ii)) as including the case of a qualified discharge (as defined in clause (ii)), which is classified within a diagnosis-related group described in clause (iii), and which occurs on or after October 1, 1998. In the case of a qualified discharge for which a substantial portion of the costs of care are incurred in the early days of the inpatient stay (as defined by the Secretary), in no case may the payment amount otherwise provided under this subsection exceed an amount equal to the sum of—

"(I) 50 percent of the amount of payment under this subsection for transfer cases (as established under subparagraph (I)(i)), and

"(II) 50 percent of the amount of payment which would have been made under this subsection with respect to the qualified discharge if no transfer were involved.

"(ii) For purposes of clause (i), subject to clause (iii), the term 'qualified discharge' means a discharge classified with a diagnosis-related group (described in clause (iii)) of an individual from a subsection (d) hospital, if upon such discharge the individual—

"(I) is admitted as an inpatient to a hospital or hospital unit that is not a subsection (d) hospital for the provision of inpatient hospital services;

"(II) is admitted to a skilled nursing facility;

"(III) is provided home health services from a home health agency, if such services relate to the condition or diagnosis for which such individual received inpatient hospital services from the subsection (d) hospital, and if such services are provided within an appropriate period (as determined by the Secretary); or

"(IV) for discharges occurring on or after October 1, 2000, the individual receives post discharge services described in clause (iv)(I).

"(iii) Subject to clause (iv), a diagnosis-related group described in this clause is—

"(I) 1 of 10 diagnosis-related groups selected by the Secretary based upon a high volume of discharges classified within such groups and a disproportionate use of post discharge services described in clause (ii); and

"(II) a diagnosis-related group specified by the Secretary under clause (iv)(II).

"(iv) The Secretary shall include in the proposed rule published under subsection (e)(5)(A) for fiscal year 2001, a description of the effect of this subparagraph. The Secretary may include in the proposed rule (and in the final rule published under paragraph (6)) for fiscal year 2001 or a subsequent fiscal year, a description of—

"(I) post-discharge services not described in subclauses (I), (II), and (III) of clause (ii), the receipt of which results in a qualified discharge; and

"(II) diagnosis-related groups described in clause (iii)(I) in addition to the 10 selected under such clause.".

SEC. 4408. RECLASSIFICATION OF CERTAIN COUNTIES AS LARGE URBAN AREAS UNDER MEDICARE PROGRAM.

(a) In General.—For purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Charlotte-Gastonia-Rock Hill-North Carolina-South Carolina may be deemed to include Stanly County, North Carolina.

(b) Effective Date.—This section shall apply with respect to discharges occurring on or after October 1, 1997.

SEC. 4409. GEOGRAPHIC RECLASSIFICATION FOR CERTAIN DISPROPORTIONATELY LARGE HOSPITALS.

(a) New Guidelines for Reclassification.—Notwithstanding the guidelines published under section 1886(d)(10)(D)(i)(I) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(i)(I)), the Secretary of Health and Human Services shall publish and use alternative guidelines under which a hospital described in subsection (b) qualifies for geographic reclassification under such section for a fiscal year beginning with fiscal year 1998.

(b) Hospitals Covered.—A hospital described in this subsection is a hospital that demonstrates that—

(1) the average hourly wage paid by the hospital is not less than 108 percent of the average hourly wage paid by all other hospitals located in the Metropolitan Statistical Area (or the New England County Metropolitan Area) in which the hospital is located;

(2) not less than 40 percent of the adjusted uninflated wages paid by all hospitals located in such Area is attributable to wages paid by the hospital; and

(3) the hospital submitted an application requesting reclassification for purposes of wage index under section 1886(d)(10)(C) of such Act (42 U.S.C. 1395ww(d)(10)(C)) in each of fiscal

years 1992 through 1997 and that such request was approved for each of such fiscal years.

SEC. 4410. FLOOR ON AREA WAGE INDEX.

(a) In General.—For purposes of section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) for discharges occurring on or after October 1, 1997, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) may not be less than the area wage index applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) Implementation.—The Secretary of Health and Human Services shall adjust the area wage index referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

(c) Exclusion of Certain Wages.—In the case of a hospital that is owned by a municipality and that was reclassified as an urban hospital under section 1886(d)(10) of the Social Security Act for fiscal year 1996, in calculating the hospital's average hourly wage for purposes of geographic reclassification under such section for fiscal year 1998, the Secretary of Health and Human Services shall exclude the general service wages and hours of personnel associated with a skilled nursing facility that is owned by the hospital of the same municipality and that is physically separated from the hospital to the extent that such wages and hours of such personnel are not shared with the hospital and are separately documented. A hospital that applied for and was denied reclassification as an urban hospital for fiscal year 1998, but that would have received reclassification had the exclusion required by this section been applied to it, shall be reclassified as an urban hospital for fiscal year 1998.

CHAPTER 2—PAYMENT OF PPS-EXEMPT HOSPITALS

Subchapter A—General Payment Provisions

SEC. 4411. PAYMENT UPDATE.

(a) In General.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (V),

(B) by redesignating subclause (VI) as subclause (VIII); and

(C) by inserting after subclause (V), the following subclauses:

"(VI) for fiscal year 1998, is 0 percent;

"(VII) for fiscal years 1999 through 2002, is the applicable update factor specified under clause (vi) for the fiscal year; and"; and

(2) by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VII) for a fiscal year, if a hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available—

"(I) is equal to, or exceeds, 110 percent of the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, the applicable update factor specified under this clause is the market basket percentage;

"(II) exceeds 100 percent, but is less than 110 percent, of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 0.25 percentage points for each percentage point by which such allowable operating costs (expressed as a percentage of such target amount) is less than 110 percent of such target amount;

"(III) is equal to, or less than 100 percent, but exceeds ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent or, if greater, the market basket percentage minus 2.5 percentage points; or

"(IV) does not exceed ⅔ of such target amount for the hospital, the applicable update factor specified under this clause is 0 percent.".

(b) No Effect of Payment Reduction on Exceptions and Adjustments.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by adding at the end the following new sentence: "In making such reductions, the Secretary shall treat the applicable update factor described in paragraph (3)(B)(vi) for a fiscal year as being equal to the market basket percentage for that year.".

SEC. 4412. REDUCTIONS TO CAPITAL PAYMENTS FOR CERTAIN PPS-EXEMPT HOSPITALS AND UNITS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that are attributable to portions of cost reporting periods occurring during fiscal years 1998 through 2002 and that may be made under this title with respect to capital-related costs of inpatient hospital services of a hospital which is described in clause (i), (ii), or (iv) of subsection (d)(1)(B) or a unit described in the matter after clause (v) of such subsection, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.".

SEC. 4413. REBASING.

(a) Option of Rebasing for Hospitals In Operation Before 1990.—Section 1886(b)(3)(42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A) by striking "subparagraphs (C), (D), and (E)" and inserting "subparagraph (C) and succeeding subparagraphs", and

(2) by adding at the end the following new subparagraph:

"(F)(i) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished during cost reporting periods beginning before October 1, 1990, that is within a class of hospital described in clause (iii), and that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the average described in clause (ii).

"(ii) The average described in this clause for a hospital or unit shall be determined by the Secretary as follows:

"(I) The Secretary shall determine the allowable operating costs for inpatient hospital services for the hospital or unit for each of the 5 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph.

"(II) The Secretary shall increase the amount determined under subclause (I) for each cost reporting period by the applicable percentage increase under subparagraph (B)(ii) for each subsequent cost reporting period up to the cost reporting period described in clause (i).

"(III) The Secretary shall identify among such 5 cost reporting periods the cost reporting periods for which the amount determined under subclause (II) is the highest, and the lowest.

"(IV) The Secretary shall compute the averages of the amounts determined under subclause (II) for the 3 cost reporting periods not identified under subclause (III).

"(iii) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iii) of such subsection.

"(IV) Hospitals described in clause (iv) of such subsection.

"(V) Hospitals described in clause (v) of such subsection.".

(b) Certain Long-Term Care Hospitals.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(G)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)) that elects (in a form and manner determined by the Secretary) this subparagraph to apply to the hospital, the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 1998 is equal to the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1996, increased by the applicable percentage increase for the cost reporting period beginning during fiscal year 1997.

"(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during each of the 2 cost reporting periods for which the Secretary has the most recent settled cost reports as of the date of the enactment of this subparagraph for each of which—

"(I) the hospital's allowable operating costs of inpatient hospital services recognized under this title exceeded 115 percent of the hospital's target amount, and

"(II) the hospital would have a disproportionate patient percentage of at least 70 percent (as determined by the Secretary under subsection (d)(5)(F)(vi)) if the hospital were a subsection (d) hospital.".

SEC. 4414. CAP ON TEFRA LIMITS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by section 4413, is amended by adding at the end the following new subparagraph:

"(H)(i) In the case of a hospital or unit that is within a class of hospital described in clause (iv), the Secretary shall estimate the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods ending during fiscal year 1996.

"(ii) The Secretary shall update the amount determined under clause (i), for each cost reporting period after the cost reporting period described in such clause and up to the first cost reporting period beginning on or after October 1, 1997, by a factor equal to the market basket percentage increase.

"(iii) For cost reporting periods beginning during each of fiscal years 1999 through 2002, the Secretary shall update such amount by a factor equal to the market basket percentage increase.

"(iv) For purposes of this subparagraph, each of the following shall be treated as a separate class of hospital:

"(I) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(II) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(III) Hospitals described in clause (iv) of such subsection.".

SEC. 4415. BONUS AND RELIEF PAYMENTS.

(a) CHANGE IN BONUS PAYMENT.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended in subparagraph (A) by striking all that follows "plus—" and inserting the following:

"(i) 15 percent of the amount by which the target amount exceeds the amount of the operating costs, or

"(ii) 2 percent of the target amount,

whichever is less;".

(b) CONTINUOUS IMPROVEMENT BONUS PAYMENTS.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting "plus the amount, if any, provided under paragraph (2)" before "except that in no case"; and

(2) by inserting after paragraph (1), the following new paragraph:

"(2)(A) In addition to the payment computed under paragraph (1), in the case of an eligible hospital (described in subparagraph (B)) for a cost reporting period beginning on or after October 1, 1997, the amount of payment on a per discharge basis under paragraph (1) shall be increased by the lesser of—

"(i) 50 percent of the amount by which the operating costs are less than the expected costs (as defined in subparagraph (D)) for the period; or

"(ii) 1 percent of the target amount for the period.

"(B) For purposes of this paragraph, an 'eligible hospital' means with respect to a cost reporting period, a hospital—

"(i) that has received payments under this subsection for at least 3 full cost reporting periods before that cost reporting period, and

"(ii) whose operating costs for the period are less than the least of its target amount, its trended costs (as defined in subparagraph (C)), or its expected costs (as defined in subparagraph (D)) for the period.

"(C) For purposes of subparagraph (B)(ii), the term 'trended costs' means for a hospital cost reporting period ending in a fiscal year—

"(i) in the case of a hospital for which its cost reporting period ending in fiscal year 1996 was its third or subsequent full cost reporting period for which it receives payments under this subsection, the lesser of the operating costs or target amount for that hospital for its cost reporting period ending in fiscal year 1996, or

"(ii) in the case of any other hospital, the operating costs for that hospital for its third full cost reporting period for which it receives payments under this subsection,

increased (in a compounded manner) for each succeeding fiscal year (through the fiscal year involved) by the market basket percentage increase for the fiscal year.

"(D) For purposes of this paragraph, the term 'expected costs', with respect to the cost reporting period ending in a fiscal year, means the lesser of the operating costs of inpatient hospital services or target amount per discharge for the previous cost reporting period updated by the market basket percentage increase (as defined in paragraph (3)(B)(iii)) for the fiscal year.".

(c) CHANGE IN RELIEF PAYMENTS.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)), as amended in subsections (a) and (b), is further amended—

(1) by redesignating subparagraph (B) as subparagraph (C)

(2) in subparagraph (C), as so redesignated—

(A) by striking "greater than the target amount" and inserting "greater than 110 percent of the target amount", and

(B) by striking "exceed the target amount" and inserting "exceed 110 percent of the target amount", and

(3) by inserting after subparagraph (A), the following new subparagraph:

"(B) are greater than the target amount but do not exceed 110 percent of the target amount, the amount of the payment with respect to those operating costs payable under part A on a per discharge basis shall equal the target amount; or".

(d) REPORT.—Not later than October 1, 1999, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that describes the effect of the amendments to section 1886(b)(1) of the Social Security Act (42 U.S.C. 1395ww(b)(1)), made under this section, on psychiatric hospitals (as defined in section 1886(d)(1)(B)(i) of such Act (42 U.S.C. 1395ww(d)(1)(B)(i)) that have approved medical residency training programs under title XVIII of such Act (42 U.S.C. 1395 et seq.)).

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall apply with respect to cost reporting periods beginning on or after October 1, 1997.

SEC. 4416. CHANGE IN PAYMENT AND TARGET AMOUNT FOR NEW PROVIDERS.

Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) by adding at the end the following new paragraph:

"(7)(A) Notwithstanding paragraph (1), in the case of a hospital or unit that is within a class of hospital described in subparagraph (B) which first receives payments under this section on or after October 1, 1997—

"(i) for each of the first 2 cost reporting periods for which the hospital has a settled cost report, the amount of the payment with respect to operating costs described in paragraph (1) under part A on a per discharge or per admission basis (as the case may be) is equal to the lesser of—

"(I) the amount of operating costs for such respective period, or

"(II) 110 percent of the national median of the target amount for hospitals in the same class as the hospital for cost reporting periods ending during fiscal year 1996, updated by the hospital market basket increase percentage to the fiscal year in which the hospital first received payments under this section, as adjusted under subparagraph (C); and

"(ii) for purposes of computing the target amount for the subsequent cost reporting period, the target amount for the preceding cost reporting period is equal to the amount determined under clause (i) for such preceding period.

"(B) For purposes of this paragraph, each of the following shall be treated as a separate class of hospital:

"(i) Hospitals described in clause (i) of subsection (d)(1)(B) and psychiatric units described in the matter following clause (v) of such subsection.

"(ii) Hospitals described in clause (ii) of such subsection and rehabilitation units described in the matter following clause (v) of such subsection.

"(iii) Hospitals described in clause (iv) of such subsection.

"(C) In applying subparagraph (A)(i)(II) in the case of a hospital or unit, the Secretary shall provide for an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital."; and

(2) in paragraph (3)(A), as amended in sections 4413 and 4414, by inserting "and in paragraph (7)(A)(ii)," before "for purposes of".

SEC. 4417. TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS.

(a) IN GENERAL.—(1) Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: "A hospital that was classified by the Secretary on or before September 30, 1995, as a hospital described in clause (iv) shall continue to be so classified notwithstanding that it is located in the same building as, or on the same campus as, another hospital.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(b) CERTAIN LONG-TERM CARE HOSPITALS THAT TREAT CANCER PATIENTS.—(1) Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended—

(A) by inserting "(I)" after "(iv)"; and

(B) by adding at the end the following:

"(II) a hospital that first received payment under this subsection in 1986 which has an average inpatient length of stay (as determined by the Secretary) of greater than 20 days and that has 80 percent or more of its annual medicare inpatient discharges with a principal diagnosis that reflects a finding of neoplastic disease in the 12-month cost reporting period ending in fiscal year 1997, or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after the date of the enactment of this Act.

SEC. 4418. TREATMENT OF CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1) (42 U.S.C. 1395ww(d)(1)) is amended—

(1) in subparagraph (B)(v)—

(A) by inserting "(I)" after "(v)";

(B) by striking the semicolon at the end and inserting ", or"; and

(C) by adding at the end the following:

"(II) a hospital that was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, that is located in a State which, as of December 19, 1989, was not operating a demonstration project under section 1814(b), that applied and was denied, on or before December 31, 1990, for classification as a hospital involved extensively in treatment for or research on cancer under this clause (as in effect on the day before the date of the enactment of this subclause), that as of the date of the enactment of this subclause, is licensed for less than 50 acute care beds, and that demonstrates for the 4-year period ending on December 31, 1996, that at least 50 percent of its total discharges have a principal finding of neoplastic disease, as defined in subparagraph (E);" and

(2) by adding at the end the following:

"(E) For purposes of subparagraph (B)(v)(II) only, the term 'principal finding of neoplastic disease' means the condition established after study to be chiefly responsible for occasioning the admission of a patient to a hospital, except that only discharges with ICD–9–CM principal diagnosis codes of 140 through 239, V58.0, V58.1, V66.1, V66.2, or 990 will be considered to reflect such a principal diagnosis.".

(b) PAYMENT.—

(1) APPLICATION TO COST REPORTING PERIODS.—Any classification by reason of section 1886(d)(1)(B)(v)(II) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)(II)) (as added by subsection (a)) shall apply to all cost reporting periods beginning on or after January 1, 1991.

(2) BASE YEAR.—Notwithstanding the provisions of section 1886(b)(3)(E) of such Act (42 U.S.C. 1395ww(b)(3)(E)) or other provisions to the contrary, the base cost reporting period for purposes of determining the target amount for any hospital classified by reason of section 1886(d)(1)(B)(v)(II) of such Act shall be either—

(A) the hospital's cost reporting period beginning during fiscal year 1990, or

(B) pursuant to an election under 1886(b)(3)(G) of such Act (42 U.S.C. 1395ww(b)(3)(G)), as added in section 4413(b), the period provided for under such section.

(3) DEADLINE FOR PAYMENTS.—Any payments owed to a hospital by reason of this subsection shall be made expeditiously, but in no event later than 1 year after the date of the enactment of this Act.

SEC. 4419. ELIMINATION OF EXEMPTIONS FOR CERTAIN HOSPITALS.

(a) REDUCTION OF EXEMPTIONS.—

(1) IN GENERAL.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended in the first sentence by striking "The Secretary shall provide for an exemption from, or an exception and adjustment to, " and inserting "The Secretary shall provide for an exception and adjustment to (and in the case of a hospital or unit described in subsection (d)(1)(B)(iii), may provide an exemption from)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to hospitals or units that first qualify as a hospital or unit described in section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) for cost reporting periods beginning on or after October 1, 1997.

(b) REPORT ON EXCEPTIONS.—The Secretary of Health and Human Services shall publish annually in the Federal Register a report describing the total amount of payments made to hospitals by reason of section 1886(b)(4) of the Social Security Act (42 U.S.C. 1395ww(b)(4)), as amended by subsection (a), ending during the previous fiscal year.

Subchapter B—Prospective Payment System for PPS-Exempt Hospitals

SEC. 4421. PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION SERVICES.—

"(1) PAYMENT DURING TRANSITION PERIOD.—

"(A) IN GENERAL.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation hospital or a rehabilitation unit (in this subsection referred to as a 'rehabilitation facility'), in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2002, is equal to the sum of—

"(i) the TEFRA percentage (as defined in subparagraph (C)) of the amount that would have been paid under part A with respect to such costs if this subsection did not apply, and

"(ii) the prospective payment percentage (as defined in subparagraph (C)) of the product of (I) the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs, and (II) the number of such payment units occurring in the cost reporting period.

"(B) FULLY IMPLEMENTED SYSTEM.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of the payment with respect to the operating and capital costs of inpatient hospital services of a rehabilitation facility for a payment unit in a cost reporting period beginning on or after October 1, 2002, is equal to the per unit payment rate established under this subsection for the fiscal year in which the payment unit of service occurs.

"(C) TEFRA AND PROSPECTIVE PAYMENT PERCENTAGES SPECIFIED.—For purposes of subparagraph (A), for a cost reporting period beginning—

"(i) on or after October 1, 2000, and before October 1, 2001, the 'TEFRA percentage' is 66⅔ percent and the 'prospective payment percentage' is 33⅓ percent; and

"(ii) on or after October 1, 2001, and before October 1, 2002, the 'TEFRA percentage' is 33⅓ percent and the 'prospective payment percentage' is 66⅔ percent.

"(D) PAYMENT UNIT.—For purposes of this subsection, the term 'payment unit' means a discharge, day of inpatient hospital services, or other unit of payment defined by the Secretary.

"(2) PATIENT CASE MIX GROUPS.—

"(A) ESTABLISHMENT.—The Secretary shall establish—

"(i) classes of patients of rehabilitation facilities (each in this subsection referred to as a 'case mix group'), based on such factors as the Secretary deems appropriate, which may include impairment, age, related prior hospitalization, comorbidities, and functional capability of the patient; and

"(ii) a method of classifying specific patients in rehabilitation facilities within these groups.

"(B) WEIGHTING FACTORS.—For each case mix group the Secretary shall assign an appropriate weighting which reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other groups.

"(C) ADJUSTMENTS FOR CASE MIX.—

"(i) IN GENERAL.—The Secretary shall from time to time adjust the classifications and weighting factors established under this paragraph as appropriate to reflect changes in treatment patterns, technology, case mix, number of payment units for which payment is made under this title, and other factors which may affect the relative use of resources. Such adjustments shall be made in a manner so that changes in aggregate payments under the classification system are a result of real changes and are not a result of changes in coding that are unrelated to real changes in case mix.

"(ii) ADJUSTMENT.—Insofar as the Secretary determines that such adjustments for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under the classification system during the fiscal year that are a result of changes in the coding or classification of patients that do not reflect real changes in case mix, the Secretary shall adjust the per payment unit payment rate for subsequent years so as to eliminate the effect of such coding or classification changes.

"(D) DATA COLLECTION.—The Secretary is authorized to require rehabilitation facilities that provide inpatient hospital services to submit such data as the Secretary deems necessary to establish and administer the prospective payment system under this subsection.

"(3) PAYMENT RATE.—

"(A) IN GENERAL.—The Secretary shall determine a prospective payment rate for each payment unit for which such rehabilitation facility is entitled to receive payment under this title. Subject to subparagraph (B), such rate for payment units occurring during a fiscal year shall be based on the average payment per payment unit under this title for inpatient operating and capital costs of rehabilitation facilities using the most recent data available (as estimated by the Secretary as of the date of establishment of the system) adjusted—

"(i) by updating such per-payment-unit amount to the fiscal year involved by the weighted average of the applicable percentage increases provided under subsection (b)(3)(B)(ii) (for cost reporting periods beginning during the fiscal year) covering the period from the midpoint of the period for such data through the midpoint of fiscal year 2000 and by an increase factor (described in subparagraph (C)) specified by the Secretary for subsequent fiscal years up to the fiscal year involved;

"(ii) by reducing such rates by a factor equal to the proportion of payments under this subsection (as estimated by the Secretary) based on prospective payment amounts which are additional payments described in paragraph (4) (relating to outlier and related payments);

"(iii) for variations among rehabilitation facilities by area under paragraph (6);

"(iv) by the weighting factors established under paragraph (2)(B); and

"(v) by such other factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.

"(B) BUDGET NEUTRAL RATES.—The Secretary shall establish the prospective payment amounts under this subsection for payment units during fiscal years 2001 and 2002 at levels such that, in the Secretary's estimation, the amount of total payments under this subsection for such fiscal years (including any payment adjustments pursuant to paragraphs (4) and (6)) shall be equal to 98 percent of the amount of payments that would have been made under this title during the fiscal years for operating and capital costs of rehabilitation facilities had this subsection not been enacted. In establishing such payment amounts, the Secretary shall consider the effects of the prospective payment system established under this subsection on the total number of payment units from rehabilitation facilities and other factors described in subparagraph (A).

"(C) INCREASE FACTOR.—For purposes of this subsection for payment units in each fiscal year (beginning with fiscal year 2001), the Secretary shall establish an increase factor. Such factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising services for which payment is made under this subsection, which may be the market basket percentage increase described in subsection (b)(3)(B)(iii).

"(4) OUTLIER AND SPECIAL PAYMENTS.—

"(A) OUTLIERS.—

"(i) IN GENERAL.—The Secretary may provide for an additional payment to a rehabilitation facility for patients in a case mix group, based upon the patient being classified as an outlier based on an unusual length of stay, costs, or other factors specified by the Secretary.

"(ii) PAYMENT BASED ON MARGINAL COST OF CARE.—The amount of such additional payment under clause (i) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i).

"(iii) TOTAL PAYMENTS.—The total amount of the additional payments made under this subparagraph for payment units in a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on prospective payment rates for payment units in that year.

"(B) ADJUSTMENT.—The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of rehabilitation facilities located in Alaska and Hawaii.

"(5) PUBLICATION.—The Secretary shall provide for publication in the Federal Register, on or before August 1 before each fiscal year (beginning with fiscal year 2001), of the classification and weighting factors for case mix groups under paragraph (2) for such fiscal year and a description of the methodology and data used in computing the prospective payment rates under this subsection for that fiscal year.

"(6) AREA WAGE ADJUSTMENT.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of rehabilitation facilities' costs which are attributable to wages and wage-related costs, of the prospective payment rates computed under paragraph (3) for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. Not later than October 1, 2001 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of information available to the Secretary (and updated as appropriate) of the wages and wage-related costs incurred in furnishing rehabilitation services. Any adjustments or updates made under this paragraph for a fiscal year shall be made in a manner that assures that the aggregated payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.

"(7) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the establishment of—

"(A) case mix groups, of the methodology for the classification of patients within such groups, and of the appropriate weighting factors thereof under paragraph (2),

"(B) the prospective payment rates under paragraph (3),

"(C) outlier and special payments under paragraph (4), and

"(D) area wage adjustments under paragraph (6).".

(b) CONFORMING AMENDMENTS.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(1) in paragraph (1), by inserting "and other than a rehabilitation facility described in subsection (j)(1)" after "subsection (d)(1)(B)", and

(2) in paragraph (3)(B)(i), by inserting "and subsection (j)" after "For purposes of subsection (d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 2000, except that the Secretary of Health and Human Services may require the submission of data under section 1886(j)(2)(D) of the Social Security Act (as added by subsection (a)) on and after the date of the enactment of this section.

SEC. 4422. DEVELOPMENT OF PROPOSAL ON PAYMENTS FOR LONG-TERM CARE HOSPITALS.

(a) IN GENERAL.—

(1) LEGISLATIVE PROPOSAL.—The Secretary of Health and Human Services shall develop a legislative proposal for establishing a case-mix adjusted prospective payment system for payment of long-term care hospitals described in section 1886(d)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iv)) under the medicare program. Such system shall include an adequate patient classification system that reflects the differences in patient resource use and costs among such hospitals.

(2) COLLECTION OF DATA AND EVALUATION.—In developing the legislative proposal described in paragraph (1), the Secretary—

(A) may require such long-term care hospitals to submit such information to the Secretary as the Secretary may require to develop the proposal; and

(B) shall consider several payment methodologies, including the feasibility of expanding the current diagnosis-related groups and prospective payment system established under section 1886(d) of the Social Security Act to apply to payments under the medicare program to long-term care hospitals.

(b) REPORT.—Not later than October 1, 1999, the Secretary shall submit to the appropriate committees of Congress a report that includes the legislative proposal developed under subsection (a)(1).

CHAPTER 3—PAYMENT FOR SKILLED NURSING FACILITIES

SEC. 4431. EXTENSION OF COST LIMITS.

The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking "subsection" the last place it appears and all that follows and inserting "subsection, except that the limits effective for cost reporting periods beginning on or after October 1, 1997, shall be based on the limits effective for cost reporting periods beginning on or after October 1, 1996.".

SEC. 4432. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) PROSPECTIVE PAYMENT.—

"(1) PAYMENT PROVISION.—Notwithstanding any other provision of this title, subject to paragraph (7), the amount of the payment for all costs (as defined in paragraph (2)(B)) of covered skilled nursing facility services (as defined in paragraph (2)(A)) for each day of such services furnished—

"(A) in a cost reporting period during the transition period (as defined in paragraph (2)(E)), is equal to the sum of—

"(i) the non-Federal percentage of the facility-specific per diem rate (computed under paragraph (3)), and

"(ii) the Federal percentage of the adjusted Federal per diem rate (determined under paragraph (4)) applicable to the facility; and

"(B) after the transition period is equal to the adjusted Federal per diem rate applicable to the facility.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED SKILLED NURSING FACILITY SERVICES.—

"(i) IN GENERAL.—The term 'covered skilled nursing facility services'—

"(I) means post-hospital extended care services as defined in section 1861(i) for which benefits are provided under part A; and

"(II) includes all items and services (other than services described in clause (ii)) for which payment may be made under part B and which are furnished to an individual who is a resident of a skilled nursing facility during the period in which the individual is provided covered post-hospital extended care services.

"(ii) SERVICES EXCLUDED.—Services described in this clause are physicians' services, services described by clauses (i) through (iii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, services of a certified registered nurse anesthetist, items and services described in subparagraphs (F) and (O) of section 1861(s)(2), and, only with respect to services furnished during 1998, the transportation costs of electrocardiogram equipment for electrocardiogram test services (HCPCS Code R0076). Services described in this clause do not include any physical, occupational, or speech-language therapy services regardless of whether or not the services are furnished by, or under the supervision of, a physician or other health care professional.

"(B) ALL COSTS.—The term 'all costs' means routine service costs, ancillary costs, and capital-related costs of covered skilled nursing facility services, but does not include costs associated with approved educational activities.

"(C) NON-FEDERAL PERCENTAGE; FEDERAL PERCENTAGE.—For—

"(i) the first cost reporting period (as defined in subparagraph (D)) of a facility, the 'non-Federal percentage' is 75 percent and the 'Federal percentage' is 25 percent;

"(ii) the next cost reporting period of such facility, the 'non-Federal percentage' is 50 percent and the 'Federal percentage' is 50 percent; and

"(iii) the subsequent cost reporting period of such facility, the 'non-Federal percentage' is 25 percent and the 'Federal percentage' is 75 percent.

"(D) FIRST COST REPORTING PERIOD.—The term 'first cost reporting period' means, with respect to a skilled nursing facility, the first cost reporting period of the facility beginning on or after July 1, 1998.

"(E) TRANSITION PERIOD.—

"(i) IN GENERAL.—The term 'transition period' means, with respect to a skilled nursing facility, the 3 cost reporting periods of the facility beginning with the first cost reporting period.

"(ii) TREATMENT OF NEW SKILLED NURSING FACILITIES.—In the case of a skilled nursing facility that first received payment for services under this title on or after October 1, 1995, payment for such services shall be made under this subsection as if all services were furnished after the transition period.

"(3) DETERMINATION OF FACILITY SPECIFIC PER DIEM RATES.—The Secretary shall determine a facility-specific per diem rate for each skilled nursing facility not described in paragraph (2)(E)(ii) for a cost reporting period as follows:

"(A) DETERMINING BASE PAYMENTS.—The Secretary shall determine, on a per diem basis, the total of—

"(i) the allowable costs of extended care services for the facility for cost reporting periods beginning in fiscal year 1995, including costs associated with facilities described in subsection (d), with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance, and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

In making appropriate adjustments under clause (i), the Secretary shall take into account exceptions and shall take into account exemptions but, with respect to exemptions, only to the extent that routine costs do not exceed 150 percent of the routine cost limits otherwise applicable but for the exemption.

"(B) UPDATE TO FIRST COST REPORTING PERIOD.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase minus 1 percentage point.

"(ii) CERTAIN DEMONSTRATION PROJECTS.—In the case of a facility participating in the Nursing Home Case-Mix and Quality Demonstration (RUGS–III), there shall be substituted for the amount described in clause (i) the RUGS–III rate received by the facility for 1997.

"(C) UPDATING TO APPLICABLE COST REPORTING PERIOD.—The Secretary shall update the amount determined under subparagraph (B) for each cost reporting period beginning with the first cost reporting period and up to and including the cost reporting period involved by a factor equal to the facility-specific update factor.

"(D) FACILITY-SPECIFIC UPDATE FACTOR.—For purposes of this paragraph, the 'facility-specific update factor' for cost reporting periods beginning during—

"(i) during each of fiscal years 1998 and 1999, is equal to the skilled nursing facility market basket percentage increase for such fiscal year minus 1 percentage point, and

"(ii) during each subsequent fiscal year is equal to the skilled nursing facility market basket percentage increase for such fiscal year.

"(4) FEDERAL PER DIEM RATE.—

"(A) DETERMINATION OF HISTORICAL PER DIEM FOR FACILITIES.—For each skilled nursing facility that received payments for post-hospital extended care services during a cost reporting period beginning in fiscal year 1995 and that was subject to (and not exempted from) the per diem limits referred to in paragraph (1) or (2) of subsection (a) (and facilities described in subsection (d)), the Secretary shall estimate, on a per diem basis for such cost reporting period, the total of—

"(i) the allowable costs of extended care services (excluding exceptions payments) for the facility for cost reporting periods beginning in 1995 with appropriate adjustments (as determined by the Secretary) to non-settled cost reports, and

"(ii) an estimate of the amounts that would be payable under part B (disregarding any applicable deductibles, coinsurance, and copayments) for covered skilled nursing facility services described in paragraph (2)(A)(i)(II) furnished during such period to an individual who is a resident of the facility, regardless of whether or not the payment was made to the facility or to another entity.

"(B) UPDATE TO FIRST FISCAL YEAR.—The Secretary shall update the amount determined under subparagraph (A), for each cost reporting period after the cost reporting period described in subparagraph (A)(i) and up to the first cost reporting period by a factor equal to the skilled nursing facility market basket percentage increase reduced (on an annualized basis) by 1 percentage point.

"(C) COMPUTATION OF STANDARDIZED PER DIEM RATE.—The Secretary shall standardize the amount updated under subparagraph (B) for each facility by—

"(i) adjusting for variations among facilities by area in the average facility wage level per diem, and

"(ii) adjusting for variations in case mix per diem among facilities.

"(D) COMPUTATION OF WEIGHTED AVERAGE PER DIEM RATES.—

"(i) ALL FACILITIES.—The Secretary shall compute a weighted average per diem rate for all facilities by computing an average of the standardized amounts computed under subparagraph (C), weighted for each facility by the number of days of extended care services furnished during the cost reporting period referred to in subparagraph (A).

"(ii) FREESTANDING FACILITIES.—The Secretary shall compute a weighted average per diem rate for freestanding facilities by computing an average of the standardized amounts computed under subparagraph (C) only for such facilities, weighted for each facility by the number of days of extended care services furnished during the cost reporting period referred to in subparagraph (A).

"(iii) SEPARATE COMPUTATION.—The Secretary may compute and apply such averages separately for facilities located in urban and rural areas (as defined in section 1886(d)(2)(D)).

"(E) UPDATING.—

"(i) INITIAL PERIOD.—For the initial period beginning on July 1, 1998, and ending on September 30, 1999, the Secretary shall compute for skilled nursing facilities an unadjusted federal per diem rate equal to the average of the weighted average per diem rates computed under clauses (i) and (ii) of subparagraph (D), increased by skilled nursing facility market basket percentage change for such period minus 1 percentage point.

"(ii) SUBSEQUENT FISCAL YEARS.—The Secretary shall compute an unadjusted federal per diem rate equal to the federal per diem rate computed under this subparagraph—

"(I) for fiscal year 2000, the rate computed for the initial period described in clause (i), increased by the skilled nursing facility market basket percentage change for the initial period minus 1 percentage point;

"(II) for each of fiscal years 2001 and 2002, the rate computed for the previous fiscal year increased by the skilled nursing facility market basket percentage change for the fiscal year involved minus 1 percentage point; and

"(III) for each subsequent fiscal year, the rate computed for the previous fiscal year increased by the skilled nursing facility market basket percentage change for the fiscal year involved.

"(F) ADJUSTMENT FOR CASE MIX CREEP.—Insofar as the Secretary determines that the adjustments under subparagraph (G)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of residents that do not reflect real changes in case mix, the Secretary may adjust unadjusted Federal per diem rates for subsequent fiscal years so as to eliminate the effect of such coding or classification changes.

"(G) DETERMINATION OF FEDERAL RATE.—The Secretary shall compute for each skilled nursing facility for each fiscal year (beginning with the initial period described in subparagraph (E)(i)) an adjusted Federal per diem rate equal to the unadjusted Federal per diem rate determined under subparagraph (E), as adjusted under subparagraph (F), and as further adjusted as follows:

"(i) ADJUSTMENT FOR CASE MIX.—The Secretary shall provide for an appropriate adjustment to account for case mix. Such adjustment shall be based on a resident classification system, established by the Secretary, that accounts for the relative resource utilization of different patient types. The case mix adjustment shall be based on resident assessment data and other data that the Secretary considers appropriate.

"(ii) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN LABOR COSTS.—The Secretary shall adjust the portion of such per diem rate attributable to wages and wage-related costs for the area in which the facility is located compared to the national average of such costs using an appropriate wage index as determined by the Secretary. Such adjustment shall be done in a manner that does not result in aggregate payments under this subsection that are greater or less than those that would otherwise be made if such adjustment had not been made.

"(H) PUBLICATION OF INFORMATION ON PER DIEM RATES.—The Secretary shall provide for publication in the Federal Register, before May 1, 1998 (with respect to fiscal period described in subparagraph (E)(i)) and before the August 1 preceding each succeeding fiscal year (with respect to that succeeding fiscal year), of—

"(i) the unadjusted Federal per diem rates to be applied to days of covered skilled nursing facility services furnished during the fiscal year,

"(ii) the case mix classification system to be applied under subparagraph (G)(i) with respect to such services during the fiscal year, and

"(iii) the factors to be applied in making the area wage adjustment under subparagraph (G)(ii) with respect to such services.

"(5) SKILLED NURSING FACILITY MARKET BASKET INDEX AND PERCENTAGE.—For purposes of this subsection:

"(A) SKILLED NURSING FACILITY MARKET BASKET INDEX.—The Secretary shall establish a skilled nursing facility market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in covered skilled nursing facility services.

"(B) SKILLED NURSING FACILITY MARKET BASKET PERCENTAGE.—The term 'skilled nursing facility market basket percentage' means, for a fiscal year or other annual period and as calculated by the Secretary, the percentage change in the skilled nursing facility market basket index (established under subparagraph (A)) from the midpoint of the prior fiscal year (or period) to the midpoint of the fiscal year (or other period) involved.

"(6) SUBMISSION OF RESIDENT ASSESSMENT DATA.—A skilled nursing facility, or a facility described in paragraph (7)(B), shall provide the Secretary, in a manner and within the timeframes prescribed by the Secretary, the resident assessment data necessary to develop and implement the rates under this subsection. For purposes of meeting such requirement, a skilled nursing facility, or a facility described in paragraph (7), may submit the resident assessment data required under section 1819(b)(3), using the standard instrument designated by the State under section 1819(e)(5).

"(7) TRANSITION FOR MEDICARE SWING BED HOSPITALS.—

"(A) IN GENERAL.—The Secretary shall determine an appropriate manner in which to apply this subsection to the facilities described in subparagraph (B), taking into account the purposes of this subsection, and shall provide that at the end of the transition period (as defined in paragraph (2)(E)) such facilities shall be paid only under this subsection. Payment shall not be made under this subsection to such facilities for cost reporting periods beginning before such date (not earlier than July 1, 1999) as the Secretary specifies.

"(B) FACILITIES DESCRIBED.—The facilities described in this subparagraph are facilities that have in effect an agreement described in section 1883, for which payment is made for the furnishing of extended care services on a reasonable cost basis under section 1814(l) (as in effect on and after such date).

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the establishment of Federal per diem rates under paragraph (4), including the computation of the standardized per diem rates under paragraph (4)(C), adjustments and corrections for case mix under paragraphs (4)(F) and (4)(G)(i), and adjustments for variations in labor-related costs under paragraph (4)(G)(ii);

"(B) the establishment of facility specific rates before January 1, 1999, (except any determination of costs paid under part A of this title); and

"(C) the establishment of transitional amounts under paragraph (7).".

(b) CONSOLIDATED BILLING.—

(1) FOR SNF SERVICES.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by 4319(b), is amended—

(A) by striking "or" at the end of paragraph (16),

(B) by striking the period at the end of paragraph (17) and inserting "; or", and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) which are covered skilled nursing facility services described in section 1888(e)(2)(A)(i) and which are furnished to an individual who is a resident of a skilled nursing facility or of a part of a facility that includes a skilled nursing facility (as determined under regulations), by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility.".

(2) REQUIRING PAYMENT FOR ALL PART B ITEMS AND SERVICES TO BE MADE TO FACILITY.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than services described in section 1888(e)(2)(A)(ii)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility or of a part of a facility that includes a skilled nursing facility (as determined under regulations), payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).".

(3) PAYMENT RULES.—Section 1888(e) (42 U.S.C. 1395yy(e)), as added by subsection (a), is amended by adding at the end the following:

"(9) PAYMENT FOR CERTAIN SERVICES.—In the case of an item or service furnished to a resident of a skilled nursing facility or a part of a facility that includes a skilled nursing facility (as determined under regulations) for which payment would (but for this paragraph) be made under part B in an amount determined in accordance with section 1833(a)(2)(B), the amount of the payment under such part shall be the amount provided under the fee schedule for such item or service.

"(10) REQUIRED CODING.—No payment may be made under part B for items and services (other than services described in paragraph (2)(A)(ii)) furnished to an individual who is a resident of a skilled nursing facility or of a part of a facility that includes a skilled nursing facility (as determined under regulations), unless the claim for such payment includes a code (or codes) under a uniform coding system specified by the Secretary that identifies the items or services furnished."

(4) FACILITY PROVIDER NUMBER REQUIRED ON CLAIMS SUBMITTED BY PHYSICIANS.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following new section:

"(t) Each request for payment, or bill submitted, for an item or service furnished by a physician to an individual who is a resident of a skilled nursing facility or of a part of a facility that includes a skilled nursing facility (as determined under regulations), for which payment may be made under this part shall include the facility's medicare provider number."

(5) CONFORMING AMENDMENTS.—

(A) Section 1819(b)(3)(C)(i) (42 U.S.C. 1395i–3(b)(3)(C)(i)) is amended by striking "Such" and inserting "Subject to the timeframes prescribed by the Secretary under section 1888(e)(6), such".

(B) Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(C) Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by inserting "or section 1888(e)(9)" after "section 1886".

(D) Section 1861(h) (42 U.S.C 1395x(h)) is amended—

(i) in the opening paragraph, by striking "paragraphs (3) and (6)" and inserting "paragraphs (3), (6), and (7)", and

(ii) in paragraph (7), after "skilled nursing facilities", by inserting ", or by others under arrangements with them made by the facility".

(E) Section 1861(v)(7)(D) (42 U.S.C. 1395x(v)(7)(D)) is amended by inserting "subsections (a) through (c) of" before "section 1888.".

(F) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively,

(ii) by inserting "(i)" after "(H)", and

(iii) by adding after clause (i), as so redesignated, the following new clause:

"(ii) in the case of skilled nursing facilities which provide covered skilled nursing facility services—

"(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

"(II) for which the individual is entitled to have payment made under this title,

to have items and services (other than services described in section 1888(e)(2)(A)(ii)) furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,".

(G) Section 1883(a)(2)(B)(ii)(II) (42 U.S.C. 1395tt(a)(2)(B)(ii)(II)) is amended by inserting "subsections (a) through (d) of" before "section 1888".

(H) Section 1888(d)(1) (42 U.S.C. 1395yy(d)(1)) is amended by striking "Any skilled nursing facility" and inserting "Subject to subsection (e), any skilled nursing facility".

(c) MEDICAL REVIEW PROCESS.—In order to ensure that medicare beneficiaries are furnished appropriate services in skilled nursing facilities, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this section on the quality of covered skilled nursing facility services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services and physicians' services for which payment is made under title XVIII of the Social Security Act.

(d) EFFECTIVE DATE.—The amendments made by this section are effective for cost reporting periods beginning on or after July 1, 1998; except that the amendments made by subsection (b) shall apply to items and services furnished on or after July 1, 1998.

CHAPTER 4—PROVISIONS RELATED TO HOSPICE SERVICES

SEC. 4441. PAYMENTS FOR HOSPICE SERVICES.

(a) PAYMENT UPDATE.—Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended—

(1) in subclause (V), by striking "and" at the end;

(2) by redesignating subclause (VI) as subclause (VII); and

(3) by inserting after subclause (V) the following new subclause:

"(VI) for each of fiscal years 1998 through 2002, the market basket percentage increase for the fiscal year involved minus 1.0 percentage points; and".

(b) COLLECTION OF DATA.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

"(3) Hospice programs providing hospice care for which payment is made under this subsection shall submit to the Secretary such data with respect to the costs for providing such care for each fiscal year, beginning with fiscal year 1999, as the Secretary determines necessary.".

SEC. 4442. PAYMENT FOR HOME HOSPICE CARE BASED ON LOCATION WHERE CARE IS FURNISHED.

(a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following:

"(D) A hospice program shall submit claims for payment for hospice care furnished in an individual's home under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to cost reporting periods beginning on or after October 1, 1997.

SEC. 4443. HOSPICE CARE BENEFITS PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1) by striking ", a subsequent period of 30 days, and a subsequent extension period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—(1) Section 1812 (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and

(ii) by striking ", and" at the end and inserting a period; and

(C) by striking clause (iii).

SEC. 4444. OTHER ITEMS AND SERVICES INCLUDED IN HOSPICE CARE.

(a) IN GENERAL.—Section 1861(dd)(1) (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by striking the period at the end and inserting ", and"; and

(3) by inserting after subparagraph (H) the following:

"(I) any other item or service which is specified in the plan and for which payment may otherwise be made under this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to items or services furnished on or after April 1, 1998.

SEC. 4445. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking "(F),"; and

(2) in subparagraph (B)(i), by inserting "or, in the case of a physician described in subclause (I), under contract with" after "employed by".

SEC. 4446. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NONURBANIZED AREAS.

Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting "or (C)" after "subparagraph (A)" each place it appears; and

(2) by adding at the end the following:

"(C) The Secretary may waive the requirements of paragraph (2)(A)(i) and (2)(A)(ii) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of Census), and

"(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.".

SEC. 4447. LIMITATION ON LIABILITY OF BENEFICIARIES FOR CERTAIN HOSPICE COVERAGE DENIALS.

Section 1879(g) (42 U.S.C. 1395pp(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking "is," and inserting "is—";

(3) by making the remaining text of subsection (g), as amended, that follows "is—" a new paragraph (1) and indenting such paragraph 2 ems to the right;

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill.".

SEC. 4448. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i) (42 U.S.C. 1395f(a)(7)(A)(i)) is amended in the matter following subclause (II) by striking ", not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days *after such care is initiated)" and inserting "at the beginning of the period".*

SEC. 4449. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to benefits provided on or after the date of the enactment of this chapter, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act (42 U.S.C. 1395d(d)) before such date.

CHAPTER 5—OTHER PAYMENT PROVISIONS

SEC. 4451. REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD DEBT.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) In determining such reasonable costs for hospitals, no reduction in copayments under section 1833(t)(5)(B) shall be treated as a bad debt and the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced—

"(i) for cost reporting periods beginning during fiscal year 1998, by 25 percent of such amount otherwise allowable,

"(ii) for cost reporting periods beginning during fiscal year 1999, by 40 percent of such amount otherwise allowable, and

"(iii) for cost reporting periods beginning during a subsequent fiscal year, by 45 percent of such amount otherwise allowable.".

SEC. 4452. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH PAYMENT.

Section 6011(d) of OBRA–1989 (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994." and inserting "and on or before September 30, 1994, and on or after October 1, 1997.".

SEC. 4453. REDUCTION IN PART A MEDICARE PREMIUM FOR CERTAIN PUBLIC RETIREES.

(a) IN GENERAL.—Section 1818(d) (42 U.S.C. 1395i–2(d)) is amended—

(1) in paragraph (2), by striking "paragraph (4)" and inserting "paragraphs (4) and (5)"; and

(2) by adding at the end the following new paragraph:

"(5)(A) The amount of the monthly premium shall be zero in the case of an individual who is a person described in subparagraph (B) for a month, if—

"(i) the individual's premium under this section for the month is not (and will not be) paid for, in whole or in part, by a State (under title XIX or otherwise), a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions thereof; and

"(ii) in each of 84 months before such month, the individual was enrolled in this part under this section and the payment of the individual's premium under this section for the month was not paid for, in whole or in part, by a State (under title XIX or otherwise), a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions thereof.

"(B) A person described in this subparagraph for a month is a person who establishes to the satisfaction of the Secretary that, as of the last day of the previous month—

"(i)(I) the person was receiving cash benefits under a qualified State or local government retirement system (as defined in subparagraph (C)) on the basis of the person's employment in one or more positions covered under any such system, and (II) the person would have at least 40 quarters of coverage under title II if remuneration for medicare qualified government employment (as defined in paragraph (1) of section 210(p), but determined without regard to paragraph (3) of such section) paid to such person were treated as wages paid to such person and credited for purposes of determining quarters of coverage under section 213;

"(ii)(I) the person was married (and had been married for the previous 1-year period) to an individual who is described in clause (i), or (II) the person met the requirement of clause (i)(II) and was married (and had been married for the previous 1-year period) to an individual described in clause (i)(I);

"(iii) the person had been married to an individual for a period of at least 1 year (at the time of such individual's death) if (I) the individual was described in clause (i) at the time of the individual's death, or (II) the person met the requirement of clause (i)(II) and the individual was described in clause (i)(I) at the time of the individual's death; or

"(iv) the person is divorced from an individual and had been married to the individual for a period of at least 10 years (at the time of the divorce) if (I) the individual was described in clause (i) at the time of the divorce, or (II) the person met the requirement of clause (i)(II) and the individual was described in clause (i)(I) at the time of the divorce.

"(C) For purposes of subparagraph (B)(i)(I), the term 'qualified State or local government retirement system' means a retirement system that—

"(i) is established or maintained by a State or political subdivision thereof, or an agency or instrumentality of one or more States or political subdivisions thereof;

"(ii) covers positions of some or all employees of such a State, subdivision, agency, or instrumentality; and

"(iii) does not adjust cash retirement benefits based on eligibility for a reduction in premium under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to premiums for months beginning with January 1998, and months before such month may be taken into account for purposes of meeting the requirement of section 1818(d)(5)(B)(iii) of the Social Security Act, as added by subsection (a).

SEC. 4454. COVERAGE OF SERVICES IN RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE COVERAGE.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) (as amended by sections 4103 and 4106) is amended—

(A) in the sixth sentence of subsection (e)—

(i) by striking "includes" and all that follows up to "but only" and inserting "includes a religious nonmedical health care institution (as defined in subsection (ss)(1)),", and

(ii) by inserting "consistent with section 1821" before the period;

(B) in subsection (y)—

(i) by amending the heading to read as follows:

"Extended Care in Religious Nonmedical Health Care Institutions",

(ii) in paragraph (1), by striking "includes" and all that follows up to "but only" and inserting "includes a religious nonmedical health care institution (as defined in subsection (ss)(1)),", and

(iii) by inserting "consistent with section 1821" before the period; and

(C) by adding at the end the following:

"Religious Nonmedical Health Care Institution

"(ss)(1) The term 'religious nonmedical health care institution' means an institution that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 and is exempt from taxes under subsection (a) of such section;

"(B) is lawfully operated under all applicable Federal, State, and local laws and regulations;

"(C) provides only nonmedical nursing items and services exclusively to patients who choose to rely solely upon a religious method of healing and for whom the acceptance of medical health services would be inconsistent with their religious beliefs;

"(D) provides such nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of such patients;

"(E) provides such nonmedical items and services to inpatients on a 24-hour basis;

"(F) on the basis of its religious beliefs, does not provide through its personnel or otherwise medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients;

"(G)(i) is not owed by, under common ownership with, or has an ownership interest in, a provider of medical treatment of services;

"(ii) is not affiliated with—

"(I) a provider of medical treatment or services, or

"(II) an individual who has an ownership interest in a provider of medical treatment or services;

"(H) has in effect a utilization review plan which—

"(i) provides for the review of admissions to the institution, of the duration of stays therein, of cases of continuous extended duration, and of the items and services furnished by the institution,

"(ii) requires that such reviews be made by an appropriate committee of the institution that includes the individuals responsible for overall administration and for supervision of nursing personnel at the institution,

"(iii) provides that records be maintained of the meetings, decisions, and actions of such committee, and

"(iv) meets such other requirements as the Secretary finds necessary to establish an effective utilization review plan;

"(I) provides the Secretary with such information as the Secretary may require to implement section 1821, including information relating to quality of care and coverage determinations; and

"(J) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution.

"(2) To the extent that the Secretary finds that the accreditation of an institution by a State, regional, or national agency or association provides reasonable assurances that any or all of the requirements of paragraph (1) are met or exceeded, the Secretary may treat such institution as meeting the condition or conditions with respect to which the Secretary made such finding.

"(3)(A)(i) In administering this subsection and section 1821, the Secretary shall not require any patient of a religious nonmedical health care institution to undergo medical screening, examination, diagnosis, prognosis, or treatment or to accept any other medical health care service, if such patient (or legal representative of the patient) objects thereto on religious grounds.

"(ii) Clause (i) shall not be construed as preventing the Secretary from requiring under section 1821(a)(2) the provision of sufficient information regarding an individual's condition as a condition for receipt of benefits under part A for services provided in such an institution.

"(B)(i) In administering this subsection and section 1821, the Secretary shall not subject a religious nonmedical health care institution or its personnel to any medical supervision, regulation, or control, insofar as such supervision, regulation, or control would be contrary to the religious beliefs observed by the institution or such personnel.

"(ii) Clause (i) shall not be construed as preventing the Secretary from reviewing items and services billed by the institution to the extent the Secretary determines such review to be necessary to determine whether such items and services were not covered under part A, are excessive, or are fraudulent.

"(4)(A) For purposes of paragraph (1)(G)(i), an ownership interest of less than 5 percent shall not be taken into account.

"(B) For purposes of paragraph (1)(G)(ii), none of the following shall be considered to create an affiliation:

"(i) An individual serving as an uncompensated director, trustee, officer, or other member of the governing body of a religious nonmedical health care institution.

"(ii) An individual who is a director, trustee, officer, employee, or staff member of a religious nonmedical health care institution having a family relationship with an individual who is affiliated with (or has an ownership interest in) a provider of medical treatment or services.

"(iii) An individual or entity furnishing goods or services as a vendor to both providers of medical treatment or services and religious nonmedical health care institutions.".

(2) CONDITIONS OF COVERAGE.—Part A of title XVIII is amended by adding at the end the following new section:

"CONDITIONS FOR COVERAGE OF RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONAL SERVICES

"SEC. 1821. (a) IN GENERAL.—Subject to subsections (c) and (d), payment under this part may be made for inpatient hospital services or post-hospital extended care services furnished an individual in a religious nonmedical health care institution only if—

"(1) the individual has an election in effect for such benefits under subsection (b); and

"(2) the individual has a condition such that the individual would qualify for benefits under this part for inpatient hospital services or extended care services, respectively, if the individual were an inpatient or resident in a hospital or skilled nursing facility that was not such an institution.

"(b) ELECTION.—

"(1) IN GENERAL.—An individual may make an election under this subsection in a form and manner specified by the Secretary consistent with this subsection. Unless otherwise provided, such an election shall take effect immediately upon its execution. Such an election, once made, shall continue in effect until revoked.

"(2) FORM.—The election form under this subsection shall include the following:

"(A) A written statement, signed by the individual (or such individual's legal representative), that—

"(i) the individual is conscientiously opposed to acceptance of nonexcepted medical treatment; and

"(ii) the individual's acceptance of nonexcepted medical treatment would be inconsistent with the individual's sincere religious beliefs.

"(B) A statement that the receipt of nonexcepted medical services shall constitute a revocation of the election and may limit further receipt of services described in subsection (a).

"(3) REVOCATION.—An election under this subsection by an individual may be revoked by voluntarily notifying the Secretary in writing of such revocation and shall be deemed to be revoked if the individual receives nonexcepted medical treatment for which reimbursement is made under this title.

"(4) LIMITATION ON SUBSEQUENT ELECTIONS.—Once an individual's election under this subsection has been made and revoked twice—

"(A) the next election may not become effective until the date that is 1 year after the date of most recent previous revocation, and

"(B) any succeeding election may not become effective until the date that is 5 years after the date of the most recent previous revocation.

"(5) EXCEPTED MEDICAL TREATMENT.—For purposes of this subsection:

"(A) EXCEPTED MEDICAL TREATMENT.—The term 'excepted medical treatment' means medical care or treatment (including medical and other health services)—

"(i) received involuntarily, or

"(ii) required under Federal or State law or law of a political subdivision of a State.

"(B) NONEXCEPTED MEDICAL TREATMENT.—The term 'nonexcepted medical treatment' means medical care or treatment (including medical and other health services) other than excepted medical treatment.

"(c) MONITORING AND SAFEGUARD AGAINST EXCESSIVE EXPENDITURES.—

"(1) ESTIMATE OF EXPENDITURES.—Before the beginning of each fiscal year (beginning with fiscal year 2000), the Secretary shall estimate the level of expenditures under this part for services described in subsection (a) for that fiscal year.

"(2) ADJUSTMENT IN PAYMENTS.—

"(A) PROPORTIONAL ADJUSTMENT.—If the Secretary determines that the level estimated under paragraph (1) for a fiscal year will exceed the trigger level (as defined in subparagraph (C)) for that fiscal year, the Secretary shall, subject to subparagraph (B), provide for such a proportional reduction in payment amounts under this part for services described in subsection (a) for the fiscal year involved as will assure that such level (taking into account any adjustment under subparagraph (B)) does not exceed the trigger level for that fiscal year.

"(B) ALTERNATIVE ADJUSTMENTS.—The Secretary may, instead of making some or all of the reduction described in subparagraph (A), impose such other conditions or limitations with respect to the coverage of covered services (including limitations on new elections of coverage and new facilities) as may be appropriate to reduce the level of expenditures described in paragraph (1) to the trigger level.

"(C) TRIGGER LEVEL.—For purposes of this subsection—

"(i) IN GENERAL.—Subject to adjustment under paragraph (3)(B), the 'trigger level' for a year is the unadjusted trigger level described in clause (ii).

"(ii) UNADJUSTED TRIGGER LEVEL.—The 'unadjusted trigger level' for—

"(I) fiscal year 1998, is $20,000,000, or

"(II) a succeeding fiscal year is the amount specified under this clause for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) for the 12-month period ending with July preceding the beginning of the fiscal year.

"(D) PROHIBITION OF ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the estimation of expenditures under subparagraph (A) or the application of reduction amounts under subparagraph (B).

"(E) EFFECT ON BILLING.—Notwithstanding any other provision of this title, in the case of a reduction in payment provided under this subsection for services of a religious nonmedical health care institution provided to an individual, the amount that the institution is otherwise permitted to charge the individual for such services is increased by the amount of such reduction.

"(3) MONITORING EXPENDITURE LEVEL.—

"(A) IN GENERAL.—The Secretary shall monitor the expenditure level described in paragraph (2)(A) for each fiscal year (beginning with fiscal year 1999).

"(B) ADJUSTMENT IN TRIGGER LEVEL.—

"(i) IN GENERAL.—If the Secretary determines that such level for a fiscal year exceeded, or was less than, the trigger level for that fiscal year, then, subject to clause (ii), the trigger level for the succeeding fiscal year shall be reduced, or increased, respectively, by the amount of such excess or deficit.

"(ii) LIMITATION ON CARRYFORWARD.—In no case may the increase effected under clause (i) for a fiscal year exceed $50,000,000.

"(d) SUNSET.—If the Secretary determines that the level of expenditures described in subsection (c)(1) for 3 consecutive fiscal years (with the first such year being not earlier than fiscal year 2002) exceeds the trigger level for such expenditures for such years (as determined under subsection (c)(2)), benefits shall be paid under this part for services described in subsection (a) and furnished on or after the first January 1 that occurs after such 3 consecutive years only with respect to an individual who has an election in effect under subsection (b) as of such January 1 and only during the duration of such election.

"(e) ANNUAL REPORT.—At the beginning of each fiscal year (beginning with fiscal year 1999), the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on coverage and expenditures for services described in subsection (a) under this part and under State plans under title XIX. Such report shall include—

"(1) level of expenditures described in subsection (c)(1) for the previous fiscal year and estimated for the fiscal year involved;

"(2) trends in such level; and

"(3) facts and circumstances of any significant change in such level from the level in previous fiscal years.".

(b) MEDICAID.—

(1) The third sentence of section 1902(a) (42 U.S.C. 1396a(a)) is amended by striking all that follows "shall not apply" and inserting "to a religious nonmedical health care institution (as defined in section 1861(ss)(1)).".

(2) Section 1908(e)(1) (42 U.S.C. 1396g–1(e)(1)) is amended by striking all that follows "does not include" and inserting "a religious nonmedical health care institution (as defined in section 1861(ss)(1)).".

(c) CONFORMING AMENDMENTS.—

(1) Section 1122(h) (42 U.S.C. 1320a–1(h)) is amended by striking all that follows "shall not apply to" and inserting "a religious nonmedical health care institution (as defined in section 1861(ss)(1)).".

(2) Section 1162 (42 U.S.C. 1320c–11) is amended—

(A) by amending the heading to read as follows:

"EXEMPTIONS FOR RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS"; and

(B) by striking all that follows "shall not apply with respect to a" and inserting "religious nonmedical health care institution (as defined in section 1861(ss)(1)).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to items and services furnished on or after such date. By not later than July 1, 1998, the Secretary of Health and Human Services shall first issue regulations to carry out such amendments. Such regulations may be issued so they are effective on an interim basis pending notice and opportunity for public comment. For periods before the effective date of such regulations, such regulations shall recognize elections entered into in good faith in order to comply with the requirements of section 1821(b) of the Social Security Act.

Subtitle F—Provisions Relating to Part B Only

CHAPTER 1—SERVICES OF HEALTH PROFESSIONALS

Subchapter A—Physicians' Services

SEC. 4501. ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1998.

(a) In General.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following:

"(C) Special rules for 1998.—The single conversion factor for 1998 under this subsection shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the three separate updates that would otherwise occur were it not for the enactment of chapter 1 of subtitle F of title IV of the Balanced Budget Act of 1997.".

(b) Conforming Amendments.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by subsection (a)(1)),

(2) in subsection (d)(1)(A), by striking "or updates",

(3) in subsection (d)(1)(D) (as redesignated by subsection (a)(1)), by striking "(or updates)" each place it appears, and

(4) in subsection (j)(1), by striking "The term" and inserting "For services furnished before January 1, 1998, the term"..

SEC. 4502. ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.

(a) Update.—

(1) In general.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) Update.—

"(A) In general.—Unless otherwise provided by law, subject to subparagraph (D) and the budget-neutrality factor determined by the Secretary under subsection (c)(2)(B)(ii), the update to the single conversion factor established in paragraph (1)(C) for a year beginning with 1999 is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) Update adjustment factor.—For purposes of subparagraph (A)(ii), the 'update adjustment factor' for a year is equal (as estimated by the Secretary) to—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services (as determined under subparagraph (C)) for the period beginning April 1, 1997, and ending on March 31 of the year involved, and (II) the amount of actual expenditures for physicians' services furnished during the period beginning April 1, 1997, and ending on March 31 of the preceding year; divided by

"(ii) the actual expenditures for physicians' services for the 12-month period ending on March 31 of the preceding year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(C) Determination of allowed expenditures.—For purposes of this paragraph, the allowed expenditures for physicians' services for the 12-month period ending with March 31 of—

"(i) 1997 is equal to the actual expenditures for physicians' services furnished during such 12-month period, as estimated by the Secretary; or

"(ii) a subsequent year is equal to the allowed expenditures for physicians' services for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during such 12-month period.

"(D) Restriction on variation from medicare economic index.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 100 times the following amount: (1.03 + (MEI percentage/100)) − 1; or

"(ii) less than 100 times the following amount: (0.93 + (MEI percentage/100)) − 1,

where 'MEI percentage' means the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for the year involved.".

(2) Effective date.—The amendment made by this subsection shall apply to the update for years beginning with 1999.

(b) Elimination of Report.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by striking paragraph (2).

SEC. 4503. REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.

(a) In General.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) Specification of growth rate.—The sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

"(A) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

"(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than Medicare+Choice plan enrollees) from the previous fiscal year to the fiscal year involved,

"(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law and regulations, determined without taking into account estimated changes in expenditures resulting from the update adjustment factor determined under subsection (d)(3)(B),

minus 1 and multiplied by 100.

"(3) Definitions.—In this subsection:

"(A) Services included in physicians' services.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a Medicare+Choice plan enrollee.

"(B) Medicare+choice plan enrollee.—The term 'Medicare+Choice plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a Medicare+Choice plan offered under part C, and also includes an individual who is receiving benefits under this part through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(b) Conforming Amendment.—So much of section 1848(f) (42 U.S.C. 1395w–4(f)) as precedes paragraph (2) is amended to read as follows:

"(f) Sustainable Growth Rate.—

"(1) Publication.—The Secretary shall cause to have published in the Federal Register the sustainable growth rate for each fiscal year beginning with fiscal year 1998. Such publication shall occur by not later than August 1 before each fiscal year, except that such rate for fiscal year 1998 shall be published not later than November 1, 1997.".

SEC. 4504. PAYMENT RULES FOR ANESTHESIA SERVICES.

(a) In General.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)), as amended by section 4501(a), is amended—

(1) in subparagraph (C), by striking "The single" and inserting "Except as provided in subparagraph (D), the single";

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) Special rules for anesthesia services.—The separate conversion factor for anesthesia services for a year shall be equal to 46 percent of the single conversion factor established for other physicians' services, except as adjusted for changes in work, practice expense, or malpractice relative value units.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1998.

SEC. 4505. IMPLEMENTATION OF RESOURCE-BASED METHODOLOGIES.

(a) 1-Year Delay in Implementation.—Section 1848(c) (42 U.S.C. 1395w–4(c)) is amended—

(1) in paragraph (2)(C)(ii), in the matter before subclause (I) and after subclause (II), by striking "1998" and inserting "1999" each place it appears; and

(2) in paragraph (3)(C)(ii), by striking "1998" and inserting "1999".

(b) Phased-in Implementation.—

(1) In general.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w–4(c)(2)(C)(ii)) is further amended—

(A) by striking the comma at the end of clause (ii) and inserting a period and the following:

"For 1999, such number of units shall be determined based 75 percent on such product and based 25 percent on the relative practice expense resources involved in furnishing the service. For 2000, such number of units shall be determined based 50 percent on such product and based 50 percent on such relative practice expense resources. For 2001, such number of units shall be determined based 25 percent on such product and based 75 percent on such relative practice expense resources. For a subsequent year, such number of units shall be determined based entirely on such relative practice expense resources.".

(2) Conforming amendment.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w–4(c)(3)(C)(ii)), as amended by subsection (a)(2), is amended by striking "1999" and inserting "2002".

(c) Review by Comptroller General.—The Comptroller General of the United States shall review and evaluate the proposed rule on resource-based methodology for practice expenses issued by the Secretary of Health and Human Services. The Comptroller General shall, within 6 months of the date of the enactment of this Act, report to the Committees on Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of its evaluation, including an analysis of—

(1) the adequacy of the data used in preparing the rule,

(2) categories of allowable costs,

(3) methods for allocating direct and indirect expenses,

(4) the potential impact of the rule on beneficiary access to services, and

(5) any other matters related to the appropriateness of resource-based methodology for practice expenses.

The Comptroller General shall consult with representatives of physicians' organizations with *respect to matters of both data and methodology.*

(d) REQUIREMENTS FOR DEVELOPING NEW RESOURCE-BASED PRACTICE EXPENSE RELATIVE VALUE UNITS.—

(1) DEVELOPMENT.—For purposes of section 1848(c)(2)(C)(ii) of the Social Security Act, the Secretary of Health and Human Services shall develop new resource-based relative value units. In developing such units the Secretary shall—

(A) utilize, to the maximum extent practicable, generally accepted cost accounting principles which (i) recognize all staff, equipment, supplies, and expenses, not just those which can be tied to specific procedures, and (ii) use actual data on equipment utilization and other key assumptions;

(B) consult with organizations representing physicians regarding methodology and data to be used; and

(C) develop a refinement process to be used during each of the 4 years of the transition period.

(2) REPORT.—The Secretary shall transmit a report by March 1, 1998, on the development of resource-based relative value units under paragraph (1) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data to be used in developing the value units and an explanation of the methodology.

(3) NOTICE OF PROPOSED RULEMAKING.—The Secretary shall publish a notice of proposed rulemaking with the new resource-based relative value units on or before May 1, 1998, and shall allow for a 90-day public comment period.

(4) ITEMS INCLUDED.—The new proposed rule shall consider the following:

(A) Impact projections which compare new proposed payment amounts on data on actual physician practice expenses.

(B) Impact projections for hospital-based and other specialties, geographic payment localities, and urban versus rural localities.

(e) ADJUSTMENTS TO RELATIVE VALUE UNITS FOR 1998.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(G) ADJUSTMENTS IN RELATIVE VALUE UNITS FOR 1998.—

"(i) IN GENERAL.—The Secretary shall—

"(I) subject to clauses (iv) and (v), reduce the practice expense relative value units applied to any services described in clause (ii) furnished in 1998 to a number equal to 110 percent of the number of work relative value units, and

"(II) increase the practice expense relative value units for office visit procedure codes during 1998 by a uniform percentage which the Secretary estimates will result in an aggregate increase in payments for such services equal to the aggregate decrease in payments by reason of subclause (I).

"(ii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iii) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1998) exceeds 110 percent of the number of work relative value units (determined for such year).

"(iii) EXCLUDED SERVICES.—For purposes of clause (ii), the services described in this clause are services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.

"(iv) LIMITATION ON AGGREGATE REALLOCATION.—If the application of clause (i)(I) would result in an aggregate amount of reductions under such clause in excess of $390,000,000, such clause shall be applied by substituting for 110 percent such greater percentage as the Secretary estimates will result in the aggregate amount of such reductions equaling $390,000,000.

"(v) NO REDUCTION FOR CERTAIN SERVICES.—Practice expense relative value units for a procedure performed in an office or in a setting out of an office shall not be reduced under clause (i) if the in-office or out-of-office practice expense relative value, respectively, for the procedure would increase under the proposed rule on resource-based practice expenses issued by the Secretary on June 18, 1997 (62 Federal Register 33158 et seq.).".

(f) APPLICATION OF RESOURCE-BASED METHODOLOGY TO MALPRACTICE RELATIVE VALUE UNITS.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(iii) (42 U.S.C. 1395w-4(c)(2)(C)(iii)) is amended—

(A) in paragraph (2)(C)(iii)—

(i) by inserting "for the service for years before 2000" before "equal", and

(ii) by striking the period at the end and inserting a comma and by adding at the end the following flush matter:

"and for years beginning with 2000 based on the malpractice expense resources involved in furnishing the service."; and

(B) in paragraph (3)(C)(iii), by striking "The malpractice" and inserting "For years before 1999, the malpractice".

(2) APPLICATION OF CERTAIN BUDGET NEUTRALITY PROVISIONS.—In implementing the amendment made by paragraph (1)(A)(ii), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w-4(c)(2)(B)) shall apply in the same manner as they apply to adjustments under clause (ii)(I) of such section.

SEC. 4506. DISSEMINATION OF INFORMATION ON HIGH PER DISCHARGE RELATIVE VALUES FOR IN-HOSPITAL PHYSICIANS' SERVICES.

(a) DETERMINATION AND NOTICE CONCERNING HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For 1999 and 2001 the Secretary of Health and Human Services shall determine for each hospital—

(A) the hospital-specific per discharge relative value under subsection (b); and

(B) whether the hospital-specific relative value is projected to be excessive (as determined based on such value represented as a percentage of the median of hospital-specific per discharge relative values determined under subsection (b)).

(2) NOTICE TO SUBSET OF MEDICAL STAFFS; EVALUATION OF RESPONSES.—The Secretary shall notify the medical executive committee of a subset of the hospitals identified under paragraph (1)(B) as having an excessive hospital-specific relative value, of the determinations made with respect to the medical staff under paragraph (1). The Secretary shall evaluate the responses of the hospitals so notified with the responses of other hospitals so identified that were not so notified.

(b) DETERMINATION OF HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES.—

(1) IN GENERAL.—For purposes of this section, the hospital-specific per discharge relative value for the medical staff of a hospital (other than a teaching hospital) for a year shall be equal to the average per discharge relative value (as determined under section 1848(c)(2) of the Social Security Act (42 U.S.C. 1395w-4(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, adjusted for variations in case-mix among hospitals and disproportionate share status and teaching status among hospitals (as determined by the Secretary under paragraph (3)).

(2) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a year shall be equal to the sum of—

(A) the average per discharge relative value (as determined under section 1848(c)(2) of such Act) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding that calendar year, and

(B) the equivalent per discharge relative value (as determined under such section) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding that calendar year, adjusted for variations in case-mix among hospitals, and in disproportionate share status and teaching status among hospitals (as determined by the Secretary under paragraph (3)).

The Secretary shall determine the equivalent relative value unit per discharge for interns and residents based on the best available data and may make such adjustment in the aggregate.

(3) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per discharge relative values otherwise determined under this subsection to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)). The adjustment for teaching status or disproportionate share shall not be less than zero.

(c) DEFINITIONS.—For purposes of this section:

(1) HOSPITAL.—The term "hospital" means a subsection (d) hospital as defined in section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) .

(2) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities,

(ii) subject to the bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body, and

(iii) under the clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

(B) if the physician provides at least one service to an individual entitled to benefits under this title in that hospital.

(3) PHYSICIANS' SERVICES.—The term "physicians' services" means the services described in section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)).

(4) RURAL AREA; URBAN AREA.—The terms "rural area" and "urban area" have the meaning given those terms under section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(6) TEACHING HOSPITAL.—The term "teaching hospital" means a hospital which has a teaching program approved as specified in section 1861(b)(6) of the Social Security Act (42 U.S.C. 1395x(b)(6)).

SEC. 4507. USE OF PRIVATE CONTRACTS BY MEDICARE BENEFICIARIES.

(a) ITEMS OR SERVICES PROVIDED THROUGH PRIVATE CONTRACTS.—

(1) IN GENERAL.—Section 1802 (42 U.S.C. 1395a) is amended by adding at the end the following new subsection:

"(b) USE OF PRIVATE CONTRACTS BY MEDICARE BENEFICIARIES.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, nothing in this title shall prohibit a physician or practitioner from entering into a private contract with a medicare beneficiary for any item or service—

"(A) for which no claim for payment is to be submitted under this title, and

"(B) for which the physician or practitioner receives—

"(i) no reimbursement under this title directly or on a capitated basis, and

"(ii) receives no amount for such item or service from an organization which receives reimbursement for such item or service under this title directly or on a capitated basis.

"(2) BENEFICIARY PROTECTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any contract unless—

"(i) the contract is in writing and is signed by the medicare beneficiary before any item or service is provided pursuant to the contract;

"(ii) the contract contains the items described in subparagraph (B); and

"(iii) the contract is not entered into at a time when the medicare beneficiary is facing an emergency or urgent health care situation.

"(B) ITEMS REQUIRED TO BE INCLUDED IN CONTRACT.—Any contract to provide items and services to which paragraph (1) applies shall clearly indicate to the medicare beneficiary that by signing such contract the beneficiary—

"(i) agrees not to submit a claim (or to request that the physician or practitioner submit a claim) under this title for such items or services even if such items or services are otherwise covered by this title;

"(ii) agrees to be responsible, whether through insurance or otherwise, for payment of such items or services and understands that no reimbursement will be provided under this title for such items or services;

"(iii) acknowledges that no limits under this title (including the limits under section 1848(g)) apply to amounts that may be charged for such items or services;

"(iv) acknowledges that Medigap plans under section 1882 do not, and other supplemental insurance plans may elect not to, make payments for such items and services because payment is not made under this title; and

"(v) acknowledges that the medicare beneficiary has the right to have such items or services provided by other physicians or practitioners for whom payment would be made under this title.

Such contract shall also clearly indicate whether the physician or practitioner is excluded from participation under the medicare program under section 1128.

"(3) PHYSICIAN OR PRACTITIONER REQUIREMENTS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any contract entered into by a physician or practitioner unless an affidavit described in subparagraph (B) is in effect during the period any item or service is to be provided pursuant to the contract.

"(B) AFFIDAVIT.—An affidavit is described in this subparagraph if—

"(i) the affidavit identifies the physician or practitioner and is in writing and is signed by the physician or practitioner;

"(ii) the affidavit provides that the physician or practitioner will not submit any claim under this title for any item or service provided to any medicare beneficiary (and will not receive any reimbursement or amount described in paragraph (1)(B) for any such item or service) during the 2-year period beginning on the date the affidavit is signed; and

"(iii) a copy of the affidavit is filed with the Secretary no later than 10 days after the first contract to which such affidavit applies is entered into.

"(C) ENFORCEMENT.—If a physician or practitioner signing an affidavit under subparagraph (B) knowingly and willfully submits a claim under this title for any item or service provided during the 2-year period described in subparagraph (B)(ii) (or receives any reimbursement or amount described in paragraph (1)(B) for any such item or service) with respect to such affidavit—

"(i) this subsection shall not apply with respect to any items and services provided by the physician or practitioner pursuant to any contract on and after the date of such submission and before the end of such period; and

"(ii) no payment shall be made under this title for any item or service furnished by the physician or practitioner during the period described in clause (i) (and no reimbursement or payment of any amount described in paragraph (1)(B) shall be made for any such item or service).

"(4) LIMITATION ON ACTUAL CHARGE AND CLAIM SUBMISSION REQUIREMENT NOT APPLICABLE.—Section 1848(g) shall not apply with respect to any item or service provided to a medicare beneficiary under a contract described in paragraph (1).

"(5) DEFINITIONS.—In this subsection:

"(A) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual who is entitled to benefits under part A or enrolled under part B.

"(B) PHYSICIAN.—The term 'physician' has the meaning given such term by section 1861(r)(1).

"(C) PRACTITIONER.—The term 'practitioner' has the meaning given such term by section 1842(b)(18)(C)."

(2) CONFORMING AMENDMENTS.—

(A) Section 1802 (42 U.S.C. 1395a) is amended by striking "Any" and inserting "(a) BASIC FREEDOM OF CHOICE.—Any".

(B) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by sections 4319(b) and 4432, is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by adding after paragraph (18) the following new paragraph:

"(19) which are for items or services which are furnished pursuant to a private contract described in section 1802(b)."

(b) REPORT.—Not later than October 1, 2001, the Secretary of Health and Human Services shall submit a report to Congress on the effect on the program under this title of private contracts entered into under the amendment made by subsection (a). Such report shall include—

(1) analyses regarding—

(A) the fiscal impact of such contracts on total Federal expenditures under title XVIII of the Social Security Act and on out-of-pocket expenditures by medicare beneficiaries for health services under such title; and

(B) the quality of the health services provided under such contracts; and

(2) recommendations as to whether medicare beneficiaries should continue to be able to enter private contracts under section 1802(b) of such Act (as added by subsection (a)) and if so, what legislative changes, if any should be made to improve such contracts.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into on and after January 1, 1998.

Subchapter B—Other Health Care Professionals

SEC. 4511. INCREASED MEDICARE REIMBURSEMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.

(a) REMOVAL OF RESTRICTIONS ON SETTINGS.—

(1) IN GENERAL.—Clause (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended to read as follows:

"(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with a physician (as defined in subsection (r)(1)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services;".

(2) CONFORMING AMENDMENTS.—(A) Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is further amended—

(i) in clause (i), by inserting "and such services and supplies furnished as incident to such services as would be covered under subparagraph (A) if furnished incident to a physician's professional service; and" after "are performed,"; and

(ii) by striking clauses (iii) and (iv).

(B) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "clauses (i) or (iii) of subsection (s)(2)(K)" and inserting "subsection (s)(2)(K)".

(C) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(D) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "section 1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)".

(E) Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as added by section 4432(a) (relating to prospective payment system for rehabilitation hospitals), is amended by striking "through (iii)" and inserting "and (ii)".

(b) INCREASED PAYMENT.—

(1) FEE SCHEDULE AMOUNT.—Subparagraph (O) of section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended to read as follows: "(O) with respect to services described in section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services), the amounts paid shall be equal to 80 percent of (i) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848, or (ii) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery; and".

(2) CONFORMING AMENDMENTS.—Section 1833(r) (42 U.S.C. 1395l(r)) is amended—

(A) in paragraph (1), by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)(ii) (relating to nurse practitioner or clinical nurse specialist services)";

(B) by striking paragraph (2);

(C) in paragraph (3), by striking "section 1861(s)(2)(K)(iii)" and inserting "section 1861(s)(2)(K)(ii)"; and

(D) by redesignating paragraph (3) as paragraph (2).

(c) DIRECT PAYMENT FOR NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services".

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "The term 'physician assistant'" and all that follows through "who performs" and inserting "The term 'physician assistant' and the term 'nurse practitioner' mean,

for purposes of this title, a physician assistant or nurse practitioner who performs''; and

(3) by adding at the end the following new subparagraph:

''(B) The term 'clinical nurse specialist' means, for purposes of this title, an individual who—

''(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

''(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.''.

(e) Effective Date.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 4512. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) Removal of Restriction on Settings.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)), as amended by section 4511, is amended—

(1) by striking ''(I) in a hospital'' and all that follows through ''shortage area,'', and

(2) by adding at the end the following: ''but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services,''.

(b) Increased Payment.—

(1) Fee schedule amount.—Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(O)), as amended by section 4511, is further amended—

(A) by striking ''section 1861(s)(2)(K)(ii)'' and inserting ''1861(s)(2)(K)'', and

(B) by striking ''nurse practitioner or clinical nurse specialist services'' and inserting ''services furnished by physician assistants, nurse practitioners, or clinic nurse specialists''.

(2) Conforming amendment.—Paragraph (12) of section 1842(b) (42 U.S.C. 1395u(b)) is repealed.

(c) Removal of Restriction on Employment Relationship.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 4205, is amended by adding at the end the following new sentence: ''For purposes of subparagraph (C) of the first sentence of this paragraph, an employment relationship may include any independent contractor arrangement, and employer status shall be determined in accordance with the law of the State in which the services described in such clause are performed.''.

(d) Effective Date.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 1998.

SEC. 4513. NO X-RAY REQUIRED FOR CHIROPRACTIC SERVICES.

(a) In General.—Section 1861(r)(5) (42 U.S.C. 1395x(r)(5)) is amended by striking ''demonstrated by X-ray to exist''.

(b) Effective Date.—The amendment made by subsection (a) applies to services furnished on or after January 1, 2000.

(c) Utilization Guidelines.—The Secretary of Health and Human Services shall develop and implement utilization guidelines relating to the coverage of chiropractic services under part B of title XVIII of the Social Security Act in cases in which a subluxation has not been demonstrated by X-ray to exist.

CHAPTER 2—PAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES

SEC. 4521. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS (FDO) FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) Elimination of FDO for Ambulatory Surgical Center Procedures.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) Elimination of FDO for Radiology Services and Diagnostic Procedures.—Section 1833(n)(1)(B)(i) (42 U.S.C. 1395l(n)(1)(B)(i)) is amended—

(1) by striking ''of 80 percent'', and

(2) by inserting before the period at the end the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A)''.

(c) Effective Date.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

SEC. 4522. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) Reduction in Payments for Capital-Related Costs.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ''through 1998'' and inserting ''through 1999 and during fiscal year 2000 before January 1, 2000''.

(b) Reduction in Payments for Other Costs.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking ''through 1998'' and inserting ''through 1999 and during fiscal year 2000 before January 1, 2000''.

SEC. 4523. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) In General.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following:

''(t) Prospective Payment System for Hospital Outpatient Department Services.—

''(1) Amount of payment.—

''(A) In general.—With respect to covered OPD services (as defined in subparagraph (B)) furnished during a year beginning with 1999, the amount of payment under this part shall be determined under a prospective payment system established by the Secretary in accordance with this subsection.

''(B) Definition of covered OPD services.—For purposes of this subsection, the term 'covered OPD services'—

''(i) means hospital outpatient services designated by the Secretary;

''(ii) subject to clause (iii), includes inpatient hospital services designated by the Secretary that are covered under this part and furnished to a hospital inpatient who (I) is entitled to benefits under part A but has exhausted benefits for inpatient hospital services during a spell of illness, or (II) is not so entitled; but

''(iii) does not include any therapy services described in subsection (a)(8) or ambulance services, for which payment is made under a fee schedule described in section 1834(k) or section 1834(l).

''(2) System requirements.—Under the payment system—

''(A) the Secretary shall develop a classification system for covered OPD services;

''(B) the Secretary may establish groups of covered OPD services, within the classification system described in subparagraph (A), so that services classified within each group are comparable clinically and with respect to the use of resources;

''(C) the Secretary shall, using data on claims from 1996 and using data from the most recent available cost reports, establish relative payment weights for covered OPD services (and any groups of such services described in subparagraph (B)) based on median hospital costs and shall determine projections of the frequency of utilization of each such service (or group of services) in 1999;

''(D) the Secretary shall determine a wage adjustment factor to adjust the portion of payment and coinsurance attributable to labor-related costs for relative differences in labor and labor-related costs across geographic regions in a budget neutral manner;

''(E) the Secretary shall establish other adjustments, in a budget neutral manner, as determined to be necessary to ensure equitable payments, such as outlier adjustments or adjustments for certain classes of hospitals; and

''(F) the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services.

''(3) Calculation of base amounts.—

''(A) Aggregate amounts that would be payable if deductibles were disregarded.—The Secretary shall estimate the sum of—

''(i) the total amounts that would be payable from the Trust Fund under this part for covered OPD services in 1999, determined without regard to this subsection, as though the deductible under section 1833(b) did not apply, and

''(ii) the total amounts of copayments estimated to be paid under this subsection by beneficiaries to hospitals for covered OPD services in 1999, as though the deductible under section 1833(b) did not apply.

''(B) Unadjusted copayment amount.—

''(i) In general.—For purposes of this subsection, subject to clause (ii), the 'unadjusted copayment amount' applicable to a covered OPD service (or group of such services) is 20 percent of the national median of the charges for the service (or services within the group) furnished during 1996, updated to 1999 using the Secretary's estimate of charge growth during the period.

''(ii) Adjusted to be 20 percent when fully phased in.—If the pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year would be equal to or exceed 80 percent, then the unadjusted copayment amount shall be 20 percent of amount determined under subparagraph (D).

''(iii) Rules for new services.—The Secretary shall establish rules for establishment of an unadjusted copayment amount for a covered OPD service not furnished during 1996, based upon its classification within a group of such services.

''(C) Calculation of conversion factors.—

''(i) For 1999.—

''(I) In general.—The Secretary shall establish a 1999 conversion factor for determining the medicare OPD fee schedule amounts for each covered OPD service (or group of such services) furnished in 1999. Such conversion factor shall be established on the basis of the weights and frequencies described in paragraph (2)(C) and in such a manner that the sum for all services and groups of the products (described in subclause (II) for each such service or group) equals the total projected amount described in subparagraph (A).

''(II) Product described.—The Secretary shall determine for each service or group the product of the medicare OPD fee schedule amounts (taking into account appropriate adjustments described in paragraphs (2)(D) and (2)(E)) and the estimated frequencies for such service or group.

''(ii) Subsequent years.—Subject to paragraph (8)(B), the Secretary shall establish a conversion factor for covered OPD services furnished in subsequent years in an amount equal to the conversion factor established under this subparagraph and applicable to such services furnished in the previous year increased by the OPD fee schedule increase factor specified under clause (iii) for the year involved.

''(iii) OPD fee schedule increase factor.—For purposes of this subparagraph, the 'OPD fee schedule increase factor' for services furnished in a year is equal to the market basket percentage increase applicable under section 1886(b)(3)(B)(iii) to hospital discharges occurring during the fiscal year ending in such year, reduced by 1 percentage point for such factor for services furnished in each of 2000, 2001, and 2002. In applying the previous sentence for years beginning with 2000, the Secretary may substitute for the market basket percentage increase an annual percentage increase that is computed and applied with respect to covered OPD services furnished in a year in the same manner as the market basket percentage increase is determined and applied to inpatient hospital services for discharges occurring in a fiscal year.

"(D) CALCULATION OF MEDICARE OPD FEE SCHEDULE AMOUNTS.—The Secretary shall compute a medicare OPD fee schedule amount for each covered OPD service (or group of such services) furnished in a year, in an amount equal to the product of—

"(i) the conversion factor computed under subparagraph (C) for the year, and

"(ii) the relative payment weight (determined under paragraph (2)(C)) for the service or group.

"(E) PRE-DEDUCTIBLE PAYMENT PERCENTAGE.—The pre-deductible payment percentage for a covered OPD service (or group of such services) furnished in a year is equal to the ratio of—

"(i) the medicare OPD fee schedule amount established under subparagraph (D) for the year, minus the unadjusted copayment amount determined under subparagraph (B) for the service or group, to

"(ii) the medicare OPD fee schedule amount determined under subparagraph (D) for the year for such service or group.

"(4) MEDICARE PAYMENT AMOUNT.—The amount of payment made from the Trust Fund under this part for a covered OPD service (and such services classified within a group) furnished in a year is determined as follows:

"(A) FEE SCHEDULE ADJUSTMENTS.—The medicare OPD fee schedule amount (computed under paragraph (3)(D)) for the service or group and year is adjusted for relative differences in the cost of labor and other factors determined by the Secretary, as computed under paragraphs (2)(D) and (2)(E).

"(B) SUBTRACT APPLICABLE DEDUCTIBLE.—Reduce the adjusted amount determined under subparagraph (A) by the amount of the deductible under section 1833(b), to the extent applicable.

"(C) APPLY PAYMENT PROPORTION TO REMAINDER.—The amount of payment is the amount so determined under subparagraph (B) multiplied by the pre-deductible payment percentage (as determined under paragraph (3)(E)) for the service or group and year involved.

"(5) COPAYMENT AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the copayment amount under this subsection is the amount by which the amount described in paragraph (4)(B) exceeds the amount of payment determined under paragraph (4)(C).

"(B) ELECTION TO OFFER REDUCED COPAYMENT AMOUNT.—The Secretary shall establish a procedure under which a hospital, before the beginning of a year (beginning with 1999), may elect to reduce the copayment amount otherwise established under subparagraph (A) for some or all covered OPD services to an amount that is not less than 20 percent of the medicare OPD fee schedule amount (computed under paragraph (3)(D)) for the service involved. Under such procedures, such reduced copayment amount may not be further reduced or increased during the year involved and the hospital may disseminate information on the reduction of copayment amount effected under this subparagraph.

"(C) NO IMPACT ON DEDUCTIBLES.—Nothing in this paragraph shall be construed as affecting a hospital's authority to waive the charging of a deductible under section 1833(b).

"(6) PERIODIC REVIEW AND ADJUSTMENTS COMPONENTS OF PROSPECTIVE PAYMENT SYSTEM.—

"(A) PERIODIC REVIEW.—The Secretary may periodically review and revise the groups, the relative payment weights, and the wage and other adjustments described in paragraph (2) to take into account changes in medical practice, changes in technology, the addition of new services, new cost data, and other relevant information and factors.

"(B) BUDGET NEUTRALITY ADJUSTMENT.—If the Secretary makes adjustments under subparagraph (A), then the adjustments for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part that would have been made if the adjustments had not been made.

"(C) UPDATE FACTOR.—If the Secretary determines under methodologies described in paragraph (2)(F) that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary may appropriately adjust the update to the conversion factor otherwise applicable in a subsequent year.

"(7) SPECIAL RULE FOR AMBULANCE SERVICES.—The Secretary shall pay for hospital outpatient services that are ambulance services on the basis described in the matter in subsection (a)(1) preceding subparagraph (A), or, if applicable, the fee schedule established under section 1834(l).

"(8) SPECIAL RULES FOR CERTAIN HOSPITALS.—In the case of hospitals described in section 1886(d)(1)(B)(v)—

"(A) the system under this subsection shall not apply to covered OPD services furnished before January 1, 2000; and

"(B) the Secretary may establish a separate conversion factor for such services in a manner that specifically takes into account the unique costs incurred by such hospitals by virtue of their patient population and service intensity.

"(9) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(A) the development of the classification system under paragraph (2), including the establishment of groups and relative payment weights for covered OPD services, of wage adjustment factors, other adjustments, and methods described in paragraph (2)(F);

"(B) the calculation of base amounts under paragraph (3);

"(C) periodic adjustments made under paragraph (6); and

"(D) the establishment of a separate conversion factor under paragraph (8)(B).".

(b) COINSURANCE.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: "In the case of items and services for which payment is made under part B under the prospective payment system established under section 1833(t), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1833(t)(5).".

(c) TREATMENT OF REDUCTION IN COPAYMENT AMOUNT.—Section 1128A(i)(6) (42 U.S.C. 1320a-7a(i)(6)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(D) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B).".

(d) CONFORMING AMENDMENTS.—

(1) APPROVED ASC PROCEDURES PERFORMED IN HOSPITAL OUTPATIENT DEPARTMENTS.—

(A)(i) Section 1833(i)(3)(A) (42 U.S.C. 1395l(i)(3)(A)) is amended—

(I) by inserting "before January 1, 1999," after "furnished", and

(II) by striking "in a cost reporting period".

(ii) The amendment made by clause (i) shall apply to services furnished on or after January 1, 1999.

(B) Section 1833(a)(4) (42 U.S.C. 1395l(a)(4)) is amended by inserting "or subsection (t)" before the semicolon.

(2) RADIOLOGY AND OTHER DIAGNOSTIC PROCEDURES.—

(A) Section 1833(n)(1)(A) (42 U.S.C. 1395l(n)(1)(A)) is amended by inserting "and before January 1, 1999," after "October 1, 1988," and after "October 1, 1989,".

(B) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting "or, for services or procedures performed on or after January 1, 1999, subsection (t)" before the semicolon.

(3) OTHER HOSPITAL OUTPATIENT SERVICES.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended—

(A) in clause (i), by inserting "furnished before January 1, 1999," after "(i)",

(B) in clause (ii), by inserting "before January 1, 1999," after "furnished",

(C) by redesignating clause (iii) as clause (iv), and

(D) by inserting after clause (ii), the following new clause:

"(iii) if such services are furnished on or after January 1, 1999, the amount determined under subsection (t), or".

CHAPTER 3—AMBULANCE SERVICES

SEC. 4531. PAYMENTS FOR AMBULANCE SERVICES.

(a) INTERIM REDUCTIONS.—

(1) PAYMENTS DETERMINED ON REASONABLE COST BASIS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 4451, is amended by adding at the end the following new subparagraph:

"(U) In determining the reasonable cost of ambulance services (as described in subsection (s)(7)) provided during fiscal year 1998, during fiscal year 1999, and during so much of fiscal year 2000 as precedes January 1, 2000, the Secretary shall not recognize the costs per trip in excess of costs recognized as reasonable for ambulance services provided on a per trip basis during the previous fiscal year (after application of this subparagraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the fiscal year involved reduced by 1.0 percentage point. For ambulance services provided after June 30, 1998, the Secretary may provide that claims for such services must include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished.".

(2) PAYMENTS DETERMINED ON REASONABLE CHARGE BASIS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19) For purposes of section 1833(a)(1), the reasonable charge for ambulance services (as described in section 1861(s)(7)) provided during calendar year 1998 and calendar year 1999 may not exceed the reasonable charge for such services provided during the previous calendar year (after application of this paragraph), increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved reduced by 1.0 percentage point.".

(b) ESTABLISHMENT OF PROSPECTIVE FEE SCHEDULE.—

(1) PAYMENT IN ACCORDANCE WITH FEE SCHEDULE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4315(b), is amended—

(A) by striking "and (Q)" and inserting "(Q)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (R) with respect to ambulance service, the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary under section 1834(l);".

(2) ESTABLISHMENT OF SCHEDULE.—Section 1834 (42 U.S.C. 1395m), as amended by section 4541, is amended by adding at the end the following new subsection:

"(l) ESTABLISHMENT OF FEE SCHEDULE FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish a fee schedule for payment for ambulance services whether provided directly by a supplier or provider or under arrangement with a provider under this part through a negotiated rulemaking process described in title 5, United States Code, and in accordance with the requirements of this subsection.

"(2) CONSIDERATIONS.—In establishing such fee schedule, the Secretary shall—

"(A) establish mechanisms to control increases in expenditures for ambulance services under this part;

"(B) establish definitions for ambulance services which link payments to the type of services provided;

"(C) consider appropriate regional and operational differences;

"(D) consider adjustments to payment rates to account for inflation and other relevant factors; and

"(E) phase in the application of the payment rates under the fee schedule in an efficient and fair manner.

"(3) SAVINGS.—In establishing such fee schedule, the Secretary shall—

"(A) ensure that the aggregate amount of payments made for ambulance services under this part during 2000 does not exceed the aggregate amount of payments which would have been made for such services under this part during such year if the amendments made by section 4531(a) of the Balanced Budget Act of 1997 continued in effect, except that in making such determination the Secretary shall assume an update in such payments for 2002 equal to percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced in the case of 2001 and 2002 by 1.0 percentage points; and

"(B) set the payment amounts provided under the fee schedule for services furnished in 2001 and each subsequent year at amounts equal to the payment amounts under the fee schedule for services furnished during the previous year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced in the case of 2001 and 2002 by 1.0 percentage points.

"(4) CONSULTATION.—In establishing the fee schedule for ambulance services under this subsection, the Secretary shall consult with various national organizations representing individuals and entities who furnish and regulate ambulance services and share with such organizations relevant data in establishing such schedule.

"(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of the amounts established under the fee schedule for ambulance services under this subsection, including matters described in paragraph (2).

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to ambulance services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).

"(7) CODING SYSTEM.—The Secretary may require the claim for any services for which the amount of payment is determined under this subsection to include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 2000.

(c) AUTHORIZING PAYMENT FOR PARAMEDIC INTERCEPT SERVICE PROVIDERS IN RURAL COMMUNITIES.—In promulgating regulations to carry out section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7)) with respect to the coverage of ambulance service, the Secretary of Health and Human Services may include coverage of advanced life support services (in this subsection referred to as "ALS intercept services") provided by a paramedic intercept service provider in a rural area if the following conditions are met:

(1) The ALS intercept services are provided under a contract with one or more volunteer ambulance services and are medically necessary based on the health condition of the individual being transported.

(2) The volunteer ambulance service involved—

(A) is certified as qualified to provide ambulance service for purposes of such section,

(B) provides only basic life support services at the time of the intercept, and

(C) is prohibited by State law from billing for any services.

(3) The entity supplying the ALS intercept services—

(A) is certified as qualified to provide such services under the medicare program under title XVIII of the Social Security Act, and

(B) bills all recipients who receive ALS intercept services from the entity, regardless of whether or not such recipients are medicare beneficiaries.

SEC. 4532. DEMONSTRATION OF COVERAGE OF AMBULANCE SERVICES UNDER MEDICARE THROUGH CONTRACTS WITH UNITS OF LOCAL GOVERNMENT.

(a) DEMONSTRATION PROJECT CONTRACTS WITH LOCAL GOVERNMENTS.—The Secretary of Health and Human Services shall establish up to 3 demonstration projects under which, at the request of a unit of local government, the Secretary enters into a contract with the unit of local government under which—

(1) the unit of local government furnishes (or arranges for the furnishing of) ambulance services for which payment may be made under part B of title XVIII of the Social Security Act for individuals residing in the unit of local government who are enrolled under such part, except that the unit of local government may not enter into the contract unless the contract covers at least 80 percent of the individuals residing in the unit of local government who are enrolled under such part but not in a Medicare+Choice plan;

(2) any individual or entity furnishing ambulance services under the contract meets the requirements otherwise applicable to individuals and entities furnishing such services under such part; and

(3) for each month during which the contract is in effect, the Secretary makes a capitated payment to the unit of local government in accordance with subsection (b).

The projects may extend over a period of not to exceed 3 years each.

(b) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount of the monthly payment made for months occurring during a calendar year to a unit of local government under a demonstration project contract under subsection (a) shall be equal to the product of—

(A) the Secretary's estimate of the number of individuals covered under the contract for the month; and

(B) $\frac{1}{12}$ of the capitated payment rate for the year established under paragraph (2).

(2) CAPITATED PAYMENT RATE DEFINED.—In this subsection, the "capitated payment rate" applicable to a contract under this subsection for a calendar year is equal to 95 percent of—

(A) for the first calendar year for which the contract is in effect, the average annual per capita payment made under part B of title XVIII of the Social Security Act with respect to ambulance services furnished to such individuals during the 3 most recent calendar years for which data on the amount of such payment is available; and

(B) for a subsequent year, the amount provided under this paragraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(c) OTHER TERMS OF CONTRACT.—The Secretary and the unit of local government may include in a contract under this section such other terms as the parties consider appropriate, including—

(1) covering individuals residing in additional units of local government (under arrangements entered into between such units and the unit of local government involved);

(2) permitting the unit of local government to transport individuals to non-hospital providers if such providers are able to furnish quality services at a lower cost than hospital providers; or

(3) implementing such other innovations as the unit of local government may propose to improve the quality of ambulance services and control the costs of such services.

(d) CONTRACT PAYMENTS IN LIEU OF OTHER BENEFITS.—Payments under a contract to a unit of local government under this section shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under part B of title XVIII of the Social Security Act for the services covered under the contract which are furnished to individuals who reside in the unit of local government.

(e) REPORT ON EFFECTS OF CAPITATED CONTRACTS.—

(1) STUDY.—The Secretary shall evaluate the demonstration projects conducted under this section. Such evaluation shall include an analysis of the quality and cost-effectiveness of ambulance services furnished under the projects.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate, including recommendations regarding modifications to the methodology used to determine the amount of payments made under such contracts and extending or expanding such projects.

CHAPTER 4—PROSPECTIVE PAYMENT FOR OUTPATIENT REHABILITATION SERVICES

SEC. 4541. PROSPECTIVE PAYMENT FOR OUTPATIENT REHABILITATION SERVICES.

(a) PAYMENT BASED ON FEE SCHEDULE.—

(1) SPECIAL PAYMENT RULES.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2) in the matter before subparagraph (A), by inserting "(C)," before "(D)";

(B) in paragraph (3), by striking "subparagraphs (D) and (E) of section 1832(a)(2)" and inserting "section 1832(a)(2)(D)";

(C) in paragraph (6), by striking "and" at the end;

(D) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

"(8) in the case of—

"(A) outpatient physical therapy services (which includes outpatient speech-language pathology services) and outpatient occupational therapy services furnished—

"(i) by a rehabilitation agency, public health agency, clinic, comprehensive outpatient rehabilitation facility, or skilled nursing facility,

"(ii) by a home health agency to an individual who is not homebound, or

"(iii) by another entity under an arrangement with an entity described in clause (i) or (ii); and

"(B) outpatient physical therapy services (which includes outpatient speech-language pathology services) and outpatient occupational therapy services furnished—

"(i) by a hospital to an outpatient or to a hospital inpatient who is entitled to benefits under part A but has exhausted benefits for inpatient hospital services during a spell of illness or is not so entitled to benefits under part A, or

"(ii) by another entity under an arrangement with a hospital described in clause (i),

the amounts described in section 1834(k); and

"(9) in the case of services described in section 1832(a)(2)(E) that are not described in paragraph (8), the amounts described in section 1834(k).".

(2) PAYMENT RATES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR OUTPATIENT THERAPY SERVICES AND COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.—

"(1) IN GENERAL.—With respect to services described in section 1833(a)(8) or 1833(a)(9) for which payment is determined under this subsection, the payment basis shall be—

"(A) for services furnished during 1998, the amount determined under paragraph (2); or

"(B) for services furnished during a subsequent year, 80 percent of the lesser of—

"(i) the actual charge for the services, or

"(ii) the applicable fee schedule amount (as defined in paragraph (3)) for the services.

"(2) PAYMENT IN 1998 BASED UPON ADJUSTED REASONABLE COSTS.—The amount under this paragraph for services is the lesser of—

"(A) the charges imposed for the services, or

"(B) the adjusted reasonable costs (as defined in paragraph (4)) for the services,

less 20 percent of the amount of the charges imposed for such services.

"(3) APPLICABLE FEE SCHEDULE AMOUNT.—In this subsection, the term 'applicable fee schedule amount' means, with respect to services furnished in a year, the amount determined under the fee schedule established under section 1848 for such services furnished during the year or, if there is no such fee schedule established for such services, the amount determined under the fee schedule established for such comparable services as the Secretary specifies.

"(4) ADJUSTED REASONABLE COSTS.—In paragraph (2), the term 'adjusted reasonable costs' means, with respect to any services, reasonable costs determined for such services, reduced by 10 percent. The 10-percent reduction shall not apply to services described in section 1833(a)(8)(B) (relating to services provided by hospitals).

"(5) UNIFORM CODING.—For claims for services submitted on or after April 1, 1998, for which the amount of payment is determined under this subsection, the claim shall include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished.

"(6) RESTRAINT ON BILLING.—The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to therapy services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C).".

(3) CONFORMING CHANGE IN BILLING.—Section 1866(a)(2)(A)(ii) (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by adding at the end the following: "In the case of services described in section 1833(a)(8) or section 1833(a)(9) for which payment is made under part B under section 1834(k), clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge for such services 20 percent of the lesser of the actual charge or the applicable fee schedule amount (as defined in such section) for such services.".

(b) APPLICATION OF STANDARDS TO OUTPATIENT OCCUPATIONAL AND PHYSICAL THERAPY SERVICES PROVIDED AS AN INCIDENT TO A PHYSICIAN'S PROFESSIONAL SERVICES.—Section 1862(a), as amended by sections 4319(b), 4432(b), and 4507(a)(2)(B), (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting "; or"; and

(3) by inserting after paragraph (19) the following:

"(20) in the case of outpatient occupational therapy services or outpatient physical therapy services furnished as an incident to a physician's professional services (as described in section 1861(s)(2)(A)), that do not meet the standards and conditions (other than any licensing requirement specified by the Secretary) under the second sentence of section 1861(p) (or under such sentence through the operation of section 1861(g)) as such standards and conditions would apply to such therapy services if furnished by a therapist.".

(c) APPLYING FINANCIAL LIMITATION TO ALL REHABILITATION SERVICES.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended—

(1) in the first sentence, by striking "services described in the second sentence of section 1861(p)" and inserting "physical therapy services of the type described in section 1861(p), but not described in section 1833(a)(8)(B), and physical therapy services of such type which are furnished by a physician or as incident to physicians' services", and

(2) in the second sentence, by striking "outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g)" and inserting "occupational therapy services (of the type that are described in section 1861(p) (but not described in section 1833(a)(8)(B)) through the operation of section 1861(g) and of such type which are furnished by a physician or as incident to physicians' services)".

(d) INDEXING LIMITATION.—

(1) IN GENERAL.—Section 1833(g) (42 U.S.C. 1395l(g)), as amended by subsection (c), is further amended—

(A) by striking "$900" each place it appears and inserting "the amount specified in paragraph (2) for the year",

(B) by inserting "(1)" after "(g)",

(C) by designating the last sentence as a paragraph (3), and

(D) by inserting before paragraph (3), as so designated, the following:

"(2) The amount specified in this paragraph—

"(A) for 1999, 2000, and 2001, is $1,500, and

"(B) for a subsequent year is the amount specified in this paragraph for the preceding year increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for such subsequent year;

except that if an increase under subparagraph (B) for a year is not a multiple of $10, it shall be rounded to the nearest multiple of $10.".

(2) REPORT.—By not later than January 1, 2001, the Secretary of Health and Human Services shall submit to Congress a report that includes recommendations on the establishment of a revised coverage policy of outpatient physical therapy services and outpatient occupational therapy services under the Social Security Act based on classification of individuals by diagnostic category and prior use of services, in both inpatient and outpatient settings, in place of the uniform dollar limitations specified in section 1833(g) of such Act, as amended by paragraph (1). The recommendations shall include how such a system of durational limits by diagnostic category might be implemented in a budget-neutral manner.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1), (a)(2), and (b) apply to services furnished on or after January 1, 1998, including portions of cost reporting periods occurring on or after such date, except that section 1834(k) of the Social Security Act (as added by subsection (a)(2)) shall not apply to services described in section 1833(a)(8)(B) of such Act (as added by subsection (a)(1)) that are furnished during 1998.

(2) The amendments made by subsections (a)(3) and (c) apply to services furnished on or after January 1, 1999.

(3) The amendments made by subsection (d)(1) apply to expenses incurred on or after January 1, 1999.

CHAPTER 5—OTHER PAYMENT PROVISIONS

SEC. 4551. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, 1995, 1996, and 1997", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(C) for each of the years 1998 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) in clause (iii), by striking ", and" at the end and inserting a semicolon;

(B) in clause (iv), by striking "a subsequent year" and inserting "1996 and 1997"; and

(C) by adding at the end the following new clauses:

"(v) for each of the years 1998 through 2002, 1 percent, and

"(vi) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

(b) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral

nutrients, supplies, and equipment during each of the years 1998 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995.

(c) UPGRADED DURABLE MEDICAL EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by section 4312(a), is amended by inserting after paragraph (16) the following new paragraph:

"(17) CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of this title, the Secretary may issue regulations under which an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—Any regulations under subparagraph (A) shall provide for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to purchases or rentals after the effective date of any regulations issued pursuant to such amendment.

SEC. 4552. OXYGEN AND OXYGEN EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(9)(B) (42 U.S.C. 1395m(a)(9)(B)) is amended—

(1) in clause (iii), by striking "and" at the end;

(2) in clause (iv)—

(A) by striking "each subsequent year" and inserting "1995, 1996, and 1997", and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(v) for 1998, 75 percent of the amount determined under this subparagraph for 1997; and

"(vi) for 1999 and each subsequent year, 70 percent of the amount determined under this subparagraph for 1997.".

(b) ESTABLISHMENT OF CLASSES FOR PAYMENT.—Section 1848(a)(9) (42 U.S.C. 1395m(a)(9)) is amended by adding at the end the following new subparagraph:

"(D) AUTHORITY TO CREATE CLASSES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish separate classes for any item of oxygen and oxygen equipment and separate national limited monthly payment rates for each of such classes.

"(ii) BUDGET NEUTRALITY.—The Secretary may take actions under clause (i) only to the extent such actions do not result in expenditures for any year to be more or less than the expenditures which would have been made if such actions had not been taken.".

(c) STANDARDS.—The Secretary shall as soon as practicable establish service standards for persons seeking payment under part B of title XVIII of the Social Security Act for the providing of oxygen and oxygen equipment to beneficiaries within their homes.

(d) ACCESS TO HOME OXYGEN EQUIPMENT.—

(1) STUDY.—The Comptroller General of the United States shall study issues relating to access to home oxygen equipment and shall, within 18 months after the date of the enactment of this Act, report to the Committees on Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, including recommendations (if any) for legislation.

(2) PEER REVIEW EVALUATION.—The Secretary of Health and Human Services shall arrange for peer review organizations established under section 1154 of the Social Security Act to evaluate access to, and quality of, home oxygen equipment.

(e) EFFECTIVE DATE.—

(1) OXYGEN.—The amendments made by subsection (a) shall apply to items furnished on and after January 1, 1998.

(2) OTHER PROVISIONS.—The amendments made by this section other than subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4553. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS; STUDY ON LABORATORY TESTS.

(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by inserting "and 1998 through 2002" after "1995".

(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1998," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1997, is equal to 74 percent of such median.".

(c) STUDY AND REPORT ON CLINICAL LABORATORY TESTS.—

(1) IN GENERAL.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study of payments under part B of title XVIII of the Social Security Act for clinical laboratory tests. The study shall include a review of the adequacy of the current methodology and recommendations regarding alternative payment systems. The study shall also analyze and discuss the relationship between such payment systems and access to high quality laboratory tests for medicare beneficiaries, including availability and access to new testing methodologies.

(2) REPORT TO CONGRESS.—The Secretary shall, not later than 2 years after the date of enactment of this section, report to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 4554. IMPROVEMENTS IN ADMINISTRATION OF LABORATORY TESTS BENEFIT.

(a) SELECTION OF REGIONAL CARRIERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(A) divide the United States into no more than 5 regions, and

(B) designate a single carrier for each such region, for the purpose of payment of claims under part B of title XVIII of the Social Security Act with respect to clinical diagnostic laboratory tests furnished on or after such date (not later than July 1, 1999) as the Secretary specifies.

(2) DESIGNATION.—In designating such carriers, the Secretary shall consider, among other criteria—

(A) a carrier's timeliness, quality, and experience in claims processing, and

(B) a carrier's capacity to conduct electronic data interchange with laboratories and data matches with other carriers.

(3) SINGLE DATA RESOURCE.—The Secretary shall select one of the designated carriers to serve as a central statistical resource for all claims information relating to such clinical diagnostic laboratory tests handled by all the designated carriers under such part.

(4) ALLOCATION OF CLAIMS.—The allocation of claims for clinical diagnostic laboratory tests to particular designated carriers shall be based on whether a carrier serves the geographic area where the laboratory specimen was collected or other method specified by the Secretary.

(5) SECRETARIAL EXCLUSION.—Paragraph (1) shall not apply with respect to clinical diagnostic laboratory tests furnished by physician office laboratories if the Secretary determines that such offices would be unduly burdened by the application of billing responsibilities with respect to more than one carrier.

(b) ADOPTION OF NATIONAL POLICIES FOR CLINICAL LABORATORY TESTS BENEFIT.—

(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall first adopt, consistent with paragraph (2), national coverage and administrative policies for clinical diagnostic laboratory tests under part B of title XVIII of the Social Security Act, using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(2) CONSIDERATIONS IN DESIGN OF NATIONAL POLICIES.—The policies under paragraph (1) shall be designed to promote program integrity and national uniformity and simplify administrative requirements with respect to clinical diagnostic laboratory tests payable under such part in connection with the following:

(A) Beneficiary information required to be submitted with each claim or order for laboratory tests.

(B) The medical conditions for which a laboratory test is reasonable and necessary (within the meaning of section 1862(a)(1)(A) of the Social Security Act).

(C) The appropriate use of procedure codes in billing for a laboratory test, including the unbundling of laboratory services.

(D) The medical documentation that is required by a medicare contractor at the time a claim is submitted for a laboratory test in accordance with section 1833(e) of the Social Security Act.

(E) Recordkeeping requirements in addition to any information required to be submitted with a claim, including physicians' obligations regarding such requirements.

(F) Procedures for filing claims and for providing remittances by electronic media.

(G) Limitation on frequency of coverage for the same tests performed on the same individual.

(3) CHANGES IN LABORATORY POLICIES PENDING ADOPTION OF NATIONAL POLICY.—During the period that begins on the date of the enactment of this Act and ends on the date the Secretary first

implements national policies pursuant to regulations promulgated under this subsection, a carrier under such part may implement changes relating to requirements for the submission of a claim for clinical diagnostic laboratory tests.

(4) USE OF INTERIM POLICIES.—After the date the Secretary first implements such national policies, the Secretary shall permit any carrier to develop and implement interim policies of the type described in paragraph (1), in accordance with guidelines established by the Secretary, in cases in which a uniform national policy has not been established under this subsection and there is a demonstrated need for a policy to respond to aberrant utilization or provision of unnecessary tests. Except as the Secretary specifically permits, no policy shall be implemented under this paragraph for a period of longer than 2 years.

(5) INTERIM NATIONAL POLICIES.—After the date the Secretary first designates regional carriers under subsection (a), the Secretary shall establish a process under which designated carriers can collectively develop and implement interim national policies of the type described in paragraph (1). No such policy shall be implemented under this paragraph for a period of longer than 2 years.

(6) BIENNIAL REVIEW PROCESS.—Not less often than once every 2 years, the Secretary shall solicit and review comments regarding changes in the national policies established under this subsection. As part of such biennial review process, the Secretary shall specifically review and consider whether to incorporate or supersede interim policies developed under paragraph (4) or (5). Based upon such review, the Secretary may provide for appropriate changes in the national policies previously adopted under this subsection.

(7) REQUIREMENT AND NOTICE.—The Secretary shall ensure that any policies adopted under paragraph (3), (4), or (5) shall apply to all laboratory claims payable under part B of title XVIII of the Social Security Act, and shall provide for advance notice to interested parties and a 45-day period in which such parties may submit comments on the proposed change.

(c) INCLUSION OF LABORATORY REPRESENTATIVE ON CARRIER ADVISORY COMMITTEES.—The Secretary shall direct that any advisory committee established by a carrier to advise such carrier with respect to coverage and administrative policies under part B of title XVIII of the Social Security Act shall include an individual to represent the independent clinical laboratories and such other laboratories as the Secretary deems appropriate. The Secretary shall consider recommendations from national and local organizations that represent independent clinical laboratories in such selection.

SEC. 4555. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended by inserting at the end the following new sentence: "In each of the fiscal years 1998 through 2002, the increase under this subparagraph shall be reduced (but not below zero) by 2.0 percentage points.".

SEC. 4556. REIMBURSEMENT FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following new subsection:

"(o)(1) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug or biological for which payment may be made under this part and the drug or biological is not paid on a cost or prospective payment basis as otherwise provided in this part, the amount payable for the drug or biological is equal to 95 percent of the average wholesale price.

"(2) If payment for a drug or biological is made to a licensed pharmacy approved to dispense drugs or biologicals under this part, the Secretary may pay a dispensing fee (less the applicable deductible and coinsurance amounts) to the pharmacy.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 4315(b) and 4531(b)(1), is amended—

(1) by striking "and (R)" and inserting "(R)"; and

(2) by striking the semicolon at the end and inserting the following: ", and (S) with respect to drugs and biologicals not paid on a cost or prospective payment basis as otherwise provided in this part (other than items and services described in subparagraph (B)), the amounts paid shall be 80 percent of the lesser of the actual charge or the payment amount established in section 1842(o);".

(c) STUDY AND REPORT.—The Secretary of Health and Human Services shall study the effect on the average wholesale price of drugs and biologicals of the amendments made by subsection (a) and shall report to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate the result of such study not later than July 1, 1999.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to drugs and biologicals furnished on or after January 1, 1998.

SEC. 4557. COVERAGE OF ORAL ANTI-NAUSEA DRUGS UNDER CHEMOTHERAPEUTIC REGIMEN.

(a) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by sections 4104 and 4105, is amended—

(1) by striking "and" at the end of subparagraph (R); and

(2) by inserting after subparagraph (S) the following new subparagraph:

"(T) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an acute anti-emetic used as part of an anticancer chemotherapeutic regimen if the drug is administered by a physician (or as prescribed by a physician)—

"(i) for use immediately before, at, or within 48 hours after the time of the administration of the anticancer chemotherapeutic agent; and

"(ii) as a full replacement for the anti-emetic therapy which would otherwise be administered intravenously.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 1998.

SEC. 4558. RENAL DIALYSIS-RELATED SERVICES.

(a) AUDITING OF COST REPORTS.—Beginning with cost reports for 1996, the Secretary shall audit cost reports of each renal dialysis provider at least once every 3 years.

(b) IMPLEMENTATION OF QUALITY STANDARDS.—The Secretary of Health and Human Services shall develop, by not later than January 1, 1999, and implement, by not later than January 1, 2000, a method to measure and report quality of renal dialysis services provided under the medicare program under title XVIII of the Social Security Act.

SEC. 4559. TEMPORARY COVERAGE RESTORATION FOR PORTABLE ELECTROCARDIOGRAM TRANSPORTATION.

(a) IN GENERAL.—Effective only for electrocardiogram tests furnished during 1998, the Secretary of Health and Human Services shall restore separate payment, under part B of title XVIII of the Social Security Act, for the transportation of electrocardiogram equipment (HCPCS code R0076) based upon payment methods in effect for such service as of December 31, 1996.

(b) DETERMINATION.—By not later than July 1, 1998, the Secretary of Health and Human Services shall make a recommendation to the Committees on Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to whether coverage of portable electrocardiogram transportation should be provided under part B of title XVIII of the Social Security Act. In making such recommendation, the Secretary shall take into account the study of coverage of portable electrocardiogram transportation conducted by the Comptroller General of the United States and other relevant information, including information submitted by interested parties.

CHAPTER 6—PART B PREMIUM AND RELATED PROVISIONS

Subchapter A—Determination of Part B Premium Amount

SEC. 4571. PART B PREMIUM.

(a) IN GENERAL.—Section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) is amended by striking the first 3 sentences and inserting the following: "The Secretary, during September of each year, shall determine and promulgate a monthly premium rate for the succeeding calendar year that is equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1), for that succeeding calendar year.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 1839.—Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), and (f)";

(B) in the last sentence of subsection (a)(3)—

(i) by inserting "rate" after "premium", and

(ii) by striking "and the derivation of the dollar amounts specified in this paragraph";

(C) in the first sentence of subsection (b), by striking "or (e)";

(D) by striking subsection (e); and

(E) by redesignating subsection (g) as subsection (e) and inserting that subsection after subsection (d).

(2) SECTION 1844.—Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1)) are each amended by striking "or 1839(e), as the case may be".

Subchapter B—Other Provisions Related to Part B Premium

SEC. 4581. PROTECTIONS UNDER THE MEDICARE PROGRAM FOR DISABLED WORKERS WHO LOSE BENEFITS UNDER A GROUP HEALTH PLAN.

(a) NO PREMIUM PENALTY FOR LATE ENROLLMENT.—The first sentence of section 1839(b) (42 U.S.C. 1395r(b)) is amended by inserting "and not pursuant to a special enrollment period under section 1837(i)(4)" after "section 1837)".

(b) SPECIAL MEDICARE ENROLLMENT PERIOD.—

(1) IN GENERAL.—Section 1837(i) (42 U.S.C. 1395p(i)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who is entitled to benefits under part A pursuant to section 226(b) and—

"(i) who at the time the individual first satisfies paragraph (1) of section 1836—

"(I) is enrolled in a group health plan described in section 1862(b)(1)(A)(v) by reason of the individual's current or former employment or by reason of the current or former employment status of a member of the individual's family, and

"(II) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; and

"(ii) whose continuous enrollment under such group health plan is involuntarily terminated at a time when the enrollment under the plan is not by reason of the individual's current employment or by reason of the current employment of a member of the individual's family,

there shall be a special enrollment period described in subparagraph (B).

"(B) The special enrollment period referred to in subparagraph (A) is the 6-month period beginning on the first day of the month which includes the date of the enrollment termination described in subparagraph (A)(ii).".

(2) COVERAGE PERIOD.—Section 1838(e) (42 U.S.C. 1395q(e)) is amended—

(A) by inserting "or 1837(i)(4)(B)" after "1837(i)(3)" the first place it appears, and

(B) by inserting "or specified in section 1837(i)(4)(A)(i)" after "1837(i)(3)" the second place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to involuntary terminations of coverage under a group health plan occurring on or after the date of the enactment of this Act.

SEC. 4582. GOVERNMENTAL ENTITIES ELIGIBLE TO ELECT TO PAY PART B PREMIUMS FOR ELIGIBLE INDIVIDUALS.

Section 1839(e)(1) (as amended by section 4571(b)) is amended—

(1) by inserting "(or any appropriate State or local governmental entity specified by the Secretary)" after "State" the first place it appears, and

(2) by inserting "(or such entity)" after "State" the second and third place it appears.

Subtitle G—Provisions Relating to Parts A and B

CHAPTER 1—HOME HEALTH SERVICES AND BENEFITS

Subchapter A—Payments For Home Health Services

SEC. 4601. RECAPTURING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following:

"(iv) In establishing limits under this subparagraph for cost reporting periods beginning after September 30, 1997, the Secretary shall not take into account any changes in the home health market basket, as determined by the Secretary, with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)).

SEC. 4602. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by moving the indentation of subclauses (I) through (III) 2-ems to the left;

(2) in subclause (I), by inserting "of the mean of the labor-related and nonlabor per visit costs for freestanding home health agencies" before the comma at the end;

(3) in subclause (II), by striking ", or" and inserting "of such mean,";

(4) in subclause (III)—

(A) by inserting "and before October 1, 1997," after "July 1, 1987,", and

(B) by striking the comma at the end and inserting "of such mean, or"; and

(5) by striking the matter following subclause (III) and inserting the following:

"(IV) October 1, 1997, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.".

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by inserting ", or on or after July 1, 1997, and before October 1, 1997" after "July 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) (as amended by section 4601(a)) is amended by adding at the end the following new clauses:

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the Secretary shall provide for an interim system of limits. Payment shall not exceed the costs determined under the preceding provisions of this subparagraph or, if lower, the product of—

"(I) an agency-specific per beneficiary annual limitation calculated based 75 percent on 98 percent of the reasonable costs (including nonroutine medical supplies) for the agency's 12-month cost reporting period ending during fiscal year 1994, and based 25 percent on 98 percent of the standardized regional average of such costs for the agency's census division, as applied to such agency, for cost reporting periods ending during fiscal year 1994, such costs updated by the home health market basket index; and

"(II) the agency's unduplicated census count of patients (entitled to benefits under this title) for the cost reporting period subject to the limitation.

"(vi) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1997, the following rules apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, the per beneficiary limitation shall be equal to the median of these limits (or the Secretary's best estimates thereof) applied to other home health agencies as determined by the Secretary. A home health agency that has altered its corporate structure or name shall not be considered a new provider for this purpose.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among the agencies.

"(vii)(I) Not later than January 1, 1998, the Secretary shall establish per visit limits applicable for fiscal year 1998, and not later than April 1, 1998, the Secretary shall establish per beneficiary limits under clause (v)(I) for fiscal year 1998.

"(II) Not later than August 1 of each year (beginning in 1998) the Secretary shall establish the limits applicable under this subparagraph for services furnished during the fiscal year beginning October 1 of the year.".

(d) DEVELOPMENT OF CASE MIX SYSTEM.—The Secretary of Health and Human Services shall expand research on a prospective payment system for home health agencies under the medicare program that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs.

(e) SUBMISSION OF DATA FOR CASE MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1997, the Secretary of Health and Human Services may require all home health agencies to submit additional information that the Secretary considers necessary for the development of a reliable case mix system.

SEC. 4603. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) (as amended by section 4801) is amended by adding at the end the following:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1895. (a) IN GENERAL.—Notwithstanding section 1861(v), the Secretary shall provide, for cost reporting periods beginning on or after October 1, 1999, for payments for home health services in accordance with a prospective payment system established by the Secretary under this section.

"(b) SYSTEM OF PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish under this subsection a prospective payment system for payment for all costs of home health services. Under the system under this subsection all services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of this section, including medical supplies, shall be paid for on the basis of a prospective payment amount determined under this subsection and applicable to the services involved. In implementing the system, the Secretary may provide for a transition (of not longer than 4 years) during which a portion of such payment is based on agency-specific costs, but only if such transition does not result in aggregate payments under this title that exceed the aggregate payments that would be made if such a transition did not occur.

"(2) UNIT OF PAYMENT.—In defining a prospective payment amount under the system under this subsection, the Secretary shall consider an appropriate unit of service and the number, type, and duration of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

"(3) PAYMENT BASIS.—

"(A) INITIAL BASIS.—

"(i) IN GENERAL.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts). Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2000 shall be equal to the total amount that would have been made if the system had not been in effect but if the reduction in limits described in clause (ii) had been in effect. Such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.

"(ii) REDUCTION.—The reduction described in this clause is a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L), as those limits are in effect on September 30, 1999.

"(B) ANNUAL UPDATE.—

"(i) IN GENERAL.—The standard prospective payment amount (or amounts) shall be adjusted for each fiscal year (beginning with fiscal year 2001) in a prospective manner specified by the Secretary by the home health market basket percentage increase applicable to the fiscal year involved.

"(ii) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the mix of goods and services included in home health services in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to the mix of goods and services comprising inpatient hospital services for the fiscal year.

"(C) ADJUSTMENT FOR OUTLIERS.—The Secretary shall reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period by such proportion as

will result in an aggregate reduction in payments for the period equal to the aggregate increase in payments resulting from the application of paragraph (5) (relating to outliers).

"(4) PAYMENT COMPUTATION.—

"(A) IN GENERAL.—The payment amount for a unit of home health services shall be the applicable standard prospective payment amount adjusted as follows:

"(i) CASE MIX ADJUSTMENT.—The amount shall be adjusted by an appropriate case mix adjustment factor (established under subparagraph (B)).

"(ii) AREA WAGE ADJUSTMENT.—The portion of such amount that the Secretary estimates to be attributable to wages and wage-related costs shall be adjusted for geographic differences in such costs by an area wage adjustment factor (established under subparagraph (C)) for the area in which the services are furnished or such other area as the Secretary may specify.

"(B) ESTABLISHMENT OF CASE MIX ADJUSTMENT FACTORS.—The Secretary shall establish appropriate case mix adjustment factors for home health services in a manner that explains a significant amount of the variation in cost among different units of services.

"(C) ESTABLISHMENT OF AREA WAGE ADJUSTMENT FACTORS.—The Secretary shall establish area wage adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of home health services in a geographic area compared to the national average applicable level. Such factors may be the factors used by the Secretary for purposes of section 1886(d)(3)(E).

"(5) OUTLIERS.—The Secretary may provide for an addition or adjustment to the payment amount otherwise made in the case of outliers because of unusual variations in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments made under this paragraph with respect to a fiscal year may not exceed 5 percent of the total payments projected or estimated to be made based on the prospective payment system under this subsection in that year.

"(6) PRORATION OF PROSPECTIVE PAYMENT AMOUNTS.—If a beneficiary elects to transfer to, or receive services from, another home health agency within the period covered by the prospective payment amount, the payment shall be prorated between the home health agencies involved.

"(c) REQUIREMENTS FOR PAYMENT INFORMATION.—With respect to home health services furnished on or after October 1, 1998, no claim for such a service may be paid under this title unless—

"(1) the claim has the unique identifier (provided under section 1842(r)) for the physician who prescribed the services or made the certification described in section 1814(a)(2) or 1835(a)(2)(A); and

"(2) in the case of a service visit described in paragraph (1), (2), (3), or (4) of section 1861(m), the claim contains a code (or codes) specified by the Secretary that identifies the length of time of the service visit, as measured in 15 minute increments.

"(d) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise of—

"(1) the establishment of a transition period under subsection (b)(1);

"(2) the definition and application of payment units under subsection (b)(2);

"(3) the computation of initial standard prospective payment amounts under subsection (b)(3)(A) (including the reduction described in clause (ii) of such subsection);

"(4) the establishment of the adjustment for outliers under subsection (b)(3)(C);

"(5) the establishment of case mix and area wage adjustments under subsection (b)(4); and

"(6) the establishment of any adjustments for outliers under subsection (b)(5).".

(b) ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C),

(2) by striking subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "and 1886" and inserting "1886, and 1895".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the amount determined under the prospective payment system under section 1895;";

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) (as amended by section 4432(b)(2)) is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of home health services furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) (as amended by section 4432(b)(5)(B)) is amended by striking "section 1842(b)(6)(E);" and inserting "subparagraphs (E) and (F) of section 1842(b)(6);".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) (as amended by sections 4319(b), 4432(b), 4507(a)(2)(B) and 4541(b)) is amended—

(i) by striking "or" at the end of paragraph (19);

(ii) by striking the period at the end of paragraph (20) and inserting "; or"; and

(iii) by inserting after paragraph (20) the following:

"(21) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

(e) CONTINGENCY.—If the Secretary of Health and Human Services for any reason does not establish and implement the prospective payment system for home health services described in section 1895(b) of the Social Security Act (as added by subsection (a)) for cost reporting periods described in subsection (d), for such cost reporting periods the Secretary shall provide for a reduction by 15 percent in the cost limits and per beneficiary limits described in section 1861(v)(1)(L) of such Act, as those limits would otherwise be in effect on September 30, 1999.

SEC. 4604. PAYMENT BASED ON LOCATION WHERE HOME HEALTH SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following:

"(g) PAYMENT ON BASIS OF LOCATION OF SERVICE.—A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

(c) EFFECTIVE DATE.—The amendments made by this section apply to cost reporting periods beginning on or after October 1, 1997.

Subchapter B—Home Health Benefits

SEC. 4611. MODIFICATION OF PART A HOME HEALTH BENEFIT FOR INDIVIDUALS ENROLLED UNDER PART B.

(a) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(3), by striking "home health services" and inserting "for individuals not enrolled in part B, home health services, and for individuals so enrolled, post-institutional home health services furnished during a home health spell of illness for up to 100 visits during such spell of illness"; and

(2) in subsection (b), by adding after and below paragraph (3) the following:

"Payment under this part for post-institutional home health services furnished an individual during a home health spell of illness may not be made for such services beginning after such services have been furnished for a total of 100 visits such spell.".

(b) POST-INSTITUTIONAL HOME HEALTH SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by sections 4103(a), 4104(a), 4105(a), 4106(a), and 4454, is amended by adding at the end the following:

"Post-Institutional Home Health Services; Home Health Spell of Illness

"(tt)(1) The term 'post-institutional home health services' means home health services furnished to an individual—

"(A) after discharge from a hospital or rural primary care hospital in which the individual was an inpatient for not less than 3 consecutive days before such discharge if such home health services were initiated within 14 days after the date of such discharge; or

"(B) after discharge from a skilled nursing facility in which the individual was provided post-hospital extended care services if such home health services were initiated within 14 days after the date of such discharge.

"(2) The term 'home health spell of illness' with respect to any individual means a period of consecutive days—

"(A) beginning with the first day (not included in a previous home health spell of illness) (i) on which such individual is furnished post-

institutional home health services, and (ii) which occurs in a month for which the individual is entitled to benefits under part A, and

"(B) ending with the close of the first period of 60 consecutive days thereafter on each of which the individual is neither an inpatient of a hospital or rural primary care hospital nor an inpatient of a facility described in section 1819(a)(1) or subsection (y)(1) nor provided home health services.".

(c) MAINTAINING APPEAL RIGHTS FOR HOME HEALTH SERVICES.—Section 1869(b)(2)(B) (42 U.S.C. 1395ff(b)(2)(B)) is amended by inserting "(or $100 in the case of home health services)" after "$500".

(d) MAINTAINING SEAMLESS ADMINISTRATION THROUGH FISCAL INTERMEDIARIES.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(E) With respect to the payment of claims for home health services under this part that, but for the amendments made by section 4611 of the Balanced Budget Act of 1997, would be payable under part A instead of under this part, the Secretary shall continue administration of such claims through fiscal intermediaries under section 1816.".

(e) TRANSITION.—

(1) IN GENERAL.—Notwithstanding any provision of title XVIII of the Social Security Act, the Secretary of Health and Human Services shall establish a transition for the aggregate amount of expenditures that are transferred from part A, to part B, of title XVIII of the Social Security Act, as a result of the amendments made by this section, during each of the years during the period beginning with 1998 and ending with 2002 according to this subsection. Under the transition for each such year, the Secretary shall effect such transfer, between the trust funds under such parts, as will result in only the proportion (specified in paragraph (2)) of such aggregate expenditures for the year being transferred from such part A to such part B.

(2) PROPORTION SPECIFIED.—The proportion specified in this paragraph for—

(A) 1998 is 1/6,
(B) 1999 is 1/3,
(C) 2000 is 1/2,
(D) 2001 is 2/3, and
(E) 2002 is 5/6.

(3) APPLICATION IN ESTABLISHING MONTHLY PREMIUMS FOR 1998 THROUGH 2003.—

(A) IN GENERAL.—For purposes only of computing the monthly premium under section 1839 of the Social Security Act (42 U.S.C. 1395r), the monthly actuarial rate for enrollees age 65 and over shall be computed as though any reference in paragraph (1) of this subsection to 2002 were a reference to 2003 and as if the following proportions were substituted for the proportions specified in paragraph (2):

(i) For 1998, 1/7.
(ii) For 1999, 2/7.
(iii) For 2000, 3/7.
(iv) For 2001, 4/7.
(v) For 2002, 5/7.
(vi) For 2003, 6/7.

(B) NO IMPACT ON GOVERNMENT CONTRIBUTION.—Subparagraph (A) does not apply in determining the amount of the Government contribution under section 1844 of the Social Security Act (42 U.S.C. 1395w).

(f) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1998. For purpose of applying such amendments, any home health spell of illness that began, but did not end, before such date shall be considered to have begun as of such date.

SEC. 4612. CLARIFICATION OF PART-TIME OR INTERMITTENT NURSING CARE.

(a) IN GENERAL.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), the term 'part-time or intermittent services' means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of sections 1814(a)(2)(C) and 1835(a)(2)(A), 'intermittent' means skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to services furnished on or after October 1, 1997.

SEC. 4613. STUDY ON DEFINITION OF HOMEBOUND.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for purposes of qualifying for receipt of benefits for home health services under the medicare program. Such criteria shall include the extent and circumstances under which a person may be absent from the home but nonetheless qualify.

(b) REPORT.—Not later than October 1, 1998, the Secretary shall submit a report to Congress on the study conducted under subsection (a). The report shall include specific recommendations on such criteria and methods.

SEC. 4614. NORMATIVE STANDARDS FOR HOME HEALTH CLAIMS DENIALS.

(a) IN GENERAL.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)) (as amended by section 4104(c)) is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the semicolon at the end of subparagraph (H) and inserting ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) the frequency and duration of home health services which are in excess of normative guidelines that the Secretary shall establish by regulation;".

(b) NOTIFICATION.—The Secretary of Health and Human Services may establish a process for notifying a physician in cases in which the number of home health visits, furnished under title XVIII of the Social Security Act pursuant to a prescription or certification of the physician, significantly exceeds such threshold (or thresholds) as the Secretary specifies. The Secretary may adjust such threshold to reflect demonstrated differences in the need for home health services among different beneficiaries.

(c) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after October 1, 1997.

SEC. 4615. NO HOME HEALTH BENEFITS BASED SOLELY ON DRAWING BLOOD.

(a) IN GENERAL.—Sections 1814(a)(2)(C) and 1835(a)(2)(A) (42 U.S.C. 1395f(a)(2)(C), 1395n(a)(2)(A)) are each amended by inserting "(other than solely venipuncture for the purpose of obtaining a blood sample)" after "skilled nursing care".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to home health services furnished after the 6-month period beginning after the date of enactment of this Act.

SEC. 4616. REPORTS TO CONGRESS REGARDING HOME HEALTH COST CONTAINMENT.

(a) ESTIMATE.—Not later than October 1, 1997, the Secretary of Health and Human Services shall submit to the Committees on Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes an estimate of the outlays that will be made under parts A and B of title XVIII of the Social Security Act for the provision of home health services during each of fiscal years 1998 through 2002.

(b) ANNUAL REPORT.—Not later than the end of each of years 1999 through 2002, the Secretary shall submit to such Committees a report that compares the actual outlays under such parts for such services during the fiscal year ending in the year, to the outlays estimated under subsection (a) for such fiscal year. If the Secretary finds that such actual outlays were greater than such estimated outlays for the fiscal year, the Secretary shall include in the report recommendations regarding beneficiary copayments for home health services provided under the medicare program or such other methods as will reduce the growth in outlays for home health services under the medicare program.

CHAPTER 2—GRADUATE MEDICAL EDUCATION

Subchapter A—Indirect Medical Education

SEC. 4621. INDIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.

(a) MULTIYEAR TRANSITION REGARDING PERCENTAGES.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring—

"(I) on or after October 1, 1988, and before October 1, 1997, 'c' is equal to 1.89;

"(II) during fiscal year 1998, 'c' is equal to 1.72;

"(III) during fiscal year 1999, 'c' is equal to 1.6;

"(IV) during fiscal year 2000, 'c' is equal to 1.47; and

"(V) on or after October 1, 2000, 'c' is equal to 1.35.".

(2) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by adding at the end the following: "except that the Secretary shall not take into account any reduction in the amount of additional payments under paragraph (5)(B)(ii) resulting from the amendment made by section 4621(a)(1) of the Balanced Budget Act of 1997,".

(b) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—

(1) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding after clause (iv) the following:

"(v) In determining the adjustment with respect to a hospital for discharges occurring on or after October 1, 1997, the total number of full-time equivalent interns and residents in the fields of allopathic and osteopathic medicine in either a hospital or nonhospital setting may not exceed the number of such full-time equivalent interns and residents in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996.

"(vi) For purposes of clause (ii)—

"(I) 'r' may not exceed the ratio of the number of interns and residents, subject to the limit under clause (v), with respect to the hospital for its most recent cost reporting period to the hospital's available beds (as defined by the Secretary) during that cost reporting period, and

"(II) for the hospital's cost reporting periods beginning on or after October 1, 1997, subject to the limits described in clauses (iv) and (v), the total number of full-time equivalent residents for payment purposes shall equal the average of the *actual full-time equivalent resident count for the cost reporting period and the preceding two cost reporting periods.*

In the case of the first cost reporting period beginning on or after October 1, 1997, subclause (II) shall be applied by using the average for such period and the preceding cost reporting period.

“(vii) If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent residency count pursuant to subclause (II) of clause (vi) is based on the equivalent of full twelve-month cost reporting periods.

“(viii) Rules similar to the rules of subsection (h)(4)(H) shall apply for purposes of clauses (v) and (vi).”.

(2) PAYMENT FOR INTERNS AND RESIDENTS PROVIDING OFF-SITE SERVICES.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended to read as follows:

“(iv) Effective for discharges occurring on or after October 1, 1997, all the time spent by an intern or resident in patient care activities under an approved medical residency training program at an entity in a nonhospital setting shall be counted towards the determination of full-time equivalency if the hospital incurs all, or substantially all, of the costs for the training program in that setting.”.

SEC. 4622. PAYMENT TO HOSPITALS OF INDIRECT MEDICAL EDUCATION COSTS FOR MEDICARE+CHOICE ENROLLEES.

Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by adding at the end the following:

“(11) ADDITIONAL PAYMENTS FOR MANAGED CARE ENROLLEES.—

“(A) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital that has an approved medical residency training program.

“(B) APPLICABLE DISCHARGE.—For purposes of this paragraph, the term ‘applicable discharge’ means the discharge of any individual who is enrolled under a risk-sharing contract with an eligible organization under section 1876 and who is entitled to benefits under part A or any individual who is enrolled with a Medicare+Choice organization under part C.

“(C) DETERMINATION OF AMOUNT.—The amount of the payment under this paragraph with respect to any applicable discharge shall be equal to the applicable percentage (as defined in subsection (h)(3)(D)(ii)) of the estimated average per discharge amount that would otherwise have been paid under paragraph (5)(B) if the individuals had not been enrolled as described in subparagraph (B).

“(D) SPECIAL RULE FOR HOSPITALS UNDER REIMBURSEMENT SYSTEM.—The Secretary shall establish rules for the application of this paragraph to a hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) in the same manner as it would apply to the hospital if it were not reimbursed under such section.”.

Subchapter B—Direct Graduate Medical Education

SEC. 4623. LIMITATION ON NUMBER OF RESIDENTS AND ROLLING AVERAGE FTE COUNT.

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding after subparagraph (E) the following:

“(F) LIMITATION ON NUMBER OF RESIDENTS IN ALLOPATHIC AND OSTEOPATHIC MEDICINE.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1997, the total number of full-time equivalent residents before application of weighting factors (as determined under this paragraph) with respect to a hospital's approved medical residency training program in the fields of allopathic medicine and osteopathic medicine may not exceed the number of such full-time equivalent residents for the hospital's most recent cost reporting period ending on or before December 31, 1996.

“(G) COUNTING INTERNS AND RESIDENTS FOR FY 1998 AND SUBSEQUENT YEARS.—

“(i) IN GENERAL.—For cost reporting periods beginning during fiscal years beginning on or after October 1, 1997, subject to the limit described in subparagraph (F), the total number of full-time equivalent residents for determining a hospital's graduate medical education payment shall equal the average of the actual full-time equivalent resident counts for the cost reporting period and the preceding two cost reporting periods.

“(ii) ADJUSTMENT FOR SHORT PERIODS.—If any cost reporting period beginning on or after October 1, 1997, is not equal to twelve months, the Secretary shall make appropriate modifications to ensure that the average full-time equivalent resident counts pursuant to clause (i) are based on the equivalent of full twelve-month cost reporting periods.

“(iii) TRANSITION RULE FOR 1998.—In the case of a hospital's first cost reporting period beginning on or after October 1, 1997, clause (i) shall be applied by using the average for such period and the preceding cost reporting period.

“(H) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPHS (F) AND (G).—

“(i) NEW FACILITIES.—The Secretary shall, consistent with the principles of subparagraphs (F) and (G), prescribe rules for the application of such subparagraphs in the case of medical residency training programs established on or after January 1, 1995. In promulgating such rules for purposes of subparagraph (F), the Secretary shall give special consideration to facilities that meet the needs of underserved rural areas.

“(ii) AGGREGATION.—The Secretary may prescribe rules which allow institutions which are members of the same affiliated group (as defined by the Secretary) to elect to apply the limitation of subparagraph (F) on an aggregate basis.

“(iii) DATA COLLECTION.—The Secretary may require any entity that operates a medical residency training program and to which subparagraphs (F) and (G) apply to submit to the Secretary such additional information as the Secretary considers necessary to carry out such subparagraphs.”

SEC. 4624. PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF GRADUATE MEDICAL EDUCATION OF MEDICARE+CHOICE ENROLLEES.

Section 1886(h)(3) (42 U.S.C. 1395ww(h)(3)) is amended by adding after subparagraph (C) the following:

“(D) PAYMENT FOR MANAGED CARE ENROLLEES.—

“(i) IN GENERAL.—For portions of cost reporting periods occurring on or after January 1, 1998, the Secretary shall provide for an additional payment amount under this subsection for services furnished to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 and who are entitled to part A or with a Medicare+Choice organization under part C. The amount of such a payment shall equal the applicable percentage of the product of—

“(I) the aggregate approved amount (as defined in subparagraph (B)) for that period; and

“(II) the fraction of the total number of inpatient-bed days (as established by the Secretary) during the period which are attributable to such enrolled individuals.

“(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

“(I) 20 percent in 1998,

“(II) 40 percent in 1999,

“(III) 60 percent in 2000,

“(IV) 80 percent in 2001, and

“(V) 100 percent in 2002 and subsequent years.

“(iii) SPECIAL RULE FOR HOSPITALS UNDER REIMBURSEMENT SYSTEM.—The Secretary shall establish rules for the application of this subparagraph to a hospital reimbursed under a reimbursement system authorized under section 1814(b)(3) in the same manner as it would apply to the hospital if it were not reimbursed under such section.”.

SEC. 4625. PERMITTING PAYMENT TO NONHOSPITAL PROVIDERS.

(a) IN GENERAL.—Section 1886 (42 U.S.C. 1395ww), as amended by section 4421(a), is amended by adding at the end the following:

“(k) PAYMENT TO NONHOSPITAL PROVIDERS.—

“(1) IN GENERAL.—For cost reporting periods beginning on or after October 1, 1997, the Secretary may establish rules for payment to qualified nonhospital providers for their direct costs of medical education, if those costs are incurred in the operation of an approved medical residency training program described in subsection (h). Such rules shall specify the amounts, form, and manner in which such payments will be made and the portion of such payments that will be made from each of the trust funds under this title.

“(2) QUALIFIED NONHOSPITAL PROVIDERS.—For purposes of this subsection, the term ‘qualified nonhospital providers’ means—

“(A) a Federally qualified health center, as defined in section 1861(aa)(4);

“(B) a rural health clinic, as defined in section 1861(aa)(2);

“(C) Medicare+Choice organizations; and

“(D) such other providers (other than hospitals) as the Secretary determines to be appropriate.”.

(b) PROHIBITION ON DOUBLE PAYMENTS.—Section 1886(h)(3)(B) (42 U.S.C. 1395ww(h)(3)(B)) is amended by adding at the end the following: “The Secretary shall reduce the aggregate approved amount to the extent payment is made under subsection (k) for residents included in the hospital's count of full-time equivalent residents.”.

SEC. 4626. INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.

(a) IN GENERAL.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by adding at the end the following new paragraph:

“(6) INCENTIVE PAYMENT UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS.—

“(A) IN GENERAL.—In the case of a voluntary residency reduction plan for which an application is approved under subparagraph (B), subject to subparagraph (F), each hospital which is part of the qualifying entity submitting the plan shall be paid an applicable hold harmless percentage (as specified in subparagraph (E)) of the sum of—

“(i) the amount (if any) by which—

“(I) the amount of payment which would have been made under this subsection if there had been a 5-percent reduction in the number of full-time equivalent residents in the approved medical education training programs of the hospital as of June 30, 1997, exceeds

“(II) the amount of payment which is made under this subsection, taking into account the reduction in such number effected under the reduction plan; and

“(ii) the amount of the reduction in payment under subsection (d)(5)(B) for the hospital that is attributable to the reduction in number of residents effected under the plan below 95 percent of the number of full-time equivalent residents in such programs of the hospital as of June 30, 1997.

The determination of the amounts under clauses (i) and (ii) for any year shall be made on the basis of the provisions of this title in effect on the application deadline date for the first calendar year to which the reduction plan applies.

"(B) APPROVAL OF PLAN APPLICATIONS.—The Secretary may not approve the application of an qualifying entity unless—

"(i) the application is submitted in a form and manner specified by the Secretary and by not later than November 1, 1999,

"(ii) the application provides for the operation of a plan for the reduction in the number of full-time equivalent residents in the approved medical residency training programs of the entity consistent with the requirements of subparagraph (D);

"(iii) the entity elects in the application the period of residency training years (not greater than 5) over which the reduction will occur;

"(iv) the entity will not reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect as of the applicable time described in subparagraph (D)(v); and

"(v) the Secretary determines that the application and the entity and such plan meet such other requirements as the Secretary specifies in regulations.

"(C) QUALIFYING ENTITY.—For purposes of this paragraph, any of the following may be a qualifying entity:

"(i) Individual hospitals operating one or more approved medical residency training programs.

"(ii) Two or more hospitals that operate such programs and apply for treatment under this paragraph as a single qualifying entity.

"(iii) A qualifying consortium (as described in section 4628 of the Balanced Budget Act of 1997).

"(D) RESIDENCY REDUCTION REQUIREMENTS.—

"(i) INDIVIDUAL HOSPITAL APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(i), the number of full-time equivalent residents in all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) If the base number of residents exceeds 750 residents, by a number equal to at least 20 percent of such base number.

"(II) Subject to subclause (IV), if the base number of residents exceeds 600 but is less than 750 residents, by 150 residents.

"(III) Subject to subclause (IV), if the base number of residents does not exceed 600 residents, by a number equal to at least 25 percent of such base number.

"(IV) In the case of a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of the base number.

"(ii) JOINT APPLICANTS.—In the case of a qualifying entity described in subparagraph (C)(ii), the number of full-time equivalent residents in the aggregate for all the approved medical residency training programs operated by or through the entity shall be reduced as follows:

"(I) Subject to subclause (II), by a number equal to at least 25 percent of the base number.

"(II) In the case of such a qualifying entity which is described in clause (v) and which elects treatment under this subclause, by a number equal to at least 20 percent of the base number.

"(iii) CONSORTIA.—In the case of a qualifying entity described in subparagraph (C)(iii), the number of full-time equivalent residents in the aggregate for all the approved medical residency training programs operated by or through the entity shall be reduced by a number equal to at least 20 percent of the base number.

"(iv) MANNER OF REDUCTION.—The reductions specified under the preceding provisions of this subparagraph for a qualifying entity shall be below the base number of residents for that entity and shall be fully effective not later than the 5th residency training year in which the application under subparagraph (B) is effective.

"(v) ENTITIES PROVIDING ASSURANCE OF INCREASE IN PRIMARY CARE RESIDENTS.—An entity is described in this clause if—

"(I) the base number of residents for the entity is less than 750 or the entity is described in subparagraph (C)(ii); and

"(II) the entity represents in its application under subparagraph (B) that it will increase the number of full-time equivalent residents in primary care by at least 20 percent (from such number included in the base number of residents) by not later than the 5th residency training year in which the application under subparagraph (B) is effective.

If a qualifying entity fails to comply with the representation described in subclause (II) by the end of such 5th residency training year, the entity shall be subject to repayment of all amounts paid under this paragraph, in accordance with procedures established to carry out subparagraph (F).

"(vi) BASE NUMBER OF RESIDENTS DEFINED.—For purposes of this paragraph, the term 'base number of residents' means, with respect to a qualifying entity (or its participating hospitals) operating approved medical residency training programs, the number of full-time equivalent residents in such programs (before application of weighting factors) of the entity as of the most recent residency training year ending before June 30, 1997, or, if less, for any subsequent residency training year that ends before the date the entity makes application under this paragraph.

"(E) APPLICABLE HOLD HARMLESS PERCENTAGE.—For purposes of subparagraph (A), the 'applicable hold harmless percentage' for the—

"(i) first and second residency training years in which the reduction plan is in effect, 100 percent,

"(ii) third such year, 75 percent,

"(iii) fourth such year, 50 percent, and

"(iv) fifth such year, 25 percent.

"(F) PENALTY FOR NONCOMPLIANCE.—

"(i) IN GENERAL.—No payment may be made under this paragraph to a hospital for a residency training year if the hospital has failed to reduce the number of full-time equivalent residents (in the manner required under subparagraph (D)) to the number agreed to by the Secretary and the qualifying entity in approving the application under this paragraph with respect to such year.

"(ii) INCREASE IN NUMBER OF RESIDENTS IN SUBSEQUENT YEARS.—If payments are made under this paragraph to a hospital, and if the hospital increases the number of full-time equivalent residents above the number of such residents permitted under the reduction plan as of the completion of the plan, then, as specified by the Secretary, the entity is liable for repayment to the Secretary of the total amounts paid under this paragraph to the entity.

"(G) TREATMENT OF ROTATING RESIDENTS.—In applying this paragraph, the Secretary shall establish rules regarding the counting of residents who are assigned to institutions the medical residency training programs in which are not covered under approved applications under this paragraph.".

(b) RELATION TO DEMONSTRATION PROJECTS AND AUTHORITY.—

(1) Section 1886(h)(6) of the Social Security Act, added by subsection (a), other than subparagraph (F)(ii) thereof, shall not apply to any residency training program with respect to which a demonstration project described in paragraph (3) has been approved by the Health Care Financing Administration as of May 27, 1997.

(2) Effective May 27, 1997, the Secretary of Health and Human Services is not authorized to approve any demonstration project described in paragraph (3) for any residency training year beginning before July 1, 2006.

(3) A demonstration project described in this paragraph is a project that primarily provides for additional payments under title XVIII of the Social Security Act in connection with a reduction in the number of residents in a medical residency training program.

(c) INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may first promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment, by not later than 6 months after the date of the enactment of this Act.

SEC. 4627. MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking "and (iii)" and inserting ", (iii), and (iv)"; and

(2) by adding at the end the following:

"(iv) SPECIAL RULE FOR CERTAIN PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

"(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program shall qualify for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect for residency years beginning on or after July 1, 1997.

SEC. 4628. DEMONSTRATION PROJECT ON USE OF CONSORTIA.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration project under which, instead of making payments to teaching hospitals pursuant to section 1886(h) of the Social Security Act, the Secretary shall make payments under this section to each consortium that meets the requirements of subsection (b) and that applies to be included under the project.

(b) QUALIFYING CONSORTIA.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

(1) The consortium consists of a teaching hospital with one or more approved medical residency training programs and one or more of the following entities:

(A) A school of allopathic medicine or osteopathic medicine.

(B) Another teaching hospital, which may be a children's hospital.

(C) A Federally qualified health center.

(D) A medical group practice.

(E) A managed care entity.

(F) An entity furnishing outpatient services.

(G) Such other entity as the Secretary determines to be appropriate.

(2) The members of the consortium have agreed to participate in the programs of graduate medical education that are operated by the entities in the consortium.

(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

(4) The consortium meets such additional requirements as the Secretary may establish.

(c) AMOUNT AND SOURCE OF PAYMENT.—The total of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall not exceed the amount that would have been paid under section 1886 (h) or (k) of the Social Security Act for the teaching hospital (or hospitals) in the consortium. Such payments shall be made in such proportion from each of the trust funds established under title XVIII of such Act as the Secretary specifies.

SEC. 4629. RECOMMENDATIONS ON LONG-TERM POLICIES REGARDING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—The Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act and in this section referred to as the "Commission") shall examine and develop recommendations on whether and to what extent medicare payment policies and other Federal policies regarding teaching hospitals and graduate medical education should be changed. Such recommendations shall include recommendations regarding each of the following:

(1) Possible methodologies for making payments for graduate medical education and the selection of entities to receive such payments. Matters considered under this paragraph shall include—

(A) issues regarding children's hospitals and approved medical residency training programs in pediatrics, and

(B) whether and to what extent payments are being made (or should be made) for training in the nursing and other allied health professions.

(2) Federal policies regarding international medical graduates.

(3) The dependence of schools of medicine on service-generated income.

(4) Whether and to what extent the needs of the United States regarding the supply of physicians, in the aggregate and in different specialties, will change during the 10-year period beginning on October 1, 1997, and whether and to what extent any such changes will have significant financial effects on teaching hospitals.

(5) Methods for promoting an appropriate number, mix, and geographical distribution of health professionals.

(b) CONSULTATION.—In conducting the study under subsection (a), the Commission shall consult with the Council on Graduate Medical Education and individuals with expertise in the area of graduate medical education, including—

(1) deans from allopathic and osteopathic schools of medicine;

(2) chief executive officers (or equivalent administrative heads) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs;

(3) chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery;

(4) individuals with leadership experience from representative fields of non-physician health professionals;

(5) individuals with substantial experience in the study of issues regarding the composition of the health care workforce of the United States; and

(6) individuals with expertise in health care payment policies.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to the Congress a report providing its recommendations under this section and the reasons and justifications for such recommendations.

SEC. 4630. STUDY OF HOSPITAL OVERHEAD AND SUPERVISORY PHYSICIAN COMPONENTS OF DIRECT MEDICAL EDUCATION COSTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study with respect to—

(1) variations among hospitals in the hospital overhead and supervisory physician components of their direct medical education costs taken into account under section 1886(h) of the Social Security Act, and

(2) the reasons for such variations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report the results of the study conducted under subsection (a) to the appropriate committees of Congress, including recommendations for legislation reducing variations described in subsection (a) that the Secretary finds inappropriate.

CHAPTER 3—PROVISIONS RELATING TO MEDICARE SECONDARY PAYER

SEC. 4631. PERMANENT EXTENSION AND REVISION OF CERTAIN SECONDARY PAYER PROVISIONS.

(a) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)";

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(b) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998" and inserting "the date of enactment of the Balanced Budget Act of 1997"; and

(2) by adding at the end the following: "Effective for items and services furnished on or after the date of enactment of the Balanced Budget Act of 1997, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".

(c) IRS–SSA–HCFA DATA MATCH.—

(1) SOCIAL SECURITY ACT.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) INTERNAL REVENUE CODE.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

SEC. 4632. CLARIFICATION OF TIME AND FILING LIMITATIONS.

(a) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(b) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after the date of the enactment of this Act.

SEC. 4633. PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment"; and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan and is not employed by or under contract with the employer or group health plan at the time the action for recovery is initiated by the United States or for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) CLARIFICATION OF BENEFICIARY LIABILITY.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) LIMITATION ON BENEFICIARY LIABILITY.—An individual who is entitled to benefits under this title and is furnished an item or service for which such benefits are incorrectly paid is not liable for repayment of such benefits under this paragraph unless payment of such benefits was made to the individual.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after the date of the enactment of this Act.

CHAPTER 4—OTHER PROVISIONS

SEC. 4641. PLACEMENT OF ADVANCE DIRECTIVE IN MEDICAL RECORD.

(a) IN GENERAL.—Section 1866(f)(1)(B) (42 U.S.C. 1395cc(f)(1)(B)) is amended by striking "in the individual's medical record" and inserting "in a prominent part of the individual's current medical record".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to provider agreements entered into, renewed, or extended on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary of Health and Human Services specifies.

SEC. 4642. INCREASED CERTIFICATION PERIOD FOR CERTAIN ORGAN PROCUREMENT ORGANIZATIONS.

Section 1138(b)(1)(A)(ii) (42 U.S.C. 1320b-8(b)(1)(A)(ii)) is amended by striking "two years" and inserting "2 years (4 years if the Secretary determines appropriate for an organization on the basis of its past practices)".

SEC. 4643. OFFICE OF THE CHIEF ACTUARY IN THE HEALTH CARE FINANCING ADMINISTRATION.

Section 1117 (42 U.S.C. 1317) is amended—

(1) in the heading, by inserting "AND CHIEF ACTUARY" after "THE ADMINISTRATOR";

(2) by inserting "(a)" before "The Administrator"; and

(3) by adding at the end the following:

"(b)(1) There is established in the Health Care Financing Administration the position of Chief Actuary. The Chief Actuary shall be appointed by, and in direct line of authority to, the Administrator of such Administration. The Chief Actuary shall be appointed from among individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

"(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

SEC. 4644. CONFORMING AMENDMENTS TO COMPLY WITH CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

(a) DRG PROSPECTIVE PAYMENT RATE METHODOLOGY.—

(1) IN GENERAL.—Section 1886(d)(6) (42 U.S.C. 1395ww(d)(6)) is amended by striking "September 1" and inserting "August 1".

(2) TRANSITION RULE FOR FISCAL YEAR 1998.—With respect to the publication in the Federal Register of the DRG prospective payment rate methodology under such section for fiscal year 1998, the term "60 days" in section 801(a)(3)(A) and section 802(a) of title 5, United States Code, is deemed to be a reference to "30 days".

(b) HOSPITAL PAYMENT UPDATES.—

(1) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e) is amended—

(A) in paragraph (5)(A) by striking "May 1" and inserting "April 1"; and

(B) in paragraph (5)(B) by striking "September 1" and inserting "August 1".

(2) TRANSITION RULE FOR FISCAL YEAR 1998.—With respect to the publication in the Federal Register of the appropriate change factor for inpatient hospital services for discharges in fiscal year 1998 under section 1886(e)(5)(B) (42 U.S.C. 1395ww(e)(5)(B)), the term "60 days" in section 801(a)(3)(A) and section 802(a) of title 5, United States Code, is deemed to be a reference to "30 days".

(c) APPLICATIONS FOR GEOGRAPHIC RECLASSIFICATION.—

(1) IN GENERAL.—Section 1886(d)(10)(C) (42 U.S.C. 1395ww(d)(10)(C)) is amended in clause (ii), by striking "the first day of the preceding fiscal year." and inserting "the first day of the 13-month period ending on September 30 of the preceding fiscal year."

(2) SPECIAL RULE FOR APPLICATIONS RECEIVED IN FISCAL YEAR 1997.—In the case of an application for a change in geographic classification under such section for fiscal year 1999, the Secretary of Health and Human Services shall shorten the deadlines under such section so as to permit completion of a final decision by the Secretary by June 15, 1998.

(d) PHYSICIAN FEE SCHEDULE.—Section 1848(b)(1) (42 U.S.C. 1395w–4(b)(1)) is amended by striking "Before January 1 of each year beginning with 1992" and inserting "Before November 1 of the preceding year, for each year beginning with 1998".

Subtitle H—Medicaid

CHAPTER 1—MANAGED CARE

SEC. 4701. STATE OPTION OF USING MANAGED CARE; CHANGE IN TERMINOLOGY.

(a) USE OF MANAGED CARE GENERALLY.—Title XIX is amended by redesignating section 1932 as section 1933 and by inserting after section 1931 the following new section:

"PROVISIONS RELATING TO MANAGED CARE

"SEC. 1932. (a) STATE OPTION TO USE MANAGED CARE.—

"(1) USE OF MEDICAID MANAGED CARE ORGANIZATIONS AND PRIMARY CARE CASE MANAGERS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this section, and notwithstanding paragraph (1), (10)(B), or (23)(A) of section 1902(a), a State—

"(i) may require an individual who is eligible for medical assistance under the State plan under this title to enroll with a managed care entity as a condition of receiving such assistance (and, with respect to assistance furnished by or under arrangements with such entity, to receive such assistance through the entity), if—

"(I) the entity and the contract with the State meet the applicable requirements of this section and section 1903(m) or section 1905(t), and

"(II) the requirements described in the succeeding paragraphs of this subsection are met; and

"(ii) may restrict the number of provider agreements with managed care entities under the State plan if such restriction does not substantially impair access to services.

"(B) DEFINITION OF MANAGED CARE ENTITY.—In this section, the term 'managed care entity' means—

"(i) a medicaid managed care organization, as defined in section 1903(m)(1)(A), that provides or arranges for services for enrollees under a contract pursuant to section 1903(m); and

"(ii) a primary care case manager, as defined in section 1905(t)(2).

"(2) SPECIAL RULES.—

"(A) EXEMPTION OF CERTAIN CHILDREN WITH SPECIAL NEEDS.—A State may not require under paragraph (1) the enrollment in a managed care entity of an individual under 19 years of age who—

"(i) is eligible for supplemental security income under title XVI;

"(ii) is described in section 501(a)(1)(D);

"(iii) is described in section 1902(e)(3);

"(iv) is receiving foster care or adoption assistance under part E of title IV; or

"(v) is in foster care or otherwise in an out-of-home placement.

"(B) EXEMPTION OF MEDICARE BENEFICIARIES.—A State may not require under paragraph (1) the enrollment in a managed care entity of an individual who is a qualified medicare beneficiary (as defined in section 1905(p)(1)) or an individual otherwise eligible for benefits under title XVIII.

"(C) INDIAN ENROLLMENT.—A State may not require under paragraph (1) the enrollment in a managed care entity of an individual who is an Indian (as defined in section 4(c) of the Indian Health Care Improvement Act of 1976 (25 U.S.C. 1603(c)) unless the entity is one of the following (and only if such entity is participating under the plan):

"(i) The Indian Health Service.

"(ii) An Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

"(iii) An urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(3) CHOICE OF COVERAGE.—

"(A) IN GENERAL.—A State must permit an individual to choose a managed care entity from not less than two such entities that meet the applicable requirements of this section, and of section 1903(m) or section 1905(t).

"(B) STATE OPTION.—At the option of the State, a State shall be considered to meet the requirements of subparagraph (A) in the case of an individual residing in a rural area, if the State requires the individual to enroll with a managed care entity if such entity—

"(i) permits the individual to receive such assistance through not less than two physicians or case managers (to the extent that at least two physicians or case managers are available to provide such assistance in the area), and

(ii) permits the individual to obtain such assistance from any other provider in appropriate circumstances (as established by the State under regulations of the Secretary).

"(C) TREATMENT OF CERTAIN COUNTY-OPERATED HEALTH INSURING ORGANIZATIONS.—A State shall be considered to meet the requirement of subparagraph (A) if—

"(i) the managed care entity in which the individual is enrolled is a health-insuring organization which—

"(I) first became operational prior to January 1, 1986, or

"(II) is described in section 9517(c)(3) of the Omnibus Budget Reconciliation Act of 1985 (as added by section 4734(2) of the Omnibus Budget Reconciliation Act of 1990), and

"(ii) the individual is given a choice between at least two providers within such entity.

"(4) PROCESS FOR ENROLLMENT AND TERMINATION AND CHANGE OF ENROLLMENT.—As conditions under paragraph (1)(A)—

"(A) IN GENERAL.—The State, enrollment broker (if any), and managed care entity shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the entity under this title to terminate (or change) such enrollment—

"(i) for cause at any time (consistent with section 1903(m)(2)(A)(vi)), and

"(ii) without cause—

"(I) during the 90-day period beginning on the date the individual receives notice of such enrollment, and

"(II) at least every 12 months thereafter.

"(B) NOTICE OF TERMINATION RIGHTS.—The State shall provide for notice to each such individual of the opportunity to terminate (or change) enrollment under such conditions. Such notice shall be provided at least 60 days before each annual enrollment opportunity described in subparagraph (A)(ii)(II).

"(C) ENROLLMENT PRIORITIES.—In carrying out paragraph (1)(A), the State shall establish a method for establishing enrollment priorities in the case of a managed care entity that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the entity are given priority in continuing enrollment with the entity.

"(D) DEFAULT ENROLLMENT PROCESS.—In carrying out paragraph (1)(A), the State shall establish a default enrollment process—

"(i) under which any such individual who does not enroll with a managed care entity during the enrollment period specified by the State shall be enrolled by the State with such an entity which has not been found to be out of substantial compliance with the applicable requirements of this section and of section 1903(m) or section 1905(t); and

"(ii) that takes into consideration—

"(I) maintaining existing provider-individual relationships or relationships with providers that have traditionally served beneficiaries under this title; and

"(II) if maintaining such provider relationships is not possible, the equitable distribution of such individuals among qualified managed care entities available to enroll such individuals, consistent with the enrollment capacities of the entities.

"(5) PROVISION OF INFORMATION.—

"(A) INFORMATION IN EASILY UNDERSTOOD FORM.—Each State, enrollment broker, or managed care entity shall provide all enrollment notices and informational and instructional materials relating to such an entity under this title in a manner and form which may be easily understood by enrollees and potential enrollees of the entity who are eligible for medical assistance under the State plan under this title.

"(B) INFORMATION TO ENROLLEES AND POTENTIAL ENROLLEES.—Each managed care entity that is a medicaid managed care organization shall, upon request, make available to enrollees and potential enrollees in the organization's service area information concerning the following:

"(i) PROVIDERS.—The identity, locations, qualifications, and availability of health care providers that participate with the organization.

"(ii) ENROLLEE RIGHTS AND RESPONSIBILITIES.—The rights and responsibilities of enrollees.

"(iii) GRIEVANCE AND APPEAL PROCEDURES.—The procedures available to an enrollee and a health care provider to challenge or appeal the failure of the organization to cover a service.

"(iv) INFORMATION ON COVERED ITEMS AND SERVICES.—All items and services that are available to enrollees under the contract between the State and the organization that are covered either directly or through a method of referral and prior authorization. Each managed care entity that is a primary care case manager shall, upon request, make available to enrollees and potential enrollees in the organization's service area the information described in clause (iii).

"(C) COMPARATIVE INFORMATION.—A State that requires individuals to enroll with managed care entities under paragraph (1)(A) shall annually (and upon request) provide, directly or through the managed care entity, to such individuals a list identifying the managed care entities that are (or will be) available and information (presented in a comparative, chart-like form) relating to the following for each such entity offered:

"(i) BENEFITS AND COST-SHARING.—The benefits covered and cost-sharing imposed by the entity.

"(ii) SERVICE AREA.—The service area of the entity.

"(iii) QUALITY AND PERFORMANCE.—To the extent available, quality and performance indicators for the benefits under the entity.

"(D) INFORMATION ON BENEFITS NOT COVERED UNDER MANAGED CARE ARRANGEMENT.—A State, directly or through managed care entities, shall, on or before an individual enrolls with such an entity under this title, inform the enrollee in a written and prominent manner of any benefits to which the enrollee may be entitled to under this title but which are not made available to the enrollee through the entity. Such information shall include information on where and how such enrollees may access benefits not made available to the enrollee through the entity.".

(b) CHANGE IN TERMINOLOGY.—

(1) IN GENERAL.—Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)) is amended—

(A) by striking "The term" and all that follows through "and—" and inserting "The term 'medicaid managed care organization' means a health maintenance organization, an eligible organization with a contract under section 1876 or a Medicare+Choice organization with a contract under part C of title XVIII, a provider sponsored organization, or any other public or private organization, which meets the requirement of section 1902(w) and—"; and

(B) by adding after and below clause (ii) the following:

"An organization that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) is deemed to meet the requirements of clauses (i) and (ii).".

(2) CONFORMING CHANGES IN TERMINOLOGY.—(A) Each of the following provisions is amended by striking "health maintenance organization" and inserting "medicaid managed care organization":

(i) Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)).

(ii) Section 1902(a)(57) (42 U.S.C. 1396a(a)(57)).

(iii) Section 1902(p)(2) (42 U.S.C. 1396a(p)(2)).

(iv) Section 1902(w)(2)(E) (42 U.S.C. 1396a(w)(2)(E)).

(v) Section 1903(k) (42 U.S.C. 1396b(k)).

(vi) In section 1903(m)(1)(B).

(vii) In subparagraphs (A)(i) and (H)(i) of section 1903(m)(2) (42 U.S.C. 1396b(m)(2)).

(viii) Section 1903(m)(4)(A) (42 U.S.C. 1396b(m)(4)(A)), the first place it appears.

(ix) Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r-6(b)(4)(D)(iv)).

(x) Section 1927(j)(1) (42 U.S.C. 1396r-8(j)(1)) is amended by striking "***Health Maintenance Organizations, including those organizations" and inserting "health maintenance organizations, including medicaid managed care organizations".

(B) Section 1903(m)(2)(H) (42 U.S.C. 1396b(m)(2)(H)) is amended, in the matter following clause (iii), by striking "health maintenance".

(C) Clause (viii) of section 1903(w)(7)(A) (42 U.S.C. 1396b(w)(7)(A)) is amended to read as follows:

"(viii) Services of a medicaid managed care organization with a contract under section 1903(m).".

(D) Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended—

(i) in the heading, by striking "HMO" and inserting "MEDICAID MANAGED CARE ORGANIZATION"; and

(ii) by inserting "and the applicable requirements of section 1932" before the period at the end.

(c) COMPLIANCE OF CONTRACT WITH NEW REQUIREMENTS.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) by striking "and" at the end of clause (x),

(2) by striking the period at the end of clause (xi) and inserting "; and"; and

(3) by adding at the end the following:

"(xi) such contract, and the entity complies with the applicable requirements of section 1932.".

(d) CONFORMING AMENDMENTS TO FREEDOM-OF-CHOICE AND TERMINATION OF ENROLLMENT REQUIREMENTS.—

(1) Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)), as amended by section 4724(d), is amended by striking "and in section 1915" and inserting ", in section 1915, and in section 1932(a)".

(2) Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(A) in paragraph (A)(vi)—

(i) by striking "except as provided under subparagraph (F),",

(ii) by striking "without cause" and all that follows through "for such termination" and inserting "in accordance with section 1932(a)(4);",

(iii) by inserting "in accordance with such section" after "provides for notification"; and

(B) by striking subparagraph (F).

SEC. 4702. PRIMARY CARE CASE MANAGEMENT SERVICES AS STATE OPTION WITHOUT NEED FOR WAIVER.

(a) IN GENERAL.—Section 1905 (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (24);

(B) by redesignating paragraph (25) as paragraph (26) and by striking the period at the end of such paragraph and inserting a comma; and

(C) by inserting after paragraph (24) the following new paragraph:

"(25) primary care case management services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t)(1) The term 'primary care case management services' means case-management related services (including locating, coordinating, and monitoring of health care services) provided by a primary care case manager under a primary care case management contract.

"(2) The term 'primary care case manager' means any of the following that provides services of the type described in paragraph (1) under a contract referred to in such paragraph:

"(A) A physician, a physician group practice, or an entity employing or having other arrangements with physicians to provide such services.

"(B) At State option—

"(i) a nurse practitioner (as described in section 1905(a)(21));

"(ii) a certified nurse-midwife (as defined in section 1861(gg)); or

"(iii) a physician assistant (as defined in section 1861(aa)(5)).

"(3) The term 'primary care case management contract' means a contract between a primary care case manager and a State under which the manager undertakes to locate, coordinate, and monitor covered primary care (and such other covered services as may be specified under the contract) to all individuals enrolled with the manager, and which—

"(A) provides for reasonable and adequate hours of operation, including 24-hour availability of information, referral, and treatment with respect to medical emergencies;

"(B) restricts enrollment to individuals residing sufficiently near a service delivery site of the manager to be able to reach that site within a reasonable time using available and affordable modes of transportation;

"(C) provides for arrangements with, or referrals to, sufficient numbers of physicians and other appropriate health care professionals to ensure that services under the contract can be furnished to enrollees promptly and without compromise to quality of care;

"(D) prohibits discrimination on the basis of health status or requirements for health care services in enrollment, disenrollment, or reenrollment of individuals eligible for medical assistance under this title;

"(E) provides for a right for an enrollee to terminate enrollment in accordance with section 1932(a)(4); and

"(F) complies with the other applicable provisions of section 1932.

"(4) For purposes of this subsection, the term 'primary care' includes all health care services customarily provided in accordance with State licensure and certification laws and regulations, and all laboratory services customarily provided by or through, a general practitioner, family medicine physician, internal medicine physician, obstetrician/gynecologist, or pediatrician.".

(b) CONFORMING AMENDMENTS.—

(1) APPLICATION OF REENROLLMENT PROVISIONS TO PCCMS.—Section 1903(m)(2)(H) (42 U.S.C. 1396b(m)(2)(H)) is amended—

(A) in clause (i), by inserting before the comma the following: "or with a primary care case manager with a contract described in section 1905(t)(3)"; and

(B) by inserting before the period at the end the following: "or with the manager described in such clause if the manager continues to have a contract described in section 1905(t)(3) with the State".

(2) CONFORMING CROSS-REFERENCE.—Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "paragraphs (1) through (25)" and inserting "a numbered paragraph of".

SEC. 4703. ELIMINATION OF 75:25 RESTRICTION ON RISK CONTRACTS.

(a) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended by striking clause (ii).

(b) CONFORMING AMENDMENTS.—

(1) Section 1903(m)(2) (42 U.S.C. 1396b(m)(2)) is amended—

(A) by striking subparagraphs (C), (D), and (E); and

(B) in subparagraph (G), by striking "clauses (i) and (ii)" and inserting "clause (i)".

(2) Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended by striking "less than 50 percent" and all that follows up to the period at the end.

SEC. 4704. INCREASED BENEFICIARY PROTECTIONS.

(a) IN GENERAL.—Section 1932, as added by section 4701(a), is amended by adding at the end the following:

"(b) BENEFICIARY PROTECTIONS.—

"(1) SPECIFICATION OF BENEFITS.—Each contract with a managed care entity under section

1903(m) or under section 1905(t)(3) shall specify the benefits the provision (or arrangement) for which the entity is responsible.

"(2) ASSURING COVERAGE TO EMERGENCY SERVICES.—

"(A) IN GENERAL.—Each contract with a medicaid managed care organization under section 1903(m) and each contract with a primary care case manager under section 1905(t)(3) shall require the organization or manager—

"(i) to provide coverage for emergency services (as defined in subparagraph (B)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization or manager, and

"(ii) to comply with guidelines established under section 1852(d)(2) (respecting coordination of post-stabilization care) in the same manner as such guidelines apply to Medicare+Choice plans offered under part C of title XVIII.

The requirement under clause (ii) shall first apply 30 days after the date of promulgation of the guidelines referred to in such clause.

"(B) EMERGENCY SERVICES DEFINED.—In subparagraph (A)(i), the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(i) are furnished by a provider that is qualified to furnish such services under this title, and

"(ii) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (C)).

"(C) EMERGENCY MEDICAL CONDITION DEFINED.—In subparagraph (B)(ii), the term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part.

"(3) PROTECTION OF ENROLLEE-PROVIDER COMMUNICATIONS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), under a contract under section 1903(m) a medicaid managed care organization (in relation to an individual enrolled under the contract) shall not prohibit or otherwise restrict a covered health care professional (as defined in subparagraph (D)) from advising such an individual who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the contract, if the professional is acting within the lawful scope of practice.

"(B) CONSTRUCTION.—Subparagraph (A) shall not be construed as requiring a medicaid managed care organization to provide, reimburse for, or provide coverage of, a counseling or referral service if the organization—

"(i) objects to the provision of such service on moral or religious grounds; and

"(ii) in the manner and through the written instrumentalities such organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment and to enrollees within 90 days after the date that the organization adopts a change in policy regarding such a counseling or referral service.

Nothing in this subparagraph shall be construed to affect disclosure requirements under State law or under the Employee Retirement Income Security Act of 1974.

"(C) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r)) or other health care professional if coverage for the professional's services is provided under the contract referred to in subparagraph (A) for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(4) GRIEVANCE PROCEDURES.—Each medicaid managed care organization shall establish an internal grievance procedure under which an enrollee who is eligible for medical assistance under the State plan under this title, or a provider on behalf of such an enrollee, may challenge the denial of coverage of or payment for such assistance.

"(5) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—Each medicaid managed care organization shall provide the State and the Secretary with adequate assurances (in a time and manner determined by the Secretary) that the organization, with respect to a service area, has the capacity to serve the expected enrollment in such service area, including assurances that the organization—

"(A) offers an appropriate range of services and access to preventive and primary care services for the population expected to be enrolled in such service area, and

"(B) maintains a sufficient number, mix, and geographic distribution of providers of services.

"(6) PROTECTING ENROLLEES AGAINST LIABILITY FOR PAYMENT.—Each medicaid managed care organization shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the organization may not be held liable—

"(A) for the debts of the organization, in the event of the organization's insolvency,

"(B) for services provided to the individual—

"(i) in the event of the organization failing to receive payment from the State for such services; or

"(ii) in the event of a health care provider with a contractual, referral, or other arrangement with the organization failing to receive payment from the State or the organization for such services, or

"(C) for payments to a provider that furnishes covered services under a contractual, referral, or other arrangement with the organization in excess of the amount that would be owed by the individual if the organization had directly provided the services.

"(7) ANTIDISCRIMINATION.—A medicaid managed care organization shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification. This paragraph shall not be construed to prohibit an organization from including providers only to the extent necessary to meet the needs of the organization's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the organization.

"(8) COMPLIANCE WITH CERTAIN MATERNITY AND MENTAL HEALTH REQUIREMENTS.—Each medicaid managed care organization shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply and are effective with respect to a health insurance issuer that offers group health insurance coverage.".

(b) PROTECTION OF ENROLLEES AGAINST BALANCE BILLING THROUGH SUBCONTRACTORS.—Section 1128B(d)(1) (42 U.S.C. 1320a–7b(d)(1)) is amended by inserting "(or, in the case of services provided to an individual enrolled with a medicaid managed care organization under title XIX under a contract under section 1903(m) or under a contractual, referral, or other arrangement under such contract, at a rate in excess of the rate permitted under such contract)" before the comma at the end.

SEC. 4705. QUALITY ASSURANCE STANDARDS.

(a) IN GENERAL.—Section 1932 is further amended by adding at the end the following:

"(c) QUALITY ASSURANCE STANDARDS.—

"(1) QUALITY ASSESSMENT AND IMPROVEMENT STRATEGY.—

"(A) IN GENERAL.—If a State provides for contracts with medicaid managed care organizations under section 1903(m), the State shall develop and implement a quality assessment and improvement strategy consistent with this paragraph. Such strategy shall include the following:

"(i) ACCESS STANDARDS.—Standards for access to care so that covered services are available within reasonable timeframes and in a manner that ensures continuity of care and adequate primary care and specialized services capacity.

"(ii) OTHER MEASURES.—Examination of other aspects of care and service directly related to the improvement of quality of care (including grievance procedures and marketing and information standards).

"(iii) MONITORING PROCEDURES.—Procedures for monitoring and evaluating the quality and appropriateness of care and services to enrollees that reflect the full spectrum of populations enrolled under the contract and that includes requirements for provision of quality assurance data to the State using the data and information set that the Secretary has specified for use under part C of title XVIII or such alternative data as the Secretary approves, in consultation with the State.

"(iv) PERIODIC REVIEW.—Regular, periodic examinations of the scope and content of the strategy.

"(B) STANDARDS.—The strategy developed under subparagraph (A) shall be consistent with standards that the Secretary first establishes within 1 year after the date of the enactment of this section. Such standards shall not preempt any State standards that are more stringent than such standards. Guidelines relating to quality assurance that are applied under section 1915(b)(1) shall apply under this subsection until the effective date of standards for quality assurance established under this subparagraph.

"(C) MONITORING.—The Secretary shall monitor the development and implementation of strategies under subparagraph (A).

"(D) CONSULTATION.—The Secretary shall conduct activities under subparagraphs (B) and (C) in consultation with the States.

"(2) EXTERNAL INDEPENDENT REVIEW OF MANAGED CARE ACTIVITIES.—

"(A) REVIEW OF CONTRACTS.—

"(i) IN GENERAL.—Each contract under section 1903(m) with a medicaid managed care organization shall provide for an annual (as appropriate) external independent review conducted by a qualified independent entity of the quality outcomes and timeliness of, and access to, the items and services for which the organization is responsible under the contract. The requirement for such a review shall not apply until after the date that the Secretary establishes the identification method described in clause (ii).

"(ii) QUALIFICATIONS OF REVIEWER.—The Secretary, in consultation with the States, shall establish a method for the identification of entities

that are qualified to conduct reviews under clause (i).

"(iii) USE OF PROTOCOLS.—The Secretary, in coordination with the National Governors' Association, shall contract with an independent quality review organization (such as the National Committee for Quality Assurance) to develop the protocols to be used in external independent reviews conducted under this paragraph on and after January 1, 1999.

"(iv) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this subparagraph shall be available to participating health care providers, enrollees, and potential enrollees of the organization, except that the results may not be made available in a manner that discloses the identity of any individual patient.

"(B) NONDUPLICATION OF ACCREDITATION.—A State may provide that, in the case of a medicaid managed care organization that is accredited by a private independent entity (such as those described in section 1852(e)(4)) or that has an external review conducted under section 1852(e)(3), the external review activities conducted under subparagraph (A) with respect to the organization shall not be duplicative of review activities conducted as part of the accreditation process or the external review conducted under such section.

"(C) DEEMED COMPLIANCE FOR MEDICARE MANAGED CARE ORGANIZATIONS.—At the option of a State, the requirements of subparagraph (A) shall not apply with respect to a medicaid managed care organization if the organization is an eligible organization with a contract in effect under section 1876 or a Medicare+Choice organization with a contract in effect under C of title XVIII and the organization has had a contract in effect under section 1903(m) at least during the previous 2-year period.

(b) INCREASED FFP FOR EXTERNAL QUALITY REVIEW ORGANIZATIONS.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)(C)) is amended—

(1) by inserting "(i)" after "(C)", and

(2) by adding at the end the following new clause:

"(ii) 75 percent of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of independent external reviews conducted under section 1932(c)(2); and".

(c) STUDIES AND REPORTS.—

(1) GAO STUDY AND REPORT ON QUALITY ASSURANCE AND ACCREDITATION STANDARDS.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of the quality assurance programs and accreditation standards applicable to managed care entities operating in the private sector, or to such entities that operate under contracts under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). Such study shall determine—

(i) if such programs and standards include consideration of the accessibility and quality of the health care items and services delivered under such contracts to low-income individuals; and

(ii) the appropriateness of applying such programs and standards to medicaid managed care organizations under section 1932(c) of such Act.

(B) REPORT.—The Comptroller General shall submit a report to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subparagraph (A).

(2) STUDY AND REPORT ON SERVICES PROVIDED TO INDIVIDUALS WITH SPECIAL HEALTH CARE NEEDS.—

(A) STUDY.—The Secretary of Health and Human Services, in consultation with States, managed care organizations, the National Academy of State Health Policy, representatives of beneficiaries with special health care needs, experts in specialized health care, and others, shall conduct a study concerning safeguards (if any) that may be needed to ensure that the health care needs of individuals with special health care needs and chronic conditions who are enrolled with medicaid managed care organizations are adequately met.

(B) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Committees described in paragraph (1)(B) a report on such study.

SEC. 4706. SOLVENCY STANDARDS.

Section 1903(m)(1) (42 U.S.C. 1396b(m)(1)) is amended—

(1) in subparagraph (A)(ii), by inserting ", meets the requirements of subparagraph (C)(i) (if applicable)," after "provision is satisfactory to the State", and

(2) by adding at the end the following:

"(C)(i) Subject to clause (ii), a provision meets the requirements of this subparagraph for an organization if the organization meets solvency standards established by the State for private health maintenance organizations or is licensed or certified by the State as a risk-bearing entity.

"(ii) Clause (i) shall not apply to an organization if—

"(I) the organization is not responsible for the provision (directly or through arrangements with providers of services) of inpatient hospital services and physicians' services;

"(II) the organization is a public entity;

"(III) the solvency of the organization is guaranteed by the State; or

"(IV) the organization is (or is controlled by) one or more Federally-qualified health centers and meets solvency standards established by the State for such an organization.

For purposes of subclause (IV), the term 'control' means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.".

SEC. 4707. PROTECTIONS AGAINST FRAUD AND ABUSE.

(a) IN GENERAL.—Section 1932 (42 U.S.C. 1396v) is further amended by adding at the end the following:

"(d) PROTECTIONS AGAINST FRAUD AND ABUSE.—

"(1) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

"(A) IN GENERAL.—A managed care entity may not knowingly—

"(i) have a person described in subparagraph (C) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the entity's equity, or

"(ii) have an employment, consulting, or other agreement with a person described in such subparagraph for the provision of items and services that are significant and material to the entity's obligations under its contract with the State.

"(B) EFFECT OF NONCOMPLIANCE.—If a State finds that a managed care entity is not in compliance with clause (i) or (ii) of subparagraph (A), the State—

"(i) shall notify the Secretary of such noncompliance;

"(ii) may continue an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(iii) may not renew or otherwise extend the duration of an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(C) PERSONS DESCRIBED.—A person is described in this subparagraph if such person—

"(i) is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in nonprocurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order; or

"(ii) is an affiliate (as defined in such Act) of a person described in clause (i).

"(2) RESTRICTIONS ON MARKETING.—

"(A) DISTRIBUTION OF MATERIALS.—

"(i) IN GENERAL.—A managed care entity, with respect to activities under this title, may not distribute directly or through any agent or independent contractor marketing materials within any State—

"(I) without the prior approval of the State, and

"(II) that contain false or materially misleading information.

The requirement of subclause (I) shall not apply with respect to a State until such date as the Secretary specifies in consultation with such State.

"(ii) CONSULTATION IN REVIEW OF MARKET MATERIALS.—In the process of reviewing and approving such materials, the State shall provide for consultation with a medical care advisory committee.

"(B) SERVICE MARKET.—A managed care entity shall distribute marketing materials to the entire service area of such entity covered under the contract under section 1903(m) or section 1903(t)(3).

"(C) PROHIBITION OF TIE-INS.—A managed care entity, or any agency of such entity, may not seek to influence an individual's enrollment with the entity in conjunction with the sale of any other insurance.

"(D) PROHIBITING MARKETING FRAUD.—Each managed care entity shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the entity, the individual is provided accurate oral and written information sufficient to make an informed decision whether or not to enroll.

"(E) PROHIBITION OF 'COLD-CALL' MARKETING.—Each managed care entity shall not, directly or indirectly, conduct door-to-door, telephonic, or other 'cold-call' marketing of enrollment under this title.

"(3) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care organization may not enter into a contract with any State under section 1903(m) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such organizations or to the default enrollment process described in subsection (a)(4)(C)(ii) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

"(4) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care organization shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1173(b).

"(e) SANCTIONS FOR NONCOMPLIANCE.—

"(1) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—

"(A) IN GENERAL.—A State may not enter into or renew a contract under section 1903(m) unless the State has established intermediate sanctions, which may include any of the types described in paragraph (2), other than the termination of a contract with a medicaid managed care organization, which the State may impose against a medicaid managed care organization with such a contract, if the organization—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under such organization's contract with the State) to be provided to an enrollee covered under the contract;

"(ii) imposes premiums or charges on enrollees in excess of the premiums or charges permitted under this title;

"(iii) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by this title, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the organization by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

"(iv) misrepresents or falsifies information that is furnished—

"(I) to the Secretary or the State under this title; or

"(II) to an enrollee, potential enrollee, or a health care provider under such title; or

"(v) fails to comply with the applicable requirements of section 1903(m)(2)(A)(x).

The State may also impose such intermediate sanction against a managed care entity if the State determines that the entity distributed directly or through any agent or independent contractor marketing materials in violation of subsection (d)(2)(A)(i)(II)..

"(B) RULE OF CONSTRUCTION.—Clause (i) of subparagraph (A) shall not apply to the provision of abortion services, except that a State may impose a sanction on any medicaid managed care organization that has a contract to provide abortion services if the organization does not provide such services as provided for under the contract.

"(2) INTERMEDIATE SANCTIONS.—The sanctions described in this paragraph are as follows:

"(A) Civil money penalties as follows:

"(i) Except as provided in clause (ii), (iii), or (iv), not more than $25,000 for each determination under paragraph (1)(A).

"(ii) With respect to a determination under clause (iii) or (iv)(I) of paragraph (1)(A), not more than $100,000 for each such determination.

"(iii) With respect to a determination under paragraph (1)(A)(ii), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

"(iv) Subject to clause (ii), with respect to a determination under paragraph (1)(A)(iii), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

"(B) The appointment of temporary management—

"(i) to oversee the operation of the medicaid managed care organization upon a finding by the State that there is continued egregious behavior by the organization or there is a substantial risk to the health of enrollees; or

"(ii) to assure the health of the organization's enrollees, if there is a need for temporary management while—

"(I) there is an orderly termination or reorganization of the organization; or

"(II) improvements are made to remedy the violations found under paragraph (1),

except that temporary management under this subparagraph may not be terminated until the State has determined that the medicaid managed care organization has the capability to ensure that the violations shall not recur.

"(C) Permitting individuals enrolled with the managed care entity to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

"(D) Suspension or default of all enrollment of individuals under this title after the date the Secretary or the State notifies the entity of a determination of a violation of any requirement of section 1903(m) or this section.

"(E) Suspension of payment to the entity under this title for individuals enrolled after the date the Secretary or State notifies the entity of such a determination and until the Secretary or State is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) TREATMENT OF CHRONIC SUBSTANDARD ENTITIES.—In the case of a medicaid managed care organization which has repeatedly failed to meet the requirements of section 1903(m) and this section, the State shall (regardless of what other sanctions are provided) impose the sanctions described in subparagraphs (B) and (C) of paragraph (2).

"(4) AUTHORITY TO TERMINATE CONTRACT.—

"(A) IN GENERAL.—In the case of a managed care entity which has failed to meet the requirements of this part or a contract under section 1903(m) or 1905(t)(3), the State shall have the authority to terminate such contract with the entity and to enroll such entity's enrollees with other managed care entities (or to permit such enrollees to receive medical assistance under the State plan under this title other than through a managed care entity).

"(B) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with a managed care entity under subparagraph (A) unless the entity is provided with a hearing prior to the termination.

"(C) NOTICE AND RIGHT TO DISENROLL IN CASES OF TERMINATION HEARING.—A State may—

"(i) notify individuals enrolled with a managed care entity which is the subject of a hearing to terminate the entity's contract with the State of the hearing, and

"(ii) in the case of such an entity, permit such enrollees to disenroll immediately with the entity without cause.

"(5) OTHER PROTECTIONS FOR MANAGED CARE ENTITIES AGAINST SANCTIONS IMPOSED BY STATE.—Before imposing any sanction against a managed care entity other than termination of the entity's contract, the State shall provide the entity with notice and such other due process protections as the State may provide, except that a State may not provide a managed care entity with a pre-termination hearing before imposing the sanction described in paragraph (2)(B).".

(b) LIMITATION ON AVAILABILITY OF FFP FOR USE OF ENROLLMENT BROKERS.—Section 1903(b) (42 U.S.C. 1396b(b)) is amended by adding at the end the following:

"(4) Amounts expended by a State for the use an enrollment broker in marketing medicaid managed care organizations and other managed care entities to eligible individuals under this title shall be considered, for purposes of subsection (a)(7), to be necessary for the proper and efficient administration of the State plan but only if the following conditions are met with respect to the broker:

"(A) The broker is independent of any such entity and of any health care providers (whether or not any such provider participates in the State plan under this title) that provide coverage of services in the same State in which the broker is conducting enrollment activities.

"(B) No person who is an owner, employee, consultant, or has a contract with the broker either has any direct or indirect financial interest with such an entity or health care provider or has been excluded from participation in the program under this title or title XVIII or debarred by any Federal agency, or subject to a civil money penalty under this Act.".

(c) APPLICATION OF DISCLOSURE REQUIREMENTS TO MANAGED CARE ENTITIES.—Section 1124(a)(2)(A) (42 U.S.C. 1320a–3(a)(2)(A)) is amended by inserting "a managed care entity, as defined in section 1932(a)(1)(B)," after "renal disease facility,".

SEC. 4708. IMPROVED ADMINISTRATION.

(a) CHANGE IN THRESHOLD AMOUNT FOR CONTRACTS REQUIRING SECRETARY'S PRIOR APPROVAL.—Section 1903(m)(2)(A)(iii) (42 U.S.C. 1396b(m)(2)(A)(iii)) is amended by striking "$100,000" and inserting "$1,000,000 for 1998 and, for a subsequent year, the amount established under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers over the previous year".

(b) PERMITTING SAME COPAYMENTS IN HEALTH MAINTENANCE ORGANIZATIONS AS IN FEE-FOR-SERVICE.—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a)(2)(D), by striking "or services furnished" and all that follows through "enrolled,"; and

(2) in subsection (b)(2)(D), by striking "or (at the option" and all that follows through "enrolled,".

(c) ASSURING TIMELINESS OF PROVIDER PAYMENTS.—Section 1932 is further amended by adding at the end the following:

"(f) TIMELINESS OF PAYMENT.—A contract under section 1903(m) with a medicaid managed care organization shall provide that the organization shall make payment to health care providers for items and services which are subject to the contract and that are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the organization on a timely basis consistent with the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the organization agree to an alternate payment schedule.".

(d) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MANAGED CARE ENTITIES.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by adding at the end the following new sentence: "Paragraphs (1), (2), (16), (17), and (18) shall apply with respect to items or services furnished and amounts expended by or through a managed care entity (as defined in section 1932(a)(1)(B)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.".

SEC. 4709. 6-MONTH GUARANTEED ELIGIBILITY FOR ALL INDIVIDUALS ENROLLED IN MANAGED CARE.

Section 1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended—

(1) by striking "who is enrolled" and all that follows through "section 1903(m)(2)(A)" and inserting "who is enrolled with a medicaid managed care organization (as defined in section 1903(m)(1)(A)), with a primary care case manager (as defined in section 1905(t)),"; and

(2) by inserting before the period "or by or through the case manager".

SEC. 4710. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this chapter and section 4759, the amendments made by this chapter shall take effect on the date of the enactment of this Act and shall apply to contracts entered into or renewed on or after October 1, 1997.

(b) SPECIFIC EFFECTIVE DATES.—Subject to subsection (c) and section 4759—

(1) PCCM OPTION.—The amendments made by section 4702 shall apply to primary care case

management services furnished on or after October 1, 1997.

(2) 75:25 RULE.—The amendments made by section 4703 apply to contracts under section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) on and after June 20, 1997.

(3) QUALITY STANDARDS.—Section 1932(c)(1) of the Social Security Act, as added by section 4705(a), shall take effect on January 1, 1999.

(4) SOLVENCY STANDARDS.—

(A) IN GENERAL.—The amendments made by section 4706 shall apply to contracts entered into or renewed on or after October 1, 1998.

(B) TRANSITION RULE.—In the case of an organization that as of the date of the enactment of this Act has entered into a contract under section 1903(m) of the Social Security Act with a State for the provision of medical assistance under title XIX of such Act under which the organization assumes full financial risk and is receiving capitation payments, the amendment made by section 4706 shall not apply to such organization until 3 years after the date of the enactment of this Act.

(5) SANCTIONS FOR NONCOMPLIANCE.—Section 1932(e) of the Social Security Act, as added by section 4707(a), shall apply to contracts entered into or renewed on or after April 1, 1998.

(6) LIMITATION ON FFP FOR ENROLLMENT BROKERS.—The amendment made by section 4707(b) shall apply to amounts expended on or after October 1, 1997.

(7) 6-MONTH GUARANTEED ELIGIBILITY.—The amendments made by section 4709 shall take effect on October 1, 1997.

(c) NONAPPLICATION TO WAIVERS.—Nothing in this chapter (or the amendments made by this chapter) shall be construed as affecting the terms and conditions of any waiver, or the authority of the Secretary of Health and Human Services with respect to any such waiver, under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n).

CHAPTER 2—FLEXIBILITY IN PAYMENT OF PROVIDERS

SEC. 4711. FLEXIBILITY IN PAYMENT METHODS FOR HOSPITAL, NURSING FACILITY, ICF/MR, AND HOME HEALTH SERVICES.

(a) REPEAL OF BOREN REQUIREMENTS.—Section 1902(a)(13) (42 U.S.C. 1396a(a)(13)) is amended—

(1) by striking all that precedes subparagraph (D) and inserting the following:

"(13) provide—

"(A) for a public process for determination of rates of payment under the plan for hospital services, nursing facility services, and services of intermediate care facilities for the mentally retarded under which—

"(i) proposed rates, the methodologies underlying the establishment of such rates, and justifications for the proposed rates are published,

"(ii) providers, beneficiaries and their representatives, and other concerned State residents are given a reasonable opportunity for review and comment on the proposed rates, methodologies, and justifications,

"(iii) final rates, the methodologies underlying the establishment of such rates, and justifications for such final rates are published, and

"(iv) in the case of hospitals, such rates take into account (in a manner consistent with section 1923) the situation of hospitals which serve a disproportionate number of low-income patients with special needs;";

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively;

(3) in subparagraph (B), as so redesignated, by adding "and" at the end;

(4) in subparagraph (C), as so redesignated, by striking "and" at the end; and

(5) by striking subparagraph (F).

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall study the effect on access to, and the quality of, services provided to beneficiaries of the rate-setting methods used by States pursuant to section 1902(a)(13)(A) of the Social Security Act (42 U.S.C. 1396a(a)(13)(A)), as amended by subsection (a).

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the appropriate committees of Congress on the conclusions of the study conducted under paragraph (1), together with any recommendations for legislation as a result of such conclusions.

(c) CONFORMING AMENDMENTS.—

(1) Section 1905(o)(3) (42 U.S.C. 1396d(o)(3)) is amended by striking "amount described in section 1902(a)(13)(D)" and inserting "amount determined in section 1902(a)(13)(B)".

(2) Section 1923 (42 U.S.C. 1396r–4) is amended, in subsections (a)(1) and (e)(1), by striking "1902(a)(13)(A)" each place it appears and inserting "1902(a)(13)(A)(iv)".

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act and the amendments made by subsections (a) and (c) shall apply to payment for items and services furnished on or after October 1, 1997.

SEC. 4712. PAYMENT FOR CENTER AND CLINIC SERVICES.

(a) PHASE-OUT OF PAYMENT BASED ON REASONABLE COSTS.—Section 1902(a)(13)(C) (42 U.S.C. 1396a(a)(13)(C)), as redesignated by section 4711(a)(2), is amended by inserting "(or 95 percent for services furnished during fiscal year 2000, 90 percent for services furnished during fiscal year 2001, 85 percent for services furnished during fiscal year 2002, or 70 percent for services furnished during fiscal year 2003)" after "100 percent".

(b) TRANSITIONAL SUPPLEMENTAL PAYMENT FOR SERVICES FURNISHED UNDER CERTAIN MANAGED CARE CONTRACTS.—

(1) IN GENERAL.—Section 1902(a)(13)(C) (42 U.S.C. 1396a(a)(13)(C)), as so redesignated, is further amended—

(A) by inserting "(i)" after "(C)", and

(B) by inserting before the semicolon at the end the following: "and (ii) in carrying out clause (i) in the case of services furnished by a Federally-qualified health center or a rural health clinic pursuant to a contract between the center and an organization under section 1903(m), for payment to the center or clinic at least quarterly by the State of a supplemental payment equal to the amount (if any) by which the amount determined under clause (i) exceeds the amount of the payments provided under such contract".

(2) CONFORMING AMENDMENT TO MANAGED CARE CONTRACT REQUIREMENT.—Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended to read as follows:

"(ix) such contract provides, in the case of an entity that has entered into a contract for the provision of services with a Federally-qualified health center or a rural health clinic, that the entity shall provide payment that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a provider which is not a Federally-qualified health center or a rural health clinic;".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after October 1, 1997.

(c) END OF TRANSITIONAL PAYMENT RULES.—Effective for services furnished on or after October 1, 2003—

(1) subparagraph (C) of section 1902(a)(13) (42 U.S.C. 1396a(a)(13)), as so redesignated, is repealed, and

(2) clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is repealed.

(d) FLEXIBILITY IN COVERAGE OF NON-FREESTANDING LOOK-ALIKES.—

(1) IN GENERAL.—Section 1905(l)(2)(B)(iii) (42 U.S.C. 1396d(l)(2)(B)(iii)) is amended by inserting "including requirements of the Secretary that an entity may not be owned, controlled, or operated by another entity," after "such a grant,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 4713. ELIMINATION OF OBSTETRICAL AND PEDIATRIC PAYMENT RATE REQUIREMENTS.

(a) IN GENERAL.—Section 1926 (42 U.S.C. 1396r–7) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to services furnished on or after October 1, 1997.

SEC. 4714. MEDICAID PAYMENT RATES FOR CERTAIN MEDICARE COST-SHARING.

(a) CLARIFICATION REGARDING STATE LIABILITY FOR MEDICARE COST-SHARING.—

(1) IN GENERAL.—Section 1902(n) (42 U.S.C. 1396a(n)) is amended—

(A) by inserting "(1)" after "(n)", and

(B) by adding at the end the following:

"(2) In carrying out paragraph (1), a State is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or copayments for medicare cost-sharing to the extent that payment under title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title for such service if provided to an eligible recipient other than a medicare beneficiary.

"(3) In the case in which a State's payment for medicare cost-sharing for a qualified medicare beneficiary with respect to an item or service is reduced or eliminated through the application of paragraph (2)—

"(A) for purposes of applying any limitation under title XVIII on the amount that the beneficiary may be billed or charged for the service, the amount of payment made under title XVIII plus the amount of payment (if any) under the State plan shall be considered to be payment in full for the service;

"(B) the beneficiary shall not have any legal liability to make payment to a provider or to an organization described in section 1903(m)(1)(A) for the service; and

"(C) any lawful sanction that may be imposed upon a provider or such an organization for excess charges under this title or title XVIII shall apply to the imposition of any charge imposed upon the individual in such case.

This paragraph shall not be construed as preventing payment of any medicare cost-sharing by a medicare supplemental policy or an employer retiree health plan on behalf of an individual.".

(2) CONFORMING CLARIFICATION.—Section 1905(p)(3) (42 U.S.C. 1396d(p)(3)) is amended by inserting "(subject to section 1902(n)(2))" after "means".

(b) LIMITATION ON MEDICARE PROVIDERS.—

(1) PROVIDER AGREEMENTS.—Section 1866(a)(1)(A) (42 U.S.C. 1395cc(a)(1)(A)) is amended—

(A) by inserting "(i)" after "(A)", and

(B) by inserting before the comma at the end the following: ", and (ii) not to impose any charge that is prohibited under section 1902(n)(3)".

(2) NONPARTICIPATING PROVIDERS.—Section 1848(g)(3)(A) (42 U.S.C. 1395w–4(g)(3)(A)) is amended by inserting before the period at the end the following: "and the provisions of section 1902(n)(3)(A) apply to further limit permissible charges under this section".

(c) Effective Date.—The amendments made by this section shall apply to payment for (and with respect to provider agreements with respect to) items and services furnished on or after the date of the enactment of this Act. The amendments made by subsection (a) shall also apply to payment by a State for items and services furnished before such date if such payment is the subject of a law suit that is based on the provisions of sections 1902(n) and 1905(p) of the Social Security Act and that is pending as of, or is initiated after, the date of the enactment of this Act.

SEC. 4715. TREATMENT OF VETERANS' PENSIONS UNDER MEDICAID.

(a) Post-Eligibility Treatment.—Section 1902(r)(1) (42 U.S.C. 1396a(r)(1)) is amended—

(1) by inserting "(A)" after "(r)(1)",

(2) by inserting ", the treatment described in subparagraph (B) shall apply," after "under such a waiver";

(3) by striking "and," and inserting ", and"; and

(4) by adding at the end the following:

"(B)(i) In the case of a veteran who does not have a spouse or a child, if the veteran—

"(I) receives, after the veteran has been determined to be eligible for medical assistance under the State plan under this title, a veteran's pension in excess of $90 per month, and

"(II) resides in a State veterans home with respect to which the Secretary of Veterans Affairs makes per diem payments for nursing home care pursuant to section 1741(a) of title 38, United States Code,

any such pension payment, including any payment made due to the need for aid and attendance, or for unreimbursed medical expenses, that is in excess of $90 per month shall be counted as income only for the purpose of applying such excess payment to the State veterans home's cost of providing nursing home care to the veteran.

"(ii) The provisions of clause (i) shall apply with respect to a surviving spouse of a veteran who does not have a child in the same manner as they apply to a veteran described in such clause.".

(b) Effective Date.—The amendments made by this section shall apply on and after October 1, 1997.

CHAPTER 3—FEDERAL PAYMENTS TO STATES

SEC. 4721. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) Adjustment of State DSH Allotments.—

(1) In general.—Section 1923(f) (42 U.S.C. 1396r–4(f)) is amended to read as follows:

"(f) Limitation on Federal Financial Participation.—

"(1) In general.—Payment under section 1903(a) shall not be made to a State with respect to any payment adjustment made under this section for hospitals in a State for quarters in a fiscal year in excess of the disproportionate share hospital (in this subsection referred to as 'DSH') allotment for the State for the fiscal year, as specified in paragraphs (2) and (3).

"(2) State DSH allotments for fiscal years 1998 through 2002.—The DSH allotment for a State for each fiscal year during the period beginning with fiscal year 1998 and ending with fiscal year 2002 is determined in accordance with the following table:

State or District	DSH Allotment (in millions of dollars)				
	FY 98	FY 99	FY 00	FY 01	FY 02
Alabama	293	269	248	246	246
Alaska	10	10	10	9	9
Arizona	81	81	81	81	81
Arkansas	2	2	2	2	2
California	1,085	1,068	986	931	877
Colorado	93	85	79	74	74
Connecticut	200	194	164	160	160
Delaware	4	4	4	4	4
District of Columbia	23	23	23	23	23
Florida	207	203	197	188	160
Georgia	253	248	241	228	215
Hawaii	0	0	0	0	0
Idaho	1	1	1	1	1
Illinois	203	199	193	182	172
Indiana	201	197	191	181	171
Iowa	8	8	8	8	8
Kansas	51	49	42	36	33
Kentucky	137	134	130	123	116
Louisiana	880	795	713	658	631
Maine	103	99	84	84	84
Maryland	72	70	68	64	61
Massachusetts	288	282	273	259	244
Michigan	249	244	237	224	212
Minnesota	16	16	16	16	16
Mississippi	143	141	136	129	122
Missouri	436	423	379	379	379
Montana	0.2	0.2	0.2	0.2	0.2
Nebraska	5	5	5	5	5
Nevada	37	37	37	37	37
New Hampshire	140	136	130	130	130
New Jersey	600	582	515	515	515
New Mexico	5	5	5	5	5
New York	1,512	1,482	1,436	1,361	1,285
North Carolina	278	272	264	250	236
North Dakota	1	1	1	1	1
Ohio	382	374	363	344	325
Oklahoma	16	16	16	16	16
Oregon	20	20	20	20	20
Pennsylvania	529	518	502	476	449
Rhode Island	62	60	58	55	52
South Carolina	313	303	262	262	262
South Dakota	1	1	1	1	1
Tennessee	0	0	0	0	0
Texas	979	950	806	765	765
Utah	3	3	3	3	3
Vermont	18	18	18	18	18
Virginia	70	68	66	63	59
Washington	174	171	166	157	148
West Virginia	64	63	61	58	54
Wisconsin	7	7	7	7	7
Wyoming	0	0	0	0	0.

"(3) STATE DSH ALLOTMENTS FOR FISCAL YEAR 2003 AND THEREAFTER.—

"(A) IN GENERAL.—The DSH allotment for any State for fiscal year 2003 and each succeeding fiscal year is equal to the DSH allotment for the State for the preceding fiscal year under paragraph (2) or this paragraph, increased, subject to subparagraph (B), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for the previous fiscal year.

"(B) LIMITATION.—The DSH allotment for a State shall not be increased under subparagraph (A) for a fiscal year to the extent that such an increase would result in the DSH allotment for the year exceeding the greater of—

"(i) the DSH allotment for the previous year, or

"(ii) 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year.

"(4) DEFINITION OF STATE.— In this subsection, the term 'State' means the 50 States and the District of Columbia.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payment adjustments attributable to DSH allotments for fiscal years beginning with fiscal year 1998.

(b) LIMITATION ON PAYMENTS TO INSTITUTIONS FOR MENTAL DISEASES.—Section 1923 of the Social Security Act (42 U.S.C. 1396r–4) is amended by adding at the end the following:

"(h) LIMITATION ON CERTAIN STATE DSH EXPENDITURES.—

"(1) IN GENERAL.—Payment under section 1903(a) shall not be made to a State with respect to any payment adjustments made under this section for quarters in a fiscal year (beginning with fiscal year 1998) to institutions for mental diseases or other mental health facilities, to the extent the aggregate of such adjustments in the fiscal year exceeds the lesser of the following:

"(A) 1995 IMD DSH PAYMENT ADJUSTMENTS.—The total State DSH expenditures that are attributable to fiscal year 1995 for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

"(B) APPLICABLE PERCENTAGE OF 1995 TOTAL DSH PAYMENT ALLOTMENT.—The amount of such payment adjustments which are equal to the applicable percentage of the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for the State for payments to institutions for mental diseases and other mental health facilities (based on reporting data specified by the State on HCFA Form 64 as mental health DSH, and as approved by the Secretary).

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), the applicable percentage with respect to—

"(i) each of fiscal years 1998, 1999, and 2000, is the percentage determined under subparagraph (B); or

"(ii) a succeeding fiscal year is the lesser of the percentage determined under subparagraph (B) or the following percentage:

"(I) For fiscal year 2001, 50 percent.

"(II) For fiscal year 2002, 40 percent.

"(III) For each succeeding fiscal year, 33 percent.

"(B) 1995 PERCENTAGE.—The percentage determined under this subparagraph is the ratio (determined as a percentage) of—

"(i) the Federal share of payment adjustments made to hospitals in the State under subsection (c) that are attributable to the 1995 DSH allotment for the State (as reported by the State not later than January 1, 1997, on HCFA Form 64, and as approved by the Secretary) for payments to institutions for mental diseases and other mental health facilities, to

"(ii) the State 1995 DSH spending amount.

"(C) STATE 1995 DSH SPENDING AMOUNT.—For purposes of subparagraph (B)(ii), the 'State 1995 DSH spending amount', with respect to a State, is the Federal medical assistance percentage (for fiscal year 1995) of the payment adjustments made under subsection (c) under the State plan that are attributable to the fiscal year 1995 DSH allotment for the State (as reported by the State not later than January 1, 1997, on HCFA Form 64, and as approved by the Secretary).".

(c) DESCRIPTION OF TARGETING PAYMENTS.—Section 1923(a)(2) (42 U.S.C. 1396r–4(a)(2)) is amended by adding at the end the following:

"(D) A State plan under this title shall not be considered to meet the requirements of section 1902(a)(13)(A)(iv) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of October 1, 1998, unless the State has submitted to the Secretary by such date a description of the methodology used by the State to identify and to make payments to disproportionate share hospitals, including children's hospitals, on the basis of the proportion of low-income and medicaid patients served by such hospitals. The State shall provide an annual report to the Secretary describing the disproportionate share payments to each such disproportionate share hospital.".

(d) DIRECT PAYMENT BY STATE FOR MANAGED CARE ENROLLEES.—Section 1923 (42 U.S.C. 1396r–4) is amended by adding at the end the following:

"(i) REQUIREMENT FOR DIRECT PAYMENT.—

"(1) IN GENERAL.—No payment may be made under section 1903(a)(1) with respect to a payment adjustment made under this section, for services furnished by a hospital on or after October 1, 1997, with respect to individuals eligible for medical assistance under the State plan who are enrolled with a managed care entity (as defined in section 1932(a)(1)(B)) or under any other managed care arrangement unless a payment, equal to the amount of the payment adjustment—

"(A) is made directly to the hospital by the State; and

"(B) is not used to determine the amount of a prepaid capitation payment under the State plan to the entity or arrangement with respect to such individuals.

"(2) EXCEPTION FOR CURRENT ARRANGEMENTS.—Paragraph (1) shall not apply to a payment adjustment provided pursuant to a payment arrangement in effect on July 1, 1997.".

(e) TRANSITION RULE.—Effective July 1, 1997, section 1923(g)(2)(A) of the Social Security Act (42 U.S.C. 1396r–4(g)(2)(A)) shall be applied to the State of California as though—

(1) "(or that begins on or after July 1, 1997, and before July 1, 1999)" were inserted in such section after "January 1, 1995,"; and

(2) "(or 175 percent in the case of a State fiscal year that begins on or after July 1, 1997, and before July 1, 1999)" were inserted in such section after "200 percent".

SEC. 4722. TREATMENT OF STATE TAXES IMPOSED ON CERTAIN HOSPITALS.

(a) EXCEPTION FROM TAX DOES NOT DISQUALIFY AS BROAD-BASED TAX.—Section 1903(w)(3) (42 U.S.C. 1396b(w)(3)) is amended—

(1) in subparagraph (B), by striking "and (E)" and inserting "(E), and (F)"; and

(2) by adding at the end the following:

"(F) In no case shall a tax not qualify as a broad-based health care related tax under this paragraph because it does not apply to a hospital that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that does not accept payment under the State plan under this title or under title XVIII.".

(b) REDUCTION IN FEDERAL FINANCIAL PARTICIPATION IN CASE OF IMPOSITION OF TAX.—Section 1903(b) (42 U.S.C. 1396b(b)), as amended by section 4707(b), is amended by adding at the end the following:

"(5) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State shall be decreased in a quarter by the amount of any health care related taxes (described in section 1902(w)(3)(A)) that are imposed on a hospital described in subsection (w)(3)(F) in that quarter.".

(c) WAIVER OF CERTAIN PROVIDER TAX PROVISIONS.—Notwithstanding any other provision of law, taxes, fees, or assessments, as defined in section 1903(w)(3)(A) of the Social Security Act (42 U.S.C. 1396b(w)(3)(A)), that were collected by the State of New York from a health care provider before June 1, 1997, and for which a waiver of the provisions of subparagraph (B) or (C) of section 1903(w)(3) of such Act has been applied for, or that would, but for this subsection require that such a waiver be applied for, in accordance with subparagraph (E) of such section, and (if so applied for) upon which action by the Secretary of Health and Human Services (including any judicial review of any such proceeding) has not been completed as of July 23, 1997, are deemed to be permissible health care related taxes and in compliance with the requirements of subparagraphs (B) and (C) of section 1903(w)(3) of such Act.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxes imposed before, on, or after the date of the enactment of this Act and the amendment made by subsection (b) shall apply to taxes imposed on or after such date.

SEC. 4723. ADDITIONAL FUNDING FOR STATE EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There are available for allotments under this section for each of the 4 consecutive fiscal years (beginning with fiscal year 1998) $25,000,000 for payments to certain States under this section.

(b) STATE ALLOTMENT AMOUNT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall compute an allotment for each fiscal year beginning with fiscal year 1998 and ending with fiscal year 2001 for each of the 12 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

(2) DETERMINATION.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

(c) USE OF FUNDS.—From the allotments made under subsection (b), the Secretary shall pay to each State amounts the State demonstrates were paid by the State (or by a political subdivision of the State) for emergency health services furnished to undocumented aliens.

(d) STATE DEFINED.—For purposes of this section, the term "State" includes the District of Columbia.

(e) STATE ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

SEC. 4724. ELIMINATION OF WASTE, FRAUD, AND ABUSE.

(a) BAN ON SPENDING FOR NONHEALTH RELATED ITEMS.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(1) in paragraphs (2) and (16), by striking the period at the end and inserting "; or";

(2) in paragraphs (10)(B), (11), and (13), by adding "or" at the end; and

(3) by inserting after paragraph (16), the following:

"(17) with respect to any amount expended for roads, bridges, stadiums, or any other item or service not covered under a State plan under this title.".

(b) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by subsection (a), is amended—

(1) in paragraph (17), by striking the period at the end and inserting "; or"; and

(2) by inserting after paragraph (17), the following:

"(18) with respect to any amount expended for home health care services provided by an agency or organization unless the agency or organization provides the State agency on a continuing basis a surety bond in a form specified by the Secretary under paragraph (7) of section 1861(o) and in an amount that is not less than $50,000 or such comparable surety bond as the Secretary may permit under the last sentence of such section.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to home health care services furnished on or after January 1, 1998.

(c) CONFLICT OF INTEREST SAFEGUARDS.—

(1) IN GENERAL.—Section 1902(a)(4)(C) (42 U.S.C. 1396a(a)(4)(C)) is amended—

(A) by striking "and (C)" and inserting "(C)";

(B) by striking "local officer or employee" and inserting "local officer, employee, or independent contractor";

(C) by striking "such an officer or employee" the first 2 places it appears and inserting "such an officer, employee, or contractor"; and

(D) by inserting before the semicolon the following: ", and (D) that each State or local officer, employee, or independent contractor who is responsible for selecting, awarding, or otherwise obtaining items and services under the State plan shall be subject to safeguards against conflicts of interest that are at least as stringent as the safeguards that apply under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) to persons described in subsection (a)(2) of such section of that Act".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 1998.

(d) AUTHORITY TO REFUSE TO ENTER INTO MEDICAID AGREEMENTS WITH INDIVIDUALS OR ENTITIES CONVICTED OF FELONIES.—Section 1902(a)(23) (42 U.S.C. 1396(a)) is amended—

(1) by striking "except as provided in subsection (g) and in section 1915 and except in the case of Puerto Rico, the Virgin Islands, and Guam,"; and

(2) by inserting before the semicolon at the end the following: ", except as provided in subsection (g) and in section 1915, except that this paragraph shall not apply in the case of Puerto Rico, the Virgin Islands, and Guam, and except that nothing in this paragraph shall be construed as requiring a State to provide medical assistance for such services furnished by a person or entity convicted of a felony under Federal or State law for an offense which the State agency determines is inconsistent with the best interests of beneficiaries under the State plan".

(e) MONITORING PAYMENTS FOR DUAL ELIGIBLES.—The Administrator of the Health Care Financing Administration shall develop mechanisms to improve the monitoring of, and to prevent, inappropriate payments under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in the case of individuals who are dually eligible for benefits under such program and under the medicare program under title XVIII of such Act (42 U.S.C. 1395 et seq.).

(f) BENEFICIARY AND PROGRAM PROTECTION AGAINST WASTE, FRAUD, AND ABUSE.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (62);

(2) by striking the period at the end of paragraph (63) and inserting "; and"; and

(3) by inserting after paragraph (63) the following:

"(64) provide, not later than 1 year after the date of the enactment of this paragraph, a mechanism to receive reports from beneficiaries and others and compile data concerning alleged instances of waste, fraud, and abuse relating to the operation of this title;".

(g) DISCLOSURE OF INFORMATION AND SURETY BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—

(1) REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by subsection (f), is amended—

(A) by striking "and" at the end of paragraph (63);

(B) by striking the period at the end of paragraph (64) and inserting "; and"; and

(C) by inserting after paragraph (64) the following:

"(65) provide that the State shall issue provider numbers for all suppliers of medical assistance consisting of durable medical equipment, as defined in section 1861(n), and the State shall not issue or renew such a supplier number for any such supplier unless—

"(A)(i) full and complete information as to the identity of each person with an ownership or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest; and

"(ii) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

"(B) a surety bond in a form specified by the Secretary under section 1834(a)(16)(B) and in an amount that is not less than $50,000 or such comparable surety bond as the Secretary may permit under the second sentence of such section.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to suppliers of medical assistance consisting of durable medical equipment furnished on or after January 1, 1998.

SEC. 4725. INCREASED FMAPS.

(a) ALASKA.—Notwithstanding the first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), the Federal medical assistance percentage determined under such sentence for Alaska shall be 59.8 percent but only with respect to—

(1) items and services furnished under a State plan under title XIX or under a State child health plan under title XXI of such Act during fiscal years 1998, 1999, and 2000;

(2) payments made on a capitation or other risk-basis under such titles for coverage occurring during such period; and

(3) payments under title XIX of such Act attributable to DSH allotments for such State determined under section 1923(f) of such Act (42 U.S.C. 1396r–4(f)) for such fiscal years.

(b) DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The first sentence of section 1905(b) (42 U.S.C. 1396d(b)) is amended—

(A) by striking "and (2)" and inserting ", (2)", and

(B) by inserting before the period at the end the following: ", and (3) for purposes of this title and title XXI, the Federal medical assistance percentage for the District of Columbia shall be 70 percent".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to—

(A) items and services furnished on or after October 1, 1997;

(B) payments made on a capitation or other risk-basis for coverage occurring on or after such date; and

(C) payments attributable to DSH allotments for such States determined under section 1923(f) of such Act (42 U.S.C. 1396r–4(f)) for fiscal years beginning with fiscal year 1998.

SEC. 4726. INCREASE IN PAYMENT LIMITATION FOR TERRITORIES.

Section 1108 (42 U.S.C. 1308) is amended—

(1) in subsection (f), by striking "The" and inserting "Subject to subsection (g), the"; and

(2) by adding at the end the following:

"(g) MEDICAID PAYMENTS TO TERRITORIES FOR FISCAL YEAR 1998 AND THEREAFTER.—

"(1) FISCAL YEAR 1998.—With respect to fiscal year 1998, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsection (f) for such fiscal year shall be increased by the following amounts:

"(A) For Puerto Rico, $30,000,000.

"(B) For the Virgin Islands, $750,000.

"(C) For Guam, $750,000.

"(D) For the Northern Mariana Islands, $500,000.

"(E) For American Samoa, $500,000.

"(2) FISCAL YEAR 1999 AND THEREAFTER.—Notwithstanding subsection (f), with respect to fiscal year 1999 and any fiscal year thereafter, the total amount certified by the Secretary under title XIX for payment to—

"(A) Puerto Rico shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase in the medical care component of the Consumer Price Index for all urban consumers (as published by the Bureau of Labor Statistics) for the 12-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest $100,000;

"(B) the Virgin Islands shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000;

"(C) Guam shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000;

"(D) the Northern Mariana Islands shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000; and

"(E) American Samoa shall not exceed the sum of the amount provided in this subsection for the preceding fiscal year increased by the percentage increase referred to in subparagraph (A), rounded to the nearest $10,000.".

CHAPTER 4—ELIGIBILITY

SEC. 4731. STATE OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS; CLARIFICATION OF STATE OPTION TO COVER CHILDREN.

(a) CONTINUOUS ELIGIBILITY OPTION.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(12) At the option of the State, the plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

"(A) the end of a period (not to exceed 12 months) following the determination; or

"(B) the time that the individual exceeds that age.".

(b) CLARIFICATION OF STATE OPTION TO COVER ALL CHILDREN UNDER 19 YEARS OF AGE.—Section 1902(l)(1)(D) (42 U.S.C. 1396a(l)(1)(D)) is amended by inserting "(or, at the option of a State, after any earlier date)" after "children born after September 30, 1983".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 1997.

SEC. 4732. PAYMENT OF PART B PREMIUMS.

(a) ELIGIBILITY.—Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking "and" at the end of clause (ii); and

(2) by inserting after clause (iii) the following:

"(iv) subject to sections 1933 and 1905(p)(4), for making medical assistance available (but only for premiums payable with respect to months during the period beginning with January 1998, and ending with December 2002)—

"(I) for medicare cost-sharing described in section 1905(p)(3)(A)(ii) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) and is at least 120 percent, but less than 135 percent, of the official poverty line (referred to in such section) for a family of the size involved and who are not otherwise eligible for medical assistance under the State plan, and

"(II) for the portion of medicare cost-sharing described in section 1905(p)(3)(A)(ii) that is attributable to the operation of the amendments made by (and subsection (e)(3) of) section 4611 of the Balanced Budget Act of 1997 for individuals who would be described in subclause (I) if '135 percent' and '175 percent' were substituted for '120 percent' and '135 percent' respectively; and".

(b) CONFORMING AMENDMENT.—Section 1905(b) (42 U.S.C. 1396d(b)) is amended by striking "The term" and inserting "Subject to section 1933(d), the term".

(c) TERMS AND CONDITIONS OF COVERAGE.—Title XIX (42 U.S.C. 1395 et seq.), as amended by section 4701(a), is amended by redesignating section 1933 as section 1934 and by inserting after section 1932 the following new section:

"STATE COVERAGE OF MEDICARE COST-SHARING FOR ADDITIONAL LOW-INCOME MEDICARE BENEFICIARIES

"SEC. 1933. (a) IN GENERAL.—A State plan under this title shall provide, under section 1902(a)(10)(E)(iv) and subject to the succeeding provisions of this section and through a plan amendment, for medical assistance for payment of the cost of medicare cost-sharing described in such section on behalf of all individuals described in such section (in this section referred to as 'qualifying individuals') who are selected to receive such assistance under subsection (b).

"(b) SELECTION OF QUALIFYING INDIVIDUALS.—A State shall select qualifying individuals, and provide such individuals with assistance, under this section consistent with the following:

"(1) ALL QUALIFYING INDIVIDUALS MAY APPLY.—The State shall permit all qualifying individuals to apply for assistance during a calendar year.

"(2) SELECTION ON FIRST-COME, FIRST-SERVED BASIS.—

"(A) IN GENERAL.—For each calendar year (beginning with 1998), from (and to the extent of) the amount of the allocation under subsection (c) for the State for the fiscal year ending in such calendar year, the State shall select qualifying individuals who apply for the assistance in the order in which they apply.

"(B) CARRYOVER.—For calendar years after 1998, the State shall give preference to individuals who were provided such assistance (or other assistance described in section 1902(a)(10)(E)) in the last month of the previous year and who continue to be (or become) qualifying individuals.

"(3) LIMIT ON NUMBER OF INDIVIDUALS BASED ON ALLOCATION.—The State shall limit the number of qualifying individuals selected with respect to assistance in a calendar year so that the aggregate amount of such assistance provided to such individuals in such year is estimated to be equal to (but not exceed) the State's allocation under subsection (c) for the fiscal year ending in such calendar year.

"(4) RECEIPT OF ASSISTANCE DURING DURATION OF YEAR.—If a qualifying individual is selected to receive assistance under this section for a month in year, the individual is entitled to receive such assistance for the remainder of the year if the individual continues to be a qualifying individual. The fact that an individual is selected to receive assistance under this section at any time during a year does not entitle the individual to continued assistance for any succeeding year.

"(c) ALLOCATION.—

"(1) TOTAL ALLOCATION.—The total amount available for allocation under this section for—

"(A) fiscal year 1998 is $200,000,000;

"(B) fiscal year 1999 is $250,000,000;

"(C) fiscal year 2000 is $300,000,000;

"(D) fiscal year 2001 is $350,000,000; and

"(E) fiscal year 2002 is $400,000,000.

"(2) ALLOCATION TO STATES.—The Secretary shall provide for the allocation of the total amount described in paragraph (1) for a fiscal year, among the States that executed a plan amendment in accordance with subsection (a), based upon the Secretary's estimate of the ratio of—

"(A) an amount equal to the sum of—

"(i) twice the total number of individuals described in section 1902(a)(10)(E)(iv)(I) in the State, and

"(ii) the total number of individuals described in section 1902(a)(10)(E)(iv)(II) in the State; to

"(B) the sum of the amounts computed under subparagraph (A) for all eligible States.

"(d) APPLICABLE FMAP.—With respect to assistance described in section 1902(a)(10)(E)(iv) furnished in a State for calendar quarters in a calendar year —

"(1) to the extent that such assistance does not exceed the State's allocation under subsection (c) for the fiscal year ending in the calendar year, the Federal medical assistance percentage shall be equal to 100 percent; and

"(2) to the extent that such assistance exceeds such allocation, the Federal medical assistance percentage is 0 percent.

"(e) LIMITATION ON ENTITLEMENT.—Except as specifically provided under this section, nothing in this title shall be construed as establishing any entitlement of individuals described in section 1902(a)(10)(E)(iv) to assistance described in such section.

"(f) COVERAGE OF COSTS THROUGH PART B OF THE MEDICARE PROGRAM.—For each fiscal year, the Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1841 to the appropriate account in the Treasury that provides for payments under section 1903(a) with respect to medical assistance provided under this section, of an amount equivalent to the total of the amount of payments made under such section that is attributable to this section and such transfer shall be treated as an expenditure from such Trust Fund for purposes of section 1839.".

SEC. 4733. STATE OPTION TO PERMIT WORKERS WITH DISABILITIES TO BUY INTO MEDICAID.

Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) in subclause (XI), by striking "or" at the end;

(2) in subclause (XII), by adding "or" at the end; and

(3) by adding at the end the following:

"(XIII) who are in families whose income is less than 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who but for earnings in excess of the limit established under section 1905(q)(2)(B), would be considered to be receiving supplemental security income (subject, notwithstanding section 1916, to payment of premiums or other cost-sharing charges (set on a sliding scale based on income) that the State may determine);".

SEC. 4734. PENALTY FOR FRAUDULENT ELIGIBILITY.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)), as amended by section 217 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2008), is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) for a fee knowingly and willfully counsels or assists an individual to dispose of assets (including by any transfer in trust) in order for the individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),"; and

(2) in clause (ii) of the matter following such paragraph, by striking "failure, or conversion by any other person" and inserting "failure, conversion, or provision of counsel or assistance by any other person".

SEC. 4735. TREATMENT OF CERTAIN SETTLEMENT PAYMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the payments described in subsection (b) shall not be considered income or resources in determining eligibility for, or the amount of benefits under, a State plan of medical assistance approved under title XIX of the Social Security Act.

(b) PAYMENTS DESCRIBED.—The payments described in this subsection are—

(1) payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96–C–5024 (N.D. Ill.); and

(2) payments made pursuant to a release of all claims in a case—

(A) that is entered into in lieu of the class settlement referred to in paragraph (1); and

(B) that is signed by all affected parties in such case on or before the later of—

(i) December 31, 1997, or

(ii) the date that is 270 days after the date on which such release is first sent to the persons (or the legal representative of such persons) to whom the payment is to be made.

CHAPTER 5—BENEFITS

SEC. 4741. ELIMINATION OF REQUIREMENT TO PAY FOR PRIVATE INSURANCE.

(a) REPEAL OF STATE PLAN PROVISION.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) MAKING PROVISION OPTIONAL.—Section 1906 (42 U.S.C. 1396e) is amended—

(1) in subsection (a)—

(A) by striking "For purposes of section 1902(a)(25)(G) and subject to subsection (d), each" and inserting "Each";

(B) in paragraph (1), by striking "shall" and inserting "may"; and

(C) in paragraph (2), by striking "shall" and inserting "may"; and

(2) by striking subsection (d).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4742. PHYSICIAN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (12).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 4743. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended, in the matter preceding subparagraph (A), by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) apply to services furnished on or after October 1, 1997.

SEC. 4744. STUDY AND REPORT ON EPSDT BENEFIT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with Governors, directors of State medicaid programs, the American Academy of Actuaries, and representatives of appropriate provider and beneficiary organizations, shall conduct a study of the provision of early and periodic screening, diagnostic, and treatment services under the medicaid program under title XIX of the Social Security Act in accordance with the requirements of section 1905(r) of such Act (42 U.S.C. 1396d(r)).

(2) REQUIRED CONTENTS.—The study conducted under paragraph (1) shall include examination of the actuarial value of the provision of such services under the medicaid program and an examination of the portions of such actuarial value that are attributable to paragraph (5) of section 1905(r) of such Act and to the second sentence of such section.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the results of the study conducted under subsection (a).

CHAPTER 6—ADMINISTRATION AND MISCELLANEOUS

SEC. 4751. ELIMINATION OF DUPLICATIVE INSPECTION OF CARE REQUIREMENTS FOR ICFS/MR AND MENTAL HOSPITALS.

(a) MENTAL HOSPITALS.—Section 1902(a)(26) (42 U.S.C. 1396a(a)(26)) is amended—

(1) by striking "provide—

"(A) with respect to each patient" and inserting "provide, with respect to each patient"; and

(2) by striking subparagraphs (B) and (C).

(b) ICFS/MR.—Section 1902(a)(31) (42 U.S.C. 1396a(a)(31)) is amended—

(1) by striking "provide—

"(A) with respect to each patient" and inserting "provide, with respect to each patient"; and

(2) by striking subparagraphs (B) and (C).

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 4752. ALTERNATIVE SANCTIONS FOR NONCOMPLIANT ICFS/MR.

(a) IN GENERAL.—Section 1902(i)(1)(B) (42 U.S.C. 1396a(i)(1)(B)) is amended by striking "provide" and inserting "establish alternative remedies if the State demonstrates to the Secretary's satisfaction that the alternative remedies are effective in deterring noncompliance and correcting deficiencies, and may provide".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

SEC. 4753. MODIFICATION OF MMIS REQUIREMENTS.

(a) IN GENERAL.—Section 1903(r) (42 U.S.C. 1396b(r)) is amended—

(1) by striking all that precedes paragraph (5) and inserting the following:

"(r)(1) In order to receive payments under subsection (a) for use of automated data systems in administration of the State plan under this title, a State must have in operation mechanized claims processing and information retrieval systems that meet the requirements of this subsection and that the Secretary has found—

"(A) are adequate to provide efficient, economical, and effective administration of such State plan;

"(B) are compatible with the claims processing and information retrieval systems used in the administration of title XVIII, and for this purpose—

"(i) have a uniform identification coding system for providers, other payees, and beneficiaries under this title or title XVIII;

"(ii) provide liaison between States and carriers and intermediaries with agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) provide for exchange of data between the States and the Secretary with respect to persons sanctioned under this title or title XVIII;

"(C) are capable of providing accurate and timely data;

"(D) are complying with the applicable provisions of part C of title XI;

"(E) are designed to receive provider claims in standard formats to the extent specified by the Secretary; and

"(F) effective for claims filed on or after January 1, 1999, provide for electronic transmission of claims data in the format specified by the Secretary and consistent with the Medicaid Statistical Information System (MSIS) (including detailed individual enrollee encounter data and other information that the Secretary may find necessary).";

(2) in paragraph (5)—

(A) by striking subparagraph (B);

(B) by striking all that precedes clause (i) and inserting the following:

"(2) In order to meet the requirements of this paragraph, mechanized claims processing and information retrieval systems must meet the following requirements:";

(C) in clause (iii), by striking "under paragraph (6)"; and

(D) by redesignating clauses (i) through (iii) as paragraphs (A) through (C); and

(3) by striking paragraphs (6), (7), and (8).

(b) CONFORMING AMENDMENTS.—Section 1902(a)(25)(A)(ii) (42 U.S.C. 1396a(a)(25)(A)(ii)) is amended by striking all that follows "shall" and inserting the following: "be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval systems required under section 1903(r);".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by this section shall take effect on January 1, 1998.

SEC. 4754. FACILITATING IMPOSITION OF STATE ALTERNATIVE REMEDIES ON NONCOMPLIANT NURSING FACILITIES.

(a) IN GENERAL.—Section 1919(h)(3)(D) (42 U.S.C. 1396r(h)(3)(D)) is amended—

(1) by inserting "and" at the end of clause (i);

(2) by striking ", and" at the end of clause (ii) and inserting a period; and

(3) by striking clause (iii).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 4755. REMOVAL OF NAME FROM NURSE AIDE REGISTRY.

(a) MEDICARE.—Section 1819(g)(1) (42 U.S.C. 1395i–3(g)(1)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E), and

(2) by inserting after subparagraph (C) the following:

"(D) REMOVAL OF NAME FROM NURSE AIDE REGISTRY.—

"(i) IN GENERAL.—In the case of a finding of neglect under subparagraph (C), the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(I) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(II) the neglect involved in the original finding was a singular occurrence.

"(ii) TIMING OF DETERMINATION.—In no case shall a determination on a petition submitted under clause (i) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under subparagraph (C).".

(b) MEDICAID.—Section 1919(g)(1) (42 U.S.C. 1396r(g)(1)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E), and

(2) by inserting after subparagraph (C) the following:

"(D) REMOVAL OF NAME FROM NURSE AIDE REGISTRY.—

"(i) IN GENERAL.—In the case of a finding of neglect under subparagraph (C), the State shall establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry upon a determination by the State that—

"(I) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

"(II) the neglect involved in the original finding was a singular occurrence.

"(ii) TIMING OF DETERMINATION.—In no case shall a determination on a petition submitted under clause (i) be made prior to the expiration of the 1-year period beginning on the date on which the name of the petitioner was added to the registry under subparagraph (C).".

(c) RETROACTIVE REVIEW.—The procedures developed by a State under the amendments made by subsection (a) and (b) shall permit an individual to petition for a review of any finding made by a State under section 1819(g)(1)(C) or 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i–3(g)(1)(C) or 1396r(g)(1)(C)) after January 1, 1995.

SEC. 4756. MEDICALLY ACCEPTED INDICATION.

Section 1927(g)(1)(B)(i) (42 U.S.C. 1396r–8(g)(1)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (II),

(2) by redesignating subclause (III) as subclause (IV), and

(3) by inserting after subclause (II) the following:

"(III) the DRUGDEX Information System; and".

SEC. 4757. CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 (42 U.S.C. 1315) is amended by adding at the end the following new subsection:

"(e)(1) The provisions of this subsection shall apply to the extension of any State-wide comprehensive demonstration project (in this subsection referred to as 'waiver project') for which a waiver of compliance with requirements of title XIX is granted under subsection (a).

"(2) During the 6-month period ending 1 year before the date the waiver under subsection (a) with respect to a waiver project would otherwise expire, the chief executive officer of the State which is operating the project may submit to the Secretary a written request for an extension, of up to 3 years, of the project.

"(3) If the Secretary fails to respond to the request within 6 months after the date it is submitted, the request is deemed to have been granted.

"(4) If such a request is granted, the deadline for submittal of a final report under the waiver project is deemed to have been extended until the date that is 1 year after the date the waiver project would otherwise have expired.

"(5) The Secretary shall release an evaluation of each such project not later than 1 year after the date of receipt of the final report.

"(6) Subject to paragraphs (4) and (7), the extension of a waiver project under this subsection shall be on the same terms and conditions (including applicable terms and conditions relating to quality and access of services, budget neutrality, data and reporting requirements, and special population protections) that applied to the project before its extension under this subsection.

"(7) If an original condition of approval of a waiver project was that Federal expenditures under the project not exceed the Federal expenditures that would otherwise have been made, the Secretary shall take such steps as may be necessary to ensure that, in the extension of the project under this subsection, such condition continues to be met. In applying the previous sentence, the Secretary shall take into account the Secretary's best estimate of rates of change in expenditures at the time of the extension.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to demonstration projects initially approved before, on, or after the date of the enactment of this Act.

SEC. 4758. EXTENSION OF MORATORIUM.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "December 31, 2002".

SEC. 4759. EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.

In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

Subtitle I—Programs of All-Inclusive Care for the Elderly (PACE)

SEC. 4801. COVERAGE OF PACE UNDER THE MEDICARE PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER, PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR PACE PROGRAM RELATED TERMS.—

"(1) BENEFITS THROUGH ENROLLMENT IN A PACE PROGRAM.—In accordance with this section, in the case of an individual who is entitled to benefits under part A or enrolled under part B and who is a PACE program eligible individual (as defined in paragraph (5)) with respect to a PACE program offered by a PACE provider under a PACE program agreement—

"(A) the individual may enroll in the program under this section; and

"(B) so long as the individual is so enrolled and in accordance with regulations—

"(i) the individual shall receive benefits under this title solely through such program; and

"(ii) the PACE provider is entitled to payment under and in accordance with this section and such agreement for provision of such benefits.

"(2) PACE PROGRAM DEFINED.—For purposes of this section, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

"(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

"(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

"(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

"(3) PACE PROVIDER DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

"(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986; and

"(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

"(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

"(i) to entities subject to a demonstration project waiver under subsection (h); and

"(ii) after the date the report under section 4804(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

"(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1934 (if applicable), and regulations promulgated to carry out such sections, between the PACE provider and the Secretary, or an agreement between the PACE provider and a State administering agency for the operation of a PACE program by the provider under such sections.

"(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

"(A) is 55 years of age or older;

"(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

"(C) resides in the service area of the PACE program; and

"(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

"(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc.

"(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

"(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

"(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

"(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under title XIX in the State) responsible for administering PACE program agreements under this section and section 1934 in the State.

"(9) TRIAL PERIOD DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

"(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

"(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1934.

"(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

"(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

"(A) provide to PACE program eligible individuals enrolled with the provider, regardless of source of payment and directly or under contracts with other entities, at a minimum—

"(i) all items and services covered under this title (for individuals enrolled under this section) *and all items and services covered under title XIX, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under this title or such title, respectively; and*

"(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

"(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

"(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

"(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

"(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

"(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations; and

"(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law that are designed for the protection of patients.

"(c) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—The determination of whether an individual is a PACE program eligible individual—

"(A) shall be made under and in accordance with the PACE program agreement; and

"(B) who is entitled to medical assistance under title XIX, shall be made (or who is not so entitled, may be made) by the State administering agency.

"(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined by the Secretary or the State administering agency, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential PACE program eligible individuals.

"(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least annually.

"(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases where the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

"(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

"(5) ENROLLMENT; DISENROLLMENT.—

"(A) VOLUNTARY DISENROLLMENT AT ANY TIME.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

"(B) LIMITATIONS ON DISENROLLMENT.—

"(i) IN GENERAL.—Regulations promulgated by the Secretary under this section and section 1934, and the PACE program agreement, shall provide that the PACE program may not disenroll a PACE program eligible individual except—

"(I) for nonpayment of premiums (if applicable) on a timely basis; or

"(II) for engaging in disruptive or threatening behavior, as defined in such regulations (developed in close consultation with State administering agencies).

"(ii) NO DISENROLLMENT FOR NONCOMPLIANT BEHAVIOR.—Except as allowed under regulations promulgated to carry out clause (i)(II), a PACE program may not disenroll a PACE program eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term 'noncompliant behavior' includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

"(iii) TIMELY REVIEW OF PROPOSED NONVOLUNTARY DISENROLLMENT.—A proposed disenrollment, other than a voluntary disenrollment, shall be subject to timely review and final determination by the Secretary or by the State administering agency (as applicable), prior to the proposed disenrollment becoming effective.

"(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

"(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the Secretary shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section in the same manner and from the same sources as payments are made to a Medicare+Choice organization under section 1853 (or, for periods beginning before January 1, 1999, to an eligible organization under a risk-sharing contract under section 1876). Such payments shall be subject to adjustment in the manner described in section 1853(a)(2) or section 1876(a)(1)(E), as the case may be.

"(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be based upon payment rates established for purposes of payment under section 1853 (or, for periods before January 1, 1999, for purposes of risk-sharing contracts under section 1876) and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Such amount under such an agreement shall be computed in a manner so that the total payment level for all PACE program eligible individuals enrolled under a program is less than the projected payment under this title for a comparable population not enrolled under a PACE program.

"(e) PACE PROGRAM AGREEMENT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1934, and regulations.

"(B) NUMERICAL LIMITATION.—

"(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

"(I) 40 as of the date of the enactment of this section; or

"(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

"(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

"(I) is operating under a demonstration project waiver under subsection (h); or

"(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

"(2) SERVICE AREA AND ELIGIBILITY.—

"(A) IN GENERAL.—A PACE program agreement for a PACE program—

"(i) shall designate the service area of the program;

"(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

"(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

"(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

"(v) shall contain such additional terms and conditions as the parties may agree to, so long as such terms and conditions are consistent with this section and regulations.

"(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

"(3) DATA COLLECTION; DEVELOPMENT OF OUTCOME MEASURES.—

"(A) DATA COLLECTION.—

"(i) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

"(I) collect data;

"(II) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records; and

"(III) make available to the Secretary and the State administering agency reports that the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program under this section and section 1934 .

"(ii) REQUIREMENTS DURING TRIAL PERIOD.—During the first 3 years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional

data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

“(B) DEVELOPMENT OF OUTCOME MEASURES.—Under a PACE program agreement, the PACE provider, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE program eligible individuals.

“(4) OVERSIGHT.—

“(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

“(i) an on-site visit to the program site;

“(ii) comprehensive assessment of a provider's fiscal soundness;

“(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

“(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

“(v) any other elements the Secretary or State administering agency considers necessary or appropriate.

“(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

“(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

“(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

“(A) IN GENERAL.—Under regulations—

“(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause; and

“(ii) a PACE provider may terminate an agreement after appropriate notice to the Secretary, the State agency, and enrollees.

“(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

“(i) the Secretary or State administering agency determines that—

“(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

“(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1934; and

“(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.

“(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

“(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

“(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

“(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

“(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1934 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

“(iii) Terminate such agreement.

“(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(g)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1857(g)(1) (or section 1876(i)(6)(A) for such periods) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under this section or section 1934, respectively).

“(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(h) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a Medicare+Choice organization under part C (or for such periods an eligible organization under section 1876).

“(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

“(f) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1934.

“(2) USE OF PACE PROTOCOL.—

“(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

“(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section and section 1934, the Secretary (in close consultation with State administering agencies) may modify or waive provisions of the PACE protocol so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

“(i) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

“(ii) The delivery of comprehensive, integrated acute and long-term care services.

“(iii) The interdisciplinary team approach to care management and service delivery.

“(iv) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

“(v) The assumption by the provider of full financial risk.

“(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

“(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of part C (or, for periods before January 1, 1999, section 1876) and sections 1903(m) and 1932 relating to protection of beneficiaries and program integrity as would apply to Medicare+Choice organizations under part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to medicaid managed care organizations under prepaid capitation agreements under section 1903(m).

“(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

“(i) take into account the differences between populations served and benefits provided under this section and under part C (or, for periods before January 1, 1999, section 1876) and section 1903(m);

“(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

“(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XIX.

“(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the Secretary from including in regulations provisions to ensure the health and safety of individuals enrolled in a PACE program under this section that are in addition to those otherwise provided under paragraphs (2) and (3).

“(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) are waived and shall not apply:

“(1) Section 1812, insofar as it limits coverage of institutional services.

“(2) Sections 1813, 1814, 1833, and 1886, insofar as such sections relate to rules for payment for benefits.

“(3) Sections 1814(a)(2)(B), 1814(a)(2)(C), and 1835(a)(2)(A), insofar as they limit coverage of extended care services or home health services.

“(4) Section 1861(i), insofar as it imposes a 3-day prior hospitalization requirement for coverage of extended care services.

“(5) Paragraphs (1) and (9) of section 1862(a), insofar as they may prevent payment for PACE program services to individuals enrolled under PACE programs.

“(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

“(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

“(2) SIMILAR TERMS AND CONDITIONS.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

“(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs

with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) MISCELLANEOUS PROVISIONS.—Nothing in this section or section 1934 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, or eligible for medical assistance under title XIX.".

SEC. 4802. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID STATE OPTION.

(a) IN GENERAL.—Title XIX is amended—

(1) in section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 4702(a)(1)—

(A) by striking "and" at the end of paragraph (25);

(B) by redesignating paragraph (26) as paragraph (27); and

(C) by inserting after paragraph (25) the following new paragraph:

"(26) services furnished under a PACE program under section 1934 to PACE program eligible individuals enrolled under the program under such section; and";

(2) by redesignating section 1934, as redesignated by section 4732, as section 1935; and

(3) by inserting after section 1933, as added by such section, the following new section:

"PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

"SEC. 1934. (a) STATE OPTION.—

"(1) IN GENERAL.—A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of title XVIII to be eligible to enroll under this section. In the case of an individual enrolled with a PACE program pursuant to such an election—

"(A) the individual shall receive benefits under the plan solely through such program, and

"(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

A State may establish a numerical limit on the number of individuals who may be enrolled in a PACE program under a PACE program agreement.

"(2) PACE PROGRAM DEFINED.—For purposes of this section, the term 'PACE program' means a program of all-inclusive care for the elderly that meets the following requirements:

"(A) OPERATION.—The entity operating the program is a PACE provider (as defined in paragraph (3)).

"(B) COMPREHENSIVE BENEFITS.—The program provides comprehensive health care services to PACE program eligible individuals in accordance with the PACE program agreement and regulations under this section.

"(C) TRANSITION.—In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual's medical records available to new providers.

"(3) PACE PROVIDER DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'PACE provider' means an entity that—

"(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

"(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

"(B) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—Clause (i) of subparagraph (A) shall not apply—

"(i) to entities subject to a demonstration project waiver under subsection (h); and

"(ii) after the date the report under section 4804(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

"(4) PACE PROGRAM AGREEMENT DEFINED.—For purposes of this section, the term 'PACE program agreement' means, with respect to a PACE provider, an agreement, consistent with this section, section 1894 (if applicable), and regulations promulgated to carry out such sections, among the PACE provider, the Secretary, and a State administering agency for the operation of a PACE program by the provider under such sections.

"(5) PACE PROGRAM ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'PACE program eligible individual' means, with respect to a PACE program, an individual who—

"(A) is 55 years of age or older;

"(B) subject to subsection (c)(4), is determined under subsection (c) to require the level of care required under the State medicaid plan for coverage of nursing facility services;

"(C) resides in the service area of the PACE program; and

"(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii).

"(6) PACE PROTOCOL.—For purposes of this section, the term 'PACE protocol' means the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between the Secretary and On Lok, Inc.

"(7) PACE DEMONSTRATION WAIVER PROGRAM DEFINED.—For purposes of this section, the term 'PACE demonstration waiver program' means a demonstration program under either of the following sections (as in effect before the date of their repeal):

"(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

"(B) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

"(8) STATE ADMINISTERING AGENCY DEFINED.—For purposes of this section, the term 'State administering agency' means, with respect to the operation of a PACE program in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under this title in the State) responsible for administering PACE program agreements under this section and section 1894 in the State.

"(9) TRIAL PERIOD DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'trial period' means, with respect to a PACE program operated by a PACE provider under a PACE program agreement, the first 3 contract years under such agreement with respect to such program.

"(B) TREATMENT OF ENTITIES PREVIOUSLY OPERATING PACE DEMONSTRATION WAIVER PROGRAMS.—Each contract year (including a year occurring before the effective date of this section) during which an entity has operated a PACE demonstration waiver program shall be counted under subparagraph (A) as a contract year during which the entity operated a PACE program as a PACE provider under a PACE program agreement.

"(10) REGULATIONS.—For purposes of this section, the term 'regulations' refers to interim final or final regulations promulgated under subsection (f) to carry out this section and section 1894.

"(b) SCOPE OF BENEFITS; BENEFICIARY SAFEGUARDS.—

"(1) IN GENERAL.—Under a PACE program agreement, a PACE provider shall—

"(A) provide to PACE program eligible individuals, regardless of source of payment and directly or under contracts with other entities, at a minimum—

"(i) all items and services covered under title XVIII (for individuals enrolled under section 1894) and all items and services covered under this title, but without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under such title or this title, respectively; and

"(ii) all additional items and services specified in regulations, based upon those required under the PACE protocol;

"(B) provide such enrollees access to necessary covered items and services 24 hours per day, every day of the year;

"(C) provide services to such enrollees through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services pursuant to regulations; and

"(D) specify the covered items and services that will not be provided directly by the entity, and to arrange for delivery of those items and services through contracts meeting the requirements of regulations.

"(2) QUALITY ASSURANCE; PATIENT SAFEGUARDS.—The PACE program agreement shall require the PACE provider to have in effect at a minimum—

"(A) a written plan of quality assurance and improvement, and procedures implementing such plan, in accordance with regulations, and

"(B) written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law designed for the protection of patients.

"(c) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—The determination of—

"(A) whether an individual is a PACE program eligible individual shall be made under and in accordance with the PACE program agreement, and

"(B) who is entitled to medical assistance under this title shall be made (or who is not so entitled, may be made) by the State administering agency.

"(2) CONDITION.—An individual is not a PACE program eligible individual (with respect to payment under this section) unless the individual's health status has been determined by the Secretary or the State administering agency, in accordance with regulations, to be comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Such determination shall be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE providers on potential eligible individuals.

"(3) ANNUAL ELIGIBILITY RECERTIFICATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the determination described in subsection (a)(5)(B) for an individual shall be reevaluated at least annually.

"(B) EXCEPTION.—The requirement of annual reevaluation under subparagraph (A) may be waived during a period in accordance with regulations in those cases in which the State administering agency determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of the severity of chronic condition, or degree of impairment of functional capacity of the individual involved.

"(4) CONTINUATION OF ELIGIBILITY.—An individual who is a PACE program eligible individual may be deemed to continue to be such an individual notwithstanding a determination that the individual no longer meets the requirement of subsection (a)(5)(B) if, in accordance with regulations, in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet such requirement within the succeeding 6-month period.

"(5) ENROLLMENT; DISENROLLMENT.—

"(A) VOLUNTARY DISENROLLMENT AT ANY TIME.—The enrollment and disenrollment of PACE program eligible individuals in a PACE program shall be pursuant to regulations and the PACE program agreement and shall permit enrollees to voluntarily disenroll without cause at any time.

"(B) LIMITATIONS ON DISENROLLMENT.—

"(i) IN GENERAL.—Regulations promulgated by the Secretary under this section and section 1894, and the PACE program agreement, shall provide that the PACE program may not disenroll a PACE program eligible individual except—

"(I) for nonpayment of premiums (if applicable) on a timely basis; or

"(II) for engaging in disruptive or threatening behavior, as defined in such regulations (developed in close consultation with State administering agencies).

"(ii) NO DISENROLLMENT FOR NONCOMPLIANT BEHAVIOR.—Except as allowed under regulations promulgated to carry out clause (i)(II), a PACE program may not disenroll a PACE program eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term 'noncompliant behavior' includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

"(iii) TIMELY REVIEW OF PROPOSED NONVOLUNTARY DISENROLLMENT.—A proposed disenrollment, other than a voluntary disenrollment, shall be subject to timely review and final determination by the Secretary or by the State administering agency (as applicable), prior to the proposed disenrollment becoming effective.

"(d) PAYMENTS TO PACE PROVIDERS ON A CAPITATED BASIS.—

"(1) IN GENERAL.—In the case of a PACE provider with a PACE program agreement under this section, except as provided in this subsection or by regulations, the State shall make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled under the agreement under this section.

"(2) CAPITATION AMOUNT.—The capitation amount to be applied under this subsection for a provider for a contract year shall be an amount specified in the PACE program agreement for the year. Such amount shall be an amount, specified under the PACE agreement, which is less than the amount that would otherwise have been made under the State plan if the individuals were not so enrolled and shall be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. The payment under this section shall be in addition to any payment made under section 1894 for individuals who are enrolled in a PACE program under such section.

"(e) PACE PROGRAM AGREEMENT.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—The Secretary, in close cooperation with the State administering agency, shall establish procedures for entering into, extending, and terminating PACE program agreements for the operation of PACE programs by entities that meet the requirements for a PACE provider under this section, section 1894, and regulations.

"(B) NUMERICAL LIMITATION.—

"(i) IN GENERAL.—The Secretary shall not permit the number of PACE providers with which agreements are in effect under this section or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 to exceed—

"(I) 40 as of the date of the enactment of this section, or

"(II) as of each succeeding anniversary of such date, the numerical limitation under this subparagraph for the preceding year plus 20.

Subclause (II) shall apply without regard to the actual number of agreements in effect as of a previous anniversary date.

"(ii) TREATMENT OF CERTAIN PRIVATE, FOR-PROFIT PROVIDERS.—The numerical limitation in clause (i) shall not apply to a PACE provider that—

"(I) is operating under a demonstration project waiver under subsection (h), or

"(II) was operating under such a waiver and subsequently qualifies for PACE provider status pursuant to subsection (a)(3)(B)(ii).

"(2) SERVICE AREA AND ELIGIBILITY.—

"(A) IN GENERAL.—A PACE program agreement for a PACE program—

"(i) shall designate the service area of the program;

"(ii) may provide additional requirements for individuals to qualify as PACE program eligible individuals with respect to the program;

"(iii) shall be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate, and is subject to termination by the Secretary and the State administering agency at any time for cause (as provided under the agreement);

"(iv) shall require a PACE provider to meet all applicable State and local laws and requirements; and

"(v) shall contain such additional terms and conditions as the parties may agree to, so long as such terms and conditions are consistent with this section and regulations.

"(B) SERVICE AREA OVERLAP.—In designating a service area under a PACE program agreement under subparagraph (A)(i), the Secretary (in consultation with the State administering agency) may exclude from designation an area that is already covered under another PACE program agreement, in order to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

"(3) DATA COLLECTION; DEVELOPMENT OF OUTCOME MEASURES.—

"(A) DATA COLLECTION.—

"(i) IN GENERAL.—Under a PACE program agreement, the PACE provider shall—

"(I) collect data;

"(II) maintain, and afford the Secretary and the State administering agency access to, the records relating to the program, including pertinent financial, medical, and personnel records; and

"(III) submit to the Secretary and the State administering agency such reports as the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of the PACE program.

"(ii) REQUIREMENTS DURING TRIAL PERIOD.—During the first 3 years of operation of a PACE program (either under this section or under a PACE demonstration waiver program), the PACE provider shall provide such additional data as the Secretary specifies in regulations in order to perform the oversight required under paragraph (4)(A).

"(B) DEVELOPMENT OF OUTCOME MEASURES.—Under a PACE program agreement, the PACE provider, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE program eligible individuals.

"(4) OVERSIGHT.—

"(A) ANNUAL, CLOSE OVERSIGHT DURING TRIAL PERIOD.—During the trial period (as defined in subsection (a)(9)) with respect to a PACE program operated by a PACE provider, the Secretary (in cooperation with the State administering agency) shall conduct a comprehensive annual review of the operation of the PACE program by the provider in order to assure compliance with the requirements of this section and regulations. Such a review shall include—

"(i) an onsite visit to the program site;

"(ii) comprehensive assessment of a provider's fiscal soundness;

"(iii) comprehensive assessment of the provider's capacity to provide all PACE services to all enrolled participants;

"(iv) detailed analysis of the entity's substantial compliance with all significant requirements of this section and regulations; and

"(v) any other elements the Secretary or the State administering agency considers necessary or appropriate.

"(B) CONTINUING OVERSIGHT.—After the trial period, the Secretary (in cooperation with the State administering agency) shall continue to conduct such review of the operation of PACE providers and PACE programs as may be appropriate, taking into account the performance level of a provider and compliance of a provider with all significant requirements of this section and regulations.

"(C) DISCLOSURE.—The results of reviews under this paragraph shall be reported promptly to the PACE provider, along with any recommendations for changes to the provider's program, and shall be made available to the public upon request.

"(5) TERMINATION OF PACE PROVIDER AGREEMENTS.—

"(A) IN GENERAL.—Under regulations—

"(i) the Secretary or a State administering agency may terminate a PACE program agreement for cause, and

"(ii) a PACE provider may terminate such an agreement after appropriate notice to the Secretary, the State administering agency, and enrollees.

"(B) CAUSES FOR TERMINATION.—In accordance with regulations establishing procedures for termination of PACE program agreements, the Secretary or a State administering agency may terminate a PACE program agreement with a PACE provider for, among other reasons, the fact that—

"(i) the Secretary or State administering agency determines that—

"(I) there are significant deficiencies in the quality of care provided to enrolled participants; or

"(II) the provider has failed to comply substantially with conditions for a program or provider under this section or section 1894; and *"(ii) the entity has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice of such a determination, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.*

"(C) TERMINATION AND TRANSITION PROCEDURES.—An entity whose PACE provider agreement is terminated under this paragraph shall implement the transition procedures required under subsection (a)(2)(C).

"(6) SECRETARY'S OVERSIGHT; ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Under regulations, if the Secretary determines (after consultation with the State administering agency) that a PACE provider is failing substantially to comply with the requirements of this section and regulations, the Secretary (and the State administering agency) may take any or all of the following actions:

"(i) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

"(ii) Withhold some or all further payments under the PACE program agreement under this section or section 1894 with respect to PACE program services furnished by such provider until the deficiencies have been corrected.

"(iii) Terminate such agreement.

"(B) APPLICATION OF INTERMEDIATE SANCTIONS.—Under regulations, the Secretary may provide for the application against a PACE provider of remedies described in section 1857(g)(2) (or, for periods before January 1, 1999, section 1876(i)(6)(B)) or 1903(m)(5)(B) in the case of violations by the provider of the type described in section 1857(g)(1) (or 1876(i)(6)(A) for such periods) or 1903(m)(5)(A), respectively (in relation to agreements, enrollees, and requirements under section 1894 or this section, respectively).

"(7) PROCEDURES FOR TERMINATION OR IMPOSITION OF SANCTIONS.—Under regulations, the provisions of section 1857(h) (or for periods before January 1, 1999, section 1876(i)(9)) shall apply to termination and sanctions respecting a PACE program agreement and PACE provider under this subsection in the same manner as they apply to a termination and sanctions with respect to a contract and a Medicare+Choice organization under part C of title XVIII (or for such periods an eligible organization under section 1876).

"(8) TIMELY CONSIDERATION OF APPLICATIONS FOR PACE PROGRAM PROVIDER STATUS.—In considering an application for PACE provider program status, the application shall be deemed approved unless the Secretary, within 90 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

"(f) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue interim final or final regulations to carry out this section and section 1894.

"(2) USE OF PACE PROTOCOL.—

"(A) IN GENERAL.—In issuing such regulations, the Secretary shall, to the extent consistent with the provisions of this section, incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol.

"(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section and section 1894, the Secretary (in close consultation with State administering agencies) may modify or waive provisions of the PACE protocol so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

"(i) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

"(ii) The delivery of comprehensive, integrated acute and long-term care services.

"(iii) The interdisciplinary team approach to care management and service delivery.

"(iv) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

"(v) The assumption by the provider of full financial risk.

"(3) APPLICATION OF CERTAIN ADDITIONAL BENEFICIARY AND PROGRAM PROTECTIONS.—

"(A) IN GENERAL.—In issuing such regulations and subject to subparagraph (B), the Secretary may apply with respect to PACE programs, providers, and agreements such requirements of part C of title XVIII (or, for periods before January 1, 1999, section 1876) and sections 1903(m) and 1932 relating to protection of beneficiaries and program integrity as would apply to Medicare+Choice organizations under such part C (or for such periods eligible organizations under risk-sharing contracts under section 1876) and to medicaid managed care organizations under prepaid capitation agreements under section 1903(m).

"(B) CONSIDERATIONS.—In issuing such regulations, the Secretary shall—

"(i) take into account the differences between populations served and benefits provided under this section and under part C of title XVIII (or, for periods before January 1, 1999, section 1876) and section 1903(m);

"(ii) not include any requirement that conflicts with carrying out PACE programs under this section; and

"(iii) not include any requirement restricting the proportion of enrollees who are eligible for benefits under this title or title XVIII.

"(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the Secretary from including in regulations provisions to ensure the health and safety of individuals enrolled in a PACE program under this section that are in addition to those otherwise provided under paragraphs (2) and (3).

"(g) WAIVERS OF REQUIREMENTS.—With respect to carrying out a PACE program under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

"(1) Section 1902(a)(1), relating to any requirement that PACE programs or PACE program services be provided in all areas of a State.

"(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.

"(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a PACE program.

"(4) Section 1903(m)(2)(A), insofar as it restricts a PACE provider from receiving prepaid capitation payments.

"(5) Such other provisions of this title that, as added or amended by the Balanced Budget Act of 1997, the Secretary determines are inapplicable to carrying out a PACE program under this section.

"(h) DEMONSTRATION PROJECT FOR FOR-PROFIT ENTITIES.—

"(1) IN GENERAL.—In order to demonstrate the operation of a PACE program by a private, for-profit entity, the Secretary (in close consultation with State administering agencies) shall grant waivers from the requirement under subsection (a)(3) that a PACE provider may not be a for-profit, private entity.

"(2) SIMILAR TERMS AND CONDITIONS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), and paragraph (1), the terms and conditions for operation of a PACE program by a provider under this subsection shall be the same as those for PACE providers that are nonprofit, private organizations.

"(B) NUMERICAL LIMITATION.—The number of programs for which waivers are granted under this subsection shall not exceed 10. Programs with waivers granted under this subsection shall not be counted against the numerical limitation specified in subsection (e)(1)(B).

"(i) POST-ELIGIBILITY TREATMENT OF INCOME.—A State may provide for post-eligibility treatment of income for individuals enrolled in PACE programs under this section in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c).

"(j) MISCELLANEOUS PROVISIONS.—Nothing in this section or section 1894 shall be construed as preventing a PACE provider from entering into contracts with other governmental or nongovernmental payers for the care of PACE program eligible individuals who are not eligible for benefits under part A, or enrolled under part B, of title XVIII or eligible for medical assistance under this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1924(a)(5) (42 U.S.C. 1396r–5(a)(5)) is amended—

(A) in the heading, by striking "FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS" and inserting "UNDER PACE PROGRAMS"; and

(B) by striking "from any organization" and all that follows and inserting "under a PACE demonstration waiver program (as defined in section 1934(a)(7)) or under a PACE program under section 1934 or 1894.".

(2) Section 1903(f)(4)(C) (42 U.S.C. 1396b(f)(4)(C)) is amended by inserting "or who is a PACE program eligible individual enrolled in a PACE program under section 1934," after "section 1902(a)(10)(A),".

SEC. 4803. EFFECTIVE DATE; TRANSITION.

(a) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE DATE.—The Secretary of Health and Human Services shall promulgate regulations to carry out this subtitle in a timely manner. Such regulations shall be designed so that entities may establish and operate PACE programs under sections 1894 and 1934 of the Social Security Act (as added by sections 4801 and 4802 of this subtitle) for periods beginning not later than 1 year after the date of the enactment of this Act.

(b) EXPANSION AND TRANSITION FOR PACE DEMONSTRATION PROJECT WAIVERS.—

(1) EXPANSION IN CURRENT NUMBER AND EXTENSION OF DEMONSTRATION PROJECTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(g) of the Omnibus Budget Reconciliation Act of 1987, is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ", except that the Secretary shall grant waivers of such requirements to up to the applicable numerical limitation specified in sections 1894(e)(1)(B) and 1934(e)(1)(B) of the Social Security Act"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk"; and

(ii) in subparagraph (C), by adding at the end the following: "In granting further extensions, an organization shall not be required to provide

for reporting of information which is only required because of the demonstration nature of the project.”.

(2) ELIMINATION OF REPLICATION REQUIREMENT.—Section 9412(b)(2)(B) of such Act, as so amended, shall not apply to waivers granted under such section after the date of the enactment of this Act.

(3) TIMELY CONSIDERATION OF APPLICATIONS.—In considering an application for waivers under such section before the effective date of the repeals under subsection (d), subject to the numerical limitation under the amendment made by paragraph (1), the application shall be deemed approved unless the Secretary of Health and Human Services, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 90 days of such date, denies such request.

(c) PRIORITY AND SPECIAL CONSIDERATION IN APPLICATION.—During the 3-year period beginning on the date of the enactment of this Act:

(1) PROVIDER STATUS.—The Secretary of Health and Human Services shall give priority in processing applications of entities to qualify as PACE programs under section 1894 or 1934 of the Social Security Act—

(A) first, to entities that are operating a PACE demonstration waiver program (as defined in sections 1894(a)(7) and 1934(a)(7) of such Act); and

(B) then to entities that have applied to operate such a program as of May 1, 1997.

(2) NEW WAIVERS.—The Secretary shall give priority, in the awarding of additional waivers under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986—

(A) to any entities that have applied for such waivers under such section as of May 1, 1997; and

(B) to any entity that, as of May 1, 1997, has formally contracted with a State to provide services for which payment is made on a capitated basis with an understanding that the entity was seeking to become a PACE provider.

(3) SPECIAL CONSIDERATION.—The Secretary shall give special consideration, in the processing of applications described in paragraph (1) and the awarding of waivers described in paragraph (2), to an entity which as of May 1, 1997, through formal activities (such as entering into contracts for feasibility studies) has indicated a specific intent to become a PACE provider.

(d) REPEAL OF CURRENT PACE DEMONSTRATION PROJECT WAIVER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the following provisions of law are repealed:

(A) Section 603(c) of the Social Security Amendments of 1983 (Public Law 98–21).

(B) Section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(C) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509).

(2) DELAY IN APPLICATION TO CURRENT WAIVERS.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of waivers granted with respect to a PACE program before the initial effective date of regulations described in subsection (a), the repeals made by paragraph (1) shall not apply until the end of a transition period (of up to 24 months) that begins on the initial effective date of such regulations, and that allows sufficient time for an orderly transition from demonstration project authority to general authority provided under the amendments made by this subtitle.

(B) STATE OPTION TO SEEK EXTENSION OF CURRENT PERIOD.—A State may elect to maintain the PACE programs which (as of the date of the enactment of this Act) were operating in the State under the authority described in paragraph (1) until a date (specified by the State) that is not later than 3 years after the initial effective date of regulations described in subsection (a). If a State makes such an election, the repeals made by paragraph (1) shall not apply to the programs until the date so specified, but only so long as such programs continue to operate under the same terms and conditions as apply to such programs as of the date of the enactment of this Act, and subparagraph (A) shall not apply to such programs.

SEC. 4804. STUDY AND REPORTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in close consultation with State administering agencies, as defined in sections 1894(a)(8) and 1934(a)(8) of the Social Security Act) shall conduct a study of the quality and cost of providing PACE program services under the medicare and medicaid programs under the amendments made by this subtitle.

(2) STUDY OF PRIVATE, FOR-PROFIT PROVIDERS.—Such study shall specifically compare the costs, quality, and access to services by entities that are private, for-profit entities operating under demonstration projects waivers granted under sections 1894(h) and 1934(h) of the Social Security Act with the costs, quality, and access to services of other PACE providers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall provide for a report to Congress on the impact of such amendments on quality and cost of services. The Secretary shall include in such report such recommendations for changes in the operation of such amendments as the Secretary deems appropriate.

(2) TREATMENT OF PRIVATE, FOR-PROFIT PROVIDERS.—The report shall include specific findings on whether any of the following findings is true:

(A) The number of covered lives enrolled with entities operating under demonstration project waivers under sections 1894(h) and 1934(h) of the Social Security Act is fewer than 800 (or such lesser number as the Secretary may find statistically sufficient to make determinations respecting findings described in the succeeding subparagraphs).

(B) The population enrolled with such entities is less frail than the population enrolled with other PACE providers.

(C) Access to or quality of care for individuals enrolled with such entities is lower than such access or quality for individuals enrolled with other PACE providers.

(D) The application of such section has resulted in an increase in expenditures under the medicare or medicaid programs above the expenditures that would have been made if such section did not apply.

(c) INFORMATION INCLUDED IN ANNUAL RECOMMENDATIONS.—The Medicare Payment Advisory Commission shall include in its annual report under section 1805(b)(1)(B) of the Social Security Act recommendations on the methodology and level of payments made to PACE providers under sections 1894(d) and 1934(d) of such Act and on the treatment of private, for-profit entities as PACE providers.

Subtitle J—State Children's Health Insurance Program

CHAPTER 1—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

SEC. 4901. ESTABLISHMENT OF PROGRAM.

(a) ESTABLISHMENT.—The Social Security Act is amended by adding at the end the following new title:

“TITLE XXI—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

“SEC. 2101. PURPOSE; STATE CHILD HEALTH PLANS.

“(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to initiate and expand the provision of child health assistance to uninsured, low-income children in an effective and efficient manner that is coordinated with other sources of health benefits coverage for children. Such assistance shall be provided primarily for obtaining health benefits coverage through—

“(1) obtaining coverage that meets the requirements of section 2103, or

“(2) providing benefits under the State's medicaid plan under title XIX,

or a combination of both.

“(b) STATE CHILD HEALTH PLAN REQUIRED.—A State is not eligible for payment under section 2105 unless the State has submitted to the Secretary under section 2106 a plan that—

“(1) sets forth how the State intends to use the funds provided under this title to provide child health assistance to needy children consistent with the provisions of this title, and

“(2) has been approved under section 2106.

“(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under section 2104.

“(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for child health assistance for coverage provided for periods beginning before October 1, 1997.

“SEC. 2102. GENERAL CONTENTS OF STATE CHILD HEALTH PLAN; ELIGIBILITY; OUTREACH.

“(a) GENERAL BACKGROUND AND DESCRIPTION.—A State child health plan shall include a description, consistent with the requirements of this title, of—

“(1) the extent to which, and manner in which, children in the State, including targeted low-income children and other classes of children classified by income and other relevant factors, currently have creditable health coverage (as defined in section 2110(c)(2));

“(2) current State efforts to provide or obtain creditable health coverage for uncovered children, including the steps the State is taking to identify and enroll all uncovered children who are eligible to participate in public health insurance programs and health insurance programs that involve public-private partnerships;

“(3) how the plan is designed to be coordinated with such efforts to increase coverage of children under creditable health coverage;

“(4) the child health assistance provided under the plan for targeted low-income children, including the proposed methods of delivery, and utilization control systems;

“(5) eligibility standards consistent with subsection (b);

“(6) outreach activities consistent with subsection (c); and

“(7) methods (including monitoring) used—

“(A) to assure the quality and appropriateness of care, particularly with respect to well-baby care, well-child care, and immunizations provided under the plan, and

“(B) to assure access to covered services, including emergency services.

“(b) GENERAL DESCRIPTION OF ELIGIBILITY STANDARDS AND METHODOLOGY.—

“(1) ELIGIBILITY STANDARDS.—

“(A) IN GENERAL.—The plan shall include a description of the standards used to determine the eligibility of targeted low-income children for child health assistance under the plan. Such standards may include (to the extent consistent with this title) those relating to the geographic

areas to be served by the plan, age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status (so long as any standard relating to such status does not restrict eligibility), access to or coverage under other health coverage, and duration of eligibility. Such standards may not discriminate on the basis of diagnosis.

"(B) LIMITATIONS ON ELIGIBILITY STANDARDS.—Such eligibility standards—

"(i) shall, within any defined group of covered targeted low-income children, not cover such children with higher family income without covering children with a lower family income, and

"(ii) may not deny eligibility based on a child having a preexisting medical condition.

"(2) METHODOLOGY.—The plan shall include a description of methods of establishing and continuing eligibility and enrollment.

"(3) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE PROGRAMS.—The plan shall include a description of procedures to be used to ensure—

"(A) through both intake and followup screening, that only targeted low-income children are furnished child health assistance under the State child health plan;

"(B) that children found through the screening to be eligible for medical assistance under the State medicaid plan under title XIX are enrolled for such assistance under such plan;

"(C) that the insurance provided under the State child health plan does not substitute for coverage under group health plans;

"(D) the provision of child health assistance to targeted low-income children in the State who are Indians (as defined in section 4(c) of the Indian Health Care Improvement Act, 25 U.S.C. 1603(c)); and

"(E) coordination with other public and private programs providing creditable coverage for low-income children.

"(4) NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to child health assistance under a State child health plan.

"(c) OUTREACH AND COORDINATION.—A State child health plan shall include a description of the procedures to be used by the State to accomplish the following:

"(1) OUTREACH.—Outreach to families of children likely to be eligible for child health assistance under the plan or under other public or private health coverage programs to inform these families of the availability of, and to assist them in enrolling their children in, such a program.

"(2) COORDINATION WITH OTHER HEALTH INSURANCE PROGRAMS.—Coordination of the administration of the State program under this title with other public and private health insurance programs.

"SEC. 2103. COVERAGE REQUIREMENTS FOR CHILDREN'S HEALTH INSURANCE.

"(a) REQUIRED SCOPE OF HEALTH INSURANCE COVERAGE.—The child health assistance provided to a targeted low-income child under the plan in the form described in paragraph (1) of section 2101(a) shall consist, consistent with subsection (c)(5), of any of the following:

"(1) BENCHMARK COVERAGE.—Health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in subsection (b).

"(2) BENCHMARK-EQUIVALENT COVERAGE.—Health benefits coverage that meets the following requirements:

"(A) INCLUSION OF BASIC SERVICES.—The coverage includes benefits for items and services within each of the categories of basic services described in subsection (c)(1).

"(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—The coverage has an aggregate actuarial value that is at least actuarially equivalent to one of the benchmark benefit packages.

"(C) SUBSTANTIAL ACTUARIAL VALUE FOR ADDITIONAL SERVICES INCLUDED IN BENCHMARK PACKAGE.—With respect to each of the categories of additional services described in subsection (c)(2) for which coverage is provided under the benchmark benefit package used under subparagraph (B), the coverage has an actuarial value that is equal to at least 75 percent of the actuarial value of the coverage of that category of services in such package.

"(3) EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—Health benefits coverage under an existing comprehensive State-based program, described in subsection (d)(1).

"(4) SECRETARY-APPROVED COVERAGE.—Any other health benefits coverage that the Secretary determines, upon application by a State, provides appropriate coverage for the population of targeted low-income children proposed to be provided such coverage.

"(b) BENCHMARK BENEFIT PACKAGES.—The benchmark benefit packages are as follows:

"(1) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The standard Blue Cross/Blue Shield preferred provider option service benefit plan, described in and offered under section 8903(1) of title 5, United States Code.

"(2) STATE EMPLOYEE COVERAGE.—A health benefits coverage plan that is offered and generally available to State employees in the State involved.

"(3) COVERAGE OFFERED THROUGH HMO.—The health insurance coverage plan that—

"(A) is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act), and

"(B) has the largest insured commercial, non-medicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved.

"(c) CATEGORIES OF SERVICES; DETERMINATION OF ACTUARIAL VALUE OF COVERAGE.—

"(1) CATEGORIES OF BASIC SERVICES.—For purposes of this section, the categories of basic services described in this paragraph are as follows:

"(A) Inpatient and outpatient hospital services.

"(B) Physicians' surgical and medical services.

"(C) Laboratory and x-ray services.

"(D) Well-baby and well-child care, including age-appropriate immunizations.

"(2) CATEGORIES OF ADDITIONAL SERVICES.—For purposes of this section, the categories of additional services described in this paragraph are as follows:

"(A) Coverage of prescription drugs.

"(B) Mental health services.

"(C) Vision services.

"(D) Hearing services.

"(3) TREATMENT OF OTHER CATEGORIES.—Nothing in this subsection shall be construed as preventing a State child health plan from providing coverage of benefits that are not within a category of services described in paragraph (1) or (2).

"(4) DETERMINATION OF ACTUARIAL VALUE.—The actuarial value of coverage of benchmark benefit packages, coverage offered under the State child health plan, and coverage of any categories of additional services under benchmark benefit packages and under coverage offered by such a plan, shall be set forth in an actuarial opinion in an actuarial report that has been prepared—

"(A) by an individual who is a member of the American Academy of Actuaries;

"(B) using generally accepted actuarial principles and methodologies;

"(C) using a standardized set of utilization and price factors;

"(D) using a standardized population that is representative of privately insured children of the age of children who are expected to be covered under the State child health plan;

"(E) applying the same principles and factors in comparing the value of different coverage (or categories of services);

"(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

"(G) taking into account the ability of a State to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under the State child health plan that results from the limitations on cost sharing under such coverage.

The actuary preparing the opinion shall select and specify in the memorandum the standardized set and population to be used under subparagraphs (C) and (D).

"(5) CONSTRUCTION ON PROHIBITED COVERAGE.—Nothing in this section shall be construed as requiring any health benefits coverage offered under the plan to provide coverage for items or services for which payment is prohibited under this title, notwithstanding that any benchmark benefit package includes coverage for such an item or service.

"(d) DESCRIPTION OF EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—

"(1) IN GENERAL.—A program described in this paragraph is a child health coverage program that—

"(A) includes coverage of a range of benefits;

"(B) is administered or overseen by the State and receives funds from the State;

"(C) is offered in New York, Florida, or Pennsylvania; and

"(D) was offered as of the date of the enactment of this title.

"(2) MODIFICATIONS.—A State may modify a program described in paragraph (1) from time to time so long as it continues to meet the requirement of subparagraph (A) and does not reduce the actuarial value of the coverage under the program below the lower of—

"(A) the actuarial value of the coverage under the program as of the date of the enactment of this title, or

"(B) the actuarial value described in subsection (a)(2)(B),

evaluated as of the time of the modification.

"(e) COST-SHARING.—

"(1) DESCRIPTION; GENERAL CONDITIONS.—

"(A) DESCRIPTION.—A State child health plan shall include a description, consistent with this subsection, of the amount (if any) of premiums, deductibles, coinsurance, and other cost sharing imposed. Any such charges shall be imposed pursuant to a public schedule.

"(B) PROTECTION FOR LOWER INCOME CHILDREN.—The State child health plan may only vary premiums, deductibles, coinsurance, and other cost sharing based on the family income of targeted low-income children in a manner that does not favor children from families with higher income over children from families with lower income.

"(2) NO COST SHARING ON BENEFITS FOR PREVENTIVE SERVICES.—The State child health plan may not impose deductibles, coinsurance, or other cost sharing with respect to benefits for services within the category of services described in subsection (c)(1)(D).

"(3) LIMITATIONS ON PREMIUMS AND COST-SHARING.—

"(A) CHILDREN IN FAMILIES WITH INCOME BELOW 150 PERCENT OF POVERTY LINE.—In the case of a targeted low-income child whose family income is at or below 150 percent of the poverty line, the State child health plan may not impose—

"(i) an enrollment fee, premium, or similar charge that exceeds the maximum monthly

charge permitted consistent with standards established to carry out section 1916(b)(1) (with respect to individuals described in such section); and

"(ii) a deductible, cost sharing, or similar charge that exceeds an amount that is nominal (as determined consistent with regulations referred to in section 1916(a)(3), with such appropriate adjustment for inflation or other reasons as the Secretary determines to be reasonable).

"(B) OTHER CHILDREN.—For children not described in subparagraph (A), subject to paragraphs (1)(B) and (2), any premiums, deductibles, cost sharing or similar charges imposed under the State child health plan may be imposed on a sliding scale related to income, except that the total annual aggregate cost-sharing with respect to all targeted low-income children in a family under this title may not exceed 5 percent of such family's income for the year involved.

"(4) RELATION TO MEDICAID REQUIREMENTS.—Nothing in this subsection shall be construed as affecting the rules relating to the use of enrollment fees, premiums, deductions, cost sharing, and similar charges in the case of targeted low-income children who are provided child health assistance in the form of coverage under a medicaid program under section 2101(a)(2).

"(f) APPLICATION OF CERTAIN REQUIREMENTS.—

"(1) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State child health plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan.

"(B) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State child health plan provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the plan may permit the imposition of a preexisting condition exclusion but only insofar as it is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

"(2) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under this section shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

"SEC. 2104. ALLOTMENTS.

"(a) APPROPRIATION; TOTAL ALLOTMENT.—For the purpose of providing allotments to States under this section, there is appropriated, out of any money in the Treasury not otherwise appropriated—

"(1) for fiscal year 1998, $4,275,000,000;

"(2) for fiscal year 1999, $4,275,000,000;

"(3) for fiscal year 2000, $4,275,000,000;

"(4) for fiscal year 2001, $4,275,000,000;

"(5) for fiscal year 2002, $3,150,000,000;

"(6) for fiscal year 2003, $3,150,000,000;

"(7) for fiscal year 2004, $3,150,000,000;

"(8) for fiscal year 2005, $4,050,000,000;

"(9) for fiscal year 2006, $4,050,000,000; and

"(10) for fiscal year 2007, $5,000,000,000.

"(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

"(1) IN GENERAL.—Subject to paragraph (4) and subsection (d), of the amount available for allotment under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with a State child health plan approved under this title the same proportion as the ratio of—

"(A) the product of (i) the number of children described in paragraph (2) for the State for the fiscal year and (ii) the State cost factor for that State (established under paragraph (3)); to

"(B) the sum of the products computed under subparagraph (A).

"(2) NUMBER OF CHILDREN.—

"(A) IN GENERAL.—The number of children described in this paragraph for a State for—

"(i) each of fiscal years 1998 through 2000 is equal to the number of low-income children in the State with no health insurance coverage for the fiscal year;

"(ii) fiscal year 2001 is equal to—

"(I) 75 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage, plus

"(II) 25 percent of the number of low-income children in the State for the fiscal year; and

"(iii) each succeeding fiscal year is equal to—

"(I) 50 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage, plus

"(II) 50 percent of the number of low-income children in the State for the fiscal year.

"(B) DETERMINATION OF NUMBER OF CHILDREN.—For purposes of subparagraph (A), a determination of the number of low-income children (and of such children who have no health insurance coverage) for a State for a fiscal year shall be made on the basis of the arithmetic average of the number of such children, as reported and defined in the 3 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the fiscal year.

"(3) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN HEALTH COSTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A)(ii), the 'State cost factor' for a State for a fiscal year equal to the sum of—

"(i) 0.15, and

"(ii) 0.85 multiplied by the ratio of—

"(I) the annual average wages per employee for the State for such year (as determined under subparagraph (B)), to

"(II) the annual average wages per employee for the 50 States and the District of Columbia.

"(B) ANNUAL AVERAGE WAGES PER EMPLOYEE.—For purposes of subparagraph (A), the 'annual average wages per employee' for a State, or for all the States, for a fiscal year is equal to the average of the annual wages per employee for the State or for the 50 States and the District of Columbia for employees in the health services industry (SIC code 8000), as reported by the Bureau of Labor Statistics of the Department of Labor for each of the most recent 3 years before the beginning of the fiscal year involved.

"(4) FLOOR FOR STATES.—Subject to paragraph (5), in no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a year be less than $2,000,000. To the extent that the application of the previous sentence results in an increase in the allotment to a State above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be reduced in a pro rata manner (but not below $2,000,000) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under paragraph (1) for that fiscal year.

"(c) ALLOTMENTS TO TERRITORIES.—

"(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, subject to subsection (d), the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

"(2) PERCENTAGE.—The percentage specified in this paragraph for—

"(A) Puerto Rico is 91.6 percent,

"(B) Guam is 3.5 percent,

"(C) Virgin Islands is 2.6 percent,

"(D) American Samoa is 1.2 percent, and

"(E) the Northern Mariana Islands is 1.1 percent.

"(3) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has a State child health plan approved under this title:

"(A) Puerto Rico.

"(B) Guam.

"(C) the Virgin Islands.

"(D) American Samoa.

"(E) the Northern Mariana Islands.

"(d) CERTAIN MEDICAID EXPENDITURES COUNTED AGAINST INDIVIDUAL STATE ALLOTMENTS.—The amount of the allotment otherwise provided to a State under subsection (b) or (c) for a fiscal year shall be reduced by the sum of—

"(1) the amount (if any) of the payments made to that State under section 1903(a) for calendar quarters during such fiscal year that is attributable to the provision of medical assistance to a child during a presumptive eligibility period under section 1920A, and

"(2) the amount of payments under such section during such period that is attributable to the provision of medical assistance to a child for which payment is made under section 1903(a)(1) on the basis of an enhanced FMAP under section 1905(b).

"(e) 3-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this section for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year; except that amounts reallotted to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are reallotted.

"(f) PROCEDURE FOR REDISTRIBUTION OF UNUSED ALLOTMENTS.—The Secretary shall determine an appropriate procedure for redistribution of allotments from States that were provided allotments under this section for a fiscal year but that do not expend all of the amount of such allotments during the period in which such allotments are available for expenditure under subsection (e), to States that have fully expended the amount of their allotments under this section.

"SEC. 2105. PAYMENTS TO STATES.

"(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under this title, from its allotment under section 2104 (taking into account any adjustment under section 2104(d)), an amount for each quarter equal to the enhanced FMAP of expenditures in the quarter—

"(1) for child health assistance under the plan for targeted low-income children in the form of providing health benefits coverage that meets the requirements of section 2103; and

"(2) only to the extent permitted consistent with subsection (c)—

"(A) for payment for other child health assistance for targeted low-income children;

"(B) for expenditures for health services initiatives under the plan for improving the health of children (including targeted low-income children and other low-income children);

"(C) for expenditures for outreach activities as provided in section 2102(c)(1) under the plan; and

"(D) for other reasonable costs incurred by the State to administer the plan.

"(b) ENHANCED FMAP.—For purposes of subsection (a), the 'enhanced FMAP', for a State *for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a State exceed 85 percent.*

“(c) LIMITATION ON CERTAIN PAYMENTS FOR CERTAIN EXPENDITURES.—

“(1) GENERAL LIMITATIONS.—Funds provided to a State under this title shall only be used to carry out the purposes of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

“(2) LIMITATION ON EXPENDITURES NOT USED FOR MEDICAID OR HEALTH INSURANCE ASSISTANCE.—

“(A) IN GENERAL.—Except as provided in this paragraph, payment shall not be made under subsection (a) for expenditures for items described in subsection (a) (other than paragraph (1)) for a quarter in a fiscal year to the extent the total of such expenditures exceeds 10 percent of the sum of—

“(i) the total Federal payments made under subsection (a) for such quarter in the fiscal year, and

“(ii) the total Federal payments made under section 1903(a)(1) based on an enhanced FMAP described in section 1905(u)(2) for such quarter.

“(B) WAIVER AUTHORIZED FOR COST-EFFECTIVE ALTERNATIVE.—The limitation under subparagraph (A) on expenditures for items described in subsection (a)(2) shall not apply to the extent that a State establishes to the satisfaction of the Secretary that—

“(i) coverage provided to targeted low-income children through such expenditures meets the requirements of section 2103;

“(ii) the cost of such coverage is not greater, on an average per child basis, than the cost of coverage that would otherwise be provided under section 2103; and

“(iii) such coverage is provided through the use of a community-based health delivery system, such as through contracts with health centers receiving funds under section 330 of the Public Health Service Act or with hospitals such as those that receive disproportionate share payment adjustments under section 1886(d)(5)(F) or 1923.

“(3) WAIVER FOR PURCHASE OF FAMILY COVERAGE.—Payment may be made to a State under subsection (a)(1) for the purchase of family coverage under a group health plan or health insurance coverage that includes coverage of targeted low-income children only if the State establishes to the satisfaction of the Secretary that—

“(A) purchase of such coverage is cost-effective relative to the amounts that the State would have paid to obtain comparable coverage only of the targeted low-income children involved, and

“(B) such coverage shall not be provided if it would otherwise substitute for health insurance coverage that would be provided to such children but for the purchase of family coverage.

“(4) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions required under subsection (a).

“(5) OFFSET OF RECEIPTS ATTRIBUTABLE TO PREMIUMS AND OTHER COST-SHARING.—For purposes of subsection (a), the amount of the expenditures under the plan shall be reduced by the amount of any premiums and other cost-sharing received by the State.

“(6) PREVENTION OF DUPLICATIVE PAYMENTS.—

“(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided child health assistance under the plan.

“(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as otherwise provided by law, no payment shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) shall apply.

“(7) LIMITATION ON PAYMENT FOR ABORTIONS.—

“(A) IN GENERAL.—Payment shall not be made to a State under this section for any amount expended under the State plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to an abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

“(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as affecting the expenditure by a State, locality, or private person or entity of State, local, or private funds (other than funds expended under the State plan) for any abortion or for health benefits coverage that includes coverage of abortion.

“(d) MAINTENANCE OF EFFORT.—

“(1) IN MEDICAID ELIGIBILITY STANDARDS.—No payment may be made under subsection (a) with respect to child health assistance provided under a State child health plan if the State adopts income and resource standards and methodologies for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of June 1, 1997.

“(2) IN AMOUNTS OF PAYMENT EXPENDED FOR CERTAIN STATE-FUNDED HEALTH INSURANCE PROGRAMS FOR CHILDREN.—

“(A) IN GENERAL.—The amount of the allotment for a State in a fiscal year (beginning with fiscal year 1999) shall be reduced by the amount by which—

“(i) the total of the State children's health insurance expenditures in the preceding fiscal year, is less than

“(ii) the total of such expenditures in fiscal year 1996.

“(B) STATE CHILDREN'S HEALTH INSURANCE EXPENDITURES.—The term ‘State children's health insurance expenditures’ means the following:

“(i) The State share of expenditures under this title.

“(ii) The State share of expenditures under title XIX that are attributable to an enhanced FMAP under section 1905(u).

“(iii) State expenditures under health benefits coverage under an existing comprehensive State-based program, described section 2103(d).

“(e) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

“SEC. 2106. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF STATE CHILD HEALTH PLANS.

“(a) INITIAL PLAN.—

“(1) IN GENERAL.—As a condition of receiving payment under section 2105, a State shall submit to the Secretary a State child health plan that meets the applicable requirements of this title.

“(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a State plan submitted under paragraph (1)—

“(A) shall be approved for purposes of this title, and

“(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 1997.

“(b) PLAN AMENDMENTS.—

“(1) IN GENERAL.—A State may amend, in whole or in part, its State child health plan at any time through transmittal of a plan amendment.

“(2) APPROVAL.—Except as the Secretary may provide under subsection (e), an amendment to a State plan submitted under paragraph (1)—

“(A) shall be approved for purposes of this title, and

“(B) shall be effective as provided in paragraph (3).

“(3) EFFECTIVE DATES FOR AMENDMENTS.—

“(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, an amendment to a State plan shall take effect on one or more effective dates specified in the amendment.

“(B) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—

“(i) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior public notice of the change, in a form and manner provided under applicable State law.

“(ii) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

“(C) OTHER AMENDMENTS.—Any plan amendment that is not described in subparagraph (B) and that becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

“(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

“(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review State plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

“(2) 90-DAY APPROVAL DEADLINES.—A State plan or plan amendment is considered approved unless the Secretary notifies the State in writing, within 90 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for disapproval) or that specified additional information is needed.

“(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such disapproval.

"(d) PROGRAM OPERATION.—

"(1) IN GENERAL.—The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this title.

"(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

"(e) CONTINUED APPROVAL.—An approved State child health plan shall continue in effect unless and until the State amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this title.

"SEC. 2107. STRATEGIC OBJECTIVES AND PERFORMANCE GOALS; PLAN ADMINISTRATION.

"(a) STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.—

"(1) DESCRIPTION.—A State child health plan shall include a description of—

"(A) the strategic objectives,

"(B) the performance goals, and

"(C) the performance measures,

the State has established for providing child health assistance to targeted low-income children under the plan and otherwise for maximizing health benefits coverage for other low-income children and children generally in the State.

"(2) STRATEGIC OBJECTIVES.—Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among targeted low-income children and other low-income children.

"(3) PERFORMANCE GOALS.—Such plan shall specify one or more performance goals for each such strategic objective so identified.

"(4) PERFORMANCE MEASURES.—Such plan shall describe how performance under the plan will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(b) RECORDS, REPORTS, AUDITS, AND EVALUATION.—

"(1) DATA COLLECTION, RECORDS, AND REPORTS.—A State child health plan shall include an assurance that the State will collect the data, maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this title.

"(2) STATE ASSESSMENT AND STUDY.—A State child health plan shall include a description of the State's plan for the annual assessments and reports under section 2108(a) and the evaluation required by section 2108(b).

"(3) AUDITS.—A State child health plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

"(c) PROGRAM DEVELOPMENT PROCESS.—A State child health plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

"(d) PROGRAM BUDGET.—A State child health plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost-sharing by beneficiaries.

"(e) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of this Act shall apply to States under this title in the same manner as they apply to a State under title XIX:

"(1) TITLE XIX PROVISIONS.—

"(A) Section 1902(a)(4)(C) (relating to conflict of interest standards).

"(B) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

"(C) Section 1903(w) (relating to limitations on provider taxes and donations).

"(2) TITLE XI PROVISIONS.—

"(A) Section 1115 (relating to waiver authority).

"(B) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

"(C) Section 1124 (relating to disclosure of ownership and related information).

"(D) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(E) Section 1128A (relating to civil monetary penalties).

"(F) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(G) Section 1132 (relating to periods within which claims must be filed).

"SEC. 2108. ANNUAL REPORTS; EVALUATIONS.

"(a) ANNUAL REPORT.—The State shall—

"(1) assess the operation of the State plan under this title in each fiscal year, including the progress made in reducing the number of uncovered low-income children; and

"(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

"(b) STATE EVALUATIONS.—

"(1) IN GENERAL.—By March 31, 2000, each State that has a State child health plan shall submit to the Secretary an evaluation that includes each of the following:

"(A) An assessment of the effectiveness of the State plan in increasing the number of children with creditable health coverage.

"(B) A description and analysis of the effectiveness of elements of the State plan, including—

"(i) the characteristics of the children and families assisted under the State plan including age of the children, family income, and the assisted child's access to or coverage by other health insurance prior to the State plan and after eligibility for the State plan ends,

"(ii) the quality of health coverage provided including the types of benefits provided,

"(iii) the amount and level (including payment of part or all of any premium) of assistance provided by the State,

"(iv) the service area of the State plan,

"(v) the time limits for coverage of a child under the State plan,

"(vi) the State's choice of health benefits coverage and other methods used for providing child health assistance, and

"(vii) the sources of non-Federal funding used in the State plan.

"(C) An assessment of the effectiveness of other public and private programs in the State in increasing the availability of affordable quality individual and family health insurance for children.

"(D) A review and assessment of State activities to coordinate the plan under this title with other public and private programs providing health care and health care financing, including medicaid and maternal and child health services.

"(E) An analysis of changes and trends in the State that affect the provision of accessible, affordable, quality health insurance and health care to children.

"(F) A description of any plans the State has for improving the availability of health insurance and health care for children.

"(G) Recommendations for improving the program under this title.

"(H) Any other matters the State and the Secretary consider appropriate.

"(2) REPORT OF THE SECRETARY.—The Secretary shall submit to Congress and make available to the public by December 31, 2001, a report based on the evaluations submitted by States under paragraph (1), containing any conclusions and recommendations the Secretary considers appropriate.

"SEC. 2109. MISCELLANEOUS PROVISIONS.

"(a) RELATION TO OTHER LAWS.—

"(1) HIPAA.—Health benefits coverage provided under section 2101(a)(1) (and coverage provided under a waiver under section 2105(c)(2)(B)) shall be treated as creditable coverage for purposes of part 7 of subtitle B of title II of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

"(2) ERISA.—Nothing in this title shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg-91(a)(1)).

"SEC. 2110. DEFINITIONS.

"(a) CHILD HEALTH ASSISTANCE.—For purposes of this title, the term 'child health assistance' means payment for part or all of the cost of health benefits coverage for targeted low-income children that includes any of the following (and includes, in the case described in section 2105(a)(2)(A), payment for part or all of the cost of providing any of the following), as specified under the State plan:

"(1) Inpatient hospital services.

"(2) Outpatient hospital services.

"(3) Physician services.

"(4) Surgical services.

"(5) Clinic services (including health center services) and other ambulatory health care services.

"(6) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

"(7) Over-the-counter medications.

"(8) Laboratory and radiological services.

"(9) Prenatal care and prepregnancy family planning services and supplies.

"(10) Inpatient mental health services, other than services described in paragraph (18) but including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services.

"(11) Outpatient mental health services, other than services described in paragraph (19) but including services furnished in a State-operated mental hospital and including community-based services.

"(12) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

"(13) Disposable medical supplies.

"(14) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

"(15) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

"(16) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(17) Dental services.

"(18) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(19) Outpatient substance abuse treatment services.

"(20) Case management services.

"(21) Care coordination services.

"(22) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(23) Hospice care.

"(24) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

"(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(B) performed under the general supervision or at the direction of a physician, or

"(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

"(25) Premiums for private health care insurance coverage.

"(26) Medical transportation.

"(27) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

"(28) Any other health care services or items specified by the Secretary and not excluded under this section.

"(b) TARGETED LOW-INCOME CHILD DEFINED.—For purposes of this title—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'targeted low-income child' means a child—

"(A) who has been determined eligible by the State for child health assistance under the State plan;

"(B)(i) who is a low-income child, or

"(ii) is a child whose family income (as determined under the State child health plan) exceeds the medicaid applicable income level (as defined in paragraph (4)), but does not exceed 50 percentage points above the medicaid applicable income level; and

"(C) who is not found to be eligible for medical assistance under title XIX or covered under a group health plan or under health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act).

"(2) CHILDREN EXCLUDED.—Such term does not include—

"(A) a child who is an inmate of a public institution or a patient in an institution for mental diseases; or

"(B) a child who is a member of a family that is eligible for health benefits coverage under a State health benefits plan on the basis of a family member's employment with a public agency in the State.

"(3) SPECIAL RULE.—A child shall not be considered to be described in paragraph (1)(C) notwithstanding that the child is covered under a health insurance coverage program that has been in operation since before July 1, 1997, and that is offered by a State which receives no Federal funds for the program's operation.

"(4) MEDICAID APPLICABLE INCOME LEVEL.—The term 'medicaid applicable income level' means, with respect to a child, the effective income level (expressed as a percent of the poverty line) that has been specified under the State plan under title XIX (including under a waiver authorized by the Secretary or under section 1902(r)(2)), as of June 1, 1997, for the child to be eligible for medical assistance under section 1902(l)(2) for the age of such child.

"(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) CREDITABLE HEALTH COVERAGE.—The term 'creditable health coverage' has the meaning given the term 'creditable coverage' under section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)) and includes coverage that meets the requirements of section 2103 provided to a targeted low-income child under this title or under a waiver approved under section 2105(c)(2)(B) (relating to a direct service waiver).

"(3) GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2191 of the Public Health Service Act.

"(4) LOW-INCOME.—The term 'low-income child' means a child whose family income is at or below 200 percent of the poverty line for a family of the size involved.

"(5) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(6) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

"(7) STATE CHILD HEALTH PLAN; PLAN.—Unless the context otherwise requires, the terms 'State child health plan' and 'plan' mean a State child health plan approved under section 2106.

"(8) UNCOVERED CHILD.—The term 'uncovered child' means a child that does not have creditable health coverage.".

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.—Section 1101(a)(1) is amended—

(A) by striking "and XIX" and inserting "XIX, and XXI", and

(B) by striking "title XIX" and inserting "titles XIX and XXI".

(2) TREATMENT AS STATE HEALTH CARE PROGRAM.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(A) in paragraph (2), by striking "or" at the end;

(B) in paragraph (3), by striking the period and inserting ", or"; and

(C) by adding at the end the following:

"(4) a State child health plan approved under title XXI.".

CHAPTER 2—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID

SEC. 4911. OPTIONAL USE OF STATE CHILD HEALTH ASSISTANCE FUNDS FOR ENHANCED MEDICAID MATCH FOR EXPANDED MEDICAID ELIGIBILITY.

(a) INCREASED FMAP FOR MEDICAL ASSISTANCE FOR EXPANDED COVERAGE OF TARGETED LOW-INCOME CHILDREN.—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as amended by section 4702(a)(2), is amended—

(1) in subsection (b), by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, in the case of a State plan that meets the condition described in subsection (u)(1), with respect to expenditures described in subsection (u)(2)(A) or subsection (u)(3) the Federal medical assistance percentage is equal to the enhanced FMAP described in section 2105(b)."; and

(2) by adding at the end the following new subsection:

"(u)(1) The conditions described in this paragraph for a State plan are as follows:

"(A) The State is complying with the requirement of section 2105(d)(1).

"(B) The plan provides for such reporting of information about expenditures and payments attributable to the operation of this subsection as the Secretary deems necessary in order to carry out paragraph (2) and section 2104(d).

"(2)(A) For purposes of subsection (b), the expenditures described in this subparagraph are expenditures for medical assistance for optional targeted low-income children described in subparagraph (C), but not in excess, for a State for a fiscal year, of the amount described in subparagraph (B) for the State and fiscal year.

"(B) The amount described in this subparagraph, for a State for a fiscal year, is the amount of the State's allotment under section 2104 (not taking into account reductions under section 2104(d)(2)) for the fiscal year reduced by the amount of any payments made under section 2105 to the State from such allotment for such fiscal year.

"(C) For purposes of this paragraph, the term 'optional targeted low-income child' means a targeted low-income child as defined in section 2110(b)(1) who would not qualify for medical assistance under the State plan under this title based on such plan as in effect on April 15, 1997 (but taking into account the expansion of age of eligibility effected through the operation of section 1902(l)(2)(D)).

"(3) For purposes of subsection (b), the expenditures described in this subparagraph are expenditures for medical assistance for children who are born before October 1, 1983, and who would be described in section 1902(l)(1)(D) if they had been born on or after such date, and who are not eligible for such assistance under the State plan under this title based on such State plan as in effect as of April 15, 1997.".

(b) ESTABLISHMENT OF OPTIONAL ELIGIBILITY CATEGORY.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by section 4733, is amended—

(1) in subclause (XII), by striking "or" at the end;

(2) in subclause (XIII), by adding "or" at the end; and

(3) by adding at the end the following:

"(XIV) who are optional targeted low-income children described in section 1905(u)(2)(C);".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 1997.

SEC. 4912. MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME CHILDREN.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1920 the following new section:

"PRESUMPTIVE ELIGIBILITY FOR CHILDREN

"SEC. 1920A. (a) A State plan approved under section 1902 may provide for making medical assistance with respect to health care items and services covered under the State plan available to a child during a presumptive eligibility period.

"(b) For purposes of this section:

"(1) The term 'child' means an individual under 19 years of age.

"(2) The term 'presumptive eligibility period' means, with respect to a child, the period that—

"(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the family income of the child does not exceed the applicable income level of eligibility under the State plan, and

"(B) ends with (and includes) the earlier of—

"(i) the day on which a determination is made with respect to the eligibility of the child for medical assistance under the State plan, or

"(ii) in the case of a child on whose behalf an application is not filed by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

"(3)(A) Subject to subparagraph (B), the term 'qualified entity' means any entity that—

"(i)(I) is eligible for payments under a State plan approved under this title and provides items and services described in subsection (a) or (II) is authorized to determine eligibility of a child to participate in a Head Start program under the Head Start Act (42 U.S.C. 9821 et seq.), eligibility of a child to receive child care services for which financial assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), eligibility of an infant or child to receive assistance under the special supplemental nutrition program for women, infants, and children (WIC) under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

"(B) The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

"(C) Nothing in this section shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

"(c)(1) The State agency shall provide qualified entities with—

"(A) such forms as are necessary for an application to be made on behalf of a child for medical assistance under the State plan, and

"(B) information on how to assist parents, guardians, and other persons in completing and filing such forms.

"(2) A qualified entity that determines under subsection (b)(1)(A) that a child is presumptively eligible for medical assistance under a State plan shall—

"(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

"(B) inform the parent or custodian of the child at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

"(3) In the case of a child who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the parent, guardian, or other person shall make application on behalf of the child for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made, which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1).

"(d) Notwithstanding any other provision of this title, medical assistance for items and services described in subsection (a) that—

"(1) are furnished to a child—

"(A) during a presumptive eligibility period,

"(B) by a entity that is eligible for payments under the State plan; and

"(2) are included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(47) (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: "and provide for making medical assistance for items and services described in subsection (a) of section 1920A available to children during a presumptive eligibility period in accordance with such section".

(2) Section 1903(u)(1)(D)(v) (42 U.S.C. 1396b(u)(1)(D)(v)) is amended by inserting before the period at the end the following: "or for items and services described in subsection (a) of section 1920A provided to a child during a presumptive eligibility period under such section".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4913. CONTINUATION OF MEDICAID ELIGIBILITY FOR DISABLED CHILDREN WHO LOSE SSI BENEFITS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "(or were being paid as of the date of the enactment of section 211(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)) and would continue to be paid but for the enactment of that section" after "title XVI".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to medical assistance furnished on or after July 1, 1997.

CHAPTER 3—DIABETES GRANT PROGRAMS

SEC. 4921. SPECIAL DIABETES PROGRAMS FOR CHILDREN WITH TYPE I DIABETES.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following section:

"SEC. 330B. SPECIAL DIABETES PROGRAMS FOR CHILDREN WITH TYPE I DIABETES.

"(a) TYPE I DIABETES IN CHILDREN.—The Secretary shall make grants for services for the prevention and treatment of type I diabetes in children, and for research in innovative approaches to such services. Such grants may be made to children's hospitals; grantees under section 330 and other federally qualified health centers; State and local health departments; and other appropriate public or nonprofit private entities.

"(b) FUNDING.—Notwithstanding section 2104(a) of the Social Security Act, from the amounts appropriated in such section for each of fiscal years 1998 through 2002, $30,000,000 is hereby transferred and made available in such fiscal year for grants under this section.".

SEC. 4922. SPECIAL DIABETES PROGRAMS FOR INDIANS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.), as amended by section 4921, is further amended by adding at the end the following section:

"SEC. 330C. SPECIAL DIABETES PROGRAMS FOR INDIANS.

"(a) IN GENERAL.—The Secretary shall make grants for providing services for the prevention and treatment of diabetes in accordance with subsection (b).

"(b) SERVICES THROUGH INDIAN HEALTH FACILITIES.—For purposes of subsection (a), services under such subsection are provided in accordance with this subsection if the services are provided through any of the following entities:

"(1) The Indian Health Service.

"(2) An Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act.

"(3) An urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act.

"(c) FUNDING.—Notwithstanding section 2104(a) of the Social Security Act, from the amounts appropriated in such section for each of fiscal years 1998 through 2002, $30,000,000 is hereby transferred and made available in such fiscal year for grants under this section.".

SEC. 4923. REPORT ON DIABETES GRANT PROGRAMS.

(a) EVALUATION.—The Secretary of Health and Human Services shall conduct an evaluation of the diabetes grant programs established under the amendments made by this chapter.

(b) REPORTS.—The Secretary shall submit to the appropriate committees of Congress—

(1) an interim report on the evaluation conducted under subsection (a) not later than January 1, 2000, and

(2) a final report on such evaluation not later than January 1, 2002.

TITLE V—WELFARE AND RELATED PROVISIONS

SEC. 5000. TABLE OF CONTENTS; REFERENCES.

(a) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 5000. Table of contents; references.

Subtitle A—TANF Block Grant

Sec. 5001. Welfare-to-work grants.
Sec. 5002. Limitation on amount of Federal funds transferable to title XX programs.
Sec. 5003. Limitation on number of persons who may be treated as engaged in work by reason of participation in educational activities.
Sec. 5004. Penalty for failure of State to reduce assistance for recipients refusing without good cause to work.

Subtitle B—Supplemental Security Income

Sec. 5101. Extension of deadline to perform childhood disability redeterminations.
Sec. 5102. Fees for Federal administration of State supplementary payments.

Subtitle C—Child Support Enforcement

Sec. 5201. Clarification of authority to permit certain redisclosures of wage and claim information.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

Sec. 5301. SSI eligibility for aliens receiving SSI on August 22, 1996, and disabled aliens lawfully residing in the United States on August 22, 1996.
Sec. 5302. Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years for SSI and medicaid; status of Cuban and Haitian entrants.
Sec. 5303. Exceptions for certain Indians from limitation on eligibility for supplemental security income and medicaid benefits.
Sec. 5304. Exemption from restriction on supplemental security income program participation by certain recipients eligible on the basis of very old applications.
Sec. 5305. Reinstatement of eligibility for benefits.
Sec. 5306. Treatment of certain Amerasian immigrants as refugees.
Sec. 5307. Verification of eligibility for State and local public benefits.
Sec. 5308. Effective date.

Subtitle E—Unemployment Compensation

Sec. 5401. Clarifying provision relating to base periods.
Sec. 5402. Increase in Federal unemployment account ceiling.
Sec. 5403. Special distribution to States from Unemployment Trust Fund.
Sec. 5404. Interest-free advances to State accounts in Unemployment Trust Fund restricted to States which meet funding goals.

Sec. 5405. Exemption of service performed by election workers from the Federal unemployment tax.

Sec. 5406. Treatment of certain services performed by inmates.

Sec. 5407. Exemption of service performed for an elementary or secondary school operated primarily for religious purposes from the Federal unemployment tax.

Sec. 5408. State program integrity activities for unemployment compensation.

Subtitle F—Welfare Reform Technical Corrections

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES

Sec. 5501. Eligible States; State plan.

Sec. 5502. Grants to States.

Sec. 5503. Use of grants.

Sec. 5504. Mandatory work requirements.

Sec. 5505. Prohibitions; requirements.

Sec. 5506. Penalties.

Sec. 5507. Data collection and reporting.

Sec. 5508. Direct funding and administration by Indian Tribes.

Sec. 5509. Research, evaluations, and national studies.

Sec. 5510. Report on data processing.

Sec. 5511. Study on alternative outcomes measures.

Sec. 5512. Limitation on payments to the territories.

Sec. 5513. Conforming amendments to the Social Security Act.

Sec. 5514. Other conforming amendments.

Sec. 5515. Modifications to the job opportunities for certain low-income individuals program.

Sec. 5516. Denial of assistance and benefits for drug-related convictions.

Sec. 5517. Transition rule.

Sec. 5518. Effective dates.

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

Sec. 5521. Conforming and technical amendments relating to eligibility restrictions.

Sec. 5522. Conforming and technical amendments relating to benefits for disabled children.

Sec. 5523. Additional technical amendments to title XVI.

Sec. 5524. Additional technical amendments relating to title XVI.

Sec. 5525. Technical amendments relating to drug addicts and alcoholics.

Sec. 5526. Advisory board personnel.

Sec. 5527. Timing of delivery of October 1, 2000, SSI benefit payments.

Sec. 5528. Effective dates.

CHAPTER 3—CHILD SUPPORT

Sec. 5531. State obligation to provide child support enforcement services.

Sec. 5532. Distribution of collected support.

Sec. 5533. Civil penalties relating to State Directory of New Hires.

Sec. 5534. Federal Parent Locator Service.

Sec. 5535. Access to registry data for research purposes.

Sec. 5536. Collection and use of social security numbers for use in child support enforcement.

Sec. 5537. Adoption of uniform State laws.

Sec. 5538. State laws providing expedited procedures.

Sec. 5539. Voluntary paternity acknowledgement.

Sec. 5540. Calculation of paternity establishment percentage.

Sec. 5541. Means available for provision of technical assistance and operation of Federal Parent Locator Service.

Sec. 5542. Authority to collect support from Federal employees.

Sec. 5543. Definition of support order.

Sec. 5544. State law authorizing suspension of licenses.

Sec. 5545. International support enforcement.

Sec. 5546. Child support enforcement for Indian tribes.

Sec. 5547. Continuation of rules for distribution of support in the case of a title IV–E child.

Sec. 5548. Good cause in foster care and food stamp cases.

Sec. 5549. Date of collection of support.

Sec. 5550. Administrative enforcement in interstate cases.

Sec. 5551. Work orders for arrearages.

Sec. 5552. Additional technical State plan amendments.

Sec. 5553. Federal Case Registry of Child Support Orders.

Sec. 5554. Full faith and credit for child support orders.

Sec. 5555. Development costs of automated systems.

Sec. 5556. Additional technical amendments.

Sec. 5557. Effective date.

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

SUBCHAPTER A—ELIGIBILITY FOR FEDERAL BENEFITS

Sec. 5561. Alien eligibility for Federal benefits: limited application to medicare and benefits under the Railroad Retirement Act.

Sec. 5562. Exceptions to benefit limitations: corrections to reference concerning aliens whose deportation is withheld.

Sec. 5563. Veterans exception: application of minimum active duty service requirement; extension to unremarried surviving spouse; expanded definition of veteran.

Sec. 5564. Notification concerning aliens not lawfully present: correction of terminology.

Sec. 5565. Freely associated States: contracts and licenses.

Sec. 5566. Congressional statement regarding benefits for Hmong and other Highland Lao veterans.

SUBCHAPTER B—GENERAL PROVISIONS

Sec. 5571. Determination of treatment of battered aliens as qualified aliens; inclusion of alien child of battered parent as qualified alien.

Sec. 5572. Verification of eligibility for benefits.

Sec. 5573. Qualifying quarters: disclosure of quarters of coverage information; correction to assure that crediting applies to all quarters earned by parents before child is 18.

Sec. 5574. Statutory construction: benefit eligibility limitations applicable only with respect to aliens present in the United States.

SUBCHAPTER C—MISCELLANEOUS CLERICAL AND TECHNICAL AMENDMENTS; EFFECTIVE DATE

Sec. 5581. Correcting miscellaneous clerical and technical errors.

Sec. 5582. Effective date.

CHAPTER 5—CHILD PROTECTION

Sec. 5591. Conforming and technical amendments relating to child protection.

Sec. 5592. Additional technical amendments relating to child protection.

Sec. 5593. Effective date.

CHAPTER 6—CHILD CARE

Sec. 5601. Conforming and technical amendments relating to child care.

Sec. 5602. Additional conforming and technical amendments.

Sec. 5603. Effective dates.

CHAPTER 7—ERISA AMENDMENTS RELATING TO MEDICAL CHILD SUPPORT ORDERS

Sec. 5611. Amendments relating to section 303 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Sec. 5612. Amendment relating to section 381 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Sec. 5613. Amendments relating to section 382 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle G—Miscellaneous

Sec. 5701. Increase in public debt limit.

Sec. 5702. Authorization of appropriations for enforcement initiatives related to the earned income tax credit.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—TANF Block Grant

SEC. 5001. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—Section 403(a) (42 U.S.C. 603(a)) is amended by adding at the end the following:

"(5) WELFARE-TO-WORK GRANTS.—

"(A) FORMULA GRANTS.—

"(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary of Labor a grant for each fiscal year specified in subparagraph (I) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the lesser of—

"(I) 2 times the total of the expenditures by the State (excluding qualified State expenditures (as defined in section 409(a)(7)(B)(i)) and any expenditure described in subclause (I), (II), or (IV) of section 409(a)(7)(B)(iv)) during the fiscal year for activities described in subparagraph (C)(i) of this paragraph; or

"(II) the allotment of the State under clause (iii) of this subparagraph for the fiscal year.

"(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this paragraph if the Secretary of Labor determines that the State meets the following requirements:

"(I) The State has submitted to the Secretary of Labor and the Secretary of Health and Human Services (in the form of an addendum to the State plan submitted under section 402) a plan which—

"(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

"(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed;

"(cc) contains evidence that the plan was developed in consultation and coordination with appropriate entitites in sub-State areas;

"(dd) contains assurances by the Governor of the State that the private industry council (and any alternate agency designated by the Governor under item (ee)) for a service delivery area in the State will coordinate the expenditure of any funds provided under this subparagraph for the benefit of the service delivery area with the expenditure of the funds provided to the State under section 403(a)(1); and

"(ee) if the Governor of the State desires to have an agency other than a private industry council administer the funds provided under this subparagraph for the benefit of 1 or more

service delivery areas in the State, contains an application to the Secretary of Labor for a waiver of clause (vii)(I) with respect to the area or areas in order to permit an alternate agency designated by the Governor to so administer the funds.

"(II) The State has provided to the Secretary of Labor an estimate of the amount that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv) (other than subclause (III) thereof)) pursuant to this paragraph.

"(III) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance and funding of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(IV) The State is an eligible State for the fiscal year.

"(V) The State certifies that qualified State expenditures (within the meaning of section 409(a)(7)) for the fiscal year will be not less than the applicable percentage of historic State expenditures (within the meaning of section 409(a)(7)) with respect to the fiscal year.

"(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—

"(I) IN GENERAL.—Subject to this clause, the allotment of a welfare-to-work State for a fiscal year shall be the available amount for the fiscal year, multiplied by the State percentage for the fiscal year.

"(II) MINIMUM ALLOTMENT.—The allotment of a welfare-to-work State (other than Guam, the Virgin Islands, or American Samoa) for a fiscal year shall not be less than 0.25 percent of the available amount for the fiscal year.

"(III) PRO RATA REDUCTION.—Subject to subclause (II), the Secretary of Labor shall make pro rata reductions in the allotments to States under this clause for a fiscal year as necessary to ensure that the total of the allotments does not exceed the available amount for the fiscal year.

"(iv) AVAILABLE AMOUNT.—As used in this subparagraph, the term 'available amount' means, for a fiscal year, the sum of—

"(I) 75 percent of the sum of—

"(aa) the amount specified in subparagraph (I) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), (G), and (H) for the fiscal year; and

"(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(II) any available amount for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

"(v) STATE PERCENTAGE.—As used in clause (iii), the term 'State percentage' means, with respect to a fiscal year, ½ of the sum of—

"(I) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States; and

"(II) the percentage represented by the number of adults who are recipients of assistance under the State program funded under this part divided by the number of adults in the United States who are recipients of assistance under any State program funded under this part.

"(vi) PROCEDURE FOR DISTRIBUTION OF FUNDS WITHIN STATES.—

"(I) ALLOCATION FORMULA.—A State to which a grant is made under this subparagraph shall devise a formula for allocating not less than 85 percent of the amount of the grant among the service delivery areas in the State, which—

"(aa) determines the amount to be allocated for the benefit of a service delivery area in proportion to the number (if any) by which the population of the area with an income that is less than the poverty line exceeds 7.5 percent of the total population of the area, relative to such number for all such areas in the State with such an excess, and accords a weight of not less than 50 percent to this factor;

"(bb) may determine the amount to be allocated for the benefit of such an area in proportion to the number of adults residing in the area who have been recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the State; and

"(cc) may determine the amount to be allocated for the benefit of such an area in proportion to the number of unemployed individuals residing in the area relative to the number of such individuals residing in the State.

"(II) DISTRIBUTION OF FUNDS.—

"(aa) IN GENERAL.—If the amount allocated by the formula to a service delivery area is at least $100,000, the State shall distribute the amount to the entity administering the grant in the area.

"(bb) SPECIAL RULE.—If the amount allocated by the formula to a service delivery area is less than $100,000, the sum shall be available for distribution in the State under subclause (III) during the fiscal year.

"(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE ENTER UNSUBSIDIZED JOBS.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)(bb)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first applied to the State) enter unsubsidized employment.

"(vii) ADMINISTRATION.—

"(I) PRIVATE INDUSTRY COUNCILS.—The private industry council for a service delivery area in a State shall have sole authority, in coordination with the chief elected official (as described in section 103(c) of the Job Training Partnership Act) of the area, to expend the amounts distributed under clause (vi)(II)(aa) for the benefit of the service delivery area, in accordance with the assurances described in clause (ii)(I)(dd) provided by the Governor of the State.

"(II) ENFORCEMENT OF COORDINATION OF EXPENDITURES WITH OTHER EXPENDITURES UNDER THIS PART.—Notwithstanding subclause (I) of this clause, on a determination by the Governor of a State that a private industry council (or an alternate agency described in clause (ii)(I)(dd)) has used funds provided under this subparagraph in a manner inconsistent with the assurances described in clause (ii)(I)(dd)—

"(aa) the private industry council (or such alternate agency) shall remit the funds to the Governor; and

"(bb) the Governor shall apply to the Secretary of Labor for a waiver of subclause (I) of this clause with respect to the service delivery area or areas involved in order to permit an alternate agency designated by the Governor to administer the funds in accordance with the assurances.

"(III) AUTHORITY TO PERMIT USE OF ALTERNATE ADMINISTERING AGENCY.—The Secretary of Labor shall approve an application submitted under clause (ii)(I)(ee) or subclause (II)(bb) of this clause to waive subclause (I) of this clause with respect to 1 or more service delivery areas if the Secretary determines that the alternate agency designated in the application would improve the effectiveness or efficiency of the administration of amounts distributed under clause (vi)(II)(aa) for the benefit of the area or areas.

"(viii) DATA TO BE USED IN DETERMINING THE NUMBER OF ADULT TANF RECIPIENTS.—For purposes of this subparagraph, the number of adult recipients of assistance under a State program funded under this part for a fiscal year shall be determined using data for the most recent 12-month period for which such data is available before the beginning of the fiscal year.

"(B) COMPETITIVE GRANTS.—

"(i) IN GENERAL.—The Secretary of Labor shall award grants in accordance with this subparagraph, in fiscal years 1998 and 1999, for projects proposed by eligible applicants, based on the following:

"(I) The effectiveness of the proposal in—

"(aa) expanding the base of knowledge about programs aimed at moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment.

"(bb) moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment; and

"(cc) moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment, even in labor markets that have a shortage of low-skill jobs.

"(II) At the discretion of the Secretary of Labor, any of the following:

"(aa) The history of success of the applicant in moving individuals with multiple barriers into work.

"(bb) Evidence of the applicant's ability to leverage private, State, and local resources.

"(cc) Use by the applicant of State and local resources beyond those required by subparagraph (A).

"(dd) Plans of the applicant to coordinate with other organizations at the local and State level.

"(ee) Use by the applicant of current or former recipients of assistance under a State program funded under this part as mentors, case managers, or service providers.

"(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a private industry council for a service delivery area in a State, a political subdivision of a State, or a private entity applying in conjunction with the private industry council for such a service delivery area or with such a political subdivision, that submits a proposal developed in consultation with the Governor of the State.

"(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a project proposed by an applicant, the Secretary of Labor shall provide the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary of Labor deems appropriate, in the area to be served by the project.

"(iv) CONSIDERATION OF NEEDS OF RURAL AREAS AND CITIES WITH LARGE CONCENTRATIONS OF POVERTY.—In making grants under this subparagraph, the Secretary of Labor shall consider the needs of rural areas and cities with large concentrations of residents with an income that is less than the poverty line.

"(v) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (I), there shall be available to the

Secretary of Labor an amount equal to the sum of—

“(I) 25 percent of the sum of—

“(aa) the amount specified in subparagraph (I) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), (G), and (H) for the fiscal year; and

“(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

“(II) any amount available for grants under this subparagraph for the immediately preceding fiscal year that has not been obligated.

“(C) LIMITATIONS ON USE OF FUNDS.—

“(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph shall use the funds to move individuals into and keep individuals in lasting unsubsidized employment by means of any of the following:

“(I) The conduct and administration of community service or work experience programs.

“(II) Job creation through public or private sector employment wage subsidies.

“(III) On-the-job training.

“(IV) Contracts with public or private providers of readiness, placement, and post-employment services.

“(V) Job vouchers for placement, readiness, and postemployment services.

“(VI) Job retention or support services if such services are not otherwise available.

Contracts or vouchers for job placement services supported by such funds must require that at least ½ of the payment occur after an eligible individual placed into the workforce has been in the workforce for 6 months.

“(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 70 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located, or for the benefit of noncustodial parents of minors whose custodial parent is such a recipient, who meet the requirements of each of the following subclauses:

“(I) At least 2 of the following apply to the recipient:

“(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading or mathematics.

“(bb) The individual requires substance abuse treatment for employment.

“(cc) The individual has a poor work history.

“(II) The individual—

“(aa) has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive); or

“(bb) within 12 months, will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

“(iii) TARGETING OF INDIVIDUALS WITH CHARACTERISTICS ASSOCIATED WITH LONG-TERM WELFARE DEPENDENCE.—An entity that operates a project with funds provided under this paragraph may expend not more than 30 percent of all funds provided to the project for programs that provide assistance in a form described in clause (i)—

“(I) to recipients of assistance under the program funded under this part of the State in which the entity is located who have characteristics associated with long-term welfare dependence (such as school dropout, teen pregnancy, or poor work history), including, at the option of the State, by providing assistance in such form as a condition of receiving assistance under the State program funded under this part; or

“(II) to individuals—

“(aa) who are noncustodial parents of minors whose custodial parent is such a recipient; and

“(bb) who have such characteristics.

To the extent that the entity does not expend such funds in accordance with the preceding sentence, the entity shall expend such funds in accordance with clause (ii).

“(iv) AUTHORITY TO PROVIDE WORK-RELATED SERVICES TO INDIVIDUALS WHO HAVE REACHED THE 5 YEAR LIMIT.—An entity that operates a project with funds provided under this paragraph may use the funds to provide assistance in a form described in clause (i) of this subparagraph to, or for the benefit of, individuals who (but for section 408(a)(7)) would be eligible for assistance under the program funded under this part of the State in which the entity is located.

“(v) RELATIONSHIP TO OTHER PROVISIONS OF THIS PART.—

“(I) RULES GOVERNING USE OF FUNDS.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

“(II) RULES GOVERNING PAYMENTS TO STATES.—The Secretary of Labor shall carry out the functions otherwise assigned by section 405 to the Secretary of Health and Human Services with respect to the grants payable under this paragraph.

“(III) ADMINISTRATION.—Section 416 shall not apply to the programs under this paragraph.

“(vi) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds, nor any part of State expenditures made to match the funds, to fulfill any obligation of any State, political subdivision, or private industry council to contribute funds under section 403(b) or 418 or any other provision of this Act or other Federal law.

“(vii) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary of Labor any part of the funds that are not expended within 3 years after the date the funds are so provided.

“(viii) REGULATIONS.—Within 90 days after the date of the enactment of this paragraph, the Secretary of Labor, after consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall prescribe such regulations as may be necessary to implement this paragraph.

“(D) DEFINITIONS.—

“(i) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined for a fiscal year—

“(I) based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for States and counties (or, in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa, other poverty data selected by the Secretary of Labor); and

“(II) using data for the most recent year for which such data is available before the beginning of the fiscal year.

“(ii) PRIVATE INDUSTRY COUNCIL.—As used in this paragraph, the term ‘private industry council’ means, with respect to a service delivery area, the private industry council (or successor entity) established for the service delivery area pursuant to the Job Training Partnership Act.

“(iii) SERVICE DELIVERY AREA.—As used in this paragraph, the term ‘service delivery area’ shall have the meaning given such term (or the successor to such term) for purposes of the Job Training Partnership Act.

“(E) SET-ASIDE FOR SUCCESSFUL PERFORMANCE BONUS.—

“(i) IN GENERAL.—The Secretary of Labor shall make a grant in accordance with this subparagraph to each successful performance State in fiscal year 2000.

“(ii) AMOUNT OF GRANT.—The Secretary of Labor shall determine the amount of the grant payable under this subparagraph to a successful performance State, which shall be based on the score assigned to the State under clause (iv)(I)(aa) for such prior period as the Secretary of Labor deems appropriate.

“(iii) FORMULA FOR MEASURING STATE PERFORMANCE.—Not later than 1 year after the date of the enactment of this paragraph, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, the National Governors' Association, and the American Public Welfare Association, shall develop a formula for measuring—

“(I) the success of States in placing individuals in private sector employment or in any kind of employment, through programs operated with funds provided under subparagraph (A);

“(II) the duration of such placements;

“(III) any increase in the earnings of such individuals; and

“(IV) such other factors as the Secretary of Labor deems appropriate concerning the activities of the States with respect to such individuals.

The formula may take into account general economic conditions on a State-by-State basis.

“(iv) SCORING OF STATE PERFORMANCE; SETTING OF PERFORMANCE THRESHOLDS.—

“(I) IN GENERAL.—The Secretary of Labor shall—

“(aa) use the formula developed under clause (iii) to assign a score to each State that was a welfare-to-work State for fiscal years 1998 and 1999; and

“(bb) prescribe a performance threshold in such a manner so as to ensure that the total amount of grants to be made under this paragraph equals $100,000,000.

“(II) AVAILABILITY OF WELFARE-TO-WORK DATA SUBMITTED TO THE SECRETARY OF HHS.—The Secretary of Health and Human Services shall provide the Secretary of Labor with the data reported by States under this part with respect to programs operated with funds provided under subparagraph (A).

“(v) SUCCESSFUL PERFORMANCE STATE DEFINED.—As used in this subparagraph, the term ‘successful performance State’ means a State whose score assigned pursuant to clause (iv)(I)(aa) equals or exceeds the performance threshold prescribed under clause (iv)(I)(bb).

“(vi) SET-ASIDE.—$100,000,000 of the amount specified in subparagraph (I) for fiscal year 1999 shall be reserved for grants under this subparagraph.

“(F) FUNDING FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (I) for fiscal year 1998 and of the amount so specified for fiscal year 1999 shall be reserved for grants to Indian tribes under section 412(a)(3).

“(G) FUNDING FOR EVALUATIONS OF WELFARE-TO-WORK PROGRAMS.—0.6 percent of the amount specified in subparagraph (I) for fiscal year 1998 and of the amount so specified for fiscal year 1999 shall be reserved for use by the Secretary to carry out section 413(j).

“(H) FUNDING FOR EVALUATION OF ABSTINENCE EDUCATION PROGRAMS.—

“(i) IN GENERAL.—0.2 percent of the amount specified in subparagraph (I) for fiscal year 1998 and of the amount so specified for fiscal year 1999 shall be reserved for use by the Secretary to evaluate programs under section 510, directly or through grants, contracts, or interagency agreements.

“(ii) AUTHORITY TO USE FUNDS FOR EVALUATIONS OF WELFARE-TO-WORK PROGRAMS.—Any

such amount not required for such evaluations shall be available for use by the Secretary to carry out section 413(j).

"(iii) DEADLINE FOR OUTLAYS.—Outlays from funds used pursuant to clause (i) for evaluation of programs under section 510 shall not be made after fiscal year 2001.

"(I) APPROPRIATIONS.—

"(i) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $1,500,000,000 for each of fiscal years 1998 and 1999 for grants under this paragraph.

"(ii) AVAILABILITY.—The amounts made available pursuant to clause (i) shall remain available for such period as is necessary to make the grants provided for in this paragraph.

"(J) WORKER PROTECTIONS.—

"(i) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(I) GENERAL PROHIBITION.—Subject to this clause, an adult in a family receiving assistance attributable to funds provided under this paragraph may fill a vacant employment position in order to engage in a work activity.

"(II) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity engaged in under a program operated with funds provided under this paragraph shall not violate an existing contract for services or a collective bargaining agreement, and such a work activity that would violate a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization and employer concerned.

"(III) OTHER PROHIBITIONS.—An adult participant in a work activity engaged in under a program operated with funds provided under this paragraph shall not be employed or assigned—

"(aa) when any other individual is on layoff from the same or any substantially equivalent job;

"(bb) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the participant; or

"(cc) if the employer has caused an involuntary reduction to less than full time in hours of any employee in the same or a substantially equivalent job.

"(ii) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of other participants engaged in a work activity under a program operated with funds provided under this paragraph.

"(iii) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against by reason of gender with respect to participation in work activities engaged in under a program operated with funds provided under this paragraph.

"(iv) GRIEVANCE PROCEDURE.—

"(I) IN GENERAL.—Each State to which a grant is made under this paragraph shall establish and maintain a procedure for grievances or complaints from employees alleging violations of clause (i) and participants in work activities alleging violations of clause (i), (ii), or (iii).

"(II) HEARING.—The procedure shall include an opportunity for a hearing.

"(III) REMEDIES.—The procedure shall include remedies for violation of clause (i), (ii), or (iii), which may continue during the pendency of the procedure, and which may include—

"(aa) suspension or termination of payments from funds provided under this paragraph;

"(bb) prohibition of placement of a participant with an employer that has violated clause (i), (ii), or (iii);

"(cc) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

"(dd) where appropriate, other equitable relief.

"(IV) APPEALS.—

"(aa) FILING.—Not later than 30 days after a grievant or complainant receives an adverse decision under the procedure established pursuant to subclause (I), the grievant or complainant may appeal the decision to a State agency designated by the State which shall be independent of the State or local agency that is administering the programs operated with funds provided under this paragraph and the State agency administering, or supervising the administration of, the State program funded under this part.

"(bb) FINAL DETERMINATION.—Not later than 120 days after the State agency designated under item (aa) receives a grievance or complaint made under the procedure established by a State pursuant to subclause (I), the State agency shall make a final determination on the appeal.

"(v) RULE OF INTERPRETATION.—This subparagraph shall not be construed to affect the authority of a State to provide or require workers' compensation.

"(vi) NONPREEMPTION OF STATE LAW.—The provisions of this subparagraph shall not be construed to preempt any provision of State law that affords greater protections to employees or to other participants engaged in work activities under a program funded under this part than is afforded by such provisions of this subparagraph.".

(2) CONFORMING AMENDMENT.—Section 409(a)(7)(B)(iv) of such Act (42 U.S.C. 609(a)(7)(B)(iv)) is amended to read as follows:

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditure from amounts made available by the Federal Government;

"(II) any State funds expended for the medicaid program under title XIX;

"(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

"(IV) any State funds which are expended as a condition of receiving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).".

(b) GRANTS TO OUTLYING AREAS.—Section 1108(a)(2) (42 U.S.C. 1308(a)(2)), as amended by section 5512(a) of this Act, is amended by inserting "403(a)(5)," after "403(a)(4),".

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) (42 U.S.C. 612(a)) is amended by adding at the end the following:

"(3) WELFARE-TO-WORK GRANTS.—

"(A) IN GENERAL.—The Secretary of Labor shall award a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(I) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary of Labor deems appropriate, subject to subparagraph (B) of this paragraph.

"(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

"(i) The Indian tribe has submitted to the Secretary of Labor a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year. If the Indian tribe has a tribal family assistance plan, the plan referred to in the preceding sentence shall be in the form of an addendum to the tribal family assistance plan.

"(ii) The Indian tribe is operating a program under a tribal family assistance plan approved by the Secretary of Health and Human Services, a program described in paragraph (2)(C), or an employment program funded through other sources under which substantial services are provided to recipients of assistance under a program funded under this part.

"(iii) The Indian tribe has provided the Secretary of Labor with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv) (other than subclause (III) thereof)) pursuant to this paragraph.

"(iv) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance and funding of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(C) LIMITATIONS ON USE OF FUNDS.—

"(i) IN GENERAL.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).

"(ii) WAIVER AUTHORITY.—The Secretary of Labor may waive or modify the application of a provision of section 403(a)(5)(C) (other than clause (vii) thereof) with respect to an Indian tribe to the extent necessary to enable the Indian tribe to operate a more efficient or effective program with the funds provided under this paragraph.

"(iii) REGULATIONS.—Within 90 days after the date of the enactment of this paragraph, the Secretary of Labor, after consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall prescribe such regulations as may be necessary to implement this paragraph.".

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSISTANCE.—Section 408(a)(7) (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

"(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and noncash assistance from funds provided under section 403(a)(5) shall not be considered assistance.".

(e) DATA COLLECTION AND REPORTING.—Section 411(a) (42 U.S.C. 611(a)(1)(A)), as amended by section 5507 of this Act, is amended—

(1) in paragraph (1)(A), by adding at the end the following:

"(xviii) With respect to families participating in a program operated with funds provided under section 403(a)(5)—

"(I) any activity described in section 403(a)(5)(C)(i) engaged in by a family member;

"(II) the total amount expended during the month on the family member for each such activity;

"(III) if the family member is engaged in subsidized employment or on-the-job training under the program, the wage paid to the family member and the amount of any wage subsidy provided to the family member from Federal or State funds; and

"(IV) if the participation of a family member in the program was ended during a month due to the family member obtaining employment, the wage of the family member in the employment and whether the participation was ended due to the family member obtaining unsubsidized employment, obtaining subsidized employment, receiving an increased wage, engaging in a work

training activity funded under a program funded other than under section 403(a)(5), or for other reasons.";

(2) in paragraph (2), by inserting ", with a separate statement of the percentage of such funds that are used to cover administrative costs or overhead incurred for programs operated with funds provided under section 403(a)(5)" before the period;

(3) in paragraph (3), by inserting ", with a separate statement of the total amount expended by the State during the quarter on programs operated with funds provided under section 403(a)(5)" before the period;

(4) in paragraph (4), by inserting ", with a separate statement of the number of such parents who participated in programs operated with funds provided under section 403(a)(5)" before the period;

(5) in paragraph (6)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following:

"(C) with respect to families and individuals participating in a program operated with funds provided under section 403(a)(5)—

"(i) the total number of such families and individuals; and

"(ii) the number of such families and individuals whose participation in such a program was terminated during a month." and

(6) in paragraph (7), by inserting ", and shall consult with the Secretary of Labor in defining the data elements with respect to programs operated with funds provided under section 403(a)(5)" before the period.

(f) EVALUATIONS.—Section 413 (42 U.S.C. 613) is amended by adding at the end the following:

"(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—

"(1) EVALUATION.—The Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development—

"(A) shall develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used;

"(B) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations; and

"(C) is urged to include the following outcome measures in the plan developed under subparagraph (A):

"(i) Placements in unsubsidized employment, and placements in unsubsidized employment that last for at least 6 months.

"(ii) Placements in the private and public sectors.

"(iii) Earnings of individuals who obtain employment.

"(iv) Average expenditures per placement.

"(2) REPORTS TO THE CONGRESS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall submit to the Congress reports on the projects funded under section 403(a)(5) and 412(a)(3) and on the evaluations of the projects.

"(B) INTERIM REPORT.—Not later than January 1, 1999, the Secretary shall submit an interim report on the matter described in subparagraph (A).

"(C) FINAL REPORT.—Not later than January 1, 2001, (or at a later date, if the Secretary informs the Committees of the Congress with jurisdiction over the subject matter of the report) the Secretary shall submit a final report on the matter described in subparagraph (A).".

(g) PENALTIES.—

(1) PENALTY FOR FAILURE OF STATE TO MAINTAIN HISTORIC EFFORT DURING YEAR IN WHICH WELFARE-TO-WORK GRANT IS RECEIVED.—

(A) IN GENERAL.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(13) PENALTY FOR FAILURE OF STATE TO MAINTAIN HISTORIC EFFORT DURING YEAR IN WHICH WELFARE-TO-WORK GRANT IS RECEIVED.—If a grant is made to a State under section 403(a)(5)(A) for a fiscal year and paragraph (7) of this subsection requires the grant payable to the State under section 403(a)(1) to be reduced for the immediately succeeding fiscal year, then the Secretary shall reduce the grant payable to the State under section 403(a)(1) for such succeeding fiscal year by the amount of the grant made to the State under section 403(a)(5)(A) for the fiscal year.".

(B) INAPPLICABILITY OF GOOD CAUSE EXCEPTION.—Section 409(b)(2) of such Act (42 U.S.C. 609(b)(2)), as amended by section 5506(k) of this Act, is amended by striking "or (12)" and inserting "(12), or (13)".

(C) INAPPLICABILITY OF CORRECTIVE COMPLIANCE PLAN.—Section 409(c)(4) of such Act (42 U.S.C. 609(c)(4)), as amended by section 5506(m) of this Act, is amended by striking "or (12)" and inserting "(12), or (13)".

(2) PENALTY FOR MISUSE OF COMPETITIVE WELFARE-TO-WORK FUNDS.—Section 409(a)(1) of such Act (42 U.S.C. 609(a)(1)) is amended by adding at the end the following:

"(C) PENALTY FOR MISUSE OF COMPETITIVE WELFARE-TO-WORK FUNDS.—If the Secretary of Labor finds that an amount paid to an entity under section 403(a)(5)(B) has been used in violation of subparagraph (B) or (C) of section 403(a)(5), the entity shall remit to the Secretary of Labor an amount equal to the amount so used.".

(h) CLARIFICATION THAT SANCTIONS AGAINST RECIPIENTS UNDER TANF PROGRAM ARE NOT WAGE REDUCTIONS.—

(1) IN GENERAL.—Section 408 (42 U.S.C. 608) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following:

"(c) SANCTIONS AGAINST RECIPIENTS NOT CONSIDERED WAGE REDUCTIONS.—A penalty imposed by a State against the family of an individual by reason of the failure of the individual to comply with a requirement under the State program funded under this part shall not be construed to be a reduction in any wage paid to the individual.".

(2) RETROACTIVITY.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(i) GAO STUDY OF EFFECT OF FAMILY VIOLENCE ON NEED FOR PUBLIC ASSISTANCE.—

(1) STUDY.—The Comptroller General shall conduct a study of the effect of family violence on the use of public assistance programs, and in particular the extent to which family violence prolongs or increases the need for public assistance.

(2) REPORT.—Within 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Ways and Means and Education and the Workforce of the House of Representatives and the Committee on Finance of the Senate a report that contains the findings of the study required by paragraph (1).

SEC. 5002. LIMITATION ON AMOUNT OF FEDERAL FUNDS TRANSFERABLE TO TITLE XX PROGRAMS.

(a) IN GENERAL.—Section 404(d) (42 U.S.C. 604(d)) is amended—

(1) in paragraph (1), by striking "A State may" and inserting "Subject to paragraph (2), a State may"; and

(2) by amending paragraph (2) to read as follows:

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.".

(b) RETROACTIVITY.—The amendments made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5003. LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 407(c)(2)(D) (42 U.S.C. 607(c)(2)(D)) is amended to read as follows:

"(D) LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 30 percent of the number of individuals in all families and in 2-parent families, respectively, in a State who are treated as engaged in work for a month may consist of individuals who are determined to be engaged in work for the month by reason of participation in vocational educational training, or (if the month is in fiscal year 2000 or thereafter) deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5004. PENALTY FOR FAILURE OF STATE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.

(a) IN GENERAL.—Section 409(a) (42 U.S.C. 609(a)), as amended by section 5001(f)(1)(A) of this Act, is amended by adding at the end the following:

"(14) PENALTY FOR FAILURE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle B—Supplemental Security Income

SEC. 5101. EXTENSION OF DEADLINE TO PERFORM CHILDHOOD DISABILITY REDETERMINATIONS.

Section 211(d)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2190) is amended—

(1) in subparagraph (A)—

(A) in the 1st sentence, by striking "1 year" and inserting "18 months"; and

(B) by inserting after the 1st sentence the following: "Any redetermination required by the preceding sentence that is not performed before

the end of the period described in the preceding sentence shall be performed as soon as is practicable thereafter."; and

(2) in subparagraph (C), by adding at the end the following: "Before commencing a redetermination under the 2nd sentence of subparagraph (A), in any case in which the individual involved has not already been notified of the provisions of this paragraph, the Commissioner of Social Security shall notify the individual involved of the provisions of this paragraph.".

SEC. 5102. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) FEE SCHEDULE.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 1616(d)(2)(B) (42 U.S.C. 1382e(d)(2)(B)) is amended—

(i) by striking "and" at the end of clause (iii); and

(ii) by striking clause (iv) and inserting the following:

"(iv) for fiscal year 1997, $5.00;

"(v) for fiscal year 1998, $6.20;

"(vi) for fiscal year 1999, $7.60;

"(vii) for fiscal year 2000, $7.80;

"(viii) for fiscal year 2001, $8.10;

"(ix) for fiscal year 2002, $8.50; and

"(x) for fiscal year 2003 and each succeeding fiscal year—

"(I) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(II) such different rate as the Commissioner determines is appropriate for the State.".

(B) CONFORMING AMENDMENT.—Section 1616(d)(2)(C) of such Act (42 U.S.C. 1382e(d)(2)(C)) is amended by striking "(B)(iv)" and inserting "(B)(x)(II)".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 212(b)(3)(B)(ii) of Public Law 93–66 (42 U.S.C. 1382 note) is amended—

(i) by striking "and" at the end of subclause (III); and

(ii) by striking subclause (IV) and inserting the following:

"(IV) for fiscal year 1997, $5.00;

"(V) for fiscal year 1998, $6.20;

"(VI) for fiscal year 1999, $7.60;

"(VII) for fiscal year 2000, $7.80;

"(VIII) for fiscal year 2001, $8.10;

"(IX) for fiscal year 2002, $8.50; and

"(X) for fiscal year 2003 and each succeeding fiscal year—

"(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(bb) such different rate as the Commissioner determines is appropriate for the State.".

(B) CONFORMING AMENDMENT.—Section 212(b)(3)(B)(iii) of such Act (42 U.S.C. 1382 note) is amended by striking "(ii)(IV)" and inserting "(ii)(X)(bb)".

(b) USE OF NEW FEES TO DEFRAY THE SOCIAL SECURITY ADMINISTRATION'S ADMINISTRATIVE EXPENSES.—

(1) CREDIT TO SPECIAL FUND FOR FISCAL YEAR 1998 AND SUBSEQUENT YEARS.—

(A) OPTIONAL STATE SUPPLEMENTARY PAYMENT FEES.—Section 1616(d)(4) (42 U.S.C. 1382e(d)(4)) is amended to read as follows:

"(4)(A) The first $5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(B) That portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws. The amounts so credited shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the amounts so credited shall be credited as a discretionary offset to discretionary spending to the extent that the amounts so credited are made available for expenditure in appropriations Acts.".

(B) MANDATORY STATE SUPPLEMENTARY PAYMENT FEES.—Section 212(b)(3)(D) of Public Law 93–66 (42 U.S.C. 1382 note) is amended to read as follows:

"(D)(i) The first $5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(ii) The portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act and related laws. The amounts so credited shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the amounts so credited shall be credited as a discretionary offset to discretionary spending to the extent that the amounts so credited are made available for expenditure in appropriations Acts.".

(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act and section 212(b)(3)(D)(ii) of Public Law 93–66 to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed $35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter.

Subtitle C—Child Support Enforcement

SEC. 5201. CLARIFICATION OF AUTHORITY TO PERMIT CERTAIN REDISCLOSURES OF WAGE AND CLAIM INFORMATION.

Section 303(h)(1)(C) (42 U.S.C. 503(h)(1)(C)) is amended by striking "section 453(i)(1) in carrying out the child support enforcement program under title IV" and inserting "subsections (i)(1), (i)(3), and (j) of section 453".

Subtitle D—Restricting Welfare and Public Benefits for Aliens

SEC. 5301. SSI ELIGIBILITY FOR ALIENS RECEIVING SSI ON AUGUST 22, 1996 AND DISABLED ALIENS LAWFULLY RESIDING IN THE UNITED STATES ON AUGUST 22, 1996.

(a) SSI ELIGIBILITY FOR ALIENS RECEIVING SSI ON AUGUST 22, 1996.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) ALIENS RECEIVING SSI ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who is lawfully residing in the United States and who was receiving such benefits on August 22, 1996.".

(b) SSI ELIGIBILITY FOR DISABLED ALIENS LAWFULLY RESIDING IN THE UNITED STATES ON AUGUST 22, 1996.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(F) DISABLED ALIENS LAWFULLY RESIDING IN THE UNITED STATES ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who—

"(i) was lawfully residing in the United States on August 22, 1996; and

"(ii) is blind or disabled, as defined in section 1614(a)(2) or 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)).".

(c) EXTENSION OF GRANDFATHER PROVISION RELATING TO SSI ELIGIBILITY.—Section 402(a)(2)(D)(i) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(D)(i)) is amended—

(1) in subclause (I), by striking "September 30, 1997," and inserting "September 30, 1998,"; and

(2) in subclause (III), by striking "September 30, 1997," and inserting "September 30, 1998".

SEC. 5302. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS FOR SSI AND MEDICAID; STATUS OF CUBAN AND HAITIAN ENTRANTS.

(a) SSI.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) SSI.—With respect to the specified Federal program described in paragraph (3)(A), paragraph (1) shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act;

"(III) an alien's deportation is withheld under section 243(h) of such Act; or

"(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

"(ii) FOOD STAMPS.—With respect to the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act;

"(III) an alien's deportation is withheld under section 243(h) of such Act; or

"(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).".

(b) MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) is amended to read as follows:

"(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

"(i) MEDICAID.—With respect to the designated Federal program described in paragraph (3)(C), paragraph (1) shall not apply to an alien until 7 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act;

"(III) an alien's deportation is withheld under section 243(h) of such Act; or

"(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

"(ii) OTHER DESIGNATED FEDERAL PROGRAMS.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph (1) shall not apply to an alien until 5 years after the date—

"(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(II) an alien is granted asylum under section 208 of such Act;

"(III) an alien's deportation is withheld under section 243(h) of such Act; or

"(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).".

(c) STATUS OF CUBAN AND HAITIAN ENTRANTS.—

(1) FEDERAL MEANS-TESTED PUBLIC BENEFITS.—

(A) Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following new subparagraph:

"(D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.".

(B) Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) is amended by striking subsection (d).

(2) STATE PUBLIC BENEFITS.—Section 412(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)) is amended by adding at the end the following new subparagraph:

"(D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980 until 5 years after the alien is granted such status.".

(3) QUALIFIED ALIEN DEFINED.—Section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)) is amended—

(A) in paragraph (5) by striking "or";

(B) in paragraph (6) by striking the period and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).".

SEC. 5303. EXCEPTIONS FOR CERTAIN INDIANS FROM LIMITATION ON ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME AND MEDICAID BENEFITS.

(a) EXCEPTION FROM LIMITATION ON SSI ELIGIBILITY.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(G) SSI EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), section 401(a) and paragraph (1) shall not apply to any individual—

"(i) who is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (8 U.S.C. 1359) apply; or

"(ii) who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).".

(b) EXCEPTION FROM LIMITATION ON MEDICAID ELIGIBILITY.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by inserting at the end the following:

"(E) MEDICAID EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(C) (relating to the medicaid program), section 401(a) and paragraph (1) shall not apply to any individual described in subsection (a)(2)(G).".

(c) SSI AND MEDICAID EXCEPTIONS FROM LIMITATION ON ELIGIBILITY OF NEW ENTRANTS.—Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) is amended by adding after subsection (c) the following new subsection:

"(d) SSI AND MEDICAID BENEFITS FOR CERTAIN INDIANS.—Notwithstanding any other provision of law, the limitations under section 401(a) and subsection (a) shall not apply to an individual described in section 402(a)(2)(G), but only with respect to the programs specified in subsections (a)(3)(A) and (b)(3)(C) of section 402.".

SEC. 5304. EXEMPTION FROM RESTRICTION ON SUPPLEMENTAL SECURITY INCOME PROGRAM PARTICIPATION BY CERTAIN RECIPIENTS ELIGIBLE ON THE BASIS OF VERY OLD APPLICATIONS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(H) SSI EXCEPTION FOR CERTAIN RECIPIENTS ON THE BASIS OF VERY OLD APPLICATIONS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

"(i) who is receiving benefits under such program for months after July 1996 on the basis of an application filed before January 1, 1979; and

"(ii) with respect to whom the Commissioner of Social Security lacks clear and convincing evidence that such individual is an alien ineligible for such benefits as a result of the application of this section.".

SEC. 5305. REINSTATEMENT OF ELIGIBILITY FOR BENEFITS.

(a) FOOD STAMPS.—The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after section 435 the following new section:

"SEC. 436. DERIVATIVE ELIGIBILITY FOR BENEFITS.

"Notwithstanding any other provision of law, an alien who under the provisions of this title is ineligible for benefits under the food stamp program (as defined in section 402(a)(3)(B)) shall not be eligible for such benefits because the alien receives benefits under the supplemental security income program (as defined in section 402(a)(3)(A)).".

(b) MEDICAID.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the end the following:

"(F) MEDICAID EXCEPTION FOR ALIENS RECEIVING SSI.—An alien who is receiving benefits under the program defined in subsection (a)(3)(A) (relating to the supplemental security income program) shall be eligible for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) under the same terms and conditions that apply to other recipients of benefits under the program defined in such subsection.".

(c) CLERICAL AMENDMENT.—The table of sections as contained in section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item relating to section 435 the following:

"Sec. 436. Derivative eligibility for benefits.".

SEC. 5306. TREATMENT OF CERTAIN AMERASIAN IMMIGRANTS AS REFUGEES.

(a) FOR PURPOSES OF SSI AND FOOD STAMPS.—Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) as amended by section 5302 is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (III);

(B) by striking the period at the end of subclause (IV) and inserting "; or"; and

(C) by adding at the end the following:

"(V) an alien is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100–202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100–461, as amended)."; and

(2) in clause (ii)—

(A) by striking "or" at the end of subclause (III);

(B) by striking the period at the end of subclause (IV) and inserting "; or"; and

(C) by adding at the end the following:

"(V) an alien is admitted to the United States as an Amerasian immigrant as described in clause (i)(V).".

(b) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.—Section 402(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(A)) as amended by section 5302 is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (III);

(B) by striking the period at the end of subclause (IV) and inserting "; or"; and

(C) by adding at the end the following:

"(V) an alien admitted to the United States as an Amerasian immigrant as described in subsection (a)(2)(A)(i)(V) until 5 years after the date of such alien's entry into the United States."; and

(2) in clause (ii)—

(A) by striking "or" at the end of subclause (III);

(B) by striking the period at the end of subclause (IV) and inserting "; or"; and

(C) by adding at the end the following:

"(V) an alien admitted to the United States as an Amerasian immigrant as described in subsection (a)(2)(A)(i)(V) until 5 years after the date of such alien's entry into the United States.".

(c) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.—Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following:

"(E) An alien admitted to the United States as an Amerasian immigrant as described in section 402(a)(2)(A)(i)(V).".

(d) FOR PURPOSES OF CERTAIN STATE PROGRAMS.—Section 412(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)) is amended by adding at the end the following new subparagraph:

"(E) An alien admitted to the United States as an Amerasian immigrant as described in section 402(a)(2)(A)(i)(V).".

SEC. 5307. VERIFICATION OF ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) IN GENERAL.—The Personal Responsibility and Work Opportunity Reconciliation Act of

1996 is amended by adding after section 412 the following new section:

"SEC. 413. AUTHORIZATION FOR VERIFICATION OF ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS.

"A State or political subdivision of a State is authorized to require an applicant for State and local public benefits (as defined in section 411(c)) to provide proof of eligibility.".

(b) CLERICAL AMENDMENT.—The table of sections as contained in section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by adding after the item relating to section 412 the following:

"Sec. 413. Authorization for verification of eligibility for state and local public benefits.".

SEC. 5308. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle E—Unemployment Compensation

SEC. 5401. CLARIFYING PROVISION RELATING TO BASE PERIODS.

(a) IN GENERAL.—No provision of a State law under which the base period for such State is defined or otherwise determined shall, for purposes of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), be considered a provision for a method of administration.

(b) DEFINITIONS.—For purposes of this section, the terms "State law", "base period", and "State" shall have the meanings given them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(c) EFFECTIVE DATE.—This section shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act.

SEC. 5402. INCREASE IN FEDERAL UNEMPLOYMENT ACCOUNT CEILING.

(a) IN GENERAL.—Section 902(a)(2) (42 U.S.C. 1102(a)(2)) is amended by striking "0.25 percent" and inserting "0.5 percent".

(b) EFFECTIVE DATE.—This section and the amendment made by this section—

(1) shall take effect on October 1, 2001, and

(2) shall apply to fiscal years beginning on or after that date.

SEC. 5403. SPECIAL DISTRIBUTION TO STATES FROM UNEMPLOYMENT TRUST FUND.

(a) IN GENERAL.—Subsection (a) of section 903 (42 U.S.C. 1103(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this section, for purposes of carrying out this subsection with respect to any excess amount (referred to in paragraph (1)) remaining in the employment security administration account as of the close of fiscal year 1999, 2000, or 2001, such amount shall—

"(i) to the extent of any amounts not in excess of $100,000,000, be subject to subparagraph (B), and

"(ii) to the extent of any amounts in excess of $100,000,000, be subject to subparagraph (C).

"(B) Paragraphs (1) and (2) shall apply with respect to any amounts described in subparagraph (A)(i), except that—

"(i) in carrying out the provisions of paragraph (2)(B) with respect to such amounts (to determine the portion of such amounts which is to be allocated to a State for a succeeding fiscal year), the ratio to be applied under such provisions shall be the same as the ratio that—

"(I) the amount of funds to be allocated to such State for such fiscal year pursuant to the base allocation formula under title III, bears to

"(II) the total amount of funds to be allocated to all States for such fiscal year pursuant to the base allocation formula under title III, as determined by the Secretary of Labor, and

"(ii) the amounts allocated to a State pursuant to this subparagraph shall be available to such State, subject to the last sentence of subsection (c)(2).

Nothing in this paragraph shall preclude the application of subsection (b) with respect to any allocation determined under this subparagraph.

"(C) Any amounts described in clause (ii) of subparagraph (A) (remaining in the employment security administration account as of the close of any fiscal year specified in such subparagraph) shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard to the limit provided in section 902(a)."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 903(c) of the Social Security Act is amended by adding at the end, as a flush left sentence, the following:

"Any amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph."

SEC. 5404. INTEREST-FREE ADVANCES TO STATE ACCOUNTS IN UNEMPLOYMENT TRUST FUND RESTRICTED TO STATES WHICH MEET FUNDING GOALS.

(a) IN GENERAL.—Paragraph (2) of section 1202(b) (42 U.S.C. 1322(b)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) such State meets funding goals, established under regulations issued by the Secretary of Labor, relating to the accounts of the States in the Unemployment Trust Fund."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 5405. EXEMPTION OF SERVICE PERFORMED BY ELECTION WORKERS FROM THE FEDERAL UNEMPLOYMENT TAX.

(a) IN GENERAL.—Paragraph (3) of section 3309(b) of the Internal Revenue Code of 1986 (relating to exemption for certain services) is amended—

(1) by striking "or" at the end of subparagraph (D),

(2) by adding "or" at the end of subparagraph (E), and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the date of the enactment of this Act.

SEC. 5406. TREATMENT OF CERTAIN SERVICES PERFORMED BY INMATES.

(a) IN GENERAL.—Subsection (c) of section 3306 of the Internal Revenue Code of 1986 (defining employment) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(21) service performed by a person committed to a penal institution."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after January 1, 1994.

SEC. 5407. EXEMPTION OF SERVICE PERFORMED FOR AN ELEMENTARY OR SECONDARY SCHOOL OPERATED PRIMARILY FOR RELIGIOUS PURPOSES FROM THE FEDERAL UNEMPLOYMENT TAX.

(a) IN GENERAL.—Paragraph (1) of section 3309(b) of the Internal Revenue Code of 1986 (relating to exemption for certain services) is amended—

(1) by striking "or" at the end of subparagraph (A), and

(2) by inserting before the semicolon at the end the following: ", or (C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the date of the enactment of this Act.

SEC. 5408. STATE PROGRAM INTEGRITY ACTIVITIES FOR UNEMPLOYMENT COMPENSATION.

Section 901(c) (42 U.S.C. 1101(c)) is amended by adding at the end the following new paragraph:

"(5)(A) There are authorized to be appropriated out of the employment security administration account to carry out program integrity activities, in addition to any amounts available under paragraph (1)(A)(i)—

"(i) $89,000,000 for fiscal year 1998;

"(ii) $91,000,000 for fiscal year 1999;

"(iii) $93,000,000 fiscal year 2000;

"(iv) $96,000,000 for fiscal year 2001; and

"(v) $98,000,000 for fiscal year 2002.

"(B) In any fiscal year in which a State receives funds appropriated pursuant to this paragraph, the State shall expend a proportion of the funds appropriated pursuant to paragraph (1)(A)(i) to carry out program integrity activities that is not less than the proportion of the funds appropriated under such paragraph that was expended by the State to carry out program integrity activities in fiscal year 1997.

"(C) For purposes of this paragraph, the term 'program integrity activities' means initial claims review activities, eligibility review activities, benefit payments control activities, and employer liability auditing activities.".

Subtitle F—Welfare Reform Technical Corrections

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES

SEC. 5501. ELIGIBLE STATES; STATE PLAN.

(a) LATER DEADLINE FOR SUBMISSION OF STATE PLANS.—Section 402(a) (42 U.S.C. 602(a)) is amended by striking "2-year period immediately preceding" and inserting "27-month period ending with the close of the 1st quarter of".

(b) CLARIFICATION OF SCOPE OF WORK PROVISIONS.—Section 402(a)(1)(A)(ii) (42 U.S.C. 602(a)(1)(A)(ii)) is amended by inserting ", consistent with section 407(e)(2)" before the period.

(c) CORRECTION OF CROSS-REFERENCE.—Section 402(a)(1)(A)(v) (42 U.S.C. 602(a)(1)(A)(v)) is amended by striking "403(a)(2)(B)" and inserting "403(a)(2)(C)(iii)".

(d) NOTIFICATION OF PLAN AMENDMENTS.—Section 402 (42 U.S.C. 602) is amended—

(1) by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

"(b) PLAN AMENDMENTS.—Within 30 days after a State amends a plan submitted pursuant to subsection (a), the State shall notify the Secretary of the amendment."; and

(2) in subsection (c) (as so redesignated), by inserting "or plan amendment" after "plan".

SEC. 5502. GRANTS TO STATES.

(a) Bonus for Decrease in Illegitimacy Modified To Take Account of Certain Territories.—

(1) In general.—Section 403(a)(2)(B) (42 U.S.C. 603(a)(2)(B)) is amended to read as follows:

"(B) Amount of grant.—

"(i) In general.—If, for a bonus year, none of the eligible States is Guam, the Virgin Islands, or American Samoa, then the amount of the grant shall be—

"(I) $20,000,000 if there are 5 eligible States; or

"(II) $25,000,000 if there are fewer than 5 eligible States.

"(ii) Amount if certain territories are eligible.—If, for a bonus year, Guam, the Virgin Islands, or American Samoa is an eligible State, then the amount of the grant shall be—

"(I) in the case of such a territory, 25 percent of the mandatory ceiling amount (as defined in section 1108(c)(4)) with respect to the territory; and

"(II) in the case of a State that is not such a territory—

"(aa) if there are 5 eligible States other than such territories, $20,000,000, minus 1/5 of the total amount of the grants payable under this paragraph to such territories for the bonus year; or

"(bb) if there are fewer than 5 such eligible States, $25,000,000, or such lesser amount as may be necessary to ensure that the total amount of grants payable under this paragraph for the bonus year does not exceed $100,000,000.".

(2) Certain territories to be ignored in ranking other States.—Section 403(a)(2)(C)(i)(I)(aa) (42 U.S.C. 603(a)(2)(C)(i)(I)(aa)) is amended by adding at the end the following: "In the case of a State that is not a territory specified in subparagraph (B), the comparative magnitude of the decrease for the State shall be determined without regard to the magnitude of the corresponding decrease for any such territory.".

(b) Computation of Bonus Based on Ratios of Out-of-Wedlock Births to All Births Instead of Numbers of Out-of-Wedlock Births.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended—

(1) in the paragraph heading, by inserting "ratio" before the period;

(2) in subparagraph (A), by striking all that follows "bonus year" and inserting a period; and

(3) in subparagraph (C)—

(A) in clause (i)—

(i) in subclause (I)(aa)—

(I) by striking "number of out-of-wedlock births that occurred in the State during" and inserting "illegitimacy ratio of the State for"; and

(II) by striking "number of such births that occurred during" and inserting "illegitimacy ratio of the State for"; and

(ii) in subclause (II)(aa)—

(I) by striking "number of out-of-wedlock births that occurred in" each place such term appears and inserting "illegitimacy ratio of"; and

(II) by striking "calculate the number of out-of-wedlock births" and inserting "calculate the illegitimacy ratio"; and

(B) by adding at the end the following:

"(iii) Illegitimacy ratio.—The term 'illegitimacy ratio' means, with respect to a State and a period—

"(I) the number of out-of-wedlock births to mothers residing in the State that occurred during the period; divided by

"(II) the number of births to mothers residing in the State that occurred during the period.".

(c) Use of Calendar Year Data Instead of Fiscal Year Data in Calculating Bonus for Decrease in Illegitimacy Ratio.—Section 403(a)(2)(C) (42 U.S.C. 603(a)(2)(C)) is amended—

(1) in clause (i)—

(A) in subclause (I)(bb)—

(i) by striking "the fiscal year" and inserting "the calendar year for which the most recent data are available"; and

(ii) by striking "fiscal year 1995" and inserting "calendar year 1995";

(B) in subclause (II), by striking "fiscal" each place such term appears and inserting "calendar"; and

(2) in clause (ii), by striking "fiscal years" and inserting "calendar years".

(d) Correction of Heading.—Section 403(a)(3)(C)(ii) (42 U.S.C. 603(a)(3)(C)(ii)) is amended in the heading by striking "1997" and inserting "1998".

(e) Clarification of Contingency Fund Provision.—Section 403(b) (42 U.S.C. 603(b)) is amended—

(1) in paragraph (6), by striking "(5)" and inserting "(4)";

(2) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) Annual reconciliation.—

"(A) In general.—Notwithstanding paragraph (3), if the Secretary makes a payment to a State under this subsection in a fiscal year, then the State shall remit to the Secretary, within 1 year after the end of the first subsequent period of 3 consecutive months for which the State is not a needy State, an amount equal to the amount (if any) by which—

"(i) the total amount paid to the State under paragraph (3) of this subsection in the fiscal year; exceeds

"(ii) the product of—

"(I) the Federal medical assistance percentage for the State (as defined in section 1905(b), as such section was in effect on September 30, 1995);

"(II) the State's reimbursable expenditures for the fiscal year; and

"(III) 1/12 times the number of months during the fiscal year for which the Secretary made a payment to the State under such paragraph (3).

"(B) Definitions.—As used in subparagraph (A):

"(i) Reimbursable expenditures.—The term 'reimbursable expenditures' means, with respect to a State and a fiscal year, the amount (if any) by which—

"(I) countable State expenditures for the fiscal year; exceeds

"(II) historic State expenditures (as defined in section 409(a)(7)(B)(iii)), excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994.

"(ii) Countable State expenditures.—The term 'countable expenditures' means, with respect to a State and a fiscal year—

"(I) the qualified State expenditures (as defined in section 409(a)(7)(B)(i) (other than the expenditures described in subclause (I)(bb) of such section)) under the State program funded under this part for the fiscal year; plus

"(II) any amount paid to the State under paragraph (3) during the fiscal year that is expended by the State under the State program funded under this part.".

(f) Administration of Contingency Fund Transferred to the Secretary of HHS.—Section 403(b)(7) (42 U.S.C. 603(b)(7)) is amended to read as follows:

"(7) State defined.—As used in this subsection, the term 'State' means each of the 50 States and the District of Columbia.".

SEC. 5503. USE OF GRANTS.

Section 404(a)(2) (42 U.S.C. 604(a)(2)) is amended by inserting ", or (at the option of the State) August 21, 1996" before the period.

SEC. 5504. MANDATORY WORK REQUIREMENTS.

(a) Family With a Disabled Parent Not Treated as a 2-Parent Family.—Section 407(b)(2) (42 U.S.C. 607(b)(2)) is amended by adding at the end the following:

"(C) Family with a disabled parent not treated as a 2-parent family.—A family that includes a disabled parent shall not be considered a 2-parent family for purposes of subsections (a) and (b) of this section.".

(b) Correction of Heading.—Section 407(b)(3) (42 U.S.C. 607(b)(3)) is amended in the heading by inserting "and not resulting from changes in State eligibility criteria" before the period.

(c) State Option To Include Individuals Receiving Assistance Under a Tribal Work Program in Participation Rate Calculation.—Section 407(b)(4) (42 U.S.C. 607(b)(4)) is amended—

(1) in the heading, by inserting "or tribal work program" before the period; and

(2) by inserting "or under a tribal work program to which funds are provided under this part" before the period.

(d) Sharing of 35-Hour Work Requirement Between Parents in 2-Parent Families.—Section 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)) is amended—

(1) in clause (i)—

(A) by striking "is" and inserting "and the other parent in the family are"; and

(B) by inserting "a total of" before "at least"; and

(2) in clause (ii)—

(A) by striking "individual's spouse is" and inserting "individual and the other parent in the family are";

(B) by inserting "for a total of at least 55 hours per week" before "during the month";

(C) by striking "20" and inserting "50"; and

(D) by striking "or (7)" and inserting "(6), (7), (8), or (12)".

(e) Clarification of Effort Required in Work Activities.—Section 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)) is amended by striking "making progress" each place such term appears and inserting "participating".

(f) Additional Condition Under Which 12 Weeks of Job Search May Count as Work.—Section 407(c)(2)(A)(i) (42 U.S.C. 607(c)(2)(A)(i)) is amended by inserting "or the State is a needy State (within the meaning of section 403(b)(6))" after "United States".

(g) Caretaker Relative of Child Under Age 6 Deemed To Be Meeting Work Requirements if Engaged in Work for 20 Hours Per Week.—Section 407(c)(2)(B) (42 U.S.C. 607(c)(2)(B)) is amended—

(1) in the heading, by inserting "or relative" after "parent" each place such term appears; and

(2) by striking "in a 1-parent family who is the parent" and inserting "who is the only parent or caretaker relative in the family".

(h) Extension to Married Teens of Rule That Receipt of Sufficient Education Is Enough To Meet Work Participation Requirements.—Section 407(c)(2)(C) (42 U.S.C. 607(c)(2)(C)) is amended—

(1) in the heading, by striking "Teen head of household" and inserting "Single teen head of household or married teen";

(2) by striking "a single" and inserting "married or a"; and

(3) by striking ", subject to subparagraph (D) of this paragraph,".

(i) Clarification of Number of Hours of Participation in Education Directly Related to Employment That Are Required in Order for Single Teen Head of Household or Married Teen To Be Deemed To Be Engaged in Work.—Section 407(c)(2)(C)(ii) (42 U.S.C. 607(c)(2)(C)(ii)) is amended by striking

"at least" and all that follows through "subsection" and inserting "an average of at least 20 hours per week during the month".

(j) CLARIFICATION OF REFUSAL TO WORK FOR PURPOSES OF WORK PENALTIES FOR INDIVIDUALS.—Section 407(e)(2) (42 U.S.C. 607(e)(2)) is amended by striking "work" and inserting "engage in work required in accordance with this section".

SEC. 5505. PROHIBITIONS; REQUIREMENTS.

(a) ELIMINATION OF REDUNDANT LANGUAGE; CLARIFICATION OF HOME RESIDENCE REQUIREMENT.—Section 408(a)(1) (42 U.S.C. 608(a)(1)) is amended to read as follows:

"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family, unless the family includes a minor child who resides with the family (consistent with paragraph (10)) or a pregnant individual.".

(b) CLARIFICATION OF TERMINOLOGY.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended—

(1) by striking "leaves" the 1st, 3rd, and 4th places such term appears and inserting "ceases to receive assistance under"; and

(2) by striking "the date the family leaves the program" the 2nd place such term appears and inserting "such date".

(c) ELIMINATION OF SPACE.—Section 408(a)(5)(A)(ii) (42 U.S.C. 608(a)(5)(A)(ii)) is amended by striking "DESCRIBED.— For" and inserting "DESCRIBED.—For".

(d) CORRECTIONS TO 5-YEAR LIMIT ON ASSISTANCE.—

(1) CLARIFICATION OF LIMITATION ON HARDSHIP EXEMPTION.—Section 408(a)(7)(C)(ii) (42 U.S.C. 608(a)(7)(C)(ii)) is amended—

(A) by striking "The number" and inserting "The average monthly number"; and

(B) by inserting "during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect" before the period.

(2) RESIDENCE EXCEPTION MADE MORE UNIFORM AND EASIER TO ADMINISTER.—Section 408(a)(7)(D) (42 U.S.C. 608(a)(7)(D)) is amended to read as follows:

"(D) DISREGARD OF MONTHS OF ASSISTANCE RECEIVED BY ADULT WHILE LIVING IN INDIAN COUNTRY OR AN ALASKAN NATIVE VILLAGE WITH 50 PERCENT UNEMPLOYMENT.—

"(i) IN GENERAL.—In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

"(ii) INDIAN COUNTRY DEFINED.—As used in clause (i), the term 'Indian country' has the meaning given such term in section 1151 of title 18, United States Code.".

(e) REINSTATEMENT OF DEEMING AND OTHER RULES APPLICABLE TO ALIENS WHO ENTERED THE UNITED STATES UNDER AFFIDAVITS OF SUPPORT FORMERLY USED.—Section 408 (42 U.S.C. 608), as amended by section 5001(h)(1) of this Act, is amended by striking subsection (e) and inserting the following:

"(e) SPECIAL RULES RELATING TO TREATMENT OF CERTAIN ALIENS.—For special rules relating to the treatment of certain aliens, see title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

"(f) SPECIAL RULES RELATING TO THE TREATMENT OF NON-213A ALIENS.—The following rules shall apply if a State elects to take the income or resources of any sponsor of a non-213A alien into account in determining whether the alien is eligible for assistance under the State program funded under this part, or in determining the amount or types of such assistance to be provided to the alien:

"(1) DEEMING OF SPONSOR'S INCOME AND RESOURCES.—For a period of 3 years after a non-213A alien enters the United States:

"(A) INCOME DEEMING RULE.—The income of any sponsor of the alien and of any spouse of the sponsor is deemed to be income of the alien, to the extent that the total amount of the income exceeds the sum of—

"(i) the lesser of—

"(I) 20 percent of the total of any amounts received by the sponsor or any such spouse in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by the sponsor and any such spouse in producing self-employment income in such month; or

"(II) $175;

"(ii) the cash needs standard established by the State for purposes of determining eligibility for assistance under the State program funded under this part for a family of the same size and composition as the sponsor and any other individuals living in the same household as the sponsor who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability but whose needs are not taken into account in determining whether the sponsor's family has met the cash needs standard;

"(iii) any amounts paid by the sponsor or any such spouse to individuals not living in the household who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in the household.

"(B) RESOURCE DEEMING RULE.—The resources of a sponsor of the alien and of any spouse of the sponsor are deemed to be resources of the alien to the extent that the aggregate value of the resources exceeds $1,500.

"(C) SPONSORS OF MULTIPLE NON-213A ALIENS.—If a person is a sponsor of 2 or more non-213A aliens who are living in the same home, the income and resources of the sponsor and any spouse of the sponsor that would be deemed income and resources of any such alien under subparagraph (A) shall be divided into a number of equal shares equal to the number of such aliens, and the State shall deem the income and resources of each such alien to include 1 such share.

"(2) INELIGIBILITY OF NON-213A ALIENS SPONSORED BY AGENCIES; EXCEPTION.—A non-213A alien whose sponsor is or was a public or private agency shall be ineligible for assistance under a State program funded under this part, during a period of 3 years after the alien enters the United States, unless the State agency administering the program determines that the sponsor either no longer exists or has become unable to meet the alien's needs.

"(3) INFORMATION PROVISIONS.—

"(A) DUTIES OF NON-213A ALIENS.—A non-213A alien, as a condition of eligibility for assistance under a State program funded under this part during the period of 3 years after the alien enters the United States, shall be required to provide to the State agency administering the program—

"(i) such information and documentation with respect to the alien's sponsor as may be necessary in order for the State agency to make any determination required under this subsection, and to obtain any cooperation from the sponsor necessary for any such determination; and

"(ii) such information and documentation as the State agency may request and which the alien or the alien's sponsor provided in support of the alien's immigration application.

"(B) DUTIES OF FEDERAL AGENCIES.—The Secretary shall enter into agreements with the Secretary of State and the Attorney General under which any information available to them and required in order to make any determination under this subsection will be provided by them to the Secretary (who may, in turn, make the information available, upon request, to a concerned State agency).

"(4) NON-213A ALIEN DEFINED.—An alien is a non-213A alien for purposes of this subsection if the affidavit of support or similar agreement with respect to the alien that was executed by the sponsor of the alien's entry into the United States was executed other than pursuant to section 213A of the Immigration and Nationality Act.

"(5) INAPPLICABILITY TO ALIEN MINOR SPONSORED BY A PARENT.—This subsection shall not apply to an alien who is a minor child if the sponsor of the alien or any spouse of the sponsor is a parent of the alien.

"(6) INAPPLICABILITY TO CERTAIN CATEGORIES OF ALIENS.—This subsection shall not apply to an alien who is—

"(A) admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(B) paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year; or

"(C) granted political asylum by the Attorney General under section 208 of such Act.".

SEC. 5506. PENALTIES.

(a) STATES GIVEN MORE TIME TO FILE QUARTERLY REPORTS.—Section 409(a)(2)(A) (42 U.S.C. 609(a)(2)(A)) is amended by striking "1 month" and inserting "45 days".

(b) TREATMENT OF SUPPORT PAYMENTS PASSED THROUGH TO FAMILIES AS QUALIFIED STATE EXPENDITURES.—Section 409(a)(7)(B)(i)(I)(aa) (42 U.S.C. 609(a)(7)(B)(i)(I)(aa)) is amended by inserting ", including any amount collected by the State as support pursuant to a plan approved under part D, on behalf of a family receiving assistance under the State program funded under this part, that is distributed to the family under section 457(a)(1)(B) and disregarded in determining the eligibility of the family for, and the amount of, such assistance" before the period.

(c) DISREGARD OF EXPENDITURES MADE TO REPLACE PENALTY GRANT REDUCTIONS.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by redesignating subclause (III) as subclause (IV) and by inserting after subclause (II) the following:

"(III) EXCLUSION OF AMOUNTS EXPENDED TO REPLACE PENALTY GRANT REDUCTIONS.—Such term does not include any amount expended in order to comply with paragraph (12).".

(d) TREATMENT OF FAMILIES OF CERTAIN ALIENS AS ELIGIBLE FAMILIES.—Section 409(a)(7)(B)(i)(IV) (42 U.S.C. 609(a)(7)(B)(i)(IV)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking "and families" and inserting "families"; and

(2) by striking "Act or section 402" and inserting "Act, and families of aliens lawfully present in the United States that would be eligible for such assistance but for the application of title IV".

(e) ELIMINATION OF MEANINGLESS LANGUAGE.—Section 409(a)(7)(B)(ii) (42 U.S.C. 609(a)(7)(B)(ii)) is amended by striking "reduced (if appropriate) in accordance with subparagraph (C)(ii)".

(f) CLARIFICATION OF SOURCE OF DATA TO BE USED IN DETERMINING HISTORIC STATE EXPENDITURES.—Section 409(a)(7)(B) (42 U.S.C. 609(a)(7)(B)) is amended by adding at the end the following:

"(v) SOURCE OF DATA.—In determining expenditures by a State for fiscal years 1994 and

1995, the Secretary shall use information which was reported by the State on ACF Form 231 or (in the case of expenditures under part F) ACF Form 331, available as of the dates specified in clauses (ii) and (iii) of section 403(a)(1)(D).".

(g) CONFORMING TITLE IV–A PENALTIES TO TITLE IV–D PERFORMANCE-BASED STANDARDS.—Section 409(a)(8) (42 U.S.C. 609(a)(8)) is amended to read as follows:

"(8) NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If the Secretary finds, with respect to a State's program under part D, in a fiscal year beginning on or after October 1, 1997—

"(i)(I) on the basis of data submitted by a State pursuant to section 454(15)(B), or on the basis of the results of a review conducted under section 452(a)(4), that the State program failed to achieve the paternity establishment percentages (as defined in section 452(g)(2)), or to meet other performance measures that may be established by the Secretary;

"(II) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C)(i) that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; or

"(III) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C) that a State failed to substantially comply with 1 or more of the requirements of part D; and

"(ii) that, with respect to the succeeding fiscal year—

"(I) the State failed to take sufficient corrective action to achieve the appropriate performance levels or compliance as described in subparagraph (A)(i); or

"(II) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable;

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program has achieved the paternity establishment percentages or other performance measures as described in subparagraph (A)(i)(I), or is in substantial compliance with 1 or more of the requirements of part D as described in subparagraph (A)(i)(III), as appropriate, shall be reduced by the percentage specified in subparagraph (B).

"(B) AMOUNT OF REDUCTIONS.—The reductions required under subparagraph (A) shall be—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive finding made pursuant to subparagraph (A); or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding.

"(C) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of this section and section 452(a)(4), a State determined as a result of an audit—

"(i) to have failed to have substantially complied with 1 or more of the requirements of part D shall be determined to have achieved substantial compliance only if the Secretary determines that the extent of the noncompliance is of a technical nature which does not adversely affect the performance of the State's program under part D; or

"(ii) to have submitted incomplete or unreliable data pursuant to section 454(15)(B) shall be determined to have submitted adequate data only if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's paternity establishment percentages (as defined under section 452(g)(2)) or other performance measures that may be established by the Secretary.".

(h) CORRECTION OF REFERENCE TO 5-YEAR LIMIT ON ASSISTANCE.—Section 409(a)(9) (42 U.S.C. 609(a)(9)) is amended by striking "408(a)(1)(B)" and inserting "408(a)(7)".

(i) CORRECTION OF ERRORS IN PENALTY FOR FAILURE TO MEET MAINTENANCE OF EFFORT REQUIREMENT APPLICABLE TO THE CONTINGENCY FUND.—Section 409(a)(10) (42 U.S.C. 609(a)(10)) is amended—

(1) by striking "the expenditures under the State program funded under this part for the fiscal year (excluding any amounts made available by the Federal Government)" and inserting "the qualified State expenditures (as defined in paragraph (7)(B)(i) (other than the expenditures described in subclause (I)(bb) of that paragraph)) under the State program funded under this part for the fiscal year";

(2) by inserting "excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994," after "(as defined in paragraph (7)(B)(iii) of this subsection),"; and

(3) by inserting "that the State has not remitted under section 403(b)(6)" before the period.

(j) PENALTY FOR STATE FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—Section 409(a)(12) (42 U.S.C. 609(a)(12)) is amended—

(1) in the heading—

(A) by striking "FAILURE" and inserting "REQUIREMENT"; and

(B) by striking "REDUCTIONS" and inserting "REDUCTIONS; PENALTY FOR FAILURE TO DO SO"; and

(2) by adding at the end the following: "If the State fails during such succeeding fiscal year to make the expenditure required by the preceding sentence from its own funds, the Secretary may reduce the grant payable to the State under section 403(a)(1) for the fiscal year that follows such succeeding fiscal year by an amount equal to the sum of—

"(A) not more than 2 percent of the State family assistance grant; and

"(B) the amount of the expenditure required by the preceding sentence.".

(k) ELIMINATION OF CERTAIN REASONABLE CAUSE EXCEPTIONS.—Section 409(b)(2) (42 U.S.C. 609(b)(2)) is amended by striking "(7) or (8)" and inserting "(6), (7), (8), (10), or (12)".

(l) CLARIFICATION OF WHAT IT MEANS TO CORRECT A VIOLATION.—Section 409(c) (42 U.S.C. 609(c)) is amended—

(1) in each of subparagraphs (A) and (B) of paragraph (1), by inserting "or discontinue, as appropriate," after "correct";

(2) in paragraph (2)—

(A) in the heading, by inserting "OR DISCONTINUING" after "CORRECTING"; and

(B) by inserting "or discontinues, as appropriate" after "corrects"; and

(3) in paragraph (3)—

(A) in the heading, by inserting "OR DISCONTINUE" after "CORRECT"; and

(B) by inserting "or discontinue, as appropriate," before "the violation".

(m) CERTAIN PENALTIES NOT AVOIDABLE THROUGH CORRECTIVE COMPLIANCE PLANS.—Section 409(c)(4) (42 U.S.C. 609(c)(4)) is amended to read as follows:

"(4) INAPPLICABILITY TO CERTAIN PENALTIES.—This subsection shall not apply to the imposition of a penalty against a State under paragraph (6), (7), (8), (10), or (12) of subsection (a).".

(n) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—Section 409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

(1) in subparagraph (A), by striking "not more than"; and

(2) in subparagraph (C), by inserting before the period the following: "or if the noncompliance is due to extraordinary circumstances such as a natural disaster or regional recession. The Secretary shall provide a written report to Congress to justify any waiver or penalty reduction due to such extraordinary circumstances".

SEC. 5507. DATA COLLECTION AND REPORTING.

Section 411(a) (42 U.S.C. 611(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking clause (ii) and inserting the following:

"(ii) Whether a child receiving such assistance or an adult in the family is receiving—

"(I) Federal disability insurance benefits;

"(II) benefits based on Federal disability status;

"(III) aid under a State plan approved under title XIV (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972));

"(IV) aid or assistance under a State plan approved under title XVI (as in effect without regard to such amendment) by reason of being permanently and totally disabled; or

"(V) supplemental security income benefits under title XVI (as in effect pursuant to such amendment) by reason of disability.";

(ii) in clause (iv), by striking "youngest child in" and inserting "head of";

(iii) in each of clauses (vii) and (viii), by striking "status" and inserting "level"; and

(iv) by adding at the end the following:

"(xvii) With respect to each individual in the family who has not attained 20 years of age, whether the individual is a parent of a child in the family."; and

(B) in subparagraph (B)—

(i) in the heading, by striking "ESTIMATES" and inserting "SAMPLES"; and

(ii) in clause (i), by striking "an estimate which is obtained" and inserting "disaggregated case record information on a sample of families selected"; and

(2) by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following:

"(6) REPORT ON FAMILIES RECEIVING ASSISTANCE.—The report required by paragraph (1) for a fiscal quarter shall include for each month in the quarter—

"(A) the number of families and individuals receiving assistance under the State program funded under this part (including the number of 2-parent and 1-parent families); and

"(B) the total dollar value of such assistance received by all families.".

SEC. 5508. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

(a) PRORATING OF TRIBAL FAMILY ASSISTANCE GRANTS.—Section 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)) is amended by inserting "which shall be reduced for a fiscal year, on a pro rata basis for each quarter, in the case of a tribal family assistance plan approved during a fiscal year for which the plan is to be in effect," before "and shall".

(b) TRIBAL OPTION TO OPERATE WORK ACTIVITIES PROGRAM.—Section 412(a)(2)(A) (42 U.S.C. 612(a)(2)(A)) is amended by striking "The Secretary" and all that follows through "2002" and inserting "For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each eligible Indian tribe that proposes to operate a program described in subparagraph (C)".

(c) DISCRETION OF TRIBES TO SELECT POPULATION TO BE SERVED BY TRIBAL WORK ACTIVITIES PROGRAM.—Section 412(a)(2)(C) (42 U.S.C. 612(a)(2)(C)) is amended by striking "members of the Indian tribe" and inserting "such population and such service area or areas as the tribe specifies".

(d) REDUCTION OF APPROPRIATION FOR TRIBAL WORK ACTIVITIES PROGRAMS.—Section 412(a)(2)(D) (42 U.S.C. 612(a)(2)(D)) is amended *by striking "$7,638,474" and inserting "$7,633,287".*

(e) Availability of Corrective Compliance Plans to Indian Tribes.—Section 412(f)(1) (42 U.S.C. 612(f)(1)) is amended by striking "and (b)" and inserting "(b), and (c)".

(f) Eligibility of Tribes for Federal Loans for Welfare Programs.—Section 412 (42 U.S.C. 612) is amended by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

"(f) Eligibility for Federal Loans.—Section 406 shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such section applies to a State, except that section 406(c) shall be applied by substituting 'section 412(a)' for 'section 403(a)'.".

SEC. 5509. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) Research.—

(1) Methods.—Section 413(a) (42 U.S.C. 613(a)) is amended by inserting ", directly or through grants, contracts, or interagency agreements," before "shall conduct".

(2) Correction of cross reference.—Section 413(a) (42 U.S.C. 613(a)) is amended by striking "409" and inserting "407".

(b) Correction of Erroneously Indented Paragraph.—Section 413(e)(1) (42 U.S.C. 613(e)(1)) is amended to read as follows:

"(1) In general.—The Secretary shall annually rank States to which grants are made under section 403 based on the following ranking factors:

"(A) Absolute out-of-wedlock ratios.—The ratio represented by—

"(i) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent year for which information is available; over

"(ii) the total number of births in families receiving assistance under the State program under this part in the State for the year.

"(B) Net changes in the out-of-wedlock ratio.—The difference between the ratio described in subparagraph (A) with respect to a State for the most recent year for which such information is available and the ratio with respect to the State for the immediately preceding year.".

(c) Funding of Prior Authorized Demonstrations.—Section 413(h)(1)(D) (42 U.S.C. 613(h)(1)(D)) is amended by striking "September 30, 1995" and inserting "August 22, 1996".

(d) Child Poverty Reports.—

(1) Delayed due date for initial report.—Section 413(i)(1) (42 U.S.C. 613(i)(1)) is amended by striking "90 days after the date of the enactment of this part" and inserting "May 31, 1998".

(2) Modification of factors to be used in establishing methodology for use in determining child poverty rates.—Section 413(i)(5) (42 U.S.C. 613(i)(5)) is amended by striking "the county-by-county" and inserting ", to the extent available, county-by-county".

SEC. 5510. REPORT ON DATA PROCESSING.

Section 106(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2164) is amended by striking "(whether in effect before or after October 1, 1995)".

SEC. 5511. STUDY ON ALTERNATIVE OUTCOMES MEASURES.

Section 107(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2164) is amended by striking "409(a)(7)(C)" and inserting "408(a)(7)(C)".

SEC. 5512. LIMITATION ON PAYMENTS TO THE TERRITORIES.

(a) Certain Payments To Be Disregarded in Determining Limitation.—Section 1108(a) (42 U.S.C. 1308) is amended to read as follows:

"(a) Limitation on Total Payments to Each Territory.—

"(1) In general.—Notwithstanding any other provision of this Act (except for paragraph (2) of this subsection), the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, under parts A and E of title IV, and under subsection (b) of this section, for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(2) Certain payments disregarded.—Paragraph (1) of this subsection shall be applied without regard to any payment made under section 403(a)(2), 403(a)(4), 406, or 413(f).".

(b) Certain Child Care and Social Services Expenditures by Territories Treated as IV–A Expenditures for Purposes of Matching Grant.—Section 1108(b)(1)(A) (42 U.S.C. 1308(b)(1)(A)) is amended by inserting ", including any amount paid to the State under part A of title IV that is transferred in accordance with section 404(d) and expended under the program to which transferred" before the semicolon.

(c) Elimination of Duplicative Maintenance of Effort Requirement.—Section 1108 (42 U.S.C. 1308) is amended by striking subsection (e).

SEC. 5513. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) Amendments to Part D of Title IV.—

(1) Corrections to determination of paternity establishment percentages.—Section 452 (42 U.S.C. 652) is amended—

(A) in subsection (d)(3)(A), by striking all that follows "for purposes of" and inserting "section 409(a)(8), to achieve the paternity establishment percentages (as defined under section 452(g)(2)) and other performance measures that may be established by the Secretary, and to submit data under section 454(15)(B) that is complete and reliable, and to substantially comply with the requirements of this part; and"; and

(B) in subsection (g)(1), by striking "section 403(h)" and inserting "section 409(a)(8)".

(2) Elimination of obsolete language.—Section 108(c)(8)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2165) is amended by inserting "and all that follows through 'the best interests of such child to do so'" before "and inserting".

(3) Insertion of language inadvertently omitted.—Section 108(c)(13) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2166) is amended by inserting "and inserting 'pursuant to section 408(a)(3)'" before the period.

(4) Elimination of obsolete cross reference.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 402(a)(26)" and inserting "section 408(a)(3)".

(b) Amendments to Part E of Title IV.—Each of the following is amended by striking "June 1, 1995" each place such term appears and inserting "July 16, 1996":

(1) Section 472(a) (42 U.S.C. 672(a)).

(2) Section 472(h) (42 U.S.C. 672(h)).

(3) Section 473(a)(2) (42 U.S.C. 673(a)(2)).

(4) Section 473(b) (42 U.S.C. 673(b)).

SEC. 5514. OTHER CONFORMING AMENDMENTS.

(a) Elimination of Amendments Included Inadvertently.—Section 110(l) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2173) is amended—

(1) by striking paragraphs (1), (4), (5), and (7);

(2) by redesignating paragraphs (2), (3), (6), and (8) as paragraphs (1), (2), (3), and (4), respectively; and

(3) by adding "and" at the end of paragraph (3), as so redesignated.

(b) Correction of Citation.—Section 109(f) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2177) is amended by striking "93–186" and inserting "93–86".

(c) Correction of Internal Cross Reference.—Section 103(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112) is amended by striking "603(b)(2)" and inserting "603(b)".

(d) Correction of References.—Section 416 (42 U.S.C. 616) is amended by striking "amendment made by section 2103 of the Personal Responsibility and Work Opportunity" and inserting "amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation".

SEC. 5515. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 112(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2177) is amended in each of subparagraphs (A) and (B) by inserting "under" after "funded".

SEC. 5516. DENIAL OF ASSISTANCE AND BENEFITS FOR DRUG-RELATED CONVICTIONS.

(a) Extension of Certain Requirements Coordinated With Delayed Effective Date for Successor Provisions.—Section 115(d)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2181) is amended by striking "convictions" and inserting "a conviction if the conviction is for conduct".

(b) Immediate Effectiveness of Provisions Relating to Research, Evaluations, and National Studies.—Section 116(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2181) is amended by adding at the end the following:

"(6) Research, evaluations, and national studies.—Section 413 of the Social Security Act, as added by the amendment made by section 103(a) of this Act, shall take effect on the date of the enactment of this Act.".

SEC. 5517. TRANSITION RULE.

Section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2181) is amended—

(1) in subsection (a)(2), by inserting "(but subject to subsection (b)(1)(A)(ii))" after "this section"; and

(2) in subsection (b)(1)(A)(ii), by striking "June 30, 1997" and inserting "the later of June 30, 1997, or the day before the date described in subsection (a)(2)(B) of this section".

SEC. 5518. EFFECTIVE DATES.

(a) Amendments to Part A of Title IV of the Social Security Act.—The amendments made by this chapter to a provision of part A of title IV of the Social Security Act shall take effect as if the amendments had been included in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section became law.

(b) Amendments to Parts D and E of Title IV of the Social Security Act.—The amendments made by section 5513 of this Act shall take effect as if the amendments had been included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section 108 became law.

(c) Amendments to Other Amendatory Provisions.—The amendments made by section 5514(a) of this Act shall take effect as if the amendments had been included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at the time such section 110 became law.

(d) Amendments to Freestanding Provisions of the Personal Responsibility and

Work Opportunity Reconciliation Act of 1996.—The amendments made by this chapter to a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that have not become part of another statute shall take effect as if the amendments had been included in the provision at the time the provision became law.

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

SEC. 5521. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO ELIGIBILITY RESTRICTIONS.

(a) Denial of SSI Benefits for Fugitive Felons and Probation and Parole Violators.—Section 1611(e)(6) (42 U.S.C. 1382(e)(6)) is amended by inserting "and section 1106(c) of this Act" after "of 1986".

(b) Treatment of Prisoners.—Section 1611(e)(1)(I)(i)(II) (42 U.S.C. 1382(e)(1)(I)(i)(II)) is amended by striking "inmate of the institution" and all that follows through "this subparagraph" and inserting "individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 202(x)(1)(A)(ii), a benefit under this title for such preceding month, and who is determined by the Commissioner to be ineligible for benefits under this title by reason of confinement based on the information provided by such institution".

(c) Correction of Reference.—Section 1611(e)(1)(I)(i)(I) (42 U.S.C. 1382(e)(1)(I)(i)(I)) is amended by striking "paragraph (1)" and inserting "this paragraph".

SEC. 5522. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO BENEFITS FOR DISABLED CHILDREN.

(a) Eligibility Redeterminations and Continuing Disability Reviews.—

(1) Disability eligibility redeterminations required for SSI recipients who attain 18 years of age.—Section 1614(a)(3)(H)(iii) (42 U.S.C. 1382c(a)(3)(H)(iii)) is amended by striking subclauses (I) and (II) and all that follows and inserting the following:

"(I) by applying the criteria used in determining initial eligibility for individuals who are age 18 or older; and

"(II) either during the 1-year period beginning on the individual's 18th birthday or, in lieu of a continuing disability review, whenever the Commissioner determines that an individual's case is subject to a redetermination under this clause.

With respect to any redetermination under this clause, paragraph (4) shall not apply.".

(2) Continuing disability review required for low birth weight babies.—Section 1614(a)(3)(H)(iv) (42 U.S.C. 1382c(a)(3)(H)(iv)) is amended—

(A) in subclause (I), by striking "Not" and inserting "Except as provided in subclause (VI), not"; and

(B) by adding at the end the following:

"(VI) Subclause (I) shall not apply in the case of an individual described in that subclause who, at the time of the individual's initial disability determination, the Commissioner determines has an impairment that is not expected to improve within 12 months after the birth of that individual, and who the Commissioner schedules for a continuing disability review at a date that is after the individual attains 1 year of age.".

(b) Additional Accountability Requirements.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)) is amended—

(1) in clause (ii)(III)(bb), by striking "the total amount" and all that follows through "1613(c)" and inserting "in any case in which the individual knowingly misapplies benefits from such an account, the Commissioner shall reduce future benefits payable to such individual (or to such individual and his spouse) by an amount equal to the total amount of such benefits so misapplied"; and

(2) by striking clause (iii) and inserting the following:

"(iii) The representative payee may deposit into the account established under clause (i) any other funds representing past due benefits under this title to the eligible individual, provided that the amount of such past due benefits is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66).".

(c) Reduction in Cash Benefits Payable to Institutionalized Individuals Whose Medical Costs Are Covered by Private Insurance.—Section 1611(e) (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by striking "hospital, extended care facility, nursing home, or intermediate care facility" and inserting "medical treatment facility";

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by striking "hospital, home or"; and

(ii) in subclause (I), by striking "hospital, home, or";

(C) in clause (iii), by striking "hospital, home, or"; and

(D) in the matter following clause (iii), by striking "hospital, extended care facility, nursing home, or intermediate care facility which is a 'medical institution or nursing facility' within the meaning of section 1917(c)" and inserting "medical treatment facility that provides services described in section 1917(c)(1)(C)";

(2) in paragraph (1)(E)—

(A) in clause (i)(II), by striking "hospital, extended care facility, nursing home, or intermediate care facility" and inserting "medical treatment facility"; and

(B) in clause (iii), by striking "hospital, extended care facility, nursing home, or intermediate care facility" and inserting "medical treatment facility";

(3) in paragraph (1)(G), in the matter preceding clause (i)—

(A) by striking "or which is a hospital, extended care facility, nursing home, or intermediate care" and inserting "or is in a medical treatment"; and

(B) by inserting "or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance" after "title XIX"; and

(4) in paragraph (3)—

(A) by striking "same hospital, home, or facility" and inserting "same medical treatment facility"; and

(B) by striking "same such hospital, home, or facility" and inserting "same such facility".

(d) Correction of U.S.C. Citation.—Section 211(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2189) is amended by striking "1382(a)(4)" and inserting "1382c(a)(4)".

SEC. 5523. ADDITIONAL TECHNICAL AMENDMENTS TO TITLE XVI.

Section 1615(d) (42 U.S.C. 1382d(d)) is amended—

(1) in the first sentence, by inserting a comma after "subsection (a)(1)"; and

(2) in the last sentence, by striking "him" and inserting "the Commissioner".

SEC. 5524. ADDITIONAL TECHNICAL AMENDMENTS RELATING TO TITLE XVI.

Section 1110(a)(3) (42 U.S.C. 1310(a)(3)) is amended—

(1) by inserting "(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning title XVI)" after "Secretary" the first place it appears; and

(2) by inserting "(or the Commissioner, as applicable)" after "Secretary" the second place it appears.

SEC. 5525. TECHNICAL AMENDMENTS RELATING TO DRUG ADDICTS AND ALCOHOLICS.

(a) Clarification Relating to the Effective Date of the Denial of SSI Disability Benefits to Drug Addicts and Alcoholics.—Section 105(b)(5) of the Contract with America Advancement Act of 1996 (Public Law 104–121; 110 Stat. 853) is amended—

(1) in subparagraph (A), by striking "by the Commissioner of Social Security" and "by the Commissioner"; and

(2) by redesignating subparagraph (D) as subparagraph (F) and by inserting after subparagraph (C) the following new subparagraphs:

"(D) For purposes of this paragraph, an individual's claim, with respect to supplemental security income benefits under title XVI of the Social Security Act based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—

"(i) there is pending a request for either administrative or judicial review with respect to such claim, or

"(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

"(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner does not perform the eligibility redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such eligibility redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's eligibility is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 1614(a)(4) of the Social Security Act shall not apply to such redetermination.".

(b) Corrections to Effective Date of Provisions Concerning Representative Payees and Treatment Referrals of SSI Beneficiaries Who Are Drug Addicts and Alcoholics.—Section 105(b)(5)(B) of such Act (Public Law 104–121; 110 Stat. 853) is amended to read as follows:

"(B) The amendments made by paragraphs (2) and (3) shall take effect on July 1, 1996, with respect to any individual—

"(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act, or

"(ii) whose eligibility for benefits is based upon an eligibility redetermination made pursuant to subparagraph (C).".

(c) Repeal of Obsolete Reporting Requirements.—Subsections (a)(3)(B) and (b)(3)(B)(ii) of section 201 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1497, 1504) are repealed.

SEC. 5526. ADVISORY BOARD PERSONNEL.

Section 703(i) (42 U.S.C. 903(i)) is amended—

(1) in the first sentence, by striking ", and three" and all that follows through "Board,"; and

(2) in the last sentence, by striking "clerical".

SEC. 5527. TIMING OF DELIVERY OF OCTOBER 1, 2000, SSI BENEFIT PAYMENTS.

Notwithstanding the provisions of section 708(a) of the Social Security Act (42 U.S.C. 908(a)), the day designated for delivery of benefit payments under title XVI of such Act for

October 2000 shall be the second day of such month.

SEC. 5528. EFFECTIVE DATES.

(a) In General.—Except as provided in this section, the amendments made by this chapter shall take effect as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2185).

(b) Section 5524 Amendments.—The amendments made by section 5524 of this Act shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1464).

(c) Section 5525 Amendments.—

(1) In general.—The amendments made by subsections (a) and (b) of section 5525 of this Act shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104–121; 110 Stat. 852 et seq.).

(2) Repeals.—The repeals made by section 5525(c) shall take effect on the date of the enactment of this Act.

(d) Section 5526 Amendments.—The amendments made by section 5526 of this Act shall take effect as if included in the enactment of section 108 of the Contract with America Advancement Act of 1996 (Public Law 104–121; 110 Stat. 857).

(e) Section 5227.—Section 5227 shall take effect on the date of the enactment of this Act.

CHAPTER 3—CHILD SUPPORT

SEC. 5531. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) Individuals Subject to Fee For Child Support Enforcement Services.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended by striking "individuals not receiving assistance under any State program funded under part A, which" and inserting "an individual, other than an individual receiving assistance under a State program funded under part A or E, or under a State plan approved under title XIX, or who is required by the State to cooperate with the State agency administering the program under this part pursuant to subsection (l) or (m) of section 6 of the Food Stamp Act of 1977, and".

(b) Correction of Reference.—Section 464(a)(2)(A) (42 U.S.C. 654(a)(2)(A)) is amended in the first sentence by striking "section 454(6)" and inserting "section 454(4)(A)(ii)".

SEC. 5532. DISTRIBUTION OF COLLECTED SUPPORT.

(a) Continuation of Assignments.—Section 457(b) (42 U.S.C. 657(b)) is amended—

(1) by striking "which were assigned" and inserting "assigned"; and

(2) by striking "and which were in effect" and all that follows and inserting "and in effect on September 30, 1997 (or such earlier date, on or after August 22, 1996, as the State may choose), shall remain assigned after such date.".

(b) State Option for Applicability.—

(1) In general.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

"(6) State option for applicability.—Notwithstanding any other provision of this subsection, a State may elect to apply the rules described in clauses (i)(II), (ii)(II), and (v) of paragraph (2)(B) to support arrearages collected on and after October 1, 1998, and, if the State makes such an election, shall apply the provisions of this section, as in effect and applied on the day before the date of enactment of section 302 of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104–193, 110 Stat. 2200), other than subsection (b)(1) (as so in effect), to amounts collected before October 1, 1998.".

(2) Conforming amendments.—Section 408(a)(3)(A) (42 U.S.C. 608(a)(3)(A)) is amended—

(A) in clause (i), by inserting "(I)" after "(i)";

(B) in clause (ii)—

(i) by striking "(ii)" and inserting "(II)"; and

(ii) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(ii) if the State elects to distribute collections under section 457(a)(6), the date the family ceases to receive assistance under the program, if the assignment is executed on or after October 1, 1998.".

(c) Distribution of Collections With Respect to Families Receiving Assistance.—Section 457(a)(1) (42 U.S.C. 657(a)(1)) is amended by adding at the end the following flush language:

"In no event shall the total of the amounts paid to the Federal Government and retained by the State exceed the total of the amounts that have been paid to the family as assistance by the State.".

(d) Families Under Certain Agreements.—Section 457(a)(4) (42 U.S.C. 657(a)(4)) is amended to read as follows:

"(4) Families under certain agreements.—In the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), distribute the amount so collected pursuant to the terms of the agreement.".

(e) Study and Report.—Section 457(a)(5) (42 U.S.C. 657(a)(5)) is amended by striking "1998" and inserting "1999".

(f) Corrections of References.—Section 457(a)(2)(B) (42 U.S.C. 657(a)(2)(B)) is amended—

(1) in clauses (i)(I) and (ii)(I)—

(A) by striking "(other than subsection (b)(1))" each place it appears; and

(B) by inserting "(other than subsection (b)(1) (as so in effect))" after "1996" each place it appears; and

(2) in clause (ii)(II), by striking "paragraph (4)" and inserting "paragraph (5)".

(g) Correction of Territorial Match.—Section 457(c)(3)(A) (42 U.S.C. 657(c)(3)(A)) is amended by striking "the Federal medical assistance percentage (as defined in section 1118)" and inserting "75 percent".

(h) Definitions.—

(1) Federal share.—Section 457(c)(2) (42 U.S.C. 657(c)(2)) is amended by striking "collected" the second place it appears and inserting "distributed".

(2) Federal medical assistance percentage.—Section 457(c)(3)(B) (42 U.S.C. 657(c)(3)(B)) is amended by striking "as in effect on September 30, 1996" and inserting "as such section was in effect on September 30, 1995".

(i) Conforming Amendments.—

(1) Section 464(a)(2)(A) (42 U.S.C. 664(a)(2)(A)) is amended, in the penultimate sentence, by inserting "in accordance with section 457" after "owed".

(2) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "457(b)(4) or (d)(3)" and inserting "457".

SEC. 5533. CIVIL PENALTIES RELATING TO STATE DIRECTORY OF NEW HIRES.

Section 453A (42 U.S.C. 653a) is amended—

(1) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "shall be less than" and inserting "shall not exceed"; and

(B) in paragraph (1), by striking "$25" and inserting "$25 per failure to meet the requirements of this section with respect to a newly hired employee"; and

(2) in subsection (g)(2)(B), by striking "extracts" and all that follows through "Labor" and inserting "information".

SEC. 5534. FEDERAL PARENT LOCATOR SERVICE.

(a) In General.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by striking "to obtain" and all that follows through the period and inserting "for the purposes specified in paragraphs (2) and (3).

"(2) For the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, the Federal Parent Locator Service shall obtain and transmit to any authorized person specified in subsection (c)—

"(A) information on, or facilitating the discovery of, the location of any individual—

"(i) who is under an obligation to pay child support;

"(ii) against whom such an obligation is sought; or

"(iii) to whom such an obligation is owed,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(B) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(C) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.

"(3) For the purpose of enforcing any Federal or State law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody or visitation determination, as defined in section 463(d)(1), the Federal Parent Locator Service shall be used to obtain and transmit the information specified in section 463(c) to the authorized persons specified in section 463(d)(2).";

(2) by striking subsection (b) and inserting the following:

"(b)(1) Upon request, filed in accordance with subsection (d), of any authorized person, as defined in subsection (c) for the information described in subsection (a)(2), or of any authorized person, as defined in section 463(d)(2) for the information described in section 463(c), the Secretary shall, notwithstanding any other provision of law, provide through the Federal Parent Locator Service such information to such person, if such information—

"(A) is contained in any files or records maintained by the Secretary or by the Department of Health and Human Services; or

"(B) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality of the United States or of any State,

and is not prohibited from disclosure under paragraph (2).

"(2) No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1). No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent, provided that—

"(A) in response to a request from an authorized person (as defined in subsection (c) of this section and section 463(d)(2)), the Secretary shall advise the authorized person that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse and that information can only be disclosed to a court or an agent of a court pursuant to subparagraph (B); and

"(B) information may be disclosed to a court or an agent of a court described in subsection (c)(2) of this section or section 463(d)(2)(B), if—

"(i) upon receipt of information from the Secretary, the court determines whether disclosure to any other person of that information could be harmful to the parent or the child; and

"(ii) if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make any such disclosure.

"(3) Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26)."; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "or to seek to enforce orders providing child custody or visitation rights"; and

(B) in paragraph (2)—

(i) by inserting "or to serve as the initiating court in an action to seek an order" after "issue an order"; and

(ii) by striking "or to issue an order against a resident parent for child custody or visitation rights".

(b) USE OF THE FEDERAL PARENT LOCATOR SERVICE.—Section 463 (42 U.S.C. 663) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "any State which is able and willing to do so," and inserting "every State"; and

(ii) by striking "such State" and inserting "each State"; and

(B) in paragraph (2), by inserting "or visitation" after "custody";

(2) in subsection (b)(2), by inserting "or visitation" after "custody";

(3) in subsection (d)—

(A) in paragraph (1), by inserting "or visitation" after "custody"; and

(B) in subparagraphs (A) and (B) of paragraph (2), by inserting "or visitation" after "custody" each place it appears;

(4) in subsection (f)(2), by inserting "or visitation" after "custody"; and

(5) by striking "noncustodial" each place it appears.

SEC. 5535. ACCESS TO REGISTRY DATA FOR RESEARCH PURPOSES.

(a) IN GENERAL.—Section 453(j)(5) (42 U.S.C. 653(j)(5)) is amended by inserting "data in each component of the Federal Parent Locator Service maintained under this section and to" before "information".

(b) CONFORMING AMENDMENTS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (j)(3)(B), by striking "registries" and inserting "components"; and

(2) in subsection (k)(2), by striking "subsection (j)(3)" and inserting "section 453A(g)(2)".

SEC. 5536. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

Section 466(a)(13) (42 U.S.C. 666(a)(13)) is amended—

(1) in subparagraph (A)—

(A) by striking "commercial"; and

(B) by inserting "recreational license," after "occupational license,"; and

(2) in the matter following subparagraph (C), by inserting "to be used on the face of the document while the social security number is kept on file at the agency" after "other than the social security number".

SEC. 5537. ADOPTION OF UNIFORM STATE LAWS.

Section 466(f) (42 U.S.C. 666(f)) is amended by striking "together" and all that follows and inserting "and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws.".

SEC. 5538. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

Section 466(c) (42 U.S.C. 666(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by inserting ", part E," after "part A"; and

(B) in subparagraph (G), by inserting "any current support obligation and" after "to satisfy"; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking "the tribunal and"; and

(B) in clause (ii)—

(i) by striking "tribunal may" and inserting "court or administrative agency of competent jurisdiction shall"; and

(ii) by striking "filed with the tribunal" and inserting "filed with the State case registry".

SEC. 5539. VOLUNTARY PATERNITY ACKNOWLEDGEMENT.

Section 466(a)(5)(C)(i) (42 U.S.C. 666(a)(5)(C)(i)) is amended by inserting ", or through the use of video or audio equipment," after "orally".

SEC. 5540. CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE.

Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended, in the matter following subparagraph (C), by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)".

SEC. 5541. MEANS AVAILABLE FOR PROVISION OF TECHNICAL ASSISTANCE AND OPERATION OF FEDERAL PARENT LOCATOR SERVICE.

(a) TECHNICAL ASSISTANCE.—Section 452(j) (42 U.S.C. 652(j)) is amended, in the matter preceding paragraph (1), by striking "to cover costs incurred by the Secretary" and inserting "which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—

(1) MEANS AVAILABLE.—Section 453(o) (42 U.S.C. 653(o)) is amended—

(A) in the heading, by striking "RECOVERY OF COSTS" and inserting "USE OF SET-ASIDE FUNDS"; and

(B) by striking "to cover costs incurred by the Secretary" and inserting "which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,".

(2) AVAILABILITY OF FUNDS.—Section 453(o) (42 U.S.C. 653(o)) is amended by adding at the end the following: "Amounts appropriated under this subsection for each of fiscal years 1997 through 2001 shall remain available until expended.".

SEC. 5542. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) RESPONSE TO NOTICE OR PROCESS.—Section 459(c)(2)(C) (42 U.S.C. 659(c)(2)(C)) is amended by striking "respond to the order, process, or interrogatory" and inserting "withhold available sums in response to the order or process, or answer the interrogatory".

(b) MONEYS SUBJECT TO PROCESS.—Section 459(h)(1) (42 U.S.C. 659(h)(1)) is amended—

(1) in the matter preceding subparagraph (A) and in subparagraph (A)(i), by striking "paid or" each place it appears;

(2) in subparagraph (A)—

(A) in clause (ii)(V), by striking "and" at the end;

(B) in clause (iii)—

(i) by inserting "or payable" after "paid"; and

(ii) by striking "but" and inserting "; and"; and

(C) by inserting after clause (iii), the following:

"(iv) benefits paid or payable under the Railroad Retirement System, but"; and

(3) in subparagraph (B)—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(iii) of periodic benefits under title 38, United States Code, except as provided in subparagraph (A)(ii)(V).".

(c) CONFORMING AMENDMENT.—Section 454(19)(B)(ii) (42 U.S.C. 654(19)(B)(ii)) is amended by striking "section 462(e)" and inserting "section 459(i)(5)".

SEC. 5543. DEFINITION OF SUPPORT ORDER.

Section 453(p) (42 U.S.C. 653(p)), is amended by striking "a child and" and inserting "of".

SEC. 5544. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a)(16) (42 U.S.C. 666(a)(16)) is amended by inserting "and sporting" after "recreational".

SEC. 5545. INTERNATIONAL SUPPORT ENFORCEMENT.

Section 454(32)(A) (42 U.S.C. 654(32)(A)) is amended by striking "section 459A(d)(2)" and inserting "section 459A(d)".

SEC. 5546. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS BY INDIAN TRIBES AND STATES FOR CHILD SUPPORT ENFORCEMENT.—Section 454(33) (42 U.S.C. 654(33)) is amended—

(1) by striking "and enforce support orders, and" and inserting "or enforce support orders, or";

(2) by striking "guidelines established by such tribe or organization" and inserting "guidelines established or adopted by such tribe or organization";

(3) by striking "funding collected" and inserting "collections"; and

(4) by striking "such funding" and inserting "such collections".

(b) CORRECTION OF SUBSECTION DESIGNATION.—Section 455 (42 U.S.C. 655) is amended by redesignating subsection (b), as added by section 375(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193, 110 Stat. 2256), as subsection (f).

(c) DIRECT GRANTS TO TRIBES.—Section 455(f) (42 U.S.C. 655(f)), as so redesignated by subsection (b) of this section, is amended to read as follows:

"(f) The Secretary may make direct payments under this part to an Indian tribe or tribal organization that demonstrates to the satisfaction of the Secretary that it has the capacity to operate a child support enforcement program meeting the objectives of this part, including establishment of paternity, establishment, modification, and enforcement of support orders, and location of absent parents. The Secretary shall promulgate regulations establishing the requirements which must be met by an Indian tribe or tribal organization to be eligible for a grant under this subsection.".

SEC. 5547. CONTINUATION OF RULES FOR DISTRIBUTION OF SUPPORT IN THE CASE OF A TITLE IV–E CHILD.

Section 457 (42 U.S.C. 657) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "subsection (e)" and inserting "subsections (e) and (f)"; and

(2) by adding at the end the following:

"(f) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

"(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed

the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

"(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of assistance under the State program funded under part A) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2).".

SEC. 5548. GOOD CAUSE IN FOSTER CARE AND FOOD STAMP CASES.

(a) STATE PLAN.—Section 454(4)(A)(i) (42 U.S.C. 654(4)(A)(i)) is amended—

(1) by striking "or" before "(III)"; and

(2) by inserting "or (IV) cooperation is required pursuant to section 6(l)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(l)(1))," after "title XIX,".

(b) CONFORMING AMENDMENTS.—Section 454(29) (42 U.S.C. 654(29)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "part A of this title or the State program under title XIX" and inserting "part A, the State program under part E, the State program under title XIX, or the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)),"; and

(B) by striking clauses (i) and (ii) and all that follows through the semicolon and inserting the following:

"(i) in the case of the State program funded under part A, the State program under part E, or the State program under title XIX shall, at the option of the State, be defined, taking into account the best interests of the child, and applied in each case, by the State agency administering such program; and

"(ii) in the case of the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), shall be defined and applied in each case under that program in accordance with section 6(l)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(l)(2));";

(2) in subparagraph (D), by striking "or the State program under title XIX" and inserting "the State program under part E, the State program under title XIX, or the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h))"; and

(3) in subparagraph (E), by striking "individual," and all that follows through "XIX," and inserting "individual and the State agency administering the State program funded under part A, the State agency administering the State program under part E, the State agency administering the State program under title XIX, or the State agency administering the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)),".

SEC. 5549. DATE OF COLLECTION OF SUPPORT.

Section 454B(c)(1) (42 U.S.C. 654B(c)(1)) is amended by adding at the end the following: "The date of collection for amounts collected and distributed under this part is the date of receipt by the State disbursement unit, except that if current support is withheld by an employer in the month when due and is received by the State disbursement unit in a month other than the month when due, the date of withholding may be deemed to be the date of collection.".

SEC. 5550. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

(a) PROCEDURES.—Section 466(a)(14) (42 U.S.C. 666(a)(14)) is amended to read as follows:

"(14) HIGH-VOLUME, AUTOMATED ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—

"(A) IN GENERAL.—Procedures under which—

"(i) the State shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another State to enforce support orders, and shall promptly report the results of such enforcement procedure to the requesting State;

"(ii) the State may, by electronic or other means, transmit to another State a request for assistance in enforcing support orders through high-volume, automated administrative enforcement, which request—

"(I) shall include such information as will enable the State to which the request is transmitted to compare the information about the cases to the information in the data bases of the State; and

"(II) shall constitute a certification by the requesting State—

"(aa) of the amount of support under an order the payment of which is in arrears; and

"(bb) that the requesting State has complied with all procedural due process requirements applicable to each case;

"(iii) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(iv) the State shall maintain records of—

"(I) the number of such requests for assistance received by the State;

"(II) the number of cases for which the State collected support in response to such a request; and

"(III) the amount of such collected support.

"(B) HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT.—In this part, the term 'high-volume automated administrative enforcement' means the use of automatic data processing to search various State data bases, including license records, employment service data, and State new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.".

(b) INCENTIVE PAYMENTS.—Section 458(d) (42 U.S.C. 658(d)) is amended by inserting ", including amounts collected under section 466(a)(14)," after "another State".

SEC. 5551. WORK ORDERS FOR ARREARAGES.

Section 466(a)(15) (42 U.S.C. 666(a)(15)) is amended to read as follows:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING OVERDUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—Procedures under which the State has the authority, in any case in which an individual owes overdue support with respect to a child receiving assistance under a State program funded under part A, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to—

"(A) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

"(B) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.".

SEC. 5552. ADDITIONAL TECHNICAL STATE PLAN AMENDMENTS.

Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (8)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "noncustodial"; and

(ii) by inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or making or enforcing a child custody or visitation determination, as defined in section 463(d)(1)" after "provide that";

(B) in subparagraph (A), by striking the comma and inserting a semicolon;

(C) in subparagraph (B), by striking the semicolon and inserting a comma; and

(D) by inserting after subparagraph (B), the following flush language:

"and shall, subject to the privacy safeguards required under paragraph (26), disclose only the information described in sections 453 and 463 to the authorized persons specified in such sections for the purposes specified in such sections;";

(2) in paragraph (17)—

(A) by striking "in the case of a State which has" and inserting "provide that the State will have"; and

(B) by inserting "and" after "section 453,"; and

(3) in paragraph (26)—

(A) in the matter preceding subparagraph (A), by striking "will";

(B) in subparagraph (A)—

(i) by inserting ", modify," after "establish", the second place it appears; and

(ii) by inserting ", or to make or enforce a child custody determination" after "support";

(C) in subparagraph (B)—

(i) by inserting "or the child" after "1 party";

(ii) by inserting "or the child" after "former party"; and

(iii) by striking "and" at the end;

(D) in subparagraph (C)—

(i) by inserting "or the child" after "1 party";

(ii) by striking "another party" and inserting "another person";

(iii) by inserting "to that person" after "release of the information"; and

(iv) by striking "former party" and inserting "party or the child"; and

(E) by adding at the end the following:

"(D) in cases in which the prohibitions under subparagraphs (B) and (C) apply, the requirement to notify the Secretary, for purposes of section 453(b)(2), that the State has reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child; and

"(E) procedures providing that when the Secretary discloses information about a parent or child to a State court or an agent of a State court described in section 453(c)(2) or 463(d)(2)(B), and advises that court or agent that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person of information received from the Secretary could be harmful to the parent or child and, if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure;".

SEC. 5553. FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.

Section 453(h) (42 U.S.C. 653(h)) is amended—

(1) in paragraph (1), by inserting "and order" after "with respect to each case"; and

(2) in paragraph (2)—

(A) in the heading, by inserting "AND ORDER" after "CASE";

(B) by inserting "or an order" after "with respect to a case" and

(C) by inserting "or order" after "and the State or States which have the case".

SEC. 5554. FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B(f) of title 28, United States Code, is amended—

(1) in paragraph (4), by striking "a court may" and all that follows and inserting "a court having jurisdiction over the parties shall issue a child support order, which must be recognized."; and

(2) in paragraph (5), by inserting "under subsection (d)" after "jurisdiction".

SEC. 5555. DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.

(a) DEFINITION OF STATE.—Section 455(a)(3)(B) (42 U.S.C. 655(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by inserting "or system described in clause (iii)" after "each State"; and

(B) by inserting "or system" after "the State"; and

(2) by adding at the end the following:

"(iii) For purposes of clause (i), a system described in this clause is a system that has been approved by the Secretary to receive enhanced funding pursuant to the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2343) for the purpose of developing a system that meets the requirements of sections 454(16) (as in effect on and after September 30, 1995) and 454A, including systems that have received funding for such purpose pursuant to a waiver under section 1115(a).".

(b) TEMPORARY LIMITATION ON PAYMENTS.—Section 344(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 655 note) is amended—

(1) in subparagraph (B)—

(A) by inserting "or a system described in subparagraph (C)" after "to a State"; and

(B) by inserting "or system" after "for the State"; and

(2) in subparagraph (C), by striking "Act," and all that follows and inserting "Act, and among systems that have been approved by the Secretary to receive enhanced funding pursuant to the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2343) for the purpose of developing a system that meets the requirements of sections 454(16) (as in effect on and after September 30, 1995) and 454A, including systems that have received funding for such purpose pursuant to a waiver under section 1115(a), which shall take into account—

"(i) the relative size of such State and system caseloads under part D of title IV of the Social Security Act; and

"(ii) the level of automation needed to meet the automated data processing requirements of such part.".

SEC. 5556. ADDITIONAL TECHNICAL AMENDMENTS.

(a) ELIMINATION OF SURPLUSAGE.—Section 466(c)(1)(F) (42 U.S.C. 666(c)(1)(F)) is amended by striking "of section 466".

(b) CORRECTION OF AMBIGUOUS AMENDMENT.—Section 344(a)(1)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2234) is amended by inserting "the first place such term appears" before "and all that follows".

(c) CORRECTION OF ERRONEOUSLY DRAFTED PROVISION.—Section 215 of the Department of Health and Human Services Appropriations Act, 1997, (as contained in section 101(e) of the Omnibus Consolidated Appropriations Act, 1997) is amended to read as follows:

"SEC. 215. Sections 452(j) and 453(o) of the Social Security Act (42 U.S.C. 652(j) and 653(o)), as amended by section 345 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2237) are each amended by striking 'section 457(a)' and inserting 'a plan approved under this part'. Amounts available under such sections 452(j) and 453(o) shall be calculated as though the amendments made by this section were effective October 1, 1995.".

(d) ELIMINATION OF SURPLUSAGE.—Section 456(a)(2)(B) (42 U.S.C. 656(a)(2)(B)) is amended by striking ", and" and inserting a period.

(e) CORRECTION OF DATE.—Section 466(a)(1)(B) (42 U.S.C. 666(a)(1)(B)) is amended by striking "October 1, 1996" and inserting "January 1, 1994".

SEC. 5557. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this chapter shall take effect as if included in the enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(b) EXCEPTION.—The amendments made by section 5532(b)(2) of this Act shall take effect as if the amendments had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112).

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Subchapter A—Eligibility for Federal Benefits

SEC. 5561. ALIEN ELIGIBILITY FOR FEDERAL BENEFITS: LIMITED APPLICATION TO MEDICARE AND BENEFITS UNDER THE RAILROAD RETIREMENT ACT.

(a) LIMITED APPLICATION TO MEDICARE.—Section 401(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) is amended by adding at the end the following:

"(3) Subsection (a) shall not apply to any benefit payable under title XVIII of the Social Security Act (relating to the medicare program) to an alien who is lawfully present in the United States as determined by the Attorney General and, with respect to benefits payable under part A of such title, who was authorized to be employed with respect to any wages attributable to employment which are counted for purposes of eligibility for such benefits.".

(b) LIMITED APPLICATION TO BENEFITS UNDER THE RAILROAD RETIREMENT ACT.—Section 401(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) (as amended by subsection (a)) is amended by inserting at the end the following:

"(4) Subsection (a) shall not apply to any benefit payable under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act to an alien who is lawfully present in the United States as determined by the Attorney General or to an alien residing outside the United States.".

SEC. 5562. EXCEPTIONS TO BENEFIT LIMITATIONS: CORRECTIONS TO REFERENCE CONCERNING ALIENS WHOSE DEPORTATION IS WITHHELD.

Sections 402(a)(2)(A), 402(b)(2)(A), 403(b)(1)(C), 412(b)(1)(C), and 431(b)(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A), 1612(b)(2)(A), 1613(b)(1)(C), 1622(b)(1)(C), and 1641(b)(5)) as amended by this Act are each amended by striking "section 243(h) of such Act" each place it appears and inserting "section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104–208)".

SEC. 5563. VETERANS EXCEPTION: APPLICATION OF MINIMUM ACTIVE DUTY SERVICE REQUIREMENT; EXTENSION TO UNREMARRIED SURVIVING SPOUSE; EXPANDED DEFINITION OF VETERAN.

(a) APPLICATION OF MINIMUM ACTIVE DUTY SERVICE REQUIREMENT.—Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and 412(b)(3)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A), and 1622(b)(3)(A)) are each amended by inserting "and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38, United States Code" after "alienage".

(b) EXCEPTION APPLICABLE TO UNREMARRIED SURVIVING SPOUSE.—Sections 402(a)(2)(C)(iii), 402(b)(2)(C)(iii), 403(b)(2)(C), and 412(b)(3)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(iii), 1612(b)(2)(C)(iii), 1613(b)(2)(C), and 1622(b)(3)(C)) are each amended by inserting before the period "or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code".

(c) EXPANDED DEFINITION OF VETERAN.—Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and 412(b)(3)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(C)(i), 1612(b)(2)(C)(i), 1613(b)(2)(A), and 1622(b)(3)(A)) are each amended by inserting ", 1101, or 1301, or as described in section 107" after "section 101".

SEC. 5564. NOTIFICATION CONCERNING ALIENS NOT LAWFULLY PRESENT: CORRECTION OF TERMINOLOGY.

Section 1631(e)(9) of the Social Security Act (42 U.S.C. 1383(e)(9)) and section 27 of the United States Housing Act of 1937, as added by section 404 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, are each amended by striking "unlawfully in the United States" each place it appears and inserting "not lawfully present in the United States".

SEC. 5565. FREELY ASSOCIATED STATES: CONTRACTS AND LICENSES.

Sections 401(c)(2)(A) and 411(c)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)(2)(A) and 1621(c)(2)(A)) are each amended by inserting before the semicolon at the end ", or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99–239 or 99–658 (or a successor provision) is in effect".

SEC. 5566. CONGRESSIONAL STATEMENT REGARDING BENEFITS FOR HMONG AND OTHER HIGHLAND LAO VETERANS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Hmong and other Highland Lao tribal peoples were recruited, armed, trained, and funded for military operations by the United States Department of Defense, Central Intelligence Agency, Department of State, and Agency for International Development to further United States national security interests during the Vietnam conflict.

(2) Hmong and other Highland Lao tribal forces sacrificed their own lives and saved the lives of American military personnel by rescuing downed American pilots and aircrews and by engaging and successfully fighting North Vietnamese troops.

(3) Thousands of Hmong and other Highland Lao veterans who fought in special guerilla units on behalf of the United States during the Vietnam conflict, along with their families, have been lawfully admitted to the United States in recent years.

(4) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193), the new national welfare reform law, restricts certain welfare benefits for noncitizens of the United States and the exceptions for noncitizen veterans of the Armed Forces of the United States do not extend to Hmong veterans of the Vietnam conflict era, making Hmong veterans and their families receiving certain welfare benefits subject to restrictions despite their military service on behalf of the United States.

(b) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that Hmong and other Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and have lawfully been admitted to the United States for permanent residence should be considered veterans for purposes of continuing certain welfare benefits consistent with the exceptions provided other noncitizen veterans under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subchapter B—General Provisions

SEC. 5571. DETERMINATION OF TREATMENT OF BATTERED ALIENS AS QUALIFIED ALIENS; INCLUSION OF ALIEN CHILD OF BATTERED PARENT AS QUALIFIED ALIEN.

(a) DETERMINATION OF STATUS BY AGENCY PROVIDING BENEFITS.—Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended in subsections (c)(1)(A) and (c)(2)(A) by striking "Attorney General, which opinion is not subject to review by any court)" each place it appears and inserting "agency providing such benefits)".

(b) GUIDANCE ISSUED BY ATTORNEY GENERAL.—Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is amended by adding at the end the following new undesignated paragraph:

"After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section 421(f), concerning the meaning of the terms 'battery' and 'extreme cruelty', and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.".

(c) INCLUSION OF ALIEN CHILD OF BATTERED PARENT AS QUALIFIED ALIEN.—Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)) is amended—

(1) at the end of paragraph (1)(B)(iv) by striking "or";

(2) at the end of paragraph (2)(B) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (2)(B) and before the last sentence of such subsection the following new paragraph:

"(3) an alien child who—

"(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of subparagraph (B) of paragraph (1).".

(d) INCLUSION OF ALIEN CHILD OF BATTERED PARENT UNDER SPECIAL RULE FOR ATTRIBUTION OF INCOME.—Section 421(f)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(f)(1)(A)) is amended—

(1) at the end of clause (i) by striking "or"; and

(2) by striking "and the battery or cruelty described in clause (i) or (ii)" and inserting "or (iii) the alien is a child whose parent (who resides in the same household as the alien child) has been battered or subjected to extreme cruelty in the United States by that parent's spouse, or by a member of the spouse's family residing in the same household as the parent and the spouse consented to, or acquiesced in, such battery or cruelty, and the battery or cruelty described in clause (i), (ii), or (iii)".

SEC. 5572. VERIFICATION OF ELIGIBILITY FOR BENEFITS.

(a) REGULATIONS AND GUIDANCE.—Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "Not later than 90 days after the date of the enactment of the Balanced Budget Act of 1997, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall issue interim verification guidance."; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) Not later than 90 days after the date of the enactment of the Balanced Budget Act of 1997, the Attorney General shall promulgate regulations which set forth the procedures by which a State or local government can verify whether an alien applying for a State or local public benefit is a qualified alien, a nonimmigrant under the Immigration and Nationality Act, or an alien paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act for less than 1 year, for purposes of determining whether the alien is ineligible for benefits under section 411 of this Act.".

(b) DISCLOSURE OF INFORMATION FOR VERIFICATION.—Section 384(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208) is amended by adding after paragraph (4) the following new paragraph:

"(5) The Attorney General is authorized to disclose information, to Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.".

SEC. 5573. QUALIFYING QUARTERS: DISCLOSURE OF QUARTERS OF COVERAGE INFORMATION; CORRECTION TO ASSURE THAT CREDITING APPLIES TO ALL QUARTERS EARNED BY PARENTS BEFORE CHILD IS 18.

(a) DISCLOSURE OF QUARTERS OF COVERAGE INFORMATION.—Section 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1645) is amended by adding at the end the following: "Notwithstanding section 6103 of the Internal Revenue Code of 1986, the Commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.".

(b) CORRECTION TO ASSURE THAT CREDITING APPLIES TO ALL QUARTERS EARNED BY PARENTS BEFORE CHILD IS 18.—Section 435(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1645(1)) is amended by striking "while the alien was under age 18," and inserting "before the date on which the alien attains age 18,".

SEC. 5574. STATUTORY CONSTRUCTION: BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED STATES.

Section 433 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1643) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by adding after subsection (a) the following new subsection:

"(b) BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED STATES.—Notwithstanding any other provision of this title, the limitations on eligibility for benefits under this title shall not apply to eligibility for benefits of aliens who are not residing, or present, in the United States with respect to—

"(1) wages, pensions, annuities, and other earned payments to which an alien is entitled resulting from employment by, or on behalf of, a Federal, State, or local government agency which was not prohibited during the period of such employment or service under section 274A or other applicable provision of the Immigration and Nationality Act; or

"(2) benefits under laws administered by the Secretary of Veterans Affairs.".

Subchapter C—Miscellaneous Clerical and Technical Amendments; Effective Date

SEC. 5581. CORRECTING MISCELLANEOUS CLERICAL AND TECHNICAL ERRORS.

(a) INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.—Effective July 1, 1997, section 408 (42 U.S.C. 608), as amended by sections 5001(h)(1) and 5505(e) of this Act, is amended by adding at the end the following new subsection:

"(g) STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.—Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is not lawfully present in the United States.".

(b) MISCELLANEOUS CLERICAL AND TECHNICAL CORRECTIONS.—

(1) Section 411(c)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621(c)(3)) is amended by striking "4001(c)" and inserting "401(c)".

(2) Section 422(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1632(a)) is amended by striking "benefits (as defined in section 412(c))," and inserting "benefits,".

(3) Section 412(b)(1)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1622(b)(1)(C)) is amended by striking "with-holding" and inserting "withholding".

(4) The subtitle heading for subtitle D of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended to read as follows:

"Subtitle D—General Provisions".

(5) The subtitle heading for subtitle F of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended to read as follows:

"Subtitle F—Earned Income Credit Denied to Unauthorized Employees".

(6) Section 431(c)(2)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(2)(B)) is amended by striking "clause (ii) of subparagraph (A)" and inserting "subparagraph (B) of paragraph (1)".

(7) Section 431(c)(1)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)) is amended—

(A) in clause (iii) by striking ", or" and inserting "(as in effect prior to April 1, 1997),"; and

(B) by adding after clause (iv) the following new clause:

"(v) cancellation of removal pursuant to section 240A(b)(2) of such Act;".

SEC. 5582. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this chapter shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

CHAPTER 5—CHILD PROTECTION

SEC. 5591. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION.

(a) Methods Permitted for Conduct of Study of Child Welfare.—Section 429A(a) (42 U.S.C. 628b(a)) is amended by inserting "(directly, or by grant, contract, or interagency agreement)" after "conduct".

(b) Redesignation of Paragraph.—Section 471(a) (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) (as added by section 1808(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188; 110 Stat. 1903)) and inserting "; and"; and

(3) by redesignating paragraph (18) (as added by section 505(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278)) as paragraph (19).

SEC. 5592. ADDITIONAL TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION.

(a) Part B Amendments.—

(1) In general.—Part B of title IV (42 U.S.C. 620–635) is amended—

(A) in section 422(b)—

(i) by striking the period at the end of the paragraph (9) (as added by section 554(3) of the Improving America's Schools Act of 1994 (Public Law 103–382; 108 Stat. 4057)) and inserting a semicolon;

(ii) by redesignating paragraph (10) as paragraph (11); and

(iii) by redesignating paragraph (9), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432, 108 Stat. 4453), as paragraph (10);

(B) in sections 424(b) and 425(a), by striking "422(b)(9)" each place it appears and inserting "422(b)(10)"; and

(C) by transferring section 429A (as added by section 503 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2277)) to the end of subpart 1.

(2) Clarification of Conflicting Amendments.—Section 204(a)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4456) is amended by inserting "(as added by such section 202(a))" before "and inserting".

(b) Part E Amendments.—Section 472(d) (42 U.S.C. 672(d)) is amended by striking "422(b)(9)" and inserting "422(b)(10)".

SEC. 5593. EFFECTIVE DATE.

The amendments made by this chapter shall take effect as if included in the enactment of title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2277).

CHAPTER 6—CHILD CARE

SEC. 5601. CONFORMING AND TECHNICAL AMENDMENTS RELATING TO CHILD CARE.

(a) Funding.—Section 418(a) (42 U.S.C. 618(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "the greater of" after "equal to";

(B) in subparagraph (A)—

(i) by striking "the sum of";

(ii) by striking "amounts expended" and inserting "expenditures"; and

(iii) by striking "section—" and all that follows and inserting "subsections (g) and (i) of section 402 (as in effect before October 1, 1995); or";

(C) in subparagraph (B)—

(i) by striking "sections" and inserting "subsections"; and

(ii) by striking the semicolon at the end and inserting a period; and

(D) in the matter following subparagraph (B), by striking "whichever is greater."; and

(2) in paragraph (2)—

(A) by striking subparagraph (B) and inserting the following:

"(B) Allotments to States.—The total amount available for payments to States under this paragraph, as determined under subparagraph (A), shall be allotted among the States based on the formula used for determining the amount of Federal payments to each State under section 403(n) (as in effect before October 1, 1995).";

(B) by striking subparagraph (C) and inserting the following:

"(C) Federal matching of State expenditures exceeding historical expenditures.—The Secretary shall pay to each eligible State for a fiscal year an amount equal to the lesser of the State's allotment under subparagraph (B) or the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as such section was in effect on September 30, 1995) of so much of the State's expenditures for child care in that fiscal year as exceed the total amount of expenditures by the State (including expenditures from amounts made available from Federal funds) in fiscal year 1994 or 1995 (whichever is greater) for the programs described in paragraph (1)(A)."; and

(C) in subparagraph (D)(i)—

(i) by striking "amounts under any grant awarded" and inserting "any amounts allotted"; and

(ii) by striking "the grant is made" and inserting "such amounts are allotted".

(b) Data Used To Determine Historic State Expenditures.—Section 418(a) (42 U.S.C. 618(a)) is amended by adding at the end the following:

"(5) Data used to determine State and Federal shares of expenditures.—In making the determinations concerning expenditures required under paragraphs (1) and (2)(C), the Secretary shall use information that was reported by the State on ACF Form 231 and available as of the applicable dates specified in clauses (i)(I), (ii), and (iii)(III) of section 403(a)(1)(D).".

(c) Definition of State.—Section 418(d) (42 U.S.C. 618(d)) is amended by striking "or" and inserting "and".

SEC. 5602. ADDITIONAL CONFORMING AND TECHNICAL AMENDMENTS.

The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) in section 658E(c)(2)(E)(ii), by striking "tribal organization" and inserting "tribal organizations";

(2) in section 658K(a)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking clause (iv) and inserting the following:

"(iv) whether the head of the family unit is a single parent;";

(II) in clause (v)—

(aa) in the matter preceding subclause (I), by striking "including the amount obtained from (and separately identified)—" and inserting "including—"; and

(bb) by striking subclause (II) and inserting the following:

"(II) cash or other assistance under—

"(aa) the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

"(bb) a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));"; and

(III) in clause (x), by striking "week" and inserting "month"; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) Use of samples.—

"(i) Authority.—A State may comply with the requirement to collect the information described in subparagraph (B) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

"(ii) Sampling and other methods.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid samples of the information described in subparagraph (B). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States."; and

(B) in paragraph (2)—

(i) in the heading, by striking "Biannual" and inserting "Annual"; and

(ii) by striking "6" and inserting "12";

(3) in section 658L, by striking "1997" and inserting "1998";

(4) in section 658O(c)(6)(C), by striking "(A)" and inserting "(B)"; and

(5) in section 658P(13), by striking "or" and inserting "and".

SEC. 5603. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278).

(b) Exceptions.—The amendment made by section 5601(a)(2)(B) shall take effect on October 1, 1997.

CHAPTER 7—ERISA AMENDMENTS RELATING TO MEDICAL CHILD SUPPORT ORDERS

SEC. 5611. AMENDMENTS RELATING TO SECTION 303 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) Privacy Safeguards for Medical Child Support Orders.—Section 609(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)(A)) is amended by adding at the end the following: "except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient,".

(b) Payment to State Official Treated as Satisfaction of Plan's Obligation.—Section 609(a) of such Act (29 U.S.C. 1169(a)) is amended by adding at the end the following new paragraph:

"(9) Payment to State official treated as satisfaction of plan's obligation to make payment to alternate recipient.—Payment of benefits by a group health plan to an official of a State or a political subdivision thereof whose name and address have been substituted for the name and address of an alternate recipient in a qualified medical child support order, pursuant *to paragraph (3)(A), shall be treated, for purposes of this title, as payment of benefits to the alternate recipient.''.*

(c) Effective Date.—The amendments made by this section shall apply with respect to medical child support orders issued on or after the date of the enactment of this Act.

SEC. 5612. AMENDMENT RELATING TO SECTION 381 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) Clarification of Effect of Administrative Notices.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.''.

(b) Effective Date.—The amendment made by this section shall be effective as if included in the enactment of section 381 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2257).

SEC. 5613. AMENDMENTS RELATING TO SECTION 382 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) Elimination of Requirement That Orders Specify Affected Plans.—Section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) is amended—

(1) in subparagraph (B), by striking ''by the plan'';

(2) by adding ''and'' at the end of subparagraph (B);

(3) in subparagraph (C), by striking '', and'' and inserting a period; and

(4) by striking subparagraph (D).

(b) Clarification of Applicability of Orders.—Section 609(a)(1) of such Act (29 U.S.C. 1169(a)(1)) is amended by adding at the end the following new sentence: ''A qualified medical child support order with respect to any participant or beneficiary shall be deemed to apply to each group health plan which has received such order, from which the participant or beneficiary is eligible to receive benefits, and with respect to which the requirements of paragraph (4) are met.''.

(c) Effective Date.—The amendments made by this section shall apply with respect to medical child support orders issued on or after the date of the enactment of this Act.

Subtitle G—Miscellaneous

SEC. 5701. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting ''$5,950,000,000,000''.

SEC. 5702. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT INITIATIVES RELATED TO THE EARNED INCOME TAX CREDIT.

In addition to any other funds available therefor, there are authorized to be appropriated to the Secretary of the Treasury, for improved application of the earned income credit under section 32 of the Internal Revenue Code of 1986, not more than—

(1) $138,000,000 for fiscal year 1998;

(2) $143,000,000 for fiscal year 1999;

(3) $144,000,000 for fiscal year 2000;

(4) $145,000,000 for fiscal year 2001; and

(5) $146,000,000 for fiscal year 2002.

TITLE VI—EDUCATION AND RELATED PROVISIONS

Subtitle A—Higher Education

SEC. 6101. MANAGEMENT AND RECOVERY OF RESERVES.

(a) Amendment.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

''(h) Recall of Reserves; Limitations on Use of Reserve Funds and Assets.—

''(1) In general.—Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

''(2) Deposit.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

''(3) Required share.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on the agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

''(A) The Secretary shall compute each guaranty agency's reserve ratio by dividing (i) the amount held in the agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which the agency has an outstanding insurance obligation as of such date, including amounts of outstanding loans transferred to the agency from another guaranty agency.

''(B) If the reserve ratio of any guaranty agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in the agency's reserve funds as exceed a reserve ratio of 2.0 percent.

''(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), such additional amount shall be obtained by imposing on each guaranty agency an equal percentage reduction in the amount of the agency's reserve funds remaining after deduction of the amount recalled under subparagraph (B), except that such percentage reduction under this subparagraph shall not result in the agency's reserve ratio being reduced below 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

''(i) the additional amount required to be recalled (after deducting the total of the required shares calculated under subparagraph (B)), by

''(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraph).

''(D) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraphs (B) and (C)), such additional amount shall be obtained by imposing on each guaranty agency with a reserve ratio (after deducting the required shares calculated under such subparagraphs) in excess of 0.58 percent an equal percentage reduction in the amount of the agency's reserve funds remaining (after such deduction) that exceed a reserve ratio of 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

''(i) the additional amount to be recalled under paragraph (1) (after deducting the amount recalled under subparagraphs (B) and (C)), by

''(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraphs) that exceed a reserve ratio of 0.58 percent.

''(4) Restricted accounts required.—

''(A) In general.—Within 90 days after the beginning of each of the fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of the agency's required share determined under paragraph (3) to a restricted account established by the agency that is of a type selected by the agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities.

''(B) Requirement.—A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for default reduction activities.

''(C) Installments.—In each of fiscal years 1998 through 2002, each guaranty agency shall transfer the agency's required share to such restricted account in 5 equal annual installments, except that—

''(i) a guaranty agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer the agency's required share to such account in 4 equal installments beginning in fiscal year 1999; and

''(ii) a guaranty agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

''(5) Shortage.—If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary. The Secretary shall first attempt to obtain the amount of such shortage from each guaranty agency that failed to transfer the agency's required share to the agency's restricted account in accordance with paragraph (4).

''(6) Enforcement.—

''(A) In general.—The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection.

''(B) Prohibition.—If the Secretary determines that a guaranty agency has failed to transfer to a restricted account any portion of the agency's required share under this subsection, the agency may not receive any other funds under this part until the Secretary determines that the agency has so transferred the agency's required share.

''(C) Waiver.—The Secretary may waive the requirements of subparagraph (B) for a guaranty agency described in such subparagraph if the Secretary determines that there are extenuating circumstances beyond the control of the agency that justify such waiver.

''(7) Limitation.—

''(A) Restriction on other authority.—The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of the Balanced Budget Act of 1997 through September 30, 2002.

''(B) Use of termination collections.—Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(B) during such period that do not exceed a guaranty agency's required share of recalled reserve funds under paragraph (3)—

''(i) shall be used to satisfy the agency's required share of recalled reserve funds; and

"(ii) shall be deposited in the restricted account established by the agency under paragraph (4), without regard to whether such funds exceed the next installment required under such paragraph.

"(C) USE OF SANCTIONS COLLECTIONS.—Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(C) during such period that do not exceed a guaranty agency's next installment under paragraph (4)—

"(i) shall be used to satisfy the agency's next installment; and

"(ii) shall be deposited in the restricted account established by the agency under paragraph (4).

"(D) BALANCE AVAILABLE TO SECRETARY.—Any reserve funds directed by the Secretary to be returned to the Secretary under subparagraph (B) or (C) of subsection (g)(1) that remain after satisfaction of the requirements of subparagraphs (B) and (C) of this paragraph shall be deposited in thè Treasury.

"(8) DEFINITIONS.—For the purposes of this subsection:

"(A) DEFAULT REDUCTION ACTIVITIES.—The term 'default reduction activities' means activities to. reduce student loan defaults that improve, strengthen, and expand default prevention activities, such as—

"(i) establishing a program of partial loan cancellation to reward disadvantaged borrowers for good repayment histories with their lenders;

"(ii) establishing a financial and debt management counseling program for high-risk borrowers that provides long-term training (beginning prior to the first disbursement of the borrower's first student loan and continuing through the completion of the borrower's program of education or training) in budgeting and other aspects of financial management, including debt management;

"(iii) establishing a program of placement counseling to assist high-risk borrowers in identifying employment or additional training opportunities; and

"(iv) developing public service announcements that would detail consequences of student loan default and provide information regarding a toll-free telephone number established by the guaranty agency for use by borrowers seeking assistance in avoiding default.

"(B) RESERVE FUNDS.—The term 'reserve funds' when used with respect to a guaranty agency—

"(i) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

"(ii) does not include buildings, equipment, or other nonliquid assets.".

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking "for the fiscal year of the agency that begins in 1993"; and

(2) by striking the third sentence.

SEC. 6102. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 6103. FUNDS FOR ADMINISTRATIVE EXPENSES.

Subsection (a) of section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended to read as follows:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part, and

"(B) administrative cost allowances payable to guaranty agencies under part B and calculated in accordance with paragraph (2),

not to exceed (from such funds not otherwise appropriated) $532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002. Administrative cost allowances under subparagraph (B) of this paragraph shall be paid quarterly and used in accordance with section 428(f). The Secretary may carry over funds available under this section to a subsequent fiscal year.

"(2) CALCULATION BASIS.—Administrative cost allowances payable to guaranty agencies under paragraph (1)(B) shall be calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance was issued in excess of $8,200,000,000 in fiscal year 1997 and upon which insurance is issued on or after October 1, 1997, except that such allowances shall not exceed—

"(A) $170,000,000 for each of the fiscal years 1998 and 1999; or

"(B) $150,000,000 for each of the fiscal years 2000, 2001, and 2002.".

SEC. 6104. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(2) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively; and

(3) in section 428C(e), by striking "1998." and inserting "2002.".

Subtitle B—Repeal of Smith-Hughes Vocational Education Act

SEC. 6201. REPEAL OF SMITH-HUGHES VOCATIONAL EDUCATION ACT.

The Act of February 23, 1917 (39 Stat. 929, chapter 114; 20 U.S.C. 11 et seq.) (commonly known as the "Smith-Hughes Vocational Education Act"), is repealed.

TITLE VII—CIVIL SERVICE RETIREMENT AND RELATED PROVISIONS

SEC. 7001. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.— Notwithstanding section 8334 (a)(1) or (k)(1) of title 5, United States Code, during the period beginning on October 1, 1997, through September 30, 2002, each employing agency (other than the United States Postal Service or the Metropolitan Washington Airports Authority) shall contribute—

(i) 8.51 percent of the basic pay of an employee;

(ii) 9.01 percent of the basic pay of a congressional employee, a law enforcement officer, a member of the Capitol police, or a firefighter; and

(iii) 9.51 percent of the basic pay of a Member of Congress, a Court of Federal Claims judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Forces, or a bankruptcy judge;

in lieu of the agency contributions otherwise required under section 8334(a)(1) of title 5, United States Code.

(B) APPLICATION.—For purposes of subparagraph (A) and notwithstanding the amendments made by paragraph (3), during the period beginning on January 1, 1999 through December 31, 2002, with respect to the United States Postal Service and the Metropolitan Washington Airports Authority, the agency contribution shall be determined as though those amendments had not been made.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Contributions by the Treasury of the United States or the United States Postal Service under section 8348 (g), (h), or (m) of title 5, United States Code—

(A) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(B) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

(A) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, Court of Federal Claims judge, or member of the Capitol Police, as the case may be, the percentage of basic pay applicable under subsection (c).".

(B) DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(i) in the matter relating to an employee by striking:

"7	**After December 31, 1969.";**

and inserting the following:

"7	**January 1, 1970, to December 31, 1998.**
7.25	**January 1, 1999, to December 31, 1999.**
7.4	**January 1, 2000, to December 31, 2000.**
7.5	**January 1, 2001, to December 31, 2002.**
7	**After December 31, 2002.";**

(ii) in the matter relating to a Member or employee for congressional employee service by striking:

"7½	**After December 31, 1969.";**

and inserting the following:

"7.5	**January 1, 1970, to December 31, 1998.**
7.75	**January 1, 1999, to December 31, 1999.**
7.9	**January 1, 2000, to December 31, 2000.**
8	**January 1, 2001, to December 31, 2002.**
7.5	**After December 31, 2002.";**

(iii) in the matter relating to a Member for Member service by striking:

"8	**After December 31, 1969.";**

and inserting the following:

"8	**January 1, 1970, to December 31, 1998.**
8.25	**January 1, 1999, to December 31, 1999.**
8.4	**January 1, 2000, to December 31, 2000.**
8.5	**January 1, 2001, to December 31, 2002.**
8	**After December 31, 2002.";**

(iv) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking:

"7½	**After December 31, 1974.";**

and inserting the following:

"7.5	**January 1, 1975, to December 31, 1998.**
7.75	**January 1, 1999, to December 31, 1999.**
7.9	**January 1, 2000, to December 31, 2000.**
8	**January 1, 2001, to December 31, 2002.**
7.5	**After December 31, 2002.";**

(v) in the matter relating to a bankruptcy judge by striking:

"8	**After December 31, 1983.";**

and inserting the following:

"8	**January 1, 1984, to December 31, 1998.**
8.25	**January 1, 1999, to December 31, 1999.**
8.4	**January 1, 2000, to December 31, 2000.**
8.5	**January 1, 2001, to December 31, 2002.**
8	**After December 31, 2002.";**

(vi) in the matter relating to a judge of the United States Court of Appeals for the Armed

Forces for service as a judge of that court by striking:

"8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984.";

and inserting the following:

"8	The date of enactment of the Department of Defense Authorization Act, 1984, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

(vii) in the matter relating to a United States magistrate by striking:

"8	After September 30, 1987.";

and inserting the following:

"8	October 1, 1987, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

(viii) in the matter relating to a Court of Federal Claims judge by striking:

"8	After September 30, 1988.";

and insert the following:

"8	October 1, 1988, to December 31, 1998.
8.25	January 1, 1999, to December 31, 1999.
8.4	January 1, 2000, to December 31, 2000.
8.5	January 1, 2001, to December 31, 2002.
8	After December 31, 2002.";

and

(ix) by inserting after the matter relating to a Court of Federal Claims judge the following:

"Member of the Capitol Police.	2.5	August 1, 1920, to June 30, 1926.
	3.5	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6.5	November 1, 1956, to December 31, 1969.
	7.5	January 1, 1970, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1998, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following new paragraph:

"(4) Effective with respect to any period of service after December 31, 1998, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under subsection (c) of this section for the same period for service as an employee.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph for civilian service shall be as follows:

"Employee	7	January 1, 1987, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7.5	January 1, 2001, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee.	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Member	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.".

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

"(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

"(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

"(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent;

"(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent; and

"(C) January 1, 2001, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 211(a)(2) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(2)), during the period beginning on October 1, 1997, through September 30, 2002, the Central Intelligence Agency shall contribute 8.51 percent of the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System in lieu of the agency contribution otherwise required under section 211(a)(2) of such Act.

(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—Notwithstanding section 211(a)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(1)) beginning on January 1, 1999, through December 31, 2002, the percentage deducted and withheld from the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System shall be as follows:

7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.

(3) MILITARY SERVICE.—Section 252(h)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2082(h)(1)), is amended to read as follows:

"(h)(1)(A) Each participant who has performed military service before the date of separation on which entitlement to an annuity under this title is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37, United States Code, to the participant for each period of military service after December 1956; except, the amount to be paid for military service performed beginning on January 1, 1999, through December 31, 2002, shall be as follows:

"7.25 percent of basic pay	January 1, 1999, to December 31, 1999.
7.4 percent of basic pay	January 1, 2000, to December 31, 2000.
7.5 percent of basic pay	January 1, 2001, to December 31, 2002.

"(B) The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).".

(d) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 805(a) (1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a) (1) and (2)), during the period beginning on October 1, 1997, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

(A) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such

Act participating in the Foreign Service Retirement and Disability System; and

(B) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System;

in lieu of the agency contribution otherwise required under section 805(a) (1) and (2) of such Act.

(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.
7.5	January 1, 2001, to December 31, 2002.

(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2002, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.

(C) CONFORMING AMENDMENT.—Section 805(d)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(d)(1)) is amended in the table in the matter following subparagraph (B) by striking:

"On and after January 1, 1970	7";

and inserting the following:

"January 1, 1970, through December 31, 1998, inclusive	7
January 1, 1999, through December 31, 1999, inclusive	7.25
January 1, 2000, through December 31, 2000, inclusive	7.4
January 1, 2001, through December 31, 2002, inclusive	7.5
After December 31, 2002	7".

(D) MILITARY SERVICE.—Section 805(e) of the Foreign Service Act of 1980 (22 U.S.C. 4045(e)) is amended—

(i) in subsection (e)(1) by striking "Each" and inserting "Subject to paragraph (5), each"; and

(ii) by adding after paragraph (4) the following new paragraph:

"(5) Effective with respect to any period of military or naval service after December 31, 1998, the percentage of basic pay under section 204 of title 37, United States Code, payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) of title 5, United States Code, for that same period for service as an employee.".

(e) FOREIGN SERVICE PENSION SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS FROM PAY.—

(A) IN GENERAL.—Section 856(a) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)) is amended to read as follows:

"(a)(1) The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3101(a)) (relating to the rate of tax for old age, survivors, and disability insurance).

"(2) The applicable percentage under this subsection shall be as follows:

"7.5	Before January 1, 1999.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
8	January 1, 2001, to December 31, 2002.
7.5	After December 31, 2002.".

(B) VOLUNTEER SERVICE.—Subsection 854(c) of the Foreign Service Act of 1980 (22 U.S.C. 4071c(c)) is amended to read as follows:

"(c)(1) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

"(A) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

"(B) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

"(C) a full-time volunteer for a period of service of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service; except, the amount to be paid for volunteer service beginning on January 1, 1999, through December 31, 2002, shall be as follows:

"3.25	January 1, 1999, to December 31, 1999.
3.4	January 1, 2000, to December 31, 2000.
3.5	January 1, 2001, to December 31, 2002.

"(2) The amount of such payments shall be determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code, together with interest determined under regulations issued by the Secretary of State.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on—

(A) October 1, 1997; or

(B) if later, the date of enactment of this Act.

(2) SPECIAL RULE.—If the date of enactment of this Act is later than October 1, 1997, then any reference to October 1, 1997, in subsection (a)(1), (c)(1), or (d)(1) shall be treated as a reference to the date of enactment of this Act.

SEC. 7002. GOVERNMENT CONTRIBUTIONS UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by striking subsection (a) and all that follows through the end of paragraph (1) of subsection (b) and inserting the following:

"(a)(1) Not later than October 1 of each year, the Office of Personnel Management shall determine the weighted average of the subscription charges that will be in effect during the following contract year with respect to—

"(A) enrollments under this chapter for self alone; and

"(B) enrollments under this chapter for self and family.

"(2) In determining each weighted average under paragraph (1), the weight to be given to a particular subscription charge shall, with respect to each plan (and option) to which it is to apply, be commensurate with the number of enrollees enrolled in such plan (and option) as of March 31 of the year in which the determination is being made.

"(3) For purposes of paragraph (2), the term 'enrollee' means any individual who, during the contract year for which the weighted average is to be used under this section, will be eligible for a Government contribution for health benefits.

"(b)(1) Except as provided in paragraphs (2) and (3), the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 72 percent of the weighted average under subsection (a)(1) (A) or (B), as applicable. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made.".

(b) EFFECTIVE DATE.—This section shall take effect on the first day of the contract year that begins in 1999. Nothing in this subsection shall prevent the Office of Personnel Management from taking any action, before such first day, which it considers necessary in order to ensure the timely implementation of this section.

SEC. 7003. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act or October 1, 1997, whichever is later.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1998.—

(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1998 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1998 authorized by such section 2004, then, an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts before October 1, 1998.

TITLE VIII—VETERANS AND RELATED MATTERS

SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 8001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 8011. Enhanced loan asset sale authority.
Sec. 8012. Home loan fees.
Sec. 8013. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Sec. 8014. Income verification authority.
Sec. 8015. Limitation on pension for certain recipients of medicaid-covered nursing home care.

Subtitle B—Copayments and Medical Care Cost Recovery

Sec. 8021. Authority to require that certain veterans make copayments in exchange for receiving health care benefits.
Sec. 8022. Medical care cost recovery authority.
Sec. 8023. Department of Veterans Affairs medical-care receipts.

Subtitle C—Other Matters

Sec. 8031. Rounding down of cost-of-living adjustments in compensation and DIC rates for fiscal years 1998 through 2002.
Sec. 8032. Increase in amount of home loan fees for the purchase of repossessed homes from the Department of Veterans Affairs.
Sec. 8033. Withholding of payments and benefits.

Subtitle A—Extension of Temporary Authorities

SEC. 8011. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 2002".

SEC. 8012. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8013. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8014. INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8015. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

Subtitle B—Copayments and Medical Care Cost Recovery

SEC. 8021. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—

(1) EXTENSION.—Section 1710(f)(2)(B) of title 38, United States Code, is amended by inserting "before September 30, 2002," after "(B)".

(2) REPEAL OF SUPERSEDED PROVISION.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is repealed.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 8022. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 8023. DEPARTMENT OF VETERANS AFFAIRS MEDICAL-CARE RECEIPTS.

(a) ALLOCATION OF RECEIPTS.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1729 the following new section:

"§ 1729A. Department of Veterans Affairs Medical Care Collections Fund

"(a) There is in the Treasury a fund to be known as the Department of Veterans Affairs Medical Care Collections Fund.

"(b) Amounts recovered or collected after June 30, 1997, under any of the following provisions of law shall be deposited in the fund:

"(1) Section 1710(f) of this title.

"(2) Section 1710(g) of this title.

"(3) Section 1711 of this title.

"(4) Section 1722A of this title.

"(5) Section 1729 of this title.

"(6) Public Law 87–693, popularly known as the 'Federal Medical Care Recovery Act' (42 U.S.C. 2651 et seq.), to the extent that a recovery or collection under that law is based on medical care or services furnished under this chapter.

"(c)(1) Subject to the provisions of appropriations Acts, amounts in the fund shall be available, without fiscal year limitation, to the Secretary for the following purposes:

"(A) Furnishing medical care and services under this chapter, to be available during any fiscal year for the same purposes and subject to the same limitations (other than with respect to the period of availability for obligation) as apply to amounts appropriated from the general fund of the Treasury for that fiscal year for medical care.

"(B) Expenses of the Department for the identification, billing, auditing, and collection of amounts owed the United States by reason of medical care and services furnished under this chapter.

"(2) Amounts available under paragraph (1) may not be used for any purpose other than a purpose set forth in subparagraph (A) or (B) of that paragraph.

"(3)(A) If for fiscal year 1998 the Secretary determines that the total amount to be recovered under the provisions of law specified in subsection (b) will be less than the amount contained in the latest Congressional Budget Office baseline estimate (computed under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985) for the amount of such recoveries for fiscal year 1998 by at least $25,000,000, the Secretary shall promptly certify to the Secretary of the Treasury the amount of the shortfall (as estimated by the Secretary) that is in excess of $25,000,000. Upon receipt of such a certification, the Secretary of the Treasury shall, not later than 30 days after receiving the certification, deposit in the fund, from any unobligated amounts in the Treasury, an amount equal to the amount certified by the Secretary.

"(B) If for fiscal year 1998 a deposit is made under subparagraph (A) and the Secretary subsequently determines that the actual amount recovered for that fiscal year under the provisions of law specified in subsection (b) is greater than the amount estimated by the Secretary that was used for purposes of the certification by the Secretary under subparagraph (A), the Secretary shall pay into the general fund of the Treasury, from amounts available for medical care, an amount equal to the difference between the amount actually recovered and the amount so estimated (but not in excess of the amount of the deposit under subparagraph (A) pursuant to such certification).

"(C) If for fiscal year 1998 a deposit is made under subparagraph (A) and the Secretary subsequently determines that the actual amount recovered for that fiscal year under the provisions of law specified in subsection (b) is less than the amount estimated by the Secretary that was used for purposes of the certification by the Secretary under subparagraph (A), the Secretary shall promptly certify to the Secretary of the Treasury the amount of the shortfall. Upon receipt of such a certification, the Secretary of the Treasury shall, not later than 30 days after receiving the certification, deposit in the fund, from any unobligated amounts in the Treasury, an amount equal to the amount certified by the Secretary.

"(d)(1) Of the total amount recovered or collected by the Department during a fiscal year under the provisions of law referred to in subsection (b) and made available from the fund, the Secretary shall make available to each designated health care region of the Department an amount that bears the same ratio to the total amount so made available as the amount recovered or collected by such region during that fiscal year under such provisions of law bears to such total amount recovered or collected during that fiscal year. The Secretary shall make available to each region the entirety of the amount specified to be made available to such region by the preceding sentence.

"(2) In this subsection, the term 'designated health care regions of the Department' means the geographic areas designated by the Secretary for purposes of the management of, and allocation of resources for, health care services provided by the Department.

"(e)(1) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives quarterly reports on the operation of this section for fiscal years 1998, 1999, and 2000 and for the first quarter of fiscal year 2001. Each such report shall specify the amount collected under each of the provisions specified in subsection (b) during the preceding quarter and the amount originally estimated to be collected under each such provision during such quarter.

"(2) A report under paragraph (1) for a quarter shall be submitted not later than 45 days after the end of that quarter.

"(f) Amounts recovered or collected under the provisions of law referred to in subsection (b) shall be treated for the purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901, 902) as offsets to discretionary appropriations (rather than as offsets to direct spending) to the extent that such amounts are made available for expenditure in appropriations Acts for the purposes specified in subsection (c).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1729 the following new item:

"1729A. Department of Veterans Affairs Medical Care Collections Fund."

(b) CONFORMING AMENDMENTS.—Chapter 17 of such title is amended as follows:

(1) Section 1710(f) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) Section 1710(g) is amended by striking out paragraph (4).

(3) Section 1722A(b) is amended by striking out "Department of Veterans Affairs Medical-Care Cost Recovery Fund" and inserting in lieu thereof "Department of Veterans Affairs Medical Care Collections Fund".

(4) Section 1729 is amended by striking out subsection (g).

(c) DISPOSITION OF FUNDS IN MEDICAL-CARE COST RECOVERY FUND.—The amount of the unobligated balance remaining in the Department of Veterans Affairs Medical-Care Cost Recovery Fund (established pursuant to section 1729(g)(1) of title 38, United States Code) at the close of June 30, 1997, shall be deposited, not later than

December 31, 1997, in the Treasury as miscellaneous receipts, and the Department of Veterans Affairs Medical-Care Cost Recovery Fund shall be terminated when the deposit is made.

(d) DETERMINATION OF AMOUNTS SUBJECT TO RECOVERY.—Section 1729 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "the reasonable cost of" and inserting in lieu thereof "reasonable charges for"; and

(2) in subsection (c)(2)—

(A) by striking out "the reasonable cost of" in the first sentence of subparagraph (A) and in subparagraph (B) and inserting in lieu thereof "reasonable charges for"; and

(B) by striking out "cost" in the second sentence of subparagraph (A) and inserting in lieu thereof "charges".

(e) TECHNICAL AMENDMENT.—Paragraph (2) of section 712(b) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(f) IMPLEMENTATION.—Not later than January 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall describe the collections under each of the provisions specified in section 1729A(b) of title 38, United States Code, as added by subsection (a). Information on such collections shall be shown for each of the health service networks (known as Veterans Integrated Service Networks) and, to the extent practicable for each facility within each such network. The Secretary shall include in the report an analysis of differences among the networks with respect to (A) the market in which the networks operates, (B) the effort expended to achieve collections, (C) the efficiency of such effort, and (D) any other relevant information.

(g) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 1997.

(2) The amendments made by subsection (d) shall take effect on the date of the enactment of this Act.

Subtitle C—Other Matters

SEC. 8031. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES FOR FISCAL YEARS 1998 THROUGH 2002.

(a) COMPENSATION COLAS.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§ 1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(b) DIC COLAS.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§ 1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 8032. INCREASE IN AMOUNT OF HOME LOAN FEES FOR THE PURCHASE OF REPOSSESSED HOMES FROM THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking out "or 3733(a)";

(B) in subparagraph (D), by striking out "and" at the end;

(C) in subparagraph (E), by striking out the period at the end and inserting in lieu thereof "; and"; and

(D) by adding at the end the following:

"(F) in the case of a loan made under section 3733(a) of this title, the amount of such fee shall be 2.25 percent of the total loan amount."; and

(2) in paragraph (4), as amended by section 8012(1) of this Act, by striking out "or (E)" and inserting in lieu thereof "(E), or (F)".

SEC. 8033. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "No officer"; and

(2) by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title."; and

(3) by adding at the end the following new subsections:

"(b) If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title.

"(c) If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of enactment of this Act.

TITLE IX—ASSET SALES, USER FEES, AND MISCELLANEOUS PROVISIONS

SEC. 9000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE IX—ASSET SALES, USER FEES, AND MISCELLANEOUS PROVISIONS

Sec. 9000. Table of contents.

Subtitle A—Asset Sales

Sec. 9101. Sale of Governors Island, New York.
Sec. 9102. Sale of air rights.

Subtitle B—User Fees

Sec. 9201. Extension of higher vessel tonnage duties.

Subtitle C—Miscellaneous Provisions

Sec. 9301. Temporary Federal share formula adjustment.
Sec. 9302. Increase in excise taxes on tobacco products.
Sec. 9303. Lease of excess strategic petroleum reserve capacity.

Subtitle A—Asset Sales

SEC. 9101. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall, no earlier than fiscal year 2002, dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST OFFER.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first offer to purchase all or part of Governors Island at fair market value as determined by the Administrator of General Services. Not later than 90 days after notification by the Administrator of General Services, such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 9102. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 2002, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1997, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1),

Amtrak shall be prohibited from obligating Federal funds after March 1, 1998.

Subtitle B—User Fees

SEC. 9201. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121) is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years 1991 through 2002,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132) is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," and inserting "for fiscal years 1991 through 2002,".

Subtitle C—Miscellaneous Provisions

SEC. 9301. TEMPORARY FEDERAL SHARE FORMULA ADJUSTMENT.

The Federal share of the cost of assistance provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for damages suffered in Kittson, Marshall, Polk, Norman, Clay, and Wilkin Counties, Minnesota, as a result of the 1997 floods in the Red River Valley in Minnesota and North Dakota shall be at least 90 percent.

SEC. 9302. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 of the Internal Revenue Code of 1986 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)".

(b) CIGARS.—Subsection (a) of section 5701 of such Code is amended—

(1) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 20.719 percent (18.063 percent on cigars removed during 2000 or 2001) of the price for which sold but not more than $48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001).".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 of such Code is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 of such Code is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" in paragraph (1) and inserting "58.5 cents (51 cents on snuff removed during 2000 or 2001)", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)".

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 of such Code (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001) per pound (and a proportionate tax at the like rate on all fractional parts of a pound).".

(2) ROLL-YOUR-OWN TOBACCO.—Section 5702 of such Code (relating to definitions) is amended by adding at the end the following new subsection:

"(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.".

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (c) of section 5702 of such Code is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(B) Subsection (d) of section 5702 of such Code is amended—

(i) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(ii) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and".

(C) The chapter heading for chapter 52 of such Code is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(D) The table of chapters for subtitle E of such Code is amended by striking the item relating to chapter 52 and inserting the following new item:

"CHAPTER 52. Tobacco products and cigarette papers and tubes.".

(h) MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.—

(1) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(A) Subsection (b) of section 5704 of such Code is amended by adding at the end the following new sentence: "Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.".

(B) Section 5761 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

"(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

"(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.".

(C) Subsection (a) of section 5761 of such Code is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(D) Subsection (d) of section 5761 of such Code, as redesignated by subparagraph (B), is amended by striking "The penalty imposed by subsection (b)" and inserting "The penalties imposed by subsections (b) and (c)".

(E)(i) Subpart F of chapter 52 of such Code is amended by adding at the end the following new section:

"SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

"(b) CROSS REFERENCE.—

"For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).".

(ii) The table of sections for subpart F of chapter 52 of such Code is amended by adding at the end the following new item:

"Sec. 5754. Restriction on importation of previously exported tobacco products.".

(2) IMPORTERS REQUIRED TO BE QUALIFIED.—

(A) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763 (b) and (c) of such Code are each amended by inserting "or importer" after "manufacturer".

(B) The heading of subsection (b) of section 5763 of such Code is amended by inserting "QUALIFIED IMPORTERS," after "MANUFACTURERS,".

(C) The heading for subchapter B of chapter 52 of such Code is amended by inserting "**and Importers**" after "**Manufacturers**".

(D) The item relating to subchapter B in the table of subchapters for chapter 52 of such Code is amended by inserting "and importers" after "manufacturers".

(3) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 of such Code is amended by striking "On each book or set of cigarette papers containing more than 25 papers," and inserting "On cigarette papers,".

(4) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 of such Code is amended by inserting "under section 5704" after "internal revenue bond".

(5) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 of such Code is amended by striking "or" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or".

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this section) after December 31, 1999.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before January 1, 2000, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States which are removed before any tax increase date, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax increase date, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on any tax increase date, for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax increase date, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 1 following any tax increase date.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax increase date, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(B) TAX INCREASE DATE.—The term "tax increase date" means January 1, 2000, and January 1, 2002.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 9303. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) AMENDMENT.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following:

"USE OF UNDERUTILIZED FACILITIES

"SEC. 168. (a) AUTHORITY.—Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative. Petroleum products stored under this section are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.

"(b) PROTECTION OF FACILITIES.—All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all related costs of storage and removals of petroleum products (including the proportionate cost of replacement facilities necessitated as a result of any withdrawals) incurred by the United States on behalf of the foreign government or its representative.

"(c) ACCESS TO STORED OIL.—The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not impair the ability of the United States to withdraw, distribute, or sell petroleum products from the Strategic Petroleum Reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.

"(d) AVAILABILITY OF FUNDS.—Funds collected through the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) after September 30, 2007, shall be used by the Secretary of Energy without further appropriation for the purchase of petroleum products for the Strategic Petroleum Reserve.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Conservation Act is amended by adding at the end the following:

"Sec. 168. Use of underutilized facilities.".

SEC. 9304. IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO.

Section 1021(a)(3) of the Congressional Budget Act of 1974 shall only apply to 3306(c)(21) of the Internal Revenue Code of 1986 (as added by section 5406 of this Act).

SEC. 9305. PAYMENT OF BENEFITS IN APPROPRIATE FISCAL YEAR.

Section 5120(e) of title 38, United States Code, shall not apply to benefit payments otherwise payable on October 1, 2000.

TITLE X—BUDGET ENFORCEMENT AND PROCESS PROVISIONS

SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Budget Enforcement Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 10001. Short title; table of contents.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 10101. Amendment to section 3.
Sec. 10102. Amendments to section 201.
Sec. 10103. Amendments to section 202.
Sec. 10104. Amendment to section 300.
Sec. 10105. Amendments to section 301.
Sec. 10106. Amendments to section 302.
Sec. 10107. Amendments to section 303.
Sec. 10108. Amendment to section 304.
Sec. 10109. Amendment to section 305.
Sec. 10110. Amendments to section 308.
Sec. 10111. Amendments to section 310.
Sec. 10112. Amendments to section 311.
Sec. 10113. Amendment to section 312.
Sec. 10114. Adjustments.
Sec. 10115. Effect of adoption of a special order of business in the House of Representatives.
Sec. 10116. Amendment to section 401 and repeal of section 402.
Sec. 10117. Amendments to title V.
Sec. 10118. Repeal of title VI.
Sec. 10119. Amendments to section 904.
Sec. 10120. Repeal of sections 905 and 906.
Sec. 10121. Amendments to sections 1022 and 1024.
Sec. 10122. Amendment to section 1026.
Sec. 10123. Senate task force on consideration of budget measures.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

Sec. 10201. Purpose.
Sec. 10202. General statement and definitions.
Sec. 10203. Enforcing discretionary spending limits.
Sec. 10204. Violent crime reduction spending.
Sec. 10205. Enforcing pay-as-you-go.
Sec. 10206. Reports and orders.
Sec. 10207. Exempt programs and activities.
Sec. 10208. General and special sequestration rules.
Sec. 10209. The baseline.
Sec. 10210. Technical correction.
Sec. 10211. Judicial review.
Sec. 10212. Effective date.
Sec. 10213. Reduction of preexisting balances and exclusion of effects of this Act from paygo scorecard.

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 10101. AMENDMENT TO SECTION 3.

Section 3(9) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(9) The term 'entitlement authority' means—

"(A) the authority to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing that authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by that law; and

"(B) the food stamp program.".

SEC. 10102. AMENDMENTS TO SECTION 201.

(a) TERM OF OFFICE.—The first sentence of section 201(a)(3) of the Congressional Budget Act of 1974 is amended to read as follows: "The term of office of the Director shall be 4 years and shall expire on January 3 of the year preceding each Presidential election.".

(b) CONFORMING CHANGE.—Section 201(e) of the Congressional Budget Act of 1974 is amended by inserting "and" before "the Library", by striking "and the Office of Technology Assessment,", by inserting "and" before "the Librarian", and by striking ", and the Technology Assessment Board".

(c) REDESIGNATION OF EXECUTED PROVISION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 10103. AMENDMENTS TO SECTION 202.

(a) ASSISTANCE TO BUDGET COMMITTEES.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting "primary" before "duty".

(b) ELIMINATION OF EXECUTED PROVISION.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

(c) REPORTING REQUIREMENT.—The first sentence of section 202(e)(1) of the Congressional Budget Act of 1974 (as redesignated) is amended by—

(1) striking "and" before "(B)"; and

(2) inserting before the period the following: ", and (C) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline, as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985".

SEC. 10104. AMENDMENT TO SECTION 300.

(a) TIMETABLE.—The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking "February 25" and inserting "Not later than 6 weeks after President submits budget".

(b) CONFORMING AMENDMENTS.—(1) Clause 4(g) of rule X of the Rules of the House of Representatives is amended by striking "on or before February 25 of each year" and inserting "not later than 6 weeks after the President submits his budget".

(2) Clause 3(c) of rule XLVIII of the Rules of the House of Representatives is amended by striking "On or before March 15 of each year" and inserting "Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code" and by striking "section 301(c)" and inserting "section 301(d)".

SEC. 10105. AMENDMENTS TO SECTION 301.

(a) TERMS OF BUDGET RESOLUTIONS.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking ", and planning levels for each of the two ensuing fiscal years," and inserting "and for at least each of the 4 ensuing fiscal years".

(b) CONTENTS OF BUDGET RESOLUTIONS.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" each place it appears and inserting "and outlays".

(c) ADDITIONAL MATTERS.—Section 301(b) of the Congressional Budget Act of 1974 is amended by—

(1) striking paragraph (7) and inserting the following:

"(7) set forth procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation if that legislation would not increase the deficit, or would not increase the deficit when taken with other legislation enacted after the adoption of the resolution, for the first fiscal year or the total period of fiscal years covered by the resolution;";

(2) in paragraph 8, striking the period and inserting "; and"; and

(3) adding the following new paragraph:

"(9) set forth direct loan obligation and primary loan guarantee commitment levels.".

(d) VIEWS AND ESTIMATES.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting "or at such time as may be requested by the Committee on the Budget," after "Code,".

(e) HEARINGS AND REPORT.—Section 301(e) of the Congressional Budget Act of 1974 is amended—

(1) by striking "In developing" and inserting the following:

"(1) IN GENERAL.—In developing"; and

(2) by striking the sentence beginning with "The report accompanying" and all that follows through the end of the subsection and inserting the following:

"(2) REQUIRED CONTENTS OF REPORT.—The report accompanying the resolution shall include—

"(A) a comparison of the levels of total new budget authority, total outlays, total revenues, and the surplus or deficit for each fiscal year set forth in the resolution with those requested in the budget submitted by the President;

"(B) with respect to each major functional category, an estimate of total new budget authority and total outlays, with the estimates divided between discretionary and mandatory amounts;

"(C) the economic assumptions that underlie each of the matters set forth in the resolution and any alternative economic assumptions and objectives the committee considered;

"(D) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the resolution;

"(E) the estimated levels of tax expenditures (the tax expenditures budget) by major items and functional categories for the President's budget and in the resolution; and

"(F) allocations described in section 302(a).

"(3) ADDITIONAL CONTENTS OF REPORT.—The report accompanying the resolution may include—

"(A) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

"(B) an allocation of the level of Federal revenues recommended in the resolution among the major sources of such revenues;

"(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product devoted to investment in the budget submitted by the President and in the resolution;

"(D) the assumed levels of budget authority and outlays for public buildings, with a division between amounts for construction and repair and for rental payments; and

"(E) other matters, relating to the budget and to fiscal policy, that the committee deems appropriate.".

(f) SOCIAL SECURITY CORRECTIONS.—(1) Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(A) inserting "SOCIAL SECURITY POINT OF ORDER.—" after "(i)"; and

(B) striking "as reported to the Senate" and inserting "(or amendment, motion, or conference report on the resolution)"; and

(2) Section 22 of House Concurrent Resolution 218 (103d Congress) is repealed.

SEC. 10106. AMENDMENTS TO SECTION 302.

(a) ALLOCATIONS AND SUBALLOCATIONS.—Section 302 of the Congressional Budget Act of 1974 is amended by striking subsections (a) and (b) and inserting the following:

"(a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an allocation, consistent with the resolution recommended in the conference report, of the levels for the first fiscal year of the resolution, for at least each of the ensuing 4 fiscal years, and a total for that period of fiscal years (except in the case of the Committee on Appropriations only for the fiscal year of that resolution) of—

"(A) total new budget authority; and

"(B) total outlays;

among each committee of the House of Representatives or the Senate that has jurisdiction over legislation providing or creating such amounts.

"(2) NO DOUBLE COUNTING.—In the House of Representatives, any item allocated to one committee may not be allocated to another committee.

"(3) FURTHER DIVISION OF AMOUNTS.—

"(A) IN THE SENATE.—In the Senate, the amount allocated to the Committee on Appropriations shall be further divided among the categories specified in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 and shall not exceed the limits for each category set forth in section 251(c) of that Act.

"(B) IN THE HOUSE.—In the House of Representatives, the amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations shall be further divided—

"(i) between discretionary and mandatory amounts or programs, as appropriate; and

"(ii) consistent with the categories specified in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(4) AMOUNTS NOT ALLOCATED.—In the House of Representatives or the Senate, if a committee receives no allocation of new budget authority or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority or outlays.

"(5) ADJUSTING ALLOCATION OF DISCRETIONARY SPENDING IN THE HOUSE OF REPRESENTATIVES.—(A) If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, as soon as practicable, an allocation under paragraph (1) to the Committee on Appropriations consistent with the discretionary spending levels in the most recently agreed to concurrent resolution on the budget for the appropriate fiscal year covered by that resolution.

"(B) As soon as practicable after an allocation under paragraph (1) is submitted under this section, the Committee on Appropriations shall make suballocations and report those suballocations to the House of Representatives.

"(b) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this subsection. The Committee on Appropriations of the House of Representatives shall further divide among its subcommittees the divisions made under subsection (a)(3)(B) and promptly report those divisions to the House.".

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) POINT OF ORDER.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report within the jurisdiction of that committee providing new budget authority for that fiscal year, until that committee makes the suballocations required by subsection (b).".

(c) Enforcement of Point of Order.—

(1) In the House.—Section 302(f)(1) of the Congressional Budget Act of 1974 is amended by—

(A) striking "providing new budget authority for such fiscal year or new entitlement authority effective during such fiscal year" and inserting "providing new budget authority for any fiscal year"; and

(B) striking "appropriate allocation made pursuant to subsection (b)" and all that follows through "exceeded." and inserting "applicable allocation of new budget authority made under subsection (a) or (b) for the first fiscal year or the total of fiscal years to be exceeded.".

(2) In the Senate.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(2) In the Senate.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

"(A) in the case of any committee except the Committee on Appropriations, the applicable allocation of new budget authority or outlays under subsection (a) for the first fiscal year or the total of fiscal years to be exceeded; or

"(B) in the case of the Committee on Appropriations, the applicable suballocation of new budget authority or outlays under subsection (b) to be exceeded.".

(d) Pay-As-You-Go Exception in the House.—Section 302(g) of the Congressional Budget Act of 1974 is amended to read as follows:

"(g) Pay-As-You-Go Exception in the House.—

"(1) In general.—(A) Subsection (f)(1) and, after April 15, section 303(a) shall not apply to any bill or joint resolution, as reported, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

"(i) the enactment of that bill or resolution as reported;

"(ii) the adoption and enactment of that amendment; or

"(iii) the enactment of that bill or resolution in the form recommended in that conference report,

would not increase the deficit, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases, if any, in excess of any outlay increase provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal revenues should be increased as set forth in that concurrent resolution and the amount, if any, by which revenues are to be increased pursuant to pay-as-you-go procedures under section 301(b)(8), if included in that concurrent resolution.

"(B) Section 311(a), as that section applies to revenues, shall not apply to any bill, joint resolution, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

"(i) the enactment of that bill or resolution as reported;

"(ii) the adoption and enactment of that amendment; or

"(iii) the enactment of that bill or resolution in the form recommended in that conference report,

would not increase the deficit, and, if the sum of any outlay reductions provided in legislation already enacted during the current session (when added to outlay reductions, if any, in excess of any revenue reduction provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal outlays should be reduced as required by that concurrent resolution and the amount, if any, by which outlays are to be reduced pursuant to pay-as-you-go procedures under section 301(b)(8), if included in that concurrent resolution.

"(2) Revised allocations.—(A) As soon as practicable after Congress agrees to a bill or joint resolution that would have been subject to a point of order under subsection (f)(1) but for the exception provided in paragraph (1)(A) or would have been subject to a point of order under section 311(a) but for the exception provided in paragraph (1)(B), the chairman of the committee on the Budget of the House of Representatives shall file with the House appropriately revised allocations under section 302(a) and revised functional levels and budget aggregates to reflect that bill.

"(B) Such revised allocations, functional levels, and budget aggregates shall be considered for the purposes of this Act as allocations, functional levels, and budget aggregates contained in the most recently agreed to concurrent resolution on the budget.".

SEC. 10107. AMENDMENTS TO SECTION 303.

(a) In General.—Section 303 of the Congressional Budget Act of 1974 is amended to read as follows:

"CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE BUDGET-RELATED LEGISLATION IS CONSIDERED

"Sec. 303. (a) In General.—Until the concurrent resolution on the budget for a fiscal year has been agreed to, it shall not be in order in the House of Representatives, with respect to the first fiscal year covered by that resolution, or the Senate, with respect to any fiscal year covered by that resolution, to consider any bill or joint resolution, amendment or motion thereto, or conference report thereon that—

"(1) first provides new budget authority for that fiscal year;

"(2) first provides an increase or decrease in revenues during that fiscal year;

"(3) provides an increase or decrease in the public debt limit to become effective during that fiscal year;

"(4) in the Senate only, first provides new entitlement authority for that fiscal year; or

"(5) in the Senate only, first provides for an increase or decrease in outlays for that fiscal year.

"(b) Exceptions in the House.— In the House of Representatives, subsection (a) does not apply—

"(1)(A) to any bill or joint resolution, as reported, providing advance discretionary new budget authority that first becomes available for the first or second fiscal year after the budget year; or

"(B) to any bill or joint resolution, as reported, first increasing or decreasing revenues in a fiscal year following the fiscal year to which the concurrent resolution applies;

"(2) after May 15, to any general appropriation bill or amendment thereto; or

"(3) to any bill or joint resolution unless it is reported by a committee.

"(c) Application to Appropriation Measures in the Senate.—

"(1) In general.—Until the concurrent resolution on the budget for a fiscal year has been agreed to and an allocation has been made to the Committee on Appropriations of the Senate under section 302(a) for that year, it shall not be in order in the Senate to consider any appropriation bill or joint resolution, amendment or motion thereto, or conference report thereon for that year or any subsequent year.

"(2) Exception.—Paragraph (1) does not apply to appropriations legislation making advance appropriations for the first or second fiscal year after the year the allocation referred to in that paragraph is made.".

(b) Conforming Amendment.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 303. Concurrent resolution on the budget must be adopted before budget-related legislation is considered.".

SEC. 10108. AMENDMENT TO SECTION 304.

Section 304 of the Congressional Budget Act of 1974 is amended by—

(1) striking "(a) In General.—"; and

(2) striking subsection (b).

SEC. 10109. AMENDMENT TO SECTION 305.

(a) Budget Act.—Section 305(a)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) When a concurrent resolution on the budget has been reported by the Committee on the Budget of the House of Representatives and has been referred to the appropriate calendar of the House, it shall be in order on any day thereafter, subject to clause 2(l)(6) of rule XI of the Rules of the House of Representatives, to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Conforming Amendment in the House.—The first sentence of clause 2(l)(6) of rule XI of the Rules of the House of Representatives is amended by striking ", or as provided by section 305(a)(1)" and all that follows thereafter through "under that section)".

SEC. 10110. AMENDMENTS TO SECTION 308.

Section 308 of the Congressional Budget Act of 1974 is amended—

(1)(A) in the heading of subsection (a), by striking ", New Spending Authority, or New Credit Authority,";

(B) in subsection (a)(1), by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(C) in subsection (a)(1)(B) (as redesignated), by striking "spending authority" through "commitments" and inserting "revenues, or tax expenditures"; and

(D) in paragraphs (1) and (2) of subsection (a), by striking ", new spending authority described in section 401(c)(2), or new credit authority," each place it appears;

(2) in subsection (b)(1), by striking ", new spending authority described in section 401(c)(2), or new credit authority,";

(3) in subsection (c), by inserting "and" after the semicolon at the end of paragraph (3), by striking "; and" at the end of paragraph (4) and inserting a period; and by striking paragraph (5); and

(4) by inserting "joint" before "resolution" each place it appears except when "concurrent", "such", or "reconciliation" precedes "resolution" and, in subsection (b)(1), by inserting "joint" before "resolutions" each place it appears.

SEC. 10111. AMENDMENTS TO SECTION 310.

Section 310(c)(1)(A) of the Congressional Budget Act of 1974 is amended—

(1) by striking "20 percent" the first place it appears and all that follows thereafter through ", and" and inserting the following:

"(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was *directed to make under paragraphs (1) and (2) of such subsection; or*

"(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and"; and

(2) by striking "20 percent" the second place it appears and all that follows thereafter through "; and" and inserting the following:

"(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; or

"(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and".

SEC. 10112. AMENDMENTS TO SECTION 311.

(a) IN GENERAL.—Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

"BUDGET-RELATED LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

"SEC. 311. (a) ENFORCEMENT OF BUDGET AGGREGATES.—

"(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority or reducing revenues, if—

"(A) the enactment of that bill or resolution as reported;

"(B) the adoption and enactment of that amendment; or

"(C) the enactment of that bill or resolution in the form recommended in that conference report;

would cause the level of total new budget authority or total outlays set forth in the applicable concurrent resolution on the budget for the first fiscal year to be exceeded, or would cause revenues to be less than the level of total revenues set forth in that concurrent resolution for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided under section 302(a), except when a declaration of war by the Congress is in effect.

"(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that—

"(A) would cause the level of total new budget authority or total outlays set forth for the first fiscal year in the applicable resolution to be exceeded; or

"(B) would cause revenues to be less than the level of total revenues set forth for that first fiscal year or for the total of that first fiscal year and the ensuing fiscal years in the applicable resolution for which allocations are provided under section 302(a).

"(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits relative to the levels set forth in the applicable resolution for the first fiscal year or for the total of that fiscal year and the ensuing fiscal years for which allocations are provided under section 302(a).

"(b) SOCIAL SECURITY LEVELS.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

"(2) TAX TREATMENT.—For purposes of subsection (a)(3), no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless that provision changes the income tax treatment of social security benefits.

"(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, joint resolution, or amendment that provides new budget authority for a fiscal year or to any conference report on any such bill or resolution, if—

"(1) the enactment of that bill or resolution as reported;

"(2) the adoption and enactment of that amendment; or

"(3) the enactment of that bill or resolution in the form recommended in that conference report;

would not cause the appropriate allocation of new budget authority made pursuant to section 302(a) for that fiscal year to be exceeded.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the item relating to section 311 and inserting the following:

"Sec. 311. Budget-related legislation must be within appropriate levels.".

SEC. 10113. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

"DETERMINATIONS AND POINTS OF ORDER

"SEC. 312. (a) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, outlays, direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as applicable.

"(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) EXCEPTIONS.—This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

"(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution, if—

"(1) the level of total outlays for the first fiscal year set forth in that concurrent resolution or conference report exceeds; or

"(2) the adoption of that amendment would result in a level of total outlays for that fiscal year that exceeds;

the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year.

"(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

"(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses and the point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

"(f) EFFECT OF A POINT OF ORDER IN THE SENATE.—In the Senate, if a point of order under this Act against a bill or resolution is sustained, the Presiding Officer shall then recommit the bill or resolution to the committee of appropriate jurisdiction for further consideration.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 313 of the Congressional Budget Act of 1974 is amended—

(A) by striking "(c) When" and inserting "(d) CONFERENCE REPORTS.—When"; and

(B) by striking subsection (e) and redesignating subsection (d) as subsection (e).

(2) TABLE OF CONTENTS.—The item relating to section 312 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Effect of points" and inserting "Determinations and points".

SEC. 10114. ADJUSTMENTS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"ADJUSTMENTS

"SEC. 314. (a) ADJUSTMENTS.—

"(1) IN GENERAL.—After the reporting of a bill or joint resolution, the offering of an amendment thereto, or the submission of a conference report thereon, the chairman of the Committee on the Budget of the House of Representatives or the Senate shall make the adjustments set forth in paragraph (2) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in subsection (b)) and the outlays flowing from that budget authority.

"(2) MATTERS TO BE ADJUSTED.—The adjustments referred to in paragraph (1) are to be made to—

"(A) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

"(B) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a); and

"(C) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

"(b) AMOUNTS OF ADJUSTMENTS.—The adjustment referred to in subsection (a) shall be—

"(1) an amount provided and designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(2) an amount provided for continuing disability reviews subject to the limitations in section 251(b)(2)(C) of that Act;

"(3) for any fiscal year through 2002, an amount provided that is the dollar equivalent of the Special Drawing Rights with respect to—

"(A) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(B) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow);

"(4) an amount provided not to exceed $1,884,000,000 for the period of fiscal years 1998 through 2000 for arrearages for international organizations, international peacekeeping, and multilateral development banks; or

"(5) an amount provided for an earned income tax credit compliance initiative but not to exceed—

"(A) with respect to fiscal year 1998, $138,000,000 in new budget authority;

"(B) with respect to fiscal year 1999, $143,000,000 in new budget authority;

"(C) with respect to fiscal year 2000, $144,000,000 in new budget authority;

"(D) with respect to fiscal year 2001, $145,000,000 in new budget authority; and

"(E) with respect to fiscal year 2002, $146,000,000 in new budget authority.

"(c) APPLICATION OF ADJUSTMENTS.—The adjustments made pursuant to subsection (a) for legislation shall—

"(1) apply while that legislation is under consideration;

"(2) take effect upon the enactment of that legislation; and

"(3) be published in the Congressional Record as soon as practicable.

"(d) REPORTING REVISED SUBALLOCATIONS.—Following any adjustment made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations under section 302(b) to carry out this section.

"(e) DEFINITIONS FOR CDRS.—As used in subsection (b)(2)—

"(1) the term 'continuing disability reviews' shall have the same meaning as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(2) the term 'new budget authority' shall have the same meaning as the term 'additional new budget authority' and the term 'outlays' shall have the same meaning as 'additional outlays' in that section.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Adjustments.".

SEC. 10115. EFFECT OF ADOPTION OF A SPECIAL ORDER OF BUSINESS IN THE HOUSE OF REPRESENTATIVES.

(a) EFFECT OF POINTS OF ORDER.—Title III of the Congressional Budget Act of 1974 is amended by adding after section 314 the following new section:

"EFFECT OF ADOPTION OF A SPECIAL ORDER OF BUSINESS IN THE HOUSE OF REPRESENTATIVES

"SEC. 315. For purposes of a reported bill or joint resolution considered in the House of Representatives pursuant to a special order of business, the term 'as reported' in this title or title IV shall be considered to refer to the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 314 the following new item:

"Sec. 315. Effect of adoption of a special order of business in the House of Representatives.".

SEC. 10116. AMENDMENT TO SECTION 401 AND REPEAL OF SECTION 402.

(a) SECTION 401.—

(1) CONTROLS.—Section 401 of the Congressional Budget Act of 1974 is amended by—

(A) striking the heading and inserting the following:

"BUDGET-RELATED LEGISLATION NOT SUBJECT TO APPROPRIATIONS"; and

(B) striking subsection (a) and inserting the following:

"(a) CONTROLS ON CERTAIN BUDGET-RELATED LEGISLATION NOT SUBJECT TO APPROPRIATIONS.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution (in the House of Representatives only, as reported), amendment, motion, or conference report that provides—

"(1) new authority to enter into contracts under which the United States is obligated to make outlays;

"(2) new authority to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable; or

"(3) new credit authority;

unless that bill, joint resolution, amendment, motion, or conference report also provides that the new authority is to be effective for any fiscal year only to the extent or in the amounts provided in advance in appropriation Acts.".

(2) POINT OF ORDER.—Section 401(b) of the Congressional Budget Act of 1974 is amended—

(A) by inserting "new" before "entitlement" in the heading;

(B) by striking paragraph (1) and inserting the following:

"(1) POINT OF ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution (in the House of Representatives only, as reported), amendment, motion, or conference report that provides new entitlement authority that is to become effective during the current fiscal year."; and

(C) in paragraph (2)—

(i) by striking "new spending authority described in subsection (c)(2)(C)" and inserting "new entitlement authority"; and

(ii) by striking "of that House" and inserting "of the Senate or may then be referred to the Committee on Appropriations of the House, as the case may be,".

(3) DEFINITIONS.—Section 401 of the Congressional Budget Act of 1974 is amended by striking subsection (c).

(4) EXCEPTIONS.—Section 401(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1), by striking "new spending authority if the budget authority for outlays which result from such new spending authority is derived" and inserting "new authority described in those subsections if outlays from that new authority will flow";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2), as redesignated, by striking "new spending authority" and inserting "new authority described in those subsections".

(5) REDESIGNATION.—Subsection (d) of section 401 of the Congressional Budget Act of 1974 is redesignated as subsection (c).

(6) CONFORMING AMENDMENTS.—(A) Clause 1(b)(4) of rule X of the Rules of the House of Representatives is amended to read as follows:

"(4) The amount of new authority to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts; new authority to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974, including bills and resolutions (reported by other committees) which provide new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 and are referred to the committee under clause 4(a); authority to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and authority to make payments by the United States (including loans, grants, and payments from revolving funds) other than those covered by this subparagraph, the budget authority for which is not provided in advance by appropriation Acts.".

(B) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking "new spending authority described in section 401(c)(2)(C)" and inserting "new entitlement authority as defined in section 3(9)" and by striking "total amount of new spending authority" and inserting "total amount of new entitlement authority".

(C) Clause 2(l)(3) of rule XI of the Rules of the House of Representatives is amended by striking "new spending authority as described in section 401(c)(2)" and by inserting "new entitlement authority as defined in section 3(9)".

(b) REPEALER OF SECTION 402.—Section 402 of the Congressional Budget Act of 1974 is repealed.

(c) CONFORMING AMENDMENTS.—

(1) REDESIGNATION.—Sections 403 through 407 of the Congressional Budget Act of 1974 are redesignated as sections 402 through 406, respectively.

(2) GAO ANALYSIS.—Section 404 (as redesignated) of the Congressional Budget Act of 1974 is amended by striking "spending authority as described by section 401(c)(2) and which provide permanent appropriations," and inserting "mandatory spending".

(3) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(A) striking the item for section 401 and inserting the following:

"Sec. 401. Budget-related legislation not subject to appropriations."; and

(B) striking the item relating to section 402 and redesignating the items relating to sections 403 through 407 as the items relating to sections 402 through 406, respectively.

(4) CONFORMING AMENDMENTS.—(A) Clause 2(l)(3) of rule XI of the Rules of the House of Representatives is amended by striking "section 403" and inserting "section 402".

(B) Clause 7(d) of rule XIII of the Rules of the House of Representatives is amended by striking "section 403" and inserting "section 402".

SEC. 10117. AMENDMENTS TO TITLE V.

(a) SECTION 502.—Section 502 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In the second sentence of paragraph (1), insert "and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms" before the period.

(2) In paragraph (5)(A), insert "or modification thereof" before the first comma.

(3) In paragraph (5), strike subparagraphs (B) and (C) and insert the following:

"(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

"(i) loan disbursements;

"(ii) repayments of principal; and

"(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries;

including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

"(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

"(i) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and

"(ii) payments to the Government including origination and other fees, penalties and recoveries;

including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.".

(4) In paragraph (5), amend subparagraph (D) to read as follows:

"(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.".

(5) In paragraph (5)(E), insert "the cash flows of" after "to".

(6) In paragraph (5), by adding at the end the following:

"(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.".

(7) Redesignate paragraph (9) as paragraph (11) and after paragraph (8) add the following new paragraphs:

"(9) The term 'modification' means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

"(10) The term 'current' has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) SECTION 504.—Section 504 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) Amend subsection (b)(1) to read as follows:

"(1) new budget authority to cover their costs is provided in advance in an appropriations Act;".

(2) In subsection (b)(2), strike "is enacted" and insert "has been provided in advance in an appropriations Act".

(3) In subsection (c), strike "Subsection (b)" and insert "Subsections (b) and (e)".

(4) In subsection (d)(1), strike "directly or indirectly alter the costs of outstanding direct loans and loan guarantees" and insert "modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)".

(5) Amend subsection (e) to read as follows:

"(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriations Act.".

(c) SECTION 505.—Section 505 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In subsection (c), by inserting before the period at the end of the second sentence the following: ", except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the 'Bank') pursuant to section 406(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991".

(2) In subsection (c), by striking "supercede" and inserting "supersede".

(3) By amending subsection (d) to read as follows:

"(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

"(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

"(B) disbursements of loans;

"(C) default and other guarantee claim payments;

"(D) interest supplement payments;

"(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

"(F) payments to financing accounts when required for modifications;

"(G) administrative expenses, if—

"(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

"(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

"(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

"(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

"(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.".

(d) SECTION 506.—Section 506 of the Federal Credit Reform Act of 1990 is amended—

(1) by striking "(a) IN GENERAL.—";

(2) by striking "(1)" and inserting the following: "(a) IN GENERAL.—";

(3) by striking "(2) The" and inserting the following: "(b) STUDY.—The";

(4) by striking "(3)" and inserting the following: "(c) ACCESS TO DATA.—"; and

(5) in subsection (c) (as redesignated) by striking "paragraph (2)" and inserting "subsection (b)".

SEC. 10118. REPEAL OF TITLE VI.

(a) REPEALER.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) CONFORMING AMENDMENTS.—(1) The items relating to title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(2) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "section 302 or section 602 (in the case of fiscal years 1991 through 1995)" and inserting "section 302".

SEC. 10119. AMENDMENTS TO SECTION 904.

(a) CONFORMING AMENDMENT.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "(except section 905)" and by striking "V, and VI (except section 601(a))" and inserting "and V".

(b) WAIVERS.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

"(c) WAIVERS.—

"(1) PERMANENT.—Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

"(2) TEMPORARY.—Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(c) APPEALS.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

"(d) APPEALS.—

"(1) PROCEDURE.—Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

"(2) PERMANENT.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

"(3) TEMPORARY.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) EXPIRATION OF SUPERMAJORITY VOTING REQUIREMENTS.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.".

SEC. 10120. REPEAL OF SECTIONS 905 AND 906.

(a) REPEALER.—Sections 905 and 906 of the Congressional Budget Act of 1974 are repealed.

(b) CONFORMING AMENDMENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 10121. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) SECTION 1022.—Section 1022(b)(1)(F) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601" and inserting "section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) SECTION 1024.—Section 1024(a)(1)(B) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 601(a)(2)" and inserting "section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985".

SEC. 10122. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "; and" and inserting "; or".

SEC. 10123. SENATE TASK FORCE ON CONSIDERATION OF BUDGET MEASURES.

(a) APPOINTMENT OF MEMBERS.—The Majority Leader and Minority Leader of the Senate shall each appoint 3 Senators to serve on a bipartisan task force to study the floor procedures for the consideration of budget resolutions and reconciliation bills in the Senate as provided in sections 305(b) and 310(e) of the Congressional Budget Act of 1974.

(b) REPORT OF THE TASK FORCE.—The task force shall submit its report to the Senate not later than October 8, 1997.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 10201. PURPOSE.

The purpose of this subtitle is to extend discretionary spending limits and pay-as-you-go requirements.

SEC. 10202. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first 2 sentences and inserting the following: "This part provides for budget enforcement as called for in House Concurrent Resolution 84 (105th Congress, 1st session).".

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (1)—

(A) by striking "(but including" through "amount' "; and

(B) by striking "section 601 of that Act as adjusted under sections 251 and 253" and inserting "section 251";

(2) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means the subsets of discretionary appropriations in section 251(c). Discretionary appropriations in each of the categories shall be those designated in the joint explanatory statement accompanying the conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall, to the extent practicable, include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.";

(3) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(4) in paragraph (9), by striking "submission of the fiscal year 1992 budget that are not included with a budget submission" and inserting "that budget submission that are not included with it";

(5) in paragraph (14), by inserting "first 4" before "fiscal years" and by striking "through fiscal year 1995";

(6) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively;

(7) in paragraph (17) (as redesignated), by striking "Omnibus Budget Reconciliation Act of 1990" and inserting "Balanced Budget Act of 1997";

(8) in paragraph (18) (as redesignated), by striking all after "expenses" and inserting "the Federal deposit insurance agencies, and other Federal agencies supervising insured depository institutions, resulting from full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates."; and

(9) by striking paragraph (19) (as redesignated) and inserting the following:

"(19) The term 'asset sale' means the sale to the public of any asset (except for those assets covered by title V of the Congressional Budget Act of 1974), whether physical or financial, owned in whole or in part by the United States.".

SEC. 10203. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) EXTENSION THROUGH FISCAL YEAR 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the heading of subsection (a), by striking "Fiscal Years 1991–1998";

(2) in subsection (a)(3), by striking "(h)" both places it appears and inserting "(f)";

(3) by striking subsection (a)(7) and inserting the following:

"(7) ESTIMATES.—

"(A) CBO ESTIMATES.—As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate, shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation.

"(B) OMB ESTIMATES AND EXPLANATION OF DIFFERENCES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation, and an explanation of any difference between the 2 estimates. If during the preparation of the report OMB determines that there is a significant difference between OMB and CBO, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation shall include, to extent practicable, written communication to those committees that affords such committees the opportunity to comment before the issuance of the report.

"(C) ASSUMPTIONS AND GUIDELINES.—OMB estimates under this paragraph shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

"(D) ANNUAL APPROPRIATIONS.—For purposes of this paragraph, amounts provided by annual appropriations shall include any new budget authority and outlays for the current year (if any) and the budget year in accounts for which funding is provided in that legislation that result from previously enacted legislation.";

(4) by striking subsection (b) and inserting the following:

"(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

"(1) PREVIEW REPORT.—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

"(2) SEQUESTRATION REPORTS.—When OMB submits a sequestration report under section 254(e), (f), or (g) for a fiscal year, OMB shall calculate, and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 2002, as follows:

"(A) EMERGENCY APPROPRIATIONS.—If, for any fiscal year, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all fiscal years from such appropriations. This subparagraph shall not apply to appropriations to cover agricultural crop disaster assistance.

"(B) SPECIAL OUTLAY ALLOWANCE.—If, in any fiscal year, outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2), if necessary), the adjustment in outlays for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the sum of the adjusted discretionary spending limits on outlays for that fiscal year.

"(C) CONTINUING DISABILITY REVIEWS.—(i) If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) for fiscal year 1998, $290,000,000 in additional new budget authority and $338,000,000 in additional outlays;

"(II) for fiscal year 1999, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays;

"(III) for fiscal year 2000, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays;

"(IV) for fiscal year 2001, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays; and

"(V) for fiscal year 2002, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays.

"(ii) As used in this subparagraph—

"(I) the term 'continuing disability reviews' means reviews or redeterminations as defined under section 201(g)(1)(A) of the Social Security Act and reviews and redeterminations authorized under section 211 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

"(II) the term 'additional new budget authority' means the amount provided for a fiscal year, in excess of $200,000,000, in an appropriations Act and specified to pay for the costs of continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration; and

"(III) the term 'additional outlays' means outlays, in excess of $200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).

"(D) ALLOWANCE FOR IMF.—If an appropriation bill or joint resolution is enacted for a fiscal year through 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent of the Special Drawing Rights with respect to—

"(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

"(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

"(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

"(i) ADJUSTMENTS.—If an appropriation bill or joint resolution is enacted for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks for that fiscal year, the adjustment shall be the amount of budget authority in that measure and the outlays flowing in all fiscal years from that budget authority.

"(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph for the period of fiscal years 1998 through 2000 shall not exceed $1,884,000,000 in budget authority.

"(F) EITC COMPLIANCE INITIATIVE.—If an appropriation bill or joint resolution is enacted for a fiscal year that includes an appropriation for an earned income tax credit compliance initiative, the adjustment shall be the amount of budget authority in that measure for that initiative and the outlays flowing in all fiscal years from that budget authority, but not to exceed—

"(i) with respect to fiscal year 1998, $138,000,000 in new budget authority and $131,000,000 in outlays;

"(ii) with respect to fiscal year 1999, $143,000,000 in new budget authority and $143,000,000 in outlays;

"(iii) with respect to fiscal year 2000, $144,000,000 in new budget authority and $144,000,000 in outlays;

"(iv) with respect to fiscal year 2001, $145,000,000 in new budget authority and $145,000,000 in outlays; and

"(v) with respect to fiscal year 2002, $146,000,000 in new budget authority and $146,000,000 in outlays.".

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

"(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted limits of new budget authority and outlays;

"(2) with respect to fiscal year 1998—

"(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

"(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

"(3) with respect to fiscal year 1999—

"(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays;

"(B) for the nondefense category: $255,699,000,000 in new budget authority and $287,850,000,000 in outlays; and

"(C) for the violent crime reduction category: $5,800,000,000 in new budget authority and $4,953,000,000 in outlays;

"(4) with respect to fiscal year 2000—

"(A) for the discretionary category: $532,693,000,000 in new budget authority and $558,711,000,000 in outlays; and

"(B) for the violent crime reduction category: $4,500,000,000 in new budget authority and $5,554,000,000 in outlays;

"(5) with respect to fiscal year 2001, for the discretionary category: $542,032,000,000 in new budget authority and $564,396,000,000 in outlays; and

"(6) with respect to fiscal year 2002, for the discretionary category: $551,074,000,000 in new budget authority and $560,799,000,000 in outlays;

as adjusted in strict conformance with subsection (b).".

(c) REPEAL OF DUPLICATIVE PROVISIONS.—Sections 201, 202, 204(b), 206, and 211 of House Concurrent Resolution 84 (105th Congress) are repealed.

SEC. 10204. VIOLENT CRIME REDUCTION SPENDING.

(a) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION SPENDING.—

(1) REPEAL.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(2) TABLE OF CONTENTS.—The item relating to section 251A in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING AMENDMENT.—Section 310002 of Public Law 103–322 (42 U.S.C. 14212) is repealed.

SEC. 10205. ENFORCING PAY-AS-YOU-GO.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) PURPOSE.—The purpose of this section is to assure that any legislation enacted before October 1, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

"(b) SEQUESTRATION.—

"(1) TIMING.—Not later than 15 calendar days after the date Congress adjourns to end a session and on the same day as a sequestration (if any) under section 251 or 253, there shall be a sequestration to offset the amount of any net deficit increase caused by all direct spending and receipts legislation enacted before October 1, 2002, as calculated under paragraph (2).

"(2) CALCULATION OF DEFICIT INCREASE.—OMB shall calculate the amount of deficit increase or decrease by adding—

"(A) all OMB estimates for the budget year of direct spending and receipts legislation transmitted under subsection (d);

"(B) the estimated amount of savings in direct spending programs applicable to budget year resulting from the prior year's sequestration under this section or section 253, if any, as published in OMB's final sequestration report for that prior year; and

"(C) any net deficit increase or decrease in the current year resulting from all OMB estimates for the current year of direct spending and receipts legislation transmitted under subsection (d) that were not reflected in the final OMB sequestration report for the current year.";

(2) by amending subsection (c)(1)(B), by inserting "and direct" after "guaranteed";

(3) by amending subsection (d) to read as follows:

"(d) ESTIMATES.—

"(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of that legislation.

"(2) OMB ESTIMATES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

"(A) the CBO estimate of that legislation;

"(B) an OMB estimate of that legislation using current economic and technical assumptions; and

"(C) an explanation of any difference between the 2 estimates.

"(3) SIGNIFICANT DIFFERENCES.—If during the preparation of the report under paragraph (2) OMB determines that there is a significant difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords such committees the opportunity to comment before the issuance of that report.

"(4) SCOPE OF ESTIMATES.—The estimates under this section shall include the amount of change in outlays or receipts for the current year (if applicable), the budget year, and each outyear excluding any amounts resulting from—

"(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates; and

"(B) emergency provisions as designated under subsection (e).

"(5) SCOREKEEPING GUIDELINES.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

"(A) determine common scorekeeping guidelines; and

"(B) in conformance with such guidelines, prepare estimates under this section."; and

(4) in subsection (e), by striking ", for any fiscal year from 1991 through 1998," and by striking "through 1995".

SEC. 10206. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c) (as redesignated), by striking "1998" and inserting "2002";

(3) in subsection (d) (as redesignated), by striking "(h)" and inserting "(f)";

(4)(A) in subsection (f)(2)(A) (as redesignated), by striking "1998" and inserting "2002";

(B) in subsection (f)(3) (as redesignated), by striking "through 1998"; and

(C) by striking subsection (f)(4) (as redesignated) and by redesignating paragraphs (5) and (6) of that subsection as paragraphs (4) and (5), respectively; and

(5) in subsection (g) (as redesignated), by striking "(g)" each place it appears and inserting "(f)".

SEC. 10207. EXEMPT PROGRAMS AND ACTIVITIES.

(a) Veterans Programs.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike "Indemnity" and insert "Indemnities".

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike "Veterans'".

(3) In the item relating to Benefits under chapter 21 of title 38, strike "(36–0137–0–1–702)" and insert "(36–0120–0–1–701)".

(4) In the item relating to Veterans' compensation, strike "Veterans' compensation" and insert "Compensation".

(5) In the item relating to Veterans' pensions, strike "Veterans' pensions" and insert "Pensions".

(6) After the last item, insert the following new items:

"Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36–0137–0–1–702);

"Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36–0137–0–1–702);

"Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36–1119–0–1–704);

"Loan Guaranty Program Account (36–1025–0–1–704); and

"Direct Loan Program Account (36–1024–0–1–704).".

(b) Certain Program Bases.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(f) Optional Exemption of Military Personnel.—

"(1) In general.—The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) Limitation.—The President may not use the authority provided by paragraph (1) unless the President notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.".

(c) Other Programs and Activities.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

"Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;".

(B) Strike "Thrift Savings Fund (26–8141–0–7–602);".

(C) In the first item relating to the Bureau of Indian Affairs, insert "Indian land and water claims settlements and" after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike "miscellaneous" and insert "Miscellaneous" and strike ", tribal trust funds".

(E) Strike "Claims, defense (97–0102–0–1–051);".

(F) In the item relating to Claims, judgments, and relief acts, strike "806" and insert "808".

(G) Strike "Coinage profit fund (20–5811–0–2–803);".

(H) Insert "Compact of Free Association (14–0415–0–1–808);" after the item relating to the Claims, judgments, and relief acts.

(I) Insert "Conservation Reserve Program (12–2319–0–1–302);" after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike "852" and insert "806".

(K) In the item relating to the Comptroller of the Currency, insert ", Assessment funds (20–8413–0–8–373)" before the semicolon.

(L) Strike "Director of the Office of Thrift Supervision;".

(M) Strike "Eastern Indian land claims settlement fund (14–2202–0–1–806);".

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

"Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

"Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);".

(O) Strike "Federal Deposit Insurance Corporation;".

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert "(51–4064–0–3–373)" before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert "(51–4065–0–3–373)" before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert "(51–4066–0–3–373)" before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert "(95–4039–0–3–371)" before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike "account" and insert "accounts".

(U) In the item relating to the health professions graduate student loan insurance fund, insert "program account" after "fund" and strike "(Health Education Assistance Loan Program) (75–4305–0–3–553)" and insert "(75–0340–0–1–552)".

(V) In the item relating to Higher education facilities, strike "and insurance".

(W) In the item relating to Internal Revenue collections for Puerto Rico, strike "852" and insert "806".

(X) Amend the item relating to the Panama Canal Commission to read as follows:

"Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);".

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike "(75–4430–0–3–551)" and insert "(75–9931–0–3–550)".

(Z) In the first item relating to the National Credit Union Administration, insert "operating fund (25–4056–0–3–373)" before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike "central" and insert "Central" and insert "(25–4470–0–3–373)" before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike "credit" and insert "Credit" and insert "(25–4468–0–3–373)" before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

"Office of Thrift Supervision (20–4108–0–3–373);".

(DD) In the item relating to Payments to health care trust funds, strike "572" and insert "571".

(EE) Strike "Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);".

(FF) In the item relating to Payments to social security trust funds, strike "571" and insert "651".

(GG) Strike "Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);".

(HH) In the item relating to Payments to the United States territories, strike "852" and insert "806".

(II) Strike "Resolution Funding Corporation;".

(JJ) In the item relating to the Resolution Trust Corporation, insert "Revolving Fund (22–4055–0–3–373)" before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

"Thrift Savings Fund;

"United States Enrichment Corporation (95–4054–0–3–271);

"Vaccine Injury Compensation (75–0320–0–1–551);

"Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);".

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike "The following budget" and insert "The following Federal retirement and disability".

(B) In the item relating to Black lung benefits, strike "lung benefits" and insert "Lung Disability Trust Fund".

(C) In the item relating to the Court of Federal Claims Court Judges' Retirement Fund, strike "Court of Federal".

(D) In the item relating to Longshoremen's compensation benefits, insert "Special workers compensation expenses," before "Longshoremen's".

(E) In the item relating to Railroad retirement tier II, strike "retirement tier II" and insert "Industry Pension Fund".

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

"Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

"Agricultural credit insurance fund (12–4140–0–1–351);".

(B) In the item relating to Check forgery, strike "Check" and insert "United States Treasury check".

(C) Strike "Community development grant loan guarantees (86–0162–0–1–451);".

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

"Credit liquidating accounts;".

(E) Strike the following items:

"Credit union share insurance fund (25–4468–0–3–371);".

"Economic development revolving fund (13–4406–0–3–452);".

"Export-Import Bank of the United States, Limitation of program activity (83–4027–0–3–155);".

"Federal Deposit Insurance Corporation (51–8419–0–8–371);".

"Federal Housing Administration fund (86–4070–0–3–371);".

"Federal ship financing fund (69–4301–0–3–403);".

"Federal ship financing fund, fishing vessels (13–4417–0–3–376);".

"Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);".

"Health education loans (75–4307–0–3–553);".

"Indian loan guarantee and insurance fund (14–4410–0–3–452);".

"Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);".

"Rural development insurance fund (12–4155–0–3–452);".

"Rural electric and telephone revolving fund (12–4230–8–3–271);".

"Rural housing insurance fund (12–4141–0–3–371);".

"Small Business Administration, Business loan and investment fund (73–4154–0–3–376);".

"Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);".

"Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);".

"Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);".

"Department of Veterans Affairs Loan guaranty revolving fund (36–4025–0–3–704);".

(d) LOW-INCOME PROGRAMS.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Amend the item relating to Child nutrition to read as follows:

"Child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);".

(2) After the second item insert the following new items:

"Temporary assistance for needy families (75–1552–0–1–609);

"Contingency fund (75–1522–0–1–609);"

"Child care entitlement to States (75–1550–0–1–609);

(3) Amend the item relating to Women, infants, and children program to read as follows:

"Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605);".

(4) After the last item add the following new item:

"Family support payments to States (75–1501–0–1–609);".

(e) IDENTIFICATION OF PROGRAMS.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1998–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.".

(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 (relating to optional exemption of military personnel) is repealed.

SEC. 10208. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) HEADINGS.—

(1) SECTION.—The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "**exceptions, limitations, and special rules**" and inserting "**general and special sequestration rules**".

(2) TABLE OF CONTENTS.—The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.".

(b) AUTOMATIC SPENDING INCREASES.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) GUARANTEED AND DIRECT STUDENT LOAN PROGRAMS.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) STUDENT LOANS.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect as required by section 252 or 253, origination fees under sections 438(c)(2) and 455(c) of that Act shall each be increased by 0.50 percentage point.".

(d) HEALTH CENTERS.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting "2 percent.".

(e) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—Section 256(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (2), by striking "joint resolution" and inserting "part"; and

(2) in paragraph (4), by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

"(H) Farm Credit Administration.".

(f) COMMODITY CREDIT CORPORATION.—Section 256(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments for loans or loan deficiencies made by the Commodity Credit Corporation shall be subject to reduction under the order.

"(B) Each loan contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (3).

"(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this title, if an order under section 254 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order applies.

"(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 254 with respect to a fiscal year shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order.

"(5) DAIRY PROGRAM.—Notwithstanding any other provision of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.".

(g) EFFECTS OF SEQUESTRATION.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In paragraph (1), strike "other than a trust or special fund account" and insert ", except as provided in paragraph (5)" before the period.

(2) Amend paragraph (6) to read as follows:

"(6) Budgetary resources sequestered in revolving, trust, and special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.".

SEC. 10209. THE BASELINE.

(a) IN GENERAL.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b)(2) by amending subparagraph (A) to read as follows:

"(A)(i) No program established by a law enacted on or before the date of enactment of the Balanced Budget Act of 1997 with estimated current year outlays greater than $50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of new programs with estimated outlays greater than $50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB, CBO, and the Budget Committees shall consult on the scoring of such programs where there are differenes between CBO and OMB.

"(ii) On the expiration of the suspension of a provision of law that is suspended under section 171 of Public Law 104–127 and that authorizes a program with estimated fiscal year outlays that are greater than $50,000,000, for purposes of clause (i), the program shall be assumed to continue to operate in the same manner as the program operated immediately before the expiration of the suspension.";

(2) by adding the end of subsection (b)(2) the following new subparagraph:

"(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50,000,000 that operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.";

(3) in the second sentence of subsection (c)(5), by striking "national product fixed-weight price index" and inserting "domestic product chaintype price index"; and

(4) by striking subsection (e) and inserting the following:

"(e) ASSET SALES.—Amounts realized from the sale of an asset shall not be included in estimates under section 251, 252, or 253 if that sale would result in a financial cost to the Federal Government as determined pursuant to scorekeeping guidelines.".

(b) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

"(32) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(c) BUDGETARY TREATMENT OF CERTAIN TRUST FUND OPERATIONS.—Section 710 of the Social Security Act (42 U.S.C. 911) is amended to read as follows:

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the taxes imposed under sections 1401 and 3101 of the Internal Revenue Code of 1986 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

"(b) No provision of law enacted after the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriated funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in subsection (a) or for payments from any such Trust Fund to the general fund of the Treasury.".

SEC. 10210. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 10211. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike "252" or "252(b)" each place it occurs and insert "254".

(2) In subsection (d)(1)(A), strike "257(l) to the extent that" and insert "256(a) if" and at the end insert "or".

(3) In subsection (d)(1)(B), strike "new budget" and all that follows through "spending authority" and insert "budgetary resources" and strike "or" after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike "base levels of total revenues and total budget outlays, as" and insert "figures", and strike "251(a)(2)(B) or (c)(2)," and insert "254".

SEC. 10212. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "Part C of this title, section" and inserting "Sections 251, 253, 258B, and";

(2) by striking "1995" and inserting "2002"; and

(3) by adding at the end the following new sentence: "The remaining sections of part C of this title shall expire September 30, 2006.".

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note) is repealed.

SEC. 10213. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of that section for any fiscal year resulting from the enactment of this Act or of the Taxpayer Relief Act of 1997.

TITLE XI—DISTRICT OF COLUMBIA REVITALIZATION

SECTION 11000. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "National Capital Revitalization and Self-Government Improvement Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 11000. Short title; table of contents.

Subtitle A—District of Columbia Retirement Funds

CHAPTER 1—SHORT TITLE; FINDINGS; DEFINITIONS

Sec. 11001. Short title.
Sec. 11002. Findings and declaration of policy.
Sec. 11003. Definitions.

CHAPTER 2—FEDERAL BENEFIT PAYMENTS UNDER DISTRICT RETIREMENT PROGRAMS

Sec. 11011. Obligation of Federal government to make benefit payments.
Sec. 11012. Federal benefit payments described.
Sec. 11013. Establishment of single annual cost-of-living adjustment under District Retirement Program.

CHAPTER 3—DETERMINATIONS AND REVIEW OF ELIGIBILITY AND PAYMENTS; INFORMATION SHARING

Sec. 11021. Determination of eligibility for and amount of Federal benefit payments made by Trustee.
Sec. 11022. Procedures for resolving claims arising from denied benefit payments.
Sec. 11023. Transfer of and access to records of District Government.
Sec. 11024. Federal information sharing for verification of benefit determinations.

CHAPTER 4—DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND

Sec. 11031. Creation of Trust Fund.
Sec. 11032. Uses of amounts in Trust Fund.
Sec. 11033. Transfer of assets and obligations of District Retirement Funds.
Sec. 11034. Treatment of Trust Fund under certain laws.
Sec. 11035. Administration through Trustee.

CHAPTER 5—RESPONSIBILITIES OF DISTRICT GOVERNMENT

Sec. 11041. Interim administration.
Sec. 11042. Replacement plan.

CHAPTER 6—FINANCING OF BENEFIT PAYMENTS AFTER DEPLETION OF TRUST FUND

Sec. 11051. Creation of Federal Supplemental Fund.
Sec. 11052. Uses of amounts in Fund.
Sec. 11053. Determination of annual payment into Federal Supplemental Fund.
Sec. 11054. Determination of methodology for making payments.
Sec. 11055. Special requirements upon discontinuation of Trust Fund.

CHAPTER 7—REPORTS

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Sec. 11062. Reports by Comptroller General.

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Sec. 11072. Jurisdiction and venue.
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Sec. 11074. Treatment of misappropriation of fund amounts as Federal crime.

CHAPTER 9—MISCELLANEOUS

Sec. 11081. Coordination between Secretary, Trustee, and District Government.
Sec. 11082. Study of alternatives for financing Federal obligations.
Sec. 11083. Issuance of regulations by Secretary.
Sec. 11084. Effect on Reform Act and other laws.
Sec. 11085. Reference to new Federal program for retirement of judges of District of Columbia courts.
Sec. 11086. Full faith and credit.
Sec. 11087. Severability of provisions.

Subtitle B—Management Reform Plans

Sec. 11101. Short title.
Sec. 11102. Management reform plans for District Government.
Sec. 11103. Procedures for development of plans.
Sec. 11104. Implementation of plans.
Sec. 11105. Reform of powers and duties of department heads.
Sec. 11106. No effect on powers of Financial Responsibility and Management Assistance Authority.

Subtitle C—Criminal Justice

CHAPTER 1—CORRECTIONS

Sec. 11201. Bureau of Prisons.
Sec. 11202. Corrections Trustee.
Sec. 11203. Priority consideration for employees of the District of Columbia.
Sec. 11204. Amendments related to persons with a mental disease or defect.
Sec. 11205. Liability for and litigation authority of Corrections Trustee.
Sec. 11206. Permitting expenditure of funds to carry out certain sewer agreement.

CHAPTER 2—SENTENCING

Sec. 11211. Truth-in-Sentencing Commission.
Sec. 11212. General duties, powers, and goals of Commission.
Sec. 11213. Data collection.
Sec. 11214. Enactment of amendments to District of Columbia Code.

CHAPTER 3—OFFENDER SUPERVISION AND PAROLE

Sec. 11231. Parole.
Sec. 11232. Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee.
Sec. 11233. Offender Supervision, Defender and Courts Services Agency.
Sec. 11234. Authorization of appropriations.

CHAPTER 4—DISTRICT OF COLUMBIA COURTS

SUBCHAPTER A—TRANSFER OF ADMINISTRATION AND FINANCING OF COURTS TO FEDERAL GOVERNMENT

Sec. 11241. Authorization of appropriations.
Sec. 11242. Administration of courts under District of Columbia Code.
Sec. 11243. Budgeting and financing requirements for courts under Home Rule Act.
Sec. 11244. Auditing of accounts of court system.
Sec. 11245. Miscellaneous budgeting and financing requirements for courts under District law.
Sec. 11246. Other provisions relating to administration of District of Columbia courts.

SUBCHAPTER B—JUDICIAL RETIREMENT PROGRAM

Sec. 11251. Judicial Retirement and Survivors Annuity Fund.
Sec. 11252. Termination of current fund and program.
Sec. 11253. Conforming amendments.

SUBCHAPTER C—MISCELLANEOUS CONFORMING AND ADMINISTRATIVE PROVISIONS

Sec. 11261. Treatment of courts under miscellaneous District laws.
Sec. 11262. Representation of indigents in criminal cases.

CHAPTER 5—PRETRIAL SERVICES AGENCY AND PUBLIC DEFENDER SERVICE

Sec. 11271. Amendments affecting Pretrial Services Agency.

Sec. 11272. Amendments affecting Public Defender Service.

CHAPTER 6—MISCELLANEOUS PROVISIONS

Sec. 11281. Technical assistance and research.
Sec. 11282. Exemption from personnel and budget ceilings for Trustees and related agencies.

Subtitle D—Privatization of Tax Collection and Administration

Sec. 11301. Findings.
Sec. 11302. Authorizing Chief Financial Officer to privatize tax administration and collection.

Subtitle E—Financing of District of Columbia Accumulated Deficit

Sec. 11401. Findings.
Sec. 11402. Authorization for intermediate-term advances of funds by the Secretary of the Treasury to liquidate the accumulated general fund deficit of the District of Columbia.
Sec. 11403. Conforming amendments.
Sec. 11404. Technical corrections.
Sec. 11405. Authorization for issuance of general obligation bonds by the District of Columbia to finance or refund its accumulated general fund deficit.

Subtitle F—District of Columbia Bond Financing Improvements

Sec. 11501. Short title.
Sec. 11502. Findings.
Sec. 11503. Amendment to Section 462 (relating to contents of borrowing legislation and elections on issuing general obligation bonds).
Sec. 11504. Amendment to Section 466 (relating to public or negotiated sale of general obligation bonds).
Sec. 11505. Amendment to Section 467 (relating to authority to create security interests in District revenues).
Sec. 11506. Amendment to Section 472 (relating to borrowing in anticipation of revenues).
Sec. 11507. Addition of new Section 475 (relating to general obligation bond anticipation notes).
Sec. 11508. Amendment to Section 490 (relating to revenue bonds and other obligations).
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Subtitle G—District of Columbia Government Budget

Sec. 11601. Elimination of the annual Federal payment to the District of Columbia.
Sec. 11602. Requirement that the District of Columbia balance its budget in FY 1998.
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Subtitle H—Miscellaneous Provisions

CHAPTER 1—REGULATORY REFORM IN THE DISTRICT OF COLUMBIA

Sec. 11701. Review and revision of regulations and permit and application processes.
Sec. 11702. Repeal of Clean Air Compliance Fee Act of 1994.
Sec. 11703. Repeal requirement for Congressional authorization of certain mergers involving District of Columbia public utility corporations.
Sec. 11704. Exemption of certain contracts from Council review.

CHAPTER 2—OTHER MISCELLANEOUS PROVISIONS

Sec. 11711. Revisions to Financial Responsibility and Management Assistance Act.
Sec. 11712. Cooperative agreements between Federal agencies and Metropolitan Police Department.
Sec. 11713. Permitting garnishment of wages of officers and employees of District of Columbia government.
Sec. 11714. Permitting excess appropriations by Water and Sewer Authority for capital projects.
Sec. 11715. Requiring certain Federal officials to provide notice before carrying out activities affecting real property located in District of Columbia.
Sec. 11716. Repeal term of deed of conveyance to certain hospital.
Sec. 11717. Short title of Home Rule Act.

CHAPTER 3—EFFECTIVE DATE; GENERAL PROVISIONS

Sec. 11721. Effective date.
Sec. 11722. Technical assistance.
Sec. 11723. Liability.

Subtitle A—District of Columbia Retirement Funds

CHAPTER 1—SHORT TITLE; FINDINGS; DEFINITIONS

SEC. 11001. SHORT TITLE.

This subtitle may be cited as the "District of Columbia Retirement Protection Act of 1997".

SEC. 11002. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) State and municipal retirement programs should be funded on an actuarially sound basis;

(2) the retirement programs for the police officers and firefighters, teachers and judges of the District of Columbia had significant unfunded liabilities totaling approximately $1,900,000,000 when the Federal government transferred those programs to the District of Columbia, and those liabilities have since increased to nearly $4,800,000,000, an increase which is almost entirely attributable to the accumulation of interest on the value which existed at the time of transfer;

(3) the District of Columbia has fully met its financial obligations under the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122);

(4) the growth of the unfunded liabilities of the three pension funds listed above did not occur because of any action taken or any failure to act that lay within the power of the District of Columbia government or the District of Columbia Retirement Board;

(5) the presence of the unfunded pension liability is having and will continue to have a negative impact on the District of Columbia's credit rating as it is a legal obligation and the total unfunded liability exceeds the total General Obligation debt of the District, and the costs associated with this liability are a contributing cause of the District's ongoing financial crisis;

(6) the obligations of the District associated with these pension programs in fiscal year 1997 represents nearly 10 percent of the District's revenue;

(7) the annual Federal contribution toward these costs under the District of Columbia Retirement Reform Act has remained $52,000,000;

(8) if the unfunded pension liability situation is not resolved, in 2004 the District of Columbia would be responsible for annual costs exceeding $800,000,000, a figure which would be impossible to meet without catastrophic impact on the District government's resources and programs;

(9) the financial resources of the District of Columbia are not adequate to discharge the unfunded liabilities of the retirement programs; and

(10) the level of benefits and funding of the current retirement programs were authorized by various Acts of Congress.

(b) POLICY.—It is the policy of this subtitle—

(1) to relieve the District of Columbia government of the responsibility for the unfunded pension liabilities transferred to it by the Federal government;

(2) for the Federal government to assume the legal responsibility for paying certain pension benefits (including certain unfunded pension liabilities which existed as of the day prior to introduction of this legislation) for the retirement plans of teachers, police, and firefighters;

(3) to provide for a responsible Federal system for payment of benefits accrued prior to the date of introduction of this legislation; and

(4) to require the establishment of replacement plans by the District of Columbia government for the current retirement plans for teachers, and police and firefighters.

SEC. 11003. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) The term "contract" means the contract under section 11035 between the Secretary and the Trustee.

(2) The term "covered District employee" means a teacher of the District of Columbia public schools, or a member of the Metropolitan Police Force or the Fire Department of the District of Columbia, as defined under the District Retirement Program.

(3) The term "District Government" means any entity treated as part of the District government under section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, including the District of Columbia Retirement Board (as defined in section 102(5) of the Reform Act).

(4) The term "District Retirement Fund" means the District of Columbia Police Officers and Fire Fighters Retirement Fund and the District of Columbia Teachers Retirement Fund, as defined in the Reform Act.

(5) The term "District Retirement Program" means any of the retirement programs for teachers and members of the Metropolitan Police Force and Fire Department, as described in section 102(7) of the Reform Act as in effect on the day before the freeze date (except as amended by section 11013).

(6) The term "enrolled actuary" means the enrolled actuary engaged by the Trustee under section 11061(a).

(7) The term "Federal benefit payment" means a payment described in section 11012.

(8) The term "Federal Supplemental Fund" means the Federal Supplemental District of Columbia Pension Fund created under section 11051.

(9) The term "freeze date" means June 30, 1997.

(10) The term "person" means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization.

(11) The term "Reform Act" means the District of Columbia Retirement Reform Act (Public Law 96–122).

(12) The term "replacement plan" means the plan described in section 11042.

(13) The term "replacement plan adoption date" means the date upon which the legislation establishing the replacement plan becomes effective, or the first day after the expiration of the 1-year period which begins on the date of the enactment of this Act, whichever occurs first.

(14) The term "Trust Fund" means the District of Columbia Federal Pension Liability Trust Fund established under section 11031.

(15) The term "Secretary" means the Secretary of the Treasury or the Secretary's designee.

(16) The term "Trustee" means the person or persons selected by the Secretary under section 11035.

CHAPTER 2—FEDERAL BENEFIT PAYMENTS UNDER DISTRICT RETIREMENT PROGRAMS

SEC. 11011. OBLIGATION OF FEDERAL GOVERNMENT TO MAKE BENEFIT PAYMENTS.

(a) IN GENERAL.—In accordance with the provisions of this subtitle, the Federal Government shall make Federal benefit payments associated with the pension plans for police officers, firefighters, and teachers of the District of Columbia.

(b) NO REVERSION OF FEDERAL RESPONSIBILITY TO DISTRICT.—At no point after the effective date of this subtitle may the responsibility or any part thereof assigned to the Federal Government under subsection (a) for making Federal benefit payments revert to the District of Columbia.

SEC. 11012. FEDERAL BENEFIT PAYMENTS DESCRIBED.

(a) IN GENERAL.—Subject to the succeeding provisions of this subtitle, a "Federal benefit payment" is any benefit payment to which an individual is entitled under a District Retirement Program, in such amount and under such terms and conditions as may apply under such Program.

(b) TREATMENT OF SERVICE OCCURRING AFTER FREEZE DATE.—Service after the freeze date shall not be credited for purposes of determining the amount of any Federal benefit payment. Nothing in this subsection shall be construed to affect the crediting of such service for any other purpose under the District Retirement Program.

(c) SPECIAL RULE REGARDING DISABILITY BENEFITS.—To the extent that any portion of a benefit payment to which an individual is entitled under a District Retirement Program is based on a determination of disability made by the District of Columbia Retirement Board or the Trustee after the freeze date, the Federal benefit payment determined with respect to the individual shall be an amount equal to the deferred retirement benefit or normal retirement benefit the individual would receive if the individual left service on the day before the commencement of disability retirement benefits.

(d) SPECIAL RULE REGARDING CERTAIN DEATH BENEFITS.—

(1) IN GENERAL.—In the case of a benefit payment to which an individual is entitled under a District Retirement Program which is payable on the death of a covered District employee or former covered District employee and which is not determined by the length of service of the employee or former employee, the Federal benefit payment determined with respect to the individual shall be equal to the pre-freeze date percentage of the amount otherwise payable.

(2) PRE-FREEZE DATE PERCENTAGE DEFINED.—In paragraph (1), the "pre-freeze date percentage" with respect to a covered District employee or former covered District employee is the amount (expressed as a percentage) equal to the quotient of—

(A) the number of months of the covered District employee's or former covered District employee's service prior to the freeze date; divided by

(B) the total number of months of the covered District employee's or former covered District employee's service.

SEC. 11013. ESTABLISHMENT OF SINGLE ANNUAL COST-OF-LIVING ADJUSTMENT UNDER DISTRICT RETIREMENT PROGRAM.

(a) PROGRAM FOR POLICE AND FIRE FIGHTERS.—Subsection (m) of the Policemen and Firemen's Retirement and Disability Act (DC Code, sec. 4-624) is amended—

(1) in paragraph (2), by striking "the Mayor shall" and all that follows and inserting the following: "on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year."; and

(2) by amending paragraph (3) to read as follows:

"(3)(A) If (in accordance with paragraph (2)) the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to—

"(i) in the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (1), adjusted to the nearest 1/10 of 1 per centum; or

"(ii) in the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of—

"(I) 1/12 of the per centum change computed under paragraph (1), multiplied by

"(II) the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

"(B) On January 1, 1998 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998—

"(i) each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1 per centum; and

"(ii) each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of—

"(I) 1/6 of such per centum change, multiplied by

"(II) the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.".

(b) PROGRAM FOR TEACHERS.—Section 21(b) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (DC Code, sec. 31-1241(b)) is amended—

(1) in paragraph (1), by striking "The Mayor shall—" and all that follows and inserting the following: "On January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year."; and

(2) by amending paragraph (2) to read as follows:

"(2)(A) If (in accordance with paragraph (1)) the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to—

"(i) in the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (1), adjusted to the nearest 1/10 of 1 per centum; or

"(ii) in the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of—

"(I) 1/12 of the per centum change computed under paragraph (1), multiplied by

"(II) the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

"(B) On January 1, 1998 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998—

"(i) each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1 per centum; and

"(ii) each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of—

"(I) 1/6 of such per centum change, multiplied by

"(II) the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.".

CHAPTER 3—DETERMINATIONS AND REVIEW OF ELIGIBILITY AND PAYMENTS; INFORMATION SHARING

SEC. 11021. DETERMINATION OF ELIGIBILITY FOR AND AMOUNT OF FEDERAL BENEFIT PAYMENTS MADE BY TRUSTEE.

Notwithstanding any provision of a District Retirement Program or any other law, rule, or regulation, the Trustee—

(1) shall determine whether an individual is eligible to receive a Federal benefit payment under this subtitle;

(2) shall determine the amount and form of an individual's Federal benefit payment under this subtitle; and

(3) may recoup or recover any amounts paid under this subtitle as a result of errors or omissions by the Trustee, the District Government, or any other person.

SEC. 11022. PROCEDURES FOR RESOLVING CLAIMS ARISING FROM DENIED BENEFIT PAYMENTS.

(a) REQUIRING NOTICE AND OPPORTUNITY FOR REVIEW.—In accordance with procedures approved by the Secretary, the Trustee shall provide to any individual whose claim for a Federal benefit payment under this subtitle has been denied in whole or in part—

(1) adequate written notice of such denial, setting forth the specific reasons for the denial in a manner calculated to be understood by the average participant in the District Retirement Program; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

(b) STANDARD FOR REVIEW.—Any factual determination made by the Trustee shall be presumed correct unless rebutted by clear and convincing evidence. The Trustee's interpretation and construction of the benefit provisions of the District Retirement Program and this subtitle shall be entitled to great deference.

SEC. 11023. TRANSFER OF AND ACCESS TO RECORDS OF DISTRICT GOVERNMENT.

(a) IN GENERAL.—Within 30 days after the Secretary or the Trustee requests, the District Government shall furnish copies of all records, documents, information, or data the Secretary or the Trustee deems necessary to carry out responsibilities under this subtitle and the contract. Upon request, the District Government *shall grant the Secretary or the Trustee direct access to such information systems, records, documents, information or data as the Secretary or Trustee requires to carry out responsibilities under this subtitle or the contract.*

(b) Repayment by District Government.—The District Government shall reimburse the Trust Fund for all costs, including benefit costs, that are attributable to errors or omissions in the transferred records that are identified within 3 years after such records are transferred.

SEC. 11024. FEDERAL INFORMATION SHARING FOR VERIFICATION OF BENEFIT DETERMINATIONS.

(a) In General.—Except with respect to taxpayer returns and return information subject to section 6103 of the Internal Revenue Code of 1986, the Secretary may—

(1) secure directly from any department or agency of the United States information necessary to enable the Secretary to verify or confirm benefit determinations under this subtitle; and

(2) by regulation authorize the Trustee to review such information for purposes of administering this subtitle and the contract.

(b) Amendments to Internal Revenue Code.—The Internal Revenue Code of 1986 is amended as follows:

(1) In section 6103(l), as amended by section 1206(a) of the Taxpayer Bill of Rights 2, by adding at the end the following new paragraph:

"(16) Disclosure of return information for purposes of administering the District of Columbia Retirement Protection Act of 1997.—

"(A) In general.—Upon written request available return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5) of this subsection), relating to the amount of wage income (as defined in section 3121(a) or 3401(a)), the name, address, and identifying number assigned under section 6109, of payors of wage income, taxpayer identity (as defined in subsection 6103(b)(6)), and the occupational status reflected on any return filed by, or with respect to, any individual with respect to whom eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997, is sought to be determined, shall be disclosed by the Commissioner of Social Security, or to the extent not available from the Social Security Administration, by the Secretary, to any duly authorized officer or employee of the Department of the Treasury, or a Trustee or any designated officer or employee of a Trustee (as defined in the District of Columbia Retirement Protection Act of 1997), or any actuary engaged by a Trustee under the terms of the District of Columbia Retirement Protection Act of 1997, whose official duties require such disclosure, solely for the purpose of, and to the extent necessary in, determining an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

"(B) Disclosure for use in judicial or administrative proceedings.—Return information disclosed to any person under this paragraph may be disclosed in a judicial or administrative proceeding relating to the determination of an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.".

(2) In section 6103(a)(3), by striking "(6) or (12)" and inserting "(6), (12), or (16)";

(3) In section 6103(i)(7)(B)(i), by inserting after "(other than an agency referred to in subparagraph (A))" and before the word "for" the words "or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997,".

(4) In section 6103(p)(3)(A), by striking "or (15)" and inserting "(15), or (16)".

(5) In section 6103(p)(4) in the matter preceding subparagraph (A), by striking "or (12)" and inserting "(12), or (16), or any other person described in subsection (l)(16)".

(6) In section 6103(p)(4)(F)(i), by striking "or (9)," and inserting "(9), or (16), or any other person described in subsection (1)(16)".

(7) In section 6103(p)(4)(F) in the matter following clause (iii)—

(A) by inserting after "any such agency, body or commission" and before the words "for the General Accounting Office" the words ", including an agency or any other person described in subsection (l)(16),";

(B) by striking "to such agency, body, or commission" and inserting "to such agency, body, or commission, including an agency or any other person described in subsection (l)(16),";

(C) by striking "or (12)(B)" and inserting ", (12)(B), or (16)";

(D) by inserting after the words "any agent," and before the words "this paragraph shall" the words "or any person including an agent described in subsection (l)(16),";

(E) by inserting after the words "such agent" and before "(except that" the words "or other person"; and

(F) by inserting after the words "an agent," and before the words "any report" the words "or any person including an agent described in subsection (l)(16),".

(8) In section 7213(a)(2), by striking "or (15)," and inserting "(15), or (16)".

(c) Confidentiality.—The Secretary may issue regulations governing the confidentiality of the information obtained pursuant to subsection (a) and the provisions of law amended by subsection (b).

CHAPTER 4—DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND

SEC. 11031. CREATION OF TRUST FUND.

(a) Establishment.—There is established on the books of the Treasury the District of Columbia Federal Pension Liability Trust Fund, consisting of the assets transferred pursuant to section 11033 and any income earned on the investment of such assets pursuant to subsection (b).

(b) Investment of Assets.—The Trustee may invest the assets of the Trust Fund in private securities and any other form of investment deemed appropriate by the Secretary.

SEC. 11032. USES OF AMOUNTS IN TRUST FUND.

(a) In General.—Amounts in the Trust Fund shall be used—

(1) to make Federal benefit payments under this subtitle;

(2) subject to subsection (b), to cover the reasonable and necessary expenses of administering the Trust Fund under the contract entered into pursuant to section 11035(b); and

(3) for such other purposes as are specified in this subtitle.

(b) Special Rules Regarding Administrative Expenses.—

(1) Budgeting; certification and approval.—The administrative expenses of the Trust Fund shall be paid in accordance with an annual budget set forth by the Trustee which shall be subject to certification and approval by the Secretary.

(2) Use of District retirement fund for interim administration.—The Secretary is authorized to requisition from the District Retirement Fund such sums as are necessary to administer the Trust Fund until assets are transferred to the Trust Fund pursuant to section 11033.

SEC. 11033. TRANSFER OF ASSETS AND OBLIGATIONS OF DISTRICT RETIREMENT FUNDS.

(a) In General.—As of the replacement plan adoption date, all obligations to make Federal benefit payments and all assets of the District Retirement Fund as of the replacement plan adoption date (except as provided in subsections (b) and (c)) shall be transferred to the Trust Fund.

(b) Designation of Assets to be Retained by District Retirement Fund.—The Secretary shall designate assets with a value of $1.275 billion that shall not be transferred from the District Retirement Fund under subsection (a). The Secretary's designation and valuation of the assets shall be final and binding.

(c) Exception for Certain Employee Contributions.—

(1) In general.—Subsection (a) shall not apply to assets consisting of the District Retirement Fund consisting of any employee contributions deducted and withheld after the freeze date or any interest thereon (computed at a rate and in a manner determined by the Secretary).

(2) Employee contributions defined.—In paragraph (1), the term "employee contributions" means amounts deducted and withheld from the salaries of covered District employees and paid to the District Retirement Fund (and, in the case of teachers, amounts of additional deposits paid to the District Retirement Fund), pursuant to the District Retirement Program.

(d) Responsibilities of District Government.—

(1) In general.—The transfer of assets from the District Retirement Fund under this section shall be made in accordance with the direction of the Secretary. The District Government shall promptly take all steps, and execute all documents, that the Secretary deems necessary to effect the transfer.

(2) Final reconciliation of accounts.—As soon as practicable after the replacement plan adoption date, the District Government shall furnish the Trustee a final reconciliation of accounts in connection with the transfer of assets and obligations to the Trust Fund. The allocation of assets under this section shall be adjusted in accordance with this reconciliation.

SEC. 11034. TREATMENT OF TRUST FUND UNDER CERTAIN LAWS.

(a) Internal Revenue Code.—For purposes of the Internal Revenue Code of 1986—

(1) the Trust Fund shall be treated as a trust described in section 401(a) of the Code which is exempt from taxation under section 501(a) of the Code;

(2) any transfer to or distribution from the Trust Fund shall be treated in the same manner as a transfer to or distribution from a trust described in section 401(a) of the Code; and

(3) the benefits provided by the Trust Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

(b) ERISA.—For purposes of the Employee Retirement Income Security Act of 1974, the benefits provided by the Trust Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

(c) Application of Certain Future Amendments to Internal Revenue Code.—To the extent that any provision of subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 401 et seq.) is amended after the date of the enactment of this Act, such provision as amended shall apply to the Trust Fund only to the extent the Secretary determines that application of the provision as amended is consistent with the administration of this subtitle.

SEC. 11035. ADMINISTRATION THROUGH TRUSTEE.

(a) In General.—As soon as practicable after the enactment of this subtitle, the Secretary shall select a Trustee to administer the Trust Fund and otherwise carry out the responsibilities and duties specified in this subtitle in accordance with the contract described in subsection (b).

(b) Contract.—The Secretary shall enter into a contract with the Trustee to provide for the management, investment, control and auditing of Trust Fund assets, the making of Federal benefit payments under this subtitle from the Trust Fund, and such other matters as the Secretary deems appropriate. The Secretary shall enforce the provisions of the contract and otherwise monitor the administration of the Trust Fund.

(c) Reports.—The Trustee shall report to the Secretary, in a form and manner and at such intervals as the Secretary may prescribe, on any matters or transactions relating to the Trust Fund, including financial matters, as the Secretary may require.

CHAPTER 5—RESPONSIBILITIES OF DISTRICT GOVERNMENT

SEC. 11041. INTERIM ADMINISTRATION.

(a) Administration of Benefits Until Appointment of Trustee.—Notwithstanding chapter 2, after the enactment of this subtitle the District Government shall continue to discharge its duties and responsibilities under the District Retirement Program and the District Retirement Fund (as such duties and responsibilities are modified by this subtitle), including the responsibility for Federal benefit payments, until such time as the Secretary notifies the District Government that the Secretary has directed the Trustee to carry out the duties and responsibilities required under the contract.

(b) Reimbursement From Trust Fund.—The Trustee shall reimburse the District Government for any administrative expenses incurred by the District Government in carrying out subsection (a)—

(1) if the Trustee finds such expenses to be reasonable and necessary; and

(2) to the extent that the District Government is not reimbursed for such expenses from other sources.

(c) Making District Retirement Fund Whole.—The District Government shall reimburse the District Retirement Fund for any benefits paid inconsistent with this subtitle from the District Retirement Fund between the freeze date and the replacement plan adoption date.

SEC. 11042. REPLACEMENT PLAN.

(a) Adoption by District Government.—Not later than one year after the date of the enactment of this subtitle, the District Government shall adopt a replacement plan for pension benefits for covered District employees, effective as of the freeze date.

(b) Replacement Plan Imposed If District Government Fails to Adopt Plan.—If the District Government fails to adopt a replacement plan within the period prescribed in subsection (a), the retirement program applicable to police, firefighters, and teachers under the laws of the District of Columbia in effect as of June 1, 1997 (except as otherwise amended by this Act), including all requirements of the program regarding benefits, contributions, and cost-of-living adjustments, shall be treated as the replacement plan for purposes of this subtitle.

(c) No Payment of Amounts Paid as Federal Benefit Payment.—Notwithstanding any provision of the Reform Act or any other law, rule, or regulation, the District Government is not required to pay any amount under any replacement plan under this subtitle if the amount is paid as a Federal benefit payment under this subtitle.

CHAPTER 6—FINANCING OF BENEFIT PAYMENTS AFTER DEPLETION OF TRUST FUND

SEC. 11051. CREATION OF FEDERAL SUPPLEMENTAL FUND.

(a) Establishment.—There is established on the books of the Treasury the Federal Supplemental District of Columbia Pension Fund, which shall be administered by the Secretary and shall consist of the following assets:

(1) Amounts deposited into such Fund under the provisions of this subtitle.

(2) Any amount otherwise appropriated to such Fund.

(3) Any income earned on the investment of the assets of such Fund pursuant to subsection (b).

(b) Investment of Assets.—The Secretary shall invest such portion of the Federal Supplemental Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Federal Supplemental Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(c) Recordkeeping for Actuarial Status.—The Secretary shall provide for the keeping of such records as are necessary for determining the actuarial status of the Federal Supplemental Fund.

SEC. 11052. USES OF AMOUNTS IN FUND.

Amounts in the Federal Supplemental Fund shall be used for the accumulation of funds in order to finance obligations of the Federal Government for benefits and necessary administrative expenses under the provisions of this subtitle, in accordance with the methodology selected by the Secretary under section 11054(b), except that payments from the Fund for administrative expenses may be made only the extent and in such amounts as are provided in advance in appropriations acts.

SEC. 11053. DETERMINATION OF ANNUAL PAYMENT INTO FEDERAL SUPPLEMENTAL FUND.

(a) In General.—At the end of each applicable fiscal year the Secretary shall promptly pay into the Federal Supplemental Fund from the General Fund of the Treasury an amount equal to the sum of—

(1) the annual amortization amount for the year (which may not be less than zero); and

(2) the covered administrative expenses for the year.

(b) Determination of Amounts.—For purposes of this section:

(1) The "original unfunded liability" is the amount that is the present value as of the freeze date of future benefits payable from the Federal Supplemental Fund.

(2) The "annual amortization amount" is the amount determined by the enrolled actuary to be necessary to amortize in equal annual installments (until fully amortized)—

(A) the original unfunded liability over a 30-year period;

(B) a net experience gain or loss over a 10-year period; and

(C) any other changes in actuarial liability over a 20-year period.

(3) The "covered administrative expenses" are the expenses determined by the Secretary (on an annual basis) to be necessary to administer the Federal Supplemental Fund.

(c) Timing.—The first applicable fiscal year under subsection (a) is the first fiscal year that ends more than six months after the replacement plan adoption date.

SEC. 11054. DETERMINATION OF METHODOLOGY FOR MAKING PAYMENTS.

(a) Notice to President and Congress.—Not later than 18 months before the time that assets remaining in the Trust Fund are projected to be insufficient for making Federal benefit payments and covering necessary administrative expenses when due, the Secretary shall so advise the President and the Congress.

(b) Selection of Methodology.—Before all available assets of the Trust Fund have been depleted, the Secretary shall determine whether Federal benefit payments and necessary administrative expenses under this subtitle shall be made by one of the following methods:

(1) Continuation of the Trust Fund using payments from the Federal Supplemental Fund.

(2) Discontinuation of the Trust Fund, with payments made—

(A) by direct payment by the Secretary from the Federal Supplemental Fund; or

(B) from the Federal Supplemental Fund through another department or agency of the United States.

(c) Arrangements by Secretary.—The Secretary shall make appropriate arrangements to implement the determinations made in this subsection.

SEC. 11055. SPECIAL REQUIREMENTS UPON DISCONTINUATION OF TRUST FUND.

(a) Successor to Trustee.—If the Secretary determines that the Trust Fund shall be discontinued after it has been depleted of assets, the Secretary shall appoint a successor to the Trustee to administer the requirements of this subtitle, with the same powers and subject to the same conditions as were applicable to the Trustee.

(b) Continuing Application of Terms and Conditions.—The methodology selected by the Secretary under section 11054(b), and the payment of benefits pursuant to such methodology, shall be subject to the same arrangements, terms, and conditions as were applicable under this subtitle to the Trust Fund and the benefits paid under the Trust Fund (including provisions relating to the treatment of the Trust Fund under certain laws).

CHAPTER 7—REPORTS

SEC. 11061. ANNUAL VALUATIONS AND REPORTS BY ENROLLED ACTUARY.

(a) Determination of Actuarial Valuations.—The Trustee shall engage an enrolled actuary (as defined in section 7701(a)(35) of the Internal Revenue Code of 1986) who is a member of the American Academy of Actuaries to perform an annual actuarial valuation (in a manner and form determined by the Secretary) of the Trust Fund and the Federal Supplemental Fund for obligations assumed by the Federal Government under this subtitle.

(b) Annual Report on Status of Funds.—The enrolled actuary shall prepare and submit to the Secretary and the Trustee an annual report on the actuarial status of the Trust Fund and the Federal Supplemental Fund, and shall include in the report—

(1) a projection of when assets in the Trust Fund will be insufficient to pay benefits and necessary administrative expenses when due; and

(2) a determination of the annual payment to the Federal Supplemental Fund under section 11053.

SEC. 11062. REPORTS BY COMPTROLLER GENERAL.

(a) In General.—The Comptroller General is authorized to conduct evaluations of the administration of this subtitle to ensure that the Trust Fund and Federal Supplemental Fund are being properly administered and shall report the findings of such evaluations to the Secretary and the Congress.

(b) Access to Information.—For the purpose of evaluations under subsection (a) the Comptroller General, subject to section 6103 of the Internal Revenue Code of 1986, shall have access to and the right to copy any books, accounts, records, correspondence or other pertinent documents that are in the possession of the Secretary or the Trustee, or any contractor or subcontractor of the Secretary or the Trustee.

CHAPTER 8—JUDICIAL ENFORCEMENT

SEC. 11071. JUDICIAL REVIEW.

(a) In General.—A civil action may be brought—

(1) by a participant or beneficiary to enforce or clarify rights to benefits from the Trust Fund or Federal Supplemental Fund under this subtitle;

(2) by the Trustee—

(A) to enforce any claim arising (in whole or in part) under this subtitle or the contract; or

(B) to recover benefits improperly paid from the Trust Fund or Federal Supplemental Fund or to clarify a participant's or beneficiary's rights to benefits from the Trust Fund or Federal Supplemental Fund; and

(3) by the Secretary to enforce any provision of this subtitle or the contract.

(b) TREATMENT OF TRUST FUND.—The Trust Fund may sue and be sued as an entity.

(c) EXCLUSIVE REMEDY.—This chapter shall be the exclusive means for bringing actions against the Trust Fund, the Trustee or the Secretary under this subtitle.

SEC. 11072. JURISDICTION AND VENUE.

(a) IN GENERAL.—The United States District Court for the District of Columbia shall have exclusive jurisdiction and venue, regardless of the amount in controversy, of—

(1) civil actions brought by participants or beneficiaries pursuant to this subtitle, and

(2) any other action otherwise arising (in whole or part) under this subtitle or the contract.

(b) REVIEW BY COURT OF APPEALS.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia issued pursuant to an action described in subsection (a) that concerns the validity or enforceability of any provision of this subtitle or seeks injunctive relief against the Secretary or Trustee under this subtitle shall be reviewable only pursuant to a notice of appeal to the United States Court of Appeals for the District of Columbia Circuit.

(c) REVIEW BY SUPREME COURT.—Notwithstanding any other provision of law, review by the Supreme Court of the United States of a decision of the Court of Appeals that is issued pursuant to subsection (b) may be had only if the petition for relief is filed within 20 calendar days after the entry of such decision.

(d) RESTRICTIONS ON DECLARATORY OR INJUNCTIVE RELIEF.—No order of any court granting declaratory or injunctive relief against the Secretary or the Trustee shall take effect during the pendency of the action before such court, during the time an appeal may be taken, or (if an appeal is taken or petition for certiorari filed) during the period before the court has entered its final order disposing of the action.

SEC. 11073. STATUTE OF LIMITATIONS.

(a) ACTION FOR BENEFITS.—Any civil action by an individual with respect to a Federal benefit payment under this subtitle shall be commenced within 180 days of a final benefit determination.

(b) ACTION FOR BREACH OF CONTRACT OR OTHER VIOLATIONS.—Except as provided in subsection (c), any civil action for breach of the contract or any other violation of this subtitle shall be commenced within the later of—

(1) six years after the last act that constituted the alleged breach or violation or, in the case of an omission, six years after the last date on which the alleged breach or violation could have been cured; or

(2) three years after the earliest date on which the plaintiff knew or could have reasonably been expected to have known of the act or omission on which the action is based.

(c) SPECIAL RULE FOR ACTIONS AGAINST SECRETARY.—Notwithstanding subsection (b), any action against the Secretary arising (in whole or part) under this subtitle or the contract shall be commenced within one year of the events giving rise to the cause of action.

SEC. 11074. TREATMENT OF MISAPPROPRIATION OF FUND AMOUNTS AS FEDERAL CRIME.

The provisions of section 664 of title 18, United States Code (relating to theft or embezzlement from employee benefit plans), shall apply to the Trust Fund and the Federal Supplemental Fund.

CHAPTER 9—MISCELLANEOUS

SEC. 11081. COORDINATION BETWEEN SECRETARY, TRUSTEE, AND DISTRICT GOVERNMENT.

The Secretary, Trustee, and District Government shall carry out responsibilities under this subtitle and under the contract in a manner which promotes the cost-effective and efficient administration of benefit payments under the District Retirement Programs, and in a manner which avoids unnecessary interruptions and delays in paying individuals the full benefits to which they are entitled under such Programs.

SEC. 11082. STUDY OF ALTERNATIVES FOR FINANCING FEDERAL OBLIGATIONS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this subtitle, the Secretary shall enter into a contract with an independent consultant to conduct a study of actuarial alternatives for financing the federal obligations assumed under this subtitle, together with an analysis of the impact of each alternative on the federal budget. The Secretary and the District Government shall cooperate with the consultant and shall provide direct access to such information systems, records, documents, information, or data as will enable the consultant to conduct the study.

(b) DEADLINE.—The contract entered into under subsection (a) shall require the consultant to report the results of the study not later than 12 months after the date of enactment of this Act.

(c) NO EFFECT ON FEDERAL OBLIGATIONS.—Nothing in this section may be construed to affect any obligation of the Federal Government to make payments under this subtitle.

SEC. 11083. ISSUANCE OF REGULATIONS BY SECRETARY.

The Secretary is authorized to issue regulations to implement, interpret, administer and carry out the purposes of this subtitle, and, in the Secretary's discretion, those regulations may have retroactive effect.

SEC. 11084. EFFECT ON REFORM ACT AND OTHER LAWS.

(a) REFORM ACT.—

(1) IN GENERAL.—This subtitle supersedes any provision of the Reform Act inconsistent with this subtitle and the regulations thereunder.

(2) TERMINATION OF PAYMENTS TO DISTRICT RETIREMENT FUNDS.—Section 144 of the Reform Act (DC Code, sec. 1–724) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of this Act, no Federal payments may be made to any Fund established by this title for any fiscal year after fiscal year 1997.".

(b) NO EFFECT ON TAX TREATMENT OF BENEFITS.—Except as otherwise specifically provided, nothing in this subtitle may be construed to affect the application of any provision of the Internal Revenue Code of 1986 to any annuity or other benefit provided to or on behalf of any individual, including any disability benefit or any portion of a retirement benefit attributable to an individual's disability status.

(c) NO EFFECT ON BENEFITS FOR PARK POLICE AND SECRET SERVICE.—Nothing in this subtitle shall be deemed to alter or amend in any way the provisions of existing law (including the Reform Act) relating to the program of annuities, other retirement benefits, or medical benefits for members and officers, retired members and officers, and survivors thereof, of the United States Park Police force, the United States Secret Service, or the United States Secret Service Uniformed Division.

SEC. 11085. REFERENCE TO NEW FEDERAL PROGRAM FOR RETIREMENT OF JUDGES OF DISTRICT OF COLUMBIA COURTS.

For provisions describing the retirement program for judges and judicial personnel of the District of Columbia, see subchapter B of chapter 4 of subtitle C.

SEC. 11086. FULL FAITH AND CREDIT.

Federal obligations for benefits under this subtitle are backed by the full faith and credit of the United States.

SEC. 11087. SEVERABILITY OF PROVISIONS.

If any provision of this subtitle, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this subtitle, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Subtitle B—Management Reform Plans

SEC. 11101. SHORT TITLE.

This subtitle may be cited as the "District of Columbia Management Reform Act of 1997".

SEC. 11102. MANAGEMENT REFORM PLANS FOR DISTRICT GOVERNMENT.

(a) IN GENERAL.—In accordance with the provisions of this subtitle, the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this subtitle referred to as the "Authority") and the government of the District of Columbia shall develop and implement management reform plans—

(1) for each of the departments of the government of the District of Columbia described in paragraph (1) of subsection (b); and

(2) for all entities of the government of the District of Columbia with respect to the items described in paragraph (2) of subsection (b).

(b) DEPARTMENTS AND ITEMS SUBJECT TO PLANS.—

(1) DEPARTMENTS DESCRIBED.—The departments referred to in this paragraph are as follows:

(A) The Department of Administrative Services.

(B) The Department of Consumer and Regulatory Affairs.

(C) The Department of Corrections.

(D) The Department of Employment Services.

(E) The Department of Fire and Emergency Medical Services.

(F) The Department of Housing and Community Development.

(G) The Department of Human Services.

(H) The Department of Public Works.

(I) The Public Health Department.

(2) ITEMS DESCRIBED.—The items referred to in this paragraph are as follows:

(A) Asset management.

(B) Information resources management.

(C) Personnel.

(D) Procurement.

SEC. 11103. PROCEDURES FOR DEVELOPMENT OF PLANS.

(a) CONTRACTS WITH CONSULTANTS.—Not later than 30 days after the date of the enactment of this Act (or, at the option of the Authority and upon notification to Congress, not later than 60 days after such date), the Authority shall enter into contracts with consultants to develop the management reform plans under this subtitle.

(b) DEADLINE FOR SUBMISSION OF PLANS.—Under a contract entered into with the Authority under subsection (a), a consultant shall submit a completed management reform plan for the department or item involved within 90 days (or, at the option of the Authority, within 120 days).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Authority such sums as may be necessary to carry out the contracts entered into under this section.

SEC. 11104. IMPLEMENTATION OF PLANS.

(a) ESTABLISHMENT OF MANAGEMENT REFORM TEAMS.—With respect to each management reform plan developed under this subtitle, there shall be a management reform team consisting of the following:

(1) The Chair of the Authority (or the Chair's designee).

(2) The Chair of the Council of the District of Columbia (or the Chair's designee).

(3) The Mayor of the District of Columbia (or the Mayor's designee).

(4) In the case of a management reform plan for a department of the government of the District of Columbia, the head of the department involved.

(b) RESPONSIBILITY FOR IMPLEMENTATION OF PLANS.—

(1) PLANS FOR SPECIFIC DEPARTMENTS.—In the case of a management reform plan for a department of the government of the District of Columbia, the head of the department involved shall take any and all steps within his or her authority to implement the terms of the plan, in consultation and coordination with the other members of the management reform team.

(2) PLANS FOR ITEMS COVERING ENTIRE DISTRICT GOVERNMENT.—In the case of a management reform plan for an item described in section 11102(b)(2), each member of the management reform team shall take any and all steps within the member's authority to implement the terms of the plan, under the direction and subject to the instructions of the Chair of the Authority (or the Chair's designee).

(3) REPORT TO AUTHORITY.—In carrying out any of the management reform plans under this section, the member of the management reform team described in subsection (a)(4) shall report to the Authority.

SEC. 11105. REFORM OF POWERS AND DUTIES OF DEPARTMENT HEADS.

(a) APPOINTMENT AND REMOVAL.—

(1) APPOINTMENT.—

(A) IN GENERAL.—During a control year, the head of each department of the government of the District of Columbia described in section 11102(b)(1) shall be appointed by the Mayor as follows:

(i) Prior to appointment, the Authority may submit recommendations for the appointment to the Mayor.

(ii) In consultation with the Authority and the Council, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

(iii) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under clause (ii), the Mayor shall notify the Authority of the nomination.

(iv) The nomination shall be effective subject to approval by a majority vote of the Authority.

(B) APPOINTMENT BY AUTHORITY IF NO NOMINATION MADE WITHIN 30 DAYS.—During a control year, if the Mayor fails to nominate an individual to fill a vacancy in the position of the head of any of the departments described in section 11102(b)(1) during the 30-day period which begins on the date the vacancy begins (or during such longer period as the Authority may establish, upon notification to Congress), the Authority shall appoint an individual to fill the vacancy.

(C) POSITIONS DEEMED VACANT UPON ENACTMENT.—For purposes of this paragraph, a vacancy shall be deemed to exist in the position of the head of each of the departments described in section 11102(b)(1) upon the date of the enactment of this Act. Nothing in this subparagraph shall be deemed to affect any of the powers and duties of any individual serving as the head of such a department as of such date.

(2) REMOVAL.—During a control year, the head of any of the departments of the government of the District of Columbia described in section 11102(b)(1) may be removed by the Authority or by the Mayor with the approval of the Authority.

(3) CONTROL YEAR DEFINED.—In this subsection, the term "control year" has the meaning given such term in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(b) CONTROL OVER PERSONNEL.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (3), all personnel of the departments of the government of the District of Columbia described in section 11102(b)(1) shall be appointed by and shall act under the direction and control of the head of the department involved.

(2) REASSIGNMENT OF PERSONNEL.—The head of each of the departments described in section 11102(b)(1) may reassign any personnel of the department in such manner as the head considers appropriate.

(3) REQUIREMENTS FOR ADVERSE ACTIONS.—The head of each of the departments described in section 11102(b)(1) may take corrective or adverse action against any personnel of the department pursuant to rules (promulgated consistent with the publication and comment provisions of the District of Columbia Administrative Procedure Act) which—

(A) provide that adverse actions may only be taken for cause;

(B) define the causes for which a corrective or adverse action may be taken;

(C) require prior written notice of the grounds on which the action is proposed to be taken;

(D) require an opportunity to be heard (which may be in writing only) before the action becomes effective, unless the head of the department finds that taking action prior to the exercise of such opportunity is necessary to protect the integrity of government operations, in which case a hearing shall be afforded within a reasonable time after the action becomes effective; and

(E) provide that the head of the department shall be the final administrative authority with respect to the action, subject to judicial review of the record of the administrative proceeding in an action against the District of Columbia to be brought only in the Superior Court for the District of Columbia.

SEC. 11106. NO EFFECT ON POWERS OF FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY.

Nothing in this subtitle may be construed to affect the authority of the District of Columbia Financial Responsibility and Management Assistance Authority to carry out any of its powers under the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Subtitle C—Criminal Justice

CHAPTER 1—CORRECTIONS

SEC. 11201. BUREAU OF PRISONS.

(a) FELONS SENTENCED PURSUANT TO THE TRUTH-IN-SENTENCING REQUIREMENTS.—Not later than October 1, 2001, any person who has been sentenced to incarceration pursuant to the District of Columbia Code or the truth-in-sentencing system as described in section 11211 shall be designated by the Bureau of Prisons to a penal or correctional facility operated or contracted for by the Bureau of Prisons, for such term of imprisonment as the court may direct. Such persons shall be subject to any law or regulation applicable to persons committed for violations of laws of the United States consistent with the sentence imposed.

(b) FELONS SENTENCED PURSUANT TO THE D.C. CODE.—Notwithstanding any other provision of law, not later than December 31, 2001, the Lorton Correctional Complex shall be closed and the felony population sentenced pursuant to the District of Columbia Code residing at the Lorton Correctional Complex shall be transferred to a penal or correctional facility operated or contracted for by the Bureau of Prisons. Such persons shall be subject to any law or regulation applicable to persons committed for violations of laws of the United States consistent with the sentence imposed, and the Bureau of Prisons shall be responsible for the custody, care, subsistence, education, treatment and training of such persons.

(c) PRIVATIZATION.—

(1) TRANSITION OF INMATES FROM LORTON.—The Bureau of Prisons shall house, in private contract facilities—

(A) at least 2000 District of Columbia sentenced felons by December 31, 1999; and

(B) at least 50 percent of the District of Columbia sentenced felony population by September 30, 2003.

(2) DUTIES OF DEPUTY ATTORNEY GENERAL.—The Deputy Attorney General shall—

(A) be responsible for overseeing Bureau of Prisons privatization activities; and

(B) submit a report to Congress on October 1 of each year detailing the progress and status of compliance with privatization requirements.

(3) DUTIES OF ATTORNEY GENERAL.—The Attorney General shall—

(A) conduct a study of correctional privatization, including a review of relevant research and related legal issues, and comparative analysis of the cost effectiveness and feasibility of private sector and Federal, State, and local governmental operation of prisons and corrections programs at all security levels; and

(B) submit a report to Congress no later than one year after the date of enactment of this Act.

(d) SITE ACQUISITION AND CONSTRUCTION.—In order to house the District of Columbia felony inmate population the Bureau of Prisons shall acquire land, construct and build new facilities at sites selected by the Bureau of Prisons, or contract for appropriate bed space, but no facilities may be built on the grounds of the Lorton Reservation.

(e) NATIONAL CAPITAL PLANNING.—Notwithstanding any other provision of law, the requirements of the National Capital Planning Act of 1952 (40 U.S.C. 71 et seq.) shall not apply to any actions taken by the Bureau of Prisons or its agents or employees.

(f) DEPARTMENT OF CORRECTIONS AUTHORITY.—The District of Columbia Department of Corrections shall remain responsible for the custody, care, subsistence, education, treatment, and training of any person convicted of a felony offense pursuant to the District of Columbia Code and housed at the Lorton Correctional Complex until December 31, 2001, or the date on which the last inmate housed at the Lorton Correctional Complex is designated by the Bureau of Prisons, whichever is earlier.

(g) LORTON CORRECTIONAL COMPLEX.—

(1) TRANSFER OF FUNCTIONS.—Notwithstanding any other provision of law, to the extent the Bureau of Prisons assumes functions of the Department of Corrections under this subtitle, the Department is no longer responsible for such functions and the provisions of "An Act to create a Department of Corrections in the District of Columbia", approved June 27, 1946 (D.C. Code 24–441, 442), that apply with respect to such functions are no longer applicable. Except as provided in paragraph (2), any property on which the Lorton Correctional Complex is located shall be transferred to the Department of the Interior.

(2) TRANSFER OF LAND.—

(A) IN GENERAL.—

(i) FAIRFAX COUNTY WATER AUTHORITY.—150 acres of parcel 106–4–001–54 located west of Ox Road (State Route 123) on which the Lorton Correctional Complex is located shall be transferred, without consideration, to the Fairfax County Water Authority of Fairfax, Virginia.

(ii) FAIRFAX COUNTY DEPARTMENT OF PARKS AND RECREATION.—Any acres of parcel 106–4–001–54 located west of Ox Road (State Route 123) on which the Lorton Correctional Complex is located not transferred under clause (i) shall be assigned to the Department of the Interior, National Park Service, for conveyance to the Fairfax County Department of Parks and Recreation for recreational purposes pursuant to the section 203(k)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(2)).

(B) CONDITION OF TRANSFER.—

(i) WATER SERVICES.—The United States Government shall not transfer any parcels under this paragraph unless the Fairfax County Water Authority certifies that it will continue to provide water services to the Lorton Correctional Complex at the rate it provided water services prior to the transfer.

(ii) RESTRICTION ON TRANSFER.—No Federal agency may transfer the property under this paragraph until the prospective recipient of the property provides to such agency—

(I) a land description survey suitable for transferring property under Virginia law; and

(II) any necessary surveys to determine the presence of any hazardous substances, contaminants or pollutants.

(iii) LORTON CORRECTIONAL COMPLEX.—The Lorton Correctional Complex shall remain available for the District of Columbia Department of Corrections to house District of Columbia felony inmates until the last inmate at the Complex has been designated by the Bureau of Prisons or until December 31, 2003, whichever is earlier.

(C) AUTHORIZATION.—The General Services Administration and the National Park Service is authorized to expend any funds necessary to ensure that the transfer or conveyance under subparagraph (A) complies with all applicable environmental and historic preservation laws.

(3) WATER MAINS.—Any water mains located on or across the Lorton Correctional Complex on the date of the transfers under paragraph (2), that are owned by the Fairfax County Water Authority and provide water to the public, shall be permitted to remain in place, and shall be operated, maintained, repaired, and replaced by the Fairfax County Water Authority or a successor agency furnishing water to the public in Fairfax County or adjacent jurisdictions, but shall not interfere with operations of the Lorton Correctional Complex.

(g) DISTRICT OF COLUMBIA CORRECTIONS INFORMATION COUNCIL.—

(1) ESTABLISHMENT.—There is established a council to be known as the District of Columbia Correction Information Council (hereafter referred to as "Council").

(2) MEMBERSHIP.—The Council shall be composed of 3 members appointed as follows:

(A) 2 individuals appointed by the mayor of the District of Columbia.

(B) 1 individual appointed by the Council of the District of Columbia.

(3) COMPENSATION.—Members of the Council may not receive pay, allowances, or benefits by reason of their service on the Council.

(4) DUTIES.—The Council shall report to the Director of the Bureau of Prisons with advice and information regarding matters affecting the District of Columbia sentenced felon population.

(h) TIMING OF INMATE TRANSFERS.—As soon as practicable after the date of the enactment of this Act, the Director of the Bureau of Prisons shall begin the transferring of inmates to Bureau of Prison or private contract facilities required by this section.

SEC. 11202. CORRECTIONS TRUSTEE.

(a) APPOINTMENT AND REMOVAL OF TRUSTEE.—

(1) APPOINTMENT.—Pursuant to the Federal Government's assumption of responsibility for persons convicted of a felony offense under the District of Columbia Code, the Attorney General, in consultation with the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this chapter referred to as the "D.C. Control Board"), the Mayor of the District of Columbia, the District of Columbia Council, and the District of Columbia judiciary, shall select a Corrections Trustee, who shall be an independent officer of the government of the District of Columbia, to oversee financial operations of the District of Columbia Department of Corrections until the Bureau of Prisons has designated all felony offenders sentenced under the District of Columbia Code to a penal or correctional facility operated or contracted for by the Bureau of Prisons under section 11201.

(2) REMOVAL.—The Corrections Trustee may be removed by the Mayor with the concurrence of the Attorney General. The Attorney General shall have the authority to remove the Corrections Trustee for misfeasance or malfeasance in office. At the request of the Corrections Trustee, the District of Columbia Financial Responsibility and Management Assistance Authority may exercise any of its powers and authorities on behalf of the Corrections Trustee.

(b) DUTIES OF TRUSTEE.—Beginning on the date of appointment and continuing until the felony population sentenced pursuant to the District of Columbia Code residing at the Lorton Correctional Complex is transferred to a penal or correctional facility operated or contracted for by the Bureau of Prisons, the Corrections Trustee shall carry out the following responsibilities (notwithstanding any law of the District of Columbia to the contrary):

(1) Exercise financial oversight over the District of Columbia Department of Corrections and allocate funds as enacted in law or as otherwise allocated, including funds for short term improvements which are necessary for the safety and security of staff, inmates and the community.

(2) Purchase any necessary goods or services on behalf of the District of Columbia Department of Corrections consistent with Federal procurement regulations as they apply to the Bureau of Prisons.

(c) FUNDING.—

(1) IN GENERAL.—Funds available for the Corrections Trustee, staff and all necessary and appropriate operations shall be made available to the extent provided in appropriations acts to the Corrections Trustee. Funding requests shall be proposed by the Corrections Trustee to the President and Congress for each Fiscal Year.

(2) REIMBURSEMENT TO BUREAU OF PRISONS.—Upon receipt of Federal funds, the Corrections Trustee shall immediately provide an advance reimbursement to the Bureau of Prisons of all funds identified by the Congress for construction of new prisons and major renovations, which shall remain available until expended. The Bureau of Prisons shall be responsible and accountable for determining how these funds shall be used for renovation and construction, including type, security level, and location of new facilities.

(3) ACCOUNTABILITY AND REPORTS.—The District of Columbia Department of Corrections and the Bureau of Prisons shall maintain accountability for funds reimbursed from the Corrections Trustee, and shall provide expense reports by project at the request of the Corrections Trustee.

(d) COMPENSATION AND DETAILEES.—The Corrections Trustee shall be compensated at a rate not to exceed the basic pay payable for Level IV of the Executive Schedule. The Corrections Trustee may appoint and fix the pay of additional staff without regard to the provisions of the District of Columbia Code governing appointments and salaries, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. Upon request of the Corrections Trustee, the head of any Federal department or agency may, on a reimbursable or non reimbursable basis, provide services and detail any personnel of that department or agency to the Corrections Trustee to assist in carrying out his duties.

(e) PROCUREMENT AND JUDICIAL REVIEW.—The provisions of the District of Columbia Code governing procurement shall not apply to the Corrections Trustee. The Corrections Trustee may seek judicial enforcement of his authority to carry out his duties.

(f) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE CORRECTIONS TRUSTEE.—

(1) IN GENERAL.—A Federal employee who, within 3 days after separating from the Federal Government, is appointed Corrections Trustee or becomes employed by the Corrections Trustee—

(A) shall be treated as an employee of the Federal Government for purposes of chapters 83, 84, 87, and 89 of title 5 of the United States Code; and

(B) if, after serving with the Trustee, such employee becomes reemployed by the Federal Government, shall be entitled to credit for the full period of such individual's service with the Trustee, for purposes of determining the applicable leave accrual rate.

(2) REGULATIONS.—The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this subsection.

SEC. 11203. PRIORITY CONSIDERATION FOR EMPLOYEES OF THE DISTRICT OF COLUMBIA.

(a) ESTABLISHMENT.—As soon as practicable after appointment, the Bureau of Prisons, working with the Corrections Trustee, shall establish a priority consideration program to facilitate employment placement for employees of the District of Columbia Department of Corrections who are scheduled to be separated from service as a result of closing the Lorton Correctional Complex.

(b) PROVISIONS.—The priority consideration program shall include provisions under which a vacant federal correctional institution position established as a result of this Act and identified for external hiring shall not be filled by the appointment of any individual from outside of the District of Columbia Department of Corrections if there is available any interested applicant within the District of Columbia Department of Corrections who meets all qualification and suitability requirements for Bureau of Prisons law enforcement positions, including those related to criminal history, educational experience and level of functions, drug use, and work-related misconduct. The priority consideration program shall also include provisions under which an employee described in subsection (a) who does not meet the qualification and suitability requirements for Bureau of Prisons law enforcement positions shall receive priority consideration for other Federal positions, and any such employee who is found to be well qualified for such a position may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such program shall terminate one year after the closing of the Lorton Correctional Complex.

SEC. 11204. AMENDMENTS RELATED TO PERSONS WITH A MENTAL DISEASE OR DEFECT.

Title 18, United States Code, is amended as follows:

(1) Section 4246 is amended—

(A) in subsection (a) by inserting "in the custody of the Bureau of Prisons" after "certifies that a person"; and

(B) by adding at the end the following new subsection:

"(h) DEFINITION.—As used in this chapter the term "State" includes the District of Columbia.".

(2) Section 4247(a) is amended—

(A) in paragraph (1)(D) by striking "and" after the semi-colon;

(B) in paragraph (2) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) 'State' includes the District of Columbia.".

(3) Section 4247(j) of title 18, United States Code, is amended by striking "This chapter does" and inserting "Sections 4241, 4242, 4243, and 4244 do'.

SEC. 11205. LIABILITY FOR AND LITIGATION AUTHORITY OF CORRECTIONS TRUSTEE.

(a) LIABILITY.—The District of Columbia shall defend any civil action or proceeding brought in any court or other official Federal, state, or municipal forum against the Corrections Trustee, or against the District of Columbia or it officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding, if the action or proceeding arises from—

(1) an inmate's confinement with the District of Columbia Department of Corrections;

(2) the District of Columbia's operation or management of the buildings, facilities, or lands comprising the Lorton property; or

(3) the District of Columbia's operations or activities occurring on any property not specifically transferred to the administrative control of the Federal Government pursuant to this Act.

(b) LITIGATION.—

(1) CORPORATION COUNSEL.—Subject to paragraph (2), the Corporation Counsel of the District of Columbia shall provide litigation services to the Corrections Trustee, except that the Trustee may instead elect, either generally or in relation to particular cases or classes of cases, to hire necessary staff and personnel or enter into contracts for the provision of litigation services at the Trustee's expense.

(2) ATTORNEY GENERAL.—

(A) IN GENERAL.—Notwithstanding paragraph (1), with respect to any litigation involving the Corrections Trustee, the Attorney General may—

(i) direct the litigation of the Trustee, and of the District of Columbia on behalf of the Trustee; and

(ii) provide on a reimbursable or non-reimbursable basis litigation services for the Trustee at the Trustee's request or on the Attorney General's own initiative.

(B) APPROVAL OF SETTLEMENT.—With respect to any litigation involving the Corrections Trustee, the Trustee may not agree to any settlement involving any form of equitable relief without the approval of the Attorney General. The Trustee shall provide to the Attorney General such notice and reports concerning litigation as the Attorney General may direct.

(C) DISCRETION.—Any decision to exercise any authority of the Attorney General under this subsection shall be in the sole discretion of the Attorney General and shall not be reviewable in any court.

(c) LIMITATIONS.—Nothing in this section shall be construed—

(1) as a waiver of sovereign immunity, or as limiting any other defense or immunity that would otherwise be available to the United States, the District of Columbia, their agencies, officers, employees, or agents; or

(2) to obligate the District of Columbia to represent or indemnify the Corrections Trustee or any officer, employee, or agent where the Trustee (or any person employed by or acting under the authority of the Trustee) acts beyond the scope of his authority.

SEC. 11206. PERMITTING EXPENDITURE OF FUNDS TO CARRY OUT CERTAIN SEWER AGREEMENT.

Notwithstanding the fourth sentence of section 446 of the District of Columbia Self-Government and Governmental Reorganization Act, the District of Columbia is authorized to obligate or expend such funds as may be necessary during a fiscal year (beginning with fiscal year 1997) to carry out the Sewage Delivery System and Capacity Purchase Agreement between Fairfax County and the District of Columbia with respect to Project Number K00301, without regard to the amount appropriated for such purpose in the budget of the District of Columbia for the fiscal year.

CHAPTER 2—SENTENCING

SEC. 11211. TRUTH IN SENTENCING COMMISSION.

(a) ESTABLISHMENT.—There is established as an independent agency of the District of Columbia a District of Columbia Truth in Sentencing Commission (hereafter in this chapter referred to as "the Commission"), which shall consist of 7 voting members. The Attorney General, or the Attorney General's designee, shall be the chairperson of the Commission and shall have the duty to convene meetings of the Commission to ensure that it fulfills its responsibilities under this Act. The members shall serve for the life of the Commission and shall be subject to removal only for neglect of duty, malfeasance in office, or other good cause shown.

(b) MEMBERSHIP.—The members of the Commission shall have knowledge and responsibility with respect to criminal justice matters. Two members of the Commission shall be judges of the Superior Court of the District of Columbia, and shall be appointed by the chief judge of that court; one member shall be a representative of the District of Columbia Council and shall be appointed by the chairperson or chairperson pro temp of the Council; one member shall be a representative of the executive branch of the District of Columbia government with official responsibilities for criminal justice matters in the District of Columbia and shall be appointed by the Mayor of the District of Columbia; one member shall be a representative of the District of Columbia Public Defender Service and shall be appointed by the Director of such Service; and one member shall be a representative of the United States Attorney for the District of Columbia and shall be appointed by the United States Attorney. A representative of the Federal Bureau of Prisons and a representative of the office of Corporation Counsel of the District of Columbia shall each serve as a non-voting, ex officio member.

(c) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall receive no compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

SEC. 11212. GENERAL DUTIES, POWERS, AND GOALS OF COMMISSION.

(a) RECOMMENDATIONS.—The Commission shall, within 180 days after the enactment of this Act, make recommendations to the District of Columbia Council for amendments to the District of Columbia Code with respect to the sentences to be imposed for all felonies committed on or after 3 years after the date of enactment of this Act.

(b) CONTENTS OF RECOMMENDATIONS.—Such recommendations shall—

(1) as to all felonies described in paragraph (h), meet the truth in sentencing standards of 20104(a)(1) of the Violent Crime Control and Law Enforcement Act of 1994;

(2) as to all felonies ensure that—

(A) an offender will have a sentence imposed that—

(i) reflects the seriousness of the offense and the criminal history of the offender; and

(ii) provides for just punishment, affords adequate deterrence to potential future criminal conduct of the offender and others, and provides the offender with needed educational or vocational training, medical care, and other correctional treatment;

(B) good time shall be calculated pursuant to section 3624 of title 18, United States Code; and

(C) an adequate period of supervision will be imposed to follow release from the imprisonment.

(c) DEATH PENALTY.—The Commission shall not have the power to recommend a sentence of death for any offense nor for any offense a term of imprisonment less than that prescribed by the D.C. Code as a mandatory minimum sentence.

(d) OTHER FEATURES OF RECOMMENDATIONS.—The Commission shall ensure that its recommendations—

(1) will be neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders;

(2) will include provisions designed to maximize the effectiveness of the drug court of the Superior Court of the District of Columbia; and

(3) will be fully consistent with all other provisions of this Act, including provisions relating to the administration of probation, parole, and supervised release for District of Columbia Code offenders.

(e) VOTE; TERMINATION.—The recommendations of the Commission required under subsections (a)–(d) shall be adopted by a vote of not less than 6 of the members and when made shall be transmitted forthwith to the District of Columbia Council. The Commission shall cease to exist 90 days after the transmittal of recommendations to the Council or on the last date on which timely recommendations may be made if the Commission is unable to agree on such recommendations.

(f) RECOMMENDATIONS FOR IMPLEMENTATION.—In fulfilling its responsibilities, the Commission may adopt by a vote of not less than 6 of the members and transmit to the Superior Court of the District of Columbia recommended rules and principles for determining the sentence to be imposed, including—

(1) whether to impose a sentence of probation, a term of imprisonment and/or a fine, and the amount or length thereof, and including intermediate sanctions in appropriate cases; and

(2) whether multiple sentences of terms of imprisonment should run concurrently or consecutively.

(g) POWERS.—The Commission is authorized—

(1) to hold hearings and call witnesses that might assist the Commission in the exercise of its powers;

(2) to perform such other functions as may be necessary to carry out the purposes of this section; and

(3) except as otherwise provided, to conduct business, exercise powers, and fulfill duties by the vote of a majority of the members present at any meeting.

(h) FELONIES DESCRIBED.—The felonies described in this subsection are violations of any of the following provisions of law:

(1) The following provisions relating to arson:

(A) Section 820 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22–401).

(B) Section 821 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-402).

(2) The following provisions relating to felony assault:

(A) Section 803 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-501).

(B) Section 804 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-502).

(C) Section 805 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-503).

(D) Section 806a of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-504.1).

(E) Section 432 of the Revised Statutes, relating to the District of Columbia (DC Code, sec. 22-505).

(F) Section 807 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-506).

(3) Section 502 of the District of Columbia Theft and White Collar Crimes Act of 1982 (DC Code, sec. 22-722) (relating to obstruction of justice).

(4) Section 3 of the Act of February 13, 1885 (chapter 58; 23 Stat. 303) (DC Code, sec. 22-901) (relating to cruelty to children).

(5) Section 823 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-1801) (relating to first degree burglary).

(6) Section 812 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2101) (relating to kidnapping).

(7) The following provisions relating to murder and manslaughter:

(A) Section 798 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2401).

(B) Section 799 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2402).

(C) Section 800 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2403).

(D) Section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2404).

(E) Section 802 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2405).

(F) Section 802a of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2406).

(8) Section 8 of the Act of July 15, 1932 (chapter 492; 47 Stat. 698) (DC Code, sec. 22-2601) (relating to prison breach).

(9) The Act entitled "An Act to prohibit the introduction of contraband into the District of Columbia penal institutions," approved December 15, 1941 (DC Code, sec. 22-2603).

(10) Section 810 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2901) (relating to robbery).

(11) Section 811a of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (DC Code, sec. 22-2903) (relating to carjacking).

(12) The Dangerous Weapons Act (DC Code, sec. 22-3201 et seq.).

(13) The following provisions relating to sex offenses:

(A) Section 201 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4102).

(B) Section 202 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4103).

(C) Section 203 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4104).

(D) Section 204 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4105).

(E) Section 207 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4108).

(F) Section 208 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4109).

(G) Section 209 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4110).

(H) Section 212 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4113).

(I) Section 213 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4114).

(J) Section 214 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4115).

(K) Section 215 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4116).

(L) Section 217 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4118).

(M) Section 219 of the Anti-Sexual Abuse Act of 1994 (DC Code, sec. 22-4120).

(14) Section 401 of the District of Columbia Uniform Controlled Substances Act of 1981 (D.C. Code, sec. 33-541) (relating to recidivist drug offenders), but only in the case of a second or subsequent violation.

SEC. 11213. DATA COLLECTION.

(a) DATA FOR ATTORNEY GENERAL.—The Commission, the Superior Court of the District of Columbia, the District of Columbia Department of Corrections, and other agencies as necessary shall provide to the Attorney General such data as are requested in furtherance of this Act.

(b) SUPERIOR COURT.—The Superior Court of the District of Columbia, in connection with defendants sentenced in such Court, shall provide to the Commission and the Attorney General such data as are requested for planning, statistical analysis or projecting future prison population levels.

SEC. 11214. ENACTMENT OF AMENDMENTS TO DISTRICT OF COLUMBIA CODE.

If, within 270 days after the date of the enactment of this Act, the Council of the District of Columbia has failed to amend the District of Columbia Code to enact in whole the recommendations of the Commission under this chapter, or if the Commission fails to make such recommendations within the deadline established under such section, the Attorney General (after consultation with the Commission) shall promulgate within 90 days amendments to the District of Columbia Code with respect to the sentences to be imposed for all offenses committed on or after 3 years after the date of the enactment of this Act. Such amendments shall be consistent with the standards of subsections (a) through (d) of section 11212. Such amendments shall take effect 30 days after the Attorney General transmits the recommendations to Congress.

CHAPTER 3—OFFENDER SUPERVISION AND PAROLE

SEC. 11231. PAROLE.

(a) PAROLING JURISDICTION.—

(1) JURISDICTION OF PAROLE COMMISSION TO GRANT OR DENY PAROLE AND TO IMPOSE CONDITIONS.—Not later than one year after date of the enactment of this Act, the United States Parole Commission shall assume the jurisdiction and authority of the Board of Parole of the District of Columbia to grant and deny parole, and to impose conditions upon an order of parole, in the case of any imprisoned felon who is eligible for parole or reparole under the District of Columbia Code. The Parole Commission shall have exclusive authority to amend or supplement any regulation interpreting or implementing the parole laws of the District of Columbia with respect to felons, provided that the Commission adheres to the rulemaking procedures set forth in section 4218 of title 18, United States Code.

(2) JURISDICTION OF PAROLE COMMISSION TO REVOKE PAROLE OR MODIFY CONDITIONS.—On the date in which the District of Columbia Offender Supervision, Defender, and Courts Services Agency is established under section 11233, the United States Parole Commission shall assume any remaining powers, duties, and jurisdiction of the Board of Parole of the District of Columbia, including jurisdiction to revoke parole and to modify the conditions of parole, with respect to felons.

(3) JURISDICTION OF SUPERIOR COURT.—On the date on which the District of Columbia Offender Supervision, Defender, and Courts Services Agency is established under section 11233, the Superior Court of the District of Columbia shall assume the jurisdiction and authority of the Board of Parole of the District of Columbia to grant, deny, and revoke parole, and to impose and modify conditions of parole, with respect to misdemeanants.

(b) ABOLITION OF THE BOARD OF PAROLE.—On the date on which the District of Columbia Offender Supervision, Defender, and Courts Services Agency is established under section 11233, the Board of Parole established in the District of Columbia Board of Parole Amendment Act of 1987 shall be abolished.

(c) RULEMAKING AND LEGISLATIVE RESPONSIBILITY FOR PAROLE MATTERS.—The Parole Commission shall exercise the authority vested in it by this section pursuant to the parole laws and regulations of the District of Columbia, except that the Council of the District of Columbia and the Board of Parole of the District of Columbia may not revise any such laws or regulations (as in effect on the date of the enactment of this Act) without the concurrence of the Attorney General.

(d) INCREASE IN THE AUTHORIZED NUMBER OF UNITED STATES PAROLE COMMISSIONERS.—Section 2(c) of the Parole Commission Phaseout Act of 1996 (Public Law 104-232) is amended to read as follows:

"(c) The United States Parole Commission shall have no more than five members.".

SEC. 11232. PRETRIAL SERVICES, DEFENSE SERVICES, PAROLE, ADULT PROBATION AND OFFENDER SUPERVISION TRUSTEE.

(a) APPOINTMENT AND REMOVAL.—

(1) APPOINTMENT.—The Attorney General, in consultation with the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as the "D.C. Control Board") and the Mayor of the District of Columbia, shall appoint a Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee, who shall be an independent officer of the government of the District of Columbia, to effectuate the reorganization and transition of functions and funding relating to pretrial services, defense services, parole, adult probation and offender supervision.

(2) REMOVAL.—The Trustee may be removed by the Mayor with the concurrence of the Attorney General. The Attorney General shall have the authority to remove the Trustee for misfeasance or malfeasance in office. At the request of the Trustee, the District of Columbia Financial Responsibility and Management Assistance Authority may exercise any of its powers and authorities on behalf of the Trustee.

(b) AUTHORITY.—Beginning on the date of appointment, and continuing until the District of Columbia Offender Supervision, Defender, and Courts Services Agency is established under section 11233, the Trustee shall—

(1) have the authority to exercise all powers and functions authorized for the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency;

(2) have the authority to direct the actions of all agencies of the District of Columbia whose functions will be assumed by or within the District of Columbia Offender Supervision, Defender and Courts Services Agency, and of the Board of Parole of the District of Columbia, including the authority to discharge or replace any officers or employees of these agencies, except that the Trustee may not direct the conduct of particular cases by the District of Columbia Public Defender Service;

(3) exercise financial oversight over all agencies of the District of Columbia whose functions will be assumed by or within the District of Columbia Offender Supervision, Defender and Courts Services Agency, and over the Board of Parole of the District of Columbia, and allocate funds to these agencies as appropriated by Congress and allocated by the President;

(4) receive and transmit to the District of Columbia Pretrial Services Agency all funds appropriated for such agency; and

(5) receive and transmit to the District of Columbia Public Defender Service all funds appropriated for such agency.

(c) COMPENSATION.—The Trustee shall be compensated at a rate not to exceed the basic pay payable for Level IV of the Executive Schedule. The Trustee may appoint and fix the pay of additional staff without regard to the provisions of the District of Columbia Code governing appointments and salaries, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of Chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. Upon request of the Trustee, the head of any Federal department or agency may, on a reimbursable or nonreimbursable basis, provide services and/or detail any personnel of that department or agency to the Trusteeship to assist in carrying out its duties.

(d) PROCUREMENT AND JUDICIAL REVIEW.—The provisions of the District of Columbia Code governing procurement shall not apply to the Trustee. The Trustee may enter into such contracts as the Trustee considers appropriate to carry out the Trustee's duties. The Trustee may seek judicial enforcement of the Trustee's authority to carry out the Trustee's duties.

(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEE WHO BECOMES THE TRUSTEE OR FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE TRUSTEE.—

(1) IN GENERAL.—A Federal employee who, within 3 days after separating from the Federal Government, is appointed Trustee or becomes employed by the Trustee—

(A) shall be treated as an employee of the Federal Government for purposes of chapters 83, 84, 87, and 89 of title 5 of the United States Code; and

(B) if, after serving with the Trustee, such employee becomes reemployed by the Federal Government, shall be entitled to credit for the full period of such individual's service with the Trustee, for purposes of determining the applicable leave accrual rate.

(2) REGULATIONS.—The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this subsection.

(f) FUNDING.—Funds available for operations of the Trustee shall be made available to the extent provided in appropriations acts to the Trustee, through the State Justice Institute. Funding requests shall be proposed by the Trustee to the President and Congress for each Fiscal Year.

(g) LIABILITY AND LITIGATION AUTHORITY.—

(1) LIABILITY.—The District of Columbia shall defend any civil action or proceeding brought in any court or other official Federal, state, or municipal forum against the Trustee, or against the District of Columbia or its officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding, if the action or proceeding arises from the—

(A) supervision of offenders on probation, parole, or supervised release;

(B) provision of pretrial services by the District of Columbia; or

(C) activities of the District of Columbia Board of Parole.

(2) LITIGATION.—

(A) CORPORATION COUNSEL.—Subject to subparagraph (B), the Corporation Counsel of the District of Columbia shall provide litigation services to the Trustee, except that the Trustee may instead elect, either generally or in relation to particular cases or classes of cases, to hire necessary staff and personnel or enter into contracts for the provision of litigation services at the Trustee's expense.

(B) ATTORNEY GENERAL.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), with respect to any litigation involving the Trustee, the Attorney General may—

(I) direct the litigation of the Trustee, and of the District of Columbia on behalf of the Trustee; and

(II) provide on a reimbursable or non-reimbursable basis litigation services for the Trustee at the Trustee's request or on the Attorney General's own initiative.

(ii) APPROVAL OF SETTLEMENT.—With respect to any litigation involving the Trustee, the Trustee may not agree to any settlement involving any form of equitable relief without the approval of the Attorney General. The Trustee shall provide to the Attorney General such notice and reports concerning litigation as the Attorney General may direct.

(iii) DISCRETION.—Any decision to exercise any authority of the Attorney General under this paragraph shall be in the sole discretion of the Attorney General and shall not be reviewable in any court.

(3) LIMITATIONS.—Nothing in this section shall be construed—

(1) as a waiver of sovereign immunity, or as limiting any other defense or immunity that would otherwise be available to the United States, the District of Columbia, their agencies, officers, employees, or agents; or

(2) to obligate the District of Columbia to represent or indemnify the Corrections Trustee or any officer, employee, or agent where the Trustee (or any person employed by or acting under the authority of the Trustee) acts beyond the scope of his authority.

(h) CERTIFICATION.—The District of Columbia Offender Supervision, Defender, and Courts Services Agency shall assume its duties pursuant to section 11233 when, within the period beginning one year after the date of the enactment of this subtitle and ending three years after the date of the enactment of this subtitle, the Trustee certifies to the Attorney General and the Attorney General concurs that the Agency can carry out the functions described in section 11233 and the United States Parole Commission can carry out the functions described in section 11231.

SEC. 11233. OFFENDER SUPERVISION, DEFENDER AND COURTS SERVICES AGENCY.

(a) ESTABLISHMENT.—There is established within the executive branch of the Federal Government the District of Columbia Offender Supervision, Defender, and Courts Services Agency (hereafter in this section referred to as the "Agency") which shall assume its duties not less than one year or more than three years after the enactment of this Act.

(b) DIRECTOR.—

(1) APPOINTMENT AND COMPENSATION.—The Agency shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Director shall be compensated at the rate prescribed for Level IV of the Executive Schedule, and may be removed from office prior to the expiration of term only for neglect of duty, malfeasance in office, or other good cause shown.

(2) POWERS AND DUTIES OF DIRECTOR.—The Director shall—

(A) submit annual appropriation requests for the Agency to the Office of Management and Budget;

(B) determine, in consultation with the Chief Judge of the United States District Court for the District of Columbia, the Chief Judge of the Superior Court of the District of Columbia, and the Chairman of the United States Parole Commission, uniform supervision and reporting practices for the Agency;

(C) hire and supervise supervision officers and support staff for the Agency;

(D) direct the use of funds made available to the Agency;

(E) enter into such contracts, leases, and cooperative agreements as may be necessary for the performance of the Agency's functions, including contracts for substance abuse and other treatment and rehabilitative programs;

(F) develop and operate intermediate sanctions programs for sentenced offenders; and

(G) arrange for the supervision of District of Columbia paroled offenders in jurisdictions outside the District of Columbia.

(c) FUNCTIONS.—

(1) IN GENERAL.—The Agency shall provide supervision, through qualified supervision officers, for offenders on probation, parole, and supervised release pursuant to the District of Columbia Code. The Agency shall carry out its responsibilities on behalf of the court or agency having jurisdiction over the offender being supervised.

(2) SUPERVISION OF RELEASED OFFENDERS.—The Agency shall supervise any offender who is released from imprisonment for any term of supervised release imposed by the Superior Court of the District of Columbia. Such offender shall be subject to the authority of the United States Parole Commission until completion of the term of supervised release. The United States Parole Commission shall have and exercise the same authority as is vested in the United States district courts by paragraphs (d) through (i) of section 3583 of title 18, United States Code, except that—

(A) the procedures followed by the Commission in exercising such authority shall be those set forth in chapter 311 of title 18, United States Code; and

(B) an extension of a term of supervised release under subsection (e)(2) of section 3583 may only be ordered by the Superior Court upon motion from the Commission.

(3) SUPERVISION OF PROBATIONERS.—Subject to appropriations and program availability, the Agency shall supervise all offenders placed on probation by the Superior Court of the District of Columbia. The Agency shall carry out the conditions of release imposed by the Superior Court (including conditions that probationers undergo training, education, therapy, counseling, drug testing, or drug treatment), and shall make such reports to the Superior Court with respect to an individual on probation as the Superior Court may require.

(4) SUPERVISION OF DISTRICT OF COLUMBIA PAROLEES.—The Agency shall supervise all individuals on parole pursuant to the District of Columbia Code. The Agency shall carry out the conditions of release imposed by the United States Parole Commission or, with respect to a misdemeanant, by the Superior Court of the District of Columbia, and shall make such reports

to the Commission or Court with respect to an individual on parole supervision as the Commission or Court may require.

(d) AUTHORITY OF OFFICERS.—The supervision officers of the Agency shall have and exercise the same powers and authority as are granted by law to United States Probation and Pretrial Officers.

(e) PRETRIAL SERVICES AGENCY AND PUBLIC DEFENDER SERVICE.—

(1) INDEPENDENT ENTITIES.—The District of Columbia Pretrial Services Agency established by subchapter I of chapter 13 title 23, District of Columbia Code, and the District of Columbia Public Defender Service established by title III of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1–2701 et seq.) shall function as independent entities within the Agency.

(2) SUBMISSION ON BEHALF OF PRETRIAL SERVICES.—The Director of the Agency shall submit, on behalf of the District of Columbia Pretrial Services Agency and with the approval of the Director of the Pretrial Services Agency, an annual appropriation request to the Office of Management and Budget. Such request shall be separate from the request submitted for the Agency.

(3) SUBMISSION ON BEHALF OF PUBLIC DEFENDER SERVICE.—The Director of the Agency shall submit, on behalf of the District of Columbia Public Defender Service and with the approval of the Director of the Public Defender Service, an annual appropriation request to the Office of Management and Budget. Such request shall be separate from that submitted for the Agency.

(4) LIABILITY OF DISTRICT OF COLUMBIA.—The District of Columbia shall defend any civil action or proceeding brought in any court or other official Federal, state, or municipal forum against the District of Columbia Pretrial Services Agency, the District of Columbia Public Defender Service, or the District of Columbia or its officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding, if the action or proceeding arises from the activities of the District of Columbia Pretrial Services Agency or the District of Columbia Public Defender Service prior to the date on which the Offender Supervision, Defender and Courts Services Agency assumes its duties.

(5) LITIGATION.—

(A) CORPORATION COUNSEL.—Subject to subparagraph (B), the Corporation Counsel of the District of Columbia shall provide litigation services to the District of Columbia Pretrial Services Agency and the District of Columbia Public Defender Service, except that the District of Columbia Pretrial Services Agency and the District of Columbia Public Defender Service may instead elect, either generally or in relation to particular cases or classes of cases, to hire necessary staff and personnel or enter into contracts for the provision of litigation services at such agency's expense.

(B) ATTORNEY GENERAL.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), with respect to any litigation involving the District of Columbia Pretrial Services Agency, the Attorney General may—

(I) direct the litigation of the agency, and of the District of Columbia on behalf of the agency; and

(II) provide on a reimbursable or non-reimbursable basis litigation services for the agency at the agency's request or on the Attorney General's own initiative.

(ii) APPROVAL OF SETTLEMENT.—With respect to any litigation involving the District of Columbia Pretrial Services Agency, the agency may not agree to any settlement involving any form of equitable relief without the approval of the Attorney General. The agency shall provide to the Attorney General such notice and reports concerning litigation as the Attorney General may direct.

(iii) DISCRETION.—Any decision to exercise any authority of the Attorney General under this paragraph shall be in the sole discretion of the Attorney General and shall not be reviewable in any court.

SEC. 11234. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary for the following:

(1) District of Columbia Pretrial Services Agency.

(2) District of Columbia Public Defender Service.

(3) Supervision of offenders on probation, parole, or supervised release for offenses under the District of Columbia Code.

(4) Operation of the parole system for offenders convicted of offenses under the District of Columbia Code.

(5) Operation of the Trusteeship described in section 11232.

CHAPTER 4—DISTRICT OF COLUMBIA COURTS

Subchapter A—Transfer of Administration and Financing of Courts to Federal Government

SEC. 11241. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary for the following:

(1) The Superior Court of the District of Columbia.

(2) The District of Columbia Court of Appeals.

(3) The District of Columbia Court System.

(b) SUBMISSION TO OMB.—The Joint Committee on Judicial Administration in the District of Columbia shall include in its submissions to the Office of Management and Budget and the Congress, the budget and appropriations requests of the Superior Court for the District of Columbia, the District of Columbia Court of Appeals, and the District of Columbia Court System.

SEC. 11242. ADMINISTRATION OF COURTS UNDER DISTRICT OF COLUMBIA CODE.

(a) SUBMISSION OF ANNUAL BUDGET REQUESTS BY JOINT COMMITTEE ON JUDICIAL ADMINISTRATION.—Section 11–1701(b)(4), District of Columbia Code, is amended to read as follows:

"(4) Submission of the annual budget requests of the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, and the District of Columbia Court System as the integrated budget of the District of Columbia courts, except that such requests may be modified upon the concurrence of four of the five members of the Joint Committee.".

(b) AUDIT OF ACCOUNTS OF COURTS.—Section 11–1723(a)(3), District of Columbia Code, is amended to read as follows:

"(3) The Fiscal Officer shall be responsible for the approval of vouchers and the internal auditing of the accounts of the courts and shall arrange for an annual independent audit of the accounts of the courts.".

(c) APPOINTMENT AND REMOVAL OF COURT PERSONNEL.—Section 11–1725(b) of the District of Columbia Code is amended to read as follows:

"(b) The Executive Officer shall appoint, and may remove, the Director of Social Services, the clerks of the courts, the Auditor-Master, and all other nonjudicial personnel for the courts (other than the Register of Wills and personal law clerks and secretaries of the judges) as may be necessary, subject to—

"(1) regulations approved by the Joint Committee; and

"(2) the approval of the chief judge of the court to which the personnel are or will be assigned.

"Appointments and removals of court personnel shall not be subject to the laws, rules, and limitations applicable to District of Columbia employees.".

(d) PROCUREMENT OF EQUIPMENT AND SUPPLIES.—Section 11–1742(b), District of Columbia Code, is amended to read as follows:

"(b) The Executive Officer shall be responsible for the procurement of necessary equipment, supplies, and services for the courts and shall have power, subject to applicable law, to reimburse the District of Columbia government for services provided and to contract for such equipment, supplies, and services as may be necessary.".

(e) BUDGET AND EXPENDITURES.—

(1) IN GENERAL.—Section 11–1743, District of Columbia Code, is amended to read as follows:

"§11–1743. Annual Budget and Expenditures.

"(a) The Joint Committee shall prepare and submit to the Mayor and the Council of the District of Columbia annual estimates of the expenditures and appropriations necessary for the maintenance and operations of the District of Columbia courts, and shall submit such estimates to Congress and the Director of the Office of Management and Budget after submitting them to the Mayor and the Council. All such estimates shall be included in the budget without revision by the President but subject to the President's recommendations.

"(b) The District of Columbia Courts may make such expenditures as may be necessary to execute efficiently the functions vested in the Courts.

"(c) All expenditures of the Courts shall be allowed and paid upon presentation of itemized vouchers signed by the certifying officer designated by the Joint Committee. All such expenditures shall be paid out of moneys appropriated for purposes of the Courts.".

(2) CLERICAL AMENDMENT.—The item relating to section 11–1743 in the table of sections for subchapter III of chapter 17 of title 11, District of Columbia Code, is amended to read as follows:

"11–1743. Annual budget and expenditures.".

SEC. 11243. BUDGETING AND FINANCING REQUIREMENTS FOR COURTS UNDER HOME RULE ACT.

(a) BUDGET OF COURTS.—Section 445 of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, Title 11 App.) is amended to read as follows:

"SEC. 445. The District of Columbia courts shall prepare and annually submit to the Director of the Office of Management and Budget, for inclusion in the annual budget, annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the District of Columbia court system. The courts shall submit as part of their budgets both a multiyear plan and a multiyear capital improvements plan and shall submit a statement presenting qualitative and quantitative descriptions of court activities and the status of efforts to comply with reports of the Comptroller General of the United States.".

(b) FINANCIAL DUTIES OF THE MAYOR.—Section 448(a)(6) of such Act (DC Code, sec. 47–310(a)(6)) is amended to read as follows:

"(6) supervise and be responsible for the levying and collection of all taxes, special assessments, license fees, and other revenues of the District, as required by law, and receive all moneys receivable by the District from the Federal Government or from any agency or instrumentality of the District, except that this paragraph shall not apply to moneys from the District of Columbia Courts.".

(c) FUNDS OF THE DISTRICT.—Section 450 of such Act (DC Code, sec. 47–130) is amended to read as follows:

"SEC. 450. The General Fund of the District shall be composed of those District revenues which on the effective date of this title are paid into the Treasury of the United States and credited either to the General Fund of the District or its miscellaneous receipts, but shall not include any revenues which are applied by law to any special fund existing on the date of enactment of this title. The Council may from time to time establish such additional special funds as may be necessary for the efficient operation of the government of the District. All money received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor for deposit in the appropriate fund, except that all money received by the District of Columbia Courts shall be deposited in the Treasury of the United States or the Crime Victims Fund.".

(d) REDUCTIONS IN BUDGETS OF INDEPENDENT AGENCIES.—Section 453(c) of such Act (DC Code, sec. 47–304.1(c)) is amended to read as follows:

"(c) Subsection (a) shall not apply to amounts appropriated or otherwise made available to the Council or to the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.".

(e) TREATMENT OF COURT FEES IN CALCULATION OF LIMITS ON DISTRICT BORROWING.—Section 603 of such Act (DC Code, sec. 47–313) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence, by striking "less court fees, any fees" and inserting "less any fees"; and

(ii) in the second sentence, by striking "section 2501, title 47 of the District of Columbia Code, as amended" and inserting "title VI of the District of Columbia Revenue Act of 1939";

(B) in paragraph (3)(A), by striking "less court fees, any fees" and inserting "less any fees"; and

(2) in subsection (c), by striking the last sentence (relating to budget estimates of the District of Columbia courts).

SEC. 11244. AUDITING OF ACCOUNTS OF COURT SYSTEM.

(a) POWERS OF DISTRICT OF COLUMBIA AUDITOR.—Section 455 of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–117) is amended by adding at the end the following new subsection:

"(g) This section shall not apply to the District of Columbia Courts or the accounts and operations thereof."

(b) SUBMISSION OF GAO AUDIT REPORTS TO MAYOR AND COUNCIL.—Section 715(b) of title 31, United States Code (DC Code, sec. 47–118.1(b)), is amended by striking "and the Mayor" and inserting "and (other than the audit reports of the District of Columbia Courts) the Mayor".

(c) INDEPENDENT ANNUAL AUDIT.—Section 4 of Public Law 94–399 (DC Code, sec. 47–119) is amended by adding at the end the following new subsection:

"(d) This section shall not apply to the District of Columbia Courts or the financial operations thereof."

SEC. 11245. MISCELLANEOUS BUDGETING AND FINANCING REQUIREMENTS FOR COURTS UNDER DISTRICT LAW.

(a) DEPOSIT OF PUBLIC FUNDS.—Section 2(21) of the District of Columbia Depository Act of 1977 (DC Code, sec. 47–341(21)) is amended by striking "a court, agency" and inserting "an agency".

(b) REPROGRAMMING OF BUDGET AMOUNTS.—Section 4(h) of D.C. Law 3–100 (DC Code, sec. 47–363(h)) is amended by striking "the District of Columbia courts,".

(c) CONTROL OF GRANT FUNDS.—(1) Section 3(1) of D.C. Law 3–104 (DC Code, sec. 47–382(1)) is amended to read as follows:

"(1) 'Agency' means the highest organizational structure of the District at which budgeting data is aggregated, but shall not include the District of Columbia Courts."

(2) Section 4(b) of D.C. Law 3–104 (DC Code, sec. 47–383(b)) is amended to read at follows:

"(b) The Trustees of the University of the District of Columbia, the Board of Education, and the D.C. General Hospital Commission shall submit to the Mayor two copies of the application and completed approval form, as an advisory notice, concurrent with submitting the application and completed approval form to a grantmaking agency in accordance with rules and regulations issued pursuant to subsection (c) of this section.".

SEC. 11246. OTHER PROVISIONS RELATING TO ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS.

(a) JUROR FEES.—Section 11–1912(a), District of Columbia Code, is amended to read as follows:

"(a) Notwithstanding section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act, grand and petit jurors serving in the Superior Court shall receive fees and expenses at rates established by the Board of Judges of the Superior Court", except that such fees and expenses may not exceed the respective rates paid to such jurors in the Federal system.".

(b) COMPENSATION AND BENEFITS FOR COURT PERSONNEL.—

(1) IN GENERAL.—Section 11–1726, District of Columbia Code, is amended to read as follows:

"§11–1726. Compensation and benefits for court personnel.

"(a) In the case of nonjudicial employees of the District of Columbia courts whose compensation is not otherwise fixed by this title, the Executive Officer shall fix the rates of compensation of such employees without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code. Any rates so established shall be subject to the limitation on pay fixed by administrative action in section 5373 of such title. In fixing the rates of compensation of nonjudicial employees under this section, the Executive Officer may be guided by the rates of compensation fixed for employees in the executive and judicial branches of the Federal Government or State or local governments occupying the same or similar positions or occupying positions of similar responsibility, duty, and difficulty.

"(b)(1) Nonjudicial employees of the District of Columbia courts shall be treated as employees of the Federal Government solely for purposes of any of the following provisions of title 5, United States Code:

"(A) Subchapter 1 of chapter 81 (relating to compensation for work injuries).

"(B) Chapter 83 (relating to retirement).

"(C) Chapter 84 (relating to the Federal Employees' Retirement System).

"(D) Chapter 87 (relating to life insurance).

"(E) Chapter 89 (relating to health insurance).

"(2) The employing agency shall make contributions under the provisions referred to paragraph (1) at the same rates applicable to agencies of the Federal Government.

"(3) An individual who is a nonjudicial employee of the District of Columbia courts on the date of the enactment of the Balanced Budget Act of 1997 may make, within 60 days after such date, an election under section 8351 or section 8432 of title 5, United States Code, to participate in the Thrift Savings Plan for Federal employees.

"(c)(1) Judicial employees of the District of Columbia courts shall be treated as employees of the Federal Government for purposes of any of the following provisions of title 5, United States Code:

"(A) Subchapter 1 of chapter 81 (relating to compensation for work injuries).

"(B) Chapter 87 (relating to life insurance).

"(C) Chapter 89 (relating to health insurance).

"(2) The employing agency shall make contributions under the provisions referred to paragraph (1) at the same rates applicable to agencies of the Federal Government.

"(3) For purposes of section 8706(b) and section 8901(3)(B) of title 5, United States Code, benefits paid from the retirement system for judicial employees of the District of Columbia courts or from the system providing benefits to survivors of such employees shall be considered an annuity.

"(4) For purposes of section 8901(3)(A) of title 5, United States Code, the retirement system for judicial employees of the District of Columbia courts shall be considered a retirement system for employees of the Government.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 15 of title 11, District of Columbia Code, is amended by amending the item relating to section 11–1726 to read as follows:

"11–1726. Compensation and benefits for court personnel.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to all months beginning after the date on which the Director of the Office of Personnel Management issues regulations to carry out section 11–1726, District of Columbia Code (as amended by paragraph (1)).

(c) RETIREMENT PERIOD FOR EXECUTIVE OFFICER.—Section 11–1703(d), District of Columbia Code, is amended by striking the period at the end and inserting the following: ", except that the Executive Officer (if initially hired after October 1, 1997) shall be eligible for retirement under subchapter III of chapter 15 when the Executive Officer has completed 7 years of service as Executive Officer, whether continuous or not.".

Subchapter B—Judicial Retirement Program

SEC. 11251. JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.

(a) ESTABLISHMENT OF FUND.—Section 11–1570, District of Columbia Code, is amended to read as follows:

"§11–1570. The District of Columbia Judicial Retirement and Survivors Annuity Fund.

"(a) There is established in the Treasury a fund known as the District of Columbia Judicial Retirement and Survivors Annuity Fund (hereafter in this section referred to as the 'Fund'), which shall consist of the following assets:

"(1) Amounts deposited by, or deducted and withheld from the salary and retired pay of, a judge under section 1563 or 1567 of this title, which shall be credited to an individual account of the judge.

"(2) Amounts transferred from the District of Columbia Judges' Retirement Fund under section 124(c)(1) of the District of Columbia Retirement Reform Act, as amended by section 11252 of the Balanced Budget Act of 1997.

"(3) Amounts deposited under subsection (d).

"(4) Any return on investment of the assets of the Fund.

"(b)(1) The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') shall be responsible for the administration of the Fund. The Secretary may carry out such responsibilities through an agreement with a Trustee or contractor (who may be the Trustee or contractor appointed to carry out responsibilities relating to Federal benefit payments under title I of the National Capital Revitalization and Self-Government Improvement Act of 1997) and an enrolled actuary (as defined in section 7701(a)(35) of the Internal Revenue Code of 1986) who is a member of the American Academy of Actuaries (who may be the enrolled actuary engaged under such Act).

"(2) The chief judges of the District of Columbia Court of Appeals and Superior Court of the District of Columbia shall submit to the President and the Secretary an annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the Fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

"(3) The Secretary may cause periodic examinations of the Fund to be made by an enrolled actuary (as defined in section 7701(a)(35) of the Internal Revenue Code of 1986) who is a member of the American Academy of Actuaries.

"(c)(1) Amounts in the Fund are available for the payment of judges' retirement pay, annuities, refunds, and allowances under this subchapter.

"(2) Notwithstanding any other provision of District law or any other law, rule, or regulation, the Secretary may review benefit determinations under this subchapter made prior to the date of the enactment of the National Capital Revitalization and Self-Government Improvement Act of 1997, and shall make initial benefit determinations after such date.

"(d)(1) Subject to the availability of appropriations, there shall be deposited in the Fund, not later than the close of each fiscal year (beginning with the first fiscal year which ends more than 6 months after the replacement plan adoption date described in section 103(13) of the National Capital Revitalization and Self-Government Improvement Act of 1997), an amount equal to the sum of—

"(A) the normal cost for the year;

"(B) the annual amortization amount for the year (which may not be less than zero); and

"(C) the covered administrative expenses for the year.

"(2) For purposes of this subsection:

"(A) The 'original unfunded liability' is the amount that is the present value as of June 30, 1997, of future benefits payable from the Fund (net the sum of future normal cost and plan assets as of such date).

"(B) The 'annual amortization amount' is the amount determined by the enrolled actuary to be necessary to amortize in equal annual installments (until fully amortized)—

"(i) the original unfunded liability over a 30-year period;

"(ii) a net experience gain or loss over a 10-year period; and

"(iii) any other changes in actuarial liability over a 20-year period.

"(C) The 'covered administrative expenses' are the expenses determined by the Secretary (on an annual basis) to be necessary to administer the Fund.

"(3) Deposits made under this subsection shall be taken from sums available for that fiscal year for the payment of the expenses of the Court, and shall not be credited to the account of any individual.

"(e) The Secretary shall invest such portion of the Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(f) None of the moneys mentioned in this subchapter shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process (except to the extent permitted pursuant to the District of Columbia Spouse Equity Act of 1988).

"(g) Notwithstanding any other provision of District law, rule, or regulation, any civil action brought—

"(1) by an individual to enforce or clarify rights to benefits from the Fund; or

"(2) by the Secretary—

"(A) to enforce any claim arising (in whole or in part) under this section or any contract entered into to carry out this section,

"(B) to recover benefits improperly paid from the Fund or to clarify an individual's rights to benefits from the Fund, or

"(C) to enforce any provision of this section or any contract entered into to carry out this section,

shall be brought in the United States District Court for the District of Columbia.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by amending the item relating to section 11–1570 to read as follows:

"11–1570. The District of Columbia Judicial Retirement and Survivors Annuity Fund.".

SEC. 11252. TERMINATION OF CURRENT FUND AND PROGRAM.

(a) TERMINATION OF JUDGES' RETIREMENT FUND.—Section 124 of the District of Columbia Retirement Reform Act (DC Code, sec. 1–714) is amended by striking subsection (c) and inserting the following:

"(c)(1) Notwithstanding any other provision of this Act or the amendments made by this Act, upon the date the assets of the Retirement Fund described in title I of the National Capital Revitalization and Self-Government Improvement Act of 1997 are transferred, the assets of the District of Columbia Judges' Retirement Fund established under subsection (a) shall be transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund under section 11–1570, District of Columbia Code, and no amounts shall be deposited into the District of Columbia Judges' Retirement Fund after the date on which the assets are so transferred.

"(2) The District of Columbia Judges' Retirement Fund established under subsection (a) shall be continued in the Treasury and appropriated for the purposes provided in this Act until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund pursuant to paragraph (1). Thereafter any payments of retirement pay, annuities, refunds, and allowances for judicial personnel of the District of Columbia shall be paid from the District of Columbia Judicial Retirement and Survivors Annuity Fund in accordance with subchapter III of chapter 15 of title 11, District of Columbia Code.".

(b) REMOVAL OF JUDGES FROM RETIREMENT BOARD.—Section 121(b)(1)(A) of the District of Columbia Retirement Reform Act (DC Code, sec. 1–711(b)(1)(A)) is amended—

(1) in the matter preceding clause (i), by striking "13" and inserting "11";

(2) by striking clause (vii); and

(3) by redesignating clauses (viii) and (ix) as clauses (vii) and (viii).

SEC. 11253. CONFORMING AMENDMENTS.

(a) TRANSFER OF AUTHORITY OVER FUND TO SECRETARY OF THE TREASURY.—Title 11, District of Columbia Code, is amended as follows:

(1) In sections 11–1561(8)(C), 11–1562(c), 11–1563(b), 11–1563(c), 11–1564(d)(6), 11–1564(d)(7), 11–1566(a), and 11–1570(c), by striking "Commissioner [Mayor]" each place it appears and inserting "Secretary of the Treasury".

(2) In sections 11–1566(b)(2), 11–1567(a), 11–1567(b), by striking "Mayor" each place it appears and inserting "Secretary of the Treasury".

(3) In sections 11–1564(d)(2)(A) and 11–1568.1(1)(B), by striking "Mayor of the District of Columbia" each place it appears and inserting "Secretary of the Treasury".

(4) In section 11–1563(a), by striking "paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act)" and inserting "paid to the Secretary of the Treasury".

(b) DEFINITION OF FUND.—Section 11–1561(4), District of Columbia Code, is amended to read as follows:

"(4) The term 'fund' means the District of Columbia Judicial Retirement and Survivors Annuity Fund established by sections 11–1570.".

(c) TREATMENT OF FEDERAL SERVICE OF JUDGES.—Section 11–1564(d)(4), District of Columbia Code, is amended by striking "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act" and inserting "Judicial Retirement and Survivors Annuity Fund under section 11–1570".

Subchapter C—Miscellaneous Conforming and Administrative Provisions

SEC. 11261. TREATMENT OF COURTS UNDER MISCELLANEOUS DISTRICT LAWS.

(a) FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT.—Paragraph (5) of section 305 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (DC Code, sec. 47–393(5)) is amended to read as follows:

"(5) The term 'District government' means the government of the District of Columbia, including any department, agency or instrumentality of the government of the District of Columbia; any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act or any other agency, board, or commission established by the Mayor or the Council; the Council of the District of Columbia; and any other agency, public authority, or public benefit corporation which has the authority to receive monies directly or indirectly from the District of Columbia (other than monies received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia), except that such term does not include the Authority.".

(b) MERIT PERSONNEL ACT.—(1) Section 201 of the District of Columbia Comprehensive Merit Personnel Act of 1978 (DC Code, sec. 1–602.1) is amended—

(A) by striking "(a) Except as provided in subsection (b) or unless" and inserting "Unless"; and

(B) by striking subsection (b).

(2) Section 301(13) of the District of Columbia Comprehensive Merit Personnel Act of 1978 (DC Code, sec. 1–603.1(13)) is amended by striking ", the Superior Court of the District of Columbia, and the District of Columbia Court of Appeals shall be considered independent agencies" and inserting "shall be considered an independent agency".

SEC. 11262. REPRESENTATION OF INDIGENTS IN CRIMINAL CASES.

(a) BUDGET.—Section 11–2607, District of Columbia Code, is amended to read as follows:

"§ 11–2607. Preparation of Budget

"The joint committee shall prepare and include in its annual budget requests for the District of Columbia court system estimates of the expenditures and appropriations necessary for furnishing representation by private attorneys to persons entitled to representation in accordance with section 2601 of this title.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11–2608 of the District of Columbia Code is amended to read as follows:

“§11–2608. Authorization of appropriations

“There are authorized to be appropriated through the State Justice Institute such sums as may be necessary to pay for representation by private attorneys and related services under this chapter. When so specified in appropriation Acts, such appropriations shall remain available until expended.”.

(c) REPEAL AUTHORITY OF COUNCIL.—

(1) IN GENERAL.—Section 11–2609, District of Columbia Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 26 of title 11, District of Columbia Code, is amended by striking the item relating to section 11–2609.

CHAPTER 5—PRETRIAL SERVICES AGENCY AND PUBLIC DEFENDER SERVICE

SEC. 11271. AMENDMENTS AFFECTING PRETRIAL SERVICES AGENCY.

(a) IN GENERAL.—Sections 23–1304 through 23–1308 of the District of Columbia Code are amended to read as follows:

“§23–1304. Executive committee; composition; appointment and qualifications of Director

“(a) The agency shall be advised by an executive committee of seven members, of which four members shall constitute a quorum. The Executive Committee shall be composed of the following persons or their designees: the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit, the Chief Judge of the United States District Court for the District of Columbia, the Chief Judge of the District of the Columbia Court of Appeals, the Chief Judge of the Superior Court of the District of Columbia, the United States Attorney for the District of Columbia, the Director of the District of Columbia Public Defender Service, and the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency.

“(b) The Chief Judge of the United States Court of Appeals for the District of Columbia Circuit and the Chief Judge of the United States District Court for the District of Columbia, in consultation with the other members of the executive committee, shall appoint a Director of the agency who shall be a member of the bar of the District of Columbia.

“§23–1305. Duties of director; compensation

“(a) The Director of the agency shall be responsible for the supervision and execution of the duties of the agency. The Director shall be compensated as a member of the Senior Executive Service pursuant to subchapter VIII of chapter 53 of title 5, United States Code.

“§23–1306. Chief assistant and other agency personnel; compensation

“The Director shall employ a chief assistant who shall be compensated as a member of the Senior Executive Service pursuant to section 5382 of title 5, United States Code. The Director shall employ such agency personnel as may be necessary properly to conduct the business of the agency. All employees other than the chief assistant shall receive compensation that is comparable to levels of compensation established for Federal pretrial services agencies.

“§23–1307. Annual reports

“(a) The Director shall each year submit to the executive committee and to the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency a report as to the Pretrial Services Agency's administration of its responsibilities for the previous fiscal year. The Director shall include in the report a statement of financial condition, revenues, and expenses for the past fiscal year.

“§23–1308. Appropriation; budget

“There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary to carry out the provisions of this subchapter. Funds appropriated by Congress for the District of Columbia Pretrial Services Agency shall be received by the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, and shall be disbursed by that Director to and on behalf of the District of Columbia Pretrial Services Agency. The District of Columbia Pretrial Services Agency shall submit to the Director of the District of Columbia Offender Supervision. Defender and Courts Services Agency at the time and in the form prescribed by that Director, reports of its activities and financial position and its proposed budget.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 23, District of Columbia Code, is amended by striking the items relating to sections 23–1304 through 23–1308 and inserting the following:

“23–1304. Executive committee; composition; appointment and qualifications of Director.
“23–1305. Duties of director; compensation.
“23–1306. Chief assistant and other agency personnel; compensation.
“23–1307. Annual reports.
“23–1308. Appropriation; budget.”

SEC. 11272. AMENDMENTS AFFECTING PUBLIC DEFENDER SERVICE.

(a) BOARD OF TRUSTEES.—Section 303(a) of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (DC Code, sec. 1–2703(a)) is amended to read as follows:

“(a) The Service shall be advised on matters of general policy by a Board of Trustees.”.

(b) APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.—Section 304 of such Act (DC Code, sec. 1–2704) is amended to read as follows:

“SEC. 304. DIRECTOR AND DEPUTY DIRECTOR; APPOINTMENT; DUTIES; MEMBERSHIP IN BAR REQUIRED.

“The Chief Judge of the United States Court of Appeals for the District of Columbia Circuit and the Chief Judge of the United States District Court for the District of Columbia, in consultation with the persons described in subparagraphs (B) through (D) of section 303(b)(1) and the Board of Trustees, shall appoint a Director and Deputy Director of the Service. The Director shall be responsible for the supervision and execution of the duties of the Service. The Deputy Director shall assist the Director and shall perform such duties as the Director may prescribe. The Director and Deputy Director shall be members of the bar of the District of Columbia. The Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency shall fix the compensation of the Director and the Deputy Director, but the compensation of the Director shall not exceed the compensation received by the United States Attorney for the District of Columbia.”.

(c) ANNUAL REPORT AND AUDIT.—Section 306 of such Act (DC Code, sec. 1–2706) is amended—

(1) in subsection (a)—

(A) by striking “Board of Trustees” and inserting “Director”, and

(B) by striking “and to the Mayor of the District of Columbia” and inserting “to the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, and to the Office of Management and Budget”; and

(2) in subsection (b)—

(A) by striking “Board of Trustees” and inserting “Director”; and

(B) by striking “the Administrative Office of the United States Courts” and inserting “the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency”.

(d) APPROPRIATIONS.—Section 307 of such Act (DC Code, sec. 1–2707) is amended—

(1) by amending subsection (a) to read as follows:

“(a) There are authorized to be appropriated through the State Justice Institute in each fiscal year such sums as may be necessary to carry out the provisions of this chapter. Funds appropriated by Congress for the District of Columbia Public Defender Service shall be received by the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, and shall be disbursed by that Director to and on behalf of the Service. The Service shall submit to the Director of the District of Columbia Offender Supervision, Defender and Courts Services Agency, at the time and in the form prescribed by that Director, reports of its activities and financial position and its proposed budget.”; and

(2) in subsection (b), by striking “Upon approval of the Board of Trustees, the” and inserting “The” .

CHAPTER 6—MISCELLANEOUS PROVISIONS

SEC. 11281. TECHNICAL ASSISTANCE AND RESEARCH.

There are authorized to be appropriated to the National Institute of Justice in each fiscal year (beginning with fiscal year 1998) such sums as may be necessary for the following activities:

(1) Research and demonstration projects, evaluations, and technical assistance to assess and analyze the crime problem in the District of Columbia, and to improve the ability of the criminal justice and other systems and entities in the District of Columbia to prevent, solve, and punish crimes.

(2) The establishment of a locally-based corporation or institute in the District of Columbia supporting research and demonstration projects relating to the prevention, solution, or punishment of crimes in the District of Columbia, including the provision of related technical assistance.

SEC. 11282. EXEMPTION FROM PERSONNEL AND BUDGET CEILINGS FOR TRUSTEES AND RELATED AGENCIES.

The Trustees described in sections 11202 and 11232 and the activities and personnel of, and the funds allocated or otherwise available to, the Trustees and the agencies over which the Trustees exercise financial oversight pursuant to those sections, shall not be subject to any general personnel or budget limitations which otherwise apply to the District of Columbia government or its agencies in any appropriations act.

Subtitle D—Privatization of Tax Collection and Administration

SEC. 11301. FINDINGS.

Congress finds as follows:

(1) The District of Columbia government has historically had a poor record of determining and collecting all revenue it is due under its revenue code.

(2) The impact on the District's financial condition of poor administration and collection is significant and has contributed both to the size of its accumulated operating deficit and to the difficulty in balancing the budget going forward.

(3) More complete collection of taxes would not only increase District of Columbia revenues, but would give residents and businesses a sense of equity and that all were paying their fair share.

(4) Once District tax processing and collection is competently managed it will be possible for the District government to accurately assess the true value of its many taxes and determine that some may be reduced or eliminated without a significant negative impact on revenues.

(5) Any reduction or elimination of non-productive or counterproductive taxes or taxes which cost more to administer than they

produce in revenue would significantly improve the negative atmosphere surrounding the District of Columbia tax system and its enforcement.

SEC. 11302. AUTHORIZING CHIEF FINANCIAL OFFICER TO PRIVATIZE TAX ADMINISTRATION AND COLLECTION.

The Chief Financial Officer of the District of Columbia may enter into contracts with a private entity for the administration and collection of taxes of the District of Columbia.

Subtitle E—Financing of District of Columbia Accumulated Deficit

SEC. 11401. FINDINGS.

Congress finds as follows:

(1) The District of Columbia government sold accumulated deficit financing bonds in 1991.

(2) Between 1991 and the end of fiscal year 1997 the District of Columbia government is expected to accumulate an operating deficit in excess of $500,000,000.

(3) Requiring the District of Columbia budget for fiscal year 1998 to be balanced will ensure that no further addition is made to the accumulated operating deficit.

(4) In every other example of an American city in financial crisis, a vital and necessary component of recovery was to finance the accumulated operating deficit.

(5) Carrying forward an accumualted operating deficit of more than $500,000,000 has a significant negative impact on the District of Columbia's cash flow and financial condition and on its ability to improve its credit rating.

(6) It is not feasible to carry forward such a debt with an expectation of paying it off gradually from future budget surpluses.

(7) Financing the accumulated deficit would improve the District's cash management position and allow more normal cash management techniques.

SEC. 11402. AUTHORIZATION FOR INTERMEDIATE-TERM ADVANCES OF FUNDS BY THE SECRETARY OF THE TREASURY TO LIQUIDATE THE ACCUMULATED GENERAL FUND DEFICIT OF THE DISTRICT OF COLUMBIA.

Title VI of the District of Columbia Revenue Act of 1939 (DC Code, sec. 47-3401 et seq.) is amended—

(1) by redesignating sections 602 through 605 as sections 603 through 606, respectively; and

(2) by inserting after section 601 the following:

"SEC. 602. INTERMEDIATE-TERM ADVANCES FOR LIQUIDATION OF DEFICIT.

"(a) In General.—If the conditions in subsection (b) are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated and to the extent provided in advance in annual appropriations Acts, for the purpose of assisting the District government in liquidating the outstanding accumulated operating deficit of the general fund of the District government existing as of September 30, 1997.

"(b) Conditions to Making Any Intermediate-Term Advance.—The Secretary shall make an advance under this section if—

"(1) the Mayor delivers to the Secretary the following instruments, in form and substance satisfactory to the Secretary—

"(A) a financing agreement in which the Mayor agrees to procedures for requisitioning advances;

"(B) a requisition for an advance under this section; and

"(C) a promissory note evidencing the District government's obligation to reimburse the Treasury for the requisitioned advance, which note may be a general obligation bond issued under section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act by the District government to the Secretary if the Secretary determines that such a bond is satisfactory;

"(2) the date on which the requisitioned advance is requested to be made is not later than 3 years from the date of enactment of the Balanced Budget Act of 1997;

"(3) the District government delivers to the Secretary—

"(A) evidence demonstrating to the satisfaction of the Secretary that, at the time of the Mayor's requisition for an advance, the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's need for financing to accomplish the purpose described in subsection (a); and

"(B) a schedule setting out the anticipated timing and amounts of requisitions for advances under this section;

"(4) the Authority certifies to the Secretary that—

"(A) there is an approved financial plan and budget in effect under the District of Columbia Financial Responsibility and Management Assistance Act of 1995 for the fiscal year in which the requisition is to be made;

"(B) at the time that the Mayor's requisition for an advance is delivered to the Secretary, the District government is in compliance with the approved financial plan and budget;

"(C) both the receipt of funds from such advance and the reimbursement of Treasury for such advance are consistent with the approved financial plan and budget for the year;

"(D) such advance will not adversely affect the financial stability of the District government; and

"(E) at the time that the Mayor's requisition for an advance is delivered to the Secretary, the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's need for financing to accomplish the purpose described in subsection (a);

"(5) the Inspector General of the District of Columbia certifies to the Secretary the information described in subparagraphs (A) through (D) of paragraph (4), and in making this certification, the Inspector General may rely upon an audit conducted by an outside auditor engaged by the Inspector General under section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 if, after reasonable inquiry, the Inspector General concurs in the findings of such audit;

"(6) the Secretary determines that—

"(A) there is reasonable assurance of reimbursement for the requisitioned advance; and

"(B) the debt owed by the District government to the Treasury on account of the requisitioned advance will not be subordinate to any other debt owed by the District or to any other claims against the District; and

"(7) the Secretary receives from such persons as the Secretary determines to be appropriate such additional certifications and opinions relating to such matters as the Secretary determines to be appropriate.

"(c) Amount of Any Intermediate-Term Advance.—

"(1) In General.—Except as provided in paragraph (3), if the conditions in paragraph (2) are satisfied, each advance made under this section shall be in the amount designated by the Mayor in the Mayor's requisition for such advance.

"(2) Conditions Applicable to Designated Amount.—Paragraph (1) applies if—

"(A) the Mayor certifies that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in subsection (a) within 30 days of the time that the Mayor's requisition is delivered to the Secretary; and

"(B) the Authority concurs in the Mayor's certification under subparagraph (A).

"(3) Maximum Amount.—Notwithstanding paragraph (1), the aggregate amount of all advances made under this section shall not be greater than $300,000,000.

"(d) Maturity of Any Intermediate-Term Advance.—

"(1) In General.—Except as provided in paragraphs (2) and (3), each advance made under this section shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.

"(2) Latest Permissible Maturity Date.—Notwithstanding paragraph (1), the maturity date for any advance made under this section shall not be later than 10 years from the date on which the first advance under this section is made.

"(4) Secretary's Right to Require Early Reimbursement.—Notwithstanding paragraph (1), if the Secretary determines, at any time while any advance made under this section has not been fully reimbursed, that the District is able to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms, in the judgment of the Secretary, to refinance all or a portion of the unpaid balance of such advance in the public credit markets or elsewhere without adversely affecting the financial stability of the District government, the Secretary may require reimbursement for all or a portion of the unpaid balance of such advance at any time after the Secretary makes the determination.

"(e) Interest Rate.—Each advance made under this section shall bear interest at an annual rate equal to a rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the repayment schedule of such advance, plus 1/8 of 1 percent.

"(f) Other Terms and Conditions.—Each advance made under this section shall be on such other terms and conditions, including repayment schedule, as the Secretary determines to be appropriate.

"(g) Deposit of Advances.—As provided in section 204(b) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, advances made under this section for the account of the District government shall be deposited by the Secretary into an escrow account held by the Authority.".

SEC. 11403. CONFORMING AMENDMENTS.

(a) Amendment to Section 601.—Section 601 of the District of Columbia Revenue Act of 1939 (DC Code, sec. 47-3401) is amended—

(1) in subsection (c)(2)(B)(i)(IV), by striking "602(b)" and inserting "603(b)"; and

(2) in subsection (d)(2)(B)(iii), by striking "602(b)" and inserting "603(b)".

(b) Amendment to Section 604.—Section 604 of the District of Columbia Revenue Act of 1939 (DC Code, sec. 47-3401.3) is amended—

(1) in subsection (a)(2)(A)(i), by striking "602" and inserting "603"; and

(2) in subsection (a)(2)(B)(i), by striking "602" and inserting "603".

SEC. 11404. TECHNICAL CORRECTIONS.

Section 601 of the District of Columbia Revenue Act of 1939 (DC Code, sec. 47-3401) is amended—

(1) in subsection (a)(3)(D), by striking "September 30, 1995" and inserting "September 30, 1996";

(2) in subsection (b)(2)(E), by striking "September 30, 1996" and inserting "September 30, 1997";

(3) in subsection (c)(2)(B)(i), by striking "October 1, 1995" and inserting "September 30, 1995";

(4) in subsection (d)(2)(B)(i)(II), by striking "September 30, 1997" and inserting "September 30, 1998";

(5) in subsection (d)(2)(B)(ii)—

(A) by striking "September 30, 1995" and inserting "October 1, 1995"; and

(B) by striking "September 30, 1997" and inserting "October 1, 1997"; and

(6) in subsection (d)(2)(C)(iv), by striking "September 30, 1997" and inserting "September 30, 1998".

SEC. 11405. AUTHORIZATION FOR ISSUANCE OF GENERAL OBLIGATION BONDS BY THE DISTRICT OF COLUMBIA TO FINANCE OR REFUND ITS ACCUMULATED GENERAL FUND DEFICIT.

Section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–321(a)) is amended—

(1) in paragraph (1), by inserting "to finance or refund the outstanding accumulated operating deficit of the general fund of the District of $500,000,000, existing as of September 30, 1997," after "existing as of September 30, 1990,"; and

(2) in paragraph (2), by inserting "existing as of September 30, 1990" after "operating deficit".

Subtitle F—District of Columbia Bond Financing Improvements

SEC. 11501. SHORT TITLE.

This subtitle may be cited as the "District of Columbia Bond Financing Improvements Act of 1997".

SEC. 11502. FINDINGS.

Congress finds as follows:

(1) The bond authorization provision of the District of Columbia Self-Government and Governmental Reorganization Act (commonly known as the "Home Rule Act") have not been updated to conform with changes in the municipal securities marketplace.

(2) The Home Rule Act unduly limits the ability of the District to take advantage of cost savings, investment opportunities, and other efficiencies generally available to municipal securities issuers.

(3) Section 461 of the Home Rule Act limits the ability of the District government to implement cost-effective capital planning to the extent that it does not permit the District access to interim capital financing in anticipation of its periodic long-term borrowings.

(4) Section 462 of the Home Rule Act prevents the reprogramming of unused bond proceeds from dormant projects to other pending, authorized, and viable projects.

(5) Section 466 of the Home Rule Act requires that the District undertake competitive bond sales even under circumstances in which greater efficiencies can be achieved through negotiated sales.

(6) Section 490 of the Home Rule Act does not permit the issuance and sale of taxable and tax-exempt bonds for the full range of economic development and governmental purposes permitted the States and their political subdivisions.

SEC. 11503. AMENDMENT TO SECTION 462 (RELATING TO CONTENTS OF BORROWING LEGISLATION AND ELECTIONS ON ISSUING GENERAL OBLIGATION BONDS).

Section 462(a) of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–322(a)) is amended to read as follows:

"(a) The Council may by act authorize the issuance of general obligation bonds for the purposes specified in section 461. Such an Act shall contain, at least, provisions—

"(1) briefly describing the projects or categories of projects to be financed by the Act;

"(2) identifying the act authorizing each such project or category of projects;

"(3) setting forth the maximum amount of the principal of the indebtedness which may be incurred for the projects to be financed;

"(4) setting forth the maximum rate of interest to be paid on such indebtedness;

"(5) setting forth the maximum allowable maturity for the issue and the maximum debt service payable in any year; and

"(6) setting forth, in the event that the Council determines in its discretion to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the date of such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election.".

SEC. 11504. AMENDMENT TO SECTION 466 (RELATING TO PUBLIC OR NEGOTIATED SALE OF GENERAL OBLIGATION BONDS).

Section 466 of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–326) is amended by striking all after the heading and inserting the following:

"SEC. 466. General obligation bonds issued under this part may be sold at a private sale on a negotiated basis (in such manner as the Mayor may determine to be in the public interest), or may be sold at public sale upon sealed proposals after publication of a notice of such public sale at least once not less than 10 days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in 1 or more newspapers of general circulation published in the District. Such notice of public sale shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a down payment a certified check, cashier's check, or surety for an amount equal to at least 2 percent of the par amount of general obligation bonds bid for, and the Mayor shall reserve the right to reject any and all bids."

SEC. 11505. AMENDMENT TO SECTION 467 (RELATING TO AUTHORITY TO CREATE SECURITY INTERESTS IN DISTRICT REVENUES).

Section 467 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code Sec. 47–326.1.) is amended by striking all after the heading and inserting the following:

"SEC. 467. (a) IN GENERAL.—An act of the Council authorizing the issuance of general obligation bonds or notes under section 461(a), section 471(a), section 472(a), or section 475(a) may create a security interest in any District revenues as additional security for the payment of the bonds or notes authorized by such act.

"(b) CONTENTS OF ACTS.—Any such act creating a security interest in District revenues may contain provisions (which may be part of the contract with the holders of such bonds or notes)—

"(1) describing the particular District revenues which are subject to such security interest;

"(2) creating a reasonably required debt service reserve fund or any other special fund;

"(3) authorizing the Mayor of the District to execute a trust indenture securing the bonds or notes;

"(4) vesting in the trustee under such a trust indenture such properties, rights, powers, and duties in trust as may be necessary, convenient, or desirable;

"(5) authorizing the Mayor of the District to enter into and amend agreements concerning—

"(A) the custody, collection, use, disposition, security, investment, and payment of the proceeds of the bonds or notes and the District revenues which are subject to such security interest; and

"(B) the doing of any act (or the refraining from doing any act) that the District would have the right to do in the absence of such an agreement;

"(6) prescribing the remedies of the holders of the bonds or notes in the event of a default; and

"(7) authorizing the Mayor to take any other actions in connection with the issuance, sale, delivery, security, and payment of the bonds or notes.

"(c) TIMING AND PERFECTION OF SECURITY INTERESTS.—Notwithstanding article 9 of title 28 of the District of Columbia Code, any security interest in District revenues created under subsection (a) shall be valid, binding, and perfected from the time such security interest is created, with or without the physical delivery of any funds or any other property and with or without any further action. Such security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to such security interest is recorded or filed. The lien created by such security interest is valid, binding, and perfected with respect to any individual or legal entity having claims against the District, whether or not such individual or legal entity has notice of such lien.

"(d) OBLIGATIONS AND EXPENDITURES NOT SUBJECT TO APPROPRIATION.—The fourth sentence of section 446 shall not apply to any obligation or expenditure of any District revenues to secure any general obligation bond or note under subsection (a).".

SEC. 11506. AMENDMENT TO SECTION 472 (RELATING TO BORROWING IN ANTICIPATION OF REVENUES).

Section 472 of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–328) is amended by striking all after the heading and inserting the following:

"SEC. 472. (a) IN GENERAL.—In anticipation of the collection or receipt of revenues for a fiscal year, the Council may by act authorize the issuance of general obligation notes for such fiscal year, to be known as revenue anticipation notes.

"(b) LIMIT ON AGGREGATE NOTES OUTSTANDING.—The total amount of all revenue anticipation notes issued under subsection (a) outstanding at any time during a fiscal year shall not exceed 20 percent of the total anticipated revenue of the District for such fiscal year, as certified by the Mayor under this subsection. The Mayor shall certify, as of a date which occurs not more than 15 days before each original issuance of such revenue anticipation notes, the total anticipated revenue of the District for such fiscal year.

"(c) PERMITTED OUTSTANDING DURATION.—Any revenue anticipation note issued under subsection (a) may be renewed. Any such note, including any renewal note, shall be due and payable not later than the last day of the fiscal year during which the note was originally issued.

"(d) EFFECTIVE DATE OF AUTHORIZATION ACTS; PAYMENTS NOT SUBJECT TO APPROPRIATION.—

"(1) EFFECTIVE DATE.—Notwithstanding section 602(c)(1), any act of the Council authorizing the issuance of revenue anticipation notes under subsection (a) shall take effect—

"(A) if such act is enacted during a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), on the date of approval by the District of Columbia Financial Responsibility and Management Assistance Authority; or

"(B) if such act is enacted during any other year, on the date of enactment of such act.

"(2) PAYMENTS NOT SUBJECT TO APPROPRIATION.—The fourth sentence of section 446 shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any revenue anticipation note issued under subsection (a).".

SEC. 11507. ADDITION OF NEW SECTION 475 (RELATING TO GENERAL OBLIGATION BOND ANTICIPATION NOTES).

(a) IN GENERAL.—Subpart 2 of part E of title IV of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end the following new section:

"BOND ANTICIPATION NOTES

"SEC. 475. (a) AUTHORIZING ISSUANCE.—

"(1) IN GENERAL.—In anticipation of the issuance of general obligation bonds, the Council may by act authorize the issuance of general obligation notes to be known as bond anticipation notes in accordance with this section.

"(2) PURPOSES; PERMITTING ISSUANCE OF GENERAL OBLIGATION BONDS TO COVER INDEBTEDNESS.—The proceeds of bond anticipation notes issued under this section shall be used for the purposes for which general obligation bonds may be issued under section 461, and such notes shall constitute indebtedness which may be refunded through the issuance of general obligation bonds under such section.

"(b) MAXIMUM ANNUAL DEBT SERVICE AMOUNT.—The Act of the Council authorizing the issuance of bond anticipation notes shall set forth for the bonds anticipated by such notes an estimated maximum annual debt service amount based on an estimated schedule of annual principal payments and an estimated schedule of annual interest payments (based on an estimated maximum average annual interest rate for such bonds over a period of 30 years from the earlier of the date of issuance of the notes or the date of original issuance of prior notes in anticipation of those bonds). Such estimated maximum annual debt service amount as estimated at the time of issuance of the original bond anticipation notes shall be included in the calculation required by section 603(b) while such notes or renewal notes are outstanding.

"(c) PERMITTED OUTSTANDING DURATION.—Any bond anticipation note, including any renewal note, shall be due and payable not later than the last day of the third fiscal year following the fiscal year during which the note was originally issued.

"(d) GENERAL AUTHORITY OF COUNCIL.—If provided for in Act of the Council authorizing such an issue of bond anticipation notes, bond anticipation notes may be issued in succession, in such amounts, at such times, and bearing interest rates within the permitted maximum authorized by such Act.

"(e) EFFECTIVE DATE OF AUTHORIZATION ACTS; PAYMENTS NOT SUBJECT TO APPROPRIATION.—

"(1) EFFECTIVE DATE.—Notwithstanding section 602(c)(1), any act of the Council authorizing the renewal of bond anticipation notes under subsection (c) or the issuance of general obligation bonds under section 461(a) to refund any bond anticipation notes shall take effect—

"(A) if such act is enacted during a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), on the date of approval by the District of Columbia Financial Responsibility and Management Assistance Authority; or

"(B) if such act is enacted during any other year, on the date of enactment of such act.

"(2) PAYMENT NOT SUBJECT TO APPROPRIATION.—The fourth sentence of 446 shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any bond anticipation note issued under this section.".

(b) CLERICAL AMENDMENT.—The table of contents for the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end of the items relating to subpart 2 of part E of title IV the following new item:

"Sec. 475. Bond anticipation notes.".

SEC. 11508. AMENDMENT TO SECTION 490 (RELATING TO REVENUE BONDS AND OTHER OBLIGATIONS).ca

Section 490 of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–334), as amended by section 2 of the District of Columbia Water and Sewer Authority Act of 1996, is amended—

(1) in subsection (a)—

(A) by amending paragraphs (1) through (3) to read as follows:

"(a)(1) Subject to paragraph (2), the Council may by act or by resolution authorize the issuance of taxable and tax-exempt revenue bonds, notes, or other obligations to borrow money to finance, refinance, or reimburse and to assist in the financing, refinancing, or reimbursing of or for capital projects and other undertakings by the District or by any District instrumentality, or on behalf of any qualified applicant, including capital projects or undertakings in the areas of housing; health facilities; transit and utility facilities; manufacturing; sports, convention, and entertainment facilities; recreation, tourism and hospitality facilities; facilities to house and equip operations of the District government or its instrumentalities; public infrastructure development and redevelopment; elementary, secondary and college and university facilities; educational programs which provide loans for the payment of educational expenses for or on behalf of students; facilities used to house and equip operations related to the study, development, application, or production of innovative commercial or industrial technologies and social services; water and sewer facilities (as defined in paragraph (5)); pollution control facilities; solid and hazardous waste disposal facilities; parking facilities, industrial and commercial development; authorized capital expenditures of the District; and any other property or project that will, as determined by the Council, contribute to the health, education, safety, or welfare, of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District, and any facilities or property, real or personal, used in connection with or supplementing any of the foregoing; lease-purchase financing of any of the foregoing facilities or property; and any costs related to the issuance, carrying, security, liquidity or credit enhancement of or for revenue bonds, notes, or other obligations, including, capitalized interest and reserves, and the costs of bond insurance, letters of credit, and guaranteed investment, forward purchase, remarketing, auction, and swap agreements. Any such financing, refinancing, or reimbursement may be effected by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

"(2) Any revenue bond, note, or other obligation issued under paragraph (1) shall be a special obligation of the District and shall be a negotiable instrument, whether or not such revenue bond, note, or other obligation is a security as defined in section 28:8-102(1)(a) of title 28 of the District of Columbia Code.

"(3) Any revenue bond, note, or other obligation issued under paragraph (1) shall be paid and secured (as to principal, interest, and any premium) as provided by the act or resolution of the Council authorizing the issuance of such revenue bond, note, or other obligation. Any act or resolution of the Council, or any delegation of Council authority under subsection (a)(6), authorizing the issuance of revenue bonds, notes, or other obligations may provide for (A) the payment of such revenue bonds, notes, or other obligations from any available revenues, assets, property (including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities), and (B) the securing of such revenue bond, note, or other obligation by the mortgage of real property or the creation of a security interest in available revenues, assets, or other property (including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities).",

(B) by amending paragraph (4)(A) to read as follows:

"(4)(A) In authorizing the issuance of any revenue bond, note, or other obligation under paragraph (1), the Council may enter into, or authorize the Mayor to enter into, any agreement concerning the acquisition, use, or disposition of any available revenues, assets, or property. Any such agreement may create a security interest in any available revenues, assets, or property, may provide for the custody, collection, security, investment, and payment of any available revenues (including any funds held in trust) for the payment of such revenue bond, note, or other obligation, may mortgage any property, may provide for the acquisition, construction, maintenance, and disposition of the undertaking financed or refinanced using the proceeds of such revenue bond, note, or other obligation, and may provide for the doing of any act (or the refraining from doing of any act) which the District has the right to do in the absence of such agreement. Any such agreement may be assigned for the benefit of, or made a part of any contract with, any holder of such revenue bond, note, or other obligation issued under paragraph (1).", and

(C) by adding at the end the following new paragraph:

"(6)(A) The Council may by act delegate to any District instrumentality the authority of the Council under subsection (a)(1) to issue taxable or tax-exempt revenue bonds, notes, or other obligations to borrow money for the purposes specified in this subsection. For purposes of this paragraph, the Council shall specify for what undertakings revenue bonds, notes, or other obligations may be issued under each delegation made pursuant to this paragraph. Any District instrumentality may exercise the authority and the powers incident thereto delegated to it by the Council as described in the first sentence of this paragraph only in accordance with this paragraph and shall be consistent with this paragraph and the terms of the delegation.

"(B) Revenue bonds, notes, or other obligations issued by a District instrumentality under a delegation of authority described in subparagraph (A) shall be issued by resolution of that instrumentality, and any such resolution shall not be considered to be an act of the Council.

"(C) Nothing in this paragraph shall be construed as restricting, impairing, or superseding the authority otherwise vested by law in any District instrumentality.";

(2) by amending subsection (b) to read as follows:

"(b) No property owned by the United States may be mortgaged or made subject to any security interest to secure any revenue bond, note, or other obligation issued under subsection (a)(1).";

(3) by amending subsection (c) to read as follows:

"(c) Any and all such revenue bonds, notes, or other obligations issued under subsection (a)(1) shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or taxing power of the District (other than with respect to any dedicated taxes) and shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings for purposes of section 602(a)(2).";

(4) by amending subsection (f) to read as follows:

"(f) The fourth sentence of section 446 shall not apply to—

"(1) any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligations issued under subsection (a)(1);

"(2) any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued under subsection (a)(1);

"(3) any amount obligated or expended pursuant to provisions made to secure any revenue bond, note, or other obligations issued under subsection (a)(1); and

"(4) any amount obligated or expended pursuant to commitments made in connection with the issuance of revenue bonds, notes, or other obligations for repair, maintenance, and capital improvements relating to undertakings financed through any revenue bond, note, or other obligation issued under subsection (a)(1)."; and

(5) by adding at the end the following new subsections:

"(i) The revenue bonds, notes, or other obligations issued under subsection (a)(1) are not general obligation bonds of the District government and shall not be included in determining the aggregate amount of all outstanding obligations subject to the limitation specified in section 603(b).

"(j) The issuance of revenue bonds, notes, or other obligations by the District where the ultimate obligation to repay such revenue bonds, notes, or other obligations is that of one or more non-governmental persons or entities may be authorized by resolution of the Council. The issuance of all other revenue bonds, notes, or other obligations by the District shall be authorized by act of the Council.

"(k) During any control period (as defined in section 209 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), any act or resolution of the Council authorizing the issuance of revenue bonds, notes, or other obligations under subsection (a)(1) shall be submitted to the District of Columbia Financial Responsibility and Management Assistance Authority for certification in accordance with section 204 of that Act. Any certification issued by the Authority during a control period shall be effective for purposes of this subsection for revenue bonds, notes, or other obligations issued pursuant to such act or resolution of the Council whether the revenue bonds, notes, or other obligations are issued during or subsequent to that control period.

"(l) The following provisions of law shall not apply with respect to property acquired, held, and disposed of by the District in accordance with the terms of any lease-purchase financing authorized pursuant to subsection (a)(1):

"(1) The Act entitled 'An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes', approved August 5, 1939 (53 Stat. 1211; DC Code sec. 9–401 et seq.).

"(2) Subchapter III of chapter 13 of title 16, District of Columbia Code.

"(3) Any other provision of District of Columbia law that prohibits or restricts lease-purchase financing.

"(m) For purposes of this section, the following definitions shall apply:

"(1) The term 'revenue bonds, notes, or other obligations' means special fund bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) used to borrow money to finance, assist in financing, refinance, or repay, restore or reimburse moneys used for purposes referred to in subsection (a)(1) the principal of and interest, if any, on which are to be paid and secured in the manner described in this section and which are special obligations and to which the full faith and credit of the District of Columbia is not pledged.

"(2) The term 'District instrumentality' means any agency or instrumentality (including an independent agency or instrumentality), authority, commission, board, department, division, office, body, or officer of the District of Columbia government duly established by an act of the Council or by the laws of the United States, whether established before or after the date of enactment of the District of Columbia Bond Financing Improvements Act of 1997.

"(3) The term 'available revenues' means gross revenues and receipts, other than general fund tax receipts, lawfully available for the purpose and not otherwise exclusively committed to another purpose, including enterprise funds, grants, subsidies, contributions, fees, dedicated taxes and fees, investment income and proceeds of revenue bonds, notes, or other obligations issued under this section.

"(4) The term 'enterprise fund' means a fund or account for operations that are financed or operated in a manner similar to private business enterprises, or established so that separate determinations may more readily be made periodically of revenues earned, expenses incurred, or net income for management control, accountability, capital maintenance, public policy, or other purposes.

"(5) The term 'dedicated taxes and fees' means taxes and surtaxes, portions thereof, tax increments, or payments in lieu of taxes, and fees that are dedicated pursuant to law to the payment of the debt service on revenue bonds, notes, or other obligations authorized under this section, the provision and maintenance of reserves for that purpose, or the provision of working capital for or the maintenance, repair, reconstruction or improvement of the undertaking to which the revenue bonds, notes, or other obligations relate.

"(6) The term 'tax increments' means taxes, other than the special tax provided for in section 481 and pledged to the payment of general obligation indebtedness of the District, allocable to the increase in taxable value of real property or the increase in sales tax receipts, each from a certain date or dates, in prescribed areas, to the extent that such increases are not otherwise exclusively committed to another purpose and as further provided for pursuant to an act of the Council.".

SEC. 11509. CONFORMING AMENDMENT.

The fourth sentence of section 446 of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–304) is amended to read as follows: "Except as provided in section 467(d), section 471(c), section 472(d)(2), section 475(e)(2), section 483(d), and section 490(f), (g), and (h)(3), no amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act.".

Subtitle G—District of Columbia Government Budget

SEC. 11601. ELIMINATION OF THE ANNUAL FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA.

(a) ELIMINATION OF PAYMENT.—

(1) IN GENERAL.—Title V of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–3406 et seq.) is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of contents of such Act is amended by striking the items relating to title V.

(b) CONFORMING AMENDMENTS.—

(1) HOME RULE ACT.—The District of Columbia Self-Government and Governmental Reorganization Act is amended as follows:

(A) In section 103(10) (DC Code, sec. 1–202(10)), by striking "the annual Federal payment to the District authorized under title V,".

(B) In section 483 (DC Code, sec. 47–331.2), by striking subsection (c).

(C) In section 603(c) (DC Code, sec. 47–313(c)), by striking the fourth sentence.

(D) In section 603(f)(1) (DC Code, sec. 47–313(f)(1)), by striking "(other than the fourth sentence)".

(2) FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT.—The District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended—

(A) by striking section 205 (DC Code, sec. 47–392.5); and

(B) in the table of contents for such Act, by striking the item relating to section 205.

(3) PROCUREMENT PRACTICES ACT.—Section 208(a)(2) of the District of Columbia Procurement Practices Act of 1985 (DC Code, sec. 1–1182.8(a)(2)) is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (B); and

(3) in subparagraph (B), as so redesignated, by striking "Amounts deposited in the dedicated fund described in subparagraph (B)" and inserting "Amounts appropriated for the Inspector General".

(4) DISTRICT OF COLUMBIA REVENUE ACT OF 1939.—The District of Columbia Revenue Act of 1939 (DC Code, sec. 47–3401 et seq.) is amended as follows:

(A) In section 603(b) (as redesignated by section 11402)—

(i) in paragraph (5), by adding "and" at the end;

(ii) in paragraph (6), by striking "; and" and inserting a period; and

(iii) by striking paragraph (7).

(B) In section 603(c) (as redesignated by section 11402), by amending subparagraph (C) to read as follows:

"(C) APPLICABLE LIMIT DEFINED.—In this paragraph, the 'applicable limit' for a fiscal year is equal to 15 percent of the total anticipated revenues of the District government for such fiscal year, as certified by the Mayor at the time of the Mayor's requisition for an advance.".

(C) In section 605(b) (as redesignated by section 11402)—

(i) by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3);

(ii) in paragraph (1) (as so redesignated), by striking "OTHER" in the heading;

(iii) in paragraph (1) (as so redesignated), by striking "If, after" and all that follows through "the Secretary" and inserting "The Secretary";

(iv) in paragraph (1) (as so redesignated), by striking "to individuals," and inserting "to individuals (including any Federal contribution authorized to be appropriated pursuant to section 11601(c)(2) of the Balanced Budget Act of 1997),";

(v) in paragraph (2) (as so redesignated), by striking "paragraphs (1) and (2)" and inserting "paragraph (1)"; and

(vi) in paragraph (3) (as so redesignated), by striking "(1) through (3)" and inserting "(1) and (2)".

(c) FEDERAL CONTRIBUTION TO OPERATIONS OF GOVERNMENT OF NATION'S CAPITAL.—

(1) FINDINGS.—Congress finds as follows:

(A) Congress has restricted the overall size of the District of Columbia's economy by limiting the height of buildings in the District and imposing other limitations relating to the Federal presence in the District.

(B) Congress has imposed limitations on the District's ability to tax income earned in the District of Columbia.

(C) The unique status of the District of Columbia as the seat of the government of the United States imposes unusual costs and requirements which are not imposed on other jurisdictions and many of which are not directly reimbursed by the Federal government.

(D) These factors play a significant role in causing the relative tax burden on District residents to be greater than the burden on residents in other jurisdictions in the Washington, D.C. metropolitan area and in other cities of comparable size.

(2) FEDERAL CONTRIBUTION.—There is authorized to be appropriated a Federal contribution towards the costs of the operation of the government of the Nation's capital—

(A) for fiscal year 1998, $190,000,000; and

(B) for each subsequent fiscal year, such amount as may be necessary for such contribution.

In determining the amount appropriated pursuant to the authorization under this paragraph, Congress shall take into account the findings described in paragraph (1).

SEC. 11602. REQUIREMENT THAT THE DISTRICT OF COLUMBIA BALANCE ITS BUDGET IN FY 1998.

(a) IN GENERAL.—Section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended—

(1) in subparagraph (A), by striking "1999" and inserting "1998"; and

(2) in subparagraph (B), by striking "1996, 1997, and 1998," and inserting "1996 and 1997,".

(b) CONFORMING AMENDMENT.—Section 603(f) of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–313(f)) is amended by striking "Act of 1995)—" and all that follows through "(2) the Council" and inserting "Act of 1995), the Council".

SEC. 11603. PERMITTING EXPEDITED SUBMISSION AND APPROVAL OF CONSENSUS BUDGET AND FINANCIAL PLAN.

(a) FINDINGS.—Congress finds the following:

(1) The District of Columbia Financial Responsibility and Management Assistance Act (hereafter in this subsection referred to as the "Act") was structured as to preserve the maximum prerogatives of each branch of elected self-government consistent with returning the District of Columbia to full financial stability and health.

(2) The Act was intended to eliminate unnecessary bureaucratic barriers and procedures throughout the District government, including the budget process.

(3) Preservation of home rule and self-government are consistent with cooperation between elected officials and the Authority in drawing the annual budget and other matters affecting the District of Columbia government, and are preferable to achieve greater efficiency, communication among the parties, and avoidance of conflict and delay.

(b) IN GENERAL.—Section 202 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by adding at the end the following new subsection:

"(i) EXPEDITED SUBMISSION AND APPROVAL OF CONSENSUS BUDGET AND FINANCIAL PLAN.—Notwithstanding any other provision of this section, if the Mayor, the Council, and the Authority jointly develop a financial plan and budget for the fiscal year which meets the requirements applicable under section 201 and which the Mayor, Council, and Authority certify reflects a consensus among them—

"(1) such financial plan and budget shall serve as the budget of the District government for the fiscal year adopted by the Council under section 446 of the District of Columbia Self-Government and Governmental Reorganization Act; and

"(2) the Mayor shall transmit the financial plan and budget to the President and Congress under such section.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply with respect to fiscal years beginning with fiscal year 1998.

SEC. 11604. INCREASE IN MAXIMUM AMOUNT OF PERMITTED DISTRICT BORROWING.

Section 603(b) of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 47–313(b)) is amended by striking "14 per centum" each place it appears in paragraph (1) and paragraph (3) and inserting "17 percent".

Subtitle H—Miscellaneous Provisions

CHAPTER 1—REGULATORY REFORM IN THE DISTRICT OF COLUMBIA

SEC. 11701. REVIEW AND REVISION OF REGULATIONS AND PERMIT AND APPLICATION PROCESSES.

(a) REVIEW OF CURRENT REGULATIONS BY AUTHORITY.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this title, the District of Columbia Financial Responsibility and Management Assistance Authority shall complete a review of regulations of the District of Columbia in effect as of the date of the enactment of this title and analyze the extent to which such regulations unnecessarily and inappropriately impair economic development in the District of Columbia and the financial stability and management efficiency of the District of Columbia government. To the greatest extent possible, such review shall take into account the work and recommendations of the Business Regulatory Reform Commission pursuant to the Business Regulatory Reform Commission Act of 1994 (DC Code, sec. 2–4101 et seq.) and other existing and ongoing public and private regulatory reform efforts. The Authority shall transmit the findings of its review to the Mayor, Council, and Congress.

(2) REVISION.—Based on the review conducted under paragraph (1) and taking into account actions by the Council and the Executive Branch of the District of Columbia government, the Authority shall take such additional actions as it considers appropriate to repeal or revise the regulations of the District of Columbia, in accordance with (and subject to the terms and conditions described in) section 207 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(b) SURVEY AND REVISION OF PERMIT AND APPLICATION PROCESSES.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this title, the Authority shall complete a review of the current processes of the District of Columbia for obtaining permits and applications of all types and analyze the extent to which such processes and their completion times vary from the processes applicable in other jurisdictions. To the greatest extent possible, such review shall take into account the work and recommendations of the Business Regulatory Reform Commission pursuant to the Business Regulatory Reform Commission Act of 1994 (DC Code, sec. 2–4101 et seq.) and other existing and ongoing public and private regulatory reform efforts. The Authority shall transmit the findings of its review to the Mayor, Council, and Congress.

(2) REVISION.—Based on the review conducted under paragraph (1) and taking into account actions by the Council and the Executive Branch of the District of Columbia government, the Authority shall take such additional actions as it considers appropriate to repeal or revise the permit and application processes (and their completion times) of the District of Columbia, in accordance with (and subject to the terms and conditions described in) section 207 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995. In carrying out such repeals or revisions, the Authority shall seek to ensure that the average time required to obtain a permit or application from the District of Columbia is consistent with the average time for other similar jurisdictions in the United States.

(c) REPORTS TO CONGRESS.—Upon the expiration of the 6-month period which begins on the date of the enactment of this title and on a quarterly basis thereafter, the Authority shall submit a report to Congress describing the steps taken to carry out the requirements of this section and the effectiveness of the regulatory, permit, and application processes of the District of Columbia.

SEC. 11702. REPEAL OF CLEAN AIR COMPLIANCE FEE ACT OF 1994.

(a) REPEAL.—

(1) IN GENERAL.—Effective March 21, 1995, the Clean Air Compliance Fee Act of 1994 is hereby repealed (DC Code, sec. 47–2731 et seq.), except as provided in subsection (b).

(2) CONFORMING AMENDMENT.—Section 2(b)(2) of the Stable and Reliable Source of Revenues for WMATA Act of 1982 (DC Code, sec. 1–2466(b)(2)) is amended by striking subparagraph (H).

(b) EXCEPTION FOR PROVISIONS EXEMPTING DELIVERY OF NEWSPAPERS FROM APPLICATION OF CERTAIN TAXES.—Subsection (a) shall not apply to section 14 of the Clean Air Compliance Fee Act of 1994.

SEC. 11703. REPEAL REQUIREMENT FOR CONGRESSIONAL AUTHORIZATION OF CERTAIN MERGERS INVOLVING DISTRICT OF COLUMBIA PUBLIC UTILITY CORPORATIONS.

Section 11 of the Act of March 4, 1913 (37 Stat. 1006; DC Code, sec. 43–802) is hereby repealed.

SEC. 11704. EXEMPTION OF CERTAIN CONTRACTS FROM COUNCIL REVIEW.

(a) IN GENERAL.—Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 1–1130, D.C. Code) is amended by adding at the end the following new subsection:

"(d) EXEMPTION FOR CERTAIN CONTRACTS.—The requirements of this section shall not apply with respect to any of the following contracts:

"(1) Any contract entered into by the Washington Convention Center Authority for preconstruction activities, project management, design, or construction.

"(2) Any contract entered into by the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, other than contracts for the sale or lease of the Blue Plains Wastewater Treatment Plant.

"(3) At the option of the Council, any contract for a highway improvement project carried out under title 23, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into on or after the date of the enactment of this title.

CHAPTER 2—OTHER MISCELLANEOUS PROVISIONS

SEC. 11711. REVISIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT.

(a) USE OF INTEREST ON ACCOUNTS OF AUTHORITY FOR BENEFIT OF DISTRICT.—Section 106 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (DC Code, sec. 47–391.6) is amended by adding at the end the following new subsection:

"(d) USE OF INTEREST ON ACCOUNTS FOR DISTRICT.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Authority may transfer or otherwise expend any amounts derived

from interest earned on accounts held by the Authority on behalf of the District of Columbia for such purposes as it considers appropriate to promote the economic stability and management efficiency of the District government.

"(2) SPENDING NOT SUBJECT TO APPROPRIATION BY CONGRESS.—Notwithstanding subsection (a)(3), any amounts transferred or otherwise expended pursuant to paragraph (1) may be obligated or expended without approval by Act of Congress.".

(b) APPOINTMENT OF INSPECTOR GENERAL.—Section 303(e)(1) of such Act (DC Code, sec. 1-1182.8 note) is amended by striking "the Authority" and inserting "the Mayor".

SEC. 11712. COOPERATIVE AGREEMENTS BETWEEN FEDERAL AGENCIES AND METROPOLITAN POLICE DEPARTMENT.

(a) AGREEMENTS.—Each covered Federal law enforcement agency may enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia, including taking appropriate action to enforce subsection (e) (except that nothing in such an agreement may be construed to grant authority to the United States to prosecute violations of subsection (e)).

(b) CONTENTS OF AGREEMENT.—An agreement entered into between a covered Federal law enforcement agency and the Metropolitan Police Department pursuant to this section may include agreements relating to—

(1) sending personnel of the agency on patrol in areas of the District of Columbia which immediately surround the area of the agency's jurisdiction, and granting personnel of the agency the power to arrest in such areas;

(2) sharing and donating equipment and supplies with the Metropolitan Police Department;

(3) operating on shared radio frequencies with the Metropolitan Police Department;

(4) permitting personnel of the agency to carry out processing and papering of suspects they arrest in the District of Columbia; and

(5) such other items as the agency and the Metropolitan Police Department may agree to include in the agreement.

(c) COORDINATION WITH U.S. ATTORNEY'S OFFICE.—Agreements entered into pursuant to this section shall be coordinated in advance with the United States Attorney for the District of Columbia.

(d) COVERED FEDERAL LAW ENFORCEMENT AGENCIES DESCRIBED.—In this section, the term "covered Federal law enforcement agency" means any of the following:

(1) United States Capitol Police.

(2) United States Marshals Service.

(3) Library of Congress Police.

(4) Bureau of Engraving and Printing Police Force.

(5) Supreme Court Police.

(6) Amtrak Police Department.

(7) Department of Protective Services, United States Holocaust Museum.

(8) Government Printing Office Police.

(9) United States Park Police.

(10) Bureau of Alcohol, Tobacco, and Firearms.

(11) Drug Enforcement Administration.

(12) Federal Bureau of Investigation.

(13) Criminal Investigation Division, Internal Revenue Service.

(14) Department of the Navy Police Division, Naval District Washington.

(15) Naval Criminal Investigative Service.

(16) 11th Security Police Squadron, Bolling Air Force Base.

(17) United States Army Military District of Washington.

(18) United States Customs Service.

(19) Immigration and Naturalization Service.

(20) Postal Inspection Service, United States Postal Service.

(21) Uniformed Division, United States Secret Service.

(22) United States Secret Service.

(23) National Zoological Park Police.

(24) Federal Protective Service, General Services Administration, National Capital Region.

(25) Defense Protective Service, Department of Defense Washington Headquarters Services.

(26) Office of Protective Services, Smithsonian Institution.

(27) Office of Protective Services, National Gallery of Art.

(28) United States Army Criminal Investigation Command, Department of the Army Washington District, 3rd Military Police Group.

(29) Marine Corps Law Enforcement.

(30) Department of State Diplomatic Security.

(31) United States Coast Guard.

(32) United States Postal Police.

(e) CERTAIN PROHIBITED ACTIVITY.—Effective with respect to conduct occurring on or after the date of the enactment of this title, whoever in the District of Columbia knowingly and willfully obstructs any bridge connecting the District of Columbia and the Commonwealth of Virginia—

(1) shall be fined not less than $1,000 and not more than $5,000, and in addition may be imprisoned not more than 30 days; or

(2) if applicable, shall be subject to prosecution by the District of Columbia under the provisions of District law and regulation amended by the Safe Streets Anti-Prostitution Amendment Act of 1996 (D.C. Law 11-130).

SEC. 11713. PERMITTING GARNISHMENT OF WAGES OF OFFICERS AND EMPLOYEES OF DISTRICT OF COLUMBIA GOVERNMENT.

Section 2 of D.C. Law 2-14 (DC Code, sec. 1-516) is amended—

(1) by striking "After July 25" and inserting "(a) After July 25"; and

(2) by adding at the end the following new subsection:

"(b) After October 1, 1997, wages salaries, annuities, retirement and disability benefits, and other remuneration based upon employment, or other income owed by, due from, and payable by the government of the District of Columbia to any individual shall be subject to attachment, garnishment, assignment, or withholding in accordance with subchapter III of chapter 5 of title 16 of the District of Columbia Code in the same manner and to the same extent as if the government of the District of Columbia were a private person.".

SEC. 11714. PERMITTING EXCESS APPROPRIATIONS BY WATER AND SEWER AUTHORITY FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 445A of the District of Columbia Self-Government and Governmental Reorganization Act (DC Code, sec. 43-1691), as added by section 4(a) of the District of Columbia Water and Sewer Authority Act of 1996, is amended—

(1) by striking "The District" and inserting "(a) IN GENERAL.—The District"; and

(2) by adding at the end the following new subsection:

"(b) PERMITTING EXPENDITURE OF EXCESS REVENUES FOR CAPITAL PROJECTS IN EXCESS OF BUDGET.—Notwithstanding the amount appropriated for the District of Columbia Water and Sewer Authority for capital projects for a fiscal year, if the revenues of the Authority for the year exceed the estimated revenues of the Authority provided in the annual budget of the District of Columbia for the fiscal year, the Authority may obligate or expend an additional amount for capital projects during the year equal to the amount of such excess revenues.".

(b) CONFORMING AMENDMENT.—The fourth sentence of section 446 of such Act (DC Code, sec. 47-304), as amended by section 2(c)(2) of the District of Columbia Water and Sewer Authority Act of 1996, is amended by striking "in section 467(d)" and inserting "in section 445A(b), section 467(d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1996.

SEC. 11715. REQUIRING CERTAIN FEDERAL OFFICIALS TO PROVIDE NOTICE BEFORE CARRYING OUT ACTIVITIES AFFECTING REAL PROPERTY LOCATED IN DISTRICT OF COLUMBIA.

(a) HEADS OF FEDERAL AGENCIES.—

(1) IN GENERAL.—Except as provided in subsection (d), the head of any Federal agency may not carry out any activity that affects real property located in the District of Columbia unless—

(A) not later than 60 days before carrying out such activity, the head of the agency provides a notice describing such activity and the property affected to the Administrator of General Services and the Administrator of General Services transmits such notice to the individuals described in subsection (c); and

(B) the head of the agency provides the individuals described in subsection (c) with the opportunity to present oral or written comments on the activity to a representative of the head of the agency before the head of the agency carries out the activity.

(2) FEDERAL AGENCY DEFINED.—In subsection (a), the term "Federal agency" means an executive department (as defined in section 101 of title 5, United States Code).

(b) ARCHITECT OF THE CAPITOL.—Except as provided in subsection (d), the Architect of the Capitol may not carry out any activity that affects real property located in the District of Columbia unless—

(1) not later than 60 days before carrying out such activity, the Architect provides a notice describing such activity and the property affected to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate and such Committees transmit such notice to the individuals described in subsection (c); and

(2) the Architect provides the individuals described in subsection (c) with the opportunity to present oral or written comments on the activity to a representative of the Architect before the Architect carries out the activity.

(c) INDIVIDUALS DESCRIBED.—The individuals described in this paragraph (with respect to the activity and the real property involved) are the Mayor of the District of Columbia, the Chair of the Council of the District of Columbia, and the Chair of the Advisory Neighborhood Commission (as established pursuant to section 738 of the District of Columbia Self-Government and Governmental Reorganization Act) in whose neighborhood such property is located.

(d) EXCEPTION FOR EMERGENCIES.—The head of a Federal agency or the Architect of the Capitol may waive the requirements of subsection (a) if the head of the agency or the Architect finds that compliance with the requirements would jeopardize the public safety or the national security interests of the United States, but only if the head of the agency or the Architect—

(1) certifies such finding and the reasons for such finding to the individuals described in subsection (c) and to Congress; and

(2) at the earliest time practicable, provides such individuals with the notice described in paragraph (1) of subsection (a) or (b) (whichever is applicable) and the opportunity to present comments described in paragraph (2) of subsection (a) or (b).

(e) EFFECTIVE DATE.—Section 1 shall apply to activities carried out after the expiration of the 60-day period that begins on the date of the enactment of this title.

SEC. 11716. REPEAL TERM OF DEED OF CONVEYANCE TO CERTAIN HOSPITAL.

Secton 2 of the Act of June 6, 1952 (chapter 486; 66 Stat. 288) (DC Code, sec. 32–121) is hereby repealed.

SEC. 11717. SHORT TITLE OF HOME RULE ACT.

(a) IN GENERAL.—Section 101 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking "District of Columbia Self-Government and Governmental Reorganization Act" and inserting "District of Columbia Home Rule Act".

(b) REFERENCES IN LAW.—Any reference in law or regulation to the District of Columbia Self-Government and Governmental Reorganization Act shall be deemed to be a reference to the District of Columbia Home Rule Act.

CHAPTER 3—EFFECTIVE DATE; GENERAL PROVISIONS

SEC. 11721. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.

SEC. 11722. TECHNICAL ASSISTANCE

Any Federal agency (as defined in section 101 of title 31, United States Code) may provide, at the discretion of the head of the agency, technical assistance to, and training for, personnel of the Government of the District of Columbia. Such assistance shall be limited to assistance that does not interfere with the mission of the agency. The authority provided by this section shall expire three years from the date of enactment of this statute.

SEC. 11723. LIABILITY.

(a) DISTRICT OF COLUMBIA.—The District of Columbia shall defend any civil action or proceeding pending on the effective date of this title in any court or other official municipal, state, or federal forum against the District of Columbia or its officers, employees, or agents, and shall assume any liability resulting from such an action or proceeding.

(b) STATE JUSTICE INSTITUTE.—The State Justice Institute shall not be liable for damages or equitable relief on the basis of the activities or operations of any federal or District of Columbia agency which receives funds through the State Justice Institute pursuant to this title.

(c) UNITED STATES.—The United States, its officers, employees, and agents, and its agencies shall not—

(1) be responsible for the payment of any judgments, liabilities or costs resulting from any action or proceeding against the District of Columbia or its agencies, officers, employees, or agents;

(2) be subject to liability in any case on the basis of the activities of the District of Columbia or its agencies, officers, employees, or agents; or

(3) be subject to liability in any case under section 1979 of the Revised Statutes (42 U.S.C. 1983).

(d) LIMITATIONS.—Nothing in this section shall be construed as a waiver of sovereign immunity, or as limiting any other defense or immunity that would otherwise be available to the United States, the District of Columbia, their agencies, officers, employees, or agents.

And the Senate agree to the same.

For consideration of the House bill, and the Senate amendment, and modifications committed to conference:

John R. Kasich,
David L. Hobson,
Richard K. Armey,
Tom DeLay,
J. Dennis Hastert,
John M. Spratt, Jr.,
David E. Bonior,
Vic Fazio.

As additional conferees from the Committee on Agriculture, for consideration of title I of the House bill, and title I of the Senate amendment, and modifications committed to conference:

Robert Smith,
Bob Goodlatte,
Charles W. Stenholm.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference:

James A. Leach,
Rick Lazio.

As additional conferees from the Committee on Commerce, for consideration of subtitles A–C of title III of the House bill, and title IV of the Senate amendment, and modifications committed to conference:

Tom Bliley,
Dan Schaefer,
John D. Dingell.

As additional conferees from the Committee on Commerce, for consideration of subtitle D of title III of the House bill, and subtitle A of title III of the Senate amendment, and modifications committed to conference:

Tom Bliley,
Billy Tauzin.

As additional conferees from the Committee on Commerce, for consideration of subtitles E and F of title III, titles IV and X of the House bill, and divisions 1 and 2 of title V of the Senate amendment, and modifications committed to conference:

Tom Bliley,
Michael Bilirakis.

As additional conferees from the Committee on Education and the Workforce, for consideration of subtitle A of title V and subtitle A of title IX of the House bill, and chapter 2 of division 3 of title V of the Senate amendment, and modifications committed to conference:

Bill Goodling,
Jim Talent.

As additional conferees from the Committee on Education and the Workforce, for consideration of subtitles B and C of title V of the House bill, and title VII of the Senate amendment, and modifications committed to conference:

Bill Goodling,
Howard "Buck" McKeon,
Dale E. Kildee.

As additional conferees from the Committee on Education and the Workforce, for consideration of subtitle D of title V of the House bill, and chapter 7 of division 4 of title V of the Senate amendment, and modifications committed to conference:

Donald M. Payne.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of title VI of the House bill, and subtitle A of title VI of the Senate amendment, and modifications committed to conference:

Dan Burton,
John L. Mica.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of title VII of the House bill, and subtitle B of title III and subtitle B of title VI of the Senate amendment, and modifications committed to conference:

Bud Shuster,
Wayne T. Gilchrest,
James L. Oberstar.

As additional conferees from the Committee on Veterans' Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

Bob Stump,
Christopher H. Smith,
Lane Evans.

As additional conferees from the Committee on Ways and Means, for consideration of subtitle A of title V and title IX of the House bill, and divisions 3 and 4 of title V of the Senate amendment, and modifications committed to conference:

Bill Archer,
E. Clay Shaw, Jr.,
Dave Camp,
Charles B. Rangel,
Sander M. Levin.

As additional conferees from the Committee on Ways and Means, for consideration of titles IV and X of the House bill, and division 1 of title V of the Senate amendment, and modifications committed to conference:

Bill Archer,
William Thomas.

Managers on the part of the House.

From the Committee on the Budget:

Pete Domenici,
Chuck Grassley,
Don Nickles,
Phil Gramm,
Frank Lautenberg.

From the Committee on Agriculture, Nutrition, and Forestry:

Dick Lugar.

From the Committee on Banking, Housing, and Urban Affairs:

Alfonse D'Amato,
Richard Shelby,
Paul Sarbanes.

From the Committee on Commerce, Science and Transportation:

John McCain,
Ted Stevens,
(Except for provisions in universal service fund).

From the Committee on Energy and Natural Resources:

Frank H. Murkowski,
Larry E. Craig.

From the Committee on Finance:

Bill Roth,
Trent Lott,
Daniel P. Moynihan.

From the Committee on Governmental Affairs:

Fred Thompson,
Ms. Susan Collins.

From the Committee on Veterans' Affairs:

Arlen Specter,
Strom Thurmond,
John Rockefeller.

Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2015) to provide for reconciliation pursuant to sections 104 to 105 of the concurrent resolution on the budget for fiscal year 1997, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—AGRICULTURE

EXEMPTION FROM THE WORK REQUIREMENT OF SECTION 6(O) OF THE FOOD STAMP ACT

CURRENT LAW

Section 6(o) of the Food Stamp Act generally provides that able-bodied adults between 18 and 50 years of age (and without dependents) are ineligible if, during the prior 36 months, they received food stamps for 3 months while not working at least 20 hours a week or participating in an approved work/training activity. If they re-establish eligibility by working or participating in a work/training activity, and then become unemployed or leave work/training, they are eligible for one extra 3-month period—for a potential total of 6 months of eligibility (without working or participating in a work/training program) in any 36-month period.

[Sec. 6(o)(1), (2), (5), & (6).]

Individual excepted from the section 6(o) work requirement include: Those under 18 or over 50; those medically certified as unfit for employment; parents/caretakers with responsibility for a dependent child; pregnant women; and those otherwise exempt under food stamp employment and training rules (e.g., caretakers of incapacitated persons, participants in substance abuse treatment programs, those subject to unemployment compensation work registration rules).

[Sec. 6(o)(3).]

At a state agency's request, the Secretary may waive application of the section 6(o) work requirement for areas that: (1) have an unemployment rate over 10% or (2) lack "a sufficient number of jobs."

[Sec. 6(o)(4).]

HOUSE BILL

Exemption

In addition to current-law exceptions and waiver authority, permits state agencies to exempt from the section 6(o) work requirement up to 15% of those to whom the requirement applies. [Section 1001]

Inserts a new sec. 6(o)(5), entitled "15-Percent Exemption".

Definitions

"Caseload" is defined as the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 20.

"Covered Individual" is defined as a food stamp recipient (or person denied eligibility solely because of the section 6(o) work requirement) who: (1) is not excepted from the requirements of section 6(o), (2) does not reside in an area covered by a waiver of the requirements of section 6(o), (3) is not complying with the work or work/training activity requirements of section 6(o), (4) is not in the first 3 months of eligibility under section 6(o), and (5) is not in the second 3 months of eligibility under section 6(o).

Fiscal year 1998

Provides that the number of exemptions from the section 6(o) work requirement granted by state agencies must be such that the average monthly number of exemptions in effect during the year does not exceed 15% of the number of "covered individuals" in the state. The number of covered individuals for each state is to be estimated by the Secretary based on the food stamp program's "quality control" survey for fiscal year 1996 and other factors the Secretary considers appropriate because of the timing and limitations of the survey.

Each subsequent fiscal year

As with fiscal year 1998, provides that the number of exemptions granted by state agencies in subsequent years must be such that the average monthly number of exemptions of effect during the year does not exceed 15% of the number of "covered individuals" in the state. The number of covered individuals for each state is to be estimated by the Secretary using the number estimated for fiscal year 1998—adjusted to reflect changes in the state's "caseload" and the Secretary's estimate of changes in the proportion of food stamp recipient covered by waivers.

Caseload adjustments

Provides that the Secretary must adjust estimates of covered individuals for a state during any fiscal year if the number of food stamp recipients varies by a significant number from the caseload during the 12 months ending June 30 of the preceding fiscal year—as determined by the Secretary.

Exemption adjustments

During fiscal year 1999 and each subsequent year, provides that the Secretary must increase or decrease the number of individuals who may be granted an exemption by a state agency to the extent that the average monthly number of exemptions in effect during the preceding fiscal year was smaller or greater than the state agency's 15% allowance.

Reporting requirement

Requires that state agencies submit such reports as the Secretary determines necessary to ensure compliance with the 15% exemption rule.

SENATE AMENDMENT

Same as the House Bill, with minor and technical differences, noted below. [Section 1001.]

Inserts a new sec. 6(o)(6), entitled "15-Percent Hardship Exemption".

Technical drafting difference in the fourth condition of the definition of "covered individual".

Caseload adjustments are the same as the House bill except that an adjustment must be made if the number of food stamp recipients varies from the caseload during the 12 months ending June 30 of the preceding fiscal year by more than 10%.

Exemption adjustments are the same as the House bill except for a technical difference.

CONFERENCE AGREEMENT

Senate recedes on all references to "hardship" exemption.

House recedesion technical difference in the fourth condition of "covered individual".

House recedes on caseload adjustment.

Senate recedes on technical drafting difference in the exemption adjustment.

[Section 1001.]

ADDITIONAL FUNDING FOR EMPLOYMENT AND TRAINING

1. Added Federal Funding

CURRENT LAW

The Secretary is required to reserve the following amounts to allocate to state agencies for employment and training programs for food stamp recipients: For fiscal year 1998, $81 million; for fiscal year 1999, $84 million; for fiscal year 2000, $86 million; for fiscal year 2001, $88 million; and for fiscal year 2002, $90 million.

No state matching is required to receive these funds. Minimum state allocations are set at $50,000.

[Sec. 16(h)(1).]

HOUSE BILL

Increases the amounts required to be reserved for employment and training programs to: For fiscal year 1998, $221 million; for fiscal year 1999, $224 million; for fiscal year 2000, $226 million; for fiscal year 2001, $228 million; and for fiscal year 2002, $210 million.

Unlike current law, the amounts reserved are to remain available until expended. Retains minimum state allocations of $50,000.

[Sec. 1002(a); new sec. 16(h)(1)(A)&(E).]

SENATE AMENDMENT

Same as the House Bill, except that the amount to be reserved for fiscal year 2002 is less—$170 million.

[Sec. 1002; new sec. 16(h)(1)(A)&(D).]

CONFERENCE AGREEMENT

Senate recedes with an amendment to increase the amounts required to be reserved for employment and training programs as follows: For fiscal year 1998, $81 million, with an additional amount of $131 million; for fiscal year 1999, $84 million, with an additional amount of $131 million; for fiscal year 2000, $86 million, with an additional amount of $131 million; for fiscal year 2001, $88 million, with an additional amount of $131 million; and for fiscal year 2002, $90 million, with an additional amount of $75 million.

[Sec. 1002(a); new sec. 16(h)(1)(A)&(D).]

2. Limit on use of funds for TANF recipients

CURRENT LAW

The amount of employment and training funding a state agency may use for its Temporary Assistance for Needy Families (TANF) recipients may not exceed the amount used for Aid to Families with Dependent Children (AFDC) recipients in fiscal year 1995.

[Sec. 6(d)(4)(K).]

HOUSE BILL

Prohibts the use of unmatched federal funds for TANF recipients.

[Sec. 1002(a); new sec. 16(h)(1)(B)(i).]

SENATE AMENDMENT

No comparable provision.

CONFERENCE AGREEMENT

House recedes.

3. Use of funds for recipients not excepted from the section 6(o) work requirement.

CURRENT LAW

No provision.

HOUSE BILL

Requires that not less than 80% of unmatched federal funding be used for employment and training programs—other than job search or job search training—for recipients not excepted from the section 6(o) work requirement (not categorically excepted on the basis of age, fitness to work, etc.).

[Sec. 1002(a); new sec. 16(h)(1)(B)(ii).]

SENATE AMENDMENT

Requires that not less than 75% of unmatched federal funding be used to serve recipients who: (1) are not excepted from the section 6(o) work requirement and (2) are placed in and comply with a work program—other than Job Training Partnership Act or Trade Adjustment Assistance programs—that meets the eligibility standards of section 6(o) (e.g., participation in a workfare program or a work/training program for 20 hours a week).

[Sec. 1002; new sec. 16(h)(1)(F).]

CONFERENCE AGREEMENT

House recedes with an amendment to require 80% of unmatched federal funding to be used to serve recipients who: (1) are not excepted from the section 6(o) work requirement; and (2) are placed in and comply with a work program including Job Training

Partnership Act and the Trade Adjustment Assistance programs, that meets the eligibility standards of section 6(o) (e.g. participation in a workfare program or a work/training program for 20 hours per week.)

[Sec. 1002(a); new sec. 16(h)(1)(E).]

4. Allocation and re-allocation of federal funds

CURRENT LAW

The Secretary must allocate unmatched federal funds among state agencies using a reasonable formula—determined by the Secretary—that gives consideration to the population in each state affected by the section 6(o) work requirement.

State agencies must notify the Secretary if they determine that they will not expend all of the unmatched federal funds allocated to them. On notification, the Secretary must reallocate these unexpended funds as the Secretary considers appropriate and equitable.

[Sec. 16(h)(1)(C).]

HOUSE BILL

Requires the Secretary to allocate unmatched federal funds using a reasonable formula set by the Secretary that reflects each state's proportion of food stamp recipients who (1) are not excepted from the section 6(o) work requirement and (2) do not reside in an area subject to a waiver from the section 6(o) work requirement. However, if a state agency provides employment and training services to non-excepted recipients in an area subject to a waiver, recipients in that area would be counted in determining a state's allocation.

States' proportions of non-excepted recipients would be adjusted each fiscal year for changes in the state's caseload (in the 12 months ending the preceding June 30).

Requires state agencies to submit such reports as the Secretary determines are necessary to ensure compliance with funding allocation and reallocation rules.

No change from current law regarding the reallocation of federal unmatched funds.

[Sec. 1002(a); new sec. 16(h)(1)(C) &(D).]

SENATE AMENDMENT

Requires the Secretary to allocate unmatched federal funds using a reasonable formula set by the Secretary that reflects each state's proportion of food stamp recipients who are not excepted from the section 6(o) work requirement.

States' proportions of non-excepted recipients would be estimated by the Secretary based on the fiscal year 1996 "quality control" survey and other factors the Secretary considers appropriate because of the timing and limitations of the survey and adjusted each fiscal year for changes in each state's caseload (in the 12 months ending the preceding June 30).

No comparable reporting requirement.

If a state agency will not expend all of the unmatched federal funds allocated to it for a fiscal year, requires the Secretary to reallocate the unexpended funds—during the fiscal year or the subsequent fiscal year —as the Secretary considers appropriate and equitable.

[Sec. 1002; new sec. 16(h)(1)(B) & (C).]

CONFERENCE AGREEMENT

Senate recedes on the allocation of unmatched funds with an amendment that for fiscal year 1998, the Secretary would allocate funds according to the Senate amendment.

House recedes on the Secretary's estimate of states' proportions of non-excepted recipients based on the "quality control" survey.

Senate recedes on reporting requirement.

House recedes on reallocation of unexpended funds.

[Sec. 1002(a); new sec. 16(h)(1)(B)&(C).]

5. Placements

CURRENT LAW

No provisions.

HOUSE BILL

No comparable provisions.

SENATE AMENDMENT

Provides that state agencies are eligible to receive unmatched federal funds (up to the amount of their allocation, including any reallocations) in an amount equal to the sum of:

(1) the average monthly number of non-excepted recipients placed in and complying with a work program—other than a Job Training Partnership Act or Trade Adjustment Assistance program—that meets the eligibility standards of section 6(o) (e.g., participation in a workfare program or a work/training program for 20 hours a week), multiplied by an amount determined by the Secretary (and periodically adjusted) to reflect the reasonable cost of efficiently and economically providing services that meet the eligibility standards of section 6(o); plus

(2) the average monthly number of non-excepted recipients in employment and training activities that do not meet the eligibility standards of section 6(o), multiplied by a lesser amount determined by the Secretary (and periodically adjusted) to reflect the reasonable cost of efficiently and economically providing services that do not meet the eligibility standards of section 6(o).

[Sec. 1002; new sec. 16(h)(1)(E).]

CONFERENCE AGREEMENT

House recedes with an amendment to require the Secretary to monitor state agencies' expenditure of funds for employment training programs provided under this paragraph, including the costs of individual components of state agencies' programs. The Secretary may determine the reimbursable costs of employment and training components, and, if the Secretary makes such a determination, the Secretary shall determine that the amounts spent or planned to be spent on the components reflect the reasonable cost of efficiently and economically providing components appropriate to recipient employment and training needs, taking into account, as the Secretary deems appropriate, prior expenditures on the components, the variability of costs among state agencies' components, the characteristics of the recipients to be served, and such other factors as the Secretary considers necessary.

The conferees intend that the Secretary will exercise the authority to determine employment and training costs so that state agencies have reasonable flexibility in designing employment and training programs for those covered by the work requirement for 18-50 year olds. This authority should not be used to effectively restrict state agencies' choices to one employment and training component, such as providing only workfare or only training positions. However, it also is intended to allow the Secretary to circumscribe the makeup and costs of state agencies' employment and training components for 18-50 year olds so that costs are reasonable and are not excessive and the components are commensurate with participants' employment and training requirements. The Secretary may issue guidelines that allow a mix of components and costs that the Secretary determines to be reasonable.

[Sec. 1002(a); new sec. 16(h)(1)(G).]

6. Maintenance of Effort

CURRENT LAW

No provision.

HOUSE BILL

In order to receive additional unmatched federal funding (above the amounts set in current law), state agencies must maintain their expenditures for employment and training and workfare programs for food stamp recipients at a level not less than their expenditures for fiscal year 1996.

[Sec. 1002(a); new sec. 16(h)(1)(F).]

SENATE AMENDMENT

In order to receive any unmatched federal funding, state agencies must maintain their expenditures for employment and training and workfare programs for food stamp recipients at a level not less than 75% of their expenditures for fiscal year 1996.

[Sec. 1002; new sec. 16(h)(1)(G).]

CONFERENCE AGREEMENT

Senate recedes with a technical amendment.

[Sec. 1002(a); new sec. 16(h)(1)(F).]

7. Additional payments to states

CURRENT LAW

If a state agency incurs costs that exceed the unmatched federal funds allocated to it for employment and training programs, the Secretary is required to pay 50% of additional costs.

[Sec. 16(h)(2).]

HOUSE BILL

No change to current law.

SENATE AMENDMENT

If a state agency incurs costs to place individuals in employment and training programs and does not use unmatched federal funds to defray those costs, requires the Secretary to pay 50% of the costs incurred.

[Sec. 1002; new sec. 16(h)(2).]

CONFERENCE AGREEMENT

Senate recedes.

8. Report to Congress

CURRENT LAW

No provision.

HOUSE BILL

Requires the Secretary to submit annual reports to the Agriculture Committees regarding whether the additional employment and training funding provided in this measure has been used by state agencies to increase the number of work/training slots for recipients subject to the section 6(o) work requirement in the most efficient and effective manner.

[Sec. 1002(a); new sec. 16(h)(2).]

SENATE AMENDMENT

No comparable provision.

CONFERENCE AGREEMENT

Senate recedes with an amendment to require the Secretary to submit one report not later than 30 months after the date of enactment.

[Section 1002(b).]

AUTHORIZING THE USE OF NONGOVERNMENTAL PERSONNEL IN MAKING DETERMINATIONS OF ELIGIBILITY FOR BENEFITS UNDER THE FOOD STAMP PROGRAM

CURRENT LAW

State agencies must certify eligibility in accordance with general procedures set by the Secretary in regulations, and state agency personnel must be employed in accordance with current federal "merit system" standards.

[Sec. 11(e)(6).]

HOUSE BILL

Provides that no provision of law be construed as preventing any state from allowing eligibility determinations to be made by an entity that is not a state or local government (or by an individual who is not a state or local government employee)—so long as state-set qualifications are met. Determinations made by the non-governmental entity or individual would be considered as made by the state agency.

Provides that this authority not be construed as affecting conditions of eligibility, rights to challenge eligibility determinations, and "quality control" determinations.

[Sec. 1003.]

SENATE AMENDMENT

No comparable provisions.

CONFERENCE AGREEMENT

House recedes. The Managers understand that this issue is addressed in another section of the Conference Report.

DENIAL OF FOOD STAMPS FOR PRISONERS

CURRENT LAW

No provisions.

HOUSE BILL

[Note: The House Bill does not contain an amendment dealing with food stamps and prisoners. However, H.R. 1000 (approved by the House on April 8, 1997) requires state agencies to establish a system and take action on a periodic basis to verify and otherwise assure that an individual who is officially detained in a correctional, detention, or penal facility administered under federal or state law is not considered to be part of any food stamp household—except to the extent that the Secretary determines that extraordinary circumstances have made it impracticable for the state agency to obtain the necessary information.]

SENATE AMENDMENT

Requires state agencies to establish a system and take action on a periodic basis to verify and otherwise ensure that an individual placed under detention in a federal, state, or local penal, correctional, or other detention facility (for more than 30 days) is not eligible to participate as a member of any food stamp household—except that (1) the Secretary may determine that extraordinary circumstances make it impracticable for a state agency to obtain the necessary information and (2) state agencies obtaining information collected under the Social Security Administration's system for identifying prisoner recipients (or a comparable system) will be judged to be in compliance.

Provides that this new requirement will take effect 1 year after enactment—except that the Secretary may grant an extension (not to exceed 2 years after enactment) if a request is submitted stating the reasons for noncompliance, providing evidence of a good faith effort, and detailing a plan for bringing the state into compliance.

Requires the Secretary to assist states ' to the maximum extent practicable—in implementing systems to carry out the new requirement regarding prisoners.

[Sec. 1003.]

CONFERENCE AGREEMENT

House recedes.

[Section 1003.]

NUTRITION EDUCATION

CURRENT LAW

No provisions. [Note: Nutrition education funds provided under the Food Stamp Act cannot typically be matched with specifically earmarked non-governmental funds.]

HOUSE BILL

No comparable provisions.

SENATE AMENDMENT

Requires the Secretary to make available up to $600,000 a year (for fiscal years 1998-2001) for special nutrition education grants to private nonprofit organizations and state agencies.

Provides that eligible organizations and agencies will be those that agree to (1) use the funds to 'direct a collaborative effort to coordinate and integrate nutrition education into health, nutrition, social service, and food distribution programs for food stamp participants and other low-income households,' and (2) design the collaborative effort 'to reach large number of food stamp participants and other low-income households through a network of organizations, including schools, child care centers, farmers' markets, health clinics, and outpatient education services.'

Requires the Secretary to give preference to organizations and state agencies that conducted 'collaborative efforts' and received funding for them from the Secretary prior to enactment.

Limits the federal contribution to 50%, bars in-kind matching contributions, and allows the non- federal share to include private nongovernmental funds. No grant may exceed $200,000 a year. [Sec. 1004.]

CONFERENCE AGREEMENT

House recedes with an amendment to clarify that the federal share of a grant can not exceed $200,000; and the amendments in sections 1001 and 1002 of this title dealing with exemptions and additional funding for employment and training programs shall be effective on October 1, 1997, without regard to whether regulations have been issued to implement such amendments. Within one year after the date of enactment of this Act, the Secretary shall prescribe such regulations as may be necessary to implement the amendments made by this title.

[Sections 1004 and 1005.]

TITLE II—HOUSING, AND RELATED PROGRAMS

Section 2002—Extension of Foreclosure Avoidance and Borrower Assistance Provisions for FHA Single Family Housing Mortgage Insurance Program

HOUSE BILL

The House bill would extend permanently the FHA Assignment Reforms from Section 407 of the Balanced Budget Downpayment Act, I. Section 407 amended Sections 204(a) and 230 of the National Housing Act to authorize HUD, under the replacement assignment program, to pay mortgagees for undertaking loss mitigation measures and to restrict HUD's ability to accept assignments of mortgages. It reforms the assignment process to achieve cost savings comparable to those achieved in the private sector by working out delinquent loans to avoid foreclosure and minimizing losses to the mortgage insurer.

SENATE AMENDMENT

The Senate language is identical.

CONFERENCE AGREEMENT

The Conference agreement includes this language.

Section 2003—Adjustment of Maximum Monthly Rents For Certain Dwelling Units In New Construction and Substantial or Moderate Rehabilitation Projects Assisted Under Section 8 Rental Assistance Program

HOUSE BILL

The House bill would provide limitations on the application of the annual adjustment factor (AAF) for FY 1999, and subsequent years, for Section 8 New Construction, Substantial Rehabilitation, or Moderate Rehabilitation projects where the rents are adjusted using the AAF and the rents are in excess of the fair market rents ("FMRs") for that housing area. For such projects, the Secretary may adjust rents, but only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for a similar unassisted unit. For FY 1998, it is expected that the HUD appropriations Act will continue this same policy, which has been in effect during FY 1996, FY 1996 prior to April 26, 1996, and FY 1997.

SENATE AMENDMENT

The Senate language is identical.

CONFERENCE AGREEMENT

The conference agreement includes this language.

Section 2004—Adjustment of Maximum Monthly Rents for Non-Turnover Dwelling Units Assisted Under Section 8 Rental Assistance Program

HOUSE BILL

The House provision would reduce the Annual Adjustment Factor (AAF) by one percentage point, for FY 1999 and subsequent fiscal years, for those Section 8 units in which there has been no turnover since the preceding annual rental adjustment, except that the AAF shall not be reduced to less than 1.0% (so rents will not be reduced because of the one percentage point reduction). For FY 1998, it is expected that the HUD appropriations Act will continue this same policy, which has been in effect during FY 1996, FY 1996 prior to April 26, 1996, and FY 1997.

SENATE AMENDMENT

The Senate language is identical.

CONFERENCE AGREEMENT

The conference agreement includes this language.

Subtitle B—Multifamily Housing Reform

HOUSE BILL

There is no comparable provision in the House bill.

SENATE AMENDMENT

Provides a FHA-Insured multifamily housing mortgage and housing assistance restructuring program, and other multifamily housing reform measures.

CONFERENCE AGREEMENT

Senate recedes to the House.

TITLE III—COMMUNICATIONS AND SPECTRUM ALLOCATION PROVISIONS

Sec. 3001. Definitions

HOUSE BILL

Sections 3302 and 3303(f) of the House bill define both "digital television service" and "analog television service."

SENATE AMENDMENT

Sections 3002 and 3003(h) of the Senate amendment have similar definitions of "digital television service" and "analog television service."

CONFERENCE AGREEMENT

Section 3001 of the conference agreement states that, unless otherwise specified, terms used in this title have the same meaning as those terms have in the Communications Act of 1934. The section also amends the Communications Act of 1934 (hereinafter the Communications Act) to add the definitions of "analog television service" and "digital television service" to section 3 of that Act. The conference agreement adopts the House definition of analog television service, and adopts the House definition of digital television service with a modification that ties the definition to the Commission's rules.

Sec. 3002. Spectrum auctions

HOUSE BILL

The House bill extended and expanded the Federal Communication Commission's authority to use competitive bidding to assign licenses for the use of the electromagnetic spectrum until December 31, 2002, required the Commission to make available through competitive bidding 100 megahertz (MHz) of additional spectrum by September 30, 2002, specified the specific bands of frequencies from which the 100 MHz was to be obtained, required the National Telecommunications and Information Administration (NTIA) to submit a report identifying additional government spectrum that can be made available for non-government use upon submission of a report by the Commission, and required the NTIA to identify and reallocate for non-government use an additional 20 MHz of government use spectrum. The House bill included an effective date for the expanded competitive bidding authority that precluded its application to licenses or permits for which the Commission had accepted mutually exclusive applications on or before the date of enactment.

SENATE AMENDMENT

The Senate amendment contained provisions similar to the House bill, but differed in three respects. The Senate amendment extended the Commission's competitive bidding authority until 2007, did not identify specific bands of frequencies for 55 of the 100 MHz required to be made available by the Commission, and included a provision that required winning bidders for former government-use spectrum to pay the costs of relocating federal users from the bidder's licensed band to other frequency bands. The Senate amendment did not specify an effective date for the expansion of the Commission's auction authority.

CONFERENCE AGREEMENT

Section 3002(a)—extension and expansion of auction authority

The Senate recedes to the House with amendments on the extension and expansion of the Commission's competitive bidding authority. First, the conferees emphasize that, notwithstanding its expanded auction authority, the Commission must still ensure that its determinations regarding mutual exclusivity are consistent with the Commission's obligations under section 309(j)(6)(E). The conferees are particularly concerned that the Commission might interpret its expanded competitive bidding authority in a manner that minimizes its obligations under section 309(j)(6)(E), thus overlooking engineering solutions, negotiations, or other tools that avoid mutual exclusivity.

Second, the exemption from competitive bidding authority for "public safety radio services" includes "private internal radio services" used by utilities, railroads, metropolitan transit systems, pipelines, private ambulances, and volunteer fire departments. Though private in nature, the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public. This service exemption also includes radio services used by not-for-profit organizations that offer emergency road services, such as the American Automobile Association (AAA). The Senate included this particular exemption in recognition of the valuable public safety service provided by emergency road services. The conferees do not intend this exemption to include internal radio services used by automobile manufacturers and oil companies to support emergency road services provided by those parties as part of the competitive marketing of their products. The conferees note that the public safety radio services exemption described herein is much broader than the explicit definition for "public safety services" contained in section 3004 of this title (adding new section 337(f)(1) to the Communications Act).

The Senate recedes to the House on the omission of an auction exemption for licenses to offer global satellite services. The conferees note that this omission should not be construed as a Congressional endorsement of auctions for licenses to offer global satellite services. The treatment of global satellite systems raises numerous public policy questions beyond the issue of spectrum auctions. These issues are not germane to budget legislation and are better handled in the context of substantive legislation.

The Senate recedes to the House with regard to the provision that requires the Commission to conduct a test of combinatorial bidding. The conferees expect that the Commission will conduct the contingent combinatorial auction required by this section as soon as possible. The Commission should, consistent with non-discriminatory procedures for government procurement of goods and services, test methods available in the private sector which may assist the Commission in successfully conducting competitive bidding. The conferees also expect that the Commission will provide a report to the Congress on the outcome of that test. Such report shall include a detailed analysis of the impact of such bidding on the ability of small businesses and new entrants to participate effectively in the bidding process.

The Senate recedes to the House on two provisions relating to the design of the Commission's auction rules. First, to ensure that scarce spectrum is put to its highest and best use, the Commission is now required to allow an adequate period of time before each auction (1) to permit parties to comment on proposed auction rules, and (2) after the issuance of such rules, to ensure that interested parties have sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment. Second, the Commission must also prescribe methods by which a reasonable reserve price will be required, or a minimum bid will be established, for any license or permit assigned by means of auction.

The House recedes to the Senate with an amendment regarding the Commission's authority to retain competitive bidding receipts to offset its costs of conducting competitive bidding from the proceeds of such bidding. The amendment provides that the Commission may retain no auction receipts in any fiscal year in which the Commission's annual report for the second preceding fiscal year does not contain an itemized statement of each expenditure made with receipts retained in that year. For example, if the Commission's annual report for fiscal year 1997 does not contain such an itemized statement, then the Commission would be unable to retain any receipts from competitive bidding to offset its costs for competitive bidding in fiscal year 1999. The conferees intend that the Commission will comply with both the letter and the spirit of this amendment.

The House recedes to the Senate on the extension of the Commission's auction authority until September 30, 2007. The Senate recedes to the House on the acceleration of the termination date of the Commission's program that provides for preferential treatment in licensing (i.e., "pioneer's preference").

The conferees adopted a provision that repeals the Commission's lottery authority for all applications other than for licenses for non-commercial educational and public broadcast stations as defined in section 397(6) of the Communications Act. This provision does not prevent the Commission from awarding licenses for such stations through the competitive bidding process.

The conferees adopted a new provision with respect to the applicability of competitive bidding to pending comparative licensing cases. New section 309(l) of the Communications Act requires the Commission to use competitive bidding to resolve any mutually exclusive applications for radio or television broadcast licenses that were filed with the Commission prior to July 1, 1997. The Commission shall limit the class of eligible applicants who may be considered qualified bidders (provided such applicants otherwise qualify under the Commission's rules) to the persons who filed applications with the Commission before that date. The Commission shall also waive its rules to permit competing applicants to procure the removal of conflict between their applications during the 180 days following enactment of this title.

Any mutually exclusive applications for radio or television broadcast licenses received after June 30, 1997, shall be subject to the Commission's rules regarding competitive bidding, including applications for secondary broadcast services such as low power television, television translators, and television booster stations. The conferees recognize that there are instances where a single application for a radio or television broadcast license has been filed with the Commission, but that no competing applications have been filed because the Commission has yet to open a filing window. In these instances, the conferees expect that, regardless of whether the application was filed before, on or after July 1, 1997, the Commission will provide an opportunity for competing applications to be filed, consistent with the Commission's procedures. Furthermore, if and when competing applications are filed, the Commission shall assign such licenses using the competitive bidding procedures developed under section 309(j) as amended.

Section 3002(b)—accelerated availability of spectrum

The conference agreement modifies the language in the House bill and Senate amendment to accelerate the planned competitive bidding for 45 MHz of spectrum in the 1710 to 1755 MHz frequency band from government to non-government use. The conferees intend that government station use of the frequencies to be reallocated pursuant to this section shall be terminated or modified in accordance with the plan outlined in the February 1995 Spectrum Reallocation Final Report by the NTIA. The conferees note that Appendix F of the NTIA report identifies sites at which certain Federal fixed microwave, tactical radio relay, and aeronautical mobile stations in the 1710 to 1755 MHz band will be retained indefinitely. Nothing in the accelerated timetable specified in this section shall be construed to require the reallocation of frequencies within the 1710 to 1755 MHz band that the NTIA report recommends for continued exclusive use by the government.

Section 3002(c)—obligation to make additional spectrum available

The conference agreement adopts with clarifying amendments the House provision requiring the Commission to allocate an additional 55 MHz of spectrum for assignment to licensees using competitive bidding under section 309(j) of the Communications Act. Specifically, under the conference agreement, 40 MHz in the 2110 to 2150 MHz band, and 15 MHz in the 1990 to 2110 MHz band, are identified for assignment by competitive bidding. The Commission or the President, as the case may be, are given the authority to substitute other bands of frequencies for those identified under certain conditions. As to the 15 MHz located between 1990 to 2110 MHz, the conferees expect that the President will carefully consider the taxpayers clear interest in continued government use of the 1990 to 2110 MHz band for space research and exploration activities. The President is permitted to identify other frequencies for reallocation whenever such frequencies can be expected to result in comparable receipts through competitive bidding.

The Commission is directed to accommodate incumbent licensees who may be displaced under this section in whatever suitable frequencies the Commission has available to it for reallocation. To the extent the Commission cannot find any such frequencies, the Commission is directed to notify the Secretary of Commerce and recommend bands of frequencies reserved for government use that could be used to accommodate the displaced incumbents.

Section 3002(d)—Identification and reallocation of frequencies

The House recedes to the Senate with modifications to the amendments made to the NTIA Organization Act. New section 113(f) of the NTIA Organization Act requires the Secretary of Commerce to respond in a timely fashion to a notice from the Commission requesting government spectrum to accommodate displaced incumbent licensees.

New section 113(g) of the NTIA Organization Act permits Federal entities to receive reimbursement for their costs of relocating from government spectrum that is reallocated to mixed or non-government use. The conference agreement adopts language that was passed by both Houses of Congress in 1995, with minor modifications. The modified language permits private parties to reimburse Federal entities for the costs of relocation to facilitate the private party's use of the spectrum. The conferees intend that each federal entity will keep an itemized accounting of all of its costs for each relocation, and will provide such accounting to the appropriate committees of Congress as an addendum to that entity's budget submission for the next fiscal year.

This amendment puts Federal entities in the same position as private parties when winning bidders seek to relocate incumbent private parties from their existing frequency allocation. The conferees expect that, where a winning bidder decides it is in its financial interest to do so, this authority will provide a mechanism for the expeditious relocation of Federal entities from spectrum reallocated to non-government use or allocated to mixed government and non-government use.

The conference agreement also adds new sections 113(h) and 113(i) of the NTIA Organization Act. Section 113(h) requires Federal entities to make every effort to relocate their licensed use to other frequencies reserved for government use. Section 113(i) defines "Federal entity." The conferees note that the United States Postal Service qualifies as a federal entity under this definition.

Section 3002(e)—Identification and reallocation of auctionable frequencies

The conference agreement combines the provisions of the House bill and Senate amendment to require the Secretary of Commerce to identify 20 MHz of spectrum currently reserved for government use for reallocation to commercial uses. The reallocated spectrum is to be assigned using competitive bidding pursuant to section 309(j) of the Communications Act. The Commission is required to submit and implement a plan, in a timely fashion, for the reallocation and assignment of the 20 MHz identified in this section. Finally, this section amends sections 113 and 115 of the NTIA Organization Act in several places so that the identification and reallocation are accomplished through a second reallocation report under that Act.

The conferees considered expanding the total reallocation under section 3002(e) to allow for additional allocations for private wireless users, but were unable to do so within the context of the Reconciliation process. Nevertheless, the conferees expect the Commission and the NTIA to consider the need to allocate additional spectrum for shared or exclusive use by private wireless services in a timely manner.

Sec. 3003. Auction of recaptured broadcast television spectrum

HOUSE BILL

Section 3302 of the House bill adds a new section 309(j)(14) to the Communications Act of 1934 to require the Commission to reclaim the 6 MHz broadcasters now use for analog transmission by no later than December 31, 2006. The House bill also required Commission to grant extensions to broadcasters in those markets where more than five percent of the households continue to rely exclusively on an over-the-air, analog broadcast signal.

Section 3302 of the House bill directs the Commission to assign by means of competitive bidding the 78 MHz that is reclaimed from incumbent broadcast licensees. The Commission would be required to complete assignment of licenses for new uses of the reclaimed spectrum by September 30, 2002. To the extent that the Commission reallocates the reclaimed spectrum for services that include digital television service, section 3302 precludes the Commission from disqualifying a potential bidder due to the Commission's duopoly or newspaper cross-ownership rules.

SENATE AMENDMENT

Section 3002 of the Senate amendment adds a new section 309(j)(15) to the Communications Act of 1934 to require the Commission to reclaim the 6 MHz broadcasters now use for analog transmission by no later than December 31, 2006. Under the Senate amendment the Commission is required to extend or waive this date for any television station in any television market unless 95 percent of the households have access to digital television signals, either by direct off-air reception or by other means.

The Senate amendment requires the Commission to report to Congress by December 31, 2001 and biennially thereafter on consumer purchases of analog and digital television receivers, the costs of digital televisions, and the percentage of television households in each market that has access to digital local television signals. Section 3002 of the Senate amendment also requires the Commission to assign by means of competitive bidding the 78 MHz that is reclaimed from incumbent broadcast licensees. The Commission would be required to commence the competitive bidding procedures by July 1, 2001 and complete assignment of licenses for new uses of the reclaimed spectrum by September 30, 2002.

CONFERENCE AGREEMENT

The conference agreement adopts modified provisions from both the House bill and the Senate amendment. Section 3003 of the conference agreement adds a new section 309(j)(14)(A) to the Communications Act to require the Commission to reclaim the 6 MHz each broadcaster now uses for transmission of analog television service signals by no later than December 31, 2006.

The conferees recognize that not all consumers and broadcast stations will convert to the new digital television service format at the same time. Thus, to ensure that a significant number of consumers in any given market are not left without broadcast television service as of January 1, 2007, the conference agreement includes new section 309(j)(14)(B) of the Communications Act which requires the Commission to grant extensions to any station in any television market if any one of the following three conditions exist.

First, the Commission is required to grant an extension at the request of any television station in a market if one or more of the television stations licenses to or affiliated with the four largest national television networks in that market are not broadcasting a digital television service signal. Before granting an extension for this reason, the Commission must ensure that each of the network stations that are not broadcasting a digital television signal have exercised due diligence and have satisfied the conditions for an extension of the Commission's applicable construction deadlines for digital television service in that market.

Second, the Commission is required to grant an extension if it finds that digital-to-analog converter technology is not generally available in the market served by the television broadcast licensee requesting the extension. The conferees are hopeful that, in light of section 304 of the Telecommunications Act of 1996 (which requires the Commission to issue rules allowing for the competitive availability of navigation devices) and current industry projections, converter technology should be generally available as of December 31, 2006.

Lastly, the Commission is required to grant an extension if at least fifteen (15) percent or more of the television households in the market served by the television station requesting the extension (1) do not subscribe to a multichannel video programming distributor (MVPD) that carries one or more of the digital television service programming channels of each of the television stations broadcasting such a channel in such market, and (2) do not have either one or more digital television sets or one or more analog television sets equipped with a digital-to-analog converter technology that are capable of receiving the digital television service signals of local broadcast stations.

The conferees emphasize that, with regard to the inquiry required by section 309(j)(14)(B)(iii)(I) into MVPD carriage of local digital television service programming, Congress is not attempting to define the scope of any MVPD's "must carry" obligations for digital television signals. The conferees recognize that the Commission has not yet addressed the "must carry" obligations with respect to digital television service signals, and the conferees are leaving that decision for the Commission to make at some point in the future. However, for purposes of the inquiry under this section, a television household must receive at least one programming signal from each local television station broadcasting a digital television service signal in order not to be counted toward the 15 percent threshold. In addition, the conferees recognize that this analysis will impose additional burdens on the Commission. Consequently, the conferees expect that the Commission will pursue this analysis only if it first concludes that a station does not qualify for an extension under the network digital television broadcast test or the converter technology test.

In establishing the requirements for the 15 percent test, the conferees sought to establish objective criteria that could be determined by "yes" or "no" answers obtained from consumers surveyed in the relevant market. The conferees expect that the Commission will perform its own analysis, and that it will base this analysis of both the converter technology test and the 15 percent test on statistically reliable sampling techniques. A broadcast television licensee requesting the extension and other interested parties are to be afforded an opportunity to submit information and comment on the Commission's analysis with respect to those tests.

New section 309(j)(14)(C) requires the Commission to ensure that the spectrum now used for analog television service is returned as required by Commission direction and that the Commission must reclaim and reorganize the spectrum, consistent with the objectives of section 309(j)(3) of the Communications Act. It also requires the Commission to assign by means of competitive bidding the 78 MHz that is reclaimed from incumbent broadcast licensees and to complete assignment of licenses for new uses of the reclaimed spectrum by September 30, 2002.

The conference agreement adopts, with modification, the provision of the House bill prohibiting the Commission from disqualifying potential bidders for reclaimed spectrum that is allocated to a use that includes digital television service due to the Commission's duopoly or newspaper cross-ownership rules. The conferees expect that, by limiting the application of these ownership rules, winning bids for the recaptured analog spectrum will be higher than they otherwise would be. Specifically, if the pool of bidders for the recaptured analog spectrum is expanded to include broadcast station owners and newspaper owners, then other auction participants may be forced to raise their bids if they expect to prevail.

Thus, under new section 309(j)(14)(D) of the Communications Act, a waiver of these ownership rules would apply whenever the grade A contour is projected to encompass the entirety of a city that has a population greater than 400,000 (as determined by the 1990 decennial census). The conferees do not intend that the duopoly and television-newspaper cross-ownership relief provided herein should have any bearing upon the Commission's current proceedings, which concerns more immediate relief. The conferees expect that the Commission will proceed with its own independent examination in these matters. Specifically, the conferees expect that the Commission will provide additional relief (e.g., VHF/UHF combinations) that it finds to be in the public interest, and will implement the permanent grandfather requirement for local marketing agreements as provided in the Telecommunications Act of 1996.

Sec. 3004. Allocation and assignment of new public safety services

HOUSE BILL

The House bill directs the Commission to reallocate on a national, regional, or market basis 24 MHz of spectrum between 746 and 806 MHz (inclusive) to public safety services, unless the Commission finds that the needs of public safety can be met in particular areas with allocations of less than 24 MHz. The Commission must allocate the remainder of the spectrum located between 746 and 806 MHz for commercial use, and to assign these commercial licenses by means of competitive bidding.

In the event the immediate need for public safety spectrum cannot be met due to the unavailability of spectrum between 746 and 806 MHz, the House bill requires the Commission to permit public safety licensees to use unassigned frequencies outside those channels. The House bill also directs the Commission to make its best efforts to accommodate certain qualifying low-power television stations once it completes its reallocation and assignment responsibilities under this section.

SENATE AMENDMENT

The Senate amendment directs the Commission, in consultation with the Secretary of Commerce and the Attorney General, to reallocate 24 MHz of spectrum between 746 and 806 MHz (inclusive) for public safety services. The Commission must allocate 36 MHz of spectrum between 746 and 806 MHz for commercial use, and assign these commercial licenses by means of competitive bidding.

In the event the immediate need public safety spectrum cannot be met due to the unavailability of spectrum between 746 and 806 MHz, the Senate bill requires the Commission to permit public safety licensees to use unassigned frequencies outside those channels.

CONFERENCE AGREEMENT

The House recedes to the Senate with a modification. A new section 337 is added to the Communications Act which requires the Commission to reallocate 24 MHz of spectrum between 746 and 806 MHz (inclusive) for public safety services. In doing so, the Commission must consult with the Secretary of Commerce and the Attorney General. Section 337(a) requires the Commission to allocate 36 MHz in that same band for commercial use, with the licenses to be assigned by competitive bidding.

New section 337(b) of the Communications Act directs the Commission to commence assignment of the public safety licenses no later than September 30, 1998. In addition, the Commission must begin assignment of the commercial licenses by competitive bidding after January 1, 2001.

New section 337(c) requires the Commission to waive any provisions of the Communications Act or the Commission's rules (other than those relating to harmful interference) to the extent necessary to permit the use of unassigned frequencies available to the Commission for the provision of public safety services. The conferees recognize that, in heavily congested markets, sufficient spectrum may not be available between 746 and 806 MHz for public safety services. The intent of the conferees is that public safety agencies that demonstrate a need for spectrum are not denied the use of unassigned frequencies that have lain fallow for an extended period of time.

Before granting applications under this subsection, the Commission must make five specific findings. First, spectrum must not be immediately available on a frequency already allocated to public safety services. Second, the public safety service use for which the unassigned frequency is requested must not interfere with uses of that spectrum by other co-primary users already licensed to use that frequency band. Third, the use of the unassigned frequency must be consistent with other public safety services in that geographic area, in order to ensure that interoperability of public safety services is not retarded by the allocation of that frequency for such use. Fourth, the unassigned frequency must have been allocated to the use for which it has not yet been assigned at least two years prior to the date on which the application for public safety service use is granted. This fourth requirement will ensure that the Commission is given ample time to assign licenses for recently allocated spectrum before that spectrum can be assigned to public safety services. And fifth, the Commission must determine that granting the application is consistent with the public interest.

New section 337(d) establishes certain conditions on those licensees that will operate between 746 and 806 MHz both during and after the transition to digital television service. The conferees expect that, for the period during the transition, the Commission will ensure that full-power analog and digital television licensees will operate free of interference from public safety service licensees, and conversely, that public safety service licensees will operate free of interference from analog and digital television licensees. The conferees also expect that the Commission will ensure that public safety service licensees continue to operate free of interference from any new commercial licensees.

New section 337(e) requires the Commission to clear all broadcast television licensees from the spectrum located between 746 and 806 MHz at the end of the transition to digital television. The conferees recognize that in clearing this band, the Commission will displace not only full-power licensees but also secondary broadcast services, including low-power licensees and television translator licensees. Consequently, the conferees expect that the Commission will seek to assure, consistent with its digital television table of allotments, that certain qualifying low-power licensees (as defined in new section 337(f)(2)) are assigned frequencies below 746 MHz. The conferees also urge the Commission to accommodate television translator stations to the maximum extent practicable, consistent with the digital television table of allotments and the requirement to accommodate low power television stations pursuant to section 337(e)(2)

Sec. 3005. Flexible use of the electromagnetic spectrum

HOUSE BILL

The House bill contains no comparable provision.

SENATE AMENDMENT

Section 3004 of the Senate amendment added a new section 303(y) regarding spectrum flexibility. Specifically, the Commission is required to allocate spectrum to provide for flexibility of use if flexible use (1) is consistent with international agreements, (2) is required by public safety allocations, (3) is in the public interest, (4) will not deter investment in services and technology, or (5) will not result in harmful interference among users.

CONFERENCE AGREEMENT

The House recedes to the Senate with modifications. The conferees find that, while flexible allocation of spectrum can, under the right circumstances, result in more innovative and productive use of the spectrum, unlimited flexibility can introduce a level of entrepreneurial uncertainty that could ultimately retard the development of new services and technology. These modifications are intended to permit the Commission to allocate spectrum for flexible use under procedures and pursuant to conditions designed to avoid the problems unlimited flexibility can cause. Specifically, new section 303(y) of the Communications Act provides that the Commission is permitted, but not required, to allocate spectrum for flexible use if the Commission finds that such use is in the public interest, will not deter investment in telecommunications services and technology, and will not produce harmful interference, and is consistent with international agreements to which the United States is a party.

The conferees do not intend to require the Commission to initiate a separate notice seeking comment on these issues prior to proposing to allocate spectrum for flexible use. New section 303(y) only requires that the Commission specifically seek comment in the allocation proceeding itself on whether any proposed flexible allocation meets the criteria enumerated in section 303(y), and make appropriate findings in the context of issuing a final decision in the allocation proceeding.

Sec. 3006. Universal service fund payment schedule

HOUSE BILL

Section 3305 of the House bill requires the Treasury, for fiscal year 2001, to appropriate 2 billion dollars to the universal service fund established under part 54 of the Commission's rules, in addition to any other revenues required to be collected under such part. The House bill further provides that expenditures from the universal service fund, for fiscal year 2002, shall not exceed the amount of revenue to be collected for that fiscal year, less 2 billion dollars.

SENATE AMENDMENT

The Senate amendment has no comparable provision.

CONFERENCE AGREEMENT

The Senate recedes to the House with modifications. Section 3006(a) of this title provides for an appropriation of $3 billion to the universal service fund for fiscal year 2001, to be repaid in fiscal year 2002 from the amounts collected by the fund. Section 3006(b) further provides for a deferral, from 2001 to 2002, of $3 billion of the amounts paid into the fund by interstate telecommunications carriers or providers. Section 3006(c) states that the purposes for which amounts are expended from the fund should not be affected, whether the amounts come from the appropriation or payments into the fund. The conferees for this title are concerned about the precedent set by this section and its possible impacts on universal service in the United States.

Sec. 3007. Deadline for collection

HOUSE BILL

Section 3304(b) of the House bill requires the Commission to conduct any competitive bidding required by the House bill in a manner that ensures that the proceeds from the auctions are deposited in accordance with section 309(j)(8) of the Communications Act of 1934 by September 30, 2002.

SENATE AMENDMENT

The Senate amendment contains no comparable provision.

CONFERENCE AGREEMENT

The Senate recedes to the House, with the modification that the deadline applies to all competitive bidding provisions in this title of the conference agreement and any amendments to other law made in this title.

Sec. 3008. Administrative procedures for spectrum auctions

HOUSE BILL

Section 3304(a) of the House bill either waives or limits several requirements of existing law to expedite the commencement and completion of the competitive bidding required under the House bill. The waivers and limitations affected by procedures that apply both before and after the competitive bidding occurs.

SENATE AMENDMENT

The Senate amendment contains no comparable provision.

CONFERENCE AGREEMENT

The Senate recedes to the House, with a modification. Specifically, section 3008 of this title prohibits the Commission from granting a license under this title earlier than 7 days after the Commission releases a public notice announcing that the application for such license has been accepted for filing. This section also requires the Commission to provide at least 5 days following the public notice for the filing of petitions to deny such application.

ESTABLISHMENT OF MEDICAREPLUS/MEDICARE CHOICE PROGRAM

Sections 10001 and 4001 of House bill and Section 5001 of Senate amendment

CURRENT LAW

Persons enrolling in Medicare have two basic coverage options. They may elect to obtain services through the traditional fee-for-service system under which program payments are made for each service rendered. Under Section 1876 of the Social Security Act, they may also elect to enroll with a managed care organization which has entered into a payment agreement with Medicare. Three types of managed care organizations are authorized to contract with Medicare: an entity that has a risk contract with Medicare, an entity that has a cost contract with Medicare, or a health care prepayment plan (HCPP) that has a cost contract to provide Medicare Part B services. Risk-contracts are frequently referred to as TEFRA risk contracts and cost contracts are frequently referred to as TEFRA cost contracts. TEFRA refers to the 1982 legislation, the Tax Equity and Fiscal Responsibility Act of 1982, which established the rules governing these types of contracts.

A beneficiary in an area served by a health maintenance organization (HMO) or competitive medical plan (CMP) with a Medicare risk contract may voluntarily choose to enroll in the organization. (A CMP is a health plan that is not a federally qualified HMO but that meets specific Medicare requirements.) Medicare makes a single monthly capitation payment for each of its enrollees. In return, the entity agrees to provide or arrange for the full range of Medicare services through an organized system of affiliated physicians, hospitals and other providers. The beneficiary must obtain all covered services through the HMO or CMP, except in emergencies. The beneficiary may be charged the usual cost-sharing charges or pay the equivalent in the form of a monthly premium to the organization. Beneficiaries are expected to share in any of the HMO's/CMP's projected cost savings between Medicare's capitation payment and what it would cost the organization to provide Medicare benefits to its commercial enrollees through the provision of additional benefits. (It could also return the "savings" to Medicare.)

Beneficiaries may also enroll in organizations with TEFRA cost contracts. These entities must meet essentially the same conditions of participation as risk contractors; however they may have as few as 1,500 enrollees (rather than 5,000) to qualify. Under a cost contract, Medicare pays the actual cost the entity incurs in furnishing covered services (less the estimated value of beneficiary cost-sharing). Enrollees obtain supplemental benefits by paying a monthly premium. The entity must offer a basic package (which covers all or a portion of Medicare cost-sharing charges); any additional benefits must be priced separately. (Conversely, a risk-contractor may offer just one package.) Enrollees in TEFRA cost-contract entities may obtain services outside the entity's network; however, the entity has no obligation to cover the beneficiary's cost-sharing in this case.

A third type of managed care arrangement is the HCPP. A HCPP arrangement is similar to a TEFRA cost contract except that it provides only Part B services. Further, there are no specific statutory conditions to qualify for a HCPP contract. Some HCPPs are private market HMOs, while others are union or employer plans. HCPPs have no minimum enrollment requirements, no requirement that the plan have non-Medicare enrollees, or a requirement for an open enrollment period. Unlike TEFRA cost contractors (but like risk contractors), HCPPs may offer a single supplemental package that includes both Part B cost-sharing and other benefits; cost-sharing benefits need not be priced separately.

Any Medicare beneficiary residing in the area served by an HMO/CMP may enroll, with two exceptions. The first exception applies to beneficiaries not enrolled in Part B. The second exception applies to persons qualifying for Medicare on the basis of end-stage renal disease (ESRD); however, persons already enrolled who later develop ESRD may remain enrolled in the entity.

The HMO/CMP must have an annual open enrollment period of at least 30 days duration. During this period, it must accept beneficiaries in the order in which they apply up to the limits of its capacity, unless to do so would lead to violation of the 50% Medicare-Medicaid maximum or to an enrolled population unrepresentative of the population in the area served by the HMO.

TEFRA risk contractors are required to hold an additional open enrollment period if any other risk-based entity serving part of the same geographic area does not renew its Medicare contract, has its contract terminated, or has reduced its service area to exclude any portion of the service area previously served by both contractors. In such cases, the Secretary must establish a single coordinated open enrollment period for the remaining contractors. These remaining HMOs/CMPs must then accept its enrollees during an enrollment period of 30 days.

An enrollee may request termination of his or her enrollment at any time. An individual may file disenrollment requests directly with the HMO or at the local social security office. Disenrollment takes effect on the first day of the month following the month during which the request is filed. The HMO may not disenroll or refuse to re-enroll a beneficiary on the basis of health status or need for health services.

The requirement for an open enrollment period does not apply to HCPPs. These entities may deny enrollment or terminate enrollment on medical or other grounds, if in doing so they use the same criteria for Medicare and non-Medicare enrollees. As a result, employer or union plans may restrict enrollment to covered retirees.

The Secretary is authorized to prescribe procedures and conditions under which eligible organizations contracting with Medicare may inform beneficiaries about the organization. Brochures, applications forms, or other promotional or informational material may be distributed only after review and approval by the Secretary of HHS. HMOs may not disenroll or refuse to re-enroll a beneficiary because of health status or need for health care services. HMOs must provide enrollees, at the time of enrollment and annually thereafter, an explanation of rights to benefits, restrictions on services provided through nonaffiliated providers, out-of-area coverage, coverage of emergency and urgently needed services, and appeal rights. A terminating HMO must arrange for supplementary coverage for Medicare enrollees for the duration of any preexisting condition exclusion under their successor coverage for the lesser of 6 months or the duration of the exclusion period.

HOUSE BILL

Section 10001 (new section 1851). The Social Security Act would be amended to insert a new Part C, MedicarePlus Program. New section 1851 of Part C of the Social Security Act would specify requirements related to eligibility, election of coverage, and enrollment.

Section 4001 (new section 1851). Identical provision.

SENATE AMENDMENT

Identical except the new program of choices would be called Medicare Choice.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment except that the new program of choices would be called Medicare+Choice.

Except for the addition of HMOs, modest benefit changes, and episodic reforms in provider payment methods, the Medicare program has remained essentially unchanged since the program's inception in 1965. This contrasts starkly with the health benefit design, delivery, and cost containment innovations that have occurred in the private sector and, to a great extent, have been captured by the Federal Employee Health Benefit Program (FEHBP). The creation of Medicare+Choice will allow beneficiaries to have access to a wide array of private health plan choices in addition to traditional fee-for-service Medicare. In addition, it will enable the Medicare program to utilize innovations that have helped the private market contain costs and expand health care delivery options.

The Conferees believe that one of the most significant innovations is the Medical Savings Account (MSA). MSAs can give the elderly genuine catastrophic protection, which the traditional Medicare program does not guarantee. Well over 400,000 Medicare beneficiaries experience out-of-pocket costs in excess of $5,000 every year, causing financial ruin in many cases. In contrast, MSA plans could significantly limit such costs—even for chronically ill beneficiaries. In addition, Medical Savings Accounts can help discourage overutilization and can give seniors more control over their health care dollars.

Building upon the private market MSA demonstration program available to small employers and the self-employed under the recently-enacted bipartisan Health Insurance Portability and Accountability Act (HIPAA), the conference agreement would authorize a demonstration of Medicare MSAs available to 390,000 of the 33 million senior citizens eligible for Medicare. The Conferees note that this demonstration is smaller relative to the size of the eligible population than the HIPAA demonstration program, reaching less than 2 percent of Medicare beneficiaries. Nevertheless, it is the hope and intent of the Conferees that this number will allow a true test of the potential benefits to the program and to beneficiaries of the MSA concept. In addition, the Conferees note that the private fee-for-service Medicare+Choice option authorized by this agreement represents the first defined contribution plan in which beneficiaries may enroll in the history of the program.

In addition to ensuring more health care delivery options for Medicare beneficiaries, the conference agreement also ensures that these options will be available to beneficiaries nationwide, not just to those in select geographic areas. By blending local and national payment rates and by instituting a minimum payment amount, the agreement significantly narrows the range in capitated payments to Medicare risk plans. At the same time, the Conferees have ensured that each county- level payment rate will be increased by at least 2 percent a year, in order to ensure that beneficiaries who are currently choosing to enroll in private plans will continue to have this option. It is the intent of the Conferees that these payment reforms will provide incentives for health care organizations to broaden and multiply their service areas beyond their current areas of concentration to reach all Medicare beneficiaries, including those in rural America.

(a) Types of choices

HOUSE BILL

Section 10001 (new section 1851(a)). Provides that every individual entitled to Medicare Part A and enrolled under Part B could elect to receive benefits through two options: (I) the existing Medicare fee-for-service program (Medicare FFS) or (ii) through a MedicarePlus plan. The exception to this would be individuals medically determined to have ESRD. They would not be able to elect MedicarePlus. Individuals who developed ESRD while enrolled in a plan could continue in that plan. A MedicarePlus plan could be offered by: (I) a coordinated care plan (including an HMO or preferred provider organization (PPO)), (ii) a provider sponsored organization (PSO); and (iii) a combination of a medical savings account (MSA) and contributions to a MedicarePlus MSA.

Section 4001 (new section 1851(a)). Identical provision.

SENATE AMENDMENT

Similar but provides for additional private plan options: unrestricted fee-for-service private plans and any other private plan for the delivery of health care items and services. (HMOs, PPOs, and POS plans are specified in lieu of "coordinated care" plans.)

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification specifying that the Medicare fee-for-service program is the original fee-for-service program, that coordinated care plans are defined as including but not limited to HMO plans (with or without point of service options), and that a Medicare+Choice plan includes a fee-for-service plan, defined as a plan that reimburses hospitals, physicians, and other providers at a rate determined by the plan on a fee-for-service basis without placing the provider at financial risk; does not vary such rates for such provider based on the utilization relating to such provider; and does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established by the plan. (This option is also referred to as a "private fee-for-service" plan.)

The Conferees note that the GAO has recently attempted to measure the quality of care provided to ESRD patients in managed care organizations relative to original Medicare, but that HCFA did not have adequate data on these patients to enable a comparison. HCFA is now working with the GAO to provide a data base that will permit quality comparisons. It is important that HCFA be able to measure ESRD quality and establish standards for care, as provided in Section 4558, before individuals with ESRD are permitted to join managed care organizations

(b) Special rules

HOUSE BILL

Section 10001 (new section 1851(b)). In general, an individual would be eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization served the geographic area in which the individual resided. Enrollment could continue if the plan provided benefits for enrollees located in the area to which the individual moved. An individual eligible for an annuity under the Federal Employee Health Benefits Program would not be eligible for an MSA plan until the Office of Management and Budget adopted policies to ensure that such enrollment did not result in increased expenditures for the federal government for FEHBP plans. The Secretary could apply similar rules in the case of individuals who are eligible for Departments of Defense or Veterans' Affairs health care. An individual who is a qualified Medicare beneficiary (QMB), a qualified disabled and working individual, a specified low-income Medicare beneficiary (SLMB), or otherwise entitled to Medicare cost-sharing assistance under a state Medicaid program, would not be eligible to enroll in an MSA plan.

In addition, individuals would not be eligible to enroll in an MSA plan on or after January 1, 2003, or as of any date if the number of individuals enrolled in MSA plans reached 500,000. Under rules established by the Secretary, an individual would not be eligible to enroll or continue enrollment in an MSA unless the individual would be residing in the U.S. for at least 183 days during the year. Individuals enrolling in MSA plans prior to either of those two events would be allowed to continue such enrollment. The Secretary would be required to regularly evaluate and report to Congress on the impact of permitting enrollment of MSA plans on selection (including adverse selection), use of preventive care, access to care, and the financial status of the Trust Funds. In addition, the Secretary would be required to submit to Congress periodic reports on the number of individuals enrolled in MSA plans and to submit a report to Congress by no later than March 1, 2002 on whether the time limitation should be extended or removed, and whether any change should be made to the number of individuals permitted to enroll in Medicare MSAs.

Section 4001 (new section 1851(b)). Identical provision.

SENATE AMENDMENT

Similar, except that enrollment in MSAs would be capped at 100,000.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with modifications relating to continuation of enrollment and to the size of the MSA demonstration. Plans would have to provide that individuals exercising the Medicare+Choice option who no longer reside in the service area of such plan have, as part of the basic benefit package, reasonable access within the geographic area of the plan to the full range of services covered under the contract, subject to reasonable cost sharing liability in obtaining such benefits.

The enrollment in MSAs would be capped at 390,000.

(c) Process for exercising choice

HOUSE BILL

Section 10001 (new section 1851(c)). The Secretary would be required to establish a process for elections (and changing elections) of Medicare FFS and MedicarePlus options. Elections would be made (or changed) only during specified coverage election periods. An individual who wished to elect a MedicarePlus plan could do so by filing an election form with the organization. Disenrollment would be accomplished the same way. An individual failing to make an election during the initial election period would be deemed to have chosen the Medicare FFS option. The Secretary would be required to establish procedures under which individuals enrolled with a MedicarePlus organization at the time of the initial election period and who failed to elect to receive coverage other than through the organization would be deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offered more than one such plan, such plan as the Secretary provided for under such procedures). An individual who made (or was deemed to have made) an election would be considered to have continued such election until the individual changed the election or the plan was discontinued.

Section 4001 (new section 1851(c)). Identical provision.

SENATE AMENDMENT

Similar except election into the Medicare fee-for-service program is referred to as "traditional Medicare" to distinguish it from the private fee-for-service plan option.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a clarification that an individual election would continue until, in the case of an individual in a Medicare+Choice plan, such election was discontinued or (subject to the provision relating to continuation of enrollment) when the plan no longer served the area in which the individual resided.

(d) Providing information to promote informed choice

HOUSE BILL

Section 10001 (new section 1851(d)). Requires the Secretary to provide for activities to disseminate broadly information to current and prospective Medicare beneficiaries on the coverage options available in order to promote an active, informed selection among such options. At least 30 days before each annual, coordinated election period, the Secretary would send to each MedicarePlus eligible person a notice containing the information specified below in order to assist the individual in making an election. This would include general information, a list of plan options and comparative plan option information, the MedicarePlus monthly capitation rate, and other information determined by the Secretary to be helpful in making elections. This information would have to be written in language easily understood by Medicare beneficiaries. The Secretary would be required to coordinate the mailing of this information with the annual mailing of other Medicare information required under current law. To the extent practicable, the Secretary would provide such information to new MedicarePlus individuals at least two months prior to their initial enrollment period.

The required general election information would include information on: (I) services covered and not covered by Medicare FFS (including benefits, cost-sharing, and beneficiary liability for balance billing); (ii) the Part B premium amount, (iii) election procedures, (iv) rights including grievance and appeals procedures and the right to be protected against discrimination, (v) information on Medigap and Medicare Select policies, and (vi) the right of the organization to terminate the contract and what this would mean for enrollees.

Comparative plan option information would have to include: (I) a description of benefits including any benefits covered beyond Medicare FFS, any reductions in cost-sharing and any maximum limits on out-of-pocket costs, and in the case of MSA plans, the differences in their cost sharing compared to other MedicarePlus plans; (ii) the monthly premium (and net monthly premium) for the plan; (iii) to the extent available, quality indicators (compared with indicators for Medicare FFS) including disenrollment rates, enrollee satisfaction and health outcomes, and whether the plan is out of compliance with any federal requirements; and (iv) information on any supplemental coverage. The required information would be updated at least annually.

The Secretary would be required to maintain a toll-free number and Internet site for inquiries regarding MedicarePlus options and plans. A MedicarePlus organization would be required to provide the Secretary with such information on the organization and its plans as the Secretary needed to prepare the information described above for Medicare beneficiaries. The Secretary could enter into contracts with appropriate non-Federal entities to carry out these information activities.

Section 4001 (new section 1851(d)). Similar except requires additional elements to provided relating to comparative plan information: (I) whether provider networks are used and related payment policies, (ii) information on coverage of emergency and urgently needed care, (iii) grievance and appeals procedures, (iv) utilization review procedures, and (v) exclusions in types of providers participating in the plan's network.

SENATE AMENDMENT

Similar except: (I) information must be provided to beneficiaries at least 15 days (instead of 30 days) before each annual coordinated election period; (ii) specifies that comparative information be in chart-like form; (iii) does not require provision of the area's monthly capitation rate in information sent to beneficiaries; (iv) information to newly Medicare Choice eligible beneficiaries would have to be sent no later than 30 days (instead of 2 months) before their initial enrollment period; (v) the required quality and performance information would have to include the extent to which an enrollee may select the provider of their choice and whether the plan covers out-of-network services, and an indication of the enrollee's exposure to balance billing and restriction on coverage of items and services provided to enrollees by an out-of-network health care provider; (vi) plan information would have to include an overall summary of the method of physician compensation used for participating physicians; and (vii) the Secretary would be required to coordinate with states to the maximum extent feasible in developing and distributing information provided to beneficiaries. The required quality information does not include the requirement in section 10001 to include the plan's recent record of compliance. (For information on utilization review, see 1852(c)).

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. The open season information that has to be updated annually would have to include changes in the monthly basic and supplemental beneficiary premiums. The general information to be provided (such as covered items and services and beneficiary cost-sharing) would not have to include the amount of the Part B premium.

Comparative plan information (not required to be "chart-like form") would have to include in the case of a private fee-for-service plan, differences in cost sharing and balance billing compared to such under other Medicare+Choice plans; the extent to which an enrollee could obtain benefits through in-network or out-of-network health care providers and could select among such providers and the types of providers participating in the plan's network; and the organization's coverage of emergency and urgently needed care. A description of the differences between the MSA plans and other plans and differences between fee-for-service plans and other plans would have to include premium information.

Information on the potential for contract termination would have to include the fact that a Medicare+Choice organization could reduce the service area included in its contract and the effect of such a reduction on enrollees.

The agreement modifies the Senate requirements relating to information on quality and performance by requiring information on the plan's record of compliance. (Other Senate quality requirements are moved to general comparative plan information.) The conference agreement does not include the Senate requirement that there be coordination with the states on the development and distribution of information. However, in providing information in this section, it is the conferees' intent that the Secretary shall coordinate with States to the maximum extent feasible and practicable in carrying out this section. The agreement does not include the Senate requirement that there be an overall summary description of the method of compensating physicians. (See item (c) under section 1852 below.)

The Conferees intend that the Secretary take all steps necessary to ensure that all seniors are provided the information they need to make informed choices about health coverage. Therefore, beneficiaries will for the first time have access to accurate information, including comparative information, about health plan choices. According to the 1990 Census, there are nearly 4 million people over the age of 65 who report that a language other than English is spoken in their home. The Conferees believe that all beneficiaries, including those who are limited in their English proficiency, should have access to accurate and timely information about the array of private health plan options available under Medicare+Choice. Therefore, the Conferees intend that the language requiring the Secretary to promote "active, informed selection among" Medicare+Choice plans and to provide information "using language that is easily understandable by Medicare beneficiaries" include such information as may be necessary to help all individuals eligible to enroll in Medicare+Choice plans, including those with limited English proficiency.

(e) Coverage election periods

HOUSE BILL

Section 10001 (new section 1851(e)). Provides that individuals would first have a choice ("initial election") between Medicare FFS and MedicarePlus plans (if there were one or more MedicarePlus plans to choose from in their area) upon eligibility for Medicare. The Secretary would designate a time for the election such that coverage would become effective when the individual was eligible to begin coverage.

From 1998 through 2000, there would be continuous open enrollment and disenrollment, when eligible individuals could switch MedicarePlus plans or move into or out of the Medicare FFS program option. For the first 6 months during 2001, there would also be continuous open enrollment and disenrollment, but individuals could only change their election once during 2001 (except during the annual coordinated open enrollment period or a special enrollment period (as described below)). During subsequent years, individuals would be able to enroll in a MedicarePlus option and disenroll from it at any time during the first 3 months of a year (or during the first 3 months after an individual became eligible to enroll in a MedicarePlus plan). Such changes could be made only once a year except during annual coordinated election and special enrollment periods.

Beginning in October 2000, there would be an annual, coordinated election period during which individuals could change elections for the following calendar year. The Secretary would be required to hold MedicarePlus health fairs in October of each year, beginning with 1998. Such fairs would provide for nationally, coordinated educational and publicity campaigns to inform MedicarePlus eligibles about MedicarePlus plans and the election process, including the annual, coordinated election periods.

Starting January 1, 2001, special election periods would be provided in which an individual could discontinue an election of a MedicarePlus plan and make a new election if: (I) the organization's or plan's certification was terminated or the organization terminated or otherwise discontinued providing the plan; (ii) the person who elected a MedicarePlus plan was no longer eligible because of a change in residence or certain other changes in circumstances; (iii) the individual demonstrated that the organization offering the plan violated its contract with Medicare (including the failure to provide the enrollee on a timely basis medically necessary care or to provide such care in accordance with applicable quality standards), or misrepresented the plan in its marketing; or (4) the individual encountered other exceptional conditions specified by the Secretary.

Special rules would apply for MSA plans. Individuals could elect an MSA plan only during: (I) an initial open enrollment period; (ii) an annual, coordinated election period, or (iii) October 1998 and October 1999. Such individuals could not discontinue an election of an MSA plan except during an annual, coordinated election period, October 1998 and October 1999, or if the MSA plan had been decertified or terminated.

Section 4001 (new section 1851(e)). Identical provision.

SENATE AMENDMENT

Similar with exceptions: (I) individuals would permanently be allowed to enroll at any time a plan was open to enrollment and during the annual coordinated election period; (ii) individuals could disenroll at any time; (iii) the coordinated election period would take place in November and would begin in 1998; (iv) health fairs would be held for the first time in November 1997 and would be conducted annually in the month of November; (v) the special election periods would apply effective in 1998 (and not 2001); MSA plans could be elected during an initial open enrollment period and a coordinated annual election period (i.e., not limited to October 1998 and 1999).

CONFERENCE AGREEMENT

The conference agreement includes the House bill with an amendment. Continuous open enrollment and disenrollment would last through the end of 2001. The transition period, when there would be open enrollment and disenrollment but a limitation of one change of election, would be for the first 6 months of 2002. This would be followed by full implementation of the annual enrollment/disenrollment election process in which there would be a limitation of one change during a three-month annual open enrollment period each year.

Even after 2003, individuals age 65 and older who enroll in a Medicare+Choice plan when they first become eligible for Medicare would be able to disenroll from Medicare+Choice into original fee-for-service Medicare at any time during their first 12 months of enrollment in the Medicare program not withstanding the general open enrollment rules. During this period, they would have an extended period of guaranteed access to Medigap plans under corresponding provisions of the conference agreement. In addition, individuals electing to enroll in an MSA plan for the first time during an annual coordinated election period would have an additional period, until December 15, to disenroll from enrollment in such plan.

For the risk adjustment methods authorized by the Act to work to their full potential and to provide organizations offering Medicare+Choice plans with incentives to keep beneficiaries healthy, the Conferees believe that it is important to move away from a system where beneficiaries can enroll and disenroll from HMOs at virtually any time. Therefore, the Conference Agreement provides a transition to a system of annual open enrollment periods based on the FEHBP choice model. This model balances promotion of active competition with protections for beneficiaries who wish to test the broad array of private health plan choices made available by the Act without losing their right to return to fee-for-service Medicare.

The annual coordinated election period would take place in November, beginning with November 1999. The Medicare+Choice health information fair would be held in November, beginning with 1999. A special educational and publicity campaign would be conducted during November 1998 by the Secretary to inform Medicare+Choice individuals about the Medicare+Choice plans and risk contract plans offered in different areas and the election process. A Medicare+Choice organization would be required to provide for open enrollment periods during the initial enrollment period, during the month of November of 1998 and each subsequent year, and during special election periods. Special election periods would start January 1, 2002. An individual could elect an MSA only during an initial open enrollment period, annual coordinated election period or the month of November, 1998.

(f) Effectiveness of elections and changes of elections

HOUSE BILL

Section 10001 (new section 1851(f)). An election made during the initial election period would become effective when the individual became entitled to Medicare benefits, except as the Secretary might provide in order to prevent retroactive coverage. During continuous open enrollment periods, an election or change of elections would take effect with the first calendar month after the election was made. An election or change of coverage made during a coordinated election period would take effect as of the first day of the following year. Elections during other periods would take effect in the manner specified by the Secretary to protect continuity of coverage.

Section 4001 (new section 1851(f)). Identical provision.

SENATE AMENDMENT

Similar but an election or change of coverage during an annual, coordinated election period could, at the individual's option, take effect on December 1 of the election year.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

(g) Guaranteed issue and renewal

HOUSE BILL

Section 10001 (new section 1851(g)). Requires MedicarePlus organizations to accept MedicarePlus eligibles without restriction during election periods. If the organization had a capacity limit, it could limit enrollment but only if priority were given to those who had already elected the plan and then to other persons in a manner that did not discriminate on the basis of health-status related factors (which include health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence) and disability). These restrictions would not apply if they would result in enrollment substantially misrepresentative of the Medicare population in the service area.

MedicarePlus organizations could not terminate an enrollee's election except for failure to pay premiums on a timely basis, disruptive behavior, or because of plan termination of all MedicarePlus individuals. Individuals terminated for cause would be deemed to have elected Medicare FFS. An individual whose plan was terminated would have a special election period to change into another MedicarePlus plan. If the individual failed to make an election, he or she would be deemed to be Medicare FFS. Plans would have to transmit to the Secretary a copy of each enrollee's election form.

Section 4001 (new section 1851(g)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with conforming changes and a modification clarifying that the premium, for purposes of terminating an election because of failure to pay premiums, is the basic premium or supplemental premiums.

(h) Approval of marketing material and application forms

HOUSE BILL

Section 10001 (new section 1851(h)). Requires MedicarePlus plans to submit marketing material to the Secretary at least 45 days before distribution. The material could then be distributed if not disapproved by the Secretary. Medicare's new standards for plans (established under new section 1856) would have to include guidelines for the review of all marketing material submitted. Under these guidelines, the Secretary would have to disapprove marketing materials if they were materially inaccurate or misleading.

Each MedicarePlus organization would have to conform to fair marketing standards, including a prohibition on a MedicarePlus organization (or its agent) completing any portion of any election form on behalf of any individual.

Section 4001 (new section 1851(h)). Identical provision.

SENATE AMENDMENT

Identical except that the provision does not include a prohibition against an organization or its agent completing any portion of any election form used to carry out elections.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification changing the requirement on the Secretary to prohibit an organization or its agent from completing any portion of an election form used to carry out elections to an authorization of the Secretary to prohibit such an activity. It also adds a provision prohibiting Medicare+Choice organizations from providing for cash or other monetary rebates as an inducement for enrollment.

(i) Effect of election of MedicarePlus plan option

Section 10001 (new section 1851(I)). Payments under a contract with a MedicarePlus organization with respect to an individual electing a MedicarePlus plan offered by an organization would be instead of the amounts which otherwise would have been payable under Medicare Parts A and B.

Section 4001 (new section 1851(I)). Identical provision.

Effective date.

Section 10001. Unless otherwise provided, the provision is generally effective upon enactment.

Section 4001. Identical.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with technical modifications.

BENEFITS AND BENEFICIARY PROTECTIONS

New section 1852

CURRENT LAW

Section 1876 provides for requirements relating to benefits, payment to the plans by Medicare, and payments to the plans by beneficiaries. In addition, it specifies standards for patient protection and quality assurance.

A Medicare beneficiary enrolled in an HMO/CMP is entitled to receive all services and supplies covered under Medicare Parts A and B (or Part B only, if only enrolled in Part B). These services must be provided directly by the organization or under arrangements with the organization. Enrollees in risk-based organizations are required to receive all services from the HMO/CMP except in emergencies. (Exceptions apply to risk plans that offer a point-of-service (POS) option in which enrollees are permitted to use non-network providers but typically at higher enrollee cost-sharing levels.)

In general, HMOs/CMPs offer benefits in addition to those provided under Medicare's benefit package. In certain cases, the beneficiary has the option of selecting the additional benefits, while in other cases some or all of the supplementary benefits are mandatory.

Some entities may require members to accept additional benefits (and pay extra for them in some cases). These required additional services may be approved by the Secretary if it is determined that the provision of such additional services will not discourage enrollment in the organization by other Medicare beneficiaries.

Medicare HMOs/CMPs must provide enrollees, at the time of enrollment and annually thereafter, an explanation of: rights to benefits, restrictions on services provided through nonaffiliated providers, out-of-area coverage, coverage of emergency and urgently needed services, and appeal rights.

Medicare HMOs/CMPs must make all Medicare-covered services and all other services contracted for available and accessible within their service areas, with reasonable promptness and in a manner that assures continuity of care. Urgent care must be available and accessible 24 hours a day and 7 days a week. HMOs must also pay for services provided by nonaffiliated providers when services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable, given the circumstances, to obtain the services through the HMO.

HMOs/CMPs are required to have arrangements for an ongoing quality assurance program that stresses health outcomes and provides review by physicians and other health care professionals of the process followed in the provision of health services. External review is conducted by a peer review organization (PRO), one of the groups that has contracted with the Secretary for review of the quality and appropriateness of hospital services. PRO reviews of HMOs/CMPs covers both inpatient and outpatient care. The Secretary also has the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services provided and the facilities of the organization when there is reasonable evidence of some need for inspection.

In up to 25 states, the Secretary is authorized to designate another external agency, known as a quality review organization or QRO to perform reviews. QROs must meet many of the same standards as PROs, but have not contracted with the Department of HHS for the review of services other than those provided by an HMO/CMP.

HMOs/CMPs must have meaningful grievance procedures for the resolution of individual enrollee complaints about such problems as failure to receive covered services or unpaid bills. In addition, an enrollee who believes that the HMO has improperly denied a service or imposed an excessive charge has the right to a hearing before the Secretary if the amount involved is greater than $100. If the amount is greater than $1,000, either the enrollee or the HMO may seek judicial review. On April 30, 1997, HCFA issued final rules for establishing an expedited review process for Medicare beneficiaries enrolled in HMOs and CMPs.

Hospitals and other providers are required under Medicare as a condition of participation to ask whether an individual has an advance directive and make a notice of such in the patient's record. Such hospitals and other providers also have to provide upon admission and at other specified times written information to adult patients: on applicable advance directive laws of the relevant state and of the advance directive policies of the provider.

Payments to Medicare HMOs/CMPs include amounts that reflect Medicare's fee-for-service payments to hospitals in an area for indirect and direct medical education costs and disproportionate share adjustments.

Penalties apply for violations of limits on the use of "physician incentive plans," i.e., compensation arrangements between HMOs and physicians that might induce physicians to withhold services. An HMO may not make a specific payment to a physician as an inducement to reduce or limit services to a specific enrollee. In addition, if physicians or physician groups are placed at substantial financial risk for services other than their own, the HMO must provide adequate stop-loss protection to limit the physicians' potential liability and must periodically survey enrollee satisfaction.

There are no provisions in current law equivalent to the provider protections required in these provisions. HCFA has indicated that Medicare managed care beneficiaries are entitled to physicians' advice and counsel and are therefore protected by law from contractual provisions placing limits on such communications (i.e., "gag" clauses). There is no provision in current law for medical savings account plans for Medicare beneficiaries.

HOUSE BILL

Section 10001 (new section 1852). The provision establishes a new Section 1852 specifying federal requirements related to MedicarePlus plan benefits and beneficiary protections.

Section 4001 (new section 1852). Identical provision.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment, except that the provisions apply to Medicare+Choice organizations and plans.

(a) Basic benefits

HOUSE BILL

Section 10001 (new section 1852(a)). Each MedicarePlus plan, except an MSA plan, would be required to provide benefits for at least the items and services for which benefits are available under Parts A and B of Medicare and any additional health services as the Secretary may approve under section 1854 of this provision (see below). A MedicarePlus plan would meet this requirement if, for items and services furnished other than through a provider that has a contract with the organization offering the plan, the plan provides (in addition to any cost sharing provided for under the plan) for at least the dollar amount of payment as would otherwise be authorized under Medicare FFS (including any balance billing permitted under Medicare FFS). These cost-sharing limitations would not apply to an individual enrolled under an MSA plan.

MedicarePlus organizations could offer under their MedicarePlus plans supplemental benefits. Supplemental benefits approved by the Secretary could be offered without affording enrollees an option to decline them. Alternatively, a MedicarePlus organization could provide to enrollees (other than those in an MSA plan) optional supplemental benefits. A MedicarePlus plan could seek payment from other payers, such as insurers or employer plans, in circumstances where secondary payer rules apply.

The provision would establish a policy relating to a national coverage determination made between the annual announcements of MedicarePlus payment rates. The application of the determination would be delayed if the determination would result in a significant change in costs to the MedicarePlus plan, and such change was not incorporated in the MedicarePlus payment rate established for that period. In such cases, the national coverage determination would apply to the first contract year beginning after such period. If the determination provided for coverage of additional benefits or benefits under additional circumstances, it would also apply to the first contract year beginning after such period, unless otherwise required by law.

Section 4001 (new section 1852(a)). Identical provision.

SENATE AMENDMENT

Similar except the provision that a Medicare Choice plan pay at least the dollar amount of payment as would otherwise be authorized under Medicare FFS (including any balance billing permitted) does not apply to unrestricted fee-for-service as well as MSA plans.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with modifications. A plan would not have to provide for hospice care. A plan, including a private fee-for-service plan, would have to pay for items and services furnished through non-contract providers in an amount so that the sum of such payment and any cost sharing required under the plan was equal to at least the dollar amount of payment as would otherwise be authorized under Medicare fee-for-service (including any balanced billing permitted under parts A and B). (The conference agreement includes a cross-reference to other sections of the bill related to limitations on balance billing and on enrollee liabilities.) The agreement also includes a provision specifying that a Medicare+Choice organization could not provide an MSA plan supplemental health care benefit that covered the plan deductible. Health benefits sold as accident, disability, workers compensation, dread disease and other specified types of plans would not be considered as covering the deductible. (See Medigap conforming amendments). A private fee-for-service plan could offer supplemental benefits that include payment for some or all of the balance billing amounts permitted consistent with section 1852(k) (as described below and relating to treatment by non-contracting providers) and coverage of additional services that the plan finds to be medically necessary.

(b) Antidiscrimination

HOUSE BILL

Section 10001 (new section 1852(b)). A MedicarePlus organization could not deny, limit, or condition the coverage or provision of benefits under this part based on any health-status related factor (health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence) and disability). This requirement should not be construed to mean that a MedicarePlus organization had to enroll individuals determined to have ESRD.

Section 4001 (new section 1852(b)). Identical provision. (See section 1852(k) on provider nondiscrimination.)

SENATE AMENDMENT

Similar but also includes anti-discrimination protection for providers. Provides that a Medicare Choice organization could not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable state law, solely on the basis of such license or certification. This provision should not be construed to prohibit a plan from including providers only to the extent needed to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

(c) Disclosure/detailed description of plan provisions

HOUSE BILL

Section 10001 (new section 1852 (c)). The provision would require each MedicarePlus plan to disclose in clear, accurate, and standardized form to each enrollee at the time of enrollment and annually thereafter, the following information about the plan: (I) its service area; (ii) its benefits and exclusions from coverage (and, in the case of an MSA plan, a comparison with other MedicarePlus plans); (iii) the number, mix, and distribution of participating providers, (iv) permitted out-of-area coverage; (v) coverage of and procedures for obtaining emergency services (including the appropriate use of 911 or local equivalent); (vi) any optional supplemental coverage, including the benefits and premium price; (vii) any prior authorization or other rules that could result in nonpayment; (viii) any plan-specific grievance and appeals procedures; and (ix) its quality assurance program.

Section 4001 (new section 1852(c)). Similar but also requires that the detailed description of the plan provisions include whether there is a point-of-service option and, if so, the premium for it.

SENATE AMENDMENT

Similar except in the detailed description of plan provisions, the plan would not have to describe benefits that are not offered. The organization would have to describe any out-of-network coverage provided under the plan. Also upon request of an Medicare Choice eligible individual, an organization would have to provide: general information on Medicare and Medicare Choice and comparative plan information as well as information on utilization review procedures.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with an amendment to require that organizations provide information on out-of-network coverage (if any) provided by the plan, and any point-of-service option (including the supplemental premium for such option). Organizations also would have to disclose upon request information on procedures used to control expenditures, information on the number of grievances, reconsideration, and appeals and on the disposition in the aggregate of such matters, and an overall summary description as to the method of compensation of participating physicians.

(d) Access to services

HOUSE BILL

Section 10001 (new section 1852(d)). Permits a MedicarePlus organization offering a MedicarePlus plan to restrict the providers from whom benefits could be provided so long as: (I) the organization makes the benefits available and accessible to each individual electing the plan within the service area with reasonable promptness and in a manner which assures continuity in the provision of benefits; (ii) when medically necessary, the organization makes benefits available and accessible 24 hours a day, 7 days a week; (iii) the plan provides reimbursement for covered out-of-network services if the services are medically necessary and immediately required because of unforeseen illness, injury, or condition and it is not reasonable to provide the services through the organization or met other conditions; (iv) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services; and (v) coverage is provided for emergency services without regard to either prior authorization requirements or the emergency care entity's contractual relationship with the organization.

A MedicarePlus organization would be required to comply with such guidelines as the Secretary might prescribe relating to promoting efficiency and timely coordination of appropriate maintenance and post-stabilization care provided to an enrollee determined to be stable by a medical screening examination required under the Examination and Treatment under Emergency Medical Conditions and Women in Labor requirements of the Social Security Act (Section 1867).

Emergency services mean covered inpatient and outpatient services that are furnished to an enrollee of a MedicarePlus organization by a provider qualified to provide services under Medicare, and are needed to evaluate or stabilize an emergency medical condition.

An emergency medical condition is one manifesting itself by acute symptoms of sufficient severity such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: (I) placing the health of the individual in serious jeopardy (and in case of a pregnant women, her health or that of her unborn child; (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any bodily organ or part.

Section 4001 (new section 1852(d)). Similar except it adds "in the opinion of the treating health care provider" to the requirement that services be available and accessible 24 hours a day/7 days a week when medically necessary. Under the provision to require access to appropriate providers, specifies when such treatment and services are determined to be medically necessary in the professional opinion of the treating health care provider, in consultation with the individual.

Also, includes a provision to require a MedicarePlus organization to ensure that the length of an inpatient hospital stay covered under Medicare be determined by the attending physician (or other attending health care provider to the extent permitted under state law) and the patient to be medically appropriate. Provides that this requirement not be construed as requiring the provision of inpatient coverage if the attending physician or provider and patient determine that a shorter stay is medically appropriate or as affecting the application of deductibles and coinsurance.

SENATE AMENDMENT

Similar but also requires that, except as provided by the Secretary on a case-by-case basis, the organization provide primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area. Specifies the content of the guidelines to be used respecting coordination of post-stabilization care. Includes "including severe pain" in the prudent layperson definition of emergency medical condition.

CONFERENCE AGREEMENT

The conference agreement includes section 10001 of the House provision with a modification to clarify that a plan must provide for reimbursement for services provided to an individual other than through the organization if the services were not emergency services but met the conditions described above. The conference agreement also includes severe pain in the definition of an emergency medical condition.

In the case of a private fee-for-service plan, the organization offering the plan would have to demonstrate to the Secretary that the organization had a sufficient number and range of providers with such agreements to provide services under the terms of the plan. The Secretary would be required to find that an organization met this requirement if, with respect to any category of health care professional or provider, the plan established payment rates for covered services furnished by that category of provider that were not less than the payment rates provided for under part A, part B, or both, for such services or the plan had contracts or agreements with a sufficient number and range of providers within such category to provide covered services under the plan, or a combination of both. This requirement does not restrict the persons from whom enrollees in a fee-for-service plan may obtain covered benefits.

The conference agreement allows plans to select the providers from whom benefits are provided only if the plan provides adequate access to services to its enrollees. The Conferees believe that access to primary care services for Medicare beneficiaries residing in rural areas can be judged as adequate if those primary care services are no more than 30 minutes or 30 miles from an enrollee's place of residence.

(e) Quality assurance program

HOUSE BILL

Section 10001 (new section 1852(e)). The provision would require a MedicarePlus organization to have arrangements (established in accordance with regulations of the Secretary) for an ongoing quality assurance program for services provided to its MedicarePlus enrollees. The program has to: (I) stress health outcomes and provide for the collection, analysis, and reporting of data that will permit measurement of outcomes and other indices of MedicarePlus plans and organizations; (ii) provide for written protocols for utilization review; (ii) provide review by physicians and other health care professionals of the process followed in the provision of health services; (iv) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions; (v) evaluate the continuity and coordination of care; (vi) have mechanisms in place to detect both underutilization and overutilization; (vii) after identifying areas for improvement, establish or alter practice parameters; (viii) take action to improve quality and assess effectiveness of such actions; (ix) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice; (x) be evaluated on an ongoing basis; (xi) include measures of consumer satisfaction; and (xii) provide the Secretary with such access to information collected as may be appropriate to monitor and ensure quality.

Each organization would be required to have an agreement with an independent quality review and improvement organization, approved by the Secretary, for each plan it operates, to perform functions such as quality review, review for the appropriateness of setting of care, adequacy of access, beneficiary outreach, and review of complaints about poor quality of care. A MedicarePlus organization would be deemed to meet the requirements for quality assurance external review if it is accredited by a private organization under a process that the Secretary has determined assures that the organization applies and enforces standards that are no less stringent than those specified under the plan standards requirements established by this provision (see new Section 1856 as described below).

Section 4001 (new section 1852(e)). Identical provision.

SENATE AMENDMENT

Identical except provides that the quality assurance provisions (including the external review requirements) and the requirement below (item "h") relating to maintaining medical records, would not apply to the case of a Medicare Choice organization in relation to a Medicare Choice unrestricted fee-for-service plan. In addition, the external review requirements are not included in those for which an organization could obtain deemed approval as a result of being accredited by a private organization.

Requires that each Medicare Choice organization report annually (at the request of the enrollee) a statement disclosing the proportion of premiums and revenues received by the organization that are expended for non-health care items and services.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with a clarification that, except in the case of the review of quality complaints and consistent with the disclosure requirements in this part, the Secretary would be required to ensure that the external review activities not be duplicative of the review activities conducted as part of the accreditation process. The Secretary would be authorized to waive the external review requirement if he or she determined that the organization consistently maintained an excellent record of quality assurance and compliance with other requirements under this part. The conference agreement does not include the Senate requirement requiring organizations to provide annual reports on non-health expenditures to enrollees at their request.

The conference agreement further provides for specific quality assurance elements for Medicare+Choice private fee-for-service plans and Medicare+Choice MSA non-network plans. (The quality assurance elements for plans are reordered.) Such plans would have to have a program that (I) stresses health outcomes and provides for data permitting measurement of outcomes and other indices of quality, (ii) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions, (iii) evaluates the continuity and coordination of care that enrollees receive; (iv) is evaluated on an ongoing basis as to its effectiveness; (v) includes measures of consumer satisfaction, and (vi) provides the Secretary with certain information to monitor and evaluate the plan's quality. In addition, insofar as such plans provided for written protocols of utilization review, they would have to base them on current standards of medical practice. Finally, they would have to have mechanisms to evaluate utilization of services and inform providers and enrolles of the results of such an evaluation.

(f) Coverage determinations

HOUSE BILL

Section 10001 (new section 1852(f)). A MedicarePlus organization would be required to make determinations regarding authorization requests for nonemergency care on a timely basis. Reconsideration of denials would generally have to be decided within 30 days of receiving medical information, but not later than 60 days after the coverage determination. Physicians, other than a physician involved in the initial determination, would be the only individuals permitted to make decisions to deny coverage based on medical necessity.

Section 4001 (new section 1852 (f)). Similar but adds a requirement that the organization provide notice of any denial and the reasons for it, and to provide an explanation of the grievance and appeals process. Also, the physician acting on a reconsideration would have to be one with appropriate expertise in the field of medicine which needs treatment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes section 4001 of the House provision with modifications which incorporate into the section provisions relating to reconsideration and appeals. A Medicare+Choice organization would have to have a procedure for making determinations regarding whether an individual enrolled within the plan was entitled to receive a health service and the amount (if any) that the individual was required to pay with respect to the service. Subject to the provision related to expedited determinations and reconsideration, such a procedure would have to provide for the determination to be made on timely basis, depending on the urgency of the situation. The explanation of the determination would have to be in understandable language, state the reasons for the denial, and provide a description of the reconsideration and appeals processes. The organization generally would have to provide for reconsideration of a determination upon request by the enrollee. The reconsideration would have to be within a time period specified by the Secretary but (except for those falling under expedited determinations and reconsideration) would have to be made within 60 days after the date of the receipt of the request for reconsideration. A reconsideration relating to a determination to deny coverage based on lack of medical necessity would have to be made only by a physician with appropriate expertise in the field of medicine which relates to the condition necessitating treatment who is other than a physician involved in the initial determination. It is not the Conferee's intent to require that a physician involved in the reconsideration process in all cases be of the same specialty or sub-speciality as the treating physician.

The conference agreement further modifies the provision relating to expedited determinations and reconsideration. An enrollee in a Medicare+Choice plan could request an expedited determination or an expedited reconsideration. A physician, regardless of whether the physician was affiliated with the organization, could request such an expedited determination or reconsideration.

The conference agreement modifies the provision relating to organizational procedures to require that in the case of a request for an expedited determination or reconsideration made by a physician, the organization expedite the determination or reconsideration if the request indicated that the application of the normal time frame for making a determination (or a reconsideration involving a determination) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function. The time limitations for the organization to respond to the request would be established by the Secretary, but could not be later than 72 hours of the time of receipt of the request for determination or reconsideration, or such longer period as the Secretary might permit in specified cases.

The bill includes maximum time frames for the processing of reconsideration and expedited determinations and reconsideration. These time frames codify existing regulations and, in some instances, provide additional protections to beneficiaries beyond current law or regulation. These time frames were included to assure through a statutory provision a minimum level of protection consistent with current regulation under the Medicare program. They do not represent a judgment by the Conferees in regard to time frames that would be optimum in the future. In fact, the Conferees understand that HCFA is currently developing proposed regulations that would reduce certain time frames included in current regulations. These efforts will now be superseded by the need to develop regulations to implement Part C. The Conferees assume that the Secretary will address the issue of time frames in the Part C regulations and intend through these provisions to provide her sufficient flexibility to adopt time frames that are shorter than the maximum time frames included in this agreement.

(g) Grievances and appeals

HOUSE BILL

Section 10001 (new section 1852(g)). The provision would require each MedicarePlus organization to provide meaningful procedures for hearing and resolving grievances. An enrollee dissatisfied by reason of the enrollee's failure to receive health services would be entitled, if the amount in controversy was $100 or more, to a hearing before the Secretary. If the amount in controversy was $1,000 or more, the individual or organization, upon notifying the other party, would be entitled to judicial review. The Secretary would be required to contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services.

An enrollee in a MedicarePlus plan could request an expedited determination by the organization regarding an appeal. Such requests could also come from physicians. The organization would have to maintain procedures for expediting organization determinations when, upon request of an enrollee, the organization determined that the application of a normal time frame for making a determination or a reconsideration could seriously jeopardize the life or health of an enrollee or the enrollee's ability to regain maximum function. In an urgent case, the organization would have to notify the enrollee (and physician involved) of the determination as expeditiously as the enrollee's condition requires, but not later than 72 hours (or 24 hours in the case of a reconsideration), or such longer period as the Secretary may permit in specified cases.

Section 4001 (new Section 1852(h)). Identical except adds a requirement that the Secretary annually report publicly on the number and disposition of denials and appeals within each organization, and those resolved by the independent entity.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes section 10001 of the House bill with modifications to reflect the changes made in the prior provision relating to coverage determinations and reconsideration. (The grievance mechanism to be established by each organization is treated as a distinct item in the conference agreement.)

(h) Confidentiality and accuracy of enrollee records

HOUSE BILL

Section 10001 (new section 1852(h)). Each MedicarePlus organization would be required to establish procedures to safeguard the privacy of individually identifiable enrollee information, to maintain accurate and timely medical records and other health information, and to assure timely access of enrollees to their medical records.

Section 4001 (new section 1852(h)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with some changes in wording.

(i) Information on advance directives

HOUSE BILL

Section 10001 (new section 1852(I)). Each MedicarePlus organization would be required to maintain written policies and procedures respecting advance directives.

Section 4001 (new section 1852(I)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(j) Rules requiring physician participation

HOUSE BILL

Section 10001 (new section 1852(j)). Each MedicarePlus organization would be required to establish reasonable procedures relating to the participation of physicians under a MedicarePlus plan offered by the organization. The procedures would include: (I) providing notice of the rules regarding participation; (ii) providing written notice of adverse participation decisions; and (iii) providing a process for appealing adverse decisions. The organization would be required to consult with physicians who have entered into participation agreements regarding the organization's medical policy, quality, and medical management procedures.

The provision would prohibit interference with physician advice to enrollees. A MedicarePlus organization could not prohibit a covered health professional from advising a patient about the patient's health status or about medical care or treatment for the patient's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan if the professional is acting within the lawful scope of practice. "Health care provider" is defined to include physicians and other health care professionals (as specified). This provision should not be construed as requiring a MedicarePlus plan to provide, reimburse for, or provide coverage of a counseling or referral service if the MedicarePlus organization offering the plan objects to the provision of such service on moral or religious grounds, and, in the manner and through the written instrumentalities the MedicarePlus organization deems appropriate, makes available information on its policies regarding such service to prospective enrollees before or during enrollment. For those beneficiaries enrolled in the plan at any time a policy is adopted by the MedicarePlus organization or MedicarePlus plan regarding coverage of a counseling or referral service, the MedicarePlus organization offering such plan would have to notify enrollees of such policy within 90 days.

The provision also would limit the use of physician incentive plans. The provision would define a physician incentive plan as any compensation arrangement between a MedicarePlus organization and a physician group that has the effect, directly or indirectly, of reducing or limiting services provided. The provision would prohibit MedicarePlus plans from operating such a physician incentive plan unless the following conditions were met. No specific payment could be made, directly or indirectly, to a physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual. If the plan placed a physician or physician group at substantial financial risk, the organization would be required to provide adequate and appropriate stop-loss protection and to conduct periodic surveys of currently and previously enrolled individuals to determine the degree of access to and satisfaction with the quality of services. Further, the organization would be required to provide the Secretary with sufficient descriptive information for the Secretary to determine compliance with these requirements.

A MedicarePlus organization would not be able to provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee for any damage caused to the enrollee by the organization's denial of medically necessary care.

Section 4001 (new section 1852 (j)). Similar except regulation of incentive plans applies for health care providers (and not just physicians). Also, the provision includes a limitation on non-compete clauses. This prohibits a MedicarePlus organization from directly or indirectly seeking to enforce any contractual obligations to the organization for the provision of services through the organization have ended from joining or forming any competing MedicarePlus organization that is a PSO in the same area.

SENATE AMENDMENT

Similar but does not include the prohibition on restrictions on physician communications.

CONFERENCE AGREEMENT

The conference agreement includes section 10001 of the House bill with a clarification that the rules regarding provider participation relate to organizations that offer benefits under a Medicare+Choice plan through agreements with physicians, and that the limitation on provider indemnification applies to a health care professional or other entity providing health care services in addition to a provider of services.

The conference agreement further provides for special rules for Medicare+Choice private fee-for-service plans. The following would apply to this provision and to item "k" below (as well as to section 1866(a)(1)(O) related to hospitals and SNFs that do not have contracts with managed care plans that establish payment amounts or payment limits that would be made as payment in full). A hospital (or other provider of services), a physician or other health care professional, or other entity furnishing health care services would be treated as having a contract in effect with a Medicare+Choice organization (with respect to enrollees in a Medicare+Choice fee-for-service plan it offers) if: (I) the provider, professional, or other entity furnished services that were covered under the plan to such an enrollee and (ii) before providing such services, the provider, professional or other entity was informed of the individual's enrollment and either was informed of the terms and conditions of payments for such services under the plan or was given a reasonable opportunity to obtain information concerning such terms and conditions, in a manner reasonably designed to effect informed agreement by a provider. This would only apply in the absence of an explicit agreement between the provider, professional, or other entity and the Medicare+Choice organization.

This provision of the conference agreement also permits organizations offering Medicare+Choice plans that object to the coverage or provision of counseling or referral services on moral or religious grounds to make information on these policies available in the manner and through the written instrumentalities the organization deems appropriate. This limitation was included primarily to remove discretion from the Secretary or other governmental entities that may seek to impose burdensome regulatory, legal, or stylistic requirements with respect to this notice requirement. This limitation is not intended to allow Medicare+Choice organizations to intentionally obfuscate or seek to deceive prospective or current enrollees about their coverage policies. Rather, the Conferees intend for such notice to be provided in a manner that would be meaningful to beneficiaries and reasonably inform them of any plan restrictions.

(k) Treatment of services furnished by certain providers

HOUSE BILL

Section 10001 (new section 1852(k)). Requires a physician or other entity (other than a provider of services) that does not have a contract establishing payment amounts for services furnished to an individual enrolled with a MedicarePlus organization to accept as payment in full for covered services the amounts that the physician or other entity could collect if the individual were in Medicare FFS. Any penalty or other provision of law that applies to such a payment under Medicare FFS would also apply with respect to an individual covered under a MedicarePlus plan.

Section 4001 (new section 1852(k)). Identical provision. (See "p" below for exemption of requirement for Medicare MSA plans.)

SENATE AMENDMENT

Similar provision except that it excepts from the requirement an unrestricted fee-for-service plan as well as an MSA plan.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with an amendment to provide for application of the provision to Medicare+Choice private fee-for-service plans as follows:

(A) Balance Billing Limits.—In the case of an individual enrolled in such a plan, a physician, provider, or other entity that has a contract (including one assumed under item "j" above) establishing a payment rate for services furnished to the enrollee would have to accept as payment in full for covered Medicare services an amount not to exceed (including any deductibles, coinsurance, copayments, or balance billing otherwise permitted under the plan) an amount equal to 115% of such payment rate. The plan would have to establish procedures similar those in section 1848(g)(1)(A) (relating to Medicare's limitation on actual charges) to carry out this requirement. An organization's failure to establish and enforce these procedures would be subject to intermediate sanctions (as established under new section 1857(g).

(B) Enrollee Liability for Noncontract Providers.—In the case of an enrollee who is provided covered services by a noncontract provider, the plan would have to pay for items and services in an amount so that the sum of such payment and any cost sharing required under the plan was equal to at least the dollar amount of payment as would otherwise be authorized under Medicare fee-for-service (including any balanced billing permitted under parts A and B). Enrollee liability would be limited in the same way as it is for other plans. Providers would have to accept as payment in full for covered services the amounts that the physician or other entity could collect if the individual were in Medicare FFS. (Section 1866(a)(1)(O) related to hospitals and SNFs that do not have contracts with managed care plans that establish payment amounts or payment limits that would be made as payment in full would apply where appropriate.)

(C) Information on Beneficiary Liability.—Each Medicare+Choice organization that offered a private fee-for-service plan would have to provide that enrollees were provided an appropriate explanation of benefits (consistent with that provided under Medicare FFS and, if applicable, under Medicare supplemental policies) that included a clear statement of the amount of the enrollee's liability (including any for balance billing). The organization would also have to provide that the hospital provide enrollees prior notice before receipt of inpatient hospital services and certain other services when the amount of balance billing could be substantial. Such notice would have to include a good faith estimate of the likely amount of balance billing (if any) with respect to such services, based upon the presenting condition of the enrollee.

(l) Disclosure of use of DSH and teaching hospitals

HOUSE BILL

Section 10001 (new section 1852(l)). Each MedicarePlus organization would have to provide the Secretary with information on (I) the extent to which it provides inpatient and outpatient hospital benefits under MedicarePlus through the use of hospitals that are eligible for disproportionate share hospital adjustments or through the use of teaching hospitals that receive indirect and direct graduate medical education payments, and (ii) the extent to which differences between payment rates to different hospitals reflect the disproportionate share percentage of low-income patients and the presence of medical residency training programs in those hospitals.

Section 4001 (new section 1852 (l)). Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(m) Out-of-network access

HOUSE BILL

Section 10001. No provision.

Section 4001 (new section 1852(m)). Requires that if a MedicarePlus organization offers one plan which provides for coverage primarily through network providers, that it also be allowed to offer individuals (at the time of enrollment) another plan which provides for coverage through non-network providers.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(n) Non-preemption of state law

HOUSE BILL

Section 10001. No provision.

Section 4001 (new section 1852(n)). A state could establish or enforce requirements with respect to beneficiary protections in this section but only if such requirements were more stringent.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(o) Nondiscrimination in selection of network health professionals

HOUSE BILL

Section 10001. No provision.

Section 4001 (new section 1852(o)). Prohibits a MedicarePlus plan offering network coverage from discriminating in selecting the members of its health professional network (or in establishing the terms and conditions for membership in the network) on the basis of the race, national origin, gender, age, or disability (other than a disability that impairs the ability of an individual to provide health care services of that may threaten the health of enrollees) of the health professional. A MedicarePlus organization could not deny any health care professionals, based solely on the license or certification as applicable under state law, the ability to participate in providing covered health care services or to be reimbursed or indemnified for providing such services.

SENATE AMENDMENT

No provision. (See section 1852(b) above regarding restrictions on organizations denying participation solely on the basis of license or certification.)

CONFERENCE AGREEMENT

The conference agreement does not include the House provision in this section, but includes similar language on prohibiting plans from denying health care professionals the ability to participate solely on the license or certification—from the Senate bill in section 1852(b).

(p) Special rule for private fee-for-service MSA plan

HOUSE BILL

Section 10001. No provision.

Section 4001 (new section 1852(p)). Provides that a MedicarePlus MSA plan that is a fee-for-service plan would not be subject to the requirements described above relating to procedures for establishing physician participation in the plan or the limitations on balance billing.

Effective date

Section 10001. Unless otherwise provided, the provision is generally applicable to contracts entered into or renewed on or after January 1, 1998.

Section 4001. Identical.

SENATE AMENDMENT

See 1852(k) above.

Effective date. Identical

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

PAYMENTS TO MEDICAREPLUS/MEDICARE CHOICE ORGANIZATIONS (NEW SECTION 1853)

CURRENT LAW

Under a Medicare risk contract, an HMO agrees to provide or arrange for the full scope of covered Medicare services in return for a single monthly capitation payment issued by Medicare for each enrolled beneficiary. One of the numbers used to determine this payment is the adjusted average per capita cost, or AAPCC. The other, the adjusted community rate or ACR, is discussed below (see new Section 1854).

The AAPCC is Medicare's estimate of the average per capita amount it would spend for a given beneficiary (classified by certain demographic characteristics and county of residence) who was not enrolled in an HMO and who obtained services on the usual fee-for-service basis. Separate AAPCCs are established for enrollees on the basis of age, sex, whether they are in a nursing home or other institution, whether they are also eligible for Medicaid, whether they are working and being covered under an employer plan, and the county of their residence. These AAPCC values are calculated in three basic steps:

Medicare national average calendar year per capita costs are projected for the future year under consideration. These numbers are known as the U.S. per capita costs (USPCCs) and are estimated average incurred benefit costs per Medicare enrollee and adjusted to include program administration costs. USPCCs are developed separately for Parts A and B of Medicare, and for costs incurred by the aged, disabled, and those with ESRD in those two parts of the program.

Geographic adjustment factors that reflect the historical relationships between the county's and the Nation's per capita costs are used to convert the national average per capita costs to the county level. Expected Medicare per capita costs for the county are calculated only for fee-for-service beneficiaries by removing both reimbursement and enrollment attributable to Medicare beneficiaries in prepaid plans.

Once the county AAPCC is calculated, it is then adjusted for the demographic variables described above, such as age, sex, and Medicaid status.

For each Medicare beneficiary enrolled under a risk contract, Medicare will pay the HMO 95% of the rate corresponding to the demographic class to which the beneficiary is assigned.

Medicare payments to risk-contract HMOs include amounts that reflect Medicare's fee-for-service payments to hospitals in an area for disproportionate share adjustment.

HOUSE BILL

Section 10001 (new section 1853). Establishes a new section 1853 specifying the methodology for determining payment to MedicarePlus plans and the procedures for announcing rates and paying plans.

Section 4001 (new section 1853). Identical provision.

SENATE AMENDMENT

Similarly establishes new section 1853 but all references are to Medicare Choice, such as Medicare Choice capitation payments.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment except that the requirements apply to Medicare+Choice organizations and plans.

(a) In general

HOUSE BILL

Section 10001 (new section 1853(a)). Provides that under a MedicarePlus contract, the Secretary would be required to make monthly payments in advance to each MedicarePlus organization for each covered individual in a payment area in an amount equal to $1/12$ of the annual MedicarePlus capitation rate with respect to that individual for that area. The payment would be adjusted for such risk factors as age, disability status, gender, institutional status, and other such factors as the Secretary determined to be appropriate, so as to ensure actuarial equivalence.

The Secretary could add to, modify, or substitute for such factors, if such changes would improve the determination of actuarial equivalence. The Secretary would be required to establish separate rates of payment with respect to individuals with end stage renal disease (ESRD).

Payments to organizations could be retroactively adjusted for (I) actual versus the estimated enrollment used to determine the amount of advance payment; and (ii) individuals' change of enrollment from a MedicarePlus organization sponsored or contributed to by an employer to a MedicarePlus organization.

Risk Adjustment. The Secretary would be required to develop and submit to Congress by no later than October 1, 1999, a report on a method of risk adjustment of payment rates that accounts for variations in per capita costs based on health status. This report would have to include an evaluation of the proposal by an independent actuary of the actuarial soundness of the proposal. The Secretary would have to require MedicarePlus organizations (and risk-contract plans) to submit, for periods beginning on or after January 1, 1998, data regarding inpatient hospital and other services and other information the Secretary deems necessary. The Secretary would have to provide for implementation of a risk adjustment methodology that accounts for variations in per capita costs based on health status by no later than January 1, 2000.

Section 4001 (new section 1853(a)). Identical provision.

SENATE AMENDMENT

Identical except with respect to risk adjustment.

Risk Adjustment. Prohibits the Secretary from implementing a risk adjustment methodology until the Secretary receives an evaluation by an outside, independent actuary of the actuarial soundness of the method. (Does not specify a date by which the risk adjustment method has to be implemented.)

Interim Risk Adjustment. Provides for an interim risk adjustment: For each enrollee in a Medicare Choice plan (one that had not been enrolled in Medicare Choice plans or risk contract plans for an aggregate number of months greater than 60), the payment to the organization would be reduced by an amount equal to the following applicable percentage:

Months enrolled in a Medicare Choice plan:	Percentage reduction
1–12	5
13–24	4
25–36	3
37–48	2
49–60	1

The interim risk adjustment would not apply to an enrollee in a Medicare Choice plan offered by a Medicare Choice organization if the enrollee was in a health plan (other than a Medicare Choice plan) offered by the organization at the time of the individual's initial election period and had been continuously enrolled in that plan or another plan offered by the same organization since the initial election period. The adjustment would also not apply to new plans in the first 12 months during which they enrolled individuals provided the Medicare Choice capitation rate for such area for the preceding calendar year was less than the annual national capitation rate (or, for 1998, the 1997 AAPCC). This interim adjustment would terminate once the new risk adjustment methodology (to be developed by the Secretary) was applied.

CONFERENCE AGREEMENT

The conference agreement includes section 10001 of the House provision with a modification specifying that the Secretary develop and submit to Congress by not later than March 1, 1999 a report of the method of risk adjustment to be implemented. In addition, Medicare+Choice organizations and risk contract plans would have to submit data for inpatient hospital services beginning on or after July 1, 1997 and data for other services for periods beginning on or after July 1, 1998. The Secretary could not require an organization to submit data before January 1, 1998. It also requires that the payment methodology be applied uniformly without regard to the type of plan.

(b) Annual announcement of payment rates

HOUSE BILL

Section 10001 (new section 1853(b)). Payments to plans would be calculated based on the annual MedicarePlus capitation rate. The Secretary would be required to annually determine, and announce no later than August 1 before the calendar year concerned: (I) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and (ii) the risk and other factors to be used in adjusting such rates for payments for months in that year. An explanation of the assumptions and changes in methodology would have to be included in sufficient detail so that organizations could compute monthly adjusted MedicarePlus capitation rates. The Secretary would be required to provide advance notice (at least 45 days prior to the announcement) of the proposed changes in the methodology and assumptions used to develop the rates, and give organizations an opportunity to comment.

Section 4001 (new section 1853(b)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment except that the date for announcing the payment rates is changed to March 1 before the calendar year concerned.

(c) Calculation of annual Medicare plus capitation rates

HOUSE BILL

Section 10001 (new section 1853(c)). Provides that the annual MedicarePlus capitation rate, for a payment area (for a contract for a calendar year) would be equal to the greatest of the following:

(A) A blended capitation rate, defined as the sum of:

(1) the area-specific percentage (as defined below) of the annual area-specific MedicarePlus capitation rate for the year for the payment area, and

(2) the national percentage (as defined below) of the input-price adjusted annual national MedicarePlus capitation rate for the year. This sum is multiplied by the budget neutrality adjustment factors (described below);

(B) A minimum (i.e. "floor") monthly payment amount set at $350 for 1998 (but not to exceed, in the case of an area outside the 50 states and the District of Columbia, 150% of the 1997 AAPCC). For a subsequent year, this payment amount would be increased by the national per capita MedicarePlus growth percentage for that year.

(c) A minimum percentage increase (i.e., "hold harmless" amount). In 1998, the payment area would receive a rate that is 102% of its 1997 AAPCC. For a subsequent year, it would be 102% of the annual MedicarePlus capitation rate for the previous year.

There are four elements in the blended capitation rate referred to in "A" above: First, the area-specific and national percentages are as follows:

1998—the area-specific percentage is 90% and the national percentage is 10%.

1999—the area-specific percentage is 80% and the national percentage is 20%.

2000—the area-specific percentage is 70% and the national percentage is 30%

2001—the area-specific percentage is 60% and the national percentage is 40%

After 2001—the area-specific percentage is 50% and the national percentage is 50%.

Second, the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area would be:

For 1998, the annual per capita rate of payment for 1997 (as determined under the current law calculation to derive the AAPCC), increased by the national average per capita growth percentage for 1998 (as defined below), or

For a subsequent year, the annual area-specific MedicarePlus capitation rate for the previous year, increased by the national per capita MedicarePlus growth percentage for such subsequent year.

Third, the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year would be equal to the sum, for all types of Medicare services, of the product of three amounts: (I) the national standardized annual MedicarePlus capitation rate for the year (defined as the weighted average of area-specific MedicarePlus capitation rates), (ii) the proportion of such rate for the year which is attributable to such type of services, and (iii) an index that reflects (for that year and that type of service) the relative input price of such services in the area as compared to the national average input price of such services. (In applying (iii), the Secretary would use those indices that are used in applying (or updating) national payment rates for specific areas and localities.) Special rules specified in the provision would apply for 1998 (and optionally for 1999) in providing for the input price adjustment.

Fourth, in calculating the payment rates, the Secretary would be required to apply a budget neutrality adjustment to the blended rate payments. This adjustment would ensure that the aggregate of payments equals that which would have been made if the payment was based on 100% of the area-specific MedicarePlus capitation rates for each payment area. In doing this, the budget neutral amount for all counties would be equal to the sum of the area-specific rates used to compute the blended rates multiplied by the product of the update factor and the number of enrollees in that county.

With respect to the blended and the minimum payment rate categories described in "A" and "B" above, the national per capita MedicarePlus growth percentage is the percentage determined by the Secretary, by April 30th before the beginning of the year involved, to reflect the Secretary's estimate of the projected per capita rate of growth in expenditures under Medicare parts A and B, reduced by 0.5 percentage points for 1998-2002, and by 0 percentage points for years thereafter.

Separate determinations would have to be made for aged enrollees, disabled enrollees, and enrollees with ESRD. The percentage adjustment would have to reflect an adjustment for over or under projecting the percentage growth for previous years.

Section 4001 (new section 1853(c)). Differs with respect to several major elements:

Plans would get the greatest of the blended rate, minimum (floor) or minimum percentage increase (hold harmless). The minimum percentage increase is treated differently as follows: In 1998, the payment area would receive a MedicarePlus capitation rate that is 100% of its 1997 AAPCC. For 1999 and 2000, it would be 101% of the previous year's rate. For 2001 and subsequent years, it would be 102% of the previous year's rate.

There are five (instead of four) elements in the blended capitation rate: First, the area-specific and national percentages are as follows:

1998—the area-specific percentage is 90% and the national percentage is 10%

1999—the area-specific percentage is 85% and the national percentage is 15%

2000—the area-specific percentage is 80% and the national percentage is 20%

2001—the area-specific percentage is 75% and the national percentage is 25%

After 2001—the area-specific percentage is 70% and the national percentage is 30%.

Second, the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area would be calculated as follows, after removing certain amounts from historical payment amounts (as described below):

For 1998—the annual per capita rate of payment for 1997 (as determined under the current law calculation to derive the AAPCC), increased by the national average per capita growth percentage for 1998 (as defined below), or

For a subsequent year—the annual area-specific MedicarePlus capitation rate for the previous year, increased by the national per capita MedicarePlus growth percentage for such subsequent year.

Third, in determining the area-specific MedicarePlus capitation rate, amounts attributable to payments for hospitals serving a disproportionate share of low-income patients, payments for the indirect costs of medical education, and payments for direct graduate medical education costs, should be deducted from the 1997 payment amount as follows:

1998—20% of such payments
1999—40% of such payments
2000—60% of such payments
2001—80% of such payments
2002—100% of such payments

Fourth, the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year would be determined. This is done in the same way as in section 10001.

Fifth, in calculating the payment rates, the Secretary would be required to apply a budget neutrality adjustment to the blended rate payments. This is done in the same way as in section 10001.

Treatment of areas with highly variable payment rates. Adds a provision requiring that in the case of a MedicarePlus payment area for which the AAPCC for 1997 varies by more than 20% from such rate for 1996, the Secretary, where appropriate, could substitute for the 1997 rate a rate that is more representative of the cost of the enrollees in the area.

SENATE AMENDMENT

Similar but varies with respect to specific parameters, as follows. The annual Medicare Choice capitation rate (for a contract year) would be the greatest of the:

(A) A blended capitation rate, defined as the a sum of the :

(1) the area-specific percentage of the annual area-specific Medicare Choice capitation rate for the year for the payment area, and the (2) national percentage of the annual national Medicare choice capitation rate for the year (not adjusted for input prices). This sum is multiplied by the budget neutrality adjustment factors (described below);

(B) A minimum (i.e., "floor") monthly payment amount set at $4,200 for 1998 (which is $350 per month) (but not to exceed, in the case of an area outside the 50 states and the District of Columbia, 150% of the 1997 AAPCC). This floor would then be raised to no more than 85% of the national average payment. The amount it would be raised would depend on the amount of dollars saved by lowering the minimum update (see below).

(c) A minimum percentage increase (i.e., "hold harmless" amount). In 1998, the payment area would receive a rate equal to 101% of the 1997 AAPCC. This amount would be lowered to 100% of the previous year's rate to pay for the higher floor amounts.

There are five elements in the blended capitation rate. First the phase in of area-specific and national percentages are the same as for section 10001: The blend starts at 90% local and 10% national in 1998 and phases down to 50% local and 50% national in 2002.

Second, the annual area-specific Medicare Choice capitation rate for a Medicare Choice payment area would be calculated as follows, after removing amounts for certain historical payments:

For 1998, the modified 1997 AAPCC, increased by the national average per capita growth percentage for 1998 (see below), or

For a subsequent year, the annual area-specific Medicare Choice capitation rate for the previous year increased by the national average per capita growth percentage for such subsequent year.

Third, in determining the area-specific Medicare Choice capitation rate, amounts attributable to payments for hospitals serving a disproportionate share of low-income patients, payments for the indirect costs of medical education, and payments for direct graduate medical education costs, should be deducted from the 1997 payment amount as follows:

1998—25% of such payments
1999—50% of such payments
2000—75% of such payments
2001—100% of such payments.

Fourth, the annual national Medicare Choice capitation rate for a Medicare Choice payment area for a payment year would be equal to the sum, for all Medicare Choice payment areas, of the product of: (I) the annual area-specific Medicare Choice capitation rate, and (ii) the average number of Medicare beneficiaries residing in that area divided by the number of Medicare beneficiaries for all Medicare Choice payment areas for that year.

Fifth, in calculating payment rates, the Secretary would be required to apply a budget neutrality adjustment to blended rate payments. This is identical to the provision in section 10001.

With respect to the blended payment rate categories described in "A" above, the national per capita Medicare choice growth percentage for any year beginning with 1998 is the percentage increase in the gross domestic product (GDP) per capita for the preceding year plus 0.5 percentage points.

Treatment of areas with highly variable payment rates. Identical to section 4001.

Study of local price indicators. The Secretary and the Medicare Payment Advisory Commission would be required to conduct a study with respect to appropriate measures for adjusting the annual Medicare Choice capitation rates determined under this section to reflect local price indicators, including the medical hospital wage index and the case mix of a geographic region. The Secretary and the Commission would be required to report the study results to the appropriate committees of Congress, including recommendations (if any) for legislation.

CONFERENCE AGREEMENT

The conference agreement includes provisions from section 10001 of the House bill with modifications. These are as follows:

Calculations of the annual capitation rates for each payment area would have to take into account any adjustment for over or under projecting the national per capita Medicare+Choice growth percentage and any adjustment for national coverage determinations. (These adjustments are described in greater detail below.)

The minimum ("floor") amount in 1998 would be $367 (but not to exceed, in the case of areas outside the 50 states and Washington, D.C., 150% of the 1997 AAPCC). For a succeeding year, the payment would be increased by the national per capita Medicare+Choice growth percentage (see below). (The floor for the territories would be updated by the national per capita Medicare+Choice growth percentage from the 150% amount.)

The area-specific and national percentages used to calculate the rates for the blended counties would be as follows:

1998—the area-specific percentage is 90% and the national percentage is 10%

1999—the area-specific percentage is 82% and the national percentage is 18%

2000—the area-specific percentage is 74% and the national percentage is 26%

2001—the area-specific percentage is 66% and the national percentage is 34%

2002—the area-specific percentage is 58% and the national percentage is 42%

After 2002—the area-specific percentage is 50% and the national percentage is 50%.

Calculation of the area-specific rates would have to take into account the substituted rates for areas with highly variable payment rates. (Such areas are those for which the annual per capita rate of payment for risk contract plans for 1997 varied by more than 20% for such rate for 1996. The Secretary would be authorized to substitute for the 1997 rate one that was more representative of the costs of the enrollees in the area.)

Payments (direct and indirect) for graduate medical education would be "carved out" of the payments to the Medicare+Choice plans over 5 years. Specifically, in determining the area-specific Medicare+Choice capitation rate, amounts attributable to payments for the indirect costs of medical education, and payments for direct graduate medical education costs, would be deducted from the 1997 payment amount as follows:

1998—20% of such payments
1999—40% of such payments
2000—60% of such payments
2001—80% of such payments
2002—100% of such payments

Payments for DSH would not be carved out. The conference agreement includes technical drafting changes to the provision specifying the treatment of payments covered under state hospital reimbursement systems.

The conference agreement includes clarifying changes to the budget neutrality requirement. Based on the modeling of the rates that was done while developing the payment provisions included in the conference agreement, the Conferees understand that the application of the budget neutrality factor to the blended rates may require that all rates be calculated for a given year through an iterative process. For example, the application of the budget neutrality factor in a given year may result in the reduction, for some counties, of the blended rate below the level provided under the minimum increase provision. Since the rate for any county is based on the greatest of the three payment rate amounts, payments would then be recalculated with these counties now being paid based on the minimum increase or floor provision. Budget neutrality would then be achieved through the application of a different budget neutrality factor to the remaining blend counties. The rate calculation is completed when the application of the budget neutrality factor does not result in any additional county payment rates falling below the minimum increase or floor amounts.

The national per capita Medicare+Choice growth percentage would be the growth in per capita Medicare fee-for-service expenditures minus 0.8 percentage points in 1998, minus 0.5 percentage points for 1999 through 2002 and minus 0 percentage points for 2003 and thereafter. Beginning with rates calculated for 1999, before computing rates for a year, the Secretary would adjust all area-specific and national rates (and beginning in 2000, minimum payment rates) for the previous year for the differences between the projections of the national per capita Medicare+Choice percentage for that year and previous years and the current estimate of such percentage for such years.

National coverage determination adjustment. If the Secretary made a determination with respect to coverage that he or she projected would result in a significant increase in the costs to Medicare+Choice of providing benefits under contracts under this part, the Secretary would have to adjust appropriately the payments to Medicare+Choice organizations.

(d) Medicare plus payment area defined

HOUSE BILL

Section 10001 (new section 1853(d)). Defines a MedicarePlus payment area as a county or equivalent area specified by the Secretary. In the case of individuals determined to have ESRD, the MedicarePlus payment area would be each state, or other payment areas as the Secretary specified.

Upon request of a state for a contract year (beginning after 1998) made at least 7 months before the beginning of the year, the Secretary would redefine MedicarePlus payment areas in the state to: (1) a single statewide MedicarePlus payment area; (2) a metropolitan system (described in the provision); or (3) a single MedicarePlus payment area consolidating noncontiguous counties (or equivalent areas) within a state. This adjustment would be effective for payments for months beginning with January of the year following the year in which the request was received. The Secretary would be required to make an adjustment to payment areas in the state to ensure budget neutrality.

Section 4001 (new section 1853(d)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(e) Special rules for individuals electing MSA plans

HOUSE BILL

Section 10001 (new section 1853(e)). Provides that if the monthly premium for an MSA plan for a MedicarePlus payment area was less than 1/12 of the annual MedicarePlus capitation rate for the area and year involved, the Secretary would deposit the difference in a MedicarePlus MSA established by the individual. No payment would be made unless the individual had established the MedicarePlus MSA before the beginning of the month or by such other deadline the Secretary specifies. If the individual had more than one account, he or she would designate one to the receive the payment. The payment for the first month for which an MSA plan was effective for a year would also include amounts for successive months in the year. For cases when an MSA election was terminated before the end of the year, the Secretary would establish a procedure to recover deposits attributable to the remaining months.

Section 4001 (new section 1853(e)). Identical provision.

SENATE AMENDMENT

Similar provision except deposit would be subject, if applicable, to the new enrollee risk adjustment reduction.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

(f) Payments from trust fund

HOUSE BILL

Section 10001 (new section 1853(f)). Payments to MedicarePlus organizations and payments to MedicarePlus MSAs, would be made from the HI and SMI trust funds in such proportion as the Secretary determined reflected the relative weights that benefits under Parts A and B represented Medicare's actuarial value of the total benefits. Monthly payments otherwise payable for October 2001 would be paid on the last business day of September 2001.

Section 4001 (new section 1853(f)). Identical provision.

SENATE AMENDMENT

Identical except adds that monthly payments otherwise payable for October 2006 would be paid on the first business day of October 2006.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. Monthly payments otherwise payable under this section for October 2000 would be paid on the first business day of such month. Monthly payments otherwise payable under this section for October 2001 would be paid on the last business day of September 20001. Monthly payments otherwise payable under this section for October 20006 would be paid on the first business day of October 2006.

(g) Special rule for certain inpatient hospital stays

HOUSE BILL

Section 10001 (new section 1853(g)). Provides that in the case of an individual receiving inpatient hospital services from a hospital covered under Medicare's prospective payment system as of the effective date of the (1) individual's election of a MedicarePlus plan: (a) payment for such services until the date of the individual's discharge would be made as if the individual did not elect coverage under the MedicarePlus plan; (b) the elected organization would not be financially responsible for payment for such services until the date of the individual's discharge; and (c) the organization would nevertheless be paid the full amount otherwise payable to the organization; or (2) termination of enrollment with a MedicarePlus organization: (a) the organization would be financially responsible for payment for such services after the date of termination and until the date of discharge; (b) payment for such services during the stay would not be made under Medicare's PPS system; and (c) the terminated organization would not receive any payment with respect to the individual during the period in which the individual was not enrolled.

Section 4001 (new section 1853g)). Identical provision.

Effective date.

Section 10001. Effective upon enactment and would be applied for contracting periods beginning on or after January 1, 1998.

Section 4001. Identical.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with an amendment providing for a special rule for hospice care. A contract under this part would have to require a Medicare+Choice organization to inform each individual enrollee in a Medicare+Choice plan about the availability of hospice care if (I) a hospice program participating under Medicare was located within the organization's service area or (ii) it was common practice to refer patients to hospice programs outside the service area. If an enrollee elected to receive hospice care from a particular hospice program, payment for the hospice care would have to be made by the Secretary. In addition, payment for other services for which the individual was eligible, notwithstanding the hospice election, would be made by the Secretary to the Medicare+Choice organization or provider or supplier of the service instead of payments to the plan. The Secretary would continue to make monthly payments to the organization equal to the value of any additional benefits calculated under section 1854.

Premiums (new section 1854)

CURRENT LAW

Section 1876 of the Social Security Act provides for requirements relating to benefits, payment to the plans by Medicare, and payments to the plans by beneficiaries. A Medicare beneficiary enrolled in an HMO/CMP is entitled to receive all services and supplies covered under Medicare Parts A and B (or Part B only, if only enrolled in Part B). These services must be provided directly by the organization or under arrangements with the organization. Enrollees in risk-based organizations are required to receive all services from the HMO/CMP except in emergencies.

In general, HMOs/CMPs offer benefits in addition to those provided under Medicare's benefit package. In certain cases, the beneficiary has the option of selecting the additional benefits, while in other cases some or all of the supplementary benefits are mandatory.

Some entities may require members to accept additional benefits (and pay extra for them in some cases). These required additional services may be approved by the Secretary if it is determined that the provision of such additional services will not discourage enrollment in the organization by other Medicare beneficiaries.

The amount an HMO/CMP may charge for additional benefits is based on a comparison of the entity's adjusted community rate (ACR, essentially the estimated market price) for the Medicare package and the average of the Medicare per capita payment rate. A risk-based organization is required to offer "additional benefits" at no additional charge if the organization achieves a savings from Medicare. This "savings" occurs if the ACR for the Medicare package is less than the average of the per capita Medicare payment rates. The difference between the two is the amount available to pay additional benefits to enrollees. These may include types of services not covered, such as outpatient prescription drugs, or waivers of coverage limits, such as Medicare's lifetime limit on reserve days for inpatient hospital care. The organization might also waive some or all of the Medicare's cost-sharing requirements.

The entity may elect to have a portion of its "savings" placed in a benefit stabilization fund. The purpose of this fund is to permit the entity to continue to offer the same set of benefits in future years even if the revenues available to finance those benefits diminish. Any amounts not provided as additional benefits or placed in a stabilization fund would be offset by a reduction in Medicare's payment rate.

If the difference between the average Medicare payment rate and the adjusted ACR is insufficient to cover the cost of additional benefits, the HMO/CMP may charge a supplemental premium or impose additional cost-sharing charges. If, on the other hand, the HMO does not offer additional benefits equal in value to the difference between the ACR and the average Medicare payment, the Medicare payments are reduced until the average payment is equal to the sum of the ACR and the value of the additional benefits.

For the basic Medicare covered services, premiums and the projected average amount of any other cost-sharing may not exceed what would have been paid by the average enrollee under Medicare rules if she or he had not joined the HMO. For supplementary services, premiums and projected average cost-sharing may not exceed what the HMO would have charged for the same set of services in the private market.

HOUSE BILL

Section 10001 (new section 1854). The provision creates a new Section 1854 specifying requirements for the determination of premiums charged by MedicarePlus organizations to MedicarePlus enrollees.

Section 4001 (new section 1854). Identical provision.

SENATE AMENDMENT

Similar but applies to Medicare Choice.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment but applies to Medicare+Choice organizations and plans.

(a) Submission and charging of premiums

HOUSE BILL

Section 10001 (new section 1854(a)). Requires each MedicarePlus organization to file annually with the Secretary the amount of the monthly premium for coverage under each of the plans it would be offering in each payment area, and the enrollment capacity in relation to the plan in each such area. The net monthly premium is the premium for covered services reduced by the monthly MedicarePlus capitation payment.

Section 4001 (new section 1854 (a)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement provides that in general, no later than May 1 of each year, each Medicare+Choice organization submit to the Secretary, in a form and manner specified by the Secretary, and for each Medicare+Choice plan for the service area in which it intends to be offered in the following year, specific information and the enrollment capacity (if any) in relation to the plan and the area. For coordinated care plans, the following information would be required:

(1) For basic (and) additional benefits, the adjusted community rate (ACR), the Medicare+Choice monthly basic beneficiary premium, a description of deductibles, coinsurance, and copayments applicable under the plan and the actuarial value of such, and (if applicable) a description of the additional benefits to be provided and value for such proposed benefits.

(2) For supplemental benefits, the ACR, the supplemental beneficiary premium, and a description of deductibles, coinsurance, and copayments applicable under the plan and the actuarial value of such.

For MSA plans, the required information would include the monthly MSA premium for the basic (and additional) benefits and the amount of the supplementary beneficiary premium. For private fee-for-service plans, the required information would include for the basic (and additional) benefits, the ACR, the amount of the Medicare+Choice monthly basic beneficiary premium, and (if applicable) a description of the additional benefits to be provided and value for such proposed benefits. In addition, they would have to include the amount of the monthly supplementary premium.

In general, the Secretary would be required to review the ACRs, the amounts of the premiums, and the values filed under this provision and approve or disapprove such fates, amounts, and values. The Secretary could not review the MSA premiums or the premiums for the private fee-for-service plans.

(b) Monthly premium charged

HOUSE BILL

Section 10001 (new section 1854(b)). Provides that the monthly amount of premium charged in a payment area to an enrollee would equal the net monthly premium plus any monthly premium charged (in accordance with (e) below) for supplemental benefits.

Section 4001 (new section 1854 (b)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement provides that the monthly premium, for other than MSA plans, would be equal to the sum of the Medicare+Choice monthly basic beneficiary premium and the Medicare+Choice monthly supplementary beneficiary premium (if any). For MSA plans, the monthly amount of the premium charged to an enrollee would be equal to the Medicare+Choice monthly supplemental beneficiary premium (if any).

The Medicare+Choice monthly basic premium is defined to mean the amount authorized to be charged for basic and additional benefits for the plan (see below), or, in the case of a private fee-for-service plan, the amount filed with the Secretary.

The Medicare+Choice monthly supplemental beneficiary premium is defined to mean the amount authorized to be charged for supplemental benefits or, in the case of a MSA plan or a fee-for-service plan, the amount filed with the Secretary.

The Medicare+Choice MSA premium is defined at the amount of such premium filed with the Secretary.

(c) Uniform premium

HOUSE BILL

Section 10001 (new section 1854(c)). Premiums could not vary among individuals who resided in the same payment area.

Section 4001 (new section 1854(c)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with a modification to specify that the monthly basic and supplemental premium could not vary among individuals enrolled in the plan and to conform with the definitional changes noted above.

(d) Terms and conditions of imposing premiums

HOUSE BILL

Section 10001 (new section 1854(d)). Each MedicarePlus organization would have to permit monthly payment of premiums. An organization could terminate election of individuals for a MedicarePlus plan for failure to make premium payments but only under specified conditions. A MedicarePlus organization could not provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

Section 4001 (new section 1854(d)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT.

The conference agreement includes provisions that are identical in the House bill and Senate amendment with conforming changes reflecting the definitional changes noted above.

(e) Limitation on enrollee cost-sharing

HOUSE BILL

Section 10001 (new section 1854(e)). In no case could the actuarial value of the net monthly premium rate, deductibles, coinsurance, and copayments applicable on average to individuals enrolled with a MedicarePlus plan with respect to required benefits exceed the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals in Medicare FFS. For supplemental benefits, the premium for such benefits and the actuarial value of its deductibles, coinsurance, and copayments could not exceed the adjusted community rate for such benefits. These provisions would not apply to an MSA plan. If the Secretary determined that adequate data were not available to determine the actuarial value of the cost-sharing elements of the plan, the Secretary could determine the amount.

Section 4001 (new section 1854(e)). Identical provision.

SENATE AMENDMENT

Identical except provides for exception to the limitations on enrollee cost-sharing to unrestricted fee-for-service plans as well as MSA plans.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with conforming changes and an amendment providing for a special rule for Medicare+Choice private fee-for-service plans that are not MSA plans. In no event could the actuarial value of the deductibles, coinsurance, and copayments applicable on average to individuals enrolled with such a plan with respect to required Medicare benefits exceed the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals entitled to benefits under part A and enrolled under part B of Medicare if they were not members of a Medicare+Choice organization for the year.

(f) Requirement for additional benefits

HOUSE BILL

Section 10001 (new section 1854(f)). Provides that the extent to which a MedicarePlus plan (other than a MSA plan) would have to provide additional benefits would depend on whether the plan's adjusted community rate (ACR) was lower than its average capitation payments. The ACR would mean, at the election of the MedicarePlus organization, either: (i) the rate of payment for services which the Secretary annually determined would apply to the individuals electing a MedicarePlus plan if the payment were determined under a community rating system, or (ii) the portion of the weighted aggregate premium which the Secretary annually estimated would apply to the individual but adjusted for differences between the utilization of individuals under Medicare and the utilization of other enrollees (or through another specified manner). For PSOs, the ACR could be computed using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

If the actuarial value of the benefits under the MedicarePlus plan (as determined based upon the ACR) for individuals was less than the average of the capitation payments made to the organization for the plan at the beginning of a contract year, the organization would have to provide additional benefits in a value which was at least as much as the amount by which the capitation payment exceeded the ACR. These benefits would have to be uniform for all enrollees in a plan area. (The excess amount could, however, be lower if the organization elected to withhold some of it for a stabilization fund.) A MedicarePlus organization could provide additional benefits (over and above those required to be added as a result of the excess payment), and could impose a premium for such additional benefits.

Section 4001 (new section 1854(f)). Identical provision.

SENATE AMENDMENT

Identical provision except does not include the lack of enrollment experience in the case of a PSO under the provision related to determinations based on insufficient data.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification relating to the determination when insufficient data on enrollment experience exists or to determine the adjusted community rate for a newly established organization. It would permit the Secretary to determine a rate using data in the general commercial marketplace.

(g) Periodic auditing

HOUSE BILL

Section 10001 (new section 1854(g)). Requires the Secretary to provide annually for the auditing of the financial records (including data relating to utilization and computation of the ACR) of at least one-third of the MedicarePlus organizations offering MedicarePlus plans. The General Accounting Office would be required to monitor such auditing activities.

Section 4001 (new section 1854(g)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House or Senate provisions (but see item (a) above).

(h) Prohibition of State imposition of premium taxes

HOUSE BILL

Section 10001 (new section 1854(h)). No state could impose a premium tax or similar tax on the premiums of MedicarePlus plans or the offering of such plans.

Section 4001 (new section 1854(h)). Identical provision.

Effective date.

Section 10001. Unless otherwise provided, generally applicable to contracts entered into or renewed on or after January 1, 1998.

Section 4001. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with a clarification to provide that no state could impose a premium tax or similar tax with respect to payments to Medicare+Choice organizations under section 1853 (which provides for payments to Medicare+Choice plans).

ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS/MEDICARE CHOICE ORGANIZATIONS; PROVIDER SPONSORED ORGANIZATIONS (PSOs) (NEW SECTION 1855)–

CURRENT LAW

Under Section 1876 of the Social Security Act, Medicare specifies requirements to be met by an organization seeking to become a managed care contractor with Medicare. In general, these include the following: (1) the entity must be organized under the laws of the state and be a federally qualified HMO or a competitive medical plan (CMP) which is an organizations that meets specified requirements (it provides physician, inpatient, laboratory, and other services, and provides out-of-area coverage); (2) the organization is paid a predetermined amount without regard to the frequency, extent, or kind of services actually delivered to a member; (3) the entity provides physicians' services primarily through physicians who are either employees or partners of the organization or through contracts with individual physicians or physician groups; (4) the entity assumes full financial risk on a prospective basis for the provision of covered services, except that it may obtain stop-loss coverage and other insurance for catastrophic and other specified costs; and (5) the entity has made adequate provision for protection against the risk of insolvency.

Provider Sponsored Organizations (PSOs) that are not organized under the laws of a state and are neither a federally qualified HMO or CMP are not eligible to contract with Medicare under the risk contract program. A PSO is a term generally used to describe a cooperative venture of a group of providers who control its health service delivery and financial arrangements.

HOUSE BILL

Section 10001 (new section 1855). Adds a new Section 1855 to the Social Security Act providing organizational and financial requirements for MedicarePlus organizations, including PSOs.

Section 4001 (new section 1855). Identical provision.

SENATE AMENDMENT

Similar but applies to Medicare Choice Organizations.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment except that the provisions apply to Medicare+Choice organizations and plans.

(a) Organized and licensed under state law

HOUSE BILL

Section 10001 (new section 1855(a)). Requires a MedicarePlus organization to be organized and licensed under state law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each state in which it offers a MedicarePlus plan.

A special exception would apply, however, for PSOs. In general, a PSO seeking to offer a MedicarePlus plan could apply to the Secretary for a waiver of the state licensing requirement. The Secretary would be required to grant or deny a waiver application within 60 days of a completed application.

The Secretary could grant a waiver of the state licensing requirement for an organization that is a PSO if the Secretary determined that: (i) the state had failed to substantially complete action on a licensing application within 90 days of the receipt of a completed application (not including any period before the date of enactment); or (ii) the state denied such a licensing application and (a) the state had imposed documentation or information requirements not related to solvency requirements that were not generally applicable to other entities engaged in substantially similar business, or (b) the state's standards or review process imposed any material requirements, procedures, or standards (other than requirements relating to solvency) on such organizations that were not generally applicable to other entities engaged in substantially similar business; or (iii) the state used its own solvency requirements which were not the same as the federal requirements to deny the licensing application, or the state had imposed as a condition of licensure approval any documentation requirements relating to solvency or other material requirements, procedures, or standards that were different from the requirements, procedures, or standards applied by the Secretary.

In the case of a waiver granted under this paragraph for a PSO: (i) the waiver would be effective for a 36-month period, except it could be renewed based on a subsequent application filed during the last 6 months of such period; and (ii) any provision of state law related to the licensing of the organization which prohibited the organization from providing coverage pursuant to a MedicarePlus contract would be preempted. Waivers could be renewed more than once.

The state licensing requirement would not apply to a MedicarePlus organization in a state if the state required the organization, as a condition of licensure, to offer any plan other than a MedicarePlus plan. The fact that an organization was licensed under state law would not substitute for or constitute certification.

Section 4001 (new section 1855(a)). Identical except: (i) the waiver application from the PSO to the state would not have to be a completed application; the waiver would be conditioned upon the pendency of the licensure application during the period the waiver was in effect; and (ii) the preemption of state laws would not be construed as waiving any provision of state law which related to quality of care or consumer protection standards) and which was imposed on a uniform basis and was generally applicable to other entities engaged in substantially similar business.

SENATE AMENDMENT

In general, organizations would have to be licensed under state law as risk-bearing entities eligible to offer health insurance or benefits coverage in each state in which it offered a Medicare Choice plan. The provision establishes, however, a different exceptions process for PSOs. Prior to 2001, the Secretary would be required to waive the state licensure requirement for a PSO if: (i) the organization filed an application for a waiver with the Secretary, and (ii) the contract with the organization with Medicare under new section 1857 (see below) required the organization to meet all requirements of state law which related to the licensing of the organization (other than solvency requirements or a prohibition on licensure for the organization). The waiver would be effective for the years specified in the waiver but could be renewed based on a subsequent application, and (ii) (subject to the provision described above), any provision of state law which would otherwise prohibit the organization from providing coverage pursuant to a Medicare Choice contract would be superseded. No waiver would extend beyond the earlier of December 31, 2000 or the date on which the Secretary determined that the state had in effect federal solvency standards (as established through the process described for new section 1856 below).

The Secretary would be required to grant or deny the waiver application within 60 days after the date the Secretary determined that a substantially completed application had been filed.

The Secretary would be required to enter into agreements with states subject to a waiver to ensure the adequate enforcement of standards incorporated into the contract with the organization. Such agreements would have to provide methods by which states could notify the Secretary of any failure by an organization to comply with such standards. If the Secretary determined that an organization was not in compliance, he/she would be required to take appropriate actions with respect to civil penalties and termination of the contract. The Secretary would be required to allow an organization 60 days to comply with the standards after notification.

The Secretary would be required to report to Congress, no later than December 31, 1998, on the PSO waiver procedure. The report would have to include an analysis of state efforts to adopt regulatory standards that take into account health plan sponsors that provide services directly to enrollees through affiliated providers.

Includes the same provision relating to: (i) exceptions if the organization is required to offer more than Medicare Choice plans and (ii) licensure not substituting or constituting certification.

CONFERENCE AGREEMENT

The conference agreement includes section 10001 of the House bill with an amendment. PSOs could seek a waiver of state law by filing an application with the Secretary by no later than November 1, 2002. The waiver would be effective for 3 years, would not apply to any other state, and could not be renewed. The agreement clarifies that with respect to waiver applications filed on or after the date of publication of solvency standards (required under new section 1856 as described below), the ground for approval of a waiver application would be that the state had denied a licensing application based (in whole or in part) on the organization's failure to meet applicable solvency requirements and such requirements were not the same as those established under section 1856 as described below, or the state imposed as a condition of approval procedures or standards regarding solvency that were different from those applied by the Secretary as required under this section (see below).

The Conferees intend that such reasonable grounds for approval of a federal waiver when a state has denied a licensing application or delayed in granting an application include the imposition of documentation or information requirements that are dilatory or unduly burdensome and that are not generally applied to other entities engaged in a substantially similar business.

A waiver granted to a PSO with respect to licensing under state law would depend upon the organization's compliance with all consumer protection and quality standards insofar as such standards: (i) would apply in the state to the organization if it were licensed under state law; (ii) were generally applicable to other Medicare+Choice organizations and plans in the state; and (iii) were consistent with the standards established under this part. Such standards would not include those preempted under section 1856 relating to non-solvency standards established by the Secretary.

In the case of a waiver granted to an organization with respect to a state, the Secretary would be required to incorporate the requirement that the organization (and Medicare+Choice plans it offers) comply with state consumer protection and quality standards as part of the contract with Medicare.

In the case of a waiver granted to a PSO with respect to a state, the Secretary could enter into an agreement with the state in which the state agreed to provide for monitoring and enforcement activities with respect to compliance of an organization and its Medicare+Choice plans with the consumer protection and quality standards. Such monitoring and enforcement would have to be done in the same way as the state enforced such standards with respect to other Medicare+Choice organizations and plans. Such state monitoring and enforcement could not be discriminatory with respect to types of organizations. The agreement would have to specify or establish mechanisms by which compliance activities were undertaken, while not lengthening the time required to review and process applications for waivers.

By December 31, 2001, the Secretary would have to submit to the House Committees on Ways and Means and Commerce and the Senate Committee on Finance a report regarding whether the waiver process should be continued after December 31, 2002. In making this recommendation, the Secretary would have to consider, among other factors, the impact on beneficiaries and on the long-term solvency of the Medicare program.

(b) Prepaid payment

HOUSE BILL

Section 10001 (new section 1855(b)). Provides that a MedicarePlus organization would have to be compensated (except for deductibles, coinsurance, and copayments) by a fixed payment paid on a periodic basis and without regard to the frequency, extent, or kind of health care services actually provided to an enrollee.

Section 4001 (new section 1855(b)). Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House or Senate provision.

(c) Assumption of full financial risk

HOUSE BILL

Section 10001 (new section 1855(c)). Requires the MedicarePlus organization to assume full financial risk on a prospective basis for the provision of health services (other than hospice care) except the organization could obtain insurance or make other arrangements for costs in excess of $5,000, services needing to be provided other than through the organization; and obtain insurance or make other arrangements for not more than 90 percent of the amount by which its fiscal year costs exceed 115 percent of its income for such year. It could also make arrangements with providers or health institutions to assume all or part of the risk on a prospective basis for the provision of basic services.

Section 4001 (new section 1855(c)). Identical provision.

SENATE AMENDMENT

Identical except also provides that the applicable amount of insurance for 1998 is the amount established by the Secretary and for 1999 and any succeeding year, is the amount in effect for the previous year increased by the percentage change in the CPI-urban for the 12-month period ending with June of the previous year.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with a modification specifying that, in lieu of specifying excess costs of $5,000, provides that the Secretary establish the amount from time to time.

(d) Certification of provision against risk of insolvency for unlicenced PSOs

HOUSE BILL

Section 10001 (new section 1855(d)). Requires each MedicarePlus PSO that is not licensed by a state and for which a waiver of state law has been approved by the Secretary to meet federal financial solvency and capital adequacy standards (see new section 1856 as described below). The Secretary would be required to establish a process for the receipt and approval of applications of entities for certification (and periodic recertification) of a PSO as meeting the federal solvency standards. The Secretary would be required to act upon the PSO's certification application within 60 days of its receipt.

Section 4001 (new section 1855(d)). Identical provision.

SENATE AMENDMENT

Similar. Requires each Medicare Choice organization that is a PSO with a waiver of the state licensure requirement to meet standards established under new section 1856 relating to financial solvency and capital adequacy.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

(e) Provider sponsored organization defined

HOUSE BILL

Section 10001 (new section 1855(e)). Defines a PSO as a public or private entity that is a provider or group of affiliated providers that provides a substantial portion of the required services under the contract directly through the provider or affiliated group of providers, and with respect to those affiliated providers that share, directly or indirectly, substantial financial risk, have at least a majority interest in the entity. In defining substantial proportion, the Secretary would be required to consider the need for such an organization to assume responsibility for a substantial portion of required services in order to assure financial stability and other factors.

A provider meets the "affiliation" requirement if, through contract, ownership, or otherwise: (A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other; (B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code (IRC); or (C) both providers are part of an affiliated service group under section 44 of the IRC.

"Control," and "health care provider" are specifically defined. The Secretary would be required to issue regulations to carry out this provision.

Section 4001 (new section 1855(e)). Identical provision.

Effective date.

Section 10001. Unless otherwise provided, generally effective upon enactment.

Section 4001. Identical.

SENATE AMENDMENT

Similar but includes in the definition of a PSO an entity that is established or organized and operated by a local provider or group of providers.

"Substantial proportion" is defined differently. The Secretary would be required to: (A) take into account the need for a PSO to assume: (I) significantly more than the majority of the items and services under the Medicare Choice contract through its own affiliated providers; and (ii) most of the remainder of the items and services under the contract through providers with which the organization has an agreement to provide such items and services, in order to assure financial stability and to address the practical considerations involved in integrating the delivery of a wide range of service providers, (B) take into account the need for a PSO to provide a limited proportion of the items and services under the Medicare Choice contract through providers that are neither affiliated or have an agreement with the organization, and (C) may allow for variation in the definition of substantial proportion among PSOs based on relevant differences among them, such as their local in an urban or rural area.

Includes the additional requirement for "affiliation" that each provider be a participant in a lawful combination under which each provider shares substantial financial risk in connection with the organization's operations.

Identical definitions of "control" and "health care provider."

Effective date. Identical.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with a modification removing local from the definition of a PSO. Accordingly, a PSO is a public or private entity that is established or organized and operated by a health care provider, or group of affiliated health care providers.

ESTABLISHMENT OF STANDARDS new section 1856

CURRENT LAW

Under Section 1876 of the Social Security Act, Medicare specifies requirements to be met by an organization seeking to become a managed care contractor with Medicare. There is no provision for Provider Sponsored Organizations (PSOs).

HOUSE BILL

Section 10001 (new section 1856). The provision would add a new Section 1856 providing for the establishment of federal standards for MedicarePlus plans, including solvency standards or PSOs.

Section 4001 (new section 1856). Identical provision.

SENATE AMENDMENT

Similar provision but applies to Medicare Choice organizations and plans.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment except that the provisions apply to Medicare+Choice organizations and plans.

(a) Establishment of solvency standards for PSOs

HOUSE BILL

Section 10001 (new section 1856(a)). Requires the Secretary of HHS to establish, on an expedited basis and using a negotiated rule-making process, final standards related to financial solvency and capital adequacy of organizations seeking to qualify as PSOs. The target date for publication of the resulting rules would be April 1, 1998. The Secretary would be required to consult with interested parties and to take into account: (I) the delivery system assets of such an organization and its ability to provide services directly to enrollees through affiliated providers; and (ii) alternative means of protection against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, etc. Requires the solvency standards to include provisions to prevent enrollees from being held liable to any person or entity for the MedicarePlus's organization's debts in the event of the organization's insolvency. The negotiated rule-making committee would be appointed by the Secretary. If the committee reported by January 1, 1998 that it had failed to make significant progress toward consensus or was unlikely to reach consensus by a target date, the Secretary could terminate the process and provide for the publication of a rule. If the committee was not terminated, it would have to report with the proposed rule by March 1, 1998. The Secretary would then publish the rule on an interim final basis, but it would be subject to change after public notice and comment. In connection with the rule, the Secretary would specify the process for timely review and approval of applications of entities to be certified as PSOs, consistent with this subsection. The Secretary would be required to provide for consideration of such comments and republication of the rule within one year of its publication.

Section 4001 (new section 1856(a)). Identical provision.

SENATE AMENDMENT

Identical except also requires that, in establishing the standards for PSO solvency, the Secretary take into consideration in any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

(b) Establishment of other standards

Section 10001 (new section 1856(b)). Requires the Secretary to establish by regulation other standards (not included in (a)) for MedicarePlus organizations and plans consistent with, and to carry out, this part. By June 1, 1998, the Secretary would be required to issue interim standards based on currently applicable standards for Medicare HMOs/CMPs. The new standards established under this provision would supersede any state law or regulation with respect to MedicarePlus plans offered by Medicare contractors to the extent that such state law or regulations was inconsistent with such standards.

Section 4001 (new section 1856(b)). Identical except with respect to preemption of state law. Provides that subject to section 1852(n) (related to non-preemption of state law), the MedicarePlus standards to be established by the Secretary would supersede any state law or regulation to the extent such law or regulation was inconsistent. Provides that this should not be construed as superseding a state law or regulation that is not related to solvency, that is applied on a uniform basis and is generally applicable to other entities engaged in substantially similar business, and that provides consumer protections in addition to, or more stringent than, those provided under this subsection.

Effective date.

Section 10001. Unless otherwise provided, generally effective upon enactment.

Section 4001. Identical.

SENATE AMENDMENT

Identical provision to section 10001.

CONFERENCE AGREEMENT

The conference agreement includes section 10001 of the House bill with modifications. The Secretary would be required to publish regulations implementing the standards by June 1, 1998. To carry out this requirement in a timely manner, the Secretary would be authorized to promulgate regulations that would take effect on an interim basis, after notice and pending opportunity for public comment.

The conference agreement clarifies that the federal non-solvency standards would preempt any state law or regulation (including those about to be described) with respect to Medicare+Choice plans which are offered by Medicare+Choice organizations to the extent such law or regulation was inconsistent with the federal standards. State standards relating to the following would be preempted: (I) benefit requirements, (ii) requirements relating to inclusion or treatment by providers, and (iii) coverage determinations (including related appeals and grievance processes).

The Conferees believe that the Medicare+Choice program will continue to grow and eventually eclipse original fee-for-service Medicare as the predominant form of enrollment under the Medicare program. Under original fee-for-service, the Federal government alone set legislative requirements regarding reimbursement, covered providers, covered benefits and services, and mechanisms for resolving coverage disputes. Therefore, the Conferees intend that this legislation provide a clear statement extending the same treatment to private Medicare+Choice plans providing Medicare benefits to Medicare beneficiaries.

CONTRACTS WITH MEDICARE+CHOICE ORGANIZATIONS

(new section 1857)

(a) In general

CURRENT LAW

No provision.

HOUSE BILL

Section 10001 (new section 1857(a)). The Secretary would not permit the election of a Medicare+Choice plan and no payment would be made to an organization unless the Secretary had entered into a contract with the organization with respect to the plan. A contract with an organization could cover more than one Medicare+Choice plan. Contracts would provide that organizations agree to comply with applicable requirements and standards.

Section 4001 (new section 1857(a)). Identical provision.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice organization.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment except plans are called Medicare+Choice plans.

(b) Minimum enrollment requirements

CURRENT LAW

To be eligible as a risk contractor, HMOs/CMPs generally must have at least 5,000 members. However, if HMOs/CMPs primarily serve members outside urbanized areas, they may have fewer members (regulations specify at least 1,500). Organizations eligible for Medicare cost contracts also may have fewer than 5,000 members (regulations specify at least 1,500).

HOUSE BILL

Section 10001 (new section 1857(b)). The Secretary would be prohibited from entering into a contract with a Medicare+Choice organization unless the organization had at least 5,000 individuals (or 1,500 individuals in the case of a PSO) who were receiving health benefits through the organization. An exception would apply if the Medicare+Choice standards (as established in new section 1856 described above) permitted the organization to have a lesser number of beneficiaries (but not less than 500 for a PSO) if the organization primarily served individuals residing outside of urbanized areas. These lower minimum enrollment requirements relating to PSOs are effective January 1, 1998. In addition, the Secretary could waive this requirement during an organization's first 3 contract years. Minimum enrollment requirements would not apply to a contract that related only to an MSA plan.

Section 4001 (new section 1857(b)). Identical provision.

SENATE AMENDMENT

The Secretary would be prohibited from entering into a contract with a Medicare Choice organization unless the organization had at least 1,500 individuals who were receiving health benefits through the organization (500 if the organization primarily serves individuals residing outside of urbanized areas). The Secretary may waive this provision during the first 2 contract years with an organization.

In the case of a PSO, the provision would be applied by taking into account individuals for whom the organization had assumed substantial financial risk.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with clarification that the organization would have at least 1,500 individuals (or 500 individuals in the case of a PSO) if the organization primarily serves individuals residing outside of urban areas. The agreement provides that in applying the minimum enrollment requirements to a Medicare+Choice organization that is offering an MSA plan, covered lives would be substituted for individuals. The Secretary has the authority to waive the minimum enrollment during the first three contract years for any organization.

(c) Contract period and effectiveness

CURRENT LAW

Contracts with HMOs are for 1 year, and may be made automatically renewable. However, the contract may be terminated by the Secretary at any time (after reasonable notice and opportunity for a hearing) in the event that the organization fails substantially to carry out the contract, carries out the contract in a manner inconsistent with the efficient and effective administration of Medicare HMO law, or no longer meets the requirements specified for Medicare HMOs. The Secretary also has authority to impose lesser sanctions.

HOUSE BILL

Section 10001 (new section 1857(c)). Contracts would be for at least one year, and could be made automatically renewable in the absence of notice by either party of intention to terminate. The Secretary could terminate a contract at any time if the Secretary determined that the organization: (i) had failed substantially to carry out the contract; (ii) was carrying it out in a manner substantially inconsistent with the efficient and effective administration of Medicare+Choice; or (iii) no longer substantially met Medicare+Choice conditions. Contracts would specify their effective date, but contracts providing coverage under an MSA plan could not take effect before January 1999. The Secretary would not contract with an organization that had terminated its Medicare+Choice contract within the previous 5 years, except in special circumstances as determined by the Secretary. The authority of the Secretary with respect to Medicare+Choice plans could be performed without regard to laws or regulations relating to contracts of the United States that the Secretary determined were inconsistent with the purposes of Medicare.

Section 4001 (new section 1857(c)). Similar provision except that the Secretary may impose intermediate sanctions described below. Contracts providing coverage under an MSA plan could not take effect before January 1998.

SENATE AMENDMENT

Similar provision except that the Secretary may impose intermediate sanctions described in subsection (g) below to Medicare Choice organization.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment except that there is no reference to intermediate sanctions and contacts providing coverage under an MSA plan could not take effect before January 1999.

(d) Protections against fraud and beneficiary protections

CURRENT LAW

Under section 1856, the Secretary has the right to inspect or otherwise evaluate the quality, appropriateness and timeliness of services, as well as the organization's facilities if there were reasonable evidence of need for such inspection. In addition, the Secretary has the right to audit and inspect any books and records that pertain either to the ability of the organization to bear the risk of potential financial loss or to services performed or determinations of amounts payable under the contract. Contractors may be required to provide and pay for advance written notice to each enrollee of a termination, along with a description of alternatives for obtaining benefits. Organizations must also notify the Secretary of loans and other special financial arrangements made with subcontractors, affiliates, and related parties.

HOUSE BILL

Section 10001 (new section 1857(d)). Contracts would provide that the Secretary or his or her designee would have the right to inspect or otherwise evaluate the quality, appropriateness and timeliness of services, as well as the organization's facilities if there were reasonable evidence of need for such inspection; in addition, the Secretary would have the right to audit and inspect any books and records that pertain either to the ability of the organization to bear the risk of potential financial loss or to services performed or determinations of amounts payable under the contract. Contracts would also require the organization to provide and pay for advance written notice to each enrollee of a termination, along with a description of alternatives for obtaining benefits. They would also require that organizations notify the Secretary of loans and other special financial arrangements made with subcontractors, affiliates, and related parties.

Medicare+Choice organizations would be required to report financial information to the Secretary, including information demonstrating that the organization was fiscally sound, a copy of the financial report filed with HCFA containing information required under section 1124 of the Social Security Act, and a description of transactions between the organization and parties in interest. These transactions would include: (I) any sale, exchange, or leasing of property; (ii) any furnishing for consideration of goods, services, and facilities (but generally not including employees' salaries or health services provided to members); and (iii) any lending of money or other extension of credit. Financial information would be available to enrollees upon reasonable request. Consolidated financial statements could be required when the organization controls, is controlled by, or is under common control with another entity.

With respect to financial information, the term "party in interest" means: (I) any director, officer, partner, or employee responsible for management or administration of a Medicare+Choice organization; any person who directly or indirectly is a beneficial owner of more than 5 percent of its equity; any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5% of the organization; and in the case of a nonprofit Medicare+Choice organization, an incorporator or member of such corporation; (ii) any entity in which a person described in (I) is an officer or director; a partner; has directly or indirectly a beneficial interest in more than 5 percent of the equity; or has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of the entity; (iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and (iv) any spouse, child, or parent of an individual described in (I).

Section 4001 (new section 1857(d)). Identical provision.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice organization.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment with a modification that the Secretary would provide for annual auditing of financial records (including data relating to Medicare utilization, costs, and computation of the adjusted community rate) of at least one-third of the Medicare+Choice organizations offering Medicare+Choice plans. The Comptroller General would monitor these auditing activities.

(e) Additional contract terms

CURRENT LAW

No provision.

HOUSE BILL

Section 10001 (new section 1857(e)). Contracts would contain other terms and conditions (including requirements for information) as the Secretary found necessary and appropriate. Contracts would require payments to the Secretary for the organization's pro rata share of the estimated costs to be incurred by the Secretary relating to enrollment and dissemination of information. These payments would be appropriated to defray such costs and would remain available until expended.

Section 4001 (new section 1857(e)). Similar provision except required payments to the Secretary would include pro rate share of estimated costs for certain counseling and assistance programs. If a contract with a Medicare+Choice organization were terminated, the organization would have to notify each enrollee.

SENATE AMENDMENT

Similar provision except if a contract with a Medicare Choice organization were terminated, the organization would have to notify each enrollee.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment, with a modification. The conference agreement authorizes the Secretary to collect user fees on a pro rata basis from Medicare+Choice organizations to offset administrative costs associated with additional requirements relating to enrollment and dissemination of information required by the agreement. The conference agreement also requires Medicare+Choice organizations to make payments to the Secretary for the pro rata share of estimated costs for certain counseling and assistance programs. The fees collected under this section are limited to $200 million in fiscal year 1998, $150 million in fiscal year 1999, and $100 million in fiscal year 2000 and beyond.

The agreement does not include a requirement that the organization would have to notify each enrollee if a contract with a Medicare+Choice organization were terminated.

(f) Prompt payment by Medicare+Choice Organization

CURRENT LAW

Section 1856 of the Social Security Act requires managed care contractors to provide prompt payment of covered services if the services are not furnished by a contract provider.

HOUSE BILL

Section 10001 (new section 1857(f)). Contracts would require a Medicare+Choice organization to provide prompt payment of claims submitted for services and supplies furnished to individuals pursuant to the contract, if they are not furnished under a contract between the organization and the provider or supplier. If the Secretary determined (after notice and opportunity for a hearing) that the organization had failed to pay claims promptly, the Secretary could provide for direct payment of the amounts owed providers and suppliers. In these cases, the Secretary would reduce Medicare+Choice payments otherwise made to the organization to reflect the amount of the payments and the Secretary's cost in making them.

Section 4001 (new section 1857(f)). Identical provision.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice organization.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(g) Intermediate sanctions

CURRENT LAW

The Secretary has authority to impose lesser sanctions, including suspension of enrollment or payment and imposition of civil monetary penalties. These sanctions may be applied for denial of medically necessary services, overcharging, enrollment violations, misrepresentation, failure to pay promptly for services, or employment of providers barred from Medicare participation.

HOUSE BILL

Section 10001 (new section 1857(g)). The Secretary would be authorized to carry out specific remedies in the event that a Medicare+Choice organization: (I) failed substantially to provide medically necessary items and services required to be provided, if the failure adversely affected (or had the substantial likelihood of adversely affecting) the individual; (ii) imposed net monthly premiums on individuals that were in excess of the net monthly premiums permitted; (iii) acted to expel or refused to re-enroll an individual in violation of Medicare+Choice requirements; (iv) engaged in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by Medicare+Choice) of eligible individuals whose medical condition or history indicates a need for substantial future medical services; (v) misrepresented or falsified information to the Secretary or others; (vi) failed to comply with rules regarding physician participation; or (vii) employed or contracted with any individual or entity that was excluded from participation in Medicare under section 1128 or 1128A of the Social Security Act (relating to sanctions for program violations) for the provision of health care, utilization review, medical social work, or administrative services, or employed or contracted with any entity for the provision (directly or indirectly) through such an excluded individual or entity.

The remedies would include civil money penalties of not more than $25,000 for each determination of a failure described above or not more than $100,000 with respect to misrepresenting information furnished to the Secretary or denying enrollment to persons with a preexisting medical condition. In cases of the latter failure, the Secretary could also levy a $15,000 fine for each individual not enrolled. In cases of excess premium charges, the Secretary could also recover twice the excess amount and return the excess amount to the affected individual. In addition, the Secretary could suspend enrollment of individuals and payment for them after notifying the organization of an adverse determination, until the Secretary was satisfied that the failure had been corrected and would not likely recur.

Other intermediate sanctions could be imposed if the Secretary determined that a failure had occurred other than those described above. These include: (I) civil money penalties up to $25,000 if the deficiency directly adversely affected (or had the likelihood of adversely affecting) an individual under the organization's contract; (ii) civil money penalties of not more $10,000 for each week after the Secretary initiated procedures for imposing sanctions; and (iii) suspension of enrollment until the Secretary is satisfied the deficiency had been corrected and would not likely recur.

Section 4001 (new section 1857(g)). Identical provision.

SENATE AMENDMENT

Similar provision except applies to Medicare Choice organization. The provisions of section 1128A (other than subsections (a) and (b)) would apply to a civil money penalty in the same manner as they apply to a civil money penalty or proceeding under that section.

CONFERENCE AGREEMENT

The conference agreement includes identical provisions in the House bill and the Senate amendment, including provisions relating to civil money penalties that are under termination procedures in the House bill.

(h) Procedures for termination

CURRENT LAW

Under section 1856 of the Social Security Act, the Secretary may terminate a contract with an organization for noncompliance with the law's requirements after reasonable notice and opportunity for hearings.

HOUSE BILL

Section 10001 (new section 1857(h)). The Secretary could terminate a contract in accordance with formal investigation and compliance procedures under which the Secretary (1) provides the organization with an opportunity to develop and implement a corrective action plan, and (ii) provides reasonable notice and opportunity for a hearing, including the right to appeal an initial decision, before imposing any sanction or terminating the contract. The provisions of section 1128A (other than subsections (a) and (b)) would apply to a civil money penalty in the same manner as they apply to a civil money penalty or proceeding under that section. The Secretary would be authorized not to delay termination of a contract (resulting from the formal investigation and compliance procedures) if such termination would pose an imminent and serious risk to enrollees' health.

Section 4001 (new section 1857(h)). Similar provision except the compliance procedures also provide (1) the Secretary imposes more severe sanctions on organizations that have a history of deficiencies or have not taken steps to correct those the Secretary brought to their attention, and (ii) there are no unreasonable or unnecessary delays between finding a deficiency and imposing sanctions.

Effective date.

Section 10001 (new section 1857). Effective generally starting January 1, 1999 but applies to PSO enrollment January 1, 1998.

Section 4001 (new section 1857). Identical.–

SENATE AMENDMENT

Similar provision except that the compliance procedures also provide (1) the Secretary imposes more severe sanctions on Medicare Choice organizations that have a history of deficiencies or have not taken steps to correct those the Secretary brought to their attention, and (ii) there are no unreasonable or unnecessary delays between finding a deficiency and imposing sanctions. Provision regarding section 1128A is in (g), above.

Effective date. Identical.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment except that provisions relating to civil money penalties in the House bill are included above under intermediate sanctions. The agreement does not include provisions relating to sanctions on an organization with a history of deficiencies and to unreasonable and unnecessary delays between finding a deficiency and imposing sanctions.

DEFINITIONS; MISCELLANEOUS PROVISIONS

New section 1859

(a) Definitions related to Medicare+Choice Organizations

CURRENT LAW

No provision.

HOUSE BILL

Section 10001 (new section 1859(a)). A Medicare+Choice organization is a public or private entity that is certified under section 1856 (as created by this Act) as meeting the Medicare+Choice requirements and standards for such an organization.

A provider-sponsored organization is defined in section 1855(e)(1) as created by this Act.

Section 4001 (new section 1859(a)). Identical provision.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice organization.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment but applies the provisions to Medicare+Choice organizations and plans.

(b) Definitions relating to Medicare+Choice Plans

HOUSE BILL

Section 10001 (new section 1859 (b)). A Medicare+Choice plan is health benefits coverage offered under a policy, contract, or plan by a Medicare+Choice organization pursuant to and in accordance with a contract under section 1857 as created by this Act.

An MSA plan is a Medicare+Choice plan that (i) provides reimbursement for at least the items and services for which benefits are available under Medicare parts A and B to individuals residing in the area served by the plan and additional health services the Secretary may approve, but only after the enrollee incurs countable expenses (as specified in the plan) equal to the amount of the annual deductible; (ii) counts as such expenses at least all amounts that would have been payable under parts A and B or by the enrollee as deductibles, coinsurance, or copayments if the enrollee had elected to receive benefits through those parts; and (iii) provides, after the deductible is met for a year (and for all subsequent expenses referred to in (i) in the year) for a level of reimbursement that is not less than the lesser of (A) 100 percent of such expenses, or (B) 100 percent of the amount that would have been paid (without regard to any deductibles or coinsurance) under Medicare parts A and B. For contract year 1999, the annual deductible under a MSA plan could not be more than $6,000. For a subsequent contract year, the annual deductible could not be more than the maximum amount for the previous contract year increased by the national per capita Medicare+Choice growth percentage and rounded to the nearest multiple of $50.

Section 4001 (new section 1859(b)). Identical provision.

SENATE AMENDMENT

Similar provision except applies to Medicare Choice plans.

A Medicare Choice unrestricted fee-for-service plan is a Medicare Choice plan that provides for coverage of benefits without regard to utilization and to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.

The annual deductible under an MSA plan could not be less than $1,500 nor more than $2,250, and annual out-of-pocket expenses required to be paid under an MSA plan (other than for premiums) could not exceed $3,000. For taxable years after 1998, these amounts would be increased by the percentage by which the Consumer Price Index (CPI) for all urban consumers for the preceding calendar year exceeds the CPI for calendar year 1992, rounded to the nearest multiple of $50.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with an amendment that defines a Medicare+Choice private fee-for-service plan as a Medicare+Choice plan that (A) reimburses hospitals, physicians, and other providers at a rate determined by the plan on a fee-for-service basis without placing the provider at financial risk; (B) does not vary such rates for such a provider based on utilization relating to such provider; and (C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established by the plan.

(c) Other references to other terms

HOUSE BILL

Section 1001 (new section 1859(c)). Defines through reference (i) Medicare+Choice Eligible Individual; (ii) Medicare+Choice payment are; (iii) national per capita Medicare+Choice growth percentage; and (iv) monthly premium; net monthly premium.

Section 4001 (new section 1859(c)). Identical provision.

SENATE AMENDMENT

Similar provision except applies to Medicare Choice plans and in (iii) refers to national average per capita growth percentage.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with clarification that references in (iv) are to Medicare+Choice monthly basic beneficiary premium and Medicare+Choice monthly supplemental beneficiary premium.

(d) Coordinated acute and long-term care benefits under a Medicare+Choice Plan

HOUSE BILL

Section 10001 (new section 1859(“d)). A state would not be prevented from coordinating benefits under a Medicaid plan and a Medicare+Choice plan in a manner that assures continuity of a full range of acute care and long-term care services to poor elderly or disabled individuals eligible for Medicare benefits under a Medicare+Choice plan.

Section 4001 (new section 1859(“d)). Identical provision.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice plan.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment.

(e) Restriction on enrollment for certain Medicare+Choice Plans

HOUSE BILL

Section 10001 (new section 1859(e)). A Medicare+Choice religious fraternal benefit society plan could restrict enrollment to individuals who are members of the church, convention, or group with which the society is affiliated. A Medicare+Choice religious fraternal benefit society plan would be a Medicare+Choice plan that: (i) is offered by a religious fraternal benefit society only to members of the church, convention, or affiliated group; and (ii) permits all members to enroll without regard to health status-related factors. This provision could not be construed as waiving plan requirements for financial solvency. In developing solvency standards, the Secretary would take into account open contract and assessment features characteristic of fraternal insurance certificates. Under regulations, the Secretary would provide for adjustments to payment amounts under section 1854 (as created by this Act) to assure an appropriate payment level, taking account of the actuarial characteristics of the individuals enrolled in such a plan.

A religious fraternal benefit society is an organization that (i) is exempt from Federal income taxation under section 501(c)(8) of the Internal Revenue Code; (ii) is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches; (iii) offers, in addition to a Medicare+Choice religious fraternal benefit society plan, at least the same level of health coverage to individuals entitled to Medicare benefits who are members of such church, convention, or group; and (iv) does not impose any limitation on membership in the society based on any health status-related factor.

Section 4001 (new section 1859(“e)). Identical provision.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice plans.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment.

(f) Report on coverage of beneficiaries with end-stage renal disease

HOUSE BILL

Section 10001 (new section 1859(b)). The Secretary would provide for a study on the feasibility and impact of removing the restriction on beneficiaries with end-stage renal disease from enrolling in a MSA Medicare+Choice plan. No later than October 1, 1998, the Secretary would submit to Congress a report on this study and include recommendations regarding removing or restricting the limitation as may be appropriate.

Section 4001 (new section 1859(b)). Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not contain the House bill.

(g) Report on Medicare+Choice teaching programs and use of DSH and teaching hospitals

HOUSE BILL

Section 10001 (new section 1859(c)). No later than October 1, 1999, the Secretary would submit to Congress a report on the extent to which Medicare+Choice organizations are providing payments to disproportionate share hospitals and teaching hospitals. The report would be based on information provided to the Secretary by Medicare+Choice organizations as required by this provision and such information as the Secretary may obtain.

Section 4001 (new section 1859(c)). Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not contain the House bill.

TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM

Sections 10002 and 4002 of House bill and Section 5002 of Senate amendment

(a) Waiver of the 50:50 Rule

CURRENT LAW

Current law requires that to be a risk contractor, no more than 50 percent of the organization's enrollees may be Medicare or Medicaid beneficiaries. The rule may be waived, however, for an organization that serves a geographic area where Medicare and Medicaid beneficiaries make up more than 50 percent of the population or (for 3 years) for an HMO that is owned and operated by a governmental entity.

HOUSE BILL

Section 10002. Effective for contract periods beginning after December 31, 1996, the Secretary could waive or modify the 50:50 rule to the extent the Secretary finds the waiver is in the public interest. Beginning in 1999, the 50:50 rule would no longer be applicable to organizations offering Medicare+Choice plans.

Section 4002. Identical provision.

SENATE AMENDMENT

Limits 50:50 rule to contract periods beginning before January 1, 1999. Deletes provision that applies to Medicaid beneficiaries. The Secretary could waive the requirement if the Secretary determines that the plan meets all other beneficiary protections and quality standards under the section.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with an amendment that the Secretary could waive or modify the 50:50 rule to the extent the Secretary finds the waiver is in the public interest.

The Conferees believe it is unnecessary to continue in effect the outdated 50:50 rule after January 1, 1999. Between the date of enactment and January 1, 1999, the conference agreement grants the Secretary broad authority to waive the 50:50 rule. The Conferees expect that the Secretary will use this authority, among other things, to provide extensions of existing waivers and new waivers to organizations that have a demonstrated history of adherence to quality standards. In particular, the Conferees intend that the Secretary grant waivers to the Wellness Plan in Southeastern Michigan and the Watts Health Foundation providing care in medically under served inner city areas.

(b) Transition

HOUSE BILL

Section 10002. The Secretary would be prohibited from entering into, renewing, or continuing any risk-sharing contract under section 1876 for any contract year beginning on or after the date Medicare+Choice standards are first established for Medicare+Choice organizations that are insurers or HMOs. If the organization had a contract in effect on that date, the prohibition would be effective one year later. The Secretary could not enter into, renew, or continue a risk-sharing contract for any contract year beginning on or after January 1, 2000. An individual who is enrolled in Medicare part B only and also in an organization with a risk-sharing contract on December 31, 1998 could continue enrollment in accordance with regulations issued not later than July 1, 1998.

For individuals enrolled under both Medicare part A and part B, payments for risk-sharing contracts for months beginning with January 1998 would be computed by substituting the Medicare+Choice payment rates specified in this bill. For individuals enrolled only under part B, the substitution would be based upon the proportion of those rates that reflects the proportion of payments under title XVIII of the Social Security Act (i.e., Medicare) attributable to part B. With respect to months in 1998, the Secretary would compute, announce, and apply the Medicare+Choice payment rates in as timely manner as possible (notwithstanding deadlines in section 1853(a) as described above) and could provide for retroactive adjustments in risk-sharing contract payments not in accordance with those rates.

Section 4002. Identical provision.

SENATE AMENDMENT

Similar provision except applies to Medicare+Choice organizations. Makes clear that Secretary could not enter into, renew, or continue a risk-sharing contract for any contract year beginning on or after January 1, 2000.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment with a clarification that on or after the date standards for Medicare+Choice organizations and plans are first established under section 1856(b)(1), the Secretary could not enter into any risk-sharing contract with an eligible organization, and that for any contract year beginning on or after January 1, 1999, the Secretary could not renew any such contract. The agreement also clarifies that an individual who is enrolled in Medicare part B only and also in an organization with a risk-sharing contract on December 31, 1998, could continue enrollment in accordance with regulations described in section 1856(b)(1). The agreement does not include the provision that for months in 1998 the Secretary would compute, announce, and apply the Medicare+Choice payment rates in as timely a manner as possible and could provide for retroactive adjustments in risk-sharing contract payments not in accordance with those rates.

The conference agreement also provides that the following requirements would apply to eligible organizations with risk-sharing contracts in the same manner as they apply to Medicare+Choice organizations under Part C: (A) data collection requirements under section 1853(a)(3)(B) relating to in-patient hospital services and other services; (B) restrictions on imposition of premium taxes under section 1854(h) relating to payments to such organizations; (C) the requirement to accept enrollment of new enrollees during November 1998 under section 1851(e)(6); and (D) payments under section 1857(e)(2) relating to cost-sharing in enrollment-related costs.

In addition, the conference agreement provides that after enactment of this provision the Secretary may not enter into a reasonable cost reimbursement contract (if the contract is not in effect as of that date) except for an organization which immediately prior to entering into such contract had an agreement in effect under section 1833(a)(1)(A). The Secretary could not extend or renew a reasonable cost reimbursement contract under this subsection beyond December 31, 2002. Not later than January 1, 2001, the Secretary would submit to Congress a report analyzing the potential impact of termination of reasonable cost reimbursement contracts on Medicare beneficiaries enrolled under them. The report would include recommendations regarding any extension or transition of the contracts that the Secretary deems appropriate.

(c) Enrollment transition rule

HOUSE BILL

Section 10002. An individual who is enrolled on December 31, 1998 with an organization having a section 1876 contract would be considered to be enrolled with that organization under Medicare+Choice if the organization has a Medicare+Choice contract for providing services on January 1, 1999, unless the individual had disenrolled effective that date.

Section 4002. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment.

(e) Extension of provider requirement

HOUSE BILL

Section 10002. Hospitals would accept Medicare payment rates as payment in full for inpatient emergency services covered under Medicare that an out-of-plan provider furnishes enrollees in a Medicare+Choice plan which does not have a contract establishing such payment amounts.

Section 4002. Similar provision except amount would be reduced by any payment under section 1858 as created by this Act for disproportionate share hospitals and graduate medical education.

SENATE AMENDMENT

Identical provision except applies to Medicare Choice organization.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment with an amendment that the amount would be reduced by any payment under sections 1886(d)(11) and 1886(h)(3)(D) relating to graduate medical education.

(f) Additional conforming changes

HOUSE BILL

Section 10002. Any reference in law in effect before the date of enactment of this legislation to part C of Medicare would be deemed a reference to part D as in effect after such date.

Not later than 90 days after enactment of this legislation, the Secretary would submit to Congress a legislative proposal providing for technical and conforming amendments as the Medicare+Choice provisions require.

Section 4002. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment with an amendment that the Secretary would submit the proposal not later than 6 months after enactment.

(g) Immediate effective date for certain requirements for demonstrations

HOUSE BILL

Section 10002. Required Medicare+Choice organization contributions for costs related to enrollment and dissemination of information would apply to demonstrations if their enrollment were effected or coordinated under section 1851 as created by this Act.

Section 4002. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment.

(h) Use of interim, final regulations

HOUSE BILL

Section 10002. In order to carry out the Medicare+Choice provisions in a timely manner, the Secretary could (after notice and opportunity for public comment) promulgate regulations that take effect on an interim basis.

Section 4002. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(i) Transition rule for PSO enrollment

HOUSE BILL

Section 10002. Provides that a PSO with at least 1,500 enrollees in urban areas and 500 enrollees in rural areas may qualify for a risk-sharing contract beginning on or after January 1, 1998.

Section 4002. Identical provision.

SENATE AMENDMENT

Similar provision except that the PSO may count toward the threshold numbers individuals for whom the organization has assumed substantial financial risk.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with amendments. It provides that not later than 4 weeks after enactment the Secretary would announce the annual Medicare+Choice capitation rates for 1998. In addition, the conference agreement eliminates the health care prepayment plan option for entities eligible to participate as a managed care organization.

Conforming Changes in Medigap Program

Section 10003 and 4003 of House bill; and Section 5003 and 5652 of Senate amendment

CURRENT LAW

Current law contains rules regarding the sale of Medicare supplement policies (generally referred to as "Medigap" policies). Included are prohibitions governing the sale of duplicative policies and exceptions to the general prohibitions.

HOUSE BILL

Section 10003. Includes conforming language to the duplication provisions for persons electing a Medicare+Choice plan. Included in the general prohibitions would be a general prohibition against selling to a person electing a Medicare+Choice plan a Medicare supplemental policy with the knowledge that it duplicated benefits to which the individual was otherwise entitled to under Medicare or another supplemental policy. A Medicare+Choice policy is not included within the definition of a Medicare supplementary policy.

Prohibits the sale of certain policies to a person electing a high deductible plan. Specifically, the prohibition would apply to the sale of policies providing coverage for expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under a medical savings account (MSA) plan.

Effective Date. Enactment

Section 4003. Identical provision

SENATE AMENDMENT

Identical provision, except refers to Medicare Choice.

Adds to list of exceptions for policies not considered duplicative. A health insurance policy (which may be a contract with a health maintenance organization) would not be considered duplicative if it: (1) provides comprehensive health care benefits that replace benefits provided by another insurance policy, (2) is being provided to a disabled enrollee, and (3) coordinates against items and services available or paid for under Medicare or Medicaid, provided that Medicare or Medicaid payments are not treated as payments in determining annual or lifetime benefits under the policy.

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with a modification. The modification specifies that the prohibition on the sale of health insurance policies to persons with MSA plans would not apply to the following types of policies: (a) a policy that provides coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long term care; (2) an insurance policy whose coverage primarily relates to liabilities incurred under workers compensation laws, tort liabilities, liabilities relating to ownership or use of property, or other similar liabilities specified by the Secretary in regulations; (3) an insurance policy that provides coverage for a specified disease or illness; or (4) an insurance policy that pays a fixed amount per day (or other period) of hospitalization.

The conference agreement does not include the Senate provision adding to the list of exceptions for policies considered duplicative.

DESCRIPTION OF TAXATION OF MEDICARE+CHOICE/MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

Secs. 4006 and 10006 of the House bill and sec. 5006 of the Senate amendment

Present law

Under present law, the value of Medicare coverage and benefits is not includible in taxable income.

Individuals who itemize deductions may deduct amounts paid during the taxable year (if not reimbursed by insurance or otherwise) for medical expenses of the taxpayer and the taxpayer's spouse and dependents (including expenses for insurance providing medical care) to the extent that the total of such expenses exceeds 7.5 percent of the taxpayer's adjusted gross income ("AGI").

Within limits, contributions to a medical savings account ("MSA") are deductible in determining AGI if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual.[1] Individuals covered under Medicare are not eligible to have an MSA.

Earnings on amounts in an MSA are not currently includible in income. Distributions from an MSA for medical expenses of the MSA account holder and his or her spouse or dependents are not includible in income. For this purpose, medical expenses are defined as under the itemized deduction for medical expenses, except that medical expenses do not include any insurance premiums other than premiums for long-term care insurance, continuation coverage (so-called "COBRA coverage"), or premiums for coverage while an individual is receiving unemployment compensation. Distributions not used for medical expenses are subject to an additional 15-percent tax unless the distribution is made after age 65, death, or disability.

Under present law, there are no tax provisions for Medicare+Choice medical savings accounts ("Medicare+Choice MSAs").

HOUSE BILL

In general

Under the bill, individuals who are eligible for Medicare are permitted to choose either the traditional Medicare program or a Medicare+Choice MSA plan. To the extent an individual chooses such a plan, the Secretary of Health and Human Services makes a specified contribution directly into a Medicare+Choice MSA designated by such individual. Only contributions by the Secretary of Health and Human Services can be made to a Medicare+Choice MSA and such contributions are not included in the taxable income of the Medicare+Choice MSA holder. Income earned on amounts held in a Medicare+Choice MSA are not currently includible in taxable income. Withdrawals from a Medicare+Choice MSA are excludable from taxable income if used for the qualified medical expenses of the Medicare+Choice MSA holder. Withdrawals from a Medicare+Choice MSA that are not used for the qualified medical expenses of the account holder are includible in income and may be subject to an additional tax (described below).

Definition of Medicare+Choice MSAs

In general, a Medicare+Choice MSA is an MSA that is designated as Medicare+Choice MSA and to which the only contributions that can be made are those by the Secretary of Health and Human Services.[2] Thus, a Medicare+Choice MSA is a tax-exempt trust (or a custodial account) created exclusively for the purpose of paying the qualified medical expenses of the account holder that meets requirements similar to those applicable to individual retirement arrangements ("IRAs").[3] The trustee of a Medicare+Choice MSA can be a bank, insurance company, or other person that demonstrates to the satisfaction of the Secretary of the Treasury that the manner in which such person will administer the trust will be consistent with applicable requirements.

A Medicare+Choice MSA trustee would be required to make such reports as may be required by the Secretary of the Treasury. A $50 penalty would be imposed for each failure to file without reasonable cause.

Taxation of distributions from a Medicare+Choice MSA

Distributions from a Medicare+Choice MSA that are used to pay the qualified medical expenses of the account holder would be excludable from taxable income regardless of whether the account holder is enrolled in the Medicare+Choice MSA plan at the time of the distribution.[4] Qualified medical expenses are defined as under the rules relating to the itemized deduction for medical expenses. However, for this purpose, qualified medical expenses would not include any insurance premiums other than premiums for long-term care insurance, continuation insurance (so-called "COBRA coverage"), or premium for coverage while an individual is receiving unemployment compensation. Distributions from a Medicare+Choice MSA that are excludable from gross income under the provision can not be taken into account for purposes of the itemized deduction for medical expenses.

Distributions for purposes other than qualified medical expenses are includible in taxable income. An additional tax of 50 percent applies to the extent the total distributions for purposes other than qualified medical expenses in a taxable year exceed the amount by which the value of the Medicare+Choice MSA as of December 31 of the preceding taxable year exceeds 60 percent of the deductible of the plan under which the individual is covered. The additional tax does not apply to distributions on account of the disability or death of the account holder.

Following is an example of how the amount available to be withdrawn from a Medicare+Choice MSA without penalty is calculated.[5]

	Year 1	Year 2	Year 3	Year 4
1. Deductible–	$3,000	$3,000	$3,000	$3,000
2. 60% of deductible	1,800	1,800	1,800	1,800
3. Contributions	1,300	1,300	1,300	1,300
4. Earnings	130	200	300	400
5. Total withdrawals	600	500	600	600
6. Closing account (Dec. 31 of current year)	830	1,830	2,830	3,930
7. Amount available for nonmedical withdrawal without penalty (2–3 from prior year, or 0 if less than 0)	0	0	30	1,030

Direct trustee-to-trustee transfers could be made from one Medicare+Choice MSA to another Medicare+Choice MSA without income inclusion.

The provision includes a correction mechanism so that if contributions for a year are erroneously made by the Secretary of Health and Human Services, such erroneous contributions can be returned to the Secretary of Health and Human Services (along with any attributable earnings) from the Medicare+Choice MSA without tax consequence to the account holder.

Treatment of Medicare+Choice MSA at death

Upon the death of the account holder, if the beneficiary of the Medicare+Choice MSA is the account holder's surviving spouse, the surviving spouse may continue the Medicare+Choice MSA, but no new contributions could be made. Distributions from the Medicare+Choice MSA are subject to the rules applicable to MSAs that are not Medicare+Choice MSAs. Thus, earnings on the account balance are not currently includible in income. Distributions from the account for the qualified medical expenses of the spouse or the spouse's dependents (or subsequent spouse) are not includible in income. Distributions not for such medical expenses are includible in income, and subject to a 15-percent excise tax unless the distribution is made after the surviving spouse attains age 65, dies, or becomes disabled.

If the beneficiary of a Medicare+Choice MSA is not the account holder's spouse, the Medicare+Choice MSA is no longer treated as a Medicare+Choice MSA and the value of the Medicare+Choice MSA on the account holder's date of death is included in the taxable income of the beneficiary for the taxable year in which the death occurred (under the rules applicable to MSAs generally). If the account holder fails to name a beneficiary, the value of the Medicare+Choice MSA on the account holder's date of death is to be included in the taxable income of the account holder's final income tax return (under the rules applicable to MSAs generally).

In all cases, the value of the Medicare+Choice MSA is included in the account holder's gross estate for estate tax purposes.

Effective date

The provision is effective with respect to taxable years beginning after December 31, 1998.

SENATE AMENDMENT

The Senate amendment is the same as the House bill (except that the account is called a Medicare Choice MSA).

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

Subchapter C—GME, IME, and DSH Payments for Managed Care Enrollees

GRADUATE MEDICAL EDUCATION AND INDIRECT MEDICAL EDUCATION PAYMENTS FOR MANAGED CARE ENROLLEES

Section 4008 of the House bill and Section 5451 of the Senate amendment

CURRENT LAW

Medicare payments to risk-contract HMOs include amounts that reflect Medicare's fee-for-service payments to hospitals in an area for indirect and direct graduate medical education costs.

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[1] The number of MSAs which can be established is subject to a cap.

[2] Medicare+Choice MSAs are not taken into account for purposes of the cap on non-Medicare+Choice MSAs, nor are they subject to that cap.

[3] For example, no Medicare+Choice MSA assets could be invested in life insurance contracts, Medicare+Choice MSA assets could not be commingled with other property except in a common trust fund or common investment fund, and an account holder's interest in a Medicare+Choice MSA would be nonforfeitable. In addition, if an account holder engages in a prohibited transaction with respect to a Medicare+Choice MSA or pledges assets in a Medicare+Choice MSA, rules similar to those for IRAs would apply, and any amounts treated as distributed to the account holder under such rules would be treated as not used for qualified medical expenses.

[4] Under the provision, medical expenses of the account holder's spouse or dependents would not be treated as qualified medical expenses.

[5] The numbers are provided for illustrative purposes only.

(a) Payments to managed care organizations operating graduate medical education programs

HOUSE BILL

Amends Section 1853 of the new Medicare Part C of the Social Security Act, as established by this legislation, to establish a mechanism for the allocation of payments for direct GME and IME costs carved out from the AAPCCs and Medicare+Choice capitation rates to be made to risk contract plans under Section 1876 and Medicare+Choice organizations. Beginning January 1, 1998, each contract with a Medicare+Choice organization would be required to provide an additional payment for Medicare's share of allowable direct GME costs incurred by the organization for an approved medical residency program. A Medicare+Choice organization that incurred all or substantially all of the costs of the medical residency program would receive a payment equal to the national average per resident amount times the number of full-time-equivalent (FTE) residents in the program in non-hospital settings. The Secretary would be required to estimate the national average per resident amount equal to the weighted average amount that would be paid per FTE resident under the direct GME payment in a calendar year. A separate determination would be required to be made for primary care residency programs as defined by Medicare, including obstetrics and gynecology residency programs.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill. (See Subtitle G-Provisions Relating to Parts A and B, Chapter 2—Graduate Medical Education.)

(b) Payments to hospitals for direct and indirect costs of graduate medical education programs attributable to managed care enrollees

HOUSE BILL

Amends Part C of Medicare, as amended by Section 4001 of the bill, by inserting a new section 1858, "Payments to Hospitals for Certain Costs Attributable to Managed Care Enrollees."

The Secretary would be required to make additional payments for the direct GME costs to PPS and PPS-exempt hospitals and hospitals located in a state with a state hospital reimbursement control system for services furnished to Medicare beneficiaries enrolled in managed care. These payments would be phased in over 5 years in the same proportion as amounts are deducted (carved out) from Medicare managed care plans under the new Section 1853 established by the bill. Total payments under this provision could not exceed amounts deducted (carved out) of the Medicare+Choice capitation rates. Subject to certain limits, the direct GME payment amount would be equal to the product of: (1) the aggregated approved amount of direct GME payments for the period, and (2) the fraction of the total number of inpatient-bed-days determined by the Secretary during the period which was attributable to Medicare managed care enrollees. The Secretary would be required to separately determine the direct GME payment amount that would be paid to hospitals in a state with a reimbursement control system.

The IME payment amount would be determined, subject to certain limits, as equal to the product of: (1) the amount of the IME adjustment factor applicable to the hospital under PPS, and (2) the product of (i) the number of discharges attributable to Medicare managed care enrollees and (ii) the estimated average per discharge amount that would otherwise have been paid under PPS if the individuals had not been enrolled in a managed care plan. The Secretary would also be required to make payments for the costs attributable to Medicare managed care enrollees, subject to certain limits in the same way as the direct GME payment amount. The Secretary would be required to separately determine the IME payment amounts that would be paid to hospitals in a state with a reimbursement control system.

Effective date. Applies to contracts entered into on or after January 1, 1998.

SENATE AMENDMENT

Provides for additional direct GME payments to hospitals for the services provided to Medicare managed care enrollees for cost reporting periods beginning on or after January 1, 1998. Payments would be equal to the product of (1) the aggregate approved direct GME amount for the hospital in that period, and the fraction of the total number of inpatient-bed days attributable to Medicare managed care enrollees. The direct GME payment amount would be phased in over a 4-year period. The Secretary would be required to determine separately the direct GME payment amount that would be paid to hospitals in a state with a reimbursement control system.

The Secretary would also be required to make additional payments to PPS hospitals and hospitals located in a state with a rate setting system for IME costs attributable to providing services to Medicare managed care enrollees. The amount of the payment would be phased in over 4 years and be the product of (1) the aggregate approved amount for that period, and (2) the fraction of the total number of inpatient-bed days attributable to Medicare managed care enrollees.

Effective date. Applies to contracts entered into on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments to phase in the payments over 5 years equal to 20% in 1998; 40% in 1999; 60% in 2000; 80% in 2001; and 100% in 2002. (See Subtitle G-Provisions Relating to Parts A and B, Chapter 2—Graduate Medical Education.)

Disproportionate Share Hospital Payments for Managed Care Enrollees

Section 4009 of the House bill and Section 5461 of the Senate amendment

CURRENT LAW

Medicare payments to risk-contract HMOs include amounts that reflect Medicare's fee-for-service payments to hospitals in an area for disproportionate share adjustments.-

HOUSE BILL

Amends new Section 1858, as added above, to require the Secretary to provide additional payments for PPS hospitals and hospitals in a state with a state hospital reimbursement control system for hospitals that furnish services to Medicare risk plan enrollees under Section 1876 and Medicare+Choice enrollees. These payments would be phased in over 5 years in the same proportion as amounts are deducted (carved out) from Medicare managed care plans under the new Section 1853 (see above). Subject to certain limits, the DSH payment would be equal to the product of (1) the DSH adjustment factor that would be attributable to the hospital under PPS, and (2) the product of (i) the number of discharges attributable to Medicare managed care enrollees and (ii) the estimated average per discharge amount that would otherwise have been paid under PPS if the individuals had not been enrolled in a managed care plan. The Secretary would be required to separately determine the DSH payment amount that would be paid to hospitals in a state with a reimbursement control system.

Effective date. Applies to contracts entered into on or after January 1, 1998.

SENATE AMENDMENT

Provides for additional payments for Medicare managed care enrollees for cost reporting periods beginning on or after January 1, 1998. Additional payments would be made to PPS hospitals and hospitals located in states with state rate setting systems that qualify as disproportionate share hospitals, and would be phased in over a 4-year period. The amount of the payment would be equal to the phased-in percentage provided for IME and direct GME payments under Section 5451, of the estimated average per discharge amount that would otherwise have been paid DSH if the individual had not been a managed care enrollee.

Effective date. Applies to contracts entered into on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill or the Senate amendment.

Chapter 2. Integrated Long-Term Care Programs (Sections 10011-10019 and 4011-4019 of House bill and Sections 5011-5018 of Senate amendment)

(a) Coverage of PACE under the Medicare program

CURRENT LAW

OBRA 86 required the Secretary to grant waivers of certain Medicare and Medicaid requirements to not more than 10 public or non-profit private community-based organizations to provide health and long-term care services on a capitated basis to frail elderly persons at risk of institutionalization. These projects, known as the Programs of All Inclusive Care for the Elderly, or PACE projects, were intended to determine whether an earlier demonstration program, On Lok, could be replicated across the country. OBRA 90 expanded the number of organizations eligible for waivers to 15.

HOUSE BILL

Section 10011–10014. Repeals current On Lok and PACE project demonstration waiver authority and establishes in Medicare law PACE as a permanent benefit category eligible for coverage and reimbursement under the Medicare program. PACE providers would offer comprehensive health care services to eligible individuals in accordance with a PACE program agreement and regulations. In general, PACE providers would be public or private nonprofit entities, except for entities (up to 10) participating in a demonstration to test the operation of a PACE program by private, for-profit entities.

Eligible individuals would be 55 years of age or older requiring nursing facility level of care, reside in the service area of the program, and meet such other conditions as may be required under the program agreement. Enrollees would be required to receive all covered benefits through the program.

Eligibility would be determined by the State agency responsible for administering PACE program agreements. An individual's health status would have to be comparable to that of persons who participate in the

PACE demonstration. Enrollees would be reevaluated annually to determine continued qualification for nursing facility level of care, except where the State determines there would be no reasonable expectation of improvement or significant change in an individual's condition because of advanced age, severity of chronic condition or degree of impairment. A person could continue to be considered a PACE eligible individual, even though that person no longer requires nursing facility level of care, if in the absence of continued coverage, the individual reasonably would be expected to meet the requirement within the succeeding 6-month period. Enrollment and disenrollment in a PACE program would be done according to regulation and enrollees would be permitted to voluntarily disenroll without cause at any time.

At a minimum, a PACE provider would be required to provide to eligible persons, regardless of source of payment and directly or under contracts with other entities, all items and services covered under Medicare and Medicaid without any limitation as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing provisions. Providers would also have to cover all additional items and services specified in regulations, based on those required under the PACE protocol. The PACE protocol would be defined as that published by On Lok, Inc., as of April 14, 1995.

PACE providers would be required to provide enrollees access to necessary covered items and services on a continuous basis, 24 hours per day, 365 days a year. Services would be provided through a comprehensive, multidisciplinary team that integrates acute and long-term care services. Providers also would specify covered items and services that would not be provided directly, and arrange for delivery of these services through contracts meeting regulatory requirements. Providers would be required to have a written plan of quality assurance and improvement and implementing procedures as well as written safeguards of the enrollee rights.

The Secretary would be required to make prospective monthly capitation payments for each PACE program enrollee in the same manner and from the same sources as payments are made to a MedicarePlus organization. The amount would be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. The total payment level for all PACE program enrollees would be required to be less than the projected payment under Medicare for a comparable population not enrolled under PACE.

The Secretary, in cooperation with the State agency, would establish procedures for entering into, extending, and terminating PACE agreements. The Secretary could not enter into more than 40 agreements (including those in effect as the result of demonstration waivers) as of enactment, and 20 additional agreements upon each succeeding anniversary date (without regard to the actual number of agreements in effect as of a previous anniversary date). The numeric limitation would not apply to a provider operating under the for-profit demonstration or which subsequently qualifies for PACE provider status.

A PACE agreement would designate its service area and could include additional eligibility requirements for individuals. The Secretary (in consultation with the State) could exclude an area already covered under another agreement, so as to avoid unnecessary duplication of services and/or impairing the financial and service viability of an existing program. Agreements would be effective for a year, and could be extended in the absence of notice to terminate, but would be subject to termination by the Secretary or the State at any time for cause.

Under an agreement, providers would be required to collect and maintain data, provide the Secretary and State access to records relating to the program, including pertinent financial, medical and personnel records; and make reports to the Secretary and the State necessary to monitor operation, cost, and effectiveness. During a provider's first 3 years of operation, it would be required to provide such additional data as the Secretary might specify for comprehensive annual review. Subsequently, the Secretary would continue to conduct reviews of PACE providers as might be appropriate, to evaluate performance levels and compliance with regulations.

Under regulations, the Secretary or State could terminate an agreement for, among other reasons, significant deficiencies in the quality of care, failure to comply substantially with conditions of participation, or failure to develop and successfully initiate within 30 days of notice a plan to correct deficiencies.

If the Secretary determines (after consultation with the State) that a provider fails substantially to comply with program requirements, the Secretary and State could take any or all of the following actions: (1) condition continuation upon timely execution of a corrective action plan; (2) withhold some or all payments until the deficiencies were corrected; or, (3) terminate the agreement. The Secretary could provide for the application of intermediate sanctions for certain deficiencies. Procedures for termination and sanctions of PACE programs would be the same as those that apply to MedicarePlus managed care entities.

The Secretary would issue interim and final regulations to carry out the statutory provisions for PACE. The Secretary would incorporate the requirements applied to PACE demonstration waiver programs under the PACE Protocol, to the extent consistent with this section. The Secretary (in close consultation with States) could modify or waive provisions of the PACE Protocol to provide reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may wish to use non-staff physicians) where flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the PACE program. The Secretary could also apply to PACE requirements which apply to managed care plans, taking into account differences in populations served and not including requirements restricting the proportion of enrollees eligible for Medicare and Medicaid.

Certain Medicare requirements would be waived for PACE, including those pertaining to limits on coverage of institutional services, rules for payment for benefits, limits on coverage of SNF and home health services, the 3-day prior hospitalization requirement for SNF care, and other coverage rules.

The Secretary would be required to promulgate regulations for PACE in a timely manner so that entities may establish and operate PACE programs beginning not later than 1 year after enactment.

During the transition from demonstration waiver authority to permanent provider status, applications for waivers (subject to the numerical limitation) would be deemed approved unless the Secretary, within 90 days after the date of submission, either denies the request in writing or informs the applicant in writing that additional information is needed. After the date the Secretary receives the additional information, the application would be deemed approved unless the Secretary, within 90 days, denies the request. The same time frames would be applicable to non-waiver applications for PACE.

During the 3-year period beginning with enactment, the Secretary would give priority, in processing applications to: (1) entities that are operating a PACE demonstration waiver program; and, (2) entities that applied to operate a program as of May 1, 1997. In awarding additional waivers under the original demonstration authority, the Secretary would also be required to give priority to entities which applied for waivers as of May 1, 1997, and to entities that as of May 1, 1997, have formally contracted with States to provide services on a capitation basis with an understanding that they were seeking to become PACE providers. The Secretary would give special consideration, in the processing of PACE applications for provider status and demonstration waivers, to entities which as of May 1, 1997, indicated through formal activities (such as entering into contracts for feasibility studies) a specific intent to become PACE providers. Repeal of waiver demonstration authority would not apply to waivers granted before the initial effective date of regulations. Repeals would apply to waivers granted before this date only after allowing organizations a transition period (of up to 24 months) in order to permit sufficient time for orderly transition from demonstration to general authority.

The Secretary (in close consultation with States) would be required to conduct a study of the quality and cost of providing PACE services under Medicare and Medicaid. This study would specifically compare cost, quality, and access to services offered by private for-profit entities operating under the new demonstration described above with the costs, quality, and access to services of other PACE providers. The Secretary would report to Congress on findings of the study (including specific findings on private for-profit providers), together with any recommendations for changes, not later than 4 years after enactment. The Medicare Payment Evaluation Commission would include in its annual report to Congress recommendations on the methodology and level of payments made to PACE providers and on the treatment of private for-profit PACE providers.

The provision would also establish PACE as an optional benefit under Medicaid.

Effective date. Enactment.

Section 4011-4014. Similar provisions, except establishes PACE as an optional benefit under Medicaid, with similar provisions applied to Medicare.

SENATE AMENDMENT

Medicare provisions similar to Sections 10011-10014, except:

(1) The PACE protocol would be defined to include not only that as published April 14, 1995, but also any successor protocol agreed upon between the Secretary and On Lok, Inc.

(2) A provision clarifies that the evaluation of a person's health status for purposes of eligibility would be determined by the Secretary and State administering agency in accordance with regulations, rather than simply according to regulations.

(3) PACE programs could not disenroll individuals on the ground that they have engaged in noncompliant behavior, if the behavior is related to a mental or physical condition.

(4) Capitation payments to PACE providers would be based on payment rates established for risk-sharing HMOs under current Medicare law (with no reference to Medicare Choice program).

(5) PACE providers, the Secretary, and the State administering agency would be required to cooperate jointly in the development and implementation of health status and quality of life outcome measures for PACE enrollees.

(6) A provision clarifies language about termination and plans to correct deficiencies.

(7) Procedures for termination and application of sanctions would be the same as those that apply to HMOs under current Medicare law (with no reference to Medicare Choice program).

(8) The Secretary could not modify or waive certain enumerated provisions of the PACE protocol (rather than defining these same provisions as essential elements, objectives, and requirements of the PACE programs).

(9) The Secretary could apply to PACE providers requirements relating to beneficiary protections and program integrity that exist under current Medicare HMO law (with no reference to Medicare Choice program).

(10) The Physician Payment Review Commission and the Prospective Payment Review Commission would be required to report on PACE until they are terminated and replaced with the Medicare Payment Advisory Commission.

Similar provisions are included in Medicaid law.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language and amendments. The amendments would (1) allow PACE programs to disenroll individuals for nonpayment of premiums (if applicable) on a timely basis or for engaging in disruptive or threatening behavior as defined in regulations (developed in close consultation with State administering agencies); (2) require that a proposed disenrollment be subject to timely review and final determination by the Secretary or by the State administering agency (as applicable), prior to the proposed disenrollment becoming effective; and (3) allow the Secretary to include in regulations provisions to ensure the health and safety of individuals enrolled in PACE programs.

(b) Social health maintenance organizations (SHMOs)

CURRENT LAW

The Deficit Reduction Act of 1984 required the Secretary to grant 3-year waivers for demonstrations of social health maintenance organizations (SHMOs) which provide integrated health and long-term care services on a prepaid capitation basis. The waivers have been extended on several occasions since then and a second generation of projects was authorized by OBRA 90.

HOUSE BILL

Section 10015. Requires the Secretary to extend waivers for SHMOs through December 31, 2000, and to submit a final report on the projects by March 31, 2001. The limit on the number of persons served per site would be expanded from 12,000 to 36,000. The Secretary would also be required to submit to Congress by January 1, 1999, a plan, including an appropriate transition, for the integration of health plans offered by first and second generation SHMOs and similar plans into the MedicarePlus program. The report on the plan would be required to include recommendations on appropriate payment levels for SHMO plans, including an analysis of the extent to which it is appropriate to apply the MedicarePlus risk adjustment factors to SHMO populations.

Effective date. Enactment.

Section 4015. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment. The Conferees intend that this legislation be the last such waiver extension for both SHMO I and SHMO II sites, and that all HCFA activities and resources previously focused on "testing" the SHMO concept during the last 13 years should be shifted immediately toward efforts to make SHMOs a permanent option available for beneficiaries under the Medicare+Choice program.

(c) Orderly transition of municipal health service demonstration projects

CURRENT LAW

Under a general demonstration authority, the Health Care Financing Administration began waiving in the late 1970s certain Medicare requirements to conduct the Municipal Health Services Demonstration. This project has been conducted in four cities—Baltimore, Cincinnati, Milwaukee, and San Jose. As originally conceived, the project was intended to encourage the use of municipal health centers, in place of more costly hospital emergency rooms and outpatient departments, by eliminating coinsurance and deductibles, expanding the range of covered services, and paying the cities the full cost of delivering services at the clinics. Waivers have been extended several times since the inception of the project by budget reconciliation bills.

HOUSE BILL

Section 10018. Extends the demonstration through December 31, 2000, but only with respect to persons enrolled in the projects before January 1, 1998. The Secretary would be required to work with each demonstration project to develop a plan, to be submitted to the House Ways and Means and Senate Finance Committees by March 31, 1998, for the orderly transition of projects and project enrollees to a non-demonstration health plan, such as a Medicaid managed care or MedicarePlus plan. A demonstration project which does not develop and submit a transition plan by March 31, 1998 or within 6 months after enactment of the Act, whichever is later, would be discontinued as of December 31, 1998. The Secretary would be required to provide appropriate technical assistance to assist in the transition so that disruption of medical services to project enrollees would be minimized.

Effective date. Enactment.

Section 4018. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification to specify that the demonstration would be extended through the year 2000 only for individuals who received at least one service during the period January 1, 1996, through the date of enactment of this Act.

(d) Community nursing organization demonstration projects

CURRENT LAW

OBRA 87 required the Secretary to conduct demonstration projects to test a prepaid capitated, nurse-managed system of care. Covered services include home health care, durable medical equipment, and certain ambulatory care services. Four sites (Mahomet, Illinois; Tucson, Arizona; New York, New York; and St. Paul, Minnesota) were awarded contracts in September 1992, and represent a mix of urban and rural sites and different types of health care providers, including a home health agency, a hospital-based system, and a large multi-specialty clinic. The community nursing organization (CNO) sites completed development activities and implemented the demonstration in January 1994, with service delivery beginning February 1994.

HOUSE BILL

Section 10019. Extends the CNO demonstration for an additional period of 2 years, and the deadline for the report on the results of the demonstration would be not later than 6 months before the end of the extension.

Effective date. Enactment.

Section 4019. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Chapter 3—Commissions

BIPARTISAN COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM; NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE

Sections 10721 and 4721 of House bill and Section 5021 of Senate amendment

CURRENT LAW

No provision.

(a) Establishment; duties

HOUSE BILL

Section 10721. Establishes a commission to be known as the Bipartisan Commission on the Effect of the Baby Boom Generation on the Medicare Program, hereafter referred to as "the Commission." It would be required to: (1) examine the financial impact on the Medicare program of the significant increase in the number of Medicare eligible individuals which will occur beginning approximately in 2010 and lasting for approximately 25 years, (2) make specific recommendations to Congress with respect to a comprehensive approach to preserve the Medicare program for the period during which such individuals are eligible for Medicare; and (3) study the feasibility and desirability of: (I) establishing an independent commission on Medicare to make annual recommendations on how best to match the program's structure to available funding, (ii) an expedited process for consideration of recommendations by Congress, and (iii) a default mechanism to enforce congressional spending targets if Congress fails to approve recommendations. In making its recommendations, the Commission would be required to consider: (1) the amount and sources of federal funds to finance Medicare, including innovative financing methods; (2) methods used by other nations to respond to comparable demographics; (3) modifying age-based eligibility to correspond to that under the OASDI program; and (4) trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices;

Section 4721. Similar provision, except: (1) does not include requirement to study feasibility of establishing a commission to make annual recommendations, a process for expedited consideration and a default process for meeting spending targets; (2) includes as a consideration in making recommendations the role Medicare should play in addressing the needs of persons with chronic illness.

SENATE AMENDMENT

Establishes a National Bipartisan Commission on the Future of Medicare. Includes Congressional findings that: Medicare provides essential health care coverage, the Part A trust fund will be bankrupt in 2001, that the fund will face even greater solvency problems in the long run, that the trustees have reported that Part B growth is not sustainable, and that expeditious action is needed.

Requires the Commission to review the long-term financial conditions of the trust funds, identify problems that threaten their financial integrity (including the extent to which current update indexes do not accurately reflect inflation), and analyze potential solutions that will ensure both financial integrity and provision of appropriate benefits. It would be required to make recommendations concerning the following issues: (1) restoring financial solvency and integrity through 2030; (2) establishing an appropriate financial structure for the program as a whole; (3) establishing the appropriate balance of benefits and beneficiary contributions; (4) financing graduate medical education; (5) feasibility of allowing those between age 62 and the Medicare eligibility age to buy into the program; (6) impact of chronic disease and disability trends on the future costs and quality of services under the current system and (7) time periods during which recommendations under (1) (2), and (3) should be implemented.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. The provision does not include Congressional findings and modifies the required duties. The Commission, in identifying the problems threatening the program's financial integrity, would be required to include the financial impact of the increase in the number of beneficiaries that will occur beginning in 2010. The Commission would be required to analyze methods used by other nations to respond to comparable demographic patterns and trends in employment-related health care for retirees. The Commission would be required to make recommendations on modifying the age-based eligibility criteria to conform to that applicable for social security. It would further be required to make recommendations regarding a comprehensive approach to preserve the program.

The charge to the Bipartisan Commission includes a responsibility for making recommendations regarding the financing of graduate medical education. The Conferees intend that such recommendations address the graduate training of all health professions that currently receive Medicare funds, such as nurses and certain allied health professions, as well as other health professions that do not receive Medicare support but who receive graduate clinical training in hospitals, such as psychologists and physician assistants.

(b) Membership; administration

HOUSE BILL

Section 10721. Specifies that the Commission would be composed of 15 voting members, 6 appointed by the Majority Leader of the Senate in consultation with the Minority Leader, of whom no more than 4 are of the same party; 6 by the Speaker of the House, after consultation with the Minority Leader, of whom no more than 4 are in the same party; and 3 ex officio members of the Board of Trustees of the Federal Hospital Insurance Trust Fund and of the Federal Supplementary Medical Insurance Trust Fund who are Cabinet-level officials. The provision spells out the appointment of a chair and vice chair, appointment of staff and consultants, compensation, the procedure for filling vacancies, and requirements relating to meetings and quorums.

Authorizes the Chairman, in consultation with the vice chairman, to appoint an advisory panel. Upon request of the Commission, the Comptroller General would be required to conduct such studies or investigations as the Commission determined were needed to carry out its duties. The Director of the Congressional Budget Office (CBO) would be required to provide the Commission with cost estimates, and CBO would be compensated for such estimates. The Commission would be authorized to detail to it employees of federal agencies, and to obtain technical assistance and information from federal agencies.

Section 4721. Identical provision.

SENATE AMENDMENT

Specifies that the Commission would be composed of 15 voting members, 3 appointed by the President; 6 appointed by the Majority Leader of the Senate in consultation with the Minority Leader, of whom no more than 4 are of the same party; and 6 by the Speaker of the House, after consultation with the Minority Leader, of whom no more than 4 are in the same political party.

Requires the Comptroller General to advise on methodology to be used in identifying problems and analyzing potential solutions. The provision spells out the appointment of a chairperson, terms of appointment, appointment of staff and consultants, and use of other resources.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments. It would increase the number of total members to 17. One of the additional members would be appointed by the President (for a total of four appointed by the President). The other additional member, who would serve as Chairman of the Commission, would be appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House. The Commission would be appointed by December 1, 1997.

The agreement would require the CBO or the Chief Actuary of HCFA to provide cost estimates to the Commission upon request of the Commission. CBO, but not the Chief Actuary, would be compensated for such estimates. The agreement also would modify the role of the Comptroller General to specify that the GAO would conduct studies or investigations at the request of the Commission. The conference agreement includes further clarifying language.

(c) Reports

HOUSE BILL

Section 10721. Requires Commission to submit to Congress a report, no later than May 1, 1999, containing its findings and recommendations regarding how to protect and preserve the Medicare program in a financially solvent manner until 2030 (or, if later, throughout a period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report would be required to include detailed recommendations for legislative initiatives with respect to how to accomplish this objective.

Requires submission of report within 12 months of enactment regarding feasibility and desirability of establishing a commission to make annual recommendations, a process for expedited consideration and a default process for meeting spending targets. If considered feasible and desirable, the report would recommend specific legislative changes.

Section 4701. Does not include requirement for second report.

SENATE AMENDMENT

Requires submission of a report to the President and Congress within one year of enactment which contains detailed statement of recommendations, findings, and conclusions.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment. The report would be due by March 1, 1999. It would include a detailed statement of only those recommendations, findings, and conclusions of the Commission that receive approval of at least 11 members of the Commission.

(d) Appropriation; termination

HOUSE BILL

Section 10721. Provides for termination 30 days after the date of submission of the mandated report. An amount of $1.5 million would be authorized to be appropriated; 60% would be payable from the Federal Hospital Insurance Trust Fund and 40% from the Federal Supplementary Medical Insurance Trust Fund.

Effective Date. Enactment.

Section 4721. Identical provision.

SENATE AMENDMENT

Provides for termination 30 days after the date of submission of the mandated report. Such sums as necessary would be authorized to be appropriated; amounts would be payable in equal parts from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund.

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

MEDICARE PAYMENT ADVISORY COMMISSION

Sections 10021 and 4021 of House bill and Section 5022 of Senate amendment

CURRENT LAW

The Prospective Payment Assessment Commission was established by Congress through the Social Security Act Amendments of 1983 (P.L. 98–21). The Commission is charged with reporting each year its recommendation of an update factor for PPS payment rates and for other changes in reimbursement policy. It is also required each year to submit a report to Congress which provides background information on trends in health care delivery and financing. The Physician Payment Review Commission was established by the Congress through the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99–272). It was charged with advising and making recommendations to the Congress on methods to reform payment to physicians under the Medicare program. In subsequent laws, Congress mandated additional responsibilities relating to the Medicare and Medicaid programs as well as the health care system more generally.

The law specified that both Commissions were to be appointed by the Director of the Office of Technology Assessment and funded through appropriations from the Medicare trust funds. In 1995, the Office of Technology Assessment was abolished. In May 1997, P.L. 105–13 was enacted; this legislation extended the terms of those Commission members whose terms were slated to expire in 1997 to May 1, 1998.

HOUSE BILL

Section 10021. Establishes the Medicare Payment Advisory Commission (hereafter referred to as the Commission) to review and make recommendations to Congress concerning payment policies under Medicare. The Commission would be required to submit a report to Congress by March 1 of each year (beginning in 1998) containing the results of its reviews of payment policies and its recommendations concerning such policies. By June 1 of every year it would be required to submit a report containing an examination of issues affecting Medicare, including implications of changes in health care delivery in the U.S. and in the market for health care services on Medicare.

Charges Commission with the following specific review responsibilities with respect to the MedicarePlus program: (1) the methodology for making payments to the plans, including the making of differential payments and the distribution of differential updates among different payment areas; (2) the risk adjustment mechanisms and the need to adjust such mechanisms to take into account health status; (3) the implications of risk selection among MedicarePlus organizations and between the MedicarePlus option and the Medicare fee-for-service option; (4) in relation to payment under MedicarePlus, the development and implementation of quality assurance mechanisms for those enrolled with MedicarePlus organizations; (5) the impact of the MedicarePlus program on beneficiary access to care; and (6) other major issues in implementation and further development of the MedicarePlus program.

Requires Commission to review payment policies under Medicare Parts A and B fee-for-service system, including: (1) factors affecting expenditures in different sectors, including the process for updating hospital, skilled nursing facility, physician, and other fees; (2) payment methodologies; and (3) the relationship of payment policies to access and quality of care. It would also review the effect of Medicare payment policies on the delivery of health care services not provided under Medicare and assess the implications of changes in the health services market on Medicare.

Requires Commission to evaluate required reports on payment policies submitted by the Secretary to Congress (or a committee of Congress). The Commission would be required to submit a report on the evaluation within 6 months of the Secretary's report. The Commission would also be required to consult with the Chairmen and ranking Members of the appropriate committees of Congress (House Ways and Means, House Commerce, and Senate Finance) regarding its agenda. The Commission would be authorized to submit from time to time other reports as requested by such Chairmen and Members and as it deemed appropriate. The reports would be made public.

Specifies that the Commission would be composed of 19 members appointed by the Comptroller General, with the first appointments being made by September 30, 1997. These members would have to meet specific qualifications (such as national recognition for their expertise). Commission membership would consist of a broad mix of different professionals, a broad geographic representation, and a balance between urban and rural representatives. It would include representatives of consumers and the elderly. Health care providers could not constitute a majority of the membership. Commissioners would serve for 3-year staggered terms. The provision would include a mechanism for filling vacancies, compensating commissioners, appointing a chair and vice chair; convening meetings; and providing for the executive director and other staff, experts, and consultants. The Commission would be authorized to secure directly from any department or agency information to carry out these provisions. It would be required to collect and assess information (which would be available on an unrestricted basis to GAO). The Commission would be subject to periodic audit by GAO.

Requires the Commission to submit appropriations requests in the same manner as the Comptroller General does; however, the amounts appropriated for each would be separate. It would authorize such sums as may be necessary to be appropriated from the Medicare trust funds (60% from Part A and 40% from Part B).

Effective Date. Requires the Comptroller General to first provide for appointment of members of the Commission (to be known as MedPAC) by not later than September 30, 1997. As quickly as possible after they were first appointed, the Comptroller General (in consultation with ProPac and PPRC) would provide for termination of these entities. As of that date, ProPac and PPRC would be abolished. To the extent possible, the Comptroller General would be required to provide for the transfer to the new commission assets and staff of the former commissions without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the former commissions would be transferred to the new commission. MedPAC would be responsible for the preparation and submission of reports required by law to be submitted (and which had not been submitted by the time it was established) by the former commissions.

Section 4021. Similar provision except: (1) does not include requirement for June report; (2) adds requirement for examination of Medicare issues to March report; (3) adds to review requirement for MedicarePlus an examination of appropriate role for Medicare program in addressing needs of individuals with chronic illnesses; (4) specifies that Commission is composed of 11 members; (5) does not eliminate requirement for PPRC review of Secretary's update recommendation; and (6) does not eliminate required quarterly reporting by Secretary to PPRC.

Effective Date. Same as Section 10021.

SENATE AMENDMENT

Identical to Section 10021, except Commission composed of 15 members.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

Chapter 4—Medigap Protections

MEDIGAP PROTECTIONS

Sections 10031 and 4031 of House bill and Section 5031 of Senate amendment

CURRENT LAW

Medigap is the term used to describe individually-purchased Medicare supplement policies. In 1990, Congress provided for a standardization of Medigap policies; the intention was to enable consumers to better understand policy choices. Implementing regulations generally limit the number of different types of Medigap plans that can be sold in a state to no more than 10 standard benefit plans; these are known as Plans A through J. The Plan A standardized package covers a basic benefits package. Each of the other nine plans includes the basic benefits plus a different combination of additional benefits.

All insurers offering Medigap policies are required to offer a 6-month open enrollment period for persons turning age 65. This is known as guaranteed open enrollment. There is no guaranteed open enrollment provision for the under-65 disabled population.

At the time insurers sell a Medigap policy, whether or not during an open enrollment period, they are permitted to limit or exclude coverage for services related to a preexisting health condition; such exclusions cannot be imposed for more than 6 months. An individual who has met the preexisting condition limitation in one Medigap policy does not have to meet the requirement under a new policy for previously covered benefits. However, an insurer could impose exclusions for newly covered benefits.

Federal requirements for open enrollment and limits on preexisting condition exclusions are designed to insure beneficiaries have access to Medigap protection. However, persons who disenroll (or wish to disenroll) from managed care plans and move back into fee-for-service Medicare may not have the same access to Medigap coverage as those who join during the open enrollment period.

(a) Guaranteed issue without preexisting conditions for continuously covered individuals

HOUSE BILL

Section 10031. Guarantees issuance of a Medigap "A", "B", "C", or "F" policy without a pre-existing condition exclusion for certain continuously covered individuals. The insurer also would be prohibited from discriminating in the pricing of such policy on the basis of the individual's health status, claims experience, receipt of health care, or medical condition. The following persons would be covered under the guaranteed issuance provision:

(i) Individuals enrolled under an employee welfare benefit plan that provides benefits supplementing Medicare and the plan terminates or ceases to provide such benefits.

(ii) Persons enrolled with a MedicarePlus organization who discontinue under circumstances permitting disenrollment other than during an annual election period. (These include: (1) the termination of the entity's certification, (2) the individual moves outside of the entity's service area; or (3) the individual elects termination due to cause.)

(iii) Persons enrolled with a risk or cost contract HMO, a similar organization operating under a demonstration project authority, a Medicare SELECT policy, and enrollment ceases for the reasons noted above, and in the case of a SELECT policy, there is no applicable provision in state law for continuation of such coverage.

(iv) Individuals enrolled under a Medigap policy and enrollment ceases because of the bankruptcy or insolvency of the issuer, or because of other involuntary termination of coverage and there is no provision under applicable state law for the continuation of such coverage.

(v) An individual who: (1) was enrolled under a Medigap policy; (2) subsequently terminates such enrollment and enrolls with a MedicarePlus organization, a risk or cost contract HMO, a similar organization operating under a demonstration project authority, or a Medicare SELECT policy; and (3) terminates such enrollment within 6 months (or within 3 months beginning in 2003), but only if the individual was never previously enrolled with such an entity.

Specifies that at the time of the event which results in the cessation of enrollment or loss of coverage, the organization, insurer, or plan administrator (whichever is appropriate) would notify the individual of his or her rights and the obligations of issuers of Medigap policies. The individual must seek to enroll under the Medigap "A", "B", "C", or "F" policy not later than 63 days after termination of other enrollment and provide evidence of the date of termination or disenrollment along with the application for such Medicare supplemental policy. Individuals who re-enroll with a Medigap plan after the one time test specified in (v) above could re-enroll in the same Medigap policy (if still available from the same issuer) as they had before trying MedicarePlus.

Section 4031. Similar provision. Adds an additional category of persons for whom the guaranteed issue applies. These are persons who terminate such first time enrollment (occurring in 2002 or later) with an organization described in (v) above during the next coordinated annual coordinated election period.

SENATE AMENDMENT

Similar to Section 10031, except: (1) specifies that for persons described in (v) the enrollment is terminated during the first 12 months of enrollment; (2) includes an additional category of persons defined as those who upon first becoming eligible at age 65 enroll in a Medicare Choice plan and disenroll from such plan within 12 months; (3) specifies that guaranteed issue is for a policy of comparable or lesser benefits to that under the prior plan or policy, except for those described in (2) above for which guaranteed issue is for any Medigap policy; (4) does not include reference to states which offer benefit packages other than A through J and (5) refers to Medicare Choice.

CONFERENCE AGREEMENT

The conference agreement includes the House bill as contained in Section 10031 with modifications. For individuals described in item (v) the subsequent enrollment may be terminated by the enrollee during any 12 month period (during the first 12 months of enrollment) during which the individual is permitted to terminate such subsequent enrollment.

The agreement adds an additional category of persons to those guaranteed issuance of Medigap policies. These are individuals who upon first becoming eligible for Medicare at age 65, enroll in a Medicare+Choice plan, and disenroll from such plan within 12 months of the effective date of such enrollment. For these persons, the guaranteed issue would be for any type of Medigap policy.

The agreement includes additional clarifying language.

(b) Limitation on Imposition of preexisting condition exclusion during initial open enrollment period

Section 10031. Limits the application of a preexisting condition exclusion during the initial 6-month open enrollment period. Specifically, such an exclusion could not be imposed on an individual who, on the date of application, had a continuous period of at least 6 months of health insurance coverage defined as "creditable coverage" under the Health Insurance Portability and Accountability Act (HIPAA). If the individual had less than 6 months coverage, the policy would reduce the period of any pre-existing exclusion by the aggregate of periods of "creditable coverage" applicable to the individual as of the enrollment date. The rules used to determine the reduction would be based on rules used under HIPAA.

Section 4031 Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with clarifying language.

(c) Extending six month initial enrollment period to non-elderly beneficiaries

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends guaranteed issue period to disabled persons who enroll during the first six months they are entitled to Part A benefits.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(d) Effective date

HOUSE BILL

Section 10031. Guaranteed issue effective July 1, 1998. Limit on preexisting exclusion applies to policies issued on or after July 1, 1998. In general, a state would not be deemed out of compliance due solely to failure to make changes before 1 year after the date the National Association of Insurance Commissioners (NAIC) or Secretary made changes in its regulations. A longer time may be permitted if a state requires legislation. The NAIC would be given 9 months to modify its regulations to conform to the new requirements. If the NAIC, did not make the changes within this time, the Secretary would make the appropriate modification in the regulations.

Section 4031. Identical provision.

SENATE AMENDMENT

Effective Date. Similar provision. Guaranteed issuance for disabled applies to policies issued on or after July 1, 1998. Disabled persons enrolled before that date would have a six-month guaranteed issue period beginning July 1, 1998; before that date the Secretary would notify them of their rights.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with clarifying language.

Addition of High Deductible Medigap Policy

Section 5032 of Senate amendment

CURRENT LAW

In 1990, Congress provided for a standardization of Medigap policies. Implementing regulations generally limit the number of different types of Medigap plans that can be sold in a state to no more than 10 standard benefit plans; these are known as Plans A through J. The Plan A standardized package covers a basic benefits package. Each of the other nine plans includes the basic benefits plus a different combination of additional benefits. All 10 plans cover Part A and Part B coinsurance; all but Plan A cover the Part B deductible; and three (including the most popular) include the part B deductible.

HOUSE BILL

No provision.

SENATE AMENDMENT

Authorizes States to allow at least one high deductible Medigap policy. The high-deductible policy would offer one of the benefit packages included in one of the ten standardized plans. In addition, it would require the beneficiary to pay annual out-of-pocket expenses (not including the premium) of $1,500 before the policy begins paying benefits.

Effective Date. One year after enactment, except that a longer time permitted where state legislation is required.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment. Under the agreement the high deductible plan must either be classified as Plan F or Plan J, except that it has a high deductible feature. The high deductible amount would be $1,500 in 1998 and 1999, increased by the CPI in subsequent years. The beneficiary would be responsible for payment of expenses up to this amount; the policy would pay 100% of covered out-of-pocket expenses once the deductible had been met. The provision would be effective on enactment, with delay permitted where state legislation required.

Chapter 5.—Demonstrations

Medicare Prepaid Competitive Pricing Demonstration Project

Sections 10032 and 4032 of House bill and sections 5041-5044 of the Senate amendment

(a) Establishment of project

CURRENT LAW

Under section 402 of the Social Security Amendments of 1967 (P.L. 90–248, 42 U.S.C. 1395b–1), the Secretary is authorized to develop and engage in experiments and demonstration projects for specified purposes, including to determine whether, and if so, which changes in methods of payment or reimbursement for Medicare services, including a change to methods based on negotiated rates, would have the effect of increasing the efficiency and economy of such health services. Under this authority, HCFA is seeking to demonstrate the application of competitive bidding as a method for establishing payments for risk contract HMOs in the Denver area. HCFA's actions have been challenged in the courts.

HOUSE BILL

Section 10032. Requires the Secretary to provide, no later than one year after enactment, for implementation of a project to demonstrate the application of, and the consequences of applying, a market-oriented pricing system for the provision of a full range of Medicare benefits in several geographic areas.

Section 4032. Identical provision.

SENATE AMENDMENT

Requires the Secretary, beginning January 1, 1999, to conduct demonstration projects in applicable areas for the purpose of: (I) applying a pricing methodology for payments to Medicare Choice organizations that use the competitive market approach described in this provision; (ii) applying a benefit structure and beneficiary premium structure described in this provision; (iii) applying information and quality programs specified herein; and (iv) evaluating the effects of the this methodology and these structures to Medicare FFS.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment, with modifications. It requires that the Secretary of HHS establish up to seven demonstration projects.

(b) Research design advisory committee

HOUSE BILL

Section 10032. Before implementing the project, the Secretary would be required to appoint a national advisory committee, including independent actuaries and individuals with expertise in competitive health plan pricing, to recommend to the Secretary the appropriate research design for implementing the project, including the method for area selection, benefit design among plans offered, structuring choice among health plans offered, methods for setting the price to be paid to plans, collection of plan information, information dissemination, and methods of evaluating the results of the project. Upon implementation of the project, the Committee would continue to advise the Secretary on the application of the design in different areas and changes in the project based on experience with its operations.

Section 4032. Identical provision.

SENATE AMENDMENT

Requires the Secretary to appoint a technical advisory group, composed of representatives of Medicare Choice organizations, beneficiaries, employers and others in affected areas who have technical expertise relative to the design and implementation of the project to advise the Secretary concerning how the project would be implemented in the area.

CONFERENCE AGREEMENT

The conference agreement includes the House provision, with modifications. The Competitive Pricing Advisory Committee would make initial recommendations regarding the method for area selection, benefit design, structuring choice, etc. Upon implementation of the project, the Committee would continue to advise the Secretary on the application of the design in the different areas and changes in the project based on experience with its operations. Notwithstanding section 9(c) of the Federal Advisory Committee Act, the Committee could meet as soon as members were appointed. The Committee would terminate December 31, 2004.

Upon the designation of an area, the Secretary would be required to appoint an area advisory committee, composed of representatives of health plans, providers, and Medicare beneficiaries in the area, to advise the Secretary concerning how the project would be implemented in the area. Notwithstanding section 9(c) of the Federal Advisory Committee Act, these committees could meet as soon as members were appointed.

(c) Area selection

HOUSE BILL

Section 10032. Taking into account the national advisory committee's recommendations, the Secretary would be required to designate demonstration areas. Upon such designation, the Secretary would be required to appoint an area advisory committee, composed of representatives of health plans, providers, and beneficiaries in each demonstration area. The committee could advise the Secretary on marketing and pricing of plans in the area, and other relevant factors.

Section 4032. Identical provision.

SENATE AMENDMENT

The applicable area would be determined by the Secretary and would mean 10 urban areas with respect to which less than 25% of beneficiaries enrolled with an eligible organization under section 1876 and 3 rural areas. Any applicable area would be treated as a Medicare Choice payment area.-

CONFERENCE AGREEMENT

The conference agreement includes the House bill with a modification. The Secretary would designate, in accordance with recommendations of the Competitive Pricing Advisory Committee, up to 7 Medicare payment areas in which the project would be conducted. The Committee would be required to recommend to the Secretary the designation of 4 specific areas to be included. Such recommendations would have to be made to ensure that payments under the project in 2 areas would begin on January 1, 1999 and in 2 areas on January 1, 2000. Of the 4 areas recommended, 3 would have to be in urban areas and 1 in a rural area. By December 31, 2001, the Committee could recommend to the Secretary the designation of up to 3 additional payment areas to be included in the project.

Subject to consultation with the area advisory committee, the Secretary would, for each Medicare payment area designated in accordance with the recommendations of the Competitive Pricing Advisory Committee: (I) establish the benefit design among plans offered in the area, (ii) structure the method for selecting plans offered in the area, and (iii) in consultation with the Committee, (a) establish methods for setting the price to be paid to the plans, including the rewarding and penalizing Medicare+Choice plans on the basis of the attainment of, or failure to attain, applicable quality standards, and (b) provide for the collection of plan information, information dissemination, and methods for project evaluation.

The aggregate payments under the project for any designated area could not exceed the aggregate payments that would have been made under Medicare if the project had not been conducted.

(d) Monitoring and report/evaluation

HOUSE BILL

Section 10032. Taking into considerations the recommendations of the advisory committee (established under (b)), the Secretary would be required to closely monitor the impact of projects in areas on the price and quality of, and access to, Medicare covered services, choice of plans, changes in enrollment, and other relevant factors. The Secretary would be required to periodically report to Congress on project progress.

Section 4032. Identical provision.

SENATE AMENDMENT

Not later than December 31, 2001, the Secretary would be required to submit to the President a report regarding the demonstration projects conducted under this section. The report would have to include the following: (I) a description of the demonstration projects; (ii) an evaluation of the effectiveness of the demonstration projects and any legislative recommendations determined appropriate by the Secretary; (iii) any other information regarding the demonstration projects that the Secretary determines to be appropriate; (iv) an evaluation as to whether the method of payment under section 5042 (see below) used in the demonstration projects for payment to Medicare Choice plans should be extended to the entire Medicare population and if such evaluation determines that such method should not be extended, legislative recommendations to modify such method so that it may be applied to the entire Medicare population.

Requires the President to report to the Congress and if the President determines appropriate, any legislative recommendations for extending the project to the entire Medicare population.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with a modification. Taking into consideration the recommendations of the Competitive Pricing Advisory Committee and the area advisory committees, the Secretary would be required to closely monitor and measure the impact of the project in the different areas on the price and quality of, and access to, Medicare covered services, choice of health plans, changes in enrollment, and other relevant factors. By December 31, 2002, the Secretary would be required to submit to Congress a report on the progress of the project, including a comparison of the matters noted above among the different designated areas. Such report could include legislative recommendations for extending the project to the entire Medicare population.

(e) Waiver authority

Section 10032. Authorizes the Secretary to waive such requirements of section 1876 (relating to Medicare risk, cost, and HCPP plans) and of MedicarePlus as may be needed to carry out the demonstration project.

Section 4032.—Identical provision.

SENATE AMENDMENT

Authorizes the Secretary to waive compliance with the requirements of titles XI, XVIII (Medicare), and XIX (Medicaid) of the Social Security Act to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with a modification to provide that only the requirements of title XVIII would be waived.

(f) Relationship to other authority

HOUSE BILL

Section 10032 (new section 1854(a)).—No provision.

Section 4032.—Except as specified above, the Secretary would be prohibited from conducting or continuing any ongoing demonstration project (i.e., the Denver demonstration) designed to demonstrate competitive bidding as an alternative to paying plans on the basis of the AAPCCs (as specified under current law) or the Medicare Plus capitation rates (as established under new Section 1853 of the provision).

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification providing that the Secretary could not conduct or continue any related demonstration project on the basis of a competitive bidding process or pricing system (as described above) other than on the basis described in this section of the legislation.

(g) Determination of annual medicare choice capitation rates

HOUSE BILL

Section 10032. No provision.

Section 4032. No provision.

SENATE AMENDMENT

Provides that for a Medicare Choice payment area within which a demonstration project is being conducted, the annual Medicare Choice capitation rate would be the standardized payment amount determined under this section rather than the amount determined under section 1853.

Not later than June 1 of each calendar year, each Medicare Choice organization offering one or more Medicare Choice plans in an applicable Medicare Choice payment would be required to file with the Secretary a bid which contained the amount of the monthly premium for coverage under each such Medicare Choice plan. The premiums charged by a Medicare Choice plan sponsor under this part could not vary among individuals who reside in the same applicable Medicare Choice payment area.

After bids were submitted, the Secretary could negotiate with Medicare Choice organizations to modify such bids if the Secretary determined that the bids did not provide enough revenues to ensure the plan's actuarial soundness, were too high, or met other conditions. Not later than July 31 of each calendar year (beginning with 1998), the Secretary would determine and announce a standardized payment amount the following calendar year for each applicable Medicare Choice payment area.

The standardized payment amount for a calendar year after 1998 for any applicable Medicare Choice payment area would be equal to the maximum premium. The maximum premium for any applicable Medicare Choice payment area would be equal to the weighted average bid price (disregarding certain plans) but in no case would the amount be greater than the sum of: (I) the average per capita amount, as determined by the Secretary as appropriate for the population eligible to enroll in Medicare Choice plans in such payment area, for such calendar year that the Secretary would have expended for an individual in such payment area enrolled under Medicare FFS plus (ii) the amount equal to the actuarial value of deductibles, coinsurance, and copayments charged an individual for services provided under the Medicare FFS. Payments to plans would be adjusted for specified risk factors (e.g., age and disability status). PPRC and ProPAC would be required to develop recommendations on the risk factors to adjust payments by January 1, 1999 and report such to Congress in their respective annual reports.

The Secretary would make monthly payments to plan sponsors from the HI and SMI trust funds equal to 1/12 of the specified payment amounts. These would be the lesser of: (I) the standardized payment amount for the applicable Medicare Choice payment area, as adjusted for the individual's risk factors, or (ii) the premium charged by the plan for such individual, as adjusted for such individual, minus the amount such individual paid to the plan pursuant to section 5043 (relating to 10 percent of the premium). A physician or other entity (other than a provider of services) that did not have a contract with a Medicare Choice organization would have to accept as payment in full for services to such an individual the amounts that the physician or other entity could collect if the individual were in Medicare FFS.

An Office of Competition would be established in the Department of HHS. The Secretary would be required to appoint a director of the office who would administer the competitive demonstration. Requires the Secretary, to the maximum extent feasible, to enter into contracts with appropriate non-Federal entities to carry out related activities.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(h) Benefits and beneficiary protections

Section 10032. No provision.

Section 4032. No provision.

SENATE AMENDMENT

Requires each Medicare Choice plan in an applicable Medicare Choice payment area to provide those items and services covered under Medicare FFS, subject to nominal copayments as determined by the Secretary, prescription drugs, subject to such limits as established by the Secretary, and such additional health services as the Secretary may approve.

Supplemental benefits.—Each Medicare Choice plan could offer any of the optional supplemental benefit plans specified to an individual enrolled in the basic benefit plan for an additional premium amount. Such benefits may be marketed and sold by the Medicare Choice organization outside of the enrollment process described in part C. The provision limits the premiums that could be charged for supplemental benefits.

Premium Requirements for Beneficiaries.—If an eligible individual enrolled in a Medicare Choice demonstration plan, the individual would be required to pay the following premium differentials: (I) 10 percent of the plan's premium; (ii) if the premium of the plan was higher than the standardized payment amount, 100% of such difference; and (iii) an amount equal to cost-sharing under Medicare FFS, except that such amount could not exceed the actuarial value of the deductibles and coinsurance less the actual value of nominal copayments for the plan's basic benefits. An individual enrolled in a Medicare Choice demonstration plan could not be required to pay the Part B premium.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(I) Information and quality standards

HOUSE BILL

Section 10032. No provision.

Section 4032. No provision.

Effective Date.—

Section 10032. Enactment

Section 4032. Identical.

SENATE AMENDMENT

A. Information requirements.—Requires the Secretary to provide that the following information and cooperative reports be used in the competitive pricing demonstration instead of those required under the Medicare Part C established by this legislation. Specifies requirements for the communication of notice and informational materials. The information required would include: (I) general information (e.g., Part B premium rates, cost-sharing, benefits, how to enroll, etc.), and (ii) a copy of the most recent comparative plan report for the demonstration plans in the individual's payment area. This report would provide easily understood comparison information on the plan's service area, coverage of emergency services, cost-sharing, disenrollment rates, quality information, information on access, utilization review procedures, premium prices, out-of-network providers, and additional specified information. This information would have to be updated annually. Plans would be required to help share in the estimated costs incurred by the Secretary in preparing information.

B. Quality demonstration plans.—Provides definitions of comparative report, director, Medicare, demonstration plan, and demonstration plan sponsor.

Establishes a Quality Advisory Institute to recommend to the Director licensing and certification criteria and comparative measurement methods. Provides for the membership, duties, terms, and other aspects of the institute.

Establishes the duties of the Director of the Quality Advisory Institute, which would include adopting criteria for licensing of certifying entities, issuing licenses, developing comparative health care measures, etc.

Provides that by January 1, 1999, the Director ensure that no demonstration plan be offered, contracted with, or reimbursed unless it has been certified in accordance with the requirements of this provision.

Requires that the director of the Quality Advisory Institute establish a program under which payments are made to various demonstration plans to reward such plans for meeting or exceeding quality targets. The Director would be required to establish broad categories of quality targets and performance measures. The Director would be required to withhold 0.50% from any payment that a demonstration plan sponsor received with respect to an enrolled beneficiary and to use such amounts to make annual payments to plans that have been determined to meet or exceed the quality targets and performance measures. Excess funds would be applied to deficit reduction. Specified the amount of payment.

Requires a plan to participate in the certification process described above. Specifies procedures in the event of a plan merger or purchase and treatment of new plans.

Requires the Director to develop procedures for the licensing of entities to certify demonstration plans.

Requires the Director to establish minimum criteria to be used by licensed certifying entities in the certification of demonstration plans and establishes requirements for the criteria.

Requires the Director to develop grievance and appeals procedures under which a demonstration plan that is denied certification may appeal such denial to the director.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

The effective date for the demonstration projects would be enactment.

MEDICARE ENROLLMENT DEMONSTRATION PROJECT

Section 5045 of Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to implement a demonstration project to evaluate the use of a third-party contractor to conduct the Medicare Choice plan enrollment and disenrollment functions, as described in Medicare Part C, Medicare Choice, established under this provision.

Before implementing the project, the Secretary would be required to consult with affected parties on the: (I) design of the project; (ii) selection criteria for the third-party contractor; and (iii) establishment of performance standards. The Secretary would be required to establish performance standards for the accuracy and timeliness of the Medicare Choice plan enrollment and disenrollment functions performed by the third-party contractor. If the Secretary determined that a third-party contractor was out of compliance with the performance standards, the enrollment and disenrollment functions would be performed by the Medicare Choice plan until the Secretary appointed a new third-party contractor. In the event that there was a dispute between the Secretary and a Medicare Choice plan regarding whether or not the third-party contractor was in compliance, such enrollment and disenrollment functions would be performed by the Medicare Choice plan.

The Secretary would be required to periodically report to Congress on the progress of the project.

The Secretary would be required to waive compliance with the requirements of Medicare Choice to such extent and for such period as the Secretary determined was necessary to conduct the project.

The demonstration project would be conducted for a 3-year period. This project would be conducted separately from any other demonstration.

Effective date—Enactment

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment except that the provision relating to disputes between the Secretary and a Medicare Choice plan regarding whether or not the third-party contractor is in compliance is not included.

Medicare Coordinated Care Demonstration Project

Section 5046 of Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to establish a demonstration program to evaluate methods such as case management and other models of coordinated care that improve the quality of care and reduce Medicare expenditures for beneficiaries with chronic illnesses enrolled in traditional Medicare.

The Secretary would be required to examine best practices in the private sector for coordinating care for individuals with chronic illnesses for one year and, using the results of the evaluation, establish at least nine demonstration projects (6 urban and 3 rural) within 2 years of enactment.

Not later than two years after implementation (and biannually thereafter), the Secretary would be required to evaluate the demonstrations and submit a report to Congress. The evaluation would have to address, at a minimum, the cost-effectiveness of the demonstration projects, quality of care received by beneficiaries, beneficiary satisfaction, and provider satisfaction. If the initial evaluation showed the demonstration projects to either reduce Medicare expenditures or to not increase Medicare expenditures while increasing the quality of care received by beneficiaries and increasing beneficiary and provider satisfaction, the Secretary would continue the projects and could expand the number of demonstration projects.

The Secretary would be authorized to waive compliance with existing requirements of Medicare and Medicaid to such extent and for such period as necessary to conduct the demonstration projects.

Such sums as necessary would be authorized to be appropriated for the purpose of evaluating and reporting on the demonstrations.

Effective date—Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. The number of demonstration projects would be 5 in urban areas, 3 in rural areas, and 1 in the District of Columbia which is operated by a nonprofit academic medical center that maintains a National Cancer Institute certified comprehensive cancer center. Funding for this last project would be available only as provided in any federal law making appropriations for the District of Columbia. The Secretary could waive requirements of Medicare to the extent needed to conduct the projects.

Establishment of Medicare Reimbursement Demonstration Projects

Section 5047 of Senate amendment

CURRENT LAW

Medicare is prohibited from reimbursing for any services provided by a federal health care provider, unless the provider is determined by the Secretary of Health and Human Services to be providing services to the public generally as a community institution or agency or is operated by the Indian Health Service. In addition, Medicare is prohibited from making payment to any federal health care provider who is obligated by law or contract to render services at the public expense.

(a) Medicare subvention project for veterans

HOUSE BILL

No provision

SENATE AMENDMENT

Authorizes a Medicare subvention project for veterans. The Secretaries of HHS and VA would be authorized to establish a demonstration project, under an agreement, under which the Secretary of HHS would reimburse the Secretary of VA from the Medicare trust funds, for Medicare health care services furnished to certain targeted medicare-eligible veterans. The agreement would include at a minimum: (1) a description of the benefits to be provided to the participants; (2) a description of the eligibility rules for participation, (3) a description of how the demonstration would satisfy Medicare requirements; (4) a description of the sites selected; (5) a description of how reimbursement and maintenance of effort requirements would be implemented; and (6) a statement that the Secretary would have access to all data of the VA that the Secretary determined was necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

Provides that the Secretaries would establish a plan for the selection of up to 12 medical centers under the jurisdiction of the Secretary of VA and located in geographically dispersed locations. The selection plan would favor selection of those medical centers that were suited to serve targeted medicare-eligible individuals because: (1) there is a high potential demand by targeted medicare-eligible veterans for their services; (2) they have sufficient capability in billing and accounting to participate; (3) they have favorable indicators of quality of care, including patient satisfaction; (4) they deliver a range of services required by targeted medicare-eligible veterans; and (5) they meet other relevant factors identified in the plan. The Secretaries would endeavor to include at least 1 medical center that was in the same catchment area as a military medical facility which was closed pursuant to either: The Defense Base Closure and Realignment Act of 1990; or Title II of the Defense Authorization Amendments and Base Closure and Realignment Act. No new facilities would be built or expanded with funds from the demonstration project. The Secretaries would conduct the project during the 3-year period beginning on January 1, 1998.

Specifies that participation of veterans would be voluntary, subject to the capacity of participating medical centers and the funding limitations. Veterans who were military retirees would be given preference at military centers near a closed base. The Secretary of VA could establish cost-sharing requirements. The Secretaries would be required to submit a report 30 days prior to the start of a project.

Permits the Secretary of VA to establish and operate managed health care plans. Any such plan would be operated by or through a VA medical center or group of medical centers and could include the provision of health care services through other facilities under the jurisdiction of the Secretary of VA as well as public and private entities under arrangements made between them and the VA. The benefits would include at least those covered under Medicare.

Specifies that the Secretary of VA could establish a managed health care plan using one or more medical centers only after submission of a report to Congress setting forth a plan for their use. The plan could not be implemented until the Secretary of VA received from the VA Inspector General a certification that the plan meets specified criteria. The Secretary would maintain necessary reserves.

Specifies that, in general, payments would equal 95% of amounts that would otherwise be payable under Medicare for services provided both on a capitated and non-capitated basis. In computing payments for services provided on a non-capitated basis the following would be excluded: (1) disproportionate share hospital adjustment; (2) direct graduate medical education payments; (3) 40% of indirect medical education adjustment; and (4) 67% of any capital-related costs. In years prior to 2001, the capitated payments would be computed as if amounts excluded for non-capitated payments had been excluded for determining Medicare Choice payments. Payments under the demonstration could not exceed $50 million in any year. Payments would be reduced to the extent that the VA failed to maintain the effort level in effect for targeted veterans in FY 1997.

Requires the Secretaries, in consultation with the Comptroller General, to closely monitor the expenditures made under the medicare program for targeted medicare-eligible veterans compared to the expenditures that would have been made if the demonstration had not been conducted. The Comptroller General would submit to the Secretaries and the appropriate committees of Congress an annual report on the extent, if any, to which Medicare costs increased during the preceding fiscal year as a result of the demonstration. If so, the Secretaries would be required to take steps necessary to recoup costs and prevent future increases.

Requires the administering Secretaries to arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity would submit annual reports to the administering Secretaries and to appropriate congressional committees. The first report would be submitted not later than 12 months after the demonstration project begins operation, and the final report not later than 3½ years after that date. The reports would include an assessment of: (1) the cost to the VA of providing care to veterans under the project; (2) compliance of participating medical centers with applicable measures of quality of care, compared to such compliance for other medicare-participating medical centers; (3) a comparison of the costs of medical centers' participation in the program with the reimbursements provided for services of such medical centers; (4) savings or costs to medicare from the project; (5) any change in access to care or quality of care for targeted medicare-eligible veterans participating in the project; (6) any effect of the project on the access to care and quality of care for targeted medicare-eligible veterans not participating in the project and other veterans not participating in the project; (7) provision of services under managed health care plans; (8) any impact on enrollment in Medicare Choice. Within 6 months of submission of the penultimate report, the Secretaries would submit to Congress a report containing recommendations on whether to extend the demonstration or make it permanent; whether to expand the project to cover additional sites and increase the maximum amount of reimbursement; and whether terms and conditions of the project should be extended or modified.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. However, it does require the Secretary and the Secretary of Veterans Affairs (in consultation with the Secretary of Defense) to jointly submit to Congress a detailed implementation plan for a subvention demonstration project for veterans. The provision would require submission of the plan within 12 months of the start of the subvention demonstration project for military retirees; the plan would follow the DoD model.

(b) Medicare subvention project for military retirees

HOUSE BILL

No provision

SENATE AMENDMENT

Authorizes the Secretary of DoD and the Secretary of HHS to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary of HHS would reimburse the Secretary of DoD from the trust funds, for medicare health care services furnished to certain medicare-eligible military retirees or dependents. The agreement would include (1) a description of the benefits to be provided; (2) a description of the eligibility rules for participation; (3) a description of how the demonstration project would satisfy Medicare requirements; (4) a description of the sites selected; (5) a description of how reimbursement and maintenance of effort requirements would be implemented; and (6) a statement that the Secretary shall have access to all data of the DoD that the Secretary determines necessary. The project would be limited to six sites after review of all TRICARE regions. No new military treatment facility could be built or expanded with the funds. The project would be conducted during the 3-year period beginning January 1, 1998. The Inspector General of HHS could investigate any matters regarding expenditure of funds. The administering Secretaries would be required to submit a copy of the agreement at least 30 days prior to the start of the project.

Specifies participation is voluntary, subject to capacity and funding limitation. Cost-sharing requirements could be established. TRICARE enrollment fee would be waived for persons enrolled in the managed care option of TRICARE. The minimum benefits would include at least Medicare benefits.

Specifies that, in general, payments would equal 95% of amounts that would otherwise be payable under Medicare for services provided both on a capitated and non-capitated basis. In computing payments for services provided on a non-capitated basis the following would be excluded: indirect medical education costs, disproportionate share costs, and direct graduate medical education costs. In addition, the Secretaries would determine the portion of capital-related costs to be excluded. In years prior to 2001, the capitated payments would be computed as if amounts excluded for non-capitated payments had been excluded for determining Medicare Choice payments.

Specifies that the aggregate amount to be reimbursed under the project is $55 million in 1998, $65 million in 1999, and $75 million in 2000.

Requires the Secretaries, in consultation with the Comptroller General, to closely monitor the expenditures made under the medicare program for medicare-eligible military retirees and their dependants compared to the expenditures that would have been made if the demonstration had not been conducted. Any participating military treatment facility would be required to maintain the level of effort for space available care to medicare-eligible military retirees and their dependants. The Comptroller General would submit to the Secretaries and the appropriate committees of Congress an annual report on the extent, if any, to which Medicare costs increased during the preceding fiscal year as a result of the demonstration. If so, the Secretaries would be required to take steps necessary to recoup costs and prevent future increases.

Requires the administering Secretaries to arrange for an independent entity with expertise in the evaluation of health services to conduct an evaluation of the demonstration project. The entity would submit annual reports to the administering Secretaries and to appropriate congressional committees. The first report would be submitted not later than 12 months after the demonstration project begins operation, and the final report not later than 3½ years after that date. The reports would include an evaluation of the demonstration project, including the financial costs to Medicare and Defense, the quality of care provided to military retirees, and the impact on military readiness. Within 6 months of submission of the final report, the Secretaries would submit to Congress a report containing recommendations on whether to extend the demonstration or make it permanent; whether to expand the project to cover additional sites and increase the maximum amount of reimbursement; and whether terms and conditions of the project should be extended or modified.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. It would add to the minimum standards for the agreement. The agreement would have to include a description of any requirements waived by the Secretary. It would also have to include a certification, provided after review by the administering Secretaries, that any entity that is receiving payments under the demonstration: (1) has sufficient resources and expertise to provide the full range of required benefits; and (2) has information and billing systems in place to assure the accurate and timely submission of claims for benefits and ensure timely reimbursement of providers and practitioners. The administering Secretaries would be required to submit a copy of the agreement to the committees of jurisdiction at least 60 days prior to commencement of the project.

The conference agreement would permit the Secretary to waive Medicare requirements (or approve alternative ways of meeting such requirements), except for the following specified requirements relating to beneficiary protections and quality assurance: enrollment and disenrollment, nondiscrimination, information provided to beneficiaries, cost-sharing limitations, appeal and grievance procedures, provider participation, access to services, quality assurance and external review, advance directives, and other areas of beneficiary protections the Secretary determines are applicable.

The agreement would clarify that the authority to modify existing TRICARE contracts must be consistent with Medicare+Choice.

The agreement would authorize the Secretaries of HHS and DoD to include in the demonstration project any of the Medicare+Choice plans (excluding unrestricted fee-for-service plans and MSAs). The Secretary of Defense could enter an agreement with the Medicare+Choice organization to provide medicare services to medicare-eligible military retirees or dependents.

The conference agreement specifies that payments under the demonstration project would equal 95% of the amount that would be paid to a Medicare+Choice organization for that enrollee. In computing the amount, the following would be excluded: indirect medical education costs, disproportionate share costs, and direct graduate medical education costs. In addition, the Secretaries would determine the portion of capital-related costs to be excluded. The conference agreement would cap the amount of total payments at $50 million in calendar 1998, $60 million in calendar 1999, and $65 million in FY 2000.

The conference agreement would provide that the independent evaluation and reports would be conducted by the Comptroller General. The list of items the evaluation is required to assess would be modified. Added to the list would be any additional elements the Comptroller General determines is appropriate to assess. Dropped from the list are an analysis of the impact on prescription drug costs. The agreement would further provide that within six months of submission of the final (rather than penultimate) report by the GAO, the Secretaries would be required to submit their report to Congress. This report would be required to contain recommendations concerning whether there is a cost to Medicare in conducting the demonstration and whether the project could be expanded without there being a cost to Medicare or the Federal government.

TAX TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 10041 of the House bill and sec. 5049 of the Senate amendment

PRESENT LAW

To qualify as a charitable tax-exempt organization described in Internal Revenue Code (the "Code") section 501(c)(3), an organization must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster international sports competition, or for the prevention of cruelty to children or animals. Although section 501(c)(3) does not specifically mention furnishing medical care and operating a nonprofit hospital, such activities have long been considered to further charitable purposes, provided that the organization benefits the community as a whole.

No part of the net earnings of a 501(c)(3) organization may inure to the benefit of any private shareholder or individual. No substantial part of the activities of a 501(c)(3) organization may consist of carrying on propaganda, or otherwise attempting to influence legislation, and such organization may not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office. In addition, under section 501(m), an organization described in section 501(c)(3) or 501(c)(4) is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance.

A tax-exempt organization may, subject to certain limitations, enter into a joint venture or partnership with a for-profit organization without affecting its tax-exempt status. Under current ruling practice, the IRS examines the facts and circumstances of each arrangement to determine (1) whether the venture itself and the participation of the tax-exempt organization therein furthers a charitable purpose, and (2) whether the sharing of profits and losses or other aspects of the arrangement entail improper private inurement or more than incidental private benefit.[1]

HOUSE BILL

The provision provides that an organization does not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of Code section 501(c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization ("PSO") (as defined in section 1845(a)(1) of the Social Security Act), whether or not such PSO is exempt from tax. Thus, participation by a hospital in a PSO (whether taxable or tax-exempt) is deemed to satisfy the first part of the inquiry under current IRS ruling practice.[2]

The provision does not change present-law restrictions on private inurement and private benefit. However, the provision provides that any person with a material financial interest in such a PSO shall be treated as a private shareholder or individual with respect to the hospital for purposes of applying the private inurement prohibition in Code section 501(c)(3). Accordingly, the facts and circumstances of each PSO arrangement are evaluated to determine whether the arrangement entails impermissible private inurement or more than incidental private benefit (e.g., where there is a disproportionate allocation of profits and losses to the non-exempt partners, the tax-exempt partner makes loans to the joint venture that are commercially unreasonable, the tax-exempt partner provides property or services to the joint venture at less than fair market value, or a non-exempt partner receives more than reasonable compensation for the sale of property or services to the joint venture).

The provision does not change present-law restrictions on lobbying and political activities. In addition, the restrictions of Code section 501(m) on the provision of commercial-type insurance continue to apply.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

Subtitle B—Prevention Initiatives

Screening Mammography

Sections 10101 and 4101 of House bill and Section 5101 of Senate amendment

CURRENT LAW

Medicare provides coverage for screening mammograms. Frequency of coverage is dependent on the age and risk factors of the woman. For women ages 35–39, one test is authorized. For women ages 40–49, a test is covered every 24 months, except, an annual test is authorized for women at high risk. Annual tests are covered for women ages 50–64. For women aged 65 and over, the program covers one test every 24 months. Medicare's Part B deductible and coinsurance apply for these services.

HOUSE BILL

Section 10101. Authorizes coverage for annual mammograms for all women ages 40 and over. It would also waive the deductible for screening mammograms.

Effective Date. Applies to items and services furnished on or after January 1, 1998.

Section 4101. Identical provision.

SENATE AMENDMENT

Similar provision except that it would waive the coinsurance rather than the deductible.

Effective Date. Applies to items and services furnished on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

Screening Pap Smear and Pelvic Exams

Sections 10102 and 4102 of House bill

CURRENT LAW

Medicare covers a screening Pap smear once every 3 years for purposes of early detection of cervical cancer. The Secretary is permitted to specify a shorter time period in the case of women at high risk of developing cervical cancer.

HOUSE BILL

Section 10102. Authorizes coverage, every 3 years, for a screening pelvic exam which would include a clinical breast examination. It would modify the purpose of Pap smears to include early detection of vaginal cancer.

Specifies that for both Pap smears and screening pelvic exams, coverage would be authorized on a yearly basis for women at high risk of developing cervical or vaginal cancer (as determined pursuant to factors identified by the Secretary). Coverage would also be authorized on a yearly basis for a woman of childbearing age who had not had a negative test in each of the preceding 3 years. The deductible would be waived for screening Pap smears and screening pelvic exams.

Effective Date. Applies to items and services furnished on or after January 1, 1998.

Section 4102. Identical provision. In addition, it would require the Secretary, within 6 months of enactment, to submit a report to Congress on the extent to which the use of supplemental computer-assisted diagnostic tests (consisting of interactive automated computer imaging of an exfoliative cytology test) in conjunction with pap smears improves the early detection of cervical or vaginal cancer. The report must also consider cost implications.

Effective Date. Enactment

SENATE AMENDMENT

No provision

CONFERENCE AGREEMENT

The conference agreement includes the House provision, except that the requirement for a report on computer assisted diagnostic tests contained in Section 4102 is not included. The Conferees strongly recommend that the Secretary examine the value of new technologies in improving the accuracy of screening procedures, such as computer-assisted diagnostic tests, and expanding Medicare coverage policies to include proven new technologies.

Prostate Cancer Screening Tests

Sections 10103 and 4103 of House bill

CURRENT LAW

Medicare does not cover prostate cancer screening tests.

HOUSE BILL

Section 10103. Authorizes an annual prostate cancer screening test for men over age 50. The test could consist of any (or all) of the following procedures: (1) a digital rectal exam; (2) a prostate-specific antigen blood test; and (3) after 2001, other procedures as the Secretary finds appropriate for the purpose of early detection of prostate cancer, taking into account such factors as changes in technology and standards of medical practice, availability, effectiveness, and costs.

Specifies that payment for prostate-specific antigen blood tests would be made under the clinical laboratory fee schedule.

Effective Date. Applies to items and services furnished on or after January 1, 1998.

Section 4103. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with an amendment. The provision would apply to services furnished on or after January 1, 2000. The provision authorizing coverage for additional procedures specified by the Secretary would be effective for years beginning after 2002.

Coverage of Colorectal Screening

Sections 10104 and 4104 of House bill and section 5102 of Senate amendment

CURRENT LAW

Medicare does not cover preventive colorectal screening procedures. Such services are covered only as diagnostic services.

HOUSE BILL

Section 10104. Authorizes coverage of colorectal cancer screening tests. A test covered under the provision would be any of the following procedures furnished for the purpose of early detection of colorectal cancer: (1) screening fecal-occult blood test; (2) screening flexible sigmoidoscopy; (3) screening colonoscopy for high-risk individuals; (4) screening barium enema, if found by the Secretary to be an appropriate alternative to screening flexible sigmoidoscopy or screening colonoscopy; and (5) after 2002, other procedures as the Secretary finds appropriate for the purpose of early detection of colorectal cancer, taking into account such factors as changes in technology and standards of medical practice, availability, effectiveness, and costs. A high-risk individual (for purposes of coverage for screening colonoscopy) would be defined as one who faces a high risk for colorectal cancer because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's disease or ulcerative colitis), the presence of any appropriate recognized gene markers, or other predisposing factors. The Secretary would be required to make a decision with respect to coverage of screening barium enema tests within 2 years of enactment; the determination would be published.

Establishes frequency and payment limits for the tests. For screening fecal-occult blood tests, payment would be made under the lab fee schedule. In 1998, the payment amount could not exceed $5; in future years the update would be limited to the update applicable under the fee schedule. Medicare could not make payments if the test were performed on an individual under age 50 or within 11 months of a previous screening fecal-occult blood test.

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[1] 1 See IRS General Counsel Memorandum 39862; Announcement 92–83, 1992–22 I.R.B. 59 (IRS Audit Guidelines for Hospitals). Even where no prohibited private inurement exists, however, more than incidental private benefits conferred on individuals may result in the organization not being operated "exclusively" for an exempt purpose. See, e.g., *American Campaign Academy* v. *Commissioner*, 92 T.C. 1053 (1989).

[2] 2 The qualification of a hospital as a tax-exempt charitable organization under section 501(c)(3) is determined as under present law. See Rev. Rul. 69–545, 1969–2 C.B. 117.

Requires the Secretary to establish a payment amount under the physician fee schedule for screening flexible sigmoidoscopies that is consistent with payment amounts for similar or related services. The payment amount could not exceed the amount the Secretary specifies, based upon the rates recognized for diagnostic flexible sigmoidoscopy services. For services performed in ambulatory surgical centers or hospital outpatient departments, the payment amount could not exceed the lesser of the payment rate that would apply to such services if they were performed at either site. Medicare could not make payments for a screening flexible sigmoidoscopy if the test were performed on an individual under age 50 or within 47 months of a previous screening flexible sigmoidoscopy.

Requires the Secretary to establish a payment amount under the physician fee schedule for screening colonoscopy for high risk individuals that is consistent with payment amounts for similar or related services. The payment amount could not exceed the amount the Secretary specifies, based upon the rates recognized for diagnostic colonoscopy services. For services performed in ambulatory surgical centers or hospital outpatient departments, the payment amount could not exceed the lesser of the payment rate that would apply to such services if they were performed at either site. Medicare could not make payments if the test were performed on a high-risk individual within 23 months of a previous screening colonoscopy.

Establishes special payment rules, in the case of both a screening flexible sigmoidoscopy or screening colonoscopy, if a lesion or growth is discovered during the procedure which results in a biopsy or removal of the lesion or growth during the procedure. In these cases, payment would be made for the procedure classified as either a flexible sigmoidoscopy with such biopsy or removal or screening colonoscopy with such biopsy or removal.

Requires the Secretary to review from time to time the appropriateness of the amount of the payment limit for fecal-occult blood tests. The Secretary could, beginning after 2000, reduce the amount of the limit as it applies nationally or in a given area to the amount the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available.

Requires the Secretary to review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and other factors the Secretary believes to be pertinent. The Secretary may revise from time to time the frequency limitations, but no revisions could occur before January 1, 2001.

Specifies that nonparticipating physicians providing screening flexible sigmoidoscopies or screening colonoscopies for high risk individuals would be subject to limiting charge provisions applicable for physicians services. The Secretary could impose sanctions if a physician or supplier knowingly and willfully imposed a charge in violation of this requirement.

Requires the Secretary to establish payment limits and frequency limits for screening barium enema tests if the Secretary issues a determination that such tests should be covered. Payment limits would be consistent with those established for diagnostic barium enema procedures.

Effective Date. Applies to items and services furnished on or after January 1, 1998.

Section 4104. Identical provision.

SENATE AMENDMENT

Authorizes coverage of colorectal cancer screening tests. A covered test is defined as a procedure the Secretary prescribes in regulations as appropriate for the purpose of early detection of colorectal cancer, taking into account availability, effectiveness, costs, changes in technology and standards of medical practice, and other factors the Secretary considers appropriate. The Secretary would consult with appropriate organizations.

Requires the Secretary to prescribe regulations that establish frequency limits for colorectal cancer screening tests. The limits would take into account the risk status of an individual and would be consistent with frequency limits for similar or related services. The regulations would also establish payment limits (including limits on charges of nonparticipating physicians) for colorectal cancer screening tests that are consistent with payment limits for similar services. The Secretary would be required to periodically review, and to the extent considered appropriate, revise the frequency and payment limits.

Specifies that in establishing criteria to determine whether an individual is at high risk, the Secretary would take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer. The Secretary would consult with appropriate organizations.

Effective Date. Applies to items and services furnished on or after January 1, 1998. The Secretary would be required to issue the regulations within three months of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with modifications. Specified covered procedures would be: (1) screening fecal-occult blood test, (2) screening flexible sigmoidoscopy, (3) screening colonoscopy for high risk individuals, and (4) such other tests or procedures, and modifications to tests and procedures with such frequency and payment limits as the Secretary determines appropriate, in consultation with appropriate organizations. The Secretary would be required within 90 days of enactment or January 1, 1998, whichever is earlier, to publish a notice in the Federal Register with respect to a determination on the coverage of a screening barium enema as a colorectal cancer screening test.

The conference agreement would specify that the payment amount for a screening fecal-occult blood test would be the same as the payment amount for a diagnostic fecal-occult blood test under the lab fee schedule. The requirement for periodic review of the limits for such tests would be deleted.

The Conference agreement provides that screening flexible sigmoidoscopies and screening colonoscopies furnished in an ambulatory surgical center or a hospital outpatient department after January 1, 1999 would be subject to the applicable fee schedule amounts. Beneficiary liability would be limited to 25 percent of the fee schedule payment amount for ambulatory surgical centers. The conference agreement does not include the language relating to limiting charges of nonparticipating physicians or the requirement for periodic review of frequency limits.

DIABETES SCREENING TESTS

Sections 10105 and 4105 of House bill and Section 5103 of Senate amendment

CURRENT LAW

In general, Medicare covers only those items and services which are medically reasonable and necessary for the diagnosis or treatment of illness or injury. In addition, Medicare covers home blood glucose monitors and associated testing strips for certain diabetes patients. Home blood glucose monitors enable diabetics to measure their blood glucose levels and then alter their diets or insulin dosages to ensure that they are maintaining an adequate blood glucose level. Home glucose monitors and testing strips are covered under Medicare's durable medical equipment benefit. Coverage of home blood glucose monitors is currently limited to certain diabetics, formerly referred to as Type I diabetics, if: (1) the patient is an insulin-treated diabetic; (2) the patient is capable of being trained to use the monitor in an appropriate manner, or, in some cases, another responsible person is capable of being trained to use the equipment and monitor the patient to assure that the intended effect is achieved; and (3) the device is designed for home rather than clinical use.

HOUSE BILL

Section 10105. Effective January 1, 1998, the Ways and Means and Commerce Committees would include among Medicare's covered benefits diabetes outpatient self-management training services. These services would include educational and training services furnished to an individual with diabetes by a certified provider in an outpatient setting meeting certain quality standards. They would be covered only if the physician who is managing the individual's diabetic condition certifies that the services are needed under a comprehensive plan of care to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition. Certified providers for these purposes would be defined as physicians or other individuals or entities that, in addition to providing diabetes outpatient self-management training services, provide other items or services reimbursed by Medicare. Providers would have to meet quality standards established by the Secretary. They would be deemed to have met the Secretary's standards if they meet standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards of the Board, or if they are recognized by an organization representing persons with diabetes as meeting standards for furnishing such services. In establishing payment amounts for diabetes outpatient self-management training provided by physicians and determining the relative value for these services, the Secretary would be required to consult with appropriate organizations, including organizations representing persons or Medicare beneficiaries with diabetes.

In addition, beginning January 1, 1998, the provision would extend Medicare coverage of blood glucose monitors and testing strips to Type II diabetics and without regard to a person's use of insulin (as determined under standards established by the Secretary in consultation with appropriate organization). The provision would also reduce the national payment limit used by Medicare for testing strips by 10% beginning in 1998.

The Secretary, in consultation with appropriate organizations, would be required to establish outcome measures, including glysolated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of Medicare beneficiaries with diabetes. The Secretary would also be required to submit recommendations to Congress from time to time on modifications to coverage of services for these beneficiaries.

Effective date. Applies to items and services furnished on or after January 1, 1998.

Section 4105. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that were identical in the House bill and Senate amendment, with amendments (1) to clarify that the Secretary would determine the times when diabetes self-management educational and training services would be considered appropriate, (2) to require that physicians certify that services are needed to ensure therapy compliance or to provide necessary skills and knowledge; and (3) to postpone the effective date for coverage of diabetes outpatient self-management training services to July 1, 1998.

This provision is intended to empower Medicare beneficiaries with diabetes to better manage and control their condition. The Conferees believe that this provision will provide significant Medicare savings over time due to reduced hospitalizations and complications arising from diabetes. The provision would allow reimbursement for physicians, as well as other providers designated by the Secretary who currently are reimbursed by Medicare. The Conferees intend that these additional classes of providers have expertise in diabetes self-management training and, consistent with the standards set forth in the provision, demonstrate the ability to provide counseling and training in a cost-effective way to beneficiaries. In addition, the Conferees are aware that there are a wealth of innovative disease management programs that are not now covered by Medicare. However, there is not sufficient evidence at this time that indicates these programs will be cost-effective for Medicare.

BONE MASS MEASUREMENT

Sections 10106 and 4106 of House bill and Section 5104 of Senate amendment

CURRENT LAW

Medicare does not include specific coverage of bone mass measurement.

HOUSE BILL

Section 10106. Authorizes coverage of bone mass measurement procedures for the following high risk persons: an estrogen-deficient woman at clinical risk for osteoporosis; an individual with vertebral abnormalities; an individual receiving long-term glucocorticoid steroid therapy, and an individual with primary hyperparathyroidism, or an individual being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy. Covered procedures are radiologic or radioisotopic procedure or other procedure approved by the FDA for the purpose of identifying bone mass or detecting bone loss or deterioration; it would include a physician's interpretation. The Secretary would be required to establish frequency limits. Payments would be made under the physician fee schedule.

Effective Date. Applies to measurements performed on or after July 1, 1998.

Section 4106. Identical provision.

SENATE AMENDMENT

Similar provision except: (1) specifies that an estrogen-deficient individual who is at clinical risk of developing osteoporosis is one who is also considering treatment; (2) refers to FDA "approved technology" rather than "other procedure" approved by the FDA; (3) does not include provisions relating to payment under the physician fee schedule.

Effective Date. Applies to measurements performed on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

VACCINES OUTREACH EXPANSION

Sections 10107 and 4107 of House bill

CURRENT LAW

The Health Care Financing Administration, in conjunction with the Centers for Disease Control and the National Coalition for Adult Immunization, conducts an Influenza and Pneumococcal Vaccination Campaign. The Campaign is scheduled to cease operations in 2000.

HOUSE BILL

Section 10107. Extends the campaign through the end of FY 2002. It would authorize appropriations of $8 million for each fiscal year 1998–2002 to the Campaign; 60% of the appropriation would come from the Federal Hospital Insurance Trust Fund and 40% from the Federal Supplementary Medical Insurance Trust Fund.

Effective Date. Enactment

Section 4107. Similar provision, except that it appropriates the funds.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision as contained in Section 10107.

There is evidence that education and outreach efforts alone can increase immunization rates. For example, pneumonia and influenza vaccination rates have increased 8 percent during the past few years due largely to educational outreach efforts. Therefore, this provision is intended to nearly double the $9 million annual budget of the Health Care Financing Administration's Influenza and Pneumococcal Vaccination Campaign through 2000, and extend the program for two additional years through 2002.

STUDY ON PREVENTIVE BENEFITS

Sections 10108 and 4108 of House bill and Section 5105 of Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

Section 10108. Requires the Secretary to request the National Academy of Sciences, in conjunction with the U. S. Preventive Services Task Force, to analyze the expansion or modification of preventive services covered under Medicare. The study would consider both the short term and long term benefits and costs to Medicare. The study would have to include specific findings with respect to the following: (1) nutrition therapy, including parenteral and enteral nutrition; (2) medically necessary dental care; (3) routine patient care costs for beneficiaries enrolled in approved clinical trial programs; and (4) elimination of time limitation for coverage of immunosuppressive drugs for transplant patients. The Secretary would be required to provide such funding as may be necessary in FY 1998 and FY 1999

Effective Date. Enactment

Section 4108. Similar provision, except also includes study of coverage for bone mass measurement.

SENATE AMENDMENT

Requires the Secretary to request the National Academy of Sciences, in conjunction with the U.S. Preventative Services Task Force, to analyze the expansion or modification of preventative benefits to include medical nutritional therapy services by a registered dietitian. The Secretary would be required to submit a report on the findings to the House Ways and Means and Commerce Committees and the Senate Finance Committee. The report would include specific findings regarding cost to Medicare, savings to Medicare, clinical outcomes, and short and long term benefits to Medicare. The Secretary would provide for such funds as may be necessary for FY 1998 and FY 1999.

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification to clarify that the study applies to other benefits in addition to preventive benefits. Skin cancer screening would be added to the list of benefits studied. The study of nutrition therapy services would be modified to include the provision of such services by a dietician.

The Conference agreement includes a study on both preventive and enhanced benefits in the Medicare program, including nutrition therapy services. Because of widespread interest in expanding and updating Medicare's current benefit package to focus more attention on prevention, this provision is intended to signal the interest of the Conferees in continuing to reexamine Medicare's benefits in light of evolving scientific evidence about the costs and benefits of various prevention initiatives.

The Conferees recommend that the nutrition study include an examination of nutritional services provided by registered dieticians to Medicare beneficiaries in both individual and group settings. The nutrition study should also examine the cost and benefits of treatment of obesity, which is a significant cause of morbidity and mortality in the United States.

Subtitle C—Rural Initiatives

SOLE COMMUNITY HOSPITALS

Section 5151 of the Senate amendment

CURRENT LAW

Medicare designates certain hospitals as sole community hospitals (SCHs) that, because of factors such as isolated location, weather conditions, travel conditions, or the absence of other hospitals, are the sole source of inpatient services reasonably available in a geographic area, or are located more than 35 road miles from another hospital.

An SCH may be paid the higher of the following rates: a target amount based on FY 1982 hospital-specific rates, updated to the present; a target amount based on FY 1987 hospital-specific rates based on FY 1987, updated to the present; or the federal PPS payment rate.

HOUSE BILL

No provision.

SENATE AMENDMENT

Beginning with discharges occurring in FY 1998, substitutes for the base cost reporting period either (1) the allowable operating costs of inpatient hospital services for a cost reporting period beginning during FY 1994 increased (in a compounded manner) by the applicable percentage increases applied to hospitals for discharges occurring in fiscal years 1995, 1996, 1997, and 1998; or (2) the allowable operating costs of inpatient hospital services for a cost reporting period beginning during FY 1995 increased (in a compounded manner) by the applicable percentage increase for discharges occurring in fiscal years 1995, 1996, 1997, and 1998. The new base cost reporting period would be substituted if it resulted in an increase in the target amount for the SCH.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

RURAL PRIMARY CARE HOSPITAL PROGRAM

Section 10201 of the House bill and Section 5153 of the Senate amendment

CURRENT LAW

Under the Essential Access Community Hospital (EACH) demonstration program, seven states received grants to develop rural health networks consisting of essential access community hospitals (EACHs) and rural primary care hospitals (RPCHs). In order to have been designated by a State as a RPCH, a facility was required to meet certain criteria, including a requirement that inpatient stays not exceed 72 hours.

Montana also has a limited service hospital program called the Medical Assistance Facility (MAF). The Medical Assistance Facility Demonstration Project in Montana has been in operation since 1988. The program operates under a waiver from HCFA that allows these limited service hospitals to be reimbursed for providing treatment to Medicare beneficiaries. In addition, HCFA supplies grant funding to the Montana Hospital Research and Education Foundation to provide technical assistance, liaison, public education and other services to the MAFs. The first MAF was licensed and certified in 1990. Since then, a total of 12 MAFs have been licensed and certified. Additional facilities are in the process of considering a conversion to this model.

HOUSE BILL

Expands the Medicare Rural Primary Care Hospital Program under which a state could designate one or more facilities as a rural primary care hospital (RPCH). A facility could be designated as a RPCH if it was a nonprofit or public hospital located in a county in a rural area that was located at a distance that corresponded to travel time of more than 30 minutes from another hospital or RPCH, or was certified by the state as being a necessary provider of health care services. A RPCH would be required to provide 24-hour emergency care services, provide not more than 15 acute care inpatient beds and a total of 25 swing beds for providing inpatient care for a period not to exceed 96 hours (except under certain conditions), and would not have to meet all the staffing requirements that apply to hospitals under Medicare.

RPCHs would be required to have agreements with at least one hospital for patient referral and transfer, the development and use of communication systems including telemetry systems and systems for electronic sharing of patient data, and the provision of emergency and non-emergency transportation between the facility and the hospital. Each RPCH would also be required to have an agreement concerning credentialing and quality assurance with at least one hospital, peer review organization or equivalent entity, or other appropriate and qualified entity identified by the state.

Payment for inpatient and outpatient services provided at RPCHs would be made on the basis of the reasonable costs of providing such services. Reasonable cost payment would also continue for designated EACH hospitals, as well as for the MAF demonstration program.

Effective Date. Applies to services furnished in cost reporting periods beginning on or after October 1, 1997.

SENATE AMENDMENT

Similar provision, except replaces the EACH program with the Medicare Rural Hospital Flexibility Program. The provision would require that facilities be located more than a 35-mile drive from another hospital or other health care facility. The Secretary would be authorized to award grants to states for activities related to engaging in planning and implementing a rural health care plan, engaging in planning and implementing rural health networks, and designating facilities as critical access hospitals (CAHs). The provision would authorize appropriations of $25 million for each of the years FY 1998-2002 for the grants.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments. The distance requirement for facilities includes a 15-mile drive in the case of mountainous terrain or in areas with only secondary roads available. The conference includes the House provision that would allow States to designate or the Secretary to certify facilities applying for the designation as long as the total number of beds used at any time for furnishing either extended care services or acute care inpatient services does not exceed 25 beds and the number of beds used at any time for acute care inpatient services does not exceed 15 beds. Beds in a facility licensed as a distinct-part skilled nursing facility at the time the facility applied to the state for designation would not be counted. The Secretary would also be required to provide for an appropriate transition for facilities participating in the MAF demonstration program, and at the conclusion of the transition period, the demonstration would be terminated.

The Critical Access Hospital (CAH) provisions of this legislation are largely based on both the successful MAF demonstration project in Montana and the EACH/RPCH demonstration project.

Regarding MAFs, it is the intent of the Conferees that MAFs that are licensed and certified prior to the date of enactment will be grandfathered into the new CAH program. To ease this transition in Montana, the MAF demonstration project is extended until October 1,1998 to allow the Secretary of HHS time to issue regulations for the CAH program. New facilities may still seek certification under the MAF demonstration until the demonstration project has been terminated. It is the intent of the Conferees that the MAF demonstration be folded into the new rural hospital flexibility program. It is the intent of the Conferees that there be no gap in grant money from HCFA to Montana in the event the grant program that accompanies the CAH legislation is not in operation as of October 1, 1998. If the new grant program is available prior to termination of the MAF demonstration, HCFA would be required to terminate the grant money available from the demonstration and provide money to Montana from the new grant program as long as there is no gap in the grant money.

PROHIBITING DENIAL OF REQUEST BY RURAL REFERRAL CENTERS FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES

Section 10202 of the House bill and Section 5154 of the Senate amendment

CURRENT LAW

Rural Referral Centers are defined as:

(1) rural hospitals having 275 or more beds; (2) hospitals having at least 50 percent of their Medicare patients referred from other hospitals or from physicians not on the hospital's staff, at least 60 percent of their Medicare patients residing more than 25 miles from the hospital, and at least 60 percent of the services furnished to Medicare beneficiaries living 25 miles or more from the hospital; or (3) rural hospitals meeting the following criteria for hospital cost reporting periods beginning on or after October 1, 1985:

(a) a case mix index equal to or greater than the median case mix for all urban hospitals (the national standard), or the median case mix for urban hospitals located in the same census region, excluding hospitals with approved teaching programs;

(b) a minimum of 5,000 discharges, the national discharge criterion (3,000 in the case of osteopathic hospitals), or the median number of discharges in urban hospitals for the region in which the hospital is located; and (c) at least one of the following three criteria: more than 50 percent of the hospital's medical staff are specialists, at least 60 percent of discharges are for inpatients who reside more than 25 miles from the hospital, or at least 40 percent of inpatients treated at the hospital have been referred either from physicians not on the hospital's staff or from other hospitals.

Under Section 1886(d)(10)(d), RRCs are allowed to apply to the Medicare Geographic Classification Review Board (MGCRB) to be reclassified for purposes of wage index adjustment. (A wage index adjustment translates to higher prospective payment system reimbursement for the reclassified hospitals.) To be reclassified, RRCs must meet two thresholds: (1) the hospital's average hourly wage must be at least 108 percent of the statewide rural hourly wage; and, (2) the hospital's average hourly wage must be at least 84 percent of the average hourly wage of the target urban area to which the RRC is applying.

RRCs were paid prospective payments based on the applicable urban payment amount rather than the rural payment amount, as adjusted by the hospital's area wage index, until FY 1995 when the standardized payment amount for "other urban" and "rural" were combined into a single payment category, "other areas."

OBRA 93 extended the classification through FY 1994 for those referral centers classified as of September 30, 1992.

HOUSE BILL

Prohibits the Medicare Geographic Classification Review Board (MGCRB) from rejecting a hospital's request for reclassification on the basis of any comparison between the average hourly wage of any hospital ever classified as a RRC and the average hourly wage of hospitals in the area in which the RRC is located. The provision would also permanently grandfather RRC status for any hospitals designated since 1991.

Effective Date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Hospital Geographic Reclassification Permitted for Purposes of Disproportionate Share Payment Adjustments

Section 10203 of the House bill

CURRENT LAW

The MGCRB is required to consider applications from PPS hospitals requesting that the Secretary change the hospital's geographic classification for purposes of determining for a fiscal year the hospital's average standardized amount and the wage index used to adjust the DRG payment to reflect area differences in hospital wage levels.

HOUSE BILL

Permits hospitals to request geographic reclassification for purposes of receiving additional disproportionate share hospital (DSH) payment amounts provided to hospitals that treat a disproportionate share of low-income patients. The provision would require the Board to apply the guidelines established for reclassification for the standardized amount to applications for DSH payments until the Secretary promulgates separate guidelines for reclassification for DSH.

Effective Date. Enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with an amendment to limit the geographic reclassification for DSH payments to the period beginning on the date of enactment and ending 30 months after enactment.

It is the intent of Conferees to allow eligible rural hospitals to be reclassified for purposes of receiving a DSH adjustment until such time as a new DSH methodology is adopted that more accurately distributes Medicare DSH payments to hospitals in both rural and urban areas.

Medicare-Dependent Small Rural Hospital Payment Extension

Section 10204 of the House bill and Section 5152 of the Senate amendment

CURRENT LAW

Medicare-dependent small rural hospitals are hospitals located in a rural area, with 100 beds or less, that are not classified as a sole community provider, and for which not less than 60 percent of inpatient days or discharges in the hospital cost reporting period are attributable to Medicare. These hospitals were reimbursed on the same basis as sole community hospitals. The designation for Medicare-dependent small rural hospitals expired on October 1, 1994.

HOUSE BILL

Reinstates and extends the classification, and extends the target amount for inpatient costs through October 1, 2001. The provision would also permit hospitals to decline reclassification.

Effective Date. Applies to discharges occurring on or after October 1, 1997.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Rural Health Clinic (RHC) Services

Sections 10618 and 4618 of the House bills and Section 5155 of the Senate amendment

CURRENT LAW

Medicare establishes payment limits for RHC services provided by independent (RHCs). RHCs, among other requirements, must have appropriate procedures for utilization review of clinic services. The Secretary is required to waive the RHC requirement for certain staffing of health professionals if the clinic has been unable to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous nine years. The Secretary is prohibited from granting a waiver to a facility if the request for the waiver is made less than 6 months after the date of the expiration of previous waiver of the facility. RHCs are required to be located in a health professional shortage area. For RHCs that are in operation and subsequently fail to meet the requirement of being located in a health professional shortage area, the Secretary would be required to continue to consider the facility to meet the health professions shortage area requirement.

HOUSE BILL

Section 10618. Applies per-visit payment limits to all RHCs, other than such clinics in rural hospitals with less than 50 beds. The provision would require that RHCs have a quality assessment and performance improvement program, in addition to appropriate procedures for utilization review. The provision would amend the waiver on the staffing requirement, to provide a waiver if the facility cannot meet the requirement of having a nurse practitioner, physician assistant, or a certified nurse-midwife available 50% of the time the clinic operates; such a waiver would only be available to clinics once they have been certified. The provision would require that shortage designations for RHCs be reviewed every three years. The provision would further amend the shortage area requirement by adding that RHCs must be located in an area in which there are insufficient numbers of needed health care practitioners as determined by the Secretary. The provision would require that operating RHCs that subsequently fail to meet the requirement of being located in a health professional shortage area continue to be considered to meet the health professional shortage requirement, but only when, under criteria established by the Secretary in regulations, the RHCs are determined to be essential to the delivery of primary care services that would otherwise be unavailable in the geographic area served by the clinic. The Secretary would be required to issue final regulations implementing the grandfathered clinics that would take effect no later than January 1 of the third calendar year beginning at least one month after enactment.

Effective Date. Per-visit payment limit provision applies to services furnished after 1997. The provision on the assurance of quality assessment would take effect on January 1, 1998. The waiver of staffing requirements provision would apply to waiver requests made after 1997. The refinement of the shortage area requirements provision would go into effect on January 1 of the first calendar years after enactment. The grandfathered clinics provision would take effect on the effective date of the regulations required by the provision.

Section 4618. Identical provision.

SENATE AMENDMENT

Similar provision, except requires the Secretary to include in the regulations issued to implement the grandfathered clinics, provisions for the direct payment to the physician assistant (PA) for any PA services provided at a RHC that is principally owned, as determined by the Secretary, by a PA as of the date of enactment and continuously from that date through the date on which services are provided. The PA payment provision would sunset (not apply) after January 1, 2003.

Effective Date. Takes effect on the effective date of regulations issued for grandfathered RHCs.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment, with amendments to include the provision for payment of certain PAs through January 1, 2003 from the Senate amendment, and to require the Secretary to issue final regulations for implementing the grandfathered RHCs no later than January 1, 1999.

Geographic Reclassification for Certain Disproportionately Large Hospitals

Section 10205 of the House bill

CURRENT LAW

OBRA 1989 created the five member panel and set forth criteria for the Medicare Geographic Classification Review Board (MGCRB) to use in issuing its decisions concerning geographic reclassification of hospitals as rural or urban for prospective payment purposes of Medicare's hospital reimbursement. In 1992, HCFA issued guidelines requiring that hospitals seeking reclassification for years beginning with FY 1994 have an average hourly wage of at least 108 percent of the average hourly wage of hospitals in its home region.

HOUSE BILL

Allows certain relatively large hospitals to be reclassified by the MGCRB if the hospital has 40 percent of the wages in a region and its wages are 108 percent or higher than the other hospitals in the region.

Effective Date. Enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with an amendment clarifying that the provision would apply to hospitals that applied in each of the fiscal years 1992-1997 and were subsequently approved for reclassification for purposes of the wage index.

Floor on Area Wage Index

Section 10206 of the House bill and Section 5467 of the Senate amendment

CURRENT LAW

As part of the methodology for determining prospective payments to hospitals under PPS, the Secretary is required to adjust a portion of the standardized amounts for area differences in hospital wage levels by a factor reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

HOUSE BILL

Provides that, for discharges occurring on or after October 1, 1997, the area wage index applicable for any hospital which was not located in a rural area could not be less than the area wage indices applicable to hospitals located in rural areas in the state in which the hospital was located. The Secretary would be required to make any adjustments in the wage index in a budget neutral manner.

Effective Date. Enactment.

SENATE AMENDMENT

Identical provision on the area wage index. In addition, the Senate amendment provides that in the case of a hospital that is owned by a municipality and that was reclassified as an urban hospital for FY 1996, in calculating the hospital's average hourly wage for the purposes of geographic reclassification for FY 1998, the Secretary would be required to exclude the general service wages and hours of personnel associated with a skilled nursing facility that is owned by the hospital of the same municipality and that is physically separated from the hospital to the extent that such wages and hours of such personnel are not shared with the hospital and are separately documented. A hospital that applied for and was denied reclassification as an urban hospital for FY 1998, but that would have received reclassification had the exclusion required by this section been applied to it, would be reclassified as an urban hospital for FY 1998.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

Section 5156 of the Senate amendment

CURRENT LAW

HCFA is currently conducting a 3-year demonstration project under which Medicare will pay for telemedicine services at 57 Medicare-Certified facilities. The demonstration will focus on medical consultations between medical specialists located at medical center facilities and primary care providers treating Medicare patients at remote rural sites. Five telemedicine centers are participating in the project.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary, no later than July 1, 1998, to make payments under Part B of Medicare for professional consultation via telecommunications systems with a health care provider furnishing a service for which Medicare payment would be made for a beneficiary residing in a rural county that was designated as a health professional shortage area, or is a rural county not adjacent to a Metropolitan Statistical Area.

The Secretary would be required to develop a methodology for making such payments taking into account the findings of the report on Medicare payments for telemedicine that was required by the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), and any other findings related to the clinical efficacy and cost-effectiveness of telehealth applications. The Secretary would be required to develop a payment methodology that would (1) include bundled payments to be shared between the referring health care provider and the consulting provider that could not be greater than the current fee schedule of the consulting health care providers for the services provided, and (2) would not include any reimbursement for any line charges or any facility fees.

The provision would require the Secretary to submit a report to Congress no later than January 1, 1998, which would analyze in detail: (1) how telemedicine and telehealth systems are expanding access to health care services; (2) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications; (3) the quality of telemedicine and telehealth services delivered; and (4) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas.

The provision would require the Secretary to submit a report to Congress by January 1, 1999, that would examine the possibility of making Medicare Part B payments for professional consultation via telecommunications systems to beneficiaries who do not reside in a rural area designated as a health manpower shortage area, who are homebound or nursing homebound, and for whom being transferred for health care services imposes a serious hardship. The report would be required to contain a detailed statement of the potential costs to Medicare of making these payments using various reimbursement schemes.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments. The Secretary would be required to make Part B payments for telehealth services by no later than January 1, 1999. In determining the amount of payments for telehealth services, the payments would be subject to Medicare coinsurance and deductible requirements, and balanced billing limits would apply to services furnished by non-participating physicians. Beneficiaries could not be billed for any telephone line charges or any facility fees. In addition, payment for telehealth services would be increased annually by the update factor for physician services under the fee schedule.

It is the intent of the Conferees that the enhanced Medicare reimbursement provided by the conference agreement not inadvertently modify the payment provided to participants in the on-going HCFA telemedicine demonstration projects.

INFORMATICS, TELEMEDICINE, AND EDUCATION DEMONSTRATION PROJECT

Sections 10207 and 4206 of the House bills and Section 5157 of the Senate amendment

CURRENT LAW

HCFA is currently conducting a 3-year demonstration project under which Medicare will pay for telemedicine services at 57 Medicare-Certified facilities. The demonstration will focus on medical consultations between medical specialists located at medical center facilities and primary care providers treating Medicare patients at remote rural sites. Five telemedicine centers are participating in the project.

HOUSE BILL

Requires the Secretary to conduct, no later than 9 months after enactment, a 4-year demonstration project designed to use eligible health care provider telemedicine networks to apply high-capacity computing and advanced networks for the provision of health care to Medicare beneficiaries who are residents of medically underserved rural and inner-city areas. The project would focus on improvements in primary care and prevention of complications for those residents with diabetes mellitus. The Secretary would be required to waive any Medicare provisions necessary to provide payment for services under the project. The objectives of the project would include: (1) improving patient access to and compliance with appropriate care guidelines for chronic diseases through direct telecommunications links with information networks; (2) developing a curriculum to train, and provide standards for credentialing and licensure of, health professionals (particularly primary care) in the use of medical informatics and telecommunications; (3) demonstrating the application of advanced technologies to assist primary care providers in assisting patients with chronic illnesses in a home setting; (4) applying medical informatics to residents with limited English language skills; (5) developing standards in the application of telemedicine and medical informatics; and (6) developing a model for the cost-effective delivery of primary and related care both in a managed care and fee-for-service environment.

The provision defines an eligible health care provider telemedicine network as a consortium that includes at least one tertiary care hospital (but no more than two such hospitals), at least one medical school, no more than four facilities in rural or urban areas, and at least one regional telecommunications provider that meets certain additional requirements. The provision would define those services to be covered under Part B for the purposes of this demonstration project. Medicare payment for covered Part B services would be made at a rate of 50% of the reasonable costs of providing such services. The Secretary would be required to recognize the following project costs as permissible costs for coverage under Part B: (1) the acquisition of telemedicine equipment for use in patient homes; (2) curriculum development and training of health professionals in medical informatics and telemedicine, (3) payment of certain telecommunications costs, including costs of telecommunications between patients' homes and the eligible network and between the network and other entities under the arrangements described in the bill; and (4) payments to practitioners and providers under Medicare. Costs not covered under Part B would include: (1) purchase or installation of transmission equipment, (2) the establishment or operation of a telecommunications common carrier network, (3) the costs of construction (except for minor renovations related to the installation of reimbursable equipment), or (4) the acquisition or building of real property.

The total amount of Medicare payments permitted under the project would be $30 million. The project would be prohibited from imposing cost sharing on a Medicare beneficiary for the receipt of services under the project of more than 20% of the recognized costs of the project attributable to these services.

The Secretary would be required to submit to the House Committees on Ways and Means and Commerce and the Senate Committee on Finance interim reports on the project and a final report on the project within 6 months of the conclusion of the project. The final report would be required to include an evaluation of the impact of the use of telemedicine and medical informatics on improving the access of Medicare beneficiaries to health care services, on reducing the costs of such services, and on improving the quality of life of such beneficiaries.

Effective Date. Enactment.

Section 4206. Identical provision.

SENATE AMENDMENT

Similar provision, except establishes a 5-year demonstration project to study the use of eligible health care provider telemedicine networks to implement high-capacity computing and advanced networks to improve primary care, improve access to specialty care, and provide educational and training support to rural practitioners. The Secretary would be required to waive any Medicare, title XI of the Social Security Act, or Medicaid provisions necessary to conduct the project. The provision would not include the objectives of improving patient access to and compliance with appropriate care guidelines for individuals with diabetes mellitus through direct telecommunications links with information networks, or the application of medical informatics to residents with limited English language skills, but would include the objective of improving access to primary and specialty care and the reduction of inappropriate hospital visits in order to improve patient quality-of-life and reduce overall health care costs.

The provision would allow an eligible telemedicine network to include no more than six facilities, including at least three rural referral centers in rural areas and require that the consortium would be located in a region that is predominantly rural.

The total amount of Medicare payments permitted under the project would be $27 million.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with modifications.

Subtitle D—Anti-Fraud and Abuse Provisions and Administrative Efficiencies

Permanent Exclusion for Those Convicted of 3 Health Care Related Crimes

Section 10301 and 4301 of House bill

CURRENT LAW

Section 1128(a) of the Social Security Act directs the Secretary of Health and Human Services to mandatorily exclude individuals and entities from participation in the Medicare program and state health care programs (Medicaid, Title V Maternal and Child Health Block Grants, and Title XX Social Services Block Grants) upon conviction of certain criminal offenses including Medicare and Medicaid program-related crimes, patient abuse crimes, health care fraud felonies, and felonies relating to controlled substances. Such mandatory exclusions are, in most cases, for a minimum period of five years.

HOUSE BILL

Section 10301. Provides that if an individual has been mandatorily excluded by the Secretary of Health and Human Services from participation in Federal health care programs, as defined in Section 1128b(f) of the Social Security Act (see Section 10310(c) of this subtitle), and state health care programs, because of a conviction relating to Medicare and Medicaid program-related crimes, patient abuse, or felonies related to health care fraud or controlled substances, that the exclusion be either for a period of 10 years if the individual has been convicted on only one previous occasion of one or more offenses for which such an exclusion may be imposed, or that the exclusion be permanent if the individual has been convicted on two or more previous occasions of one or more offenses for which such an exclusion may be imposed. The provision would apply to exclusions based on a conviction occurring on or after the date of enactment of this section where the individual has had prior convictions occurring before, on or after the date of enactment of this section.

Section 4301. Identical provision.

Effective Date. Enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with clarifying language.

Authority to Refuse to Enter into Medicare Agreements with Individuals or Entities Convicted of Felonies

Section 10302 and 4302 of House bill and Section 5201 of Senate amendment

CURRENT LAW

Section 1866 of the Social Security Act sets forth certain conditions under which providers may become qualified to participate in the Medicare program. The Secretary may refuse to enter into an agreement with a provider, or may refuse to renew or may terminate such an agreement, if the Secretary determines that the provider has failed to comply with provisions of the agreement, other applicable Medicare requirements and regulations, or if the provider has been excluded from participation in a health care program under section 1128 or 1128A of the Social Security Act. Section 1842 of the Social Security Act permits physicians and suppliers to enter into agreements with the Secretary under which they become "participating" physicians or suppliers under the Medicare program.

HOUSE BILL

Section 10302. Adds a new section giving the Secretary authority to refuse to enter into an agreement, or refuse to renew or terminate an agreement with a provider if the provider has been convicted of a felony under federal or state law for an offense which the Secretary determines is inconsistent with the best interests of program beneficiaries. This authority would extend to the Secretary's agreements with physicians or suppliers who become "participating" physicians or suppliers under the Medicare program. Similar provisions would apply to the Medicaid program.

Section 4302. Identical provision.

Effective Date. Enactment, with application to new and renewed contracts on or after that date.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions which are identical in the House bill and the Senate amendment with clarifying language.

Improving Information to Medicare Beneficiaries (Inclusion of Toll-Free Number to Report Medicare Waste, Fraud, and Abuse in Explanation of Benefits Forms)

Section 10303 and 4303 of the House bill and Section 5219 and 5222 of the Senate Amendment

CURRENT LAW

Carriers and fiscal intermediaries are the entities which process claims for Medicare. Intermediaries process claims submitted by institutional providers of services and carriers process claims submitted by physicians and suppliers.

HOUSE BILL

Section 10303. Specifies that each explanation of benefits form contain a toll-free telephone number maintained by the Inspector General in the Department of Health and Human Services for persons to report complaints and information about waste, fraud and abuse in Medicare services or billing for services.

Section 4303. Identical provision.

Effective Date. Effective for explanations of benefits as of such date, not later than January 1, 1999, as the Secretary provides.

SENATE AMENDMENT

While the Senate amendment also requires a toll-free fraud and abuse telephone number in each explanation of benefits, the provision is broader, including requirements regarding a beneficiary's right to request an itemized bill for Medicare services within 30 days, penalties for failure to comply with such requests, and procedures for review of itemized bills by the appropriate carrier or fiscal intermediary upon request.

Effective Date. Effective for medical or other items or services provided on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the House provision regarding a toll-free fraud and abuse telephone number and the Senate amendment with modifications regarding new statutory requirements for information to beneficiaries regarding fraud and abuse, explanation of benefits statements, and a beneficiary's right to request an itemized bill for Medicare.

Liability of Medicare Carriers and Fiscal Intermediaries for Claims Submitted by Excluded Persons

Section 10304 and 4304 of House bill

CURRENT LAW

Carriers and fiscal intermediaries are the entities which process claims for Medicare. Intermediaries process claims submitted by institutional providers of services and carriers process claims submitted by physicians and suppliers.

HOUSE BILL

Section 10304. Provides that agreements with fiscal intermediaries or carriers require that such organizations reimburse the Secretary for any amounts paid for services under Medicare which have been furnished, directed, or prescribed by an individual or entity during any period in which the individual or entity has been excluded from participation under Medicare, if the amounts have been paid after the fiscal intermediary or carrier has received notice of the exclusion. Similar restrictions would be imposed upon states under the Medicaid program.

Section 4304. Identical provision.

Effective Date. Applies to contracts and agreements entered into, renewed, or extended after the date of enactment of this Act, but only with respect to claims submitted on or after either January 1, 1998, or the effective date of the contract, whichever is later.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision.

Exclusion of Entity Controlled by Family Member of a Sanctioned Individual

Section 10305 and 4305 of House bill and Section 5202 of Senate amendment

CURRENT LAW

Section 1128 of the Social Security Act authorizes the Secretary of HHS to impose mandatory and permissive exclusions of individuals and entities from participation in the Medicare program, Medicaid program and programs receiving funds under the Title V Maternal and Child Health Services Block Grant, or the Title XX Social Services Block Grant. The Secretary may exclude any entity which the Secretary determines has a person with a direct or indirect ownership or control interest of 5 percent or more in the entity or who is an officer, director, agent, or managing employee of the entity, where that person has been convicted of a specified criminal offense, or against whom a civil monetary penalty has been assessed, or who has been excluded from participation under Medicare or a state health care program.

HOUSE BILL

Section 10305. Provides that if a person transfers an ownership or control interest in an entity to an immediate family member or to a member of the household of the person in anticipation of, or following, a conviction, assessment or exclusion against the person, that the entity may be excluded from participation in Federal health care programs on the basis of that transfer. The terms "immediate family member" and "member of the household" are defined in this section.

Section 4305. Identical provision.

Effective Date. Effective 45 days after enactment.

SENATE AMENDMENT

Identical provision

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment. The Conferees expect the Secretary to examine the facts and circumstances of each case carefully before applying this penalty.

IMPOSITION OF CIVIL MONEY PENALTIES

Section 10306 and 4306 of House bill and Section 5203 of Senate amendment

CURRENT LAW

Section 1128A of the Social Security Act sets forth a list of fraudulent activities relating to claims submitted for payments for items of services under a Federal health care program. Civil money penalties of up to $10,000 for each item or service may be assessed. In addition, the Secretary of HHS (or head of the department or agency for the Federal health care program involved) may also exclude the person involved in the fraudulent activity from participation in a Federal health care program, defined as any program providing health benefits, whether directly or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the Federal Employees Health Benefits Program).

HOUSE BILL

Section 10306. Adds a new civil money penalty for cases in which a person contracts with an excluded provider for the provision of health care items or services, where the person knows or should know that the provider has been excluded from participation in a Federal health care program. A civil money penalty is also added for cases in which a person provides a service ordered or prescribed by an excluded provider, where that person knows or should know that the provider has been excluded from participation in a Federal health care program.

Section 4306. Similar, but does not provide a civil money penalty for cases in which a person provides a service ordered or prescribed by an excluded provider.

Effective Date. Enactment.

SENATE AMENDMENT

Identical to Ways and Means provision, with an additional provision providing a civil money penalty of $50,000 for each kickback violation under Section 1128B(b) of the Social Security Act and damages of up to 3 times the total amount of remuneration offered, paid, solicited, or received under that section.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment providing civil money penalties for kickbacks and civil money penalties for persons who contract with excluded providers, with a modification eliminating the civil money penalty for services ordered or prescribed by an excluded individual or entity.

DISCLOSURE OF INFORMATION AND SURETY BONDS

Section 10307 and 4307 of House bill and Section 5211 of Senate amendment

CURRENT LAW

Section 1834(a) of the Social Security Act establishes requirements for payments under Medicare for covered items defined as durable medical equipment. Home health agencies are required, under Section 1861(o) of the Social Security Act, to meet specified conditions in order to provide health care services under Medicare, including requirements, set by the Secretary, relating to bonding or establishing of escrow accounts, as the Secretary finds necessary for the effective and efficient operation of the Medicare program.

HOUSE BILL

Section 10307. Requires that suppliers of durable medical equipment provide the Secretary with full and complete information as to persons with an ownership or control interest in the supplier, or in any subcontractor in which the supplier has a direct or indirect 5 percent or more ownership interest, other information concerning such ownership or control, and a surety bond for at least $50,000. Home health agencies, comprehensive outpatient rehabilitation facilities, and rehabilitation agencies would also be required to provide a surety bond for at least $50,000. The Secretary may impose the surety bond requirement which applies to durable medical equipment suppliers to suppliers of ambulance services and certain clinics that furnish medical and other health services (other than physicians' services). In each of these cases the Secretary could waive the surety bond requirement if the entity provides a comparable surety bond under state law.

Section 4307. Identical provision.

Effective Date. Applies with respect to items and services furnished on or after January 1, 1998.

SENATE AMENDMENT

Identical, except minor wording differences and provision that Secretary may also require a supplier of durable medical equipment to provide evidence of compliance with applicable Medicare conditions or requirements through an accreditation survey conducted by a national accreditation body.

CONFERENCE AGREEMENT

The conference agreement includes provisions in the House bill and the Senate amendment which are similar, with a modification making all surety bond requirements mandatory and eliminating the Senate amendment language regarding accreditation, and with clarifying language.

The Conferees wish to clarify that these surety bond requirements do not apply to physicians and other health care professionals.

PROVISION OF CERTAIN IDENTIFICATION NUMBERS

Section 10308 and 4208 of House bill and Section 5212 of Senate amendment

CURRENT LAW

Section 1124 of the Social Security Act requires that entities participating in Medicare, Medicaid and the Maternal and Child Health Block Grant programs (including providers, clinical laboratories, renal disease facilities, health maintenance organizations, carriers and fiscal intermediaries), provide certain information regarding the identity of each person with an ownership or control interest in the entity, or in any subcontractor in which the entity has a direct or indirect 5 percent or more ownership interest. Section 1124A of the Social Security Act requires that providers under part B of Medicare also provide information regarding persons with ownership or control interest in a provider or any subcontractor in which the provider has a direct or indirect 5 percent or more ownership interest.

HOUSE BILL

Section 1308. Requires that all Medicare providers supply the Secretary with both the employer identification number and Social Security account number of each disclosing entity, each person with an ownership or control interest, and any subcontractor in which the entity has a direct or indirect 5 percent or more ownership interest. The Secretary of HHS is directed to transmit to the Commissioner of Social Security information concerning each social security account number and employer identification number supplied to the Secretary for verification of such information. The Secretary would reimburse the Commissioner for costs incurred in performing the verification services required by this provision. The Secretary of HHS would report to Congress on the steps taken to assure confidentiality of Social Security numbers to be provided to the Secretary of HHS under this section.

Section 4308. Similar, but specifies that Social Security numbers would not be disclosed to other persons or entities, and use of such numbers would be limited to verification and matching purposes only.

Effective Date. Effective 90 days after submission of Secretary's report to Congress on confidentiality of Social Security numbers.

SENATE AMENDMENT

Identical to Ways and Means provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are similar in the House bill and the Senate amendment with modifications. Although the Conferees are aware of the widespread use of Social Security numbers as personal identifiers, the Conferees had concern about the confidentiality of such numbers under this new disclosure requirement. Therefore, this provision provides for a study by the Secretary before this requirement would become effective. In addition, the Conferees note that the disclosure of Social Security numbers and other personal identifiers to a Federal agency are protected by applicable provisions of the Privacy Act.

ADVISORY OPINIONS REGARDING CERTAIN PHYSICIAN SELF-REFERRAL PROVISIONS

Section 10309 and 4309 of House bill

CURRENT LAW

Section 1877 of the Social Security Act establishes a ban on certain financial arrangements between a referring physician and an entity. Specifically, if a physician (or immediate family member) has an ownership or investment interest in or a compensation arrangement with an entity, the physician is prohibited from making certain referrals to the entity for services for which Medicare would otherwise pay.

HOUSE BILL

Section 10309. Requires the Secretary of HHS to issue written advisory opinions concerning whether a physician referral relating to designated health services (other than clinical laboratory services) is prohibited under Section 1877 of the Social Security Act. Such opinions would be binding as to the Secretary and the party requesting the opinion. To the extent practicable, the Secretary is to apply the regulations issued under the advisory opinion provisions of Section 1128D of the Social Security Act to the issuance of advisory opinions under this provision.

Section 4309. Identical provision.

Effective Date. Enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision. The conference agreement also clarifies the application of certain rules to advisory opinions.

Other Fraud and Abuse Related Provisions

Section 10310 and 4311 of House bill and Section 5221 of Senate amendment

CURRENT LAW

Section 1128D provides for safe harbors, advisory opinions, and fraud alerts as guidance regarding application of health care fraud and abuse sanctions. Section 1128E of the Social Security Act directs the Secretary of HHS to establish a national health care fraud and abuse data collection program for the reporting of final adverse actions against health care providers, suppliers, or practitioners.

HOUSE BILL

Section 10310. Makes certain technical changes in provisions added by the Health Insurance Portability and Accountability Act of 1996. The provision would also provide that mandatory and permissive exclusions under Section 1128 apply to any Federal health care program, defined as any program providing health benefits, whether directly or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the Federal Employees Health Benefits Program). A new provision is added to the health care fraud and abuse data collection program to provide a civil money penalty of up to $25,000 to be imposed against a health plan that fails to report information on an adverse action required to be reported under this program. The Secretary would also publicize those government agencies which fail to report information on adverse actions as required.

Section 4311. Identical provision.

Effective Date. The change in the federal programs under which a person may be excluded under Section 1128 of the Social Security Act would be effective on the date of enactment of this Act. The sanction provision for failure to report adverse action information as required under Section 1128E of the Social Security Act would apply to failures occurring on or after the date of the enactment of this Act. The other amendments made by this section would be effective as if included in the enactment of the Health Insurance Portability and Accountability Act of 1996.

SENATE AMENDMENT

Identical, but with an additional prevision clarifying that certain waivers and payments of premiums do not violate Section 1128A, as amended by the Health Insurance Portability and Accountability Act of 1996.

CONFERENCE AGREEMENT

The conference agreement includes provisions in the House bill and the Senate amendment which are identical, with a modification adding the Senate amendment language clarifying the definition of "remuneration" under Section 1128A(I)(6) of the Social Security Act, and adding additional clarifying language to that section.

Notification of Availability of Providers as Part of Discharge Planning Process

Section 4310 of House bill

CURRENT LAW

Hospitals are required to have a discharge planning process meeting certain requirements. The discharge planning evaluation must include an evaluation of the patient's need for likely post-hospital services and the availability of those services.

HOUSE BILL

Includes, as part of this evaluation, the availability of those services through individuals and entities that participate in Medicare, serve the geographic area where the patient resides, and request to be listed by the hospital as available. The provision would prohibit the discharge plan from specifying or otherwise limiting the qualified provider which may provide post-hospital care. The plan would also identify any provider (to whom the individual is referred) in which the hospital has a disclosable financial interest or which has such disclosable interest in the hospital.

Effective Date. Discharge plan provisions would be effective 90 days after enactment. The Secretary of HHS would issue regulations implementing the information disclosure provisions within one year of date of enactment, and such regulations would specify the effective date of such provisions.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification expanding the required notification of financial interest to include any post-hospital provider.

Competitive Bidding

Section 4743 of House bill and Section 5218 of Senate amendment

CURRENT LAW

Medicare does not use competitive bidding for the selection of providers authorized to provide covered services to beneficiaries.

HOUSE BILL

Requires the Secretary, within 1 year of enactment, to establish and operate, over a 2-year period, demonstration projects in two geographic areas selected by the Secretary. Under the demonstration, the amount of payment for selected items or services furnished in the region would be the amount determined pursuant to a competitive bidding process. The process would have to meet the requirements imposed by the Secretary to ensure cost-effective delivery to beneficiaries of items and services of high quality.

Provides that the Secretary would select the items and services based on a determination that the use of competitive bidding would be appropriate and cost effective. The Secretary would be required to consult with an advisory task force which included representatives of providers and suppliers (including small business providers and suppliers) in each project region.

SENATE AMENDMENT

Requires the Secretary to establish competitive acquisition areas for furnishing Part B services (except for physicians services) as specified by the Secretary. The Secretary could establish different competitive acquisition areas for different classes of items and services. The areas would be chosen based on availability and accessibility of entities able to furnish items and services and probable savings to be realized.

Requires the Secretary to conduct a competition among individuals and entities supplying items and services for each area for each class of items and services. The Secretary could not award a contract unless the Secretary found that the entity met quality standards specified by the Secretary. Further, the Secretary would have to find that the total amounts to be paid are expected to be less than would otherwise be paid. A contract could not be let for an amount in excess of the applicable fee schedule amount unless the Secretary determined that the amount of the excess is warranted by reason of technological innovation, quality improvement, or similar reasons. Regardless, the total amount paid under the contract could not exceed the amount that would otherwise be paid.

Authorizes the Secretary to specify contract terms. The Secretary would be authorized to limit the number of contractors in an area to the number needed to meet projected demand. Payment could not be made in a competitive acquisition area to a non-contracting entity unless the Secretary found that the expenses were incurred in a case of urgent need or other circumstances specified by the Secretary.

Effective Date. Applies to items and services furnished after December 31, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment to limit the Secretary's authority to the conduct of demonstration projects. The Secretary would be authorized to implement not more than five such projects, at three sites each. The agreement would further specify that at least one competitive acquisition area would be for oxygen and oxygen equipment.

The agreement would require the Secretary to evaluate the impact of establishing competitive acquisition areas on Medicare program savings, access, diversity of product selection, and quality. The Secretary would make annual reports to the House Committees on Ways and Means and Commerce and the Senate Committee on Finance on the results of the evaluation. If the Secretary determined that a demonstration project was successful at the end of three years, the Secretary could expand bidding for that item or service to additional sites. The GAO would be required to study the effectiveness of the competitive acquisition areas.

All projects authorized under this provision would terminate no later than December 31, 2002. This provision would be effective on enactment.

Application of Certain Provisions of the Bankruptcy Code

Section 5213 of the Senate amendment

CURRENT LAW

Under the Bankruptcy Code, a provider can assert that any civil monetary penalty due to the Medicare program is discharged and does not survive the bankruptcy proceeding. Current law provides for various causes of exclusion from the Medicare program. However, several bankruptcy courts have held that a provider may not be excluded from Medicare during the pendency of a bankruptcy proceeding because of the court's automatic stay.

HOUSE BILL

No provision.

SENATE AMENDMENT

Changes the current status of the United States as a creditor in a bankruptcy proceeding involving a debtor who participates in Medicare or Medicaid. It would exempt the United States from bankruptcy's automatic stay with respect to actions to exclude the debtor from program participation, to assess civil money penalties, or to deny, recoup or setoff overpayments due to fraud (not including overpayments for medical services); it would specify that debts owed to the United States for certain overpayments, or for certain penalties are nondischargeable; it would exclude debt repayments to the United States for certain overpayments from the Bankruptcy Code's preferential transfer provision; it would permit the Department of HHS, not a U.S. bankruptcy court, to determine the allowability and finality of debtor claims for payment; and it would provide special notice requirements.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The Conference agreement does not include the bankruptcy provisions in the Senate amendment, which would have barred bankruptcy courts from staying exclusions of physicians and other health care providers from Medicare, and from the dischargeability in a bankruptcy proceeding of fines and recovery of payments received through fraud. The Conferees recommend that the committees with jurisdiction over the Medicare program and over bankruptcy law continue to address these significant issues in other pending legislation.

REPLACEMENT OF REASONABLE CHARGE FEE SCHEDULE

Section 5214 of Senate amendment

CURRENT LAW

Medicare pays for most Part B services (including physicians services, lab services and durable medical equipment) on the basis of fee schedules. A few items are still paid on the basis of reasonable charges.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provides that payment under Medicare Part B is to be based on the lessor of the actual charge for the service or amounts determined by the applicable fee schedule developed by the Secretary for the particular service. The provision would make conforming changes to Part B. For an enteral or parenteral pump furnished on a rental basis during a period of medical need, payment would be limited to 15 months of medical need after which payment could be made for maintenance and servicing of the pump in amounts reasonable and necessary to ensure proper operation. The provision would delete current provisions relating to determination of reasonable charges for services personally performed by teaching physicians and inherent reasonableness authority for determining payments to physicians.

Specifies that the Secretary in developing a fee schedule for a particular service shall, in the first year set payment amounts so that total payments for those services would be approximately equal to those which would have been made if the fee schedule had not been effect.

Effective Date. Applies, to the extent the amendments substitute fee schedules for reasonable charges, to particular services as of the date specified by the Secretary.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment. Under the agreement, the Secretary would be authorized to implement a statewide or other areawide fee schedule for payment of specified items and services paid on a reasonable charge basis. The specified items and services are medical supplies; home dialysis supplies and equipment; therapeutic shoes; parenteral and enteral nutrients, equipment, and supplies; electromyogram devices; salivation devices; blood products; and transfusion medicine.

The agreement provides that the fee schedule would be updated each year by the percentage increase in the CPI for the 12-month period ending the preceding June. No update could occur before 2003 for parenteral and enteral nutrients, equipment, and supplies. The Secretary, in developing a fee schedule would be required to set amounts for the first year period to which the fee schedule applies so that total Medicare payments for those services would be approximately equal to the estimated total payments if those amendments had not been made.

With regard to parenteral and enteral nutrition, the Conferees recommend that the Secretary examine carefully the appropriateness of including the costs of professional services and variations in payments according to the setting where services are provided.

APPLICATION OF INHERENT REASONABLENESS TO ALL PART B SERVICES OTHER THAN PHYSICIANS SERVICES

Section 5215 of Senate amendment

CURRENT LAW

The Secretary is permitted to increase or decrease Medicare payments in cases where the payment amount is "grossly excessive or grossly deficient and not inherently reasonable." The Secretary's authority to make these payment adjustments is generally referred to as "inherent reasonableness authority".

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to describe by regulation the factors to be used in determining cases in which application of payment rules under Part B (other than to physicians services) results in the determination of an amount that is not inherently reasonable. The Secretary would provide in these cases for factors to be considered in establishing a realistic and equitable amount.

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment. The factors provided by the Secretary could not increase or decrease payment amounts by more than 15 percent from the preceding year for a particular item or service. The Conference agreement also includes additional clarifying language.

REQUIREMENT TO FURNISH DIAGNOSTIC INFORMATION

Section 5216 of Senate amendment

CURRENT LAW

Physicians are required to provide diagnostic codes when billing for services.

HOUSE BILL

No provision

SENATE AMENDMENT

Extends the requirement to furnish diagnostic information to non-physician practitioners.

Specifies that physicians and non-physician practitioners would be required to furnish diagnostic information to entities when ordering specified items or services furnished by such entities. Specifically they would be required to supply diagnostic information to the entity if the entity is required by the Secretary (or fiscal agent of the Secretary) to furnish such information as a condition of payment. This requirement would apply to diagnostic X-rays, diagnostic lab tests, and other diagnostic tests, durable medical equipment, prosthetic devices, and braces and artificial legs, arms and eyes.

Effective Date. Applies to items and services furnished on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

REPORT BY GAO ON OPERATION OF FRAUD AND ABUSE CONTROL PROGRAM

Section 5217 of Senate amendment

CURRENT LAW

The Health Insurance Portability and Accountability Act of 1996 requires the first report by the General Accounting Office (GAO) not later than January 1, 2000 on the operation of a new Medicare fraud and abuse control program designed to improve investigation and prosecution of fraud against the Medicare program.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the first GAO report no later than June 1, 1998.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS

Section 5220 and 5223 of Senate amendment

CURRENT LAW

The reasonable cost of medical services and items under Medicare is defined and limitations upon such costs are set forth in Section 1861(v) of the Social Security Act.

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that reasonable costs would not include costs for entertainment, gifts, costs for fines and penalties under Federal or state law, or certain education expenses for spouses or dependents of providers of services, their employees or contractors. Section 5223, with similar language, also includes personal use of motor vehicles as a non-reimbursable charge under Medicare.

Effective Date. Effective with respect to medical or other items or services provided on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with clarifying language.

REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS

Section 5221 and 5224 of Senate amendment

CURRENT LAW

Medicare law authorizes the Secretary to develop and periodically update a list of DME items that are determined, on the basis of prior payment experience, to be frequently subject to unnecessary utilization throughout a carrier's entire service area or a portion of an area. The Secretary is also authorized to develop and periodically update a list of DME suppliers for whom the Secretary has found a substantial number of denied claims because items were not medically necessary and reasonable or the Secretary has identified a pattern of overutilization resulting from the business practice of the supplier.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to develop the list of DME items and suppliers (see also item 16, durable medical equipment below).

Effective date. Enactment.

CONFERENCE AGREEMENT.

The conference agreement does not include the Senate provision.

IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS/ITEMIZATION OF SURGICAL DRESSINGS

Sections 5225 and 5226 of Senate amendment

CURRENT LAW

Surgical dressings are paid according to the DME fee schedule for inexpensive and other routinely purchased items (with national limited payment amounts based on 1992 reasonable charge data, updated). Fee schedule payments do not apply to dressings furnished as an incident to a physician's service or by a home health agency.

HOUSE BILL

No provision.

SENATE AMENDMENT

Authorizes the Secretary to apply inherent reasonableness authority to payments for surgical dressings. Applies fee schedule to surgical dressings provided by a home health agency. (Note that other provisions on prospective payment for home health specify that all services covered and paid on a reasonable cost basis, including medical supplies, would be required to be included in the prospective rate.)

Effective date. Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate provision.

Subtitle E—Provisions Relating to Part A

Chapter 1—Payment of PPS Hospitals

PPS HOSPITAL PAYMENT UPDATE

Section 10501 of the House bill and Section 5401 of the Senate amendment

CURRENT LAW

Hospitals are paid on the basis of a prospectively fixed payment rate for costs associated with each discharge. Each hospital's basic payment rate is based on a national standardized payment amount, which is higher for hospitals in large urban areas than for other hospitals. Each standardized payment amount is adjusted by a wage index. Payment also depends on the relative costliness of the case, based on the diagnosis related group (DRG) to which the discharge is assigned. Additional payments are made for the following: extraordinary costly cases (outliers); indirect costs of medical education; and for hospitals serving a disproportionate share of low-income patients. Other exceptions and adjustments are made.

PPS payment rates are annually updated using an "update factor." The annual update factor applied to increase the Federal base payment amounts is determined, in part, by the projected increase in the hospital market basket index (MBI), which measures the costs of goods and services purchased by hospitals. Under the Omnibus Budget Reconciliation Act of 1993 (OBRA 93), the PPS update factor in FY 1998 for all PPS hospitals is equal to the percentage increase in the market basket.

HOUSE BILL

Sets the update factor for FY 1998 at 0% for all hospitals in all areas; for FY 1999-2002, at MBI minus 1.0 percentage points for all hospitals in all areas; and for FY 2003 and each subsequent fiscal year equal to the MBI for all hospitals in all areas.

Effective Date. Enactment.

SENATE AMENDMENT

Establishes a calendar year (CY) update cycle for PPS hospital payments. Hospital payment rates for FY 1997 would be continued until January 1, 1998. For CY 1998, the annual update for PPS hospitals would be equal to the MBI minus 2.5 percentage points; for CY 1999, the MBI minus 1.3 percentage points; for CY 2000-2002, the MBI minus 1.0 percentage point; and for CY 2003 and each subsequent year, the MBI.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes 0% update for FY 1998; the MBI minus 1.9 percentage points for FY 1999; the MBI minus 1.8 percentage points for FY 2000; the MBI minus 1.1 percentage points for FY 2001 and FY 2002; and for FY 2003 and each subsequent fiscal year, the MBI percentage increase for all hospitals in all areas. The conference agreement includes a provision which would set a different update for certain non-teaching, non-DSH, and non-Medicare dependent hospitals to provide these hospitals with temporary relief. Hospitals would qualify for the higher update if they were located in states in which a non-teaching, non-DSH hospital received lower aggregate payments for their cost reporting periods beginning during FY 1995 than the aggregate allowable operating costs of inpatient hospital services for all such hospitals in the state. In addition, the amount of payments for discharges occurring in the cost reporting period involved would have to be less than the allowable operating cost of inpatient hospital services for such a hospital for such period. In FY 1998, these hospitals would receive a payment update equal to the update provided that year for all other hospitals plus 0.5 percentage points; for FY 1999, a payment update equal to the update for that year provided for all other hospitals plus 0.3 percentage points.

Regarding temporary relief for certain non-teaching, non-DSH hospitals, it is the intent of Conferees that these payment adjustments be available for eligible hospitals for FY 1998 and FY 1999 to account for disproportionately low Medicare margins. Moreover, the conferees intend that Medicare payments be paid to eligible hospitals in a timely manner, first through estimated interim payments, and then reconciled when the respective fiscal year cost reports are settled.

Historically, the Health Care Financing Administration (HCFA) has analyzed only Medicare Provider Analysis and Review (MedPAR) data in its annual recalibration of diagnosis related group (DRG) relative weights and when considering whether to reclassify certain procedures within the DRG system. Because the International Classification of Disease 9th Revision Clinical Modification (ICD-9-CM) system used in conjunction with MedPAR may not be fully updated to permit tracking the administration of inpatient drug therapies, certain drug therapies essentially are eliminated from HCFA's recalibration and reclassification process. Thus, in order to ensure that Medicare beneficiaries have access to innovative new drug therapies, the Conferees believe that HCFA should consider, to the extent feasible, reliable, validated data other than MedPAR data in annually recalibrating and reclassifying the DRGs. Data collection should be done in such a manner so as to assure accurate reflection of drug utilization. The Conferees are concerned that because of the connection between reporting and payment, drug therapies not already included in the DRG could be under-reported. Furthermore, to the extent feasible, any new procedure coding system adopted under the Health Insurance Portability and Accountability Act of 1996, should consider a means of tracking the administration of drug therapies such that future MedPAR data shall contain information regarding the utilization of specific drugs.

CAPITAL PAYMENTS FOR PPS HOSPITALS

Section 10502 of the House bill and Section 5402 of the Senate amendment

CURRENT LAW

In FY 1992, Medicare began phasing in prospectively-determined per case rates for capital-related costs. During the 10-year transition to a single capital rate, payments will reflect both hospital-specific costs and a single Federal capital payment rate. During the transition, hospitals are paid according to either a fully prospective method or a "hold harmless" method of payment.

Capital payment rates are updated annually. For the first 5 years of the transition to prospectively determined per-case rates, historical cost increases were used to increase the Federal and hospital-specific rates. Under a budget neutrality requirement, per case capital rates were adjusted in the first 5 years of the transition so that total payments equaled 90 percent of estimated Medicare-allowed capital costs. In FY 1996, the budget neutrality requirement was lifted. In addition, the cost-based updates are replaced by an "update framework" (developed by HCFA and proposed in the June 2, 1995 Federal Register), which determines payment rate growth. This analytical framework is to take into account changes in the price of capital and appropriate changes in capital requirements resulting from development of new technologies and other factors. With the expiration of the budget neutrality language in 1996, the federal capital rate jumped 22.6 percent.

Medicare, through regulation, provides for capital exception payments for hospitals that incur unanticipated capital expenditures due to circumstances beyond the hospital's control. Eligible hospitals include: (1) sole community hospitals; (2) hospitals located in an urban area with at least 100 beds that qualify for DSH payments; and (3) hospitals with a combined inpatient Medicare and Medicaid utilization of at least 70%. In most instances, the additional payment is based on the minimum payment amount of 85% of Medicare's share of allowable capital-related costs. The hospital must show that it obtained approval from a state planning authority for the capital project, must satisfy an age-of-asset test, and, in the case of an urban hospital, a specified excess capacity test. To be eligible for exception payments, the capital project must be completed during the period from the beginning of its first cost reporting period beginning on or after October 1, 1991, to the end of its last cost reporting period beginning before October 1, 2001, and have costs of at least: (1) $200 million; or (2) 100 percent of its operating cost during the first 12 month cost reporting period beginning on or after October 1, 1991.

HOUSE BILL

Requires the Secretary to rebase the capital payment rates in FY 1998 using the actual rates in effect in FY 1995, by applying the budget neutrality adjustment factor used to determine the federal capital payment rate on September 30, 1995, to the unadjusted standard federal capital payment rate in effect on September 30, 1997, and to the unadjusted hospital-specific rate in effect on September 30, 1997.

The provision would also revise the exceptions process for certain capital projects provided under PPS for eligible hospitals located in urban areas with over 100 beds.

Effective Date. Enactment.

SENATE AMENDMENT

Similar provision, except the provision would also amend the exceptions process for major capital projects provided in federal regulation to include, as eligible for an exception, hospitals located in an urban area and has more than 300 beds, without regard to its disproportionate share patient percentage or whether it qualifies for additional disproportionate share hospital (DSH) payment amounts. The provision would amend the project size requirement to require that a hospital's project costs must be at least 150% of its operating costs during the first 12-month cost reporting period beginning on or after October 1, 1991. The provision would also require the Secretary to reduce the federal capital and hospital rates by up to $50 million in a calendar year to ensure that the amended exceptions process would not result in an increase in the total amount that would have otherwise been paid in a fiscal year.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment on the rebasing of capital payment rates with an amendment to reduce the capital payment rate by an additional 2.1%. The conference agreement does not include capital exceptions payment provisions.

DISPROPORTIONATE SHARE

Section 10503 of the House bill and Section 5462 of the Senate amendment

CURRENT LAW

Under PPS, an adjustment is made to the payment to hospitals that serve a disproportionate share of low-income patients. The disproportionate share hospital (DSH) adjustment is intended to compensate hospitals that treat large proportions of low-income patients. The factors considered in determining whether a hospital qualifies for a DSH payment adjustment include the number of beds, the hospital's location, and the disproportionate patient percentage. A hospital's disproportionate patient percentage is the sum of (1) the total number of inpatient days attributable to federal Supplemental Security Income (SSI) beneficiaries divided by the total number of Medicare patient days, and (2) the number of Medicaid patient days divided by total patient days, expressed as a percentage. A hospital is classified as a DSH under any of the following circumstances:

(1) If its disproportionate patient percentage equals or exceeds: (a) 15 percent for an urban hospital with 100 or more beds, or a rural hospital with 500 or more beds (the latter is set by regulation); (b) 30 percent for a rural hospital with more than 100 beds and fewer than 500 beds or is classified as a sole community hospital (SCH); (c) 40 percent for an urban hospital with fewer than 100 beds; or (d) 45 percent for a rural hospital with 100 or fewer beds, or

(2) if it is located in an urban area, has 100 or more beds, and can demonstrate that, during its cost reporting period, more than 30 percent of its net inpatient care revenues are derived from State and local government payments for care furnished to indigent payments. (This provision is intended to help hospitals in States that fund care for low-income patients through direct grants rather than expanded Medicaid programs.)

For a hospital qualifying on the basis of (1)(a) above, if its disproportionate patient percentage is greater than 20.2 percent, the applicable PPS payment adjustment factor is 5.88 percent plus 82.5 percent of the difference between 20.2 percent and the hospital's disproportionate patient percentage. If the hospital's disproportionate patient percentage is less than 20.2 percent, the applicable payment adjustment factor is equal to: 2.5 percent plus 65 percent of the difference between 15 percent and the hospital's disproportionate patient percentage. If the hospital qualifies as a DSH on the basis of (1)(b), the payment adjustment factor is determined as follows: (a) if the hospital is classified as a rural referral center, the payment adjustment factor is 4 percent plus 60 percent of the difference between the hospital's disproportionate patient percentage and 30 percent; (b) if the hospital is a SCH, the adjustment factor is 10 percent; (c) if the hospital is classified as both a rural referral center and a SCH, the adjustment factor is the greater of 10 percent or 4 percent plus 60 percent of the difference between the hospital's disproportionate patient percentage and 30 percent; and (d) if the hospital is not classified as either a SCH or a rural referral center, the payment adjustment factor is 4 percent.

If the hospital qualifies on the basis of (1)(c), the adjustment factor is equal to 5 percent. If the hospital qualifies on the basis of (1)(d), the adjustment factor is 4 percent. If the hospital qualifies on the basis of (2) above, the payment adjustment factor is 35 percent.

HOUSE BILL

Freezes DSH payments for discharges for FY 1998 and FY 1999. The Secretary would be required to develop a proposal to modify the current definitions for DSH payments and transmit the proposal to the Ways and Means and Finance Committees by April 1, 1999.

Effective Date. Enactment.

SENATE AMENDMENT

Applies the current formula with a 4% reduction in the DSH adjustment from October 1, 1997 to January 1, 1999. For calendar years 1999–2002, the Secretary would be required to apply an additional 4 percent reduction each year in the DSH adjustment. By January 1, 1999, the Secretary would be required to establish a new formula that takes into account Medicaid and Medicare SSI beneficiaries, and uncompensated/charity care. The new formula would be required to have a single (one) threshold for all hospitals. In each calendar year that the formula applied, the additional payment determined for a calendar year could not exceed an amount equal to the additional payment that would have been determined without the formula, reduced by 8% in CY 1999; 12% in CY 2000; 16% in CY 2001; 20% in CY 2002; and by 0% in CY 2003 and subsequent calendar years.

Effective Date. Applies to discharges occurring on and after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments. The current DSH payment formula amounts would be reduced by 1% for FY 1998; 2% in FY 1999; 3% in FY 2000; 4% in FY 2001; 5% in FY 2002; and 0% in FY 2003 and each subsequent fiscal year. The conference agreement includes a requirement that the Secretary submit to the House Ways and Means and Senate Finance Committees, no later than 1 year after enactment, a report that contains a formula for determining additional DSH payments to hospitals. In determining the formula, the Secretary would be required to establish a single threshold for costs incurred by hospitals in serving low-income patients, and consider the following costs: (1) the costs incurred of furnishing hospital services to individuals entitled to Medicare Part A and SSI; and (2) the costs incurred by the hospital of furnishing services to individuals receiving Medicaid who are not entitled to benefits under Part A of Medicare, including individuals enrolled in a managed care organization or any other managed care plan under Medicaid and individuals who receive medical assistance in a state with an 1115 waiver under Medicaid. In developing the formula, the Secretary would be allowed to require hospitals receiving DSH payments to submit any information the Secretary requested to develop the formula.

MEDICARE CAPITAL ASSET SALES PRICE EQUAL TO BOOK VALUE

Section 10504 of the House bill and Section 5463 of the Senate amendment

CURRENT LAW

Medicare provides for establishing an appropriate allowance for depreciation and for interest on capital indebtedness and a return on equity capital when a hospital has undergone a change of ownership. The valuation of the asset is the lesser of the allowable acquisition costs of the asset to the owner of record, or the acquisition cost of such asset to the new owner.

HOUSE BILL

Eliminates the allowance for return on equity capital, and provides for a depreciation adjustment of the historical cost of the asset recognized by Medicare, less depreciation allowed, to the owner of record as of the date of enactment of this bill, or to the first owner of record of the asset in the case of an asset not in existence as of the date of enactment.

Effective date. Applies to changes of ownership that occur beginning three months after enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

ELIMINATION OF INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT AND DSH PAYMENTS ATTRIBUTABLE TO OUTLIER PAYMENTS

Section 10505 of the House bill and Section 5464 of the Senate amendment

CURRENT LAW

Medicare provides outlier payments to hospitals that are intended to protect them from the risk of large financial losses associated with cases having exceptionally high costs or unusually long hospital stays. Beginning in FY 1998, the length of stay outlier policy will terminate, and hospitals will receive outlier payments only for very high cost cases. For each DRG, a specific dollar loss threshold is set, and outlier payments are calculated based on the amount by which a hospital's costs exceed this loss threshold. For teaching and disproportionate share hospitals, however, their estimated cost for each case is reduced by the amount of the hospital's IME and DSH payment adjustments.

The amount by which the estimated cost exceeds the outlier threshold thus is less for a case treated at a teaching or disproportionate share hospital, resulting in lower outlier payments. The lower outlier payment amount is then increased by the hospital's IME and DSH adjustments, but this generally is not enough to offset the loss in outlier payments resulting from the reduced cost estimate for the case.

HOUSE BILL

Allows teaching and disproportionate share hospitals to be treated like all other hospitals in the calculation of outlier payment amounts. Their estimated costs per case would not be reduced by their IME and DSH payments, and an additional IME or DSH adjustment would not be added to these payments.

Effective Date. Applies to discharges occurring after September 30, 1997.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

CERTAIN DISCHARGES TO POST ACUTE CARE

Section 10507 of the House bill and Section 5465 of the Senate amendment

CURRENT LAW

PPS hospitals that move patients to PPS-exempt hospitals and distinct-part hospital units, or skilled nursing facilities are currently considered to have "discharged" the patient and receive a full DRG payment. Under current law, a "transfer" is defined as moving a patient from one PPS hospital to another PPS hospital. In a transfer case, payment to the first PPS hospital is made on a per diem basis, and the second PPS hospital is paid the full DRG payment.

HOUSE BILL

Defines a "transfer case" to include an individual discharged from a PPS hospital who is: (1) admitted as an inpatient to a hospital or distinct-part hospital unit that is not a PPS hospital for further inpatient hospital services; (2) is admitted to a skilled nursing facility or other extended care facility for extended care services; or (3) receives home health services from a home health agency if such services directly relate to the condition or diagnosis for which the individual received inpatient hospital services, and if such services were provided within an appropriate period, as determined by the Secretary in regulations promulgated no later than September 1, 1998. Under the provision, a PPS hospital that "transferred" a patient would be paid on a per diem basis up to the full DRG payment. The PPS-exempt hospital or other facility would be paid under its own Medicare payment policy.

Effective Date. With respect to transfers from PPS-exempt hospitals and SNFs, applies to discharges occurring on or after October 1, 1997. For home health care, applies to discharges occurring on or after October 1, 1998.

SENATE AMENDMENT

Similar provision, except defines a transfer case as including the case of an individual who, immediately upon discharge from, and pursuant to the discharge planning process of a PPS hospital, is admitted to a PPS-exempt hospital, hospital unit, SNF, or other extended care facility. The provision does not include home health services in the definition of a transfer.

CONFERENCE AGREEMENT

The conference agreement would provide that for discharges occurring on or after October 1, 1998, those that fall within a specified group of 10 DRGs would be treated as a transfer for payment purposes. The Secretary would be given the authority to select the 10 DRGs focusing on those with high volume and high post acute care. The provision would apply to patients transferred from a PPS hospital to a PPS-exempt hospital or unit, SNF, discharges with subsequent home health care provided within an appropriate period (as defined by the Secretary), and for discharges occurring on or after October 1, 2000, the Secretary may propose to include additional post discharge settings and DRGs to the transfer policy.

Payments to PPS hospitals would be fully or partially based on Medicare's current payment policies applicable to patients transferred from one PPS hospital to another PPS hospital (per diem rates). The Secretary would determine whether the full transfer policy or a blended payment rate (50% of the transfer per diem payment and 50% of the total DRG payment) would apply based on the distribution of marginal costs across days, so that if a substantial portion of the costs of a case are incurred in the early days of a hospital stay the payment would reflect these costs. For FY 2001, the Secretary would be required to publish a proposed rule which included a description of the effect of the transfer policy. The Secretary would be authorized to include in the proposed rule and final rule for FY 2001 or a subsequent fiscal year, a description of additional post-discharge services that would result in a qualified discharge and diagnosis-related groups specified by the Secretary in addition to the 10 diagnosis-related groups originally selected under this policy.

The Conferees are concerned that Medicare may in some cases be overpaying hospitals for patients who are transferred to a post acute care setting after a very short acute care hospital stay. The Conferees believe that Medicare's payment system should continue to provide hospitals with strong incentives to treat patients in the most effective and efficient manner, while at the same time, adjust PPS payments in a manner that accounts for reduced hospital lengths of stay because of a discharge to another setting.

The Conferees expect that the application of the transfer policy to 10 high volume/high post-acute use DRGs will provide extensive data to examine hospital behavioral effects under the new transfer policy.

INCREASE BASE PAYMENT RATE TO PUERTO RICO HOSPITALS

Section 10508 of the House bill and Section 5468 of the Senate amendment

CURRENT LAW

Medicare's hospital PPS includes a special provision for determining payment to hospitals in Puerto Rico. These hospitals are paid a blended rate based on a standardized payment amount for large urban or other areas specific to Puerto Rico and the national standardized payment amount for all areas combined. The two rates have weights of 75 percent and 25 percent, respectively.

HOUSE BILL

Adjusts the base payment rate to Puerto Rico hospitals to 50 percent local and 50 percent national.

Effective Date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

INCLUSION OF STANLY COUNTY, N.C. IN A LARGE URBAN AREA UNDER MEDICARE PROGRAM

Section 5651 of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that, for the purpose of Medicare PPS payments to inpatient hospitals, the large urban area of Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina may be deemed to include Stanly County, North Carolina.

Effective Date. Applies to discharges occurring on or after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

Chapter 2—Payment of PPS Exempt Hospitals

PAYMENT UPDATE

Section 10511 of the House bill and Section 5421 of the Senate amendment

CURRENT LAW

Under Medicare, five types of specialty hospitals (psychiatric, rehabilitation, long-term care, children's and cancer) and two types of distinct-part units in general hospitals (psychiatric and rehabilitation) are exempt from PPS. They are subject to the payment limitations and incentives established in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Each provider is paid on the basis of reasonable cost subject to a rate of increase ceiling on inpatient operating costs. The ceiling is based on a target amount per discharge. The target amount for a cost reporting period is equal to the hospital's allowable inpatient operating costs (excluding capital) per discharge in a base year increased by applicable update factors for subsequent years. This amount is then multiplied by Medicare discharges, to yield the ceiling or upper limit on operating costs.

Updates to the target amounts for fiscal years 1994 through 1997 range from the PPS-excluded market basket index (MBI) to the MBI minus 1.0 percentage point, depending on how a hospital's costs compare to its target amount. For fiscal years 1998 and beyond, the updates are the market basket percentage increase.

HOUSE BILL

Sets the FY 1998 update at 0%, and for FY 1999 through FY 2002, the update factor would depend on a hospital's target amount and costs. For hospitals (1) with costs that equal or exceed their target amounts by 10% or more, the update would equal the market basket; (2) that exceed their target, but by less than 10%, the update factor would be equal to the market basket minus 0.25 percentage points for each percentage point by which costs are less than 10% over the target (but in no case less than zero); (3) that are either at their target, or below (but not below 2/3 of the target amount for the hospital), the market basket percentage minus 2.5 percentage points (but in no case less than zero); or (4) that do not exceed 2/3 of their target amount, the update factor would be 0%.

Effective Date. Enactment.

SENATE AMENDMENT

Sets the update for FY 1998 through FY 2001 at 0%; for FY 2002, at the MBI minus 3.0 percentage points. The Secretary would be required to treat the applicable update factor for a fiscal year as being equal to the MBI for the purposes of exceptions and adjustments to payment amounts.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

Reductions to Capital Payments For Certain PPS-Exempt Hospitals and Units

Section 10512 of the House bill and Section 5422 of the Senate amendment

CURRENT LAW

Medicare pays for capital costs for PPS exempt hospitals on a reasonable cost basis.

HOUSE BILL

Requires the Secretary to reduce capital payment amounts for PPS-exempt hospitals and distinct part units by 10% for fiscal years 1998 through 2002.

Effective Date. Enactment.

SENATE AMENDMENT

Similar provision except, requires the Secretary to reduce capital payment amounts for PPS-exempt hospitals and distinct part units by 15% for fiscal years 1998 through 2002.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

Cap on TEFRA Limits

Section 10513 of the House bill and Section 5423 of the Senate amendment

CURRENT LAW

Medicare places limits, referred to as "TEFRA limits," on the annual increase allowed for the operating costs of certain categories of hospitals.

HOUSE BILL

Sets limits on the target amounts for PPS-exempt hospitals or units for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2002. The target amounts could not be greater than the 90th percentile of the target amounts for cost reporting periods beginning during that fiscal year. The cap on the target amounts would apply to psychiatric, rehabilitation, and long-term care hospitals and distinct-part units of such hospitals.

Effective Date. Enactment.

SENATE AMENDMENT

Similar provision, except that the target amounts could not be greater than the 75th percentile of the target amount for each class of hospitals. Hospitals or units that are below their target amount for the cost reporting period beginning on or after October 1, 1997 and before October 1, 1998, the target amount for the period would be equal to the greater of 90% of a dollar limit on the target amounts or the operating costs of the hospital or unit during the period.

CONFERENCE AGREEMENT

The conference agreement includes the House bill, with amendments. The Secretary would be required to estimate the 75th percentile of the target amounts for each category of hospitals (excluding childrens and cancer hospitals) for cost reporting periods ending during 1996, and then update the amount up to the first cost reporting period beginning on or after October 1, 1997, by a factor equal to the market basket percentage increase. For cost reporting periods beginning during each of fiscal years 1999 through 2002, the Secretary would be required to update the amount by a factor equal to the market basket increase.

Change In Bonus Payments

Section 10514 of the House bill and Section 5424 of the Senate amendment

CURRENT LAW

Medicare provides for bonus payments for hospitals whose operating costs are less than or equal to the target amount, as well as makes relief payments to hospitals whose costs exceed their target amount. If the hospital's costs are less than or equal to the target amount for that period, the hospital receives a bonus payment equal to 50% of the amount by which the target amount exceeds the amount of the operating costs, or 5% of the target amount, whichever is less. If a hospital's operating costs are greater than the target amount, the amount of the payment is equal to (1) the target amount, plus (2) an additional amount equal to 50% of the amount by which the operating costs exceed the target amount, but not more than 10% of the target amount.

HOUSE BILL

Allows bonus payments of (1) 10% of the amount by which the target amount exceeds the amount of operating costs, or (2) 1% of operating costs, whichever is less. The provision would change the relief payments to provide that costs would be required not to exceed 110% in order to receive relief payments and that the relief payment could not be more than 20% of the target amount.

Effective Date. Enactment.

SENATE AMENDMENT

Similar provision, except bonus payments for hospitals with (1) a target amount less than 135% of the median of the target amounts for hospitals in the same class, the lesser of 40% of the amount by which the target amount exceeds the amount of the operating costs, or 4% of the target amount; (2) a target amount that equals or exceeds 135% of the median but is less than 150%, the lesser of 30% of the amount by which the target amount exceeds the amount of the operating costs or 3% of the target amount; and (3) a target amount that equals or exceeds 150% of such median, the lesser of 20% of the amount that the target amount exceeds the amount of operating costs or 2% of the target amount.

Identical provision for relief payments.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with amendments to bonus payments. Bonus payments would be the lesser of (1) 15% of the amount by which the target amount exceeds the amount of operating costs, or (2) 2% of the target amount.

For cost reporting periods beginning on or after October 1, 1997, eligible hospitals could receive continuous improvement bonus payments. To qualify, their operating costs for the period must be less than the least of its target amount, its trended costs, or its expected costs for the period. The amount of the payment would be equal to the lesser of: (1) 50% of the amount by which the operating costs were less than the expected costs for the period; or (2) 1% of the target amount for the period. The trended costs would be (1) in the case of a hospital whose cost reporting period ending in FY 1996 was its third or subsequent full cost reporting period, the hospital's operating costs for its cost reporting period ending in 1996; or (2) in the case of any other hospital, the operating costs for that hospital for its third full cost reporting period. These base costs would then be increased (in a compounded manner) for each succeeding fiscal year (through the fiscal year involved) by the market basket percentage increase for the fiscal year. The expected costs per discharge would be the operating costs of inpatient hospital services per discharge for the previous fiscal year cost reporting period, updated by the market basket percentage increase for the fiscal year.

The conference agreement also amends the relief payment to limit such payment to 10% of the target amount, and the effective date for the change in bonus and relief payments to apply with respect to cost reporting periods beginning on or after October 1, 1997. The agreement also includes a requirement that the Secretary report to the Congress by October 1, 1999 on the effects of the relief payment changes on psychiatric hospitals that have approved medical residency training programs.

Change in Payment and Target Amount for New Providers

Section 10515 of the House bill and Section 5425 of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

Establishes different payment and target amount rules for hospitals or distinct-part units within hospitals that first receive Medicare payments on or after October 1, 1997. The provision would apply to psychiatric, rehabilitation, and long-term care hospitals and distinct-part units of hospitals. For the first two full or partial cost reporting periods, the amount of payment for operating costs under Part A on a per discharge or per admission basis would be equal to the lesser of the amount of operating costs for the respective period, or 150% of the national median operating costs for hospitals in the same class of hospital for cost reporting periods beginning during the same fiscal year, adjusted for labor-related costs. This same limited target amount would then be updated in subsequent years using the update factor described above.

For determining national median operating costs for hospitals in the same class, the Secretary would be required to provide for an appropriate adjustment to the labor-related portion of the amount determined to take into account differences between average wage-related costs in the area the hospital is located in and the national average of such costs within the same class of hospital. The Secretary would also be required to create subclasses of long-term care hospitals based on differences in the case mix and patient acuity in calculating and applying the 150% of the national median cost limits.

Effective Date. Enactment.

SENATE AMENDMENT

Establishes new target amounts for rehabilitation hospitals or units for cost reporting periods beginning on or after October 1, 1997. For rehabilitation facilities that received Medicare payments before October 1, 1997, the target amount would be required to be no less than 50% of the national mean of the target amounts determined for all such hospitals for cost reporting periods beginning during the fiscal year. Rehabilitation facilities that first receive Medicare payments on or after October 1, 1997, would have a target amount that could not be more than 110% of the national mean of the target amounts for such hospitals and units for cost reporting periods beginning during FY 1991. The target amounts for long-term care and psychiatric hospitals and units would be determined in the same manner.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with modifications which would require that payments for operating costs for the first 2 cost reporting periods for which the hospital has a settled cost report be equal to the lesser of the amount of operating costs for the period, or 110% of the national median of the target amount for hospitals in the same class of hospital for cost reporting periods ending during 1996, updated by the hospital market basket increase percentage to the fiscal year in which the hospital first received payments. The conference agreement also modifies the effective date of the provision to apply to discharges occurring on or after October 1, 1997.

REBASING

Section 10516 of the House bill and Section 5426A of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

Provides psychiatric, rehabilitation, children's, cancer, and long-term care hospitals and psychiatric and rehabilitation distinct units of hospitals that received Medicare payments for services furnished during cost reporting periods ending before October 1, 1990, the option of electing to rebase the hospital's target amount for the 12-month cost reporting period beginning during FY 1998. The rebased target amount would be equal to an average determined by the Secretary as follows: (1) the Secretary would be required to determine the allowable operating cost for inpatient hospital services for the hospital or hospital unit for each of the five cost reporting periods for which the Secretary had settled cost reports as of the date of enactment; (2) the Secretary would be required to increase the amount determined for the five cost reporting periods by the applicable percentage increase used to update costs for each of the cost reporting periods; (3) the Secretary would be required to identify among the five cost reporting periods the periods for which the updated cost amount was the highest and the lowest; (4) the Secretary would be required to compute the average cost per discharge of the updated cost report amounts for the three cost reporting periods that were not the highest or the lowest amounts.

The provision would also allow certain qualified long-term care hospitals that elect to do so, to apply for rebasing of their target amount beginning during FY 1998. The target amount for the hospital's 12-month cost reporting period would be equal to the allowable operating costs of inpatient hospital services recognized by Medicare for the 12-month cost reporting periods beginning during FY 1996, increased by the applicable percentage increase for the cost reporting period beginning during FY 1997. The provision would define a qualified long-term care hospital as those facilities that, for each of the two most recent settled cost reports as of the date of enactment, have operating costs of inpatient hospital services under Medicare that exceeded 115% of the hospital's target amount, and the hospital had a disproportionate patient percentage of at least 70%.

Effective Date. Enactment.

SENATE AMENDMENT

Similar provision, except applies to hospital services furnished before January 1, 1990. The provision does not include provision for rebasing of certain qualified long-term care hospitals with high disproportionate share percentages.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS

Section 10517 of the House bill and Section 5426 of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

Extends the status of a hospital that was classified by the Secretary on or before September 30, 1995, as a long-term care hospital, notwithstanding that it was located in the same building as, or on the same campus as, another hospital.

Effective Date. The provision would apply to discharges occurring on or after October 1, 1995.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

ELIMINATION OF EXEMPTIONS; REPORT ON EXCEPTIONS AND ADJUSTMENTS

Section 10518 of the House bill and Section 5427 of the Senate amendment

CURRENT LAW

The Secretary is required to provide an exemption from various provisions of the law regarding Medicare payments to PPS-excluded hospitals.

HOUSE BILL

Amends current law, replacing the term "exemption from, or an exception and adjustment to," with "an exception and adjustment to" each place it appears, eliminating exemption from the target amounts for all PPS-exempt hospitals except children's hospitals.

The provision would also require the Secretary to publish annually in the Federal Register a report describing the total amount of exceptions payments made to PPS-excluded hospitals and units for cost reporting periods ending during the previous fiscal year.

Effective Date. The provision would apply to hospitals that first qualify as PPS-excluded facilities on or after October 1, 1997.

SENATE AMENDMENT

Similar provision, except does not apply to children's or cancer hospitals.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with modifications.

TECHNICAL CORRECTION RELATING TO SUBSECTION (d) HOSPITALS

Section 5428 of the Senate amendment

CURRENT LAW

Certain special categories of hospitals, including cancer hospitals, are exempt from the Medicare inpatient PPS and are paid on the basis of reasonable costs, subject to certain limits.

HOUSE BILL

No provision.

SENATE AMENDMENT

Amends the provision for PPS-exempt cancer hospitals to include hospitals that: (1) were recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, or were able to demonstrate that for any six-month period at least 50% of its total discharges had a principal diagnosis that reflected a finding of neoplastic disease; (2) applied on or before December 31, 1990, for classification as a cancer hospital; and (3) were located in a state which, as of December 19, 1989, was not operating a state hospital rate-setting demonstration project. The hospital classifications would apply to all cost reporting periods beginning on or after January 1, 1991, and any resulting payments owed to a hospital would be required to be paid no later than one year after enactment.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment which would establish the base cost reporting period for purposes of determining the target amount for such a hospital as the hospital's cost reporting period beginning during FY 1990. The conference agreement would also require that the facility demonstrate that for the 4-year period ending on December 31, 1996, that at least 50% of the total discharges have a principle finding of neoplastic disease, defined to include patient admissions for certain specified diagnostic codes.

CERTAIN LONG TERM CARE AND CANCER HOSPITALS

Section 10516(c) of the House bill and Section 5429 of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

Amends the definition of long-term care hospitals to include long-term care hospitals that received Medicare payment in 1986, have an average inpatient length of stay of more than 20 days, and that had 80% or more of its annual Medicare inpatient discharges with a diagnosis that reflects a finding of neoplastic disease.

Effective Date. Applies to cost reporting periods beginning on or after the date of enactment.

SENATE AMENDMENT

Further amends the classification for cancer hospitals to include long-term care hospitals classified as such beginning on or before December 31, 1990 through December 31, 1995, that throughout the period and currently had greater than 49% of its total patient discharges with a principle diagnosis that reflects a finding of neoplastic disease. The provision would also prohibit rebasing of such hospital's base period costs and would require that such hospital use the base period in effect for the hospital's December 31, 1995 cost report.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with a modification which would specify that the finding of neoplastic disease would be for the 12-month cost reporting period ending in FY 1997.

Chapter 3—Prospective Payment System for PPS-Exempt Hospitals

PROSPECTIVE PAYMENT FOR INPATIENT REHABILITATION HOSPITAL SERVICES BASED ON DISCHARGES CLASSIFIED BY PATIENT CASE MIX GROUPS

Section 10402 of the House bill and Section 5301 of the Senate amendment

CURRENT LAW

Under Medicare, five types of specialty hospitals (psychiatric, rehabilitation, long-term care, children's and cancer) and two types of distinct-part units in general hospitals (psychiatric and rehabilitation) are exempt from PPS. They are subject to the payment limitations and incentives established in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Each provider is paid on the basis of reasonable cost subject to a rate of increase ceiling on inpatient operating costs. The ceiling is based on a target amount per discharge. The target amount for a cost reporting period is equal to the hospital's allowable inpatient operating costs (excluding capital and medical education costs) per discharge in a base year increased by applicable update factors for subsequent years. This amount is then multiplied by Medicare discharges, to yield the ceiling or upper limit on operating costs.

HOUSE BILL

Requires the Secretary to establish a prospective payment system for inpatient rehabilitation hospital services based on patient case mix groups.

For this system, the Secretary would be required to establish (1) classes of discharges of rehabilitation facilities by patient case mix groups based on impairment, age, related prior hospitalization, comorbidities, and functional capability of the discharged individual and other appropriate factors; and (2) a method of classifying specific discharges from rehabilitation facilities within these groups.

The provision would require the Secretary to assign each case mix group an appropriate weighting factor which would reflect the relative facility resources used with respect to discharges classified within a group compared to discharges classified within other groups. The Secretary would be required to adjust the classifications and weighting factors to correct for forecast errors and to reflect changes in treatment patterns, technology, case mix, number of discharges paid for under Medicare, and other factors which might affect the relative use of resources. The Secretary would be authorized to require rehabilitation facilities providing inpatient hospital services to submit data on discharges classified according to case mix group or other rehabilitation impairment groups, measurement of functional disability, and other patient assessment factors as deemed necessary to establish and administer the prospective payment system.

The Secretary would be required to determine a prospective payment rate for each payment unit for which a rehabilitation facility would be entitled to be paid under Medicare. The payment rate would be based on the average payment under Medicare for operating and capital costs of rehabilitation facilities using the latest available data, adjusted by (1) updating such per-unit amounts to the fiscal year involved by the applicable percentage increases provided by the bill for each fiscal year and up to FY 2000, and an increase factor specified by the Secretary for subsequent fiscal years; (2) reducing such rates by a factor equal to the proportion of payments by Medicare for outliers; (3) variations among rehabilitation facilities by areas; (4) weighting factors described in the bill; and (5) other factors the Secretary determined were necessary to reflect variations in necessary costs of treatment among rehabilitation facilities.

Prospective payment rates would be phased in between October 1, 2000 and before October 1, 2003, by blending the prospective rate with the TEFRA percentage of the hospital's target amount that would have been paid under Part A if this provision did not apply, and the prospective payment percentage of the per unit payment rate established by the Secretary. For cost reporting periods beginning on or after October 1, 2000 and before October 1, 2001, the TEFRA percentage would be 75% and the prospective payment percentage would be 25%; for cost reporting periods on or after October 1, 2001, and before October 1, 2002, the TEFRA percentage would be 50% and the prospective payment percentage would be 50%; for cost reporting periods on or after October 1, 2002, and before October 1, 2003, the TEFRA percentage would be 25% and the prospective payment percentage would be 75%. Payment rates on or after October 1, 2003, would be equal to the per unit fully prospective payment rate. Payment per unit would mean a discharge, day of inpatient hospital services, or other unit of payment specified by the Secretary.

For fiscal years 2001 through 2004, the Secretary would be required to establish prospective payment amounts that were budget neutral, so that total payments for rehabilitation hospitals would equal 99% of the amount of payments that would have been made if prospective payments had not been made. The Secretary would be required to develop an increase factor which could be based on an appropriate percentage increase in a market basket of goods and services purchased by rehabilitation hospitals. The Secretary would also be required to provide for additional payments for outlier cases that involved unusually long lengths of stay or were very costly, or other factors. These adjustments would be made in a budget neutral manner. The Secretary would also be required to adjust prospective payments to rehabilitation facilities by a wage index that reflected area differences for wages and wage-related costs. No later than October 1, 2001, the Secretary would be required to update the area wage adjustment factor based on a survey of wages and wage related costs of providing rehabilitation services.

Effective Date. Enactment. The prospective payment system would be implemented for cost reporting periods beginning on or after October 1, 2000.

SENATE AMENDMENT

Similar provision, except does not specify that, in determining budget neutral prospective payment rates equal to 99% of what would have been paid, the Secretary would include adjustments for outlier and special payments, or area wage adjustments.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with amendments. The prospective system would be fully implemented by October 1, 2002. Payments during the transition period would be based on TEFRA and prospective payment percentage amounts equal to 66⅔% and 33⅓%, respectively, for cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001; and 33⅓% and 66 ⅔%, respectively, for cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002. The budget neutral rates would be required to be equal to 98% of the amount of payments that would have been made if the prospective payment system had not been enacted. The Secretary would be required to update the area wage adjustment on the basis of information collected on wages and wage-related costs incurred in furnishing rehabilitation services. The conference agreement does not include the provision allowing the Secretary to make other adjustments to payment rates.

STUDY AND REPORT ON PAYMENTS FOR LONG-TERM CARE HOSPITALS

Section 5302 of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to collect data to develop, establish, administer, and evaluate a case-mix adjusted prospective payment system for long-term care hospitals. The Secretary would be required to develop a legislative proposal for establishing and administering a payment system that would include an adequate patient classification system that would reflect differences in patient resource use. The Secretary would be required to submit the proposal to the appropriate committees of Congress by no later than October 1, 1999.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications.

Chapter 4—Skilled Nursing Facility (SNF) Prospective Payment

PROSPECTIVE PAYMENT FOR SNF SERVICES

Section 10401 of House bill and Sections 5332 of Senate amendment

CURRENT LAW

Currently, Medicare reimburses the great bulk of SNF care on a retrospective cost-based basis. This means that SNFs are paid after services are delivered for the reasonable costs (as defined by the program) they have incurred for the care they provide. For Medicare reimbursement purposes, the costs SNFs incur for providing services to beneficiaries can be divided into three major categories: (1) routine services costs that include nursing, room and board, administration, and other overhead; (2) ancillary services, such as physical and occupational therapy and speech language pathology, laboratory services, drugs, supplies and other equipment; and (3) capital-related costs, including net depreciation expense, taxes, lease and rental payments, improvements that extend the life or increase the productivity of assets, net interest expense, etc.).

Routine costs are subject to national average per diem limits. Separate per diem routine cost limits are established for freestanding and hospital-based SNFs by urban or rural area. Freestanding SNF routine limits are set at 112% of the average per diem labor-related and nonlabor-related costs. Hospital-based SNF limits are set at the limit for freestanding SNFs, plus 50% of the difference between the freestanding limits and 112% of the average per diem routine services costs of hospital-based SNFs. Routine cost limits for SNF care are required to be updated every 2 years. In the interim, the Secretary applies a SNF market basket developed by HCFA to reflect changes in the price of goods and services purchased by SNFs. OBRA93 eliminated updates in SNF routine cost limits for cost reporting periods beginning in FY 1994 and FY 1995.

Ancillary service and capital costs are both paid on the basis of reasonable costs and neither are subject to limits.

SNFs providing less than 1,500 days of care per year to Medicare patients in the preceding year have the option of being paid a prospective payment rate set at 105 percent of the regional mean for all SNFs in the region. The rate covers routine and capital-related costs (but not ancillary services) and is calculated separately for urban and rural areas, adjusted to reflect differences in wage levels. Prospective rates can not exceed the routine service costs limits that would be applicable to the facility, adjusted to take into account average capital-related costs with respect to the type and location of the facility.

Congress on a number of occasions has required the Secretary to develop alternative methods for paying for SNF care on a prospective basis. In response, the Health Care

Financing Administration has conducted research to develop a prospective payment system that uses a patient classification system, known as resource utilization groups (RUGs), that will account for variations in resource use among Medicare SNF patients.

HOUSE BILL

Phases in a prospective payment system for SNF care that would pay a Federal per diem rate for covered SNF services. Covered services would include Part A SNF benefits as well as all services for which payment may be made under Part B during the period when the beneficiary is provided covered SNF care (excluding, however, physician services, certain nurse practitioner and physician assistant services, certified nurse-midwife services, qualified psychologist services, services of a certified registered nurse anesthetist, certain dialysis services and drugs, and in 1998, the transportation costs of electrocardiogram equipment). The per diem payment would cover routine service costs, ancillary and capital-related costs, but would not include costs associated with approved educational activities.

During a transition period lasting through the three cost reporting periods beginning on or after July 1, 1998, a portion of the per diem payment to a SNF would be based on a facility-specific rate, and the remaining portion on the Federal rate. For the first cost reporting period, the facility specific percentage would be 75 percent and Federal per diem percentage would be 25. For the second cost reporting period, the facility-specific percentage would be 50 percent and the Federal 50. For the last period, the facility-specific percentage would be 25 percent and the Federal 75.

In determining for a cost reporting period the facility-specific per diem rate for each SNF, the Secretary would calculate, on a per diem basis, the total allowable costs for covered Part A SNF benefits and estimates of amounts that would be payable under Part B for services described above, regardless of whether or not payment had been made for the Part B services to the facility or another entity. The Part A calculations would be done using cost reports for cost reporting periods beginning in fiscal year 1995, with appropriate adjustments made to non-settled fiscal year 1995 cost reports. The total would be updated to the relevant cost reporting period by the SNF historical trend factor. The SNF historical trend factor for a fiscal year or other annual period would be defined as the percentage change, from the midpoint of a prior fiscal year to the midpoint of the year involved, in the SNF routine cost index used for per diem routine cost limits, reduced (on an annualized basis) by 1 percentage point. Beginning with the first cost reporting period of the transition, the facility-specific per diem rate would be updated by the SNF market basket.

For the Federal per diem rate, the Secretary would first estimate, on a per diem basis for each freestanding SNF that received Medicare payments during a cost reporting period beginning in fiscal year 1995 and that was subject to (and not exempted from) routine cost limits of current law (including low-volume SNFs if appropriate), the total allowable costs for covered Part A SNF benefits and an estimate of amounts that would be payable under Part B, regardless of whether or not payment had been made for the Part B services to the facility or another entity. The Part A calculations would be done using cost reports for cost reporting periods beginning in fiscal year 1995, with appropriate adjustments to non-settled fiscal year 1995 cost reports. This total would be updated to the relevant cost reporting period by the SNF historical trend factor (again reflecting a 1 percentage point reduction in the routine cost index). The Secretary would standardize the updated amount for each facility by adjusting for variations among facilities in average wage levels and case mix. The Secretary would then compute a weighted average per diem rate. This would equal the average of the standardized amounts, weighted for each facility by the number of covered days of care provided during the cost reporting period. The Secretary could compute and apply an average separately for facilities located in urban and rural areas.

Beginning with fiscal year 1998, the Secretary would be required to compute for each SNF an unadjusted Federal per diem rate equal to the weighted average per diem rate, updated by the SNF market basket. The actual per diem rate paid to a SNF would include adjustments for case mix based on a resident classification system established by the Secretary to account for relative resource utilization of different patient types. The labor-related portion of the rate would also include budget neutral adjustments to reflect the relative level of wages and wage-related costs for the geographic area in which the facility is located. To deal with case-mix "creep" when changes in the coding or classification of residents result in higher aggregate payments that do not reflect real changes in case mix, the Secretary would be authorized to adjust per diem rates to discount the effect of coding changes.

The Secretary would be required to publish in the Federal Register before July 1 preceding each fiscal year (beginning with fiscal year 1999): (1) the unadjusted Federal per diem rates for covered SNF care during the fiscal year; (2) the case mix classification system to be applied to the rates; and (3) the factors to be applied in making area wage adjustments. SNFs would be required to provide the Secretary resident assessment data necessary to develop and implement per diem rates in the manner and within the timeframes prescribed by the Secretary.

Low volume SNFs and rural hospitals using inpatient beds to provide SNF care (swing-bed hospitals) would be included in the new prospective per diem payment system in a manner and timeframe established by the Secretary (but not earlier than July 1, 1999).

Administrative or judicial review would not be permitted for the establishment of facility-specific per diem rates; the establishment of federal per diem rates, including the computation of the standardized per diem rates and adjustments for case mix and relative wage levels; and for the establishment of transitional amounts for low-volume SNFs and rural hospitals providing SNF care with inpatient beds.

For beneficiaries residing in SNFs but no longer eligible for Part A SNF care, payments for Part B covered services would have to be made to the facility without regard as to whether or not the item or service was furnished by the facility, by others under arrangement, or under any other contracting or consulting arrangement. Payments for Part B services would be based on existing or other fee schedules established by the Secretary. Claims for Part B items and services would be required to include a code identifying the items or services delivered. Covered SNF services when provided by an entity other than the SNF would have to be furnished under arrangements.

The Secretary would be required to establish and implement a thorough medical review process to examine the effects of the new prospective payment system on the quality of covered SNF care. In this medical review process, the Secretary would be required to place a particular emphasis on the quality of ancillary services and physician services.

Effective date. Effective for cost-reporting periods beginning on or after July 1, 1998.

SENATE AMENDMENT

Similar provisions except:

(1) For the facility-specific per diem rates, 1995 allowable costs would be updated by the SNF market basket rather than by the SNF historical trend factor (which includes a 1 percentage point reduction from the SNF routine cost index). In addition, 1995 costs would be updated to the first cost reporting period, as opposed to the cost reporting period immediately preceding the first cost reporting period. For SNFs participating in HCFA's RUGs prospective payment demo, the facility-specific per diem rate after 1997 would be the 1997 RUGS-III rate increased by the SNF market basket.

(2) The Federal per diem rate would be based on 1995 allowable costs for all SNFs, including low-volume SNFs, and not just freestanding facilities. In addition, 1995 costs would be updated to 1998 by the SNF market basket minus 1 percentage point, rather than the SNF historical trend factor (which includes a 1 percentage point reduction from the SNF routine cost index). Furthermore, 1995 costs would be updated to the first cost reporting period, as opposed to the cost reporting period immediately preceding the first cost reporting period. In determining allowable costs for the Federal per diem rate, the Secretary would be required to exclude payments made as exceptions to the routine cost limits and exclude cost reports from new SNFs exempted from routine cost limits. For FY 1999 (as opposed to FY 1998), the Federal per diem would be updated by the SNF market basket.

(3) The Secretary would be required to develop an appropriate transition to the new prospective payment system for swing bed hospitals only, and not for low-volume SNFs as well.

(4) The limitation on administrative or judicial review would apply to Federal per diem rates and transitional amounts for swing-bed hospitals, but not to the establishment of facility-specific per diem rates.

(5) Covered SNF services when provided by an entity other than a SNF would have to be provided under arrangements or by a physician.

(6) Payments for Part B services would be based on the Part B methodology applicable to the item or service, except that for services that would be included in the facility's cost report if not for this provision, the SNF could continue to use a cost report until the new prospective payment system is established.

(7) Payment for physical, respiratory, and occupational therapy, and speech language pathology services would be required to reflect new salary equivalency guidelines when finalized through the regulatory process.

Effective date. Effective for cost-reporting period beginning on or after July 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language and amendments. Amendments include the following:

(1) In making appropriate adjustments to 1995 allowable Part A costs for purposes of calculating the facility-specific per diem

rate, the Secretary would be required to take into account exceptions to the routine cost limits as well as exemptions, but only to the extent that routine costs of the exempted facility do not exceed 150 percent of the routine cost limits otherwise applicable.

(2) The base year facility-specific rate would be updated to the first cost reporting period by the SNF market basket minus 1 percentage point. For SNFs participating in HCFA's RUGs prospective payment demonstration, the updated facility-specific rate would be the 1997 RUGS-III rate. During FY 1998 and 1999, the facility-specific rate would be updated by the SNF market basket minus 1 percentage point and during each subsequent fiscal year, by the SNF market basket.

(3) For purposes of calculating the 1995 base year Federal per diem rate, allowable Part A costs would exclude exceptions payments and cost reports from SNFs exempted from routine cost limits. The Secretary would be required to compute a weighted average standardized per diem rate for all SNFs and a weighted average standardized per diem rate for freestanding facilities. For the initial period beginning on July 1, 1998, and ending September 30, 1999, the Secretary would then compute an unadjusted Federal per diem rate equal to the average of the two previous amounts increased by the SNF market basket minus 1 percentage point. For FY 2000 through 2002, the Federal per diem rate would be updated by the SNF market basket minus 1 percentage point. In subsequent years, it would be updated by the SNF market basket.

(4) The Secretary would be required to publish in the Federal Register prior to May 1, 1998, the unadjusted Federal per diem rate in effect for the period July 1, 1998, through September 30, 1990. For each subsequent fiscal year, the Secretary would be required to publish in the Federal Register prior to August 1 the unadjusted Federal per diem rates, the case-mix classification system, and the factors to be applied in the making area wage adjustments.

(5) In the case of SNFs first receiving Medicare payments on or after October 1, 1995, payment would be made as if all services were furnished after the transition period.

(6) Consolidated billing requirements would apply to Medicare beneficiaries residing in SNFs or facilities of which only a distinct part is a SNF. Payments for Part B services would be based on existing or other fee schedules established by the Secretary.

(7) Each bill submitted by a physician for a service furnished to a resident of a facility that is (or is part of a facility that includes) a SNF would be required to include the facility's Medicare provider number.

The Conferees note that under the proposed SNF prospective payment system, services and supplies provided to residents will be included in pre-determined per diem payment rates. To ensure that the frail elderly residing in SNFs receive needed and appropriate medication therapy, the Secretary of Health and Human Services should consider the results of studies conducted by independent organizations including those which examine appropriate payment mechanisms and payment rates for medication therapy under a prospective payment system for SNFs. It is the intent of the Conferees that the Secretary develop case mix adjusters that reflect the needs of such patients.

It is also the intent of the Conferees that restrictions on judicial review should not preclude skilled nursing facilities from using the regular appeals process to correct for errors in their cost reports.

EXTENSION OF COST LIMITS

(Section 5331 of Senate amendment

CURRENT LAW

Routine costs are subject to national average per diem limits. Separate per diem routine cost limits are established for freestanding and hospital-based SNFs by urban or rural area. Freestanding SNF routine limits are set at 112% of the average per diem labor-related and nonlabor-related costs. Hospital-based SNF limits are set at the limit for freestanding SNFs, plus 50% of the difference between the freestanding limits and 112% of the average per diem routine services costs of hospital-based SNFs. Routine cost limits for SNF care are required to be updated every 2 years. In the interim, the Secretary applies a SNF market basket developed by HCFA to reflect changes in the price of goods and services purchased by SNFs. OBRA93 eliminated updates in SNF routine cost limits for cost reporting periods beginning in FY 1994 and FY 1995.

HOUSE BILL

No provision.

SENATE AMENDMENT

SNF routine cost limits effective for cost reporting periods beginning on or after October 1, 1997, would be based on limits in effect for the previous year.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

Chapter 5—Provisions Related to Hospice Services

SECTIONS 10521–10528 OF HOUSE BILL AND SECTIONS 5481–5488 OF SENATE AMENDMENT

(a) Payments for Hospice Services

CURRENT LAW

Medicare covers hospice care, in lieu of most other Medicare benefits, for terminally ill beneficiaries. Payment for hospice care is based on one of four prospectively determined rates, which correspond to four different levels of care, each day a beneficiary is under the care of the hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. The prospective payment rates are updated annually by the hospital market basket (MB).

HOUSE BILL

Updates the hospice prospective payment rates by the market basket minus 1.0 percentage point for each of the fiscal years 1998 through 2002. The Secretary would be required to collect data from participating hospices on the costs of care they provide for each fiscal year beginning with FY 1999.

Effective date. Enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with clarifying language about cost data that hospices would be required to submit to the Secretary.

(b) Payment for Home Hospice Care Based on Location Where Care is Furnished

CURRENT LAW

Hospices generally bill Medicare on the basis of the location of the home office, rather than where service is actually delivered.

HOUSE BILL

Effective for cost reporting periods beginning on or after October 1, 1997, requires hospices to submit claims on the basis of the location where a service is actually furnished.

Effective date. Applies to cost reporting periods beginning on or after October 1, 1997.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(c) Hospice Care Benefits Periods

CURRENT LAW

Persons electing Medicare's hospice benefit are covered for four benefit periods: two 90-day periods, a subsequent 30-day period, and a final period of unlimited duration.

HOUSE BILL

Restructures hospice benefit periods to include two 90-day periods, followed by an unlimited number of 60-day periods. The medical director or physician member of the hospice interdisciplinary team would have to recertify at the beginning of the 60-day periods that the beneficiary is terminally ill.

Effective date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(d) Other Items and Services Included in Hospice Care

CURRENT LAW

Hospice services are defined in Medicare statute to include nursing care; physical and occupational therapy and speech language pathology services; medical social services; home health aide services; homemaker services; medical supplies (including drugs and biologicals) and medical appliances; physician services; short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management); and counseling. Beneficiaries electing hospice waive coverage to most Medicare services when the services they need are related to the terminal illness.

HOUSE BILL

Amends the definition for hospice care to include the existing enumerated services as well as any other item or service which is specified in a patient's plan of care and which Medicare may pay for.

Effective date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment, with a modification to change the effective date to April 1, 1998.

(e) Contracting with Independent Physicians or Physician Groups for Hospice Care Services Permitted

CURRENT LAW

Medicare law requires that hospices routinely directly provide the majority of certain specified services, often referred to as core services. Physician services are among these core services. HCFA has defined "directly" to require that services be provided by hospice employees.

HOUSE BILL

Deletes physician services from a hospice's core services and allows hospices to employ or contract with physicians for their services.

Effective date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(f) Waiver of Certain Staffing Requirements for Hospice Care Programs in Non-Urbanized Areas

CURRENT LAW

Hospices must provide certain services in order to participate in Medicare.

HOUSE BILL

Allows the Secretary to waive requirements with regard to hospices having to provide certain services so long as they are not located in urbanized areas and can demonstrate to the satisfaction of the Secretary that they have been unable, despite diligent efforts, to recruit appropriate personnel. For these hospices, the Secretary could waive specifically the provision of physical or occupational therapy or speech-language pathology services and dietary counseling.

Effective date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(g) Limitation on Liability of Beneficiaries and Providers for Certain Hospice Coverage Denials

CURRENT LAW

Medicare law provides financial relief to beneficiaries and providers for certain services for which Medicare payment would otherwise be denied. Medicare payment under this "limitation of liability" provision is dependent on a finding that the beneficiary or provider did not know and could not reasonably have been expected to know that services would not be covered on one of several bases (but not on the determination that an individual is not terminally ill).

HOUSE BILL

Extends the limitation of liability protection to determinations that an individual is not terminally ill.

Effective date. Enactment.

SENATE AMENDMENT

Similar provision, except also specifies that when care is denied because an individual is not terminally ill, only the beneficiary that received care would be indemnified for any payments that the individual made to the provider or other person for care that would otherwise be paid by Medicare.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

(h) Extending the Period for Physician Certification of an Individual's Terminal Illness

CURRENT LAW

At the beginning of the first 90-day period when a Medicare beneficiary elects hospice, both the individual's attending physician and the hospice physician must certify in writing that the beneficiary is terminally ill not later than 2 days after hospice is initiated (or, verbally not later than 2 days after care is initiated and in writing not later than 8 days after care has begun).

HOUSE BILL

Eliminates the specific time frame specified in statute for completion of physicians' certifications for admission to hospice to require only that physicians certify that a beneficiary is terminally ill at the beginning of the initial 90-day period.

Effective date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Chapter 6—Other Part A Payment Provisions

REDUCTIONS IN PAYMENTS FOR ENROLLEE BAD DEBT

Section 10541 of the House bill and Section 5466 of the Senate amendment

CURRENT LAW

Certain hospital and other provider bad debts are reimbursed by Medicare on an allowable cost basis. To be qualified for reimbursement, the debt must be related to covered services and derived from deductible and coinsurance amounts left unpaid by Medicare beneficiaries. The provider must be able to establish that reasonable collection efforts were made and that sound business judgement established that there was no likelihood of recovery at any time in the future.

HOUSE BILL

Reduces the allowable costs of bad debt payments to providers to 75% for cost reporting periods beginning during FY 1998; 60% for cost reporting periods beginning during FY 1999; and 50% for cost reporting periods beginning during FY 2000 and each subsequent fiscal year.

Effective Date. Enactment.

SENATE AMENDMENT

Similar provision, except that for cost reporting periods beginning on or after October 1, 1997 and on or before December 31, 1998, payments would be reduced by 25%; beginning January 1, 1999, payments would be reduced on a calendar year basis by 40%; for cost reporting periods beginning during subsequent calendar years, payments would be reduced by 50%.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are similar in the House bill and Senate amendment, with an amendment to provide for a 25% reduction in FY 1998, a 40% reduction in FY 1999, and a 45% reduction in FY 2000 and each subsequent year.

PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH

Section 10542 of the House bill and Section 5469 of the Senate amendment

CURRENT LAW

Medicare makes additional payments for the costs of administering blood clotting factor to Medicare beneficiaries with hemophilia admitted for hospital stays where the clotting factor was furnished between June 19, 1990 and September 30, 1994.

HOUSE BILL

Makes the payment for the costs of administering blood clotting factor permanent.

Effective Date. Enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment, effective October 1, 1997.

REDUCTION IN PART A MEDICARE PREMIUM FOR CERTAIN PUBLIC RETIREES

Section 10543 of House bill

CURRENT LAW

Almost all persons age 65 or over are automatically entitled to Part A. These individuals (or their spouses) established entitlement during their working careers by paying the hospital insurance (HI) payroll tax on earnings covered by either the social security or railroad retirement systems.

Persons not automatically entitled to Part A include some state and local government employees. State and local governments can choose whether or not to participate in Medicare for employees hired before April 1, 1986. They are required to participate (and pay the employer share of the payroll taxes) for all employees hired after that date.

Persons not automatically entitled to Part A may obtain coverage by paying the Part A premium. The 1997 premium is $311.

HOUSE BILL

Specifies that the premium amount is zero for certain public retirees. An individual covered under this provision is one who has established to the satisfaction of the Secretary that the individual is receiving cash benefits under a qualified State or local government retirement system on the basis of the individual's employment over at least 40 calendar quarters (or on the basis of some combination of such covered employment and quarters of coverage under social security totaling at least 40 quarters). Also included would be an individual: (1) married for at least a year to an individual who had at least 40 quarters of such coverage; (2) had been married for at least a year to a worker who had at least 40 quarters of coverage before the worker died; or (3) are divorced from (after at least 10 years of marriage to) a worker with at least 40 quarters of coverage. Individuals covered under this provision are those whose premium will not be paid in whole or part by a state (including under its Medicaid program), a political subdivision of a state, or agency or instrumentality of one or more states or political subdivisions. Further, for each of the preceding 60 months, the individual must have been enrolled in Part B and not have the premium paid in whole or in part by such governmental entity.

Specifies that a qualified state or local government retirement system is one which: (1) is established or maintained by a state or political subdivision, or an agency or instrumentality of one or more states or political subdivisions thereof; (2) covers positions of some or all employees of such entity; and (3) does not adjust cash retirement benefits based on eligibility for a premium reduction.

Effective Date. Applies to premiums for months beginning with January 1, 1998, except that months before that date could be counted in determining whether an individual met the 60 month requirement specified above.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with a modification specifying that the individual must have been enrolled in Part B and not have had the premium paid in whole or in part by a governmental entity for the preceding 84 months (rather than the preceding 60 months).

COVERAGE OF SERVICES IN RELIGIOUS NON-MEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS

Section 5470 of the Senate amendment

CURRENT LAW

Medicare covers the services furnished by Christian Science sanatoria under Part A of the program. In order to be a covered provider, the institution must be listed and certified by the First Church of Christ, Scientist of Boston, Mass. A certified sanatorium qualifies as both a hospital and as a skilled nursing facility. Under Medicare, two separate types of benefits are payable: services received in an inpatient Christian Science sanatorium and extended care services in a sanatorium. Section 1861(e)(9) of the Social Security Act includes a Christian Science sanatorium in the definition of a hospital; 1861(y) defines an extended care in a Christian Science skilled nursing facility.

HOUSE BILL

No provision.

SENATE AMENDMENT

Strikes the reference to Christian Science sanatorium in the definition of "hospital," and in the definition of extended care in Christian Science skilled nursing facilities, and inserts the term "a religious nonmedical health care institution" in these sections. The provision would define a nonmedical health care institution as an institution that (1) is exempt from taxes under section 501(c)(3) of the Internal Revenue Code of 1986; (2) is lawfully operated under all applicable federal, state, and local laws and regulations; (3) provides only nonmedical nursing items and services exclusively to patients who choose to rely solely upon a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with their religious beliefs; (4) provides such nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of such patients; (5) provides such nonmedical items and services to inpatients on a 24-hour basis; (6) on the basis of religious beliefs, does not provide through its personnel or otherwise medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients; (7) is not part of, or owned by, or under common ownership with, or affiliated with a health care facility that provides medical services; (8) has in effect a specified utilization review plan; (9) provides the Secretary with information required to implement this section, to monitor quality of care, and to provide for coverage determinations; and (10) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in these institutions.

The Secretary would be required to treat an institution as meeting the conditions of participation for Medicare if the accreditation of an institution by a State, regional, or national agency or association provided reasonable assurances that any or all of the preceding requirements were met. The Secretary would be prohibited from requiring any patient of a religious nonmedical health care institution to undergo any medical screening, examination, diagnosis, prognosis, or treatment of any kind or to accept any other medical health care service, if the patient (or legal representative of the patient) objects on religious grounds. The Secretary would be prohibited from subjecting a religious nonmedical health care institution (or its patients or personnel) to any medical supervision, regulation, or control, to the extent that such supervision, regulation or control would be contrary to the religious beliefs of the institution or its patients or personnel.

Medicare payment would be made for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution only if: (1) the individual had made an election in effect for such benefits; and (2) the individual had a condition such that the individual would qualify for benefits under Medicare for inpatient hospital services or extended care services if the individual was an inpatient of a hospital or skilled nursing facility.

To elect religious nonmedical health care services, an individual or their legal representative would be required to sign a statement that they were conscientiously opposed to acceptance of non-excepted medical treatment and the individual's acceptance of nonexcepted medical treatment would be inconsistent with the individual's sincere religious beliefs. (Excepted medical treatment would include medical care or treatment for the setting of fractured bones, medical care or treatment received involuntarily, or medical care or treatment required under federal or state law or law of a political subdivision of a state.) An election could be revoked in a manner specified by the Secretary, and would be deemed to be revoked if the individual received Medicare reimbursable nonexcepted medical treatment, regardless of whether or not benefits for such treatment were provided under Medicare. If an individual's election had been made and revoked twice, the next election could not become effective until one year after the most recent previous revocation, and any succeeding election could not become effective until 5 years after the date of the most recent previous revocation.

The Secretary would also be required to estimate the relevant Medicare expenditure level before the beginning of each fiscal year, beginning with FY 2000. If the Secretary determined that the level estimated Medicare expenditures for a fiscal year would exceed the trigger level for that fiscal year, the Secretary would be required to provide for a proportional reduction in payment amounts under Part A of Medicare for covered services for the fiscal year involved that would assure that the level does not exceed the trigger level for that year. The Secretary would be authorized to, instead of making some or all of the payment reduction, impose other conditions or limitations with respect to the coverage of services as appropriate to reduce the relevant Medicare expenditure level to the trigger level.

The trigger level for a fiscal year for FY 1998 would be $20 million, and for a succeeding fiscal year the amount would be specified as the amount for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers for the 12-month period ending with July preceding the beginning of the fiscal year.

The Secretary would be required to monitor the relevant Medicare expenditure level for each fiscal year beginning with FY 1999. If the Secretary determined that the relevant Medicare expenditure level for a fiscal year exceeded, or was less than, the trigger level for that fiscal year, then the trigger level for the succeeding fiscal year would be required to be reduced, or increased, respectively, by the amount of the excess or deficit expenditure.

At the beginning of each fiscal year (beginning with FY 1999), the Secretary would be required to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on coverage and expenditures for covered services under the Medicare and Medicaid programs. The report would be required to include: (1) the relevant Medicare expenditure level for the previous fiscal year and estimated for the fiscal year involved; (2) trends in the expenditure level; and (3) facts and circumstances of any significant change in the expenditure level from the levels in previous fiscal years.

The provision would amend Medicaid to strike references to Christian Science and inserting "a religious nonmedical health care institution." The provision would provide conforming amendments to sections of the Social Security Act.

Effective Date. Applies to items and services furnished on or after enactment. By no later than July 1, 1998, the Secretary would be required to issue regulations to carry out these amendments on an interim basis pending notice and opportunity for public comment. For periods before the effective date of the regulations, such regulations would be required to recognize elections entered into in good faith in order to comply with the requirements of this section.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments specifying what would constitute common ownership or ownership interest by a provider of medical services, that ownership interest of less than 5% would not be taken into account, and what would be considered to create an affiliation between a medical care provider and a religious nonmedical health care institution. Excepted medical treatment would not include medical care or treatment for the setting of broken bones. In making adjustments to the trigger level, if expenditures for a fiscal year were less than the trigger level projected for a fiscal year, the Secretary could not increase the trigger level for a succeeding fiscal year by more than $50 million.

The conference agreement continues the provision of needed nonmedical nursing services to poor and elderly Americans who have contributed to the Medicare and Medicaid systems, without requiring them to violate their sincerely held religious beliefs. Like the Senate amendment, it repeals certain provisions applicable only to Christian Science sanatoria and nursing care, 42 U.S.C. §§1395x(e), 1395x(y)(1), 1320c-11, which were held unconstitutional by a federal district court on the ground that they were sect-specific, in violation of the Establishment Clause (*C.H.I.L.D., Inc.* v. *Vladeck*, 938 F. Supp. 1466 (D. Minn. 1996)). The conference agreement replaces these provisions with a sect-neutral accommodation available to any person who is relying on a religious method of healing and for whom the acceptance of medical health services would be inconsistent with his or her religious beliefs. The Conferees believe these modifications fully respond to and satisfy the constitutional concerns raised by the district court.

The conference agreement limits Medicare and Medicaid reimbursements to services furnished to patients having a condition such that they would be inpatients in a hospital or a medical skilled nursing facility were it not for their religious beliefs. Reimbursable services are limited to nonmedical nursing services and related items, comparable to services and related nursing materials supplied to inpatients in a hospital or a medical skilled nursing facility. These services and items are plainly secular in nature. No payments can be made for the services of those who provide spiritual treatment through prayer; and, therefore, in the case of Christian Scientists, for example, no payments can be made for the services of the Christian Science practitioner. Accordingly, the proposed statute meets the requirements of Establishment Clause decisions precluding the direct funding of religious teaching or prayer. See *Bradfield* v. *Roberts*, 175 U.S. 291 (1899); *Bowen* v. *Kendrick*, 487 U.S. 589 (1988).

The Conference Committee, after extensive consultation with the Committee on the Judiciary of the Senate and of the House of Representatives, is satisfied that the conference agreement comports with the First Amendment, and indeed that it serves the interest of religious freedom. The conference agreement does not provide unconstitutional benefits to religion. Rather, it avoids the unfairness of requiring these Americans to pay taxes, including payroll taxes to the Medicare Trust Fund, for years without being able to receive any benefits. The Conferees believe it would be particularly harsh to cut off nursing benefits for poor and elderly men and women who have not made alternative arrangements for financing their health care and who now rely on the availability of nonmedical nursing benefits at a time when other patients receive reimbursement for hospital care.

In addition, the conference agreement sets out detailed eligibility criteria for religious nonmedical health care institutions that the Conferees believe are necessary to protect the health and safety of patients in such institutions and to prevent fraud and abuse

The Conferees understand that there are religious nonmedical health care institutions that have been Medicare and/or Medicaid providers since the inception of these programs. It is the intent of the Conferees that these providers will continue to receive reimbursement during the interim period prior to regulations being finalized, unless the Secretary concludes they are ineligible under the new provision.

Subtitle G—Provisions Relating to Part B Only

Chapter 1—Physicians' Services

Establishment of Single Conversion Factor for 1998

Sections 10601 and 4601 of House Bill and Section 5501 of Senate Amendment

CURRENT LAW

Medicare pays for physicians services on the basis of a fee schedule. The fee schedule assigns relative values to services. Relative values reflect three factors: physician work (time, skill, and intensity involved in the service), practice expenses, and malpractice costs. These relative values are adjusted for geographic variations in the costs of practicing medicine. Geographically-adjusted relative values are converted into a dollar payment amount by a dollar figure known as the conversion factor. There are three conversion factors—one for surgical services, one for primary care services, and one for other services. The conversion factors in 1997 are $40.96 for surgical services, $35.77 for primary care services, and $33.85 for other services.

HOUSE BILL

Section 10601. Sets a single conversion factor for 1998, based on the 1997 primary care conversion factor, updated to 1998 by the Secretary's estimate of the weighted average of the three separate updates that would occur in the absence of the legislation. In subsequent years, the conversion factor would be the conversion factor established for the previous year, adjusted by the update.

Effective Date. Enactment.

Section 4601. Identical provision.

SENATE AMENDMENT

Similar provision, except that the Secretary would be required during the last 15 days of October each year, to publish the conversion factor and the update for the following year.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

Establishing Update to Conversion Factor to Match Spending Under Sustainable Growth Rate

Sections 10602 and 4602 of House bill and 5502 of Senate amendment

CURRENT LAW

The conversion factors are updated each year by a formula specified in the law. The update equals inflation plus or minus actual rate of spending growth in a prior period compared to a target known as the Medicare volume performance standard (MVPS). (For example, fiscal year 1995 data were used in calculating the calendar 1997 update.) However, regardless of actual performance during a base period, there is a 5 percentage point limit on the amount of the reduction. There is no limit on the amount of the increase.

HOUSE BILL

Section 10602. Specifies the update to the conversion factor that would apply beginning in 1999 (unless otherwise provided for by law). The update to the single conversion factor for a year would equal the Medicare Economic Index (MEI) subject to an adjustment to match spending under a sustainable growth rate. Specifically, the update for a year would be calculated by multiplying: (1) 1 plus the percentage change in the MEI, times (2) 1 plus the update adjustment factor (expressed as a percentage) for the year. The result would be reduced by 1 and multiplied by 100.

Links the update to the sustainable growth rate. The update adjustment factor would be calculated as follows. First, the Secretary would estimate the difference between the cumulative sum of allowed expenditures for July 1, 1997 through June 30 of the year involved and the cumulative sum of actual expenditures for July 1, 1997 through June 30 of the preceding year. This amount would be divided by the actual expenditures for the 12-month period (ending June 30) of the preceding year, increased by the applicable sustainable growth rate which begins during such 12 month period. For the 12-month period ending June 30, 1997, allowed expenditures would be defined as actual expenditures for the period, as estimated by the Secretary. For a subsequent 12-month period, allowed expenditures would be defined as allowed expenditures established for the previous period, increased by the sustainable growth rate established for the fiscal year which begins during that 12-month period.

Establishes limits on the amount of variation from the MEI; the update could not be more than three percentage points above or seven percentage points below the MEI.

Effective Date. Applies to update for years beginning with 1999.

Section 4602. Identical provision.

SENATE AMENDMENT

Similar provision except refers to cumulative "amount" rather than cumulative "sum" of actual expenditures.

Effective Date. Applies to update for years beginning with 1999.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with an amendment that specifies that the base period for the update adjustment factor would begin April 1, 1997 rather than July 1, 1997 and that calculations would be for 12-month periods ending March 31 rather than June 30.

Replacement of Volume Performance Standard with Sustainable Growth Rate

Section 10603 and 4603 of House bill and Section 5503 of Senate amendment

CURRENT LAW

The Medicare Volume Performance Standard (MVPS), used to calculate the update in the conversion factor, is a goal for the rate of expenditure growth from one fiscal year to the next. The MVPS for a year is based on estimates of several factors (changes in fees, enrollment, volume and intensity, and laws and regulations). The calculation is subject to a reduction known as the performance standard factor.

HOUSE BILL

Section 10603. The provision would replace the MVPS with the sustainable growth rate based on real gross domestic product (GDP) growth. Specifically, the rate for FY 1998 and subsequent years would be equal to the product of: (1) 1 plus the weighted average percentage change in fees for all physicians services in the fiscal year; (2) 1 plus the percentage change in the average number of individuals enrolled under Part B (other than private plan enrollees) from the previous fiscal year; (3) 1 plus the Secretary's estimate of the percentage growth in real GDP per capita from the previous fiscal year; and (4) 1 plus the Secretary's estimate of the percentage change in expenditures for all physicians services in the fiscal year which will result from changes in law and regulations (excluding changes in volume and intensity resulting from changes in the conversion factor update). The result would be reduced by one and multiplied by 100. The term "physicians services" would exclude services furnished to a MedicarePlus plan enrollee.

Requires publication of sustainable growth rates for each fiscal year beginning with FY 1999. The publication would occur in the last 15 days of October of the fiscal year in which the year begins, except that the FY 1999 rate would be published not later than January 1, 1999.

Effective Date. Enactment.

Section 4603. Identical provision.

SENATE AMENDMENT

Similar provision except requires publication of sustainable growth rates for each fiscal year beginning with FY 1998 with the FY 1998 rate published not later than January 1, 1998.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

Payment Rules for Anesthesia Services

Section 10604 and 4604 of House bill and section 5504 of Senate amendment

CURRENT LAW

Anesthesia services are paid under a separate fee schedule (based on base and time units) with a separate conversion factor. The 1997 conversion factor is $16.68.

HOUSE BILL

Section 10604. Specifies that the conversion factor would equal 46% of the conversion factor established for other services for the year, except as adjusted for changes in work, practice expense, or malpractice relative value units.

Effective Date. Applies to services furnished on or after January 1, 1998.

Section 4604. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with clarifying language.

IMPLEMENTATION OF RESOURCE-BASED PHYSICIAN PRACTICE EXPENSE

Section 10605 and 4605 of House bill and Section 5504 of Senate amendment

CURRENT LAW

The Social Security Amendments of 1994 (P.L. 103–432) required that the Secretary develop and provide for the implementation, beginning in 1998, of a resource-based methodology for payment of practice expenses under the physician fee schedule. Such expenses are currently paid on the basis of historical charges.

(a) One-year delay in implementation; special rules for 1998

HOUSE BILL

Section 10605. Delays implementation of the practice expense methodology for 1 year until 1999.

Section 4605. Identical provision.

SENATE AMENDMENT

Delays implementation of proposed HCFA rule on practice expenses for one year, until January 1, 1999. Specifics for 1998, practice expense relative value units would be reduced to 110% of the number of work relative value units for specified services. These are services: (1) which have work relative units; and (2) for which the number of practice expense relative value units determined for 1998 exceeds 110% of the number of work relative value units. Not included are services which the Secretary determines at least 75% of which are provided in an office setting. A budget neutral increase would be made in practice expense relative value units for office visit procedure codes.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with an amendment. If the Secretary determined that the amount of the reallocation would exceed $390 million, the Secretary would apply a higher percentage than 110% so that the estimated reallocation would not exceed $390 million. Further, the practice expense relative value units for a procedure performed in an office or a setting outside an office could not be reduced if the in-office or out-of-office practice expense relative value would be increased under the proposed regulations issued June 18, 1997.

(b) Phased-in implementation

HOUSE BILL

Section 10605. Phases-in new methodology. In 1999, 25% of the practice payment would be based on the new methodology. This percentage would increase to 50% in 2000 and 75% in 2001. Beginning in 2002, the payment would be based solely on the new methodology.

Section 4605. Similar provision.

SENATE AMENDMENT

Requires the Secretary to implement the resource-based practice expense unit methodology ratably over the three year period, 1999–2001, such that the methodology is fully implemented for 2001 and subsequent years.

CONFERENCE AGREEMENT

The conference agreement includes the House provision contained in Section 4605.

(c) Secretarial direction

HOUSE BILL

Section 10605. No provision.

Section 4605. Requires the Secretary, to develop new resource-based relative value units. In developing the units, the Secretary would be required to utilize, to the maximum extent practicable, generally accepted cost accounting principles and standards which recognize all staff, equipment, supplies and expenses, not just those that can be tied to specific procedures. The Secretary would be required to use actual data on equipment utilization and other key assumptions such as the proportion of costs which are direct versus indirect. The Secretary would be required to study whether hospital cost reduction methods and changing practice patterns may have increased physician practice costs and consider adverse effects on patient access. The Secretary would further be required to consult with organizations representing physicians regarding methodology and data to be used.

Requires the Secretary to transmit a report to the House Ways and Means and Commerce Committees and the Senate Finance Committee by March 1, 1998. The report would include a presentation of the data used and an explanation of the methodology.

Requires the Secretary to publish a notice of proposed rule-making by May 1, 1998, and allow for a 90-day public comment period. The proposed rule would include: (1) detailed impact projections which compare proposed payment amounts with data on actual practice expenses; (2) impact projections for specialties, sub-specialties, geographic payment localities, urban versus rural localities, and academic versus non-academic medical staffs; and (3) impact projections on access to care for Medicare patients and physician employment of clinical and administrative staff.

SENATE AMENDMENT

Requires the Secretary to assemble physicians in both surgical and nonsurgical areas, accounting experts and the chairman of the PPRC (or its successor) to solicit individual views on whether sufficient data exist to allow HCFA to proceed with implementation. The Secretary would then determine whether sufficient data exists to proceed with practice expense relative value determination and would report on views of individual members to the congressional committees including any recommendations for modifying the rule. If the Secretary determines insufficient data exists or that the rule needs to be revised, the Secretary would provide for additional data collection and other actions to correct deficiencies.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with an amendment. The Secretary would be required to utilize to the maximum extent practicable, generally accepted accounting principles and standards which recognize all staff equipment, supplies and expenses, not just those that can be tied to specific procedures. The Secretary would be required to use actual data on equipment utilization and other key assumptions. The Secretary would be required to consult with physician organizations regarding methodology and data to be used. Further , the Secretary would be required to develop a refinement process to be used during each of the four years of the transition. The agreement makes clarifying modifications to items to be included in the proposed rule.

(d) Review by Comptroller General

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Comptroller General to review and evaluate the proposed rule issued by HCFA. Within six months of enactment, the Comptroller General would be required to report to the Committees on Ways and Means and Finance on the results of the evaluation including the adequacy of the data used, categories of allowable costs, methods for allocating direct and indirect costs, and potential impact on beneficiary access.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

(e) Malpractice relative value units

HOUSE BILL

Section 10605. No provision.
Section 4605. No provision.
Effective Date.—
Section 10605. Enactment.
Section 4605. Enactment.

SENATE AMENDMENT

Requires that for years beginning in 1999, the malpractice expense component would be based on the malpractice expense resources involved in furnishing the service.

Effective Date. Applies to years beginning on or after January 1, 1998, except that provision relating to application of resource-based malpractice expense methodology applies to years beginning on or after January 1, 1999.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment specifying that the application of resource-based methodology to malpractice relative value units would apply beginning January 1, 2000. The provision clarifies that the current law limitation on annual adjustments, namely that the adjustments would be budget neutral, would apply.

DISSEMINATION OF HOSPITAL-SPECIFIC PER DISCHARGE RELATIVE VALUES FOR INPATIENT HOSPITAL SERVICES

Section 10606 and 4606 of House bill

CURRENT LAW

In general, the law does not include a specific limit on the number or mix of physicians services provided in connection with an inpatient hospital stay. (However, the law does require that certain services provided in connection with a surgery be included in a global surgical package and not billed separately.)

HOUSE BILL

Section 10606. Requires the Secretary, during 1999 and 2001, to determine for each hospital the hospital-specific per discharge relative value amount for the following year and whether this amount is projected to be excessive. The Secretary would be required to notify the medical executive committee of each hospital having been identified as having an excessive hospital-specific relative value.

Specifies that the hospital-specific relative value projected for a non-teaching hospital would be the average per discharge relative value for inpatient physicians services furnished by the medical staff for the second preceding calendar year, adjusted for variations in case mix and disproportionate share status. For teaching hospitals, the projected hospital-specific relative value would be: (1) the average per discharge relative value for inpatient physicians services furnished by the medical staff for the second preceding calendar year; plus (2) the equivalent per discharge relative value for physicians services furnished by interns and residents during the second preceding year, adjusted for case-mix, disproportionate share status, and teaching status among hospitals.

The Secretary would be required to determine the equivalent relative value unit per intern and resident based on the best available data and could make such adjustment in the aggregate. The Secretary would be required to adjust the allowable per discharge relative value otherwise determined to take into account the needs of teaching hospitals and hospitals receiving additional payments under PPS as disproportionate share hospitals or on the basis of their classification as Medicare-dependent small rural hospitals. The adjustment for teaching or disproportionate share status could not be less than zero.

Section 4606. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with a modification. The notice would be sent to a subset of identified hospitals. Further, the Secretary would be required to evaluate responses of notified hospitals and identified hospitals not notified.

Temporary Coverage Restoration for Portable Electrocardiogram Transportation

Sections 10608 and 4608 of House bill

CURRENT LAW

Medicare regulations for the 1997 physician fee schedule eliminated the separate payment for transportation of EKG equipment by any supplier.

HOUSE BILL

Section 10608. Restores separate payment for 1 year, 1998, for transportation of EKG equipment based on the coding in effect in 1996. The Secretary would be required by July 1, 1998 to determine, taking into account the study by GAO and other information, whether portable EKG transportation should be covered.

Effective date. Enactment

Section 4608. Similar provision except replaces requirement for Secretarial determination with requirement for submission of GAO report by July 1, 1998 on appropriateness of continuing payment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision as contained in Section 10608 with a modification to specify that payment in 1998 would be based on the payment methods in effect in 1996. The Secretary would be required to make recommendations to Congress by July 1, 1998 as to whether portable X-ray transportation should be covered. Further Congressional action would be needed to extend the transportation payment after 1998.

Facilitating the Use of Private Contracts Under the Medicare Program

Section 5613 of Senate amendment

CURRENT LAW

Physicians are required to submit claims for services provided to their Medicare patients and are subject to limits on amounts they can bill these patients.

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that nothing in Medicare law shall prohibit a physician or another health care professional who does not provide items and services under Medicare from entering into a private contract with a Medicare beneficiary for health services for which no Medicare claim is to be submitted. Medicare's limiting charge provisions would not apply to services provided to a beneficiary under such a contract. The Administrator of HCFA would be required to report to Congress by October 1, 2001, on the effect of private contracts under Medicare. The report would include analyses regarding the fiscal impact of such contracts on total Medicare expenditures and out-of-pocket expenditures for covered Medicare services. It would also include analyses of the quality of health services provided under the contracts. In addition, the report would include recommendations as to whether Medicare beneficiaries should continue to be able to enter private contracts and, if so, what legislative changes if any should be made to improve such contracts.

Effective Date. Applies with respect to contracts entered into on and after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with an amendment relating to contract requirements. The amendment would specify that nothing in Medicare law would prohibit a physician or other practitioner from entering into a private contract with a Medicare beneficiary for health services, provided certain conditions are met. The physician or practitioner could not receive Medicare reimbursement for any item or service, either directly or on a capitated basis. Further, the physician or practitioner could not receive reimbursement from an organization which receives Medicare reimbursement for the item or service directly or on a capitated basis.

The private contract would have to provide specified beneficiary protections. It would have to be written and signed by the beneficiary before any item or service was provided pursuant to the contract. It could also not be entered into at a time when the beneficiary was facing an emergency or urgent health care situation. The contract would also clearly indicate to the beneficiary that by signing the contract the beneficiary: (1) agrees not to submit a claim for services even if they were otherwise covered under Medicare; (2) agrees to be responsible, whether through insurance or otherwise, for payments of such items and services and understands that no Medicare reimbursement will be provided; (3) acknowledges that no Medicare limiting charge limits apply; (4) acknowledges that Medigap plans do not, and other supplemental insurance plans may elect not to, make payments for such items and services; and (5) acknowledges that the Medicare beneficiary has the right to have such items or services provided by other physicians or practitioners for whom Medicare payment would be made. The contract would also be required to indicate whether the individual is excluded from participation in Medicare.

The conference agreement would specify that an affidavit must be in effect at the time services are provided pursuant to the contract. The affidavit must be in writing and signed by the physician or practitioner. It must provide that the physician or practitioner would not submit any Medicare claim for any item or service provided to a Medicare beneficiary (and will not receive any reimbursement for any such item or service) for a 2-year period beginning on the date the affidavit is signed. A copy of the affidavit would have to be filed with the Secretary within 10 days after the first contract to which the affidavit applies is entered into. If a physician or practitioner signing an affidavit knowingly and willfully submits a Medicare claim (or receives Medicare reimbursement for) an item or service during such 2-year period, the ability to provide services under the private contract provision would not apply for the remainder of the period. Further, the physician or practitioner could not receive Medicare payments during such period.

The Secretary rather than the Administrator would submit the required report. The provision would apply with respect to contracts entered into on or after January 1, 1998.

Chapter 2—Other Health Care Professionals

Increased Medicare Reimbursement for Nurse Practitioners and Clinical Nurse Specialists

Section 10619 and 4619 of House bill and section 5506 of Senate amendment

CURRENT LAW

Separate payments are made for nurse practitioner (NP) services provided in collaboration with a physician, which are furnished in a nursing facility. Recognized payments equal 85% of the physician fee schedule amount. Nurse practitioners and clinical nurse specialists (CNSs) are paid directly for services provided in collaboration with a physician in a rural area. Payment equals 75% of the physician fee schedule amount for services furnished in a hospital and 85% of the fee schedule amount for other services.

HOUSE BILL

Section 10619. Removes the restriction on settings. It would also provide that payment for NP and CNS services could only be made if no facility or other provider charges are paid in connection with the service. Payment would equal 80% of the lesser of either the actual charge or 85% of the fee schedule amount for the same service if provided by a physician. For assistant-at-surgery services, payment would equal 80% of the lesser of either the actual charge or 85% of the amount that would be recognized for a physician serving as an assistant at surgery. The provision would authorize direct payment for NP and CNS services.

Clarifies that a clinical nurse specialist is a registered nurse licensed to practice in the state and who holds a master's degree in a defined clinical area of nursing from an accredited educational institution.

Effective Date. Applies with respect to services furnished and supplies provided on or after January 1, 1998.

Section 4619. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Increased Medicare Reimbursement for Physician Assistants

Section 10620 and 4620 of House bill and Section 5507 of Senate amendment

CURRENT LAW

Separate payments are made for physician assistant (PA) services when provided under the supervision of a physician: (1) in a hospital, skilled nursing or nursing facility, (2) as an assistant at surgery, or (3) in a rural area designated as a health professional shortage area.

HOUSE BILL

Section 10620. Removes the restriction on settings. Payment for PA services could only be made if no facility or other provider charges were paid in connection with the service. Payment would equal 80% of the lesser of either the actual charge or 85% of the fee schedule amount for the same service if provided by a physician. For assistant-at-surgery services, payment would equal 80% of the lesser of either the actual charge or 85% of the amount that would be recognized for a physician serving as an assistant at surgery. The PA could be in an independent contractor relationship with the physician. Employer status would be determined in accordance with state law.

Effective Date. Applies with respect to services furnished and supplies provided on or after January 1, 1998.

Section 4620. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Chiropractor Services

Section 10607 and 4607 of House bill

CURRENT LAW

Medicare covers chiropractic services involving manual manipulation of the spine to correct a subluxation demonstrated to exist by X-ray. Medicare regulations prohibit payment for the X-ray either if performed by a chiropractor or ordered by a chiropractor.

HOUSE BILL

Section 10607. Eliminates the X-ray requirement effective January 1, 1998.

Section 4607. Similar provision, except it would also require the Secretary to develop and implement utilization guidelines relating to coverage of chiropractic services when a subluxation has not been demonstrated to exist by X-ray.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill as contained in Section 4607 with an amendment to change the effective date to January 1, 2000.

Nothing in this section shall be interpreted as a legislative indication that x-ray findings are not important and can serve a purpose in the practice of chiropractic.

Chapter 3—Outpatient Hospital Services

Elimination of Formula-Driven Overpayments (FDO) for Certain Outpatient Hospital Services

Sections 10411 and 4411 of the House bills and section 5311 of the Senate amendment

CURRENT LAW

Medicare payments for hospital outpatient ambulatory surgery, radiology, and other diagnostic services equals the lesser of: (1) the lower of a hospital's reasonable costs or its customary charges, net of deductible and coinsurance amounts, or (2) a blended amount comprised of a cost portion and a fee schedule portion, net of beneficiary cost-sharing. The cost portion of the blend is based on the lower of the hospital's costs or charges, net of beneficiary cost sharing, and the fee schedule portion is based, in part, on ambulatory surgery center payment rates or the rates for radiology and diagnostic services in other settings, net of beneficiary coinsurance (for those settings). The hospital cost portion and the fee schedule portion for surgical and radiology services are 42% and 58%, respectively. For diagnostic services the hospital cost portion is 50 percent and the fee schedule portion is 50 percent.

A hospital may bill a beneficiary for the coinsurance amount owed for the outpatient service provided. The beneficiary coinsurance is based on 20 percent of the hospital's submitted charges for the outpatient service, whereas Medicare usually pays based on the blend of the hospital's costs and the amount paid in other settings for the same service. This results in an anomaly whereby the amount a beneficiary pays in coinsurance does not equal 20 percent of the program's payment and does not result in a dollar-for-dollar decrease in Medicare program payments.

HOUSE BILL

Section 10411. Requires that beneficiary coinsurance amounts be deducted later in the reimbursement calculation for hospital outpatient services, so that Medicare payments for covered services would be lower. Medicare's payment for hospital outpatient services would equal the blended amount less any amount the hospital may charge the beneficiary as coinsurance for services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

Effective Date. Applies to services furnished during portions of cost reporting periods occurring on or after October 1, 1997.

Section 4411. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Extension of Reductions in Payments for Costs of Hospital Outpatient Services

Sections 10412 and 4412 of the House bills and Section 5312 of the Senate amendment

a. Reduction in payments for capital-related costs

CURRENT LAW

Hospitals receive payments for Medicare's share of capital costs associated with outpatient departments. OBRA 93 extended a 10 percent reduction in payments for the capital costs of outpatient departments through FY 1998.

HOUSE BILL

Section 10412. The provision would extend the 10 percent reduction in payments for outpatient capital through FY 1999 and during FY 2000 before January 1, 2000.

Effective Date. Effective for cost reporting periods beginning on or after October 1, 1997.

Section 4412. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

b. Reduction in payments for non-capital-related costs

CURRENT LAW

Certain hospital outpatient services are paid on the basis of reasonable costs. OBRA 93 extended a 5.8 percent reduction for those services paid on a cost-related basis through FY 1998.

HOUSE BILL

Section 10412. The 5.8 percent reduction for outpatient services paid on a cost basis would be extended through FY 1999 and during FY 2000 before January 1, 2000.

Effective Date. Effective for cost reporting periods beginning on or after October 1, 1997.

Section 4412. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

Prospective Payment System for Hospital Outpatient Department Services

Sections 10413 and 4413 of the House bills and Section 5313 of the Senate amendment

CURRENT LAW

Medicare payments for hospital outpatient ambulatory surgery, radiology, and other diagnostic services equals the lesser of: (1) the lower of a hospital's reasonable costs or its customary charges, net of deductible and coinsurance amounts, or (2) a blended amount comprised of a cost portion and a fee schedule portion, net of beneficiary cost-sharing. The cost portion of the blend is based on the lower of the hospital's costs or charges, net of beneficiary cost sharing, and the fee schedule portion is based on ambulatory surgery center payment rates or the rates for radiology and diagnostic services in other settings, net of beneficiary coinsurance (for these other settings). For cost reporting periods beginning on or after January 1, 1991, the hospital cost portion and the fee schedule portion for surgical and radiology services are 42 percent and 58 percent, respectively. For diagnostic services the hospital cost portion is 50 percent and the fee schedule portion is 50 percent.

HOUSE BILL

Section 10413. Requires the Secretary to establish a prospective payment system for covered OPD services furnished beginning in 1999. The Secretary would be required to develop a classification system for covered OPD services, such that services classified within each group would be comparable clinically and with respect to the use of resources. The Secretary would be required to establish relative payment rates for covered OPD services using 1996 hospital claims and cost report data, and determine projections of the frequency of utilization of each such service or group of services in 1999. The Secretary would be required to determine a wage adjustment factor to adjust the portions of payment attributable to labor-related costs for relative geographic differences in labor and labor-related costs that would be applied in a budget neutral manner. The Secretary would be required to establish other adjustments as necessary, including adjustments to account for variations in coinsurance payments for procedures with similar resource costs, to ensure equitable payments under the system. The Secretary would also be required to develop a method for controlling unnecessary increases in the volume of covered OPD services.

Hospital OPD coinsurance payments would be limited to 20% of the national median of the charges for the service (or services within the group) furnished in 1996 updated to 1999 using the Secretary's estimate of charge growth during this period. The Secretary would be required to establish rules for the establishment of a coinsurance payment amount for a covered OPD service not furnished during 1996, based on its classification within a group of such services.

For 1999, the Secretary would be required to establish a conversion factor for determining the Medicare OPD fee payment amounts for each covered OPD service (or group of services) furnished in 1999 so that the sum of the products of the Medicare OPD fee payment amounts and the frequencies for each service or group would be equal to the total amounts estimated by the Secretary that would be paid for OPD services in 1999. In subsequent years, the Secretary would be required to establish a conversion factor for covered OPD services furnished in an amount equal to the conversion factor established for 1999 and applicable to services furnished in the previous year increased by the OPD payment increase factor. The OPD payment increase factor would be equal to the sum of the hospital market basket (MB) percentage increase, plus 3.5 percentage points, but in no case more than the number of percentage points that would result in the pre-deductible payment percentage exceeding 80%. When the amount of the beneficiary coinsurance for an individual procedure is equal to 20 percent of the total payment, both the coinsurance and the Medicare program payment would be increased by the full market basket.

The Secretary would be required to establish a procedure under which a hospital, before the beginning of a year (starting with 1999), could elect to reduce the coinsurance payment for some or all covered OPD services to an amount that would not be less than 20% of the total (Medicare program plus beneficiary coinsurance payment) amount paid for the service involved, adjusted for relative differences in labor costs and other factors. A reduced coinsurance payment could not be further reduced or increased during the year involved, and hospitals could disseminate information on the reduction of coinsurance amounts.

The Secretary would be authorized to periodically review and revise the groups, relative payment weights, and the wage and other adjustments to take into account changes in medical practice, medical technology, the addition of new services, new cost data, and other relevant information. Any adjustments made by the Secretary would be made in a budget neutral manner. If the Secretary determined that the volume of services paid for under this subsection increased beyond amounts established through those methodologies, the Secretary would be authorized to adjust the update to the conversion factor otherwise applicable in a subsequent year.

The coinsurance payment for covered OPD services would be determined by the provisions of this bill instead of the standard 20% coinsurance for other Part B services.

Effective Date. Effective for services delivered on or after January 1, 1999.

Section 4413. Identical provision.

SENATE AMENDMENT

Similar provision, except requires the Secretary to use claims data from 1997 for establishing the system requirements, the unadjusted copayment amount, and rules for new services.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with amendments. These include defining covered OPD services and updating the entire fee schedule amount (program payments plus beneficiary coinsurance payments) by the market basket increase minus one percentage point for 2000 through 2002, and by the market basket percentage increase in subsequent years. Beneficiary coinsurance payments would be subtracted from the fee schedule amount to determine Medicare program payments.

The Conferees have given the Secretary discretion in determining the adjustment factors that will be applied to the OPD prospective rates. In examining the necessary adjustment factors, the Conferees would like the Secretary to examine whether an adjustment is warranted for those Eye and Ear specialty hospitals that received payments under a different blend formula for cost reporting periods beginning on or after October 1, 1988 and before January 1, 1995.

Chapter 4—Ambulance Services

PAYMENTS FOR AMBULANCE SERVICES

Sections 10431 and 4431 of House bill and Section 5321 of Senate amendment

CURRENT LAW

Payment for ambulance services provided by freestanding suppliers is based on reasonable charge screens developed by individual carriers based on local billings. Hospital or other provider-based ambulance services are paid on a reasonable cost basis; payment cannot exceed what would be paid to a freestanding suppliers.

HOUSE BILL

Specifies payment limits for ambulance services for FY 1998 through FY 2002. For ambulance services paid on a reasonable cost basis, the annual increase in the costs recognized as reasonable would be limited to the percentage increase in the consumer price index reduced for fiscal years 1998 and 1999 by 1 percentage point. Similarly, for ambulance services furnished on a reasonable charge basis, the annual increase in the charges recognized as reasonable would be limited to the percentage increase in the consumer price index reduced for fiscal years 1998 and 1999 by 1 percentage point.

Requires the Secretary to establish a fee schedule for ambulance services through a negotiated rule-making process. In establishing the fee schedule, the Secretary would be required to: (1) establish mechanisms to control Medicare expenditure increases; (2) establish definitions for services; (3) consider appropriate regional and operational differences; (4) consider adjustments to payment rates to account for inflation and other relevant factors; and (5) phase-in the application of the payment rates in an efficient and fair manner. In establishing the fee schedule, the Secretary would be required to consult with various national organizations representing individuals and entities who furnish and regulate ambulance services.

Requires the Secretary to assure that payments in FY 2000 under the fee schedule do not exceed the aggregate amount of payments which would have been made in the absence of the fee schedule. The annual increase in the payment amounts in each subsequent year would be limited to the increase in the consumer price index. Medicare payments would equal 80% of the lesser of the fee schedule amount or the actual charge. Services would be paid on as assignment basis.

Authorizes payment for advanced life support (ALS) services provided by paramedic intercept service providers in rural areas. The ALS services would be provided under contract with one or more volunteer ambulance services. The volunteer ambulance service involved must be certified as qualified to provide the service, provide only basic life support services at the time of the intercept, and be prohibited by state law from billing for services. The ALS service provider must be certified to provide the services and bill all recipients (not just Medicare beneficiaries) for ALS intercept services.

Effective Date. Enactment, except fee schedule provisions apply to services furnished on or after January 1, 2000.

Section 4431. Similar provision, except specifies that limits on reasonable cost increases for FY 1998—FY 2002 apply on a per trip basis.

SENATE AMENDMENT

Similar to Section 10431, except that: (1) the one percentage point reduction in the increase in reasonable charge and cost limits would be made only in 1998; (2) the fee schedule would be implemented in 1999 with payments not to exceed those which would have been made in the absence of the fee schedule; and (3) the annual increase would be limited to the increase in the CPI minus one percentage point (but not less than zero).

Effective Date. Enactment, except fee schedule provisions apply to services furnished on or after January 1, 1999.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. The reasonable costs limits would be applied in FY 1998, FY 1999 and so much of FY 2000 as precedes January 1, 2000. The reduction would be one percentage point each fiscal year. The limits would be applied on a per trip basis. The Secretary could require, for services provided after June 30, 1998, that a code be provided; the code would be under a uniform coding system specified by the Secretary. The limits on reasonable charge payments would apply on a calendar basis for FY 1998 and FY 1999 with the one percentage point reduction applicable in both years.

The conference agreement specifies that the fee schedule would be implemented in 2000. The aggregate amount of payments could not exceed what would be paid if the interim reductions remained in effect in that year. For purposes of this determination, the Secretary would assume the update in 2002 to be equal to the CPI minus one percentage point in 2001 and 2002. Beginning in 2001, the update would equal the preceding year's amount updated by the CPI, reduced by one percentage point in 2001 and 2002. The Secretary could require the use of a code under a uniform coding system. The fee schedule would apply to ambulance services whether provided directly by a supplier or provider or under arrangements with a provider.

DEMONSTRATION OF COVERAGE OF AMBULANCE SERVICES UNDER MEDICARE THROUGH CONTRACTS WITH UNITS OF LOCAL GOVERNMENT

Sections 10432 and 4432 of House bill

CURRENT LAW

No provision.

HOUSE BILL

Section 10432. Requires the Secretary to establish up to three demonstration projects under which, at the request of a county or parish, the Secretary enters into agreement with such entity to furnish or arrange for the furnishing of ambulance services. The county or parish could not enter into a contract unless the contract covered at least 80% of the residents enrolled in Part B. Individuals or entities furnishing services would have to meet the requirements otherwise applicable. The Secretary would make monthly per capita payments to the county or parish. In the first year, the capitated payment would equal 95% of the average annual per capita payment for ambulance services made in the most recent 3 years for which data is available. In subsequent years, it would the amount established for the preceding year increased by the CPI. Payments under the contract would be in lieu of other payments for ambulance services.

Specifies that the contract may provide for the inclusion of persons residing in additional counties or parishes, permit transportation to non-hospital providers, and implement other innovations proposed by the county or parish.

Requires the Secretary to evaluate the demonstration projects and report by January 1, 2000, on the study including recommendations regarding modifications to the payment methodology and whether to extend or expand such projects.

Effective Date. Enactment.

Section 4432. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with clarifying language to specify that the contracts would be made with units of local government. Further, the determination of whether the contract covers 80 percent of Part B enrollees residing in the area would not include persons in a Medicare+Choice plan.

Chapter 5—Rehabilitation Services

Rehabilitation Agencies and Services

Sections 10421 and 4421 of the House bills

CURRENT LAW

Medicare provides for special payment rules for certain types of providers of services covered under Part B and paid out of the SMI Trust Fund.

HOUSE BILL

Section 10421. For outpatient physical therapy and occupational therapy services, Medicare program payments for services provided in 1998 would be, the lesser of the actual charges for the services or the adjusted reasonable costs for the services minus beneficiary coinsurance payments. Adjusted reasonable costs would be defined as operating costs reduced by 5.8% and capital costs reduced by 10%. After 1998, payment for these services would be 80% of the lesser of the actual charge for the services, or 80% of the applicable physician fee schedule amount. The provision would also exclude from Medicare coverage outpatient occupational therapy and physical therapy services furnished as incident to a physician's professional services that did not meet the standards provided for outpatient physical therapy services furnished by a provider in a clinic, rehabilitation agency, public health agency, or by others under an arrangement with and under the supervision of such providers.

The provision would also apply the independent therapist per beneficiary cap of $900 per year to outpatient therapy services beginning in 1999. The cap would be increased each year by the estimated increase in gross domestic product (GDP).

Effective Date. Effective for services provided on or after January 1, 1998.

Section 4421. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The Conference agreement includes the House provisions with modifications. For rehabilitation agencies and certain outpatient therapy providers other than outpatient hospital departments, the Conference agreement includes: (1) 10-percent operating and capital cost reductions for 1998, (2) application of fee-schedule provisions for therapy services beginning in 1999, and (3) per beneficiary therapy caps currently applicable to independent therapists. Other non-therapy services provided by CORFs would be paid under existing fee schedules or those established by the Secretary, beginning in 1999. The per beneficiary cap is also amended to equal $1,500 (instead of $900) per year in 1999 through 2001, then increased for each subsequent year by the increase in the MEI, rounded to the nearest multiple of $10. Beginning in 1999, hospital outpatient departments would be subject to the fee schedule for therapy services; however, the per beneficiary cap would not apply.

The conference agreement requires the Secretary to report to the Congress, by no later than January 1, 2001, on recommendations on a revised coverage policy of outpatient physical therapy services and outpatient occupational therapy services based on classification of individuals by diagnostic category and prior use of services, in both inpatient and outpatient settings, in place of uniform dollar limitations. The recommendations would be required to include how a system of durational limits by diagnostic category might be implemented in a budget-neutral manner. The conference agreement also modifies the effective date to provide that payments made under the physician fee schedule and the higher per beneficiary cap apply to services furnished and expenses incurred on or after January 1, 1999.

Comprehensive Outpatient Rehabilitation Facilities (CORFs)

Sections 10422 and 4422 of the House bills

CURRENT LAW

Medicare provides for special payment rules for certain types of providers of services covered under Part B and paid out of the SMI Trust Fund.

HOUSE BILL

Section 10422. CORF payments for services provided in 1998 would be the lessor of the actual charges for the services or the adjusted reasonable costs for the services minus beneficiary coinsurance payments. Adjusted reasonable costs would be defined as operating costs reduced by 5.8% and capital costs reduced by 10%. After 1998, payment for these services would be 80% of the lesser of the actual charge for the services, or 80% of the applicable physician fee schedule amount. The provision would also exclude from Medicare coverage outpatient occupational therapy and physical therapy services furnished as incident to a physician's professional services that did not meet the standards provided for outpatient physical therapy services furnished by a provider in a clinic, rehabilitation agency, public health agency, or by others under an arrangement with and under the supervision of such providers.

The provision would also apply the independent therapist per beneficiary cap of $900 per year to outpatient therapy services beginning in 1999. The cap would be increased each year by the estimated increase in gross domestic product (GDP).

Effective Date. Effective for services delivered on or after January 1, 1998.

Section 4422. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill or the Senate amendment. (See Rehabilitation Agencies and Services, above.)

Chapter 6—Other Payment Provisions

Payments for Durable Medical Equipment

(Sections 10611, 10612 and 4611, 4612, and 4622 of House bill and Sections 5523, 5524, 5221, 5224, 5225, and 5226 of Senate amendment)

(a) Durable Medical Equipment (DME) Updates

CURRENT LAW

DME is reimbursed on the basis of a fee schedule. Items are classified into five groups for purposes of determining the fee schedules and making payments: (1) inexpensive or other routinely purchased equipment (defined as items costing less than $150 or which are purchased at least 75 percent of the time); (2) items requiring frequent and substantial servicing; (3) customized items; (4) oxygen and oxygen equipment; and (5) other items referred to as capped rental items. In general, the fee schedules establish national payment limits for DME. The limits have floors and ceilings. The floor is equal to 85 percent of the weighted median of local payment amounts and the ceiling is equal to 100 percent of the weighted median of local payment amounts. Fee schedule amounts are updated annually by the consumer price index for all urban consumers, CPI–U.

HOUSE BILL

Section 10611(a)(1). Eliminates updates to the DME fee schedules for each of the years 1998 through 2002.

Effective date. Enactment.

Section 4611(a)(1). Identical provision.

SENATE AMENDMENT

Reduces the DME fee schedule update to CPI minus 2 percentage points (but not below zero) for each of the years 1998 through 2002.

Effective date. Applies to items furnished on and after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

(b) Upgraded Durable Medical Equipment

CURRENT LAW

Medicare requires that the payment amount for covered DME be consistent with what is reasonable and medically necessary to serve the intended purpose. Additional expenses for upgraded or deluxe features or items which are rented or purchased for added convenience or other purposes do not meet the reasonableness test. A beneficiary wishing upgraded features must purchase the upgraded item and seek reimbursement from Medicare for the basic item. Payment is based on the payment amount for the kind of item normally used to meet the intended purpose (i.e., the standard item). Usually this is the least costly item.

HOUSE BILL

No provision.

SENATE AMENDMENT

Effective on the date the Secretary issues regulations, beneficiaries could purchase or rent an item of upgraded DME for which payment would be made by Medicare as if the item were a standard item. Suppliers of the upgraded item would receive payment as if the item were a standard item and the beneficiary would pay the supplier the difference between the supplier's charge and Medicare's payment. In no event could the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for the item. The Secretary's regulations would address the determination of fair market prices for upgraded items; full disclosure of the availability and price of standard items and proof of receipt of this information by the beneficiary before furnishing of the upgraded item; conditions of participation for suppliers in the simplified billing arrangement; sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and such other safeguards as the Secretary determines are necessary.

Effective date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language.

The provision would apply to purchases or rentals after the effective date of any regulations issued by the Secretary.

(c) Update for Orthotics and Prosthetics

CURRENT LAW

Prosthetics and orthotics are paid according to a fee schedule with principles similar to the DME fee schedule. The fee schedule establishes regional payment limits for covered items. The payment limits have floors and ceilings. The floor is equal to 90 percent of the weighted average of regional payment amounts and the ceiling is 120 percent. Fee schedule amounts are updated annually by CPI–U.

HOUSE BILL

Section 10611(a)(2). Limits the update for the prosthetics and orthotics fee schedule to 1 percent for each of the years 1998 through 2002.

Effective date. Enactment.

Section 4611(a)(2): Identical provision.

SENATE AMENDMENT

Reduces the prosthetics and orthotics fee schedule update to CPI minus 2 percentage points (but not below zero) for each of the years 1998 through 2000.

Effective date. Applies to items furnished on and after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

(d) Payment Freeze for Parenteral and Enteral Nutrients, Supplies, and Equipment (PEN)

CURRENT LAW

Parenteral and enteral nutrients, supplies, and equipment are paid on the basis of the lowest reasonable charge levels at which items are widely and consistently available in the community.

HOUSE BILL

Section 10611(a)(3). Freezes reasonable charge payments for PEN at 1995 levels for the period 1998 through 2002.

Effective date. Enactment.

Section 4611(a)(3). Identical provision.

SENATE AMENDMENT

Reduces the reasonable charge updates for PEN to CPI minus 2 percentage points (but not below zero) for each of the years 1998 through 2002.

Effective date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

The Conferees note that there is scientific evidence suggesting that intradialytic parenteral nutrition (IDPN) therapy may be of benefit to certain subgroups of chronic dialysis patients. However, many questions remain about the physiologic effects, efficacy, and indications for IDPN therapy. The Conferees urge the Secretary to further investigate the clinical value of IDPN therapy, in consultation with appropriate organizations, and to provide recommendations regarding Medicare coverage of this therapy.

(e) Payment for Cochlear Implants

CURRENT LAW

Prosthetics and orthotics are paid according to a fee schedule with principles similar to the DME fee schedule. The fee schedule establishes regional payment limits for covered items. The payment limits have floors and ceilings. The floor is equal to 90 percent of the weighted average of regional payment amounts and the ceiling is 120 percent.

HOUSE BILL

Section 4622. Specifies that cochlear implants would be paid according to DME fee schedule for customized items.

Effective date. Applies to implants implanted on or after January 1, 1998.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision regarding cochlear implants. A cochlear implant is a surgically implanted, biomedical device used to improve hearing for patients with serious hearing loss. The Conferees were concerned that the cochlear provision would, in effect, establish in statute the reimbursement for one specific item of durable medical equipment. Given that cochlear implant technology is rapidly advancing, and the relatively low number of such implants each year, the Conferees believed this matter requires further examination. The Conferees also noted that the Secretary is currently developing a fee schedule limit on cochlear implants but has not yet done so. Cochlear manufacturers are concerned that the Secretary is using inaccurate data in developing the fee schedule. According to manufacturers, many cochlear development programs will cease to be financially viable if inaccurate data is used to generate a fee schedule. In this regard, the Conferees request that the Secretary examine this issue carefully and report to Congress on the fee schedule proposal. The Conferees recommend that the committees with jurisdiction over the Medicare program carefully monitor this issue. In addition, the Conferees note that other provisions of the conference agreement may address the concerns of cochlear manufacturers. For example, the conference agreement includes a more flexible "inherent reasonableness" authority for the Secretary to adjust payment amounts that are "grossly excessive or grossly deficient and not inherently reasonable." The Conferees believe cochlear implants may be a candidate for inherent reasonableness action if a problem develops in the future.

OXYGEN AND OXYGEN EQUIPMENT

Sections 10612 and 4612 of House bill and Section 5524 of Senate amendment

CURRENT LAW

Under Medicare oxygen and oxygen equipment are considered durable medical equipment and are paid according to a DME fee schedule. The fee schedule establishes a national payment limit for oxygen and oxygen equipment.

HOUSE BILL

Section 10612. Reduces the national payment limit for oxygen and oxygen equipment by 20 percent in 1998 through 2002.

Effective date. Enactment.

Section 4612. Identical provision.

SENATE AMENDMENT

Reduces the national payment limit for oxygen and oxygen equipment by 25 percent in 1998 and an additional 12.5 percent in 1999. These reductions would continue to be reflected in payments for oxygen in subsequent years. The Secretary would be authorized to establish separate classes of oxygen and oxygen equipment with differing payments, but only to the extent payments for home oxygen equipment are no greater (or less) than they would have been had separate classes and payment rates not been established. The Secretary would be required to establish, as soon as practicable, service standards and accreditation requirements for home oxygen providers. The General Accounting Office (GAO) would be required to study and report to the Ways and Means and Finance Committees on access to oxygen equipment, including recommendations for legislation, within 6 months of enactment. The Secretary would be required to arrange with peer review organizations to evaluate access to and quality of home oxygen equipment. In addition, the Secretary would be required to conduct a demonstration project on competitive bidding for home oxygen equipment.

Effective date. Reductions in payments for oxygen effective January 1, 1998. Other provisions effective on enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. The national payment limit for oxygen and oxygen equipment would be reduced by 25 percent in 1998 and an additional 5 percent in 1999; the thirty percent reduction would apply in each subsequent year. The Secretary would be required to establish service standards but not accreditation requirements for home oxygen providers. GAO's report on access to oxygen would be required to be submitted to Ways and Means, Commerce, and Finance within 18 months of enactment. The requirement for the Secretary to conduct a competitive bidding demonstration for home oxygen would be eliminated (but at least one of the competitive acquisition areas established in Subtitle D, Anti-Fraud and Abuse, would have to be for oxygen and oxygen equipment). The conferees wish to clarify that reductions in payments to oxygen and home oxygen equipment are in lieu of the Administration's proposed reductions through the regulatory process.

CLINICAL LABORATORY SERVICES

Section 10613 and 4613 of House bill and Section 5521 of Senate amendment

CURRENT LAW

Clinical diagnostic laboratory tests are paid on the basis of areawide fee schedules. The law sets a cap on payment amounts equal to 76% of the median of all fee schedules for the test. The fee schedules amounts are updated by the percentage change in the CPI.

(a) Update; cap

HOUSE BILL

Section 10613. Freezes fee schedule payments for the 1998-2002 period. The cap would be lowered from 76% of the median to 72% of the median beginning in 1998.

Section 4613. Identical provision.

SENATE AMENDMENT

Reduces (but not below zero) the update by 2 percentage points for each year, 1998–2002. The cap would be lowered to 74% of the median beginning in 1998.

CONFERENCE AGREEMENT

The conference agreement includes the House provision on the update. It includes the Senate amendment on lowering the cap.

(b) Study.

HOUSE BILL

No provision.

Effective Date. Enactment.

SENATE AMENDMENT

Requires the Secretary to request the Institute of Medicine to conduct a study of lab payments. The study would include a review of the adequacy of the current methodology and recommendations regarding alternative payment systems. It would also analyze and discuss the relationship between payment systems and access to high quality lab services for beneficiaries, including availability and access to new testing methodologies. The Secretary would be required to report to Congress within 2 years of enactment.

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language.

IMPROVEMENTS IN ADMINISTRATION OF LABORATORY SERVICES BENEFIT

Sections 10614 and 4614 of House bill and Section 5522 of Senate amendment

CURRENT LAW

Significant variations exist among carriers in rules governing requirements labs must meet in filing claims for payments.

HOUSE BILL

Section 10614. Requires the Secretary to divide the country into no more than five regions and designate a single carrier for each region to process laboratory claims (other than for independent physicians offices) no later than January 1, 1999. One of the carriers would be selected as a central statistical resource. The allocation of claims to a particular carrier would be based on whether the carrier serves the geographic area where the specimen was collected or other method selected by the Secretary.

Requires the Secretary, by July 1, 1998, to adopt uniform coverage, administration, and payment policies for lab tests using a negotiated rule-making process. The policies would be designed to promote uniformity and program integrity and reduce administrative burdens with respect to clinical diagnostic laboratory tests in connection with beneficiary information submitted with a claim, physicians' obligations for documentation and recordkeeping, claims filing procedures, documentation, and frequency limitations. Carriers could implement changes pending implementation of uniform policies.

Permits the use of interim regional policies where a uniform national policy had not been established and there is a demonstrated need for policy to respond to aberrant utilization or provision of unnecessary services. The Secretary would establish a process under which designated carriers could collectively develop and implement interim national standards for up to 2 years.

Requires the Secretary to conduct a review, at least every 2 years, of uniform national standards. The review would consider whether to incorporate or supercede interim regional or national policies.

Specifies that before carriers implement a change in requirements (including use of interim regional and interim national policies) in the period prior to the adoption of uniform policies, they must provide advance notice to interested parties and allow a 45 day period for parties to submit comments on proposed modifications.

Requires the inclusion of a laboratory representative on carrier advisory committees. The representative would be selected by the committee from nominations submitted by national and local organizations representing independent clinical labs.

Effective Date. Enactment.

Section 4614. Similar provision, except that designation of single carrier excludes tests performed in "physicians offices" rather than "independent physicians offices."

SENATE AMENDMENT

Similar provision, except: (1) specifies that the provision designating single carriers for each of five regions would not apply to lab services furnished by independent physicians offices until such time as the Secretary determines such offices would not be unduly burdened by the application of billing requirements with respect to more than one carrier; (2) specifies that one of the goals in designing uniform policies is to "simplify administrative requirements" rather than "reduce administrative burdens"; and (3) specifies that interim and national guidelines would apply to all lab services.

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments. The provision designating single carriers for each of five regions would not apply to those physician office laboratories which the Secretary determines would be unduly burdened by the application of billing responsibilities with respect to more than one carrier.

The agreement would clarify that uniform policies are national uniform policies. The policies would be designed to promote program integrity and national uniformity and simplify administrative requirements with respect to lab tests in connection with beneficiary information submitted with a claim, medical conditions for which a lab test is reasonable and necessary, appropriate use of procedure codes in billing, required medical documentation, recordkeeping requirements, claims filing procedures, and limitations on frequency of coverage for the same test performed on the same individual.

The agreement would provide that recommendations from national and local organizations that represent clinical laboratories would be considered in selecting the laboratory representative on a carrier advisory committee.

UPDATES FOR AMBULATORY SURGICAL SERVICES

Sections 10615 and 4615 of the House bills and Section 5525 of the Senate amendment

CURRENT LAW

Medicare pays for ambulatory surgical center (ASC) services on the basis of prospectively determined rates. These rates are updated annually by the CPI-U. OBRA 93 eliminated updates for ASCs for FY 1994 and FY 1995.

HOUSE BILL

Section 10615. Sets the updates for FY 1998 through FY 2002 at the increase in the CPI-U minus 2.0 percentage points. The provision would set the update for each succeeding fiscal year equal to the increase in the CPI–U.

Effective date. Enactment.

Section 4615. Identical provision.

SENATE AMENDMENT

Similar provision, except sets the updates for FY 1998 through FY 2002 at the increase in the CPI-U minus 2.0 percentage points, but not below zero. The provision does not include updates for succeeding years.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

REIMBURSEMENT FOR DRUGS AND BIOLOGICALS

Section 10614 and 4614 of House bill and 5526 of Senate amendment

CURRENT LAW

Payment for drugs is based on the lower of the estimated acquisition cost or the national average wholesale price. Payment may also be made as part of a reasonable cost or prospective payment.

HOUSE BILL

Section 10616. Specifies that in any case where payment is not made on a cost or prospective payment basis, the payment would equal 95% of the average wholesale price.

Effective Date. Applies to drugs and biologicals furnished on or after January 1, 1998.

Section 4616. Identical provision.

SENATE AMENDMENT

Similar provision except the average wholesale price would be "as specified by the Secretary".

Specifies that in 1998, the payment amount could not exceed the amount payable on May 1, 1997, and in subsequent years could not exceed the previous year's amount increased by the percentage increase in the CPI. For any other drug or biological, the annual increase for any year following the first year for which payment is made would be limited to the percentage increase in the CPI. If payment is made to a licensed pharmacy, the Secretary (as the Secretary determines appropriate) would pay a dispensing fee (less applicable deductible and insurance amounts).

Requires the Secretary to conduct studies and surveys as necessary to determine the average wholesale price (and such other prices the Secretary determines appropriate). The Secretary would report to the appropriate congressional committees within six months of enactment on the results.

Effective Date. Applies to drugs and biologicals furnished on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with modifications. The provision would specify that if payment is made to a licensed pharmacy, the Secretary (as the Secretary determines appropriate) would pay a dispensing fee (less applicable deductible and coinsurance amounts).

The agreement would require the Secretary to study the effect of the provision on average wholesale prices and report the results of such study to the appropriate committees of Congress by July 1, 1999.

COVERAGE OF ORAL ANTI-NAUSEA DRUGS UNDER CHEMOTHERAPEUTIC REGIMEN

Section 10617 and 4617 of House bill

CURRENT LAW

Medicare provides coverage for certain oral cancer drugs. The Administration has specified that Medicare will pay for self-administrable oral or rectal versions of self-administered anti-emetic drugs when they are needed for the administration and absorption of primary Medicare covered oral anticancer chemotherapeutic agents when a high likelihood of vomiting exists.

HOUSE BILL

Section 10617. Provides coverage, under specified conditions, for an oral drug used as an acute anti-emetic used as part of an anticancer chemotherapeutic regimen. It would have to be administered by a physician (or as prescribed by a physician) for use immediately before, at, or within 48 hours after the time of administration of the chemotherapeutic agent and used as a full replacement for the anti-emetic therapy which would otherwise be administered intravenously.

Establishes a per dose payment limit equal to 90% of the average per dose payment basis for the equivalent intravenous anti-emetics administered during the year, as computed based on the payment basis applied in 1996. The Secretary would be required to make adjustments in the coverage of, or payment, for the anti-nausea drugs so that an increase in aggregate payments per capita does not result.

Effective Date. Applies to services furnished on or after January 1, 1998.

Section 4617. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with modifications. It deletes the provisions specifying payment limits. The Conferees expect that the oral forms of the anti-emetics will result in substantial cost savings to Medicare relative to the intraveneous versions of anti-emetics.

RENAL DIALYSIS-RELATED SERVICES

Sections 10621 and 4621 of the House bills

CURRENT LAW

Medicare covers persons who suffer from end-stage renal disease. Facilities providing dialysis services must meet certain requirements.

HOUSE BILL

Section 10621. Requires the Secretary to audit a sample of cost reports of renal dialysis providers for 1995 and for each third year thereafter. The Secretary would also be required to develop and implement by January 1, 1999, a method to measure and report on the quality of renal dialysis services provided under Medicare in order to reduce payments for inappropriate or low quality care.

Effective date. Enactment.

Section 4621. Identical provision

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The Conference agreement includes the House provision with modifications. The Conference agreement would require each provider to be audited at least once every three years. The Conference agreement would require the Secretary to develop by no later than January 1, 1999, and implement by no later than January 1, 2000, a method to measure and report on the quality of renal dialysis services provided under Medicare. The conference agreement does not include the provision specifying that the quality measures are to be implemented in order to reduce payments for inappropriate or low quality care.

Chapter 7—Part B Premium

PART B PREMIUM

Section 10631 and 4631 of House bill and Section 5541 of Senate amendment

CURRENT LAW

When Medicare was established in 1965, the Part B monthly premium was intended to equal 50% of program costs. The remainder was to be financed by federal general revenues, i.e., tax dollars. Legislation enacted in 1972 limited the annual percentage increase in the premium to the same percentage by which social security benefits were adjusted for cost-of-living increases (i.e., cost-of-living or COLA adjustments). As a result, revenues dropped to below 25% of program costs in the early 1980s. Since the early 1980s, Congress has regularly voted to set the premium equal to 25% of costs. Under current law, the 25% provision is extended through 1998; the COLA limitation would again apply in 1999.

HOUSE BILL

Section 10631. Sets permanently the Part B premium at 25% of program costs.

Effective Date. Enactment.

Section 4631. Identical provision

SENATE AMENDMENT

Similar provision

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language.

INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY

Section 5542 of Senate amendment

CURRENT LAW

Under current law, all beneficiaries, regardless of income, pay the same Part B premium. The premium is equal to 25% of program costs. The remaining 75% of Part B costs are paid from Federal general revenues.

(a) Amount

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that individuals with incomes over $50,000 and couples (filing joint returns) with incomes over $75,000 would be subject to an increased Part B premium. The Federal subsidy would be phased out so that individuals with incomes at $100,000 and couples with incomes at $125,000 would pay 100% of program costs. There would be a straight line sliding scale phase-out of the subsidy for individuals with incomes between $50,000 and $100,000 and couples with incomes between $75,000 and $125,000. Income is defined as modified adjusted gross income (AGI) for a taxable year. (Married couples living together but filing separate returns would be subject to a straight line sliding scale phase-out over the income range from zero to $50,000)

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(b) Administration

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to make an initial determination of the amount of an individual's modified AGI for a year. Not later than the preceding September, the Secretary would be required to notify each individual the Secretary determines would be subject to an increased premium. The determination would be based on the individual's actual modified AGI for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury. The notice to the individual would include the Secretary's estimate of the individual's AGI for the year. The individual would have a 30 day period (beginning with the date the notice is provided) to provide information on the individual's anticipated AGI for the forthcoming year. If the individual provides information during this period, it would serve as the basis for determining the individual's modified AGI.

Requires the Secretary to make a premium adjustment if he or she determined (based on information provided by the Secretary of the Treasury) that actual modified AGI was different from the amount initially determined. The adjustment would be made to the subsequent year's premium to account for any overpayments or underpayments in the previous year.

Requires the Secretary to increase the adjustment for an underpayment if the initial determination was based on information supplied by the individual. The increase would equal the interest rate (as determined under the Internal Revenue Code, compounded daily) applied to any underpayment. The interest would accrue from the first day of the month after the individual supplied information to the Secretary. It would end 30 days before the first month for which the monthly premium was increased to account for the underpayment.

Authorizes the Secretary to make appropriate recovery efforts in the case of an individual who owed an additional amount, but was not enrolled in Part B in the subsequent year. The Secretary would also be authorized, in the case of a deceased individual, to make payments to the surviving spouse, or an individual's estate, in the case of overpayments to the program.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(c) Definition of Modified AGI

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that modified AGI would generally be defined as such term is used in the tax Code. The determination of modified AGI would be made without regard to provisions in the Code relating to: income from U.S. savings bonds used to pay higher education costs, income for persons living abroad, and income from sources within the U.S. possessions and Puerto Rico. The definition would include interest income which is exempt from Federal taxes.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(d) Transfer of Premium Amounts

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that Part B premium amounts attributable to the income-related reduction in the Federal subsidy would be transferred to the Part A trust fund. Amounts appropriated to cover the government contribution to Part B would not take into account the premium amounts attributable to the income-related reduction in the Federal subsidy.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(e) Impact on Other Part B Premium Calculations

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that the delayed enrollment penalty would apply to the income-related premium amount. The provision that specifies that an individual's premium increase could not result in a reduction in an individual's social security check would not apply to persons subject to an income-related premium.

Specifies that individuals would be able to pay the Secretary if the amount of estimated modified AGI is too low and results in a portion of the required premium not being deducted from the beneficiary's social security check.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(f) Reporting Requirements for Secretary of the Treasury

HOUSE BILL

No provision.

SENATE AMENDMENT

Permits the Secretary of the Treasury, upon written request from the Secretary of HHS, to disclose to officers and employees of HCFA return information for taxpayers required to pay Part B premiums. The information would be limited to: taxpayer identity information; filing status; AGI; amounts excluded from gross income (under provisions relating to savings bonds used to pay higher education costs and persons living abroad); tax-exempt interest income to the extent such information is available; and amounts excluded from gross income (under provisions relating to income from sources within U.S. possessions or Puerto Rico) to the extent such information is available. The information disclosed to HCFA could only be used for purposes of establishing the monthly Part B premium.

Effective Date. Applies to monthly premiums for months beginning with January 1998. The Secretary would be permitted to request taxpayer return information for taxable years beginning after December 31, 1994.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

DEMONSTRATION PROJECT ON INCOME-RELATED PART B DEDUCTIBLE

Section 5543 of Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to conduct a demonstration project in which individuals otherwise responsible for an income-related premium (under Section 5542 of the Senate amendment) would instead be responsible for an income-related deductible. The income limits and administrative procedures would be the same as those used for the income-related premium. The Secretary would conduct the project in a representative number of sites and include a sufficient number of individuals to ensure that the project produced statistically valid findings. Participation in the project would be on a voluntary basis. Individuals enrolled in a Medigap plan could not participate in the project.

Specifies that the project could not exceed a five-year period. The Secretary would consult with appropriate organizations and experts in conducting the project. The Secretary would be permitted to waive compliance with Medicare and Medicaid law to the extent determined necessary.

Requires the Secretary to report on the project to Congress within two years of enactment, within five years of enactment, and biannually thereafter. The reports would include a description of the demonstration projects; a description of the utilization and health care status of individuals participating in the project; and any other information the Secretary determined to be appropriate.

Effective Date. Enactment

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

LOW INCOME BENEFICIARY BLOCK GRANT PROGRAM

Section 5544 of Senate amendment

CURRENT LAW

Medicare beneficiaries are liable for specific cost-sharing charges, namely premiums, deductibles, and coinsurance. Certain low-income beneficiaries, known as qualified Medicare beneficiaries (QMBs), are entitled to have their Medicare cost-sharing charges paid by the Federal-State Medicaid program. A QMB is an aged or disabled person with income at or below the Federal poverty line ($7,890 for a single and $10,610 for a couple in 1997) and resources below $4,000 for an individual and $6,000 for a couple. Medicaid protection is limited to payment of Medicare cost-sharing charges unless the individual is otherwise entitled to Medicaid.

States are also required to pay Medicare Part B premiums for Specified Low-Income Medicare beneficiaries (SLIMBs). These are persons who meet the QMB criteria, except that their income is slightly over the QMB limit. The SLIMB limit is 120% of the Federal poverty line. Medicaid protection is limited to payment of the Medicare Part B premium unless the individual is otherwise entitled to Medicaid.

The Federal government and the States share in the payment for QMB and SLIMB benefits according to the matching formula applicable for Medicaid services (known as the Federal Medical Assistance Percentage (FMAP)).

HOUSE BILL

No provision (See Section 3422 in discussion of Medicaid).

SENATE AMENDMENT

Requires the Secretary to establish a block grant program to the States for the payment of Medicare Part B premiums for persons meeting the SLIMB definition, except that their income is between 120% and 150% of the Federal poverty line.

Requires States to submit a grant application to the Secretary. The Secretary would award grants to states with approved applications. The amount of a state grant would bear the same ratio to the total appropriated as the total number of eligible persons in the state bears to the total eligible population nationwide. The FMAP in a state with a grant would be 100%.

Authorizes the Secretary to transfer from Part B the following amounts: $200 million in FY 1998, $250 million in FY 1999, $300 million in FY 2000, $350 million in FY 2001, and $400 million in FY 2002. The funds would remain available without fiscal year limitation. The section would establish budget authority and represent an obligation of the Federal government. Grants could be made to the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. However, see Section 4731 which authorizes state coverage of additional low-income Medicare beneficiaries under the Medicaid program.

GOVERNMENTAL ENTITIES ELIGIBLE TO ELECT TO PAY PART B PREMIUMS FOR ELIGIBLE INDIVIDUALS

CONFERENCE AGREEMENT

The conference agreement authorizes the Secretary to enter into an agreement with any state or local governmental entity specified by the Secretary for payment of the Part B late enrollment penalty.

Subtitle G—Provisions Relating to Parts A and B

Chapter 1—Home Health Services

(a) Home health prospective payment

Sections 10441 and 4441 of House bill and Section 5343 of Senate amendment

CURRENT LAW

Medicare reimburses home health agencies on a retrospective cost-based basis. This means that agencies are paid after services are delivered for the reasonable costs (as defined by the program) they have incurred for the care they provide to program beneficiaries, up to certain limits. In provisions contained in the Orphan Drug Act of 1983, OBRA 87 and OBRA 90, Congress required the Secretary to develop alternative methods for paying for home health care on a prospective basis. In 1994, the Office of Research and Demonstration in the Health Care Financing Administration completed a demonstration project that tested prospective payment on a per visit basis. Preliminary analysis indicates that the per visit prospective payment methodology had no effect on cost per visit or volume of visits. The Health Care Financing Administration has begun a second project, referred to as Phase II, to test prospective payment on a per episode basis, and has also undertaken research to develop a home health case-mix adjustor that would translate patients' varying service needs into specific reimbursement rates.

HOUSE BILL

Section 10441. Requires the Secretary to establish a prospective payment system for home health and implement the system beginning October 1, 1999. All services covered and paid on a reasonable cost basis at the time of enactment of this section, including medical supplies, would be required to be paid on a prospective basis. In implementing the system, the Secretary could provide for a transition of not longer than 4 years during which a portion of the payment would be based on agency-specific costs, but only if aggregate payments were not greater than they would have been if a transition had not occurred.

In establishing the prospective system, the Secretary would be authorized to consider an appropriate unit of service and the number of visits provided within that unit, potential changes in the mix of services provided within that unit and their cost, and a general system design that provides for continued access to quality services.

Under the new system, the Secretary would compute a standard prospective payment amount (or amounts) that would initially be based on the most current audited cost report data available to the Secretary. For fiscal year 2000, payment amounts under the prospective system would be computed in such a way that total payments would equal amounts that would have been paid had the system not been in effect, but would also reflect a 15% reduction in cost limits and per beneficiary limits in effect September 30, 1999. Payment amounts would be standardized in a manner that eliminates the effect of variations in relative case mix and wage levels among different home health agencies in a budget neutral manner. The Secretary could recognize regional differences or differences based on whether or not services are provided in an urbanized area. Beginning with fiscal year 2001, standard prospective payment amounts would be adjusted by the home health market basket.

The payment amount for a unit of home health service would be adjusted by a case mix adjustor factor established by the Secretary to explain a significant amount of the variation in the cost of different units of service. The labor-related portion of the payment amount would be adjusted by an area wage adjustment factor that would reflect the relative level of wages and wage-related costs in a particular geographic area as compared to the national average. The Secretary could provide for additions or adjustments to payment amounts for outliers because of unusual variations in the type or amount of medically necessary care. The total amount of outlier payments could not exceed 5 percent of total payments projected or estimated to be made in a year. The Secretary would be required to reduce the standard prospective payments by amounts that in the aggregate would equal outlier adjustments. If a beneficiary were to transfer to or receive services from another home health agency within the period covered by a prospective payment amount, then the payment would be prorated between the agencies involved.

Claims for home health services furnished on or after October 1, 1998, would be required to contain an appropriate identifier for the physician prescribing home health services or certifying the need for care. Claims would also be required to include information (coded in an appropriate manner) on the length of time of a service, as measured in 15 minute increments. The categories of services for which time information would have to be included on a claim would be skilled nursing care; therapies—physical and occupational therapy and speech language pathology; medical social services; and home health aide services.

Administrative or judicial review would not be permitted for the establishment of the transition period (if any) for the prospective payment system; the definition and application of payment units; the computation of initial standard payment amounts; the establishment of the reduction in the standard prospective payment amount for outliers and the establishment of any adjustments for outliers; the establishment of case-mix and area wage adjustments; and the amounts or types of adjustments to the prospective payment amounts.

Periodic interim payments for home health services would be eliminated. All home health care agencies would be paid according to the prospective payment system.

In order for home health services to be considered covered care, home health care agencies would be required to submit claims for all services, and all payments would be made to a home health agency without regard to whether or not the item or service was furnished by the agency, by others under arrangement, or under any other contacting or consulting arrangement.

Effective date. Applies to cost-reporting periods beginning on or after October 1, 1999.

Section 4441. Identical provision.

SENATE AMENDMENT

Identical provision, except requires the Secretary to reduce cost limits and per beneficiary limits in effect September 30, 1999, by 15%, even if the Secretary is not prepared to implement the new prospective payment system October 1, 1999.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language.

The Conferees continue to be concerned about "shell" certified home health agencies and support efforts to route out abuses that exist. However, the Conferees believe that in establishing cost limits or a prospective payment system for home health care, the Secretary should consider state programs aimed at targeting such abuses, particularly those that provide for increased flexibility in the training and utilization of home health aides.

(b) Recapturing Savings Resulting from Temporary Freeze on Payment Increases for Home Health Services (Sections 10711 and 4711 of House bill and Section 5341 of Senate amendment)

CURRENT LAW

Home health limits are updated annually. The Omnibus Budget Reconciliation Act of 1993 (OBRA93) required that there be no updates in home health cost limits (including no adjustments for changes in the wage index or other updates of data) for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996.

HOUSE BILL

Section 10711. Requires the Secretary, in establishing home health limits for cost reporting periods beginning after September 30, 1997, to capture the savings stream resulting from the OBRA 93 freeze of home health limits by not allowing for the market basket updates to the limits that occurred during the cost reporting periods July 1, 1994 through June 30, 1996. In granting exemptions or exceptions to the cost limits, the Secretary would not consider the preceding provision for recapturing savings from the OBRA 93 freeze.

Effective date. Enactment.

Section 4711. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(c) Interim Payments for Home Health Services (Section 10712 and 4712 of House bill and Section 5342 of Senate amendment)

CURRENT LAW

Limits for individual home health services are set at 112 percent of the mean labor-related and nonlabor per visit costs for freestanding agencies (i.e., agencies not affiliated with hospitals). The limits are effective for cost reporting periods beginning on or after July 1 of a given year and ending June 30 of the following year.

HOUSE BILL

Section 10712. Prior to implementation of the new home health prospective payment system, reduces per visit cost limits to 105 percent of the national median of labor-related and nonlabor costs for freestanding home health agencies, effective for cost-reporting periods beginning October 1, 1997 (in effect, delaying the cycle for updating the limits).

In addition, for cost reporting periods beginning on or after October 1, 1997, home health agencies would be paid the lesser of: (1) their actual costs (i.e., allowable reasonable costs); (2) the per visit limits, reduced to 105% of the national median, applied in the aggregate; or (3) a new blended agency-specific per beneficiary annual limit, applied to the agency's unduplicated census count of Medicare patients. The blended per beneficiary limit would be based 75% on an agency's own costs per beneficiary and 25% on the average cost per beneficiary for agencies in the same census region (adjusted for differences in labor costs). These costs would be calculated using cost reports for cost reporting periods ending in 1994, updated by the home health market basket and would include the costs associated with non-routine medical supplies. For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit would be equal to the median of these limits (or the Secretary's best estimates) applied to home health agencies. Home health agencies that have altered their corporate structure or name would not be considered new providers for these purposes. For beneficiaries using more than one home health agency, the per beneficiary limitation would be prorated among the agencies.

The Secretary would be required to expand research on a prospective payment system for home health that ties prospective payments to a unit of service, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of variance in cost. The Secretary would be authorized to require all home health agencies to submit additional information that is necessary for the development of a reliable case-mix system, effective for cost reporting periods beginning on or after October 1, 1997.

Effective date. Enactment.

Section 4712. Identical provision.

SENATE AMENDMENT

Identical, except the per beneficiary limit would be based strictly on agency-specific costs, and not on a blended amount.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with amendments to (1) calculate the blended per beneficiary limits based on 98 percent of 1994 costs; (2) specify that the per beneficiary limits for new providers and others without a 12-month cost reporting period ending in fiscal year 1994 would be equal to the median of limits for home health agencies; and (3) require the Secretary to establish by April 1, 1998, per beneficiary limits that would be effective for FY 1998.

(d) Clarification of Part-Time or Intermittent Nursing Care (Section 10713 and 4713 of House bill and Section 5363 of Senate amendment)

CURRENT LAW

Both Parts A and B of Medicare cover home health visits for persons who need skilled nursing care on an intermittent basis or physical therapy or speech therapy. Once beneficiaries qualify for the benefit, the program covers part-time or intermittent nursing care provided by or under the supervision of a registered nurse and part-time or intermittent home health aide services, among other services. Coverage guidelines issued by HCFA have defined part-time and intermittent.

HOUSE BILL

Section 10713. Effective for services furnished on or after October 1, 1997, includes in Medicare statute definitions for part-time and intermittent skilled nursing and home health aide services. For purposes of receiving skilled nursing and home health aide services, "part-time or intermittent" would mean skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week). For purposes of qualifying for Medicare's home health benefit because of a need for intermittent skilled nursing care, "intermittent" would mean skilled nursing care that is either provided or needed on fewer than 7 days each week, or less than 8 hours of each day for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional care is finite and predictable).

Effective date. Applies to services furnished on or after October 1, 1997.

Section 4713. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(e) Study on Definition of Homebound (Section 10714 and 4714 of House bill and Section 5364 of Senate amendment)

CURRENT LAW

In order to be eligible for home health care, a Medicare beneficiary must be confined to his or her home. The law specifies that this "homebound" requirement is met when the beneficiary has a condition that restricts the ability of the individual to leave home, except with the assistance of another individual or with the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. The law further specifies that while an individual does not have to be bedridden to be considered confined to home, the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.

HOUSE BILL

Section 10714. Requires the Secretary of Health and Human Services to conduct a study on the criteria that should be applied, and the method for applying criteria, to the determination of whether an individual is considered homebound for purposes of qualifying for Medicare's home health benefit. The Secretary would be required to report to Congress no later than October 1, 1998, and make specific recommendations on such criteria.

Effective date. Enactment.

Section 4714. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(f) Payment Based on Location Where Home Health Service is Furnished (Section 10715 and 4715 of House bill and Section 5344 of Senate amendment)

CURRENT LAW

Some home health agencies are established with the home office in an urban area and branch offices in rural areas. Payment is based on where the service is billed, in this case the urban area with its higher wage rate, even if the service had been delivered in a rural area.

HOUSE BILL

Section 10715. Effective for cost reporting periods beginning on or after October 1, 1997, requires home health agencies to submit claims on the basis of the location where a service is actually furnished.

Effective date. Applies to cost reporting periods beginning on or after October 1, 1997.

Section 4715. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(g) Normative Standards for Home Health Claims Denials (Section 10716 and 4716 of House bill and Section 5365 of Senate amendment)

CURRENT LAW

As long as they remain eligible, home health users are entitled to unlimited number of visits.

HOUSE BILL

Section 10716. Authorizes the Secretary to establish normative guidelines for the frequency and duration of home health services. Payments would be denied for visits that exceed the normative standards. Also authorizes the Secretary to establish a process for notifying a physician in which the number of home health visits furnished according to a prescription or certification of the physician significantly exceeds the threshold normative number of visits that would be covered for specific conditions or situations.

Effective date. Applies to services on or after October 1, 1997.

Section 4716. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment.

(h) No Home Health Benefits Based Solely on Drawing Blood (Section 10717 and 4717 of House bill)

CURRENT LAW

In order to qualify for Medicare's home health benefit, a person must be homebound and be in need of intermittent skilled nursing care or physical or speech therapy.

HOUSE BILL

Section 10717. Clarifies that a person could not qualify for Medicare's home health benefit on the basis of needing skilled nursing care for venipuncture for the purpose of obtaining a blood sample.

Effective date. Applies to home health services furnished beginning 6 months after enactment.

Section 4717. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

(I) Copayment for Part B Home Health Services (Section 5362 of Senate amendment)

CURRENT LAW

Medicare's home health benefit is subject neither to deductibles nor coinsurance.

HOUSE BILL

No provision.

SENATE AMENDMENT

Establishes a $5 per visit copayment for Part B covered home health services, billed monthly, and capped annually at an amount equal to the Part A hospital deductible.

Effective date. Applies to services furnished on or after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(j) Inclusion of Cost of Service in Explanation of Medicare Benefits (Section 5366 of Senate amendment)

CURRENT LAW

The Health Care Financing Administration is required to include certain information in the explanation of benefits that beneficiaries receive following the provision of services.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires, in the case of home health services covered under Part B, that the explanation of benefits include information about the total amount the home health agency billed for services provided.

Effective date. Applies to explanation of benefits provided on and after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

(k) Transfer of Certain Home Health Visits to Part B (Sections 10531 and 4718 of House bill and Section 5361 of Senate amendment)

CURRENT LAW

Both Parts A and B of Medicare cover home health. Neither part of the program applies deductibles or coinsurance to covered visits, and beneficiaries are entitled to an unlimited number of visits as long as they meet eligibility criteria. Section 1833(d) of Medicare law prohibits payments to be made under part B for covered services to the extent that individuals are also covered under Part A for the same services. As a result, the comparatively few persons who have no Part A coverage are the only beneficiaries for whom payments are made under Part B.

HOUSE BILL

Section 10531. Gradually transfers from Part A to Part B home health visits that are not part of the first 100 visits following a beneficiary's stay in a hospital or skilled nursing facility and during a home health spell of illness. The transfer would be phased in over a period of *6 years* between 1998 and 2003. In order to determine what portion of visits to transfer in a given year, the Secretary would first estimate the amount of payments that would have been made if (1) Part A home health services had the definition they did before enactment of this section and (2) Part A home health services were limited to the 100 visits following an institutional stay. The Secretary would next determine the difference between the two amounts for each year 1998 through 2002 and then multiply that amount by a proportion specified for the given year. For 1998, the proportion is 1/6; for 1999, 2/6; for 2000, 3/6; for 2001, 4/6; for 2002, 5/6; and for 2003, 6/6. The Secretary would be required to specify a visit limit or a post-institutional limitation that would result in a reduction in the amount of Part A home health payments equal to the transfer amount specified above. On or after January 1, 2003, Part A would cover only post-institutional home health services for up to 100 visits during a home health spell of illness, except for those persons with Part A coverage only who would be covered for services without regard to the post-institutional limitation.

The increase in the Part B premium attributable to the transferred visits would be phased in over a period of 7 years, between 1998 and 2004. For 1998, the Part B premium would be increased by one-seventh of the extra costs due to the transfer; for 1999, the Part B premium would be increased by two-sevenths of the extra costs; for 2000, three-sevenths; for 2001, four-sevenths; for 2002, five-sevenths; for 2003, six-sevenths; and for 2004, the total of the extra costs due to the transfer.

Post-institutional home health services would be defined as services furnished to a Medicare beneficiary: (1) after an inpatient hospital or rural primary care hospital stay of at least 3 days, initiated within 14 days after discharge; or (2) after a stay in a skilled nursing facility, initiated within 14 days after discharge. Home health spell of illness would be defined as the period beginning when a patient first receives post-institutional home health services and ending when the beneficiary has not received inpatient hospital, skilled nursing facility, or home health services for 60 days.

Claims administration for transferred visits would continue to be done by Part A fiscal intermediaries.

The threshold for hearings before an administrative law judge on disputed claims would be $100 for home health services covered under Part B.

Effective date. Applies to services furnished on or after January 1, 1998.

Section 4718. All home health visits that are not post-hospital visits would be transferred from Part A to Part B effective October 1, 1997. Post-hospital home health services would be defined as the first 100 visits furnished to an individual under a plan of treatment established when the individual is an inpatient of a hospital or rural primary care hospital for at least 3 consecutive days, or during a covered SNF stay, so long as services are initiated within 30 days after discharge from the institution. The Secretary would be required to calculate the increase in the Part B premium attributable to the transfer. This increase would be phased in over a period of 7 years, between 1998 and 2004. For 1998, the Part B premium would be increased by one-seventh of the extra costs due to the transfer; for 1999, the Part B premium would be increased by two-sevenths of the extra costs; for 2000, three-sevenths; for 2001, four-sevenths; for 2002, five-sevenths; for 2003, six-sevenths; and for 2004, the total of the extra costs due to the transfer.

Identical provision regarding hearings for home health disputed claims, but no provision on fiscal intermediary administration of transferred Part B home health visits.

The Secretary would be required to submit to Congress by October 1, 1999, a report on the impact on home health utilization and admissions to hospitals and skilled nursing facilities of covering only the first 100 post-hospital home health visits under Part A. In addition, the Secretary would be required to re-examine and submit a report on this impact 1 year after the full implementation of the home health prospective payment system required under the bill.

Effective date. Applies to services furnished on or after October 1, 1997.

SENATE AMENDMENT

Similar to Section 10531, except that transfer to Part B (of home health visits that are not part of the first 100 post-institutional visits) would take place over a period of 7 years, rather than 6.

CONFERENCE AGREEMENT

The conference agreement includes the House Ways and Means provision as included in section 10531, with an amendment to require the Secretary to transfer, over the 6-year period and in the specified proportions, expenditures rather than visits.

The conference agreement also includes a provision requiring the Secretary, not later than October 1, 1997, to report to the Commerce, Ways and Means, and Finance Committees on an estimate of Medicare home health outlays under parts A and B during each of the fiscal years 1998 through 2002. Not later than the end of each of the years 1999 through 2002, the Secretary would also be required to submit a report that compares actual outlays with estimated outlays. If the Secretary finds for a fiscal year that actual outlays were greater than estimated outlays, the report would also be required to include recommendations regarding beneficiary copayments or such other methods as will reduce the growth in outlays for Medicare home health services.

Chapter 2—Graduate Medical Education

Subchapter A—Indirect Medical Education

Reduction in Adjustment for Indirect Medical Education

Section 10506 of the House bill and Section 5446 of the Senate amendment

CURRENT LAW

Medicare recognizes the costs of graduate medical education in teaching hospitals and the higher costs of providing services in those institutions. Medicare recognizes the costs of graduate medical education under two mechanisms: direct graduate medical education (GME) payments and an indirect medical education (IME) adjustment. The IME is designed to compensate hospitals for indirect costs attributable to the involvement of residents in patient. The additional payment to a hospital is based on a formula that provides an increase of approximately 7.7 percent in the DRG payment, for each 10 percent increase in the hospital teaching intensity (based on its intern and resident-to-bed).

HOUSE BILL

Reduces the IME adjustment from the current aggregate 7.7% to 6.6% in FY 1998, and to 5.5% during and after FY 1999. For discharges occurring on or after October 1, 1997, the total number of residents and interns in either a hospital or non-hospital setting could not exceed the number of interns and residents reported on the hospital's cost report for the period ending December 31, 1996. For hospital's first cost reporting period beginning on or after October 1, 1997, the total number of FTE residents and interns for payment purposes would equal the average of the actual FTE resident and intern count for the cost reporting period and the preceding year's cost reporting period. For the cost reporting period beginning October 1, 1998, and each subsequent cost reporting period, subject to certain limits, the total number of FTE residents and interns for payment purposes would equal the average of the actual FTE resident count for the cost reporting period and the preceding two year's cost reporting periods. The Secretary would have discretion to establish rules for new residency programs.

Effective Date. Enactment.

SENATE AMENDMENT

Similar provision, except reduces the IME adjustment from the current 7.7% to 7.0% in FY 1998; to 6.5% in FY 1999; to 6.0% in FY 2000; and to 5.5% in FY 2001 and subsequent years.

The provision would authorize the Secretary to allow hospitals with new approved residency training programs, for the first 5 years of such a program, an additional amount of FTE interns and residents, subject to the overall limit on the total number of FTE interns and residents. The additional number of FTE residents could not exceed the amount which would result in the number of FTE interns or residents for all hospitals exceeding the number for the preceding year. In allocating any additional residents, the Secretary would be required to give special consideration to facilities that meet the needs of underserved rural areas.

For discharges occurring on or after October 1, 1997, all the time spent by an intern or resident in patient care activities under an approved residency training program in a nonhospital setting would be counted towards the determination of FTEs if the hospital incurred all, or substantially all, of the costs of the training program in that setting.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments. The conference agreement includes a requirement that the Secretary prescribe rules for limiting and counting the number of interns and residents in training programs established on or after January 1, 1995. The Secretary would be required to prescribe special rules for new and developing medical residency training programs. In promulgating such rules, the Secretary would be required to give special consideration to facilities that meet the needs of underserved rural areas.

The conference agreement includes new permission for hospitals to rotate residents through non-hospital settings, which include primarily ambulatory care settings, without reduction in indirect medical education funds. The Conferees are concerned about the current lack of data on the number of residents receiving training in ambulatory care sites. To address this matter, the Secretary is directed to develop an inventory of the number and types of such sites and the average number of residents at these sites. The Conferees also intend that the Secretary include in this inventory residents in training at qualified non-hospital providers which receive direct graduate medical education payments, as provided elsewhere in this legislation.

Graduate Medical Education and Indirect Medical Education Payments for Managed Care Enrollees

Section 4008 of the House bill and Section 5451 of the Senate amendment

CURRENT LAW

Medicare payments to risk-contract HMOs include amounts that reflect Medicare's fee-for-service payments to hospitals in an area for indirect and direct graduate medical education costs.

(a) Payments to Managed Care Organizations Operating Graduate Medical Education Programs.

HOUSE BILL

Amends Section 1853 of the new Medicare Part C of the Social Security Act, as established by this legislation, to establish a mechanism for the allocation of payments for direct GME and IME costs carved out from the AAPCCs and MedicarePlus capitation rates to be made to risk contract plans under Section 1876 and MedicarePlus organizations. Beginning January 1, 1998, each contract with a MedicarePlus organization would be required to provide an additional payment for Medicare's share of allowable direct GME costs incurred by the organization for an approved medical residency program. A MedicarePlus organization that incurred all or substantially all of the costs of the medical residency program would receive a payment equal to the national average per resident amount times the number of full-time-equivalent (FTE) residents in the program in non-hospital settings. The Secretary would be required to estimate the national average per resident amount equal to the weighted average amount that would be paid per FTE resident under the direct GME payment in a calendar year. A separate determination would be required to be made for primary care residency programs as defined by Medicare, including obstetrics and gynecology residency programs.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(b) Payments to Hospitals for Direct and Indirect Costs of Graduate Medical Education Programs Attributable to Managed Care Enrollees.

HOUSE BILL

Amends Part C of Medicare, as amended by Section 4001 of the bill, by inserting a new section 1858, "Payments to Hospitals for Certain Costs Attributable to Managed Care Enrollees."

The Secretary would be required to make additional payments for the direct GME costs to PPS and PPS-exempt hospitals and hospitals located in a state with a state hospital reimbursement control system for services furnished to Medicare beneficiaries enrolled in managed care. These payments would be phased in over 5 years in the same proportion as amounts are deducted (carved out) from Medicare managed care plans under the new Section 1853 established by the bill. Total payments under this provision could not exceed amounts deducted (carved out) of the MedicarePlus capitation rates. Subject to certain limits, the direct GME payment amount would be equal to the product of: (1) the aggregated approved amount of direct GME payments for the period, and (2) the fraction of the total number of inpatient-bed-days determined by the Secretary during the period which was attributable to Medicare managed care enrollees. The Secretary would be required to separately determine the direct GME payment amount that would be paid to hospitals in a state with a reimbursement control system.

The IME payment amount would be determined, subject to certain limits, as equal to the product of: (1) the amount of the IME adjustment factor applicable to the hospital under PPS, and (2) the product of (I) the number of discharges attributable to Medicare managed care enrollees and (ii) the estimated average per discharge amount that would otherwise have been paid under PPS if the individuals had not been enrolled in a managed care plan. The Secretary would also be required to make payments for the costs attributable to Medicare managed care enrollees, subject to certain limits in the same way as the direct GME payment amount. The Secretary would be required to separately determine the IME payment amounts that would be paid to hospitals in a state with a reimbursement control system.

Effective date. Applies to contracts entered into on or after January 1, 1998.

SENATE AMENDMENT

Provides for additional direct GME payments to hospitals for the services provided to Medicare managed care enrollees for cost reporting periods beginning on or after January 1, 1998. Payments would be equal to the product of (1) the aggregate approved direct GME amount for the hospital in that period, and the fraction of the total number of inpatient-bed days attributable to Medicare managed care enrollees. The direct GME payment amount would be phased in over a 4-year period. The Secretary would be required to determine separately the direct GME payment amount that would be paid to hospitals in a state with a reimbursement control system.

The Secretary would also be required to make additional payments to PPS hospitals and hospitals located in a state with a rate setting system for IME costs attributable to providing services to Medicare managed care enrollees. The amount of the payment would be phased in over 4 years and be the product of (1) the aggregate approved amount for that period, and (2) the fraction of the total number of inpatient-bed days attributable to Medicare managed care enrollees.

Effective date. Applies to contracts entered into on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments to phase in the payments over 5 years equal to 20% in 1998; 40% in 1999; 60% in 2000; 80% in 2001; and 100% in 2002.

Subchapter B—Direct Graduate Medical Education

LIMITATION ON PAYMENT BASED ON NUMBER OF RESIDENTS AND IMPLEMENTATION OF ROLLING AVERAGE FTE COUNT

Sections 10731 and 4731 of the House bills and Section 5441 of the Senate amendment

CURRENT LAW

The direct costs of approved graduate medical education (GME) programs (such as the salaries of residents and faculty, and other costs related to medical education programs) are excluded from PPS and are paid on the basis of a formula that reflects Medicare's share of each hospital's per resident costs. Medicare's payment to each hospital equals the hospital's costs per full-time-equivalent (FTE) resident, times the weighted average number of FTE residents, times the percentage of inpatient days attributable to Medicare Part A beneficiaries. Each hospital's per FTE resident amount is calculated using data from the hospital's cost reporting period that began in FY 1984, increased by 1 percent for hospital cost reporting periods beginning July 1, 1985, and updated in subsequent cost reporting periods by the change in the CPI. OBRA 93 provided that the per resident amount would not be updated by the CPI for costs reporting periods during FY 1994 and FY 1995, except for primary care residents and residents in obstetrics and gynecology. The number of FTE residents is weighted at 100 percent for residents in their initial residency period (i.e., the number of years of formal training necessary to satisfy specialty requirements for board eligibility). Residents in preventive care or geriatrics are allowed a period of up to 2 additional years in the initial residency training period. For residents not in their initial residency period, the weighting factor is 50 percent. On or after July 1, 1986, residents who are foreign medical graduates can only be counted as FTE residents if they have passed designated examinations.

HOUSE BILL

Section 10731. For cost reporting periods beginning on or after October 1, 1997, limits the total number of full-time equivalent (FTE) residents for which Medicare would make payments to the number of FTE residents in medical residency training program during the hospital's cost reporting period ending December 31, 1996. For cost reporting periods beginning on or after October 1, 1997, the total number of FTE equivalent residents counted for determining the hospital's direct GME payment would equal the average FTE counts for the cost reporting period and the preceding cost reporting period. For each subsequent cost reporting period, the total number of FTEs residents counted for determining the hospital's direct GME payment, would be equal to the average of the actual FTE counts for the cost reporting period and preceding two cost reporting periods. The provision would allow that, if a hospital's cost reporting period beginning on or after October 1, 1997, was not equal to 12 months, the Secretary would make appropriate modifications to ensure that the average FTE resident counts were based on the equivalent of full 12-month cost reporting periods. The provision would require the Secretary to establish rules for new residency medical training programs.

Effective Date. Enactment.

Section 4731. Similar provision, except would not require the Secretary to establish rules for new programs. The provision would exclude dental residents from the counts of FTE residents.

SENATE AMENDMENT

Similar provision, except limit on the total number of residents specifically includes only residents in a hospital's approved medical residency training program in the fields of allopathic medicine and osteopathic medicine. The provision would count the number of FTE residents as equal to the FTE count for the cost reporting period and the preceding two cost reporting periods. For new residency programs, defined as programs in their first five years of existence, the provision would authorize the Secretary to provide an additional amount of FTE residents, as long as the number of new FTEs would not cause the total number of all FTE residents for all programs to exceed the total number of FTEs in the preceding year. In allocating additional FTE residents, the Secretary would be required to give special consideration to facilities that meet the needs of the underserved rural areas.

CONFERENCE AGREEMENT

The conference agreement includes the Senate provision with amendments including a requirement that the Secretary prescribe rules for limiting and counting the number of interns and residents in training programs established on or after January 1, 1995. In promulgating such rules, the Secretary would be required to give special consideration to facilities that meet the needs of underserved rural areas.

The conference agreement provides for a "cap" or limit on the number of residents that may be reimbursed by the Secretary, on a national and a facility level, both in this section and in an earlier provision on indirect medical education payments. However, the Conferees recognize that such limits raise complex issues, and provide for specific authority for the Secretary to promulgate regulations to address the implementation of this provision. The Conferees believe that rulemaking by the Secretary would allow careful but timely consideration of this matter, and that the record of the Secretary's rulemaking would be valuable when Congress revisits this provision.

Among the specific issues that concerned the Conferees was application of a limit to new facilities, that is, hospitals or other entities which established programs after January 1, 1995. The Conferees understand that there are a sizeable number of hospitals that elect to initiate such programs (as well as terminate such programs) over any period of time, and the Conferees are concerned that within the principles of the cap that there is proper flexibility to respond to such changing needs, including the period of time such programs would be permitted to receive an increase in payments before a cap was applied. Nonetheless, the Secretary's flexibility is limited by the conference agreement that the aggregate number of FTE residents should not increase over current levels.

In addition, the Conferees have included a provision for direct medical education payments to entities not previously eligible, including Federally qualified health centers, rural health centers, and Medicare+Choice organizations. The Secretary is expected to establish rules for such payments within the principles established by this provision.

Another issue was the treatment of institutions which are members of an affiliated group. In some circumstances, the Conferees believe that the intent of this provision would best be met by providing an aggregate limit for such affiliates or consortia rather than a per facility limit. Examples of consortia include an institution that operates affiliated programs at various sites nationwide, and a group of community-based hospitals that together provide for residency training in conjunction with a medical school.

The Conferees are also concerned about the application of the limit on the number of residents to programs established to serve rural underserved areas, which the Conferees believe have special importance in easing physician shortages in such areas. The conference agreement provides the Secretary with statutory direction to provide special consideration to such programs.

The Conferees also note that a facility limit on the number of residents was provided, rather than any direction on payments according to specialty of physicians in training, to specifically avoid the involvement by the Secretary in decision making about workforce matters. The Conferees emphatically believe such decisions should remain within each facility, which is best able to respond to clinical needs and opportunities.

With regard to graduate medical education payments, the Conferees also note that the Secretary reimburses for the training of certain allied health professionals, and urges the Secretary to include physician assistants and psychologists under such authority.

Phased-In Limitation on Hospital Overhead and Supervisory Physician Component of Direct Medical Education Costs

Sections 10732 and 4732 of the House bills

CURRENT LAW

Medicare's direct medical education costs for a cost reporting period includes an aggregate amount that is the product of the hospital's approved FTE resident amount and the weighted average number of FTE residents in the hospitals approved medical residency training programs in that period.

HOUSE BILL

Section 10732. Phases in over five years a limitation on hospital overhead and supervisory physician costs. For hospitals with overhead GME amounts that exceed the 75 percentile of the overhead GME for all hospitals, the GME amount made for periods beginning on or after October 1, 1997, would be reduced by the lesser of: (1) 20% of the amount by which the overhead GME amount exceeds the 75th percentile amount, or (2) 15% of the hospital's overhead GME amount otherwise determined without regard to this provision.

The overhead GME amount for a period would be the product of the percentage of the hospital's per resident payment amount for the base period that was not attributable to salaries and fringe benefits, and the hospital specific per resident payment amount for the period involved. The base period would be defined as the cost reporting period beginning in FY 1984 or the period used to establish the hospital's per resident payment amount for hospitals that did not have approved residency training programs in FY 1984. The Secretary would be required to establish rules for hospitals that initiate residency training programs during or after the base period.

Effective Date. Applies to per resident payment amounts attributable to periods beginning on or after October 1, 1997.

Section 4732. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with an amendment which would require the Secretary to conduct a study on the variations among hospitals in hospital overhead and supervisory physician components of their direct medical education costs, and the reasons for such variations. The report would be required to be submitted to the Congress no later than one year after enactment.

The Conferees are aware of and concerned about studies and reports from the Prospective Payment Assessment Commission and the Physician Payment Review Commission that describe wide variation in hospital-specific per resident payment amounts. The Conferees have directed the Secretary to study and report back to the Committees of jurisdiction on reasons for such variations and to provide recommendations to reduce such variation, as appropriate, to provide greater payment equity among all teaching facilities receiving direct graduate medical education payments.

Permitting Payment to Non-Hospital Providers

Sections 10733 and 4733 of the House bills and Section 5442 of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

Section 10733. Requires the Secretary to submit to Congress, no later than 18 months after enactment, a proposal for payment to qualified non-hospital providers for their direct costs of medical education, if those costs were incurred in the operation of a Medicare approved medical residency training program. The Secretary would be required to specify the amounts, form, and manner in which such payments would be made, and the portion of the payments that would be made from each of the Medicare trust funds. The Secretary would be authorized to implement the proposal for residency years beginning no earlier than 6 months after the date the report is submitted. Qualified non-hospital providers could include federally qualified health centers, rural health clinics, MedicarePlus organizations, and other providers the Secretary determines to be appropriate.

The provision would also require the Secretary to reduce the hospital's approved amount to the extent payment would be made to non-hospital providers for residents included in the hospital's count of FTE residents. In the case of residents not included in the FTE count, the Secretary would be required to provide for such a reduction in aggregate approved hospital payment amounts under this subsection to assure that the application of non-hospital providers does not result in any increase in expenditures than would have occurred if payments were not made to non-hospital providers.

Effective Date. Enactment.

Section 4733. Similar provision, except does not include MedicarePlus organizations as a qualified non-hospital provider.

SENATE AMENDMENT

Authorizes the Secretary to establish rules for payment to qualified nonhospital providers for their direct costs of medical education for cost reporting periods beginning on or after October 1, 1997, if the costs were incurred in the operation of a Medicare approved medical residency training program. The rules would be required to specify the amounts, form, and manner in which payments will be made and the portion of such payments that would be made from each of the Medicare trust funds.

Qualified non-hospital providers are similar, except would not include MedicarePlus organizations.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment to include Medicare+Choice organizations as qualified nonhospital providers.

The Conferees believe this authority may help alleviate physician shortages in underserved rural areas. The Conferees also note that preventive medicine residency training occurs most often in non-hospital settings, and the Conferees encourage the Secretary to examine carefully the opportunities to provide support to such training programs.

Incentive Payments Under Plans for Voluntary Reduction in Number of Residents

Sections 10734 and 4734 of the House bills

CURRENT LAW

No provision.

HOUSE BILL

Section 10734. Establishes a program to provide incentive payments to qualifying entities that developed plans for the voluntary reduction in the number of residents in a training program. For voluntary residency reduction plans for which an application was approved, the qualifying entity submitting the plan would be required to be paid an applicable percentage (defined below) equal to the sum of the following: (1) the amount of payment which would have been made under this subsection if there had been a 5% reduction in the number of FTE residents in the approved medical education training programs as of June 30, 1997, exceeded the amount of the payment which would be made taking into account the reduction in the number effected FTEs under the plan; and, (2) the amount of the reduction in payment under Medicare's indirect medical education adjustment that was attributable to the reduction in the number of residents effected under the plan.

The base number of residents would be defined as the number of FTE residents in the residency training program of the entity as of June 30, 1997. The "applicable hold harmless percentage" for entities electing a 5-year reduction plan would be 100% for the first and second residency training years of the reduction plan; 75% in the third year; 50% in the fourth year; and 25% in the fifth year. The "applicable hold harmless percentage" for entities electing a 6-year reduction plan would be 100% in the first residency training year of the plan; 95% in the second year of the plan; 85% in the third year; 70% in the fourth year; 50% in the fifth year; 25% in the sixth year. In addition, if payments were made under this program to an entity that increased the number of FTE residents above the number provided in the plan, the entity would then be liable for repayment to the Secretary of the total amount paid under the plan. The Secretary would also be required to establish rules regarding the counting of residents who are assigned to institutions that do not have medical residency training programs participating in a residency reduction plan.

The provision specifies that qualifying entities would include individual hospitals operating one or more approved medical residency training programs; two or more hospitals operating residency programs that apply as a single qualifying entity; or a qualifying consortium. In the case of an application by a qualifying entity consisting of two hospitals, the Secretary would be prohibited from approving the application unless the application represented that the qualifying entity either would not: (1) reduce the number of FTE residents in primary care during the period of the plan, or (2) reduce the proportion of its residents in primary care (to the total number of residents) below such proportion as in effect during the period the residency reduction plan was in effect. In the case of an application from a consortia, the Secretary would be prohibited from approving the application unless the application represented that the qualifying consortium would not reduce the proportion of residents in primary care (to total residents) below such proportion in effect during the period the residency reduction plan was in effect.

For individual hospital applicants, the number of FTE residents in all the approved medical residency training programs operated by or through the facility would be required to be reduced as follows: (1) if the base number of residents exceeded 750 residents, by a number equal to at least 20% of the base number; (2) if the base number of residents exceeded 500, but was less than 750 residents, by 150 residents; (3) if the base number of residents did not exceed 500 residents, by a number equal to at least 25% of the base number; (4) in the case of a qualifying entity that was a consortia, by a number equal to at least 20% of the base number. The reductions in the number of FTE residents in the approved medical residency programs operated through or by an entity would be below the base number of residents for the entity and would be fully effective no later than the 5th residency training year for entities electing a 5-year plan, or the 6th residency training year for entities making the election of a 6-year reduction plan.

The provision would require that entities provide assurance that in reducing the number of residents, the entities would maintain the number of primary care residents. Entities would be required to provide assurance that they would maintain the number of primary care residents if: (1) the base number of residents is less than 750; (2) the number of FTE residents in primary care included in the base year was at least 10% of the total number of residents; and (3) the entity represented in its application that there would be no reduction under the plan in the number of FTE residents in primary care. If the entity failed to comply with the requirement that the number of FTE residents in primary care were maintained, the entity would be subject to repayment of all amounts received under this program.

The requirements of the residency reduction plan would not apply to any residency training demonstration project approved by HCFA as of May 27, 1997. The Secretary would be required to take necessary action to assure that in no case the amount of payments under the plan would exceed 95% of what payments would have been prior to the plan for direct GME payments under Medicare. As of May 27, 1997, the Secretary would be prohibited from approving any demonstration project that would provide for additional Medicare payments in connection with reductions in the number of residents in a training program for any residency training year beginning before July 1, 2006. The Secretary would be authorized to promulgate regulations, that would take effect on an interim basis, after notice and pending opportunity for public comment, by no later than 6 months after the date of enactment.

Effective Date. Enactment.

Section 4734. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with amendments which would require plan applications to be submitted by no later than November 1, 1999. Reductions in the number of residents would occur over no greater than a 5-year period, and that the applying entity would provide assurances that it would not reduce the proportion of its residents in primary care relative to the total number of residents. The residency reduction requirements would be: (1) 20% of the base number of residents if the base number of residents exceeds 750 residents; (2) 150 residents if the base number of residents exceeds 600 but is less than 750; (3) 25% if the base number does not exceed 600 residents; and (4) at least 20% of the base number of residents in cases where the qualifying entity has less than 750 base number of residents or is joint applicant, and represents in its application that it would increase the number of FTE residents in primary care by at least 20% from the number included in the base number of residents by no later than the 5th year of the plan. The Conference agreement would not reduce incentive payments for the initial five-percent reduction of residents for current demonstration projects.

The Conferees believes that this policy can provide long-term savings to Medicare while providing important assistance to hospitals making a difficult transition to smaller residency programs. The conference agreement is modeled directly on a demonstration project currently underway, and the Conferees believe that this opportunity should be extended on equal terms to hospitals elsewhere in the United States.

DEMONSTRATION PROJECT ON USE OF CONSORTIA

Sections 10735 and 4735 of the House bills and Section 5452 of the Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

Section 10735. Requires the Secretary to establish a demonstration project under which, instead of making direct GME payments to teaching hospitals, the Secretary would make payments to each consortium that met the requirements of the demonstration project. A qualifying consortia would be required to be in compliance with the following: (1) the consortium would consist of an approved medical residency training program in a teaching hospital and one or more of the following entities: a school of allopathic or osteopathic medicine, another teaching hospital, including a children's hospital, another approved medical residency training program, a federally qualified health center, a medical group practice, a managed care entity, an entity providing outpatient services, or an entity determined to be appropriate by the Secretary; (2) the members of the consortium would have agreed to participate in the programs of graduate medical education that are operated by entities in the consortium; (3) with respect to receipt by the consortium of direct GME payments, the members of the consortium would agree on a method for allocating the payments among the members; and (4) the consortium would meet additional requirements established by the Secretary. The total payments to a qualifying consortium for a fiscal year would not be permitted to exceed the amount that would have been paid under the direct GME payment to teaching hospitals in the consortium. The payments would be required to be made in such proportion from each of the Medicare trust funds as the Secretary specifies.

Effective Date. Enactment.

Section 4735. Identical provision.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment with modifications.

RECOMMENDATIONS ON LONG-TERM PAYMENT POLICIES REGARDING FINANCING TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION

Sections 10736 and 4736 of the House bills

CURRENT LAW

No provision.

HOUSE BILL

Section 10736. Requires the Medicare Payment Advisory Commission (established by the bill) to examine and develop recommendations on whether and to what extent Medicare payment policies and other federal policies regarding teaching hospitals and graduate medical education should be reformed. The Commission's recommendations would be required to include each of the following: (1) the financing of graduate medical education, including consideration of alternative broad-based sources of funding for such education and models for the distribution of payments under any all-payer financing mechanism; (2) the financing of teaching hospitals, including consideration of the difficulties encountered by such hospitals as competition among health care entities increases, including consideration of the effects on teaching hospitals of the method of financing used for the MedicarePlus program under part C of Medicare; (3) possible methodologies for making payments for graduate medical education and the selection of entities to receive such payments, including consideration of matters as (A) issues regarding children's hospitals and approved medical residency training programs in pediatrics, and (B) whether and to what extent payments were being made (or should be made) for training in the various nonphysician health professions; (4) federal policies regarding international graduates; (5) the dependence of schools of medicine on service-generated income; (6) whether and to what extent the needs of the U.S. regarding the supply of physicians, in the aggregate and in different specialties, would change during the 10-year period beginning on October 1, 1997, and whether and to what extent any such changes would have significant financial effects on teaching hospitals; and, (7) methods for promoting an appropriate number, mix, and geographical distribution of health professionals.

The Commission would be required to consult with the Council on Graduate Medical Education and individuals with expertise in the area of graduate medical education, including (1) deans from allopathic and osteopathic schools of medicine; (2) chief executive officers (or their equivalent) from academic health centers, integrated health care systems, approved medical residency training programs, and teaching hospitals that sponsor approved medical residency training programs; (3) chairs of departments or divisions from allopathic and osteopathic schools of medicine, schools of dentistry, and approved medical residency training programs in oral surgery; (4) individuals with leadership experience from allopathic and osteopathic schools of dentistry and approved medical residency training programs in oral surgery; (5) individuals with experience from representative fields of non-physician health professionals; (6) individuals with experience in three study of issues regarding the composition of the U.S. health care workforce; and, (7) individuals with expertise on the financing of health care.

The Commission would be required to submit a report to the Congress no later than 2 years after enactment providing its recommendations under this section and the reasons and justifications for such recommendations.

Effective Date. Enactment.

Section 4736. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with an amendment which would not require the Commission to include recommendations on the financing of graduate medical education or the financing of teaching hospitals. Issues of long-term financing of GME would be considered by the Bipartisan Commission.

MEDICARE SPECIAL REIMBURSEMENT RULE FOR CERTAIN COMBINED RESIDENCY PROGRAMS

Sections 10737 and 4737 of the House bills and Section 5443 of the Senate amendment

CURRENT LAW

Combined residency programs run concurrently for a period of time that is longer than the required time for certification in either program, but shorter than would be required if the programs were taken sequentially. Medicare makes direct GME payments for residents in their initial residency period. The initial residency period is defined as the number of years of formal training necessary to satisfy specialty requirements for board eligibility, but not more than 5 years, with an exception for residents in preventive care or geriatrics who are allowed a period of up to 2 additional years in the initial residency training period. Residents in their initial residency period are counted as 1.0 FTE during their initial residency period and as 0.5 FTE for subsequent years. For combined residency training programs there is no special provision in current law, so that regardless of the number of additional years the second program requires for certification, during the initial residency period residents are counted as a full (1.0) FTE and subsequent years are paid at half (0.5) the FTE.

HOUSE BILL

Section 10737. Permits residents enrolled in a combined medical residency training program in which all of the individual programs that are combined are for training in primary care, to have a defined period of board eligibility equal to the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs, plus one additional year.

Effective Date. Applies to combined medical residency programs for residency years beginning on or after July 1, 1998.

Section 4737. Identical provision.

SENATE AMENDMENT

Identical provision.

Effective Date. Applies to combined medical residency programs in effect on or after January 1, 1998.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and Senate amendment, with an amendment to the effective dates of July 1, 1997.

Chapter 3—Medicare Secondary Payer Provisions/Coordination of Benefits

PERMANENT EXTENSION OF CERTAIN SECONDARY PAYER PROVISIONS

Section 10701 and 4701 of House bill and Section 5601 of Senate amendment

CURRENT LAW

Generally, Medicare is the primary payer, that is, it pays health claims first, with an individual's private or other public plan filling in some or all of the coverage gaps. In certain cases, the individual's other coverage pays first, while Medicare is the secondary payer. This is known as the Medicare secondary payer (MSP) program. The MSP provisions apply to group health plans for the working aged, large group health plans for the disabled, and employer health plans (regardless of size) for the end-stage renal disease (ESRD) population for 18 months. The MSP provisions for the disabled expire October 1, 1998. The MSP provisions for the ESRD population apply for 12 months, except the period is extended to 18 months for the February 1, 1991–October 1, 1998 period.

The law authorizes a data match program which is intended to identify potential secondary payer situations. Medicare beneficiaries are matched against data contained in the Social Security Administration and Internal Revenue Service files to identify cases where a working beneficiary (or working spouse) may have employer-based health insurance coverage.

HOUSE BILL

Section 10701. Makes permanent the provisions relating to the disabled and the data match program.

Extends application of the MSP provisions for the ESRD population for 30 months on a permanent basis.

Effective Date. Enactment. ESRD provision applies to items and services furnished on or after enactment with respect to periods beginning on or after the date that is 18 months prior to enactment.

Section 4701. Identical provision.

SENATE AMENDMENT

Similar provision.

Effective Date. Enactment. ESRD provision applies to items and services furnished on or after enactment with respect to periods beginning on or after the date that is 18 months prior to enactment.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are essentially identical in the House bill and Senate amendment.

CLARIFICATION OF TIME AND FILING LIMITATIONS

Section 10702 and 4702 of House bill and Section 5602 (b and c) of Senate amendment

CURRENT LAW

In many cases where MSP recoveries are sought, claims have never been filed with the primary payer. Identification of potential recoveries under the data match process typically takes several years—considerably in excess of the period many health plans allow for claims filing. A 1994 appeals court decision held that HCFA could not recover overpayments without regard to an insurance plan's filing requirements.

HOUSE BILL

Section 10702. Specifies that the U.S. could seek to recover payments if the request for payments was submitted to the entity required or responsible to pay within 3 years from the date the item or service was furnished. This provision would apply notwithstanding any other claims filing time limits that may apply under an employer group health plan.

Effective Date. Applies to items and services furnished after 1990. The provision should not be construed as permitting any waiver of the 3-year requirement in the case of items and services furnished more than 3 years before enactment.

Section 4702. Identical provision.

SENATE AMENDMENT

Identical provision.

Effective Date. Applies to items and services furnished on or after enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS

Sections 10703 and 4703 of House bill and Section 5602(a) of Senate amendment

CURRENT LAW

A 1994 appeals court decision held that HCFA could not recover from third party administrators of self-insured plans.

HOUSE BILL

Section 10703. Permits recovery from third party administrators of primary plans. However, recovery would not be permitted where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.

Clarifies that the beneficiary is not liable in MSP recovery cases unless the benefits were paid directly to the beneficiary.

Effective Date. Applies to services furnished on or after enactment.

Section 4703. Identical provision.

SENATE AMENDMENT

Similar provision except does not include clarification of beneficiary liability.

Effective Date. Applies to items and services furnished on or after enactment.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with clarification that the third party administrator must be employed by or under contract with the employer or group health plan at the time the recovery action is initiated.

Chapter 4—Other Provisions

CENTERS OF EXCELLENCE

Sections 10741 and 4741 of the House bills

CURRENT LAW

No provision.

HOUSE BILL

Section 10741. Establishes a new program, the Centers of Excellence, under which the Secretary would be required to use a competitive process to contract with specific hospitals or other entities for furnishing services related to surgical procedures, and for furnishing services (unrelated to surgical procedures) to hospital inpatients that the Secretary determines to be appropriate. The services could include any services covered by Medicare that the Secretary determined were appropriate, including post-hospital services. The Secretary would be required to contract with entities that meet quality standards established by the Secretary, and contracting entities would be required to implement a quality improvement plan approved by the Secretary.

Payment for services provided under the program would be made on the basis of a negotiated all-inclusive rate. The amount of payment made for services covered under a contract would be required to be less than the aggregate amount of payments that would have been made otherwise for these same services. The contract period would be required to be 3 years, and could be renewed as long as the entity continued to meet quality and other contractual standards. Entities under these contracts would be permitted to furnish additional services (at no cost to a Medicare beneficiary) or waive cost-sharing, subject to approval by the Secretary. The Secretary would be required to limit the number of centers in a geographic area to the number needed to meet project demand for contracted services.

Effective date. Applies to services furnished on or after October 1, 1997.

Section 4741. Similar provision, except requires the Secretary to consider quality as the primary factor in selecting hospitals or other entities to enter into contracts under this section.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

Medicare Part B Special Enrollment Period and Waiver of Part B Late Enrollment Penalty and Medigap Special Open Enrollment Period for Certain Military Retirees and Dependents

Sections 10742 and 4702 of House bill

CURRENT LAW

Persons generally enroll in Part B when they turn 65. Persons who delay enrollment in the program after their initial enrollment period are subject to a premium penalty. This penalty is a surcharge equal to 10% of the premium amount for each 12 months of delayed enrollment. There is no upper limit on the amount of penalty that may apply. Further, the penalty continues to apply for the entire time the individual is enrolled in Part B.

Some persons declined Part B coverage because they thought they would be able to get health care coverage at a nearby military base; many of these bases subsequently closed.

HOUSE BILL

Section 10742. Waives the delayed enrollment penalty for certain persons who enroll during a special six month enrollment period which begins with the first month that begins at least 45 days after enactment. An individual covered under this provision is one: (1) who, on the date of enactment is at least 65 and eligible to enroll in Part B; (2) who, at the time the individual first met the enrollment requirements was a "covered beneficiary" under the military medical and dental care program. Covered beneficiary as defined in section 1072(5) of title 10 of the U.S. Code excludes an active duty beneficiary. Part B coverage would begin the month after enrollment.

Guarantees issuance of a Medigap type "A", "B", "C", or "F" policy to an individual who enrolls with a Medigap plan during the same 6-month enrollment period.

Effective Date. Enactment

Section 4742. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

Protections Under the Medicare Program for Disabled Workers Who Lose Benefits Under a Group Health Plan

Section 10743 of House bill

CURRENT LAW

Persons generally enroll in Part B when they turn 65. Persons who delay enrollment in the program after their initial enrollment period are subject to a premium penalty. This penalty is a surcharge equal to 10% of the premium amount for each 12 months of delayed enrollment. There is no upper limit on the amount of penalty that may apply. Further, the penalty continues to apply for the entire time the individual is enrolled in Part B.

Some persons declined Part B coverage because they thought they would be able to continue to get health care coverage from their employer-sponsored health plan.

HOUSE BILL

Waives the Part B enrollment penalty for certain disabled retired workers who were continuously enrolled in a group health plan and whose coverage was involuntarily terminated. To qualify, individuals must be disabled and continuously enrolled under a group health plan at the time they first become eligible to enroll in Medicare Part B. Individuals meeting these requirements may enroll in Medicare Part B without penalty within the 6-month enrollment period beginning on the date their employer-provided coverage is terminated at a time when enrollment under the plan is not by reason of the individual's, or the individual's spouse's, current employment.

Effective Date. Applies to involuntary terminations of coverage under a group health plan occurring on or after enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with clarifying language.

The Secretary should provide by regulation for recognition of short-time, erroneous enrollments in Medicare during the individual's initial enrollment period which are quickly reversed. Such an error should not disqualify an individual for later use of this section.

Placement of Advanced Directive in Medical Record

Section 10744 of the House bill

CURRENT LAW

The Patient Self-Determination Act of 1990 requires that hospitals, skilled nursing facilities, home health agencies, hospice programs and health maintenance organizations which participate in Medicare guarantee that every adult receiving medical care be given written information concerning patient involvement in treatment decisions. Providers must document in the medical record whether the patient has an advance directive or not.

HOUSE BILL

Requires that the individual's advance directive be placed in a prominent part of the individual's current medical record.

Effective date. Applies to provider agreements entered into, renewed, or extended on or after such date (but no later than 1 year after the date of enactment) as specified by the Secretary.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

Conforming Age for Eligibility Under Medicare to Retirement Age for Social Security

Section 5611 of Senate amendment

CURRENT LAW

The Social Security Amendments of 1983 raised the full retirement age (the age at which one receives unreduced benefits) for social security cash benefits from age 65 to 67 over the 2003–2027 period. The legislation provided for two transition periods. First, the retirement age increases by 2 months for each year that a person is born in 1938 or later (i.e. attains 65 in 2003 or later) until it reaches age 66 for those born in 1943 (i.e. attain age 66 in 2009). For persons born between 1943 and 1954 (i.e. attain age 66 between 2009 and 2020), the full retirement age is 66. The second transition begins for persons born in 1955 (i.e. attain 66 in 2021). The retirement age again increases by 2 months for each year that a person is born in 1955 or later until it reaches age 67 for persons born in 1960 (i.e. attain age 67 in 2027). The Medicare eligibility remains at age 65.

HOUSE BILL

No provision.

SENATE AMENDMENT

Raises the Medicare eligibility age from age 65 to 67 according to the same schedule established in law for social security cash benefits. The provision makes conforming changes in provisions relating to: (1) purchase of hospital insurance coverage for those not otherwise eligible; (2) hospital insurance benefits for disabled persons who have exhausted other entitlement; (3) eligibility for Part B benefits; (4) appropriations to cover government contributions and contingency reserve; (5) Medicare secondary payer; and (6) medicare supplemental policies.

Effective Date. Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

Increase Certification Period for Organ Procurement Organizations

Section 5612 of the Senate amendment

CURRENT LAW

Section 1138(b) of the Social Security Act requires that the Secretary can make Medicare and Medicaid payments for organ procurement costs to organ procurement organizations (OPOs) operating under Section 371 of the Public Health Service Act, or having been certified or recertified by the Secretary within the previous 2 years as meeting certain requirements.

HOUSE BILL

No provision.

SENATE AMENDMENT

Amends current law to provide OPOs three years between certifications or recertifications if the Secretary deems the organizations as having a good record in meeting standards to be a qualified OPO.

Effective date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with a modification authorizing the Secretary to allow four years between certifications or recertifications if it is appropriate on the basis of an organization's past practices.

The Conferees note with concern that a few Organ Procurement Organizations may be earning excessive profits that could violate the provision in the National Transplant Act that prohibits profits on the sale of human organs. OPOs are supposed to facilitate and promote transplantation in America and should guard against institutional aggrandizement.

OFFICE OF THE CHIEF ACTUARY IN THE HEALTH CARE FINANCING ADMINISTRATION

CONFERENCE AGREEMENT

The conference agreement would establish the position of Chief Actuary in the Health Care Financing Administration. The Chief Actuary would be appointed by the Administrator of HCFA among individuals who have demonstrated by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary would be in direct line of authority to the Administrator. The individual would exercise such duties as are appropriate for the office and in accordance with professional standards of actuarial independence. The individual could only be removed for cause. Compensation would be at the highest rate of basic pay for the Senior Executive Service. The provision would be effective on enactment.

The Conferees wish to emphasize the very important role of the Office of the Actuary in assessing the financial condition of the Medicare trust funds and in developing estimates of the financial effects of potential legislative and administrative changes in the Medicare and Medicaid programs. The Office of the Actuary has a unique role within the agency in that it serves both the Administration and the Congress. While the Chief Actuary is an official within the Administration, this individual and his or her office often must work with the committees of jurisdiction in the development of legislation.

Beginning with the appointment of the first Chief Actuary for Social Security in 1936, through the enactment of Medicare and Medicaid in 1965, and through the establishment of the Health Care Financing Administration in 1977, the tradition has been for a close and confidential working relationship between the SSA and HCFA chief actuaries and the committees of jurisdiction in the Congress— a relationship which the Committees value highly. It is important to emphasize that the Senate Committee on Finance, the House Committee on Ways and Means, and the House Committee on Commerce all rely on their ability to seek estimates and other technical assistance from the Chief Actuary, especially when developing new legislation. Similarly, the Congressional Budget Office and Congressional Research Service depend heavily on such assistance. Thus, the independence of the Office of the Actuary with respect to providing assistance to the Congress is vital. The process of monitoring, updating, and reforming the Medicare and Medicaid programs is greatly enhanced by the free flow of actuarial information from the Office of the Actuary to the committees of jurisdiction in the Congress.

The Conferees believe that it is important for the Office of the Actuary to receive adequate staffing and support from the agency and the Administration at large. The Committees rely on the actuaries to provide prompt, impartial, authoritative, and confidential information with respect to the effects of legislative proposals. When information is delayed or circumscribed by the operation of an internal Administration clearance process or the inadequacy of actuarial resources, the Committees' ability to make informed decisions based on the best available information is compromised. The Conferees consider independent analyses by the Office of the Actuary to be consistent with the general role and responsibilities of the actuarial profession, and in the past have found these analyses helpful in understanding the factors underlying estimates and trends in the Medicare and Medicaid programs.

With respect to adequate staffing, the conferees wish to note that it is essential that the strength of the Office of the Actuary be maintained. The Conferees strongly urge that the actuarial staff at HCFA be enhanced on an ongoing basis. The need for actuarial assistance will be greater than ever in the next few years as the Congress and the Administration, with advice from the bipartisan commission mandated in this legislation, address the future financial pressures facing the Medicare program as a result of the retirement of the post-World War II "baby boom" generation.

The conferees recognize the important role of the Office of the Chief Actuary and expect that in the reorganized HCFA the office will be permitted to function with a high degree of independence and professionalism.

CONFORMING AMENDMENTS TO COMPLY WITH CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING

CONFERENCE AGREEMENT

The conference agreement also includes provisions related to changing the annual deadlines for agency rulemaking in order to comply with requirements for congressional review of agency rulemaking. The provision would change the required date for publication in the Federal Register the DRG prospective payment rate methodology from September 1, to August 1; for hospital payment updates, from May 1, to April 1; for applications for geographic reclassification, from "the first day of the preceding year," to "the first day of the 13-month period ending on September 30 of the preceding fiscal year." The agreement would require publication of the physician fee schedule by November 1 of the calendar year preceding the year it applies and the performance standard rate of increase by August 1 of each year. The agreement further establishes transition rules for 1998.

Subtitle H—Medical Liability Reform

Chapter 1—General Provisions

FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS

Sections 10801 and 4801 of House bill

CURRENT LAW

There are no uniform Federal standards governing health care liability actions.

HOUSE BILL

Section 10801. Provides for Federal reform of health care liability actions. It would apply to any health care liability action brought in any State or Federal court. The provisions would not apply to any action for damages arising from a vaccine-related injury or death or to the extent that the provisions of the National Vaccine Injury Compensation Program apply. The provisions would also not apply to actions under the Employment Retirement Income Security Act (ERISA). The provisions would preempt State law to the extent State law provisions were inconsistent with the new requirements. However, it would not preempt State law to the extent State law provisions were more stringent. The provision would not affect or waive the defense of sovereign immunity asserted by any State or the U.S., affect the applicability of the Foreign Sovereign Immunities Act of 1976, preempt State choice-of- law rules with respect to claims brought by a foreign nation or citizen, or affect the right of any court to transfer venue.

Effective Date. See Sections 10803 and 4803, below.

Section 4801. Similar provision except: (1) does not include exemption for actions arising under ERISA; and (2) specifies preemption applies to both Federal and State laws.

Effective Date. See Sections 10803 and 4803, below.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

DEFINITIONS

Sections 10802 and 4802 of House bill

CURRENT LAW

No provision.

HOUSE BILL

Section 10802. Defines the following terms for purposes of the Federal reforms: actual damages; alternative dispute resolution system; claimant; clear and convincing evidence; collateral source payments; drug; economic loss; harm; health benefit plan; health care liability action; health care liability claim; health care provider; health care service; medical device; noneconomic damages; person; product seller; punitive damages; and State. Harm is defined as legally cognizable wrong or injury for which punitive damages may be imposed.

Effective Date. See Sections 10803 and 4803, below.

Section 4802. Similar provision except: (1) specifies that economic loss is attributable to harm rather than injury; (2) defines harm as any physical injury, illness or death or mental anguish or emotional injury caused by or causing the claimant's physical injury; (3) does not include definition of health benefit plan or health care service; (4) excludes from the definition of health care liability action a claim based upon the provision of health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action; (5) includes within the definition of health care liability claim the use of a medical product, regardless of the theory of liability on which the claim is based; (7) adds definition for the term manufacturer; (8) modifies exclusion from the term product seller to apply to a person who leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product; and (9) includes the Trust Territory of the Pacific Islands within the definition of state.

Effective Date. See Sections 10803 and 4803, below.

SENATE AMENDMENT

No provision

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

EFFECTIVE DATE

Sections 10803 and 4803 of House bill

CURRENT LAW

No provision.

HOUSE BILL

Section 10803. Specifies that Federal reforms apply to any health care liability action brought in any Federal or state court that is initiated on or after the date of enactment. The provision would also apply to any health care liability claim subject to an alternative dispute resolution system. Any health care liability claim or action arising from an injury occurring prior to enactment would be governed by the statute of limitations in effect at the time the injury occurred.

Section 4803. Similar provision, except does not include language relating to claims or actions arising from an injury occurring prior to enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

Chapter 2—Uniform Standards for Health Care Liability Actions

STATUTE OF LIMITATIONS

Sections 10811 and 4811 of House bill

CURRENT LAW

To date, reforms of the malpractice system have occurred primarily at the State level and have generally involved changes in the rules governing tort cases. (A tort case is a civil action to recover damages, other than for a breach of contract.)

HOUSE BILL

Section 10811. Establishes uniform standards for health care liability claims. It would establish a uniform statute of limitations. Actions could not be brought more than two years after the injury was discovered or reasonably should have been discovered. In no event could the action be brought more than five years after the date of the alleged injury.

Effective Date. Enactment

Section 4811. Specifies that a health care liability action could be filed not later than 2 years after the date on which the claimant discovered, or in the exercise of reasonable care, should have discovered the harm that is subject of the action and the cause of the harm. A person with a legal disability (as determined under applicable state law) could file a health care liability action not later than 2 years after the person ceased to have such disability. If either of these provisions would shorten the period during which an action could otherwise be brought under another provision of law, the claimant could bring the action not later than 2 years after enactment.

Effective Date. Enactment

SENATE AMENDMENT

No provision

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

CALCULATION AND PAYMENT OF DAMAGES

Sections 10812 and 4812 of House bill

CURRENT LAW

No provision

(a) Noneconomic Damages

HOUSE BILL

Section 10812. Limits noneconomic damages to $250,000 in a particular case. The limit would apply regardless of the number of persons against whom the action was brought or the number of actions brought.

Section 4812. Similar provision except refers to "harm" rather than "losses resulting from the injury".

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(b) Joint and Several Liability

HOUSE BILL

Section 10812. Specifies that a defendant would only be liable for the amount of noneconomic damages attributable to that defendant's proportionate share of the fault or responsibility for that claimant's injury, as determined by the trier of fact. In all cases, the liability of the defendant for noneconomic damages would be several and not joint.

Section 4812. Specifies that a defendant would only be liable for the amount of noneconomic damages attributable to that defendant's proportionate share of the fault or responsibility for the harm to that claimant. The court would render a separate judgment against each defendant. The trier of fact would determine the percentage of responsibility of each person responsible for the harm, whether or not the person is party to the action. The liability of each defendant would be several and not joint.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(c) Treatment of punitive damages

HOUSE BILL

Section 10812. Permits the award of punitive damages (to the extent allowed under State law) only if the claimant established by clear and convincing evidence either that the harm was the result of conduct that specifically intended to cause harm or the conduct manifested a conscious flagrant indifference to the rights or safety of others. The amount of punitive damages awarded could not exceed $250,000 or three times the amount of economic damages, whichever was greater. The determination of punitive damages would be determined by the court and not be disclosed to the jury. The provision would not create a cause of action for punitive damages. Further, it would not preempt or supersede any State or Federal law to the extent that such law would further limit punitive damage awards.

Permits either party to request a separate proceeding (bifurcation) on the issue of whether punitive damages should be awarded and in what amount. If a separate proceeding was requested, evidence related only to the claim of punitive damages would be inadmissible in any proceeding to determine whether actual damages should be awarded.

Section 4812. Similar provision except: (1) does not include punitive damages for conduct specifically intended to cause harm; (2) refers to applicable law rather than applicable state law; (3) does not include provision relating to applicability in Federal or State courts; and (4) specifies that a request for bifurcation applies to proceedings held subsequent to award of compensatory damages. In addition, any evidence, argument, or contention that is relevant only to the claim of punitive damages would be inadmissable in any proceeding relating to the award of compensatory damages.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(d) Drugs and devices

HOUSE BILL

Section 10812. Prohibits the award of punitive damages against a manufacturer or product seller in a case where a drug or medical device was subject to premarket approval by the Food and Drug Administration (or generally recognized as safe according to conditions established by the FDA), unless there was misrepresentation or fraud. A manufacturer or product seller would not be held liable for punitive damages related to adequacy of required tamper resistant packaging unless the packaging or labeling was found by clear and convincing evidence to be substantially out of compliance with the regulations.

Section 4812. Similar provision, except specifies that the manufacturer would not be held liable for punitive damages related to adequacy of required tamper resistant packaging unless the drug was found by clear and convincing evidence to be substantially out of compliance with the regulations.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(e) Periodic payments for future losses

HOUSE BILL

Section 10812. Permits the periodic (rather than lump sum) payment of future economic and noneconomic losses in excess of $50,000, with payments determined by the court. The judgment of a court awarding periodic payments could not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of payments. A lump sum settlement would not be precluded.

Section 4812. Identical provision, except specifies both the amount and schedule of payments would be determined by the court.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

(f) Collateral source payments

HOUSE BILL

Section 10812. Permits a defendant to introduce evidence of collateral source payments. Such payments are those which are any amounts paid or reasonably likely to be paid by health or accident insurance, income-disability coverage, workers compensation, or other third party sources. If such evidence was introduced, the claimant could introduce evidence of any amount paid or reasonably likely to be paid to secure the right to such collateral source payments. No provider of collateral source payments would be permitted to recover any amount against the claimant or against the claimant's recovery.

Effective Date. Enactment.

Section 4812. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

ALTERNATIVE DISPUTE RESOLUTION

Sections 10813 and 4813 of House bill

CURRENT LAW

No provision.

HOUSE BILL

Section 10813. Requires that any alternative dispute resolution system used to resolve health care liability actions or claims must include provisions identical to those specified in the bill relating to statute of limitations, non-economic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments.

Effective Date. Enactment.

Section 4813. Identical provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill.

Chapter 1—Managed Care

STATE OPTIONS OF USING MANAGED CARE; CHANGE IN TERMINOLOGY

Section 3401 of House bill and Section 5701 (new section 1941 and 1942), and Section 5703 of Senate amendment

CURRENT LAW

To control costs and quality of care, states are increasingly delivering services to their Medicaid populations through Health Maintenance Organizations (HMOs) and other managed care arrangements. Medicaid programs use three main types of managed care arrangements. These vary according to the comprehensiveness of the services they provide and the degree to which they accept risk, and include Primary Care Case Management (PCCM), fully capitated HMOs and Health Insuring Organizations (HIOs), and partially capitated Pre-Paid Health plans (PHPs). Under PCCM a Medicaid beneficiary selects or is assigned to a single primary care provider, which provides or arranges for all covered services and is reimbursed on a fee-for-service basis in addition to receiving a small monthly "management" fee. Fully capitated plans contract on a risk basis to provide beneficiaries with a comprehensive set of covered services in return for a monthly capitation payment. Partially capitated plans provide a less than comprehensive set of services on a risk basis; services not included in the contract are reimbursed on a fee-for-service basis. Under fully and partially capitated managed care arrangements, beneficiaries have a regular source of coordinated care and states have predictable, controlled spending per beneficiary. This is in contrast to the traditional fee-for-service arrangements used by Medicaid beneficiaries where Medicaid pays for each service used.

The Medicaid statute contains several provisions that limit a state's ability to use managed care, including the freedom of choice, statewideness, and comparability requirements. Currently, states may only bypass statewideness and comparability requirements by establishing voluntary capitated managed care plans or by providing voluntary case management. Voluntary capitated MCOs must meet other requirements that govern how Medicaid managed care plans contracting to provide a comprehensive set of services operate. These requirements, contained in Section 1903(m) of the Medicaid statute, include rule and solvency, enrollment practices, procedures for protecting beneficiaries' rights, and contracting arrangements of manage care plans.

Under current law, a state may offer managed care services on a voluntary basis and may contract with a health plan that provides services in addition to those covered under the state plan. Once a beneficiary chooses the managed care plan, a state may define the beneficiary's freedom of choice to providers participating in that managed care plan. However, to mandate that a beneficiary enroll in a managed care organization, including PCCM, a state must first obtain a waiver of the freedom-of-choice provision of Medicaid law. These renewable waivers, as authorized under Section 1915(b) of Medicaid law, are initially good for 2 years. (States also may implement statewide demonstration programs that may include mandatory manage care under the authority of a Section 1115(a) waiver.)

Beneficiaries are permitted to disenroll from a managed care plan without cause during the first month of enrollment and may disenroll at any time for cause. Enrollees may be locked into the same plan for up to 6 months if the plan is a federally qualified HMO. States may also guarantee eligibility for up to 6 months for persons enrolled in federally qualified HMOs. States may not restrict access to family planning services under managed care. Plans may not discriminate against individuals in enrollment, disenrollment, or renrollment based on health status or need for care.

HOUSE BILL

The House bill provides states, under section 1915(a), the option of requiring individuals eligible for medical assistance under the state plan to enroll is a capitated managed care plan or with a primary care case manager, without a 1915(b) waiver. It also permits states to restrict the number of plans or providers it contracts with, consistent with quality of care. Individuals must be permitted to choose their manager or managed care entity from among those that meet Medicaid requirements. Individuals must be given a choice of at least two managed care entities or managers. In the case of rural areas, eligible individuals who are required to enroll with a single entity must be given the option of obtaining covered services through an alternative provider; those individuals offered no alternative to a single entity or manager must be given the choice of at least two providers within the managed care entity or through the primary care case manager.

Under the House bill, Native Americans/Alaskan Natives could only be required to enroll in a managed care entity if it is a participating Indian Health Service, tribally operated, or urban Indian Health program.

The bill also permits states to limit beneficiary migration from plans for periods up to 6 months. As under current law, beneficiaries would be allowed to disenroll from a plan at any time for cause. Prior to establishing a mandatory managed care requirement, a state would be required to provide for public notice and comment. States could not require either special needs children or Qualified Medicare Beneficiaries to enroll in management care plans. As under current law, access to family planning providers may not be restricted.

SENATE AMENDMENT

The Senate bill designates current Medicaid law as Part A, General Provisions, and establishes a Part B, Provisions Relating to Managed Care. It gives states the option to require enrollment in management care without a waiver in new section 1941, which is similar to House bill except it also:

Requires states to permit individuals to have access to religiously-affiliated long-term care facilities;

Requires states to allow individuals to change enrollment among managed care entities once annually and to terminate enrollment at any time for cause. Establishes notice of termination requirements for individuals, managed care entities, and states;

Requires states to establish a method for establishing enrollment priorities in the event a managed care entity doesn't have sufficient capacity to enroll all those seeking enrollment;

Requires states to establish a default enrollment process for enrolling any individual who does not choose a managed care entity within the enrollment period specified by the state. The default enrollment process must provide for enrollment with an MCO that maintains existing provider-individual relationships or has contracted with providers that have traditionally served Medicaid recipients; if no such provider exists, the process must provide for equitable distribution of individuals among all available qualified managed care entities with sufficient capacity;

Provides for automatic reenrollment for those individuals enrolled with a managed care entity that lose Medicaid eligibility for no longer than 2 months;

Allows states to establish a minimum enrollment period of not more than 6 months (states may extend such period up to 12 months if extension is done uniformly for all individuals). Deems individuals who lose Medicaid eligibility prior to the end of the minimum enrollment period eligible to receive benefits through the entity until the end of the enrollment period;

Prohibits managed care entities from discriminating against eligible individuals in enrollment, disenrollment, or reenrollment based on health status or need for care;

Requires states, enrollment brokers, or MCOs to provide all enrollment notices and informational and instructional materials in a manner and form which may be easily understood by Medicaid-eligible enrollees and potential enrollees, including those who are blind, deaf, disabled, or unable to read or understand English;

Requires states and managed care entities to provide specified information to all enrollees and potential enrollees. Requires states to provide, on an annual basis, comparative information (in a chart-like form) that includes: benefits, premiums, service area, quality and performance, disenrollment rates, enrollee satisfaction, grievance procedures, supplemental benefits option, and physician compensation; and

Requires managed care entities to inform enrollees of any benefits to which they are entitled that the entity does not provide, and how and where enrollees may access such benefits.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language and amendments. Section 4701 of the conference agreement would amend the Social Security Act to establish a new section, "Provisions Related to Managed Care," Section 1932. New Section 1932 gives states the option of requiring individuals eligible for medical assistance under the state plan to enroll with a managed care entity without a 1915(b) waiver. The agreement defines a Medicaid managed care organization as a health maintenance organization, an eligible organization with a contract under section 1876 or a Medicare+Choice organization with a contract under part C of title XVIII, a provider sponsored organization, or any other public or private organization meeting the requirement of section 1902(w) that (1) makes services it provides accessible to enrolled individuals to the same extent as such services are made accessible to Medicaid-eligible individuals not enrolled with the organization and (2) has made adequate provision against the risk of insolvency. Qualified HMOs would be deemed to meet requirements (1) and (2). Section 1932 contains provisions relating to (a) special rules, (b) choice of coverage, (c) process for enrollment and termination and change of enrollment, and (d) provision of information.

With respect to requiring that individuals be given a choice of at least two managed care entities or managers, the conference agreement includes the Senate amendment, which allows beneficiaries to choose among qualified managed care plans, with a choice of at least two plans. A special rule applies for certain Health Insuring Organizations (HIOs). With respect to rural areas, changes in enrollment, enrollment priorities, termination of enrollment, Medicare beneficiaries, and information on benefit carve outs, the conference agreement includes the Senate amendment. With respect to religious choice, notice of termination, reenrollment, and nondiscrimination, the conference agreement does not include the Senate amendment. With respect to Indian enrollment and special needs children, the conference agreement includes provisions that are identical in the House bill and Senate amendment. Children who receive Adoption Assistance under part E of Title IV are added to those considered to be special needs children. With respect to default enrollment process, the conference agreement includes the Senate amendment.

With respect to state minimum enrollment option, the conference agreement includes the Senate amendment modified to allow states to guarantee eligibility for up to 6 months (without extension up to 12 months) for persons enrolled with a Medicaid managed care organization (as defined in section 1903(m)(1)(A)), with a primary care case manager (as defined in section 1905(t)), or by or through a case manager. (See "6-month Guaranteed Eligibility for All Individuals Enrolled in Managed Care," below). With respect to provisions of information in easily understood form, the conference agreement modifies the Senate amendment to delete the specification of for whom such information must be present in an easily understood form. With respect to the provision of information and comparative information to enrollees and potential enrollees, the conference agreement includes the Senate amendment with modifications. Managed care entities must make available to enrollees and potential enrollees information about (a) providers, (b) enrollee rights and responsibilities, (c) grievance and appeal procedures, and (d) information on covered items and services. States must, on an annual basis, provide individuals required to enroll with managed care entities with a list identifying the managed care entities available and comparative information about each entity's benefits and cost-sharing, service area, and quality and performance.

PRIMARY CARE CASE MANAGEMENT SERVICES AS STATE OPTION WITHOUT NEED FOR WAIVER

Section 3403 of House bill and Section 5702 of Senate amendment)

CURRENT LAW

All states are required to provide some services and a are permitted to provide others. Under current law a state may offer case management services on a voluntary basis. However, to mandate that a beneficiary enroll in a PCCM system a state must first obtain a waiver of the freedom-of-choice provisions of Medicaid law. Section 1915(b)(1) waivers allow states to restrict the provider from whom a beneficiary can obtain services. Except in the case of an emergency, the beneficiary may obtain other services, such as specialty physician and hospital care, only with the authroization of the primary care provider. The aim of the program is to reduce the use of unnecessary services and provide better overall coordination of beneficiaries' care.

HOUSE BILL

Effective October 1, 1997, the House bill adds primary care case management as an optional service states may provide. Primary care case management services are those case management and primary care services a physician, a physician group practice, or an entity employing or having other arrangements with physicians, or at state option, nurse practitioners, certified nurse-midwives, or physician assistants contracts with the state to provide. these include covered primary care services provided or arranged for directly by the primary care case manager and other services as specified under the contract.

The contract must provide that: (1) hours of operation are reasonable and adequate, including 24-hour availability of information, referral, and treatment with respect to medical emergencies; (2) enrollment is restricted to those living reasonably near a service delivery site; (3) a sufficient number of providers are employed or contracted with to meet the needs of enrollees; (4) individuals are not discriminated against in enrollment, disenrollment, or reenrollment based on health status or need for care; (5) enrollees are allowed to disenroll without cause during the first month of each enrollment period and to disenroll at any time for cause. Enrollees may not be locked in to a provider for more than 6 months.

Primary care services include all health care and laboratory services customarily provided in accordance with State license and certification laws and regulations by or through a general practitioner, family medicine physician, internal medicine physician, obstetrician/gynecologist, or pediatrician.

SENATE AMENDMENT

The Senate bill includes a similar provision, except that it repeals Section 1915(b)(1) freedom-of-choice waiver authority.

CONFERENCE AGREEMENT

The conference agreement includes House provision with conforming amendments. Effective for PCCM services furnished on or after October 1, 1997.

ELIMINATION OF 75:25 RESTRICTION ON RISK CONTRACTS

Section 3402 of House bill and Section 5703 of Senate amendment

CURRENT LAW

As a proxy for quality, current law requires that plans limit their enrollment of Medicaid and Medicare beneficiaries to less than 75% of total enrollment (known as the "75/25 rule"). This requirement may be waived for community, migrant, or Appalachian health centers which receive federal grant funds and meet certain other conditions. It may be waived temporarily for a publicly owned contracting plan, a plan with more than 25,000 enrollees that serves a designated "medically underserved" area and that previously participated in an approved demonstration project, or a plant hat has had a Medicaid contract for less than 3 years, if the plan is making continuous and reasonable efforts to comply with 75% limit. For some HMOs, the 75/25 rule has been bypassed through state demonstration waivers or through specific federal legislation.

HOUSE BILL

The House bill eliminates the 75/25 rule, effective on the date of enactment.

SENATE AMENDMENT

The Senate bill has a similar provision, except that the provision is effective on and after June 20, 1997.

CONFERENCE AGREEMENT

The conference agreement includes Senate amendment.

INCREASED BENEFICIARY PROTECTIONS

Sections 3463, 3465, and 3466 of House bill and Section 5701 (new sections 1941–1945) of Senate amendment

a. Specification of Benefits

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires contracts with Medicaid managed care entities to specify the benefits the provision (or arrangement) for which the entity is responsible.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with conforming language.

b. Application of Prudent Layperson Standard for Medical Emergencies

CURRENT LAW

Contracts with MCOs that provide a comprehensive set of Medicaid services must provide that either the MCO or the state shall reimburse enrollees for medically necessary services provided by a nonparticipating provider if the services were immediately required due to an unforeseen illness, injury, or condition.

HOUSE BILL

Requires that contracts with managed care plans provide for coverage for emergency services without regard to: (1) whether the emergency care provider has an arrangement with the plan or (2) prior authorization. Plans would be required to comply with such guidelines as the Secretary may prescribe relating to promoting efficiency and timely coordination of appropriate maintenance and post-stabilization care provided to an enrollee determined to be stable by a medical screening examination required under the Examination and Treatment under Emergency Medical Conditions and Women in Labor requirements of the Social Security Act (Section 1867).

Emergency services would be defined, with respect to an individual enrolled with a participating HMO, as covered inpatient and outpatient services that are furnished by a qualified provider and needed to evaluate or stabilize an emergency medical condition. An emergency medical condition would be defined as one manifesting itself by acute symptoms of sufficient severity such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: (a) placing the health of the individual in serious jeopardy (and in case of a pregnant woman, her health or that of her unborn child); (b) serious impairment to bodily functions; or (c) serious dysfunction of any bodily organ or part.

Prohibits interference with physician advice to enrollees. A participating health plan may not prohibit or otherwise restrict covered health care professionals from talking to their patients about their health status, health care, or treatment options, regardless of whether benefits for such care or treatment are provided under the plan, so long as the professional is acting within the lawful scope of practice. "Covered health care professional" includes physicians and other health care professionals (as specified).

HMOs could not be required to provide, reimburse, or provide coverage of a counseling or referral service if they objected to the provision of such service on moral or religious grounds. Requires HMOs to inform prospective and current enrollees of any such services they do not provide, before or during enrollment or within 90 days after the date that the HMO adopts a change in policy regarding such a counseling or referral service.

SENATE AMENDMENT

Similar provision to House bill except (1) adds severe pain to definition of emergency medical services and (2) does not include the prohibition on physician communication.

CONFERENCE AGREEMENT

The conference agreement includes the House and Senate provisions.

c. Grievances Procedures

CURRENT LAW

No provision.

HOUSE BILL

Requires that contracts with capitated managed care entities provide for compliance with the following grievance and appeals requirements: (1) Participating managed care entities must provide a meaningful and expedited procedure for resolving grievances between the entity and its enrollees. Such a procedure would include notice and hearing requirements. (2) The managed care entity must inform plan enrollees in a timely manner of any denial, termination, or reduction of services. The plan must clearly state the reason for the denial of service. The plan must provide enrollees with an explanation of the plan's complaint process and of all other appeal rights available to them. (3) Plans must establish a board of appeals to resolve grievances concerning denials of coverage or payment for services. The board would consist of representatives of the managed care entity, including physician and nonphysicians; consumers who are not plan enrollees; and providers with expertise in the field of medicine related to the condition or disease which requires treatment. The board would hear and resolve filed complaints within 30 days. This provision does not replace or supercede any other Medicaid appeal mechanisms.

SENATE AMENDMENT

Requires Medicaid managed care entities to establish an internal grievance procedure under which an enrollee who is eligible for medical assistance under the State plan, or a provider on behalf of such an enrollee, may challenge the denial of coverage of or payment for such assistance. Requires entities to provide effective procedures for hearing and resolving grievances between the entity and members enrolled with the entity.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

d. Demonstration of Adequate Capacity and Services

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires Medicaid MCOs to provide the state and the Secretary with adequate assurances as determined by the Secretary, that the organization meets specified requirements with respect to a service area. Such requirements include: (1) the capacity to serve the expected enrollment in such service area; (2) an appropriate range of services, including transportation and translation services; (3) a sufficient number, mix, and geographic distribution of providers; (4) extended hours of operation with respect to primary care services; (5) preventive and primary care services in readily accessible locations; (6) information about health and other services offered by other programs for which enrollees may be eligible; (7) compliance with other access to care requirements the Secretary or state may impose.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment modified to require assurances with respect to (1) the capacity to serve the expected enrollment in such service area; (2) an appropriate range of services and access to preventive and primary care; and (3) a sufficient number, mix, and geographic distribution of providers.

e. Protecting Enrollees Against Liability for Payment

CURRENT LAW

Requires MCOs to make adequate provision against the risk of insolvency, which assures that individuals eligible for benefits are not held liable for debts of the organization in case of the organization's insolvency.

HOUSE BILL

No provision.

SENATE AMENDMENT

Managed care entities are required to assure that individuals enrolled with the entity are not held liable for the debts of the entity (or any health care provider with a contractual or other arrangement with the entity) in the event of insolvency, or for services provided to them in the event the entity (or any health care provider with a contractual or other arrangement with the entity) fails to receive payment from the state for such services.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

f. Antidiscrimination

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Prohibits managed care entities from discriminating against any provider acting within the scope of the provider's license or certification under applicable state law with respect to participation, reimbursement, or indemnification, solely on the basis of such license or certification.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

g. Compliance with Certain Maternity and Mental Health Requirements

CURRENT LAW

Public Law 104-204 requires group health plans and issuers of health insurance plans in the group and individual markets to provide coverage of 48 hours of inpatient care for normal childbirth deliveries and 96 hours for caesareans. Public Law 104-204 also prohibits group health plans that cover medical, surgical, and mental health benefits from imposing more restrictive annual or lifetime dollar limitations on the coverage of mental health benefits than on medical and surgical benefits. The definition of mental health benefits does not include treatment of substance abuse and chemical dependency.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires Medicaid MCOs to comply with the mental health parity and maternity length-of-stay requirements enacted by Public Law 104-204.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

h. Protection of Enrollees Against Balance Billing Through Subcontractors

CURRENT LAW

Section 1128B(d)(1) of the Social Security Act contains penalties for those who knowingly and willfully charge, for any service provided to a patient under an approved Medicaid state plan, money or other consideration at a rate in excess of the rates established by the state.

HOUSE BILL

No provision.

SENATE AMENDMENT

Applies balance billing limitation requirements to any entity subcontracting with participating managed care entities.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment, with clarifications to simplify language.

i. Standards Relating to Access and Obstetrical and Gynecological Services Under Managed Care

CURRENT LAW

No provision.

HOUSE BILL

Managed care plans requiring or allowing enrollees to designate their primary care provider must permit female enrollees to designate a participating obstetrician-gynecologist as their primary care provider. Enrollees who have designated other providers as their primary care provider must be permitted to obtain obstetric and gynecologic care from a participating obstetrician-gynecologist without prior authorization. The ordering of any other gynecologic care by the participating obstetrician-gynecologist is considered prior authorization for such care. Provision shall be effective for contracts entered into, renewed, or extended on or after January 1, 1998.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision.

j. Miscellaneous

CURRENT LAW

Requires MCOs to make services they provide accessible to enrolled individuals to the same extent as such services are made accessible to Medicaid-eligible individuals not enrolled with the organization.

Requires MCO contracts to provide, in the case of medically necessary services provided to an individual other than through the

MCO, that either the MCO or the state provides for reimbursement with respect to those services if they were immediately required due to an unforseen illness, injury, or condition.

SENATE AMENDMENT

Requires a managed care entity to provide Medicaid services to provide or arrange for all medically necessary services specified in the contract. Requires entities to meet standards, established by the Secretary, relating to the ratio of enrollees to full-time-equivalent primary care providers.

Requires a managed care entity to refer enrollees requiring specialty care to an available and accessible specialist. Specialty care provided must be approved by the entity, in accordance with quality assurance and utilization review standards. Referral to a nonparticipating specialty provider is required only if the plan doesn't have the appropriate specialist available. Care provided to an enrollee referred to a nonparticipating specialists may cost the enrollee no more than care provided by a participating specialist.

Requires managed care entities to make medical assistance available to enrollees with reasonable promptness and medically necessary care available and accessible 24 hours a day and 7 days a week. Provides reimbursement to individuals who receive medical assistance other than through the managed care entity or without prior approval, if the services are medically necessary and immediately required because of an unforeseen emergency.

Assistance to special needs children enrolled in a managed care entity shall be provided either by a participating experienced pediatric health care provider or, if appropriate services are not available through the entity, from appropriate outside providers. An individual referred to a provider or allowed to seek outside treatment shall be deemed to have obtained any prior authorization required by the entity.

CONFERENCE AGREEMENT

With respect to access to services, primary care provider ratios, referral to specialty care, timely delivery of services, and treatment of special needs children, the conference agreement does not include the Senate amendment.

QUALITY ASSURANCE STANDARDS

Section 3461 of the House bill and Section 5701 (new sections 1945, 1946, 1947, and 1950) and Section 5758 of Senate amendment

CURRENT LAW

The Medicaid statute includes a number of provisions intended to improve quality of care in prepaid programs and to protect beneficiaries. States are required to obtain an independent assessment of the quality of services furnished by contracting HMOs and pre-paid health plans (those offering a non-comprehensive set of services under partial capitation), using either a utilization and quality control peer review organization (PRO) under contract to the Secretary or another independent accrediting body.

States are prohibited from contracting with an organization which is managed or controlled by, or has a significant subcontractual relationship with, individuals or entities potentially excludable from participating in Medicaid or Medicare.

States are required to collect sufficient data on HMO enrollees' encounters with physicians to identify the physicians furnishing services to Medicaid beneficiaries. As a proxy for quality, federal law requires that less than 75% of a managed care organization's enrollment must be Medicaid and Medicare beneficiaries. For some HMOs, the 75/25 rule has been bypassed through state demonstration waivers or through specific federal legislation. Some HMOs are federally qualified—determined by the Secretary to meet standards set forth in title XIII of the Public Health Service Act that includes quality standards.

States' payments under contracts with MCOs must be established on a actuarially sound basis. By regulation, payment rates may not exceed what the state would have paid for similar services for a beneficiary not enrolled in a MCO. This upper payment limit is known as the fee-for-service equivalent. States may pay less than the upper limit.

MCOs' physician incentive plans are required to meet the requirements of section 1876(i)(8) and comparable requirements under part C of title XVIII.

HOUSE BILL

States entering into contracts with managed care entities would be required to establish a quality assurance program, consistent with standards that the Secretary would establish and monitor, in consultation with states and that do not preempt the application of stricter state standards. State quality assurance programs are required to include (1) standards for access to care that ensure (a) that covered services are available within reasonable timeframes, (b) adequate primary care, and (c) specialized service capacity, including pediatric services for special needs children, (2) procedures for monitoring and evaluating quality of care that includes submitting quality assurance data using requirements for entities with Medicare contracts or other requirements as approved by the Secretary, and periodic assessment of quality improvement strategies, and (3) provisions for financial reporting.

Managed care entities would be required to submit to the state any information the state may find necessary to monitor care, maintain an internal quality assurance program consistent with the state's quality assurance program described above, and provide effective grievance procedures.

Health maintenance organizations with contracts in effect under Section 1876 of the Social Security Act or MedicarePlus organizations with contracts in effect under Part C of Title XVIII of the Social Security Act could, at state option, be deemed to be in compliance with the requirements of Section 1903(m) pertaining to managed care organizations.

The provision would allow states to deem those managed care entities that have been accredited by an accrediting organization to be in compliance with the requirements of Section 1903(m) pertaining to managed care entities. The accrediting organization must be: (1) private and nonprofit; (2) in existence for the primary purpose of accrediting managed organizations or health care providers; and (3) independent of health care providers or associations of health care providers. The Secretary is required to specify requirements for the standards and process by which a managed care entity may be accredited by such an accrediting organization.

The provisions of this section apply to agreements between state agencies and managed care entities entered into or renewed on or after January 1, 1999.

SENATE AMENDMENT

Similar to House provision, except it requires primary care case managers and managed care organizations to obtain an annual external independent review of the quality outcomes and timeliness of, and access to the services included in the manager's or organization's contract with the state. The MCO's review shall include: (1) a review of the MCO's medical care and enrollee inpatient and ambulatory data for indications of quality of care, inappropriate utilization, and treatment; (2) notification of the entity and the state if inappropriate care, treatment, or utilization is found; and (3) other activities prescribed by the Secretary or the state. Requires the review to use protocols, developed and validated by the Secretary, that are at least as rigorous as those used by the National Committee on Quality Assurance as of the date of enactment. Requires the results of the reviews to be available to participating providers, enrollees and potential enrollees of the MCO. Requires the Secretary to review the external independent reviews each year, and monitor the effectiveness of the state's monitoring of managed care entities.

In addition, the Senate Amendment: requires Medicaid managed care organizations and primary care case managers to provide specified information to states; requires entities entering into contracts with the state to submit to the state information that demonstrates improvement in the care delivered to members and requires MCOs to provide enrollees with an annual report on non-health expenditures; and requires Medicaid MCOs to maintain sufficient patient encounter data to identify the health care provider furnishing services to Medicaid beneficiaries and to submit such data to the state or Secretary upon request.

Permits the Secretary and the State to establish an incentive program to reward high quality managed care entities.

Provides federal financial participation (FFP) for 75% of the amount expended with respect to costs incurred in a quarter (as found necessary by the Secretary for the proper and efficient administration of the state plan) as are attributable to the performance of independent external reviews of managed care entities.

Modifies the payment limit and actuarial soundness standards to require that capitated payment amounts be set at rates that have been determined to be sufficient and not excessive. Such determination would be made by an independent actuary meeting the standards of qualification and practice established to the Actuarial Standards Board.

Requires MCO's physician incentive plans to meet the requirements of section 1876(i)(8) and comparable requirements under part C of title XVIII.

Requires specified aspects of an MCOs provider participation agreements with rural health clinics, federally qualified health centers, and clinics providing Title X services to be no more restrictive than the MCOs agreements with other participating providers. Payments to federally qualified health centers and rural health clinics are required, at the election of such center or clinic, to be made on a cost basis.

Requires the Secretary, in consultation with specified others, to conduct a study and develop guidelines regarding managed care entities and individuals with special health care needs. The Secretary shall report such guidelines to Congress not later than 2 years after the date of enactment and make recommendations for implementing legislation. The guidelines shall relate to specified issues and will apply to primary care case management and capitated risk sharing arrangements.

Requires other specified studies and reports:

(1) By January 1, 1998, the Secretary must report to the Senate Finance and House Commerce Committees on the effect of managed care entities on the delivery of and payment for the services traditionally provided through FQHCs, RHCs, and DSH hospitals that have traditionally served Medicaid beneficiaries. The report must include specified information.

(2) The Secretary and Comptroller General must submit annually a report on the rates paid for hospital services under Medicaid managed care entities.

(3) Requires each state to report information on hospital rates submitted to such state under section 1947(b)(2).

(4) Requires the Institute of Medicine to analyze whether the quality assurance programs and accreditation standards applicable to managed care entities operating in the private sector or under contract under the Medicare program include consideration of the accessibility and quality of health care items and services such entities deliver to low-income individuals.

CONFERENCE AGREEMENT

With respect to quality improvement strategy the conference agreement includes provisions that are similar in the House bill and Senate amendment. States entering into contracts with managed care entities would be required to establish a quality assurance program, consistent with standards that the Secretary would establish and monitor, in consultation with states and that do not preempt the application of stricter state standards. State quality assurance programs are required to include (1) standards for access to care that ensure (a) that covered services are available within reasonable timeframes, (b) adequate primary care, and (c) specialized service, (2) examination of other aspects of care and service directly related to the improvement of quality of care (including grievance procedures and marketing and information standards), and (3) procedures for monitoring and evaluating quality of care that includes submitting quality assurance data using requirements for entities with Medicare contracts or other requirements as approved by the Secretary, and periodic assessment of quality improvement strategies.

With respect to external independent review of managed care activities, the conference agreement includes the Senate amendment with modifications. The modifications would apply the requirement for external review for external review to managed care organizations only (not PCCMs) and require the Secretary, in coordination with the National Governors' Association, to contract with an independent quality review organization to develop the protocols to be used in external independent reviews. The conference agreement does not include the Senate amendment with respect to the contents of the review, Secretarial review and monitoring, information requirements, annual report on non-health expenditures, and incentives for high quality.

With respect to deemed compliance, the conference agreement includes the Senate amendment with modifications. The modifications would, at the option of a state, deem Medicaid MCOs with contracts in effect under Section 1876 of the Social Security Act of Medicare+Choice organizations with contracts in effect under Part C of Title XVIII of the Social Security Act that have had contracts in effect under section 1903(m) at least during the previous 2-year period to be in compliance with external independent review requirements, permit private accreditation at the option of a state, and allow the Secretary to waive the external independent review requirement for organizations she determines have consistently maintained a good record of quality assurance.

With respect to FFP for external quality review organizations, the conference agreement includes the Senate amendment with clarifications to simplify language.

With respect to payment limits and encounter data, physician incentive plans, provider participation agreements, and payments to federally qualified health centers and rural health clinics, the conference agreement does not include the Senate amendment.

With respect to studies and reports, the conference agreement includes the Senate amendment with modifications requiring only studies of (1) managed care entities and individuals with special health care needs and (2) quality assurance programs and accreditation standards applicable to managed care entities operating in the private sector.

SOLVENCY STANDARDS

Section 3462 of House bill and Section 5701 (new section 1948) of Senate amendment

CURRENT LAW

HMOs are required to make adequate provision against the risk of insolvency that is satisfactory to the state and assures that Medicaid beneficiaries are in no case held liable for debt of the HMO in case of its insolvency.

HOUSE BILL

Effective for contracts entered into or renewed on or after October 1, 1998, requires an HMO to either meet the same solvency standards set by the states for private HMOs or be licensed or certified by the state as a risk-bearing entity. Such requirements would not apply to an organization if: (1) the organization does not provide inpatient and physician services; (2) the organization is a public entity; (3) the organization's solvency is guaranteed by the state; or (4) the organization is a federally qualified health center.

Such requirements shall not apply to fully capitated HMOs under contract of the date of enactment of this Act until 3 years after the date of enactment of this Act.

SENATE AMENDMENT

The Secretary would be required to establish standards under which MCOs would make adequate provision against insolvency. Requires the Secretary to issue guidelines concerning solvency standards for risk contracting entities and their subcontractors.

Requires Medicaid MCOs to report to the state such financial information as the state may require to demonstrate the MCO can bear risk and that it doesn't place providers at risk for services they don't provide. The Secretary and the state have the right to audit and inspect the MCO's books relating to financial information. Each MCO shall furnish the state with an audited financial statement of the organization's net earnings, consistent with generally accepted accounting principles.

CONFERENCE AGREEMENT

The conference agreement includes the House provision, effective for contracts entered into or renewed on or after October 1, 1998.

ADDITIONAL FRAUD AND ABUSE PROTECTIONS IN MANAGED CARE

Section 3464 in House bill and Section 5701 (new sections 1948 and 1949) of Senate amendment

CURRENT LAW

a. Prohibiting Affiliations With Individuals Debarred by Federal Agencies

No provision.

b. Protection Against Marketing Abuse

No provision.

c. Application of State Conflict-of-Interest Safeguards

Medicaid state and local officers, or employees, former officers or employees, and partners of former officers or employees are prohibited from committing any act that is prohibited by Section 207 or 208 of title 18 of the United States Code.

d. Sanctions for Noncompliance by Managed Care Entities

The Secretary may carry out specific remedies, including civil money penalties and the suspension of enrollment of individuals and the payment for services provided to them, in the event an MCO: (1) fails to substantially provide medically necessary items and services required to be provided, and if the failure adversely affected (or had the substantial likelihood of adversely affecting) the individual; (2) imposed premiums in excess of premiums permitted; (3) discriminated among individuals on the basis of their health status or requirements for health care service; (4) misrepresented or falsified information that it furnished to the Secretary or others; or (5) failed to comply with rules regarding physician incentive participation.

e. Limitation on Availability of FFP for Use of Enrollment Brokers

No provision

f. Disclosure of Ownership and Related Information

Section 1124 of the Social Security Act requires that entities participating in Medicare, Medicaid, and the Maternal and Child Health Block Grant programs provide certain information regarding the identity of each person with an ownership or control interest in the entity, or in any subcontractor in which the entity has a direct or indirect 5% or more ownership interest.

g. Disclosure of Transaction Information

Each non-qualified HMO must report to the state and upon request to the Secretary and selected others a description of transactions between the organization and a party of interest (as defined in section 1318(b) of the Social Security Act), including: (1) any sale or exchange, or leasing of any property between the organization and such party; (2) any furnishing for consideration of goods, services, and facilities (but generally not including employees' salaries or health services provided to members); and (3) any lending of money or other extension of credit.

HOUSE BILL

a. Prohibiting Affiliations With Individuals Debarred by Federal Agencies

An HMO could not knowingly affiliate with a person (or an affiliate of such person) debarred, suspended, or otherwise excluded from participating in procurement activities under the federal acquisition regulation, or from participating in nonprocurement activities under regulations issued pursuant to Executive Order 12549. Specifically, an HMO may not have such a person as a director, officer, partner, or person with beneficial ownership of more than 5% of the organization equity. Further, an HMO may not have an employment, consulting, or other agreement with such a person for items and services related to the organization's contract with the state.

If a state found an HMO contractor to be out of compliance with the above requirements, it could not continue an existing agreement with such organization unless the Secretary, in consultation with the Inspector General of the Department, directs otherwise. The state could not renew or otherwise extend the duration of an existing contract with such organization unless the Secretary, in consultation with the Inspector General of the Department, provided to the state and to Congress compelling reasons for such renewal or extension.

b. Protection Against Marketing Abuse

Requires that a state, in consultation with a medical care advisory committee, approve all marketing material an HMO wishes to distribute, prior to distribution. HMOs would be prohibited from: (1) distributing any marketing material containing false or misleading information; (2) seeking to influence enrollment in conjunction with the sale of any other insurance; and (3) directly or indirectly conducting door-to-door, telephonic, or other "cold call" marketing of enrollment. Requires HMOs to distribute marketing information to their entire service area. Before an individual is enrolled in a plan, HMOs are required to comply with conditions the Secretary would prescribe to ensure that they are provided with accurate oral and written information sufficient to make an informed enrollment decision. Prohibits the state from contracting with an HMO found to have distributed false or misleading marketing information.

c. Application of State Conflict-of-Interest Safeguards

Requires states to have conflict-of-interest safeguards in effect relating to state officers and employees having responsibilities over contracts with managed care organizations. Such safeguards must be at least as effective as the federal safeguards provided under Section 27 of the Office of Federal Procurement Policy Act.

d. Sanctions for Noncompliance by Managed Care Entities

No provision.

e. Limitation on Availability of FFP for Use of Enrollment Brokers

Federal financial participation (FFP) would be available for expenditures for the use of an enrollment broker in marketing HMOs and other managed care entities to eligible individuals, on the condition that the broker is independent of any plan or provider in the state, and that no person who is an owner, employee, consultant, or has a contract with the broker has any financial relationship with participating managed care entities or providers, or has been excluded from participating in Medicaid or Medicare. This provision would be effective January 1, 1998.

f. Disclosure of Ownership and Related Information

No provision.

g. Disclosure of Transaction Information

No provision.

SENATE AMENDMENT

a. Prohibiting Affiliations With Individuals Debarred by Federal Agencies

Identical to House provision except would apply protection against marketing abuse to managed care entities.

b. Protection Against Marketing Abuse

Identical to House provision except would apply protection against marketing abuse to managed care entities including PCCM.

c. Application of State Conflict-of-Interest Safeguards

Identical to House provision.

d. Sanctions for Noncompliance by Managed Care Entities

Requires states to establish intermediate sanctions (other than the termination of a contract with a managed care entity), including civil money penalties, the appointment of temporary management, the suspension of enrollment of individuals and the payment for services provided to them, and permitting enrollees to terminate enrollment without cause, in the event an MCO or primary care case manager contracting with the state: (1) fails to substantially provide medically necessary items and services required to be provided, and if the failure adversely affected (or had the substantial likelihood of adversely affecting) the individual; (2) imposed premiums in excess of premiums permitted; (3) discriminated among individuals on the basis of their health status or requirements for health care service; (4) misrepresented or falsified information that it furnished to the Secretary or others; or (5) failed to comply with rules regarding physician incentive participation. The Secretary could also to apply the sanctions described above and could deny payments to states for persons enrolled in plans.

The term "medically necessary" may not be construed as requiring an abortion be performed by an individual, except if necessary to save the life of the mother or if a pregnancy is the result of an act of rape or incest.

Applies specified sanctions against chronically substandard managed care entities.

Allows states to terminate contracts with managed care entities failing to meet the requirements described above.

Establishes due process for managed care entities prior to the termination of a contract or the imposition of sanctions.

e. Limitation on Availability of FFP for Use of Enrollment Brokers

Identical to House provision.

f. Disclosure of Ownership and Related Information

Requires each Medicaid MCO to provide for disclosure of information in accordance with section 1124.

g. Disclosure of Transaction Information

Similar to current law except applies to Medicaid MCOs that are not qualified HMOs.

CONFERENCE AGREEMENT

With respect to prohibiting affiliations of debarred individuals and marketing protection, the conference agreement includes the House provision.

With respect to conflict of interest safeguards and limitation on availability of FFP for use of enrollment brokers, the conference agreement includes provisions that are identical in the House bill and Senate amendment. Provisions on FFP for enrollment brokers would apply to amounts expended on or after October 1, 1997.

With respect to intermediate sanctions for noncompliance, the conference agreement provides the states with the tools they need to ensure that beneficiaries are enrolled in quality managed care plans and that they will receive the services provided for under contract. This section requires, as a condition of state entry into or renewal of a contract under Section 1903(m), that a state establishes intermediate sanctions which it may impose on an entity which fails to provide an item or service under its contract with the state. This section is intended to ensure that a state may not impose a sanction on any plan that does not provide abortion services if the plan is not contracted to provide that service, whether or not that service is required to be provided under law.

With respect to sanctions for chronically substandard managed care entities, authority to terminate contracts, and due process for managed care entities prior to the termination of a contract or the imposition of sanctions, the conference agreement will include the Senate amendment with conforming amendments, effective for contracts entered into or renewed on or after April 1, 1988.

With respect to disclosure of ownership and related information and disclosure of transaction information, the conference agreement does not include the Senate amendment.

IMPROVED ADMINISTRATION

Section 3404 and 3402 of House bill and Section 5701 (new section 1948) and 5703 of Senate amendment

a. Change in Threshold Amount for Contracts Requiring Secretary's Prior Approval

CURRENT LAW

All state contracts with a managed care organization must receive prior approval from the Secretary if expenditures are expected to be over $100,000.

HOUSE BILL

For contracts entered into or renewed on or after the date of enactment, raises the managed care contract expenditure level requiring prior approval from the Secretary of Health and Human Services to $1,000,000, effective 1998. In future years, indexes the amount for inflation according to the percentage increase in the consumer price index for all urban consumers (CPI–U) over the previous year.

SENATE AMENDMENT

Similar provision except does not index the amount for inflation in future years.

CONFERENCE AGREEMENT

The conference agreement includes House provision, effective on date of enactment.

b. Permitting same copayments in HMOs as in fee-for-service

CURRENT LAW

Enrollment fees, coinsurance, or other cost-sharing charges may not be imposed on certain Medicaid recipients for services furnished by health maintenance organizations.

HOUSE BILL

Eliminates the prohibition on cost sharing for services furnished by health maintenance organizations. Applies to cost-sharing for items and services furnished on and after the date of enactment.

SENATE AMENDMENT

Similar provision.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

c. Timeliness of payment

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires managed care organizations to pay affiliated providers in a timely manner for items and services provided to Medicaid beneficiaries.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

6-Month Guaranteed Eligibility for All Individuals Enrolled in Managed Care

Section 5701 (new section 1941) of the Senate amendment

CURRENT LAW

States may also guarantee eligibility for up to 6 months for persons enrolled in federally qualified HMOs.

HOUSE BILL

No provision.

SENATE AMENDMENT

Would allow states to establish a minimum enrollment period of not more than 6 months (states may extend such period up to 12 months if extension is done uniformly for all individuals). Deems individuals who lose Medicaid eligibility prior to the end of the minimum enrollment period eligible to receive benefits through the entity until the end of the enrollment period.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment modified to allow states to guarantee eligibility for up to 6 months for persons enrolled with a Medicaid managed care organization (as defined in section 1903(m)(1)(A)), with a primary care case manager (as defined in section 1905(t)), or by or through a case manager. Provision shall take effect on October 1, 1997.

Effective Dates (Section 5701 (new section 1950) of Senate amendment)

HOUSE BILL

No provision.

SENATE AMENDMENT

Except as otherwise provided, amendments take effect on the date of enactment and apply to contracts entered into or renewed on or after October 1, 1997.

Makes allowances for States with section 1915 or section 1115 Medicaid waivers either approved or in effect.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications.

Chapter 2—Flexibility in Payment of Providers

Flexibility in Payment Methods for Hospital, Nursing Facility, ICF/MR, and Home Health Services

Section 3411 of House bill and Section 5711 of Senate amendment

CURRENT LAW

Under so-called Boren amendments, states are required to pay hospitals, nursing facilities, and intermediate care facilities for the mentally regarded (ICFs/MR) rates that are "reasonable and adequate" to cover the costs which must be incurred by "efficiently and economically operated facilities." A number of courts found that state systems failed to meet the test of "reasonableness" and some states have had to increase payments to these providers.

HOUSE BILL

Repeals the Boren amendments and establishes a public notice process for setting payment rates for hospitals, nursing facilities, and ICFs/MR. In the case of hospitals, rates would have to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs. For hospitals and nursing facilities, each state would have to assure that the average level of payments furnished during the 18-month period beginning October 1, 1997, is not less than the average level of payments that would be made for such services based on rates in effect as of May 1, 1997.

SENATE AMENDMENT

Repeals the Boren amendments and establishes a public notice process for rates and their underlying methodologies, including a description of how such methodologies will affect access to services, quality of services, and safety of beneficiaries. The Secretary would be required to study the effects of the rate-setting methods used by states and submit a report with recommendations not later than 4 years after enactment.

CONFERENCE AGREEMENT

Repeals the Boren amendments and establishes a public process under which proposed rates, methodologies underlying the rates and the justifications for such rates are published and subject to public review and comment, and final rates are published with underlying methodologies and justifications. Requires the Secretary to study the effects of states' rate-setting methods on access to and quality of services and submit a report with recommendations not later than 4 years after enactment.

Effective upon enactment; applies to payments for services furnished on or after October 1, 1997.

Payment for Center and Clinic Services

Section 3412 of House bill and Section 1946(d) of Senate amendment

CURRENT LAW

State Medicaid programs are required to cover ambulatory services that are furnished by federally qualified health centers (FQHCs) and rural health clinics (RHCs). Medicaid payments for ambulatory services that are provided by FQHCs or RHCs must be equal to 100% of the facilities' reasonable costs for providing the services. If an FQHC enters into a contract with a health maintenance organization (HMO) that contracts with a state Medicaid program, the HMO must pay the FQHC 100% of reasonable costs and the state's capitation payment to the HMO must reflect the 100% rate that is due to the FQHC.

The law defines FQHC as a center that receives, or meets the requirements to receive, a certain grant under the Public Health Service Act. In addition, an entity is an FQHC if (1) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, the Secretary determines that the entity meets the requirements for receiving such a grant or (2) the entity was treated by the Secretary as a comprehensive FQHC as of January 1, 1990. The definition includes a program or facility operated by an Indian tribe, a tribal organization, or by an urban Indian organization.

HOUSE BILL

States would be required to continue to pay 100% of reasonable costs for services furnished by FQHC and RHCs during fiscal years 1998 and 1999, but could reduce rates in later years. States are required to pay FQHC and RHCs at least 95% of costs for services furnished during FY2000, 90% for FY2001, and 85% for FY2002.

To ease the transition from cost-based payment rates, the provision specifies two special payment rules that would be applicable during fiscal years 1998–2002. In the case of a contract between an FQHC or RHC and an HMO, the HMO would have to pay the FQHC or RHC at least as much as it would pay any other provider for similar services. States would be required to make supplemental payments to the FQHCs and RHCs. Such payments would be equal to the difference between the contracted amount and the cost-based amount.

Modifies the definition of FQHC to allow states flexibility in coverage. With respect to an entity that the Secretary determined met the requirements for a grant, and the entity was owned, controlled, or operated by another provider, the state would have the option of whether to treat the entity as an FQHC or not.

The Comptroller General would be required, not later than February 1, 2001, to report on the impact of these amendments on access to health care for Medicaid beneficiaries and the uninsured, and on the ability of FQHCs and RHCs to become integrated in a managed care system.

The provision would apply to services furnished on and after the date enactment.

SENATE AMENDMENT

Requires a Medicaid managed care organization that has contract with an FQHC or RHC to pay the center on a basic that was comparable to the basis on which other providers were paid. In addition, the provision would require that, at the election of the center, a managed care organization pay 100% of reasonable costs for services furnished under a contract with an FQHC or RHC.

Effective October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with amendments. The conference agreement would phase out the requirement that states pay 100% of costs to FQHCs and RHCs. Under the phase-out schedule, states could pay 95% of reasonable costs for services furnished during FY2000, 90% for 2001, 85% for 2002, and 70% for 2003.

The conference agreement includes the House bill's transitional provisions regarding states' supplemental payments to FQHCs and RHCs, and HMO payments to FQHCs or RHCs under contracts with the HMO.

The conferees recognize the important contributions to the health of many low-income individuals made by these facilities. States are encouraged to work with the FQHCs and RHCs in making the transition to the new challenges and opportunities presented in Medicaid reform.

With respect to an entity which, based on the recommendation of the Health Resources and Services Administration is determined to meet the requirements of receiving a grant, the conference agreement amends the definition to mean an entity that is determined to meet the requirements of receiving a grant including requirements of the secretary that an entity may not be owned, controlled, or operated by another entity.

Elimination of Obstetrical and Pediatric Payment Rate Requirements

Section 5752 of the Senate amendment

CURRENT LAW

States are required to assure adequate payment levels for obstetrical and pediatric services and provide annual reports on their payment rates for such services.

HOUSE BILL

No provision.

SENATE AMENDMENT

Repeals the current law provision effective with services furnished on or after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

MEDICAID PAYMENT RATES FOR CERTAIN MEDICARE COST-SHARING

Section 5712 of Senate amendment

CURRENT LAW

State Medicaid programs are required to pay Medicare cost-sharing charges for individuals who are beneficiaries under both Medicaid and Medicare, (dual eligibles) and for qualified Medicare beneficiaries (QMBs). QMBs are individuals who have incomes not over 100% of the poverty level and who meet specified resources standards.) The amount of required payment has been the subject of some controversy.

State Medicaid programs frequently have lower payment rates for services than the rates that would be paid under Medicare. Program guidelines permit states to pay either (1) the full Medicare deductible and coinsurance amounts or (2) cost-sharing charges only to the extent that the Medicare provider has not received the full Medicaid rate for an item or service. Some courts have forced state Medicaid programs to reimburse Medicare providers to the full Medicare allowable rates for services provided to QMBs and dually eligible individuals.

HOUSE BILL

No provision.

SENATE AMENDMENT

Clarifies that state Medicaid programs may limit Medicare cost-sharing to amounts that, with the Medicare payment, do not exceed what the state's Medicaid program would have paid for such service to a recipient who is not a QMB. Specifies that the Medicare payment plus the state's Medicaid payment will be considered payment in full and the QMB will not be liable for payment to a provider or managed care entity. Additionally, provides that any sanctions for excess charges that may be imposed on a provider or managed care entity under Medicare may be imposed for making excess charges under Medicaid.

Applies to items and services furnished on or after the date of enactment. In the case of payment that is subject to a law suit pending as of the date of enactment, or initiated after the date of enactment, applies to items and services furnished before the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

TREATMENT OF VETERANS PENSIONS UNDER MEDICAID

Section 5766 of Senate amendment

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that in the case of a Medicaid-eligible resident in a state veterans home to which the Secretary of Veterans Affairs makes payments for nursing home care, if the veteran has no spouse or child, and receives a veteran's pension of more than $90 per month, any pension payment (including any payment due to the need for aid and attendance, or for unreimbursed medical expenses) that is over $90 per month will be counted as income to be applied to the cost of nursing home care. These provisions will also apply to a Medicaid-eligible surviving spouse of a veteran.

Effective October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

3—FEDERAL PAYMENTS TO STATES

Chapter 3—Federal Payments to States

DISPROPORTIONATE SHARE PAYMENTS

Section 3471 of House Bill and Subchapter C of Senate Amendment

CURRENT LAW

(a) Direct Payment by State. States are required to make payment adjustments to the rates of certain hospitals that treat large numbers of low income and Medicaid patients.

The law sets minimum standards by which a hospital may qualify as a disproportionate share (DSH) hospital, and minimum payments to be made to those hospitals. State are generally free to exceed federal minimums in both designation and payments up to certain ceilings.

(b) State DSH allocations. Each year states are designated as either "high" DSH states or "low" DSH states based on the percentage of total medical assistance payments for DSH adjustments in the prior year. States making DSH payments in excess of 12% of medical assistance are designated "high" DSH, while those paying less than 12% of medical assistance for DSH are designated as low DSH. Total disproportionate share payments to each state are limited to a published allotment amount that can be no more than 12% of medical assistance payments in states designated as "low" DSH states, and in states designated as "high" DSH states the amount of payments in 1992. A hospital may not be designated as a DSH hospital by a state unless it serves a minimum of 1% Medicaid clients among its caseload.

(c) Transition Rule. Under current law, DSH payments to inpatient general hospitals are limited to no more than the costs of providing inpatient and outpatient services to Medicaid and uninsured patients, less payments received from Medicaid and uninsured patients. This cap, known as the hospital-specific or facility-specific DSH cap, was phased-in for certain public hospitals so that during state fiscal years beginning before January 1995, those hospitals could receive 200% of the above costs. After that, all hospitals would be limited to no more than 100% of unreimbursed costs.

(d) Limitations on Payments to IMDs. No provision.

(e) Effective Date. no provision.

(f) DSH Payments for Certain Children's and Teaching Hospitals. Under current law, states have a great deal of flexibility in defining hospitals qualifying as DSH hospitals and setting payment adjustments for those hospitals within broad federal guidelines. DSH hospitals must include at least all hospitals meeting minimum criteria and may not include hospitals that do not have a Medicaid utilization rate of at least 1%. The DSH payment formulas must at least meet minimum criteria and DSH payments cannot exceed a hospital-specific cap based on the unreimbursed costs of providing hospital services to Medicaid and uninsured patients.

HOUSE BILL

(a) Direct Payment by State. Requires states to pay for services furnished by a hospital on behalf of individuals enrolled in Medicaid managed care entities directly to hospitals rather than to the managed care entities and not to include such payments in the capitation rate.

(b) State DSH allocations. Establishes additional caps on the state DSH allotments for fiscal years 1998–2002. The state DSH allotments for states in which 1995 DSH payments were less than 1% of total medical assistance spending would be frozen at the level of payments for DSH adjustments in those states in 1995. For states classified as "high" DSH states (those with DSH payments in excess of 12% of medical assistance payments) for fiscal year 1997, DSH allotments would be reduced from 1995 payment levels. The reduction percentage for "high" DSH states would be equal to 2% in 1998, 5% in 1999, 20% in 2000, 30% in 2001, and 40% in 2002. All other states' DSH payments would be equal to 1995 DSH payments levels reduced by one-half of the reduction percentages for "high" DSH states. The provisions of this section would become effective beginning with fiscal year 1998.

(c) Transition Rule. Increases the hospital-specific cap on DSH payments for the State of California to 175% of the cost of care provided to Medicaid recipients and individuals who have no health insurance or other third-party coverage for services during the year (net of non-disproportionate-share Medicaid payments and other payments by uninsured individuals) for the period October 1, 1997, to October 1, 1999.

(d) Limitations on Payments to IMDs. No provision.

(e) Effective Date. Fiscal year 1998.

(f) DSH Payments for Certain Children's and Teaching Hospitals. No provision.

SENATE AMENDMENT

(a) Direct Payment by State. No Provision.

(b) State DSH allocations. Establishes additional caps on state DSH allotments for "high" and non-high DSH states beginning in fiscal year 1998. "High" DSH states would be defined as those designated as such for 1997 using the preliminary DSH allotment as published in the Federal Register on January 31, 1997.

In 1998, DSH allotments for state that are not "high" DSH states would be equal to actual 1995 DSH payment and for States that are "high" DSH states, would be the sum of 1995 DSH payments to general hospitals and 70% of DSH payments to mental hospitals.

Except as provided below, allotments for non-high DSH staets for 1999 through 2002 would be equal to 1995 payments reduced by the following percentages: 2% in 1999, 5% in 2000, 10% in 2001, and 15% in 2002. Allotments for "high" DSH states for those years would be reduced in the following manner. In 1999, "high" DSH states would be allotted the sum of 1995 DSH payments to inpatient general hospitals plus 50% of their 1995 DSH payments to mental hospitals and then the sum would be reduced by 8%, in 2000, the sum of their 1995 DSH payments to inpatient general hospitals plus 20% of their 1995 DSH payments to mental hospitals and then the sum would be reduced by 15%. In 2001 and 2002, "high" DSH states would be allotted an amount equal to 1995 DSH payments to inpatient general hospitals reduced by 20%.

For states with 1995 DSH spending of more than 12% of total medical assistance payments and which reported no DSH payments to inpatient mental health facilities in that year, allotments for the years 1998–2002 would be equal to the average of reported DSH payments in 1995 and 1996.

For states with 1995 DSH spending of less than 3% of total medical assistance payments, allotments for years 1998–2002 would be equal to their 1995 spending amounts.

For states with 1995 DSH spending of over 3% of total medical assistance payments, allotments for 1998–2002 would be equal to the greater of the formula as described above or 50% of 1995 DSH payments.

Allotments for all states for 2003 and thereafter would be equal to the allotment for the preceding year, increased by the estimated percentage change in the consumer price index for medical services (as determined by the Bureau of Labor Statistics.)

(c) Transition Rule. No provision.

(d) Limitations on Payments to IMDs.—

Payments to institutions for mental diseases and other mental health facilities would not be allowed to exceed total DSH spending in 1995 for such facilities or the applicable percentage multiplied by 1995 DSH payments to such facilities. The applicable percentage is the lesser of the percentage of total 1995 DSH payments that were paid to IMDs or other mental health facilities or 50% in 2001, 40% in 2002, or 33% in 2003.

(e) Effective Date. October 1, 1997, without regard to whether or not final regulations to carry out such provisions have been promulgated.

(f) DSH Payments for Certain Children's and Teaching Hospitals. Requires states to provide assurances to the Secretary that the state has developed a methdology for prioritizing DSH payments to hospitals, including children's hospitals, that is based on the proportion of low-income and medicaid patients served by such hospitals. Such assurance would be required to include a definition of high volume disproportionate share hospitals and a detailed description of the methodology to be used to provide DSH payments to such hospitals. The state would also be required to provide a report annually to the secretary that describes the payments to such hospitals.

CONFERENCE AGREEMENT

(a) Direct Payment by State. The conference agreement includes the House provision with the following modification. The provision would not apply to DSH payments made under payment arrangements in effect on July 1, 1997.

(b) State DSH allocations. The conference agreement establishes additional caps on the state DSH allotments for fiscal years beginning in 1998. The agreement sets the caps for 1998 to 2002 and establishes specific amounts that states would receive in each of these years. Thereafter, the DSH allotments for a state would be equal to the allotment for the proceeding fiscal year increased by the percentage change in the medical care component of the consumer price index for all urban consumers as estimated by the Secretary for the previous fiscal year subject to a ceiling of 12% of the total amount of expenditures under the State plan for medical assistance during the fiscal year.

(c) Transition Rule. The conference agreement includes the House provision.

(d) Limitations on Payments to IMDs. The conference agreement includes the Senate Amendment with further specifications that 1995 DSH payments and DSH payments to IMDs are defined as those reported by the state on HCFA Form 64 no later than January 1, 1997.

(e) Effective Date. Fiscal Year 1998.

(f) DSH Payments for Certain Children's and Teaching Hospitals. The conference agreement includes the Senate amendment with the modification that states must submit to the Secretary a description of the methodology to be used by the State for to identify and to make payments to disproportionate share hospitals, including children's hospitals, on the basis of the proportion of low-income and medicaid patients services by such hospitals. The state shall make an annual report to the Secretary describing the DSH payments made.

TREATMENT OF STATE TAXES IMPOSED ON CERTAIN HOSPITALS

Section 3413 of House bill and Section 5765 and 5768 of Senate Amendment

CURRENT LAW

States may not claim for federal matching payments state spending generated from health care taxes that are not broad based. Health care provider-specific taxes are not considered broad-based and, thus, may not be used to claim federal matching payments for Medicaid spending.

HOUSE BILL

Amends the definition of the term "broad-based health care related tax" to specify that health related taxes that exclude hospitals described in section 501(c)(3) of the Internal Revenue code that are exempt from taxation under section 501(a) of the code, and do not accept Medicaid or Medicare reimbursement would qualify for federal matching payments if used as state Medicaid spending. The provision also prohibits states from claiming federal matching payments for state spending generated from health care taxes applied to these facilities.

The provision applies to taxes imposed before, on, or after the date of enactment.

SENATE AMENDMENT

Identical provision, additionally, deems taxes, fees, or assessments that were collected by the state of New York from a health care provider before June 1, 1997, and for which a waiver has been applied for, to be permissible health care related taxes in compliance with the requirements of Medicaid law.

CONFERENCE AGREEMENT

The conference agreement includes the House bill and the Senate amendment.

ADDITIONAL FUNDING FOR STATE EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS

Section 3472 of House bill

CURRENT LAW

The Medicaid program requires states to cover the cost of care and services necessary for the treatment of an emergency medical condition for undocumented aliens as long as those individuals would otherwise meet the eligibility requirements for the state Medicaid program.

HOUSE BILL

Provides for additional funding for emergency health services furnished to undocumented aliens for 1998 through 2001. For each of the four fiscal years, $25 million would be available to distribute among the 12 states (including the District of Columbia) having the highest number of undocumented aliens. In a fiscal year, each state's portion of total funds available would be based on its share of total undocumented aliens in all of the eligible states. From the allotments, the Secretary will pay to each state amounts the state demonstrates it paid for services furnished to undocumented aliens. Any amount of a state's allotment not paid out would be available for the following fiscal year. The number of undocumented aliens in a state would be based on estimates prepared by the Statistics Division of the Immigration and Naturalization Services as of October 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

ELIMINATION OF WASTE, FRAUD, AND ABUSE

Section 5756 of Senate amendment

CURRENT LAW

(a) Ban on Spending for Nonhealth Related Items. No provision.

(b) Disclosure of Information and Surety Bond Requirement for Suppliers of Durable Medical Equipment. Under Section 1124 of the Social Security Act, an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for furnishing Medicaid items or services is required to supply full and complete information as to the identity of each person with an ownership or control interest in the entity.

(c) Surety Bond Requirement for Home Health Agencies. No provision.

(d) Conflict of Interest Safeguards. Medicaid state and local officers, or employees, former officers or employees, and partners of former officers or employees are prohibited from committing any act that is prohibited by Section 207 or 208 of title 18 of the United States Code.

(e) Authority to Refuse to Enter Into Medicaid Agreement with Individuals or Entities Convicted of Felonies. Generally, Medicaid beneficiaries are free to obtain services from any providers that undertake to provide them.

(f) Monitoring Payment for Dual Eligibles. No provision.

(g) Beneficiary and Program Protection Against Waste, Fraud, and Abuse. No provision.

HOUSE BILL

(a) Ban of Spending for Nonhealth Related Items. No provision.

(b) Disclosure of Information and Surety Bond Requirement for Suppliers of Durable Medicaid Equipment. No provision.

(c) Surety Bond Requirement for Home Health Agencies. No provision.

(d) Conflict of Interest Safeguards. No provision.

(e) Authority to Refuse to Enter Into Medicaid Agreement with Individuals or Entities Convicted of Felonies. No provision.

(f) Monitoring Payment for Dual Eligibles. No provision.

(g) Beneficiary and Program Protection Against Waste, Fraud, and Abuse. No provision.

SENATE AMENDMENT

(a) Ban of Spending for Nonhealth Related Items. Specifies that federal Medicaid payment would not be made for any amount spent for roads, bridges, stadiums, or any other item or service not covered under a Medicaid state plan.

(b) Disclosure of Information and Surety Bond Requirement for Suppliers of Durable Medical Equipment. Adds the requirement that states would be prohibited from issuing or renewing provider status for suppliers of durable medical equipment unless, on a continuing bases, the supplier provided the state Medicaid agency with a surety bond in an amount not less than $50,000.

(c) Surety Bond Requirement for Home Health Agencies. Requires home health agencies to provide state Medicaid agencies with surety bonds in amounts to less than $50,000.

(d) Conflict of Interest Safeguards. Amends the officer and employee provisions to include independent contractors and require that if they are responsible for obtaining services under a Medicaid state plan, that they will be subject to safeguards against conflicts of interest that are as stringent as the safeguards that apply under section 27 of the Office of Federal Procurement Policy Act.

(e) Authority to Refuse to Enter Into Medicaid Agreement with Individuals or Entities Convicted of Felonies. Clarifies that a state is not required to have, as a Medicaid provider, any person or entity convicted of a felony which the state agency determines is inconsistent with the best interest of Medicaid beneficiaries.

(f) Monitoring Payment for Dual Eligibles. Requires the Administrator of the Health Care Financing Administration (HCFA) to:

Develop mechanisms to monitor and prevent inappropriate Medicaid payments for services furnished to individuals eligible for both Medicare and Medicaid benefits;

Study the use of case management or care coordination to improve care for individuals who are eligible for both programs; and

Work with states to ensure better care coordination for dual eligibles and recommend changes to Congress.

(g) Beneficiary and Program Protection Against Waste, Fraud, and Abuse. Requires each state to provide programs to ensure program integrity, protect and advocate on behalf of individuals, and report data about beneficiary concerns, complaints, and instances of beneficiary abuse, program waste, or fraud by managed care plans. Each state's programs would provide assistance to beneficiaries, with emphasis on the families of special needs children and persons with disabilities. Such assistance would include beneficiary education on managed care plans. The state's programs would collect and report data to the state and report to the state on any systematic problems in the implementation of managed care entities.

CONFERENCE AGREEMENT

(a) Ban of Spending for Nonhealth Related Items.

The conference agreement includes the Senate amendment.

(b) Disclosure of Information and Surety Bond Requirement for Suppliers of Durable Medical Equipment.

The conference agreement includes the Senate amendment.

(c) Surety Bond Requirement for Home Health Agencies.

The conference agreement includes the Senate amendment modified to require a surety bond of not less than $50,000 or such comparable surety bond as the Secretary may permit.

Applies to home health care services furnished on or after January 1, 1998.

(d) Conflict of Interest Safeguards.

The conference agreement includes the Senate amendment with technical modifications.

Effective January 1, 1998.

(e) Authority to Refuse to Enter Into Medicaid Agreement with Individuals or Entities Convicted of Felonies.

The conference agreement includes the Senate amendment with technical modifications.

(f) Monitoring Payment for Dual Eligibles.

The conference agreement includes only the first item of the Senate amendment. That is, the conference agreement includes the Senate provision amended to require only that the HCFA Administrator monitor and prevent inappropriate payments.

(g) Beneficiary and Program Protection Against Waste, Fraud, and Abuse.

The conference agreement requires each state to provide, not later than 1 year after enactment, a mechanism to receive reports from beneficiaries and others, and compile data concerning alleged instances of waste, fraud, and abuse.

The conferees support efforts at all levels of government to eliminate waste, fraud, and abuse in this program. States are encouraged to develop innovative approaches in this area.

INCREASED FMAPs

Section 5761 of Senate amendment

CURRENT LAW

The federal share of a state's expenditures for Medicaid items and services is called the federal medical assistance percentage (FMAP). Each state's FMAP is determined annually according to a statutory formula designed to pay a higher matching percentage to states with lower per capita incomes relative to the national average per capita income. The law establishes a minimum FMAP of 50% and a maximum of 83%. For the District of Columbia (treated as a state under Medicaid law) and 11 states including Alaska, the FMAP is 50%. The FMAP does not apply to a state's administrative expenditures; the federal share of those is generally 50% for all states.

HOUSE BILL

No provision.

SENATE AMENDMENT

Increases the FMAP for the District of Columbia to 60% during fiscal years 1998-2000 and increases the FMAP for Alaska to 59.8% during the same period.

CONFERENCE AGREEMENT

For the District of Columbia, the FMAP is increased permanently to 70% beginning in 1998. For the state of Alaska, the FMAP is increased to 59.8% for fiscal years 1998, 1999, and 2000. The conference agreement specifies that the increased FMAPs apply only to items and services furnished under Medicaid or a state child health plan, payments made on a capitation or other risk-basis, and payments attributable to disproportionate share hospital allotments for such fiscal years.

The conferees note the importance of establishing equitable matching rates across the states. The current methodology for calculating match rates, per capita income, is a poor and inadequate measure of the states' needs and abilities to participate in the Medicaid program. The conferees note that the poverty guidelines for Alaska and Hawaii, for example, are different than those for the rest of the nation but there is no variation from the national calculation in the FMAP. The increase in Alaska's FMAP demonstrates there is a recognition that a more accurate measurement is needed in the program. Conferees also note that comparable adjustments are generally made for Alaska and Hawaii.

INCREASE IN PAYMENT LIMITATION FOR TERRITORIES

Section 5762 of Senate amendment

CURRENT LAW

Puerto Rico and each of the territories has a federal Medicaid matching rate of 50%. Total annual Medicaid payments to them are subject to statutory limits. Beginning with amounts specified for each territory for FY1994, Medicaid limits increase annually according to the percentage increase in the medical care component of the consumer price index for all urban consumers (CPI-U).

HOUSE BILL

No provision.

SENATE AMENDMENT

For FY1998, for federal Medicaid payment limits would be increased as follows: Puerto Rico, $30,000,000; Virgin Islands, $750,000; Guam, $750,000; Northern Mariana Islands, $500,000; and American Samoa, $500,000.

For FY1999 and thereafter, the Medicaid payment limit for each territory would be the amount provided for the preceding fiscal year increased by the percentage increase in the medical care component of the CPI-U.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

Chapter 4—Eligibility

STATE OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS; CLARIFICATION OF STATE OPTION TO COVER CHILDREN

Section 3421 of House bill and Section 5732 of Senate amendment

CURRENT LAW

In general, Medicaid coverage can be provided only to individuals who continue to meet all the requirements for eligibility. For some individuals and families, income fluctuates so that there are frequent interruptions in eligibility. Medicaid law makes an exception to provide continuous eligibility for pregnant women and infants regardless of changes in income. The law specifies that a pregnant recipient continues to be eligible for Medicaid until 60 days after the pregnancy ends. Further, a child born to a woman receiving medical assistance remains eligible for medical assistance for one year so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for medical assistance. The law requires states to provide Medicaid coverage to children who are in households with incomes not over 100% of the federal poverty level, and who were born after September 30, 1983.

HOUSE BILL

Permits states to provide a full continuous 12 months of eligibility for children up to age 19 or an earlier age specified by the state. Each state would also be permitted to cover older children under age 19, at an age specified by the state, in households with incomes not over 100% of poverty.

Applies to items and services furnished on or after October 1, 1997.

SENATE AMENDMENT

Similar provision.

Applies to items and services furnished on or after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

PAYMENT OF PART B PREMIUMS

Section 3422 of the House bill and Section 5544 of Senate amendment

CURRENT LAW

Medicare beneficiaries are liable for specific cost-sharing charges, namely premiums, deductibles, and coinsurance. State Medicaid programs are required to pay Medicare cost-sharing charges for certain low-income Medicare beneficiaries known as qualified Medicare beneficiaries (QMBs). A QMB is an aged or disabled person with income at or below the federal poverty line and resources below $4,000 for an individual and $6,000 for a couple.

States are also required to pay Medicare Part B Premiums for specified low-income Medicare beneficiaries (SLMBs) These are persons who meet the QMB criteria, except that their income is slightly over the QMB limit. The SLMB limit is 120% of poverty.

The federal government and the states share in the payment for QMB and SLMB benefits according to each state's Medicaid matching formula known as the federal medical assistance percentage (FMAP).

HOUSE BILL

Beginning in calendar year 1998, raises the poverty threshold for mandatory Medicaid payment of Medicare Part B premiums for Medicare beneficiaries from 120% of poverty to 135% of poverty.

For individuals who would be specified low-income Medicare beneficiaries except that their incomes are between 135% of poverty and 175% of poverty, state Medicaid programs would be required to cover that portion of the Medicare Part B premium attributable to the transfer of certain home health visits from Part A to Part B. The federal government would pay 100% of these costs.

Effective on date of enactment.

SENATE AMENDMENT

Requires the Secretary to establish a block grant program to the states for the payment of Medicare Part B premiums for persons meeting the SLMB definition, except that their income is between 120% and 150% of the federal poverty level. See discussion of "Low Income Beneficiary Block Grant Program" in Medicare provisions.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with amendments. State Medicaid programs would make payments for Medicare Part B premiums for the additional low-income Medicaid beneficiaries described in the provision (qualifying individuals) only to the extent that premiums are payable for months during the period beginning January 1998 and ending December 2002.

The Secretary would be required to provide for allocations to states based on the sum of (1) a state's number of Medicare beneficiaries with incomes between 135% and 175% of poverty and (2) twice the number of Medicare beneficiaries with incomes between 120% and 135% of poverty, relative to the sum for all eligible states. Total amounts available for allocations are $200 million for FY 1998, $250 million for FY 1999, $300 million for FY 2000, $350 million for FY 2001, and $400 million for FY 2002. The FMAP for each participating state would be 100% up to the state's allocation. If a state exceeded its allocation, the FMAP would be zero.

A state would permit all qualifying individuals to apply for assistance during a calendar year and select qualifying individuals in the order in which they apply, limiting the number selected so that the state's allocation would not be exceeded. An individual selected for assistance for a month would be entitled to receive assistance for the remainder of the year so long as the individual continued to be a qualifying individual. However, an individual selected to receive assistance at any time during a year would not be entitled to continued assistance for any succeeding year. It is the Conferees' expectation that States will budget the capped funds received under this section to ensure payment for the full year for qualifying individuals selected for, and therefore entitled to, premium assistance.

STATE OPTION TO PERMIT WORKERS WITH DISABILITIES TO BUY INTO MEDICAID

Section 5731 of Senate amendment

CURRENT LAW

States must continue Medicaid coverage for "qualified severely impaired individuals under the age of 65." These are disabled and blind individuals whose earnings reach or exceed the SSI benefit standard. (The current law threshold for earnings is $1,053 per month.) This special eligibility status applies as long as the individual (1) continues to be blind or have a disabling impairment; (2) except for earnings, continues to meet all the other requirements for SSI eligibility; (3) would be seriously inhibited from continuing or obtaining employment if Medicaid eligibility were to end; and (4) has earnings that are not sufficient to provide a reasonable equivalent of benefits from SSI, state supplementary payments (if provided), Medicaid, and publicly funded attendant care that would have been available in the absence of those earnings. To implement the fourth criterion, the Social Security Administration compares the individual's gross earnings to a "threshold" amount that represents average expenditures for Medicaid benefits for disabled SSI cash recipients in the individual's state of residence.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provides states the option of allowing disabled SSI beneficiaries with incomes up to 250% of poverty to "buy into" Medicaid by paying a premium. Premium levels are on a sliding scale, based on the individual's income as determined by the State.

Effective on and after October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

PENALTY FOR FRAUDULENT ELIGIBILITY

Section 3423 of House bill and Section 5755 of Senate amendment

CURRENT LAW

A person who knowingly and willfully disposes of assets, including transfers to certain trusts, in order to obtain Medicaid eligibility for nursing home care is liable for a criminal fine and/or imprisonment, if the disposition of assets results in a period of ineligibility for such Medicaid benefits.

HOUSE BILL

Specifies that a person who, for a fee, assists an individual to dispose of assets in order to obtain Medicaid eligibility for nursing home care, would be subject to criminal liability if the individual disposes of assets and a period of ineligibility is imposed against such individual.

Effective on date of enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment.

TREATMENT OF CERTAIN SETTLEMENT PAYMENTS

Section 3424 of House bill

CURRENT LAW

Under a recent class settlement, four manufacturers of blood plasma products will pay $100,000 to each of 6,200 hemophilia patients who are infected with human immunodeficiency virus (HIV). Some of the HIV-infected patients are receiving or may apply for, Medicaid benefits. The amount of the settlement would exceed the income and resource limits for Medicaid eligibility.

HOUSE BILL

Specifies that payments made from the specified settlement shall not be considered income or resources in determining Medicaid eligibility, or the amount of benefits under Medicaid.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with technical modifications. Conferees do not consider this provision to set precedent for future class settlements.

PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Sections 3431–3434 of the House bill and Sections 5741–5743 of Senate amendment

CURRENT LAW

OBRA 86 required the Secretary to grant waivers of certain Medicare and Medicaid requirements to not more than 10 public or non-profit private community-based organizations to provide health and long-term care services on a capitated basis to frail elderly persons at risk of institutionalization. These projects, known as the Programs of All Inclusive Care for the Elderly, or PACE projects, were intended to determine whether an earlier demonstration program, On Lok, serving frail elderly persons, could be replicated across the country. OBRA 90 expanded the number of organizations eligible for waivers to 15.

HOUSE BILL

Repeals current On Lok and PACE project demonstration waiver authority and establishes PACE as a State option under Medicaid. Persons enrolled in PACE would be eligible for Medicaid and need not be eligible for Medicare. Enrollees would receive Medicaid covered benefits solely through the PACE program. PACE providers would offer comprehensive health care services to eligible individuals in accordance with a PACE program agreement and regulations. Through its PACE program agreement, a state could limit the number of individuals who could be enrolled in a PACE program. In general, PACE providers would be public or private nonprofit entities, except for entities (up to 10) participating in a demonstration to test the operation of a PACE program by private, for-profit entities.

Eligible individuals would be those persons who are 55 years of age or older; who require nursing facility level of care that would be covered under a State's Medicaid program; who reside in the service area of the PACE program; and who meet such other eligibility conditions as may be imposed under the PACE program agreement.

Eligiblity determinations would be made in accordance with the PACE program agreement, and for enrollees entitled to Medicaid, would be made by the state agency, responsible for administering PACE agreements. An eligible individual's health status would have to be comparable to the health status of persons who have participated in the PACE demonstration waivers. Information on health status and related indicators would be part of a uniform minimum data set collected by PACE providers. Persons would be reevaluated annually to determine if they continue to need nursing facility level of care, except for those cases where the state determines that there is no reasonable expectation of improvement or significant change in an individual's condition during the period because of advanced age, severity of chronic condition, or degree of impairment. A person could continue to be considered a PACE eligible individual, even though that person no longer requires nursing facility level of care, if in the absence of continued coverage under a PACE program the individual reasonably would be expected to meet the requirements within the succeeding 6-month period. Enrollment and disenrollment in a PACE program would be done according to regulation and enrollees would be permitted to voluntarily disenroll without cause at any time.

Under a PACE agreement, a provider would be required to provide to eligible persons, regardless of source of payment and directly or under contracts with other entities, at a minimum, all items and services covered under Medicaid and Medicare. Services would be provided without any limitation or condition as to amount, duration, or scope and without application of deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under Medicare or Medicaid. Providers would also have to provide all additional items and services specified in regulations, based on those required under a PACE protocol. The PACE protocol would be defined as that published by On Lok, Inc., as of April 14, 1995.

PACE providers would be required to provide enrollees access to necessary covered items and services 24 hours per day, every day of the year. They would have to provide services through a comprehensive, multidisciplinary health and social services delivery system which integrates acute and long-term care services according to regulations. Providers would also have to specify the covered items and services that would not be provided directly by the entity, and to arrange for delivery of these services through contracts meeting the requirements of regulations.

PACE providers would be required to have in effect, at a minimum, a written plan of quality assurance and improvement and procedures implementing the plan as well as written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals), in accordance with regulations.

States would be required to make prospective monthly capitation payments for each enrollee, in an amount specified in the PACE agreement. The amount would be required to be less than the amount that would have been made had the person not been enrolled in PACE and would be adjusted to take into account the comparative frailty of PACE enrollees and such other factors as the Secretary determines to be appropriate. Payments would be in addition to amounts received from Medicare for the dually eligible individual.

The Secretary, in close cooperation with the State administering agency, would be required to establish procedures for entering into, extending, and terminating PACE agreements with entities that meet Medicaid and Medicare statutory and regulatory requirements. The Secretary could not enter into more than 40 agreements (including those in effect as the result of demonstration waivers) as of the date of enactment, and 20 additional agreements for each succeeding anniversary date (without regard to the actual number of agreements in effect as of a previous anniversary date). This numeric limitation would not apply to a PACE provider that is operating under the for-profit demonstration or that subsequently qualifies for PACE provider status.

A PACE agreement would designate the service area of the program and could provide additional requirements for individuals to qualify as eligible individuals. The Secretary (in consultation with the State administering agency) could exclude from designation an area that is already covered under another PACE agreement, in order to avoid unnecessary duplication of service and impairing the financial and service viability of an existing program. The PACE agreement would be effective for a year, but could be extended for additional contract years in the absence of a notice to terminate and would be subject to termination by the Secretary and the State administering agency at any time for cause. PACE providers would be required to meet all applicable state and local laws and requirements and would have such additional terms and conditions as the parties agree to, consistent with the law and regulations.

Under an agreement, PACE providers would be required to collect data; maintain and provide the Secretary and State administering agency access to the records relating to the program, including pertinent financial, medical and personnel records; and make reports to the Secretary and the state that are necessary to monitor the operation, cost, and effectiveness of the PACE program. During the trial period of the first 3 years of operation, a PACE provider would be required to provide additional data the Secretary specifies in order to perform a comprehensive annual review of its operation. After the trial period, the Secretary (in cooperation with the state) would continue to conduct a review of the operation of PACE providers as may be appropriate, taking into account the performance level of a provider and compliance with requirements of law and regulations.

Under regulations, the Secretary or state could terminate an agreement for, among other reasons, significant deficiencies in the quality of care, failure to comply substantially with conditions for participation, or failure to develop and successfully initiate within 30 days of notice a plan to correct deficiencies.

If the Secretary determines (after consultation with a state) that a provider is failing substantially to comply with the requirements for participation, the Secretary and state could take any or all of the following actions: (1) condition the continuation of the PACE program agreement upon timely execution of a corrective action plan; (2) withhold some or all further payments until the deficiencies have been corrected; (3) terminate the agreement. Under regulations, the Secretary could provide for the application of intermediate sanctions for certain deficiencies. Procedures for termination and sanctions of PACE programs would be the same as those that apply to managed care entities participating in Medicare.

An application for PACE provider program status would be deemed approved unless the Secretary, within 90 days after the date of submission, either denies the request in writing or informs the applicant in writing that additional information is needed. After the date the Secretary receives the additional information, the application would be deemed approved unless the Secretary, within 90 days, denies the request.

The Secretary would be required to issue interim and final regulations to carry out Medicaid and Medicare statutory provisions on PACE. In issuing regulations, the Secretary would be required to incorporate the requirements applied to PACE demonstration waiver programs under the PACE protocol, to the extent they are consistent with this section. The Secretary (in close consultation with states) could modify or waive provisions of the PACE protocol in order to provide for reasonable flexibility in adapting the PACE service delivery model to the needs of particular organizations (such as those in rural areas or those that may wish to use nonstaff physicians) where flexibility is not inconsistent with and would not impair the essential elements, objectives, and requirements of the PACE program. The Secretary could also apply to PACE programs and providers Medicare and Medicaid requirements that apply to managed care plans, taking into account differences in populations served and not including requirements that restrict the proportion of enrollees eligible for Medicaid and Medicare.

For purposes of carrying out a PACE program, certain Medicaid requirements would be waived, including those pertaining to statewideness, comparability of services among different population groups, freedom of choice of providers, and restrictions on receiving prepaid capitation payments. States could provide for the post-eligibility treatment of income for PACE enrollees in the same manner a State treats post-eligibility income for persons receiving home and community-based care waiver services.

A PACE provider could enter into contracts with other governmental or non-governmental payers for the care of PACE program eligible persons who are not eligible for Medicare or Medicaid.

The Secretary would be required to promulgate regulations for PACE in a timely manner so that entities may establish and operate PACE programs under Medicare and Medicaid beginning not later than 1 year after enactment.

During the transition from demonstration waiver authority to permanent provider status, applications for waivers (subject to the numerical limitation) would be deemed approved unless the Secretary, within 90 days after the date of submission, either denies the request in writing or informs the applicant in writing that additional information is needed. After the date the Secretary receives the additional information, the application would be deemed approved unless the Secretary, within 90 days, denies the request.

During the 3-year period beginning on the date of enactment, the Secretary would be required to give priority, in processing applications of entities seeking to qualify as PACE programs under Medicare or Medicaid (1) first, to entities that are operating a PACE demonstration waiver program, (2) then, to entities that have applied to operate a program as of May 1, 1997. In awarding additional waivers under the original PACE demonstration authority, the Secretary would be required to give priority to any entities that have applied for a waiver as of May 1, 1997, and to any entity that, as of May 1, 1997, has formally contracted with a State to provide services on a capitation basis with an understanding that the entity was seeking to become a PACE provider. The Secretary would be required to give special consideration, in the processing of applications for PACE provider status and for demonstration waivers, to entities which, as of May 1, 1997, have indicated through formal activities (such as entering into contracts for feasibility studies) a specific intent to become a PACE provider. Repeal of waiver demonstration authority would not apply to waivers granted before the initial effective date of regulations. Repeals would apply to waivers granted before this date only after allowing organizations a transition period (of up to 24 months) in order to permit sufficient time for an orderly transition from demonstration project authority to general authority.

The Secretary (in close consultation with States) would be required to conduct a study of the quality and cost of providing PACE program services under the Medicare and Medicaid programs. This study would be required specifically to compare the costs, quality, and access to services offered by private for-profit entities operating under the new demonstration described above with the costs, quality, and access to services of other PACE providers. The Secretary would be required to report to Congress on findings of the study (including specific findings on private for-profit providers), together with recommendations for changes, not later than 4 years after enactment. The Medicare Payment Evaluation Commission would be required to include in its annual report to Congress recommendations on the methodology and level of payments made to PACE providers and on the treatment of private for-profit PACE providers.

Certain provisions applied to Medicare statute.

Effective date. Enactment.

SENATE AMENDMENT

Similar provisions, except:

(1) States would not be authorized to limit the number of persons enrolled in PACE programs.

(2) The PACE protocol would be defined to include not only that as published April 14, 1995, but also any successor protocol agreed upon between the Secretary and On Lok, Inc.

(3) A provision clarifies that the evaluation of a person's health status for purposes of eligibility would be determined by the Secretary and State administering agency in accordance with regulations, rather than simply according to regulations.

(4) PACE programs could not disenroll individuals on the ground that they have engaged in noncompliant behavior, if the behavior is related to a mental or physical condition.

(5) PACE providers, the Secretary, and the State administering agency would be required to cooperate jointly in the development and implementation of health status and quality of life outcome measures for PACE enrollees.

(6) A provision clarifies language about termination and plans to correct deficiencies.

(7) The Secretary could not modify or waive certain enumerated provisions of the PACE protocol (rather than defining these same provisions as essential elements, objectives, and requirements of the PACE programs).

(8) States would not have the option of continuing to operate a PACE demonstration program under demonstration waiver authority rather than the new optional benefit authority.

(9) The Physician Payment Review Commission and the Prospective Payment Review Commission would be required to report on PACE until they are terminated and replaced with the Medicare Payment Advisory Commission.

Similar provisions included in Medicare law.

Effective date. Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with clarifying language and amendments. The amendments would (1) allow States to limit the number of persons who could be enrolled in PACE programs; (2) allow PACE programs to disenroll individuals for nonpayment of premiums (if applicable) on a timely basis or for engaging in disruptive or threatening behavior as defined in regulations (developed in close consultation with State administering agencies); (3) require that a proposed disenrollment be subject to timely review and final determination by the Secretary or by the State administering agency (as applicable), prior to the proposed disenrollment becoming effective; (4) allow the Secretary to include in regulations provisions to ensure the health and safety of individuals enrolled in PACE programs; (5) allow the Secretary to waive, in addition to specified provisions of Medicaid law, any other requirements that the Secretary determines are inapplicable to carrying out PACE programs; and (6) allow States to continue to operate PACE waiver programs under the waiver authority for 3 years after the date that waivers would otherwise expire, but only so long as programs continue to operate under the wavier's term and conditions.

Chapter 5—Benefits

ELIMINATION OF REQUIREMENTS TO PAY FOR PRIVATE INSURANCE

Section 3441 of House bill and Section 5751 of Senate amendment

CURRENT LAW

Under Section 1906 of the Social Security Act, states are required to identify cases in which it would be cost-effective to enroll a Medicaid-eligible individual in a private insurance plan and, as a condition of eligibility, require the individual to enroll in the plan.

HOUSE BILL

Eliminates identification and enrollment requirements. States would have the option of identifying cases and purchasing private insurance for Medicaid-eligible individuals.

Effective on date of enactment.

SENATE AMENDMENT

Repeals Section 1906, and adds payment enrollee costs of health insurance as an optional Medicaid service.

CONFERENCE AGREEMENT

The conference agreement includes the House bill effective on enactment.

PHYSICIAN QUALIFICATION REQUIREMENTS

Section 3443 of House bill and Section 5753 of Senate amendment

CURRENT LAW

Medicaid law established special minimum qualifications for a physician who furnishes services to a child under age 21 or to a pregnant woman.

HOUSE BILL

Repeals the current law provision.

Applies to services furnished on or after the date of enactment.

SENATE AMENDMENT

Identical provision.

CONFERENCE AGREEMENT

The conference agreement includes provisions that are identical in the House bill and the Senate amendment.

ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES

Section 3444 of House bill

CURRENT LAW

States may obtain waivers to provide a broad range of home and community-based services, including habilitation services, to persons who otherwise would require institutional care. Habilitation services, however, may be provided only to an individual who has been discharged from a nursing facility or an intermediate care facility for the mentally retarded.

HOUSE BILL

Repeals the prior institutionalization requirement that applies to habilitation services offered under home and community-based waiver programs.

Applies to services furnished on or after October 1, 1997.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision. The conferees support and encourage efforts enable individuals to remain in their homes and communities.

STUDY AND REPORT ON EPSDT BENEFIT

Section 3446 of House bill and Section 5757 of Senate amendment

CURRENT LAW

States are required to provide early and periodic screening, diagnostic, and treatment services (EPSDT) to Medicaid beneficiaries under age 21. Such services include screening, vision, dental, and hearing services. A state is required to provide other necessary health care services to correct or ameliorate defects and conditions discovered by the screening services, whether or not the services are covered under the state's Medicaid plan.

HOUSE BILL

Requires the Secretary to provide for a study on the actuarial value of EPSDT services. The study must include an examination of the value attributable to the non-screening portions of EPDST services. A report on the results of the study would be due to Congress not later than 18 months after the date of enactment.

SENATE AMENDMENT

In consultation with Governors, directors of state Medicaid and state maternal and child health programs, the Institute of Medicine, the American Academy of Pediatrics, and representatives of Medicaid beneficiaries, the Secretary would be required to conduct a study of EPSDT services. A report on the results of the study would be due to Congress not later than 12 months after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. The Secretary would consult with Governors, directors of state Medicaid programs, the American Academy of Actuaries, and representatives of appropriate provider and beneficiary organizations. The study would include examination of the actuarial value of the provision of EPSDT services and an examination of the actuarial value attributable to the non-screening portions of EPSDT services.

Chapter 6—Administration and Miscellaneous

ELIMINATION OF DUPLICATIVE INSPECTION OF CARE REQUIREMENTS FOR ICFS/MR AND MENTAL HOSPITALS

Section 3451 of House bill

CURRENT LAW

States that provide services in mental hospitals and in intermediate care facilities for the mentally retarded (ICF/MR) must provide for periodic inspections of care for each Medicaid beneficiary who receives services in the institution. Inspections of care have been conducted to assure that persons are receiving the appropriate level of care of adequate quality. The Department of Health and Human Services has established a new survey outcome-oriented process for mental hospitals and ICFs/MR.

HOUSE BILL

Eliminates Inspection of Care reviews in mental hospitals and ICFs/MR. Survey and certification reviews for the facilities would remain in place.

Effective on date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

ALTERNATIVE SANCTIONS FOR NONCOMPLIANT ICFs/MR

Section 3452 of House bill

CURRENT LAW

ICFs/MR must meet certain requirements and standards for safety and for the proper provision of care. If a state finds that a facility is out of compliance with the requirements, the facility's participation in Medicaid can be terminated, or the state can withhold payment for new admissions to the facility until the deficiencies have been corrected. States have limited sanctions available for use for ICFs/MR that are found to have deficiencies that do not jeopardize the health and safety of patients.

HOUSE BILL

Allows states to establish alternative remedies that are demonstrated to be effective in deterring noncompliance with correcting deficiencies.

Effective on date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

MODIFICATION OF MMIS REQUIREMENTS

Section 3453 of House bill

CURRENT LAW

Beginning October 1, 1986 states have been required to maintain mechanized claims processing and information retrieval systems better known as Medicaid Management Information Systems (MMIS). Failure to meet the 1986 deadline resulted in reduced federal Medicaid funds. An MMIS is reviewed at least once every three years by the Health Care Financing Administration of the Department of Health and Human Services. Failure to pass a systems performance review could result in reduction of the usual 75% federal Medicaid match rate for operation of an approved MMIS.

HOUSE BILL

Deletes the statutory language that relates to 1980s requirements for MMIS, and requires each state to operate a system that is adequate to provide efficient, economical, and effective administration, and is compatible with the claims processing and information retrieval systems that are used to administer the Medicare program. In addition, for claims filed on or after January 1, 1999, requires each state's system to electronically transmit data to the Secretary in a specific format.

Effective January 1, 1998.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

FACILITATING IMPOSITION OF STATE ALTERNATIVE REMEDIES ON NONCOMPLIANT NURSING FACILITIES

Section 3454 of House bill

CURRENT LAW

States have available a range of sanctions they may take against nursing facilities found to be out of compliance with the requirements for participation in Medicaid. These include termination of participation in the program, denial of payment for new admissions, civil money penalties, appointment of temporary management; and authority to close the facility or transfer residents. For facilities that are not terminated and that are taking steps to eliminate deficiencies according to an approved plan of correction, the Secretary of HHS is authorized to continue federal Medicaid matching payments to the State for no longer than 6 months. States, however, are required to repay to the federal government any payments made to facilities that fail to take corrective action according to the approved plan and timetable.

HOUSE BILL

Eliminates the requirement for States to repay federal funds for failure of a facility to correct deficiencies according to an approved plan of correction.

Effective on date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

REMOVAL OF NAME FROM NURSE AIDE REGISTRY

Section 5767 of Senate amendment

CURRENT LAW

If a State finds that a nurse aide has neglected or abused a nursing facility resident or misappropriated property of the resident, then the State must have such information included in the State's nurse aide registry.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires States, in the case of a finding of neglect of a nursing facility resident, to establish a procedure to permit a nurse aide to petition the State to have his or her name removed from the registry if the State determines that the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect and the original finding of neglect was a singular occurrence. Names would have to be on the registry for at least 1 year before they could be removed. Individuals could petition for a review of a state finding made after January 1, 1995. The Secretary would be required to conduct a study, and to report to Congress within 2 years of enactment, on (1) the use of nurse aide registries by states, (2) the extent to which institutional environmental factors contribute to cases of abuse and neglect, and (3) whether alternatives to existing sanctions for abuse and neglect might be more effective in minimizing future cases of abuse.

Effective on October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

MEDICALLY ACCEPTED INDICATION

Section 3455 of House bill

CURRENT LAW

Each state is required to provide for a drug use review (DUR) program to assure that covered outpatient drugs are appropriate, medically necessary, and are not likely to result in adverse medical results. Under the DUR program, data on drug use are to be assessed against predetermined standards consistent with compendia specified in the law.

HOUSE BILL

Adds the DRUGDEX Information System to specified compendia for assessing data on drug use.

Effective on date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

CONTINUATION OF STATE-WIDE SECTION 1115 MEDICAID WAIVERS

Section 3456 of House bill and Section 5769 of Senate amendment

CURRENT LAW

Under Section 1115 of the Social Security Act, a state may obtain waivers of compliance with a broad range of Medicaid requirements in order to conduct an experimental, pilot, or demonstration project that is likely to promote the objectives of Medicaid. In the absence of established conditions for these projects, each request receives individual consideration from the Department of Health and Human Services. Some states are using the waiver authority to operate comprehensive statewide demonstration projects. Typically, a waiver is approved for 5 years. States have objected to the waiver process as unnecessarily complex and lengthy.

HOUSE BILL

Amends Section 1115 of the Act to provide for a simplified renewal or extension process. Within a year before the expiration date of a waiver project, the chief executive officer of a state could submit a written request to the Secretary of HHS to extend the project for up to 3 years. If the Secretary did not respond to the request within 6 months, the request would be deemed to have been granted. Extends the deadline for a final report on the project until 1 year after the waivers would originally have expired, and the Secretary's evaluation of the project up to 1 year after the final report. The project extension would be on the same terms and conditions that applied to the project before the extension. If budget neutrality was an original condition of approval of a waiver project, the Secretary would be required to assure that such condition was met in the extension of the project. In so doing, the Secretary must take into account the Secretary's best estimate of rates of change in expenditures at the time of the extension.

Provision shall apply to demonstration projects initially approved before, on, or after the date of enactment.

SENATE AMENDMENT

Similar to House provision, except:

Gives states the option of requesting a waiver project be extended for up to 2 years. Extension would be available to projects that: (1) have been successfully operated for 5 or more years and (2) have been shown, through independent HCFA-sponsored evaluations, to successfully contain costs and provide access to health care. A state with a waiver project meeting the above requirements and an independent HCFA-sponsored evaluation that shows the state's Medicaid managed care waiver program is more cost effective than the fee-for-service program may expand Medicaid coverage to individuals with incomes up to the Federal poverty level and be deemed budget neutral.

The permanent continuation of a waiver project shall be on the same terms and conditions, including financing, and subject to the same set of waivers. No test of budget neutrality shall apply to waiver projects meeting the above requirements after the date on which the permanent extension was granted.

Provision will be effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the House bill modified to require that the chief executive officer of a state submit a written extension request to the Secretary of HHS during the 6-month period ending a year before the expiration date of a waiver project.

Community-Based Mental Health Services

Section 5763 of Senate amendment

CURRENT LAW

All states are required to provide some services and are permitted to provide others.

HOUSE BILL

No provision.

SENATE AMENDMENT

Adds community-based mental health services as an optional service states may provide. Community-based mental health services would include outpatient and intensive community-based mental health services, including psychiatric rehabilitation, day treatment, intensive in-home treatment, therapeutic out-of-home placements (excluding room and board), clinic services, partial hospitalization, and targeted case management.

CONFERENCE AGREEMENT

The conference agreement does not include Senate amendment.

Extension of Moratorium

Section 3458 of House bill and Section 5000A of Senate amendment

CURRENT LAW

Medicaid payment for services provided by an institution for mental disease (IMD) may be made only for beneficiaries who are under age 21 or over 65. IMD means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. For two facilities in Michigan—Kent Community Hospital Complex and Saginaw Community Hospital—previous legislation has imposed a moratorium on determination of the facilities as IMDs.

HOUSE BILL

For purposes of Medicaid reimbursement, exempts the two facilities from classification as IMDs through December 31, 2002.

SENATE AMENDMENT

Similar provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill.

Extension of effective date for state law amendment

The conference agreement provides that in the case of a state that must pass state legislation to meet the requirements of these amendments, the state will not be out of compliance solely on the basis of failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after enactment. In the case of a state that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the state legislature.

(1) State Children's Health Insurance Program

Subtitle F Section 3502 of House bill, Subtitle J Section 5801 of Senate amendment

(a) Purpose; State child health plans

CURRENT LAW

No provision.

HOUSE BILL

Establishes the Child Health Assistance Program (CHAP) under new Title XXI of the Social Security Act to provide federal matching funds, beginning in 1998, to States to enable them to implement plans to initiate and expand the provision of child health care assistance to targeted uninsured, low-income children.

States would be able to use CHAP funds for: (1) providing Medicaid benefits to uninsured children, (2) obtaining coverage under group or individual health plans, (3) directly purchasing services from providers, or (4) other methods to increase access to health coverage for children. States would also be able to choose to use some or all of their CHAP allotments for an enhanced federal Medicaid matching rate for expanding Medicaid to targeted, uninsured low income children. States exercising this option would have their allotment under this section reduced by such amounts.

States would be eligible for payment once the state has submitted to the Secretary and received approval of a plan that sets forth how the state intends to use the child health assistance funds. States would be permitted to use CHAP funds for non-coverage purposes (defined as administration, outreach, and services), but the total of such expenditures would be limited to not more than 10 percent of the matched allotment in any quarter.

SENATE AMENDMENT

Establishes the Child Health Insurance Initiatives under new Title XXI of the Social Security Act to provide eligible states with federal matching funds for 1998 through 2007 to increase access to health insurance for low-income children.

To access the funds, states would be required to phase-in Medicaid coverage for children under poverty who are under age 17 by 1998 and the remaining children under age 19 by 2000 and to submit to the Secretary and receive approval for a program outline that sets forth how the State intends to use Child Health Insurance Initiative funds. Participating states would choose to receive their allotted funds either: (1) through Medicaid, or (2) for the purchase of FEHBP equivalent insurance coverage. States would be required to use 1% of their basic allotment for Medicaid outreach and public awareness campaigns to encourage employers to provide health insurance for children.

CONFERENCE AGREEMENT

The conference agreement includes the House provisions with the following modifications. The SCHIP program is authorized through FY 2007. States would be able to use SCHIP funds for obtaining health benefit coverage, expanding Medicaid coverage, providing needed health care services, or through a combination of the three to the extent permitted by this title.

(b) Funding levels

CURRENT LAW

No provision.

HOUSE BILL

Authorizes and appropriates $2.8 billion for each of the fiscal years 1998 through 2002 for the State Child Health Assistance Program.

Creates an entitlement to states for amounts in accordance with the provisions of Title XXI.

SENATE AMENDMENT

Authorizes and appropriates $2.5 billion in 1998, $3.2 billion in 1999, $3.2 billion in 2000, $3.6 billion in 2001, $3.5 billion in 2002, and for each of the fiscal years 2003 through 2007, $4.58 billion and would be available without fiscal year limitation. Provisions in the tax bill would add an additional $8 billion to the Child Health Insurance Initiatives for 1998 through 2002.

Creates an entitlement to states for amounts in accordance with the provisions of Title XXI.

CONFERENCE AGREEMENT

Authorizes and appropriates $5.0 billion for each of fiscal years 1998 through 2001, $4.0 billion for each of fiscal years 2002 through 2004, $5.0 billion for each of fiscal years 2005 through 2006, and $6.0 billion for fiscal year 2007 for the State Child Health Assistance Program.

Creates an entitlement to states for amounts in accordance with the provisions of Title XXI.

(c) Eligibility

CURRENT LAW

States choosing to participate in the Medicaid program are required to cover children in families who would have qualified to receive AFDC under the program rules in effect on August 22, 1996; children under age 6 in families with income below 133% of the federal poverty level; and children under age 14 in families with income below 100% of the federal poverty level. Coverage for children between the ages of 14 and 18 and in families with income below 100% of the federal poverty level is being phased-in through 2002. States also have the option to cover other categories of low-income children under Medicaid and many have done so.

HOUSE BILL

Defines targeted low income children as those whose family income exceeds the Medicaid applicable levels including those children being phased-in under OBRA 1990 provisions but whose family income does not exceed an income level that is 75 percentage points higher than the Medicaid applicable income level, or if higher, 133 percent of the poverty line for the size of the family involved. The poverty line is defined as that used in section 673(2) of the Community Services Block Grant Act.

Eligibility standards could include geography, age, income and resources, residency, disability status, and others as specified. The eligibility standards could not, within any defined class or group of covered targeted low-income children, cover children with higher family incomes without covering children with lower family incomes. They also could not deny eligibility to a child based on a preexisting medical condition (defined as a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.)

Title XXI would not establish an entitlement for benefits for any individual under a State child health plan.

SENATE AMENDMENT

Defines low income children as those in families whose income is below 200 percent for the poverty line for a family of the size involved. The poverty line is defined as that use in section 673(2) of the Community Services Block Grant Act.

The option allowing states to purchase and provide FEHBP-equivalent coverage under new or existing state programs, would not create an individual entitlement and nothing in this section would prevent a state from adjusting the eligibility criteria or the program in any way necessary to ensure that funds under this section are sufficient to cover the costs of the program.

CONFERENCE AGREEMENT

Defines targeted low-income children as those who (1) meet the eligibility standards as determined by the state, (2) reside in families with income below 200% of the federal poverty level (defined as that in use in section 673(2) of the Community Services Block Grant Act) or, in states with Medicaid applicable income levels at, above, or less than 50 percentage points below 200% of poverty on the date of enactment, below the Medicaid applicable income level increased by no more than 50 percentage points, and (3) are not eligible for Medicaid or covered under a group health plan or other health insurance as defined in section 2791 of the Public Health Service Act. Children who are inmates of a public institution, patients in institutions for mental disease, or eligible for health benefits under a state plan on the basis of a family member's employment with the state are not considered targeted low-income children. Targeted low-income children may include children covered under a health insurance program which has been in operation since before July 2, 1997, and which receives no Federal funds.

Eligibility standards could include geography, age, income and resources (including standards for spending down income and disposition of resources), residency, disability status, access to other health insurance and duration of eligibility. The eligibility standards could not, within any defined class or group of covered targeted low-income children, cover children with higher family incomes before covering children with lower family incomes. They also could not deny eligibility to a child based on a preexisting medical condition (defined as a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.)

Title XXI would not establish an entitlement for benefits for any individual under a State child health plan (children enrolled through the State plan into Medicaid would be entitled to Medicaid coverage).

(d) Benefits

CURRENT LAW

No provision.

HOUSE BILL

The child health assistance provided under the plan would be required to include at least the following items and services: inpatient and outpatient hospital care, physician services, laboratory and x-ray, well-baby and well child care including immunizations unless the care is provided under a group health plan. If the care is provided under a group health plan, then the benefits under the plan could be no less for CHAP beneficiaries than the benefits provided for other individuals covered by that plan.

A plan could not permit the imposition of any preexisting medical condition exclusion for covered benefits. If the plan provided for benefits through a group health plan or group insurance, preexisting condition exclusions could be imposed only to the extent that such exclusions are permitted under the Health Insurance Portability and Accountability Act (P.L. 104–191). States would be required to assure access to specialty care as required by eligible children who have chronic or life-threatening conditions.

SENATE AMENDMENT

States opting to use Medicaid would be required to follow Medicaid coverage rules. States providing coverage through new or existing state programs would be required to provide a FEHB-equivalent children's health insurance coverage. FEHB equivalent children's health insurance coverage would be defined as any plan or arrangement that provides or pays the cost of health benefits that the Secretary has certified is equivalent to or better than the services covered for a child, including hearing and vision services that are covered under the standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefits Plan.

CONFERENCE AGREEMENT

The conference agreement includes provisions defining four options for minimum benefits for states choosing to provide child health assistance coverage under Title XXI instead of under the Medicaid program. The options include (1) coverage of benefits that are equivalent to those provided in a benchmark benefit package, (2) coverage of benefits that are the same actuarial value, as certified in an actuarial memorandum, as one of the benchmark benefit packages, (3) coverage of comprehensive benefits provided by an existing child health program, or (4) any other health benefits plan that the Secretary determines, upon application by a State, provides appropriate coverage for the targeted population of low-income children.

A state choosing to provide benefits with the same actuarial value as a benchmark plan under option (2) must provide for at least the benefits in the basic benefits category plus at least 75% of the actuarial value of coverage under the benchmark plan for each of the benefits in the additional service category. The basic benefits category includes inpatient and outpatient hospital services, physicians' surgical and medical services, lab and x-ray services and well-baby and well-child care, including age-appropriate immunizations. The additional services category includes prescription drugs, mental health services, vision services, and hearing services. Existing state programs under option (3) are defined as those child health programs that were in effect on the date of enactment, are administered or overseen by the state and received state funds, and are located in Florida, New York, or Pennsylvania. Nothing in this section is intended to prevent SCHIP plans from providing coverage for benefits that are not in the basic or additional service categories.

A benchmark benefit package would be one of the following three plans: (1) the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under the Federal Employees Health Benefits Plan, (2) the health coverage that is offered and generally available to state employees in the state involved, (3) the health coverage that is offered by an HMO (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest commercial (non-Medicaid) enrollment of such coverage offered by such an organization in the state involved.

Actuarial memorandums must (a) be rendered by an individual who is a member of the American Academy of Actuaries, (b) use generally accepted actuarial principles, and methodologies, (c) use a single standardized set of utilization and price factors, (d) use a standardized population consisting of children of the age to be covered under the State child health plan, (e) apply the same principles and factors in comparing the value of different coverage, and (f) not take into account any differences in coverage based on the method of delivery, or means of cost control, or utilization used. Coverage of items or services for which payment is prohibited in the benchmark benefits packages should not be considered in determining equivalent coverage or actuarial equivalent coverage.

The conference agreement includes the House provisions restricting the imposition of preexisting conditions. Coverage under title XXI must comply with the requirements of the Health Insurance Portability Act of 1996 and shall be treated as creditable coverage for purposes of part 7 of subtitle B of title II of the Employee Retirement Income Security Act. Nothing in this title shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974.

The Conferees urge the states to provide for prompt placement of high risk infants into neonatal specialty service facilities because of the critical connection between appropriate and timely care and healthy childhoods, lower infant mortality, and reduced long-term care needs. The Conferees also encourage the states, in making dental coverage and service provision decisions, to recognize the importance of oral health for children and the role that regular preventive and restorative dental care plays in addressing pediatric dental and oral diseases. Finally, the Conferees encourage the states to provide for such means as considered appropriate to assure access to quality specialty care for children with chronic illnesses.

(e) Cost sharing

CURRENT LAW

State Medicaid programs may impose a monthly enrollment fee or premium charge for certain non-mandatory recipients that is related to the individuals' income in compliance with the standards prescribed by the Secretary. If a state chooses to impose monthly enrollment fees, the fees charged to pregnant women and infants cannot exceed 10% of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150% of poverty. Medicaid programs may include premiums of no more than 3% of a family's average gross monthly earnings for certain families with income over poverty who are receiving transitional Medicaid benefits in a 6-month extension period.

For most Medicaid beneficiaries, no deductibles cost sharing or similar charges may be imposed. No such charges may be imposed for services that relate to pregnancy or a medical condition which may complicate pregnancy, or for emergency services, family planning services and supplies. For the remaining beneficiaries and services such charges may not be imposed unless they are "nominal in amount" as defined by the Secretary.

HOUSE BILL

Allows child health assistance plans to vary premiums, deductibles, coinsurance and other cost-sharing based on family income of the targeted low-income children only in a manner that did not favor children from higher-income families over those from lower incomes. Cost sharing would not be allowed for preventive services or benefits.

SENATE AMENDMENT

States opting to use Medicaid would be required to follow Medicaid cost sharing rules. States choosing to use a new or existing program to provide coverage would be allowed to impose any family premium or cost sharing requirement otherwise permitted under Title XXI for children in families with income above 150% of poverty. For children in families with income below 150% of poverty, cost sharing rules under the Medicaid program would apply.

CONFERENCE AGREEMENT

The conference agreement would require that state child health plans include descriptions of the amount, if any, of premiums, deductibles, coinsurance, and other cost sharing imposed. Any cost sharing imposed must be pursuant to a public schedule. The agreement would allow child health assistance plans to impose premiums, deductibles, coinsurance and other cost-sharing based on family income only in a manner that did not favor children from higher-income families over those from families with lower incomes. Cost sharing would not be allowed for preventive services or benefits.

For targeted low-income children in families with income below 150% of the poverty line, premiums may be imposed only insofar as they do not exceed those maximum monthly charges permitted under Medicaid for medically-needy individuals. Other cost sharing for such children may not exceed "nominal" amounts, as determined consistent with Medicaid regulations, with adjustments determined as appropriate by the Secretary. For targeted low-income children in families with income above 150% of the poverty line, premiums, deductibles, cost sharing or similar charges may be imposed on a sliding scale related to income only insofar as the total annual cost sharing for all targeted low-income children in a family does not exceed 5% of such family's income.

Cost sharing rules for coverage provided under Title XXI would not impact Medicaid cost sharing rules for any targeted low-income children covered under the Medicaid program.

(f) Allotments

CURRENT LAW

No provision.

HOUSE BILL

For each of 1998 through 2002, a total allotment of $2.83 billion, and for succeeding fiscal years, $2.85 billion would be available for the State Child Health Assistance Program. The funds would be allotted to states based on the number of uncovered children in families with income below 300% of poverty during a base period in a state and the relative cost of health care services in that state with a floor of $2 million. The base would be determined by taking the state's average number of uninsured children for the years 1993 through 1995 as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Surveys of the Bureau of the Census. The Secretary would be required to allot .5% of the total amount of funds to the territories, in a manner specified by the provision.

A state's allotment under this section would be reduced by the amount of payments made to the state for presumptive eligibility for children under the Medicaid program.

In the case of a state electing the increased Medicaid matching option, the amount of the state allotment would be reduced by the amount of the state's additional federal Medicaid payment. States would have 3 years to spend their allotments.

SENATE AMENDMENT

To determine the amounts available for distribution among states, the following amounts would be subtracted from the total amounts authorized: the cost of (1) the state option providing 12 months of continuous Medicaid eligibility, (2) increased participation in the Medicaid program resulting from new outreach activities, and (3) the accelerated phase-in of children under age 19 in families with income under poverty.

The remaining child health initiative funds would be divided into two pools: a basic allotment pool and a new coverage incentive pool. In 1998, the basic allotment pool would be comprised of 85% of funds remaining and the new coverage incentive pool would be 15%. For years thereafter, the Secretary would make annual adjustments to the size of the two pools in order to provide sufficient basic allotments and new coverage incentives.

A set aside of .25% of the basic allotment pool would be established for the territories. The rest of the basic allotment pool would be allotted to each state based on the average percentage of all children in families with income below 200% of poverty that reside in the state during the three fiscal years beginning on October 1, 1992 (as reported in the Current Population Surveys of March 1994, 1995 and 1996). Amounts allotted to a state would be available to the state for a period of three years beginning with the fiscal year for which the allotment was made.

States would be eligible for bonus payments for the number of low income children covered under either Medicaid or other state-run health insurance programs who are not in a required Medicaid coverage group during 1996 in an amount equal to 5% of the cost of providing health insurance coverage. This 5% bonus would come from the state's basic allotment pool. Performance bonus payments in an amount of 10% of the cost of providing health insurance coverage for newly covered children in excess of those covered in 1996 would also be available with funds coming from the new coverage incentive pool.

States would receive 1% of their allotted funds prior to the beginning of the fiscal year for the purpose of conducting outreach activities. During the year, the state would receive quarterly payments in an amount equal to the Federal Medicaid medical assistance percentage of the cost of providing health insurance coverage for an eligible low-income child and any applicable bonuses based on estimates by the states. The Secretary could increase or reduce payments as necessary to adjust for any overpayment or underpayment for prior quarters.

CONFERENCE AGREEMENT

The conference agreement authorizes for the State Children's Health Insurance Program for each of fiscal year 1998 through 2001, a total allotment of $4.275 billion; for FY 2003 and 2004, $3.15 billion; for FY 2005 and 2006, $4.05 billion; and for FY 2007, $5.0 billion. Before distribution among the states and the District of Columbia, total amounts authorized for child health assistance would be reduced by .25% for allotments for the commonwealths and territories to be distributed in the following manner; Puerto Rico would receive 91.6%, Guam, 3.5%, Virgin Islands, 2.6%, American Samoa, 1.2%, and Northern Mariana Islands, 1.1%. After being reduced by the allotments to territories, funds would be allotted to states and the District of Columbia based on the product of the number of low-income uncovered children for the state for the fiscal year and the state cost factor. The number of low-income uncovered children in families would, for each of fiscal year 1998 through 2000, be equal to the 3-year average of uninsured children in families with income below 200% of poverty as estimated using the three most recent supplements to the March Current Population Surveys of the Bureau of the Census. For fiscal year 2001, low-income uncovered children would be equal to 75% of the 3-year average of the number of low-income children in the state for the fiscal year with no health insurance coverage plus 25% of the number of low-income children in the State. For years thereafter, low-income uncovered children would be equal to 50% of the 3-year average of the number of low-income children in the state for the fiscal year with no health insurance coverage plus 50% of the number of low-income children in the state. The state cost factor for a fiscal year would be equal to the sum of .85 multiplied by the ratio of the annual average wages per employee in the state for such year to the national average wages per employee for such year and .15. The annual average wage per employee for each year would be calculated using the wages of employees in the health services industry as reported by the Bureau of Labor Statistics of the Department of Labor for each of the most recent 3 years before the beginning of the fiscal year involved.

The agreement includes a floor on allotments for the states and the District of Columbia of $2 million. In case a state's allotment would be required to be raised to the $2 million floor, all other states' allotments would be adjusted in a pro rata manner such that the total of all allotment does not exceed the total of allotment available under Title XXI.

States would have 3 years to spend their allotments.

(g) Payments to States

CURRENT LAW

No provision.

HOUSE BILL

The Secretary would be required to make quarterly payments to each State with an approved child health assistance plan in amounts up to 80% of program spending during that quarter for child health assistance, other initiatives for improving child health, outreach and administration of the plan, except that no more than 15% of the total program spending could be used for other child health initiatives, outreach and administration. The Secretary would establish rules regarding the extent to which funds could be used to purchase family coverage for families that include targeted low-income children. The rules would allow such payment if the State demonstrates that the purchase of such coverage is cost effective when compared with the cost of covering only the targeted low-income children in the families involved.

CHAP funds may not be used to (a) cover children who would be eligible for Medicaid using the income and assets standards or methodologies as in effect on June 1, 1997, (b) pay for the services of a provider who has been excluded from participation under the MCH or Social Services Block Grant programs, Medicare or other federal programs except for emergency services not provided in hospital emergency rooms, (c) pay for services that a private insurer would be obligated to cover but for a provision of its insurance contract that limits its obligation because the child is eligible for child health assistance, (d) pay for services for which payment can reasonably be expected to be made under any other federally operated or financed health insurance program or the Indian Health Service, (e) pay for abortions, except in the case of a pregnancy resulting from rape or incest, or unless the mother is in danger of death unless an abortion is performed.

Federal funds or program spending that is largely subsidized by federal funds may not be claimed as the required non-federal share of costs.

The Secretary may make payments to states on the basis of advance estimates of spending made by the State and other investigation that the Secretary may find necessary, and may adjust payments as necessary to account for overpayment in prior quarters.

SENATE AMENDMENT

The funds would be distributed in the following manner. States would receive 1% of their allotted funds prior to the beginning of the fiscal year for the purpose of conducting outreach activities. During the year, the states would receive quarterly payments in an amount equal to the Federal Medicaid medical assistance percentage of the cost of providing health insurance coverage for an eligible low-income child and any applicable bonuses based on estimates by the states. The Secretary could increase or reduce payments as necessary to adjust for any overpayment or underpayment for prior quarters.

Provisions of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, prohibiting the receipt of public benefits for certain legal immigrants for a period of five years, would not be applied to benefits provided under the Child Health Insurance Initiatives.

As a term and condition of receiving funds under this program, a state may not use funds to cover the costs of abortions except in cases of rape or incest or when necessary to save the women's life. No more than between 5 and 10% of funds under this title would be allowed for the administrative costs of the program. Funds could not be used to provide health insurance coverage for families of State public employees or children in penal institutions nor to cover the costs of abortions except in cases of rape or incest or when necessary to save the women's life.

Under this program the Secretary would not approve any amount in excess of a state's allotment and would make adjustments in the federal share of the costs to ensure the caps are not exceeded.

CONFERENCE AGREEMENT

The Secretary would make quarterly payments to each State with an approved child health assistance plan in amounts up to the amount of the allotment using the enhanced FMAP. The allotment would be reduced by the amount of the cost of the state's Medicaid program of presumptive eligibility and the costs of covering targeted low-income uninsured children under the Medicaid program. Payments for child health assistance may be made for coverage meeting the requirements of section 2103, other initiatives for improving child health, outreach and administration of the plan, except that no more than 10% of the total program spending could be used for other child health initiatives, outreach and administration. The enhanced FMAP is defined as the Federal medical assistance percentage under the Medicaid program increased by the 30% multiplied by the number of percentage points by which the FMAP for the state is less than 100%. The enhanced FMAP can be no higher than 85%. The 10% limitation on payments for child health assistance that does not meet the coverage requirements may be waived if a state establishes to the satisfaction of the Secretary that 1) the coverage provided to targeted low-income children meets the benefits and cost sharing requirements of Title XXI, 2) the cost of such coverage is no more than it would otherwise be under such section, and 3) such coverage is provided through the use of a community-based health delivery system.

A state may use Title XXI funds to purchase family coverage for families that include targeted low-income children if the state establishes to the satisfaction of the Secretary that the purchase of such coverage is cost effective when compared with the cost of covering only the target low-income children in the families involved and would not substitute for other health insurance coverage.

SCHIP funds may not be used to (a) cover children who would be eligible for Medicaid using the income and assets standards or methodologies as in effect on April 15, (b) pay for services that a private insurer would be obligated to cover but for provision of its insurance contract that limits its obligation because the child is eligible for child health assistance, or (c) pay for services for which payment can reasonably be expected to be made under any other federally operated or financed health insurance program or the Indian Health Service.

In addition, as a term and condition of receiving funds under this program, a state may not use funds for any abortion or for health benefits coverage that includes coverage of abortion except in cases of rape or incest or when necessary to save the women's life. It is the Conferees' intention that Section 2105(c)(7) not restrict the ability of any provider from offering abortion coverage or the ability of a state to contract with such a provider by such coverage except, as prohibited under this section, where federal funds are used in whole or in part to obtain such coverage under this title.

Federal funds or program spending that is largely subsidized by federal funds may not be claimed as the required non-federal share of costs.

The Secretary may make payments to states on the basis of advance estimates of spending made by the State and other investigation that the Secretary may find necessary, and may adjust payments as necessary to account for overpayment or underpayment in prior quarters.

(h) State matching requirement

CURRENT LAW

The costs of providing Medicaid coverage are shared by the states and the federal government. The federal share is determined by a formula that takes into account the average per capita income in the state relative to the national average. States with lower per capita incomes have higher federal matching rates. These federal matching rates range from a floor of 50% to almost 80%. All 50 states currently participate in Medicaid.

Federal funds or program spending that is largely subsidized by federal funds may not be claimed as the required non-federal share of costs.

HOUSE BILL

CHAP funds paid to states under the block grant option would be equal to 80% of program costs requiring a 20% state matching share. States would be provided with an enhanced federal Medicaid matching rate if the state chooses to use CHAP funds under the Medicaid program. The enhanced medical assistance percentage would be equal to the Federal medical assistance percentage increased by the number of percentage points equal to 30% multiplied by the number of percentage points by which the Federal medical assistance percentage is less than 100%.

States may not use state funds that are used as state match for purposes of another federal program, such as the TANF block grant, to satisfy the state matching requirement under the child health block grant.

SENATE AMENDMENT

Requires states to share the cost of providing new coverage equal to the state Medicaid matching percentage. States choosing the option to provide FEHBP coverage would also be eligible for federal matching payments for eligible children currently covered under existing state-funded programs. Total amounts paid to a state under this title, including bonus payments, would not be allowed to exceed 85% of the total cost of a state program conducted under this title.

Bonus payments of 5% of the cost of providing insurance to children covered during 1996, and 10% of the cost of covering new children would effectively reduce the state matching shares for these groups by 5 and 10%, respectively.

States would be prohibited from including cost sharing imposed on beneficiaries as program costs when determining Federal medical assistance percentage for reimbursement of expenditures.

Medicaid rules, relating to limitations on the use of provider taxes and donations as the state share of expenditures, would apply to the Child Health Insurance Initiatives.

CONFERENCE AGREEMENT

The conference agreement would provide for federal matching under the Title XXI equal to the states' Medicaid Federal medical assistance percentage increased by the number of percentage points that is equal to 30% multiplied by the number of percentage points by which the Federal medical assistance percentage is less than 100%. All child health assistance, including child health coverage for targeted low-income children provided under the Medicaid program, would be subject to the same federal matching percentage.

(i) Maintenance of effort

CURRENT LAW

No provision.

HOUSE BILL

Prohibits payments under Title XXI on behalf of a child if the child would be eligible for Medicaid using the income and resource standards and methodologies in place in the state on June 1, 1997.

States that choose to use state child health assistance funds for enhanced Medicaid matching payments for expanded Medicaid eligibility would be prohibited from using income and resource standards and methodologies for children that are more restrictive than those used as of June 1, 1997.

SENATE AMENDMENT

Requires participating states to maintain Medicaid income and resource standards and methodologies that are no more restrictive than those in place on June 1, 1997 and to maintain state spending on children's health care that is no less than the amounts spent in 1996. If states do not maintain Medicaid income and resource standards, they would be ineligible for payments and bonuses for children who would have been eligible for Medicaid under the standards in place in June of 1997. State children's health expenditures is defined to include spending for children under (a) Medicaid, (b) the maternal and child health services block grant program under Title V of the Social Security Act, (c) the preventive health services block grant program under part A of Title XIX of the Public Health Services Act, (d) state-funded programs providing health care items and services to children, (e) school-based health programs, (f) state programs providing for uncompensated or indigent care, (g) county indigent care programs for which an intergovernmental transfer is made from the county to the State, (h) other programs providing children with health care as determined by the Secretary.

CONFERENCE AGREEMENT

The conference agreement includes the house provisions, with amendments adding a maintenance of effort requirement for spending on state-only health insurance programs and changing the effective date to April 15, 1997.

(j) State child health plans

CURRENT LAW

No provision.

HOUSE BILL

State participating in Title XXI would be required to submit a plan to the Secretary that specifies how the state intends to use the federal funds to provide health assistance to needy children consistent with requirements of the CHAP program. States that meet the requirements would be entitled to federal assistance from funds appropriated for this purpose.

A state child health plan would have to include a description of: (a) the current insurance status of children, including targeted low-income children; (b) current state efforts to provide or obtain creditable coverage for uncovered children; and (c) how the plan is designed to be coordinated with current state efforts to increase creditable coverage of children. A state plan also would have to include a description of the methods of establishing and continuing eligibility and enrollment, including a methodology for computing family income that is consistent with the method used for certain Medicaid beneficiaries. Procedures established for eligibility would have to ensure: (a) that only targeted low-income children received the assistance, (b) that children found through screening to be eligible for medical assistance under the state's Medicaid program were enrolled in Medicaid, (c) that the new insurance did not substitute for coverage under group health plans, and (d) that there was coordination with other public and private programs providing creditable coverage for low-income children.

A state plan would have to describe the nature of the assistance to be provided including: cost-sharing, the health care delivery method (e.g., managed care, fee-for-service, direct provision of services, or vouchers), and utilization control systems. A state would not be permitted to pay benefits to an individual to the extent that such benefits were available to the individual under another public or private health care insurance program. Payments in the form of a voucher or cash would not be considered income for purposes of eligibility for, or benefits provided, under any means-tested federal or federally-assisted program.

A state plan would have to describe the procedures to be used to accomplish outreach and enrollment assistance to families of eligible children and to coordinate with other public and private health insurance programs.

SENATE AMENDMENT

States participating in Title XXI would be required to submit to the Secretary, no later than March 31 of any fiscal year (or, in the case of fiscal year 1998, October 1, 1997), an outline that identifies which option the State intends to use to provide coverage under this section (Medicaid or other qualified program), describes how such coverage shall be provided, and includes other information as the Secretary may require. The outline would also include: (a) the eligibility standards for the program, (b) the methodologies to be used to determine eligibility, (c) the procedures to be used to ensure only eligible children receive benefits and that the establishment of a program under this section does not reduce the number of children who currently have insurance coverage, and (d) a description of how the state would ensure that Indians are served by a program under this title.

CONFERENCE AGREEMENT

The conference agreement includes the House provisions with the following modifications. The State child health plans would be required to include descriptions of the child health assistance to be provided under the plan for targeted low income children, including the proposed methods of delivery and utilization control systems, eligibility standards, and outreach activities. The Conferees encourage states to consider such innovative means as vouchers and tax credits in developing these strategies. The plan would be required to include a description of (1) the methods of establishing and continuing eligibility and enrollment and (2) the provision of child health assistance to targeted low-income children in the state who are Indians as defined in the Indian Health Care Improvement Act.

A state plan would have to describe the procedures to be used to accomplish outreach and enrollment assistance to families of eligible children and to coordinate with other public and private health insurance programs.

(k) Process for submission, approval, and amendment of State child health plan

CURRENT LAW

No provision.

HOUSE BILL

States participating in Title XXI would be required to submit a State child health plan for approval by the Secretary. A state plan would become effective beginning in a specified calendar quarter that is at least 60 days after the plan is submitted. A state may amend its state child health plan at any time with a plan amendment. Plan amendments must be approved for the purposes of this title and would take effect on dates as specified in the amendment. Amendments restricting or limiting eligibility or benefits could not take effect until there had been public notice of the change. The Secretary would be required to promptly review State plans and amendments to determine compliance with the requirements of this title. Unless the state were notified in writing within 90 days that a plan or amendment was disapproved and the reasons for disapproval or that additional information was needed, the plan or amendment would be deemed approved. In the case of a disapproval, the Secretary would provide a state with a reasonable opportunity for correction.

CHAP programs would have to be conducted in accordance with the state plan and any approved amendments. The Secretary would establish a process for enforcing requirements under this title. Approved plans would continue in effect unless amended or unless the Secretary found the plan out of compliance with this title.

A State child health plan would be required to identify (a) specific strategic objectives aimed at increasing health coverage among low-income children, (b) performance goals for each strategic objective identified, and (c) performance measures that are objective and verifiable, so that when compared with the performance goals, indicate the State's performance under this title. Plans must include assurances that the state will collect data, maintain records, and furnish reports as required by the Secretary as well as provide the required annual assessments and evaluations. The Secretary would be required to have access to any records or information for reviews or audits as deemed necessary.

Plans would be required to include a description of the process for obtaining ongoing public involvement in the design and implementation of the plan, and the plan's budget to be updated periodically including details on the sources of the non-Federal share of plan spending.

SENATE AMENDMENT

States participating in Title XXI would be required to submit to the Secretary for approval, no later than March 31 of any fiscal year (or, in the case of fiscal year 1998, October 1, 1997), an outline that identifies which option the State intends to use to provide coverage (Medicaid or other qualified program), describes how such coverage shall be provided, and includes other information as the Secretary may require.

CONFERENCE AGREEMENT

The conference agreement includes the House provisions with the following modifications. Plan amendments that would eliminate or restrict eligibility or benefits would require prior public notice of the change before taking effect.

(l) Strategic objectives and performance goals; plan administration

CURRENT LAW

No provision.

HOUSE BILL

A state child health plan would be required to describe strategic objectives, performance goals, and performance measures for providing child health assistance to targeted low-income children. Strategic objectives shall be specific and relate to increasing the extent of creditable health coverage among targeted low-income children and other low-income children. One or more performance goals would be specified for each strategic objective. Performance measures must be objective and independently verifiable and must be compared against performance goals in order to determine the State's performance under this title. The state child health plan would be required to include an assurance that the State will collect data, maintain records, and furnish report to the Secretary as needed. The plan would be required to describe the State's plans for annual assessment, reports and evaluations as required and to assure that the Secretary would have access to information for the purposes of review or audit as necessary. The plan would include a description of the budget and the process for involving the public in the design and implementation and ensuring ongoing public involvement. The following sections of Title XI would apply to States' Child Health Assistance Insurance Programs as they do under Medicaid: Section 1101(a)(1) relating to the definition of a State, Section 1116 relating to administrative and judicial review, Section 1124 relating to disclosure of ownership and related information, Section 1126 relating to disclosure of information about certain convicted individuals, Section 1128B(d) relating to criminal penalties, and Section 1132 relating to periods within which claims must be filed.

SENATE AMENDMENT

The following sections of Title XI would apply to states' Child Health Insurance Initiatives as they do under Medicaid: Section 1116 relating to administrative and judicial review, Section 1124 relating to disclosure of ownership and related information, Section

1126 relating to disclosure of information about certain convicted individuals, Section 1128A relating to criminal penalties for certain additional charges, Section 1128B(d) relating to criminal penalties, and Section 1132 relating to periods within which claims must be filed, Section 1902(a)(4)(C) relating to conflict of interest standards, Section 1903(e) relating to limitations on payment, Section 1903(w) relating to limitations on provider taxes and donations, Section 1905(a)(B) relating to exclusion of care or services for individuals under the age of 65 in IMDs from the definition of medical assistance, Section 1921 relating to state licensure, Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) relating to third party liability. Section 506(b) of Title V, the Maternal and Child Health Block Grant program, relating to independent audits of state expenditures and receipts would apply to the Child Health Insurance Initiatives.

CONFERENCE AGREEMENT

The conference agreement includes the House provision with the following modifications. The following additional provisions of Title XI and XIX would apply the SCHIP as they apply to the Medicaid program. Section 1128A relating to criminal penalties for certain additional charges, Section 1128B(d) relating to criminal penalties, Section 1902(a)(4)(c) relating to conflict of interest standards, Paragraphs (2) and (16) of Section 1903(i) relating to limitations on payments, Section 1903(w) relating to limitations on provider taxes and donations, Section 1921 relating to state licensure, and Sections 1932(d) and 1932(e) as added by the Balanced Budget Act of 1997 relating to fraud and sanctions for managed care entities.

(m) Annual reports and evaluations

CURRENT LAW

No provision.

HOUSE BILL

A State would be required to provide an annual report to the Secretary by January 1 following the end of each fiscal year assessing the operation of the plan and the progress made in reducing the number of uncovered low-income children during the prior fiscal year. States would also be required to provide an evaluation by March 31, 2000, assessing (a) the effectiveness of the State plan in increasing the number of children with health coverage, (b) the effectiveness of specific elements of the plan, such as characteristics of families and children assisted the quality of coverage provided, (c) the effectiveness of other public and private programs in the State in increasing health coverage for children, (d) state activities to coordinate the plan with other public and private programs providing health care coverage, (e) trends in the state affecting the provision of health care to children, (f) plans for improving the availability of health insurance and health care for children, and (g) recommendations for improving the program, among other matters the State and Secretary consider appropriate. By December 31, 2000, the Secretary would be required to submit to Congress a report based on the state evaluations and make the report available to the public.

SENATE AMENDMENT

Participating states would be required to provide an annual assessment of the operation of the program funded under this title that includes a description of the progress made in providing health insurance coverage for low income children. The Secretary would be required to submit to Congress an annual report and evaluation of the State programs based on the annual assessment and would include any conclusions and recommendations the Secretary considers appropriate.

CONFERENCE AGREEMENT

The conference agreement includes the House provisions with the following modification. The Secretary would be required to submit to Congress a report based on the state evaluation by December 31, 2001.

(n) Definitions

CURRENT LAW

No provision.

HOUSE PROVISION

The House provision defines the following terms: child health assistance, targeted low-income child, Medicaid applicable income level, child, creditable health coverage, group health plan and health insurance coverage, low-income, poverty line, preexisting condition exclusion, state child health plan, and uncovered child.

SENATE AMENDMENT

The Senate Amendment defines the following terms: base-year covered low-income child population, child, eligible state, federal medical assistance percentage, FEHBP-equivalent children's health insurance coverage, Indians, low-income child, poverty line, Secretary, state, state children's health expenditures, and state Medicaid program.

CONFERENCE AGREEMENT

The conference agreement defines the following terms: child health assistance, targeted low-income child, child, creditable health coverage, group health plan and health insurance coverage, low-income, poverty line, preexisting condition exclusion, state child health plan, and uncovered child.

(o) Outreach

CURRENT LAW

No provision.

HOUSE BILL

Requires state health plans to include a description of the procedures to be used to inform families of children eligible for child health assistance under any public or private programs of the availability of such assistance and to assist in enrolling children.

SENATE AMENDMENT

Requires states to use 1% of their basic allotment for Medicaid outreach and public awareness campaigns to encourage employers to provide health insurance for children.

CONFERENCE REPORT

The conference report follows the House and Senate provisions. Outreach is included within a 10% administrative cap.

(p) Effective date

CURRENT LAW

No provision.

HOUSE BILL

States become eligible for payments for calendar quarters after October 1, 1997.

SENATE AMENDMENT

States become eligible for payments for calender quarters after October 1, 1997.

CONFERENCE AGREEMENT

State become eligible for payments for child health assistance provided after October 1, 1997.

(2) Mental health parity—Title XV of Senate tax bill—sec. 2107A

CURRENT LAW

Public Law 104–204 prohibits group health plans that cover medical, surgical, and mental health benefits from imposing more restrictive annual or lifetime dollar limitations on the coverage of mental health benefits than on medical and surgical benefits.

The definition of mental health benefits does not include treatment of substance abuse and chemical dependency.

HOUSE BILL

No provision.

SENATE AMENDMENT

Prohibits plans that enroll children under the Child Health Insurance Initiative and cover medical, surgical, and mental health benefits from imposing treatment limitations of financial requirements on the coverage of mental health benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

The definition of mental health benefits does not include treatment of substance abuse and chemical dependency.

CONFERENCE AGREEMENT

Mental health services are included as one of the four categories of additional services.

(3) Medicaid presumptive eligibility for low-income children—section 3504 of House bill)

CURRENT LAW

The Medicaid program allows states the option to provide presumptive eligibility for pregnant women. Under presumptive eligibility, health care providers are able to grant pregnant women with immediate, short-term Medicaid eligibility as the provider site while formal determination is being made. Presumptive eligibility is intended to provide immediate access to prenatal care services. As of 1996, 30 states have opted to provide presumptive eligibility.

HOUSE BILL

Allows state Medicaid programs to provide for a presumptive eligibility period for children under the age of 19. The presumptive eligibility period would begin when a qualified entity determines, based on preliminary information, that the family income of the child is below the applicable income eligibility threshold for the state Medicaid program, and ends when a formal determination is made. For children on whose behalf an application is not filed, the presumptive eligibility period would end on the last day of the month following the month when the period began.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House provision.

(4) Continuation of Medicaid eligibility for disabled children who lose SSI benefits—section 3505 of House bill

CURRENT LAW

In most sttes, people who receive benefits under the Supplemental Security (SSI) program automatically are eligible for Medicaid benefits only because they are SSI beneficiaries. P.L. 104–193, the Personal Responsibility and Work Opportunity Act (PRWOA) of 1996, established a new definition of childhood disability for receipt of SSI benefits. Under the new definition, some children will lose their SSI and their Medicaid eligibility as well.

HOUSE BILL

Allows states the option of continuing Medicaid coverage for disabled children who were receiving SSI as of the date of enactment of PRWOA if they lose SSI because of the new definition.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires States to continue Medicaid coverage for disabled children who were receiving SSI on the date of the enactment of PRWOA if they lose SSI because of the new definition of disability.

Chapter 3—Diabetes Grant Programs

SPECIAL DIABETES PROGRAMS FOR CHILDREN WITH TYPE I DIABETES

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends Title III of the Public Health Service Act to create a grant program under which the Secretary shall make grants to support prevention and treatment services of, and research relating to, type I diabetes in children. This section transfers $30 million for each of fiscal years 1998 through 2002 from Title XXI for these grants.

SPECIAL DIABETES PROGRAMS FOR INDIANS

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends Title III of the Public Health Service Act to create a grant program under which the Secretary shall make grants to support prevention and treatment services of diabetes in Indians. These grants shall purchase services provided through one or more of the following entities: the Indian Health Service, a tribal Indian health program, and an urban Indian health program. This section transfers $30 million for each of fiscal years 1998 through 2002 from Title XXI for these grants.

REPORT ON DIABETES GRANT PROGRAMS

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires the Secretary to conduct an evaluation of the diabetes grant programs established under this chapter and to report to the appropriate committees of Congress an interim report on January 1, 2000, and a final report on January 1, 2002.

I. WELFARE-TO-WORK GRANT, BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES, AND OTHER PROVISIONS

1. Welfare-to-Work Grants

a. Purpose

CURRENT LAW

The 1996 welfare reform law combined recent Federal funding levels for three repealed programs—AFDC, Emergency Assistance (EA), and JOBS—into a single block grant for Temporary Assistance for Needy Families (TANF). The TANF grant equals $16.4 billion annually through Fiscal Year 2002. The law also provides an average of $2.3 billion annually in a child care block grant. Each State is entitled to the sum it received for AFDC, EA, and JOBS in a recent year, but no part of the TANF grant is earmarked for any program component, such as benefits or work programs.

HOUSE BILL

Provides $3 billion to States and localities for additional resources to support welfare-to-work (WTW) efforts.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the State amendment.

b. Administering agency

CURRENT LAW

HHS administers the TANF block grant but has limited authority over State programs, except in setting penalties and in conducting evaluations of State performance in meeting program goals

HOUSE BILL

The WTW block grant would be administered by the Department of Labor in consultation with the Secretary of HHS and the Secretary of HUD.

SENATE AMENDMENT

The WTW block grant would be administered by the Secretary of HHS.

CONFERENCE AGREEMENT

The conference agreement follows the House bill so that the Department of Labor would administer the program.

c. Inter-agency coordination

CURRENT LAW

No provision.

HOUSE BILL

Note: the House bill contains separate provisions from the committees of jurisdiction (the Committee on Ways and Means and the Committee on Education and the Workforce) on interagency coordination and several other provisions described below related to welfare-to-work grants.

Committee on Ways and Means

Formula Grant Provisions:

1. Administered by the State TANF agency or another agency designated by the Governor.

2. Plans must be approved by the State TANF agency.

3. Private Industry Councils (PICs) have sole authority for expenditures in Service Delivery Areas (SDAs) under the 85 percent portion of the non-competitive funds, pursuant to an agreement with the agency responsible for administering TANF in the SDA.

4. If the Secretary of Labor, in consultation with the Secretary of HHS and the Secretary of HUD, determines that a PIC and the agency responsible for administering TANF in the SDA are not adhering to their agreement, funding shall be remitted to the Secretary of Labor.

Competitive Grant Provisions:

Proposals must be approved by State TANF agency.

Committee on Education and the Workforce

Formula Grant Provisions:

1. Administered by the State TANF agency or another agency designated by the Governor.

2. No provision on whether plans must be approved by the State TANF agency.

3. Private Industry Councils have sole authority for expenditures in SDAs under the 85 percent portion of the non-competitive funds, in coordination with the chief elected official of the SDA.

4. No provision on remission of funding in the event of noncompliance.

SENATE AMENDMENT

Formula Grant Provisions:

1. Administered by the State TANF agency.

2. Plans must be approved by the State TANF agency (same as Ways and Means).

3. No provision on PICs.

4. If the Secretary of HHS determines that an entity operating a project and the agency responsible for administering the State TANF program are not adhering to their agreement, funding shall be remitted to the Secretary.

Competitive Grant Provisions:

Proposals must be approved by State TANF agency. In addition, if the Secretary of HHS determines that an entity operating a project and the agency responsible for administering the State TANF program are not adhering to their agreement, funding shall be remitted to the Secretary.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment with modifications. The Governor is to submit the plan to the Secretary of Labor and Secretary of HHS. The provision regarding approval of State plans by State agencies is dropped. Private Industry Councils (PICs) have authority, in coordination with the area's chief elected official, for expenditures in SDAs under the 85 percent portion of the non-competitive funds. The addendum to the State TANF plan for formula grants must contain an assurance by the Governor that the PIC (or through a waiver, an alternative entity) will coordinate welfare-to-work funds with TANF funds.

The conference agreement requires that PICs, political subdivisions of States, or private entities working in conjunction with a PIC or a political subdivision develop competitive grant proposals in consultation with the State's Governor.

d. Entitlement and Distribution of Funds

CURRENT LAW

No provision.

HOUSE BILL

A total of $3 billion is authorized for distribution among States, sub-state units, and Indian tribes for the welfare-to-work program: $1.5 billion is provided in Fiscal Year 1998, and $1.5 billion in Fiscal Year 1999.

Under the provision adopted by the Committee on Ways and Means, after subtracting set-asides, funds are distributed 50 percent by formula to States and 50 percent to PICs or political subdivisions of States through a competitive grant process (see below).

Under the provision adopted by the Committee on Education and the Workforce, after set-asides, funds are distributed 95 percent by formula to States and 5 percent to PICs or political subdivisions of States through a competitive grant process.

The House bill provides for the following set-asides: (1) 1 percent set-aside each year for Indian tribes that choose to run their own program; and (2) 0.5 percent set-aside each year for evaluations through HHS.

Funds not expended within 3 years must be returned.

SENATE AMENDMENT

A total of $3 billion is authorized for distribution among States, sub-state units, and Indian tribes for the welfare-to-work program. In Fiscal Year 1998, $0.75 billion is provided; in Fiscal Year 1999, $1.25 billion; and in Fiscal Year 2000, $1.00 billion.

After set-asides, funds are distributed 75 percent by formula to States and 25 percent to political subdivisions of States through a competitive grant process (see below).

The set-asides for Indian tribes and evaluation and the provisions allowing States and localities up to three years to expand grant funds are identical to the House bill.

A $100 million set-aside from Fiscal Year 1999 funding is provided for a high performance bonus payable to qualifying States in Fiscal Year 2003.

CONFERENCE AGREEMENT

The conference agreement follows the House bill by providing $1.5 billion in each of Fiscal Years 1998 and 1999.

The conference agreement follows the Senate amendment on division of funds between formula and competitive grants so that 75 percent of funds is for formula grants and 25 percent is for competitive grants. The conference agreement provides a reservation of 0.8 percent of welfare-to-work funds for each of Fiscal Years 1998 and 1999 for evaluations; in addition, the conference agreement authorizes the Secretary to use no more than $6 million of this funding for evaluation of abstinence programs. The provisions on set-asides for Indian tribes and spending funds over no more than three years are identical in the House bill and the Senate amendment. The conference agreement follows the Senate amendment in providing a $100 million performance set-aside from Fiscal Year 1999 funds. The successful performance bonus would be paid to States in Fiscal Year 2000.

e. Matching requirements

CURRENT LAW

No provision.

HOUSE BILL

States must meet a 33 percent match requirement for non-competitive grants (i.e. State must spend 50¢ to receive $1 in Federal funds). States that do not fully expend the estimated State share of welfare-to-work funds will have their TANF grants reduced by the difference the following year. State matching funds cannot be used to satisfy matching requirements for other programs. Indian tribes are not required to put up any matching funds.

SENATE AMENDMENT

States must certify that they plan to a spend 33¢ for each Federal dollar received in noncompetitive funds (¼ match). State matching funds cannot be used to satisfy matching requirements for other programs. The provision on matching by Indian tribes is identical to the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill by requiring a 33 percent State match. The House bill and the Senate amendment are identical in requiring no match by Indian tribes. The conference agreement follows the House bill and the Senate amendment in providing that State funds cannot be used to satisfy matching requirements for other programs, with the added clarification that State funds expended to match Federal welfare-to-work grants cannot be used to match or satisfy State spending requirements for the TANF contingency fund, child care block grant matching funs, or any other Federal program.

f. Prior State spending requirements

CURRENT LAW

States are required to maintain their own spending for TANF-eligible families at 75 percent of their "historic" level (Fiscal Year 1994 spending on the replaced programs and AFDC-related child care), and, under penalty of loss of funds, they must achieve specified work participation rates. If work participation rates are not met, the State must spend 80 percent of its historic level.

HOUSE BILL

Under the provision adopted by the Committee on Ways and Means, qualified State expenditures must be at least 80 percent of historic State expenditures for the current or prior year. The Committee on Education and the Workforce did not specify a prior State spending requirement.

SENATE AMENDMENT

State must meet prior year's State maintenance of effort requirement.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the clarification that a State must meet the TANF maintenance of effort requirement in a year for which it receives a welfare-to-work formula grant.

g. Allocation of formula funds to States

CURRENT LAW

No provision.

HOUSE BILL

Committee on Ways and Means

50 percent of the appropriated funds (after subtracting set-asides for Indian tribes and evaluation) are distributed to States with approved State welfare-to-work plans allocated on the basis of each State's average of the following:

1. percent of U.S. poverty population;
2. percent of U.S. adults receiving TANF assistance; and
3. percent of U.S. unemployed.

Committee on Education and the Workforce

95 percent of appropriated funds (after subtracting set-asides for Indian tribes and evaluation) are distributed to States with approved State welfare-to-work plans allocated on the basis of each State's average of the following:

1. percent of U.S. poverty population; and
2. percent of U.S. adults receiving TANF assistance.

SENATE AMENDMENT

75 percent of the appropriated funds (after subtracting set-asides for Indian tribes, evaluation, and high performance bonuses) are distributed to States with approved State welfare-to-work plans allocated on the basis of each State's average of the following:

1. percent of U.S. poverty population;
2. percent of U.S. adults receiving TANF assistance; and
3. percent of U.S. unemployed.

A small State minimum of 0.5 percent of appropriated funds (after subtracting set-asides for Indian tribes and evaluation) will apply to all States; i.e. regardless of how much a small State would receive under the distribution formula, no State can receive less than 0.5 percent of total appropriated funds.

CONFERENCE AGREEMENT

The conference agreement follows the provision adopted by the Committee on Education and the Workforce, thus dropping unemployment as a factor. The conference agreement adopts a small State minimum (Senate provision), but reduces it to 0.25 percent of formula grant funds. The small State minimum does not apply to Guam, the Virgin Islands, or American Samoa.

h. Definition of welfare-to-work State

CURRENT LAW

No provision.

HOUSE BILL

Committee on Ways and Means

The Secretary of Labor, in consultation with the Secretary of HHS and the Secretary of HUD, determines whether States meet the following criteria to qualify as a welfare-to-work State:

1. submit a plan as an addendum to their TANF State plan that includes a description of how welfare-to-work funds will be used, the sub-State distribution formula, and evidence that the plan was developed in consultation and coordination with sub-State areas and approved by the State TANF agency;
2. provide an estimate of State spending;
3. agree to negotiate with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation;
4. be an eligible TANF State for the fiscal year; and
5. meet 80 percent Maintenance of Effort (MOE) requirements under TANF for current or preceding fiscal year.

Committee on Education and the Workforce

The Secretary of Labor, in consultation with the Secretary of HHS and the Secretary of HUD, determines whether States meet the following criteria as a welfare-to-work State:

1. submit a plan as an addendum to their TANF State plan that includes a description of how welfare-to-work funds will be used, a description of the sub-State distribution formula, and evidence that the plan was developed through a collaborative process that, at minimum, included sub-State areas;
2. provide an estimate of State spending;
3. agree to negotiate with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation; and
4. be an eligible TANF State for the fiscal year.

SENATE AMENDMENT

The Secretary of HHS determines whether States meet the following criteria as a welfare-to-work State:

1. submit a plan as an addendum to their TANF State plan that includes a description of how welfare-to-work funds will be used, a description of the sub-State distribution formula, and evidence that the plan was developed in consultation with sub-State areas and approved by the State TANF agency;
2. provide an estimate of State spending;
3. agree to negotiate with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation;
4. be an eligible TANF State for the fiscal year; and
5. meet prior year's State maintenance of effort requirement.

CONFERENCE AGREEMENT

The conference agreement adopts provisions common to both House bills and the Senate amendment, with the clarification that a welfare-to-work State must also certify that it will meet TANF maintenance of effort requirements. The conference agreement requires that the State plan addendum contain assurance that the PIC in SDA will coordinate expenditure of welfare-to-work funds with the expenditure of the TANF block grant. The plan may contain an application to the Secretary of Labor for a waiver of the requirement that the PIC administer welfare-to-work formula funds within the SDA.

i. Distribution of Formula Funds Within States

CURRENT LAW

No provision.

HOUSE BILL

Within each State, 85 percent of formula funds are to be distributed to service delivery areas (SDAs) as defined in the Job Training Partnership Act. At least half of the funds must be distributed on the basis of the share of each SDA's population in high poverty (above 5 percent). Additionally, States may incorporate either or both of the following for the remaining 50 percent of the formula: (1) the number of adults receiving TANF assistance in the SDA for 30 months or more (whether or not consecutive); and (2) the number of unemployed residents in the SDA. The remaining 15 percent of formula funds may be distributed by the Governor for projects to help move long-term recipients into work.

Grants to SDAs have a minimum threshold of $100,000 in lieu of distributing lesser amounts, unused funds as a result of this threshold would be added to the Governor's 15 percent fund for projects to help move long-term recipients into work.

SENATE AMENDMENT

Within each State, at least 85 percent of formula funds are to be distributed to political subdivisions with poverty and unemployment rates above the State average. At least half of the funds must be distributed on the basis of each subdivision's population in poverty. States may incorporate either or both of the following for the remaining 50 percent of the formula: (1) the number of adults receiving TANF assistance in the political subdivision for 30 months or more (whether or not consecutive); and (2) the number of unemployed residents in the political subdivision (in each case rather than in the SDA as in the House bill). The remaining 15 percent of formula funds may be distributed by the Governor for projects to help move long-term recipients into work.

Grants to political subdivisions (rather than to SDAs as in the House bill) have a minimum threshold of $100,000; in lieu of distributing lesser amounts, unused funds as a result of this threshold would be added to the Governor's 15 percent fund for projects to help move long-term recipients into work.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment with the following modifications: the conference agreement follows the House bill with respect to distribution of funds to service delivery areas; and the conference agreement follows the House bill with respect to the formula for such distribution, except the portion of funds distributed based on the share of each SDA's population in poverty is determined by the number in poverty above 7.5 percent instead of above 5 percent.

j. Performance Bonuses

CURRENT LAW

No provision. However, the 1996 welfare reform law provides a total of $1 billion in Federal performance bonus funds through Fiscal Year 2003 for States that are the most successful in meeting the goals of the TANF block grant, including ending the dependence of the needy parents on government assistance by promoting job preparation and work.

HOUSE BILL

No provision.

SENATE AMENDMENT

$100 million of Fiscal Year 1999 funds are to be reserved and added to the High Performance Bonus under TANF in Fiscal Year 2003 for welfare-to-work States that are most successful in increasing the earnings of long-term welfare recipients or those at risk of long-term welfare dependency.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with a modification. The conference agreement sets aside $100 million of Fiscal Year 1999 funds of successful performance bonuses to be paid in Fiscal Year 2000. Within 1 year, the Secretary of Labor, in consultation with the Department of Health and Human Services, the National Governors' Association, and the American Public Welfare Association, shall develop a formula for measuring the success of a State which received welfare-to-work formula grants in Fiscal Year 1998 and Fiscal Year 1999 in placing individuals in employment; the duration of such placements; any increase in earnings of individuals and other factors. The Secretary shall use the formula to score each welfare-to-work State and set a threshold for awarding bonuses.

k. Competitive Grant Funds for Private Industry Councils, Private Entities, and Political subdivisions of States

CURRENT LAW

No provision.

HOUSE BILL

Committee on Ways and Means

50 percent of welfare-to-work funds (after subtracting set-asides for Indian tribes and evaluation) is distributed to establish competitive grants. Eligible applicants are PICs or political subdivisions of States.

Grants must be sufficient to ensure a reasonable opportunity for success. Not less than 25 percent of competitive funds will be available for grants in rural areas with populations less than 50,000. Not less than 65 percent of competitive funds will be available for grants among the 100 cities in the U.S. with the highest number of individuals in poverty.

Grants are based on: the likelihood of the project's effectiveness in expanding the base of knowledge about welfare-to-work programs for the least job ready, moving the least job ready into the labor force, and moving the least job ready into the labor force even in labor markets with a shortage of low-skill jobs; at the Secretary's discretion, other factors may be considered: the applicant's success in addressing multiple barriers, ability to leverage other resources, use of State or local resources that exceed the required match, plans to coordinate with other organizations, or use of current or former recipients as mentors, case managers or providers.

Grants made by the Secretary of Labor in consultation with the Secretary of HHS and the Secretary of HUD in Fiscal Years 1998 and 1999.

Committee on Education and the Workforce

5 percent of welfare-to-work funds (after subtracting set-asides for Indian tribes and evaluation) plus any unobligated funds from prior fiscal years, is distributed to establish demonstration projects. Eligible applicants are PICs or political subdivisions of States.

Grants are based on the likelihood of the demonstration project placing long-term recipients into the workforce.

Grants are made by the Secretary of Labor in consultation with the Secretary of HHS and the Secretary of HUD in Fiscal Years 1998 and 1999. Funds remain available until the end of Fiscal Year 2001.

SENATE AMENDMENT

Twenty-five percent of welfare-to-work funds (after subtracting set-asides for Indian tribes, evaluation, and high performance bonuses) is distributed to establish competitive grants to political subdivisions of States. Eligible applicants are political subdivisions of States or community action agencies, community development corporations, and other non-profit organizations with demonstrated effectiveness in moving recipients into the work force. Their proposals must be approved by the State TANF agency.

Grants must be sufficient to ensure a reasonable opportunity for success. Not less than 30 percent of competitive funds will be available for grants in rural areas, as defined by the House.

Grants are based on: the likelihood of the project's effectiveness in expanding the base of knowledge about welfare-to-work programs for the least job ready, moving the least job ready into the labor force, and moving the least job ready into the labor force even in labor markets with a shortage of low-skill jobs; at the Secretary's discretion, other factors may be considered: the applicant's success in addressing multiple barriers, ability to leverage other resources, use of State or local resources that exceed the required match, plans to coordinate with other organizations, or use of current or former recipients as mentors, case managers or providers.

Competitive grants awards are made in Fiscal Year 1998 and Fiscal Year 2000.

CONFERENCE AGREEMENT

The conference agreement provides that eligible applicants include PICs, political subdivisions of States, or private entities applying in conjunction with a PIC or political subdivision. The House bill and the Senate amendment are identical on the requirement that grants must be sufficient to ensure a reasonable opportunity for success.

The conference agreement does not include a set-aside for rural areas or cities with large concentrations of poverty. However, the Secretary is directed to consider the needs of rural areas and cities in awarding competitive grants.

The conference agreement follows the House bill (Ways and Means provision) and the Senate amendment on the requirement that grants must be made on the basis of the likelihood of the project's effectiveness in expanding knowledge about welfare-to-work programs, among other factors.

The conference agreement follows the House bill so that grants are available in Fiscal Years 1998 and 1999.

l. Grants to Indian Tribes

CURRENT LAW

No provision.

HOUSE BILL

1 percent of appropriated funds is distributed to Indian tribes with welfare-to-work plans, in such amounts as the Secretary deems appropriate.

An Indian tribe shall be considered a welfare-to-work tribe if it meets the following criteria:

1. submit a plan in the form of an amendment to the tribal family assistance plan, if any, (including a description of how welfare-to-work funds will be used);
2. provide an estimate tribal spending; and
3. agree to negotiate in good faith with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation.

SENATE AMENDMENT

The set-aside for Indian tribes is identical to the House (1 percent of appropriated funds). The criteria for determining an eligible tribe is similar to the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment, but adds a provision allowing Secretary of Labor to waive or modify limitations on the use of welfare-to-work funds by Indian tribes.

m. Grants to Territories/Outlying Areas

CURRENT LAW

Total Federal funding to the territories (Puerto Rico, U.S. Virgin Islands, Guam and American Samoa) for public assistance programs, including TANF, is limited to specified dollar amounts. These limits are raised effective October 1, 1996. Territories may receive TANF funds in addition to their family assistance grant on a matching basis to take advantage of their increased caps.

HOUSE BILL

Welfare-to-work funds to territories do not count against their public assistance funding cap.

SENATE AMENDMENT

Same as House, except refers to "outlying areas" instead of "territories."

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

n. Use of Funds

CURRENT LAW

No provision.

HOUSE BILL

Committee on Ways and Means

Funds must be used to move TANF recipients and noncustodial parents of any minor who is a recipient into the work force through the following:

1. job creation through public or private wage subsidies;
2. on-the-job training;
3. contracts (through public or private providers) for job readiness, placement or post-employment services;
4. vouchers for job readiness, placement or post-employment services; and
5. job support services (excluding child care) if not otherwise available.

PICs cannot be used to provide direct services.

Funds are subject to the 15 percent cap on administrative costs, may be used for public or private job placement agencies, and may be used to fund Individual Development Accounts.

Committee on Education and the Workforce

Funds must be used to move TANF recipients into the work force through the following:

1. job creation through public or private wage subsidies;
2. on-the-job training;
3. job placement contracts (through companies or public programs);
4. job vouchers; and
5. job retention or support services, if not otherwise available.

SENATE AMENDMENT

Funds must be used to move TANF recipients and noncustodial parents of any minor who is a recipient into the work force through the following:

1. job creation through public or private wage subsidies;
2. on-the-job training;
3. contracts (through public or private providers) for job readiness, placement or post-employment services;
4. vouchers for job readiness, placement or post-employment services;
5. job support services (excluding child care) if not otherwise available; and
6. technical assistance and related services that lead to self-employment through the microloan demonstration program under section 7(m) of the Small Business Act.

Contracts or vouchers for job placement services using welfare-to-work funds must require that at least one-half of the payment be withheld until after the person placed in a job has been at work for at least six months.

CONFERENCE AGREEMENT

The conference agreement adopts most provisions of the House bill and Senate amendment on allowable activities, but adds permission for States to spend welfare-to-work fund on community service and work experience programs, and it drops the exclusion of child care from allowable job support services.

The conference agreement follows the Senate amendment to require that contracts or vouchers for job placement services supported by welfare-to-work fund must withhold at least one-half of the payment until after the person has been at work for at least six months. The conference agreement follows the Senate amendment by dropping the House provision specifying that PICs cannot use funds to provide direct services.

The conference agreement adopts the provision in the House bill and the Senate amendment specifying that funds are subject to the 15 percent administrative cap and may be used for job placement or to fund Individual Development Accounts.

o. Eligible Individuals

CURRENT LAW

No provision

HOUSE BILL

Committee on Ways and Means

90 percent of funds must be expended on TANF recipients who have received assistance for at least 30 months (whether or not consecutive); OR who are within 12 months of reaching the time limit; AND who meet at least two of the following criteria:

1. are not high school graduates or do not have GED and have low skills in reading and math;
2. require substance abuse treatment for employment;
3. have a poor work history.

The Secretary shall prescribe regulations necessary to interpret these criteria.

Committee on Education and the Workforce

90 percent of funds must be expended on TANF recipients who have received assistance for at least 30 months (whether or not consecutive); OR who are within 12 months of reaching the time limit; OR who meet at least two of the following criteria:

1. are not high school graduates or do not have GED and have low skills in reading and math;
2. require substance abuse treatment for employment;
3. have a poor work history.

SENATE AMENDMENT

90 percent of funds must be expended on TANF recipients who have received assistance for at least 30 months (whether or not consecutive); OR who are within 12 months of reaching the time limit; OR who meet at least two of the following criteria:

1. are not high school graduates or do not have GED and have low skills in reading and math;
2. require substance abuse treatment for employment;
3. have a poor work history.

CONFERENCE AGREEMENT

The conference agreement follows the House bill (Ways and Means) on target criteria, but modifies the provision to require that at least 70 percent of funds (instead of 90 percent) must be spent on the specified groups, with a modification that non-high school graduates have low skills in reading OR mathematics rather than reading AND mathematics. States may spend up to 30 percent of funds on individuals (including noncustodial parents of minors whose custodial parent is a TANF recipient) who have the characteristics of long-term recipients, with the clarification that funds not spent for these purposes shall be used for the same purposes as the 70 percent spent on specified groups. The conference agreement follows the House bill so that the Secretary must prescribe necessary regulations within 90 days after the date of enactment.

p. Interaction with TANF

CURRENT LAW

No provision.

HOUSE BILL

Adults who received TANF for 60 months are eligible for assistance from the welfare-to-work program. Assistance to individuals from welfare-to-work funds is not counted as TANF assistance for purposes of the TANF 60-month time limit. Welfare-to-work is considered assistance for purposes of other TANF requirements; for example, work participation, child support, and data reporting. States must adopt the welfare-to-work plan as an addendum to their TANF State plan. States must be eligible TANF States for the fiscal year.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the identical provisions in the House bill and the Senate amendment with two modifications. It provides authority to provide assistance to those who have reached the TANF 60-month limit. It also clarifies that assistance to individuals from welfare-to-work funds does not count toward the TANF 60-month time limit. Months when cash assistance is provided, directly or indirectly (for example, wage subsidies), count toward the 60-month limit.

q. Evaluation

CURRENT LAW

No provision.

HOUSE BILL

The Secretary of HHS must develop, in consultation with the Secretary of Labor, a plan to evaluate use of welfare-to-work grants. States must agree to negotiate with the Secretary of HHS on the substance and cooperate with the conduct of an evaluation; 0.5 percent of funds is reserved for HHS evaluation. The Secretary is urged to include the following measures:

1. placements in the labor force and placements that last at least six months;
2. placements in the private and public sectors;
3. earnings of individuals who obtain employment;
4. average expenditures per placement.

The Secretary of HHS, in consultation with the Secretary of Labor and the Secretary of HUD, must report to Congress on projects funded under the welfare-to-work program and on the evaluations of projects. An interim report is due January 1, 1999, and a final report is due January 1, 2001.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the identical provisions in the House bill and the

Senate amendment, with the modification that 0.8 percent of total funds is reserved for evaluations, including $6 million for evaluation of abstinence education programs.

r. Data Reporting

CURRENT LAW

States are required to collect on a monthly basis and report to the Secretary on a quarterly basis specified information about families receiving TANF assistance. Information on the demographic and financial characteristics of TANF families is reported as disaggregated case records, and may be based on a sample of TANF families. In addition to the disaggregated case records, States are required to report aggregate information on total expenditures, Federal funds used to cover administrative costs, the number of noncustodial parents participating in work activities, and transitional services. The Secretary has the authority to regulate and define the data elements for the required reports.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Recipients of welfare-to-work funds are subject to TANF reporting requirements. In addition to the information required of all TANF families, States are required to report additional information on families with a member receiving welfare-to-work assistance, including the types of welfare-to-work activities they engaged in, the amount expended for the recipient in the activity, and information about their employment or training status when their welfare-to-work assistance ends. Additionally, separate information on aggregate welfare-to-work expenditures, administrative costs, and noncustodial parents in the welfare-to-work program is required.

2. Workfare—Rules for Community Service and Work Experience Programs

CURRENT LAW

States may establish work experience and community service programs in which TANF recipients may be required to work as a condition of receiving their grant. These programs are often called "workfare." The Department of Labor has held that workfare participants may be considered "employees" and thus would be covered by the Fair Labor Standards Act (FLSA), which sets hour and wage standards, and other employment laws.

HOUSE BILL

Work experience and community service programs are designed to improve the employability of participants through actual work experience or training. Such programs are limited to projects which serve a useful public purpose. Participants may not be placed in private, for-profit organizations and may not be required to participate for more hours than the combined value of their TANF and Food Stamp benefits minus child support collected and retained by the State, divided by the greater of the Federal or State minimum wage. Participants engaged in work experience and community service programs are not entitled to a salary or work or training expenses and are not entitled to any other compensation for work performed.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment (no provision).

2a. Sanctions

CURRENT LAW

No provision (see above).

HOUSE BILL

No provision.

SENATE AMENDMENT

Notwithstanding minimum wage requirements, States retain the ability to sanction a family for noncompliance with program rules.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Counting Any Other Work Activity for Recipients With Sufficient Participation in Workfare Programs

CURRENT LAW

TANF law requires single adult parents to engage in "work activities" for an average of 20 hours weekly in Fiscal Years 1997 and 1998 (more in later years) and requires that all 20 hours be spent in specified "priority" activities (not including, for instance, job skills training). In Fiscal Year 1999, when required work hours for those without a preschooler climb to 25 hours, 5 hours credit may be received for lower priority work activities. (Required weekly work hours for 2-parent families are 35, with 30 in "priority" activities.) TANF law also places time limits on vocational educational training (12 months per person) and job search.

HOUSE BILL

Participants in work experience and community service programs who do not meet the hourly work requirements when minimum wage is taken into account can meet the remaining hours of the work requirement by participating in any other work activity. States must treat persons who participate enough hours, calculated at the minimum wage, to equal their combined TANF/food stamp benefits (less child support collections not distributed to them) as engaged in work if they make up any shortfall in required hours by time spent in other work activity.

The provision provides an alternative method for a TANF recipient to meet the hourly work requirements. It does not preclude a recipient from meeting the hourly work requirements through other means. For example, a single parent with a child under age 6 would meet hourly work requirements by engaging in work for 20 hours per week.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment (no provision).

4. Protections for employees and TANF participants

CURRENT LAW

Although a TANF recipient may fill a vacant employment position, no adult in a TANF work activity may be employed or assigned when another person is on layoff from the same or any substantially equivalent job; or if the employer has caused an involuntary workforce reduction in order to fill the resulting vacancy with a TANF recipient. These provisions do not preempt or supersede any State or local law that provides greater protection against displacement. TANF-funded activities are subject to the Age Discrimination Act, the Americans with Disabilities Act, Title VI of the Civil Rights Act, and Sec. 504 of the Rehabilitation Act.

HOUSE BILL

Displacement: Participants in activities funded by welfare-to-work funds and TANF may fill a vacant employment position in order to engage in a work activity, except when another individual is on layoff from the same or substantially equivalent job or if the employer has caused an involuntary reduction in the workforce with the intention of filling the vacancy with the participant.

Impairment of contracts: The work activity cannot impair an existing contract for services or collective bargaining agreement. Any activity that would impair an existing contract or agreement cannot be undertaken without written consent of the labor organization and employer.

Health and safety: Otherwise applicable Federal and State health standards shall apply to all TANF and welfare-to-work participants engaged in a work activity.

Nondiscrimination: Adds gender to the other nondiscrimination provisions applicable to TANF and welfare-to-work participants.

Grievance procedure: States must establish grievance procedures for employees alleging nondisplacement violations and for TANF and welfare-to-work participants who allege violations of provisions regarding nondisplacement, health and safety standards, or gender discrimination. The procedure must include an opportunity for a hearing.

Remedies: States must provide remedies for violations of anti-displacement, health and safety, and anti-discrimination protections, which may include reinstatement of an employee with payment of lost wages and benefits, reestablishment of terms, conditions and privileges of employment, and where appropriate, other equitable relief.

SENATE AMENDMENT

Displacement: Participants in activities funded by welfare-to-work funds cannot displace current employees (including a reduction in hours, wages, or benefits) or be employed in a job resulting from a layoff or a workforce reduction to create the vacancy or in a job that impairs promotional opportunities for current employees.

Impairment of contracts: Existing contracts for services or collective bargaining agreements cannot be impaired by a work activity; any activity inconsistent with a collective bargaining agreement cannot be undertaken without the written consent of the labor organization and employer.

Health and safety: Otherwise applicable Federal and State health and safety standards, as well as workers' compensation, apply to welfare-to-work participants.

Grievance procedures: States must establish grievance procedures which include an opportunity for a hearing within 60 days, with appeal rights to the Secretary of Labor.

Investigation: Requires the Secretary of Labor to investigate alleged violations of nondisplacement and health and safety provisions if decision on alleged complaint is not reached within 60 days and either party appeals; or if decision is reached and appealed.

Remedies: Remedies are limited to suspension or termination of payments, prohibition of placement with an employer who violated these provisions, reinstatement of the employee and payment of lost wages and benefits, or equitable relief.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment by applying the specified protections to welfare-to-work participants but not all TANF participants engaged in work activities. The agreement follows the House bill regarding displacement, with the modification that an involuntary reduction in hours to less than full-time work is prohibited and the clarification that State laws, if broader, are not preempted by this federal provision. With regard to impairment of contracts, the conference agreement follows the Senate amendment, with clarification that an activity that would "violate" a collective bargaining agreement cannot be undertaken without written consent of the labor organization and employer. The conference agreement follows the House bill and the Senate amendment on health and safety protections.

The conference agreement follows the House bill on nondiscrimination protections. On grievance procedures, the conference agreement follows the House bill with the modification that States have the option of continuing any sanctions during the grievance procedure. In addition, the State grievance procedure must include an opportunity for appeal to a State agency other than the agency administering the State welfare-to-work program; however, this condition will be satisfied by the allowance of appeals to an independent review board within the agency administering the State welfare-to-work program. On investigations, the conference agreement follows the House bill (thus, there is no provision). The conference agreement follows the Senate amendment on remedies.

5. Limit on Vocational Educational Training as a Work Activity

CURRENT LAW

The law restricts to 20 percent the proportion of TANF recipients "in all families and in 2-parent families" who may be treated as engaged in work for a month by reason of participating in vocational educational training or, if single teenage household heads without a high school diploma, by reason of satisfactory attendance at secondary school or participation in education directly related to employment.

HOUSE BILL

The provision adopted by the Committee on Ways and Means clarifies the limit on the number of persons who may be treated as engaged in work by reason of participation in vocational educational activities as 30 percent of individuals in all families and in two-parent families, respectively, who are engaged in work for a month. Teen heads of households who are deemed to be meeting the work requirements by maintaining satisfactory school attendance or participating in education directly related to work are specifically excluded from the cap.

The provision adopted by the Committee on Education and the Workforce clarifies the limit on the number of persons who may be treated as engaged in work by reason of participation in vocational educational activities as 20 percent of individuals in all families and in two-parent families, respectively, who are engaged in work for a month or deemed to be engaged in work by reason of being teen heads of households who are maintaining satisfactory school attendance or participating in education directly related to work.

SENATE AMENDMENT

Allows 20 percent of persons in all families and in two-parent families (other than those headed by teen parents without a high school diploma) to be treated as engaged in work by reason of participation in vocational educational activities. Strikes the limit on the number of teen parents who may meet the work requirement by maintaining satisfactory school attendance or participating in education directly related to work.

CONFERENCE AGREEMENT

The conference agreement follows the House bill (provision adopted by the Committee on Ways and Means) so that the number of persons who may be treated as engaged in work by reason of participation in vocational educational activities is limited to 30 percent of individuals in all families and in two-parent families, respectively, who are engaged in work for a month. The conference agreement provides that teen heads of households who are deemed to be meeting the work requirements by maintaining satisfactory school attendance or participating in education directly related to work are specifically excluded from the cap for Fiscal Years 1998 and 1999.

6. Limit on Transfer of TANF Funds

CURRENT LAW

States may transfer up to 30 percent of their TANF funds to the Title XX social services block grant and the Child Care and Development Block Grant (CCDBG), but no more than one-third of the total transfer may go to the former. Thus, for every $1 transferred to Title XX, $2 must be transferred to the child care block grant. TANF funds transferred to Title XX can be spent only on children and families with income below 200 percent of the poverty guideline.

HOUSE BILL

Limits the amount transferable to Title XX to 10 percent of the TANF block grant without respect to any transfers to the Child Care and Development Block Grant. Up to 30 percent may be transferred to the CCDBG, but total transfers are limited to 30 percent, and current law restrictions on funds transferable into the Title XX program remain in effect.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

7. Penalty Against State for Not Reducing Benefit of Recipient for Refusal to Work

CURRENT LAW

If an adult recipient refuses to engage in required work, the State must reduce aid to the family pro rata (or more, at State option) or shall discontinue aid, subject to good cause and other exceptions of the State.

HOUSE BILL

A State shall be penalized between 1 percent and 5 percent of its TANF block grant if it fails to reduce a recipient's grant for refusing without good cause to participate in work. The Secretary is to impose the reduction based on the degree of noncompliance.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

8. Family Violence Exemptions from TANF Rules

CURRENT LAW

TANF law gives the State an option to certify that it has established and is enforcing standards to screen and identify recipients with a history of domestic violence, to refer them to counseling and supportive services, and to waive some program requirements, such as time limits (subject to the 20 percent limit on exemptions from the Federal 5-year time limit), for TANF recipients in cases where the requirements would make it harder for them to escape domestic violence or would unfairly penalize persons who have been victimized by domestic violence or those at risk of further violence.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provides that:

1. States shall not be subject to any numerical limitation in the granting of good cause waivers in accordance with the Family Violence Option;
2. HHS shall exclude persons with a family violence waiver in determining a State's compliance with work participation rates and enforcement of the time limit. HHS shall exclude these persons in determining whether to impose a penalty for a State's failure to meet participation rates, enforce the time limit, or enforce penalties requested by the child support agency against TANF recipients for their failure to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order without good cause;
3. Prohibits the Federal Parent Locator Service from disclosing information (except to a court) if there is reasonable evidence of domestic violence or child abuse or if the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure.

CONFERENCE AGREEMENT

The conference agreement follows the House bill (i.e. dropping the Senate provision). Instead, the conference agreement requires that the General Accounting Office conduct a study of the effect of family violence on the use of welfare programs.

9. Penalty for Failure to Meet Minimum Participation Rates

CURRENT LAW

TANF law requires the HHS Secretary to reduce a State's TANF block grant if it falls short of the required work participation rate. For the first year of failure, the penalty is not more than 5 percent of the grant; in subsequent years, annual penalties would rise by 2 percentage points per year; e.g., up to 7 percent in second year, 9 percent in the second year, and so forth—with a maximum cumulative penalty of 21 percent. States must replace Federal funds lost because of penalties with funds of their own.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires penalty of 5 percent for first failure (7 percent for next, rising to a maximum of 21 percent). Adds proviso that the Secretary may reduce the penalty if noncompliance is due to "extraordinary circumstances, such as a natural disaster or regional recession." In this case, the Secretary must justify the penalty reduction to Congress in writing.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

10. Data Collection About TANF Families

CURRENT LAW

TANF law requires States to report quarterly information about recipient families. One question asks whether a child receiving TANF or an adult in the family is disabled.

HOUSE BILL

Revises and expands the current question. Requires States to report: whether a child or adult in a TANF recipient family is receiving disability benefits under specified provisions of the Social Security Act; namely, section 202, section 223, Title XIV (for needy adults in the outlying areas), Title XVI (Federal SSI), or Title XVI (State supplements to SSI).

SENATE AMENDMENT

Broadens the question about disability status to include benefits outside the Social Security Act. Requires States to report whether a TANF child or adult is receiving "Federal disability insurance benefits or benefits based on Federal disability status."

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. (This provision appears in the section on technical corrections.)

II. SUPPLEMENTAL SECURITY INCOME

11. Requirement to Perform Childhood Disability Redeterminations in Missed Cases

CURRENT LAW

By August 22, 1997 (one year after the date of enactment of P.L. 104-193), the Commissioner of the Social Security Administration (SSA) is expected to redetermine the eligibility of any child receiving SSI benefits on August 22, 1996, whose eligibility may be affected by changes in childhood disability eligibility criteria, including the new definition of childhood disability and the elimination of the individualized functional assessment. Benefits of current recipients will continue until the later of July 1, 1997 or a redetermination assessment. Should a child be found ineligible, benefits will end following redetermination. Within 1 year of attainment of age 18, SSA is expected to make a medical redetermination of current SSI childhood recipients using adult disability eligibility criteria. For low birth weight babies, a review must be conducted within 12 months after the birth of a child whose low birth weight is a contributing factor to his or her disability.

HOUSE BILL

This provision extends from 1 year after the date of enactment to 18 months after the date of enactment the period by which SSA must redetermine the eligibility of any child receiving benefits on August 22, 1996 whose eligibility may be affected by changes in childhood disability. The provision also specifies that any child subject to an SSI redetermination under the terms of the welfare reform law whose redetermination does not occur during the 18-month period following enactment (that is, by February 22, 1998) is to be assessed as soon as practicable thereafter using the new eligibility standards applied to other children under the welfare reform law.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

12. Repeal of Maintenance-of-Effort Requirement for Optional State Supplementation of SSI Benefits

CURRENT LAW

States have an option to supplement the Federal SSI payment with their own funds. States that operate optional supplementation programs are required by Section 1618 of the Social Security Act to "pass along" the amount of any Federal SSI benefit increase to recipients. The law allows States to comply with this requirement by either maintaining their supplementary payment levels to recipients of a given type at or above 1983 levels or by maintaining their supplementary payments at a level that, when combined with Federal payments, at least equals combined payments to the same type of recipients during the previous 12 months. In effect, Section 1618 requires that once a State elects to provide supplementary payments, it must continue to do so.

HOUSE BILL

The House Bill repeals Section 1618, ending the requirement that States pass along any Federal benefit increase to recipients.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment (no provision).

13. Fees for Federal Administration of State Supplementary Payments

CURRENT LAW

The law requires the Commissioner of Social Security to assess an administration fee for making State supplementary SSI payments (optional or mandatory) on behalf of States. For Fiscal Year 1997 and each succeeding fiscal year, the fee is $5.00 monthly or a different rate that the Commissioner determines to be appropriate for the State. The administration fees—along with any additional service fees that the Commissioner imposes to cover costs—are deposited in the general fund of the Treasury as miscellaneous receipts.

HOUSE BILL

The House Bill increases fees for administering State supplements (optional or mandatory) as follows:

For Fiscal Year 1998	$6.20
For Fiscal Year 1999	$7.60
For Fiscal Year 2000	$7.80
For Fiscal Year 2001	$8.10
For Fiscal Year 2002	$8.50

For Fiscal Year 2003 and each succeeding fiscal year, the rate in the preceding year, adjusted for price inflation (by use of the Consumer Price Index); or a different rate that the Commissioner determines to be appropriate for the State.

The first $5 in monthly administration shall be deposited in the general fund of the Treasury as miscellaneous receipts. The remaining portion of administration fees (and 100 percent of additional services fees) shall, upon collection for Fiscal Year 1998 and later years, be credited to a special Treasury fund to be available to defray expenses in carrying out SSI and related laws.

The bill authorizes $35 million to be appropriated from the new special Treasury fund for Fiscal Year 1998 and "such sums as are necessary" for later years.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with the modification that administration fees authorized by this section to be charged and credited to a special fund established in the Treasury for State supplementary payment fees shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; such amounts shall be credited as a discretionary offset to discretionary spending to the extent they are made available for expenditure in appropriations Acts.

III. CHILD SUPPORT ENFORCEMENT

14. Clarification of Authority to Permit Certain Redisclosures of Wage and Claim Information

CURRENT LAW

P.L. 104-193 gives HHS the authority to obtain information about the wages and unemployment compensation paid to individuals from State unemployment compensation agencies for the State Directory of New Hires. The State Directory of New Hires is then to furnish this wage and unemployment compensation claim information, on a quarterly basis, to the National Directory of New Hires. The law also requires State unemployment compensation agencies to establish such safeguards as the Secretary of Labor determines are necessary to insure that the information disclosed to the National Directory of New Hires is used only for the purpose of administering programs under State plans approved under the Child Support Enforcement program, the TANF block grant, and for other purposes authorized in section 453 of the Social Security Act (as amended by P.L. 104-193).

HOUSE BILL

Clarifies that HHS may disclose wage and unemployment compensation information contained in the Directory of New Hires to the Department of Treasury, the Social Security Administration, and to State Child Support Enforcement agencies.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

IV. RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

15. Extension of SSI/Medicaid Eligibility Period for Refugees and Certain Other Qualified Aliens From 5 to 7 Years

CURRENT LAW

Provides 5-year exemption from: (1) the bar against SSI and Food Stamps; and (2) the provision allowing States to deny "qualified aliens" access to Medicaid, TANF, and Social Services Block Grant for refugees, asylees, and aliens granted withholding of deportation for persecution.

HOUSE BILL

Lengthens from 5 years to 7 years the period during which SSI and Medicaid eligibility is guaranteed to refugees, asylees, and aliens whose deportation has been withheld.

SENATE AMENDMENT

Similar to House, except also clarifies that Cuban-Haitian entrants would be considered "refugees."

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

16. Definition: "Qualified Aliens"

CURRENT LAW

Defined by P.L. 104-193 (as amended by P.L. 104-208) as aliens admitted for legal permanent residence (i.e., immigrants), refugees, aliens paroled into the United States for at least 1 year, aliens granted asylum or related relief, and certain abused spouses and children. Most Cuban/Haitian entrants are paroled for 1 year and, as such, are "qualified aliens." Amerasians enter as immigrants and, as such, are qualified aliens.

HOUSE BILL

Specifies that Cuban and Haitian entrants and Amerasian permanent resident aliens are to be considered qualified aliens for purpose of continuing SSI and Medicaid eligibility of those who were receiving benefits on August 22, 1996.

SENATE AMENDMENT

Specifies Cuban and Haitian entrants are qualified aliens for purpose of continuing SSI and Medicaid eligibility of those who were receiving benefits on August 22, 1996 (see below regarding treatment of Amerasians).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

17. SSI Eligibility for Noncitizens Receiving SSI on August 22, 1996

CURRENT LAW

Most "qualified aliens" are barred from Supplemental Security Income (SSI) for the Aged, Blind, and Disabled. Current recipients must be screened for continuing eligibility by September 30, 1997.

HOUSE BILL

"Qualified aliens" receiving SSI benefits on August 22, 1996 would remain eligible for SSI. Applies to both the aged and disabled.

SENATE AMENDMENT

Similar to House, but clarifies that ban does not apply to an alien who is "lawfully residing in any State."

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the modification that the ban does not apply to an alien who is "lawfully residing in the United States." The conference agreement clarifies that nonqualified aliens who are current SSI recipients would remain eligible for SSI and guaranteed Medicaid until October 1, 1998.

18. SSI Eligibility for Noncitizens Here by August 22, 1996 and Subsequently Disabled

CURRENT LAW

Not eligible under current law (unless otherwise exempt from ineligibility).

HOUSE BILL

No provision (thus eligibility continues beyond September 30, 1997 only for those receiving benefits as of August 22, 1996; see above).

SENATE AMENDMENT

Eligibility for SSI disability benefits provided for "qualified aliens" here by August 22, 1996 who subsequently become disabled.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the modification that benefits are to be provided to aliens "lawfully residing in the United States" on August 22, 1996.

19. SSI Eligibility for the Severely Disabled

CURRENT LAW

No provision for eligibility of severely disabled "qualified aliens" beyond continued coverage through September 30, 1997 of those on rolls as of August 22, 1996.

HOUSE BILL

No special provision for the severely disabled. Eligibility of those on the rolls as of August 22, 1996 would continue (see above).

SENATE AMENDMENT

Provides for coverage of future severely disabled "qualified aliens" who are unable to naturalize solely because of their disability.

CONFERENCE AGREEMENT

The conference agreement follows the House bill (no provision). However, qualified aliens present in the U.S. on August 22, 1996 who subsequently become disabled would be eligible for SSI (see item 18 above).

20. SSI Eligibility for SSI Recipients with Applications Filed Before January 1, 1979

CURRENT LAW

Not eligible under current law beyond September 30, 1997 unless can prove citizenship (or are otherwise exempt because of work record or veteran status).

HOUSE BILL

No provision.

SENATE AMENDMENT

Individuals who have been receiving SSI on basis of an application filed before January 1, 1979 would continue to be eligible unless there is convincing evidence that they are non-qualified aliens.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

21. Medicaid eligibility for noncitizens receiving SSI on August 22, 1996

CURRENT LAW

States may exclude "qualified aliens" who entered the United States before enactment of the welfare law (August 22, 1996) from Medicaid beginning January 1, 1997. Additionally, to the extent that legal immigrants' receipt of Medicaid is based only on their eligibility for SSI, some will lose Medicaid because of their ineligibility for SSI.

HOUSE BILL

"Qualified aliens" who were receiving derivative Medicaid benefits on August 22, 1996 as a result of receipt of SSI would remain eligible for Medicaid.

SENATE AMENDMENT

Similar to House.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

22. Food stamp eligibility

CURRENT LAW

"Qualified aliens" here before August 22, 1996 are barred from food stamps by August 22, 1997; new arrivals are barred from date of entry.

HOUSE BILL

No derivative eligibility from SSI eligibility; i.e., no change in existing law.

SENATE AMENDMENT

No derivative eligibility from SSI eligibility; i.e., no change in existing law.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

23. Medicaid eligibility for children

CURRENT LAW

"Qualified aliens" entering after August 22, 1996 are barred from all but emergency Medicaid for their first 5 years after entry, at which point their participation is a State option; no special provision is made for children.

HOUSE BILL

No change in existing law.

SENATE AMENDMENT

Exempts "qualified alien" children under age 19 entering after August 22, 1996 from the 5-year bar on full Medicaid.

CONFERENCE AGREEMENT

The conference agreement follows the House bill (no provision).

24. SSI/Medicaid eligibility for permanent resident aliens who are members of an Indian tribe

CURRENT LAW

Makes no exception for qualified aliens who are Native Americans. Section 289 of the Immigration and Nationality Act of 1952 (INA) preserves the right of free passage recognized in the Jay Treaty of 1794 by allowing "American Indians born in Canada" unimpeded entry and residency rights if they "possess at least 50 per centum of blood of the American Indian race." By regulation, individuals who enter the U.S. and reside here under this provision are regarded as lawful permanent resident aliens.

HOUSE BILL

Excepts members of federally recognized American Indian tribes who are lawfully admitted for permanent residence from the SSI (and derivative Medicaid if applicable) restrictions on qualified aliens.

SENATE AMENDMENT

Excepts (1) members of federally recognized tribes and (2) American Indians who come under Sec. 289 of the INA from the SSI (and derivative Medicaid if applicable) restrictions on qualified aliens. Makes similar exceptions to the 5-year bar on benefits for newly arriving qualified aliens.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with clarifying amendments.

25. Amerasians

CURRENT LAW

Amerasians enter as immigrants and, as such, are qualified aliens.

HOUSE BILL

Considered to be "qualified aliens" for purpose of continued eligibility for SSI for those here by August 22, 1996.

SENATE AMENDMENT

Amerasians would be made eligible for benefits on same basis as refugees. Provides for funding through $100 processing fees to be levied on unlawfully present aliens who are ordered removed after having been convicted in the U.S. of a felony.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the modification that the funding provision is dropped.

26. Verification of eligibility for state and local public benefits

CURRENT LAW

Requires verification that applicants for federal benefits are eligible for the benefits, and that States administering such programs have a verification system.

HOUSE BILL

Authorizes State and local governments to verify eligibility for State or local public benefits.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

V. UNEMPLOYMENT COMPENSATION

27. Clarifying provision relating to base periods

CURRENT LAW

A "base period" is used to measure a claimant's covered wages for eligibility determination. Each State sets its base period, and most use the first 4 of the last 5 completed calendar quarters. A Federal court decision in Illinois (in the Pennington case) has ruled that the State's choice of base period does not ensure full payment of benefits when due as Federal law requires.

HOUSE BILL

A State's decision of which base period to use will not be considered a provision for a method of administration to which the "when due" clause of Federal law applies. This means States would have complete authority in setting base periods for determining eligibility for benefits.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

28. Increase in Federal unemployment account ceiling

CURRENT LAW

The Federal Unemployment Account (FUA), a reserve account in the Unemployment Trust Fund, provides authority for loans to insolvent State benefit accounts in the trust fund. If FUA's assets exceed 0.25 percent of wages in covered employment, excess assets are transferred to certain other trust fund accounts, including State benefit accounts if Federal accounts are at their ceilings.

HOUSE BILL

The ceiling on FUA assets will be increased to 0.5 percent of wages in covered employment for Fiscal Year 2002 and subsequent years.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

29. Special distribution to states from unemployment trust fund

CURRENT LAW

80 percent of Federal unemployment tax revenue is credited to the Employment Security Administration Account (ESAA) of the Unemployment Trust Fund. Up to 95 percent of these funds may be appropriated annually for grants to States for program administration. The distribution of the appropriation among the States is determined by the U.S. Secretary of Labor based on each State's expected caseload and its agency's cost structure. At the end of each fiscal year, ESAA funds in excess of 40 percent of the prior year's appropriation are transferred to other accounts.

HOUSE BILL

ESAA funds up to $100 million that would otherwise be transferred to other accounts at the end of a fiscal year will instead be made available to each State in the same proportion as the State's share of funds appropriated for administration for that fiscal year. Excess ESAA funds greater than $100 million will be transferred to FUA without regard to that account's ceiling. This provision applies for Fiscal Year 1999, Fiscal Year 2000, and Fiscal Year 2001.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

30. Interest-free advances to state accounts in unemployment trust fund restricted to states which meet funding goals

CURRENT LAW

Each State decides how to fund benefit payments and the extent to which reserves are accumulated to meet future obligations. States that borrow Federal funds to pay benefits receive interest-bearing repayable loans.

HOUSE BILL

A "funding goal" is established as the average annual benefit payment during the 3-year period within the past 20 years when benefit payments were the largest. A State must meet this funding goal to be eligible for interest-free advances of Federal funds to its Unemployment Trust Fund benefit account.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with the modification that the Secretary is to establish appropriate funding goals for States.

31. Exemption of service performed by election workers from the Federal unemployment tax

CURRENT LAW

Federal law requires States to cover most jobs in State and local governments. Certain exceptions to coverage are allowed, but election workers are not identified as an excepted group.

HOUSE BILL

An election official or election worker could be excluded from coverage if the individual's calendar-year pay as an election official or election worker is less than $1,000.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

32. Treatment of certain services performed by inmates

CURRENT LAW

Although Federal law requires States to cover most jobs in State and local governments, an exception is allowed for services performed for a governmental agency by inmates of custodial or penal institutions. However, wages earned by inmates in private-sector jobs may still be covered under the broad coverage requirement that applies to private employment.

HOUSE BILL

The definition of private-sector employment subject to coverage would exclude service performed by an inmate of a penal institution. This exclusion would apply for service performed after March 26, 1996.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment, with the modification that the exclusion would apply for service performed after January 1, 1994.

33. Exemption of service performed for an elementary or secondary school operated primarily for religious purposes from the Federal unemployment tax

CURRENT LAW

Although States are required to cover most jobs in nonprofit organizations, an exception is allowed for employment subject to supervision or control by a church or association of churches.

HOUSE BILL

The exception for jobs under church control is broadened to include employment in an elementary or secondary school operated primarily for religious purposes (including religious schools operated by lay boards).

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

34. State program integrity activities for unemployment compensation

CURRENT LAW

States receive Federal grants for program administration. While funds have sometimes been designated for certain activities, generally States have authority to use their grants as they choose for program administration.

HOUSE BILL

Appropriations for "program integrity activities" are authorized in the following amounts:

	Million
Fiscal year:	
1998	$89
1999	91
2000	93
2001	96
2002	98

Program integrity activities are initial claims review, eligibility review, benefit payments control, and employer liability auditing activities.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

VI. TECHNICAL CORRECTIONS

Note: Provisions of the House-passed Technical Corrections Act (H.R. 1048) are identical to those of the Senate-passed Technical Corrections Act (Subtitle M of Title V of S. 947) except the items noted below.

35. Inadvertent references to Internal Revenue Code

CURRENT LAW

No provision.

HOUSE BILL

Strikes one paragraph (number 7) of Sec. 110(l) of P.L. 104–193, which made an inadvertent change in the Internal Revenue Code.

SENATE AMENDMENT

Strikes additional paragraphs (numbers 1, 4, and 5) which made inadvertent or obsolete changes in the Internal Revenue Code.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

36. Expenditures to be excluded from historic state expenditures

CURRENT LAW

No provision.

HOUSE BILL

Clarifies that State funds spent as a condition of receiving other Federal funds may not count toward the State maintenance of effort requirement; also makes a minor wording change to ensure that State spending on JOBS is included in the maintenance-of-effort baseline (historic State expenditures).

SENATE AMENDMENT

Makes this change in conforming amendments to the welfare-to-work block grant (see item 1 above). Language is the same as that in the Ways and Means welfare-to-work provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

37. Correction of references

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Strikes "amendment made by section 2103 of the Personal Responsibility and Work Opportunity" and inserts "amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation."

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

38. Technical correction pertaining to Social Security

CURRENT LAW

The two technical changes made in this section pertain to the definition of "qualified organization" that may serve as a representative payee, "final adjudication" as it applies to drug addicts and alcoholics, and cost-of-living increases as they apply to Social Security benefits.

HOUSE BILL

Makes minor changes in wording to improve clarity.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the modification that only the provisions of subtitle B of H. R. 1048 affecting title II of the Social Security Act are deleted.

The provisions of Public Law 104–121 denying Social Security and Supplemental Security Income disability benefits to drug addicts and alcoholics used identical language in pegging the effective dates to the "final adjudication" of an individual's claim. Those provisions warrant clarification, since at least one court has already reached conclusions regarding their meaning that are contrary to the intent of Congress. The conference agreement includes language clarifying the effective date of the Supplemental Security Income provision only; it does not include parallel language clarifying the effective date of the Social Security provision due only to procedural considerations in the Senate regarding reconciliation bills.

39. Timing of delivery of October 2000 SSI benefit payments

CURRENT LAW

Section 708 of the Social Security Act provides that benefits for a month are paid in the preceding month if the regular pay date falls on a Saturday, Sunday, or Federal holiday. Since the regular pay date for October 2000 (October 1) falls on a Sunday, the check for that month, under current law, would be delivered on Friday, September 29, 2000. As a result, 13 months of SSI benefits would be paid in FY 1999.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the technical modification that the date of delivery of SSI benefits in October 2000 will be October 2, 2000. It is the intention of conferees to return to this issue and work with the Social Security Administration to minimize any possible difficulties recipients might experience as a result of this change.

40. Clarification of the Contingency Fund

CURRENT LAW

States that have high unemployment (at least 6.5 percent and up 10 percent or more from the comparable period in at least one of the two preceding years) or a substantial increase in food stamp recipients (10 percent above same period of Fiscal Year 1994 or Fiscal Year 1995, assuming the new law had been in effect throughout Fiscal Year 1994) are entitled to matching grants out of a contingency fund, provided their State spending under the TANF program exceeds 100 percent of its 'historic' level. Historic spending level is Fiscal Year 1994 State spending on AFDC, JOBS, Emergency Assistance, and AFDC-related child care. Monthly payments from the contingency fund cannot exceed 1/12th of 20 percent of the State TANF grant.

HOUSE BILL

The contingency fund operates in two stages: (1) States get an advance payment of 1/12th of 20 percent of their block grant every month that they meet the trigger and then for 1 month after they no longer meet the trigger; and (2) an annual reconciliation is performed in which States are required to remit money they did not deserve, usually because either they did not achieve the 100 percent maintenance of effort requirement or they financed more of the extra spending from contingency fund advances than they should have. The primary change is how the annual reconciliation is conducted. Generally, countable expenditures are subtracted from historic State expenditures to compute a new measure called reimbursable expenditures. Countable expenditures are defined as qualified State expenditures (as defined in the Act) under the TANF program (minus spending on child care) plus expenditures made by States from contingency fund monthly advances. Historic State expenditures are the same as under the Act except that spending on AFDC-related child care is not counted. The amount to which States are entitled under the contingency fund equals reimbursable expenditures times the State Medicaid match rate times the number of months in the year during which States were eligible divided by 12. This formula provides States with a Federal match on the amount of money they spent under the TANF program out of State funds that exceed the State's historic State expenditures prorated for the number of months during the year the State was eligible for contingency payments. This section also contains a slight modification of language to clarify that the Medicaid matching rate formula itself, and not the values for each State produced by the formula, is maintained as it existed on September 30, 1995.

The amendment retains the policy of only counting State expenditures made under the TANF program toward meeting contingency fund spending requirements. It would permit States to count only the portion of qualified State expenditures made under the TANF program, and hence under the rules that apply to State expenditures under TANF, toward meeting contingency fund maintenance of effort and matching requirements.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the identical provisions in the House bill and the Senate amendment.

VII. MISCELLANEOUS

41. Increase in the public debt limit

CURRENT LAW

The current statutory limit on the public debt is $5.5 trillion.

HOUSE BILL

The statutory limit would be increased to $5.950 trillion. This is sufficient debt authority until December 15, 1999.

SENATE AMENDMENT

Same as House.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

42. Administration by non-governmental entity

CURRENT LAW

P.L. 104–193 allows States to "administer and provide services" under TANF, food stamps, and Medicaid through contracts with charitable, religious, or private organizations. However, basic provisions of food stamp and Medicaid law effectively require that eligibility be determined by a public official. Some elements of eligibility for the Special Supplemental Nutrition Program of Women, Infants, and Children (WIC) also must be determined by a public official.

HOUSE BILL

The House bill allows determinations of food stamp eligibility and Medicaid eligibility to be made by an entity that is not a State or local government, or by a person who is not an employee of a State or local government, that meets qualifications set by the State. The House bill provides that for purposes of any Federal law, these eligibility determinations shall be considered to be made by the State and by a State agency. The House bill stipulates that these provisions shall not be construed to affect eligibility conditions, the rights to challenge eligibility determinations or benefit rights, and determinations regarding quality control or error rates.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment (no provision).

43. Earned income credit mandatory appropriation

CURRENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement specifies that, out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Internal Revenue Service for Earned Income Credit enforcement, in addition to other amounts for this purpose, the following amounts: $138 million in FY 1998, $143 million in FY 1999, $144 million in FY 2000, $145 million in FY 2001, and $146 million in FY 2002.

STATEMENT OF MANAGERS

SUBCONFERENCE ON STUDENT LOANS/OTHER (#8) BALANCED BUDGET ACT OF 1997 (H.R. 2015/ S. 947)

Subtitle B—Higher Education

RECALL OF GUARANTY AGENCY RESERVES

Note #1.

HOUSE BILL

The House bill requires the return of $1,000,000,000 in guaranty agency reserve funds.

SENATE AMENDMENT

The Senate amendment requires the return of $1,028,000,000 in guaranty agency reserve funds and defines reserve funds as any reserve funds held by or under the control of any other entity.

CONFERENCE AGREEMENT

The Senate recedes.

Note #2.

HOUSE BILL

The House bill uses the term "required share" to describe each guaranty agency's share of recalled reserve funds.

SENATE AMENDMENT

The Senate amendment uses the term "equitable share" to describe each guaranty agency's share of recalled reserve funds.

CONFERENCE AGREEMENT

The Senate recedes.

Note #3.

HOUSE BILL

The House bill allows for accounting adjustments approved by the Secretary in determining reserve ratios and ties the outstanding insurance obligations to September 30, 1996.

SENATE AMENDMENT

The Senate amendment defines reserve funds as including funds held by, or under the control of, any other entity.

CONFERENCE AGREEMENT

The Senate recedes with an amendment adding at the end of the subparagraph "including amounts of outstanding loans transferred to the guaranty agency from another guaranty agency."

Note #4.

HOUSE BILL

The House bill includes all funds in excess of a 2-percent reserve ratio in an agency's required share.

SENATE AMENDMENT

The Senate amendment includes all funds in excess of a 1.12-percent reserve ratio in an agency's equitable share.

CONFERENCE AGREEMENT

The Senate recedes with an amendment. The compromise amendment includes a three step formula for calculating the required share for each guaranty agency. In step one, all funds in excess of a 2-percent reserve ratio will be included in an agency's required share. In step two, the total amount recalled under step one shall be subtracted from the total amount to be recalled under this part and the difference shall be calculated as a percentage of total remaining reserves. Each agency will then include this percentage of its remaining reserves in its required share with the exception that no agency will be required to reduce its reserve ratio below .58%. If an additional amount is required to meet the total recall, a third calculation shall be employed. The remaining amount required to meet the total recall after steps one and two shall be calculated as a percentage of the total reserves above .58% of all agencies with reserve levels above .58%. This percentage shall, in turn, be multiplied by each agency's remaining reserves over a .58% level. This additional amount shall be included within the agency's required share. If any agency fails to transfer its required share to its restricted account, the Secretary will attempt to obtain the shortage from the agency which fails to make the required payment. If, on September 1, 2002, after collecting funds from agencies which have failed to make required payments, the Secretary determines that the total amount within the restricted accounts is less than the amount required, the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies.

Note #5.

HOUSE BILL

The House bill uses the term "required shares."

SENATE AMENDMENT

The Senate amendment uses the term "equitable shares."

CONFERENCE AGREEMENT

The Senate recedes.

Note #6.

6a.

HOUSE BILL

The House bill requires five equal annual installments to the restricted accounts, except that a guaranty agency with a reserve ratio under 1.10-percent may make four equal annual installments beginning in 1999 or in accordance with an agreement with the Secretary.

SENATE AMENDMENT

The Senate amendment provides that the transfer to the restricted accounts in the first year is based on all agencies combined transferring 20 percent. All amounts in excess of a 2-percent reserve ratio would first be transferred and, then, equal percentages would come from each agency. In 1999 through 2002, each agency must transfer 25 percent of its remaining equitable share.

CONFERENCE AGREEMENT

The Senate recedes with an amendment incorporating the compromise formula. (See note #4.)

6b.

HOUSE BILL

The House bill allows guaranty agencies to use earnings on the restricted account for operational expenses.

SENATE AMENDMENT

The Senate amendment allows guaranty agencies to use earnings on the restricted account for activities to reduce student loan defaults.

CONFERENCE AGREEMENT

The House recedes with an amendment defining default reduction activities as activities to reduce student loan defaults that improve, strengthen and expand default prevention activities. It is the intent of the conferees that guaranty agencies use the earnings on the restricted account to improve and strengthen current default prevention activities as well as to expand these activities.

Note #7.

HOUSE BILL

The House bill gives the Secretary the authority to withhold funds if a guaranty agency fails to comply with this part, prohibits the Secretary from requiring the return of excess reserves under subsection (g)(1)(A) and requires that any reserve funds returned under (g)(1)(B) or (g)(1)(C) will be placed in the restricted accounts and returned to the Treasury in 2002.

SENATE AMENDMENT

The Senate amendment has no comparable provision dealing with the withholding of funds but does prohibit the Secretary from requiring the return of excess reserves under subsection (g)(1)(A) and requires that any reserve funds returned under (g)(1)(B) or (g)(1)(C) will be placed in the restricted accounts and returned to the Treasury in the year 2002.

CONFERENCE AGREEMENT

The Senate recedes with an amendment clarifying that a guaranty agency which has not transferred its required share to a restricted account may not receive any other funds under Part B of Title IV until the Secretary determines the agency is in compliance. The Secretary may waive this provision due to extenuating circumstances beyond the control of the agency.

In addition, the amendment clarifies that reserve amounts returned to the Secretary under section 422(g)(1)(B) will first be applied to the agency's total required share. Amounts recalled to the Secretary in excess of the required share will be returned to the Treasury. Reserve amounts recalled by the Secretary under section 422(g)(1)(C) will first be used to satisfy the agency's next installment required under the recall formula. Amounts recalled in excess of this amount will be returned to the Treasury.

Note #8.

HOUSE BILL

The House bill refers to cash reserve funds when defining reserve funds.

SENATE AMENDMENT

The Senate amendment refers to reserve funds without specifically mentioning cash.

CONFERENCE AGREEMENT

The Senate recedes with an amendment including both cash and "liquid assets" in the definition of "reserve funds."

Note #9

HOUSE BILL

The House bill provides that funds under Section 458 may be used for administrative costs under Part B.

SENATE AMENDMENT

The Senate amendment does not mention Part B.

CONFERENCE AGREEMENT

The Senate recedes.

Note #10.

HOUSE BILL

The House bill includes a provision which clarifies the amounts that may be retained by guaranty agencies when defaulted loans are collected through consolidation. Under the House provision, guaranty agencies may retain 18.5 percent plus the reinsurance complement in effect for all such loans consolidated on or after July 1, 1997. For defaulted loans consolidated prior to that date, guaranty agencies which have retained 18.5 percent are allowed to retain only 18.5 percent, and agencies which have been retaining 27 percent plus the reinsurance complement are allowed to retain 27 percent plus the reinsurance complement.

SENATE AMENDMENT

The Senate amendment has no comparable provision.

CONFERENCE AGREEMENT

The House recedes. This agreement to remove this provision is not an endorsement or rejection of any particular position on the collection retention issue. Rather, it represents the conferees' agreement that this policy issue should be addressed during the reauthorization process where it can be given full and thorough consideration. In recognition of that agreement, five of the six conferees will be asking that the Department defer further attempts to collect amounts in dispute with respect to these particular loans for a period of one year or until the Higher Education Act is reauthorized, whichever occurs first. It is the conferees' understanding that the Department has issued final regulations on this issue which went into effect on July 1, 1997. The conferees fully expect that guaranty agencies will comply with those regulations for loans consolidated on or after that date until Congress has the opportunity to act on this issue.

Subtitle C—Smith-Hughes Vocational Education Act

SMITH-HUGHES VOCATIONAL EDUCATION ACT

Note #11

HOUSE BILL

The House bill repeals the Smith-Hughes Vocational Education Act.

SENATE AMENDMENT

The Senate amendment has no comparable provision.

CONFERENCE AGREEMENT

The Senate recedes.

Subtitle D—Expansion of Portability and Health Insurance Coverage

HOUSE BILL

The House bill amends the Employee Retirement Income Security Act (ERISA) to establish a certification procedure for Association Health Plans (AHPs) in order to promote multiple employer pooling, particularly among small businesses, so as to expand health insurance coverage for the employees of such businesses and their families. In general, bona fide associations, multiemployer plans, franchise networks, and certain other entities meeting financial, reporting, fiduciary and solvency requirements would be able to offer self-insured coverage as well as fully-insured coverage options. The bill also clarifies the status of single employer, multiemployer and other collectively-bargained plans with respect to the application of the preemption provisions of section 514 of ERISA. The bill amends ERISA's enforcement sections to provide federal cease and desist authority to shut down fraudulent health insurance operations and to provide for criminal penalties for certain willful misrepresentations by such entities.

SENATE AMENDMENT

The Senate amendment has no comparable provision.

CONFERENCE AGREEMENT

The House recedes.

SECTION-BY-SECTION ANALYSIS OF CONFERENCE AGREEMENT

Subtitle B—Higher Education

Section 6101. Management and Recovery of Reserves

This section describes section 422 of the Higher Education Act of 1965 as proposed to be added to or amended by the conference agreement. Unless otherwise noted, all section and paragraph references are to the Balanced Budget Act of 1997.

Required shares

The conference agreement requires that the guaranty agencies return one billion dollars of their current excess cash reserves to the Federal Treasury in Fiscal Year 2002. The Secretary shall require each guaranty agency to return excess reserve funds based on each agency's required share. This share will be calculated based upon the excess reserve funds held by the agency as of September 30, 1996. For the sole purpose of determining each agency's required share, the calculation of the reserve ratio will include transfers of the liabilities to each agency of the outstanding loans from merged agencies as well as transfers of the reserves from the merged agencies. Once the reserve ratios are determined for each agency, their required shares will be calculated in accordance with a three-step formula.

In step one, all funds in excess of a 2-percent reserve ratio will be included in an agency's required share. In step two, the total amount recalled under step one shall be subtracted from the total amount to be returned under the recall ($1 billion) and the difference shall be calculated as a percentage of the total remaining reserves. Each agency will then include this percentage of its remaining reserves in its required share with the exception that no agency will be required to reduce its reserve ratio below .58%. Such guarantors will pay their share up until the point where their reserve level is .58%.

If an additional amount is required to meet the $1 billion recall, a third calculation shall be made. The remaining amount required to meet the $1 billion recall after steps one and two shall be calculated as a percentage of the reserves above .58% of all agencies with reserve levels above .58%. This percentage shall, in turn, be multiplied by each agency's remaining reserves over a .58% level. This additional amount shall be included within each agency's required share.

The formula approved by the conferees meets the goals of the bipartisan budget agreement without jeopardizing the viability of guaranty agencies with low reserve levels. This step was necessary to ensure that students participating in the Federal Family Education Loan Program would continue to be able to access loans and services without disruption. The conferees deferred consideration of all proposals to restructure the FFELP program until they could be reviewed in the context of reauthorization of the Higher Education Act.

Restricted accounts

Each agency shall establish a restricted account of its own choosing with approval from the Secretary. Each agency shall, consistent with current law, invest the reserves placed within the restricted accounts in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency may use the earnings from these funds to improve and strengthen current default reduction activities as well as to initiate new default reducation activities. Authorized activities include, but are not limited to, partial loan cancellation programs, debt management counseling programs, placement counseling programs, and development of public service announcements.

Orderly recall

Paragraph (4) establishes a timetable for the orderly recall of the $1 billion in excess guaranty agency reserves over the next five years. In each of fiscal years 1998–2002, each guaranty agency that has a reserve ratio in excess of 1.10 percent must transfer its required share into its restricted account in five equal annual installments. Each agency with a reserve ratio equal to or less than 1.10 percent may transfer its required share into its restricted account in four equal payments beginning in fiscal year 1999. A guaranty agency may also transfer its required share in accordance with an alternate payment schedule approved by the Secretary of Education.

Shortage

Paragraph (5) provides that if, on September 1, 2002, any agency has failed to transfer all of its required share to its restricted account, the Secretary will attempt to obtain the shortage from the agency which fails to make the full required payment. If, on September 1, 2002, after collecting funds from agencies which have failed to make required payments, the Secretary determines that the total amount within the restricted accounts is less than the amount required, the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies.

Enforcement

Paragraph (6) provides that the Secretary of Education may take reasonable measures to ensure that guaranty agencies comply with the requirements of the subsection. If a guaranty agency fails to transfer a portion of its required share into its restricted account, the agency may not receive any other funds under Part B of Title IV until the agency has made the required transfer of funds. The Secretary may waive this provision in the case of extenuating circumstances.

Limitations on recall authority

In order to ensure that sufficient reserve funds will be available to meet the $1 billion recall, paragraph (7) places restrictions on the Secretary's recall authority during the five year period covered by the budget agreement. The Secretary may not recall reserves under 422(g)(1)(A) of the Higher Education Act. Funds recalled to the Secretary under 422(g)(1)(B) must first be used to satisfy the agency's required share of reserve funds and deposited in the restricted account established by the agency. Funds recalled to the Secretary in excess of this amount will be deposited in the Treasury. Funds recalled to the Secretary under 422(g)(1)(C) shall be used to satisfy the agency's next installment of its required share and deposited in its restricted account. Funds recalled to the Secretary in excess of the amount required for the next annual installment will be deposited in the Treasury.

Minimum reserve ratio

Each guaranty agency is required to maintain a minimum reserve level in order to ensure that it will be able to meet its insurance obligations. In 1993, the minimum level was 0.5% of outstanding loans guaranteed by an agency. Between FY 1994 and FY 1996, the minimum level rose to 1.1%. In order to accommodate the reduced reserve ratios that will be produced under the recall formula, Section 428(c)(9)(A) of the Higher Education Act of 1965 is amended to restore the minimum reserve ratio for guaranty agencies to .5%.

Section 6102. Repeal of the direct lending loan origination payment

This section describes section 452 of the Higher Education as proposed to be amended by the conference report.

The authority to make the Federal payment of $10 per loan to schools and/or alternative originators that make direct loans under subsection (b) of section 452 of the Higher Education Act of 1965 is repealed. This repeal extends for five years a provision currently contained within the FY 1997 Labor, HHS, Education and Related Agencies Appropriations Bill and provides savings of $160 million over five years.

Section 6103. Funds for administrative expenses

Unless otherwise indicated, references are to section 458 of the Higher Education Act of 1965, as proposed to be added or amended by the conference report.

The bipartisan budget agreement preserved a commitment to maintaining two viable student loan programs and called for "an equitable balance of savings between the direct student loan program and the guaranteed student loan program." In order to preserve this balance, $604 million in savings are required from the Department of Education's mandatory account to administer the federal direct lending program, the FFELP program and to pay the administrative cost allowance to guaranty agencies. The Department will receive $3.2 billion for this account over the next five years.

In accordance with current law, the payment of administrative cost allowances to guaranty agencies is to be provided by the Department of Education from funds available in Section 458. The conference agreement provides that the administrative cost allowance paid to guaranty agencies will be capped at .85% of every new loan. These expenditures are capped at $170 million in each of Fiscal Years 1998 and 1999 and $150 million in each of Fiscal Years 2000, 2001, and 2002.

Section 6104. Extension of Student Aid Programs

This section refers to Title IV of the Higher Education Act, as proposed to be amended by the conference report.

Section 424(a) is amended to extend the duration of the Federal Loan Insurance program from 1998 to 2002. Section 428(a)(5) is amended to extend the duration of the authority to make interest subsidized loans from 1998 until 2002. Section 428C(e) is amended to extend the authority to make consolidation loans from 1998 until 2002. These extensions are required for Congressional Budget Office scoring purposes.

Subtitle C—Repeal of Smith-Hughes Vocational Education Act

The Smith-Hughes Act (39 Stat. 929, chapter 114; 20 U.S.C. 11 et seq) provides a permanent appropriation for vocational education. Consistent with the Administration's budget request, this program is repealed providing $29 million in savings over 5 years.

STATEMENT OF MANAGERS

TITLE VII—FEDERAL RETIREMENT AND RELATED PROVISIONS

INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS

HOUSE BILL

Sections 6101 and 6102 provide for increased contributions to the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS), respectively. Agencies will be required to increase their contributions to the CSRS for their employees who participate in the CSRS. Employees participating in either the CSRS or the FERS system will be required to increase their contributions to the system.

The increase in employee contributions to CSRS and FERS will apply to all individuals participating in these systems.

The amount deducted from basic pay for an individual participating in CSRS and FERS will be increased above the level in effect on the date of enactment by .25% in 1999, by an additional .15% in 2000, and by an additional .10% in 2001. The increase will then remain constant at .5% throughout 2002.

The bill also requires all federal agencies, except for the United States Postal Service to contribute an additional 1.51% each year above the percentage an agency is now contributing for each individual employee participating in CSRS. These additional contributions begin on October 1, 1997 and continue through September 30, 2002. The 1.51% increase does not apply to the United States Postal Service, which, with its employees, currently contributes the full actuarial cost of each employee's retirement under CSRS.

This bill adjusts the amounts employees must repay for any military service or any covered volunteer service between January 1, 1999 and December 31, 2002 for which they would like to receive retirement credit under CSRS and FERS to reflect the increases in employee contributions.

The bill prohibits employing agencies (including the Postal Service) from reducing their contributions to FERS for each individual employee as a result of the increases in individual contributions contained in the bill. Under current law, agency contributions would automatically decrease with any increase in employee contributions.

SENATE AMENDMENT

The Senate amendment (section 6001) is similar to the House bill in many respects; however, it differs substantively from the House bill in the following ways: (1) it increases agency contributions from October 1, 2001 through September 30, 2002 by 1.6% rather than 1.51%; (2) employees in the CSRS-offset program are not covered by the agency contribution; (3) it exempts the Metropolitan Washington Airports Authority and the District of Columbia from increased agency contributions under CSRS; (4) it does not exempt the Postal Service from matching increases in employee contributions; (5) it prohibits reductions in the Postal Service's 30-year amortization payments under the CSRS; (6) it increases employee and agency contributions to the Central Intelligence Agency Retirement and Disability System, the Foreign Service Retirement and Disability System, and the Foreign Service Pension System corresponding to the increases under CSRS and FERS; (7) it provides an effective date of the first day of the first pay period beginning on or after January 1, 1999; and (8) the Senate amendment also delineates the Capitol Police in a table separate from other congressional employees; the House bill does not.

CONFERENCE AGREEMENT

The Conference agreement includes the language of the Senate and House bills with modifications. Under the agreement, the differences are resolved as follows: (1) agency contributions are increased by a uniform 1.51% throughout the five-year period; (2) increased agency contributions are required for CSRS-offset employees; (3) the Metropolitan Washington Airports Authority by law provides full funding for its employees and thus is exempted from the increased agency contributions; but the District of Columbia is not provided a special exemption; (4) the Postal Service is not required to match the increases in employee contributions; (5) both the Postal Service and Treasury are prohibited from reducing payments required under 5 U.S.C. §§8348 and 8423 as a result of the increases in employee contributions; (6) employee and agency contributions to the Central Intelligence Agency Retirement and Disability System, the Foreign Service Retirement and Disability System, and the Foreign Service Pension System are increased to correspond to the increases under CSRS and FERS; (7) the effective date adopted is October 1, 1997, with a special rule to cover a later date of enactment.

GOVERNMENT CONTRIBUTION FOR HEALTH BENEFITS

HOUSE BILL

Section 6103 amends 5 U.S.C. §8906 to establish a permanent formula for computing the government's share of premiums for self alone and self and family enrollments under the Federal Employees Health Benefits Program (FEHBP). Under this formula, the government's contribution will be based upon 72% of the weighted average of the subscription charges for self alone enrollments for all options of all plans participating in the FEHBP. A similar calculation for self and family enrollments will be performed. Current law regarding part-time employees and the prohibition against payment of more than 75% of any premium are retained. The Office of Personnel Management (Office) is required to determine, not later than October 1 of each year, the weighted average of the subscription charges that will be in effect during the following contract year by weighting the subscription charges of each option of each plan by the actual distribution of enrollees entitled to a government contribution as of March 31 of the year in which the determination is being made. (This assumes the Office will continue to produce and make publicly available the enrollment reports semi-annually; the enrollment used in weighting includes all individuals who are eligible to receive a contribution, including active Postal Service employees, in participating plans that will be continuing in the FEHBP during the contract year to which the weighted average applies; and that the Office will perform a straightforward mathematical calculation based on the actual number of enrollees.) The bill allows for ministerial actions the Office may deem necessary to take before the effective date in order to ensure timely implementation of this provision. This section is effective on the first day of the contract year that begins in 1999.

SENATE AMENDMENT

The Senate amendment (section 6002) is almost identical to the House bill.

CONFERENCE AGREEMENT

The House recedes to the Senate.

REPEAL OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE

HOUSE BILL

Section 6001 eliminates the authorization for appropriations to the U.S. Postal Service for reimbursement for workers' compensation liabilities incurred by the former Post Office Department. The elimination of this funding will result in the Postal Service assuming the liabilities for this payment to the Employee Compensation Fund, within the Department of Labor, providing payments made to employees of the former Post Office Department.

Under the existing framework, the Department of Labor assesses the U.S. Postal Service for claims to both its employees and those of the former Post Office Department. The U.S. Postal Service pays for its own employees and requests funding from Congress for the amount attributable to former Post Office Department employees.

The bill removes the federal government and Congress from the process and directs that employees of the Post Office Department be treated the same as the current employees of the U.S. Postal Service for purposes of the Employee Compensation Fund.

This section of the House bill is effective on October 1, 1997 or, if later, the date of enactment. Under a special rule, if any payment for workers' compensation liabilities incurred by the former Post Office Department is made to the Postal Service Fund pursuant to an appropriation for fiscal year 1998, an equal amount shall be paid from Fund into the Treasury as miscellaneous receipts before October 1, 1998.

SENATE AMENDMENT

The Senate amendment (section 6003) is the same as the House bill but does not contain the special rule governing payments under fiscal year 1998 appropriations.

CONFERENCE AGREEMENT

The Senate agrees to adopt the special rule as provided in the House bill.

MEDICARE MEANS TESTING STANDARD APPLICABLE TO SENATORS' HEALTH COVERAGE UNDER THE FEHBP

HOUSE BILL

The House bill contains no provision on this subject.

SENATE AMENDMENT

The Senate amendment (section 6004) eliminates the government contribution to the FEHBP on behalf of Senators. Senators will be required to make both the individual and government contributions in order to participate in the FEHBP.

CONFERENCE AGREEMENT

The Senate recedes to the House.

TITLE VIII—VETERANS' PROGRAMS

Subtitle A—Extension of Expiring Authorities

ENHANCED LOAN ASSET SALE AUTHORITY

CURRENT LAW

Section 3720(h) of title 38, United States Code, authorizes VA to guarantee the timely payment of principal and interest to purchasers of real mortgage investment conduits (REMICs). REMICs are used to "bundle" and market vendee loan notes. Such notes are made on direct loans made by VA to purchasers of VA-acquired real estate. Using this authority, VA guarantees to REMIC purchasers that principal and interest will be paid in a timely manner which in turn, enhances the value of the REMICs in the secondary market and increases the return to VA when such securities are sold. This provision expires on December 31, 1997.

HOUSE BILL

Section 8018 would extend VA's authority to market REMICs through September 30, 2002.

SENATE AMENDMENT

Section 8011 would extend VA's authority to market REMICs through December 31, 2002.

COMPROMISE AGREEMENT

Section 8011 follows the Senate Amendment.

HOME LOAN FEES

CURRENT LAW

Section 3729 of title 38, United States Code, specifies that borrowers who obtain VA-guaranteed, insured or direct home loans will pay a fee. For first loans, the fees range from 0.5 percent to 2 percent, depending on the amount of down payment and the type of military or naval service (active duty or reserve). Public Law 103–66, the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), added section 3729(a)(4) of title 38, United States Code, to require a surcharge of .75 percent for all first-use loans. This provision expires on October 1, 1998.

There is no limitation to the number of times a veteran may use the VA home loan program. Section 3729 of title 38, United States Code, requires a 3 percent fee for all second and subsequent home loans with less than a 5 percent down payment. This provision expires on October 1, 1998.

HOUSE BILL

Section 8016 would extend the surcharge provision to October 1, 2002, and extend VA's authority to charge the 3 percent fee for second and subsequent use of the home loan program to October 1, 2002.

SENATE AMENDMENT

Section 8012 contains a substantially identical provision.

COMPROMISE AGREEMENT

Section 8012 follows the Senate Amendment.

PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS

CURRENT LAW

Section 3732 of title 38, United States Code, specifies that VA has two options when a property, the financing of which is guaranteed under the VA Home Loan Guaranty Program, goes into foreclosure. VA may simply pay off the guaranty, or elect to purchase the property securing the loan in default and resell it. The decision on the course of action to take depends, generally, on VA calculations as to which action would be less costly and, therefore, more advantageous to the government. The Secretary's authority to use "no-bid" procedures, by which VA determines which option is more advantageous, expires on October 1, 1998.

HOUSE BILL

Section 8017 would extend VA's authority to use the alternative "no-bid" formula to October 1, 2002.

SENATE AMENDMENT

Section 8013 contains an identical provision.

COMPROMISE AGREEMENT

Section 8013 contains this provision.

INCOME VERIFICATION AUTHORITY

CURRENT LAW

VA administers a needs-based pension program and provides priority access to health care services on a means-tested basis. Section 5317 of title 38, United States Code, and section 6103 of the Internal Revenue Code of 1986, authorize VA to verify the eligibility of recipients of, or applicants for, VA needs-based benefits and VA means-tested medical care by gaining access to income records of the Department of Health and Human Services/Social Security Administration and the Internal Revenue Service. These provisions were originally enacted as section 8051 of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), and extended by section 12004 or OBRA '93 to September 30, 1998.

HOUSE BILL

Section 8014 would extend VA's authority to verify this data under section 5317(g) of title 38, United States Code, through September 30, 2002. Section 8014 would also extend VA's authority to verify this data under section 6103(l)(7) of the Internal Revenue Code of 1986, through September 30, 2002.

SENATE AMENDMENT

Section 8014 would extend VA's authority to verify this data under section 5317(g) of title 38, United States Code, through September 30, 2002.

COMPROMISE AGREEMENT

Section 8014 follows the Senate Amendment.

LIMITATION OF PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE

CURRENT LAW

Section 5503(f) of title 38, United States Code, limits to $90 per month the maximum amount of VA pension that may be paid to Medicaid-eligible veterans and surviving spouses who have no dependents and who are in nursing homes that participate in Medicaid. The payments may not be use to offset the costs of care. This section treats such individuals as if the care were being furnished at VA expense. This provision was originally enacted as section 8003 OBRA '90, and extended by section 12005 of OBRA '93 to September 30, 1998.

VA pension is a needs-based program that provides a minimum level of income to wartime veterans who are permanently and totally disabled due to non-service-connected causes. The minimum level of income is approximately equal to the poverty level, with additional amounts payable for dependents. Pension payments are offset dollar-for-dollar by any household income and can also be adjusted for unusual medical expenses. Today, the maximum annual rate for a single veteran with no dependents is $8,486.

HOUSE BILL

Section 8015 would extend the $90 limitation to September 30, 2002.

SENATE AMENDMENT

Section 8015 contains an identical provision.

COMPROMISE AGREEMENT

Section 8015 contains this provision.

Subtitle B—Copayments and Medical Care Cost Recovery

AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH CARE BENEFITS

CURRENT LAW

Public Law 99–272 required veterans with incomes exceeding so-called "category A and B" means-tests levels to agree to pay copayments as a condition of receiving VA health care. (That law also provided that "category C" veterans—generally those not eligible for priority access to VA health care services—were only eligible for care to the extent resources and facilities were available.) Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), eliminated the distinction, for purposes of copayments, between veterans in income categories "B" and "C" and provided that, in addition to the copayments established earlier, veterans in both so-called "B" and "C" income categories would be required to make per diem payments of $10 for VA-provided hospital care and $5 for nursing home care. The per diem payment requirement, which would have expired under OBRA '90 September 30, 1997, was extended through September 30, 1998, by OBRA '93.

Section 1722A of title 38, United States Code, requires a veteran (other than a veteran who has a service-connected disability rated 50% or greater, or a veteran whose income is at or below the maximum annual rate of VA pension) to pay $2 for each 30-day supply of prescription medication furnished on an outpatient basis. Congress, in OBRA '93, extended this provision through September 30, 1998.

HOUSE BILL

Section 8011 would extend these expiring copayment authorities through September 30, 2002.

SENATE AMENDMENT

Section 8021 contains a substantially identical provision.

COMPROMISE AGREEMENT

Section 8021 follows the House Bill.

MEDICAL CARE COST RECOVERY AUTHORITY

CURRENT LAW

Section 1729 of title 38, United States Code, provides ongoing authority for the Department of Veterans Affairs to collect from a third-party payer the reasonable cost of VA-furnished care and treatment rendered to a non-service-connected veteran. That section of law also authorizes VA to collect from a health care payment plan the reasonable cost of medical care furnished for a non-service-connected disability of a veteran who has a service-connected disability and who, under that health plan, is entitled to care or to payment of the expenses of that care. VA's authority to collect for non-service-connected care furnished to a service-connected veteran was initially established by section 8011 of OBRA '90. Congress, in OBRA '93 extended the expiration date of that provision (which is codified at section 1729(a)(2)(E) of title 38, United States Code) to October 1, 1998.

HOUSE BILL

Section 8012 of the bill would extend this date until October 1, 2002.

SENATE AMENDMENT

Section 8022 contains an identical provision.

COMPROMISE AGREEMENT

Section 8022 contains this provision.

Department of Veterans Affairs Medical Care Receipts

CURRENT LAW

Section 1729(g) of title 38, United States Code, established in the United States Treasury the Department of Veterans Affairs Medical-Care Cost Recovery Fund ("the Fund"). Copayments and receipts from health care plans and insurance carriers under section 1729 of title 38, United States Code, are deposited in the Fund. VA is authorized to use money deposited in the Fund for payment of necessary expenses for the identification, billing, and collection of the cost of care and services furnished by VA and for the administration and collection of certain payments required by sections 1710 and 1722A of title 38, United States Code. VA is also authorized to use money deposited in the Fund for payment of certain administrative expenses, including reasonable charges for services and utilities furnished by VA, recovery and collection activities under section 1729 of title 38, United States Code, and administration of the Fund. After such withdrawals from the Fund by VA, receipts in the Fund are remitted to the United States Treasury.

HOUSE BILL

Section 8013 would establish the Department of Veterans Affairs Medical Care Collections Fund and provide that amounts collected or recovered after September 30, 1997, under specified provisions of chapter 17 and the Federal Medical Care Recovery Act, are to be deposited in that fund. Subject to the provisions of appropriations acts, amounts in that fund are to be available, without fiscal year limitation, only for (1) furnishing VA medical care and services during any fiscal year and (2) for VA expenses for identification, billing, auditing, and collection of amounts owed the government by reason of VA provision of medical care and services.

Section 8013 also reflects a recognition that, despite the apparent incentives associated with authority (subject to provisions of appropriations acts) for VA to retain collections, factors beyond the Department's control could result in collections falling substantially short of targets during the initital years. The measure, accordingly, would establish a special funding mechanism to address that contingency. It would provide that if, during fiscal year 1998, 1999, or 2000, the Secretary of Veterans Affairs ("Secretary") determines that the total amount to be recovered for that fiscal year will be more than $25 million below the Congressional Budget Office's estimate for that fiscal year, the Secretary shall promptly certify to the Secretary of the Treasury the amount of the estimated shortfall in excess of $25 million. The measure would require the Secretary of the Treasury to deposit that amount in the Medical Care Collections Fund within 30 days of receipt of the VA certification. In the event of such contingency payments from the Treasury, the measure provides for the further contingency that if VA is fact recovered more than the amount certified by the Secretary, VA would pay back into the Treasury the difference between the amount actually recovered and the amount certified. On the other hand, if the actual shortfall exceeded VA's projected shortfall, VA is to certify the amount of that difference to the Treasury, and the Secretary is to deposit such sum in the fund. The measure contains reporting requirements applicable to the contingency funding mechanism, which require quarterly reporting (within 45 days after the end of each quarter) as to amounts collected (accounting separately for collections under each of the specified authorities and the amount orginally estimated to be collected for such period).

Section 8013 would also direct the Secretary to establish a policy for allocation of monies in the Medical Care Collections Fund. That policy would be designed to achieve the maximum possible collections under applicable laws, and to take account of factors beyond VA's control which could impede VA efforts.

Section 8013 would also require certain reporting requirements, including a report on January 1, 1999, tabulating collections by network, and, if feasible, by facility, and including an analysis of differences among networks in collecting funds, and other relevant information. The Secretary would be required to adjust the policy for allocating monies from the collections fund to take account of differences among networks attributable to the respective markets in which each operates.

Section 8013 would take effect on October 1, 1997, except that amendments to section 1729 (a)(1) and (c)(2) of title 38, United States Code, relating to the determination of amounts subject to recovery under section 1729 of title 38, United States Code, would take effect upon enactment.

These amendments would allow VA to move away from a cost-based medical care recovery system to one that more appropriately resembles market pricing for health care services; the Committee envisions VA would establish health care charges that would allow it to recover amounts needed to help preserve the viability of the health care system for all veterans and that also reflect the substantial advantages to VA patients both in having the quality services provided by that system available and in using them. The amendments reflect the expectation that VA would establish reasonable charges that are responsive to market prices—charges that are not constrained to recovery of costs, but which may yield net revenues. (The concept of "market price" here refers to the price for a service that is based on competition in open markets. When a substantial competitive demand exists for a service, its market price normally is determined using commercial practices, such as by reference to prevailing prices and payments in competitive markets for services the same or similar to those provided by the Government.)

Not later than December 31, 1997, the unobligated balance in the Medical Care Cost Recovery Fund at the close of September 30, 1997, is to be deposited in the Treasury as miscellaneous receipts and that fund terminated at that time.

SENATE AMENDMENT

Section 8023 would establish the Department of Veterans Affairs Medical Care Collections Fund and provide that amounts collected or recovered after June 30, 1997, under specified provisions of chapter 17 and the Federal Medical Care Recovery Act, would be deposited in that fund. Not later than December 31, 1997, the unobligated balance in the Medical Care Cost Recovery Fund (which would be terminated by section 8023) would also be deposited in the new fund.

Subject to the provisons of appropriations acts, amounts in that fund would be available only for (1) furnishing VA medical care and services during any fiscal year and (2) for VA expenses for identification, billing, auditing, and collection of amounts owed the government by reason of VA provision of medical care and services. The provision would direct that the Secretary ensure that the amount made available to a Veterans Integrated Service Network from the fund in a fiscal year be equal to the amount recovered or collected by the Veterans Integrated Service Network.

COMPROMISE AGREEMENT

Section 8023 generally follows section 8013 of the House bill. The compromise agreement, however, incorporates the policy established in the Senate bill of requiring that funds recovered or collected by VA and made available to VA for distribution under the provisions of appropriations acts shall be distributed to the collecting service networks.

In addition, the compromise agreement adds language anticipating the possibility, contrary to the expectation of the Committees, that less than the entire amount of funds recovered or collected by VA might be made available to VA for distribution under appropriations acts. That language specifies that, in that contingency, (1) all funds received under appropriations acts shall be distributed among the service networks (and more shall be retained by VA headquarters for use for other purposes) and (2) that each network shall receive a percentage of distributed funds equal to that network's percentage of recoveries and collections paid into the fund.

Further, the compromise agreement strikes language from the Senate bill which refers specifically to VA's current organizational structure of 22 "Veterans Integrated Service Networks (VISNs)," and substitutes in place of that language general language referring to the "designated health care regions of the Department." It is the Committees' intention that, under the current organizational structure, all funds recovered or collected and made available to VA under this provision would be distributed to the VISNs. The purpose of this modification is solely to afford VA administrative flexibility to organize its regional structure differently than the current VISN structure, and to assure that, if VA does reorganize that structure, the policies of this provision will be carried out under that reorganized structure.

The compromise measure would also limit the application of the "contingency funding" provision in the House bill to fiscal year 1998.

Finally, the managers agree that the language in section (8023(g)) is included in the bill solely for purposes of budget scoring and is not intended to, and does not, limit, in any way the amount available to be appropriated from discretionary funding for VA medical care.

Subtitle C—Other Matters

Rounding Down of Cost-of-Living Adjustments in Compensation and DIC Rates for Fiscal Years 1998 Through 2002

CURRENT LAW

Compensation is paid to veterans with service-connected disabilities. Amounts of compensation are based on a rating schedule that uses 10 percent increments from zero percent to 100 percent. Calendar year 1997 payments range from $94 for a veteran rated as 10 percent disabled to $1,924 for a 100% disability rating.

Dependency and Indemnity Compensation (DIC) is paid to survivors of veterans who die from service-connected disabilities. Prior to the passage of Public Law 102-568, payments were based on the rank of the deceased veteran. With the passage of Public Law 102-568, compensation for deaths occurring after January 1, 1993, is paid on a flat-rate basis. With the addition of subsequent cost-of-living adjustments (COLA), that rate is now $794. However, survivors receiving payments in excess of the flat rate were "grandmothered" at the higher rates for deaths prior to January 1, 1993. The top rate for these beneficiaries is now $1,774.

Compensation and DIC payments are not indexed. Congress has, however, enacted legislation which, for a given year, has adjusted compensation and DIC benefits to reflect the percentage of change in the consumer price index (CPI) relative to the prior year. When such a COLA is enacted and new compensation and DIC rates are computed, the prior year's benefit—which is paid in "round dollar" amounts—is multiplied by a fraction which expresses the change in the CPI, and the product is then converted to a whole-dollar amount using "normal" rounding techniques. That is, if the product of the whole dollar amount multiplied by the CPI is a fractional dollar amount of $0.50 or more, the compensation or DIC payment is rounded up; if it is a fractional amount of $0.49 or less, it is rounded down.

HOUSE BILL

Section 8021 would require that any increase authorized in the rates of compensation and DIC during fiscal years 1998-2002 could not exceed the percentage increase applied to payments under title II of the Social Security Act. The provision would also require that such increases be rounded down to the next lower whole dollar. For example, based on a projected 2.7 percent increase in the Social Security cost-of-living allowance, the current $94 payment for a 10 percent disability would be multiplied by 2.7 percent. The result would be $96.53, which would then be rounded down to $96.

SENATE AMENDMENT

Section 8031 contains a substantially identical round down provision.

COMPROMISE AGREEMENT

Section 8031 follows the House Bill.

INCREASE IN AMOUNT OF HOME LOAN FEES FOR THE PURCHASE OF REPOSSESSED HOMES FROM THE DEPARTMENT OF VETERANS AFFAIRS

CURRENT LAW

Section 3729 of title 38, United States Code, specifies that borrowers who obtain VA-guaranteed, insured, or direct home loans will pay a fee. In addition, purchasers of VA-owned foreclosed properties pay a fee of 1 percent of the loan amount borrowed from VA to finance the purchase of a VA-owned property.

HOUSE BILL

Section 8016 would increase, from 1 percent to 2.25 percent, the fee paid by purchasers of VA-owned properties.

SENATE AMENDMENT

Section 8032 contains a substantially identical provision.

COMPROMISE AGREEMENT

Section 8032 follows the Senate Amendment.

WITHHOLDING OF PAYMENTS AND BENEFITS

CURRENT LAW

Section 3726 of title 38, United States Code, prohibits the offset of federal payments, other than veterans' or survivors' benefits, to recover losses incurred by VA arising from loans made to, assumed by, or guaranteed or insured on behalf of a veteran or surviving spouse. To offset losses through other federal payments such as salaries or federal tax refunds, the veteran or surviving spouse must consent in writing to the offset, or a court must determine the veteran or surviving spouse is liable.

HOUSE BILL

Section 8022 would eliminate the consent and court determination requirements. Prior to referring the debt to another federal agency for offset, such as the IRS, the Secretary would be required to notify the veteran or surviving spouse by certified mail of the process by which the Secretary may waive indebtedness under section 5302(b) of title 38, United States Code. If such a request is filed, the Secretary must determine whether the veteran or surviving spouse is responsible for some or all of the liability incurred by the Secretary, and that decision may be appealed. If the Secretary does not waive the entire amount of the liability, the Secretary must also determine whether the veteran should be released from liability under the provisions of 38 U.S.C. 3713(b) (which authorizes the Secretary to "look back" at the time a loan was assumed and decide whether a release of liability would have been issued had the veteran applied for such a release).

SENATE AMENDMENT

Section 8033 contains a substantially identical provision.

COMPROMISE AGREEMENT

Section 8033 follows the Senate Amendment.

STATEMENT OF MANAGERS

TITLE IX—ASSET SALES, USER FEES, AND MISCELLENEOUS PROVISIONS

Subtitle A—GSA Property Sales

SALE OF GOVERNORS ISLAND, NEW YORK

HOUSE BILL

Section 7002 of the House bill calls for the General Services Administration, notwithstanding any other provision of law, to sell, at fair market value, no earlier than the fiscal year 2002, Governors Island, New York. This property is currently occupied but being vacated by the Coast Guard. The sale of this 171 acre island, in the New York City harbor, is not subject to laws and regulations that normally apply to the disposal of real property by the Federal Government, including requirements of the National Environmental Policy Act, and the National Historic Preservation Act. It is recognized, however, that State and local environmental and historic preservation laws will protect the property upon sale and during any development of the property. The sale is intended for cash. The language provides the State and City be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised either by the State, the city, or both acting jointly. Net proceeds from the sale, estimated to generate approximately $500 million, would be deposited in the miscellaneous account of the Treasury.

SENATE AMENDMENT

The Senate amendment (section 6011) is substantially the same; however, it provides the State and City the right of first offer to purchase as opposed to the right of first refusal to purchase.

CONFERENCE AGREEMENT

The House recedes to the Senate.

SALE OF AIR RIGHTS

HOUSE BILL

Section 7003 of the House bill directs the sale of air rights over the train tracks at Union Station, Washington, D.C. These air rights cover approximately 16.5 acres and are bounded by Union Station on the south, 2nd Street NE on the east, K Street NE on the north, and 1st Street NE on the west. The provision would direct the General Services Administration, notwithstanding any other provision of law, to sell these air rights, at fair market value, in a manner to be determined before September 30, 2002. The air rights are a combination of the Department of Transportation (DOT) and AMTRAK air rights. The provision calls for the transfer of AMTRAK air rights to DOT without compensation to AMTRAK, then GSA would sell the air rights.

SENATE AMENDMENT

The Senate amendment is the same as the House provision.

CONFERENCE AGREEMENT

The House recedes to the Senate.

BUDGET RECONCILIATION CONFERENCE REPORT

REPORT LANGUAGE TO ACCOMPANY SECTION 9—— (EXTENSION OF HIGHER VESSEL TONNAGE DUTIES)

Section 9— of the Senate bill extends through fiscal year 2002 the authority to collect the higher vessel tonnage duties first authorized for fiscal year 1991. These higher tonnage duties were to have expired after fiscal year 1998. The statutes amended by this provision originally authorized two vessel tonnage duties: $0.02 per net registered ton for the first five entries a vessel makes into the United States from another port in the Western Hemisphere and $0.06 per net registered ton for the first five entries a vessel makes from outside the Western Hemisphere. In 1991, these duties were increased to $0.09 and $0.27, respectively, through fiscal year 1998. Upon expiration of the temporary higher vessel tonnage duties, the original rates would remain in effect.

The House provision is similar to the Senate provision.

The Conference substitute adopts the House provision with a technical amendment.

—. INCREASE TOBACCO EXCISE TAXES

Sec. 846 of the Senate amendment to H.R. 2014

PRESENT LAW

The following excise taxes are imposed on tobacco products:

Cigarettes—

Small cigarettes—24 cents/pack of 20

Large cigarettes—$25.20/1000

Cigars—

Large cigars—12.75% of mfgr. price up to $30/1000

Small cigars—$2.125/1000

Cigarette papers—$0.0075/50 papers

Cigarette tubes—$0.15/50 tubes

Chewing tobacco—$0.12/lb.

Snuff—$0.36/lb.

Pipe tobacco—$0.675/lb.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision in H.R. 2015. However, the Senate amendment to H.R. 2014 increases the small cigarette tax rate by 20 cents per pack of 20 (i.e., to 44 cents per pack), and increases the tax rates on other tobacco products proportionately. The Senate amendment also extends the tax to "roll-your-own" cigarette tobacco at $0.66/lb., and includes compliance provisions for untaxed cigarettes destined for export.

Floor stocks taxes are imposed on cigarettes and other currently taxed tobacco products held for sale on October 1, 1997 (including articles held in foreign trade zones).

Effective date.—October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment to H.R. 2014, with modifications. First, the tax rate on small cigarettes is increased by $5 per thousand (10 cents per pack of 20 cigarettes) and the tax rates on other currently taxed tobacco products are increased proportionately beginning on January 1, 2000. On January 1, 2002, the small cigarette tax rate is increased by an additional $2.50 per thousand (5 cents per pack) with the tax rates on other currently taxed tobacco products also being increased proportionately at that time. Thus, the aggregate tax increase on small cigarettes is 15 cents per pack of 20 cigarettes. The conference agreement imposes tax on "roll-your-own" tobacco at the same rate as pipe tobacco.

Effective date.—The conference agreement is effective on the date of enactment for tobacco products removed after December 31, 1999, and December 31, 2001, respectively. Appropriate floor stocks taxes are imposed on January 1, 2000, and on January 1, 2002.

TITLE IX—DEPARTMENT OF ENERGY

SEC. 9303. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY

HOUSE BILL

The bill provides for the lease of excess Strategic Petroleum Reserve capacity, subject to certain conditions. The bill provides for the use of funds collected through the leasing to be used for the purchase of oil for the Strategic Petroleum Reserve beginning in fiscal year 2003.

SENATE AMENDMENT

The amendment provides for the lease of excess Strategic Petroleum Reserve capacity. The amendment provides for the use of funds collected through the leasing to be used for the purchase of oil for the Strategic Petroleum Reserve beginning in fiscal year 2008.

CONFERENCE AGREEMENT

The conference agreement includes the House language, with technical changes, except that the conference agreement provides for the use of funds collected through the leasing to be used for the purchase of oil for the Strategic Petroleum Reserve beginning in fiscal year 2008.

TITLE X—BUDGET ENFORCEMENT ACT OF 1997

BACKGROUND

CURRENT LAW

Current budget enforcement mechanisms were put into place as a result of the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 (GRH). While the Supreme Court's 1986 decision in *Bowsher* v. *Synar* (478 U.S. 714) invalidated the GRH sequester mechanism, Congress moved to correct the constitutional flaw in the law by enacting the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

In the spring of 1990 it was evident that the deficit would exceed the GRH maximum deficit amount by more than $100 billion. Later that year, the Office of Management and Budget estimated that a sequester of $85 billion would be required to eliminate the excess deficit amount. A key feature of the 1990 budget summit agreement was a major restructuring of budget enforcement provisions of GRH. The budget process provisions of the 1990 budget summit agreement were enacted as the Budget Enforcement Act of 1990 (BEA) (title XIII of the Omnibus Budget Reconciliation Act of 1990; H.R. 5835; Pub. L. 101-508). The BEA created a two-tiered budget enforcement regime by establishing caps on discretionary appropriations spending and a "pay-as-you-go" requirement for legislation affecting mandatory spending or revenues.

While the BEA also extended deficit limits through 1995, it relied exclusively on discretionary spending limits and the pay-as-you-go requirement for 1991 through 1993 to impose budgetary discipline. For 1991 through 1993, the BEA required the President to adjust the deficit limits each year to equal the deficit. This effectively made the deficit limits unenforceable for those years. The BEA, however, gave the President the choice of returning to fixed enforceable deficit limits in 1993. In 1993, President Clinton chose to continue to adjust the deficit limits and effectively discontinued enforceable deficit limits. Later that year, when the BEA was extended through 1998, Congress did not extend deficit limits.

The discretionary spending limits and the pay-as-you-go requirement are scheduled to sunset at the end of 1998. These mechanisms have been extremely useful tools for the Congress to control discretionary spending and to ensure legislation is not enacted that would increase the deficit.

Congressional budget process

Under the Congressional Budget Act of 1974, as amended, the Congress adopts its own budget in the form of a concurrent budget resolution. The budget resolution provides a budgetary framework within which it considers spending and tax legislation. The budget resolution establishes aggregate spending and revenue levels and distributes the spending levels across 20 functional categories.

The conference report accompanying the budget resolution allocates a lump sum of spending authority to all committees with jurisdiction over federal spending. The Appropriations Committee subdivides this allocation amount among each of its 13 subcommittees.

If the budget resolution envisions changes in revenue and mandatory spending, the budget resolution may provide reconciliation instructions directing the authorizing committees to report legislation that achieves the specified spending and revenue targets. The authorizing committees respond to these reconciliation directives by reporting their legislative recommendations to the Budget Committees. The Budget Committees compile these legislative recommendations into omnibus reconciliation bills that are considered under fast-track procedures in the Congress.

The spending and revenue levels in the budget resolution and the accompanying report are enforced through points of order that may be raised by members of Congress when the House or Senate considers spending and tax legislation.

Statutory controls over the budget

The Budget Enforcement Act of 1990 amended the Congressional Budget Act of 1974 and the Balanced Budget Act of 1985 to establish two new statutory controls over federal spending: (1) limits on general purpose discretionary budget authority and discretionary outlays, which apply to spending controlled through the annual appropriations process; and (2) a pay-as-you-go (PAYGO) requirement, which applies to direct spending and revenues. Initially, the two processes were to be effective for 1991 through 1995. The spending limits and PAYGO were extended through 1998 by Title XIV of P.L. 103-66, the Omnibus Budget Reconciliation Act of 1993. The Congress established separate discretionary spending limits through 1998 for crime prevention and certain law enforcement activities as part of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).

Breaches of the discretionary spending limits and PAYGO requirements are enforced by sequestration—automatic across-the-board spending reductions in non-exempt programs. A sequester is triggered under the discretionary spending limits if either the budget authority or outlay limit for the applicable fiscal year is exceeded. A sequester is triggered under PAYGO if the net effect of legislation affecting receipts or entitlement spending is to increase the deficit.

Summary of this title

The primary purpose of this title is to implement the budget process provisions of the Bipartisan Budget Agreement. The Bipartisan Budget Agreement called for the extension of the BEA through 2002 with some modifications (the text of the Bipartisan Budget Agreement appears on pages 75–92 of the Senate print accompanying S. Con. Res. 27, S.Rpt. 105–27). This title also makes a number of changes to consolidate provisions, repeal obsolete provisions, make technical and conforming changes, and to update the Budget Act and GRH. The Budget Act and GRH have been amended in a piecemeal fashion over the years. Consequently both of these laws contain redundant and obsolete provisions. Finally, this title calls for a task force in the Senate to review the floor procedures used during the considerations of budget resolutions and reconciliation bills.

House procedures

This title makes various changes in the application of certain budget procedures in the House. Many of these changes are applicable only in the House of Representatives. The title allows the Committee on Ways and Means to reduce revenue below the revenue floor if it is offset by reductions in spending (in excess of amounts required under reconciliation). In addition, this title discontinues the practice of providing an allocation of new entitlement authority separate from other forms of mandatory spending. Finally, this title provides that it is not necessary to waive the Budget Act where through rulemaking the Budget Act violation is removed in the text pending before the House.

Senate procedures

This title makes a number of changes to the Budget Act regarding the congressional budget process and its application to the Senate. During consideration of the revenue reconciliation bill, Senator Byrd offered an amendment to incorporate many aspects of Senate Rule XXII (cloture) to procedures governing the Senate's consideration of reconciliation bills. The Senate adopted the Byrd amendment (#572) by a vote of 92–8. After a great deal of consultation, the Senate leadership concluded that any change to floor procedures under fast-track requires further study. Consequently, the conference agreement includes the creation of a bipartisan Senate task force which is to report to the Senate by October 8, 1997.

Structure of this title

During the course of the past year, the House and Senate Committees on the Budget, with the assistance of the Congressional Budget Office and the Office of Management Budget, developed legislation to extend the BEA, incorporate the budget process provisions of the Bipartisan Budget Agreement, and make technical and conforming changes to budget laws.

At the start of the legislative process, the House and Senate Committees on the Budget worked from the same basic draft. This draft was then modified to meet the specific concerns of the membership of each House. In the House of Representatives, the draft was incorporated into the language of H.R. 2015 (as title XI Budget Enforcement) as part of a Manager's Amendment. During consideration in the Senate of the spending reconciliation bill, S. 947, (the text of which became the Senate amendment to H.R. 2015) no budget enforcement language was included. However, during consideration in the Senate of the revenue reconciliation bill, S.949, (the text of which became the Senate amendment to H.R. 2014) the enforcement language was adopted by a vote of 98–2 in the form of an amendment offered by Senators Domenici and Lautenberg (amendment number 537) and became title XVI.

As a result of each House sending the enforcement language to conference on a different bill, this joint explanatory statement: (1) sets forth the language found in each bill (by identifying the section in the respective bill), (2) compares the two (by reference to the section of the Budget Act or GRH which is sought to be amended), and (3) indicates the agreement reached by the conferees. Where the position of the House and Senate are identical with respect to any particular language, for purposes of clarity, the Senate will recede to the language of the House bill. Any other results will be specifically explained below.

Subtitle A: Amendments to the Congressional Budget and Impoundment Control Act of 1974; Sections 10001–10123

1. Table of Contents

HOUSE BILL (SECTION 11001)

Sets forth a short title and table of contents for the Budget Enforcement Act of 1997.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT (10001)

The Senate recedes to the House with the appropriate renumbering.

2. Amendments to section 3 of the Congressional Budget Act

HOUSE BILL (SECTION 11101)

Amends Section 3 of the Congressional Budget and Impoundment Control Act of 1974 ("Budget Act") to include entitlement authority as defined under current law in section 401(c)(2)(C) of the Budget Act and the Food Stamp program (which is technically not an entitlement). This change is taken in concert with the discontinuation of separate allocations of new entitlement authority in section 11106. As a consequence of these changes, entitlement authority will be allocated as new budget authority and will be subject to the points of under the Budget Act that apply to new budget authority.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT (SECTION 10101)

The Conference agreement reflects the House bill with modifications. The Conference agreement defines the term "entitlement authority" in section 3 of the Budget Act and adds the food stamp program to that definition.

It is the intent of the conferees that legislation providing new entitlement authority as defined in section 401(c)(2)(C) is also a form of new budget authority as set forth in Section 3(2). In the House, legislation providing new entitlement authority will also be considered as new budget authority and subject to the same Budget Act requirements that apply to new budget authority. In the Senate, this provision merely conforms to current practice.

3. Amendment to section 201 of the Congressional Budget Act

HOUSE BILL (SECTION 11102)

Provides a nonsubstantive change clarifying that the term of the Director of the Congressional Budget Office is one of four years that expires in the year preceding a Presidential election.

Corrects an error made by Section 13202 of the Budget Enforcement Act of 1990 that designated two different subsections as 201(g) by redesignating the first as Section 201(f).

SENATE AMENDMENT (SECTION 1601)

Provides a technical correction to redesignate a subsection regarding revenue estimates which was not properly executed in prior amendments.

CONFERENCE AGREEMENT (SECTION 10102)

The Conference agreement reflects the House bill with modifications to eliminate the references to the Office of Technology Assessment and the Technology Assessment Board from this section.

4. Amendments to section 202 of the Congressional Budget Act

HOUSE BILL (SECTION 11103)

Amends Section 202(a) of the Budget Act to clarify that the "primary" duty of the Congressional Budget Office is to assist the House and Senate Budget Committees. This section also eliminates an obsolete provision relating to the transfer of the functions of the Joint Committee on Reductions of Federal Expenditures to the Congressional Budget Office.

SENATE AMENDMENT (SECTION 1602)

The language in the Senate Amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10103)

The Conference agreement reflects the House bill with a modification. The conferees recognize that CBO's responsibilities have expanded considerably, particularly with the enactment of the Unfunded Mandate Reform Act of 1995. In addition to scoring reported legislation and providing spending and revenue projections, CBO also provides assistance to committees and individual members upon request. The intent of this language is to clarify that CBO's primary duty is to assist the Budget Committees in its duties to the Congress to develop, implement, and enforce the budget resolution and address other budgetary matters.

The Conference agreement also requires CBO to include in its report the estimated budgetary impact associated with assuming the extension of mandatory programs that exceed $50 million and excise taxes dedicated to trust funds for the baseline as required by section 257 of GRH.

5. Amendments to section 300 of the Congressional Budget Act

HOUSE BILL (SECTION 11104)

Conforms the date in the table in Section 300 of the Budget Act for committee submission of views and estimates (six weeks after the submission of the President's budget) with the date in Section 301(d) of the Budget Act (which was in turn amended to allow the Budget Committee Chairman to set an alternative deadline for submission of committee views and estimates).

SENATE AMENDMENT (SECTION 1603)

The language in the Senate Amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10104)

The Conference agreement reflects House bill with a modification.

6. Amendments to section 301 of the Congressional Budget Act

HOUSE BILL (SECTION 11105)

This section makes various changes in the content and enforcement of the budget resolution through changes to Section 301 of the Budget Act. First, and most importantly, it permanently extends the requirement that the term of budget resolutions be for a period of at least 5 years. Under current law, the resolution must cover three fiscal years, but this window was temporarily extended to five years as part of the Omnibus Budget Reconciliation Acts of 1990 and 1993.

Second, it eliminates the requirement that budget resolutions set forth levels of direct loan obligations and primary loan guarantee commitment levels because under the Credit Reform Act of 1990 all loans are scored up front as new budget authority.

Third, it extends a provision, applicable only in the Senate, that provides for adjustments of committee allocations for deficit-neutral legislation as long as the legislation is deficit-neutral in the first year covered by the resolution and for the 5-year period covered by the resolution.

Fourth, it allows the Budget Committee Chairmen to set an alternative deadline for submission of committee views and estimates.

Finally, it extends the Social Security point of order in the Senate to include the concurrent budget resolution and any related amendments, motions, or conference reports.

SENATE AMENDMENT (SECTION 1604)

The Senate amendment is identical to the House bill with two exceptions. First, it adds a new paragraph (9) to include direct loan obligations and primary loan commitment guarantee levels as items that may be included in a budget resolution. Second, it also amends the listing of those items that must be included in a committee report accompanying a budget resolution and adds a listing of those items that may be included in such a report.

CONFERENCE AGREEMENT (SECTION 10105)

The Conference agreement reflects the House bill with an amendment.

The Conference agreement modifies the scope of budget resolutions to provide that a budget resolution must cover at least five years. The Congress has expanded the scope of budget enforcement activities in recent years. The 1990 BEA (section 606 of the Budget Act) expanded the scope of budget enforcement by requiring budget resolutions to set 5-year enforceable levels. The Senate adopted its pay-as-you-go rule in 1993 that established a 10-year time-frame with respect to direct spending and revenue legislation. The

1996 budget resolution covered 7 years. The Bipartisan Budget Agreement covers ten years. The conference agreement retains the requirement that budget resolutions cover at least five years and provides Congress with the discretion to set a longer time frame in a budget resolution.

The conference agreement eliminates the requirement that a budget resolution contain direct loan and loan guarantee levels. The Conference agreement allows a budget resolution to set credit levels. The Federal Credit Reform Act of 1990 ("Credit Reform") modified the budgetary treatment of credit programs to require a subsidy appropriation before a direct loan obligation or loan guarantee commitment is made. Under credit reform, budget authority and outlays are scored when the subsidy appropriation is made and these levels are enforced by the section 302 allocations and the section 311 aggregates established by the budget resolution. Since the subsidy appropriation controls credit activity levels, there is no reason to continue these credit levels.

Credit reform is largely dependent on estimates made by the Executive Branch about interest rates and default risk. The integrity of these subsidy estimates is entirely in the control of the Executive Branch. If the Executive Branch made gross errors with respect to subsidy estimates or intentionally manipulated these estimates, the subsidy appropriation becomes much less relevant for determining credit levels. The conferees have been satisfied with the implementation of the Federal Credit Reform Act. However, if there are significant errors in subsidy estimates, for whatever reason, the Congress may want to return to establishing credit levels in a budget resolution. While the conferees do not believe credit levels need to be established in a budget resolution, for the reasons stated above, the conference agreement leaves this option to the discretion of the Congress.

7. Amendments to section 302 of the Congressional Budget Act

HOUSE BILL (SECTION 11106)

The House bill permanently extends the requirement that allocations to the authorizing committees cover at least a five-year period. In the process, it collapses the temporary allocations under section 602 into section 302, generally conforming to the structure set forth in section 602.

It also modifies the default allocation in which an interim allocation is provided to the Appropriations Committee in the House if the budget resolution is not agreed to by April 15. Under the modified default allocation, the Appropriations Committee would be allocated an amount based on the prior year's budget resolution (instead of the President's budget). It clarifies that the Appropriations Committee shall subdivide its allocation among its 13 subcommittees. It provides that the allocations and suballocations shall be divided between defense, nondefense, and the violent crime reduction category as long as separate spending limits are in effect.

SENATE AMENDMENT (SECTION 1605)

The Senate amendment is essentially identical to the House bill, though it does not contain the provision regarding temporary allocations to the House Appropriations Committee in section 302.

CONFERENCE AGREEMENT (SECTION 10106)

The Conference agreement reflects the House bill with modifications. As with section 301 regarding the scope of the timeframes in a budget resolution, the conference agreement also requires that section 302 allocations made to committees cover at least five years. Interim allocations only apply in the House.

The conference agreement also provides that the Budget Committee must make separate allocations of defense, nondefense, and violent crime reduction funding. Section 302(a)(3) requires that the allocation of budget authority and outlays to the Appropriations Committees will be further divided among the categories specified in section 250(c)(4) of GRH. Under section 302(b), the Appropriations Committees are required to allocate these separate categories among its 13 subcommittees. These separate divisions of the allocations are enforced in the Senate pursuant to section 302(f) of the Budget Act.

As modified, section 302(f) of the Budget Act refers to the "applicable" allocation. The word "applicable" is used in part to recognize the fact that two budget resolutions will often be in force at the same time.

8. Amendments to section 303 of the Congressional Budget Act

HOUSE BILL (SECTION 11107)

The House bill makes several technical changes to Section 303(a) of the Budget Act which prohibits the consideration of spending legislation before Congress has agreed to a budget resolution. It eliminates references to new credit authority and new entitlement authority. In the future, legislation providing new entitlement authority will be scored as providing new budget authority which is also subject to section 303(a). Credit authority is already scored as new budget authority, in the amount of the subsidy.

SENATE AMENDMENT (SECTION 1606)

The Senate amendment repeals subsection (c) of section 303, which provides a process for the Senate to consider a resolution to waive this point of order. Since this point of order can be waived under section 904 of the Budget Act through a motion, the waiver resolution process is not needed.

CONFERENCE AGREEMENT (SECTION 10107)

The Conference agreement reflects the House bill with an amendment. The Conference agreement rewrites section 303 in its entirety to simplify this section, drop obsolete provisions, and make conforming changes to reflect changes made to other provisions in the Act. The Conference agreement retains the general objective of section 303: to discourage the Congress from considering budget-related legislation until the adoption of a budget resolution for a year.

The language of current section 303 is vague with respect to its application to appropriations measures in the Senate. Under section 302 of the Budget Act, allocations are made to the Senate Appropriations Committee for just the first year of a budget resolution (the budget year). The conference clarifies the application of this point of order to provide that it is out of order to consider an appropriations measure for a year until an allocation under section 302(a) has been made pursuant to the budget resolution for that year. The conference agreement retains the current law exception that allows appropriations measures to contain advance appropriations for the two years following that year. By "advance appropriations", the conferees mean an appropriation which is first available in a year beyond the year for which the appropriation bill applies.

The conferees intend to clarify that section 303(a) is a gross test which looks at whether any provision within the measure provides new budget authority, increases revenue, etc. It is not a net test that looks at the sum of changes in budget authority, increases in revenue, etc. as is the case with sections 302(f) and 311(a).

9. Amendments to section 304 of the Congressional Budget Act

HOUSE BILL

No provision

SENATE AMENDMENT

No provision

CONFERENCE AGREEMENT (SECTION 10108)

The Conference agreement repeals subsection (b) of section 304. Subsection 304(a) provides the authority for Congress to revise a budget resolution at any time. Subsection (b) provides that section 301(g), regarding economic assumptions, applies to revisions to budget resolutions. This subsection is not needed and raises an ambiguity with respect to whether other provisions of the Budget Act apply to revisions of a budget resolution.

By repealing subsection 304(b), the conferees intend that all provisions of the Budget Act apply to revised budget resolutions unless there is a specific exception made for a revision to a budget resolution, such as section 305(b) which provides for only 10 hours of debate on a revision to a budget resolution.

10. Amendments to section 305 of the Congressional Budget Act

HOUSE BILL (SECTION 11108)

Clarifies that the five day layover requirement for budget resolutions includes Saturdays, Sundays and holidays when the House is in session. This is a conforming change to clause 2(1)(5) of House Rule XI, which was amended in the 104th Congress to count Saturdays, Sundays and holidays when the House is in session towards the layover requirement for bills and resolutions.

SENATE AMENDMENT (SECTION 1607)

The Senate amendment includes the same provision.

CONFERENCE AGREEMENT (SECTION 10109)

The Conference agreement reflects the House bill with a modification providing that the resolution can be considered the third calendar day (except Saturdays, Sundays and legal holidays when the House is not in session) after the report has been made available to Members.

11. Amendments to section 308 of the Congressional Budget Act

HOUSE BILL (SECTION 11109)

The House bill includes a technical change eliminating a reference to credit authority in legislation for which committees must include a statement essentially justifying changes in revenue or direct spending. It also clarifies that such statements are to be provided for joint resolutions rather than simple (one-House) resolutions.

SENATE AMENDMENT (SECTION 1608)

The Senate amendment is essentially identical to the House bill.

CONFERENCE AGREEMENT (SECTION 10110)

The Conference agreement reflects the House bill with modifications to make additional technical and conforming changes regarding section 308.

12. Amendments to section 310 of the Congressional Budget Act

HOUSE BILL (SECTION 11110)

The House bill provides that reconciliation instructions may direct committees to achieve specified changes in direct spending. Under current law, the instructions are to be expressed as a change in new entitlement authority and new budget authority. This section essentially codifies the recent practice of reconciling committees to report legislation providing the necessary change in direct spending. Under current law, reconciliation instructions may be for new budget authority, outlays and new entitlement authority. Direct spending is defined under section 250(c)(8) of GRH.

It also codifies the interpretation of the House that the fungibility rule in section 310 of the Budget Act applies to legislation regardless of whether it increases or decreases revenues or spending. In order to preserve the original intent of section 310 to provide committees maximum flexibility in meeting their reconciliation targets, committees are allowed to substitute changes in revenue for changes in spending, or vice versa, by up to 20 percent of the sum of the reconciled changes in spending and revenue as long as the result does not increase the deficit relative to the reconciliation instructions.

Under one interpretation, the existing fungibility rule could not be invoked when a committee reduces revenues because the revenue change may cancel out reductions in spending. Accordingly, the rule now explicitly provides that the substitution factor is 20 percent of the sum of the absolute value of the reconciled change in revenue and the absolute value of the reconciled change in spending.

SENATE AMENDMENT (SECTION 787)

The Senate amendment amends section 310(e)(2) of the Congressional Budget Act to provide 30 hours of Senate consideration of a Reconciliation Bill. The amendment requires consent to yield back time on the bill or to limit debate. It also provides 30 minutes of debate per first degree amendment, and 20 minutes of debate per second degree amendment until the 15th hour of debate after which all amendments are limited to 30 minutes of debate. And, it prohibits submitting first degree amendments after the 15th hour of consideration, and prohibits submitting second degree amendments after the 20th hour.

CONFERENCE AGREEMENT (SECTION 10111)

The Conference agreement reflects the House bill with a modification. The conference agreement only amends section 310 to modify subsection 310(c)(1)(A) regarding the application of the fungibility rule in the House. While no language regarding Senate floor procedure is included, the conference agreement calls for a Senate bipartisan task force to study and report on budget resolution and reconciliation floor procedures.

13. Amendments to section 311 of the Congressional Budget Act

HOUSE BILL (SECTION 11111)

This section modifies section 311, which enforces the budget resolution by prohibiting the consideration of legislation that exceeds its aggregate spending levels or reduces revenues below its revenue floor.

It eliminates references in section 311 to new entitlement authority. It clarifies that the exception under 303 for legislation providing new budget authority applies only to advanced discretionary budget authority—not mandatory spending.

This section also preserves the so-called Fazio exception in the House that allows appropriation measures to exceed the aggregate ceiling on new budget authority or outlays if they do not exceed the Appropriations Committee's applicable allocation.

Finally, this section eliminates a redundant point of order in the Senate and clarifies the Social Security "firewall" point of order, making its application more clear.

SENATE AMENDMENT (SECTION 1609)

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT (SECTION 10112)

The Conference agreement reflects the House bill with modifications. The Conference agreement provides that the spending and revenue levels are enforced for the first year covered by the budget resolution. The Conference agreement also provides that the revenue level is also enforced for the same multiyear period covered by the allocations provided in a conference report accompanying a budget resolution, which is at least 5 years.

14. Amendments to section 312 of the Congressional Budget Act

HOUSE BILL (SECTION 11112)

The House bill makes stylistic changes to the heading and consolidates existing provisions regarding points of order and adds some new provisions.

Subsection (a) provides generic authority clarifying that the Committees on the Budget are responsible for providing estimates (or "scoring" information) to the House and Senate for the purposes of evaluating the applicability of Budget Act points of order. Redundant language is repealed throughout the Act and replaced with this one statement that applies to all points of order under titles III and IV.

Subsection (b) moves the existing section 601(b) point of order in the Senate for the enforcement of discretionary spending limits to subsection 312(b).

Subsection (c) moves the existing section 605(b) point of order in the Senate for the enforcement of the maximum deficit amount to subsection 312(c). This point of order will not be enforced because the House bill does not provide "maximum deficit amounts" in GRH. The House bill retains both the point of order and the sequester procedures (section 253 of GRH) in the event the Congress wants to return to deficit limits.

Subsection (d) adds new language which places into law the current practice in the Senate with respect to the timing of points of order.

Subsection (e) retains current law (first paragraph of section 312) with respect to amendments between the Houses.

Subsection (f) retains current law (section 312(b)) with respect to the effect of a point of order against a bill in the Senate.

It repeals the now redundant (by virtue of new 312(a)) language from current law.

SENATE AMENDMENT (SECTION 1610)

The Senate amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10113)

The Conference agreement reflects the House bill with technical changes.

15. Addition of a new section "314" of the Congressional Budget Act

HOUSE BILL (SECTION 11113)

Adds a new section 314 to the Budget Act containing some of the elements in the now-eliminated title VI. Most importantly, section 314 provides a procedure for adjusting the appropriate budget resolution levels for certain legislation for which similar adjustments are provided in the statutory discretionary spending levels under section 11203 of this title. The adjustments are for continuing disability reviews, the IMF, arrearages and emergencies.

In a change from current law, the appropriate spending levels are adjusted for legislation designating funding for emergencies instead of the previous practice of simply not counting such spending against the budget resolution's levels.

In another change in allocation procedures for the House, the adjustments are made only for the consideration of the relevant legislation and do not become permanent until the legislation is actually enacted.

SENATE AMENDMENT (SECTION 1611)

The Senate amendment is the same as the House language with slight modifications.

CONFERENCE AGREEMENT (SECTION 10114)

The Conference agreement reflects the House bill with modifications. The conference agreement provides for a process for the Budget Committee Chairman to make adjustments to levels set forth in or pursuant to a budget resolution for emergency legislation, continuing disability reviews, an IMF allowance, an allowance for international arrearages, and earned income tax credit compliance. The purpose of these adjustments is to ensure that budgetary limits, are only adjusted for the legislation that meets the specific criteria spelled out in this section. This section sets out a process regarding discretionary spending limits that is similar to the process in section 251 of GRH.

Subsection (a)(1) provides the general authority for the Budget Committee Chairman to make adjustments for legislation. Subsection (a)(2) provides the Chairman with the authority to revise the levels set forth by or pursuant to a budget resolution. Subsection (b) provides the criteria for legislation that qualified for the adjustments. A bill, resolution, amendment or conference report must meet the specific terms spelled out in one of these paragraphs before the Chairman can make any adjustments pursuant to this section. Subsection (c) provides that the adjustments only apply while the legislation is under consideration and only take final effect upon the legislation's enactment. The conferees intend that the adjustments only apply while the legislation that meets the terms of one of the paragraphs of subsection (b) is under consideration. In subsection (c), the reference to "legislation" means a bill, joint resolution, amendment, motion or conference report. It is the Chairman's responsibility to ensure these adjustments are only available for legislation that meets the terms of subsection (b). This could necessitate that the Chairman reverse the adjustments, particularly the aggregates, after the pending legislation is disposed of.

16. Addition of a new section 315 to the Congressional Budget Act

HOUSE BILL (SECTION 11114)

The House bill provides that it is not necessary to waive the Budget Act as part of a House resolution to consider legislation in which the resolution eliminates the source of the Budget Act violation. Most points of order under the Budget Act lie against consideration of the bill as originally reported by a committee. If the reported version of the bill violates the Budget Act, then the Chairman of the Budget Committee often arranges to have the violation corrected as part of a rule that effectively amends the version of the bill pending before the House. However, it is still necessary to waive the point of order because the point of order lies against the bill as reported. As modified, it will no longer be necessary to waive the point of order in order to consider a bill in which the rule eliminates the source of the violation.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT (SECTION 10115)

The Conference agreement reflects the House bill with technical changes providing that it is not necessary to waive the Budget Act when the source of the Budget Act violation in the reported bill is eliminated through a special rule or unanimous consent request. This provision only applies in the House.

17. Amendments to section 401 and repeal of section 402 of the Congressional Budget Act

HOUSE BILL (SECTION 11115)

The House bill makes changes in section 401 (which defines and enforces various forms of spending authority that are not controlled through the annual appropriations process). It repeals the definition of new entitlement authority (which is shifted into section 3 of the Budget Act). It repeals a seldom used process in the House for referring bills providing certain forms of mandatory appropriations to the Committee on Appropriations. Finally, it collapses a point of order against legislation providing credit authority not subject to appropriations into section 401, which also prohibits the consideration of legislation providing contract or borrowing authority.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT (SECTION 10116)

The Conference agreement reflects the House bill with modifications.

Sections 401 and 402 were enacted as a means of controlling "backdoor" spending. This is spending not under the annual control of the Congress through the appropriations process. The Conference agreement's changes to section 401 are not intended to weaken this section, but to update it.

The conference agreement provides that section 401(a) will apply, just as it does under current law, to contract authority and borrowing authority. The conference expands section 401(a) to apply to credit authority and repeals section 402. This change has no practical effect. It just consolidates the point of order against creating these types of spending authority in one section of the Budget Act.

The Conference agreement repeals the definition of "new spending authority". This definition is no longer needed and raises questions about what constitutes new spending authority. Since being defined in the original 1974 Budget Act, the Congress has expanded the definition of budget authority. Under the current definition, "new spending authority" as defined in section 401(c) and "budget authority" as defined in section 3 are essentially the same. As a result, the separate definition in section 401(c) of the Budget Act is unneeded.

The important provisions of section 401 of the Budget Act are to provide controls on backdoor spending and to provide a definition of "entitlement authority". The definition of the term "entitlement authority" has been moved to section 3 of the Budget Act. The conference agreement refers to "new entitlement authority." The conferees intend that this term applies to legislation that either expands an existing entitlement or creates a new entitlement. The existing controls on backdoor spending authority have been retained.

This Conference agreement generally makes technical and conforming changes to the Budget Act. The conferees note that there are major deficiencies in section 401 that have not been corrected in this section. It is the intent of the conferees that future legislation should address the purposes of section 401 and the definitions of "contract authority" and "borrowing authority", and should provide an up-to-date and more effective means of controlling backdoor spending.

18. Amendments to Title V of the Congressional Budget Act (Credit Reform)

HOUSE BILL

No provision.

SENATE AMENDMENT (SECTION 1612)

The Senate amendment contains technical corrections and conforming amendments to the Federal Credit Reform Act of 1990. All of the proposed changes to Credit Reform in this amendment are taken from suggestions made by OMB. In general they reflect the experience with implementing Credit Reform since 1990 and codify current working definitions used by the Congressional Budget Office and the Office of Management and Budget.

The amendments to section 502 clarify the definition of a direct loan by explicitly including the sale of assets on credit terms. These amendments also clarify the law to reflect current practice concerning the treatment of modifications of outstanding direct loans and loan guarantees that affect their cost, adding a definition of the term "modification.'

The amendments to section 504 clarify that appropriation action is required before direct loans and loan guarantees can be made (subsidy costs must be appropriated in advance), except for mandatory programs that are exempt from this requirement. The existing language with respect to modifications is also made clearer.

The amendments to section 505 provide technical instructions concerning the interest rate charged to Government agencies by Treasury to finance credit programs, including the interest rate charged on loans financed by the Federal Financing Bank (FFB). The amendments require Treasury, including the FFB, to use the same rate as the one used to calculate the cost of a direct loan or loan guarantee. That is the current practice for Treasury financing other than financing by the FFB. The FFB is permitted to add a surcharge to the Treasury rate of interest, which is paid by the borrower and, in turn, by the agency. Current law does not provide instructions for dealing with the surcharge. The amendments specify that the surcharge will be credited to the credit program's financing account along with other interest paid to the Government. Currently, a fraction of the surcharge is used to finance the FFB's administrative expenses. The amendments allow the FFB to require reimbursement from an agency to cover the FFB's administrative expenses. The agency will pay for its administrative expenses out of appropriations for that purpose, as is required now for other administrative expenses of most credit programs.

CONFERENCE AGREEMENT (SECTION 10117)

The Conference agreement adopts the Senate Amendment with additional changes for clarification.

Amendments to section 502 clarify the definition of the term "cost," including a modification of the requirement concerning the "discount rate" used to determine cost so that it is based on the timing of the cash flows, as opposed to the term of the loan. Under this approach, a claim payment that will occur in year 1 of a guaranteed loan is discounted using the rate on a 1-year Treasury security, while a claim payment that will occur in year 30 is discounted using the rate on a 30-year Treasury security. The total cost is the sum of the present values of each year's cash flows over the life of the direct loan or loan guarantee. This change increases accuracy and reduces bias. Accuracy is improved because each cash flow is discounted by the interest rate on a Treasury security having the same maturity as the period of that cash flow. Under the present practice, the rate on a Treasury security of similar maturity to the loan is based on the pattern of interest and principal payments for the security (semi-annual interest payments and full principal repayment on the last payment date). The estimated cash flows for credit programs almost never match this pattern. Bias is reduced because loans with the same cash flows but different maturities would be priced using the same basket of discount rates, and would therefore have the same cost.

Also under the definition of "cost," the amendments requires that, for purposes of an agency obligating funds for the cost of a credit program, the cost estimate will be based on the assumptions used in the President's budget for the fiscal year in which the direct loan or loan guarantee is obligated, adjusted for differences between the projected and actual terms of the contract. For example, assuming no difference between the projected and actual terms of the loan contract, the cost estimate for the obligation of a direct loan in 1998 would be based on the assumptions used in the President's 1998 budget. This incorporates by statute OMB's current guidelines for calculating the cost estimate when funds are obligated for a direct loan or loan guarantee. For one-year funds, it provides Congress with the assurance that loan volume will not be affected by changes in assumptions during the period of program execution. In effect, it means that Congress will get the volume it paid for when it appropriated funds for the credit program. For programs with multi-year funds, the cost estimate will reflect more recent assumptions.

Workouts are not assumed to be included in the definition of modifications. The conference agreement does not change the treatment of workouts as implemented under the Federal Credit Reform Act of 1990. OMB and CBO shall report recommendations for any changes in such treatment to the House and Senate Committees on the Budget not later than March 30, 1998. Such report shall include data on the extent of the use of workouts and the resulting costs or savings.

The amendments add a definition of the term "current," which is used in other credit definitions with regard to credit assumptions. By referring to GRH, the definition is the same as the one that is used for Budget Enforcement Act purposes.

19. Repeal of title VI of the Congressional Budget Act (Budget Agreement Enforcement Provisions)

HOUSE BILL (SECTION 11116)

The House bill repeals title VI, which provided changes in Congressional budget procedures that were expected to last only for the duration of previous budget agreements. Title VI temporarily extended the coverage and enforcement of budget resolutions from three to five fiscal years. It also provided for adjustments in the budget resolution for such factors as emergencies, estimating differences, and tax compliance.

The five-year scope of the resolution is permanently extended in sections 11105 and 11106. The new adjustments are set forth in section 11113. The House bill repeals an unused provision in section 604 of the Budget

Act, which provided the House Budget Committee with the authority to report a reconciliation directive providing for tax increases to offset legislation cutting taxes.

SENATE AMENDMENT (SECTION 1613)

The language in the Senate Amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10118)

The Senate recedes to the House.

20. Amendments to section 904 of the Congressional Budget Act

HOUSE BILL (SECTION 11117)

The House bill contains technical corrections regarding waivers and appeals. It redrafts the section so as to make it possible to differentiate between those points of order which are subject to supermajority discipline and those that are not. It adds a new subsection "(e)" to indicate which waiver and appeal provisions expire at the end of 2002. This has previously been applicable in the Senate by virtue of a provision of the 1996 Budget Resolution. This amendment thus codifies the current Senate rules regarding the sunset date for these points of order. Generally for those points of order which relate to budget levels, the supermajority requirements sunset in 2002. With respect to the other points of order which relate to the substantive effect of language (germaneness, the Byrd Rule, Budget Committee jurisdiction etc.), the supermajority requirements are permanent.

SENATE AMENDMENT (SECTION 1614)

The language in the Senate Amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10119)

The Conference agreement reflects the House bill with technical modifications.

21. Repeal of sections 905 and 906 of the Congressional Budget Act

HOUSE BILL (SECTION 11118)

The House bill repeals two obsolete sections in the Budget Act: the original effective dates for the Budget Act in section 905 and a special rule relating to the applicability of the Act for Fiscal Year 1976.

SENATE AMENDMENT (SECTION 1615)

The language in the Senate Amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10120)

The Senate recedes to the House.

22. Amendments to sections 1022 and 1024 of the Congressional Budget Act

HOUSE BILL (SECTION 11119)

The House bill makes conforming changes to sections 1022 and 1024 of the Line Item Veto Act reflecting the repeal of section 601 of the Budget Act and its incorporation into section 251(c) of GRH.

SENATE AMENDMENT (SECTION 1616)

The language in the Senate Amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10121)

The Senate recedes to the House.

23. Amendments to section 1026 of the Congressional Budget Act

HOUSE BILL (SECTION 11120)

The House bill makes conforming changes to section 1026 (definitions) to correct a drafting error in the definition of "dollar amount of discretionary budget authority" to reflect the repeal of section 601 of the Budget Act and its incorporation into section 251(c) of GRH.

SENATE AMENDMENT (SECTION 1617)

The language in the Senate Amendment is identical to the House Bill.

CONFERENCE AGREEMENT (SECTION 10122)

The Senate recedes to the House.

24. Senate task force

HOUSE BILL

No provision.

SENATE AMENDMENT (SECTION 787)

During consideration of S.949 (spending reconciliation bill in the Senate) the Senate adopted by a vote of 92 to 8 an amendment offered by Senator Byrd (number 148) which provided new floor procedures for the consideration of reconciliation legislation in the Senate. The most significant aspect of the Byrd amendment was the proposal to adopt cloture like procedures at the conclusion of consideration. The amendment called for changing the current law's 20 hour limit on consideration to 30 hours of debate. In addition, it called for imposing a filing requirement for all amendments to be considered after 15 hours. This is a significant departure from current law in that it would have the effect of closing off the amendment process once all time has expired.

Current law provides that an unlimited number of amendments and motions are in order, without debate, at the end of time. Although this is not explicitly set forth in section 305 of the Budget Act, it is the interpretation that has governed the Senate's consideration of budget resolutions and reconciliation legislation. At the insistence of a number of Senators, current Senate practice has permitted (by unanimous consent) a very brief time for debate (usually between 2 and 4 minutes, equally divided) prior to the vote on such amendments. This at least permits proponents and the managers to lay out for their colleagues the basic issue presented by the amendment. This has resulted in what many refer to as a "vote-a-ramma" at the end of time. In this situation Senators are forced to vote on scores of amendments with little or no debate.

In addition to ending the "vote-a-ramma", the Byrd amendment provides that the time for debate on individual amendments be reduced from 2 hours to 30 minutes for amendments in the first degree, from 1 hour to 20 minutes for amendments in the second degree or debatable motions and appeals, and after 15 hours debate on all debatable items would be limited to 20 minutes. The Byrd amendment also provides that the motion to reduce time be debatable for 30 minutes and that time may be yielded back only by unanimous consent. Current law permits this motion to be voted on without debate and time to be yielded back as a matter of right.

CONFERENCE AGREEMENT (SECTION 10123)

The conference agreement provides for a bipartisan task force in the Senate to review the floor procedures governing consideration of budget resolutions and reconciliation bills. The task force is to report to the Senate by October 8, 1997.

Subtitle B: Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985; Sections 10201–10213

24. Purpose

HOUSE BILL (SECTION 11201)

Purpose. States that the purpose of this subtitle is to extend discretionary spending limits and pay-as-you-go requirements.

SENATE AMENDMENT (SECTION 1651)

The language in the Senate Amendment is identical to the House bill.

CONFERENCE AGREEMENT (SECTION 10201)

The Senate recedes to the House.

25. Amendments to section 250 of Gramm-Rudman-Hollings

HOUSE BILL (SECTION 11202)

Amends section 250(b) of GRH to state that it provides for the enforcement of a balanced budget by 2002 as called for in H. Con. Res. 84.

This section also defines the terms "category", "budgetary resources" and "consultation". "Consultation" means that the Budget Committee is consulted by CBO in manner timely enough to afford the committee an opportunity to comment on the matter; "category" means defense, non-defense, and violent crime reduction discretionary spending, and the definition of budgetary resources is amended to drop an obsolete reference to credit authority. The terms "current" and "outyear" are also modified and extended.

SENATE AMENDMENT (SECTION 1652)

The Senate amendment is substantially similar to the House bill though it does not provide a definition of "consultation".

CONFERENCE AGREEMENT (SECTION 10202)

The Conference agreement reflects the Senate amendment with modifications. The conference agreement also updates the definition of "budget authority" and other terms in section 250(c)(1).

26. Amendments to section 251 of Gramm-Rudman-Hollings

HOUSE BILL (SECTION 11203)

The House bill provides for the extension of discretionary spending limits and enforcement procedures (sequestration) through 2002. Retains adjustments for emergencies, changes in concepts and definitions, and estimating differences in outlays. Adds automatic adjustments in these limits for legislation relating to the International Monetary Fund and arrearages. Eliminates adjustments for inflation, estimating differences in budget authority as well as expired adjustments for loan forgiveness and IRS compliance.

It imposes separate spending limits for defense and non defense discretionary spending for 1998 and 1999 and then collapses these limits under a general purpose discretionary spending limit for 2000, 2001 and 2002.

In conformance with the Bipartisan Budget Agreement, the House bill allows the separate limits on the violent crime reduction category to expire at the end of 1998. Funding for these programs will be subject to the non defense discretionary spending limit in 1999 and 2000 and the general purpose discretionary limits in 2001 and 2002.

SENATE AMENDMENT (SECTION 1653)

The Senate amendment is substantially similar to the House bill except that it extends separate violent crime reduction spending limits through 2002.

CONFERENCE AGREEMENT (SECTION 10203)

The Conference agreement reflects the House bill with some modifications. The violent crime reduction spending limits are extended through 2000.

27. Amendments to section 251A of Gramm-Rudman-Hollings and to section 310002 of P.L. 103–322

HOUSE BILL (SECTION 11204)

The House bill shifts the separate spending limits on the Violent Crime Reduction Trust Fund spending into section 251 of GRH, which includes the limits for defense and nondefense discretionary spending. Under current law, section 251 provides sequester procedures for defense and nondefense discretionary spending and section 251A provides sequester procedures for violent crime reduction spending. Because this bill amends section 251 to provide for violent crime reduction as a separate category of discretionary spending, section 251A is not needed and is repealed. Also makes a conforming change by repealing section 310002 of the Violent Crime Control and Law Enforcement Act of 1994, which reduced the discretionary caps to provide a separate category for violent crime reduction funding. Since the section 251(c) caps reflect these reductions, section 310002 of the Crime Act is no longer necessary.

SENATE AMENDMENT (SECTION 1654)

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT (SECTION 10204)

The Senate recedes to the House.

28. *Amendments to section 252 of Gramm-Rudman-Hollings*

HOUSE BILL (SECTION 11205)

The House bill extends the pay-as-you-go requirements for legislation enacted through 2002. Under current law, PAYGO expires at the end of 1998.

In order to impede legislation that would exacerbate the deficit beyond 2002, the House bill provides a "rolling" PAYGO scorecard. Under a rolling five year scorecard, OMB will score legislation for the budget year and each of the ensuing four fiscal years through 2002. If this legislation causes a net deficit increase for any year through 2006, OMB will be required to implement a sequester in that year to eliminate any deficit increase. For example, a bill enacted in January 2002 would be scored for 2002 through 2006. Although the PAYGO requirements expire at the end of 2002, the estimates and enforcing sequestration process would extend as late as 2006 for legislation that is enacted prior to the end of 2002.

The House bill also corrects the "lookback" procedure in which size of a sequester can be offset by savings from the prior fiscal year. Current law provides a "lookback" procedure to ensure that legislation that is enacted after the beginning of a fiscal year is captured by the pay-as-you-go requirements. Under OMB's current interpretation of the existing lookback mechanism, OMB double-counts pay-as-you-go surpluses or deficits in calculating whether a sequester would be necessary. OMB currently interprets the PAYGO lookback mechanism to require that the PAYGO balance for the current year be added to the budget year in determining if there will be a net deficit increase (this results in "double-counting").

The House bill amends the pay-as-you-go lookback procedures to require OMB to calculate the net deficit impact on the current year of all legislation enacted after the final deficit sequester report for that year. If this legislation would result in a net deficit increase, OMB is required to add the amount of this net deficit increase to the next year's sequester calculations. If legislation is not enacted to offset this deficit increase, a sequester will occur.

The House bill makes other technical and conforming changes to PAYGO.

SENATE AMENDMENT (SECTION 1655)

The Senate amendment is substantially similar to the House bill except that it would sunset pay-as-you-go sequester procedures in 2002.

CONFERENCE AGREEMENT (SECTION 10205)

The conference agreement reflects the House bill with modifications. The lookback procedure is modified to provide that any net deficit increase or decrease created during the current year that is enacted after the final sequester report for that year is added to the pay-as-you-go estimates for the budget year. The conference agreement makes other clarifying and conforming changes to section 252.

The conference agreement also modifies the manner in which deposit insurance and emergency spending estimates are covered under section 252. The conference agreement provides that estimates associated with either deposit insurance legislation or emergency legislation will not be recorded on the pay-as-you-go scorecard. The conferees intend that OMB and CBO include the estimated budgetary impact of deposit insurance and emergency legislation separately for informational purposes in their reports to Congress, but these estimates should not be recorded for the purposes of calculating pay-as-you-go.

For deposit insurance, the conference agreement provides that OMB and CBO should only score legislation that modifies the deposit insurance guarantee commitment under current estimates. "Current" is a defined term and the conferees intend that OMB use the technical and economic assumptions for deposit insurance contained in the President's most recent budget submission (CBO should use the economic and technical assumptions in the baseline). Section 252 presently requires OMB and CBO to measure the impact relative to the deposit insurance commitment in effect in 1990. To the extent legislation modifies the deposit insurance guarantee commitment, it should be scored by OMB and CBO. If this legislation becomes law, the cost will have been captured for the purposes of pay-as-you-go and should be reflected in the next baseline.

29. *Amendments to section 254 of Gramm-Rudman-Hollings*

HOUSE BILL (SECTION 11206)

Amends section 254 of GRH by removing an expired provision relating to the optional adjustment of maximum deficit amounts and extending the requirements for sequestration reports through fiscal year 2006 (for legislation enacted prior to the end of 2002).

SENATE AMENDMENT (SECTION 1656)

The Senate amendment is identical to the House bill except that it deletes the requirement for a General Accounting Office compliance report.

CONFERENCE AGREEMENT (SECTION 10206)

The Senate recedes to the House.

30. *Amendments to section 255 of Gramm-Rudman-Hollings*

HOUSE BILL (SECTION 11207)

Makes several conforming changes to the list of exempt programs to account for changes in the program code, changes in program names, and programs that are no longer in existence.

SENATE AMENDMENT (SECTION 1657)

The Senate amendment is identical to the House bill with a few minor exceptions.

CONFERENCE AGREEMENT (SECTION 10207)

The conference agreement reflects the Senate amendment with modifications, including a technical correction regarding the treatment of low-income programs.

The amendments to section 255(d) change the titles of three accounts to reflect actions by the Committees on Appropriation. Also, three accounts have been added to this section. The Personal Responsibility and Work Opportunities Act of 1996 eliminated the former Aid to Families with Dependent Children (AFDC) Program and created these three accounts in its place. As such, the exemption of these accounts is a continuation of the exemption of the former AFDC program.

31. *Amendments to section 256 of Gramm-Rudman-Hollings*

HOUSE BILL (SECTION 11208)

The House bill makes technical corrections and conforming changes to special sequestration procedures to reflect changes since the Budget Enforcement Act of 1990. The only substantive change in this section is in the sequestration procedure for the student loan program, which provides that in the event of a PAYGO sequester, origination fees for both direct loans and guaranteed loans will be increased by 0.50 percent.

SENATE AMENDMENT (SECTION 1658)

The Senate amendment makes similar technical corrections and conforming changes, but does not change the sequestration procedure for student loan programs.

CONFERENCE AGREEMENT (SECTION 10208)

The conference agreement reflects the House bill with an additional technical change related to agriculture programs.

The amendments to section 256(b) update the special rule for guaranteed student loans to reflect recent changes in the Higher Education Act, including the introduction of the direct loan program, and for consistency with the Federal Credit Reform Act. The rule continues to allow a sequestration order to be carried out through a limited increase in loan origination fees.

The amendments to section 256(j) update the special rule for programs of the Commodity Credit Corporation to reflect recent changes in farm legislation. The rule allows for the application of a sequester order, if one is issued, to CCC programs on a crop-year basis, instead of a fiscal year basis, and for sequestration of the dairy program through reduction in price supports.

32. *Amendments to section 257 of Gramm-Rudman-Hollings*

HOUSE BILL (SECTION 11209)

The House bill makes various changes in the definition of the baseline which is used to score legislation for the purpose of enforcing PAYGO requirements. It modifies the rule that programs with outlays greater than $50 million are assumed to continue beyond their expiration date. As modified, the exception would apply only when the legislation explicitly designates that a provision is exempt from the baseline extension requirement.

It assumes that the baseline for expiring mandatory programs continues to operate under the law that was immediately in effect before the program's expiration.

It changes the index used for calculating the inflator from the "national product fixed-weight price index" to the "domestic product chain-type price index".

It changes the budgetary treatment of asset sales (which currently prohibits counting the proceeds of asset sales for PAYGO purposes). As modified, the proceeds will score only if the sale does not result in a net cost to the Federal government. The formula for making this determination is included in the scorekeeping guidelines.

SENATE AMENDMENT (SECTION 1659)

The Senate amendment is similar to the House bill with two exceptions. First, the Senate amendment provides a different treatment of the baseline for mandatory programs that exceed $50 million. Under current law, CBO and OMB will not score savings associated with terminating mandatory programs that exceed $50 million or reflect the termination of such programs in their baselines. The Senate amendment would allow CBO and OMB to score savings associated with the termination of mandatory programs and reflect the program's termination in the baseline if the legislation clearly eliminated the Federal government's financial obligation to continue to fund the program. Second, the Senate amendment conforms provisions of the Social Security Act regarding the budgetary treatment of the Hospital Insurance Fund with section 257 of GRH. The law is ambiguous regarding the budgetary treatment of the Hospital Insurance Fund. The amendment clarifies that this trust fund is not off-budget and modifies provisions regarding the budget resolution's display of health care budgetary levels.

CONFERENCE AGREEMENT (SECTION 10209)

The conference agreement reflects the Senate amendment with modifications. The conference agreement amends section 257 to provide that only those programs with current year outlays in excess of $50 million and that were in existence on or before the date of enactment of the Balanced Budget Act of 1997 are assumed to continue for the purposes of the baseline. The conference agreement provides that the Budget Committees and OMB, as applicable, will determine the scoring of new programs in excess of $50 million annually and CBO and OMB will consult on any differences on scoring of such new programs. The subsequent baseline treatment of such a new program should be consistent with the scoring of that program.

33. Amendments to section 258 of Gramm-Rudman-Hollings

HOUSE BILL (SECTION 11210)

This section removes a superseded provision (Section 258 of GRH) regarding modification of a presidential order.

SENATE AMENDMENT (SECTION 1660)

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT (SECTION 10210)

The Senate recedes to the House.

34. Amendments to section 274 of Gramm-Rudman-Hollings

HOUSE BILL (SECTION 11211)

Makes conforming changes to Section 274 of GRH (providing standing for Members of Congress and other persons affected by sequestration orders to seek judicial review) to reflect changes in section numbers made by this Act.

SENATE AMENDMENT (SECTION 1661)

The Senate amendment is identical with one technical exception.

CONFERENCE AGREEMENT (SECTION 10211)

The conference agreement reflects the House bill with modifications.

35. Amendments to section 275(b) of Gramm-Rudman-Hollings and section 14002(c)(3) of OBRA 1993

HOUSE BILL (SECTION 11212)

Makes conforming changes to the effective dates of certain programs in Part C of GRH to indicate that the sequestration rules and the special reconciliation process expire in 2002, while the other programs in Part C of GRH (including five-year estimates) expire in 2006.

This section also repeals an expiring provision of OBRA 1993 (section 14002(c)(3)) which provided that Part C of GRH (sequestration procedures) and Title VI of the Budget Act were to expire on September 30, 1998.

SENATE AMENDMENT (SECTION 1662)

The Senate amendment is identical to the House bill except that it sunsets pay-as-you-go sequester procedures in 2002.

CONFERENCE AGREEMENT (SECTION 10212)

The Senate recedes to the House.

36. Provisions related to the Paygo Scorecard

HOUSE BILL (SECTION 11213)

The House bill provides that existing PAYGO balance is eliminated. It further provides that the net deficit reduction from reconciliation is not counted under PAYGO. Such net savings could not be used to offset future PAYGO legislation. This effectively locks in the net savings from reconciliation and previously enacted PAYGO legislation for deficit reduction. This language is similar to language enacted as part of the Omnibus Reconciliation Act of 1993.

SENATE AMENDMENT (SECTION 1663)

The language in the Senate Amendment has the same effect as the House bill.

CONFERENCE AGREEMENT (SECTION 10213)

The conference agreement reflects the House bill with a modification with respect to the references to the two reconciliation bills.

Scorekeeping Guidelines

These budget scorekeeping guidelines are to be used by the House and Senate Budget Committees, the Congressional Budget Office, and the Office of Management and Budget (the "scorekeepers") in measuring compliance with the Congressional Budget Act of 1974 (CBA), as amended, and GRH as amended. The purpose of the guidelines is to ensure that the scorekeepers measure the effects of legislation on the deficit consistent with established scorekeeping conventions and with the specific requirements in those Acts regarding discretionary spending, direct spending, and receipts. These rules shall be reviewed annually by the scorekeepers and revised as necessary to adhere to the purpose. These rules shall not be changed unless all of the scorekeepers agree. New accounts or activities shall be classified only after consultation among the scorekeepers. Accounts and activities shall not be reclassified unless all of the scorekeepers agree.

1. Classification of appropriations

Following is a list of appropriations that are normally enacted in appropriations acts. The list identifies appropriated entitlements and other mandatory spending in appropriations acts, and it identifies discretionary appropriations by category.

2. Outlays prior

Outlays from prior-year appropriations will be classified consistent with the discretionary/mandatory classification of the account from which the outlays occur.

3. Direct spending programs

Entitlements and other mandatory programs (including offsetting receipts) will be scored at current law levels as defined in section 257 of GRH, unless Congressional action modifies the authorizing legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee's section 302(b) allocations in the House and the Senate. For the purpose of CBA scoring, direct spending savings that are included in both an appropriations bill and a reconciliation bill will be scored to the reconciliation bill and not to the appropriations bill. For scoring under sections 251 or 252 of GRH, such provisions will be scored to the first bill enacted.

4. Transfer of budget authority from a mandatory account to a discretionary account

The transfer of budget authority to a discretionary account will be scored as an increase in discretionary budget authority and outlays in the gaining account. The losing account will not show an offsetting reduction if the account is an entitlement or mandatory program.

5. Permissive transfer authority

Permissive transfers will be assumed to occur (in full or in part) unless sufficient evidence exists to the contrary. Outlays from such transfers will be estimated based on the best information available, primarily historical experience and, where applicable, indications of Executive or Congressional intent.

This guideline will apply both to specific transfers (transfers where the gaining and losing accounts and the amounts subject to transfer can be ascertained) and general transfer authority.

6. Reappropriations

Reappropriations of expiring balances of budget authority will be scored as new budget authority in the fiscal year in which the balances become newly available.

7. Advance appropriations

Advance appropriations of budget authority will be scored as new budget authority in the fiscal year in which the funds become newly available for obligation, not when the appropriations are enacted.

8. Rescissions and transfers of unobligated balances

Rescissions of unobligated balances will be scored as reductions in current budget authority and outlays in the year the money is rescinded.

Transfers of unobligated balances will be scored as reductions in current budget authority and outlays in the account from which the funds are being transferred, and as increases in budget authority and outlays in the account to which these funds are being transferred.

In certain instances, these transactions will result in a net negative budget authority amount in the source accounts. For purposes of section 257 of GRH, such amounts of budget authority will be projected at zero. Outlay estimates for both the transferring and receiving accounts will be based on the spending patterns appropriate to the respective accounts.

9. Delay of obligations

Appropriations acts specify a date when funds will become available for obligation. It is this date that determines the year for which new budget authority is scored. In the absence of such a date, the act is assumed to be effective upon enactment.

If a new appropriation provides that a portion of the budget authority shall not be available for obligation until a future fiscal year, that portion shall be treated as an advance appropriation of budget authority. If a law defers existing budget authority (or unobligated balances) from a year in which it was available for obligation to a year in which it was not available for obligation, that law shall be scored as a rescission in the current year and a reappropriation in the year in which obligational authority is extended.

10. Contingent legislation

If the authority to obligate is contingent upon the enactment of a subsequent appropriation, new budget authority and outlays will be scored with the subsequent appropriation. If a discretionary appropriation is contingent on the enactment of a subsequent authorization, new budget authority and outlays will be scored with the appropriation. If a discretionary appropriation is contingent on the fulfillment of some action by the Executive branch or some other event normally estimated, new budget authority will be scored with the appropriation, and outlays will be estimated based on the best information about when (or if) the contingency will be met. If direct spending legislation is contingent on the fulfillment of some action by the Executive branch or some other event normally estimated, new budget authority and outlays will be scored based on the best information about when (or if) the contingency will be met. Non-lawmaking contingencies within the control of the Congress are not scoreable events.

11. Scoring purchases, lease-purchases, capital leases, and operating leases

When a law provides the authority for an agency to enter into a contract for the purchase, lease-purchase, capital lease, or operating lease of an asset, budget authority and outlays will be scored as follows:

For lease-purchases and capital leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount of the estimated net present value of the government's total estimated legal obligations over the life of the contract, except for imputed interest costs calculated at Treasury rates for marketable debt instruments of similar maturity to the lease period and identifiable annual operating expenses that would be paid by the Government as owner (such as utilities, maintenance, and insurance). Property taxes will not be considered to be an operating cost. Imputed interest costs will be classified as mandatory and will not be scored against the legislation or for the current level but will count for other purposes.

For operating leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount necessary to cover the government's legal obligations. The amount scored will include the estimated total payments expected to arise under the full term of a lease contract or, if the contract will include a cancellation clause, an amount sufficient to cover the lease payments for the first fiscal year during which the contract is in effect, plus an amount sufficient to cover the costs associated with cancellation of the contract. For funds that are self-insuring under existing authority, only budget authority to cover the annual lease payment is required to be scored.

Outlays for a lease-purchase in which the Federal government assumes substantial risk—for example, through an explicit government guarantee of third party financing—will be spread across the period during which the contractor constructs, manufactures, or purchases the asset. Outlays for an operating lease, a capital lease, or a lease-purchase in which the private sector retains substantial risk, will be spread across the lease period. In all cases, the total amount of outlays scored over time against legislation will equal the amount of budget authority scored against that legislation.

No special rules apply to scoring purchases of assets (whether the asset is existing or is to be manufactured or constructed). Budget authority is scored in the year in which the authority to purchase is first made available in the amount of the government's estimated legal obligations. Outlays scored will equal the estimated disbursements by the government based on the particular purchase arrangement, and over time will equal the amount of budget authority scored against that legislation.

Existing contracts will not be rescored.

To distinguish lease purchases and capital leases from operating leases, the following criteria will be used for defining an operating lease:

—Ownership of the asset remains with the lessor during the term of the lease and is not transferred to the Government at or shortly after the end of the lease period.

—The lease does not contain a bargain-price purchase option.

—The lease term does not exceed 75 percent of the estimated economic lifetime of the asset.

—The present value of the minimum lease payments over the life of the lease does not exceed 90 percent of the fair market value of the asset at the inception of the lease.

—The asset is a general purpose asset rather than being for a special purpose of the Government and is not built to unique specification for the Government as lessee.

—There is a private-sector market for the asset.

Risks of ownership of the asset should remain with the lessor.

Risk is defined in terms of how governmental in nature the project is. If a project is less governmental in nature, the private-sector risk is considered to be higher. To evaluate the level of private-sector risk associated with a lease-purchase, legislation and lease-purchase contracts will be considered against the following type of illustrative criteria, which indicate ways in which the project is less governmental:

—There should be no provision of Government financing and no explicit government guarantee of third party financing.

—Risks of ownership of the asset should remain with the lessor unless the government was at fault for such losses.

—The asset should be a general purpose asset rather than for a special purpose of the government and should not be built to unique specification for the government as lessee.

—There should be a private-sector market for the asset.

—The project should not be constructed on government land.

Language that attempts to waive the Anti-Deficiency Act, or to limit the amount or timing of obligations recorded, does not change the government's obligations or obligational authority, and so will not affect the scoring of budget authority or outlays.

Unless language that authorizes a project clearly states that no obligations are allowed unless budget authority is provided specifically for that project in an appropriations bill in advance of the obligation, the legislation will be interpreted as providing obligation authority, in an amount to be estimated by the scorekeepers.

12. Write-offs of uncashed checks, unredeemed food stamps, and similar instruments

Exceptional write-offs of uncashed checks, unredeemed food stamps, and similar instruments (i.e., write-offs of cumulative balances that have built up over several years or have been on the books for several years) shall be scored as an adjustment to the means of financing the deficit rather than as an offset. An estimate of write-offs or similar adjustments that are part of a continuing routine process shall be netted against outlays in the year in which the write-off will occur. Such write-offs shall be recorded in the account in which the outlay was originally recorded.

13. Reclassification after an agreement

Except to the extent assumed in a budget agreement, a law that has the effect of altering the classification or scoring of spending and revenues (e.g., from discretionary to mandatory, special fund to revolving fund, on-budget to off-budget, revenue to offsetting receipt), will not be scored as reclassified for the purpose of enforcing a budget agreement.

14. Scoring of receipt increases or direct spending reductions for additional administrative or program management expenses

No increase in receipts or decrease in direct spending will be scored as a result of provisions of a law that provides direct spending for administrative or program management activities.

15. Asset sales

If the net financial cost to the government of an asset sale is zero or negative (a savings), the amount scored shall be the estimated change in receipts and mandatory outlays in each fiscal year on a cash basis. If the cost to the government is positive (a loss), the proceeds from the sale shall not be scored for purposes of the CBA or GRH.

The net financial cost to the federal government of an asset sale shall be the net present value of the cash flows from:

(1) estimated proceeds from the asset sale;

(2) the net effect on federal revenues, if any, based on special tax treatments specified in the legislation;

(3) the loss of future offsetting receipts that would otherwise be collected under continued government ownership (using baseline levels for the projection period and estimated levels thereafter); and

(4) changes in future spending, both discretionary and mandatory, from levels that would otherwise occur under continued government ownership (using baseline levels for the projection period and at levels estimated to be necessary to operate and maintain the asset thereafter).

The discount rate used to estimate the net present value shall be the average interest rate on marketable Treasury securities of similar maturity to the expected remaining useful life of the asset for which the estimate is being made, plus 2 percentage points to reflect the economic effects of continued ownership by the government.

Explanation of changes to the scorekeeping guidelines

The Scorekeeping Guidelines above are based on the guidelines that accompanied the Budget Enforcement Act of 1990 and have been used for scoring legislation since that time. Some of the existing guidelines have been changed in order to clarify them. Some new guidelines were added to make certain current scoring conventions explicit. There are no substantive changes from current scorekeeping practices. The changes to the introductory paragraph make it clear that the scorekeepers—the Budget Committees, CBO, and OMB—are bound by established scorekeeping conventions and the specific requirements of the Congressional Budget Act and the Balanced Budget Act, as amended by the Budget Enforcement Act. They also make it clear that the guidelines will be reviewed and changed if all of the scorekeepers agree. The scorekeepers are required to consult on new account classifications and must agree to any reclassification. Following is a description of the significant changes to specific scorekeeping guidelines.

1. Classification of appropriations

There was no substantive change to this guideline. The title was changed to more accurately reflect the nature of the list of accounts to which the guideline refers. The list includes mandatory appropriations and discretionary accounts listed according to the new categories—defense, non-defense, and violent crime reduction.

2. Outlays prior

No significant change.

3. Direct spending programs

Language was added on scoring provisions that affect direct spending when similar provisions are included in both an appropriations bill and a reconciliation bill. This requirement applies to bills, not to enacted legislation.

4. Transfer of budget authority from a mandatory to a discretionary account—No change.

5. Permissive transfer authority—No significant change.

6. Reappropriations—No change.

7. Advance appropriations—No significant change.

8. Rescissions and transfers of unobligated balances—No significant change.

9. Delay of obligations

The existing guideline covers the scoring of legislation with provisions that delay obligations and contingencies. There are no significant changes to the part concerning delay of obligations. The part concerning contingencies has been broken out as a separate guideline—new guideline 10.

10. Contingent legislation

The existing language (formerly part of guideline 9) was changed to clarify the treatment of contingencies affecting discretionary spending versus those affecting direct spending.

The former guideline 10, concerning the absorption of pay raises, has been deleted because it was no longer necessary. Any pay raises are assumed to be within the caps.

11. Scoring purchases, lease-purchases, and capital leases

The changes in this guideline clarify existing conventions that were developed to implement the 1990 requirements. The requirements are generally consistent with commercial accounting practices. Matter formerly included in an addendum to the rule has been integrated into the rule itself.

12. Write-offs of uncashed checks, unredeemed food stamps, and similar instruments—No change.

13. Reclassification after an agreement—No significant change.

14. Scoring of receipt increases or direct spending reductions for additional administrative or program management expenses

This new rule would prohibit scoring direct spending, savings, or receipt increases to legislation providing mandatory spending for administrative or program management activities.

15. Asset sales

GRH formerly included a prohibition on the scoring of the proceeds from asset sales. That provision was amended to allow scoring on a cash basis if the sale does not result in a net cost to the government over the long term. This guideline specifies the method for determining the net financial cost to the government of an asset sale. It requires a calculation of the net present value of the estimated changes in cash flows resulting from the sale. It requires using a discount rate equal to the interest rate on Treasury securities plus 2 percentage points. The 2 percentage points addition is an arbitrary factor intended to take into account the economic effects of continued government ownership. This is believed to be a fairer test that handicaps for private sector risk and taxes.

APPROPRIATED ENTITLEMENTS AND MANDATORIES FOR FISCAL YEAR 1997

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

Agriculture Department:

Agricultural Marketing Service:

12-5209 -0-2-605 Funds for strengthening markets, income, and supply (section 32)[1]

Risk Management Agency:

12-4085 -0-3-351 Federal Crop Insurance Corporation fund

Farm Service Agency:

12-3314 -0-1-351 Dairy indemnity program

12-4336 -0-3-351 Commodity Credit Corporation fund

Food and Consumer Service:

12-3505 -0-1-605 Food stamp program

12-3539 -0-1-605 Child nutrition programs

Treasury Department:

Financial Management Service:

20-1850 -0-1-351 Payments to the farm credit system financial assistance corp.

COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES

The Judiciary:

10-0100 -0-1-752 Supreme Court of the United States, Salaries and expenses[2]

10-0400 -0-1-752 U.S. Court of International Trade, Salaries and expenses[2]

10-0510 -0-1-752 U.S. Court of Appeals for the Federal Circuit, Salaries and expenses[2]

10-0920 -0-1-752 Courts of Appeals, District Courts, etc., Salaries and expenses[2]

10-0941 -0-1-752 Judicial Retirement Funds, Payment to judiciary trust funds

Commerce Department:

National Oceanic and Atmospheric Administration:

13-4313 -0-3-306 Coastal zone management fund[3]

Justice Department:

Legal Activities:

15-0311 -0-1-752 Fees and expenses of witnesses

15-0327 -0-1-752 Independent counsel

15-0329 -0-1-808 Civil liberties public education fund

Office of Justice Programs:

15-0403 -0-1-754 Public safety officers' benefits[4]

State Department:

Administration of Foreign Affairs:

19-0540 -0-1-153 Payment to the Foreign Service retirement and disability fund

DEFENSE

Central Intelligence Agency:

56-3400 -0-1-054 Payment to Central Intelligence Agency retirement and disability fund

DISTRICT OF COLUMBIA

No mandatory accounts.

ENERGY AND WATER DEVELOPMENT

No mandatory accounts.

FOREIGN OPERATIONS

Agency for International Development:

72-1036 -0-1-153 Payment to the Foreign Service retirement and disability fund

INTERIOR AND RELATED AGENCIES

Interior Department:

Bureau of Land Management:

14-5132 -0-2-302 Range improvements

14-9971 -0-7-302 Miscellaneous trust funds

Insular Affairs:

14-0412 -0-1-808 Assistance to territories[5]

14-0415 -0-1-808 Compact of free association[6]

LABOR, HHS, EDUCATION AND RELATED AGENCIES

Labor Department:

Employment and Training Services:

16-0326 -0-1-504 Federal unemployment benefits and allowances (FUBA)

16-0326 -0-1-603 Federal unemployment benefits and allowances (FUBA)

16-0327 -0-1-601 Advances to the unemployment trust fund and other funds

Employment Standards Administration:

16-1521 -0-1-601 Special benefits

16-1521 -0-1-602 Special benefits

20-8144 -0-7-601 Black lung disability trust fund

Health and Human Services:

Health Resources and Services Administration:

75-0350 -0-1-551 Health resources and services[7]

75-0320 -0-1-551 Vaccine injury compensation

75-9931 -0-3-551 Health loan funds

75-4430 -0-1-551 Medical facilities guarantee and loan fund

20-8175 -0-7-551 Vaccine injury compensation program trust fund[8]

Health Care Financing Administration (HCFA):

75-0512 -0-1-551 Grants to States for Medicaid

75-0580 -0-1-571 Payments to health care trust funds

75-4420 -0-3-551 HMO loan and loan guarantee fund

Administration for Children and Families:

75-1501 -0-1-609 Family support payments to States

75-1509 -0-1-504 Job opportunities and basic skills

75-1512 -0-1-506 Family preservation and support

75-1534 -0-1-506 Social services block grant

75-1545 -0-1-506 Payments to States for foster care and adoption assistance

Program Support Center:

75-0379 -0-1-551 Retirement pay and medical benefits for commissioned officers

Education Department:

Office of Special Education and Rehabilitative Services:

91-0301 -0-1-506 Rehabilitative services and disability research

Social Security Administration:

28-0404 -0-1-651 Payments to social security trust funds

28-0409 -0-1-601 Special benefits for disabled coal miners

28-0406 -0-1-609 Supplemental security income program[9]

Treasury Department:

20-1702 -0-1-808 Payment to D.C. financial responsibility and management assistance authority

LEGISLATIVE BRANCH

Legislative Branch:

Senate:

00-0100 -0-1-801 Compensation of members, Senate

00-0115 -0-1-801 Payments to windows and heirs of deceased members of Congress—Senate

House:

00-0200 -0-1-801 Compensation of members, House and related administrative expenses

00-0215 -0-1-801 Payments to windows and heirs of deceased members of Congress—House

MILITARY CONSTRUCTION

No mandatory accounts.

TRANSPORTATION

Transportation Department:

Coast Guard:

69-0241 -0-1-403 Retired pay

69-8349 -0-7-304 Oil spill recovery

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

Treasury Department:

Bureau of the Public Debt:

20-1710 -0-1-803 Payment of government losses in shipment

20-0560 -0-1-803 Administering the public debt[10]

Postal Service:

18-1004 -0-1-372 Payment to the Postal Service fund for non-funded liabilities

Office of Personnel Management:

24-0206 -0-1-551 Government payment for annuitants, employees health benefits

24-0500 -0-1-602 Government payment for annuitants, employee life insurance benefits

24-0200 -0-1-805 Payment to civil service retirement and disability fund

Executive Office of the President:

Compensation of the President and the White House Office:

11-0001 -0-1-802 Compensation of the President

VETERANS, HOUSING AND URBAN, AND INDEPENDENT AGENCIES

Housing and Urban Development:

Housing Programs:

86-0183 -0-1-371 FHA-mutual mortgage insurance program account[11]

Veterans Affairs:

Veterans Benefits Administration:

36-0153 -0-1-701 Compensation

36-0154 -0-1-701 Pensions

36-0155 -0-1-701 Burial benefits and miscellaneous assistance

36-0137 -0-1-702 Readjustment benefits

36-0120 -0-1-701 Veterans insurance and indemnities

36-0138 -0-1-704 Veterans housing benefit program fund program account[9]

Other Agencies:

51-4065 -0-3-373 FSLIC resolution fund

APPROPRIATED ENTITLEMENTS AND MANDATORIES FOR FISCAL YEAR 1997—FOOTNOTES:

[1] The entire account shall be scored as mandatory except to the extent that discretionary set asides are specified in appropriations language.

[2] Account split—only salaries of judges are mandatory.

[3] Account split—loan repayments from the former Coastal Zone Emergency Impact Program are mandatory.

[4] Account split—the entire account shall be scored as mandatory except to the extent that discretionary activities are specified in appropriations language.

[5] Account split—the interest rate differential related to the Guam Power Authority refinancing and the Northern Marianas covenant will be scored as mandatory.

[6] Account split—the account shall be split between mandatory payments (required by treaty) and discretionary costs.

[7] Account split—the Welfare Reform bill provides $50 million in mandatory funding for each fiscal year from 1998 through 2002.

[8] The administrative expenses associated with this account are discretionary within the jurisdiction of the Commerce, Justice, State subcommittee.

[9] Account split—administrative expenses shall be scored as discretionary budget authority and outlays.

[10] Account split—reimbursement to the Federal Reserve is mandatory.

[11] Portion of account is discretionary.

DISCRETIONARY APPROPRIATIONS CATEGORIES

The following is a list of discretionary accounts organized by three subsets of discretionary appropriations: defense discretionary; non-defense discretionary, excluding violent crime reduction; and, violent crime reduction, pursuant to Section 250(c)4. New accounts or activities shall be classified or reclassified consistent with the Scorekeeping Guidelines.

APPROPRIATED DEFENSE DISCRETIONARY ACCOUNTS FOR FISCAL YEAR 1997

COMMERCE, JUSTICE, STATE

Transportation Department:

Maritime Administration:

69-1711 -0-1-054 Maritime security program

Justice Department:

Radiation Exposure Compensation:

15-0105 -0-1-054 Administrative expenses

15-0333 -0-1-054 Payment to the radiation exposure compensation trust fund

15-8116 -0-7-054 Radiation exposure compensation trust fund

Federal Bureau of Investigation:

15-0200 -0-1-054 Salaries and expenses

15-0202 -0-1-054 Telecommunications carrier compliance fund

Defense Department:

Military Personnel:

21-2010 -0-1-051 Army

17-1453 -0-1-051 Navy

17-1105 -0-1-051 Marine Corps

57-3500 -0-1-051 Air Force

21-2070 -0-1-051 Reserve Forces, Reserve personnel, Army

17-1405 -0-1-051 Reserve personnel, Navy

17-1108 -0-1-051 Reserve personnel, Marine Corps

57-3700 -0-1-051 Reserve personnel, Air Force

21-2060 -0-1-051 National Guard personnel, Army

57-3850 -0-1-051 National Guard personnel, Air Force

Operations and Maintenance:

21-2020 -0-1-051 Army

17-1804 -0-1-051 Navy

17-1106 -0-1-051 Marine Corps

57-3400 -0-1-051 Air Force

97-0100 -0-1-051 Defense-wide

97-0107 -0-1-051 Office of the Inspector General

21-2080 -0-1-051 Army Reserve

17-1806 -0-1-051 Navy Reserve

17-1107 -0-1-051 Marine Corps Reserve

57-3740 -0-1-051 Air Force Reserve

21-2065 -0-1-051 Army National Guard

57-3840 -0-1-051 Air National Guard

97-0839 -0-1-051 Quality of Life Enhancements, Defense

97-0118 -0-1-051 Overseas contingency operations transfer account

97-0104 -0-1-051 United States Courts of Appeals for the armed forces

97-0105 -0-1-051 Drug interdiction and counter-drug activities, Defense

97-0838 -0-1-051 Support for international sporting competitions, Defense

97-0131 -0-1-051 Real property maintenance, Defense

97-0132 -0-1-051 Disaster relief

97-0130 -0-1-051 Defense health program

97-0810 -0-1-051 Environmental restoration, Defense

97-0819 -0-1-051 Overseas humanitarian, disaster and civic aid

97-0828 -0-1-051 Defense reinvestment for economic growth

97-0134 -0-1-051 Former Soviet Union threat reduction account

97-0837 -0-1-051 Defense Against Weapons of Mass Destruction

17-1236 -0-1-051 Payment to Kaho'Olawe conveyance, remediation, and environmental Restoration fund

97-0833 -0-1-051 Emergency response fund

97-9922 -0-2-051 Disposal and lease of DOD real property

97-5193 -0-2-051 Overseas military facility investment recovery

97-5441 -0-2-051 Burdensharing and other cooperative activities

17-5185 -0-2-051 Kaho'Olawe Island conveyance, remediation, and environmental restoration fund

Procurement:

21-2031 -0-1-051 Aircraft procurement, Army

21-2032 -0-1-051 Missile procurement, Army

21-2033 -0-1-051 Procurement of weapons and tracked combat vehicles, Army

21-2034 -0-1-051 Procurement of ammunition, Army

21-2035 -0-1-051 Other procurement, Army

97-0835 -0-1-051 Defense export loan guarantee program account

17-1506 -0-1-051 Aircraft procurement, Navy

17-1507 -0-1-051 Weapons procurement, Navy

17-1508 -0-1-051 Procurement of ammunition, Navy and Marine Corps

17-1611 -0-1-051 Shipbuilding and conversion, Navy

17-1810 -0-1-051 Other procurement, Navy

17-1109 -0-1-051 Marine Corps

57-3010 -0-1-051 Aircraft procurement, Air Force

57-3020 -0-1-051 Missile procurement, Air Force

57-3011 -0-1-051 Procurement of ammunition, Air Force

57-3080 -0-1-051 Other procurement, Air Force

97-0300 -0-1-051 Procurement, Defense-wide

97-0350 -0-1-051 National guard and reserve equipment

97-0360 -0-1-051 Defense production act purchases

97-0390 -0-1-051 Chemical agents and munitions destruction, Army

Research, development, test, and evaluation:

21-2040 -0-1-051 Army

17-1319 -0-1-051 Navy

57-3600 -0-1-051 Air Force

97-0400 -0-1-051 Defense-wide

97-0450 -0-1-051 Developmental test and evaluation, Defense

97-0460 -0-1-051 Operational test and evaluation, Defense

Revolving and Management Funds:

97-4555 -0-3-051 National defense stockpile transaction fund

17-4557 -0-4-051 National defense sealift fund

97-4930 -0-4-051 Defense Business Operation Fund (DBOF)

Allowances:

97-9918 -0-1-051 General transfer authority outlay allowance

Trust Funds:

97-8168 -0-7-051 Trust Funds, National security education trust fund

Other Agencies:

95-0401 -0-1-054 Intelligence community management account

ENERGY AND WATER DEVELOPMENT

Energy Department:

Atomic Energy Defense Activities:

89-0240 -0-1-053 Weapons activities

89-0242 -0-1-053 Defense environmental restoration and waste management

89-0243 -0-1-053 Other Defense Activities

89-0244 -0-1-053 Defense nuclear waste disposal

Other Agencies:

95-3900 -0-1-053 Defense Nuclear Facilities Safety Board, Salaries and expenses

MILITARY CONSTRUCTION

Defense Department:

Military Construction:

21-2050 -0-1-051 Army

17-1205 -0-1-051 Navy

57-3300 -0-1-051 Air Force

97-0500 -0-1-051 Defense-wide

97-0804 -0-1-051 North Atlantic Treaty Organization security investment program

21-2085 -0-1-051 Army National Guard

57-3830 -0-1-051 Air National Guard

21-2086 -0-1-051 Army Reserve

17-1235 -0-1-051 Naval Reserve

57-3730 -0-1-051 Air Force Reserve

97-0103 -0-1-051 Base realignment and closure account

Family Housing:

21-0702 -0-1-051 Army

17-0703 -0-1-051 Navy and Marine Corps

57-0704 -0-1-051 Air Force

97-0706 -0-1-051 Defense-wide

97-4090 -0-3-051 Homeowners assistance fund, Defense

97-0834 -0-1-051 Family housing improvement fund

97-0836 -0-1-051 Military unaccompanied housing improvement fund

TRANSPORTATION AND RELATED AGENCIES

Transportation Department:

Coast Guard:

69-0201 -0-1-054 Operating expenses

VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEMA:

58-0100 -0-1-054 Salaries and expenses

58-0101 -0-1-054 Emergency management planning and assistance

NSF:

49-0100 -0-1-054 Research and related activities

Selective Service System:

90-0400 -0-1-054 Salaries and expenses

APPROPRIATED DOMESTIC DISCRETIONARY ACCOUNTS FOR FISCAL YEAR 1997

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Agriculture Department:

Office of the Secretary:

12-0115 -0-1-352 Office of the Secretary

Executive Operations:

12-0705 -0-1-352 Executive Operations

12-0014 -0-1-352 Chief financial officer

Departmental Administration:

12-0120 -0-1-352 Departmental Administration

12-0500 -0-1-304 Hazardous waste management

12-0117 -0-1-352 Agriculture buildings and facilities and rental payments

Office of Communication:

12-0150 -0-1-352 Office of Communications

Office of the Inspector General:

12-0900 -0-1-352 Office of the Inspector General

Office of the General Counsel:

12-2300 -0-1-352 Office of the General Counsel

Economic Research Service:

12-1701 -0-1-352 Economic Research Service

National Agricultural Statistics Service:

12-1801 -0-1-352 National Agricultural Statistics Service

Agricultural Research Service:

12-1400 -0-1-352 Agricultural Research Service

12-1401 -0-1-352 Buildings and facilities

Cooperative State Research, Education and Extension Service:

12-1500 -0-1-352 Cooperative state research activities

12-0502 -0-1-352 Extension activities

Animal and Plant Health Inspection Service:

12-1600 -0-1-352 Salaries and expenses[1]

12-1601 -0-1-352 Buildings and facilities

Food Safety and Inspection Services:

12-3700 -0-1-554 Salaries and expenses

Grain Inspection, Packers, and Stockyards Administration:

12-2400 -0-1-352 Salaries and expenses

Agricultural Marketing Service:

12-2500 -0-1-352 Marketing services

12-2501 -0-1-352 Payments to States and possessions

Risk Management Agency (Federal Crop Insurance Corporation):

12-2707 -0-1-351 Administrative and operating expenses

Farm Service Agency:

12-0600 -0-1-351 Salaries and expenses

12-3300 -0-1-351 Salaries and expenses

12-3315 -0-1-302 Agricultural conservation program

12-0170 -0-1-351 State mediation grants

12-3316 -0-1-453 Emergency conservation program

12-1336 -0-1-351 Commodity Credit Corporation export loans program account[1]

12-1140 -0-1-351 Agricultural credit insurance fund program account

Natural Resources Conservation Service:

12-1000 -0-1-302 Conservation operations

12-1066 -0-1-301 Watershed surveys and planning

12-1072 -0-1-301 Watershed and flood prevention operations

12-1010 -0-1-302 Resource conservation and development

12-0601 -0-1-351 Outreach for socially disadvantaged farmers

12-2268 -0-1-302 Great plains conservation program

12-3336 -0-1-302 Forestry incentives program

12-3320 -0-1-302 Water Bank program

12-3318 -0-1-304 Colorado river basin salinity control program

12-3337 -0-1-304 Rural clean water program

Rural Utilities Service:

12-1981 -0-1-452 Salaries and expenses

12-2045 -0-1-304 Solid waste management grants

12-2046 -0-1-451 Emergency community water assistance grants

12-2066 -0-1-452 Rural water and waste disposal grants

12-1230 -0-1-271 Rural electrification and telecommunications loans program account[1]

12-1980 -0-1-452 Rural water and waste disposal loans program account

12-1231 -0-1-452 Rural telephone bank program account

Rural Housing Service:

12-1952 -0-1-452 Salaries and expenses

12-1953 -0-1-452 Rural housing assistance grants

12-0137 -0-1-604 Rental assistance program

12-2002 -0-1-604 Rural Housing Service, Rural housing voucher program

12-2004 -0-1-604 Rural housing for domestic farm labor grants

12-2006 -0-1-604 Mutual and self-help housing grants

12-2009 -0-1-604 Supervisory and technical assistance grants

12-2064 -0-1-604 Very low income housing repair grants

12-2067 -0-1-452 Rural community fire protection grants

12-2070 -0-1-604 Rural housing preservation grants

12-1951 -0-1-452 Rural community facility loans program account

12-2081 -0-1-371 Rural housing insurance fund program account

Rural Business and Cooperative Development Service:

12-1903 -0-1-452 Rural Business—Cooperative Service, Salaries and Expenses

12-3400 -0-1-452 Salaries and expenses (Rural Development Administration)

12-1900 -0-1-452 Rural cooperative development grants

12-1901 -0-1-452 Local technical assistance and planning grants

12-2065 -0-1-452 Rural Business—Cooperative Service

12-1902 -0-1-452 Rural business and industry loans program account

12-2069 -0-1-452 Rural development loan fund program account

12-3108 -0-1-452 Rural economic development loans program account

12-4144 -0-3-352 Alternative agricultural research and commercialization corporation

Foreign Agricultural Service:

12-2900 -0-1-352 Foreign agricultural service and general sales manager

12-1404 -0-1-352 Scientific activities overseas (foreign currency program)

12-2278 -0-1-151 Public Law 480 Grants—Titles I (OFD), II, and III

12-2277 -0-1-351 P.L. 480 program account

Food and Consumer Service:

12-3508 -0-1-605 Food program administration

12-3510 -0-1-605 Special supplemental nutrition program for women, infants, and children

12-3507 -0-1-605 Commodity assistance program

12-3503 -0-1-605 Food donations programs for selected groups[2]

Health and Human Services:

Food and Drug Administration:

75-0600 -0-1-554 Salaries and expenses

75-0601 -0-1-554 Rental payments

75-0603 -0-1-554 Buildings and facilities

75-9911 -0-1-554 Salaries and expenses

Other Agencies:

95-1400 0-1-376 Commodity Futures Trading Commission

COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES

Legislative Branch:

48-2101 -0-1-801 Gambling Impact Study Commission: Salaries and expenses

00-0110 -0-1-153 Commission on Security and Cooperation in Europe: Salaries and expenses

95-0650 -0-1-801 Commission on Immigration Reform: Salaries and expenses

The Judiciary:

Supreme Court of the United States:

10-0100 -0-1-752 Salaries and expenses[2]

10-0103 -0-1-752 Care of the buildings and grounds

United States Court of Appeals for the Federal Circuit:

10-0510 -0-1-752 Salaries and expenses[2]

United States Court of International Trade:

10-0400 -0-1-752 Salaries and expenses[2]

Courts of Appeals, District Courts, and other judicial services:

10-0920 -0-1-752 Salaries and expenses[2]

10-0923 -0-1-752 Defender services

10-0925 -0-1-752 Fees of jurors and commissioners

10-0930 -0-1-752 Court security

Administrative Office of the United States Courts:

10-0927 -0-1-752 Salaries and expenses

Federal judicial center:

10-0928 -0-1-752 Salaries and expenses

United States Sentencing Commission:

10-0938 -0-1-752 Salaries and expenses

Commerce Department:

General Administration:

13-0120 -0-1-376 Salaries and expenses

13-0126 -0-1-376 Office of the Inspector General

Economic Development Agency:

13-0125 -0-1-452 Salaries and expenses

13-2050 -0-1-452 Economic development assistance programs

Bureau of the Census:

13-0401 -0-1-376 Salaries and expenses[1]

13-0450 -0-1-376 Periodic censuses and programs

Economic and Statistical Analysis:

13-1500 -0-1-376 Salaries and expenses

13-4323 -0-3-376 Economics and statistics administration revolving fund

International Trade Administration:

13-1250 -0-1-376 Operations and administration

Export Administration:

13-0300 -0-1-376 Operations and administration

Minority Business Development Agency:

13-0201 -0-1-376 Minority business development

U.S. Travel and Tourism Administration:

13-0700 -0-1-376 United States Travel and Tourism Administration, Salaries and expenses

National Oceanic and Atmospheric Administration:

13-1450 -0-1-306 Operations, research, and facilities

13-1450 -0-1-376 Operations, research, and facilities

13-1452 -0-1-306 Construction

13-1457 -0-1-376 Fleet Modernization, shipbuilding and conversion

13-5139 -0-2-376 Promote and develop fishery products and research pertaining to American fisheries[1]

13-5124 -0-2-376 Fisheries promotional fund

13-4313 -0-3-306 Coastal zone management fund[2]

13-5120 -0-2-376 Fishermen's contingency fund

13-5119 -0-2-376 Fishing vessel and gear damage compensation fund

13-4316 -0-3-304 Damage assessment and restoration revolving fund

13-1456 -0-1-376 Fisheries finance, program account

13-5122 -0-2-376 Foreign fishing observer fund

Patent and Trademark Office:

13-1006 -0-1-376 Salaries and expenses

Technology Administration:

13-1100 -0-1-376 Salaries and expenses

National Technical Information Service:

13-4295 -0-3-376 NTIS revolving fund

National Institutes of Standards and Technology:

13-0500 -0-1-376 Scientific and technical research and services

13-0525 -0-1-376 Industrial technology services

13-0515 -0-1-376 Construction of research facilities

13-4650 -0-4-376 Working capital fund

National Telecommunications and Information Administration:

13-0550 -0-1-376 Salaries and expenses

13-0551 -0-1-503 Public broadcasting facilities, planning and construction

13-0552 -0-1-503 Information infrastructure grants

Department of Health and Human Services:

Health Resources and Services Administration:

20-8175 -0-7-551 Vaccine injury compensation program trust fund[2]

Justice Department:

General Administration:

15-0129 -0-1-751 General Administration, Salaries and expenses

15-0130 -0-1-751 Counterterrorism fund

15-0328 -0-1-751 Office of the Inspector General

15-0339 -0-1-751 Administrative review and appeals

U.S. Parole Commission:

15-1061 -0-1-751 Salaries and expenses

Legal Activities:

15-0128 -0-1-752 Salaries and expenses, General legal activities

15-0319 -0-1-752 Antitrust division, Salaries and expenses

15-0322 -0-1-752 United States Attorneys, Salaries and expenses

15-0100 -0-1-153 Salaries and expenses, foreign claims settlement commission

15-0324 -0-1-752 United States Marshals service, Salaries and expenses

15-1020 -0-1-752 Federal prisoner detention

15-0500 -0-1-752 Community relations service, Salaries and expenses

15-5073 -0-2-752 United States trustees system fund

15-5042 -0-2-752 Assets forfeiture fund[1]

Interagency Law Enforcement:

15-0323 -0-1-751 Interagency crime and drug enforcement

Federal Bureau of Investigation:

15-0200 -0-1-751 Salaries and expenses

15-0203 -0-1-751 Construction

15-0202 -0-1-751 Telecommunications carrier compliance fund

Drug Enforcement Administration:

15-1100 -0-1-751 Salaries and expenses

15-1101 -0-1-751 Construction

Immigration and Naturalization Service:

15-1217 -0-1-751 Salaries and expenses

15-1219 -0-1-751 Construction

15-1218 -0-1-751 Immigration Emergency Fund

Federal Prison System:

15-1060 -0-1-753 Salaries and expenses

15-1003 -0-1-753 Buildings and facilities

15-4500 -0-4-753 Federal Prison Industries, Incorporated[1]

Office of Justice Programs:

15-0401 -0-1-754 Justice assistance

15-0404 -0-1-754 State and local law enforcement assistance

15-0405 -0-1-754 Juvenile justice program

15-0403 -0-1-754 Public safety officers' benefits[2]

State Department:

Administration of Foreign Affairs:

19-0113 -0-1-153 Diplomatic and consular programs

19-0107 -0-1-153 Salaries and expenses

19-0120 -0-1-153 Capital investment fund

19-0529 -0-1-153 Office of the Inspector General

19-0535 -0-1-153 Security and maintenance of United States missions

19-0545 -0-1-153 Representation allowances

19-0520 -0-1-153 Protection of foreign missions and officials

19-0522 -0-1-153 Emergencies in the diplomatic and consular service

19-0523 -0-1-153 Payment to the American Institute in Taiwan

19-0601 -0-1-153 Repatriation loans program account

International Organizations and Conferences:

19-1126 -0-1-153 Contributions to international organizations

19-1124 -0-1-153 Contributions for international peacekeeping activities

19-1125 -0-1-153 International conferences and contingencies

International Commissions:

19-1069 -0-1-301 Salaries and expenses, IBWC

19-1078 -0-1-301 Construction, IBWC

19-1082 -0-1-301 American sections, international commissions

19-1087 -0-1-302 International fisheries commissions

Other:

19-0525 -0-1-154 Payment to the Asia foundation

Transportation Department:

Maritime Administration:

69-1709 -0-1-403 Operating differential subsidies

69-1750 -0-1-403 Operations and Training

69-1752 -0-1-403 Maritime guaranteed loan (Title XI) program account

Small Business Administration:

73-0100 -0-1-376 Small Business Administration, Salaries and expenses

73-0200 -0-1-376 Office of Inspector General

73-4156 -0-3-376 Surety bond guarantees revolving fund

73-1154 -0-1-376 Business loan program account

73-1152 -0-1-453 Disaster loans program account

Legal Services Corporation:

20-0501 -0-1-752 Payment to the Legal Services Corporation

United States Information Agency:

67-0201 -0-1-154 International information programs

67-0400 -0-1-154 Technology fund

67-0209 -0-1-154 Educational and cultural exchange programs

67-0210 -0-1-154 National Endowment for Democracy

67-0208 -0-1-154 Broadcasting to Cuba

67-0202 -0-1-154 East-West center

67-0203 -0-1-154 North/South Center

67-0206 -0-1-154 International broadcasting operations

67-0204 -0-1-154 Radio construction

Ounce of Prevention Council:

95-0100 -0-1-754 Violent crime reduction programs

Other Agencies:

09-9911 -0-1-801 Other legislative branch boards and commissions

11-0400 -0-1-802 Office of the United States Trade Representative, Salaries and expenses

27-0100 -0-1-376 Federal Communications Commission, Salaries and expenses

29-0100 -0-1-376 Federal Trade Commission, Salaries and expenses

34-0100 -0-1-153 International Trade Commission, Salaries and expenses

45-0100 -0-1-751 Equal Employment Opportunity Commission, Salaries and expenses

48-0052 -0-1-752 State Justice Institute, Salaries and expenses

48-2101 -0-1-801 Legislative Branch, Legislative Branch Boards and Commissions, Gambling impact study commission

50-0100 -0-1-376 Securities and Exchange Commission, Salaries and expenses

65-0100 -0-1-403 Federal Maritime Commission, Salaries and expenses

94-0100 -0-1-153 Arms Control and Disarmament Agency, Arms control and disarmament activities

95-1900 -0-1-751 Commission on Civil Rights, Salaries and expenses

95-2200 -0-1-302 Marine Mammal Commission, Salaries and expenses

95-3700 -0-1-153 Commission for the Preservation of America's Heritage Abroad, Salaries and expenses

95-8025 -0-7-154 Japan-United States Friendship Commission, Japan-United States friendship trust fund

95-8276 -0-7-154 Israeli Arab and Eisenhower exchange fellowship programs

DEFENSE

Department of Defense:

Research, Development, Test, and Evaluation:

21-2040 -0-1-552 Army

DISTRICT OF COLUMBIA

20-1700 -0-1-806 Federal payment to the District of Columbia

ENERGY AND WATER DEVELOPMENT

DOD-Civil, Corps of Engineers:

Corps of Engineers:

96-3121 -0-1-301 General investigations

96-3122 -0-1-301 Construction, general

96-3123 -0-1-301 Operation and maintenance, general

96-3126 -0-1-301 Regulatory Program

96-3125 -0-1-301 Flood control and coastal emergencies

96-3124 -0-1-301 General expenses

96-3112 -0-1-301 Flood control, Mississippi River and tributaries

20-8861 -0-7-301 Inland waterways trust fund

96-8863 -0-7-301 Harbor maintenance trust fund

Energy Department:

Energy Programs:

89-0222 -0-1-251 Department of Energy, General science and research activities

89-0224 -0-1-271 Energy supply, R&D activities

89-0226 -0-1-271 Uranium supply and enrichment activities

89-5227 -0-2-271 Nuclear waste disposal fund

89-0212 -0-1-276 Federal Energy Regulatory Commission

89-5231 -0-2-271 Uranium enrichment decontamination and decommissioning fund

Power Marketing Administration:

89-0304 -0-1-271 Operation and Maintenance, Alaska Power Administration

89-0302 -0-1-271 Southeastern Power Administration, Operation and Maintenance

89-0303 -0-1-271 Southwestern Power Administration, Operation and Maintenance

89-5068 -0-2-271 Construction, rehabilitation, operation and maintenance, Western Area P.A.

89-4452 -0-3-271 Colorado river basins power marketing fund, Western Area P.A.

Departmental Management:

89-0228 -0-1-276 Departmental Administration

89-0236 -0-1-276 Office of the inspector general

Interior Department:

Bureau of Reclamation:

14-0680 -0-1-301 Water and related resources

14-5065 -0-2-301 Policy and administration

14-5173 -0-2-301 Central valley project restoration fund

14-5656 -0-2-301 Colorado River dam fund, Boulder Canyon project[1]

14-4079 -0-3-301 Lower Colorado river basin development fund[1]

14-4081 -0-3-301 Upper Colorado river basin fund[1]

14-0685 -0-1-301 Bureau of reclamation loan program account

14-0787 -0-1-301 Central Utah Project, Central Utah project completion account

14-5174 -0-2-301 Utah reclamation mitigation and conservation account

Nuclear Regulatory Commission:

31-0200 -0-1-276 Salaries and expenses

31-0300 -0-1-276 Office of Inspector General

Other Agencies:

46-0200 -0-1-452 Appalachian Regional Commission, development programs

64-4110 -0-3-452 Tennessee Valley Authority fund[3]

48-0500 -0-1-271 Nuclear Waste Technical Review Board, Salaries and expenses

FOREIGN OPERATIONS

Funds Appropriated to the President:

International Security Assistance:

72-1037 -0-1-152 Economic support fund

11-1082 -0-1-152 Foreign military financing program

11-1080 -0-1-152 International Security Assistance, Military assistance

11-1081 -0-1-152 International military education and training

72-1032 -0-1-152 Peacekeeping operations

11-1075 -0-1-152 Non-proliferation, antiterrorism, demining, and related programs

11-1071 -0-1-152 Nonproliferation and disarmament fund

11-1085 -0-1-152 Foreign military financing loan program account

Multilateral Assistance:

11-0077 -0-1-151 Contribution to the International Bank for Reconstruction and Development (World Bank)

11-0073 -0-1-151 Contribution to the International Development Association

11-0078 -0-1-151 Contribution to the International Finance Corporation

11-0072 -0-1-151 Contribution to the Inter-American Development Bank

11-0076 -0-1-151 Contribution to the Asian Development Bank

11-0079 -0-1-151 Contribution to the African Development Fund

11-0088 -0-1-151 Contribution to the European bank for reconstruction and development

11-1008 -0-1-151 North American development bank

11-0089 -0-1-151 Contribution to enterprise for the Americas multilateral investment fund

72-1005 -0-1-151 International organizations and programs

11-0091 -0-1-151 Debt restructuring

Agency for International Development:

72-1021 -0-1-151 Sustainable development assistance program

72-1010 -0-1-151 Assistance for Eastern Europe and the Baltic States

72-1093 -0-1-151 Assistance for the New Independent States of the former Soviet Union

72-1014 -0-1-151 Development fund for Africa

72-1012 -0-1-151 Sahel development program

11-1013 -0-1-151 American schools and hospitals abroad

72-1040 -0-1-151 Sub-Saharan Africa disaster assistance

72-1035 -0-1-151 International disaster assistance

72-1000 -0-1-151 Operating expenses of the Agency for International Development

72-1007 -0-1-151 Operating expenses of AID, office of inspector general

72-0402 -0-1-151 Assistance for the New Independent States of the Former Soviet Union, Ukraine export credit insurance program account

72-0401 -0-1-151 Urban and environmental credit program account

72-0400 -0-1-151 Microenterprise and other development credit program account

Overseas Private Investment Corporation:

71-4184 -0-3-151 OPIC noncredit account

71-0100 -0-1-151 OPIC program account

Trade and Development Agency :

11-1001 -0-1-151 Trade and development agency

Peace Corps:

11-0100 -0-1-151 Peace Corps

Inter-American Foundation:

11-3100 -0-1-151 Inter-American foundation

African Development Foundation:

11-0700 -0-1-151 African Development Foundation

International Monetary Programs:

11-0005 -0-1-155 Contribution to enhanced structural adjustments facility of the international monetary fund

Military sales programs:

11-4116 -0-3-155 Special defense acquisition fund

Special Assistance for Central America:

72-1500 -0-1-152 Demobilization and transition fund

State Department:

Other:

19-1143 -0-1-151 Migration and refugee assistance

11-0040 -0-1-151 U.S. emergency refugee and migration assistance fund

19-1022 -0-1-151 International narcotics control

19-0114 -0-1-152 Anti-terrorism assistance

Export-Import Bank:

83-0100 -0-1-155 Export-Import Bank of the United States loans program account

INTERIOR AND RELATED AGENCIES

Agriculture Department:

Forest Service:

12-1106 -0-1-302 National forest system

12-1103 -0-1-302 Reconstruction and construction

12-1104 -0-1-302 Forest and rangeland research

12-1105 -0-1-302 State and Private Forestry

12-1115 -0-1-302 Wildland fire management

12-1108 -0-1-451 Southeast Alaska economic disaster fund

12-5207 -0-2-302 Range betterment fund

12-9923 -0-2-302 Land acquisition accounts

12-9923 -0-2-303 Land acquisition accounts

Energy Department:

Energy Programs:

89-0213 -0-1-271 Fossil energy research and development

89-0219 -0-1-271 Naval petroleum and oil shale reserves

89-0215 -0-1-272 Energy conservation

89-0218 -0-1-274 Strategic petroleum reserve

89-0233 -0-1-274 SPR petroleum account

89-0216 -0-1-276 Energy information administration

89-0234 -0-1-274 Emergency preparedness

89-0217 -0-1-276 Economic regulation

89-0235 -0-1-271 Clean coal technology

89-5180 -0-2-271 Alternative Fuels Production

Health and Human Service:

Indian Health Services:

75-0390 -0-1-551 Indian health services

75-0391 -0-1-551 Indian health facilities[1]

Interior Department:

Bureau of Land Management:

14-1109 -0-1-302 Management of lands and resources

14-1110 -0-1-302 Construction

14-1114 -0-1-806 Payments in lieu of taxes

14-1116 -0-1-302 Oregon and California grant lands

14-1125 -0-1-302 Wildland fire management

14-1121 -0-1-304 Central hazardous materials fund

14-5033 -0-2-302 Land acquisition

14-5017 -0-2-302 Service charges, deposits, and forfeitures

Minerals Management Service:

14-1917 -0-1-302 Royalty and offshore minerals management

14-8370 -0-7-302 Oil spill research

Office of Surface Mining Reclamation and Enforcement:

14-5015 -0-2-302 Abandoned mine reclamation fund

14-1801 -0-1-302 Regulation and technology

U.S. Geological Service:

14-0804 -0-1-306 Geological survey, Surveys, investigations and research

14-0804 -0-1-303 Surveys, investigations and research

Bureau of Mines:

14-0959 -0-1-306 Mines and minerals

U.S. Fish and Wildlife Service:

14-1611 -0-1-303 Resource management

14-1612 -0-1-303 Construction

14-1618 -0-1-303 Natural resource damage assessment fund[1]

14-1692 -0-1-303 Rewards and Operations

14-5020 -0-2-303 Land acquisition

14-5091 -0-2-806 National wildlife refuge fund[1]

14-5150 -0-2-303 Wildlife conservation and appreciation fund

14-5241 -0-2-303 North American Wetlands Conservation Fund

14-5143 -0-2-303 Cooperative endangered species conservation fund[1]

National Park Service:

14-1036 -0-1-303 Operation of the national park system

14-1042 -0-1-303 National recreation and preservation

14-1039 -0-1-303 Construction

14-1031 -0-1-303 Urban Park and Recreation Fund

14-5035 -0-2-303 Land acquisition and state assistance[1]

14-5140 -0-2-303 Historic preservation fund

14-8215 -0-7-401 Construction (trust fund)

Bureau of Indian Affairs:

14-2100 -0-1-302 Operation of Indian programs

14-2100 -0-1-452 Operation of Indian programs

14-2100 -0-1-501 Operation of Indian programs

14-2628 -0-1-452 Indian guaranteed loan program account

14-2301 -0-1-452 Construction

14-2303 -0-1-452 Indian land and water claim settlements and miscellaneous payments

14-2369 -0-1-452 Technical assistance of Indian enterprises

Departmental Management:

14-0102 -0-1-306 Salaries and expenses

Insular Affairs:

14-0412 -0-1-808 Assistance to territories[2]

14-0414 -0-1-808 Trust Territory of the Pacific Islands

14-0415 -0-1-808 Compact of free association[1,2]

Office of the Inspector General:

14-0104 -0-1-306 Office of Inspector General

Office of the Solicitor:

14-0107 -0-1-306 Office of the Solicitor

Office of Special Trustee for American Indians:

14-0120 -0-1-306 Office of the special trustee for American Indians

National Indian Gaming Commission:

14-0118 -0-1-806 Salaries and expenses

Treasury Department:

Financial Management Service:

20-0112 -0-1-271 Energy security reserve

National Endowment for the Arts:

59-0100 -0-1-503 National Endowment for the Arts, grants and administration[1]

National Endowment for the Humanities:

59-0200 -0-1-503 National Endowment for the Humanities, grants and administration

Smithsonian Institution:

33-0100 -0-1-503 Salaries and expenses

33-0102 -0-1-503 Museum programs and related research (special foreign currency program)

33-0129 -0-1-503 Construction and improvements, National Zoological Park

33-0132 -0-1-503 Repair and restoration of buildings

33-0133 -0-1-503 Construction

33-0200 -0-1-503 National Gallery of Art, Salaries and expenses

33-0201 -0-1-503 Repair, restoration, and renovation of buildings

33-0400 -0-1-503 Woodrow Wilson International Center for scholars, Salaries and expenses

33-0302 -0-1-503 Operations and maintenance, JFK center for the performing arts

33-0303 -0-1-503 Construction, JFK center for the performing arts

Other Agencies:

95-2300 -0-1-303 Advisory Council on Historic Preservation, Salaries and expenses

95-2600 -0-1-451 Commission of Fine Arts, Salaries and expenses

95-2602 -0-1-503 Commission of Fine Arts, National capital arts and cultural affairs

95-2900 -0-1-502 Institute of American Indian and Alaska Native Culture and Arts, Salaries and expenses

59-0300 -0-1-503 Institute of Museum and Library Services, grants and administration

95-2500 -0-1-451 National Capital Planning Commission, Salaries and expenses

48-1100 -0-1-808 Office of Navajo and Hopi Indian Relocation, Salaries and expenses

95-3300 -0-1-808 United States Holocaust Memorial Council

95-9911 -0-1-808 Other commissions and boards

LABOR, HHS, EDUCATION, AND RELATED AGENCIES

Legislative Branch:

95-3400 -0-1-551 Prospective Payment Assessment Commission: Salaries and expenses

95-1000 -0-1-801 Physician Payment Review Commission: Salaries and expenses

DOD-Civil:

Armed Forces Retirement Home:

84-8522 -0-7-602 Armed forces retirement home

Education Department:

Office of Elementary and Secondary Education:

91-0500 -0-1-501 Education reform

91-0900 -0-1-501 Education for the disadvantaged

91-0102 -0-1-501 Impact aid

91-1000 -0-1-501 School improvement programs

91-0220 -0-1-501 Chicago litigation settlement

91-0101 -0-1-501 Indian education

Office of Bilingual Education and Minority Languages Affairs:

91-1300 -0-1-501 Bilingual and immigrant education

Office of Special Education and Rehabilitative Services:

91-0300 -0-1-501 Special education

91-0600 -0-1-501 American printing house for the blind

91-0601 -0-1-502 National technical institute for the deaf

91-0602 -0-1-502 Gallaudet University

Office of Vocational and Adult Education:

91-0400 -0-1-501 Office of Vocational and Adult Education[1]

Office of Postsecondary Education:

91-0200 -0-1-502 Student Financial Assistance

91-0201 -0-1-502 Higher education

91-0603 -0-1-502 Howard University

91-0231 -0-1-502 Federal family education loan program account[1]

91-0241 -0-1-502 College housing and academic facilities loans, program account

Office of Educational Research and Improvement:

91-1100 -0-1-503 Education research, statistics, and improvement

Departmental Management:

91-0800 -0-1-503 Program administration

91-0700 -0-1-751 Office for Civil Rights

91-1400 -0-1-751 Office of the Inspector General

91-1500 -0-1-503 Headquarters renovation

Health and Human Services:

Health Resources and Services Administration:

75-0350 -0-1-551 Health resources and services[1]

75-0350 -0-1-552 Health resources and services

75-0340 -0-1-552 Health professions graduate student loan insurance program account[1]

75-4306 -0-1-553 Nurse training fund

75-4307 -0-1-553 Health education loans

Centers for Disease Control and Prevention:

75-0943 -0-1-551 Disease control, research, and training

75-0943 -0-1-552 Disease control, research, and training[1]

National Institutes of Health:

75-0807 -0-1-552 National Library of Medicine

75-0819 -0-1-552 John E. Fogarty International Center

75-0838 -0-1-552 Buildings and facilities

75-0843 -0-1-552 National Institute on Aging

75-0844 -0-1-552 National Institute of Child Health and Human Development

75-0846 -0-1-552 Office of the Director

75-0848 -0-1-552 National Center for Research Resources

75-0849 -0-1-552 National Cancer Institute

75-0851 -0-1-552 National Institute of General Medical Science

75-0862 -0-1-552 National Institute of Environmental Health Sciences

75-0872 -0-1-552 National Heart, Lung and Blood Institute

75-0873 -0-1-552 National Institute of Dental Research

75-0884 -0-1-552 National Institute of Diabetes and Digestive and Kidney Disease

75-0885 -0-1-552 National Institute of Allergy and Infectious Diseases

75-0886 -0-1-552 National Institute of Neurological Disorders and Stroke

75-0887 -0-1-552 National Eye Institute

75-0888 -0-1-552 National Institute of Arthritis and Musculoskeletal and Skin Diseases

75-0889 -0-1-552 National Institute for Nursing Research

75-0890 -0-1-552 National Institute on Deafness and other Communicative Disorders

75-0891 -0-1-552 National Center for Human Genome Research

75-0894 -0-1-552 National Institute on Alcohol Abuse and Alcoholism

75-0893 -0-1-552 National Institute on Drug Abuse

75-0892 -0-1-552 National Institute of Mental Health

75-9915 -0-1-552 National Institutes of Health[1]

Substance Abuse and Mental Health Services Administration:

75-1362 -0-1-551 Substance abuse and mental health services[1]

Agency for Health Care Policy and Research:

75-1700 -0-1-552 Health care policy and research

Health Care Financing Administration:

75-0511 -0-1-551 Program management

75-0511 -0-1-552 Program management

20-8005 -0-7-571 Federal hospital insurance trust fund[1]

20-8004 -0-7-571 Federal supplementary medical insurance trust fund[1]

Administration for Children and Families:

75-1502 -0-1-609 Low income home energy assistance

75-1503 -0-1-609 Refugee and entrant assistance

75-1508 -0-1-506 State legalization impact assistance grants

75-1515 -0-1-609 Child care and development block grant

75-1536 -0-1-506 Children and families services programs

Aministration on Aging:

75-0142 -0-1-506 Aging services programs

Departmental Management:

75-0122 -0-1-609 Policy research

75-0135 -0-1-751 Office for Civil Rights

75-1101 -0-1-551 Assistant Secretary for Health, Public Health service management

75-9912 -0-1-551 General departmental management

Program Support Center:

75-9913 -0-1-552 Health activities funds

Office of the Inspector General:

75-0128 -0-1-551 Office of the Inspector General

Labor Department:

Employment and Training Administration:

16-0174 -0-1-504 Training and employment services

16-0175 -0-1-504 Community service employment for older Americans

16-0179 -0-1-504 State unemployment insurance and employment service operations

16-0172 -0-1-504 Program administration

20-8042 -0-7-504 Unemployment Trust fund

20-8042 -0-7-603 Unemployment Trust fund[1]

Pension and Welfare Benefit Administration:

16-1700 -0-1-601 Salaries and expenses

Pension Benefit Guaranty Corporation:

16-4204 -0-3-601 Pension Benefit Guaranty Corporation fund[1]

Employment Standards Administration:

16-0105 -0-1-505 Salaries and expenses

16-9971 -0-7-601 Special workers' compensation[1]

Occupational Safety and Health Administration:

16-0400 -0-1-554 Salaries and expenses

Mine Safety and Health Administration:

16-1200 -0-1-554 Salaries and expenses

Bureau of Labor Statistics:

16-0200 -0-1-505 Salaries and expenses

Departmental Management:

16-0165 -0-1-505 Salaries and Expenses

16-0106 -0-1-505 Office of the Inspector General

16-4601 -0-4-505 Working capital fund

Social Security Administration:

28-0406 -0-1-609 Supplemental security income program[2]

28-0400 -0-1-651 Office of the inspector general

20-8006 -0-7-651 Federal old-age and survivors insurance trust fund[1]

20-8007 -0-7-651 Federal disability insurance trust fund[1]

Corporation for National and Community Service:

95-0103 -0-1-506 Domestic volunteer service programs, operating expenses

Corporation for Public Broadcasting:

20-0151 -0-1-503 Corporation for Public Broadcasting

Railroad Retirement Board:

60-0111 -0-1-601 Federal windfall subsidy[1]

60-8051 -0-7-603 Railroad unemployment insurance trust fund[1]

60-8011 -0-7-601 Rail Industry Pension Fund[1]

60-8010 -0-7-601 Railroad social security equivalent benefit account[1]

60-8012 -0-7-601 Supplemental Annuity Pension Fund[1]

United States Institute of Peace:

95-1300 -0-1-153 Operating expenses

Other Agencies:

93-0100 -0-1-505 Federal Mediation and Conciliation Service, Salaries and expenses

95-2800 -0-1-554 Federal Mine Safety and Health Review Commission, Salaries and expenses

95-2700 -0-1-503 National Commission on Libraries and Information Science, Salaries and expenses

95-3500 -0-1-506 National Council on Disability, Salaries and expenses

95-2650 -0-1-503 National Education Goals Panel, Salaries and expenses

63-0100 -0-1-505 National Labor Relations Board, Salaries and expenses

95-2400 -0-1-505 National Mediation board, Salaries and expenses

59-0301 -0-1-503 Institute of Museum and Library Services, Office of libraries: grants and administration

95-2100 -0-1-554 Occupational Safety and Health Review Commission, Salaries and expenses

LEGISLATIVE BRANCH

Legislative Branch:

Senate:

00-0107 -0-1-801 Expense allowances

00-0108 -0-1-801 Representation allowances for the Majority and Minority Leaders

00-0110 -0-1-801 Salaries, officers and employees

00-0185 -0-1-801 Office of the Legislative Counsel of the Senate

00-0171 -0-1-801 Office of the Senate Legal Counsel

00-0172 -0-1-801 Expense allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate

00-0128 -0-1-801 Contingent expenses of the Senate: Inquiries and investigations

00-0129 -0-1-801 Expenses of the United States Senate Caucus on International Narcotics Control

00-0126 -0-1-801 Secretary of the Senate

00-0127 -0-1-801 Sergeant at Arms and Doorkeeper of the Senate

00-0123 -0-1-801 Miscellaneous items

00-0130 -0-1-801 Senators' official personnel and office expense account

00-0140 -0-1-801 Stationery

00-0132 -0-1-801 Official mail costs

House of Representatives:

00-0400 -0-1-801 Salaries and expenses

Joint Items:

00-0186 -0-1-801 Joint Committee on Inaugural Ceremonies

00-0181 -0-1-801 Joint Economic Committee

00-0180 -0-1-801 Joint Committee on Printing

00-0460 -0-1-801 Joint Committee on Taxation

00-0425 -0-1-801 Office of the Attending Physician

00-0474 -0-1-801 Capitol Police: Salaries

00-0476 -0-1-801 Capitol Police: General expenses

0-0174 -0-1-801 Capitol guide service and special services office

00-0199 -0-1-801 Statements of appropriations

Office of Compliance:

09-1200 -0-1-801 Salaries and expenses

09-1450 -0-1-801 Awards and settlements

Congressional Budget Office:

08-0100 -0-1-801 Salaries and expenses

Architect of the Capitol:

01-0100 -0-1-801 Office of the Architect of the Capitol: Salaries

01-0102 -0-1-801 Contingent expenses

01-0105 -0-1-801 Capitol buildings

01-0108 -0-1-801 Capitol grounds

01-0123 -0-1-801 Senate office buildings

01-0127 -0-1-801 House office buildings

01-0133 -0-1-801 Capitol power plant

01-0155 -0-1-801 Library buildings and grounds, structural and mechanical care

Botanic Garden:

09-0200 -0-1-801 Salaries and expenses

Library of Congress:

03-0101 -0-1-503 Salaries and expenses

03-0102 -0-1-376 Copyright Office: Salaries and expenses

03-0127 -0-1-801 Congressional Research Service: Salaries and expenses

03-0141 -0-1-503 Books for the blind and physically handicapped: Salaries and expenses

03-0146 -0-1-503 Furniture and furnishings

Government Printing Office:

04-0203 -0-1-801 Congressional printing and binding

04-0201 -0-1-808 Office of Superintendent of Documents: Salaries and expenses

General Accounting Office:

05-0107 -0-1-801 Salaries and expenses

U.S. Tax Court:

23-0100 -0-1-752 Salaries and expenses

TRANSPORTATION AND RELATED AGENCIES

Transportation Department:

Office of the Secretary:

69-0102 -0-1-407 Salaries and expenses

69-0118 -0-1-407 Office of Civil Rights

69-0119 -0-1-407 Minority business outreach

69-0117 -0-1-407 Rental payments

69-0142 -0-1-407 Transportation, planning, research, and development

69-0150 -0-1-402 Payments to air carriers

69-0155 -0-1-407 Minority business resource center program account

69-8066 -0-7-407 Trust fund share of rental payments

69-8304 -0-7-402 Payments to air carriers (trust fund)[1]

Coast Guard:

69-0201 -0-1-403 Operating expenses

69-0240 -0-1-403 Acquisition, construction, and improvements

69-0247 -0-1-403 Port safety development

69-0230 -0-1-304 Environmental compliance and restoration

69-0244 -0-1-403 Alteration of bridges

69-0242 -0-1-403 Reserve training

69-0243 -0-1-403 Research, development, test, and evaluation

69-8149 -0-7-403 Boat safety[1]

69-8314 -0-7-304 Trust fund share of expenses

Federal Aviation Administration:

69-1301 -0-1-402 Operations

69-1334 -0-1-402 National Civil Aviation Review Commission

69-9912 -0-1-402 Miscellaneous expired accounts

69-4120 -0-3-402 Aviation insurance revolving fund

69-8106 -0-7-402 Grants-in-aid for airports (Airport and airway trust fund)[1, 4]

69-8107 -0-7-402 Facilities and equipment (Airport and airway trust fund)

69-8104 -0-7-402 Trust fund share of FAA operations

69-8108 -0-7-402 Research, engineering, and development (Airport and airway trust fund)

Federal Highway Administration:

69-9911 -0-1-401 Miscellaneous appropriations

69-0543 -0-1-401 Orange County (CA) Toll Road Demonstration Project Program

69-0549 -0-1-401 State infrastructure banks

69-8083 -0-7-401 Federal-aid highways[1, 4]

69-8019 -0-7-401 Highway-related safety grants[1, 4]

69-8048 -0-7-401 Motor carrier safety grants[1, 4]

69-9972 -0-7-401 Miscellaneous highway trust funds

National Highway Traffic Safety Administration:

69-0650 -0-1-401 Operations and research

69-8016 -0-7-401 Operations and research (trust fund share)

69-8020 -0-7-401 Highway traffic safety grants[1]

Federal Railroad Administration:

69-0700 -0-1-401 Office of the Administrator

69-0714 -0-1-401 Local rail freight assistance

69-0702 -0-1-401 Railroad safety

69-0745 -0-1-401 Railroad research and development

69-0747 -0-1-401 Conrail commuter transition assistance

69-9914 -0-1-401 Northeast corridor high-speed rail infrastructure program

69-0755 -0-1-401 High-speed rail trainsets and facilities

69-0730 -0-1-401 Railroad rehabilitation activities

69-0704 -0-1-401 Grants to National Railroad Passenger Corporation

69-0722 -0-1-401 Next generation high-speed rail program

69-0536 -0-1-401 Direct loan financing program

69-9973 -0-7-401 Trust fund share of next generation high-speed rail

Federal Transit Administration:

69-1120 -0-1-401 Administrative expenses

69-1121 -0-1-401 Research, training, and human resources

69-1127 -0-1-401 Interstate transfer grants-transit

69-1128 -0-1-401 Washington Metropolitan Area Transit Authority

69-1129 -0-1-401 Formula grants

69-1136 -0-1-401 University transportation centers

69-1137 -0-1-401 Transit planning and research

69-9913 -0-1-401 Miscellaneous expired accounts

69-8191 -0-7-401 Major capital investments (highway trust fund, mass transit account)[1]

69-8350 -0-7-401 Trust fund share of expenses[1]

69-0124 -0-1-401 Emergency railroad rehabilitation and repair

St. Lawrence Seaway Development Corporation:

69-8003 -0-7-403 Operations and maintenance

Research and Special Programs Administration:

69-0104 -0-1-407 Research and Special programs

69-5172 -0-2-407 Pipeline safety

69-8121 -0-7-407 Trust fund share of pipeline safety

Office of the Inspector General:

69-0130 -0-1-407 Salaries and expenses

Surface Transportation Board:

69-0301 -0-1-401 Salaries and expenses

Bureau of Transportation Statistics:

69-0305 -0-1-407 Transportation statistics

National Transportation Safety Board:

95-0310 -0-1-407 Salaries and expenses

95-0311 -0-1-407 Emergency fund

Other Agencies:

95-3200 -0-1-751 Architectural and Transportation Barriers Compliance Board, Salaries and expenses

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

Executive Office of the President:

Compensation of the President and White House Office:

11-0110 -0-1-802 Compensation of the President and the White House Office[2]

Executive Residence at the White House:

11-0210 -0-1-802 Operating expenses

11-0109 -0-1-802 White house repair and restoration

Special Assistance to the President and Official Residence of the Vice President:

11-1454 -0-1-802 Special assistance to the President and the official residence of the Vice President

Council of Economic Advisers:

11-1900 -0-1-802 Salaries and expenses

Office of Policy Development:

11-2200 -0-1-802 Salaries and expenses

National Security Council:

11-2000 -0-1-802 Salaries and expenses

Office of Administration:

11-0038 -0-1-802 Salaries and expenses

Armstrong Resolution:

11-1073 -0-1-802 Armstrong resolution account

Office of Management and Budget:

11-0300 -0-1-802 Salaries and expenses

Office of National Drug Control Policy:

11-1457 -0-1-802 Salaries and expenses

Funds Appropriated to the President:
Unanticipated Needs:

11-0037 -0-1-802 Unanticipated needs

Federal Drug Control Programs:

11-5001 -0-2-802 Special forfeiture fund

11-1070 -0-1-802 High intensity drug trafficking areas program

Treasury Department:

Departmental Offices:

20-0101 -0-1-803 Salaries and expenses

20-0115 -0-1-803 Automation enhancement

20-0106 -0-1-803 Office of Inspector General

20-0108 -0-1-803 Treasury buildings and annex repair and restoration

20-0173 -0-1-751 Financial crimes enforcement network

20-5407 -0-2-808 Sallie Mae assessments

20-5697 -0-2-751 Department of the Treasury forfeiture fund[1]

Federal Law Enforcement Training Center:

20-0104 -0-1-751 Salaries and expenses

20-0105 -0-1-751 Acquisitions, construction, improvements, and related expenses

Financial Management Service:

20-1801 -0-1-803 Salaries and expenses

Bureau of Alcohol, Tobacco, and Firearms:

20-1000 -0-1-751 Salaries and expenses

20-1003 -0-1-751 Laboratory facilities and headquarters

U.S. Customs Service:

20-0602 -0-1-751 Salaries and expenses[1]

20-0604 -0-1-751 Operation and maintenance, air and marine interdiction programs

20-0608 -0-1-751 Customs facilities, construction, improvements and related expenses

20-5694 -0-2-751 Customs services at small airports

20-8870 -0-7-751 Harbor maintenance fee collection

Bureau of Engraving and Printing:

20-4502 -0-4-803 Bureau of Engraving and Printing fund

U.S. Mint:

20-4159 -0-3-803 United States mint public enterprise fund

Bureau of the Public Debt:

20-0560 -0-1-803 Administering the public debt[2]

Internal Revenue Service:

20-0912 -0-1-803 Processing assistance and management[2]

20-0913 -0-1-803 Tax law enforcement[2]

20-0919 -0-1-803 Information systems

U.S. Secret Service:

20-1408 -0-1-751 Salaries and expenses

20-1409 -0-1-751 Acquisition, construction, improvements and related expenses

General Services Administration:
Real Property Activities:

47-0535 -0-1-804 Real property relocation

47-0118 -0-1-451 Pennsylvania avenue activities[1]

47-4542 -0-4-804 Federal buildings fund

Supply and Technology Activities:

47-4548 -0-4-804 Information technology fund

General Activities:

47-0110 -0-1-804 Policy and operations

47-0108 -0-1-804 Office of Inspector General

47-0105 -0-1-802 Allowances and office staff for former Presidents

47-0107 -0-1-802 Expenses, Presidential transition

Office of Personnel Management:

24-0100 -0-1-805 OPM, Salaries and expenses

24-0400 -0-1-805 Office of the Inspector General

24-8135 -0-7-602 Civil service retirement and disability fund[1]

24-8424 -0-8-602 Employees life insurance fund[1]

24-9981 -0-8-551 Employees and retired employees health benefits fund[1]

National Archives and Records Administration:

88-0300 -0-1-804 Operating expenses

88-0301 -0-1-804 National historical publications and records commission grants program

88-0302 -0-1-804 Repairs and restoration

Postal Service:

18-1001 -0-1-372 Payment to the Postal Service fund

Other Agencies:

23-0100 -0-1-752 Federal litigative and judicial activities, U.S. Tax Court, Salaries and expenses

41-0100 -0-1-805 Merit Systems Protection Board, Salaries and expenses

54-0100 -0-1-805 Federal Labor Relations Authority, Salaries and expenses

95-1100 -0-1-805 Office of Government Ethics, Salaries and expenses

62-0100 -0-1-8085 Office of Special Counsel, Salaries and expenses

95-1600 -0-1-808 Federal Election Commission, Salaries and expenses

48-1001 -0-1-808 John F. Kennedy assassination records review board

48-2450 -0-1-803 National Commission on Restructuring the IRS, Salaries and expenses

95-2000 -0-1-505 Committee for Purchase from People who are Blind or Severely Disabled, Salaries and expenses

VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

Executive Office of the President:

Council on Environmental Quality and Office of Environmental Quality:

11-1453 -0-1-802 Council on Environmental Quality and Office of Environmental Quality

Office of Science and Technology Policy:

11-2600 -0-1-802 Salaries and expenses

DOD—Civil:

Cemeterial Expenses, Army:

21-1805 -0-1-705 Salaries and expenses

Health and Human Services:
Departmental Management:

75-0137 -0-1-506 Office of Consumer Affairs

Housing and Urban Development:
Public and Indian Housing:

86-0311 -0-1-604 Housing certificate fund

86-0164 -0-1-604 Annual contributions for assisted housing

86-0312 -0-1-604 Preserving existing housing investment

86-0163 -0-1-604 Public housing operating fund

86-0197 -0-1-604 Drug elimination grants, low income housing

86-0218 -0-1-604 Revitalization of severely distressed public housing projects (HOPE VII)

86-0223 -0-1-604 Indian housing loan guarantee fund program account

Community Planning and Development:

86-0308 -0-1-604 Housing opportunities for persons with AIDS

86-0162 -0-1-451 Community development block grants

86-0205 -0-1-604 Home investment partnership program

86-0170 -0-1-451 Urban Development action grants

86-0222 -0-1-451 Capacity building for community development and affordable housing

86-0181 -0-1-604 Emergency shelter grants program

86-0188 -0-1-604 Supportive housing program

86-0187 -0-1-451 Supplemental assistance for facilities to assist the homeless

86-0204 -0-1-604 Shelter plus care

86-0221 -0-1-604 Innovative homeless initiatives demonstration program

86-0192 -0-1-604 Homeless assistance grants

86-0219 -0-1-604 Youthbuild program

86-0220 -0-1-451 National cities in schools community development program

86-0198 -0-1-451 Community development loan guarantees program account

Housing Programs:

86-0310 -0-1-604 Housing for special populations

86-0206 -0-1-604 Other assisted housing programs

86-0196 -0-1-604 Homeownership and opportunity for people everywhere grants (HOPE)

86-0178 -0-1-604 Congregate services

86-0156 -0-1-506 Housing counseling assistance

86-0195 -0-1-604 Section 8 moderate rehabilitation, single room occupancy

86-4044 -0-3-604 Flexible subsidy fund

86-4071 -0-3-604 Nehemiah housing opportunity fund

86-0183 -0-1-371 FHA-mutual mortgage insurance program account[5]

86-0200 -0-1-371 FHA-General and special risk program account

Government National Mortgage Association:

86-0186 -0-1-371 Guarantees of mortgage-backed securities loan guarantee program

Policy Development and Research:

86-0108 -0-1-451 Research and technology

Fair Housing and Equal Opportunity:

86-0144 -0-1-751 Fair housing activities

Management and Administration:

86-0143 -0-1-451 Salaries and expenses

86-0189 -0-1-451 Office of the Inspector General

86-5272 -0-2-371 Office of federal housing enterprise oversight

Treasury Department:
Departmental Offices:

20-1881 -0-1-451 Community development financial institutions fund program account

Veterans Affairs:
Veterans Health Administration:

36-0160 -0-1-703 Medical care

36-0161 -0-1-703 Medical and prosthetic research

36-0152 -0-1-703 Medical administration and miscellaneous operating expenses

36-0163 -0-1-703 Health professional scholarship program

Veterans Benefits Administration:

36-0138 -0-1-704 Veterans housing benefit program fund program account[1]

36-0140 -0-3-702 Miscellaneous Veterans Programs loan fund program account

Construction:

36-0110 -0-1-703 Construction, Major projects

36-0111 -0-1-703 Construction, Minor projects

36-0181 -0-1-703 Grants for construction of state extended care facilities

36-0183 -0-1-705 Grants for the construction of State veterans cemeteries

36-4538 -0-3-703 Parking revolving fund

Departmental Administration:

36-0151 -0-1-705 General operating expenses

36-0170 -0-1-705 Office of the Inspector General

36-0129 -0-1-705 National cemetery system

Environmental Protection Agency:

68-0200 -0-1-304 Program and research operations

68-0112 -0-1-304 Office of the Inspector General

68-0107 -0-1-304 Science and technology

68-0108 -0-1-304 Environmental programs and management

68-0110 -0-1-304 Buildings and facilities

68-0103 -0-1-304 State and tribal assistance grants

68-0250 -0-1-304 Payment to the hazardous substance superfund

68-8145 -0-7-304 Interfund transactions, Hazardous substance superfund

68-0118 -0-1-304 Abatement, control, and compliance loan program account

20-8145 -0-7-304 Hazardous substance superfund

20-8153 -0-7-304 Leaking underground storage tank trust fund

68-8221 -0-7-304 Oil spill response

General Services Administration:

General Activities:

47-4549 -0-3-376 Consumer information center fund

National Aeronautics and Space Administration:

80-0111 -0-1-252 Human space flight

80-0110 -0-1-252 Science, aeronautics and technology

80-0110 -0-1-402 Science, aeronautics and technology

80-0112 -0-1-252 Mission support

80-0112 -0-1-402 Mission support

80-0108 -0-1-252 Research and development

80-0108 -0-1-402 Research and development

80-0105 -0-1-252 Space flight, control, and data communications

80-0107 -0-1-252 Construction of facilities

80-0107 -0-1-402 Construction of facilities

80-0103 -0-1-252 Research and program management

80-0103 -0-1-402 Research and program management

80-0109 -0-1-252 Office of the Inspector General

Corporation for National and Community Service:

National and Community Service Programs:

95-2720 -0-1-506 Operating expenses

95-2721 -0-1-506 Inspector general

95-9972 -0-7-506 Gifts and contributions

FEMA:

58-0104 -0-1-453 Disaster relief

58-0100 -0-1-453 Salaries and expenses

58-0101 -0-1-453 Emergency management planning and assistance

58-0300 -0-1-453 Office of the inspector general

58-0103 -0-1-605 Emergency food and shelter program

58-4188 -0-4-803 Working capital fund

58-0105 -0-1-453 Disaster assistance direct loan program account

National Science Foundation:

49-0100 -0-1-251 Research and related activities

49-0106 -0-1-251 Education and human resources

49-0150 -0-1-251 Academic research infrastructure

49-0551 -0-1-251 Major research equipment

49-0180 -0-1-251 Salaries and expenses

49-0300 -0-1-251 Office of the Inspector General

Resolution Trust Corporation:

22-1500 -0-1-373 Office of Inspector General

Other Agencies:

82-1300 -0-1-451 Payment to the Neighborhood Reinvestment Corporation

61-0100 -0-1-554 Consumer Product Safety Commission, Salaries and expenses

74-0100 -0-1-705 American Battle Monuments Commission, Salaries and expenses

95-0300 -0-1-705 Court of Veterans Appeals, Salaries and expenses

25-4472 -0-3-373 National Credit Union Administration, Community development credit union revolving loan fund

51-5100 -0-1-604 FDIC, Affordable housing program

VIOLENT CRIME REDUCTION ACCOUNTS FOR FISCAL YEAR 1997

COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES

The Judiciary:

10-8516 -0-1-752 Violent crime reduction programs

Justice Department:

General Administration:

15-8593 -0-1-751 Violent crime reduction programs, General administration

15-8608 -0-1-751 Violent crime reduction programs, Administrative review and appeals

Legal Activities:

15-8595 -0-1-752 Violent crime reduction programs, General legal activities

15-8596 -0-1-752 Violent crime reduction programs, U.S. Attorneys

15-8603 -0-1-752 Violent crime reduction programs, U.S. Marshals Service

Federal Bureau of Investigation:

15-8604 -0-1-751 Violent crime reduction programs

Drug Enforcement Administration:

15-8602 -0-1-751 Violent crime reduction programs

Immigration and Naturalization Service:

15-8598 -0-1-751 Violent crime reduction fund programs

Federal Prison System:

15-8600 -0-1-753 Violent crime reduction programs

Office of Justice Programs:

15-0401 -0-1-754 Justice assistance

15-8594 -0-1-754 Community oriented policing services

15-8586 -0-1-754 Violent crime reduction programs

Ounce of Prevention Council:

95-0100 -0-1-754 Violent crime reduction programs

LABOR, HHS, EDUCATION, AND RELATED AGENCIES

Health and Human Services:

Centers for Disease Control and Prevention:

75-0943 -0-1-551 Disease control, research, and training

75-8606 -0-1-754 Violent crime reduction programs

Administration for Children and Families:

75-8605 -0-1-754 Violent crime reduction programs

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

Treasury Department:

Federal Law Enforcement Training Center

20-0104 -0-1-751 Salaries and expenses

Violent Crime Reduction Programs:

20-8526 -0-1-751 Violent crime reduction programs

DISCRETIONARY APPROPRIATIONS CATEGORIES—FOOTNOTES:

[1] Portion of account is mandatory and is provided by authorizing legislation.

[2] Portion of account is mandatory and is provided by Appropriations Committee action.

[3] Authority to borrow available to the Tennessee Valley Authority is available on a permanent indefinite basis. This authority is limited only in that the amount outstanding at any time can not exceed $30 billion.

[4] Contract authority is mandatory—provided in authorization bill. Outlays scored as discretionary because obligation limitation is set by Appropriations Committee action.

[5] Portion of account is mandatory.

REPORT LANGUAGE FOR DC

CRIMINAL JUSTICE

(1) The managers recognize that it will require substantial resources to implement the provisions of title III, and that the obligation of the Department of Justice to meet the deadlines set forth in this title is contingent on the appropriation of funds sufficient to carry out the requirements of this title.

(2) It is the intent of the managers that the funds necessary to implement the provisions of this title come from the savings achieved by reducing the existing Federal payment to the District of Columbia, not from the existing programs of the Department of Justice.

For consideration of the House bill, and the Senate amendment, and modifications committed to conference:

John R. Kasich,
David L. Hobson,
Richard K. Armey,
Tom DeLay,
J. Dennis Hastert,
John M. Spratt, Jr.,
David E. Bonior,
Vic Fazio.

As additional conferees from the Committee on Agriculture, for consideration of title I of the House bill, and title I of the Senate amendment, and modifications committed to conference:

Robert Smith,
Bob Goodlatte,
Charles W. Stenholm.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference:

James A. Leach,
Rick Lazio.

As additional conferees from the Committee on Commerce, for consideration of subtitles A–C of title III of the House bill, and title IV of the Senate amendment, and modifications committed to conference:

TOM BLILEY,
DAN SCHAEFER,
JOHN D. DINGELL.

As additional conferees from the Committee on Commerce, for consideration of subtitle D of title III of the House bill, and subtitle A of title III of the Senate amendment, and modifications committed to conference:

TOM BLILEY,
BILLY TAUZIN.

As additional conferees from the Committee on Commerce, for consideration of subtitles E and F of title III, titles IV and X of the House bill, and divisions 1 and 2 of title V of the Senate amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL BILIRAKIS.

As additional conferees from the Committee on Education and Workforce, for consideration of subtitle A of title V and subtitle A of title IX of the House bill, and chapter 2 of division 3 of title V of the Senate amendment, and modifications committed to conference:

BILL GOODLING,
JIM TALENT.

As additional conferees from the Committee on Education and the Workforce, for consideration of subtitles B and C of title V of the House bill, and title VII of the Senate amendment, and modifications committed to conference:

BILL GOODLING,
HOWARD "BUCK" MCKEON,
DALE E. KILDEE.

As additional conferees from the Committee on Education and Workforce, for consideration of subtitle D of title V of the House bill, and chapter 7 of division 4 of title V of the Senate amendment, and modifications committed to conference:

DONALD M. PAYNE.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of title VI of the House bill, and subtitle A of title VI of the Senate amendment, and modification committed to conference:

DAN BURTON,
JOHN L. MICA.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of title VII of the House bill, and subtitle B of title III and subtitle B of title VI of the Senate amendment, and modifications committed to conference:

BUD SHUSTER,
WAYNE T. GILCHREST,
JAMES L. OBERSTAR.

As additional conferees from the Committee on Veterans' Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

BOB STUMP,
CHRISTOPHER H. SMITH,
LANE EVANS.

As additional conferees from the Committee on Ways and Means, for consideration of subtitle A of title V and title IX of the House bill, and divisions 3 and 4 of title V of the Senate amendment, and modifications committed to conference:

BILL ARCHER,
E. CLAY SHAW, JR.,
DAVE CAMP,
CHARLES B. RANGEL,
SANDER M. LEVIN.

As additional conferees from the Committee on Ways and Means, for consideration of titles IV and X of the House bill, and division 1 of title V of the Senate amendment, and modifications committed to conference:

BILL ARCHER,
WILLIAM THOMAS.

Managers on the part of the House.

From the Committee on the Budget:

PETE DOMENICI,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
FRANK LAUTENBERG.

From the Committee on Agriculture, Nutrition, and Forestry:

DICK LUGAR.

From the Committee on Banking, Housing, and Urban Affairs:

ALFONSE D'AMATO,
RICHARD SHELBY,
PAUL SARBANES.

From the Committee on Commerce, Science and Transportation:

JOHN MCCAIN,
TED STEVENS,
(Except for provisions in universal service fund).

From the Committee on Energy and Natural Resources:

FRANK H. MURKOWSKI,
LARRY E. CRAIG.

From the Committee on Finance:

BILL ROTH,
TRENT LOTT,
DANIEL P. MOYNIHAN.

From the Committee on Government Affairs:

FRED THOMPSON,
SUSAN COLLINS.

From the Committee on Veterans' Affairs:

ARLEN SPECTER,
STROM THURMOND,
JOHN ROCKEFELLER.

Managers on the part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. ALLEN, for 5 minutes, today.
Mr. KIND, for 5 minutes, today.
Mrs. TAUSCHER, for 5 minutes, today.
Ms. BROWN of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous material:)

Mr. PORTER, for 5 minutes, today.
Mr. METCALF, for 5 minutes, today.
Mr. BLUNT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous matter:)

Mr. TORRES.
Mr. CONYERS.
Mr. SKELTON.
Mr. KENNEDY of Massachusetts.
Mr. KLECZKA.
Mr. BROWN OF CALIFORNIA.
Ms. BROWN OF FLORIDA.
Mr. MENENDEZ.

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous matter:)

Mr. WOLF.
Mr. EHRLICH.
Mr. LOBIONDO.
Mr. QUINN.
Mrs. ROUKEMA.

(The following Members (at the request of Mr. SHAYS) and to include extraneous matter:)

Mr. SKAGGS.
Mr. METCALF.
Mr. COBLE.
Mr. WEYGAND.
Mr. KUCINICH.
Mr. WHITE.
Mr. LAMPSON.

ADJOURNMENT

Mr. HOBSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 15 minutes a.m.), the House adjourned until today, Wednesday, July 30, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4431. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Vermont; Approval of PM10 State Implementation Plan (SIP) Revision and Designation of Areas for Air Quality Planning Purposes [VT–014–01–1216(a); A–1–FRL–5860–2] received July 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4432. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report, determination and certification on a chemical weapons proliferation sanctions matter; to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIVINGSTON: Committee on Appropriations. Report on the Revised Subdivision of Budget Totals for Fiscal Year 1998 (Rept. 105–215). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 201. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 105-216). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COBLE (for himself, Mr. Hyde, Mr. Conyers, and Mr. Frank of Massachusetts):

H.R. 2281. A bill to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty; to the Committee on the Judiciary.

By Mr. SHUSTER (for himself, Mr. Duncan, Mr. Lipinski, Mr. Blunt, and Mr. LaHood):

H.R. 2282. A bill to amend title 49, United States Code, to impose restrictions on the operating rights of foreign air carriers of a foreign country that has restricted U.S. air carrier operations; to the Committee on Transportation and Infrastructure.

By Mr. CANNON (for himself, Mr. Hansen, Mr. Cook, Mr. Salmon, Mr. Shadegg, Mr. Kolbe, Mrs. Chenoweth, Mrs. Cubin, Mr. Crapo, Mr. Pastor, Mr. Cunningham, Mr. McKeon, Mr. Herger, Mr. Ensign, Mr. Gibbons, Mr. Istook, Mr. Watts of Oklahoma, Mr. English of Pennsylvania, Mr. Linder, Mr. Kind of Wisconsin, Mr. Goodlatte, Ms. Lofgren, Mr. Gilchrest, Mr. Smith of Texas, Mr. Manzullo, Mr. Wicker, Mr. Fox of Pennsylvania, Mr. Packard, Ms. Dunn of Washington, Mr. Smith of New Jersey, Mr. Smith of Oregon, Mr. Schiff, Mr. Sessions, Mr. Hastings of Washington, Mr. Redmond, Mr. Barrett of Nebraska, Mr. Ehlers, Mr. Oxley, Mr. Snowbarger, and Mr. Bono):

H.R. 2283. A bill to expand the boundaries of Arches National Park in the State of Utah to include portions of the following drainages, Salt Wash, Lost Spring Canyon, Fish Sheep Draw, Clover Canyon, Cordova Canyon, Mine Draw, and Cottonwood Wash, which are currently under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Sheep Draw, which is currently owned by the State of Utah; to the Committee on Resources.

By Mr. KING of New York:

H.R. 2284. A bill to amend the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 to eliminate the restriction on assistance to Azerbaijan; to the Committee on International Relations.

By Ms. LOFGREN (for herself, Mr. Cannon, Mrs. Tauscher, Mr. Dreier, Mr. Fazio of California, and Mr. Delahunt):

H.R. 2285. A bill to provide for the consideration, during fiscal year 1997, of petitions for classification under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act without regard to the numerical limitation applicable to such petitions, subject to a reduction in such limitation for fiscal year 1998, and for other purposes; to the Committee on the Judiciary.

By Mr. McINNIS:

H.R. 2286. A bill to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor; to the Committee on Veterans' Affairs.

By Mr. MEEHAN:

H.R. 2287. A bill to apply the rates of duty effective after December 31, 1994, to certain water resistant wool trousers that were entered, or withdrawn from warehouse for consumption, after December 31, 1988, and before January 1, 1995; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself, Mr. Gilman, Mr. Diaz-Balart, Mr. Menendez, Mr. Burton of Indiana, Mr. Solomon, Mr. Deutsch, Mr. Smith of New Jersey, Mr. Rothman, and Mr. Hyde):

H.R. 2288. A bill to amend the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to require the Secretary of State to submit to the Congress reports relating to the exclusion from the United States of aliens who have confiscated property of United States nationals or who traffic in that property; to the Committee on International Relations.

By Ms. ROS-LEHTINEN (for herself, Mr. Gilman, Mr. Diaz-Balart, Mr. Menendez, Mr. Burton of Indiana, Mr. Solomon, Mr. Deutsch, Mr. Smith of New Jersey, and Mr. Rothman):

H.R. 2289. A bill to provide for the withholding of United States assistance to countries that aid or are engaged in nonmarket based trade with the Government of Cuba; to the Committee on International Relations.

By Mr. SHAYS (for himself and Mr. Payne):

H.R. 2290. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve enforcement under such Act; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS:

H.R. 2291. A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively utilize the proceeds of sales of certain items; to the Committee on Resources.

By Ms. BROWN of Florida (for herself, Mr. Towns, Mr. McCollum, Ms. Ros-Lehtinen, Ms. Kilpatrick, Mr. Watt of North Carolina, Mrs. Meek of Florida, Mr. Conyers, Ms. Millender-McDonald, Mr. Lewis of Georgia, Mr. Clyburn, Ms. McCarthy of Missouri, Ms. Christian-Green, Mr. Frost, Mr. Dellums, Mrs. Clayton, Ms. Norton, Mr. Bonior, Mr. Brown of California, Mrs. Maloney of New York, Ms. Carson, Ms. Eddie Bernice Johnson of Texas, Mr. Payne, Mr. Filner, Ms. Stabenow, Ms. DeLauro, Ms. Slaughter, Mr. Rush, Ms. Velázquez, Mr. Hastings of Florida, Mr. Foley, Mr. Davis of Illinois, Mr. Torres, Mr. Abercrombie, Mr. Watts of Oklahoma, Mr. Snyder, and Mr. Goss):

H. Con. Res. 129. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor Zora Neale Hurston; to the Committee on Government Reform and Oversight.

By Mr. HASTINGS of Florida:

H. Con. Res. 130. Concurrent resolution concerning the situation in Kenya; to the Committee on International Relations.

By Mr. SAXTON (for himself and Mr. Abercrombie):

H. Con. Res. 131. Concurrent resolution expressing the sense of Congress regarding the ocean; to the Committee on Resources.

By Mr. SOLOMON (for himself and Mr. Lantos):

H. Con. Res. 132. Concurrent resolution relating to the Republic of China (Taiwan's) participation in the United Nations; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 339: Mr. Goodlatte.

H.R. 493: Ms. Woolsey.

H.R. 521: Mr. John.

H.R. 551: Mr. Fawell.

H.R. 632: Mr. Barcia of Michigan, Mr. Gibbons, Mr. Wamp, and Mr. Thune.

H.R. 633: Mr. Bateman.

H.R. 695: Mr. Hall of Ohio, Mr. Livingston, Mr. Hoekstra, Mr. Wise, Mr. Filner, Mr. McDermott, Ms. Sanchez, Mrs. Thurman, Mr. Tanner, Mr. Pastor, Ms. Kaptur, Mr. Lewis of Georgia, Mr. Jackson, Ms. Millender-McDonald, Mr. Cummings, Mr. Jefferson, Mr. Ford, Mr. Barrett of Wisconsin, Mr. Fattah, Mr. Barcia of Michigan, Ms. Hooley of Oregon, Mrs. Northup, Mr. Vento, Mr. Bonior, Mrs. Clayton, Mrs. Kennelly of Connecticut, Mr. Pallone, Mr. Olver, Ms. Kilpatrick, Ms. DeLauro, Mrs. Meek of Florida, Ms. Stabenow, Mr. Stearns, Mr. Hefley, and Mr. Radanovich.

H.R. 727: Mr. Gibbons.

H.R. 777: Mr. Foglietta and Mr. Berry.

H.R. 793: Mr. Bonior.

H.R. 795: Mr. McGovern.

H.R. 815: Mr. Peterson of Pennsylvania, Mr. LaHood, Mr. Peterson of Minnesota, Mr. Watt of North Carolina, and Mr. Weller.

H.R. 859: Mr. Dickey and Mr. Hilleary.

H.R. 873: Mr. Klug.

H.R. 880: Mr. McCollum, Mr. Doyle, Mr. Hall of Texas, Mr. Miller of Florida, and Mr. Berry.

H.R. 893: Mr. Andrews, Mr. Maloney of Connecticut, Mr. Davis of Illinois, and Mr. Traficant.

H.R. 991: Mr. Lazio of New York.

H.R. 992: Mr. Goode, Mr. McIntosh, and Mr. Gibbons.

H.R. 1009: Mr. Hall of Texas.

H.R. 1114: Mr. Rothman and Mrs. Meek of Florida.

H.R. 1130: Mr. Clay.

H.R. 1134: Mr. Bunning of Kentucky and Mr. Owens.

H.R. 1140: Mr. Poshard and Mr. Frost.

H.R. 1232: Mr. Clyburn.

H.R. 1257: Mr. Lazio of New York.

H.R. 1270: Mr. Snyder and Mrs. Emerson.

H.R. 1333: Mr. Wicker.

H.R. 1507: Mr. Ackerman, Mrs. Johnson of Connecticut, and Mr. Becerra.

H.R. 1560: Mr. King of New York and Ms. Molinari.

H.R. 1608: Ms. Pryce of Ohio, Mr. Boucher, Mr. Bonior, Mr. Goodling, and Mr. Burton of Indiana.

H.R. 1614: Mr. Brown of Ohio.

H.R. 1635: Mr. Bunning of Kentucky, Mrs. Cubin, Mr. Duncan, Mr. Foglietta, Mr. Hoyer, Mr. Hyde, Mr. Kucinich, Mr. Lewis of California, Ms. Pryce of Ohio, Mr. Bonior, and Mr. Visclosky.

H.R. 1712: Mr. Gibbons.

H.R. 1754: Mr. Ackerman.

H.R. 1763: Mr. Lewis of Georgia.

H.R. 1801: Mr. Lampson, Ms. Jackson-Lee, Mrs. Tauscher, and Mr. Capps.

H.R. 1836: Mr. Horn and Mr. Barr of Georgia.

H.R. 1839: Mr. MOLLOHAN and Mr. PRICE of North Carolina.

H.R. 1903: Mr. EWING and Mr. BARTLETT of Maryland.

H.R. 1908: Mr. WATKINS.

H.R. 1984: Mr. BURTON of Indiana, Mr. BACHUS, Mrs. CHENOWETH, Mr. LEWIS of Kentucky, and Mr. JENKINS.

H.R. 2004: Mr. ACKERMAN.

H.R. 2069: Mr. OWENS.

H.R. 2090: Mr. GEJDENSON, Mr. BOEHLERT, Mr. VENTO, Ms. MOLINARI, Mrs. LOWEY, Mr. ABERCROMBIE, Mr. FOGLIETTA, Mr. OLVER, Mr. TOWNS, Mr. FAZIO of California, Mrs. MALONEY of New York, and Mr. GILMAN.

H.R. 2102: Mr. PETERSON of Pennsylvania.

H.R. 2174: Mr. BERMAN, Mr. OLVER, Mr. FROST, Mr. BALDACCI, and Mr. BARRETT OF WISCONSIN.

H.R. 2182: Mr. HASTINGS of Florida, Mr. HILLIARD, and Mr. MCDADE.

H.R. 2185: Mr. FROST, Mr. FATTAH, Mr. BROWN of California, Mr. STARK, Ms. CHRISTIAN-GREEN, and Mr. UNDERWOOD.

H.R. 2191: Mr. WHITE and Mr. CASTLE.

H.R. 2200: Mr. BONIOR.

H.R. 2272: Mr. GEJDENSON, Ms. FURSE, and Ms. DELAURO.

H. Con. Res. 27: Mr. MARTINEZ, Ms. KILPATRICK, Mr. SNYDER, Ms. FURSE, Mr. THOMPSON, and Mr. ENGEL.

H. Con. Res. 68: Mr. BONIOR.

H. Con. Res. 80: Mr. MCDADE, Mr. ABERCROMBIE, Mr. ENGEL, Mr. BONO, and Mr. WEYGAND.

H. Con. Res. 106: Ms. PELOSI and Mr. MARKEY.

H. Res. 37: Mr. BALDACCI and Mr. GIBBONS.

H. Res. 144: Mr. LATHAM, Mr. KING of New York, and Ms. MOLINARI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2159

OFFERED BY: MR. FORBES

AMENDMENT NO. 71: Page 94, insert the following after line 3:

PROHIBITION ON ASSISTANCE TO PLO AND PALESTINIAN AUTHORITY

SEC. 572. Notwithstanding any other provision of this Act, no funds appropriated or otherwise made available by this Act may be made available to provide assistance, directly or indirectly, for the Palestinian Liberation Organization or the Palestinian Authority.

H.R. 2159

OFFERED BY: MR. FORBES

AMENDMENT NO. 72: Page 94, insert the following after line 3:

PROHIBITION ON ASSISTANCE TO PLO AND PALESTINIAN AUTHORITY

SEC. 572. Notwithstanding any other provision of this Act, no funds appropriated or otherwise made available by this Act may be made available to provide assistance, directly or indirectly, for the Palestinian Liberation Organization or entities associated with it, or the Palestinian Authority.

H.R. 2159

OFFERED BY: MR. MENENDEZ

AMENDMENT NO. 73: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 572. None of the funds appropriated or otherwise made available by this Act under the heading “NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS” that are made available for the International Atomic Energy Agency shall be made available for programs and projects of such Agency in Cuba.

H.R. 2159

OFFERED BY: MR. SOUDER

AMENDMENT NO. 74: Page 16, line 25, after “$625,000,000” insert “(decreased by $50,000,000)”.

Page 23, line 26, after “$230,000,000” insert “(increased by $50,000,000)”.

H.R. 2159

OFFERED BY: MR. SOUDER

AMENDMENT NO. 75: Page 24, line 16, insert before the period the following: “: *Provided further*, That not less than $50,000,000 shall be available only for the procurement in the United States of four UH-60 Blackhawk utility helicopters, including maintenance and support for such helicopter, to be made available to the DANTI anti-narcotics unit of the Colombian National Police for the purpose of carrying out counternarcotics activities”.

H.R. 2264

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 15: Page 44, line 24, after the dollar amount, insert the following: “(decreased by $1,000,000)”.

Page 73, line 15, after the first dollar amount, insert the following “(increased by $1,000,000)”.

H.R. 2264

OFFERED BY: MRS. CHENOWETH

AMENDMENT NO. 16: In the item relating to “HEALTH RESOURCES AND SERVICES ADMINISTRATION—HEALTH RESOURCES AND SERVICES”, insert after the first dollar amount (before the comma) “(reduced by $9,000,000)”; and in the fifth proviso (relating to the program under title X of the Public Health Service Act), insert after the dollar amount “(reduced by $9,000,000)”.

In the item relating to “ADMINISTRATION ON AGING—AGING SERVICES PROGRAMS”, insert after the dollar amount (before the colon) “(increased by $4,725,000)”.

H.R. 2264

OFFERED BY: MR. GOODLING

AMENDMENT NO. 17: On page 2, line 15, after the dollar amount insert “(reduced by $21,000,000)”.

On page 2, line 16, after the dollar amount insert “(reduced by $21,000,000)”.

On page 3, line 9, after the dollar amount insert “(reduced by $21,000,000)”.

On page 23, line 20, after the dollar amount insert “(reduced by $1,000,000)”.

On page 68, line 17, after the first dollar amount insert “(increased by $25,000,000) and after the second dollar amount insert “(increased by $25,000,000)”.

On page 78, line 18, after the dollar amount insert “(reduced by $1,500,000)”.

On page 78, line 19, after the dollar amount insert “(reduced by $1,500,000)”.

On page 85, line 5, after the dollar amount insert “(reduced by $1,500,000)”.

H.R. 2264

OFFERED BY: MR. GOODLING

AMENDMENT NO. 18: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 516. None of the funds made available in this Act may be used to develop, plan, implement, or administer any national testing program in reading or mathematics that is not specifically and explicitly provided for in authorizing legislation enacted into law.

H.R. 2264

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 19: Page 44, line 5, after the dollar amount, insert the following: “(increased by $4,782,000)”.

Page 73, line 15, after the first dollar amount, insert the following: “(reduced by $14,045,000)”.

H.R. 2264

OFFERED BY: MR. MCINTOSH

AMENDMENT NO. 20: Page 64, line 7, after the first dollar amount, insert the following: “(decreased by $6,000,000)”.

Page 64, line 7, after the second dollar amount, insert the following: “(decreased by $21,000,000)”.

Page 73, line 15, after the first dollar amount, insert the following: “(increased by $5,000,000)”.

H.R. 2264

OFFERED BY: MR. RIGGS

AMENDMENT NO. 21: Page 19, line 19, after the dollar amount, insert the following: “(reduced by $9,800,000)”.

Page 44, line 5, after the dollar amount, insert the following: “(increased by $19,600,000)”.

Page 44, line 16, after the dollar amount, insert the following: “(reduced by $9,800,000)”.

H.R. 2264

OFFERED BY: MR. RIGGS

AMENDMENT NO. 22: Page 64, line 7, after the first dollar amount, insert the following: “(reduced by $25,000,000)”.

Page 66, line 20, after the dollar amount, insert the following: “(increased by $25,000,000)”.

H.R. 2264

OFFERED BY: MR. SOUDER

AMENDMENT NO. 23: In the item relating to “HEALTH RESOURCES AND SERVICES ADMINISTRATION—HEALTH RESOURCES AND SERVICES”, insert after the first dollar amount (before the comma) “(reduced by $40,690,000)”; and in the fifth proviso (relating to the program under title X of the Public Health Service Act), insert after the dollar amount “(reduced by $40,690,000)”.

In the item relating to “NATIONAL INSTITUTES OF HEALTH—NATIONAL CANCER INSTITUTE”, insert after the first dollar amount “(increased by $36,000,000)”.

H.R. 2266

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 10: Page 100, after line 15, insert the following new section:

SEC. . The Secretary of the Army may reimburse a member of the Army who was deployed from the United States to Europe in support of operations in Bosnia and who incurred an out-of-pocket expense for shipment of a personal item to or from Europe during the period beginning on October 1, 1996, and ending on May 30, 1997, if the shipment of that item, if made after May, 30, 1997, would have been provided by the Department of the Army through the Temporary Change of Station (TCS) weight allowance under the Joint Federal Travel Regulation, as in effect after that date.

H.R. 2267

OFFERED BY: MR. BARTLETT OF MARYLAND

AMENDMENT NO. 2: In title IV relating to “DEPARTMENT OF STATE AND RELATED AGENCIES”, in the item relating to “International Organizations and Conferences—contributions to international organizations” strike “of which not to exceed

$54,000,000 shall remain available until expended for payment of arrearages" and all that follows through the second proviso.

H.R. 2267

Offered By: Mr. Bartlett of Maryland

Amendment No. 3: In title IV relating to "DEPARTMENT OF STATE AND RELATED AGENCIES", in the item relating to "International Organizations and Conferences—contributions to international peacekeeping activities" strike "of which not to exceed $46,000,000 shall remain available until expended for payment of arrearages" and all that follows through the first proviso.

H.R. 2267

Offered By: Mr. Doggett

Amendment No. 4: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. . None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of such products.

H.R. 2267

Offered By: Mr. Hefley

Amendment No. 5: Page 79, line 13, after the dollar amount, insert "(reduced by $50,000,000)".

H.R. 2267

Offered By: Mr. Kanjorski

Amendment No. 6: In title IV relating to "DEPARTMENT OF STATE AND RELATED AGENCIES", in the item relating to "RELATED AGENCIES—United States Information Agency—national endowment for democracy" after "$30,000,000" insert the following: "(reduced by $30,000,000)".

H.R. 2267

Offered By: Mr. Kucinich

Amendment No. 7: Page 95, line 15, after the first dollar amount, and page 96, line 1, after the dollar amount, insert "(increased by $500,000)".

H.R. 2267

Offered By: Mr. Sanders

Amendment No. 8: At the end of the bill, insert the following after the last section (preceding the short title):

Sec. . None of the funds appropriated or otherwise made available by this Act may be used for activities to increase foreign market access for tobacco products.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASICH: Committee of Conference. Conference report on H.R. 2015. A bill to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998 (Rept. 105–217). Ordered to be printed.

EXTENSIONS OF REMARKS

IN HONOR OF THE PERUVIAN COMMUNITY CELEBRATING 176 YEARS OF INDEPENDENCE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the Peruvian community as they celebrate their 13th Annual State Parade. This event, which recognizes Peruvian independence from Spain, was celebrated on Sunday, July 27, 1997, in the cities of Passaic, Clifton, and Paterson, NJ.

Peru's independence began 176 years ago on July 28, 1821. The State Parade is the biggest celebration of Peruvian immigrants in my home State of New Jersey. They have made many contributions to this country. They have distinguished themselves at every level of American society. Their dedication to family and community demonstrates what can be accomplished when people work together.

The Peruvian community is honored to have Carlos Noriega Jimenez and Roberto Chale as the grand marshals of the parade. Carlos Noriega Jimenez is the first Peruvian-American in space. He is a major for the USMC who was on the May 15, 1997, NASA mission STS–84 aboard the space shuttle Atlantis. Mr. Noriega Jimenez is loved by the Peruvian community and serves as an inspiration for the entire Hispanic population.

Roberto Chale is the former star soccer player of the Peruvian national team. Mr. Chale, along with other Peruvian soccer players, remain as role models for the younger generation.

I commend the 1997 Peruvian Parade Committee led by parade president Jose Falen who is currently in his third year as the parade president, and vice-president Lusi Ona for their work in making this event possible. On this momentous occasion, a number of people will be recognized for their outstanding work: Ambassador Carlos Gamarra Mujica, Florencio Guerrero, Lucila Campos, Daisy Cuellar, Dr. Carlos Neyra Estens, Roberto Bustamante, and Jose Cabada. Each of these exceptional individuals has made a unique contribution to enhancing the image of Hispanics in our community.

It is gratifying to know that the Peruvian Day Parade brings our community together, reflecting on the cities of Passaic, Clifton, Paterson, and the State of New Jersey. I am certain my colleagues will rise with me and recognize this wonderful celebration of culture and diversity.

A NEW NATIONAL AIRPORT IS LAUNCHED

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. WOLF. Mr. Speaker, Sunday morning, July 27, 1997, was a historic occasion in the Nation's Capital. The New National Airport was unveiled. The new terminal and facility boasts stunning architecture and artwork, sweeping panoramic views of Washington, DC, restaurants, and retail outlets for the 19 major airlines and shuttles which annually serve over 15 million passengers.

The new airport can also be called more user-friendly, with some 5,000 parking spaces and with Metrorail almost to the new terminal's front door. It is truly a magnificent gateway to the Nation's Capital.

National Airport has come a long way since its opening in June 1941, when the Federal Government was in charge of operating the airport. Over the years, National has had its share of growing pains, and as a ward of the Federal Government which had to compete for its share of a dwindling Federal pie, it became what one Transportation Secretary in 1979 called a dump.

Today, though, National is being called a showplace. For that, we salute the yeoman efforts of Transportation Secretary Elizabeth Hanford Dole who 13 years ago set in motion a commission headed by former Virginia Governor Linwood Holton, on which I was honored to serve with other area Members of Congress and Governors, and the D.C. Major, to come up with a plan to get the Federal Government out of the airports business.

After several years of fits and starts, the persuasive Mrs. Dole finally achieved her goal. Congress approved legislation to transfer Washington National and Washington Dulles International Airports from Federal ownership to a local authority.

In 1987 the Metropolitan Washington Airports Authority was created, putting the wheels in motion to improve both National and Dulles Airports. Soon after, with the ability to sell bonds to finance improvements, the airports authority began an almost $2 billion construction program for the two airports. We see today the result of the airports authority's vision at the new National Airport. Dulles is also progressing, with the new Midfield Concourse on schedule and set to open later this fall.

We offer congratulations to the airports authority and the many, many people in northern Virginia and the entire Metropolitan Washington Area who have worked so hard over the past 10 years to launch National Airport into a new century of aviation.

HONORING JOSEPH R. COPPOLA, PH.D.

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. QUINN. Mr. Speaker, I rise today to pay tribute to Dr. Joseph Coppola. This past May, Dr. Coppola was honored by Canisius College for his exceptional service to both the college and our community. A member of the Canisius graduating class of 1940, Dr. Coppola has established himself a true leader in the accounting profession. He has served the college both as an educator and as an active alumna, and is a devoted husband, father of 10, and grandfather of 30. In recognition of that commitment, Canisius College has conferred upon Dr. Joseph R. Coppola the prestigious LaSalle Medal.

Mr. Speaker, I would like to join with Dr. Coppola's family in expressing my enthusiastic commendation for this high honor, and would ask that the following article noting this tremendous achievement be submitted into the CONGRESSIONAL RECORD:

THE CONFERRAL OF THE LASALLE MEDAL

The integrity and success of Canisius-educated accountants have earned the college a national reputation for the quality of its accounting program. No one has had a greater impact in that program than Dr. Joseph R. Coppola '40.

Joe Coppola had earned a B.B.A. in accounting from Canisius and an M.B.A. from the prestigious Wharton School of the University of Pennsylvania (1941) by the time America entered World War II. Thus it was not in the boardroom but on the field of battle that he first answered the call to leadership. He served in both the Army and Air Force, winning six battle stars and the Presidential Unit Citation before returning stateside.

Dr. Coppola returned to Alma Mater to join the faculty in 1946. His affirmity for the subject he taught, combined with humor and an unaffected concern for his students, brought accounting principles and practices to life for those who took his classes, including many who went on to distinguished careers in business, industry, and education.

Dr. Coppola earned a Ph.D. from the University of Ottawa in 1967. While teaching, raising a family, and pursuing that degree, he also worked with public accounting firms, private industry, and government agencies to open new employment opportunities for Canisius accounting graduates.

He took on weighty administrative responsibilities during his Canisius years as well, serving as chairman of the Accounting Department, as moderator of the college's Accounting Society, as director of the Senior Accounting Internship Program, and as coordinator of the IRS Work Co-Op Program. In each of these capacities he helped lay the foundation for the exceptional accounting program that continues to thrive at

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Canisius—one reason he is known as "Papa Joe" in that department.

Dr. Coppola also provided lasting financial support to future generations of accounting students by establishing the Dr. Joseph R. Coppola Scholarship Award in 1988—a fund that provides five annual scholarships. In 1982 he created the Dr. Joseph R. Coppola Award, given to recognize an exceptional Canisius accounting graduate.

Dr. Coppola's devotion to Canisius College has always extended beyond academic matters. Over the years, he and his wife, Angie, their children and grandchildren have been faithful participants in many college events. Thus, in another important way, the Coppolas have illustrated for our students the beauty of a lasting marriage, the joy of a loving family, and the strength of a profound religious faith.

Today we add to his many accolades the highest honor the college can accord and alumnus for service. For the impact of his teaching on the lives of hundreds of our students and for his role in developing one of the finest accounting programs in the nation, we are proud to present the LaSalle Medal to Joseph R. Coppola, Ph.D., '40, professor emeritus of accounting.

TRIBUTE TO COL. FRED MILLS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. SKELTON. Mr. Speaker, today I pay tribute to a distinguished Missourian. Col. Fred Mills, a 30-year veteran of the highway patrol, is retiring on September 1, 1997. Colonel Mills has been the superintendent of the Missouri State Highway Patrol since September 1993.

The focus of his administration as superintendent was "Working Together." He worked to forge partnerships between the highway patrol and other law enforcement agencies as well as between the highway patrol and the citizens of Missouri.

Colonel Mills was a driving force behind the partnership formed between highway patrol and the Kansas City and St. Louis Police Departments which put highway patrol officers on the streets with city officers in 1994 and 1995. The joint operation lowered the violent crime rate in both cities.

Colonel Mills also encouraged a process which moved uniformed officers from office jobs back into field positions by training civilian personnel to perform office functions. Nearly 70 officers were put back on the highways during Colonel Mills' tenure.

Colonel Mills' dedication to the highway patrol and the citizens of Missouri exemplify the highest tradition of service. His experience will be sorely missed. I know that the other Members of this body join me in expressing our deepest gratitude to Colonel Mills and our best wishes for his retirement.

"FORTY ACRES AND A MULE"

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. CONYERS. Mr. Speaker, I rise to pay tribute to an "Editorial Notebook" commentary by Brent Staples in the July 21 issue of the New York Times.

In 1989 I first proposed that a commission be created to study the institution of slavery in this country from 1619 to 1865, and subsequent de jure and de facto racial and economic discrimination against African-Americans, as well as the impact of these forces on living African-Americans, and to make recommendations to the Congress on appropriate remedies.

One of the remedies in this Congress is H.R. 40, with the number of the resolution selected for the "Forty Acres and a Mule" rallying cry of 1865 when Civil War Gen. Tecumseh Sherman issued Special Field Order 15, declaring the Georgia Sea Islands and a strip of South Carolina rice country as black settlements. Each family of freed slaves was to be given 40 acres and the loan of an Army mule to work the land.

Mr. Staples' article describes that historical fact from the personal viewpoint of his own family's experience. I commend him for his contribution to the dialog on race in America. The article and the bill with its 21 cosponsors follow.

[From the New York Times, July 21, 1997]

FORTY ACRES AND A MULE

(By Brent Staples)

Bill Clinton has earned a boat-load of scorn since suggesting that he might apologize for slavery, as some in Congress have suggested. Critics from both left and right argue that such an apology would be trivializing, empty, arrogant and racially divisive. The dominant view, typified by the columnist Charles Krauthammer, is that there is essentially nothing to discuss, since the Civil War closed the issue and the slavers and the enslaved are long since dead. But all the noise suggests the issue is very much alive. The terms of Emancipation are nearly as explosive today as during the 1860's, when they dominated public consciousness and nearly tore the Government apart.

The facts of the period have been papered over in myth. These days, every school child thinks that Abraham Lincoln freed the slaves at one fell swoop—and for moral reasons. In fact, the Emancipation Proclamation freed only the slaves in rebellious states. Lincoln himself called it a military tactic, acknowledging that moral issues were in no way involved.

The slavers and the enslaved are certainly gone from the scene. But African-American families that have shown even a casual interest in history can give chapter and verse on relatives who were born in slavery or just afterward and the costs they paid. In the Staples family, for example, mine is the first generation to come of age without a flesh and blood former slave somewhere at the extended family table. That people in their 40's have this experience makes the issue a current one indeed.

My maternal great-grandmother, Luella Holmes Patterson, was born of a former slave and her master—and shipped off the plantation when the wife got wind of her. As a grade schooler, I visited Luella often in Hollins, Va. A few towns away lay the farm of my paternal great-grandfather, John Wesley Staples, who was conceived in slavery as well and born July 4, 1865, at the dawn of Emancipation. He died 10 years before my birth but was remembered to me in stories and pictures. As recently as 10 years ago, he and his wife, Eliza, were the subject of a pamphlet, written for a family reunion.

John Wesley met Emancipation with his whole life still in front of him. But among his neighbors and in-laws were ex-slaves who came to freedom landless and old or simply broken by the experience. My uncle Mack, who will be 80 in December, remembers them well. When I asked him about the apology brewing in Congress, Uncle Mack could barely contain himself: "They can keep the apology. What good is it? They promised us 40 acres and the mule. None of our people ever got that."

"Forty acres and a mule," of course, is a rallying cry from 1865. It originated during Sherman's March to the Sea. Overwhelmed by black families that abandoned the plantations to follow him, Sherman issued Special Field Order 15, declaring the Georgia Sea Islands and a strip of South Carolina rice country as black settlements. Each family was to get 40 acres and the loan of an Army mule to work it. Other generals and Federal officials followed Sherman's lead, realizing that land was the only hedge against starvation and renewed bondage.

The confiscations were in accordance with Federal law. If sustained and accelerated, the land grants would have created black capital and independence almost immediately and precluded much of the corrosive poverty that still grips the black South. President Andrew Johnson was nearly impeached, in part for obstructing Congress on Reconstruction. Meanwhile, he canceled Special Field Order 15, returning land to white owners and condemning blacks to de facto slavery.

In many places, the eviction process was long and bloody. As the ex-slave Sarah Debro said of the period: "Slavery was a bad thing, and freedom, of the kind we got with nothing to live on, was bad. Two snakes full of poison. One lying with his head pointed north, the other with his head pointing south. . . . Both bit the nigger and they was both bad." My father and uncles grew up steeped in accountings like this one.

For 250 years African-Americans were deprived of freedom, basic education and the right to accumulate wealth, which they could have passed on to their descendants. This history would have left a wound in any case. But the wound is open and running because the country refused to atone materially when it had the chance. In that sense, at least, my Uncle Mack is right about the apology. No amount of talk can alter the past.

H.R. 40

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission to Study Reparation Proposals for African-Americans Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) approximately 4,000,000 Africans and their descendants were enslaved in the United States and the colonies that became the United States from 1619 to 1865;

(2) the institution of slavery was constitutionally and statutorily sanctioned by the Government of the United States from 1769 through 1865;

(3) the slavery that flourished in the United States constituted an immoral and inhumane deprivation of Africans' life, liberty, African citizenship rights, and cultural heritage, and denied them the fruits of their own labor; and

(4) sufficient inquiry has not been made into the effects of the institution of slavery on living African-Americans and society in the United States.

(b) PURPOSE.—The purpose of this Act is to establish a commission to—

(1) examine the institution of slavery which existed from 1619 through 1865 within the United States and the colonies that became the United States, including the extent to which the Federal and State Governments constitutionally and statutorily supported the institution of slavery;

(2) examine de jure and de facto discrimination against freed slaves and their descendants from the end of the Civil War to the present, including economic, political, and social discrimination;

(3) examine the lingering negative effects of the institution of slavery and the discrimination described in paragraph (2) on living African-Americans and on society in the United States;

(4) recommend appropriate ways to educate the American public of the Commission's findings;

(5) recommend appropriate remedies in consideration of the Commission's findings on the matters described in paragraphs (1) and (2); and

(6) submit to the Congress the results of such examination, together with such recommendations.

SEC. 3. ESTABLISHMENT AND DUTIES.

(a) ESTABLISHMENT.—There is established the Commission to Study Reparation Proposals for African Americans (hereinafter in this Act referred to as the "Commission").

(b) DUTIES.—The Commission shall perform the following duties:

(1) Examine the institution of slavery which existed within the United States and the colonies that became the United States from 1619 through 1865. The Commission's examination shall include an examination of—

(A) the capture and procurement of Africans;

(B) the transport of Africans to the United States and the colonies that became the United States for the purpose of enslavement, including their treatment during transport;

(C) the sale and acquisition of Africans as chattel property in interstate and intrastate commerce; and

(D) the treatment of African slaves in the colonies and the United States, including the deprivation of their freedom, exploitation of their labor, and destruction of their culture, language, religion, and families.

(2) Examine the extent to which the Federal and State governments of the United States supported the institution of slavery in constitutional and statutory provisions, including the extent to which such governments prevented, opposed, or restricted efforts of freed African slaves to repatriate to their home land.

(3) Examine Federal and State laws that discriminated against freed African slaves and their descendants during the period between the end of the Civil War and the present.

(4) Examine other forms of discrimination in the public and private sectors against freed African slaves and their descendants during the period between the end of the Civil War and the present.

(5) Examine the lingering negative effects of the institution of slavery and the matters described in paragraphs (1), (2), (3), and (4) on living African-Americans and on society in the United States.

(6) Recommend appropriate ways to educate the American public of the Commission's findings.

(7) Recommended appropriate remedies in consideration of the Commission's findings on the matters described in paragraphs (1), (2), (3), and (4). In making such recommendations, the Commission shall address, among other issues, the following questions:

(A) Whether the Government of the United States should offer a formal apology on behalf of the people of the United States for the perpetration of gross human rights violations on African slaves and their descendants.

(B) Whether African-Americans still suffer from the lingering affects of the matters described in paragraphs (1), (2), (3), and (4).

(C) Whether, in consideration of the Commission's findings, any form of compensation to the descendants of African slaves is warranted.

(D) If the Commission finds that such compensation is warranted, what should be the amount of compensation, what form of compensation should be awarded, and who should be eligible for such compensation.

(c) REPORT TO CONGRESS.—The Commission shall submit a written report of its findings and recommendations to the Congress not later than the date which is one year after the date of the first meeting of the Commission held pursuant to section 4(c).

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—(1) The Commission shall be composed of 7 members, who shall be appointed, within 90 days after the date of enactment of this Act, as follows:

(A) Three members shall be appointed by the President.

(B) Three members shall be appointed by the Speaker of the House of Representatives.

(C) One member shall be appointed by the President pro tempore of the Senate.

(2) All members of the Commission shall be persons who are especially qualified to serve on the Commission by virtue of their education, training, or experience, particularly in the field of African-American studies.

(b) TERMS.—The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect the powers of the Commission, and shall be filled in the same manner in which the original appointment was made.

(c) FIRST MEETING.—The President shall call the first meeting of the Commission within 120 days after the date of the enactment of this Act, or within 30 days after the date on which legislation is enacted making appropriations to carry out this Act, whichever date is later.

(d) QUORUM.—Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) CHAIR AND VICE CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members. The term of office of each shall be for the life of the Commission.

(f) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission shall receive compensation at the daily equivalent of the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including travel time, during which he or she is engaged in the actual performance of duties vested in the Commission.

(2) A member of the Commission who is a full-time officer or employee of the United States or a Member of Congress shall receive no additional pay, allowances, or benefits by reason of his or her service on the Commission.

(3) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties to the extent authorized by chapter 57 of title 5, United States Code.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and at such places in the United States, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission considers appropriate. The Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) POWERS OF SUBCOMMITTEES AND MEMBERS.—Any subcommittee or member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may acquire directly from the head of any department, agency, or instrumentality of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and instrumentalities of the executive branch of the Government shall cooperate with the Commission with respect to such information and shall furnish all information requested by the Commission to the extent permitted by law.

SEC. 6. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—The Commission may, without regard to section 5311(b) of title 5, United States Code, appoint and fix the compensation of such personnel as the Commission considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equal to the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure the services of experts and consultants in accordance with the provisions of section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the highest rate payable under section 5332 of such title.

(d) ADMINISTRATIVE SUPPORT SERVICES.—The Commission may enter into agreements with the Administrator of General Services for procurement of financial and administrative services necessary for the discharge of the duties of the Commission. Payment for such services shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the

Chairman of the Commission and the Administrator.

(c) CONTRACTS.—The Commission may—

(1) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriations Act; and

(2) enter into contracts with departments, agencies, and instrumentalities of the Federal Government, State agencies, and private firms, institutions, and agencies, for the conduct of research or surveys, the preparation of reports, and other activities necessary for the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriations Acts.

SEC. 7. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits its report to the Congress under section 3(c).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

To carry out the provisions of this Act, there are authorized to be appropriated $8,000,000.

MORATORIUM ON LARGE FISHING VESSELS IN ATLANTIC

SPEECH OF

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. FORBES. Mr. Speaker, I rise today in support of H.R. 1855, placing a moratorium on large fishing vessels in the Atlantic mackerel and herring fisheries.

Mackerel is a world-wide fishery. European countries have mismanaged and over-fished their mackerel fishery, and are now turning to the United States mackerel fishery for production. As a result, market prices have increased substantially, and there is new market pressure to fish for mackerel. This has created opportunity and incentive for U.S. companies to develop our fishery.

Congress must prevent the unregulated expansion of fishing capacity with this temporary, emergency measure, until the National Marine Fisheries Service can do a stock assessment on Atlantic herring and mackerel; and the Mid-Atlantic Fishery management councils time to set sound fishery management plans. As the east coast fishery industry responds and develops under these new pressures, we must prevent over-capitalization of this unknown fishery. The alternative is to invite possible long-term economic and environmental harm.

Mr. Speaker, permitting the introduction of large factory trawlers into our fishery could mean repeating the mistakes of the past. Codfish and haddock were over-fished by U.S. vessels after the implementation of the Magnuson Act in 1976. Now large fishing vessels, with capacities exceeding 50 metric tons per year, are ready to enter these fisheries to pursue new high prices. Some of them plan to begin harvesting as early as this fall.

Mr. Speaker, I urge my colleagues to support H.R. 1855, and temporarily prevent large fishing vessels from entering the Atlantic mackerel and herring fisheries, until policies that will prevent them from exhausting our resources can be developed.

PERSONAL PRIVACY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to address the growing concerns that our constituents have about the invasion of their personal privacy.

The latest to take up the cause is Money magazine. In its August issue, Money recounts a poll it took. It found that nearly 75 percent of those surveyed were somewhat, or very concerned, about threats to their privacy. Those concerns have increased—about 66 percent are more worried now than they were 5 years ago. And more women than men are feeling threatened: 80 percent versus 68 percent

People's biggest fear is the sale of their Social Security numbers and other personal identifiers, such as unlisted telephone numbers. Why? Because this information can unlock the door to medical records, school records, you name it. Under current Federal law, it is not a crime to sell this information. Some 88 percent want Government to change that.

The Money article, entitled "Protect Your Privacy," talks about legislation that I introduced to protect personal privacy. H.R. 1813, the Personal Information Privacy Act, would prevent the sale of Social Security numbers, unlisted phone numbers, home addresses, dates of birth, and other private information by credit bureaus, departments of motor vehicles and Internet vendors.

Money says, "Washington and private businesses need to work hard to minimize the biggest threats you face." It says that Congress and the President should enact this piece of legislation into law. I urge my colleagues to heed the concerns of their constituents and become cosponsors of H.R. 1813.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

Ms. MILLENDER-McDONALD. Mr. Chairman, I want to commend Chairman WOLF, Mr. SABO and the members of the Appropriations Committee for the yeoman's job of meeting the numerous funding priorities in this tough fiscal environment.

Many of us do not recognize the arduous task the committee faces each time it is asked to balance economic development with fiscal responsibility. Transportation provides substantial economic benefits to our country. According to the Department of Transportation, 42,000 jobs are created for every $1 billion we invest in roads, highways, transit, bridges, and airports.

The committee has drafted a solid bill that while not perfect meets most of the Nation's transportation needs. I am pleased with the bill's funding for the Airport Improvement Program and many of the local transit projects in my State, and further commend the appropriators for not presupposing the authorizers as we attempt to reauthorize ISTEA.

This bill further reflects the chairman's commitment to both airline and highway safety—issues of tantamount concern to me and my constituents.

To compete in today's global economy we need world-class highways, airports, and transit systems—this bill goes a long way toward providing adequate funding to meet those needs.

I am pleased to support this bill.

MORATORIUM ON LARGE FISHING VESSELS IN ATLANTIC

SPEECH OF

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. LoBIONDO. Mr. Speaker, I would also like to thank my colleague from New Jersey, Mr. SAXTON, for his efforts on the behalf of fishermen in New Jersey.

Make no mistake, Mr. Chairman, the appearance of factory trawlers in Atlantic waters is one of the most serious issues fishermen on the eastern seaboard have ever faced. These vessels, which are built only to haul large amounts of fish in a short amount of time, are nothing more than seagoing vacuum cleaners.

Factory trawlers represent a threat to the job of American fishermen. Many of these hard-working people have generational ties to the waters in which they fish.

Equally as important is the damage these vessels can do to fisheries. Regional fishery councils are working hard to strike a balance between conservation and the needs of fishermen. The entry of factory trawlers in Atlantic waters will only serve to disrupt that balance, and ultimately deplete fishery stocks.

Mr. Chairman, let me conclude by saying that H.R. 1855 is a commonsense solution to this problem, and I am proud to join the environmentalists, commercial fishermen, and recreational anglers who have thrown their support behind this legislation.

ADM. RICHARD E. BYRD HONORED IN WINCHESTER, VA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. WOLF. Mr. Speaker, I had the pleasure, on July 14, 1997, to attend a ceremony in Winchester, VA, where a statue of Adm. Richard Evelyn Byrd was dedicated to his memory.

Born in Winchester, Admiral Byrd was a legendary naval officer, aviation pioneer, adventurer and explorer of both polar icecaps and winner of the Congressional Medal of Honor. Admiral Byrd was a lion of a man who captured the heart of America and the imagination of the world.

In attendance were members of the Byrd family including the Admiral's daughter, Mrs. Bolling Byrd Clarke, former U.S. Senator Harry F. Byrd, Jr., and Mr. Thomas T. Byrd, Representing the region were U.S. Senator CHARLES ROBB, State senator H. Russel Potts, State delegate Beverly Sherwood, former delegate Alson H. Smith, county board of supervisors member Mr. Harrington Smith, county board of supervisors chairman Mr. James Longerbeam, Winchester city councilman Mr. Harry S. Smith and Shenandoah University president Dr. James Davis, along with many men, women, and children from the community.

Principal addresses were given by Secretary of the Navy John H. Dalton and Mrs. Bolling Byrd Clarke. Dr. Jay Morton, who sculpted the statue, was also in attendance and spoke briefly.

The statue of Admiral Byrd was funded entirely by contributions, large and small, from members of the community, friends, neighbors, and admirers. I would like to share with my colleagues the remarks by Navy Secretary Dalton and Mrs. Bolling Byrd Clarke.

WHAT WOULD ADMIRAL BYRD EXPLORE TODAY?

(By the Honorable John H. Dalton)

Distinguished guests, ladies and gentlemen . . . what an honor and a pleasure it is for me to be here today, to unveil this proud monument to one of the most distinguished maritime explorers in our Nation's history.

One of the great pleasures I have as Secretary of the Navy is to help honor the life and work of those who have come before us those brave men and women . . . Sailors, Marines and civilians who have made our Naval Service the best in the world.

Let me say first of all, thank you, to those who had a part in making this memorial a reality. You honor our Nation by your commitment to the preservation of our past triumphs.

Pioneer, explorer, fearless adventurer, and scientist . . . active pursuits that describe the life and personality of Admiral Richard Evelyn Byrd.

He was a man who loved a challenge. He was a man of firsts. The first to fly over the North Pole. The first to fly over the South Pole. The first to explore and map the vast continent of Antarctica. Amazing feats . . . and especially so, given our reliance today on the wonders of navigation now available to us, like the global positioning system.

Admiral Byrd had no such tools available . . . he called upon his courage almost exclusively, to achieve the firsts that began out search for those marvelous tools we use today. His was a special breed of courage.

He was a man who did not believe that the science establishment of his time held definitive answers to questions about our vast planet. He sought to discover for himself—and for his Nation—the answers that might be hidden at the very ends of the earth, under the forbidding ice and snow of the poles.

As I prepared my remarks for today, I pondered Admiral Byrd's quest for knowledge, and his thirst for discovery. I wondered what facet of the unknown he would champion if he were with us today. Would he seek to continue exploration of the Poles? Would he investigate the ocean's depths? Or would he look further, and seek the stars?

If I had to speculate, I believe that Richard Byrd would have been very excited by the images of Mars, transmitted by NASA's Pathfinder and its remote probing vehicle, Sojourner—that we have all seen this past week. I think he would have been very excited by the computer microchip and its myriad of applications in today's world. And, I think that he would have been saddened by the recent death of the great undersea explorer, Jacques Cousteau.

It is a far more knowledgeable world today, than it was back in 1926, when Richard Byrd rolled down a runway enroute to his historic mission of discovery over the North Pole. But, regardless of the advances and breakthroughs, Admiral Byrd, if he were with us today, would still seek the answers to questions beyond our current boundaries. He would push the envelope and challenge conventional wisdom.

If he were alive today, I know that he would be proud of his Navy and Marine Corps. He would be proud of the technology of today's newest aircraft carriers, like the USS HARRY S. TRUMAN, and the F/A-18 E/F Super Hornet strike fighters that will soon fill her decks. He would be proud of our SEAWOLF submarine, and the Tomahawk launch system aboard our Aegis cruisers and destroyers. But, most of all, he would be proud of our people—the Sailors and Marines who man the deckplates.

Following Admiral Byrd's proud example, today's Sailors, Marines and civilians of the Navy Department continue to challenge the established technology available to them. They still strive to discover and explore.

Just two weeks ago, I was at Rice University in Houston, Texas, to honor one of our finest shipmates, who is setting that example. Professor Richard Smalley, funded by the Office of Naval Research, is a Nobel Prize-winner who is pushing the bounds of Nanoscale science, to eventually produce wonders of carbon that will make our future weapons systems more powerful, lighter, stronger, and safer for the Sailors and Marines who use them.

Admiral Richard Byrd may not be with us today, but his spirit of exploration and discovery is alive and well. It will be that spirit which will serve as his legacy.

It was Albert Einstein who said, "We don't know one-millionth of one percent about anything . . ." Your great city of Winchester has not just erected a monument to the past . . . it has erected a challenge for our future. It has erected a symbol that represents Einstein's challenge, and Admiral Byrd's challenge—to all of us—to embrace our future, through continued courage to discover new frontiers.

Thank you, Admiral Byrd, for your contributions to our proud naval heritage. Thank you for a remarkable life and legacy. Thank you, Mr. Jay Morton, for your artistic flair and sculpting talents. And thank you, Winchester, Virginia, for your undying devotion to a great native son.

God bless you . . . God bless our Navy-Marine Corps team . . . and God bless America.

WHAT A WONDERFUL OCCASSION THIS IS!

(By Mrs. Bolling Byrd Clarke)

I wish my father could be here with us—and I think he is in spirit! If he were he would be tremendously appreciative of this great honor and Dr. Morton's wonderful statue. He might say as he sometimes did at receiving a special honor: "You know, I really don't deserve this (and he would have meant it!), but I'm human enough to like it just the same!"

Of all the many statues of him world wide, I think he would feel this one to be special. He would be delighted that it is placed here outside the Judicial Center close to the Winchester Star and in his beloved home town of Winchester where he was born and raised. Although his home after marriage was Boston, he always came back here between trips to spend time with his Virginia family and friends. I must confess to some secret jealousy as a small child: What was he doing in Winchester, or any other place, when he SHOULD have been in Boston with ME, my brother Dick and my two sisters, Katharine and Helen!

The problem was that we saw so little of him growing up. He was busy on Navy assignments when I was born in 1922, his own ventures to the North Pole in 1926 and the Transatlantic flight in 1927. By the time he got home to Boston from each of his first two Antarctic expeditions almost two and a half years had gone by. And when he was home he had very little time to spare. Because those first two Antarctic trips were privately sponsored there were debts to pay, books to write, and nine month country-wide lecture tours, voluminous correspondance and preparations for the next expedition.

But he fitted us in to his hectic schedule as best as he could: For instance, he would call us to join him when he shaved in the morning. I remember sitting on the edge of the bathtub answering questions and discussing important childhood issues while he went through the routine which was quite a procedure in the days before the electric razor! And often he would call us to join him for a walk which was one of his favorite forms of exercise and during which time he did a lot of his thinking, planning, working out problems and, as we got older, sharing his philosophy.

Those walks remind me of another reason this statue would be special to Dad. It includes his beloved dog Igloo, Iggie for short, his dear friend and close companion who went everywhere with him.

Igloo was found in 1926 by a Miss Boggs in Washington, DC as a young, lost and homeless stray. Taking pity on him, she took him home to her apartment. Finding that Igloo was a very bright, inquisitive, explorer/adventurer type of dog, she felt that he should belong to an explorer/adventurer type of human being. Right about that time Miss Boggs had heard about a crazy man by the name of Byrd who said he was going to fly the North Pole. "Those two are made for each other." she thought and packed Iggie in a crate and mailed him express to Lt. Commander Richard Byrd, N. Pole. The Express Company was a bit dumbfounded, never having delivered anything to the North Pole before. But hearing that the vessel "Chantier" was docked in N.Y. preparing to leave for Spitzburgen they shipped him there. That was the first meeting of dog and man and the start of their many adventures together.

Igloo witnessed that historic flight over the North Pole in 1926, and was present with Dad's brother Tom at the take off of the Transatlantic flight in 1927. I understand that Iggie was so upset at seeing his master board the America and start off without him, that he broke loose and raced down the runway after it going, at first, almost as fast as the plane. He also sailed on the Ship Larson to Antarctica and spent the winter night underground.

How well I remember him when he and Dad were home. One summer being used to only penguins, seals and huskies, he investigated two relatively small and seemingly harmless animals with dire consequences. One was a skunk and later a porcupine. I remember Dad having a difficult time pulling quills out of his nose with the help of a magnifying glass and tweezers. Of course he accompanied us into the dining room for meals where mother had a strict rule, "No feeding dogs at the table." My father's response was, "Of course, Dear. You are absolutely right." Then I would notice him giving a sidelong glance to see if Mom was looking the other way, and sneak a bit to Iggie under the table.

Igloo became very sick and died in '32. when Dad heard how ill he was he interrupted a lecture tour to be by his side.

From the beginning Dad taught us all a love of animals and that to kill unnecessarily was wrong. My brother Dick took this so seriously that, for a while, he refused to kill mosquitoes.

But it wasn't just animals my father loved. It was all life. On the many walks we took and in his book "Alone", he expounded on his philosophy that this planet and all life on it is interrelated and an integral part of the universe, that if we are to survive we must care for our environment, live in harmony with each other and achieve lasting, universal peace.

This was his vision as a pioneer aviator and explorer. It was behind his work improving the plane; the Transatlantic flight to "shrink the world" brining continents and people closer together in understanding; behind his explorations and scientific work in Antarctica and his great desire that Antarctica become, as he called it, the "Great White Continent of Peace".

How vividly I remember him on our walks together in his later years expounding on his dream. "Bolling, can you imagine Antarctica, the one continent in the world where nations will work together side by side in peace and harmony sharing the results of their work for the betterment of mankind? Now wouldn't that be a wondrous thing?"

He worked very hard on the Peace Treaty and would be relieved, overjoyed, to know that it was ratified 2 years ago after his death.

Not so very long before he died, I asked him "now that most of this planet has been explored, where would you like to go next?" Without any hesitation whatsoever he replied, "Space." My cousin, Helen Byrd, told me yesterday that in a conversation with Dad he said "The future is in the Cosmos."

I have a fantasy of him and Igloo kicking up dust investigating Mars or taking off in a space ship traveling between the stars and planets to the outer limits, searching for answers to the mysteries of the universe.

AN INDEPENDENT JUDICIARY AND FEDERAL JUDICIAL PAY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. CONYERS. Mr. Speaker, I am attaching a copy of two important resolutions adopted by the United Conference of Mayors, at their meeting in San Francisco last month. These resolutions reflect strong support across the country for protecting a cornerstone of our democracy—an independent judiciary. The Conference also recognizes that to preserve an independent judiciary Federal judges must be adequately and fairly compensated. I encourage Members to take a moment to review these resolutions. Federal judges have not received a pay increase since 1993, therefore, I also urge Members to support a salary increase for Federal judges which will help ensure an effective and independent judiciary; and reject legislation that seeks to undermine the judiciary's integrity:

RESOLUTION NO. 43: AN INDEPENDENT JUDICIARY

Submitted by: The Honorable Dennis Archer, Mayor of Detroit

Whereas, an independent judiciary is a fundamental part of our system of democracy; and

Whereas, in recognition of the need to preserve judicial independence, Article III of the United States Constitution provides for lifetime tenure for federal judges and indicates that they can only be removed from office for "Treason, Bribery, or other high Crimes and Misdemeanors"; and

Whereas, judges are required to decide cases based upon the evidence presented and the applicable law, regardless of the political popularity of those decisions; and

Whereas, this doctrine of judicial independence enshrined in our Constitution and laws has made the courts of this country the protectors of the politically weak and unpopular; and

Whereas, in August 1993 the National Commission on Judicial Discipline and Removal which was created by the United States Congress reported that while from time to time various federal judges have been removed from office for specific acts of official or personal misconduct, Congress has never removed a federal judge from office simply because it disagreed with his or her judicial decisions; and

Whereas, it appears that certain members of Congress who disagree with the judicial decisions rendered by various federal judges are threatening to use the congressional impeachment power to remove those judges from the bench; and

Whereas, such threats chill the independence of the judiciary and violate the separation of powers doctrine contained in the United States Construction by substituting congressional use of the impeachment power for the constitutional process of appellate review of judicial decisions; and

Whereas, the threat by certain members of Congress to institute impeachment proceedings against federal judges whose decisions they find politically unpopular is an attempt to undermine the separation of powers doctrine contained in the United States Constitution by subordinating objective and rational legal decision making to popular political whims; and

Whereas, it further appears that certain members of the Senate are attempting to prevent action by that body on the confirmation of various judicial nominations which have been submitted to the Senate; and

Whereas, it appears that this refusal to act on judicial nominations is based on concerns regarding the nominees' political ideology rather than concerns regarding the nominees' legal qualifications or ability to perform the duties of the office to which they were appointed; and

Now, Therefore, Be It Resolved that The United States Conference of Mayors affirms its support for a strong and independent federal judiciary; and

Be it further *Resolved* that The United States Conference of Mayors calls upon the Senate and in particular the Senate Judiciary Committee to handle judicial confirmation proceedings in an objective and expeditious matter.

Projected Cost: None

RESOLUTION NO. 42: JUDICIAL PAY

Submitted by: The Honorable Dennis Archer, Mayor of Detroit

Whereas a strong and independent federal judiciary is important to our nation's system of democracy; and

Whereas, as indicated by Senator Orrin G. Hatch: "If we are to attract and retain the most capable lawyers to serve as federal judges, it is vitally important that we ensure that those responsible for the effective functioning of the judicial branch receive fair compensation, including reasonable adjustments, which allow judicial salaries to keep pace with increases in the cost of living;" and

Whereas, adequate compensation for federal judges helps to insure that our judiciary is reflective of the whole of our society. As indicated by Judge Barefoot Sanders: "We enjoy a pluralism in the judiciary that is enriched by diverse backgrounds in race, gender, and religion, as well as prior careers and expertise. If judicial salaries are frozen, our judiciary would face a different future if we desire to continue the pluralism and competence we presently enjoy;" and

Whereas, federal judges have not received a pay increase or adjustment since 1993; and

Whereas, salary increases and adjustments for federal judges are statutorily linked to those for members of the United States Congress and the President of the United States; and

Whereas, unlike those elected officials, members of the federal judiciary are appointed to a lifetime term of office; and

Whereas, in his 1996 Year End Report on the Judiciary, Chief Justice Rehnquist said: "The significance of Congress' failing both to repeal Section 140 and to grant an ECI adjustment to judges' salaries cannot be overstated in terms of its effect on the morale and quality of the federal judiciary. Section 140 jeopardizes the ability to retain and recruit to the Judiciary the most capable lawyers from all socio-economic classes and geographic areas, including high cost-of-living urban areas. We must insure that judges, who make a lifetime commitment to public service, are able to plan their financial futures based on reasonable expectations;" and

Whereas, both the House and Senate have before them bills sponsored by the Chairman of the House and Senate Judiciary Committees and co-sponsored by the Ranking Members that, if adopted, would:

Give federal judges a "catch-up" pay adjustment;

Sever the linkage between judicial, congressional and executive schedule compensation and substitute a provision linking adjustments to the pay of federal judges to the mechanism for adjusting the general schedule pay rates of other career government employees; and

Repeal Section 140 of Public Law No. 97–92 that makes judicial cost-of-living pay increases subject to Congressional approval.

Now, therefore, be it *Resolved* that The United States Conference of Mayors supports the legislation that will adjust, and provide a procedure for the future adjustment of, the salaries of federal judges and urges its speedy adoption.

Projected Cost: Unknown

DEATH ON THE HIGH SEAS ACT

SPEECH OF

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. FORBES. Mr. Speaker, I rise in support of H.R. 2005, the Airline Disaster Relief Act, which updates the Death on the High Seas Act. Along with Congressman MCDADE, I introduced this act to prevent the injustices visited upon constituents from both of our districts who suffered great losses aboard TWA 800. The act revises an outdated Federal law, and allows full compensation for families of victims of aviation disasters like TWA 800, which occurred in my home district in eastern Long Island.

Because of the outdated provisions of a law adopted 77 years ago, the families of victims of crashes like TWA flight 800 do not have the same legal recourse that the survivors of other incidents have. Adopted in 1920, the Death on the High Seas Act was designed to allow the surviving family of sailors lost at sea to sue for lost wages. In subsequent court rulings, it has been determined that the act applies to all maritime and aviation disasters that occur more than 1 marine league, or 3 miles from American shoreline.

Because it crashed 9 miles off Long Island's South Shore, the Supreme Court has ruled that TWO flight 800 is not covered by the act. In previous cases, the courts have also ruled that plaintiffs in high seas cases are not entitled to damages for pain and suffering or loss of companionship. These changes amend the Death on the High Seas Act, so that it covers all aviation disasters since January 1, 1995, and grants families the right to file suit for a jury trial in State court, rather than present their claim to a judge under maritime law.

Mr. Speaker, I urge my colleagues to support these changes to the Death on the High Seas Act, so that tragedies like TWA 800 are not compounded by the injustices of outdated laws pertaining to these situations.

MORATORIUM ON LARGE FISHING VESSELS IN ATLANTIC

SPEECH OF

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. WEYGAND. Mr. Speaker, as an original cosponsor of this legislation, I rise in strong support of H.R. 1855 and would like to thank Mr. SAXTON and the members of the Resources Committee for bringing this bill to the floor. This legislation will help protect the herring and mackerel fishery and the small fishermen in Rhode Island and along the Atlantic coast.

Rhode Island has long been dependent upon the fishing industry as a major source of its economy and we must do all we can to ensure that the fishing industry remains viable. Therefore, we need to formulate a management plan to protect the long-term sustainability of our fisheries.

Already, there is a Federal management plan for several types of fish. In fact, just recently, the House passed a bill authorizing $400,000 to continue studying the Atlantic striped bass stocks. However, there is no management strategy for herring and mackerel and the current data used for evaluating the fishery is debatable.

With demand increasing for herring and mackerel we must proceed cautiously to avoid having the fishery collapse, as we saw in the 1970's. The herring fishery has recovered and we must ensure its viability for generations to come.

Herring and mackerel are also important for ecological reasons. Herring and mackerel are forage fish, supporting whales, dolphins, tuna, cod, flounder, and haddock. Clearly, the herring and mackerel fishery is important not only to those fishing for herring but also those fishing for other stocks. Obviously, we need to conduct a study and formulate a management plan for herring and mackerel.

Of particular concern is the use of large factory trawlers to fish for herring and mackerel. These large trawlers could have a potentially enormous impact on our herring and mackerel stocks by catching a huge amount of available fish in a very short period of time. This will undoubtedly put a strain on small, local fishermen as well as the fishery.

This bill will prohibit the use of large factory trawlers when fishing for herring and mackerel until the National Marine Fisheries Service can complete a survey on the abundance of herring and mackerel and devise a management plan to preserve the long-term sustainability of the fishery.

This measure is supported by commercial and recreational fishermen from North Carolina to Maine. This bill will protect the fishery and small fishermen and I urge my colleagues to support it.

IMPROVING OPERATIONS OF FISH AND WILDLIFE SERVICE'S NATIONAL REPOSITORIES

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. SKAGGS. Mr. Speaker, today I'm introducing a bill to improve the efficiency of already excellent work being done by the U.S. Fish and Wildlife Service in Colorado and around the country.

The Service is responsible for storage and disposal of fish and wildlife and parts thereof and many other items that have come into Federal ownership under a variety of laws related to activities involving fish, wildlife, or plants. Hundreds of thousands of these items are collected at two facilities in Commerce City, CO. Most are in the National Wildlife Property Repository, while dead eagles and eagle parts, including feathers, go to the National Eagle Repository.

From the repositories, the Service makes many items available to museums, zoos, schools and colleges, and Federal agencies for scientific, educational, and official uses. In addition, eagles and eagle parts are made available to Native Americans for religious purposes. These distributions meet a real need: last year alone, the eagle repository filled more than 1,300 requests while between July 1995 and February 1997 more than 5,706 items were shipped from the other repository to organizations around the Nation.

While the Service has to retain some of the items that aren't distributed in these ways, still others can be sold—and that's where my new bill comes in.

Under the current law, proceeds from sales of these items can be used for rewards and for some storage costs, but can't be used to defray the costs of the sales themselves. My bill would expand the list so that money the Service takes in from these sales could be used to cover the appraisals, auction expenses, and other costs of carrying out the sales themselves, as well as for processing and shipping of items. The result will be to make this program more self-supporting, cutting redtape and making it easier for the Service to carry out these very valuable activities.

I think it's just good sense as well as good government, and is a bill that should receive prompt consideration and approval.

TRIBUTE TO THE ARGENTINE AMBASSADOR RAÚL E. GRANILLO OCAMPO

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. TORRES. Mr. Speaker, I would like to call to your attention Dr. Raúl Granillo Ocampo, the Ambassador of the Argentine Republic to the United States of America. He has been appointed as Minister of Justice, one of the key positions in the Argentine Cabinet. I am sure that in his new position he will greatly contribute to the advancement of justice in Argentina. We look forward to working with him to enhance international cooperation in legal affairs.

I would like to point out that he has spent with us almost 4 years and during this period he has managed to develop an excellent relationship with the U.S. Congress. The links between Argentina and United States Congressmen have never been better.

Ambassador Granillo Ocampo has had a strong presence in Washington's daily activities. He has been one of the leaders of the Hispanic diplomatic community and a keynote speaker in many events.

His diplomatic skills have helped to build a very deep relationship between our two countries and to manage or avoid conflicts whenever they appeared in the horizon.

He and his wife, Chini, have made a lot of friends, not only among diplomats but also among members of the U.S. political and business community.

Ambassador Granillo Ocampo was born on January 18, 1948, and earned his law degree at the University of La Plata, Argentina, in 1968. Then, he earned a master in comparative international law at the Southern Methodist University, Dallas, TX, United States of America, in 1988, and he got his Ph.D. in legal and social sciences at the University of Buenos Aires, Argentina, in 1989.

During his career as a lawyer, he has served his country many times, mainly as a Supreme Court Justice and as a legal and technical secretary of the Presidency of Argentina. His new appointment, Minister of Justice, constitutes a tremendous undertaking in any country.

Mr. Speaker, I would like for you to join me, and our colleagues, along with Ambassador Granillo Ocampo's family and friends, and the political, business, and diplomatic community in recognizing the outstanding and invaluable lifelong contributions Ambassador Granillo Ocampo has made to his country and to the good relations between Argentina and the United States of America.

NASA LEWIS RESEARCH CENTER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to commend the leadership, scientists, engineers, and other dedicated employees of the NASA Lewis Research Center, which is located in my district on the west side of Cleveland, OH. The Lewis Research Center plays an important role in many NASA-wide programs, including microgravity research and the international space station power systems. In order to keep the citizens of Cleveland informed about the status and future of the Lewis Research Center, I asked the Congressional Research Service [CRS] to prepare a special report. The report, by CRS Analyst in Aerospace Policy David Radzanowski, describes how the Lewis Research Center fits into the overall strategic direction of NASA. I request that this report be published in the CONGRESSIONAL RECORD over the next 4 days, starting with the Summary and an Appendix on the Lewis DC–9.

NASA LEWIS RESEARCH CENTER

SUMMARY

This report examines the National Aeronautics and Space Administration's (NASA's) Lewis Research Center (LeRC). Changes in the center during the 1990s are examined as well as how NASA's future plans compare with Lewis' current roles and missions.

Lewis is one of ten NASA field centers. The center is located 20 miles southwest of Cleveland, Ohio, occupying 350 acres of land adjacent to Cleveland Hopkins International Airport. Lewis comprises more than 140 buildings that include 24 major facilities and over 500 specialized research and test facilities. Additional facilities are located at Plum Brook Station, a 6,400-acre facility about 50 miles west of Cleveland and 3 miles south of Sandusky, Ohio. The center currently has approximately 2,150 civil servant employees, along with approximately 1,600 on-site contractors.

Work at Lewis is directed toward research and development of new propulsion, power, and communications technologies for application to aeronautics and space. Microgravity research in fluids and combustion also is an area of focus. NASA has designated LeRC as its Lead Center for Aeropropulsion and its Center of Excellence in Turbomachinery.

Due to declining budgets in the 1990s, Lewis, as well as all NASA centers, has experienced significant changes in its roles and missions as well as its workforce. Several of these changes, such as workforce reductions, are ongoing. The majority of these changes were the result of recommendations made in NASA's 1995 Zero Base Review. In FY 1993, Lewis' funding peaked at $1,002.6 million and its personnel level peaked at 2,823 full-time equivalent (FTEs). For FY 1998, the request for Lewis is $671.5 million with an FTE level of 2,085.

Many Lewis employees assert that the center has accounted for a greater share of total NASA reductions than over NASA centers. Lewis has had the highest percentage reduction in funding of all field centers; however, Kennedy Space Center (KSC) has experienced a relatively greater FTE percentage reduction than Lewis. In addition, KSC and Marshall Space Flight Center (MSFC) both have a total planned FTE percentage reduction through FY 2000 that is higher than Lewis. Lewis has had a larger share of the reductions than many other NASA centers.

When the potential for closing NASA centers is discussed within the space community, some mention Lewis as a likely candidate. The reductions at Lewis over the past four years may further convey the impression that the center is a candidate for closure. This report finds that although Lewis has been downsized at a greater rate in the 1990s than most of NASA's centers, the center does not appear to be in danger of being closed in the near-term if currently planned budgets are funded. Current plans indicate that Lewis is expected to have a significant role in NASA's future in fulfilling the goals set forth in the agency's strategic plan through 2025 and beyond.

APPENDIX: LEWIS RESEARCH CENTER'S DC–9—MAY 19, 1997

This Appendix discusses the National Aeronautics and Space Administration (NASA) decision not to renew the lease on a DC–9 that is used for parabolic microgravity research flights at Lewis Research Center (LeRC). You specifically asked whether this decision is an attempt by NASA Headquarters to eventually terminate microgravity research at Lewis. My analysis suggests that this is not the case. There may be a question of whether the decision is cost-effective, however, it does not appear that there is an underlying motive to terminate microgravity research at Lewis.

Microgravity investigators often need to conduct reduced gravity experiments in ground-based facilities during the experiment definition and technology development phases of their research. The NASA ground-based reduced gravity research facilities include two drop towers at LeRC, a DC–9 aircraft based at Lewis, and a KC–135 aircraft based at Johnson Space Center (JSC). The DC–9 is the newest microgravity facility. It is a leased aircraft that began operations in 1995. The decision to add the DC–9 to the microgravity program was due to a perceived need for additional flight hours for research.

In 1995 NASA's Zero Base Review recommended that all program aircraft be consolidated at Dryden Flight Research Center (DFRC) in California. The cost effectiveness of such a move was immediately questioned, particularly moving the DC–9. In the summer of 1996 NASA assessed three options regarding the disposition of the DC–9. These were: transferring the DC–9 to DFRC; privatizing the operation; and utilizing instead the KC–135 based at JSC. In August 1996, NASA determined that the KC–135 could meet NASA requirements for parabolic microgravity research flights; that the DC–9 lease and options would not be continued past July 1997; and that the possibility existed that the program may need an additional KC–135 based at JSC to meet requirements. Meanwhile, legislative language inserted into the FY 1997 VA–HUD–IA Appropriations Act prohibited NASA from moving aircraft to DFRC that were east of the Mississippi River. In early December 1996, LeRC was notified of the decision to terminate the DC–9 lease.

The decision may or may not be cost-effective, but the question has been raised whether it is an attempt by NASA Headquarters to eventually terminate the microgravity program at Lewis. Such a motive appears unlikely for the following reasons.

Consolidation of aircraft at the fewest number of NASA sites is part of an overall new agency management philosophy to reduce redundancy across NASA. It is not motivated by efforts to terminate programs. NASA Headquarters asserts that the decision will actually save the agency money over the years.

Although Marshall Space Flight Center (MSFC) is the Lead Center for NASA's microgravity program, Lewis maintains program responsibility for fluid and combustion microgravity research. This research is a critical component of the research program plans for the International Space Station. Any severe disruption to the program, such as moving it to another NASA center, would be very detrimental to the space station research program.

Lewis still maintains the 2 drop towers for ground-based microgravity research. Before researchers use aircraft for their experiments they must first prove that the drop towers will not fulfill their requirements. Similar drop towers are not located at any other NASA centers.

Even though the KC–135 would be based at JSC it is likely that the aircraft will fly research campaigns at the sites where the experimenters are based. Experiments developed at Lewis will most likely still be flown from Lewis.

In March of this year, NASA created a National Center for Microgravity Research on Fluids and Combustion. This institution is a partnership of Lewis, Case Western Research, and the Universities Space Research Association and it is based at Case Western. It is unlikely that NASA Headquarters would terminate the microgravity program at Lewis having just created the National Center in Cleveland.

Based on these reasons, it appears that the decision to terminate the DC–9 lease was not motivated by a desire to terminate Lewis' microgravity research program.

100TH ANNIVERSARY OF PEAT MARWICK LLP

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mrs. ROUKEMA. Mr. Speaker, I am pleased to have the opportunity to call attention to historic American success story. On August 2, 1997, KPMG Peat Marwick LLP, the accounting and consulting firm, headquartered in Woodcliff Lake, NJ, celebrates 100 years in business in the United States. Founded by two Scotsmen who became naturalized citizens of this country, KPMG Peat Marwick is a private enterprise that has grown from two employees to 20,000 during a century of tremendous change. The firm's expansion on U.S. soil and around the world is a testament to the pioneering spirit and vision of James Marwick and Roger Mitchell, who identified the need for independent accounting review of companies big and small, and who meet that need by conducting certified, independent audits.

These two accountants saw the extent to which participants in an open and free market rely on accurate financial information to make important business decision—decisions that affect thousands of employees, investors, and consumers. They took seriously their charge as independent auditors, acknowledging the public trust they held when rendering audit opinions for clients that include some of the corporate giants in our Nation's history. When the needs of their clients expanded or varied, so did the services and capabilities of this firm. As the United States and the world embark on the frontier of the information age, this now-worldwide firm stands as a proud reminder of past accomplishment and a beacon of future advancement.

KPMG Peat Marwick has preserved and enhanced another great tradition during its first 100 years—that of community involvement. Indeed, the centerpiece of the firm's 100th anniversary celebration is its World of Spirit Day—a full day of giving back to the communities that have helped it to prosper. On September 22, 1997, KPMG will close the doors of every U.S. office for the day as 20,000 partners and employees band together to volunteer time and talents. From Minneapolis to Miami, from New York to San Francisco, KPMG people will collectively spend 160,000 hours in service to their communities and those in need. At the end of the day, various offices will have done the following: Built at least two residential homes; refurbished and painted public schools in multiple cities; taught and interacted with children in schools and child development centers; fed the hungry and homeless; landscaped youth camps; and cleaned local parks, rivers, and zoos. What a difference this day will make.

KPMG's mammoth commitment to community service was one reason it was the only professional services firm chosen to participate in the Presidents' Summit for America's Future. It is my hope that their fine example proves to be a catalyst for other companies to make similar commitments.

Mr. Speaker, we are proud to have such a corporate good neighbor in our community. Let me congratulate the partners and employees of KPMG Peat Marwick on their firm's achievement of 100 years in business.

Over the course of a century, this company has advanced by verifying basic financial information in thick ledgers to providing complex assurance and consulting services at the dawn of a knowledge revolution. KPMG has proven it can evolve and thrive as time marches on. May its endurance and prosperity serve as positive lessons to future generations of enterprising Americans.

TRIBUTE TO THE TUSKEGEE AIRMEN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. BROWN of California. Mr. Speaker, it is with the greatest sense of pride that I rise today, on the floor of the U.S. House of Representatives, to honor the Tuskegee Airmen who earned a glorious place in history through their heroic actions during World War II.

Due to the rigid pattern of racial segregation that prevailed in the United States during World War II, the War Department began an isolated program in 1941 to train black Americans as military pilots. Primary flight training was conducted by the Division of Aeronautics of Tuskegee Institute located near the town of Tuskegee, AL. The Tuskegee Airmen were the first African-American aviators to serve in the U.S. Armed Forces.

The first class of Tuskegee Airmen was trained to be fighter pilots for the famous 99th Fighter Squadron, slated for combat duty in North Africa. Additional pilots were assigned to the 322d Fighter Group which flew combat along with the 99th Squadron from bases in Italy. By the end of the war, 992 men had graduated from pilot training at Tuskegee, 450 of whom were sent overseas for combat assignment. During the same period, approximately 150 lost their lives while in training or on combat flights.

The Tuskegee Airmen were revered because of their reputation for not losing bombers to enemy fighters. During the course of World War II, they flew more than 1,500 combat missions, and downed a remarkable 261 enemy aircraft. In addition, this fearless squadron flew over 140 flying missions without relief. Led by Gen. Benjamin O. Davis, Jr., the first black general in the Air Force, these unsung heroes flew every mission as if it were their personal task to demonstrate the equality of all people, regardless of color or creed.

Mr. Speaker, on July 31, 1997, the Arrowhead Credit Union, Inland Empire African-American Chamber of Commerce, Phenix Information Center, and Westside Action Group will form a partnership to honor the Tuskegee Airmen in San Bernardino, CA. On this special occasion, I ask my colleagues to join me and local civic organizations in my congressional district in saluting these men for their unsurpassed bravery and patriotism in putting their lives on the line overseas while confronting racial injustice at home. We recognize their sacrifice and honor them for their service to our country.

IN SUPPORT OF EDUCATION TAX BENEFITS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to highlight provisions of the pending tax bill that would affect higher education. Some of the proposals are long overdue, whereas others should never even have been considered.

On July 16, I was joined by my colleagues from the Massachusetts delegation and representatives of higher education from Massachusetts at a press conference on these very issues. I was joined by Grace Carolyn Brown, the president of Roxbury Community College, and Jon Westling, the president of Boston University, both of whom do a great job running schools in my district. BU and RCC are just 2 of the 60 colleges and universities in my district. Their students are among the 190,000 I represent—more students in 1 district than in 26 States.

I also was joined by Sam Liu, an MIT graduate student who organized a petition signed by 500 students opposing the elimination of section 117(d). There was also Roger Sullivan from the Association of Independent Colleges and Universities of Massachusetts and Harvard University staffer and student Annie Burton Byrd.

Here in the Congress, no one has done a better job of making sure the Tax Code works to the benefit of the education needs of our Nation than my colleague from Massachusetts who sits on the Ways and Means Committee, RICHARD NEAL. And in the short time they have been in office, the Members from the 3d and 10th Districts of Massachusetts, JIM MCGOVERN and BILL DELAHUNT, have been strong and forceful advocates for expanding access to higher education. I also want to thank our delegation's resident chemistry professor, JOHN OLVER, who now watches out for education on the Appropriations Committee.

When we talk about education what we're really talking about is the future prosperity and security of our country. Nothing is more fundamental to hopes of getting a good job and pursuing a rewarding career than education. It's the tool that enables people to get the high-wage jobs of the future and grow within their current careers.

There once was a time when higher education was a luxury that few could afford. Increased Federal support for loans, grants, and scholarships has helped open up the Ivory Tower to Americans from all walks of life, but today we've reached a point when the cost of this critical investment in the future is becoming out of reach.

The cost of getting a college, graduate, or professional degree has skyrocketed just at a time when higher education is more important than ever to obtaining fulfilling employment. Some experts predict that early in the next century, 75 percent of all jobs will require some level of higher education.

People of all ages understand the value of education. The fastest growing student population in the United States consists of people over 40 who are returning to school to gain new skills, who understand that what you earn depends on what you learn.

That being the case, why are we looking at a tax package that pretends to boost educational achievement but really only works for the wealthy? The Republican tax measure does little or nothing for the millions of working people who are going to school part-time while holding down a job and raising a family.

The education-friendly tax provisions described in our letter to the conferees is designed with working people in mind. It has been endorsed by over 25 college and university presidents and represents real help for the educational ambitions of our people. We urge the tax conferees to include them in the final conference report.

Here are the six provisions:

While the Republican House and Senate bills allow a tax credit equal to 50 percent of tuition costs for the first 2 years of college, our proposal covers 100 percent of costs. And while the GOP measures offer no credits for tuition costs beyond the first 2 years, we support a credit equal to 20 percent of tuition costs in the outlying years. Our provision is particularly important to students at schools like Roxbury Community College, where 1,500 dollars' worth of additional tax benefits can make the difference between getting a degree and going without one.

The current House bill includes no deduction for student loan interest while ours does.

The Senate bill permanently extends tax exclusion for employer-provided tuition assistance and does include graduate students but the House bill only extends section 127 through the year 1997 and does not include graduate students. The Member from the 2d Congressional District of Massachusetts, Mr. NEAL, has worked very hard to get permanent extension of this crucial benefit passed, because he knows that if employees have to pay taxes on expensive tuition assistance, many will decide to go without the additional education.

My colleague from Massachusetts, Mr. NEAL, has also shown great leadership on trying to retain the tax exclusion of tuition benefits for graduate students, which the House bill repeals. This provision would also hurt other employees of educational institutions who get tuition benefits. From lay teachers at Catholic schools to grounds keepers at Boston University, these people would be forced to pay taxes on the tuition benefits they and their families receive.

Our measure exempts from taxation any interest accrued on prepaid tuition accounts. It makes no sense to levy taxes on education accounts established with the aim of bringing tuition costs within the reach of working families.

Finally, our alternative eliminates the cap on tax-exempt bonds issued by private nonprofit educational institutions and other charitable organizations. This provision is crucial to the needs of colleges and universities to expand their facilities for the 21st century.

Mr. Speaker, I have the cover letter for the petition that Sam Liu organized and his statement from the press conference which I would like printed in the CONGRESSIONAL RECORD along with my statement.

MASSACHUSETTS INSTITUTE
OF TECHNOLOGY,
Cambridge, Massachusetts, June 30, 1997.

Hon. JOSEPH KENNEDY,
U.S. House of Representatives,
Washington DC.

DEAR CONGRESSMAN KENNEDY: We, 500 MIT graduate students, write to express our great shock and disappointment regarding the proposed elimination of Subsection 117(d) of the internal revenue code which excludes tuition from taxable income.

A graduate teaching or research assistant who receives a stipend of $1300/month and tuition waiver of $22,000/year (excluding summer tuition) will expect to pay $650/month in State and Federal taxes under the proposed new legislation. For many students this is a 3.5 times increase in tax!

The tuition waiver granted by MIT for graduate teaching and research assistants makes graduate school a financially viable opportunity for us. If tuition is now redefined as taxable income, many of us will no doubt be driven out of graduate school and away from careers in research and teaching.

The proposed changes in tax code will force universities to dramatically increase teaching and research assistant salaries to maintain a reasonable standard of living for graduate students. In turn, this could increase tuition for undergraduates and dramatically increase pressures on already burdened federal research programs. The proposed elimination of Subsection 117(d) is a dramatic step in the wrong direction.

The new provisions will make graduate school unaffordable to millions of Americans throughout the next decade. We respectfully ask you to work against the new legislation which eliminates Subsection 117(d) of the IRS code and to support provisions which are more encouraging of graduate education. The future of our nation requires it.

We thank you for your cooperation,

Sincerely,
Graduate Students at the Massachusetts
Institute of Technology

STATEMENT BY SAM LIU, GRADUATE STUDENT, THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY, JULY 16, 1997

My name is Sam Liu. I come from Washington Crossing, PA, and I am a doctoral candidate in economics at MIT.

The current House tax proposal would eliminate the tax exempt status of tuition waivers for graduate research and teaching assistants (known as RAs and TAs). There are over 2,700 RAs and TAs at MIT who work with faculty in teaching and research and who rely on these waivers to make graduate school an affordable opportunity. The elimination of Section 117(d) of the tax code would have grave consequences for graduate students and for higher education.

The typical MIT graduate student relies on a research or teaching assistantship to pay for his or her schooling. The assistantship covers the cost of tuition and pays a stipend of about $1,300 per month to cover our living expenses. Currently, under Section 117(d), only the stipend portion of this award is taxed by federal and state income taxes. After taxes, the typical stipend for an unmarried student amounts to about $1,100 a month.

If the current House tax proposal were to become law, my taxes and those of my fellow graduate students would increase dramatically. Our tuition waivers would be considered taxable income. This means that our taxable income will increase by the $22,000 cost of MIT's tuition. Instead of paying taxes on $12,000 for the academic year, I would have to pay taxes on $34,000. That would increase my taxes by over 300 percent. My stipend would be reduced to less than $600 per month. It would be virtually impossible for me to live on this small amount of money. My monthly rent for a shared apartment is more than $400/month. The tax proposal would leave me with less than $200 a month to cover food, books and other expenses. Other students have families they must take care of and have even greater expenses. Many of my fellow students have told me that if Section 117(d) is eliminated, they would not be able to continue their graduate studies.

If the tax proposal is passed, and if MIT were to raise our stipends in order to compensate us for the huge decline in our net income, the Institute would see its costs increase by over $19 million annually to retain its RAs and TAs. These costs would be translated into either sharp cutbacks in teaching and research programs or higher tuition fees for undergraduates.

My fellow graduate students and I urge Congress to keep our tuition waivers tax-free and keep Section 117(d) intact. We would also like to thank Representatives Kennedy, Neal and McGovern and the other members of the Massachusetts delegation for their leadership and support on behalf of graduate education.

MORATORIUM ON LARGE FISHING VESSELS IN ATLANTIC

SPEECH OF

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1997

Mr. METCALF. Mr. Speaker, I rise in opposition to H.R. 1855 and to express my strong concerns with this bill. We have heard much today about the Atlantic herring and mackerel fishery stocks, as if somehow they are in danger. Yet this bill is not really about the fishery resources at all. It is about competition. It is about changing the rules in the middle of the game.

It is about destroying an American company whose principals are fishermen from Washington State and from Maine. This company has invested in a $40 million project based on every known fishery management policy and law on the books. Policies that encouraged the development of vessels of this size are completely reversed by this Federal legislation. In fact, this company's vessel, the *Atlantic Star*, is the only vessel that will be legislated out of existence—and into bankruptcy—by enactment of H.R. 1855. Such a result is not only bad fishery policy, it is bad Government policy and is manifestly unfair. We here in Congress should be trying to prevent Government takings of private property, not facilitating them, as this legislation most certainly does.

In 20 years of managing our fisheries resources, this is the first bill ever to waive the entire Magnuson-Stevens Fishery Conservation and Management Act. It preempts the Regional Fishery Management Councils and attempts to micromanage the Fishery from Washington, DC. And why? Because it is the only way that competitors can keep a single large vessel, the *Atlantic Star*, out of the fishery. This boat presently meets all necessary requirements. It has all permits needed for these fisheries. It is a U.S.-built, U.S.-flag, U.S.-owned and U.S.-crewed vessel that will generate over 100 new jobs, both on board and on land, as well as $25 million per year in benefits to the U.S. economy.

This vessel is presently in the shipyard being refitted to fish mackerel and herring stocks that are so strong that Government scientists have for years characterized them as underutilized. The most recent information from National Marine Fisheries Service [NMFS] scientists tells us that "the Northwest Atlantic mackerel stock is currently at a high level of biomass and is underexploited." In fact, the Spawning Stock Biomass [SSB] is an incredible 2.1 million metric tons, yet last year's total reported domestic landings were less than 16,000 mt. The story is the same for Atlantic herring, with NMFS scientists calling the stocks extremely underutilized with a biomass of 2.2 million mt and domestic landings of about 100,000 mt.

Even assuming that these fishery stocks were somehow at risk, what is it exactly that H.R. 1855 does to protect them? First of all, it waives the entire Magnuson-Stevens Act, as it must because what it attempts to achieve is flatly prohibited by that act. Economic allocation decisions, such as this one, must be "fair and reasonable to all fishermen" under the Magnuson-Stevens Act. Prohibiting a single fully permitted U.S. vessel from fishing while allowing in thousands of other vessels with far greater capacity most certainly fails this standard. Although larger than the bill's size thresholds of 165 feet and 3000 horsepower, the freezer trawler *Atlantic Star* takes only 250 mt of fish per day, because it catches only as much as it can freeze in a day. However a boat that comes under the size thresholds can easily take 500 mt per day or more, twice as much as the *Atlantic Star*. How serious can we be in protecting the stocks when this bill imposes no limit at all on the number of these 500 mt per day vessels that come into these fisheries, yet a single vessel taking half as much per day is legislated out of business?

What is perhaps even more surprising is that while this bill puts an American company out of business and destroys American jobs, it does nothing to prevent Russian-flag processing vessels of similar size from continuing to operate within our waters processing the same species of fish, employing Russian crews and paying no Federal income taxes. What is wrong with this picture? The Magnuson-Stevens Act was supposed to give U.S. vessels priority over foreign vessels, yet this bill would reverse that policy as well.

This bill is an unwarranted Federal intervention in a system that is working and needs no help from Washington, DC. If it is to be enacted, however, it should at least include a savings clause to allow those projects that are in the pipeline and whose principals have invested in reliance on existing law not to be penalized. I am unaware of a single fishery management plan anywhere in the country that has not accommodated projects in the pipeline when new rules are adopted. We regularly adopt savings clauses in Congress to prevent exactly the kind of inequity that this bill, in its present form, will deliver to this single company.

We can do better and we should. This kind of legislation is not needed, it is bad policy, it destroys American businesses and I urge you to oppose it.

LEGISLATION TO IMPOSE A SIZE LIMITATION ON ATLANTIC MACKEREL AND HERRING FISHING VESSELS WOULD NOT PROTECT THE FISHERY RESOURCE WHILE LEGISLATING INTO BANKRUPTCY A $40 MILLION U.S.-FLAG FISHING VESSEL PROJECT AND COST OVER 100 U.S. JOBS

Throughout the 1990's the consistent fisheries management policy of the Regional Fishery Management Councils and the federal government has been to encourage American development of the abundant Atlantic mackerel and herring pelagic resources, and to do so with large vessels. In reliance on that policy, the owners of the *Atlantic Star* commenced a $40 million vessel project with the first large U.S. boat ever designed exclusively for these fisheries. Now legislation has been introduced which would reverse that policy, impose a "moratorium" to limit entry of some large vessels (while allowing others in), and destroy this investment before the *Atlantic Star* is even delivered from the yard where refitting work is now underway. While there are legitimate questions as to whether Congress should be micromanaging these fisheries in this way, at the very least the bill should be amended to allow the *Atlantic Star*—the only vessel in the pipeline—to come in.

1. The Resource: Government scientists agree that both the Atlantic mackerel and herring stocks ("pelagic resources") are abundant, healthy and underexploited.

Atlantic Mackerel: The estimated overall biomass is 2.1 million metric tons (mt); the estimated biomass available for fishing is 383,000 mt (current proposed Allowable Biological Catch, or ABC), and the last reported U.S. domestic landings were only 15,712 mt. National Marine Fisheries Service (NMFS) scientists recently concluded "the Northwest Atlantic mackerel stock is currently at a *high level of biomass and is underexplotied.*" SARC–20 at p. 71 (2/96) (emphasis added).

Atlantic Herring: The estimated overall biomass is 3.6 million mt; the estimated biomass available for fishing is 540,000 mt; and the last reported U.S. domestic landings were 87,648 mt. NMFS scientists have concluded the stock is "at a high biomass level and is *underexploited*" and that "*increased fishing . . . is encouraged.*" SARC–20 at p. 19(2/96) (emphasis added).

2. Fisheries Policy: the consistent message has been to Americanize and develop the fishery by emulating the foreigners with larger vessels to achieve economies of scale.

A principal objective of the Magnuson-Stevens Fishery Conservation and Management Act is the Americanization of our domestic fisheries through a statutory priority for U.S. flag vessels to catch and process our marine resources. It has been so successful that the only fisheries in which foreign processing vessels are still used is in herring internal waters joint ventures on the East coast. The consistent policy for twenty years has been to displace all foreign vessels with U.S. flag vessels, as they come on line, yet the proposed legislation would eliminate the U.S. flag *Atlantic Star* from the herring fishery while still permitting Russian fish processing vessels to operate in our waters.

The Atlantic Herring Plan prepared by the Atlantic States Marine Fisheries Commission in 1993 cited the reasons for the lack of U.S. development of the herring resource as the high volume necessary for profitable production and the fact that "there were no freezer-trawlers in the US fleet which would have been necessary to operate successfully on Georges Bank and to supply that high quality products [for the world market]."

In 1993 the International Trade Commission (ITC) conducted an exhaustive study of the domestic Atlantic mackerel industry, including public hearings and detailed cost comparisons between large foreign vessels the size of the *Atlantic Star* and the domestic fleet, and concluded that if Americans were to be successful in developing the mackerel fishery, they would need to use larger vessels to increase the economies of scale so as to be competitive on the world market, both in terms of production and transportation costs.

The Mid-Atlantic Council reached similar conclusions in developing Amendment #5 to the Mackerel Fishery Management Plan (FMP). The following text appeared in the draft plan amendment in 1994, again in the final amendment in 1995, and was repeated once more with the publication of the annual mackerel specifications in July 1996: In order to compete in the world bulk market, the US will have to emulate its foreign competitors which harvest, process, and ship mackerel in large quantities so as to take advantage of economies of scale. Currently the US east coast industry does not have the large vessels necessary to participate in this market.

In developing the Mackerel FMP the Mid-Atlantic Council expressly rejected a moratorium for mackerel citing the need for an "infusion of investment capital into the industry for market and infra-structure development". Instead the Council's policy is to impose a control date, but only when the commercial landings reach 50% of the ABC. The last reported landings were only 4% of the ABC.

Finally, every Council in the country that has adopted a control date where there have been projects in the pipeline has either expressly recognized and included those projects, or has subsequently moved the control date forward to allow those who have made investments on the previous policy to complete those projects and come in before shutting the door. Against this regulatory backdrop, the only surprise is why the Atlantic Star project, or something like it, did not happen sooner. To now usurp the Regional Fishery Management Council process with federal legislation retroactively reversing that policy so as to eliminate the Atlantic Star would be manifestly unfair.

3. The Vessel: The Atlantic Star is U.S.-built, U.S.-owned, and U.S.-crewed and offers 80 new on board jobs for the East coast industry, new market opportunities and other benefits.

Built in the mid-1980's in Tacoma, Washington, the boat is presently undergoing a $40 million refit for the mackerel and herring fisheries. Originally intended as an incinerator vessel, but never operated as such, the boat is "overbuilt" with a complete double hull, heavy guage steel and meets the highest Coast Guard standards.

The boat has on-board accommodations for full-time NMFS observers and scientists. With a registered net length of 332.8 feet (and length overall of 369 feet) the boat is designed to achieve the economies of scale (through its freezer capacity and ability to take 250 mt daily) identified by fishery managers as necessary to compete on international markets.

The boat presently has all necessary federal fishing permits for these fisheries.

Eighty new on-board jobs will be created, plus as many more jobs on shore in supporting the boat. Anticipated crewshare, payroll, supplies and other vessel support is expected to pump $10 million directly into the economy annually, with additional multiplier effect (at 2.5x), the total benefits are estimated at $25 million. A $7 million shore based facility will add even more jobs.

The boat is owned by American Pelagic Fisheries Company, LP, a U.S. partnership of two U.S. companies and a Dutch company (with a 49% minority limited partnership interest). The owner meets the most stringent U.S. citizenship standards for fishing vessels under the vessel documentation laws. The minority partners bring necessary access to European markets as well as extensive experience in pelagic fishing.

For the first time, this project brings together the vessel size, access and technology for Americans to compete successfully in the world market for pelagic fish.

4. The Legislation: H.R. 1855 and S. 1035 would pre-empt the Regional Fishery Management Council process with a purported "moratorium" that would not limit catches, overcapitalization, or new entrants, but would exclude the Atlantic Star.

Any legislated solution sets a troubling precedent by pre-empting the well-established Regional Fishery Management Council process with a federal micro-management of the resource (the bill begins by waiving the entire Magnuson-Stevens Act). The Council's have within their existing power the ability to impose a moratorium, to limit vessels by size, gear type, or in other ways, all within the framework of the Magnuson-Stevens Act. The fact that the New England Council has had 20 years to develop a herring plan and has not is no reason for Congressional intervention now. Both the New England the Mid-Atlantic Councils have already acted to put new entrants on notice that large vessels may be subject to the kinds of limitations contained in H.R. 1855. The Council process is working. Federal legislation sets a dangerous precedent and is simply not needed.

H.R. 1855/S. 1035 would waive the Magnuson-Stevens Act and impose a moratorium on "large"fishing vessels in the Atlantic Herring and Mackerel Fisheries until (1) NMFS has completed new population surveys of the stocks (even though there is no evidence why NMFS current assessments are unreliable, or that the stocks are in any way threatened), and (2) the Secretary of Commerce has approved amendments to the relevant fishery management plans regarding large vessels (even though both Councils have had ample opportunity to do so, and the Mid-Atlantic, in particular, has encouraged large vessels as noted above). The bill's definition of "large vessels" bears no relationship to a vessel's fishing power, only an arbitrary length and horsepower cap. By defining a "large vessel" as one that does not exceed 165 feet and 3000 horsepower the bill would allow the following vessels into the mackerel and herring fisheries notwithstanding the "moratorium":

All vessels that are either less than 165 feet, or less than 3000 horsepower. These include the 316' Stellar Sea (3000 hp); the 200' Ocean Peace (ex-Amfish) (2250 hp), and in the 165' range, e.g., the Meghan Hope (1860 hp), Constellation (2250 hp), and Pacific Prince (2000 hp).

Every one of the 120,000 documented fishing vessels could be rebuilt essentially into new factory trawlers of 165' and 300 horsepower.

All new vessels regardless of length, provided only that horsepower is under 3000.

All new vessels regardless of horsepower, provided only that length is less than 165'.

It is also significant that a number of the existing vessels on the East coast, and any of the new vessels built within the moratorium size limitations or those that are rebuilt, could easily have daily catches well in excess of the Atlantic Star. These vessels can take as much as 600 mt per day whereas the Atlantic Star is necessarily limited to catch only as much as it can freeze, i.e., 250 mt per day. Consequently existing vessels (and new ones permitted under the bill) that are under the size limitations can outpace the Atlantic Star on a daily catch basis.

The bill would also preclude the Atlantic Star or similar large vessels from operating as dedicated processing vessels in these fisheries, thus depriving existing East coast fishermen of new at-sea markets. Such a prohibition makes no sense, particularly with a strong resource and when so many existing vessels are still permitted to come in to the fishery.

Clearly the proposed "moratorium" would not limit overcapitalization, slow growth, restrict new entrants, control harvest levels or otherwise protect the resource or provide any kind of meaningful moratorium. While H.R. 1855/S. 1035 would discourage the speculative entry of new large vessels from parts of the country other than the East coast, the only known boat presently intending to enter these fisheries that would be legislated out is the Atlantic Star.

5. Conclusion: H.R. 1855/S. 1035 is substantively flawed and creates bad precedent. If it moves forward, it should be amended to permit the only vessel in the pipeline into these fisheries.

This legislation turns the Magnuson-Stevens Act Americanization process upside down. Not only does it pre-empt the Regional Councils, but it would eliminate a U.S. flag vessel while allowing Russian vessels to process the very same resource. It does not reflect sound management policy nor a reasoned approach to what is only a potential problem. It also flies in the face of national Standard #4 which requires allocation decisions among U.S. fishermen to be "fair and equitable to all such fishermen." A result which eliminates the enormous investment made by the owners of the Atlantic Star in complete reliance on every known fishery statute, regulation and policy would be unprecedented and manifestly unfair. If legislation moves forward to address the speculative entry of large mackerel and herring vessels, then due process and simple fairness require that the bill be amended with a savings clause to allow the Atlantic Star to remain in these fisheries.

IN RECOGNITION OF FRANK CARVEN IN REMEMBERANCE OF PAULA AND JAY CARVEN

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. EHRLICH. Mr. Speaker, I rise today to express my full support and praise for the recent passage of H.R. 2005, legislation to improve the application of the Death on the High Seas Act to permit families full recovery for aviation disasters. As an original cosponsor of H.R. 2005, I am pleased with the rapid progress of this very important legislation.

On July 17, 1996, TWA Flight 800 crashed shortly after takeoff, approximately 9 miles off Long Island Sound. On board this tragic flight were Paula and Jay Carven, the sister and nephew of a very close friend of mine, Mr. Frank Carven. Frank's sister, Paula, and her 9-year-old son, Jay, perished when TWA Flight 800 crashed. While the investigation into the accident has drawn considerable public attention, I rise to recognize the private courage and quiet perseverance of Frank Carven. Regardless of the theories, the reasons, and the causes that experts attribute to the TWA 800 explosion, they cannot bring back Paula, Jay, or the more than 220 innocent lives lost on that fateful night.

In the aftermath of this disaster, the Carvens and other victims' families learned that a harsh, broken statute—the Death on the High Seas Act—is the sole remedy currently available to provide compensation for this loss. Unfortunately, the measure of compensation only applies to loss of income, with no possibility of recovering for noneconomic damages. The 1920 statute was intended for maritime accidents and does not adequately cover commercial aviation. Accordingly, Frank and I realized that reforming and updating this antiquated law was the right legal, and moral, thing to do.

In response to the unjust restrictions of the Death on the High Seas Act, Congressman JOSEPH MCDADE introduced H.R. 2005, making the necessary changes to improve this act. I want to acknowledge Congressman MCDADE's hard work on this legislation and extend my appreciation for the expeditious and thoughtful work of the House Aviation Subcommittee. The members and staff involved are to be commended for their timely action on this bill.

While H.R. 2005 will not prevent another airline accident at sea from occurring, this bill will apply commonsense legal considerations for those who tragically lose their loved ones. I want to publicly thank Frank Carven and the many other families of airline disaster victims who have brought this issue to the Congress. I am proud to take part in this important process and look forward to achieving equity for the families and friends of passengers on TWA Flight 800.

TRIBUTE TO COACH RICHARD MARLER

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. LAMPSON. Mr. Speaker, tomorrow, my friend, Coach Richard Marler, will be inducted into the Texas High School Coaches Association Hall of Fame. For 22 years, Coach Marler was head coach at Stephen F. Austin High School in Port Arthur. He amassed a career record of 138 wins, 86 losses and 9 ties. Nine of his Eagle teams qualified for the State playoffs. Twice, his teams reached the State semifinals.

Coach Marler's fine career is a testament to the need for perseverance. Three of his first four campaigns as head coach were losing seasons. But, in time, success came. Football fans in the Golden Triangle will long remember the Eagles' 1983 season when Coach Marler led his team to a 13–1–1 record and the Class 3A semifinals.

Far above and beyond football, Coach Marler has made a positive impact on the lives of countless young men. He taught them the value of hard work and discipline. He was a role model for many young men who needed one desperately.

Richard Marler continues to be an asset to his community. Before this House of Representatives, I wish to congratulate him on this recognition and to thank him for his friendship.

PERSONAL EXPLANATION

HON. RICK WHITE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1997

Mr. WHITE. Mr. Speaker, due to unforseen delays caused by technical difficulties and inclement weather, I was unavoidably detained yesterday evening and missed a series of rollcall votes during consideration of H.R. 2209, the Fiscal Year 1998 Legislative Branch Appropriations Act.

Had I been able to cast my ballot, I would have voted against the Fazio amendment (rollcall vote number 332) to eliminate funds to increase the number of staff on the Joint Committee on Taxation. I would have voted for the Klug amendment (rollcall vote number 333) to reduce the number of full-time equivalent staff in the Government Printing Office. I would have voted against the motion to recommit the bill (rollcall vote number 334), and I would have voted for final passage of the bill (rollcall vote number 335)